

7 YEARS AFTER THE FIRST NORMALIZATION AGREEMENT:

WHERE DO KOSOVO AND SERBIA STAND
IN TERMS OF “NORMALIZATION” TODAY?

APRIL, 2020



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TABLE OF CONTENT

“BRUSSELS AGREEMENT” OF 2013	7
SUBSEQUENT AGREEMENTS OF 2015.....	8
(NON-)IMPLEMENTATION OF AGREEMENTS.....	9
CURRENT PROCESS OF “NORMALIZATION” BETWEEN KOSOVO AND SERBIA.....	10
“NORMALIZATION” DURING THE ‘KURTI’ GOVERNMENT	12
RECOMMENDATIONS.....	14

**THE FIRST AGREEMENT OF
PRINCIPLES GOVERNING THE
NORMALIZATION OF RELATIONS
BETWEEN KOSOVO AND SERBIA
WAS SIGNED ON 19 APRIL 2013
BY BOTH PRIME MINISTERS,
UNDER MEDIATION OF EU HIGH
REPRESENTATIVE FOR FOREIGN
AFFAIRS AND SECURITY POLICY,
BARONESS CATHERINE ASHTON.**

“BRUSSELS AGREEMENT” OF 2013

Following the advisory opinion of the International Court of Justice (ICJ) on the act of Kosovo’s declaration of independence, the United Nations General Assembly adopted in 2010 a resolution which paved the way for launching the Kosovo–Serbia dialogue, mediated by the EU. In 2011, the Assembly of Kosovo voted a resolution authorizing the Government to initiate technical dialogue with Serbia. The technical dialogue lasted till the end of 2012, when the Assembly adopted a new resolution authorizing the executive to start the political dialogue with Serbia with the purpose of normalizing and resolving the disputes between the two countries. Since October 2012, the then Prime Minister of Kosovo, Hashim Thaçi, and the then Prime Minister of Serbia, Ivica Dacic, have held ten rounds of meetings aimed at reaching an agreement on the general principles of normalizing relations between the two countries. The First Agreement of Principles Governing the Normalization of Relations between Kosovo and Serbia was signed on 19 April 2013 by both Prime Ministers, under mediation of EU High Representative for Foreign Affairs and Security Policy, Baroness Catherine Ashton. This agreement, ratified by the Assembly of Kosovo on 27 June of the same year, represents the first legal and formal arrangement between the Republic of Kosovo and Republic of Serbia. The ratification of this agreement in the Assembly gave it the character of an international agreement, at least for the Kosovo side ¹.

On the other hand, the Serbian Parliament did not ratify this agreement arguing that, in Serbia’s opinion, it does not represent an agreement between the two countries. At the request of one of the parliamentary groups of the Serbian Parliament, the agreement was sent to the Constitutional Court of Serbia but was rejected because it was deemed as inadmissible since the case, and the agreement itself, represented a political rather than a legal act.² This agreement, also known as the “Brussels Agreement”, was considered as historic by senior EU officials, and the success of reaching such an agreement was also attributed to EU diplomacy.

The agreement between Kosovo and Serbia was seen as an EU attempt to resolve the problems between the two countries, while its 15 points provided for the settlement of issues related to:

- Establishment of an association/community of Serb-majority municipalities;
- Integration of Serbian parallel structures in the north within the Kosovo Police;
- Appointment of the regional police commander for the four Serb-majority municipalities in the north;
- Integration of judicial authorities and establishment of a panel composed of Serb-majority, to adjudicate all cases of Serb-majority municipalities, as a division of the Appellate Court in Prishtina;
- Organization of local elections in northern municipalities

1 For more, see the First Agreement of Principles Governing the Normalization of Relations. Available at: http://votaime.org/Uploads/Data/Documents/TekstiiMarreveshjes_19prill2013_HGXf5EDTG4.pdf

2 Zoran G. & Pavle D. “Report on the Implementation of the Brussels Agreement (by the Republic of Serbia)”. Bureau for Social Research, Belgrade, 2015.



**SINCE OCTOBER 2012, THE THEN
PRIME MINISTER OF KOSOVO,
HASHIM THAÇI, AND THE THEN
PRIME MINISTER OF SERBIA, IVICA
DACIC, HAVE HELD TEN ROUNDS
OF MEETINGS AIMED AT REACHING
AN AGREEMENT ON THE GENERAL
PRINCIPLES OF NORMALIZING
RELATIONS BETWEEN THE TWO
COUNTRIES.**

with the facilitation of the OSCE and in accordance with Kosovo legislation;

- Intensification of discussions related to energy and telecommunications;
- Mutual non-interference on the respective EU paths.

With the purpose of implementing of this agreement, in May of the same year, both parties drafted an implementation plan³, consisting of six main elements: Adaptation of the legal framework; Association/Community of Serb-Majority Municipalities; Police; Justice; Local Elections and General Provisions.

SUBSEQUENT AGREEMENTS OF 2015

The Brussels Agreement implementation plan had also provided for deadlines which for the most part were not complied with, but also the need for further political dialogue for the implementation of the same. Political developments in Kosovo and Serbia and the 2014 European Parliament elections brought a new High Representative for Foreign Affairs and Security Policy, Ms Federica Mogherini, and a new attempt to restart the dialogue. During 2015, under the chairmanship of the two former prime ministers of the two countries, Isa Mustafa and Aleksandar Vucic, Kosovo and Serbia had reached a block of agreements, deriving from the agreement of 19 April.

The agreements reached in 2015 are as follows:

- Agreement on Justice and Judiciary, signed on 10 February⁴;
- Agreement on the dismantlement of the so-called 'Civil Protection', signed on 26 March⁵;
- Agreement on mutual recognition of vehicle (insurance) policies, signed on 25 June⁶;
- Agreement on General Principles/Main Elements of the Association/Community of Serb-Majority Municipalities, signed on 25 August⁷;
- Conclusions on the Implementation of the 2013 Energy Agreement, signed on 25 August⁸; and
- Telecoms action plan, also signed on 25 August⁹.

3 For more, see the Implementing Plan. Available at: http://votaimo.org/Uploads/Data/Documents/PlaniZbatues_22maj2013_DHn8XcsWE3.pdf

4 For more, see the Agreement on Justice. Available at: http://votaimo.org/Uploads/Data/Documents/TekstiiMarreveshjes_9shkurt2015_L43cjLqxen.pdf

5 For more, see the Agreement on the dismantlement of the so-called 'Civil Protection'. Available at: http://votaimo.org/Uploads/Data/Documents/TekstiiMarreveshjes_26mars2015_xgUFxRMDM2.pdf

6 For more, see the Memorandum of Understanding on the "Mutual Recognition of Motor Third Party Liability Insurance (MTPL) and arrangements for the processing and payment of claims". Available at: http://votaimo.org/Uploads/Data/Documents/MemorandumiiMirekuptimit_23qershor2015_2MXFqivUKj.pdf

7 For more, see the Agreement on General Principles/Main Elements of the Association/Community of Serb-Majority Municipalities. Available at: http://votaimo.org/Uploads/Data/Documents/TekstiiMarreveshjes_25gusht2015_EVDK4S6aE9.pdf

8 For more, see Conclusions on the Implementation of the 2013 Energy Agreement. Available at: http://votaimo.org/Uploads/Data/Documents/KonkluzionetelehtesuesitteBEbmiimplementimineMarreveshjesperEnergjitevitit2013_25gusht2015_tfgbRYh4vv.pdf

9 For more, see Telecoms action plan. Available at: http://votaimo.org/Uploads/Data/Documents/PlaniiperbashketiveprimitperTelekomin_FINAL_25_Gusht_2015_DHYMcXRwLf.pdf



(NON-)IMPLEMENTATION OF AGREEMENTS

Despite the great rage after reaching the First Agreement and other subsequent agreements, some of them remain unimplemented even today. Even though these agreements were aimed at improving the lives of citizens, a significant part of the latter (43.3%), in September 2016, were not aware of any of the agreements reached within the Kosovo-Serbia dialogue process.¹⁰

The fact that the agreements reached have avoided in almost every case the issue of Kosovo's political status has often become a problem for the implementation of certain aspects of the agreements. The agreements have been reached in the spirit of the so-called constructive ambiguity, which created space for the parties to make their own independent interpretations of the agreements. On the other hand, the lack of guarantee and supervisory mechanisms for the implementation of the agreements, as well as the lack of political will of the parties for their implementation, turned some of the agreements into unimplemented documents.

In this regard, the EU, as a facilitator of the process, decided to play a passive role in providing objective and impartial interpretations of these agreements. Despite on-going statements by EU officials on the need to implement the agreements, the European Union did not take the role of guarantor, but linked the European path of the parties to this process, i.e. for Kosovo, by including it as an obligation

within the Stabilization and Association Agreement, while for Serbia, by including it within the framework of negotiations on Chapter 35. The need for an increased role of guaranteeing the implementation of the agreements was also a request of the citizens of Kosovo, in order for the EU to guarantee the implementation of the agreements, including the need to impose sanctions on non-implementing parties.¹¹

Determining factors for the non-implementation of the agreements were also the political and social developments within the countries, influencing the parties to have reserves or not to respect certain agreements at all. In the case of Kosovo, the extreme polarization of the political spectrum on the issue of the Association had affected the non-implementation of the relevant agreement. The harsh political opposition had led to former President Atifete Jahjaga sending the 2015 Agreement of Principles to the Constitutional Court which, based on the judgment, had found that 20 Articles of this agreement are not in the spirit of the Constitution of the Republic of Kosovo.¹² Regarding the establishment of the Association, according to the measurement of civic perception in September 2017¹³, a significant part of the citizens, namely 46% of them, have stated that this Association would affect the deterioration of interethnic relations in Kosovo.

10 Kosovo Democratic Institute (KDI). "Transparency of the Kosovo-Serbia Dialogue: Citizens' Perspective". P. 4. Prishtina, 2016. Available at: <http://votaimo.org/Public/Article/DownloadFile/1004>

11 Kosovo Democratic Institute (KDI). "The final phase of the Kosovo-Serbia dialogue: Citizens' perspective". P. 14. Prishtina, 2017. Available at: <http://votaimo.org/Public/Article/DownloadFile/1258>

12 Judgment of the Constitutional Court, available at: https://gjk-ks.org/wp-content/uploads/vendimet/gjk_ko_130_15_shq.pdf

13 Kosovo Democratic Institute (KDI). "6 years after: (Non) Consolidation of statehood - Kosovo-Serbia dialogue from the citizens' perspective". P. 17. Prishtina, 2017. Available at: <http://votaimo.org/Public/Article/DownloadFile/1255>

CURRENT PROCESS OF "NORMALIZATION" BETWEEN KOSOVO AND SERBIA

The Brussels Agreements aim at the full normalization of relations between the two countries. In the absence of a single interpretation of this notion, the parties, as they had done with the interpretation of the agreements reached, interpreted the normalization based on their position on the status of Kosovo. The lack of clear definition of the "normalization" concept per se and its premises has led the parties to often take actions that were against the spirit of normalization of relations, consequently their relations often were aggravated.

The peak of their relation's aggravation resulting to the disconnection of almost any communication occurred after Kosovo had imposed a 100% tariff on products imported from Serbia and Bosnia and Herzegovina on 21 November 2018.¹⁴ This tariff was imposed as a response of the institutions of the Republic of Kosovo to Serbia's aggressive campaign to prevent Kosovo's membership in INTERPOL, as well as Serbia's campaign to convince countries withdraw their recognition of Kosovo.¹⁵

The tariff was further used as a pretext by the Serbian side for non-participation in the dialogue, thus initiating a period during which the parties had stuck to their

positions. Since the imposition of the tariff, Kosovo has faced great pressure from the international community, both the EU and the US, first to remove it, then suspend it and finally to remove it completely.

Serbia's recent campaign to convince countries withdraw their recognition of the Republic of Kosovo has greatly contributed to the lack of normalization, which was condemned, although perhaps not enough, by the international factor. Following the imposition of the tariff, when the dialogue had already been suspended, the former Prime Minister, Ramush Haradinaj, had made numerous accusations against the EU High Representative, Federica Mogherini, for allowing a non-transparent dialogue where the issue of the land swap between the two countries was discussed. In fact, the very idea of border correction or land swap between Kosovo and Serbia, which has been opposed as a solution by the vast majority of Kosovo's citizens¹⁶, is one of the most sensitive topics that has produced polarization in the local political scene, but even in the international one, where two positions were mainly circulating - that of the two main EU countries, Germany and France, which opposed the idea of border correction, as well as that of the United States, which did not prejudge

14 For more, see the Government's decision on the imposition of the 100% tariff on imported products originating from Serbia and Bosnia and Herzegovina. Available at: <https://kryeministri-ks.net/wp-content/uploads/2018/11/Vendimet-e-Mbledhjes-së-76-të-të-Qeverisë-së-Republikës-së-Kosovës-2018.pdf>

15 The justification of the decision to impose the tariff also mentions the non-tariff barriers that Serbia has applied to Kosovo over the years.

16 Instituti Demokratik i Kosovës (KDI). "Hulumtim i opinionit publik lidhur me dialogun Kosovë-Serbi". Fq. 9. Prishtinë, 2018. I qasshëm në: <http://votajme.org/Public/Article/DownloadFile/1980>

what the eventual agreement between the two countries should contain.

Given that 2019 was an election year for the EU itself, this resulted in a further inactivation of its role in resuming dialogue. Here we add the fact that the two main EU countries, Germany and France, had also failed to push the parties to return to the dialogue process¹⁷. In this context, the organization of the elections in Kosovo during mid-2019, as well as the delays related to the electoral process and those in the formation of institutions, had influenced the further postponement of the restart of the dialogue.

The situation began to change during the end of 2019 after the direct US involvement in the mediation of the dialogue process between the parties. The direct involvement was formalized after the appointment of Matthew Palmer by the US Department of State as Special Representative for the Balkans in August 2019¹⁹, as well as the appointment of Richard Grenell as Special Envoy of the US President, for reaching a peace agreement between the two countries²⁰. Kosovo and Serbia, during the beginning of 2020, under the direct mediation of the United States, namely Richard Grenell, had signed a series of new agreements, in the form of letters of intent, regarding the airline, the railway line and the highway that connects the two countries. These agreements were proclaimed as an opportunity to continue the dialogue process towards reaching a final agreement based on the economic development model. However, it is worth noting that these agreements were reached after a non-transparent negotiation process.²¹

**THE PEAK OF THEIR RELATION'S
AGGRAVATION RESULTING TO THE
DISCONNECTION OF ALMOST ANY
COMMUNICATION OCCURRED AFTER
KOSOVO HAD IMPOSED A 100% TARIFF
ON PRODUCTS IMPORTED FROM SERBIA
AND BOSNIA AND HERZEGOVINA ON 21
NOVEMBER 2018.**

Despite the frequent urges of the vast majority of the Kosovar political spectrum, but also the citizens' general mood²² on the direct US involvement in this process, many hypotheses about the possibility of a plan already²³ tagreed to resolve the Kosovo-Serbia disputes have aroused fear and hesitation in the incumbent Prime Minister Albin Kurti²⁴ and the political entity he leads, that such an agreement, which may have been negotiated between the presidents of the two countries, may not be in favour of Kosovo.²⁵

17 For more, see the news: <https://zeri.info/aktuale/268822/deshton-samiti-i-parisit/>

18 For more, see the news: <https://www.dw.com/sq/samiti-i-berlinit-kosova-dhe-serbia-nuk-afrohen/a-48541618>

19 For more, see the news: <https://www.koha.net/arberi/181795/matthew-palmer-emerohet-perfaqesues-i-posacem-i-shba-se-per-ballkanin/>

20 For more, see the news: <https://www.politico.eu/article/trump-names-ric-grenell-his-special-envoy-for-serbia-and-kosovo/>

21 For more, see the news: <https://zeri.info/aktuale/320950/kdi-kerkon-me-shume-transparence-per-marrevshjen-ne-berlin/>

22 Kosova Democratic Institute (KDI). "Normalization of Relations Between Kosovo and Serbia, Citizens' Perspective". P. 12. Prishtina, 2018. Available at: <http://votaimo.org/Public/Article/DownloadFile/1388>

23 For more, see the news: <https://www.koha.net/metro/194362/hooper-marrevshja-kosove-serbi-ekziston-ceshtja-eshte-zbatimi/>

24 For more, see the news: <https://kallxo.com/lajm/albin-kurti-qeveria-ime-po-bie-per-shkakt-te-marrevshjes-me-serbine/>

25 For more, see the news: <https://www.evropaelire.org/a/albin-kurti-marrevshje-sekrete-thaci-vuciq-/30482110.html>

“NORMALIZATION” DURING THE ‘KURTI’ GOVERNMENT

Since 2013, when the First Normalization Agreement was reached, Kosovo has changed four governments which, although in principle have been in favour of dialogue, have had relatively different approaches towards the process as well as the measures and actions to be taken during such process.

Finally, the government led by Prime Minister Albin Kurti, established in February this year and which formally expressed in favour of the continuation of the process, had refused to fully remove the 100% tariff without establishing reciprocity, differently from what was consistently and persistently demanded by top US officials who were involved in this process. Exactly this refusal was used as one of the reasons for the overthrow of this government by the partner of the ruling coalition ‘Lidhja Demokratike e Kosovës’ with the support of other opposition parties.

Although the tariff was partially removed by a decision taken by the Government on 20 March²⁶, this was deemed insufficient by US officials who have practically taken the burden of concluding the dialogue process.²⁷ Their request for full and unconditional removal of the tariff was ignored, as the incumbent Government, on 31 March, had decided to replace the tariff with reciprocity against Serbia. However, the Government’s decision to remove the 100% tariff was supported by most EU member states, as well as by EU officials themselves.

Today, although the dialogue remains suspended, there have been no initiatives to build political consensus in Kosovo on this issue. In this process, the 100% tariff,

THE GOVERNMENT LED BY PRIME MINISTER ALBIN KURTI, ESTABLISHED IN FEBRUARY THIS YEAR AND WHICH FORMALLY EXPRESSED IN FAVOUR OF THE CONTINUATION OF THE PROCESS, HAD REFUSED TO FULLY REMOVE THE 100% TARIFF WITHOUT ESTABLISHING RECIPROCITY, DIFFERENTLY FROM WHAT WAS CONSISTENTLY AND PERSISTENTLY DEMANDED BY TOP US OFFICIALS WHO WERE INVOLVED IN THIS PROCESS.

reciprocity, red lines and the non-unique stance of the international community on this process, are some of the elements that have influenced political parties to reach a broader consensus on all issues related to the dialogue process. In about 50 days of the ‘Kurti’ Government, even after its dismissal, the accusatory statements of institutional leaders, especially of the President and the Prime Minister, have only intensified. Meanwhile, the position-opposition parliamentary parties have continued their political clashes, which have often focused on the process itself.

26 For more, see Decision of the Government of Kosovo on supplementing-amending the Decision No. 01/76 of 21 November 2018, amended by Decision No. 06/82 of 28 December 2018. Available at: <https://kryeministri-ks.net/wp-content/uploads/2020/03/Vendimet-e-Mbledhjes-së-14-të-të-Qeverisë-së-Republikës-së-Kosovës.pdf>

27 For more, see the news: <http://top-channel.tv/2020/02/28/shba-kunder-kurtit-grenell-nuk-e-mbeshtesim-heqjen-e-pjesshme-te-taksas/>

Regarding the role of the international community in this process, if developments regarding dialogue and normalization of Kosovo-Serbia relations are seen from a broader perspective, it is easy to conclude that there is a double "battle" to lead this process. First, there is a "battle" to lead this process within Kosovo's two institutional leaders, namely President Thaçi and incumbent Prime Minister Kurti. On the other hand, in the external plan, there is a "battle" between the US and the EU²⁸. to lead this process. Appointment of two special envoys from these two countries, namely of Richard Grenell from the USA²⁹ and of Miroslav Lajcak from the EU³⁰, and their almost parallel initiatives to restart and conclude this process, can be seen as a race between two of the largest political powers in the international arena in concluding the Kosovo-Serbia dialogue process. Such international attention from the two main international actors may bring about a final agreement that concludes the centuries-old dispute between the two countries, which until recently was seen as something utopian by a considerable part of the various local and international actors.³¹

IT IS EASY TO CONCLUDE THAT THERE IS A DOUBLE "BATTLE" TO LEAD THIS PROCESS. FIRST, THERE IS A "BATTLE" TO LEAD THIS PROCESS WITHIN KOSOVO'S TWO INSTITUTIONAL LEADERS, NAMELY PRESIDENT THAÇI AND INCUMBENT PRIME MINISTER KURTI. ON THE OTHER HAND, IN THE EXTERNAL PLAN, THERE IS A "BATTLE" BETWEEN THE US AND THE EU

28 For more, see the news: <https://www.evropaelire.org/a/30459928.html>

29 For more, see the news: <https://kallxo.com/lajm/richard-grenell-i-derguar-i-shba-se-per-dialogun-kosove-serbi/>

30 For more, see the news: <https://www.consilium.europa.eu/en/press/press-releases/2020/04/03/belgrade-pristina-dialogue-eu-ap-points-a-new-special-representative/>

31 For more, see the news: <https://www.koha.net/arberi/145487/marveshja-kosove-ndash-serbi-qindra-mijera-milje-larg/>
<https://ekonomiaonline.com/politike/kosova-e-serbia-ende-larg-arritjes-se-marveshjes-historike/>
<https://indeksonline.net/deputeti-i-ldk-se-sqaron-se-pse-marveshja-me-serbine-eshte-shume-larg/>
<https://gazetablic.com/a-mund-te-arrihet-marveshja-kosove-serbi-ne-kohe-te-zgjedhjeve-sipas-ish-zyrtarit-amerikan/>



RECOMMENDATIONS

Based on recent developments regarding the dialogue between Kosovo and Serbia in particular, but also the process of normalizing relations between the two countries in general, the Kosova Democratic Institute provides the following recommendation:

- I. The eventual final agreement should avoid “constructive ambiguity” so that the parties are not allowed different interpretation, which may lead to the non-implementation of the agreement itself;
- II. Achieving an eventual final agreement must be guaranteed by the mediators of this process. The eventual agreement must have strict implementation deadlines, as well as punitive measures for non-implementing parties;
- III. Institutions, based on constitutional responsibilities, must work intensively to achieve institutional coordination regarding the Kosovo-Serbia dialogue process. Whereas, efforts should be made with the aim of reaching an agreement of the political spectrum regarding the negotiating principles and the content of the eventual final agreement. These efforts should be undertaken in order to build a unique position of the state of Kosovo, to avoid political and social polarization, to strengthen Kosovo’s negotiating position in relation to Serbia, and to build sound relations with all international partners;
- IV. Each constitutional institution engaged in the dialogue process, including the Prime Minister, the President and the Kosovo Assembly, must exercise the relevant constitutional obligations under this process, in accordance with the judgment of the Constitutional Court on this issue;
- V. Kosovar political spectrum should, through the country’s institutions, seek closer cooperation and coordination between the US and the EU within this process;
- VI. Transparency over the Kosovo-Serbia negotiation process, both in relation to the citizens and institutions of the country, must remain a key element. The practice of non-transparency that is still accompanying this process should be stopped and the red lines should be clearly articulated, issues that are intended to be discussed within this process, where citizens’ expectations on dialogue topics should be taken into account and not be neglected.





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