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Belgrade and Pristina: lost in normalisation?

by Donika Emini and Isidora Stakic

The EU-facilitated dialogue between Belgrade and Pristina, known as the Brussels Dialogue, started in March 2011 with the aim to 'normalise' relations between the two parties, find solutions for long-standing disputes and, consequently, advance their prospects of European integration.The newly adopted European Commission Communication on a credible enlargement perspective for an enhanced EU engagement with the Western Balkans (known as the new EU Strategy for the Western Balkans) reaffirms that the normalisation of relations between Kosovo[1] and Serbia is key to their advancement on their respective EU paths.[2]

However, during the seven years of the Dialogue, relations between Kosovo and Serbia have oscillated between normalisation and a state of strained peace and conflict prevention. The assassination of a Serbian politician from north Kosovo, Oliver Ivanovic, on 16 January 2018, as well as the arrest of the Serbian government official Marko Djuric by Kosovo police in north Mitrovica, Kosovo on 26 March, has fuelled new tensions and increased uncertainty surrounding the future of the normalisation process. Given these developments, what are the key obstacles to more constructive relations between Pristina and Belgrade?

The windy road to normalcy

The first phase of the Brussels Dialogue, the so-called 'technical' phase, lasted from March 2011 until February 2012; it resulted in nine agreements between Serbia and Kosovo, of which some have been implemented fully, some partially, and some not at all. The second phase elevated the Dialogue to a prime ministerial level, and it was at this stage that the First Agreement of Principles Governing the Normalisation of Relations (known as the Brussels Agreement) was signed on 19 April 2013.[3] This Agreement is considered to be a major historical achievement and a milestone in the normalisation process, as it tackled politically highly sensitive areas – such as security, the rule of law, the competences of local authorities in Serbian-inhabited areas in Kosovo, and the judiciary. The Agreement contains 15 points on a range of issues, the most important being related to the establishment of the Association/Community of Serb majority municipalities and the dissolution of the Serbian parallel structures in north Kosovo.

The implementation of the Brussels Agreement proved to be even more challenging than the implementation of the Agreements reached during the technical phase of the Dialogue, given

the sensitivity of its content. Different parts of the Brussels Agreement have to date been implemented to various degrees, with some of the points becoming a source of tension between the parties, rather than serving as a tool to reach the overarching goal of normalisation – particularly the points related to the formation of the Association/Community of Serb majority municipalities.

Serb majority municipalities in Kosovo

Data: UK FCO

During the first four years of the Dialogue, namely from 2011 to 2015, a number of Agreements were reached, which created an appearance of progress. However, once the implementation of the Agreements was put on the agenda, the pace of the Dialogue slowed down significantly. Since 2016, the Brussels Dialogue has stalled, while tensions have risen and nationalist rhetoric has become increasingly common. Tensions intensified sharply at the beginning of January 2017 with the arrest of the former (and now current) Prime Minister Ramush Haradinaj, one of Kosovo's political leaders and war veterans, in France based on a Serbian arrest warrant for alleged war crimes. In response, the Assembly of Kosovo adopted a resolution demanding the suspension of the Brussels Dialogue until Haradinaj was released. As the Dialogue was already on hold due to the presidential elections in Serbia, and later on due to the parliamentary elections in Kosovo, the resolution did not have any implications for the normalisation process. It did, however, fuel nationalist sentiments in both countries, thus exacerbating tensions.

Relations reached a new nadir just ten days after Haradinaj's arrest, when a train departed from Belgrade bound for northern Mitrovica (a north Kosovo municipality populated by Serbs), painted in the colours of the Serbian flag and bearing the words 'Kosovo is Serbia' in 21 different languages. The train was eventually stopped before entering Kosovo by then Prime Minister of Serbia Aleksandar Vucic, who claimed that Kosovo-Albanians had tried to mine the railway. The train incident was followed by even more inflammatory rhetoric, with the then President of Serbia Tomislav Nikolic stating that "he would be willing to send the army to defend Serbs in Kosovo, if necessary".[4] The timing of the incident – a few months before the presidential elections in Serbia – suggests that it might have been intended to garner support among the parts of the Serbian electorate with nationalist leanings.

War of words

Such events, although frequently referred to as incidents, involve more than just an excessive use of inflammatory language. Instead, they are a manifestation of the true nature of the regional politics underpinning the Brussels Dialogue – which both sides portray differently depending on whether they are addressing their respective domestic audiences or the international community, particularly the EU.

The narrative crafted for international audiences, for instance, is marked by a declaration of full commitment to the normalisation of relations, a readiness for compromise, and great concern for the well-being of citizens. The rationale behind this is that further progress on EU integration for both sides is conditioned on engagement in the Dialogue. The domestic narrative, however, is nationalist, identitarian, and structured according to a zero-sum logic, portraying one side either as the winners, or as the victims of an 'enemy other'. For example, after the signing of the Agreement

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on the Association/Community of Serb majority municipalities, and the Agreements on energy and telecommunications, Serbian high official Marko Djuric stated that the outcome is "a 5-0 victory for Serbia", implying that the goal of the normalisation process is to somehow defeat the other party.[5]

Another even more drastic example occurred in December 2017 when the Serbian Minister of Defence Aleksandar Vulin declared that Serbian armed forces are preparing for war.[6] He explicitly mentioned the violent attacks on Kosovo-Serbs by Kosovo-Albanians that happened 14 years ago (in March 2004) as an explanation as to why the Serbian army should be ready for the outbreak of war at any time. Kosovan politicians can be equally quick to use inflammatory rhetoric. For instance, after Haradinaj's arrest in France, his brother and member of parliament, Daut Haradinaj, threatened that "not a single Serb would remain in Kosovo" should France extradite him to Serbia. These often aggressive narratives on both sides serve to win the support of nationalist elements of society, without which the current political elites would struggle to remain in power.

Another reason behind the slow implementation of the Agreements and why the normalisation process has stalled is the employment of 'constructive ambiguity', an approach that aims to ensure the commitment of both parties to sometimes vague agreements, the details of which are to be specified at a later date. This was applied in order to portray each Agreement as beneficial for both parties, and to postpone the implementation of more sensitive aspects until a moment when enough trust has been built. However, in the process of implementation, this became one of the key obstacles, or even made the Agreements non-implementable, as genuine trust between the parties has not been established.

As the legally ambiguous parts of the Agreements are open to diverging interpretations, they have become a source of endless (re)negotiation that elites use to postpone their implementation. For instance, in the Agreement on Association/Community, the dual reference itself leaves room for different interpretations. For Belgrade, it is a 'Community', thus a legal entity with executive powers, while for Pristina, it is a non-governmental organisation with no executive powers, similar to the existing ones found in Albanian municipalities.[7]

Another example of exercising ambiguity is the Integrated Border/Boundary Management (IBM) Technical Protocol. Again, the title has a dual meaning: for Kosovo it refers to a 'border' and therefore a delineation between two countries, while for Serbia it is perceived as an 'administrative boundary line' and is therefore an internal demarcation separating two regions. Back in 2012, using this term was considered to be 'the only way forward'. However, the debate over terminology will continue in Serbia in the framework of chapters 23 and 24 of the EU accession process, and in Kosovo due to growing calls for the government to reach an agreement on a 'border' with Serbia.

Common Crossing Points (CCPs)

Data: UK FCO, Kosovo police

Legally ambiguous Agreements have also allowed political elites to express triumphalism after each round of talks, while local populations have yet to feel the effects of concrete progress. This was reflected in the statements by Hashim Thaci, the current president of Kosovo, who claimed that Serbia had "in a way recognised Kosovo as an independent state" immediately after the Brussels Agreement, but also in the declarations of Serbian politicians, such as the aforementioned statement by Marko Djuric that compared the Dialogue to a football match.[8] Yet the failure of local political elites to deliver on their statements has gradually lowered the overall level of public trust in the normalisation process.

As ambiguity has served as an excuse for both parties to justify their lack of progress, most

The 'technical' phase: milestones of the Brussels Dialogue

LEVEL OF IMPLEMENTATION
- full implementation
- partial implementation
- some progress
- no progress

FREEDOM OF MOVEMENT
2 July 2011

Both sides agree that respective citizens should be able to travel freely. The Agreement includes the regulation of documents such as identity cards and driver's licenses, as well as license plates and car insurance.

While elements have been implemented, limited progress has been made in increasing mobility between the northern Serbian municipalities and southern part of Kosovo.

CUSTOM STAMPS
2 September 2011

This facilitates the end of the trade embargo. Serbia agrees to accept Kosovan stamps, while ensuring freedom of movement of goods as envisaged in the Central European Free Trade Agreement (CEFTA).

VEHICLE INSURANCE
25 June 2015

← related agreements

MITROVICA BRIDGE
25 August 2015

Parties agree on a EU-led project to renovate the bridge which symbolically and ethnically divides the city.

Although it was expected to occur in 2016, there has been no progress in opening the bridge. Crossing points in the north remain problematic, while it took a further four years from signing to agree on vehicle insurance and car registration plates.

CIVIL REGISTRY BOOKS
2 July 2011

Parties agree on the scanning, copying and certifying of all available civil registry status books. Serbia agrees to make copies of the documents and hand them over to EULEX, which is appointed to facilitate the process.

Over 14,000 civil registry books have been sent to Pristina. The Kosovo Civil Registry Agency, in cooperation with the Danish Refugee Council, has finished digitalising all certified copies of civil registry books returned from Serbia to Kosovo.

CADASTRE
2 July 2011

Serbia successfully returned available civil registry status books to Kosovo authorities, process facilitated by EULEX.

In 2016, the government of Kosovo adopted a new draft law for a new technical agency, the Kosovo Property Comparison and Verification Agency. While in Serbia, the EU Delegation has financed the Serbian Republic Geodetic Authority (RGA) to scan the cadastre documentation covered by the Dialogue Agreement. Around 40% of documents have been scanned.

ACCEPTANCE OF UNIVERSITY DIPLOMAS
2 July 2011

Parties agree on reciprocal recognition of university diplomas. The European University Association (EUA) agrees to undertake the process.

There has been no progress to date.

INTEGRATED BORDER/BOUNDARY MANAGEMENT
23 February 2012

Parties agree to set up common crossing points using the EU model of IBM. Parties agree to not display any state symbols in order to remain as neutral as possible.

In 2012, Kosovo and Serbia agreed to open two IBM crossing points (Jarinje and Merdare). The EU is investing €9.42 million to fund three permanent border crossing points.

REGIONAL REPRESENTATION AND COOPERATION
24 February 2012

The 'Footnote Agreement' guarantees regional representation for Kosovo. Kosovo's name to appear with an asterisk referencing UN Security Council Resolution 1244 and the ICJ decision on Kosovan independence. Serbia agrees not to hinder Kosovo's efforts to participate in regional initiatives.

Kosovo has become part of some regional initiatives in the Western Balkans – mostly EU-led projects. In spite of this agreement, Serbia has continued to block Kosovo's participation in regional initiatives. The non-recognition campaign was also highlighted during Kosovo's UNESCO membership bid.

ENERGY
8 September 2013

Parties agree that the energy transmission authorities – KOSTT from Kosovo and EMS from Serbia – sign an Agreement to regulate transmission operators.

The lack of an action plan has delayed the implementation of the Agreement. This has also delayed interconnection projects between Albania, Kosovo and Serbia in the framework of the Berlin Process. A power grid dispute between Serbia and Kosovo led to a domino effect which caused digital clocks to fall behind by 6 minutes in the majority of EU countries.

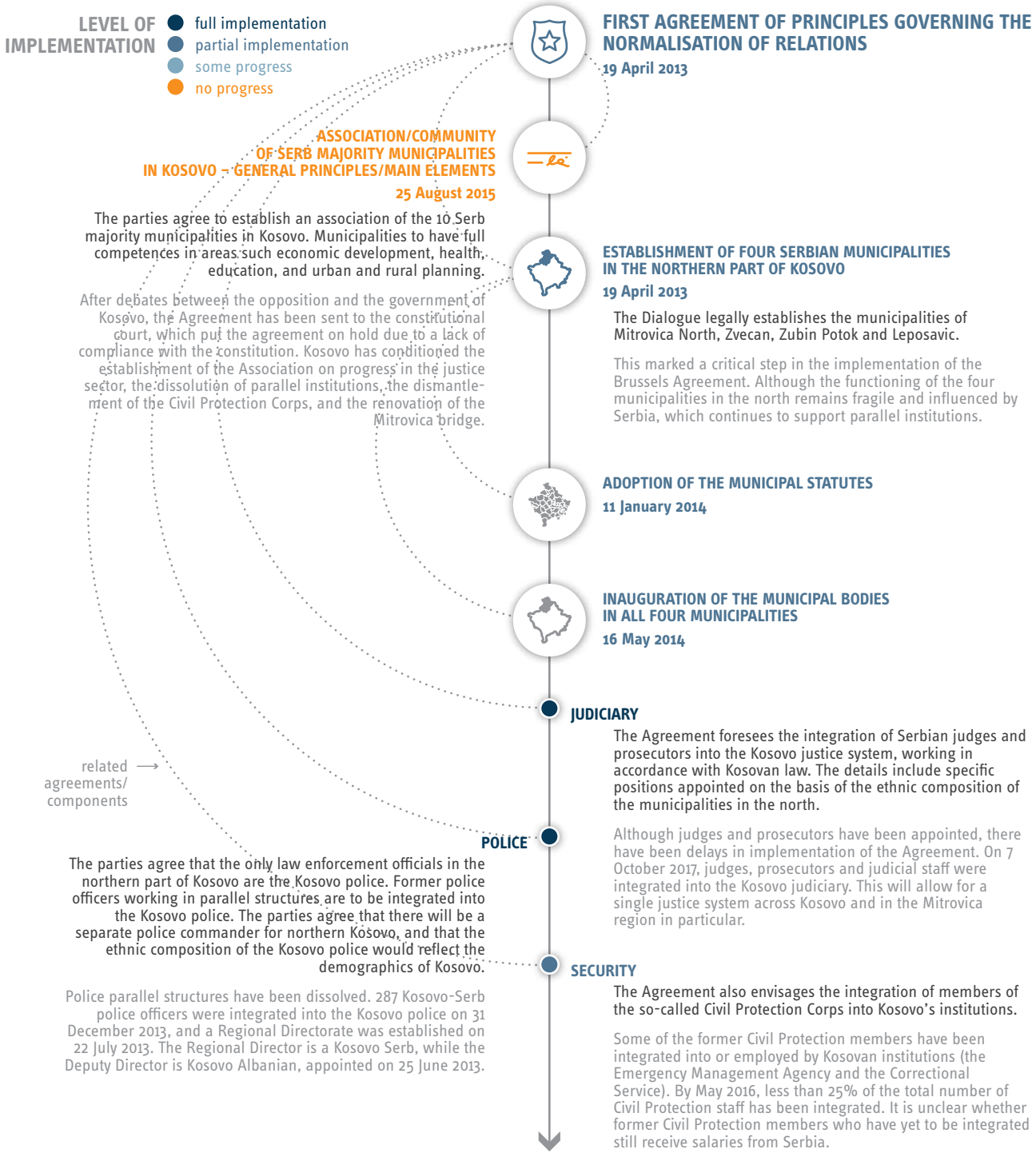
TELECOMMUNICATIONS
8 September 2013

Parties agree that the International Telecommunication Union (ITU) will allocate the three-digit code – replacing the three existing ones in Kosovo (from Serbia, Slovenia and Monaco).

Kosovo received the three-digit (+383) code in 2016 and the process is expected to be complete by September 2018.

Data: Council of the European Union, EULEX, Government of Kosovo, Government of Serbia

The 'political' phase: elements of the Brussels Agreement



Data: Council of the European Union, Government of Kosovo, Government of Serbia

Agreements have only been partially implemented. While certain sections have been successfully implemented – such as the integration of former Serbian police officers into the Kosovo police – others led to renegotiations. For example, the Agreement related to energy required further negotiation due to a disagreement over the ownership of the operation-distribution system. This dispute between Kosovo and Serbia resulted in problems in the electricity grid that serves most of Europe, and is now being mediated by Klaus Töpfer, a former German environment minister.[9] Similarly, the Agreement on Freedom of Movement has been through several

rounds of renegotiation since it was signed in 2011. Parties have gone back to Brussels a number of times to settle matters related to car registration plates, insurance, crossing borders at airports, as well as other details left out of the initial Agreement. Currently, the most contested part of this Agreement remains the revitalisation of the Mitrovica bridge.

The issue of constructive ambiguity became particularly problematic after the signing of one of the most important Agreements between Pristina and Belgrade – the Agreement on the Association/Community of Serb majority municipalities. This Agreement sparked heated debates in Pristina between the government and the opposition (which was strongly opposed to the deal and the 'unconditioned dialogue with Serbia'), eventually leading to political deadlock and the triggering of snap elections. After the content of the Agreement was sent to the Kosovo Constitutional Court for review, the body judged that four out of five parts were not in full compliance with the constitution as they violate the principle related to the multi-ethnicity of Kosovo. However, the Court has given instructions, albeit in vague language, on how to draft the Statute of the Association/Community of Serb majority municipalities, which is a process that requires both parties to go back to Brussels and agree on the basic principles.[10]

Nevertheless, while the overall Agreement on Association/Community is on hold, a very sensitive part of the Brussels Agreement is already being implemented, which has a significant impact on the rule of law in north Mitrovica. The section which foresees the integration of the justice system in the Serb-run north into the main system of Kosovo has almost been finalised: judges have been appointed, and the court is expected to start functioning within a few months.[11]

And the people?

While the Dialogue takes place at the highest political level, deep divides remain between political actors and citizens on both sides. This localised disconnect has contributed to cementing the division between ethnic Albanians and Serbs, while the Kosovan government lacks an overall strategy of how to integrate citizens in the north. Pristina fails to see integration beyond the territorial aspect of the issue – striving to exercise control over the territory of Kosovo, the authorities have focused their efforts on building government facilities in the north, without offering tangible opportunities to Kosovo-Serbs.

At the same time, the Serbian government has used its influence in north Kosovo to stoke the fears of Kosovo-Serbs, thus preventing them from actively engaging in politics. This was particularly emphasised before and during the national and local elections in Kosovo, when local Serb politicians, as well as employees in (Serbian) public institutions, were threatened or even attacked for participating in the electoral process or supporting candidates who ran independently from the 'Serbian List' – the Belgrade-controlled political organisation of Kosovo-Serbs. Among the threatened politicians was also the recently assassinated Oliver Ivanovic.[12]

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An interest in initiating internal dialogues on the normalisation process has been revealed recently, with both governments launching new bottom-up approaches as part of the Dialogue. For instance, President Vucic authored an op-ed published in July 2017 in the Serbian daily *Blic*, in which he appealed to citizens to engage in a dialogue about Kosovo, but failed to specify a format or provide solutions to the long-lasting problems that burden relations.

While the idea of internal dialogues seems like a step towards greater inclusiveness, the initiators – the political leaders on both sides – remain vague about their precise contents and formats. In Serbia, the so-called internal dialogue on Kosovo is to be coordinated by the government, which leaves doubts about whether the opposition will be able to influence the process. Nationalist opposition parties have already refused to participate in the internal dialogue, while other political actors, including civil society, largely share the negative perceptions of the initiative. At this stage, there is a fear that the

contributions of domestic populations, opposition parties and civil societies will remain rather limited, and in any case would serve primarily as a way of legitimising what has (or has not) been done so far.

European dimensions

As one of the country-specific political criteria for EU membership, the normalisation of relations between Kosovo and Serbia has been of paramount importance for the Union. The new EU Strategy for Western Balkans reconfirms this point. However, given the slow progress of normalisation, the EU has come under fire – particularly by pro-EU actors in the Balkans – for allegedly 'trading off' genuine progress in the Dialogue against stability in the Western Balkans. Over the past year, the term 'stabilitocracy' has been widely used by critics, referring to regimes in the region which are characterised by weak democratic institutions and strong, autocratically-minded leaders who claim to provide stability. A number of non-governmental reports, as well as opposition leaders and independent experts, have expressed their concern over what they perceive to be the EU's tolerant stance towards Balkan 'stabilitocracies'.[13] Paraphrasing the policy paper by the Balkans in Europe Policy Advisory Group which coined the term 'stabilitocracy', the Union and a number of its member states, have, for a number of reasons, tolerated this dynamic despite that fact that the *status quo* does not foster stability or guarantee pro-European governments.

Since the Brussels Dialogue is seen as crucial for maintaining stability in the region, the Serbian and Kosovan leaders engaged in it have been praised by EU officials for their commitment to the process and for maintaining peace, while serious deficiencies in the rule of law are often not explicitly criticised.[14] Such failings, although a part of internal politics, represent a danger to democratic governance in the region, and might eventually pose a threat to regional stability, too.

Let's talk

The two meetings of the presidents of Serbia and Kosovo, Aleksandar Vucic and Hashim Thaci, that took place during summer 2017 in Brussels marked the beginning of a new phase of the Dialogue. While it is clear that this phase will take place at a presidential level, details about the content and dynamics of the future Dialogue remain vague. Nevertheless, in November 2017, after meetings with EU officials in Brussels, President Vucic stated that Serbia will not be able to become a member of the EU until a legally-binding document is signed with Pristina, marking the end of the normalisation process. Although the Serbian president underlined that such document would not imply an official recognition of Kosovan independence by Serbia, it is clear that this statement is a part of the narrative directed towards the Serbian electorate – as there is a *de facto* recognition implied.

While it was speculated that the new EU Strategy for the Western Balkans would envisage that the document should be signed by 2019, the final text of the Strategy only requests that a legally-binding normalisation agreement is concluded 'urgently'. Keeping in mind that there will be no new enlargement of the EU until at least 2025, the urgent completion of a comprehensive and substantial normalisation that the EU is calling for seems to be rather optimistic.

In February 2018, President Vucic announced that he would present his proposal for a solution to the Kosovo problem in April 2018, reaffirming that the recognition of Kosovan independence by Serbia is not an option. It is speculated that President Vucic's proposal will include the signing of a legally-binding document with Pristina, but without the explicit recognition of Kosovo. Such a document would enable Kosovo's membership in international organisations, as well as advance Serbia on its EU path. However, the Association/Community of Serb majority municipalities remains a critical issue, as it is not clear what the Serbian government's aspirations regarding its competences will be, and whether these aspirations could impede the future functioning of the Kosovan legal and political system.

For a successful continuation of the Brussels Dialogue – after a long stalemate – it is necessary, first of all, that both parties return to the negotiating table and agree on more frequent and transparent meetings. While, on the one hand, local ownership of the normalisation process is of paramount importance, on the other hand, the progress and the pace of the process are largely dependent on the certainty and clarity of the prospects for EU accession for both Kosovo and Serbia. In order to strengthen local ownership, both governments have to ensure full transparency and greater inclusiveness in the Brussels Dialogue. It is important that both general publics have access to the texts of the Agreements, as well as an insight into the stages of their implementation. The benefits of the normalisation

process should also be communicated clearly to citizens, especially to the population of north Kosovo.

However, in order for citizens to feel tangible benefits, stricter implementation of the Agreements is needed. In this regard, ambiguities of wordings must be clarified, and this is where EU diplomacy could play a prominent role. The legally binding document envisaged by the new EU Strategy should be as precise as possible, in order to avoid new stalemates caused by constructive ambiguity.

Finally, abandoning nationalist rhetoric and the zero-sum framing of the Dialogue is a critical condition for achieving a genuine normalisation of relations. While the Serbian government must not attempt to block the membership of Kosovo in international organisations, or to obstruct the functioning of Kosovo's legal system by keeping control over the north, the government in Pristina must ensure a more substantial inclusion of ethnic Serbs, and foster a society based on the principles of equality and non-discrimination.

Donika Emini and Isidora Stakic are European Fund for the Balkans (EFB) Fellows at the EUISS.

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