

EU Conditionality on Normalization Deal of Serbia and Kosovo: Standards Before Status Approach Still Valid?

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Abstract:

'Standards before status' approach seized by the international community referred to eight main conditionality for Kosovo. 2004 events has shaken the confidence in Kosovo's ability to transform itself to a multi-ethnic and tolerant society and called for the need in addressing Kosovo's status. Although Kosovo's 'European future' was adopted in 2005, its contested status has been the most troublesome issue. This paper argues that complying with standards is still key to the EU conditionality policy implied. Nonetheless, the political developments prove that mutually-agreed solution to the status issue could be referred as the foremost component of the Dialogue.

Key words: Serbia, EU, Conditionality, Normalization, Status.

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Introduction

As with other countries in Southeastern Europe vying for eventual EU membership, Kosovo is facing with economic and political problems. Nonetheless, its contested statehood creates challenges as five member states of the EU (Greece, Spain, Slovakia, Cyprus and Romania) has not recognised its unilateral declaration of independence from Serbia. Kosovo, as an Albanian-majority province of Serbia, has been officially mandated by the UNMIK¹ following NATO's intervention in April 1999, ending the armed conflict between Federal Republic of Yugoslavia and the Kosovo Liberation Army (KLA). Kosovo Force (KFOR)-NATO along with UNMIK bodies aimed to secure the region, preventing repetition of war crimes committed by Serbian forces, including systematic summary executions, burning of homes and forcible displacement of Kosovar Albanians from January 1998 to April 1999.² Local administrative bodies established by the UNMIK were referred as Provisional Institutions of Self-Government (PISG). The aggression in mid-March 2004 led by Kosovo Albanian extremists explicitly targeted minority Serb community, representing a huge threat to five-year relative stabilisation.³ Tension raised as the associations of KLA veterans organized protests upon the arrest of former KLA commanders charging by war crimes. UNMIK, whose representatives made the arrests, was the direct target. UNMIK was described as a "neo-colonial force that supporting organized crime and continuing the same politics applied by Serbia"⁴. It was clear at the outset that Kosovo's status issue had to be addressed.

¹ After the Kosovo War was ended by NATO forces in 1999, the requirements for state capacity in Kosovo were attempted to be created under the auspices of the United Nations Mission for the Interim Administration of Kosovo (UNMIK). UN Security Council Resolution 1244 provided the objective of creating UNMIK to provide a transitional administration for Kosovo within the Federal Republic of Yugoslavia, See, UN Security Council Resolution 1244, of 10 June 1999. In its Resolution No 1999/1 of 25 July 1999, Provisional Institutions of Self-Government (PISC) were established as "the authority" of the administration that "all legislative and executive authority with respect to Kosovo including the administration of the judiciary is vested in UNMIK and is exercised by the Special Representative of the UN Secretary General", See, Mark Weller, "Negotiating the Final Status of Kosovo", Institute for Security Studies, Chaillot Paper, 2008, No: 114, p. 16.

² See in details, Human Rights Watch, "War Crimes in Kosovo", <https://www.hrw.org/reports/2001/kosovo/>, accessed 13 April 2022.

³ "March Violence in Kosovo 'Huge Setback' to Stabilization, Reconciliation, Under-Secretary-General for Peacekeeping Tells Security Council", UN Security Council Press Release, SC 8056, 13 April 2004, <https://www.un.org/press/en/2004/sc8056.doc.htm>, accessed 5 May 2021.

⁴ "The March Violence in Kosovo - A Reminder of the Facts", Humanitarian Law Center, 16 March 2021, <http://www.hlc-rdc.org/?p=37934&lang=de>, accessed 7 May 2021.

Conditionality of promotion of minority rights is definitely at the sore point of EU-mediated negotiations of Serbia-Kosovo Dialogue from the first beginning. Kosovo has a total population of approximately 1.8 million, which about 145,000 of this total is formed by Serbs. Four of Serb-majority municipalities in northern Kosovo that are adjacent to Serbia consists of about 60,000-70,000 Serbs, while the remained Serb population of 50,000-60,000 live in six Serb-majority municipalities in the South. The rest population of Serbs in Kosovo lives in villages where Albanian population outreaches their population.

On the other hand, Albanian minority in Serbia are the majority in Presevo and Bujanovac municipalities located in the Presevo Valley. Serbia also has an Albanian minority in Medvedja municipality.⁵ The town of Mitrovica⁶ divided along the Ibar River is the region which Serbs were expelled northward following the Kosovo War. The picture today is somewhat complicated: South Mitrovica loyal to Pristina has an Albanian population. North Mitrovica loyal to Belgrade has a Serb majority. Both located in 'territorial' Kosovo, North Mitrovica is also home to a university and medical complex.⁷ The Mitrovica Bridge joining the two sides has been focus to tension and the symbol of the division as long as it has been periodically blockaded by Serbs over the time.⁸

EU-led mediation between Serbia and Kosovo brought an interrupted progress on technical issues since 2011 by lacking for any exact solution on the status issue that is at the core of the political dispute. Since the beginning of the direct talks, Belgrade and Pristina have been negotiating the several issues, recently including Kosovo's status while Serbia had everlasting influence on Kosovo's Serb communities and the

⁵"Relaunching the Kosovo-Serbia Dialogue", Report No: 262, 25 January 2021, <https://www.crisisgroup.org/europe-central-asia/balkans/kosovo/262-relaunching-kosovo-serbia-dialogue>, accessed 7 May 2021.

⁶ North Mitrovica is located in Northern part of Kosovo. Region has both an ethnic Serb population functioning autonomously from ethnic Albanian population, Ron Synovitz, "Tales From Mitrovica: Life In A Divided Kosovo Town", 15 February 2013. Mitrovica was divided de facto in June 1999 after NATO's campaign. Most Serbian houses were torched as Albanian refugees were returning to Kosovo. Serbs erected barricades and informal checkpoints in order to prevent Albanians.

⁷ Florian Bieber, "The Serbia-Kosovo Agreements: An EU Success Story?", *Review of Central and East European Law*, no. 40 (2014): 290.

⁸ "Mitrovica's Flashpoint Bridge Symbolises Kosovo's Division", *Balkan Insight*, 2 March 2017, <https://balkaninsight.com/2017/03/02/mitrovica-s-flashpoint-bridge-symbolises-kosovo-divisions-03-01-2017/>, accessed 20 May 2021.

governance in Kosovo's Serb-majority areas.⁹ The key task assumed by the EU is ensuring that Kosovo develops the institutions of governance and transform itself into a democratic and multi-ethnic society. EU enlargement policy tool 'conditionality' has been shaped by the EU within the framework of this strategy in the region since the establishment of bilateral relations following the dissolution of Yugoslavia. In the case of Kosovo, Europeanization -the EU's ability to "inspire, orchestrate and 'police' in post-conflict societies under conditions of weak statehood and incomplete sovereignty"-, is performed via the conditionality, encompassing the overall conditions notably the protection of minority rights and democratic consolidation.¹⁰ Conditionality regarding Europeanization of Serbia has the same main parameters with a comparative 'smooth' approach in the absence of incomplete sovereignty. Most of the literature on Europeanization has focused on EU's effects on member states, while a considerable part of work has dealt with the EU's impact on acceding countries (Grabbe 2006, Schimmelfennig and Sedelmeier, 2005; Sedelmeier 2006). Finally, the literature has expanded following the huge accession of 10 member states of Central and Eastern European Countries + Cyprus and Malta and included the states of Southeastern European countries (Western Balkans) that were at an earlier stage in the integration process (Börzel, 2011; Börzel and Risse, 2011; Schimmelfennig, 2009).¹¹

The limits of Europeanization in Kosovo and Serbia also necessitates to address 'EU actorness' issue as the accession process includes a Dialogue related with the status of Kosovo and two countries' bilateral relations. As Greicevci et al. argue, the analysis of the EU's activism as a mediator in the world has to deal with the internal dynamics and changing international relations.¹² Intergovernmentalism considers enlargement within the concept of Common Foreign and Security Policy reflects member states' preferences rather than EU actorness (Moravcsik, 1998; Wagner, 2003) in testing the EU's capability to formulate goals and engage in rationalized actions. As Moravcsik argues, EU members contribute ten times as many troops to operations as the United States

⁹ "Relaunching the Kosovo-Serbia Dialogue", Report No:262, 25 January 2021, <https://www.crisisgroup.org/europe-central-asia/balkans/kosovo/262-relaunching-kosovo-serbia-dialogue>, accessed 22 May 2021.

¹⁰ Labinot Greiçevci, Dimitris Papadimitriou and Petar Petrov, "To Build a State: Europeanization, EU Actorness and State-Building in Kosovo", *European Foreign Affairs Review*, 12 (2) (2007): 223.

¹¹ Spyros Economides and James Ker Lindsay, "Pre-Accession Europeanization: The Case of Serbia and Kosovo", *Journal of Common Market Studies*, 53 (5) (2015): 1027-1028.

¹² Labinot Greiçevci, et. al. *Opcit.*

and with a vast majority of 84 percent of foreign troops in Kosovo is mostly from Europe. Needless to argue that enlargement, foreign aid and peacekeeping are vital instruments of the EU¹³ and the EU is observing five member states' sensitivities on Kosovo issue. Yet, internal political dispute within both Serbia and Kosovo from 2011 onwards provide ample ground for confrontations by endangering the path followed by the EU, and as well as for involvement of the rival actors acting to bring the process to a point which is not adopted by the EU.

The question sets for assessing this article are as follows: how the EU-mediated dialogue was set up and Europeanized the process albeit the countless divergent and challenging cognitive perceptions between Serbia and Kosovo? Is the 'standards before status' approach seized by the international community still valid within the context of this kind of Europeanization? First chapter in this regard outlines the EU's engagement in normalization deal of Serbia and Kosovo in a comparable perspective to past negotiations and discusses the 'standards before status' position in this framework. Second chapter provides for detailed analysis of Brussels Agreement (First Agreement of Principles Governing the Normalization of Relations) and set forth the implementation limits of the agreement derived from the latest political disputes that are closely associated with the status issue. Implementation limits also serve to put forth the various kind of contemporary problems to measure EU actorness vis-a-vis other actors actively participating in bilateral relations of Serbia and Kosovo.

A Review of Past Negotiations and EU's Engagement in Normalization Deal of Serbia and Kosovo

Following the 2004 events in Kosovo, former Finnish President Martti Ahtisaari is nominated as UN Status Envoy to anchor the political process on Kosovo's future status in 2005. Contact Group on Kosovo and the then international community including Russia has been shown their commitment to reach a permanent solution to the Kosovo conflict. In a debate of European Parliament on 30 March 2004 regarding the issue of stalemate in Kosovo, considerable majority of MEPs underlined the tantamount substantiality of the standards and status issues by addressing their priority on implementation and review of standards.¹⁴

¹³Andrew Moravcsik, "The Quiet Superpower", *Newsweek International*, 17 June 2002, <https://www.princeton.edu/~amoravcs/library/quiet.pdf>, accessed 16 April 2022.

¹⁴ European Parliament Debates, 30 March 2004, Tuesday, Strasbourg,

The Belgrade-Pristina talks were scheduled for 14 October 2005 in Vienna. Contrary to prevailing position hold by the MEPs, the Eide Report of 2005 before the talks focused on the lacking-credibility character of the “standards before status”¹⁵ approach seized by the international community between the period of 1999-2004. Mr. Kai Eide stated:

*“There will not be any good moment for addressing Kosovo’s future status. It will continue to be a highly sensitive political issue. Nevertheless, an overall assessment leads to the conclusion that the time has come to commence this process...Further progress in standards implementation is urgently required. It is unlikely that postponing the future status process will lead to further and tangible results. However, moving into the future status process entails a risk that attention will be focused on status to the detriment of standards. It will require great effort to keep the standards implementation process on track. The international community will during the future status process have a strong leverage to move standards implementation forward...”*¹⁶

Performance served by the UNMIK and PISG is measured with a method implementing a set of benchmarks during by the administration of the third Special Representative of the Secretary General, Michel Steiner. Steiner argued that the role of the international community in post-war Kosovo could be stressed as three-phased, which the first phase was the NATO intervention. Second phase has started with the establishment of international administration and holding elections, as well as gradual transfer of responsibilities to local institutions and improvement of “eight standards”¹⁷ Third phase was the process of status talks.¹⁸ Mr. Kai Eide in his report to the UN Secretary General also

<https://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20040330+ITEM-006+DOC+XML+V0//EN&language=EN>, accessed 22 May 2021.

¹⁵ Kai Eide, “A Comprehensive Review of the Situation in Kosovo”, UN Doc. S/2005/635, 7 October 2005. Eight standards comprised of functioning democratic institutions; rule of law; freedom of movement; return and integration of all Kosovo inhabitants; development of a market economy; full property rights for all citizens; dialogue and normalized relations with Belgrade; reduction and transformation of the Kosovo Protection Corps. <http://www.unmikonline.org/standards/> For detailed information see, “Standards For Kosovo”, Document, Presented in 10 December 2003, <https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kos%20Standards.pdf>, accessed 25 May 2021.

¹⁶ *Ibid.*

¹⁷ See 9th footnote.

¹⁸ Lulzim Peci, Ilir Dugolli and Leon Malazogu, “Negotiating Kosovo’s Final Status”, Conference Paper March 2006,

emphasized the absolute necessity of UNMIK to hand increasing responsibilities to the European Union:

“The UN has done a credible and impressive job in fulfilling its mandate in difficult circumstances. But its leverage in Kosovo is diminishing. Kosovo is located in Europe where strong regional organizations exist. In the future, they –and in particular the EU– will have to play the most prominent role in Kosovo. They will have the leverage required and will be able to offer prospects in the framework of the European integration process.”¹⁹

General Affairs Council of 21-22 February 2005 welcomed the EU’s possible contribution to implement UNSC Resolution 1244 on Kosovo, *inter alia* the United Nations Secretary General (SG) and High Representative (HR) for Foreign and Security Policy. Invitation of the European Commission by the SG/HR to examine the matter conducted towards European Commission Communication “A European Future for Kosovo”.²⁰ By that time, the EU and Croatia have started accession talks; North Macedonia has been granted membership candidate status and the EU has signed cooperation agreements with Serbia and Bosnia-Herzegovina.²¹ Bulgaria and Romania’s extended accession process was due to come to an end leaving Kosovo’s status issue as an unfinished business for the EU. Council’s nomination of Mr. Stefan Lehne as EU representative enhanced the EU’s full engagement to the Kosovo future status process.²²

https://www.researchgate.net/publication/269093699_NEGOTIATING_KOSOVO'S_FINAL_STATUS, accessed 25 May 2021.

¹⁹ Kai Eide, “A Comprehensive Review of the Situation in Kosovo”.

²⁰ European Commission declared that “This communication is a first contribution to that joint work that the Commission will do with the HR/SG and the Presidency.”, European Commission Communication, “A European Future for Kosovo”, Brussels, 20 April 2005, https://ec.europa.eu/commission/presscorner/detail/en/IP_05_450, accessed 2 June 2021.

²¹ The Stabilisation and Association Agreement (SAA) provides the framework of relations of the EU with Western Balkan countries regarding the implementation of the Stabilisation and Association Process (SAP). The SAP, launched in June 1999 and strengthened at the 2003 Thessaloniki Summit on Western Balkans. Regional cooperation, good neighbourly relations, trade and financial assistance elements were the core point of the framework. The EU’s main goal has been to promote regional stability and security. Regional co-operation also consists of development of infrastructures, networks, as well as the establishment of free trade areas between neighbouring countries.

²² Council Conclusions on the Western Balkans, 7 November 2005, <https://reliefweb.int/report/bosnia-and-herzegovina/council-conclusions-western-balkans>, accessed 10 June 2021.

Serbian and Albanian delegations began direct talks on 20 February 2006. While Serbia was willing to give autonomy and Kosovo insisted on independence, Vienna talks failed to produce any gradual impetus on the status issue, but to “prepare the ground for Ahtisaari” to propose his solution plan.²³ Thus, it was apparent that any UN Security Council resolution could not be agreed on Kosovo’s status. Ahtisaari’s proposal backed by EU foreign ministers proposed a framework that authorize Kosovo Serbs to have own local institutions “with continued linkages to Serbia, but within the framework of a multi-ethnic Kosovo”.²⁴ The Plan proposed determined extent of “self-rule” for new Serb-majority municipalities, notably for North Mitrovica. Self-rule authority regarding a wide range of issues such as health, education, social issues and choosing the local police chief. The Plan also granted municipalities the right of own funding, funding from Belgrade and as well as acquiring allocations of central government.

The municipalities could also form associations with other municipalities, even with those in Serbia. Elements of Ahtisaari Plan could be considered as pragmatic and daily-life solutions relating to policing, customs, the courts, infrastructure, local autonomy in education and culture and special features for Mitrovica, regarding the University and Hospital ruling. The devices proposed to allow Kosovo Serbs linkage with Serbian central government relies on the fact that Belgrade’s support to Serb municipalities in Kosovo is in need to be clarified transparently. Issues of customs and the operation of telecoms and energy companies in the north was proposed to be addressed afterwards.²⁵ Although the Plan itself did not mention independence, Serbia and Russia had been unquestionless reluctant to accept the proposal. The Plan’s provisions (giving Kosovo an army, constitution, flag protected by NATO and a indefinite future overseen by international community) could lead *de facto* statehood of Kosovo and it would allow Kosovo to declare independence in case confirmed by the UN Security Council.²⁶ Serbia’s newly elected

²³ Julian Bergmann, “Same Table, Different Menus? A Comparison of UN and EU Mediation Practice in the Kosovo-Serbia Conflict”, *International Negotiation*, 23 (2) (April 2018): 246.

²⁴ Gerard M. Galluci, “The Ahtisaari Plan and North Kosovo”, *Trans Conflict*, November 2011, p. 4-5, http://www.transconflict.com/10/wp-content/uploads/2011/11/PolicyPaper_AhtisaariPlanNorthKosovo.pdf, accessed 8 June 2021.

²⁵ *Ibid.*, p. 5-6.

²⁶ “Serbs Reject Plan that Clears Way for Kosovo Independence”, *Reliefweb*, Serbia, 3 February 2007, <https://reliefweb.int/report/serbia/serbs-reject-plan-clears-way-kosovo-independence>, accessed 10 June 2021.

parliament in 2007 has overwhelmingly rejected the Plan.²⁷ “This is not the Serbia of Milosevic” said Bozidar Djelic, the then Prime Ministerial candidate of Boris Tadic’s Democratic Party. Djelic also stated that “we want Serbia to be part of the EU, part of the world. But we cannot do anything else but defend the unity of our motherland, in particular Kosovo.”²⁸

An International Civilian Representative (ICR) responsible for supervising the implementation of the Plan would also serve as European Union Special Representative (EUSR) that will have the final authority in guarding the civilian aspects of the Plan. A formulation of European Security and Defence Policy (ESDP) Mission was foreseen to mentor and monitor areas regarding the rule of law.²⁹ Upon the rejection of the Plan by Serbia and Russia, European members and the United States circulated another draft resolution to the Security Council in early June of 2007, which rather endorsed instead of supporting Ahtisaari’s proposal. Troika consisting of the US, EU and Russia attempted in several meetings to bring all the relevant actors to a consensus, while Serbian and Kosovar sides insisted on divergent arguments on the status issue.³⁰

EU leaders met on 14 December 2007 and agreed that negotiations had been exhausted.³¹ Kosovo unilaterally declared its independence on 17 February 2008. Consequently, European Union Rule of Law Mission (EULEX) to provide support for Kosovo was established as hitherto the biggest European Security and Defence Policy mission through the Council’s [Joint Action of 2008/124/CFSP](#). Since five EU

²⁷ “Serbian Parliament Votes Against UN Proposal to Give Kosovo Virtual Independence”, *International Herald Tribune*, The New York Times, 14 February 2007, <https://www.nytimes.com/2007/02/14/world/europe/14iht-kosovo.4597547.html>, accessed 25 June 2021.

²⁸ “Serbia Rejects UN Plan for Kosovo”, 15 February 2007, <https://www.dw.com/en/serbia-rejects-un-plan-for-kosovo/a-2351650>, accessed 25 June 2021.

²⁹ Comprehensive Proposal for the Kosovo Status Settlement, Art. 13/3. See also, U.S. Department of State Archive, Summary of the Comprehensive Proposal for the Kosovo Status Settlement

<https://2001-2009.state.gov/p/eur/rls/fs/101244.htm>, accessed 25 June 2021.

³⁰ Labinot Greiçevci, “EU Actorness in International Affairs: The Case of EULEX Mission in Kosovo”, *Perspectives on European Politics and Society*, 12 (3) (2011): 289.

³¹ Council of the European Union, Presidency Conclusions, 14 December 2007, Brussels, Article 66, p. 19, https://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/97669.pdf, accessed 26 June 2021.

members had refused to recognize Kosovo as an independent state,³² EULEX was designated as 'status- neutral' position, by not explicitly recognizing Kosovo's declaration of independence.³³ 35 countries had accepted the new state affairs within the first week of declaration.³⁴

Upon Serbia's call for an advisory opinion, the International Court of Justice in its report of 22 July 2010 referred to the UN Security Council Resolution 1244 to specify the basic parameters of self-government for Kosovo regarding the decision on independence. The ICJ revealed that the declaration of independence did not create any international lawlessness.³⁵ Although this decision has been criticised for its narrow interpretation in the literature of international law and without addressing the question put to it by the General Assembly of the UN,³⁶ 22 of the EU member states recognised Kosovo. Lindsay argues that the lowest point between the relations of EU and Serbia occurred upon Serbia's decision of referring Kosovo's declaration to the ICJ, as this decision went against the positions of many EU leaders, notably British and French leaders.³⁷ Serbia's foreign minister Vuk Jeremic made a tremendous effort to limit Kosovo's international recognition between the period of 2008 and 2011 in spite of President Tadic's main goal of EU integration.³⁸ By that time, almost 70 countries had recognized Kosovo.

³² Four EU countries, Romania, Cyprus, Slovakia, and Spain have refused to recognise Kosovo as an independent state. For detailed debate, see, "Saying No To 'Kosovo' Independence", *BBC News*, 5 March 2008, <http://news.bbc.co.uk/2/hi/europe/7265249.stm>, accessed 5 July 2021.

³³ Florian Bieber, *OpCit*, p. 293.

³⁴ James Ker-Lindsay, "Explaining Serbia's Decision to Go to the ICJ", *LSE Research Online*, http://eprints.lse.ac.uk/61624/1/Ker-Lindsay_Explaining_Serbia%E2%80%99s_Decision%20to_go_to_the_ICJ.pdf., accessed 1 August 2021.

³⁵ "International Court of Justice Reports of Judgments, Advisory Opinions and Orders Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo Advisory Opinion" 22 July 2010, "Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo", 122. Paragraph, <https://www.icj-cij.org/files/case-related/141/141-20100722-ADV-01-00-EN.pdf>, accessed 1 August 2021.

³⁶ Stefan Wolff, "The ICJ and Kosovo's Declaration of Independence: Anything Resolved?", *E-International Relations*, 25 July 2010, <https://www.e-ir.info/2010/07/25/does-the-advisory-opinion-of-the-international-court-of-justice-on-kosovo%E2%80%99s-declaration-of-independence-resolve-anything/>, accessed 3 August 2021.

³⁷ Spyros Economides and James Ker Lindsay, "Pre-Accession Europeanization", p. 1029.

³⁸ Nicholas Kulish, "Recasting Serbia's Image, starting with a Fresh Face", *The New York Times*, 15 January 2010, http://www.nytimes.com/2010/01/16/world/europe/16jeremic.html?_r=0, accessed 3 August 2021.

Taking into account both the pressure of the EU and Serbia's weak position *vis-a-vis* the consequences of the ICJ opinion, the EU and Serbia proposed a joint UN resolution³⁹ "welcoming EU mediation among the parties".⁴⁰

The environment for such talks within Serbia coupled with the split of the main opposition party until 2008, Serbian Radical Party (SRS). SRS's more moderate wing led jointly by Tomislav Nikolic and Aleksandar Vucic sought to warm relations and build ties with the EU. Serbian government and the then President Boris Tadic had proposed more moderate policy regarding the status of Kosovo.⁴¹ Progress Report 2008 of Serbia welcomed the pro-European political developments by stating that 'For a European Serbia' bloc, led by the Democratic Party (DS) emerged as the largest group in the 250-seat parliament, followed by the Serbian Radical Party (SRS)".⁴²

Assessing the Negotiation Framework: Conditionality and Beyond

EU-mediated talks between Serbia and Kosovo were launched in 8 March 2011. Serbia was encouraged to gradually accept the Kosovo government's authority in a multi-ethnic territory through EULEX and EUSR without raising the status issue explicitly.⁴³ Licence plates, diplomas, civil registry, and cadastral records' mutual recognition was the first topic agreed by both sides before assessing the topics of parallel governmental bodies of Serbia in Kosovo and integrating Kosovo Serbs into the Pristina government. The return of land and civil registers to Kosovo and the recognition of Kosovar diplomas were negotiated in nine rounds of negotiations between the period of March 2011 and February

³⁹ "Adopting Consensus Resolution, General Assembly Acknowledges World Court Opinion on Kosovo, Welcomes European Union Readiness to Facilitate Process of Dialogue", *UN Meeting Coverage and Press Releases*, 9 September 2010, GA 10980, <https://www.un.org/press/en/2010/ga10980.doc.htm>, accessed 5 August 2021.

⁴⁰ Florian Bieber, *Opcit*, p. 296.

⁴¹ "Political Forces at a Glance", *The Economist*, 13 June 2020, http://country.eiu.com/article.aspx?articleid=1509777334&Country=Serbia&topic=Summary&subtopic=Po_1.

⁴² European Commission, Serbia 2008 Progress Report, Brussels, 05.11.2008 SEC(2008) 2698 final, p. 7, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/press_corner/key-documents/reports_nov_2008/serbia_progress_report_en.pdf, accessed 5 August 2021.

⁴³ European Union Factsheet (2008) EUSR in Kosovo, pp. 1-3, http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/98770.pdf accessed 5 August 2021.

2012.⁴⁴ Serbian authorities had removed the land records (cadasters) from Kosovo at the end of the war in 1999. This situation led to a problematic property claims in Kosovo. Agreement reached between the sides provided for a procedure that Serbia would submit scanned copies of the documents to Kosovo.⁴⁵ Serbia also abandoned its hard position of disagreement over university degrees from Kosovo. Serbia was rejecting degrees since 2008, as long as the degrees implicates a reference to the Republic of Kosovo.⁴⁶ According to agreement, Albanian minority enrolled in universities in Kosovo would be able to be employed in Serbia. Diplomas were recognized by Serbia through the mechanism that has provisions for asking “the European University Association to certify the diplomas issued by universities of each party for use by the other in connection with further education and/or public employment”.⁴⁷ Given the fact that the integration of the University of Pristina⁴⁸ (also referred to the University of Kosovska Mitrovica) into the higher education system of Kosovo remains as a deadlock, the reached agreement could not solve the ambivalent situation of the university.⁴⁹

⁴⁴ Anna Orosz, “Implementation of the Belgrade-Prishtina Dialogue: Results, Controversies and Prospects”, Budapest, 2016, p. 15.

⁴⁵ Leon Malazogu, Florian Bieber, and Drilon Gashi, “The Future of Interaction Between Prishtina and Belgrade”, *Confidence Building Measures in Kosovo*, September 2012, p. 15, https://www.researchgate.net/publication/277307657_The_Future_of_Interaction_Between_Prishtina_and_Belgrade/link/5566cb2208aec22682ff21ef/download, accessed 5 August 2021.

⁴⁶ “Serbia: No Recognition of Kosovo University Degrees”, 30 March 2011, <https://kosnews.wordpress.com/2011/03/30/serbia-no-recognition-of-kosovo-university-degrees/>, accessed 11 August 2021.

⁴⁷ “Agreed Conclusions 2 July 2011 – Acceptance of University Diplomas” and “Agreed conclusions 21 November 2011 – Acceptance of University Diplomas”, accessed April 10, 2015, http://www.kryeministri-ks.net/repository/docs/agreement_0210_university_diplomas.pdf, accessed 11 August 2021.

⁴⁸ “Since the end of the 1998-99 war, the University of Pristina has bifurcated into two ethnically segregated structures: University of Pristina temporarily relocated in the north, mainly Serb half of the ethnically divided city of Mitrovica (UPKM/UMN) continues to operate under Serbian laws and with the Serbian curriculum, while the University of Pristina in the Kosovo capital operates under Kosovo state laws and often serves as the ‘castle’ of the Albanian national narrative. Both structures claim ownership over the same buildings and properties, but neither has sufficient space to accommodate the ‘other’. And the international community has been complicit”, Nicasia Picciano and Arolda Elbasani, “UN Shares Blame for Segregated Education in Kosovo”, *Balkan Insight*, 28 March 2019, <https://balkaninsight.com/2019/03/28/un-shares-blame-for-segregated-education-in-kosovo/>, accessed 11 August 2021.

⁴⁹ Anna Orosz, *Opcit*, p. 18.

The negotiation process has gained a notable impetus as Serbia accepted of Kosovar customs stamps, culminating legal trade between Serbia and Kosovo⁵⁰, as well as within the Central European Free Trade Agreement Area (CEFTA).⁵¹ Besides, the Framework Agreement culminating the trade of Kosovo within CEFTA also provided the duty free export from Kosovo to EU member countries, which was replaced by the Stabilization and Association Agreement between the EU and Kosovo that ratified on 2 November 2015 by Kosovo Parliament.⁵² In addition, regarding the issue of the freedom of movement for citizens of both sides, mutual recognition of ID cards for travel and of driver's licenses had been at the consensus point. Conclusions from 2 July 2011 agreement proposed that "residents of each party should be able to travel freely within and through the territory of the other", while in practice, negative turns in the relation of Serbia and Kosovo could easily cause backsliding.⁵³

Belgrade has maintained the ruling of institutions in Kosovo and exerted an enormous influence in the country through Serb politicians, acted within these institutions and operated municipal activities and courts in Serb-majority areas for a long time period.⁵⁴ Upon the pressure from the EU, Serbia attempted to close them between the period of 2013 and 2014⁵⁵. Most of Kosovo Serbs depend on these Serbian institutions for salaries and social benefits. Between the period of 1999 and immediately after 2008 declaration of independence, Kosovo Serbs supported political

⁵⁰ "Agreed Conclusions 2 September 2011 – Customs Stamp", http://www.kryeministri-ks.net/repository/docs/agreement_0210_customs.pdf, accessed 11 August 2021.

⁵¹ CEFTA countries are Serbia, Albania, Macedonia, Montenegro, Bosnia and Herzegovina, Moldova, and Kosovo.

⁵² Anna Orosz, *Opcit*, p. 86

⁵³ "Agreed Conclusions 2 July 2011 – Acceptance of University Diplomas" and "Agreed Conclusions 21 November 2011 – Acceptance of University Diplomas", accessed April 10, 2015,

http://www.kryeministri-ks.net/repository/docs/agreement_0210_university_diplomas.pdf, accessed 11 August 2021.

⁵⁴ Beata Huszka, "The Power of Perspective: Why EU Membership Still Matters in the Western Balkans", January 2020, Belgrade maintains the ruling of institutions in Kosovo and exerts an enormous influence in the country through Serb politicians acting within these institutions as well as operated municipal activities and courts in Serb-majority areas, "Southern Serbia's Fragile Peace", Report No:152, 9 December 2003, <https://www.crisisgroup.org/europe-central-asia/balkans/serbia/southern-serbias-fragile-peace>, accessed 11 August 2021.

⁵⁵ "Relaunching the Kosovo-Serbia Dialogue", Report No: 262, 25 January 2021, <https://www.crisisgroup.org/europe-central-asia/balkans/kosovo/262-relaunching-kosovo-serbia-dialogue>, accessed 17 August 2021.

parties and Serbia-based parties' branches and boycotted Kosovo elections. The EU again pressured Serbia to shut down parallel municipal activities. The EU also encouraged Serbs to vote in Kosovo elections. As a reaction, Belgrade set up a new party, the Serbian List (Srpska Lista) that enjoys monopoly on Serb votes in the country. Kosovo has a constitutional requirement that Serbs hold at least ten Assembly seats and one ministerial post,⁵⁶ which Serbian List won the absolute amount of the seats in 2021 elections.⁵⁷

The negotiation process also included an agreement that has provision for Integrated Border Management (IBM), which Serbia hitherto tended to call it "integrated boundary management" as long as Kosovo is accepted as an internal demarcation, not as an international frontier. IBM agreement concluded in December 2011 by aiming to reduce smuggling and other illegal activities. Implementation was meant that border controls would be established between Serbia and the north of Kosovo. Commission in its 2020 Serbia Report pointed out that Serbia did not commit constructively to establish of six permanent IBM common crossing points. Non-engagement of Serbia caused a suspension of EU Funds in June 2018.⁵⁸ Another sensitive process had begun by starting to assess the regional representation of Kosovo. Despite Kosovo's independence in 2008, the country relied on UNMIK to be formally represented in international organizations as long as any UN Security Council Resolution calling for Kosovo's recognition could not be reached. 2012 agreement has granted Kosovo to represent itself and sign agreements directly, without being a member in international organizations. This kind of representation was limited to regional organizations and required Kosovo to use a "rather cumbersome qualifier": "This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence."⁵⁹ Qualifier in this sense poses a paradox since UNSC Resolution 1244 reaffirms the territorial integrity of Federal

⁵⁶ Argyro Kartsonaki, "Playing with Fire: An Assessment of the EU's Approach of Constructive Ambiguity on Kosovo's Blended Conflict", *Journal of Balkan and Near Eastern Studies*, 22:1, 2020, p. 10-11.

⁵⁷ "Serb List Wins 10 All Seats Reserved for Serb Minority in Kosovo", Euractiv, 16 February 2021, https://www.euractiv.com/section/politics/short_news/serb-list-wins-all-10-seats-reserved-for-serb-minority-in-kosovo/, accessed 17 August 2021.

⁵⁸ European Commission Progress Report on Serbia 2020, p. 66-68, https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/serbia_report_2020.pdf, accessed 17 August 2021.

⁵⁹ Government of the Republic of Serbia, Regional Representation, <http://www.kordkim.gov.rs/eng/p12.php>, accessed 17 August 2021.

Republic of Yugoslavia while the ICJ Opinion summarizes that Kosovo's declaration of independence did not violate any applicable rule of international law.

European Council identified four conditions for Serbia to move to the next phase of EU integration in 2012 December Summit:⁶⁰ the implementation of the agreements reached to date, the dismantling of the Serbian police and judiciary institutions in Kosovo, the introduction of transparency into the spending for Kosovo and greater cooperation with EULEX. Given the fact that the decision to make EULEX operational in Kosovo, the attempt was a symbol of member states' support over the holistic character of EU enlargement policy in Western Balkans.⁶¹ EU officials maintained their neutrality about the status of Kosovo in the text affiliated to the establishment of EULEX and confirmed that they would not make any reference to the Ahtisaari Plan in the text. The breakthrough was likely to occur with negotiation of the First Agreement Governing the Principles for Normalization of Relations- Brussels Agreement, which two sides reached on 19 April 2013.⁶² The dialogue road to the Agreement was facilitated by the EU's High Representative for Foreign and Security Policy. Brussels Agreement contains 15 articles defining the "scope of activities" of the Association/Community of Serb majority municipalities in Kosovo and authority of Kosovo police in the north of the country; as well as the organization of judicial bodies and courts in the north of the country. Parties have also given guarantee to determine the organization of local elections in the north of Kosovo and to mutually support their EU integration path.⁶³

EU opened its negotiating chapters with Serbia in January 2014 as a reaction to 2013 Brussels Agreement and pursued a policy that the 35. Chapter titled "Other Issues", is described as a priority within the framework of normalizing relations with Kosovo.⁶⁴ The EU in the

⁶⁰ Council of the European Union, 17439/12, 3210th Council meeting General Affairs, 11 December 2012, https://ec.europa.eu/commission/presscorner/detail/en/PRES_12_517, accessed 17 August 2021.

⁶¹ Labinot Greiçevci, *Opcit*, p. 290.

⁶² The Government of Republic of Serbia, Brussels Agreement, <https://www.srbija.gov.rs/cinjenice/en/120394>, accessed 17 August 2021.

⁶³ Gezim Visoka and John Doyle, "Neo-Functional Peace: The European Union Way of Resolving Conflicts", *Journal of Common Market Studies*, 54 (4) (2016): 871.

⁶⁴ Dorde Bojovic and Nikola Burazer, "Agreement on Comprehensive Normalization of Relations between Serbia and Kosovo, Political and Legal Analysis", *EU-RS Think Tank*, p. 10,

negotiating framework document signed with Serbia stated that even if all chapters are concluded, 35. Chapter will be closed after all necessary measures have been taken (*mutatis mutandis*).⁶⁵ For Serbia, this requirement of 35. Chapter is designated as Item: Normalization of Relations with Kosovo.⁶⁶ As a reaction to implementations on Brussels Agreement, the EU has also enacted the SAA with Kosovo on 2 October 2015 and launched an initiative to ensure that Kosovo citizens can travel to EU countries without visas.⁶⁷

Conditionality policy imposed on Serbia in the text of the SAA was listed as the requirements for cooperation with EULEX, compliance with the decisions adopted by the ICJ and the observance of the rights of citizens in Kosovo in the implementation framework of the *acquis*. The article 13 of the SAA with Serbia stated that both sides must eventually reach an agreement to continue on the road to EU membership, while article 16 of the same agreement designated the EU's role in the matter as a clear political commitment.⁶⁸ Meanwhile, the SAA for Kosovo that came into force in 1 April 2016 includes the definitive judgment of "no term, word or definition used in this agreement means that Kosovo is accepted as an independent state by the EU".⁶⁹ It should be noted that Kosovo's SAA contains no reference to candidate status or membership.

<https://centarsavremenepolitike.files.wordpress.com/2018/11/agreement-on-comprehensive-normalization-of-relations-between-serbia-and-kosovo.pdf>, accessed 17 August 2021.

⁶⁵ General Secretariat of the Council, 17 December 2013, Ministerial Meeting Opening the Intergovernmental Conference on the Accession of Serbia to the European Union General EU Position, Brussels, 17976/13, <https://data.consilium.europa.eu/doc/document/ST-17976-2013-INIT/en/pdf>, accessed 17 August 2021.

⁶⁶ Dorde Bojovic and Nikola Burazer, *Opcit*, p. 10.

⁶⁷ European Parliament Resolution of 4 February 2016 on the 2015 Report on Kosovo (2015/2893(RSP)), https://www.europarl.europa.eu/doceo/document/TA-8-2016-0047_EN.html, accessed 17 August 2021.

⁶⁸ Stabilisation and Association Agreement Between the EU and Serbia, Official Journal of the European Union L 278/19., https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news_corner/news/news-files/20150430_saa.pdf, accessed 17 August 2021.

⁶⁹ Stabilisation and Association agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo*, of the other part, Brussels, 10728/1/15, <https://data.consilium.europa.eu/doc/document/ST-10728-2015-REV-1/en/pdf>, accessed 25 August 2021.

Mechanisms that would include the police and judicial structures in the north Kosovo and elections to new local authorities were agreed in the same framework of Brussels Agreement.⁷⁰ The Brussels Agreement did not address Kosovo's status at all. The newly elected EU High Representative for Foreign Affairs and Security Policy, Federica Mogherini, convened set of prime-ministerial meetings to remedy stagnation over Pristina's establishing the Community / Association.⁷¹ This round of talks ended with several deals on energy, telecommunications from the prior meetings and forming a bridge between North and South Mitrovica, providing for freedom of movement over the bridge. Conclusions from 25 August 2015 technical agreement has been referred as "the most recent example of the EU's successful diplomatic engagement in the region".⁷² Kosovo has started to use international dialling code and Kosovo Serbs' mobiles would be handled by a subsidiary of Serbia's Telekom registered in Kosovo. In addition, Kosovo Serbs' energy would come through a locally registered subsidiary of Serbian companies.⁷³

Nonetheless, a series of political dead end took place over the Dialogue between the period of 2015 and 2018. Relations between Serbia and Kosovo have declined considerably beginning with 2018 although European Commission Communication dated 6 February 2018 indicated that Montenegro and Serbia could become EU members by 2025 in case they make sufficient progress in the accession process.⁷⁴ As of 2019, Montenegro along with Serbia were considered as the two closest Western Balkan countries to EU membership, with Montenegro opening

⁷⁰ "President Calls for Brussel agreement to be Implemented", Euractiv, 30 September 2020, https://www.euractiv.com/section/all/short_news/belgrade-president-calls-for-brussels-agreements-to-be-implemented/, accessed 25 August 2025.

⁷¹ Chris van der Borgh, Georg Frerks, Toon Dirx "Findings on EU peacebuilding capabilities in Kosovo, Afghanistan, Honduras, Guatemala, and Sri Lanka - A Desk Review", p. 65-66, <https://ec.europa.eu/research/participants/documents/downloadPublic?documentId=080166e5adeacf2d&appId=PPGMS>, accessed 25 August 2021.

⁷² Peter Van Elsuwege, "Legal Creativity in EU External Relations: The Stabilization and Association Agreement Between the EU and Kosovo", *European Foreign Affairs Review*, 22 (3) (2017): 399.

⁷³ Chris van der Borgh, Georg Frerks, Toon Dirx, *Opcit.*

⁷⁴ *A Credible Enlargement Perspective for and enhanced EU Engagement with the Western Balkans*, Strasbourg, 6.2.2018 COM(2018) 65 final, https://ec.europa.eu/info/sites/default/files/communication-credible-enlargement-perspective-western-balkans_en.pdf, accessed 1 September 2021.

the last chapter with the EU and Serbia opening 17 out of 35 chapters.⁷⁵ 2020 Progress Report of the Commission for both Kosovo and Serbia highlighted the urgent need to continue to uphold their commitments in implementation of Past Dialogue. The Commission pointed out notably the insufficient engagement of Kosovo to form Association/Community of Serb municipalities, as well as upheavals derived from the distorted implementation of the reached technical agreements.⁷⁶ The Constitutional Court of Kosovo announced a ruling in 2015 that the implementation of the Association/Community of Serb majority municipalities, the foremost requirement of Brussels Agreement, is not in line with Kosovo's constitutional standards.⁷⁷ On the other hand, Kosovo government attempted to expropriate the Trepça mines in Northern Mitrovica. Kosovo announced in 2018 that it would unilaterally establish a regular army.⁷⁸ The assassination of Oliver Ivanovic, one of the key political symbols of Northern Mitrovica and the leading representative of Kosovo Serbs⁷⁹ and Kosovo's impose of a hundred percent customs duty over the goods imported from Serbia and Bosnia and Herzegovina (customs duty was abolished on 25 March 2020⁸⁰) have been vital in deteriorated relations.⁸¹ As the EU officials strive to determine the obligations related to the

⁷⁵ European Western Balkans, "Montenegro to Open its Final Chapter with EU, Serbia Only the Second This Year", 5 December 2019,

<https://europeanwesternbalkans.com/2019/12/05/montenegro-to-open-its-final-chapter-with-eu-serbia-only-the-second-this-year/>, accessed 1 September 2021.

⁷⁶ *European Commission Progress Report on Kosovo 2020*, p. 62-63,

https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/kosovo_report_2020.pdf, European Commission Progress Report on Serbia 2020, p. 66-68,

https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/serbia_report_2020.pdf, accessed 1 September 2021.

⁷⁷ The Constitutional Court's Decision On The Association/Community Of Serb Majority Municipalities, European Center for Minority Issues Kosovo,

<https://www.ecmikosovo.org/en/Latest-News/The-Constitutional-Court%E2%80%99s-Decision-On-The-Association-Community-Of-Serb-Majority-Municipalities>, accessed 1 September 2021.

⁷⁸ Kosovo Moves to Create an Army, Serbia Warns of 'Threat to Peace', *EURACTIV*, 19 October 2018, <https://www.euractiv.com/section/enlargement/news/kosovo-moves-to-create-an-army-serbia-warns-of-threat-to-peace/>, accessed 1 September 2021.

⁷⁹ "Top Kosovo Serb Politician Oliver Ivanovic Shot Dead", *BBC*, 16 January 2018, <https://www.bbc.com/news/world-europe-42701712>, accessed 1 September 2021.

⁸⁰ Benet Koleka, "Kosovo hits Serbia, Bosnia with 100 Percent Customs Fees after Interpol Snub", 21 November 2018, <https://www.reuters.com/article/us-kosovo-serbia-trade-idUSKCN1NQ29W>, accessed 1 September 2021.

⁸¹ Serbia-Kosovo Relations, Confrontation or Normalization?, European Parliament Briefing, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635512/EPRS_BRI\(2019\)635512_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635512/EPRS_BRI(2019)635512_EN.pdf), accessed 1 September 2021.

reached agreement, such tension in relations is considered as a whole of developments that jeopardize the process.

Serbia's and Kosovo's everlasting reluctance to make more concessions in negotiating in Brussels was derived from their disruptive one-sided policies over the status issue. In a public survey conducted in June 2019, 53 per cent of Serbian community stated that they would support their country's EU membership in order to reach more employment opportunities, for possibility to travel within the EU and for path towards a better future for youth.⁸² According to 2017 survey conducted by Belgrade Center for Security Policy related to the public perception of Serbia's foreign policy, 47 per cent of respondents asserted that they object to any kind of cooperation with NATO and 69 per cent issued that they would be unsupportive to EU accession in case it required recognition of Kosovo. In addition, Russia is assessed as the most influential actor in Serbian foreign policy by a vast majority of votes (61 per cent) as compared to the EU with 28 per cent (China is perceived influential by 52 per cent, Germany by 35 per cent and US by 11 per cent).⁸³

In the last round of EU-mediated negotiation headed by Mogherini, EU officials sought negotiations on Kosovo's status. The negotiations were secret, but they included a 'land swap' involving four Serb-majority northern Kosovo municipalities (or only trading parts of these municipalities) for parts of Presevo Valley in Serbia.⁸⁴ The lack of practical progress on Dialogue reasoned the exchange of territory idea, which in this framework was opposed within the EU.⁸⁵ EU-led dialogue revived in 12 July 2020 High Virtual Meeting after a 20-months stagnation. The then President of Kosovo, Hashim Thaci, was charged by the Specialist Prosecutor's Office (Hague-based) with a range of crimes in

⁸² Republic of Serbia, Ministry of European Integration, Public Survey "Support to EU Membership", www.mei.gov.rs, accessed 1 September 2021.

⁸³ Belgrade Center for Security Policy, *Public Perception of Serbian Foreign Policy*, 8 March 2017, www.bezbednost.org, accessed 1 September 2021.

⁸⁴ Guy Delauney, "Kosovo-Serbia Talks: Why Land Swap Could Bridge Divide", 6 September 2018, <https://www.bbc.com/news/world-europe-45423835>, accessed 1 September 2021.

⁸⁵ See in detail "Belgrade-Pristina Dialogue: The Rocky Road Towards a Comprehensive Normalization Agreement", European Parliament Briefing [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689371/EPRS_BRI\(2021\)689371_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689371/EPRS_BRI(2021)689371_EN.pdf), accessed 1 September 2021.

November 2020⁸⁶, leaving Pristina's government in disarray.⁸⁷ Serbian leverage over Kosovo was anticipated as State Department's and EU's support for the 2018 'land swap', and as "an admission of Western weakness and an affront to the principle of democratic coexistence in the region". According to longtime leader of the Serbian Orthodox community in Kosovo, Janjic, partition of the north of Kosovo would enhance Serbian population flight from the South and would also pave the way for 'Union of Kosovo and Albania' by increasing schismatic dynamics among ethnic Albanians in Montenegro and North Macedonia. Washington and Brussels preferred on consensual 'land swap' to overcome with other divergences but this would risk automatically opening up "non-consensual demands for territorial autonomy in neighbouring states".⁸⁸

The US also launched an effort that diplomatically caused setbacks on US-EU relations. President of Serbia, Aleksandar Vucic had been interested in a deal, while Kosovar Prime Minister accused US President Trump's envoy for the Kosovo-Serbia negotiations,

⁸⁶ The Hague-based Specialist Prosecutor's Office, SPO, according to a press statement on Wednesday, has filed a ten-count indictment with the Kosovo Specialist Chambers, KSC, charging Kosovo President Hashim Thaci, along with others including Kosovo politician Kadri Veseli was charged by the Specialist Prosecutor's Office (Hague-based) with a range of crimes against humanity and war crimes. See, Marija Ristic, "Kosovo Specialist Prosecutor Charges Thaci with War Crimes", 24 June 2020, <https://balkaninsight.com/2020/06/24/kosovo-specialist-prosecutor-charges-thaci-with-war-crimes/>, accessed 1 September 2021.

⁸⁷ Thaci resigned in November 2020 to face war crime charges, See in details, [Xhorxhina Bami](https://www.reuters.com/article/kosovo-election-preview-idINKBN2AC1F0), "Kosovo President Thaci Resigns to Face War Crimes Charges", 5 November 2020, <https://balkaninsight.com/2020/11/05/kosovo-president-thaci-resigns-to-face-war-crimes-charges/>, accessed 1 September 2021. The 120-seat parliament gave 71 votes to Vjosa Osmani for a five-year term amid an opposition boycott by Serb minority party, in April 2021. Osmani had the backing of Vetevendosje, which won the early elections in the country. Vetevendosje argues there can be no compromise with Serbia, See in detail, Ivana Sekularac, "Kosovo Heads for Political Shake-up in Elections on Sunday", 12 February 2021, <https://www.reuters.com/article/kosovo-election-preview-idINKBN2AC1F0>, accessed 3 September 2021 and "Kosovo Parliament Elects Vjosa Osmani as New President", Aljazeera, 4 April 2021, <https://www.aljazeera.com/news/2021/4/4/kosovo-parliament-elects-vjosa-osmani-as-new-president>, accessed 3 September 2021.

⁸⁸ Edward P. Joseph et. al. (2022), "From Crisis to Convergence: A Strategy to Tackle Instability in the Balkans at its Source", <https://www.wilsoncenter.org/sites/default/files/media/uploads/documents/SAIS%20FPI%2C%20WWICS%20Report%2C%20From%20Crisis%20to%20Convergence%2C%20Strategy%20to%20Tackle%20Balkans%20Instability.pdf>, p. 45-46, accessed 13 April 2022.

Richard Grenell, of discussing the exchange of territories.⁸⁹ Tension raised among the EU leadership when Serbia and Kosovo meeting has been scheduled for 2 September 2020 at the American White House. EU leaders perceived Serbia and Kosovo's US brokered economic agreements as a rival process. Miroslav Lajcak, the EU's special representative to the Belgrade-Pristina dialogue, stated that he hadn't been contacted before the U.S. issued its invitation to Serbia and Kosovo for the summit in Washington. In addition, EU High Representative for Foreign Affairs and Security Policy Josep Borrell expressed his discomfort by noting that "we welcome the United States as an important partner...but the facilitator and the one who is taking care of the process is the European Union."⁹⁰ According to agreement, Serbia had to suspend the campaign against Kosovo's recognition for a year and a one-year moratorium was signed for Kosovo seeking membership in international organizations. Both sides agreed to implement the highway and railway agreements and manage the joint Merdare crossing. The arrangements in Washington also provided for Israel to agree to recognise Kosovo, and to encourage Belgrade and Pristina committing themselves to open embassies in Jerusalem, an attempt that opposes the EU's foreign policy.⁹¹ Brussels, on the other hand, tried to mediate talks on technical issues over the same period without reaching any gradual progress.⁹²

Conclusion

Although there has been no substantial progress toward resolving core political dispute which will have to be addressed before finalising Serbia's and Kosovo's path to the EU membership, EU membership

⁸⁹ "Kurti accuses Grenell of discussing the exchange of territories; Grenell denies", *European Western Balkans*, 21 April 2020, <https://europeanwesternbalkans.com/2020/04/21/kurti-accuses-grenell-of-discussing-the-exchange-of-territory-grenell-denies/>, accessed 1 September 2021.

⁹⁰ Mare Ushkovska, "The EU's Rivalry with the U.S. Is Complicating Serbia-Kosovo Talks", *World Politics Review*, 9 November 2020, <https://www.worldpoliticsreview.com/articles/29200/the-eu-s-rivalry-with-the-u-s-is-complicating-serbia-kosovo-talks>, accessed 4 September 2021.

⁹¹ Sandra Maksimovic, "What did Serbia and Kosovo sign in Washington?", *European Western Balkans*, 9 September 2020, <https://europeanwesternbalkans.com/2020/09/17/what-did-serbia-and-kosovo-sign-in-washington/>, accessed 4 September 2021.

⁹² "Relaunching the Kosovo-Serbia Dialogue", Report No: 262, 25 January 2021, <https://www.crisisgroup.org/europe-central-asia/balkans/kosovo/262-relaunching-kosovo-serbia-dialogue>, accessed 4 September 2021.

continues to be both sides' strategic goal. Besides, Serbia is still unable to close considerable number of negotiating chapters with Brussels for Kosovo-derived reasons. Indeed, the agreement on EULEX and maintenance on Dialogue proves that EU member states are willing to play a constructive role on Serbia-Kosovo Dialogue. While almost six points of the Brussels Agreement drew upon the Ahtisaari Plan, EU's position on behalf of improving the standards is justified. Dialogue has been proceeded in many scopes of technical issues but has been stuck in an implementation deadlock for years.

Providing for the two sides have different interpretations on existing agreement's parameters, implementation still necessitates constitutional redesign of Serbia and Kosovo. Serbia ensured the integration of northern Kosovo into the institutions of Pristina by accepting the implementation of the agreement. Constitutional Court on the other hand did not consider the document as a legal deal for the constitutional order. Serbia still treats Kosovo as an autonomous province. Brussels Agreement provides for the status of the Association/Community must be agreed by the parties and then by Kosovo's Constitutional Court. According to the EU, this kind of agreed procedure for the association prevents all possible outcomes, "in particular that an association of Serb-majority municipalities developing into an autonomous region over which the central government would have no real control".⁹³ The fears regarding the compatibility of the Association/Community of Serb majority municipalities in Kosovo, forced Kosovar authorities to deny the forming of the Association/Community, which is at the core point of the Brussels Agreement.

Whether or not Kosovo will have the intention to amend parts of its Constitution in this order, EU in its 2019-2020 Reports on Kosovo reiterated its call to move forward with the full implementation of all the agreements including the establishing of the Association/Community without further delay.⁹⁴ It should be noted that the EU conscientiously

⁹³ European Parliament Briefing, "Belgrade-Pristina Dialogue: The Rocky Road towards A Comprehensive Normalization Agreement", March 2021, [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2021\)689371](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2021)689371), accessed 4 September 2021. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689371/EPRS_BRI\(2021\)689371_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689371/EPRS_BRI(2021)689371_EN.pdf).

⁹⁴ Committee on Foreign Affairs, Report on the 2019-2020 Commission Reports on Kosovo, 2019/2172(INI),

denied referring to any framework on the status issue, rather conserved its status neutral position. Stagnation on EU-led negotiations brought the idea of territorial exchange as a way of resolving Kosovo's status issue, as considerable degree of stagnation on implementation is derived from the fact that both sides have divergent arguments on status issue. Dispute between the EU and the US on Kosovo issue has sharpened for a given period. Many citizens from Kosovo, Serbia, and specialists thoroughly rejected land swap, as it would pose a security threat to Europe by creating mono-ethnic entities within the Balkan Region. Herein, the limitations of EU actorness through enlargement emanated from contested statehood undermined the EU's ability to fully Europeanize the problem by the end. Despite the Russian and Chinese vetoes over Kosovo's membership in the UN, unanimous recognition of Kosovo across all EU, would give Kosovo an independent path towards EU accession.⁹⁵ Since five EU countries of the EU have reservations on Kosovo's status, Serbia's consensus is required in justifying the EU actorness. Serbia, as a close ally of Russia negotiating for EU membership but explicitly against NATO membership, indeed has no reason to link its EU perspective to NATO membership for the present. Differentiated integration model within the EU could serve for Serbia's preferences, as in Austria, Cyprus, Ireland, and Malta, Finland and Sweden. Serbia is linking its neutrality to the memory of NATO's bombing of its territory during the 1999 Kosovo war, but the country also participates to NATO's "Partnership for Peace".

Following Miroslav Lajčák's declaration that in case borders are changed or population is exchanged, it would carry regional risks,⁹⁶ the High-Level Belgrade-Pristina Dialogue continued in June 2021 within a different prospect. Both Serbian and Kosovar leaders confirmed that there is no other way forward, but to normalize relations.⁹⁷ 2022 has opened new perspectives as The Special Envoy of the United States to the

https://www.europarl.europa.eu/doceo/document/A-9-2021-0031_EN.html, accessed 4 September 2021.

⁹⁵ See in detail, Edward P. Joseph, "A Way Out of the Balkans Morass: Restoring US and EU Leverage in the Serbia-Kosovo Dialogue", *Wilson Center*, <https://www.wilsoncenter.org/article/way-out-balkans-morass-restoring-us-and-eu-leverage-serbia-kosovo-dialogue>, accessed 15 April 2022.

⁹⁶ "Lesson Learnt, or "Easy Way Out"?", Opinion-21 January 2022, *The Lausanne Project*, <https://thelausanneproject.com/2022/01/21/belgrade-pristina-dialogue/>, accessed 16 April 2022.

⁹⁷ "Belgrade-Pristina Dialogue: Press Statement by EU Special Representative Miroslav Lajčák Following the Meeting, 15 June 2021", *European Union External Action*, https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-press-statement-eu-special-representative-miroslav-lajcak-2021-06-15_en, accessed 16 April 2022.

Western Balkans, Gabriel Escobar declared that “the agreement to normalize ties with Serbia should be centered around mutual recognition and that the dialogue has nothing to do with Kosovo’s status”, by noting the US’s strong support to the dialogue mediated by the EU “as the place where both sides, as equals, should work to resolve their differences and reach an inclusive deal”.⁹⁸ The request was reiterated from the EU and US envoys Miroslav Lajcak and Gabriel Escobar during a visit to Kosovo and Serbia, regarding Kosovo’s efforts to find a way to establish the Association of Serb Municipalities in Kosovo. The envoys also supported for Kosovo’s principles of the non-violation of its territorial integrity.⁹⁹ Further negotiations between the two sides are anticipated to focus on providing the uttermost authority on Association of Serb Municipalities on condition that Serbia is convinced over Kosovo’s status, while data prove that Serbian leadership has a rocky road to persuade Serb community in this respect.

⁹⁸ “Escobar: Dialogue Purpose is to Move Everything in Kosovo’s Direction”, *Euronews Albania*, 16 February 2022, <https://euronews.al/en/kosovo/2022/02/16/escobar-dialogue-purpose-is-to-move-everything-in-kosovos-direction/>, accessed 16 April 2022.

⁹⁹ “EU, US urge Kosovo to accept Serb Municipalities”, *Euractiv*, 3 February 2022, https://www.euractiv.com/section/politics/short_news/eu-us-urge-kosovo-to-accept-serb-municipalities/, accessed 16 April 2022.

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