



**Republika e Kosovës
Republika Kosova - Republic of Kosovo**

State Delegation of the Republic of Kosovo

**PLATFORM FOR DIALOGUE ON A FINAL, COMPREHENSIVE
AND LEGALLY BINDING AGREEMENT ON NORMALIZATION OF
RELATIONS BETWEEN THE REPUBLIC OF KOSOVO AND THE REPUBLIC
OF SERBIA**

February 14, 2019

Introduction

1. Kosovo has been an independent sovereign state since the Declaration of Independence on 17 February 2008. On 22 July 2010, the International Court of Justice confirmed that Kosovo's Declaration of Independence was in compliance with international law. Shortly afterwards, on 9 September 2010, the United Nations General Assembly, which had referred the issue to the Court for its Advisory Opinion, took note of the Court's judgment and encouraged future dialogue, under the auspices of the European Union, between the Republic of Kosovo and the Republic of Serbia in order to promote co-operation between the two states, achieve progress on the path to the European Union, and improve the lives of the people.

2. The dialogue process resulted in the *First Agreement on Principles Governing the Normalization of Relations* (initialled by the Prime Ministers of Kosovo and Serbia on 19 April 2013, and ratified by this Assembly in Kosovo Law No. 04/L-199.) A number of agreements have been reached that aim to normalize relations and open the way towards European integration. The implementation of these agreements has been intermittent and asymmetrical.

3. Kosovo expects that the dialogue process will intensify and accelerate in 2019, with the aim of achieving a final, comprehensive and legally binding agreement. The objective of this agreement is to resolve all outstanding disputes, enabling both states to recognise one another's sovereignty, and enabling Kosovo to plot a path towards membership of the United Nations and the European Union.

4. On 15th of December 2018, the Assembly of Kosovo adopted a Resolution on the Process of Dialogue on Normalization of Relations between the Republic of Kosovo and Serbia. This resolution established the State Delegation and required the drafting of the platform to specify the key principles based on which the State Delegation will represent the Republic of Kosovo in the dialogue process. In accordance with the acts of the Assembly of Kosovo, the State Delegation will report and inform the Assembly of Kosovo in all matters related to the dialogue.

5. This Platform is a statement of the official position of the Republic of Kosovo and sets out the principles, goals and expectations of the Republic of Kosovo in relation to the dialogue. The Platform aims to achieve broad political and public consensus on the dialogue with Serbia.

Basic Principles

6. The State Delegation will work in accordance to the following Basic Principles:

Principle 1: The overriding objective of the Republic of Kosovo is to secure an unequivocal recognition and acceptance from the Republic of Serbia of Kosovo's sovereignty as an independent state, with the following legally binding commitments:

(a) to cease all activities that obstruct the Republic of Kosovo's path to international recognition as an independent sovereign state;

(b) to respect the sovereignty and territorial integrity of the Republic of Kosovo;

(c) to refrain from opposing or seeking to influence third states to oppose any application by the Republic of Kosovo for membership of international organizations including the United Nations, European Union, Council of Europe, the OSCE, and other organizations; and

(d) to refrain from all forms of interference with the domestic affairs or international relations of the Republic of Kosovo. Republic of Kosovo believes this is the only effective way to promote co-operation between the two states, achieve progress on the path to the European Union, and improve the lives of the people, as envisaged by the General Assembly of the United Nations in its resolution of 9 September 2010.

Principle 2: Nothing will be agreed until everything is agreed. As stated in Principle 1, mutual recognition must be the primary outcome.

Principle 3: The Constitution of Kosovo, which encompasses the obligations arising from the Ahtisaari Settlement Plan is not open to negotiation. The Plan marked the completion of United Nations' authorized negotiations on the final status of Kosovo, and was endorsed by the majority of the international community as a final settlement. The Plan explicitly spelled out what was required from each side in order to achieve a just solution, imposing a range of concessions on the Republic of Kosovo and providing guarantees for the rights of communities in Kosovo, particularly the Serb community. Kosovo has faithfully implemented all the provisions of the Ahtisaari Plan.

Principle 4: The Republic of Kosovo's political objectives in the dialogue process are aimed at the resolution of all outstanding issues with the Republic of Serbia, including:

(a) the removal of all remaining impediments to the independent exercise of its sovereign powers of governance, in accordance with the principles of non-intervention and non-interference;

(b) the advancement of the rights of Albanians resident in the Republic of Serbia, in full reciprocity with the Serb community in the Republic of Kosovo;

(c) the promotion of compliance by all parties with international human rights and refugee law, and relevant international standards of democratic governance, accountability and transparency; and

(d) the establishment of adequate mechanisms to address the war crimes, human rights and humanitarian law violations including revealing the fate of missing persons and the reparations.

Principle 5: The final and legally binding agreement must be clear and unambiguous. Past experience shows that resorting to the approach of constructive ambiguity has contributed to the asymmetrical implementation of agreements reached so far. This leads to deadlock, stagnation and eventual disputes. Dialogue must continue, until both sides share a common understanding and interpretation of precisely what has been agreed.

Principle 6: Any final agreement must be fully consistent with the Constitution of the Republic of Kosovo, which provides that “the sovereignty and territorial integrity of the Republic of Kosovo is intact, inalienable, indivisible and protected by all means provided in this Constitution and the law” (Article 2(2)). The territorial integrity of Kosovo is also guaranteed by international law.

Principle 7: There can be no additional layer of government in Kosovo between the local and central. The Republic of Kosovo is committed to the provisions of its Constitution and Ahtisaari Plan on inter-municipal cooperation, but such provisions can not become an additional layer of governance.

Principle 8: In accordance with its Constitution and laws, the rights to exploit natural resources and assets located within the sovereign territory of the Republic of Kosovo belong exclusively to the Republic of Kosovo and are therefore not open to negotiation.

Principle 9: For the Republic of Kosovo, the final, comprehensive and legally binding agreement enters into force only when the following conditions are met: (a) Serbia has recognized Kosovo as a sovereign and independent state; (b) a referendum relating to the agreement has been held in Kosovo, and; (c) the agreement has been ratified by the assemblies of both states.

Principle 10: Before agreeing the format and sequencing of the dialogue process, the Republic of Kosovo will seek confidence-building measures from the Republic of Serbia. Such may include:

(a) An assurance that, subject to agreement on all other issues, the Serbian delegation has authority to agree on Principle 1;

(b) An undertaking by the Republic of Serbia to cease immediately all diplomatic or other activity aimed at impeding or undermining ⁴

Kosovo's recognition by other states whilst the dialogue is continuing, and to refrain from opposing, or encouraging other states to oppose, its ongoing applications for membership of international organisations.

Principle 11: In carrying out its functions, the State Delegation will ensure the following:

11.1 *Transparency:* The delegation will provide regular public and parliamentary briefings on the progress of dialogue.

11.2 *Inclusivity:* The negotiating process will be conducted in a way that allows the interests of all sections of the population of Kosovo to be represented. There will be a broadly-based composition to the negotiating delegation, the parliamentary oversight committee and other bodies involved in the process.

11.3 *Accessibility:* For the social groups not represented in the State Delegation will establish a contact mechanism to enable effective participation in the process. Suggestions and contributions by social groups will be taken into consideration and will be made publicly available.

11.4 *Political Consensus:* Whenever possible, negotiating positions should be taken by political consensus among the parliamentary parties.

Kosovo in international context

7. The Republic of Kosovo has been recognised as an independent sovereign state by 115 states. The 2010 opinion of the International Court of Justice confirmed that Kosovo's declaration of independence was in compliance with international law. Kosovo has been admitted as a member state at a number of international organisations, including the World Bank, the International Monetary Fund, the European Bank for Reconstruction and Development, the World Customs Organisations, the International Olympic Committee, FIFA, UEFA and other organisations. Nonetheless, recognition of Kosovo's statehood has not been universal, and the country has not so far been able to take its rightful place as a member state of the United Nations.

Meaning of normalization

8. The normalization process and the agreement must include a clear, meaningful, unconditioned and irreversible acknowledgement by the Republic of Serbia of Kosovo's lawful statehood. This includes:

- (a) recognition of Kosovo's independence and statehood within the existing borders;

(b) a willingness to establish diplomatic relations; and

(c) full respect for Kosovo's rights as a state in international law.

The Benefits of Mutual Recognition

9. The stance maintained by the Republic of Serbia since 2008 has proved to be a significant obstacle to the realisation of Kosovo's ambitions to fully participate in the institutions and work of the international community. Not only has Serbia so far refused formally to recognise the Republic of Kosovo, it has also sought to dissuade other States from doing so. It has embarked upon diplomatic initiatives aimed at persuading smaller nations to de-recognise Kosovo, and has taken steps to oppose or obstruct Kosovo's admission as a member state to various international organisations, most recently, Interpol and UNESCO. Such actions amount to a serious interference with Kosovo's sovereignty, and were an impediment to political participation of Kosovo in the international community. In entering the dialogue, Kosovo is determined to overcome these obstacles to contribute to the international as equal state.

10. It is therefore a political priority for Kosovo to reach a final, comprehensive and binding agreement with Serbia that facilitates progress towards universal recognition, and paves the way for accession to membership of the Council of Europe, the European Union and the United Nations. In order to take up all of its responsibilities in the international arena, and to be able to participate fully in international affairs, Kosovo needs first to gain admission to the relevant international institutions on a basis of full equality, and then to sign and ratify an even greater range of international treaties. This overall strategic policy objective cannot be fully achieved under present circumstances. Formal acceptance of statehood by the Republic of Serbia is an essential next step, and will almost inevitably remove the last remaining political obstacle to universal recognition. It will consequently facilitate the full integration of the Republic of Kosovo into the international community as well as economic benefits and lasting political stability.

Normalization and EU accession

11. The European Union itself has tied the conclusion of the accession process to normalization of relations between the Republic of Kosovo and the Republic of Serbia. This was emphasised on the EU issued its enlargement strategy for the Western Balkans in the spring of 2018, noting:

“Without effective and comprehensive normalization of Belgrade-Pristina relations through the EU-facilitated Dialogue there cannot be lasting stability in the region. A comprehensive, legally binding agreement is urgent and crucial so that Serbia and Kosovo can advance on their respective European paths.”

War Crimes, Missing Persons, Victims of Wartime Sexual Crimes, and Reparations

12. Criminal accountability and reparation for the war crimes, human rights and humanitarian law violations of the past remains a key concern for the Republic of Kosovo and its people. The dialogue process will include seven key pillars to address this:

- (a) *Criminal accountability for war crimes*: The final agreement must establish an equivalent special tribunal to investigate, prosecute and adjudicate war crimes committed by Serbia during the war in Kosovo in 1998 and 1999. The agreement should affirm that there is a reasonable time frame for such investigations and prosecutions. Impunity for war crimes and other gross violations of international humanitarian law must not be countenanced.
- (b) *War reparations*: Additionally, Serbia is liable to pay an equitable figure in war reparations as compensation for economic losses directly attributable to the actions of the Republic of Serbia during the war. The upcoming dialogue will need to settle the principles by which these respective claims are to be quantified, and agree on a neutral mechanism to conduct the valuations.
- (c) *Compensation mechanism for victims of war*: There must be a mechanism through which (i) individuals affected by humanitarian law violations committed during the war can claim compensation for pecuniary and non-pecuniary losses attributable to such violations committed during the war; (ii) individuals can seek the return of material goods, savings and pensions which they have been unable to access since the war.
- (d) *Revealing of the fate of missing persons*: The Republic of Kosovo will demand that the issue of missing persons be dealt with as a matter of utmost urgency and state responsibility by the Republic of Serbia. Kosovo will demand that Serbia (i) provide information from the archives of its military, police and security authorities regarding the missing persons; (ii) conduct immediate and effective excavation of potential gravesites; (iii) expedite the resolution of cases pertaining to missing persons, and; (iv) bring the perpetrators of crime to justice immediately.
- (e) *Justice for victims of war time sexual crimes*: Kosovo will demand justice, reparation and rehabilitation for the degrading and dehumanizing sufferings caused by Serbia during the war in Kosovo to victims of sexual crimes.
- (f) *Return of property*: Effective arrangements must be put in place to ensure the return of official archives and documents taken from Kosovo during the war, and of cultural and other objects taken from museums and other public institutions.

- (g) *Return of displaced persons:* Alongside the obligations that Kosovo undertook as part of the Ahtisaari Plan in relation to displaced persons, Kosovo's position is that all citizens have the right to return to their own property without hindrance. This includes the right of Albanian citizens to return to their properties in northern municipalities of Kosovo, and in Serbia.

13. A process of mutual reckoning needs to take place at the inter-state level, in connection with succession to the national assets and debt and the former Yugoslavia and war reparations. The dialogue process will need to establish the applicable principles and the mechanism for quantifying these respective claims. For its part, the Republic of Kosovo has accepted since the Ahtisaari Plan was adopted that it is willing to shoulder its fair share of the national debt of the former Yugoslavia. Against this, the Republic of Serbia must set off Kosovo's fair share of the public assets of the former Yugoslavia.

Protection of community rights

14. Kosovo has proven over many years that it has fully embraced the obligations foreseen in the Ahtisaari Plan for the protection of human rights and the rights of communities, adopting and fully implementing the relevant legislation. In this regard, Kosovo has advanced well beyond the international standards, and offers what may well be the world's most advanced and developed system of protection for the rights of communities. It is essential that Kosovo's commitment to these principles is matched by Serbia on a basis of equality, reciprocity. Albanians abroad, including those that are resident in the Republic of Serbia, are no less entitled to display and exhibit their identity and live in dignity than Serbs residing in Kosovo. The dialogue process must ensure equality of provision on both sides of the border at a comparably high level of legal entitlement.

Succession to international treaties

15. Like the other constituent states of the former Yugoslavia, the question of Kosovo's succession to international treaty obligations, falls to be resolved according to the settled principles of international law, including the Vienna Convention on the Law of Treaties and Vienna Convention on Succession of States in Respect of Treaties. Special legal advice will be commissioned for this purpose. It is hoped and anticipated that the necessary arrangements can be put in place in time for them to be included in the final, comprehensive and binding agreement.

Other issues

16. The Comprehensive and Legally Binding Agreement will also include framework arrangements on the following issues: (a) cross-border co-operation; (b) free movement of people, goods, services and capital; (c) customs and trade; (d) 8

energy policy and supply; (e) transport, telecommunications and broadcasting; (f) co-operation in educational initiatives, as well as academic and cultural exchanges.

Abrogation of UNSC Resolution 1244 (1999)

17. Kosovo is no longer a “post-war” state. The internationally supervised independence was successfully concluded in 2012. This fact needs to be followed-up with the complete abrogation of UNSC resolution 1244 (1999).

The comprehensive and legally binding agreement must be endorsed by the UN Security Council. This must occur so as to ensure that the agreement achieves the necessary degree of permanence and backing from the international community. The final outcome in this process is a vote in the Security Council and General Assembly to ensure Kosovo’s full membership of the United Nations.

Implementation

18. The Agreement will be concluded with the facilitation of European Union and the Support of United States of America, which should serve as guarantors of implementation of the obligations arising from the agreement. They should support regular review and evaluations of implementation upon request of each party, and will deal with the issue of implementation with the parties. The agreement must foresee provisions related to consequence for lack of implementation of the agreement.

The progress in opening of chapters related to accession in the European Union should be conditioned on the successful implementation of the obligations arising from the agreement. Given the involvement of the EU, it must be clear that failure to implement the agreement will be considered as equivalent to a failure to achieve the required normalization that is a pre-condition of EU membership (Chapter 35 in relation to the Republic of Serbia). The Chapter 35 commitments cannot be seen by the EU and its member states as having been fulfilled until the final, comprehensive and legally binding agreement is also fulfilled and implemented.

Dispute Resolution

19. However carefully it is formulated, the final agreement may give rise to subsequent disputes concerning its interpretation, or implementation. It will therefore need to include clear procedures for the resolution of such disputes. In the absence of settlement by agreement or mediation, there will need to be provision for binding arbitration.

Conclusion

20. The Republic of Kosovo is committed to full international cooperation based on principles of equality and mutual respect. The Republic of Kosovo invites the 9

Republic of Serbia to use this opportunity to accept the new reality in a way that shows genuine commitment towards constructive progress. For its part, Kosovo is willing, as part of the final, comprehensive, legally binding agreement, to negotiate the establishing of diplomatic and good neighbourly relations with the Republic of Serbia.

End.