

**No membership without stability in Northern Kosovo:
Seven recommendations on how to achieve it**

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With a three-month postponement, the European Council agreed to grant Candidate Status to Serbia in early March. This right and groundbreaking decision may yet not release Serbia from settling its relationship with Kosovo and from advancing in settling Kosovo's status. Serbia implemented the agreements of the Pristina-Belgrade dialogue held under the auspices of the European External Action Service only sluggishly. The dialogue has been subject to recurrent adjournments due to growing tensions between the conflicting parties. The fatal escalation of the customs conflict between Serbia and Kosovo in July 2011 illustrated the limbo in northern Kosovo threatening to overturn. The clear results of the referendum about the recognition of the government in Pristina held in Northern Kosovo in February 2012 constitute yet another indicator for the deadlock between the Albanian and Northern Serb communities. For the sake of stability, the EU member states must not be lenient with the status settlement question before allowing Serbia membership in the European Union.

The Conflict in Northern Kosovo and Its Meaning for EU Accession

Since the deployment of the United Nations Interim Administration Mission in Kosovo (UNMIK) and Kosovo's declaration of independence, the Serbian government has established a parallel government system in the majorly Serb populated areas in Kosovo which it has maintained in the north of Kosovo until today. The Serbian government does not recognize the sovereignty of the former Serbian province and seeks to enforce its claims to the territory. Consequently, the Kosovo government is de facto unable to exercise control over the northern areas which feature a vacuum in rule of law, a struggling legal economy, and high levels of organized crime and corruption. The extensive services and transfers mainly benefit a nationalist minority who is thus incentivized to sustain the unstable

situation which impedes a better living for the ordinary people.

On the other hand, the Kosovo government has started implementing its "Strategy for the North" which aims at establishing authority over the northern areas. Supported by strong international actors, such as the United States and the International Civilian Office (ICO)¹, the Thaci government initiates deeply symbolic steps which are neither communicated with the UN Mission² nor with the Serb community. Kosovo's attempts to install control over the north have yet been declined by Serb demonstrations and riots which culminated in the customs conflict in July 2011. As response to the Serbian import embargo on Kosovo goods, the Thaci government issued a retaliatory act against Serbian products. During the attempt to enforce the boycott by establishing control over two border posts in northern Kosovo, Kosovo Serb resistance escalated and ended up in the killing of one Kosovo Police officer.

Given the two countries' (potential) EU candidate status, the EU plays a crucial and influential role in paving the way to a status settlement despite the fact that five of the twenty-seven member states have not recognized Kosovo's sovereignty. The territorial dispute between Kosovo and Serbia immediately touches the EU's interests in a stable and prosperous neighborhood. The Serbian blocking policy and the insensitive attempts by the Kosovo government undermine these deep-rooted interests of the EU and therefore need to be overcome with a sustainable compromise.

1 The International Civilian Office was established in response to Kosovo's declaration of independence in February 2008 by the recognizing countries in order to facilitate the implementation of the Comprehensive Status Settlement Proposal.

2 Kosovo has not been recognized by the UN Security Council so that resolution 1244 remains the only internationally recognized legal basis for Kosovo's governance.

A promising status solution has to be mutually acceptable to the conflicting parties and conducive to the two countries' EU accession perspectives. It has to settle the conflict and thus induce stability and the consolidation of a Kosovo state. On the one hand, this path implies compliance with the founding principles of the European Union and territorially-wide governance in order to prevent anarchic pockets. On the other hand, the policy needs to be accepted by all stakeholders at the local, the national and the international level in order to render it sustainable.

None of the policy options proposed during the status settlement debates, namely Partition, a Hong Kong Model, and the Status Quo constitute a promising, mutually acceptable solution. Furthermore, border shifts as in a Territorial Exchange should possibly be avoided in order not to create different dispersals of minorities which could cause further instability. Instead the "quasi-federal" political system of Spain is a useful source for lessons given its equally diverse and similarly intricate constellation.

Recommendations

Despite the relatively extensive competencies of the Serb municipalities granted by the Kosovo Constitution, the Kosovo government should reconsider the peculiarity of the northern areas and widen the scope of self-government. In order to achieve the badly needed compromise, I would like to give the following seven recommendations:

Special Status for the North. The northern areas of Kosovo should be conceded more competencies in three areas of competency, namely public security, judiciary and taxation. Given the deep distrust of the Serb population towards Kosovo authority, northern Kosovo should be given the responsibility for *public security*. The right to participate in selecting the local police station commanders ought to be extended to administrative and financial authority, while remaining accountable to the Ministry of Internal Affairs in Pristina at last resort. Furthermore, allowing the northern areas to have their own *High Court of Justice* is likely to contribute to legal trust as well as certainty, and thus a higher degree of stability in the north. In

contrast to the other municipalities in Kosovo, the northern territories should have the right to *collect taxes*. This privilege would incentivize the autonomous government to establish a legal economic sector which is almost absent at the moment.

Given the deadlock between the parties to the conflict, the European Union has to intervene in a multi-dimensional manner to convert the current reservations into cooperation:

Conditionality on Kosovo Government. The Thaci government has to sincerely reconsider the well-being of the Serb population and behave in a more conciliatory manner. Its political approach needs to aim at integrating the Serb community into a multi-ethnic Kosovo system. In the face of the influential role the United States play in Kosovo, the EU has to coordinate with the US government and convince it to encourage a less confronting policy in order to prevent counterproductive opportunity structures.

Conditionality on Serbian Government. The Serbian government has to stop undermining the state consolidation process in Kosovo and resign from providing parallel governance structures in northern Kosovo. The policy is diametrically opposed to the goals the EU seeks to realize in the country. Despite the recently granted candidate status for Serbia, the EU has to state clearly that an ultimate accession yet remains impossible, unless the territorial conflict is settled. Terminating the limbo in northern Kosovo has to be acknowledged as a deep-rooted interest by all EU member states. Therefore, they have to insist on Serbia recognizing Kosovo's independence as a condition for EU membership.

Intensified European Public Diplomacy in Serbia. During recent years, Serbia has featured a negative trend in public support for EU membership which may be explained by the protracted accession process with numerous loopholes as well as by the extremely low level of information about the EU. Given the still expected positive economic opportunities from EU membership which are desperately needed in the face of the economic decline in the country, the EU needs to make an effort to reverse the negative trend by intensifying public diplomacy

in Serbia. Stronger public support would again serve as a multiplier of the pressure on the Serbian government to change its policy towards Kosovo.

Building Bridges to the Serb Population in Northern Kosovo. The donor community has so far paid little attention to the Serb population in Kosovo in general, and in the northern areas in particular. This has caused a perception of partiality and neglect among the Serb community. In order to advance the special status policy and to improve access to the Serb community, the development agencies ought to open liaison offices in Mitrovica and recruit Serbs. Furthermore, building ties to moderate local actors from the business community and civil society might help to mediate the special status solution.

Dialogue with Radical Nationalists. Given the strong influence of radical nationalists in northern Kosovo, the European Union may not neglect this share of the population and merely focus on the moderate forces. Instead, the EU should provide funding to neutral third actors, such as NGOs to facilitate dialogue and confidence-building between local nationalists, more moderate actors as well as Kosovo institutions.

Capacity Building. Particularly in the face of the great benefits that accrue to the nationalists from the parallel structures, reversing their cost-benefit calculations and establishing support for the status solution will require enormous efforts. If the Serbian government successively reduces its services and transfers to the Serb population in the north and if the conflicting parties agree to a special status for the north, the people will increasingly depend on the capacities and infrastructure of their autonomous region and the state of Kosovo. The EU consequently has to guarantee viable governance structures ensuring security and services at a Serbian standard. Given the large extent of needed investment in infrastructure and functioning democratic institutions, the EU should collaborate with other major donors such as the United States and UN institutions. While capacity building has to take place under consideration of existing constellations, the donor community needs to focus its enabling engagement on the moderate forces in delineation from nationalist groups.

These interventions would facilitate the creation of a consolidated, stable governance system. Serbia, Kosovo and the European Union all have a deep-seated interest in resolving the conflict in the Western Balkans. The attempts to settle the territorial dispute hitherto have not generated substantial progress. All policy proposals have been mutually unacceptable to the stakeholders. Therefore, the EU has to assume the mediator's role in order to ensure stability in its immediate vicinity and sincere prospects for EU membership for both countries.