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Ten years of Kosovo-Serbia dialogue

Examining the conditions for the effectiveness of EU
conditionality with a special focus on coherence

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Abstract

This thesis aims to identify the factors that influence the effectiveness of EU conditionality in the EU-facilitated dialogue between Kosovo and Serbia and to explain why the process is still inconclusive ten years after its inception. Based on the external incentives model by Schimmelfennig and Sedelmeier, the thesis examines the determinacy of conditions, the size and speed of rewards, the credibility of conditionality and the domestic adoption costs. In addition, the thesis highlights the central role of coherence. This factor is typically neglected by studies applying the external incentives model. However, it is crucial to understanding the effectiveness of the EU's conditionality, or rather the lack thereof, in the Kosovo-Serbia dialogue because it affects all other factors. Due to a lack of coherence the EU has not been able to set clear conditions and offer credible incentives to Serbia and Kosovo. Besides vertical, horizontal, and institutional coherence, the thesis also takes into account external coherence with other geopolitical powers, notably the United States, Russia and China. As the thesis will show, the policies of these actors also have an influence on the effectiveness of the EU's conditionality.

Das Ziel dieser Arbeit ist es, die Faktoren zu identifizieren, die die Effektivität der EU-Konditionalität im von der EU unterstützten Dialog zwischen Kosovo und Serbien beeinflussen, und zu erklären, warum der Prozess zehn Jahre nach seinem Beginn immer noch nicht abgeschlossen ist. Basierend auf dem externen Anreizmodell von Schimmelfennig und Sedelmeier untersucht die Arbeit die Bestimmtheit der Bedingungen, die Größe und Geschwindigkeit der Belohnungen, die Glaubwürdigkeit der Konditionalität und die Höhe der nationalen Anpassungskosten. Darüber hinaus hebt die Arbeit die zentrale Rolle von Kohärenz hervor. Diese wird bei Studien, die das externe Anreizmodell anwenden, in der Regel vernachlässigt. Kohärenz ist jedoch von entscheidender Bedeutung, um die Effektivität der EU-Konditionalität, bzw. deren Fehlen, im Kosovo-Serbien Dialog zu verstehen. Sie beeinflusst alle anderen Faktoren, etwa die Fähigkeit klare Bedingungen zu formulieren sowie Serbien und Kosovo glaubwürdige Anreize zu bieten. Neben der vertikalen, horizontalen und institutionellen Kohärenz berücksichtigt die Arbeit auch die externe Kohärenz mit den Vereinigten Staaten, Russland und China. Wie die Arbeit zeigen wird, hat die Politik dieser geopolitischen Akteure ebenfalls Einfluss auf die Effektivität der EU-Konditionalität.

List of Abbreviations

AAK	Alliance for the Future of Kosovo (Aleanca për Ardhmërinë e Kosovës)
ACSM	Association/Community of Serb-majority Municipalities
BRI	Belt and Road Initiative
CARDS	Community Assistance for Reconstruction, Development and Stabilisation
CETA	Comprehensive Economic and Trade Agreement
CFSP	Common Foreign and Security Policy
DG HOME	Directorate-General for Migration and Home Affairs
DG NEAR	Directorate-General for Neighbourhood and Enlargement negotiations
DS	Democratic Party (Demokratska Stranka)
DSS	Democratic Party of Serbia (Demokratska Stranka Srbije)
EAEU	Eurasian Economic Union
EBCGA	European Border and Coast Guard Agency
EEAS	European External Action Service
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
EUSR	European Union Special Representative for Kosovo
FAC	Foreign Affairs Council
HR/VP	High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the European Commission
IBM	Integrated Border/Boundary Management
ICJ	International Court of Justice
ICTY	International Criminal Tribunal for the former Yugoslavia
IPA	Instrument for Pre-Accession Assistance
KLA	Kosovo Liberation Army
LDK	Democratic League of Kosovo (Lidhja Demokratike e Kosovës)
LVV	Movement for Self-Determination (Levizja Vetevendosje)
MEP	Member of the European Parliament
NATO	North Atlantic Treaty Organization

NISMA	Social Democratic Initiative (NISMA Social Demokrate)
PRC	Peoples' Republic of China
PDK	Democratic Party of Kosovo (Partia Demokratike e Kosovës)
TEU	Treaty on European Union
SAA	Stabilisation and Association Agreement
SNS	Serbian Progressive Party (Srpska Napredna Stranka)
SPS	Socialist Party of Serbia (Socijalistička Partija Srbije)
SRS	Serbian Radical Party (Srpska Radikalna Stranka)
UN	United Nations
UNMIK	United Nations Interim Administration in Kosovo
US	United States

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1 Introduction

In March 2011, the European Union (EU) initiated a dialogue process between Serbia and its former province Kosovo, which unilaterally declared independence in 2008. The ‘EU-facilitated dialogue’ started on the technical level but soon became political with the involvement of the High Representative of the Union for Foreign Affairs and Security Policy (HR/VP) and the leaders of the two countries. The dialogue culminated in the so-called ‘Brussels Agreement’ that was praised by observers as an “earthquake in Balkan politics”¹ and as a huge diplomatic success for the newly established European External Action Service (EEAS). However, ten years after the start of the dialogue, most of the agreements, including the Brussels Agreement, have still not been properly implemented.

The conflict between Kosovo and Serbia is the Gordian knot of the Western Balkans. Solving this decades-old issue would have a positive impact on the entire region, boost regional cooperation and advance the EU accession of both Serbia and Kosovo. Moreover, it would improve the EU’s own security, which is inextricably linked to the Western Balkans. The new HR/VP Josep Borrell, has acknowledged the importance of resolving the Kosovo-Serbia conflict when he stated in his confirmation hearing that his first trip will be to Pristina.² The renewed attention that the EU is devoting to the issue is also exemplified by the appointment of Miroslav Lajčák as Special Representative for the Belgrade-Pristina dialogue.

Given the dialogue’s potential to transform the entire region and the EU’s renewed focus on the issue, it is important to understand the factors that hinder progress and undermine the EU’s effectiveness as a mediator. There are several studies on EU mediation in the context of the Kosovo-Serbia conflict. They show how the EU has used ‘carrots’ like EU accession to bring the parties to the negotiation table and to broker a number of agreements. However, most of these studies do not analyse the conditions for the effective use of conditionality in detail. Given that conditionality has been a main feature of the EU’s mediation strategy, this constitutes a gap in the literature that this thesis seeks to address by providing a better understanding of the conditions under which conditionality can be effectively applied as an instrument in EU conflict resolution. Thus, the guiding research question of this work is: Which factors influence the effective use of EU conditionality in the Kosovo-Serbia dialogue?

¹ Marko Prelec, *The Kosovo-Serbia Agreement: Why Less Is More*, International Crisis Group, 7 May 2013.

² Andrew Gray, “Borrell to visit Kosovo first as EU foreign policy chief”, *Politico Europe*, 10 July 2019.

The thesis pays particular attention to the various forms of coherence as these have not been adequately addressed by the existing literature on EU conditionality and externalisation. The Kosovo-Serbia dialogue constitutes an interesting case to study coherence as it encompasses elements of both the intergovernmental Common Foreign and Security Policy (CFSP) and the supranational enlargement policy. The issue is also highly controversial as evidenced by the fact that five EU Member States have not recognised Kosovo's independence.

Even though every conflict situation is different, the findings of this thesis may also be applied to other conflicts where the EU can exert some form of leverage. This leverage must not necessarily result from the accession perspective like in the case of Serbia and Kosovo but can also be based on association or trade agreements. Thus, there are many opportunities for further research in this direction. Interesting cases would be for example the conflicts between Israel and Palestine, Russia and Ukraine or Armenia and Azerbaijan.

To answer the research question, the thesis draws on primary sources (such as Council and Commission documents, opinion polls etc.) as well as secondary sources (scientific books, journal articles and policy papers). Given that the Kosovo-Serbia dialogue is a 'moving target', newspaper articles from English- and German-speaking newspapers were also included in the desk research.

The thesis is structured as follows. Chapter 2 outlines the background of the current conflict from the war in 1999 to Kosovo's unilateral declaration of independence to the EU-facilitated dialogue. It also summarises the main achievements and setbacks of the dialogue. Chapter 3 provides an overview of the state of the literature on the Kosovo-Serbia dialogue and the EU's impact on conflict resolution more generally. Chapter 4 outlines the analytical framework. Drawing on the 'external incentives model', the chapter presents four factors for the effectiveness of EU conditionality: the determinacy of conditions, the size and speed of rewards, the credibility of threats and promises, and the size of adoption costs. In addition to these classical factors, chapter 4 also offers a conceptualisation of coherence. Although all these factors are interrelated, the remainder of the thesis looks at each of them individually. Chapter 5.1 analyses official EU documents such as the Stabilisation and Association Agreements (SAAs) or the Commission's progress reports to assess the degree of determinacy of conditions. Chapter 5.2 is about the size and speed of rewards. It questions the attractiveness of the EU rewards in the eyes of the Kosovar and Serbian elites as well as their tangibility. Chapter 5.3 deals with the credibility of the EU's conditionality and is divided into several sub-chapters on capabilities and costs (5.3.1), consistency of rewards (5.3.2) and coherence (5.3.3.). Based on

the distinction of Gebhard, the latter is further broken down into vertical, horizontal, institutional and external coherence. External coherence is examined in relation to the US, Russia and China, which are considered to be the most influential actors alongside the EU. Chapter 5.4 assesses the domestic adoption costs of Serbia and Kosovo. Chapter 5.4.3 also takes into account the role of Kosovo-Serbs before Chapter 6 finally summarises the main findings of the thesis and provides some recommendations to improve the EU's effectiveness.

2 Background

The conflict between Kosovo and Serbia has a long history, but for the purpose of this thesis the last three decades and especially the period of the EU-facilitated dialogue from 2011 to today are most relevant. Both Serbia and Kosovo were part of the Socialist Federal Republic of Yugoslavia. However, unlike Serbia, Kosovo was not among the six constituent republics but had the status of an autonomous province. This autonomy was revoked in 1989 after Slobodan Milošević came to power and Kosovo was ruled directly from Belgrade. During the Yugoslav conflicts, Kosovo Albanians organised peaceful protests against the Milošević regime and demanded self-rule. When Kosovo-Albanians realised that peaceful means would not lead to independence, they increasingly resorted to violence. In the late 1990s, the Kosovo Liberation Army (KLA) launched a series of guerrilla attacks against Serbian forces. The violent crackdown by Serbia led to a full-blown conflict in 1998-1999 in which more than 10,000 people were killed and hundreds of thousands displaced.³ The EU failed to adequately react to the crisis due to a lack of military capabilities, experience and expertise as well as a lack of political unity.⁴ After Serbia rejected a ceasefire proposal at the Rambouillet peace conference in January 1999, the North Atlantic Treaty Organisation (NATO) finally launched an air strike campaign that forced Milošević's forces to withdraw.⁵

The United Nations Security Council subsequently adopted Resolution 1244 establishing the United Nations Interim Administration Mission in Kosovo (UNMIK). The mandate of the mission was:

“to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo”.⁶

The international community initially pursued a “standards before status” policy, which focused on the development of democratic institutions, rule of law and minority rights before addressing

³ Krenar Gashi, Vjosa Musliu and Jan Orbie, “Mediation Through Recontextualization: The European Union and The Dialogue Between Kosovo and Serbia”, *European Foreign Affairs Review*, vol. 22, no. 4, 2017, p. 536.

⁴ Roberto Belloni, “European integration and the Western Balkans: lessons, prospects and obstacles”, *Journal of Balkan and Near Eastern Studies*, vol. 11, no. 3, 2009, pp. 314-315.

⁵ Julian Bergmann, *The European Union as International Mediator: Brokering Stability and Peace in the Neighbourhood*, Cham, Palgrave Macmillan, 2020, p. 110.

⁶ United Nations Security Council, *United Nations Resolution 1244*, New York, United Nations, 1999, p. 3.

the issue of Kosovo's status.⁷ However, this policy was not sustainable as Kosovars became increasingly frustrated with the unresolved status and high unemployment rates. After violent riots broke out in 2004, the question of Kosovo's status moved back on the international agenda.⁸ From November 2005 until March 2007, UN Special Envoy Martti Ahtisaari tried to broker an agreement between Serbia and Kosovo that would permanently settle Kosovo's political status. The mediation efforts failed because the demands of Pristina and Belgrade, independence on the one hand and autonomy within Serbia on the other, proved to be irreconcilable. The comprehensive Ahtisaari plan that recommended supervised independence for Kosovo was never put to a vote in the UN Security Council because Serbia and Russia rejected it.⁹

As a result of the failure to reach an agreement with Serbia, Kosovo decided to unilaterally declare independence on 17 February 2008. Kosovo's unilateral declaration of independence was recognised by the United States and most EU Member States, with the exception of Cyprus, Greece, Romania, Slovakia and Spain, which still do not recognise Kosovo. Despite the lack of unity regarding Kosovo's status, the EU managed to establish a Rule of Law Mission (EULEX) to assist the Kosovo authorities in strengthening sustainable and independent rule of law institutions. Serbia rejected Kosovo's unilateral declaration of independence and asked the International Court of Justice (ICJ) for an advisory opinion on the legality of the move.¹⁰ In 2010, the ICJ concluded that "the adoption of the declaration of independence [...] did not violate any applicable rule of international law."¹¹

Serbia was not satisfied with this result and therefore drafted a UN General Assembly Resolution, calling for renewed status talks. Only after strong pressure from the EU could Belgrade be persuaded to drop its resolution and to support the EU's draft resolution instead.¹² On 9 September 2010, the UN General Assembly adopted Resolution 64/298, welcoming:

"the readiness of the European Union to facilitate a process of dialogue between the parties; the process of dialogue in itself would be a factor for peace, security and stability in the

⁷ Etain Tannam, "The EU's Response to the International Court of Justice's Judgment on Kosovo's Declaration of Independence", *Europe-Asia Studies*, vol. 65, no. 5, 2013, pp. 948-949.

⁸ James Hughes, "Russia and the Secession of Kosovo: Power, Norms and the Failure of Multilateralism", *Europe-Asia Studies*, vol 65, no. 5, 2013, p. 1008.

⁹ Gashi, Musliu and Orbie, op. cit., pp. 536-537.

¹⁰ Bergmann, *The European Union as International Mediator*, op. cit., pp. 110-111.

¹¹ International Court of Justice, *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion*, The Hague, I.C.J. Reports 2010, p. 53.

¹² Bergmann, *The European Union as International Mediator*, op. cit., pp. 111-112.

region, and that the dialogue would be to promote cooperation, achieve progress on the path to the European Union and improve the lives of the people”.¹³

Based on Resolution 64/298, the EU-facilitated dialogue started in March 2011. Initially, the focus was on technical issues as the Kosovar side refused to talk about political issues related to the country’s sovereignty or territorial integrity.¹⁴ In July, after five rounds of negotiations, the parties concluded agreements on the freedom of movement, the return of civil registry books to Kosovo and the mutual recognition of university diplomas. However, the issue of free trade and customs stamps could not be resolved and was therefore postponed to September.¹⁵ Due to Serbia’s persistent refusal to accept customs stamps with Kosovo’s state symbols and the resulting trade imbalance, the Kosovar government decided to enforce reciprocity by banning the import of Serbian goods. To enforce this embargo, Kosovo’s security forces took control of the crossing points between Serbia and Kosovo, which led to violent clashes and the erection of barricades by the Kosovo-Serbs in northern Kosovo.¹⁶ After several weeks of tension, in September 2011, Serbia and Kosovo finally reached an agreement on customs stamps that allowed Kosovo to use the words 'Kosovo Customs'. The parties also concluded an agreement on establishing a complete cadastral record for Kosovo.¹⁷

Still the roadblocks continued until Serbia and Kosovo signed another agreement on integrated border/boundary management (IBM) in December 2011. The agreement provided for the establishment of joint border crossings, which would be manned by an equal number of officials from both sides as well as EULEX officials.¹⁸ This was considered as the first major breakthrough of the dialogue as it enabled the free flow of goods across the border.¹⁹ On another important point, the representation of Kosovo in regional organisation, the parties could not find a compromise, which is why the issue was postponed to the following meeting. Meanwhile, the EU put great pressure on Belgrade by making an agreement on regional representation a condition for Serbia’s candidate status. On 9 December, the European Council deferred its

¹³ United Nations General Assembly, *Request for an advisory opinion of the International Court of Justice on whether the unilateral declaration of independence of Kosovo is in accordance with international law*, RES/64/298, New York, United Nations, 2010, p. 2.

¹⁴ Chris van der Borgh, Puck le Roy and Floor Zweerink, *EU Peacebuilding Capabilities in Kosovo after 2008: An Analysis of EULEX and the EU-Facilitated Belgrade-Pristina Dialogue*, Centre for Conflict Studies, Utrecht University, 2016, pp. 45-46.

¹⁵ Vladimir Todoric and Leon Malazogu, *Belgrade-Pristina Dialogue: Transformation of Self-Interest Required*, New Policy Center, Belgrade/Pristina, 2011, pp. 11, 18.

¹⁶ Florian Bieber, “The Serbia-Kosovo Agreements: An EU Success Story?”, *Review of Central and East European Law*, vol. 40, no. 3-4, 2015, p. 303.

¹⁷ Van der Borgh, le Roy and Zweerink, op. cit., p. 49.

¹⁸ Ibid., p. 50.

¹⁹ Crisis Group, “Serbia and Kosovo: The Path to Normalisation” *Europe Report*, no. 223, 2013, p. 14.

decision on Serbia's candidate status and tasked the Council to examine whether "Serbia had achieved sufficient progress in implementing the agreements reached in the Belgrade-Pristina Dialogue".²⁰ In February 2012, the parties finally agreed that Kosovo would henceforth be represented in regional organisations as 'Kosovo*' with a footnote stating that "[t]his designation is without prejudice to positions on status, and is in line with UNSC Resolution 1244 and the ICJ Opinion on the Kosovo Declaration of Independence". Immediately after the conclusion of this agreement, the EU granted candidate status to Serbia and launched a feasibility study on a Stabilisation and Association Agreement (SAA) with Kosovo.²¹ In the months following the "Asterisk" agreement, the dialogue stalled due to elections in Serbia and political turmoil in Kosovo. The dialogue was resumed in October 2012 as a high-level political dialogue with the involvement of the High Representative of the Union for Foreign Affairs and Security Policy Catherine Ashton and the Prime Ministers of both countries.²²

In this second phase of the dialogue, priority was given to integrating the Serb-majority municipalities in Northern Kosovo into Kosovo's legal and institutional framework. On 19 April 2013, the Prime Ministers of Serbia and Kosovo concluded the 'First Agreement of Principles Governing the Normalization of Relations', commonly referred to as the 'Brussels Agreement'. This agreement contained 15-points, twelve of which dealt with the governance of Northern Kosovo. The agreement envisaged the establishment of an Association/Community of Serb-majority Municipalities (ACSM) that would have "full overview of the areas of economic development, education, health, urban and rural planning" as well as the integration of the Serbian police and judiciary into Kosovo's institutional framework.²³ In addition, the parties pledged not to hinder each other's European integration and to organise local elections in Northern Kosovo.²⁴ Three days after the conclusion of the Brussels Agreement, the Commission recommended the start of accession negotiations with Serbia and of SAA negotiations with Kosovo.²⁵

In September 2013, Kosovo and Serbia concluded two further agreements in the area of telecommunications and energy. In 2014, the dialogue process came to a standstill again as all parties to the dialogue, Serbia, Kosovo and the EU were facing elections. The negotiations

²⁰ Van der Borgh, le Roy and Zweerink, op. cit., p. 51.

²¹ Velina Lilyanova, *Serbia and Kosovo: Normalisation of Relations*, European Parliamentary Research Service, Brussels, March 2016, p. 2.

²² Crisis Group, "Serbia and Kosovo: The Path to Normalisation", op. cit., p. 2.

²³ Van der Borgh, le Roy and Zweerink, op. cit., p. 59.

²⁴ Adem Beha, "Disputes over the 15-point agreement on normalization of relations between Kosovo and Serbia", *Nationalities Papers*, vol. 43, no. 1, 2015, p. 103.

²⁵ Van der Borgh, le Roy and Zweerink, op. cit., p. 61.

continued only in 2015 under the new EU High Representative Federica Mogherini. In the following months, the emphasis was put on the implementation of agreements. According to Hopkins only four out of sixteen agreements reached during the EU-facilitated dialogue had been fully implemented at that time.²⁶ In August 2015, the parties concluded four agreements concerning the establishment of the ACSM, electricity supply, a new country phone code for Kosovo and the opening of the bridge between Serb-dominated North Mitrovica and Albanian-dominated South Mitrovica for all traffic.²⁷ The agreement on the establishment of the ACSM, that was meant to specify the provisions of the 2013 Brussels Agreement, sparked major protests in Kosovo. Therefore, Kosovo's President Atifete Jahjaga asked the Constitutional Court for an opinion on the constitutional conformity of the agreement. In December, the Court ruled that the agreement was "not entirely in compliance with the spirit of the Constitution" and ordered the Kosovo authorities to amend the problematic provisions.²⁸ The dispute over the implementation and interpretation of the ACSM led to a serious deterioration of relations between Kosovo and Serbia.

In the period that followed, little progress was made in implementing existing agreements, let alone in concluding new ones. Several meetings were postponed or cancelled and both parties repeatedly threatened to withdraw from the dialogue.²⁹ A series of confrontations, including the arrests of former Prime Minister of Kosovo, Ramush Haradinaj, and the Director of the Kosovo Office of the Serbian Government, Marko Djuric, as well as the assassination of the Kosovo-Serb politician Oliver Ivanovic further exacerbated tensions.³⁰ After Serbia blocked Kosovo's accession to Interpol in November 2018, Kosovo's government retaliated by introducing a 100 % tariff on imports from Serbia and Bosnia and Herzegovina.³¹ This led to a complete breakdown of the negotiations until tariffs were finally lifted in June 2020 after strong pressure from the United States. The US administration and in particular President Trump's Special Envoy for the Kosovo-Serbia dialogue, Richard Grenell, had started their own parallel

²⁶ Valerie Hopkins, "Big Deal: Lost in Stagnation", *Civic oversight of the Kosovo-Serbia agreement implementation*, no. 2., BIRN Kosovo, Internews Kosova and Centre for Research Transparency and Accountability (CRTA), April 2015, p. 9.

²⁷ Cemaliye Beysoylu, "Implementing Brussels Agreements: The EU's Facilitating Strategy and Contrasting Local Perceptions of Peace in Kosovo", *Journal of Southeast European and Black Sea*, vol. 18, no. 2, 2018, p. 208.

²⁸ Miruna Troncotă, "'The Association That Dissociates'—Narratives of Local Political Resistance in Kosovo and the Delayed Implementation of the Brussels Agreement," *Journal of Southeast European and Black Sea*, vol. 18, no. 2, 2018, p. 224.

²⁹ Martin Russel, *Serbia-Kosovo relations: Confrontation or normalisation?*, European Parliamentary Research Service, Brussels, February 2019, p. 3.

³⁰ Donika Emimi and Isidora Stakic, *Belgrade and Pristina: Lost in Normalisation?*, European Union Institute for Security Studies, Paris, May 2018, pp. 1-2.

³¹ Russel, op. cit., p. 4.

mediation activities in order to secure a foreign policy victory for Donald Trump ahead of the presidential elections in November. These parallel mediation activities will be further discussed in the chapter on external coherence.

After a 20-months break, the EU-facilitated dialogue was finally resumed in July 2020 under the leadership of the newly appointed Special Representative for the Kosovo-Serbia dialogue and other Western Balkan issues, Miroslav Lajcak. Since then, two high-level meetings between Kosovo Prime Minister Hoti and Serbian President Vucic as well as six meetings on the level of chief negotiators have taken place. While some progress has been made on the issue of missing persons, internally displaced persons and economic cooperation, the establishment of the Association/Community of Serb-majority Municipality has again emerged as the major stumbling block. While the Serbian negotiators insist on the implementation of the ACSM as agreed in 2013 and 2015, the Kosovar negotiators argue that the ACSM is not in line with the constitution of the country and can therefore not be implemented.³² At the time of writing, the Kosovo-Serbia dialogue has been suspended again due to snap elections in Kosovo on 14 February 2021.

³² “Association of Serb Municipalities Hinders Kosovo-Serbia Dialogue”, *Exit News*, 1 October 2020.

3 Literature Review

There are several studies that analyse the EU's role and effectiveness in the Kosovo-Serbia dialogue. Most of them were conducted during the early phase of the dialogue when a lot of technical agreements were signed. Therefore, their assessment of the EU's effectiveness is generally quite positive. Bieber, for example, considers the Kosovo-Serbia dialogue as a success story as it has facilitated a number of agreements between Kosovo and Serbia. He argues that EU pressure through accession conditionality has been decisive for the success of the dialogue. In addition, he identifies several other features that distinguish the EU's mediation approach from previous, less successful mediation attempts. These include the use of constructive ambiguity that leaves aside the delicate question of Kosovo's status and the deliberate omission of defining a clear end goal of the process.³³

Bergmann confirms these findings in his comparison of the UN-led Kosovo Status Talks (2006-2007) and the EU-facilitated dialogue. Unlike the former UN mediator, Martti Ahtisaari, the EU adopted a more process-oriented approach without predetermining the end result of the process. According to Bergmann, this process-oriented approach in combination with the EU's strong leverage, which the UN lacked, can explain the EU's relative success. Another factor in facilitating this was the conflict parties' increased willingness to compromise.³⁴

Both Bieber and Bergmann portray the constructive ambiguity and process orientation of the EU's approach as positive factors that enabled agreements between the parties that would otherwise not have been possible. While this assessment may be correct for the early stages of the dialogue, ambiguity can have negative effects at later stages as it allows for different interpretations of the agreements. Mitchell points out that constructive ambiguity has "a perilous double-edged character and may create more problems than it solves".³⁵ Although Bieber notes that ambiguity can cause problems in the implementation phase, these negative aspects of constructive ambiguity and their implications for the EU's use of conditionality are not reflected enough and need further scrutiny.

One of the most comprehensive studies to date is that of Bergmann and Niemann. The two authors develop a theoretical framework to study the effectiveness of the EU as a mediator in

³³ Bieber, op. cit., pp. 312-316.

³⁴ Julian Bergmann, "Same Table, Different Menus? A Comparison of UN and EU Mediation Practice in the Kosovo-Serbia Conflict", *International Negotiation*, vol. 23, no. 2, 2018, pp. 251-252.

³⁵ David Mitchell, "Cooking the Fudge: Constructive Ambiguity and the Implementation of the Northern Ireland Agreement, 1998-2007", *Irish Political Studies*, vol. 24, no. 3, p. 323.

the Kosovo-Serbia dialogue. They distinguish between two different dimensions of mediator effectiveness. According to them, a mediator can be effective by achieving its objectives (goal-attainment) or by bringing about an observable change in the conflict parties' behaviour e.g. the signing of a peace agreement (conflict settlement). Drawing on the findings of the peace and conflict literature and the literature on EU foreign policy, they identify four conditions for the EU to be effective in mediation: mediator leverage, mediation strategy, coherence and the conflict's context. Mediator leverage relates to the "resources and instruments the EU can bring to the negotiation table to spur an agreement between the disputants".³⁶ Based on the work of Touval and Zartman³⁷, they distinguish between three ideal types of mediation strategies: facilitation, formulation and manipulation. According to a strategy of facilitation, the mediator does not make his own proposals for a conflict resolution but merely serves as a "channel of communication and information provider among disputants". By contrast, a strategy of formulation is more proactive, the mediator "formally structures the negotiation process, formulates alternatives to resolve the conflict and makes substantial suggestions for compromise". A manipulation strategy goes beyond the formulation of substantive proposals by "directly influenc[ing] the bargaining structure and process through the use of coercive measures and/or the provision of positive incentives". Bergmann and Niemann hypothesise that a 'manipulative' mediation strategy, will be most effective provided that the mediator possesses the necessary resources and instruments to exert leverage. However, they also note that such a strategy can "produce artificial incentives for agreements that are not likely sustainable over time".³⁸ Bergmann and Niemann define coherence as "the degree of co-ordination and substantive agreement between individual Member States' policies towards a conflict and the mediation activities carried out by EU institutions". They argue that a low level of coherence can negatively affect the effectiveness of the EU as a mediator because conflict parties may doubt the EU's ability to deliver on its promises. When it comes to the context of the conflict, the authors look at the conflict parties' 'internal cohesiveness' and the existence of 'spoiler problems', i.e. leaders and parties that undermine a peace process because it threatens their power and interests.

Applying this framework to the Kosovo-Serbia case, Bergmann and Niemann assess the degree of the EU's effectiveness as medium in terms of goal-attainment and medium to high in terms

³⁶ Julian Bergmann and Arne Niemann, "Mediating International Conflicts: The European Union as an Effective Peacemaker?", *Journal of Common Market Studies*, vol. 53, no. 5, 2015, pp. 957-975.

³⁷ Saadia Touval and William Zartman, "Introduction: Mediation in Theory", in Saadia Touval and William Zartman (eds), *International Mediation in Theory and Practice*, Boulder, Westview Press, 1985, pp. 7-17.

³⁸ Bergmann and Niemann, "Mediating International Conflicts", op. cit., p. 962.

of conflict settlement. They argue that the EU's medium degree of effectiveness can be explained by "its great leverage vis-à-vis the conflict parties due to their EU membership aspirations and its strategy of a mix of manipulation and formulation that draws on this leverage to move parties toward agreement through the use of positive incentives". Similarly, Malazogu and Bieber note that "[w]hat has been termed mediation is actually much more than just an intermediary role, it includes setting the agenda, elaborating solutions, and using massive carrots and sticks to bring the parties on board".³⁹ Bergmann and Niemann identify "limited EU coherence and a lack of internal cohesiveness in Kosovo and Serbia and spoiler problems in Northern Kosovo" as factors that limit the effectiveness of EU mediation.⁴⁰

Given the fact that central provisions of the Brussels agreement and other agreements have not been implemented, the assessment of Bergmann and Niemann seems too optimistic in retrospect, especially when it comes to conflict settlement. Bergmann and Niemann also did not distinguish between different types of coherence. The literature on EU foreign policy commonly differentiates between three or four dimensions of coherence. Gebhard for example distinguishes between vertical, horizontal, institutional and external coherence.⁴¹ By contrast, Bergmann and Niemann only cover vertical coherence between Member States and the EU. Although this is perhaps the most important dimension of coherence, the other three should not be neglected.

In his book *'The European Union as International Mediator'*, Bergmann expands the theoretical framework by looking at vertical and horizontal coherence, whereby his application of horizontal coherence corresponds more to Gebhard's definition of institutional coherence. He does not look, however, at the coherence between different policy areas e.g. between visa policy and the dialogue. Interestingly, Bergmann arrives at a different conclusion than Bergmann and Niemann when it comes to the level of coherence. While Bergmann and Niemann assess the degree of the EU's coherence as low, Bergmann considers it to be high. In doing so, Bergmann neglects the problems related to the non-recognition of Kosovo by five EU Member States. Although the Union might have found ways to work around this issue, as Bergmann notes, the incoherent position regarding Kosovo's status poses serious problems for its credibility and thus hampers its effectiveness as a mediator. Neither Bergmann nor

³⁹ Leon Malazogu and Florian Bieber, "The Future of Interaction Between Prishtina and Belgrade", *Confidence Building Measures in Kosovo*, no. 3, Pristina, 2012, p. 62.

⁴⁰ Bergmann and Niemann, "Mediating International Conflicts", op. cit., pp. 957-975.

⁴¹ Carmen Gebhard, "The Problem of Coherence in the European Union's International Relations", in Christopher Hill, Michael Smith and Sophie Vanhoonacker (eds.), *International Relations and the European Union*, Oxford, Oxford University Press, 3rd edn, p. 111.

Bergmann and Niemann address the issue of credibility. This constitutes a major weakness of their theoretical frameworks as credibility seems to be one of the most important determinants for the effectiveness of conditionality.

In addition, Bergmann introduces a further variable that can influence the EU's effectiveness as a mediator, namely "the quality of mediator coordination". He argues that "the closer the coordination between the EU and other mediators within a multi-party mediation team, the more effective the EU is as a mediator in terms of conflict settlement and goal-attainment".⁴² Although mediator coordination can be regarded as a form of external coherence, it is much narrower than Gebhard's definition and does not cover the influence of international actors that are not officially part of the mediation. Consequently, Bergmann does not address the role of external powers such as the United States, Russia or China in his case study on the Kosovo-Serbia dialogue. The role of these international actors is also not examined in any of the other publications on the Kosovo-Serbia dialogue. This constitutes a gap in the literature as these actors can still influence the negotiations even though they are not formally part of the mediation team.

Visoka and Doyle use the concept of 'neo-functional peace' to describe the EU's approach in the dialogue between Kosovo and Serbia. They argue that the EU followed a strategy of breaking sensitive political issues down into more acceptable technical issues. These "were approached in such a sequence whereby agreement in one particular field necessitated finding consensual solutions in other fields". Thus, the technical dialogue "permitted confidence building, socialization and development of mutual commitments" and had a 'spill-over effect' that led to the initiation of a political dialogue.⁴³

Contrary to Visoka and Doyle's expectations, Lehne⁴⁴ as well as Malazogu and Bieber⁴⁵ found that the dialogue has not significantly increased confidence between the parties. Malazogu and Bieber even claim that the dialogue may have damaged confidence building due to the escalation of rhetoric and tension surrounding the negotiations.⁴⁶ Based on the findings of Economides and Ker-Lindsay, it is also questionable whether the dialogue has led to some form of socialisation. They argue that the change in Serbia's approach towards Kosovo is "a direct

⁴² Bergmann, *The European Union as International Mediator*, op. cit., pp. 40-42.

⁴³ Gëzim Visoka and John Doyle, "Neo-Functional Peace: The European Union Way of Resolving Conflicts", *Journal of Common Market Studies*, vol. 54, no. 4, 2016, pp. 862-877.

⁴⁴ Stefan Lehne, *Kosovo and Serbia: Toward a Normal Relationship*, Carnegie Endowment for International Peace, March 2012, p. 8.

⁴⁵ Malazogu and Bieber, op. cit., p. 27.

⁴⁶ Ibid., p. 4.

result of the consequentialist logic of a rational pursuit of EU accession rather than a logic of appropriateness linked to socialization, adaptation or identity formation”.⁴⁷ Moreover, Bergmann and Niemann question whether the extension of the dialogue to other technical issues and the transformation into a political dialogue followed an intentional strategy of the EU. They argue that this became necessary when the negotiators realised that almost all technical issues are related to the political issue of the status of Northern Kosovo and that progress can therefore only be achieved through political dialogue.⁴⁸

While the existing literature on the Kosovo-Serbia dialogue mainly deals with the role and strategies of the EU as a third-party mediator, including the use of accession conditionality, this thesis is more interested in the factors that determine the effectiveness of conditionality. This seems to be important since a lot of the agreements have not been properly implemented and the dialogue has stalled in recent years. When it comes to the effectiveness of conditionality, the literature on Europeanisation can provide some valuable insights.

There is no general consensus about the definition of ‘Europeanisation’ in the literature, however most scholars use the term as a synonym for “influence of the EU” or “domestic impact of the EU”.⁴⁹ Initially the study of Europeanisation has focused on the Member States of the European Union, the Europeanisation of candidate countries emerged as a new field in the context of the EU’s eastern enlargement in the 2000s.⁵⁰

Schimmelfennig and Sedelmeier suggest three explanatory models of Europeanisation: the external incentives model, the social learning model and the lesson drawing model. The external incentives model is a rationalist bargaining model. It assumes that target governments are utility maximisers, who base their decisions on a rational cost-benefit analysis. According to this model, the key mechanism of Europeanisation is conditionality. Following a strategy of “reinforcement by reward”, the EU provides external incentives to induce the target government to comply with its conditions. Thus, the central hypothesis of the external incentives model is that “a state adopts EU rules if the benefits of EU rewards exceed the domestic adoption costs”. Schimmelfennig and Sedelmeier identify four variables that influence this cost-benefit analysis. The first one is the determinacy of conditions. The authors presume that “the effectiveness of

⁴⁷ Spyros Economides and James Ker-Lindsay, “‘Pre-Accession Europeanization’: The Case of Serbia and Kosovo”, *Journal of Common Market Studies*, vol. 53, no. 5, 2015, p. 1039.

⁴⁸ Julian Bergmann and Arne Niemann, “From Neo-Functional Peace to a Logic of Spillover in EU External Policy: A Response to Visoka and Doyle”, *Journal of Common Market Studies*, vol. 56, no. 2, 2018, p. 425.

⁴⁹ Ulrich Sedelmeier, “Europeanisation in New Member and Candidate States”, *Living Reviews in European Governance*, vol. 6, no. 1, 2011, p. 5.

⁵⁰ See e.g. Grabbe (2001), Grabbe (2004), Schimmelfennig and Sedelmeier (2005), Sedelmeier (2011).

rule transfer increases if rules are set as conditions for rewards and the more determinate they are”. The second variable is the size and speed of the rewards the EU is offering to the target countries. Schimmelfennig and Sedelmeier argue that “the effectiveness of rule transfer increases with the size and speed of rewards”. The third factor is the credibility of the EU’s conditionality. The more credible the EU’s threats and promises are, the more likely the countries will adopt EU rules. The credibility of the EU’s threats and promises, in turn, depends on the EU’s own capabilities and costs to deliver or withhold a reward, on the consistency with which the EU allocates rewards across time and target countries and on the EU’s coherence. The fourth and final factor is the size of the adoption costs that must be weighed against the size of the potential rewards. The hypothesis here is that “the likelihood of rule adoption decreases with the number of veto players incurring net adoption costs (opportunity costs, welfare and power losses) from compliance”.⁵¹ The thesis does not doubt the relevance of these conditions. However, it is striking that Schimmelfennig and Sedelmeier do not elaborate on the notion of coherence in their theoretical framework. Given that coherence affects not only the EU’s credibility but potentially also other factors, such as the determinacy of conditions or the size of rewards, this constitutes a gap that the thesis seeks to address.

Unlike the external incentives model, the social learning model is not based on a ‘logic of consequences’ but on ‘a logic of appropriateness’. It assumes that “a state adopts EU rules if it is persuaded of the appropriateness of EU rules”. Schimmelfennig and Sedelmeier hypothesise that the likelihood of rule adoption increases if the target state and society identify with the EU and if EU rules resonate with domestic rules. According to the lesson drawing model, Europeanisation is neither driven by conditionality nor by persuasion. Rather, it occurs when states are dissatisfied with the domestic status quo and start looking for alternatives abroad. The assumption is that “a state adopts EU rules, if it expects these rules to solve domestic policy problems effectively”.⁵²

Empirical studies on the Europeanisation of the Central and Eastern European (CEE) countries largely confirm the assumptions of the external incentives model. A credible membership perspective and low domestic adoption costs have been identified as the most important factors. The other two explanations for Europeanisation, social learning and lesson drawing, turned out

⁵¹ Frank Schimmelfennig and Ulrich Sedelmeier, “Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe.” *Journal of European Public Policy*, vol. 11, no. 4, 2004, pp. 663-667.

⁵² Ibid. p. 668.

to be of minor importance.⁵³ Schimmelfennig argues that mechanisms of social learning are generally insufficient to overcome domestic resistance to the adoption of EU norms and principles.⁵⁴ This is even more true when it comes to countries struggling with ethno-political conflicts. Tocci points out that in such situations, the discourse is often based on premises that do not resonate with EU norms.⁵⁵ Thus, a crucial prerequisite for the effectiveness of social learning is missing. This does not mean that EU accession cannot lead to normative Europeanisation in the long term. However, as Economides and Ker-Lindsay note, this has not yet been evident in the context of relations between Kosovo and Serbia.⁵⁶ For these reasons, this thesis focuses on the external incentives model.

Although the external incentives model has been developed in the context of the Eastern enlargement, it has also been applied to candidate countries in the Western Balkans.⁵⁷ These studies generally confirm the central hypotheses of the external incentives model. However, they also find some important differences to the Europeanisation of the CEE countries. Firstly, the conditions have become more determinate but also more demanding.⁵⁸ Secondly, the membership perspective has become less credible due to the EU's 'enlargement fatigue'. Thirdly, compared to the CEE countries, the Western Balkan countries have less experience with democracy and less administrative capacity to implement the EU acquis.⁵⁹ Finally, unlike CEE countries, Western Balkan countries are plagued by limited statehood and unresolved ethnic conflicts.⁶⁰ Therefore, Schimmelfennig and Sedelmeier expect conditionality to be less effective in the Western Balkan candidate countries.⁶¹ However, Trauner argues that the lack of a credible membership perspective can be partly offset by policy-related conditionality (e.g. visa liberalisation).⁶²

⁵³ See e.g. Schimmelfennig and Sedelmeier (2004), Schimmelfennig, Engert, and Knobel (2006).

⁵⁴ Frank Schimmelfennig, "EU political accession conditionality after the 2004 enlargement: consistency and effectiveness", *Journal of European Public Policy*, vol. 15, no. 6, 2008, p. 920.

⁵⁵ Nathalie Tocci, *The EU and Conflict Resolution: Promoting peace in the backyard*, London/Ney York, Routledge, 2007, p. 21.

⁵⁶ Economides and Ker-Lindsay, op. cit., p. 1039.

⁵⁷ See e.g. Börzel (2011), Džankić, Keil and Kmezić (2019), Elbasani (2013), Noutcheva and Aydin-Düzgit (2011).

⁵⁸ Frank Schimmelfennig and Ulrich Sedelmeier, "The Europeanization of Eastern Europe: The External Incentives Model Revisited." *Journal of European Public Policy*, vol. 27, no. 6, 2019, p. 825.

⁵⁹ Asya Zhelyazkova et al., "European Union Conditionality in the Western Balkans: External Incentives and Europeanisation", in Jelena Džankić, Soeren Keil and Marko Kmezić (eds.), *The Europeanisation of the Western Balkans – A Failure of EU Conditionality*, Cham, Palgrave Macmillan, 2019, pp. 16-17.

⁶⁰ Tanja Börzel, "When Europeanization Hits Limited Statehood: The Western Balkans as a Test Case for the Transformative Power of Europe", *KFG Working Paper Series*, no. 30, Freie Universität Berlin, 2011, p. 5.

⁶¹ Schimmelfennig and Sedelmeier, "The Europeanization of Eastern Europe", op. cit., p. 826.

⁶² Florian Trauner, "From Membership Conditionality to Policy Conditionality: EU External Governance in South Eastern Europe", *Journal of European Public Policy*, vol. 16, no. 5, p. 777.

Compared to the large body of literature on Europeanisation, there are relatively few studies that examine its impact on conflict resolution.⁶³ This is surprising given that the EU's enlargement policy has often been described as the EU's strongest foreign policy tool. According to Tocci, the EU has successfully used accession conditionality to defuse minority and border tensions between the candidate countries of central and eastern Europe.⁶⁴ Despite these achievements, to the knowledge of the author, no study has been conducted on the impact of Europeanisation on the Kosovo-Serbia conflict.

Noutcheva et al. suggest a definition of Europeanisation that is suitable for the study of conflict settlement and conflict resolution:

“Europeanization in the field of secessionist conflict settlement and resolution should be understood as a process which is activated and encouraged by European institutions, primarily the European Union, by linking the final outcome of the conflict to a certain degree of integration of the parties involved in it into European structures“.⁶⁵

Based on Hill's distinction between the EU as an actor organisation and as a framework organisation⁶⁶, Noutcheva et al. identify two ways in which the EU can contribute to conflict settlement, conflict transformation and conflict resolution. First, the EU can be an active player that mediates between the conflicting parties or supports mediation efforts by other actors. Second, the Union, with its multi-level system of governance, can constitute a conducive framework for solving ethno-political conflicts by fundamentally transforming the understanding of statehood and sovereignty. While the EU's involvement as an active player has mainly short-term effects, the EU as a framework can have a more long-term impact.⁶⁷ The impact of the EU as a framework is greatest when all conflict parties are members of the European Union (e.g. Basque Country). If the conflict parties do not internalise the ideas of shared sovereignty and interdependence, the different notions of sovereignty within the EU may

⁶³ See e.g. Bourne (2003), Coppieters et al. (2004), Diez, Stetter and Albert (2004), Salmon (2002), Tocci (2007)

⁶⁴ Tocci, *The EU and Conflict Resolution*, op. cit., p. 13.

⁶⁵ Gergana Noutcheva et al., “Europeanization and secessionist conflicts: concepts and theories” in Bruno Coppieters et al. (eds.), *Europeanisation and Conflict Resolution – Case Studies from the European Periphery*, Gent, Academia Press, 2004, pp. 22-23.

⁶⁶ Christopher Hill, “The EU's Capacity for Conflict Prevention”, *European Foreign Affairs Review*, vol. 6, no. 3, 2001, p. 325.

⁶⁷ Noutcheva et al., op. cit., pp. 23-28.

be of little interest to them and may even be perceived as a threat.⁶⁸ Therefore, the present thesis concentrates on the impact of the EU as an active player.

Combining rational institutionalism and sociological institutionalism, Noutcheva et al. find two main mechanisms of Europeanisation: conditionality and social learning. Drawing on the work of Knill and Lehmkuhl⁶⁹, they argue that conditionality can have a direct impact, by prescribing specific requirements with which conflicting parties must comply if they want to receive certain benefits, or an indirect impact by altering the domestic opportunity structure. Social learning, on the other hand, is based on the assumption that domestic actors change their identity and their perceived interests through participation in common institutional structures over a certain period of time.⁷⁰

Finally, Noutcheva et al. identify several problems related to the application of Europeanisation mechanisms. These include the perceived value of benefits that may differ between the actors in a third country, the inconsistent granting and withdrawing of benefits that negatively impacts the EU's credibility, the many different voices in the EU and the time lag between short- and medium-term reform demands and long-term benefits.⁷¹ Noutcheva et al. also point out the role of other framework organisations and players involved in conflict settlement and resolution.⁷² These problems largely correspond to the ones identified by the external incentives model. However, the latter is more comprehensive as it also encompasses factors such as the determinacy of conditions or the EU's capabilities and costs to deliver the reward. The role of other players is an important addition though that will be taken into account in the analytical framework. Like Schimmelfennig and Sedelmeier, Noutcheva et al. identify the EU's many different voices as a potential problem for the effectiveness of conditionality. However, they also do not elaborate on what they mean by the "many voices of the EU" and do not take into account the different facets of coherence.

Tocci identifies three factors that determine the effectiveness of EU conflict resolution. The first factor is "the value of the benefit on offer by the EU and the cost of compliance with contractual obligations". The EU will only be effective if the value of the benefit is perceived by the target countries as sufficiently high to outweigh the cost of compliance. The value of the

⁶⁸ Nathalie Tocci, "Conflict Resolution in the European Neighbourhood: The role of the EU as a framework and as an actor", *EUI Working Paper*, no. 29, European University Institute, 2004, pp. 16-17.

⁶⁹ Christoph Knill and Dirk Lehmkuhl, "How Europe Matters: Mechanisms of Europeanization", *European Integration Online Papers*, vol. 3, no. 7, 1999, p. 2.

⁷⁰ Noutcheva et. al, op. cit., pp. 29-36.

⁷¹ Ibid., pp. 39-44.

⁷² Ibid., pp. 24-25.

benefit is also determined by the time frame of its delivery. The second factor that determines the effectiveness of conditionality, social learning and passive enforcement is credibility. Credibility hinges on the EU's perceived capacity and willingness to deliver the promised benefits when and only when the conditions are fulfilled and to withdraw them if obligations are violated. The clarity of conditions is also important in this regard. If benefits are not granted despite the fulfilment of the conditions or if violations are not punished due to political, security, or economic considerations, the effectiveness of EU conflict resolution will be impaired. This is what Tocci describes as the pitfalls of 'political management'.⁷³ Tocci's theoretical considerations are largely consistent with those of the external incentives model but her model does not pay enough attention to the domestic situation and the adoption costs of the third countries and also does not take into account the EU's coherence.

Diez, Stetter and Albert examine the impact of EU integration on the peaceful transformation of border conflicts. They identify four different paths of potential EU impact. The first pathway is termed 'compulsory impact' and is based on conditionality. During and prior to membership negotiations, the EU sets the resolution of border disputes as a condition that candidate countries must fulfil in order to become EU Member States. The effectiveness of the compulsory impact depends on the desire of the conflict party to join the EU as well as on the credibility of this perspective. It also depends on "the extent to which domestic actors internalize the legal and normative framework of integration". EU integration can also have an impact by empowering domestic actors that are in favour of peaceful conflict resolution. The latter can use the EU's legal and normative framework to justify de-securitising moves within their domestic constituency. This 'enabling impact' depends on "the perceived legitimacy of references to integration" and on "the degree to which integration or association become overarching policy goals". The EU can also have a 'connective impact' by supporting direct contacts between the conflict parties that can in turn change the societal identity. Finally, EU integration can have a 'constructive impact' on the (re-)construction of identities by introducing completely new discursive frameworks.⁷⁴ While the latter two pathways will certainly be relevant for a sustainable transformation of the conflict in the long run, the former two are more relevant for the purpose of this thesis. The findings of Diez, Stetter and Albert regarding the

⁷³ Tocci, *The EU and Conflict Resolution*, op. cit., pp. 7-28.

⁷⁴ Thomas Diez, Stephan Stetter, and Mathias Albert, "The European Union and Border Conflicts: The Transformative Power of Integration", *International Organization*, vol. 60, 2006, pp. 563-593.

EU's compulsory impact underline once again the importance of a credible accession perspective.

This chapter has presented an overview of the literature on the Kosovo-Serbia dialogue and on Europeanisation. The existing literature has identified the EU's accession conditionality as the most decisive factor for the EU's initial mediation success in the Kosovo-Serbia dialogue. However, the conditions for the effectiveness of conditionality have not been systematically explored. The present thesis seeks to address this gap by drawing on the findings of the Europeanisation literature. The external incentives model by Schimmelfennig and Sedelmeier has been found to be the most comprehensive theoretical model for explaining the effectiveness of EU conditionality. Although the original model has never been applied to examine the EU's impact on conflict resolution, some studies have used variants of the model for this purpose. While some of these studies have mentioned the importance of coherence, none of them has explored it in more detail. The notion of coherence is much more multifaceted and complex than the existing literature on EU conditionality suggests. Problems of coherence cannot only arise between the EU and its Member States but also between and within EU institutions, between different policy areas and between the EU and third actors. These different facets of coherence will be presented in the next chapter.

4 Analytical Framework

As shown in the previous section, conditionality is the most important mechanism of EU conflict resolution. Yet, the factors determining the effectiveness of conditionality in conflict resolution remain under-researched, especially with regard to coherence. The purpose of this thesis is to analyse these factors using the Kosovo-Serbia conflict as a case study. In contrast to existing studies on the Kosovo-Serbia dialogue, the thesis is less interested in the mediation process itself than in why the EU has not been more successful despite the extensive use of conditionality. Therefore, the guiding research question is: Which factors influence the effective use of EU conditionality in the Kosovo-Serbia dialogue?

Consequently, the effectiveness of the EU's conditionality is the dependent variable. Drawing on the external incentives model, the thesis examines four independent variables: determinacy of conditions, size and speed of rewards, credibility of conditionality and domestic adoption costs. These variables will be presented in more detail in chapter 4.1. It is assumed that no single causal explanation can account for the effectiveness of conditionality, but rather a combination of several interdependent factors. In addition, the thesis uses insights from the literature on EU foreign policy to systematically explore the effects of coherence, which is an important determinant of the EU's credibility but, as will be shown, also influences the determinacy of conditions and the size and speed of rewards. In doing so, the thesis seeks to contribute to the existing body of literature, which does not take sufficient account of coherence. The various facets of coherence will be explained in chapter 4.2.

4.1 The external incentives model

As explained above, the external incentives model is a rationalist bargaining model which assumes that a target government wants to maximise its gain by weighing the pros and cons of a decision. The cost-benefit calculus of a target governments can be influenced by conditionality, i.e. by offering incentives for compliance or threatening punishments in case of non-compliance. The central hypothesis is that “a state adopts EU rules if the benefits of EU rewards exceed the domestic adoption costs”.⁷⁵ The model identifies four determinants for the effectiveness of conditionality: determinacy of conditions, size and speed of rewards, credibility

⁷⁵ Schimmelfennig and Sedelmeier, “Governance by Conditionality”, op. cit., p. 664.

of conditionality and domestic adoption costs. These four independent variables will be described in more detail on the following pages.

4.1.1 Determinacy of conditions

Schimmelfennig and Sedelmeier argue that the effectiveness of rule transfer increases with the determinacy of the EU's conditionality. A high level of determinacy means that the target government knows exactly what it has to do in order to fulfil the conditions and receive the rewards. Conversely, a low level of determinacy is characterised by vague and informal conditions that are not clearly specified.⁷⁶ This is often the case when it comes to political criteria. Since they are more abstract, their fulfilment is "rarely clear-cut and often a question of degree". Tocci underlines the importance of determinacy in conflict cases. If the EU "does not specify the details of its advocated solutions [...] it allows domestic actors to pursue and legitimize initiatives which may be portrayed as fulfilling EU goals, while remaining in spirit and practice far removed from them".⁷⁷

Determinacy also hinges on the perceived salience of conditions. If the EU unequivocally communicates that certain conditions are *sine qua non*, the target governments will be more likely to comply with them.⁷⁸ In addition, determinacy enhances the credibility of conditionality as it signals to the target governments that "they cannot avoid adopting an EU rule by manipulating the interpretation of what constitutes compliance to their advantage".⁷⁹

4.1.2 Size and Speed of rewards

According to Schimmelfennig and Sedelmeier, the effectiveness of rule transfer also depends on the size and speed of the rewards.⁸⁰ The bigger and more tangible the rewards, the more likely conditionality will be effective. EU membership is considered a bigger reward than association as it comes with more financial assistance, full market access and the possibility to shape decisions taken in EU institutions.⁸¹ The attractiveness of EU rewards depends not only on objective criteria but also on their subjective value in the eyes of the recipient. Domestic

⁷⁶ Schimmelfennig and Sedelmeier, "Governance by Conditionality", op. cit., p. 664.

⁷⁷ Tocci, *The EU and Conflict Resolution*, op. cit., p. 25.

⁷⁸ Schimmelfennig and Sedelmeier, "The Europeanization of Eastern Europe", op. cit., p. 817.

⁷⁹ Schimmelfennig and Sedelmeier, "Governance by Conditionality", op. cit., p. 664.

⁸⁰ Ibid., p. 665.

⁸¹ Schimmelfennig and Sedelmeier, "The Europeanization of Eastern Europe", op. cit., p. 817

actors within a third country have different objectives and may therefore assess the value of EU benefits differently.⁸²

When it comes to tangibility, Schimmelfennig and Sedelmeier claim that “[t]he membership reward becomes more tangible towards the end of accession negotiations”.⁸³ Conversely, if the conclusion of accession negotiations is distant, the incentive to comply with the EU’s conditionality is thought to be considerably lower.⁸⁴ According to Dimitrova, “EU conditionality works best with states which are neither too far from nor too close to joining the EU”. States that are very close to joining the EU would not consider the threat of exclusion as credible.⁸⁵ This is due to, what Schimmelfennig and Sedelmeier call, the “sunk costs” of rewarding. They argue that, “[t]he more the pre-accession process advances, the higher are the costs of withholding the reward, that is, the investments that would be lost if the process was broken off or postponed to sanction a candidate state”.⁸⁶ The time lag between meeting the demand and receiving the benefit may cause local elites to delay actions until the delivery of the reward is more tangible. Tocci notes that this is particularly true in conflict situations as conflict settlement is often viewed as “taking a step into the unknown”.⁸⁷

4.1.3 Credibility of conditionality

Since target governments need to fulfil the conditions before they receive the reward, the credibility of the EU’s conditionality is very important. Target governments are more likely to comply if they believe that the EU will pay the reward once the conditions are met or withhold the reward in case of non-compliance.⁸⁸ Credibility hinges on several factors, the first of which is the capability of the EU to apply conditionality and the costs that are associated with it. The EU must be able to pay or withhold the reward at relatively low costs for itself. Promises that go beyond capabilities are not considered credible. Moreover, the EU must possess superior bargaining power, otherwise it cannot credibly threaten to withhold a reward.⁸⁹ If the third country is highly dependent on the EU, it is more likely to comply with the EU’s conditions. Conversely, if the relationship between the target country and the EU is marked by mutual

⁸² Noutcheva et al., op. cit., p. 40.

⁸³ Schimmelfennig and Sedelmeier, “The Europeanization of Eastern Europe”, op. cit., p. 817.

⁸⁴ Schimmelfennig and Sedelmeier, “Governance by Conditionality”, op. cit., p. 665.

⁸⁵ Antoaneta Dimitrova, “Europeanisation and Civil Service Reform in Central and Eastern Europe”, in Frank Schimmelfennig and Ulrich Sedelmeier (eds.), *The Europeanisation of Central and Eastern Europe*, Ithaca/New York, Cornell University Press, 2005, pp. 71-73.

⁸⁶ Schimmelfennig and Sedelmeier, “Governance by Conditionality”, op. cit., pp. 665-666.

⁸⁷ Tocci, *The EU and Conflict Resolution*, op. cit., p. 22.

⁸⁸ Schimmelfennig and Sedelmeier, “The Europeanization of Eastern Europe”, op. cit., p. 817.

⁸⁹ Schimmelfennig and Sedelmeier, “Governance by Conditionality”, op. cit., p. 665.

dependence, the third country can put pressure on the EU to deliver the benefits without fulfilling the conditions.⁹⁰

The second factor is the consistency with which the EU applies conditionality. The more consistently the EU allocates rewards across time and target countries the greater the credibility of conditionality.⁹¹ When target governments believe that the EU is subordinating conditionality to other political or strategic objectives, they are less likely to comply because they “might either hope to receive the benefits without fulfilling the conditions or conclude that [they] will not receive the rewards at any rate”.⁹² The credibility of the EU’s conditionality is also influenced by how the EU deals with peer states that have similar contractual relations. If a third country finds that a peer state is rewarded without having met the conditions, this will have negative impacts on the EU’s credibility as it creates the impression of double standards.⁹³ This is expected to be of particular importance when dealing with states that are involved in ethno-political conflicts.

The third factor that determines the credibility of the EU’s conditionality is coherence. The more the EU speaks with one voice, the higher the credibility of its promises and threats.⁹⁴ If there are internal conflicts over the use of conditionality, the target governments will have doubts about the EU’s ability to deliver on its promises, given the intergovernmental nature of the enlargement process.⁹⁵

Finally, the credibility of the EU’s threat to withhold the rewards increases if the target state has no alternatives to EU membership.⁹⁶ Conversely, conditionality would be less effective if other actors offered comparable rewards at lower costs for the target governments. This is what Schimmelfennig and Sedelmeier call “cross-conditionality”. International actors cannot only undermine the EU’s conditionality but also reinforce it by making their rewards conditional on the fulfilment of EU requirements (additive conditionality) or by offering additional rewards for the same conditions (parallel conditionality).⁹⁷

⁹⁰ Tocci, *The EU and Conflict Resolution*, op. cit., p. 27.

⁹¹ Schimmelfennig and Sedelmeier, “The Europeanization of Eastern Europe”, op. cit., p. 817.

⁹² Schimmelfennig and Sedelmeier, “Governance by Conditionality”, op. cit., p. 666.

⁹³ Tocci, *The EU and Conflict Resolution*, op. cit., p. 24.

⁹⁴ Schimmelfennig and Sedelmeier, “The Europeanization of Eastern Europe”, op. cit., p. 817.

⁹⁵ Schimmelfennig and Sedelmeier, “Governance by Conditionality”, op. cit., p. 666.

⁹⁶ Schimmelfennig and Sedelmeier, “The Europeanization of Eastern Europe”, op. cit., p. 817.

⁹⁷ Frank Schimmelfennig and Ulrich Sedelmeier, “Introduction: Conceptualizing the Europeanization of Central and Eastern Europe”, in Frank Schimmelfennig and Ulrich Sedelmeier (eds.), *The Europeanisation of Central and Eastern Europe*, Ithaca/New York, Cornell University Press, 2005, p. 15.

4.1.4 Domestic adoption costs

The size of the domestic adoption costs is weighed against the size of the rewards and ultimately determines whether the target government adopts EU rules or not. According to Schimmelfennig and Sedelmeier, “[a]doption costs can have various sources: first, they may take the form of opportunity costs of forgoing alternative rewards offered by adopting rules other than EU rules; second, they may produce welfare or power costs for private and public actors”.⁹⁸ The target governments will not comply with EU conditions if they fear that this would result in a loss of elections, coalition partners or power.⁹⁹ The size of adoption costs depends not only on the preferences of the target governments but also on those of ‘veto players’, i.e. “actors whose agreement is necessary for a change in the status quo”. If there is a large number of veto players, who perceive EU conditions as negative, the domestic adoption costs are expected to be high.¹⁰⁰

4.2 Conceptualising coherence

As shown above, the external incentives model specifies four key conditions: determinacy of conditions, size and speed of rewards, credibility of conditionality and domestic adoption costs. The thesis does not doubt the relevance of these conditions but what is apparent is that the key variable of credibility is not specified enough in particular with regard to coherence. The original external incentives model does not operationalise ‘coherence’ even though it is mentioned as an important determinant of credibility. Schimmelfennig and Sedelmeier simply note that “[t]he more the EU speaks with one voice [...] the more credible its threats and promises are”.¹⁰¹ However, coherence is much more multidimensional. Therefore, it is important to think more systematically about coherence.

There are many different interpretations of the concept. Some authors use the term ‘consistency’ instead of ‘coherence’. Although this might seem like a small linguistic difference, the two terms actually mean different things and should thus not be used interchangeably.¹⁰² Whereas consistency is commonly understood as “the absence of contradictions”, coherence refers more to “synergy and added value”.¹⁰³ Thus, it can be said that consistency is a necessary pre-

⁹⁸ Schimmelfennig and Sedelmeier, “Governance by Conditionality”, op. cit., p. 666.

⁹⁹ Schimmelfennig and Sedelmeier, “The Europeanization of Eastern Europe”, op. cit., p. 817.

¹⁰⁰ Schimmelfennig and Sedelmeier, “Governance by Conditionality”, op. cit., p. 667.

¹⁰¹ Schimmelfennig and Sedelmeier, “The Europeanization of Eastern Europe”, op. cit., p. 817.

¹⁰² Gebhard, op. cit., p. 108.

¹⁰³ Christophe Hillion, “Tous pour un, un pour tous! Coherence in the External Relations of the European Union”, in Marise Cremona (ed.), *Developments in EU External Relations Law*, Collected Courses of the Academy of European Law, Oxford, Oxford University press, 2008, p. 14.

condition for achieving coherence, but it is not sufficient in itself. Coherence also requires positive interactions that generate synergies between policies or institutions.¹⁰⁴ As Missiroli points out, there is also an important difference when it comes to measurement. While it is possible to distinguish between different degrees of coherence (something is more or less coherent), it is not possible to make such a distinction when it comes to consistency (something is consistent or it is not).¹⁰⁵ Considering the above, the thesis will use Juncos' definition of coherence, which encompasses both notions. She defines coherence as "the lack of contradictions between policies/institutions/instruments, plus a variable degree of synergy as a result of policies/institutions/instruments working together in order to achieve a common objective".¹⁰⁶

The literature commonly distinguishes between two or three different types of coherence: vertical and horizontal coherence and sometimes also institutional coherence. In addition, Gebhard suggest a fourth dimension of coherence, namely external coherence.¹⁰⁷ The thesis will use this four-part classification as it also takes into account third party actors.

Vertical coherence concerns the relationship between the EU and the individual Member States. The degree of vertical coherence is high when the positions and policies of the Member States are in line with and reinforce those of the Union as a whole. Vertical coherence is especially important in the field of foreign policy as most decisions require unanimity in the Council. Horizontal coherence refers to coherence between different EU policies. Horizontal coherence is achieved when the goals and means of different EU policies not only do not contradict each other, but mutually reinforce each other.¹⁰⁸ In the field of foreign policy, this is especially relevant for the interaction between intergovernmental and supranational policies and institutions. Institutional coherence relates to the collaboration between different EU institutions. According to Gebhard, this category shall also encompass intra-institutional coherence as different units within the same institution might also compete for influence and resources.¹⁰⁹ A high degree of institutional coherence requires the absence of contradictions between the actions of different administrative units as well as synergies between them.

¹⁰⁴ Ana E. Juncos, *EU Foreign and Security Policy in Bosnia. The Politics of Coherence and Effectiveness*, Manchester, Manchester University Press, 2013, p. 45.

¹⁰⁵ Antonio Missiroli, "Introduction", in Antonio Missiroli (ed.), *Coherence for Security Policy: Debates – Cases – Assessments*, Occasional Papers, no. 27, Paris, Institute for Security Studies Western European Union, 2001, p. 4

¹⁰⁶ Juncos, op. cit., p. 46.

¹⁰⁷ Gebhard, op. cit., p. 111, see also Nicole Koenig, "The EU and the Libyan Crisis – In Quest of Coherence?", *The International Spectator*, vol. 46, no. 4, 2011, pp. 6-7.

¹⁰⁸ Koenig, op. cit., p. 6.

¹⁰⁹ Gebhard, op. cit., p. 111.

External or multilateral coherence concerns the interaction between the EU and third actors. External coherence is considered as high when EU policies are in line with those of other international actors.¹¹⁰ This last category is particularly important in the context of the Kosovo-Serbia dialogue as the EU is not the only actor that is involved in the region. Finally, it is important to note that the different dimensions of coherence are interlinked and mutually reinforce each other.¹¹¹

¹¹⁰ Koenig, *op. cit.*, p. 7.

¹¹¹ Gebhard, *op. cit.*, p. 113.

5 Conditions for the effective use of EU conditionality in the Kosovo-Serbia dialogue

After having discussed the analytical framework, the thesis will now examine how the different factors influence the effectiveness of EU conditionality in the Kosovo-Serbia dialogue. Each chapter will also highlight how the respective factor is affected by a lack of coherence. Coherence itself, including its many different facets, will be examined in more detail in the chapter on the credibility of EU conditionality. This is where coherence has the greatest impact and where Schimmelfennig and Sedelmeier address coherence as part of their external incentives model.

5.1 Determinacy of conditions

The conditions for EU membership are clearly defined and have become even more determinate with every reform of the enlargement process. In addition to the ‘Copenhagen criteria’,¹¹² the Western Balkan countries must adhere to further conditions, which mostly concern regional cooperation and good neighbourly relations including the resolution of bilateral disputes.¹¹³ In the case of Kosovo and Serbia, these so-called ‘Copenhagen Plus’ criteria are clearly emphasised in the relevant documents. In the EU’s negotiating framework for the accession negotiations with Serbia a “visible and sustainable improvement of relations with Kosovo” is defined as a key priority, to which the Union has even devoted a separate negotiation chapter (chapter 35).¹¹⁴ Similarly, the Stabilisation and Association Agreement (SAA) with Kosovo commits the country to “continued engagement towards a visible and sustainable improvement in relations with Serbia”.¹¹⁵ This goal is further specified in Article 13 of the SAA¹¹⁶ and paragraph 12 of the negotiating framework¹¹⁷ respectively, which stipulate that

¹¹² According to the Copenhagen criteria, countries wishing to join the EU need to have: stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; a functioning market economy and the capacity to cope with competition and market forces in the EU; the ability to take on and implement effectively the obligations of membership, including adherence to the aims of political, economic and monetary union.

¹¹³ European Commission, *Conditions for Membership*, EC Website, last updated 6 December 2016.

¹¹⁴ European Union, *General EU Position: Ministerial Meeting Opening the Intergovernmental Conference on the Accession of Serbia to the European Union*, AD 1/14, Brussels, 9 January 2014, p. 5.

¹¹⁵ Council of the European Union, “Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the One Part, and Kosovo, of the Other Part”, *Official Journal of the European Union*, L 71, 16 March 2016, p. 3.

¹¹⁶ *Ibid.*, p. 5.

¹¹⁷ European Union, *General EU Position*, op. cit., p. 10.

“[t]his process shall ensure that both can continue on their respective European paths, while avoiding that either can block the other in these efforts and should gradually lead to the comprehensive normalisation of relations between Serbia and Kosovo, in the form of a legally binding agreement [...] with the prospect of both being able to fully exercise their rights and fulfil their responsibilities.”

Furthermore, both the general EU position on negotiations with Serbia¹¹⁸ and the SAA with Kosovo¹¹⁹ clearly state that the European Union expects Serbia and Kosovo to:

“a) Implement in good faith all agreements reached in the dialogue [...]; b) Fully respect the principles of inclusive regional cooperation; c) Resolve through dialogue and spirit of compromise other outstanding issues, on the basis of practical and sustainable solutions and cooperate on the necessary technical and legal matters [...]; d) Cooperate effectively with EULEX and contribute actively to a full and unhindered execution by EULEX of its mandate throughout Kosovo.”

The negotiating framework also contains the possibility to sanction Serbia in case of non-compliance. Paragraph 25 in combination with paragraph 24 stipulates that “in case progress in the normalisation of relations with Kosovo significantly lags behind progress in the negotiations overall, due to Serbia failing to act in good faith, in particular in the implementation of agreements reached between Serbia and Kosovo”, the Commission can “propose to withhold its recommendations to open and/or close other negotiating chapters”.¹²⁰ This strong conditionality is reaffirmed in the European Union’s Common Position on chapter 35, which was adopted in November 2015. The Common Position contains a number of interim benchmarks regarding Serbia’s implementation of the Brussels Agreement and states that the Commission and the High Representative will closely monitor Serbia’s compliance with these benchmarks.¹²¹

Similarly, the SAA with Kosovo defines Kosovo’s engagement towards a visible and sustainable improvement in relations with Serbia as an “essential principle”, whose violation might result in the suspension of the whole or parts of the agreement.¹²² As Van Elsuwege notes, “[s]uch an explicit operationalization of the good neighbourliness principle is quite

¹¹⁸ Ibid.

¹¹⁹ Council of the European Union, “Stabilisation and Association Agreement”, op. cit., p. 5.

¹²⁰ European Union, *General EU Position*, op. cit., p. 12.

¹²¹ European Union, *European Union Common Position, Chapter 35: Other Issues, Item 1: Normalisation of Relations between Serbia and Kosovo*, AD 12/15, Brussels, 30 November 2015, pp. 3-8.

¹²² Council of the European Union, “Stabilisation and Association Agreement”, op. cit., p. 3.

exceptional and goes beyond the rather general neighbourhood clauses that can be found in the other SAAs”.¹²³

The Commission’s 2018 Western Balkans strategy underlines that “[w]ithout effective and comprehensive normalisation of Belgrade-Pristina relations [...] there cannot be lasting stability in the region. A comprehensive, legally binding normalisation agreement is urgent and crucial so that Serbia and Kosovo can advance on their respective European paths”. The document also outlines the key conditions that Serbia would have to fulfil for a potential EU accession in 2025. These include an “irreversible implementation of the comprehensive, legally-binding agreement with Kosovo reflecting the consolidation of the full normalisation of relations”.¹²⁴

Although the EU has made unequivocally clear that the normalisation of relations is a *sine qua non* condition for EU accession, it has not specified what the term ‘normalisation’ actually means. Most importantly, it has not stated whether a comprehensive normalisation of relations between Serbia and Kosovo would require Serbia to recognise the independence of its former province. Although it is hard to imagine how Serbia and Kosovo could be part of the European Union without recognising each other, it has never been explicitly demanded. This has partly to do with negotiation tactics, since demanding recognition from Serbia would probably have blocked the dialogue.¹²⁵ However, the failure to formulate a clear end-goal of normalisation is also related to the EU’s internal dividedness on the recognition of Kosovo. Due to the attitude of the five non-recognisers, the EU does not have a common position on the statehood of Kosovo and can therefore not formulate any clear conditionality in this regard.¹²⁶

While the EU as a whole cannot demand recognition from Serbia due to the opposition of the five ‘non-recognisers’, individual Member States can and have done so on several occasions. Germany has been particularly vocal in this regard. In 2011, the German Chancellor Angela Merkel stated that “Germany has recognised Kosovo. Serbia has not done so. This is a situation where we need to make progress”.¹²⁷ Sigmar Gabriel, the then Foreign Minister, reaffirmed this position in 2018, saying that, “[i]f Serbia wants to move toward the European Union, the

¹²³ Peter Van Elsuwege, “Legal Creativity in EU External Relations: The Stabilization and Association Agreement Between the EU and Kosovo,” *European Foreign Affairs Review*, vol. 22, no. 3, 2017, p. 406.

¹²⁴ European Commission, *A credible enlargement perspective for and enhanced EU engagement with the Western Balkans*, COM (2018) 65 final, Strasbourg, 6. February 2018, pp. 7-8.

¹²⁵ Lehne, op. cit., p. 7.

¹²⁶ Jelena Obradović-Wochnik and Alexander Wochnik, “Europeanising the ‘Kosovo Question’: Serbia’s Policies in the Context of EU Integration,” *West European Politics*, vol. 35, no. 5, 2012, pp. 1163-1164.

¹²⁷ Quoted in: Obradović-Wochnik and Wochnik, “Europeanising the ‘Kosovo Question’”, op. cit., p. 1165.

building of the rule of law is a primary condition, but naturally also the acceptance of Kosovo's independence".¹²⁸ These statements clearly signal to Serbia that it will have to recognise Kosovo's independence if it wants to join the European Union. Given that decisions on enlargement are based on consensus, Serbia needs to take these statements seriously especially since they are coming from one of the most powerful Member States.

The lack of clarity does not only concern the end goal of the dialogue process but also the interim benchmarks that are defined in the Common Position on chapter 35 and assessed in the yearly progress reports. This concerns for example the Association/Community of Serb-majority Municipalities (ACSM). Neither the 2013 Brussels Agreement nor the 2015 Agreement on establishing the ACSM clearly define the nature and the competences that this body should possess. According to the Brussels Agreement, "the participating municipalities shall be entitled to cooperate in exercising their powers through the Community/Association collectively. The Association/Community will have full overview of the areas of economic development, education, health, urban and rural planning".¹²⁹ While 'exercise powers' could indicate that the ACSM should have operational tasks, 'have full overview' points more towards coordinative tasks. Consequently, there are different interpretations about what the agreement actually entails. Whereas Serbia considers the ACSM as an institutional body with executive powers, Kosovo regards it merely as an NGO with limited responsibilities.¹³⁰ The 2015 August Agreement was supposed to clarify some of these uncertainties. It contains detailed provisions on the organisational structure and budget of the ACSM as well as on its relations with central authorities. When it comes to the ACSM's objectives and competencies, however, the agreement fails to clarify what the phrase 'to exercise full overview' actually means.¹³¹ Thus, it allows the parties to "manipulat[e] the interpretation of what constitutes compliance to their advantage".¹³²

The same is true for the agreement on Integrated Border/Boundary Management (IBM). Like in the case of the Association/Community, the title has a double meaning that allows the parties to interpret the agreement in ways that favour their respective interests. While Kosovo interprets the agreement as a 'border' delineation between two sovereign states and therefore as de-facto

¹²⁸ "Serbia Must Accept Kosovo Independence to Join EU: German Foreign Minister", *Reuters*, 14 February 2018.

¹²⁹ Brussels Agreement, *First Agreement of Principles Governing the Normalization of Relations*, Brussels, 19 April 2013, p. 1.

¹³⁰ Troncotă, op. cit., pp. 223-224.

¹³¹ Van der Borgh, le Roy, and Zweerink, op. cit., p. 68.

¹³² Schimmelfennig and Sedelmeier, "Governance by Conditionality", op. cit., p. 664.

recognition of its independence, Serbian officials insist that the agreement only concerns an ‘administrative boundary line’ within Serbia.¹³³ This ambiguity was considered to be the only way to reach an agreement, however as Bieber notes, “it could not resolve different views that were not merely semantic”.¹³⁴

To summarise the findings of this chapter, it can be concluded that the Kosovo-Serbia dialogue is strongly interconnected with the EU accession process. Normalisation of relations is clearly defined as a sine qua non condition that must be fulfilled in order to join the Union. However, neither the end goal of normalisation nor the interim benchmarks are clearly specified, which leaves a lot of room for interpretation and hence undermines the effectiveness of conditionality. This applies in particular to the crucial question of recognition, for which the EU is unable to formulate clear conditions due to a lack of coherence in Member States’ positions.

5.2 Size and speed of rewards

As shown above, progress in the dialogue has been rewarded by the EU with advancements in the accession process. For example, after Kosovo and Serbia signed a regional cooperation agreement in 2012, the EU granted candidate status to the latter. When the two parties concluded four new agreements in 2015, the EU signed a Stabilisation and Association Agreement with Kosovo and opened accession negotiations with Serbia.¹³⁵ This approach has been relatively successful in getting the parties to compromise, at least on paper, due to the attractiveness of EU membership for both countries. According to Huszka, EU membership is clearly the most important incentive for Serbia and Kosovo to participate in the dialogue.¹³⁶ In fact, officials on both sides have stated that they would not have engaged in negotiations without the perspective of EU membership.¹³⁷ There are several reasons for the attractiveness of EU membership.

First, the two countries can expect economic gains from EU integration due to the promotion of exports and higher foreign direct investments.¹³⁸ The EU is by far the biggest trading partner

¹³³ Emini and Stakic, op. cit., p. 3.

¹³⁴ Bieber, op. cit., p. 302.

¹³⁵ Lilyanova, *Serbia and Kosovo: Normalisation of Relations*, op. cit., p. 1.

¹³⁶ Beáta Huszka, *The Power of Perspective: Why EU Membership Still Matters in the Balkans*, European Council on Foreign Relations, Brussels, January 2020, p. 39.

¹³⁷ Judy Dempsey, “How the EU Brought Serbia and Kosovo to a Deal”, *Judy Dempsey’s Strategic Europe*, Carnegie Europe, 2 February 2014.

¹³⁸ Reinhard Neck and Klaus Weyerstrass, “Macroeconomic Effects of Serbia’s Integration in the EU and the Euro Area”, *International Advances in Economic Research*, vol. 25, 2019, p. 283.

of Serbia and Kosovo. In 2019, the EU-27 accounted for 62.6 % of Serbia's¹³⁹ and 47,5 % of Kosovo's¹⁴⁰ total trade in goods. The Stabilisation and Association Agreements that the EU concluded with Serbia and Kosovo foresee the gradual elimination of duties and non-tariff barriers over a transitional period. This transitional period already ended for Serbia. In the case of Kosovo, it will end in 2026. Although trade has largely been liberalised, there are still some exceptions for agricultural products.¹⁴¹ This is especially relevant for Kosovo, whose agricultural exports amounted to almost 30 % of total exports in 2019.¹⁴² Consequently, both countries have a huge interest to receive full market access, including for their agricultural products.

High-ranking Serbian officials have portrayed the EU as the key to economic growth. Former President Tomislav Nikolić, for example, explained that “we want to get into the EU, because it has projects, jobs and investments for us”. Similarly, the then Prime Minister Ivica Dačić stated that “our aim is to get into the EU and consolidate the economic system as soon as possible”.¹⁴³ A study by Neck and Weyerstrass projects that if Serbia joined the Union in 2025, its real GDP would be 3 % higher by 2040 than without EU accession.¹⁴⁴ For Kosovo comparable studies do not exist, but the effect of EU membership is likely to be the same.

EU membership would also come along with further financial benefits in the form of cohesion funds or funds related to the common agricultural policy. The EU is already the largest donor to Serbia and Kosovo. Between 2000 and 2018, Serbia has received more than € 3.6 billion through the programme of Community Assistance for Reconstruction, Development and Stabilisation (CARDS) and the Instrument for Pre-Accession Assistance (IPA).¹⁴⁵ Kosovo has also obtained over € 2.3 billion in EU assistance since the end of the war in 1999. In addition, the EU has spent almost € 1 billion on the presence of international organisations in Kosovo.¹⁴⁶ However, these are only small amounts compared to the financial benefits that both countries could expect as EU members. EU membership would also give them the opportunity to shape

¹³⁹ European Commission, *European Union, Trade in goods with Serbia*, EC Website, last updated 8 May 2020, p. 8.

¹⁴⁰ European Commission, *European Union, Trade in goods with Kosovo*, EC Website, last updated 8 May 2020, p. 8.

¹⁴¹ European Commission, *Western Balkans*, EC Website, last updated 27 May 2020.

¹⁴² European Commission, *European Union, Trade in goods with Kosovo*, op. cit. p. 4.

¹⁴³ Economides and Ker-Lindsay, op. cit., p. 1037.

¹⁴⁴ Neck and Weyerstrass, op. cit., p. 285.

¹⁴⁵ European Union Delegation to Serbia, *EU Assistance to Serbia*, Delegation Website, last updated 2020.

¹⁴⁶ David L Phillips, *Implementation Review of the Kosovo-Serbia Dialogue*, Institute for the Study of Human Rights, Columbia University, New York, 2017, p. 12.

the rules that are governing the single market and that they must adhere to, if they want to trade with the European Union.

Serbia and Kosovo both have relatively high unemployment rates of 10.4 % and 25.7 % respectively.¹⁴⁷ The Covid-19 pandemic is likely to make the situation even worse. EU accession would take some pressure off the labour markets as people would be able to work in other EU Member States. This would also increase remittances that could in turn elevate the living standards in Serbia and Kosovo. The freedom to work and travel in the EU is also a major concern of the public. When asked about what EU membership means for them personally, 33 % of Serbs and 46 % of Kosovars mentioned the freedom to study and/or work in the EU. 31 % and 38 % of Serbian and Kosovar respondents mentioned the freedom to travel.¹⁴⁸

For these reasons, EU membership would be a strong incentive for the parties to seek a compromise solution to their dispute. However, the problem is not the size but the tangibility of the rewards. The 2018 Western Balkans Strategy stated that Serbia could join the EU by 2025. Yet, it acknowledged that this goal is “extremely ambitious”.¹⁴⁹ In order to join the Union by 2025, Serbia would have to close all negotiation chapters by the end of 2023 so that the European Parliament and the national parliaments have enough time to ratify the accession agreement.¹⁵⁰ Given the relatively slow pace of negotiations in recent years, this objective has become increasingly unrealistic. Serbia has so far opened 18 out of 35 negotiation chapters and provisionally closed two.¹⁵¹ Even the Serbian Prime Minister admitted that the goal of EU accession by 2025 may prove unattainable.¹⁵²

Thus, although Serbia has a clear accession perspective it is rather distant at the moment. This has important implications for the Kosovo-Serbia dialogue. Since Serbia cannot expect to join the Union in the next couple of years, the incentive to make painful concessions in the dialogue is low. Serbia has already received the maximum it can currently get, namely the start of accession negotiations. The opening of additional negotiation chapters will probably not be enough to persuade Serbia to conclude an agreement with Kosovo.¹⁵³ The EU could

¹⁴⁷ European Commission, “EU Candidate Countries’ & Potential Candidates’ Economic Quarterly (CCEQ)”, *Technical Paper 042*, Luxembourg, July 2020, p. 9.

¹⁴⁸ Regional Cooperation Council, *Balkan Public Barometer Public Opinion*, April 2020.

¹⁴⁹ European Commission, *A credible enlargement perspective*, op. cit., p. 2.

¹⁵⁰ Julija Simić, “Serbia in the EU in 2025 – mission (im)possible”, *Euractiv*, 5 April 2019.

¹⁵¹ European Council, *Serbia: Status of negotiations*, Council Website, last updated 19 December 2019.

¹⁵² Martin Banks, “Serbian Prime Minister admits EU membership by 2025 may prove unattainable”, *The Parliament Magazine*, 19 December 2018.

¹⁵³ Vladimir Đorđević et al., *Mogherini’s Chance for True Rapprochement between Serbia and Kosovo*, Central European Policy Institute, Bratislava, 2014, p. 2.

theoretically suspend the accession negotiations if there is insignificant progress in the dialogue, however, this is unlikely to happen given Serbia's strategic importance for the Union.¹⁵⁴ Therefore, one might conclude that the EU has already fired its best shot when it agreed to start accession negotiations with Serbia.

In the case of Kosovo, the enlargement perspective is even more distant and unrealistic. In contrast to the SAA with Serbia, the Stabilisation and Association Agreement with Kosovo does not foresee a clear membership perspective. The Agreement carefully avoids the word "candidate country" and speaks of Kosovo's "European perspective" instead.¹⁵⁵ The biggest problem is the EU's disunity regarding Kosovo's statehood. As long as some Member States do not recognise Kosovo's independence there cannot be any serious accession negotiations.¹⁵⁶ While the SAA could be concluded as an EU-only agreement this is not possible in the case of an accession agreement, because it must be ratified by the national parliaments of all 27 Member States. It is unlikely that the non-recognising countries will change their position anytime soon. Thus, Kosovo's accession perspective is too distant to seriously matter as an incentive for the dialogue with Serbia.¹⁵⁷

The second big carrot that the EU could offer to Kosovo is visa liberalisation. Visa-free travel is especially important for the citizens of Kosovo and therefore promises political gains for politicians who manage to conclude a respective agreement.¹⁵⁸ According to a study by the Democracy for Development Institute, Kosovo citizens believe that visa liberalisation should be the country's main foreign policy priority.¹⁵⁹ In comparison to EU accession, visa liberalisation is a more tangible reward. However, there are increasing concerns regarding its credibility. The Commission already confirmed in 2018 that Kosovo met all the necessary criteria for visa liberalisation, but two years later the Council has still not given its green light, because a minority of Member States blocks it.¹⁶⁰ According to Huszka, the failure to grant

¹⁵⁴ Marta Szpala, "Hostages to Dialogue: The Process of Normalising Serbian-Kosovar Relations," *OSW Commentary*, no. 214, Centre for Eastern Studies, 2016, p. 7

¹⁵⁵ Van Elsuwege, *op. cit.*, p. 405.

¹⁵⁶ Erik Plänitz, "Towards a Comprehensive Framework of Mediation Success: EU Mediation in the Belgrade–Pristina Dialogue," *Journal of Regional Security*, vol. 13, no. 1, 2018, p. 77.

¹⁵⁷ Đorđević et al., *op. cit.*, p. 4.

¹⁵⁸ Todoric and Malazogu, *op. cit.*, pp. 18-19.

¹⁵⁹ Democracy for Development, *What should be the top three priorities of Kosovo's foreign policy?*, 27 March 2020.

¹⁶⁰ European Commission, *Visa Liberalisation: Commission confirms Kosovo fulfils all required benchmarks*, 18 July 2018.

visa liberalisation to Kosovo “sends a message to the Kosovo public that the EU has little to offer, especially given that EU membership is already a very distant and uncertain prospect”.¹⁶¹

To sum up, EU membership is a sizeable carrot that has the potential to induce Serbia and Kosovo to conclude an agreement. It would improve their access to the single market as well as to the labour markets of the Member States, increase financial assistance and allow them to shape EU decisions. However, the accession perspective is distant for Serbia and even more unrealistic for Kosovo given that five Member States do not even recognise its independence. Hence, the EU has few tangible rewards that it could offer Serbia and Kosovo. Serbia has already started accession negotiations and will hardly be persuaded to make major compromises with Kosovo simply for the sake of opening additional negotiation chapters. Visa liberalisation would be a tangible carrot for Kosovo, but here the EU faces problems of credibility, which will be discussed in the next chapter.

5.3 Credibility of conditionality

The credibility of the EU’s conditionality is very important as the target governments face the adoption costs up front while the benefits only come later. As indicated earlier, the credibility of the EU’s conditionality rests on several factors, the capability of the EU to offer and withdraw rewards as well as the costs that are associated with it, the EU’s consistency in allocating rewards and finally the EU’s coherence.

5.3.1 Capabilities and costs

Given the relatively small size of Serbia and Kosovo, with a population of approximately 7 million and 2 million, the costs of accession for the EU would be minor compared to the eastern enlargement of 2004 and 2007. However, it is not the objective costs but rather the lack of political will in some Member States’ capitals that hampers the EU’s capability to deliver the rewards. The multiple crises that have struck the Union in recent years – the economic and financial crisis, the Euro crisis, the so-called ‘refugee crisis’, the Brexit negotiations and now the Covid-19 pandemic – have increasingly turned the EU’s attention inwards and exacerbated the ‘enlargement fatigue’ that set in after the ‘big bang’ enlargement of 2004.

Public support for enlargement has declined over the years. According to the latest Eurobarometer data, 46 % of EU citizens are against further enlargement of the Union. In

¹⁶¹ Huszka, op. cit., p. 13.

countries such as Austria (69 %), Germany (63 %), Finland (62 %) and France (61 %) the population is particularly critical.¹⁶² The lack of public support for enlargement has put additional pressure on the governments of these Member States. Some countries like France or the Netherlands have announced that they will hold referenda on future EU accessions. These additional hurdles further increase doubts about whether the EU is capable of meeting its commitments. The Dutch referendum on the Association Agreement with Ukraine has demonstrated how such referenda can be exploited by populist forces for domestic political gains.¹⁶³

Member States have not only become less enthusiastic about enlargement but also interfered more frequently in the process, leading some to speak about a ‘(re)-nationalisation’ of the enlargement process.¹⁶⁴ The enlargement process has of course always been intergovernmental in nature. All the important decisions on enlargement must be taken unanimously by the Heads of State and Government in the European Council and the accession treaty must be ratified by the national parliaments. However, as Balfour and Stratulat show, the European Council and the General Affairs Council have assumed a more dominant role at the expense of the European Commission, who is now often overruled or ignored by the Council.¹⁶⁵ As a consequence, the enlargement process has become more unpredictable. Domestic political considerations are often more important than progress in the region.¹⁶⁶

A recent example of this phenomenon was the decision of the French government to block the start of accession negotiations with North Macedonia and Albania in October 2019. Although both countries had fulfilled the necessary conditions (North Macedonia had even changed the country’s name to solve the decades-long name dispute with Greece), President Macron refused to give his green light and demanded a reform of the enlargement process before opening new accession negotiations. Macron’s decision was supposedly linked to the French regional

¹⁶² European Commission, *Standard Eurobarometer 89: The views of Europeans on the European Union’s priorities*, March 2018, pp. 4, 25.

¹⁶³ Zhelyazkova et al., op. cit., p. 26.

¹⁶⁴ Graham Avery, “Enlargement Policy in Perspective,” in Rosa Balfour and Corina Stratulat (eds.), *EU Member States and Enlargement towards the Balkans*, Brussels, European Policy Centre, 2015, p. 16.

¹⁶⁵ Rosa Balfour and Corina Stratulat, “Conclusions,” in Rosa Balfour and Corina Stratulat (eds.), *EU Member States and Enlargement towards the Balkans*, Brussels, European Policy Centre, Brussels, 2015, p. 226.

¹⁶⁶ Rosa Balfour and Corina Stratulat, “Introduction,” in Rosa Balfour and Corina Stratulat (eds.), *EU Member States and Enlargement towards the Balkans*, Brussels, European Policy Centre, Brussels, 2015, p. 2.

elections in March 2020 and the fear that far right politicians could exploit stories about organised crime and corruption as well as a possible influx of Muslim migrants from Albania.¹⁶⁷

The postponement of accession negotiations sent a very negative signal to the entire region, namely that accession candidates can no longer be certain to receive the rewards even if they meet all the EU's conditions. Following the French veto, Serbian President Aleksandar Vučić stated in an interview with the *Financial Times*: „We need to take care of ourselves. That's the only way, that's the only approach. Everything else would be very irresponsible“.¹⁶⁸ The delays in the accession process caused by domestic concerns of individual Member States reduce public support for the EU in the target countries and thus also the pressure on the Serbian and Kosovo government to pursue reforms.¹⁶⁹ The Serbian citizens are becoming increasingly sceptical about their country's enlargement perspective. According to the 2020 Balkan Barometer, only 11 % of Serbs believe that their country will join the Union by 2025, 31 % think that accession might happen by 2030 and a striking 46 % are of the opinion that their country will never join the EU. Kosovars seem to be more optimistic despite the more difficult circumstances. While 38 % think that Kosovo will accede by 2025, and 44 % by 2030, only 11 % believe that Kosovo will never become an EU member.¹⁷⁰ The Commission has reacted by suggesting a new enlargement methodology in February 2020. According to this revised methodology, Member States should be more involved in the monitoring process in order to “avoid any last minute surprises”.¹⁷¹

In the case of visa liberalisation for Kosovo it is also not the objective costs but the lack of political will that hinders progress. Kosovo with a population of only 2 million does not constitute a threat for the EU in terms of mass migration, especially if compared to other countries that have recently received visa liberalisation, like Ukraine with over 40 million inhabitants. It is true that in 2015 a relatively high number of Kosovars (68.000) applied for asylum in the EU.¹⁷² However, this number significantly dropped since then. In the first half of 2019 only 1.940 people from Kosovo sought asylum in the EU, compared to 11.917 from

¹⁶⁷ Michael Peel and Valerie Hopkins, “France objects to North Macedonia and Albania EU accession talks”, *Financial Times*, 15 October 2019

¹⁶⁸ Valerie Hopkins, “Balkan nations bank on regional ties after EU snub”, *Financial Times*, 23 October 2019.

¹⁶⁹ Samuel Greene et al., *Mapping Fake News and Disinformation in the Western Balkans and Identifying Ways to Effectively Counter Them*, European Parliament, Directorate General for External Policies of the Union, PE 653.621, December 2020.

¹⁷⁰ Regional Cooperation Council, op. cit.

¹⁷¹ European Commission, *Remarks by Commissioner Olivér Várhelyi at the press conference on the revised enlargement methodology*, Brussels, 5 February 2020.

¹⁷² Pew Research Center, *Number of Refugees to Europe Surges to Record 1.3 Million in 2015*, 2 August 2016.

Albania and 3.336 from Serbia.¹⁷³ Despite the decreasing figures, some EU Member States, above all France and the Netherlands, still refuse to grant visa liberalisation to Kosovars. The governing parties fear that the issue might be exploited by their political opponents from the far-right.¹⁷⁴ These domestic political considerations hamstring the EU as a whole, as it cannot keep its promise of visa liberalisation. This in turn has a very negative impact on the EU's credibility and thus on its effectiveness as a mediator in the dialogue.

Having analysed the costs and capabilities of granting rewards, the thesis will now examine the costs of withholding them. As indicated earlier, both countries heavily depend on the single market and EU funding. Conversely, Serbia and Kosovo account for only 0,7 %¹⁷⁵ and less than 0,1 %¹⁷⁶ of the EU's total trade in goods. Thus, from an economic point of view, the two countries are only of marginal importance to the EU. However, the region is highly relevant from a geopolitical perspective. The EU is competing for influence in its 'inner courtyard' with other regional and global powers like Russia, China, Turkey, and the United States. By withholding rewards and thereby delaying the accession process, the EU risks losing ground in this geopolitical struggle for influence. The EU has a strong interest in stabilising the region, since risks stemming from ethnic conflict, economic collapse, lawlessness, instability and poor governance also affect the Union and its citizens.¹⁷⁷ What is more, the EU has already invested a lot of money and political capital into the stabilisation and economic integration of the region. As Schimmelfennig and Sedelmeier explain, the more the EU has already invested in the accession process, the higher the costs of withholding the rewards since the investments would otherwise be lost.¹⁷⁸ Although Serbia and Kosovo would benefit much more economically from accession than the EU, it is not entirely clear whether the EU really has superior bargaining power as it also has to take into account the strategic importance of the region.

This chapter has shown that neither EU accession nor visa liberalisation for Kosovo would be prohibitively costly for the EU. Nevertheless, the Union has not been able to deliver the rewards due to a lack of political will on the part of some Member States. The postponement of the start of accession negotiations with Albania and North Macedonia and the failure to grant visa

¹⁷³ "Kosovars File Less Asylum Applications in EU+ Than 12 Visa-Free Countries", *Schengen visa info*, 27 August 2019.

¹⁷⁴ Aleksandar Ivković, "What is holding Kosovo's visa liberalisation back?", *European Western Balkans*, 26 December 2018.

¹⁷⁵ European Commission, *European Union, Trade in Goods with Serbia*, op. cit., p. 9.

¹⁷⁶ European Commission, *European Union, Trade in Goods with Kosovo*, op. cit., p. 9.

¹⁷⁷ Milada Anna Vachudova, "EU Leverage and National Interests in the Balkans: The Puzzles of Enlargement Ten Years On*", *Journal of Common Market Studies*, 2014, vol. 52, no. 1, p. 126.

¹⁷⁸ Schimmelfennig and Sedelmeier, "Governance by Conditionality", op. cit., p. 666.

liberalisation to Kosovo have seriously damaged the EU's credibility and thus also the effectiveness of its conditionality. The EU has also found it difficult at times to withhold rewards due to the strategic importance of the region. In order not to lose ground in the geopolitical competition for influence, the EU sometimes granted rewards even though the conditions were not met. This 'reversed conditionality' will be further discussed in the next chapter.

5.3.2 Consistency of rewards

Serbia is by far the largest, most populous, and economically most potent country in the Western Balkans. As such, it is of crucial importance for the stability of the entire region.¹⁷⁹ Through its influence on the Republika Srpska in Bosnia and Herzegovina and the Kosovo Serbs, Belgrade holds the key to solving outstanding regional conflicts. It is widely assumed that without a peaceful and democratic Serbia the Western Balkans will remain unstable.¹⁸⁰ In addition, Serbia has become an important partner of the EU when it comes to managing irregular migration. In 2015, 764.033 illegal border crossings were detected on the so-called 'Western Balkan Route' from North Macedonia via Serbia to Hungary and Croatia on to Austria, Germany and Sweden.¹⁸¹ After Serbia and other Balkan countries had closed their borders in March 2016 the number of refugees and migrants significantly dropped. Although this would probably not have happened without the 'EU-Turkey deal' that was concluded a few weeks later, the role of Serbia as a 'gate keeper' must not be underestimated, especially given the volatile nature of EU-Turkey relations. In the common negotiating position, the EU defined Serbia as a key partner in finding a sustainable solution to the migrant crisis.¹⁸² In November 2019, Serbia and the EU signed an agreement on border management cooperation between Serbia and the European Border and Coast Guard Agency (EBCGA) that allows the EBCGA to deploy border guards on Serbian territory.¹⁸³ For these reasons, the EU has a strategic interest in binding Serbia as close as possible to itself. Stahl speaks of a "strategic accession" meaning accession for goals other than Europeanisation, for example stabilisation.¹⁸⁴

¹⁷⁹ Judy Batt, "The question of Serbia", *Chaillot Paper*, no. 81, Institute for Security Studies, Paris, August 2005, p. 8.

¹⁸⁰ Bernhard Stahl, "Another 'Strategic Accession'? The EU and Serbia (2000-2010)", *Nationalities Papers*, vol. 41, no. 3, 2013, p. 454.

¹⁸¹ Frontex, *Western Balkan Route*, last updated 2018.

¹⁸² Velina Lilyanova, *Serbia's role in dealing with the migration crisis*, European Parliamentary Research Service, Brussels, October 2016, p. 7.

¹⁸³ European Commission, *Border management: EU signs agreement with Serbia on European Border and Coast Guard cooperation*, 19 November 2019.

¹⁸⁴ Stahl, "Another 'Strategic Accession'?", op. cit., p. 448.

The EU is not the only actor in the region. Serbia has deep cultural and historic ties with Russia, which is seen as a traditional ally and protector of the country.¹⁸⁵ Serbian politicians have frequently indicated that their country could change its geopolitical focus and move closer to Russia if the EU's conditions are too tough or if rewards are considered unattainable.¹⁸⁶ Before his election as President, the leader of the Serbian Progressive Party, Tomislav Nikolić, stated that Serbia will never recognise Kosovo's independence, even at the expense of not joining the European Union. He also mentioned that the country "has two doors", one leading to the east and one to the west.¹⁸⁷ In October 2019, Serbia signed a trade agreement with the Russian-led Eurasian Economic Union. After critique from the European Union that this would contradict the country's obligations as an EU Member, a Serbian official stated that "[i]t doesn't seem likely we will be able to join the EU in the next 2-3 years. In the meantime, we have to look at our own interests. We have a good relationship with Russia".¹⁸⁸ These are only a few examples that show how Serbian politicians have played the "Russia card" in order to put pressure on the European Union.

In a similar way, Serbia has also used its growing ties with China to demonstrate to the European Union that it has alternatives to EU integration. Following the postponement of accession negotiations with Albania and North Macedonia, President Vučić claimed that "the EU's refusal to open accession talks with North Macedonia and Albania vindicated his policy of forging closer ties with China and Russia".¹⁸⁹ When the European Union did not exempt Serbia from its export authorisation scheme for personal protective equipment at the beginning of the Covid-19 crisis, President Vučić heavily criticised the European Union and instead praised China.¹⁹⁰

Serbia's strategic importance and the fear that Belgrade could turn away from its European integration path and move closer to Russia or China explain why the European Union has sometimes given rewards to Serbia even though the conditions were not fulfilled. There are several examples of such inconsistent behaviour. The first concerns the signing of the SAA with Serbia. The EU had made full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) a condition for concluding the SAA. In particular, the EU had

¹⁸⁵ Russel, op. cit., p. 6.

¹⁸⁶ Szpala, "Hostages to Dialogue", op. cit., p. 7.

¹⁸⁷ Malazogu and Bieber, op. cit., p. 47.

¹⁸⁸ Hans von der Burchard, "Serbia stands by plans to extend Russia trade ties despite Brussels' warning", *Politico Europe*, 29 August 2019.

¹⁸⁹ Hopkins, "Balkan nations bank on regional ties after EU snub", op. cit.

¹⁹⁰ Vuk Vuksanovic, "China Has Its Eyes on Serbia", *Foreign Policy*, 8 April 2020.

demanded the arrest and transfer of Radovan Karadžić and Ratko Mladić, two of the most wanted war criminals.¹⁹¹ Although Serbia had failed to meet these conditions, the EU decided to resume negotiations anyway. The SAA was signed in April 2008, shortly before the parliamentary elections in Serbia. The timing suggests a direct connection with the Serbian elections. Indeed, Javier Solana, the then High Representative for the Common Foreign and Security Policy, stated that the SAA should be concluded before parliamentary elections in order to support pro-European forces in Serbia and “send a clear message to the Serbian people that we care about them”.¹⁹²

A second example concerns Serbia’s candidate status and the related procedure. Following the ICJ’s advisory opinion, Serbia ignored the EU’s call for a dialogue with Kosovo and instead submitted a draft resolution to the UN General Assembly calling for new status talks.¹⁹³ The EU reacted not by sanctioning Serbia but by granting incentives to change the text of the resolution. After Serbia had removed the language challenging Kosovo’s independence from the resolution, the Council rewarded Serbia by referring Serbia’s membership application to the European Commission for an opinion.¹⁹⁴ Thus, one could argue that the EU rewarded Serbia to correct its own uncooperative behaviour.¹⁹⁵

The Commission published its opinion on Serbia’s Membership application a few weeks after the first technical agreements between Serbia and Kosovo had been concluded. The Commission recommended to the Council that it “should grant Serbia the status of candidate country, taking into account progress achieved so far and on the understanding that Serbia reengages in the dialogue with Kosovo and is moving swiftly to the implementation in good faith of agreements reached to date”.¹⁹⁶ The opinion also noted that Serbia maintains its parallel structures in Kosovo.¹⁹⁷ Hence, the Commission rewarded Serbia for simply engaging in dialogue and for rhetorical commitments irrespective of their actual implementation.¹⁹⁸

¹⁹¹ Jelena Subotić, “Explaining Difficult States: The Problems of Europeanization in Serbia”, *East European Politics and Societies*, vol. 24, no. 4, 2010, p. 604.

¹⁹² *Ibid.*, pp. 606-607

¹⁹³ Van der Borgh et al., op. cit., p. 41.

¹⁹⁴ Maria Giulia Amadio Viceré, “The Roles of the President of the European Council and the High Representative in Leading EU Foreign Policy on Kosovo” *Journal of European Integration*, vol. 38, no. 5, 2016, p. 562.

¹⁹⁵ Bernhard Stahl, “Perverted Conditionality: The Stabilisation and Association Agreement between the European Union and Serbia,” *European Foreign Affairs Review*, vol. 16, 2011, p. 487.

¹⁹⁶ European Commission, *Commission Opinion on Serbia's application for membership of the European Union*, COM (2011) 668 final, Brussels, 12 October 2011, p. 12.

¹⁹⁷ *Ibid.*, p. 8.

¹⁹⁸ Visoka and Doyle, op. cit., p. 872.

Despite the Commission's recommendation, the Council postponed the decision on Serbia's candidate status because some Member States were not satisfied with the progress of the normalisation process and argued that Serbia should have done more.¹⁹⁹ The German Foreign Minister Guido Westerwelle made clear that Serbia would not be granted candidate status if it did not stop undermining Kosovo's territorial integrity. Among other things, Germany demanded "the removal of barricades in the North of Kosovo and the dismantling of the parallel structures financed by Belgrade in the territory of Kosovo". However, the German position softened after Serbia and Kosovo had reached an agreement on Kosovo's representation in regional organisations. Shortly after the conclusion of this agreement, the European Council granted candidate status to Serbia although Belgrade continued to fund parallel structures in the North of Kosovo.²⁰⁰

Following the signing of the Brussels agreement, the Commission recommended to open accession negotiations with Serbia. In its report to the European Parliament and the Council, the Commission stated that "Serbia has met the key priority of taking steps towards a visible and sustainable improvement of relations with Kosovo".²⁰¹ Again, Belgrade was rewarded for rhetorical commitments even if these commitments were formulated in a very ambiguous way. The EU did not make the rewards conditional upon the implementation of these commitments.²⁰² The accession negotiations were not suspended after the dialogue stalled. On the contrary, despite the absence of progress in the Kosovo-Serbia dialogue and the lack of implementation of existing agreements, new negotiating chapters were opened and 2025 was proposed as Serbia's accession year.²⁰³

This inconsistent behaviour on the part of the European Union undermines the credibility of its conditionality and encourages moral hazard. If the Serbian leaders get the impression that the EU will deliver the rewards anyway, even if the conditions are not met, they have an incentive to "gamble against fulfilling the conditions" because they can "expect to achieve both goals,

¹⁹⁹ Amadio Viceré, "The Roles of the President of the European Council and the High Representative in Leading EU Foreign Policy on Kosovo", op. cit., p. 563.

²⁰⁰ Development Group, *The Kosovo-Serbia dialogue: Close to the EU, far from the citizens*, Pristina, 2012, p. 12.

²⁰¹ European Commission and the High Representative of the European Union for Foreign Affairs and Security Policy, *Joint Report to the European Parliament and the Council on Serbia's progress in achieving the necessary degree of compliance with the membership criteria and notably the key priority of taking steps towards a visible and sustainable improvement of relations with Kosovo* *, JOIN (2013) 7 final, Brussels, 22 April 2013, p. 12.

²⁰² Visoka and Doyle, op. cit., p. 872.

²⁰³ Barbara Matias, *Linking the Kosovo-Serbia Dialogue to the EU Enlargement Strategy - Which Accession Prospects Are at Stake*, Group for Legal and Political Studies, Pristina, 2018, p. 22.

closer ties to the EU and the policy or issue they were originally asked to change based on conditionality”.²⁰⁴ Stahl even claims that the conditionality principle has been “reversed” or “perverted”. Instead of dictating the conditions that Serbia has to comply with, the EU must provide incentives to Serbia in order to keep the country on the European track.²⁰⁵

Like Serbia, Kosovo has received rewards for mere rhetorical commitments without considering actual implementation. After Kosovo and Serbia signed the Brussels Agreement in 2013, the Commission recommended opening SAA negotiations with Kosovo. The SAA was concluded two years later after the two countries signed further agreements on free movement, energy, telecommunication, and the establishment of an Association/Community of Serb-majority Municipalities in Kosovo.²⁰⁶ The latter was already part of the 2013 agreement but has not yet been implemented. If the Kosovar authorities believe that they will receive the rewards without having to implement the commitments made in the framework of the Kosovo-Serbia dialogue, it will damage the EU’s credibility and weaken its conditionality.

What is more, the EU has not treated both states equally. While the Union has already started accession negotiations with Serbia, Kosovo has only been rewarded with an SAA. What is more, the scope of the SAA with Kosovo is limited compared to the agreements with Serbia and the other Western Balkan countries because it had to be concluded as an ‘EU-only’ agreement to circumvent the need for ratification by the Member States. This means that the SAA does not include Member State competencies such as portfolio investments or the right of entry and residence of Kosovo nationals.²⁰⁷ In comparison to other SAAs, the agreement with Kosovo does also not provide a membership perspective, using the term “European perspective” instead of “European integration”.²⁰⁸ This asymmetry in rewards is again related to the lack of coherence regarding Kosovo’s status. Moreover, Kosovo is strategically less important to the European Union and unlike Serbia it cannot play the Russia or China card.

This asymmetry is the reason why many Kosovars perceive the EU as biased.²⁰⁹ They feel that through the dialogue they are helping Serbia to advance on its accession path without being able to make significant progress themselves.²¹⁰ This feeling is reinforced by the EU’s failure to grant visa liberalisation to Kosovo despite fulfilling all conditions. In comparison to the other

²⁰⁴ Malazogu and Bieber, op. cit., p. 41.

²⁰⁵ Stahl, “Perverved Conditionality”, op. cit., p. 486.

²⁰⁶ Bergmann, *The European Union as International Mediator*, op. cit., p. 137.

²⁰⁷ Van Elsuwege, op. cit., p. 406.

²⁰⁸ Ibid., p. 405.

²⁰⁹ Malazogu and Bieber, op. cit., p. 39.

²¹⁰ Development Group, op. cit., p. 12

Western Balkan countries, Kosovo had to meet 50 stricter additional benchmarks, including strengthening its track record in the fight against organised crime and corruption and a border demarcation agreement with Montenegro. The latter was especially controversial in Kosovo and caused several delays until it was finally ratified on 21 March 2018.²¹¹ On 18 July 2018, the Commission confirmed that Kosovo has fulfilled all required benchmarks.²¹² However, the Council has still not given its green light because some Member States claim that the criteria have not been fulfilled. Thus, despite all efforts, Kosovo remains the only Western Balkan country, whose citizens are not allowed to move freely throughout the Schengen area. This has led to a sentiment among Kosovars “that the EU has applied ‘double standards’ regarding the visa liberalization process” and that “Kosovo is not treated in the same way as the five Western Balkans countries”.²¹³ This inconsistency damages the credibility of the EU’s conditionality and the EU’s image as a neutral mediator.

This chapter has revealed that the EU has not been very consistent in allocating rewards. Due to Serbia’s strategic importance for stability in the Western Balkans and its increasing role in managing migration, the EU has been willing to soften its conditionality approach to keep Serbia on the European track and prevent it from drifting towards Russia or China. As a result, Serbia repeatedly received benefits even though the conditions were not met. This has encouraged moral hazard behaviour on the side of Belgrade and undermined the credibility of EU conditionality. The EU has also not treated both parties equally. Since five EU Member States do not recognise Kosovo’s independence, the EU has not been able to offer Kosovo the same benefits that Serbia received. This has led Kosovars to believe that the EU is biased in favour of Serbia. The failure of the European Council to grant visa liberalisation to Kosovo despite the fulfilment of all relevant criteria has increased this sentiment.

5.3.3 Coherence

The previous chapters have shown the importance of coherence in order to formulate clear conditions, offer sizeable incentives and deliver benefits in a consistent manner. Coherence is perhaps the single most important factor determining the effectiveness of the EU’s conditionality. Therefore, this chapter aims to examine the different facets of coherence identified by Gebhard: vertical, horizontal, institutional and external coherence.

²¹¹ Deniz Mutluer and Dimitris Tsarouhas, “EU Foreign Policy and ‘Perceived Coherence’: The Case of Kosovo”, *Journal of Southeast European and Black Sea*, vol. 18, no. 3, 2018, p. 426.

²¹² European Commission, *Commission confirms Kosovo fulfils all required benchmarks*, op. cit.

²¹³ Mutluer and Tsarouhas, op. cit., p. 426.

5.3.3.1 Vertical coherence

Although the Member States do not directly participate in the Kosovo-Serbia dialogue, their role is crucial because EU mediators cannot offer substantial incentives without their consent. The Member States have the final say about enlargement or visa facilitation, which are important incentives for Serbia and Kosovo to engage in the dialogue. They are also the ones that decide on intermediary steps like the opening of accession negotiations, or the opening of individual negotiation chapters and therefore determine the speed of the process. Since all these decisions require unanimity in the Council, every Member State can block or delay EU accession, which in turn affects the EU's leverage.

Given the central role of Member States, it is important to determine whether there are any contradictions between Member States' policies and those of the Union as a whole. Member States and EU institutions generally agree on the need to stabilise the Western Balkans through a normalisation of relations between Kosovo and Serbia.²¹⁴ There is also a consensus when it comes to "accepting that there is a link between the accession negotiations and the normalisation process".²¹⁵ However, when it comes to the most important conflict issue, namely the question of Kosovo's statehood, the EU's position is highly incoherent.²¹⁶

While 22 EU Member States recognise Kosovo's independence, Cyprus, Greece, Romania, Slovakia and Spain do not. The reasons why these five Member States have not recognised Kosovo are related to internal conflicts or secessionist movements on their own territories.²¹⁷ The Spanish government, for example, is anxious that recognising Kosovo might set a precedent for secessionist movements in Catalonia and the Basque Country. Since the referendum on Catalanian independence in October 2017, the Spanish government is even more reluctant to recognise Kosovo's independence.²¹⁸ Slovakia and Romania are worried that the recognition of Kosovo might fuel separatist tendencies of their Hungarian minorities and Greece and Cyprus are concerned about the precedent the Kosovo case might set for a potential secession of Northern Cyprus.²¹⁹

²¹⁴ Maria Giulia Amadio Viceré, *The High Representative and EU Foreign Policy Integration: A Comparative Study of Kosovo and Ukraine*, European Administrative Governance Series, Cham, Palgrave Macmillan, 2018, p. 148-149.

²¹⁵ Bergmann, *The European Union as International Mediator*, op. cit., p. 139.

²¹⁶ Bergmann and Niemann, "Mediating International Conflicts", op. cit., p. 968.

²¹⁷ Balfour and Stratulat, "Conclusions", op. cit., p. 227.

²¹⁸ Matias, op. cit., p. 19.

²¹⁹ Amadio Viceré, "The Roles of the President of the European Council and the High Representative in Leading EU Foreign Policy on Kosovo", op. cit., p. 561.

These differences between Member States were partly overcome by adopting a status neutral approach, which means that the EU officially neither supports nor opposes Kosovo's independence.²²⁰ This made it possible for the five non-recognisers to support – or at least not to block – the establishment of the EU's rule of law mission (EULEX) and the EU's engagement in the Kosovo-Serbia dialogue. The EU has also found pragmatic solutions for other issues where Kosovo's status would appear to be crucial. Regarding visa-free travel, which is yet to be realised, the problem has been solved by adding Kosovo as “the territory of Kosovo” to a list of countries, entities and territorial authorities and stating that this does not “prejudice the status of Kosovo”.²²¹ To avoid problems with the ratification of the Stabilisation and Association Agreement, the latter was concluded as an EU-only agreement, which does not require the approval of the Member States.²²² Even though the EU has been able to work around the status question on some issues, this approach of “diversity on recognition but unity in engagement” has clear limitations.²²³

The uncompromising stance of the five non-recognisers has prevented the Union from offering a clear membership perspective to Kosovo.²²⁴ The country has so far not acquired official candidate status as this would necessitate recognition of Kosovo's independence by all Member States. Since the five non-recognisers are not likely to change their positions anytime soon, Kosovo's EU path is blocked in the short- and medium-term, which undermines the EU's leverage in relation to Kosovo. The status-neutral approach also hampers the High Representative's credibility vis-à-vis the Kosovar authorities because it creates the impression that the EU is biased towards Serbia.²²⁵ On the other hand, it might have enhanced the EU's credibility in the eyes of the Serbian leaders, as they consider the EU as neutral regarding the status question.²²⁶

The lack of a common position also prevented the EU from formulating clear conditions in the dialogue process, forcing it to use ‘constructive ambiguity’ instead.²²⁷ The Union has also not

²²⁰ Elena Baracani, “Evaluating EU Actorness as a State-Building in ‘Contested’ Kosovo”, *Geopolitics*, vol. 25, no. 2, 2020, p. 373.

²²¹ James Ker-Lindsay and Spyros Economides, “Standards before Status before Accession: Kosovo's EU Perspective”, *Journal of Balkan and Near Eastern Studies*, vol. 14, no. 1, 2012, p. 84.

²²² Van Elsuwege, op. cit., pp. 394-395.

²²³ European Commission, *Kosovo - Fulfilling its European Perspective*, COM (2009) 5343, Brussels, 14 October 2009, p. 13.

²²⁴ SEESOX, “Serbia/Kosovo: The Brussels Agreements and Beyond”, *South East European Studies*, Oxford, 2014, p. 3.

²²⁵ Bergmann and Niemann, “Mediating International Conflicts”, op. cit., p. 969.

²²⁶ Bergmann, “Same Table, Different Menus?”, op. cit., p. 252.

²²⁷ Beysoylu, op. cit., p. 210.

been able to set a clear end goal for the dialogue. Member States could not agree whether normalisation should entail recognition or not. While certain Member States, like Germany, understand normalisation as “the process of normalising relations between two states”, non-recognisers only speak about the normalisation of practical issues without referring to the statehood question.²²⁸

Besides the obvious lack of coherence on Kosovo’s status and possible EU membership, the EU’s position on Serbia’s accession is also not as coherent as one might think. Bergmann and Niemann note that “[w]hile some EU Member States such as Cyprus, Greece and Austria are considerably supportive of Serbia’s EU membership, Germany, UK and the Netherlands in particular have been more reluctant, and also more demanding concerning Serbia’s willingness to compromise”.²²⁹ Despite the conclusion of the IBM agreement and the Commission’s recommendation to grant Serbia candidate status, Germany and a few other Member States blocked the respective decision in December 2011 because they were not satisfied with Serbia’s progress regarding the normalisation of relations with Kosovo.²³⁰ In addition, there is the already mentioned enlargement fatigue in some member states and their increasing interference in the enlargement process that cast doubts about the EU’s capability to deliver the promised rewards.

Member States and EU institutions are also divided over the question of visa liberalisation for Kosovo. After six years of negotiations, the European Commission confirmed on 18 July 2018 that Kosovo has fulfilled all conditions for visa liberalisation.²³¹ A few weeks later, the European Parliament approved the Commission’s proposal to add Kosovo to the Schengen white list with a large majority of 420 to 186 votes.²³² However, some Member States, especially France and the Netherlands, dispute that Kosovo has indeed met the criteria for visa liberalisation. The French Foreign Ministry stated that:

“France, together with some other member states, believes that in this phase not all of the conditions are fulfilled. In the rule of law area, some recent progress has been made, but not enough to stop the corruption. The continuation of reforms is thus necessary to get tangible

²²⁸ Katarina Čuković, “Europe’s Diplomacy on Public Display: The EU and the Belgrade-Pristina Dialogue”, *Contemporary Southeastern Europe*, vol. 6, no. 1, 2019, p. 3.

²²⁹ Bergmann and Niemann, “Mediating International Conflicts“, op. cit., p. 969.

²³⁰ Amadio Viceré, “The roles of the President of the European Council and the High Representative in leading EU foreign policy on Kosovo”, op. cit., p. 563.

²³¹ European Commission, *Commission confirms Kosovo fulfils all required benchmarks*, op. cit.

²³² Ivković, “What is holding Kosovo’s visa liberalisation back?”, op. cit.

effects on the rule of law and fight against organised crime. Newly passed laws must be implemented fast and sustainable”.²³³

The fear that visa liberalisation will be misused and lead to massive emigration from Kosovo also plays a role.²³⁴ In 2014 and 2015, a relatively high number of Kosovars tried to seek asylum in Germany, France and the Netherlands. Although the number of asylum applications from Kosovo citizens dropped by 90% between 2015 and 2017, some Member States’ governments still fear that right-wing populist parties could exploit the issue.²³⁵

Furthermore, the policies of the EU and individual Member States are also incoherent when it comes to the issue of territorial changes. The idea of exchanging territories according to ethnic criteria has been floating around since Kosovo President Thaçi and Serbian President Vučić first discussed it at the European Forum Alpbach in August 2018. Some Member States such as Germany or Luxembourg have expressed strong reservations against such a partition. The German Foreign Minister stated that an exchange of territories “would tear open too many old wounds among the population”.²³⁶ Other Member States like France seem to be more open towards the idea.²³⁷ The question of border changes also revealed differences between the supranational and the Member State level of the EU. Contrary to the position of Germany and others, the EU’s High Representative Federica Mogherini has declared that the EU would recognise a deal between Serbia and Kosovo as long as it is in line with international and EU law.²³⁸ In May 2019, Mogherini’s successor, Josep Borrell, also did not exclude the possibility of an exchange of territories, stating that:

“This is an issue that needs to be resolved in the dialogue between Serbia and Kosovo. I see no need for us to be more catholic than the Pope. It is not up to us to tell Serbs and Kosovars what they should agree on or not. Our role will be to facilitate the dialogue.”²³⁹

When assessing vertical coherence, the role of national parliaments is also important to consider. Among other things, national parliaments have to ratify accession agreements. Although this has not been a particular problem in the past, recent agreements with third

²³³ “France will not support visa liberalisation of Kosovo”, *European Western Balkans*, 17 May 2019.

²³⁴ Donika Emini and Zoran Nechev, “Visa liberalisation for Kosovo: The only tangible result for the foreseeable future”, *Euractiv*, 12 October 2018.

²³⁵ Ivković, “What is holding Kosovo’s visa liberalisation back?”, op. cit.

²³⁶ Joco Barigazzi, “Mogherini defends Kosovo border change talks”, *Politico Europe*, 31 August 2018, updated 19 April 2019.

²³⁷ Milica Cubrilo, “Macron reprend contact avec Belgrade”, *le Figaro*, 14 July 2019.

²³⁸ Barigazzi, op. cit.

²³⁹ “EU Chief Diplomat Is Not against Kosovo-Serbia Land Swap Deal”, *Exit News*, 5 May 2020.

countries, e.g. the Comprehensive Economic and Trade Agreement (CETA) with Canada, almost failed because some national and, in the case of Belgium, regional parliaments refused to give their consent. Hence, their positions need to be taken into account as they create additional uncertainties for Serbia and Kosovo. The German Bundestag plays a particularly important role in the enlargement process. Since the entry into force of the Lisbon treaty, the Bundestag has gained considerable power over the government's decisions on EU level.²⁴⁰ In 2013, the Bundestag called on the German government to make the implementation of the Brussels Agreement a condition for its consent to start accession negotiations with Serbia.²⁴¹ In addition, the Bundestag has started to assess progress of accession countries independently from the Commission, which led to diverging opinions of Berlin and Brussels.²⁴²

Finally, the thesis looks at synergies between the policies of individual Member States and the Union as a whole. Individual Member States such as Germany have supported the EU's mediation efforts by putting additional pressure on Serbia. During her visit to Belgrade in August 2011, Chancellor Merkel declared the dismantling of parallel structures in North Kosovo as an additional condition for Germany's approval of Serbia's candidate status.²⁴³ The German government with support from the German Bundestag was able to credibly threaten the use of negative conditionality, which the Union as a whole was not able to do due to the lack of a common position. Serbian officials acknowledged that this negative conditionality and "Germany's evident willingness to follow through on its threats to block accession was a crucial component in changing Serbian policies".²⁴⁴ Although this reinforced the EU's mediation efforts, conditionality by individual Member States can also undermine the Union's credibility because the target government cannot be sure whether it will be sufficient to comply with the EU's conditions or whether Member States will make additional demands.

Other Member States, like Austria or the Netherlands, have also actively supported the EU's efforts to mediate between the conflicting parties. Austria, for example, helped to solve the telecommunication issue by applying for a country code on Kosovo's behalf.²⁴⁵ The existence of synergies between Member States' and EU policies is also confirmed by the former chief negotiator, Robert Cooper, who stated:

²⁴⁰ Balfour and Stratulat, "Introduction", op. cit., p. 4.

²⁴¹ Bergmann, *The European Union as International Mediator*, op. cit., p. 140.

²⁴² Balfour and Stratulat, "Introduction", op. cit., p. 4.

²⁴³ Kurt Bassuener and Bodo Weber, *Not yet a Done Deal: Kosovo and the Prishtina-Belgrade Agreement*, Sarajevo/Berlin, Democratization Policy Council, 2013, p. 1.

²⁴⁴ Economides and Ker-Lindsay, "'Pre-Accession Europeanization', op. cit., p. 1036.

²⁴⁵ Bergmann, *The European Union as International Mediator*, op. cit., p. 141.

“the support from EU Member States was vital throughout the process of the dialogue, such as a visit from Merkel to Belgrade before the start of the dialogue, support by foreign ministers visiting, the daily conversation by ambassadors with the leadership of Belgrade and Pristina, notably also by non-recognizers of Kosovo, all contributed to a continuous, collective effort”.²⁴⁶

In April 2019, German Chancellor Angela Merkel and French President Emmanuel Macron invited the leaders of Serbia and Kosovo to Berlin with the aim to revive the dialogue after a long period of standstill. A second summit, that was initially planned to take place in Paris in July 2019, was postponed and eventually marked the restart of the dialogue process in July 2020. Although these summits certainly contributed to the EU’s overall mediation efforts, they can also be interpreted as an attempt by the two Member States to sideline the High Representative and get themselves more involved in the process.²⁴⁷

In sum, vertical coherence among the Member States and between the latter and the EU institutions can be assessed as medium at best. Although Member States agree that the dialogue is necessary and that it should be linked with the enlargement process, they have no common position regarding Kosovo’s statehood. The fact that five Member States do not recognise Kosovo’s independence undermines the EU’s credibility and leverage vis-à-vis Kosovo, as the EU is unable to offer a clear membership perspective. In Serbia, the widespread enlargement fatigue and the ‘re-nationalisation’ of the enlargement process equally raise doubts about the EU’s ability to follow through with enlargement. Vertical incoherence between the supranational and national level also became apparent in relation to the issue of border changes, where the High Representative publicly contradicted the German Foreign Minister. Despite these contradictions, actions of individual Member States, such as Merkel’s visit to Belgrade, have at times also reinforced and complemented the EU’s mediation efforts.

5.3.3.2 Horizontal coherence

Horizontal coherence has played an important role in the Kosovo-Serbia dialogue. Serbia has little to gain from the dialogue process itself. In fact, the status quo regarding Kosovo is rather convenient for Serbia. Kosovo, on the other hand, wants to change the status quo and achieve mutual recognition in order to consolidate its statehood. Nevertheless, Kosovo was reluctant to

²⁴⁶ Van der Borgh et al., op. cit., p. 72.

²⁴⁷ Ćuković, op. cit., p. 2.

start negotiations with Serbia as it feared an asymmetric outcome in favour of Serbia.²⁴⁸ Therefore, the EU had to offer incentives from other policy areas, notably enlargement policy, to convince Serbia and Kosovo to participate in the dialogue. As discussed in the previous chapters, every major agreement reached in the dialogue process was followed almost immediately by a decision to move on to the next phase of the accession process. For example, six days after Serbia and Kosovo concluded an agreement on Kosovo's regional representation, the EU granted candidate status to Serbia and initiated a feasibility study on an SAA with Kosovo. Three days after the signing of the Brussels agreement, the Commission recommended opening accession negotiations with Serbia and SAA negotiations with Kosovo.²⁴⁹

Hence, it can be concluded that horizontal coherence between the dialogue and the EU's enlargement policy has been high. One could even claim that enlargement policy has been subordinated to the dialogue process.²⁵⁰ In exchange for commitments to normalise their relations, Serbia and Kosovo have advanced on their respective paths towards EU membership regardless of progress in other areas like democracy or rule of law. While the EU awarded candidate status to Serbia and opened accession negotiations, the state of the Serbian democracy has continuously deteriorated over the last decade. The '2020 Nations in Transit' report by the NGO Freedom House even characterised Serbia as a 'hybrid regime', which is in between a democracy and an autocracy. The rating includes categories such as national and local democratic governance, independence of the media and the judiciary as well as corruption.²⁵¹ In 2012, Serbia was still categorised as a 'semi-consolidated democracy' with an average score of 4.36 out of 7. However, each year the rating went down until in 2020 Serbia's rating dropped below 4, which marks the border between semi-consolidated democracies and hybrid regimes. Other indices like the Bertelsmann's Transformation Index or the Democracy Index of the Economist Intelligence Unit confirm this downward trend.²⁵² The tendency looks better in Kosovo, whose rating improved from 2.86 in 2015 to 3.18 in 2020. Yet, the country is still considered as a 'hybrid regime' with significant problems of corruption.²⁵³

By subordinating enlargement policy to the Kosovo-Serbia dialogue, the EU has accepted the increasing non-compliance with democratic principles.²⁵⁴ Jovanova has therefore described the

²⁴⁸ Malazogu and Bieber, op. cit., pp. 35-36.

²⁴⁹ Bergmann, *The European Union as International Mediator*, op. cit., p. 136.

²⁵⁰ Szpala, "Hostages to Dialogue", op. cit., p. 8.

²⁵¹ Miloš Damjanović, "Serbia", *Nations in Transit 2020*, Freedom House, 2020.

²⁵² Aleksandar Ivković, "Reports cited by Serbia in response to Freedom House show an even darker image of democracy in the country", *European Western Balkans*, 26 May 2020.

²⁵³ Group for Legal and Political Studies, "Kosovo", *Nations in Transit 2020*, Freedom House, 2020.

²⁵⁴ Szpala, "Hostages to Dialogue", op. cit., p. 8.

dialogue as “a textbook example for stabilitocratic mediation”, meaning that the EU overlooks the violation of democratic principles because it considers stability through the normalisation of relations between Kosovo and Serbia as more important than democratic reforms.²⁵⁵ The term ‘stabilitocracy’ was originally coined by Pavlović to describe how the West supports undemocratic regimes in the Western Balkans in order to maintain stability.²⁵⁶ Similarly, Radeljić argues that the EU has turned a blind eye to undemocratic practices because of geopolitical interests and has thus “contributed to semi-authoritarian practices in the Western Balkans”.²⁵⁷

A recent example is the EU’s reaction to the Serbian Parliamentary elections in June 2020. The elections were boycotted by most of the opposition parties because they considered them as unfair due to the government’s control of the media.²⁵⁸ Even though these claims were confirmed by the preliminary findings of the OSCE/ODIHR election observation mission, which stated that “voter choice was limited by the governing party’s overwhelming advantage and the promotion of government policies by most major media outlets”, the EU largely refrained from criticism.²⁵⁹ High Representative Borrell and Commissioner for Enlargement Várhelyi only issued a cautious statement saying that they “expect all political actors and relevant institutions to engage in a transparent, decisive and inclusive dialogue on the implementation of these [the OSCE/ODIHR] recommendations to address long-standing electoral shortcomings well ahead of the next elections”.²⁶⁰ In addition, Commissioner Várhelyi tweeted that he was looking forward to working with the new government and that he was committed to helping Serbia “move forward quickly towards EU accession”.²⁶¹ The European Parliament’s Rapporteur on Kosovo, Viola Von Cramon-Taubadel, criticised the one-sided focus on the dialogue as this would “encourage states, which have disputes or conflicts with

²⁵⁵ Eva Jovanova, “Redrawing the Borders between Kosovo and Serbia: Nationalists Fuel or a Rational Solution with the Promise of a European Future?”, *International Journal on Rule of Law, Transitional Justice and Human Rights*, vol. 9, 2018, p. 116.

²⁵⁶ Srđa Pavlović, *Montenegro’s ‘Stabilitocracy’: The West’s Support of Đukanović Is Damaging the Prospects of Democratic Change*, London School of Economics: European Politics and Policy, 23 December 2016.

²⁵⁷ Branislav Radeljić, “Tolerating Semi-authoritarianism? Contextualising the EU’s Relationship with Serbia and Kosovo”, in Jelena Džankić, Soeren Keil and Marko Kmezić (eds.), *The Europeanisation of the Western Balkans – A Failure of EU Conditionality*, Cham, Palgrave Macmillan, 2019, pp. 166, 174.

²⁵⁸ Guy Delauney, “Serbia election: Opposition scorns ‘hoax’ vote in EU candidate state”, *BBC News*, 19 June 2020.

²⁵⁹ OSCE/ODIHR, *Serbian parliamentary elections well run, but ruling party dominance and lack of media diversity limited voters’ choice, international observers say*, OSCE Website, 22 June 2020.

²⁶⁰ European External Action Service, *Serbia: Joint Statement by High Representative/ Vice-President Josep Borrell and Neighbourhood and Enlargement Commissioner Olivér Várhelyi on the elections*, 22 June 2020.

²⁶¹ Olivér Várhelyi, “Important day for #Serbia with parliamentary and local elections. Looking forward to working with new government on #EU-related reforms. Committed to help Serbia move forward quickly towards EU accession and to support economic recovery in the wake of #COVID-19 crisis.”, *Twitter*, 21 June 2020, 11:14 am.

neighbours to do whatever they want, because they are untouchable until they resolve their dispute”.²⁶²

The prioritisation of the dialogue process over democratic reforms might backfire and harm the Union’s long-term strategic interests.²⁶³ In the short and medium term the EU’s approach may be helpful to persuade the parties to make compromises, but in the long term it will have a negative impact on their accession prospects because without democratic and judicial reforms none of them will be able to join the European Union. In other words, by rewarding Serbia and Kosovo with progress in the accession process without making it conditional on democratic and judicial reforms, the EU paradoxically renders their actual accession more difficult. This has implications for the perceived tangibility of EU accession. It also undermines the EU’s credibility in the eyes of the populations of Serbia and Kosovo if the Union does not live up to its own principles and values.

In contrast to the strong link between the dialogue and enlargement policy, there has been little to no horizontal coherence between the dialogue and visa policy. As shown above, visa liberalisation would be an important incentive for Kosovo because the opportunity to freely travel to the Schengen zone is a main concern of the population. However, so far it has not been used as leverage in the dialogue. What is more, some Member States, especially France and the Netherlands, still refuse to give the green light for visa liberalisation even though Kosovo has met all criteria. This not only weakens the EU's leverage, but also its credibility. Many Kosovars believe that if the EU cannot even agree on visa liberalisation, it will also not be able to keep other promises. The lack of horizontal coherence between these policy areas thus undermines the effectiveness of the EU's conditionality.

To sum up, horizontal coherence between the dialogue and other policy areas varies. While it has been high in the case of enlargement policy, it has been low in the case of visa policy. The EU has successfully used the carrot of EU accession to induce Serbia and Kosovo to reach a number of agreements that would not have been possible without this issue-linkage. However, by subordinating the enlargement policy to the dialogue process the EU risks setbacks concerning democratisation that could harm its long-term strategic interests. Finally, the failure

²⁶² Aleksandar Ivković, “Von Cramon: We need to convince the EPP that their behaviour towards Vučić is harming the EU’s credibility”, *European Western Balkans*, 1 September 2020.

²⁶³ Mutluer and Tsarouhas, op. cit., p. 424.

to link the dialogue with visa liberalisation for Kosovo has reduced the EU's leverage and credibility.

5.3.3.3 Institutional coherence

The EU's mediation efforts have been led by the High Representative (HR/VP) and the European External Action Service (EEAS), who have been responsible for hosting, chairing and coordinating the dialogue meetings.²⁶⁴ While HR/VP Catherine Ashton had initially delegated the task of chief negotiator to her Counsellor Robert Cooper, she personally chaired high-level meetings between the leaders of Serbia and Kosovo from autumn 2012.

There has been close coordination between the EEAS and the Commission throughout the whole process. During the technical dialogue phase, the meetings were co-chaired by Pierre Mirel, Director for the Western Balkans in the Commission's Directorate-General (DG) for Enlargement.²⁶⁵ Representatives of the Commission and the EEAS met on a weekly basis to coordinate and prepare the dialogue meetings. The distribution of tasks depended very much on the topics under discussion. Whereas the Commission took the lead on issues that concerned enlargement and the adoption of the EU's *acquis communautaire*, the EEAS dealt more with the political issues.²⁶⁶ The involvement of the Commission was very important because the Commission is the institution that leads the accession negotiations and assesses the progress of a candidate country. The Commission supported the EEAS' mediation efforts by giving the green light for opening accession negotiations with Serbia and an SAA with Kosovo at key moments of the dialogue. This interplay between the EEAS and the Commission increased the HR/VP's leverage in the mediation.

Based on interviews with EU officials, Oproiu claims that coordination problems are more likely to arise within the EEAS or the Commission than between them:

“Inside the EEAS it is the Civilian Planning and Conduct Capability who runs the daily business of EULEX, the Crisis Management Planning Directorate who is in charge of the strategic review of EULEX and the geographical desk dealing with the diplomatic and

²⁶⁴ Bergmann, *The European Union as International Mediator*, op. cit., p. 141.

²⁶⁵ Monica Oproiu, “Current Challenges for EU Coherence in Promoting the Rule of Law in Kosovo”, *Europolity - Continuity and Change in European Governance*, vol. 9, no. 2, 2015, p. 164.

²⁶⁶ Bergmann, *The European Union as International Mediator*, op. cit., p. 141.

political aspects of the EU's involvement in Kosovo (especially the dialogue) that clash occasionally".²⁶⁷

Recently, there have also been contradictions between the statements of HR/VP Borrell and the newly appointed EU Special Representative Miroslav Lajčák on the issue of border changes. While Borrell did not rule out an exchange of territory between Kosovo and Serbia, Lajčák told the Austrian press agency that a land exchange "is and should not be on the EU's agenda". He further declared that "[w]e need an agreement that calms the situation" and that a land swap "would be the exact opposite".²⁶⁸

Within the Commission, there are two Directorate-Generals that play a particularly important role regarding the dialogue, notably the DG for Neighbourhood and Enlargement Negotiations (DG NEAR) and the DG for Migration and Home Affairs (DG HOME). While DG NEAR is responsible for the accession negotiations, DG HOME takes care of the visa liberalisation dialogue. The two DGs have to coordinate closely, for example, when it comes to the annual progress reports. Although their overall objective is the same, their priorities sometimes differ. The mission of DG NEAR with regards to the Western Balkan countries is to develop and implement the EU's stabilisation and association policy. To achieve this task, DG NEAR is interested in a speedy visa liberalisation process that would increase their leverage and serve as an incentive for additional reforms in other sectors. DG HOME, on the other hand, tends to be more restrictive as it has to take greater account of the interests of the Member States.²⁶⁹ Migration is a very sensitive topic, which is why Member States are trying to keep a firm grip on the speed of the visa liberalisation process. DG HOME officials must regularly inform the representatives of the Member States about the visa liberalisation progress to reassure them that it will not happen too soon and thereby trigger a new wave of immigration.²⁷⁰

Although Council representatives were not directly involved in the negotiations, the European Council is clearly the most important institution. As the Union's highest political authority, it has the ultimate say on all enlargement-related decisions and therefore determines the speed of the process. According to Viceré:

"the European Council has a clear control over the HR, the FAC and the same Commission since it is the only institution able to reduce the risk of shirking. Such control delimits the

²⁶⁷ Oproiu, op. cit., p. 164.

²⁶⁸ „EU Envoy Lajcak: Kosovo-Serbia Land Swap Not on EU's Agenda“, *Exit News*, 11 May 2020.

²⁶⁹ Oproiu, op. cit., p. 158.

²⁷⁰ Ibid., p. 159.

room of manoeuvre of the HR and basically turns the FAC and the Commission into implementing branches of the European Council and its President's decisions".²⁷¹

The linkage between the dialogue and the EU's enlargement policy was only possible because the HR/VP had the consent of the European Council. Although the Member States are divided over the status issue, they generally agree on the importance of the EU's engagement and on the connection between the dialogue and enlargement policy. Due to this "ideational convergence", as Viceré puts it, the HR/VP has been able to offer some considerable carrots to Serbia and Kosovo.²⁷² At times, however, the Council withheld benefits for political reasons and thus undermined the HR/VPs credibility. The fact that decisions related to enlargement require unanimity in the Council is particularly problematic in this respect and creates uncertainty in times of growing enlargement fatigue.

Besides the EEAS, the Commission and the Council, there is another institution that needs to be considered, namely the European Parliament. At first sight, the Parliament plays only a limited role in the Kosovo-Serbia dialogue. However, its importance should not be underestimated because according to Article 49 of the Treaty on European Union (TEU) the Parliament must give its consent to Serbia's and Kosovo's eventual EU accession. This gives the Parliament indirect influence over the mediation outcome because the parties risk a veto if they do not consider the opinion of MEPs. In its latest resolutions on Serbia²⁷³ and Kosovo²⁷⁴, the European Parliament stressed the importance of continued efforts to normalise relations and defined full normalisation of relations as "a key element of both parties' paths towards European integration". In addition, the Parliament spoke out against a possible exchange of territories. The European Parliament has been a staunch supporter of Kosovo's independence and has repeatedly called on the five remaining member states to recognise Kosovo.²⁷⁵ The Parliament's former Rapporteur for Kosovo, Ulrike Lunacek, even stated that they should be forced to recognise Kosovo.²⁷⁶ Lunacek was also blunt when she told a Serbian newspaper that Serbia could not become an EU member unless it recognised Kosovo's independence.²⁷⁷ Such

²⁷¹ Amadio Viceré, "The roles of the President of the European Council and the High Representative in leading EU foreign policy on Kosovo", op. cit., p. 567.

²⁷² Ibid.

²⁷³ European Parliament, *Resolution on the 2018 Commission Report on Serbia*, 2018/2146 (INI), Brussels, 29 November 2018.

²⁷⁴ European Parliament, *Resolution on the 2018 Commission Report on Kosovo*, 2018/2149(INI), Brussels, 29 November 2018.

²⁷⁵ Ibid.

²⁷⁶ Branislav Radeljić, "Official Discrepancies: Kosovo Independence and Western European Rhetoric", *European Politics and Society*, vol. 15, no. 4, 2014, p. 439.

²⁷⁷ Bojana Barlovac, "MEP on Serbia's EU Aspirations, Kosovo Relations", *Balkan Insight*, 28 May 2010.

explicit statements stand in contradiction to the EU's official policy, which is status neutral, and might create confusion among leaders of Kosovo and Serbia. In their resolution, MEPs have also urged Member States to grant visa liberalisation to Kosovo without further delay.²⁷⁸ In July 2020, a group of 42 MEPs sent letters to French President Macron and Dutch Prime Minister Rutte calling on them to support visa liberalisation.²⁷⁹ This shows some friction between the Council and the European Parliament. Due to the Parliament's limited competencies these differences will only matter when Serbia is ready for accession. However, the Parliament's position creates additional uncertainties that the parties have to consider.

In addition to the Brussels-based institutions, there are also some EU actors on the ground that are closely involved in the dialogue. Representatives of the European Union Rule of Law Mission in Kosovo (EULEX) have participated in the dialogue meetings and chaired the working groups on civil registry and IBM.²⁸⁰ EULEX has also provided technical support for the implementation of the agreements reached in the dialogue. For example, the mission has certified a total of 12,391 civil registry books, helped to establish six interim crossing-points and facilitated the integration of former Serbian police officers and judiciary authorities into Kosovo institutions.²⁸¹ In addition, EULEX has supported Kosovo in implementing the Stabilisation and Association Agreement by tackling corruption and improving the rule of law.²⁸² According to the EEAS, EULEX

"forms part of a broader effort undertaken by the EU to promote peace and stability in the Western Balkans and to support the Kosovo authorities as they undertake necessary reforms, in line with their and the regions overall European perspective. EULEX skills and expertise are also being used to support the key objectives in the visa liberalisation process, the Stabilization and Association Process Dialogue and the Belgrade-Pristina dialogue".²⁸³

Other actors on the ground are the European Union offices in Kosovo and Serbia and the EU Special Representative for Kosovo (EUSR). The Union offices play an important role in coordinating the positions of the Member States and in implementing the EU's financial assistance programmes. The EUSR has the task to ensure coordination among the various EU bodies that are engaged in Kosovo and is thus a vital focal point for the EU's policy vis-à-vis

²⁷⁸ European Parliament, *Resolution on the 2018 Commission Report on Kosovo*, op. cit.

²⁷⁹ "42 MEPs Ask Macron & Rutte to Support Visa Liberalization for Kosovo", *Schengen visa info*, 9 July 2020.

²⁸⁰ Bergmann, *The European Union as International Mediator*, op. cit., p. 142.

²⁸¹ EULEX, *Support to the EU-Facilitated Dialogue between Pristina and Belgrade*, EULEX Website, 2015.

²⁸² Oproiu, op. cit., p. 167.

²⁸³ European External Action Service, *EULEX Kosovo: EU Rule of Law Mission in Kosovo*, February 2014.

Kosovo. By building working relationships on the ground, including with Kosovo Serbs in the North, the EUSR has been able to facilitate the implementation of agreements reached in the Kosovo-Serbia dialogue.²⁸⁴ Although the various actors on the ground have definitely reinforced the EU's mediation efforts, the presence of so many different actors can also create confusion. According to Mutluer and Tsarouhas, local authorities often find it difficult to understand which EU official represents which institution.²⁸⁵ On the basis of an interview with an employee of the EU office in Pristina, they also claim that there are coordination problems and inter-institutional competition, as the division of labour between the EU office and the EUSR is not clear in practice.²⁸⁶

In conclusion, institutional coherence can be assessed as medium to high. The High Representative and the EEAS conducted the mediation in close coordination with the European Commission, whose representatives were directly involved in the negotiations. Coordination problems have arisen more within the EEAS or the Commission than between them, for example, between DG NEAR, which is responsible for the accession negotiations, and DG HOME, which leads the visa liberalisation dialogue. Moreover, the HR/VP had the general backing of the European Council, which gave her the opportunity to link progress in the dialogue with the enlargement process. However, the fact that a single Member State can block the accession process in the Council, creates a lot of uncertainty and undermines the HR/VP's credibility in the negotiation process. The European Parliament has been a staunch supporter of Kosovo's independence and visa liberalisation for Kosovo citizens and has therefore come into conflict with the Council on several occasions. Although the Parliament plays a limited role in the Kosovo-Serbia dialogue, it has an indirect influence over its outcome because it must give its consent to Serbia's and Kosovo's eventual EU accession. Finally, the actors on the ground, EULEX, the EU offices in Belgrade and Pristina and the EUSR have supported the EU's mediation efforts in a coherent manner. For example, EULEX helped to set up temporary border crossings and integrate former Serbian police officers and judicial authorities into Kosovar institutions. However, the presence of many different actors sometimes leads to confusion among Kosovar and Serbian interlocutors.

²⁸⁴ Oproiu, *op. cit.*, p. 169.

²⁸⁵ Mutluer and Tsarouhas, *op. cit.*, p. 428.

²⁸⁶ *Ibid.*, p. 424.

5.3.3.4 External coherence

After looking at the EU's internal coherence, the thesis will now examine the coherence between the EU and relevant third countries, notably the United States, Russia and China. These countries were chosen because they are arguably the most influential states in the region besides the European Union. They are also permanent members of the UN Security Council and can thus veto Kosovo's UN membership. One could also add Turkey, the United Arab Emirates or the United Kingdom. However, for the purpose of this thesis it is sufficient to analyse the EU's coherence with the three most important third countries.

United States

The United States have supported the EU's mediation efforts from the very beginning. Following the adoption of UN Resolution 64/298 that called for EU mediation between Kosovo and Serbia, the US representative stated:

“Now was the time for that region to move forward, and specifically for Serbia and Kosovo to move forward towards new relations and a future within the European Union. The United States welcomed the European Union's offer to assist the sides in a dialogue aimed at securing such a future and remained ready to help the constructive dialogue move forward.”²⁸⁷

In October 2010, US Secretary of State Hillary Clinton travelled to Kosovo and Serbia to push for a quick start of the EU-facilitated dialogue.²⁸⁸ In October 2012, Clinton and High Representative Ashton visited Belgrade together in order to urge the new Serbian government to continue talks with Kosovo and to express their support for Serbia's European path.²⁸⁹ The two foreign policy chiefs also visited Pristina, where they underlined the benefits of EU membership and spoke out against border changes. Clinton stated that “[w]e will oppose any discussion of territorial changes or reopening Kosovo's independent status. These matters are not up for discussion”.²⁹⁰ US support for the EU's mediation efforts was also expressed by US Deputy Assistant Secretary for European and Eurasian Affairs, Philip Reeker, who said that

²⁸⁷ United Nations General Assembly, *Adopting Consensus Resolution, General Assembly Acknowledges World Court Opinion on Kosovo, Welcomes European Union Readiness to Facilitate Process of Dialogue*, New York, United Nations, 9 September 2010.

²⁸⁸ “Clinton Sets Balkans Trip to Advance Serbia-Kosovo Dialogue”, *Voice of America*, 28 September 2010.

²⁸⁹ Bojana Barlovac, “Clinton, Ashton Urge Serbia to Continue Kosovo Talks”, *Balkan Insight*, 30 October 2012.

²⁹⁰ “Clinton and Ashton urge Kosovo to continue talks with Serbia”, *Deutsche Welle*, 31 October 2012.

“[t]he European Union has clearly stated what should be achieved through dialogue, in order to reach normal relations between Kosovo and Serbia. This includes a long term solution for Northern Kosovo and the dismantling of parallel structures”. He even referred to the European Council conclusions stating that “[a]ll this was emphasized in my preferred document, the European Council conclusions. It is very clear what needs to be fulfilled, and the dialogue process from both countries is a good way to realize this”.²⁹¹

From these statements, it can be concluded that the EU and the US displayed a high-level of coherence in the early days of the dialogue. They not only coordinated their diplomatic activities, but their messages and goals were aligned as well. This does not only concern the US support for European integration of Serbia and Kosovo but also the question of territorial changes. This united Western front greatly benefited the EU’s mediation efforts. After Hillary Clinton stepped down as Secretary of State, the US reduced its engagement in the region. They remained involved in the dialogue, “but played a role behind the scenes”.²⁹²

The Trump administration was initially not very interested in the region. This changed, however, in the second half of the President’s term. In August 2018, the US National Security Adviser John Bolton stated that the US would not oppose a territorial exchange between Kosovo and Serbia if the two sides found a mutually acceptable agreement.²⁹³ This was a break with the previous US position and also with the majority position in the European Union. In autumn 2019, the Trump administration appointed two new diplomats, Special Representative for the Western Balkans Matthew Palmer and Special Envoy for the Kosovo-Serbia dialogue Richard Grenell. Grenell, who also served as US ambassador to Germany and acting Director of National Intelligence, has been particularly active. In January 2020, he brokered an agreement concerning the re-establishment of direct flights between Belgrade and Pristina.²⁹⁴ In February, Grenell managed to secure two further agreements between Serbia and Kosovo that were supposed to reopen road and rail links between the two countries.²⁹⁵ Shortly after the agreements had been signed, Grenell invited the Presidents of Serbia and Kosovo to the White House in order to discuss “the possibility of reaching a final agreement”.²⁹⁶

²⁹¹ “Recker supporting Kosovo-Serbia dialogue”, *Top Channel*, 17 January 2013.

²⁹² Phillips, op. cit., p. 16.

²⁹³ “Bolton Says U.S. Won’t Oppose Kosovo-Serbia Land Swap Deal”, *Radio Free Europe*, 24 August 2018.

²⁹⁴ Taulant Osmani, “Details of Kosovo-Serbia flight deal revealed”, *Prishtina Insight*, 22 January 2020.

²⁹⁵ “Further transport agreements reached between Kosovo and Serbia”, *Prishtina Insight*, 14 February 2020.

²⁹⁶ “‘Constructive’ meeting between Thaci and Vucic at the White House”, *Prishtina Insight*, 3 March 2020.

According to David McAllister, Chair of the European Parliament's Foreign Affairs Committee, these initiatives were not coordinated with the EU.²⁹⁷ When the EU appointed its own Special Representative for the Belgrade-Pristina dialogue, Miroslav Lajčák, Grenell did not even publicly congratulate him.²⁹⁸ He reportedly also declined to take Lajčák's phone calls.²⁹⁹ While Lajčák was on his way to Pristina to prepare the resumption of the EU-facilitated dialogue, Grenell announced a second White House meeting between Thaçi and Vučić.³⁰⁰ This move was also not coordinated with the EU and therefore perceived as an unfriendly act.³⁰¹ The apparent lack of coordination undermines the EU's effectiveness because it gives the impression that the US and the EU work in parallel rather than hand in hand. The existence of two parallel negotiation processes also creates confusion among the parties. The problem was perfectly summed up by Serbian President Vučić, when he stated that "our Western partners should act jointly in all this. We cannot have two negotiating processes, one with [Kosovo President] Thaçi in Washington and another one with [Kosovo Prime Minister] Kurti in Brussels, right? You don't know who to speak to".³⁰²

During the Trump presidency, the US acted more and more as an alternative mediator, who sometimes pursued different goals. Whereas the Trump administration was mainly interested in achieving quick results to demonstrate a foreign policy success ahead of the presidential elections in November, the EU has sought to broker a more sustainable deal that would resolve all outstanding issues.³⁰³ The EU and the US also disagreed on the desirability of a territorial exchange. While the Trump administration has shown openness towards the idea, some EU Member States, including Germany, are fiercely against border changes because they fear that this would destabilise the entire region.³⁰⁴

In June 2020, Grenell explained that the dialogue will have two phases. The first phase, facilitated by the US, should focus on economic issues and the second phase, facilitated by the EU, should concentrate on political aspects of the relationship. According to his plans, the

²⁹⁷ Pandeli Pani, "Am Ende müssen sich Kosovo und Serbien verständigen", *Deutsche Welle*, 16 July 2020.

²⁹⁸ Leon Hartwell, "What 'Twiplomacy' reveals about the Serbia-Kosovo dialogue", *New Eastern Europe*, 9 July 2020.

²⁹⁹ Ekrem Krasniqi and Andrew Rettman, "'Lame' Kosovo president boycotts EU talks", *EU Observer*, 11 June 2020.

³⁰⁰ Hartwell, op. cit.

³⁰¹ Sylejman Killokoqi, "EU, US display differences over Serbia-Kosovo negotiation", *Associated Press*, 16 June 2020.

³⁰² Amy Mackinnon and Robbie Gramer, "Vucic: Most Serbs Prefer a 'Frozen Conflict' with Kosovo", *Foreign Policy*, 4 March 2020.

³⁰³ Visar Xhambazi, "Lajcak's clock is already ticking", *Prishtina Insight*, 7 April 2020.

³⁰⁴ Lindita Arapi, "Deimel: 'Die EU und die USA haben unterschiedliche Vorstellungen zu Kosovo'", *Deutsche Welle*, 27 March 2020.

Europeans should lead the negotiations only after economic normalisation has been achieved. He claimed that “the French and the Germans understand fully that when we pass the economic part, which will take some time, when the workplaces start to come back, when the economy is improved, then you can start to discuss political issues”.³⁰⁵ It is unclear whether this approach has been coordinated with the EU. On 25 June, Grenell tweeted: “I spoke directly with German & French National Security Advisors to coordinate our limited (& solely economic) approach”.³⁰⁶ As in the quote directly above, Grenell did not mention the European Union and only referred to France and Germany. This either shows a lack of understanding of the functioning of the European Union or an ideological aversion to cooperation with multilateral or supranational organisations such as the EU. The Lead Spokesperson of the HR/VP, Peter Stano, tried to underline the EU’s primary role in the dialogue stating that “[w]hatever might be agreed on the sides we’ll feed into the EU-facilitated dialogue because this is the main platform for both Serbia and Kosovo to get closer to their final agreement”.³⁰⁷

On 4 September 2020, the leaders of Serbia and Kosovo were invited to the White House to sign an agreement on the normalisation of economic relations. Amongst others, the parties agreed to implement the Belgrade-Pristina rail agreement, which stands in direct contrast to an existing EU-funded railway project that foresees an alternative route. The commitment to use US screening and information systems is also problematic as these systems do not comply with EU requirements.³⁰⁸ The fact that Serbia and Kosovo promised to open embassies in Jerusalem also raised eyebrows in Brussels as this goes against the EU’s common position that Jerusalem should be the capital of both Israel and a future Palestinian state under a two-state solution. Peter Stano stated that “any diplomatic steps that could call into question the EU’s common position on Jerusalem are a matter of serious concern and regret”.³⁰⁹

The EU and the US have both used conditionality in order to get Serbia and Kosovo to conclude an agreement. However, they have pursued very different strategies. While the EU has mainly followed a strategy of “reinforcement by reward”³¹⁰ and hardly applied negative conditionality,

³⁰⁵ Xhorxhina Bami, “Grenell: US to lead Kosovo-Serbia Talks on Economy, EU on Politics”, *Balkan Insight*, 19 June 2020.

³⁰⁶ Richard Grenell, “Also: -I spoke directly with German & French National Security Advisors to coordinate our limited (& solely economic) approach. -land swamps have never been discussed in front of me. -we don’t get involved in the politics of Kosovo/Serbia. We coordinate w/whoever is in charge”, *Twitter*, 25 June 2020, 09:58 p.m.

³⁰⁷ Klllokoqi, op. cit.,

³⁰⁸ Majda Ruge, “Trump’s Kosovo show: No big deal”, *Politico Europe*, 8 September 2020.

³⁰⁹ “EU warns Serbia over Jerusalem embassy move”, *Euractiv*, 8 September 2020.

³¹⁰ Schimmelfennig and Sedelmeier, “Governance by Conditionality”, op. cit., p. 663.

the Trump administration has relied more on the stick than on the carrot. The US put a lot of pressure on Kosovo to remove the tariffs on products from Serbia and Bosnia and Herzegovina, which were considered a major obstacle for the continuation of the dialogue. When Kosovo Prime Minister Albin Kurti lifted part of the tariffs in February, Grenell tweeted: “We do not support Prime Minister Kurti’s half measure. Our position is quite clear: the tariffs must be completely dropped. Mr Kurti is making a serious mistake”.³¹¹ In March, the US increased the pressure by withholding \$ 50 million in financial support to Kosovo.³¹² In addition, Republican Senators David Perdue and Rand Paul suggested on Twitter that the US should consider withdrawing its troops from Kosovo if the government does not revoke the tariffs. Perdue’s tweet was retweeted by Grenell and the President’s son Donald Trump Jr. and sparked fear among Kosovo citizens.³¹³ The extensive US pressure exacerbated tensions between President Thaçi, who was an advocate of the land-swap idea, and Prime Minister Kurti, who opposed it. It also created conflicts between Kurti and his coalition partner LDK, who accused him of being anti-American.³¹⁴ These tensions eventually led to the ousting of Prime Minister Kurti by a vote of no-confidence.³¹⁵ Some analysts believe that Kurti’s removal from office was orchestrated by Grenell because Kurti would not have supported a quick deal involving a land swap.³¹⁶ The new government of Prime Minister Avdullah Hoti lifted the tariffs almost immediately after coming into office.³¹⁷

The complete abolition of tariffs on products from Serbia and Bosnia and Herzegovina was also demanded by the EU in a letter from High Representative Borrell.³¹⁸ To that extent, the United States’ parallel conditionality has contributed to achieving the EU’s goal. However, France and Germany were critical about the no-confidence motion and delivered a joint demarche urging the LDK to reconsider their decision.³¹⁹ The European Parliament’s standing rapporteur for

³¹¹ Richard Grenell, “We do not support Prime Minister Kurti’s half measure. Our position is quite clear: the tariffs must be completely dropped. Mr Kurti is making a serious mistake - and that was made clear to President Thaci at the White House today.”, *Twitter*, 27 February 2020, 11:27 am.

³¹² Patrick Kingsley and Kenneth P. Vogel, “Pushing for Serbia-Kosovo Peace Deal, U.S. Roils Allies”, *New York Times*, 20 June 2020.

³¹³ Andrew Rettman and Ekrem Krasniqi, “EU or US: Who’s in charge of Kosovo-Serbia talks?”, *EU Observer*, 12 March 2020.

³¹⁴ Visar Xhambazi, “Richard Grenell: Dictating the pulse of the Kosovo-Serbia dialogue”, *New Eastern Europe*, 15 April 2020.

³¹⁵ Kingsley and Vogel, op. cit.

³¹⁶ Adelheid Wölfl, “US-Gesandter Grenell bringt den Kosovo in Aufruhr“, *der Standard*, 20 March 2020.

³¹⁷ Arton Konushevci, “New Kosovar PM Needs ‘Full Support’ Of EU, U.S. Before Reaching Deal With Serbia”, *Radio Free Europe*, 11 June 2020.

³¹⁸ Office of the Prime Minister of Kosovo, *Kurti received a letter from the Vice-President of the European Commission, Josep Borrell Fontelles*, Website of the Prime Minister’s Office, 12 March 2020.

³¹⁹ France au Kosovo, “Ambassadors of FR and DE joint demarche to Deputy PM Hoti stepping in for Chairman M. Mustafa to voice concerns of both capitals. Stay at the side of Kosovo people in crisis. Invite LDK to

Kosovo, Viola von Cramon-Taubadel, openly criticised the US ambassador to Kosovo, Philip Kosnett, who had welcomed the no-confidence vote. “How can you an ambassador be pleased to see a functional government tumbling in the #CoronaPandemic? Unbelievable. Irresponsible” she wrote on Twitter.³²⁰

Whereas the EU-facilitated dialogue has hardly made any progress in recent years, the US has managed to broker a number of agreements between Serbia and Kosovo. The reason for the United States’ comparative success has to do with the nature of the agreements, which deal with less contentious issues, but also with other factors. The United States are considered as Kosovo’s main international backer. According to a survey of the International Republican Institute, 94 % of Kosovars believe that the United States are their country’s most important political partner and 88 % have a highly favourable opinion of the US.³²¹ These positive sentiments stem from the US-led intervention that ended the Kosovo war in 1999 and America’s subsequent support for Kosovo’s independence and international recognition. While five EU Member States still do not recognise Kosovo’s independence, the US has always been supportive of Kosovo’s independence and, unlike the EU, clearly defined mutual recognition as the final objective of the dialogue.³²² Therefore, US mediation is seen as more credible and more in line with Kosovo’s interests. After his visit to Washington D.C., Kosovo President Thaçi welcomed the “leading role” of the US and criticised the EU for being “unjust, deceitful and punitive”.³²³ He made clear that he would not be willing to participate in a dialogue mediated by the EU Special Representative Miroslav Lajčák because his country (Slovakia) has not recognised Kosovo’s independence.³²⁴ Ramush Haradinaj³²⁵, former Prime Minister of Kosovo and leader of the AAK party, and Meliza Haradinaj³²⁶, Minister of Foreign Affairs of Kosovo, also emphasized the importance of US leadership to reach a final agreement with Serbia.

reconsider no-confidence vote and maintain trusted and stable government to face challenges”, *Twitter*, 24 March 2020, 03:55 p.m.

³²⁰ “EU and US in opposite camps as Kosovo government toppled”, *Euractiv*, 26 March 2020.

³²¹ International Republican Institute, *Western Balkans Regional Poll*, March 2020, p. 50.

³²² Muhamet Brajšori, “A road map for the Kosovo-Serbia dialogue”, *Atlantic Council*, 3 October 2019.

³²³ “Thaçi suggests US take “leading role” in Kosovo-Serbia talks”, *Prishtina Insight*, 4 March 2020.

³²⁴ “Thaçi not willing to negotiate in a dialogue facilitated by Lajčák”, *European Western Balkans*, 27 May 2020.

³²⁵ Ramush Haradinaj, “I commend the U.S. leadership in mediating a Joint Declaration between #Israel & #UAE. #Kosovo needs the American leadership to resolve its final agreement with #Serbia, on mutual recognition in existing borders.”, *Twitter*, 13 August 2020, 08:17 p.m.

³²⁶ Meliza Haradinaj, “Welcome the Joint Statement btw #Israel & #UAE on full normalization of rels mediated by #UnitedStates. US leadership is crucial to achieve diplomatic breakthroughs that aim stability & peace around the world. #Kosovo-#Serbia final agreem. should also be brokered by US leadership”, *Twitter*, 13 August 2020, 06:44 p.m.

Paradoxically, Serbia also seemed to believe that it can achieve its goals better under American mediation than under EU mediation. The Serbian Foreign Minister Ivica Dačić stated that “the current American administration is more receptive to Serbia’s vision of Balkan’s future than any previous one and Serbia should seize this opportunity”.³²⁷ As Serbia still hopes to incorporate Northern Kosovo into its territory, the Trump administration’s openness to discussing border changes makes US mediation more attractive to Serbia than EU-led negotiations. Serbia would probably prefer a US-mediated ‘land-swap’ deal even if this meant angering the European Union, because as Filip Milacic put it “in Serbia, the national question trumps European integration”.³²⁸

To sum up, while external coherence between the EU and the US used to be high in the early phases of the dialogue, it is now at a rather low level. Recent American initiatives were not coordinated with the EU and thus created confusion among the parties. The United States under President Trump increasingly acted as an alternative mediator that pursued partly different goals than the EU. This is problematic for the EU’s own mediation efforts because factions within both parties consider US mediation as more promising to achieve their respective goals. Many Kosovars prefer US mediation because they consider US policy to be more credible and in line with Kosovo’s interests. Belgrade also saw advantages in US mediation due to the Trump administration’s openness to discussing border changes, which most EU Member States strongly oppose. It remains to be seen how the new US administration under President Biden will approach the Kosovo-Serbia issue, but it is widely expected that the US will return to closer cooperation with the EU.

Russia

Unlike the United States, Russia is neither involved in the Kosovo-Serbia dialogue nor in alternative mediation activities. Russia has not recognised Kosovo and has denounced Kosovo’s declaration of independence as a violation of Serbian sovereignty and international law.³²⁹ This is important because as a permanent member of the United Nations Security Council, Russia has the power to veto Kosovo’s UN accession. This gives the Kremlin considerable influence over Serbia, which relies on Russia’s veto to prevent Kosovo from

³²⁷ Filip Milacic, “Why Serbia’s President Vucic chose Richard Grenell over Angela Merkel”, *Euractiv*, 30 April 2020.

³²⁸ *Ibid.*

³²⁹ The Ministry of Foreign Affairs of the Russian Federation, *Statement by Russia’s Ministry of Foreign Affairs on Kosovo*, Website of the Russian Foreign Ministry, 17 February 2008.

becoming a UN member before the dispute has been solved. Hence, the Kosovo issue has become the cornerstone of the Serbia-Russia relations.³³⁰ The Serbian leadership believes that Russia's backing enhances its negotiation position vis-à-vis the EU and the US in the dialogue process and helps to secure a more favourable outcome.³³¹ After a meeting with his Russian counterpart in April 2019, Serbia's Foreign Minister Ivica Dačić claimed that "Serbia cannot defend its state interests without the assistance of the Russian Federation". He added that "Serbia would not do anything without consulting Russia" and that "Russia is our biggest friend".³³² In January 2020, Milovan Drecun, the chair of the Serbian Parliament's Committee on Kosovo and Metohija³³³ reiterated this by saying that "[w]e need Russia to strengthen us with the Americans, because when Russia puts its weight behind us, the Americans know that no solution can pass without its consent".³³⁴

To demonstrate Russian support for Serbia's Kosovo policy, politicians of the two countries frequently exchange visits. Since August 2018, the Foreign Ministers Dačić and Lavrov have met five times. In addition, there have been four meetings between Vučić and Putin during the same period.³³⁵ The two countries also conduct joint military exercises like 'Slavic Shield', which according to Vuksanovic should be interpreted as "an attempt by Belgrade to gain maneuvering space with the West by showing it has Russia on its side in the long-running Kosovo dispute".³³⁶

The frequent visits of Russian politicians are not just intended for an international but also for a domestic audience. Russia is very popular in Serbia. According to a poll by the International Republican Institute, 87 % of Serbs have a highly favourable or somewhat favourable opinion of Russia.³³⁷ The Russian President Vladimir Putin is the most popular foreign leader with an approval rate of 80 %.³³⁸ This popularity is based on historical, cultural and religious ties as well as on shared negative sentiments towards Western interventions in Yugoslavia in the

³³⁰ Vuk Vuksanovic, "From Russia with Love: Serbia's Lukewarm Reception of Russian Aid and Its Geopolitical Implications", *LSE IDEAS Strategic Update*, London School of Economics, June 2020, p. 7.

³³¹ Vuk Vuksanovic, *Why Serbia Won't Stop Playing the Russia Card Any Time Soon*, Carnegie Moscow Center, 28 October 2019.

³³² "Serbia Wants Russia To Play Larger Role In Kosovo Talks", *Radio Free Europe*, 18 April 2019.

³³³ Serbia refers to Kosovo as 'Kosovo and Metohija', the name that the territory had as an autonomous province of Serbia.

³³⁴ Vuksanovic, *Why Serbia Won't Stop Playing the Russia Card Any Time Soon*, op. cit.

³³⁵ Maxim Samorukov, *A Spoiler in the Balkans? Russia and the Final Resolution of the Kosovo Conflict*, Carnegie Moscow Center, 26 November 2019.

³³⁶ Vuksanovic, *Why Serbia Won't Stop Playing the Russia Card Any Time Soon*, op. cit.

³³⁷ International Republican Institute, op. cit., p. 53.

³³⁸ "Putin remains most popular foreign politician in Serbia - opinion poll", TASS, 11 January 2018.

1990s. Thus, Serbian leaders use meetings with Russian politicians to win the support of pro-Russian voters.³³⁹

Apart from backing Serbia's Kosovo policy and possessing the right to veto Kosovo's UN accession, Russia has little to offer to Serbia.³⁴⁰ In economic terms, Russia only plays a minor role compared to the European Union. While the EU accounted for 62.6 % of Serbia's total trade in goods in 2019, Russia accounted for only 6.7 %.³⁴¹ The only economic sector where Russia has a dominant position is energy. In 2018, Russia accounted for 50,08 % of crude petroleum and 89.4 % of petroleum gas imports.³⁴² This stands in stark contrast to public perception, which is another indicator for Russia's great popularity in Serbia. According to a poll by the International Republican Institute 27 % of Serbs think that Russia is the biggest foreign donor to Serbia. 73 % consider Russia to be the most important economic partner.³⁴³ The free trade agreement that Serbia signed with the Russian-led Eurasian Economic Union (EAEU) in October 2019 will not be a game changer, as Serbia already had a free trade agreement with Russia and its trade volume with the other EAEU members is marginal. While the economic impacts of the agreement will be limited, "signing a free trade agreement with the EAEU was a way for Serbia to send a message, on a tactical and symbolic level, to the EU and the West that it has other options, while indulging pro-Russian sympathies among parts of the Serbian electorate".³⁴⁴

Russia and the EU have very different interests when it comes to the Kosovo-Serbia dialogue. Unlike the EU, Russia benefits from the current status quo. As long as the two countries do not solve their dispute neither of them will be able to join the EU or NATO.³⁴⁵ Moreover, Russia fears that it would lose its influence over Serbia, if the Kosovo dispute was resolved.³⁴⁶ The Kremlin has thus little interest to solve the conflict.³⁴⁷ At the very least, Moscow wants a seat at the table in order to trade its cooperation on the Kosovo issue against something else, for example the lifting of Western sanctions.³⁴⁸ Therefore, Russian Foreign Minister Sergey Lavrov

³³⁹ Vuksanovic, *Why Serbia Won't Stop Playing the Russia Card Any Time Soon*, op. cit.

³⁴⁰ Maxim Samorukov, *Russia-Serbia Special Relationship Is On Borrowed Time*, Carnegie Moscow Center, 24 June 2020.

³⁴¹ European Commission, *European Union, Trade in goods with Serbia*, op. cit., p. 8.

³⁴² The Observatory of Economic Complexity, *Serbia*, 2018.

³⁴³ International Republican Institute, op. cit., p. 48.

³⁴⁴ Vuk Vuksanovic, *Serbia's deal with the Eurasian Economic Union: A triumph of foreign policy over economics*, London School of Economics: EU Foreign Affairs, 28 November 2019.

³⁴⁵ Russel, op. cit., p. 6.

³⁴⁶ Marta Szpala, "Serbia-Kosovo Negotiations - Playing for Time under Pressure from the West", *OSW Commentary*, no. 281, Centre for Eastern Studies, 2018, p. 6.

³⁴⁷ Samorukov, *A Spoiler in the Balkans?*, op. cit.

³⁴⁸ Vuksanovic, "From Russia with Love", op. cit., p. 7.

made clear that Russia would only support a solution that is approved by the UN Security Council.³⁴⁹

Russia has several means to obstruct an agreement that it does not like. First, there is of course the veto power in the UN Security Council. However, it is questionable whether Russia would really use its veto to block Kosovo's UN accession in case Serbia recognised Kosovo. As Samorukov explains "although Russia is happy to meddle in high-profile negotiations, it quickly loses interest once an agreement has been sealed. [...] If matters come to a head, Russia will most likely back down from directly challenging the West over Serbia and Kosovo".³⁵⁰ In addition to its veto right, Russia also has more subtle means to impede an agreement. Due to his great popularity in Serbia, the words of President Putin carry a lot of political weight. If the Kremlin would denounce a compromise agreement between Kosovo and Serbia, this would cause severe problems for Serbian politicians, because they would appear less committed to the Kosovo issue than Russia. Since they cannot afford to lose the votes of Serbian nationalists, they have to secure Russian backing, which means that "the Kremlin can effectively veto any solution to the conflict that it does not approve of".³⁵¹

To summarise the findings of this chapter, it can be said that external coherence between the EU and Russia is low as the two sides have totally different interests. Russia is not interested in solving the conflict because it would lose its main source of leverage vis-à-vis Serbia, which depends on Russia's veto to hinder Kosovo's UN accession. Russia neither takes part in the EU-facilitated dialogue nor does it carry out its own mediation activities. However, the Kremlin made clear that an eventual agreement would have to be approved by Russia. Moscow has the means to ensure that its position is taken into account. As a permanent member of the Security Council, it can veto Kosovo's UN accession. Due to its huge popularity among the Serbian population, Russia can also fuel nationalist sentiments and opposition to a compromise agreement. These factors must be considered when analysing potential obstacles to the EU's effective use of conditionality as they increase Serbia's adoption costs.

China

Like Russia, the Peoples' Republic of China (PRC) has not been directly involved in the Kosovo-Serbia dialogue. It is nonetheless important to analyse the role of the PRC as it has

³⁴⁹ Aleksandar Vasovic, "Serbia ready to sacrifice EU membership over Kosovo deal", *Reuters*, 18 June 2020.

³⁵⁰ Samorukov, *A Spoiler in the Balkans?*, op. cit.

³⁵¹ Ibid.

become a key ally of Serbia over the last decade. In 2009, Serbia signed a strategic partnership agreement with China. Then President Boris Tadić called China “the fourth pillar of Serbian foreign policy”, alongside the EU, Russia and the US.³⁵² Serbia’s efforts to strengthen its relationship with the PRC have been driven by the perception that the geopolitical balance of power is shifting towards China. After the financial crisis, Western companies had little appetite to invest in Serbia. Thus, the Serbian leadership increasingly looked to the East in search for new sources of investment.³⁵³

The Covid-19 pandemic has brought Serbia and China even closer together. Serbia and the other Western Balkan countries were initially not exempted from the EU’s export authorisation scheme for personal protective equipment. Thus, Vučić criticised European solidarity as “a fairy tale on paper” and turned to President Xi Jinping instead. In a letter to the Chinese leader he wrote: “I believe in my friend and my brother, Xi Jinping, and I believe in Chinese help. The only country that can help us is China”.³⁵⁴ China has quickly stepped into the gap and sent medical experts and equipment to Serbia. To show his appreciation, Vučić publicly kissed the Chinese flag. In addition, a large billboard with the words “Thank you, brother Xi” was erected in Belgrade.³⁵⁵

For Serbia, the PRC is an important partner for several reasons. First, China has not recognised Kosovo’s independence. The Chinese authorities fear that Kosovo’s recognition would set a precedent for Taiwan, which they see as a ‘renegade province’. China has thus no official relationship with Kosovo.³⁵⁶ Like Russia, China has the power to veto Kosovo’s accession to the UN as a permanent member of the UN Security Council. Serbia hopes that China’s support will strengthen its negotiation position vis-à-vis the Western powers on the Kosovo issue.³⁵⁷

Second, China has become increasingly important as an economic partner. In the last decade China has significantly stepped up its economic engagement in Serbia and the region. In 2012, China launched the so-called ‘16+1 framework’, which was meant to boost trade and economic relations between China and sixteen countries in Central, Eastern and South-Eastern Europe.

³⁵² Vuk Vuksanovic, “In Serbia, the Chinese Trojan Horse Tactic Works – For Now”, *China Observers in Central and Eastern Europe*, 23 July 2020.

³⁵³ Philippe Le Corre and Vuk Vuksanovic, “Serbia: China’s Open Door to the Balkans”, *The Diplomat*, 1 January 2019.

³⁵⁴ Vuksanovic, “China Has Its Eyes on Serbia”, op. cit.

³⁵⁵ Shaun Walker, “Coronavirus diplomacy: how Russia, China and EU vie to win over Serbia”, *the Guardian*, 13 April 2020.

³⁵⁶ Austin Doehler, “Why China Plays the Spoiler in the Western Balkans”, *Real Clear World*, 20 May 2020.

³⁵⁷ Vuksanovic, “In Serbia, the Chinese Trojan Horse Tactic Works – For Now”, op. cit.

Among them are 11 EU Member States and all Western Balkan countries with the exception of Kosovo.³⁵⁸ In 2013, China initiated the “Belt and Road Initiative” (BRI), the objective of which was to expand land and maritime transport networks between China and the rest of Asia, Europe and Africa. As part of the BRI, China is also planning to establish a ‘Balkans Silk Road’, which will lead from the Chinese controlled Port of Piraeus in Greece via North Macedonia and Serbia to Hungary.³⁵⁹

Thanks to its strategic location along the Balkan Silk Road, Serbia has received massive Chinese investment. Since 2011, China has invested more than \$ 4 billion and pledged another \$ 5 billion in loans and regional infrastructure projects.³⁶⁰ The biggest Chinese investments are made in the transport sector. Prominent examples are the Mihajlo Pupin Bridge in Belgrade or the planned construction of the Belgrade-Budapest high-speed rail link. However, China is also investing in energy and industrial production.³⁶¹ In 2016, the Chinese He Steel Group bought the Smederevo steel mill for € 46 million. The steel mill is responsible for over 5,000 jobs in Smederevo. In 2018, the Chinese company Shandong Linglong announced plans to invest \$ 1 billion in a new tire factory in Serbia’s city of Zrenjanin.³⁶² Linglong is also sponsoring Serbia’s top football league, which is now called the “Linglong Superliga”.³⁶³

These investments are all highly visible. Therefore, it is not surprising that many Serbs believe that China is Serbia’s biggest donor (20 %) and most important economic partner (71 %).³⁶⁴ In reality, China is still playing a minor role compared to the EU. In 2019, China accounted for 6.1 % of Serbia’s total trade in goods. By comparison, Serbia’s trade with the EU represented 62,6 % of the total. Trade with China is also highly imbalanced. While the PRC was responsible for 9.4 % of Serbia’s imports, it accounted for only 1.6 % of its exports.³⁶⁵ When it comes to foreign direct investments, the EU is also way ahead of China. In the last nine years, EU

³⁵⁸ Magda Stumvoll and Tobias Flessenkemper, “China’s Balkans Silk Road: Does it pave or block the way of Western Balkans to the European Union?”, *CIFE Policy Paper*, no. 66, Centre international de formation européenne, 2018, p. 1.

³⁵⁹ Jens Bastian, *The potential for growth through Chinese infrastructure investments in Central and South-Eastern Europe along the “Balkan Silk Road”*, Report prepared for the European Bank for Reconstruction and Development, Athens/London, July 2017, p. 2.

³⁶⁰ Sebastian Shukla and Oren Liebermann, “China’s clout is growing on the edge of the EU, and the US is worried”, *CNN*, 14 September 2019.

³⁶¹ Stumvoll and Flessenkemper, op. cit., p. 2.

³⁶² Le Corre and Vuksanovic, op. cit.

³⁶³ Valerie Hopkins, “Pandemic and EU neglect tighten Serbia bonds with China”, *Financial Times*, 17 June 2020.

³⁶⁴ International Republican Institute, op. cit., pp. 48, 58.

³⁶⁵ European Commission, *European Union, Trade in goods with Serbia*, op. cit., p. 8.

companies invested over € 13 billion, which represented almost 70 % of the cumulative FDI inflows to Serbia.³⁶⁶

EU funds and grants for infrastructure and economic development are generally larger and cheaper than Chinese loans. However, the latter still provide some advantages for Serbian decision-makers. While EU funds are often conditional on the fulfilment of good governance and rule of law criteria, Chinese loans are provided with no strings attached. In addition, Chinese loans are more flexible. Whereas EU co-funded projects can take several years from the application to the implementation phase, Chinese loans are disbursed much faster since decisions are taken top-down without a lengthy bidding procedure.³⁶⁷ This flexibility allows China to align its investment projects with local electoral cycles.³⁶⁸ Serbian politicians who manage to secure Chinese funding for large infrastructure projects can boost their popularity ahead of an election by presenting themselves as “enablers of Chinese capital inflows”.³⁶⁹ What is more, the non-transparent mode of lending also creates opportunities for political patronage.³⁷⁰ Due to these reasons, Chinese loans may be more appealing to Serbian political elites than European funds and grants.

However, in the long run the Chinese model will not be sustainable. The pitfalls of Chinese loans can be witnessed in Serbia’s neighbour country Montenegro. The Montenegrin government hired the Chinese state-owned China Road and Bridge Corporation to construct a highway from the Montenegrin city of Bar to Belgrade. To finance the estimated costs of € 1.3 billion, Montenegro took a loan from the Export-Import Bank of China that covered 85 % of the costs.³⁷¹ As a result, Montenegro’s debt rose from 63 % of GDP in 2012 to almost 80 % in 2019.³⁷² Many experts doubt that Montenegro will be able to repay this enormous debt as the highway will most probably not be economically feasible.³⁷³ In case of default, China would have the right to access Montenegro’s territory.³⁷⁴

³⁶⁶ European Union Delegation to Serbia, *FDI to Serbia*, Delegation Website, last updated 2020.

³⁶⁷ Stumvoll and Flessenkemper, op. cit., p. 2.

³⁶⁸ Michal Makocki, “China in the Balkans: the battle of principles”, *Clingendael Spectator*, no. 4, vol. 71, 2017.

³⁶⁹ Vuk Vuksanovic, “Light Touch, Tight Grip: China’s Influence and the Corrosion of Serbian Democracy”, *War on the Rocks*, 24 September 2019.

³⁷⁰ Makocki, op. cit.

³⁷¹ Austin Doehler, “Montenegro Moves Onto Next Phase of Highway Project and Further Into China’s Debt Trap”, *The National Interest*, 25 March 2020.

³⁷² Valerie Hopkins and James Kynge, “Montenegro fears China-backed highway will put it on road to ruin”, *Financial Times*, 10 April 2019.

³⁷³ Doehler, “Montenegro Moves Onto Next Phase of Highway Project”, op. cit.

³⁷⁴ Hopkins and Kynge, op. cit.

In the foreseeable future, China will not be able to replace the EU as Serbia's most important economic partner. Due to geographic and economic reasons, Serbia will have no real alternative to European integration in the long run. This was also acknowledged by President Vučić in a recent interview.³⁷⁵ However, in the short and medium term, Serbia will try to extract as many benefits from cooperation with China as possible.³⁷⁶ Cooperation with Beijing is seen in Serbia as an opportunity to catch up economically with the rest of Europe. As a non-EU Member, Serbia does not have to follow EU procurement rules. Yet, Serbian-based companies have almost full access to the EU's single market, which makes them very attractive for Chinese investors.³⁷⁷ Once Serbia joins the block, these advantages will disappear. Belgrade would also have to align its foreign policy with that of the EU, which might affect its special relationship with China. In addition, Serbia would no longer be able to play on the EU's fears of growing Chinese influence to extract economic benefits from the EU. This position between East and West is very comfortable for the Serbian elites because they get the benefits without pursuing difficult reforms. After Vučić had publicly criticised the EU's lack of solidarity and praised China for its support during the Covid-19 crisis, the EU quickly approved a € 93 million support package for Serbia.³⁷⁸ These factors increase Serbia's domestic adoption costs and lower its incentive to compromise in the Kosovo-Serbia dialogue.

Thus, China poses a different challenge to the EU's mediation efforts than Russia. Unlike Russia, the PRC is not trying to prevent a resolution of the Kosovo-Serbia dispute or to create other obstacles for Serbia's accession to Western institutions.³⁷⁹ China needs political stability in order to pursue its economic interests in the region and therefore supports the region's EU integration.³⁸⁰ However, Belgrade's close ties with Beijing are still problematic as they lower Serbia's incentive to compromise on the Kosovo issue. Chinese loans constitute an alternative to EU funding that is more flexible and not conditional on costly reforms. What is more, Belgrade can play the China card to extract benefits from the EU without fulfilling the necessary conditions. These benefits would disappear if Serbia were to join the European Union and therefore need to be taken into account when assessing Serbia's domestic adoption costs.

³⁷⁵ "Serbia committed to joining European Union, says President Aleksandar Vučić", *Euronews*, 23 January 2020.

³⁷⁶ Vuksanovic, "In Serbia, the Chinese Trojan Horse Tactic Works – For Now", op. cit.

³⁷⁷ Talha Ozturk, "Serbia sees China ties as way to catch up with Europe", *Anadolu Agency*, 30 November 2019.

³⁷⁸ Aleks Eror, "The EU Needs a New Balkan Strategy", *Foreign Policy*, 13 July 2020.

³⁷⁹ Jelena Milic, "China Is Not Replacing the West in Serbia", *The Diplomat*, 3 April 2020.

³⁸⁰ Makocki, op. cit.

5.4 Domestic adoption costs

While the factors analysed above, determinacy of conditions, size and speed of rewards and credibility of conditionality, are all in the hands of the EU and its Member States, the size of the adoption costs depends on the domestic situation in the target countries and is thus largely outside of the EU's control. The size of the domestic adoption costs is weighed by the target government against the size of the rewards and ultimately determines whether it complies with EU rules or not.³⁸¹ The size of the adoption costs depends on the preferences of the target governments, which are first and foremost interested in staying in power, and the number and preferences of 'veto players', whose consent is required to change the status quo.

5.4.1 Serbia

In order to determine the domestic adoption costs, the thesis will look at the positions of the most important veto players: political parties, the Serbian Orthodox Church and the Kosovo Serbs. The latter will be covered in a separate chapter due to their special status and relevance for both Serbia and Kosovo.

As Vachudova rightly argues, political parties are "the most important and most proximate source of domestic policy change – and thus of compliance or non-compliance with EU requirements".³⁸² Subotić identifies three major domestic coalitions. The first group are the "Euro resisters" that are "normatively opposed to Europeanization", but "may still pursue cosmetic changes to domestic practices and tactical concessions to obtain European benefits and payoffs". The second group are the "Euro enthusiasts" that support EU-driven policy changes out of conviction. This group mainly consists of Serbian civil society organisations, which, according to Subotić, are "too weak to really matter". The third group comprises, what Subotić calls, "instrumental promoters". Members of this group also portray themselves as pro-European reformist forces. Yet, unlike Euro enthusiasts, they do not embrace the norms of Europeanisation. Instead, they are invoking "international requirements to justify institutional and policy change" and "to delegitimize preferences of their domestic political opponents".³⁸³

Until 2008, the political scene was dominated by parties belonging to the group of Euro resisters, the national-conservative Democratic Party of Serbia (DSS) of Prime Minister Vojislav Koštunica and the extreme right-wing nationalist Serbian Radical Party (SRS). After

³⁸¹ Schimmelfennig and Sedelmeier, "The Europeanization of Eastern Europe", op. cit., p. 817.

³⁸² Vachudova, op. cit., p. 128.

³⁸³ Subotić, "Explaining Difficult States", op. cit., pp. 599, 611.

Kosovo's unilateral declaration of independence in February 2008, the government coalition between the DSS and the pro-European Democratic Party (DS) broke apart due to differences concerning Serbia's European integration. Koštunica heavily criticised the EU's approach and accused DS leader Boris Tadić of sacrificing Serbia's claim to Kosovo for the sake of European integration. Tadić also opposed the unilateral declaration of independence but argued that Serbia should pursue European integration regardless of the question of Kosovo's status.³⁸⁴ The EU tried to support the pro-European forces by signing an SAA with Serbia a few days before the country went to the polls.³⁸⁵ At the May 2008 elections, the pro-European course of the DS prevailed over Koštunica's radical EU criticism.

This marked an important shift in the balance of power between Euro resisters and instrumental promoters. The power shift was further amplified by the split of the Serbian Radical Party later that year. Unlike the SRS, the newly founded Serbian Progressive Party (SNS) under the leadership of Tomislav Nikolić and Aleksandar Vučić aimed to forge closer ties with the European Union.³⁸⁶ From 2008 onwards, all subsequent Serbian governments have made European integration their primary foreign policy goal. The EU-critical parties have been marginalised, the DSS even failed to surpass the 5 % threshold at the 2014 elections. According to Bergmann, this "relatively cohesive positioning of Serbia's political parties concerning the objective of EU accession has been essential to the government's ability to establish domestic support for the compromises made in Brussels".³⁸⁷ The first technical agreements were not only welcomed by the governing parties but also by the SNS, whose representatives stated that the negotiations must continue as "they are in the interest of the citizens". Only the DSS and the SRS criticised the agreements as further steps towards "creeping recognition" of Kosovo's independence.³⁸⁸

This 'honeymoon period' ended after the escalation of violence in July 2011. A few weeks after the conclusion of the first technical agreements, Pristina sent special police forces to Northern Kosovo to enforce an embargo on imports from Serbia. The Kosovo Serbs living in the North reacted by setting up barricades to block the roads leading to the crossing points.³⁸⁹ While Belgrade initially supported the erection of barricades, after intense pressure from the EU and especially Germany, Tadić called for the removal of the barricades stating that "they don't

³⁸⁴ Dan Bilefsky, "Serbian elections loom as Tadic and Kostunica spar", *The New York Times*, 9 March 2008.

³⁸⁵ Subotić, "Explaining Difficult States", op. cit., p. 607.

³⁸⁶ Bieber, op. cit., p. 44.

³⁸⁷ Bergmann, *The European Union as International Mediator*, op. cit., p. 154.

³⁸⁸ Todoric and Malazogu, op. cit., pp. 23-24.

³⁸⁹ Aleksandar Milošević and Miloš Hrnjaz, "Exploring Serbia-Kosovo Trade Relations: Achieving Peace through Trade Interdependence?", *Ethnopolitics*, vol. 17, no. 1, p. 104.

protect any national interest”.³⁹⁰ This went along with changes in Serbia’s negotiating position. In September 2011, Tadić introduced a ‘4 Point Plan’ that foresaw a “high level of self-government for Serbs throughout Kosovo based on decentralization, a region in North Kosovo with special rights, a special status for the Serb Orthodox monasteries, and a process for the settlement of property claims”. The 4 Point Plan marked a significant policy change as it abandoned the notion of partition and instead proposed a solution within the existing boundaries of Kosovo.³⁹¹

The government’s approach was heavily criticised by Kosovo Serb leaders, who accused Tadić of betrayal.³⁹² The right-wing Serbian opposition parties, the DSS and the SRS, also criticised the government and demanded an immediate stop of the dialogue with Pristina. They frequently visited the barricades in order to present themselves as Serbian patriots. The SNS, that had been cautiously supportive of the dialogue also became more critical, not least because of the looming parliamentary and presidential elections.³⁹³ The Kosovo question is particularly important for Kosovo Serbs and the more conservative voters in rural areas, who constitute the core of the SNS support base.³⁹⁴ The party leader of the SNS, Tomislav Nikolić, stated that “Serbia can never recognize Kosovo, even at the cost of not joining the European Union”.³⁹⁵ During his election campaign, Nikolić even claimed that “he would not implement the agreements reached in the Prishtina-Belgrade dialogue if he came to power”.³⁹⁶

However, the position of the SNS softened significantly when Nikolić became President and the SNS entered into government in 2012.³⁹⁷ The new coalition government of the SNS and the Socialist Party of Serbia (SPS) turned out to be as committed to the dialogue process and to the goal of European integration as its predecessor.³⁹⁸ Bieber argues that the SNS had several reasons to actively participate in the dialogue. First, the SNS, which had come from a nationalist background, wanted to convince the EU of its pro-European orientation. Second, unlike the previous government, the SNS faced virtually no nationalist opposition to its engagement in the

³⁹⁰ Crisis Group, “Kosovo and Serbia: A Little Goodwill Could Go a Long Way”, *Europe Report*, no. 215, 2012, p. 9.

³⁹¹ Lehne, op. cit., p. 9.

³⁹² Todoric and Malazogu, op. cit., p. 18.

³⁹³ Crisis Group, “Kosovo and Serbia: A Little Goodwill Could Go a Long Way”, op. cit., pp. 9-10.

³⁹⁴ Jelena Obradović-Wochnik and Alexander Wochnik, *Resolving relations with Kosovo is a key obstacle to Serbia joining the EU*, LSE Blog, 20 November 2012.

³⁹⁵ Malazogu and Bieber, op. cit., p. 47.

³⁹⁶ Development Group, op. cit., p. 15.

³⁹⁷ Bekim Baliqi, *Dialogue Kosovo – Serbia: Normalization of reports or mutual recognition?*, Pristina, Konrad Adenauer Stiftung, March 2013, p. 6.

³⁹⁸ Crisis Group, “Serbia and Kosovo: The Path to Normalisation”, op. cit., p. 8.

dialogue. The DSS fell below 7 % in the 2012 elections and the Serbian Radical Party (SRS), from which the SNS had split off, did not even manage to enter the Parliament.³⁹⁹

On 13 January 2013, the National Assembly adopted a resolution on basic principles for political dialogue with Pristina.⁴⁰⁰ The resolution was based on a dialogue platform proposed by President Nikolić and adopted by the Serbian government on 9 January. It was meant to serve as a guideline for future talks between Belgrade and Pristina. The resolution was not only supported by the President and the governing parties but also by the DS, as the largest opposition party, and the Kosovo Serb leaders.⁴⁰¹ The document called for the establishment of an “Autonomous Community of Serbian Municipalities” that would comprise the four municipalities in Northern Kosovo and the six other municipalities with a Serb majority in the rest of Kosovo. According to the resolution, the community would have broad self-governing powers, including jurisdiction over the police and judiciary, but it would be integrated into the legal system of Kosovo.⁴⁰² This was interpreted as a sign that the Serbian government had accepted the reality of a sovereign Kosovo and instead shifted its focus on the rights of the Serb minority in Kosovo. Prime Minister Ivica Dačić stated that “instead of fighting battles that we will lose over status, Serbia should wage battles we will win over the rights of Serbs in Kosovo”.⁴⁰³ In this respect, the resolution and the dialogue platform confirmed the policy shift that was already initiated by the previous government with the 4 Point Plan.

The fact that Belgrade has gradually abandoned “its claim of effective territorial control over Kosovo”, does not mean that Serbian elites have embraced the goal of the dialogue, namely normalisation of relations.⁴⁰⁴ Economides and Ker-Lindsay argue that the change of Serbia’s policy towards Kosovo “is a direct result of the consequentialist logic of a rational pursuit of EU accession rather than a logic of appropriateness linked to socialization, adaptation or identity formation”. Hence, the policy changes were not driven by “a desire to become European in an idealised fashion”, but by “the need for EU membership for realistic, practical reasons”.⁴⁰⁵ In other words, the Serbian politicians have not really been interested in the normalisation of relations with Kosovo but rather in the benefits they can get from the EU and

³⁹⁹ Bieber, op. cit., pp. 304-305.

⁴⁰⁰ Baliqi, op. cit., p. 6.

⁴⁰¹ Ioannis Armakolas and Maja Maksimovic, “Serbia’s Resolution on Kosovo and Metohija & the Belgrade-Pristina dialogue: Is there a solution after the Resolution?”, *ELIAMEP Briefing Notes*, no. 9, Hellenic Foundation for European & Foreign Policy, Athens, 2013, p. 1.

⁴⁰² Crisis Group, “Serbia and Kosovo: The Path to Normalisation”, op. cit., pp. 8-9.

⁴⁰³ Quoted in: Crisis Group, “Serbia and Kosovo: The Path to Normalisation”, op. cit., p. 9.

⁴⁰⁴ Jelana Subotić, “Narrative, Ontological Security, and Foreign Policy Change”, *Foreign Policy Analysis*, vol. 12, 2016, p. 622.

⁴⁰⁵ Economides and Ker-Lindsay, op. cit., p. 1039.

its member states in exchange for compromises.⁴⁰⁶ Todoric and Malazogu have compared the dialogue to a beauty contest, where the participants do not genuinely engage in dialogue but try to win the EU's sympathies by presenting themselves as more constructive than the other side.⁴⁰⁷

Normalisation of relations is not really in the interest of Serbian politicians as they can exploit the conflict situation to make political capital. Serbian politicians have frequently staged provocative incidents to mobilise voters and present themselves as defenders of national interests.⁴⁰⁸ During the election campaign in 2012, for instance, the Serbian police arrested a number of Kosovo Albanians travelling through Serbia.⁴⁰⁹ Shortly before the presidential elections in January 2017, a train painted in the colours of the Serbian flag and marked with the words 'Kosovo is Serbia' in 21 languages was sent to Mitrovica in the North of Kosovo causing a huge outcry in Kosovo.⁴¹⁰ In July 2020, a photo of President Vučić and Commissioner for Neighbourhood and Enlargement Várhelyi also caused outrage in Kosovo since one could see the book "Christian Heritage of Kosovo and Metohija: The Historical and Spiritual Heartland of the Serbian People" in the background.⁴¹¹ The book was likely placed there intentionally by the Serbian representatives in order to appeal to nationalist sentiments. Such actions are primarily directed at the home audience and stand in contrast to the more conciliatory rhetoric in Brussels.⁴¹²

Its participation in the EU-facilitated dialogue also did not prevent Serbia from actively campaigning against Kosovo's recognition and participation in international organisations. On 20 November 2018, Vučić proudly announced that Serbia had prevented Kosovo from joining Interpol. Then Foreign Minister Dačić spoke of a "great victory for Serbia and proof that nothing could be solved by force and without an agreement with Belgrade".⁴¹³ Serbian as well as Kosovar politicians have also continuously tried to portray the agreements as their own victories and as defeats for the other side.⁴¹⁴ When presenting the 2015 agreement, for example, the Serbian representative Marko Djurić stated that the deal was a '5-0 victory' for Belgrade.⁴¹⁵

⁴⁰⁶ Szpala, "Hostages to dialogue", op. cit., p. 1.

⁴⁰⁷ Todoric and Malazogu, op. cit., p. 3.

⁴⁰⁸ Szpala, „Serbia-Kosovo negotiations“, op. cit., p. 3.

⁴⁰⁹ Malazogu & Bieber, op. cit., p. 35.

⁴¹⁰ Emini and Stakic, op. cit., p. 2.

⁴¹¹ "Book Appearing in Várhelyi-Vučić Meeting before Kosovo-Serbia Dialogue Sparks Discontent among Albanians", *Exit News*, 16 July 2020.

⁴¹² Gashi, Musliu and Orbie, op. cit., p. 545.

⁴¹³ Julija Simić, "Serbia scores victory as Interpol rejects Kosovo membership", *Euractiv*, 20 November 2018.

⁴¹⁴ Gashi, Musliu and Orbie, op. cit., p. 539.

⁴¹⁵ Russel, op. cit., p. 8.

The legally ambiguous nature of the agreements has made this even easier as it allowed them to interpret the agreements in ways that suited their respective narratives.

Although Serbia's position vis-à-vis Kosovo has softened somewhat due to EU pressure, non-recognition has remained a firm red line for Belgrade. In fact, Serbian politicians have even hardened their stance on the recognition issue.⁴¹⁶ This position is largely backed by the public. An opinion poll from 2018 indicates that 81 % of Serbs are against recognising Kosovo's independence even if this would speed-up the accession negotiations with the EU, 63 % believe that a 'frozen conflict' would be the best possible outcome and only 21 % are in favour of an agreement with Kosovo.⁴¹⁷ Therefore, any solution that entails recognition of Kosovo's independence would be hard to 'sell' to the Serbian public. This is problematic because the Serbian constitution requires a public referendum on the recognition of Kosovo's independence.⁴¹⁸

If there is one party that is able to strike a deal with Kosovo and secure the necessary public support, it would be the SNS and its leader, Aleksandar Vučić. After 2012, the SNS also won the parliamentary elections in 2014 and 2016 and has become the dominant political force in Serbia. In the 2020 elections, the SNS secured more than 60 % of the vote.⁴¹⁹ Together, the SNS and its coalition partner, the SPS, have 220 out of 250 seats in the National Assembly. Most of the opposition parties boycotted the elections and are thus no longer represented in the Parliament. The SNS also controls most of the print and electronic media.⁴²⁰ The SNS's large popular support, its control over the media and the marginalisation of the political opposition decrease the domestic adoption costs since there are hardly any veto players left. Vučić himself is uncontested within the SNS. At his second election as party leader, he won 100 % of the votes.⁴²¹ Some analysts and EU officials argue that given Vučić's unprecedented power a solution will happen "either now, in the next years or never".⁴²² While Vučić has certainly the power and authority to push through a deal in the Serbian Parliament, much depends on his

⁴¹⁶ Crisis Group, "Serbia and Kosovo: The Path to Normalisation.", op. cit., p. 10.

⁴¹⁷ Szpala, „Serbia-Kosovo negotiations“, op. cit., p. 2.

⁴¹⁸ Crisis Group, "Toward Compromise between Kosovo and Serbia", *Watch List 2020 Autumn Update*, 2020, p. 14.

⁴¹⁹ Milivoje Pantovic, "Serbia election: President Vucic declares landslide win in controversial parliamentary vote", *Euronews*, 22 June 2020.

⁴²⁰ Damnjanović, op. cit.

⁴²¹ Dušan Spasojević, "Rising Expectations and Centralizing Power: Party Leaders in Serbia", in Sergiu Gherghina, *Party Leaders in Eastern Europe: Personality, Behavior and Consequences*, Cham, Palgrave Macmillan, 2020, p. 231.

⁴²² Balkans Policy Research Group, *Kosovo-Serbia Dialogue: Path to the Agreement*, October 2020, p. 5.

willingness to make painful compromises that will likely cost him support among Serbian nationalists.

In 2017, Vučić launched an internal dialogue on ‘Kosovo and Metohija’. In an article for the newspaper Blic, Vučić explained that this was necessary to find a permanent solution that is future-oriented and rules out conflict. In the same article he stated that: “It is the time we, as a nation, stop burying our heads in the sand, and to try to be realistic and not allow ourselves to lose or hand over what we have, but also not to expect that we will get back something we have long lost”. Quoting the former Israeli President and Prime Minister Shimon Peres, he wrote that it was the duty of a leader to seek peace even when faced with hostility, suspicion and disappointment. He also criticised the opponents of the dialogue with Pristina, who would only be interested in their personal political gain: “Their reason for this type of inaction, which is a kind of historical crime given the gravity of the question that is yearning for a solution, is in the mere hope that someone, will eventually ‘hand Kosovo over’ and for that, to their delight, bear the consequences”.⁴²³ Judged from his comments, Vučić seems to view the resolution of the Kosovo issue as his historic mission. However, he is also aware of the potential political consequences a compromise could have for him and his party.

According to a report conducted by the Forum for Ethnic Relations and the Open Society Foundation Serbia, the internal dialogue failed to meet its stated objective of reaching a broad social consensus.⁴²⁴ Instead of involving the broader public, the process was limited to public officials and experts close to the government.⁴²⁵ Comments by opposition politicians and critical NGOs were disregarded and they were accused of being traitors or members of foreign agencies.⁴²⁶ According to Tadić and Demjaha, the internal dialogue completely neglected the results achieved so far in the Brussels dialogue and created the impression that status quo or delimitation would be the preferred outcomes.⁴²⁷ Foreign Minister Ivica Dačić, for example, stated that delimitation would represent “a lasting solution of the Serbian-Albanian conflict which can be reached only through an agreement in which everyone will win something and

⁴²³ Center for Euro-Atlantic Studies, *An article written by President Aleksandar Vučić for "Blic": Why do we need an internal dialogue about Kosovo (an informal translation)*, 26 July 2017.

⁴²⁴ Forum for Ethnic Relations and Open Society Foundation Serbia, *Review Report on Monitoring the Internal Dialogue on Kosovo*, Belgrade, 17 January 2019, p. 18.

⁴²⁵ Katarina Tadić and Agon Demjaha, “The internal dialogue in Serbia: rejecting the normalisation of relations with Kosovo”, *Osservatorio Balcani e Caucaso Transeuropa*, 20 March 2019.

⁴²⁶ Forum for Ethnic Relations and Open Society Foundation Serbia, op. cit., p. 22.

⁴²⁷ Tadić and Demjaha, op. cit.

lose something”.⁴²⁸ The dialogue also ignored the interdependence between the normalisation of relations with Kosovo and Serbia’s EU accession.⁴²⁹

Vučić himself openly said that he would prefer a partition of Kosovo along ethnic lines arguing that “[i]t is not good to have a territory that no one knows how to handle or who always serves as a source of potential conflict”.⁴³⁰ As stated above, this idea has been ruled out by several EU Member States, most notably Germany, who fear that such a move would open Pandora’s box. However, Vučić has continued to insist that Serbia must be compensated in some way for making compromises on Kosovo. In a recent interview with *Foreign Policy*, the President stated: “We need to carry on with the dialogue and with all necessary attempts to find a possible compromise” adding that this “has to be done in a way that would be a defeat for both sides, in order for it to be a small win for both sides”.⁴³¹ After meeting the Russian Foreign Minister in June 2020, Vučić said: “In reply to a possible offer to recognise Kosovo and that Kosovo enters the UN, and we receive nothing in return, except EU membership, our answer would be ‘no’”.⁴³²

A potential veto player that has not been mentioned so far is the Serbian Orthodox church. The Church supports dialogue with Kosovo but fiercely opposes its independence because it considers Kosovo as “an inalienable part of Serb identity”.⁴³³ In 2012, the Holy Synod of the Serbian Orthodox Church sent a letter to Serbian leaders calling on the government to reconsider all agreements on border crossings, which it considered as “the country’s suicide”.⁴³⁴ The Church is also against the division of Kosovo, fearing that it could lead to an exodus of Serbs in southern Kosovo and thus to the abandonment of religious sites.⁴³⁵ Several important Orthodox churches and monasteries are located on the territory of Kosovo. Although religious sites enjoy protection under Kosovo’s constitution, the Serbian Orthodox church has claimed that Kosovo had not done enough to prevent attacks on the buildings. Therefore, it advocates for an extraterritorial status of the Orthodox churches and monasteries.⁴³⁶ The relationship between the Orthodox Church and the Serbian government is generally close. The Serbian

⁴²⁸ “Serbia's foreign minister calls for compromise over Kosovo”, *Reuters*, 14 August 2017.

⁴²⁹ Forum for Ethnic Relations and Open Society Foundation Serbia, op. cit., pp. 19, 22.

⁴³⁰ “Vucic wants Kosovo partition, Medvegja could be left out the ‘Valley’”, *Top Channel*, 9 August 2018.

⁴³¹ Mackinnon and Gramer, op. cit.

⁴³² “Serbia ready to sacrifice EU membership over Kosovo deal”, *Euractiv*, 19 June 2020.

⁴³³ Russel, op. cit., p. 5.

⁴³⁴ Bojana Barlovac, “Serbian Church Accuses Govt of ‘Suicide’ on Kosovo”, *Balkan Insight*, 6 December 2012.

⁴³⁵ Adelheid Wölfl, “Serben im Südkosovo fürchten Gebietstausch“, *der Standard*, 6 March 2019.

⁴³⁶ Russel, op. cit., p. 5.

Patriarch Irinej praised the excellent cooperation several times.⁴³⁷ In 2019, he awarded Vučić with the order of St. Sava for, among other things, “the tireless struggle for the integrity of Serbia, especially for the preservation of Kosovo and Metohija within its borders”. However, most bishops reportedly did not attend the award ceremony in protest because they were concerned that Vučić would eventually recognise Kosovo’s independence.⁴³⁸ The hard-line opposition of the Serbian Orthodox Church might limit the effectiveness of EU conditionality as it increases the domestic adoption costs. The major protests that erupted after Montenegro passed a law allowing the state to take over the property of a religious community if it cannot prove ownership – a move that was primarily directed against the Serbian Orthodox Church – show the power that the Church still enjoys.⁴³⁹

This chapter has analysed Serbia’s domestic adoption costs. It was argued that Euro resisters have been gradually replaced by instrumental promoters, who have seen the dialogue primarily as a means to advance European integration and to receive benefits from the EU. Normalisation of relations with Kosovo is not really in their interest as they can exploit the conflict to gain political support. A large majority of the population as well as influential groups like the Serbian Orthodox Church firmly reject the recognition of Kosovo. Since such a policy would have very negative political consequences, non-recognition remains a solid red line for Belgrade. The negative public opinion is particularly problematic because the Serbian constitution requires a referendum on the recognition of Kosovo’s independence, the outcome of which is highly uncertain. While the negative public opinion increases the domestic adoption costs, the SNS’s vast popular support, its control over the media and the marginalisation of the political opposition decrease them since there are hardly any veto players. Given his unprecedented power, President Vučić would probably be able to push through a deal in the Serbian Parliament. However, this depends on his willingness to make painful compromises that will likely cost him political support. The internal dialogue was a promising step, but the way it was conducted raise doubts about its sincerity. Vučić has repeatedly insisted that he wants some form of (territorial) compensation in exchange for the recognition of Kosovo. Finally, as explained above, the domestic adoption costs are also influenced by the policies of other external actors, notably China and Russia.

⁴³⁷ Mladen Aleksic, “Serbian Church Must Keep Distance from Serbian Government”, *Balkan Insight*, 15 January 2020.

⁴³⁸ Maja Zivanovic, “Serbian Bishops Protest Over Patriarch’s Award for President”, *Balkan Insight*, 9 October 2019.

⁴³⁹ Aleksandar Vasovic, “Thousands in Montenegro march against religion law”, *Reuters*, 29 February 2020.

5.4.2 Kosovo

In Kosovo, it is clearly the political parties that are the strongest veto players. Unlike in Serbia, the political landscape in Kosovo is highly fragmented. All governments since Kosovo's declaration of independence in 2008 have consisted of at least four parties, as the constitution requires the government to include representatives of the Serb minority and other minorities.⁴⁴⁰

Almost every election has seen the formation of new parties and coalitions or splits within older parties.⁴⁴¹ What is more, since 2008, all governments were terminated before their mandates expired.⁴⁴² This political instability has led to several interruptions of the dialogue process, also causing great uncertainty regarding the implementation of agreements after a change of power.

Most political parties have generally recognised the need for dialogue with Serbia.⁴⁴³ However, when the National Assembly adopted a resolution on the Kosovo-Serbia dialogue endorsing negotiations on 'practical' issues in 2011⁴⁴⁴, the opposition parties voted against it, complaining that they had not been consulted prior to the start of the negotiations. The decision of Kosovo's Chief negotiator, Edita Tahiri, to meet her Serbian counterpart without waiting for the Parliament's resolution, attracted widespread criticism and resulted in a high degree of polarisation between the government and the opposition.⁴⁴⁵ The opposition parties also accused the government of not being adequately prepared for the negotiations.⁴⁴⁶

Before the start of the political dialogue in October 2012, the Kosovo Assembly adopted a second resolution on the normalisation of relations, requiring parliamentary ratification of any agreement resulting from the process.⁴⁴⁷ While this is certainly important to ensure the legitimacy of an agreement, it is problematic from the viewpoint of implementation, as the ratification of international agreements requires a two-thirds majority in the National Assembly.⁴⁴⁸ This means that the ruling parties must normally also include the opposition. Given the high degree of factionalism in the Kosovo Parliament, it is very difficult to get the necessary support for any agreement with Serbia.

⁴⁴⁰ Artan Mustafa and Tobias Spöri, "Kosovo: Machtkampf in der 'Coronakrise'", *der Standard*, 3 April 2020.

⁴⁴¹ Bilge Yabancı, "Populism and Anti-Establishment Politics in Kosovo: A Case Study of Lëvizja Vetëvendosje", *Contemporary Southeastern Europe*, vol. 3, no. 2, 2015, p. 30.

⁴⁴² Mustafa and Spöri, op. cit.

⁴⁴³ Bergmann, *The European Union as International Mediator*, op. cit., p. 152.

⁴⁴⁴ Ilir Deda and Ariana Qosaj-Mustafa, *The Implementation of Agreements of Kosovo-Serbia Political Dialogue*, Pristina, Kosovar Institute for Policy Research and Development (KIPRED), 2013, p. 4.

⁴⁴⁵ Development Group, op. cit., p. 6.

⁴⁴⁶ Ibid., p. 18.

⁴⁴⁷ Beha, "Disputes over the 15-point agreement", op. cit., p. 108.

⁴⁴⁸ Development Group, op. cit., p. 14.

On 22 April 2013, the government managed to win a majority for the Brussels Agreement in the National Assembly. 89 out of 120 MPs voted in favour of the agreement. However, the parliamentary session was interrupted by protest actions of deputies belonging to the Self-Determination Movement, Lëvizja Vetëvendosje (LVV).⁴⁴⁹ The LVV completely rejected the EU-facilitated dialogue from the beginning, arguing that “dialogue would only be acceptable if Kosovo participated as Serbia’s equal and only once Serbia formally apologized for crimes committed in Kosovo”.⁴⁵⁰ The LVV was founded in 2005 as a social movement by the former leader of student protest and political prisoner Albin Kurti. It is considered a populist movement with left-wing and nationalist views. Among other things, the LVV advocates for unification with Albania and against any international presence in Kosovo.⁴⁵¹ In 2010, Vetëvendosje took part in parliamentary elections for the first time and won 12.6 % of the vote.⁴⁵² This made Vetëvendosje the third largest party in the National Assembly and weakened the position of the two biggest political parties, the Democratic Party of Kosovo (PDK) and the Liberal Democratic Party (LDK).⁴⁵³

From 2014 onwards, other parties also became more critical towards the Brussels Agreement. The reasons were not only related to the content of the agreement but also to power-political considerations following the government formation crisis in 2014.⁴⁵⁴ The governing PDK had lost its parliamentary majority and called for early elections in June 2014.⁴⁵⁵ The PDK emerged again as the winner of the elections but failed to reach a parliamentary majority. The opposition parties LDK, the Alliance for the Future of Kosovo (AAK) and the Social Democratic Initiative (NISMA) had agreed on forming a coalition against the PDK but also lacked the necessary majority of 61 seats.⁴⁵⁶ After several months of political wrangling, the negotiations failed and the LDK entered into a coalition with the PDK.⁴⁵⁷ This was seen as a political betrayal by the other opposition parties which partly explains the uncompromising stance towards the government of Prime Minister Isa Mustafa (LDK). For the first time, the usually divided opposition parties acted as a united front in order to stop the implementation of agreements

⁴⁴⁹ Edona Peci, “Kosovo Parliament Approves Agreement With Serbia”, *Balkan Insight*, 22 April 2013.

⁴⁵⁰ Bieber, op. cit., p. 299.

⁴⁵¹ Yabanci, op. cit., p. 25-30.

⁴⁵² Bieber, op. cit., p. 299.

⁴⁵³ Bergmann, *The European Union as International Mediator*, op. cit., p. 152.

⁴⁵⁴ Bodo Weber, “Awkward Juggling: Constitutional insecurity, political instability and the rule of law at risk in the Kosovo-Serbia dialogue”, *Prishtina Insight*, 1 April 2016, p. 9.

⁴⁵⁵ Adem Beha and Bekim Baliqi, *Elections in Kosovo: A retrospective research on national elections 2014*, Pristina, University of Pristina, 2014, p. 27.

⁴⁵⁶ Ibid., p. 34

⁴⁵⁷ “Coalition deal ends stalemate in Kosovo”, *Euronews*, 8 December 2014.

reached in the Kosovo-Serbia dialogue. Even the AAK of former Prime Minister Ramush Haradinaj, which had been supportive of the previous government and the Kosovo-Serbia dialogue, started to criticise and actively undermine the government's approach to the negotiations.⁴⁵⁸

After the conclusion of the 2015 agreement, the opposition to the dialogue grew even stronger.⁴⁵⁹ On 18 September, the three main opposition parties, LVV, AAK and NISMA, launched a joint petition against the agreement that was signed by 63,000 people in the first five days.⁴⁶⁰ In the end, the opposition parties managed to gather a total of 200,000 signatures.⁴⁶¹ They also obstructed the work of the Parliament for several weeks by blocking the speaker's podium,⁴⁶² blowing whistles and throwing eggs at MPs belonging to the government coalition.⁴⁶³ The LVV, the most radical critic of the agreement, even released tear gas in the Parliament.⁴⁶⁴ The bone of contention was the envisaged establishment of the Association/Community of Serb-majority Municipalities (ACSM). The opposition denounced the agreement as "national treason" and warned of the looming "Bosnification of Kosovo".⁴⁶⁵ They argued that the ACSM would create a self-governing sub-state entity, similar to the Republika Srpska in Bosnia and Herzegovina, that would give Belgrade the possibility to interfere in Kosovo's internal affairs and undermine its sovereignty.⁴⁶⁶ While some of the concerns regarding the ACSM might have been legitimate, the criticism was also motivated by power interests.⁴⁶⁷ As one AAK member confessed, the protests "were directly focused on the overthrow of the Mustafa-Thaçi government, thus using dialogue as another 'weapon' in political fights and politicization". The government parties condemned the protests as "biased" and "exaggerated" and insisted that the ACSM would not have broad executive powers.⁴⁶⁸ However, the opposition was able to dominate the public discourse regarding the ACSM.⁴⁶⁹

⁴⁵⁸ Gëzim Krasniqi, *Kosovo's political impasse and the limits of EU's 'creative ambiguity' approach*, European Council on Foreign Relations, 19 November 2015.

⁴⁵⁹ Bergmann, *The European Union as International Mediator*, op. cit., p. 153.

⁴⁶⁰ Petrit Çollaku, "Kosovo Opposition Flock to Sign Petition Against Serbian Deals", *Balkan Insight*, 24 September 2015.

⁴⁶¹ G. Krasniqi, op. cit.

⁴⁶² Petrit Çollaku, "Kosovo Opposition MPs Block Parliament's Work", *Balkan Insight*, 1 October 2015.

⁴⁶³ "Protesting MPs release tear gas in Kosovo parliament", *Al Jazeera*, 8 October 2015.

⁴⁶⁴ Huszka, op. cit., p. 15.

⁴⁶⁵ Troncotă, op. cit., p. 226.

⁴⁶⁶ Beysoylu, op. cit., p. 211.

⁴⁶⁷ G. Krasniqi, op. cit.

⁴⁶⁸ Troncotă, op. cit., p. 226.

⁴⁶⁹ G. Krasniqi, op. cit.

The secrecy of the negotiations and the associated uncertainty played into their hands because it made it easier to arouse fears and turn the population against the agreement.⁴⁷⁰

According to the 2016 Kosovo Security Barometer, 72 % of respondents considered the establishment of the ACSM as harmful or very harmful. That was an increase of 3.4 % compared to 2015. The percentage of those, who viewed the ACSM as very harmful increased from 34.4 % to 41.4 %.⁴⁷¹ In 2018, the public perception on the establishment of the ACSM became even more hostile. According to this most recent survey, 48.3 % consider the ACSM as very harmful and 24.1 % as harmful. Moreover, 57.3 % of respondents do not believe that the dialogue has contributed to the normalisation of relations between Kosovo and Serbia. 45 % think that Serbia is benefitting more from the dialogue than Kosovo.⁴⁷² These negative perceptions, nurtured for years by the harsh rhetoric of the opposition parties, make it very difficult to sell a compromise agreement with Serbia to the public. Unlike in Serbia, Kosovo's constitution does not require a plebiscite on the outcome of the negotiations. However, the government might still feel the necessity to conduct a referendum to ensure the legitimacy of the agreement.⁴⁷³

In order to calm the situation and overcome the parliamentary blockade, the President of Kosovo, Atifete Jahjaga, asked the Constitutional Court to examine the constitutionality of the agreement.⁴⁷⁴ On 23 December 2015, the Court approved the agreement in principle but also stated that some of its elements are not fully in line with the spirit of the constitution. Among other things, the Court found that “the Association/Community cannot be vested with full and exclusive authority to promote the interests of the Kosovo Serb community in its relations with the central authorities” and that the ACSM “shall not replace or undermine the status of the participating municipalities as the basic units of democratic local self-government”. Moreover, the judges assessed point 10 of the agreement, which allows the ACSM to “propose, in accordance with Kosovo law, amendments to the legislation and other regulations relevant for the performance of its objectives”, as unconstitutional. The Court also expressed its concerns

⁴⁷⁰ Bassuener and Weber, op. cit., pp. 5-6.

⁴⁷¹ Kosovar Centre for Security Studies, *Kosovo Security Barometer Special Edition: Public Perceptions on Kosovo's Foreign Policy and Dialogue with Serbia*, Pristina, February 2016, p. 32.

⁴⁷² Kosovar Centre for Security Studies, *Kosovo Security Barometer Special Edition: Public Perceptions toward Kosovo's Foreign Policy and Dialogue with Serbia*, Pristina, February 2018, pp. 40-44.

⁴⁷³ Crisis Group, “Toward Compromise between Kosovo and Serbia”, op. cit., p. 15.

⁴⁷⁴ Bergmann, *The European Union as International Mediator*, op. cit., pp. 153-154.

regarding the ambiguity of the term "exercise full overview" and demanded further clarification of the ACSM's objectives.⁴⁷⁵

Following the Court's decision, President Jahjaga called on all political parties to respect the verdict and "use this moment to restart political dialogue and restore normality to the country".⁴⁷⁶ However, instead of de-escalating the situation, the ruling further deepened tensions between the opposing camps.⁴⁷⁷ The parties interpreted the Court's decision according to their respective narratives. Representatives of the governing parties claimed that "the Constitutional Court had freed the way for the establishment of the Association/Community". Opposition politicians, on the other hand, viewed the verdict as evidence that the government had violated the constitution and reiterated their call for its resignation.⁴⁷⁸ In January 2016, the opposition organised another large-scale public protest against the ACSM.⁴⁷⁹

The growing polarisation between the governing parties and the opposition culminated in a no-confidence vote against Prime Minister Mustafa in 2017. Besides the opposition parties, also some deputies from the PDK voted against the government.⁴⁸⁰ Mustafa was subsequently replaced by AAK leader Ramush Haradinaj, who promised to continue the dialogue with Serbia.⁴⁸¹ A new line of conflict emerged when President Thaçi and Vučić started to talk about border corrections at the European Forum Alpbach in summer 2018.⁴⁸² While Thaçi was in favour of exchanging the Serb-dominated northern part of Kosovo for the mainly ethnic Albanian Presevo valley in Serbia, Prime Minister Haradinaj and most other parties were firmly against it. Haradinaj warned that such border changes could lead to renewed war in the region.⁴⁸³ Once again the Kosovar politicians failed to present a unified front and instead criticized each other openly.

In July 2019, Haradinaj resigned as Prime Minister after he had been summoned by the Kosovo Specialist Chambers in The Hague for questioning on alleged war crimes.⁴⁸⁴ President Thaçi

⁴⁷⁵ Constitutional Court of Kosovo, *Judgement in Case No. KO130/15*, 23 December 2015.

⁴⁷⁶ "Kosovo Court Finds Parts Of Controversial Deal With Serbia Illegal", *Radio Free Europe*, 24 December 2015.

⁴⁷⁷ Troncotă, op. cit., p. 224

⁴⁷⁸ Weber, op. cit., p. 9.

⁴⁷⁹ Troncotă, op. cit., p. 225.

⁴⁸⁰ Perparim Isufi, "Mustafa Loses No-Confidence Vote in Kosovo", *Balkan Insight*, 10 May 2017.

⁴⁸¹ Fatos Bytyci, "New Kosovo PM pledges dialogue with Serbia, graft fight", *Reuters*, 9 September 2017.

⁴⁸² Andrew Gray and Ryan Heath, "Serbia, Kosovo presidents broach border changes for historic deal", *Politico Europe*, 25 August 2018.

⁴⁸³ "Kosovo President and PM at odds over Serbia border changes", *Euractiv*, 7 February 2019.

⁴⁸⁴ "Kosovo PM Haradinaj resigns after court summons on suspicion of war crimes", *Deutsche Welle*, 19 July 2019.

asked the ruling coalition to nominate a new candidate for Prime Minister, but the parties could not agree on a candidate and therefore voted for the dissolution of the parliament.⁴⁸⁵ At the snap elections in October, Vetëvendosje became the strongest political party for the first time. After several months of political deadlock, the party of Albin Kurti managed to form a government with the LDK with him as Prime Minister. Kurti assured the EU of his commitment to the Kosovo-Serbia dialogue but added that "under no circumstances or situation will issues of mutual sovereignty, territorial integrity, and internal affairs be discussed".⁴⁸⁶ He also made clear that he considers the dialogue with Serbia as a prerogative of the Prime Minister and not of the President.

President Thaçi and the US Special Envoy Richard Grenell subsequently exerted great pressure on Kurti to lift the tariffs on products from Serbia and Bosnia and Herzegovina that were introduced by then Prime Minister Haradinaj after Serbia had successfully blocked Kosovo's accession to Interpol.⁴⁸⁷ As Kurti insisted on reciprocity, Thaçi accused him of being "anti-American". Kurti, on the other hand, claimed that Thaçi and Grenell had forged a plan to topple his government and push through an exchange of territory.⁴⁸⁸ In March, President Thaçi proposed to introduce a state of emergency to fight the unfolding Covid-19 pandemic that would have given him expanded powers at the expense of the Prime Minister.⁴⁸⁹ The Interior Minister, Agim Veliu from the LDK supported this proposal and was therefore dismissed by Kurti. In response, LDK leader Mustafa issued an ultimatum calling for the reversal of Veliu's dismissal and the unconditional revocation of the tariffs. Since Kurti did not fulfil the LDK's conditions, the party filed a motion of no-confidence that led to the abrupt end of the government after only 50 days in office.⁴⁹⁰

The LVV refused to nominate a new candidate for Prime Minister and demanded new elections instead. Therefore, President Thaçi asked the second largest party to nominate a candidate for Prime Minister, a move that was referred to the Constitutional Court by the LVV.⁴⁹¹ The Constitutional Court upheld the President's decision and paved the way for the formation of a

⁴⁸⁵ Fatos Bytyci, "Kosovo lawmakers vote to dissolve parliament, paving way for election", *Reuters*, 22 August 2019.

⁴⁸⁶ "Kosovo's Kurti Assures EU Of Commitment To Dialogue With Serbia", *Radio Free Europe*, 9 April 2020.

⁴⁸⁷ "Kurti expects to enter office in November, says Thaçi will not lead the dialogue", *European Western Balkans*, 23 October 2019.

⁴⁸⁸ "Clash of Thaçi and Kurti over tariffs continues", *European Western Balkans*, 12 March 2020.

⁴⁸⁹ Mustafa and Spöri, op. cit.

⁴⁹⁰ "Kosovo Coalition Partner To Seek No-Confidence Vote After Interior Minister Is Fired", *Radio Free Europe*, 19 March 2020.

⁴⁹¹ Kaltrina Beqiri, "Kosovo has a new government: again!", *Party Systems & Governments Observatory*, University of Nottingham, 12 June 2020.

new government composed of LDK, AAK, NISMA and the Serb-backed Srpska Lista. The government led by Prime Minister Avdullah Hoti from the LDK was anything but stable, relying on a narrow majority of just 61 seats.⁴⁹² The new government immediately lifted the trade barriers for goods produced in Serbia, which was the main obstacle to the continuation of the dialogue. However, the Ministers of the AAK, whose leader Ramush Haradinaj had introduced the tariffs in the first place, voted against the measure.⁴⁹³ The coalition partners also publicly criticised the appointment of Skender Hyseni as State Coordinator for the dialogue, complaining that they had not been informed about the decision beforehand.⁴⁹⁴ Hence, the new State Coordinator was disadvantaged from the beginning as he apparently even lacked the support of his own government. The coalition partners also complained about the lack of transparency. Haradinaj threatened to end the coalition, if Prime Minister Hoti continued to exclude the AAK Minister of Justice from the Kosovo-Serbia dialogue.⁴⁹⁵

There were also disagreements concerning the nature and content of the dialogue. The opposition and President Thaçi voiced concerns about the continuation of the technical dialogue. Thaçi said that “[t]his dialogue only makes sense if the proposal for mutual recognition is put on the table otherwise it is completely meaningless, completely unnecessary and has failed”.⁴⁹⁶ After each round of talks, the Kosovo delegation reiterated that they are negotiating a comprehensive package that would also include mutual recognition. The State Coordinator for the dialogue, Skender Hyseni, claimed that “[i]t’s not about technical talks or talks about specific issues [...] It’s a purely political negotiation process aimed at reaching a final agreement with Serbia”.⁴⁹⁷ The Serbian negotiator Marko Djuric denied these claims of course and insisted that “mutual recognition has never been and will never be on the agenda”.⁴⁹⁸

These statements illustrate the dilemma of seemingly incompatible goals and red lines of both parties. Whereas Kosovo officials are not prepared to accept an agreement without mutual recognition, Serbian negotiators made clear that they will not agree to a deal involving

⁴⁹² Sandra Maksimović, “Is the new Kosovo government a chance for Belgrade-Pristina dialogue to continue?”, *European Western Balkans*, 5 June 2020.

⁴⁹³ “New Government of Kosovo revokes the reciprocity measures on import from Serbia”, *European Western Balkans*, 6 June 2020.

⁴⁹⁴ Eraldin Fazliu, “Kosovo more divided than ever over dialogue team”, *Prishtina Insight*, 24 July 2020.

⁴⁹⁵ “Kosovo Governing Coalition Partner Threatens to Pull Out”, *Exit News*, 23 July 2020.

⁴⁹⁶ Die Morina van Uijtrecht, “Dialogue Makes Sense Only with Mutual Recognition, Kosovo’s President Says”, *Exit News*, 2 November 2020.

⁴⁹⁷ “Dialogue with Serbia Exclusively for Mutual Recognition, Says Kosovo’s Negotiator”, *Exit News*, 31 July 2020.

⁴⁹⁸ “Kosovo Insists Technical Talks to Result in Mutual Recognition, Serbia Denies It”, *Exit News*, 26 August 2020.

recognition – at least not without adequate compensation. According to the International Crisis Group, there are two things Kosovo could offer Belgrade as compensation, the first is an exchange of territory and the second is a much broader autonomy for Kosovo-Serbs. While the first option is firmly rejected by most EU Member States, the second is highly contested in Kosovo as the renewed dispute over the ACSM has shown.⁴⁹⁹

The ACSM has again become the major source of disagreement between the two sides, blocking progress in the dialogue. Serbian negotiators have insisted on the implementation of the ACSM as agreed in 2013 and 2015. Kosovar politicians, on the other hand, continue to argue that the ACSM is not in line with the constitution of the country and can therefore not be implemented. They also refused to renegotiate the topic.⁵⁰⁰ The EU's Special Envoy Miroslav Lajčák called on the Kosovo government to fulfil its commitments and to change the constitution if necessary".⁵⁰¹ However, Prime Minister Hoti reaffirmed that the ACSM would only be set up if a final agreement with Serbia was reached and that it would have no executive powers.⁵⁰² President Thaçi, who himself signed the Brussels Agreement when he was Prime Minister, put additional pressure on the government by calling on the Parliament to adopt a resolution banning negotiations on the ACSM.⁵⁰³ The issue also caused troubles within Kosovo's government as Deputy Prime Minister Goran Rakic from the Srpska Lista threatened to leave the coalition if the ACSM was not established soon.⁵⁰⁴

The war crimes indictment against Hashim Thaçi further exacerbated the tensions between the political parties as they started to fight for his succession. The AAK proposed Ramush Haradinaj as candidate for President and announced that this would be a condition for the party's continued participation in the government.⁵⁰⁵ The LDK, in turn, also warned that it would terminate the coalition if the AAK continued to make its support dependent on Haradinaj's election as President.⁵⁰⁶ After the indictments against Thaçi and several other former members of the Kosovo Liberation Army (KLA) were confirmed, the AAK called for

⁴⁹⁹ Crisis Group, "Toward Compromise between Kosovo and Serbia", op. cit., pp. 15-16.

⁵⁰⁰ "Association of Serb Municipalities Hinders Kosovo-Serbia Dialogue", *Exit News*, 1 October 2020.

⁵⁰¹ Eraldin Fazliu and Milica Stojanovic, "Brussels Vows to Settle Kosovo Serb Municipal Association's Status", *Balkan Insight*, 16 October 2020.

⁵⁰² Xhorxhina Bami, "Kosovo PM: No Serb Municipal Association Before Final Settlement", *Balkan Insight*, 14 October 2020.

⁵⁰³ Xhorxhina Bami, "Kosovo Ducks Discussion of Serb Municipalities in Brussels Talks", *Balkan Insight*, 18 September 2020.

⁵⁰⁴ Bami, "Kosovo PM: No Serb Municipal Association Before Final Settlement", op. cit.

⁵⁰⁵ "Kosovo coalition leaders met to discuss president's post, war crime indictments", *Gazeta Express*, 23 October 2020.

⁵⁰⁶ Xhorxhina Bami, "Kosovo Opposition and EU Undermine Serbia-Kosovo Washington Deal", *Balkan Insight*, 23 September 2020.

the suspension of the Brussels dialogue.⁵⁰⁷ The call was echoed by the Speaker of Parliament and Acting President Vjosa Osmani (LDK), who said that:

“Kosovo institutions need some time to sit down, consult, and come up with a much more unified position on dialogue because it is necessary for anyone that negotiates on behalf of Kosovo, on Kosovo’s fate, to have a more unified position of the political spectrum and not only of the ruling coalition”.⁵⁰⁸

Prime Minister Hoti, however, declared that there is no alternative to the Kosovo-Serbia dialogue and that suspending it would not serve Kosovo’s interests.⁵⁰⁹ In December 2020, the government came once again to an abrupt end after the Constitutional Court ruled that the parliamentary vote electing the new government was illegal since one of the MPs, who voted for the government, had been convicted of fraud.⁵¹⁰ Snap elections will take place on 14 February 2021 and probably result in a victory of the LVV. This would slow down the Kosovo-Serbia dialogue again as the LVV has shown less willingness to compromise with Serbia.

As the preceding pages have illustrated, Kosovo’s political system is characterised by the permanent infighting between the government and the opposition, between the President and the Prime Minister as well as between and within the ruling parties. This has resulted in unstable governments and frequent snap elections that caused delays and uncertainties in the dialogue. Although most political parties recognise the need for dialogue in principle, they still criticise the government for reasons of power politics. The strong factionalism makes the ratification of a compromise agreement almost impossible as this would require a two-thirds majority in the Parliament. A case in point is the Association/Community of Serb-majority Municipalities that was agreed in 2013 and 2015 but has never been implemented due to strong political opposition. In addition to the large number of potential veto players, the public perceives the dialogue and the ACSM in particular very negatively. This is due to years of harsh rhetoric portraying Serbia as an enemy and any form of concession as treason. Politicians who are responsible for the conclusion of an agreement with Serbia must therefore expect election losses.

⁵⁰⁷ Bledar Qalliu, “Kosovo Coalition Ally Demands Suspension of Dialogue with Serbia following War Crimes Charges against President”, *Exit News*, 5 November 2020.

⁵⁰⁸ “Osmani says this is not time to continue Dialogue with Serbia”, *RTK Live*, 10 November 2020.

⁵⁰⁹ “Hoti: Suspension of dialogue does not serve the interests of Kosovo”, *Kosova Press*, 11 November 2020.

⁵¹⁰ “Kosovo's highest court rules parliamentary vote electing government was illegal”, *Reuters*, 21 December.

5.4.3 Kosovo Serbs

Finally, the thesis turns to the group that is “most affected and least consulted in the process”⁵¹¹, namely the Kosovo Serbs. Kosovo Serbs, especially those living in the northern part of the country, have been directly affected by most of the agreements reached in the dialogue. The Brussels Agreement, for example, envisaged the establishment of an Association/Community of Serb-majority Municipalities and their integration into the Kosovo state. Other agreements on freedom of movement, telecommunications or electricity also affect Kosovo Serbs disproportionately, as they interact more often across the border.⁵¹² Yet, Kosovo Serbs have not been included in either the Serbian or Kosovar negotiation team. This top-down approach is problematic as it neglects the importance of local ownership. An agreement that lacks legitimacy in the eyes of the most affected is not likely to be sustainable.⁵¹³

The Kosovo Serbs are not a homogenous group but have very different interests and attitudes. In the four municipalities north of the Ibër/Ibar river, ethnic Serbs make up 87 % of the population. Many of them have little experience with Albanians and view them with fear and distrust.⁵¹⁴ They firmly reject Kosovo's independence and do not consider Pristina's authority over northern Kosovo to be legitimate.⁵¹⁵ Many would prefer to be governed by Serbia and due to the common border, they see this option as more realistic than their southern peers.⁵¹⁶ The public opinion in northern Kosovo is largely against the dialogue. As Malazogu and Bieber note:

“[t]here is a widespread view among Kosovo Serbs that they stand to lose from the outcomes of the dialogue – they believe that Belgrade entered the talks for its own national interests and not to defend the interests of Serbs in Kosovo. Many Serbs see the dialogue as a result of pressure from the international community, and a prelude to Serbia’s recognition of Kosovo’s independence”.⁵¹⁷

Consequently, Serbs from northern Kosovo have tried to derail the negotiation process and to hinder the implementation of agreements. After Kosovo took control of two border posts in July 2011, Kosovo Serbs erected barricades blocking the roads to the South.⁵¹⁸ When Kosovo

⁵¹¹ Todoric and Malazogu, op. cit., p. 14.

⁵¹² Malazogu and Bieber, op. cit., p. 30.

⁵¹³ Gashi, op. cit., 544.

⁵¹⁴ Marko Prelec and Naim Rashiti, *Serb Integration in Kosovo After the Brussels Agreement*, Balkans Policy Research Group, March 2015, p. i.

⁵¹⁵ Bergmann, *The European Union as International Mediator*, op. cit., p. 150.

⁵¹⁶ Todoric and Malazogu, op. cit., p. 25.

⁵¹⁷ Malazogu & Bieber, op. cit., p. 30.

⁵¹⁸ Bergmann and Niemann, “The EU as mediator in international conflicts“, op. cit., p. 969.

organised municipal elections in 2013 as part of the Brussels Agreement, Kosovo Serbs protested against the conduct of elections under Pristina's authority. In the end, the elections had to be cancelled due to violent incidents and intimidations of voters. The repetition of the elections was largely peaceful but the turnout in the North was below 20 % even though the Serbian government had called on the Kosovo Serbs to participate.⁵¹⁹ This also shows the increasing rift between Belgrade and the Kosovo Serbs. In February 2012, the northern Kosovo Serbs held an informal referendum on accepting the institutions of the Republic of Kosovo, in which 99.74 % voted against. The referendum was organised against the wishes of Belgrade and was consequently rejected by both Belgrade and Pristina.⁵²⁰

By contrast, Serbs in central and southern Kosovo live side by side with Albanians. Unlike their counterparts in the North, they have largely accepted the reality of an independent Kosovo. Prelec and Rashiti explain that “[n]orthern strategies are untenable there. Aggressive separatism, resorting to barricades and low-level violence, is impossible. Milder resistance, like refusing to carry Kosovo documents or use licence plates, is also impractical”.⁵²¹ In general, the Serbs living south of the Ibër/Ibar river support the Kosovo-Serbia dialogue. They do not engage in spoiler behaviour and view the actions of their northern compatriots with suspicion.⁵²² While North Kosovo Serbs have boycotted elections in the past, the electoral turnout among South Kosovo Serbs has not differed much from the average.⁵²³ Kosovo Serbs in the South are also wary of a potential division of Kosovo because they fear that this would endanger their minority rights.⁵²⁴

Bergmann argues that the Serbian government has largely managed to contain the spoiler potential of Kosovo Serbs “by replacing their political leaders with individuals loyal to Belgrade”.⁵²⁵ Ahead of the 2013 municipal elections, Belgrade initiated the establishment of the election platform ‘Serbian List’ (Srpska Lista). It consisted of parties loyal to Belgrade and was meant to counter the influence of Kosovo Serb leaders in the northern municipalities, who continued to reject integration into the Republic of Kosovo. Due to political and financial support from Belgrade, the Srpska Lista has become the sole representative of the Kosovo Serbs, winning all ten seats reserved for the Serbian minority in the Kosovo Assembly in 2019. Belgrade has given the politicians of Srpska Lista control of Serbian funding and the associated

⁵¹⁹ Beysoylu, op. cit., pp. 212-213.

⁵²⁰ Lehne, op. cit., p. 6.

⁵²¹ Prelec and Rashiti, op. cit., p. 7.

⁵²² Todoric and Malazogu, op. cit., p. 25.

⁵²³ Prelec and Rashiti, op. cit., p. 7.

⁵²⁴ Todoric & Malazogu, op. cit., p. 25.

⁵²⁵ Bergmann, *The European Union as International Mediator*, op. cit., p. 151.

distribution of jobs. In return, they are eager to fulfil Belgrade's wishes.⁵²⁶ Due to its tight control and the Kosovo Serbs' economic dependence, Serbia was able to impose the agreements reached in the dialogue on Serbs in northern Kosovo.⁵²⁷ However, it is still doubtful whether this will lead to sustainable implementation in the long term.

The control of the Srpska Lista also gives Belgrade the means to influence Kosovo's domestic politics. According to Kosovo's constitution, ten seats in the National Assembly are guaranteed to the Serb minority. Certain laws can only be passed if the majority of Serb representatives vote in favour. In addition, representatives of the Serb minority must also be part of the government.⁵²⁸ Therefore, "[p]aradoxically, the process of dialogue, which was supposed to include the Kosovo Serbs in the structures of Kosovar statehood, has considerably strengthened the influence and control of Belgrade over the Serb minority".⁵²⁹ This is likely to heighten fears that Serbia will try to maintain its influence after a final agreement, for example through the ACSM, and make Kosovo Albanian politicians even more cautious about its establishment.

⁵²⁶ Szpala, "Hostages to Dialogue", op. cit., p. 4.

⁵²⁷ Bieber, op. cit., p. 317.

⁵²⁸ Adrian Zeqiri and Aleksandar Arsić, *Dynamics within Serb Community Political Establishment Ahead of Snap Elections in Kosovo*, European Centre for Minority Issues, May 2017, p. 1.

⁵²⁹ Szpala, "Hostages to Dialogue", op. cit., p. 4.

6 Conclusion

The EU's enlargement policy has often been described as the Union's most successful foreign policy tool. In the context of the EU's eastern enlargement, accession conditionality was successfully used to defuse minority and border tensions between the candidate countries. Based on this experience, the EU has also sought to use accession conditionality as a means of resolving the conflict between Kosovo and Serbia, albeit with less success. The purpose of this thesis was to identify the factors that influence the effectiveness of EU conditionality in the Kosovo-Serbia dialogue and to explain why the process is still inconclusive ten years after its start. The external incentives model by Schimmelfennig and Sedelmeier was used as the theoretical framework for this analysis. The model identifies the determinacy of conditions, the size and speed of rewards, the credibility of conditionality and the domestic adoption costs as the decisive factors for the effectiveness of conditionality. While confirming the importance of these factors, the thesis also highlighted the central role of coherence. This factor is typically neglected by studies applying the external incentives model. However, it is crucial to understanding the effectiveness of the EU's conditionality, or rather the lack thereof, in the Kosovo-Serbia dialogue because it affects all other factors.

The lack of coherence has hampered the EU's ability to formulate clear conditions. Although the 'normalisation of relations' is clearly defined as a *sine qua non* condition for EU accession in the relevant documents, it is unclear what this actually entails. Due to the division of Member States over the status of Kosovo, the EU has failed to make "mutual recognition" the ultimate goal of the process. Some of the interim benchmarks are also not clearly specified, which leaves a lot of room for interpretation and hence undermines the effectiveness of conditionality. If the EU wants to become more effective as a mediator, it needs to clearly state what it expects from Serbia and Kosovo in terms of normalisation. This must also concern the question of recognition.

In terms of the size and speed of the rewards, the thesis concluded that EU membership would, in principle, be a sizeable carrot for Serbia and Kosovo to sign an agreement. Among other things, it would improve their access to the single market, increase financial assistance and allow them to shape EU decisions. What is problematic is not the size but the speed of the rewards. Serbia has already started accession negotiations and cannot realistically expect to join the Union in the next couple of years. As the opening of new negotiating chapters is unlikely to be a sufficient incentive to conclude a final agreement with Pristina, the EU currently has

little leverage over Belgrade. For Kosovo, the situation looks even more dire. The lack of coherence has prevented the EU from offering tangible incentives to Kosovo. Since five Member States do not recognise Kosovo's independence, EU membership seems out of reach for the foreseeable future. Visa liberalisation would be a more tangible carrot. Yet, the process is also blocked by a minority of Member States in the Council.

Although the integration of Serbia and Kosovo would not be prohibitively costly due to their comparatively small size, the lack of coherence still calls into question the EU's capability to deliver the promised rewards. Formerly technical processes such as the enlargement or visa liberalisation process have increasingly become subject to Member States' domestic political interests. Domestic concerns of individual Member States have prevented the EU from starting accession negotiations with Albania and North Macedonia and from granting visa liberalisation to Kosovo. This has seriously damaged the EU's credibility and thus also the effectiveness of its conditionality.

Regarding the EU's capability to withhold rewards, the thesis concluded that the EU has sometimes found it difficult to withhold rewards due to the region's strategic importance and the fear of losing influence at the expense of other geopolitical actors. The result has been an inconsistent allocation of rewards that has damaged the EU's credibility. Due to Serbia's strategic importance for stability in the Western Balkans and its important role in managing migration, the EU has been willing to soften its conditionality approach to keep Serbia on the European track and prevent it from drifting towards Russia or China. Moreover, the EU has rewarded Kosovo and Serbia for rhetorical commitments without taking into account their actual implementation. This has encouraged moral hazard behaviour and undermined the credibility of the EU's conditionality. The thesis also found that Serbia and Kosovo were not always treated equally. Since five EU Member States do not recognise Kosovo's independence, the EU has been unable to offer Kosovo the same benefits that Serbia received. This has created a perception among Kosovars that the EU is biased in favour of Serbia. The failure of the Council to grant visa liberalisation to Kosovo despite the fulfilment of exceptionally tough criteria has reinforced this perception.

Given the central role of coherence, the thesis sought to systematically explore its different facets. Following Gebhard's distinction, the thesis examined four different dimensions of coherence: vertical, horizontal, institutional and external. Vertical coherence between the Member States and the EU institutions was assessed as low to medium. Although Member

States agree that the dialogue is necessary and that it should be linked with the enlargement process, they have no common position regarding Kosovo's statehood. The fact that five Member States do not recognise Kosovo's independence undermines the EU's credibility and leverage vis-à-vis Kosovo, as the EU is unable to offer a clear membership perspective. The 'enlargement fatigue' in some Member States and their growing political interference in the process have also raised doubts about the accession perspective of Serbia. Moreover, vertical incoherence between the supranational and national level was evident in connection with border changes as the HR/VP publicly contradicted the German Foreign Minister. Despite these contradictions, actions of individual Member States, such as Merkel's visit to Belgrade in 2011, have sometimes also reinforced and complemented the EU's mediation efforts.

Furthermore, the thesis found that horizontal coherence between the dialogue and enlargement policy has been high. The EU has used the accession carrot to persuade Serbia and Kosovo to conclude several technical agreements that would not have been possible without the linkage between these two policy areas. Every major agreement was rewarded almost immediately with progress in the accession process. After the parties concluded the Brussels Agreement, for example, the Commission recommended opening accession negotiations with Serbia and SAA negotiations with Kosovo. Although this policy was quite successful, especially at the beginning of the dialogue, the subordination of enlargement policy to the dialogue process might negatively impact the EU's long-term strategic interests as it pays less attention to democratisation. While horizontal coherence between the dialogue and enlargement policy has been high, this has not been the case between the dialogue and visa policy. The thesis showed that the failure to link progress in the dialogue with visa liberalisation for Kosovo has reduced the EU's leverage.

Institutional coherence between the different EU institutions was considered as medium to high. The HR/VP and the EEAS conducted the mediation in close coordination with the European Commission, whose representatives were directly involved in the negotiations. Coordination problems proved to be greater within the EEAS or the Commission than between them. The Commission's DG NEAR and DG HOME, for example, have different priorities that are not always compatible. The European Council was identified as the most important institution as it has the ultimate say on all enlargement-related decisions. The Heads of State or Government have supported the HR/VPs mediation efforts by granting several (pre-)accession-related benefits to Serbia and Kosovo. At times, however, the Council withheld benefits for political reasons and thus undermined the HR/VPs credibility. The fact that decisions related to

enlargement require unanimity in the Council is particularly problematic in this respect. Although the European Parliament has played a limited role in the dialogue between Kosovo and Serbia, it has an indirect influence on its outcome as it must approve the eventual EU accession of Serbia and Kosovo. The Parliament has strongly supported Kosovo's independence and visa liberalisation for Kosovo citizens and has therefore come into conflict with the Council on several occasions. Finally, the actors on the ground, EULEX, the EU offices in Belgrade and Pristina and the EUSR have supported the EU's mediation efforts in a coherent manner. Despite this relatively high degree of coherence, the presence of so many different actors has sometimes led to confusion among Kosovar and Serbian interlocutors.

The thesis also examined the EU's external coherence with other relevant international actors, notably the United States, Russia and China. The three states pose different challenges to EU conditionality. The EU and the US displayed a high-level of coherence in the early days of the dialogue. They shared the same goals and closely coordinated their diplomatic activities, which greatly benefited the EU's mediation efforts. The US did not challenge the EU's role as the main mediator between Kosovo and Serbia. This changed in the last two years of the Trump administration, when the US started to act more and more as an alternative mediator and brokered agreements without consulting the EU. The existence of an alternative mediator pursuing partly different goals weakened the effectiveness of EU conditionality. Many Kosovars prefer US mediation because they consider US policy to be more credible and in line with Kosovo's interests. Belgrade also saw advantages in US mediation due to the Trump administration's openness to discussing border changes, which most EU Member States strongly oppose. The Biden administration is expected to return to a more collaborative approach, which would again benefit the EU's mediation efforts.

Unlike the United States, Russia does not pursue its own mediation activities. In fact, the Kremlin is not interested in solving the conflict between Kosovo and Serbia as this would open the door for their EU and NATO memberships. Moreover, Russia would lose its main source of influence over Serbia, which relies on Russia's veto to block Kosovo from joining the UN. Due to their totally different interest, external coherence between the EU and Russia was considered as low. Moscow has several means to obstruct an agreement and weaken the effectiveness of EU conditionality. Not only could it veto Kosovo's UN accession but due to its huge popularity in Serbia, it could also stir up opposition against a compromise agreement among the Serbian population and thus increase Serbia's domestic adoption costs.

China is neither involved in mediation activities nor does it try to prevent a resolution of the Kosovo-Serbia dispute. However, Serbia's close ties with China are still problematic for the EU's mediation efforts as they lower Serbia's incentive to compromise. Chinese loans come with no strings attached and are therefore seen as an attractive alternative to EU funding which is dependent on costly reforms. These non-transparent loans also encourage corruption and political patronage and might indirectly affect the EU's efforts to promote the rule of law and Serbia's accession in the long run. With accession to the European Union, Serbia would lose some of the advantages that make the country attractive for Chinese investments, such as the fact that it does not have to comply with EU procurement rules while having almost full access to the single market. In addition, Serbia would have to align itself with EU foreign policy towards China. These considerations increase the domestic adoption costs for Serbia, which has successfully managed to pit the various actors against each other to secure a maximum of benefits.

Finally, the thesis tried to assess the domestic adoption costs. This factor is not in the hands of the EU but depends on the political situation in Kosovo and Serbia. In Serbia, political parties have a relatively coherent position regarding the desirability of EU accession and the necessity of dialogue with Kosovo. 'Euro resisters' have been gradually replaced by instrumental promoters, who view the dialogue primarily as a means to advance European integration and to receive benefits from the EU. They are less interested in the normalisation of relations as they can exploit the current situation to gain political support. The result is a double game in which elites are trying to present themselves as constructive negotiators in Brussels, while at the same time engaging in all sorts of provocative behaviour towards Kosovo to gain political support on the national level. An overwhelming majority of the population as well as influential groups such as the Serbian Orthodox Church vehemently oppose Kosovo's recognition. Since any government pursuing such a policy would face very negative political consequences, non-recognition remains a firm red line for Belgrade. The negative public opinion is particularly problematic because the Serbian constitution requires a referendum on the recognition of Kosovo's independence. While the negative public opinion increases the domestic adoption costs, the absence of a significant political opposition and the ruling party's dominance over the media decrease them. President Vučić's Serbian Progressive Party won more than 60 % of the votes in the last parliamentary elections. Hence, Vučić would probably be able to push through a deal in the Serbian Parliament. Yet, much will depend on his willingness to make painful compromises that will likely cost him support among Serbian nationalists.

In Kosovo, the situation looks completely different as there is a high number of potential veto players related to the strong factionalism in the Kosovo Assembly. Since Kosovo's independence in 2008, there has been permanent infighting between and within political parties that has resulted in unstable governments and frequent snap elections. Although most parties generally agree on the goal of European integration and the necessity of dialogue with Serbia, opposition parties have nevertheless tried to undermine the government for reasons of power politics. The Self-Determination Movement, which is likely to win the snap elections in February 2021, has been particularly critical when it comes to concessions towards Serbia. The strong factionalism makes the ratification of a compromise agreement with Serbia almost impossible as this would require a two-thirds majority in the Kosovo Parliament. Kosovo politicians also have to worry about losing elections if they conclude an agreement with Serbia. Due to years of harsh rhetoric portraying Serbia as an enemy and any form of concession as treason, the public perceives the dialogue very negatively.

The Kosovo Serbs are not part of the dialogue although they are most affected by the agreements reached. The Kosovo Serbs are not a homogenous group. While Serbs in the North violently protested against the IBM agreement and still largely refuse to accept Pristina's authority, Serbs in the South are trying to integrate into the new state. Belgrade has managed to contain the spoiler potential of Northern Kosovo Serbs by replacing their leaders with politicians loyal to Belgrade. The 'Srpska Lista' that is politically and financially supported by Belgrade won all ten seats reserved for the Serbian minority in 2019. The control of the Srpska Lista has also given Belgrade the opportunity to interfere in the domestic politics of Kosovo and reinforced fears of Kosovo Albanian politicians that Serbia will try to maintain its influence after a final agreement, for example through the ACSM.

The lack of effectiveness of the EU's conditionality in the Kosovo-Serbia dialogue is thus related to a combination of several interdependent factors. On the EU side, the lack of coherence is the most serious problem. As long as the five non-recognisers do not change their positions, the EU will not be able to formulate clear conditions and goals for the dialogue process. It will also not be able to offer a credible membership perspective to Kosovo. The EU's credibility in the eyes of Kosovar authorities is already very low given the Council's failure to agree on visa liberalisation. In order to avoid the perception of double standards and to regain Pristina's trust, the EU should urgently fulfil its promise of visa liberalisation. In a next step, the five non-recognisers should accept the reality of Kosovo's independence, which would allow the EU to establish a more credible membership perspective that would act as a strong incentive to make

compromises in the dialogue. The EU must also reassure Serbia of its commitment to enlargement and speed up negotiations. Once negotiations move closer to the end, Serbia will have greater incentives to compromise. However, other priorities like democracy or the rule of law must not be sacrificed on the way as this could backfire later on. To bring the dialogue to a successful conclusion, it will also be important that Brussels and the new US administration act in concert rather than in parallel. Both share the same interests when it comes to peace and prosperity in the Western Balkans. They should increase their investments in the region to tie it even closer to the West and mitigate the influence of other third state actors. Yet in the end, much will depend on the political will in Kosovo and Serbia. Elites in both countries must stop portraying the other as an enemy and start explaining the merits of a compromise solution to their populations. This task would be much easier, if the parties could draw on a credible and tangible accession perspective.

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