

The EU's impartiality going into the final phase of the Dialogue between Serbia and Kosovo

A review of the Donald Tusk's recent remarks in the region

—

April 30, 2018



GROUP FOR LEGAL
AND POLITICAL
STUDIES



GROUP FOR LEGAL
AND POLITICAL
STUDIES

Group for Legal and Political Studies

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

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

legalpoliticalstudies.org

Policy Note 01/2018

The EU's impartiality going into the final phase of the Dialogue between Serbia and Kosovo – A review of Donald Tusk's recent remarks in the region

Author: Bárbara MATIAS*

April 2018

© Group for Legal and Political Studies, April, 2018.

The opinions expressed in this document do not necessarily reflect those of Group for Legal and Political Studies donors, their staff, associates or Board(s). All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any mean without the permission. Contact the administrative office of the Group for Legal and Political Studies for such requests.

Group for Legal and Political Studies
"Rexhep Luci" str. 16/1
Prishtina 10 000, Kosovo
Website: www.legalpoliticalstudies.org
E-mail: office@legalpoliticalstudies.org
Tel/fax.: +381 38 234 456

*International Research Fellow, Group for Legal and Political Studies

THE EU'S IMPARTIALITY GOING INTO THE FINAL PHASE OF THE DIALOGUE BETWEEN SERBIA AND KOSOVO – A REVIEW OF THE DONALD TUSK'S RECENT REMARK IN THE REGION

Since its inception in 2011, the Dialogue between Kosovo and Serbia has had the European Union (EU) as facilitator, an enduring effort for reconciliation by way of a 'normalization of relations'. Labeled as such by the EU, the ambiguity of the Dialogue is not only noticeable in the name but also in the lack of concrete aims and expectations for what normalized relations between the two countries are to entail. The EU has boasted the Dialogue as one of the greatest achievements of the High Representatives role despite mixed results, at best. Most pressingly, there is no definition on what it practically means for the EU integration and EU membership of both parties in the short and long-term.

Each European Commission enlargement strategy pushes the vague agenda further, one in which the two Dialogue parties are alarmingly not even close to being on the same standing. Needless to say this has severely obstructed the EU-facilitated Dialogue from being one between two equal participators, rather being between a privileged candidate – Serbia – and a trusting underdog – Kosovo.

As the Dialogue is now set to enter the final phase of negotiations, this policy note seeks to position the underlining interests of the EU as facilitator. There is unfairness in treatment and in approach which must be acknowledged and addressed in order for the concluding agreement to justly serve both interests of Serbia as of Kosovo. A comparative analysis between the recent April 2018 speeches made by Donald Tusk, President of the European Council, with regards to the European future of the two countries discloses how the EU has abandoned an unbiased position and seemingly marred any possibility of a final agreement be constructive to both counterparts.

Forsaking the EU's negotiations leverage: Tusk's remarks in Serbia

In preparation of the upcoming EU-Western Balkans summit in Sofia, Bulgaria on 17 May 2018, Tusk met with regional leaders, among which Serbian President Alexander Vucic and Kosovar President Hashim Thaci. The blatantly different tone and purpose of the two speeches sent a clear message to Kosovo amid years of back and forth ambiguity: the path to EU accession is out-of-range and Kosovo's main value lies in its conditionality for Serbia.

Addressing Vucic as "my friend" and "a soulmate", Tusk had his eyes set on selling a European future to Serbia. "Today, it is clear for the whole world that the future of Serbia will be decided neither by Moscow, nor Washington. Neither by Ankara, nor by Brussels. It will be decided only by Belgrade. As a Pole and a convinced European, I want to tell you that the European Union is precisely the place where nobody imposes anything on anyone." Well aware of the growing shadow of Russian influence over the country as well as Turkish aspirations over the region, it has fueled in the EU an urgency to formalize Serbia's membership. Intimidated by this fear of expanding soft power of geopolitical antagonists, the EU is eager to affirm its legacy as the leading regional power and influencer. Tusk frames the European Union as a unique integration project of highest

standards of living and prosperity, where Serbia can find a better fit than any other sort of international alignment.

In his speech, he praises Serbia and its executive leader in ways that almost cancel out any leverage the EU may have had in the accession negotiations process. Tusk continues by stating that “You [Serbia] have proved many times in your history that you are tough, stubborn and independent. It is you – and you alone – who decide about your destiny. And I know that you will not allow this to change”. The onus is put on Serbia as the primary decision-maker and rule-setter in the process, as the privileged candidate and as the country the EU wants most urgently to formally align. The same applies to the Dialogue with Kosovo: in reaffirming Serbia’s sovereignty as a state which primes domestic interests over foreign pressure, Tusk makes it known that Kosovo holds no leverage over Serbia. Kosovo will not be avowed any power that surpasses that of its counterpart in an effort to fulfill its national goals.

This narrative is dangerous for Kosovo as a hopeful candidate, dependent on Serbia compromising and abiding by a legally binding agreement that raises Kosovo’s standing in the international order. The narrative put forth by Tusk is similarly dangerous for the EU itself. It reduces the authority Brussels has over Serbia as a candidate country undergoing open chapter negotiations. It turns the tables on the power dynamics in Tusk offering unwavering support to Serbia as a Member State in spite of many accession criteria not being met and, most relevant, the Dialogue on the normalization of relations remaining at a standstill. The focus is therefore solely set on Serbia as an urgent candidate in light of external factors, such as Russia, while real concerns of political criteria and general merit-based preparedness for membership are dismissed. In EU history, this is not how the previous seven EU enlargements have taken place, and such a new precedent should not be created.

Hinting at the insurmountable EU accession trail: Tusk’s remarks in Kosovo

Donald Tusk argues that Serbia’s integration into the EU is natural and also takes on a strategic dimension that is mutually beneficial. With regards to Kosovo, the narrative was different. In his speech upon meeting Kosovar President Hashim Thaci, the tone was cautious and unassuming.

No forecast of accession or membership was boasted, let alone implied. In fact, reading in between the lines of the speech, the only integration step hinted at is that the road to membership is to be long and distant. Tusk recognized the recent (March 2018) parliament ratification of the border demarcation agreement with Montenegro - one of the conditions set by Brussels for visa liberalization to be granted - as a step forward but reiterated that efforts to combat organized crime and corruption must be done to reach that goal. For context it should be noted that, only along with Turkey whose own candidacy is currently undetermined, Kosovo is the only potential candidate that has not been granted visa liberalization with the EU.

Turning to the Dialogue on the normalization of relations, the unfair treatment is even more visible. Indeed, notwithstanding the Dialogue being an equal precondition of accession for both Serbia and Kosovo, the way it is being framed with regards to their

individual EU future is far from equal: Serbia is being reassured that integration prospects are natural and real apparently regardless of the Dialogue outcome, while Kosovo is being warned that without a full implementation of the agreement there is simply no way forward.

Furthermore, Donald Tusk contends the EU is the most reliable partner in the region. However, this statement must be reconsidered if the stance taken by leading EU officials is one of partiality. If the best, long-term interests of the region were to be observed, then fears of external influence and charm offenses to strategic candidates would be replaced by commitments to an enlargement as a block. A block enlargement that grants membership status to all six Western Balkan countries at the same time is the most appropriate scenario for such a volatile region marred by regional disputes that can turn into vetoes, should certain countries accede before others.

The shared elements in both addresses are scarce and more so a regional matter of Western Balkans than of equal consideration of Kosovo and Serbia as peer dialogue participants and EU candidates. In this case, Tusk was sure to mention in both the need to improve connections within the region (transport, energy or digital), which relates to practical improvements in a region the EU has strategic interest in rather than actual steps toward integration. Kosovo's membership prospects are neither defined nor within reach, rather they appear to assume the form of a pawn in Serbia's accession.

All things considered, a comparative take on both speeches shows that a clear message was sent, one that puts Serbia on a pedestal and revokes any hope the new European Commission enlargement strategy may have offered Kosovo. It ultimately clarifies the EU's insofar vague position with regards to the Dialogue and the Kosovo problem.

Kosovo lacks the statehood recognition and the Russia intimidation effect to have the upper hand in the negotiations. The country has as little leverage as real integration prospects. With ten years down the independence road and seven years down the Dialogue talks, sustaining this underdog position is no longer viable – especially in light of Donald Tusk's remarks.

The Dialogue: a biased facilitator and unequal participants

Side by side, the official remarks by the President of the European Council are different in content and impact. Just as Tusk acknowledges that this is "a difficult and emotionally charged issue for both sides", what the EU must now also admit is that the EU itself has taken on a biased approach. The emotionally charged speech Tusk gave in Serbian next to President Alexander Vucic proved the balance of power has tilted and is no longer a fair game. It moreover raises the questions of who should then lead the Dialogue in the determinant final phase of negotiations. In consideration of such friendly relations between leading EU officials and the head of the Serbian government, not having the Presidents helm the talks may be the best policy approach to assure fair negotiations. However, given Serbia's political landscape such a request is not realistic, rendering the negotiations game already spoiled since Vucic is the key player and EU has shown to be biased toward him.

Donald Tusk says the normalization of relations is a “strategic choice”. If the comparison of both speeches is any indication, it appears that the strategy proposed by the EU is one that seeks to serve Serbian national interests and alleviate EU foreign concerns, leaving Kosovo’s domestic interests in the dark. The point of the matter is that the EU also seems to be emotionally invested when it should solely take on the role of facilitator. After years of uncertainty and the infamous carrot and stick game, now that a conclusion is approaching it appears to finally be clear what the EU has in mind for Kosovo’s European future, or lack thereof.

In the Dialogue on the normalization of relations, the EU is misusing its role and has assumed the form of a biased mediator. This cannot be the starting position to another round, a determinant round, of talks. The balance of power as it stands is evidently unfair. It is therefore up to Kosovo to switch its approach to the negotiations in order to reassert its standing as an equal participant in the Dialogue and in the EU enlargement.

Policy Notes

Policy Notes provide short, concise, timely, informative, and policy oriented analysis on specific issues. Policy Notes are short papers which outline the rationale for choosing a particular policy alternative of action in a current policy/issue debate. They are commonly published in response to a specific event and advocate for the professional stand of the Group for Legal and Political Studies. Indeed, the Policy Note is an action and advocacy-oriented document, which provides arguments for the adoption/amendment of a particular policy choice. Policy Notes aim to influence the target audience on the significance/implications/solutions of the current problem, and therefore brings recommendations to policy-makers, civil society and media, and the general public.



**GROUP FOR LEGAL
AND POLITICAL
STUDIES**

legalpoliticalstudies.org