



KEY CHALLENGES FOR SERBIA IN THE IMPLEMENTATION OF THE NORMALISATION AGREEMENT AND HOW TO OVERCOME THEM



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INTRODUCTION

The dialogue between Belgrade and Priština, or Serbia and Kosovo,³ which has been taking place under the auspices of the European Union (EU) since 2011, entered a new phase in 2023. Taking into account the geopolitical changes in Europe and the world after the start of the Ukrainian conflict, the instability in Nagorno-Karabakh (Azerbaijan), and the Israeli ground offensive in Gaza, the Kosovo issue has become very topical and has been high on the agenda of the EU and its member states, as well as the U.S. Preventing instability and potential new armed conflicts on European soil has become a security priority primarily for the EU, but also for the U.S. This was increased by a series of crises and tensions on the territory of Kosovo, but also between the governments in Belgrade and Priština, which threatened to turn into an armed conflict. The impossibility of agreeing on identity documents and license plates for Serbs in the north of Kosovo in 2022 caused, or rather revealed, the depth of the crisis. The exit of Serbs in the north from Kosovo institutions, the organisation of barricades, the boycott of local elections, the protest against illegitimately elected mayors, the rejection of the EU's de-escalation plan by the Kosovo Government, the punitive measures imposed by the EU and the USA on Kosovo, the arrest of Kosovo police officers by the Serbian security services were key events that marked the end of 2022 and 2023, which escalated with the event in Banjska on 24 September 2023.

In light of these events, France and Germany, as leading EU countries, launched an initiative to reach a new agreement and proposed the so-called Franco-German plan. Soon, the European Council unanimously accepted that plan, which made it a European proposal, which was presented to both parties in the dialogue. In February 2023, the European proposal became the Agreement on the Path to Normalisation of Relations between Kosovo

³ This name does not affect the view on the status, and it is in line with the UN Security Council Resolution 1244 and the opinion of the International Court of Justice on the Kosovo declaration of independence.

and Serbia⁴ (hereinafter: the Normalisation Agreement), and in March, it received the Annex to the implementation of the Agreement (hereinafter: the Annex)⁵ during the round of negotiations held in Ohrid. The acceptance of the Normalisation Agreement represents the entry into a new phase of dialogue, as was the transition from technical negotiations to dialogue at a high political level in 2012. This Agreement represents a new stage in the Brussels dialogue in the sense that it opens the door for discussions on status issues as well, which was not the case before. What this agreement also represents is a potentially legally binding acceptance of the articles of the Annex, which would transform the Agreement from a political document to an essentially legal, i.e. binding document. In this context, the Agreement brings many challenges, both for Belgrade and Priština.

This paper starts from the assumption that it is necessary to consider ways of successful implementation of the Annex on implementation, given that the recent development of events once again only confirms the unsustainability of what is the *status quo*, and the necessity of commitment to the normalisation of relations. The attention of this paper is directed towards potential obstacles in the implementation of the Agreement for Serbia, and through the analysis key challenges are identified and recommendations are provided so that they can be overcome in the future.

⁴ European Union, External Actions Service, “Belgrade-Pristina Dialogue: Agreement on the path to normalisation between Kosovo and Serbia”, available at: https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-eu-proposal-agreement-path-normalisation-between-kosovo-and-serbia_en

⁵ European Union, Extern Action Service, “Implementation Annex to the Agreement on the Path to Normalisation of Relations between Kosovo and Serbia”, available at: https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-implementation-annex-agreement-path-normalisation-relations-between_en

MAPPING THE CHALLENGES

The Normalisation Agreement has 11 articles, and almost every one of them contains disputed issues, terminology, obligations, and terms that do not suit one or the other party. In the context of peace agreements, this is nothing new. However, bearing in mind the previous agreements, agreed and signed within the Brussels dialogue, as well as serious challenges in the implementation of certain parts of those agreements, an important question arises as to which parts of the Normalisation Agreement may be problematic during implementation, as well as what are the general challenges for the implementation of this important agreement in the dialogue. In this part of the paper, four key challenges related to the latest agreement are mapped, and each one is analysed in detail. Starting from general challenges such as the lack of will to implement the agreement in its entirety and Serbia's unwillingness to agree with Kosovo's membership in international organisations, through the impossibility of exchanging permanent diplomatic missions and the sensitivity of recognising national symbols, the reasons for these challenges were analysed as well, and recommendations were given for their overcoming.

CHALLENGE 1: DOES SERBIA WANT TO IMPLEMENT THE ENTIRE AGREEMENT

The representatives of Serbia in the negotiations, primarily the President of the Republic, expressed certain reservations regarding the proposed Normalisation Agreement from the beginning. The statements of the Director of the Office for Kosovo and Metohija (KiM), the Prime Minister of Serbia, and the President of the Republic indicated that Serbia is ready to implement some or a greater number of articles, but not the entire Agreement. Immediately after the end of the negotiations in Ohrid and the final acceptance of the Agreement and the accompanying Annex, the President of Serbia stated that Serbia “accepts the concept” and that they

will “work on implementation”, but within “our red lines”.⁶ In her statements on the topic of dialogue, the Prime Minister of Serbia almost always insisted on the implementation of previous agreements, primarily the provisions of the Brussels Agreement⁷ from 2013.⁸ Finally, several weeks after the negotiations in Ohrid, the director of the Office for Kosovo and Metohija declared that Serbia will not cross its red lines and rejected the possibility of *de facto* recognition, as well as membership of Kosovo in the United Nations (UN).⁹ Such statements by key political figures from Belgrade in the context of the dialogue are clear indicators that the Government of Serbia does not want to implement the Normalisation Agreement in its entirety.

The President of the Republic, as the informal leader of the negotiating team of Serbia in the dialogue process, repeatedly refused to sign the Normalisation Agreement. First, when the Agreement was reached in February 2023 in Brussels, then after the agreement on the Annex in March of the same year in Ohrid, and then during the round of negotiations in October 2023.¹⁰ Instead of signing, the Serbian side accepted the Agreement orally.¹¹ There are several reasons for this attitude of the Serbian side. First, the signing of an international agreement with Kosovo could be implicitly interpreted as recognition, especially having in mind Article 2 of the Agreement, which talks about the sovereign equality of states. Second, the compliance of the Agreement itself with internal law

⁶ Kosovo Online, “Vučić: Radićemo na implementaciji sporazuma do naših crvenih linija”, 19 March 2023, available at: <https://www.kosovo-online.com/vesti/politika/vucic-radicemo-na-implementaciji-sporazuma-do-nasih-crvenih-linija-19-3-2023>

⁷ Kancelarija za Kosovo i Metohiju, Vlada Republike Srbije, „Prvi sporazum o principima koji regulišu normalizaciju odnosa“, 2013, available at: <https://www.kim.gov.rs/p03.php>

⁸ Danas, „Ana Brnabić: Slažem se da bi trebalo hitno implementirati Ohridski sporazum“, 12 September 2023, available at: <https://www.danas.rs/vesti/politika/ana-brnabic-slazem-se-da-bi-trebalo-hitno-implementirati-ohridski-sporazum/>; see also: Kosovo Online, „Brnabić sa senatorima iz SAD: Puna primena Briselskog sporazuma“, 25 May 2023, available at: <https://www.kosovo-online.com/vesti/politika/brnabic-sa-senatorima-iz-sad-puna-primena-briselskog-sporazuma-25-5-2023>

⁹ Danas, „Petar Petković: Kurti je nervozan, Srbija neće priznati Kosovo“, 1 April 2023, available at: <https://www.danas.rs/vesti/politika/petar-petkovic-kurti-je-nervozan-srbija-neece-priznati-kosovo/>

¹⁰ Nova S, „Vlada Kosova: Kurti prihvatio sporazume iz Brisela i Ohrida, Vučić odbio da potpiše“, 26 October 2023, available at: <https://nova.rs/vesti/politika/vlada-kosova-kurti-prihvatio-sporazume-iz-brisela-i-ohrida-vucic-odbio-da-potpise/>

¹¹ N1, „Nova.rs: Kurti prihvatio ZSO, Vučić pristao na sporazum, ali traži da potpiše posle izbora“, 2 November 2023, available at: <https://n1info.rs/vesti/nova-rs-kurti-prihvatio-zso-vucic-pristao-na-sporazum-ali-trazi-da-potpise-posle-izbora/>

and the Constitution of Serbia is questionable, so the introduction of the Agreement as a legal instead of a political document could trigger its blocking and annulment by the Constitutional Court of Serbia. Third, the Agreement is extremely unpopular in Serbian public, so the decision not to sign it is also a tactical maneuver to prevent any outburst of discontent. In order to respond to these three problems, the Serbian side decided on a strategy of not signing and partially implementing the Agreement.

In addition to the statements, which serve as clear messages about Serbia's intentions, the refusal to sign the Agreement represents another strong indicator of the lack of desire for its implementation. The President of Serbia refused to sign the Normalisation Agreement, as well as the Annex on Implementation with the explanation that he does not want to create legal obligations for Serbia by signing an international legal agreement with the unrecognised Republic of Kosovo.¹² The lack of signatures on the Agreement reduces its strength, and the legal obligation of implementation in this case is missing. Regardless of the fact that the Vienna Convention on Diplomatic Relations¹³ and the Vienna Convention on the Law of Treaties¹⁴ recognise the oral agreement and statements of the head of state, prime minister, or minister of foreign affairs as an obligation, it has a much weaker legal foothold compared to a validly signed international treaty that has been ratified in domestic legislation. Precisely because of this problem, the Annex itself predicted a change in the Negotiating Framework for EU membership and Chapter 35 in Serbia's negotiations with the EU, in order to provide, at least indirectly, a legal basis for full implementation. However, the very change of the Negotiating Framework for Serbia showed a lot of difficulties and by the time of writing this analysis, it had not been carried out. Therefore, bearing all this in mind, the non-signing of the Normalisation Agreement represents a great challenge in terms of the implementation of the agreement.

¹² N1, „Vučić: Nisam potpisao, jer neću da pravim pravne sporazume sa Kosovom“, 19 March 2023, available at: <https://n1info.rs/vesti/vucic-nisam-potpisao-jer-necu-da-pravim-pravne-sporazume-sa-kosovom/>

¹³ United Nations, “Vienna Convention on Diplomatic Relations”, 1961, available at: https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf

¹⁴ United Nations, “Vienna Convention on the Law on Treaties”, 1969, Član 11, available at: https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

CHALLENGE 2: EXCHANGE OF PERMANENT (DIPLOMATIC) MISSIONS

The exchange of permanent missions is provided for in Article 8 of the Normalisation Agreement, which also stipulates that these missions will be located in the seats of government of Serbia and Kosovo.¹⁵ Several problems arise in connection with this article of the Agreement. First, are the missions provided for in this agreement diplomatic? Second, is this part of the Agreement consistent with international law and national legislation? Third, the establishment of diplomatic missions in the seat of government is unclear and potentially problematic.¹⁶ Finally, the exchange of missions between Serbia and Kosovo potentially brings with it tensions that, as a result of a negative attitude in society, could produce dissatisfaction and citizens' protests.

Starting from the first problem related to permanent missions, there is again the use of language of creative or constructive ambiguity,¹⁷ which often led to difficulties in the implementation of previous agreements. Therefore, it remains unclear whether this is essentially a diplomatic mission or the beginning of something that should be a diplomatic mission between two independent states in the future. The Annex also does not offer a more specific answer or explanation of what permanent missions should look like. And while the Government in Priština, on the website of the Ministry of Foreign Affairs, lists the Liaison Officer in Belgrade on the list of foreign diplomatic missions,¹⁸ on the other hand, official Belgrade denies the existence of a Kosovo diplomatic mission in Serbia and emphasizes that there will never be one.¹⁹ Taking into account that the First Agreement on

¹⁵ European Union, External Actions Service, "Belgrade-Pristina Dialogue: Agreement on the path to normalisation between Kosovo and Serbia", available at: https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-eu-proposal-agreement-path-normalisation-between-kosovo-and-serbia_en

¹⁶ The text of the Agreement is imprecise, so it can be interpreted as the establishment of diplomatic missions in the seats of governments or in cities with the seat of government, i.e. Belgrade and Priština.

¹⁷ Florian Bieber, "The Serbia-Kosovo Agreements: An EU Success Story?" in *Review of Central and East European Law*, 40(3-4), 285-319. 2015, available at: https://brill.com/view/journals/rela/40/3-4/article-p285_2.xml

¹⁸ Republika e Kosovës, "Ambasadat", available at: <https://ambasadat.net/Serbi>

¹⁹ The Government of the Republic of Serbia, "Pristina does not have, nor will it have diplomatic mission in Belgrade", 2 November 2023, available at: <https://www.srbija.gov.rs/vest/en/215100/pristina-does-not-have-nor-will-it-have-diplomatic-mission-in-belgrade.php>

Principles Regulating the Normalisation of Relations (Brussels Agreement 2013)²⁰ established liaison officers in Priština and Belgrade, the creation of permanent missions can be seen as upgrading this institution to a higher level, which still does not represent a permanent diplomatic mission having in view the fact that Serbia does not recognise Kosovo as an independent state (and the establishment of diplomatic relations can be considered *de facto* recognition), and therefore does not want to establish diplomatic relations. On the other hand, some of the countries that have not recognised Kosovo, such as Greece, Slovakia, and Romania, have established diplomatic relations (liaison offices), which negates the argument that the establishment of diplomatic relations necessarily means recognition.

Another problem is the inconsistency of the article of the Agreement that provides for permanent missions with relevant international law, as well as with domestic legislation in Serbia. Namely, permanent missions exist as a category exclusively as representative offices at international organizations. Permanent missions do not exist as a category even in the Vienna Convention on Diplomatic Relations²¹ as a key source of international law in this area. It also envisages exclusively permanent diplomatic missions established between states by agreement.²² Additionally, in diplomatic and consular missions in the country, the Law on Foreign Affairs of the Republic of Serbia²³ only includes permanent diplomatic missions and consular missions. Therefore, bearing in mind that the Normalisation Agreement stipulates the establishment of an institution that has no foundation in the national or international law, and that the Agreement itself has not been signed or ratified as an international treaty and therefore has no direct application, the question of the possibility of establishing a diplomatic mission of Kosovo in Belgrade remains open. That question becomes even more relevant when taking into account the

²⁰ Kancelarija za Kosovo i Metohiju, Vlada Republike Srbije, „Prvi sporazum o principima koji regulišu normalizaciju odnosa“, 2013, available at: <https://www.kim.gov.rs/p03.php>

²¹ United Nations, “Vienna Convention on Diplomatic Relations”, 1961, available at: https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf

²² Ibid, Article 2.

²³ RS Official Gazette, “Law on Foreign Affairs”, no. 116/2007, 126/2007 - corr. and 41/2009, Article 7, available at: https://www.paragraf.rs/propisi/zakon_o_spoljnim_poslovima.html

position of the Ministry of Foreign Affairs of the Republic of Serbia, which clearly rejected any possibility of the existence of a diplomatic mission of Kosovo in Belgrade. On the other hand, the institute of liaison officers, which was established in 2013, also does not have a legal foothold in Serbian legislation, but it proves that when there is political will, anything is possible.

Another illogical thing is that the Agreement stipulates that these permanent missions are established in the seats of governments. This type of permanent missions is not standard in comparative practice, but having in mind the sensitivity of the issue and the intention not to presume the status of Kosovo, it was probably the assessment of the facilitators in the negotiations that the establishment of a permanent mission of Kosovo in the seat of the government in Belgrade is a better approach than the classic embassy. Also, the opening of a diplomatic mission outside the premises of the EU Delegation (where the liaison officer of Kosovo is currently located) and the Government of Serbia would have the potential to cause civil protests and endanger the work of this mission and its staff.²⁴ This leads to the last problem within the second challenge, which is the general opposition of the population in Serbia to the independence of Kosovo, and the establishment of a permanent mission could be interpreted as some kind of recognition. Therefore, there is the fear and potential for new violent protests like those in 2008.

CHALLENGE 3: KOSOVO'S MEMBERSHIP IN INTERNATIONAL ORGANISATIONS

Article 4 of the Normalisation Agreement states: *The Parties proceed on the assumption that neither of the two can represent the other in the*

²⁴ An illustrative example is the burning of the U.S. embassy in Belgrade in 2008, when protests organized on the occasion of the unilateral declaration of Kosovo's independence gathered thousands of people who went to the embassy of this country and on which occasion one person employed in this permanent diplomatic mission died. Also, on that occasion, the embassy of the Republic of Croatia and other diplomatic and consular missions were also targeted. More at: https://www.rtv.rs/sr_lat/politika/neredi-u-beogradu-zapaljena-ambasada-sad-zandarmerija-u-akeiji_50336.html

*international sphere or act on its behalf.*²⁵ Therefore, with this article, Serbia renounces the right to represent Kosovo and its membership in international organisations. This can be problematic from Serbia's point of view from several aspects. First, such a thing would represent a violation of the territorial integrity and sovereignty of the Republic of Serbia. Second, it seems that the political elite in Belgrade is not ready for such a move, despite the President of the Republic orally accepting the Agreement in its original form. It seems that this wording of Article 4 is unacceptable for Serbia, and therefore the question of whether this Article will be implemented at all deserves special attention.

It is exactly the point of the Agreement concerning membership in international organisations that is the most challenging for Serbia. This has represented Serbia's red line ever since the unilateral declaration of independence, hence the representatives of Serbia have actively worked to block Kosovo's membership in international organisations wherever possible. Indicative examples are Kosovo's attempts to join INTERPOL and UNESCO. Serbia also voted against Kosovo's membership in the Council of Europe (CoE) in 2023, although it failed to block the process of starting negotiations on Kosovo's accession to this organization. On the other hand, based on the Agreement on Regional Representation from 2012,²⁶ Serbia did not oppose Kosovo's membership in regional organisations and initiatives such as the Regional Cooperation Council (RCC), the Common Regional Market (CRM), the Berlin Process, the Southeast Europe Cooperation Process (SEECP), etc. Kosovo's membership in these regional forums was conditioned by the use of an asterisk and a footnote next to the name, according to the 2012 Agreement. However, international organisations are not the same as regional ones, because membership in intergovernmental organizations such as the

²⁵ European Union, External Actions Service, "Belgrade-Pristina Dialogue: Agreement on the path to normalisation between Kosovo and Serbia", available at: https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-eu-proposal-agreement-path-normalisation-between-kosovo-and-serbia_en

²⁶ Radio-televizija Vojvodine (RTV), „Tekst sporazuma Beograda i Prištine“, 25 February 2012, available at: https://rtv.rs/sk/politika/tekst-sporazuma-beograda-i-pristine_302491.html

Council of Europe, the European Union²⁷ and the United Nations would somehow mean strengthening of statehood and universal recognition of independence for Kosovo. According to the statements of officials, such a thing is unacceptable for Serbia.

Despite the fact that in the negotiations with Kosovo, the representatives of Serbia, primarily the President of the Republic, accepted the Agreement which includes Kosovo's membership in international organisations, Belgrade's official position on this issue has not changed. This is supported by numerous statements, primarily by the President of the Republic, but also by the Prime Minister, as well as the Minister of Foreign Affairs, who are authorised by the Constitution and law to lead Serbia's foreign policy. Also, the reservation of the Prime Minister on the EU declaration after the December Western Balkans Summit²⁸ is another confirmation of the intention of the government in Belgrade not to implement this article of the Agreement. Immediately after the acceptance of the Normalisation Agreement and the Annex from Ohrid, the President of Serbia declared that "there is no implementation of the parts of the Agreement concerning Kosovo's membership in the UN."²⁹ The Minister of Foreign Affairs of Serbia also stated on two occasions, in November and December 2023, that Kosovo cannot become a member of the UN,³⁰ thus clearly defining Belgrade's position on this matter, which is diametrically opposed to what is written in the Agreement. Finally, during the debate in the UN Security Council in October 2023, the Prime Minister of Serbia emphasized in her speech that Kosovo is not a member of the UN.³¹

²⁷ In point 14, the Brussels Agreement (2013) stipulated that the two parties shall not block each other on the way to EU integrations.

²⁸ Tanjug, „Premijerka Brnabić uložila rezervu na deklaraciju EU, štiteći interese Srbije“, 14 December 2023, available at: <https://www.tanjug.rs/srbija/politika/64530/premijerka-brnabic-ulozila-rezervu-na-deklaraciju-eu-stiteci-interese-srbije/vest>

²⁹ Radio Slobodna Evropa, „Nema primene delova sporazuma koji se tiču članstva Kosova u UN-u, izjavio Vučić“, 21 March 2023, available at: <https://www.slobodnaevropa.org/a/vucic-sporazum-kosovo-un/32327686.html>

³⁰ Kosovo Online, „Dačić: Nema ulaska Kosova u UN i priznanja“, 2 December 2023, available at: <https://www.kosovo-online.com/vesti/izbori-u-srbiji/dacic-nema-ulaska-kosova-u-un-i-priznanja-2-12-2023> i Radio-televizija Srbije (RTS), „Dačić: Kosovo ne može u UN“, 21 November 2023, available at: <https://www.rts.rs/vesti/politika/1450798/dacic-kosovo-ne-moze-u-un.html>

³¹ Radio-televizija Vojvodine (RTV), „Sednica Saveta bezbednosti UN o Kosovu i Metohiji; Brnabić: Priština sprovodi sistematsko nasilje nad Srbima“, 23.10.2023, available at: https://www.rtv.rs/sr_lat/politika/pocela-sednica-saveta-bezbednosti-un-o-kosovu-i-metohiji-sefica-unmika-predstavlja-izvestaj_1486906.html

Therefore, Serbia's position on this issue is clear and unambiguous, Kosovo's membership in the UN and related organizations and agencies is not to be allowed. The fact that this position contradicts the Normalisation Agreement creates tension and challenges for its implementation, because this is one of the central points of normalisation. What appears to be a potential intermediate stage in the implementation of this Agreement is that Serbia could, not necessarily by acceptance, but by an approach that implies the absence of opposition, open space for Kosovo's membership in certain international organisations, as long as this does not mean membership in the UN or organisations and agencies which operate within the UN system. The Annex itself seems to point to this possibility, taking into account that, for example, membership in the European Union is left as an option to be pursued (and stipulated even earlier by the Brussels Agreement), while Kosovo's membership in the United Nations remains on the long side - primarily due to the likely opposition of two countries with the status of permanent members of the United Nations Security Council - Russia and China.

CHALLENGE 4: RECOGNIZING NATIONAL SYMBOLS

Article 1 of the Normalisation Agreement foresees the creation of good neighborly relations on the basis of equal rights and includes mutual recognition of national symbols and documents, including identity cards, passports, license plates, and customs stamps.³² The recognition of symbols and documents by Serbia has been very problematic up to now, and delays in the dialogue regarding identity cards and license plates have been the cause of serious crises in the dialogue and tensions on the ground. Negotiations on customs stamps have been ongoing since the beginning of the dialogue in 2011, and there is still no agreement on this matter. Serbia currently does not recognise passports issued by the Kosovo authorities, as well as national symbols (flag, coat of arms, and anthem).

³² European Union, External Actions Service, "Belgrade-Pristina Dialogue: Agreement on the path to normalisation between Kosovo and Serbia", available at: https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-eu-proposal-agreement-path-normalisation-between-kosovo-and-serbia_en

The issue of national symbols is very sensitive considering that they are identified with symbols of statehood, so the non-acceptance of Kosovo symbols and documents by Serbia is clearly in line with the policy of non-recognition. Acceptance of state symbols of the so-called Republic of Kosovo would represent a kind of *de facto* recognition by Serbia. This was confirmed by the President of the European Commission during her visit to Belgrade and Priština, expressing the expectation that Serbia will *de facto* recognize Kosovo by implementing the provisions of Article 1 of the Normalisation Agreement.³³ On the other hand, there is no official definition of *de facto* recognition, or any EU document that mentions and elaborates on this concept. The term *de facto* recognition is the wording first mentioned in the joint statement of Scholz, Macron and Meloni,³⁴ and later also adopted by the President of the European Commission, Ursula von der Leyen. Although Serbia accepted Kosovo identity cards in 2022 with the reservation that this does not prejudice the recognition of Kosovo, and license plates with a decision to hide state symbols (and later recognized the plates following the principle of identity cards),³⁵ the acceptance of passports and state symbols such as the flag, coat of arms, and anthem of Kosovo represents a great challenge for the Serbian administration regardless of the correlation between recognition of state symbols and *de facto* recognition of independence.³⁶

³³ N1, „Ursula fon der Lajen: Sprovođenje Ohridskog sporazuma je de fakto priznanje Kosova“, 31 October 2023, available at: <https://n1info.rs/vesti/ursula-fon-der-lajen-ohridski-sporazum-de-fakto-priznanje/>

³⁴ Nova S, „Makron, Solc i Meloni o pregovorima u Briselu: Pozivamo Srbiju na de fakto priznanje, a Kosovo da uspostavi ZSO“, 27 October 2023, available at: <https://nova.rs/vesti/politika/makron-solc-i-meloni-o-pregovorima-u-briselu-pozivamo-srbiju-na-de-fakto-priznanje-a-kosovo-da-uspostavi-zso/>

³⁵ At the end of 2023, the Government of Serbia decided to recognize license plates marked “Republic of Kosovo (RKS)” with the same reservation as with identity cards before. However, the recognition of Kosovo plates should be seen in the context of Serbia sending a positive signal to international partners, but that full *de facto* recognition, which implies the recognition of other state symbols (flag, coat of arms, anthem) and documents (passports, customs seals, court decisions) will still have to wait. The recognition of plates is certainly a step in the right direction in terms of implementation and can be an introduction to further steps in the recognition of state symbols of Kosovo.

³⁶ Radio Slobodna Evropa, „Postignut dogovor Srbije i Kosova o ličnim dokumentima“, 27 August 2022, available at: <https://www.slobodnaevropa.org/a/postignut-dogovor-srbija-kosovo-licna-dokumenta/32007169.html>

Indicative examples of avoiding taking photos of Serbian officials next to the Kosovo flag³⁷ represent Serbia's clear opposition to the recognition of Kosovo symbols. Bearing in mind the position of the main leaders in the EU (Scholz, Macron, Meloni, von der Leyen) for the *de facto* recognition of Kosovo, Serbia has not yet clearly formulated its position on the issue. However, what is clear is that Serbia opposes the plan for the Normalisation Agreement and the Ohrid Annex to become part of the negotiation chapter and a formal condition for Serbia's membership in the EU,³⁸ and within the EU itself it is looking for partners to prevent such a development.³⁹ So it is clear that there is resistance from the Serbian leadership towards this point of the agreement and that the recognition of national symbols will not be easy to implement.

³⁷ N1, „Bnabić i fotografisanje sa učesnicima samita Berlinskog procesa: Šta se desilo u Tirani?“, 16 October 2023, available at: <https://n1info.rs/vesti/bnabic-i-fotografisanje-sa-ucenicima-samita-berlinskog-procesa/>

³⁸ Radio-televizija Srbije (RTS), „Vučić: Postoji mogućnost da Ohridski sporazum postane uslov prijema u EU“, 6 December 2023, available at: <https://rts.rs/vesti/politika/5323637/vucic-postoji-mogucnost-da-ohridski-sporazum-postane-uslov-za-prijem-u-eu.html>

³⁹ Danas, „Ko bi mogao da pomogne Vučiću da ceo Ohridski sporazum ne bude deo poglavlja 35?“, 3 December 2023, available at: <https://www.danas.rs/vesti/politika/poglavlje-35-ohridski-sporazum/>

CONCLUSION

Despite the challenges arising from the Normalisation Agreement between Kosovo and Serbia, its implementation is crucial for further steps in the process of establishing functional relations between Belgrade and Priština. The analysis of key challenges, such as the lack of clarity around full implementation, the exchange of permanent missions, Kosovo's membership in international organisations and the recognition of national symbols, indicates the need for a careful approach and resolution of issues that are of fundamental importance.

Signing, initialing, and ratification, along with possible changes to the Negotiating Framework of Serbia in the EU accession process, are necessary steps towards establishing a clear legal basis for implementation. The European Council clearly supported the full implementation of the agreement, which represents a clear signal from the European Union that the expectation is that the implementation will be carried out gradually.

Permanent missions and their exchange are a step towards achieving a higher degree of normalisation, but it is necessary to further elaborate what exactly this institution entails, and a good step in achieving this goal would be the adjustment of the national formative framework, and the adoption of a law that would precisely define the roles and tasks of these missions. And while the institution of permanent missions would be normatively and terminologically communicated with relevant actors, what could serve as a basis for formulating normative frameworks is the practice of (para)diplomatic missions, in order to avoid obstacles in implementation.

Kosovo's membership in international organisations should be developed gradually, and the precondition is a change in Belgrade's approach and acting under the principle of good faith. It should be more acceptable for Serbia and therefore the focus should be on regional organisations such as the EU and CoE at this stage. In that case, the issue of UN membership would be left for a later stage of implementation. With the fact that Serbia, through the Agreement, assumed the obligation not to oppose Kosovo's

membership in international organizations, should also assume its obligation to communicate with its partners about the possibility of Kosovo's membership in certain organizations, in accordance with the obligations from the implementation annex.

The recognition of national symbols is a complex issue primarily due to the fact that there is no gradual recognition, but the logical sequence is that by recognizing symbols at one level - for example, the European - they are recognized at all levels. However, recognition may differ from the use of symbols. The gradual approach to the use of symbols already has a basis in application, primarily at international gatherings at the regional and international level. Consensus on the use of national symbols at the regional and international level in the first phase, while they are left out at the national level, can serve as a step towards gradual normalisation and the possible beginning of use on the national level.

Overall, solving the above challenges requires responsibility, dialogue, and compromise on both sides. Only through joint efforts and commitment to the implementation of the agreement can stability, reconciliation, and prosperity be achieved in the Western Balkans region.

In the end, this paper did not include the attitude of the public in Serbia towards the Normalisation Agreement. Although almost a year has passed since the acceptance of the Agreement, there was no significant resistance by the public, nor was the Agreement itself a dominant topic during the election campaign for the parliamentary elections in 2023. However, the public opinion on this issue should not be taken lightly. This issue certainly has the potential to seriously affect implementation in the future, depending on the context and moment. Consequently, this question deserves a special analysis in the future.

RECOMMENDATIONS TO OVERCOME CHALLENGES

On the basis of everything elaborated above, the following recommendations have been singled out in order to overcome obstacles and continue the process of normalisation of relations between Belgrade and Priština.

Implementation of the Agreement in its entirety:

1. *Initialing, signing, and ratification:* It is recommended to carry out formal steps for initialing, signing, and ratifying the Normalisation Agreement. The adoption of an international agreement will provide a clear basis for dedicated action in order to achieve the agreement of relevant actors and demonstrate commitment to implementation.
2. *Amendment of the Negotiating Framework for membership in the European Union:* It is necessary to amend the Negotiating Framework for Serbia in order to create an adequate legal basis for the effective implementation of the Agreement. This change should be carefully designed to encourage the implementation of the agreed measures.
3. *Defining the time frame for the implementation of the agreement:* It is necessary to define clear timelines for the implementation of the elements of the Agreement, and based on the level of fulfillment, to define incentive and restrictive measures for the actors involved.
4. *Continuous and clear support of EU officials for the implementation of the Agreement:* Relevant representatives and institutions of the European Union (European Council, Commission, special representatives) should clearly and unequivocally provide support and continue to encourage both parties to fulfill their obligations in accordance with the agreements reached.

Exchange of permanent missions:

1. *Detailed elaboration of the concept:* It is necessary to conduct further dialogues in order to elaborate the concept of permanent missions. These missions should be clearly defined, taking into account their role and tasks in the process of normalising relations.
2. *Adoption of a special law:* It is recommended to adopt a special law that will precisely define the role and tasks of permanent missions. This legal framework will provide clear guidelines for the operations of the missions and ensure their effective implementation.
3. *Consideration of the practice of paradiplomatic missions:* to consider the existing practices of paradiplomatic missions as a model that does not imply *de iure*, or *de facto* recognition of independence. The potential establishment of permanent missions based on a principle similar to the establishment of paradiplomatic representations in the form of a *sui generis* model can be an efficient way to maintain diplomatic relations, without disrupting existing political positions.

Kosovo's membership in international organisations:

1. *Encouraging the process of joining the European Union in accordance with the provisions of the Agreement and the Brussels Agreement:* It is recommended to continue encouraging the European integration process of both parties in the agreement, with a special focus on defining Kosovo's perspective in the European Union and regional organisations. The recommendation as such is not new, however, in new geopolitical circumstances, as well as parts of the agreement, its relevance gains additional importance.
2. *Leaving the UN for a later phase of implementation of the Agreement:* Although part of the agreement on Serbia's non-opposition to Kosovo's membership in international organisations should apply equally to all international organisations, political complexity allows for looser interpretations and at the same time

focusing on those processes that are easier to implement. The issue of Kosovo's membership in the United Nations should be left for a later period, in order to avoid jeopardizing the implementation of the agreement at this stage. Focusing on the EU provides a viable path to international recognition.

3. *Transparent communication of Serbia's position with partners:* Serbia should transparently communicate its attitude and position within the process of implementing agreements and normalising relations with its international partners (primarily Russia and China). If Serbia takes a position that will not be contrary to the possible membership of Kosovo in international organisations, and in accordance with the obligation of non-opposition prescribed by the implementation annex, it is necessary to communicate this with these partners. The final position will be the sovereign decision of the partner.

Recognising national symbols:

The approach to the recognition of national symbols through the recommended route is based on the establishment of a consensus on their use at the regional and international level in the initial phase. This strategy allows for gradual normalisation, thus opening the way to the possible acceptance and full use of the symbols at the national level. It is important to emphasize that there is a logical sequence, and that recognition of symbols at higher levels can contribute to wider acceptance and integration at all levels.

