

THE STATE OF PLAY



the EU-Sponsored Ohrid Agreement
between Kosovo and Serbia and the
Western Balkans regional
integration

APRIL 2025 MITROVICA NORTH

The state of play: the EU-Sponsored Ohrid Agreement between Kosovo and Serbia and the Western Balkans regional integration



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INTRODUCTION

The Russian invasion of Ukraine has mobilized the transatlantic community to address the unresolved issues, with destabilizing potential, in South East Europe. The EU-sponsored, and US-supported, Kosovo-Serbia “Basic Agreement” is expected to upgrade/normalize the relationships between the two and to advance security and stability in the Western Balkans. The prevalent thinking is that the Basic Agreement will enable a more predictable relationship between Serbia and Kosovo, paving the way for an accelerated regional cooperation and integration, while fully anchoring the Western Balkans with the EU and the West.

The “Basic Agreement” referred to as the “Ohrid Agreement” for Kosovo and Serbia in essence upgrades the First Agreement of Principles on Normalisation of Relations of April 2013, including the other “technical” agreements and arrangements from the Brussels Dialogue. It aims to delineate the legal jurisdictions of two sides within their respective territories. It further refers to the status of Kosovo Serbs and the Serbian Orthodox Church, upgrades the Liaison Offices to Permanent Missions, and calls for an unobstructed membership of Kosovo in international organisations, also reaffirming all previously reached agreements. Hence, this Agreement aims to remove the potential for instability between Kosovo and Serbia and to unblock and accelerate the regional cooperation and integration in the Western Balkans (WB).

The regional integration consists of two platforms – the Common Regional Market (CRM), implemented by Regional Cooperation Council (RCC) and Central European Free Trade Agreement (CEFTA) – both within the Berlin Process and European Commission’s Economic and Investment Plan (EC EIP) and Growth Plan commitments. The CRM is a structured integration both within the region and with the EU single Market through the established regional institutions. The stabilisation of the relations between Serbia and Kosovo may result in a significant integration of the Western Balkans.

None of the provisions of the agreement are being implemented. The relations between Kosovo and Serbia have worsened dramatically, while the inter-ethnic divide in Kosovo itself has deepened. Even the key provisions of the First Brussels Agreement of 2013 are in mess, following the events in the fall of 2022 when the Serbs in northern municipalities of Kosovo withdrew from the local institutions, police and judiciary.

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EVENTS THAT LED TO “OHRID AGREEMENT”

The ongoing war in Ukraine has significantly altered the geopolitical landscape, shaking stability in the Western Balkans. The overall picture of the region remains grim as tensions between Kosovo and Serbia are rising, threats for secession in Bosnia and Herzegovina are steadfast, while right-wing nationalist forces winning the elections in North Macedonia have already started bickering with the EU and Member states.

Following the 2023 May unrest in the north of Kosovo, with a compact ethnic Serbs majority, the EU imposed temporary punitive measures, including the suspension of high-level visits, contacts and events, as well as financial cooperation restrictions. In September 2023, a Belgrade-tied armed group entered the village of Banjska, where in a shootout with the local police, classified by the EU as a terrorist attack, one police officer and several gunmen were killed. Western frustration with Kosovo grew further in January 2024 after the Central Bank of Kosovo decided that euro was the only legal currency, effectively banning bank transfers from Serbia to Kosovo Serbs and other minority communities, who receive salaries, social and pension schemes in dinar. After seven rounds of negotiations, the EU stated that parties have not been able to find a compromise solution to the issue.

Kosovo's membership in Council of Europe (CoE) was postponed on 17 May 2024, pending Pristina's refusal to implement its commitments from the agreements reached within the EU-facilitated Dialogue between Belgrade and Pristina, notably on the process to establish the Association of the Serb majority municipalities. This furthered the position of the West that the government in Pristina continues to obstruct the Dialogue process, alongside Belgrade.

¹ European External Action Service, 'Kosovo-Serbia: Press Remarks by High Representative/Vice-President Josep Borell after the crisis management meetings with Prime Minister Kurti and President Vučić', June 2023 (https://www.eeas.europa.eu/eeas/kosovo-serbia-press-remarks-high-representativevice-president-josep-borrell-after-crisis-management_en)

² See more (https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-agreement-path-normalisation-between-kosovo-and-serbia_en) and (https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-implementation-annex-agreement-path-normalisation-relations-between_en)

The EU High Representative/Voice President Josep Borell more than once described the talks between Kosovo and Serbia as 'crisis management, underlining the precariousness of situation¹. The land-mark Agreement on the Path to Normalization of Relations between Kosovo and Serbia (the Ohrid Agreement) and its Implementation Annex² reached in February and March 2023, respectively did not produce the expected results, due to disagreements on the sequencing of implementation steps. The Agreement is inspired by the 1972 German-German Basic Agreement and stipulates, among other points, that Kosovo offers 'self-management for Serb community' including through the establishment of an

Association of Serb-majority municipalities (ASM) – a commitment from 2013, while Serbia does not object to Kosovo’s membership in international organizations. Almost none of the commitments have been implemented, while new issues, with a potential to further destabilize the situation, pile up.

Kosovo misread the Western attitude towards the Western Balkans following Russian war of aggression against Ukraine. The new leadership took unilateral actions in the Serb-majority municipalities in the north, causing a security escalation between July 2022-May 2023, with NATO-led KFOR troops rushing to stabilize the security environment. These actions resulted in an encouraged by Belgrade withdrawal of the local Serbs from the municipal offices and administration, police, prosecution and judiciary. The EU frustrated by the unilateral escalatory actions of the Kurti-led government in northern Kosovo imposed “measures” against Kosovo. The EU outlined 3 conditions for lifting these measures – “Kosovo to act in a non-escalatory way and immediately suspend police operations in the vicinity of the municipal buildings in the north of Kosovo; the mayors should temporarily perform their duties in premises other than the municipal buildings; the early elections should be announced as soon as possible in all four municipalities and organised in a fully inclusive manner; expect Kosovo Serbs to take part in these elections.”³ A process was designed for a referendum of removal of the mayors which took place on 21 April, but this too was boycotted by the local Serbs backed by Belgrade.

Since taking office in 2021, Kosovo’s Prime Minister Albin Kurti has adopted a more assertive stance toward the four northern municipalities predominantly inhabited by the Serb community. Serbia and Kosovo have exercised overlapping sovereignty in the north and in the all other Serb majority settlements throughout Kosovo – Serbia has been responsible for providing education and healthcare, social assistance and pensions, while Kosovo has managed law enforcement and the courts. However, the new prime minister grew increasingly impatient with this arrangement, especially in the northern part of the country. Measures such as deploying heavily armed police, imposing embargoes on Serbian goods, evicting Serbian institutions, and banning the Serbian currency have been implemented, partly justified by security concerns, including the discovery of Serb paramilitaries smuggling weapons from Serbia in September 2023 which led to the attack in Banjska. The situation escalated when Kosovo police clashed with Serb paramilitaries near Banjska, resulting in casualties. This clash was seen as a potential pivotal point, affecting perceptions of both

³ European Council of the EU, ‘Kosovo* - Statement by the High Representative on behalf of the EU on the latest developments’ (<https://www.consilium.europa.eu/en/press/press-releases/2023/06/03/statement-by-the-high-representative-on-behalf-of-the-eu-on-kosovo-and-latest-developments/>)

sides and influencing Western sympathies, but resulted as unfounded expectations.

These actions have led to claims for further migration of Kosovo's Serbs, exacerbating a pre-existing trend. Estimates suggest that up to a third of Kosovo's Serbs have left in the past eight years. This migration is concerning both for its implications on their levels of frustration and for its potential to derail the pathway to normalization, wherein Kosovo might grant substantial self-rule to its Serbs in exchange for Serbia's de facto, if not de jure, recognition of Kosovo.



THE “OHRID AGREEMENT”

The Agreement on the Path to Normalisation between Kosovo and Serbia is a fundamental document aimed at fostering peace and cooperation between the two nations. It outlines a framework for establishing mutual respect, peaceful dispute resolution, and enhanced bilateral cooperation across various fields. This agreement is seen as a significant step toward overcoming the legacies of past conflicts and facilitating both countries' paths towards European Union membership.

At the core of the agreement is the commitment by both Kosovo and Serbia to develop normal, good-neighborly relations on the basis of equal rights. This includes mutual recognition of each other's documents and national symbols such as passports, diplomas, license plates, and customs stamps. The agreement emphasizes adherence to the principles laid down in the United Nations Charter, particularly sovereign equality, respect for independence, and the protection of human rights.

The agreement stipulates that all disputes between the parties are to be settled exclusively by peaceful means, refraining from the threat or use of force. Additionally, Serbia has agreed not to object to Kosovo's membership in any international organization, ensuring that neither party can represent the other in the international sphere or act on its behalf.

A notable aspect of the agreement is its focus on the European Union accession path. Both parties have agreed not to block, nor encourage others to block, the other party's progress in their respective EU paths based on their own merits. This commitment extends to the continuous participation in the EU-led Dialogue, aimed at reaching a legally binding agreement on comprehensive normalization of their relations.

The agreement also plans for deepened future cooperation in fields such as economy, science and technology, transport and connectivity, judicial and law enforcement relations, and cultural exchanges, among others. Specific details of these cooperative efforts will be further defined in additional agreements facilitated by the EU-led Dialogue.

Regarding the Serbian community in Kosovo, the agreement establishes specific arrangements and guarantees to ensure an appropriate level of self-management and service provision, potentially

supported financially by Serbia, reiterating the commitments for establishing the Association of Serb majority municipalities. Moreover, the status of the Serbian Orthodox Church in Kosovo will be formalized, providing strong protection to Serbian religious and cultural heritage sites.

To oversee the implementation of these commitments, a joint Committee chaired by the EU will be established. This Committee will ensure that both parties fulfill their obligations as laid out in the agreement and its accompanying Implementation Annex. This annex sets a roadmap for the agreement's execution, linking it directly to both Kosovo's and Serbia's EU accession processes.

There is also a commitment from the EU and other donors to establishing a special investment and financial support package for joint projects aimed at economic development, connectivity, and green transition, among other areas. A donor conference will be organized within 150 days to set up this financial aid package, contingent upon the full implementation of the agreement provisions.

The agreement represented a hopeful step forward in normalizing relations between Kosovo and Serbia, setting a foundation for future cooperation and stability in the region. The success of this agreement was tied to the continued commitment of both parties to implementing it and the decisive role of the European Union and the United States in facilitating and monitoring its implementation.

Despite this landmark achievement, the situation on the ground deteriorated and none of the provisions of the agreement have been implemented. It started with the failure of Kosovo local elections in the north in 2022 and 2023, and the failure of recalling of the mayors in 2024.

a. The failure local elections in and of the recall of mayors in northern municipalities

On 2 November when the Kosovo Police regional northern commander refused to order the police officers to enforce punitive measures against drivers with Serbia issued vehicle plates, and was immediately dismissed by the Government of Kosovo. In protest, from 5 to 9 November 2022, all Serbs resigned from their posts – the four mayors, judges and prosecutors of the Mitrovica court, including the administrative support staff, all police officers turned in their sidearms and badges, the ten Serbian List members of the Kosovo assembly resigned, including positions in the Government of Kosovo.

The new situation effectively collapsed the First Brussels Agreement on Principles of Normalization of Relations of 2013.

The new local elections were scheduled for December 2022, but the Kosovo government agreed to postpone the by-election for April 2023 with the explicit purpose of allowing time for a new dialogue agreement and creating the conditions for Serb community participation. The Serb political parties and population in their majority municipalities in northern Kosovo boycotted the local by-election in April. The Belgrade-supported boycott should therefore have been understood as a breach of good faith even if not formally linked to the Agreement on the Path to Normalisation of Relations between Kosovo and Serbia. In terms of the formal link to the dialogue, an argument could be made that the boycott was not in line with the local election commitments stemming from the 2013 first normalization agreement. The by-elections were held, and Kosovo Albanian mayors were elected with an overall turnout of approximately 3.5%. The stage was set for a serious security crisis and an intense challenge to the implementation.

On 26 May, without prior information or coordination with international partners, the Kosovo government dispatched special police to the municipal buildings in the north to secure access for the newly elected mayors. The intervention was strongly condemned by the US and most of the Western bloc. It also led to Serb protesters attacking the KFOR soldiers dispatched as a security buffer. More than 90 soldiers were wounded, some seriously. It is widely understood that KFOR's decision to create a buffer was crucial for preventing a much more serious incident that could have easily spiraled into an uncontrolled and widespread confrontation.

The EU subsequently formulated a set of measures on Kosovo and a related de-escalation plan as a condition for the withdrawal of the measures, but the situation remains unresolved. Particularly worrying is the potential for widespread conflict that may result from a range of triggers initiated by both sides or erupting from the developing context. One close call was the apprehension of three Kosovo Police officers by Serbian border police on 14 June. Another – and most serious thus far – occurred on 24 September, when a group of Serb paramilitaries attacked a Kosovo Police patrol, killing one and wounding two other officers. The attackers subsequently locked themselves in a nearby Serbian Orthodox monastery, which the Kosovo Police put under siege. At least three of the attackers also died in the armed exchanges before the police gained control of the situation.

After the Banjska incident, a new plan was developed to lead to new local elections in the four northern municipalities through a referendum for recall of mayors. It was thought that this process would lead to gradual return of the Serbs in the institutions in northern Kosovo, beginning with the mayors. The last municipal elections in northern Kosovo were held in October, 2021. The turnout in those elections ranged from 65–84 percent participation of voters in the four northern municipalities.

MUNICIPALITY	MUNICIPAL ELECTIONS 2021	
Mitrovica North	NUMBER OF VOTERS	17,721
	TURNOUT	12,110
	PERCENT	69%
Zvecan	NUMBER OF VOTERS	6,879
	TURNOUT	5,762
	PERCENT	84%
Zubin Potok	NUMBER OF VOTERS	6,443
	TURNOUT	4,146
	PERCENT	65,6%
Leposavic	NUMBER OF VOTERS	12,707
	TURNOUT	9,515
	PERCENT	75%

Source: Central Elections Commission⁴

b. The mistrustful process and failure of the referendum

The Ministry of Local Government Administration drafted and adopted a complex Administrative Instruction (AI 02/2023) for “the citizens’ initiative for recalling election on the local level”. ⁵

This AI provided details on organization of a recall, including the intra-institutional communication. In short, the AI provided and required a total of 22 steps to be fulfilled.⁶

⁴ Central Elections Commission of Kosovo, (<https://kqz-ks.org/wp-content/uploads/2021/11/02.-Statistikat-sip-as-komunave.pdf>)

⁵ <https://gzk.rks-gov.net/ActDetail.aspx?ActID=80975>

⁶ Some of these details read as follows:

1. The citizens' request for recalling election on the local level must be signed by at least twenty (20) percent of the voters with the right to vote in the respective municipality.
2. The request for the removal of the mayor of the municipality must be formulated clearly, fairly and accurately about the purpose of the request and its effects.
3. Citizens interested in initiating the procedure to remove the mayor from office should establish an initiative group, with an initiator group consisting of three (3) or more citizens with the right to vote in the respective municipality.
4. The initiating group, before starting to collect signatures in support of the request, must notify the chairman of the municipal assembly and may notify the CEC. The chairman of the municipal assembly notifies the mayor of the relevant municipality, the relevant ministry for local government and the CEC. The notification includes the composition of the initiating group, the definition of the issue and the justification of the request.
5. The chairman of the municipal assembly, no later than five (5) days from the receipt of the notice, examines the submitted request and registers the initiating group as an authorized party. In case of failure of registration within this period by the chairman of the municipal assembly, the initiator group asks the CEC to examine the request and registers it as an authorized party.
6. No later than five (5) days from the registration of the initiator group, the chairman of the municipal assembly requests from the CEC the updated number of registered voters for the respective municipality, based on which the minimum necessary number of signatures of twenty (20%) percent.
7. The minimum number of twenty (20%) percent of the signatories is calculated according to the total number of voters in the updated list of voters in the respective municipality, which holds the date of notification in the request.
8. No later than five (5) days from the registration of the initiator group, the chairman of the municipal assembly provides the initiator group with the necessary documentation. The documentation includes the list of signatures, as well as the authorization of the initiator group from the municipal assembly, for the use of public space for the collection of signatures. In case of failure to provide documentation by the head of the municipal assembly, the initiator group can request these documents from the relevant ministry of local government.
9. The CEC, no later than five (5) days from the receipt of the request, notifies the chairman of the municipal assembly, the initiator group and the ministry with the total number of voters in the respective municipality, as well as with the minimum number of necessary signatures.
10. The initiating group, within thirty (30) days of being equipped with the necessary documentation, must collect the required number of signatures. This deadline can be postponed only once, at the request of the initiator group for another fifteen (15) days.
11. The initiator group prepares the request file with signatures and submits it to the chairman of the municipal assembly. A copy of the request with signatures can also be sent by the initiator group to the CEC.
12. The chairman of the municipal assembly, within three (3) days, sends the request with signatures to the CEC. For submitting the request, the chairman of the municipal assembly notifies the initiating group and the Ministry.
13. The CEC verifies the list of signatures according to the established deadlines. After verifying the signatures, the CEC notifies the chairman of the municipal assembly, the initiator group and the Ministry, with the final assessment.
14. If, from the verification of the list of signatures, the CEC finds that the minimum number of 20% of registered voters has not been met, then the CEC notifies the initiating group, which is given the opportunity to complete the request with signatures in the additional period of ten (10) days. The CEC notifies the chairman of the municipal assembly and the Ministry about the additional deadline.
15. After verifying and ascertaining that the request is supported by at least 20% of registered voters, the CEC notifies the chairman of the municipal assembly, the mayor of the municipality, the initiator group and the Ministry.
16. In case it is established that the request is supported by at least twenty percent (20%) of the registered voters, a vote is organized for the removal of the mayor of the municipality from his position by the CEC.
17. If the majority of the voters of the respective municipality from the final list of voters, fifty percent plus 1 (50% + 1), vote for the removal of the mayor, it is considered that the mayor of the municipality has left office.
18. If the number of voters who voted for the removal of the mayor of the municipality does not reach 50%+1, it is considered that the initiative for the removal of the mayor of the municipality has failed.
19. If it is finally determined that the initiative to remove the mayor from office has failed due to the failure to meet the condition for the vote of 50%+1 of the voters to remove the mayor from office, the other initiative with a request for the removal of the same mayor, will not can be initiated before the expiration of the 12-month period from the day of the final determination of the failure.

The complex AI was seen as a deliberate tool to prevent the smooth organization of the process, especially for the collection of signatures.

The Serbs from the north initiated the process in January 2024. In record 48 hours, they gathered more than 20% of the signatures for recall of mayors.

MUNICIPALITY	MUNICIPAL ELECTIONS 2024	
Leposavic	NUMBER OF VOTERS (JANUARY 2024)	13,441
	NUMBER OF SIGNATURES COLLECTED	2,905
	NUMBER OF VALID SIGNATURES	2,689
Zubin Potok	NUMBER OF VOTERS (JANUARY 2024)	6,732
	NUMBER OF SIGNATURES COLLECTED	1,576
	NUMBER OF VALID SIGNATURES	1,380
Zvecan	NUMBER OF VOTERS (JANUARY 2024)	7,052
	NUMBER OF SIGNATURES COLLECTED	1,834
	NUMBER OF VALID SIGNATURES	1,714
Mitrovica North	NUMBER OF VOTERS (JANUARY 2024)	18,199
	NUMBER OF SIGNATURES COLLECTED	4,148
	NUMBER OF VALID SIGNATURES	3,653

Source: CEC

It took an unusual long time for the Central Elections Commission to verify and validate the petitions. On 8 March 2024, CEC upon verification of the petition decided that the mayoral elections would be held on 21 April 2024.

Given the deep mistrust of the Serbs in the north on Kosovo institutions, some of CEC decisions were interpreted as a deliberate attempt to have the referendum on recall of mayors fail. These were the decisions on final voting list, introduction of cameras at the voting centers and the inability to have vote-by-mail from Serbia. In the background of the preparations for the recall vote was Kosovo’s advancement for membership in Council of Europe (CoE), strongly opposed by Serbia.

On 18 March CEC published the final voters list for the referendum, with an increased number of voters. This list was interpreted both by local Serbs and Serbia as a false one, furthering suspicions that it was done deliberately to result in failure of the process, given the claims by the Serbs that many people have left Kosovo within the last 12 months, and that the total number of voters was higher than the number of people living in the four northern municipalities.

MUNICIPALITY	NUMBER OF VOTERS 2023	NUMBER OF VOTERS 2024	DIFFERENCE
Leposavic	13,318	13,639	+321
Zubin Potok	6,661	6,862	+201
Zvecan	6,998	7,201	+203
Mitrovica North	18,118	18,546	+428
TOTAL	45,095	46,248	+1,153

Source: CEC

The tipping point and a complete breakdown of trust in the process came when CEC required and introduced cameras at the voting centers. This measure was interpreted as furthering intimidation, especially since it was the first time such a measure was introduced in Kosovo.

On 8 April, Serb members from Local Elections Commissions resigned from their posts, a day after Srpska Lista announced that it will boycott the referendum. "The position of the Serbian List is not to participate in the referendum called by Albin Kurti [Prime Minister of Kosovo], because he did everything for it to fail,"⁷ said the chairman of the Serbian List, Zlatan Elek. He said that "unfeasible procedures" have been established for the April 21 vote and that the voter lists "do not reflect the real situation on the ground" and that the number of Albanians on the voter lists "has increased" claiming that "for two months in all municipalities, the number of voters has increased disproportionately, by 433 percent". All other Kosovo Serb political parties called for boycott of the referendum, a decision supported by Belgrade.

On 11 April, the CEC issued a statement intending to clarify this measure, including the number of voters. CEC stated that "the placement of surveillance cameras in the spaces inside the polling station is done in order to guarantee the security of election materials and maintain the integrity of the voting and counting process", given that "in the electoral processes from 2009 to 2021, irregularities were identified which affected the integrity, cost and public confidence in the elections where on average, 36% of polling stations were recounted.. which has influenced the increase in the cost of elections and the decline of actors' confidence in the administration of the election process."⁸

⁷ <https://www.evropaelire.org/a/lis-ta-serbe-kunder-referendumit-ne-komunat-ne-veri/32894728.html>

⁸ <https://www.evropaelire.org/a/lis-ta-serbe-kunder-referendumit-ne-komunat-ne-veri/32894728.html>

The CEC statement continued that “the placement of cameras in polling stations will be done by fully ensuring the secrecy of the vote” and that “the storage of the camera recordings will be temporary, until the destruction of the election material “. On the new voters, the CEC stated that “new voters include all those persons who have reached the age of 18 after the elections held on April 23, 2023 or persons who were not previously on the previous voting list, and who can be considered as registered voters for the first time in the Central Civil Registry or voters who changed the municipality after those elections.” In direct response to claims that the number of voters was higher than the number of residents, the CEC “clarifies that the Voting List does not only contain citizens with the right to vote who currently live in a certain residence, but also voting citizens living abroad.” The local Serbs claimed that the Kosovo Serbs residing in Serbia could not vote given that there was no OSCE involvement in the process to collect the mails, and that there is no established cooperation between post offices from Kosovo and Serbia, effectively disabling participation of Kosovo Serbs not living in the northern municipalities.

The referendum of 21 April failed, with a turnout ranging from 0% to 0.91%. The CEC announced on 22 April that conditions for recall of mayors have not been met.⁹

MUNICIPALITY

Leposavic	NUMBER OF VOTERS	13,674
	TURNOUT IN NUMBERS	124
	PERCENTAGE	0.91%
Zubin Potok	NUMBER OF VOTERS	6,877
	TURNOUT IN NUMBERS	18
	PERCENTAGE	0.26%
Zvecan	NUMBER OF VOTERS	7,209
	TURNOUT IN NUMBERS	0
	PERCENTAGE	0%
Mitrovica North	NUMBER OF VOTERS	18,796
	TURNOUT IN NUMBERS	111
	PERCENTAGE	0.59%

Source: CEC

⁹ <https://kqz-ks.org/konferenca-e-katert-kqz-iniciativa-qytetare-per-largimin-e-kryetareve-te-komunave-leposaviq-zubin-potok-zvecan-dhe-mitrovice-e-ve-riut-ka-deshtuar/>

There has been no public assessment on the actual number of people living in northern Kosovo. This issue will not be resolved even with the on-going population census in Kosovo, which is being boycotted by all Kosovo Serbs. However, the claims for a decrease of number of population cannot be disregarded nor ignored, including the deep mistrust the local Serbs have on the central government and the Kosovo institutions overall.

One of the publicly-unspoken beliefs among the elite of the local Serbs in the north (and in Belgrade) has been the unverified claim that the current mayors of northern municipalities would challenge the referendum result (if positive) at the Constitutional Court to prevent the possibility of organization of new mayoral elections. The author of this policy paper could not verify these claims, but has witnessed the wide-spread belief in this outcome.

The partial elections for mayors only would have not solved the legitimacy and governance issue in northern Kosovo, given that the local assemblies are dominated by Vetevendosje and Democratic Party of Kosovo (PDK) municipal assembly members. Also, the municipal administration in the four municipalities has changed, since the Serb staff resigned at large in November, 2022.

It is hardly imaginable that, in the current tense and deeply distrustful situation, there would have been cooperation between the new mayors and the municipal assemblies. The mayors would have not been able to govern effectively nor push for their development agenda which requires the municipal assembly's support. Furthermore, with no presence of Serbs in police and the justice system, the new mayors would be "lame ducks" – without power to govern, with a hostile central government, and with a limited 12-15 month only, since the regular municipal elections will be held throughout Kosovo in the fall of 2025.

The northern municipalities would not even be able to participate in the establishment of the Association of Serb-majority municipalities (ASM) should the central Government proceed with sending the draft Statute of the ASM to Constitutional Court, and the Court ruling at one point in the second half of 2024, since the vote in municipal assemblies is key for joining the Association.

c. The unsustainable situation

Unlike the widespread belief in Kosovo that the situation in the north has improved, this is far from accurate. The presence of special police forces does not ensure sovereignty, with the majority of population being (self)excluded from the participation in all institutions. Normality can be restored only with fully legitimate and functional local institutions.

The Serbs in the north are facing numerous challenges. The immediate challenge remains the inability to receive payments from Serbia, which widens the gap of the currently deep mistrust towards Kosovar government. Local businesses are also closing due to the “sanctions” on imports of goods from Serbia, on which both the local businesses and population heavily rely to.

Another serious challenge remains the absence of authentic political leadership among the local Serbs. The Serbian List, regardless of potential votes it may receive due to coercion from Belgrade, is discredited, even with the new leadership. There are emerging new voices – either through the Srpska Demokratija (“Serbian Democracy”) activist party which is mostly composed of young and talented people, or through the local civil society organizations. Despite emerging pluralism, it is still insufficient to articulate the political demands of the population in the north, including the necessary substantial political organization.

The presence of the special police forces is a highly contentious issue, which cannot last forever. The special police officers who at large do not speak Serbian language and the police roadblocks are creating a picture of forceful presence of the institutions, including the arbitrary decisions by the government of Kosovo to create police bases throughout the north, including new offices for Ministry of Internal Affairs in Mitrovica North itself. These measures aggravate the local population further, increasing the feeling of hopelessness and the migration to Serbia.

The current situation in the north harms Kosovo overall, as well. Regardless of the Western acceptance of failed referendum results and statements that the current mayors will continue to carry on with their duties in office, the West does not consider that the situation in the north is sustainable given the absence of participation of the absolute majority in local governance and decision-making. Furthermore, the current situation is ripe for further instability in northern Kosovo.

With the governance in the north effectively being paralyzed, the interethnic divide is being cemented. Fully representative municipalities are also a key prerequisite for the establishment of the Association of Serb majority municipalities.



THE ASSOCIATION AS A NEW STUMBLING BLOCK

The commitment to establish the Association of Serb majority municipalities dates from 2013, when the “First agreement governing the principles of normalization of relations”¹⁰ between Kosovo and Serbia was signed in Brussels. This agreement calls for the establishment of the Association, establishment of Kosovo Police in northern Serb majority municipalities, a full participation in judicial system, including the judiciary and prosecution in northern Kosovo, and municipal administrations according to Kosovo Law. The Association is called to be established by statute, open to 10 Kosovo Serb majority municipalities (out of 38 municipalities that Kosovo has) and that “will have full overview of the areas of economic development, education, health, urban and rural planning”. The Agreement was ratified as an international agreement by the Assembly of Kosovo by required 2/3 majority.¹¹ According to the then implementation plan which was agreed on 22 May 2013, the Statute of the Association was supposed to be drafted by a Management Team by October 2013, which would then be adopted by all Serb majority municipalities. A subsequent agreement on principles on the statute of the Association was reached in August 2015, which in December 2015 Kosovo’s constitutional court found that it is not aligned with the Constitution.¹² The Court requested the Government of Kosovo to align 22 of 23 principles with the Constitution of Kosovo before it decreed the Statute and sent it back for review at the Constitutional Court.¹³

¹⁰ <https://kryeministri.rks-gov.net/wp-content/uploads/2022/07/First-agreement-of-principles-governing-the-normalization-of-relations-April-19-2013-Brussels-en.pdf> and <https://www.srbija.gov.rs/specijal/en/120394>

¹¹ <http://old.kuvendikosoves.org/common/docs/ligjet/04-L-199.pdf>

¹² <https://gjk-ks.org/en/decision/concerning-the-assessment-of-the-compatibility-of-the-principles-contained-in-the-document-entitled-associationcommunity-of-serb-majority-municipalities-in-kosovo-general-principlesmain/>

¹³ *Ibid.* The Court judged “to hold that the legal act of the Government of the Republic of Kosovo and the Statute implementing the Principles in order to be in compliance with the spirit of the Constitution”.

¹⁴ The English version was published at the webpage of the former senior official of the Kosovo Intelligence Agency (AKI) Burim Ramadani. See www.burimramadani.com

In order to finalize the endless discussions about the Statute of the Association, in October 2023 the EU, supported by the US, sponsored and presented Kosovo and Serbia with the European model of a draft Statute of the Association. The statute was never published, but a copy of this document has presumably been leaked to provide information about the public. According to this document¹⁴ the statute draws its legal framework from a variety of legal references, such as the Council of Europe’s Framework Convention for the Protection of National Minorities, European Charter on Local Self-Government, Kosovo’s own laws on local self-government and the law on ratification of the first agreement, including the Constitution of Kosovo and the United Nations Security Council Resolution 1244 of 1999 which ended the conflict in Kosovo. While the legal grounding signifies the Association’s commitment to operating within the established legal framework of Kosovo, ensuring that its activities are consistently compliant with national law,

the reference to UNSCR 1244/99 potentially can create further problems, given that the states which do not recognize independence of Kosovo claim that according to UNSCR 1244/99 Kosovo is a part of Serbia, including the position of Belgrade itself. This reference may provide a recipe for disaster, as in the current dynamics between Pristina and Belgrade, a leadership of the Association could claim that its both a part of Kosovo and Serbia.

The primary purpose of the Association is to coordinate cooperation between the municipalities and facilitate cooperative projects and services among member municipalities, enhancing their ability to deliver public services and engage in regional development initiatives without superseding the individual authority of each municipality.

The organizational structure of the Association includes the Assembly, the President and Vice-President, and a Board, each with specific roles and responsibilities. The Assembly, being the supreme body, holds the power to make crucial decisions regarding amendments to the statute and other significant operational guidelines. The President and Vice-President handle daily administrative and executive tasks, ensuring that the Association's policies and projects align with its statutory objectives. The Board manages the budget and oversees the execution of projects, playing a crucial role in the operational success of the Association.

Financial transparency and accountability are strongly emphasized in the statute. It mandates rigorous oversight mechanisms, including audits by Kosovo's Auditor General and potential supervision by the European Union, especially during the initial phase of the Association's activities. This financial oversight is aimed at ensuring that all transactions and funding are handled transparently and in accordance with legal standards. The statute also allows for the Association to receive financial and technical support from Serbia, enhancing its capacity to manage education and healthcare institutions that serve the Serb community in Kosovo. These provisions are carefully crafted to comply with Kosovo laws, ensuring that the Association's operations do not infringe upon the sovereignty or the legal framework of Kosovo.

In terms of conflict resolution, the statute outlines detailed arbitration procedures to handle disputes between the Association and Central Authorities chaired by the EU. This is crucial for maintaining a structured and legally compliant method for resolving potential conflicts, with provisions for EU involvement if necessary.

In essence, the arbitration procedures make the EU the arbiter if there is a conflict between the Government and the Association, de facto suspending Kosovo's sovereignty on this issue given that the draft Statute does not foresee any legal measures to challenge the decisions of the arbitration commission.

Overall, the statute lays a comprehensive foundation for the governance, operational management, and legal compliance of the Association of Serb-Majority Municipalities in Kosovo. It is designed not only to enhance the administrative capabilities of Serb-majority municipalities but also to ensure their operations promote regional stability, respect for minority rights, and effective public service delivery within the framework of Kosovo's constitutional and legal order.

Given the refusal of the Government of Kosovo to decree the Statute and send it to the Constitutional Court for review, the entire normalization process is blocked, with the EU and the US being focused primarily in crisis management, while Kosovo's aspirations to join the Council of Europe and have its membership application for EU remain blocked.

THE REGIONAL COOPERATION

In November 2020, the leaders of the Western Balkans Six (WB6), have agreed to enhance economic cooperation in the region by developing Common Regional Market, based on the EU rules and standards, to increase the attractiveness and competitiveness of the region and to bring the region closer to the EU markets.¹⁵ By implementing the CRM agenda, they “commit to the free movement of goods, services, capital and people”¹⁶, and agenda which would create an enhanced market integration which “could bring an additional 6.7% of GDP growth to the region.”¹⁷ The CRM establishment envisioned implementing the “EU four freedoms”, including free movement of professionals as part of the larger mobility of people agenda. A second phase of the CRM was signed in Berlin in October 2024, further identifying actions for deeper intra-Western Balkans integration.

Enabling free movement of people, goods, trade and services – the “four freedoms” – within the Western Balkans has been a key pillar of evaluating progress of intra-regional cooperation. It began in a structured way in 2017 when the leaders of the Western Balkans countries – Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia asked the regional organisations– Central European Free Trade Agreement (CEFTA) and the Regional Cooperation Council (RCC) – to develop a Multi-Action plan for Regional Economic Area (MAP REA). Among the key actions was removing obstacles for mobility of professionals, which envisioned a pilot agreement for recognition of professional qualifications for doctors, dentists, architects and civil engineers led by a Joint Working Group chaired by CEFTA, RCC and Education and Reform Initiative of South East Europe (ERISEE). In 2020, a more ambitious plan for regional integration was introduced – the Common Regional Market (CRM) – which envisioned an ambitious plan of implementation of four freedoms and removal of many regional barriers.

In November 2022 and October 2023 within the Berlin Process Leaders Summits, the leaders of the Western Balkans signed the landmark “mobility agreements”. In 2022 in Berlin three agreements were signed – the Agreement on Free Movement of People with ID Cards, the Agreement on Recognition of Higher Education Qualifications, the Agreement on Recognition of Professional Qualifications for Doctors of Medicine, Dental Doctors and Architects in CEFTA context.

¹⁵ See “Western Balkans Leaders Declaration on Common Regional Market <https://www.rcc.int/docs/544/declaration-on-common-regional-market>

¹⁶ *Ibid*

¹⁷ *Ibid*

In 2023 in Tirana the fourth mobility agreement was signed – the Agreement on Recognition of Professional Qualifications for Nurses, Midwives, Pharmacists and Veterinary Surgeons in CEFTA context. While in October 2024, they signed the final, fifth mobility agreement, on “Access to study and admission to higher education” effectively treating each others students as domestic citizens, including their rights and obligations. All of these agreements are compliant with EU integration requirements.

None of these agreements are being fully implemented. The agreement on movement with ID cards was not ratified by Bosnia and Herzegovina due to later objections and veto by the leadership of the BiH entity Republic of Srpska. Kosovo was singled out as the actor which is preventing the region from establishing the Common Regional Market in the EC Kosovo report 2023.¹⁸ This report clarified that the “disagreements relating to the representation and denomination of Kosovo in CEFTA are hampering progress in other areas, notably the free movement of workers. These disagreements have also led the government to block decision-making mechanisms in CEFTA, with the adoption of the budget and the appointment of a new director still pending due to this lack of consensus.”¹⁹ Kosovo was also singled out for violating its commitments under CEFTA and the Stabilisation and Association Agreement (SAA) for free trade in relation to Serbia’s goods. The EC report notes that in June 2023 Kosovo’s Ministry for Internal Affairs (Moi) issued a “temporary operational security measure” blocking the entry into Kosovo of Serbian goods and postal parcels.²⁰ This measure appears not to be in line with Kosovo’s commitments under CEFTA and goes against the spirit of the Stabilisation and Association Agreement.²¹ This measure was imposed by Kosovo following the arrest of three Kosovo Police officers by the Serbian authorities in mid-June 2023, who were released a few days later.

¹⁸ https://neighbourhood-enlargement.ec.europa.eu/document/download/760aac-ca-4e88-4667-8792-3ed08cdd65c3_en?filename=SWD_2023_692%20Kosovo%20report_0.pdf

¹⁹ *Ibid*

²⁰ *Ibid*

²¹ *Ibid*

In order to remove the blockage in implementation of the mobility agreements, including CEFTA, and in the wake of a decade of the Berlin Process, far behind the public eye the German Ministry of Foreign Affairs undertook an initiative to “unblock” CEFTA. This initiative roughly foresees a new formula – the drafting and adopting of new Rules of Procedure in CEFTA which would introduce Kosovo as a party, with the denomination and asterisk as agreed in 2012 within the Brussels-led dialogue arrangement on regional representation. Belgrade, accepted this formula with a condition for removal of the blockage of the trade for Serbian goods to Kosovo.



CONCLUSION

The Western Balkans is at a crossroads, with Montenegro and Albania being frontrunners for the EU accession by 2030. Bosnia and Herzegovina is facing deep internal political instability threatening the integrity of the state, Serbia facing growing domestic pressure demanding basic democratic functioning of the institutions, while Kosovo remains isolated by the West and is at an internal political impasse. In both Kosovo and Serbia, the governments are utilizing ethno-nationalist narratives to discredit critical voices and fundamentally undermine the rule of law. Consequently, this undermines the process of normalization of relations between Kosovo and Serbia and EU's efforts in the process. Civil society actors face growing pressures, ranging from defamation, surveillance, legal restrictions, threats and attacks.

Lack of tangible progress in both the accession process in the European Union (EU) and the normalization process between Kosovo and Serbia has exacerbated tensions—not only between Kosovo and Serbia but across the Western Balkans. This has also undermined the EU's credibility as a capable actor to resolve disputes in its own courtyard. The growing divergence between the U.S and EU on broader issues of European security and trade could be reflected in the Western Balkans, leading to a competitive rather than complementary approach. This will be misused by regional leaders to deepen regional fragmentation and societal polarization. If left unaddressed, these issues will affect the stability in the region, risking to undermine the collective Western role in the past three decades to ensure peace, stability and basic democratic development in the region, also undermining the EU's interests and its geopolitical ambition across Europe.

A new vision for the Western Balkans could significantly help in the overall normalisation of relations – not only between Kosovo and Serbia, but also be decisive in regional integration.

Western Balkans fully integrated in European Single Market by Europe 2030 – This required the EC to prepare an ambitious common agenda for accession of the Western Balkans into the EU, or a Growth Plan 2, which should center around the premise that as the EU moves to accelerate full integration of the region into EU's Single Market by latest 2030 provided that the Western Balkans has delivered on implementation of the fundamentals.

This should not influence the potential full membership of Albania and Montenegro by 2030. Rather, integration in the Single Market would entrench and guarantee the European path for North Macedonia, Serbia, BiH and Kosovo.

Full regional integration and a strict list of key reforms

– One of the key preconditions to join the Single Market would entail a full and real regional integration, whereby the implementation of the Common Regional Market (CRM) would be prioritized. This would foster regional stability and cooperation. A new set of strict list of key reforms for the region would be provided by the EC as well. This new policy environment would also be greatly beneficial to the normalization of relations between Kosovo and Serbia.

From constructive ambiguity to clarity – in both communicating and facilitating the normalization dialogue between Kosovo and Serbia a key missing component remains the EU common interpretation of what normalisation means, and under which conditions can the EU state that the normalisation process has concluded successfully. This clarity is necessary for the credibility of the process and the engagement of governments and civil society for the outcome of this process.



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