

In Search of Consensus: A proposal

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IN SEARCH OF CONSENSUS: A PROPOSAL

Introduction

It is now a year since the Brussels Dialogue has been in stagnating phase.¹ At the moment, there are no new agreements, and those that have been reached are either facing difficulties in the implementation phase or are not being implemented at all. What is more, occasional moments of drama and tension have characterized the dialogue process. For example, last winter has been heavily marked by stern confrontations between Kosovo and Serbia; only during the months of December 2016 and January 2017 there have been several public clashes, not only in the form of inciting statements that are considered to be “daily politics for internal consumption”,² but also with actions that in few instances could have escalated the situation into something major than mere nationalist rhetoric and propaganda.³

The lack of progress and intensification of confrontations between Kosovo and Serbia has thus created a favorable environment for the international community to take into consideration demands for an overall rethinking of the process. Hence, the international community seems now open (as well as adamant) towards changes to the Brussels Dialogue, especially since the leaders of both Kosovo and Serbia are supportive of key substantial changes.⁴ Consequently, for several months there has been a public discussion regarding what kind of format could the new dialogue have, and whether there should be a change in the content of the dialogue itself.

In Kosovo, proposals include the transfer of the dialogue under the leadership of the Kosovo President, formation of a new Unity Team similar to the ones that participated in the status talks in Rambouillet (1999) and Vienna (2007), transfer of responsibilities for the Brussels Dialogue to the Kosovo Parliament, or management of the process under a mandate to the Kosovo Government with parliamentary oversight.

So far, every proposal not only has its natural supporters but also fierce opponents, and generally none seems to be supported by majority of political parties and Kosovar society.

What must be pointed out is that a large number of the above-mentioned proposals do not have a plausible political majority in parliament. In addition, the fact that the time for decision-making appears to be quickly expiring with the European Union showing signs of impatience with both parties, poses a significant threat to the process of European integration for both countries.

¹ Dialogue between Kosovo and Serbia, facilitated by EU, is officially named “dialogue on normalization of relations between Belgrade and Prishtina”

² This is how these statements are described by almost every Western diplomat when they talk in private

³ The case of the train decorated with nationalist and religious Serb motifs

⁴ Interview with an European diplomat

Who must lead the dialogue?

President

In Belgrade, the President of Serbia Aleksandar Vucic, has open the so called *internal dialogue* on Kosovo, which officially aims to define a new position of Serbia towards the Kosovo issues.⁵ On the other hand, Kosovo President Hashim Thaci, with his latest actions, has clearly taken over the wheel of the dialogue.⁶ Besides President Thaci's participation at high level dialogue meetings in Brussels, additional proof of more active Presidency role in this process finds additional proof with appointment of one of the president's advisors as "Dialogue coordinator" to an international conference in Belgrade without him being officially appointed to that position.⁷

Even so, at least with the international community, there's a perception that from Kosovo side there's no one else who could lead the dialogue. This viewpoint was cemented by the political crisis after the general elections, that ended with a formation of a government that has minimal parliamentary support.⁸ Henceforth parts of the international community that are involved in the dialogue, especially for EU mediators/facilitators led by High Representative Federica Mogherini, believe that raising the dialogue to a presidential level could prove itself as a positive development.⁹

Generally, within EU's External Service there have been officials that have continuously considered that the dialogue could produce more if it involved less local decision-makers. Ever since the dialogue was initiated under the leadership of EU High Representative Catherine Ashton, the aim was "to complete the job with two main leaders in two capitals... first those were Thaci and Boris Tadic, then it was Thaci and Ivica Dacic, and now it's Thaci and Aleksandar Vucic".¹⁰

This formula – that the dialogue should depend on two main individuals – could maybe be functional in Serbia, where president Vucic has uncontested power, at least for the moment.¹¹

(Un)Fortunately, that's not the case in Kosovo. Based on various statements by Kosovo political parties and segments of the country's civic society, and taking into consideration the current

⁵ "Internal dialogue" on Kosovo, started by president Vucic, has already produced a wave of polemics and discussions, among which there was repetition of old ideas of dividing Kosovo between Albanians and Serbs, promoted with persistence by Serb Foreign minister Ivica Dacic

⁶ Last year, shortly after he got elected president, Thaci announced the dialogue will be raised to the level of presidents. Recently, after participating in two meetings of Brussels Dialogue, at presidents' level, he announced intention to create a Unity Team, and to take a series of measures that clearly show that he lead of the dialogue is now passing from Government to Presidency (more regarding the position of the President, see his OpEd, published in Koha Ditore, page 11, August 30, 2017).

⁷ President's advisor, Blerim Shala, was announced to be part of the panel "Dialogue between Prishtina and Belgrade: From normalization to normality", at Belgrade Security Forum, but at the last moment Shala canceled his participation.

⁸ Interview with a European diplomat

⁹ Interview with a European diplomat

¹⁰ Interview with a European diplomat

¹¹ Vucic has won this years presidential elections with more than 50 per cent of the votes in the first round, his party has more than half if the MP's in the Parliament of Serbia, while Serbian sources claim he controls almost all state and public institutions as well as most of media in Serbia.

balance of power in Kosovo Parliament, it seems clear that there's a deep disagreement between Kosovar parties related to the issue of how the dialogue should be structured going forward.

President Thaci's takeover of dialogue leadership was already opposed by two large opposition parties, such as Self-determination Movement (LVV) and the Democratic League of Kosovo (LDK),¹² while governing coalition parties¹³ (PDK, AAK, Nisma and AKR) do not seem to have formulated a joint position yet.¹⁴

Also, it seems clear that in the last three years Hashim Thaci's political power has been significantly reduced; President Thaci has barely ensured votes to be elected president of Kosovo in March 2016, while his political party, PDK, had been the biggest political force in the country for the past decade (only fallen behind as the third biggest party in the Parliament in the recent national elections).¹⁵

Moreover, the mandate given to the president as the leader of the dialogue is not only opposed by a meaningful part of a political spectrum that represents around half of the Kosovo-Albanian voters, but is disputable due to the fact that only the Government has a mandate to engage in dialogue for normalization of relations with Serbia.¹⁶ Consequently, a new mandate for engaging in the Brussels Dialogue will have to be approved by Kosovo Parliament. This, taking into account the parliamentary parties' positions towards current President, makes it almost impossible to have him as the leading figure in the dialogue.

Nevertheless, it's also clear that this opposition has less to do with the principle of dialogue being led by the elected President of Kosovo, and more with the personality of the current President, Hashim Thaci, whom many do not see as a president that represents the unity of the people, but more as one who represents the interests of just one part of political scene of Kosovo.

Government

On the other hand, the Kosovo Government itself has initially shown little interest for the Dialogue process. New Kosovo Prime Minister, Ramush Haradinaj, has not appointed a Minister for Dialogue, as was the case in two previous Kosovo governments.¹⁷ Before being elected PM, Haradinaj has insisted that "dialogue is not a priority" and that he "won't continue the existing

¹² VV president Visar Imer, as well as LDK president Isa Mustafa, have refused Thaci's proposals to create a Unity Team for dialogue with Serbia under president's chairmanship

¹³ This refers to the main Albanian parties: Democratic Party of Kosovo, Alliance for Future of Kosovo, Initiative for Kosovo, Alliance for New Kosovo

¹⁴ Some statements were issued by heads of these parties, but not as joint position of the government, while there is no official Government statement regarding proposals made by President Thaci

¹⁵ VV and LDK have more MP's than PDK, which in the last elections was part of the joint list with AAK and Nisma.

¹⁶ Resolution of the Parliament of Kosovo of October 18 2012 explicitly authorizes only the Government of Kosovo to lead the process of talks on normalization of relations with Serbia.

http://www.kuvendikosoves.org/common/docs/Rezolution_relationships_Kosovo_Serbia.pdf

¹⁷ In the governments led by Hashim Thaci and Isa Mustafa, head of Dialogue Team, Edita Tahiri, was the Minister for Dialogue.

dialogue”.¹⁸ After being elected, he took a less averse position towards the dialogue, saying that “dialog has no alternative” and that the goal must be to organize an “internal discussion” regarding the dialogue in order to find a consensual position to cohesively move forward.

Additional proof that the dialogue is seen by the Government as an unwanted load can be detected in the reported tensions between PM Haradinaj and EU High Representative Mogherini, at the meeting of the EU-Kosovo Stabilization-Association Council, where, according to media reports, EU official left the meeting after hearing criticism from Kosovar PM that “dialogue has not brought results” and that “there’s need for bigger American involvement”.¹⁹

The Brussels Dialogue has so far been led by the Kosovo Government, which previously even had a Ministry for Dialogue, while the Prime Minister still remained the signing authority on main agreements with Serbia.²⁰ Even so, the inclusion of the Government in the dialogue so far has produced limited results, which have not been always positive. While in more than six years of dialogue²¹ a considerable number of agreements has been reached, their implementation has been a problem throughout, with some of the them causing friction and great opposition within Kosovo itself, especially the April Agreement²² and the one on General Principles on the establishment of Associations of Serb majority municipalities in Kosovo²³..²⁴

Part of the problem, of course, stands in the fact that the Kosovo dialogue team didn’t include any representative from the opposition or members of civil society, while reporting in parliament was done as a mere formality and with severe delays.²⁵ What is more, there was lack of transparency in the overall process, as noted by the majority of the polls conducted regarding the dialogue in Kosovo,²⁶ underlined as well by media and journalists covering the process²⁷. This, alongside interpretations of the agreements by the opposing parties has deepened the mistrust

¹⁸ Interview for “Rubikon” show at KTV: <http://www.koha.net/arberi/25694/haradinaj-thote-se-nuk-e-ka-prioritet-dialogun-me-serbine-e-do-ameriken-pjesemarrese/>

¹⁹ Serbian language service of radio Free Europe first reported about the tensions at the meeting held on November 17th 2017, and reasons why Mogherini walked out, while this was then reported extensively by many media in Kosovo. EU and Kosovo Government have denied this took place, but diplomatic sources confirm it did happen, and that this was the reason why joint Mogherini-Haradinaj press conference, due to be held after the meeting, was cancelled.

²⁰ Ministry for Dialogue was led by Edita Tahiri

²¹ In March 2011 started the so called Technical Dialogue, while in autumn of 2012 the dialogue was raised to the political level, being then renamed with its current name: Dialogue for Normalization of Relations. Analysis supports the view that all the talks between Kosovo and Serbia, with EU facilitation, are part of one process.

²² The so called First Agreement on Principles Governing Normalization of Relations between Kosovo and Serbia, reached on April 13 2013, but which still remains unimplemented in most of its part: http://www.kryeministri-ks.net/repository/docs/First_agreement_of_principles_governing_the_normalization_of_relations_April_19_2013_Brussels_en.pdf

²³ Agreement reached on August 25 2015, which was opposed with big and violent protest, was found by Kosovo Constitutional Court in December 2015 not to be in compliance with Kosovo Constitution, and consequently that it cannot be implemented without being changed. Since then, the formation of Association... has stalled

²⁴ Civic society organizations, public personalities and renowned analysts have publicly opposed parts of agreements with argumented analytical articles

²⁵ Interview with a civic society representative/exponent

²⁶ Several credible polls regarding the view citizens have about the dialogue have been conducted and published by KDI, and they continuously identify lack of transparency as one of core problems in this process. Polls can be viewed at: www.kdi-kosova.org

²⁷ Interviews with journalists/correspondents who report from Brussels

towards the process as a whole, and especially in the team that represented Kosovo in Brussels talks.

During the deepening of crisis and danger of escalations in the North, parts of government involved in the talks have openly supported the idea of changes in the dialogue format in order to enable opposition participation in the negotiations team. This, in itself, proved that Kosovo government was aware that inability to ratify – and implement - the reached agreements, makes the participation of Kosovo government in the dialogue almost absurd.

This, indirectly, is also confirmed also by president Thaci's proposal, which demands a formation of e Unity Team for the new phase of dialogue, which would include opposition and civic society representatives²⁸.

Parliament

The Government of Kosovo, besides not having a minister-level official to lead the dialogue, seems to be disinterested to even continue the process as it did until now. PM Haradinaj himself has stated that dialogue cannot continue as it is, implying he prefers to achieve a consensual position regarding the dialogue in the Kosovan Parliament. Regarding this, PM Haradinaj has even announced that the Government will offer “a new platform” for dialogue, which should be discussed and adopted in the Parliament.²⁹

A bigger role in the Brussels Dialogue for the Kosovo Parliament has been demanded by opposition parties as well. LVV even insisted that “Parliament must be the at the center of dialogue”.³⁰ But, is the Kosovo Parliament the right place where a much needed consensus can (and must) be reached?

At the moment, Parliament doesn't look as the right forum that can produce an agreement on dialogue. In the last three years, the Kosovo Parliament was a scene of stern clashes between the political parties, while due to great political disagreements, this institution has proven itself as more dysfunctional rather than functional.

According to a civic society activist involved in monitoring the work of the Kosovo Parliament, this institution, even when it did function, was mainly controlled by the governing majority; Contrary to the lawful mandate as a monitor of the Government and other state institutions, Kosovo Parliament has functioned more like “a government service center” than it's supervisor.³¹

²⁸ Even though civic society is active in analyzing the process, it didn't itself formulate a joint position regarding what changes would need to happen for the dialogue to be transformed into a process that effectively produces positive results and offers a progress towards normalization of relations between Kosovo and Serbia

²⁹ Haradinaj, in an interview for “Rubikon” show at KTV-së:

<http://www.koha.net/arberi/50158/haradinaj-paralajmeron-platforme-te-re-per-dialogun-me-serbine/>

³⁰ Public statement of the head of Parliamentary Group of LVV, Glauk Konjufca:

<http://www.koha.net/arberi/49049/vetevendosje-do-qe-pergjegjesia-per-dialogun-me-serbine-ti-kthehet-kuvendit/>

³¹ Interview with civic society representative who monitors work of Kosovo Parliament

At the same time, the extreme polarization between the governing coalition and the opposition parties continues, with no short-term changes in sight also due to the fact that political parties see the Parliament either as an instrument that serves to formalize government decisions (governing coalition), as a platform that can be used to block the work of the government or, eventually, bring it down (opposition). Furthermore, the constitution of the Parliament and election of its Speaker were the central pieces of the political crisis, meaning that the institution representing the people “is part of the problem, not it’s solution”.³²

On the other hand, the time to formulate a new ‘Kosovo position’ is expiring. In Brussels, but also in other Western capitals, patience is running dry with Kosovo, which “seems unable to agree over the most basic things that are in the interest of the country”.³³

In such circumstances, the Kosovo Parliament – which in parliamentary democracy is exactly the place to seek consensus and reach decisions regarding the issues of national and state interest – cannot be the “epicenter of the dialogue even if its role in creating a new mandate for dialogue cannot be avoided. Without a new Parliament resolution, the one mandating the Government to represent Kosovo in dialogue with Serbia remains the one in force.”³⁴

Way forward: A proposal

From this perspective, it seems that none of the three main institutions of the state – The Assembly, President and Government – can generate the much needed consensus to change the format or the content of the dialogue.³⁵ Nevertheless, dialogue cannot be evaded nor postponed for too long, and Kosovo institutions will not be able to escape participation in talks, even if their format and content do change.³⁶

So, the question being posed now is not only about the (in)ability of Kosovar politics to produce the consensus regarding a major process that is the dialogue³⁷, but even more so it is about the consequences that Kosovo could suffer if the continuation of dialogue finds the country disunited and unprepared. Tensions and clashes already seen after August 2015, when two agreements³⁸

³² Interview with civic society representative who monitors work of Kosovo Parliament

³³ Interview with a European diplomat

³⁴ Resolution adopted on October 18 2012

http://www.kuvendikosoves.org/common/docs/Rezolution_relationships_Kosovo_Serbia.pdf

³⁵ Parallel to the discussions regarding the change of dialogue format, there’s a debate going on regarding the change of its content, with insistence for some issues to be included in the talks, like the issue of the missing persons or the war reparations

³⁶ Discussion with a European diplomat

³⁷ There’s some years since Kosovo [participates in the dialogue without consensus, or at least agreements are signed without internal consensus, while consecutive governments have randomly taken decisions without seeking approval or support beyond the simple majority in the Parliament

³⁸ Demarcation Agreement with Montenegro and Agreement on general Principles/Main Elements of the Association of Serb majority Municipalities in Kosovo

were signed without parliamentary opposition's approval, could possibly be repeated, while it's clear that international criticism and pressures would only grow.³⁹

Consequently, it's in strategic and state interest of Kosovo to seek and find a way towards consensus, and to do so urgently. A new attempt of parliamentary political parties is necessary in order to create a framework for possible consensus, and it needs to address these three basic points:

- What should be the new format of Brussels Dialogue and should represent Kosovo in it?
- Which issues should be discussed/negotiated in Brussels Dialogue?
- What is the aim that Kosovo has in this dialogue?

Of course, the whole debate will not be limited to these three questions; within the discussions that are already happening other issues have been opened, like the demand for greater US role in the dialogue,⁴⁰ or the idea that parallel to the dialogue with Serbia, Kosovo should open another one with Kosovo Serb community in which could address some internal issues that are currently discussed in Brussels.⁴¹ But these and similar issues are part of a bigger picture, while urgent aim at the moment should be determining the framework of that picture.

Therefore, one of the possible solutions to move forward would be formation of a *Political Forum for Dialogue* that would serve as a time-limited platform for discussions between political and society actors, in search of consensus needed for the dialogue.

This proposal, even though not the only possible way forward, at this moment does seem as the most efficient one to unblock the situation that has paralyzed the consensual decision-making in the country for quite some time, not only regarding the issue of dialogue.⁴²

Political Forum for Dialogue

The Political Forum for Dialogue could be launched soon and without controversy from civil society, as an informal platform to discuss the dialogue, with participation of parliamentary political parties' representatives, as well as personalities and other individuals from political life, institutions and

³⁹ Discussion with a former US diplomat

⁴⁰ Such request, among others, was recently underlined as well by Kosovo Prime Minister, Ramush Haradinaj.

⁴¹ Opening the internal dialogue with Kosovo Serbs is one of ideas that came from Vetëvendosje, whose position on dialogue has already evolved from being against the talks with Serbia to demanding the change of the form and content of these talks. For more, see the proposal of Albin Kurti regarding the way how dialogue with Serbia should continue, made public in June, in the capacity of PM-candidate, shortly after the parliamentary elections: <http://www.koha.net/arberi/27761/kurti-shpalos-nente-pikat-per-dialogun-me-serbine/>

⁴² Political Forum should be created exclusively to address the issue of consensus on dialogue, since the idea is not to replace existing institutions of the state, but to assist them in one issue where further deadlock could be costly.

Kosovo civil society organizations. Such organizations from civil society would avoid clashes between political parties regarding the ownership of the process.⁴³

With an agreement in principal from the parliamentary political parties, organizer/carrier of this initiative could be a Coalition of civil society organizations, that are already systematically analyzing and monitoring the dialogue process, assisted by donors that are active in this field. This organism could be named *Coalition for Dialogue*.

Coalition for Dialogue should be formalized through a *Memorandum*, and would have a mandate to organize the debate, aiming to generate consensual answers to the three basic questions regarding the dialogue, mentioned above.

The debate itself should be public and open for different participation, at a conference that would last several days, and at which various proposals would be made public, while realistic and consensual solutions should be discussed.

Coalition organizing the debate would need to create the *Forum Secretariat* that would be responsible for technical aspects of the debate: determining the speaker's list, length of the speeches, admission and distribution of conference documents, translation, logistics, etc.

Individuals or organizations that offer international viewpoint regarding the issues should be active part of the debate, which is why a selected and active participation of diplomats accredited in Prishtina is necessary, as well as that of a number of international personalities with expertise on Kosovo, who could then serve as external advisors,⁴⁴ always with goal of finding the consensual answers to the three abovementioned questions, but also to define other so far undefined aspects, such as:

- Drafting a list of issues that Kosovo would want to open in the dialogue
- Drafting a list of issues that Kosovo would not want to open in the dialogue
- Drafting Kosovo's position on possible final agreement with Serbia Eventual opening of a dialogue with Kosovo Serbs, separated from the Brussels Dialogue, and possible implications of such a process, etc.

Also, part of the goal in this process would be to address other, more technical issues, such as:

- Depending on the future format, who would be responsible for implementation of the dialogue agreements?
- Which would be the mechanism of institutional reporting and accountability?

⁴³ One of the reasons why Kosovo political parties have difficulties reaching consensus seems to be also the fight regarding who should lead the consensus building process.

⁴⁴ A lengthy list of such personalities could be drafted. Among the proposals that could be considered is a possible invitation to diplomats that have already been part of the Kosovo-related processes, such as President Martti Ahtisaari, Mr. Albert Rohan and Ambassador Wolfgang Ischniger, but also to the international experts from other fields, such as Professor of International Law Marc Weller, former American diplomat and expert Dan Sewer, British journalist Tim Judah, por German analyst Bodo Weber.

- How and how much can the Dialogue process be time-limited? etc.
-

All the discussions-proposals made at the Conference would be at the disposal of the public for eventual commenting, that could be done in writing or online through a special web page of the Dialogue Conference. And, within a period of time (2-3 weeks) the Coalition for Dialogue would produce a document with conclusions and consensual proposals, that would then be passed for a formal debate at Kosovo Parliament.

Participating political parties would need to agree beforehand that they would put the conclusions of the Forum for formal and decision-making parliamentary debate.

Then, Kosovo Parliament would be obliged to adopt a new Resolution on Dialogue, that would include the answers to three basic questions, which would also determine the new mandate of Kosovo Team in Brussels Dialogue, as well as its composition.

Government and President would be obliged to respect and implement the Parliament's Resolution. The resolution, together with the Consensual Document drafted by the Coalition for the Dialogue on behalf of the Conference, would be presented to the EU High Representative as official position of Kosovo regarding the format of the Brussels talks and the future of Kosovo-Serbia dialogue.

Policy Analysis

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