

21

January
2014

IKV BRIEF

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A Shared Victory for Serbia, Kosovo, and the EU

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On 19 April 2013, after hours-long tough negotiations and ten rounds of talks under the auspices of European Union (EU)'s High Representative (HR) for Foreign Affairs and Security Policy Catherine Ashton in the high-level EU-facilitated dialogue, the Serb and Kosovar Prime Ministers, initialled the 15-point deal on the normalization of relations. The deal marks not only a triumph for the peoples of Serbia and Kosovo and their European perspective, but also for the enlargement policy and HR Catherine Ashton. By making the launch of Serbia's accession talks conditional on the normalization of its relations with Kosovo and by making the launch of negotiations for

a Stabilisation and Association Agreement (SAA) with Kosovo conditional on the fulfilment of the short-term priorities as well as progress in the Belgrade-Pristina dialogue, the EU has linked Belgrade's and Pristina's progress towards EU membership to the normalization their bilateral relations.

From technical to political dialogue...

The Belgrade-Pristina deal is undoubtedly the product of the EU's mediation efforts. The EU-facilitated dialogue, which was initially set to cover technical issues such as free movement of persons, civil registries and cadastre records, recognition of university diplomas, and customs stamps, was later transformed to a political dialogue and this time highly sensitive issues which cut across the very definition of Serb identity such as the issue of the parallel structures in North Kosovo was on the agenda.

The significance of Kosovo for Serbs dates back to the 14th century. Kosovo has a symbolic meaning for Serbs, for it has long been regarded as an indispensable part of Serb identity-construction. Kosovo was the birthplace of the Serbian Patriarchate, with the Patriarchate being founded in the city of Peć in 1346. Furthermore, the Serb forces' defeat by the Ottomans in the Battle of *Kosovo Polje* in 1389 was a milestone that was instrumental in the very construction of Serb nationalism. After Kosovo's declaration of independence in 2008, Serbia continued to perceive Kosovo in 'zero-sum' terms. Serbia's initial strategy has been to denounce any link between Kosovo and Serbia's European perspective in the strongest possible terms. In other words, Kosovo issue and EU membership were perceived in 'either or' terms by the Serb ruling elite.

In this regard, the landmark deal on the normalization of relations demonstrates a shift from Serbia's traditional stance towards Kosovo. EU conditionality has played a significant role in ensuring this transformation.

From the very beginning, the EU has made it clear to Belgrade that acquiring a start date for the launch of accession talks will depend on Serbia's performance in fulfilling the single key priority of normalizing its relations with its breakaway region of Kosovo. The EU has demonstrated on various occasions how serious it was in securing Serbia's compliance with the fulfilment of this single priority. This initially meant focusing on Belgrade's implementation of the deals reached in the framework of the EU-facilitated technical dialogue. This was the main reason behind the Council's postponement of its decision on granting Serbia candidate status in December 2011, due to Germany's reservations stemming from Belgrade's failure to implement the deals concluded in the technical dialogue. This in turn, has led to a realization on part of Belgrade that its progress towards EU membership would not be possible without a shift in its stance vis-à-vis Kosovo. And thus Belgrade started to view Kosovo in more pragmatic terms.

The 15-point deal in a nutshell

The North

The Ibar River which flows through Mitrovica geographically divides the city to north and south. Since the 1999 war this geographical division, corresponds to a political division: a division between the ethnic Serb-dominated north and the ethnic Albanian (Kosovar) - dominated south. The North consists of four provinces: Zvečan, Zubin Potok and Leposavić and the divided town of Mitrovica. The north of the Ibar River is home to some 40.000 Kosovo Serbs, who account for one third of the ethnic Serb population in Kosovo and unlike the rest of the Kosovo Serbs in the south, the Serbs in North Kosovo reject the sovereignty of Pristina. North Kosovo Serbs have been governed by the Belgrade-sponsored parallel structures (i.e.: schools, hospitals, courts, and police force) since 1999. In the absence of effective state authority for more than a decade, the North has become a safe haven for smuggling and organized crime.

The 15-point compromise-deal officially referred to as the "First Agreement of Principles Governing the Normalization of Relations"¹, is a major breakthrough in the sense that it manages to satisfy the demands of both Belgrade and Pristina. Belgrade's main objective has been to secure autonomy for the North Kosovo Serbs, whereas it was Pristina's main goal to exercise full authority over the entire territory of Kosovo. The deal's success lies in the fact that it manages to bridge these two diverging perspectives.

Most of the 15 provisions deal with largely ethnic Serb-inhabited North Kosovo, who since the aftermath of the 1999 war have refused to recognize the legitimacy of Pristina and have been governed by the so-called "parallel structures" sponsored by Belgrade. The absence of effective instruments for enforcing rule of law has let criminal activity flourish in the north of the Ibar River.

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According to the deal, four ethnic-Serb majority provinces in the north of the Ibar River will be granted more autonomy through the establishment of an "association of Serb-majority municipalities", while at the same time Pristina's jurisdiction over the entire territory is confirmed. This provision strikes a balance between Serbia's stance that North Kosovo should be granted autonomy and Kosovo's stance that Pristina's authority over the entire territory should be recognized. Although the deal does not amount to Serbia's *de facto* recognition of Kosovo's independence, it confirms Pristina's effective control over the entire territory of Kosovo.

The deal stipulates that matters such as education, health, economic development as well as urban and rural planning be dealt with by the association of Serb-majority provinces. Furthermore, the deal lays down that there will be a single police force operating in the entire territory of Kosovo (i.e.: Kosovo Police- KP); however the commander for the Serb-inhabited provinces (i.e.: Northern Mitrovica, Zvecan, Zubin Potok and Leposavic) in the North will be an ethnic-Serb to be selected from a list nominated by the mayors of the Serb-majority provinces.

The deal includes a provision that bars the parties from blocking one another on their respective path towards the EU. This provision was originally advocated by Pristina as a means to prevent Belgrade from blocking Kosovo's membership to international organizations such as the United Nations; however, it was later reformulated in a way that would be acceptable to both parties.

Habemus Pactum!² A victory for all

The deal is a triumph for the enlargement policy, as it confirms once again, despite all the fuss going on in the member states about the so-called "enlargement fatigue" and the EU's shattered image as an economic success story against the background of the unravelling Eurozone crisis, EU conditionality still works and the luring prospect of becoming a member of the this exclusive bloc has proven once again that it is able to transform prospective members. As the memories of the war are not so distant and nationalism has been an influential tool in mobilising masses in the ex-Yugosphere, it would not be an over-exaggeration to refer to the deal as a "breakthrough". It would have been unimaginable for Ivica Dačić; a former aide to Slobodan Milošević, and Hashim Thaçi; a key figure in the Kosovo Liberation Army, to sit around the same negotiating table, let alone reach a compromise on the contentious issue of North Kosovo, without the prospect of advancing their integration to the EU.

The deal reached with Kosovo marks a victory for Belgrade. The transformation Belgrade has been undergoing in recent years has been remarkable. Regarded as a Balkan pariah responsible for much of the bloodshed during the wars of Yugoslav disintegration, Serbia remained isolated from the international system until very recently. In order to integrate with Europe, Serbia has been required to transform in a way that was unimaginable. Closer ties with Europe required Serbia to reconcile with its painful past and hand in Ratko Mladić and Goran Hadžić, who were regarded as national heroes by many in Serbia, to the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. Overcoming this challenge

² i.e.: "We have a pact!" The latin phrase was posted by Kosovo's European Integration Minister Vlora Çitaku on twitter following the breakthrough deal on 19 April 2013. Retrieved from <https://twitter.com/vloracitaku/status/325251853447225345>

amidst a huge reaction from the nationalist camp, Belgrade was rewarded with EU candidate status in March 2012. Despite the change in leadership in the May 2012 elections and former nationalist Tomislav Nikolić assuming power, Serbia has continued to advance on its path towards the EU.

The prospect of closer and stronger ties with the EU has been instrumental in this process. The EU has been clear and consistent in conveying the message to Belgrade that the normalization of relations with Pristina and progress in the EU-facilitated dialogue was the "single key priority" which Belgrade needed to address, if it was to move to the next level in its EU accession process: namely, to start accession talks. In its 2012 Progress Report assessing Belgrade's progress in fulfilling the EU criteria, the Commission recommended the launch of accession negotiations provided that Serbia fulfils this key priority. The Council, in December 2012, tasked the High Representative and the Commission with drafting a report assessing the level of Belgrade's compliance with the single key priority of normalization of relations with its breakaway region now recognized by more than 100 countries, to be presented to the Council in spring 2013 in the light of which a decision on whether to start negotiations with Belgrade was to be made in the June 2013 European Council. In addition, the Commission and the High Representative were tasked with drafting a Spring Report on Kosovo's level of compliance with short-term priorities and implementation of deals reached in the Belgrade-Pristina dialogue with a view of launching negotiations towards an SAA - an initial step for submitting a membership application to the EU.³

The timing of the deal from this perspective is significant: it came at the eleventh hour, just days before the presentation of the joint spring reports on Serbia's performance in fulfilling the single key priority and Kosovo's performance in fulfilling the short-term priorities. In fact, the reports were initially due on 16 April, but their announcement was then rescheduled for 22 April to provide the parties with a last window of opportunity to reconsider their positions.⁴

The deal, in that sense, should be perceived as instrumental in unlocking the door of EU to both Serbia and Kosovo. In the light of the latest developments, the Commission and the High Representative in the joint spring reports released on 22 April 2013, confirmed that Serbia has fulfilled the key priority to begin accession negotiations and Kosovo has realized the short-term priorities to qualify for launching talks leading to a SAA – a key step on the path to the EU and trade liberalization.⁵ On 28 June 2013, the European Council endorsed these recommendations and gave a green light for starting accession talks with Serbia and launching negotiations for an SAA with Kosovo. Kosovo started negotiations towards an SAA on 28 October 2013.

The Serbia-Kosovo deal, which unlocked a new phase on Serbia's and Kosovo's respective paths to the EU, together with Croatia's membership to the EU on 1 July 2013, marked a huge triumph for EU enlargement and the European perspective of the Western Balkans.

³ "Council Conclusions on Enlargement and Stabilisation and Association Process 3210th General Affairs Council Meeting", Council of the European Union, 11 December 2012, Brussels, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/134234.pdf, accessed on 22 May 2013.

⁴ "Belgrade-Pristina Dialogue Continues in Brussels" Gordana Andric, *Balkan Insight*, 17 April 2013, <http://www.balkaninsight.com/en/article/belgrade-pristina-dialogue-continues-in-brussels>, accessed on 22 May 2013.

⁵ "Serbia and Kosovo*: historic agreement paves the way for decisive progress in their EU perspectives" *European Commission Press Release*, Brussels, 22 April 2013, http://europa.eu/rapid/press-release_IP-13-347_en.htm, accessed on 22 May 2013.

A personal triumph for Ashton



EU High Representative Baroness Catherine Ashton (centre) with Serbian Prime Minister Ivica Dačić (left) and Kosovar Prime Minister Hashim Thaçi (right) on 19 April 2013

The deal also marks a triumph for Catherine Ashton, demonstrating that despite harsh criticism from EU capitals for her lack of leadership, she is able to deliver. Ashton is the Union's first High Representative for Foreign Affairs and Security Policy, which is a novelty under the Lisbon Treaty, intended to make EU external action in the international arena more consistent and coherent. Ashton has long been the target of criticism on the grounds of her lack of leadership to execute such complex a dossier as "EU foreign policy" and this has raised questions about her ability to deliver. However, one should not forget that Ashton is undertaking the Sisyphean task of trying to reconcile different national interests in reaching a common understanding in the foreign policy realm; an area that remains jealously guarded by member states and thus leaves her little room for manoeuvre. Nonetheless, Ashton's role in brokering that has earned the appreciation of even her most vocal critics, demonstrates that this perception has begun to change. For Ashton has spent immense energy to broker a compromise between Dačić and Thaçi since the EU-facilitated dialogue was elevated to the level of High Representative and Prime Ministers in October 2012⁶. Having brokered the 15-point landmark deal after ten gruelling rounds of meetings between Belgrade and Pristina, Ashton, deserves credit.

Convincing Dačić and Thaçi to sit around the same negotiating table in itself, undoubtedly required great diplomatic skills. Ashton has made invaluable contribution to the process by establishing trust between the two leaders and exerting leverage on them. Coupled with the EU incentives to move forward in their respective paths in the EU accession process, her mediation skills have been an essential factor in generating the historic deal reached between Belgrade and Kosovo.

⁶ European Union, "Statement by High Representative Ashton on the continuation of the EU-facilitated dialogue" Brussels, 19 October 2012, A 462/12, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/133036.pdf, retrieved 22 May 2013.

Thanks to her leading role in the EU-facilitated dialogue Baroness Ashton was recommended for the 2014 Nobel Peace Prize together with Dačić and Thaçi by representatives of the Serbian and Albanian lobbying group in the US Congress in a letter to the Nobel Committee.⁷ It remains to be seen whether the trio will be granted the Nobel Peace Prize in 2014, nonetheless Baroness Ashton's leading role as a mediator and facilitator clearly deserves recognition.

Challenges of implementation

Now that the dust has started to settle, the euphoria generated by the breakthrough deal paving the way for the Council's landmark decision for Belgrade to move on the next stage of accession and for Pristina to start SAA talks, has left its place to cautious optimism. The deal which was welcomed by the EU-enthusiasts in Belgrade and Pristina has provoked criticism among some circles in Serbia and most notably among the ethnic Serb population in North Kosovo who felt increasingly betrayed by Belgrade.⁸ So far the most challenging topic in implementing the deal has proved to be ensuring the support of the Serbs in North Kosovo. The North Kosovo Serbs have strongly denounced the Belgrade-Pristina deal as a sell-out. Belgrade's tactics in persuading the North Kosovo Serbs that it is in their best interest to support the deal have made hardly any impact in altering the local population's stance in favour of the deal.

The problem of ownership by North Kosovo Serbs manifested itself in the conduct of the November 2013 local elections. The local elections which were intended to integrate the four Serb municipalities to Kosovo's legal structures were seen as vital in ensuring a smooth transition from parallel structures to the Association of Serbian Municipalities, as foreseen by the April 2013 deal. However, boycott of the ballot and several episodes of violence and intimidation in the polling stations in North Mitrovica have demonstrated the gravity of the situation⁹. Despite Belgrade's calls for participation, the turnout in the Serb-dominated north remained extremely low. In the second round of the elections despite no acts of violence were recorded, turnout remained around 22 per cent¹⁰. The acts of violence in the Northern municipalities in the first round, led to the re-run of the ballot on 1 December 2013.

At the end of the day, the deal's success will depend on its implementation. It will be a challenge to make the deal stick amidst vocal opposition on part of Kosovo Serbs. Belgrade will need to intensify its efforts to convince the Kosovo Serbs that it is in their best interest to implement the deal, for German Foreign Minister Guido Westerwelle during a visit to the region in May, has made it clear that Berlin expects to see concrete steps in implementing the deal.¹¹ Germany's reservations were reflected in the European Council Conclusions which failed to provide a concrete date for the launch of accession talks with Serbia, but instead

⁷ "Ashton, Thaci and Dacic recommended for 2014 Nobel Peace Prize", *Anadolu Agency*, 24 December 2013, <http://www.aa.com.tr/en/news/266536--ashton-thaci-and-dacic-recommended-for-2014-nobel-peace-prize>, retrieved 25 December 2013.

⁸ Aleksandar Vasovic, "Serbian Church, Kosovo Serbs protest deal to clinch EU talks", *Reuters*, 22 April 2013, <http://www.reuters.com/article/2013/04/22/us-eu-serbia-backlash-idUSBRE93L0PF20130422>, retrieved 22 May 2013.

⁹ Aleksandar Vasovic, "Kosovo vote, key to Serb integration, marred by violence, boycott" *Reuters*, 3 November 2013, Mitrovica, <http://www.reuters.com/article/2013/11/03/us-kosovo-election-idUSBRE9A204620131103>

¹⁰ "Kosovo: municipal vote, 22.38% turnout in 3 Mitrovica polls" *ANSA.IT*, 19 November 2013, http://www.ansa.it/nuova_europa/en/news/sections/politics/2013/11/18/Kosovo-municipal-vote-22-38-turnout-3-Mitrovica-polls_9639455.html, retrieved 20 December 2013

¹¹ Edona Peci, "Germany Urges Kosovo and Serbia to Implement Deal", *Balkan Insight*, 21 May 2013, <http://www.balkaninsight.com/en/article/westerwelle-calls-for-concrete-and-visible-implementation-of-deal>, accessed on 22 May 2013.

included a vague statement indicating that the first intergovernmental conference should convene "by January 2014".

In December 2013, the High Representative in a letter addressed to the General Affairs Council, which is known to be the main platform that decides on the next steps to be taken with respect to enlargement, hailed Belgrade's performance in implementing the April 2013 deal and urged the Council to start accession talks with Serbia. Acting upon the recommendation of the High Representative, the General Affairs Council on 17 December 2013 endorsed the negotiating framework for Serbia and announced that the first intergovernmental conference, which will mark the official launch of accession talks with Belgrade, will be commenced in January 2014¹². The first intergovernmental conference with Serbia is set to take place on 21 January 2014 during the Greek Presidency of the EU Council.¹³

It remains to be seen whether this positive momentum reached in the normalization of relations between Belgrade and Pristina will be maintained as both parties progress on their respective paths to the EU. One thing however is clear: there are no shortcuts to EU membership. Despite a momentous start, the normalization of relations between Serbia and Kosovo is far from complete. This will continue to be closely monitored by the EU and its member states. As Europe prepares to mark the centennial of the outbreak of World War I, this year, further progress in the normalization of relations between Belgrade and Pristina will be an encouraging step not only for the rest of the Western Balkan states queuing for EU membership, but it will also be of symbolic importance for the EU which rose from the ashes of two World Wars as a peace project.

¹² Council of the European Union, "3287th Council meeting General Affairs Council" Brussels 17 December 2013, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/140144.pdf, retrieved 20 December 2013

¹³ "Serbia To Start EU Accession Talks on January 21, 2014", *novinite.com Sofia News Agency*, 20 December 2013, <http://www.novinite.com/articles/156603/Serbia+To+Start+EU+Accession+Talks+on+January+21,+2014>, retrieved 20 December 2013