

The Franco-German Proposal to Normalise Relations between Serbia and Kosovo

A Historic Opportunity to Unblock the EU Accession Perspective for the Entire Western Balkans

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Abstract: Serbia's non-recognition of Kosovo is at the core of many problems in the region. Not only does it prevent progress towards EU accession, which both countries explicitly seek, it also hinders important regional economic cooperation and repeatedly destabilises the entire region. The Franco-German proposal is yet another attempt to normalize relations between the two countries. The proposal envisages a normalisation of relations between Serbia and Kosovo along the lines of the historic Basic Treaty signed in 1972 between the Federal Republic of Germany (FRG) and the German Democratic Republic (GDR). This more active Western Balkans policy on the part of Berlin is also an expression of the "Zeitenwende" announced by Chancellor Scholz. Despite the support of all 27 EU members and the US, the normalisation process is proceeding very slowly, which shows the limited ability of the EU and the US to pressure the two counterparts.

Keywords: Serbia-Kosovo normalization, Belgrade-Pristina Dialogue, Franco-German proposal, EU accession

Introduction

Russia's unprovoked large-scale attack on Ukraine on 24 February, 2022 has renewed fears in Europe of destabilisation in the Western Balkans. The close ties of Serbian President Aleksandar Vučić and Milorad Dodik, the strongman of Republika Srpska and current President of the Republika Srpska, the Serbian part of Bosnia and Herzegovina, to Russian President Vladimir Putin, together with major pro-Russian demonstrations in Belgrade and Banja Luka, fuelled these fears in the first half of 2022. China's growing engagement in the Western Balkans, especially in Serbia, is also viewed critically in Brussels and most EU capitals in the wake of China's growing rivalry with both the US and the EU. Against this background, the EU accession process of the six Western Balkan states (WB6), which has been stagnating for years, is seen as a geopolitical problem in Brussels, Berlin, Paris, and other capitals: the Western Balkans is seen as a potential gateway for opposing powers to enter the EU's inner courtyard. While European Commission (EC) President Ursula von der Leyen had already announced that the Commission she heads would be a "geo-political" one in her inaugural speech on 27 November, 2019 (European Commission [EC], 2019), it took Russia's aggression against Ukraine to herald a political turning point that led to the granting of EU candidate status to Ukraine (and Moldova) in June 2022. This has also brought new momentum to the EU accession perspective of the WB6, which had already been promised to the countries at the Thessaloniki European Council Summit in 2003 and has been reiterated several times ever since. However, only Serbia and Montenegro have made progress on this path, and only at a snail's pace.

Apart from Bosnia and Herzegovina's internal political situation, Serbia's non-recognition of Kosovo, which declared independence in 2008, is at the core of many problems in the region. Not only does it prevent progress towards EU accession, which both countries explicitly seek, it also hinders important regional economic cooperation and has repeatedly destabilised the entire region. Most recently, an escalation of the conflict seemed close in December 2022 and again in May 2023

Historical reference for the Franco-German proposal

In order to defuse this core problem and resolve it in the long term, Berlin and Paris launched a new initiative in autumn 2022 to dynamize the Belgrade-Pristina Dialogue (Brussels Dialogue) that had been initiated and promoted by the EU in 2011 and has hardly made any concrete progress at the political level. To this end, German Chancellor Olaf Scholz and French President Emanuel Macron sent letters to Serbia's President Aleksandar Vučić and Kosovo's Prime Minister Albin Kurti in early September 2022 with a proposal to normalise relations between the two states. At the same time, they sent their two most important foreign policy advisors, Jens Plötner and Emmanuel Bonne, to support the EU Special Representative for Dialogue between Belgrade and Pristina and other Western Balkan regional issues, Miroslav Lajčák. The Franco-German proposal, which has been endorsed as a European proposal by all 27 EU members (including the five¹ that do not recognise Kosovo), envisages a normalisation of relations between Serbia and Kosovo along the lines of the historic Basic Treaty signed in 1972 between the Federal Republic of Germany (FRG) and the German Democratic Republic (GDR). The treaty normalised relations between the two German states without the FRG recognising the GDR as a sovereign state under international law (and thus complying with the reunification requirement of the Basic Law), but de facto recognising its sovereignty.

Overall, many passages were taken verbatim from the Basic Treaty. For example, the Franco-German proposal requires Serbia to de facto recognise Kosovo's independence but not its de jure sovereignty. The preamble states that "...without prejudice to the different view of the Parties on fundamental questions, including on status questions, ..." (see annex). This does not force Belgrade to change its constitution, which considers Kosovo part of Serbia (Milanović, 2023).

The very first sentence of Article 1, analogous to the German model, stipulates the agreement of normal good neighbourly relations. In addition, Serbia is to recognise certain features of Kosovar independence over which there have been repeated disputes, such as the recognition of

1 Spain, Greece, Romania, Slovakia, and Cyprus.

car registration plates. Article 1 states: “The Parties shall develop normal, good-neighbourly relations with each other on the basis of equal rights. Both Parties shall mutually recognize their respective documents and national symbols, including passports, diplomas, licence plates, and customs stamp.” The recognition of state sovereignty features is also found in Articles 4 and 6 of the Basic Treaty. The agreement to establish permanent representations at the respective seat of the other government was taken from Article 8 of the Basic Treaty. As in the FRG-GDR case, it cannot be a matter of establishing embassies. The permanent representative of the Federal Republic of Germany in East Berlin was not sent by the Foreign Office but by the Chancellor’s Office, to which they were also obliged to report.

The Kosovar side is expected to implement the agreements signed in the framework of the Brussels dialogue. The most important demand is for Kosovo to allow the formation of a community of municipalities with a Serbian majority, which the government in Pristina had already agreed to in 2013 within the framework of the so-called Brussels Agreement (First Agreement of Principles Governing the Normalisation of Relations). This would grant these municipalities greater autonomy, but Pristina sees it as a danger to the cohesion of the country. In addition, the status of the Serbian Orthodox Church in Kosovo is to be formally established, thus protecting the religion and culture of the Serbian minority.

The Franco-German proposal goes some way beyond the Brussels Agreement, as Serbia not only recognises Kosovar authority within its own territory, including the majority Serb-inhabited northern part of the country, it also recognises it outside the country. Thus, Serbia abandons its active obstruction of Kosovo’s membership in international organisations, de facto accepting the country’s sovereignty in the international space as well.

On 27 February, 2023, both President Vučić and Prime Minister Kurti agreed to the proposal at a meeting in Brussels with EU High Representative for External Affairs and Security Policy Josep Borrell and EUSR Lajčák, but no agreement was reached on the order of implementation set out in the annex. Vučić, for example, insisted that the Serbian Association of Municipalities in Kosovo should be established first, which Kurti rejected. Kurti, who argued that the stability of the

country should be preserved, also demanded that Serbia establish a similar association of municipalities with a Kosovar minority in the Serbian Presevo Valley in the spirit of political reciprocity.

Since the agreement in question is not very popular with the party supporters of either Vučić or Kurti, and it is vehemently opposed by some of them, both were unwilling to initial the agreement for reasons of domestic politics.

At the most recent meeting between Vučić and Kurti on 18 March, 2023, again moderated by Borrell and Lajčák in Ohrid, North Macedonia, there was further convergence on the implementation of the agreement during eight hours of negotiations, but Vučić refused to sign the agreement, as the EU mediators had hoped.² Since both sides had already agreed to the agreement in February, the negotiations in Ohrid now focused on the deadlines and dates, formulated in the annex, by which the individual points of the agreement are to be implemented. This also includes obligations for the EU, which is to organise a donor conference for financial aid for Serbia and Kosovo in the coming months.

The EU's influence on Serbia is limited...

The EU's influence on the two rivals is limited. Serbia still aspires to join the EU, even though its popularity has declined significantly in recent years. In an opinion poll conducted in the summer of 2022, 40 percent of Serbs named Russia as Serbia's most important partner. Forty-five percent of respondents had a positive opinion of Russian President Putin. At the same time, 43 percent of Serbs would advise their government not to pursue EU membership (Džihic, 2023).

Moreover, the EU cannot offer Belgrade an acceleration of the accession process in exchange for the recognition of Kosovo, as the country's democratic deficits and corruption are simply too great. Instead of moving towards the EU through reforms, the EU has had to note backward steps in its last progress report for Serbia and a weakening alignment of

² As both parties accepted the roadmap verbally, according to the Vienna Convention it is treated as if it had been formally signed.

Serbia's foreign policy with the common positions of the EU, to which it has committed itself as an EU accession candidate. However, it is clear to both Vučić and the Serbian elite that the country's future can only lie in Europe. Thus, it was probably no coincidence that the biggest funding pledge the EU has ever made to Serbia was made public after Vučić had agreed in principle to normalise relations with Kosovo on 27 February, 2023. The EU, together with the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD), has pledged a total of up to EUR 2.2 billion for the modernisation of the 230 km railway line between Belgrade and Niš, the country's second largest city.

Maintaining political relations with Moscow and the expansion of economic relations with Beijing, considered highly problematic by the EU, is also seen in Belgrade as a means of exerting counter-pressure on the EU, although recently there have been signs that Serbia's balancing in its foreign policy is shifting more towards the EU.

... as is the EU's influence on Kosovo

The EU's popularity in Kosovo is also limited, since five member states (Spain, Greece, Romania, Slovakia, and Cyprus) have not recognised Kosovo's sovereignty so far, all of which would have to agree to Kosovo's admission to the EU. However, all 27 EU states endorsed the "European proposal" in the conclusions of the European Council on 9 February, 2023, which has given it the necessary political weight.

It is also not surprising that Pristina looks to Washington at least as often as to Brussels due to the leading role of the US in NATO's KFOR mission, which is essential for the country's security. For this reason, the EU is also striving for close coordination with the US in its approach. In addition to the long-term goal of EU accession (Pristina submitted an official application for membership in December 2022), the Kosovar government is striving to join the Council of Europe, pointing to the great progress made in the rule of law and the consolidation of democracy, which has catapulted the country to the top of all Western Balkan states in the relevant rankings.

A “Zeitenwende” (turning point) in Germany’s Western Balkans policy

When EU Commission President Jean-Claude Juncker announced a freeze on EU enlargement in 2014 (Juncker, 2014), it was Chancellor Angela Merkel who invited the Western Balkan states to the German capital in August 2014, thus initiating the “Berlin Process” to improve cooperation among the WB6. However, this brought only very limited results, also because the WB6 had the impression that the Berlin Process was only a consolation price for the prospect of the EU accession that had been postponed.

The Russian attack on Ukraine also led to a turning point in German policy on the Western Balkans. The new coalition government under Chancellor Olaf Scholz, which had come into office only a few months before the war, appointed a Special Representative for the Countries of the Western Balkans for the first time in March 2022, in the person of former Bundestag member and Balkan expert Manuel Sarrazin. Since his appointment, Sarrazin has visited all the capitals of the WB6. In Belgrade he made the German position very clear when he stated that “Serbia cannot join the EU without recognizing Kosovo” (RTKLive, 2023). Also in March, Foreign Minister Annalena Baerbock visited Sarajevo, Pristina, Mitrovica, and Belgrade. Federal Defence Minister Christine Lambrecht followed her in May, when she also visited Sarajevo, Belgrade, and Pristina. Also in May, President Vučić and Prime Minister Kurti met with Chancellor Scholz and Foreign Minister Baerbock in Berlin. In June, it was Chancellor Scholz himself who set off on his first trip to the region, holding talks in Pristina and Belgrade before attending the Southeast Europe Cooperation Council in Thessaloniki on 11 June. This was followed by visits to Skopje and Sofia. This unprecedented density of visits shows the importance Germany attaches to the region.

In September, Chancellor Scholz invited the WB6 to Berlin for the ninth Western Balkans Summit of the Berlin Process. There Chancellor Scholz declared his commitment to the enlargement of the EU to include the states of the Western Balkans and linked the success of enlargement to the Berlin Process. The mobility agreements on ID-cards and diplomas

concluded at the summit were very much welcomed in the region, as they enhance freedom of movement for their citizens. Parallel to the Berlin Summit, Berlin, in close coordination with Paris, launched the Franco-German proposal for the normalisation of relations between Serbia and Kosovo. To this end, an old proposal by former German diplomat and President of the Munich Security Conference Wolfgang Ischinger was taken up. In October 2007, in his function as the EU representative of the “Kosovo Troika” that consisted of the EU, the US, and Russia, the latter had suggested in an interview with the *Frankfurter Allgemeine Zeitung* that the German Basic Treaty of 1972 should be taken as a model in order to exclude what cannot be resolved and still come to an understanding on the urgent issues (*Frankfurter Allgemeine Zeitung*, 2007). In a joint letter to President Vučić and Prime Minister Kurti, coordinated with Brussels, Chancellor Scholz and President Macron submitted their proposal and sent their closest foreign policy advisors Plötner and Bonne together with EU Special Representative Lajčák to Pristina and Belgrade. On the next visit, just a few days later, the group was expanded to include the United States’ Balkan envoy, Gabriel Escobar.

In the run-up to Vučić and Kurti’s meeting with Borrel and Lajčák on 27 February, 2023 in Brussels, Italy joined the Franco-German duo. Further joint letters from Scholz and Macron to Vučić and Kurti dated 25 February, 2023 were also signed by Italian Prime Minister Giorgia Meloni, and her diplomatic advisor Francesco Taló joined the group of personal representatives.

After an agreement in principle to the European proposal by Vučić and Kurti on 27 February, 2023, but no agreement on the order of implementation and no signature, the parties agreed to meet again on 18 March in Ohrid, North Macedonia. In the meantime, diplomacy between the parties was in full swing. EU Special Representative Lajčák travelled to Belgrade and Pristina. The envoys of Berlin, Paris, and Rome jointly published an op-ed in a Kosovar (*Koha*) and a Serbian newspaper (*Blic*). The US Special Envoy and the US Ambassadors in Pristina and Belgrade demarched at the highest levels in Serbia and Kosovo, as did the Ambassadors of Germany, France, and Italy. Support also came from the non-EU states of Norway and Switzerland, so the two adversaries faced a great Euro-American union.

Conclusion

And yet, although progress was made regarding normalisation between Serbia and Kosovo in Ohrid, the big breakthrough once again failed to materialise. While EU High Representative for Foreign Affairs and Security Policy Borell announced the agreement (“We have a deal”) in front of the cameras (Delegation of the European Union to the Council of Europe [EEAS], 2023), President Vučić underlined, as he had done after the February meeting in Brussels, that he had signed nothing. The historic opportunity to solve one of the core problems in the Western Balkans has thus not yet been completely lost, but time has once again been lost in bringing the region closer to and eventually into the EU.

Annex

Belgrade-Pristina Dialogue: EU Proposal - Agreement on the path to normalisation between Kosovo and Serbia

Brussels, 27 February, 2023

The Contracting Parties,

Conscious of their responsibility for the preservation of peace,

Committed to contribute to fruitful regional co-operation and security in Europe and to overcome the legacy of the past, Aware that the inviolability of frontiers and respect for territorial integrity and sovereignty and the protection of national minorities are a basic condition for peace, Proceeding from the historical facts and without prejudice to the different view of the Parties on fundamental questions, including on status questions, Desirous to create the conditions for cooperation between the Parties for the benefit of the people, Have agreed as follows:

Article 1

The Parties shall develop normal, good-neighbourly relations with each other on the basis of equal rights. Both Parties shall mutually recognise their respective documents and national symbols, including passports, diplomas, licence plates, and customs stamps.

Article 2

Both Parties will be guided by the aims and principles laid down in the United Nations Charter, especially those of the sovereign equality of all States, respect for their independence, autonomy and territorial integrity, the right of self-determination, the protection of human rights, and non-discrimination.

Article 3

In conformity with the United Nations Charter, the Parties shall settle any disputes between them exclusively by peaceful means and refrain from the threat or use of force.

Article 4

The Parties proceed on the assumption that neither of the two can represent the other in the international sphere or act on its behalf. Serbia will not object to Kosovo's membership in any international organisation.

Article 5

Neither Party will block, nor encourage others to block, the other Party's progress in their respective EU path based on their own merits. Both Parties shall respect the values referred to in Articles 2 and 21 of the Treaty of the European Union.

Article 6

While the present Agreement constitutes an important step of normalization, both Parties will continue with new impetus the EU-led Dialogue process which should lead to a legally binding agreement on comprehensive normalization of their relations. The Parties agree to deepen future cooperation in the fields of economy, science and technology, transport and connectivity, judicial and law enforcement relations, posts and telecommunications, health, culture, religion, sport, environmental protection, missing persons, displaced persons and other similar areas through the conclusion of specific agreements. The details will be agreed in additional agreements facilitated by the EU-led Dialogue.

Article 7

Both Parties commit to establish specific arrangements and guarantees, in accordance with relevant Council of Europe instruments and by drawing on existing European experiences, to ensure an appropriate level of self-management for the Serbian community in Kosovo and ability for service provision in specific areas, including the possibility for financial support by Serbia and a direct communication channel for the Serbian community to the Government of Kosovo. The Parties shall formalise the status of the Serbian Orthodox Church in Kosovo and afford strong level of protection to the Serbian religious and cultural heritage sites, in line with existing European models.

Article 8

The Parties shall exchange Permanent Missions. They shall be established at the respective Government's seat. Practical questions relating to the establishment of the Missions shall be dealt with separately.

Article 9

Both Parties take note of the EU's and other donors' commitment to establish a special investment and financial support package for joint projects of the Parties in economic development, connectivity, green transition and other key areas.

Article 10

The Parties shall establish a joint Committee, chaired by the EU, for monitoring the implementation of this Agreement. Both Parties confirm their obligation to implement all past Dialogue agreements, which remain valid and binding.

Article 11

Both Parties commit to respect the Implementation Roadmap annexed to this Agreement (The Diplomatic Service of the European Union, 2023).

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