

THE PATH TO RECOGNITION: KOSOVO'S AND SERBIA'S EVOLVING DIALOGUE

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SUMMARY

- The EU-sponsored dialogue between Kosovo and Serbia is entering a critical phase: it is unclear whether the parties will agree on a new agenda or continue to discuss old issues.
- Kosovo Prime Minister Albin Kurti aims to set a new agenda for the dialogue and to place Kosovo on an equal footing with Serbia.
- The solution to the dispute between Kosovo and Serbia should be to create a societal consensus on both sides of the border.
- Kurti prefers not to prioritise the dialogue, but it is not in his interest to delay it – as this would only benefit Serbian President Aleksandar Vucic.
- Kosovo's leadership should take greater responsibility for the Kosovo Serb community and provide services in areas such as healthcare and education, which are currently in the hands of the so-called 'parallel structures'.
- The leadership should avoid linking this provision of services to any future Serbian concessions on Kosovo's status.
- An internal dialogue would be the best way to address contentious, politicised issues such as the status of the Serbian Orthodox Church in Kosovo.

Introduction

Vessela Tcherneva

The EU-sponsored dialogue between Pristina and Belgrade is entering a critical phase. The two parties in the negotiation will have to agree on whether they want to stick to the established dialogue agenda or redefine it. The new prime minister of Kosovo, Albin Kurti, seemingly aims to not only change the tone of the talks – stating that “Kosovars should be treated as equals by the Serbs” – but also to question their substance. Paradoxically, this may be exactly what Belgrade was hoping for. As Serbian President Aleksandar Vucic sees it, Kosovo’s questioning of, or failure to implement, measures the sides have already agreed on is evidence of its lack of maturity and reliability – and he is not shy about pointing out that the other side is to blame. In reality, as Vucic recently stated, Serbia’s current leadership does not intend to ever recognise Kosovo, even at the end of successful negotiations.

The short essays in this collection provide insights into the problems of, but also the opportunities for, the dialogue from Kosovo Albanian and Serbian viewpoints – the latter including writers from both northern Kosovo and from Serbia.

Both Fisnik Korenica and Igor Bandovic ask, from their own perspectives: ‘how is living together possible?’ And they discuss what a modern leader can and should do to achieve this, and to create a national consensus around the goal. In the modern history of the Balkans, many politicians have chosen the easier path of using symbolic politics based on their neighbours’ humiliation. Politics based on human and minority rights, on multiethnicity and joint economic progress, is more difficult than greater nationalistic ideals. Ultimately, this is the fine line between peace and war.

However, as Harry Truman famously said, the absence of war is not peace. What are the pieces that Kosovo and Serbia need to fit together to construct a peaceful, durable coexistence that goes beyond acknowledging each other’s presence? For Jovana Radosavljevic, the necessary ingredient is for the Kosovo state to take greater responsibility for its Serb citizens – by taking over socially vital areas such as healthcare and education, which are currently dealt with by the so-called ‘parallel structures’. Reframing those issues as an opportunity rather than a burden can create more space for Pristina to negotiate the implementation of the Association of Serb-majority Municipalities (ASM), instead of widening divisions through the lack of progress on the ASM. In the long term, stronger ties with the central government in Pristina is probably the best way of avoiding a Republika Srpska scenario for northern Kosovo.

Shpetim Gashi agrees with Radosavljevic on this point: Pristina should not link its concessions to Kosovo Serbs to Serbia's concessions on Kosovo's status. The background of this issue is, of course, the unpopularity of the ASM among Kosovo Albanians, plus the rivalry between Kosovo's ethnic groups. For Pristina, Kosovo Serbs' overreliance on Belgrade is the ultimate roadblock. This suggests that engaging with them in the dialogue may actually help break the vicious cycle in the negotiations.

Zooming in even more, the European Council on Foreign Relations' Engjellushe Morina and the University of Belgrade's Jelena Loncar discuss religious heritage as a major point of argument between the two parties. The two authors agree that the issue has been reduced to a tool in the political dispute – one that keeps international actors permanently engaged through UNESCO and other organisations. Here, again, the role of symbolic politics seems to be greater than that of practical solutions, such as in the use of the Implementation and Monitoring Council, an existing mechanism stipulated by the Ahtisaari Plan.

In this tense situation for the dialogue, the European Union is still looking to make small steps on reconciliation and minority rights. Unlike in recent years, Brussels is visibly receiving support from Washington, as the joint Lajcak-Palmer visit to the region in June 2021 demonstrated. This essay collection offers some suggestions for that process – and, to paraphrase Dusan Vasiljev, as quoted by Bandovic in his essay, all the rest is for the societies concerned.

Lessons for the Kurti government in the Kosovo-Serbia dialogue

Fisnik Korenica

The participants in the Kosovo-Serbia dialogue have tried almost everything to make it succeed – but, so far, nothing has worked. While leaders in both countries have publicly expressed their readiness to resume the dialogue, Kosovo Prime Minister Albin Kurti still wonders whether he can find a way to avoid this intricate – and, in his view, meddlesome – process. But Kosovo should not reject dialogue with Serbia. The only people to benefit from this would be Serbian President Aleksandar Vucic and other nationalists, who are trying to convince Western countries that Kosovo has no interest in normalising its relationship with Serbia.

Therefore, Kosovo should continue the dialogue with Serbia on the condition that their talks embrace the values of liberal international order, particularly the protection of human rights. The countries should aim to reconcile by acknowledging the consequences of the conflict and providing justice to its victims, and by recognising that a sustainable peace process in the Balkans requires efforts to reduce Russian influence and forge stronger links with the West. There are several lessons that Kurti's government needs to learn if it is to develop a more resilient and informed approach to the dialogue.

A clear negotiating position

Previous governments in Kosovo have had a blurred vision of the dialogue's content, expectations, and strategies. And, most importantly, they have failed to keep Serbia under constant pressure for undermining the dialogue. Kurti needs to clarify his stance on what Kosovo can offer to, and will not accept from, Serbia – and on the broader terms of the negotiations.

Kosovo's political leaders should have a clear position on at least three issues, if they are to prevent the dialogue from continuing to be an unstable process built on impulsive responses – as it was under the previous government. One issue is how Kosovo should respond if the dialogue stalls and Serbia re-engages in massive de-recognition efforts. Another is whether there are red lines for Kosovo in responding to its Western allies' requests for concessions to Serbia. Yet another is whether, if the dialogue fails, Kosovo has an alternative to its Western allies' support for its international state-building process.

There are several other substantive issues on which Kurti needs to define his position before Kosovo

proceeds to the next stage of the dialogue. Firstly: the country's approach to the technical and political agreements the dialogue has already produced (including those related to the Association of Serb-majority Municipalities). Secondly: the inter-state topics that Kurti claims are the only thing Kosovo can discuss with Serbia. These presumably include foreign debt, post-secession archives of official documents, missing persons, justice for war crimes, freedom of establishment, trade, and the movement of people between countries – but presumably exclude the status of the Serbian community in Kosovo, the financing of healthcare services and education in Serbian-controlled institutions in northern Kosovo, and the Serbian List's independence from Belgrade. Thirdly: whether Kosovo requires recognition from Serbia to join international organisations or pursue European integration. And finally: whether Kosovo will refuse to negotiate on topics such as the prospect of unification with Albania or other territorial changes as a part of a final agreement with Serbia.

Once Kurti has clarified his position on all these issues, he should start to coordinate with Kosovo's Western allies – with a view to completing the negotiating process. Ultimately, Kurti and his team need such clarity for themselves first, before communicating their ideas to their foreign partners.

Achievable promises

Kosovo has long struggled to fulfil the commitments it makes in the dialogue. As such, Kurti should only negotiate on courses of action that he can uphold internally. He still tends to portray every aspect of the negotiations with Serbia as sinister. And he will have to deal with the legacy of the strategy that his party, Vetevendosje, implemented while in opposition.

Kurti needs to commit to building a national consensus on the dialogue among influential figures in Kosovo – or else face the same fate as the previous four governments, which became preoccupied with domestic disputes on the dialogue with Serbia. He should start by convincing leaders of all parties that a consensus not only is possible but would be beneficial to the final outcome of the negotiations. This primarily means giving all these leaders a substantive role in deciding on the principles and strategy that guide Kosovo's approach to the talks (even if the prime minister himself remains the formal representative of Kosovo in this process, in line with the constitution). It also means sharing the costs and benefits of the talks' outcome with the opposition, partly by avoiding a personality-orientated approach to negotiation. Accordingly, Kurti should not pretend that the huge victory his party secured in the February 2021 parliamentary election gives him a mandate to conduct the talks without input from his domestic political rivals.

Close cooperation with foreign partners

Kurti has occasionally adopted a confrontational attitude towards the international community. Although he has recently moderated this approach, he continues to be uncompromising on issues that he considers important to Kosovo's sovereignty. For instance, he insists on treating non-majority communities as a minority and on reiterating that, because Kosovo made more painful concessions under the Ahtisaari Plan, his country has nothing more to offer.

Foreign diplomats often disapprove of this attitude, primarily because they recognise that governments need to be more flexible and less assertive if they are to succeed at the negotiating table. While Kurti's stance on these sovereignty issues is legitimate, he should understand that a monologue can end in isolation. Kosovo needs to cooperate with its Western partners, given that the only way Serbia will recognise the country is if the European Union and the United States pressure it to do so. And NATO's presence in Kosovo is crucial to protecting Kosovo from both threats to its territorial integrity and the kind of Russian influence prevalent in Ukraine.

Therefore, Kurti should walk alongside Kosovo's partners in the dialogue. He needs to inform them of his strategy and, most importantly, work to ensure that they sustain their support for Kosovo in the long run. Any strategy that neglects these factors would expose Kosovo to a threat it could not address alone.

Conditioned transparency

Almost every member of Vetevendosje seems to have complained about the lack of transparency in the dialogue. But transparency does not equal accountability. A leader may be accountable to a constituency on foreign policy without being transparent at every stage of a negotiation. Kosovo's international partners would not accept complete and immediate transparency on all aspects of the negotiations, as this could derail the process. This is standard diplomatic practice in any international forum. The prime minister should not imperil the negotiations by making his strategies or proposals public before he has discussed them with his Western partners.

An inclusive domestic dialogue

Finally, Kurti should set a good example by cooperating with non-majority communities through a domestic dialogue. Kosovo's leaders have long promoted the idea of such a dialogue, especially with the Serbian community, but have never tried it in practice. A common theme of the previous rounds

of negotiations between Kosovo and Serbia has been that almost everyone involved legitimised Belgrade's claim to represent the interests of the Serbian community in Kosovo. But, under the constitution, Kosovo's government is required to represent this community. Therefore, a domestic dialogue would help counterbalance the idea that only Serbia cares about Kosovo Serbs' fate.

Equally, by engaging in a dialogue with Serbs in Kosovo, Kurti would strengthen his image as a modern statesman who supports the tenets of liberal democracy, particularly in relation to human rights. This approach could convince the West that Serbia has no legitimate claim to negotiate on Kosovo's domestic issues. It would also convey the message that ethnic Serbs are valued and are treated fairly in the independent state of Kosovo, and that the government in Pristina is focused on improving their lives and including them in governance structures – as envisaged in Kosovo's constitution and the Ahtisaari Plan.

Kurti's leadership in the negotiations with Serbia will be an essential gauge of Kosovo's future, its European perspective, and its alliance with the West. Therefore, Kurti should exercise patience by listening to his political rivals, not sacrificing foreign policy interests to domestic ambitions, and protecting the interests of Kosovo in coordination with its allies. In this way, he can re-energise and eventually complete the Kosovo-Serbia dialogue.

Kosovo's ethnic divides

Igor Bandovic

I waded in blood up to my knees,
and I have no more dreams.
My sister sold herself,
and they cut my mother's grey hair.
But I in this sea of lechery and filth,
am not looking for prey;
oh, I long for air and milk,
and the dew of morning.
I am not sorry that I waded in blood up to my knees,
or that I have survived the red years of slaughter.
Yet because of this holy pilgrimage
ruin has been heaped upon me.
I am not looking for prey.
Give me only a handful of air,
and a taste of the white dew of morning –
All the rest is for you.

— An excerpt from 'A Man Sings After the War', by Serbian poet
Dusan Vasiljev, 1920. Interpreted by Kosovo Albanian actor Bekim
Fehmiu.

The Balkans wars seemed to end in victory for the ethnic principle – the idea that a country or territory is easiest to manage when one gets rid of other ethnic groups. Today, there are hardly any remaining multi-ethnic communities in the region. This is the case with Croatia and with Bosnia and Herzegovina – and could eventually be so with Kosovo. Proposals for ethnic separation and border adjustments in Kosovo are widely mooted in informal reports, non-papers, and statements from all parties involved in the negotiations between Kosovo and Serbia.

Along with them, nationalistic dreams of a 'Greater Serbia' and a 'Greater Albania' have emerged from the dark caves of history. They sometimes have different names (such as the 'Serbian world') but the

idea is the same: people from each ethnic group will govern themselves in territory they occupy – and there is no room for others. Despite the international community’s enormous investment in cooperation between ethnic groups in the Balkans, the societal and political divisions between former enemies remain deep and seemingly unbridgeable.

In this environment, the answers to two key questions will shape the future of the Serbian and Albanian communities in Kosovo. Firstly: how can they live together given that, so many years after the wars, they still distrust and distance themselves from each other? Secondly: what are the necessary ingredients for living a good life with the ‘other’?

The answers to these questions are complex – probably more complex than the establishment of Kosovo’s status in the EU framework. However, there are ways to make life in Kosovo acceptable for ethnic Serbs and Kosovo Albanians alike.

There is no end in sight to the negotiations between Kosovo and Serbia in Brussels. Despite many ups and downs in the process, the sides are yet to reach a comprehensive and binding agreement on their relationship. The talks themselves have had an enormous influence on Kosovo’s society, but they seem unlikely to build sufficient trust between the two communities. So long as Kosovo sees the resolution of the frozen conflict as the ultimate statehood issue, and so long as Serbia views the process as a way to escape humiliation and gain recognition of lost territory, Serbs in Kosovo will continue to suffer from the actions of both Pristina and Belgrade.

Kosovo’s Serbs live predominantly in the north of the country, as well as in small enclaves in the south. There appear to be approximately 100,000 of them (though, due to a lack of reliable data, this is only an estimate).

Kosovo’s constitution grants the same rights to Serbs and Kosovo Albanians. The document also ensures political participation for Serb and other ethnic minorities in Kosovo, and creates checks and balances to safeguard their position in political institutions.

Serbia maintains its influence in Kosovo through a parallel system of governance that it established in 1999, shortly after the war. As part of this, Belgrade finances local authorities, as well as healthcare and school systems, in Serb-majority areas. This is despite the fact that the EU-sponsored dialogue between the two countries has passed oversight of institutions such as the police, the border force, and the judiciary to the government in Pristina.

The Serbian political leadership in Kosovo, Serbian List, is dominated by Serbian President Aleksandar Vucic’s Serbian Progressive Party. There are no longer any independent political voices or

forces among local Serbs – at least since the murder of Oliver Ivanovic, leader of a local party in North Mitrovica, in 2018. He opposed the Serbian Progressive Party and its political networks, which allegedly have close links to organised crime leaders in the city. State-controlled television stations in Serbia conducted a smear campaign against Ivanovic for months before his death.

After Ivanovic's assassination, something close to a one-party system – represented by Serbian List – emerged in the Serbian community in Kosovo. Vucic instrumentalises Serbian List's rhetoric and policies to achieve his political goals. In Kosovo's February 2020 election, the party won ten of the 20 parliamentary seats reserved for non-Albanian communities in Kosovo (which include Roma and Turkic people). Serbian List also won local elections in 2019 with more than 90 per cent of the Serbian vote. These victories have emboldened Vucic to negotiate on behalf of almost all Serbs in Kosovo.

Many agreements that Belgrade and Pristina signed in the framework of the Brussels dialogue address concrete issues that should improve life for all communities in Kosovo. Yet the deal establishing the Association of Serb-majority Municipalities, signed in 2013, is highly problematic. Pristina has refused to implement the agreement – which would provide a degree of territorial autonomy to Serbs in the north – out of concern that it jeopardises Kosovo's sovereignty and territorial integrity. Like all proposed governance models for Kosovo, this framework would not address the key issues: democratic freedoms, the legitimacy of the country's institutions, and the lack of trust between the two communities.

According to research conducted by Activ, an NGO based in North Mitrovica, Serbs have the highest level of trust in the international organisations that provide them with basic security: the Kosovo Force, the United Nations, and the European Union Rule of Law Mission in Kosovo. However, that study also shows that more than 50 per cent of respondents would like to leave Kosovo in the next five years, while 27 per cent felt threatened in 2020. If these trends continue in the next decade, they will likely lead to the creation of a mono-ethnic state.

Therefore, the governments in Belgrade and Pristina urgently need to muster the political will to address the legacy of the conflict. This will mean dealing with issues such as missing persons, war crimes, theft of property during the conflict, and public apologies from political representatives of Kosovo's ethnic Albanians and Serbs.

In other parts of the Balkans, these unhealed wounds may never close. However, this need not be the case in Kosovo – if there is a sincere internal dialogue between the country's Albanians and Serbs on whether they want to live in a society that is democratic and multi-ethnic or monoethnic and nationalistic. Pristina should support this process, as should Belgrade. Both governments should have faith in the democratic efforts of the two communities and build trust in institutions that provide

justice and equality before the law. This will be a painful and lengthy process, but Kosovo needs to begin it soon or else face segregation.

Serbs in Kosovo need an opportunity to engage with the dialogue between Belgrade and Pristina. They are not there only to defend Belgrade's interests, which are sometimes different to their own. And they should focus on how to create a better life in the local community and improve relations with their Albanian neighbours.

These issues are not just symbolic but also critical to standards of living. The Serbian community is heading for disaster if it continues to see every Serb who befriends a Kosovar Albanian – or even crosses the bridge in Mitrovica to meet an Albanian living in the south – as a traitor. Serbs should feel welcome in Kosovo rather than threatened by Belgrade and marginalised by Pristina. It is up to the country's institutions to achieve this, and up to Belgrade not to obstruct the process. Only then can these old wounds heal and the communities begin to trust each other.

The Association of Serb-majority Municipalities (part one)

Shpetim Gashi

In 2013, at the EU-sponsored Brussels dialogue, Pristina and Belgrade agreed to form an association of ten Serb-majority municipalities in Kosovo. Kosovo's Serbs believe that combining their political power in a single, cohesive body of this kind would increase their leverage in the country's political system – a belief they share with Belgrade. However, soon after reaching the agreement, Pristina began to perceive the association as a milder version of partition and as a weapon for Belgrade to undercut Kosovo's statehood. With Pristina reluctant to grant substantive powers to an ethnically exclusive institution, and with Belgrade uninterested in a less formal arrangement, the association agreement stalled. Though the association is a somewhat peripheral issue in the quarrel between Pristina and Belgrade, there is little chance that the sides will separate the proposal from broader disputes over Kosovo's status. Therefore, it is best to incorporate the arrangement into a comprehensive settlement rather than try (and almost certainly fail) to address it separately. However, Pristina should not link its concessions to Serbs in Kosovo – the country's citizens – to Belgrade's concessions on status.

The Ahtisaari Plan and Kosovo's independence fundamentally affected the position of the Serb community in Kosovo, relegating it to a minority in the new state. Kosovo's Serbs are not adjusting to their new status easily. Certain to be in a minority in central institutions, they want to become autonomous decision-makers at least in local areas where they constitute a majority. Specifically, through the association, Serbs want Pristina to grant them some autonomy in local economic development, urban planning, education, and healthcare. Such demands for control over local affairs might be considered normal in developed democracies, but this is not the case in countries with deep ethnic divisions – where even trivial transfers of power appear to have high stakes.

Most Albanians in Kosovo regard the association as illegitimate. More than 200,000 Albanians signed in 2015 a petition against the association. They see it not as a mechanism for accommodating the Serb minority but rather as a dangerous revision of the Ahtisaari Plan – which dispersed the Serb community's power in national institutions through reserved legislative seats and executive offices, and in local institutions through decentralisation. By not opting for a single Serb-dominated institution, the Ahtisaari Plan seemingly aimed to dilute inter-ethnic politics. Indeed, since independence, competition within ethnic communities has been more intense than the rivalry between the Kosovo Albanian and Serb communities. Ethnic Albanians fear that the association aims to reverse this. There is no conclusive evidence that Belgrade wants to use the association as a Trojan

horse in Kosovo, but it is also unclear whether the arrangement is exclusively about the rights of the Serb community.

There are Serbs at all levels of Kosovo's political system, but they are not powerful enough to influence policy in Albanian-dominated national institutions. Serb preferential representation in these institutions is negligible, despite perceptions to the contrary. The constitution guarantees ten seats for Serbs in Kosovo's 120-seat parliament but, as they account for around 6 per cent of the vote, they would have controlled around eight seats even without this provision. Nonetheless, many Albanians believe that Serbs are already overrepresented in Kosovo's institutions and that the association would only exacerbate this problem. Preferential representation is far more controversial in ethnically divided societies such as Kosovo than in developed democracies such as America – all of whose states have two representatives in the Senate each despite large differences in their populations.

The idea that the state can meet one community's demands without hurting the others has not yet taken root in Kosovo. As a consequence, the country's Albanian and Serb communities co-exist as two separate societies. Kosovo's constitution and laws have been unable to replace ethnic politics with civic engagement. This is not because the legislation itself is poorly designed but because the countervailing forces are too strong to allow a supra-ethnic identity to emerge. For most Serbs, there is no such thing as 'Kosovar'. The term has no salience for Albanians either. Unlike ethnic Germans and ethnic French in Switzerland, Albanians and Serbs in Kosovo are not tied to an inclusive concept of Kosovo as a nation. Albanians and Serbs have very few mutual interests and common purposes in the new state. Therefore, Kosovo's Serbs are uninterested in integration into the country's broader society, preferring to preserve their own community within Kosovo.

The association they want to establish would not be subordinated to the existing Kosovo law but an autonomous body that preserved Serb identity and required the adoption of new laws. For many Serbs, integration into Kosovo's state without an autonomous Serb institutional structure would be equivalent to subordination. As such, the association is not designed to improve the Serb community's status within Kosovo's central state structure but to develop an autonomous local one.

Albanians are also uninterested in improving the Serbs' position in the Albanian-dominated state structure. For instance, they have never offered any significant national position, such as parliament speaker, to the Serbs – an integrationist technique frequently applied in other countries with deep ethnic divisions.

Kosovo's Serbs lack an elite that is independent of Belgrade and could negotiate on their behalf. But most are happy with this situation. A rather peripheral force in Kosovo, the Serb community makes its influence felt in Pristina only because of the political and financial support it receives from Belgrade.

Given that the government in Pristina is dominated by Albanians, and that the United States and the European Union are widely perceived as favouring Albanians, Kosovo's Serbs see Belgrade as the only guarantor of their rights.

Therefore, Belgrade will remain the main actor in negotiations on behalf of Kosovo's Serbs. With Belgrade rather than Kosovo's Serbs at the negotiating table, Pristina has become suspicious of the motives for the association, believing it to be less about Serb rights and more about ideas such as partition – which many Serbs in northern Kosovo see as the only adequate way to protect their rights.

Nonetheless, it would be difficult but not impossible to allay widespread Albanian fears that the association will lead to partition. Even if municipalities in the association gained local competencies, Pristina could retain control in areas such as taxation, the judiciary, the police, border control, and customs. A process that detected and managed the unintended consequences of the association could also help.

The dialogue between Kosovo and Serbia began to unravel when they came to feel that their agreements disproportionately benefited the opposing side. The vaguest proposals were most susceptible to failure. And there is none vaguer than the association. This ambiguity made it easier to reach a compromise but harder to make that compromise stick. The sides have different interpretations of the 2013 Brussels Agreement's statement that the association will have "full overview" of economic development, education, health, urban and rural planning. The Albanian translation of "overview", *vështrim*, indicates only a monitoring role. The Serbian government, in contrast, translated it as *nadležnost*, which is closer to 'competence'. Because the term is ambiguous, Serbs and Albanians insist on their own interpretations of it – the former arguing that 'overview' refers to decision-making and the latter insisting that it refers simply to access to information and monitoring. It is unclear whether the negotiators could not agree on more details or simply decided not to spell them out due to the sensitivity of the issue – and whether they expected this vague agreement to generate such great expectations for Serbs and such fears for Albanians.

Pristina and Belgrade tend to obstruct the implementation of the most controversial agreements. But Pristina's decision to postpone the implementation of the association only highlighted its controversial nature, prompting Serbs to gather to support the proposal and Albanians to oppose it – thereby making the task harder.

Belgrade, too, preferred an alternative: a 'border adjustment' deal. Some international actors, frustrated by the conflict and desperate for a breakthrough, offered tacit support for this idea. If the border adjustment deal had come to pass, it would have rendered the association obsolete.

Now that the border adjustment idea is all but dead, the association will be back on the table. Kosovo should agree to establish the association – even if this requires some changes in the Ahtisaari Plan’s minority policy – as part of an effort to integrate part of its population into the new state.

Kosovo’s Serbs – who have been excluded from the dialogue so far – should actively engage with discussions on the association. The arrangement should provide an opportunity for them to have a bigger say in local affairs, such as education, healthcare, local development, and urban planning, in the municipalities where they constitute a majority.

It is good news that Kosovo’s Serbs are willing to negotiate their accommodation in a state that they do not recognise. A happier Serb community in Kosovo is in everyone’s interest. But the sides cannot address the association as a separate issue. The arrangement should become part of a comprehensive deal between Pristina and Belgrade. If they do so in good faith, the association would not segregate the Serb and Albanian communities, as some fear, but would ease ethnic grudges and serve as a bridge between the two communities. Serb integration into Kosovo may be an intractable process, but there is reason to hope it can succeed.

The Association of Serb-majority Municipalities (part two)

Jovana Radosavljevic

In March 2013, two-thirds of Kosovo's MPs ratified an initial agreement on the Association of Serb-majority Municipalities (ASM). This was followed by a separate agreement on General Principles in 2015, and a ruling the same year by the Constitutional Court of Kosovo that required the establishment of the ASM. These are the most controversial and politicised agreements in the EU-led dialogue on the normalisation of relations between Belgrade and Pristina. As a consequence, the Kosovo government has not implemented them, despite its constitutional and international obligations to do so.

Ten years after the Kosovo-Serbia dialogue in Brussels began, there is a greater need than ever to find a compromise that is comprehensive, sustainable, and legally binding for both parties. If Kosovo had implemented the 2013 agreement by establishing the ASM, the Serb community would have greater faith in the central government's institutions and the dialogue would be closer to reaching a final agreement. Kosovo Serbs perceive the lack of progress on the ASM as reflecting Pristina's unwillingness to make concessions to integrate them into society.

Kosovo's public debate rarely touches on the need for a transitional body to facilitate the integration of Serb-majority areas' healthcare and education systems. The systems are fully operational – unlike these areas' judicial and security systems, which are disintegrating. Kosovo does not have the infrastructure or funds to support education and healthcare institutions in Serb-majority areas.

These might sound like trivial issues, but they are exactly the types of problem that hamper some of the easier integration processes, such as that of the civil protection service. As a consequence, some of the integrated employees of the service – who are now formally inspectors in various Kosovo ministries – do not go to work, as Pristina has not assigned them to offices or given them the equipment they need to do their jobs.

Furthermore, due to the constructive ambiguity of the agreements Kosovo and Serbia reached in Brussels, the public discourse is characterised by the sides' opposing interpretations of their commitments. Pristina portrays the ASM as an association with an NGO status similar to the existing Association of Kosovo Municipalities. And Belgrade presents the ASM as "Srpska", an autonomous body with executive competencies. "Today we vote Srpska, tomorrow we build Srpska" was the initial slogan of Serbian List in the 2013 election – a message that powerfully resonated with Kosovo's Serb

community at the time. They too linked the ASM to Republika Srpska, raising fears about the ‘Bosniasation’ of Kosovo or the creation of the “Dodik Republic” (named after Milorad Dodik, a Bosnian Serb politician who since 2020 has served as the Serb member of the presidency of Bosnia and Herzegovina, its current chair, and the collective federal head of state). All this creates additional obstacles in public support for the implementation of the agreements.

Vetevendosje, Kosovo’s ruling party, even described the ASM as “zajednica” (community) – effectively using the Serbian language against the interests of the Serb community. Meanwhile, the European Union has kept quiet about its view of the agreement and the competencies of the ASM, thereby fuelling public fears that the arrangement might not be in the interests of one of the parties. Yet, to integrate Serbs – especially those from the four northernmost municipalities – into Kosovo’s institutional and social life, a comprehensive and legally binding agreement between Belgrade and Pristina will need to incorporate the ASM.

The solution

The ASM will need to meet the expectations of Kosovo Serbs and Kosovo Albanians alike. For the latter, the institution should reaffirm Kosovo’s independent status. For the former, the ASM should protect their interests in areas such as education, healthcare, social welfare, and the economy.

To meet the needs of Kosovo Serbs and finalise the integration of all Serb-majority municipalities, the ASM will require legislative competencies in these areas. This will involve regulations on the organisation of the education system, such as quotas for the number of students per teacher, the division of primary education to reflect the 4+4 model in Serbia, and health insurance schemes – which should minimise the negative effect of integration on the functionality of these sectors.

While the establishment of such an ASM requires constitutional amendments, Kosovo Albanians need not view this with suspicion. The formation of the ASM would not necessarily require an extension of the Ahtisaari Plan. In fact, it would transfer some of the competencies of Kosovo’s central institutions under the plan to the new institutional structure.

Kosovo’s constitution has been widely praised for its protections of minority rights. But the country’s institutions have failed to implement many of these protections, not least language rights, at the local level. A fully functional, unified institutional system in Kosovo – which the ASM would create by replacing what the government sees as parallel and illegal remnants of Serbian institutions in all Serb-majority municipalities – would shift the responsibility for implementing these protections to the municipalities themselves, thereby reducing the burden on the central government.

Following constitutional changes to transfer some competencies to Serb-majority municipalities, the mayors of these areas should found the ASM with the approval of local assemblies. The initiative would also be subject to the approval of the central government and the Constitutional Court of Kosovo.

As foreseen in the 2013 and 2015 agreements, the ASM should have a president, a vice-president, an assembly, and a council. However, the Prime Minister's Office should have final approval on all acts of the assembly. And the ASM assembly should not take over the functions of established local assemblies in Serb-majority municipalities. Any legal act adopted by the ASM assembly should list the municipal assemblies that endorsed it.

The salaries of the ASM's staff should be paid from the budget of Serb-majority municipalities – which would require amendments to Kosovo's law on local government finance, to facilitate the joint allocation of municipal grants for education and healthcare. While the ASM could implement capital projects funded by external sources, Serb-majority municipalities would be solely responsible for the public consultation, planning, and execution of these projects. This would protect the interests of local communities and avoid unequal distribution of the funds for the projects.

Conclusion

Kosovo has international and constitutional obligations to establish the ASM. In the current circumstances, however, doing so will require serious efforts at damage control. Years of intensively negative discourse around the ASM have hardened Kosovo Albanians' unwillingness to implement agreements that, in essence, aim to integrate Serbs into Kosovo's society and institutions. In this, Vetevendosje has largely led a campaign to replicate the dysfunction of Kosovo's current institutional framework in a new framework. And the central authorities' reluctance to establish the ASM has deepened Kosovo Serbs' distrust of them, especially in the four northern Serb-majority municipalities.

Kosovo's government, civil society organisations, and other local and international stakeholders should reshape the public narrative on the ASM. They should present the mechanism as being designed to help integrate Kosovo Serbs and consolidate a multi-ethnic society.

All this will require a compromise between Pristina and Belgrade through a comprehensive and legally binding agreement. The agreement will demand constitutional changes on both sides – a fact that they should communicate clearly to the public, while explaining that such changes have precedent. If Kosovo's government continued to reject the ASM, it would need to present its vision of how to shut down the remaining Serbian institutions in the country under existing law and without

support from the Serbian government. Yet there seems to be no political will to do this, nor is it a viable way to complete the integration of the Kosovo Serb community.

How to protect cultural and religious heritage sites in Kosovo

Engjellushe Morina

In recent months, Pristina and Kosovo's civil society organisations have been locked in a growing dispute with Belgrade and the Serbian Orthodox Church over the protection of cultural and religious heritage. Both sides are trying to use the dispute – which centres on the ownership and status of religious sites in Kosovo that are important to the Serb community – to achieve their political aims. Rather than jointly searching for innovative, sustainable, and community-focused ways to protect these sites, they are promoting divisive narratives.

Kosovo has a rich and diverse cultural and religious heritage. Illyrians, Romans, Dardanians, Thracians, Ottomans, Slavs, Vlachs, Bulgarians, and others have inhabited what is now Kosovo at various times. These groups left behind buildings and infrastructure such as roads, aqueducts, markets, and places of worship.

In medieval times, what is now Kosovo was conquered by Serbs, who established the seat of their Orthodox Church there. To this day, Serbs regard Kosovo as the cradle of Serbian civilisation. Although the Serbian Orthodox Patriarchate in Pec was abolished in the eighteenth century, traditional Serbian epic and folk poetry continued to describe this period as a defining age of nation-building and national sacrifice.

Kosovo Albanians, who are widely believed to be direct descendants of Illyrians, do not regard themselves as newcomers to the region. Kosovo also plays an important role in their sense of nationhood and identity, as symbolised by the founding of the League of Prizren in the nineteenth century.

Kosovo's Albanians and Serbs have tended to focus on this complex history in dangerously narrow-minded ways, preventing them from finding sustainable ways to preserve their heritage. Between 2005 and 2007, the talks on Kosovo's status led by UN-appointed envoy Martti Ahtisaari identified 40 sites of cultural and religious importance to the Serb community. The aim was to find a sustainable solution to the preservation and protection of this heritage, and to maintain respect for the monastic way of life. Among these 40 are four UNESCO world heritage sites: the Decani Monastery, the Patriarchate of Pec Monastery, the Church of the Holy Virgin of Ljevisa, and Gracanica Monastery.

The process of identifying the sites for Annex V of the Ahtisaari Plan was largely participatory, involving representatives of political parties from Kosovo and Serbia, as well as the Serbian Orthodox Church. There were numerous consultations with the clergy in Decan (the author, as part of a working group for cultural and religious heritage sites, participated in these meetings), as well as with UNESCO and other UN officials, along with experts from other parts of the Balkans (who drew on their experiences with similar cases). The status talks culminated in the endorsement of the Ahtisaari Plan for the settlement of the status of Kosovo and the country's subsequent declaration of independence.

Annex V of the plan deals exclusively with the protection and preservation of religious and cultural heritage sites of special significance to the Kosovo Serb community. In addition, Annex V calls on the Serbian government “to return archaeological and ethnological exhibits, which were taken on loan from the museums of Kosovo for temporary exhibitions in Belgrade in 1998-1999 within 120 days from the date of entry into force of this Settlement” – a commitment that remains unfulfilled. The annex details the security provisions to safeguard and protect the sites of the Serbian Orthodox Church in Kosovo, and lays out plans for the establishment of zones to protect the dignity and development of more than 40 key religious sites (also known as special protective zones), including the historic centre of Prizren. Under the Ahtisaari Plan, the Orthodox Church has property rights to the sites and is exempt from taxes and customs duties related to them. Furthermore, the church's branch in Kosovo is free to maintain links with its counterpart in Belgrade. Ahtisaari's comprehensive proposal was enshrined in the constitution of Kosovo following the country's declaration of independence.

Annex V established the Implementation and Monitoring Council, consisting of eight diverse representatives of Kosovo institutions, the Serbian Orthodox Church, and international institutions such as UNESCO, the Organisation for Security and Co-operation in Europe, and the Council of Europe. The creation of the council caused a stir in Kosovo, as many ethnic Albanians saw the body as privileging the preservation of Serbian heritage. Institutions tasked with the protection of heritage in Kosovo had traditionally been underdeveloped, under-resourced, and understaffed – to the detriment of archaeological projects and the protection of monuments.

Therefore, demands for the implementation of Annex V overwhelmed local institutions due to its complexity. The public saw the special protective zones as particularly problematic, since they would be regulated by a specific law that was separate from the Law on Cultural Heritage – which applies to other sites in the country. Moreover, many in Kosovo did not see all the cultural and religious sites

identified in Annex V as belonging exclusively to the Serbian Orthodox Church. A prime example of this is the Decani Monastery, which they viewed as belonging to a different style and era as a Romanesque katholikon monument.

These factors have contributed to the many delays in the implementation of the Ahtisaari Plan. Serbian Orthodox clergy in Kosovo complain about a lack of security at religious sites and Pristina's unwillingness to enforce the rule of law in relation to their church's interests. They persistently call for an extension and expansion of international protection for religious sites. Meanwhile, Pristina argues that the church has privileged status, is only interested in picking and choosing the legal provisions that suit it, and does not recognise the statehood of Kosovo. This last concern relates to the clergy's general reluctance to establish lines of communication and cooperation with Kosovo's institutions – behaviour motivated by a desire to stay in line with Belgrade's argument that Kosovo is part of Serbia.

The main problem is that both sides primarily view the protection of cultural and religious sites in Kosovo through the lens of security and politics. The authorities are not properly implementing the laws designed to protect the sites. And the lack of reconciliation – or even interaction – between Kosovo's communities has paved the way for a partisan approach to the issue that boosts nationalists' rhetoric of ownership and territoriality.

The parties have made no effort to understand the complex fabric of their cultural and religious heritage, while the security measures around the sites have prevented interaction between communities. The situation is as much a problem for the clergy as for anyone else, because they are cut off from the local political, economic, and social environment. This will need to change if people from all religious and ethnic groups are to respect and protect the heritage sites. By bridging the divide, the local community would have the opportunity to learn more about their region's rich history and the needs of the clergy.

As shown by central and local authorities' failure to implement the 2016 Constitutional Court of Kosovo decision on the ownership of the Decani Monastery, the politicisation of the issue undermines interaction and understanding between communities. Kosovo's prime minister, Albin Kurti, recently reached out to the clergy in Decan and expressed his willingness to visit and discuss the matter. Yet the clergy refused the visit, asking the government to enforce the rule of law first.

Pristina argues that, as the Ahtisaari Plan deals with the protection of cultural and religious sites of importance to the Serb community, there is no need to discuss the issue in its EU-sponsored dialogue with Belgrade. Yet the Serb community want the sides to do so – and want Kosovo to offer the church greater rights or even some sort of autonomy.

In recent weeks, Kosovo's leaders have reiterated their commitment to protecting cultural and religious heritage, which they see as belonging to all citizens. And they say that they are ready to engage with the clergy to find sustainable solutions. Kosovo's institutions and civil society groups should build trust with the Serbian Orthodox Church's clergy by respecting its property rights and encouraging others to do so.

The clergy, for their part, should refrain from requesting further protections from international actors. They should try to interact with their local communities, to help the sides understand each other's needs – just as monks at the Decani Monastery have done by learning to speak Albanian. The clergy should also resist Belgrade's attempts to draw them into political disputes, and should acknowledge the complex history of their surroundings. Indeed, the clergy at the Decani monastery were very vocal in their opposition to the land swap agreement that Serbian President Aleksandar Vucic and then Kosovo president Hashim Thaci started to discuss in 2018. Many policymakers in the Balkans and beyond are wary of Belgrade's efforts to use the Serbian Orthodox Church to achieve its strategic goals.

Serbian religious heritage in Kosovo

Jelena Loncar

Any negotiations on Kosovo's status, reconciliation efforts, or final agreements with Serbia will eventually need to address Serbian religious heritage and its protection. Kosovo has enormous historical and cultural significance for Serbs. The country contains numerous medieval churches and monasteries that not only reflect Serbs' rich religious traditions but are also important to world heritage. Yet, due to the decades-long conflict in Kosovo, four of these sites – the Decani Monastery, the Patriarchate of Pec Monastery, the Church of the Holy Virgin of Ljevisa, and Gracanica Monastery – appear on UNESCO's List of World Heritage in Danger. This heritage is one of the most important identity and statehood issues for Serbia and Kosovo but, due to the polarising nature of the issue, they have avoided negotiations on the status of these sites.

The need to protect minority cultural heritage is explicitly acknowledged in Annex V of the Comprehensive Proposal for the Kosovo Status Settlement (better known as the Ahtisaari Plan). In accordance with the Ahtisaari Plan, the Assembly of Kosovo has since 2008 adopted numerous laws and regulations on the protection of cultural heritage – most importantly the Law on Special Protective Zones, the Law on Historic Centre of Prizren, and the Law on the Village of Velika Hoca/Hoce e Madhe. These laws are particularly important to the preservation of Serbian Orthodox monasteries, churches, and other sites of special significance for various communities in Kosovo. Within Kosovo's legal framework, Serbian religious sites in the country belong to the Serbian Orthodox Church and any activities related to the reconstruction or management of its property require its consent.

However, Kosovo adopted these laws only due to international pressure linked to its efforts to gain independence from Serbia. As a consequence, local decision-makers and the public often ignore the legislation or interpret it in different ways. And, because the authorities have done little to enforce the laws, there have been many incidents of demolition, theft, and vandalism of Orthodox heritage. Illegal construction near protected cultural sites is also common. The erosion of the rule of law in this area is reflected in the takeover of land owned by the Decani Monastery. The Constitutional Court ruled in 2016 that the land should be returned to the monastery, but the local authorities still refuse to implement the decision.

All such forms of resistance to the law (and to the international community's state-building efforts in the area) relate to Kosovo Albanians' and Serbs' perceptions of Serbian religious heritage. For many

Kosovo Albanians, this heritage symbolises years of oppression and discrimination. Hence, they frame any decision to protect these sites – let alone grant them special status – as submission to Serbia. Equally, the public debate in Serbia characterises Kosovo as the cradle of Serbian nationhood, and Orthodox cultural heritage as proof of Serbia’s territorial claims to Kosovo.

In line with these narratives, the Kosovo Albanian side disputes the importance of Serbian cultural heritage and refuses to recognise some sites as belonging to the Serbian Orthodox Church. Furthermore, there is evidence that the Kosovo authorities have made systematic attempts to present Serbian cultural heritage as being either Albanian, Byzantine, Catholic, or Illyrian – with the aim of denying the Serbian Orthodox Church’s ownership and identity rights, and of portraying the organisation as an enemy attempting to steal Kosovo’s culture and heritage. For example, the municipal government in Novo Brdo has tried to portray the Orthodox Church of Saint Nikola as a Catholic cathedral, and to reconstruct it without the agreement of the Serbian Orthodox Church – as is legally required, given that the site is part of a special protective zone.

Both Serbia and Kosovo have reduced religious heritage to a tool in their disputes over sovereignty rights and in their narratives of exclusion and victimisation. This was evident in Kosovo’s 2015 bid to join UNESCO, which fell three votes short of achieving the two-thirds majority it required to succeed. During the campaign, officials from both sides referred to cultural heritage and state sovereignty in almost the same terms. For Kosovo, UNESCO membership was an important step towards full international recognition of its independence, which is still hampered by Russia’s veto on UN membership. Leaders in Pristina depicted the protection of the Serbian Orthodox Church’s sites and its special management rights as an attack on Kosovo’s statehood. Similarly, officials and media outlets in Serbia mostly presented the issue of Serbian cultural heritage as a matter of state sovereignty – to the extent that then-president Tomislav Nikolic claimed that UNESCO was deciding “the fate of Serbian cultural heritage”.

Neither side discussed the status or legal protection of Serbian cultural heritage in Kosovo, even though these issues are more important to the future of such sites. For instance, the rejection of Kosovo’s bid for UNESCO membership did not improve the position of the Decani or Devic monasteries or provide Serbia with an opportunity to exercise sovereignty over them. As a consequence, the monasteries continue to be protected by wire fences and international organisations in a territory under Kosovo law and almost exclusively inhabited by Kosovo Albanians.

These cases show the danger to Serbian religious heritage inherent in rhetoric that links it to sovereignty and statehood. Part of the solution to the problem is the strict enforcement of laws that protect religious sites, including in relation to violations by private business interests. This will

require the implementation of the decisions of Kosovo's Constitutional Court.

To this end, Kosovo has established the Implementation and Monitoring Council (IMC), which is designed to resolve disputes about the management and property rights of Serbian Orthodox heritage and to apply laws on special protective zones. The institution benefits from having an ethnically diverse staff, composed of representatives of the Serbian Orthodox Church, local municipalities, and international organisations. If the government strengthens the IMC and grants it more executive competencies, this could improve the accountability and legitimacy of efforts to protect religious sites. In addition, the Kosovo government's guarantees to the Serbian Orthodox Church should include exclusive rights to ownership, management, and reconstruction or repair work. (Related proposals about various forms of extraterritoriality or dual sovereignty may arise in Serbia, but they require more in-depth consideration from all stakeholders in the sites.)

These institutional measures are necessary but not sufficient. The vitality and growth of Kosovo's cultural heritage also require Kosovo Albanians to provide social and cultural recognition to these sites and to facilitate open, safe, and easy access to them. This is the biggest challenge related to such heritage in Kosovo's deeply divided society. However, the depoliticisation of the issue – through the separation of sovereignty narratives from discourse on religious sites – would help bridge these divides. Accordingly, Serbia and Kosovo should work with international organisations to support education initiatives focused on the historical and cultural value of these religious sites. And civil society organisations should challenge the dominant narratives about the Serbian Orthodox Church as a threat to Kosovo's statehood.

For Kosovo's and Serbia's formal agreements on the issue to succeed, they will need to supplement this approach with reconciliation efforts intended to encourage dialogue and build trust between local decision-makers, civil society groups, and representatives of the Serbian Orthodox Church. Since Serbian religious heritage sites are dispersed across Kosovo, discussions about their future should be part of initiatives designed to help Kosovo's ethnic communities co-exist in peace.

All these measures will require the Kosovo and Serbian governments to generate the political will to protect cultural heritage, supported by strong international guarantees and monitoring. Once Pristina and Belgrade have begun negotiations on the status of Serbian Orthodox cultural heritage, these discussions should expand to include experts and local civil society organisations, as well as UNESCO and other international organisations.

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