



POLICY

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In this study on the dialogue between Prishtina and Belgrade an analysis of the up to date progress, reached agreements and their implementation will be presented based on the positions of both sides. In addition, responses of the final results of these negotiations will be sought.

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DIALOGUE KOSOVO – SERBIA

Normalization of reports or mutual recognition?

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1. INTRODUCTION

Kosovo's state-building as the newest state in Europe, created as a result of an internationally negotiated plan, also known as Ahtisaari's Plan has stirred up great interest in the academic world as well as different policy-making circles. Presently, five years after the declaration of the independence and two years after the start of the negotiations, Kosovo does not seem yet the place that has solved all the challenges –both internal and external troubles. Primarily, the issue of non-recognition by many countries of the world and the inability of membership in various international mechanisms and bodies have made this country continue being a type of *sui generis* in the international relationships and rights. In addition, the issue of the northern part of Kosovo, which is not under the jurisdiction of the Republic of Kosovo, presents a serious political problem, in terms of safety, as well. In these and many other open issues in the country, the main factor is the role and the non-constructive impact of Serbia in relation to Kosovo.

Therefore, in order to solve this Gordian knot, which is damaging not only Kosovo but leaves the whole region in tension, and as a hostage in the European integration processes, an immediate requirement for the beginning of the negotiations between these countries in order to find acceptable solution for both sides has reached the surface. Starting from the historical experiences and the tense relations in between, the international community's facilitation has been more than necessary. On this occasion, the European Community has taken a decisive role both in facilitating the talks and guaranteeing that agreements will be reached. Since this initiative would not go ahead without many political objections both in Prishtina and Belgrade, they were initially named with euphemisms and soft diplomatic terms, and led by less important official levels starting with less delicate issues. However, over the time there were various rounds of talks and the dialog started to take a political connotation by reaching its peak with meetings between Prime Ministers and Presidents of the two countries.

This analysis will offer a historical account on the earlier negotiations between Belgrade and Prishtina aiming to reflect the stances and actions of the two countries in relation to resolving the Kosovo issue. Furthermore,

the focus will be on the political context and relevant government positions after the declaration of Kosovo's independence. In the following chapter, we will be concentrated on the start of the talks during different periods, including the agreements. The implementation of the agreements in practice, the possible challenges and the up-to-date results will be elaborated in the following chapter. Finally, the future of these negotiations will be reviewed and the answer on what can be expected from the finalization of these negotiations will be sought, whether it is only a normalization of reports or mutual recognition as two neighbouring countries?

During the negotiation analysis, the lack of official documents and complete transparency were basic challenges that appeared, including official negotiating agendas and publication of official versions of the reached agreements. As a matter of fact, negotiating processes are politically very sensitive and international practices usually refer to such lacks of transparency, especially during the ongoing process of dialogue as in our case. Consequently, a large part of information will be used from various Kosovo, Serbian and international media well as acknowledgement of the circumstances and political stances of the negotiating parties.

2. HISTORICAL CONTEXT OF THE NEGOTIATIONS BETWEEN KOSOVO AND SERBIA

Upon unsuccessful conclusion of the negotiations between Serbia's and Kosovo's delegations at the French castle of Rambouillet, the course of the events in Kosovo took a dramatic turn followed by NATO strikes against Serb forces that lasted for full 78 days and resulted in their final withdrawal, and the end of the war in Kosovo. Based on the resolution 1244¹ of the UN Security Council, Kosovo came under the interim administration of the United Nation's mission known by the acronym UNMIK, by gradually building self-government institutions without prejudice on the country's status.

¹ This resolution was acclaimed by experts of the circumstances with these words; „*This was not a document designed to outline the long-term future of Kosovo but it was a diplomatic deal struck to end the bombing campaign.*” Tim Judah: Kosovo and its Status, at: Dimitros Trintaphyllou (Eds.): What status for Kosovo? Chaillot Paper Nr.50, Institute for Security Studies, Paris October 2001, fq. 55



This administration over the years became not only ineffective, but also a drawback to the governance and the democratic processes. Final resolution of the legal and political status of Kosovo was sought more and more from the country and international stakeholders.² In this regard, in the beginning of 2006 negotiations between Kosovo and Serbian parties were launched, known as Vienna negotiations.

Kosovo's final status negotiations were mediated by the Office of the Special Envoy to Kosovo (UN Office of the Special Envoy for Kosovo- UNOSEK) and were led by UN Special Envoy for Kosovo, former Finnish President Martti Ahtisaari. His deputy was the Austrian diplomat Albert Rohan that worked closely with the Contact Group countries and other relevant international stakeholders (Security Council, NATO, European Commission etc). The basic principle of the mediators was that there was no return back to the situation that existed in Kosovo before 1999 and that any unilateral solution based on the use of force would be unacceptable.

Kosovo's delegation was represented by the highest political officials, led initially by the President Ibrahim Rugova and following his death by President Fatmir Sejdiu and has been known by its symbolic name "Unity Team" since in it were included both government and opposition representatives. The delegation was upheld by another mechanism created from the "Strategic Political Group" composed of the highest representatives of Kosovo. Serbian delegation had chosen lower ranking government officials for its representation, mainly from the ranks of its foreign affair ministry, experts and representatives of "minority communities" from Kosovo. Positions of the two parties were diametrically opposite and during this year 15 rounds of direct negotiations were held, where the issue of decentralization, the rights of the communities and local self-government were crucial topics. After 14 months of diplomatic negotiations and refusal by Serbia to the President Ahtisaari's proposal, the Special Envoy of the

Security Council presented a comprehensive proposal which required supervised independence for Kosovo.³

Similar to the case of Rambouillet, the Serbian side returned to the request tactics for re-negotiation and new proposals, but that was contrary to the agreements reached and the reality on the ground. After the expiration of a period of 120 days from the review of the UN Security Council of the comprehensive proposal for the resolution of Kosovo's⁴ final status, on 17 February 2008, Kosovo was declared an independent and sovereign state.

3. PRISHTINA – BELGRADE DIALOGUE

3.1 Political context prior to the dialogue

New circumstances arising after Kosovo's statehood have caused continuation of the tensions between Prishtina and Belgrade, but many vital issues remained open for the citizens of two countries. In addition, the declaration of the independence had a reflection in Serbia's domestic scene, deepening disputes among coalition partners President Vojislav Koštunica and Prime Minister Boris Tadić. The government of Serbia, as a dissenting measure withdrew the Serbian ambassadors temporarily from the countries that recognised Kosovo as a state and submitted a complaint to the International Court of Justice on the legality of Kosovo's declaration of independence. The advent of the new government in Serbia changed the approach slightly, cooperating not only with UNMIK but also with EU Mission in Kosovo EULEX. Despite this, Kosovo's independence was still categorically refused.

The opinion of the International Court of Justice on Kosovo was declared in July 2010 and was positive.⁵ This caused a serious blow for the Serbian policy towards Kosovo. Several months later under the pressure of the EU High Representative Baroness Catherine Ashton, Serbia together with the EU drafted a UN reso-

² See among others, Morag Goodwin: From Province to Protectorate to State? Speculation on the Impact of Kosovo's Genesis upon the Doctrines of International Law, in: German Law Journal, Special Issue – What Future for Kosovo? Vol.8 No.1, 2007

³ See for more, Marc Weller: *The Vienna negotiations on the final status for Kosovo, at; International Affairs 84: 4 (2008) 659–681*

⁴ Comprehensive proposal for Kosovo Status Settlement, United Nations S/2007/169/Add.1

⁵ International Court of Justice advisory opinion on Kosovo's declaration of independence, at: <http://www.icj-cij.org/docket/files/141/16010.pdf> (on 28.02.2013)



lution requiring transfer of the Serbian-Kosovo unresolved issues from the UN bodies to the EU institutions. On the other hand, the final transfer of authorities from internationals to the local ones and implementation of the Ahtisaari's package began in Kosovo, including the adoption of the Constitution and other state mechanisms. Nevertheless, clashes between the ruling coalition partners widened with government dissolution and resulted in several months of institutional crisis. After the parliamentary elections a new government coalition was formed, which paved the way to negotiations with Serbia. The greatest incentive for both countries came from the EU and had to do with benefits and at the same time constraints in the process of Euro-integration. Therefore the two countries were forced to sit again at the negotiating table.

3.2 Dialogue process up to date

The new context created after Kosovo's statehood has caused Belgrade and Prishtina to continue with strained relations, nevertheless, many open issues between them require solutions. Following the adoption of the joint resolution of Serbia and the EU at the UN, for the first time the beginning of the talks between Kosovo and Serbia were publicly announced, also known as technical talks. However, the circumstances that were created in Kosovo after the institutional crisis and the announcement of the general elections caused postponing of their commencement for several months. Following formation of Kosovo's government, a Kosovo negotiation delegation was formed, led by the Deputy Prime Minister Mrs. Edita Tahiri, while Borislav Stefanovič, a political director in the Serbian Ministry of Foreign Affairs, was appointed as a Serbian head negotiator. In the meantime, Mrs. Catherine Ashton was appointed as a special envoy of the EU High Representative for Foreign Affairs and Security Policy, and the senior diplomat Robert Cooper as a mediator or facilitator, as presented by the EU.

The dialogue began with the first meeting between the parties, which took place in Brussels on March 8th where crucial topics were the regional representation, the freedom of movement and the rule of law. Two days later the Kosovo Assembly adopted a resolution for the dialogue between the Republic of Kosovo and

the Republic of Serbia in support of, as it is said, "technical issues of common interest, without affecting the sovereignty of Kosovo in any way (...)."⁶

The second round of talks began in the same month and involved a range of topics, starting with the issue of customs stamps, vehicle licence plates, civil registries and energy issues. The next meeting was held in April where the talking agenda involved issues of birth and death certificates, licence plates and recognition of university diplomas which were agreed at the next meeting. Dialogue was interrupted for some time, after Kosovo's special units attempt to seize control of customs points in the northern part of the country. This situation was tensed after a policeman was killed and Serbs set up many barricades and burned customs points. The new round of talks begins again in September, when agreements were reached on custom stamps and cadastral issues. Kosovo Serbs' reactions and some incidents led to the next blocking of dialogue that was unblocked after several visits of the mediator Cooper to Belgrade and Prishtina. In the next round of talks an agreement has been reached known as Integrated Border Management (IBM) which was seen as an important step in the dialogue process. The new round of talks began in February where the central issue was Kosovo representation in regional cooperation and initiatives which led to the new controversial agreement that envisaged that Kosovo should be represented with a footnote noting; "Without prejudice to the position of the parties on the status, in accordance with Security Council Resolution 1244 and the opinion of the International Court of Justice on the Declaration of Independence of Kosovo."

During this time period nine rounds of meetings and seven agreements were conducted, or conclusions as they are called in diplomatic language were reached, including: freedom of movement of people and goods, return of civil registries, cadastre registers, recognition of university diplomas, recognition of custom stamps,

⁶ Resolution of the Kosovo Assembly on the dialogue between the Republic of Kosovo and Serbia, date 10.03.2011
http://www.kuvendikosoves.org/common/docs/Rezoluta_per_dialogun_midis_R.Kosoves_dhe_R.Serbise_2.pdf (on 02.03.2013)



integrated border management and regional representation.⁷

The balance of agreements is miscellaneous, some of them have been implemented, such as the one for university diplomas, custom stamps, licence plates, joint management of two border crossing points that were burnt two years earlier by the Serb protesters and this is planned to take place in the other points too. Although some of the agreements are being implemented gradually, such as the ones about returning of civil and cadastral registries, however, there are agreements that are not implemented yet such as the case with representation in the regional cooperation where Serbia either boycotts meetings where Kosovo is present or by different means hinders Kosovo in such initiatives. In addition, the export of goods in Serbia is made difficult and hindered by many ways. Nevertheless, the fact that for the first time the two parties achieved to find solutions through dialogue and to implement them, is very hopeful for the future of these negotiations.

The elections in Serbia and a radical government coming to power seemed that would jeopardise the continuation of the dialogue, but despite harsh pre-election rhetoric this did not happen. The dialogue, which up to that time had been labelled as "technical talks" and where agreements were assessed as 'conclusions' entered a new phase when both head negotiators and the mediator were replaced. This signalled the change of the negotiating nature from "technical" terms in those of more political ones as well as raise the level of meetings. Prime Ministers of both countries, Hashim Thaçi from Kosovo and Ivica Dačić from Serbia met for the first time on 19th October of the last year facilitated by Mrs. Ashton in Brussels. In meantime, President of Kosovo appointed Mr. Blerim Shala as coordinator for the negotiations between Prishtina and Belgrade. Such Prime Ministers level meetings were held four times, but the topics discussed and the achievements were not entirely clear to the public. The next meeting between the two Prime Ministers was held on 18th and 19th where one of the key issues was treated; the one of the dissolution of the Serbian parallel structures in

the north of Kosovo and establishment of the Association of the Municipalities with the Serbian minority in Kosovo, an issue that remained to be treated in order to solve modalities within the next meetings.⁸ The sixth round of meetings between the Prime Ministers on March 4th did not bring any concrete agreements, although according to the statements given by the negotiators there was an approximation of the positions, especially on the dissolution, or respectively, the integration of the Serbian parallel structures in Kosovo. The next meeting was announced for 20th March when concrete agreements are expected to be reached about the authorities of the Association of the Municipalities and the issues related to this topic.⁹

These meetings had different interpretations both in the Serbian political scene as well as within Kosovo. An agreement that was made known for the public is the exchange of liaison officers to act within the EU offices in Belgrade, or in those of the EU in Prishtina, respectively.

The next meeting followed between the two Presidents of the two countries Mrs. Atifete Jahjaga and her Serbian counterpart Tomislav Nikolić on the 6th February of this year, which was quite symbolic and conveyed a hopeful message on approximation of the positions about resolving the issues between the two countries.

4. POSITIONS OF THE SIDES IN THE DIALOGUE

Positions of the two sides were already known to each other and they were diametrically different. While Serbia did not accept Kosovo's statehood in any way, Kosovo insisted that Ahtisaari's package represents the only alternative in order to ensure the rights of Serbs in Kosovo. In fact, both sides are driven in this dialogue by the EU lure and conditioning that is done in the process of European integration rather than the good will to solve the problems for their citizens.

However, solid positions that the sides have had since the beginning of the dialogue up to the present are proven to become more flexible and that technique of

⁷ About the chronology and development of talks up to this phase see ; Leon Malazogu/Florian Bieber: The Future of Interaction between Prishtina and Belgrade, PER-K, Prishtina, September 2012

⁸ Zëri(Newspaper), "Thaçi: Agreements on the parallel structures in the next meetings" date 20.02.2013

⁹ Koha ditore, "Agreement about Association, but not on its competences." Date 05.03.2013



"carrot and stick" from Brussels seems to be, at least in this phase, very effective in position aligning.

4.1 Serbia's position

Serbia rejects Kosovo's statehood, not only in external plan by blocking international recognitions and country's membership in international organizations and institutions, but also in the internal functioning of the country by keeping alive and supporting its parallel government structures, in various forms throughout these years. The north of Kosovo, in particular, which is de facto under Serbian control, remains one of the key issues in the settlement of the disputes between Prishtina and Belgrade.

Belgrade has non-formally announced the idea of separation of Kosovo as a possibility of the final solution for Kosovo issue. Since this option has been categorically refused from the international community as well as official Prishtina, Serbia started to propose ideas about the autonomy of the municipalities with Serbian majority in Kosovo as a separate entity within Kosovo.

As it was mentioned above, the ICJ opinion on Kosovo's independence and clear messages from German Chancellor Angela Merkel in Belgrade that Serbia cannot count on the candidate status for the EU membership, without dismantling its structures in the north and normalising its relations with Kosovo, led Serbia to become more pragmatic about Kosovo.¹⁰ In this context, the dilemma that Serbia must choose between Kosovo and Brussels, was replaced by the government in Belgrade with positions that they want "both Kosovo and Brussels".¹¹ The plan that was put forth by the former President Boris Tadić contained four key points pertaining to implementation of the Ahtisaari's package in the northern part as well, while the other part included creation of the autonomous region of "Northern Kosovo", then creation of a special status for the Serbian religious and cultural institutions, and resolving property issues of the public and social companies. This sig-

nalled that Serbs are ready to start a dialogue with Prishtina, aiming to, as it is said, improvement of Kosovo citizens' living conditions. Nevertheless, harsh tones against any dialogue came from the opposition in Serbia, in particular from the leader of the Serbian progressive Party (Srpska Napredna Stranka-SNS) Tomislav Nikolić, who after achieving victory in the elections and taking the post of the President of the country, has considerably softened his position. Therefore, in January 2013 the Serbian parliament adopted a resolution in support of establishing a dialogue platform with Prishtina, which required creation of the Association of Serbian Autonomous Municipalities. A connoisseur interpreted this as Serbia finally moving away from the illusion that it may have power in Kosovo and that in this way it indirectly admits territorial integrity.¹² In the meantime, several analysts see this platform as a political change between leaders and parties within Serbia.¹³

Serbia's objectives in this dialog, in addition to incentives that come from candidature to membership in the EU, are creation of the autonomous Serb entity in the north of Kosovo which goes beyond the rights and local self government enjoyed by municipalities with Serbian majority according to Ahtisaari's plan. This scenario would suit Serbia in two aspects, in one side it would be served to Serbian public opinion and electorate as a great victory coming from the talks, while on the other hand it would allow Kosovo Serbs not to be governed by Prishtina and it would create an almost clean ethnic entity, similar to Republika Srpska in Bosnia, within Kosovo. Therefore the recognition of Kosovo by Serbia, from this dialogue, can hardly be expected and the north of Kosovo remains the most sensitive issue of the negotiations, since the Serbs' main objectives are related mainly to this objective to create a territorial entity which would politically and financially be very little under the jurisdiction of the Official Prishtina.

¹⁰ Vladimir Todorovic/Leon Malazogu: Dialogu Beograd-Prishtinë; Nevojitet transformim i interes vetanak, New Policy Center&PER-K, Beograd-Prishtinë, Nëntor 2011, fq.9

¹¹ Këtë politikë e ndiqte ish-Presidenti serb Boris Tadic i cili theksonte se Serbia mund të anëtarësohet në BE edhe pa e "dorëzuar" Kosovën.

¹² International Crisis Group: Serbia and Kosovo; The Path to Normalization, Report No223, 19 February 2013, pg.8

¹³ David B. Kanin: Serbia's shaky platform, 3 January 2013 at: <http://www.transconflict.com/2013/01/serbias-shaky-platform-313/> (on 26.02.2013)



4.2 Kosovo's position

One advantage that Kosovo had in this dialogue is the existence of a full political consensus about the need for a dialogue, both on the part of the ruling coalition and the opposition parties, with the exception of the Self-Determination Movement (Lëvizja Vetëvendosje), which harshly opposes these talks since their beginning. The mandate of the Kosovo government to dialogue with Serbia is clearly determined by the Kosovo parliament by the aforementioned resolution. Another resolution in support of the normalization of relations between the Republic of Kosovo and the Republic of Serbia was adopted by the Assembly on 18th October 2012¹⁴

Kosovo's position in the talks, which were originally disclosed as the technical ones is that territorial and constitutional integrity are non-negotiable and that their goal is the integration of the northern part of the country as well as the normalization of relations with Serbia, and that the Ahtisaari package contains the best offer for accommodating the rights of Serbs in Kosovo. So for Kosovo, red lines were set within the framework of the Ahtisaari plan and the country's constitution. Similar to the Serbian side, the most important attraction came from Brussels and the European integration process, i.e. the visa liberalization. But this dialogue also is aimed to soften the positions of Serbia, which through its allies prevents Kosovo's membership in the UN and recognition from other states.

The prolonged negotiation process, the lack of transparency on the topics discussed, namely the lack of official documents of the deals, then delays in the process of European integration, as well as blocking the process of recognition and membership in the international mechanisms, have caused the public support for the dialogue to fade, while the criticism from the opposition grows in a consistent manner.¹⁵ The dialogue risk comes from the fear that if Ahtisaari's package is opened it could undermine the functioning of the state and threaten the separation of Kosovo.¹⁶

Following the ICJ opinion on Kosovo's independence and after completion of independence supervision in September 2012, as well as the government stability, Kosovo's position seemed to be very favourable for the development of the dialogue with Belgrade. Nevertheless, Kosovo's disadvantage in this process is that the compromises, especially around the north, can lead to profound political crisis or new inter-ethnic tensions. Kosovo's side in this way is running on a thin layer of ice, due to increasing pressure both from domestic and international policies concerning the Stabilisation and Association Agreement and the visa liberalisation. However, Prishtina has an excellent opportunity to get out of this *status quo* through this dialogue, starting from normalization of the report with Serbia, creation of new perspectives for inclusion in the international arena, and eventually managing integration of the northern part within Kosovo's political and constitutional system. Any other agreement that would constitute an ethnic and territorial entity with special powers, whether hidden behind some type of Association of Municipalities or other forms would have destabilizing consequences for Kosovo-since it could aggravate inter-ethnic relations as well as region whereas such models and authorities could be aimed in the Preshevo valley, the Bosniak community in Sandžak, the Albanian community in Macedonia etc. Therefore, the creation of ethnic territorial units with executive powers would be unsustainable in the long term.

5. CONCLUSIONS AND RECOMMENDATIONS

Given the fact that these negotiations are of vital importance for the Republic of Kosovo and Serbia, as well as the general stability of the region they require better clarification towards public opinion on the course and content of agreements. Therefore, discussions made by civil society and media reporting on these negotiations are in function of informing the public and providing greater transparency. There are many uncertainties deriving from these talks and agreements, distracting public opinion, consequently, risking further dialogue process. Dilemmas initially arise from their denominations, whether they are talks, dialogues or negotiations and if they are really technical or political! Clarification should also exist in terms of time, since delays and

¹⁴ http://www.assembly-kosova.org/common/docs/Rezolute_Marredhenive_Kosova_Serbia.pdf (28.02.2013)

¹⁵ UNDP: Public Pulse Report, no.4, August 2012

¹⁶ Zëri, Agreement for "Ahtisaari Plus"!, date 22.02.2013



prolongations of the process does not contribute to the dialogue's success and threatens government coalitions and political constellation both in Serbia and Kosovo.

A very important element in this process is the role of the facilitator, respectively the real political power of Brussels, in order to encourage or drive parties to the agreements accepted by both sides and their full implementation. In addition, another question is implied whether the EU facilitation can guarantee the sustainability and implementation of the agreements in order for the parties to comply with them fully and without (miss) interpretations. Consequently, the expected challenges in this process are enormous and even more unknown. Therefore, the negotiations must produce concrete and acceptable results as soon as possible in order not to fail completely.

Despite all these concerns, an extraordinary achievement is the fact that the parties agreed to solve problems and disagreements through the dialogue, excluding any use of force. In addition, the parties so far have achieved a number of very important agreements and have aligned their positions to resolve many other issues.

Therefore, it is recommended that the dialogue sets clear timelines for addressing key issues, their quicker resolution and proper implementation. Pragmatic attitudes and greater commitment is required for their practical implementation, both from Belgrade and Prishtina, in order not to allow further dualistic and controversial interpretation of the agreements and creation of confusion in their regard, by hiding discussed topics and reached agreements. This will lead to the heating of tempers and nationalistic tones which can directly impact the escalation of violence, especially in the north of Mitrovica.

In addition, it is recommended that the role of the civil society, the media but also the political parties should be greater and more constructive on both sides, in order not to use this dialogue for political scores and as a pre-election campaign.

Therefore, a strong and transparent commitment from Brussels and the international community is required in order to conclude the negotiations successfully. In this context it is expected from the EU to clarify the European perspective for both countries.

This dialogue is a great opportunity, as these may be peace generators for normalization of relations between Kosovo and Serbia, if the parties accomplish to find constructive solutions to the benefit of the citizens of both countries. A successful dialogue could also serve the improvement of trust and cooperation also in other different segments between the Albanian and Serbian community, both within Kosovo and between both countries. However to be realistic it is hard to accept from these negotiations that a peace treaty will be reached as well as mutual recognition or historical reconciliation between both nations that will represent a good start and will create bridges of cooperation and normalizations of the relations between them. However, it remains to see in the weeks and months to come, or better say until June, when the conclusion is expected to clarify the achievements or the dialogue problems in the way that will be paved by both countries regarding the relations between them.

The views expressed in the paper are the author's personal points of view and they do not necessarily represent the views of the Konrad-Adenauer-Stiftung.

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