

Kosovo's status is still in doubt – time for Britain to rethink the need for new talks?

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When the coalition government's Minister for Europe visited Pristina recently, almost unnoticed, he reiterated a UK line that Kosovo's status as independent from Serbia could not be revisited. Yet unless the International Court of Justice comes out unequivocally for Kosovo, [James Ker-Lindsay](#) argues that the British stance will prove unsustainable. Opinion in Brussels is shifting to the view that Kosovo and Serbia need assistance to negotiate a deal that could put both on the path to economic renewal, and eventually EU membership.



David Lidington, the Tory Minister for Europe in the coalition government, could not have failed to notice that his recent visit to Kosovo was overshadowed by Tony Blair, who received a hero's welcome in the capital Pristina only two weeks later. In 1999 Blair's government strongly supported the NATO-led bombing operation that halted Serbian leader Slobodan Milosevic regime's brutal repression of Albanians in the contested province. At the height of the campaign over 10,000 British troops were incorporated into NATO's force for Kosovo (KFOR), a commitment which has since made '[Tonibler](#)' a popular name for local boys.

Lidington has inherited a thorny set of problems that are unlikely to earn him household recognition in Britain, but matter a great deal for Europe. Following the war, there Kosovo remained legally a Serbian province but under UN administration for nine years. In 2008 its leaders issued a unilateral declaration of independence (UDI) from Serbia, whose legality is now being tested before the International Court of Justice

(the ICJ), a group of fifteen most eminent international jurists in the world and the principal judicial organ of the United Nations. The UK was one of the first states to recognise Kosovo's independence, along with 21 other EU members, the USA and 47 other countries. Lidington has warned that the ICJ's opinion cannot be used as a [pretext](#) for returning to a discussion of status. After his meeting with Kosovo's President, Fatmir Sejdiu, Lidington said that Pristina's independence was "[irreversible](#)" and that it was difficult to imagine Serbia's entry into the EU while the issue remained unresolved. But this hardline stance may create problems for the British government depending on the outcome of the ICJ's case.



Position of Kosovo in Europe Source: CIA World Factbook

It would be no exaggeration to say that the question of the legality of Kosovo's unilateral declaration of independence (UDI) is the most important case ever to come before the International Court of Justice. Indeed, for the first time ever, all five permanent members of the UN Security Council participate in the Court's proceedings. At stake is the way in which we treat the central question of secession and self-determination. The opinion of the Court could radically change the way that the international system treats separatist groups in future. If it finds in favour of Kosovo, the floodgates could be opened for a whole raft of new states and micro-states to emerge. No one currently in power in the countries involved wants to see this happen. Hence few observers expect that the Court will come out in support of the UDI.

However, if the ICJ finds in Serbia's favour, then the key European supporters of Kosovo independence – most notably Britain, France and Germany – will be left in a very difficult position. If they reject the Court's advisory opinion, or refuse to rescind their recognition of Kosovo, then their credibility on the world stage will be severely damaged. How can they then call on others to respect international law when they don't do so themselves? In this eventuality, their diplomats are likely to argue that the Court's view is anyway only an advisory opinion. This may be true in a technical sense, but the truth of the matter is that European

policymakers know that they cannot simply ignore ICJ's advice.

Even if the Court takes a middle path, as many observers expect, Britain and its European will still be left in a difficult position. While they may be able to claim a victory of sorts, the countries that oppose Kosovo's independence, including Russia and China, would be able to hold firm to their positions as well. Kosovo's path to full membership of the international community, including membership of the UN, would remain blocked. This would keep Kosovo in limbo for years to come, stifling investment and almost certainly mean that the country/province would remain reliant on development aid handouts, as it is at present.

So, what does all this mean? For a start, Liddington's argument that Kosovo's independence is a done deal and that there can be no more talks, a line often presented by Foreign Office officials and their counterparts from countries that support Kosovo's unilateral declaration of independence, would appear to be no longer tenable. There will need to be some sort of resolution to the issue that is acceptable to all sides. This can only be achieved through new status talks.

Having said this, the reality is that any attempt to reintegrate Kosovo back into Serbian state structures, however loosely, would be fiercely resisted by Kosovo Albanians. Meanwhile, few Serbs would really want to give Albanian political leaders the extensive role in government – such as a bloc of seats in the parliament, cabinet posts, ambassadorships, maybe even a vice-presidency – that they would demand as part of any agreement.

Instead, it now seems that Serbia wants a face-saving solution, in which more land area could feature prominently. At the end of the day this probably means some territorial trade off from Kosovo, in return for Serbia accepting the reality that the large part of Kosovo is in fact independent. This scenario is often presented as a partition of Kosovo, but is better thought of as territorial readjustment. It would make a lot of sense. For a start, the northernmost tip of Kosovo (about 15 per cent of its land area) is almost wholly Serbian and is effectively under Belgrade's control already. Likewise, just as Kosovo Albanians long refused to accept Belgrade's rule, the Kosovo Serbs in the north will never accept Pristina's control. It is far better for the Kosovo Albanians to let them go. And this area was never traditionally or historically a part of Kosovo. It was added to Kosovo by Tito after the Second World War, chiefly in order to increase the Serbian population in the province.

Allowing Serbia to keep the north in return for agreeing not to stand in the way of the rest of Kosovo being allowed to pursue full and unfettered statehood, appears to be a compromise that Serbian leaders can live with. Most importantly, such a solution would be fully in accordance with international law. After all, there is nothing that says that a state cannot negotiate away a part of its territory.

This outcome nevertheless would appear to present Britain with a problem. Thus far, London has fallen firmly in line behind Washington, which has resisted any suggestion of further status talks – even if it would effectively open the way for formal statehood in return for some logical territorial adjustments. However, this stance may have to change unless the International Court of Justice gives an unambiguous ruling in Kosovo's favour. America has made it clear that it does not care about the ICJ's opinion – the US also led the six countries which opposed the UN General Assembly resolution putting the matter to the Court. But Britain cannot afford to be so dismissive of what is, after all, a key UN institution.

Then there is the European dimension. Opinion within EU circles currently seems to be shifting about the need for talks. Five out of 27 EU states still refuse to recognise Kosovo. EU leaders and the Brussels officials have also realised that the Court will not give a clear endorsement to the unilateral declaration of independence, an outcome that will only serve to perpetuate Europe's divisions over the issue. So there now seems to be a growing acceptance amongst others in the EU that some sort of dialogue is now necessary. Would Britain really want to stand against its European partners, especially as Kosovo is a European issue, in the EU's own backyard? –especially since it was the EU's previous failure to come up with a joint position during the last status process that helped create the current mess?

Kosovo – Key Statistics

Population	1,815,048 (July 2010 est.)
GDP per Capita	\$2,500 (2007 est.) (UK - \$35,200, 2009 est.)
Ethnic Make Up	Albanians 88%, Serbs 7%, other 5% (Bosniak, Gorani, Roma, Turk, Ashkali, Egyptian)

Religions Muslim, Serbian Orthodox, Roman Catholic

Kosovo's citizens are the poorest in Europe with an average annual per capita income of only \$2,500. Unemployment is around 40% of the population. Remittances from the diaspora are estimated to account for about 14% of GDP, and donor-financed activities and aid for another 7.5%.

Source: CIA World Factbook

To learn more see:

Ker-Lindsay, James (2009) [*Kosovo – The Path to Contested Statehood in the Balkans*](#), Tauris, London.