

Conditionality or Cooperation? EU Mediation of the Belgrade-Pristina Dialogue

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Abstract

This thesis looks to the critical role norms play in governing conflict systems to explain why stalemates are occasionally broken at times when there is no obvious catalyst for a breakthrough. Drawing on a constructivist approach to international mediation developed in 1991 by Brian S. Mandell and Brian W. Tomlin, it argues that mediators of international conflict can interrupt the self-reinforcing nature of conflict systems by encouraging the development of shared norms between disputing parties. A case study of the European Union-backed mediation of the Belgrade-Pristina dialogue between Serbia and Kosovo demonstrates how such normative change precipitated the landmark 2013 Brussels Agreement on the normalization of relations between the two.

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Table of Contents

Abstract	i
Acknowledgements	ii
List of Abbreviations	v
List of Figures	vi
Introduction: An Unlikely Agreement	1
<i>Thesis Outline</i>	3
Chapter 1: How Can Mediators Break a Stalemate?	5
<i>Justification for Research</i>	5
<i>Rationalist Explanations for the Brussels Agreement</i>	7
<i>The Argument: A New Normative Order Can Break Stalemates</i>	9
Chapter 2: Norms Govern Conflict Systems	12
<i>Norms Define Options and Construct Conflicts</i>	12
Indicators of Normative Evolution	14
<i>Research Design</i>	16
The Case: The Serbia-Kosovo Dispute	16
Methodology	16
Data Sources	17
Chapter 3: Background to the Serbia-Kosovo Dispute	19
<i>An Inconclusive War</i>	19
<i>Failed Negotiations Precede Independence Declaration</i>	22
<i>The ICJ Decision and Serbia's Turning Point</i>	24
<i>Bringing Parties to the Table</i>	26
Chapter 4: Early Technical Agreements	29
<i>What Prompted the Early Technical Agreements?</i>	29
<i>The Belgrade-Pristina dialogue: March 8 – July 4, 2011</i>	31
Round One	31
The Fifth-Round Breakthrough	32
Normative Evolution	34
Chapter 5: Dispute Escalation	36
<i>Why did the Dispute Escalate?</i>	37
<i>Interruption of the Belgrade-Pristina dialogue: July 2011 – September 2011</i>	38
Effects of the Dialogue's Postponement	40
Normative Evolution	41
Chapter 6: The First Breakthrough	44
<i>What Triggered the First Breakthrough?</i>	44
<i>The Belgrade-Pristina dialogue: September – December, 2011</i>	45
Normative Evolution	48
Chapter 7: Interregnum	50
<i>The Belgrade-Pristina dialogue: December 2011 – March 2012</i>	51
Normative Evolution	53
Chapter 8: The Brussels Agreement	55
<i>What Triggered the Brussels Agreement?</i>	55

<i>The Belgrade-Pristina dialogue: March 2012 – April 2013</i>	56
The Brussels Agreement	59
Normative Evolution	61
Conclusion	63
<i>Policy Implications for the EU</i>	65
<i>A Norms-Based Approach to Mediation</i>	66
Appendix 1: Text of the Brussels Agreement	69
Bibliography	71

List of Abbreviations

EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
ICJ	International Court of Justice
KFOR	Kosovo Force
KIPRED	Kosovo Institute for Policy Research and Development
KLA	Kosovo Liberation Army
NATO	North Atlantic Treaty Organization
OSCE	Organization for Security and Cooperation in Europe
RTK	Radio-Television Kosovo
SAA	Stabilization and Association Agreement
UNMIK	United Nations Mission in Kosovo

List of Figures

Fig 1: Kosovo map with ethnic distributions, 2008.

28

Introduction: An Unlikely Agreement

After years of bitter gridlock between Serbia and Kosovo that succeeded the inconclusive close of the 1998-99 Kosovo War, it is remarkable that a series of European Union-mediated negotiations between the sides in only two years broke the stalemate between them. The April 2013 accord known as the Brussels Agreement established a basis for normalized relations, and outlined the devolution of longstanding Serbian-backed parallel institutions—including municipal governments, security forces, and schools—in Kosovo’s northern, majority-Serb provinces.¹ While Serbian officials still maintain that Serbia will never recognize Kosovo’s unilateral 2008 declaration of independence, the Serbian agreement to devolve the north Kosovo parallel institutions suggests that Serbia’s territorial claims to Kosovo are now primarily symbolic.

The conclusion of the Brussels Agreement, and Serbia’s move to start disassembling parallel institutions in north Kosovo and to accept—in practice if not in official policy—the Kosovar government’s sovereignty over all of the territory it claimed cleared the path for Serbia to begin membership negotiations with the EU; the European Commission recommended that accession negotiations with Serbia begin just three days after the accord was reached.²

The conclusion of the Brussels Agreement appeared to come suddenly, without any obvious catalyst in April 2013 that prompted the accord. Rational-choice

¹ Piotr Smolar, “Serbia and Kosovo Sign Historic Agreement,” *Guardian*, 30 April 2013, accessed May 1, 2015, <http://www.theguardian.com/world/2013/apr/30/serbia-kosovo-historic-agreement-brussels>.

² “Timeline: Serbia’s troubled path to EU accession talks,” *Reuters*, April 22, 2013, accessed May 20, 2015, <http://www.reuters.com/article/2013/04/22/us-serbia-eu-idUSBRE93L0IC20130422>.

explanations for the Brussels Agreement that hinge on the power of EU conditionality cannot explain its timing. If it were simply a matter of Serbia deciding that it was more beneficial to comply with EU demands than to oppose them, why did it take years for Serbian officials to make that calculation? The EU's position that Serbia must dismantle parallel institutions and normalize relations with Kosovo before accession negotiations between the EU and Serbia could commence was not new in 2013. The EU had been pressing Serbia to meet those criteria for at least four years. Relations between Serbia and Kosovo had been completely frozen for another decade before that, in the wake of a bitterly fought war that saw at least 10,000 people killed and waves of forced migration on a massive scale. What was the catalyst for the sudden, fundamental change in Serbia's position that precipitated the Brussels Agreement?

Drawing on a lesser-known theory proposed in 1991 by mediation scholars Brian S. Mandell and Brian W. Tomlin, this thesis offers a constructivist argument that EU mediators, during a series of negotiation rounds taking place between March 2011 and April 2013, leveraged the draw of EU membership for Serbia and Kosovo to embed within the dispute between them new, cooperative norms that created a foundation for the historic agreement. Accordingly, it rejects the notion that the Serbian reversal was solely the result of a Serbian rational-choice calculation rooted in EU conditionality.

Through a longitudinal analysis of the EU-mediated negotiation rounds known as the Belgrade-Pristina dialogue, this thesis describes the transformation of certain adversarial norms into cooperative ones, and holds that without this normative transformation, the Brussels Agreement would not have been possible.

Thesis Outline

The first chapter of this thesis explains the research question and its importance, and goes on to argue that rational-choice theories cannot explain what precipitated the unlikely conclusion of the Brussels Agreement. After introducing the fundamental role of norms in conflict systems, I make a case for a constructivist approach to international mediation that accounts for these norms; a brief overview of Mandell and Tomlin's methodology for measuring normative evolution follows. The chapter closes with a description of how I will test rationalist theories against normative ones to prove that the latter best explain how the Serbia-Kosovo stalemate was broken.

Chapter 2 explains the theoretical framework for the Serbia-Kosovo case study. It begins with an explanation of how norms govern conflict systems, and argues that mediators are capable of breaking stalemates by encouraging the transformation of adversarial norms into cooperative ones. It subsequently explains Mandell and Tomlin's methodology for measuring mediator-induced normative change within a conflict system.

Chapter 3 reviews the history of the Kosovo-Serbia stalemate. Chapters 4-8 survey a series of distinct phases of the Serbia-Kosovo conflict between March 2011, when EU mediated talks began, and April 2013, when the Brussels Agreement was concluded. These empirical chapters argue that the establishment (or non-establishment) of cooperative norms within the Serbia-Kosovo conflict system produced certain negotiation outcomes. A conclusion summarizes the case study's findings, and closes with a series of policy recommendations for the EU.

At its core, this thesis reasserts the historic contention in the EU's 2003 Thessaloniki Declaration that "the future of the Balkans is in the European Union."³ It further seeks to upend longstanding tropes about "ancient hatreds" in the Western Balkans, which propagate the erroneous contention that conflict and strife there are inevitable.⁴

³ European Commission, *EU-Western Balkans Summit: Thessaloniki, 21 June 2003 Declaration*, June 21, 2003, accessed May 20, 2015, http://europa.eu/rapid/press-release_PRES-03-163_en.htm.

⁴ Michael Kaufman, "The Dangers of Letting a President Read," *New York Times*, May 22, 1999, accessed May 20, 2015, <http://www.nytimes.com/1999/05/22/books/the-dangers-of-letting-a-president-read.html>.

Chapter 1: How Can Mediators Break a Stalemate?

Media outlets around the world trumpeted as a historic breakthrough the April 19, 2013, conclusion between Serbian Prime Minister Ivica Dačić and Kosovo Prime Minister Hashim Thaçi of the 15-point deal that became known as Brussels Agreement. That a somewhat nebulous framework agreement involving a 1,300-kilometer (500-mile) plot of land home to only 66,000 people caught the attention of the international media is a testament to the deal's unlikelihood.⁵ Indeed, the Brussels Agreement capped 14 years of post-conflict stalemate between two ethnically defined sides whose relationship was characterized by bitterness and mistrust. Two previous attempts by the U.N. to mediate the post-war dispute over Kosovo's status had failed completely, with both sides refusing to budge. *How did the EU mediation effort break the bitter stalemate between Serbia and Kosovo?*

This chapter first argues that an answer to this question holds important policy implication for the EU as it seeks to expand in the Western Balkans, and offers a contribution to studies of international conflict, negotiations, and mediation. It then argues that rationalist theories cannot explain why the stalemate between Serbia and Kosovo was broken in 2013, and that the critical role of norms must be accounted for to explain the breakthrough. A final section offers an overview of research design.

Justification for Research

International relations scholars have not extensively studied the conditions that led to the Brussels Agreement's achievement. Instead, most literature addressing the

⁵ Fred M. Shelley, *Nation Shapes: The Story Behind the World's Borders* (Santa Barbara, CA: ABC-CLIO, 2013) 74.

Belgrade-Pristina dialogue and the Brussels Agreement is comprised of implementation reports and policy briefs.⁶ A survey of the conditions that led to the agreement can help guide successful EU policy toward Serbia and Kosovo as it oversees the implementation of the Brussels Agreement. Moreover, an examination of the dialogue preceding the agreement contributes to literature on the reconstruction of the former Yugoslavia, which is becoming increasingly relevant as the EU continues efforts to integrate the Western Balkans. Furthermore, a study of the conditions that led to the agreement can offer a blueprint for a reproducible, norms-based strategy the EU might employ in order to resolve other disputes within or among potential member states. In particular, such a strategy might be useful to an EU attempt to mediate the dispute between the Bosniak-Croat Federation and the Republika Srpska in Bosnia-Herzegovina—a political stalemate that has lingered for two decades, and which will keep Bosnia-Herzegovina out of the EU until it is resolved.

In addition to offering policy recommendations to the EU regarding future mediation efforts, this thesis calls for scholars to revisit constructivist approaches to mediation, which have been neglected in favor of approaches arguing that successful mediation hinges on the ripeness of a conflict, or a mediator's ability to create for disputants new cost-benefit calculations by applying carrots and sticks.⁷ Ripeness,

⁶ These include reports by such as those produced by, among others, the Belgrade-based New Policy Center; the Kosovar Institute for Policy Research and Development (KIPRED); and the International Crisis Group, a Brussels-based NGO. Adem Beha, a Ph.D. candidate at the University of Pristina, in a 2015 paper assessed disputes over the implementation of the Brussels Agreement.

⁷ Peter Carnevale, "Strategic Choice in Mediation," *Negotiation Journal* 2, no. 1 (January 1986) 41-56.

carrots, and sticks matter, of course, as do conflict conditions, negotiator personalities, and history.⁸ But a constructivist approach to mediation prioritizing normative views is more capable of addressing fundamental disagreements, and ultimately, breaking stalemates.

Rationalist Explanations for the Brussels Agreement

Rationalist approaches to conflict-resolution that prioritize utility maximization and cost-benefit calculations are attractive for their logical nature. An assessment of each disputant's costs and benefits can produce a sensible explanation for why they hold a certain position, or act in a particular manner. For mediators, rationalist approaches to the mediation process might reveal a methodological roadmap to successful conflict management; a mediator might study disputants' cost-benefit calculations, and decide to employ a particular lever to change that calculation in a manner that produces an accord. A rationalist explanation for the conclusion of the Brussels Agreement holds that the Serbian reversal took place after Serbian officials calculated that in light of EU conditionality, there was greater benefit in complying with the EU's normalization agenda than there was in maintaining claims to Kosovo by funding parallel structures in the north, and by refusing to acknowledge Kosovar authorities.

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

⁸ Jacob Bercovitch and Allison Houston, "The Study of International Mediation: Theoretical Uses and Empirical Evidence," In *Resolving International Conflicts: the Theory and Practice of Mediation*, edited by Jacob Bercovitch (Boulder; London: Lynne Rienner, 1996) 11-35.

Richard Jackson, "Constructivism and Conflict Resolution," In *The SAGE Handbook of Conflict Resolution*, edited by Jacob Bercovitch, Victor Kremeneyuk, and I. William Zartman, 172-189 (Los Angeles; London: SAGE, 2009).

After Kosovo's 2008 independence declaration, Chancellor Angela Merkel indicated that Germany would block Serbian EU membership as long as Serbian parallel institutions in Kosovo continued to operate.⁹ Under a rationalist explanation emphasizing conditionality, Serbia subsequently calculated that it was in its interest to do so in order to access benefits associated with EU membership. Andrew Moravcsik and Milada Anna Vachudova in their 2003 working paper "National Interests, State Power, and EU Enlargement" offer support for this explanation, noting that the draw of EU membership is strong enough that it allows the EU to enforce upon potential members non-negotiable conditions. "Applicants are forced into concessions," they claim, "precisely because the basic benefit offered to them—membership—is of such great value."¹⁰

However, if Serbia's cost-benefit calculations became clear upon Merkel's pronouncement, Serbia would have agreed to dismantle parallel institutions in Kosovo before 2013, according to rationalist accounts. The EU position on the matter remained static between 2008 and 2013: the presence of Serbian-backed parallel institutions in Kosovo precluded Serbian EU membership. Moreover, the EU did not employ carrots or sticks during 2008-13 that would have made a significant impact on Serbia's cost-benefit calculation. For example, pre-accession funding—perhaps the most powerful EU tool for

⁹ "Serbia and Kosovo: A Break From Customary Hostilities," *Economist*, September 2011, accessed May 12, 2015, <http://www.economist.com/blogs/easternapproaches/2011/09/serbia-and-kosovo>.

¹⁰ Andrew Moravcsik and Milada Anna Vachudova, "National Interests, State Power, and EU Enlargement," Center for European Studies Working Paper, 97, (August 2002) 10.

imposing conditionality—was never linked to the issue, and remained steady at €170 million annually between 2007 and 2013.¹¹

In sum, rationalist explanations for Serbia's sudden reversal may be appealing in that they offer a straightforward, methodical explanation for puzzling behavior. But rationalist approaches fail to explain why the stalemate was broken, and ignore the role of the intensive EU mediation effort that immediately preceded the deal.

The Brussels Agreement was achieved only after EU mediators Robert Cooper and Catherine Ashton, over sessions of the 2011-13 Belgrade-Pristina dialogue in Brussels, Belgium, leveraged the draw of EU membership to embed within the Kosovo-Serbia dispute new, cooperative norms that served as a foundation for a landmark deal. Serbian and Kosovar negotiators only concluded the Brussels Agreement after the mediator-induced establishment of cooperative norms created a foundation for an accord. While EU conditionality was critical in bringing the parties to the table, but on its own could not break the stalemate.

The Argument: A New Normative Order Can Break Stalemates

Existing normative views among parties to a conflict not only define the nature of the conflict, they also impose limitations on options available to the actors. If the normative relationship between two sides is deeply antagonistic, the option to cooperate will likely not exist within the normative arena where the dispute plays out. In 2011, deep mistrust between Kosovo and Serbia served as the bedrock of an adversarial relationship. The EU brought the two sides to the negotiating table with EU carrots—for Serbia, the

¹¹ Nikolaj Nielson, "EU Funding for Serbia Well-Spent, Says EU Budget Watchdog," *EUobserver*, January 13, 2015, accessed May 13, 2015, <https://euobserver.com/enlargement/127187>.

possibility of membership, and for Kosovo, a pledge of visa liberalization and perhaps membership in the more distant future. However, in March 2011 both sides saw the negotiation process as a zero-sum game; deals were precluded by a shared normative perception that cooperative engagement with the other side was impossible. Moreover, the two sides did not trust each other enough to participate in the sort of give-and-take necessary for a cooperative negotiation. A continued lack of cooperative engagement since the end of the 1998-99 war demonstrated that the sides were both uninterested in and incapable of changing this adversarial norm on their own.

However, Cooper and Ashton, through their mediation efforts in Brussels, induced and reinforced cooperative behavior. Building incrementally upon a series of small gains, they, with negotiators from Serbia and Kosovo, ultimately achieved the transformation of an adversarial norm into one that allowed a degree of cooperation that was great enough to unblock the path to EU membership for both.

The theory that mediators can help root new cooperative norms in an adversarial conflict system was developed by Brian S. Mandell and Brian W. Tomlin in their 1991 paper, “Mediation in the Development of Norms and How to Manage Conflict: Kissinger in the Middle East.”¹² Not only do they claim that mediators can change norms that govern conflict behavior, they argue that mediators *should* adopt this strategy of normative transformation, because replacing adversarial expectations with cooperative ones is more likely to produce durable resolutions than is simply using carrots and sticks to reorder disputants’ cost-benefit calculations. Early normative transformations, they

¹² Mandell, Brian S., and Brian W. Tomlin, “Mediation in the Development of Norms to Manage Conflict: Kissinger in the Middle East,” *Journal of Peace Research*, 28:1, 43-55.

argue, create a foundation for more expansive future agreements, and lasting resolutions.¹³

To test their theory, Mandell and Tomlin looked to U.S. Secretary of State Henry Kissinger's 1973-76 mediation of the negotiations between Israel and Egypt, which followed the end of the 1973 Arab-Israeli War. They argue that Kissinger over a period of a few years helped facilitate agreements between the two sides, and that this series of deals prompted both the establishment of cooperative norms, and the simultaneous decay of adversarial ones. This incremental process of "normative evolution," they argue, ultimately precipitated the Camp David Accords. To show the process of normative change over time, Mandell and Tomlin they identified three patterns of behavior that led to increased cooperation among disputants on limiting and managing conflict.

This thesis applies Mandell and Tomlin's model to argue that a 14-year stalemate between Serbia and Kosovo, and the subsequent conclusion of the landmark Brussels Agreement, hinged on the EU's ability to leverage the draw of EU membership to encourage a transformation of the norms that regulated the Serbia-Kosovo dispute. In this manner, it created new space to accommodate cooperative behavior, where none had existed previously. It further argues that constructivist approaches to mediation that directly confront non-cooperative norms are superior to rationalist approaches that seek to resolve disputes by changing disputants' cost-benefit calculations. This argument is based in a demonstration that the EU was able to negotiate a settlement between Serbia and Kosovo without altering the existing incentives for cooperation.

¹³ Mandell and Tomlin, "Mediation in the Development of Norms to Manage Conflict," p. 43.

Chapter 2: Norms Govern Conflict Systems

In order to understand how mediators can disrupt systems of intractable conflict, it is necessary to understand the critical role norms play in governing conflict systems. This chapter first lays a theoretical foundation establishing the role of norms in conflict systems. The second section explains that mediators can break stalemates by encouraging the transformation of a particular set of norms. A third section argues that normative beliefs served as the mechanism that both allowed the 14-year stalemate between Serbia and Kosovo, and which permitted an EU mediator to break it. Finally, a methodology section explains how mediator-induced normative changes are measured.

Norms Define Options and Construct Conflicts

Norms are socially constructed beliefs that define, among other things, aspects of one's own identity, the identities of others, and the scope of behavior that is considered permissible within a group to which a party belongs. In any conflict system, socially constructed norms define a range of acceptable behavior the opposing sides may engage in. If two groups hold a normative perception of each other as enemies, extensive cooperation between them will not be an available option.

Norms are hardly static, however; they emerge and decay. Antagonistic norms can intensify over time, making room for new varieties of acceptable behavior that had been prohibited previously—such as acts of violence that signal the outbreak of a war. Antagonistic norms can also decay: take for instance the historically fraught relationship between Germany and France, which fought three wars over a period of seventy years. But “today, war between Germany and France is unthinkable,” declared the Nobel Laureates in 2012, when they credited lasting peace in Europe to the EU's efforts to

advance “peace and reconciliation, democracy and human rights.”¹⁴ Antagonistic norms that remain constant can produce frozen conflicts and stalemates.

In their study of the development of norms in mediation processes, Mandell and Tomlin apply Alexander Wendt’s constructivist concept of agents and structures as “‘codetermined,’ or ‘mutually constituted,’ entities” to explain the persistence of adversarial norms that block cooperation in a bilateral conflict.¹⁵

Just as agents and structures are mutually constituted, they argue, so are adversarial norms, on the one hand, and conflict systems, on the other. “Dominant norms in conflict subsystems...are likely to be those that grow out of, and reinforce, disputes,” they claim.¹⁶ In other words, when disputing parties believe the opposing side cannot be reasoned with, cooperation becomes impossible and the conflict continues. An established system of continued conflict, in turn, reinforces perceptions of the opposing side as unreasonable. It is in this manner that conflict systems may be viewed as mutually constituted and codetermined. In other words, disputants’ normative beliefs create the conflict system in which they operate, and this system of conflict in turn reinforces the adversarial relationship between disputants.

Mandell and Tomlin argue, however, that powerful mediators can interrupt the vicious cycle by encouraging the decay of adversarial norms, thus revealing new windows for cooperation that were not previously visible. By using their dominant

¹⁴ The Nobel Peace Prize 2012 to the European Union (EU) - Press Release". Nobelprize.org. Nobel Media AB 2014. Retrieved 14 May 2015, from http://www.nobelprize.org/nobel_prizes/peace/laureates/2012/press.html.

¹⁵ Wendt, Alexander, “The Agent-Structure Problem in International Relations,” *International Organization*, 41:3 (August 1987): 335-370.

¹⁶ Mandell and Tomlin, “Mediation in the Development of Norms to Manage Conflict,” 44-45.

position over disputants as a “lever to promote incremental change,” mediators can foster normative changes from the bottom up. This process starts with smaller, technical agreements that establish a degree of mutual trust between sides. Once a degree of trust is established, parties may move on to more substantial agreements. In this manner, Mandell and Tomlin argue, “expectations of conflict behavior are modified and in time replaced, even if only partially, by cooperation.”¹⁷

A conflict-resolution strategy that specifically seeks to replace adversarial norms with cooperative ones has greater potential to produce durable agreements than one that fails to account for disputants’ normative views. A rationalist strategy of offering incentives and applying penalties to change disputants’ cost-benefit calculations is more vulnerable to collapse because it creates less space for cooperation and a gradual establishment of mutual trust. In contrast, a mediator who fosters cooperative norms between disputants disrupts the system of reciprocal antagonism that fuels a conflict. Moreover, cooperative norms are self-sustaining in the same “codetermined, mutually constituted” manner as the antagonistic ones had been. Thus a strategy of encouraging normative cooperation can produce durable solutions more likely to survive the departure of the mediator, or the expiration of any temporary guarantees the mediator might have offered.

Indicators of Normative Evolution

To measure the evolution of cooperative norms in a mediated negotiation, I borrow from Mandell and Tomlin’s study of Kissinger’s mediation of the Israel-Egypt

¹⁷ Mandell and Tomlin, “Mediation in the Development of Norms to Manage Conflict,” 45.

dispute. They argue that normative evolution of an adversarial relationship into a cooperative one are seen in the development of three key cooperative norms.

The first of these indicators is the *norm of reciprocity*. The authors argue that observable patterns of exchange between disputants create both routine forms of exchange and an associated expectation among the disputants that their opponent is willing to meet certain defined obligations. This expectation leads “to a more accommodative relationship between the parties, as each has had sufficient opportunity to test the intentions of the other.”¹⁸

The second pattern is the *norm of functional cooperation*, which Mandell and Tomlin describe as disputants’ willingness and ability to separate technical and functional issues from whatever divisive political dispute is driving the conflict. The disputants’ ability to check their politics at the door “at minimum,” they argue, shows that “parties [have] learned that limited cooperation [can] co-exist with competition in an adversarial relationship.”¹⁹

The third pattern of cooperative behavior Mandell and Tomlin deem important to norm transformation is the *norm of mediated negotiation*, explained as disputants’ acceptance of a mediator, and the degree to which they rely on the mediator.

¹⁸ Mandell and Tomlin, “Mediation in the Development of Norms to Manage Conflict,” p. 53.

¹⁹ Mandell and Tomlin, “Mediation in the Development of Norms to Manage Conflict: Kissinger in the Middle East,” p. 52.

Research Design

The Case: The Serbia-Kosovo Dispute

A review of the dispute between Serbian officials and their Kosovo Albanian counterparts over the status of Kosovo demonstrates how a system of adversarial norms produced an extended stalemate between the sides. Moreover, an assessment of the EU's 2011-13 mediation of the conflict supports the contention that mediator-induced normative evolution interrupted the conflict system that ensured the stalemate, and precipitated unprecedented cooperation among adversaries.

With the war 1998-99 war having left some 10,000 people dead, the prospect of meaningful cooperation between Kosovo's ethnic Albanian government on one hand, and the Serbian government on the other, on the issue of Kosovo's status was for many years impossible. Each side held a normative perception of the other as an enemy with whom no common ground could exist. Thus ensued more than a decade of stalemate, both caused and reinforced by normative views of both sides that made cooperation impossible. However, the EU, during its intense mediation of the conflict between March 2011 and April 2013, used conditionality as a method with which it encouraged the Serbian and Kosovar sides to incrementally establish cooperative norms. The effort culminated in the Brussels Agreement.

Methodology

This thesis, through longitudinal analysis of the EU-mediated negotiations between Serbia and Kosovo, describes the incremental process in which cooperative norms were created and built upon using indicators developed by Mandell and Tomlin.

The following chapters examine five distinct phases of the Serbia-Kosovo conflict between March 2011, when the Belgrade-Pristina dialogue began, and April 2013, when the Brussels Agreement was concluded. In order, the phases are: early technical agreements, dispute escalation, the first breakthrough, interregnum, and the Brussels Agreement.

These empirical chapters begin with a brief overview of events that took place during the time period examined. Then, each explains that rationalist theories are insufficient to explain each phase's outcome, and makes a case that the disputants' normative views must be accounted for. Events are then examined in detail against Mandell and Tomlin's indicators of *reciprocity*, *functional cooperation*, and *mediated negotiation*. Each chapter closes with an overview of how the mediator-induced evolution of norms (or the absence of normative evolution) produced the negotiation outcome for that phase. *Reciprocity* is measured by observing the presence of deals in which the disputants made mutual concessions. *Functional cooperation* is observed by looking at the disputants' ability to make agreements while still maintaining rigid positions on the status of Kosovo—the controversy that lies at the heart of the Serbia-Kosovo conflict system. *Mediated negotiation* is observed in the disputants' willingness to accept and rely upon EU mediators.

Data Sources

Data demonstrating the evolution of shared cooperative norms between Serbia and Kosovo is primarily extracted from NGO and news reports. Belgrade's New Policy Center and the Brussels-based International Crisis Group produced particularly useful documents assessing both the nature and history of the Serbia-Kosovo conflict, and on

meetings of the Belgrade-Pristina dialogue. News reports come from both English-language outlets like Britain's *Guardian* and the *New York Times*, and from Serbian and Kosovar news reports that have been translated into English by the British Broadcasting Corporation's European monitoring service. Additionally, the Italian news organization *Adnkronos International* produced detailed reports about the negotiations, and is referenced frequently. Data has also been extracted from various documents produced by the EU.

With norms now established as a critical factor that defines options available to disputing parties, the following chapter explains a recent history of the Serbia-Kosovo dispute to explain how adversarial norms created the stalemate between them. Empirical chapters demonstrating normative change during the Belgrade-Pristina dialogue follow.

Chapter 3: Background to the Serbia-Kosovo Dispute

The stalemate between Serbia and Kosovo was rooted in the inconclusive end to a 1998-99 war between Serbian security forces and an ethnic Albanian insurgency in Kosovo, which placed Kosovo under international administration and left its status ambiguous. The following chapter explains the nature of this stalemate, arguing that entrenched adversarial norms between Serbian and Kosovar officials for many years made cooperation between them impossible. Moreover, it argues that while a rationalist strategy by the EU brought both sides to the negotiating table, EU conditionality was not powerful enough to induce the sides to agree on a normalization pact.

An Inconclusive War

In March 1998, Yugoslav president Slobodan Milošević ordered Serbian security forces to put down a separatist uprising in Kosovo driven by the Kosovo Liberation Army (KLA), an ethnic Albanian paramilitary group.²⁰ The violent KLA uprising followed nearly a decade of advocacy by Kosovo's Albanians for Kosovo's independence, a peaceful agitation largely ignored by the rest of the world.²¹ More than 10,000 people were killed and more than 90 percent of the province's Albanian population were

²⁰ "Kosovo Profile – Timeline," *BBC News*, November 11, 2014, accessed May 1, 2014, <http://www.bbc.com/news/world-europe-18331273>.

²¹ Tim Judah, *Kosovo: War and Revenge* (New Haven, CT; London: Yale University Press, 2000).

"Country Profile: Kosovo," *World News Digest*, Infobase Learning, n.d. Accessed May 18, 2015, <http://wnd.infobaselearning.com/recordurl.aspx?wid=10835&nid=477061&umbtype=0>.

displaced before a 78-day NATO air campaign by forced the withdrawal of Milošević's forces in June 1999.²²

In a development that created confusion about the status of Kosovo, the U.N. Security Council in June 1999 passed Resolution 1244, which declared Kosovo an international protectorate falling under the mandate of the United Nations Interim Administration Mission in Kosovo (UNMIK); it further authorized a NATO force known as KFOR to maintain peace and supervise the return of Kosovo Albanian refugees. Facing NATO pressure, the KLA agreed to disarm soon afterward. Most of Kosovo's ethnic Serb minority fled for Serbia in the wake of violent reprisals by returning Kosovo Albanians. The roughly 100,000 Serbs who remained clustered in a handful of enclaves primarily found in northern Kosovo, on the north bank of the Ibar River (see fig. 1).²³

Just as Kosovo Albanians had done previously in an effort to resist Serb rule, Serbs in Kosovo's northern enclaves established parallel institutions upon the establishment of UNMIK. These Belgrade-backed institutions included schools,

²² Neil Tweedie, "Kosovo War: Thousands killed as Serb forces tried to keep control of province," *Telegraph*, March 31, 2009, Accessed May 1, 2015, <http://www.telegraph.co.uk/news/worldnews/europe/kosovo/5084374/Kosovo-War-Thousands-killed-as-Serb-forces-tried-to-keep-control-of-province.html>.

Organization for Security and Cooperation in Europe Office for Democratic Institutions and Human Rights, *Kosovo/Kosova: As Seen, As Told: an Analysis of the Human Rights Findings of the OSCE Kosovo Verification Mission, October 1998 to June 1999* (Warsaw: 1999) accessed May 1, 2015, <http://www.osce.org/odihr/17772?download=true>.

²³ "A Kosovo Chronology," Frontline, PBS, n.d., Accessed May 18, 2015, <http://www.pbs.org/wgbh/pages/frontline/shows/kosovo/etc/cron.html>.
 "Yugoslavia Signs Kosovo Troop Withdrawal Agreement...U.N. Authorizes Kosovo Force; Other Developments," Facts On File, June 10, 1999, Accessed May 18, 2015, <http://wnd.infobaselearning.com/recordurl.aspx?wid=10835&nid=473139&umbtype=0>.

hospitals, courts, and security forces, all of which operated outside UNMIK jurisdiction.²⁴

The existence of two separate sets of infrastructure—one that operated under Resolution 1244, and another that reported to Belgrade—gave rise to practical problems. These included, among other issues, the potential for double jeopardy under dual court systems; complications in the administration of property and the allocation of property rights; and a cottage industry of document forgery that sprang up to address situations where UNMIK documents were not accepted in Serb enclaves, and Serbian documents belonging to Kosovo Serbs were not accepted by UNMIK.²⁵ The existence of Serb-backed parallel structures in Kosovo became a major point of contention between Serbia and Kosovar authorities, with Kosovar officials angry that they had no authority in northern Kosovo; and Serbian officials determined to maintain the parallel structures in order to keep a foothold in Kosovo, a region widely regarded in Serbia as a historically integral part of the country. The presence of the Belgrade-backed parallel institutions in northern Kosovo lay at the heart of the Serbia-Kosovo stalemate, and came to represent a direct impediment to Serbian and Kosovar integration into the EU.

²⁴ Organization for Security and Cooperation in Europe Mission in Kosovo, Department of Human Rights and Rule of Law, *Parallel Structures in Kosovo*, October 2003, 6-7, accessed May 18, 2015, <http://www.osce.org/kosovo/42584?download=true>.
 Wright, Robert, “Rugova Returns to Hero’s Welcome,” *Financial Times*, 16 July 1999. Retrieved 18 May 2015 from <http://www.lexisnexis.com/hottopics/lnacademic>.
 International Crisis Group, *UNMIK’s Albatross: Tackling Division in Mitrovica, Balkans Report No. 131* (Pristina/Belgrade/Brussels: June 3, 2002) accessed May 1, 2015, <http://www.crisisgroup.org/~media/Files/europe/Kosovo%2031.pdf>.

²⁵ European Union: European Commission, “Commission Staff Working Paper: Kosovo* 2011 Progress Report,” SEC(2011) 1207 Final, Brussels, October 12, 2011. Accessed May 17 2015, http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/ks_rapport_2011_en.pdf.

“Parallel Structures in Kosovo,” October 2003, 6-7.

Failed Negotiations Precede Independence Declaration

The first in a series of failed negotiations between Serbian and Kosovar officials took place in October 2003, with a one-time meeting in Vienna between Serbian prime minister Zoran Živković, and Ibrahim Rugova, who had been elected Kosovo's president the previous year. The summit—attended by high-ranking officials from the EU, NATO, the OSCE, came only after weeks of diplomatic wrangling to bring the two sides to the table. Živković and Rugova, according to the *Financial Times*, “could barely bring themselves to speak to each other.”²⁶

A second summit in Vienna took place in July 2006, between Serbian president Boris Tadić and Serbian prime minister Vojislav Koštunica, and Kosovo president Fatmir Sejdiu and Kosovo prime minister Agim Çeku. The U.N.-mediated summit, designed to address the status of Kosovo, followed a number of violent clashes in Kosovo during 2004 and 2005 and was no warmer than the previous one; it concluded with Serbian officials ruling out independence but offering Kosovo broad autonomy, and Kosovar officials insisting they would accept independence and nothing less.²⁷

²⁶ “First direct talks between Belgrade and Pristina held in Vienna,” NATO Update, 15 October 2003, Accessed 18 May 2015, <http://www.nato.int/docu/update/2003/10-october/e1014a.htm>.

“Kosovo Endgame: Vienna Meeting Must Pave Way to Final Settlement Talks,” *Financial Times*, 15 October 2003, Accessed May 18, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

Stefan Wagstyl, “Talks Due to Start in Vienna Today Could Clear the Way to a Final Political Settlement, Greater Foreign Investment and Eventual EU Membership,” *Financial Times*, October 14, 2013. Accessed May 18, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

²⁷ “Kosovo Profile – Timeline,” BBC News.

“Vienna Talks on Kosovo Produce No Result – Serbian Agency,” BBC Monitoring Europe, 27 July 2006, accessed May 18 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

U.N.-mediated talks between Serbian and Kosovar delegations on the status of Kosovo continued sporadically through March 2007, when head U.N. mediator Martti Ahtisaari declared the negotiations dead and told U.N. Secretary General Ban Ki Moon that “independence is the only option for a politically stable and economically viable Kosovo.”²⁸ Ban announced later that the mediation effort had ended because “neither side was willing to yield on the basic question of sovereignty.” With broad Western backing, and in the face of vehement Serbian opposition, Kosovo unilaterally declared independence on February 17, 2008.²⁹ The new European Union Rule of Law (EULEX) mission deployed to Kosovo in 2008 thousands of civil servants including judges, police, and customs officials, marking the start of the transfer of international authority over Kosovo to the EU from the U.N.³⁰

Serbia, in the meantime, signed a Stabilization and Association Agreement (SAA) with the EU in April 2008, and subsequently adopted a policy of dealing with the EU accession process and the issue of Kosovo’s status as separate issues. The Serbian government worked with the EU on key issues, notably recognizing the authority of EULEX, but at the same time continued to dispute the legality of Kosovo’s independence declaration and sought to block Kosovo’s accession to various international bodies.³¹

²⁸ Colum Lynch, “U.N. Mediator Calls for Kosovo Independence; Chief Negotiator Says Kosovars, Serbian Government Will Never Agree on Rule,” *Washington Post*, March 21, 2007, accessed May 19, 2015 from <http://www.lexisnexis.com/hottopics/lnacademic>.

²⁹ Adam Beha, “Disputes Over the 15-Point Agreement on Normalization of Relations Between Kosovo and Serbia,” *Nationalities Papers* 43, no. 1 (January 2015): 102-121.

³⁰ “Kosovo: EU Rule of Law Mission Deployed,” *Facts On File*, December 11, 2008, accessed May 19, 2015,

<http://wnd.infobaselearning.com/recordurl.aspx?wid=10835&nid=256993&umbtype=0>.

³¹ Leon Malazogu and Vladimir Todoric, *Belgrade-Pristina Dialogue: Transformation of Self-Interest Required*, report prepared for the New Policy Center Project on Ethnic

The ICJ Decision and Serbia's Turning Point

In September 2008, Serbia requested a nonbinding opinion on Kosovo's declaration from the International Court of Justice (ICJ), which in a 10-4 decision issued in July 2010 decided that it had not violated international law.³² Serbia then proposed a U.N. resolution seeking to water down the ICJ opinion. The move outraged a number of powerful EU officials, who informed Serbian officials that further preliminary moves to integrate Serbia into the EU would be blocked if it continued the effort. This development marked a turning point for Serbia, which was now precluded from arguing that its Kosovo policy was separate from its EU bid.³³ Having come under considerable EU pressure, Serbia modified its U.N. motion to propose a dialogue between Serbia and Kosovo "to improve people's lives." The move, combined with continued pressure from the EU, brought Serbia to EU-mediated negotiations.³⁴

The Kosovar side was initially reluctant to join the dialogue. A messy, fraudulent 2010 election had left it with a weak coalition government; as Tadić and Ashton worked to set up the dialogue, Kosovar officials reportedly perceived a ploy to bring Kosovo to the table at a time when it was politically vulnerable. The reluctance of five EU member states to recognize Kosovo made the development of EU carrots to pull in the Kosovar side difficult. While the possibility of opening negotiations on a stabilization and

Relations Kosovo (Pristina/Belgrade: November 2011) accessed May 5, 2015, http://www.cnp.rs/resources/files/dialogue_bg_pr.pdf.

³² "International News: Kosovo Independence Ruled Legal," *Facts On File*, July 22, 2010, accessed May 10, 2015,

<http://wnd.infobaselearning.com/recordurl.aspx?wid=10835&nid=267194&umbtype=0>.

³³ Malazogu and Todoric, "Belgrade-Pristina Dialogue: Transformation of Self-Interest Required," 8-9.

³⁴ MacDonald, Neil, "Serbia and Kosovo Hold Talks," *Financial Times*, March 9, 2011, accessed May 19, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

association agreement with the EU had been on the table from the start, an additional offer of eventual visa liberalization finally succeeded in convincing Kosovar officials to join.³⁵

In contrast to the U.N.'s emphasis on a binding resolution to the status issue—an issue to which Ban had linked the talks' failure directly—the EU had indicated that the achievement of a permanent resolution to the question of Kosovo's status would not be on the agenda. Ashton told the Serbian newspaper *Politika* two days before the dialogue opened that “there is no point broaching topics that one of the parties is not willing to discuss.” She added that she foresaw negotiations on “many topics that both parties have an interest in for the sake of their own peoples,” and that Serbia and Kosovo could “find a way regardless of the question of status.”³⁶

Crucially, the EU also indicated that Serbia could continue on with the accession process without having to recognize Kosovo. It had to instead meet two criteria: ensure that parallel structures in north Kosovo were dismantled, and “normalize” relations with authorities in Pristina.³⁷

³⁵ Shqipe Mjekiji, “Kosovo-Serbia talks and EU integration,” *Economics Euro Crisis in the Press: London School of Economics and Political Science*, April 17, 2013, accessed May 21, 2015 from <http://blogs.lse.ac.uk/eurocrisispress/2013/04/17/kosovo-serbia-talks-and-eu-integration/>.

Malazogu and Todoric, “Belgrade-Pristina Dialogue: Transformation of Self-Interest Required,” 9.

³⁶ “EU’s Ashton says Kosovo-Serbia Talks ‘Essential’ for Region’s EU Prospects,” *BBC Monitoring Europe*, March 9, 2011, accessed May 19, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

³⁷ Malazogu and Todoric, “Belgrade-Pristina Dialogue: Transformation of Self-Interest Required,” 9.

Bringing Parties to the Table

The EU, in its capacity as a mediator, drew both the Serbian and Kosovar sides to the negotiating table through a rationalist strategy of rearranging the disputants' priorities through the use of carrots and sticks. For Serbia, the EU successfully leveraged conditionality to get Serbia to drop efforts to dispute the ICJ opinion, and drew it to the negotiating table with the prospect of membership. For Kosovo, the visa liberalization carrot was applied.

Yet this effort was not enough to induce the sides to participate in good-faith negotiations once they sat down. Each side's perception of the other was colored by recent memories of more than 10,000 war deaths, large-scale forced migration, and the destruction of countless livelihoods. Mutual trust had never been established. The New Policy Center described early stages of the dialogue as having "induced Kosovo and Serbia to say the right things [and] appear pro-dialogue," but in which both sides viewed the negotiations as a zero-sum game in which cooperation strengthened the opponent's position at their expense.

In sum, Serbia and Kosovo would never have agreed to any mediation effort if the normalization of relations between them were not directly linked with EU integration for each. Indeed, Serbian prime minister Ivica Dačić and Kosovo prime minister Hashim Thaçi have both affirmed that this was the case.³⁸ It was undeniably parallel cost-benefit calculations, in which each side decided that they were better with the EU than without it, that brought Serbia and Kosovo to the negotiating table in Brussels. Yet, their normative

³⁸ Judy Dempsey, "How the EU brought Serbia and Kosovo to a deal," Carnegie Europe, February 2, 2014, accessed May 28, 2015, <http://carnegieeurope.eu/strategiceurope/?fa=54403>.

views still prohibited cooperation, and the stalemate that began in 1999 was intact at the start of the Belgrade-Pristina dialogue in March 2011. There was not yet a foundation upon which to settle the political matters of the parallel institutions, or normalization of relations.

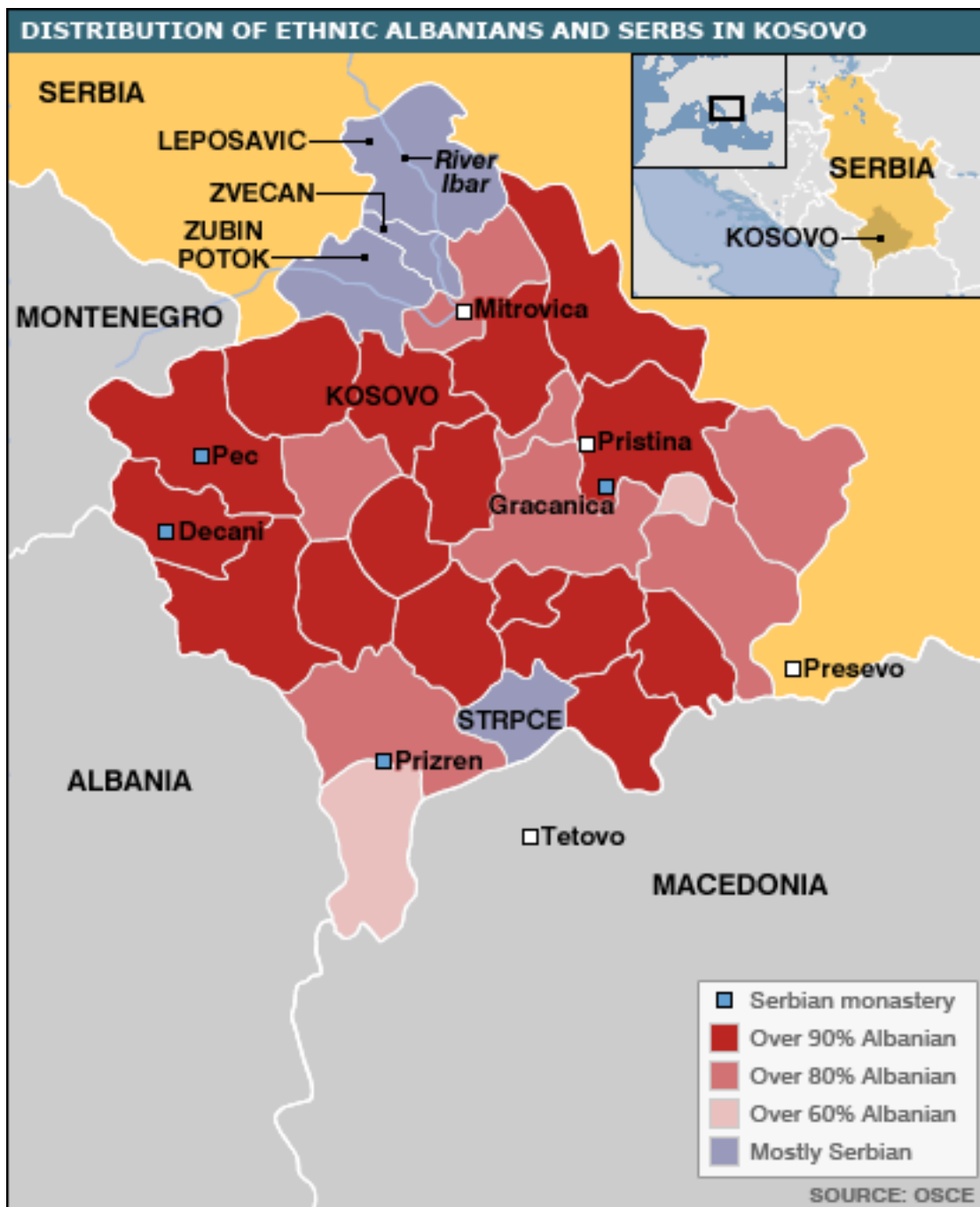


Fig 1: The distribution of ethnic Albanians and Serbs in Kosovo, 2008.³⁹

³⁹ Organization for Security and Cooperation in Europe (OSCE), "Distribution of ethnic Albanians and Serbs in Kosovo," BBC News, February 17, 2008, accessed May 29, 2015, <http://news.bbc.co.uk/2/hi/europe/7249034.stm>.

Chapter 4: Early Technical Agreements

It was within this adversarial culture that Serbian and Kosovar delegations approached the first round of negotiations on March 8, 2011, held in the Brussels office of longtime EU diplomat Robert Cooper. Five rounds of talks, each of which took place over one or two days, were held there between March 8 and July 4, 2011, when the Serbian and Kosovar delegations emerged with a deal that addressed several technical issues that were impeding the normalization of relations.

In this chapter, I first explain why rationalist theories cannot explain how these technical agreements were achieved. I then propose that a gradual transformation of adversarial norms between Serbia and Kosovo permitted the deal, and that Cooper was essential to the process of normative transformation. The subsequent section surveys events between March 8, 2011, and July 4, 2011, to demonstrate this claim.

What Prompted the Early Technical Agreements?

Serbia and Kosovo's governments were drawn to the negotiating table as the result of a rationalist calculation that they were better off with the EU than without it. However, it was not rational-choice calculations that produced the July 4 agreement. If the pull of EU membership were solely responsible, then the early technical agreements would have been struck sooner. Moreover, if Cooper's role as a mediator had been to rearrange disputants' cost-benefit calculations by applying carrots and sticks, his approach to mediation would have been drastically different.

In a working paper arguing that the power of EU conditionality can dramatically alter potential members' cost-benefit calculations, Moravcsik and Vachudova claim that EU applicants adopt the EU's preferred positions "because the basic benefit offered to

them—membership—is of such great value.” They add that membership benefits “so outweigh the costs—that applicants make concessions when no coercion is threatened.”⁴⁰ Yet if EU conditionality were that powerful, extended, EU-mediated negotiations between Serbia and Kosovo would not have been necessary. A lopsided cost-benefit calculation favoring the EU’s terms would have become apparent to the disputants immediately—or at least very quickly—and basic technical agreements would have been produced much faster. The July 4 agreement cannot be the product of EU conditionality because it took five negotiation rounds before the sides came together.

Let us assume, then, that because conditionality alone was insufficient to close the July 4 deal, Cooper prodded the sides into making technical agreements through the application of carrots and sticks. In this case, we would expect to see Cooper linking offers and threats to cooperation on basic technical agreements. This, however, was not the case; the incentive to cooperate—future EU integration—remained the same, without sweeteners or penalties from Cooper. The deal cannot have been the result of carrot-and-stick incentives, because Cooper did not employ them.

An explanation prioritizing the essential role of the disputants’ normative perceptions would see evidence suggesting that new, shared norms of *reciprocity*, *functional cooperation*, or *mediated negotiation* were beginning to emerge, and that adversarial norms simultaneously decayed to the extent that basic technical deals became possible.⁴¹ A survey of events between the start of negotiations March 8 and the conclusion of the first agreements July 4 demonstrates that this was indeed the case, and

⁴⁰ Moravcsik and Vachudova, “National Interests, State Power, and EU Enlargement.” 10.

⁴¹ Mandell and Tomlin, “Mediation in the Development of Norms to Manage Conflict: Kissinger in the Middle East,” 43-55.

that Cooper's mediation effort was essential to the creation of a new normative environment that permitted the early technical agreements.

The Belgrade-Pristina dialogue: March 8 – July 4, 2011

Years of mistrust and antagonism between Serbia and Kosovo left the sides with no shared cooperative norms at the start of the Belgrade-Pristina dialogue in March 2011. However, Cooper's mediation of the first five meeting between them resulted in the incremental establishment of cooperative norms, which by July of that year allowed for a set of modest technical agreements that deep animosity between the sides had previously prevented.

Round One

After the close of the first round of talks on March 9, 2011, the only common ground that existed between the sides was a willingness to attend mediated negotiations. Even "cooperation" between them on that matter was flimsy, because Serbia and Kosovo had agreed with Cooper to attend the meetings, and not with one another. Kosovo's lead negotiator, Edita Tahiri, March 9 remarked that her delegation's goals at the dialogue amounted to "[strengthening] our independence and our relations with the U.S. and EU," reflecting a disinterest in engaging with her Serbian counterparts. The Serbian delegation, for its part, indicated a keenness to engage with the Kosovar side on technical agreements. However, this position came not from any desire to work alongside Kosovar officials; instead, Serbian negotiators were transparent in their desire to strike technical

deals with Kosovo, and then to use them as a stepping-stone to open political negotiations on Kosovo's status.⁴²

Tahiri and Serbian lead negotiator Borislav Stefanović after the meeting issued statements indicating that neither would budge on the matter of Kosovo's status. Tahiri declared that matters of Kosovo's sovereignty were "irrevocably settled."⁴³ Stefanović, for his part, indicated a desire to "start resolving the many piled-up problems we have in Kosovo on behalf of the people who live there," without "giving up our [Serbian] national position."⁴⁴ Each side publicly characterized the talks in terms of the status dispute; clearly, there existed no shared norms of *reciprocity*, *functional cooperation*, or *mediated negotiation*, which Mandell and Tomlin argue are necessary for the opening of cooperative windows.

The Fifth-Round Breakthrough

Three inconclusive negotiation rounds were held in Brussels March 28, April 15, and May 17-18. In early June 2011, Cooper circulated among the delegations a proposal outlining accords on a handful of technical issues that had been discussed in earlier meetings. The fifth round of the Belgrade-Pristina dialogue, held July 4, produced a first set of technical agreements.

⁴² "Negotiations to start in Brussels," *Danas*, trans. BBC Monitoring Europe, February 27, 2011, accessed May 21, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>. Malazogu and Todoric, "Belgrade-Pristina Dialogue: Transformation of Self-Interest Required," 12.

⁴³ Valmir Klaiqi, "Final Preparations," *Express*, trans. BBC Monitoring Europe, February 25, 2011, accessed 21 May from <http://www.lexisnexis.com/hottopics/lnacademic>. MacDonald, Neil, "Serbia and Kosovo hold talks."

"Serbia and Kosovo meet in Brussels for EU-backed talks," BBC News, March 8, 2011, accessed May 21, 2015, <http://www.bbc.com/news/world-europe-12672846>.

⁴⁴ MacDonald, Neil, "Serbia and Kosovo hold talks."

Under the deal, Serbia agreed to accept identification cards, license plates, and automobile insurance issued by Kosovar institutions, effectively allowing holders of Kosovar documents free movement into Serbia. Serbia also agreed to provide both to Kosovar authorities and to EULEX official copies of civil registry books—documents Kosovo officials needed in order to conclude a visa liberalization agreement with the EU. Finally, the sides agreed recognize diplomas issued by each other’s universities. That provision was critical for ethnic Albanians from southern Serbia who had attended universities in Kosovo. Most details of the deals’ implementation were left to future meetings.⁴⁵

In an interview with the Associated Press, Serbian foreign minister Vuk Jeremić said the agreement was reached after the Kosovar side had “moderated their demands,” but did not offer specifics.⁴⁶ Tahiri told the Pristina-based daily *Express* that her delegation accepted “in principle all of the proposals Cooper presented” calling them “a good basis to ensure a lasting agreement” that would “take Kosovo and Serbia closer to the EU.” Stefanović, in the deal’s wake, called the accords “a major positive step towards resolving important issues.” Stefanović also stated that accords did not amount to a Serbian recognition of Kosovo, while Tahiri characterized the deal as a sign that Serbia

⁴⁵ Kosovo Institute for Policy Research and Development (KIPRED), “The Analysis of the Implementation of the Technical Agreements Between Kosovo and Serbia, 2/13,” Deda, Ilir, and Qosaj-Mustafa, Ariana, Prishtina: (June 2013): 5. New Policy Center, *(Is There) A Way Forward for Serbia and Kosovo?* (Belgrade: March 2013): 4, accessed May 6, 2015, <http://www.cnp.rs/en/articles/view/94>.

⁴⁶ George Jahn, “AP Interview: Serb diplomat wants Kosovo progress,” Associated Press, July 4, 2011, accessed May 23, 2015, <http://news.yahoo.com/ap-interview-serb-diplomat-wants-kosovo-progress-193611589.html>.

was moving toward recognition of Kosovo's independence declaration.⁴⁷ While the sides still characterized the negotiations in terms of the status dispute, a slight change in tone is reflected in the public remarks issued after the fifth round, in which the sides begin to signal the beginnings of an expectation that deals can be achieved at the negotiating table.

Normative Evolution

Events between the start of mediated talks on March 8 and the conclusion of the first agreements July 4 reflect the roots of a process where adversarial norms between Serbia and Kosovo that had prevented previous cooperation began to decay, and in which cooperative norms began to replace them.

Serbia and Kosovo's pledge to begin recognizing one another's university diplomas marked the first mutual exchange between the two sides, and reflects the early establishment of a norm of *reciprocity*. While not immediately implemented, the deal's fulfillment in the future would demonstrate to both Serbia and Kosovo that the other was capable of keeping their word. Jeremic's assertion that Serbia's concessions came after the Kosovo side "moderated" unspecified demands also suggests a degree of reciprocity that had not been possible before the sides met in Cooper's office in Brussels.

Beginnings of a norm of *functional cooperation*—or an acceptance by the disputants that agreements can be reached within an adversarial relationship—are evident

⁴⁷ "Conflicting Interpretations." *Danas*, July 7, 2011, accessed May 28, 2015, <http://www.lexisnexus.com/hottopics/lnacademic/>.

"Kosovo, Serbia agree on issues to ease strain," Associated Press, 3 July 2011, accessed May 23, 2015, <http://www.lexisnexus.com/hottopics/lnacademic/>.

Valmir Klaiqi, "Here is the Agreement," *Express*, trans. BBC Monitoring Europe, July 1, 2011. Accessed May 23, 2015, <http://www.lexisnexus.com/hottopics/lnacademic/>.

Lawrence Marzouk, "Kosovo, Serbia, Reach Breakthrough Deal," *Balkan Insight*, July 4, 2011, accessed May 23, 2015, <http://www.balkaninsight.com/en/article/kosovo-serbia-reach-breakthrough-deal>.

in each side's ability to reach agreements while also maintaining a hard-line position on Kosovo's status in statements to the media. Finally, beginnings of a norm of *mediated negotiation*—disputants' acceptance and reliance on the mediator—is reflected in the disputants' consideration of Cooper's June proposal; that the proposal was the basis of the July 4 deal suggests that each side had enough respect for Cooper to consider it in good faith. Moreover, shared trust in Cooper is more evident after the close of the fifth round. While the Serbian side had expressed openness to mediated talks from the beginning, by July, Tahiri was publicly praising a deal Cooper had negotiated between Kosovo and Serbia as a basis for "bringing Serbia and Kosovo closer to the EU."

Thus, five rounds of EU-mediated negotiations allowed for the gradual and visible establishment of cooperative norms between Serbia and Kosovo, and the simultaneous decay of adversarial ones. While these normative transformations were modest, they were significant enough to open a window to cooperation on the early technical agreements, which had not been visible previously.

The conclusion of the early technical agreements also created a small cooperative foundation to build upon in future rounds of the Belgrade-Pristina dialogue. However, the chasm between the sides remained wide ahead of the sixth round, set to begin later in July 2011.⁴⁸

⁴⁸ "Team chief, EU official discuss next Kosovo round," *Beta*, July 14, 2011. Retrieved May 23, 2015, http://www.b92.net/eng/news/politics.php?yyyy=2011&mm=07&dd=14&nav_id=75433.

Chapter 5: Dispute Escalation

With a slate of modest agreements in hand, Stefanović and Tahiri were set to return to the sixth round of talks in Cooper's office in Brussels on July 20, 2011. Issues on the agenda included ones that Serbian and Kosovar officials had indicated they were willing to cooperate on—such as on creating logistical frameworks for previous deals, and on deals to normalize communications infrastructure. However, also on the agenda was the thorny issue of free trade, a topic that required the parties to address a Serbian trade embargo on Kosovar goods that was enacted in the aftermath of the 2008 independence declaration, and had resulted in an alarming trade imbalance for Kosovo. Cooper, sensing an impasse on the trade issue, announced the postponement of the meeting to September. His announcement came hours before the sixth round had been set to open.

Almost immediately after the delay was announced, Kosovar police attempted to seize two customs posts in northern Kosovo, setting off violent clashes between the officers and Kosovo Serbs who lived nearby. In the aftermath of the violence, Kosovo Serbs erected barricades outside of several of the checkpoints that both impeded free movement and served as a symbolic reminder for local people of the ongoing dispute.

In this chapter, I will first argue that the impasse between Serbia and Kosovo over the customs checkpoints demonstrates that EU conditionality is not as powerful a force as Moravcsik and Vachudova suggest. I will then argue that the conflict between Serbia and Kosovo escalated because Cooper adopted a rationalist mediation strategy rooted in the idea that EU conditionality can break stalemates. A section surveying events in July 2011

argues that Cooper's strategy interrupted the establishment of cooperative norms between Serbia and Kosovo, and caused the dispute to escalate.

Why did the Dispute Escalate?

Cooper's decision to delay the July 20 round of the Belgrade-Pristina dialogue over an impasse between the two sides over customs checkpoints demonstrates that the draw of EU membership is not all-powerful. If it were, then Serbia and Kosovo would have set aside their adversarial relationship, and held their noses to conclude some agreement on the matter earlier in the negotiation process.

Cooper's strategy of delaying the meeting was rooted in the erroneous notion that the powerful draw of EU membership could convince the antagonistic sides to make a deal on the customs checkpoints in the absence of mediated talks. The delay of the meeting was a stick, in effect, with which Cooper demonstrated that a failure to comply with an EU directive to address the issue would result in EU disengagement. It represented an attempt by Cooper to change Serbia and Kosovo's cost-benefit calculations so that they would return to talks in September with a view that cooperation on the checkpoints was the most beneficial option.

However, the meeting's postponement instead interrupted the continued evolution of cooperative norms. Cooper blocked off the one avenue that allowed cooperation between Serbia and Kosovo in July 2011; subsequently, new, non-cooperative courses of action suddenly became visible, leading to the dispute's escalation.

Interruption of the Belgrade-Pristina dialogue: July 2011 – September 2011

Stefanović and Hashim Thaçi, Kosovo's prime minister, in statements to the media just ahead of the planned July 20 meeting had indicated some expectation that further agreements on certain issues might soon be achieved. Serbia's Beta news agency reported July 14 that Stefanović said he and Tahiri "agreed that we should...try and solve the issues of the cadaster [civil registry], university diplomas, electricity and telecommunication." The Kosovar newspaper *Express* had reported days earlier that Thaçi "spoke about the next meeting between the Kosova and Serbia teams," saying "that telecommunications, energy, and customs seals were points on which [Pristina] and Belgrade could agree."

These statements reflect a development of shared cooperative norms. Any agreements between the sides would probably involve some degree of *reciprocal* concessions. The sides' public willingness to approach the issues reflect a developing norm of *functional cooperation* in which they were capable of detaching certain technical issues from the fundamental political dispute between them; it also suggests confidence that the matters could be solved in Brussels, indicating a developing norm of *mediated negotiation*.

These cooperative norms were not yet strong enough, however, to achieve any agreement on politically charged issue of control of customs posts near the Serbian border. After Kosovo's 2008 independence declaration, Serbia began enforcing an embargo on Kosovar goods. In the meantime, it had continued to export to Kosovo more than 300 million euros' worth of products annually. Kosovo's exports to Serbia, in turn, amounted to about 4 million euros per year, and they arrived in Serbia via a circuitous

and expensive manner: either via smuggling routes or by documents issued by parallel institutions. The discrepancy had resulted in a serious trade imbalance for Kosovo, and a politically charged dispute.⁴⁹

Hours before the July 20 talks were set to open, and with the Kosovar delegation having already arrived in Brussels, Cooper abruptly canceled the session and postponed the sixth meeting to September. His decision was prompted by an impasse in which Serbia had rejected the design of Kosovo's customs stamps, claiming that recognition of the stamps was tantamount to recognizing Kosovo's independence. In public remarks, Cooper said "it makes no sense to hold a meeting unless we are able to reach an agreement."⁵⁰ Both the Serbian and Kosovar delegations quickly issued statements claiming that the other side's refusal to comply with EU trade rules had prompted Cooper's decision to cancel the meeting.⁵¹

⁴⁹ "Balkans: Kosovo bars Serbian goods in tit-for-tat trade spat," Adnkronos International, dist. by McClatchy-Tribune Business News, July 21, 2011, accessed May 23, 2015, <http://www.lexisnexus.com/hottopics/lnacademic>.
 "EU Calls For Calm As UN Security Council Holds Emergency Meeting On Kosovo Violence," RFE/RL, July 27, 2011, accessed May 23, 2015, http://www.rferl.org/content/security_council_meeting_kosovo_urgent/24279185.html.
 Malazogu and Todoric, "Belgrade-Pristina Dialogue: Transformation of Self-Interest Required," 18.

⁵⁰ "Balkans: Kosovo bars Serbian goods in tit-for-tat trade spat," Adnkronos International.

"Kosovo: Talks with Serbia postponed, both sides blame the other," Adnkronos International, dist. by McClatchy-Tribune Business News, July 20, 2011. accessed May 23, 2015, <http://www.lexisnexus.com/hottopics/lnacademic>.

"Next round of talks between Kosovo, Serbia deferred until September," RTV Kosovo, trans. BBC Monitoring Europe, July 20, 2011, accessed May 23, 2015, <http://www.lexisnexus.com/hottopics/lnacademic>.

⁵¹ "Balkans: Kosovo bars Serbian goods in tit-for-tat trade spat," Adnkronos International.

"Kosovo: Talks with Serbia postponed, both sides blame the other," Adnkronos International.

Effects of the Dialogue's Postponement

The postponement of the sixth meeting between Stefanović and Tahiri had immediate repercussions in Kosovo. A day after Cooper's announcement, authorities in Pristina announced a ban on the entry of Serbian goods into Kosovo, indicating that it was a "reciprocal" measure against the Serbian ban on Kosovar goods.⁵² On the night of July 25, Kosovar police attempted to seize two customs posts in north Kosovo, on the Serbian border, in order to enforce the ban. (The EULEX-administered customs posts were operated by Kosovo Serbs.)⁵³

The move prompted a furious reaction in north Kosovo. One Kosovar policeman was killed in a clash with angry Kosovo Serbs, and one of the disputed customs posts was firebombed. Kosovo Serbs built several barricades to block traffic, with officials in Belgrade offering tacit support for the structures. Kosovar police retreated July 31 and KFOR took control of both checkpoints. KFOR subsequently permitted only passenger traffic to cross the border, effectively enforcing Kosovar officials' reciprocal embargo. They also turned away from the crossing Stefanović and the Serbian minister for Kosovo, Goran Bogdanović. In response, Serbian officials argued that Kosovo's ban had the

"Serbian businessmen decry Kosovo's import ban," *Politika*, trans. BBC Monitoring Europe, July 24, 2011. Retrieved May 23, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

⁵² "Balkans: Kosovo bars Serbian goods in tit-for-tat trade spat," Adnkronos International.

"Serbian businessmen decry Kosovo's import ban," *Politika*.

⁵³ "Kosovo police blocked by locals at northern border, conflict looming," HINA, July 26, 2011, accessed May 24, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>. Malazogu and Todoric, "Belgrade-Pristina Dialogue: Transformation of Self-Interest Required," 19-21.

effective support of the EU, a claim EU officials denied.⁵⁴ Meanwhile, Thaçi said police had moved to seize the border posts in order to block Serbian plans for the ethnic partition of Kosovo.⁵⁵

Small-scale clashes between Kosovo Serbs and Albanians took place almost daily in the aftermath of the customs checkpoint dispute, during the lead-up to the next meeting between Stefanović and Tahiri in Brussels.⁵⁶

Normative Evolution

In Mandell and Tomlin's case study on Kissinger's mediation of the Israel-Egypt dispute, they argue that Kissinger allowed a 13-month pause in negotiations because cooperative norms fostered in earlier negotiation rounds were not yet "internalized by the disputants," and "had not evolved sufficiently to enable the parties to cooperate" on certain difficult matters. This was not the case on July 20, 2011, when the sixth meeting of the Belgrade-Pristina was set to open. The Serbian and Kosovar sides ahead of the round had openly indicated an expectation that certain technical deals would be concluded. This suggests that the parties had begun to internalize the idea that they could achieve certain desired outcomes by participating in technical negotiations, even while maintaining rigid political positions on the status of Kosovo.

⁵⁴ Judy Dempsey and Neil MacFarquhar, "Kosovo Firebombing Underscores New Ethnic Tensions," *New York Times*, July 28, 2011, accessed May 24, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

"Kosovo: NATO reopens border crossings, Serb officials turned back," Adnkronos International, dist. by McClatchy-Tribune Business News, August 1, 2011, accessed May 24, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

⁵⁵ "NATO in shootout with Kosovo Serbs," *Australian*, July 29, 2011, accessed May 24, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

⁵⁶ Prelec, "North Kosovo Meltdown."

In other words, a developing norm of *functional cooperation* was evident. Moreover, these new, publicly stated expectations of cooperation had nothing to do with rationalist cost-benefit calculations. The material costs and benefits remained the same; what changed was the decay of adversarial norms, and the establishment of cooperative ones. If the July 20 meeting gone forward as planned, Stefanović and Tahiri would have likely reached some technical agreements, perhaps on telecommunications or on implementation of previous deals, if not on customs. A normative expectation for modest cooperation had been established, and permitted deals that were previously impossible.

Such accords would have strengthened the *functional cooperation* norm, at least. They probably would have involved a degree of cooperative *reciprocity*. Finally, had Cooper assisted with or overseen the conclusion of new accords, it would have contributed to his own credibility among the disputants, thus strengthening the development of a shared norm of *mediated negotiation*. The conclusion of such technical deals would have strengthened a cooperative foundation upon which a deal addressing the customs dispute might have been later addressed.

The dispute between Serbia and Kosovo escalated in June 2011 because Cooper, by postponing the meeting, blocked the ongoing establishment of cooperative norms, evidently surmising that the draw of EU membership would convince the disputants to adopt more cooperative positions. However, the move backfired. Because the option to cooperate was no longer available and a cause of antagonism highlighted, uncooperative courses of actions became visible. Kosovo's government tried to seize the customs posts by force, resulting in violence and a takeover by KFOR of infrastructure previously operated by Kosovo Serbs. The Kosovo government's move also prompted the erection

of the roadblocks—which, according to Belgrade’s New Policy Center, later interfered with the implementation of some technical agreements.⁵⁷ The International Crisis Group in September 2011 described the conflict’s escalation over the summer as presenting “the highest risk of violence and death the Western Balkans have faced since 2008.”⁵⁸

Cooper neglected the importance of norms in July 2011, and instead attempted to force cooperation by signaling that there would be consequences for a failure by Serbia and Kosovo to address the customs posts issue. The strategy interrupted the visible development of cooperative norms; with operations for cooperation limited, it suddenly became feasible for the Kosovar side to undertake non-cooperative activities. Cooper’s interruption of cooperative norm development resulted in the Serbia-Kosovo dispute’s escalation.

⁵⁷ New Policy Center. “(Is There) A Way Forward for Serbia and Kosovo?” 8.

⁵⁸ Prelec, “North Kosovo Meltdown.”

Chapter 6: The First Breakthrough

The sixth round of the Belgrade-Pristina dialogue resumed in September 2011. With cooperative avenues reopened, Serbia and Kosovo concluded a series of increasingly consequential deals in dialogue rounds over the following weeks. The eighth round of the Belgrade-Pristina dialogue, held in early December, produced a breakthrough wherein Serbia agreed to permit the presence of Kosovar police at customs checkpoints in northern Kosovo, and Kosovo agreed to drop demands that the customs posts bear Kosovar insignia. The deal directly addressed Cooper's insistence that Serbia and Kosovo resolve problems related to control of customs checkpoints in northern Kosovo; following an October recommendation by the European Commission to grant membership candidacy to Serbia, the latest deal appeared to clear the way for the European Council to grant Serbia EU candidacy status at a summit set for early December.

This chapter first rejects the notion that Cooper's move to impose a delay in the Belgrade-Pristina dialogue precipitated the breakthrough on the customs checkpoints. It then argues instead that the breakthrough happened because the disputants were able to recall a shared history of cooperation, and built upon it to achieve an unprecedented rate of normative cooperation by which it became feasible for Serbia to make a major concession.

What Triggered the First Breakthrough?

With the draw of EU membership inadequate to induce Serbia and Kosovo to meet an EU priority of resolving the customs dispute, Cooper appears to have gambled that a time-out would prompt the sides to reconsider their priorities. If this strategy had

been effective, a deal resolving the matter of who controlled the customs posts would have come right as the dialogue reopened in September. The impending European Council meeting was not the catalyst for the December agreement, either. While the meeting's timing likely contributed to a sense of urgency on the Serbian side, Kosovo's EU integration was not on the Council's agenda for the December 9 meeting.⁵⁹ There was no pressure on Kosovo to make a deal ahead of the Council meeting.

A survey of events between September and December 2011 suggest that Serbia and Kosovo, upon returning to the EU-mediated negotiations, continued to make incremental deals on a number of technical issues. By December 2011, cooperative norms had evolved to the extent that allowed a breakthrough on control of the customs posts. Before then, the normative arena had been too adversarial, and the option to cooperate on the matter was not available.

The Belgrade-Pristina dialogue: September – December, 2011

With tensions high, Stefanović and Tahiri returned to Brussels on September 2, 2011, for the sixth round of the dialogue. Cooper managed to extract from them a modest deal on a Kosovar customs label that would allow the free passage of goods through the checkpoints: the Serbian side agreed to honor labels that read “Kosovo Customs,” while the Kosovar side agreed that the label would not contain further insignia. The compromise allowed Stefanović to return to Serbia claiming that “customs documentation has now been harmonized in a status neutral way,” and Tahiri to tell Kosovar media that Serbia “has in fact recognized” Kosovo's independence. Stefanović

⁵⁹ European Council. “Conclusions – 9 December 2011,” EUCO 139/1/11 REV 1. 25 January 2012: 4-5. Accessed May 29, 2015.

https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/126714.pdf

and Tahiri also concluded a separate agreement that finalized some matters left over from previous deals on free movement and civil registries.⁶⁰

The deals, however, failed to address the trickier issue of how the customs checkpoints would be administered. With the issue unresolved, Kosovo Serbs later in September set up additional roadblocks in north Kosovo, reflecting concern that Pristina might once again try to seize Belgrade-supported infrastructure in the region.⁶¹

The seventh meeting, held November 21-22, produced some development of earlier deals on diploma recognition deal and civil registries. However, the sides remained stuck on issues involving telecommunications, energy, and the integration of customs crossings, which were still administered by KFOR.⁶² Cooper sent the parties away with a proposal that would see both Kosovar and Serbian forces working at the

⁶⁰ KIPRED, "The Analysis of the Implementation of the Technical Agreements Between Kosovo and Serbia, 2/13," 7.

"Kosovo, Serbia reach deal on customs stamps, removing trade barriers," RTK, trans. BBC Monitoring Europe, September 6, 2011. Retrieved May 24, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

New Policy Center, "(Is There) A Way Forward for Kosovo," 4.

"Serbian negotiator denies Kosovo customs seal constitutes 'attribute of state'," *Politika*, trans. BBC Monitoring Europe, September 7, 2011, accessed May 24, 2015, from <http://www.lexisnexis.com/hottopics/lnacademic>.

⁶¹ "Kosovo: Serbs resort to road blocks as tensions rise again," Adnkronos International, dist. by McClatchy-Tribune Business News, September 8, 2011, accessed May 24, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

⁶² New Policy Center. "(Is There) A Way Forward for Serbia and Kosovo?" 6.

"Serbia and Kosovo resume talks on boosting relations," Associated Press.

"Kosovo crossing opened; Move designed to help Serbia in its bid to join European Union," *Gazette* (Montreal), December 8, 2011, accessed May 26, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

checkpoints, but the matter was reportedly stuck on Kosovo's insistence that the checkpoints display Kosovar state insignia.⁶³

Meanwhile, on November 28, 21 KFOR officers were injured in a clash with Kosovo Serbs that erupted when KFOR tried to dismantle one of their roadblocks; the incident came days ahead of the planned European Council meeting, and prompted German Chancellor Angela Merkel to remark that Serbia had fallen short of conditions necessary to win candidate status.⁶⁴

It was in this fraught environment that the eighth round of the Belgrade-Pristina dialogue opened on November 30. Amid discussions an unidentified senior EU official described to Britain's *Guardian* as "pretty awful," Serbia agreed to permit Kosovar police and customs officers to work at the customs checkpoints in the north; the Serb sides described such officials as "observers" who would be stationed at an "administrative crossing."⁶⁵ The Kosovar side abandoned its demands that the checkpoints display Kosovar insignia.⁶⁶

⁶³ "Kosovo: Slight progress in talks with Serbia, no solution for border crossings," Adnkronos International, dist. by McClatchy-Tribune Business News, September 22, 2011, accessed May 25, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

⁶⁴ "Kosovo: Serbs remove barricades as EU ponders membership bid," Adnkronos International, dist. by McClatchy-Tribune Business News, December 5, 2011, accessed May 26, 2015, from <http://www.lexisnexis.com/hottopics/lnacademic>.

"NATO peacekeepers injured in clashes with local Serbs in Kosovo," *Irish Times*, November 25, 2011, accessed May 25, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

NATO soldiers wounded by gunfire in Kosovo clash," Reuters.

New Policy Center. "(Is There) A Way Forward for Serbia and Kosovo?" 5.

⁶⁵ Ian Traynor, "Serbia's road to EU may be blocked as checkpoints return to the Balkans," *Guardian*, December 5, 2011. Accessed May 26, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

⁶⁶ "Kosovo-Serbian border deal gets mixed receptions." RTK. trans. BBC Monitoring Europe. December 5, 2011, accessed May 29 2015. <http://www.lexisnexis.com/hottopics/lnacademic>.

On December 2, the EU announced that the sides had agreed on a framework under which Serbia and Kosovo, with EULEX assistance, “will gradually set up the joint, integrated, single and secure posts at all their common crossing points.”⁶⁷

Normative Evolution

The evolution of cooperative norms between Serbia and Kosovo, and the decay of certain adversarial ones cleared the way for a deal on the joint administration of the customs posts that was previously unavailable. This normative transformation is reflected in developing norms of *reciprocity*, *functional cooperation*, and *mediated negotiation*. *Reciprocal* exchanges between the disputants are seen in the September and November customs deals, with the Serbian side first agreeing to honor Kosovo’s stamps, and then, in its most significant concession up to that point, permitting the presence of Kosovar customs officials in northern Kosovo. The Kosovo side, in return, dropped its insistence that the customs stamps and checkpoints bear Kosovar insignia.

The customs deals, as well as the development of previous deals on free movement and civil registries, also speak to a developing norm of *functional cooperation*. The continued development of this norm allowed for the conclusion of increasingly consequential deals between the sides, even as Serbian officials maintained non-recognition of Kosovo, and Kosovar officials continued to declare Kosovo’s

⁶⁷ “EU-facilitated dialogue: agreement on IBM,” European Council press release, Brussels, December 2, 2011.
International Crisis Group, *Kosovo and Serbia: A Little Goodwill Could Go A Long Way*. *Europe Report* 215, 11-12, February 2, 2012, accessed May 7, 2015, <http://www.crisisgroup.org/~media/Files/europe/balkans/kosovo/215%20Kosovo%20and%20Serbia%20-%20A%20Little%20Goodwill%20Could%20Go%20a%20Long%20Way.pdf>.
“Kosovo: Serbs remove barricades as EU ponders membership bid,” Adnkronos International.

independence. An evolving norm of *mediated negotiation* is seen in the parties' willingness to review, and work together to modify, Cooper's sweeping proposal on joint operation of the customs checkpoints. Together, the continued development of these norms led to the unprecedented breakthrough on the customs issue.

Chapter 7: Interregnum

The breakthrough between Serbia and Kosovo on the customs issue—a dispute the EU had attached significant importance to—signaled to the EU ahead of the December 9 Council meeting Serbian leaders’ commitment to the normalization process. Yet the European Council, in a surprising development, postponed until the following March a scheduled decision on whether to grant Serbia EU candidacy. The move prompted a furious reaction from Serbian President Tadić, and gave way to a three-month pause in the Belgrade-Pristina dialogue.

Stefanović and Tahiri met in Cooper’s office in Brussels on February 22, for what was to be the final round of technical talks. Three days later they emerged with logistical expansions to December’s accord on customs posts, and a separate accord that allowed Kosovo officials to participate in regional meetings and at the U.N., rather than being represented by UNMIK. EU officials hailed the deal as a historic breakthrough, and granted Serbia EU candidacy status at a March 1 summit.

The EU’s decision set into motion a series of events in Serbia that resulted in the end of the Belgrade-Pristina dialogue’s technical phase, and the beginning of a new political phase in which Stefanović and Tahiri were replaced by Serbian prime minister Ivica Dačić and Kosovar prime minister Hashim Thaçi. These political meetings were mediated not by Cooper, but by EU foreign policy chief Catherine Ashton. The rounds moved quickly, ultimately producing the Brussels Agreement in just seven months.

This chapter argues that the European Council’s move to postpone its decision on Serbian EU candidacy represented a failure to recognize the significance of the December breakthrough in the customs dispute. Consequently, the Belgrade-Pristina dialogue was

needlessly delayed at a time when antagonistic norms that governing the Serbia-Kosovo conflict were rapidly decaying, and cooperative ones were being established.

The Belgrade-Pristina dialogue: December 2011 – March 2012

Despite the breakthrough between Serbia and Kosovo on the customs checkpoints, Germany, Britain, Austria, and the Netherlands remained skeptical of Serbia's willingness to normalize relations with Kosovo, and the Council December 9 postponed a decision on whether to grant it candidate status until March 2012. EU enlargement commissioner Štefan Füle stated after the decision that Serbia must demonstrate a greater commitment to the normalization process.⁶⁸

Tadić, who had risked his credibility at home by authorizing earlier concessions on the customs posts, reacted bitterly to the Council's decision. He insisted that Serbia would join the EU eventually, adding that Serbia had "fulfilled all that was asked from us...I could ask my European colleagues whether they kept their promise, but I won't talk about it in public."⁶⁹

Stefanović and Tahiri met in Cooper's office in Brussels on February 22, for what was to be the final technical round of the Belgrade-Pristina dialogue. Three days later they emerged with technical expansions to December's accord on customs posts, and a separate accord that allowed Kosovo officials to participate in regional meetings and at

⁶⁸ "Füle: We do not ask for recognition of Kosovo," *Vecernje Novosti*, December 19, 2011., accessed May 26, 2015, <http://www.novosti.rs/vesti/naslovna/aktuelno.289.html:358426-FileNe-trazimo-priznanje-Kosova>

Ian Traynor, "Serbia's road to EU may be blocked as checkpoints return to the Balkans," *Guardian*.

⁶⁹ "Serbia: Tadić 'won't ever recognize Kosovo' after EU delay," *Adnkronos International*, dist. by McClatchy-Tribune Business News, December 12, 2011, accessed May 26, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

the United Nations, rather than being represented by UNMIK. The deal, referred to by the *New York Times* as “diplomatically complex,” stipulated that the word “republic” would not be attached to Kosovo’s name in such fora. Instead, other attendees would be directed to a footnote that referred to both Kosovo’s independence declaration and to U.N. Security Council Resolution 1244, the 1999 U.N. Security Council resolution that declared Kosovo an international protectorate; Serbian officials argued that the resolution superseded Kosovo’s independence declaration under international law. Like all other deals agreed during the technical negotiations, the February accord allowed Kosovo officials to assert independence, and Serbian officials to reject it.

With Serbian EU candidacy on the agenda for the upcoming European Council meeting, top European diplomats immediately praised the deal. In a high-profile appearance alongside Füle, Ashton called the developments “a major step forward.” In an encouraging signal for Serbia, German foreign minister Guido Westerwelle—also in Brussels at the time—said the deal was “a big step in the right direction” and would be taken into consideration at the Council summit.

On March 1, 2012, the European Council granted Serbia EU candidacy status.⁷⁰ European Council president Herman Van Rompuy that day called the development “a remarkable achievement, a result of the efforts demonstrated by both sides in the dialogue

⁷⁰ Stephen Castle, “Serbia, Once Outcast, Is Candidate To Join E.U.,” *New York Times*, March 2, 2012, accessed May 26, 2015, <http://www.lexisnexus.com/hottopics/lnacademic>.

between Belgrade and Pristina.”⁷¹ Tadić then called snap elections, a move that eventually led to the political phase of the Belgrade-Pristina dialogue.⁷²

Normative Evolution

Like the deals before it, the February accord on Kosovo’s representation in international bodies reflected the continued evolution of cooperative norms, particularly those of *reciprocity* and *functional cooperation*. Serbia’s move to permit Kosovar participation in regional fora and Kosovo’s decision to permit a note explaining Serbia’s position on Resolution 1244 was a *reciprocal* exchange.⁷³ Once again, the deal allowed the parties to maintain longstanding positions on Kosovo’s status, indicating a norm of *functional cooperation*. The February deal and the December deal were more political in nature than previous technical deals on topics like diplomas and civil registries, and they only became possible in the wake of an increasingly normative culture of cooperation.

However, it is difficult to argue that the February deal represented a breakthrough as monumental as EU leaders had described, because a political stalemate had already been broken in December with the customs agreement. This development should have assuaged EU concerns—particularly Germany’s—about Serbia’s commitment to the normalization process, and prompted a positive decision on its candidacy.

The Council’s move to postpone a decision on Serbian candidacy left the disputants in limbo. With the demonstrable establishment of cooperative norms since

⁷¹ Stephen Castle, “Serbia hails its clear path toward joining the E.U., *International Herald Tribune*, March 3, 2012. Retrieved May 26, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

⁷² “Serbia: President Tadić sets 6 May date for elections,” Adnkronos International, dist. by McClatchy-Tribune Business News, March 13, 2012, accessed May 26, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

⁷³ New Policy Center. “(Is There) A Way Forward for Serbia and Kosovo?” 9-10.

talks opened in March 2011, Serbia and Kosovo in December were more willing than ever to address politically charged issues. However, this cooperative norm was not so strong that they were willing to negotiate outside of EU-mediated talks, which did not resume until late February.

Thus, the technical phase of negotiations ended with the March 2012 Council announcement, when it could have ended the previous December if the Council had been willing to act. The delay must be attributed to the EU's uncertainty—and not to Serbian intransigence at the Belgrade-Pristina dialogue, as Füle suggested.

Chapter 8: The Brussels Agreement

The Brussels Agreement was concluded in April 2013, only seven months after the start of political negotiations between senior Serbian and Kosovar officials. Under the deal, which carefully sidestepped the matter of Kosovo's status, Serbia pledged to relinquish control of the parallel structures in north Kosovo and permit them to operate under Pristina's laws. In exchange, majority-Serb northern provinces would be granted wide-ranging autonomy. The sides agreed not to block the other's EU bid. While Serbian officials continue to affirm that all of Kosovo remains a part of Serbia, the Serbian government's decision to devolve the parallel institutions demonstrates that Serbian claims to Kosovo were from that point forward primarily symbolic.

While the deal paved the way for the European Commission, and later the Council, to green-light EU membership negotiations with Serbia, it was not the draw of EU membership alone that prompted Serbia to give up the parallel institutions in northern Kosovo. This final chapter first explains why conditionality was insufficient to induce the Serbian concessions that allowed the Brussels Agreement. It then argues that instead it was instead the gradual transformation of adversarial norms into cooperative ones that facilitated the landmark Brussels Agreement, and that Ashton's mediation was a critical factor. A subsequent section surveys events between May 2012 through July 2013, which demonstrate the continued evolution of cooperative norms between Serbia and Kosovo.

What Triggered the Brussels Agreement?

A rationalist explanation for the conclusion of the Brussels Agreement might hold that the Serbian government that came to power following the May 2012 elections calculated that it was in Serbia's best interest to meet the EU criteria of normalizing

relations with Kosovo, and then took steps to do so based on that utility-maximization calculation. This was not the case, however, as it took another series of meetings—and of reciprocal deals with Kosovar officials—before the deal was achieved. Nor did Ashton, during the mediation process, offer carrots or sticks that influenced the disputants’ utility-maximization calculations. The Serbian move to give up parallel institutions in northern Kosovo could not have been the direct result of rational-choice calculations aimed at achieving EU membership, because Serbian motivations for cooperating with the EU had remained exactly the same since the Belgrade-Pristina dialogue opened in March 2011.

Instead, the Brussels Agreement was concluded because a two-year process of EU-mediated negotiations had successfully fostered between Serbia and Kosovo a history of past, proven cooperation, that was reflected in the presence of new, shared norms of *reciprocity*, *functional cooperation*, and *mediated negotiation*. The deal could not have happened much earlier than April 2013, because before that point, Serbia’s normative perception of the dispute with Kosovo did not permit the agreement’s provisions.

The Belgrade-Pristina dialogue: March 2012 – April 2013

The Belgrade-Pristina dialogue was put on hold following the March 2012 decision by the European Council decision to grant Serbia EU candidacy status, a development that triggered general elections in Serbia. The resulting coalition government, headed by Prime Minister Ivica Dačić, affirmed in July that Serbia would honor technical deals the previous government had authorized.⁷⁴ EU officials then approached the new government at the U.N. General Assembly that September, inviting

⁷⁴ New Policy Center. “(Is There) A Way Forward for Serbia and Kosovo?” 12-13. Serbian Progressive Party, “Coalition Agreement,” July 10, 2012, accessed May 30, 2015, <http://www.sns.org.rs/images/pdf/Sporazum-sns-sps-pups-js-urs-10.07.2012.pdf>.

them to sign with Kosovo what might have been a historic normalization deal. Serbia rejected the entreaty.⁷⁵

In October 2012, newly elected Serbian president Tomislav Nikolic announced the completion of a negotiating mandate for the Belgrade-Pristina dialogue. An informal meeting October 19, 2012, between Dačić, Thaçi, and Ashton heralded a new, senior-level phase in the talks. Following the meeting, both sides indicated a willingness to press forward with negotiations; Dačić, in an interview with Serbia's public broadcaster, said the meeting had been "aimed at establishing whether we and the representatives of the provisional institutions in Pristina are ready to continue the dialogue," adding that he had stated that "Serbia was ready to do so." While noting that the government considered the dialogue "status-neutral," Dačić concluded, "All in all the most important thing is that the talks will be held."⁷⁶ Thaçi, for his part, indicated a willingness to "work hard, with the support of the USA, EU and NATO, in a process that would lead to the normalization of relations" and implementation of previous agreements." He added that the dialogue would be "entirely coordinated with the office of Baroness Ashton."⁷⁷

⁷⁵ International Crisis Group. "Serbia and Kosovo: The Path to Normalization. Europe Report No. 233." February 19, 2013. Accessed May 6, 2015. <http://www.crisisgroup.org/~media/Files/europe/balkans/kosovo/223-serbia-and-kosovo-the-path-to-normalisation.pdf>.

⁷⁶ Besnik Krasniqi, "New Kosovo-Serbia talks agenda said to cover open technical issues," *Koha Ditore*, trans. BBC Monitoring Europe, October 21, 2012, accessed May 27, 2015. <http://www.lexisnexis.com/hottopics/lnacademic>. "Serbian premier views results of meeting with EU's Ashton, Kosovo counterpart." RTS TV, trans. BBC Monitoring Europe, October 21, 2012, accessed May 27, 2015. <http://www.lexisnexis.com/hottopics/lnacademic>.

⁷⁷ "EU facilitates meeting between Kosovo, Serbian premiers," RTK, trans. BBC Monitoring Europe, October 22, 2012, accessed May 27, 2015. <http://www.lexisnexis.com/hottopics/lnacademic>.

The new, political phase of the Belgrade-Pristina dialogue drew protests in both Serbia and Kosovo, but continued nevertheless. An informal working dinner between Ashton, Dačić, and Thaçi held November 7 produced an agreement under which the Kosovo police would form a special unit, comprised largely of Kosovo Serbs, responsible for protecting Serbian cultural and religious heritage. Dačić and Thaçi agreed on some technical issues related to the customs checkpoints at meetings in early December 2012, as well as a deal to send diplomatic representatives to each other's capitals. Kosovo calling the representatives "ambassadors," while Belgrade referred to them as "liaison officers."⁷⁸

On December 10, 2012, new policies were enacted at two disputed customs posts. According to the New Policy Center, "during crossings, citizens would show their personal ID card to one of the three police officers (EULEX, Serbia, [Kosovo Police Service]) depending on who addressed them first." Veterinary and sanitary officers were stationed there to facilitate the crossing of goods. No state symbols were displayed. Offices housing each side's customs officials "were moved closer together."⁷⁹

Instances of politically motivated violence erupted in northern Kosovo in January 2013, but meetings between Dačić, Thaçi and Ashton continued in the meantime, as aspects of previous technical agreements were slowly implemented.⁸⁰ However, on April

Palokaj, Augustin. "Kosovo, Serbian premiers meet in Brussels." *Koha Ditore*, trans. BBC Monitoring Europe, October 20, 2012, accessed May 27, 2015.
<http://www.lexisnexis.com/hottopics/lnacademic>.

⁷⁸ D'Imecourt, Lenaic. EU/Serbia/Kosovo: Belgrade and Pristina agree new steps in EU-facilitated dialogue." *Europolitics Monthly*, December 12, 2012, accessed May 27, 2015.
<http://www.lexisnexis.com/hottopics/lnacademic>.

⁷⁹ New Policy Center. "(Is There) A Way Forward for Serbia and Kosovo?" 21.

⁸⁰ International Crisis Group. "Serbia and Kosovo: The Path to Normalization. Europe Report No. 233." 3.

3, after the eighth round of talks between Dačić and Thaçi, Ashton told the press that the Belgrade-Pristina dialogue had reached an impasse over the parallel institutions, and that she would organize no further talks. Appearing “grim-faced,” according to the *Economist*, Ashton called differences between the sides “very narrow, but deep,” adding that Belgrade and Pristina could contact her if they wished to return to the dialogue. She then adjourned the talks two weeks ahead of a meeting of the European Commission, at which it was expected to issue recommendations on Serbia and Kosovo’s future with the EU.⁸¹

Dačić and Thaçi, however, insisted that the dialogue was not over. “The isn’t the end,” Dačić said in a press appearance, “we have some more time to reach a solution and to gather our thoughts after these long talks.” Thaçi insisted that the Kosovar side had accepted in full a proposal circulated by Ashton, and that he remained “hopeful an agreement can be reached.”⁸²

The Brussels Agreement

Dačić and Thaçi returned to Brussels on April 18, 2013, four days ahead of the European Commission meeting. After marathon talks, the ministers and Ashton emerged the following day having initialed a 15-point “First Agreement of Principles Governing the Normalization of Relations.” The accord, which did not address the matter of

⁸¹ McLaughlin, Daniel, “Kosovo and Serbia fail to agree pact,” *Irish Times*, April 4, 2013, accessed May 26, 2015, <http://www.lexisnexis.com/hottopics/lnacademic>.

“Serbia and Kosovo: No Deal.” *Economist*, April 3, 2013, accessed May 27, 2015. <http://www.economist.com/blogs/easternapproaches/2013/04/serbia-and-kosovo>.

⁸² Besnik Krasniqi, “Kosovo PM: Meeting Serbian counterpart difficult, accord likely to be reached,” *Koha Ditore*, trans. BBC Monitoring Europe, April 4, 2013. Accessed May 27, 2015. <http://www.lexisnexis.com/hottopics/lnacademic>.

“Serbia-EU accession talks face ‘narrow but deep’ Kosovo gap.” Euractiv, April 3, 2013, accessed May 27, 2015. <http://www.euractiv.com/enlargement/narrow-deep-gap-separates-serbia-news-518851>.

Kosovo's status, outlined a plan to devolve the parallel institutions by stipulating that northern Kosovo institutions would operate under Pristina's laws while maintaining significant autonomy. In a last-minute wording change reflecting a concession by Kosovo, language barring Serbia from blocking Kosovo's entry to "international institutions" was changed to indicate that the sides could not block each others' EU accession. This allowed Serbia to continue to continue working against recognition of Kosovo at the U.N. A second Kosovar concession permitted more autonomy for northern Kosovo police.⁸³

The deal was immediately hailed by European diplomats and media outlets as a landmark, with Ashton calling it "step away from the past and, for both of them, a step closer to Europe," and Füle deeming it "a historic day for Serbia-Kosovo relations, for the entire Western Balkans region and for the EU."⁸⁴ The Commission April 22 then issued a recommendation that formal accession negotiations with Serbia begin. The European Council approved the matter the following June.⁸⁵ For Kosovo, the deal cleared a path to a Stabilization and Association Agreement with the EU, which was enacted in

⁸³ Dan Bilefsky, "Serbia and Kosovo Reach Agreement on Power-Sharing," *New York Times*, April 20, 2013, accessed May 27, 2015.

<http://www.lexisnexis.com/hottopics/lnacademic>.

Andrew MacDowell, "Serbia-Kosovo deal clears path to EU accession, but long road remains," *Christian Science Monitor*, April 25, 2013, accessed May 27, 2015.

<http://www.lexisnexis.com/hottopics/lnacademic>.

⁸⁴ Dan Bilefsky, "Serbia and Kosovo Reach Agreement on Power-Sharing."

Andrew MacDowell, "Serbia-Kosovo deal clears path to EU accession, but long road remains."

⁸⁵ European Commission. "European Neighborhood Policy and Enlargement Negotiations: Serbia." n.d., accessed May 27, 2015,

http://ec.europa.eu/enlargement/countries/detailed-country-information/serbia/index_en.htm.

MacDowell, Andrew. "Serbia-Kosovo deal clears path to EU accession, but long road remains."

July 2014.⁸⁶ The normalization agreement marked an end to a stalemate between Serbia and Kosovo that had hindered each side's integration into the EU.

Normative Evolution

The continued development of shared cooperative norms during political negotiations between Dačić and Thaçi, combined with the draw of EU membership, permitted the conclusion of the Brussels Agreement in April 2013. The evolution of cooperative norms was essential to the deal's conclusion; it could not have been achieved much earlier because cooperative norms had not developed to the point where Serbian officials considered relinquishing the parallel institutions an available option. This is evident in Serbia's refusal of the EU's normalization proposal at the September 2012 U.N. summit. Instead, the deal was concluded after shared norms of *reciprocity*, *functional cooperation*, and *mediated negotiation* reached a critical mass. Antagonistic norms that had governed the relationship between Serbia and Kosovo had decayed enough over the course of the negotiation process that the Brussels Agreement became possible.

First, it was a previously established culture of cooperation that paved the way for the newly elected Serbian government to approach the negotiating table in Brussels, and pick up where the previous government had left off. The sides were able to look to the slow but continuing implementation of past *reciprocal* deals as evidence that the other side was invested in the Belgrade-Pristina dialogue, and was capable of keeping past

⁸⁶ European Commission. "European Neighborhood Policy and Enlargement Negotiations: Kosovo." n.d., accessed May 27, 2015, http://ec.europa.eu/enlargement/countries/detailed-country-information/kosovo/index_en.htm.

agreements. Under Ashton's mediation, Dačić and Thaçi then concluded a series of reciprocal deals of their own.

The new deals concluded by Dačić and Thaçi, like past ones, addressed issues blocking the normalization of relations while allowing the sides to maintain their positions on the status of Kosovo, demonstrating a developing norm of *functional cooperation*.

An established norm of *mediated negotiation*, in which the sides trusted and relied upon the mediator, was evident in negotiators' statements to the media. Moreover, it was essential in bringing the sides back to the negotiating table after Ashton's announcement in April that the Belgrade-Pristina dialogue would only continue if Belgrade and Pristina indicated a willingness to keep negotiating. Demonstrable cooperative norms that had been established between the disputants, combined with a history of successful EU mediation of the conflict, resulted in a high degree of confidence in the negotiation process; the presence of these norms prompted both sides to immediately issue statements indicating their desire to make a deal under the auspices of EU mediation.

Ashton's move to pause the dialogue in this manner was based in a different strategy from Cooper's decision to postpone meetings during the summer of 2011. While Cooper's move was evidently designed to force cooperation at a time when cooperative norms were insufficient for a deal on the customs posts, Ashton appears to have gambled that the will to cooperate already existed, and that with a push and a not-so-subtle gesture toward the upcoming Commission meeting, a deal could be reached. The gamble worked, with the sides calling for another meeting that took place on April 19, 2013, and produced the Brussels Agreement. It would not have worked 12 months previously.

Conclusion

While EU conditionality brought Serbia and Kosovo to the negotiating table, the prospect of EU membership was not a strong enough draw to prompt an agreement between the two that would unblock their respective paths toward EU integration. If it were, Serbia and Kosovo would have agreed on a normalization deal earlier than April 2013. Instead, the Brussels Agreement followed a two-year process during which EU mediators induced the incremental evolution of adversarial norms into cooperative ones. The primary role of the EU in facilitating the deal between Serbia and Kosovo was inducing the development of shared, cooperative norms; mediators did this primarily by maintaining the dialogue, helping to identify areas where cooperation was possible, and encouraging the conclusion of increasingly consequential deals.

Adversarial norms that governed the relationship between Serbia and Kosovo in March 2011, when mediated talks began, had created a situation where cooperation was not a viable option. This situation in which cooperation was impossible reinforced the adversarial norms that governed the relationship. In this manner, the conflict system between them was mutually constituted and codetermined, and created a situation where the negotiation process started as a competitive, zero-sum game for both.⁸⁷ The first four rounds of mediated talks allowed dialogue and the establishment of a relationship between Serbian and Kosovar officials, and allowed the conclusion of early technical deals at the fifth. These less political deals on issues like diplomas and the exchange of civil registry data essentially changed the chemistry of the self-reinforcing, adversarial relationship. The early technical deals created a modest cooperative foundation under

⁸⁷ Wendt, "The Agent-Structure Problem in International Relations," *International Organization*, 335-370.

which each side could observe first, that the other would make concessions and would implement the resulting deals (*reciprocity*); second, that reciprocal deals could be concluded while each still maintained a rigid position on the political dispute that characterized the dispute between them (*functional cooperation*); and third, that a trustworthy mediator could help facilitate such deals (*mediated negotiation*). These norms strengthened over time as EU mediators worked to move the process forward. The combination of a new sense of one's adversary as a more reasonable adversary, combined with an expectation that beneficial deals could be reached at negotiations, drew Serbia and Kosovo to the negotiating table again and again until the Brussels Agreement was concluded.

If EU conditionality were truly powerful enough that “applicants are forced into concessions” because “the basic benefit offered to them—membership—is of such great value,” the stalemate that blocked Serbia and Kosovo from EU integration would have been achieved without an extended negotiation process.⁸⁸ Moreover, when the EU tried to lean on conditionality to force cooperation before cooperative norms were sufficiently developed—such as when Cooper postponed the July 2011 meeting in an attempt to break an impasse on customs posts—the process of normative evolution was impeded, and stalemate rekindled. The incremental establishment of cooperative norms, facilitated by EU mediators, disrupted a self-reinforcing adversarial relationship between Serbia and Kosovo; it was this mechanism that broke the stalemate between them and put both on the path to EU membership.

⁸⁸ Moravcsik and Vachudova, “National Interests, State Power, and EU Enlargement,” 10.

Policy Implications for the EU

The mediated dialogue between Serbia and Kosovo that resulted in the Brussels Agreement demonstrates that seemingly intractable conflicts can be disentangled through a mediation process that seeks to transform adversarial norms into cooperative ones. This finding has important policy implications for the EU as it seeks to expand in the Western Balkans.

In particular, a mediation process like the Belgrade-Pristina dialogue could serve as a mechanism to address a dispute between the adversarial entities that comprise Bosnia-Herzegovina. Bosnia's EU integration is precluded primarily because the two entities, the Bosniak-Croat Federation and the Republika Srpska, cannot agree on constitutional reforms the EU had deemed necessary.⁸⁹ The dispute in Bosnia shares key characteristics of the dispute between Serbia and Kosovo: first, adversarial norms defining the relationship between officials in the Bosniak-Croat Federation and the Republika Srpska preclude cooperation; and second, both sides have indicated a receptivity to Bosnian EU integration.⁹⁰

The EU in 2013 cut off millions of dollars in pre-accession aid to Bosnia over the issue, a stick applied in the apparent hope that the draw of EU membership would somehow prompt a resolution. Moreover, Füle in early 2014 ended a mediation effort between the two sides aimed at addressing the constitution issue. A survey of the

⁸⁹ European Commission, "Bosnia and Herzegovina Progress Report," October 2014, 4, accessed May 31, 2015, http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-bosnia-and-herzegovina-progress-report_en.pdf.

⁹⁰ "Vucic, Dodik discuss 'Bosnia's EU path, relations in region'," B92.com, January 14, 2015, accessed June 1, 2015, http://www.b92.net/eng/news/region.php?yyyy=2015&mm=01&dd=14&nav_id=92857.

conditions leading to the Brussels Agreement between Serbia and Kosovo suggests that applying sticks and pausing mediation for long periods of time does not produce cooperative results.⁹¹

Instead, the EU should begin setting up a Brussels-based mediation effort aimed at addressing other, smaller technical problems that stem from the division between the Bosniak-Croat Federation and the Republika Srpska. A consistent EU mediation effort aimed at inducing the evolution of cooperative norms could produce consequential results. EU demands that the disputants to immediately resolve fundamentally divisive issues have not, and will not, achieve much.

A Norms-Based Approach to Mediation

Mandell and Tomlin argue that a norms-based approach to mediation “accomplish more than a reordering of the preference structure of disputants. It may well promote and embed within a conflict system new kinds of behavior that are not realized for a number of years, but whose importance and potential extend well beyond the more limited success of the moment.” In their study, they argue that Kissinger’s ability to embed within the Egypt-Israeli conflict system a set of cooperative norms created a foundation for the 1979 Camp David Accords.

Unfortunately, the case of Serbia and Kosovo lacks such a hard test for the staying power of new, cooperative norms in the relationship between them. Yet while the

⁹¹ Elvira Jukic, “Ashton switches EU focus on Bosnia to economy,” March 13, 2014, accessed May 31, 2015, <http://www.balkaninsight.com/en/article/eu-s-ashton-presents-new-focus-on-bosnia>.

Freedom House, “Freedom in the World 2014: Bosnia-Herzegovina,” n.d., accessed May 31, 2015, <https://freedomhouse.org/report/freedom-world/2014/bosnia-and-herzegovina#.VWxJcksVpuY>.

implementation of the Brussels Agreement has been rocky, there also has not been significant backsliding since its conclusion. The Belgrade-Pristina dialogue on normalization continues, with the sides in February 2015 agreeing to a deal on the composition of the judiciary in north Kosovo.

Serbia and Kosovo still remain far apart on many politically charged topics, including on practical issues such as the composition of the civil defense force, and what to do about the massive roadblock that still divides the northern Kosovo town of Mitrovica between its Serb and Albanian sides. But in a testament to the evolving cooperative relationship between Serbia and Kosovo, and the EU's role in facilitating cooperation, Serbian prime minister Aleksandar Vučić noted at the close of a February 2015 meeting that such issues would have to be addressed at future rounds of the Belgrade-Pristina dialogue.⁹²

The dispute between Serbia and Kosovo is only one example of difficult issues in the Western Balkans that have hampered EU integration in the region. Yet the conclusion of the Brussels Agreement in 2013 demonstrates that consistent EU mediation that fosters normative cooperation—combined with the draw of EU membership—is sufficient to facilitate unprecedented cooperation among adversarial sides. The EU must press forward with a norms-based mediation strategy for the Belgrade-Pristina dialogue, and it must undertake a similar mediation effort to break the stalemate in Bosnia-Herzegovina. It is

⁹² “Belgrade-Pristina dialogue resumes,” Euractiv, February 2, 2015, accessed June 1, <http://www.euractiv.com/sections/enlargement/belgrade-pristina-dialogue-resumes-312047>.

through such efforts that the EU can fulfill the promise of the 2003 Thessaloniki Declaration, that “the future of the Balkans is within the European Union.”⁹³

⁹³ European Commission, *EU-Western Balkans Summit: Thessaloniki, 21 June 2003 Declaration*.

Appendix 1: Text of the Brussels Agreement

The following deal was initialed on April 19, 2013, by Serbian prime minister Ivica Dačić and Kosovar prime minister Hashim Thaçi. It is the product of just over two years of EU-mediated negotiation rounds that began on March 8, 2011.⁹⁴

1. There will be an Association/Community of Serb majority municipalities in Kosovo. Membership will be open to any other municipality provided the members are in agreement.

2. The Community/Association will be created by statute. Its dissolution shall only take place by a decision of the participating municipalities. Legal guarantees will be provided by applicable law and constitutional law (including the 2/3 majority rule).

3. The structures of the Association/Community will be established on the same basis as the existing statute of the Association of Kosovo municipalities e.g. President, vice President, Assembly, Council.

4. In accordance with the competences given by the European Charter of Local Self Government and Kosovo law the participating municipalities shall be entitled to cooperate in exercising their powers through the Community/Association collectively. The Association/Community will have full overview of the areas of economic development, education, health, urban and rural planning.

5. The Association/Community will exercise other additional competences as may be delegated by the central authorities.

6. The Community/Association shall have a representative role to the central authorities and will have a seat in the communities' consultative council for this purpose. In the pursuit of this role a monitoring function is envisaged.

7. There shall be one police force in Kosovo called the Kosovo Police. All police in northern Kosovo shall be integrated in the Kosovo Police framework. Salaries will be only from the KP.

8. Members of other Serbian security structures will be offered a place in equivalent Kosovo structures.

9. There shall be a Police Regional Commander for the four northern Serb majority municipalities (Northern Mitrovica, Zvecan, Zubin Potok and Leposavic). The

⁹⁴ "Text Of Leaked Copy Of Serbia-Kosovo Recognition Deal," RFE/RL, April 20, 2013, accessed May 30, 2015, <http://www.rferl.org/content/text-leaked-copy-serbia-kosovo-agreement-brussels/24963542.html>.

Commander of this region shall be a Kosovo Serb nominated by the Ministry of Interior from a list provided by the four mayors on behalf of the Community/Association. The composition of the KP in the north will reflect the ethnic composition of the population of the four municipalities. (There will be another Regional Commander for the municipalities of Mitrovica South, Skenderaj and Vushtrri). The regional commander of the four northern municipalities will cooperate with other regional commanders.

10. The judicial authorities will be integrated and operate within the Kosovo legal framework. The Appellate Court in Pristina will establish a panel composed of a majority of K/S judges to deal with all Kosovo Serb majority municipalities.

11. A division of this Appellate Court, composed both by administrative staff and judges will sit permanently in northern Mitrovica (Mitrovica District Court). Each panel of the above division will be composed by a majority of K/S judges. Appropriate judges will sit dependant on the nature of the case involved.

12. Municipal elections shall be organized in the northern municipalities in 2013 with the facilitation of the OSCE in accordance with Kosovo law and international standards.

13. Discussions on Energy and Telecoms will be intensified by the two sides and completed by June 15.

14. It is agreed that neither side will block, or encourage others to block, the other side's progress in their respective EU path.

15. An implementation committee will be established by the two sides, with the facilitation of the EU.

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