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## THE DIFFICULTIES IN PREDICTING THE FINAL RESULT OF THE EU-FACILITATED KOSOVO-SERBIA DIALOGUE. AN ANALYTICAL APPROACH

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**ABSTRACT:** *This paper aims to shed some new light on a long-standing dialogue whose outcome is difficult to foresee. This is because, since it started, it has been a dialogue without a time frame or a clear final goal. It was also a dialogue, followed by ambiguity about the facilitator/mediator and the parties. Thus, the paper provides insight into the current state of the dialogue, built on a process that began more than a decade ago. Authors provide a description and analysis of the process's principal components, highlighting shortcomings arising from either the parties' willingness to finalize a potential agreement or from weaknesses in EU facilitation and in the performance of its representatives as facilitators. For this paper, the authors used a combined methodology comprising comparative, legal, teleological, and descriptive analyses.*

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**KEYWORDS:** dialogue; facilitation; mediation; EU; Kosovo; Serbia; agreement; Brussels; Ohrid.

### 1. Introduction

On 8 October 2008 (resolution 63/3), the General Assembly decided to ask the Court to render an advisory opinion on the following question: “Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?” (icj-cij.2008, case/141) In its Advisory Opinion delivered on 22 July 2010, the Court concluded that “the declaration of independence of Kosovo adopted on 17 February 2008 did not violate international law”. (icj-cij, 2008, case 141/16010). The process before the International Court of Justice was initiated by the Republic of Serbia, which opposed the Kosovo Declaration of Independence, adopted by the Kosovo Parliament on February 17, 2008. This was an act that crowned the will of the majority population of Kosovo. The basis of this will can be found in the long-standing efforts of the Kosovo people for freedom and democracy, and in many documents accepted by Kosovo, its people, and its institutions. Kosovo was fully committed to accepting the Rambouillet Conference Proposal and the Comprehensive Proposal for Kosovo Final Status, known as the Ahtisaari Plan. Thus, an

International Conference was held in Rambouillet (France) in order to settle the peace in Kosovo. The conference opened on 6 February 1999 and was formally co-chaired by the British and French Foreign Ministers... On March 15, a follow-up conference was organized in Paris, where Kosovo representatives presented to the co-chairs a letter in which the Kosovo delegation committed to accept and sign the agreement at a time and place chosen by the co-chairs... (Milo 2009, Krasniqi 2010, Dufourr 2010, Albright 2004, Weller 2011, Bajrami 2018).

In April 2007, UN Special Envoy Martti Ahtisaari submitted his Comprehensive Proposal for the Kosovo Status Settlement (the "Ahtisaari Plan") to the UN Security Council. The Ahtisaari Plan includes a main text with 15 articles that set forth its general principles, as well as 12 annexes that elaborate on them. The Ahtisaari Plan is primarily focused on protecting the rights, identity, and culture of Kosovo's non-Albanian communities, including establishing a framework for their active participation in public life. Special Envoy Ahtisaari also proposed that Kosovo become independent, subject to a period of international supervision. On February 17, 2008, the Kosovo Assembly declared Kosovo's independence in line with the Ahtisaari recommendations. In its declaration of independence, Kosovo made a binding commitment to implement the Ahtisaari Plan fully and to welcome a period of international supervision. Kosovo has already begun to approve new legislation as envisioned in the Ahtisaari Plan, to develop a constitution that enshrines the Ahtisaari principles, and to take other measures to implement the Ahtisaari Plan's provisions fully. (US Department of State, 2001-2009). The first one, due to the refusal to accept from that's time Federal Republic of Yugoslavia, served as the basis and as the reason for NATO intervention against the FRY. The second is a document drafted by UN envoy, former Finnish President Martti Ahtisaari, and his office at the end of the Vienna negotiations (after the war), which Serbia again refused to accept. However, it is essential to explain that Kosovo was put under international civil administration in 1999. From this year until the Declaration of Independence, Kosovo had to pass various "exams" to enter a phase of determining its future. These exams were successfully passed, since international institutions measured them, and after all of this, former Finish President Marti Ahtisaari took the responsibility authorized by UN, to develop negotiations for future status of Kosovo which ended with a Report submitted to Secretary General of UN with the recommendation: "Kosovo's status should be independence..." (UN Security Council S/2007/ 168). Since its Declaration of Independence, Kosovo has been recognized by 116 states, and it is already a member of the International Monetary Fund, the World Bank, the EBRD, the International Olympic Committee, etc (MFA, 2021).

The Republic of Kosovo entered into the dialogue with Serbia in order to respect the accepted obligations deriving from the UN Resolution A/RE?64/298 adopted on September 9, 2010. This resolution recognized the advisory opinion of the International Court of Justice regarding the accordance of the Kosovo Declaration of Independence with international law (Rrahmani et al., 2023).

In light of the above, this article seeks to answer the following research question: Is the EU-facilitated dialogue properly leading to an end to the Kosovo-Serbia dialogue?

## **2. Literature Review**

The Kosovo–Serbia Dialogue has been widely examined as a unique case of EU-facilitated conflict management. Kosovo’s unilateral declaration of independence challenged traditional notions of sovereignty (Weller, 2009; Vidmar, 2012). The ICJ’s 2010 advisory opinion concluded that the declaration did not violate international law but left recognition politically determined. This ambiguity underpins the concept of “normalization without recognition” (Ker-Lindsay, 2017). The Brussels Agreements, particularly on the Association/Community of Serb-majority Municipalities, demonstrate tensions between legal precision and political compromise, complicating implementation (Bieber, 2015). The EU leverages normative power and conditionality, linking dialogue progress to accession prospects (Bergmann & Niemann, 2018; Noutcheva, 2012). Asymmetric bargaining power shapes negotiation dynamics: Serbia’s broader recognition stands in contrast to Kosovo’s limited international status. Domestic politics and electoral cycles strongly influence implementation, particularly for contested provisions such as the Association/Community of Serb-majority Municipalities (Economides & Ker-Lindsay, 2015; Rrahmani & Belegu, 2025). While the dialogue reduces overt conflict, it has a limited impact on reconciliation and social cohesion. Regarding the research gap, it is worth noting that comparative analyses of other EU-mediated results of this long-lasting process, assessments of local implementation, and the integration of external geopolitical dynamics remain underdeveloped.

## **3. Methodological approach**

Building on the historical context and scholarly insights outlined above, this paper adopts a combined methodology that integrates comparative, legal, teleological, and descriptive analyses. The literature highlights multiple dimensions of the Kosovo–Serbia dialogue—ranging from legal ambiguities and political compromises to asymmetries in bargaining power and the limitations of EU facilitation. To address the identified research gaps, a multidimensional approach is essential: comparative analysis enables assessment of the reached agreements by comparing them in terms of content and time frame. Legal analysis examines the normative framework underpinning the dialogue, including the ICJ advisory opinion, the Ahtisaari Plan, and the Brussels Agreements, to evaluate compliance and interpretative challenges. Teleological analysis examines the dialogue’s objectives and purposes, assessing whether its outcomes align with the intended goals of conflict resolution and normalization. Descriptive analysis provides a systematic account of the dialogue’s processes,

actors, and milestones, emphasizing practical developments, shortcomings, and lessons learned over more than a decade. By combining these methods, the paper seeks to offer a comprehensive understanding of the dialogue's dynamics, the effectiveness of EU facilitation, and the broader implications for the process's further outcomes. This methodological framework ensures that the analysis is both theoretically grounded and empirically informed, addressing gaps identified in the existing literature and providing actionable insights for policymakers and scholars alike.

#### **4. Technical vs. political dialogue**

The EU-mediated dialogue, often referred to as the Brussels dialogue between Prishtina and Belgrade, officially began at the beginning of 2011, according to UN Assembly Resolution No. 64/298. Representatives of Kosovo and Serbia held official meetings between March 2011 and July 2012, and the nominated negotiators discussed the main technical issues affecting citizens of both countries. Given its nature and the issue at hand, the process was designed as a technical dialogue intended to result in a technical agreement. (Grupi për Politika dhe Avokim, 2020). However, this dialogue, intended to be technical, very quickly turned political and, in fact, became unclear, sowing the seeds of uncertainty and endlessness. Indeed, between these two states, around 39 agreements were achieved. Among them, one has remained very controversial ever since (initialed by both prime ministers). Moreover, it is the best example of creative ambiguity used in this facilitated/mediated dialogue. This is the agreement known as the First Agreement of Principles Governing the Normalization of Relations (Barlovac, 2013), comprising 15 articles that have been subject to various interpretations. In fact, when analyzing the provisions of this agreement, it is easy to argue that it is interpreted differently. In general, the dialogue aimed to normalize relations between the two countries, both of which aspire to EU membership, in the context of Serbia's continued refusal to recognize Kosovo's independence. This agreement neither normalized relations between the parties nor resolved any of the issues addressed in its fifteen articles.<sup>1</sup> The truth is that this agreement is still the object of discussions in and outside of dialogue, and that few Kosovo governments have been dissolved simply because they could not afford its implementation. The Kosovo Constitutional Court has also dealt with it. Nonetheless, neither party in this process was entirely prepared for a compromise. In contrast, the EU facilitated dialogue more on the basis of a desire for results rather than on an analysis of the parties' opposed real goals. The transformation of a technical dialogue into a political one should not have happened unless a clear framework was defined, and unless the clear role of the EU, which sometimes acted as a facilitator, sometimes as a mediator, and sometimes

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<sup>1</sup> For this agreement author/s have written in previous works, published in: [www.insightturkey.com](http://www.insightturkey.com), [www.e-jlia.com](http://www.e-jlia.com), <https://neweurope.centre.ubbcluj.ro>, etc.

in other forms of dispute settlement, was defined. Similarly, this is happening with the last agreement, as we will see further in the article.

### **5. Geopolitics and implementation**

Geopolitics had an impact on the dialogue at all phases, but its role increased especially after the Russian invasion of Ukraine. In addition, it is worth mentioning a few other factors linked to this. Geopolitical pressures, primarily from official Moscow, to slow, delay, or halt the normalization process between Belgrade and Pristina, linked to expectations about the outcomes of its two-year operation in neighboring Ukraine, have also significantly impacted the dynamics of this process. Russia has endeavored to provide Serbia with unwavering assurances that the matter of restoring relations with Pristina will be brought back onto the UN agenda. (Đukanović, Vučić, 2024). However, this is obviously something that should not happen. Considering the report of forces in the Security Council and at the UN under the current circumstances, bringing the Kosovo-Serbia dialogue before this organization is more of a fiction than a reality. This was tried with the issue of the Serbian currency and its potential use in circulation in Kosovo, but it failed. Serbia raised the issue, and the Security Council met, but besides the discussions and debate, there was no sign of any resolution. (UNSC, 2024). However, Serbia, as many politicians have stated, will have to wait for a better time, which they believe is coming. Assumptions for this are: Russia will win the war against Ukraine, and afterwards, its role in the international community will be much stronger. In line with this, changes in the US administration, as they see it, will put Serbia in a much stronger position. Therefore, when former President Trump comes to power, the chances of a Kosovo land swap increase and become more obvious. Thus, anyway, elections in the USA are expected to have an impact on the dialogue in the further phases. Actually, the dialogue in the current situation remains on paper and remains at the same stage as before. And it is not to be expected that it will produce something this year. There has been more than a year since the Agreement on Path to Normalization (described below) has been in a standstill. In addition to the US elections, the EU had its own elections. Changes will happen: personal and perhaps substantial. Mr. Borell will no longer be the European Union High Representative for Foreign Affairs, and EU Envoy Mr. Miroslav Lajcak will be replaced (as potential candidates are being mentioned: former Slovenian President and/or a Finnish politician). However, Mr. Lajcak's mandate has been extended until the end of 2024, but nothing essential is expected during the remaining months.

Namely, the genuine geopolitical commitment of official Belgrade to join the EU remains questionable due to its very intense relations with the Russian Federation, its strategic partner since 2013, and the ongoing and accelerated deepening of ties with the People's Republic of China, elevated to the level of an enhanced strategic partnership since 2016. (Đukanović, Vučić, 2024) The situation in Montenegro has changed

rapidly after the last elections, in which pro-Serbian forces have assumed a dominant role, and political turbulence may arise. Bosnia and Herzegovina remains quite fragile, and the threat of the Republika Srpska's separation is always present. Northern Macedonia has a new government, which analysts say is more pro-Serbian and pro-Russian oriented. Moreover, there is something not to be neglected under the geopolitical context. This is the so-called “Srpski Svet” (Serb World), which

Without any doubt, various Vulins from the Serbian political corpus from time to time release propaganda balloons under the name “srpski svet” that are not incidents that burden bilateral relations between post-Yugoslav countries. This syntagm, created in the image of the Russian world, and despite official denial, was sown a long time ago, and now is sprouting up in the fertile soil, above all in Montenegro and Bosnia and Herzegovina, where more and more officials and ordinary citizens identify with the name of Serbia, and this in their own country. A process in which part of Montenegrins refuse to be called Montenegrins, and a part of Bosnian Serbs and even a part of Bosnian Croats, to dismay all non-Serbs has come to the point which hinders the development of Serbia, Monte Negro and Bosnia and Herzegovina, which are also based on this running towards the EU at a snail's pace. (Mistic, 2024)

It is not of minor importance that polls show an overwhelming majority of Serbian citizens (80%) regard the Russian Federation as Serbia's main ally. (Đukanović, Vučić, 2024) In contrast, the overwhelming majority of Kosovo citizens are oriented towards EU integration, NATO membership, and the USA. In line with this, let us see some more data. An International Republican Institute analysis conducted in 2020 showed that only 29% of Serbs support an exclusive EU/Western foreign policy orientation, and 36% would support a balanced Western/Russian orientation. In Kosovo, 88% of respondents favour a pro-EU/Western-oriented foreign policy. (Stanicek, 2023) For whatever projections and analyses, the following should also be known and considered. The war in Ukraine has far from changed the pro-Russian sentiments in Serbia. Polls have stressed that 'Putin is the world leader that Serbs admire the most, and 95% of Serbs see Russia as a faithful ally, compared to only 11 % who see the EU that way, despite the EU being Serbia's largest financial supporter, according to a recent poll. Moreover, 68% of Serbs said in the same poll that they believed NATO, not Vladimir Putin, had started the war in Ukraine, with 82 % against the sanctions imposed on Russia. (Ibidem)

At the end, a question raised in recent days is whether the so-called “lithium diplomacy” can affect the continuation of dialogue in the future. Related to this, “it is hard to believe that lithium can smooth out disagreements about political relationships with Germany? It is hard to believe that lithium can smooth out disagreements about relationships that, among others, are linked to Kosovo, relations with Russia, and the situation of the rule of law in Serbia.” (Nikolic, 2024).

Under the current circumstances, the dialogue has many more chances to stay where it stands rather than to move forward. This is not of interest not only for Kosovo and Serbia. This is not of interest to the entire Western Balkans. This is not only for the West, because besides security and similar issues, “the legitimacy of the West in the Western Balkans could depend on the success of the Serbia-Kosovo dialogues”(Vladislavjević,2023).

## **6. Last agreement and its faith**

From the beginning of the dialogue until the current stage, 39 agreements have been reached between Kosovo and Serbia. Some were implemented, some partially implemented, and some obstructed. Before going to the last agreement, it is useful to say that numerous analyses conducted by academics and various political or diplomatic entities, both at the local and international levels, have led to several general conclusions regarding the Kosovo-Serbia dialogue:

- The initial stages of the dialogue were beneficial, bringing some positive outcomes.
- However, the dialogue has not resulted in a final agreement between the parties involved.
- Over more than ten years, the dialogue has encountered increasing difficulties and challenges compared to its early stages.
- The mediator or facilitator of the dialogue was not adequately prepared and did not possess full authority to impose potential solutions, primarily due to the absence of appropriate mechanisms.
- Both parties, in different ways, have shown a lack of willingness and ability to reach a comprehensive agreement (Rahmani et al, 2023).

On February 23, 2023, an Agreement on Path to Normalization was reached between Kosovo and Serbia in Brussels. Parties, as soon as it was declared as agreed, came up with different interpretations of it. Nonetheless, it was said that within a very short time, parties will meet to work on the sequences or on the annex as the implementation plan. This agreement derived from the Franco – German Proposal. The Franco-German proposal, endorsed - but not signed - by Serbian President Vucic and Kosovo Prime Minister Kurti in Ohrid on March 18, 2023, “offered a roadmap towards the normalization of relations while calling on both parties to engage in several confidence-building steps. Yet, while the aftermath of the Ohrid verbal agreement demanded a focus on rebuilding trust, both parties have instead engaged in actions that do the exact opposite”. (Mucznik, 2023) Hence, “Serbian President, Aleksandar Vučić, said that his country had agreed on 'some kind of[a] deal' to normalize relations. 'We have agreed on some points, not on all points. This is not the final deal, Vučić stated in Ohrid, demonstrating how differently the two sides perceive the normalization agreement. (Euroopa Parlament,2023).

The new US special envoy for the Western Balkans, Deputy Assistant Secretary of State for European Affairs Gabriel Escobar, was present at the negotiations for the agreement in Ohrid. After the meeting, he said that the Serbia-Kosovo normalization agreement would create ‘a peaceful, predictable, and friendly relationship’ between the two countries and open ‘the door for both of them to move faster into Euro-Atlantic structures’(Stanicek, 2023). The EU considers the Agreement on the Path to Normalization as an official, binding document (Borell, 2023).

Before going further, for the sake of better understanding the agreement, let us briefly present the main issues: for Serbia, it is to be partially accepted; for Kosovo, it is a good roadmap to be signed and subsequently implemented in its entirety. For the EU, it is an officially binding document for the parties. However, if the EU continues to deal with the creative ambiguity, then the chances of a dialogue with no final result and no end will persist. Florian Bieber, related to the 2013 Agreement for Normalization of Reports, underlined that,

A key challenge will emerge when creative ambiguities require resolution. It seems unlikely that Serbia would be able to join the EU without a formal agreement or treaty with Kosovo that included some degree of recognition. The postponement of difficult decisions has been both a feature of decision-making in the EU itself and its strategy for tackling the dispute between Serbia and Kosovo. Whether this gradualist, process-oriented approach marked by creative ambiguities will become a successful model of conflict resolution depends on the ability to convert silences into clarity and the formalization of relations at the end of the process (Bieber, 2015).

Ten years later, we have again in place an agreement that only creates a roadmap towards normalization. Unfortunately, this new agreement does not provide the expected final resolution, without which it is hard to see real normalization.

### **7. Briefly about the content of the Agreement on the Path to Normalization**

Before describing and explaining the main provisions of the agreement, it is helpful to note that it is similar to the German–German Treaty. The “European proposal” envisions a similar model for the normalization of relations between Belgrade and Pristina, as provided in:

The Basic Treaty, signed by the Federal Republic of Germany (FRG) and the German Democratic Republic (GDR) in 1972, was already mentioned as a possible model in the initial phase of the normalization process (2011-2013). The FRG never recognized the GDR as an independent state under international law, but it accepted that the GDR acted *de facto* like a sovereign state. In international law, „*de facto*” refers to a state of affairs that is generally accepted as valid, even though it has not been formally recognized under international law (*de jure*) (Vulovic, 2023).

But in the context of the Kosovo-Serbia dialogue, the agreement remains vague. Kosovo expects final recognition to be the outcome of the dialogue. In contrast, Serbia seeks a territorialized autonomy for the Serb community in the North of Kosovo, which easily may transform into something else. The vagueness of the agreement among France, Germany, and Italy was spelled out in subsequent statements, and Serbia rejected the demand. *De facto* recognition means treating Kosovo as an independent state without a formal declaration, and consenting to other countries and international bodies, such as the UN, recognizing and accepting it as a member. Serbia is grudgingly willing to deal with Kosovo one-on-one but determined to keep its status an

open question. (ICG Report Nr.269., 2024).

The first paragraph of Article 1 is very common in the sense of agreements. It goes with “parties shall develop normal, good-neighbourly relations with each other based on equal rights.”

Article 2 notes that Both Parties will be guided by the aims and principles laid down in the United Nations Charter, especially those of the sovereign equality of all States, respect for their independence, autonomy, and territorial integrity, the right of self-determination, the protection of human rights, and non-discrimination. Serbia obviously refuses this. It does not recognize Kosovo as a state; therefore, “sovereign equality of all states, respect for their independence...” are principles that Serbia strongly opposes in relation to Kosovo.

Article 3 deals with the UN Charter, under which the parties shall settle any disputes between them exclusively by peaceful means and refrain from the threat or use of force. Again, in the Serbian political vocabulary, you see refusals when Kosovo is referred to the UN.

Article 4 addresses the assumption that neither can represent the other in the international sphere or act on its behalf. According to this article, Serbia will not object to Kosovo’s membership in any international organization. This is not at all respected by Serbia. It violated this article by repeatedly taking actions against Kosovo's membership in international organizations. Serbia undertook direct activities to oppose this provision and tried to convince other states to do the same. No measures were conducted by the EU against Serbia for these activities, even though this is officially binding for both parties. This is stated more than once by Mr. Borrel.

Article 5 states that neither Party will block, nor encourage others to block, the other Party’s progress in their respective EU path based on their own merits. Both Parties shall respect the values set out in Articles 2 and 21 of the Treaty on European Union. All that can be said about this article is that Kosovo has fully complied with it. Serbia has not harmonized its foreign policy with the Common Foreign and Security Policy, as implied by Article 21 of the EU Treaty (primarily regarding EU restrictive measures against the Russian Federation) (Đukanović, Vučić, 2024).

According to Article 6, the present agreement constitutes a step towards normalization. Both parties will continue with renewed impetus the EU-led dialogue process, which should lead to a legally binding agreement on the comprehensive normalization of their relations. Formulation of this article has avoided the use of terms such as comprehensive agreement with mutual recognition, or with recognition in the center, etc., as stated before when calling for dialogue.

Article 7 is the most discussed and difficult to interpret. According to this, both Parties commit to establish specific arrangements and guarantees, in accordance with relevant Council of Europe instruments and by drawing on existing European experiences, to ensure an appropriate level of self-management for the

Serbian community in Kosovo and ability for service provision in specific areas, including the possibility for financial support by Serbia and a direct communication channel for the Serbian community to the Government of Kosovo. What is understood by this, especially when in Kosovo, an intense pressure is put on creating an association of municipalities with a majority-Serb population, as something foreseen in the 2013 Agreement on Normalization of Relations between Kosovo and Serbia? Now, there is pressure to create the association, while on the other hand, Article 7 states that “an appropriate level of self-management for the Serbian community...”. The EU and some other states ask for the creation of an association or for self-management... If this article is part of the official document, then the question arises: why does nobody put pressure on Serbia to respect the other articles of this agreement? What are the guarantees that there will not be a new República Srpska in Kosovo if the association is going to be created as dictated? The fear of the new Republica Srpska is palpable, as various Kosovo officials, analysts, and academics have noted. For example, according to Kurti, creating a structure that would serve as a Serbian satellite would have a devastating effect on the state of Kosovo and also have consequences in the region. In this regard,” What we will not allow is the right to territorialize and create anything that would look like Republika Srpska in Bosnia and Herzegovina. We will not allow a satellite prefix with a destructive essence that would undermine the citizenship of Kosovo,”(Taylor, Zimonjic, 2023) said the Prime Minister of Kosovo. Despite these risks, Mr. Kurti has failed to take the lead in proposing or drafting a statute for the association of Serb municipalities based on an international agreement, with two objectives in mind: fulfilling an international obligation in line with the Kosovo Constitutional Court verdict. Now, all fail when asking for self-management of the Serb community, whereas at the same time they put pressure for the creation of an association of Serb Municipalities. Now, if one asks for respecting the principle *Pacta Sunt Servanda*, why we need to have a new provision and request for the same thing? Then a known principle should apply, and that is *Lex posterior derogat legi priory*. Moreover, this something current is playing with. And this should be OK. However, initiatives are not seen to be taken quickly and thus become concrete proposals, so they show Kosovo's readiness to accomplish duties based on studied and analyzed circumstances and international and national legal norms. Even if the pressure and proposals are unjust, they do not justify the inaction of the Kosovo authorities. Other articles of the agreement, talk about the exchange of missions, about the EU's and other donors' commitment to establish a special investment and financial support package for joint projects of the Parties in economic development, connectivity, green transition and other key areas, about and establishing a joint Committee, chaired by the EU, for monitoring the implementation of this Agreement and both Parties commit to respect the Implementation Roadmap annexed to this Agreement (Agreement, 2023).

Analysis of the main provisions clearly does not answer Kosovo's objectives, as formulated in the ICG report: Kosovo sees full international recognition of its independence and complete internal sovereignty

as paramount goals. It wants to remove the remaining Serbian state institutions from its territory; ensure that all residents respect its authority; control its borders; and win recognition from as many countries and international organizations as possible. Non-recognizing EU states, NATO, the UN, and the EU itself top the list. (ICG Report Nr.269, 2024) On the other side, Serbia continues to reject Kosovo independence, no matter the international community pressure. It remains to be seen how the parties will act in the subsequent phases of dialogue, and what Ms. Kaya Kallas will bring to this process, along with the new EU envoy replacing Mr. Lajcak.

### **8. Expectations and the critics**

No results or concrete steps are expected during the rest of 2024. Presidential elections in the USA and the formation of new formations within EU governing structures are among the determinants that shape external dialogue. The situation in Bosnia and Herzegovina, the situation in Montenegro, and to some extent in North Macedonia are regional determinants. In contrast, the political situation in Kosovo and Serbia is, in a way, an internal determinant. In addition, personal changes (Ms. Kaya Kallas and the new EU envoy) within the facilitator/mediator are expected to give the dialogue a new impetus.

A solution to how to convince parties to implement the agreement has to be found. Otherwise, the situation will remain a frozen conflict, which may explode at any time. It is not an easy thing. Especially not under the geopolitical changes, where the role of parties has obviously changed. Serbia has strengthened its position compared to several years ago. It has a stronger geopolitical hand compared to Kosovo. It is bigger, richer, and more fully integrated (with links to a wide range of countries dating back to the Non-Aligned Movement, of which Yugoslavia was a member). Despite Serbia's refusal to align fully with the EU against Russia, it has rarely enjoyed more favorable diplomatic treatment than today. (ICG Report Nr.269, 2024). As noted throughout the dialogue process (notably last year), the international community exerted more pressure on Kosovo, whereas regarding Serbia, pressure was largely rhetorical. Reasons for this were mentioned implicitly and explicitly in this article. Moreover, based on this, it enjoys a honeymoon of sorts. Thus, it is expected that Serbia will try to delay the dialogue as long as possible, waiting for even more favorable geopolitical changes. Therefore, without intense pressure from the international community, Serbia will not implement the agreement, which is now considered an officially binding document and included in Chapter 35. Kosovo remains in an unfavorable position relative to Serbia. It is clear that, in especially turbulent international situations, seeking only justice and arguing against unjust solutions is not enough. This is very clear in Kosovo. Furthermore, this is expected to lead to new approaches. Finally, the EU will likely change its approach to dialogue, with the new High Representative of the European Union for Foreign Affairs and Security Policy knowing and the new EU envoy acting differently from Mr. Borrell and Mr. Lajčák. They

worked on behalf of the EU and represented the EU, but they came from two states that still hesitate to recognize Kosovo. Many analysts (in Kosovo and abroad) have criticized them repeatedly for an unbalanced approach to the dialogue. Some of them will be presented below. Among them, Professor Daniel Serwer observes that the agreement in Ohrid seems more process-focused, without ensuring real engagement by the parties, given that they did not sign it and that it is not valid under international law. Furthermore, the parties did not assume any reciprocal engagements or set a deadline for implementation: 'A process-focused agreement without signatures leaves a lot to future negotiations. This one is more smoke and mirrors than substance. It is more likely to generate further confusion than peace. (Stanicek, 2023)

The other professor goes further with an unbalanced attitude. Meanwhile, the facilitator/mediator holds an unbalanced attitude. Professor Weller (2023) says: "It proves that the dialogue is being led by the current EU Facilitator in an extremely unbalanced way, as much as it endangers the continuation of the process." By accommodating Serbia's refusal to sign the Brussels Basic Agreement of February 27, 2023, the process seems to focus only on issues that the Republic of Serbia wants to discuss and that require sacrifices from the Republic of Kosovo (p. 1). (Weller, 2023) To finalize this paper, below we will give a part of an interview given to the Montenegrin portal Analitika, where, in this context, Professor Serwer was cited:

Pristina was committed to the Association in a 2013 Brussels agreement. But Escobar and Lajcak neglected to give Belgrade something for something. In addition to the Association, the Brussels agreement recognizes the validity of Kosovo's constitution and justice system throughout its territory, commits Serbs to participate in Pristina's governing institutions, and pledges that Kosovo and Serbia will advance in the EU without interfering with each other. Belgrade has rejected all these commitments. It has maintained de facto governance over the Serb population in the majority Serb communities in northern Kosovo. Organized the boycott of municipal elections there. Belgrade also recalled Serbian officials from the police and courts. And Serbia has done everything possible to prevent Kosovo from joining the Council of Europe. (Rahmani, 2024)

Before reaching conclusions, we will cite a participant in the Rambouillet Conference and in almost all negotiations on Kosovo. Regarding the Agreement, he underlines that "the agreement was named fragile from the fact that even though not signed by parties, it is considered an agreement, because as such it is considered by the Chief of Diplomacy J. Borrel. Even more, with great seriousness, it was explained that this agreement is legally binding, as it is found in Chapter 35 for Serbia and in the SAA for Kosovo, a formulation that neither stimulates nor frightens anyone.

## **10. Conclusions**

More than a decade has been spent in a dialogue that has not brought the normalization of relations between Kosovo and Serbia. In some aspects, and time after time, the relations between these two states worsened. From various viewpoints and resources, reasons for the failure can be attributed to the roles of the facilitator/negotiator and the parties in the process. Regarding the facilitator/negotiator, several issues may be underlined. First, the EU has still shown itself to be an organization whose decision-making for these issues is a

complex process. The EU continued to maintain a neutral position on Kosovo's status. This approach makes for unbalanced negotiations. According to this EU approach, Serbia gains and sets the conditions for dialogue. Second, the EU continues to employ creative ambiguity as it tries to convince the parties. If parties are allowed to interpret the same provisions differently, then the final solution is at least postponed. Third, in recent years, two persons holding essential positions have come from two states that are hesitant to recognize Kosovo as a state. (Mr. Borell [Spain] and Ms. Lajcak [Slovakia]) This is a fact that does not necessarily have a direct impact on the dialogue process, but it indirectly conveys the perception that the parties are not supported equally. The credibility of the facilitator/mediator is crucial in such a dialogue. This is mentioned in Kosovo from various viewpoints. The supervisory mechanism overseeing the implementation of all agreements reached in the dialogue between Belgrade and Pristina is deemed irrelevant, and the mediator's influence, Slovak diplomat Miroslav Lajčák, appointed by the EU, lacks the desired credibility. (Đukanović, Vučić, 2024) Obviously, Mr. Lajcak did not deliver what was expected of him. It was thought that he had deep knowledge of the region, but this knowledge was unproductive. On many occasions, he was perceived to be biased. An unbiased facilitator would not put pressure on one party, conditioning the further process on the other party's request in the dispute. Sentence like "If there is no progress regarding the Community<sup>2</sup>, it is difficult to expect progress in the normalization of relations there will not be..." (Kosovo Online, 2024) or, "Lajcak said that Kosovo should change the Constitution for the Association. According to him, the Constitution is not a Bible, thus it can be changed, reports Serbian media". (Euronews, 2020) He was never heard saying, for example, that if there is no willingness on Serbia's part to recognize Kosovo, there will be no normalization, or that if Serbia does not change its constitution, there will be no normalization. Moreover, he knows that, in the preamble to its constitution, Serbia considers Kosovo part of Serbia. Conditionality, when used in a dialogue by a facilitator, should be applied equally, and pressure (when needed) should be applied equally.

Third, after the Russian invasion of Ukraine, the EU allowed Serbia to play the politics of many chairs. Trying to keep Serbia in line with the West against Russia, the EU made the dialogue process difficult, no matter if the EU wanted this. Fourth, the EU, as facilitator/negotiator, allowed the dialogue to start without a clear time frame or projection of the process's final outcomes. Normalization of reports, as the EU formulates, is a very abstract notion. The radically varying interpretations of the agreements in Belgrade and Prishtina have done little to improve relations, and both Kosovo and Serbia continue to view key issues in opposed ways. (Bieber, 2015) This should not be expected in the future process of the dialogue, and Ms. Kallas and

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<sup>2</sup> Note: Creation of the Association of Municipalities with Serb Community.

the personality that replaces Mr. Lajcak should not allow. It is good that the Agreement on the Path to Normalization is included in Chapter 35 as an obligation for Serbia. Obviously, this is not enough. Fifth, Kosovo has to be very clear about its international obligations. It should be more creative and proactive, offering solutions and proposing them. Sixth, for sure, the engagement of US diplomacy will play a crucial role in the final resolution. Parties, especially during the upcoming period (at least until mid-2025), will monitor geopolitics to be prepared to act accordingly.

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