

Belgrade-Pristina dialogue

The rocky road towards a comprehensive normalisation agreement

SUMMARY

Regional cooperation and good neighbourly relations are key elements in the EU accession process for all western Balkan countries. Serbia and Kosovo have both declared their intention to join the EU. However, despite some initial successes, such as the Brussels Agreement of 2013, the dialogue facilitated by the EU and initiated in 2011 has stalled. In 2020, the Belgrade-Pristina dialogue was relaunched and supported by the international community. The appointment of United States (US) special presidential envoy Richard Grenell and special EU representative Miroslav Lajčák reflected the importance of the normalisation process. However, a lack of coordination and communication between the US and the EU means that no real progress has yet been made. The reasons for the very limited results are multiple, ranging from the internal political situation in both countries, to ambiguous and asymmetrical expectations of the normalisation agreement.

Whereas for Kosovo the final goal is clear – recognition by Serbia of its statehood – for Serbia, normalisation of relations is interpreted in economic terms as an 'economic normalisation' and there is only limited space to go beyond those terms. Serbia also stresses that the process must remain within the framework defined by the Serbian Constitution, which considers Kosovo to be an integral part of the Serbian territory, and United Nations Security Council Resolution 1244. Currently, the most sensitive issue, the setting-up of the association/community of Serbian municipalities in Kosovo, agreed in 2013, shows that the challenges are rooted deeply in history and have a much broader regional context.



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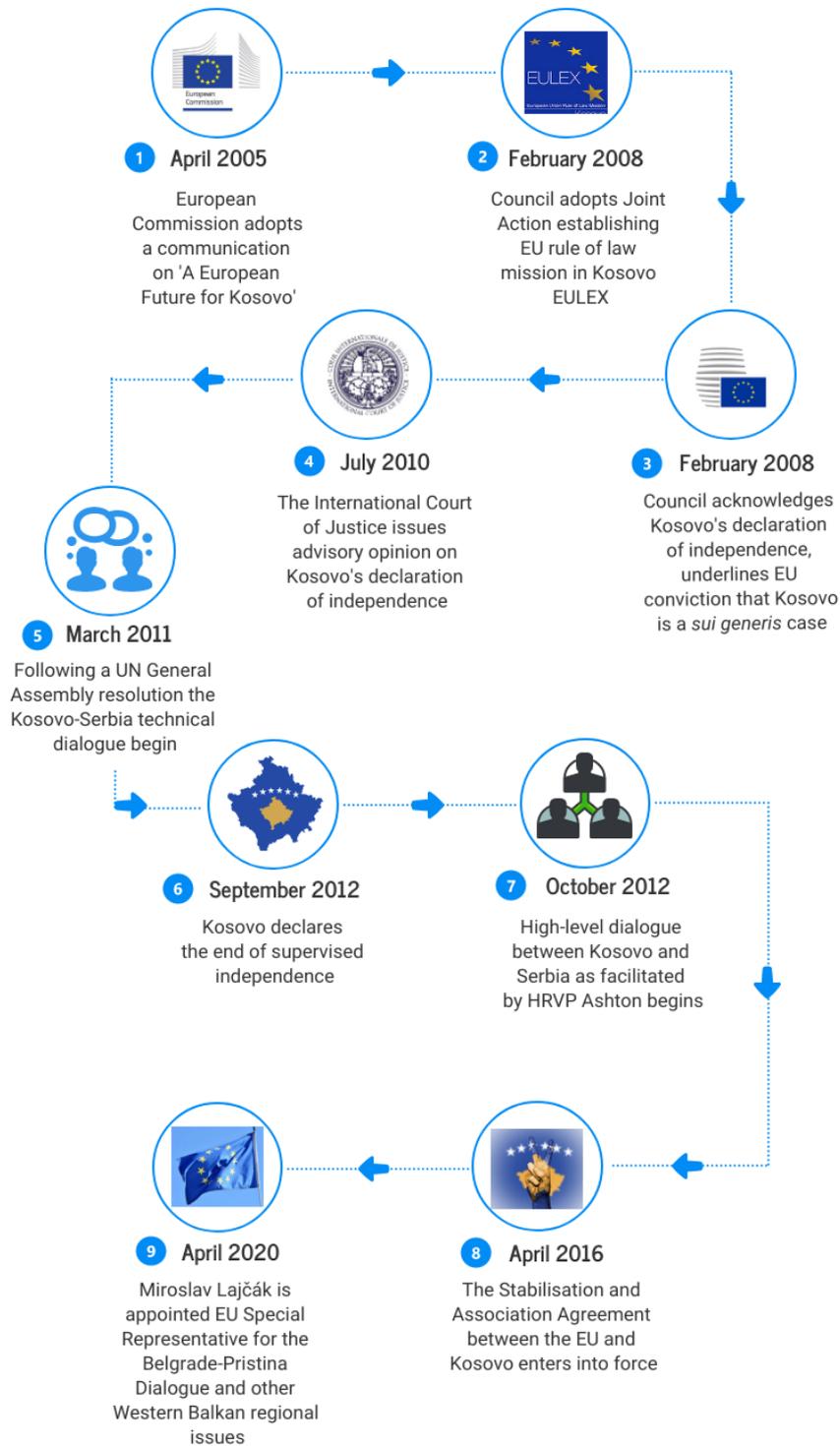
Introduction

Kosovo,¹ with a population of 1.8 million, is predominantly ethnically Albanian (93 %). It unilaterally declared independence from Serbia in 2008. Some EU Member States (Cyprus, Greece, Romania, Slovakia and Spain) have not recognised this, however, despite the [advisory opinion](#) of the International Court of Justice delivered on 22 July 2010, which concluded that 'the declaration of independence of Kosovo adopted on 17 February 2008 did not violate international law'. United Nations Security Council (UNSC) members China and Russia have not recognised Kosovo either, blocking the country's accession to the United Nations (UN). Joining the UN requires a UNSC vote in favour and a two-thirds UN General Assembly (UNGA) majority that Kosovo does not have either. Kosovo has however achieved accession to some international organisations, e.g. the [World Bank](#).

Together with other counties of the western Balkans, Kosovo shares the perspective of a 'European future' as stated during summits in Thessaloniki (2003), Sofia (2018) and, recently, Zagreb (2020), where EU leaders reaffirmed their 'unequivocal support for the European perspective of the western Balkans' ([Zagreb declaration](#)). In addition to the [Copenhagen criteria](#), two specific conditions were added for the western Balkan countries following Croatia's accession to the EU: regional cooperation and good neighbourly relations, as a basis for resolving bilateral problems, including the Belgrade-Pristina dispute. Although Belgrade and Pristina have been engaged in the EU-mediated dialogue since 2011, following the adoption of the 2010 UNGA [Resolution 64/298](#), 'comprehensive normalisation' of relations, an essential precondition to the progress of both Serbia and Kosovo towards EU membership, is still out of reach, despite some encouraging developments.² In 2013, within the framework of the dialogue, Serbia and Kosovo assented to the '[Brussels Agreement](#)' or the 'First agreement of principles governing the normalization of relations'. However, the Brussels Agreement, as demonstrated by [Krenar Gashi](#), was full of ambiguity: 'The legal ambiguity of the agreement provides flexibility for parties in implementing its provisions'. The Brussels Agreement was ratified as an 'international agreement' only by the parliament of Kosovo. In 2018, following unilateral 100 % tariffs imposed on all Serbian goods by Kosovo, both parties suspended the dialogue. Despite these difficulties, the international community has tried to defuse the conflict, in particular through engagement of the EU and the US. Following his appointment as special presidential envoy for Kosovo-Serbia negotiations on 4 October 2019, US Ambassador [Richard Grenell](#) visited Kosovo and Serbia on 9-10 October 2019.

On 2 April 2020, [Miroslav Lajčák](#) was appointed EU Special Representative for the Belgrade-Pristina dialogue and other western Balkan regional issues (EUSR) with an initial mandate of 12 months (until 31 March 2021). The EUSR's policy objectives are set out in a [mandate](#): 'First and foremost, achieving comprehensive normalisation of relations between Serbia and Kosovo, which is key to their respective European paths'. The Lajčák's appointment as the new EUSR was welcomed as a sign of the relaunch of the dialogue. In July 2020, after 20-months break, the dialogue resumed following partial lifting of the tariffs by Kosovo. On 16 July 2020, High Representative/Vice-President of the European Commission (HR/VP) Josep Borrell [hosted](#) a high-level meeting with the then Kosovo Prime Minister Avdullah Hoti and President of Serbia Aleksandar Vučić. This was the first dialogue meeting since [November 2018](#). It took place following the virtual summit on 10 July 2020 hosted by French President Emmanuel Macron and German Chancellor Angela Merkel in support of the relaunch of the dialogue. HR/VP Josep Borrell [said](#) that [if there is political will] 'reaching an agreement between Belgrade and Pristina is a matter of months, not years'.

Figure 1 – EU Kosovo relations: An overview



Source: [European Commission](#), 2021.

Different understanding of 'comprehensive normalisation'

Among the obstacles on the road towards a 'comprehensive normalisation' of relations is a different understanding of what normalisation means. For Kosovo, as [stated](#) by Prime Minister Avdullah Hoti in October 2020, 'the dialogue will be concluded with mutual recognition'. [Bernard Nikaj](#), former Kosovo ambassador to Brussels, wrote that the solution offered by the EU is the 'only one available for both Kosovo and Serbia and if they don't take it they will start to fall faster into the abyss of either Russian and Chinese influence in the case of Serbia or near-complete global isolation in the case of Kosovo'.

For Serbia, recognising Kosovo's independence is a red line beyond which it would be reluctant to move. Belgrade's position suggests normalisation in economic terms rather, facilitating trade and investment. As [Marko Đurić](#), Serbian Ambassador to the United States, and former chairman of the Serbian government office for Kosovo and Metohija, has stated, the position of Belgrade remains rooted in the [Serbian Constitution](#) and the [UN Security Council Resolution 1244](#): 'Do not dream about the story of Kosovo's independence. Let us discuss practical issues, cooperation, and that is what we will absolutely do'. The preamble to the Serbian Constitution still refers to 'the Province of Kosovo and Metohija' as 'an integral part of the territory of Serbia'. Article 203 of the Constitution requires a referendum for amendments to a number of its provisions, including the one that defines Kosovo as an integral part of the territory of Serbia. Within the Yugoslav federation, Kosovo enjoyed the status of an autonomous province and Serbia was among six 'republics' composing the federation. Following the [rise to power](#) of nationalists led by Slobodan Milošević, Kosovo's autonomy was revoked in 1990 and its territory placed under the direct control of Belgrade.

September 2020 Washington 'commitments'

To overcome these difficulties, the US initiated trilateral meetings, resulting in a 16-point [commitment](#) signed by Vučić and Hoti on 4 September 2020 in the presence of US President Donald Trump in Washington, with Serbia and Kosovo each committing to economic normalization. The talks aimed at an '[economic deal](#)' focused on business and trade, but these points [were already covered](#) by partial bilateral agreements negotiated under the auspices of the EU. Key commitments made included the Belgrade-Pristina rail network with deep seaport on the Adriatic coast, and a commitment to find and identify remains of missing persons from the 1998–1999 Kosovo conflict. Furthermore, as [Trump](#) stated, Kosovo and Israel agreed to normalize ties and establish diplomatic relations and Serbia committed to opening a commercial office in Jerusalem and to moving its embassy to Jerusalem by July [2021]. However, the commitment to open embassies in Jerusalem was in direct contradiction to the [UNSC Resolution 478 \(1980\)](#), which calls on all UN member states to withdraw their embassies from Jerusalem. It is also contrary to EU foreign policy.

As [pointed out](#) by legal scholars, in Washington parties did not sign a legally binding agreement. From the point of view of international law, Washington deal was not an 'agreement' as any international agreement must be endorsed by the parties' parliaments and international agreements or treaties have to be registered and published by the [United Nations Treaty Collection](#). Instead, they signed two separate but nearly identical documents, essentially letters of intent to cooperate with each other and with the United States on a limited set of issues. Some [critics](#) pointed out that the 'historic commitment', welcomed by Donald Trump, served his own political campaign but did not really advance Belgrade-Pristina dialogue. Prime Minister Hoti ironically remarked that even though he was going to Washington to secure mutual recognition with Serbia, 'the paper I signed agreed to mutual recognition with Israel'.³ Nevertheless, the Washington commitments carry political weight and could serve as a catalyst for further dialogue under EU mediation.

Given the potential EU future of both Kosovo and Serbia, the resolution of all '[bilateral disputes and issues](#)' will have to be agreed within the EU-facilitated dialogue, perhaps at the very end of the process, and cannot be separated from other, more economic elements. The EU itself will take the lead in this process, as both countries wish to join the EU. Transatlantic cooperation and consultation

will be crucial. According to [Ivan Vejvoda](#), 'the solution for Kosovo can be found in conjunction with efforts of the European Union and the United States ... The European Union clearly takes the lead given that this is part of Europe's geography and history and culture'. There are expectations that the new US administration will cooperate more closely with its EU allies on a range of global and regional issues as it takes the '[opportunity to reset transatlantic relations](#)'. Joe Biden's campaign issued a [vision paper on Kosovo and Albania](#), where it underlined that their candidate intended to work with the EU on the Kosovo-Serbia dialogue, presenting Biden as a 'long-time friend of Albania and Kosovo and the Albanian-American community. At his confirmation hearing before the Senate Foreign Relations Committee, US Secretary of State [Antony Blinken](#) stated that the new US administration would help Kosovo and Serbia to move forward: '[Joe Biden] spent a lot of time on those countries in the past, and I think he shares your convictions that there are things we can do to help move Kosovo forward, and also move Serbia forward'.

Risks and challenges ahead

Following Serbia's [accession negotiations](#) beginning in January 2014 and the signature of Kosovo's [Stabilisation Association Agreement](#) (SAA) in October 2015, offering realistic prospects of EU membership for both parties, real commitment to dialogue became more urgent. Despite obstacles and challenges, there is a strong support for the EU to continue on the path towards a 'full and comprehensive agreement'. The resolution of politically sensitive issues is extremely challenging, but the opportunity is also huge, not only for Serbia and Kosovo, but for the whole region. Based on normalisation, both countries could achieve closure on difficult historic memories and start a new European future. The EU has already made some progress, mainly the above-mentioned Brussels Agreement. In 2019, Serbia and Kosovo agreed to join the '[Mini Schengen initiative](#)'¹⁴ (an economic zone with combined gross domestic product of around US\$80 billion between Serbia, Albania, North Macedonia and Kosovo). They have also signed around 20 bilateral agreements, such as common transport or energy investments or mutual recognition of university diplomas.

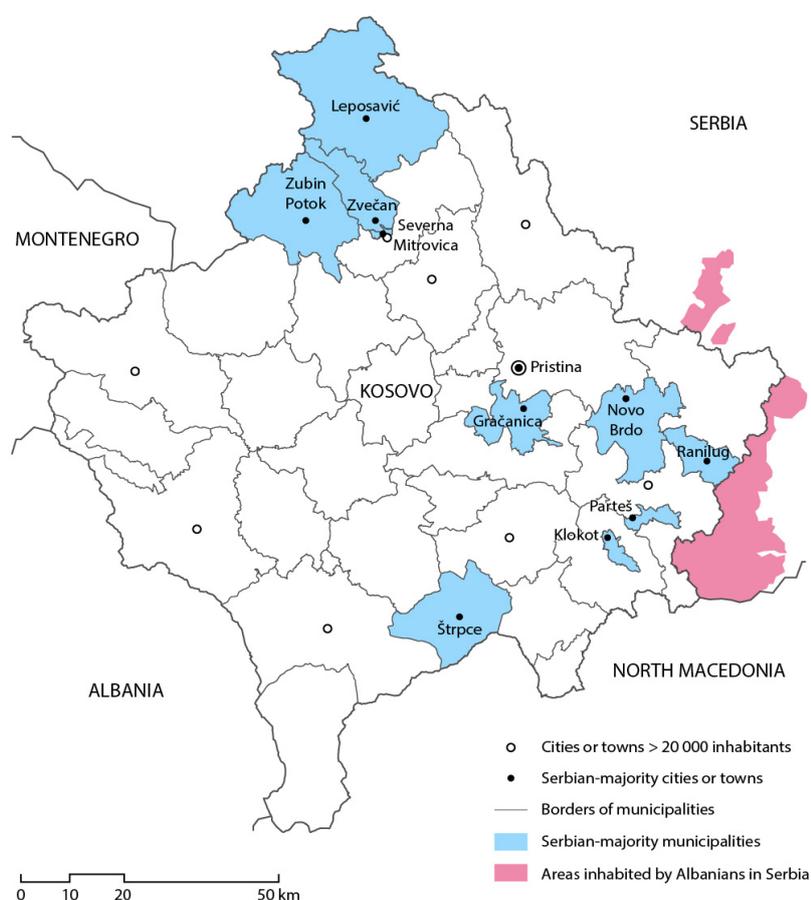
New difficulties are now arising, not just from the internal political situation in both countries, but also from the debate on enlargement within the EU itself. The debate in the EU is shifting from 'enlargement fatigue' towards a deeper '[enlargement resistance](#)', auguring a tougher stance towards enlargement in some EU Member States. Kosovo's internal political situation has been fragile as Avdullah Hoti, from the centre-right Democratic League of Kosovo (LDK), was elected prime minister by Kosovo's parliament by only a one-vote majority in June 2020. Hoti therefore had a weak negotiating position, even though he was very committed to the dialogue. Addressing Kosovo's parliament, Hoti [stated](#) that he would strive for a 'final deal' between Kosovo and Serbia, including free trade, but 'without any change of borders.' This fragility finally led to the fall of the Hoti government later in 2020. On 22 December 2020, Kosovar President [Vjosa Osmani](#) began consultations with the political parties on setting the date for early elections after the Constitutional Court ruled that the parliamentary vote electing a new government in June 2020 had been unconstitutional. Albin Kurti's Self-Determination Movement (Vetëvendosje) won Kosovo's snap parliamentary elections on 14 February 2021. [Albin Kurti](#) has stated that he wants to reframe talks with Serbia to put the two sides on an equal footing. 'The dialogue between Serbia and Kosovo must change our countries for the better ... We need to discuss with Serbia honestly, openly, seriously, and with people as the end beneficiaries'. The [International Crisis Group](#) notes that the international community and in particular the EU must 'help curb the potential growth of frustration with the status quo, especially among Kosovars, that over time risks being destabilising'. Facing a deadlock in negotiations with Belgrade, Pristina can also seek closer economic and political ties with Albania.

In Serbia, [painful memories, wounds are still open](#) and some opinion polls [show](#) that 81 % of Serbs are against recognising Kosovo's independence even if this accelerated EU integration. According to [research](#) conducted by the Belgrade Centre for Security Policy in November 2020, only 8 % of Serbs believe that the aim of the dialogue with Pristina should be 'recognition of Kosovo within current borders'; 48 % of respondents believe that the dialogue should be aimed at returning

Kosovo to Serbia 'with wider autonomy'.⁵ President Vučić would seemingly accept a [compromise](#) with Kosovo, going beyond 'economic normalisation'. The contours of this compromise have been [defined](#) by Vučić himself: 'I hope the EU will understand well that someone cannot sign an agreement in Brussels under the auspices of the Union only to pass a resolution denying the existence of the Community of Serb Municipalities and saying that they would never accept it, or asking Serbia to recognise Kosovo's independence first'.⁶ Serbia [is also asking](#) whether joining the EU is a realistic objective: 'We need to wait for a decision and a conclusion from the European Union, about whether they want to see Serbia as a part of the European Union or not'. Vučić has stressed that 'We don't see the real alternative to that path ... But, you know, we have been on that path for 20 years already. I think, apart from Turkey, not a single country has been waiting so many years'. Slow progress towards EU membership is also affecting public opinion. An [International Republican Institute](#) analysis conducted in 2020 showed that only 29 % of Serbs support an exclusive EU/Western foreign policy orientation, and 36 % would support a balanced Western/Russian orientation. In Kosovo, 88 % respondents are in favour of a pro-EU/Western oriented foreign policy.

Unresolved issue of the association/community of Serb majority municipalities in Kosovo

Figure 2 – Serbian municipalities in Kosovo



Source: EEAS and the Office for Kosovo and Metohija, 2021.

Although the establishment of an association/community of Serbian municipalities was the sole most important element of the 2013 Brussels Agreement,⁷ the European Commission's 2020 [report on Kosovo](#) states that 'no progress has been made on the association/community of Serb-majority municipalities and Kosovo has yet to engage constructively in its establishment'. The dual name

('association/community') has created additional problems: Serbia sees it as a governing entity to be established by the agreement, while for Kosovo, it is merely an inter-municipal association, like one that already exists to help local governments coordinate and share expertise.

The interpretation of the agreement has opened the door to a range of institutional structures and symbolic interpretations, ranging from a much-feared Kosovan version of Bosnia's Republika Srpska to a vague association or an NGO. (Republika Srpska, the smaller of the two entities comprising Bosnia and Herzegovina, continues to threaten the stability of the country by pushing conflicts with the central government to the brink). However, the association/community of Serbian municipalities in Kosovo cannot go beyond Kosovo's constitutional and legal order. As [noted](#) by the Brussels Agreement, the status of the association/community must be agreed by the parties in the dialogue and later by Kosovo's Constitutional Court. This agreed procedure for forming the association therefore excludes all extreme and feared outcomes, in particular that an association of Serb-majority municipalities developing into an autonomous region over which the central government would have no real control. These fears pushed the President of Kosovo to ask Kosovo's Constitutional Court to assess the compatibility of the association/community of Serb majority municipalities in Kosovo with the spirit of the Constitution (see [Case No KO 130/15](#)).

Despite reluctance on the part of some Kosovar political representatives, legal scholars such as Florent Muqaj and Përparim Gruda [are of opinion](#) that formation of the association is an international obligation that Kosovo 'must fulfil', arguing that the risk is that it will take a form other than that originally envisaged by both parties as a result of the delay on the part of Kosovo.

Position of the European Parliament

The European Parliament's [recommendation](#) of 19 June 2020 on the western Balkans recalled the need for enlargement as a positive EU agenda that must be accompanied by strong and tangible incentives. Parliament stressed that the 'enlargement process fosters and strengthens capacities to resolve bilateral disputes and strives for reconciliation between societies in the region'. Parliament supported the appointment of the EUSR Miroslav Lajčák to seek comprehensive normalisation of relations between Serbia and Kosovo and advance good neighbourly relations. It also called for visa liberalisation for Kosovo, as the country has fulfilled all the visa liberalisation benchmarks endorsed by Council already in 2018.

Furthermore, Parliament supported the EU decision to mobilise over €410 million in reallocated bilateral financial assistance to support the western Balkans during the coronavirus emergency. To Serbia, the EU allocated €93 million, of which €15 million for emergency care and €78 million for economic recovery. To Kosovo, it allocated €68 million, of which €5 million in immediate support for the health sector and €63 million in support for social and economic recovery. In addition, in May 2020, Parliament agreed on [post-coronavirus economic macro-financial assistance](#) for the western Balkans and neighbourhood region for a total of €3 billion. Parliament also supported the [economic and investment plan for the western Balkans](#), adopted on 6 October 2020, which will mobilise some €9 billion in investment to boost the region's economic development and recovery.

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ENDNOTES

- ¹ This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the International Court of Justice opinion on the Kosovo declaration of independence.
- ² UNGA had welcomed 'the readiness of the European Union to facilitate a process of dialogue between the parties' and clarified that 'the process of dialogue in itself would be a factor for peace, security and stability in the region, and that dialogue would be to promote cooperation, achieve progress on the path to the European Union and improve the lives of the people'.
- ³ See analysis by Paul Fraioli from the Strategic Comments, 2020.
- ⁴ The majority of Kosovar politicians are against this initiative, as they perceive it as a reconstitution of the 'Yugoslav space'.
- ⁵ Analysis reveals that Serbian citizens are only partially informed about the content of Belgrade-Pristina negotiations and that a majority thinks that the whole process is not transparent enough. Despite this, half of them support the dialogue, although 90 % feel no tangible benefit and 75 % think it had almost no effects. The citizens seem to believe that the dialogue has the potential to resolve the outstanding issues yet feel it has been wasted on dealing with secondary issues that bring no positive results. The roles of the US and EU special envoys, Richard Grenell and Miroslav Lajcak, are viewed positively by a thin majority. See M. Bjeloš and B. Elek, Kosovo – what do citizens know, think and feel? Analysis of public opinion research, Belgrade Centre for Security Policy, November 2020.
- ⁶ The International Crisis Group January 2021 report on [Relaunching the Kosovo-Serbia Dialogue](#) notes that 'As for what a compromise would look like, there are three main possibilities. One would rely on sweeteners for Serbia – an infusion of donor development support and accelerated EU membership – as the cost of recognition. The second would be to trade Serbian recognition for the creation of new autonomous districts for Kosovo's Serbs and Serbia's Albanians. The third would be to return to the land swaps approach that was at the core of the 2018 draft deal'.
- ⁷ Twelve of the fifteen points of the 2013 Brussels Agreement specified the creation of an 'Association/Community of Serb majority municipalities' and covered the governance of Kosovo's Serb-controlled northern region. Only one point was explicitly about bilateral relations, and all it said was that neither party would block the other's progress toward EU membership. There are no doubts with regard to the establishment of the association, as the agreement stated 'there will be an Association/Community of Serb majority municipalities in Kosovo'.

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