International Support to Enhance Confidence Building in Kosovo

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Introduction

After the Kosovo Declaration of Independence of 17 February 2008 which triggered widespread protests among the Serb community, the creation of parallel institutions and the severance of links between the Serb and Albanians, it would seem unreasonable to think of confidence building measures working effectively between communities. Accordingly, Mr. Oliver Ivanović, a major representative of the Serbs in Kosovo advised that it is better to forget reconciliation right now or in the near future. Kosovo Serbs once again feel as victims of events shaped by the International Community, in particular the United States and the European Union, although the latter's members' approach towards recognition of an independent Kosovo does not make unanimity.

However, one could also argue that it is never too early to start with confidence building measures leading to reconciliation in the future and the reaction of the Kosovo Serbs do show that such measures are needed as quickly as possible in order to prevent an escalation of the situation, which might lead to further violence and the perpetuation of the conflict.

This contribution will first provide a short overview on confidence building measures in international relations on the level of the United Nations and OSCE and then investigate in particular the relationship between confidence building and human security of all groups concerned. Second, it will analyse some relevant instruments of the European Union with respect to confidence building to see which contribution they can make to the problems at stake. Third, confidence building will be looked at as a multi-stakeholder process with a particular focus on the role of media regulation and higher education. Fourth, the imple-

mentation of the Ahtisaari plan in constitutional law will be reviewed for its contribution to confidence building before some final conclusions are drawn.

Meaning of Confidence Building and Human Security

There are numerous forms of confidence building measures. The maintenance or restoration of peace and security is a major purpose of the United Nations. Chapter VI of the UN Charter also contains a number of measures for the peaceful settlement of conflicts like negotiation, mediation, involvement of regional institutions or agreements. However, confidence building has to go further and deeper, because all these instruments have actually been employed in one way or the other in the Kosovo conflict without resulting in creating confidence between the parties.

The definitions of confidence building to be found in literature are mainly related to the area of security and disarmament.[1] According to different sources confidence building measures can be understood as efforts to reduce fear, anxiety and suspicion and to build trust among the conflicting parties. The tools employed can be diplomatic, political or cultural, but also military and policing measures. In post-conflict situations, confidence building is particularly important to make peace sustainable.

An organization that has particular experience in the field of confidence building, is the Organisation for Security and Cooperation in Europe (OSCE). Since its creation during the Cold War, it has pursued this objective with a variety of means and also has been active in the Kosovo conflict from the early stages. The typical list of activities which regularly appear in its Summit documents since the first meeting in Helsinki

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[1]   Encyclopaedia of the Nations, United Nations, Confidence building measures; UNIDIR, Confidence- and Security-Building Measures, http://www.unidir.org/ pdf/articles/pdf-art2088.pdf; Sarah Meek, Confidence building Measures: A tool for disarmament and development, http://disarmament.un.org/DDApublications/OP9art 02. pdf; Multan, Wojciech, The role of confidence building measures in the prevention and resolution of conflicts, in: Conflict resolution: new approaches and methods / [contrib.: Yves Daudet ... et al.] / 2000.

in 1975 are human contacts, information, co-operation in the field of education and culture and respect for human rights, also called the "human dimension" of the OSCE. Furthermore, cooperation in other fields like the economy and the environment and support to the creation of democratic institutions, in particular also at the local level, have become typical activities. Through its country missions, OSCE has assisted also in the establishment of ombudsmen or media regulation bodies and undertaken numerous activities to overcome ethnic divisions.[2]

The present situation in Kosovo is similar to a Cold War. Personal contacts are minimal, there is wide-spread mutual fear and without the stabilising effect of KFOR and Kosovo Police Service (KPS), incidents between the ethnic groups might be more frequent.

What are the major concerns of the minorities, in particular the Kosovo Serbs, which need to be addressed in order to build confidence between the different ethnic groups? The 2006-2007 report of the Project on Ethnic Relations (PER), mentions "security and freedom of movement", "unemployment", "economic development", "infrastructure improvement" (roads, telephone lines, energy supply), "equality in the privatisation process" and "more media in Serbian language".[3]

Security is the overriding concern. The concept of human security emphasises "security of the person". At the individual and group levels it can often overlap, but it is also different from strictly national – or regime – security. With regard to security of the human person, the distinction between freedom from fear and freedom from want provides a wider focus. Accordingly, individual security – which is always a priority aim of human security – but also threats to basic needs like health, food and education or employment come into focus. In terms of human rights, whereas freedom from fear can be associated with civil and political rights, freedom from want addresses the availability of basic economic and social rights. The Universal Declaration of Human Rights

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2   See for the activities of OSCE in Kosovo, http://www.osce.org/kosovo/.
3   Project on Ethnic Relations, Confidence Building Measures in Kosovo, Prishtina 2006-2007, Project on Ethnic Relations 2007; http://www.per-usa.org.

distinguishes between personal security, social security and international security.

In addition, there are also several procedural aspects of a human security approach, which should distinguish itself by several elements, like being holistic and inclusive, participatory, bottom-up and non-discriminatory, have a focus on the specific needs of vulnerable groups, based on common values of human rights, starting from the dignity of the individual, and includes the rule of law, good governance, democracy and accountability. Such approach seeks the empowerment of the people who are affected by threats and vulnerabilities, the prevention of conflicts and poverty and the sustainability of conflict transformation and peacebuilding. For this purpose it is also necessary to address the root causes of threats and vulnerabilities that may lead to conflicts or deprivation.

European Union Instruments for Confidence Building

There are several European Union instruments, which can play a role for the purpose of confidence building. In particular, the "Instrument for Stability" adopted by the European Union in 2006,[4] in order to better contribute to stability in a crisis situation, or one posing threats to democracy, law and order or the protection of human rights and fundamental freedoms for the security and safety of individuals. The Instrument for Stability promotes confidence-building, mediation, dialogue and reconciliation. For this purpose, the European Union can give technical and financial assistance to a number of purposes starting from effective civilian administration to rehabilitation and reconstruction of key infrastructure, measures to promote and defend respect for human rights or support to the development and organisation of civil society and its participation in the political process and for independent, pluralistic and professional media. Assistance should promote stable conditions for the economic and developmental cooperation activities of the European Un-

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[4] See Regulation (EC) No. 1717/2006 of the European Parliament and of the Council of 15 November 2006, Official Journal of the European Union, L 327/1 of 24.11. 2006.

ion. It also aims at post-crisis capacity building of international organisations, state and non-state actors in order to assist post-conflict reconstruction and rehabilitation.

The communication of the European Commission on "Western Balkans: Enhancing the European Perspective" of March 2008 indicates that 1bn Euro are earmarked for Kosovo during the period 2007-2010 for its political and economic development and the costs of the international presence. It also aims at visa liberalisation and for provision of scholarships to improve direct contacts among people. For this purpose, it gives support to mobility programmes, and the step-by-step integration of Western Balkan countries into programmes and agencies of the European Union. Activities to be funded include inter-cultural dialogue, media and youth programmes, which can be of direct relevance to efforts of confidence building and reconciliation.[5]

In addition, a European Union Support to Civil Society Facility has been announced, which should support dialogue in the field of human rights, non-discrimination, social integration, local initiatives and capacity building, with a particular focus on media workers, teachers, young politicians, labour unions, etc. It can give support to networks and partnerships and is complementary to the "Instrument for Pre-Accession Assistance" (IPA), which foresees an amount of 4bn Euro for the Western Balkan countries in the period of 2007-2011. The facility has been discussed at a Conference of Civil Society Organisations in April 2008 in Brussels.[6]

Accordingly, the instruments of the European Union can play a major role in providing much needed support ranging from institution building to civil society and economic cooperation, which all could benefit a confidence building process.

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[5] See Communication from the Commission to the European Parliament and the Council on Western Balkans: Enhancing the European Perspective, COM (2008) 127 final of 5.3.2008.

[6] See Support to civil society – a new financial facility under the Instrument for Pre-Accession Assistance (IPA), Eumonitor of 5 March 2008, http://www.eumonitor.net/print.php?sid=95831.

Confidence Building as a Multi-stakeholder Process

Post-conflict situations like the one in Kosovo are usually characterized by the presence of numerous actors with different agendas and assistance potential. International organisations and state institutions need to co-operate with non-governmental actors, both international as well as local ones. The challenge is to orientate the multi-stakeholder process towards common objectives and to use the full potential of the many actors on the ground also for measures of confidence-building, which needs to take place between the communities inside Kosovo, but also between Kosovo and Serbia. There are different roles to be played by the governmental institutions, by international agencies or by civil society in a number of sectors like education and vocational training, which is particularly relevant for employment. There need to be efforts of "society-building" by overcoming stereotypes and prejudices as well as xenophobic and discriminatory attitudes.

Although minority and human rights have been top priorities for quite some time, the realities on the ground are far from satisfactory. For example, the Kosovo Standards Implementation Plan of 2004, which has been adopted after the violence of March 2004 has given minority rights and human rights particular attention, but appears never to have been fully implemented, although the role of human rights and minority rights has always been recognized as crucial for the final status of Kosovo.[7]

Civil society organizations have to play a crucial role for confidence building as does, for example, the activities of the Humanitarian Law Center. However, governmental support for the role of civil society is largely lacking as can be seen from a study undertaken by the Human Rights Centre of the University of Prishtina.[8] Accordingly, there is a need that governments do more actively involve and support civil soci-

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[7] See Wolfgang Benedek, The Final Status of Kosovo: the Role of Human Rights and Minority Rights, in: Chicago-Kent Law Review, Vol. 80 (2005) 1, 215-233.

[8] See Valon Murati, The Role of Civil Society in Good Governance in Kosova, in: Wolfgang Benedek (ed.), Civil Society and Good Governance in Societies in Transition, Belgrade Centre for Human Rights/NWV, Belgrade 2006, 77-114.

ety in its functions, in particular also with regard to confidence building, as civil society being closer to the people can make an important contribution.

As an example of good practice the recent report by the Kosovar Institute for Policy Research and Development (KIPRED) on confidence building needs to be highlighted.[9] KIPRED has attracted attention on the efforts of radical Serbs from Kosovo in building parallel institutions, but Kosovars themselves have done little to take genuine consideration Serb grievances into consideration, despite the recommendations it has made to all levels of government in Kosovo. These recommendations include the request for more leadership regarding the unity of the country, while strengthening the security of Serb settlements and implementing decentralization policies, improvement of public infrastructures in cooperation with Serb communities, reconstruction of Serb cemeteries, churches and monasteries. Also the donor community is invited to address socio-economic concerns. The improvement of educational opportunities and media is given particular attention.

There have been numerous efforts by KFOR, OSCE, or the Human Rights Ombudsman as well as UNMIK towards confidence building, which, however, have only partly been successful and suffered several setbacks, largely due to the overall political situation.

Education and the media play a particular role in confidence building. With regard to education, the Albanian pupils are not learning the Serbian language anymore, but also the Serbian side hardly shows interest in learning Albanian. At the higher education level, the University of Serb Mitrovica, developed hardly any cooperation with the Kosovo State University and efforts to develop joint programmes have not succeeded.

On the other hand, support to a University in Mitrovica or in one of the Serb enclaves, with high quality students have been proposed as a con-

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[9] Kosovar Institute for Policy Research and Development, Kosovo Serbs after the Declaration of Indepedence: the right momentum for confidence building measures, KIPRED Policy Brief #8, Prishtina, July 2008, http://www.kipred.net.

tribution to confidence building taking the model of the South East European University (SEEU) in Tetovo.[10] The SEEU is an initiative of the former OSCE High Commissioner on National Minorities and was established for exactly this purpose with impressive results. This shows the potential of the education sector for confidence building.

Summer schools like the one organized by the University of Prishtina, the University of Graz, the European Forum in Alpbach or international competitions like the "Balkan Case Challenge" organized by World University Service (WUS) Austria in all SEE countries with the finals in Vienna[11] can also contribute to confidence building by bringing young people together in a pluralist environment and by providing opportunities to meet and talk. A further step could be regional projects and finally also common projects in the educational field. WUS Austria with its offices in Belgrade, Prishtina, Podgorica, Sarajevo and Skopje has already ample experience in interethnic cooperation.[12] One pertinent programme implemented by WUS Austria on behalf of the Austrian Ministry for European and International Affairs is the "Experiencing Europe" Programme done in cooperation with the Djindjić Fund, which brings young Serbs to Austria for internships with Austrian institutions of all kind.[13]

The European Union supports the European Regional Master Programme on Democratization and Human Rights organized by the University of Bologna and the University of Sarajevo with a network of other universities from the EU and the region, which provides an opportunity for interested students from the whole SEE region and beyond to get a high level post-graduate education in human rights and democracy which allows them to reflect on the problems of the region and to learn to deal with them from a human rights perspective.[14]

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[10] See European Stability Initiative (ESI), Mitrovica: Kosovo's Litmus Test, ESI Discussion paper of 28 April 2006, http://www.esiweb.org/index.php?lang=en&id=156&document_ID=75; see also Hasani, in this volume and KIPRED, ibid.

[11] See http://www.bcchallenge.org/general/index.php.

[12] See for details http://www.wus-austria.org.

[13] See http://www.ada.gv.at/experiencingeurope.

[14] See http://www.cps.edu.ba/ENGLESKI/ermaprogram.html.

WUS has also assisted in founding a network of human rights centres in West Balkan countries, which also includes the Human Rights Centre of the SEEU in Tetovo.[15] Through cooperation and common projects the divisions of the past are more easily overcome as the experience in Bosnia and Herzegovina shows, where joint educational and human rights projects supported first by WUS Austria and later by the European Training and Research Centre for Human Rights and Democracy in Graz[16] helped to build confidence and trust after the end of the war.

With regard to the media sector, the Independent Media Commission built up with support of international experts from OSCE has actually managed to provide a structure and regulation for the media sector, which included also a code of conduct with respect to electronic media.[17] The situation in the print media sector, which is only controlled by a press council, has been less successful in preventing cases of inflammatory reporting and misinformation. Again it proved difficult to get Serbian stations or newspapers to participate in those institutions although particular efforts were undertaken to win their confidence. However, as can be seen from Bosnia-Herzegovina, this is a long-term process and very much depends also on the general political climate. In any case, European standards of broadcasting can contribute to making the media responsible, with a mission to fulfil a public service function including reporting on minority concerns.

Implementation of the Ahtisaari Plan and Confidence Building

When Ahtisaari realized that there was no possibility of agreement on the final status as such he emphasised the daily needs of people in a practical way. Accordingly, the "Ahtisaari Plan" has a focus on the rights of communities and their members, which were increased through

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[15] See http://www.see-hrc.net.
[16] See http://www.etc-graz.at
[17] See Independent Media Commission, Principles of Broadcast Regulation, http://www.imc-ko.org/index.php?id=19&1=e.

several instruments like decentralisation of competences, with redrawing the borders of municipalities or creating new ones.[18] Also the needs of preservation of religious and cultural heritage through protective zones and the strengthening of community rights and human rights have been included into the new Kosovo constitution and its by-laws. The international civil and military presence was continued in order to monitor the implementation for those provisions.

Accordingly, Kosovo's constitution provides for human security in its Chapter II on Fundamental Rights and Freedoms. Group rights are safeguarded in Chapter III on Rights of Communities and their Members while Chapter IV special seats for minorities in the Parliamentary Assembly. Chapter IV also provides special procedures when legislation deals with vital interests of the respective communities.[19] This system continues to have international judges and the police will be monitored by European Union Police. In addition, special relations with Serbia are foreseen for the Serb community. Although the practicalities of all these provisions still need to be tested, the international community in general and the European Union in particular have left no doubt that the overriding concern is to assure implementation of the Ahtisaari Plan.

The inability of the Security Council to reach a decision on the final status and to agree on the transition of the UNMIK agenda to EULEX[20] has created a blockage of the issue or a "frozen conflict" with potentially negative consequences for confidence building. Nonetheless, this can also be seen as an opportunity to undertake practical steps on the ground, wherever possible. Belgrade's recent overtures can be seen as an encouraging sign of good faith and pragmatism.

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[18]   See Comprehensive Proposal for the Kosovo Status Settlement, by Martti Ahtisaari, UN Doc. S/2007/168/Add.1 (2007).
[19]   See Arts. 64 and 81 of the Constitution of the Republic of Kosovo.
[20]   See the contribution of Enver Hasani, in this volume.

Conclusions

Although many roads have already been explored and many measures undertaken, there is still more that can and needs to be done to address the real needs of the people on the ground, starting from daily needs like electricity, better roads, schools, health, freedom of movement etc. The dependency on Belgrade is a matter of fact, but needs to be reduced and partly replaced by a better cooperation with Kosovar institutions. Strengthening of objective information channels, newspapers, radio and TV and the enlargement of minority programs and improvement of the quality of reporting also can play an important role. There is also a need to improve the quality of education including higher education for minority communities, which can only be done in cooperation with the international community but also by strengthening country-wide and regional cooperation in education and provide opportunities to meet outside the local context and relearn to do things together.

Confidence and trust needs to be built also by providing an objective judiciary system and active investigations into allegations of violence or mistreatment of minority communities. Cultural and social guarantees must be made explicit to minority communities.

Although Kosovo's unilateral declaration of independence and the negative reaction by Serbs is not conducive to building trust, concrete measures of confidence building can make an important contribution to overcome fears and suspicion and step by step build the much needed confidence, necessary for a common country. In view of the fact that the majority of Serbs live in central or southern Kosovo, separation of the Northern part is no viable solution for them.

The main responsibility for confidence building is with the government of Kosovo, but the international community has still an important role to play, while in the necessary multi-stake holder approach civil society organisations, both local and international could play a crucial role if given the opportunity to do so.

In conclusion, in spite of the lack of cooperation from the Serb side after the declaration of independence, in the longer term there is no alternative to working together again. A confirmation of a European commitment for the whole of the Western Balkans should be given greater importance than territorial concerns by local actors, while the international community should step up the efforts to make full use of its potential to assist confidence building in Kosovo as well as between Kosovo and Serbia, preferably with the help of civil society organisations.