

Kosovo and Serbia: A dangerous but not unprecedented Balkan land swap



Kosovo and Serbia have recently discussed an exchange of territory, with some commentators suggesting a deal on a 'land swap' might be imminent. [Andrea Lorenzo Capussela](#) writes that while critics have rightly decried the plan as a redrawing of borders along ethnic lines, they neglect the fact that Kosovo itself is the product of a unilateral, ethnicity-based partition. He proposes a different approach for understanding the issue.

The crisis of Kosovo is three decades old. Its independence, declared in 2008, did not solve it. Kosovo is recognised by neither the UN, the EU, nor by a [wide minority](#) of the states of the world, which includes China, India, Indonesia, Russia, and many states that host separatist or restive minorities, such as Spain. Mutual distrust still divides Kosovo's dominant Albanian majority from its small Serb minority. And its authorities have gained hardly any control over the northern part of its territory, adjacent to Serbia, which is inhabited predominantly by Serbs who rejected its independence and live in near-complete separation from the rest of the country.

Since 2008, therefore, EU foreign policy has devoted most of its energies to settling these problems through negotiations between Kosovo and Serbia. Particularly difficult is the 'question of the north', which closely replicates the question of Kosovo as it stood before its independence. The two heads of state are now considering a [comprehensive agreement](#). All or part of north Kosovo would be 'given' to Serbia, in exchange for all or part of Serbia's remaining Albanian-majority lands, which are contiguous to Kosovo. In parallel, Serbia would accept Kosovo's independence and open to it the path to full international recognition.

The idea was floated a few weeks ago. Both parliamentary oppositions, the Serbian Orthodox Church, and much of Kosovo's public opinion spoke firmly against it, as did most analysts (e.g., in a previous [EUROPP article](#) I agree with; some rare favourable opinions are available [here](#) and [here](#)). [Berlin](#) declared border changes unacceptable, and even Kosovo's governing majority seemed divided. Brussels remained conspicuously silent, however, and on 24 August [Washington](#) declared itself ready to accept the land swap. During a public debate, on the following day the two presidents [suggested](#) that the deal is imminent.

Most objections raised against it are convincing. Border changes are usually dangerous, especially if the motivation is an ethnic one, and this is particularly true in the Balkans, where some states remain fragile. But both sides of the debate seem to forget that ethnicity-based border change has one clear precedent in that region, one which the main western powers engineered and many analysts firmly backed.

I refer to Kosovo, naturally, which broke away from Serbia for a motivation – which is the obverse of the atrocious repression of Kosovo's Albanians by the Milosevic regime – that can safely be described as an ethnic one. The 2007 [report](#) of the UN mediator for the Kosovo crisis is quite frank – perhaps unwittingly so, in retrospect – on this last point:

A history of enmity and mistrust has long antagonised the relationship between Kosovo Albanians and Serbs... For the past eight years, Kosovo and Serbia have been governed in complete separation [*for in 1999 Kosovo was placed under a UN protectorate*]... This is a reality one cannot deny; it is irreversible. A return of Serbian rule over Kosovo would not be acceptable to the overwhelming majority of the people of Kosovo [*Albanians then represented about 90 per cent of the population*]. Belgrade could not regain its authority without provoking violent opposition.

No matter how wide the autonomy granted to it may be, the mediator concludes, keeping Kosovo within the borders of Serbia is 'simply not tenable'. This, next to their own broader political objectives, explains why in 2008 the main Western powers chose to carve out an exception from their allegiance to the principle of the territorial integrity of states, the authority of the UN, and the civic conception of citizenship, and allowed Kosovo to terminate the UN protectorate and secede from Serbia without either Belgrade's or the Security Council's consent.

'Simply not tenable' cuts both ways, however. Indeed, a double partition – splitting at once Kosovo from Serbia and the north from Kosovo – would probably have been a more convenient solution, if a doubly unprincipled one: once one opts for ethnicity-based partition, one might prefer to avoid as much ethnic coexistence as possible. In 2007 informal talks on such a solution failed, however, and since then the West's and most analysts' discourse on Kosovo is entirely couched in the language of the intangibility of borders and the civic notion of citizenship.

Hence the criticism of the proposed land swap. But if a unilateral ethnicity-based border change was acceptable in 2008, why is a consensual one unacceptable in 2018? This objection challenges both the argument from principle and that from consequences, for the Balkans adjusted fairly orderly to Kosovo's controversial secession: why would a lesser, less sensitive, and consensual border change produce worse consequences?

Naturally, even though the supporters of Kosovo's independence cannot very credibly invoke it, the argument from principle remains valid. But its relevance is not obvious, because Kosovo never gained solid control of the north. Under the [effectiveness principle](#), which is arguably the only basis for Kosovo's statehood, this might imply that the north never became part of the new state: so what is generally called the 'partition' of the north would simply be the waiving of Kosovo's claim to it.

As to the consequences of the land swap, critics point chiefly to dangerous repercussions in Bosnia and Macedonia. They focus on the likely dynamics in those countries, however, and seem to neglect the fact that this would be a consensual border change. This is a valid rejoinder, but what does 'consensual' mean? Both Kosovo and Serbia are run by fairly unaccountable governments, which seem to fear rather than desire public debate on their policy choices. Without popular support, an agreement between the two capitals is likely to leave a heritage of mutual recriminations and territorial claims, which could defeat the very purpose of the deal. This would be a sufficient reason to oppose it, even before one considers the regional repercussions.

Inversely, if the deal were put to a referendum in both countries and if open, reasoned debate were allowed, its consequences – internal, bilateral, regional, and broader – would probably be far less dangerous, and it is not obvious that the argument from principle would militate against a land swap agreed by two sovereign states after careful public scrutiny and democratic deliberation. This might be a moot point, however, as neither country is likely to meet this standard.

A third objection, and probably the tallest one, concerns the fate of the remaining minorities. Kosovo's Serbs are gravely marginalised, in fact, and the same is often said of Serbia's Albanians (on whose conditions I am not informed, however): those who will remain within the borders of their current state after the land swap would become even more vulnerable, might be the target of resentment, especially if the deal is not backed by genuine popular consensus, and could anyway eventually be driven to emigrate. Border change is one way of solving the question of minorities, in fact: by getting rid of them rather than by including them. The EU and the West have invested much in the latter solution: opposing the land swap would be a credible way of insisting on it.

Besides some fundamental international norms, to conclude, Kosovo's independence directly challenged the civic notion of citizenship. This deal would compound the damage. Kosovo's independence may well have been inevitable, as the UN mediator argued, but this was only true because of the long chain of atrocities and policy mistakes that preceded it. This land swap is not inevitable, conversely, and by refusing to support it the main western powers would begin to mend that damage. (Incidentally, it will be interesting to see whether US support for a controversial idea will again prevail and split the EU, as it did in 2008).

But other consequences of that chain of mistakes would remain, in the shape of a state lacking international recognition, a contested territory, and two marginalised minorities. The rejection of this deal should therefore be accompanied by a revision of the policies hitherto followed on these matters, whose failure largely explains why a land swap was proposed.

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