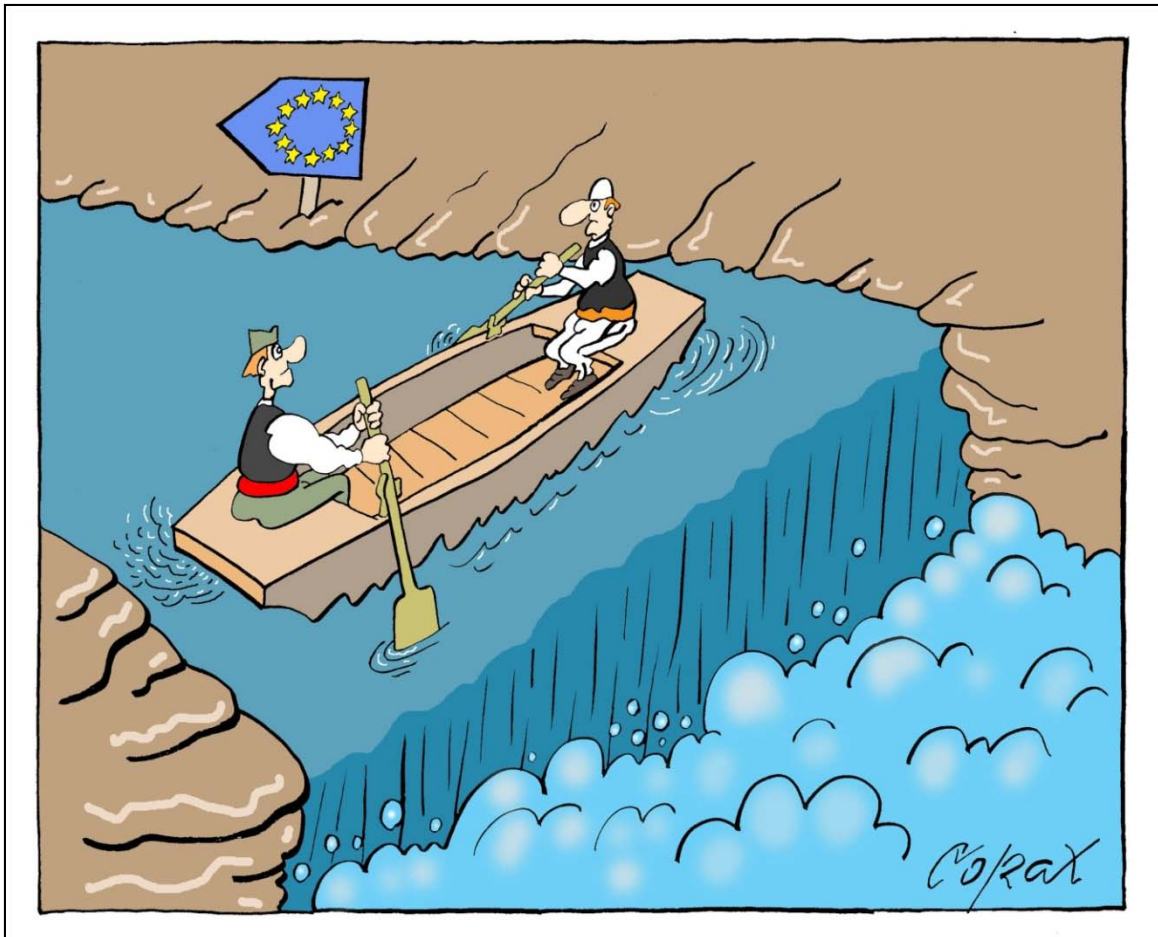




BELGRADE – PRISHTINA DIALOGUE: TRANSFORMATION OF SELF-INTEREST REQUIRED



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Executive Summary

While Kosovo and Serbia had talks many times in the past, this is the first time that they agree on something directly (five agreements have already been reached). Despite the flaws and dissatisfaction, if it bears to fruition, these first agreements will make this process historic. Whether the talks yield lasting results, will depend on the final mile and whether both sides can claim to have served their self-interest and cooperated with each other at the same time.

The process descended from practical talks to a trade row and to an open dispute. Each side still believes that its gain can only come at the loss of the other. The national interest is short-sightedly defined as undermining of the other side's national interest. The goal of this analysis by *the New Policy Center* (NPC) from Belgrade and *the Project on Ethnic Relations Kosovo* (PER-K) from Prishtina is to prove that both countries must realize their interest in helping each other to become functional. Although highly unpopular, we believe that the two sides are in the same boat (of shared problems), but are yet to realize this.

Dialogue is usually about seizing the right moment. Time is never fully ripe and the moment is usually about capturing a narrow window of opportunity. The window that brought Serbia and Kosovo closer together is fast shutting, under a range of looming risk factors lined up in the horizon that may harm rapprochement: (a) the possibility that Serbia organizes elections in the north, (b) EU's lack of unity, (c) lack of implementation of the current agreement and the non-inclusion of more items (regional cooperation, telecommunications, energy, integrated border/boundary management), (d) lowering of bilateral conditionality, or (e) if the EU carrots are seen as rewarding the sides asymmetrically to their performance.

The Dialogue has all the hallmarks of a beauty contest. Negotiators do not genuinely engage in dialogue but appeal to EU sympathies and respond to pressure. Kosovo and Serbia publicly present as if they are continuing century-old battles but this time with diplomatic finesse. Inside and outside the negotiation room the talks resemble a beauty contest, attempting to influence the external mediator's assessment that has been more 'constructive'. Populist tendencies portray the dialogue as a victorious feat of out-smarting the other side, which may improve the standing of individual politicians, but will harm their credibility and make it more difficult to agree in subsequent rounds. It is important not to lose momentum – despite the setbacks, it is after all better to have insincere cooperation than sincere conflict.

It was important to examine the gains and losses for the main stakeholders in detail. Currently on paper, the calculated gains are higher than the losses. This Dialogue has induced Kosovo and Serbia to say the right things, appear pro dialogue, but Serbia and Kosovo still perceive that it is in their self-interest to see each other as weak as possible. For as long as Serbia is perceived as a threat to Kosovo and vice versa, the two sides will see their strengthening only in respect to the weakness of 'the enemy'. Such a view will not only expend valuable resources inefficiently, but will also prevent the reforms and transformation of societies towards European values.

Serbia will not be granted a EU candidate status unless its starts dismantling some of the 'parallel institutions' in the north of Kosovo and to normalize relations with Kosovo. If these conditions are met, the two countries can unlock their European future. If 'normalization' is accomplished in the last weeks before Dec 9th, Serbia may be granted candidacy while Kosovo may be granted visa liberalization and contractual relations with the EU. Kosovo has nothing to gain if Serbia is stopped in its European integration, but stands to lose if Serbia loses interest to deliver on 'normalization'. Unfortunately, normalization does not come by itself but it depends on strong conditionality by member states.

Asymmetric progress can threaten both countries, for the 'same boat' concept would cease to apply. It is essential that through external policy the EU deepens the understanding that the two sides are

in the same boat; hence digging holes for the other side will sink both. For this message to be effective, EU assessments must be consistent.

The closed nature of the process has produced minimum consensus-building and a “bunkermentality” with resistance to implement the agreements that were closed. The current dialogue should address relations between Prishtina and Belgrade, while Prishtina should open up a channel of communication with northern Kosovo Serbs.

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The New Policy Center (NPC) and the Project on Ethnic Relations – Kosovo (PER-K) would like to thank the British embassies in Belgrade and Prishtina, as well as the heads of both negotiation teams for their forthcoming approach to this paper. A number of additional analysts are also appreciated for their participation in several brainstorming sessions and reviewing earlier drafts of this paper. We would especially like to thank Alex Grigorev (President of the Council for Inclusive Governance), Engjëllushe Morina (Executive Director of the Kosovo Stability Initiative), Agron Bajrami (Editor-in-Chief of Koha Ditore, Prishtina’s main daily newspaper), Bosko Jaksic (Editor of the foreign policy section at Belgrade’s daily newspaper Politika) and Vladimir Pavicevic (Professor at Faculty of Political Science in Belgrade). The authors bear full responsibility for this paper.

Terminology

The paper avoids the use of Kosova or Kosmet, but settles for the widely accepted English version of Kosovo. The paper uses Kosovar as a generic word for all inhabitants of Kosovo, Albanian or Serb, while it distinguishes the two communities with Kosovo Albanians or Kosovo Serbs. When referring to Kosovo Serbs as distinguished by locality, we use “northern Serbs” for those living in the four Serb-majority localities in the north, and “central Serbs” for the Serbs in the rest of Kosovo. The word Serb is usually used to denote an inhabitant of Serbia, while Serbian is used as an adjective to something belonging to the Republic of Serbia. The paper occasionally uses the word “parallel institutions” to denote Serbian institutions operating within Kosovo not to confuse them with institutions in Serbia. We have used capital D for this Dialogue to distinguish it from the generic label for any dialogue process. NPC and PER-K also decided to use Prishtina and avoid the Albanian spelling of Prishtinë or the Serb spelling for Priština. For faithful translation of this paper into Serbian and Albanian, responsibility lies with respective partners. In case of mismatch of translations with the original, the English version prevails.

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Chronology of the Technical Dialogue

- September 2010 – Ashton – Tadic meeting in New York led to joint Serbia-EU UN GA Resolution adopted which foreseen the Dialogue facilitated by EU
- October 2010 – Kosovo enters institutional crisis - elections are called
- December 2010 – Kosovo parliamentary elections
- February 23rd – Kosovo government is formed
- March 8th – Dialogue starts
- May 12th – Borislav Stefanovic makes first visit to Prishtina and talks to Prishtina officials
- July 2nd – first three agreements reached between Belgrade and Prishtina on free movement of persons and vehicle license plates, civil registry, university diplomas
- July 15th – further talks on second Dialogue round postponed till September
- July 20th – Prishtina imposes reciprocity on Serbia's three years embargo on goods from Kosovo as Belgrade did not recognize the Kosovo custom stamp
- July 25th – Prishtina sends its police units to Gates 1 and 31 (Jarinje and Brnjak customs posts) to enforce reciprocity measures. One policeman was shot dead. Belgrade sends its chief negotiator Borislav Stefanovic to north of Kosovo who negotiates with KFOR on behalf of Kosovo Serbs.
- July 27th – Kosovo Customs posts set on fire by Serb protesters
- July 29th Borislav Stefanovic and KFOR commander Erhard Buhler reached a preliminary agreement valid until September 15th on customs posts and border crossings
- September 2nd – starts a new round of Dialogue. Immediately an agreement on the custom stamp and cadastral issues is reached. New round scheduled for September 28th
- September 16th – Kosovo Government sends its custom officers to Gates 1 and 31 with an assistance of EULEX and KFOR. Local Serbs react by barricading the roads in the north of Kosovo
- September 27th – incident involving shooting happens on Jarinje customs post between local Serbs and KFOR. Eleven persons injured, seven Serbs, four KFOR soldiers.
- September 28th – new round of Dialogue was about to take place. Serbian side demanded talks on customs posts which were refused by Prishtina and EU negotiator Robert Cooper. Belgrade refused to talk about other issues noting incidents on Jarinje as a priority. Dialogue was stopped and the meeting was not held
- October 7th and 8th – EU negotiator Robert Cooper visits Belgrade and Prishtina trying to reach a compromise for continuation of the Dialogue. No deal was reached as Belgrade, again, demanded talks on customs posts while Prishtina refused to talk about internal affairs
- EC published an Opinion on Serbia's EU Candidacy Bid and announced roadmap for Kosovo visa liberalization. EU insists on Serbia's re-engagement in Dialogue as a condition for candidacy
- October 19th – heads of Serbian municipalities jointly refuse to further implement any agreements that Belgrade reaches in the Dialogue with Prishtina. Furthermore, they refused to cooperate with EULEX and insisted on UNMIK's reemployment. Barricades remain.
- October 27th – barricades have been partially removed. Kosovo Serbs have removed barricades selectively so that only KFOR can move freely throughout northern Kosovo, but not EULEX.
- November 21st and 22nd – new round of Dialogue. Agreement reached on recognition of university diplomas. Talks were also held on integrated border management but without results.
- November 29th – President Boris Tadic call on Kosovo Serbs to remove barricades.

Expected:

- January-April – election campaign in Serbia. Some dialogue process may continue but no agreements can be expected
- May-June – elections and establishing of new government
- September – full normalization demands are conditioned by European Commission's Opinion for Serbia's EU Candidacy Bid
- Each small step of Serbia will be conditioned for more steps of normalization with Kosovo, and similar incentive structure will be applied with Kosovo
- Shuttle Diplomacy will continuously work on the thorniest of issues

Aim of the Paper: From Zero-Sum to Cooperation

The paper first reviews the short record of the Dialogue so far, examines the real gains and losses of all stakeholders and attempts to discern what EU demands for ‘normalization’ mean. Fears and public resistance to the Dialogue is analyzed in order to determine the degree of rationality of the fears. After an analytical description of the process, the paper assesses what has happened to the mutual trust and credibility, and lists four scenarios. Above all, the paper attempts to assess to what degree the dispute between Kosovo and Serbia is indeed a zero-sum game and suggests a number of recommendations how to move to a win-win outcome, which is the main objective of the analysis.

Although highly unpopular, we believe that the two sides are in the same boat, but are yet to realize this.

Each side still has a perception that its gain can only come at the loss of the other side. The national interest is short-sightedly defined as undermining of the other side’s national interest. The goal of this analysis by *New Policy Center (NPC)* from Belgrade and *Project on*

Ethnic Relations Kosovo (PER-K) from Prishtina is to prove that this claim is profoundly false and that both countries must realize their interest in helping each other to become functional. Although highly unpopular, we believe that the two sides are in the same boat, but are yet to realize this. This paper focuses entirely on the future, delineates scenarios, and recommends how they can ensure that this transformation indeed occurs.

The paper was driven by the following research question: What type of process is this Dialogue, and can it deliver an outcome that both sides will ultimately cherish? It is not the first time that a conflict seems intractable, but history indicates that many countries that underwent vicious wars are now strongest allies and lead others into cooperation and prosperity.

How Do We Know We Have Succeeded? Can Talks ‘Empty’ the Status Dispute?

It is often said that success will be measured by the extent to which both sides are able to claim to their respective public that they have won. However, PER-K and NPC believe that it is not nebulous outcomes that should enjoy the trust of both sides, if the cost of such claims implies hiding important details from the public. Mediation should not only be an exercise in public relations but assistance to an essential transformation whereby Serbia and Kosovo gradually to start to believe in a mutually beneficial relations.

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The paper concludes that talks are required, and they should continue with technical (non-status) issues as planned. More efforts are needed to make the best of what is possible. To have a high effect, PER-K and NPC suggest continuing with the list of technical topics. Given careful consideration and the right context, cooperation should be possible in a wider array of issues that so far have been considered.

Current Limits

Serbia does not recognize Kosovo and it is of no use to believe that this can change soon. At the same time, Kosovo has announced its independence and has no intentions to abandon state consolidation. The current Dialogue could not aim more than to ameliorate the situation and bring Belgrade and Kosovo to realize their mutual interest within the given limitations. The only possible approach was to accept the limitations of both parties (Serbia’s inability to recognize Kosovo and Kosovo’s determination for sovereignty) and make the best of the “space in-between”. The essential question that the paper tries to answer is: What progress can be done without asking Serbia to recognize Kosovo and without asking Kosovo to step back from its status consolidation?

Creative solutions must be sought to improve the lives. Some of the initial criticism of the process was its lack of contribution towards status. But there is no reason why this Dialogue should not take

place, for the sole purpose that it does not tackle the issue of status. It does not make Kosovo's independence weaker, although it may not necessarily make it stronger.

The Lure of the Greater European Pie

Serbia and Kosovo may have different interpretation of mutual history; diverging claims on same rights or territory; and to this day, they continue to differ and nurture conflict over respective short-term interests. It may not be very apparent to many in Serbia and Kosovo, but they share one common goal that should supersede all the others. The European future seems often a cliché or a distant goal, but it has proved to have the power to transform self-interest and increase 'the pie' in order to make today's disputes seem minor in retrospective tomorrow.

The European perspective has the power for comprehensive political, economic and social reforms, leave alone for overcoming disputes with one's neighbors. The long-term approach towards

What progress can be done without asking Serbia to recognize Kosovo and without asking Kosovo to step back from its status consolidation?

resolution of disputes between Serbia and Kosovo is in fact a two-pronged one; it tackles both long-term societal priorities as well as specific disputes that mark the relations between the two. Ultimately, the appeal of European integration should mobilize the working middle class, the leading proponent of reforms, peace and democracy.

The Dialogue process is a historical chance for Belgrade and Prishtina to make a step forward in cooperation. It may be wishful thinking, but the Dialogue is "doomed to succeed" since the international community seems to be ever more determined to force them into cooperation. Although with numerous challenges, the current Dialogue has the power, and has already begun to see European leverage used to gradually transform how Belgrade and Prishtina treat each other and reframe their perceptions of self-interest and make cooperation worthwhile. After the botched agreement on education mediated by St. Egidio, an Italian NGO, Kosovo and Serbia have not striken any agreements since.

How Far Can This Dialogue Take Us?

It is often said that time creates friendships but time alone may take longer than most Kosovars and Serbs are willing to wait. Time is only important given the active presence of catalysts to speed up the transformation of self-interest. Most Serbs and Kosovars feel the conflict has frozen their future and set their eyes towards Europe. Many say that the time is not ripe, that it is too early to bridge the divide. But any chemist will suggest that time can be sped up given the right catalysts. International mediators are the current catalysts that quicken the period of the transformation.

There is fear that the current Dialogue may not yield sufficient progress to mobilize the public for cooperation. Some delays in its implementation, haggling over details, and undermining the other side may reduce the potential of Dialogue. It is essential to help both sides realize the potential benefits and the costs of inaction.

More Inclusivity For Longer Effects

Greater inclusion may seem currently challenging and it may indeed delay the agreement on each issue. However, inclusive agreements tend to stick longer. To this effect, the paper argues that the civil society and the Parliaments in both capitals should be involved. This cooperation and inclusivity may become more fruitful once the results of the first agreements start to become visible. If properly implemented, the free movement of goods and people will have a positive effect on the public opinion. It is especially important not to abuse the Dialogue for short-term political gains.

The positive benefits can also become infectious and spread fast among elites, intellectuals, politicians, youth and in sports. Once seen as 'cool', cooperation will spread like wildfire and become the norm as it is across the democratic world. Agreements may look wonderful but progress is

impossible if cooperation labels one as a traitor. The challenge is nothing less than a change of paradigm, for which to occur, the process must assure people that the Dialogue is no threat to either country. For example, Kosovars widely fear that their cooperation may help Serbia to acquire candidate status, delivering little benefit to Kosovo itself. Indeed, such an imbalanced outcome, would remove the 'same boat' context, and Serbia could continue to harm Kosovo's progress while pursuing European integration itself. An asymmetric situation would evolve along lower EU leverage.

Context

The European Union has initiated the process of Dialogue in late 2010 which started in March 2011 between the governments of Serbia and Kosovo. The talks aimed to normalize a difficult situation created by the stand-off that lasted from the *Declaration of Independence* in February 2008. During this time, Serbia pursued a policy of blocking Kosovo's membership in international organizations and maintained a presence in the north of Kosovo. Conditionality from Serbia and several Security Council members prevents Kosovo from gaining wide recognition, and UN membership. EU and bilateral conditioning prevent Serbia from gaining EU candidacy.

If properly implemented, the free movement of goods and people will have a positive effect on the public opinion, especially if it is not used for short-term political gains.

Some countries do not recognize Kosovo due to their support for Serbia and others due to internal considerations. The non-recognition by five EU members has prevented the EU from offering Kosovo tangible perspective for visa liberalization or Stabilization and Association Agreement. Kosovo's continued isolation can result in political radicalization which would have adverse consequences on relations with Serbia, Serbian community in Kosovo and regional relations.

Serbia is undoubtedly blocked in its EU prospect, both in the sense that its formal progress is conditioned by "normalization of relations" with Kosovo and the fact that its internal reforms are limited by the political and economic energy which is focused on Kosovo issue. While Serbia used the period from February 2008 to pursue its "Both EU and Kosovo" policy, the government in Belgrade was faced with a clear message from Germany's Chancellor Angela Merkel and EU officials from the EC Opinion on Candidacy Bid that Serbia will not be granted a candidate status unless it starts dismantling "parallel institutions" in the north of Kosovo, and normalize relations with Kosovo.

Recent History of Dialogue

After Kosovo declared its independence in February 2008 Serbia entered into a series of disputes with the countries which support Kosovo's independence. Soon after Kosovo's independence, the DS-DSS coalition (Tadic – Kostunica) saw the major rifts emerge. The differences centered on Serbia's response measures towards recognitions of Kosovo and whether Serbia would stop its European integration.

"Light" versions of standing up against Kosovo's independence were calling Serbian ambassadors back to Belgrade for an indefinite period of consultations and initiating UN mechanism to seek an opinion on the legality of Kosovo's independence from the International Court of Justice (ICJ). The more serious measures backed by the DSS were to call off diplomatic relations with countries that recognized Kosovo and sue them before the ICJ.

The collapse of the government in March 2008 was followed by strong EU support to the Democratic Party and Boris Tadic, which led to signing of SAA in April 2008 and informal help during the establishing of the new government in June. After that, the new Serbian government initiated a so-called "soft-landing" phase which was steered by policy "Both EU & Kosovo". This policy meant that Serbia is fully to normalize diplomatic relations with the countries that recognized Kosovo, although frictions resurfaced with each subsequent recognition.

Serbia established formal relations with EULEX, but at the same time managed to block the implementation of the Comprehensive Status Proposal (frequently referred to as the Ahtisaari

package) in the north of Kosovo. Serbia made everything possible to obstruct Kosovo's membership in various international organizations such as UN, OSCE, CoE and many other non-political bodies (ITU, FIFA, etc.). This policy was tolerated by the EU from June 2008 up to July 2011 when the last ICTY fugitive was arrested by Serbian authorities and transferred to The Hague while the Kosovo issue remained the only obstacle on Belgrade road to further EU integrations.

During this period, Serbia managed to initiate the opinion procedure before the ICJ on the legality of Kosovo's independence which lasted for almost two years (from September 2008-July 2010), and which prevented larger number of countries to recognize Kosovo. However, even after the ICJ gave its positive opinion for Kosovo, other obstacles prevented Prishtina from making formal steps to EU, such as visa liberalization or SAA negotiations.

Belgrade's expectations were not met with the opinion, but it did not pave the way for a new wave of recognitions either. Belgrade initially tried to pass a UN Resolution which would diminish the effect of such ICJ Opinion but was faced with a very robust message from several influential EU members, such as Great Britain¹ and Germany². Ministers of Foreign Affairs of both countries paid unexpected visits to Belgrade in August 2010 and publicly said that if Belgrade tries to pursue disputed draft of resolution, the whole process of Serbia's EU integrations would be blocked. This moment marks the first tacit split of Western powers with Belgrade's "Both EU & Kosovo" policy.

The ICJ Opinion led to a major turning point at the United Nations General Assembly in September 2010 when Serbia changed its first draft of resolution to drafting a joint one with the EU HRFASP³ Catherine Ashton. This has often been quoted as a turning point in Serbia's policy towards Kosovo,

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since it heralded a dialogue process between Belgrade and Prishtina. Serbia's defeat at the ICJ and the stern messages pushed to a change of approach and policy. The joint UN Resolution put forward jointly by the EU and Serbia in effect enabled the political transfer of "dispute settlement" from UN bodies (Security Council, General Assembly, and ICJ) to the institutions of European Union.

A renewed round of stern messages came to Serbia around the same time in 2011, this time by the German Chancellor, Angela Merkel and President of the European Council, Herman Van Rompuy. International officials do not insist for Belgrade to formally recognize Kosovo, but it is expected to start dismantling some of its parallel structures in northern Kosovo and 'normalize' relations with Prishtina.

After the ICJ Opinion and UN Resolution in Aug-Sept 2010, it was no longer possible to argue that the European integration process and the Kosovo policy were on separate tracks. They were able to do that before, since EU countries accepted that pro-EU forces in Serbia needed time to consolidate after the elections in May 2008 – a "grace period", which ended when Serbia refused to accept ICJ Opinion and went for an UN General Assembly Resolution. This was regarded almost as a hostile act by some highly influential EU members.

Prishtina was caught off-guard during the ICJ Opinion, and within months, the coalition government fell apart, paving the way for early elections. After nearly six months of a difficult electoral process and political deadlock (lasting from mid-October until end of March), Kosovo finally got a new

¹ B92. 1 September 2011. What Are William Hague's Messages.

http://www.b92.net/info/vesti/index.php?yyyy=2010&mm=09&dd=01&nav_id=455562.

² B92 Westerwelle: Map Permanently Changed.

http://www.b92.net/info/vesti/index.php?yyyy=2010&mm=08&dd=26&nav_id=454255.

³ High Representative for Foreign Affairs and Security Policy

coalition government led by incumbent Hashim Thaci. He managed to enter into a coalition agreement with the controversial businessman, Behgjet Pacolli, and all minority communities in order to secure his second term in office. During this period, a report drafted by Council of Europe Rapporteur Dick Marty suggested that former leaders of Kosovo Albanian rebels, including Thaci, had been involved in human organs and weapons trafficking and other illegal activities during and after the Kosovo conflict. The notorious Ahtisaari Report was published during this period, as the expectation mounted over the arrest of PDK's second in command, Fatmir Limaj.

The Constitutional Court concluded last year that the then President, Fatmir Sejdiu, had violated the constitution by holding the leadership of the Democratic League of Kosovo (LDK) simultaneously. The ruling triggered Sejdiu's resignation that was followed by his party's decision to leave the Government and thus provoked early elections. Pacolli's party decided to back Hashim Thaci in an exchange of a presidential seat for its leader. Pacolli was elected president only in the third round of voting in Parliament with simple majority after he failed to receive the necessary two-thirds of the votes in the previous rounds. Pacolli's election for President was pronounced illegal by the Constitutional Court, and he had to step down.

This thin coalition majority left three major Kosovo-Albanian groups in the opposition. The other main parties represented in the Parliament refused to cooperate with PDK, accusing its leader of corruption and bad management. The electoral process saw an unprecedented level of violations, while the international representatives in Prishtina repeatedly called for "clean-hands" government.

Despite the tumultuous period inside Kosovo, most statements from the EU focused on the dialogue, which Kosovars perceived as choosing the most auspicious time to pressure Prishtina into a damaging process. Kosovo's ability to counteract or engage with the process was seriously hampered by the lack of legitimate representatives and by their damaged credibility internationally. The whole period passed under the shadow of Serbia's aggressive diplomacy and Lady Ashton's challenge with the first major project since the establishment of her office.

Serbia's chief negotiator often invoked the 'humanitarian' pattern by which the Dialogue serves the interest of ordinary people, then combines it with the Serbia's interest for European integrations and then in the end uses the argument that the Dialogue will also be a channel for amendment of status issues.

The Dialogue process faced serious problems long before it started. As the agreement on the Dialogue came out from the exchanges between Serbia and EU (Tadic - Ashton meeting), it was visible that Kosovo was not involved from the beginning. Reactions from Prishtina ranged from negative to mixed due to its lack of ownership of the process, but also due to its perceived risky exercise and the lack of incentives.

Belgrade's position continued to be ambiguous. Belgrade maintained the position that it would not recognize Kosovo in any way, explicitly or implicitly even after September 2010, and that the Dialogue was not about status but only about "improving of the conditions of the daily life of the ordinary people in Kosovo". At the same time, Belgrade kept insisting that "it is inevitable to talk about the status issue, as it surrounds all other issues".

If Prishtina was not able to get any concessions from Belgrade on the status issue, it was only possible that EU would offer incentives by "enlarging the box of carrots". The first carrot was the long awaited visa liberalization which has yet to materialize. Kosovo is among the most isolated countries in the world,⁴ while the distance with other countries of the Western Balkans grows as most of them accede to the White Schengen list. Kosovo was unable to enter into negotiations on readmission as well as SAA negotiations due to its inability to enter contractual relations with the EU

⁴ ESI. 22 November 2010. Isolation Confirmed. How the EU is undermining its interests in Kosovo.

because of the five non-recognizing countries (Spain, Slovakia, Greece, Cyprus and Romania). EU's position 'vis-à-vis Kosovo' clearly lacked leverage, which hampered its diplomatic and mediation efforts.

Mapping out incentives for Kosovo in the Dialogue was one of the main tasks for Robert Cooper, the main facilitator and an adviser to Catherine Ashton on Balkans and the Middle East. The leverage for Belgrade was rather straightforward as it craved for candidate status and a date for the start of negotiations. The dilemmas, whether these demands were real or a tactical move to settle for less, were of little importance after Merkel's visit on August 22nd, 2011.

The lack of readiness to bridge status-related differences left less political issues as the only ones possible to make progress with. With two sides as far opposite from each other, difficult topics would have sapped the potential, hence the choice of easier 'appetizers' to show the potential for dialogue at its very beginning.

Although the Dialogue was to start by the end of 2010, it was delayed by the above-mentioned issues of the political crisis and elections in Kosovo. The first round officially started in March 2011 and was finished in July with an 'agreement' (referred to as 'conclusions') on the freedom of movement, civil registries and university diplomas. The word 'agreement' is under quotations because of the manner on which they were reached (as unilateral commitments) as nothing was signed due to the fact that Belgrade would consider that as a sign of recognition.⁵

The mediators clearly perceived that the public opinion ought not to be involved too much, at least not at the first sensitive stage. Written copies of agreements were rarely made public. Such level of caution may be dubious from the point of legitimacy, but it may well be necessary to allow confident exchange to bring some initial agreement. The first rounds of the Dialogue were essentially exercises of trust-building that ultimately are to depend on the level of implementation of the agreements reached thus far.

Political Implications and Motives for Dialogue

European integration is clearly the main motive for Belgrade to enter the Dialogue. The rhetoric of settlement with Albanians does not sound genuine, but it coincides with EU conditions. It is interesting to observe that Belgrade was insisting on technical dialogue when Prishtina was fearful of any dialogue. Once the technical dialogue started, Belgrade clearly intended to push it into more political topics which Prishtina has adamantly avoided.

While most analysts blamed Prishtina for entering what they expected to be an unpredictable process, other analysts supported it for its non-participation, which would mean that Serbia may in fact receive candidate status without making any concessions to Prishtina whatsoever. New Prishtina dilemmas have materialized after refusal of the customs stamps (the same stamps that were recognized by Belgrade before 2008) and the ensuing attempt to cement the control over the north. Prishtina saw political ambitions emanating from this process which prompted more pundits to argue that for as long as the status was seen as open for discussion by Belgrade, technical talks did not make sense. In an op-ed to *Vijesti*, Agron Bajrami argued that for "as long as Belgrade harbors

⁵ European Commission uses the term "agreements" in their Opinion on Serbia's Candidacy Bid and Kosovo Progress Report for 2011 but one cannot be sure if they fulfill the legal definition of "agreement". As they are more of "mutual understandings" or "verbal agreements", their implementation will depend on the authoritative interpretation of EU as there cannot be any kind of objective legal interpretation.

nasty ambitious on the north, there should be no dialogue”.⁶ However, numerous EU members are ready to support Belgrade’s candidacy and indirectly its ambitions in northern Kosovo. Indirectly speaking to various EU countries, Belgrade continuously declared public offers to Prishtina about a potential agreement in the north.

In short, Serbia entered the Dialogue to, as follows:

- a) Win EU appeal
- b) Position better and attempt to change the Dialogue from technical to political focus
- c) In return, give away some small concessions

Kosovo entered dialogue because of, as follows:

- a) Win EU appeal
- b) Get some small concessions
- c) in return to risk Serbia improving its bargaining policy

If the Dialogue was indeed perceived as purely technical, it would not have raised this level of interest. The Belgrade team did not hide its preference to move to political dialogue and open issues pertaining to the north. The Six Point Plan was even called for by allied Kosovo Serbs NGOs - the KPAN network.⁷ That even the technical talks were seen as political proves a statement by Xhavit Haliti, Deputy Speaker of the Kosovo Assembly, who said that no talks can be purely technical with Serbia.⁸

Two conflicting policies are *prima facie* irreconcilable since Belgrade will not formally recognize Kosovo and Prishtina will not enter into discussion on its territorial integrity. But Belgrade has managed to put its foot at the door of Prishtina’s membership into certain international organizations and has maintained a presence in municipalities in north Kosovo, supporting them financially, logistically and in human resources. Serbia’s health system, education, post and even bank system operate in Serb-majority municipalities in the north, but also in central Kosovo. International missions in Kosovo from 1999 (UNMIK & EULEX) have also tolerated the Serbian elections being organized in this part of Kosovo. Prishtina has entered the Dialogue to either regulate the Serbian influence to the degree allowed by the Ahtisaari Proposal, or to put an end to them.

Prishtina has entered the dialogue to either regulate the Serbian influence to the degree allowed by the Ahtisaari Proposal, or to put an end to them.

The EU has entered into talks to ‘improve the lives of people, and promote regional cooperation and EU integration’. As the High Representative Ashton believes,

now is the right time to begin and she is confident that both Belgrade and Prishtina can find practical ways to make sure that ordinary life can go on more smoothly. Solving problems by dialogue is the European way and the objective of the talks is to promote co-operation and bring both Prishtina and Belgrade closer to the EU.⁹

⁶ Bajrami, Agron. 06.10.2011. North rules. Vijesti, available at: <http://www.vijesti.me/kolumne/sjever-vlada-kolumna-41125>.

⁷ Kosovo Policy Action Network. 21 September 2011. Why the Six-point plan isn’t being enforced? Statement issued by KPAN, a network of Kosovo Serbs NGOs.

⁸ RTK. 28 September 2011.

⁹ EU Delegation in Serbia, 8 March 2011, <http://www.europa.rs/en/mediji/najnovije-vesti/872/Statement+by+the+spokesperson+of+Catherine+Ashton,+EU+High+Representative+on+the+start+of+the+Belgrade+-+Prishtina+dialogue.html>

Fears and Perceptions of Dialogue in Serbia and Kosovo

Any mapping on conflict resolution ought to start from the fears, and only then move to interests and positions. The main fear that both sides share is incidents in northern Kosovo, which remains likely. Serbia is worried that incidents in the north may lead to a renewed wave of refugees, although this may also be beneficial for Serbia to portray Prishtina as aggressive. Kosovo worries that tension may lead to radicalization which would make the integration of north into Kosovo even more difficult.

Fears and Concerns in Serbia:

- ⇒ The EU will pressure Serbia until it will practically recognize Kosovo;¹⁰
- ⇒ Serbia will lose the support of the countries that have not recognized Kosovo (as quoted in a statement by Russia’s MFA: “we can’t be bigger Serbs than Serbs themselves”);
- ⇒ Serbia’s EU consensus may lose the support, paving the way for political radicalization;
- ⇒ Losing the trust of the Kosovo Serbs and be seen as having betrayed their interest, in turn this can also lead to a loss of democrats in the upcoming elections in Serbia;
- ⇒ Status of the most important religious sites.

The public discourse evoked by Borislav Stefanovic, Serbia’s chief negotiator, often invokes the ‘humanitarian’ pattern by which the Dialogue serves the interest of ordinary people, then combines it with the Serbia’s interest for European integrations and then, in the end, uses the argument that the Dialogue will also be a channel for amendment of status issues¹¹. All of these reasons might prove to be right, but it also shows the complexity of situation in Serbian political scene and the weight Kosovo carries in it.

Fears and Concerns in Kosovo

Kosovo’s fear from Dialogue was multi-faceted. Some feared that Kosovo was not ready and that Serbia was much better prepared, but this diagnosis was shared also by many who supported the Dialogue. This criticism expressed the fear that the EU had largely decided to support Serbia’s candidacy, and that Prishtina’s boycott would only enable this outcome without any concessions. The demand for normalization of relations with Kosovo was lukewarm and this can especially be noticed when the EU confronts the outcome of Democrats losing elections in Serbia. The fears are as follows:

- ⇒ Inability to enforce reciprocity with serious damages to the economy;
- ⇒ Prolonging the Dialogue for too long, thus making it more difficult to seek recognition from countries that are waiting for its conclusion to make their mind;
- ⇒ Extending the isolation and not being able to participate in international clubs, get visa liberalization, charge for transit electricity and for the use of its air space, etc.;
- ⇒ That Serbia will be on its EU path much before Kosovo, able to block subsequent Kosovo’s integration, or to break away from conditioning leading to asymmetric conditionality similar to Cyprus;
- ⇒ Fear of sliding in political dialogue about northern Kosovo, hence opens Kosovo’s sovereignty to bargain and render the state dysfunctional;
- ⇒ Stopping the technical talks for political purposes means that Serbia still threatens to sabotage Kosovo.

¹⁰ Danas. 2nd September 2011. Dacic: Hypocritical slogans about Kosovo. Autor: P.D.

http://www.danas.rs/danasrs/politika/dacic_licemerne_parole_o_kosovu.56.html?news_id=222821.

¹¹ Tanjug. 8 March 2011, <http://www.tanjug.rs/videodet.aspx?galID=41047&videoID=118541>.

Kosovo's fears can be explained by degree the current technical status actually influences the developments in the north, and the degree to which they freeze recognitions and economic development.

Fears of Kosovo Serbs

Kosovo Serbs, north and south, are most affected and least consulted in the process. The main fears that have been identified are as follows:

- ⇒ Security for Serbs living in central Kosovo and in enclaves;
- ⇒ Institutional and rule of law vacuum in northern Kosovo;
- ⇒ Serbs employed in the parallel structures fear of losing their jobs or seeing their salaries reduced;
- ⇒ The atmosphere in the Parliament of Kosovo deteriorates steadily;
- ⇒ Fear shared in the north over the potential revenge of Kosovo Albanians if they take control of the north;
- ⇒ If there is an arrangement for the north outside of Ahtisaari, there is a fear among Serbs in the south that some of their Ahtisaari provided powers will be taken away.

It is essential that the Dialogue first addresses fears, or at least it does not exacerbate them, as it resolves other issues. An analysis of the fears mentioned above indicates that most of them are over-blown and irrational. For example, fears of how would Kosovo Albanians react in the north if it was controlled by Prishtina are clearly fuelled by the lack of interaction. Real or perceptual, fears are there, and the closed Dialogue process such as this one does not contribute to allaying them.

Issues of Discussion

This section looks at the issues discussed until October 2011 which are shortly discussed in the text below, one by one. This section is followed by an analysis of the trade-offs of each side for each item under discussion and overall. Issues are discussed in the order how they were opened (and some of them closed) in the technical talks.

The first round of the Dialogue did not generate as much public attention in Belgrade as one could imagine, or at least as much it did in the other capital, in Prishtina. Basically, there was little novelty besides a fact that this was the first time that Prishtina and Belgrade sat around the same table after a long period. There were no negative reactions even after the first round of the Dialogue was finished on the freedom of movement, civil registries and university diplomas. Dissatisfaction in Serbia started to rise afterwards, among northern Serb leaders saying that it is not Prishtina who is making concessions but Serbia only, and that the Dialogue is against the interests of Serbian community in Kosovo. This is a very important moment for the policy gap between the two which has kept widening ever since, harming Belgrade's ability to implement the agreements from the latter rounds of the Dialogue.

Freedom of Movement

Traveling between Kosovo and Serbia is difficult for Serbs and practically impossible for Kosovars, who do not have Serbian personal and travel documents. Ordinary people found themselves in a middle of a political tussle, which they cannot change and which limits their daily lives in every possible way. Serbia did not accept Kosovo's passports nor vehicle license plates, while Kosovo started not to accept the new Serbian vehicle license plates issued by Serbia's parallel municipalities in Kosovo (KM, GL, PR, PZ, DJ, PE, and UR) as well as corresponding ID cards. Kosovars cannot travel in or through Serbia, which makes their trips more burdensome and costly. Kosovo Serbs face occasional hassles with their parallel Serbian vehicle license plates through Kosovo and

Despite of the fact that free travel was agreed upon in spring, its implementation was still disputable in the late fall.

yet some refuse, for political reasons, to accept new Kosovo vehicle license plates (as well as costs for they need to purchase double insurance, pay double road taxes, and other duties to both countries).

The two types of biometric Serbian passports have replaced the older non-biometric passports. Some Kosovars also use Serbian passports, but most of them use the newly-issued Kosovo ones. UNMIK passports were in circulation until recently. The chaotic presence of over four types of passports is matched by a variety of four sets of vehicle license plates. Serbia issues not only plates for Serbian towns, but also plates for Kosovo towns. Kosovo has started to issue new RKS plates, but thousands of UNMIK-designed KS plates are still in circulation. Despite the multitude of plates and passports, crossing the border between Kosovo and Serbia is difficult, so enabling travel rightfully became one of the first items for discussion.

When Serbia received its visa liberalization, the EU required a distinction between passports issued to residents of Kosovo from those of Serbia, with Kosovo Serbs left under a visa regime with the rest of Kosovars. Overall, due to passports, plates, and insurance, travelling to Serbia, through Serbia or around it incurs prohibitively high expenses for Kosovar traders and so contributing to Kosovo's under-development. Despite of the fact that this issue was agreed upon in spring, its implementation was still disputable in late fall.

ID Cards and License Plates

The current chaos was replaced with less or more chaos depending on interpretation, but may bring more mobility for Kosovars. If they get started, the new arrangements will allow greater, safer and cheaper traveling which should boost human interaction across the ethnic divide. Serbia did not accept Kosovo's passports, but they will not be required (or accepted) for Kosovars in order to travel to Serbia. This arrangement, which was to enter into force on November 1st 2011, will require IDs issued by the Kosovo authorities. This was a breakthrough and it showed that what was considered as an issue of sovereignty does not have to be such, given careful packaging. Progress can be made without tackling serious issues by rebranding them as not related to status. It may be useful to recall that Kosovo Serbs used to boycott electricity bills since 'this meant recognition of Kosovo' but few hark back to this issue now. Belgrade also accepted Kosovo drivers' licenses under the clause that their 'acceptance does not imply recognition of Kosovo'.

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A more modest agreement was reached on vehicle license plates and insurance. Kosovo drivers will be able to use old UNMIK vehicle license plates on Serbian territory, or to acquire "PROBA" plates to replace RKS (the second has been in effect until now). The problem is that the privilege for Serbs gives them an incentive to keep the older KS plates (which seems to be Belgrade's obvious goal), but it may also distinguish them from the rest. While there are no security threats for Kosovo Serbs, distinguishing them is a violation of human rights, and is exactly what the plate designs in mixed countries try to avoid (Bosnia, Kosovo during and after UNMIK). There is an incentive for Kosovo Serbs not to take RKS, because this implies acquiring PROBA plates when crossing into Serbia, which then makes them look Albanian in Serbia. At least, the parallel plates of Kosovo towns will stop being used, including in the north.

The main advantage for all will be the absence of uninsured vehicles in Kosovo's roads. All Serbian cars will need to purchase insurance when crossing into Kosovo and vice-versa, or insurance will be mutually recognized (or via a third country). Several millions Euros of loss incurred for Kosovo's taxpayers will be saved and safety on its roads will improve.

University Diplomas

Serbia's policy of non-recognition of Kosovo's documents applies to other types of documents, and among them, also are the university diplomas. This mostly affects the Albanian-speaking population from Presevo and Bujanovac in southern Serbia. This region is already hit by poverty and unemployment and further administrative barriers will contribute to massive migration. Due to a scant private sector, one of the few options for employment in the Presevo Valley is to find a job in the public sector which is impossible to do with a diploma issued in Prishtina, where most of the youth from this area study. The non-recognition of diplomas is only one of the reasons why the ethnic Albanian community, which constitutes the majority in this region, is underrepresented in the judiciary, police and state administration. Kosovo recognizes the credentials of most Kosovo Serbs, but sometimes not the diplomas issued by the dislocated University of 'Pristina' in Mitrovica run by Serbia's Ministry of Education.

Diplomas constituted an early topic and an agreement in principle was announced in spring. The principle is that Belgrade will not directly recognize (validate) Kosovo diplomas but through an intermediary. In fact, this solution was found first by numerous students who did the same individually through Skopje or Tetovo. With both universities using transferrable ECTS credits (European Credit Transfer System), students transferred courses to Macedonia, completed any additional courses to fulfill the requirements, and were issued with a diploma from Macedonia which was valid. With an additional cost of several thousands of Euros, those who were sufficiently desperate led the way.

The agreement provides that such an intermediary would be either an international organization or some university from a third country (most likely Macedonia or Montenegro). This can hardly be called an agreement, but it may regulate and enable the Presevo Valley students to get employed at home. However, this may force students in Mitrovica to seek solutions outside their framework, since Prishtina will hardly recognize what is considered a Prishtina's parallel university. The issue was ultimately agreed upon in late November, but implementation teams are yet to go through the details.

Civil Registry

Upon departure, the Serbian administration took away civil registry books of Kosovo municipalities, placing them in 'parallel' municipalities around Serbia (e.g. Municipality of Peja/Pec operated out of Kragujevac, Prishtina/Prishtina out of Nis, etc.). Kosovo Serbs residing in Serbia made use of them, but also Albanians who needed such documents for various purposes, often paying high sums of money to access them.

The inability to issue original documents for a number of years created large space for manipulation. This legal vacuum was abused by nationals of various countries claiming they were Kosovars who were stripped of their documents, and many sought refuge around Europe. There are officially around 14,000 Kosovars, who sought refugee status in EU countries in 2010, but this is hardly realistic and evidence suggests that most likely this figure hides numerous individuals from other countries.

Kosovo has long faced a challenge that it could not complete its civil registry. For the past 12 years, Kosovo had introduced very cumbersome procedures for issuing of birth certificates (and other personal documents), requiring electricity bills dating prior to January 1st 1998, or two witnesses and additional procedures.

While this situation lasted for over 12 years, now it has become a high priority in order to fulfill conditions for visa liberalization. Kosovo needs to ensure high level of security while it issues birth certificates and other related documents. Kosovo's civil registry is inadequate, making it difficult to

issue personal documents to members of the Diaspora, to displaced Serbs, and at the same time it prevents Kosovo from updating its voters list.

Both Serbia and Kosovo treat civil registry documents as symbols of status, although these are more related to municipalities than to country identities. The end of the first round of the Dialogue invented another “fig leaf” – Serbia is to submit only verified copies of civil registry books through EULEX. Symbolism is, maybe, the most important aspect of the agenda, so this also adds to the argument that both sides are treating the Dialogue as a PR exercise.

While it has been politically sensitive, copies of civil registry are principally useful to Kosovo in order to complete its civil registry, which would resolve a number of practical problems. While the tentative agreement with Serbia does not address Prishtina’s quest for a symbol of status, the copies address the practical need to complete the data. Prishtina has successfully argued the practical aspect use of the matter, but it nevertheless came under accusations from the opposition. Given its implementation, albeit with copies, a milestone will be accomplished and Kosovo will collect its documentation and mark a small tick in its long European trajectory.

The civil registry marks the conclusion of the first round of talks that were in principle agreed upon in the early July. Its implementation has not begun yet and this will be the biggest initial test of the political will and the readiness of both Serbia and Kosovo to fulfill their commitments. For Serbia it will be necessary to amend the Personal Data Protection Law, i.e. to eliminate legal obstacles in order to hand over the copies of registries to Kosovo.

Customs and Cadastre

The agreement on the customs was the first that reached the media in full text albeit 20 days later and after the agreement was supposed to become effective. The published conclusions on the agreements that were reached the recognition of customs stamp, free trade and agreement on return of cadastral records. Those nebulous solutions were sought as illustrated by the following article which indicates that the dispute was entirely about the border crossings and not about the customs stamps:

Kosovo customs officials and Kosovo police will not control administrative crossings in northern Kosovo from Friday 16 September, as Prishtina authorities had earlier announced. Instead of them, representatives of EULEX will perform that duty, confirmed diplomatic sources in Brussels and Prishtina to *Danas*. Our sources indicate that, however, that does not mean that the customs officers and policemen of the EU mission ‘will forever control the border, but only that Prishtina will gradually establish authority in the north of Kosovo, and that process can last for years.’¹²

Violent protests and putting of barricades ensued with a mixed role by Belgrade. Belgrade openly supported the barricades, but it tried to disassociate itself from the more violent elements. Alternative views argue that the problem in the north is the same as throughout Serbia, the threat of parallel security forces.

Free Trade and the Customs Stamps

Perhaps the greatest imbalance between Serbia and Kosovo has been the trade. Serbia annually exports to Kosovo goods in value over 300 million Euros, while Kosovo exports less than 5% of its imports, arriving in Serbia either through smuggling or with documents issued by parallel institutions. Such huge trade imbalance would send any developed country straight into panic, and it

¹² *Danas*. 14 September 2011. Prishtina will gradually take control of the north.

has gradually alarmed most Kosovars, too. Seeking reciprocity, Kosovo's patience started to run thin and finally a deadline was declared first for June and then ultimately for the 20th July 2011.

The Dialogue hit a major obstacle after the first round, when it broached the issues of free trade and customs stamps, which were postponed from July to September. Despite the fact that Kosovo's stamps did not have the word 'republic' in them, the Head of the Belgrade negotiation team persisted that no stamps with Kosovo's state symbols would be accepted. The seemingly irrational dispute was slowly clarified when Prishtina saw through Belgrade's agenda for partition. The round on customs stamps in July was rejected due to Belgrade's ostensible calculation that Prishtina would not be able to reinforce a reciprocity treatment in practice; at least not in its northern border/boundary. Belgrade expected that Prishtina would have to be satisfied with the enforcement of reciprocity measures along the Ibar River, reasoning it was not a small feat to deprive Belgrade 95% of Kosovo's market.

Putting customs officers at the Ibër/Ibar River would certainly be used by Belgrade as a move to cement and legalize its control of northern Kosovo. Kosovo's action on 25th July changed the situation. First alone and then with open international support, Prishtina sought to enforce both reciprocity as well as to assert its control over the north. Tension went high, but generally under control. Announcements that northern mayors and various political criminals are to be arrested have also raised internal accusations between Belgrade and the northern leaders. Despite its initial role in setting up the barricades, Belgrade now disassociated itself from the barricades, while northern leaders pressured Belgrade to openly state whose side it is on.

Belgrade retreated from the Dialogue on 28th September, citing difficulty to "continue talks while there was shooting" in Jarinje (Kosovo's most northern customs post). If Belgrade continued talks it would threaten its ties with Kosovo Serbs in the north. That this "crack in the wall" was not going to be bridged became apparent after the European Commission published its Opinion on application for membership status on 12th October. The opinion was essentially positive, but under certain conditions. European Commission recommended that Council of Ministers grant a candidate status to Serbia, "taking into account progress achieved so far and on the understanding that Serbia reengages in the dialogue with Kosovo and is moving swiftly to the implementation in good faith of agreements reached to date."¹³

European Commission recommendation to grant a candidate status to Serbia, "taking into account progress achieved so far and on the understanding that Serbia reengages in the dialogue with Kosovo and is moving swiftly to the implementation in good faith of agreements reached to date."

EU's unprecedented unity for such a condition meant that Belgrade had to accept customs posts on Gates 1 and 31 without reentering them as issues in the Dialogue and to allow operation by EULEX throughout Kosovo. Only the following items were acceptable: recognition of university diplomas, inclusive regional cooperation, telecommunications and energy. Kosovo Serbs were first to react and issued a joint statement on 19th October, whereby they have refused to implement any agreement Belgrade reached or will reach with Prishtina in the Dialogue.

The EC Opinion was less positive about Kosovo and the roadmap for visa liberalization, for which Kosovo has anyway fulfilled the terms (for the roadmap, not the liberalization itself), and is hardly a carrot. Finding a way to enter into contractual relations with the EU would have been a gain more comparable with Belgrade's. Nevertheless, the prospect of visa liberalization would be a huge

¹³ European Commission. 12 October 2011. "Communication from the Commission to the European Parliament and the Council." Brussels, 12.10.2011, COM (2011) 668 final, SEC (2011) 1208 final, p. 12, http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_rapport_2011_en.pdf.

political gain for any government in Prishtina, in the same way as it was for the rest of the Western Balkans as they made it to the “White Schengen List”.

The dispute mostly took the shape of admission of customs stamps that Kosovo uses, clearly the most disruptive issue discussed so far. Before Kosovo’s declaration of independence, it was agreed that in order to ensure smooth transition to CEFTA, Kosovo was not to change its stamps and it kept the same wording “Kosovo Customs” without any explicit reference to its statehood.

The whole stand-off situation created an unacceptable grey zone in the trade between Serbia and Kosovo. Although Serbia does not recognize Kosovo and exports the goods in value of 300 million Euros annually, it uses the term ‘shipment’ (shipping/delivery). Furthermore, the customs points were ran by KPS Police which were composed of the local Serbs from Kosovo’s northern municipalities in order to make Kosovo’s institutions more acceptable to the local Serbs.

The dispute centered around the text on the stamp, whereas Belgrade rejected any “attributes of statehood” which later came to mean the ‘lack of the word Republic’ (which never was in the stamp in the first place). The Government of Serbia insisted through this to implement the so-called UN Secretary General “Six Point Plan”¹⁴ which is very unpopular in Kosovo.

From Trade Row to Barricades

Fearing partition *fait accompli*, Prishtina embarked on a risky endeavour, to unilaterally put customs officers and police in the two northern crossings and managed to prevent Serbia’s partition strategy. Without logistical support and facing blocked roads, the lack of logistical preparation forced the police into retreat with several months of continued tension:

It was a small demonstration of sovereignty that was grudgingly but firmly accepted by the internationals in Kosovo. Moreover, despite Kosovo’s action the two parties finally reached an agreement that permits the wording of customs stamps to be accepted by Serbian customs officials facilitating trade between the two countries.¹⁵

With the sovereignty issue temporarily frozen, a trade debate ensued. Kosovo’s domestic producers were satisfied. The prices did not increase as predicted, and Kosovo’s trade balance for August was better than any other time in its history. Serbia’s low prices of exports benefit from the lack of taxes since they entered through the north. Moreover, Kosovo had a growing suspicion that Serbia also had politically-motivated dumping policy.

In any case, the Dialogue continued and on 3rd September 2011 the two parties agreed on customs stamps which would just say “Kosovo Customs”. Both sides claimed victory, but after it all, there was a feeling that EU did not handle the situation as it should from July to September. The pause enabled two sides to reflect. Belgrade expected to use Prishtina’s inability to cement its control of the north which would give it the upper hand to broach the north in the new rounds of the Dialogue. Prishtina’s unilateral dispatch of police could change the situation on the ground and improve its bargaining position. This situation remained tense until mid-September, when KFOR attempted again to give the issue back to civilian control. A mixture of KFOR, EULEX and Kosovo authority officials were transported to the north.

The issue of the north and the Six Points Plan were tried to be introduced to the Dialogue table. Belgrade’s lead negotiator in the Belgrade-Prishtina Dialogue, Borislav Stefanovic, said that the 2nd

¹⁴ Foniqi-Kabashi, Blerta. 27 November 2008. UN Security Council approves Ban’s six-point plan.

http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2008/11/27/feature-02.

¹⁵ Abramowitz, Morton and James Hooper. 20 September 2011. Serbia’s EU Ultimatum. PILPG Update published in *The National Interest*. Basically, the intervention brought a new reality.

September talks in Brussels had only dealt with the customs stamps and the supporting documents whereas the administrative crossings had not even been touched on. He said that the northern crossings were not discussed, and warned Prishtina of renewed unilateral actions. Hashim Thaci accepted the suggestion from the Western powers not to consider additional actions, but a multilateral engagement of KFOR and EULEX to ensue.

New events took place on 16th September when EULEX and KFOR assisted Kosovo Customs to take hold of two disputed customs posts, Jarinje and Brnjak. Kosovo Serbs reacted by blocking all roads in the north of Kosovo, and the stand-off continued followed by controversial statements from all sides involved. Belgrade officials claimed that the Agreement on Customs Stamps from 2nd of September did not specify anything on customs posts and that it was yet to be discussed. On the other hand, EU's Ambassador in Serbia and Lady Ashton's spokesperson treated the take-over of the customs posts as being in line with the implementation of the said Agreement.¹⁶ This is a clear example where the non-transparency of the Dialogue takes its toll without the benefits of the creative confusion. The true text of the agreement is confidential, even though its implementation affects everyone.

The rationale behind Belgrade's refusal to accept the presence of Kosovo Customs' officers is difficult to understand, having in mind the acceptance of the "Kosovo Customs" stamps. Moreover, these stamps were explicitly recognized by UNMIK as being in line with Resolution 1244 and

Conclusions on recognition of customs stamps are specified into three points, and everything that agreement contains is as follows:

1. Parties will make all possible efforts to secure the free movement of goods in line with CEFTA;
2. Customs stamps with the insignia "Kosovo Customs" as confirmed by all parties in CEFTA, will be accepted
3. All documents and communications will reflect this formulation/usage.

Conclusions agreed upon on September 2nd on cadastral documents, are as follows:

1. With the aim of protecting the rights of people with legitimate property claims, parties will make all efforts to establish a fully reliable cadastre in Kosovo
2. A tripartite implementation group, consisting of cadastral experts from both parties and chaired by the EU, will monitor the work of a technical agency (selected after consultations with both parties), whose role will be to identify gaps in the original pre-1999 cadastral records.
3. The Special Representative of the European Union (EUSR) will receive scanned copies of all original (pre-1999 cadastral) records removed from Kosovo. Upon request, the EUSR will provide specific information from Kosovo;
4. The technical agency, mentioned in point 2, will compare all copies of original cadastral notes of private properties before 1999 with the reconstructed cadastre in Kosovo. Cases where the comparison indicates mismatch will be followed by the tripartite group to a judicial mechanism in Kosovo. This adjudicating mechanism will decide which cadastral notes are accurate.
5. The first level of the judicial mechanism will be exercised by a commission of international and Kosovar cadastral and property experts. The majority of experts will be appointed by the EUSR with respect to the interests of all communities.
6. The Supreme Court of Kosovo will serve as a second level of appeals of the judicial mechanism. The decision of the Supreme Court of Kosovo will be reached by a college where the majority will be held by international judges and they will be final decisions without the right of appeal.
7. Decisions made by the judicial mechanism will be announced to all stakeholders. The Kosovo Cadastral Agency will implement the final decisions of the judicial mechanism by making the necessary amendments in the Kosovo cadastre.
8. The tripartite group will monitor the implementation and functioning of abovementioned arrangements and will regularly brief the Dialogue about the progress achieved.

¹⁶ BETA. 16 September 2011. EU: Kosovo as one customs area. <http://www.beta.rs/?tip=article&kategorija=vestidana&ida=2571678&id=&ime=>

EULEX, as UNMIK, continues to treat Kosovo as a separate customs zone. Belgrade also recognized Kosovo as such zone, but only since Kosovo's declaration has ceased to treat it as such. The only explanation is the attempts to treat the north as different to create a precedent.

The persistence of barricades has worsened the situation tremendously. Mr. Stefanovic said that any violent efforts for removing the barricades in northern Kosovo would be bad for security and could worsen the situation which is already unstable, which some can read as a threat. President Tadic reiterated:

We are warning all the time the international community that such a thing should not happen, about the dangers arising from unilateral and violent moves by Prishtina. If that someone actually thought of that, if someone risked war in this part of Europe, they would assume responsibility for all consequences. Serbia does not want war. Serbia does not want any violence and peace is our policy and is aimed at establishing lasting peace in the Balkans. If Prishtina takes such actions it would bear full responsibility for the consequences.¹⁷

Despite warnings against Prishtina, progress in the north seems likely to continue with the support of the international community. Serbia will support the north directly but will present a friendly posture to the outside and this will increase its chances to lobby for an advanced status of northern Kosovo as well as to progress on its European path as compensation for the loss of the north. In a statement he gave to the media after his talk with Merkel, Serbian President Boris Tadic said:

I have to tell you that the discussion with the German Chancellor was not how to close doors but how to open them. We concluded that we need to try to once more seek a creative and sustainable solution that satisfies both sides.¹⁸

Their degree of unison is clearly overstated, for the press conference showed more divisions than agreement. That Serbia will try to play by European rules, Tadic indicates by saying:

Here is how Serbia complies with European rules: it is our view that we need to find a sustainable solution for the dialogue, to find a solution that is mutually acceptable, to find a solution which will not expel the Serbian people from the area in which they have been living for centuries, that will not erase any culture from that part of the continent, which will not produce new security risks, which would establish lasting peace, and therefore be beneficial for all of Europe.¹⁹

Dialogue has the potential to unfreeze the situation in the north, but this tumultuous period may have deep frozen it in the mean-time.

Analysis of Gains and Losses from the First Agreement

The potential of further dialogue should be examined by reviewing the results of the first set of agreements. The likelihood of subsequent rounds is a function of the effects of the first and second round of agreements and the public support it elicits in the meantime. That the implementation was hamstrung by 'details' is an omen of what is to come and indicates either a lack of political will and consensus or weak capacities for implementation. Hence, the analysis of gains and losses can only be

¹⁷ Bujosevic, Dragan, 28 August 2011. Interview of the Week: Boris Tadic, President of Serbia (part 2: I Accept Risk of Delay in Obtaining Candidate Status) <http://www.politika.rs/rubrike/Politika/Prihvatan-rizik-odlaganja-dobijanja-statusa-kandidata.lt.html>.

¹⁸ Ibid.

¹⁹ Ibid.

done considering what was agreed upon, preparations and statements on what is to come. However, even as late as the end of November not all the details had been hammered out.

Reactions may also be politically motivated, so an examination of real gains and losses is also important. Along with a discussion of reactions, this paper looks at a trade-off of gains and losses, without neglecting the fact that quite a few additional complications during its implementation can put this process off.

An analysis of gains and losses is not in fact possible without a review of expectations. Many in Kosovo were led to believe that Serbia would practically concede to Kosovo's existence as a state. In Serbia, initial expectations were that this dialogue would lead to a 'historic compromise' on status. Expectations were more recently revised whereby Kosovars see few benefits and a growing fear that the bar has been lowered for Serbia and far less than full normalization will be requested from Serbia in return for its candidacy. Kosovo Serbs expected simple solutions to their daily problems and are yet to see any improvement in their lives. Regardless of the real outcome, expectations were not managed properly and part of the disappointment should be sought there.

Regardless of the real outcome, expectations were not managed properly and part of the disappointment should be sought in the mismatch of expectations.

Reactions in Kosovo

Most of the reactions in Kosovo were not about the substance of the first rounds, but about form and likely continuation. The former Minister of Foreign Affairs of Kosovo, Skender Hyseni, criticized the fact that these are not agreements but only conclusions. The deputy chairman of the Alliance for the Future of Kosovo (AAK) Ahmet Isufi said that the Government disregarded the Assembly during the Dialogue process. The Foreign Policy Club announced that the Kosovo Assembly should hold an extraordinary session where the Government should report on the agreements reached in Brussels. Few expressed any level of satisfaction with the impending ability to travel through Serbia, mostly because of the half-hearted solution that was accomplished. The Self-Determination (Vetëvendosje) movement went as far as to call the Dialogue a sell-out.

MPs from the Democratic League of Kosovo (LDK) and the Alliance for the Future of Kosovo (AAK) said the Dialogue failed at the beginning. "Serbia had clear objectives and reached them," said Skender Hyseni from LDK. "But Kosovo did not achieve anything and did not benefit in any way from the Dialogue," said Burim Ramadani of AAK, who called for an end to the Dialogue since it has not brought Kosovo any gain so far. Opposition MPs are convinced that if the Dialogue continues the same way, Kosovo will have to remain satisfied with the Dialogue on visa liberalisation while Serbia will be able to join the EU very quickly.

Opposition MPs in Kosovo are convinced that if the Dialogue continues with the same system, Kosovo will be self-satisfied with the Dialogue on visa liberalisation while Serbia will be able to join the EU very quickly.

Given a successful implementation of the talks so far, and given a number of other issues that are to be addressed as announced, Kosovo is set to win some and lose some.

What Kosovo Loses

A clear loss that was certain was the slower pace of recognition. A number of countries have declared that they will not recognize Kosovo until the dialogue produces results. Clearly, several countries may decide never to recognize Kosovo if it abandoned dialogue, while a number of others probably would recognize it without waiting endlessly. This loss is not associated with dialogue per se, but with a protracted process. For those who see a zero-sum game with Serbia, Kosovo is to receive less of a reward by the European Union in its integration process, and Serbia's rapidly improving situation may create greater imbalance in respective bargaining positions.

What Kosovo Gains

Kosovo gets a number of benefits in return. Few travel to Serbia, but thousands would travel transit to Western Europe. Anyone who has gone to Croatia in mid-summer can testify that most Deutschland plates passing through Dubrovnik are not tourists visiting Montenegro, but Kosovar gastarbeiters heading home through in a roundabout route, unable to drive through Romania, Serbia or Bosnia.

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The ability to travel through Serbia would benefit thousands of Kosovars, most of who would travel in transit to third countries for a fraction of the price they pay for the expensive airfare they currently take. Unfortunately, such free travel will only partly extend to those who plan to take their vehicles to Serbia or abroad. Travelling with RKS plates to Serbia will require receiving temporary plates which will be costly and will make Kosovar Albanians clear targets. Acquiring KS plates will obviously be made very difficult for Kosovo Albanians, so few may benefit from this option.

It is no small feat that license plates issued by parallel municipal administrations in Serbia will disappear. The uniformity of plates will create the greatest unification factor of the north since the cessation of hostilities in 1999. The fact that northern Kosovo will get to put KS plates with Belgrade's blessing is a clear improvement, a marked progress from the KM or the current lack of car plates altogether. Prishtina would also get to cash in insurance from thousands more vehicles as well as avoid paying millions of damages that Kosovo incurred from accidents caused by uninsured cars. The agreement does not amount to full reciprocity with Serbia (whose vehicles will come to Kosovo without paying additional insurance) but it is a more equal relationship than today.

The agreement does not amount to full reciprocity with Serbia but it is a more equal relationship than before.

Albeit with copies, which was a difficult compromise, Kosovo will be able to complete its civil registry, which would also have positive effects on other processes such as visa liberalization criteria, voters' lists, etc. Kosovo's economy would also receive a small boost as more money will be spent that is saved from airfare, and insurance fees will bring several additional million Euros too.

The reciprocity will raise the costs of Serbian imports by removing the preferential treatment, improve the budget, and give a (mild) boost to local producers. Kosovo's products will be easier to export through Serbia (probably not to Serbia itself), which will enable some export champions to start to emerge.

Reactions in Serbia

Reactions in Belgrade from the officials and the opposition were mostly positive regarding the agreement reached on July 2nd. It is hardly surprising that the statements from all of the parties within the Government's coalition were affirmative, but the main opposition party SNS (Serbian Progressive Party) was also supportive of the first breakthrough and said that the talks must continue as "they are in the interest of the citizens".²⁰ Since SNS is the biggest opposition party, this was a sign of a new broad political consensus emerging in favor of the policy towards Kosovo. The first broad consensus was over EU integration, which was made in 2008 after the breakup in SRS (Serbian Radical Party).

²⁰ Politika. 28 October 2011. Agreement Causes Different Assessments, Reactions. <http://www.politika.rs/rubrike/Politika/Sporazum-izazvao-oprecne-ocene-i-reakcije.lt.html>

Only two parties voiced their dissatisfaction with the very fact that any agreement with Prishtina was made – those were Kostunica’s DSS and Seselj’s SRS. They regarded the agreement as another step of “creeping recognition” of Kosovo’s independence. There were some rare opportunities to see representatives of Kosovo Serbs from both the south and the north exchanging views with the officials in Belgrade.²¹ It was clear that the interests between the north and south had diverged, with the Serbs from the north feeling that the Dialogue was not to their benefit. In fact, this was also the first serious divergence between northern Kosovo Serbs and the Belgrade authorities.

What Belgrade Loses

Some of the compromise may be difficult to argue, so many may perceive that Serbia has traded Kosovo for the EU. Despite the lack of public popularity, Serbia is able to sell the compromise as reasonable without having sold its national interest.

What Belgrade Gains

The only true incentive for Belgrade is the candidacy status and the opening of negotiations with the EU. One can say that it is in Belgrade’s interest to solve some of the day-to-day problems of the Serbs in Kosovo and improve relations with its southern neighbor regardless of the territorial spat. However, Belgrade was more satisfied with the situation on the ground than Prishtina before the Dialogue. Belgrade’s additional motivation could be that it thinks it would be able to cement the exclusion of Kosovo from international mainstream by not crossing its ‘red line’. While many Serbs see conditions related to Kosovo as having increased over time, many Kosovars see criteria being decreased for Serbia, by the virtue of the fact that ‘normalization’ has virtually been dropped as a request. Serbia is also to gain some additional financial resources from thousands who will flock for trade or will stop for gas refills on its highways.

While many Serbs see conditions related to Kosovo as having increased over time, many Kosovars see criteria being decreased for Serbia, by the virtue of the fact that ‘normalization’ has virtually been dropped as a request.

Reactions of Kosovo Serbs

Most Serb representatives from the four northern municipalities reacted negatively to the agreement. While more extremist ones described it as a sell-out, most complained they would not be able to use old UNMIK car plates as they would be visible as Serbs in the rest of Kosovo. They also claimed that they were not consulted and informed about the state’s policy during the Dialogue. The situation was exacerbated after events at the end of July 2011, which led to the agreement between Borislav Stefanovic and KFOR Commander Erhard Buehler²² related to the customs posts. Four heads of municipalities even asked for the removal of Borislav Stefanovic from the post of chief negotiator as he “has damaged the interests of Kosovo Serbs”,²³ and some even physically threatened him.

Belgrade does not have too many options since it cannot admit the existence of the gap between the Serbian leadership and the north of Kosovo. Belgrade cannot leave Kosovo Serbs without financial assistance, as the public sector and the informal economy are the only sources of income. Belgrade funds Serbian institutions in the north and south, largely hospitals and teachers’ salaries, but also local self-government, the Serbian Post, University, court, and various deconcentrated

²¹ B92. 3 July 2011. Impression of the Week, part 1.

http://www.b92.net/video/video.php?nav_category=907&nav_id=523143

²² Mondo. 17 August 2011. Buehler: Agreement Is Valid Until Dialogue Resumes.

http://www.mondo.rs/s215009/Info/Srbija/Biler-_Sporazum_vazi_do_nastavka_dijaloga.html

²³ RTS. 5 September 2011. Demand for Dismissal - Emotional Criticisms.

<http://www.rts.rs/page/stories/sr/story/9/Politika/951198/Zahtev+za+smenu++emotivne+kritike.html>

offices of various ministries. However, Belgrade cannot adequately monitor and control the spending of those funds because of the lack of tax, prosecutorial and judicial instruments. When the customs checkpoint in Jarinje was set on fire on July 27th, Belgrade's condemnation of "hooligans" sent the message that it is unable to control the reactions in the north of Kosovo. In Belgrade, rumors spread that the riots were organized by a smuggler from Mitrovica.

Serbs from other parts of Kosovo stand more to gain from the Dialogue and they have been more supportive. Unrest in the north, such as in July and September 2011, made central and southern Serbs fear that they would bear the consequence of the actions of their northern compatriots. There is also fear that Serbia is in reality pushing for a division of Kosovo that would render Ahtisaari's Proposal invalid and leave them with no political guarantees. Many Serbs from the south say that they feel like "hostages of the north". This is a very important moment, as it is highlighted by the fact that the Serbs from south are more integrated into Kosovo's political system and de facto approve of the Ahtisaari package.²⁴ At the same time, when the northern Serbs blocked the roads once again as of September 16th, the State Secretary in the Serbian Ministry for Kosovo and Metohija, Oliver Ivanovic, called the southern Serbs "inexplicably passive", and urged them to support their kin in the north. This statement was publicly condemned by the heads of Serbian municipalities from the south.

The events in the north since July 25 have deepened the divide between the Kosovo Serbs in the north and the south. One can no longer talk about a single political community of the Kosovo Serbs. Now there are two with very different political interests, aspirations and politics. It is to be expected that, unless Serbia changes its position, the discrepancy between the Serbs from the north and the south will increase during the Dialogue, as will the distance between the north and Belgrade. This of course, depends on whether and for how long the Dialogue will continue, but given a change in Belgrade, the southern Serbs and Belgrade may see greater incentives for cooperation.

Gains and losses for the Serb community are more complicated to assess. First, the Serbs in the south and those in the north have grown to perceive a different set of interests. The Serbs in the north see the option of remaining with Serbia as more realistic and see the trade-offs from this perspective. This is the result of their living more in the legal-economic system of Serbia than in Kosovo over the past 12 years, which was more or less tolerated by the international community. The Serbs in the south have largely given up hope of belonging to Serbia and see the trade-offs from two other perspectives: (a) from the current situation to maximize the benefits they stand to gain, and (b) those who realize that the current benefits are temporary, so legalizing them is in fact a real gain.

A more detailed scrutiny of the expected changes is necessary to examine the exact trade-off. Serbs in the south will no longer need to change license plates, and will travel in insured cars, thereby avoiding potential spats. For the first time they will be able to travel to Serbia without changing plates, but many may still choose to do so since it is cheaper. Most Serbs now realize that KS plates will make them noticeable as Serbs. While the security situation has improved tremendously, most would rather take RKS plates if crossing into Serbia was not so expensive. Leaving the old plates is mainly an emotional trade-off, but also financial, because for the past decade most Serbs have not registered their vehicles and spend several hundred Euros less on insurance, road taxes and other duties. Thanks to the details discussed, Serbs will avoid double taxation or import duties on the vehicles they currently drive. They get to avoid hassles with Kosovo institutions.

²⁴ Gashi, Krenar. July 2010. Review of Decentralization – Functioning of Serb Majority Municipalities. Kosovar Institute for Policy Research and Development. Policy Brief 2010/5.
http://www.kipred.net/web/upload/Review_of_Decentralization.pdf.

The KS plates will make it easier for the Serbs from the north to travel throughout Kosovo. More rule of law will be introduced Kosovo-wide, but this will most notably be observed in the north. However, northern Serb leaders hesitate to see any change for fear that resolving the situation will erode the special situation and risks making the north a backwater, be it of Serbia or Kosovo. They may also lose massive financial benefits from Serbia. Few Serbs are willing to trade Serbian salaries for those of Kosovo, which are several times lower. All Serbs who need Kosovo documents will be able to prove their citizenship eligibility thanks to copies of the civil registry.

Serbs from the “south” have more or less accepted the Ahtisaari. Political representatives of the “southern Kosovo” Serbs are either in the Kosovo Parliament or in the Kosovo government while the whole local self-government functions according to the Ahtisaari plan. Except for the practical benefits, they are also supportive of the Dialogue, because they are hoping an improvement of relations between Belgrade and Prishtina would strengthen their position too. Despite numerous personal contacts with influential Serbian leaders, representatives of SLS (Samostalna Liberalna Stranka - Independent Liberal Party) who are in the Kosovo government are not officially recognized by the Serbian government as representatives of the Kosovo Serbs and Belgrade’s press too often labels them “Thaci’s Serbs”.

Overall, Kosovo Serbs stand to gain the most from the Dialogue, but are least involved and fear that the EU is primarily considering the preferences of Prishtina and Belgrade above those of the Kosovo Serbs. Ultimately, all stand to benefit from normalization, but it remains unclear what this entails.

What is ‘Normalization’?

One of the main tasks for the dialogue, and pressure on both sides is to normalize their relations. What does this really mean in practice? Normalisation could mean finding a modus vivendi for relations between Kosovo and Serbia short of recognition, from travel and trade, to telecommunications, postal services, border/boundary control, railway transport, culture, sports, energy, etc. Examples abound about entities that cooperated with each other short of recognition. The initial idea, as it can be conjectured, is that ‘normalization’ was what we call ‘emptying’ the status bucket. A number of issues that used to be interpreted as status-related have long ago been depoliticized, with more also likely to undergo the same treatment.

**‘Emptying’
the status
bucket.**

The first box (see the first column in the figure in the next page) lists examples of issues that were depoliticized in the past and settled. The current dialogue has already managed to somehow depoliticize and get agreement on several issues, termed as being in the process of decoupling from status (second column). A number of additional issues are currently linked to status, but they do not have to be. We argue that they could be treated as non-status to lead to normalization (third column). There are other strictly political issues that may not be ready for depoliticization yet, such as border demarcation, recognition, air space, etc.

The figure below illustrates the evolution of issues from the early stages after the conflict (for the first list), when everything was political to gradual depoliticization. For example, the issue of missing persons was very politicized and used and abused for years, however, it is now treated as purely humanitarian.

**Normalisation should
empty the status-
related bucket and
addressing status later
will be easier, as it will
be about emotions
only.**

Kosovo had long faced difficulties arguing that a police service was adequate. It was ironic that Kosovo as a province in the 1980s had its own police force, but today Serbia does not dispute Kosovo’s right to have its own police and no longer discourages Serbs from joining its ranks. It is no longer seen as status-related for Kosovo Serbs to pay electricity or obtain personal documents with Kosovo insignia.

Decoupling from Status

Already Depoliticized

Missing Persons
Serbs in the Kosovo Police
Electricity payment by Serbs in Kosovo
Acceptance of decentralization and municipalities by the Serbs in the south
Obtaining of personal documents issued by Kosovo institutions.
Acceptance of funding for projects and administration by Kosovo institutions.

In Process of Decoupling from Status

Cadastral records
Civil registry records
Customs stamps
Mutual acceptance of ID cards and license plates
Mutual acceptance of insurance
Mutual acceptance of university degrees
Telecommunications
Energy
Kosovo's Regional Representation

Yet to Be Decoupled from Status

Sports. The precedent of Scotland, Wales, Northern Ireland and other parts can serve to persuade Serbia to allow Kosovo to compete in international sporting event.

Mail and postal services

Practical Cooperation. Regular contacts and cooperation on issues of mutual concern and among institutions that does not relate to status: police, courts, public health, water or environmental degradation

Infrastructure. Kosovo and Serbia to make the roads that lead to each as priority;

Cultural exchanges

Railway transport

Airline transport (excluding air space)

Cultural heritage

Kosovo's membership in various international institutions.

Decentralization of Kosovo in the north

This move of issues from the 'status category' to a 'practical category' has occurred painstakingly slowly, and the new list under discussion is not going fast either. The main threat is that it might stop, hence the need to ensure that the process provides sufficient incentives for both sides to keep the momentum going and to bring their public opinion along.

It does not take too much imagination to see the third list as purely technical. Few issues will remain in the strictly status-related category, and they may be left for a time when more forward-looking Kosovo and Serbia are better equipped to engage with each other. In the long run, normalization may empty the whole status-related category, and addressing it may leave only the emotional issue in an empty shell. To ensure that this momentum continues, strict conditionality of carrots and sticks is required.

Bilateral Conditioning

This process would not have worked had the EU and the US not increased the incentive scheme of rewards and served as guarantors. They have in fact gone several steps beyond, reportedly often virtually threatening the sides with the destruction of their political careers if they do not move sufficiently forward. The dialogue has clearly become part of the progress reports, which all Balkan countries use as the main barometer of a government's performance.

When the dialogue was failing in mid-September, Robert Cooper, the EU facilitator of talks between Prishtina and Belgrade, has called on Kosovo institutions to show understanding of the fact that Belgrade is failing to implement agreements and wait until the European Union assesses Serbia's performance in the process. Cooper congratulated Kosovo on the correct implementation of the stamps agreement and expressed concern that Serbia had yet to start implementation. He called on Kosovo to show understanding for several more days until the EU evaluates Serbia's performance on the matter.²⁵

One outcome that Prishtina has coveted for a long time was visa liberalization, and its appeal has increased even more after all the neighboring countries received the same. Primarily due to non-recognition by five EU members, Kosovo was not even given a roadmap. However, most Kosovars believe that the true reason Kosovo was not given the roadmap was the choice to use it as leverage to push Kosovo into dialogue. The fact that Kosovo had fulfilled the criteria was confirmed by the statement of German Ambassador to Kosovo Ernst Reichel: "Germany has concluded that Kosovo has fulfilled all the conditions to start the Dialogue on visa liberalization with the EU. Germany will put this stance forward to the EU as well."²⁶

Germany insists that the European Commission lay out strict conditions for Serbia's relationship with Kosovo in exchange for receiving candidate status.

She [Angela Merkel] marched into the office of Serbian President Boris Tadic and in unlikely EU talk made clear to him the Serb political game in Kosovo was over. Kosovo would not be partitioned; the area inhabited by Serbs north of the Ibar River was Kosovo territory. Serbia has to stop running that area. The Kosovo issue had to be resolved before Serbia could enter the EU.²⁷

²⁵ Express. 26 September 2011. Cooper: Be a Little More Patient.

²⁶ 24 September 2011,

http://newsmonitors.org/mon/index.php?option=com_content&view=article&id=596:saturday-report-24-09-2011&catid=37:saturday.

²⁷ Abramowitz, Morton and James Hooper. 20 September 2011. Serbia's EU Ultimatum. PILPG Update published in The National Interest.

Diplomatic sources cited in the *Blic* newspaper, said that Serbia was asked to continue the dialogue with Kosovo on the issues of:

1. Unconditional continuation of dialogue;
2. Regional presentation of Kosovo;
3. Telecommunications and electricity;
4. Dissolving parallel institutions in Kosovo, which more specifically came to mean that Prishtina should take over the court in the north and start to dismantle the parallel structures.

While the conditionality put briskly by the German Prime Minister Angela Merkel, it reveals a markedly smaller set than any level of 'normalization' would entail, possibly due to the short timeframe given to Serbia until December 9th. The degree of support by other countries to Germany's position is unclear except for Britain and the Netherlands. Another report put three conditions which determine the outcome of the ministerial discussions: renewal of dialogue, handing over of the court in northern Mitrovica and abolition of institutions in the north. Not all countries insist on the same. Italy hopes that negotiations between Serbia and Kosovo will resume. That is not a condition for candidacy, but could improve the atmosphere".²⁸ Other countries are often even friendlier to Belgrade. "The Belgrade authorities have very limited impact on events in the North," Swedish Foreign Minister Carl Bildt said in Luxembourg ahead of meetings of EU ministers.²⁹ Paris reportedly requires little more than a return to the negotiating table.³⁰

In order to get candidate status, the Serbian government should clearly call for the removal of barricades in the north, because without this there is no application of the agreement on customs stamps, warned Jelko Kacin, Special Rapporteur of the European Parliament for Serbia. Kacin also said that Germany only insists on formulating what is, at least, the opinion of 22 member states that have recognized Kosovo.³¹ To indicate that the conditionality has not been dropped after milder EU language in the Progress Report, the German ambassador to Kosovo recalled that:

"EC recommendations for Serbia are only recommendations. Germany's stance is clear. It was expressed by (Angela) Merkel in Belgrade. But, this does not mean that all EC recommendations should be met. Nonetheless, we will express our official stance in December if we are in favour or against candidate status for Serbia."³²

The amount of what Serbia has to deliver to satisfy Germany remained for closed-door exchanges between the two administrations until early December. Obrad Kesic believes that Britain and Germany are in the minority among the EU member states, where the majority do not even understand why an escalation of the crisis in northern Kosovo was necessary and would gladly accept a solution which returns to the previous state-of-affairs, that is for Kosovo's secession to be strengthened via the Belgrade-Prishtina negotiations, and not by use of force.³³ Among all divisions, it seems the most serious one is that between the U.S. and the EU, whose many members were surprised with the timing of everything that has happened with regards to the destabilization of northern Kosovo.³⁴

At the same time, it should be noted that due to such uncertainty regarding progress on the European road, but also how it is interpreted in the country, intensified conditionality, Euro-

²⁸ Deutsche Welle. 11 October 2011. Kosovo the "key" for Europe?

²⁹ Vecernje Novosti. 11 October 2011. Bildt: Belgrade is Not Responsible for Problems in Northern Kosovo.

³⁰ Vecernje Novosti. 12 October 2011. EU Conditions with Kosovo.

³¹ Danas. 17 October 2011. Germany Is Saying What 22 EU Members Are Thinking.

³² KTV. 13 October 2011. Foreign Ambassadors to Kosovo Comment on EC Progress Report.

³³ Nikolic Djakovic, Tanja. 13 October 2011. Kosovo Scenarios: Freezing the Conflict. NIN. <http://www.nin.co.rs/pages/article.php?id=63747>.

³⁴ Ibid.

skepticism amongst citizens in Serbia is on the rise. It is assessed that due to numerous obstacles, even the EU membership candidacy could get a lukewarm response in public. By the same token, other analysts predict that this lukewarm approach also applies to the realization of the loss of Kosovo, which would not be seen as very troublesome either.

Serbia is definitely encouraged by the Commission's *avis*. The Serbian prime minister declared that Serbia "has avoided impossible conditions over Kosovo". Progress in the dialogue with Prishtina on (for achieving candidate status, but also the beginning of negotiations) technical issues, which are status neutral, is required. The abolition of the so-called parallel institutions is not required, and neither are new local elections.³⁵ Serbian Deputy Prime Minister Bozidar Djelic said that Serbia has probably got the best possible opinion of the European Commission, and avoided conditions that are in discord with the Serbian Constitution and the state policy on Kosovo. Djelic pointed that the fact of 22 EU countries having recognized Kosovo's independence cannot be without effect on Serbia's European integration.

We are not required to either directly or indirectly recognize Kosovo, but just to normalize relations in regard to technical issues, such as telecommunications, energy supply and school diplomas. If there is good will, it can be achieved.³⁶

One calculation is that Serbia intends to buy time. This will mean that Serbia will not rush to meet this condition, and considering the lack of appetite in the EU for integration, the EU will not put much more pressure, but will wait for Serbia to deliver, tolerating considerable delays. The time-line may be summer or fall next year. However, there is a possibility that Belgrade may want to push for a date for negotiations with the EU and will consider some remaining parts of the Dialogue agenda feasible, like the energy issue, telecommunications, etc. On the other hand, matters such as the court in northern Mitrovica and the participation of Kosovo in regional institutional forums are the least acceptable for Belgrade, and will take considerably more time. As Stefan Fuele said,

We consider that Serbia should make decisive efforts in order to achieve additional significant results in the Belgrade-Prishtina dialogue. This, as a priority, includes the implementation of the already reached agreements. It is necessary to ensure the principle of inclusive regional cooperation, while solutions need to be identified in line with the EU heritage as far as the spheres of energy and telecommunications are concerned. Active cooperation with EULEX will also be of key significance. That is the key to meet the conditions from the Stabilization and Association process and finally to launch the pre-accession negotiations with Serbia."³⁷

For further down the road, Fuele proposed the opening of pre-accession negotiations as soon as Belgrade makes further progress in achieving a key priority, which is to take further steps to normalize relations with Prishtina in accordance with the terms of the Stabilisation and Association Process.

Recognition of Kosovo is not a formal condition for Serbia's European integration process. Solutions must be found in the foreseeable future for a number of open issues that continue to prevent the normalization of relations.³⁸

The most vocal opposition in Kosovo takes an issue with the decision having ignored the fact that Serbia's constitution still treats Kosovo as part of its territory.³⁹ More events may take

³⁵ Interview with Bozidar Djelic, Deputy Prime Minister for European Integration: We avoided Impossible Conditions over Kosovo (*Politika*) 13 October 2011 Now What Is Required from Serbia in Dialogue with Prishtina?

³⁶ Radio Serbia. 19 October. Djelic: Euro-integration Related to Kosovo Issue.

³⁷ Vecernje Novosti. 14 October 2011. Fuele: Recognition of Kosovo Not a Condition.

³⁸ Ibid.

place expectedly or unexpectedly that may change the dynamics. A number of them have been identified that may throw the Dialogue off the course.

Risks Looming Ahead

Whether dialogue is successful will also depend on a number of external factors as well as events (scheduled and unscheduled) that may shape the incentive structure of the actors involved. A number of issues can be safely predicted. The doomsday scenarios that Prishtina will make another unilateral intervention similar to Croatia's operation Storm is highly unlikely as is an international conference on the north, but this will probably be subject to many travels to the Balkans. It is unclear to what extent Serbia will choose not to lobby against Prishtina's participation in international fora. We have attempted to foresee possible events below:

Two events that had the potential to disrupt the Dialogue were:

Organizing the population count in the north. The barricades came in as a handy justification for not organizing the census in northern Kosovo. Conducting the population count would have sent the wrong signal. Instead of various ideas given before for international organizations to organize a belated census, we recommend that no census be carried out at all. The data and most information needed for northern Kosovo by Kosovo or Serbia for international purposes is available.

Serbia's integration opinion in early October was more positive than expected, increasing fears in Prishtina that less will be required from Belgrade. The opinion has integrated expectations from Serbia regarding what it has to do, and while the demands are lower than that of numerous member states, they are officially expected by the EU institutions. The opinion on December 9th will impact the Dialogue in a way that talks may continue afterwards but without any agreement until late summer next year.

What may still disrupt the Dialogue in the future?

1. The lack of implementation of the agreements so far. It is often said that the devil lies in the details, but the scale of disagreement that has bedeviled the process is very high. This may indicate a range of causes from insincere intentions, very large differences, internal pressure, change of heart, public disappointment, and lack of political will. This can erode mutual trust and make further agreement less likely. The EU mediator and the US delegation must do everything possible to persuade the two sides that it is in their interest to talk in good faith and to hurry with some palpable results. Disagreement over 'details' would give an additional boost to a rise of opposition criticism, with a high likelihood and high impact.

2. Delay of additional agreement on further issues such as telecommunications, energy and Kosovo's representation in regional mechanisms. Another agreement as well as a timely and full implementation of what was agreed until now will keep the momentum, otherwise Kosovo and Serbia will be worse off than when they started and the public will militate against that outcome.

3. The official ruling on Serbia's candidacy is to be published in early December and may mark the end of the process as we have it now. The EU will have to carefully think of the remaining carrots to make Prishtina and Belgrade behave during this timeline. While talks may continue after December, the next opportunity for any agreements will present itself 12 months later, around September 2012 after the formation of the new Government in Serbia, when the start date for EU accession negotiations will be Serbia's next milestone sought. The fear of an asymmetric outcome is best

³⁹ Kurti, Albin. 27 October 2011. Shqetësim me konkluzionet dhe rekomandimet. Koha Ditore. p. 10.

illustrated by Koha Ditore, an op-ed of which said that Belgrade holds Kosovo's European Union fate in its hands. He says that the message from Brussels is clear: Serbia does not have to recognize Kosovo to become an EU member, while Kosovo cannot become an EU member without recognition from Serbia and five other member countries. Kelmendi considers that this is a hopeless situation for Kosovo, while the Government is hiding the truth, bragging about the possibility of the lifting of travel visas.⁴⁰

4. Holding Serbian elections in northern Kosovo. Elections in Serbia are approaching and holding them in northern Kosovo will destroy all the progress made so far. Serbia may try to organize them to provoke Kosovo into over-reacting, but not holding them may erode the popularity of the government. It is also possible that elections might be held ahead of schedule, although this is unlikely. If local elections are held in northern Kosovo in spring, this will result in the strengthening of Serbia's institutions in northern Kosovo.⁴¹ To avoid such a scenario, it is essential that the parallel structures are dissolved through an agreement, which will also excuse Belgrade for not holding elections in the north.

5. Not meeting the conditions for 'normalization'. If bilateral conditionality remains as has currently been placed, Belgrade will need to dissolve the court in the north before December. The court is unlikely to be taken by force. A violent scenario has been trumpeted by various politicians in Serbia who predicted a Kosovar storm-like operation, but Kosovar pundits are worried that it is precisely that kind of reaction that may contribute to a higher degree of autonomy for the north.⁴² While conditionality is suitable for delivering certain results, it can also instigate a backlash and undermine some of the achievements made.

6. Potential institutional instability in Kosovo. The budgetary shortfall may cause a major crisis that could provoke public outcry. This may happen anytime, but its likelihood increases the later we go into the year and well into the next one, especially if the privatization of PTK is postponed along the project of New Kosova.

7. The most dangerous period comes in after early December. The temptation to engage in populist politics in Serbia will be high due to the election period, while Prishtina will be very disappointed by not having received contractual relations. The election results in Belgrade will influence the talks, but not that much. Even an SNS (Srpska napredna stranka - Serbian Progressive Party) government probably would not ditch dialogue.

8. Destabilization and tit-for-tat in the north has a medium likelihood and a high impact. Tit-for-tat policies can follow and possibly Serbs disconnecting Albanian villages from electricity or pressuring them, while incidents may occur in southern Kosovo. Serbia's sabotage of Kosovo's international participation in various forums will continue to irritate and Prishtina will see a two-faced Belgrade with all the credibility problems that go with this.

The Battle for a Beauty Contest: Beauty Is in the Eye of the EU Beholder

⁴⁰ Kelmendi, Adriatik. 20 October 2011. Koha Ditore.

⁴¹ Politika. 14 October 2011. Interview: Laslo Varga, Chairman of the Committee for European Integration: The Two Conditions of the European Commission Are Not Status-Neutral.

⁴² Politika. 23 September 2011. Mayors Governing Municipalities in Northern Kosovo Predict Provocations from Prishtina.

Besides Serbia and Kosovo, there are other participants in the Dialogue process, primarily the EU and the US, the former also has a lead in the process as it is an official “facilitator”. Because of the key role that the EU plays, all the EU member states influence the talks, circumventing the high representative of the Union for foreign affairs and security policy, effectively turning the dialogue into bargaining between many more than just two actors. The US State Department is closely involved in the Dialogue and their representative is always included in the meetings in Brussels, but with an advisory role. The presence of these two creates a situation where Kosovo and Serbia cannot

When the dialogue stopped, Belgrade and Prishtina did their best to communicate their story to the EU that they were for dialogue but it was the other side who had stopped it.

possibly decline to engage in discussion. Expecting that the other side will not make substantial concessions, their strategies have been to appeal to the beholders and find ways to portray themselves as ‘constructive European-style negotiators’. Both parties believe that the ‘winner of the Dialogue’ is the side that sounds most ‘European’, in the PR sense of the word. Doris Pack, Head of EP Committee on Southeastern Europe, referred to that when she said that the “Dialogue between Belgrade and Prishtina should not be just a show”.⁴³

The influence of the EU and the US is a pre-condition for the Dialogue taking place at all. The US has more leverage over Kosovo but less over Serbia. Basically, both parties could not care less for the well-being of their counterpart, but the real motivation is the “political reward” from either the EU or the US. The danger is that one party will try to initiate the “blame game,” whereby it tries to provoke the other one with unilateral measures so that the other party leaves the Dialogue in protest. The other party might not leave the table but may try to respond with unilateral measures of its own. In that way, the Dialogue would be stripped of its substance and the EU appeal would look like a house of cards.

The EU and USA need to be more adamant in the protection of the Dialogue and more vigorous in their insistence to move forward. However, Kosovo and the Western Balkans are hardly a top priority for the US, and the EU’s disunity and crisis impair its ability to project influence. The financial crisis and European public debt, war in Libya, “Arab spring”, UN resolution for Palestine etc., have significantly diminished interest in the Western Balkans as a whole. The visit of Angela Merkel and her robust message to Belgrade has sparked arguments that the US has given the lead on Kosovo to Germany and that is why we can see the acceleration of events in recent months.

It may be better to have insincere cooperation than sincere warfare. Time will pass and relations between Serbia and Kosovo may gradually improve. Let’s fake it until we make it!

Much about the behaviour of both sides is about appealing to the EU mediator (the beauty beholder). It is interesting to see that regardless of real preferences, politicians often say that ‘dialogue is the only solution’, even when they are at odds about what type of dialogue they are talking about. When the dialogue stopped, Belgrade and Prishtina did their best to communicate their story to the EU that they were for dialogue but it was the other side that had stopped it.

After all, short of real incentives, the beauty contest may serve well in the meantime. It is better to have insincere cooperation than sincere warfare. Time will have its effect and the relations between Serbia and Kosovo will gradually pick up. Let’s fake it until we make it!

⁴³ Danas. 25 August 2011. Interview with Doris Pack.

[http://www.dorispack.de/interviews_1.html?&no_cache=1&tx_ttnews\[tt_news\]=521&tx_ttnews\[backPid\]=39&cHash=d81f0e5c12](http://www.dorispack.de/interviews_1.html?&no_cache=1&tx_ttnews[tt_news]=521&tx_ttnews[backPid]=39&cHash=d81f0e5c12).

Mutual Trust & Credibility

The two bargaining sides ought to be advised to think carefully about their credibility vis-à-vis not only their voters, but also towards the other side. Negotiators sometimes portray their accomplishments as major victories and boast about their masterful skills of outsmarting the other side.

In the age of globalization, messages are carried out by various media to diverse audiences almost instantly. As ‘internal betrayal’ is a major problem to the doubtful publics and bloodthirsty opposition, it is only natural that negotiators need to visibly avoid being accused of betraying the national interest. Their credibility vis-à-vis the other side appears to be a very low priority. But conflict resolution experience indicates that this must be one of the highest considerations, especially in a closed process such as this one that insulates the teams from their respective publics.

How can the two sides transform the perception of self-interest, if they are packaging their engagement as an attempt to subjugate, beat and deceive the other side? Unless the credibility is guaranteed by EU pressure (few fully trust EU’s consistence) appearing quasi-patriotic to the public in order to avoid closer public scrutiny and pressure becomes the strategy.

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If this dialogue is too soon, at least it should enable the discourse of enmity to start to disappear. The fact that the discourse of enmity continues, and great patriotism is interpreted as ways to deceive the other side, may be a natural tendency after all that has happened. However, the costs of failure are too high. It is clear that the trust has been completely lost, while the two sides have engaged in a dialogue entrusting the credibility of the process to the external mediator (the EU even takes responsibility for the parts of the agreements that have not been put on paper). In public, Kosovo and Serbia make it seem as if they are continuing the centuries-old battles with diplomatic finesse, while inside the negotiating room the two sides resemble participants in a beauty contest, where the external mediator carefully measures which side has been more constructive in its approach.

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Trust and credibility depend to a high extent on the image of Kosovo and Serbia in respective publics. The image of Serbia initially started to improve, but its credibility in the Kosovo public is the worst in a long period since it tried to use the technical dialogue for its attempts to annex northern Kosovo. The good cop act played by Stefanovic in the early stages of the Dialogue and the bad cop role played by Jeremic has been replaced by an open agenda to forcefully integrate the north into Serbia.

It is clear the feeling is mutual, at least this is what Borislav Stefanovic said on 5 July 2011: “I had the impression sometimes that I was talking with people who are not from the same planet as we are. The talks were terribly difficult because every sentence and paragraph we presented were in contrast with the Albanians.”⁴⁴ But the same opinion is clearly not shared by the Serbian public, for most of whom Kosovo is a closed chapter.

Kosovo Serbs find themselves in the middle and have seen their trust in Belgrade eroded, but their trust in Prishtina has not filled the emerging gap. There is growing suspicion that Prishtina and

⁴⁴ Stefanovic, Borislav. 5 July 2011.

http://www.b92.net/info/vesti/index.php?yyyy=2011&mm=07&dd=05&nav_id=523248

Belgrade will agree above their heads, and there is growing mistrust between southern and northern Serbs, who see less solidarity for their opposition outlooks.

Not implementing the first agreement in good faith has contributed to a loss of faith on the other side. When Kosovo trucks could not drive to Serbia after the agreement, tens of articles wrote about the deception that the Kosovo side suffered from Serbia.⁴⁵ A growing proportion of Kosovars view Serbia as using economic domination as a political tool. Continuing talks has become an uphill struggle and, next time around, entering into talks may present a higher hurdle than it did in March this year. Serbia’s beginning of collecting VAT in northern Kosovo⁴⁶ and Prishtina’s intervention are examples cited in respective capitals as change of tack and unfaithful acts during the technical dialogue.

The decision by the Serbian authorities to return northern Kosovo into its tax system and reintroduce the Value Added Tax (VAT) has not been met in the EU with approval. This was seen as Belgrade’s unilateral move and as a precursor to an opinion that Belgrade was not sincere in its negotiations with Prishtina.⁴⁷ Any attempt by Belgrade to establish control, directly or indirectly, in northern Kosovo leads to the affirmation of the story on partition of Kosovo, which is absolutely unacceptable for Brussels,” Blic quoted an EU source stressing that any kind of affirmation of Serbian sovereignty in the north does not exist as an option. The same source claims that the rash reaction by the Serbian government is an indicator that the issues are political and not economic.

Keeping Up the Pace

Ashton expressed expectation that the agreements will be put in practice in the shortest possible period, and that the Dialogue will yield results in the fields that have not been discussed so far, such as telecommunications, cadastre, customs stamp and energy. There is fear that the hiatus in dialogue indicates a lack of will for further dialogue. However, a successful conclusion of these talks is essential for any further engagement. It is essential that after the next elections in Serbia, both countries are still able to take pro-dialogue positions, without the necessity of pressure by the international community, driven by the carrots from the EU integration process and the practical benefits of the current bout of dialogue.

It is also essential that both sides perceive that they received adequate rewards by the EU. What will be received and how will it be perceived? By the end of December, both Kosovo and Serbia should ideally be at:

Kosovo	Serbia
Contractual Relations with the EU and Visa Liberalization Roadmap Some practical benefits	Candidate Status Some practical benefit

Given a successful period now, this can lead to a process where Serbia and Kosovo see a true transformation of their self-interest to induce cooperation with their neighbors.

Transformation of Self-Interest: From Zero-Sum Enmity to Mutual Cooperation

Perhaps by force, but Prishtina and Belgrade have made some progress to rapprochement. A tumultuous process with multiple attempts to defeat the other side, and not treat it as a partner,

⁴⁵ Express. 23 September 2011. This Is Not Reciprocity.

⁴⁶ B92. 19 September 2011. VAT Collection in Northern Kosovo.

⁴⁷ Blic. 21 Sept 2011.

Are both Serbia and Kosovo in the same boat? Still a Zero-Sum Game? Yes and No.

has nevertheless produced a situation where they have agreed and they face some punishment if they choose to change terms. However, the terms are clearly changeable so the sides keep lobbying to this effect bilaterally. It is interesting to conclude that once this forced cooperation indeed takes place, benefits will abound and one's perception of self-interest may change. Through carrots and sticks, Serbia and Kosovo are gradually forced to move from a zero-sum logic to mutual interest. In any case, as we indicated earlier, this interest has already transformed in the past. Prishtina initially saw decentralization as a Trojan horse, but these fears have subsided. Serbs saw paying electricity as a sell-out. It is a safe bet to predict that Serbia will also think the same. The two sides were from the beginning haunted by the very image of the word 'negotiations', and switched to 'talks' instead, although they amount to the same process.

The real test is whether we have managed to transform Serbia's and Kosovo's perception of self-interest and if they now realize more that their interest depends on the well-being of the other side. There is progress on the other side, but grudgingly so, and there is still fierce lobbying for disentanglement from mutual interdependence. Are both Serbia and Kosovo in the same boat? Still a Zero-Sum Game? Yes and No. Given an open dispute, it will indeed be very difficult to instill a non-zero-sum approach. Once the territorial spat of northern Kosovo is closed as an option, its regulation will present an opportunity for creative realization of joint interest. Moreover, given the multilateral decision-making in the European Union, there is a tendency to lobby various countries against each other, which complicates and reduces the leverage that Lady Ashton's office can have over the two talking sides.

It is natural that Serbia intends to move faster towards the EU, however, there is a perception in Prishtina that Belgrade is doing less than the necessary minimum and that Serbia's enhanced position in its EU integration process will give it undue benefit. Serbia should also be asked to pledge not to use any advantage in going faster in the EU against Kosovo's statehood and accession. For some time now, Serbia has dropped the line that Kosovo and EU integration are two separate processes.

This process should be used to persuade Kosovo that Serbia's EU accession is good for the whole region, and to persuade Belgrade that similar success for Kosovo is in its interest. These arguments currently have no effect, because most politicians are looking for victory and not rapprochement. The conditionality employed either by the EU or bilaterally is likely to produce the same boat approach and provide inducements for engagement with each other, even if short-sighted politicians are against the idea.

Various events that can take place in the near future could hamper the dialogue and if the negative outcomes can be predicted, we stand a better chance of avoiding them.

Scenarios

The Dialogue touches upon all areas, from economy & trade, free movement of persons, employment and social policy, EU prospect, the fight against organized crime and corruption, cooperation with civil society, cultural exchanges or regional political stability. Many areas were not touched upon earlier in the paper, and they carry four possible outcomes that the Dialogue can bring Kosovo and Serbia in the next period:

1. Optimistic Scenario

Serbia and Kosovo agree on all the issues that they have opened and several more that have been muted. An agreement on free movement, free trade and IBM is operational, barricades are removed willfully by local Serbs in the north, and agreements are struck also on telecommunications, energy, and regional cooperation (Kosovo's representation in regional fora). EULEX is functional across

Kosovo but probably with the exception of the court, while it handles the civil registry and cadastral records exchange between Belgrade and Prishtina.

Given the removal of barricades and implementation of other points by December 9th, Serbia can expect to receive candidacy and promises for the start of negotiations with the EU given an additional set of agreements until March. Prishtina is granted dialogue on liberalization of visa and contractual relations. Talks will continue in the coming months and positions will be approximated, although their publication may wait until after the Serbian elections.

2. Positive Realistic Scenario

While the scenario above may be too ambitious, cautious optimists can expect the agreement to hold, most points of the first agreements to be implemented, and only one of the four additional issues to be opened to get a green light (telecommunications or energy, but probably not Kosovo's participation in regional fora). Tensions in the north will subside and the barricades will be taken down. The fear of new barricades would linger, due to high tension likely to remain throughout the period. If in any case the barricades are removed, it is likely that Serbia will get its candidacy. Kosovo will launch talks on visa liberalization and will receive promises to enter contractual relations once the last resisting states in the EU concede to this. The citizens of both countries will get more of a sense that the country is headed in the right direction, which is very important for the post-Dialogue phase. Talks will continue in the following months, but no agreements will be publicized.

3. Negative Realistic Scenario

The situation with barricades prevails and a stand-off continues. The rift between Belgrade's negotiating team and the Kosovo Serbs deepens. Belgrade panders to nationalistic sentiment and foregoes candidate status. Prishtina may start the visa liberalization process, and Belgrade may receive an additional deadline. In case the "no" to Belgrade is made conditionally, Belgrade will face two options – first is that it will try to make amends with the Kosovo Serbs and for that they will have some conditions regarding cooperation (most probably about the structure and the methodology of the negotiating team). The other, less likely option, is that Belgrade will give up on the fight for candidacy and push for more nationalistic election rhetoric. Prishtina's position will harden and it will attempt to implement its strategy in the north.

4. Pessimistic Scenario:

There is low likelihood, but it is nevertheless possible that the situation will spiral out of control and result in the persistence of barricades and possible spill-over effects in the south and radicalization of Serbian politics. Some leaders of Kosovo Serbs from the north have announced that the north will proclaim its independence from Kosovo, although this bluff is unlikely to turn into action. If declared, it will raise the stakes and will require heavier involvement from Serbia, Kosovo and the international community.

It will most likely bring all efforts to further Serbia's EU integration to a standstill and probably lead Belgrade into an open conflict with the Kosovo Serbs in the same way as Milosevic clashed with the leaders of Bosnian Serbs in 1994. It will undoubtedly have a spill-over effect on Kosovo Serb municipalities in the south of Kosovo. This could hamper the EU enlargement process of the whole region.

The crucial question is how to include Kosovo Serbs from the north into the process, under what conditions and through what channels. Since the possibility of opening up a new political channel after the 'technical dialogue' exhausts itself. Ways should be found to consult with Kosovo Serbs in the north and the rest of Kosovo. At the same time, they have to be more cooperative and stop obstructing the entire process.

Recommendations

A number of recommendations emanate from the analysis above. Both governments should treat the current dialogue as a historic process that is worth in its own right and not only in the function of EU integration. Even if it does not address status, it can improve the trust among two opposite sides, which is necessary before Serbia and Kosovo can address all their differences. Other recommendations are presented below, divided by the institutions they target:

The European Union should:

1. **Use auspicious time to exert its highest influence.** The international community should use its influence more vigorously to help the two sides reframe self-interest and make cooperation pay off. Both sides should have a clear and predictable picture of the carrots and sticks awaiting them, depending on the policies they choose. A more consistent EU approach run by the Office of High Representative for Foreign Affairs Catherine Ashton is essential. Messages that the current situation is not sustainable should be clearly delivered. The EU must follow closely the performance of both sides, especially in their implementation, and design the carrot-and-stick scheme accordingly.
2. **Make the whole Dialogue agreement transparent and inclusive.** No negotiations are fully transparent and a degree of secrecy is necessary, the aura of secrecy around the dialogue has made the public in Serbia and Kosovo more wary and fearful. Ultimately, it hampers consensus-building. Making the texts of dialogue agreements public has the benefits of injecting more transparency into the process, but it could also make it more difficult to reach agreements and eliminate some of the “creative ambiguity” that all sides have tried to use to move the process forward. However, the benefits drawn by avoiding arbitrary interpretations and expanding the circles of disciples outweighs the difficulties. More transparency may lengthen the time required for an agreement, but it would make for more long-lasting solutions. Civil society and respective parliaments should be included and especially the Kosovo Serbs must be involved more.
3. **Continue the Dialogue after December 9th.** Despite the electoral period, talks should continue, even if no agreements are made or if they are not made public. Renewed efforts should utilize the window of opportunity after the elections to address all the remaining issues towards full normalization between Kosovo and Serbia.
4. **Identify mechanisms to prevent asymmetric outcome whereby Serbia can block Kosovo’s progress.** The EU will have to devise some mechanism to prevent Serbia from blocking Kosovo’s EU progress. The EU might not currently insist that Serbia formally recognize Kosovo, but it will almost certainly insist on mechanisms that will prevent Serbia from influencing Kosovo’s fate in international fora, regional clubs and initiatives.
5. **The EU should find ways to consult the Kosovo Serb community.** For a successful implementation of the Dialogue agreements, it is necessary to hear the voice of the Kosovo Serbs in the process. The chief EU facilitator should meet and discuss the issues of Serbs across Kosovo.

The Kosovo government should:

6. **Present the plan for the phased implementation of the Ahtisaari Plan in the north of Kosovo.** Initiate direct talks with the representatives of Kosovo Serbs. The Serbian government should send the message that this is in the interest of all Kosovo Serbs.
7. **Establish a channel of communication with northern Serb political stakeholders.** A parallel communication channel to the Dialogue should be for Prishtina to improve relations with

northern Serb leaders. This exchange should discuss and deliberate about the situation, ensure that security does not deteriorate and to establish a minimum of trust for engagement.

- 8. Prioritize inter-ethnic court cases and ensure maximum success from decentralization.** Kosovo should more vigorously process and try all cases of inter-ethnic nature, and should ensure that the lessons learned from decentralization in the south are positive to illustrate their potential in the north.

The Serbian government should:

- 9. Implement agreements on items that have been agreed upon in previous rounds.** The government should speed up their implementation and agree on as many additional items as possible before it enters into an electoral period.
- 10. Meet all the conditions required by the EU and conditions posed bilaterally.** Some of the Serbian structures in the north should be dissolved and this may also excuse Belgrade for not holding elections in the north.
- 11. Improve relations between Belgrade and Kosovo Serbs** from the north, and establish ties with political representatives of Kosovo Serbs from the south.