

The Brussels Dialogue and Paths to An Agreement

The Council for Inclusive Governance (CIG) organized another roundtable¹ on October 9, 2021, in Skopje, North Macedonia, for a number of current and former members of parliaments of Kosovo and Serbia to discuss the prospects of the Kosovo-Serbia dialogue and paths to an agreement. The discussions were held under the Chatham House Rule. The Swiss Federal Department of Foreign Affairs supports the initiative and The Balkan Trust Democracy of the German Marshall Fund of the United States provided additional support for this roundtable. The report does not necessarily represent the views of individual participants or of CIG but rather reflects the discussion as a whole.

A final deal or a sequenced solution

The tensions between Kosovo and Serbia over ‘license plates’ showed that the results of the Brussels dialogue remain fragile. The best way to prevent similar escalations is to work faster on a final agreement. The US and the EU could put together a negotiating process that should take “no longer than a month,” a participant suggested, explaining that the “number of open issues is small and the problems are familiar for everyone.” “A month should be sufficient.” While preparing for a final deal, the EU and the US could establish some basic communication and cooperation between Pristina and Belgrade on security issues, including creating a direct line between the prime ministers, ministers of internal affairs, and ministers of defense.

Many said that small incidents, such as the last license plates one, are not likely to spark a major conflict, but could derail the normalization process and undermine the Brussels dialogue.

The recent security escalation—weapons and armored vehicles displayed by both Pristina and Belgrade—concluded with a “stickers agreement,” whereby both sides cover with stickers each other’s state symbols on car plates. Many speakers predicted that Pristina would undertake new measures in the coming weeks, such as trying to find ways to collect electricity bills in the north. “These measures may complicate the situation even more.” Many participants said that all the remaining issues “could be resolved without weapons and police.” However, some said that the “energy situation in the north could precipitate a broader escalation.” A speaker said both a permanent solution is the only way to prevent such incidents. “We need a new peace, not a peace protected by fear, but one that is sustainable on its own.” But pre-election periods are not good times for big decisions. Therefore, the sides are not likely to engage in serious negotiations until after the October 2021 elections in Kosovo and the Spring 2022 elections in Serbia.

¹ CIG has been organizing discussion between Kosovo’s and Serbia’s members of parliaments since 2015. These discussions have taken place in Pristina, Belgrade, Tirana, Skopje, Mavrovo, and Podgorica.

Kosovo and Serbia should certainly engage in managing these incidents, but their main focus should not be on sporadic incidents but on “finding a permanent solution, including recognition.” “But we should think of the recognition as a process, not as an act.” The speaker said that if the end goal of Kosovo is recognition, then why not try to sequence it, because “recognition as an act is not likely to happen.” Negotiators should search for more acceptable, diluted ways so that “both sides could help each other finding a way out of this trap.” He said the resolution of other problems could be sequenced too, including the establishment of the Association/Community of the Serb-Majority Municipalities. Other smaller issues could be sequenced as well, through “dividing them into simple small tasks that would in the end complete the process.” The speaker added that a “litmus test for the Kosovo society is to see if they could implement the Decani monastery decision of the Kosovo Constitutional Court.” The entire negotiation process should be looked at “as a process, not as a single act or drama.”

Serbs and Albanians should also develop a common understanding of what a “final agreement” means. Another speaker said that a “final agreement means pretty much recognition,” but that “the recognition is not going to happen in the short-and-medium term,” and that is why the decision-makers should focus on what is possible now. Perhaps focus on reaching agreements that address such issues as pensions, financial claims, and property. These issue-based agreements could build the foundation for a final agreement. The final agreement, a speaker said, should be detailed and with clear guidelines and timelines for implementation. The final agreement should be like “the Ahtisaari plan, very detailed, very concrete.”

While there was agreement among the participants that a final agreement is inevitable, many argued that the prospects for it to happen soon are slim. First, the trust between the sides is poor. Second, by constantly defaulting in their commitments to implement the reached agreements, they have damaged their credibility as reliable negotiators. And third, neither side seems willing to make the necessary compromises for reaching a permanent agreement.

Many considered international support as key to driving the process to a successful end. “Pristina and Belgrade cannot reach big agreements alone.” Unless the US and the EU offer more than facilitation for the process, the dialogue could go on endlessly. Kosovo and Serbia are not even willing to implement what they have agreed on, let alone reach new agreements. The problem in Kosovo and Serbia is that “compromise is seen as a weakness.” Fear is another element that affects the decision-making. A speaker explained that the Association/Community is not a threat as it is on paper, but that the parties are trying to add new things, change the old ones, as they negotiate the implementation. “Pristina does not fear new competencies for the Serb-majority municipalities, but fears what these eventual new competencies will be used for.” Kosovo and Serbian officials should address these fears in order to build a more honest dialogue.

Another challenge is that Kosovo and Serbia see the Brussels dialogue as a “zero-sum game.” There cannot be a clear path toward normalization, with each side having its own definition. It is also not clear whether the parties want a solution. “Once a solution becomes a common objective, reaching an agreement would become much easier.” A dialogue where parties have no clear objectives is not likely to end with an agreement. “An agreement between Kosovo and Serbia is not simply a text on a dispute, but one that would have to define a new relationship between Serbia and Kosovo and their respective societies; it is an agreement that would go beyond a simple act of diplomatic recognition.”

A number of speakers talked about sequencing the process. Belgrade sequenced its process, a speaker argued, has been sequenced from the beginning in three phases: Belgrade began the dialogue with Pristina in 2010, reached a number of agreements during five years, and it concluded the first phase in 2015. The second phase is the EU integration process. And the third phase is about implementation of an eventual agreement with Kosovo and EU-required reforms. Chapter 35 sequences the issues with Kosovo that Serbia needs to address to close it successfully. The speaker recommended that the parties should try to agree on a common sequencing. This could be done by expanding the dialogue to include direct communication, and not only through international facilitation. The sequencing should include also a number of human and minority right issues.

Kosovo could also sequence its dialogue process and objectives. It could begin with seeking recognition by the five EU non-recognizers, move closer to NATO and EU, and in the third phase aim for Serbia's recognition when Serbia is about to conclude its third phase, EU membership. "Kosovo's recognition is a non-negotiable condition for Serbia's membership," a speaker argued. Many agreed that it is not likely that Serbia will recognize Kosovo in the short-term, but it could "recognize the existence of the Republic of Kosovo, without diplomatic recognition."

In the meantime, the parties should make sure the incidents do not get out of control. "The electricity issue is even more complicated than the license plates." A speaker explained that the four Serb-majority municipalities in the north spend about 22 million euros in electricity per year and do not pay for it. Kosovo's government paid 11 million euros in April to cover the expenses for six months, a period that expired in October. "The Kosovo government will no longer subsidize electricity for the north." But it is not clear how the government plans to collect the bills.

According to the original agreement on energy reached in 2013²—the agreement was revised and implemented in 2019 without Serbia's agreement³—Kosovo Transmission Operator (KOSTT)

² Kosovo Transmission Operator (KOSTT) becomes member of the European Network of Transmission System Operators (ENTSO-E); a new electricity company would be established under the Kosovo legal and regulatory framework to supply electricity and provide distribution services (such as billing, collection, maintenance and physical connection of new customers) to customers in the four Serb-majority municipalities in the north, and will be able to buy and sell power on the open market; the employees of JP Elektrokosmet will either be incorporated into this new company or might be offered employment with Kosovo Electricity Distribution Company (KEDS); KOSTT will reconnect the 110 KV lines to the Valac substation and the current operators at Valac will respect instructions from the Kosovo dispatch center; and both parties agree to try to find a common settlement solution as regards KOSTT's claims and EMS, Serbia transmissions operator, claims. Should it not be possible to reach a common settlement within 6 months, both parties agree to submit these claims to international arbitration.

³ The agreement was not implemented. And in 2019, after suffering disruption in their clocks, the EU revised the original agreement without Serbia's approval and went ahead with the implementation. It took four steps. a) The Serb company was offered the license in line with the Kosovo law. b) The company rejected the offer. After the rejection, members of ENSCO-E's Regional Group Continental Europe (RGCE) voted on a modification of the original Brussels Energy Agreement. The RGCE members drafted the new agreement that removed the registration of Serb company from the agreement, thus leaving KOSTT in charge of Kosovo's entire territory to supply and manage energy. Serbia appealed the decision but lost in the voting process. RGCE members unanimously rejected Serbia's request to review the

becomes member of the European Network of Transmission System Operators (ENTSO-E) while a new electricity company would be established to supply electricity and provide distribution services (such as billing, collection, maintenance and physical connection of new customers) to customers in the four Serb-majority municipalities in the north. The agreement was not implemented. And in 2019, after suffering disruption in their clocks, the EU revised the original agreement without Serbia's approval and went ahead with the implementation.

Now a new electricity company to serve the north municipalities has been registered in Kosovo but is waiting for licensing from Kosovo's authorities. Reportedly, discussions are ongoing between the Kosovo government and Serb representatives in finding a solution for electricity for the north. However, many participants were concerned that another escalation would further deteriorate the relations between Serbs and Albanians and undermine the Brussels dialogue by diverting its focus from a long-term solution to addressing sporadic incidents.

Issues that could be addressed in the short-term

The participants identified a number of issues that could be addressed in the short term.

1. Assess the unimplemented agreements and identify the obstacles to their implementation.
2. Transform the 'sticker agreement' into a permanent solution.
3. More intensive engagement in finding the missing persons.
4. Recognize all diplomas.
5. Preempt an eventual crisis over electricity in the north.
6. Take conciliatory steps, such as direct meetings of Kosovo and Serbian leaders.
7. Resolve the travel document issues.
8. Police cooperation on fighting organized crime and illegal economic activity.
9. Expedite the resolution of property issue of non-Albanian communities.
10. Revitalizing the Brezovica Ski Center by allowing both Kosovo and Serb companies to invest.
11. Implement the Constitutional Court decision on the Decani Monastery.
12. Begin discussions on forming the Association/Community.

The participants agreed that it takes strong political courage to tackle these issues and pre-election periods are not suitable for sensitive decisions. However, some speakers said that the leaders would have to resolve their problems themselves sooner or later. "Nobody will do it for us. Furthermore, "we should not allow the protracting of solutions become policy." Some speakers said that the word "compromise is a good word, but we have contaminated it."

In conclusion, the participants recommended engaging more actively in building public support for the dialogue through stressing the advantages of an agreement more than the risks. And the final agreement should ensure that the relations between Serbia and Kosovo become irreversibly normal.

changes in the new draft agreement, c) RGCE members voted on the modified agreement. A majority was in favor, so KOSTT became an equal member of ENTSCO-E.

Participants

English Alphabetical Order

Gresa Baftiu, Associate in Kosovo, Council for Inclusive Governance
Gordana Comic, Former Member of Parliament of Serbia; Minister for Human and Minority Rights and Social Dialogue of Serbia
Vladimir Djukanovic, Member of Parliament of Serbia, Serbian Progressive Party
Sadri Ferati, Former Member of Parliament of Kosovo, Democratic League of Kosovo
Dubravka Filipovski, Member of Parliament of Serbia, Serbian Progressive Party
Shpetim Gashi, Vice President, Council for Inclusive Governance
Dukagjin Gorani, Former Member of Parliament of Kosovo; Analyst
Vincent Hug, Human Security Adviser, Swiss Federal Department of Foreign Affairs
Dalibor Jevtic, Vice President, Serb List
Mimoza Kusari Lila, Member of Parliament of Kosovo, Self-Determination Movement
Vesna Markovic, Member of Parliament of Serbia, Serbian Progressive Party
Milivoje Mihajlovic, Analyst
Petar Miletic, Former Member of Parliament of Kosovo; Analyst
Igor Novakovic, Associate in Serbia, Council for Inclusive Governance
Fitore Pacolli, Member of Parliament of Kosovo, Self-Determination Movement
Snezana Paunovic, Member of Parliament of Serbia, Socialist Party of Serbia
Lulzim Peci, Director, Kosovar Institute for Policy Research and Development
Dejan Radenkovic, Member of Parliament of Serbia, Socialist Party of Serbia
Alex Roinishvili Grigorev, President, Council for Inclusive Governance
Jeta Statovci, Member of Parliament of Kosovo, Self-Determination Movement
Visar Ymeri, Former Member of Parliament of Kosovo; Analyst