

A New Status Quo or a Breakthrough

The Council for Inclusive Governance (CIG) reconvened on November 11-12, 2022 in Solothurn, Switzerland, its roundtable of senior officials of main political parties of Serbia and Kosovo. The participants addressed recent tensions and prospects for a comprehensive agreement based on a recent EU framework. The roundtable is part of a larger project on the normalization of relations between Kosovo and Serbia, funded by and implemented in cooperation with the Swiss Federal Department of Foreign Affairs (FDFA). The report does not necessarily represent the views of individual participants, CIG, or FDFA. It reflects the discussion as a whole and CIG is solely responsible for its content.

The decade long *status quo* between Kosovo and Serbia broke down in November 2022. Serbs in the four municipalities in the north walked out of all Kosovo institutions, including, government, police, judiciary, and local municipalities. Participants encouraged Pristina and Belgrade to intensify their efforts for a breakthrough and prevent a new and likely less tenable *status quo* from setting in. Participants said that the outcome at a great degree depends on the international community. Pristina and Belgrade are not likely to achieve a breakthrough on their own. “Only a bold international involvement could bring it about.” Otherwise, many agreed, a new *status quo*, even more unstable and unpredictable than the old one, would set in.

The EU in cooperation with the US has offered to the parties a number of principles and a framework for negotiations. Though the framework is not public yet, most of the participants were familiar with its content. Belgrade and Pristina have delivered their first round of comments and the EU offered them a second version based on their suggestions. The good news is that the parties have agreed to engage. Some participants, who had seen the proposal, said the framework represents a good basis for negotiations but that a lot of work needs to be done for an agreement, even if or when the parties accept the framework. Many agreed that the international community is committed to help parties reach a settlement, but, some said, the willingness of Pristina and Belgrade for a solution that would most likely be based on some compromise is not strong enough.

Though the parties have engaged in the process by offering comments to the framework, this is not a ‘yes’ to the initiative, some said. It is difficult to decipher Belgrade’s and Pristina’s ambiguous signals to the proposal. But it seems that there is more political will from the EU, the US, and countries like Germany and France to conclude lingering disputes in Europe’s backyard. Their approach seems to be “a bit of forcing and a bit of incentivizing.” They seem to have recognized that small-step approaches are not enough to resolve complicated disputes. And the war in Ukraine has changed EU’s perspective on conflicts, encouraging it to take bolder action and transform the Western Balkans uncertain future into a certain

future, not simply address disputes when they become emergencies. Many agreed that all old agreements should be honored and implemented, but disagreed on sequencing: while some said that everything should be included in the eventual ‘big agreement,’ including the Association/Community of Serb-Majority Municipalities, others said agreements such as the Association/Community should be implemented before negotiating a final deal.

The participants discussed three main elements necessary for a breakthrough:

- a) a negotiation framework
- b) a powerbroker/negotiators/mediator
- c) willingness of the parties

There was agreement that we have a bit of the first and second, but not the third element. A draft framework reflects more clarity and will from the EU, the US, Germany and France, but Kosovo’s and Serbia’s willingness is weak. “And it is usually difficult to move from A to B without the will of the parties.” Many said it is also difficult to create political will internally in Kosovo and Serbia under the circumstances. It happened in other contexts, such as “Nelson Mandela creating internal political will in South Africa,” but “we have no Mandela.” Therefore, some outside efforts to build internal political will are needed. Many said a new process should also accommodate the spoilers but without compromising the objectives of the negotiations.

Moving forward

Participants were divided into groups of two to discuss suggestions and steps to move forward with the dialogue. Below are their recommendations, some based on consensus and some on broad agreement.

1. The Brussels Dialogue in its previous form has been exhausted. It is not possible to repair it. A new process that has a new framework is needed, including stronger US participation, especially that both Pristina and Belgrade are asking for it. The current EU/French-German proposal provide a good basis for moving forward. The EU can continue to lead the process but the US could do more work behind the scenes. The new process could both fix the immediate emergencies—such as the instability in Kosovo’s north—and search for a final agreement. The EU and the US cannot afford to remain facilitators anymore. They are actors and to some extent would be parties to the agreement. They need to engage more substantially. Many agreed that current rather nationalistic narratives are an impediment to progress but these narratives are here to stay. The parties have to find ways to accommodate them, but not further inflame them. The rational and forward-looking atmosphere of the Solothurn meetings should be nurtured and brought into the official discussions.
2. A comprehensive agreement should be a package in which there is something good and something bad for each party. The piecemeal approach will not work. Such an agreement will require not only commitments of Serbia and Kosovo but also of the EU.
3. Negotiation teams should be restructured when possible. They should include opposition parties in Kosovo and Serbia and Kosovo Serbs. If their direct engagement is not

possible—either they refuse to join or governments do not engage them—then regular consultations between government and opposition parties should be held.

4. The Association/Community will likely remain a thorny issue. Serbs will continue to insist on its formation while Albanians will argue it is not needed. However, many said Kosovo should draft a statute and form the Association/Community. It could seem as if Kosovo is giving up a bargaining chip for the big negotiations, but it also means the Kosovo is fixing an internal problem voluntarily. Some, however, insisted that the Association/Community should be part of the comprehensive agreement.
5. The situation in the four municipalities in the north is a security risk that cannot be left unattended for too long. Parties should search for ways to bring the people who resigned back to the institutions, including police and courts. Discussions with the Serbs should also be held on an eventual local election in the four municipalities in which the Serbs agree to participate.
6. All old agreements should be honored and implemented.

The participants also addressed the ongoing tensions and suggested some immediate steps.

1. Pristina should extend the use of car plates in the four north municipalities.
2. The parties should find ways to allow the return of police, customs officers, administration back to their jobs. When immediate return is not possible, Kosovo's government could adopt an amnesty law to make the return possible.
3. Kosovo's government should begin to draft the statute of the Association/Community. Some said the statute should be drafted within four months.
4. A model for elections in the north in which Serbs participate should be discussed and agreed upon, preferably within three months.

The EU and the US should acknowledge they are stakeholders in the dispute and thus push Pristina and Belgrade to agree on a negotiation framework. They should upgrade their role from facilitator to mediator. The framework should narrow the range of options for the parties. The EU proposal, known as the French-German proposal, seems to do exactly that. According to some participants familiar with the proposal, the two-page document recognizes that a) parties cannot resolve the dispute alone, b) the international community should upgrade its role from facilitator to powerbroker, and c) the EU and US themselves brings something to the table: for Kosovo, the five non-recognizers and membership in international organizations; and for Serbia, a financial and investment package and perhaps a conditional/tentative date for EU membership.

Many agreed on the following elements of a framework: a) agree to start negotiations, b) discuss a range of topics, c) engage in public outreach, d) negotiate topics and agree on narrow draft, e) consult at home with other institutions, f) agree on a first draft agreement, g) engage in further discussion to make final adaptation to the draft, h) agree on a final agreement, i) create the conditions at home for swift and successful ratification.

The participants agreed that when parties agree to a negotiation process that has clear principles and frameworks for both the process and content of eventual agreements, negotiations tend to be more successful.

The participants jointly discussed and endorsed the non-paper below.

Non-paper

Establishing an effective framework to achieve good and durable relations between Kosovo and Serbia

Senior officials from key political parties from Serbia and Kosovo have met informally since 2016 in Switzerland to exchange views on their future relations and addressing pressing issues, and to build trust and friendly relations between each other. From 10-12 November 2022 such a meeting was held in Solothurn in a trustful, constructive and open atmosphere (under the premise of “assume always good intentions”).

The participants have agreed on the following points:

1. The war in Ukraine has created a strategic momentum for a speeded-up process to integrate the Western Balkans into the Euro-Atlantic structures.
2. It is in the common national interest of Kosovo and Serbia to develop good, stable, and predictable relations.
3. After the recent events, the participants from Serbia and Kosovo are very concerned about the security situation, in particular in the four Serb-majority municipalities in Kosovo’s north. While the international community has its role, Kosovo and Serbia bear the primary responsibility to maintain peace and stability at home. Specific actions need to be taken without delay to address and remedy the current situation.
4. The participants call for efforts to be multiplied to address the longer-term issues. They would welcome a strong, concerted third party initiative to support Serbia and Kosovo in their endeavors to find a lasting solution in a Comprehensive Framework Agreement. This is the only way forward. Reaching such an Agreement is becoming urgent.
5. For this to happen, the participants call for key international actors (EU, Germany, France, USA) to set up a new robust framework conducive to lead Kosovo and Serbia through a negotiation process that will eventually result in such an Agreement.
6. The key international actors as a party with their own legitimate interests in the process are invited, together with Serbia and Kosovo, to commit to a common ultimate goal and the establishment of a road map for the negotiations including time frames.
7. The participants also welcome other experienced and committed third parties to support this process as needed.

The participants ask Switzerland to deliver this non-paper to relevant parties.

Participants

English Alphabetical Order

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