

The Future of Kosova-Serbia Dialogue: Normalization as a Sisyphean Exercise

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INTRODUCTION

March 2023 marked a new chapter of hope in the war-ridden European politics as Kosovo and Serbia finally settled on a significant political agreement.¹ The previous one signed in Washington had silently collapsed while anti-establishment Albin Kurti was voted into office in Kosovo. Thus, after a year of war in Ukraine, European decision-makers were relieved to facilitate a détente between two antagonists in the Western Balkans. However, the agreement ran into problems from day one as President Vucic refused to sign it. Since then, the arrangement ran from one trouble to another to the point where today it is practically on life support. European Union mediators believe the only miracle that can save the process is a unilateral goodwill gesture by the Kosovar side by establishing the Association of the Serbian Majority Municipalities (ASMM). However, after 13 years of dialogue, with very little to show for it, there is barely any goodwill left on either side. But how did the "deal of the year" end up in a deadlock so soon?

I. BACKGROUND

When Russia started the invasion of Ukraine on February 24th, 2022, few people in Europe believed that Putin would back up his threats. Yet, the whole continent was stunned when the Russian army started a full-scale invasion of a European state in the 21st century.² After shaking off the initial shock, European decision-makers quickly rushed to shut any leaky taps with the potential for conflict in the continent. It soon became clear to everyone that the next hotspot could be the Western Balkans, where the newly remilitarized Serbia, with major support for its Muscovite ally, could rekindle the old flames of the nineties.³ When in the summer of 2022, the Kosovar government-imposed reciprocity measures against Serbian car plates, the stage was set for future confrontation.⁴ In the course of the next months, barricades were repeatedly set up and dismantled in northern Kosovo. The tensions culminated when Belgrade incited the mass resignation of the police, judiciary, and civil authorities in the north.⁵ Further, in

¹ *European External Action Service*. "Belgrade-Pristina Dialogue: Agreement on the Path to Normalisation between Kosovo and Serbia." *European External Action Service*, 27 Feb. 2023, www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-agreement-path-normalisation-between-kosovo-and-serbia_en.

² Chance, Matthew, et al. "Peace in Europe 'shattered' as Russia Invades Ukraine." *CNN, Cable News Network*, 25 Feb. 2022, edition.cnn.com/2022/02/24/europe/ukraine-russia-invasion-thursday-intl/index.html.

³ Shea, Jamie. "Critical Thinking: One War in Europe is Quite Enough. Time to Stop Another One from Breaking Out in Kosovo." *Friends of Europe*, 6 Oct. 2023, www.friendsofeurope.org/insights/critical-thinking-one-war-in-europe-is-quite-enough-time-to-stop-another-one-from-breaking-out-in-kosovo/.

⁴ Zeqiri, Ardita. "Kosovo Applies Reciprocity Over Serbian ID Documents." *Prishtina Insight*, 1 July 2022, prishtinainsight.com/kosovo-applies-reciprocity-over-serbian-id-documents/.

⁵ Associated Press. "Kosovo police detain ethnic Serbs, sparking clashes." *AP News, Associated Press*, 5 Nov. 2022, apnews.com/article/europe-police-race-and-ethnicity-serbia-kosovo-56ca9fa7a8692f132e13548160e978a6.

December, Serbia deployed its army to the border and threatened with immediate military intervention.⁶

In this flammable situation, a team composed of US, EU, German, French, and Italian diplomats visited both Prishtina and Belgrade on January 20th, 2023 with the prospects of a new agreement.⁷ The mediators had an almost impossible task in front of them: how to reconcile one party's desire to exist and assert its sovereignty with the other's equally strong aspiration to deny and undo that reality? The solution they found was to propose a deal whereby Kosova's sovereignty is acknowledged, but only implicitly, in exchange for the establishment of the ASMM and extraterritoriality for the Serbian Orthodox Church (SOC), in the hopes that this process will lead to full mutual recognition in the future. The modest goal of the agreement was recognized in both its name (Agreement on the *Path to Normalization* between Kosova and Serbia) and the sixth article which stipulates that this is only a first step in a: "... process which should lead to a legally binding agreement on comprehensive normalization."⁸ Considering that just in 2021 US President Joe Biden had encouraged both sides to start talks "centered on mutual recognition", the subsequent downgrade represents a major step back in the way of a sustainable long-term solution.⁹

II. THE CONTENT OF THE AGREEMENT

At the time the deal was considered the most balanced approach to resolve both sides' irreconcilable differences.¹⁰ A quick analysis of the agreement reveals the de-facto recognition of Kosova by Serbia. The first article stipulates good-neighborly relations and the mutual recognition of national symbols and documents. The following two articles call for the respect of territorial integrity, sovereign equality of the states, and peaceful resolution of disagreements. The fourth & fifth articles postulate that none of the parties can represent the other in the international arena and neither can they block each other, and finally, the eighth article foresees the inauguration of permanent diplomatic missions.¹¹ Hence, it is clear that the first part of the accords ascribes the relations between two parties as between two independent states in everything but name.

The arguably major concession by Serbia in the form of de facto recognition is balanced by two commitments from the Kosovar side. Article 7 obliges Kosova to establish the ASMM and to start a negotiation process on the formalization of the role of the Serbian Orthodox Church (SOC), although the latter so far is largely eclipsed by the former. Ever since the first deal on the association was announced in 2013, the local public and much of the political elite were deeply concerned about the potential of such a community of the functionality of the Kosovar state. After all, both wars in Croatia and Bosnia were preceded by an Association of Serb Municipalities. Given the scale of legitimate trepidations, any government would be extremely reluctant to

⁶ France 24. "Serbia bids to send soldiers back into Kosovo." *France 24*, 16 Dec. 2022, www.france24.com/en/live-news/20221216-serbia-bids-to-send-soldiers-back-into-kosovo.

⁷ *Radio Free Europe/Radio Liberty*. "Western Envoys Urge Kosovo, Serbia To Continue Reconciliation Efforts." *Radio Free Europe/Radio Liberty*, 21 Jan. 2023, www.rferl.org/a/kosovo-serbia-western-envoys-reconciliation-efforts/32233455.html.

⁸ *Ibid.* 1

⁹ Crowcroft, Orlando. "President Joe Biden says mutual recognition key to Kosovo-Serbia talks." *Euronews*, 20 Apr. 2021, www.euronews.com/2021/04/20/president-joe-biden-says-mutual-recognition-key-to-kosovo-serbia-talks.

¹⁰ Prelec, Marko. "The Best Deal Kosovo and Serbia Can Get." *International Crisis Group*, 30 Oct. 2023, www.crisisgroup.org/europe-central-asia/balkans/kosovo-serbia/best-deal-kosovo-and-serbia-can-get.

¹¹ *Ibid.* 1

establish an ASMM which is exactly why the mediators balanced it with de facto recognition. Therefore, the de facto recognition of Kosova and the ASMM represent the two sides of a carefully balanced seesaw. Any thrust on one side, without an equivalent pressure on the other, is set to disturb this delicate balance and result in failure.

III. PROBLEMS

The mediators of the Agreement on the Path to Normalization would have most surely wished to pop the champagne on March 18th when the annex deal was announced. However, as is often the case in the dialogue marathon, a celebration was premature even on the very evening of the accords, since it had numerous legal and political impediments. They were initially centered on the legal validity of the agreement which was later followed by the boycott of the local elections in the northern Kosova and the draft statute of the ASMM which are to be discussed briefly below.

Legal Validity

The arduous path in front of the implementation of the deal started with an almost comical scene. The day after the accords, Serbian President Vucic declared that he did not sign the agreement in Ohrid because he had "excruciating pain" in his hand, likely to last for the next four years. Given that in 2015 Vucic was virile enough to sign an agreement with the Kosovar government, many have perceived this as a gesture to humiliate the West.¹² Although Vucic did not hesitate to express his intention to obviate a legally-binding agreement with Kosova, the EU representatives were content enough with the unsigned agreement.¹³ Alas, legal experts have been quick to point out that without a signature the agreement would have dubious legal validity.¹⁴ To quell any optimism, Serbian Prime Minister Ana Brnabic sent a letter to European External Action Services (EEAS) on the 13th of December, explicitly stating that her government respects the agreement only: "... within a context that does not pertain to the de facto and de jure recognition of Kosovo."¹⁵ As a countermeasure, the European Council has officially agreed to include the Ohrid Agreement in Chapter 35 of Serbia's accession negotiations, in this way ensuring that its European perspective is tied to compliance with its dialogue-related obligations.¹⁶

The Boycott of the Local Elections

Disregarding the legal hurdles, the first practical test that the Agreement on the Path to Normalization had ahead been when local elections for the four northern municipalities were held on the 23rd of April, 2023. After Kosovar President Vjosa Osmani had postponed them since

¹² Eror, Aleks. "The EU Has Failed in Serbia and Kosovo." *Foreign Policy*, 18 Oct. 2023, <https://foreignpolicy.com/2023/10/18/eu-usa-violence-vucic-serbia-kosovo/>.

¹³ Apelblat, M. "Belgrade-Pristina dialogue: Is the normalisation agreement legally binding?" *The Brussels Times*, 11 Jan. 2024, <https://www.brusselstimes.com/871467/871467>.

¹⁴ Weller, Marc. "Serbia's Great Challenge to Kosovo." *Koha*, 15 Feb. 2024, <https://www.koha.net/veshtrime/409431/serbias-great-challenge-to-kosovo>.

¹⁵ Baccini, Federico. "Serbia on the Eve of Its Most Crucial Election: The Government's Latest Act Is a Challenge to the EU." *EU News*, 15 Dec. 2023, www.eunews.it/en/2023/12/15/serbia-on-the-eve-of-its-most-crucial-election-the-governments-latest-act-is-a-challenge-to-the-eu/.

¹⁶ Top Channel. "BE: Serbia s'mund të antarësohet pa normalizim me Kosovën." (EU: Serbia Cannot Accede without Normalization with Kosova) *Top Channel*, 15 Jun. 2024, <https://top-channel.tv/2024/06/15/be-serbia-smund-te-antaresohet-pa-normalizim-me-kosoven/>.

previous December, the new elections were to be held after the new deal was agreed upon. However, the largest Serbian party in Kosova, the Serbian List, decided to boycott the elections until the ASMM was established.¹⁷ Nonetheless, the Kosovar leadership, backed by the international community decided to proceed with the elections that saw a 3.4% participation rate – mostly from the ethnic Albanian community – that resulted in the election of ethnically Albanian mayors in the north.¹⁸ This created fertile ground for tensions and local hooligans clashed with KFOR soldiers, resulting in more than 90 wounded soldiers.¹⁹ Consequently, the EU blamed the Kurti government for the raised tensions and announced restrictive measures against Kosova, which remain in force to this day.²⁰ After more talks, the Serbian List initially endorsed a petition for new elections, but in the end, decided to boycott them too.²¹ Some analysts believe that the reason behind the boycott is the inability to field the legally required 50% of the voters due to artificially inflated voter lists.²²

Statute of the ASMM

One of the most contentious points of the agreement was the establishment of the ASMM. Parties agreed to have a management team that would propose a draft. It was composed of local Serbs and was to be coordinated by Danijela Vujicic, who simultaneously served as a Member of Parliament in Serbia, as part of Vucic's SNS.²³ However, when the team presented the first draft-statute on May 3rd, it was deemed unacceptable by the Kosovar government and Vujicic's team was immediately dismissed.²⁴ Since then the Kosovar side has yet to propose a new draft and in the meantime the EU has officially proposed a draft-statute on the 25th of October.²⁵ The draft has been widely discussed – although it was never made public – and recently Prime Minister Kurti has refused to send it for constitutional review, even at the cost of

¹⁷ Deutsche Welle. "Lista Serbe Nuk Merr Pjesë në Zgjedhjet Lokale në Veri të Kosovës." (The Serbian List Will Not Participate in the Local Elections in the North Kosova) *Deutsche Welle*, 23 Mar. 2023, <https://www.dw.com/sq/lista-srpska-nuk-merr-pjesë-në-zgjedhjet-lokale-në-veri-të-kosovës/a-65102998>

¹⁸ Reuters. "North Kosovo Serbs Boycott Referendum on Removing Ethnic Albanian Mayors." *Reuters*, 21 Apr. 2024, www.reuters.com/world/europe/north-kosovo-serbs-boycott-referendum-removing-ethnic-albanian-mayors-2024-04-21/.

¹⁹ VOA. "Kosovo Serbs Gather to Take Over Municipality Buildings in the North." *Voice of America*, www.voanews.com/a/kosovo-serbs-gather-to-take-over-municipality-buildings-in-the-north/7113384.html.

²⁰ RFE. "Ekskluzive: BE përgatit pako sanksionesh ndaj Kosovës." (Exclusive: EU Is preparing Sanctions Packagae Against Kosova) *Radio Free Europe/Radio Liberty*, 13 Jun. 2023, <https://www.evropaelire.org/a/bashkimi-evropian-sanksione-kosove-/32457967.html>

²¹ RFE. "Votime në Veri, Shkarkim i Kryetarëve të Komunave." (Elections in the North, Recall of Mayors) *Radio Free Europe/Radio Liberty*, 21. Apr. 2024, <https://www.evropaelire.org/a/votime-veri-shkarkim-kryetare-komuna-/32913778.html>

²² Dashi, Xhezair. "Lista Serbe Bojkotoi Referendumin Sepse e Panë Që Nuk Është Kaq e Thjeshtë." *Nacionale*, Apr. 2024, nacionale.com/politike/lista-serbe-bojkotoi-referendumin-sepse-e-pane-qe-si-kane-50-kaq-e-thjeshte.

²³ Himbeqa, Dreni. "Kush është Danijela, shefja e Asociacionit politikanja e Vuçitit që kërkonte sanksionimin e Kurtit?" (Who is Danijela, the Chief of Associatin the Politician Who asked for Sanctions Against Kurti) *Albanian Post*, 7 Apr. 2023, albanianpost.com/kush-eshte-danijela-shefja-e-asociacionit-politikanja-e-vucicit-qe-kerkonte-sanksionimin-e-kurtit/.

²⁴ Deutsche Welle. "Kosovë: Shkarkohet ekipi menaxhues i Draft Statutit të Asociacionit." (Kosova: The Management Team for the Draft Statute Was Is Sacked) *Deutsche Welle*, 3 May. 2023, www.dw.com/sq/kosov%C3%AB-shkarkohet-ekipi-menaxhues-i-draft-statutit-t%C3%AB-asociacionit/a-65501679.

²⁵ Taylor, Alice. "EU to Propose Serb Association Model as Kosovo Digs in Heels over Serb Attack." *Euractiv*, 25 Oct. 2023, www.euractiv.com/section/politics/news/eu-to-propose-serb-association-model-as-kosovo-digs-in-heels-over-serb-attack/.

admission into the Council of Europe.²⁶ Currently, conventional wisdom in the West is that the creation of ASMM is the *sine qua non* of not only the dialogue process but also every other international initiative of Kosova.

From Dialogue to State-Sponsored Terrorism; Banjska and Its Aftermath

All the problems discussed above are relatively trivial compared to what conspired on September 24th, 2023 which was by far the gravest violation of the agreement and the whole spirit of dialogue. On that date, a terrorist group, funded and trained by Serbian security services, entered Kosova with enough military-grade weapons for months' long campaign.²⁷ In the first clash, Kosova Police (KP) sergeant Afrim Bunjaku was killed by a remotely controlled mine. His death also marked the clinical death of the Agreement on the Path to Normalization. The terrorist group went on to barricade themselves in the nearby Banjska Monastery, holding hostage all the pilgrims that had come to celebrate an Orthodox holiday. The Special Forces of KP quickly engaged the group, eliminating at least three of them and by the end of the day succeeded in freeing the premises of the Monastery. Although luckily the whole episode did not last a full day, the underlying problems and the potential for violence were clear to everyone.

Serbian military and secret service trained, funded, and armed a group of terrorists in the hopes of recreating 'the Little Green Man' scenario in Crimea, whereby Russian servicemen had entered the peninsula in 2014 in uniforms without insignias and precipitated its annexation.²⁸ A similar incursion had tested the waters three months prior, when three KP officers were kidnapped inside Kosovar territory.²⁹ Hence, the goal of the terrorist group seems pretty clear: it was to attack the police and chase them down to North Mitrovica where they would declare an insurrection and demand unification with Serbia, leaving the international community in front of a *fait accompli*.³⁰ The support of some of Serbia's highest state institutions for this plan suggests that the whole time dialogue was going on in Brussels, in Belgrade there were plans of aggression and annexation.

In these circumstances, dialogue between two parties appears to be almost meaningless. To this day the self-confessed author of the attack Milan Radoicic walks freely in Belgrade and is defending himself in freedom.³¹ The requests for his arrest and extradition to Kosova have fallen on deaf ears. Additionally, Serbia declared official day of mourning for the deceased terrorists. The Chief of BIA Aleksandar Vulin, who footed the political responsibility for the attack by

²⁶ Isufi, Perparim & Isufi, Antigona. "Kosovo PM Rejects West's Terms for CoE Membership." *Balkan Insight*, 8 May 2024, balkaninsight.com/2024/05/08/kosovo-pm-rejects-west-s-terms-for-coe-membership/.

²⁷ Lefebvre, Valentine. "Kosovo Accuses Serbia of Involvement in Paramilitary Ambush." *The Guardian*, 28 Sept. 2023, www.theguardian.com/world/2023/sep/28/kosovo-accuses-serbia-of-involvement-in-paramilitary-ambush.

²⁸ Furlong, Ray. "The Changing Story of Russia's 'little Green Men' Invasion." *RadioFreeEurope/RadioLiberty*, RFE/RL, 25 Feb. 2019, www.rferl.org/a/russia-ukraine-crimea/29790037.html.

²⁹ Stojanovic, Dusan, and L Lazar Semini. "Kosovo Says 3 Border Police Officers 'kidnapped' by Serbia; Belgrade Says They Crossed Illegally." *AP News*, 14 June 2023, apnews.com/article/kosovo-serbia-police-officers-captured-0c0203279089413a3657e822e829284a.

³⁰ Isufi, Perparim & Stojanovic, Milica. "Kosovo Serb Kingpin Radoicic Takes Responsibility for Weekend Shootout." *Balkan Insight*, 29 Sep. 2023, <https://balkaninsight.com/2023/09/29/kosovo-serb-kingpin-radoicic-takes-responsibility-for-weekend-shootout/>.

³¹ Radio Free Europe. "Belgrade Court Orders Release of Politician Accused of Organizing Monastery Attack." *RadioFreeEurope/RadioLiberty*, RFE/RL, 4 Oct. 2023, www.rferl.org/a/serbia-release-monastery-attack-radoicic/32622767.html.

resigning, has resurfaced as the Deputy Prime Minister in the new government.³² Without any Western guarantees against any future aggression continuing the dialogue process, above all, unilaterally establishing the ASMM, is a politically suicidal project for any Kosovar government.

Council of Europe Debacle

After a few months passed from the darkest episode in Banjska and a semblance of stability returned to the northern municipalities, Kosova had a crucial test in front. Immediately after Russia's expulsion from the Council of Europe (CoE), Kosova applied for membership in May 2022.³³ This application could only be discussed after the Council of Europe rapporteur Dora Bakoyannis submitted her report, which she did in March 2024, endorsing Kosova's application for membership.³⁴ Emboldened by the Kosovar government's decision to implement the Constitutional Court's decision vis-à-vis the Decan Monastery, the Parliamentary Assembly voted with a resounding 83% support in support of the application. Nevertheless, when everything seemed to be going smoothly, Kosova's main allies threw in a curveball. They demanded the submission of the EU-proposed draft-statute of the ASMM to the Constitutional Court as a precondition for moving ahead with the vote in the Council of Ministers.³⁵ Prime Minister Kurti refused this conditioning and thereby closed the door on the membership in CoE, for the moment being.

On one hand, the Western allies are right when they demand that Kosova fulfills its end of the Agreement on the Path to Normalization. However, as said earlier, the Association and de facto recognition are the two inseparable components of the agreement. Overlooking Serbia's vote and campaign against the CoE membership process³⁶, which is a material breach of the agreement while pressuring Kosova to unilaterally implement its duties is counter-productive. One-sided implementation of the agreement by Kosova when Serbia has both declared its intention and taken action to breach it will neither result in compliance nor diffusion of tensions. Hence the real losers of the Strasbourg debacle became the Kosovar citizens – especially the Serb community – who are denied access to the European Court of Human Rights. Kosovars, together with Belarusians and Russians, are the only Europeans who cannot challenge their governments in international courts.

IV. CONCLUSIONS

This paper was the debriefing of the negotiation process between Kosova and Serbia in the last fifteen months since the Agreement on the Path to Normalization. Though, there was much optimism in the air last March, it unfortunately could not survive to this year. The

³² Radio Free Europe. "U.S. 'Disappointed' Proposed Serbian Government Includes Blacklisted Individuals." *RadioFreeEurope/RadioLiberty* 1 May 2024, <https://www.rferl.org/a/serbia-sanctions-government-ministers-cabinet/32929045.html>.

³³Parliamentary Assembly. "Application for membership set out in the letter of 12 May 2022 addressed to the Secretary General of the Council of Europe, in line with Statutory Resolution (51) 30." *Parliamentary Assembly of the Council of Europe*, 25 May 2023, <https://rm.coe.int/application-for-membership-set-out-in-the-letter-of-12-may-2022-addres/1680ad7750>.

³⁴ Isufi, Perparim. "Council of Europe Rapporteur Backs Kosovo's Membership Bid." *Balkan Insight*, 25 Mar. 2024, balkaninsight.com/2024/03/25/council-of-europe-rapporteur-backs-kosovos-membership-bid/.

³⁵ Bislimi, Bekim. "A e ka Asociacioni Çelësin e Këshillit të Evropës?" *Radio Evropa e Lirë*, 24 Apr. 2024, www.evropaelire.org/a/a-e-ka-asociacioni-ceselin-e-keshillit-te-evropes-/32918999.html.

³⁶ Euronews Albania. "Serbia campaign against Kosovo in CoE, Vučić letter to Macron and Scholz." *Euronews Albania*, 13 Apr. 2024, <https://euronews.al/en/serbia-campaign-against-kosovo-in-coe-vucic-letter-to-macron-and-scholz/>.

Agreement while politically significant has not yet made it from the legal realm to the implementation on the ground. It was beset since the beginning by legal vagueness and was gravely damaged by the boycott of local elections and the failure to agree on a draft statute for the Association. The CoE membership fiasco also did not help with the popularity of the dialogue. But above all, the aggression in Banjska has assassinated any hope of normalization of relations between Kosova and Serbia. While two negotiating teams continue in a seemingly endless stream from one unproductive meeting to another, one can't help but empathize with Sisyphus and finally, one may conclude that Camus was wrong; Sisyphus is not, indeed, happy.

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