

# BALKANS MONITOR 2/3/2023

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## **Kosovo-Serbia's verbal agreement to 'normalize' relations remains elusive**

### **Background**

EU efforts to mediate and facilitate a dialogue on the normalization of relations between Kosovo and Serbia dates back to 2013, when both countries signed the First Agreement of Principles Governing the Normalisation of Relations (informally known as the “Brussels Agreement”). The Agreement includes 15 articles – the first six dealing with the creation, purpose, and function of a proposed Community called the Association of Serbian Municipalities (ASM) to represent the collective concerns of ethnic Serbs living in Kosovo in the domains of education, healthcare, urban and rural planning and economy. Other articles deal with areas such as police and security structures (e.g. unified police force), cooperation in the areas of telecommunications and energy, and an agreement that neither country will seek to block the other from their accession efforts towards the EU. As part of its “carrot and stick” policy to keep the momentum of the dialogue process going and to ensure aspects of the Brussels Agreement were being implemented, the EU agreed to begin accession negotiations with Serbia and initialize a Stabilisation and Association Agreement (SAA) with Kosovo.

In 2015, as part of a follow-up on one of the most critical elements of the Brussels Agreement – the proposal of ASM, Kosovo and Serbia signed an agreement on the general principles/main elements. The Agreement however included a vague description of the ASM competencies, leaving room for interpretation as to whether it should have executive powers or not. Consequently, this sparked protests within the parliament, and the matter was taken up by the Kosovo's Constitutional Court, whereby it was found that the Agreement was unconstitutional and contradictory to the values and principles of the country. It has remained a contentious point ever since as the Serbian government maintains that the Kosovo government violated the Agreement. Kosovan representatives, however, view the acceptance of ASM as ruling out the option of creating a multi-national state by de facto establishing a bi-national state, replicating the situation in Bosnia and Herzegovina. Furthermore, the Kosovo government maintains that it will refuse to proceed with the implementation of the plan of establishing an association of autonomous majority-Serb municipalities until Serbia accepts its territorial integrity and removes all of the parallel institutions

it funds around Kosovo. Therefore, the Agreement has remained in limbo since.

### **Recent Developments in the Kosovo-Serbia Normalization Dialogue**

With Russia's war in Ukraine, the EU's geopolitical interest in the Western Balkans have shifted. The EU recognizes that its interest in a secure and stable environment in the region must go beyond the consideration of who will be the next member, but also seek to bolster geopolitical, security, and economic ties to counter Russia and China's influence. To demonstrate the EU's commitment and willingness to reinvigorate the accession process of the Western Balkan six – Albania, Bosnia, Kosovo, Montenegro, North Macedonia and Serbia, the EU held a summit in Tirana, Albania 6 December 2022, the first time held in the region. Although Kosovo 12 December 2022 submitted its official bid for candidacy, it continues to face opposition from five EU countries – Cyprus, Greece, Romania, Slovakia and Spain. However, Kosovo and many countries within the EU do not foresee the non-recognizers as inhibiting the country's eventual accession into the EU provided that it is a long-term process that provides ample time to address and solve many of the remaining disputes.

One of the key obstacles in the EU's strategy is the frozen conflict that persists between Kosovo and Serbia. For this reason, the EU, along with the support of the US, has sought to revitalize and resume the Brussels-facilitated talks between Kosovo and Serbia to normalize relations, a precondition for Serbia to join the EU. Efforts have been underway since September 2022, when recently appointed envoys to the region from Paris and Berlin offered a new framework, referred to as the new Franco-German proposal that consists of nine articles and is based on a document known as the Basic Treaty of 1972 that dealt with the relations between Federal Republic of Germany and the German Democratic Republic and sensitive border issues following the second world war. And despite initial disagreements over the interpretation of the draft, both Kosovo and Serbia showed a willingness to resume talks. However, as discussed in previous a previous Monitor, there have been a number of major setbacks that have inhibited efforts to resume the dialogue process, the most serious being the license plate dispute and later the arrest of a police officer.

Following a series of negotiations and pressure from the EU and US, Kosovo and Serbia have since then reached a compromise over several contentious issues and agreed to resume normalization talks. Already prior to the EU-Western Balkan summit in Tirana, EU High Representative for Foreign Affairs and Security Policy Joseph Borrell sent an updated draft of a proposal that laid out a timeline and outlined actions on how to go about renewing talks between the two countries and emphasized the Franco-German proposal had become an “EU proposal” with all 27 EU members backing and supporting it.

On 27 February 2023, Kosovo’s Prime Minister Albin Kurti and Serbia’s President Aleksandar Vucic agreed to the Franco-German proposal. Both leaders met in Brussels for a long anticipated meeting with EU High Representative for Foreign Affairs and Security Policy Josph Borrell and the EU Special Representative for the Belgrade-Pristina Dialogue Miroslav Lajčak, whereby both countries pronounced their willingness to move forward and accept the EU proposal. Although the main elements of the proposal have not changed from the previous draft, which was previously leaked to the press, Article 5 and 6 in the official version have slightly been modified. Unlike the previous draft, Article 5 now explicitly states the obligation of Serbia and Kosovo to not block or encourage other actors to block either country’s progress towards the EU, reminiscent to that which was previously stated in the 2013 Agreement. Article 6 also provides more elaborate details concerning the continuation of the dialogue process and establishing greater cooperation in a range of other areas. The revised version also includes an additional article. The additional article, Article 11, refers to the compliance of the Implementation Roadmap that is attached to the Annex of the Agreement. Although the Annex does not require full recognition, it does demand the complete normalization of relations. As many analysts have pointed out however, the agreement indirectly produces the same effect as recognition – a de facto recognition of Kosovo. Therefore, by signing the agreement, it implies that Serbia would be agreeing to accept Kosovo’s right to territorial integrity, the prohibition of the use of force, and independent representation in international relations, all of which are key features of a state.

Despite agreeing to the proposal, neither leader at that time agreed to sign the document due to contentious issues they still had. In the case of Serbia, the obligation in Article 4 of the proposal to not oppose Kosovo’s membership in international organizations (i.e. UN), represents one of Serbia’s “red lines” along with mutual recognition; whereas Kosovo continues to show its unwillingness to fulfill its former commitment to establish ASM as was stated in the 2013 Brussels Agreement. One of the key features in the Franco-German proposal is the condition that both

parties must fulfill their obligations to implement all previous agreements, including the Brussels Agreement. In fact, in Article 7 in the proposal, it indirectly refers to ASM, stating that “an appropriate level of self-government for the Serbian community in Kosovo, in accordance with relevant European models” is required. Since neither leader at that time was willing to concede, it was decided that further negotiations would be held in mid-March in Ohrid, North Macedonia, as well as a visit from Miroslav Lajčak to prepare both leaders.

### **Main Takeaways from the Ohrid Agreement**

After engaging in nearly 12 hours of negotiations, Kosovo’s Prime Minister Albin Kurti and Serbia’s President Aleksandar Vucic reached a verbal or “gentleman’s” agreement to “normalize” relations during a summit held in Ohrid, North Macedonia 18 March 2023. While the EU and US hailed the deal as a “historic breakthrough”, others, particularly Serbians and Kosovans, have little faith that it will succeed and/or bring about any substantial change as there is neither a signatory or guarantor as previous ones. What remains apparent is that many challenges remain, perhaps the most difficult being the ability of either leader to sell the idea of the proposal to their respective publics that they have not deviated from previously drawn red lines – in the case of Serbia, recognition of Kosovo’s independence, and for Kosovo, establishing ASM. On the eve of the meeting in Ohrid for example, protests broke out in Belgrade, viewing the EU plan as betrayal to the Serbian people suggesting that it implies acknowledging the independence of Kosovo. And immediately following the announcement of the EU-backed deal, Kosovo Albanians took to the streets accusing Kurti of being a liar and sell-out having previously pledged against the establishment of ASM.

Apart from convincing the public, there remains the challenge of sequencing the first steps on the implementation of the agreement and ensuring the leaders fulfill their obligations. The EU is counting on the use of its carrot – the upcoming donor conference to be held within the next few months to convince both leaders of the benefits of implementing the agreement and the annex of the agreement. By failing to implement the agreement, both countries are aware of the what is at stake – the stalling of the negotiation process toward EU membership, the possibility of suspending EU aid, accession talks, and even a visa-free regime, and finally the reduction of investments.

### **What Follows**

For the normalization process to succeed, it will require a genuine effort on the part of Kosovo and Serbia

to cooperate and convince their respective publics of the substantial benefits of engaging in the peace process such as increased prospects of EU accession, improvements in infrastructure, and in greater regional stability. Success will also remain dependent on the EU, as well as the US's sustained involvement throughout the dialogue process and long after to ensure that implementation occurs and that the momentum of political and economic integration with the EU continues.