The Future of Interaction Between Prishtina and Belgrade
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# Table of Contents

Executive Summary, 4  
Introduction, 7  
Dialogue Chronology, 9  
Review of the Issues under Discussion, 11  
A Year of Feigning and Forced Dialogue, 24  
Stakeholder Posturing, 30  
Incentives for Cooperation, 40  
Towards Political Dialogue, 49  
New Process Dynamics, 57  
Recommendations, 66  
Endnotes, 68
Executive Summary

Despite its noted flaws, the Kosovo-Serbia dialogue has been the most successful mediation between these parties in recent memory. This experience with the technical dialogue is crucial as the parties prepare for deliberation with higher stakes and on more complex issues. Building confidence, creating incentives and utilizing conditionality is necessary for a successful end of this mediation process.

This paper identifies a number of key factors that explain the success of the dialogue to date. Two of these factors were particularly important and should be strengthened. EU mediation was able to reward both parties for progress in the talks, helping overcome the zero-sum logic that plagued most previous efforts. In addition, powerful bilateral countries engaged in more forceful conditionality, helping to change the perception of trade-offs and self-interest.

Ambiguity that helped bring about certain agreements—such as those on free trade, university diplomas and cadastres-turned out to be the main enemy to their implementation. Multiple interpretations have helped accomplish partial success, but may have damaged confidence building. The parties were not able to contribute to greater stability in their relations due to the occasional escalation of rhetoric and tension, often as part of their complementary strategy to the dialogue. Ethnic entrepreneurs in both countries (found in the government and the opposition) utilized the situation to accuse representatives of betraying national interests.

The most symbolic and important agreement was struck on integrated border management (IBM). As with others, it was not struck in good faith, and differing interpretations prevented a full agreement from being reached. The protocol was signed half a year later and is itself plagued with differing interpretations. This agreement is symbolically
critical for Prishtina for it delineates its boundaries and denotes Serbia’s readiness to give up its ambitions to annex the north of Kosovo.

Almost of similar importance, the agreement on regional representation allowed Kosovo to sign agreements in its own name, no longer having to be represented by UNMIK. At the same time, being identified with an asterisk next to its name, and a footnote describing differing interpretations on its status, Kosovo accepts unequal and asymmetrical representation.

The window of opportunity that brought Serbia and Kosovo closer together was slammed shut in the summer of 2012. This was due to Serbia’s general and presidential elections, European disunity, the lack of agreement implementation, and lack of sufficient progress. However, the dialogue, as well as normalisation and territorial integrity later, have now been included as a formal condition for EU accession. In this manner, the EU has gained the leverage to bring the two sides closer to agreement and further from their initial, and often distant, positions of principle. While the EU may not have managed to transform the self-interest of Prishtina or Belgrade, it has managed to incentivize the sides at least to feign politeness and engage constructively with each other.

Success will ultimately depend on whether both sides can claim to have served their self-interest through cooperation with their former adversary. The EU should enable the political elites of each country to look further down the road and see the benefits from engaging the other side in the long-term. The EU should insist on the implementation of previous agreements, for their own sake as mediator, as well as to create a trustworthy climate to maximize the chances of success in the upcoming rounds of the political dialogue. Political leaders in Prishtina and Belgrade, along with the EU, should also emphasize the tangible short and long term
benefits of this process to their constituents. Kosovo Albanians and Kosovo Serbs, as well as the citizens of Serbia, stand to benefit from a thoughtful and principled dialogue.
Introduction

The lull in the talks between Belgrade and Prishtina as a result of the Serbian elections in May 2012 has provided an opportunity to reflect on the achievements and limitations of the dialogue to date.

This paper explores the track record of the past dialogue and reviews factors that need to be reconsidered in the structure of the new dialogue process. It is important to analyze how to best utilize the dialogue and build momentum to resolve outstanding issues.

The dialogue between Prishtina and Belgrade under EU auspices went on for a year (between March 2011 and February 2012) and was partly successful in yielding a number of concrete agreements. Despite its flaws, the dialogue was the most successful mediation between Prishtina and Belgrade in two decades. All previous attempts had not led to outcomes that were accepted by both sides.

A previous paper published in December 2011 by PER-K and the Belgrade-based New Policy Center concluded that this was the first time that Kosovo and Serbia agreed on something directly. If all the agreements had been implemented, the dialogue could have even been considered historic.

A number of key factors explain the success. First, the talks focused explicitly on technical aspects and left aside the contentious status or symbolic issues. Second, both sides negotiated at least with the minimum willingness to achieve results. Third, the talks took place during a window of opportunity, i.e. after the completion of parliamentary elections in Kosovo and prior to parliamentary and presidential elections in Serbia. Fourth, EU mediation was able to offer both parties rewards for progress in the talks,
helping to overcome the zero-sum logic that plagued most previous efforts. Fifth, the mediating countries engaged in more forceful conditionality helping change the perception of trade-offs and self-interest.

The talks have not been an unconditional success. Attempts to implement agreements highlighted the different interpretations of the two sides. Contrary to expectations, the dialogue so far may have damaged confidence building.

Almost every meeting was followed by an escalation of rhetoric and tension on the ground. That stakes are high is also illustrated by dramatic media reporting. Ethnic entrepreneurs have utilized the conflict to accuse negotiators of selling out on national interests.

The dialogue has begun to fulfil the promise that it could promote cooperation. That being said, it is yet to prove that it is sustainable, that it can improve the lives of ordinary people and bring both sides closer to the European Union.
Dialogue Chronology

**UN Resolution** (9 Sep 2010). The United Nations General Assembly (UNGA) adopts resolution A/RES/64/298 for the start of a technical dialogue between Kosovo and Serbia, facilitated by the European Union.

**Round One** (8-9 Mar 2011). The agenda included cadastres, the civil registry, CEFTA and customs stamps/free trade. Small progress was made.

**Round Two** (28 Mar 2011). Discussed electricity and telecommunication and the closure of the topics from the first round such as the civil registry, cadastres, customs stamps/free trade. Some progress was reported on the issue of electricity supply.

**Round Three** (15 Apr 2011). Discussed the freedom of movement (personal and travel documents, car insurance, driver's licenses and license plates), the mutual recognition of diplomas, and all topics from the first two rounds.

**Round Four** (17-18 May 2011). Discussed the issue of missing persons, cultural heritage and continued discussion on the mutual recognition of diplomas. No agreement was reached on any of the open issues.

**Round Five** (2 Jul 2011). Three agreements reached: on the freedom of movement; mutual recognition of university diplomas (agreement in principle); and on the return of the civil registry.

**Round Six** (2 Sep 2011). The parties agreed that Kosovo’s customs stamp would bear the name “Customs of Kosovo,” without state symbols. An agreement was also reached on the return of cadastral documents. Telecommunications and university degrees were also discussed, but no agreement was reached.
Round Seven (21-22 Nov 2011). Discussed crossing points, more formally—integrated border management (IBM) between Kosovo and Serbia—and the recognition of university degrees. Also discussed regional cooperation, telecommunications and electricity. The parties agreed that the European University Association would verify and certify diplomas issued by the universities of each party for use by the other.

Round Eight (30 Nov – 2 Dec 2011). Agreement reached on border management. No agreement on Kosovo’s regional representation; there is continued discussion of telecommunications and electricity.

9 December 2011, the Council of the European Union postponed its decision on Serbia’s candidate status for the European Union until March 2012, with some members making specific reference to the situation in northern Kosovo.

26 December, implementation began on the freedom of movement.

Round Nine (22-25 Feb 2012): The teams of Belgrade and Prishtina agreed on cooperation and regional representation, namely that Kosovo would be represented at regional meetings with the denomination “Kosovo*” and a respective footnote. The parties also finalized a technical protocol for implementing the integrated border management agreement.

29 September, the Government of Kosovo adopts the IBM technical protocol, to be implemented by the Ministry of Internal Affairs.

Since March 2012, Prishtina and Belgrade have not met.
Review of the Issues under Discussion

It is ironic that almost the same set of issues discussed throughout 2011 and 2012 were the subject of a dialogue attempted just about a decade ago.

On March 3 [2003], Steiner announced that a group of Serbian ministers would be invited to attend talks on the issues with their Kosovar counterparts. In a letter addressed to Serbian prime minister Zoran Djindjic and his deputy Nebojsa Covic, Steiner identified the issues for cooperation as the recognition of car number plates, travel documents, identity cards and driving licenses, social security responsibilities, energy, trade, transport and the return of land registry records.¹

In this bout of dialogue, seven agreements have been reached after nine rounds of talks and several working group meetings have been held between Belgrade and Prishtina. These agreements encompass a variety of issues that affect people’s lives in Kosovo and Serbia, and mutual cooperation.

Robert Cooper, Counsellor in the European External Action Service, and the EU mediator for the dialogue was himself the most enthusiastic about the talks, noting that results surpassed expectations from a year ago.

However, the implementation of these agreements has been an ongoing source of controversy. Until they are implemented, Prishtina insists it will not participate in further dialogue. Serbia holds the position that the agreements are being implemented and cites either technical difficulties or differing interpretations.

Upon analysis of the level of implementation and the declared positions of both sides, the issues under discussion may be divided into two groups:

⇒ Fully agreed and at least partially implemented; and
Disputable interpretation and largely unimplemented.

**Agreed Upon & Partially Implemented**

Of the seven agreements reached, only three can be considered to have been fully agreed upon by the parties and at least partly implemented. These include the agreements on free trade, diplomas, and cadastres.

**Free Trade**

Until the free trade agreement was reached, UNMIK had been the signatory to the CEFTA agreement on behalf of Kosovo, and for trade Kosovo used stamps that read “UNMIK Customs.” Kosovo under UNMIK was part of CEFTA, but still was impaired due to the lack of the freedom of movement, especially for vehicles with “KS” registration plates. Amongst others, the agreement established the form under which Kosovo would conduct business with Serbia and other states in the region.

Following the declaration of independence in 2008, Kosovo authorities changed the customs stamp to one that stated “Kosovo Customs”. The EU authorities accepted it and UNMIK stated that the stamp was not in contradiction with UNSC resolution 1244. Belgrade did not accept it, exacerbating the already difficult trade situation between Serbia and Kosovo.

The issue was raised in early meetings in Brussels, but no agreement was reached. On 20 July 2011, the Kosovo government took the decision to implement reciprocal measures in trade relations with Serbia which included the non-recognition of Serbian custom stamps. This decision and the subsequent deployment of special police units to enforce the decision increased pressure to conclude the agreement which was otherwise in its final stage.
The agreement reached on 2 September 2011 confirmed the usage of “Kosovo Customs” and called upon the parties to make every possible effort to ensure the free movement of goods, and send a confirmation to CEFTA members to this effect. This agreement has been perceived differently by the respective parties. While Kosovo and key Western governments welcomed it, Belgrade has taken a less positive view, as it came under heavy criticism by Kosovo’s northern municipalities.

This agreement opened the doors to free trade between the two countries. It additionally enabled Kosovo to start phasing out the use of UNMIK in its external trade dealings. Kosovo further aimed to entirely drop UNMIK from its customs documents, but the agreement has limited geographical implications (i.e. to CEFTA members). Also, the removal of UNMIK may have a negative impact on trade with countries that do not recognize Kosovo and are outside CEFTA.

**University Diplomas**

After Kosovo gained independence, institutions of higher learning in the country replaced the logo and insignia of UNMIK and started to issue diplomas with the ‘Republic of Kosovo’ logo and state insignia. These diplomas were not recognized by Belgrade authorities thus preventing several hundred Albanian students from Serbia (esp. Preshevo, Bujanovac and Medvedja) from continuing their studies and/or seeking employment in Serbia.

Students were as a result discouraged to study in Kosovo and many transferred their studies to Macedonia and Albania. Provisional measures were adopted in Kosovo to circumvent the issue, by using unofficial services whereby UNMIK would issue certificates confirming the validity of the diplomas.
The recognition of university diplomas was raised in two rounds of the technical dialogue. A good-will agreement was reached on 2 July 2011 where the parties committed to search for a solution based on European best practices. The final agreement was reached on 21 November 2011 foreseeing an intermediary role for the European University Association (EUA). The Association undertook the task of verifying and certifying diplomas, supplements and transcripts issued by institutions of higher learning of Serbia and Kosovo for use in either country.

The agreement emphasized that the EU would make every effort to implement the agreement conclusions, again entrusting the European University Association with the compilation and verification of the necessary documents. These documents would then be submitted to the EUA committee of experts for certification. The EU contracted SPARK for academic cooperation in Kosovo; however, a similar institution is yet to be contracted for Serbia.

Implementation of this arrangement took time, until contractual relations with SPARK were established and while the government in Serbia adopted a regulation which provided a special manner for recognizing the higher education credentials of Kosovo. The implementation of this agreement remains to be tested on the ground after the first set of over 70 diplomas issued by the institutions of higher education in Kosovo were certified on 26 June 2012. The next step will verify whether these certified diplomas are accepted in Serbia for employment or education.

**The Cadastre**

The agreement on cadastre records was reached on 24 September 2011 and its implementation has now begun. This agreement foresaw the handover of scanned copies of
cadastral records from Serbia to respective institutions in Kosovo and the establishment of an institution for adjudication. Both sides have undertaken to implement this agreement in a synchronized manner.

A tri-partite working group has been established comprising of appropriate institutions in Kosovo and Serbia and is chaired by EULEX. After three meetings, on 4 April 2012, the Kosovo authorities received a final list of documents that were taken away during the war in Kosovo, and which are to be gradually returned.

The practical work involved is complicated and time consuming. It requires the Kosovo side to promulgate the law on the Kosovo Property Agency (KPA). The law will have to restructure the agency through including verification and adjudication mechanisms as well as renaming it as the Kosovo Property Verification Agency (KPVA). Through normal legislative procedure, the legal promulgation takes at least half a year. This procedure was expected to be concluded by midway through 2012, but the law is still awaiting approval by the Kosovo Assembly.

Serbia has to start scanning records and submitting them to EULEX and the Kosovo authorities. Serbia has refused to perform this task until the promulgation of the aforementioned law by Prishtina. It also requested financial assistance from the EU to procure the necessary equipment and add additional staff. An encouraging sign in the implementation was the promulgation of a special Kosovo Government regulation on processing the data contained in the cadastral records in Serbia.4

The implementation of the cadastre agreement is a lengthy process primarily because it involves substantial scanning. The verification, adjudication and Supreme Court of Kosovo decisions on property will add additional time to the process. Although a functional system has been agreed upon
and is being established, it will require maintaining a spirit of dialogue and the political will to complete this task.

**Disputable Interpretation & Not Implemented**

Some of the most important agreements reached during the course of the dialogue have not been implemented adequately. These agreements include (a) the freedom of movement, (b) the civil registry, (c) integrated border management (IBM), and (d) regional cooperation. These agreements constitute some of the most important outcomes of the dialogue and their full implementation would have a substantial impact on the relations between the two countries.

**The Freedom of Movement**

Since 1999, the citizens of Kosovo have not been able to travel to and through the territory of Serbia since Belgrade did not accept documents issued by UNMIK. Since 2008, Serbian authorities did not accept any of the documents issued by the Republic of Kosovo, including passports, ID cards, driver licenses, and vehicle registration plates. Prishtina accepted all the documents issued by Belgrade and tolerated the documents issued by parallel Kosovo municipalities relocated in Serbia.

The freedom of movement has been raised several times during the dialogue rounds and constituted one of the most heated topics. Belgrade maintained its political position that accepting Kosovo passports amounts to *de-facto* recognition.

A compromise was found through tense diplomatic efforts by the EU facilitator, supported by other EU mechanisms. The solution consists of eleven points which established a new regime for travel between the two countries. Serbs and
Kosovars are now able to travel in and through each other’s territory using ID Cards.

The agreement was reached on 2 July 2011 and after a delay, went into force on 26 December 2011. The delays were caused by the roadblocks in the north of Kosovo and political difficulties faced by the government in Belgrade. Although legally regulated, the entire process was marred by difficulties on the ground; it continues to suffer from practical obstacles. High insurance costs, long lines at the Kosovo-Serbia border and politically-motivated arrests of Kosovars when crossing into Serbia have kept the volume of travel low.

Three out of six border crossing points between Kosovo and Serbia are open for processing Kosovo citizens. Most borders between Serbia and other countries are not open for transit use by Kosovars, who are limited to the major border crossings with Hungary and Croatia. The remaining crossings towards Bulgaria, Macedonia, Romania and Belgrade airport cannot be used for travel and no measures have been undertaken to change this situation.

The agreement reintroduced the already abolished UNMIK-issued “KS” vehicle registration plates which may travel freely through the territory of Serbia. Vehicles using the newer “RKS” vehicle registration plates are to have them replaced at the border with temporary Serbian plates.

An insurance scheme is operational on each side but is prohibitively expensive. The border vehicle insurance costs more than 100 Euro per month for Serbia and 60 Euro for 14 days for Kosovo, circumstances indicative of the disregard for the interest of ordinary citizens.

While this scheme was established as temporary, there are little signs that it will change in the foreseeable future. Kosovo and Serbia should agree to lower the fees until a more permanent solution is found on the basis of Kosovo
becoming a member of the Green Card Bureau, either on its own merit or temporarily under a third country.

Since August 2011, northern Kosovo has been blocked with road barriers maintained by the northern Serb leadership and initially supported by Belgrade. The roadblocks have paralyzed the use of the two northern crossing points (Gates 1 and 31) for use by the general population and attempts to remove them have led to resistance and violence. Ordinary Serbs cannot use the major borders while Kosovo Albanians feel especially threatened to use these routes. Roadblocks have hampered free trade and have channelled transport to alternative roads.

The agreement is interpreted differently by the two parties. Prishtina holds the opinion that it has entered in the agreement for the entire territory and all inhabitants of Kosovo, while Belgrade maintains that the agreement only covers the territory south of the Ibër/Ibar River.

Belgrade’s interpretation of the agreement is more for internal use as the agreement on the freedom of movement is very clear. The seventh paragraph states that “all car owners with residence in Kosovo will use license plates with ‘RKS’ or ‘KS’ initials and this was reinforced by a EULEX spokeswomen who confirmed that the agreement “applies to the entire territory of Kosovo, including the north.”

EULEX distributed flyers to inform northern Serbs about the technical details of the agreement reached between Belgrade and Prishtina and that this involves them re-registering their vehicles and obtaining documents issued in Kosovo.

The head of the Serbian negotiation team, Borislav Stefanović, termed this a harsh violation of the Brussels agreements, without grounding on any documents that were signed. The former Serbian Minister for Kosovo and Metohija, Goran Bogdanović, did not challenge the
agreement but challenged the deadlines that concern vehicle re-registration, i.e. document application such as for IDs, traffic and driver licenses. In the face of resistance, this deadline was postponed several times and its implementation in the north no longer seems to be a priority.

The “parallel” Chair of the Municipal Assembly of Zubin Potok, Slaviša Ristić, saw the flyers as leaving no doubt as per the interpretation and accused Stefanović of sending two interpretations, “one for the public in Serbia, and the other for the people in northern Kosovo, whom he was persuading that this will not apply to them. This is not written in the agreement and EULEX will stick to this.” Serbian media took note that even northern Serbs were told that they must switch to “KS” or “RKS” license plates by June 1.

The Civil Registry

The agreement on the civil registry was reached on 2 July 2011. It foresaw the return of copies of the civil registry books taken by Serbian authorities in 1999 and their certification by EULEX. This process is less complicated for it does not require new legislation or structures, but only the scanning of these documents by Serbian authorities, certification by EULEX and a hand over to Prishtina.

Over 200 certified copies (1.7% of more than 14,000 books), have been handed over to Prishtina authorities to date. At the beginning of December, the first original civil registry book (from the municipality of Lipjan) was certified by EULEX as true to the original and was handed over to the Lipjan authorities.

This is a lengthy process especially taking into consideration the slow pace it started with. Similar to the cadastral records, a tri-partite group was established and chaired by EULEX to facilitate this process. However, up until July
2012 not much has been done to implement this agreement and implementation will likely be a drawn out process.

**Integrated Border Management (IBM)**

An agreement was reached on 2 December 2012 whereby the parties committed to gradually set up joint, integrated management posts on all common crossing points, as soon as practically possible, and in line with European best practices. Joint integrated border (Serbia uses the distinction “boundary”) posts are to be established along a jointly delineated border line between the two countries. It requires that the EU funds the gradual establishment of the premises and that EULEX is included in the agreement and protocols. This agreement was of the highest symbolic importance for it was a major test of Serbia’s ambition to pursue partition as a main policy goal.

The implementation of this agreement faces two major difficulties both related to the protocol which was concluded in the 9th round (24 February 2012), but was not signed. Firstly, the Prishtina authorities, and to some extent the EU, see the lack of willingness by Serbia to sign the protocol as an obvious obstacle to its implementation. Secondly, until the protocol is signed, the EU will not provide the financial assistance necessary to begin implementation. The protocol was ultimately signed at the end of September.

The protocol provides an operational dimension to the agreement and is intended to enable the relevant agencies and entities to prepare practical issues, including the location of the crossing points, the precise presence of authorities (Customs, police, and veterinary and phytosanitary agencies), their budget and sources of funding, the use of uniforms and badges, and the exchange and processing of information. Senior EU leaders have warned that the implementation of the agreement on integrated border management and regional representation
is not an easy process, and “can last a month, and can go on for years.”\textsuperscript{12}

**Regional Representation & Participation**

The third agreement concluded in February 2012 regulated Kosovo’s representation in regional forums. Prior to this agreement, UNMIK facilitated the participation of Kosovo representatives in a variety of international and regional meetings.\textsuperscript{13}

This agreement was considered as the most important because it reduced the role of UNMIK as a proxy for Kosovo’s representation. The agreement will not entirely do away with UNMIK since it retains the discretion to determine whether to attend certain meetings. However, “taking into account the elements of the agreement reached, and after consultation with interested parties, UNMIK concluded that it was not necessary to attend certain meetings.”\textsuperscript{14}

Kosovo acquired the capacity to sign agreements on its own behalf, which is a break-through for the country’s direct representation internationally. However, the agreement fell short of what was initially hoped, that “a mutually-accepted designation that could be used to allow Kosovo into organisations and to upgrade relations with the EU, including a full Association and Stability Agreement.”\textsuperscript{15} This limitation proved to have been temporary, for it was precisely the footnote that will enable Kosovo to launch dialogue for SAA membership.\textsuperscript{16}

The agreement determines that Kosovo delegations will be presented with a name tent with the moniker “Kosovo*”. In addition, a footnote will appear in the attached documentation (e.g. agenda) which specifies:
“This designation is without prejudice to status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.”

The precise way of using this footnote was not explicitly clarified, and different interpretations have obstructed Pristina and Belgrade’s joint participation in regional meetings. Belgrade insisted that the whole text of the footnote appear on the name plate immediately under “Kosovo”, while Pristina and the EU mediator argued that only the asterisk belonged on the name plate, without the text. This conflict mostly resulted in Belgrade’s absence from regional forums, but there were also cases when Pristina was not invited by the organizers of a certain forum.

The Government of Serbia instructed all its representatives in international forums to read a declaration which states that Kosovo is a province of Serbia. In such cases, Kosovo instructed its participants to reply by emphasizing that Kosovo is a republic, to list Kosovo’s membership at international institutions as well as the number of Kosovo’s international recognitions.17

These conflicting interpretations have prevented Pristina and Belgrade to sit around the same table since March 2012. The concern goes beyond the weight of the regional agreements and signals “inherent shortcomings in the mechanisms to ensure implementation of agreements.”18 The new Serbian Government signalled a different interpretation, which may enable both countries to attend meetings. Serbia now seems satisfied as long as Kosovo is merely represented as “asymmetric”.

The Serbian leadership has committed to respect all the agreements reached in the dialogue with Kosovo by the previous government. Ivica Dačić, the Serbian Prime Minister, has stated that he will not lead a heavenly Serbia, but a Serbia that will pursue a realistic policy. In a change of
heart, Dačić noted that the issue of Kosovo’s participation in meetings is at Serbia’s interest.19

The formula now has the potential to “allow Kosovo into organisations and to upgrade relations with the EU, including a full Association and Stability Agreement.”20 Unfortunately, it also has the potential to relegate Kosovo to the club of semi-states for a long time, creating a new status quo as a result.
A Year of Feigning and Forced Dialogue

Dialogue is about seizing the right moment, and during 2011 Serbia and Kosovo utilized a window of opportunity. The window that brought Serbia and Kosovo closer during 2011 was slammed shut in the summer of 2012 due to several factors: (a) Serbia organized parliamentary and presidential elections in the north, (b) the EU exhibited a lack of unity which harmed its mediating power, (c) agreements reached were not implemented, (d) additional items failed to be included in the dialogue (telecommunications, electricity), and (e) the perception, especially in Kosovo, that the EU “carrots” were rewarding the sides asymmetrically.

Beyond the Zero-Sum But No Spirit of Dialogue

The talks were neither motivated by a spirit of dialogue, nor did they create a positive atmosphere conducive to dialogue. The lack of trust at the start of such a process is not unusual since most dialogue efforts take place between parties that previously engaged in hostile action against each other. However, it is the very aim of a dialogue to create a climate of cooperation and establish trust.

The EU rewarded both parties for progress in the Kosovo-Serbia talks, even if the agreements were yet to be fully implemented. In early March, the European Union member states voted to grant candidacy status to Serbia. Later in March, the European Commissioner for Enlargement formally launched a feasibility study for a Stabilization and Association Agreement between the European Union and Kosovo.

These two milestones marked the most positive political developments resulting from the European Union-facilitated dialogue. As a senior EU diplomat concluded, without
major incentives from the EU, both sides would have doubtlessly stuck to their positions.\textsuperscript{22}

In a previous paper, the dialogue was termed a beauty contest.\textsuperscript{23} The paper argued that the negotiators did not genuinely engage in dialogue but appealed to EU sympathies and responded to pressure. Negotiators did not engage to persuade the other side but to merely influence the external mediator’s assessment. In this regard, despite the weakness of the mediator, the EU’s clout was perceived as powerful due to the rewarding carrots that it could dole out. It became essential for each side to win the label of “being constructive”.

Unfortunately, the negotiators did not bring the same good will back home. Instead of trying to change the prevalent populist tendencies, they made use of them. This zero-sum\textsuperscript{24} environment made it is impossible for the negotiators to manage their reputation in relation to two distinct stakeholders, (a) among their own public as well as (b) vis-à-vis the other side. The public belief was that one who reaches out to the other side is a traitor, whereas he/she who maintains a hard-line serves the national interest. Not only is the last statement erroneous, but to be successful, future talks must transform this zero-sum perception where self-interest is defined in opposition to the other side.

Despite the lack of success, the EU has managed to include the dialogue as a formal condition for EU accession. The EU may not have managed to transform the self-interest of the parties, but it has managed to dangle a bait to force the sides to at least feign a sort of politeness. Pretending in such a way for a longer period may make the parties get used to it, and help transform the staid dynamic.
**Transformation of Self-interest as a Yardstick**

Success will ultimately depend on whether both sides can claim to have served their self-interest through cooperating with their former enemy. Despite the pro-dialogue image, the elites of each country should cease to perceive that the weakness of the other side is in its key interest. For as long as Serbia is perceived as a threat to Kosovo and vice versa, the two sides will see their strengthening only at the expense of the other party.\(^{25}\) Once the emotional difficulties of engaging the adversary are overcome, and the outcomes are seen from a more long-term strategic perspective, both Kosovo and Serbia should be able to serve their interest while cooperating with one another.

Successful mediation has to build a good working relationship over time, which this process has so far failed to do. Good working relationships and direct channels of communication are not just a side effect of dialoguing, but an important goal in their own right. Hence the importance of assuring agreement implementation as the best way to create a trustworthy climate that could stimulate more dialogue and turn the conflictual relationship between Prishtina and Belgrade into one of cooperation.

**Does Pretending Bring Proximity?**

With its emphasis on technical aspects, the dialogue has not aimed at forming an agreement on the conflicting views that underpin the positions of the parties. American legal scholar Cas Sunstein has called this “incompletely theorized agreements” where parties arrive at agreements without sharing underlying assumptions.\(^{26}\) This can have the advantage of reducing “the political cost of enduring disagreements,”\(^{27}\) yet, at the same time, it is a compromise built on unstable foundations. This is particularly pertinent in regard to the “footnote agreement” for Kosovo’s regional
representation. The leadership of the EU itself admitted that it was not specified whether the asterisk would be posted on name tents or in enclosed official documents.\textsuperscript{28}

The High Representative of the European Union for Foreign Affairs and Security Policy, Baroness Catherine Ashton, called the regional representation agreement “historic”. This is an exaggeration because the footnote leaves all the main problems open (the resolution of which could arguably qualify the agreement as historic): no recognition from Serbia, Russia or the five EU dissenters, the north, etc. An international official who previously worked in Kosovo argued that if the footnote were the solution, the problem it solved must not have been that significant.\textsuperscript{29}

Considering the current divergence of positions between Belgrade and Prishtina, such “incompletely theorized agreements” might be the best option available. However, it is important to note that they do not address the underlying divergence of positions. As a result, not settling these underlying disagreements might jeopardize their implementation or other agreements later on. It is vigorous diplomacy and a dose of imposition that will be required to gradually bring the self-interest of both sides closer.

\textbf{The Risk of Going Backwards}

Success should not be delayed for the dialogue runs the risk of further devaluation. Short of results and given contentious relations in the north, the dialogue can become detached from reality and the negotiators may lose the little popular backing they have in order to continue. If credibility is eroded, it will make it more difficult to reach compromise next time around.

Contrary to expectations and somewhat paradoxically, the dialogue so far may have damaged confidence building. There is a widespread notion that the talks so far have only
increased the distance between the Albanian and the Serb communities, increased tension and made people’s lives more as opposed to less difficult.\textsuperscript{30} Maintaining the \textit{status quo} at a time when expectations ran high has resulted in a backlash, reversing reconciliation. The public opinion reflects the growing controversy of the dialogue:

23\% of all respondents view the dialogue as beneficial or very beneficial for Kosovo (as opposed to 29\% in June 2011), whereas 33.5\% believe the dialogue is harmful or very harmful for Kosovo (as opposed to 29\% in June 2011).\textsuperscript{31}

There have been warnings that the room for dialogue may be narrow, especially if calm is not sustained and if

“public responses to incidents and provocations on the ground are imprudent. Arbitrary arrests, passivity in the face of acts of intolerance, and highly belligerent public rhetoric inevitably lead to further tension and violence.”\textsuperscript{32}

Regular quarterly reports on Kosovo at the United Nations Security Council place responsibility squarely on the political leaders of both sides. It is precisely these leaders that the EU hopes will strike peace with one another.

The security situation faced numerous challenges in spring 2012 when a series of arrests took place following Serbia’s announcement that it would hold municipal elections in Kosovo. Kosovo detained several Kosovo Serbs working for the parallel institutions and Serbia retaliated by arresting Kosovo Albanians travelling through Serbia. A worrisome incident was the capture of two Kosovo policemen by the Serbian Gendarmerie.

\textbf{Dialogue = Treason?}

It is a favourite pastime in the Balkans to keep tabs on who talks to whom in various roundtables or privately. The implication that talking is selling out may reveal a cultural
deficit for dialogue. Regional cultures seem to view dialogue as tantamount to treason. Widespread corruption further makes it so that political leaders are perceived as motivated by personal benefit, at the expense of the group they represent. It is essential to change these perceptions and clarify what dialogue can and cannot do—this is directly related to good governance in general not only vis-à-vis ethnic communities.

Dialogue does not have to mean more than listening to the other side and interacting constructively. By default and as previously noted, “dialogue” occurs between current or former adversaries. It seeks to recognize mutual relevance—and it need not suggest recognition of the legitimacy of contending demands or positions. As a result, a dialogue has to be both ambitious in including all relevant parties and in seeking creative ideas or compromise, while realizing its own limitations.

As powerful as it can be, the dialogue is unlikely to lead to redrawing borders. The independence project and dialogue about its modalities became necessity due to the break-up of Yugoslavia and Kosovo’s inability to unite either with Albania or with Serbia. Talks should instead contribute towards realistic goals like breaking down economic and mental barriers and implementing protective assurances.
Stakeholder Posturing

In every ethnic conflict and peace process, intra-group dynamics are usually more important than those vis-à-vis the other side. Populist media and the opposition make accusations of treason—conveniently using dialogue for political purposes. Internal dynamics are not just a distraction from the dialogue, but a crucial component for the success of the negotiation process. There are genuine opponents who need to be consulted as well as extreme spoilers who appeal to populist emotions regardless of the likely outcome. Both camps can be genuinely motivated or simply opportunistic. It is thus important to review the internal dynamics within each camp in order to ascertain the way forward. The section below examines the interests exhibited by the four main stakeholders, Kosovo Serbs, Prishtina, Belgrade, and the international community.

Kosovo Serbs

The issues being discussed affect the wellbeing of Kosovo Serbs more than any other community or group in Kosovo or Serbia. Free travel, telecommunications, the civil registry and the freedom of movement—should primarily benefit Kosovo Serbs who live and interact across the border more so than others.

There is a widespread view among Kosovo Serbs that they stand to lose from the outcomes of the dialogue—they believe that Belgrade entered the talks for its own national interests and not to defend the interests of Serbs in Kosovo. Many Serbs see the dialogue as a result of pressure from the international community, and a prelude to Serbia’s recognition of Kosovo’s independence.

The division between Serbs who live north of the Ibër/Ibar River and those in the south has grown wider in recent years. A common trait of northern and southern Serbs is
their non-inclusion in the dialogue. As a consequence, their concerns have been insufficiently represented. Northern Serbs reacted by blocking the implementation of dialogue agreements while southern Serbs were disappointed that the solutions helped resolve only few of their frustrations.

Northern Serbs were not included in the Serbian team largely due to their opposing political affiliation. Southern Serbs were not included in the Kosovo team under the justification that the dialogue was of a technical nature, hence ethnic criteria need not apply. Meanwhile, the relationship of southern Serbs to Belgrade is steadily weakening. A significant part of the Kosovo Serb political elite is part of neither the Serbian nor the Kosovo institutions and is thus unable to impact the dialogue.

The Kosovo Serb community remains deeply divided and unable to speak with one voice—this has allowed both Prishtina and Belgrade to ignore them. While Prishtina and international mediators are unable to act as bridge-builders, Belgrade is not perceived as an impartial party either.

The upcoming rounds of dialogue need to consider this community and ensure its involvement. This remains difficult to accomplish as the participation of Kosovo Serbs in the negotiations with either side carries problematic implications in a fundamentally adversarial process.

Being part of the Prishtina team would create the perception of siding with Kosovo against Serbia, and vice versa. Kosovo Serbs should independently engage with the Kosovo authorities to exercise their influence in order to address their concerns. Of course, they should also be open to engaging with Belgrade—this way voicing their concerns and interests through both dialoguing parties. A joint forum whereby Kosovo Serbs can articulate their needs would make their priorities more difficult to ignore.
Prishtina

Engaging in the dialogue with Serbia has been very difficult for Kosovo. Prishtina had already embraced a painful compromise after two rounds of negotiations in Vienna, mediated by former Finnish President Ahtisaari. The difficulty also stemmed from the lack of a formal apology from Serbia for the crimes committed in the nineties, primarily during the war at the end of the nineties. This was made worse by the return of the Serbian nationalistic political elite to power in 2012, with some of the leadership even having had ties to the Milosevic regime.

Even mere contact with Serbian officials in roundtables organized by NGOs becomes at times the subject of mutual recrimination among political parties. In a session of the Kosovo Assembly, Kosovo Prime Minister Hashim Thaçi did not deny having met with Serbian senior officials, but called on other party leaders to admit that they had done the same.

Entering a new round of dialogue was widely perceived as a consenting to accept further painful compromises. This fear was especially bolstered by the tight-lid process against external scrutiny, which was required of the mediator.

While Kosovo appointed a senior official for the talks, Kosovo Deputy Prime Minister Edita Tahiri, as the negotiation team leader, did not carry the weight of the main political party. This raised fears that the Prime Minister saw the dialogue as one where Kosovo was likely to end up on the losing side; hence, he was reluctant to sacrifice a leader of his close circle. At the same time, a more senior leader would have been too senior for the Serbian counterpart.

The team was faced with fierce criticism by opposition MPs. The largest opposition group in the Assembly of Kosovo, the LDK, left a parliamentary session as a sign of dissatisfaction with the chief negotiator. Criticism came from within PDK,
as well. The Speaker of the Assembly asked the Prime Minister to reshuffle the negotiating team, arguing that the team did not have enough capacity to lead the dialogue, but the Prime Minister took full responsibility for the agreements.

A particular source of opposition criticism during the process was the agreement on regional representation, as it makes reference to UN Security Council Resolution 1244. While this reference is largely symbolic and does not bring Kosovo’s statehood into question, it was interpreted as risky to open the status through the backdoor.

The continuation of talks has been conditioned at the Assembly with resolving the issue of missing persons. The ruling party has interpreted this as a recommendation and not as mandatory for the government.

The head of the negotiation team faced criticism and numerous analysts called for a consensual platform ahead of more serious political talks. Regardless of the stability of the majority coalition, a wider political spectrum is undoubtedly desirable for issues of such grave national importance. The slim majority at the Assembly gives limited legitimacy to the current coalition government to enter such a difficult process.

International pressure has lobbied to include the LDK to become “shareholder of a possible compromise” over the north of Kosovo. Officials from two opposition parties, the LDK and the AAK, expressed no interest in being part of such a project.

Kosovo’s challenge is thus two-fold. First, there is little interest from the opposition to participate in the talks. These parties see it as more advantageous to remain outside of the process and criticize the outcome from the sidelines, thereby reaping greater political dividends. Second, the ‘hard opposition’ by Vetëvendosje reduces the manoeuvring space
for the government to make compromises that could be interpreted as moving beyond the “technical” nature of the dialogue.

The opposition argued that Kosovo lost more than it gained. As the former Minister of Foreign Affairs noted,

> Serbia has already started to use the agreement on regional representation to lobby against the independence of Kosovo. Belgrade is using the presence of Resolution 1244 in the footnote to say to different countries not to recognize Kosovo. Through the footnote Albanians in an implicit way have accepted talks on status.38

This interpretation of the agreement highlights the difficulties of building popular support for the dialogue and avoiding zero-sum perceptions, in particular when issues of national interests and symbolic significance are discussed.

**Belgrade**

The previous Serbian government has been willing to make important concessions, but always under pressure:

> Under DS [(Democratic Party)] leadership, Serbia has taken steps scarcely imaginable in the immediate aftermath of Kosovo’s declaration of independence, but often at the last minute, under intense EU pressure and with the appearance of doing the minimum necessary.39

A DS led government would have had the advantage of drawing on previous dialogue experience and securing an overall pro-EU government orientation. At the same time, such a government would have been weaker than its predecessor and any compromise arrived at with Prishtina would have been subject to strong criticism by the SNS (Serbian Progressive Party).

The balance of power shifted significantly in Serbia as a result of the 2012 presidential elections. The election of Tomislav Nikolić as President of Serbia marks one of the
more significant developments in Serbian politics since 2000. For the first time, a politician not part of the coalition that overthrew Milošević in 2000 has come to power. The formation of the coalition government led by the Socialist Party only complements this new political process.

We never heard Nikolic distancing himself from Serbia’s criminal policy vis-a-vis Kosovo. As Dacic, he too was a senior member of the Serbian Government which implemented those policies. Nikolic was deputy prime minister in 1998 and 1999, at the time of the biggest state crimes that Serbia committed against Albanians.40

Nikolić’s electoral platform did not substantially differ from that of Tadić and the elections did not prominently feature Kosovo. From this perspective, the outcome of the elections does not signify a broad change of Serbia’s policy towards Kosovo.

Kosovo remains tactically important for Serbia’s internal politics. Serbian authorities recently arrested and imprisoned a number of Kosovo Albanians travelling through Serbia. These arrests occurred almost exclusively during the election campaign in Serbia—an indication that they were likely arbitrary and designed for domestic consumption. The showy arrest of two border police has further eroded Kosovo’s trust in Serbia’s sincerity in the dialogue.

Nikolić’s statements prior to and since his election indicate a lack of diplomatic sensibility and his party is weak in terms of policy experience. As a result, any dialogue with Kosovo by a new government takes considerable time to take shape and may be marred by difficulties. At the same time, what it lacks in experience and style, it compensates by being bold and direct.

Serbia’s incentives for participation have been largely external to the substance of the dialogue. The status quo in
Kosovo largely suits Serbia. Alternatively, Kosovo is greatly interested in changing the status quo and reaching agreements that help consolidate its statehood, but it has been reluctant to accept talks with Serbia fearing the balance may tip in Serbia’s favour.

Although President Nikolić has recently reformed his messaging to appear more pro-European and Western, he once stated that Serbia “would be better off as a province of Russia than joining the European Union.” Similarly, Serbia’s former President had stated that the “four pillars” of Serbia’s foreign policy were the EU, Russia, the U.S. and China. In this sense, Serbian leadership consistently attempts to augment its leverage with the international community by emphasizing Serbia’s ties to both the east and the west.

The new government is trying to secure a wide consensus on the continuation of the dialogue, and to put on paper the guidelines for Serbia’s future approach to the process. After initial high-level talks led by President Nikolić, the talks are likely to now be led by Prime Minister Dačić.

The major advantage of a Serbian coalition headed by SNS and SPS (Socialist Party) is that they face virtually no opposition to the dialogue. Borislav Stefanović, a Democratic Party (DS) official and former chief of Serbia's negotiating team in the dialogue with Prishtina, stated that the new government has tried to stop, compromise and destroy the dialogue process. Thus, he has stated that DS will support every brave and unpopular solution that does not lead to recognizing Kosovo.

Nikolić also clarified the dubious outcomes of some of the agreements. Soon after coming to office, he accused the previous government of concealing that only the name Kosovo with an asterisk, and not the additional footnote, would appear in front of “the Albanians” at regional
gatherings. According to him, it was also deceitful that the government stated that Serbs in northern Kosovo did not have to use Kosovo license plates, while the condition for this indeed was that they had to register as Kosovo citizens.

**International Community**

The Council on Foreign Relations of the United States lists prevention priorities for 2012, including 30 risks to U.S. national security. None of these were related to the Balkans. Currently, and in spite of this, consolidating Kosovo’s statehood in all of its territory is a U.S. priority. However, the U.S. is seeking to pass off as much responsibility for the Balkans as possible to the EU, without compromising its objectives. Much of this role has been assumed by Germany and some by the EU’s institutions. It is therefore important to assess the EU as the main stakeholder in the international community.

The EU has taken up this central role in the dialogue and this is a key feature of the talks. The EU is able to be an effective mediator since both Kosovo and Serbia aspire EU membership. However, the EU’s engagement in Kosovo since 2008 has been controversial.

EULEX has been widely criticised for various reasons and the EU has struggled to walk the fine line of accommodating the non-recognizers within the Union while productively engaging Kosovo. Its main leverage in the mediation process has been its ability to offer incentives external to the content of the negotiations and primarily in terms of closer ties to the EU.

Serb leaders in the north accuse EULEX of siding with Prishtina from the very beginning. The Serbian Government-appointed head of the Mitrovica District, Radenko Nedeljković, spoke out against the mandate of EULEX. He particularly criticised EULEX for preparing the
establishment of customs at the Jarinje and Brnjak crossings in northern Kosovo and, according to him, helping implement Prishtina’s unilateral decisions.

Belgrade doing too little too late has run its course and now fuels the EU’s own brinksmanship, since Brussels and member states believe Belgrade only moves when forced.47

The EU’s current financial crisis has somewhat diminished the credibility of EU membership as an incentive for reform in the Western Balkans. In Serbia, Albania, Macedonia and Kosovo, few believe that EU membership will materialize in the foreseeable future. They also fear that membership criteria is being tightened. Under these conditions, NATO membership has taken on new importance, as it is the more credible nearer-term incentive.48

As the facilitator and final authority to judge the outcome of the dialogue, the EU has sent mixed messages. Progress reports, council conclusions and other EU documents have set clear guidelines for both parties, while the EU Office for technical dialogue has so far kept silent. Ambiguous messages often made it so the European Union was perceived as rewarding retrograde performance.

Clarity is necessary not just because several EU member states are likely to oppose Serbia’s accession, but also because the EU as an organization is ill-equipped to address such open disputes, at least once one conflicting state acquires membership. The weakness of the EU encouraged various stakeholders to challenge its foreign policy.

NATO troops and EU police have been acting outside their UN peacekeeping mandate by trying to impose Kosovo customs in the north without any prior political agreement. They are there to keep the peace while others seek to resolve the political differences.49

As the leverage of the EU as a mediator ends with accession, it has to ensure that the mediation process is completed
prior to the accession of either party, in this case most likely Serbia.

This type of vigorous role can be played if the EU is perceived as a fair actor. Most Kosovo Albanian stakeholders perceive the EU as somewhat biased. They see the offer of candidate status to Serbia while Kosovo does not even have access throughout all of its territory. The EU’s use of conditionality is a main source of incentives for cooperation; this is examined in greater detail in the next section.
Incentives for Cooperation

There are many potential obstacles to a continued successful dialogue. The dialogue was unable to generate a positive dynamic in which the parties perceive the reached compromises as generally beneficial for all. There are several major challenges discussed below, including: (a) that proximity has been smaller than it seems, (b) implementation will be difficult, and (c) the move towards political dialogue is seen as a new desperate attempt after the failure of the technical talks, and is not encouraged by their success. It is essential that the EU ensures an incentive structure that is prescribed in sufficient quantity in order to bring about moderate behaviour from all sides.

EU Conditionality

The key incentive for Serbia’s participation in the dialogue has been the EU’s offer for closer ties as a reward. Considering that the talks did not address the status of Kosovo, Serbia saw it had little to gain from them. Any change to the status quo was thus primarily attractive for the rewards that the EU could offer.

The main requirements for successful conditionality in general are the commitment of the country (both of the political elites and the general public) to EU accession and clear and tangible requirements formulated by the EU. If the conditions extend beyond the core requirements laid out in the acquis communautaire or the Copenhagen Criteria, the conditions have to remain plausible and the trade-off between what has to be given up and the potential reward has to be balanced. If a country is required to commit to radical change with only distant rewards, conditionality is unlikely to work.
Cyprus is a stark reminder of how misbalanced incentives can backfire. The EU offered full membership to Cyprus, creating a strong incentive for Turkish Cypriots to endorse the Annan Plan for unifying the island as it would have secured nearly immediate benefits through EU accession. On the other hand, Greek Cypriots would have entered the EU no-matter what the outcome in the referendum over the Annan Plan. As a result, EU accession provided no incentive to vote in favour of unification among the Greek Cypriot constituency. As a result, the main lesson of Cyprus is not about the risk of importing an open conflict into the EU, but about the dangers of providing incentives only for one party in a negotiation process, without being able to stop full membership in the EU.

A second risk of conditionality stems from creating a conditionality deadlock. If a country (or a key veto player) is unwilling to fulfil a certain condition, the EU has to hold back the promised rewards. At the same time, these rewards must be beneficial to the country being conditioned. Thus, the EU is confronted with the choice between upholding conditions and stopping the EU accession process for a country or alternatively softening these conditions. The latter scenario occurred in Bosnia, in regard to police reform between 2004 and 2008. This scenario creates a moral hazard where parties might become encouraged to gamble against fulfilling the conditions they have before them. This is due to the fact that they expect to achieve both goals, closer ties to the EU and the policy or issue they were originally asked to change based on conditionality.

This particularly holds true for the dialogue between Serbia and Kosovo. If, for example, Serbia is required to recognize Kosovo prior to EU accession, and this is communicated to Serbia too early, there might be a risk that Serbia would not be willing to pay this “price”. Confronted with the choice of postponing Serbia’s EU accession indefinitely and the risks
that might imply, voices might grow within the EU to soften this requirement. Thus, when deciding what degree of a dialogue outcome is necessary for an appropriate level of EU integration, this risk has to be borne in mind.

The main tool of the EU has been conditionality in ways that go beyond the “conventional” accession process. The EU has secured policy changes by linking them directly to accession. This has generally been effective in regard to cooperation with the ICTY in the region, while efforts to link state-building and EU accession in Bosnia have only garnered modest success.\(^{50}\)

The main problem with this kind of approach results from disproportionate incentives for the dialoguing parties. In the case at hand, Serbia has a clear membership perspective and thus, the granting of candidate status constituted a tangible “carrot” for Serbia. However, with regards to Kosovo, the EU cannot offer similar incentives. The disunity over Kosovo’s status in the European Union prevents the EU from offering a similarly clear path to Kosovo.

For over a year now, Germany has taken the leadership role of western conditionality towards Serbia. A scheme of carrots and sticks for Serbia’s path towards the EU was introduced. The messages were at first mild, and delivered through bilateral visits, but gradually gained strength and clarity and came through official statements. The first official message was voiced by European Council President Herman Van Rompuy who said in Belgrade that nurturing good relations with Kosovo was a criterion in order to be recognized as a European Union membership candidate.\(^{51}\) The conditionality for Serbia that was first adopted by several countries has made it to the Serbia’s progress report, effectively turning them into official conditionality by the European Union.
Normalisation

The concept of normalisation was useful to label good neighbourly relations and bilateral cooperation short of full recognition. This would be a logical extension of the effort of the dialogue to date, to divorce the substantial issues (called “technical”) from the symbolic (called “political”).

Kosovo and the EU are closely inter-linked in relation to Serbia. The EU has used conditionality extensively in the Pristina-Belgrade dialogue and now there is a widely held view in the EU that Serbia’s progress towards the EU should be conditioned with gradual “normalisation” of its relations with Kosovo. Since enlargement decisions require the agreement of all 27 EU members, conditionality may be imposed by any individual member. It was the visits of the UK and German foreign ministers to Belgrade that convinced Tadić to abandon the initiative in the UN General Assembly to reopen status talks, and it was the German chancellor, Angela Merkel, who in August 2011 clearly linked Serbia’s candidate status with progress on improving relations with Pristina.52

Gradual but substantial recognition of Kosovo without formal or symbolic recognition would allow for a gradual process and not risk blocking Serbia’s EU integration. The potential major turning point remains identifying the moment when Serbia drops its territorial claims to Kosovo. While the process of normalisation should at the very least mean an irreversible process and progress from the status quo, some EU members have demanded that territorial claims be scrapped.53

Until 1999, the Irish constitution contained a claim to the entire Irish islands, as stated in Article 2, “The national territory consists of the whole island of Ireland, its islands and the territorial seas.” This article was only amended after a referendum was held following the Good Friday
agreement. At the same time, Ireland had not acted to actively undermine British sovereignty over Northern Ireland. As a result, the symbolic claim coexisted with a pragmatic reality. Thus, the Serbian constitution could in this sense continue to lay a symbolic claim to Kosovo, as long as the government and its institutions cease to act upon this claim.

A key issue to be considered here is the timing of enlargement. So far the EU has insisted on the “each country on its own merits” approach in the enlargement process for the Western Balkans. In the case of Serbia and Kosovo, there is a considerable likelihood that Serbia would be “ready” to join the EU prior to Kosovo. However, in order to prevent a scenario where Serbia might block Kosovo’s EU accession, along the lines of Greece’s blockade of Macedonia, it is essential to link the EU future of these two countries to ensure that full normalisation and eventual recognition are tangible and irreversible.

Serbia’s ability to block Kosovo must be curtailed, and it must further commit to refraining from anti-Kosovo policies. Stefan Lehne argues that any such anti-Kosovo policy is against EU’s interest. He states: “It would be counterproductive in terms of the EU’s policies toward the region if Serbia were to become a new member state and block Kosovo’s further progress toward the EU,” the club Serbia aspires to join.

Either both would have to join simultaneously or Serbia would have to enter into a legally binding commitment to not block Kosovo’s European accession. The former approach has the advantage that no external EU border would be created between Kosovo and Serbia (not to mention a Schengen border). Yet, it has the disadvantage compared to the latter in that it would delay Serbia’s EU accession and possibly seriously damage the support for the
EU in Serbia (comparable or worse to the greatly diminished EU support in Croatia between 2003 and 2010).

The conditionality for mere normalisation worries Kosovo. Serbian officials maintain that they will be able to drag the Kosovo problem along into the European Union as was done in the case of Cyprus. As the former State Secretary of the Ministry for Kosovo in the Serbian Government said,

Any pressure on Serbia to change its position on Kosovo is absolutely doomed to failure and therefore, at the end, will come up the issue how Serbia to join the EU with unresolved Kosovo problem. My answer is that it will be done as in the case of Cyprus or the Republic of Ireland.\textsuperscript{56}

The only guarantee that Kosovo has is bilateral promises by Western countries who commit to do their best to persuade Serbia to eventually recognize Kosovo. In the short-term, Kosovo’s specific worry is that Serbia may obtain the date for negotiations in the next year without doing what would be sufficient to make Serbia’s ambitions towards Kosovo irreversible.

\textit{Serbia’s Two Doors}

Serbia was on the verge of receiving candidacy status in late 2011. As stated by Ognjen Pribićević, a former Serbian ambassador to Berlin, there was perception in Serbia that it was not required that “negotiations are taking place or to be finished, just to be resumed”.\textsuperscript{57} The SAA was eventually granted to Serbia in March, after it had done little more than simply resume the dialogue.

The EU’s decision to grant candidate status to Serbia has encouraged pro-EU sentiment in the country. A poll in March indicated that 54% of Serbs were in favour of the EU. While the decision influenced public opinion, according to Branko Radun, a political analyst, the overall trend is that “of a decline of the positive attitude toward the EU.”\textsuperscript{58}
The perceived easing of integration criteria for Serbia raised fears in Prishtina that the bar was being lowered for Serbia. The awarded accession date brings access to structural funds, which is what Serbia really covets. In this scenario, Serbia may slow the pace of rapprochement with Kosovo, and would be even more comfortable with the status quo, with time working in its benefit. At this point, it would be very difficult to introduce built-in mechanisms that could suspend EU funds for Serbia due to a lack of tangible progress with Kosovo at a later stage. Prishtina regrets this situation because it feels that it creates an asymmetric situation and puts Kosovo’s progress on a slower track.

The EU has evolved to treat rapprochement between Serbia and Kosovo as a formal condition for actual membership for Serbia. Critics to this policy argue about Serbia’s distance to the EU, and the potential for the country to put off integration and change course away from the EU. The most ardent critics have called this a demand that Serbia surrender the north now if it wishes to even be granted candidacy.⁵⁹

EU accession has been almost a strategic commitment of Serbia, for at least one issue (Kosovo) is not easily subordinated to this greater goal. Serbia has sought to maximize EU accession while maintaining its claim to Kosovo. Accordingly, Ivica Dačić, then Deputy Prime Minister and Minister of Interior of Serbia, and now Prime Minister, stated that he was in favour of EU accession, but only as long as Serbia preserves its national interests. In his view, the European Union clearly tramples Serbia’s national interest with regard to Kosovo.

To date, there has been no clear indication from Serbia that it would ultimately compromise on Kosovo in order to accede to the EU. This results in the EU walking a tightrope: if it insists on Serbia renouncing on Kosovo too early for full membership, there is a risk that Serbia might (temporarily)
abandon EU membership. Yet, without at least informal assurances that such a grand bargain is possible in the accession process, there exists a risk that the current EU approach towards the dialogue might fail altogether.

As diplomatic messages grew in strength, normalisation was asked from Serbia, and Serbia's Deputy Prime Minister and Interior Minister Ivica Đačić said that it needs to be clearly said that Serbia will not get candidate status without recognizing Kosovo.60 If recognition was made a condition, Đačić said Serbs would indeed have to make a choice. Before his election as President of the country, the President of the Serbian Progressive Party (SNS), Tomislav Nikolić, said that Serbia can never recognize Kosovo, even at the cost of not joining the European Union.61 Nikolić also said that he supported Serbia's future EU membership, but noted that the country “has two doors”, one leads to the east, while the other to the west.62

The fear in Serbia is that the country may get tired of difficult reforms before receiving the actual prize. Once Serbian citizens realize that Serbia realistically stands to gain nothing from the dialogue in the short term, public pro-EU sentiment may continue to decline.63 If Serbia acquires the date for accession talks having done very little to essentially change the dynamics towards Kosovo, a key motivation for further dialogue and the implementation of an agreement might be weakened.

Implementation of dialogue agreements has lagged behind and has become an issue of contestation in its own right. The parties distrust the good will of the other side and some of the agreements have lacked sufficient clarity and transparency resulting in divergent interpretations.

Implementation of each individual point has been discussed individually earlier in this paper. Serbia clearly has second thoughts with regard to implementation of the points in the
north, and this leads to two potential threats in the future months, the problematic implementation of the car plates and the IBM agreements in the north. Their non-implementation will indicate a change of policy towards the north and may herald a troublesome period.

The new leadership in Belgrade has been advised by former officials that implementation is essential. Nikolić had openly stated that he would not be obliged to implement the agreements reached with Kosovo if he came into power. In response, former Foreign Affairs Minister Vuk Jeremić sent a message to the new President that Belgrade should respect the agreements reached with Kosovo. He added that not implementing these agreements would be a bad signal for Serbia to send to the international community and that this would have major consequences on the future negotiations process and Serbia’s reputation.64

Now, as both Dačić and Nikolić stand at the pinnacle of power in Serbia, even more strict conditionality has been heralded, although it is not official yet. Fortunately, the first signs are that neither of the two leaders intends to abandon the EU as they threatened to in the past. In this regard, the risks of abandoning the EU path are now steadily smaller.
Towards Political Dialogue

Reactions to the dialogue abound. Some highlight the small benefits for common people while others highlight the difficulties of implementation in the north. Accordingly, an improvement of relations between Prishtina and Belgrade could have a wider affect, allowing for broader cooperation between the two societies at all levels.

The dialogue between Belgrade and Prishtina is still at an adversarial stage and is yet to evolve to a level that may lead to successful outcomes. In an environment where little constructive dialogue has taken place, it is surprising how many proposals and formats for the dialogue have been suggested. It is essential that the many formats are supported in ways that complement each other.

While confirming that the status and the territorial integrity of Kosovo are not up for discussion, Pristina should signal to the Kosovo Serbs in the north as well as to Belgrade its readiness to engage in a dialogue on enhanced arrangements for self-government. It should also indicate its readiness to address additional concerns of the Serb Orthodox Church and issues related to property claims.65

The dialogue thus needs to be upgraded in order to address all contested issues. At the same time, its constructive approach of seeking to reduce the symbolic weight of the topics must be preserved. For now, it is certain that three variants are on the table

- the resumption of dialogue between expert teams on a technical level, the official stand of Pristina;
- the continuation of the dialogue at a higher political level;
or
- a combination of the two, and with the potential to include the north.66
Before the technical dialogue stalled due to elections in Serbia, at least three more issues were planned for discussion: electricity, telecommunications, and air traffic. The resolution of these matters would bring significant economic benefits for Kosovo as well as for Serbia. Electricity and telecommunications were heralded as the first topics after the Serbian elections, but also as precursors to a political dialogue.

**More ‘Technical’ Progress**

Concentrating on technical issues first has been able to yield tangible results, yet sensitive “political” issues have imposed themselves on the agenda, in particular, those having to do with the north. Terming the talks “technical” could be considered more a strategy of negotiation than a description of their content. By their very nature, they were political, as stated by the President of the Kosovo Constitutional Court, Enver Hasani. Robert Cooper said that in the politically charged environment of Serbia-Kosovo relations, everything is political.

There is a growing belief among diplomatic circles that it is futile to attempt to resolve technical matters, and that Kosovo and Serbia should take the main disputes head-on. As mentioned earlier, the frozen conflict in northern Kosovo has escalated several times during the past few years, not only threatening the dialogue, but also highlighting that the most contentious issues between the two countries remain unresolved. In addition, frustration is building in Kosovo over the lack of access to international organizations four years after the declaration of independence. It thus seems difficult to continue a meaningful dialogue between Belgrade and Prishtina while ignoring these issues.

More technical topics should be raised and resolved in parallel with a political dialogue. There is no reason not to broach new topics—after telecommunications, electricity
and air transport—such as exchange among postal services, infrastructural links, cultural heritage and exchanges, railway transport, and participation in sports activities.

It is clear that the dialogue between Belgrade and Prishtina from the beginning was conceived as a dialogue going from the stages of “minor” and “technical” to more difficult and political. The majority in Kosovo is clear that the biggest political issue is the north. Therefore, there is an expectation that the new dialogue will be about the north of Kosovo and that the goal will be to find a way for the gradual integration of the north in an independent Kosovo. This process, in theory, should allow Serbia to gradually move towards the recognition of Kosovo, so that recognition comes as Serbia get closer to EU membership.69

The next round of dialogue has to take the political dimension into account and become more ambitious. Such an approach derives from the success of the agreements reached to date, the need to secure their implementation and the fact that outstanding issues are predominantly more “political” and sensitive than the ones discussed to date.

A few topics remain to be opened in the upcoming dialogue which follows the formation of the new Serbian Government. Kosovo is yet to gain access to international organizations and normalize relations with Serbia; the north may also gradually creep into the dialogue.

The first aspect follows the agreement on Kosovo’s access to regional organisations. Here, the focus ought not to be on the symbolically charged issue of full membership in international organizations. Rather, the emphasis should be on access to certain specialized agencies and bodies that would allow Kosovo to overcome a number of obstacles, such as gaining an international telephone code and an internet domain.
A second field includes mutually important issues for cooperation: fighting crime, narcotics, trafficking in human beings and other negative phenomena that have a negative impact on the whole western Balkan region. Whereas great progress has been made in the region in recent years, especially with regards to pursuing crime, Kosovo and Serbia have not cooperated. Such cooperation is crucial in reducing the influence of organized crime in particular, especially because it thrives from the legal uncertainty in the north and the lack of cooperation between the rule of law mechanisms in the two countries.

The third aspect would be to discuss issues that stem from the actual dialogue. Further discussion is required to steer the agreements reached so far in the right direction. For instance, freedom of movement could include air, road and rail transport, and university diplomas could include other levels of education and the University of Mitrovica.

A fourth area of cooperation is related to the ability of the Kosovo government to exercise its authority. This field of dialogue is the most sensitive, as it includes a discussion on northern Kosovo. At the core of these discussions is the transformation of the institutions funded by Belgrade and which recognize Serbia as the sole governing authority into structures that also cooperate with Prishtina and gradually accept the institutional framework of Kosovo.

It is important to find a modus vivendi that would provide Kosovo access to membership in at least specialized international organizations without Serbia’s obstructions. This should go hand-in-hand with finding a mechanism to pave the way to progress in northern Kosovo without broaching the status of the northern part as an issue of bargaining.
**High-Level Dialogue**

In order to tackle Kosovo’s representation and the north, the past dialogue needs to be enhanced towards involving more intense—while at the same time less structured and informal—communication between Belgrade and Prishtina.

The EU and the U.S. seem to have agreed that the dialogue should symbolically re-start with a high-level meeting. Through European Parliament (EP) Rapporteur Jelko Kacin, Serbian President Nikolić communicated his readiness to meet his Kosovo counterpart, President Atifete Jahjaga, first.71

The former Secretary of the Serbian Ministry for Kosovo State Secretary Oliver Ivanović stated that the Serbian President and Prime Minister will not be part of the Serbian negotiating team in the continuation of talks with Prishtina.72 He said this would be interpreted as direct or indirect recognition of Kosovo’s independence. While it was necessary to increase the political level of the negotiators, Ivanović saw it as harmful [to Serbia] to conduct meeting at the level of heads of state. Political science Professor Predrag Simić also saw such a meeting as dangerous and as a *de facto* recognition of Kosovo as an independent state.73 Serbia’s former head negotiator, Borislav Stefanović, stated that the head of state is the bearer of sovereignty and if he agrees or sits for talks and shakes hands, it means that Kosovo and Serbia are equal.74

Such a meeting was not welcome in Kosovo either. One of the most influential columnists wrote:

> I think that such a meeting, even if it would be held without state symbols, would contribute more to deterioration than the improvement of relations between Kosovo and Serbia, but also would contribute to the deterioration of political relations within Kosovo.75
It is still unclear whether high-level talks will be used to send a message to the public, if they will be seen as a result in their own right, or as a push for major progress at lower levels. Simeon Pobulić, a member of the Forum for International Relations thought that talks may be raised to “a higher level if you have a solution to an important issue, and that should be backed by authority.”

**Dialogue with the northern leaders**

There needs to be an informal dialogue between Prishtina and Serb representatives from northern Kosovo. Mindful of differences, and with mutual respect, an exchange between Prishtina and northern leaders could help for better understanding. It could pave the way for practical cooperation, and create a climate conducive to cooperation—a precondition to political progress.

This is discussed in greater detail in another paper published by PER-K (D4D) concurrently with this one. It is essential to consider a separate track that would establish a direct line of communication between political representatives from the north and the Kosovo Government. Meaningful interaction should first aim to establish trust and second create an opportunity for agreements.

A political dialogue between Prishtina and northern Serb representatives, with the strong support of the international community, can achieve a sustainable and acceptable solution for the north. The Government of Kosovo should continue to invest in improving the lives of citizens in north, while improving the implementation of minority rights throughout Kosovo. While recognizing the inherent differences, the government’s success with Serbs in the south can create momentum for future progress in the north.
Northern Serbs, for their part, should engage in a dialogue with Prishtina, while showing good will towards establishing mutually acceptable governance structures. At the same time, Belgrade should be constructive in continuing its dialogue with Prishtina. A recipe may be found to regulate Belgrade’s indirect inclusion in Prishtina’s dialogue with northern Serb representatives, although this is a very sensitive issue. The European Union and the United States must step up their influence to provide direction and necessary guarantees to the parties involved in attaining a solution on the north.

**Serb-Serb Dialogue**

A Serb-Serb dialogue is also vital, as many of the Kosovo Government-Serb community challenges require that Serbs first settle their internal differences. This includes Serbs coming up with a cohesive platform and there generally being more communication between Serb communities in the north and those in the south.

Many Serbs do not want to engage with their ethnic kin who take part in Prishtina’s institutions. They consider them excessively loyal to Prishtina and self-interested. The fear of being Prishtina’s junior partner was illustrated by the example of Gracanica, where the perceived “Albanianization” of the municipality’s demographics has been interpreted as showing that Serb officials are merely “serving their Albanian masters.” Some parallel Serb leaders accuse the current Serb leadership of having been imposed by the authorities, and not elected by people.

Kosovo Serbs have been left without an intellectual elite and are yet to identify leaders to fill in the vacuum of Belgrade’s absence. Many Serbs do not consider the Serb representatives in the Kosovo institutions as representing the political position of the majority Serb community, which re-emphasizes the need for a Serb-Serb dialogue.
A Serb-Serb dialogue should be intensified. Ways should be found to get Belgrade to accept the Independent Liberal Party (*Samostalna liberalna stranka* or the SLS) and other southern Serb parties and politicians. This should include reaching out to these politicians and encouraging them to engage in a constructive dialogue with northern Serb leaders. Such events are already being organized by the Center for Inclusive Governance.
New Process Dynamics

The Timing is Never Right

To be successful, any mediation has to consider the electoral cycle of the parties involved and make other similar considerations. Windows of opportunity open up when parties are able to conclude difficult compromises without being immediately held accountable by a suspicious electorate. This electorate may be emotionally charged by an issue or they might be influenced by spoilers who have an interest in sabotaging compromise.

At the same time, there is a risk of postponing talks on sensitive matters indefinitely due to external circumstances. In addition to elections among the parties affected, elections in key countries, such as presidential elections in the U.S. can be construed as arguments for auspicious timing. Therefore, an important feature of any dialogue is continuity and time. In particular, it is important to utilize windows of opportunity, which are usually narrow, to make it more possible to reach agreements and secure a meaningful continuation of a dialogue.

There is an overall feeling that time is running out, and the Serb community feels especially pressured to get results before it is too late. The end of the International Civilian Office’s (ICO) supervision of Kosovo’s independence initially put both Kosovo Serbs and Kosovo Albanians in a state of alarm. The authorities feared that ICO’s departure would forego the chance to use its presence to help extend its authority to the north. Serbs feared the consequences of losing the ICO’s support and supervision to ensure the Kosovo authorities deliver on their minority rights obligations. There are still laws that Kosovo needs to adopt to fulfil its Ahtisaari obligations. Importantly, this year is considered key for the north, and it is widely believed the
period between September and December will define how the north will be addressed from here on out.

It is a natural stage of each conflict cycle that a frozen conflict ultimately comes to a point when both sides understand that they cannot get what they want with further violence. Moreover, if the conflict is relatively distant and countries can pursue development in other areas at the same time, the dispute becomes costly, with the opportunity cost being very high.

Kosovo and Serbia are especially lucky that a major third party has taken interest in their reconciliation. The European Union has used its cards, although it has not done so forcefully enough to bring the sides to a single framework for tackling the dispute. The two sides have not moved to a single track yet, and the lack of real progress towards the EU has begun to become politically more costly for the leadership than the unpopular decisions that they have made in the dialogue process. Despite the dialogue deficit, it is slowly building up steam.

**Mediator 2.0**

The European Union does not yet know in which direction the dialogue between Belgrade and Prishtina will continue. Raising the profile of the negotiators would imply raising the profile of the mediator in kind. In this case, the role of mediator would to be taken directly by the EU High Representative, Baroness Catherine Ashton, from former mediator Robert Cooper.77

A key question that the mediator should pose ahead of continuing the dialogue is whether the current dialogue structure is sufficient. Mediation by the EU for the dialogue between Belgrade and Prishtina has thus far been a low-key affair. Robert Cooper was not a high-level diplomat, as compared to former Kosovo-Serbia mediator Martti
Ahtisaari. The choice of Cooper as mediator reflected the initial technical nature of the dialogue and the close link it had to the EU institutional set-up. The fact that Mr. Cooper found it difficult to extract agreements reflected his weak hand-wringing power.

The political topics of the new round require higher political clout to be wielded by the mediator, hence the need for a higher level negotiator. Such a negotiator would have more of an ability to offer the parties concrete rewards to concluding agreements and could carry greater leverage to put pressure on the parties to come to such agreements. The appointment of a senior diplomat and seasoned negotiator would also send an important signal that the talks and their success is a high priority for the EU.

Such a high-level mediator would also need to secure the active engagement of the United States, as Stefan Lehne recently noted.78 “Cometh the moment, cometh the woman,” a Wall Street Journal blog put it, reporting that Baroness Ashton “is eyeing a more hands-on role in the talks in an effort to re-inject some energy.”79 Baroness Ashton would also need to better engage the Serb community in the process, at least through frequent consultations on their preferences.

For the clout to be effective, the potential rewards for any agreement will have to be clear. The European Union has so far been focusing on offering benefits having to do with the Serbia’s accession to the EU as an incentive. However, as noted earlier, the EU will need to identify clearer incentives for Kosovo. In addition, the EU needs to consider offering additional incentives, such as substantial assistance for the implementation of agreements reached during the forthcoming round of dialogue.
**Careful Sequencing**

The upcoming political dialogue will have more of the features of a peace process. For a peace process to develop, it must fulfil several conditions:

a. Protagonists must be willing to negotiate in good faith

b. The key actors must be included in the process

c. The negotiations must address the central issues in the dispute

d. Force must not be used to achieve objectives

e. Negotiators must be committed to a sustained process

These talks cannot just pick up where they left off in early 2012. The change in Serbia as a result of the elections in May and the lessons learned from the previous round have led to a serious reconsideration of the format and content of the dialogue. It is essential that the EU has what was mentioned above in mind when designing the next stage and that it requires the prior commitment of all sides that they will abide by the aforementioned conditions.

The process of these talks needs to be harmonized with the rewards that the EU can offer to both Serbia and Kosovo in terms of the accession process. There need to be clear benchmarks on the substance of the agreements between the two parties and their linkage to different stages of EU integration. As Stefan Lehne notes that as both countries make an important step toward the EU, they should also move significantly closer to a normal relationship with each other.80

A major challenge arises from the fact that Serbia and Kosovo are not equidistant from the EU, and are at different
stages of the accession process. Such an asymmetric situation implies that incentives as well as rewards differ greatly. While Serbia covets structural funds and membership, Kosovo wants a clear political and economic relationship with the EU, visa-free travel, the consolidation of its statehood and control of its whole territory.

The EU should offer rewards which are balanced and that reward performance, setting a clear process dynamic that removes the perception of asymmetry in the “carrots” it can offer. Symmetry must be put together carefully and in with carefully-planned time-sequencing.

Sequencing is essential to ensuring the dialogue’s success. If rewards are offered too early, incentives for compromise weaken; if they are offered too late, the attractiveness of EU membership might fade and jeopardize the process. Conditionality has to be consistent and predictable as well. If the conditions set are too high and rewards are withheld, this “stick” has to be credible and not jeopardize the overall incentive of EU integration.

The fundamental challenge of sequenced conditionality is ensuring that the process does not lead to a situation where one country can block the other’s EU accession through stalling in the negotiations. The EU should openly state that it will punish parties not dialoguing in good faith or that are failing to implement the agreements reached.

Sequencing should also leave some room for flexibility but only in tactical terms and ensure that the publics in both countries are brought along. At a strategic level, it is clear that prior to further progress, Serbia needs to establish more normal relations with Kosovo, and ahead of full membership in the EU, it must not have any outstanding territorial disputes.
Vigorous Mediation

The process delineated above implies a mediator utilizing intense mediation. It is a clear verdict on the process so far that without EU pressure and mediation, the dialogue would have led nowhere. What has been termed mediation is actually much more than just an intermediary role, it includes setting the agenda, elaborating solutions, and using massive carrots and sticks to bring the parties on board. The EU is ready to put forth a more comprehensive approach to resolving the Kosovo issue, the European official said. The approach is based on three main pillars which are very good for an initial strategy. This refers mainly to Ashton’s willingness to get personally involved in the talks on [the] most important issues in the dialogue, the intention to ensure that the dialogue has stronger ties to the EU enlargement process, and the third one is for the sides to focus on the final outcome of the talks. The second pillar of the strategy is embodied in ensuring a stronger connection of the dialogue to the enlargement process and it implies using certain instruments and providing guidelines to the relevant sides in the dialogue, as well as the talks on the things that would follow if everything goes well.

The two local parties—Serbs and Albanians—are seemingly the least likely to be able to rise above their history. They believe that any acceptance of some compromise position is a sign of weakness. They also feel that the ground may be shifting beneath them—Belgrade may sell the Serbs out, the EU may want new approaches from the Albanians. Without outside help, nothing good is likely to emerge.

Experience to date has shown that Belgrade and Pristina do not take bold and unpopular steps without strong international pressure. There is no precedent of Belgrade and Pristina reaching agreements on their own or cooperating voluntarily. Even cooperation on
humanitarian issues, such as missing persons, is a result of international pressure. The level of transformation required is so great and the timing so limited that only stern conditionality can help transform relations and move reforms in both countries forward.

Numerous statements illustrate the weakness of the leadership to strike compromise.

Unless the internationals act boldly the north would remain a frozen conflict for years to come. A Serb participant agreed that the frozen conflict would continue until Serbia and Kosovo know where their borders are.

The level of transformation required is so great and the timing so limited that only stern conditionality can help transform relations and move reforms in both countries forward.

Many stakeholders believe that the solution “must come from above,” and some believe that this “should come more forcefully”. The local stakeholders often justify compromise as “having had to” as a result of pressure. This is used much more often than pressure is indeed exercised.

Some analysts believe that Belgrade and Prishtina should resolve their mutual disputes on their own instead of looking to assistance from international community.

Such a situation beckons for the external factor to show the middle-ground. This should not amount to arbitration but carefully guided mediation. “Imposition” may be welcomed by the leadership but bears the risk that elites would not claim ownership and would leave a window to renege against the agreement later.

The European Union Special Representative in Kosovo, Samuel Žbogar, has already alerted that after the end of the supervision of independence, the European Union is to take a greater role and responsibility for the situation in Kosovo. The position of the Serbs is to receive particular scrutiny.

Another indicator of such a sturdy approach is that Baroness Ashton and the US Secretary of State Hillary Clinton are
preparing a “platform for normalisation of relations between Kosovo and Serbia” that will be approved by the prime ministers of the two countries.  

Only such vigorous and high-level mediation stands the chance of overcoming the fixed positions of the leaders, and transforming everyone’s perception of self-interest. EU integration is effective for enlarging the pie and the set of rewards for both sides. However, overcoming the lack of cooperation should be a reward in and of itself that the elites and the public of the respective countries should soon discover.

**The Final Mile**

This paper does not aim to offer specific outcomes for the north or for Kosovo and Serbia. Nonetheless, the middle-ground for Prishtina and Belgrade is gradually becoming more self-evident. The solution will hardly be found by just a thoughtful and principled dialogue between the sides, and stands a better chance if the mediators help them discover acceptable arrangements. Moreover, the EU has the ability to make non-cooperative action become more costly for the leadership on both sides.

While Belgrade re-emphasizes the worn out and thin mantra that Serbia will never recognize Kosovo’s independence, it will increasingly realise that normalisation of its relations with Kosovo and a clear European perspective is in its interest. This will include implicitly implementing and consolidating exactly the independence it is explicitly working against.

In recent polls, between 60 and 70 percent of citizens in Serbia say that Kosovo was lost and that this is a reality. Politicians from the new democratic elite, through learning to read these polls, can effectively tell people what they already know. At the same time, as party to an
internationally supported as well as domestically accepted dialogue, Belgrade fulfils its national and international prerogatives. This would mark a *volte-face* change in Serbia but would not imply losing votes.

Prishtina will similarly realize that engagement in the dialogue is worthwhile in exchange for Serbia’s cooperation and eventual recognition. Through the EU-facilitated dialogue, Kosovo has the potential to find suitable modalities to implement the Ahtisaari plan in the north and throughout all of its territory. This, concurrently, will continue to unlock Kosovo’s participation in regional and international organizations, reaping benefits to its country’s economic, social and political development efforts.

The EU should demonstrate that through the dialogue, and with the leaders of the region, it is working for the people of the Balkans. In order to strongly commit to reconciliation and a more united Europe in its backyard, the EU should use the dialogue and other tools to compel the current leadership of Kosovo and Serbia to make greater strides towards European integration.
Recommendations

Despite the mixed experience of the technical dialogue, it is difficult to advise anything else than the continuation of the talks. The talks need to deliver several outcomes: (a) improve relations between Serbia and Kosovo, (b) address major grievances prevalent in both countries, and (c) gradually transform sensitive talks into regular relations that two neighbouring countries should nurture.

Prishtina should prepare to approach northern leaders in a constructive dialogue. At the same time, the Kosovo authorities should adopt a do-no-harm approach. Prishtina should take greater care in how it formulates its messages to the north. Perceived threats mobilize northern Serbs to remain in defence of the elites running the north. The Government of Kosovo should refrain from any unilateral steps regarding the north while the dialogue with Belgrade and also with Kosovo Serbs in the north is ongoing. The authorities should continue to improve the situation of the southern Serbs.

The new government in Belgrade should fully implement the agreements reached during the previous rounds of the dialogue. The negotiating team ought to be inclusive of the main political actors in Serbia and secure broad support among parliamentary parties for any agreement reached. A consensus should be reached on the process, while an explicit platform ahead of the process may curtail Belgrade’s manoeuvring space.

Belgrade should encourage northern Serbs to engage in communication with Prishtina, be it for initial topics such as water supply or garbage collection. Belgrade should also support solutions that benefit Serbs in the north and in the south. Belgrade may consult northern Serb leaders about
their preferences but should not include them in their negotiating team.

The Government of Serbia should cease its embargo towards Kosovo and be willing to discuss the terms of access for Kosovo to specialized international organisations and bodies. There is ample space to derive a mutual benefit from such action.

The EU and other international actors need to expand the dialogue to cover issues so far excluded, such as access of Kosovo to specialized international organizations, telecommunications, as well as additional issues of mutual benefit such as international sports, etc.

The EU should facilitate additional channels of communication between Prishtina and northern Serbs as well as additional informal channels of communication between Prishtina and Belgrade.

The EU ought to outline clear incentives for the next round of dialogue and ensure that the rewards to both parties are equal. Further agreements should be signed and made transparent. Agreements that bring tangible benefits to the people should be prioritized to generate greater acceptance among the public.

The EU needs to delineate concisely what “normalisation” of relations between Serbia and Kosovo entails as the mid-result of the dialogue. As an example of a practical arrangement, the EU should force the leadership in Kosovo and Serbia to act against established interests of insurance companies and agree to lower the fees of cross-border insurance. An arrangement that promotes interaction should be introduced until a more permanent solution is found on the basis of Kosovo becoming a member of the Green Card Bureau either on its own merit or temporarily under a third country.
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