

# Evaluating Kosovo's Position in the Dialogue with Serbia

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## EVALUATING KOSOVO'S POSITION IN THE DIALOGUE WITH SERBIA

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## EVALUATING KOSOVO'S POSITION IN THE DIALOGUE WITH SERBIA

### INTRODUCTION

More than a decade has passed since the dialogue on the comprehensive normalization of relations (the “dialogue”) between Kosovo and Serbia began. Ever since then, Kosovo’s domestic process of state-building and international recognition has gone through a rather bumpy road. Kosovo’s post-independence period has mainly been characterized by the developments in the framework of the dialogue led by the European Union (EU) on the normalization of relations between Kosovo and Serbia. The process has seen failure, tension and modest success. Its volatility has often threatened the prospects for continuation after several episodes of impasse. The dynamics of the negotiations have regularly been dictated by domestic and international developments, with Kosovo and Serbia finding themselves at the spotlight of European events on many occasions. The process has featured everything imaginable: from changes in delegations, renewals of EU High Representatives and mediators, to the emergence of topics such as potential border corrections between Kosovo and Serbia, and the establishment of an Association of Serbian Municipalities (ASM) in Kosovo, all against the backdrop of EU integration.

The dialogue came to a full stalemate after Kosovo imposed a 100 percent trade tariff on goods from Serbia and Bosnia and Herzegovina in November 2018, as a response to Serbia’s foreign lobbying campaign against Kosovo’s statehood and accession into international organizations, such as Interpol. Then the dialogue resumed on July 16<sup>th</sup> 2020 with the new EU Special Representative (EUSR) for the dialogue and other Western Balkans issues, Miroslav Lajčák. Since then, the dialogue has seen more changes. Firstly, since 2021 Kosovo is governed by a robust majority government with Lëvizja Vetevendosje casting more than 50% of votes. Consequently, the issue of representation in the dialogue and the stability in terms of governance is momentarily not in question. Secondly, the EU has shown to be more determined to bring the process further and finalize it, as has been reaffirmed by High Representative of the Union for Foreign Affairs and Security Policy, Josep Borrell and European Union Special Representative Miroslav Lajčák. Thirdly, the new U.S Administration under President Joe Biden has provided for a more structural approach to the EU facilitated dialogue in comparison with the preceding administration of Donald Trump. Nevertheless, the escalation at the border between Kosovo and Serbia on the issue of the recognition of license plates in September 2021 and in July 2022, exposed the volatility in the process. While the parties reached an interim agreement on the license plates as well as on the issue of the energy, the discourse around Kosovo – Serbia relations remains tense. The potential for escalation is always present with no final agreement in place. Thus, a resolution of the current state of affairs between Kosovo and Serbia should be a priority of the EU.<sup>1</sup>

This policy analysis examines the position of Kosovo in the dialogue with Serbia and the EU’s role in the process. In doing so, the first part gives context by providing a background history of the dialogue by examining some of the successes, weaknesses, agreements and scenarios for the final solution over the years. Second, the brief examines the principles, discourse and approach of the Kurti government in the negotiation process. In this regard it explores the current position of Kosovo in relation to the dialogue in comparison with the previous periods.

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<sup>1</sup> Wouter Zweers & Myrthe de Boom. 2021. Overcoming EU dividing lines in the Belgrade – Pristina dialogue. The Clingendael Institute. Available at: <https://www.clingendael.org/publication/overcoming-eu-dividing-lines-belgrade-pristina-dialogue>

## I. UNDERSTANDING THE KOSOVO – SERBIA DIALOGUE: A ROCKY ROAD TO NORMALIZATION OF RELATIONS

Over the past years, the EU-led dialogue on the comprehensive normalization of relations between Kosovo and Serbia has experienced a process of metamorphosis. Since its start, both countries' establishments have approached the dialogue with skepticism. The development of the negotiations was set out in two stages: the first stage, a technical dialogue, which commenced on March 8th, 2011; and the second, the political dialogue.<sup>2</sup> The so-called technical dialogue entailed various deals concerning freedom of movement, mutual recognition of diplomas, and civil registry.<sup>3</sup> The process, however, soon entered the political realm in October 2012, with both countries' heads of government leading talks under the auspices of the EU and its High Representative for Foreign Affairs. By 2012 it had become obvious that, without a larger political settlement, the implementation of technical agreements would not be completed. Thus, following the holding of parliamentary and presidential elections in Serbia, the dialogue took a different path. From October 2012 to June 2013, the negotiations were taken to the highest level between prime ministers Hashim Thaçi of Kosovo and Ivica Dacic of Serbia.

The new talks, now at government level, paved the way for another set of another agreements and discussions between the parties. The establishment of liaison officers, which would act as representatives of each country in the respective EU mission, was one of the most tangible agreements concluded in December 2012.<sup>4</sup> Kosovo appointed a senior diplomat as a representative to Belgrade, considered as an equivalent to the title of ambassador. However, Serbia, in an attempt to degrade the importance of the position, appointed a junior official.<sup>5</sup> The plethora of agreements that followed thereafter varied from justice, to security and civil protection. In April 2013, a breakthrough in the negotiation process came with the "first Agreement of principles governing the normalization of relations"<sup>6</sup>, better known as the Brussels agreement. It constituted a fifteen-point deal that addressed some of the most complex and controversial remaining issues between Kosovo and Serbia. The agreement tackled the status of the municipalities in the north of Kosovo and anticipated the formation of an Association of Serb Municipalities (ASM), which would be endowed with executive competences in security, justice and education. This text, which envisaged the formation of the ASM<sup>7</sup>, was found not in line with Kosovo's constitutional standards in several of its principles. Consequently, the Agreement is not implemented yet, but it has already served as a catalyst for disparities between Prishtina and Belgrade.

In reference to that, since the start of the dialogue, the general tone of the meetings has been progressively acrimonious, with threats coming from both sides to pull out from the talks. Domestic issues often outweighed the incentives for EU integration and normalization of

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<sup>2</sup> Bieber, F. 2015. The Serbia-Kosovo Agreements: An EU success story? Review of Central and East European Law

<sup>3</sup> Russell, M. 2019. Serbia-Kosovo relations: Confrontation or normalization? Available at:

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635512/EPRS\\_BRI\(2019\)635512\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635512/EPRS_BRI(2019)635512_EN.pdf)

<sup>4</sup> 2016. Brussels agreements: Implementation state of play. Government of Kosovo, Ministry for Dialogue. [online], Available at: <https://bit.ly/2DbFjMX>

<sup>5</sup> 2013. Lulzim Peci is appointed "Ambassador" in Belgrade. *Kallxo.com*. Available at: <https://kallxo.com/gjate/lulzim-peci-caktohet-ambasador-ne-beograd/>

<sup>6</sup> 2013. First agreement of principles governing the normalization of relations, Government of Kosovo. [online], Available at: <https://bit.ly/2DbFjMX>

<sup>7</sup> Fetahu, Arber. 2020. Opening Closed Chapters in the dialogue with Serbia by respecting the principle that 'nothing is agreed until everything is agreed': the case of the Association of Serbian Municipalities. *Group for Legal and Political Studies*. Available at: <https://bit.ly/3S3zViv>

relations.<sup>8</sup> As such, several meetings were cancelled or delayed – a proof that the dialogue was driven by anger and fury rather than by rationality. The process has been characterized by little commitment to both the agreements and the agenda that was foreseen to be implemented. The inconclusive role of the EU in creating incentives and providing solutions to both parts has contributed to the gridlock in the process.

For more than a decade, the EU ran the process of the dialogue ambiguously. Since the start of the talks, the EU was unclear about the meaning of a “normalization of relations” between Serbia and Kosovo, arguably a strategy to ensure the continuity of the dialogue. However, this ambiguity had limitations and could not continue endlessly without undermining the process and substance of the negotiations.<sup>9</sup> On the one hand, the EU trumpeted the dialogue as an initiative that would improve the quality of life of citizens from both countries, and it later used the leverage of the talks to condition both sides’ European integration paths.<sup>10</sup> On the other hand, the EU’s ambiguity led to Kosovo and Serbia having different interpretations and stances over the same agreements and issues. Not in rare occasions have the negotiations given the impression that Belgrade and Prishtina had signed completely different agreements. The duality mastered by the mediators was exploited well by the governments of both countries.<sup>11</sup>

The leaders of both countries exploited the inability to produce a breakthrough agreement to constitute scenarios for the final agreement feasible for both countries. A controversial scenario that came to fore in 2018 was that of so-called border corrections/adjustments between Kosovo and Serbia. The idea was first introduced by the countries’ presidents, Hashim Thaçi and Aleksandar Vučić, at the Alpbach 2018 forum. At the conference entitled “New perspectives on EU enlargement” both presidents disseminated the idea of border adjustments as a solution to the dispute: “countries in the region should not be afraid of a possible agreement between Kosovo and Serbia even if it includes border change. It will not be a correction along ethnic lines – Kosovo will continue to be a multi-ethnic country and to support minority rights”, President Thaçi stressed.<sup>12</sup> On the other hand, Serbia’s Vučić claimed that both territories were trying to avoid clashes and wars, yet he was committed to defend the interests of the Serbian community in Kosovo. Vučić, however, did not clearly respond to the question on whether Serbia would recognize Kosovo after a possible border adjustment solution.<sup>13</sup>

Although it was never fully clarified, the idea of border correction entailed territorial exchange between Kosovo and Serbia – whereby the northern part of Kosovo, inhabited by a majority of ethnic Serbs, would be exchanged with the southern part of Serbia, largely populated by ethnic Albanians. The idea was accompanied by a large refusal from Kosovo’s political elites and also from its citizens, and it generated wide discussion in the international domain. Some EU member states, particularly Germany, were categorically against the idea, since the possibility of border correction would set a dangerous precedent in favour of other exchanges of territory along

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<sup>8</sup> Russell, M. 2019. Serbia-Kosovo relations: Confrontation or normalization? Available at: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635512/EPRS\\_BRI\(2019\)635512\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635512/EPRS_BRI(2019)635512_EN.pdf)

<sup>9</sup> Caplan, Richard. 2020. Association can destabilize Kosovo. TV Dukagjini, [online]. Available at: <https://www.facebook.com/dukagjirtv/videos/1501968533332406>

<sup>10</sup> Friderich Ebert Stiftung. 2012. Kosovo-Serbia Dialogue: Away from the citizens close to the EU. Development Group, [online]. Available at: <https://library.fes.de/pdf-files/bueros/kosovo/09784.pdf>

<sup>11</sup> Ibid.

<sup>12</sup> 2018. Alpbach 2018 Forum: Thaçi and Vučić discuss border correction with the panel. European Western Balkans, [online]. Available at: <https://europeanwesternbalkans.com/2018/08/25/alpbach-2018-forum-thaci-vucic-discuss-border-correction-panel/>

<sup>13</sup> Ibid.

ethnic lines, which could prompt new conflicts in the Balkans. Countries like Hungary, Belgium, Austria, Romania and even Spain would not categorially oppose this solution if it would be a non-violent one, while France's stance has been ambiguous.<sup>14</sup> The US, a major Kosovo ally, did not discard the border correction idea per se: "our policy, the US policy, is that if the two parties can work it out between themselves and reach an agreement, we don't exclude territorial adjustments. It's really not for us to say. We would not stand in the way, and I don't think anybody in Europe would stand in the way if the two parties to the dispute reached a mutually satisfactory settlement," US National Security Adviser John Bolton said.<sup>15</sup> Nevertheless, the current Biden administration has never mentioned the scenario of border corrections. Its officials have stated that the territorial integrity and sovereignty of Kosovo remains unquestioned.

The turbulences in the dialogue continued with the establishment of 100% tariffs on the goods from Serbia and Bosnia and Herzegovina in 2018, as a response to Serbia's foreign lobbying campaign against Kosovo's accession into international organizations. This decision caused broad reactions in both Kosovo and Serbia, and clearly so among international stakeholders. EU High Representative Federica Mogherini swiftly asked for Kosovo's decision to be revoked, claiming it was a "clear violation of the Central European Free Trade Agreement (CEFTA) and of the spirit of the Stabilization and Association Agreement between the European Union and Kosovo".<sup>16</sup> The tariff move showed that relations between Kosovo and Serbia remained tense and far from a viable solution. As such, the stakes on the dialogue after the tariffs were imposed seemed to reach a new high: Kosovo's government restated that they would remain in place until the basis of mutual recognition between Prishtina and Belgrade was adopted,<sup>17</sup> whereas Serbia insisted that a return to the negotiating table would only happen when the 100 per cent tax was lifted.

The impasse in the dialogue came to an end when Kosovar prime minister Kurti lifted the 100% tariffs and reciprocity in April 2020. However, the return to the dialogue had its cost in the form of a non-confidence vote to the Kurti I government initiated by its governing partner LDK. This development unveils the unpredictable nature of the dialogue ever since it started, often being accompanied by radical turns in its framework and substance. When LDK and Avduallah Hoti as prime minister took over the government, the conditions to resume the dialogue were in place. First, US Special Envoy Grenell attempted to organize a meeting at the White House on June 27<sup>th</sup> 2020 but which ultimately never took place.<sup>18</sup> Germany and France subsequently pushed forward the holding of the so-called Paris Summit for the resumption of the negotiations. The summit was held via video conference on July 10<sup>th</sup> in the presence of German Chancellor Angela Merkel, French President Emmanuel Macron, Kosovo Prime Minister Avduallah Hoti and

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<sup>14</sup> Wouter Zweers & Myrthe de Boom. 2021. Overcoming EU dividing lines in the Belgrade – Pristina dialogue. *The Clingendael Institute*. Available at: <https://www.clingendael.org/publication/overcoming-eu-dividing-lines-belgrade-pristina-dialogue>

<sup>15</sup> 2018. US open to border changes, Trump adviser says. *Politico*, [online] 20 June. Available at: <https://www.politico.eu/article/kosovo-border-changes-us-opinion-donald-trump-john-bolton/>

<sup>16</sup> Matias, B. 2019. An analysis of the recent developments in the Kosovo - Serbia dialogue: A perspective from Brussels. *Group for Legal and Political Studies*, [online]. Available at: <http://www.legalpoliticalstudies.org/wp-content/uploads/2019/05/An-analysis-srb-ks-dialogue-BM-Final.pdf>

<sup>17</sup> 2019. Kosovo sets conditions to drop tariffs on Serbian imports. *Balkan Insight*, [online] 21 January. Available at: <https://balkaninsight.com/2019/01/29/kosovo-uses-tariffs-as-bait-for-a-final-agreement-with-serbia-01-29-2019/>

<sup>18</sup> The high-level meeting at the White House was then rescheduled and held on September 4<sup>th</sup> 2020.

Serbian President Aleksandar Vučić.<sup>19</sup> The outcomes were however poor as both parties showed their rigid stances on the dialogue. The first face to face meeting resulted after 20 months standstill when Prime Minister Hoti and President of Serbia, Aleksander Vucic met in Brussels on the 16<sup>th</sup> of July 2020 under EU auspices.<sup>20</sup> The meeting aimed to continue the process of the normalization of relations and restate Brussels' upper hand in the mediation talks. The two sides focused on the issues of missing and displaced persons as well as on economic aspects.<sup>21</sup> However, the meeting of the leaders was the success in itself, yet again not a major progress was achieved or noted.

On the 14<sup>th</sup> February 2021 the Lëvizja Vetëvendosje party of Albin Kurti returned to power casting 50.7% of the total votes, an unprecedented victory in the recent political history of Kosovo. This vast legitimacy could be seen as positive in regard to the dialogue because the issue of legitimacy is not in question and also the question of who runs the dialogue with Serbia remains clear.

## II. OLD TOPICS, NEW GOVERNMENT: KURTI'S APPROACH TO THE DIALOGUE

'The Dialogue is our fifth priority'<sup>22</sup> said Prime Minister (PM) Kurti on the night LVV won more than 50% of the votes in the snap elections. Later, he envisaged that under his leadership there will be new a new dialogue in terms of approach, topics and agenda. According to Kurti, Kosovo should onwards be represented as an equal party of the negotiation table, not just as a topic. Notwithstanding only mild progress in the dialogue, Kosovo's approach in the dialogue was proactive. In the first meeting held on the 15<sup>th</sup> of June 2021 between prime minister Albin Kurti, and president of Serbia Aleksander Vucic, prime minister Kurti made four proposals to give a new direction to the dialogue. Kurti's first proposal states that "the six Western Balkan states advance CEFTA to SEFTA (South-East European Free Trade Agreement) according to the EFTA-EEA model, i.e., the agreement that Liechtenstein, Norway and Iceland have with the EU. The second proposal by Prime Minister Kurti is that Kosovo and Serbia immediately sign a joint peace agreement, pledging that they will not attack each other. The third proposal entails the rights of minorities. After mutual recognition between Kosovo and Serbia, Kurti said that both countries will have bilateral reciprocity, including the issue of minorities. While the fourth proposal encompasses the issue of the missing persons. According to him, for this matter, the head of the Serbian delegation, Veljko Odalović, who in 1997-1999 was the head of the district of Kosovo and led the occupied Kosovo together with Zoran Angjellković "should be removed from his position and should be interrogated".<sup>23</sup>

However, the four proposals were not accepted by the Serbian president Aleksander Vucic, and both parties had major disagreements on the agenda of the dialogue. Despite the disparities another high-level meeting took place as part of the EU facilitated dialogue in July

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<sup>19</sup> 2020. Kosovo-Serbia talks in Paris close without results. Balkan Insight, [online]. Available at: <https://balkaninsight.com/2020/07/10/kosovo-serbia-talks-in-paris-close-without-results/>

<sup>20</sup> 2020. Belgrade - Pristina Dialogue: Doorstep by HR/VP Borrell upon arrival at the second high level meeting. European Union External Action, [online] 16 July. Available at: [https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-doorstep-hrvp-borrell-upon-arrival-second-high-level-meeting\\_en](https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-doorstep-hrvp-borrell-upon-arrival-second-high-level-meeting_en)

<sup>21</sup> 2020. Leaders of Kosovo and Serbia agree to continue talks after the first in-person meeting in 20 months. Radio Free Europe, [online] 16 July. Available at: <https://www.rferl.org/a/kosovo-serbia-eu-talks-hoti-vucic/30732146.htm>

<sup>22</sup> 201. Kurti: Dialogue with Serbia will not be in the top two priorities. Koha.net. Available at: <https://www.koha.net/arberi/259163/kurti-dialogu-me-serbine-nuk-do-te-jete-ne-top-dy-prioritetet/>

<sup>23</sup> 2021. Kurti after the meeting with Vucic: Three of our four proposals were rejected. Anadolu Agency. Available at: <https://bit.ly/3dx5rX8>

2021, which reinforced yet again the differences between both parties. The delegations agreed on nothing apart for the continuation of the dialogue.<sup>24</sup> The process yet again proved volatile, which maintains the status-quo and preserves the opportunities for escalation.

Our research suggests that Kosovo's position in the dialogue is a principled one.<sup>25</sup><sup>26</sup> This underpins the position of Kosovo as an independent actor in the negotiation table which can actively contribute to the content and agenda of the talks, which has indeed been the case in the last two years. Due to this approach, Kurti has shifted the narrative that Kosovo could not operate in foreign policy apart from the dialogue, and that the dialogue is the cornerstone for the existence of Kosovo as an actor in the foreign affairs.<sup>27</sup> Kosovo' has proved its actorness in the EU facilitated dialogue by preserving some principles and by not refusing the dialogue, per se. Furthermore, a discourse alteration is evidential that the dialogue is about good neighborly relations as opposed to that dialogue which is indented to resolve the status of Kosovo.<sup>28</sup>

In examining Kosovo's position, we found that the first principle that Kosovo follows is that the dialogue should be well prepared and that the parties must be equal in the dialogue.<sup>29</sup> Equality and reciprocity in relation to Serbia have been largely trumpeted by Kurti's government, which in turn sometimes has faced some disagreements from EU officials. Kurti vowed to reassess the agreements reached in the past, claiming that a new era has been established. However, the reassessment does not mean re-negotiation or return to the old agreements, chief negotiator Bislimi told us. "The second principle that has been important for us has been that we should concentrate only on the final agreement and not on the review of past agreements. In fact, before going to Brussels, we did an internal review of the agreements to see if there are any past agreements where we can extract something more to the benefit of our position." Mr. Bislimi unveiled.<sup>30</sup> However, there are a few agreements that have been re-negotiated from the past, including on license plates, energy and missing persons. Indeed, noteworthy progress has been achieved with the interim agreement on the license plates through which a regime of stickers was put in place and the freedom of movement was reassured.<sup>31</sup> In this case Kosovo's government pushed the principle of reciprocity which is a standard of relations between sovereign and independent states. Similarly, an agreement was reached on the implementation of the energy roadmap according to the agreements of 2013 and 2015. After more than 20 years, the four municipalities in the north of Kosovo will switch to a regular energy billing system.<sup>32</sup> These two agreements mark the utmost progress when it comes to technical issues of the dialogue. The rationale of negotiating these agreements relies on the ultimate need for the citizens of both countries to benefit from them, yet the focus is at the final agreement with mutual recognition at the center.<sup>33</sup> Nevertheless, new developments occurred in regard to the license plates and ID cards in June and July 2022. On June 29, the Government of Kosovo made

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<sup>24</sup>2021. The second meeting between Kurti and Vucic ended with insults. DW. Available at: <https://www.dw.com/sq/takimi-i-dyt%C3%AB-kurti-vu%C3%A7iq-p%C3%ABfundoi-me-ofendime/a-58320923>

<sup>25</sup> Interview with a scholar of Kosovo – Serbia relations, June 10, 2022.

<sup>26</sup> Interview with the chief negotiator of Kosovo in the EU facilitated dialogue, Mr. Besnik Bislimi, July 8 2022.

<sup>27</sup> Interview with a scholar of Kosovo – Serbia relations, June 10, 2022.

<sup>28</sup> Ibid.

<sup>29</sup> Interview with the chief negotiator of Kosovo in the EU facilitated dialogue, Mr. Besnik Bislimi, July 8 2022.

<sup>30</sup> Ibid.

<sup>31</sup> 2021. The agreement on license plates between Kosovo and Serbia is reached. Kallxo.com. Available at: <https://kallxo.com/lajm/arrihet-marreveshja-per-targat-ne-mes-kosoves-dhe-serbise/>

<sup>32</sup> 2022. Agreement on energy is reached. Government of Kosovo. Available at: <https://kryeministri.rks-gov.net/arrihet-marreveshja-mbi-energjiine/>

<sup>33</sup> Interview with the chief negotiator of Kosovo in the EU facilitated dialogue, Mr. Besnik Bislimi, July 8 2022

a decision to apply reciprocity to the citizens of Serbia, who when entering Kosovo will be provided with a declaration sheet that temporarily replaces the use of official identification documents. Serbia has been issuing such a document for citizens of Kosovo for 11 years. On July 31, 2022 local Serbs blocked the roads leading to the two border crossings - Jarinje and Bërnjak - that connect Kosovo and Serbia, as a sign of dissatisfaction with the two decisions of the Government of Kosovo regarding Serbian license plates and documents. On the 18<sup>th</sup> of July 2022, prime minister Kurti and president Vucic met in Brussels under the auspices of the EU, in which no agreement was reached.<sup>34</sup> However, after a series of meetings between EU representative Lajčák and US Department of State representative, Gabriel Escobar with the leaders of Kosovo and Serbia, a deal was reached. "Under the EU facilitate dialogue, Serbia agreed to abolish entry/exit documents for Kosovo ID holders, and Kosovo agreed to not introduce them for Serbian ID holders." EUSSR Josep Borrell, tweeted. The recent instability has raised many eye brows in EU and in US in advancing the dialogue and preserve new crisis.

A third principle that Kosovo follows in the dialogue is that nothing can be included in the final agreement which calls into question either the territorial integrity of Kosovo, the functionality of the government, or its sovereignty.<sup>35</sup> This principle goes back to the Contact group ministers<sup>36</sup> roadmap on the status of Kosovo which entailed that there is no division of the territory, that there is no union of the territory of Kosovo with another territory, and that there is no territorial autonomy within Kosovo.<sup>37</sup> Our interviewees argue that the consistency in preserving these principles has borne fruit in securing Kosovo a better position. Whilst Kosovo is proactive and ready for the talks, now it is Belgrade which is reluctant to return to the negotiation table.

Fourth, Kosovo has refused any attempt to accept the formation of the Association of Serbian Municipalities (ASM) in spite of public pressure from the EU representatives.<sup>38</sup> The infamous agreement of ASM has served as a scapegoat both parties and for the Serbian side to cancel the meetings in the past, and uphold pressure on the Kosovo side to implement the agreement. Similarly, EU HR/VP Borrell has continued pressure on Kosovo<sup>39</sup>, insisting on the ASM to be implemented, while ignoring the considerable number of agreements that have not been implemented by Serbia. At this point, this seriously harms the EU's credibility as a neutral facilitator.

While considered as a more important agreement than others for the EUSR and Serbia, for Kosovo the ASM is one of the 33 agreements, therefore there is no ranking according to priorities or importance, and marking one of them means subjectivity.<sup>40</sup> Another barrier in implementing this agreement is the Constitutional Court decision<sup>41</sup> which finds that 23 parts of the ASM are not in the harmony with the Constitution of Kosovo. "We are concerned that as long

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<sup>34</sup> 2022. Borrell: Kosovo-Serbia agreement on documents is reached. Kallxo.com. Available at: <https://kallxo.com/lajm/borrell-arrihet-marreshja-kosove-serbi-per-dokumentet/>

<sup>35</sup> Ibid

<sup>36</sup> 2007. Statement on Kosovo by Contact group ministers. Government of the United Kingdom. Available at: <https://reliefweb.int/report/serbia/statement-kosovo-contact-group-ministers>

<sup>37</sup> Interview with a scholar of Kosovo – Serbia relations, June 10, 2022.

<sup>38</sup> Wouter Zweers & Myrthe de Boom. 2021. Overcoming EU dividing lines in the Belgrade – Pristina dialogue. The Clingendael Institute. Available at: <https://www.clingendael.org/publication/overcoming-eu-dividing-lines-belgrade-pristina-dialogue>

<sup>39</sup> 2021. EU-Kosovo: Press remarks by High Representative Josep Borrell after the Stabilisation and Association Council. [European Union External Action](https://www.eeas.europa.eu/eeas/eu-kosovo-press-remarks-high-representative-josep-borrell-after-stabilisation-and-association_en). Available at: [https://www.eeas.europa.eu/eeas/eu-kosovo-press-remarks-high-representative-josep-borrell-after-stabilisation-and-association\\_en](https://www.eeas.europa.eu/eeas/eu-kosovo-press-remarks-high-representative-josep-borrell-after-stabilisation-and-association_en)

<sup>40</sup> Interview with the chief negotiator of Kosovo in the EU facilitated dialogue, Mr. Besnik Bislimi, July 8 2022.

<sup>41</sup> Constitutional Court of Kosovo. Verdict on the case no. K043/19. [online], Available at: [https://gjkks.org/wp-content/uploads/2019/06/ko\\_43\\_19\\_agj\\_shq.pdf](https://gjkks.org/wp-content/uploads/2019/06/ko_43_19_agj_shq.pdf)

as the Association is seen as a non-governmental organization, it is pointless to request its establishment by the Government”, said Mr. Bislimi. Yet again, the Kurti government implements the principle of reciprocity in the case of the ASM, stating that Kosovo could take as example the model of minority rights that Serbia follows, and the same could be implemented in the case of the ASM and this was proposed in the meeting between Kurti and Vucic. Furthermore, the Kurti government is determined to not negotiate anything that goes beyond the framework of the Ahtisaari plan and beyond the frameworks that EU mechanisms and the Council of Europe include for minorities.<sup>42</sup> Furthermore, it is important to note that a management group to draft the statute of the ASM has been established in 2018 in the time of Haradinaj government. “This management team had four members, all from the Serbian community. The agreement was that by August 2018, this mechanism would submit a draft of the statute to ASM, which then, when it receives the green light from the Ministry of Administration and Local Governance, can be moved for final discussion in Brussels.<sup>43</sup> What has happened in the meantime is that immediately after the establishment of this management group, Serbia has promoted the chairman of the management group to Member of the Parliament in the Serbian parliament. Hence this management group neither within the deadline nor until today has never proposed any draft.<sup>44</sup> Situated in this position, also the current government has been reluctant in proposing any statute or proposal for the ASM apart from the models stated above in the paper. However, the chief negotiator of Kosovo admitted that Kosovo’s government would be ready to discuss about the structure of the ASM at that moment when there is mutual recognition from everyone in the region, and at that moment when it is agreed that the mechanism that will be created does not have any executive powers.<sup>45</sup>

On the other hand, Serbia as a negotiation party has publicly advocated that it would not agree with any ASM that does not entail executive powers. It thereby argued that an ASM without the executive competences does not serve the Serb’s minority rights. In this stalemate, a principle that could be followed and which was somewhat agreed in 2020 is the ‘nothing is agreed until everything is agreed’ principle. The principle could be employed in the Kosovo-Serbia talks in order to secure a big picture negotiation, where the main issues and disputes could be addressed. The dialogue has been characterized by delays in the implementation of agreements or no implementation at all, and episodes of blockades.<sup>46</sup> Considering the talks’ ten-year trajectory, discussing the statute and implementation of ASM should happen only by respecting the mantra ‘nothing is agreed until everything is agreed.’ It is worth pointing out that Serbia is more pleased with the status quo, and any assurance that the ASM will be implemented and endorsed with executive powers would undermine Kosovo’s position in the dialogue, consequently paralyzing its domestic political structures.

It is evidential that monoethnic models in Kosovo in particular, and in Balkans in general could prove dangerous and instable. Maintaining the multiethnic order in Kosovo remains imperative in securing the minority rights and ensuring an enduring peace. Indeed, a multiethnic Kosovo was an international investment. Thus, proposing and supporting any other model that hinders the multiethnic society in Kosovo is against the principles of the European Union itself

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<sup>42</sup> Interview with the chief negotiator of Kosovo in the EU facilitated dialogue, Mr. Besnik Bislimi, July 8, 2022.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Estes Perez, A & Fetahu, A .2020. International competition and geopolitical stakes in the framework of the resumption of the Kosovo-Serbia Dialogue. Group for Legal and Political Studies, [online]. Available at: <https://bit.ly/3BxYPQ7>

and against the civic model of the state. Territorial autonomy based on the ethnic lines could spur into conflicts in the future, the instability in Bosnia and Herzegovina is one of the examples to be taken into consideration.<sup>47</sup> Our research indicates that despite the ebbs and flows Kosovo proved active in the dialogue and it cannot be suggested that it neglected to deal with the process. The parts above reinforce that apart from being an international requirement, the Dialogue is a state responsibility. The normalization of relations with Serbia, with unreserved legal recognition and the establishment of diplomatic relations, is the final goal of Kosovo's institutions for strengthening the country's own statehood.

## **CONCLUDING REMARKS**

For more than a decade, the Kosovo-Serbia dialogue has shown instability and ambiguity in all spheres throughout its trajectory. This policy brief provided an analysis of topics and the issues pertaining to the EU facilitated dialogue, and an examination of the current Kosovo's government position on the process. First, the process was characterized by the so called 'constructive ambiguity' from the EU which exhausted itself and was not able to break a deal. The rigid positions of both negotiation parties and the failure of the EU to create incentives for substantial progress has hindered the process, which then caused periods of impasse. In addition, we can derive the conclusions that the scenarios such as border corrections between Kosovo and Serbia alongside with the trans-Atlantic discord between the EU and the US from 2018 to 2020, has raised the question of who the official mediator is, consequently causing a chaotic environment in the process. In regard to Kosovo's position, the domestic political instability has often impacted the consistency in the talks, and the content in terms of the topics and agenda.

Secondly, in evaluating Kurti's approach we can derive the conclusion that Kosovo has been proactive in the process and actively engaged on the issues pertaining to the dialogue. Arguably, there is a new discourse from Kurti's government which recognizes the utmost importance of the dialogue with Serbia, yet a narrative shift is being constructed which separates the statehood of Kosovo from the dialogue. Our research also suggests that Kurti's position in the dialogue is a principled one, which in turn has proved effective on the issue of the license plates and ID cards for instance, yet in other occasions has been seen with skepticism from the EU, especially on the issue of the ASM.

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<sup>47</sup> Interview with a scholar of Kosovo – Serbia relations, June 10, 2022.

### **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.



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