

## **Bilateral Disputes – A Dark Cloud over the Balkans**

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**I**n his address to the Friends of Europe 10th anniversary congress on the Balkans on 5 December 2012, Commissioner Štefan Füle called on the Balkan states to make 2013 the year of “good neighbourly relations”:

“We are quite clearly saying: a) no more importing of bilateral issues into the EU; b) we don't want the ‘bilateral mines’ to explode in the middle of the accession process. But then if we are saying a) and b), we also need to say c) How are we going to handle bilateral issues? We need to think together next year about parallel processes.”

### **And twelve months on?**

The big success of last year was the agreement reached in April in the EU-facilitated dialogue between Serbia and Kosovo. This breakthrough demonstrated just what can be achieved with political will. It also reflected the continued strength of the EU's integration perspective and the effectiveness of its 'soft power', if used in a consistent manner.

There was much hope that the courage and leadership shown by the Serbian and Kosovar leaders would inspire their neighbours, in particular Bosnia and Herzegovina, and Macedonia and Greece, to follow their example. Sadly, this hope remains in the domain of wishful thinking.

As stated in the European Commission's enlargement strategy published last October:

“Outstanding bilateral issues continue to negatively affect the accession process. In the spirit of good neighbourly relations, open bilateral issues need to be addressed by the parties concerned as early as possible.”

### **A dark cloud**

These bilateral issues are as varied as they are deep rooted and go back way before the break-up of Yugoslavia. But daily reminders of the past continue to weigh heavily on the countries of the Balkan region; more than ten years after the Thessaloniki EU-Western

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Balkans Summit that set the countries on course for EU accession; more than 20 years after the break-up of Yugoslavia and more than 100 years after the First and Second Balkan Wars.

They relate to border demarcation, property rights, displaced persons and refugees, ethnic minority rights and non-recognition of the existence of minorities in other states, non-recognition between Orthodox Churches, status and identity issues, conflicting interpretations of history and, last but not least, the name dispute between Macedonia and Greece, which combines almost all of the elements above.

There have been courageous attempts to address some of the issues, largely driven by non-governmental organisations, and often at great risk to the individuals involved, due to the disapproval of political leaders in their respective countries. But mostly these issues have been swept up in the ethno-nationalist rhetoric that continues to hold sway in a number of countries, leaving little space for rational argument. Rather than promoting consensus politics and focusing energies on resolving record unemployment, particularly among the youth, or tackling rampant corruption, the region's political leaders are playing a dangerous game of identity politics in order to remain in power.

As a result, basic democratic values are seriously undermined and, as witnessed in Bosnia and Herzegovina, and in Macedonia, political discourse is polarised along ethnic lines and society is deeply divided. The issues of identity and conflicting claims over heritage offer a convenient cover for policies that have little to do with the aspiration of accession to the EU, and more to do with narrow partisan politics.

There is no doubt that the EU underestimated the extent of the bilateral issues that continue to plague the region, despite its own unique record as peacemaker. No-one can deny the success of the European integration model in overcoming the legacy of war and creating a process based on the rule of law, which has stood the test of time. Its example ensured, with one exception, the smooth absorption of ten new member countries in 2004. The exception was Cyprus, which entered as a divided island and remains divided.

But the Balkan region, although in the heart of Europe, offers a more complex picture. The combination of weak leadership, a lack of experience in conflict resolution and little appetite for compromise has made the issues appear even more intractable for countries to resolve on their own. For example, neither the border demarcation agreement of 2009 between Macedonia and Kosovo nor the Serbia-Kosovo agreement of last year would have been possible without the active involvement of the international community.

Because some of these issues, such as border demarcation (where the EU has no legal competence) were not considered part of the accession criteria, they tended to be lumped into one set phrase, repeated in official EU documents, to the effect that: These are bilateral problems that must be solved between the interested parties in regional cooperation and good neighbourly relations.

In other cases, such as ethnic minority rights, where the EU has no *acquis* and where its own record is not without fault, the EU leaves itself open to accusations of double standards. Yet the issue of ethnic minority rights, including non-recognition of the existence of ethnic minorities in a given country, is a constant throughout the countries of the region, whether it is a member country like Greece, or an aspiring member country like Bosnia and Herzegovina. As long as these issues are not satisfactorily resolved, they pose a threat to the long-term stability of the region.

## Credibility of the EU enlargement process

If these bilateral disputes – of whatever nature – continue unresolved, the credibility of the EU enlargement process itself is at stake. When it comes to disputes involving EU member states, holding the accession process hostage to bilateral complaints undermines the element of fairness in the conditionality principle; it also fuels the nationalist agenda of the Balkan countries in question. This is particularly the case with regard to the dispute between Macedonia and Greece.

The EU also failed to understand early on the critical importance of civil society and the media in the countries emerging from the break-up of Yugoslavia, and the constructive role it could play in creating a climate of trust between the different ethnic communities, particularly at local community level and in counteracting partisan politics. Support for civil society has increased in recent years, but remains deficient and non-systemic.

Just as the efforts at reconciliation in the Balkan region have been largely spearheaded by civil society organisations, there is no reason why this cannot be done in other sensitive areas.

## Some examples

Fortunately, there are some positive examples, such as between Slovenia and Croatia, where with the right political will and external encouragement, progress can be achieved.

The Slovenia-Croatia dispute forced the then Commissioner for Enlargement, Ollie Rehn, to admit in 2009 that

“The delimitation of the border between Croatia and Slovenia is a bilateral issue that has become a European problem.”

It was thanks to the political courage of both the Slovene and Croatian Prime Ministers, Mr. Pahor and Mrs. Kosor respectively, that an agreement was found with the support of the European Commission, enabling the accession negotiations for Croatia to continue unimpeded.

On the other hand, in the case of Bosnia and Herzegovina, although commendable efforts have been made to develop some level of dialogue with neighbouring countries, outstanding issues relating to ethnic minority rights, property and border demarcation remain unresolved. There are more than 100,000 Internally Displaced Persons, including refugees, and almost 12,000 missing persons resulting from the conflicts in the region: a tragic reminder of the enormous challenge of dealing with the past. With the seeming inability of the country's complicated leadership structure to function as it should, the prospect of many of these issues being resolved remains bleak for the foreseeable future.

As for the name issue that divides Macedonia and Greece, the UN mediation process is now entering its 18th year with the chances of a breakthrough as remote as ever. While the current Macedonian government, in power since 2006, is not without blame because of its brand of populist ethno-nationalist politics, the attitude of Greece on this issue raises serious questions about the behaviour of this long-standing EU member country. Hopes that its current six-month Presidency of the EU Council might encourage it to engage more actively in negotiations with its neighbour have yet to be fulfilled. Until both parties sit down together at the table with a demonstrated political will to resolve the dispute, there is no hope of a settlement.

## The way forward

There are no ready-made solutions to these or many other outstanding disputes; nor is there a one-size-fits-all approach. But sooner rather than later, the EU will need to set in place a more effective policy to deal with them.

With the decrease in support for the EU's enlargement policy among EU member states; a decrease likely to worsen during the European Parliament elections and the rise of populist parties quick to equate enlargement with increased levels of immigration, the EU will need to show the continued benefits of its enlargement strategy.

In his speech mentioned above, Commissioner Füle made a call to his audience:

“You need to be creative; you need to find ways of alternative engagement to move the enlargement agenda forward.”

Accordingly, the EU should pursue the following four proposals without delay:

- provide targeted assistance for civil society organisations and the media to promote projects that are specifically focused on these bilateral issues, particularly in the border regions. For example, supporting an open debate on the name issue in Macedonia and bringing together representatives from both Macedonian and Greek organisations would help prepare public opinion for a compromise solution to end the current deadlock. The EU needs to be more forceful in ensuring an effective civil society-government partnership on all issues relating to bilateral disputes, as well as in the overall EU accession process;
- establish more systematic and targeted cooperation mechanisms with the OSCE and the Council of Europe, both at headquarter level and out in the field, using respective expertise to focus on specific bilateral disputes. Now that for the first time the OSCE Chairmanship (Switzerland in 2014, followed by Serbia in 2015) has appointed a Special Representative for the Balkans with a two-year mandate, this will be an added incentive to work more closely together;
- this targeted cooperation should include the setting up of a High Level Dialogue with all the countries of the region, to include government and civil society representatives, which would focus on ethnic minority rights, where both the OSCE, through the High Commissioner for National Minorities, and the Council of Europe, have proven expertise;
- ensure that member states who have grievances or bilateral issues with any of the Balkan countries will channel them through existing EU or international institutions and not use them to block or delay the accession process for the respective countries. This is particularly important for the countries where the EC has recommended the start of accession negotiations. This commitment should be formalised within the EU and become an accepted norm for the enlargement process.

Only a determined and consistent approach on the part of the EU and its member states, and a greater manifestation of political will on the part of the countries concerned in the Balkan region, will allow the dark cloud to lift.