

THE POLITICS OF DIALOGUE: HOW THE EU CAN CHANGE THE CONVERSATION IN KOSOVO AND SERBIA

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SUMMARY

- The EU is concerned at rising tensions in the north of Kosovo and the prospect of Russian interference in disputes between Kosovo and Serbia.
- To address this, the EU drew up a new proposal for engagement between Kosovo and Serbia, which the two sides have agreed to.
- The agreement makes some progress on the unresolved question of mutual recognition but is not yet a roadmap to full normalisation.
- Tepid EU efforts to enable Western Balkans states to advance Euro-Atlantic ambitions are part of the reason for the unresolved issues in northern Kosovo.
- The EU can transform this dynamic by setting out clearer prospects for accession for both Kosovo and Serbia.

Introduction

In September 2021 a political crisis erupted in northern Kosovo. The government in Pristina had decided to implement the provisions of an agreement on identification cards and car licence plates, which inhabitants of northern Kosovo – mainly Serbs – were against. Serbs in the north complained that they were not informed in a timely manner; that the government had not communicated the changes; [1] or that they were simply not willing to give up their Serbian ID cards and licence plates. As a result, some Kosovar Serbs set up roadblocks at two border crossings. But the dispute did not stay confined to Kosovo, as President Aleksandar Vucic of Serbia ordered the Serbian army to move closer to the border. He even flew MiG jets over Kosovo's airspace. Serbia's defence minister visited the border area to inspect army units – and thereby emphasise their presence. He was accompanied by the Russian ambassador, in a signal of Russia's backing for Serbia's moves.

Kosovo's authorities, led by the prime minister, Albin Kurti, responded that the rules and regulations of Kosovo should be respected in its entire territory. They argued that recent events endangered the constitutional order of the country.

Similar crises erupted in July and August 2022, and in November and December the same year – again, about ID cards and car licence plates. Following the Kosovo government's decision to enforce fines on residents who refused to give up their Belgrade-issued car licence plates in November 2022, members of the Serb community withdrew their participation in Kosovo institutions: police officers and court and municipal administration workers ceased to go in to work, as did members of parliament from Lista Srpska, a Kosovo Serb party strongly backed by Belgrade.

Kosovo represents the last of the deadly conflicts from the break-up of Yugoslavia in the 1990s. During that decade, Serbian repression of Albanians in Kosovo included armed attacks and aggression that, by 1999, had led to hundreds of thousands of Kosovar Albanians fleeing their homes to neighbouring countries while many hundreds of thousands were internally displaced. The West eventually intervened following the Recak massacre in January 1999 and after international efforts soon afterward failed to resolve the crisis. Subsequent NATO air strikes against Serbia lasted for 75 days, until Slobodan Milosevic signed the Kumanovo agreement that brought an end to the war.

After the NATO-led Kosovo Force entered Kosovo, many Serbs moved to the north of Kosovo or left altogether. Kosovar Albanians living in the north moved to the south of Kosovo due to security concerns and as a result of ethnic clashes. Within the space of a few years, the whole of the north of Kosovo became mainly inhabited by the Serbian community and had

developed its own forms of self-governance, some of which remain in place to this day. The Serbian government in Belgrade lent political and financial support to these parallel structures.

Finding a solution to the problems of the north of Kosovo remains the key to the full functioning of Kosovo as a sovereign country and to the promotion of regional security. In particular, resolving the lack of recognition between Kosovo and Serbia would enhance stability throughout the region, including by assisting the two countries on their journey towards membership of the European Union. Indeed, the EU has a major role to play by reinvigorating membership prospects for Kosovo and for other states in the Western Balkans.

EU and other Western policymakers are now looking with added urgency to settle the outstanding disagreements between Kosovo and Serbia – in part because of the recent flare-ups, but also because of the tautened security situation in Europe since Russia’s all-out invasion of Ukraine. This policy brief examines the EU’s most recent proposal for renewed talks between the two sides in the light of this range of issues. It considers what key players could do next to ensure the new process supports stability in the Western Balkans. The paper argues that the EU could most strongly influence the course of events by reinstating a clearer accession perspective for both Kosovo and Serbia.

The EU proposal

The tensions over ID cards and car number plates in 2021 and 2022 led the EU to look more concertedly for ways to resolve such problems between Kosovo and Serbia. The EU’s response was to table a new proposal for engagement.

This proposal is the latest step in a longstanding formal dialogue process that has been in place since 2011 and that is overseen by the EU. That process aims to normalise relations between Kosovo and Serbia, but over the years had made no significant advances towards this outcome. Meanwhile, the dramatically changed security context in Europe following Russia’s invasion of Ukraine in February 2022 caused EU policymakers to fear that Moscow would use its relationships in the Western Balkans to create instability there, especially in the fragile north of Kosovo. Sources suggest that the EU wanted to establish a framework in which the parties could discuss both longstanding issues, such as the integration of Kosovo Serbs into Kosovo institutions, and newer ones, such as a commitment from each side to use only peaceful means to resolve disputes. This framework would allow them to iron such problems out, with the parties eventually moving on to conclude a final legally binding agreement of mutual recognition.^[2]

As a result, during 2022 EU officials worked on a draft of a proposal whose goal was to enable Kosovo and Serbia to resolve their differences. They did so with the backing of the United States, which supports the EU and NATO as lead partners in the region; the US also made bilateral efforts to usher both Kosovo and Serbia towards agreeing to take part in the new proposed framework. The draft was initially dubbed the “Franco-German proposal,” as President Emmanuel Macron and Chancellor Olaf Scholz had both expressed their political support for the plan. It is now generally referred to the “EU proposal”.

Key provisions of the proposal

The EU officially presented its proposal to the parties on two occasions: in September 2022 and January 2023. Kosovo and Serbia agreed on a final text for the proposal in February 2023, and it is now named “Agreement on the path to normalisation between Kosovo and Serbia”. The next scheduled step is for the parties to meet to discuss a roadmap to implement the agreement.

Peace and security

The agreement’s preamble reflects the influence of the political and security context in Europe since February 2022. For example, it commits the parties to consciously and responsibly preserve the peace and “contribute to fruitful regional co-operation and security in Europe and to overcome the legacy of the past”. The text furthermore stresses that “the inviolability of frontiers and respect for territorial integrity and sovereignty and the protection of national minorities are a basic condition for peace.” This provision aims to dissuade the parties from taking actions similar to those that sparked tensions throughout 2021 and 2022, and to discourage them from resolving future disagreements through non-peaceful means.

Normalisation, mutual recognition, and EU membership

As its title suggests, the proposal’s ultimate goal is to help normalise relations between the two parties. It is explicit about this in the text, where it suggests the proposal will result in a “legally binding agreement on comprehensive normalization of ... relations”. In this regard, from the outset the parties appear in the text on equal footing, with the names of the countries used, as opposed to the use of the names of their capital cities, as was previously the case during talks (at Serbia’s request). The agreement contains elements of implicit recognition of each other’s statehood, such as where it states that each side will “mutually

recognise their respective documents and national symbols, including passports, diplomas, licence plates, and customs stamps”. This provision will help Kosovo participate in regional initiatives led by the Regional Cooperation Council and the Berlin process, which are both backed by the EU, as Serbia ought now not to block this.

The proposal also formally states that the parties will support each other’s aspirations to become members of the EU, although the agreement makes no explicit mention of “mutual recognition”. In the past, key powers such as the US and Germany have made explicit mention of this as a prerequisite to accession, so in this regard the new proposal retreats from the previous language they supported. Instead, the document requires the parties not to “block, nor encourage others to block, the other party’s progress in their respective EU path based on their own merits”, but lacks clarity over whether one party can join the EU without recognising the other. The proposal fails to spell out that neither party can join the EU without full de jure recognition of the other. This potentially represents a significant backward step in relation to the overall goal of normalisation; it could mean in particular that its implementation by both sides will not make much contribution to advancing accession.

Reconciliation

Elsewhere, the agreement omits any mention of reconciliation or of otherwise dealing with the past. Such a process is crucial to the normalisation of relations between the parties given the conflict of 1999. While the agreement lacks any direct and short-term incentives for the parties, it envisages the establishment of “special investment and financial package for joint projects”, under whose rubric reconciliation efforts could take place.

Local self-management

The question of local governance for Kosovo Serbs is also a fraught one, and on this question the agreement asks the parties to commit to guaranteeing “an appropriate level of self-management for the Serbian community in Kosovo”, as well as stipulating the formalisation of the status of the Serbian Orthodox Church in Kosovo. A law on local self-government in Kosovo already allows municipalities to self-manage and self-govern in various aspects. But this area is likely to form part of more detailed discussions relating to the implementation roadmap the parties are now embarking on. How Serb-majority municipalities are represented is a crucial matter the two sides are still to agree on.

Membership of international organisations

Finally, the proposal commits Serbia to refrain from blocking Kosovo’s membership of

international organisations and specifies that both parties should commit to implementing all past agreements made between them. But both these points go into little detail beyond this, which could provide ample room for flashpoints to appear in forthcoming discussions about implementing the agreement.

It is also worth remarking on the way in which the process of drafting the EU proposal has been marred by a lack of inclusivity and ownership. Vucic has criticised the “take it or leave it” approach of EU facilitators, while Kurti has chafed at the binds of confidentiality placed on him while discussions took place. If those whom the proposal is supposed to serve are excluded from the drafting process, implementation is likely to prove tricky. EU policymakers were likely motivated to move at pace – and to insulate the process from potential Russian influence – but this remains a legacy that could impact on future stages of the dialogue.

In sum, the agreement’s provisions provide a solid basis for the parties to resolve outstanding differences between them and move towards EU accession. This is not least as all 27 EU member states endorsed the proposal at the last European Council meeting. This sends a strong signal that the bloc will support normalisation efforts between Kosovo and Serbia and that full EU membership is on the table. However, numerous issues remain unresolved or are prone to becoming future focal points of disagreement.

Challenges to normalisation

The Brussels Agreement and its legacy

For the last decade, the “Brussels process” has served as the resolution framework for outstanding issues between Kosovo and Serbia; it is often simply known as “the dialogue”. Its origins began in 2011 as a technical format, with numerous agreements reached early on in areas such as cadastre records, freedom of movement, and integrated border management. Issues relating to disputes in northern Kosovo were largely left unaddressed, at least directly.

In 2013, Kosovo and Serbia concluded the “Brussels first agreement on principles governing the normalization of relations”. The centrepiece of this agreement was to find a mutually acceptable solution to the disputed territory in the north of Kosovo – and this was the basis of the Brussels process.

The agreement was underpinned by guiding principles such as bringing the parties closer to the EU, but it did not oblige either side to take a position on the question of recognition. It was also this agreement that stipulated the establishment of an association of Serb-majority municipalities (ASM). This would be an organisation grouping together the Serb-majority

municipalities in Kosovo. However, a subsequent ruling by Kosovo's constitutional court found an agreed roadmap to set up an ASM to be partially unconstitutional. The ASM therefore remains unestablished.

Kurti has criticised the creation of the ASM, arguing that it will give Serbia undue influence in Kosovo. In general, the concern in Kosovo among the Kosovar Albanian public at large, within civil society and in political parties, is that the Serb community already enjoys extensive rights. Under the country's constitution, 20 seats in parliament are set aside for Serbian and other minority communities, while one government ministerial position is reserved for a Kosovar Serb.

The dialogue has taken place continuously since its inception, although there is little concrete to show for it. Previous agreements reached as part of the process were signed between 2011 and 2018 covering issues such as the aforementioned car licence plates or questions relating to energy, but not all parts of these agreements were implemented. Throughout the period of the Brussels process, Kosovar Albanians (political leaders and civil society alike) have regularly argued that Serbia has obstructed efforts to conclude new agreements under the dialogue; that it is part of the process but using its presence to slow things down. As one civil society representative put it, "the impression is that by repeatedly asking for extensions and postponements and irrelevant amendments to previously agreed upon drafts, Serbia is 'creating obstruction through participation.'" [3] Under the facilitation of the EU's special representative, Miroslav Lajcak, since early 2020 the parties have worked to find ways to implement these agreements. But, with nothing forthcoming, the most recent EU proposal is effectively the latest stage in the dialogue process.

On the Serbian side, Vucic has engaged in the dialogue, but his actions suggest he has always sought to retain effective control over the north of Kosovo. For example, as part of the 2013 Brussels agreement, Serbia agreed to partially dismantle parallel structures in Kosovo municipalities. But at the same time, with Vucic's backing, the Lista Srpska political party was formed, which since that time has monopolised the political sphere of the Serb community in Kosovo. At the last election, Lista Srpska won 90-99 per cent of the vote in all ten Serb majority municipalities. According to the EU election observation mission, "the elections in the municipalities with Kosovo-Serb majority were monopolised by SL which limited voters' choice."

In Serbia itself, democratic backsliding in recent years has impacted on Serbian public opinion, which is a key dynamic in the process. Public discourse around Kosovo has become highly militarised in terms of language and tone, and levels of political hate speech have increased dramatically. Vucic himself has publicly attacked Kurti and Kosovar Serbs who

cooperate with the government in Pristina. Other political leaders in Serbia also sound more like they are preparing the population for conflict than for compromise.

After the EU shared its proposal with Vucic in January 2023, the Serbian president gave a lengthy televised address in which he said he may accept the new EU proposal but that he retained reservations. His position is that any new agreements will lack credibility if key provisions of past agreements remain unimplemented, the creation of the ASM above all. In the address Vucic also reiterated his past success in blocking Kosovo's membership of the UN, stated he will not recognise Kosovo as part of the EU proposal, and reminded viewers he would propose no changes to Serbia's constitution – a reference to its claim that Kosovo is part of Serbia. Vucic repeated the same messages following the high-level meeting of the parties in Brussels on 27 February.

The identities of the two countries' leaders have also influenced the process. Kurti was a student activist who was once a political prisoner in Serbia under Slobodan Milosevic; Vucic was Milosevic's information minister. In the Serbian parliament in January 2023 – shortly after he was first presented with the EU proposal – Vucic held up a list containing the names of political prisoners released from Serbian prisons in 2001 – which included Kurti – denouncing those who made the decision to let them go. Kurti became prime minister in 2021; the difficult relationship between the two leaders may also have been a factor leading EU policymakers to conclude they needed a new approach.

Despite the travails of the dialogue, the current moment is favourable for the EU to persuade the parties to agree a lasting solution. The EU and the US are paying particular attention at the present time, while Kosovo and Serbia are governed by strong and stable leaderships that possess the freedom of manoeuvre to make historically difficult decisions.

The lack of EU perspective

So long as Kosovo and Serbia remain locked in dispute, neither can join the EU. This hinders not only regional cooperation but also the enlargement process for the Western Balkans more generally. At its Thessaloniki summit back in 2003, the EU raised expectations in Western Balkans states about their chances of accession, only to dial down its intensive engagement after Croatia joined in 2013. Recently, observers had hoped that the French presidency of the European Council in 2022 would give a boost to the enlargement process, as, at least on paper, the Western Balkans and their EU perspective were among the presidency's stated priorities. However, such hopes have largely been dashed. In a speech delivered in Prague in August 2022, Scholz emphasised his commitment to the enlargement of the EU to include countries of Western Balkans. But five EU member states – Cyprus, Greece, Romania, Slovakia, and Spain

– do not recognise Kosovo, which remains an obstacle to membership.

Importantly, the perspective of European integration has long ceased to be a powerful incentive to candidate countries. Over the past decade, any notion of joining the EU has shifted from credible prospect to distant hope for both Kosovo and Serbia. In Kosovo, the EU perspective is the only common vision that can push the dialogue ahead by shifting the focus from historical questions and cultural and ethnic disputes to a shared – with Serbia – future of prosperity based on EU values of compromise and cooperation. As noted, the new EU agreement sets out no clear offer or incentive to the parties on this issue.

The role of Russia

For much of the last decade Russia has worked to undermine the effective functioning of the EU and sought to oppose NATO enlargement. Western Balkans countries in this respect have been a fertile ground for Russian interference, as seen with a Russian-supported attempted coup in Montenegro in 2016 and similar activities in North Macedonia the following year.

Serbia is a longstanding ally of Russia but the two countries have considerably strengthened their relations in the political, military, energy, and religious domains. This is especially the case since Vucic came to power in 2012. Serbia has maintained this relationship with Russia to help it achieve its key foreign policy goals, paramount among which is to stymie Kosovo's independence, recognition by other countries, and entry into international organisations such as the United Nations. Russia is a crucial ally in this regard because of its veto power in such organisations.

This dynamic has also impacted on the lack of a proper EU membership perspective for the region. Serbia is an EU candidate country, and its association and stabilisation agreement requires it to align its foreign policy to that of EU. Serbia has failed to do this by declining to impose sanctions on Russia, it but has felt no consequences from the EU to speak of in this regard; and Serbian leaders now use the stalled accession process to attack the bloc. Serbia has made effective use of this time also to strengthen relations with China, which creates a vicious cycle whereby EU leaders distrust Serbia as a prospective future member, while the lack of EU perspective harms the bloc's reputation in Serbia. The new EU agreement may be one step towards restarting the long process towards membership, but it is so far just one piece of paper among myriad conflicting problems weighing against progress.

Conclusion

The EU has an opportunity – perhaps greater than in some years – to facilitate improved

relations between Kosovo and Serbia. It can support regional stability and demonstrate its credentials as a sovereign and geopolitical actor in its neighbourhood. To do this, the EU should become more active in the region by offering a clear vision for the Western Balkans. It can do this by engaging more with national publics as well as with politicians, and by taking this chance to communicate directly the support it offers to individual countries. The experience of Russia's war on Ukraine shows that it is possible for the EU to reach consensus on issues of political importance for it, if the political will is there. EU leaders should work to muster the same unity for the Western Balkans.

However, the EU agreement risks still offering too little to each side. To address this, the EU should offer Kosovo some guarantees that its five non-recognising member states will come on board. The EU itself could recognise Kosovo, which would help strengthen Kosovo's sovereignty and territorial integrity. The member states could also demonstrate their political commitment to the issue by showing unity in this way.

For the public in Kosovo to support the EU proposal and its implementation, guarantees will be necessary that Serbia will cease to behave destructively towards Kosovo and stop inciting the Serb community to disregard Kosovo authorities and institutions. These guarantees can come from working with Serbia to implement the proposal in full. For their part, the Kosovo leadership, the presidency, the parliament, and the government will have to engage in proper consultation process with one another and with the public to explain the benefits of the EU proposal and the need for its swift implementation. This will also pertain to fulfilling constitutional provisions regarding the Serb community in full, such as intermunicipal cooperation.

At the same time, the Kosovo government will have to engage sincerely in a dialogue with the Serb community in Kosovo to understand their needs and fears. It should explain that security and democratic guarantees will be provided on an equal basis to all communities in Kosovo. Alongside this, the Kosovo Serb community through their elected representatives will have to commit to respecting the constitutional order of the Republic of Kosovo. The first step in this direction would be for all actors, including the EU and the US, to help Kosovo Serb leaders fully participate in Kosovo institutions and engage other Kosovo Serbs in democratic mechanisms to resolve these issues. The EU and the US should support Kosovo to implement mechanisms for self-management for the Serb community in Kosovo, once these are eventually agreed. In close cooperation with Kosovo Serbs, Kosovo institutions should work to fully insulate these mechanisms from political interference coming from Serbia.

Under the EU proposal's provision for a special investment and financial support package, the two sides should set up a joint project to focus on reconciliation. The first step could be to set

up an Albanian-Serbian institute, led by Kosovar Albanians and Serbs in Serbia, similar to that which promoted Franco-German reconciliation after the end of the second world war. Dealing with the past in Serbia will also help Serbian society consolidate democracy.

Serbia under Vucic will not democratise easily and it will continue to hedge between the West, Russia, and China. Real peace will require change in Serbia, although little of this is directly in the gift of EU policymakers. Still, one of the most important steps would be to see improved rhetoric around the dialogue process and around the importance of achieving good neighbourly relations with Kosovo. More civilised and open discussion will be key to influencing public attitudes towards normalisation. In Serbia, the government-controlled media universe will need to entirely transform its current message. Such change is possible: since Russia's full-scale invasion of Ukraine, Serbian government tabloids have significantly modified their usual output, adopting more moderate tones both in praising Vladimir Putin and attacking the West. Were such outlets to follow a similar approach when it comes to the dialogue process, it would go a long way towards reducing tensions. It would in turn allow stakeholders to use more moderate tones without being demonised in the face of public opinion. This would help the pro-EU opposition in Serbia take a bolder stance on issues related to the dialogue process and positively contribute to shaping the national debate, bringing alternative – possibly more moderate – positions to the table.

The EU and the US can help in this by making clear statements to the effect that any future Euro-Atlantic integration for Serbia will only take place after Belgrade ceases to make territorial claims on its neighbours and once it reconciles with all states in the Western Balkans.

The EU should also emphasise accession to Serbia by setting out a clear path for the country to join. Vucic may agree to continue to engage with the EU proposal if there is some form of compensation – such as speedy EU entry or some significant financial support. Both of these issues are likely to be wrangled over: EU member states are currently unlikely to accord Serbia a quick accession process while concerns remain about the rule of law, corruption, and links between organised crime and the state, as well as unhappiness with Serbia's reluctance to align its foreign policy with that of the EU. But such factors may form part of an overall package.

The wars in the Western Balkans ended more than 20 years ago. But peace is still far from guaranteed for the region. Its countries have been promised EU membership multiple times since the 2003 Thessaloniki summit; six states remain outside the bloc. The reasons for this are many and varied but waning interest and commitment in Brussels is part of the reason. Yet this factor lies firmly within EU policymakers' control. They could reinvigorate the

dialogue process by sending clearer signals that Kosovo will have a path to membership if it pursues the provisions contained in the EU agreement. They can also invite Serbia to engage by improving its prospects of membership. EU leaders can communicate directly to the Serbian public to ensure they understand that their future in the EU is intimately connected to the ways in which their leaders handle the prospects for normalisation with Kosovo.

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[1] Sequence of dialogue workshops held under the Chatham House rule as part of the Supporting the Kosovo-Serbia Dialogue project led by the European Council on Foreign Relations.

[2] Author's conversations with various officials part of the Kosovo-Serbia dialogue process.

[3] Sequence of dialogue workshops held under the Chatham House rule as part of the Supporting the Kosovo-Serbia Dialogue project led by ECFR.

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