

Paving the Road to An Agreement

The Council for Inclusive Governance (CIG) in cooperation with the Swiss Federal Department of Foreign Affairs (FDFA) convened another roundtable in a series for senior officials of main political parties from Serbia and Kosovo. The participants discussed the ongoing negotiation process and the EU proposal for an agreement between Kosovo and Serbia. The discussions were held on February 10-12, 2023 in Solothurn, Switzerland. The participants defined and analyzed a number of goals, drivers, and roadblocks, as well as domestic and international dynamics surrounding the process. They specifically addressed the 11-point EU proposal, also endorsed by the US, as platform for normalization.

Though the proposal is not yet officially public, the participants were familiar with its content. The participants concluded that the proposal represents a good basis for normalization but that a lot of work needs to be done for the parties to agree to it. The roundtable is part of a larger project on the normalization of relations between Kosovo and Serbia funded by and implemented in cooperation with 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.

Key points

1. **EU/US determination and consensus is the key driver to an agreement.** Pristina and Belgrade are cooperating with the EU/US on the proposal, gradually transitioning from their maximalist positions to more pragmatic, ‘non-ideal’ options. They accepted the proposal ‘in principle’ but still have some disagreements over the sequencing and timing, with Belgrade demanding the Association/Community of the Serb-Majority Municipalities be formed before the agreement is signed and Pristina insisting it becomes part a final package and its implementation is not prioritized. They also disagree over the competencies of the ASM. Whether ASM becomes a dealbreaker remains to be seen, but there was consensus that the parties should not reject the EU/US proposal mainly because the likely consequent political and economic sanctions could be crippling. Some participants reported that the list of potential sanctions delivered to Serbia’s President Aleksandar Vucic and Kosovo’s Prime Minister Albin Kurti is harsh.
2. **The proposal has no clear implementation mechanism and sufficient guarantees.** The agreement needs strong EU/US implementation guarantees in case one or both parties do not honor their commitments, a likely occurrence given the parties’ lack of mutual trust. Strong and clear international guarantees could serve as a substitute for this lack of trust. The parties need guarantees that an eventual new agreement does not turn into another Brussels agreement, unimplemented even a decade after it was signed. Many participants said the implementation plan should have clear steps and timeframes.

3. **The proposal is not ideal but the best under the circumstances.** Kosovo's main criticism of the proposal is the absence of Serbia's *de jure* recognition and of guarantees that the five EU non-recognizers will recognize Kosovo. Serbia is not happy that it has to commit to allow Kosovo to join international organizations. But the proposal is good enough to put the parties on a path to normalization and reconciliation. Some suggested that the political parties in Kosovo and Serbia should remove the dialogue from domestic political discourse and not use the process or an eventual agreement against one another, especially that the governments in Belgrade and Pristina are facing a 'take it or leave it' proposal.
4. **Serbia has instruments and mechanism to integrate the EU/US proposal within its legal system.** The agreement would meet the standards of a *Legally Binding Agreement*. This would include recognition of all documents and symbols. Serbia does not need to hold a referendum on the agreement. Nevertheless, the ratification could require two-thirds of the parliament vote (in the case of Serbia may be simple majority or not voting at all, as was the case with the Brussels agreement) in which case the votes of the opposition parties are necessary (Kosovo considers these agreements as international agreements where two-thirds are required). The governing parties may need the support of the opposition parties when it comes to ratifying/integrating the agreement into their legal systems.
5. **The goal and objectives of the EU/US 11-point proposal are not clear.** The proposal is referred to as basic agreement, interim agreement or legally-binding agreement. It is not clear whether it contains all the elements of a peace agreement or whether it is more of an agreement on principles or a roadmap to a negotiating process. Many participants said that the main focus of the proposal should be normalization and reconciliation between Kosovo and Serbia.

Agreement's goals, drivers, and roadblocks

The participants identified a number of goals, drivers, and roadblocks on the path to an agreement and offered some suggestions how to address them.

Goals

1. The agreement should remove sources of potential future conflict and help establish predictable relations between Kosovo and Serbia. The post-agreement environment should be conducive for faster economic development and integration of Serbia and Kosovo into the EU.
2. The agreement should not undermine Kosovo's and Serbia's crucial national interests or undermine their internal stability.
3. The agreement should result in substantial reconciliation between Kosovo and Serbia.
4. The agreement should normalize relations between both institutions and societies of Serbia and Kosovo.
5. The agreement should ensure a sustainable and irreversible integration of Kosovo's four northern municipalities.

Drivers

1. The EU/US determination and consensus is the key driver to the proposal. The mediators carefully combined their support (carrots) with potential sanctions (sticks) as part of the negotiating process to drive parties toward a deal. The EU/US have sufficient leverage on Kosovo and Serbia to get them to agree to the proposal as long as the EU/US manage to preserve their determination. The EU/US are confident but not sure, some participants

reported, that the proposal would be accepted. Reportedly, if one party rejects it, a number of harsh sanctions (known to the parties) would be immediately applied to the non-cooperating party. The approach clearly rewards cooperators and sanctions non-cooperators.

2. The desire of the parties not to pass the conflict onto another generation and eliminate the sources of an eventual future conflict is another significant driver.
3. Parties are aware that an eventual refusal of the proposal would be followed by harsh consequences for both Kosovo and Serbia and their leaders. This should encourage both the publics and leaders to become more cooperative.
4. Serbia's and Kosovo's leaders are stubborn but rational and understand the cost of non-cooperation. Though reluctantly, they are cooperating with the EU/US mediators in the initial phases of the process by gradually retreating from their maximalist positions and agreeing to 'not so ideal choices.' Positions of both sides remain tough but they will most likely agree to a deal and so prevent a triggering of EU/US sanctions.
5. Geopolitical dynamics created in the aftermath of the Russian invasion of Ukraine and EU's and US's priority of regional stability favor a solution.
6. Promise of financial assistance and potential for investment serve as incentives for the parties. But many suggested that this point should be more specific.
7. The EU integration for Serbia and membership in international organizations for Kosovo are distant but feasible objectives with the signing of the agreement. If the parties reject the agreement the EU integration for Serbia and membership in international organizations for Kosovo are likely off the table.

Roadblocks

1. The process lacks credibility and trust. The EU-sponsored Brussels dialogue went on for too long, producing some good results but also unsustainable, and often, reversible ones. A decade after, the agreement has not yet been implemented in full. Trust in the new process will suffer until the process delivers concrete and sustainable results.
2. Parties have conflicting goals in the process and neither one believes the agreement is good for them. If they accept it, it would be because of the international pressure on them and not because of their belief in it. However, there are few agreements when parties to the conflict believe were good for them.
3. Political leaderships and publics perceive the process as a zero-sum game. Political parties also send often conflicting messages to the public.
4. The proposal has insufficient carrots: No clear EU membership prospects for Serbia and no guarantees for Kosovo's recognition by the five EU non-recognizers.
5. Political leaderships are prone to opportunism, playing safe, and distorting facts for political gain.
6. The controversy over the integration of the north and the formation of ASM is perhaps the most complicated roadblock to the process.

Participants

English Alphabetical Order

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