

# Endless EU Facilitated-Mediated Dialogue Between Kosovo and Serbia

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**ABSTRACT** *The dialogue between Kosovo and Serbia facilitated and mediated by the EU and strong U.S. support is a critical part of sustainable peace, stability, and the road to the European integration of the Western Balkans. This article seeks to provide the mediators' insights into the process of dialogue by outlining the factors and circumstances in which it is being developed, as well as analyzing strategies that lead toward desired success, peace, stability, and the EU integration of the Western Balkans. The article discusses the important issues linked with the dialogue that is being facilitated and negotiated by the EU, including essential activities, challenges, difficulties, obstacles, antagonism (inner and international), the approach the EU facilitators/mediators undertake as well as the reaction and the expected results that the parties involved in the process have regarding reaching a final solution to the dispute. The researchers of this paper used the methods of legal analysis, comparative analysis, and teleological analysis. The study is an update of the work done in the field by the authors and aims to contribute to further political, diplomatic, and academic debate developed in this field locally and internationally.*

**Keywords:** Kosovo, Serbia, Dialogue, Facilitation, Mediation, EU, U.S.

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## Introduction

**K**osovo's Declaration of Independence was a political act and it was expected to be the final step for normalizing relations between Kosovo and Serbia. The normalization of relations, however, did not happen and the expected normalization was not established smoothly or quickly. The roots of the disputes between Kosovo and Serbia are not only based on the dissolution of Yugoslavia. From 1913 to 1918, Kosovo was a province of Serbia. Then, from 1918 to 1929 it was a part of the Kingdom of Serbs, Croats, and Slovenes. In 1929 it became part of the Kingdom of Yugoslavia until 1944. From 1945-1946 until the dissolution of Yugoslavia, it mostly maintained a dual status: It was a constitutive element of the federation and a part of the constitutional system of Serbia. Its position within the Yugoslav federation was very similar to other federal units. However, a little over a hundred years ago, major European powers unjustly decided to put Kosovo in a situation in which it did not belong.<sup>1</sup> That decision made by Europe's major powers of the time "has been largely responsible for the historical injustices and sufferings of the Kosovo Albanians for the past hundred years and perhaps for the Balkanization of the entire region."<sup>2</sup> The mentioned state no longer exists, whereas the last one, the Federal Republic of Socialist Yugoslavia, dissolved through a process that took hundreds of thousands of lives, included genocide and crimes against humanity, and saw atrocities that had not been seen in Europe since World War II. The federation was dissolved mostly as a result of two tendencies: first, it strived for dominance and hegemony over the others, represented by Serbia as one of the units of the federation, and second, the tendency for more decentralization, more democracy, and more freedom represented by other federal units and other nations.

Kosovo was on the side of democracy and freedom and this came at a very big cost. From the former federation of Yugoslavia, Slovenia, Croatia, Bosnia and Herzegovina, Montenegro, Macedonia (North Macedonia), and Kosovo became independent states. Almost all these states formed after facing challenges and difficulties, including wars, aggression, threats, and other types of force by Serbia and its regime. Unfortunately, the current Serbian regime stokes tensions in the region. This can especially be seen in its behavior toward Bosnia and Herzegovina via the Republic of Srpska, as well as in Montenegro through the position of the Orthodox Church (among other actors), and in Kosovo by refusing to recognize the state of Kosovo and manipulating the Serb minority. On one hand, throughout the entire process of the dissolution of former Yugoslavia, European support (before the European Community) was vivid and important. On the other hand, the U.S. has taken concrete actions, which produced more concrete outcomes. The EU commitment has a history of some success in the Balkans (Slovenia and Croatia are members of the EU), but it is still far from achieving uniform success in the region, particularly regarding a solution for the Kosovo-Serbia dispute. However, "the EU turned the acces-

sion process into the core of its policy toward the Western Balkans, including Kosovo and Serbia. In June 2003 member states stressed their ‘privileged relationship’ with the region.”<sup>3</sup>

## Methodology

For this paper, the combined methodology was used with the following methods: The method of systemic analysis, which is used for analysis of a variety of legal and historic resources (jurisdiction, institutional politics, statutes, conventions, publications and other research studies) and to draw conclusions as well as to generalize and summarize them; the method of logical analysis is used to draw conclusions based on the rules of logic, i.e. interpretation of legal acts based on articles and interpretation of judgments provided by the Constitutional Court; the method of teleological analysis, which is used to interpret legal norms and resources for the implementation of goals deriving from the constitution and other legal resources; the method of comparative analysis, which is used to compare attitudes of authors, opinions and attitudes of states and the practical examples, sometimes via historical comparison; and lastly the method of theory analysis, which is used for interpretation of legal resources, i.e. to explain the content of reviews, international law, constitutions, etc.

## Research and Discussion

### *The Process of Facilitation or/and Mediation between the Kosovo-Serbia Dispute*

Between good offices and conciliation lies the third-party activity known as ‘mediation.’<sup>4</sup> Like good offices, mediation is essentially an adjunct to negotiation, but with the mediator as an active participant, authorized, and indeed expected, to advance fresh proposals and to interpret, as well as to transmit, each party’s proposal to the other.<sup>5</sup> The third party who acts as a ‘facilitator’ or ‘provider of good services’ has a more limited role compared to a ‘mediator’ and doesn’t do more than help parties in the dispute establish direct communication.<sup>6</sup> Usually, the role of a facilitator changes and transforms into a mediator. Of course, international disputes in diplomatic practice and theory are known to be solved through the process of inquiry, conciliation, arbitration, and the International Court of Justice. This is best seen from the United Nations General Assembly Resolution of 1970, after quoting Article 2 (3), which proclaimed: “States shall accordingly seek early and just settlement of their international disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their

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processes of mediation and/or facilitation developed after Kosovo proclaimed independence. Serbia and its officials have not shown any willingness to recognize Kosovo as an independent state; yet, they have entered into a long-lasting process of talks and negotiations with Kosovo, which were facilitated or/and mediated by the EU in various forms. In the end, they agreed to accept mediation as a process, and “by accepting mediation, a government acknowledges that its dispute is a legitimate matter of international concern.”<sup>8</sup>

### *EU Mediation through Good Offices or Mediators*

Before evaluating the EU facilitated/negotiated process, it is very important to highlight that “EU institutions hold a neutral attitude regarding the Kosovo status. This shows the different approach that the EU has compared to the other states, created in the process of integration. No state from former Yugoslavia is displayed with the Asterix (\*) or whose name is put in the footnote. No state from the territories of former Yugoslavia was conditioned by the demarcation of its borders with its neighbors. No other states from the territories of former Yugoslavia remains not being recognized by EU.”<sup>9</sup> On the other hand, since its declaration of independence, one of the main Kosovo foreign policy objectives was EU integration. In the same way, “most of its citizens, or up to 93 percent of them, support the process of Kosovo integration into the EU.”<sup>10</sup> Yet, five states<sup>11</sup> from the EU do not recognize Kosovo as an independent state. Interestingly, the current EU Special Representative for the Belgrade-Pristina dialogue and Western Balkans is from the Republic of Slovakia, a state that doesn’t recognize the state of Kosovo. Kosovo’s process of independence in addition to the pre-war efforts was:

Accompanied by a number of painful concessions for Kosovo, including a period of internationally supervised independence; the creation of several new Serb-majority municipalities carved out of existing Albanian-majority ones; extra powers for those Serb areas, notably over education; protections for Serbian Orthodox Church sites; parliamentary seats set aside for Serbs and other “non-majority” peoples, with a veto over legislation of vital interest; permis-

choice.”<sup>7</sup> There is a deep-rooted dispute between Kosovo and Serbia that has a complicated history. These complications, unfortunately, have led to serious consequences and have costed innocent people their lives. The dispute has existed for years, but it was not treated as an international dispute until the last three decades. The preceding phases of developments regarding Kosovo-Serbia relations could be the subject of different academic discussions outside of the

sion for Serbia to extend financial and technical help to Serb-majority municipalities; and a security force limited to 2,500 lightly armed soldiers.<sup>12</sup>

Beyond this, however, efforts launched in March 2011 constituted the first test of Pristina's and Belgrade's willingness to solve problems together. The first meeting between Kosovo and Serbia was held on March 9, 2011, in Brussels. The delegation of the Republic of Kosovo was led by Edita Tahiri, Deputy Prime Minister and Minister for Dialogue in the government of the Republic of Kosovo, while the Serbian government was led by Borko Stefanovic, in the capacity of Serbia's Special Representative to the dialogue.<sup>13</sup>

In this context, from March 2011 to April 2013, then High Representative for Foreign Affairs and Security Policy (HR) Catherine Ashton and her team brokered several rounds of talks between Serbia and Kosovo. Ashton's approach was based on tying the prospects for EU membership of both entities to the normalization of their bilateral relations. The negotiation was far from a smooth process. As the EU was preoccupied with other, more pressing issues (ranging from the eurozone crisis to the refugee emergency of 2015), Russia saw an opportunity and strengthened its ties with Belgrade.<sup>14</sup>

The EU-mediated dialogue, which is quite often referred to as the Brussels dialogue between Pristina and Belgrade, officially started at the beginning of 2011, UN Assembly Resolution No. 64/298. Representatives of Kosovo and Serbia held official meetings in the period between March 2011-July 2012, and the nominated negotiators discussed the main technical issues burdening the citizens of Kosovo and Serbia. Because of its nature and the issues covered by it, the process was designed as a technical dialogue that would result in a technical agreement.<sup>15</sup>

Until the end of 2012, during the so-called technical dialogue, there were a series of agreements signed. This led to a political dialogue, formalized by the Resolution of the Kosovo Parliament, which "supports the process of solution of problems between two independent and sovereign states, Kosovo and Serbia, on behalf of normalization of relationships between themselves, upgrading the citizens' lives and advancing the European agenda for two states and the region."<sup>16</sup> As a result, since the summer of 2012, meetings have been held at the higher levels of representation, including the dialogue involving the prime ministers of Kosovo and Serbia, even though negotiations continued to be technical. This dialogue is based on the need to address daily problems faced by the public arising from the undefined legal and economic aspects of communication between Belgrade and Pristina.<sup>17</sup>

The process of dialogue started with no clear strategy, no transparency, and quite far from the public eye in an environment where the geopolitical aspira-



PM of Kosovo Kurti (L) and Serbian President Vučić (R) speak at their respective parliaments on EU's Franco-German proposal.  
EREN BEKSAÇ / AA

tions of Russia were to gain more territory and support Serbia. It was also at a time when the U.S. had all but left the process in the hands of the EU, leaving Kosovo citizens isolated. In this line, “as the former Yugoslav states moved from socialism to free market economies after the 1990s, kleptocracy, and illicit privatization took root,”<sup>18</sup> statements stressing close relations between Serbia and Russia were heard, and visits of officials from Serbia, including President Aleksandar Vučić, were organized. On the other side, Russia officially positioned itself on the side of Serbia regarding the dialogue between Kosovo and Serbia. Russian President Vladimir Putin used corruption to drive economic, ethnic, and religious wedges between Balkan societies by co-opting the region’s leaders.<sup>19</sup> Kosovo’s statehood, as noted, made five EU member states hesitant; whereas, not only was Kosovo’s statehood in conflict with the pan-Orthodox and Slavic ambitions of Putin but the Kremlin also needed to respond to Russian public opinion, which traditionally supported Serbian nationalists and feared ethnic cleansing against Serbs.<sup>20</sup> However, the dialogue continued despite the obscurity and surprisingly continued without setting any deadlines for ending it. Moreover, “dialogue started differently from international practice, where parties initially achieve an agreement, principle legally binding and then continue to negotiate technical and practical issues along with their implementation. In these negotiations, something else happened.”<sup>21</sup>

In June 2013, as a reward for the deal, EU member states made a conditional decision to open membership talks with Serbia by January 2014 and authorized the beginning of negotiations on a Stabilization and Association Agreement with Kosovo.<sup>22</sup> In this spirit, Pristina and Belgrade agreed not to hinder the other side’s progress toward EU membership. But the commitment to not hinder the other side was not respected by Serbia, which in the long term engaged its entire diplomacy to hinder the efforts of Kosovo to gain membership in in-

ternational organizations and more recognition from states who did not recognize it. Moreover, Serbia managed to convince some states to revoke the recognition of Kosovo, which is something new in modern international law practice. Thus, on one hand, some agreements were reached; on the other hand, various stances in opposition to agreements developed. Serbia closed down Serbian parallel structures in Northern

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Kosovo, including police stations and criminal courts,<sup>23</sup> but it never gave up its influence over the Serb population. Nonetheless, Serbs from Northern Kosovo for the first time cast their vote in local elections in December 2013. On the other side, the dialogue itself gained importance after the presentation of the First Agreement of Principles Governing the Normalization of Relations, known as the Brussels Agreement, and as a consequence, the integration of four northern municipalities in the Kosovo System of Governance.<sup>24</sup> Hence, a technical-political dialogue went in this direction, though a direct engagement of the U.S. was not seen –at least not openly. Although the U.S. still exerts crucial influence in Kosovo, being Pristina's most reliable ally, its military role is gradually decreasing since Washington passed the main political and military responsibilities to their European NATO partners. As of December 2013, 665 U.S. soldiers were stationed in Kosovo, representing merely 13.5 percent of the total Kosovo Force (KFOR) contingency. Therefore, it can be argued that despite their fundamental role in the past 15 years, the U.S. has gradually disengaged from Kosovo, opting for being a “guest” rather than a participant or a mediator in the ongoing EU-led Serbia-Kosovo negotiations.<sup>25</sup> It is worth underlining that the important issues regulated by the agreements were more in favor of Serbia rather than supporting both sides equally. In addition, EU member states decided to begin accession negotiations with Serbia on January 21, 2014.<sup>26</sup> Kosovo's official politics and government representatives thought that continuing with the dialogue would, on one hand, attract more recognition and support for membership in international organizations and that in this aspect, a comprehensive binding agreement with Serbia will bring the mutual recognition of these respective states, on the other hand. Hoping for these outcomes, Kosovo representatives signed various agreements that were not in accordance with its constitution or the interests of its people.

Loaded with a big number of agreements, one may ask why Kosovo has signed a lot of bad agreements. Firstly, the elite does not have an appropriate quality to negotiate. Secondly, governments hire and employ family members and party militants who are terribly unqualified. Thirdly, and this is what is believed by

the majority that presented indictments and accusations, means that they will be doing all that they are told to be done by the international community, even then when these requests [by the international community] are directly against the state interests of Kosovo.<sup>27</sup>

This was not the case with Serbian official politics, which very explicitly objected to Kosovo's request for recognition. Serbian President Boris Tadić stated: "No democratic leadership of Serbia would ever, under any circumstances, recognize the unilateral declaration. This principled position is set in stone, and will not change –come what may."<sup>28</sup> In line with this statement, all official representatives of Serbia openly maintained this position. Despite this stance, Kosovo representatives believed that Serbian officials would change their stance and continued with the dialogue and with signing agreements. Moreover, after signing the agreements, they tried to convince Kosovo's people that progress was being made and that Serbia recognized Kosovo simply through the act of signing these agreements. Yet, these claims did not reflect reality.

### ***Creative Ambiguity of Agreements and Proposals***

Since the dialogue started between Kosovo and Serbia, around 30 agreements have been signed. Some were very barely implemented, some were obstructed, and some had huge ambiguities. Indeed, the entire process was treated ambiguously. Ambiguously for the parties entering into it, ambiguity in the sense of the content, and ambiguous in the role the facilitator/mediator played in the process of dialogue. The parties taking part in the dialogue do not recognize each other. Regarding bilateral treaties, the consequence of non-recognition is a legal inability to establish formal relationships with the treaty. Nonetheless, this doesn't mean that treaties cannot be concluded between non-recognizable states. This rather implies that if the treaty is concluded in such cases, it will automatically mean implied mutual recognition. Treaties signed under these circumstances would be valuable according to international law and would have two effects: recognition and the establishment of the rights and obligations according to the treaty.<sup>29</sup> In the case of the Kosovo-Serbia dispute, a comprehensive agreement ending with mutual recognition of both states is the main goal. At least this is always stated to be the final goal from the Kosovo side. But this was not the case with the EU's stances.

Two agreements are worth specifically mentioning for two reasons: to verify what was said regarding bad agreements signed by Kosovo and to emphasize the EU's role, attitudes, and position related to the issue. On August 25, 2015, Kosovo signed the Agreement on the Association of Serb-majority Municipalities, which was signed while the Assembly was on the vacation.<sup>30</sup> Before exploring the timing of this agreement, it is important to refer to the following citation:

A particular feature of the agreements between Serbia and Kosovo, culminating in the 15-point 2013 Brussels Agreement, was the creative ambiguity of not addressing the status of Kosovo. The Agreement does not indicate whether Kosovo is a state or not, the parties are described as “sides” without further details, and there is no definition of how the Association/ Community of Serb municipalities should be organized –the cornerstone of the agreement– and what legal status it should have. This ambiguity was a reflection of the earlier experience during the talks led by Ahtisaari, where the status designation led to the failure of a mutually accepted compromise.<sup>31</sup>

Dozens of questions could be raised regarding this agreement. It caused tension in Kosovo and continues to be the ‘rope around its throat’ in the further dialogue, even though Kosovo’s Constitutional Court ruled that the agreement conflicts with its constitution. Nonetheless, the international community pressured Kosovo to implement the agreement since they see it as an international obligation that was ratified by the country’s Parliament. Despite being declared unconstitutional, it is still on the table and implemented via various forms of pressure. The other similar agreement was signed with Montenegro regarding the demarcation of borders between Kosovo and Montenegro. After the signing, it faced a strong objection and its ratification took quite a long time. The international community, i.e. representatives of the EU and the U.S., pressured Kosovo politicians to ratify the demarcation since it was the last remaining request for Kosovo’s pursuit of a visa-free regime.<sup>32</sup> Bowing to international pressure, Kosovo ratified the agreement, but the promised visa-free regime was not granted to Kosovo citizens. Kosovo lost a big part of the territories in favor of Montenegro. Such visa stipulations were not set up for any of the states that derived from the territories of former Yugoslavia.

The EU’s position remained ambiguous regarding its demands from Serbia. Officially, it does not seek Serbia’s recognition of Kosovo. “Governments and parliaments in some EU member states, in particular Germany, made it clear that eventual EU accession would require full recognition.”<sup>33</sup> No deep analysis is needed to see how differently the pressure is applied against Kosovo and Serbia in the process of negotiations. Serbia has always played with its dubious geopolitical orientations: directed toward the West or turned in the direction of Russia. Kosovo, on the other hand, is clearly and completely oriented toward the West with the goal and the hope to integrate into the EU and NATO. Although parties maintain these positions, they, as stated earlier, do not face the



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## Expectations that the solution to the Kosovo-Serbia dispute will be found quickly are not realistic

same pressure from the EU. This type of approach was used by the EU even before the war. Thus, in trading human rights, justice, and democracy for a false sense of stability, the EU allowed genocide to take place on its doorstep. Then, it disingenuously framed one-sided aggression as a two-sided conflict with equal culpability.<sup>34</sup> In addition, the attitude of Russia remains the same. Certainly, Russia has neither replaced the EU's influence in the Western Balkans nor it has taken on the union's mediating role in the Kosovo-Serbia dispute. EU membership is still associated with economic prosperity and freedom of movement in the Western Balkans. Support for the union has grown steadily between 2016 and 2019, although Serbia is the country most concerned about the potential implications of EU accession over its national sovereignty.<sup>35</sup>

With the dialogue underway, it seemed that some part of the West saw Kosovo as the same Kosovo as before its declaration of independence. The West generally ignores Serbia's transgressions, such as its campaign that has convinced at least 15 countries to 'revoke' their recognition of Kosovo, its purchase of sanctioned weapons from Russia, or its growing authoritarianism.<sup>36</sup> Despite all of this, the EU's position remained vague regarding its demands from Serbia. While officially it could not demand Serbia's recognition of Kosovo, governments and parliaments in some EU member states, in particular Germany, made it clear that eventual EU accession would require full recognition.<sup>37</sup> However, strong mechanisms for implementing signed agreements were missing from both parties. Based on this, the EU was pushed to use contractual relations and EU integration as an incentive with the parties to encourage dialogue. As a result, progress was made in the process of integration of both states with the EU: Serbia has started access negotiations, and Kosovo has signed a Stabilization and Association Agreement (SAA).

Since 2013, however, "no significant progress has been made in the normalization process or the implementation of the agreements."<sup>38</sup> The parties are still far from reaching a final agreement. Indeed, the process was largely obstructed, mainly from the Serbian side. Negotiations, either technical or political, persistently neared total failure. In a step aimed at progress, German Chancellor Angela Merkel prevented the Kosovo-Serbia talks from derailing by launching a new initiative of cooperation centered on connectivity, the so-called Berlin Process, in the summer of 2014.<sup>39</sup> Established soon after Juncker's declaration on the suspension of EU enlargement, the Berlin Process involved a restricted number of member states (Austria, Croatia, France, Germany, Italy, Slovenia, and the UK), the Western Balkans countries interested in joining the EU (including Kosovo and Serbia) and EU representatives. Its main objective was to complement and provide new impetus to the European integration of the

Western Balkans.<sup>40</sup> However, whatever was offered to Serbia by the EU and others was never enough to convince Serbia to give up activities hindering Kosovo's efforts to attain membership in international organizations and its quest for more recognition. Serbia managed to block Kosovo's membership in UNESCO in the autumn of 2015, which further undermined relations between Belgrade and Pristina. The slowdown in the normalization process is likewise apparent in the reduced action by the EU, which has limited tools to put pressure on the parties. As a result, this policy is becoming less and less effective.<sup>41</sup>

The normalization of relations with Kosovo was encompassed in a separate chapter in Serbia's accession negotiations with the EU, and these may be suspended if the process does not progress. However, it is questionable whether the EU would be willing to use this tool.<sup>42</sup> The reasons for the EU's reluctance are clear and are linked with traditional and current geopolitics: the new hotbeds of crisis where the EU should engage and Serbia's use of Russia as a reserve competitive alternative. This is why the EU prefers the 'carrot' instead of the 'stick' as a model of mediation.<sup>43</sup> However, in contrast, Kosovo was denied the 'carrot' and got the 'stick' instead. This is in line with what Sidita Kushi, assistant professor at Bridgewater State University and expert in the Balkans, politics, and strategy said: "The EU dialogue process often implicitly accepts Serbia's position on Kosovo –that Kosovo does not hold to the same level of formal statehood as Serbia and should therefore be asked to concede more of its sovereignty for the sake of regional stability."<sup>44</sup>

In the dialogue between Kosovo and Serbia, led by Kosovo's President Hashim Thaçi and Serbian President Aleksandar Vučić, an issue arose that further polarized the political situation: a land swap, or 'border corrections' as Thaçi<sup>45</sup> preferred to name it. Officially, this was not something on the table, but unofficially it was something taken seriously into consideration by Western diplomacy. Many politicians in Kosovo declared that the issue of a land swap border was mentioned to them in various closed-door meetings. No one publicly produced any documents on the topic at the time.

Even though Serbia was included among the countries that might gain access to the EU soon, accession will be impossible until it normalizes relations with Kosovo. A Serbian proposal –supported by the U.S.– for ethnic-based land swaps raised expectations that a breakthrough was in sight in mid-2018. Yet the plan was criticized by Austria, Germany, Luxembourg, and the UK, who feared that this could lead to similar requests for ethnic-based border changes in Bosnia, North Macedonia, and Montenegro.<sup>46</sup>

According to a European official, the problem is not that Serbia pushes this idea. The problem is that a passivity is seen in the Mogherini Office, which has

Serbian President Vučić (L-2) and PM of Kosovo, Hoti (R-2) meet EU High Representative for Foreign Affairs and Security Policy Borrell (C) within Kosovo-Serbia mediation talks in Brussels, Belgium on July 16, 2020.

EU / AA



neither established the red lines for these themes nor reacted when these issues are being debated.<sup>47</sup> Moreover, the negotiations were secret, and details have yet to be made public; however, they included a land swap widely assumed to encompass trading part or all of the four predominantly Serb Northern Kosovo municipalities for parts of Serbia's Presevo Valley, which are predominantly Kosovar. The discussions culminated in a 2018 draft agreement meant to be put before the UN Security Council.<sup>48</sup> Amid growing controversy and rumors, Kosovo President Thaçi and his Serbian counterpart Vučić described the contours of their ideas publicly at the Alpbach Forum, an international conference in Austria, in late August 2018.<sup>49</sup> Many analysts, among them both authors of this paper, thought that Thaçi would agree to whatever was offered to him since he was being blackmailed. The fear of persecution that haunted him at The Hague Tribunal would eventually get the best of him. This made him open to whatsoever was offered if a simple promise was given to him not to be charged with crimes during the war. Hence, Thaçi argued that others "in the region should not be afraid of potential agreement ... even if it includes border change," while Vučić noted that "nobody asked Serbs and Albanians about the [current] borders."<sup>50</sup> One may say that playing with the borders in a turbulent region and asking for no fear is similar to 'playing with stones in a glass house.'

Furthermore, it is also argued that both "Russia and the U.S. had been briefed and were quietly supportive"<sup>51</sup> about the land swap idea. Whereas, soon in 2019, Thaçi and Vučić approached the Trump Administration with a proposal

to resume talks under U.S. auspices.<sup>52</sup> The land swap or Kosovo partition is not a new option. It has been reiterated by Serbian leaders as democratically oriented, including Vučić. It was also Serbian President Tadić that stated, “If Serbia is unable to recover Kosovo, a partition of the country might be an acceptable alternative.”<sup>53</sup> Various analyses indicate that nothing is going to be gained from the potential land swap or Kosovo partition. Taçi and Vučić may have projected something well in their heads, but Taçi is out of political games and deals. Instructor Michael Rossi rightfully underlines:

What we do know is that such talks risk destabilizing an already volatile region that includes North Macedonia and Bosnia where groups are eager to redraw borders and would be quick to capitalize on a new precedent being set afterwards. We also know that the United States has repeated again its opposition to any exchange of territories, though its influence in the region is no longer as decisive as what it once was.<sup>54</sup>

### ***EU and U.S. Engagement***

Under the following circumstances of either secret or public talks between Taçi and Vučić, Serbia concurrently sustained efforts on blocking Kosovo’s membership in international organizations. And it succeeded in blocking Kosovo’s membership in Interpol and UNESCO. The Kosovo government reacted with some measures against this decision. In the framework of the EU-facilitated dialogue, the efforts aiming at concluding a fully comprehensive and legally binding agreement between Serbia and Kosovo had been interrupted since November 2018 “following the decision by the Kosovo government to impose customs tariffs of 100 percent on imported goods from Serbia and Bosnia and Herzegovina, citing political and trade-related grievances.”<sup>55</sup> The 100 percent tariffs imposed by the Kosovo government on all Serbian goods led to the suspension of the dialogue by both parties. Despite these difficulties, the international community has tried to defuse the conflict, in particular through the engagement of the EU and the U.S. Following his appointment as special presidential envoy for Kosovo-Serbia negotiations on October 4, 2019, U.S. Ambassador Richard Grenell visited Kosovo and Serbia on October 9-10, 2019.<sup>56</sup>

Calls for dialogue and the relief of tariffs came from the international community through a set of messages and pressure not seen before, at least not proportionally to Serbia. Meanwhile, Prime Minister Ramush Haradinaj resigned because he was called by The Hague Tribunal for an interview. Assumptions were (but not made clear) that he resigned because he didn’t agree with remov-

## **An immediate request directed to the U.S. and the EU for swift coordination and action in solving the Kosovo-Serbia dispute is essential**

ing the tariffs. Elections brought results that to some were not expected, bringing so the Lëvizja Vetëvendosje Party (LVV) to power. This party was against the dialogue between Kosovo and Serbia but has lately changed its position, ascertaining that the dialogue should be developed between two equal independent states and not as it was until recently. The leader of the LVV claimed that there will be no more dialogue without a clear agenda regarding Kosovo's status or territorial integrity and that the Association of Municipalities with the Serb majority will not be accepted since it was declared unconstitutional. Thus, the LVV won the October 2009 elections, and its leader Albin Kurti became the prime minister to lead a government that was not at all similar to any of Kosovo's previous governments. According to Kurti, the dialogue with Serbia was not the priority. He was more focused on solving the issues of unemployment, anti-corruption, and projects considered to be more important for citizens. Unfortunately, COVID-19 appeared and in Kosovo, the pandemic brought additional political problems that were not only domestic. It showed profound disagreements regarding the potential solutions to the Kosovo-Serbia dispute. The pandemic was used as the alleged reason to overthrow the government. Professor Austin notes:

Thaçi along with the Trump Administration and even with the Prime Minister of Albania Edi Rama, identified Kurti's Government as a huge threat. Government ended Trump plans for a suspicious diplomatic victory of land-swap was removed from the agenda. Therefore, Kurti had to be knocked down. In the meantime, Kosovars this phase definitely believed that their faith was in the hands of foreigners. EU in this regard appeared to be very clumsy in reaction. Perhaps to Brussels it suited them more rather than the pretended nationalism of Kurti.<sup>57</sup>

The government was removed through a vote of no confidence during the peak of the pandemic. The process, hard to be addressed in such a difficult situation where nothing should be more important than the health of the people, also showed the divergences within the international community related to the Kosovo-Serbia dispute.

The dialogue was relaunched in 2020 and supported by the international community. The appointment of U.S. special presidential envoy Richard Grenell and special EU representative Miroslav Lajčák reflected the importance of the normalization process. However, a lack of coordination and communication between the U.S. and the EU means that no real progress has yet been made. The reasons for the very limited results are multiple, ranging from the internal political situation in both countries to ambiguous and asymmetrical expectations of the normalization agreement.<sup>58</sup> Yet, efforts were made to bring the parties together. Josep Borrel hosted a high-level meeting with the then Kosovo Prime Minister Avdullah Hoti and President of Serbia Aleksandar

Vučić. This meeting came after a virtual summit, in the form of a video conference, which was held on July 10, 2020, with the attendance of German Chancellor Angela Merkel and hosted by French President Emmanuel Macron that aimed to relaunch the dialogue. Josef Borrell said that if there is a political will, “reaching an agreement between Belgrade Prishtina is a matter of months, not years.”<sup>59</sup> This obviously was a very optimistic statement, taking into consideration the entire process of dialogue from its start.

**It has been noted many times that for the sake of peace, foreign governments focus on stability rather than democracy and justice**

To overcome the difficulties, the U.S. initiated trilateral meetings that resulted in commitments signed separately by Prime Minister Hoti and President Vučić in the presence of U.S. President Donald Trump, in which Kosovo and Serbia committed to economic normalization. The meeting was held in Washington, D.C. on September 4, 2020.<sup>60</sup> The outcome of these signed commitments (not frequently seen in international relations) is difficult to predict, especially after the change in the U.S. administration. During Joe Biden’s election campaign, there were signs indicating that the U.S. administration would be more active and that will be more intensely engaged in the dialogue. During the campaign, a vision paper was issued outlining how candidate Joe Biden intended to work with the EU on the Kosovo-Serbia dialogue. The paper presented Biden as a “long-time friend of Albania and Kosovo and the Albanian-American Community. Antony Blinken stated that the new U.S. Administration would help Kosovo and Serbia to move forward: ‘[Joe Biden] spent a lot of time on those countries in the past, and I think he shares your convictions that there are things we can do to help move Kosovo forward, and also move Serbia forward.’”<sup>61</sup>

Expectations that the solution to the Kosovo-Serbia dispute will be found quickly are not realistic. The fear that the process will be more difficult derives from the recent events happening within the EU, related to potential enlargement and the potential integration of the Western Balkans. The last summit in Slovenia did not manage to set up a clear deadline for these countries. The year 2030 as the potential year for integration of the Western Balkans, raised by Slovenia was refused. Having said this, we would like to cite Sebastian Kurz, Austria’s Chancellor, when he stated: “If the European Union does not offer this region a real perspective, we have to be aware that other superpowers – China, Russia or Türkiye– will play a bigger role there. The region belongs to Europe geographically, and it needs a European perspective.”<sup>62</sup> Let’s put this citation in the context of the most recent tension between Kosovo and Serbia regarding vehicle plates. Instead of applying more pressure on Serbia, both parties (Kosovo and Serbia) were equalized even though Kosovo was respect-

## The dispute cannot be resolved if Kosovo is not treated equally and if it is not made clear that Kosovo is an independent state

her article “Russia Is Playing with the Fire in the Balkans”<sup>64</sup> both point to Russian involvement. Thus, an immediate request directed to the U.S. and the EU for swift coordination and action in solving the Kosovo-Serbia dispute is essential. It is quite clear that without strong pressure on Serbia, there will always be obstacles to the final solution. Serbia has made it clear on many occasions and with different means that it is not going to be ready to recognize Kosovo, which is the main key to solving the disputes between Kosovo and Serbia. If there is not going to be pressure, there will always be Russian trains, issues of plates, referendums within Kosovo territory for changes to the constitution of Serbia, etc., and there will continually be activities of Serbian diplomacy to convince various states to revoke recognition of the Kosovo independence. Finally, it should be made clear to Serbia that the Bosniatization of Kosovo will not be allowed, which is the intermediary aim toward the partition of Kosovo where Serbia aspires to get some municipalities of the northern part of Kosovo. EU institutions should not continue to maintain neutral positions regarding Kosovo’s statehood and independence. This neutral position full of ambiguity in the process of facilitation and/or mediation is often perceived as biased in favor of Serbia. Parties in a potential agreement should be treated equally in these processes. And this is not the case, at least not formally. In addition to all ambiguities:

The greatest problem in terms of Kosovo’s EU integration perspective remains the fact that five EU Member States –Cyprus, Greece, Slovakia, Spain and Romania– have not recognized Kosovo’s independence. As a result, Kosovo’s membership perspective remains elusive, and the European Commission refers only to ‘Kosovo\*’, with the asterisked footnote containing the text agreed upon during the Belgrade-Pristina negotiations.<sup>65</sup>

The neutrality of the EU is hard to understand and professor Kushi rightfully states that: “This false neutrality has stalled the EU-led dialogue from the get-go, and this take will only grow more problematic as Kosovo’s government becomes more assertive in protecting its hard-won scraps of statehood.”<sup>66</sup>

Russian aggression in Ukraine has intensified the efforts of the EU and U.S. diplomacy to get the parties to reach an agreement. It has been noted many times that for the sake of peace, foreign governments focus on stability rather

ing the agreement that expired, with the measures undertaken in the northern part of its territory.

An article published by *The Guardian* titled “Serbia President Lauds Russia Ties at the EU Balkans Summit”<sup>63</sup> and one by Ivana Stradner, who was very right titling

than democracy and justice. This is now even more noted in the circumstances of the war in Ukraine. Serbia has refused to impose sanctions against Russia, whereas the EU continues to try to keep Serbia away from Moscow. Yet, the EU consistently asks Kosovo for more concessions. Examples of this include Kosovo's attempt to establish reciprocal measures regarding license plates, Serbia's threats of military action, and its demands for an Association of Serb Municipalities at a time ethnic Albanians are being 'administratively cleansed' from entire areas of Serbia.<sup>67</sup>

### ***The Berlin Process, Open Balkan, and the Franco-German Plan***

In the most recent developments in the Western Balkans, the Berlin Process has in a way revived a process that had been largely set aside. Under the Berlin Process ministers of the WB6 settled on three agreements: ID travel within the WB6 region, the recognition of academic qualifications, and the recognition of qualifications for certain professions.

Nevertheless, the Berlin Process seems to have been left aside as the Open Balkan initiative was launched three years ago by the leader of Albania, Serbia, and North Macedonia. The idea of the Open Balkan has been rejected by Kosovo authorities and indeed this idea has deepened disagreements between Kosovo authorities and Albanian Prime Minister Edi Rama. Balkans analyst Edward P. Joseph states that "Open Balkan has dangerous implications for the region."<sup>68</sup> Furthermore he adds:

We can summarize the problems with Open Balkan as follows: dubious theory, naïve construct, dangerous implications. Let start with the implicit theory underlying Open Balkan: 'Trade equals trust'. (This is my description). Unfortunately, this theory crashes head-first into reality. Just look at the raging Russian aggression against Ukraine. Until February 24, Russia and Ukraine had enormous trade, nearly \$10 billion worth in the combined value of exports-imports. Right now, China is conducting an aggressive military exercise against Taiwan – a country that exports \$273 billion worth of goods to China, including critical semiconductors. China is Taiwan's number one trading partner, responsible for one-third of its trade. According to the Open Balkan Theory, all of these countries should be at peace. Instead, they are either at war or in the steps towards war. Open Balkan proponents should be asked to explain this.<sup>69</sup>

The Open Balkan has caused many headaches for Kosovo institutions, especially in the context of the dialogue with Serbia. Finally, the revival of the Berlin Process has minimized the initiative of the Open Balkan.

In the spirit of current movements, within the efforts of bringing an agreement to the table for parties in the dispute, a plan appeared on the scene.

## Kosovo representatives have to be more creative while dealing with the pressures of foreign diplomacies for solutions that are not favorable for Kosovo

Firstly, there were presented various non-papers (non-official proposals) to the public from different resources, however, they disappeared quickly since they didn't attract any public support or interest for debates. In the meantime, a draft proposal was presented called the Franco-German Plan, as a document that would normalize Kosovo-Serbia relations.

Interestingly the existence of this proposal was not completely denied, but only parts of it were made public. Finally, officially it was made known to the public that both parties had formulated a plan known as the Franco-German. Serbia's president explained to the Serbian public that, "There is a plan proposed by Germany and France, which foresees that Serbia will allow Kosovo membership in the UN without recognizing it as a state, whereas Serbia would be rewarded acceleration of EU membership."<sup>70</sup>

The last movements in Kosovo and regarding Kosovo and Serbia dialogue have entered a very dangerous phase. The reason Kosovo's government imposed the use of Kosovo plates for vehicles was to block the use of illegal plates. This is an issue that may aggravate the situation. Indeed, this is the pretext for pushing Kosovo to create the Association of Municipalities with the Serb majority which, as it was described, is a result of an ambiguous 2013 agreement. Whether this is a sign of a new potential conflict or a step in the direction of the final agreement based on the Franco-German Plan remains to be seen. However, the original version of the Franco-German Plan has not been presented to the public. Now all sides involved in efforts of finding a solution to the Kosovo-Serbia dispute have made known that the plan was considered by the respective governments, who have given written comments to Brussels. This was confirmed by EU officials. Now, even if this plan is going to be approved by all sides, the potential implementation will be a matter of question. Obviously, if the U.S. is actively supportive of this plan, then it will lead toward successful implementation. This was the case with Dayton, this was the case with Rambouillet and this will be the case where only the U.S. may be the guarantee. Nonetheless, the prevention of another conflict in the Balkans is crucial because the potential conflict will not be localized a new Kosovo-Serbia conflict.

### Conclusion

Kosovo has entered into the process of dialogue with Serbia with the hope that the outcome would be mutual recognition of these respective states. The EU has shown a willingness to facilitate the process. But the big questions remain

unanswered: how will the EU facilitate and mediate the process of dialogue when it doesn't treat both parties equally, as two independent states? How is the EU going to convince Serbia to recognize Kosovo when the EU itself still did not recognize de jure Kosovo? It did not manage to convince five member states to do so, either. Or perhaps, not enough efforts were made. Ambiguities must be eliminated, first of all in the sense of the capacities of parties, in the content of the dialogue, and in the position of the facilitator/mediator.

Kosovo still, after 13 years since declaring its independence, remains an unfinished state. This is more because of the ambiguous policies being used around it rather than of the capacities from the inside to build itself as a state. This state was created as a result of the efforts of its people and with the strong support of the international community. The U.S. has played a crucial role. It remains in a so-called unfinished state because the international community and international politics have changed a lot since 2008. Kosovo did not enter into dialogue with Serbia as an equal. EU institutions have maintained a neutral stance on Kosovo's status, and there are still five member states that do not recognize Kosovo's independence. This itself makes the dialogue more difficult with non-equal parties involved. If parties are not equal, what would be the outcome? Serbia clearly plays with double standards and in some aspects, it blackmails the Western democracies with the possibility of orienting the state of Serbia in the direction of Russia and China. Russian aggression in Ukraine has imposed the need for more engagement of Western diplomacy but clear steps to be undertaken regarding Serbia's position on the Ukraine war are lacking. Unfortunately, the cause of previous wars in the Balkans continues to be almost the same. The causes of the problems in the Western Balkans are mostly to be found in Serbia. Having said this, there is a need for more tangible actions and more concrete diplomacy that are fundamental for a long-lasting and rightful solution to the dispute. The dispute cannot be resolved if Kosovo is not treated equally and if it is not made clear that Kosovo is an independent state. The Western Balkans is a territory that doesn't accommodate delays in diplomatic engagement. History has witnessed this, unfortunately, very often. If the EU had no road map for clear actions and clear solutions, this doesn't mean that this shouldn't be done now. Finally, Kosovo representatives have to be more creative while dealing with the pressures of foreign diplomacies for solutions that are not favorable for Kosovo. ■

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## العلاقات التركية القطرية

في ظل التوازنات الإقليمية

محمود سمير الرنتيسي

**Turkish-Qatari Relations**  
In light of the Regional Balances

Mahmoud Al-Rantisi

