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JOINT
Brief

No. 22

November 2022

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Pol Bargués, Assem Dandashly,
Hylke Dijkstra and Gergana Noutcheva



This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement N. 959143.

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Beyond License Plates and Crisis Management: Options for the EU for a Final Agreement on Kosovo and Serbia

Pol Bargués, Assem Dandashly,
Hylke Dijkstra and Gergana Noutcheva

Bargués is Research Fellow at the Barcelona Centre for International Affairs (CIDOB). Dandashly is Assistant Professor at Maastricht University. Dijkstra and Noutcheva are Associate Professors at Maastricht University.

With the 15th year anniversary of Kosovo's independence approaching in 2023, the status quo of the Kosovo–Serbia conflict looks increasingly untenable. For more than a year now, tensions between Kosovo and Serbia have escalated over license plates, ID cards and energy. The latest hiccup was a failed crisis meeting in Brussels on 21 November between Kosovar Prime Minister Albin Kurti and Serbian President Aleksandar Vučić facilitated by High Representative Josep Borrell and Special Representative for the Belgrade–Pristina Dialogue Miroslav Lajčák.¹ These tensions are particularly worrisome against the background of Russia's war in Ukraine, which demands the EU's undivided attention and which has seen Serbia hedge its EU accession prospect against its historical ties with Russia. Yet the war in Europe has also put the Western Balkans back into the spotlight creating a window of opportunity to take action over the Kosovo–Serbia conflict.²

¹ Milica Stojanovic and Xhorxhina Bami, "EU's Borrell Blames Kosovo for Fresh Licence Plates Stalemate", in *Balkan Insight*, 21 November 2022, <https://balkaninsight.com/?p=1017770>.

² The analysis of this policy brief is based on 36 interviews in Brussels, Belgrade, Pristina, Athens, Madrid and online, mainly in September 2022.

The EU's approach to Kosovo and Serbia

Solving the conflict between Kosovo and Serbia has long been on the EU's agenda, but in the current context the EU's approach no longer suffices.³ Most notably, the EU member states remain as split on Kosovar statehood as they were in 2008 when Kosovo declared its independence from Serbia. Cyprus, Greece, Romania, Slovakia and Spain keep refusing to recognising Kosovo's independence absent Serbia's consent out of concern this sets a precedent for domestic separatist demands.

To address their own disagreement on statehood, they have heavily relied on the delegation of responsibilities to EU institutions. EU instruments such as the facilitated dialogue, the EULEX rule of law mission and the accession process for Serbia and Kosovo are fully supported by all the member states. The member states have also constructively allowed for considerable entrepreneurship by the EU institutions, which have sought technical as well as creative solutions to allow Kosovo to sign a Stabilisation and Association Agreement, to engage in a visa liberalisation process and to build and support state and rule of law institutions through EULEX.

While temporarily side-stepping intra-EU disagreement may have been convenient, the EU and its institutions ultimately have their hands tied by the member states. This not just raises questions about the credibility of Borrell (and to a lesser extent Lajčák), coming from non-recognising Spain (and Slovakia), as mediator. It also presents a major roadblock for Kosovo to move forward. Following the Russian war in Ukraine, after all, the European Council has decided to bring geopolitical considerations back into the enlargement process. With candidate status given to Ukraine and Moldova, and potentially soon to Bosnia and Herzegovina, as well as the opening of accession negotiations with Albania and North Macedonia, the EU has taken consequential decisions for the Western Balkans. There is an urgent risk that the Kosovo–Serbia dispute is left behind resulting in the EU losing leverage over the conflict. This is compounded by the EU's member states mishandling of Kosovar visa liberalisation, which was recommended by the European Commission

³ Riccardo Alcaro et al., "A Joined-Up Union, a Stronger Europe. A Conceptual Framework to Investigate EU Foreign and Security Policy in a Complex and Contested World", in *JOINT Research Papers*, No. 8 (March 2022), <https://www.jointproject.eu/?p=969>.

in July 2018 but has run into a member states blockage, with Spain now requesting for this to be postponed until after its EU Presidency in the second half of 2023 is over.⁴

A window of opportunity for political agreement

The problem is that all these petty problems over license plates and member states tensions over statehood distract from the fact that the Kosovo–Serbia conflict is solvable. Russia’s war against Ukraine has put the Western Balkans back in the spotlight. Importantly, there now is a window of opportunity of about 12–18 months to take action over the Kosovo–Serbia conflict. With no major domestic or international elections until 2024, all actors have some leeway to make concessions and reach agreements.

France and Germany have notably tasked Emmanuel Bonne and Jens Plötner, the foreign policy advisors of President Emmanuel Macron and Chancellor Olaf Scholz, to engage with the EU’s facilitated dialogue and both countries more directly. They have put forward a proposal for a final agreement on Kosovo and Serbia consisting of nine articles.⁵ While the end state may not include the formal recognition of Kosovo by Serbia, other steps can be taken in the normalisation of relations including Serbia not blocking UN membership for Kosovo. With the 6 December EU–Western Balkans Summit fast approaching, France and Germany with support from the EU hope to create momentum for such a final agreement. Following the failed Brussels meeting of 21 November, however, it appears that the reported timeframe of adoption of a political agreement (by March 2023) is no longer feasible.⁶

The EU and its member states will need to appear much more credible and consistent to both Kosovo and Serbia. This requires that the EU should reward

⁴ “Spain Suggests Kosovo’s Visa Liberalisation Process Be Finalised on January 1, 2024”, in *SchengenVisaInfo*, 17 November 2022, <https://www.schengenvisainfo.com/news/?p=43036>; “Spain Opposes It, the Czech Proposal for the Liberalization of Visas for Kosovo Is Rejected”, in *Politiko*, 16 November 2022, <https://politiko.al/english/i470836>.

⁵ Alexandra Brzozowski, Alice Taylor and Georgi Gotev, “Leak: Franco-German Plan to Resolve the Kosovo-Serbia Dispute”, in *Euractiv*, 9 November 2022, <https://www.euractiv.com/?p=1836496>.

⁶ Milica Stojanovic and Xhorxhina Bami, “EU’s Borrell Blames Kosovo for Fresh Licence Plates Stalemate”, cit.

Kosovo's domestic reform record by granting visa liberalisation and moving forward with the EU membership process.

Kosovo has long complied with the EU visa liberalisation requirements as confirmed by the Commission in 2018. It ranks much better on rule of law than neighbouring Serbia, North Macedonia and Albania.⁷ There are no objective grounds on which the EU can continue depriving Kosovars of visa-free travel to the Schengen zone, also considering that stalemate on the visa issue feeds local perceptions of double standards and unfair treatment. Any further postponement leads of a further loss of the limited credibility that the EU still has. The EU should also welcome a possible Kosovar membership application, just as it has done with Bosnia and Herzegovina recently. Yet the EU should make any further progress on the accession path conditional on Kosovo's fulfilment of its commitments on the integration of the Serbian minority and further improving local democracy standards.

The EU should also prepare a positive agenda for Serbia. The EU needs to appear more flexible in the negotiations on Serbia's accession, with the Franco-German proposal reportedly including a "fast track",⁸ and contrast the widespread perception among Serbs that Serbia is the least preferred of the candidate countries. At the same time, it should make clear to Serbia that the EU democratic acquis is non-negotiable and cannot be bypassed or bargained against progress in other areas. Likewise, Serbia cannot reasonably hope to become a member if it does not improve its record in aligning with EU foreign and security policy, especially on the Ukraine war.

Finally, the five non-recognising EU member states should take practical steps to improve their relations with Kosovo. They cannot longer hide behind Serbia (and the EU institutions). While full diplomatic recognition of Kosovo may not be feasible in the immediate future, it is important that they show commitment to Kosovo's European perspective. Within the EU itself, they should avoid policies that block visa liberalisation, such as Spain's most recent attempt, or potential

⁷ World Justice Project, *Rule of Law Index 2022*, <https://worldjusticeproject.org/rule-of-law-index/global/2022>.

⁸ Alexandra Brzozowski, Alice Taylor and Georgi Gotev, "Leak: Franco-German Plan to Resolve the Kosovo-Serbia Dispute", cit.

candidate status. They should also take bilateral steps. Spain could immediately accept Kosovar passports and Schengen visas just like the other non-recognisers do. Given the untenable status quo, it is also important to incentivise Greece, the non-recognising member state that has the closest relationship with Kosovo, to reconsider its non-recognition policy.

Time for the EU to step up

Kosovo and Serbia do not make the lives of EU officials any easier with their stubborn refusal to give ground to each other. The failed eight-hour Brussels meeting with Borrell and Lajčák on 21 November resulted in little and made matters arguably worse. Both countries clearly bear part of the blame, but the EU and its member states should also consider their own conduct. After almost 15 years of Kosovar independence, it is important to recognise the country as such and to move forward to a final agreement. With the Russian war in Ukraine in the background, the EU cannot afford further distractions in the Western Balkans and needs to step up. There currently is momentum and significant interest of key EU member states. The EU should not miss out on this window of opportunity.



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