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The political situation in the Balkans

Report¹

Political Affairs Committee

Rapporteur: Mr Björn von SYDOW, Sweden, Socialist Group

Summary

Despite an overall positive assessment of the situation in the Western Balkans, the recent upsurge of tension and political impasse in some parts of the region give rise to concern.

The report summarises worrying developments in North Kosovo and Bosnia and Herzegovina, as well as recent developments in Albania where a longstanding political crisis seems to have come to an end. It puts forward a series of recommendations to address the concerns in the region.

¹ Reference to committee: Urgent debate, Reference 3808 of 3 October 2011.

A. Draft resolution²

1. The Parliamentary Assembly notes that, despite an overall positive assessment of the situation in the Balkans, the recent upsurge of tension and political impasse in some parts of the region give rise to concern. It is in particular concerned by:

1.1. the violent clashes in North Kosovo³ on the administrative checkpoints with Serbia, which led to one death during the summer, and the continuing tension and outbreak of violence even today, blocking progress in the European Union-mediated talks between Pristina and Belgrade;

1.2. the political stalemate in Bosnia and Herzegovina which, one year after the October 2010 general elections, is still without a state level government, representing the longest political crisis in the country since the end of the war in 1995.

2. With regard to the growing tension and violence in North Kosovo, the Assembly:

2.1. deeply regrets the most recent acts of violence involving the Kosovo Peace Force (KFOR) staff who serve under the NATO command;

2.2. demands an urgent and objective investigation into the incident at the Jarinje administrative checkpoint on 27 September 2011, when six individuals were shot;

2.3. calls upon the people in North Kosovo to act with restraint and to co-operate without delay and in a constructive manner with the KFOR and with the European Union Rule of Law mission in Kosovo (EULEX);

2.4. calls on the authorities in Pristina to respond positively and sensitively to any legitimate concerns of the minorities in the region;

2.5. urges the authorities in Belgrade and Pristina to resume the EU-mediated dialogue on all outstanding issues in a spirit of co-operation and reconciliation, including the situation in North Kosovo; everything must be done to ensure that North Kosovo does not remain a black hole in the Western Balkans outside the control of the authorities in both Pristina and Belgrade;

2.6. calls on the Council of Europe member states to urge the authorities in Belgrade and Pristina to seek a peaceful solution to the North Kosovo question;

2.7. invites its Presidential Committee to consider a mission in the region to intensify the dialogue and overcome the tensions;

2.8. points out that the priorities of the regional and international actors in the region must remain security, stability, respect for human rights and the integrity of internationally recognised borders in both Kosovo and the region.

3. With regard to the political stalemate in Bosnia and Herzegovina, the Assembly:

3.1. notes that, due mainly to the quarrel on an ethnic basis over the distribution of ministerial posts in the 10-member Council of Ministers, this stalemate has had dire consequences: the country has seen its credit ratings downgraded by international financial agencies; foreign direct investments have fallen 75% since 2009; unemployment is at over 43% of the working population; the state functions on temporary financing since no state budget has yet been adopted;

3.2. regrets that the outgoing government has not been in a position to introduce the reforms necessary for Bosnia and Herzegovina to prepare to join the European Union with the result that the Stabilisation and Association Agreement, ratified by all EU member states since October 2010, has still not been put into force;

3.3. urges all party leaders to find a solution to the political impasse without delay, thereby opening up the prospects for European integration for the country and enhanced regional co-operation;

² Draft resolution adopted unanimously by the committee on 4 October 2011.

³ Throughout this text, all reference to Kosovo, whether to the territory, institutions or population shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

3.4. urges once more the authorities to implement without delay the *Sejdic and Finci* judgment of the European Court of Human Rights by ensuring that minorities or the "others" that do not belong to the "three constituent peoples" (Bosniaks, Croats and Serbs) are able to stand in elections;

3.5. urges all Council of Europe member states to offer assistance to the authorities of Bosnia and Herzegovina to overcome the political stalemate and the deterioration of the economic situation and to meet their obligations and commitments to the Organisation.

4. With regard to the situation in Albania, the Assembly:

4.1. welcomes the fact that the 2011 local elections are now formally concluded and that their outcome has been accepted by the Albanian voters;

4.2. takes note of the commitment of the leader of the Socialist Party to end his party's boycott of the parliament;

4.3. encourages all parties to strengthen, without delay, their internal democratic functioning, work towards normalising the political situation and start a political dialogue within the parliament on the priorities and necessary reforms to be carried out, also with a view to the EU accession talks;

4.4. welcomes the recent agreement reached between the Democratic Party and the Socialist Party to proceed with electoral reform and calls on them to ensure that such a reform addresses the shortcomings encountered in both the parliamentary and local elections and increases the possibilities for smaller parties to enter the parliament; this should put an end to the political bipolarisation which has marked Albanian politics and much frustrated the Albanian people for the last decades. The advice of the European Commission for Democracy through Law (Venice Commission) in the process of electoral reform should be sought.

5. The Assembly resolves to continue to follow closely the situation in the Western Balkans and, in particular, the situation in Kosovo, Bosnia and Herzegovina and Albania.

B. Explanatory memorandum by Mr von Sydow, rapporteur

1. Introduction

1. Following a request for a debate under urgent procedure on the political situation in the Balkans, the Political Affairs Committee appointed me rapporteur on 3 October 2011. This was prompted in particular by the recent upsurge of tension and political instability in the Balkans, and in particular: the violent clashes in North Kosovo⁴ at the administrative checkpoints with Serbia, which led to one death during the summer and the continuing tensions and outbreaks of violence even today, blocking progress in the EU-mediated talks between Pristina and Belgrade; the political impasse in Bosnia and Herzegovina which, one year after the October 2010 general elections, is still without a state level government, representing the longest political crisis in the country since the end of the war in 1995.

2. In Albania, a long-standing political crisis following the last parliamentary and local elections seems to have come to an end with the formal conclusion of the local elections and the decision of the leader of the Socialist Party to end his party's boycott of the parliament.

3. It is worth recalling that, on 26 January 2011, the Parliamentary Assembly adopted Resolution 1786 (2011) and Recommendation 1954 (2011) on reconciliation and political dialogue between the countries of the former Yugoslavia, in which it supported the efforts of the countries of the former Yugoslavia to reconcile and reconstruct a new relationship with each other; welcomed their commitment to regional co-operation and their willingness to overcome the legacy of the past, and called for renewed efforts by all the governments in the region to achieve full reconciliation and Euro-Atlantic integration. Current tension with respect to North Kosovo and the political stalemate in Bosnia and Herzegovina endanger both the reconciliation process and the process of Euro-Atlantic integration.

2. Kosovo

4. It should be recalled that, since the unilateral declaration of independence of 17 February 2008, the Kosovo institutions consider themselves as the sovereign and legitimate authorities of Kosovo and have taken steps to affirm Kosovo's statehood. Eighty-four members of the United Nations have recognised the independence of Kosovo. For its part, Serbia claims Kosovo as part of its own sovereign territory.

5. The Assembly expressed its views on Kosovo most recently in 2010 when adopting Resolution 1739 (2010) and Recommendation 1923 (2010) on the situation in Kosovo and the role of the Council of Europe on the basis of a status-neutral approach.⁵

6. I was rapporteur for that report and have continued to follow the situation since then. In fact, I visited Kosovo in November 2010 prior to the elections.

7. In its reply to last year's recommendation on Kosovo, the Committee of Ministers outlined the co-operation programmes already established in Kosovo (mostly as part of joint Council of Europe/European Union projects) and acknowledged that any monitoring process with respect to the situation in Kosovo would only be truly meaningful if the relevant and competent authorities in Kosovo were directly involved in the monitoring process and responsible for following up the recommendations. The Ministers' Deputies' willingness to launch a feasibility study on the implementation of the monitoring mechanisms of Council of Europe conventions in Kosovo is to be particularly welcomed.

8. North Kosovo refers to a region in the northern part of Kosovo with an ethnic Serb majority which functions largely autonomously from the remainder of the disputed territory, which has an ethnic Albanian majority. Parallel Serb institutions function in North Kosovo for Serbs living there, a situation clearly opposed by the institutions of Kosovo. NATO-led Kosovo Peace Forces (KFOR) provide security from external and internal threats on the entire territory of Kosovo.

9. At the end July 2011, tension in North Kosovo was triggered by the Kosovo Government's decision to send special police forces to take control of two checkpoints at the administrative border with Serbia so as to enforce a ban on the import of Serbian products. The checkpoints had until then been guarded by ethnic Serb members of the Kosovo police. The Kosovo Government suspected them of failing to implement

⁴ Throughout this text, all reference to Kosovo, whether to the territory, institutions or population shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

⁵ See also Resolution 1782 (2011), adopted on 25 January 2011, on the investigation of allegations of inhuman treatment of people and illicit trafficking in human organs in Kosovo.

customs controls. The Kosovo authorities' efforts to take control of the checkpoints were resisted by ethnic Serbs in North Kosovo. The latter set up road blocks and barricades demanding that a solution be found to the issue of checkpoints control. A Kosovo police officer was murdered on 25 July 2011 and further violence erupted. On 28 July 2011, with tension mounting, the two crossings were declared restricted military zones, by KFOR.

10. Despite a request by Serbia to the United Nations Security Council to prevent the Kosovo authorities from taking control of checkpoints, on 16 September 2011, the EU Rule of Law Mission (EULEX) deployed customs and border officers, protected by NATO KFOR forces.

11. Today, tensions remain high in the North, and there have been further outbreaks of violence between KFOR forces and Kosovo Serbs, who continue to reject the presence of Kosovo customs officers between Kosovo and Serbia.

12. As a result of the escalation of tension, a round of EU-brokered talks between Belgrade and Pristina, due to take place in Brussels on 27 and 28 September 2011, was indefinitely adjourned. The Serbian authorities initially wanted to resolve the stalemate by putting the issue on the agenda of the regular EU-mediated dialogue with Pristina, but the Kosovo Government refused to discuss it. On 28 September 2011, Serbia pulled out of the EU-mediated scheduled dialogue session, after stating that it would only discuss the border situation. It is likely that EU talks will be extremely difficult to resume until the situation in North Kosovo has been resolved.

13. There has been a strong international response to the latest developments in Kosovo.

14. The High Representative of the European Union for Foreign Affairs and Security Policy, Catherine Ashton, urged the two sides to refrain from further actions and to find a peaceful solution to the problem via dialogue. The United States has accused the Serbs of provoking violence, while the Russian Foreign Ministry has expressed deep concern over the situation in Kosovo, stating that this conflict, largely perceived as a border incident, could destabilise the situation in the whole region.

15. On 28 September, the members of the United Nations Security Council gathered for emergency consultations in New York to discuss the situation in southern Serbia, but failed to reach a common stance on the conflict.

16. The government and opposition in Pristina have been unanimous in arguing that the actions of the Kosovo authorities are legitimate and should continue until the full implementation of control on the checkpoints. On 29 September, Kosovo's Interior Minister, Bajram Rexhepi, said that roadblocks put up by local Serbs would be removed, while pledging that the Kosovo authorities would make no unilateral moves and that any action would be co-ordinated with the KFOR forces and the EU mission.

17. The Serbian Government has firmly condemned the violence in Kosovo and has called on KFOR and EULEX to guarantee security in Kosovo and not to tolerate Pristina's unilateral moves on the part of the Kosovo authorities. It also stated that the government will not give up the search for a peaceful solution to the Kosovo issue.

18. It is most unfortunate that the matter of controlling the Northern Kosovo border is now being considered in the context of a state of crisis and tension.

19. However, it is to be welcomed that the Serb authorities have demonstrated that they are committed to the dialogue and are ready to seek a solution to specific problems.

20. While the arrest of former Bosnian Serb military commander Ratko Mladic and Croatian Serb leader Goran Hadzic earlier this year seemed to have removed the last remaining blocks to Serbia gaining EU candidate status, on 22 August, German Chancellor Angela Merkel announced that she would demand that Serbia become a stabilising factor in the Balkans, especially by appeasing its relations with Kosovo. She expected the pro-Western government coalition led by President Boris Tadic's Democratic Party to abandon its dual policy of seeking EU membership while defying Kosovo's independence.

21. It would seem unlikely that Serbia will make considerable progress towards normalising its relations with Kosovo before the 2012 elections. The goal of the Serbian ruling coalition will most likely be to find the fine balance between acquiring EU candidacy status and resisting the pressure to recognise Kosovo as this would significantly boost the re-election bid of Serbia's current coalition partners in the forthcoming elections.

However, if Serbia obtains candidacy status while failing to meet Chancellor Merkel's demands, the European Union could lose leverage vis-à-vis Serbia in its efforts to stabilise the Balkans.

22. At the same time, the situation in North Kosovo delays Kosovo's own progress towards European integration, including the long-standing visa liberalisation process for people from Kosovo.

23. I believe that the solution lies eventually in seeking a compromise, with the two sides making concessions. A political agreement on how to run North Kosovo is a prerequisite for a long-term sustainable solution. Securing such an agreement is essential not only for the sake of stability in the Balkans, but also with regard to the EU bids of both Belgrade and Pristina.

3. Bosnia and Herzegovina

24. 3 October 2011 marked one year following the October 2010 general elections. One year later, Bosnia and Herzegovina is still without a state level government. This is the longest political crisis since the end of the war in 1995.

25. The outgoing government is handling current affairs but cannot introduce the reforms necessary for Bosnia and Herzegovina to be in a position to join the European Union. The Stabilisation and Association Agreement (SAA), ratified by all EU member states since October 2010, has still not been put into force because Bosnia and Herzegovina would have to be found immediately in violation of the agreement for failure to adopt a law on census, a law on state aid and a constitutional reform aimed at eliminating the discrimination found by the European Court of Human Rights to be in violation of European Convention on Human Rights in the *Sejdic and Finci* case in December 2009.

26. This situation has dire consequences: the country has seen its credit ratings downgraded by international financial agencies; foreign direct investments have fallen 75% since 2009; unemployment is at over 43% of the working population; the state functions on temporary financing since no state budget has yet been adopted. This is not to mention the serious damage done to the country's reputation abroad. The struggle among the various levels of government (state level, entity level, cantons) over the repartition of the €96 million allocated by the European Union under the 2011 Instrument for pre-accession (IPA) may result in part of the funds being re-allocated to regional programmes, while the International Monetary Fund may be unable to disburse the second tranche of the 1.2 billion euro stand-by arrangement. Bankruptcy and over indebtedness loom in both entities.

27. The root cause of this problem lies in the fight, on an ethnic basis, over the repartition of ministerial posts in the 10-member Council of Ministers. There are nine ministries (and nine deputy ministers), plus a chairperson, to be shared between the main ethnic parties representing the three constituent peoples: the Bosniaks, Serbs and Croats.⁶

28. It may be recalled that the main winner of the October 2010 elections is the multi-ethnic Social Democratic Party. In coalition with the main Bosniak party (SDA) and two small Croat parties (HSP and NSRzB), they hold 17 of the 42 seats in the state parliament and are thus claiming the post of Chairperson of the Council of Ministers. Their candidate, Mr Slavo Kukic, an ethnic Croat not affiliated to any party, was not however confirmed by parliament in July 2011, due to the opposition of the Serb and mainstream Croat parties.

29. According to the law on the Council of Ministers, the three-member Presidency should have presented new candidates for the post of Chairperson of the Committee of Ministers within the following eight days. Instead, they are still waiting for an inter-party agreement on the distribution of posts. The last meeting of the six main party leaders, on 26 September 2011 in Brcko, produced no results, despite the main Serb parties (SNSD and SDS)⁷ showing a little more flexibility than before. The main stumbling block remains the allocation of the posts "reserved" for the Croats: both the Croatian Democratic Union (HDZ) and the breakaway HDZ-1990, who, together, hold four seats in the state parliament, insist that they are the only "legitimate" representatives of the Bosnian Croats and therefore demand three ministries, including the post of Chairperson of the Council of Ministers. They do not accept that ethnic Croats, members of the multi-

⁶ According to the Dayton Constitution, not more than two thirds of the ministers can be appointed from the territory of the Federation of Bosnia and Herzegovina, one of the two Entities composing Bosnia and Herzegovina. Every Minister can have one deputy, who must be from another constituent people.

⁷ SNSD and SDS are in coalition at state level, commanding 12 seats in the state parliament, but they are in opposition at Entity level in Republika Srpska.

ethnic SDP, are legitimate representatives of the Croat people, since a number of them, including the Croat member of the Presidency, were elected with the help of Bosniak votes.

30. This political impasse does not foster inter-ethnic trust and a sense of common good for the country. It has furthermore strengthened the allegation of the authorities in Republika Srpska that "peaceful separation" would be a better solution. The Croat community, for its part, which represents between 10% and 12% of the total population (while Bosniaks make up to 40% to 48% of the 3.9 million inhabitants) fears marginalisation and political irrelevance.

31. Unless the party leaders act quickly to resolve matters, Bosnia and Herzegovina risks becoming a black hole in the Western Balkans: indeed the state Constitution and election legislation do not provide for the possibility of holding early elections. The political impasse could in theory last until the next general elections scheduled for 2014.

32. Furthermore, this situation affects regional co-operation. Relations with Serbia have been slowly improving over the past couple of years, but Bosnia and Herzegovina, which is the only country from the region not to have recognised Kosovo, was until recently violating the Central European Free Trade Agreement (CEFTA) by refusing to recognise customs stamps bearing the symbols of Kosovo or the inscription "Kosovo Customs Services" (as recognised by UNMIK). The so-called Sarajevo process aimed at finding a global solution to the refugee and IDP problem in the region is not yet developing sufficient momentum.

33. Bosnia and Herzegovina has also failed to fulfil its obligations and commitments to the Council of Europe. In particular, almost two years after the judgment of the European Court of Human Rights, no credible efforts have been made to implement *the Sejdic and Finci v. Bosnia and Herzegovina* judgment. Minorities or the "others" that do not belong to the "three constituent peoples" (Bosniaks, Croats and Serbs) are still unable to stand in elections.

4. Albania

34. Albania has recently experienced a serious political crisis over the outcome of the Tirana mayoral election, which was itself rooted in the political crisis that ensued after the June 2009 parliamentary elections.

35. Alleging that fraud had taken place in a number of districts, the Socialist party appealed against the results of the 2009 parliamentary elections to the Central Election Commission (CEC), and later to the Electoral College.⁸ In both instances, the appeals of the Socialist party were dismissed. In protest against the outcome of the elections, the Socialist party decided to boycott the work of the parliament, as well as of a number of state institutions. Given that the governing majority lacks the three-fifths qualified majority to implement constitutional and organic changes, this boycott has negatively affected the implementation of a number of important reforms needed for possible accession to the European Union, which is one of the main political priorities for the country. Eventually, the Socialist party ended its boycott of the parliament and replaced it by a "conditional relation with the parliament". This decision was partly guided by the wish not to lose its parliamentary mandates, which it would have lost if its members had not been sworn in within six months after the elections. While the Socialist party formally returned to the parliament, in reality the stagnation and political stand-off continued. This in turn affected the preparations for the local elections that were held on 8 May 2011.

36. Following the local elections, Mr Lulzim Basha (Democratic Party) was officially declared the winner of the 2011 mayoral election for Tirana, on 23 June 2011, with a difference of 93 votes over his rival, incumbent Mayor Edi Rama (Socialist Party). The Central Election Commission's decisions were strongly disputed and several appeals were filed against the results. The re-run of the elections was demanded from the Electoral College by the Socialist party. However, these appeals and demands were rejected by the Electoral College on legal grounds. On 1 August 2011, Mr Basha was installed as the new Mayor of Tirana.

37. According to information provided by the Monitoring Committee's co-rapporteurs on Albania, Mr Jirsa and Mr Petrenco, on their recent fact-finding visit to Tirana (30 June - 1 July 2011)⁹, the 2011 local elections in Albania are now formally concluded and their outcome seems to have been accepted by the Albanian population, if not by all its political leaders.

⁸ The Electoral College is the highest election-related court in the country.

⁹ The information note was made public by decision of the Monitoring Committee dated 8 September 2011, document AS/Mon (2011) 21 rev.

38. In a welcome development, the international community has acted in unison under the co-ordination of the Ambassadors of the European Union, the United States and the OSCE. This has been instrumental in avoiding the escalation and internationalisation of the crisis and has contributed to the final acceptance of the outcome of these elections by the electoral stakeholders, including, most importantly, the Albanian voters.

39. The leader of the Socialist Party, Mr Rama, explicitly promised that his party would not boycott the parliament again and would return to work after the summer break. It is now important that all parties work towards normalising the political situation and engage in a political dialogue within the parliament on the priorities for the country with a view also to the EU accession talks.

40. I welcome the agreement reached recently between the ruling Democratic Party and the Socialist Party to proceed with electoral reform with a view to addressing the shortcomings encountered in both the parliamentary and local elections. Such a reform should also aim at increasing the possibilities for smaller parties to enter the parliament. This would increase representativeness and pluralism and stop the political bipolarisation which has marked Albanian politics for the last decades and much frustrated the Albanian people. It is equally important to put an end to the practice of negotiating over and changing the electoral code on the eve of each election.

41. In this context, it may be noted that the Secretary General of the Council of Europe wrote to the Albanian authorities, informing them of his intention to ask the Venice Commission for an opinion on how the shortcomings noted during the local elections can be avoided in the future. This was seen by some of the co-rapporteurs' interlocutors as possible interference in the domestic court proceedings. However, in my view, the Secretary General's intentions were misunderstood and I fully support his proposal which seeks to improve and clarify the election code for future elections.

42. I understand that the co-rapporteurs of the Monitoring Committee intend to return to Albania in the third trimester of 2011 to assess the progress made in honouring the full spectrum of accession obligations and commitments of Albania to the Council of Europe. It is very important that the political stand-off does not continue to paralyse the legislative process and the adoption of the reforms that are needed for the country, including for it to start the accession negotiations with the European Union.

5. Need for continuous close monitoring of the situation

43. Both Albania and Bosnia and Herzegovina are under the Assembly's monitoring procedure. Therefore, the situation therein is and must continue to be followed closely by the Monitoring Committee.

44. For its part, the Political Affairs Committee is closely following the situation in Kosovo. A new visit should be organised soon and we should hold an exchange of views on the overall situation in Kosovo, in the presence of representatives of the political forces elected to the Kosovo Assembly, in line with Resolution 1739 (2010), at one of our next meetings.

45. Hence, through the work of the Political Affairs Committee, on the one hand, and the Monitoring Committee, on the other, the Assembly should continue to follow closely the situation in these countries and, if need be, in other countries in the Balkans with a view to promoting security, stability and respect for democracy, the rule of law and human rights. Concrete recommendations are made in the draft resolution.