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Time to Re-engage with Kosovo and Serbia: Strengthening EU Foreign and Security Policy amidst Internal Contestation

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Abstract

With the 15th year anniversary of Kosovo's independence approaching in 2023, the status quo of the Kosovo-Serbia conflict looks increasingly untenable. For more than two decades, the European Union and its member states have heavily invested in bringing this conflict to a close through initiatives, such as the facilitated dialogue and the EULEX rule of law mission along with the accession process for both countries. Sidestepping internal disagreement on the status of Kosovo and relying heavily on the creativity of EU institutions, EU member states have pursued technical and "status-neutral" policies in the hope that these would bring about normalisation between the two countries. This approach no longer suffices in the wake of increasing multipolar competition with Russia and China and continued regional fragmentation of the Balkan area. Following the Russian war in Ukraine, geopolitical considerations require the EU and its member states to increase their efforts and re-engage with the Kosovo-Serbia conflict. These geopolitical challenges generate a (short-term) window of opportunity for the EU to work towards an end-state, mitigate internal contestation and get both countries firmly back on their paths of European integration and regional reconciliation.

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Introduction

While the European Union has invested considerable diplomatic, political, financial and military capital in pacifying and stabilising its immediate neighbourhood, the Kosovo-Serbia conflict remains a stumbling block. Since Kosovo's unilateral declaration of independence in 2008, the EU has been supervising and supporting Kosovo's institutions to ensure effectiveness, sustainability, multi-ethnicity and accountability, in compliance with tested European practices. The threat of renewed violence has substantially receded, yet Kosovo's statehood remains contested by Serbia and the relations between the two are far from "normalised", blocking both their respective paths to European integration and harming the prospect for regional reconciliation.

As we approach the 15th anniversary of Kosovo's independence on 17 February 2023, the status quo looks increasingly untenable. Because of the Russian war in Ukraine, the EU and its member states cannot afford any deterioration of the security situation in the Western Balkans. Russia's war against Ukraine has generated urgency among EU policy makers to speed-up the European integration of the region and to settle the outstanding conflicts that mar accession prospects. Yet, while the EU has taken important steps for Albania and North Macedonia and might grant candidate status to Bosnia and Herzegovina,¹ there is a serious risk that Kosovo and Serbia are left out. Kosovo, which is still not recognised as an independent state by five EU member states (Cyprus, Greece, Romania, Slovakia and Spain), remains the only country in the Western Balkans without visa liberalisation.² Kosovo feels it is held back in terms of possible candidate status and discriminated against. Serbia's refusal to implement the EU sanctions against Russia and align with EU foreign and security policy (EUFSP) has brought its accession negotiations to a virtual hold. This reduces EU leverage over Serbia when it comes to addressing the conflict with Kosovo.

¹ Following almost a decade of "enlargement fatigue", under geopolitical pressure, the European Council of 22–23 June 2022 finally decided to start accession negotiations with Albania and North Macedonia and the European Commission recommended in October 2022 to grant candidate status to Bosnia and Herzegovina.

² More than four years after a positive verdict by the European Commission in July 2018, the member states have now set in motion the process of visa liberalisation for Kosovo by 1 January 2024. See Council of the European Union, *Kosovo*: Council Agrees Negotiating Mandate on Visa Free Travel*, 30 November 2022, <https://europa.eu/!4HGcxy>.




It is not just that the geopolitical situation dictates that the EU re-engages with Kosovo and Serbia. There also remains a risk of conflict escalation, as has been seen with the 2021 and 2022 border tensions with disputes over ID cards and license plates. These disputes resulted in barricades, protests, gunfire and even Serbian MIG fighter jets flying along the Kosovo border, requiring imminent crisis management by the EU and the United States. Regional fragmentation thus continues, and the situation in northern Kosovo remains unsolved, yet these border tensions also distract from a broader understanding that Kosovo and Serbia have a window of opportunity to address their conflict.³ The leaders of both countries have strong electoral mandates and do not face imminent national elections. The EU institutions, France, Germany, Italy and the United States also have a stable leadership at least until 2024. All these players are paying renewed attention to the Western Balkans, keenly aware of the geopolitical implications of destabilisation and conflict there. France and Germany have made a proposal for a final agreement on the conflict, which is taken forward by the EU.⁴ This opportunity should not be squandered. The time is thus right for Kosovo and Serbia to work towards an end-state of the conflict in the next 12-18 months, even if this falls short of ultimate recognition of Kosovo by Serbia.

With so much at stake, this report analyses *how EUFSP towards the Kosovo-Serbia conflict can be further strengthened* against the background of increased EU competition with Russia and continued fragmentation of Western Balkan regional politics. It pays particular attention to persistent internal EU disagreement on Kosovo's statehood by examining the sources and salience of contestation by the five member states that do not recognise Kosovo. The report builds on official documents, secondary analyses, and recent publications. It also draws on 36 interviews with EU and member states officials as well as local Kosovar and Serbian officials, experts and civil society representatives.⁵ Interviews were conducted in Athens, Belgrade, Brussels, Pristina, Madrid and via online video conference mostly in September 2022.

³ Interviews 27 and 30.

⁴ Alexandra Brzozowski, Alice Taylor and Georgi Gotev, "Leak: Franco-German Plan to Resolve the Kosovo-Serbia Dispute", in *Euractiv*, 9 November 2022, <https://www.euractiv.com/?p=1836496>.

⁵ All interviews are anonymised in line with the ethical requirements of the JOINT research project. A list of interviews with non-identifying information is included at the end of this report.



This report finds that, despite internal EU disagreement between 22 recognising and five non-recognising member states, EUFSP has been able to launch an ambitious facilitated dialogue, the European Union Rule of Law Mission in Kosovo (EULEX) and the accession process for both countries. Contrary to widespread beliefs that the position of the five non-recognising states are dogmatically fixed and undermine the EU's capacity to address the conflict, they do, in fact, allow for substantial manoeuvring. Member states have used strategies of delegation, by which EU institutions oversee the day-to-day running of EUFSP towards Kosovo and Serbia. The space provided is utilised by EU institutions, which have adopted various creative ways to address the conflict while getting around the problem of a lack of political consensus on Kosovar statehood. This point will be demonstrated by analysing the EU enlargement process and visa liberalisation, the Belgrade-Pristina dialogue, and EULEX, for which the EU uses technical and constructively ambiguous language in support of both Kosovo and Serbia. At the same time, the report shows that this modus operandi, in which member states bypass their disagreements, no longer suffices and that the EU and its member states will have to make bigger steps to address the Kosovo-Serbia conflict.

The next section presents the context of EUFSP in the Kosovo-Serbia conflict. It highlights the relevance of the conflict for the EU, the EU policies towards and politics around the conflict and finally the strengths and weaknesses of EUFSP with respect to it. This is followed by a section on EU mitigation strategies to deal with the negative effects of such constraining factors on EUFSP as intra-EU differences, increased competition with Russia and dysfunctional regional arrangements. In the conclusion, the report makes recommendations on how the EU can deal with the Serbia-Kosovo dispute in a more joined-up way.

1. The context of EUFSP in Kosovo-Serbia conflict: Diagnosis and analysis

1.1 Relevance of the Kosovo-Serbia conflict to the EU

The Western Balkans have been a test case for EUFSP since the early 1990s, when the region was engulfed in conflict and EU member states began making more tangible steps in foreign policy cooperation through the launch of the Common

Foreign and Security Policy (CFSP) in 1993. Years of international tutelage and presence on the ground have contributed to keeping the peace in the region but the underlying conflict dynamics continue to spoil regional politics and undermine Kosovo and Serbia's European integration prospects.

Given its geographical location on the European continent, solving the Kosovo-Serbia conflict is of high importance to the EU in terms of security and stability. The drivers behind the EU's substantial engagement in the Western Balkans (including a conditional promise of EU membership) are the long-term geopolitical benefits linked to a stable, prospering and democratising region that is closely integrated in the European project.⁶ The risks related to the non-resolution of the Kosovo-Serbia conflict have become very apparent with the return of great power rivalry in the Western Balkans that has contested the primacy of European leadership in steering the trajectory of the region.⁷ The EU itself has made this geopolitical resurgence possible by not vigorously pursuing its enlargement policy objectives and by remaining passive in the face of a considerable deterioration of democratic standards across the region during the last decade.⁸ The related power vacuum has been an invitation for other powers such as Russia and China to step in.⁹

Russia's war against Ukraine has raised the geopolitical stakes in the Western Balkans to a new level. On the one hand, it has generated urgency among EU policy-makers to speed up the European integration of the Western Balkans and to settle the pending conflicts that mar the region's accession prospects. On the other hand, it has put governments in the region on the spot, forcing them to take a clear position on the war and obliging them to make a foreign policy choice on alignment with either the EU or Russia. Serbia has been particularly torn between its declared objective of joining the EU and its historical ties to Russia, trying to cover

⁶ Milada Anna Vachudova, "EU Leverage and National Interests in the Balkans: The Puzzles of Enlargement Ten Years On", in *Journal of Common Market Studies*, Vol. 52, No. 1 (January 2014), p. 122-138, DOI 10.1111/jcms.12081.

⁷ Dimitar Bechev, *Rival Power. Russia in Southeast Europe*, New Haven, Yale University Press, 2017.

⁸ Florian Bieber, "Patterns of Competitive Authoritarianism in the Western Balkans", in *East European Politics*, Vol. 34, No. 3 (2018), p. 337-354, <https://doi.org/10.1080/21599165.2018.1490272>; Solveig Richter and Natasha Wunsch, "Money, Power, Glory: The Linkages between EU Conditionality and State Capture in the Western Balkans", in *Journal of European Public Policy*, Vol. 27, No. 1 (2020), p. 41-62, <https://doi.org/10.1080/13501763.2019.1578815>.

⁹ Cameron Munter and Valbona Zeneli, "Filling the Balkan Power Vacuum", in *The American Interest*, 8 May 2020, <https://wp.me/p4ja0Z-NfF>.

a middle ground (condemning Russia's invasion but refusing to apply sanctions against Russia) while, in essence, distancing itself further from the European mainstream.¹⁰ Above all, Russia's invasion of Ukraine has demonstrated that the EU's unfinished business in the Western Balkans is unsustainable, and that the EU needs to step up its engagement to achieve greater coherence and alignment with the foreign policy of these countries. Both countries, with support of the EU, now have the opportunity of to take concrete steps towards an agreement and get firmly back on their path to European integration.

1.2 EUFSP towards the Kosovo-Serbia conflict: Three constraining factors

The EU and its member states have long been active players in the Kosovo-Serbia conflict. After the NATO intervention in 1999, European countries provided most forces for the NATO operation Kosovo Force (KFOR) and the EU was put in charge of Pillar IV (Economic Reconstruction) of the UN Mission in Kosovo (UNMIK). Furthermore, following the so-called Ahtisaari process that led to Kosovo's unilateral declaration of independence in 2008, the EU increased its presence through the EU Special Representative and through the EULEX mission.¹¹ The EU became even further invested through facilitating the dialogue between Belgrade and Pristina (from 2011), granting EU candidate status to Serbia (in 2012), and negotiating a Stabilisation and Association Agreement with Kosovo (2013–2015).¹²

¹⁰ Interviews 8 and 10.

¹¹ Henry H. Perritt Jr, *The Road to Independence for Kosovo. A Chronicle of the Ahtisaari Plan*, Cambridge, Cambridge University Press, 2009; Marc Weller, *Contested Statehood. Kosovo's Struggle for Independence*, Oxford/New York, Oxford University Press, 2009; James Ker-Lindsay, *Kosovo. The Path to Contested Statehood in the Balkans*, London, I.B. Tauris, 2009; Labinot Greiçevci, "EU Actorness in International Affairs: The Case of EULEX Mission in Kosovo", in *Perspectives on European Politics and Society*, Vol. 12, No. 3 (2011), p. 283-303, DOI 10.1080/15705854.2011.596307; Hylke Dijkstra, "The Planning and Implementation of the Rule of Law Mission of the European Union in Kosovo", in *Journal of Intervention and Statebuilding*, Vol. 5, No. 2 (2011), p. 193-210, DOI 10.1080/17502977.2011.566481; Dimitris Papadimitriou and Petar Petrov, "Whose Rule, Whose Law? Contested Statehood, External Leverage and the European Union's Rule of Law Mission in Kosovo", in *Journal of Common Market Studies*, Vol. 50, No. 5 (September 2012), p. 746-763, DOI 10.1111/j.1468-5965.2012.02257.x.

¹² Spyros Economides and James Ker-Lindsay, "'Pre-Accession Europeanization': The Case of Serbia and Kosovo", in *Journal of Common Market Studies*, Vol. 53, No. 5 (September 2015), p. 1027-1044, DOI 10.1111/jcms.12238; Donika Emmini and Isidora Stakić, "Belgrade and Pristina: Lost in Normalisation?", in *EUSS Briefs*, No. 5/2018 (April 2018), <https://www.iss.europa.eu/node/2237>; Florian Bieber, "The Serbia-Kosovo Agreements: An EU Success Story?", in *Review of Central and East European Law*, Vol. 40, No. 3-4 (2015), p. 285-319, DOI 10.1163/15730352-04003008.

EUFSP towards the Kosovo-Serbia conflict is, however, constrained by three factors: intra-EU contestation, regional fragmentation, and multipolar competition.¹³

Table 1 | EUFSP constraining factors in the Kosovo-Serbia conflict

EUFSP constraint	Operationalisation	Explanation
Intra-EU contestation	Contesting actors: Governments	Recognition of Kosovo's statehood (Cyprus, Greece, Romania, Slovakia and Spain)
	Object of contestation: specific policy	Strong support for EUFSP, but policy-level contestation
Regional fragmentation	Level of fragmentation: sub-national	The Serbian municipalities and minorities within Kosovo
	Phase of fragmentation: post-conflict	No major eruption of violence and diminishing threat of renewed violence since 1999
Multipolar competition	Scope of competition: wide	Russia as a spoiler of EU efforts at stabilising and integrating the region and an increased presence of China (mostly economic) and Turkey (cultural, religious, economic) in Western Balkans
	Nature of competition: zero-sum	The multipolar competition is zero-sum (with Russia); more compatible with China and Turkey

Source: Authors' compilation.

Historically, the EU *internal contestation* has created the most tangible obstacles to a joined-up EUFSP as it has, at times, hindered the use of specific foreign policy instruments owing to the intergovernmental nature of the decisions involved in their deployment and the legal difficulties created by the non-recognition of Kosovo by five EU member states. The fragmentation of the Balkans has complicated the implementation of agreed EU policies, but it has not been a reason for less unity among the EU member states. The ever-growing multipolar competition in the region has strengthened the resolve of the EU to act more decisively towards conflict resolution and further integration of the region thus working in favour of a more joined-up EU policy. The war in Ukraine in particular has created a momentum for the EU to address the sensitive issues on the regional agenda and has further generated determination and agreement among the member

¹³ Riccardo Alcaro et al., "A Joined-Up Union, a Stronger Europe. A Conceptual Framework to Investigate EU Foreign and Security Policy in a Complex and Contested World", in *JOINT Research Papers*, No. 8 (March 2022), <https://www.jointproject.eu/?p=969>.

states to close the Balkan chapter of foreign policy engagement. In what follows, we examine in more detail the influence of each of these constraining factors on EUFSP in Serbia and Kosovo.

Regional fragmentation of the Western Balkans thwarts efforts to solve the Kosovo-Serbia conflict by generating instability in the regional context and fears of spill-over effects from other hot spots. After the violent dissolution of Yugoslavia in the 1990s, countries in the region have failed to integrate socio-economically and there are political crises, like the proposal for partitioning Bosnia and Herzegovina, that have destabilising effects across borders. Given the massive international presence on the ground and the existing institutional channels for diplomatic engagement in moments of crises, the concern about further regional fragmentation has progressively faded over the last twenty years, however. Most importantly, EUFSP towards Kosovo and Serbia is constrained by *fragmentation at the sub-national level*.¹⁴ The multi-ethnic composition of Kosovo, with Serbian municipalities in Kosovo and Kosovar municipalities in Serbia, was not just one of the key reasons for the war of 1999 but has also put a responsibility on the international community to ensure a peaceful resolution of the conflict. Serbian recognition of Kosovo, and thereby the recognition of much of the rest of the international community including Russia and the five non-recognisers in the EU, hinges also on this point. On a day-to-day basis the key challenge for EUFSP comes from pursuing a balanced approach to the Serbian minority communities. The EU tries to work with local actors to achieve progress on the ground, but cannot alienate the Kosovar authorities. The EU does so in a *post-conflict setting*. The threat of renewed violence has substantially receded and is also permanently monitored by NATO's KFOR mission and EULEX. However, protests and violent outburst continue from time to time, including over ID cards and particularly car license plates in September 2021 and August 2022.¹⁵ At the time of writing, after some crisis diplomacy, an agreement between Belgrade and Pristina was reached on 23 November 2022, in which Serbia would stop issuing licence plates with Kosovo Cities' denominations and Kosovo would stop imposing fines and giving reprimands.

¹⁴ Ibid., particularly p. 9-10 and table 1.

¹⁵ Ferenc Németh, "Western Balkans. From the Berlin Process to the Open Balkan Initiative. Prospects for the Accession Process", in *IEMED Mediterranean Yearbook 2022*, p. 226-229, <https://www.iemed.org/?p=84899>.

Multipolar competition is most visible through Russia's support of Serbia, including its strong political, economic and energy connection with Serbia and the use of its veto power in the UN Security Council to block attempts at international recognition and institutional integration of Kosovo. More generally, in the last decade, Russia has reasserted its role across the Western Balkans, challenging the EU's policies and spoiling Western efforts at stabilising and democratising the countries in the region.¹⁶ Exploiting ethnic, religious, linguistic and historical links with majority Slavic and Eastern Orthodox societies and using energy supply as a main lever of influence, Russia has expanded its presence, making inroads through a pragmatic policy of undermining Western policies with little investment of political and economic resources.¹⁷ Russia has also used every occasion to criticise the West's handling of Kosovo's declaration of independence in a broader attempt to delegitimise the West-dominated international liberal order and contest the EU's political and regulatory norm export in the Western Balkans and beyond.¹⁸ Furthermore, Russian information campaign targeting public opinion in Serbia in particular, which is exposed to constant misinformation or disinformation about the EU's objectives and actions, is increasingly seen as a key concern.¹⁹ Russia's invasion of Ukraine "has upped the ante, with EU heavyweights worried that the region is vulnerable to Russian disinformation and destabilisation efforts".²⁰ The German government "has warned of Russia's destabilisation strategies, possibly challenging peace and stability in the Western Balkan region".²¹ Russia has in this sense tried to erode Western influence from within, co-opting local actors and public opinion and taking advantage of the openings provided by the hesitant

¹⁶ Dimitar Bechev, *Rival Power*, cit.; Ritsa Panagiotou, "The Western Balkans between Russia and the European Union: Perceptions, Reality, and Impact on Enlargement", in *Journal of Contemporary European Studies*, Vol. 29, No. 2 (2021), p. 219-233, DOI 10.1080/14782804.2020.1798218.

¹⁷ Dimitar Bechev, *Rival Power*, cit.

¹⁸ Senem Aydın-Düzgit and Gergana Noutcheva, "External Contestations of Europe: Russia and Turkey as Normative Challengers?", in *Journal of Common Market Studies*, Vol. 60, No. 6 (November 2022), p. 1815-1831, <https://doi.org/10.1111/jcms.13380>.

¹⁹ Samuel Greene et al., "Mapping Fake News and Disinformation in the Western Balkans and Identifying Ways to Effectively Counter Them", in *European Parliament Studies*, February 2021, [https://www.europarl.europa.eu/thinktank/en/document/EXPO_STU\(2020\)653621](https://www.europarl.europa.eu/thinktank/en/document/EXPO_STU(2020)653621); Antoinette Nikolova, "To Stop War Breaking out in Kosovo, Media Freedom in Serbia Must Be Addressed", in *Euractiv*, 16 August 2022, <https://www.euractiv.com/?p=1796581>.

²⁰ International Crisis Group, "Managing the Risks of Instability in the Western Balkans", in *Europe Reports*, No. 265 (7 July 2022), p. 12, <https://www.crisisgroup.org/node/19291>.

²¹ Oliver Noyan, "Germany Warns of Spillover-Effect of Ukraine War in Western Balkans", in *Euractiv*, 7 April 2022, <https://www.euractiv.com/?p=1740572>.

EU policy prior to the war in Ukraine.²² For Russia, the Kosovo-Serbia conflict has been an opportunity to exploit local sensitivities for its own geopolitical benefit. By backing Serbia, it has offered Belgrade a bargaining chip in its negotiations with the West and has emboldened Serbian leadership to resist Western pressure.

Throughout the Western Balkans, the increased presence of China and Turkey should also be noted, but this has a more narrow scope focusing on commerce and investment and is not necessarily zero-sum with respect to EUFSP.²³ Turkey has reinvigorated its engagement with the region, even though its policy is not seen as adversarial to that of the EU in substantive terms.²⁴ At the discursive level, just like Russia, Turkey has used (Islamic) kinship with majority Muslim countries (Albania, Kosovo and part of Bosnia) and shared (Ottoman) history to try to delegitimise EU policy and justify its own policy advances in the region.²⁵ In reality, Turkey and the West have worked in parallel rather than at cross purposes. Turkey's activism in the region has involved providing financial assistance, supporting local political actors aligned with the ideological orientation of Turkey's ruling Justice and Development Party (AKP), trying to carve out a mediating role in the regional disputes through shuttle diplomacy.²⁶ It has continued supporting NATO's enlargement to the region. It has not been a supporter of authoritarianism in the region regardless of its own de-democratisation in the last decade. In short, Turkey and the West have largely overlapping interests in the Western Balkans and Turkey's presence does not constrain the EU's efforts at resolving the Kosovo-Serbia conflict.

Chinese influence in the Western Balkans has also been on the rise, manifesting itself most visibly through infrastructure investments and progressively posing a challenge to the EU's dominant position as a provider of economic opportunity and prosperity for the region.²⁷ China has tried to garner an image of a "strategic

²² Dimitar Bechev, *Rival Power*, cit.

²³ Interviews 11, 17, 18, 20, 21.

²⁴ Dimitar Bechev, "A Rival or an Awkward Partner? Turkey's Relationship with the West in the Balkans", in *Southeast European and Black Sea Studies*, Vol. 22, No. 1 (2022), p. 11-24, DOI 10.1080/14683857.2021.2024988.

²⁵ Senem Aydın-Düzgit and Gergana Noutcheva, "External Contestations of Europe", cit.

²⁶ Dimitar Bechev, "A Rival or an Awkward Partner?", cit.

²⁷ Vladimir Shopov, "Mapping China's Rise in the Western Balkans", in *ECFR Analysis*, March 2022, <https://ecfr.eu/?p=85944>.

investor” rather than a meddler in the domestic political affairs of the countries.²⁸ While the EU remains the main trading partner and source of foreign direct investment for the whole region, in the period 2009–2021 China invested a total of 32 billion euro in all Western Balkan countries, creating economic and debt dependencies along the way.²⁹ Serbia has the most developed relationship with China of all Balkan countries and counts on Beijing’s support for blocking Kosovo’s membership in international organisations. China backs Serbia’s stance on non-recognition of Kosovo and demands non-engagement with Taiwan in exchange. This pragmatic partnership allows Serbia to hedge against Western pressure in various domains but it does not play a key role in the settlement of the Kosovo-Serbia dispute.

The United States also remains a major actor in the Kosovo-Serbia conflict. Credited for the 1999 NATO intervention, commemorated by the Bill Clinton Boulevard, statute and flag in Pristina, the United States is Kosovo’s most trusted ally. It remains therefore important for the EU to work in tandem with Washington, as has been the case under the Biden administration. The Kosovar governmental only stepped back from the brink of conflict about licence plates in November 2022 after strong pressure from the United States. The Biden Administration’s *modus operandi* stands in contrast with the Trump Administration which pursued its own diplomacy toward both countries, including hosting the presidents of Kosovo and Serbia in the White House in September 2020 and entertaining the possibility of land swaps (see further below) between both countries, leading to fears about parallel negotiation tracks by the EU and United States.

The following section develops in detail *intra-EU contestation* in the Kosovo-Serbia conflict, which is the key constraining factor on EUFSP. Five member states – Cyprus, Greece, Romania, Slovakia and Spain – do not recognise Kosovo as an independent state. While the reasons behind non-recognition are domestic in nature, there is no active contestation of Kosovo’s independence per se by domestic constituencies in the five countries. Because of the relevance and urgency of the conflict to the EU and its member states, all member states – including the non-

²⁸ Branislav Stanicek with Simona Tarpova, “China’s Strategic Interests in the Western Balkans”, in *EPRS Briefings*, June 2022, [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2022\)733558](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2022)733558).

²⁹ Ibid.

recognising five – agree that the EU should, in fact, be active in Kosovo (and Serbia) through a variety of diplomatic, security and enlargement policies.

1.3 Contestation by the five non-recognising EU member states

As internal EU disagreement on Kosovo's status directly affects EU FSP, it is important to further zoom in on the sources and salience of such contestation. Among the non-recognisers, Spain holds the strictest stance mainly due to the Spanish government's opposition to the Basque and Catalan independence movements, the latter of which held an illegal referendum on independence in 2017.³⁰ Yet Spain has no extensive political or economic interests in the Western Balkans (in comparison to other non-recognisers such as Greece). Ruth Ferrero-Turrión has described the Spanish approach as “neither recognition, nor engagement”³¹ because there has been no trade and no diplomatic relations. Under Prime Minister Mariano Rajoy from the conservative Partido Popular (in office in 2011–2018), Spanish senior officials avoided participating even in multilateral talks on the Western Balkans. For example, in 2018, Rajoy eschewed an EU-Western Balkans summit to avoid sitting at the same table with the Kosovar government and vetoed the use of Kosovo's flag, anthem and other national symbols in multilateral meetings and events in which Spain participated.³²

However, since the socialist government led by Pedro Sánchez came to power in 2018, Spain has nuanced this position and now finds itself more comfortable with a policy that can be understood as “engagement without recognition”. Spain refers to it as a “constructive approach” to non-recognition in official documents.³³ Spanish senior officials participate in multilateral talks with the Western Balkans – even

³⁰ An excellent volume that considers the varying positions of key EU member states (up until around 2018) on Kosovar recognition is Ioannis Armatolas and James Ker-Lindsay (eds), *The Politics of Recognition and Engagement. EU Member State Relations with Kosovo*, Cham, Palgrave Macmillan, 2020. This report builds on this volume and also considers developments since 2018.

³¹ Ruth Ferrero-Turrión, “The Consequences of State Non-recognition: The Cases of Spain and Kosovo”, in *European Politics and Society*, Vol. 22, No. 3 (2021), p. 352, DOI 10.1080/23745118.2020.1762958.

³² Interviews 4, 17 and 18.

³³ “El Gobierno defiende su postura ‘constructiva’ respecto a Kosovo de no reconocer pero apoyar una solución”, in *EuropaPress*, 28 November 2021, <https://www.europapress.es/nacional/noticia-gobierno-defiende-postura-constructiva-respecto-kosovo-no-reconocer-apoyar-solucion-20211128110449.html>.

when Kosovo's officials are present.³⁴ Prime Minister Sánchez attended the Balkans meeting of October 2021 on the grounds that “Spain needs to be in all forums” and saluted the Kosovar prime minister.³⁵ He also attended the 6 October 2022 Prague Summit on the European Political Community, in which the Kosovar president took part. Spain provides strong support for EU policies towards the Kosovo-Serbia conflict. However, it draws the line at bilateral engagement and will not go forward with recognition until Serbia agrees to it.³⁶ It insists on mutual recognition rather than unilateral independence and is therefore waiting for Serbia to act.

Cyprus' non-recognition of Kosovo is related to the Northern Cyprus dispute, originating in the 1974 coup and the subsequent creation of the Turkish Republic of Northern Cyprus (TRNC) by Turkey. Cyprus claims that its position is in line with international law and UN Security Council Resolution 1244/99. However, with Cyprus firmly embedded in the EU, “shifting geopolitical interests and the International Court of Justice's advisory opinion on Kosovo's declaration of independence allowed Cyprus to soften its approach on Kosovo somewhat”.³⁷ There is some limited engagement between Nicosia and Pristina in terms of trade. Nevertheless, similarly to Spain, Cyprus' stance regarding recognition will not change unless there is an agreement between Pristina and Belgrade.

Greece has the strongest engagement with Kosovo despite its formal non-recognition. Athens does not recognise Kosovo in support of Cyprus' concerns (that is, avoid opening the Pandora box of secessionism that could affect Cyprus' disputed territory) and to a lesser extent because of its historical and cultural ties with Serbia.³⁸ Yet Greece does have a liaison office and representation in Pristina and maintains relations at various levels. This was nicely summarised by some interviewees in Athens in September 2022 as “everything but recognition”;³⁹ or as

³⁴ Interviews 18 and 3.

³⁵ Interviews 3 and 4.

³⁶ Interviews 2 and 9.

³⁷ Isabelle Ioannides, “Cyprus: Firmly Committed to the Non-recognition of Kosovo”, in Ioannis Armakolas and James Ker-Lindsay (eds), *The Politics of Recognition and Engagement. EU Member State Relations with Kosovo*, Cham, Palgrave Macmillan, 2020, p. 193.

³⁸ Interviews 5, 6, 13, 15 and 16.

³⁹ Interviews 14 and 15.

Ioannis Armakolas also put it, Greece is “Kosovo’s most engaged non-recogniser”.⁴⁰ Greece supports the normalisation talks between Kosovo and Serbia and the integration of Western Balkans countries to the EU. However, like Cyprus and Spain, the current stance of the Greek government is that it will only recognise Kosovo on the basis of an agreement with Serbia. This said, the position of Greece has become softer over the years. Under further pressure from the EU and the US, recognition may enter the realm of possibility.⁴¹ Furthermore, recognition of Kosovo may strengthen Greece’s capacity to facilitate the integration of Western Balkans countries to the EU as well as to promote regional integration, stability and neighbourliness.⁴² The agreement with North Macedonia over the country’s name is a precedent attesting to Greece’s ability to change longstanding positions held for domestic reasons for the sake of broader strategic gains.

While they do not recognise Kosovo, Slovakia and Romania do have diplomatic relations with Kosovo (both have Liaison offices). The reasons for these official positions are not as clear-cut as in the previous three cases. Both have large ethnic Hungarian minorities and there are fears of fuelling secessionism. Romania’s concern relates to Székely Land, where a large ethnic Hungarian community lives, and the unrecognised state of Transnistria in Moldova. Furthermore, Romania has good relations with Serbia.

The case of Slovakia is similar. Slovakia has a large Hungarian minority in the south and fears that recognising Kosovo might create a precedent for them. This has some historical roots, as explained by Milan Nič, the head of the Robert Bosch Center for Central and Eastern Europe, Russia, and Central Asia:

A [...] determinant in the Slovak perspective is a deeper historical sensitivity to issues of borders and secession of ethnic minorities. This goes all the way back to the break-up of [the] Austro-Hungarian monarchy in [the] 1918-1920 period, when Slovakia for the first time emerged on a map with territory

⁴⁰ Ioannis Armakolas, “Greece: Kosovo’s Most Engaged Non-recogniser”, in Ioannis Armakolas and James Ker-Lindsay (eds), *The Politics of Recognition and Engagement. EU Member State Relations with Kosovo*, Cham, Palgrave Macmillan, 2020, p. 123-146.

⁴¹ Interviews 15 and 21.

⁴² Interviews 5, 12, 13 and 15.

that included ethnic Hungarian regions in the south of the country.⁴³

This non-recognition does not prevent Slovakia from engaging with Kosovo at various levels, such as diplomacy and economy.

It is also worth mentioning that the countries that do recognise Kosovo formally do not always fully engage with it. James Ker-Lindsay and Ioannis Armakolas, for instance, identify the Czech Republic and Poland as “weak recognisers”.⁴⁴ This stands in contrast to the Quint-members France, Germany, Italy (and the United Kingdom and United States), which not only support Kosovo’s statehood but interact with it extensively on the full range of issues. Table 2 summarises the non-recognising EU members, their main concerns and level of engagement with Kosovo.

Table 2 | Non-recognising EU members and their level of engagement in Kosovo

Non-recognising member state	Domestic challenges informing contestation	Recognition of passports	Diplomatic representation	Participation in multilateral summits
Cyprus	Northern Cyprus	Yes	No	Yes
Greece	Northern Cyprus	Yes	Yes (at the level of ambassador)	Yes
Romania	Hungarian minority and Transnistria	Yes	Yes	Yes
Slovakia	Large Hungarian minority in the South	Yes	Yes (at the level of ambassador)	Yes
Spain	Basque and Catalan independence	No	No	Yes

Source: Authors' compilation.

⁴³ Milan Nič, “Slovakia”, in James Ker-Lindsay and Ioannis Armakola (eds), *Lack of Engagement? Surveying the Spectrum of EU Member State Policies Towards Kosovo*, Prishtina, Kosovo Foundation for Open Society, December 2017, p. 36, <https://kfos.org/en/publications/73/lack-engagement-surveying-spectrum-eu-member-state-policies-towards-kosovo>.

⁴⁴ James Ker-Lindsay and Ioannis Armakolas, “Kosovo, EU Member States and the Recognition-Engagement Nexus”, in Ioannis Armakolas and James Ker-Lindsay (eds), *The Politics of Recognition and Engagement. EU Member State Relations with Kosovo*, Cham, Palgrave Macmillan, 2020, p. 5 (Table 1.1).

Finally, recognition is not the only political cleavage over the Kosovo-Serbia dispute inside the EU. Several member states are notably more reluctant than others to embrace the EU's enlargement and related preparatory policies to the Western Balkans, which also reduces EU leverage on Kosovo and Serbia. For instance, France formally blocked the opening of accession negotiations with North Macedonia and Albania in 2019 citing the need for a revised methodology for accession negotiations even though French opposition to further enlargement of the EU is well known and has been seen as the main reason behind these delay tactics.⁴⁵ Likewise, Belgium, France, the Netherlands, Spain and Sweden were recently reported to drag their feet on visa liberalisation for Kosovars.⁴⁶ In conclusion, intra-EU contestation varies across member states and policy dossiers, and positions are not always fully fixed. However, this division does not preclude overall EU engagement to which we turn now.

2. Weaknesses and strengths of EUFSP towards Kosovo Serbia conflict

The EU has deployed a large spectrum of foreign policy instruments in its search for a solution to the Kosovo-Serbia conflict. In particular, it has mobilised its enlargement, diplomatic and CSDP toolbox to try to steer the two sides to a final settlement. In what follows, we examine how the EU's policies in these specific domains have dealt with the constraints arising from internal contestation, multipolar competition and regional fragmentation where relevant.

2.1 Enlargement policy and visa liberalisation

The EU extended the membership prospect to Western Balkans countries at the Thessaloniki Summit in 2003.⁴⁷ The main goal is stabilising and democratising the

⁴⁵ Erwan Fouéré, "Macron's 'Non' to EU enlargement", in *CEPS Expert Opinions*, 22 October 2019, <https://www.ceps.eu/?p=25101>.

⁴⁶ Perparim Isufi, "Kosovo Frustrated by EU's New 'Conditions' for Visa-Free Travel", in *Balkan Insight*, 14 October 2022, <https://balkaninsight.com/?p=1014457>.

⁴⁷ European Commission, *The Thessaloniki Summit: A Milestone in the European Union's Relations with the Western Balkans*, 18 June 2003, <https://ec.europa.eu/commission/presscorner/detail/en/>

region while preparing it for full integration into the EU. While strictly speaking not a conflict resolution tool, the accession process has always been expected to have a positive spill-over effect on reconciliation as it would have incentivised the governments in Belgrade and Pristina to put behind old quarrels in the name of a common European future.⁴⁸

Officially, the EU enlargement policy follows “a status neutral” approach that puts aside the non-recognition of Kosovo by five member states.⁴⁹ In all official documents, the EU consistently refers to Kosovo with an asterisk and an explanation in a footnote that its policy is “in line with United Nations Security Council Resolution 1244/99 and the opinion by the International Court of Justice on the Kosovo declaration of independence”. The EU enlargement instruments have been least subject to internal contestation as all member states have unanimously agreed to promise membership to both sides in the conflict. Kosovo and Serbia were subsequently given separate tracks in the EU accession trajectory and the European Commission, as the main interlocutor on the EU side, forged relations with both governments separately.

Over the years, the European Commission has proved instrumental in advancing Kosovo’s accession bid notwithstanding the legal challenges surrounding its status. In 2015, the EU signed a Stabilisation and Association Agreement (SAA) with Kosovo, which entered into force the following year after ratification by the European Parliament.⁵⁰ SAAs are normally mixed agreements that cover both EU and national competences and involve ratification by all member states as well as the European Parliament. In the case of Kosovo, a pragmatic compromise was found which enabled the EU to engage with Kosovo in a contractual relationship by including in the agreement only areas of cooperation that belong to the EU competences.⁵¹ Likewise, the European Commission has overseen Kosovo’s

IP_03_860.

⁴⁸ Aidan Hehir, “Kosovo’s Final Status and the Viability of Ongoing International Administration”, in *Civil Wars*, Vol. 9, No. 3 (2007), p. 243-261, DOI 10.1080/13698240701478952.

⁴⁹ Interview 35.

⁵⁰ European Union and Kosovo, *Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the One Part, and Kosovo *, of the Other Part*, 27 October 2015, https://eur-lex.europa.eu/eli/agree_internation/2016/342/oj.

⁵¹ Interview 34.

compliance with EU's Visa Liberalisation Roadmap⁵² and has proposed the lifting of visa requirements for Kosovo's citizens first in 2016, then confirming its assessment in 2018, thereby inviting the member states and the European Parliament to act to that effect.⁵³

Serbia's accession bid has unfolded in parallel. The country has been negotiating accession with the EU since 2014 and has currently 22 chapters of the *acquis communautaire* open and 2 provisionally closed.⁵⁴ Chapter 35 requires the normalisation of relations with Kosovo and the expectation is that the two sides reach an agreement between themselves before accession negotiations can be wrapped up. However, this does not complicate nor prevent Serbia's legal alignment with the rest of the EU acquis. Serbia's accession progress so far has been slow-moving owing mostly to problems with state capture and deficient democratic standards, rather than to issues arising from internal disagreements among the EU member states.⁵⁵ And this is in stark contrast to Kosovo, which has been discouraged to apply for candidate status and has not been able to enter the negotiations phase in the accession process, owing to the intergovernmental nature of these EU decisions and the requirement of unanimity among the member states.⁵⁶

Russia's war against Ukraine has amplified the Serbia's geopolitical predicament, becoming a problem for accession. Belgrade is in a difficult position. Most people refuse to back NATO's support of Ukraine and opposition against Russia, and yet Russia has used NATO's 1999 military intervention against Serbia to justify its "special operation".⁵⁷ Progressive alignment with CFSP declarations is a strong expectation in the accession process and Serbia's alignment record has been dismal dropping from 64 per cent in 2021 to 45 per cent in August 2022.⁵⁸ At the

⁵² European Commission, *Commission Delivers Visa Roadmap to Kosovo Government*, 14 June 2012, https://ec.europa.eu/commission/presscorner/detail/en/IP_12_605.

⁵³ European External Action Service, *Visa Liberalisation: EC Confirms Kosovo Fulfils All Required Benchmarks*, 18 July 2018, https://www.eeas.europa.eu/node/48608_en.

⁵⁴ Interview 36.

⁵⁵ Interviews 6, 10 and 11.

⁵⁶ Interview 35.

⁵⁷ Interview 8 and 11.

⁵⁸ European Commission, *Key Findings of the 2022 Report on Serbia*, 12 October 2022, <https://>

core of this issue is the country's refusal to implement the EU's sanctions against Russia, making Serbia appear in EU policy circles as the "bad pupil" in the group of Western Balkan accession candidates while others have shown full solidarity with the EU on Ukraine.⁵⁹ And while the EU member states may have tolerated a looser alignment with CFSP until now, the war against Ukraine has changed this and has elevated the requirement for CFSP alignment to a priority for Serbia and a *conditio sine qua non* for its accession progress.⁶⁰

2.2 Facilitation of dialogue between Serbia and Kosovo

The EU-facilitated dialogue between Kosovo and Serbia dates back to the unilateral declaration of independence in 2008. At the time, the UN General Assembly (UNGA) requested an advisory opinion from the International Court of Justice (ICJ) on the legality of the declaration. The ICJ's opinion that the declaration as such did not violate international law was important for Kosovo, but it did not result in Serbian recognition of Kosovar statehood. In response to the ICJ judgement, the UNGA therefore mandated "a process of dialogue between the parties", "facilitated" by the EU.⁶¹ The EU started this facilitated dialogue in 2011 and has been running the process since. The purpose of the facilitated dialogue is to address technical cooperation issues between Kosovo and Serbia with a view to eventual normalisation of relations. The facilitated dialogue had some early successes, resulting in the 2013 Brussels Agreement that aimed at normalising the relations between Kosovo and Serbia (covering such issues as Serbian municipalities in Kosovo, policing, municipal elections, energy and telecommunication, amongst others), the opening of the EU accession negotiations with Serbia in 2014 and the signing of the SAA with Kosovo in 2015, but has made less progress since then.⁶²

ec.europa.eu/commission/presscorner/detail/en/country_22_6089.

⁵⁹ Interview 10.

⁶⁰ Interviews 11 and 36.

⁶¹ UN General Assembly, *Resolution 64/298 of 9 September 2010: 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 (A/RES/64/298)*, paragraph 2, <https://undocs.org/A/RES/64/298>; Interview 29.

⁶² Interview 22. For an overview, see this report by Donika Emini and Isidora Stakić, "Belgrade and Pristina: Lost in Normalisation?", cit.

The constraining factors identified above undermine the very existence of the dialogue. As recalled above, besides the obvious historical reasons, Kosovo-Serbia relations are further complicated by regional fragmentation at the sub-national level, with the presence of Serbian communities and parallel structures in Kosovo that undermine state authority.⁶³ The protection of the Serbian minorities and their identity (whether it is about license plates, local policing and courts, or voting in elections) is consequently a critical part of the dialogue. Although there was progress in the initial years, both Belgrade and Pristina have reinforced their antagonistic positions and violated parts of the Brussels Agreement. For example, Kosovo has not really implemented decentralisation – the self-governing association of Serbian municipalities remains unestablished – while Serbia has launched a derecognition campaign.⁶⁴

A harsh stance against each other benefits the leaders in both Pristina and Belgrade politically since the status of Kosovo is arguably the most sensitive – an emotionally powerful – issue in both countries. In this already polarised context, disinformation exacerbates the difficulties in the process. For example, on 18 September 2022, the Albanian Post portal leaked an EU non-paper which supposedly established a 10-year vision for Serbia eventually recognising Kosovo's independence.⁶⁵ Although the EU has denied the authenticity of the leak, news of dubious origin and veracity harm the dialogue. Another domestic element which constrains progress in the dialogue is “state capture”, whereby Serbia's President Aleksandar Vučić and his clientelist networks have come to monopolise state structures like the security and the judiciary sectors or the media, accelerating a process of democratic backsliding.⁶⁶ Civil society organisations in Belgrade and Pristina criticise the secrecy of the dialogue and the fact that the dialogue takes place in Brussels, behind closed doors, with little discussion in the Serbian and Kosovar Parliaments.⁶⁷

⁶³ Interview 21.

⁶⁴ Interview 8.

⁶⁵ Bronwyn Jones and Ardita Zeqiri, “EU Denies Authenticity of Non-Paper for Kosovo-Serbia Dialogue Framework”, in *Prishtina Insight*, 22 September 2022, <https://prishtinainsight.com/?p=25672>.

⁶⁶ Sonja Stojanović-Gajić and Dušan Pavlović, “State Capture, Hybrid Regimes, and Security Sector Reform”, in *Journal of Regional Security*, Vol. 16, No. 2 (2021), p. 89-126, <https://doi.org/10.5937/jrs0-34622>.

⁶⁷ Interviews 7 and 8.

Despite these domestic constraints, the dialogue forms one of the cornerstones of EU policy vis-à-vis Kosovo and Serbia. Precisely because of intra-EU disagreement on Kosovar statehood, the member states have an additional incentive to promote normalisation of relations between Kosovo and Serbia. If both countries develop better relations, which may ultimately result in Serbia's formal recognition of Kosovo, internal EU disagreements would become less salient or irrelevant.

In April 2020, the EU appointed Miroslav Lajčák as the EU Special Representative (EUSR) for the Belgrade-Pristina Dialogue and other Western Balkan regional issues.⁶⁸ This was an attempt by EU member states and High Representative and Commission Vice President (HRVP) Josep Borrell to give new impetus to the dialogue. A former president of the UNGA, Slovak foreign minister, chairman-in-office of the Organisation for Security and Cooperation in Europe (OSCE), and EUSR and High Representative in Bosnia in 2007–2009, Lajčák did not just have considerable diplomatic eminence, but also commanded a deep knowledge of the Western Balkans.⁶⁹ He was given a substantial office consisting of ten advisors in Brussels as well as an advisor and local officials in both Belgrade and Pristina. His office also consists of eighteen experts dealing with the implementation of the dialogue who are currently located in the EULEX premises (the EULEX mission is addressed below).⁷⁰ All this indicates strong support for EUSR Lajčák among member states. Similar to member states' support for enlargement talks, intra-EU disagreement clearly does not prevent a common policy on the dialogue.

The appointment of an official from a non-recognising country (Lajčák is Slovak) in combination with a Spaniard as High Representative, initially raised eyebrows in the Kosovar government.⁷¹ Lajčák and his team also had a rough start with Covid-19 and Trump's Washington Agreement in September 2020, when Kosovo and Serbia signed separate commitments to normalisation.⁷² Lajčák needs to be careful

⁶⁸ Council of the European Union, *Council Decision (CFSP) 2020/489 of 2 April 2020 Appointing the European Union Special Representative for the Belgrade-Pristina Dialogue and Other Western Balkan Regional Issues*, <https://eur-lex.europa.eu/eli/dec/2020/489/oj>.

⁶⁹ Council of the European Union, *Belgrade-Pristina Dialogue: EU Appoints a New Special Representative*, 3 April 2020, <https://europa.eu/lum47Wj>.

⁷⁰ Interviews 24 and 30.

⁷¹ These concerns were overcome and not considered of a major issue in Kosovo. Interview 27.

⁷² Interviews 27 and 30; Andrej Semenov, "The Washington Agreement: A Supplementary Document to the EU Efforts in Kosovo?", in *Insight Turkey*, Vol. 23, No. 4 (Fall 2021), p. 259-275, DOI

with the terminology and cannot full-heartedly support Kosovar statehood, even though that seems to be the most likely end point of the dialogue.⁷³ Furthermore, Lajčák has to serve (including informally) a diverse set of principals. He has to deal with five recognising states in the Quint (including the non-EU member states the United Kingdom and the United States) and he has to maintain a close working relationship with Gabriel Escobar, the US Deputy Assistant Secretary for the Western Balkans. Non-recognising states, such as Spain, also keep a close eye on the EUSR's work.⁷⁴ These complicated political dynamics have indeed resulted in a situation in which Lajčák can provide limited process transparency and information.

Despite the overall EU support for the dialogue, there have been disagreements about potential outcomes of the process. In 2018, an idea that had been around since the 1990s, border adjustments by way of land swaps, was revived by Serbian President Vučić and the then President of Kosovo Hashim Thaçi. This possibility gained even more traction when it was backed by John Bolton – the US National Security Advisor at the time –, Johannes Hahn and Olivér Várhelyi – EU Commissioners for Neighbourhood and Enlargement respectively – and even HRVP Borrell.⁷⁵ At the same time, some EU member states such as Belgium, Hungary, Austria, Romania or Spain did not reject the idea. Spain did not openly oppose this solution to the conflict because both Serbia and Kosovo seemed to initially agree upon this option.⁷⁶

Nevertheless, Lajčák argued that territorial adjustments would be contrary to the multi-ethnicity and inclusion traditionally endorsed by the EU and emphasised that this solution was never part of the agenda of the dialogue.⁷⁷ Similarly, Finland,

10.25253/99.2021234.14.

⁷³ Interviews 23 and 30.

⁷⁴ Interviews 22, 26, 27 and 30.

⁷⁵ Ajándok Fehér and Boglárka Rédl, "An Ambitious Idea Without Practical Foundations: The Pragmatic Side of a Potential Land Swap Deal between Serbia and Kosovo", in *KKI Policy Briefs*, No. 2021/70, <https://kki.hu/en/?p=32975>.

⁷⁶ Interview 3.

⁷⁷ Pol Bargaúes-Pedreny, "From Promoting to De-Emphasizing 'Ethnicity': Rethinking the Endless Supervision of Kosovo", in *Journal of Intervention and Statebuilding*, Vol. 10, No. 2 (2016), p. 222-240, DOI 10.1080/17502977.2015.1137392; Ajándok Fehér and Boglárka Rédl, "An Ambitious Idea Without Practical Foundations", cit.

Luxembourg and especially Germany opposed the proposal⁷⁸ and agreed with Lajčák's stance adding that it would open a contentious precedent for the region, as well as bring major implementation challenges.⁷⁹ Potential solutions such as land-swaps may show division among EU officials as well as member states, in turn complicating the advances on conflict resolution.

Adding to the EU's problems is the increased presence of other external players. While the EU is the principal investor, trading partner and assistance provider in the Western Balkans, other countries such as China and Russia are gaining ground and constrain the EU's conflict resolution effort.⁸⁰ While China is building up influence through projects on infrastructure, energy, economy or even culture, Russia's close ties to Serbia undermines the EU's leverage over Belgrade.⁸¹ Russia has more directly obstructed the resolution of the conflict than China -- not only because it has backed Serbia on the Kosovo issue and vetoed a United Nations recognition of Kosovo's independence. Besides control of the energy and banking sectors in Serbia, Russia has also launched propaganda and disinformation campaigns that undermine the legitimacy of the EU and interfere in the Belgrade and Pristina dialogue.⁸² With the exception of Trump's four years in the White House, the US, on the other hand, has cooperated with the EU and has used its leverage over Kosovo to support the EU facilitated dialogue.⁸³

2.3 Security policy and the EULEX rule of law mission

The EULEX rule of law mission was launched in 2008 recommended by UN Special Envoy Martti Ahtisaari as part of the broader strategy of recognising Kosovo's independence.⁸⁴ Originally envisioned as a relatively small mission, which would

⁷⁸ Interview 8.

⁷⁹ Wouter Zweers and Myrthe de Boon, "Overcoming EU Internal Dividing Lines in the Belgrade-Pristina Dialogue", in *Clingendael Policy Briefs*, April 2022, <https://www.clingendael.org/node/14149>.

⁸⁰ Interviews 11, 19 and 21.

⁸¹ Interviews 17 and 18. See also, Vladimir Shopov, "Mapping China's Rise in the Western Balkans", cit.

⁸² Maria Giulia Amadio Viceré, "The Future Is Back: The EU, Russia and the Kosovo-Serbia Dispute", in *IAI Papers*, No. 19|19 (October 2019), <https://www.iai.it/en/node/10848>.

⁸³ Interview 18.

⁸⁴ Council of the European Union, *Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO*, http://data.europa.eu/eli/joint_

take over only some functions from the UN mission UNMIK, EULEX was in fact established as the EU's largest civilian CSDP mission.⁸⁵ EU member states were very concerned about the local security sector and Kosovar rule of law institutions and decided to go for a heavy footprint consisting of almost 3,000 international and local staff. Its mission was to support the rule of law institutions in Kosovo to increase their “effectiveness, sustainability, multi-ethnicity and accountability, free from political interference and in full compliance with international human rights standards and best European practices”.⁸⁶

The size of the mission, its authority to overrule Kosovar institutions on matters of justice, rule of law and security and several scandals early on in its mandate reduced support for EULEX in the Kosovar population.⁸⁷ EULEX also had a “status neutral” while simultaneously building up Kosovar state institutions. This ambivalent role, in which EULEX needed to supervise and assist the Kosovo institutions as well as build up state institutions without prejudice to statehood, put EULEX in an uneasy position.⁸⁸

Over time, however, EULEX has reduced its footprint and has gone through important mandate changes, notably in 2012, 2014, and 2018.⁸⁹ Currently, EULEX only consists of 420 international and local staff and under the current mandate, EULEX has also fewer executive tasks. It retains one Formed Police Unit (FPU) with 105 Polish police officers, as Kosovo's second security responder in charge of riot and crowd control (after the Kosovo Police and before NATO's KFOR). The FPU carries out daily reconnaissance patrols in the north of Kosovo and has a Quick Reaction Force permanently on standby.⁹⁰ The FPU also provides operational

action/2008/124/oj.

⁸⁵ Hylke Dijkstra, “The Planning and Implementation of the Rule of Law Mission of the European Union in Kosovo”, cit.

⁸⁶ See EULEX website: *What is EULEX?*, <https://www.eulex-kosovo.eu/?page=2,16>.

⁸⁷ Ewa Mahr, “Local Contestation against the European Union Rule of Law Mission in Kosovo”, in *Contemporary Security Policy*, Vol. 39, No. 1 (2018), p. 72-94, <https://doi.org/10.1080/13523260.2017.1407060>.

⁸⁸ Pol Bargués-Pedreny, “From Promoting to De-Emphasizing ‘Ethnicity’”, cit.

⁸⁹ Council of the European Union, *EULEX Kosovo: New Role for the EU Rule of Law Mission*, 8 June 2018, <http://europa.eu/!MT67mm>.

⁹⁰ Interview 24. EULEX was temporarily reinforced with a Reserve Unit of 70 police officers from France and Portugal in March–July 2022.

support to the Kosovo Specialist Chambers in The Hague, which deal with war crimes. The rest of EULEX plays a more supportive role, including acting as an interface for policy cooperation between Kosovo rule of law authorities, on the one hand, and Europol, Interpol and the Serbian authorities, on the other hand. EULEX furthermore continues to monitor the Kosovar judiciary and correctional service. It provides forensic expertise and runs small-scale projects. Until December 2022, when it will be transferred to the EU Office in Pristina, EULEX will be hosting the Dialogue Support Team which deals with the implementation of the facilitated dialogue.

While EULEX has been contested by the Kosovar population and has had a difficult relationship with former Prime Minister and President Thaçi (2008–2014; 2016–2020), whose case is in the pre-trial stage at the Kosovo Specialist Chambers, relations with the current Kosovar government led by Prime Minister Albin Kurti are markedly better.⁹¹ Kurti has in the past been critical about EULEX (and UNMIK), but he has found an ally in the EU mission in his fight against corruption and organised crime during his tenure as prime minister.⁹² Furthermore, EULEX is strongly supported by EU member states and has not been a serious target by Russia or other major powers. As such, the three constraining factors identified earlier – multipolar competition, regional fragmentation and internal contestation – do not significantly affect its operations.

3. Mitigating the negative effects of the constraining factors on EUFSP: Prognosis and prescriptions

The EU cannot afford a renewed conflict in the Western Balkans, particularly while the war in Ukraine is ongoing, and it can also not afford losing initiative and leverage to other major international and regional powers. Because of the pressing nature of the conflict for EUFSP, over time EU member states have devised key mitigating measures to reduce the negative impact of internal EU divisions. First, member states have adopted a “status neutral” approach and have heavily relied

⁹¹ Interview 24.

⁹² EULEX, *Rule of Law Situation in Kosovo Focus of Meeting between Kosovo's Prime Minister and EULEX Head*, 12 March 2020, <https://www.eulex-kosovo.eu/?page=2,11,1186>.

on EU institutions through the delegation of key tasks regarding enlargement, mediation and security assistance. Second, they have allowed for informal bilateral initiatives and the creation of equally informal multilateral and regional forums to work around the contested nature of Kosovar statehood.

3.1 Status-neutral approach and reliance on EU institutions

Despite the strong intra-EU disagreement on the recognition of Kosovo, all member states are committed to EUFSP towards the Kosovo-Serbia conflict. Indeed, non-recognising states such as Spain are most supportive of EUFSP precisely because it provides them with an exit avenue from the cul-de-sac of the non-recognition policy. If the EU is successful in normalising relations between Kosovo and Serbia, non-recognising states would no longer be in such an awkward position. Supporting the peaceful resolution of the conflict is therefore in their best interest.

There are two specific mitigation strategies that have been used in this regard within EUFSP. First, the EU has tried to put aside political discussions around statehood and focus on technical peacebuilding measures. Second, member states have heavily relied on EU institutions as the main driver of EUFSP towards the Serbia-Kosovo dispute. By delegating tasks to the European Commission, HRVP, the EUSR, the European External Action Service (EEAS) and EULEX, member states avoid being confronted time-and-again with their own disagreements.

As a starting point, the EU has focused on technical support for the rule of law and state-building and “deferred” sensitive, divisive political issues, starting obviously with the status of Kosovo.⁹³ In this long-term process of oversight of Kosovo’s association with and eventually integration into the EU, the member states have “agreed to disagree” on the recognition of Kosovo. Therefore, the EU still has a “status-neutral” position on Kosovo, just like the other international missions on the ground, NATO’s KFOR, UNMIK and OMIK (the OSCE mission).

This has allowed non-recognising member states to support EUFSP towards Kosovo and Serbia, as it has separated political discussions on statehood from the

⁹³ Pol Bargaés-Pedreny, *Deferring Peace in International Statebuilding. Difference, Resilience and Critique*, London/New York, Routledge, 2018.

“everyday” EUFSP. It is of equal importance to emphasise that the non-recognising member states have not really contested the substance of EU policies (beyond repeatedly pointing at the need to including the asterisk next to the name of Kosovo in official documents). There is widespread understanding that Kosovo is never going to reintegrate into Serbia, that EU policies are geared towards building up and supporting a Kosovar state, and that Serbia will have to eventually recognise Kosovo. In other words, the technical use of status neutrality has allowed the EUFSP to move forward.

As second mitigation strategy the EU member states have heavily relied on – actually a corollary of the one explained above – is delegation to the EU institutions such as the Commission and the EEAS to do the work. In so doing, member states do not have to deal with Kosovo themselves, which also reduces the number of instances in which they would disagree. This delegation strategy was already visible very early on. High Representative Javier Solana (in office in 1999–2009) and European Commissioner for Enlargement Olli Rehn (2004–2010) took charge of the initial planning of the EU’s presence post-independence back in 2005, which was three years before the unilateral declaration.⁹⁴ This resulted in a two-year EU planning team in Pristina, which developed the parameters for the EULEX mission far from the political decision-making centre in Brussels, where national permanent representatives did not want their work to be engulfed in disagreements. In addition, member states adopted, on purpose, the Joint Action on EULEX weeks before the declaration of independence in order to ensure that the EU mission would be in place and would not fall victim to politicisation after Kosovo’s unilateral move. All member states agreed to the creation of EULEX with the exception of Cyprus, which however constructively abstained. Also, all member states, with the exception of Cyprus, delivered staff to the mission (260 out of 1,632 EULEX international staff deployed in 2011 came from the non-recognising states).⁹⁵

We see similar delegation dynamics with respect to the accession process, including the visa liberalisation process, which is largely run by the European Commission

⁹⁴ Hylke Dijkstra, “The Planning and Implementation of the Rule of Law Mission of the European Union in Kosovo”, cit.

⁹⁵ Steffen Eckhard and Hylke Dijkstra, “Contested Implementation: The Unilateral Influence of Member States on Peacebuilding Policy in Kosovo”, in *Global Policy*, Vol. 8, Supplement 5 (August 2017), p. 108, <https://doi.org/10.1111/1758-5899.12455>.

in Brussels and the EU office in Pristina. While this is the standard operating procedure for enlargement policy, it is also a convenient way for the member states not to be permanently involved and to add a layer of bureaucratic technicality to the process. Most importantly, the Commission has played an entrepreneurial role by providing the creative solution that allowed Kosovo to sign a Stabilisation and Association Agreement – lite, excluding intergovernmental elements to avoid the unanimity requirement for approval and national ratification.

The facilitated dialogue is also Brussels-run, originally by top-EU official Robert Cooper, supported by then HRVP Catherine Ashton (in office 2009–2014), who got the (technical) dialogue going in 2011. This continues to date with EUSR Lajčák in charge of the dialogue. Throughout the process, the dialogue has been restricted to EU, Serbian and Kosovar officials only, with no involvement of national officials. Complaints by some EU member states (and civil society in both Kosovo and Serbia) that the process is “untransparent” should be seen from this perspective.⁹⁶ The delegation of such core functions to EU institutions is in fact a way to deal with the lack of intra-EU consensus on Kosovar statehood.

These mitigation strategies in support for EUFSP have not always been effective in terms of the outcome. As noted before, EULEX has been heavily contested by Kosovo and the Kosovar population because as a status-neutral actor it is perceived to be lacking the full legitimacy to exercise executive functions in support of the Kosovar rule of law.⁹⁷ Moreover, the EU technical approach has seemed, at times, like a continuation of the heavily contested UN “standards-before-status” approach, which to many was nothing else than a delay-strategy by an international community incapable of finding consensus on the final status issue.⁹⁸ Finally, working with EU institutions may have felt to Kosovar leaders as going through intermediaries, particularly if the all-important decisions are still taken by the EU member states. In other words, these mitigation strategies have helped EUFSP, but they have also come with important drawbacks and a loss of leverage over particularly Kosovar counterparts.

⁹⁶ Interviews 7 and 8.

⁹⁷ Ewa Mahr, “Local Contestation against the European Union Rule of Law Mission in Kosovo”, cit.

⁹⁸ Pol Bargaés-Pedreny, “From Promoting to De-Emphasizing ‘Ethnicity’”, cit.

3.2 Bilateral initiatives and multilateral forums

EU action in the Kosovo–Serbia conflict has been complemented by region-wide initiatives and embedded in multiple multilateral forums aimed at diffusing bilateral tensions and opening the door to functional cooperation.⁹⁹ On many occasions, these initiatives have been sponsored by EU member states that have sought to leverage their influence in the region by engaging a broader circle of international partners, organisations and donors to help normalise regional politics and kick-start the economy of the region. Germany and France have stood out in this regard. They have been crucial in pushing for more cooperation at the regional level.¹⁰⁰ Both countries come “with a stick” due to the economic leverage they have over the Western Balkans’ countries.¹⁰¹

Germany’s leadership in the Western Balkans’ integration to the EU has historically been significant. As early as 1999, Germany, with the support of the EU, launched the Stability Pact for South-East Europe, which was intended to re-launch regional political dialogue as well as attract foreign aid to the war-battered region.¹⁰² An intergovernmental scheme bringing together 28 countries and many international organisations such as the Council of Europe, NATO, the International Monetary Fund and the World Bank, among others, the Stability Pact played a key role in coordinating the international efforts in the post-war period. In 2008, it was succeeded by the Regional Cooperation Council marking the transition to a regionally-owned process of cooperation.

In 2014 Germany reasserted its leadership role by launching the Berlin Process and bringing together eleven EU countries (including the UK, which remained part of it after Brexit) all six Western Balkan countries, the European Commission, and the EEAS to revive the region’s European integration prospect. This informal process has fostered dialogue among the Western Balkan countries not only on

⁹⁹ On how initiatives by EU actors complement EU foreign policy, see Pernille Rieker and Mathilde Tomine Eriksdatter Giske, “Conceptualising the Multi-Actor Character of EU(rope)’s Foreign Policy”, in *JOINT Research Papers*, No. 2 (October 2021), <https://www.jointproject.eu/?p=538>.

¹⁰⁰ Interviews 18, 19 and 20.

¹⁰¹ Interview 17.

¹⁰² Milica Delevic, “Regional Cooperation in the Western Balkans”, in *Chaillot Papers*, No. 104 (July 2007), <https://www.iss.europa.eu/node/503>.

security and economy but on societal issues and reconciliation. Initiatives focus on “connectivity” and development of transport infrastructures, integration of energy markets and systems, all necessary for bringing the region closer together and closer to the EU.¹⁰³ At the latest summit of the Berlin Process in November 2022, the six countries from the region signed three agreements on cross-border facilitation, mutual recognition of college degrees and qualifications for certain professions (doctors, dentists and architects).¹⁰⁴ German Chancellor Olaf Scholz has expressed on various occasions “support for quicker integration of the Western Balkans into the bloc amid the war in Ukraine”¹⁰⁵ and a solution for the Kosovo–Serbia conflict.¹⁰⁶ Also, both the EU-accession of the Western Balkan countries and the normalisation dialogue between Kosovo and Serbia are explicitly the subject of a separate paragraph in the new German government’s coalition agreement of 2021.

Although President Emmanuel Macron had previously called for a “pause” in the enlargement process, France has stepped up its efforts towards the Western Balkans in light of Russia’s war in Ukraine and after Macron won a second term in April 2022, which coincided with France’s presidency of the Council of the EU. Addressing the European Parliament in May 2022, the French president introduced his idea of a European Political Community (EPC). This initiative aims at restructuring the political and economic partnerships of the EU with its many and diverse European neighbours, taking into account the new realities such as Brexit, the EU membership candidacy of Ukraine, Moldova and Georgia, Turkey’s relative detachment from European standards and practices, as well as the unfinished accession process of the Western Balkans. And while “for the Balkans, the path is already mapped out”,¹⁰⁷ the initiative was nevertheless met with mixed feelings in

¹⁰³ Berlin Process website: *The Berlin Process Is Coming Back to Berlin*, <https://www.berlinprocess.de/en/the-berlin-process-is-coming-back-to-berlin>; interview 20.

¹⁰⁴ Azem Kurtic, “Bosnia, Kosovo Take Down Last Visa ‘Wall’ in Balkans”, in *Balkan Insight*, 3 November 2022, <https://balkaninsight.com/?p=1016037>.

¹⁰⁵ Florent Bajrami and Ljazar Semini, “Scholz: Serbia, Kosovo Must Recognize Each Other to Join EU”, in *AP News*, 10 June 2022, <https://apnews.com/article/22f93d9854de67767fd1723e8cb0a8b8>.

¹⁰⁶ Gjeraqina Tuhina, “Germany Calls On Balkan Leaders To Overcome Regional Differences”, in *Radio Free Europe/Radio Liberty*, 3 November 2022, <https://www.rferl.org/a/32114012.html>.

¹⁰⁷ Pierre Mirel, “In Support of a New Approach to the Western Balkans: Step-by-Step Membership with a Consolidation Phase”, in *European Issues*, No. 633 (23 May 2022), <https://www.robert-schuman.eu/en/european-issues/0633-in-support-of-a-new-approach-to-the-western-balkans-step-by-step-membership-with-a-consolidation>.

the region and fears of being relegated to a second tier of the European integration project.¹⁰⁸

The EU's approach to the Kosovo–Serbia conflict has thus involved a broader European and international effort at multilateralisation and regionalisation that has contributed indirectly to establishing a conducive regional context in which a breakthrough on the most sensitive statehood issues can be sought. It has also conveniently allowed the EU as well as Kosovo and Serbia to bypass bilateral disagreements on status by meeting in broader forums. The gains from these wide-ranging initiatives – contributing to normalising relations, removing barriers to trade, investments and movement of people, strengthening rule-of-law institutions, etc. – are longer term and not always directly linked to the resolution of the conflict but they are indispensable for a sustainable outcome of any final status settlement achieved through targeted action. They have also shielded against further regional fragmentation and prepared the ground for regional integration initiatives to thrive such as the recent Open Balkans scheme that promises to further improve cross-border movement of goods and people among the participating countries.

4. Conclusion: Improving EUFSP towards Kosovo and Serbia

The conflict between Kosovo and Serbia has long been on the EU's agenda. For more than two decades, the EU and its member states have been heavily involved through foreign and security policies. In the aftermath of the 1999 war, EU countries focused on providing security with strong troop contributions to NATO's mission KFOR, while leading reconstruction and development under the UNMIK framework. Since Kosovo's unilateral declaration of independence in 2008, the EU has taken a leading role by means of (1) the deployment of the EULEX mission, (2) the facilitated dialogue and by (3) providing a pathway towards European integration through the association and accession processes.

¹⁰⁸ Jason C. Moyer, "Macron's 'European Political Community' Risks Two-Tiered European Union", in *Wilson Center Insights & Analysis*, 3 October 2022, <https://www.wilsoncenter.org/node/111976>.



The EU has implemented its foreign and security policy under difficult circumstances. Over the last two decades, fragmentation in northern Kosovo, where most Serbian municipalities are located, has hardly shrunk. Geopolitical competition has worsened, especially due to Russia's growing hostility towards the EU. Moscow's veto-wielding permanent seat in the UN Security Council makes the adoption of a final Security Council resolution on Kosovo virtually impossible. At the same time, intra-EU disagreements persist. Nearly fifteen years after the unilateral declaration, the EU member states remain as split on Kosovar statehood as they were in 2008.

In retrospect, the EU has done what it could under the circumstances. But in 2022, it is clear that this is not enough. Following the Russian war in Ukraine, geopolitical considerations have become crucial in the enlargement process. With candidate status given to Ukraine and Moldova, and potentially soon Bosnia and Herzegovina, as well as the opening of accession negotiations with Albania and North Macedonia, the European Council is taking important steps to integrate the Western Balkans into the EU. There is, however, an urgent risk that the Serbia-Kosovo dispute is left behind resulting in the EU losing leverage over the conflict. At the same time, with the 15th anniversary of Kosovar independence coming up in 2023, it is clear that Kosovo cannot continue living in uncertainty with respect to its international status. In other words, the EU will have to step up its political involvement. This effort requires more than a focus on technical dossiers while postponing statehood questions and sidestepping intra-EU disagreement by putting EU institutions in charge.

France and Germany have stepped up their engagement with the Kosovo-Serbia conflict alongside the EU and United States. In November 2022, their nine-point proposal for a final agreement between both countries was leaked to the press.¹⁰⁹ This proposal has been taken up by the EU in the context of the facilitated dialogue with a reported target date of March 2023 for an agreement. With tensions over licence plates temporarily resolved, the EU should now focus together with both parties on making qualitative steps to normalisation and resolving the conflict. From this view we propose four policy recommendations:

¹⁰⁹ Alexandra Brzozowski, Alice Taylor and Georgi Gotev, "Leak: Franco-German Plan to Resolve the Kosovo-Serbia Dispute", cit.

1) *The EU and the member states should designate the resolution of the Kosovo-Serbia dispute as a top priority warranting urgent and sustained action.* Russia's war against Ukraine has put the Western Balkans back in the spotlight. Importantly, there is now a window of opportunity of about 12-18 months to take action over the Kosovo-Serbia conflict: with no major domestic or international elections until 2024, all actors have some leeway to make concessions and reach agreements. While the end state may not include the recognition of Kosovo by Serbia, many other steps can be taken in the normalisation of relations.

2) *The EU and its member states should reward Kosovo's domestic reform record by granting visa liberalisation to Kosovo citizens and moving forward with Kosovo's EU membership process.* Kosovo has long complied with the EU visa liberalisation requirements as confirmed by the European Commission in 2018. It ranks much better on rule of law than neighbouring Serbia, North Macedonia and Albania.¹¹⁰ There are no objective grounds on which the EU can continue depriving Kosovars of visa-free travel to the Schengen zone, also considering that stalemate on the visa issue feeds local perceptions of double standards and unfair treatment. 1 January 2024 has now been set as a target date for visa liberalisation. There cannot be further hiccups or delays. The time has also come for EU member states to allow Kosovo to make formal progress in the accession process by tasking the European Commission to deliver its verdict on Kosovo's readiness for being granted candidate country status. In parallel, the EU should make any further progress on the accession path conditional on Kosovo's fulfilment of its commitments on the integration of the Serbian minority and further improving local democracy standards. The EU has done well in assisting Kosovo's democratisation process so far and should continue doing so through its fine-tuned accession conditionality tool.

3) *The EU should prepare a positive agenda for Serbia.* The EU needs to appear more flexible in the negotiations on Serbia's accession, particularly to open and close chapters that are less controversial and in recognition of Serbia's progress in

¹¹⁰ World Justice Project, *Rule of Law Index 2022*, <https://worldjusticeproject.org/rule-of-law-index/global/2022>.

some areas such as public administration reform or the judicial system.¹¹¹ The EU needs to contrast the widespread perception among Serbs that Serbia is the least preferred of the candidate countries, the “ugly duckling” of the region. At the same time, it should make clear to Serbia that there is no credible path for Serbia to regain control over Kosovo and that solving the dispute in mutually acceptable terms is the only way forward. Likewise, the EU democratic acquis and alignment with CFSP positions are non-negotiable and cannot be bypassed or bargained against progress in other areas. By appearing more credible on enlargement, the EU can then require action on the most sensitive issue: the normalisation of relations with Kosovo.

4) *The five non-recognising EU member states should take practical steps to improve their relations with Kosovo.* While full diplomatic recognition of Kosovo may not be feasible in the immediate future for some of the non-recognisers, it is important that they show commitment to Kosovo’s European perspective. Within the EU itself, they should avoid policies that further block visa liberalisation or candidate status. Likewise, the non-recognisers should be supportive of Kosovo’s membership in other international organisations, including the United Nations. On a bilateral level, Spain should start to accept Kosovar passports and Schengen visas, just like the other non-recognisers, as a token of good will in the run up to visa liberalisation on 1 January 2024. All non-recognisers can contribute positively to bilateral/multilateral talks (formal/informal) with Kosovo’s officials to deal with technical and economic issues as a start. Greece has strong relations with Kosovo despite non-recognition and can serve as an example for the other non-recognisers. If Greece is incentivised to recognise Kosovo, this can create a positive spill-over to the others to follow-suit.

¹¹¹ See European Commission, *Key Findings of the 2022 Report on Serbia*, cit.

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