

# Time to Agree

## Negotiations between Serbia and Kosovo

Serbian and Kosovo leaders returned to the negotiating table in July, after a two-year suspension. But ‘getting to the table’ and ‘getting to a yes’ are two different things. Getting to agree on a durable and enforceable agreement requires committed leadership on the part of Kosovo, Serbia, and the international community. To Kosovo and Serbian politicians, potential negative domestic reactions to ‘agreeing to agree’ seem a bigger risk than eventual international anger over ‘failing to agree.’ There are ways to weaken this disincentive. The international community has enough sticks and carrots to change the leaders’ perception of their domestic vulnerability. It could help ease these concerns by committing enough carrots to instill public confidence in the process. The EU has a lot to offer to the Serbian and Kosovo populations and the US has the influence needed for a successful negotiation.

This report is based on a Chatham House Rule CIG workshop discussion of a group of analysts from Serbia and Kosovo on July 24-26, 2020 in Kopaonik, Serbia. The discussions addressed the new political dynamics, the renewed negotiations, and an eventual dialogue outcome. The workshop is part of a project on the Kosovo-Serbia relations supported by the Swiss Federal Department of Foreign Affairs. CIG’s vice president Shpetim Gashi prepared the report. The report does not necessarily reflect the views of individual participants, CIG, or the Swiss Federal Department of Foreign Affairs.

### Non-hurting stalemate

The Kosovo and Serbian leaders feel vulnerable at home and are not pressed enough internationally for a compromise. Furthermore, Kosovo’s leadership is in disarray. President Hashim Thaci is facing a potential indictment for crimes against humanity, while Prime Minister Avdullah Hoti runs a fragile coalition and is himself unpopular. Serbia’s President Aleksandar Vucic, on the other hand, just won an overwhelming election mandate but his electoral victory does not seem to translate into a mandate to make ‘constitutional concessions’ in Kosovo.

- Kosovo’s leadership is in disarray. Fundamental political reconfiguration will take place once Kosovo’s Special Court confirms its indictments against Kosovo’s leaders, including Thaci. Hoti is considered a short-term prime minister and as such is not likely to focus on long-term objectives, such as achieving peace with Serbia. Short-term losses in negotiations are usually ‘cashed in’ later. Hoti has little incentive to undertake bold initiatives that bring significant short-term costs for him and long-term benefits that he himself would not likely be there to reap. Unlike Hoti, Vucic is a ‘long-term’ leader. And so is the opposition Self-Determination

Movement (VV) leader Albin Kurti, who could be more willing to compromise as he himself will be there to harvest future benefits and would have enough time to recuperate from any eventual short-term losses. Part of the reconfiguration of Kosovo's political scene could also be a snap parliamentary election, but most likely a government reshuffling, where Kadri Veseli's Democratic Party of Kosovo (PDK) joins the governing coalition. Social and political polarization is a major impediment to a compromise with Serbia. The Special Court could complicate matters even more. Negotiating with Serbia while former Kosovo Liberation Army leaders are put behind bars could be seen as betraying those who 'liberated Kosovo.' Consequently, Hoti's government would increasingly hesitate to negotiate with Serbia, and political parties in Kosovo are expected to reevaluate their positions on the dialogue once the first indictment is unsealed.

- Kurti's VV polls at around 50 percent, almost as high as Vucic's Serbian Progressive Party (SNS). A peace agreement with Serbia without VV is possible but not likely. At the same time, VV will not support the current Kosovo government under any circumstances. Veseli's PDK and Ramush Haradinaj's Alliance for the Future of Kosovo (AAK) are not keen on shielding Hoti from the consequences of a compromise and do not think a deal is urgent. However, they will support the government under any circumstances to avoid an early election in which they would fare badly. The Hoti government is not likely to succeed in resolving the complex conflict with Serbia.
- Serbia's SNS won a solid majority in the last election, but this electoral mandate does not translate into a mandate to make major compromises on Kosovo, such as recognition. The majority of Serbian citizens oppose Kosovo's recognition. President Vucic is not likely to jeopardize his domestic support by reaching a peace agreement with Kosovo. Serbia's residual opposition is in disarray, and as such not likely to contribute to create the conditions for a political breakthrough. Most in the opposition are even less prepared than SNS to reach a peace deal with Kosovo.
- EU membership remains a strong incentive and catalyst that could encourage Serbia to move toward a compromise with Kosovo. Though many have dilemmas about the EU membership, the majority of Serbs continue to support it. For many, EU membership in exchange for relinquishing Kosovo might be 'a painful but acceptable trade-off.' But the EU does not seem willing to offer a fast track process and Serbia does not consider the fulfillment of the criteria urgent. In addition, the EU insists on Serbia to fulfill all other criteria and especially those related to justice and the rule of law. Just like in Kosovo, the conditions in Serbia are not ripe for a breakthrough either.

Kosovo and Serbia are in a *non-hurting stalemate*. The international community seems to be ready for another push, but the leaders in Serbia and Kosovo are comfortable with the stalemate because it does not hurt. However, once the Kosovo and Serbian leaders lose the status of EU's preferred leaders—there are indications that the EU seems to be fed up with never-ending empty promises—the stalemate may begin to hurt and leaders would become more willing to engage in productive and well-intentioned negotiations. Increasing the cost of stalemate for leaders is a key factor to successful negotiations. The international community should make 'non-signing' costlier than 'signing.' Simply engaging in negotiations—largely to shield themselves from international pressure and continue looking like nice guys—should be no longer satisfactory for the international community. It is time to produce results.

## Renewed negotiations

The international community's previous chaotic and conflicting efforts have begun to gradually shape into a more coordinated diplomatic peace-making initiative. President Trump's envoy Richard Grenell's unilateral efforts were put to rest once the Kosovo's Special Court announced it has proposed an indictment against President Thaci. Soon thereafter, Germany's Chancellor Angela Merkel and France's President Emmanuel Macron put together a new EU initiative headed by EU High Representative Josep Borrell and handled by EU's envoy Miroslav Lajcak. The US seems to support it and agrees to let the EU resume the leading role. The EU initiative has a clear goal—comprehensive normalization between Kosovo and Serbia—but is still figuring it out how to get there and what it actually means. A good plan should have both clear goals and strategies to achieve them. EU's plan seems to have the former but not the latter.

- Supported diplomatically by Germany and France, Serbia and Kosovo have begun a new process focusing on their objectives—not differences—and are trying to harmonize these objectives. They have a number of common objectives—EU membership, peaceful resolution of the dispute, good economic relations—that are also in line with their national interests.
- Germany's Merkel and France's Macron seem to have personally committed to oversee the negotiating process, which they want to conclude with a peace agreement that leaves no political ambiguities behind. The international mediators should also make clear to the parties that their support is not indefinite or unconditional. Unlike the previous Brussels process, the focus of the new initiative is on political disputes..
- Kosovo should focus on what it *can* get from the EU—recognition by five EU non-recognizers (four of which are at the same time the only four non-recognizing NATO members), EU candidate status—not on what it *cannot* get from Russia and China—UN membership. Recognition by Serbia should be a priority for Kosovo, but not its top priority. Kosovo should do a reshuffling of priorities, elevating recognition by five EU countries while downgrading Serbia's recognition. It should let the EU negotiate recognition with Serbia. EU has more tools to extract it from Serbia.
- The international community should draft a final agreement and have parties discuss the written proposal. Prolonged negotiations could undermine the negotiation momentum and EU's credibility as an actor able to take care of its own backyard.
- US's role in influencing Kosovo is irreplaceable. Unlike the EU that cannot lobby for Kosovo's recognition directly because of its five non-recognizing members, the US does openly lobby, thus having a better reputation in Kosovo. The US-EU existing cooperation is minimal in the process. They need more coordination and cooperation to succeed. The US-EU rivalry on Kosovo increased instability by bringing down a rather strong and effective government there in the middle of a pandemic. The US-EU rivalry should be avoided at all cost. The US and the EU—rather than Kosovo and Serbia—should be in the driving seat and use their influence to build momentum and conditions for a deal.
- EU's negotiation approach seems pragmatic and functional, aiming to first put some building blocks, such as boosting economic cooperation and resolving the fate of missing persons, before moving on to more sensitive issues. In the next phase, the EU should use its “hard artillery”—Merkel and Macron together with Washington corner the parties into a compromise.

The new negotiation process seems to be moving towards a form of ‘normalization without recognition,’ a seemingly necessary step before a final status resolution. A quick Serbian reversal from its position of “Kosovo is Serbia” is not expected as it could undermine SNS’s power. It could also open Pandora’s box of Serbian internal politics. Serbian and Kosovo leaderships have for years now pumped up propaganda highlighting the importance of ‘continuing to fight,’ and inadvertently have cornered themselves into a hard bargaining position. Now they need time to prepare their audiences for eventual drastic shifts. An agreement with recognition most likely will be concluded only when Serbia is about to become an EU member. Key EU member states seem determined not to admit new members with unresolved major conflicts. Though Kosovo might be reluctant to commit to ‘normalization without recognition,’ eventual recognition by EU members is even more important. The five EU non-recognizers have indicated they would consider recognition if an agreement between Pristina and Belgrade is reached.

## **Desired outcome**

The desired negotiation outcome is to reach a comprehensive agreement that puts the relations of Kosovo and Serbian societies in a positive trajectory, finally reversing the century-old negative trends. A friendly relation between Kosovo and Serbia in the near future is not likely, but to begin such a relationship is possible.

- Opponents of a renewed Serb-Albanian conflict constitute the majority both in Kosovo’s and Serbia’s societies. President Vucic recently noted that “only one percent of Serbs are willing to fight for Kacanik,” a small town in southern Kosovo. An indicator of success is when these ‘conflict opponents’ go one step further and become ‘peace promoters.’ Public acceptance of a deal could have multiple benefits in other areas.
- Parallel to facilitating the resolution of the dispute, the international community should more actively support democratic reforms in Serbia and Kosovo. History shows that change toward democracy increases the possibility of stronger commitment to peaceful solutions, as democracies share similar perceptions for dealing with disagreements, particularly their belief in compromise.
- A good agreement removes all border restrictions, allowing people and goods to move freely.
- A strong EU comes out of the process that shows it could successfully and expediently deal with issues in its own backyard before wanting to become a global player.
- A Serb-Albanian relationship ideally should no longer be shaped solely by political leaders, myths, and stories, but by economic cooperation, academic and cultural exchanges, and social relations.

Serbia and Kosovo remain economically impoverished, politically polarized, and socially conservative—elements not favorable for reaching peace with former enemies and for democracy to develop. International post-agreement political and economic backing is just as important as the conflict mediation support. The prospects for peace are not good. There is a sense of fatigue with the conflict but also with the dialogue. Too little progress takes too long to reach. Governments and people are ill prepared to face challenges and accommodate compromises. Negotiations and agreements do not only bring benefits. They also bring costs, political or material. Compromises may cost politicians some power, especially when the public

is not ready. But politicians themselves are to blame for not preparing their publics to also accept the costs. The international community should no longer consider Kosovo's and Serbia's current leaders as the 'only guarantors of stability.' Kosovo and Serbian leaders of the past two decades have been "at times arsonists, at times firefighters, but never peacemakers." It is time for Serbs and Albanians to escape 'the ethnic trap' once and for all through a comprehensive peace agreement. It is time to agree.

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