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Resetting the Kosovo- Serbia Normalization Process



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Summary

This policy paper suggests a way forward to overcome the impasse in the Kosovo-Serbia normalization dialogue, and to enable conditions for a sustained process and successful implementation. It argues that the oscillating international attention and the resulting inability to closely monitor developments and conduct remedial steps at the first sign of non-compliance is an essential part of the problem. Therefore, the non-paper proposes a structural solution to reset the process and be able to identify, monitor, and address non-compliance early on, thus preventing derailments and escalations. This will require significantly strengthened international monitoring and compliance mechanisms, centered on the EU and empowered by the entire Euro-Atlantic bloc.

The importance of rethinking the process

The Kosovo-Serbia normalization dialogue has been running – with interruptions – since 2011. The most recent diplomatic push culminated in the Path to Normalization Agreement (PNA) and its Implementation Annex (February and March 2023). Yet, the commitment of the parties is visibly lower than in earlier stages and the situation on the ground much worse. The implementation of the PNA came to a halt almost before it began, and it has yet to resume.

It is important to recognize that the situation in the dialogue and on the ground – and indeed elsewhere in the Western Balkans – is not ‘business as usual’. A radical overhaul is needed to thwart the inevitable breakdown of the normalization dialogue and the security consequences this would cause. Much is at stake not just for the parties, but also EU and Western credibility and the prospects for projecting influence: the Western Balkans has been a venue of substantial Western investment since mid/late 1990s and the dialogue is one of a limited number of dispute resolution processes in which the EU is so formally involved. In the aftermath of Afghanistan and amid Russia’s war against Ukraine, allowing this region to slide back to conflict would be a direct and strong blow to the peoples’ aspirations and Western credibility across the globe.

For these reasons, the Euro-Atlantic community needs a much tougher approach to the dialogue – as a central testing ground for the whole Western Balkans policy. Such an approach would leverage the formal commitment of Serbia and Kosovo to the normalization dialogue and build on the clear evidence that the most effective results in the region occurred precisely when the Western/international intervention was unified, determined, and robust. It is time to ensure that expectations are clearly spelled out and that sticks or carrots are applied when either is deserved.

The Problem

Despite the initial headway, the process surrounding the PNA exhibited a number of signs of potential trouble. The agreement was not signed by the parties; on the insistence of the Serbian side it was endorsed through an EU announcement. This is not a major issue in terms of its substantive validity, as it was endorsed in line with the Vienna Convention on the Law of Treaties and would become integral to the parties' formal EU accession process. However, Serbian President Vučić's insistence on not signing or initialing the agreement was a negative indication, given that Belgrade had signed or initialed a number of previous agreements. Further, both leaders made statements indicating only partial acceptance. President Vučić insisted on the fact that he had not signed anything and suggested that Serbia is not bound to every point of the agreement, including one of the critical concessions that enabled the PNA in the first place: Kosovo's unobstructed access to international organizations. Kosovo's Prime Minister Kurti maintained a positive outlook on the agreement; except for an ambiguous, mostly negative, attitude towards the Association/Community of Serb-majority municipalities (ASM), which had been repeatedly stressed as the crucial component of the agreement.

Further trouble occurred over the subsequent weeks and was unchecked. In late April, as the Council of Europe's Ministerial Committee discussed and ultimately accepted Kosovo's membership request, Serbia vocally opposed and voted against it despite a clear commitment to the contrary contained in the PNA. The same month, the Serb political parties and population in their majority municipalities in northern Kosovo boycotted the local by-election that was called following the collective resignation of northern Kosovo Serbs from all Kosovo institutions in early November. The Kosovo government had agreed to postpone the by-election with the explicit purpose of allowing time for a new dialogue agreement and creating the conditions for Serb community participation. The Belgrade-supported boycott should therefore have been understood as a breach of good faith even if not formally linked to the PNA agreement. 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 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 PNA implementation. On 26 May, apparently 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.

Looking at the course of events since the PNA, the context clearly shows the lack of an immediate

reaction to breaches and only a post-factum reaction to eruptions. While it is natural for the international community to focus on a crisis with direct security implications, the normalization process requires day-to-day attention to all kinds of breaches. The EU remained active, commenting on the different breaches and urging the parties to start implementation. Nevertheless, the early signals by the parties of not honoring the critical aspects of the PNA should have been checked more forcefully by the full range of international stakeholders. The lack of a reaction encouraged both the Serbian and Kosovo leaderships to weather the storm of diplomatic activity towards PNA and then use the immediate drop in international attention – now seen as typical – to either instigate or adjust to situations that enable them to avoid commitments and in fact halt the process altogether.

Considering the questionable political will by the parties to follow through, the international community involved in the process, primarily the EU, but equally the US and the Euro-Atlantic community in general, need a radical overhaul of strategy. What is needed is the opposite of what leaders in the Western Balkans have now come to expect: a system for continuous attention and effective reaction, *every step of the way*. The international community needs to demonstrate resolve at any moment, and it needs to do so pre-emptively before security crises can develop and before negative dynamics become entrenched.

The Way Forward

The fundamental problem of the PNA, and indeed the normalization dialogue, is the lack of expedient and direct mechanisms for addressing non-compliance. The ongoing crisis in northern Kosovo has demonstrated that the existing framework is not adequate for preventing an escalation and not expedient enough to stop escalation dynamics. The key anticipated implementation mechanism, the Joint Monitoring Committee, was formally established on 18 April under the chair of the EU facilitator, EUSR Miroslav Lajčák, and with Serbia being represented by its chief negotiator Petar Petković and Kosovo by its Brussels ambassador Agron Bajrami. However, beyond its establishment – on the last day of the foreseen timeframe – the Committee has not had any role in the post-Ohrid context due to the lack of agreement on its Terms of Reference. By contrast, the PNA needs a more direct and pro-active framework for addressing non-compliance, designed to provide an appropriate response to agreement violations *ahead* of any escalation and to immediately curb escalation dynamics *if/when* they occur.

In addition to providing effectiveness and sustainability, the new framework will reflect a notion of turning a new leaf in the process under upgraded rules of engagement. As such, all existing EU measures should be withdrawn in conjunction with the related EU de-escalation plan and thus provide a clean slate for the process to restart under the new rules contained in an upgraded Dialogue framework. This framework should include the chapters proposed below, to be presented to the parties *en bloc*, requesting their full agreement to their entirety.

1. Empower the Joint Monitoring Committee with clearly defined and appropriate Terms of Reference (ToR) as the centerpiece for enforcing PNA compliance. These ToR should provide for:

- A more robust role for the EU facilitator/Committee Chair that includes the authority to determine non-compliance by either party and to make the corresponding declarations. While the parties have full access and participation in the Committee, decision-making should not be by consensus but within the EU facilitator's remit. The parties would be obliged to comply with the EU facilitator's decisions.
- More frequent meetings: Fortnightly meetings under the chairmanship of EUSR Lajčák, and monthly meetings involving the high-level political leaders (Vučić and Kurti)

that would be co-chaired by EUHR Borell and EUSR Lajčak. The EUHR and EUSR would jointly report to the EU Council on the state of play and the proceedings after each high-level meeting.

- An exclusive focus on the implementation of the PNA framework in accordance with an associated sequenced PNA implementation action plan (*see below*).
- Reference to a set of clearly defined measures and sanctions for non-compliance (*see point 2 below*) coupled with an obligation of the parties to comply with the decisions of the Chair.
- A broadly defined timeframe centered on the 150 days referenced in the PNA framework but including a provision for continued effect if deemed necessary by the EU Committee Chair.
- The Chair's ability to request information from the parties at any time and to craft meeting agendas drawing on information from an implementation monitoring system. The parties should be obliged to inform the Committee of any decision or action taken pursuant or in relation to the joint implementation action plan and previous Committee meetings. EUSR staff in Kosovo and Serbia would act as the Committee's primary monitoring arm.

The key points of the ToR should have their corresponding commitments reflected in the parties' EU integration framework, in line with the PNA Implementation Annex. For Serbia, this involves amending the Chapter 35 benchmarks. For Kosovo it would be the agenda of the Special Group on Normalization, as well as a corresponding chapter of Kosovo's future integration frameworks. These amendments should include clear references to the possibility of halting accession work in case of unaddressed non-compliance in the normalization process.

2. Insist on a full agreement on a PNA Implementation Action Plan that provides for sequenced implementation of all commitments as an integral part of the renewed PNA implementation process.

The EU facilitators have rightly been focusing on this particular framework, ahead and during the high-level meeting on 14 September and the 26 October meetings on the margins of the European Council. Given the refusal noted on 14 September, but more importantly the attack on 24 September in northern Kosovo, the plan needed a modification. A logical sequence, as noted in the joint press statement after 26 October, is to fully connect the two sets of commitments based on the principle that both sides give something to get something. In particular, this means that Kosovo's Association/Community commitment is opened and closed in parallel with the implementation of what is labelled as Serbia's *de facto* recognition commitments (recognizing national symbols, abolishing the asterisk system, not opposing membership in international organizations, establishment of permanent missions). It would be important to indicate that the Association/Community is in line with the concept of a non-executive entity derived from the existing constitution and legal system of Kosovo. In this regard, providing an international draft for the Association/Community's statute is shaping into the most effective approach. The completion of the Association/Community process should thus be coupled with the full implementation of the Serbian status-related commitments in the PNA. Prior to the actual enactment of what by then would be an agreed Association/Community statute, the sequencing plan should include a provision for an EUSR-led review of the actual implementation by Serbia of its key commitments. The Association/Community's actual enactment would thus follow only if the review is positive. If needed, a similar provision could be injected as regards Kosovo's Association/Community commitment, given the anticipated step of a Kosovo Constitutional Court review of any statute agreed in the negotiations.

The plan should anticipate a review of the state of play as regards the existing agreements to be conducted by the EUSR and a commitment by the parties to respect the review's outcome and the

resulting sequence for their implementation proposed by the EUSR. As was the case in the 14 September proposal, the provision on the status of the Serbian Orthodox Church in Kosovo should be listed immediately under the provisions on the past Dialogue agreements.

As a central PNA implementation point, the effectiveness of the Committee and its ToR would require other accompanying measures, documents, and commitments, as follows:

3. Define and agree in advance concrete measures to sanction non-compliance and reward compliance

There should be a clearly defined set of measures to respond to non-compliance and reward compliance. These measures should be adopted in advance with the full backing of EU bodies and Member States (EU Council), as well as the US and UK (and NATO as appropriate) and referenced in the ToR of the Joint Monitoring Committee. Agreeing such measures in advance would bind the EU system and member states to act swiftly upon the Chair's proposal, which can be expected to have a deterrent effect in terms of non-compliance and create additional incentives for compliance.

Thus, the EU would have a pre-approved wide set of measures from which to choose the appropriate transparent, balanced, and well-guided combination based on the Joint Monitoring Committee Chair's (EU) assessment and proportional to the scope, duration, and significance of the given non-compliance. The range could start from clear public condemnations of the given party, various types of unambiguous warnings with references to the measures, cessation of some or all types of work on the given party's EU accession agenda, partial or full cessation of EU funding of all kinds, cessation of any form of bilateral meetings or visits by either the EU administration or Member States (as well as NATO, US, and UK), advisory notices to the European chambers of commerce and investor forums, financial sanctions beyond the EU framework of technical and financial assistance, cessation of military aid and other forms of defense assistance (both bilaterally and through NATO), and (temporary or open-ended) cessation of the visa free regime with Schengen countries for the non-complying party/ies. The new EU Growth Facility for the Western Balkans should also reflect clear dialogue-related conditionality for both parties.

Importantly, positive validation should also be given for appropriate compliance. Special mention should be given to successful implementation and compliance in the Chair's public conclusions from the Committee meetings and his/her briefings to the EU Council, dedicated press points or, the introduction of some of the measures listed above (such as channeling of the Growth Facility funds based on good dialogue performance), different types of formal notices to the EU and other stakeholders of relevance to the parties (NATO, investment forums, etc.). Different forms of immediate financial support in response to the fulfillment of key commitments could also be considered. The Commission could also consider including a facility under IPA 2025-2027 that would be specifically dedicated to rewards to the parties linked to dialogue compliance and implementation.

The overall logic is to have a mechanism for swift intervention, whether positive or negative.

4. Enhancement of Kosovo's security guarantees and a de-escalatory posture in northern Kosovo

The framework outlined above would require a separate commitment reinforcing Kosovo's sense of security after the Banjska attack, as well as a set of mutual commitments fine-tuned for the flashpoint region of northern Kosovo. As has been initiated, this framework should include

reinforced guarantees of non-intrusion provided by NATO to Kosovo and a commitment by Serbia to full cooperation in the Banjska investigation. It should also list clear expectations for both parties towards establishing and maintaining a de-escalatory posture. Produced in consultation with NATO, it could include commitments like refraining from unilateral actions (e.g., collective resignations, election boycotts, erecting barricades, violent protests, robust policing, and violent attacks against the police); a commitment to a dialogue between the Kosovo government and the Kosovo Serb community, to include *Srpska Lista* as long as it remains a legal entity under Kosovo law and a significant political actor on the ground; a commitment to refrain from undue influences during electoral processes; a commitment over full cooperation and coordination with EULEX and KFOR in the process of addressing any type of criminality in the north (which would extend to a commitment by Serbia to cooperate in terms of addressing any type of criminal activity in the area, including smuggling relying on its side of the border); and assurances of upholding the existing commitments given by Kosovo to NATO over the presence of KSF in the north and by Serbia as regards not crossing the Kosovo border with any type of administrative or security force, be it in uniform or otherwise.

This document would form an integral part of the Path to Normalization framework outlined above and should involve NATO as a formal stakeholder, in addition to the EU and its Member States. It would be of a temporary nature, corresponding to the duration of the Committee ToR. Its ultimate revocation – presumably triggered by full implementation of the Path to Normalization framework – would be by decision of the EU Chair, upon consultation with the parties and other international stakeholders. The KFOR Commander should have a formal monitoring and reporting role throughout the validity of these commitments and in the course of decision-making over their revocation.

5. Encourage a complementary, independent monitoring infrastructure involving civil society

To triangulate the accuracy of information provided by the parties and to assess the effectiveness of their decisions and actions for implementing normalization on the ground, it is important to set up an external, independent monitoring mechanism. State authorities often conduct actions that appear to be fulfilling their international obligations – and report them as such – but then introduce administrative hurdles that render these actions ineffective and thus invalidate the concessions made to the receiving community.

The EU Chair should encourage the establishment of a civil society coalition covering Kosovo and Serbia. Such a coalition would be specifically geared towards providing third-party, independent, verified, and objective information about the course of implementation. Membership in such a coalition would need to be contingent on an organization's experience in these matters, its track record of commitment to the dialogue, and its political (and as much as possible ethnic) impartiality. A formal reporting role to the Joint Monitoring Committee and/or in relation to the dialogue-related EU accession working groups in Belgrade, Pristina, and Brussels should be considered.

This coalition could conduct a variety of roles. Under restored normalization and implementation, the coalition would have an extensive network on the ground to provide timely and accurate information on the actual state of play. It could enhance the link between the process and regular citizens, thus providing expanded and tailored information to dispel myths and inform the citizens of the actual and tangible benefits stemming from normalization. Employing CSO ground networks and digital tools, the enhanced and two-way communication with the citizens could also provide a form of monitoring implementation, whereby the citizens' actual experience in

observing or utilizing new benefits would be used for assessing their real functionality on the ground. On this basis, the coalition could also offer technical advice to the Joint Monitoring Committee – in particular its EU Chair – in relation to the various chapters of the PNA framework, to include the implementation of past agreements and its related sequencing.

The coalition could also play a role at times of process breakdowns. Its extensive ground presence, including in northern Kosovo, and the bespoke capacity dedicated to normalization would contribute to the gathering of timely and accurate information on escalatory actions or in terms of signaling potential triggers. It would also contribute with specific proposals for reducing tension. For example, there is a strong concern among the north Kosovo civil society stakeholders regarding the daily friction between the community and the robust posture of Kosovo Police special units, but also a range of ideas for alleviating this tension. This is advice that could be given to the process and it would be particularly useful for the EU Chair under the notion of a specifically dedicated independent monitoring mechanism.

Intense public communication towards stabilization, de-escalation and restored normalization would be another feature of the coalition, thus affecting the citizens beyond the established negative narratives surrounding the normalization context.

Conclusion

The Kosovo-Serbia normalization dialogue is in crisis and has been for several years. The lack of fully defined commitments for implementation and the lack of effective compliance mechanisms have created an enabling environment for repeated stalemates. To get the process back on track and ensure its sustained flow, the Euro-Atlantic community needs a substantially more developed approach. It needs to ensure undisputed commitment by the parties, show full determination and be able to run the process effectively and sustainably. This paper argues that the level of potential alert from the current situation requires renewed and high-level attention, as indeed is taking shape after the Banjska attack. This attention needs to be centered on the five above-outlined complementary chapters, to be delivered in unison:

- **Chapter 1** would provide for an upgraded role to the EU facilitators and the ability to make authoritative calls among the parties' positions and actions.
- **Chapter 2** would provide for the precisely defined list of expected actions by the parties and their natural sequence. It is the document against which to assess commitment and implementation or lack thereof.
- **Chapter 3** would provide the mechanisms for immediate recourse against non-compliance and equally effective rewards for commitment and proper implementation by either party. It would underpin the strengthened facilitation role for the EU, giving it full ability to decisively carry out Chapter 2.
- **Chapter 4** would underpin all other by providing security guarantees to Kosovo – thus addressing the obstacles created by Banjska – as well as securing full stabilization in northern Kosovo required for a normal course of the implementation process.
- **Chapter 5** would provide an independent verification arm, primarily towards the EU in its strengthened role of robust facilitators. It would be useful both for contributing to stability

during process derails and measuring the actual commitment by the parties when normalization is restored.

This approach may seem to be a tall order under the present constellations within the EU and the Euro- Atlantic community, in particular in light of the much more intense conflicts in Israel and Ukraine. However, this Western Balkans context has the potential to further unravel and extraordinary efforts are needed to prevent that, precisely due to the reduced global security. The Western Balkans is a positive example of international peacebuilding abilities and it needs to remain so in order to give the global peace architecture a boost of confidence to deal with the other challenges. An alternative scenario featuring an eruption in the Balkans under present circumstances may well deliver a devastating blow to Western stabilization capacity.





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