

## ANALYSIS



**With a little help from my friends.** A Kosovo Albanian watches television in Pristina, Kosovo, as the International Court of Justice delivers its verdict on the legality of Kosovo's independence. [EPA]

## Delphic Kosovo ruling seen as a blessing for secessionists

BY HARRY VAN VERSENDAAL

A ruling by the United Nations' highest court last week on Kosovo's unilateral declaration of independence from Serbia in 2008 prompted frustration in Belgrade and triumphalism in Pristina, but legal experts remain uncertain about the exact meaning and the implications of the decision for the divided region and beyond.

The much-anticipated decision by the International Court of Justice (ICJ) in The Hague, which was passed in a 10-to-4 vote by the judges, had a Delphic quality: While saying that the declaration of independence was not in violation of international law, it stopped short of stating that Kosovo is a legal state.

"The ruling in fact has very little real meaning. In fact, we are not clearer on whether Kosovo's secession is legal than we were before. The court simply said that the declaration of independence as a statement did not infringe any international laws. Anyone can declare independence, in other words. What matters is the act of recognition – an issue that the court steered well away from," James Ker-Lindsay, a Balkan expert at the London School of Economics (LSE), told Athens Plus.

Lack of clarity did not stop Pristina from hailing the decision, which is nonbinding, as a victory. Serbs, their fortune and confidence tarnished by a series of lost wars in the 1990s, reacted angrily to the prospect of giving up this chunk of land traditionally seen as

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Yes, but

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Friend request

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the nation's historic heartland. Lawmakers this week passed a resolution that their country will never recognize Kosovo as an independent state, while the government launched a diplomatic marathon to halt further recognitions by foreign states. Kosovo, which was put under UN administration after a NATO air raid in 1999 ended a Serb crackdown on independence-seeking ethnic Albanians, has so far been recognized by 69 states, including the US and most EU governments – but not Greece. It has a population of 2 million, 90 percent of whom are ethnic Albanians.

### Pandora's box

Analysts had warned that a pro-independence ruling would be like opening Pandora's box, emboldening separatist movements in areas such as Nagorno-Karabakh, South Ossetia, Abkhazia, Somaliland and northern Cyprus. In a nod to such concerns, shared by states including China, Russia, Spain, Romania, Cyprus and Greece, the court deftly fought shy of a political decision.

"The ruling has very little effect on separatist movements – and that is where the judges have been particularly shrewd. Again, anyone can declare independence. It is whether it is recognized that matters," Ker-Lindsay said.

For Stefan Wolff, professor of international security at the University of Birmingham, the ICJ did not rule on whether the declaration of independence had any legal implications, which is essentially

what other secessionist movements would need to make Kosovo's case a precedent. But legal technicalities, he warns, will not be enough to stop the trend. "There is little doubt in my mind that secessionists elsewhere will interpret the court opinion in their favor," Wolff said.

### Might is right

Does Cyprus need to worry? Ker-Lindsay says the ICJ ruling will have no immediate effect on Cyprus, as the 1975 unilateral declaration of independence by the Turkish Cypriots was in fact explicitly declared to be illegal by the UN Security Council. "Had it happened today, we could be dealing with a very different situation. But it didn't and we aren't," he said.

Despite successive UN resolutions, Turkish troops have continued to occupy the northern third of the island since 1974. During a visit to Nicosia last week, German Foreign Minister Guido Westerwelle was keen to reassure Cyprus.

"This was very specific expertise, it has nothing to do with any other cases in the world... It's a unique decision, in a unique situation with a unique historical background," he said.

LSE historian Svetozar Rajak is more skeptical, suggesting that a lot depends on your friends. "As the case of Kosovo has shown, if there is enough backing from the international community, any situation, in existence today or in the future, including Cyprus, may end up before the ICJ," he said.

## What next for Serbia?

**Analysts agree** that instead of wasting time and energy on what seems to be a lost cause, Belgrade should engage in practical cooperation that will allow it to one day join the European Union.

But a pragmatic shift won't come naturally. Reacting to the ruling of the International Court of Justice earlier this week, Belgrade said that it will not change its policy of treating Kosovo as Serbian territory, while it vowed to continue its fight to reopen status negotiations at the UN's General Assembly.

Fortunately, this time war is not in the cards. Rebuffing nationalist calls for a military response, Serb President Boris Tadic this week said Belgrade will seek a compromise. "We are in a very difficult situation... but we won't beat the war drums," he said. "We cannot protect our interests in Kosovo without integration into the European Union and good relations with the United States, Russia and China."

That does not mean that Belgrade will not be tempted to block Kosovo's membership of regional organizations or even the free movement of people and goods. But it's hard to see how it will stick to a policy that undermines its EU hopes for very long.

"Given the catastrophic economic situation Serbia is in and the obvious inability of the government in Belgrade to offer solu-

### Assertive

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tions, it may be tempted to accept any and every carrot from the EU, in exchange for the recognition of Kosovo independence," the LSE's Rajak said, adding that there seems to be little effective opposition from the existing political factors at home.

Some observers, including Rajak, are rather concerned about Pristina's unilateral action in northern Kosovo. "I am afraid that the ICJ decision may encourage some in Pristina to contemplate forceful reintegration of the territories north of the Ibar River," he said of the ethnic Serb-dominated region that has effectively been under Belgrade's control.

A considerable number of Serbs live in territory controlled by Pristina, in the south, in enclaves like Strpce near the border with the Former Yugoslav Republic of Macedonia, and Gracanica, a suburb of Pristina. Analysts agree that the court ruling has not reduced the need to discuss the future of these populations – it's just that the rules of the game have changed. "After the ICJ opinion, Serbia is no longer in a position to dictate terms and should approach Kosovo as an equal partner," Marko Prelec, an expert at the International Crisis Group, told Athens Plus.

It may sound unbearably cliché when it comes to the Balkans, but experts urge both sides to set their differences aside and look ahead.

"In the end, both Serbia and Kosovo want to join the EU and neither can really have an interest in mutual hostility," Wolff said. "It is important that leaders on both sides calm down now, make a realistic assessment of the situation and figure out a way forward."