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**EU-facilitated Normalization Dialogue
between Kosovo and Serbia: Lessons for the
Next Stage**

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Introduction

As relations between Kosovo and Serbia reached a critical point towards the end of 2023, the potential for conflict escalated to levels not seen since the riots of March 2004. The Banjska attack in September 2023, labelled as a terrorist attack by the Kosovo government and the European Parliament, highlighted the fragile and volatile status quo, particularly in northern Kosovo. The attack underscored the limitations of the European Union's (EU) approach to the normalization of relations between Kosovo and Serbia, prompting widespread criticism. International commentators, including the *Foreign Policy* magazine, asserted that "The EU Has Failed in Serbia and Kosovo," reflecting growing concerns about the EU's reliance on conflict management strategies that fail to address the underlying issues.

Critics argue that the EU – as a whole, i.e., the political system behind the Brussels-based diplomats who run the process directly – has consistently underestimated the complexity of the context, particularly regarding local dynamics and the views of the population. Scholars like Kartsonaki contend that the EU's approach has been overly focused on "superficial, box-ticking measures" that address high-level political concerns but fail to engage with the realities on the ground. This disconnect between the EU's strategies and the actual situation has not only limited the effectiveness of the normalization process but also risks exacerbating tensions in the long term. As such, the ongoing stalemate serves as a critical juncture for reflecting on the lessons learned from the EU's facilitation role in the normalization of relations between Kosovo and Serbia.

This paper argues that the EU's role in the Kosovo-Serbia dialogue has been hindered by its reliance on constructive ambiguity, its limited role as a facilitator rather than a mediator, and the absence of a robust, coordinated approach to the normalization process. These factors have not only stalled progress but have also risked deepening instability in the region.

The paper is organized around three key lessons: the consequences of the EU's dependence on constructive ambiguity, the drawbacks of its facilitator role, and the need for a more comprehensive and coordinated mediation strategy. The central argument of the paper is not meant to absolve the leaderships of Kosovo and Serbia for their contribution to the tensions and stalemates. Rather, the paper is written from the point of view of the EU as the process leader, looking to provide advice on effective dispute management in the current political context in both Pristina and Belgrade.

The paper suggests that the EU must transition from its current facilitation role to a more assertive mediation role – even if the label of 'facilitation' remains – where it can actively shape the negotiations and hold both parties accountable for their commitments. This shift is critical not only to break the ongoing stalemates but also to strengthen the EU's influence and credibility in the Western Balkans. By adopting a more transparent and engaged approach, the EU can better manage the complexities of the dialogue, ensuring that the outcomes contribute to long-term stability and integration in the region.

The paper holds that the EU can no longer afford to delay decisive action. Instead, it must prioritize a sustainable resolution to the Kosovo-Serbia dispute. Failing to do so risks sending the Western Balkans into a dangerous path of revisionism, nationalism and instability, while also sending the wrong and dangerous message to non-Western global powers who seek to exploit and weaken the EU by fueling nationalism and nativist movements within Europe. A disorganized and ineffective EU plays directly into their geopolitical agendas.

From Constructive Ambiguity to Constructive Clarity

Constructive ambiguity, also referred to as creative ambiguity, is a fundamental and strategic tool employed to foster consensus and compromise among diverse actors. It allows for accommodating different perspectives and interests, thereby maintaining unity and advancing in situations where a clear-cut agreement might be impossible to achieve. Constructive ambiguity is generally understood as the deliberate use of vague or ambiguous language during the negotiation of a legal text or agreement. This ambiguity allows different parties to interpret the agreement in a way that is most favorable to their own interests.¹ The intention behind this strategy is to enable agreement on contentious issues by postponing or softening irreconcilable differences, thus allowing negotiations to proceed and agreements to be reached without forcing parties into a direct conflict over the specifics.

In the context of the Kosovo-Serbia dialogue for normalization of relations, the EU has strongly relied upon constructive ambiguity to maintain the dialogue process. Ambiguous language allowed both Kosovo and Serbia to claim partial victories or avoid conceding on sensitive national issues, which keeps them engaged in the dialogue under the EU's facilitation.

According to Gashi, Musliu and Orbie, the EU has strategically used recontextualization to create constructive ambiguity in the dialogue. By altering meanings and substituting elements in its discourse, the EU has managed to maintain its neutrality and avoid taking explicit positions on contentious issues, particularly with respect to Kosovo's statehood. For instance, instead of referring to the dialogue as between Kosovo and Serbia, the EU has long used the terms "Belgrade and Pristina," which "retains the EU position as neutral to the status of Kosovo."²

In this context, Gogić argues that the EU used it as a tool to gradually steer the dialogue towards Serbia's *de facto* recognition of Kosovo, without explicitly framing it as such³. According to Gogić, the phrase "comprehensive normalization", was employed as a euphemism for *de facto* recognition, allowing the EU to push the process forward while helping Serbian leaders manage domestic opposition.⁴ From the perspective of the Kosovo Serb community, constructive ambiguity is also seen as a problem, but for different reasons. The fear, from this perspective, is that ambiguity exposes the underlying goal of the dialogue, which is for Serbia to accept the full institutional jurisdiction of Kosovo, if not statehood. From this perspective, the potential risks of abandoning constructive ambiguity too soon, is that it can lead to a deadlock if the parties are not ready to meet the clarified expectations. However, as we now see plainly, the dialogue is already in a deadlock

On the other hand, Kartsonaki argues that while "constructive ambiguity has provided room for the conduct of negotiations and for agreements to be signed, it has also created room for these agreements to be interpreted in diverse ways leading to stalemates and crises, instead of

¹ Michael Byers. (2021). Still agreeing to disagree: international security and constructive ambiguity, *Journal on the Use of Force and International Law*, 8:1, 91-114, DOI: 10.1080/20531702.2020.1761656

² Gashi, Krenar; Musliu, Vjosa & Orbie, Jan. (2017). Mediation Through Recontextualization: The European Union and The Dialogue Between Kosovo and Serbia. *European Foreign Affairs Review*. 22:4, pp 533–550

³ Ognjen Gogić. (2023). Deconstructing the Constructive Ambiguity in the Belgrade-Pristina Dialogue: How Did "Normalization" Become "de facto Recognition"? *European Western Balkans (EWB)*. Available at: <https://europeanwesternbalkans.com/2023/12/04/deconstructing-the-constructive-ambiguity-in-the-belgrade-pristina-dialogue-how-did-normalization-become-de-facto-recognition/>

⁴ Gogić, 2023

implementation.”⁵ This approach has led to successes in the earlier phases of the dialogue, but it has not been fitting for the changed political circumstances that ensued on the ground in the recent years.

For instance, the ambiguity surrounding the Association/Community of Serb-majority Municipalities (ASM) has exacerbated ethnic divisions and heightened tensions. The dual terminology used for the Association/Community of Serb Majority Municipalities, where it is referred to as an "Association" in Kosovo and a "Community" in Serbia, leading to divergent expectations and interpretations.⁶ Kosovo Serbs perceive the ASM as a signal of Serbia’s withdrawal from Kosovo, while Kosovo Albanians fear it as an attempt to establish a Republika Srpska-like entity within Kosovo.⁷ While the EU has provided some clarity recently, it had for years been notably absent in countering disinformation and misinformation related to the ASM, failing to intervene with clear information to clarify what the ASM truly represents and what it does not. As a result, the misconceptions over the ASM have become strong inside Kosovo and the more recent EU clarification efforts have not made a significant difference. The most recent and most potent signal of the depth of negativity surrounding the ASM is the fact that the Kosovo government has refused to act on the issue even if the price was blocked membership in the Council of Europe.

The EU’s emphasis on overt achievements, such as reaching dialogue agreements, may overlook the substantive issues that need resolution for sustainable peace between Kosovo and Serbia. The focus on agreements without a clear third-party (EU) understanding of their substance and the precise set of commitments they entail for Serbia and Kosovo, as well as without effective means for the EU to demand full compliance by the parties, has ultimately led to a lack of sustainability and even to a reversal of the gains achieved.

The EU’s constructive ambiguity was successful in the initial years of the normalization dialogue, when the Kosovo and Serbian governments were invested in a process of this sort. This commitment was related to a multitude of factors, with the EU accession being the single most important one. Over the years, the political climate changed and the EU accession promise shifted further away, substantially reducing the parties’ commitment to normalization. The EU, however, continued with the previous approach and its limitations have been fully manifested over the past years, when the normalization process has not only stalled but regressed. A significant portion of the progress previously achieved has been undone, particularly in the north of Kosovo. This was starkly demonstrated in November 2022 when Kosovo Serbs collectively resigned from state institutions⁸, and a set of other escalating acts that culminated in the Banjska attack in September 2023, as Serb militants attacked Kosovo Police, killing one police officer and losing three of their own in the Kosovo Police’s response. The European Parliament called the Banjska incident a terrorist attack and called for perpetrators to be

⁵ Argyro Kartsonaki. (2020). Playing with Fire: An Assessment of the EU’s Approach of Constructive Ambiguity on Kosovo’s Blended Conflict. *Journal of Balkan and Near Eastern Studies*, 22:1, 103-120, DOI: 10.1080/19448953.2020.1715668 p. 104

⁶ Gashi, Musliu, and Orbie, 2017.

⁷ Ramadan Ilazi and Milica Andrić Rakić. (2021). Establishment of the Association/Community of Serb Majority Municipalities in Kosovo: Challenges and Opportunities. *Balkans Dialogues and BFPE*. Available at: <https://en.bfpe.org/wp-content/uploads/sites/5/2021/03/Andric-Rakic-and-Ilazi-Establishment-of-the-ASM.pdf>

⁸ Xhorxhina Bami and Milica Stojanovic. (2022). Serbs Stage Mass Resignation from Kosovo State Institutions. *Nalkan Insight*. Available at: <https://balkaninsight.com/2022/11/05/serbs-stage-mass-resignation-from-kosovo-state-institutions/#:~:text=Kosovo%20Serbs%20resigned%20from%20their,Serbia%20and%20Kosovo%20in%20Brussels>.

held accountable.⁹ The EU and the leading Western states have also condemned the attack and are requesting accountability.

The EU clearly needs to pivot from its current strategy of constructive ambiguity to one of **constructive clarity**. Constructive clarity involves providing unambiguous definitions and expectations associated with the normalization dialogue agreements, as much as possible within the agreements themselves. This would reduce the potential for divergent interpretations and ensure a shared understanding among all parties involved. This shift is absolutely necessary to prevent further crises in the normalization dialogue and ensure the full and effective implementation of existing agreements. This involves a fundamental shift in how the EU approaches its role as a facilitator. Instead of allowing excessively vague language and flexible interpretations, the EU should champion a strategy of constructive clarity that leaves little room for misinterpretation.

Proposal for Constructive Clarity:

1. **Comprehensive Report on Agreements:** The EU should develop and publish a comprehensive report that meticulously outlines and clarifies all agreements and arrangements made between Kosovo and Serbia to date. This report should detail the specific commitments made by each party, the intended outcomes of each agreement, and the timelines for the implementation of unfulfilled commitments.
2. **State of Play Assessment:** The report should include a thorough assessment of the current status of each agreement. This assessment should identify where progress has been made, where implementation has stalled, and the reasons behind any delays or failures, with clear language. Such an evaluation would provide a clear, evidence-based understanding of where the process stands and highlight areas requiring urgent attention.
3. **Clear Implementation Roadmap:** For each agreement, the EU should clearly outline what each party needs to do to ensure implementation. This roadmap should include specific actions, deadlines, and measurable benchmarks. Additionally, the EU should outline the consequences for non-compliance, making it clear that failure to implement agreements will result in tangible repercussions, such as delays in EU accession talks, blocked access to the Growth Plan, or other diplomatic consequences. The stalled implementation sequence for the latest (Path to Normalization) agreement of 2023 should therefore be a derivative of this approach.
4. **Active EU Involvement in Implementation:** The EU must take an active role in monitoring and supporting the implementation of agreements. This includes regular follow-up meetings, on-the-ground monitoring, and, where necessary, mediation to resolve disputes that arise during implementation. The EU should also be prepared to publicly call out non-compliance – which would be easily possible with the actions recommended in the points above – to maintain transparency and accountability, as well as prepare a set of effective measures to immediately address non-compliance. This may require an *a priori* agreement among the EU over the full set of compliance enforcement measures from which to choose in response to the parties' non-compliance. The recently established Growth Facility for the Western Balkans should play a central role in this regard, but other EU mechanisms should be invoked too. Simply put, all financial assistance and any progress on EU accession should be directly and immediately

⁹ European Parliament resolution of 19 October 2023 on the recent developments in the Serbia-Kosovo dialogue, including the situation in the northern municipalities in Kosovo (2023/2880(RSP), https://www.europarl.europa.eu/doceo/document/TA-9-2023-0372_EN.html)

conditional upon the parties' fulfillment of dialogue commitments, as outlined in the EU's own comprehensive report.

5. **Information Campaigns:** To counteract disinformation and ensure that all parties and the public fully understand the agreements, the EU should launch targeted information campaigns, not through secondary actors, but EU-owned campaigns. These campaigns should clarify what the agreements entail, what they do not, and the benefits of implementation for both Kosovo and Serbia. This will help build public support and reduce the manipulation of ambiguities for political gain. The publication of the EU's comprehensive report on the dialogue state of play outlined above should be a central resource for the information campaigns, in addition to being a public information tool in and of itself.
6. **Broadening Public Engagement:** To ensure the sustainability of the Kosovo-Serbia dialogue, the EU must go beyond high-level negotiations and manage the expectations of a broader range of stakeholders. This requires a more comprehensive engagement strategy that includes opposition political actors, NGOs, business leaders, local communities, and civil society. By fostering broader participation and creating spaces for local voices to contribute, the EU can enhance the dialogue's legitimacy, which is often perceived as disconnected from the public. Directly engaging with communities and clearly communicating the benefits of each agreement will help counter disinformation and build a stronger foundation for lasting peace.

From Facilitation to Mediation

At the heart of the EU's conflict mediation approaches are two closely related but distinct concepts: mediation and facilitation. According to the EU's Concept on Peace Mediation, "Mediation is a way of assisting negotiations between conflict parties and transforming conflicts with the support of an accepted third party."¹⁰ Mediation involves a more directive role where the mediator actively helps shape the negotiations, addresses root causes, and ensures the inclusion of relevant stakeholders. In contrast, facilitation is "less directive and less aimed at shaping the substance of the negotiations."¹¹ Facilitation focuses on supporting communication between conflict parties and helping to build consensus without significantly intervening in the negotiation content. The distinction between mediation and facilitation lies in the level of intervention: mediation actively influences the negotiation process, while facilitation supports it more passively.

Despite significant success in the initial years, the EU's approach of facilitating the normalization of relations between Kosovo and Serbia has ultimately led to a situation of "managed instability" rather than a sustainable peace.¹² While the EU's efforts have kept the dialogue between the two sides ongoing, they have not resolved the core issues, particularly at the local level where ethnic tensions remain high. Axyonova and Kartsonaki argue that EU's normalization policies have created a situation where "the relationship between normalization processes and conflict resolution is not that

¹⁰ Council of the European Union. (2020). EU Concept on Mediation, available at: <https://www.eeas.europa.eu/sites/default/files/st13951.en20.pdf>, p. 3

¹¹ Ibid.,

¹² Axyonova, V., & Kartsonaki, A. (2024). The European Union's Normalisation Policies for Kosovo: Contributing to a Durable Peace? *Ethnopolitics*, 1–18. <https://doi.org/10.1080/17449057.2024.2358647>

straightforward" and instead of dismantling existing conflict structures, these policies have sometimes added new layers to the conflict.¹³ In other words, the EU's current role as a facilitator has proven insufficient in addressing the deeply entrenched positions of Kosovo and Serbia.

In particular, it has not been able to effectively respond to the parties' gradual disassociation from their share of dialogue commitments. Favoring facilitation, the EU has repeatedly attempted the same approach that relies on the full commitment of the parties and is simply ineffective when commitment is absent. The EU's facilitation role was most effective when local actors were willing to engage constructively. However, when these actors shifted to a more confrontational approach, the limitations of the EU's facilitation strategy became apparent. Facilitation, which primarily supports communication without heavily influencing the content of negotiations, has allowed the dialogue to persist but has not led to significant breakthroughs, particularly on critical issues, including most recently the trade-off between the *de facto* recognition by Serbia for the ASM by Kosovo stemming from the Path to Normalization agreement of February/March 2023. The limitation that come with the role of the facilitator constrain the EU's ability to address the core issues at the heart of the Kosovo-Serbia conflict.

As a mediator, the EU would gain the authority to propose solutions, take on greater responsibility for ensuring their implementation, and hold both Kosovo and Serbia accountable for their commitments. However, for this to be effective, it is essential that EU member states provide robust political support to the EEAS and the designated mediator, backing them with the necessary political capital to drive the process forward.

Existing research indicates that while the EU has officially positioned itself as a facilitator in the Kosovo-Serbia normalization dialogue, it has at times acted as a mediator by drafting and proposing solutions.¹⁴ Formalizing this shift from facilitation to mediation is crucial not only to break the ongoing stalemates but also to strengthen the EU's role and make its involvement more transparent. The EU should fully embrace the active role it already plays or is capable of playing in this process. In other words, the EU needs to get out of the shell. By becoming a more engaged participant, the EU can, potentially, more effectively navigate Kosovo and Serbia toward meaningful compromises.

Moving to a mediation role would enable the EU to apply its considerable diplomatic and economic leverage more effectively, ensuring that both parties are treated equally – for better and for worse – in the negotiations. As a mediator, the EU could enforce a more balanced approach, holding both Kosovo and Serbia accountable for their commitments and making it clear that progress in the dialogue is fundamental for their respective paths toward EU integration. This would help eliminate ambiguities and create a more transparent and fair process, ultimately leading to more sustainable outcomes.

The success of the Kosovo-Serbia dialogue is closely tied to the EU's broader strategic interests in the Western Balkans, particularly the region's integration into the EU. By shifting to a mediation role, the EU can more effectively ensure that the outcomes of the dialogue are conducive to the long-term goal of regional stability and EU integration. The EU's credibility as a mediator is also at stake. Successfully mediating the Kosovo-Serbia dialogue would bolster the EU's reputation as a capable and influential actor in conflict resolution. This would not only reinforce the EU's role in the Western Balkans but also enhance its standing as a global actor in conflict resolution. A directive role, where the EU as a

¹³ Axyonova, V., & Kartsonaki, A. (2024). p. 2

¹⁴ Ramadan Ilazi. (2024). *The European Union and Everyday Statebuilding: The Case of Kosovo*. Abingdon: Routledge

mediator plays a more active role in influencing negotiations and ensuring compliance, could be more effective in managing acute crises¹⁵.

However, a critical challenge remains the level of support that EU member states are willing to extend to the EEAS and the appointed facilitator or mediator. One key lesson from the EU's facilitation efforts, particularly since 2020 with Mr. Miroslav Lajčák's role as the EU Special Representative for the Belgrade-Pristina Dialogue and other Western Balkan regional issues is that Mr. Lajčák lacked the necessary political agency to take a more decisive role in the process. To address this, the European Council should include language in its conclusions that empowers the Dialogue EUSR with the autonomy needed for decision-making regarding Kosovo and Serbia, particularly in the areas of incentives and consequences. Furthermore, the European Council should establish a concrete and credible package of incentives and consequences for both Kosovo and Serbia. This would facilitate a much-needed conversation about the opportunities lost in both countries due to the ongoing lack of normalization in their relations.

In the framework of the lessons learned from facilitation is that local legitimacy was relatively weak of the dialogue for normalization of relations. EU's focus on high-level negotiations without sufficient local involvement has led to a perception of the process as "elite-captured."¹⁶ The EU needs to adopt a more inclusive approach, that treats the broader political spectrum and the civil society as a partner, as this could improve the legitimacy of the process and ensure that the agreements reached are more broadly accepted by the local populations in both Kosovo and Serbia. The Concept on Peace Mediation emphasizes that the EU's multi-track approach "creates more resilient pathways to peace" and supports inclusive bottom-up approaches that "make political agreements between decision-makers possible at several levels of society."¹⁷

Proposals for Moving from Facilitation to Mediation in the Kosovo-Serbia Dialogue

1. **Shape a new role for the EU as a Mediator:** The EU should transition from its current facilitation role to a formal mediation role in the Kosovo-Serbia dialogue. This shift would grant the EU the authority to propose concrete solutions, take on greater responsibility for ensuring their implementation, and hold both Kosovo and Serbia accountable for their commitments. To make this transition effective, it is crucial that EU member states provide strong political support to the EEAS and the designated mediator, empowering them with the necessary political capital to lead the process decisively. Ideally, the shift to mediation should be formalized and declared. This would signal a new level of EU determination to the dialogue parties and set the tone for future success based on a new approach. If this turns out to be impossible, the shift should be conducted in substance without formal changes to the notion of EU facilitation. It would thus remain EU facilitation in name, but it would be fundamentally different in essence.
2. **Enhance the Mediator's Political Agency:** To avoid the limitations observed during the tenure of Mr. Miroslav Lajčák, the EU should ensure that the appointed mediator has the full set of means to invoke immediate consequences for good and bad behavior within the EU bloc. The European Council should agree a set of measures *a priori* and be ready to act upon them upon the mediator's request. This should include explicit language in the Council's conclusions that

¹⁵ Erik Plänitz. (2018). "Towards a Comprehensive Framework of Mediation Success: EU Mediation in the Belgrade–Pristina Dialogue," *Journal of Regional Security*. 13:1, pp. 65–96, doi:10.11643/issn.2217-995X181SPP88.

¹⁶ Erik Plänitz. (2018).

¹⁷ EU Concept on Mediation, 2020, p. 5.

grants the mediator the authority to act decisively on behalf of the EU in matters concerning both incentives and consequences for Kosovo and Serbia. Crucially, it should clearly define the goal of the normalization dialogue between Kosovo and Serbia, and the mandate of the facilitator/mediator. Define: What does a Comprehensive and Legally Binding Agreement between Kosovo and Serbia, mean?

3. **Adopt a More Inclusive Mediation Approach:** The EU must expand its approach to include local stakeholders, such as civil society and community leaders, in the mediation process, especially Mayors. The perception that the dialogue is "elite-captured" has undermined its legitimacy and effectiveness. By involving mayors and other local actors from Kosovo and Serbia, the EU can enhance the legitimacy of the process and ensure that the agreements reached are more widely accepted and implemented at the local level. This inclusive approach aligns with the EU's Concept on Peace Mediation, which emphasizes the importance of multi-track diplomacy to create resilient pathways to peace.
4. **Develop a Comprehensive and Credible Package of Incentives and Consequences:** The EU should craft a clear package of incentives for progress in the dialogue and consequences for actions that undermine it. This package would serve as both a carrot and a stick to encourage cooperation and deter destabilizing behavior. By linking the success of the dialogue to tangible outcomes, such as funds from the Growth Facility, the EU can create a stronger incentive structure for both Kosovo and Serbia to engage constructively in the mediation process. The correlation between the parties' EU accession and the normalization dialogue should be more direct, explicit, and comprehensive. No funds should be released and no headway made possible in this regard to the party that fails to act upon its share of commitments – as outlined by the EU itself through the above-proposed comprehensive state of play framework – regardless of the level of implementation of other EU accession benchmarks.
5. **Strengthen Coordination between EU Institutions and Member States:** The success of the EU's mediation efforts depends on the cohesive support of all relevant EU institutions and member states. The EEAS, European Commission, European Council, and individual member states must coordinate closely to ensure that the mediator has the backing needed to enforce decisions and maintain momentum in the dialogue. Full coordination should in fact be achieved not only within the EU, but within the Euro-Atlantic community. Backing by the US and UK for the approach outlined in this paper is crucial for its success. This coordinated effort is essential for the EU to maintain credibility and influence in the normalization process.
6. **Address Local Political Dynamics:** The EU should recognize that the success of its mediation efforts is closely tied to local political dynamics in Kosovo and Serbia. The mediator must be equipped to engage with local leaders and adapt strategies to the evolving political landscape. The EU's mediation role should focus not only on high-level negotiations but also on fostering local buy-in and accountability. By doing so, the EU can prevent future breakdowns in the dialogue and promote a more stable and predictable peace process.