

Linking the Kosovo-Serbia Dialogue to the EU enlargement strategy - *which accession prospects are at stake*

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LINKING THE KOSOVO-SERBIA DIALOGUE TO THE EU ENLARGEMENT STRATEGY – WHICH ACCESSION PROSPECTS ARE AT STAKE

I. Executive Summary

The present year of 2018 has proven vital for EU aspirations of the Western Balkans, namely Kosovo and Serbia. Both are included in the new enlargement strategy of the European Commission, yet under very different circumstances: Serbia is put forth as a privileged candidate and offered a concrete timeline, whereas Kosovo is once more offered an ambiguous integration path implicated by the five non-recognizers and the stalled political talks. In common is the Dialogue on the normalization of relations between Serbia and Kosovo whose conclusion and legally-binding implementation is set as a precondition to accession.

The report discusses the Dialogue process within the framework of the EU enlargement perspective, with special focus on the need for concrete definitions and expectations moving forward so as to solve the enduring Kosovo problem. It looks to better inform policymakers on what is truly at stake in this Strategy that lacks harmonization among the candidates and how to ensure Kosovo and Serbia become equal participators in the EU. The report seeks to put forth policy recommendations to augment Kosovo's leverage as an international player and hopeful EU candidate.

2. Introduction

The same month that Kosovo marked the 10th anniversary of its independence, so did the European Commission (EC) release the new European Union (EU) enlargement strategy with the Western Balkans. These events of February 2018 confirmed that, as Kosovo marked its entrance into a new decade, not everything was worthy of being celebrated.

Titled *A credible enlargement perspective for an enhanced EU engagement with the Western Balkans*, the EC document singled out Kosovo, along with Bosnia and Herzegovina, as the countries in a 'potential candidate' light. The strategy further distanced the young republic from accession in stating: "With sustained effort and engagement, Bosnia and Herzegovina could become a candidate for accession. Kosovo* has an opportunity for sustainable progress through implementation of the Stabilisation and Association Agreement and to advance on its European path once objective circumstances allow"¹. The asterisk itself - which refers to the following footnote: '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' - is one policymakers have come to know too well when discussing Kosovo in international arenas. It is already an indication to how feeble prospects are. Not only that, it illustrates what first and foremost needs to be addressed before a clear EU path is traced for the country. On the other side of the spectrum, Serbia and Montenegro rejoiced in being singled out with a timeframe for future membership, as Macedonia and Albania, the other countries that make up the pack of six hopeful candidates, also secured renewed hope for open negotiations.

Despite the enlargement strategy defining dissimilar standings between the two, behind both candidacies of Serbia and of Kosovo is the EU-facilitated dialogue. In place since 2011, the lengthy dialogue on the normalization of relations between Belgrade and Pristina has been

¹ European Commission, *A credible enlargement perspective for and enhanced EU engagement with the Western Balkan*, 6 February 2018, pg.2 (hereafter EU Enlargement Strategy).

determining their standing in EU negotiations by a game of tough compromise, little concessions and big discussions. Even so, should the Dialogue be fully accomplished, the integration outlook it offers Kosovo is vastly different from that it does to Serbia: the Strategy offers vague to non-existent accession prospects to Kosovo, seemingly putting the urgency of the Dialogue on Serbia's impending accession.

This fact proves even more valuable by putting the aforementioned events of February 2018 in context within the EU sociopolitical framework. The European Union is presently at a moment in its history when the Western Balkans are the main point in the agenda, after consecutive hits to the EU core had sidetracked enlargement as a priority. As the Brexit dust settles in favor of the EU27, the peak of the refugee crisis quells and the Franco-German axis votes in EU-friendly heads of state, the once-EU skepticism has now turned into a renewed sentiment of hope and trust in the integration project. All eyes are back on the Western Balkans, as the strategy confirmed. With assertive forecasts regarding the joint coordination approach to be adopted, what is lacking is assertiveness regarding the Kosovo-Serbia dialogue, as well as the tied-in problem of Kosovo's candidacy itself. The EU has laid out its approach in the Strategy, yet obstinate tensions remain between the two sides.

With this in mind, this report provides an analysis of the Kosovo-Serbia dialogue in view of said period in EU history and the new enlargement strategy. The main research aim is to question the Dialogue based on the Strategy and its imprecise focus on regional disputes and how to solve them. Looking at the Strategy from an external perspective, it is unclear what is the scope it attributes to the Dialogue as a mechanism to solve a regional dispute, and what it means for the advancement of Kosovo's membership prospects. Better defined content and expected achievements, both externally and internally, are needed - especially for Kosovo, as it would dissipate the lingering political and integration limbo the country has long experienced. Thus, the research questions this policy report tackles are: what does the EC Strategy mean for the Dialogue, and how to solve it in order to adequately enable accession - the case of the credible EU prospects of Kosovo and Serbia.

At a first instance the Dialogue on the normalization of relations will be examined, covering its technical and its political dimensions. Further, looking at the Strategy, a mapping of the three relevant actors' perspectives on concluding and implementing a legally-binding agreement is delivered: the EU level, the Serbia level and the Kosovo level. In providing insight into the developing background of the Dialogue and linking it to the EU Enlargement Strategy, the door is opened for better understanding of its geostrategic importance and the way forward for policymakers on all sides. At last instance of this report, recommendations for policymakers and researchers alike are proposed as means to advise on how to move accession prospects forward in a way that heightens Kosovo's leverage toward the EU.

The Kosovo-Serbia dialogue at hand may be between the two countries, yet it is facilitated by the EU and directly affected in its impetus by internal affairs of the Union. At a moment in time when years have been drawn out with back-to-back talks and underlying tensions, the EC Strategy comes to remind both governments that stalling effective collaboration will not just delay enlargement processes, but possibly hamper them altogether. Unraveling the Dialogue by linking it to the Strategy is therefore more relevant than ever to assert Kosovo's leverage in the European Union.

3. The dialogue on normalization of relations: why it has a renewed importance in 2018

The Kosovo-Serbia Dialogue launched in March 2011, also known as the Brussels Dialogue, may be between the two countries, yet is facilitated by the EU and hence directly affected in its impetus by internal affairs of the Union.

The EU has integrated the requirement for normalization of relations into the framework for accession negotiations with Serbia, and into the Stabilisation and Association Agreement (SAA) with Kosovo. While it is definitely an asset to have the need for a bilateral solution formalized, a lack of clarity remains on the meaning, the scope and the internal and external aims of the Dialogue agreements. The point of the matter is, at this point, the recurrent “landmark achievements in the normalization process”² that keep being boasted in vague official statements must lead to big and practical achievements in the EU integration process. At the end of the day, EU integration is a slow and complicated process, but it is not at a complete standstill with regards to these two countries. Talks have been progressing since 2011, albeit at a slow pace and state of ambiguity. The way to link the Dialogue to the Strategy is therefore to define meanings, scopes and expectations of the dispute, the agreements and the legally-binding implementation – this combats the disproportionate approach the Strategy offers the six target countries by giving Kosovo and the associated Dialogue concrete tools to overcome the current dissociation between the country and the EU.

During the recent tough period in EU history triggered by Brexit and political nationalist resurgence, Jean-Claude Juncker’s Commission released a *White Paper on the Future of Europe*, in March 2017. It presented “five scenarios to help steer a debate on the future of Europe. They offer a series of glimpses into the potential state of the Union by 2025 depending on the choices we will jointly make”³. With that troublesome period overcome, the EU has decidedly chosen a path of more integration, togetherness and enlargement. In looking to take in six new Member States, the EU is adamant that all regional disputes and bilateral issues with neighboring states must be solved before accession. The recent strategy states that “The EU cannot and will not import bilateral disputes. They must be solved as a matter of urgency by the responsible parties”⁴. This was learned the hard way by European officials on the subject of the land and sea border disputes between Slovenia and Croatia, now both Member States since Croatia’s became the last country to join, in 2013. Presently, the toughest dispute at hand is the Kosovo-Serbia dispute. It will be a hardline test of the EU’s effective diplomacy in the region, as well as of the role it looks to secure as a credible actor in sponsoring core values of respect for human rights, freedom, democracy, equality and the rule of law.

Indeed, the Kosovo recognition issue has been shaping up to be one of the key drawbacks, not only for Serbia and Kosovo but also for EU regional aspirations to be smoothly accomplished - after all, the Dialogue serves the interests of Serbia and Kosovo as much as it benefits the EU and the Balkan Peninsula’s quest for stability and progress. Yet the importance in resolving the Kosovo problem does not translate into the Strategy text, for it only highlights the unescapable importance of the normalization of relations between Kosovo and Serbia, and once more

² The Delegation of the European Union to the Republic of Serbia, “Statement by High Representative/Vice-President Federica Mogherini following the meeting of the EU-facilitated dialogue”, 25 May 2015, available at: <http://europa.rs/statement-by-high-representativevice-president-federica-mogherini-following-the-meeting-of-the-eu-facilitated-dialogue/?lang=en>.

³ European Commission, *White Paper on the Future of Europe – Reflections and scenarios for the EU27 by 2025*, 1 March 2017, pg.15.

⁴ EU Enlargement Strategy, pg.7.

surrenders the topic to a realm of vague assertions. The EU Strategy does not put forth a harmonized approach to the six countries it alludes to: Kosovo is once more offered a vague EU future in what seems to be an indefinite state of limbo conditioned by tensions with Serbia and non-recognition from five EU Member States (Cyprus, Greece, Slovakia, Spain and Romania).

From technical agreements to strained political talks

The Dialogue has escalated from technical topics of regional cooperation (i.e. telecommunications, air traffic, customs, civil records, freedom of movement) to a trickier political dimension of representation of Kosovar authorities at regional organizations and the exchange of liaison officers between the countries. As part of the Dialogue, the so-called Brussels agreement was concluded on 19 April 2013, in which both countries agreed to undertake mutual efforts to normalize relations under the auspices of the EU. The short 15-point agreement has nevertheless yet to enter Serbian legislation and only been ratified by the Assembly of Kosovo – an actual fitting representation of the process insofar, one that is a slippery slope of give-and-takes where non-implementation repeatedly impacts the credibility and reliability of efforts. What's more, despite Serbia's hesitations in signing the agreement into binding law, during the talks and ongoing negotiations, Serbia still has the upper hand because at the end of the road what they will have at hand is full membership, while Kosovo solely assures recognition by a neighboring country and the defeat of one of the many obstacles to its own final membership to the EU, among which is the non-recognition by five Member-States.

For Kosovo, the Dialogue primarily regards encouraging the country's standing as a state actor. It seeks to strengthen Kosovo's nation-wide rule of law and institutional governance, for instance on judicial and policing matters, by means of legally integrating the Serb-majority municipalities in the North. The matter of formally delineating Serbia's jurisdiction is essential for Kosovo's rule of law and government to be able to administer the whole territory without interference. However, the proposed Association/Community of Serb majority municipalities risks further dividing the country on the basis of ethnic communities instead of building up national integrity rooted in the multiethnic republic Kosovo aspires to be. For Serbia, the stakes are just as high but on a different level. It not so much regards national integrity as it is a mandatory step in the accession negotiation process. On 14 December 2015, the EC for the first time opened two of the 35 negotiating chapters with the Republic of Serbia⁵: Chapter 32 on 'Financial control' and, most importantly, Chapter 35 on 'Other issues - Item 1: Normalization of relations between Serbia and Kosovo'. In fact, a previous GLPS 2014 opinion paper⁶ hailed this negotiations chapter as a better medium in which Kosovo can address its issues with Serbia in lieu of the formal Dialogue. Given the sensitive nature of the dispute, all channels should be utilized to promote reconciliation and collaborative efforts between the two parties.

Besides the disregard for Kosovo as a multiethnic state, another main issue of contestation with regards to the Dialogue is the absence of leverage by Kosovo in the negotiations. This unfair standing further disregards Kosovo in its state-building capacity and rather promotes its position as a Serbian pawn in EU-facilitated talks. Already on the accession road and fully backed by top EU officials, Serbia holds the upper hand in being the country the EU wants most urgently to

⁵ The Delegation of the European Union to the Republic of Serbia, 'Milestones in EU – Serbia relations', available at: <http://europa.rs/serbia-and-the-eu/milestones/?lang=en>.

⁶ Group for Legal and Political Studies, *Ensuring the 'future' of Kosovo in the European Union through Serbia's Chapter 35 Negotiations*, 20 October 2014, available at: <http://www.legalpoliticalstudies.org/ensuring-the-future-of-kosovo-in-the-european-union-through-serbias-chapter-35-negotiations/>.

formally align, as a means to counter Russian influence⁷. Whereas in the case of Kosovo, not only does the country not have the Russia intimidation card to play, but also lacks an absolute statehood recognition, consequently standing as the underdog in talks to resolve the dispute and reach a concluding agreement.

The volatility of the strategy and the eagerness of the populations

The Kosovo-Serbia Dialogue is not necessarily about reconciliation with a neighbor, rather single-handedly motivated by the EU membership that both governments chase. For this reason, it remains all too often curbed by inflamed political tensions. Such an instance occurred just recently, in January 2018, when the Serbian government suspended talks in reaction to the assassination of high rank Kosovo-Serb politician, Oliver Ivanovic, in the disputed territory of Mitrovica. The motivations behind the death of the Serb minority leader remain unknown, but foul play is suspected given his position as conciliator between the two ethnicities – international media outlet *Observer* even reads that “for anyone eager to scuttle any chance for rapprochement between Belgrade and Pristina, Oliver Ivanovic offered a tempting target”⁸. Taking into account the aforementioned momentum of renewed focus on enlargement, both teams of Chief Negotiators from Kosovo and Serbia have since resumed the EU-facilitated talks in late February⁹. The main points of discussion lay in implementing the judiciary and the Association/Community of Serb majority municipalities agreements, and in managing freedom of movement, vehicle registration plates and border crossings (the Integrated Border Management Agreement – IBM). The volatility of the Dialogue was however once more showcased, in March 2018, with the detention of senior Serbian politician Marko Đurić on the charge of illegal entry into North Mitrovica, as a breach of Kosovo constitutional law and the Brussels agreement on freedom of movement.

The cited EC Strategy comes at a time when the EU momentum is as bred for enlargement as are Balkan citizens tired of entertaining a hopeful attitude fed by empty promises. Prior to the release of the EC document and its attempted timeline, the 2017 Balkans barometer “In general, when do you expect the accession to EU to happen?”¹⁰, 37% of Kosovars replied by 2020, 25% by 2025, 15% by 2030 and a mere 6% think it will never happen. The reality is much different when looking at Serbian citizens, Serbia notoriously being the less EU-friendly country among the Western Balkans: only 9% replied 2020, 18% by 2025, 13% by 2030, and a whopping 38% believe membership will never happen. The remaining percentage, for both, regards those who ‘Don’t know or refuse’ to answer. Although the new document offered renewed prospects, it didn’t do much to change the hopeful sentiment engrained in Kosovo civil society and the hesitant attitude adopted by Serbians.

As the enlargement momentum has been built up by official EU state visits to the region, supportive statements by MEPs¹¹ and, most concretely, the EU Enlargement Strategy for the

⁷ European Council, “Remarks by President Donald Tusk after his meeting with President Aleksandar Vučić of Serbia”, 25 April 2018, available at: <http://www.consilium.europa.eu/en/press/press-releases/2018/04/25/remarks-by-president-donald-tusk-after-his-meeting-with-president-aleksandar-vucic-of-serbia/>.

⁸ *Observer*, “Mysterious Balkan assassination threatens regional peace”, 16 January 2018, available at: <http://observer.com/2018/01/assassination-of-oliver-ivanovic-threatens-peace-in-balkans/>.

⁹ European Union External Action, “Statement by the Spokesperson following the working level meeting within the EU facilitated Dialogue”, 27 February 2018, available at: https://eeas.europa.eu/headquarters/headquarters-homepage/40471/statement-spokesperson-following-working-level-meeting-within-eu-facilitated-dialogue_en.

¹⁰ Regional Cooperation Council, “Balkan Barometer 2017 – Public Opinion Survey”, Year 3, Number 3, pg. 55.

¹¹ German MEP Elmar Brok, chair of the EP Committee on Foreign Affairs asserted said mutual diplomatic recognition of Kosovo and Serbia was a condition of EU membership, available at: <http://www.balkaninsight.com/en/article/german-mep-reveals-last-condition-for-serbia>.

Western Balkans of February 2018, the Brussels Dialogue has become more urgent than ever. Accordingly, the EU is clear in labelling the finalized success of the Dialogue as key in the Western Balkans enlargement and as a prerequisite for Kosovo and Serbia as potential members. This was confirmed in the Strategy focusing on the topic of reconciliation, bilateral disputes and good neighborly relations – yet for Belgrade-Pristina talks to optimally progress toward the concrete goal of normalized relations and mutual recognition, the European Commission needs to deliver more explicit meanings and expectations for the normalization. For instance, how will the regional dispute be solved, possibly in a legally-binding way that goes through either an interstate or an intergovernmental channel; and how will it impact the five non-recognizers own normalization of relations with Kosovo.

Insofar, the report has examined the Dialogue in itself as a tool for rapprochement between Kosovo and Serbia as two hopeful EU Member States conditioned by this prerequisite. Amid the technical and political talks, the EU-facilitated Dialogue has another dynamic at play, one of the unequal leverage of Serbia and Kosovo hold over the facilitator. This section on the examination of the Dialogue will be followed by a subsequent more detailed analysis of the link between the Enlargement Strategy and the Dialogue, laying out what the EU is determining and asking in the newly released document, where Serbia stands and where Kosovo stands - this shall expose the transversal gaps, the strongholds and, therein, the policy recommendations to beat the ambiguous volatility regarding the path to accession of Serbia as a favored candidate, and regarding the position of Kosovo as the assumed underdog in the Balkans.

4. European Union Level: deconstructing what the Strategy means for Serbia and for Kosovo

The new enlargement outlook the European Union is committed to shall be the eighth extension of EU borders, as well as the biggest intake of new Member States since, in 2004, ten mainly Eastern-aligned former Warsaw Pact countries acceded. Slovenia, the first former Yugoslav country to become a member, joined in 2004, since followed only by Croatia in 2013, the most recent addition to the Union. Now all eyes are set on the remaining six Western Balkan countries, those encircled by the EU but not yet part of it – Albania, Bosnia and Herzegovina, Macedonia, Kosovo, Montenegro and Serbia.

As High Representative of the European Union for Foreign Affairs and Security Policy, Federica Mogherini, made clear in the Trieste Summit of July 2017 that the EU is committed to integrating the Western Balkan region “due to the fact that it has the most potential – not because it is a troublesome region”¹². In line with this, in a more recent February 2018 speech at the European Parliament Plenary Session on the Western Balkan Strategy, Mogherini highlighted that “We share one cultural heritage. We share the same interests at present. We share some of the challenges at present. And we will share a common future inside our European Union”¹³. Certainly the six countries are geographically and culturally European, the underlining drawback being that, despite such commonality, they are different in their own modern history timelines – for example while other European empires, such as the Austro-Hungarian and the German, disintegrated in 1918 after World War I and made way for new sovereign countries to establish

¹² European Western Balkans, “Mogherini: Western Balkans' EU approximation a priority”, 23 June 2017, available at: <https://europeanwesternbalkans.com/2017/06/23/mogherini-western-balkans-eu-approximation-a-priority/>.

¹³ European Union External Action, “Speech by High Representative/Vice-President Federica Mogherini at the European Parliament Plenary Session on the Western Balkan Strategy”, 6 February 2018, available at: https://eeas.europa.eu/headquarters/headquarters-homepage/39451/speech-high-representativevice-president-federica-mogherini-european-parliament-plenary_me.

themselves, most Balkan countries only became independent sovereign states in the late 1990s with the breakup of the Socialist Federal Republic of Yugoslavia. For this reason, border disputes and the added layer of inter-ethnic tensions are still contemporary issues in their sociopolitical reality.

Indeed, the EU does personify a shared cultural heritage, it is more than a single market or an institutional organization, it is above all a union of commonality within difference and of prospering together. This approach makes sense for the Western Balkans and their aims of moving past historical disputes and moving forward with the EU. In Juncker's own words during his State of the European Union address of September 2017, "the right compromise makes winners out of everyone. A more united Union should see compromise not as something negative, but as the art of bridging differences. Democracy cannot function without compromise. Europe cannot function without compromise"¹⁴. This need for compromise is fully materialized as an example in the Dialogue on the normalization of relations between Serbia and Kosovo. The Dialogue implies a common compromise as much as a common challenge – both for the two parties and for the EU as facilitator.

The problem of the unequal strategy for Kosovo and Serbia: Serbia's bargaining chip

The European Commission's Enlargement Perspective Strategy comes at a time when the momentum is felt for enlargement, as are citizens fed up of empty promises. The admission standards of the EU bloc imply all countries meet the Copenhagen criteria of accession, in which a merit-based analysis in consideration of reforms and negotiations is thoroughly conducted. The priority political criterion is rule of law and overall respect for human rights in each candidate country. Particularly regarding the cases of Kosovo and Serbia, the conditionality of a "legally binding"¹⁵ agreement between the two is put forth as essential towards the integration perspectives of both Kosovo and Serbia.

The need for equal treatment of parties is important for EU foreign policy yet, in this instance, it is not being applied. The aforementioned compromise both sides need to engage in seems to be inequitable from the get-go: should a legally-binding agreement be reached, Serbia continues to swiftly move up the accession ladder the EU has laid out for them with 2025 as horizon, while Kosovo has to surrender to many more difficult upward steps; should a legally-binding agreement be reached, what Kosovo gets is a stepping stone in the integration process, and what Serbia gets is the critical thumbs up for membership. This unfair starting point *a priori* needs to be considered, examined and resolved.

Looking first at Serbia, the looming shadow of Russia underlines the EU enlargement strategy toward this candidate country. The Balkan region's stability is rendered more volatile by the growing influence of Russia under President Vladimir Putin's neo-expansionist agenda. As Heather Grabbe from the *Open Society European Policy Institute* argued, "the EU's gravitational pull had been largely unrivalled. It was a remarkable period in EU history. After the fall of communism, nearly every country in central and eastern Europe had turned toward the west, seeking to join the EU and NATO."¹⁶ Side-by-side with the cultural commonality hailed, the geopolitical challenge this country brings also sets a tone of urgency for formally integrating the

¹⁴ President Jean-Claude Juncker's State of the Union Address 2017, 13 September 2017.

¹⁵ EU Enlargement Strategy, pg.7.

¹⁶ Heather Grabbe, (2014), *Six Lessons of Enlargement Ten Years On: The EU's Transformative Power in Retrospect and Prospect*, *Journal of Common Market Studies*, 52: 40-56, pg.40.

region. Undeniably even in going as far back as 2003 has the official stance of the EU defined an enlargement toward the Western Balkans as “the credibility of our foreign policy depends on the consolidation of our achievements there. The European perspective offers both a strategic objective and an incentive for reform”¹⁷. Presently in the February 2018 strategy, the text itself starts by acclaiming the six Western Balkan countries as “partners on the global stage”¹⁸.

Serbia has historically been Russia’s strongest ally in the region, once more noteworthy in Serbian President Aleksandar Vucic’s decision not take part in the EU bloc’s economic sanctions to Russia over the annexation of Crimea. Vucic stated that “Serbia will continue to pursue its own policies and we expect to get understanding from the EU”¹⁹, reiterating that close ties will not be changed for the sake of membership. In spite of the long-impending normalization of relations with Kosovo being far off, in the Strategy offering Serbia an actual estimated timeline for accession, the EU looks to clench public interest and an increasing tilting of friendly ties to the West rather than the East. The enlargement strategy is, therefore, also a security strategy to secure aligned countries at the EU’s doorstep and to secure the EU prevails as the actor of regional peace and democracy it prides itself to be. Inevitably, this results in Serbia holding the Russian fear factor as a bargaining chip and as leverage over external pressure the EU may put on Serbian domestic affairs regarding Kosovo.

The problem of the unequal strategy for Kosovo and Serbia: Kosovo’s statehood troubles

Looking now at Kosovo, the situation does not bear resemblance. In the 2017 Balkan Barometer question “Do you think that EU membership would be a good thing, a bad thing, or neither good nor bad”²⁰, 90% of Kosovo citizens responded favorably, in contrast to only 26% of Serbian citizens, the lowest rate in the region. Kosovo, commonly dubbed the most isolated country in Europe, looks at EU membership as the main ticket for integration into the global village and an assured credible international standing as a state actor. Yet, as extraordinary as the hopes are, so is the road to accession. The road to accession is not only out of the ordinary, but also insofar laid out in vague terms that mask an overwhelming uncertainty.

With regards to Kosovo as a potential EU candidate country, the most critical problem is the position of the five EU non-recognizers of Kosovo’s independence (Cyprus, Greece, Romania, Slovakia and Spain). Unlike other inter-governmental organizations, the particular nature of the EU means it does not hold the legal capacity to diplomatically recognize statehood, for Member States do so individually – states the joint European Policy Center (CEP) and Group for Legal and Political Studies (GLPS) discussion paper that “The ability to recognize states, even though the Lisbon Treaty has given the Union a legal personality²⁵, is absent from the Treaties. If the EU were to recognize states, it would constitute a breach of the Treaties and a transfer of competences from nation states to the European Union”²¹. Naturally, this leads to such international issues being taken hostage by domestic interests. A 2015 *European Policy Center* paper on the enlargement toward the Balkans argued that “While the EU’s internal procedures

¹⁷ Council of the European Union, *A Secure Europe in a Better World – European Security Strategy*, 8 December 2003, pg.8.

¹⁸ EU Enlargement Strategy, pg.1.

¹⁹ Bloomberg, “EU Membership Won’t Change Serbian-Russian Ties, Vucic Says”, 21 February 2018, available at: <https://www.bloomberg.com/news/articles/2018-02-21/eu-membership-won-t-change-serbia-s-ties-with-russia-vucic-says>.

²⁰ Regional Cooperation Council, “Balkan Barometer 2017 – Public Opinion Survey”, Year 3, Number 3, pg. 55.

²¹ European Policy Center, Group for Legal and Political Studies, **Kosovo’s EU candidate status: a goal within reach? – Discussion paper, 28 June 2017**, pg.5.

for handling enlargement have always been intergovernmental in nature, the frequency of incursions and opportunities for the member states to interfere and derail the process has increased over the past years, suggesting a so-called 'nationalization' of enlargement"²². In past enlargements of the Union, negotiations moved along relatively effortlessly, yet the disputes in the Balkans are trickier and therein so are the individual domestic hurdles to overcome. In addition to Slovenia's hesitation to welcoming now-member Croatia and the lingering Greece naming dispute with Macedonia, above all the unresolved statehood of Kosovo has exposed just how entangled domestic politics are to enlargement

Furthermore, on the particular topic of Kosovo's state recognition and accession prospects advancing despite non-recognizers, "in its 'Feasibility Study' the [European]Commission cleverly concluded that from a *legal* perspective an SAA was in fact possible and would as such not conflict with the non-recognition by some of its member states"²³. The CEP and GLPS discussion paper goes further in arguing that the SAA set a precedent for EU acknowledgement of Kosovo's statehood and eventual application for EU membership: "Another argument that underscores Kosovo's European perspective laid out in the SAA may be found in Article 218 of the Treaty on the European Union. This Article describes the procedure for conducting European external relations, particularly agreements with foreign entities, by resorting to the term "state" in reference to the entities with which association agreements have been established. This could indicate that if no legal obstacle was found regarding the signing of an SAA with Kosovo as an external "state", then there should be no legal barrier regarding Article 49 and its use of the term "European state"²⁴. When looking at EU-Kosovo relations there is an implied dilemma and legal creativity that affects the scope of the content of integration tools such as the SAA, argues Peter Van Elsuwege of Ghent University: "This dilemma implies that the EU seeks, on the one hand, full participation of Kosovo in the Stabilisation and Accession Process whereas, on the other hand, this ambition is complicated due to the non-recognition policy of five EU Member States"²⁵. The same ambiguity applies to the Dialogue and the Strategy text itself, in that there is no clear outline or concrete tools put forward for Kosovo that dutifully complement the strategic interest shown in the region.

Back to the case of Kosovo as an international issue falling victim of domestic issues, this case is largely rooted in fears that recognizing Kosovo as an independent sovereign country sets a dangerous precedent for other secessionist movements. A clear-cut example lies in the fact that, as the Catalonia independence movement gained speed over the last year, so did the Spanish government become stricter toward Kosovo. President Mariano Rajoy has publicly stated that he opposes recognizing Kosovo because "that is what better serves the collective interests of the Spanish people"²⁶. On the topic of the upcoming EU-Western Balkans summit on May 17, the attendance of Spanish President is still unconfirmed, the reason precisely being the presence

²² Rosa Balfour et al, (2015) *EU member states and enlargement towards the Balkans*, EPC ISSUE PAPER No. 79, July 2015., available at: <http://aei.pitt.edu/66050/>.

²³ Michael Smith, Stephan Keukeleire, Sphie Vanhoonacker (ed.), *The Diplomatic System of the European Union – Evolution, change and challenges* (New York: Routledge, 2017), pg.217.

²⁴ European Policy Center, Group for Legal and Political Studies, **Kosovo's EU candidate status: a goal within reach? – Discussion paper, 28 June 2017**, pg.6.

²⁵ Peter Van Elsuwege, (2017) "Legal Creativity in EU External Relations : the Stabilization and Association Agreement Between the EU and Kosovo", *European Foreign Affairs Review* 22 (3): 393–410, pg. 395.

²⁶ La Vanguardia, "Rajoy se opone a reconocer Kosovo porque "es lo que conviene al interés general de los españoles", 14 March 2013, available at: <http://www.lavanguardia.com/politica/20120314/54268843937/rajoy-opone-reconocer-kosovo-porque-conviene-al-interes-general-espanoles.html>.

of Kosovo as a potential candidate at the event²⁷. On the flipside, another Member State whose perspective on Kosovo and the accession process of Kosovo and Serbia is worth analyzing to provide a broader snapshot on the issue, is Germany. Germany, a key EU player, has long been a backer of Kosovo's unilateral declaration of independence and an equitable resolve to the dispute with Serbia so as to assure fair accession prospects to both. Germany is Kosovo's second largest donor²⁸ and a fierce supporter in the European Parliament and EU foreign affairs, having repeatedly defended that Serbia alongside all EU Member States must recognize Kosovo as an independent state^{29,30}.

Ultimately, the reasons behind the five countries not recognizing independence are national and not international. Thus, collaborating on an international front should be encouraged by the EU, in parallel to the ongoing Dialogue seeing as, for the candidacy of Kosovo, the Dialogue matches the importance of recognition by all Member States. There needs to be concrete decisions on this unresolved matter before the agreement is finalized, in order to provide clarity on Kosovo's direction – for instance, if the agreement concludes with the signing and implementation of a legally-binding agreement, will Kosovo be clear to pursue full membership, or will the non-recognizers imply other five separate dialogues?

The need to raise confirmed strategic interest into concrete accession measures

Indeed, the steps in the EU accession ladder for Kosovo to surmount are extraordinary. The EU has shown interest in integrating the country but, most of all, it needs to solidify this interest with real facts and measures, real timelines and expectations. The Strategy does not offer solutions for Kosovo neither does it show a concrete approach to its candidacy. In fact, many of the laid out conditions are actually dependent on Serbia cooperating, and there is no long-term forecast put forth, possibly given the lack of unanimous recognition of the newborn country. The lack of concreteness on the part of the EU enables a similar lack of motivation by Serbia to strictly adhere to its demands seeing as, while the Dialogue keeps stalling and no agreements have been signed into binding law, accession negotiations keep progressing and now a new 2025 timeframe is even on the table. In other words, despite the conditionality of the normalization of relations being common to both Serbia and Kosovo and the Dialogue facing hindrances, Serbia's prospects keep advancing whereas Kosovo's remain at a stalemate.

Kosovo, as the apparent weakest link in the region, needs to be provided fairer treatment by the EU in matters of accession and enlargement. Showing interest is not enough, for it gets lost amidst the unmeasurable obstacles the country stands to face until membership. Regarding the country individually, a strategic approach should be devised as to how to tackle the non-recognizers - this is a critical issue for Kosovo's candidacy. Regarding relations with Serbia and

²⁷ B92, "Spain's PM "to miss EU-Balkans summit because of Kosovo", March 16 2018, available at: https://www.b92.net/eng/news/world.php?yyyy=2018&mm=03&dd=16&nav_id=103728.

²⁸ Ministry of European Integration of the Republic of Kosovo, *Annual Report on Donor Activities 2015*, pg.8.

²⁹ Reuters, "Serbia must accept Kosovo independence to join EU: German foreign minister", 14 February 2018, available at: <https://www.reuters.com/article/us-kosovo-germany-serbia/serbia-must-accept-kosovo-independence-to-join-eu-german-foreign-minister-idUSKCN1FY329>.

³⁰ Independent Balkan News Agency, "German MEP demands all EU countries to recognise Kosovo", 22 April 2015, available at: <http://www.balkan.eu.com/german-mep-demands-eu-countries-recognise-kosovo/>.

the Dialogue, the Strategy should define what it means by good neighborly relations, disputes, and how to solve such regional issues.

With respect to good neighborly relations and resolving disputes, it should be made clear that the disputes at hand are border-related or cultural. Regional disputes are the lingering historical issues that the EU does not wish, and does not need, to import into its borders along with enlargement. Such disputes hinder the international standing of a country and obstruct the quality of life of national citizens, truly showcasing alignment with EU values of promoting peace and sustainable development when real joint effort is put into solving them to be able to move forward. Diplomatic means of open talks and transparent negotiations, rooted in compromise that locks the bigger picture of regional cooperation that avows EU membership, must be employed. The normalization of relations between Kosovo and Serbia relates to sovereignty, border disputes and interstate issues, which thus calls for political talks.

On the subject of the solution of the Kosovo-Serbia dispute, insofar Kosovo has signed it into binding law as an international agreement, and Serbia has yet to do so and only sees it as a political agreement. Concluding the agreement is not the same as implementing the agreement - the Strategy already clearly calls for a legally binding resolution, and it should go further in determining the need for an intergovernmental agreement that the implementation of an interstate solution. In the particular case of Kosovo national interests, the broader the scope the better it would serve aims of international projection. The agreement on the normalization of relations is the main tool for prospects of accession to progress, and so it needs to also be monitored after implementation. The EU must also be clear in what its expectations for the normalization of relations are - if this entails a recognition of independence, mutually not blocking each other from membership in intergovernmental organisms, respecting territorial integrity, or it is merely relating to agreements on trade, customs, freedom of movement and other policy fields being included in Kosovar and Serbian legislation. EU diplomats have recently been cited as acknowledging that "A recognition is not something that is a question for the EU. We insist that both sides work on normalization"³¹. They must have a unified voice in this issue so as to enable a better, smoother and faster progression of the bilateral talks, and all such definitions should be made clear in the Strategy, the Dialogue and the Chapter 35 negotiations with Serbia.

Ultimately, the EU must be more concrete with the terms in which it lays out the normalization talks and the agreement implementation. This is as important for the two candidates as it is for the EU as facilitator and major international actor, for it is a hardline test of its international projection. In playing an indispensable role in the resolution of the Kosovo-Serbia dispute, it accentuates its soft power as well as its credibility as a human rights influencer.

Looking at the policy gaps the Strategy offers, moving forward the EU and, most objectively European Commission officials, must be more concrete and practical in the terms and path ahead they offer. The Dialogue is in fact a concrete tool for Kosovo, but it needs to be bulked with better defined legal terms and implementation expectations

Internally, the European Union must also look into itself as an intergovernmental organization that needs to prepare itself before accepting new Member States. French President Emmanuel Macron has been very vocal in his defense of an EU reform, having proposed urgent roadmap for the Eurozone and an EU fund to aid communities integrating refugees. He believes the "European Union must reform before expanding", looking to combat a Union that, "functioning with difficulty at 28 and tomorrow with 27, would decide that it could continue to

³¹ European Western Balkans, "EU says is not seeking recognition of Kosovo by Belgrade", 9 March 2018, available at: <https://europeanwesternbalkans.com/2018/03/09/eu-says-not-seeking-recognition-kosovo-belgrade/>.

expand to 30 or 32 members with the same rules”³². The Western Balkans enlargement is indeed as much a challenge for the candidates as it is for the EU – in a nationalist political craze that is taking over election cycles in Austria, Italy and Hungary, the EU cannot wash their hands of the need to also internally prepare itself to take in new Members. In line with the approach insofar adopted, the enlargement toward the Western Balkans should be dubbed a priority for the Commission and for the European External Action Service in order to mobilize all diplomats toward a unified voice that brings about concrete and consequential measures to assure Kosovo’s future in the EU.

Nonetheless, besides the part the EU has to play, in the midst of this enlargement momentum and willingness, What the Commission calls a “historic window of opportunity”³³, it is up to the candidate countries to seize it or not. The following sections focus on what the Serbian government and what the Kosovar government can do to better abide by the Strategy, improve their role as policy actors and become equal participators in the Dialogue and EU accession process.

5. Serbia Level: the privileged EU candidate

In March 2012 Serbia officially became an EU candidate country³⁴. In the Balkan Peninsula, Serbia presents the least favorable outlook on EU integration and regional cooperation³⁵. The Republic of Serbia has long shared close ties with Russia – both countries predominantly of Slavic origin and Eastern Orthodox religion have a history of military alliance, in the Russian Empire or later the USSR protecting Russia from foreign occupation.

This friendship and possibility of exacerbation of Russian influence has long been a factor in EU foreign policy and enlargement timing. In fact, the EU Enlargement Strategy calls out such interests at odds by signaling that “Joining the EU is a choice, and one that requires sharing the principles, values and goals the Union seeks to promote in its neighborhood and beyond, including full alignment with the common foreign and security policy”³⁶. In other words, there is an open expression of interest by the EU in fully integrating new Member States, however this needs to be matched by the countries themselves rising to the challenge. It is a top-bottom strategy that implies a bottom-up approach. The six hopeful candidates must actively show interest in integration, such as resolving overdue disputes or unambiguously aligning themselves with European common values. Serbia’s political, economic and cultural kinship to Russia is here implicit. This position applies not only to Serbia-Kosovo relations, but also for example to the Macedonia-Greece naming dispute – these neighboring disputes have nothing to do with the EU and thus have no merit in being imported to the present group of 28 Member States.

Without a doubt, Serbia’s official position toward EU integrating and a tacit forego of an alliance with Russia has gone back and forth. This cultural sentiment has produced a nation-wide effect that is important for the process, considering that as the Strategy itself asserts, “Joining the EU is far more than a technical process. It is a generational choice”³⁷. Aleksandar Vučić, current Serbian President, had stated during a recent February 2018 trip to the EC that “We

³² Vatican News, “France’s Macron: ‘EU should reform before expanding’”, 17 April 2018, available at: <https://www.vaticannews.va/en/world/news/2018-04/france-macron-eu-reform-expansion-balkans.html> .

³³ EU Enlargement Strategy, pg.2.

³⁴ The Delegation of the European Union to the Republic of Serbia, “Milestones in EU – Serbia relations”, available at: <http://europa.rs/serbia-and-the-eu/milestones/?lang=en>.

³⁵ Regional Cooperation Council, “Balkan Barometer 2017 – Public Opinion Survey”, Year 3, Number 3, pg. 53.

³⁶ EU Enlargement Strategy, pg.9.

³⁷ EU Enlargement Strategy, pg.2.

must pay a certain historical price if our future is to be in Europe”³⁸. However, following the 26 March 2018 arrest of Marko Djuric, head of the Serbian government's Kosovo office, Vučić forewarned that moving forward with the dialogue will now imply “different” positions in light of increased tensions³⁹. All things considered, Serbia has proved to approach the chance of normalization of relations with Kosovo as a means to achieve membership, and not as an end in itself. Spyros Economides and James Ker-Lindsay from the European Institute of the London School of Economics and Political Science argue that “By tracing relations in the EU-Serbia-Kosovo triangle, the article shows that change in Serbia's approach towards Kosovo is based on pragmatism and political opportunism, rather than absorption, adaptation, convergence or identity formation”⁴⁰.

This is clear in noting the aforementioned back and forth attitude conditioned by other interests. Unlike the situation laid out above, the official commitment to the EU accession process and to the EU-facilitated Dialogue on the normalization of relations with Kosovo should be unwavering on the part of the Serbia. It must be promoted in the governmental narrative and also positively mirrored in civil society at large – which is currently not happening in a straightforward homogenous manner in the country at hand. The ultimate goal of this dialogue engagement should be a set of compromises in favor of EU accession and, which requires normalized relations as per Chapter 35 of the accession negotiations. Objectively, normalized relations should mean a state recognition of Kosovo and the EU should better define this expectation as the necessary final objective of political talks. Insofar, however, neither the Serbian government has charted this approach nor the EU has promoted such delineations.

Leverage over the EU as facilitator and over Kosovo as counterpart

Nevertheless, the Serbian side continues to play the carrot and stick game, in fact the same one the EU itself has long been said to be playing with the Western Balkans. A clear example is in Serbia accepting the Brussels agreement but having yet to ratify it as an international agreement into binding law, unlike its counterpart Kosovo. After all, it is in Serbia’s best interest to secure European membership prospects in parallel to sustaining a close alliance with Russia. The country adopts this attitude from a position of leverage over the EU: Brussels officials are keen on formally integrating Serbia to counter Russian influence, which is steadily rising and thus pushes up the sense of urgency as much as it pushes back the priority in solving seemingly unsolvable disputes such as the recognition of Kosovo. Subsequently, the country also holds a position of leverage over Kosovo, its counterpart in negotiations: Serbia has a clear candidacy path laid out for them unlike Kosovo’s potential-candidacy and divided recognition by Member States. Serbia’s parliamentary reality and lack of consensus have thus not exhibited a collaborative spirit vis-à-vis the EU-facilitated dialogue.

In line with this, Serbia is being prioritized as a candidate in enlargement and as a party in the Dialogue not because of merit but because of a fear of growing Russian influence over the country. However, in giving such biased attention to Serbia in dialogue or accession negotiations, the EU is disregarding the fact that Serbia has yet to put real efforts in fulfilling the political

³⁸ New Europe, “Juncker in Western Balkans tour to discuss strategy for the region”, 25 February 2018, available at: <https://www.neweurope.eu/article/juncker-in-western-balkans-tour-to-discuss-strategy-for-the-region/> .

³⁹ Balkan Insight, “Vucic Defends Serb Official Expelled From Kosovo”, 26 March 2018, available at: <http://www.balkaninsight.com/en/article/serbian-president-denies-state-official-violated-agreement-03-26-2018> .

⁴⁰ Spyros Economides and James Ker-Lindsay (2015), ‘Pre-Accession Europeanization’: The Case of Serbia and Kosovo. *Gender, Work And Organization*, 53, 1027–1044.

criteria of accession. Argued Beata Huszka of ELTE University that “Considering that the EU assigned a key role to human rights in its conditionality policy, the Serbian case demonstrates how geopolitics can interfere to limit the EU's capacity to achieve compliance even from a candidate country”⁴¹. For instance, the country currently concentrates too much power in the executive and is subtly inviting a populism political discourse. Kosovo certainly does not have a political and judicial system without flaws, yet it still remains that in this particular regard it is quite fragmented in its separation of power.

This being said, to combat the abovementioned reality and associated unfair circumstance between what are supposed to be equal partners to the European Union, EU officials must bulk up their strategy - tools and expectations must be defined on the final goal of the negotiations process between Kosovo and Serbia. To turn the tables and recover the negotiations leverage, officials in Brussels must proactively put an end to the ambiguity surrounding Kosovo's individual accession path.

Regional cooperation is vital for rapprochement and good neighborly relations, to borrow key words from the EU Enlargement Strategy itself. Normalization of relations, even more so with fellow candidates, is a key prerequisite for states wishing to join the EU. Much like the EU must prepare itself to receive new Members, so need the Western Balkan countries to reform and prepare themselves to receive 27 new fellow Member States. Accordingly, abiding by the values of collaborative peace among sovereign states the EU preaches is important.

6. KOSOVO LEVEL: the underdog with an obstructed path to EU accession

In line with the diplomatic initiative helmed by the 2014 Berlin Process and the 2015 Stabilisation and Association Agreement (SAA) between the European Union and Kosovo, the fulfillment of requirements has been moving along in Kosovo. Most recently, the Assembly of Kosovo at last ratified the demarcation deal with Montenegro, on 21 March 2018 – construed as one of the key conditions, along with the fight against corruption and organized crime, for the isolated country to be granted visa liberalization with the Schengen Area. Transparency International's 2016 Corruption Perception Index revealed Kosovo as the most corrupt Western Balkan country, with a 36-point level of “clean” to Serbia's 42-points⁴².

Kosovo is the weakest link in the set of six candidate countries, the one with the least advanced accession process and for which real enlargement prospects are only distantly hinted at in the Strategy – “Kosovo* has an opportunity for sustainable progress through implementation of the Stabilisation and Association Agreement and to advance on its European path once objective circumstances allow”⁴³. In fact, throughout the EC document, mentions of Kosovo are generally tied to mentions of the Dialogue on the normalization of relations with Serbia or to Serbia's own membership prospects. It reveals a lacking transparent and concrete direction on how EU-Kosovo relations are to evolve. Kosovo's EU membership prospects remain hostage to the advancement of the Dialogue and a binding commitment of the Serbian government, in addition to the huge obstruction manifested in the five non-recognizing Member States. For this reason, Kosovo's sustained efforts must be multilayered in order to show real alignment and investment in a future of EU integration.

⁴¹ Beata Huszka (2018), “Human Rights on the Losing end of EU Enlargement: The Case of Serbia”, *Journal of Common Market Studies*, 56: 352–367.

⁴² Transparency International, “Corruption Perception Index 2016”, available at: https://www.transparency.org/news/feature/corruption_perceptions_index_2016.

⁴³ EU Enlargement Strategy, pg.2.

Breaking free from the ambiguous stalemate

What the new EU enlargement strategy offers Kosovo is a stepping stone toward accession talks, while what it offers Serbia is a clear-cut path to membership. This disparate starting point needs to be reevaluated to allow for a fairer progression of the difficult talks and underlining concessions and compromises.

For instance, no deadline is given for the comprehensive normalization of relations between Serbia and Kosovo to be finalized, neither the legally binding way it is to be implemented and monitored. In the broader context of EU integration that goes beyond the Strategy, a critical standing issue is the visa liberalization between Kosovo and the Schengen Area of free movement. While the issue remains, a positive thing resides in the Council of the EU approving European Commission proposals such as visa-free travel for the people of Kosovo by qualified majority⁴⁴.

This means that, should any of the five non-recognizers block the proposal, it can still move forward. Since the Catalonia secessionist movement inflamed after the formally-unconstitutional independence referendum of October 1 2017, the Spanish government has tightened its obstructive stance on Kosovo's EU candidacy. As was detailed before in this report, Spain is still an unconfirmed and as-of-yet hesitant participant in the upcoming May 17 EU summit on the Western Balkans, directly citing the participation of Kosovo as an independent state, let alone a candidate. Argues Gezim Krasniqi that "Kosovo could be a shining example of democratization, and the five non-recognizing EU member states would still not express formal support. (...) It has more to do with the state's position on independence and its own geopolitical interests in the region"⁴⁵. Therefore, the lack of concreteness in the EU Strategy with regards to Kosovo is held captive by such internal obstructions, besides the implied unpredictability of the Dialogue with Serbia. Kosovo has not been primarily focused on putting pressure on the five non-recognizers, an underutilized tool to advance EU integration prospects. As Serbia advances in the open accession negotiations with the EU, Kosovo on the other end of the spectrum continues to push through the SAA it has in place with the EU and the recognition gaps it faces among Member States.

The Republic of Kosovo is a young democracy with multiple international opponents and obstructions *a priori* - that's why it is vital that the Kosovar domestic reality itself does not act as an added obstruction to its international advancement, projection and strategy. The realization of EU benchmarks also depends, from an internal perspective, on Kosovo having a single voice and an undeniable will for integration and membership by means of implementing the SAA and the instruments associated with it, such as the European Reform Agenda (ERA) and the Economic Reform Programme (ERP). The EC strategy reads that "most fundamentally, leaders in the region must leave no doubt as to their strategic orientation"⁴⁶. Currently in Kosovo, the polarization in parliament and the institutional fragmentation hamstringing suitable reporting or accountability⁴⁷. A need for closer cooperation at all levels of government with civil society groups and other stakeholders dealing with EU integration is thus ever present. In examining past EU annual

⁴⁴ European Commission, "European Commission proposes visa-free travel for the people of Kosovo", 4 May 2016, available at: http://europa.eu/rapid/press-release_IP-16-1626_en.htm.

⁴⁵ Prishtina Insight, "Scrapping state recognition: What alternatives exist for Kosovo?", 10 April 2018, available at: <http://prishtinainsight.com/scrapping-state-recognition-alternatives-exist-kosovo-mag/>.

⁴⁶ EU Enlargement Strategy, pg.18.

⁴⁷ European Commission, "Kosovo 2016 Report", 9 November 2016, pg.7.

reports it is clear to note that there often is a constant repetition of recommendations, dependent on Kosovo strengthening the rule of law as an independent, stable working state able to attract foreign investment. Without political consensus or transparency in judicial proceedings, the elevation of the country is put at risk. In truth, the sustainability of the mandated reforms as EU benchmarks is largely dependent on civil society engagement, for Kosovo has a strong asset in its young and eager population. Citizens should be mobilized well beyond a once-in-four years vote.

Building a strong credible actor

Considering the above, Kosovo can combat the vague, virtually non-existent roadmap the EU enlargement strategy offers it by raising its standing as a potential EU candidate country with a bottom-up approach. Kosovo should bulk up its reputation as a credible policy actor. As an independent sovereign international actor with prospects, aims and potential, Kosovo should seek to become and be seen as a relevant policy actor by adding something new and concrete to what has already been proposed and decided by the EU. Related to the main research question of this report - the research questions this policy report tackles is: what does the EC Strategy mean for the Dialogue, and how to solve it in order to adequately enable accession? – since the text leaves all too many aims and measures up in the air, the Kosovo government should produce more concrete tools and consequential definitions to better assure Kosovo's player role in the Dialogue and Kosovo's future in the EU.

Kosovo needs consensus on the Dialogue and the European perspective. This has the ability to solidify Kosovo's negotiating power within the EU more so than formally and blindly following the European Reform Agenda, for example. It will render Kosovo a more competitive state with a stronger voice in regional geostrategic goals and foreign policy. Much like the Strategy reads, "EU integration isn't a technical process"⁴⁸ - which means that this approach centered on Kosovo augmenting its role as a credible policy actor in order to create leverage has merit in solving the enduring problem of Kosovo as a black hole among the Western Balkans.

Now that the Dialogue is entering the final phase, the country should not adopt a passive approach toward EU integration or a too-flexible approach in the negotiations – Kosovo should set unnegotiable conditions and compromises that still feed the independence and the expressions of sovereignty of both countries for only this way will the country not be left behind in the accession process, as Serbia continues to be seen by the EC as a priority. Ultimately, the February 2018 strategy shows an interest in Kosovo, but does not go past the current impasse. Looking at this from an external perspective and linking it to the Dialogue, it must then be up to Kosovo to raise its leverage and add value to the tools and measured (or lack thereof) put forth.

7. WAY FORWARD – POLICY RECOMMENDATIONS

In this report, we have questioned and examined the Dialogue on the normalization of relations between Kosovo and Serbia based on the EU Enlargement Strategy.

We have found that the scope of the agreement is not defined, in other words it leaves far too many issues out of bounds and without concretely delineated expectations as to what it seeks to achieve. In particular, the 'regional dispute' term and the nature of the agreement are not defined and neither is the way in which the latter is to be honored – internally, in that Serbia

⁴⁸ EU Enlargement Strategy, pg.2.

has seen it as a political agreement by not signing it into binding law whereas Kosovo signed it as an international agreement with the associated legal standing; and externally in that the EU has refrained from defining what the next step toward accession shall be for Kosovo, a country that lacks complete recognition from all Member-States.

The policy recommendations to follow tackle the latter item - how to solve the Kosovo problem. The Kosovo-Serbia Dialogue has been tampered by neighborly tensions since its implementation in 2011, volatility most recently visible in the assassination of Kosovo-Serb politician, Oliver Ivanovic, and the arrest of senior Serbian politician Marko Đurić.

A clear path for EU integration must be defined before moving forward with the final agreement and the underlining shortfalls it already suffers from; given that nothing is defined on implementation or if it is to grant Kosovo the green light for full membership regardless of the non-recognizers. It is unfair that the Strategy is not harmonized for all and, what is more, reduces Kosovo to a pawn in Serbia's road to accession in not providing any clear direction forward for the former. Surely the Strategy shows interest in all hopeful Western Balkan candidates, yet in the case of Kosovo it does not go much beyond reiterating a shared culture and vision.

The first policy recommendation topic regards the legal nature of the agreement to derive from the final phase of the Dialogue on the normalization of relations between Kosovo and Serbia. We argue that the legal nature of the agreement must close all potential disputes between the two countries in order to not allow for future issues to be raised along. This relates to three main lines of dispute: statehood recognition, obstruction of Kosovo's accession to international organizations, and the Serbian quest to remove recognitions of Kosovo by other sovereign states. In addition to this, the nature of the agreement should raise its applicability in international litigation, for instance with the International Court of Justice, should such come to be needed in the future. Moreover, as the equal counterpart player in the Dialogue it should assert itself to be, the Kosovo government should deconstruct the many interpretations possible to come out of the agreement to push the one that serves Kosovar interests best. In pursuance of a standing as a credible policy actor, the Kosovo government should strive to create their own discourse and set their own endgame.

The better definition of the scope and nature of the Dialogue agreement when linked to the Enlargement Strategy should be construed as much of a common challenge as a common positive compromise for all parties, the EU, Serbia and Kosovo, in making it clear what the agreement wants to achieve and will trigger in the next steps until membership.

Firstly, from the European Union vantage point, the EU needs to increase its efforts to deliver more concrete pathways for all six hopeful candidates, especially Kosovo. If the EU wants to be the human rights powerhouse player is seeking to be, it need to provide more than just an expression of interest in the country. Since the goal for the EU should be the successful integration of both Kosovo and Serbia into the Union as equal participators, the European Commission must define the scope of the Dialogue agreement to be concluded and concretely lay out the steps forward for Kosovo in the EU accession. For instance, if relations are normalized with Serbia will this imply the five non-recognizers recognize Kosovo as an independent state and the path is cleared up for a smoother enlargement process? In the end, if Kosovo is included in the Strategy then a clear pathway for it must also be included, otherwise the country stays in a limbo in which being excluded completely from the document is not much worse than not having real prospects. Kosovo therefore occupies the underdog position whereas Serbia holds leverage over the Dialogue and the EU itself as the country most vulnerable to Russian influence. With the

Dialogue years in the making and now entering its final phase, the EU can no longer avoid a declaration about the final goal of the negotiations process between Kosovo and Serbia for more concrete and consequential terms are needed to pledge Kosovo's future in the EU.

More on the bilateral dispute from the EU perspective, it is fundamental that the EU treat the Dialogue as a process by which both Serbia and Kosovo can accede, and not just set on the most immediate goal of Serbia achieving full membership. There needs to be an equality and overall fairness on the solving of the bilateral disputes – the EU should adopt and reiterate the broader viewpoint that the normalization of relations is not only an issue for Serbia, but one that will enable both parties to the Dialogue ultimately accede, not merely vaguely state it advance integration prospects of Kosovo in as-of-yet undetermined ways. Only this equitable foundation perspective avows a proper balance of power – a true equilibrium between two neighboring countries that need each other mutually to achieve their common end goal of EU membership.

From the Serbia vantage point, the Government needs to unequivocally align itself with European common values and fully comply with reconciliation requirements in order to address the open negotiation chapters. Aware of the enlargement momentum leading Brussels, Serbia should seize it and make sure it doesn't sabotage its own international progress because of internal divisions or historical disputes. Despite all this, the main issue regarding the Serbian level of this report is that the country's government has leverage over negotiations with the EU and with Kosovo – even though a practical solution has not been found for the normalization of relations, from an external perspective this has not stopped accession talks with Serbia to advance. Be it in opening more negotiating chapters or proposing 2025 as the accession year, breakthroughs are occurring on its accession prospects despite no breakthroughs occurring in the Dialogue or respective concluding agreements. This crimps the credibility in setting the normalization of relations as a precondition for accession, as well as crimps the fairness toward Kosovo as the opposite side. Serbia therefore has been basking in the urgency the EU has to secure its formal alliance to the European project and path. The Serbian government appears to be taking the Dialogue as a strategic tool to achieve its goal of membership rather than to recognize Kosovo and normalize relations and, therein, fully incorporate EU values of good neighborly relations and reconciliation.

Third and lastly, from the Kosovo vantage point, a consensual platform on the Dialogue is needed to enable a clear direction regarding EU integration. Kosovo needs to rally its domestic political reality in order to bolster wide-ranging rule of law progress and the implementation of the Stabilisation and Association Agreement (SAA). In line with this, Kosovo needs to combat the ambiguity and vagueness inherent to the Strategy by developing into a credible policy actor of its own merit when dealing with European integration.

Faced with a lack of concrete tools and definitions, the Kosovo government and its mobilized civil society as an empowered actor in public policy-setting must spotlight turning Kosovo into a relevant policy actor. It is a transparent bottom-up approach to complement the insofar lacking top-down approach. It looks to have Kosovo add concrete measures and tools to what has already been decided and principally not letting Serbia get priority over the Dialogue and advance in integration prospects while Kosovo is left behind amid a sea of uncertainty.

After all, if Kosovo wants to be a credible independent state and treated as a sovereign equal, then it must prove to its counterparts that it has concrete aims and expectations that are not up for grabs. The enlargement momentum is here and Kosovo must rise up to accept the challenge and assuring its standing in the process by creating a sort of policy leverage.

As a last note, a supplementary idea being proposed by certain members in the international community has been to undergo the Western Balkans enlargement as a block⁴⁹. This means granting membership status to the six countries at the same time, so as to dissipate regional issues, and better encourage their resolution, as well as to establish a unified approach and starting point from the get to. Bekim Çollaku, former Minister of European Integration and current Chief of Staff to the President of Kosovo has defended this idea⁵⁰. An enlargement as a block would avoid creating future situations in which one Member State vetoes or generally obstructs membership prospects of another, such as what is now happening with Greece and Macedonia, both in the EU and in NATO. The Western Balkans have far too much history, especially contemporary, to be put by the international community in a position where one country accedes and therein holds the advantaged position of blocking a neighbor's membership plainly for domestic interests tied to past disputes.

Straightforwardly, this is the integration option that is the most needed for Kosovo and for a proper approach to the Kosovo problem. Otherwise the country will continue to lag behind as a global actor in possibly irreparable ways with regards to integration and opportunities, and the strategy sets an already-doomed starting point of unfairness. Therefore, on the important point of the security architecture of the Western Balkans as a block to be enlarged either individually or collectively: if the EU does not include Kosovo in the same manner of real perspective it offers the candidate countries, but rather insists on leaving it behind or positioning it as a pawn in Serbia's accession negotiations, then the EU strategy is not safe but simply incomplete. Kosovo should not be overlooked just because there is no Russian element of intimidation to hold over the heads of European Commission officials – Kosovo should be included and considered because it is a player in the region. It is a budding regional actor that borders many fellow hopeful candidates, therein creating embedded implications with neighbors should their EU standing change. Thus, Kosovo is indeed part of the security spectrum of the EU for the region, and no lack of recognition can invalidate the geopolitical or geostrategic token it holds.

In consideration of this initial evidence regarding an ongoing topic, I recommend future research be conducted in view of the upcoming EU summit on the Western Balkans in Sofia, Bulgaria, which will shed more light on such intertwined issues as Spain's stance on Kosovo, the path forward for the six countries and the way in which the final phase of the Dialogue on the normalization of relations can be linked to the broader EU enlargement to deliver concrete developments.

To cite European Commission President Jean-Claude Juncker, *"the right compromise makes winners out of everyone. A more united Union should see compromise not as something negative, but as the art of bridging differences. Democracy cannot function without compromise. Europe cannot function without compromise"*⁵¹. Taking this into consideration, a key takeaway with regards to enlargement is that there is a window of opportunity. It is not just a hopeful narrative, but an action plan laid out by the EC for those countries whose reconciliation and reform efforts merit membership. Despite the road map proposed not being harmonized for all six countries, there is a clear regional, and for this reason the Dialogue must renew its impetus and react to this momentum by creating a momentum of its own and delivering. At the end, the right compromise makes winners – and EU Member-States - out of everyone.

⁴⁹ Balkan Insight, "Serbia Must Recognise Kosovo, German MEP Says", 28 March 2013, available at: <http://www.balkaninsight.com/en/article/german-mep-reveals-last-condition-for-serbia>.

⁵⁰ Euractiv, "The case for a joint 'Western Balkans six' accession to the EU", 13 April 2018, available at: <https://www.euractiv.com/section/enlargement/opinion/the-case-for-a-joint-western-balkans-six-accession-to-the-eu/>.

⁵¹ President Jean-Claude Juncker's State of the Union Address 2017, 13 September 2017.

In his most recent State of the European Union address, on 13 September 2017, European Commission President Jean-Claude Juncker stated: *“I have always fought for Europe. At times I have suffered with and because of Europe, and even despaired for it. Through thick and thin, I have never lost my love of Europe”*⁵². A parallel can be argued for the disposition in Kosovo toward EU integration and accession negotiations.

⁵² *Ibid.*

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POLICY REPORTS

Policy Reports are lengthy papers which provide a tool/forum for the thorough and systematic analysis of important policy issues, designed to offer well informed scientific and policy-based solutions for significant public policy problems. In general, Policy Reports aim to present value-oriented arguments, propose specific solutions in public policy – whereby influencing the policy debate on a particular issue – through the use of evidence as a means to push forward the comprehensive and consistent arguments of our organization. In particular, they identify key policy issues through reliable methodology which helps explore the implications on the design/structure of a policy. Policy Reports are very analytical in nature; hence, they not only offer facts or provide a description of events but also evaluate policies to develop questions for analysis, to provide arguments in response to certain policy implications and to offer policy choices/solutions in a more comprehensive perspective. Policy Reports serve as a tool for influencing decision-making and calling to action the concerned groups/stakeholders.