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LIÈGE université
**Droit, Science Politique
& Criminologie**

The EU as a Mediator in the Western Balkans

The EU-initiated process of normalization of
relations between the Republic of Kosovo and
the Republic of Serbia

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Master's Thesis

In Sciences Politiques orientation générale

Option International Relations

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List of acronyms

| | |
|-------|---|
| CFSP | Common Foreign Security Policy |
| EEAS | European External Action Service |
| EEC | European Economic Community |
| EP | European Parliament |
| ERBD | European Bank for Reconstruction and Development |
| EU | European Union |
| EU MS | Member states of the European Union |
| EULEX | European Union Rules and Law Mission in Kosovo |
| EXIM | Export-Import Bank |
| FASP | Foreign Affairs and Security Policy |
| FIFA | International Federation of Associations Football |
| HR/VP | High Representative / Vice President |
| IBM | Integrated Border Management |
| ICG | International Crisis Group |
| ICJ | International Court of Justice |
| ICO | International Civilian Office |
| IISS | International Institute for Strategic Studies |
| IMF | International Monetary Fund |
| IOC | International Olympic Committee |
| KDI | Kosova Democratic Institute |
| KPS | Kosovo Police Service |
| MS | Members States |
| NATO | North Atlantic Treaty Organization |
| NGO | Non-governmental organization |
| OSCE | Organization for Secretary and Co-operation in Europe |
| RCC | Regional Cooperation Council |
| RCT | Rational Choice Theory |
| SAA | Stabilization and Association Agreement |
| SAP | Stabilization and Association Process |
| SRSG | Special Representative of the Secretary General |
| TFEU | Treaty on the Functioning of the European Union |
| UEFA | Union of European Football Associations |
| UK | United Kingdom |
| UN | United Nations |
| UNGA | United Nations General Assembly |
| UNHCR | United Nations High Commissioner for Refugees |
| UNMIK | United Nations Interim Administration Mission in Kosovo |
| USA | United States of America |
| WB | Western Balkan(s) |

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Introduction

The research question and purposes

Since the beginning of the 2000s, the European Union (EU) has promoted an enlargement policy towards the Western Balkan (WB) region which currently consists of six states: Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia. Following the advisory opinion of the International Court of Justice (ICJ) which reaffirmed that the Declaration of Independence of Kosovo was in accordance with international law¹, the United Nations General Assembly (UNGA) adopted the resolution 64/298 in March 2011 inviting the EU to initiate a process of normalization of bilateral relations between Kosovo and Serbia. While talks conducted by experts were fostered by the EU in order first to resolve technical issues, including registry books, the recognition of diplomas in both countries, and freedom of movement between both states², it rapidly became clear that a series of complex political questions had to be dealt with as well. To this end, the former High Representative of the EU for Foreign Affairs and Security Policy (FASP), Catherine Ashton, launched a series of ten technical meetings that led to the “First Agreement of Principles Governing the Normalization of Relations” between Kosovo and Serbia, concluded on 19 April 2013, also referred to as the “Brussels agreement”. This agreement continues to be considered by the three parties, namely Kosovo, Serbia, and the EU, as the main outcome and culmination of the process of normalization of relations³.

This Master’s thesis examines this process of normalization. In that respect, it seeks to answer first and foremost the following research question: how has the EU facilitated the process of normalization of bilateral relations between Kosovo and Serbia through mediation between 2011 and 2021? This main research question also includes a series of sub-questions, such as: (a) what are the interests of both Kosovo and Serbia in taking part in the EU-initiated process of normalization of relations and how do these two disputing parties perceive the work of the Union?; (b) what approach has been used by the EU in order to achieve agreements and how does the Union act as an international actor in the WB region?; and (c) how is the EU able to

¹ ICJ, Accordance with international law of the unilateral Declaration of Independence in respect of Kosovo, Pub. L. No. 141, Advisory Opinion, 2010, p. 43. https://www.un.org/ruleoflaw/files/ef_KOS_Advisory-opinion_bilingual.pdf (accessed 2 March 2021).

² BEHA Adem, “Disputes over the 15-Point Agreement on Normalization of Relations between Kosovo and Serbia”, *Nationalities Papers*, vol. 43, no. 1, 2015, p. 107.

³ GASHI Krenar, MUSLIU Vjosa, and ORBIE Jan, “Mediation through Recontextualization: European Union and the Dialogue between Kosovo and Serbia”, *European Foreign Affairs Review*, vol. 22, no. 4, 2017, p. 538.

take into consideration the different views of all its member states (MS) regarding the process in order to act as a unified actor towards the two countries?

The above-mentioned questions have led to the definition of specific objectives. For example, this research seeks to determine what incentives might convince actors involved in a dispute to enter the process of normalization of relations. It also attempts to evaluate how the EU's political conditionalities towards Kosovo and Serbia have facilitated this process. Whereas recent literature on the subject emphasizes the further consolidation of Kosovo's statehood and the type of agreements concluded with Serbia, this research examines the process of normalization through the prism of rational choice theory (RCT) and drawing on the theory of international mediation. This dissertation thus seeks to fill the gap in the scientific literature covering the process of normalization through the specific and above-mentioned approach. In fact, the relevance of the theory of international mediation no longer needs to be demonstrated since, as Brecher and Wilkenfeld point out, mediation has contributed to the resolution of no less than 141 military crises and conflicts out of the 455 identified during the period 1918-2004⁴. The figures speak for themselves, thus making it easy to understand that processes of normalization of bilateral relations through mediation are crucial to restoring peace in several regions of the world.

The structure of the research

This research is divided into three main chapters. *Chapter I* is devoted to a broad review of the literature and is composed of two main sections. First, the concept of international mediation is examined through the prism of RTC, since this approach offers a well-developed theoretical framework to examine the actors involved in the dispute as well as how these define their interests. In this regard, the dissertation stresses successively the nature of the mediation; the success rate of the process; the dilemma of the parties in conflict and the mediator's dilemma; and the different approaches of mediation that may be used by the facilitator. Second, the notion of normalization is further defined despite the variety of definitions that exist. As a result, it underlines the different ways in which the process of normalization of relations may be understood by the three parties involved in the process since, as RCT emphasizes, the interests of each party strongly influence their respective understanding of this concept.

⁴ BRECHER Michael, and WILKENFELD Jonathan, "International Crisis Behavior Project, 1918-2004", 2007. <https://doi.org/10.3886/ICPSR09286.v7> (accessed 23 January 2021).

In *Chapter II*, the EU-initiated process of normalization of relations is broadly developed. The first section highlights the context in which the process of normalization of relations has emerged. The Ahtisaari proposal, the European Union Rules and Law Mission in Kosovo (EULEX), and the advisory opinion of the International Court of Justice (ICJ) are successively discussed as these still have significant influence on the current actions undertaken by the EU. The second section focuses on the process itself. In this regard, it highlights in a critical way the main actions of the parties themselves, including the role of the EU in it. Moreover, it delves into the content of the 15-point agreement of April 2013 (also known as the Brussels agreement), since the latter still remains the major achievement in the normalization process. Nevertheless, this section also puts forward the major weaknesses of this process, in particular the lack of political participation by the Kosovar population and the institutional constraints that prevent the rapid implementation of the measures set out in the agreement. The third and last section stresses the main issues related to the process of normalization that result from the actions of the actors involved. First, the notion of ambiguity is highlighted, both regarding the different EU institutions and the choice of wording, which sometimes appears to be problematic. Second, it emphasizes the lack of transparency. To illustrate this statement, this research examines a series of reports that demonstrate the lack of awareness of citizens concerning the agreements and how they feel excluded from the process. Third, the chapter ends with an examination of the lack of accountability of the main actors involved.

Chapter III focuses on the normative power of the EU on the international scene. Firstly, it highlights that strengthening its normative power has indeed turned out to be the major potential gain for the EU in taking part in the normalization process. It also examines the EU's role as an international actor, especially after the creation of the Common Foreign Security Policy (CFSP) following the Saint-Malo Declaration, and points out in this respect that the EU has become the most powerful external actor in the WB region⁵. Secondly, the chapter demonstrates that political conditionalities remain the main instrument used by the Union towards the WB states to potentially integrate them into the EU at a later stage. Thus, this section underlines the relations between the EU and Kosovo as well as between the EU and Serbia. It shows that the major stumbling block for Kosovo on its European path remains the lack of unity between the

⁵ BRETHERTON Charlotte, and VOGLER John, *The European Union as a Global Actor*, London, Routledge, 2006, p. 147.

EU MS. In the case of Serbia, its EU membership requires, above all, that the process of normalization be completed and that a legally binding agreement with Kosovo be reached⁶.

In the *Conclusion*, the main arguments highlighted in the previous chapters are further examined. However, while the conclusion answers the initial research question, it also seeks to further offer a personal reflection on the EU's role as a mediator in the bilateral dispute between Kosovo and Serbia. Finally, it encourages to take a step back from the case-study with a short focus on the ability of the United States of America (USA) to take the lead as the strongest initiator of mediation in international disputes.

The methodology

In order to answer the main research question, a specific methodology has been used that focuses on three main aspects, namely a historical overview, the collection of qualitative data, and the limits of the research. Above all, it is important to note that this research is based on Charles Tilly's assumption, which assumes that "explanatory political science can hardly get anywhere without relying on careful historical analysis" and concludes that "every significant political phenomenon lives in historically grounded analysis for its explanation"⁷. As the scholar further notes, delving into history remains the most appropriate way to grasp the real essence of a country's components, that is, the cultural, ethnical, linguistical, religious or economic differences of its inhabitants⁸.

Accordingly, this thesis offers a well-developed historical overview of the context in which the process of normalization of interstate relations has emerged between Kosovo and Serbia under the aegis of the EU. First, it offers a synopsis of the situation in Kosovo from 1999 until 2011, examining the major events that occurred, from the intervention by the North Atlantic Treaty Organization (NATO) to the publication of the judgment by the ICJ. Second, it emphasizes the role played by the EU in this period, even before the Union was officially invited by the UNGA with its Resolution 64/298 to take the lead of the process of normalization. This may be illustrated by the EU-initiated EULEX mission launched in February 2008⁹.

⁶ Interview with two European diplomats, May 2021, Brussels.

⁷ TILLY Charles, "Why and How History Matters" in GOODIN Robert E. (ed.), *The Oxford Handbook of Political Science*, Oxford, Oxford University Press, 2011, pp. 5-6.

⁸ Loc. cit.

⁹ GREIČEVCI Labinot, "EU Actorness in International Affairs: The Case of EULEX Mission in Kosovo", *Perspectives on European Politics and Society*, vol. 12, no. 3, 2011, p. 291.

Then, it is fundamental to point out that the use of qualitative over quantitative data has been preferred in this thesis. As argued by Marsh David and Stoker Gerry, qualitative methods seek to examine the beliefs, values, and concepts developed by the people involved¹⁰. Moreover, those types of methods insist on the social reality in which the latter live. Thus, the experiences and practices of actors gathered while collecting qualitative data must be constantly recontextualized, as Geoffrey Grandjean argues in the *Guide de la rédaction du mémoire*¹¹. This view is also shared by three scholars, namely André Queirós, Daniel Faria, and Fernando Almeida, who consider that qualitative data may not be generalized. In fact, qualitative research does not seek representativity, but rather favors the “deepening of understanding a given problem”¹². Instead, the main purpose of qualitative methodology remains in-depth and illustrative information with the aim of grasping the essence of the issue under analysis. In this respect, it may finally be emphasized that the key to qualitative research does not turn out to be the amount of data collected, including semi-directive interviews, but rather the relevance of the people questioned¹³.

Further, in the context of this thesis, the concept of *triangulation* has been favored. As claimed by Grandjean, this allows the association of two complementary types of data¹⁴: the analysis of documents and the collection of semi-directive interviews. For this research, the state of the art has been undertaken on the basis of both primary and secondary sources. On the one hand, official documents have been examined, most of them coming either from the EUR-Lex website which features public documents from the EU¹⁵, or from resolutions made public by the United Nations (UN). On the other hand, the analysis of various sources further offers a comprehensive understanding of the concept examined in order to answer the central research question. This includes the analysis of books, chapters of books, scientific articles, reports from think tanks and research institutes, official letters, and press articles. Although most of these have been published in English, it may be relevant to point out that a certain number of articles analyzed in the context of this research have been written in French. Second, a small number of semi-directive interviews have been conducted with the purpose of comparing the experiences of

¹⁰ MARSH David, and STOKER Gerry, *Theories and Methods in Political Science*, London, Palgrave, 2002, p. 197.

¹¹ GRANDJEAN Geoffrey, *Guide de la rédaction du mémoire*, Liège, ULg-Département de science politique, 2014, p. 60.

¹² QUEIRÓS André, FARIA Daniel, and ALMEIDA Fernando, “Strengths and limitations of qualitative and quantitative research methods”, *European Journal of Education Studies*, vol. 9, no. 3, 2017, p. 370.

¹³ CAMPENHOUDT Luc van, MARQUET Jacques, and QUIVY Raymond, *Manuel de recherche en sciences sociales*, Paris, Dunod, 2017, p. 150.

¹⁴ GRANDJEAN Geoffrey, *op. cit.*, p. 62.

¹⁵ *Ibid.*, p. 49.

representatives from the different sides, namely Kosovo, Serbia, and the EU¹⁶. In order to counterbalance some of these representatives' arguments, two interviews have also been conducted with academics, thereby offering an even more comprehensive understanding of the topic under analysis. Finally, it may be of relevance to point out that those interviews whose main objective was to complement the document analysis were conducted between March and May 2021.

Nevertheless, two main limits may be highlighted for this research. First, speaking neither Albanian nor Serbian turned out to be a major issue. Indeed, the analysis of sources written in these languages became a real challenge and besides, it made communication with locals very difficult while travelling to the WB region. Second, another issue faced in the context of this research was the request of the interviewees not to be named in the dissertation. Even though some accepted that the institution for which they work was mentioned, their requests have obviously been respected in order to meet basic standards of deontology¹⁷.

¹⁶ These interviews are to be found in the appendices of this Master's thesis.

¹⁷ BEAUD Michel, *L'art de la thèse. Comment préparer et rédiger un mémoire de master, une thèse de doctorat ou tout autre travail universitaire à l'ère du net*, Paris, La Découverte, 2006, p. 155.

Chapter I: The state of the art

The overall theoretical framework for the dissertation

First, it must be highlighted that this research is articulated around the main assumptions of RCT. Originally associated with the classical microeconomics of Adam Smith¹⁸, this theory holds that individuals use their self-interest to make choices based on a cost-benefit analysis of any action¹⁹. From a purely theoretical perspective, RCT offers a framework to simultaneously understand and model social, economic, and individual behavior²⁰. Moreover, and as its name suggests, this theory is articulated around the concept of rationality, which can be defined in the narrow sense by Milton Friedman as an individual's balancing of costs against benefits for maximization of his or her own gains²¹. In this respect, Jon Elster notes that RCT is in fact a matter of outcome²² and as Michael I. Ogu summarizes, "when faced with several courses of action, people usually do what they believe is likely to have the best overall outcome"²³. Thus, based on this approach, the present dissertation will broadly develop how the actors under analysis act following their respective preferences, even though this may sometimes be at the expense of others.

However, while this dissertation adopts a clear RCT-based point of view, it is further enhanced by strategic constructivist studies. These studies aim to tackle criticism expressed by non-constructivists and develops how ideas and norms can be used strategically²⁴. According to Sabine Saurruger, "ideas and norms do not solely constitute the environment in which actors are embedded (constitutive logic) but are also tools consciously used by these same actors to attain their goals (causal logic)"²⁵. It may thus be summarized as follows: any rational actor (here, the EU, Kosovo, or Serbia) seeks to maximize its influence in a specific region (the WB), through the expansion of their respective norms and values. Consequently, strategic

¹⁸ MONROE Kristen Renwick, *The Heart of Altruism, Perceptions of a Common Humanity*, Princeton, Princeton University Press, 1996, p. 137.

¹⁹ MONROE Kristen Renwick, "Paradigm Shift: From Rational Choice to Perspective", *International Political Science Review*, vol. 22, no. 2, 2001, p. 152.

²⁰ OGU Michael, "Rational Choice Theory: Assumptions, Strengths, and Greatest Weaknesses in Application Outside the Western Milieu Context", *Nigerian Chapter of Arabian Journal of Business and Management Review*, vol. 1, no. 3, 2013, p. 90.

²¹ FRIEDMAN Milton, *Essays in Positive Economics*, Chicago, University of Chicago Press, 1953, p. 15.

²² ELSTER Jon, "Social Norms and Economic Theory", *Journal of Economic Perspectives*, vol. 3, no 4, 1989, p. 99.

²³ OGU Michael, *op. cit.*, p. 90.

²⁴ SAURUGGER Sabine, "Constructivism and public policy approaches in the EU: from ideas to power games", *Journal of European Public Policy*, vol. 20, no. 6, 2013, p. 898.

²⁵ *Ibid.*, p. 890.

constructivism does not appear as an attempt to invalidate RTC. Rather it seeks to include a series of supplementary aspects with regards to an actor's identity²⁶. According to the constructivist Alexander Wendt, in a positive dimension, an identity is a set of ideas "that enable an actor to determine 'who I am/we are'²⁷". Conversely, this notion of identity also implies a negative dimension, as it distinguishes the "self" and the "others" and further determines the relationship that both entities share with one another²⁸. As far as the notion of norms is concerned, Martha Finnemore defines it as an idea that shapes a collective standard of proper behavior²⁹. Thus, the norms refer to the desirable behavior of actors and the means favored by these actors to reach the goals which they strive for. Finally, values are ideas of desirable ultimate ends of social orders that a series of political actors pursue. Both norms and values are closely linked with the notion of identity, as the former shape the latter³⁰.

Theory of international mediation

If this dissertation remains articulated around the main assumptions of RCT, it is because this theory shares many similarities with the theory of international mediation which will be further used in the case-study. Both theories offer a rational point of view, focus on actors, and highlight how these actors establish their preferences and pursue their own interests. Supplemented by a strategic constructivist approach to stress how the various actors' norms and values might be taken into consideration in a rational cost-benefit analysis, the theory of international mediation also helps examine the respective actors' identity as it will be later illustrated by the analysis of the EU's normative power (see chapter III), for instance. However, before further examining the case-study, a thorough analysis of international mediation theory seems necessary.

The nature of the process of normalization of relations

First, even though this goes without saying, it may be useful to specify that a process of normalization of relations is only to be considered if there is a conflict between two (or more) parties³¹. Disputes are the very basis of mediation and each of these is characterized by its own

²⁶ RISSE Thomas, "Social Constructivism and European Integration" in WEINER Antje, and DIEZ Thomas (ed.), *The European Integration Theory*, Oxford, Oxford University Press, 2009, pp. 145-159.

²⁷ WENDT Alexander, "Collective Identity Formation and the International State", *American Political Science Review*, vol. 88, no. 2, 1994, p. 385.

²⁸ SCHIMMELFENNIG Frank, *The EU, NATO and the Integration of Europe: Rules and Rhetoric*, Cambridge, Cambridge University Press, 2003, p. 71.

²⁹ FINNEMORE Martha, *National Interests in International Society*, Ithaca, Cornell University Press, 1996, p. 22.

³⁰ SCHIMMELFENNIG Frank, *op. cit.*, pp. 71-72.

³¹ TERRIS Lesley G., and MAOZ Zeev, "Rational Mediation: A Theory and a Test", *Journal of Peace Research*, vol. 42, no. 5, 2005, p. 565.

nature. Tobias Böhmelt identifies at least four types of disputes³². First, a conflict can be ethnically motivated. An illustrative example of this may be found in Rwanda in 1994³³ and, more recently, in the Ivory Coast between 2002 and 2003. Second, a crisis can be geostrategic in nature, and in such instances, the outcome of the conflict strongly depends on the regional context in which the conflict takes place³⁴. Although Halvard Buhaug and Kristian Skrede Gleditsch admit that this second aspect is not easy to grasp and measure, the two scholars argue that regional influence is an essential element to consider before offering a solution to a conflict during the process of normalization of interstate relations. Thus, the authors argue that a conflict may not be resolved in the same way in Africa, America, Asia, Europe, or the Middle East. Third, the temporal factor remains crucial to understand a crisis. Unsurprisingly, the longer a crisis extends over time, as it is notably the case with the Israeli-Palestinian conflict for instance, the more complex the dialogue becomes³⁵. Fourth, it is essential to consider the level of violence generated by the conflict. As with duration, the higher the level of violence, the more difficult it is to normalize relations³⁶.

The success rate of the process of normalization of bilateral relations

Moreover, the nature of a crisis strongly conditions the outcome of the negotiations. Based on data collected through the analysis of no less than 137 mediated disputes, it should already be underlined that since the conflicts concerning both sovereignty and security issues are the most

| Issue | Successful Outcome |
|----------------------|--------------------|
| Resources | 70.0% |
| Ethnicity | 66.0% |
| Ideological Disputes | 50.4% |
| Sovereignty | 44.7% |
| Security Disputes | 40.7% |

Figure 1: adapted from Bercovitch and Houston (2000).

complex to resolve, a stronger commitment by the disputing parties and the mediator is required³⁷. As demonstrated by Leon

³² BÖHMELT Tobias, “The Importance of Conflict Characteristics for the Diffusion of International Mediation”, *Journal of Peace Research*, vol. 53, no. 3, 2016, p. 381.

³³ PONTZEELE Sophie, “Génocide au Rwanda. Les tensions du discours journalistique”, *Questions de communication*, vol. 8, no. 2, 2005, p. 324.

³⁴ BUHAUG Halvard, and GLEDITSCH Kristian Skrede, “Contagion or Confusion? Why Conflicts Cluster in Space”, *International Studies Quarterly*, vol. 52, no. 2, 2008, pp. 215-216.

³⁵ BRECHER Michael, and WILKENFELD Jonathan, *op. cit.*

³⁶ BERCOVITCH Jacob, and LANGLEY Jeffrey, “The Nature of the Dispute and the Effectiveness of International Mediation”, *Journal of Conflict Resolution*, vol. 37, no. 4, 1993, p. 675.

³⁷ BERCOVITCH Jacob, and HOUSTON Allison, “Why Do They Do It Like This?: An Analysis of the Factors Influencing Mediation Behavior in International Conflicts”, *Journal of Conflict Resolution*, vol. 44, no. 2, 2000, pp. 172-181.

Hartwell, these features are in fact those that best define the dispute between Kosovo and Serbia³⁸.

However, another aspect must be considered when assessing the chances of a successful process which concerns the notions of “learning” and “emulation”. In this regard, Robert J. Franzese and Jude C. Hays suggest that a process of normalization of relations is more likely to be successful when a given conflict is similar to a previous one³⁹. The notion of “learning” implies heuristic learning, which means that the facilitator can base his or her position on previous experiences in other similar conflicts. The notion of “emulation” invites any future facilitator to point out each element that the crisis he or she is called upon to manage shares with other conflicts that have already taken place in a similar context⁴⁰.

Two questions then arise in a process of normalization with regards to the commitment of both the parties in dispute and the facilitator, which undoubtedly condition the outcome of the process. The questions, which are closely linked with each other, are the following: (a) “Under what conditions would the protagonists call upon a third party?”; and (b) “Under what conditions would this third party decide to get involved in this role?”⁴¹. Through these two essential questions, the choice of each party to decide on its involvement becomes clearer, and two main dilemmas arise: the protagonists’ dilemma and the facilitator’s dilemma.

The dilemma of the disputing parties

This first dilemma has similarities with the prisoner’s dilemma⁴². It suggests that in the absence of effective communication between the parties, each party will defend its own interests at the expense of its partner. The following situation illustrates this. Two suspects are arrested and questioned by the police. The inspector pushes each of the two protagonists to testify against the other. If *A* accuses *B* without *B* accusing *A*, *A* goes free and *B* is sentenced to 10 years in prison. Of course, the reverse is also true. If neither of the two accomplices accuses the other, they both get “only” six months in prison. If, on the contrary and as it is most often the case, the two partners accuse each other, both are sentenced to five years in prison. The dilemma

³⁸ HARTWELL Leon, “The Serbia-Kosovo Dialogue: Ripe for Resolution?”, *CEPA*, 2 March 2021. <https://cepa.org/the-serbia-kosovo-dialogue-ripe-for-resolution/> (accessed 6 May 2021).

³⁹ FRANZESE Robert J., and HAYS C. Jude, “Spatial Econometric Models of Cross-Sectional Interdependence in Political Science Panel and Time-Series-Cross-Section Data”, *Political Analysis*, vol. 15, no. 2, 2007, p. 145.

⁴⁰ DORUSSEN Han, GARTZKE A. Erik, and WESTERWINTER Olivier, “Networked International Politics: Complex Interdependence and the Diffusion of Conflict and Peace”, *Journal of Peace Research*, vol. 53, no. 3, 2016, p. 286.

⁴¹ TERRIS Lesley G., and MAOZ Zeev, *op. cit.*, p. 565.

⁴² SNYDER Glenn Herald, and DIESING Paul, *Conflict Among Nations: Bargaining, Decision Making, and System Structure in International Crises*, Princeton, Princeton University Press, 1977, p. 68.

between rational choice and self-interest, as suggested by Brecher, then appears obvious⁴³. Normalization is no exception to this method of negotiation. Here again, the two protagonists first weigh the advantages and disadvantages that this dialogue can bring to each of them. Unsurprisingly, many choose what appears most favorable to them, even though this can be at the expense of the second party. In this case, both find themselves in a “lose – lose” situation. As the prisoner’s dilemma demonstrates, such a situation might be avoided through cooperation.

In their research, Lesley Terris and Zeev Maoz have theorized this dilemma, adapting it to a typical situation of normalization of relations⁴⁴. As illustrated in the figure opposite, each party (player *i*; player *j*) faces the same dilemma as

| | | Player <i>j</i> | |
|-----------------|-----------|---|---|
| | | Cooperate | Defect |
| Player <i>i</i> | Cooperate | Compromise CC | <i>i</i> yields, <i>j</i> wins CD |
| | Defect | <i>j</i> yields, <i>i</i> wins DC | Conflict DD |

Figure 2: Terris and Maoz (2005).

the above-mentioned prisoner: a given party may cooperate at the risk of losing the advantage benefit from in a frontal conflict (*CD* or *DC*), or “defect”. Therefore, it is to be strongly hoped that the two protagonists agree on the same choice (*CC*), at the risk of seeing the facilitation process fails. If both player “*i*” and player “*j*” refuse to reconsider their position, any attempt at normalization is doomed (*DD*)⁴⁵. Moreover, James D. Fearon emphasizes that factors such as the military strength of the protagonists may considerably influence the position of “*i*” and “*j*”. In this regard, the more powerful a party is in military terms, the longer this party tends to prolong the conflict⁴⁶, especially since this gives the latter a considerable advantage over its opponent and an impressive lever of “hard power”⁴⁷. Conversely, the weaker party is more likely to call on a third party (the facilitator) in order to avoid any frontal confrontation with his

⁴³ BRECHER Michael, *Crises in World Politics: Theory and Reality*, New York, Pergamon, 1993, pp. 31-37.
⁴⁴ TERRIS Lesley G., and MAOZ Zeev, *op. cit.*, p. 565.
⁴⁵ RAPOPORT Anatol, GUYER Melvin, and GORDON David G., *The 2 X 2 Game*, Ann Arbor, University of Michigan Press, 1976, pp. 17-18.
⁴⁶ FEARON James D., “Rationalist Explanations for War”, *International Organization*, vol. 49, no. 3, 1995, p. 383.
⁴⁷ The concept of “hard power” is described as “coercive power executed through military threats and economic inducements and based on tangible resources such as the army or economic strength”. See WAGNER Jan-Philipp, “The Effectiveness of Soft & Hard Power in Contemporary International Relations”, *E-International Relations* (blog), 14 May 2014, p. 3. <https://www.e-ir.info/pdf/49538> (accessed 24 May 2021).

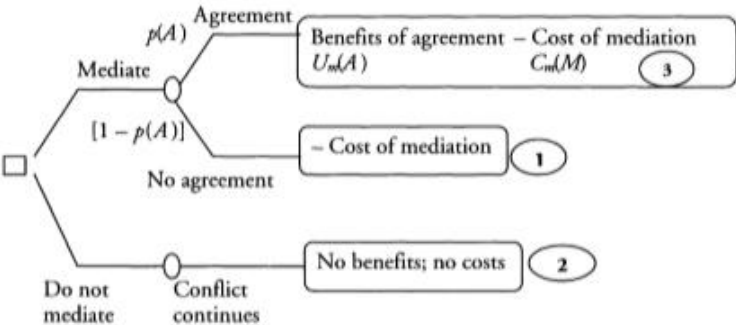
opponent. Through this peaceful process, the weaker party becomes as powerful as his opponent again and the dialogue puts both actors on equal footing.

The dilemma of the facilitator

While both protagonists can determine for themselves whether they wish to engage in a normalization process, this is also the case for the facilitator.

First, and despite the lack of empirical research on the subject, it is worth noting that the choice faced by the third party is similar to the one faced by the parties in conflict. The figure below perfectly illustrates this situation. When the facilitator refuses to take on its role, the conflict is bound to continue over time. In this case, no benefit is gained but the cost also remains zero⁴⁸. In most cases, the facilitator decides to engage itself as a third party and in this case, two outcomes are possible: either the normalization of relations succeeds and a compromise is reached, or the process fails.

In the figure, $p(A)$ indicates the probability of reaching a peace agreement between the two protagonists. When the normalization of relations is successful, the cost of the process must however be deducted from the benefits of the agreement⁴⁹. In this case, the facilitator hopes that the benefits of the agreement outweigh its costs.



$p(A)$: Probability of agreement; $[1 - p(A)]$: Probability of no agreement.

Figure 3: Terris and Maoz (2005).

Nevertheless, if no agreement is reached, the benefits are non-existent, but the cost of mediation remains the same (noted $[1 - p(A)]$ in the figure). The result of the process is therefore a twofold failure: firstly, the third

party’s involvement has not led to any agreement and secondly, the investment is not profitable.

⁴⁸ The cost of a dialogue includes all the means put in place to resolve the crisis and refers thus to the time invested by the facilitator, the organization of rounds of negotiation, and the financial means devoted to these. See TERRIS Lesley G., and MAOZ Zeev, *op. cit.*, p. 565.
⁴⁹ KAHNEMAN Daniel, and TVERSKY Amos, “Prospect Theory: An Analysis of Decision under Risk”, *Econometrica*, vol. 47, no. 2, 1979, p. 289.

Moreover, Zeev Maoz suggests that the primary objective of the facilitator is to transform the relationship between the parties in conflict in order to avoid a “DD situation”. To this end, it is fundamental that it manages to convince at least one of the two protagonists to engage in the process of cooperation⁵⁰. This may be manifested in several different ways, including the recognition of the rights and interests of its opponent. Three methods are available to the facilitator to achieve this crucial objective⁵¹.

The approaches of normalization of relations available to third parties

The facilitator’s commitment significantly influences its choice of normalization approach⁵². First, the third party may opt for a “communicative” approach. In this case, it adopts a position behind the two protagonists in the conflict. The facilitator only serves as a “communication channel” in case no exchange is possible between the parties and transfers information from one side to the other. It also takes note of each party’s position and communicates it to the other party.

Second, the third party may adopt a “formulative” approach⁵³. Its role then consists mainly of establishing procedures and protocols. The mediator defines the steps necessary to reach the agreement and the agenda-setting, and ensures that the interests of each party are respected. Finally, it puts forward the final text, which formulates the guidelines for the new bilateral relations.

Third, the negotiator can also choose a “suggestive” approach. In this case, it encourages the parties in conflict to make concessions and, if this appears to be premature, to first acknowledge their respective existence. The third party also acts as a “filter”: it listens to both sides and communicates the information obtained from the two parties in conflict, while eliminating sentences or statements that could hinder the normalization of relations⁵⁴. Moreover, it can also provide a glimpse of good prospects if a final agreement is reached. This is the case, for

⁵⁰ MAOZ Zeev, *Paradoxes of War: On the Art of National Self-Entrapment*, London, Routledge, 2020, pp. 37-41.

⁵¹ TOUVAL Saadia, and ZARTMAN William I., *International Mediation in Theory and Practice*, Boulder, Westview Press, 1985, p. 38.

⁵² ELGSTRÖM Ole, BERCOVITCH Jacob, and SKAU Carl, “Regional Organisations and International Mediation: The Effectiveness of Insider Mediators”, *African Journal on Conflict Resolution*, vol. 3, no. 1, 2003, pp. 21-24.

⁵³ BERGMANN Julian, and NIEMANN Arne, “Mediating International Conflicts: The European Union as an Effective Peacemaker?”, *Journal of Common Market Studies*, vol. 53, no. 5, 2015, p. 958.

⁵⁴ BERCOVITCH Jacob, “The Structure and Diversity of Mediation in International Relations” in BERCOVITCH Jacob, and RUBIN Jeffrey Z. (ed.), *Mediation in International Relations: Multiple Approaches to Conflict Management*, London, Palgrave Macmillan UK, 1992, pp. 3-8.

instance, when the facilitator holds out the prospect of measures that would be attractive to both parties, including trade agreements or potential future regional integration.

In short, these three methods are increasingly dynamic and interventionist⁵⁵. The third party, initially confined to the role of simple “facilitator” of communication, can also take mobilizing initiatives. These imply a more substantial commitment on the part of the third party. The means available to the negotiator must also be reconsidered from the very beginning of the process. Nevertheless, the effectiveness of each approach is relatively complex to measure, especially since there are no objective evaluation grids that could allow such an assessment. Only the testimonies of the parties involved in the conflict can provide scientists with a subjective idea of how the protagonists are involved in the process of normalization⁵⁶. The interviews conducted for this research seek to provide this missing information.

The conceptual framework applied to the normalization of bilateral relations between Kosovo and Serbia

Although a large number of conflictual situations share common aspects, as mentioned above, each obviously has its own specificities, which can be found in the definition of “normalization” defended by each party. In this regard, it is worth noting that a process of normalization cannot be understood in a single way, particular since the actors’ respective positions in the dispute influence their understanding of the concept. Nevertheless, although no clear and unique definition exists, several authors have tried to specify its meaning as precisely as possible. This section examines these definitions and stresses how the concept is understood by the three parties involved in the process of normalization of bilateral relations analyzed in this dissertation, namely Kosovo, Serbia, and the EU.

The differing views on the concept of “normalization”

First, it should be stressed that many scholars usually use the term “dialogue” instead of “normalization”⁵⁷. As the word suggests, a dialogue in the context of normalization of relations implies at least two parties and is mostly facilitated by a third one. In the case of the interstate dispute between Kosovo and Serbia, the third party is unsurprisingly none other than the EU.

⁵⁵ BERGMANN Julian, and NIEMANN Arne, *op. cit.*, p. 958.

⁵⁶ ARENSMAN Bodille, VAN WESSEL Margit, and HILHORST Dorothea, “Does Local Ownership Bring about Effectiveness? The Case of a Transnational Advocacy Network”, *Third World Quarterly*, vol. 38, no. 6, 2017, p. 1323.

⁵⁷ GASHI Krenar, MUSLIU Vjosa, and ORBIE Jan, *op. cit.*, p. 533.

Placed on the top of the European foreign policy agenda-setting since 2011, the process of normalization offers the opportunity for the representatives of Kosovo and Serbia to meet under the mediation of the former High Representative of the Union for FASP and Vice President (HR/VP) of the European Commission, Catherine Ashton. In their research⁵⁸, the two authors Julian Bergmann and Arne Niemann refer to the press release of the Council of the EU, in which the Union describes the process of normalization as “the prospect of both [entities] being able to fully exercise their rights and fulfill their responsibilities [...] including irreversible progress towards delivering structures in northern municipalities of Kosovo which meet the security and justice needs of the local population in a transparent and cooperative manner, and in a way that ensures the functionality of a single institutional and administrative set up within Kosovo”⁵⁹. Further, the normalization of bilateral relations between the two WB countries is deeply included in the process of European integration, to which a whole section of this Master’s thesis will be devoted. However, it can already be stressed that it places the EU in a stronger position. Although the Union cannot force Serbia and Kosovo to recognize each other, it may however conditionate their potential integration into the EU to this recognition. As James Ker-Lindsay claims, the process of normalization implicitly implies mutual recognition since “what [European diplomats] name “normalization”, is [in fact] just a code word for recognition”⁶⁰. Nevertheless, the European conditionalities offer the Union a very powerful tool of leverage towards both Serbia and Kosovo⁶¹. In this view and based on the different approaches of mediation offered to the facilitator, it may also be determined that the EU favors a “suggestive method”, providing a glimpse of good prospects if a final agreement is reached, i.e., potential EU membership. However, the challenge faced by the EU is important: in 2014 the European External Action Service (EEAS) admitted that “the Kosovo-Serbia dialogue represented a major test for EU diplomacy and its capacities for regional conflict resolution [...] and [appeared as] evidence that the EU was a reliable partner of the UN”⁶². In other words, the position adopted by the EU turns out to be a good illustration of its transformative soft power⁶³.

⁵⁸ BERGMANN Julian, and NIEMANN Arne, *op. cit.*, p. 970.

⁵⁹ COUNCIL OF THE EU, Council Conclusions on Enlargement and Stabilization and Association Process, Pub. L. No. 17604/12, ELARG 133 COWEB 209 1, 2012, p. 21. <https://data.consilium.europa.eu/doc/document/ST-17604-2012-INIT/en/pdf> (accessed 6 February 2021).

⁶⁰ Interview with Professor James Ker-Lindsay, May 2021, by Skype.

⁶¹ ANASTASAKIS Othon, “The EU’s Political Conditionality in the Western Balkans: Towards a More Pragmatic Approach”, *Southeast European and Black Sea Studies*, vol. 8, no. 4, 2008, p. 369.

⁶² EEAS, “Ashton Tells UN Security Council: EU Is Committed Partner for UN in Search for International Peace”, Press statement, Brussels, European Union, 17 February 2014. http://eeas.europa.eu/top_stories/2014/170214_ca_un_en.htm (accessed 1 March 2021).

⁶³ VISOKA Gëzim, and DOYLE John, “Neo-Functional Peace: The European Union Way of Resolving Conflicts”, *Journal of Common Market Studies*, vol. 54, no. 4, 2016, pp. 862-77. Regarding the concept of “soft power”,

There is a flagrant difference between Kosovo and Serbia over what is understood by the term “normalization” nonetheless. On the one hand, according to Kosovo authorities, the process of normalization of relations implies the full recognition of Kosovo’s independence by Serbia. Consequently, Kosovo is seeking to establish with Serbia what the International Crisis Group (ICG) considers as a “normal state-to-state relationship”⁶⁴, with the purpose of later gaining access to the two main international organizations which the Kosovo authorities strive for, namely the EU and the UN.

Serbia, on the other hand, depends on this dialogue to advance its own prospects of EU membership, while relying on the right of veto of its traditional allies within the United Nations Security Council (UNSC), Russia and China, to prevent Kosovo’s international membership. At the same time, Serbian authorities are also seeking to ensure the protection of the Serb community in northern municipalities of Kosovo, leading them to reject what they call Kosovo’s “unilateral” Declaration of Independence⁶⁵.

In conclusion, the three actors involved in the dispute have very different views on the concept of normalization of relations and its implications. Nevertheless, all parties take some benefits from this process since it offers them specific incentives in order to carry on the dialogue. The EU’s ability to conduct such a process in a manner that attracts two states with differing interests is further analyzed in the following two chapters.

Joseph Nye describes it as “the ability to get what you want through attraction rather than coercion or payments. It arises from the attractiveness of a country’s culture, political ideals, and policies”. See NYE Joseph S., *Soft Power: The Means to Success in World Politics*, New York, Public Affairs, 2004, p. 10.

⁶⁴ ICG, “Serbia and Kosovo: The Path to Normalization”, Brussels, *Europe Report*, 2013, p. 5. <https://www.crisisgroup.org/europe-central-asia/balkans/serbia/serbia-and-kosovo-path-normalisation> (accessed 22 February 2021).

⁶⁵ Loc. cit.

Chapter II: The process of normalization of relations between Kosovo and Serbia initiated by the EU

As mentioned above, this second chapter focuses on how the process of normalization itself has been conducted by the EU. Three successive parts are distinguished and allow the reader to better grasp the context in which the process has emerged, its results, and its weaknesses.

The context in which the process of normalization between Kosovo and Serbia has emerged

The first section of this chapter examines the context in which the process of normalization launched by the EU in 2011 has emerged. For this purpose, two distinctive periods have been considered: pre- (1999 - February 2008) and post-independence (February 2008 - March 2011).

However, and in order to better grasp these two periods and their respective context, it may be worth briefly developing the research of Labinot Greiçevci. Greiçevci focuses on the concept of state-building and specifies two main steps in this concept. The first step emphasizes the importance of post-war reconstruction and the re-establishment of security, as well as the accommodation of interests between communities in Kosovo⁶⁶. This element presupposes the reform, professionalization or dissolution of the police and military forces⁶⁷, leading to what Greiçevci qualifies as the “classic trio”: disarmament, demobilization, and reintegration⁶⁸. This step also focuses on the need for immediate assistance, notably to rebuild houses and emergency services, but also on the importance of a comprehensive political consensus. This last aspect implies both the notion of power-sharing (the representation of all significant groups at executive level) and group autonomy (the enforcement of authority of these groups over their own internal affairs, including the educational and cultural fields)⁶⁹.

Then, Greiçevci defines the second step of the state-building process, which is conditional on achieving the first one, as “the creation of governance capacities”⁷⁰. The author also argues that four main characteristics should be included in those governance capacities: free and fair

⁶⁶ GREIÇEVCI Labinot, “The Case of Kosovo: From ‘International State-building’ to an ‘Internationally Supervised and Independent Country’”, *L’Europe en formation*, vol. 349/350, no. 3/4, 2008, p. 190.

⁶⁷ BRINKERHOFF Derick W., “Rebuilding Governance in Failed States and Post-conflict Societies: Core Concepts and Cross-cutting Themes”, *Public Administration and Development*, vol. 25, no. 1, 2005, p. 6.

⁶⁸ GREIÇEVCI Labinot, “The Case of Kosovo”, *op. cit.*, pp. 190-191.

⁶⁹ LIJPHART Arend, “The Wave of Power-Sharing Democracy” in REYNOLDS Andrew, *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*, Oxford, Oxford University Press, 2002, p. 38.

⁷⁰ GREIÇEVCI Labinot, “The Case of Kosovo”, *op. cit.*, p. 192.

elections, free market economy, civil society, and civic culture⁷¹. As Jose Esteban claims, this is closely connected with the process of democratization of states since, according to the scholar, these four features are to be found in all democratic states⁷². Moreover, it seems crucial to highlight that the whole process of state-building extends over time, as it will be further demonstrated in the following section.

The EU peace building operations in Kosovo before its independence

Applied to the case of Kosovo, the two different steps of the state-building process developed by Greiçevci seem obvious. First, it is essential to recall that in the aftermath of the Yugoslav wars⁷³, tensions between Albanians and Serbs quickly escalated in Kosovo⁷⁴. Given that sanctions from the international community were not sufficient to prevent Slobodan Milošević's large-scale campaign of ethnic cleaning of Albanians, the USA and some European powers launched a massive NATO intervention on 24 March 1999 against Yugoslavia which lasted over eleven weeks⁷⁵. This intervention was justified by the states involved and by President Bill Clinton (1999) himself as "a moral imperative to protect the ethnic Albanians"⁷⁶, and is still considered today as being in compliance with international law, according to eminent Professor of the London School of Economics Christopher Greenwood⁷⁷. Behind the military action, however, the importance of Greiçevci's first stage of state-building is obvious. Above all, re-establishing security for all ethnic groups in Kosovo was indeed a crucial provision and both American and British charities supported the reconstruction of many houses⁷⁸. As Greiçevci suggests, no further step could have been taken as long as this first one had not been successfully completed⁷⁹.

The second step of the state-building process was characterized by a series of actions taken successively by the UN and the EU, and was expected to lead to the state-building of Kosovo.

⁷¹ Loc. cit.

⁷² IBANEZ Esteban Lopez Jose, "Culture, Democracy and Democratization: Cultural Values and Democracy Values", *Journal of the Academy of Business and Emerging Markets*, vol. 1, no. 1, 2021, pp. 64–65.

⁷³ The Yugoslav wars first started in Slovenia, but quickly expanded to Croatia and Bosnia and Herzegovina, before finally reaching Kosovo.

⁷⁴ LYON Alynna J., and DOLAN Chris J., "American Humanitarian Intervention: Toward a Theory of Coevolution", *Foreign Policy Analysis*, vol. 3, no. 1, 2007, pp. 49-51.

⁷⁵ SOCEA Iulia, "NATO's Military Intervention in Kosovo and the Diplomatic Alternative", *Journal for Multidimensional Education*, vol. 1, no. 1, 2009, p. 84.

⁷⁶ CLINTON Bill, "Statement by Present Clinton on Kosovo", Washington DC, 24 March 1999. <https://www.mtholyoke.edu/acad/intrel/bombkos.htm> (accessed 25 February 2021).

⁷⁷ GREENWOOD Christopher, "International Law and the NATO Intervention in Kosovo", *International & Comparative Law Quarterly*, vol. 1, no. 49, 2000, p. 926.

⁷⁸ JUDAH Tim, *Kosovo: What Everyone Needs to Know*, Oxford, Oxford University Press, 2008, p. 45.

⁷⁹ GREIÇEVCI Labinot, "The Case of Kosovo", *op. cit.*, p. 190.

To this end, Resolution 1244 of the UNSC (1999) helped put an end to the bombing and contributed to the creation of the United Nations Interim Administration Mission in Kosovo (UNMIK)⁸⁰. The latter was composed of four main pillars, which respectively covered issues relating to refugees (the United Nations High Commissioner for Refugees – UNHCR), the police and justice (UNMIK), economic reconstruction (jurisdiction of the EU), and the building of institutions (the Organization Security and Co-operation in Europe – OSCE). As detailed by Tim Judah in his research, those were under the control of the Special Representative of the Secretary General, also referred to as the SRSG⁸¹. The mission achieved several accomplishments, as reflected by the creation of the Kosovo Police Service (KPS), the UNMIK passports, the assembly, and the government⁸².

However, a major turn occurred in the UNMIK's policy in 2004. In March of that year, an unexpected outbreak of violence started in Çagllavica, which clearly demonstrated that the policy implemented in Kosovo was no longer sustainable⁸³. In response to these protestations, then-UN Secretary General Kofi Annan appointed Norway ambassador to NATO Kai Eide to conduct a concrete evaluation of the situation on the ground. In his final report, Eide regretted the lack of progress in the negotiations process for the final status of Kosovo and pointed out that “there will not be any good moment for addressing Kosovo's future status. It will continue to be a highly sensitive political issue. Nevertheless, an overall assessment leads to the conclusion that the time has come to commence this process. The political process, which is now under way, must continue”⁸⁴. Subsequent to this report, Martti Ahtisaari was chosen as the Special Envoy of the Secretary General for the UN in charge of the negotiations about the final status of Kosovo⁸⁵. As Greiçevci develops, Ahtisaari's mandate essentially consisted of “facilitating the negotiations between Prishtina and Belgrade that took place in Vienna for around 14 months (from November 2005 to March 2007)”⁸⁶. However, Judah describes how

⁸⁰ UNSC, Resolution 1244 Pub. L. No. 1244, S/RES/1244 8, 1999. [https://undocs.org/S/RES/1244\(1999\)](https://undocs.org/S/RES/1244(1999)) (accessed 25 February 2021).

⁸¹ JUDAH Tim, *op. cit.*, p. 94.

⁸² GREIÇEVCI Labinot, *The EU as a State-builder in International Affairs: The Case of Kosovo*, New York, Routledge, 2022, p. 114.

⁸³ *Ibid.*, p. 109.

⁸⁴ UNSC, “Letter Dated 7 October 2005 from the Secretary-General Addressed to the President of the Security Council”, 7 October 2005, p. 4. <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kos%20S2005%20635.pdf> (accessed 1 March 2021).

⁸⁵ UN, “Secretary-General Appoints Former President Martti Ahtisaari of Finland as Special Envoy for Future Status Process for Kosovo”, Meetings Coverage and Press Releases, 15 November 2005. <https://www.un.org/press/en/2005/sga955.doc.htm> (accessed 1 March 2021).

⁸⁶ GREIÇEVCI Labinot, “EU Actorness in International Affairs”, *op. cit.*, p. 288.

the attempt was unsuccessful⁸⁷, Ahtisaari himself admitting that despite all his efforts “to facilitate an outcome that would be acceptable to both sides, [...], it [had] become clear [to him] that the parties were not able to reach an agreement on Kosovo’s future status”⁸⁸, due in particular to the diametrical positions of the actors involved in the process. Despite its failure, Ahtisaari’s proposal developed three fundamental aspects about the status of Kosovo: (a) reintegration into the Serbian state could no longer be considered as a negotiable possibility; (b) the continued international administration of Kosovo did not appear to be a sustainable solution; and (c) the independence of Kosovo seemed to be the only durable opportunity⁸⁹. In this regard, Ahtisaari claimed that he had “come to the conclusion that the only viable option for Kosovo [was] independence”⁹⁰. Another crucial point emphasized by the Special Envoy of the Secretary General for the UN was that “Kosovo is a unique case that demands a unique solution [and it] does not create a precedent for other unresolved conflicts”⁹¹. Even though Ahtisaari’s proposal initially had the support of all the main Western powers, including the USA, France, the United Kingdom (UK), and Russia, it never got the opportunity to be discussed within the UNSC as the Russian authorities had in the meantime threatened to make use of their right of veto⁹². Consequently, in close collaboration and coordination with the main Western countries, and in full compliance with the Comprehensive Proposal for the Kosovo Status Settlement, the Parliament of Kosovo declared its Independence on 17 February 2008⁹³. In the wake of this major event, a series of states, among whom its allies, officially and immediately recognized Kosovo as a sovereign state⁹⁴.

The EU’s expanding role in post-independent Kosovo

Following this coordinated Declaration of Independence, the EU was strongly encouraged by the USA and by some European countries, amongst others France, Germany, and the UK, to take over the process of normalization. To this end, the EU launched EULEX in February 2008,

⁸⁷ JUDAH Tim, *op. cit.*, p. 109.

⁸⁸ UNSC, “Letter Dated 26 March 2007 from the Secretary-General Addressed to the President of the Security Council”, Letter, 26 March 2007, p. 2. <https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kosovo%20S2007%20168.pdf> (accessed 1 March 2021).

⁸⁹ Loc. cit.

⁹⁰ Loc. cit.

⁹¹ *Ibid.*, p. 4.

⁹² PERRITT Henry H., *The Road to Independence for Kosovo: A Chronicle of the Ahtisaari Plan*, Cambridge, Cambridge University Press, 2009, p. 129.

⁹³ NEWMAN Edward, and VISOKA Gëzim, “The Foreign Policy of State Recognition: Kosovo’s Diplomatic Strategy to Join International Society”, *Foreign Policy Analysis*, vol. 14, no. 3, 2018, p. 373.

⁹⁴ LIKA Liridon, “La reconnaissance internationale de la République du Kosovo (2008-2016) : succès, défis et perspectives de ce nouvel État”, *Revue de la Faculté de droit de l’Université de Liège*, 2016, p. 532.

a mission that remained in compliance with UN Resolution 1244⁹⁵. As Greiçevci put it, “the role of this mission [was] to help and supervise the Kosovo Government on the field of police, justice, and customs”⁹⁶. Nevertheless, ambiguity characterized the leadership of this mission. Indeed, whereas the Council of the European Union suggested that “EULEX Kosovo [should] assist the Kosovo institutions, judicial authorities, law enforcement agencies [...] and adhere to internationally recognized standards and European best practices”⁹⁷, several authors such as Spyros Economides and James Ker-Lindsay identified a clear lack of unity within the different European countries themselves⁹⁸. This lack of consistency in “European best practices” will be further discussed in the section devoted to this issue. Moreover, and as Arben Hajrullahu stated, the EULEX mission was established within the framework of the European Common Security and Defense Policy (CSDP)⁹⁹. Nevertheless, it should be stressed that EULEX did not meet the originally defined expectations. Indeed, the mission required first an amount of funds that had never been used previously in the context of a CFSP-mission and second, EULEX “failed in many aspects to assist Kosovo’s institutions to create a judicial system based on independence, accountability, efficiency, and effectiveness”¹⁰⁰. Numbers speak for themselves: according to the “Early Warning Report of the UNDP”, only 22 % of Kosovo citizens were found to be satisfied with the EULEX mission¹⁰¹.

One final major element prior to the EU-initiated process of normalization of relations must be discussed, namely the advisory opinion given by the ICJ upon request of the Serbian authorities. In fact, the ICJ was asked to determine whether Kosovo’s Declaration of Independence of 2008 complied with international law¹⁰². In response to this request, the ICJ clearly specified that “the adoption of the Declaration of Independence of 17 February 2008 did not violate general international law, Security Council resolution 1244 (1999) or the Constitutional Framework. Consequently, the adoption of that declaration did not violate any applicable rule of

⁹⁵ EEAS, “Short History of EULEX”, n.d. <https://www.eulex-kosovo.eu/?page=2.44.197> (accessed 1 May 2021).

⁹⁶ GREIÇEVCI Labinot, “The Case of Kosovo”, *op. cit.*, p. 201.

⁹⁷ EUROPEAN COUNCIL, Council Joint Action/CFSP of Feb. 2008 on the European Union Rule of Law Mission in Kosovo, EULEX Kosovo, 2008/124/CFSP §, 2008, p. 2. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008E0124&from=en> (accessed 3 June 2021).

⁹⁸ ECONOMIDES Spyros, and KER-LINDSAY James, “Forging EU Foreign Policy Unity from Diversity: The ‘Unique Case’ of the Kosovo Status Talks”, *European Foreign Affairs Review*, vol. 15, no. 4, 2010, p. 496.

⁹⁹ HAJRULLAHU Arben, “The Serbia Kosovo Dispute and the European Integration Perspective”, *European Foreign Affairs Review*, vol. 21, no. 4, 2019, p. 111.

¹⁰⁰ *Loc. cit.*

¹⁰¹ UNDP, “UNDP: Early Warning Report”, 27 March 2010. http://www.ks.undp.org/repository/docs/Fast_Facts_27_ENGEditionFinal-1.pdf (accessed 1 March 2021).

¹⁰² BEHA Adem, *op. cit.*, p. 106.

international law”¹⁰³. However, and although it should be stressed that the conclusions of the Court encouraged some states such as Honduras¹⁰⁴ and Egypt¹⁰⁵ to recognize the Republic of Kosovo, scholars such as Gashi, Musliu, and Orbie argue that this advisory opinion of the ICJ has not changed much as far as Kosovo’s relations with Serbia are concerned¹⁰⁶. Referring to Florian Bieber’s example, these authors reveal the ambiguity within the Serbian government, with President Boris Tadić willing to relaunch fresh talks with Kosovo while the country’s foreign ministry, Vuk Jeremić, fully rejected the independence of Kosovo¹⁰⁷. However, and despite the ambiguity reinforced by the Serbian authorities, the advisory opinion of the ICJ would clearly influence the dialogue initiated by the EU in 2011, which is analyzed in the next section.

The EU-initiated process of normalization of relations between Kosovo and Serbia

In March 2011, the UN General Assembly adopted Resolution 64/298 which strongly invited the EU to take the lead in the process of normalization. Nevertheless, the resolution also emphasized another crucial aspect: in its first article, it indeed “acknowledge[d] the content of the advisory opinion of the ICJ on the Accordance with International Law of the Unilateral Declaration of Independence in respect of Kosovo”¹⁰⁸, which demonstrates the importance of the opinion of the ICJ as previously argued.

In addition, and before going into the process itself, it may be emphasized that this section is based on the most universal and objective definition of what the concept of normalization of relations implies. In their book *A Dictionary of Diplomacy*, Geoff R. Berridge and James Allan describe this concept as “the restoration of diplomatic relations”¹⁰⁹. More recently, Liridon Lika further developed the normalization of relations, considering it as “the process of transition

¹⁰³ ICJ, *op. cit.*, p. 43.

¹⁰⁴ EMBASSY OF HONDURAS IN SPAIN, Note Verbale, HOND.ESP.177/2010 §, 2010.

¹⁰⁵ MINISTRY OF FOREIGN AFFAIRS OF EGYPT, Decision of the Government of the Arab Republic of Egypt Recognize the Republic of Kosovo as an Independent and Sovereign, 2013.

¹⁰⁶ GASHI Krenar, MUSLIU Vjosa, and ORBIE Jan, *op. cit.*, p. 537.

¹⁰⁷ BIEBER Florian, “The Serbia-Kosovo Agreements: an EU Success Story?”, *Review of Central and East European Law*, vol. 40, no. 3/4, 2015, p. 294.; Written exchange with a Serbian Diplomat, 22 March 2021, by e-mail.

¹⁰⁸ UNGA, Request for an advisory opinion of the ICJ on whether the unilateral Declaration of Independence of Kosovo is in accordance with international law, Pub. L. No. 64/298, A/RES/64/298, 2010, p. 1. <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/ROL%20A%20RES64%20298.pdf> (accessed 3 March 2021).

¹⁰⁹ BERRIDGE Geoff R., and ALAN James, “N”, in BERRIDGE Geoff R., ALAN James, and BARDER Brian (ed.), *A Dictionary of Diplomacy*, London, Palgrave Macmillan UK, 2003, p. 189.

from one type to another type of better interstate relations”¹¹⁰. This definition implies a fundamental element: despite the absence of official recognition, Serbian authorities implicitly recognized Kosovo’s sovereignty during the Brussels dialogue¹¹¹.

The Brussels agreement as the main outcome of the process

Nevertheless, it may be noted that the first step towards diplomatic relations between Kosovo and Serbia were only established after the beginning of the process of normalization initiated by the EU in March 2011. At that time, a series of 10 rounds of negotiations were held, despite the lack of implicit mutual recognition, which mainly focused on purely technical issues¹¹². In this regard, the vision defended by EEAS’s Special Advisor Robert Cooper, which consisted of dividing a main political issue into several technical agreements, including cadastral issues, registry books, the recognition of diplomas in both countries and the freedom of movement, seemed fully applicable in the context of these rounds of negotiations¹¹³. Conducted by the VP of the European Commission, Catherine Ashton, both states were represented by their respective Prime ministers, Hashim Thaçi for Kosovo and Ivica Dačić for Serbia¹¹⁴.

“Conducted in a good and constructive atmosphere” according to Catherine Ashton¹¹⁵, the 10-round talks were finalized in the “First Agreement of Principles Governing the Normalization of Relations between Kosovo and Serbia”, concluded on 19 April 2013. Strongly criticized by some scholars for only offering “fifteen highly ambiguous points that vaguely read that Serbia agrees to “normalize relations” with Kosovo authorities”¹¹⁶, this agreement implied, above all, that neither Kosovo nor Serbia could block each other’s European path. In this respect, based on the broad review of the literature developed in the first chapter of this thesis, it should be stressed that as a mediator, the EU successfully convinced both disputing parties to engage in a constructive process of normalization. Thus, neither Kosovo nor Serbia completely prevented the process from being conducted and the disputing parties were no longer adopting conflictual

¹¹⁰ LIKA Liridon, “La reconnaissance internationale de la République du Kosovo (2008-2016)”, *op. cit.*, p. 548.

¹¹¹ MERLIN Jean-Baptiste, “L’Accord de Bruxelles et la reconnaissance d’Etat”, *Centre de Recherche Internationale* (blog), 11 July 2018. <https://www.cri-irc.org/laccord-de-bruxelles-et-la-reconnaissance-detat/> (accessed 2 May 2021).

¹¹² BEHA Adem, *op. cit.*, p. 106.

¹¹³ COOPER Robert, “The Philosophy of the Belgrade-Pristina Dialogue”, *European Western Balkans* (blog), 16 July 2015. <https://europeanwesternbalkans.com/2015/07/16/sir-robert-cooper-the-philosophy-of-the-belgrade-pristina-dialogue/> (accessed 23 February 2021).

¹¹⁴ BEHA Adem, *op. cit.*, p. 107.

¹¹⁵ ASHTON Catherine, “Statement by High Representative Catherine Ashton on the Continuation of the EU-Facilitated Dialogue”, Brussels, 19 October 2012. consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/133036.pdf (accessed 4 March 2021).

¹¹⁶ GASHI Krenar, MUSLIU Vjosa, and ORBIE Jan, *op. cit.*, p. 538.

positions only, which Terris and Maoz would have considered as a “DD” situation¹¹⁷. Furthermore, according to Adem Beha, the “First Agreement of Principles Governing the Normalizations of Relations” was composed of 15 main provisions and “intended to address the accommodation of Serbs in northern municipalities in Kosovo, namely in Zveçan, Mitrovica North, Leposaviq, and Zubin Potok, [which] have refused to accept any authority of the Government of Kosovo”¹¹⁸. In his research, Beha offers a well-developed analysis of the six main provisions of the Brussels agreement that directly deal with one of the major stumbling blocks of the bilateral dispute between Kosovo and Serbia, i.e., the Association of Serb-majority municipalities in Kosovo¹¹⁹.

The first provision of the Brussels agreement finds its legal roots in the Ahtisaari Plan and in Article 31 of the Law on Local Self-Government in Kosovo¹²⁰. Since the latter is incorporated *de jure* into the Constitution of the Republic of Kosovo, all its provisions are considered constitutional¹²¹. The first provision establishes the Association of the Serb-majority municipalities in Kosovo, which would benefit from a decentralization of power¹²². Concretely, it offers extensive powers to those municipalities as far as some specific competencies are concerned, for instance, higher education and secondary health care¹²³. Second, and to avoid what Beha qualifies as the threat of a potential “dual sovereignty territory”¹²⁴ on those municipalities, the Association should be established by a legal statute in accordance with the Constitution of the Republic of Kosovo. In this purpose, the Association must first be accepted by the Kosovo government, where the agreement still faces strong resistance¹²⁵. Moreover, and third, the agreement offers a well-defined organizational structure for the Association, composed as follows: (a) the assembly, which is the supreme body; (b) the President and its Vice President, who represent the Association as a whole; (c) the Council, which is an advisory organ including all mayors of the municipalities; (d) the Board in charge of the daily

¹¹⁷ TERRIS Lesley G., and MAOZ Zeev, *op. cit.*, p. 565.

¹¹⁸ BEHA Adem, *op. cit.*, p. 103.

¹¹⁹ *Loc. cit.*

¹²⁰ Law No. 03/L-040, Article 31 - Right of Municipalities to Associate: “For the protection and promotion of their common interests, municipalities may form and belong to associations that operate in conformity with the law”. See DECREE OF THE PRESIDENT OF THE REPUBLIC OF KOSOVO, Law on Local Self Government, Pub. L. No. 2008/03-L040, DL-008-2008, 2008. <http://old.kuvendikosoves.org/common/docs/ligjet/2008/03-L040en.pdf> (accessed 4 March 2021).

¹²¹ BEHA Adem, *op. cit.*, p. 114.

¹²² Ahtisaari Plan, appendix III.

¹²³ DECREE OF THE PRESIDENT OF THE REPUBLIC OF KOSOVO, *op. cit.*, p. 11.

¹²⁴ BEHA Adem, *op. cit.*, p. 115.

¹²⁵ KRASNIQI Ekrem, and MENXHIQI Qazim, “West Should Stop Pushing Kosovo on New Serbian Entity”, *EUobserver*, sec. Opinion, 26 April 2021. <https://euobserver.com/opinion/151657> (accessed 26 May 2021).

management of the Association; and (e) the Complaints Office, which examines complaints in relation to the objectives of the Association¹²⁶. Fourth, the agreement emphasizes the decentralization of the Serb-majority municipalities in Kosovo. In this regard, it may be noted that whereas most Kosovar-majority municipalities do not enjoy much authority on several regional aspects, the Association has the authority for economic development, education, health, and urban and rural planning¹²⁷. Fifth, in compliance with Article 18 of the Law on Local Self-Government in Kosovo, the authority of six additional powers, concerning (a) cadastral records, (b) civil registries, (c) voter registration, (d) business registration and licensing, (e) distribution of social assistance payments, and (f) forestry protection, may be delegated to municipalities¹²⁸. However, as pointed by Beha, it remains unclear what types of additional powers will be later fully delegated to the Association of municipalities¹²⁹. Sixth, the representation of Serb communities must be reinforced since they will have the opportunity to sit in the Consultative Council for Communities. Even though the decisions taken in this Council remain non-binding, it allows communities “in the early stages of lawmaking in Kosovo [...] to provide recommendations and suggestions for their rights”¹³⁰.

Moreover, according to several scholars, this agreement is one of the pieces of evidence that Serbia tacitly recognizes the Republic of Kosovo¹³¹. Although this recognition remains only implicit, it represents a significant step forward for the state of Kosovo since it implies the recognition by Serbia of its territorial integrity, constitutional order, and sovereignty. In fact, this implicit recognition of Kosovo has turned out to be even more important since, as Maoz demonstrated, recognizing the rights and interests of its opponent is the first key stage to be achieved by the disputing parties in a process of normalization¹³².

Technically speaking, such an example can be found in the Integrated Border Management (IBM) – which regulates the six border crossing points between the Republic of Kosovo and the Republic of Serbia – that evidences the recognition of the territorial integrity of Kosovo by

¹²⁶ ZEQRIRI Adrian, TROCH Pieter, and KABASHI Trim, “The association/community of Serb-majority municipalities: Breaking the Impasse”, Prishtina, PAX – ECMI Kosovo, 2016, p. 33. <https://www.ecmikosovo.org/uploads/ascm-pax-breaking-the-impasse-eng.pdf> (accessed 4 March 2021).

¹²⁷ BEHA Adem, *op. cit.*, p. 115.

¹²⁸ DECREE OF THE PRESIDENT OF THE REPUBLIC OF KOSOVO, *op. cit.*, p. 7.

¹²⁹ BEHA Adem, *op. cit.*, pp. 115-116.

¹³⁰ *Ibid.*, p. 116.

¹³¹ MERLIN Jean-Baptiste, *op. cit.* ; LIKA Liridon, “La République du Kosovo dans son contexte régional. Analyse sur la reconnaissance, la souveraineté et les relations de ce nouvel État avec ses pays voisins frontaliers”, *Cahiers de Science politique*, no. 31, 2016, p. 4.

¹³² MAOZ Zeev, *op. cit.*, pp. 37-41.

the Serbian authorities¹³³. In this regard, it is fundamental to add that Article 7 of the Convention of Montevideo specifies that “the recognition of a state may be express or tacit”¹³⁴. The latter results from any act which implies the intention of recognizing the new state. As argued by Lika, the normalization of relations is then organized under EU supervision by two independent and equal states whose ultimate objective is to reach mutual official recognition for both parties¹³⁵. This view is shared by Bieber, the scholar arguing that “since no single country will ever negotiate with itself, this implies that Serbia agrees to have a dialogue with the representatives of the new state, namely Kosovo authorities”¹³⁶.

The 33 Agreements and Treaties

In addition to the Brussels agreement, no less than 33 agreements and treaties have been concluded in total between the Republic of Kosovo and the Republic Serbia under EU auspices since the beginning of the normalization process¹³⁷. Although most of them “only” deal with technical issues such as telecommunications and Kosovo customs, the division of major issues in separate agreements has facilitated the management of politically sensitive subjects, including notably the IMB¹³⁸. In fact, agreements between Kosovo and Serbia turned out to be particularly successful in the following five areas, with regards to telecommunications, regional representation and cooperation, border/boundary crossings, freedom of movement, and energy¹³⁹. First, it allowed Kosovo to develop its own international dialing code, but also left the opportunity to Serbia to further operate in Kosovo through its state-owned enterprise Telekom Srbija. Second, Serbia agreed in 2012 that Kosovo acts on its own behalf in a series of regional fora, mostly at European level. One year later, the two Balkan states exchanged liaison offices in their respective capital cities, Prishtina and Belgrade. Even though Serbia still refuses to consider its officers in Kosovo as ambassadors, unlike Kosovo, this exchange of liaison officers clearly appeared as a “step forward in the process of normalizing ties”¹⁴⁰. Third, Kosovo and Serbia concluded in 2012 an agreement with the aim of upgrading the six existing

¹³³ LIKA Liridon, “La reconnaissance internationale de la République du Kosovo (2008-2016)”, *op. cit.*, p. 548.

¹³⁴ The Montevideo Convention on the Rights and Duties of States was signed at Montevideo on 26 December 1933 during the Seventh International Conference of American States.

¹³⁵ LIKA Liridon, “La reconnaissance internationale de la République du Kosovo (2008-2016)”, *op. cit.*, p. 548.

¹³⁶ Interview with Professor Florian Bieber, April 2021, by Skype.

¹³⁷ RUSSELL Martin, “Serbia-Kosovo Relations: Confrontation or Normalization?”, Brussels, *European Parliamentary Research Service*, 2019, p. 3. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635512/EPRS_BRI\(2019\)635512_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635512/EPRS_BRI(2019)635512_EN.pdf) (accessed 19 May 2021).

¹³⁸ BEHA Adem, *op. cit.*, p. 106.

¹³⁹ RUSSELL Martin, *op. cit.*, p. 4.

¹⁴⁰ BARLOVAC Bojana, “Kosovo, Serbia Liaison Officers to Start Work”, *Balkan Insight*, 13 February 2013. <https://balkaninsight.com/2013/02/13/kosovo-and-serbia-liaison-officers-ready-to-start/> (accessed 26 May 2021).

crossing border points for better security on both sides of the border. Fourth, since 2011, the inhabitants of the Republic of Kosovo have had the right to travel to the Republic of Serbia with identity documents issued by the Kosovo authorities themselves. Fifth, and finally, both states reached an energy agreement in 2015, which notably forces state signatories to cover the energy needs of neighboring countries in the event of a shortfall.

Nevertheless, many barriers impeded the rapid multiplication of new agreements and their full implementation, as it was illustrated by the refusal of the Serbian authorities to supply their obligations to cover Kosovo's energy needs in March 2018 despite the agreement concluded three years before¹⁴¹. Several arguments have been raised by scholars to explain the phenomenon. The first reason evoked in this respect is institutional and results from the lack of reciprocity. The report of March 2018 from Transparency International clearly illustrates this statement. Out of the series of agreements that have been reached between Kosovo and Serbia during the process of normalization of relations, the report reveals that only one of all these agreements has actually been adopted by the Kosovo assembly. This agreement, which is none other than the "First Agreement of Principles Governing the Normalizations of Relations", did indeed become a law on 27 June 2013¹⁴². In the same vein, Beha regrets that "both countries agreed on a range of issues, but the approaches/consents [have not taken] the form of agreements, rather of conclusions"¹⁴³.

The second reason finds its roots in the controversial Amnesty Law. Adopted on 25 June 2013 by the Kosovo Assembly, this law No.04/L-209 was approved by Kosovo policymakers with 90 votes in favor and 17 against (and 1 abstention). It sought to provide "amnesty for persons who have committed certain specified crimes in the territory now called the Republic of Kosovo from 1999 until 20 June 2013"¹⁴⁴. Through the adoption of this law, and as argued by Beha, Kosovo Serbs who had sabotaged Kosovo institutions in the past, would be granted amnesty¹⁴⁵. Several types of sabotage fell under the concept of amnesty, including armed insurrection, incitement of interethnic and interreligious hate, calls for resistance, and tax evasion¹⁴⁶. Yet,

¹⁴¹ RUSSELL Martin, *op. cit.*, p. 4.

¹⁴² TRANSPARENCY INTERNATIONAL, "Brief Analysis: Kosovo-Serbia Dialogue Challenges and the Way Forward", Prishtina, Kosova Democratic Institute, 2018, p. 6. <https://kdi-kosova.org/en/publications/brief-analysis-kosovo-serbia-dialogue-challenges-way-forward/> (accessed 8 April 2021).

¹⁴³ BEHA Adem, *op. cit.*, p. 106.

¹⁴⁴ PECI Edona, "Kosovo Adopts Controversial Amnesty Law", *Balkan Insight*, 11 July 2013. <https://balkaninsight.com/2013/07/11/kosovo-mp-s-approve-controversial-amnesty-law/> (accessed 7 March 2021).

¹⁴⁵ BEHA Adem, *op. cit.*, p. 112.

¹⁴⁶ Loc. cit.

although this law promoted reconciliation between both Albanian and Serbian ethnical groups, it aimed implicitly at enforcing Kosovo's sovereignty. Moreover, since the Amnesty Law was directly addressed towards the Serb minority, this did not concern all categories of ethnicity or social categories, which made the law even more controversial for civil society. In this regard, a major petition claiming that this law was unconstitutional gathered the signatures of no less than 12,000 people¹⁴⁷. Seized, the Kosovo Constitutional Court chaired by Judge Almiro Rodrigues finally concluded that nine of its articles¹⁴⁸ had to be adjusted, as the Court validated some of the arguments put forward by opponents to the law.

In conclusion for this section, it is interesting to note the positive views of scholars regarding the Brussels agreement. For instance, Gashi, Musliu, and Orbie argue that, despite the Amnesty Law and a significant series of technical agreements, "the Brussels agreement is [still] seen by all parties involved as the main outcome and culmination of this negotiation process"¹⁴⁹.

The issues related to the EU-initiated normalization of relations

Despite all this, the EU's role as a mediator remains targeted by a series of criticisms regarding how it has conducted the process of normalization of bilateral relations and, more specifically, the Brussels agreement. This following section identifies four of them. Firstly, it emphasizes how ambiguity has been an inherent aspect of the process and further examines the ambiguous choice of terms favored by the EU. Secondly, it focuses on the lack of transparency and its consequences, essentially resulting from an elite-driven process. Thirdly, the lack of unity within the EU institutions and the EU MS has not allowed the Union to adopt a clear and common approach on Kosovo's statehood. Fourthly, the strong divergences between the EU-initiated process and the recent launch of USA-led normalization of relations have not facilitated cooperation among all Western countries.

The high level of ambiguity in the EU-led normalization process

Qualified as such for the first time in the 1970s by then US Secretary Henry Kissinger, ambiguity is described by the international non-governmental organization (NGO) Transparency International as "a method premised on the belief that ambiguously worded text can create opportunities for advancing the interests of both parties to a negotiation"¹⁵⁰. More

¹⁴⁷ Loc. cit.

¹⁴⁸ The series of articles that were not considered to be in line with the Constitution are the following ones: 1.1.10; 1.1.11; 1.1.15.10; 1.1.15.11; 1.2.5; 1.2.9.7; 1.3.1; 1.3.5.6; and 1.3.5.7.

¹⁴⁹ GASHI Krenar, MUSLIU Vjosa, and ORBIE Jan, *op. cit.*, p. 538.

¹⁵⁰ TRANSPARENCY INTERNATIONAL, *op. cit.*, p. 14.

recently, this method has been used to resolve bilateral disputes and conflicts, notably between Israel and Palestine¹⁵¹, or China and Taiwan¹⁵². However, Transparency International notices that ambiguity often produces confusion and erodes confidence between the two disputing parties¹⁵³. Consequently, various issues emerge from this ambiguity that can take several forms.

First, it may be relevant to note that ambiguity was already favored by the actors involved in the bilateral dispute even prior to the launch of the process. In fact, as Greiçevci argued, the EU already made use of ambiguity in the context of its EULEX mission¹⁵⁴. In this regard, Alistair J. K. Shepherd highlighted that, whereas Kosovo perceived the mission as in compliance with its own Constitution and the Ahtisaari plan, Serbia considered it as status-neutral rather than an attempt to reinforce Kosovo's recent independence¹⁵⁵. By presenting its mission differently according to the nature of the partners concerned, the EU has been able to make the proposal acceptable for both parties as well as to gain their respective support. Greiçevci illustrated this situation with the use of the terms "border" and "boundary"¹⁵⁶. Although both terms are often considered as overlapping entities, there exists a real difference of meaning between the two. In fact, whereas the term "border" refers to the delimitation of a state's territory, "boundary" means the social delineation of differences and takes more often the form of an imagined concept¹⁵⁷. Thus, the lack of a clear definition allowed both Kosovo and Serbia to legitimately claim that the EULEX mission was serving their own interests.

Later, ambiguity was even more reflected within the Brussels agreement. Authors Krenar Gashi, Vjosa Musliu, and Jan Orbie suggest that ambiguity characterized at the same time the legal status of the agreement as well as its content¹⁵⁸. On the one hand, the agreement was ratified as an international agreement by the National Parliament of Kosovo, respectively on 21 April and 27 June 2013¹⁵⁹. According to the three authors, this rapid ratification

¹⁵¹ ELGINDY Khaled, "When ambiguity is destructive", *Brookings* (blog), 30 November 2014. <https://www.brookings.edu/opinions/when-ambiguity-is-destructive/> (accessed 17 February 2021).

¹⁵² HU Bei, and PYM Anthony, "Constructive Ambiguity and Risk Management in Bilingual Foreign-Affairs Texts. The Case of 'One China'", *Asia Pacific Translation and Intercultural Studies*, vol. 6, no. 1, 2019, p. 3.

¹⁵³ TRANSPARENCY INTERNATIONAL, *op. cit.*, p. 14.

¹⁵⁴ GREIÇEVCI Labinot, "EU Actorness in International Affairs", *op. cit.*, p. 295.

¹⁵⁵ SHEPHERD Alistair J. K., "A Milestone in the History of the EU: Kosovo and the EU's International Role", *International Affairs*, vol. 85, no. 3, 2009, pp. 526-527.

¹⁵⁶ GREIÇEVCI Labinot, "EU Actorness in International Affairs", *op. cit.*, p. 294.

¹⁵⁷ FASSIN Didier, *Deepening Divides: How Territorial Borders and Social Boundaries Delineate Our World*, London, Pluto Press, 2019, pp. 9-15.

¹⁵⁸ GASHI Krenar, MUSLIU Vjosa, and ORBIE Jan, *op. cit.*, pp. 538-539.

¹⁵⁹ KOSOVO ASSEMBLY, Law No.04/L-199 on Ratification of the First International Agreement of Principles Governing the Normalization of Relations Between the Republic of Kosovo and the Republic of Serbia, Pub. L. No. AGJ469/13, KO 95/13, 2013, p. 2. https://gjk-ks.org/wp-content/uploads/vendimet/gjkk_ko_95_13_ang.pdf

simultaneously legitimated the implementation of the Brussels agreement by local elites in the Republic of Kosovo, but also demonstrated at EU level the state's willingness to resolve the bilateral dispute with the Republic of Serbia¹⁶⁰. The case of Serbia on the other hand, turned out to be much more complex. Indeed, Serbia seemed to circumvent the issue related to the official ratification of the agreement by its national Parliament. The authorities favored the term "confirmation" over "ratification", and instead of ratifying the agreement itself, opted to sign a government report emphasizing the main progresses achieved and decisions contained in the Brussels agreement¹⁶¹. Such a procedure is allowed since, as Jean-Baptiste Merlin further points out, international law does not require any formal and universal procedure regarding the ratification of an agreement and, consequently, allows the nature of the ratification to be a state prerogative¹⁶². Thus, declarations and reports may supply formal procedures. However, in the case of Serbia, ambiguity and flexibility in the way the different parties implemented their provisions were apparently favored.

As a result, it may be highlighted that Gashi, Musliu, and Orbie also describe the content of the Brussels agreement and its provisions as "vague and unclear in terms of wording and implementation"¹⁶³. To illustrate the statement, the authors take the example of the terms "Association" and "Community" when referring to the Serb-majority municipalities¹⁶⁴. While the first is used in Kosovo and seeks to "discursively minimize the powers of such an institution", the second word reinforces the authority of Serbia on those municipalities¹⁶⁵. In the same way as in the EULEX mission, the conclusion of the Brussels agreement allows both Kosovo and Serbia to claim victory and to show progress to their respective citizens¹⁶⁶. Nevertheless, several authors such as Kurt Bassuener and Bodo Weber note that the ambiguity characterizing the agreement also generates "fears among Kosovo Albanians, putting wind in the sails of opponents of the dialogue, and sparking inflated hopes among Serbs in northern municipalities in Kosovo about the nature of the agreement"¹⁶⁷.

(accessed 18 March 2021).

¹⁶⁰ Interview with the former Ambassador of the Republic of Kosovo in Belgium, Bernard Nikaj, April 2021, by Skype; GASHI Krenar, MUSLIU Vjosa, and ORBIE Jan, *op. cit.*, p. 540.

¹⁶¹ MERLIN Jean-Baptiste, *op. cit.*

¹⁶² *Loc. cit.*

¹⁶³ GASHI Krenar, MUSLIU Vjosa, and ORBIE Jan, *op. cit.*, p. 539.

¹⁶⁴ *Ibid.*, p. 540.

¹⁶⁵ *Loc. cit.*

¹⁶⁶ MALAZOGU Leon, "Belgrade-Prishtina Dialogue: Transformation of Self-Interest Required", *Conference paper*, Prishtina, 2011, p. 33.

¹⁶⁷ BASSUENER Kurt, and WEBER Bodo, "Not Yet a Done Deal: Kosovo and the Prishtina-Belgrade Agreement", Sarajevo/Berlin, *Center of Euro-Atlantic Studies*, 2013, p. 6.

Moreover, the words chosen by the EU need examining. In this respect, the research of Theo Van Leeuwen and Ruth Wodak offers a theoretical framework to judiciously analyze political discourses. For instance, Van Leeuwen puts forward the frequent use of substitution in mediation, which he describes as “[a situation in which] something stands for something else”¹⁶⁸. This statement may be highlighted here: instead of referring to the process of normalization between Kosovo and Serbia, the EU favors the wording “Dialogue between Belgrade and Prishtina”. Although this name seems at first an attempt to ensure its neutrality with the names of capitals used in the alphabetic order, it has a major implication. Indeed, Gashi, Musliu, and Orbie note that “what is discursively substituted is the “statehood” of both parties, albeit a contested statehood in the case of Kosovo”¹⁶⁹. The sovereignty of both disputing states is reduced to a substituted concept, in which both no longer seem to be state agents, but rather where their sovereignty is muted¹⁷⁰. In this regard, two European diplomats reveal that they “do not talk about states, but only parties. The terms Prishtina - Belgrade may be used, or even Kosovo - Serbia, but from the EU side, it may not be talked about the Republic of Kosovo since the EU respects and represents the views of all its MS”¹⁷¹. However, such a situation is problematic since the notion of statehood remains central in the process of normalization. For the Republic of Kosovo, this normalization is indeed crucial on its way towards EU integration but also in order to consolidate its statehood¹⁷². Regarding the Republic of Serbia, this dialogue may be considered as a way of preventing Kosovo to affirm its sovereignty on the international scene¹⁷³. Nevertheless, and as Ker-Lindsay argues, reaching a final deal “remains in everyone’s interest since, while Kosovo is not going to join the UN if Serbia is opposed to it¹⁷⁴, Serbia is not going to join the EU either until it recognizes Kosovo”¹⁷⁵.

Further, based on the qualitative research conducted by Gashi, Musliu, and Orbie, a last aspect related to the ambiguity of the EU discourses must be examined. It concerns EU officials’ self-

https://www.academia.edu/6585536/Not_Yet_a_Done_Deal_Kosovo_and_the_Prishtina_Belgrade_Agreement_A_DPC_Policy_Paper (accessed 18 March 2021).

¹⁶⁸ VAN LEEUWEN Theo, and WODAK Ruth, “Legitimizing Immigration Control: A Discourse-Historical Analysis”, *Discourse Studies*, vol. 1, no. 1, 1999, p. 97.

¹⁶⁹ GASHI Krenar, MUSLIU Vjosa, and ORBIE Jan, *op. cit.*, p. 540.

¹⁷⁰ *Loc. cit.*

¹⁷¹ Interview with two European Diplomats, May 2021, Brussels.

¹⁷² OSMANAJ Egzon, “The (Non) Consolidation of Kosovo’s Statehood: The Brussels Dialogue Ten Years after Kosovo’s Independence”, *International Research Journal*, vol. 7, no. 1, 2018, p. 47.

¹⁷³ GASHI Krenar, MUSLIU Vjosa, and ORBIE Jan, *op. cit.*, p. 537.

¹⁷⁴ However, it is imperative to specify that Serbia has no competence to block Kosovo at the UN as Serbian authorities have no right of veto in this international organization. Consequently, Serbia relies on Russia (and China) to prevent Kosovo’s international recognition.

¹⁷⁵ Interview with Professor James Ker-Lindsay, May 2021, by Skype.

evaluation of their achievements throughout the process of normalization of relations. On the one hand, the different EU institutions have expressed their satisfaction regarding the progress of the process. In this respect, the three authors reveal a significant number of statements in which European officials have used terms such as “I was very pleased to see the commitment [and] I very much look forward to seeing them again [to] continue this process”¹⁷⁶ (Ashton, 2014). On the other hand, the EU has also adopted a much more hortative approach, encouraging both disputing states to strengthen the dialogue. Thus, terms used with a positive tone have been favored, such as “I am looking forward”¹⁷⁷ or “It is vital”¹⁷⁸. According to Van Leeuwen and Wodak, the choice of terms reflects the Union’s attempt to legitimate its actions in the WB, which remains one of the main purposes of the political discourses¹⁷⁹. In this regard, Van Leeuwen highlights that “in some cases, moral value is simply asserted by troublesome words such as “good” and “bad” which freely travel between moral, aesthetic, and hedonistic domains and often combine with authority legitimation”¹⁸⁰. In other words, using a positive tone when describing the process of normalization has enabled the EU to simultaneously strengthen its position as a major actor in the region, but also to increase its credibility. Consequently, and as finally claimed by Argyro Kartsonaki, EU official’s self-evaluation of their work as a facilitator in the normalization of relations has been overwhelmingly positive¹⁸¹. An example of this may be found in the declaration of then President of the European Council Herman Van Rompuy, who considered that the Brussels agreement was “historic and [that it] mark[ed] an important moment in the relationship between Serbia and Kosovo as well as in their relations with the EU”¹⁸².

¹⁷⁶ EEAS, “Statement by EU High Representative Catherine Ashton after Today’s Meeting in the Framework of the EU-Facilitated Dialogue”, Brussels, 27 January 2014. https://eeas.europa.eu/archives/ashton/media/statements/docs/2014/140127_06_en.pdf (accessed 4 March 2021).

¹⁷⁷ Loc. cit.

¹⁷⁸ EUROPEAN COMMISSION, “Additional EU Funding in Support of the Normalization of Relations between Kosovo and Serbia”, Brussels, 31 October 2013. [Additional EU funding in support of the normalisation of relations between Kosovo and Serbia.pdf](https://ec.europa.eu/development/external_relations/kosovo/docs/additional_eu_funding_in_support_of_the_normalisation_of_relations_between_kosovo_and_serbia.pdf) (accessed 23 March 2021).

¹⁷⁹ VAN LEEUWEN Theo, and WODAK Ruth, *op. cit.*, p. 97.

¹⁸⁰ Loc. cit.

¹⁸¹ KARTSONAKI Argyro, “Playing with Fire: An Assessment of the EU’s Approach of Constructive Ambiguity on Kosovo’s Blended Conflict”, *Journal of Balkan and Near Eastern Studies*, vol. 22, no. 1, 2020, p. 104.

¹⁸² VAN ROMPUY Herman, “Statement by the President of the European Council Herman Van Rompuy, on the Occasion of the Agreement within the Facilitated Dialogue on the Normalization of Relations between Serbia and Kosovo”, Brussels, 19 April 2013, p. 1. https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/136877.pdf (accessed 23 March 2021).

The lack of transparency in the EU-led normalization process

Besides the ambiguity that seems to be intrinsic to the EU's position as a mediator, a second issue merits examination in the context of this research: the lack of transparency of the process. However, before delving into the difficulties and dangers relating to this issue, it seems essential to clearly define what the notion of transparency implies. In his article, Christopher Hood specifies that "transparency includes making it clear who is taking the decisions, what the measures are, who is gaining from them, and who is paying for them. This is contrasted with opaque policy measures, where it is hard to discover who takes the decisions, what they are, and who gains and who loses"¹⁸³. As argued by Beha, the lack of transparency may be considered as "one of the weakest points of the dialogue process"¹⁸⁴. This view is shared by Transparency International, the NGO notably confirming that the lack of transparency "has characterized this process from the very outset"¹⁸⁵, due in particular to the fact that the EU-initiated process has been conducted by some political elites only, to the detriment of the local populations (top-down approach)¹⁸⁶. According to Bieber, although "an elite-driven peace process might be a necessity, [...] eventually the constituency needs to be broader and clarifications [...] inevitable"¹⁸⁷. As far as Egzon Osmanaj is concerned, he regrets that "the dialogue can be considered more an "elite pact-making" and exclusive process, rather than an inclusive process that aims to deliver the real problems of the inhabitants of Kosovo"¹⁸⁸. Hence, Bieber considers that the EU intentionally fostered a lack of transparency since this offered the possibility for both parties to "interpret the agreement in a way that would be beneficial for their respective positions"¹⁸⁹. Thus, it became easier for agreements to gain political support in their own parliament, even though the latter was only given minimal information about the content. In this regard, Bieber found that "it is in fact odd that a parliament would ratify such an agreement in which all key aspects remain unelaborated"¹⁹⁰. Further, it should be emphasized that, aside from the Brussels agreement, all the following agreements that related to the process of normalization were kept secret¹⁹¹. Even though Transparency International

¹⁸³ HOOD Christopher, "Transparency in Historical Perspective" in HOOD Christopher, and HEALD David (ed.), *Transparency: The Key to Better Governance?*, Oxford, Oxford University Press, 2006, p. 5.

¹⁸⁴ BEHA Adem, *op. cit.*, p. 110.

¹⁸⁵ TRANSPARENCY INTERNATIONAL, *op. cit.*, p. 5.

¹⁸⁶ BERGMANN Julian, *The European Union as International Mediator*, Cham, Springer International Publishing, 2019, p. 155.

¹⁸⁷ BIEBER Florian, "The Serbia-Kosovo Agreements", *op. cit.*, p. 318.

¹⁸⁸ OSMANAJ Egzon, *op. cit.*, p. 50.

¹⁸⁹ BIEBER Florian, "The Serbia-Kosovo Agreements", *op. cit.*, p. 316.

¹⁹⁰ Loc. cit.

¹⁹¹ Loc. cit.

considered that the lack of transparency was due to the fragility of the agreements, the NGO rued the absence of communication to the citizens¹⁹². The closed-door method has brought about a series of consequences such as uncertainty, dissatisfaction, and the polarization of the political scene¹⁹³.

Moreover, and to evaluate the involvement of the local populations in the process of normalization, some surveys were thereafter conducted by the Kosova Democratic Institute (KDI). The Institute revealed querying numbers: over 75% of the Kosovo citizens appeared to be disappointed with their participation in the process of normalization and 43% of them confessed to be completely unaware of any agreement¹⁹⁴. As a result, Beha concludes that the citizens were not provided enough information to clearly grasp how those agreements might affect their life in the future¹⁹⁵. Further, out of the Kosovo citizens who confirmed they were aware of the process of normalization, additional surveys demonstrated that only half of them believed that this process really facilitated the normalization of relations with the Republic of Serbia¹⁹⁶. Nevertheless, a series of authors have offered solutions in order to palliate the lack of transparency, including Shpëtim Gashi and Igor Novaković from the Council for Inclusive Governance based in Belgrade. In their paper on the subject, these authors promote two approaches: first, the governments of the disputing parties should detail every agreement and tell their citizens how to implement them and second, they should become more inclusive in order to include opposition parties in the process of normalization as well¹⁹⁷.

Finally, a last issue may be stressed, which is closely linked with the lack of transparency. This concerns the lack of accountability of Kosovo representatives, Julian Bergmann highlighting the relative absence of consultative meetings with civil society and citizens¹⁹⁸. In this respect, Beha also emphasizes that “Kosovo civil society and the general public in most cases are informed by the media *a posteriori* as agreements are signed, thus preventing the public and

¹⁹² TRANSPARENCY INTERNATIONAL, *op. cit.*, p. 19.

¹⁹³ MUTLUER Deniz, and TSAROUHAS Dimitris, “EU Foreign Policy and 'Perceived Coherence': the Case of Kosovo”, *Journal of Southeast European and Black Sea Studies*, vol. 18, no. 3, 2018, p. 432.

¹⁹⁴ KDI, “Kosovo Public Opinion on Dialogue with Serbia”, Prishtina, 2018, p. 11. <https://www.ndi.org/sites/default/files/NDI%20Kosovo%20Dialogue%20Report%202018.pdf> (accessed 3 April 2021).

¹⁹⁵ BEHA Adem, *op. cit.*, p. 110.

¹⁹⁶ KDI, *op. cit.*, p. 11.

¹⁹⁷ GASHI Shpëtim, and NOVAKOVIC Igor, “From Technical Negotiations to Comprehensive Normalization: Relations Between Belgrade and Pristina”, Belgrade, *Council for Inclusive Governance*, 2017, p. 9. <https://library.fes.de/pdf-files/bueros/belgrad/13820.pdf> (accessed 24 March 2021).

¹⁹⁸ BERGMANN Julian, *op. cit.*, p. 155.

the civil society from timely reaction”¹⁹⁹. Neither former Prime Minister Hashim Thaçi nor his predecessor Isa Mustafa reported to the Kosovo Assembly the progress made in the process of normalization, except once when Mustafa addressed the 15-point Agreement to the Kosovo Assembly in 2015²⁰⁰. Moreover, Transparency International expressed its concerns regarding the lack of participation of members of the Parliament of the Republic of Kosovo in the EU-initiated dialogue²⁰¹. Thus, during the fifth legislature, only 28 questions out of the 428 addressed to the executive concerned this aspect and no more than half of them were answered by the government²⁰².

¹⁹⁹ BEHA Adem, *op. cit.*, p. 110.

²⁰⁰ TRANSPARENCY INTERNATIONAL, *op. cit.*, p. 21.

²⁰¹ *Loc. cit.*

²⁰² *Loc. cit.*

Chapter III: The EU as an international actor in the WB

The previous chapter examined three main issues with respect to the process of normalization, namely the EU's ambiguity and its lack of transparency and accountability. Obviously, however, it may be argued that these issues have not prevented the EU from establishing itself as a very powerful international actor²⁰³, particularly in the WB region. Articulated around a series of normative requirements from the EU, both Kosovo and Serbia have had to adapt their respective policies to match these political conditionalities. Nevertheless, in order to better grasp the role played by the EU as international actor in the WB region, it is essential to first properly define the concept of "normative power".

The normative power of the EU towards the WB

Articulated around political and economic instruments, in opposition to military forces, the concept of "civilian power" was developed for the first time by François Duchêne in the 1970s to describe the nature of the European Economic Community (EEC)²⁰⁴. Soon thereafter, Hanns Maull specified that such civilian power had to fulfill three main aspects: (a) accept the necessity of cooperation with others in the pursuit of international objectives; (b) concentrate on non-military means to secure national goals; and (c) show willingness to develop supranational structures to address critical issues of international management²⁰⁵. The scholar Richard Rosecrance then confirmed in his research the normative nature of the EU's recent influence at international level²⁰⁶ and based on the reflections of these three authors, Ian Manners finally theorized the concept. Seeking originally to escape the dichotomy between the notions of "civilian power" and "military power" that have shaped the research conducted by the above authors, Manners identifies five core norms through which the EU acts as an international actor, namely peace, liberty, democracy, rule of law, and human rights²⁰⁷. Thus, and with further regard to the concept of civilian power, Mario Telo concludes that the EU "is

²⁰³ BATTISTELLA Dario, PETITEVILLE Franck, SMOUTS Marie-Claude, and VENNESSON Pascal, *Dictionnaire des relations internationales*, Paris, Dalloz, 2012, pp. 551-554.

²⁰⁴ DUCHÊNE François, "The European Community and the Uncertainties of Interdependence" in KOHNSTAMM Max, and HAGER Wolfgang (ed.), *A Nation Writ Large? Foreign-Policy Problems before the European Community*, London, Palgrave Macmillan UK, 1973, p. 19.

²⁰⁵ MAULL Hanns W., "Germany and Japan: The New Civilian Powers", *Foreign Affairs*, vol. 69, no. 5, 1990, pp. 92-93.

²⁰⁶ ROSECRANCE Richard, *Theories of European Integration*, London, Palgrave Macmillan UK, 2000, pp. 1-12.

²⁰⁷ MANNERS Ian, "Normative Power Europe: A Contradiction in Terms?", *Journal of Common Market Studies*, vol. 40, no. 2, 2002, p. 242.

not seriously expected to become a military power, and [that] it is also for this reason that it so identifies with multilateral institutions”²⁰⁸.

This view is shared by other authors, such as Zaki Laïdi. Laïdi agrees on the normative power of the EU, while also putting forward the absence of an alternative for the Union. Indeed, the lack of military resources compels the EU to increase its influence at international level through its own values²⁰⁹, which are those previously mentioned by Manners²¹⁰. Consequently, the Union tends to strengthen its “ability to shape conceptions of ‘normal’ in international relations”²¹¹. However, and as argued by Erickson, the EU is, and will remain “a complex institution composed of diverse states, each with their own interests and visions for foreign policy – the EU’s and their own”²¹². Thus, it may be understood that the Union’s different MS do not always fully comply with the expected European norms, thereby undermining the efficiency of the EU’s normative power²¹³. Since each state has the right to choose whether it wishes to coordinate its actions with the global European discourse, some inconsistencies may appear²¹⁴. Those will be further highlighted and essentially concern the Union’s difficulties to act as a unified actor with regards to Kosovo’s statehood.

Nevertheless, despite the inability of the EU to speak with one voice, the Union definitely remains a major international actor in the WB region. As clarified in Berridge and Alan’s book *A Dictionary of Diplomacy*, the concept of “international actor” comprises interactions between sovereign states, but also between those states and international NGOs²¹⁵. To this, Marcel Merle also adds that individuals can sometimes be considered as international actors, if indeed these individuals “play a role” in the social field at international level²¹⁶. Based on this definition, as later confirmed by Dario Battistella, the EU seems to have established itself as a strong international actor²¹⁷. In this respect, Charlotte Bretherton and John Vogler even suggest that

²⁰⁸ TELO Mario, “The EU as an incipient civilian power. A systemic approach”, *Politique européenne*, vol. 22, no. 2, 2007, pp. 39-40.

²⁰⁹ LAÏDI Zaki, “Chapitre 11. L’Europe, puissance normative internationale” in DEHOUSSE Renaud, *Politiques européennes*, Paris, Presses de Sciences Po, 2009, pp. 231-235.

²¹⁰ MANNERS Ian, *op. cit.*, p. 242.

²¹¹ *Ibid.*, p. 239.

²¹² ERICKSON Jennifer L., “Market Imperative Meets Normative Power: Human Rights and European Arms Transfer Policy”, *European Journal of International Relations*, vol. 19, no. 2, 2013, p. 211.

²¹³ LAVENEX Sandra, “EU External Governance in ‘Wider Europe’”, *Journal of European Public Policy*, vol. 11, no. 4, 2004, p. 685.

²¹⁴ ERICKSON Jennifer L., *op. cit.*, pp. 211-112.

²¹⁵ BERRIDGE Geoff R., and ALAN James, *op. cit.*, p. 139.

²¹⁶ MERLE Marcel, *Sociologie des relations internationales*, Paris, Dalloz, 1988, p. 317.

²¹⁷ BATTISTELLA Dario, PETITEVILLE Franck, SMOUTS Marie-Claude, and VENNESSON Pascal, *op. cit.*, pp. 551-554.

the EU has become the most powerful external actor in the WB, especially since the implementation of the CFSP²¹⁸. The creation of this pillar resulted from the context of the violent dissolution of Yugoslavia and from the need for a strong EU response to this international crisis and was officially established by the Saint-Malo declaration of 1999²¹⁹. In this respect, it is interesting to note that “the outbreak of armed conflict in former Yugoslavia initially provoked attempts to employ a discourse of responsibility”²²⁰. A clear illustration remains undoubtedly the declaration of Jacques Poos, the chair of the EC Foreign Affairs Council and the foreign minister of Luxembourg, who claimed in June 1991 that “this [was] the hour of Europe – not the hour of the Americans... If one problem can be solved by the Europeans, it is the Yugoslav problem. This is a European country, and it is not up to the Americans. It is not up to anyone else”²²¹. Nevertheless, it may be emphasized that this strong discourse quickly changed and soon took the shape of tragic statements, Brian White even suggesting that “no other area of international activity to date has attracted more adverse publicity for either the Community or the EU”²²².

In the meantime, however, the Union’s approach towards disputes between states in the WB region has evolved and has been increasingly articulated around the potential EU integration of those countries. For instance, as regards the bilateral dispute between Kosovo and Serbia, it should even be stressed that political conditionalities became “the major instrument through which the EU sought to foster democratic reforms in the WB”²²³. Thus, meritocracy appears as the key principle of EU integration²²⁴, which implies that no simultaneous accession is likely to take place at the moment. Conversely, each of the WB states is expected to separately demonstrate its readiness to join the Union. Moreover, and regarding the EU, Gashi, Musliu, and Orbie, suggest that this spirit of integration both justifies and legitimates its position as a mediator in the process of normalization of relations between Kosovo and Serbia, even “leaving aside [the question of] Kosovo’s independence and statehood”²²⁵. In this regard, Hajrullahu

²¹⁸ BRETHERTON Charlotte, and VOGLER John, *op. cit.*, p. 147.

²¹⁹ LIKA Liridon, “Risques et défis sécuritaires de la (non)-intégration des Balkans occidentaux dans l’Union européenne” in WINTGENS Sophie, GRANDJEAN Geoffrey, and VANHAEREN Stéphanie (dir.), *L’insécurité en question : définition, enjeux et perspectives*, Liège, Presses Universitaires de Liège, 2015, p. 122.

²²⁰ BRETHERTON Charlotte, and VOGLER John, *op. cit.*, p. 26.

²²¹ POOS Jacques, “This is the hour of Europe, not the hour of Americans”, *The Economist*, 6 June 1991.

²²² WHITE Brian, “From EPC to CFSP: Union Foreign Policy” in WHITE Brian (ed.), *Understanding European Foreign Policy*, London, Macmillan Education UK, 2001, p. 96.

²²³ Interview with two European Diplomats, May 2021, Brussels.; RICHTER Solveig, WUNSCH Natasha, “Money, Power, Glory: The Linkages between EU Conditionality and State Capture in the Western Balkans”, *Journal of European Public Policy*, vol. 27, no. 1, 2020, p. 41.

²²⁴ GARDE Paul, *Les Balkans. Héritages et évolutions*, Paris, Flammarion, 2017, p. 69.

²²⁵ GASHI Krenar, MUSLIU Vjosa, and ORBIE Jan, *op. cit.*, p. 547.

raises a fundamental question, namely “whether through its presence in Kosovo, the EU is constructing one of its future MS as a sovereign state, or whether the EU is negotiating forms through which a non-sovereign state can become part of it”²²⁶. The following section examines the challenge for the EU to speak with one voice on Kosovo’s statehood.

The lack of unity within the EU institutions and the EU MS on Kosovo’s statehood

To start with, it should be emphasized that the EU officially adopts a status neutral position as far as Kosovo’s statehood is concerned²²⁷. Nevertheless, the creative ambiguity that results from this neutral status leads the Union to share with Kosovo what Gashi, Musliu, and Orbie have qualified as an “awkward” relationship²²⁸. Two explanations are often mentioned by scholars examining the case of Kosovo. The first aspect concerns the lack of consistency within EU institutions, which remains an important stumbling block to Kosovo’s integration into the Union. On the one hand, Kosovo authorities have convinced the European Parliament (EP) to recognize their statehood²²⁹. In this regard, a series of successive resolutions voted by the EP “would welcome the recognition by all MS of the independence of Kosovo”²³⁰ and explicitly “encourage the remaining five MS to proceed with the recognition of Kosovo”²³¹, demonstrating on that occasion the EU’s “suggestive method” in the process of normalization. On the other hand, and even though the EU had previously taken the decision to quickly and collectively recognize the Republics of the former Yugoslavia²³², the Council of the EU called on the EU MS to decide “in accordance with national practice and international law, on their relations with Kosovo”²³³. In other words, each state has been granted the right to determine whether it recognizes the independence and sovereignty of Kosovo.

Resulting from the decision of the Council of the EU, a second issue arose, that is, the visible lack of unity on Kosovo’s independence among the different EU MS. Up to now, while 22 EU

²²⁶ HAJRULLAHU Arben, *op. cit.*, p. 116.

²²⁷ *Ibid.*, p. 113.

²²⁸ GASHI Krenar, MUSLIU Vjosa, and ORBIE Jan, *op. cit.*, p. 534.

²²⁹ NEWMAN Edward, and VISOKA Gëzim, *op. cit.*, p. 381.

²³⁰ EUROPEAN PARLIAMENT, European Parliament resolution of 8 July 2010 on the European integration process of Kosovo, Pub. L. No. 2010/2610(RSP), P7_TA(2010)0281 10, 2010, p. 2. https://www.europarl.europa.eu/doceo/document/TA-7-2010-0281_EN.pdf (accessed 31 March 2021).

²³¹ EUROPEAN PARLIAMENT, European integration process of Kosovo, Pub. L. No. 2013/2881(RSP), P7_TA(2014)0040 4, 2014. https://www.europarl.europa.eu/doceo/document/TA-7-2014-0040_EN.html (accessed 31 March 2021).

²³² NEWMAN Edward, and VISOKA Gëzim, *op. cit.*, p. 378.

²³³ COUNCIL OF THE EU, Council Conclusions on Kosovo, Pub. L. No. 2851st External Relations Council meeting, 2008, p. 7. https://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/98818.pdf (accessed 31 March 2021).

MS, including France, Germany, and the UK²³⁴, have already recognized the state of Kosovo and even support its EU integration, five of them remain opposed to its recognition, namely Cyprus, Greece, Romania, Slovakia, and Spain. As a result, Gashi, Musliu, and Orbie, suggest that this “division between the MS on Kosovo’s statehood is substituted with a superficial and marginalized unity, [and] a kind of European unity regarding the dialogue is further simulated”²³⁵. Several reasons for their non-recognition, intrinsic to each of the five states, may be emphasized, notably “including a perception of unforeseen consequences that could harm their near and far interests”²³⁶. Whereas Spain fears secessionist claims in Catalonia, Slovakia and Romania seem concerned about the potential consequences that such a recognition might have on their own minorities²³⁷. Finally, regarding the decision of Cyprus and Greece, those two states have shown their concerns about the potential revival of tensions in Northern Cyprus²³⁸. However, it is clear that the political history and context of each of these regions and countries are completely different from the ones of the Republic of Kosovo²³⁹. In fact, and even though it has officially left them the right to decide, the Council of the EU stresses that “Kosovo constitutes a *sui generis* case which does not call into question principles [of the UN Charter and the Helsinki Final Act] and resolutions [of the UNSC]”²⁴⁰.

Thus, the lack of unity regarding Kosovo’s statehood is observed at two levels of power, namely at the level of the EU and at the domestic level of the MS. This lack of unity has major consequences. First, this situation weakens the concept of what is qualified by Greiçevci as the EU actorness thesis²⁴¹. This approach is based on the work of Joseph Jupille and James A. Caporaso of 1998, which evaluates the capacity of an international actor to act in global politics. In this respect, the two scholars point out four components required by an actor to play an active role on the international scene, namely recognition, authority, autonomy, and cohesion²⁴². Recognition represents the “acceptance of and interaction with the entity by others”²⁴³. The notion of authority implies that the actor in question (here the EU) has the legal competence to

²³⁴ Even before Brexit, the UK had already recognized Kosovo as a sovereign and independent state.

²³⁵ GASHI Krenar, MUSLIU Vjosa, and ORBIE Jan, *op. cit.*, p. 534.

²³⁶ NEWMAN Edward, and VISOKA Gëzim, *op. cit.*, p. 380.

²³⁷ KER-LINDSAY James, “Engagement without Recognition: The Limits of Diplomatic Interaction with Contested States”, *International Affairs*, vol. 91, no. 2, 2015, p. 4.

²³⁸ *Loc. cit.*

²³⁹ LIKA Liridon, “La reconnaissance internationale de la République du Kosovo (2008-2016)”, *op. cit.*, p. 550.

²⁴⁰ COUNCIL OF THE EU, Council Conclusions on Kosovo, *op. cit.*, p. 7.

²⁴¹ GREIÇEVCI Labinot, “EU Actorness in International Affairs”, *op. cit.*, p. 286.

²⁴² JUPILLE Joseph, and CARPORASO James A., “States, Agency, and Rules: The European Union in Global Environmental Politics”, Boulder, Lynne Rienner Publishers, 1998, p. 214.

²⁴³ *Loc. cit.*

act²⁴⁴. Regarding autonomy, the authors refer in this case to the “distinctive institutional apparatus” that an actor must demonstrate in order to be considered as independent²⁴⁵. Finally, cohesion relates to the actor’s ability to promote consistent policy preferences, especially in cases of international crisis²⁴⁶. In fact, as far as the process of normalization of relations between Kosovo and Serbia is concerned, this fourth notion turns out to be the EU’s main issue. As argued by Samet Dalipi, the lack of unity within the EU MS with their dissonant voices “weakens the EU’s approach, makes its efforts in the region less effective, [and] represents the democracy deficit within the EU as a supranational organization through a nationalization (vetoing) of the European politics, instead of the contrary, the Europeanization of national politics”²⁴⁷.

This view is nevertheless challenged by other scholars. For instance, Gergana Noutcheva puts forward the idea that despite its lack of consistency, the EU and its MS have been able to reach a broad internal consensus on the need to reinforce security and stability on the WB region²⁴⁸. Putting aside their divergences of opinions, the five reluctant MS have indeed participated in CSDP operations, “thus indirectly supporting the EU’s state-building policies and efforts to stabilize and strengthen [Kosovo]”²⁴⁹. European diplomats also stress that “it may not be argued that the EU is divided regarding the process of normalization of relations. All states agree [with the importance of this process] as demonstrated by the appointment of Mr. Lajčák²⁵⁰ that has been supported and approved by all the members of the EU Council”²⁵¹. Moreover, as Maria Giulia Amadio Viceré also emphasizes, the five states have not prevented the EU from promoting a relatively consistent policy to further develop the process of normalization of relations between Kosovo and Serbia²⁵². In other words, “beyond the question of formal recognition of Kosovo, a cleavage has not emerged between [the] MS” on the necessity for the

²⁴⁴ Loc. cit.

²⁴⁵ Loc. cit.

²⁴⁶ Loc. cit.

²⁴⁷ DALIPI Samet, “Not-Recognizing Policy within the Minority EU Members - Challenge for Kosovo’s Integration and Regional Peace-Building”, *Iliria International Review*, vol. 6, no. 2, 2017, p. 181.

²⁴⁸ NOUTCHEVA Gergana, “Contested Statehood and EU Actorness in Kosovo, Abkhazia and Western Sahara”, *Geopolitics*, vol. 25, no. 2, 2020, p. 458.

²⁴⁹ *Ibid.*, p. 459.

²⁵⁰ Mr. Miroslav Lajčák was appointed on 3 April 2020 as the EU Special Representative for the Belgrade-Prishtina Dialogue and other Western Balkan regional issues by the Council of the EU with an initial mandate of 12 months. See COUNCIL OF THE EU, “Belgrade-Prishtina Dialogue: EU Appoints a New Special Representative”, Brussels, 3 April 2020. <https://www.consilium.europa.eu/en/press/press-releases/2020/04/03/belgrade-prishtina-dialogue-eu-appoints-a-new-special-representative/pdf> (accessed 18 May 2021).

²⁵¹ Interview with two European Diplomats, May 2021, Brussels.

²⁵² VICERÉ Maria Giulia Amadio, “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. 567.

EU to establish itself as the mediator in the dispute²⁵³. Finally, it may be emphasized that the positions of the five non-recognizers have softened lately. In this regard, Lika stresses that three of them, i.e., Greece, Slovakia, and Romania, have reconsidered their respective point of view since 2008²⁵⁴. While they at first fully rejected Kosovo's independence, these three states now recognize the passports issued by Kosovo authorities, and Greece has also established with the latter regular contacts through the creation of liaison offices in Prishtina. Moreover, and as far as Greece and Romania are concerned, the future recognition of the Republic of Kosovo seems to be a matter of time only. The Greek authorities and their Romanian counterparts have indeed expressed their intention to fully recognize Kosovo's statehood²⁵⁵. Thus, and even though the EU itself is not competent to recognize states, the progressive change of position of the five non-recognizers seems to leave the door open for the future integration of Kosovo into the EU.

The EU integration of Kosovo and Serbia

As mentioned above, the Union has favored potential future integration into the EU as its strongest instrument to lead the process of normalization and put an end to the dispute between Kosovo and Serbia²⁵⁶. Articulated around a series of political conditionalities, this approach, frequently referred to as the "carrot and stick" method²⁵⁷, shows once again the EU's "suggestive method". These sections offer an overview of how this method is applied regarding the potential future integration of Kosovo and Serbia into the EU.

The EU's approach towards the Republic of Kosovo

First, in order to fully grasp the issues that relate to the EU's integration of the Republic of Kosovo, Hajrullahu's above-mentioned fundamental question of whether the EU is constructing one of its future MS as a sovereign state must be examined²⁵⁸. In this regard, Wolfgang Koeth already rued the EU's lack of transparency in 2012 regarding Kosovo's potential application to integrate the Union. In his article, the scholar pointed out that although the EU dangles integration as a reward, the European authorities have only integrated internationally

²⁵³ *Ibid.*, p. 568.

²⁵⁴ LIKA Liridon, "La reconnaissance internationale de la République du Kosovo (2008-2016)", *op. cit.*, pp. 552-553.

²⁵⁵ HELLENIC REPUBLIC - MINISTRY OF FOREIGN AFFAIRS, Foreign Minister Kotzias meets with the Prime Minister and the Foreign Minister of Kosovo, Isa Mustafa and Hashim Thaçi, § Current Affairs, 2015. <https://www.mfa.gr/en/current-affairs/top-story/foreign-minister-kotzias-meets-with-the-prime-minister-and-the-foreign-minister-of-kosovo-isa-mustafa-and-hashim-thaci-york-28-september-2015.html> (accessed 1 April 2021). ; GRIGORAS Alina, "PM Ponta: Romania Might Recognize Kosovo", *The Romania Journal*, 27 May 2015. <https://www.romaniajournal.ro/politics/pm-ponta-romania-might-recognize-kosovo/> (accessed 1 April 2021).

²⁵⁶ RICHTER Solveig, and WUNSCH Natasha, *op. cit.*, p. 41.

²⁵⁷ ANASTASAKIS Othon, *op. cit.*, p. 41.

²⁵⁸ HAJRULLAHU Arben, *op. cit.*, p. 116.

recognized states in the past and will continue doing so in the future²⁵⁹. Yet, from the perspective of Kosovo, the desire to later join the EU was already clearly reflected in the Declaration of Independence of February 2008, in which the members of the Kosovo Assembly declared that “for reasons of culture, geography and history, we believe our future lies with the European family. We therefore declare our intention to take all steps necessary to facilitate full membership in the EU as soon as feasible and implement the reforms required for European and Euro-Atlantic integration”²⁶⁰. However, Koeth considered that “without recognition by all EU MS, there is no membership perspective for Kosovo”²⁶¹. Moreover, the author further argues that “even in case of a historical agreement between Kosovo and Serbia involving the official recognition of the Republic of Kosovo by Belgrade, not all of the five resisting EU MS are likely to automatically recognize Kosovo”²⁶². This view seems to be shared by Robert Muharremi and Bernard Nikaj, who have recently noted that “even if Kosovo and Serbia reach an agreement, and Serbia recognizes Kosovo as a state, it does not automatically mean that the non-recognizing EU MS would recognize Kosovo, too. If they [do] not recognize Kosovo, it would continue to be treated by the EU as a country and not a state, and its accession to the EU would remain barred”²⁶³. Thus, even in the event of a fruitful process of normalization, the future integration of Kosovo into the EU may not be taken for granted.

However, the softening of the original positions of Greece, Romania, and Slovakia previously demonstrated by Lika²⁶⁴ opens new prospects for Kosovo. Beside its quest for EU integration, it is also worth noting that the newest European state has simultaneously applied – mostly successfully – to several international organizations. Even though Kosovo has not managed to join either the UN due to the veto raised by both the Russian and Chinese authorities²⁶⁵, NATO or the Council of Europe (yet), the young state has in the meantime become a member of no less than 60 regional and international organizations²⁶⁶. For instance, Kosovo has applied to and has joined the International Monetary Fund (IMF), the World Bank, the European Bank for

²⁵⁹ KOETH Wolfgang, “Bosnia, Kosovo and the EU: Is Accession Possible without Full Sovereignty?”, *EIPAScope*, vol. 2012, no. 1, 2012, pp. 33-35.

²⁶⁰ ASSEMBLY OF THE REPUBLIC OF KOSOVO, Kosovo Declaration of Independence, § para. 6, 2008. <https://www.refworld.org/docid/47d685632.html> (accessed 2 April 2021).

²⁶¹ KOETH Wolfgang, *op. cit.*, p. 35.

²⁶² *Loc. cit.*

²⁶³ MUHARREMI Robert, and NIKAJ Bernard, “Is Kosovo a Country or a State?”, *Kosovo 2.0* (blog), 25 March 2021. <https://kosovotwopointzero.com/en/is-kosovo-a-country-or-a-state/> (accessed 5 May 2021).

²⁶⁴ LIKA Liridon, “La reconnaissance internationale de la République du Kosovo (2008-2016)”, *op. cit.*, pp. 552-553.

²⁶⁵ HAJRULLAHU Arben, *op. cit.*, p. 113.

²⁶⁶ VISOKA Gëzim, *Acting like a State: Kosovo and the Everyday Making of Statehood*, Abingdon, Routledge, 2018, p. 11.

Reconstruction and Development (ERBD), and the Regional Cooperation Council (RCC). Moreover, and since sport events remain a “tool of soft power that can be employed both internationally and domestically”²⁶⁷, it is of interest to note the Kosovo accession in 2014 to the International Olympic Committee (IOC) and in 2016 to the Union of European Football Associations (UEFA), and the International Federation of Association Football (FIFA)²⁶⁸. As far as these organizations are concerned, Kosovo is an independent state and consequently fully authorized to compete²⁶⁹. Thus, Kosovo’s athletes may nowadays participate in all European and world sporting events under both the name of Kosovo and its flag²⁷⁰. A particularly interesting example appeared to be the 2016 Olympic Games in which the Kosovar sports delegation took part, though the games were held in Brazil, a country that remains opposed to the independence of Kosovo²⁷¹.

Major political interests lie behind these regional and international organizations dealing with sports events for the Republic of Kosovo. Through a series of pragmatic actions undertaken by the Kosovo authorities, the youngest European state has been progressively joining these organizations. Using a method that was qualified by then Minister of Foreign Affairs Enver Hoxhaj²⁷² as a form of “smart power”²⁷³, diplomatic services have extended Kosovo’s influence “as an initiator and coordinator of support from great powers”²⁷⁴. The main objective was clearly established from the beginning of the lobbying process: joining the EU was fundamental²⁷⁵. However, and as Visoka demonstrates, Kosovo’s membership in other organizations remains crucial since “becoming part of these organizations, indirectly help[s] its case for recognition and integration in other regional bodies”²⁷⁶. Thus, joining an organization

²⁶⁷ NYGÅRD Håvard Mogleiv, and GATES Scott, “Soft Power at Home and Abroad: Sport Diplomacy, Politics and Peace-Building”, *International Area Studies Review*, vol. 16, no. 3, 2013, p. 236.

²⁶⁸ GAUTHIER Ryan, “Constructing Statehood through Sport: Football, Kosovo, and the Court of Arbitration for Sport”, *Canadian Yearbook of International Law*, vol. 56, no. 1, 2019, p. 221.

²⁶⁹ MEHMETI Ermira, “Quest for Statehood: Kosovo’s Plea to Join International Organizations”, *European Journal of Social Sciences Education and Research*, vol. 11, no. 1, 2017, p. 377.

²⁷⁰ GAUTHIER Ryan, *op. cit.*, p. 221.

²⁷¹ MEHMETI Ermira, *op. cit.*, p. 377.

²⁷² HOXHAIJ Enver, “Smart Power of Small States: Kosovo’s Foreign Affairs”, Dublin, 2014, p. 3. <http://www.iiea.com/event/Dublin%20Lecture%20Delivery%20Copy%20Final6166.pdf> (accessed 5 April 2021).

²⁷³ The concept of “smart power” represents “the capacity of an actor to combine elements of hard power and soft power in ways that are mutually reinforcing such that the actor’s purposes are advanced effectively and efficiently”. See WILSON Ernest J., “Hard Power, Soft Power, Smart Power”, *The ANNALS of the American Academy of Political and Social Science*, vol. 616, no. 1, 2008, p. 115.

²⁷⁴ VISOKA Gëzim, *op. cit.*, p. 12.

²⁷⁵ REXHEPI Rinor, SAHITI Vigan, and RULLANI Florim, “Kosovo Integration in European Union”, *Prizen Social Science Journal*, vol. 4, no. 1, 2020, p. 13.

²⁷⁶ VISOKA Gëzim, *op. cit.*, p. 12.

such as the UEFA or the IOC appears as an indispensable stage for the consolidation of Kosovo's statehood, notably in its quest for integration into the EU.

Moreover, as suggested by Visoka, performative diplomacy also appears as a key element in this process²⁷⁷. First, Kosovo's diplomats secure access to international fora as a participant or observer, and then as a sovereign MS. Indeed, Kosovo's membership in regional and international organizations enables the authorities to reduce "the costs of bilateral diplomacy [and benefit] from the political, economic, and social opportunities of multilateralism"²⁷⁸. Thus, there exists a clear and crucial relationship between international recognition and membership in organizations since, as Visoka demonstrates, "the more recognitions Kosovo secures, the stronger the chances become to obtain sufficient support membership in different regional and international organizations"²⁷⁹. In relation to this, former Minister Hoxhaj has identified four main aspects which seem essential for Kosovo's smart power in foreign affairs²⁸⁰. Firstly, its diplomatic services have sought to gain international recognition and support for membership in both international and regional organizations. As far as the support of great powers is concerned, Visoka specifies however that their "support for recognition is not static or constant, as often assumed, due to international events and changes in political leadership over time"²⁸¹. Secondly, and to remain in line with the Euro-Atlantic agenda, Kosovo's smart power implies the undertaking of a series of domestic reforms. Thirdly, adopting simultaneously a pragmatic but constructive approach is required with the purpose of normalizing relations with the Republic of Serbia. Fourth, and even though this last element is perhaps not directly linked with the concept of normalization, it is interesting to note that diplomatic services also seek to transform the international image of the state, "from a post-conflict place to an attractive place for investment and tourism"²⁸².

Hence, it is worth highlighting the fact that this diplomatic approach based on the concept of "smart power" enabled the state of Kosovo to initiate a rapprochement with the EU. A first main turn appeared to be the signing of the Stabilization and Association Agreement (SAA), which found its roots in the European Council of Santa Maria da Feira in 2000. At that meeting gathering the heads of states of the EU members, the SAA was launched, and the European

²⁷⁷ *Ibid.*, p. 11.

²⁷⁸ *Loc. cit.*

²⁷⁹ *Loc. cit.*

²⁸⁰ HOXHAIJ Enver, *op. cit.*, pp. 3-4.

²⁸¹ VISOKA Gëzim, *op. cit.*, p. 12.

²⁸² HOXHAIJ Enver, *op. cit.*, p. 4.

Council confirmed that “its objective remains the fullest possible integration of the countries of the region into the political and economic mainstream of Europe through [the] Stabilization and Association Process, political dialogue, liberalization of trade and cooperation in Justice and Home Affairs”²⁸³. Moreover, it also specified that “all the countries concerned are potential candidates for EU membership. The Union will support the Stabilization and Association Process (SAP) through technical and economic assistance”²⁸⁴. Finally, as argued by Arolda Elbasani, the SAA imposed a series of EU conditionalities during its implementation, especially with regards to respect for democracy, free market, free trade, the rule of law, and respect for minority rights²⁸⁵.

More recently, pre-accession financial assistance of EUR 645.5 million from the EU covering the period 2014-2020 was allocated to Kosovo in order to undertake the reforms required on its way to the EU²⁸⁶. Also, both Kosovo and Serbia participated in the SAP, an instrument remaining within the overall SAA framework, which seems to “reflect [the] fundamental shift of EU strategy towards the Balkans”²⁸⁷. Two major pillars were then established, namely the strengthening of regional stability and cooperation, and EU integration and subsequent membership. As originally described by Will Bartlett and Wišnjja Samardžija, the SAP promotes intra-regional cooperation in the WB region²⁸⁸ with the purpose of avoiding “the risks of concentrating solely on a policy of selective bilateralism to the detriment of a truly regional strategy”²⁸⁹. Nevertheless, whereas the five other WB states²⁹⁰, namely Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, and Serbia²⁹¹, respectively signed this agreement

²⁸³ EUROPEAN COUNCIL, Santa Maria da Feira European Council, Conclusions of the Presidency on the 19-20 June 2000, 2000, p. 12. <http://aei.pitt.edu/43325/> (accessed 6 March 2021).

²⁸⁴ Loc. cit.

²⁸⁵ ELBASANI Arolda, “The Stabilisation and Association Process in the Balkans: Overloaded Agenda and Weak Incentives?”, Florence, European University Institute, 2008. https://cadmus.eui.eu/bitstream/handle/1814/8447/SPS_2008_03.PDF?sequence=1&isAllowed=y (accessed 6 April 2021).

²⁸⁶ COUNCIL OF THE EU, “Signature de l’accord de stabilisation et d’association (ASA) entre l’Union européenne et le Kosovo”, Brussels, 27 October 2015, p. 1. <https://www.consilium.europa.eu/fr/press/press-releases/2015/10/27/kosovo-eu-stabilisation-association-agreement/pdf> (accessed 6 April 2021).

²⁸⁷ ELBASANI Arolda, *op. cit.*, p. 9.

²⁸⁸ BARTLETT Will, and SAMARDŽIJA Wišnjja, “The Reconstruction of South East Europe, the Stability Pact and the Role of the EU: An Overview”, *Economic Policy in Transitional Economies*, vol. 10, no. 2, 2000, p. 246.

²⁸⁹ EUROPEAN COMMISSION, Communication from the Commission to the Council and the European Parliament on the Stabilisation and Association process for countries of South-Eastern Europe: Bosnia and Herzegovina, Croatia, Federal Republic of Yugoslavia, Former Yugoslav Republic of Macedonia and Albania. COM (99) 235 final, 26 May 1999, Pub. L. No. COM (99) 235, 1999, p. 3. <http://aei.pitt.edu/3571/> (accessed 7 April 2021).

²⁹⁰ Originally, Croatia also signed this agreement, but the country is no longer considered as a WB state since it joined the EU in 2013.

²⁹¹ As far as the Republic of Serbia is concerned, the signature took place on 29 April 2008 in Luxemburg and officially entered into force on 2 January 2010.

between 2001 and 2008, the ratification of the SAA in Kosovo only took place in 2016. This signature relied on the “Union only” principle, implying that representatives of EU institutions signed the agreement instead of the representatives of each MS²⁹². In accordance with Article 216 of the Treaty on the Functioning of the European Union (TFEU), this enabled the Union to “conclude an agreement with one or more third countries or international organizations [...]” and as further demonstrated by Lika, the Republic of Kosovo is in this agreement, from a legal point of view, considered as an independent and sovereign state²⁹³.

However, several authors pointed out some weaknesses of the SAP, essentially regarding what Elbasani qualifies as “the vague promise of membership”²⁹⁴. This issue is not recent: for instance, Lykke Friis and Anna Murphy had already revealed in 2000 the polarization of the views of the EU MS on the issue of the future EU integration of WB states. In this respect, some EU MS feared the intense and relatively overloaded agenda of the enlargement process initiated at that time, as well as a series of issues that they considered as intrinsic to the WB²⁹⁵. Furthermore, the ambiguous wording favored by the EU demonstrated the Union’s reluctance to offer a clear future to these WB states²⁹⁶. To illustrate this statement, Elbasani interestingly noted that through the “SAP documents, including SAAs themselves, the EU remains silent on how a country advances from “potential candidate” to “candidate” status and the stages that will lead WB [states] to eventual membership”²⁹⁷. More specifically, the EU’s lack of unity regarding the question of Kosovo’s statehood, seems to have complexified the introduction of the SAA even more so. In their report, Augustin Palokaj and Gjeraqina Tuhina refer to the answer of Commissioner Johannes Hahn in an interview of 2015 on the question as to whether Kosovo can legally speaking get candidate status without being recognized by the five non-recognizers²⁹⁸. Hahn’s answer was univocal: according to the Commissioner, no candidate status may be envisaged without recognition by all of the Union’s MS. Consequently, the two authors conclude that the SAA “will be for a long time the document which regulates relations between Kosovo and the EU, and that there will be no other formal step in the near future”²⁹⁹,

²⁹² PALOKAJ Augustin, and TUHINA Gjeraqina, “The Upshot of the SAA: Kosovo-EU Relations”, Prishtina, *Kosovo Foundation for Open Society*, 2016, p. 8. <https://docplayer.net/60703523-Augustin-palokaj-gjeraqina-tuhina-the-upshot-of-the-saa-kosovo-eu-relations.html> (accessed 7 April 2021).

²⁹³ LIKA Liridon, “La reconnaissance internationale de la République du Kosovo (2008-2016)”, *op. cit.*, p. 545.

²⁹⁴ ELBASANI Arolda, *op. cit.*, p. 14.

²⁹⁵ FRIIS Lykke, and MURPHY Anna, “‘Turbo-Charged Negotiations’: The EU and the Stability Pact for South Eastern Europe”, *Journal of European Public Policy*, vol. 7, no. 5, 2000, pp. 772-773.

²⁹⁶ PHINNEMORE David, “Stabilisation and Association Agreements: Europe Agreements for the Western Balkans?”, *European Foreign Affairs Review*, vol. 8, no. 1, 2003, p. 100.

²⁹⁷ ELBASANI Arolda, *op. cit.*, p. 15.

²⁹⁸ PALOKAJ Augustin, and TUHINA Gjeraqina, *op. cit.*, p. 11.

²⁹⁹ *Ibid.*, p. 12.

Kosovo remaining nowadays the only WB state which has not submitted any formal request to join the EU. This view is shared by Hajrullahu. In his article, the scholar regrets that “currently, Kosovo has no tangible EU membership perspective”, the EU facing in this regard the limits of its “creative ambiguity” and “status neutrality” as far as Kosovo’s statehood is concerned³⁰⁰.

Finally, a last example illustrates the EU’s inconsistency towards the Republic of Kosovo: the Schengen visa free regime. In this regard, Liridon Lika and Blerim Reka advance that even though Kosovo has now fulfilled all the benchmarks set out in the EU-established “Visa Liberalization Roadmap” (the ratification of the border demarcation agreement with Montenegro, and decreasing crime and corruption)³⁰¹, Kosovo citizens still do not benefit from this Schengen visa free regime³⁰². In fact, whereas both the EP and the European Commission voted in favor of the visa free regime, the Council composed of all the EU MS appears to be much more reluctant. Concretely, a series of MS such as France, Belgium, and the Netherlands still refuse to grant this right to Kosovo citizens. Since those three particular MS fully recognize Kosovo’s statehood, such a situation demonstrates the multitude of steps that the Republic of Kosovo still needs to overcome, in addition to official recognition by all EU MS, on its European path. However, facing what is considered by Gent Salihu as a lack of EU credibility³⁰³, a series of Kosovo NGOs pressed recently reelected French President Emmanuel Macron to adapt his approach toward the youngest WB state and to allow Kosovo citizens to enjoy the visa liberalization that “they ha[ve] been waiting for ten years”³⁰⁴.

The EU’s approach towards the Republic of Serbia

In contrast to the Republic of Kosovo, the Republic of Serbia is relatively far in the process of EU membership. According to Ker-Lindsay et al., Serbia, together with Montenegro, may be considered as “the other most likely member”³⁰⁵. In fact, Serbia was granted the status of candidate in March 2012 and started the accession negotiations with the EU in 2014 in reward

³⁰⁰ HAJRULLAHU Arben, *op. cit.*, p. 116.

³⁰¹ EUROPEAN COMMISSION, “Visa Liberalisation: Commission confirms Kosovo fulfils all required benchmarks”, Brussels, 18 July 2018, p. 1. https://ec.europa.eu/commission/presscorner/detail/en/IP_18_4562 (accessed 20/4/2022).

³⁰² MUTLUER Deniz, and TSAROUHAS Dimitris, *op. cit.*, p. 426.

³⁰³ SALIHU Gent, “It’s not you, it’s me: EU’s break up with the Western Balkans”, *European Leadership Network*, London, 12 December 2019. <https://www.europeanleadershipnetwork.org/commentary/its-not-you-its-me-eus-break-up-with-the-western-balkans/> (accessed 16 May 2022).

³⁰⁴ SCHENGEN VISA INFO NEWS, “Kosovo NGOs call on Macron to support visa liberation”, *Schengen News*, sec. Policy, 11 May 2022. <https://www.schengenvisainfo.com/news/kosovo-ngos-call-on-macron-to-support-visa-liberalisation/> (accessed 16 May 2022).

³⁰⁵ KER-LINDSAY James, ARMAKOLAS Ioannis, BALFOUR Rosa, and STRATULAT Corina, “The National Politics of EU Enlargement in the Western Balkans”, *Southeast European and Black Sea Studies*, vol. 17, no. 4, 2017, p. 514.

for the agreement reached between Kosovo and Serbia on Kosovo's regional representation³⁰⁶. For the Republic of Serbia, the new status represented a significant step on its way to EU integration since, as Zephyr Dessus et al. note, this appears as the "reward for a country's progress in aligning with European standards and the Copenhagen criteria"³⁰⁷. However, this view is challenged by Joseph Berry, author for the EU-specialized media *EuroNews*, who rejects the idea that Serbia has in fact aligned with European standards. Indeed, in his article, Berry demonstrates the reluctance of the Serbian authorities to act in line with the policy of the EU, essentially regarding the adoption of sanctions against Russia³⁰⁸. However, and even before delving deeper into the process of EU integration of Serbia, what needs highlighting is that the enlargement methodology has been recently complexified.

Originally, the classical approach required compliance with six main principles, the core aspect remaining the undertaking of deep reforms in order to transpose the *acquis communautaire* by the applicant states³⁰⁹. Moreover, two additional conditionalities were established with regards to the WB states. On the one hand, they were expected to strengthen their "regional cooperation" and on the other hand, the notion of "good neighborly relations" compelled them to first resolve any bilateral issue. Consequently, this included in particular the resolution of the bilateral dispute between Kosovo and Serbia, which then became a precondition for future membership³¹⁰. Recently, a new methodology has entered into force, which is based on the work of the Commissioner for Neighborhood and Enlargement, Oliver Várhelyi. Four pillars (credibility, predictability, dynamism, and stronger political steer) and six thematic "policy clusters"³¹¹ have been constituted. The latter are: (a) rule of law, (b) internal market, (c) competitiveness and inclusive growth, (d) green agenda and sustainable connectivity, (e) resources, agriculture, and cohesion, and (f) external relations. As Branislav Stanicek puts it, this new methodology "could speed up the negotiation process, if reforms were to be adopted

³⁰⁶ DE MUNTER André, "The Western Balkans", Brussels, Fact Sheets on the EU, 2020, p. 5. <https://www.europarl.europa.eu/ftu/pdf/en/FTU5.5.2.pdf> (accessed 18 April 2021).

³⁰⁷ DESSUS Zephyr, MERJA Albana, STRATULAT Corina, and REXHA Albana, "Kosovo's EU Candidate Status: A Goal within Reach?", Brussels, *Discussion Paper*, 29 June 2017, p. 3. http://www.epc.eu/pub_details.php?cat_id=17&pub_id=7812 (accessed 18 April 2021).

³⁰⁸ BERRY Joseph, "Serbia Refuses to Support Sanctions against Russia", *EuroNews*, sec. World, 29 April 2021. <https://eurnews.net/serbia-refuses-to-support-sanctions-against-russia/> (accessed 5 May 2021).

³⁰⁹ PRESTON Christopher, *Enlargement & Integration in the European Union*, London, Routledge, 1997, p. 18.

³¹⁰ STANICEK Branislav, "A New Approach to EU Enlargement", Brussels, *European Parliamentary Research Service*, 2020, p. 2. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649332/EPRS_BRI\(2020\)649332_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649332/EPRS_BRI(2020)649332_EN.pdf) (accessed 19 April 2021).

³¹¹ Loc. cit.

before opening of the clusters, [since] in that case, talks would only need to tackle the implementation of the *acquis*”³¹².

Moreover, and once the status of the new potential EU membership candidate has been granted, negotiations may start through the opening of no less than 35 chapters. In the case of the Republic of Serbia, the first two chapters were opened in December 2015 and, as Policy Analyst André De Munter pointed out, one of these chapters (chapter 35) concerned the normalization of bilateral relations with Kosovo³¹³. So far, Serbia has initiated 18 negotiating chapters, the one related to the free movement of capital, and provisionally closed two of them³¹⁴. Nevertheless, the EU’s strategy towards WB states as well as the communication from the EU Commission for “a credible enlargement perspective for and enhanced EU engagement with the WB” published in February 2018, confirm the significant progress of Serbia on its way towards the EU³¹⁵. Thus, then President of the European Commission Jean-Claude Juncker stated in 2017 that Serbia’s potential integration within the EU could be completed by 2025³¹⁶. Nevertheless, the European Commission rapidly specified that this date remained “purely indicative and based on the best-case scenario [which] implies no automaticity; the process is and will remain objective and merit-based”³¹⁷.

However, the bilateral dispute between Kosovo and Serbia still prevents the Serbian authorities from finalizing their integration into the EU. As Lika demonstrates, since the launch of the process of normalization, a range of EU MS have expressed their opposition to Serbian integration and conditioned their support on Belgrade’s explicit recognition of Kosovo³¹⁸. An illustration of this statement can be found in the position adopted by Germany, in particular by former Chancellor Angela Merkel. Cited by BBC News, Merkel had already insisted in August 2011 that “one of the preconditions for Serbia is Kosovo, that relations between those states get normalized”³¹⁹. In the meantime, the German position has been followed by other EU MS such

³¹² *Ibid.*, p. 3.

³¹³ DE MUNTER André, *op. cit.*, p. 5.

³¹⁴ *Loc. cit.*

³¹⁵ EUROPEAN COMMISSION, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions, COM (2018) 65 final, 2018. https://ec.europa.eu/info/sites/info/files/communication-credible-enlargement-perspective-western-balkans_en.pdf (accessed 20 April 2021).

³¹⁶ JUNCKER Jean-Claude, “Juncker expects Montenegro and Serbia to join EU before 2025”, *European Western Balkans*, 8 November 2017. <https://europeanwesternbalkans.com/2017/11/08/juncker-expects-serbia-join-eu-2025/> (accessed 5 May 2021).

³¹⁷ EUROPEAN COMMISSION, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions, *op. cit.* p. 8.

³¹⁸ LIKA Liridon, “La reconnaissance internationale de la République du Kosovo (2008-2016)”, *op. cit.*, p. 547.

³¹⁹ BBC, “Germany’s Angela Merkel Ties Serbian EU Hopes to Kosovo”, *BBC News*, sec. Europe, 23 August

as Austria, France, and Italy among others³²⁰, and was later officially added in chapter 35 of Serbia's obligations for EU membership³²¹. In other words, these EU MS pressed the Serbian authorities to normalize their relations with the Republic of Kosovo, since as emphasized by Stephan Keukeleire and Tom Delreux, regional cooperation turns out to be a key condition to eventual EU membership³²². Koeth summarizes this situation thus: "Without a credible perspective for Kosovo, there is no credible membership perspective for Serbia, [and] without a perspective for Serbia, there is no credible perspective for the rest of the WB"³²³.

Therefore, in order to put a definitive end to the bilateral dispute between Serbia and Kosovo and prior to the accession of Serbia to the EU, the European Commission has imposed the conclusion of a comprehensive and legally binding agreement, ratified by the two parties³²⁴. However, a major additional issue has been revealed by several scholars, namely Serbia's potential future veto to the EU's integration of Kosovo³²⁵. As Ker-Lindsay clarifies, "this veto power is not subject to appeal or oversight. Nor can it be outdone by the collective votes of other members. It is an absolute and uncontested prerogative of members"³²⁶. Consequently, some authors such as Bieber warn against a potentially problematic situation in which "once Serbia joins the EU, it could then use its veto powers to draw further concessions from both countries"³²⁷.

In this regard, Hamza Karcic points out that such a situation has already occurred in the near past. In his article published in *Analysis*, the associate Professor at the Faculty of Political Science at the University of Sarajevo, reveals that despite Croatia's negotiations with the EU being slowed down by Slovenia in 2009, this did not prevent the Croatian authorities from later acting likewise towards Serbia in 2016³²⁸. Another example highlighted by Karcic turns out to

2011. <https://www.bbc.com/news/world-europe-14631297> (accessed 2 April 2021).

³²⁰ LIKA Liridon, "La reconnaissance internationale de la République du Kosovo (2008-2016)", *op. cit.*, p. 546.

³²¹ COUNCIL OF THE EU, "Conférence d'adhésion avec la Serbie: ouverture des deux premiers chapitres", Brussels, 14 December 2015. <http://www.eu2015lu.eu/fr/actualites/articles-actualite/2015/12/14-conference-adhesion-ue-serbie/> (accessed 23 April 2021).

³²² KEUKELEIRE Stephan, and DELREUX Tom, *The Foreign Policy of the European Union*, New York, Macmillan International Higher Education, 2014, pp. 242-247.

³²³ KOETH Wolfgang, *op. cit.*, p. 36.

³²⁴ EUROPEAN COMMISSION, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions, *op. cit.* p. 8.

³²⁵ HAJRULLAHU Arben, *op. cit.*, p. 114.

³²⁶ KER-LINDSAY James, ARMAKOLAS Ioannis, BALFOUR Rosa, and STRATULAT Corina, *op. cit.*, p. 520.

³²⁷ BIEBER Florian, "A Way Forward for the Balkans?", *Foreign Affairs*, 7 February 2018. <https://www.foreignaffairs.com/articles/southeastern-europe/2018-02-06/way-forward-balkans> (accessed 22 April 2021). In this citation, Florian Bieber refers to the Republic of Kosovo as well as to Republic of Bosnia and Herzegovina.

³²⁸ KARCIC Hamza, "EU Members in Balkans Block Their Non-EU Neighbors", *Analysis edition*, sec. World - Europe, 19 January 2021. <https://www.aa.com.tr/en/analysis/analysis-eu-members-in-balkans-block-their-non-eu->

be the Bulgarian - North Macedonian case. While North Macedonia had previously undergone two successive roadblocks, by Greece on the name issue, and France regarding the opening of accession talks, the Bulgarian authorities announced on 17 November 2020, that they were willing to block the opening of EU-accession for their non-EU neighbor³²⁹. As the scholar specifies, this “block-your-neighbor-now-that-you-can approach lays out in the open not only the false promise of regional Europeanization spillover effect but also the increasingly unfair treatment of the rest of the Balkan countries”³³⁰. In view of these precedents and given the risk of Serbia’s indefinite veto on Kosovo’s membership once Serbia enters the EU, legally binding agreements anticipating such a situation seem necessary³³¹. As claimed by Hannah Fahringer, it is crucial for the future of both disputing states and the stability of the WB region as a whole that before “completing Serbia’s accession process, the EU stipulates that Serbia cannot veto Kosovo’s membership if the day arises, despite its position on Kosovo’s statehood”³³².

The role of the USA in the EU-initiated process of normalization of relations between Kosovo and Serbia

Finally, even though the scope of this research is limited to the analysis of the EU’s implication in the process of normalization, in particular with political conditionalities as previously mentioned, the role of the USA in this EU-initiated process must be emphasized too. Indeed, as former Ambassador of the Republic of Kosovo in Belgium Bernard Nikaj notes, “the only progress [in the process of normalization] has been made when we had full cooperation between the EU and the USA. None of those actors can act alone. We consider the US as one of the shareholders of our independence, and we want the EU to be our future home. So, we always need a full cooperation between the EU and the USA, because this is the best way to achieve a result”³³³. In this respect, the following section offers first a brief overview of the progress in the normalization of relations between Kosovo and Serbia under Donald Trump’s administration and second, since new US president Joe Biden moved into the White House.

[neighbors/2114680](https://commons.lib.jmu.edu/ese/2020/panel1/3) (accessed 22 April 2021).

³²⁹ Loc. cit.

³³⁰ Loc. cit.

³³¹ Interview with Professor Florian Bieber, April 2021, by Skype.

³³² FAHRINGER Hannah, “Enlargement Policy Consensus Among the EU Member States: The Question of Kosovo’s Independence and Its Effects on Serbia’s Accession”, Harrisonburg, James Madison University, 2020, p. 17. <https://commons.lib.jmu.edu/ese/2020/panel1/3> (accessed 12 May 2021).

³³³ Interview with the former Ambassador of the Republic of Kosovo in Belgium, Bernard Nikaj, April 2021, by Skype.

First, it may be underlined that at the end of his presidential mandate, Trump announced on 4 September 2020 that both Serbia's President Aleksandar Vucic and former Kosovo's Prime Minister Avdullah Hoti had finalized a document in order to normalize their economic relations under US-brokered negotiations³³⁴. The "Washington agreement" as it is referred to, establishes 16 sixteen points that relate to economic normalization, the increases of their bilateral trade with the USA, and their respective relationship with Israel³³⁵. Thus, a series of topics were discussed, among others the implementation of the Belgrade-Prishtina highway and rail agreements, the cooperation with the US Export-Import Bank (EXIM), the opening and operationalization of the Merdarë common border crossing point facility, the increasing efforts to locate and identify missing persons, and the resolution of issues related to refugees and internally displaced persons³³⁶. Moreover, the USA insisted on the specific issue on which the EU remains ambiguous: this process of normalization must include official mutual recognition³³⁷. Finally, it should also be underlined that the "Kosovo-Serbia dialogue" as the Trump administration mostly named it³³⁸, was led by US special envoy to the WB Matthew Palmer and special presidential envoy for the Serbia-Kosovo talks Richard Grenell. Nevertheless, even though a rapid agreement was concluded, their work was criticized by several authors, including Hartwell. In one of his articles on the subject, the expert notes that "the Serbia-Kosovo dialogue was allegedly a way for Trump to get a quick and easy foreign-policy win in advance of the 2020 US presidential election" and further regrets that "the US initiative was not coordinated with the EU"³³⁹. In this respect, former undersecretary of state Nicolas Burns reveals henceforth that "President Trump personally seems to have animus towards the EU. He sees the EU as a competitor to the US. He does not see it as a partner"³⁴⁰.

Moreover, the Washington agreement has also been the target of other criticism. While a publication by the British think tank "International Institute for Strategic Studies" (IISS)

³³⁴ RIECHMANN Deb, "Serbia, Kosovo Normalize Economic Ties, Gesture to Israel", *AP NEWS*, sec. Belgrade, 4 September 2020. <https://apnews.com/article/ap-top-news-international-news-middle-east-politics-3b7aca39c6829655d43de30f68497ed1> (accessed 29 April 2021).

³³⁵ TRUMP Donald, Economic Normalization, 2020, p. 3. <https://balkaninsight.com/2020/09/04/kosovo-and-serbia-sign-historic-deal-under-trumps-auspices/> (accessed 5 May 2021).

³³⁶ MUHARREMI Robert, "The 'Washington Agreement' Between Kosovo and Serbia", *American Society of International Law*, vol. 25, no. 4, 2021, pp. 2-3.

³³⁷ TRUMP Donald, *op. cit.*, p. 3.

³³⁸ HARTWELL Leon, *op. cit.*

³³⁹ *Loc. cit.*

³⁴⁰ BURNS Nicolas, "Diplomacy is not The Apprentice: Serbia-Kosovo issue requires a long-term commitment", *New Eastern Europe*, 14 September 2020. <https://neweasterneurope.eu/2020/09/15/diplomacy-is-not-the-apprentice-serbia-kosovo-issue-requires-a-long-term-commitment/> (accessed 6 May 2021).

emphasized that “there were elements of political theatre to the signing”³⁴¹, Jean-Baptiste Chastand, political analyst for *Le Monde*, pointed out that the normalization of economic relations between Kosovo and Serbia had taken “a back seat, overshadowed by the announcement of the future opening of the two countries’ embassies in Jerusalem”³⁴². Thus, it must be stressed that former President Trump conditioned the Washington agreement to recognition of Israel by the Kosovo authorities and *vice-versa*, as well as to the moving by Serbia of its embassy from Tel Aviv to the city of Jerusalem. These conditionalities were strongly criticized by the EU, notably through its spokesperson, Peter Stano³⁴³, which may seem surprising since, as any other sovereign state, Kosovo has the right to take decisions based on its national interests. However, this serves to illustrate the troubled political relationships between the EU and the USA during Trump’s mandate³⁴⁴.

Thus, while Trump’s mandate does not seem to have considerably strengthened the coordination between the USA and the EU regarding the process of normalization, Bernard Nikaj states however that “with Biden as a President and Anthony Blinken as a State Secretary, there are good incentives for a better coordination”³⁴⁵. Indeed, Biden’s approach stands out from his predecessor’s diplomatic methods. Cited by *Euractiv*, President Biden first congratulated the Republic of Serbia for its Statehood Day on 15 February 2021, but further insisted on the urgent need to reach an agreement through which Kosovo and Serbia could mutually recognize their respective sovereignty and independence³⁴⁶. This approach significantly differs from the EU’s neutral position towards Kosovo’s statehood. Nevertheless, as a response to Biden’s official letter, the Serbian President, Aleksandar Vučić, declared that he had “made it very clear at the White House what [he] thought about mutual recognition [and that his] answer would be no different this time”³⁴⁷. In fact, Vučić’s answer only illustrates that

³⁴¹ IISS, “The Kosovo–Serbia Normalization Agreements”, London, 2020, p. 1. <https://www.iiss.org/publications/strategic-comments/2020/kosovo-serbia-normalisation-agreements> (accessed 5 May 2021).

³⁴² CHASTAND Jean-Baptiste, “Pour Donald Trump, le chemin d’un accord entre Belgrade et Pristina passe par Jérusalem”, *Le Monde*, 5 September 2020. https://www.lemonde.fr/international/article/2020/09/05/pour-donald-trump-le-chemin-d-un-accord-entre-belgrade-et-pristina-passe-par-jerusalem_6051138_3210.html (accessed 29 April 2021).

³⁴³ STANO Peter, “EU Warns Serbia, Kosovo over Israel Embassy Move to Jerusalem”, EU TV, Brussels, 2020. <https://www.youtube.com/watch?v=Ct3ne9tjvE> (accessed 5 May 2021).

³⁴⁴ Interview with two European Diplomats, May 2021, Brussels.

³⁴⁵ Interview with the former Ambassador of the Republic of Kosovo in Belgium, Bernard Nikaj, April 2021, by Skype.

³⁴⁶ BIDEN Joe, “Serbia’s National Day”, *Official letter*, 15 February 2021. <https://www.rtklive.com/en/news-single.php?ID=18637> (accessed 6 May 2021).

³⁴⁷ EURACTIV, “Vučić to Biden: Kosovo Recognition Not Mentioned in Any Agreement”, *Euractiv*, sec. Politics, 8 February 2021. https://www.euractiv.com/section/politics/short_news/vucic-to-biden-kosovo-recognition-not-mentioned-in-any-agreement/ (accessed 30 April 2021).

there is still a long way to go before achieving the EU-initiated process of normalization that was launched in 2011.

Conclusion

Based on the afore analysis of the EU's approach towards Kosovo and Serbia, some conclusions may be drawn regarding the research question of this Master's thesis, i.e., how has the EU facilitated the process of normalization of relations between Kosovo and Serbia through mediation between 2011 and 2021?

Articulated around the RCT approach and coupled with key concepts of strategic constructivism, this research has examined how the actors involved in the normalization process define their interests and use norms and values in a strategic way. With the contribution of the theory of international mediation, it has highlighted that both the disputing parties as well as the mediator need incentives to enter a process of normalization of relations. In this regard, this research demonstrated that ensuring the Union's stability and security outside its border appears to be the EU's main priority. However, and since the EU remains a complex organization of states that defend diverse national interests and share different views on how the Union's foreign policy should be conducted, the EU has adopted a highly ambiguous position regarding the process of normalization of relations between Kosovo and Serbia. In fact, the Union clearly attempted to adopt a "suggestive" approach towards the two disputing parties, but the lack of unity did not allow the EU to remain consistent throughout the whole process. Thus, the research showed that even though the EU dangles potential EU membership for Kosovo and Serbia, the Union offers a "carrot" that will remain unreachable for Kosovo as long as the young state is not recognized by all EU MS. Consequently, offering such a reward for the conclusion of a final legally binding document by Kosovo and Serbia without imposing mutual recognition, appears to be relatively contradictory. This ambiguous use of political conditionalities has led to some major consequences regarding the process of normalization of relations between both WB states and strongly limits the EU's scope of influence in the WB region.

On the one hand, the Republic of Kosovo turns out to be strongly affected by the lack of unity within the EU MS. Despite its obvious willingness to undertake the appropriate reforms to meet the European political conditionalities, the integration of Kosovo into the EU remains systematically denied, notably due to the excessive use of ambiguity in the EU's approach. For instance, this research highlighted that the ambiguous wording used by the EU clearly demonstrates the Union's difficulties to offer a clear European future to Kosovo, but also prevents the young state from fulfilling its two main interests in the process, namely to further consolidate its statehood and to open new European perspectives.

On the other hand, the outcome of the process is also mixed for the Republic of Serbia. Serbia was granted the status of candidate in March 2012 in reward for the conclusion of the Brussels agreement in April 2013. The Serbian authorities were even allowed to open accession negotiations with the EU in 2014. However, the EU has not provided a clear time-limit for Serbia to integrate the EU and consequently, Serbia's future European path still remains a dotted line. Moreover, the Union has not been able to offer the crucial incentives required by the Serbian authorities to accelerate the conclusion of a final and legally binding agreement with the Republic of Kosovo, thus partially failing the main objective of its role as a mediator.

Nevertheless, the EU's role as a mediator in the political dispute between Kosovo and Serbia cannot be viewed as a complete failure. Even though the normalization process mostly dealt with technical arrangements for day-to-day relations between both sides, no less than 33 agreements have been reached under EU auspices. Focusing on issues such as cadastral questions, registry books, recognition of diplomas, freedom of movement, telecommunications, justice, and energy, those agreements represent significant developments in the normalization of relations. Moreover, certain politically sensitive issues have also been discussed, including the thorny issue of the Association of Serb-majority municipalities in Kosovo through the conclusion of the Brussels agreement. Yet, the implementation of all these above-mentioned agreements has been slowed down, or even remains incomplete, and evidences the EU's difficulties in facilitating the process of normalization of relations. Based on this analysis, it may in fact be argued that the EU only facilitated the process at its very beginning with the conclusion of several agreements, thus initially offering hope for a final and legally binding document between both states. Nevertheless, the EU-initiated process became less successful thereafter, scholars and diplomats even admitting in this respect that the normalization of relations has been now at a stalemate for almost four years.

Finally, it must be pointed out that the cooperation between the EU and the USA has not been as fluid as expected. While the EU mostly focuses on the political and technical normalization of relations between Kosovo and Serbia, the USA favors economic normalization between the two protagonists. Nevertheless, former President Trump and his successor, Joe Biden, have insisted on a specific issue on which the EU stills remains very ambiguous: the Washington agreement must include mutual official recognition. Will this imposed mutual official recognition allow Kosovo to further consolidate its statehood and ultimately resolve a crucial aspect of the bilateral dispute between Kosovo and Serbia? Could the USA establish itself as the most efficient mediator and challenge the EU's ability to establish political conditionalities

abroad? Will these two mediators be challenged by emerging countries that appear to be increasingly present in the Balkan region? Finally, to what extent does Russia's invasion of Ukraine impact the EU-initiated process of normalization between Kosovo and Serbia? These questions might offer new analytical perspectives on the EU's role as mediator towards the bilateral dispute that still opposes the Republic of Kosovo and the Republic of Serbia.

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