

# Kosovo's bid to the Council of Europe

*Umberto Cucci*

—

May 5, 2018



GROUP FOR LEGAL  
AND POLITICAL  
STUDIES



GROUP FOR LEGAL  
AND POLITICAL  
STUDIES

---

# Group for Legal and Political Studies

is an independent, non-partisan and non-profit public policy organization based in Prishtina, Kosovo.

Our mission is to conduct credible policy research in the fields of politics, law and economics and to push forward policy solutions that address the failures and/or tackle the problems in the said policy fields.

[legalpoliticalstudies.org](http://legalpoliticalstudies.org)

## KOSOVO'S BID TO THE COUNCIL OF EUROPE

*By Umberto Cucchi*

In the last months, Kosovo Ministry of Foreign Affairs, has hinted in several occasions that the country should submit its Council of Europe (CoE) bid before the end of 2018. As it is widely-known, CoE is a leading international organisation for the safeguard of human rights, democracy and rule of law. Although it is not directly linked with the European Union (EU), it must be noted that no country has ever joined the EU prior to a CoE membership. Hence, of particular relevance is the fact that Kosovo is the only Western Balkans (and Southeastern European) country that is not member of the the Council of Europe. Kosovo's partners on this tiny list only include Vatican City and the quasi-democratic state of Belarus. It is thus quite peculiar to find a parliamentary democracy in same group with a theocracy and the last authoritarian regime in the continent.

Isolation and the 'war' against it, have been the *leitmotifs* of Kosovo's foreign policy of the last ten years. The next battle in the war for international recognition could be fought for a membership seat at the CoE after the bittersweet result of the last years, which ranged from the signing of the SAA to the failed bid to UNESCO membership. Enshrined democratic principles and a multi-ethnic composition make Kosovo a strong candidate, at least on paper, for a membership at the Council. As noted by Ministry of Foreign Affairs (in charge with the bid process), the CoE is mainly chaired – at the moment - by Kosovo's allies, therefore making this specific moment quite propitious for a smoother voting procedure. Kosovo has an important majority in the Parliamentary Assembly of the CoE, where PA of countries recognizing Kosovo significantly outnumber PA of countries that do not have diplomatic relationship with Pristina. However, the increasing relevance of extremisms (both left and right) in the European political spectrum must not be underestimated. The significant increase of extremist political parties inside national assemblies – and consequently their presence at the PA of the Council of Europe – might cause a misalignment between national government's foreign policy agenda and the totality of their assemblies. In other words, having the support of a key European government does not automatically translate into a full support by that country's representative at the PA. Moreover, Kosovo's allies, although most of them are chairing the CoE, have become less vocal and supportive in these processes. Without key international allies, Kosovo's chances to join the Council are drastically reduced.

Membership would represent first and foremost a victory for Kosovo's citizens. Kosovars have expressed for many years the desire to join the CoE and its vast network. Membership to the CoE would grant to Kosovo citizens the right to bring cases to the European Court of Human Rights (ECHR), as well as the Committee against torture and trafficking. What is more, CoE would play a pivotal role in assisting Kosovo institution in the drafting and monitoring phases of laws. Besides the obvious and direct benefits of direct membership, Kosovo's entrance in the CoE would represent a major victory on its foreign policy agenda towards full international recognition. The possibility to access multilateral global governance platform such as the CoE would allow Pristina to strengthen its international

network and pedigree, establish new relationships with foreign countries that are not yet recognizing Kosovo and reduce the high costs of bilateral diplomacy. Taking all of the above facts into consideration, Deputy Prime Minister Enver Hoxhaj has noted that full membership of Kosovo could take between two to three years. It is nonetheless important to point out that issues on the paths towards membership are far more political than procedural and/or technical. Kosovo has showed significant progress on the procedural and technical aspects of the application process by improving its institutions, judiciary and its safeguard of human rights. As a matter of fact, although Kosovo's poor track record in protection of human rights and minorities is still significant, Kosovo still present a better *Curriculum Vitae* than many other countries that are already members of the Council. What is more, Kosovo's commitment to the protection of human rights is also significantly higher if compared to the time of entry of the majority of CoE members. Although it is arguable that membership criteria have become more rigid and rigorous, Kosovo still appears competitive even compared to the latest country that joined the Council. The real issue is still represented by the strong coalition of countries not recognizing Kosovo lead by Serbia and Russia. As foreseeable, Serbia and its government are fierce opponents of Kosovo's application to the CoE. Serbian Foreign Minister and First Deputy PM Ivica Dacic claimed that Pristina's announced application for membership in the Council of Europe needs to be dismissed as groundless since Kosovo does not meet the fundamental conditions for membership status because it is not a state. Dacic re-asserted there were no grounds for such an application to be considered.

On the other hand, Russia's suspended voting rights at the CoE (following the annexation of Crimea in 2014) could be seen as an advantage for Kosovo and his bid. While this is technically right, welcoming a new member without Russia's consent could be seen as something preferably avoidable in a turbulent and delicate phase in international affairs. Russia has stopped to pay a sizable part of its membership fee and has threatened to indefinitely leave the organisation if its voting rights are not restored. It is thus likely that Kosovo's allies might be reluctant to push for a controversial vote over Kosovo's membership at the Council with Russia excluded from the voting procedures. What is more, also Turkey, one of the closest allies of Kosovo, is amid a dispute with the CoE over a Human Rights Prize awarded to Murat Arslan, an imprisoned constitutional judged accused to be part of the 2016 coup. Since then, Turkey, one of the largest contributor, has stopped to fund the Council. A voting procedure involving Kosovo and all of its peculiarities should possibly take place with as many key international actors as possible in order to further legitimize its validity and importance. A 'shortcut entry' in the next months could backlash against Pristina at anytime.

If the international chessboard presents enough problems to Pristina, additional issues to Kosovo's bid to the CoE come from its complex political landscape. At the moment, one of the key priority on Pristina's foreign policy agenda still is the EU-facilitated dialogue with Serbia. After a year of stalled negotiations and the recent events that saw the assassination of Oliver Ivanović in Mitrovica and the arrest of Marko Djuric - director of the Serbian government's Kosovo office - the dialogue find itself on even shakier grounds. A strong campaign towards Kosovo entry in the Council could further endangered the

possibility of a positive outcome. A successful dialogue, which would culminate in a normalization of relations between Pristina and Belgrade, could result in a series of major future victories for Kosovo. The establishment of the Association of Serb Municipalities (ASM) – one of the main elements of the Brussels agreement - could be used a bargaining chip for future memberships in major international organizations where Kosovo is still not represented. With an ever growing pressure for the establishment of the ASM - both from Belgrade and Brussels -, Haradinaj's government needs to figure out a way to respect obligations undertaken in front of EU institutions. What is more, the intricate internal dynamics of Kosovo politics increase the difficulty of reaching a normalization with Serbia. Strong opposition against the ratification of the border agreement with Montenegro and the establishment of the ASM have deeply weakened Kosovo's position vis-à-vis EU institution and endangered its journey towards EU integration. A lack of a proper national consensus over key foreign affairs issues and the absence of prioritization by the government, might indicate that the timing behind CoE's membership bid could be better.

In conclusion, it is easily arguable that Kosovo's membership could prove beneficial for Kosovo itself as well for the Council of Europe. Forgotten areas of the continent undermines the mission of CoE in promoting democracy and protecting human rights. Without Kosovo's membership the principle of safeguard of democracy and human rights throughout the all European continent is not applied and enforced. The Council of Europe has stated in more than one instance the full right of Kosovo citizens in sharing total European perspective, enjoying the same privileges of fellow European citizens. Ironically, the preclusion of membership to Kosovo is a clear violation of the principles and values of the CoE. Kosovo should thus continue via diplomatic channels and the implementation of key reforms to slowly but concretely advance on its path towards international recognition and European integration. Perhaps, a fragmented national political landscape, a difficult ongoing dialogue with Belgrade and a weaker international support on this issue, make 2018 a challenging year for Kosovo to obtain a seat at the Council.

## Espresso.Insights

Espresso.Insights are aimed at decoding the policy research of our Fellows to a broader audience. Espresso.Insights present short summary of analysis and information that help readers and policy-makers in particular, to understand the relevant research, as they suggest possible policy options and argue for certain path of action. Aiming to intensify the debate about policy issues and general public concerns, Espresso.Insights will, in addition, serve as gears to aid an informed decision-making process.



GROUP FOR LEGAL  
AND POLITICAL  
STUDIES

[legalpoliticalstudies.org](http://legalpoliticalstudies.org)