



Survival

Global Politics and Strategy

ISSN: (Print) (Online) Journal homepage: <https://www.tandfonline.com/loi/tsur20>

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To cite this article: Fatma Aslı Kelkitli (2021) Could Land Swaps Break the Kosovo–Serbia Impasse?, *Survival*, 63:3, 71–98, DOI: [10.1080/00396338.2021.1930408](https://doi.org/10.1080/00396338.2021.1930408)

To link to this article: <https://doi.org/10.1080/00396338.2021.1930408>



Published online: 25 May 2021.



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Could Land Swaps Break the Kosovo–Serbia Impasse?

Fatma Aslı Kelkitli

The relationship between Serbia and Kosovo has steered a complicated and awkward course since the latter's declaration of independence in 2008. Negotiations led by the European Union to end the impasse between the two sides have yielded only meagre results. The idea of a territorial-exchange agreement between Belgrade and Pristina emerged in summer 2018 discussions between the two leaderships, but was shelved due to the objections of some European countries and domestic opposition in Serbia and Kosovo. However, since no satisfying power-sharing resolution of the two sides' political differences has been reached, the possibility of a territorial-exchange deal may return. Indeed, a territorial exchange could be the most promising disposition available, provided certain historical and political impediments can be overcome.

The search for a solution

It has been more than 13 years since Kosovo declared independence from Serbia. Out of the 193 members of the United Nations, 98 have recognised the nascent republic as a sovereign state.¹ Yet Serbia still regards Kosovo as a constituent part of its territory, and has succeeded in preventing Kosovo's recognition as a sovereign country by many states. It fell to the EU to search for a way to break the deadlock, as both Serbia and Kosovo have long aspired to Union membership. EU-mediated talks began in March 2011,

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which resulted in the signing of several agreements on technical matters. Most of these agreements have been only partially implemented, however, as many are dependent upon the settlement of the political impasse between Belgrade and Pristina. Accordingly, the EU brought together the premiers of Serbia and Kosovo to engage in political negotiations in October 2012 that culminated in the adoption of the 'First Agreement of Principles Governing the Normalization of Relations' in April 2013. The agreement called for the establishment of an 'Association/Community of Serb majority municipalities' in Kosovo, which would exercise full authority in the areas of economic development, education, health, and urban and rural planning; for the integration of all Serbian security structures and judicial authorities within the security and legal framework of Kosovo; for the holding of municipal elections in the northern municipalities in 2013; and for the agreement of both parties not to block each other's EU journey.² However, this agreement has remained largely unimplemented, except for the organisation of municipal elections in the northern municipalities in November 2013 and the integration of Serbian judicial personnel into Kosovo's legal system.³ Serbia and Kosovo hammered out another set of agreements in August 2015 that addressed issues surrounding the association/community of Serb-majority municipalities in Kosovo, energy, telecommunications and the Ibar Bridge.⁴ Out of these four deals, only the telecommunications agreement has been fully implemented.⁵

After the EU-mediated negotiations reached a dead end in 2016, the presidents of Serbia and Kosovo started to explore alternative solutions to the stalemate. In summer 2018, the idea of a territorial-exchange agreement was reportedly put forth by Serbian President Aleksandar Vucic and his Kosovar counterpart Hashim Thaçi.⁶ According to the proposed plan, four Serbian-dominated municipalities in northern Kosovo (Leposavic, North Mitrovica, Zubin Potok and Zvecan) would merge with Serbia and in return Kosovo would be awarded two Albanian-majority municipalities in southern Serbia (Bujanovac and Presevo).

The territory of the northern municipalities measures 1,007 square kilometres. Of the 146,128 Serbians in Kosovo, 70,430 are estimated to live in these municipalities, representing approximately 90% of the population in this area.⁷ Northern Kosovo shares a border with Serbia, and the Serbian

flag and dinar, as well as the Cyrillic script, are widely used by the region's inhabitants. Local institutions in the fields of education, healthcare, infrastructure development and social services often function independently of, and in parallel with, Kosovar institutions

The territory occupied by the municipalities of Bujanovac and Presevo, on the other hand, measures 725 km² and is home to a population of about 68,000.⁸ More than 90% of the inhabitants of Presevo, and more than half the residents of Bujanovac, are of Albanian origin.⁹ The early 2000s witnessed a brief military conflict between these municipalities on one side and the Serbian state, along with the so-called Liberation Army of Presevo, Medveda and Bujanovac, on the other, which ended with the signing of the Koncul Agreement in February 2001 – an agreement mediated by the NATO secretary-general. It led to the demilitarisation of armed Albanian groups in Bujanovac, Medveda and Presevo, but relations between Albanians and Serbs in these three municipalities have remained distant and tense.¹⁰ Just as the Serbs living in northern Kosovo refuse to recognise the authority of Pristina, the Albanians residing in southern Serbia demonstrate little sign of allegiance to Belgrade.

The territorial-exchange proposal was rebuffed by opposition parties, religious institutions and nationalist groups in both Serbia and Kosovo, and appears to have been shelved, at least for the time being. Yet the land swap may, in the long run, be the only way to achieve a permanent rapprochement between Serbia and Kosovo. The territories being proposed for the swap are comparable in size and population, and the requisite background conditions are present for a peaceful territorial exchange. If some domestic political obstacles could be overcome in both Serbia and Kosovo, there is a good chance that the Gordian knot of Belgrade–Pristina relations could finally be untangled.

Partition or power-sharing?

The establishment of a functioning democracy in a country plagued by ethnic conflict is a daunting task. In Serbia and Kosovo, many people have lost loved ones, homes and valuable belongings in violent domestic battles with erstwhile friends, neighbours and co-workers because of ethnic, reli-

gious or linguistic differences. These painful experiences have produced fear, anger and alienation among the formerly warring groups. The erosion of respect and trust, along with low levels of contact between the contending parties, has made it difficult to sustain a cohesive and harmonious society.

Military clashes between the belligerents, coupled with extensive civilian suffering during the ethnic conflicts, have given rise to a security dilemma in which the sparring groups see each other not as citizens of a joint state but as threats that need to be addressed through acts that in turn give rise to feelings of insecurity in other groups.¹¹ The hardening of ethnic identities has intensified the polarisation of society, as any interaction with members of an adversary group is considered treason by one's fellow community members.¹²

The difficulty of accommodating irreconcilable disagreements in the aftermath of ethnic civil wars has led to the suggestion that it is helpful or even necessary to physically separate combatant groups to reach enduring, peaceful settlements in conflict-ridden territories.¹³ Partition, territorial segregation and population transfers, either agreed upon by the relevant parties or imposed on them by a stronger third party, are believed to reduce the likelihood of a recurrence of ethnic conflict.¹⁴ Minority groups may be given the chance to break free from the shackles of a common state and go their own way. Majority groups may experience a loss of territory and population, but will have a more homogeneous and stable country.¹⁵ Even if some minority groups continue to reside in the partitioned state, their meagre numbers will not pose a significant political or military threat to the majority.¹⁶

The opponents of partition schemes have long pointed out that dividing a territory can be fraught with difficulties, especially if the land in question has some tangible or intangible value for the parties. The territory under discussion may hold significant economic potential, such as abundant energy resources or mineral deposits; be geographically close to the homeland; or contain ancient religious sites or ancestral graves which are of historical, sentimental or symbolic importance.¹⁷ Another criticism is that dividing a territory among the contending sides may not end the violence and may even trigger further conflicts as left-behind minorities mobilise for auton-

omy or independence. The historical cases of India, Ireland and Pakistan are often cited. Furthermore, the population transfers that usually accompany partition arrangements tend to violate basic human rights as people are ripped from their native lands, immovable belongings and friends.¹⁸

Power-sharing models in the Balkans

The popular alternatives entail strong power-sharing mechanisms, which ensure that no single group makes decisions without the involvement of the other groups, deemed the best way to achieve democratisation, decentralisation and identity reconstruction in war-torn societies. In line with this reasoning, several power-sharing models have been introduced in the Balkans since the mid-1990s, in Bosnia-Herzegovina, North Macedonia and Kosovo.

The power-sharing system embraced by Bosnia-Herzegovina in the wake of the Dayton Agreement that ended the bloody three-year war there largely corresponds to the consociational-governance system advanced by Arend Lijphart. This consensual form of democracy rests on the joint exercise of governmental power by all significant segments of society in a grand coalition; a mutual veto that serves to protect vital minority interests; proportionality in political representation, civil-service appointments and the allocation of public funds; and a high degree of autonomy for each segment to manage its internal affairs.¹⁹ The constitution of Bosnia-Herzegovina designates Bosniaks, Croats and Serbs as constituent peoples of the republic, and most governmental organs reflect this ethno-national definition via the presence of ethnic quotas for these three groups.²⁰ Moreover, representatives of each group are granted the right to veto any legislation they deem destructive to their group's vital interests. Bosnia-Herzegovina is also a highly decentralised state. It is composed of two entities, the Federation of Bosnia-Herzegovina and Republika Srpska, plus the autonomous Brcko district. The federation is further divided into ten cantons. All these entities enjoy a high degree of autonomy.

The consociational-democracy model established in Bosnia-Herzegovina fell short of creating a stable and efficient political system in that country. As underlined by Lijphart, this model necessitates the commitment and cooperation of segmented leaders to preserve the unity of the country.²¹

The segmented elites in the Bosnian case, however, find it difficult to compromise on even minor issues. The long-time leader of Republika Srpska, Milorad Dodik, has repeatedly voiced his lack of faith in the sustainability of the Bosnian state.²² Another source of gridlock is the lawmaking process. Passing legislation at the state level is a long and arduous process due to the extensive veto rights of the constituent groups.

The power-sharing system in Macedonia took shape following the signing of the Ohrid Framework Agreement in August 2001, which brought an end to the six-month armed conflict between the National Liberation Army (an Albanian paramilitary organisation) and the Macedonian security forces. The agreement envisaged governmental decentralisation, non-discrimination and equitable representation in the public sector; a double-majority system in parliament; and acceptance of Albanian as an official state language.²³

The Law on Local Self-government of 2002 enlarged the competencies of municipalities and granted them responsibility for urban planning, pre-school and primary education, basic healthcare, and sports and cultural issues.²⁴ The Law on Territorial Organization of 2004, on the other hand, redrew municipal boundaries to increase the number of municipalities with an Albanian majority.²⁵ This led to discomfort among Macedonians, who claimed they were being denied access to public services in Albanian-majority municipalities.²⁶

The implementation of the principles of non-discrimination and equitable representation, which aimed to correct imbalances in public bodies through the recruitment of members of under-represented communities, has been partially successful. Albanians and other minorities are recruited in greater numbers to the public sector compared to the pre-2001 period. However, the use of this principle by the political parties as a bargaining chip in political negotiations, and the introduction of the spoils system into recruitment processes to the benefit of the Albanian minority, increased societal tensions and raised doubts about the future viability of the Ohrid Framework Agreement.²⁷

Kosovo introduced its power-sharing system in June 2008 with the coming into force of its constitution, which guaranteed representation

of non-majority communities in Kosovo's parliament, and required government and majority consent from communities that held reserved seats regarding legislation on vital interests, such as laws concerning communities, municipalities, education, local elections, the protection of cultural heritage, religious freedom, language use and symbols.²⁸ Yet Article 149 of the constitution stated that laws of vital interest might initially be adopted by a simple majority, which decreased the impact of minority representatives in the formulation of the legal framework.²⁹ A Committee on Rights and Interests of Communities, a permanent body mostly made up of minority representatives to which all proposed laws could be submitted for further scrutiny, was also established within the Kosovo parliament, but was not equipped with a veto power.³⁰

The most serious problem encountered by Kosovo since its independence has been the integration of the Serbian minority into the country's political system. While Serbs who live in the central and southern parts of Kosovo in scattered enclaves have acknowledged Kosovar institutions to some extent, Serbs living in northern Kosovo totally reject them. Serbs who reside south of the Ibar River have acquired Kosovo identity cards, accepted jobs from the Kosovo government and started to use Kosovo number plates.³¹ They have also participated in local and general elections. The Independent Liberal Party, founded in Gracanica in 2006 and comprising mostly Serb members, won the municipalities of Gracanica, Klokot and Strpce in the November 2009 municipal elections. The party also sent eight representatives to the Kosovo Assembly after the December 2010 parliamentary election.³² Although it was difficult to claim that party supporters felt a close affinity to the Kosovo state, their geographical distance from Serbia led them to adopt a more conciliatory approach.

Meanwhile, the four municipalities in the northern part of Kosovo that are overwhelmingly inhabited by Serbs and contiguous with Serbia have never come under the jurisdiction of the Kosovo state. In these municipalities, institutions in the fields of education, healthcare, infrastructure and security are controlled by Serbia. Pristina's attempt to integrate these four

*Serbs reject
Kosovar
institutions*

municipalities into its own state structures through the creation of the association/community of Serb-majority municipalities, which was granted wide autonomy in internal affairs, backfired amid rejection from the Kosovo Constitutional Court and internal opposition.

Serbia's intervention in Kosovo's politics through the propping up of the political party Srpska Lista (Serb List) further complicated the integration of the Serbian minority into Kosovo's political system. The party has played a significant role in local and general elections in Kosovo since 2013. It won all ten seats reserved in the Kosovo Assembly for the Serbian community in October 2019, and party members serve as mayors in all ten Serb-majority municipalities. It has been alleged that Srpska Lista's electoral success relied to a great extent on generous funds from Serbia and the intimidation of rival Kosovar Serbian parties.³³ The Serbian government itself, which had once urged Serbs in northern Kosovo to reject Kosovar institutions in a February 2012 referendum, encouraged voting in the local and general elections in Kosovo starting with the municipal election in November 2013.³⁴ This encouragement was not necessarily intended to bolster Serbs' confidence in Kosovo's government, however. Its main aim was to keep Serbia's EU-membership aspiration on track through cooperation in the elections. The fact that there were approximately 5,600 Kosovo Serb voters in the October 2019 elections who lacked Kosovar identity cards, almost all of whom lived in the four northern municipalities in Kosovo, demonstrated the unwillingness of Serbs living in northern Kosovo to recognise the institutions of Kosovo.³⁵

The low level of contact between Albanians and Serbs in northern Kosovo undermines the workability of the power-sharing system. Kosovar Albanians, who constitute the overwhelming majority of the population in Kosovo, have yet to fully accustom themselves to the idea of a multi-ethnic Kosovo state. Serbs living in northern Kosovo do not recognise the statehood of Kosovo and retain deep suspicions regarding the recognition of their rights in an Albanian-dominated state. Taking into account the dim prospects of integrating the Serbian minority in the north into Kosovo's state structures, a land swap between Serbia and Kosovo may well be the only way to achieve permanent peace.

Peaceful territorial exchange: the solution for Kosovo?

A peaceful territorial change is defined as an alteration in the territorial status quo via bargaining and negotiation between the concerned parties, which rules out war or other unilateral, coercive means of ending a conflict.³⁶ Such a change may take place in the form of a purchase, an exchange or a cession of the disputed territory. The land swaps between the Czech Republic and Slovakia in 1997, and between Bangladesh and India in 2015, are good examples of peaceful and successful territorial exchanges. After a land-swap agreement was clinched in 1996, the border between the Czech Republic and Slovakia was redrawn in 1997 to bring the Czech-controlled but overwhelmingly Slovak-populated U Sabotu under the jurisdiction of Slovakia. In return, Sidonie, which belonged to Slovakia but whose population was mainly made up of Czechs, was ceded to the Czech Republic. Bangladesh and India exchanged 162 enclaves in 2015: 51 Bangladeshi enclaves became Indian territory and 111 Indian enclaves became part of Bangladesh.³⁷

Many studies have examined the factors that may influence the realisation of a peaceful territorial exchange. Paul Huth, Todd Allee and Krista Wiegand have focused on regime type. While Huth and Allee claim that democratic regimes may find it difficult to make the concessions required for peaceful territorial transfers due to pressures from civil society, Wiegand finds that single-party regimes are more likely to pursue peaceful dispute resolutions compared to other authoritarian regimes.³⁸ Mark Zacher concentrates on the influence of international norms, especially the norm of territorial integrity, on perceptions of territorial matters by states.³⁹ Sara Mitchell and Allee and Huth have looked into the reasons why states resort to third-party intervention for the resolution of territorial disputes.⁴⁰ Several scholars have scrutinised the impact of former military conflicts or failed settlement attempts on the peaceful resolution of territorial issues.⁴¹

Of all the available models, Arie Marcelo Kacowicz's is the most comprehensive. It encompasses all the factors listed above, along with considerations of power asymmetry, third-party threats and domestic politics. Kacowicz posits six background conditions or variables for the realisation of a peaceful territorial exchange. Such an exchange is more likely

to occur where the distribution of power between the parties is somewhat asymmetrical, preferably to the advantage of the power that is in control of the territory; where the parties' political regimes are of a similar type; where there is a consensus between the parties about the implementation of norms and the rules of international law; where third parties offer good offices, mediation or arbitration; where the parties have been involved in a war within the ten-year period preceding the negotiations on territorial change; and where there is a third-party threat against at least one of the parties.⁴²

The process of peaceful territorial exchange, especially in democratic countries, is open to the monitoring, scrutiny and criticism of the political opposition, non-governmental organisations, religious institutions and the media. These organisations may limit the bargaining space of the negotiating parties because they have the power to shape public opinion. Therefore, Kacowicz adds the impact of domestic politics as a variable that can potentially derail the process of peaceful territorial exchange if it is not properly handled by the negotiating parties.⁴³

Power disparity

Kacowicz's model requires a power disparity that favours the status quo power on the grounds that equal power paves the way for attempts to use military means to resolve the dispute. Indicators of power capabilities include territorial size, population, the number of armed-forces personnel, defence expenditures, gross national product, government revenue, trade value and energy consumption.⁴⁴

It is clear from these indicators that there is a power asymmetry between Serbia and Kosovo. With an area of 77,474 km², Serbia is more than seven times larger than Kosovo, which measures 10,887 km².⁴⁵ While Kosovo is home to a population of approximately 1.8 million people, Serbia has nearly seven million inhabitants.⁴⁶ The Serbian Armed Forces comprise 28,000 troops, whereas the newly formed Kosovo army has only 5,000 members.⁴⁷ Kosovo also hosts approximately 4,000 NATO troops, but they are mostly involved in border security, de-mining and the protection of heritage sites.⁴⁸ Serbia earmarked €792m for its defence expenditures in 2019.⁴⁹ Kosovo allocated €58.7m.⁵⁰

Serbia recorded a gross national product of €40.22 billion in 2018, while Kosovo's gross national product that year was €7.03bn.⁵¹ The Serbian government had revenues of €15.96bn in 2017, compared to Kosovo's €1.85bn.⁵² Serbia's trade value hit €40.7bn in 2018, while Kosovo's was €3.7bn.⁵³ Serbia consumes 29.81bn kilowatt-hours of electric energy per year, compared to Kosovo's yearly consumption of 3.96bn kWh.⁵⁴ All these indicators demonstrate that Kosovo is a smaller power than Serbia.

Regime type

Kacowicz's model underlines the importance of the negotiating states having similar political regimes. Where regimes display differing norms, ideologies or views, these might present obstacles during the bargaining phase and hinder the prospects for peaceful territorial exchange.⁵⁵ Both Serbia and Kosovo have been described as 'partly free', 'defective' or 'flawed' democracies by democracy indexes because they do not always comply with the basic principles of liberal democracy, such as the holding of free, fair and competitive elections, the separation of powers, the rule of law, and the protection of civil liberties and political freedoms.⁵⁶ Although the latest municipal, presidential and parliamentary elections took place in a free and competitive atmosphere in Serbia, unbalanced coverage in the state-owned media favouring the ruling Serbian Progressive Party (SNS) and Vucic, the incumbent candidate; the misuse of public resources by the SNS; and strong allegations regarding the ruling party's exertion of pressure on voters employed in the public sector cast a shadow on the fairness of the electoral process.⁵⁷ The executive in Serbia controls the legislative process to a significant extent, and the judiciary is open to the influence and interference of the executive as well. Press freedom has significantly declined in Serbia, especially since Vucic's inauguration as president in 2017.

The parliamentary and municipal elections in Kosovo were considered generally fair and competitive by international observers. However, Srpska Lista, the leading Serbian party in Kosovo which, as noted, enjoys close links with Serbia, was occasionally accused of harassing rival parties to sustain its dominance in Kosovo's politics.⁵⁸ Also of concern is the spending of public funds on election campaigns and biased media coverage.⁵⁹ Kosovo's execu-

tive, much like Serbia's, intervenes continuously in legislative and judicial affairs. Threats and intimidation against journalists who criticise politicians undermine the country's press freedoms, and free expression more generally. The similarities between these two struggling democracies may facilitate a political dialogue between them for a peaceful territorial exchange.

Norms, principles and rules

Despite the existence of a conflict between Serbia and Kosovo over the norm of sovereignty, both states demonstrate a desire to join the EU, an organisation that rejects rigid interpretations of concepts such as political independence, territoriality and non-interference in states' internal affairs. Belgrade and Pristina have been striving for some time to adhere to the standards established by the EU as prerequisites to acceptance into the club. Referred to as the 'Copenhagen criteria', these standards oblige candidate states to have institutions that guarantee democratic governance, the rule of law, human rights, and respect for and protection of minorities; to maintain a functioning market economy and demonstrate a capacity to cope with competition and market forces within the EU; and to demonstrate the administrative and institutional capacity to take on the obligations of membership.⁶⁰ Both Serbia and Kosovo have been taking legislative steps to attune their laws to the EU's accession criteria, which may increase the prospects for successful territorial exchange between them.

Third-party contributions

Kacowicz's model highlights the potential of third-party diplomatic intervention to help resolve territorial disputes. The EU and the United States seem to be key third parties with regard to the possible territorial exchange between Serbia and Kosovo. As noted, Belgrade and Pristina both regard EU membership as a strategic goal, and the United States proved itself a critical actor during the Kosovo War of 1998–99. It has remained engaged with Kosovo ever since.

The proposal to exchange territory between Serbia and Kosovo met with mixed reactions in the EU. High Representative for Foreign Affairs and Security Policy Josep Borrell stated: 'It is not up to us to tell Kosovans and

Serbs what they should agree on. Our role will be to facilitate dialogue. But ... we cannot be more Catholic than the Pope.’⁶¹ European Commissioner for Neighbourhood and Enlargement Oliver Várhelyi indicated that a ‘land swap ... [is] a secondary issue. What is necessary is that first of all we have both actors/entities at that table, engaging in a meaningful way, and coming up with a solution.’⁶² Germany, a powerful political and economic player in the Balkans, has explicitly opposed the idea of a territorial change in the region. German Chancellor Angela Merkel said that the borders of the Western Balkan region were inviolable, whereas German Foreign Minister Heiko Maas stressed that discussions on a land swap could open up old wounds among the Balkan people.⁶³

Washington under the Trump administration appeared open to the idea of a territorial exchange between Serbia and Kosovo. In August 2018, John Bolton, then national security advisor, stated that if the two parties could work out a solution that might include territorial adjustments, the United States would not stand in the way.⁶⁴ In August 2019, US secretary of state Mike Pompeo appointed Matthew Palmer, the deputy assistant secretary of the Bureau of European and Eurasian Affairs and a veteran diplomat with significant experience in the Balkans, as his special representative for the Western Balkan region.⁶⁵ In October 2019, Richard Grenell, the United States’ ambassador to Germany, became the special presidential envoy for Serbia and Kosovo’s peace negotiations. There were also reports that Grenell was mediating secret talks between Vucic and Thaçi for the realisation of a territorial-exchange agreement, though Grenell dismissed these claims.⁶⁶ In January 2020, the United States mediated an agreement between Kosovo, Serbia and the German airline Lufthansa on the resumption of commercial flights between Serbia and Kosovo after a 21-year hiatus.⁶⁷ Finally, in September 2020, Vucic and Kosovar prime minister Avdullah Hoti signed economic-normalisation agreements at the White House that encompassed the construction of highways and rail networks, and the opening and management of the joint Merdare crossing.⁶⁸ These developments indicate that the backing of the EU and the US might be crucial for the smooth functioning of any territorial-exchange process between Serbia and Kosovo. Although US President Joe Biden sent a letter to Vucic in February 2021 urging Serbia

to recognise Kosovo, the administration's attitude towards a possible land swap is yet to be determined. Even so, there has been nothing to suggest that the United States would impede a land-swap deal between the parties.

The EU, however, has been more ambivalent. The Union's misgivings may be linked to concerns that a land-swap deal could strengthen separatist groups in Bosnia-Herzegovina and North Macedonia, and thus have a destabilising effect across the Western Balkans. Yet the land-swap deal between Serbia and Kosovo, if it ever materialises, will not be the result of a unilateral decision. Rather, it will be a mutually agreed settlement, and therefore will not necessarily set a precedent for secessionist factions in Bosnia-Herzegovina or North Macedonia. Neither the Dayton Agreement nor the constitution of Bosnia-Herzegovina offers entities the option of unilateral secession. Furthermore, the Dayton Agreement was endorsed by the UN Security Council many times, and any unilateral attempt to secede will not only contravene UN regulations but also draw the fury of leading international actors, which may prevent other countries from recognising the secessionist entity.⁶⁹ Serbia and Croatia signed the Dayton Agreement, taking responsibility for the territorial integrity of Bosnia-Herzegovina. And despite Dodik's divisive rhetoric, Republika Srpska does not enjoy the necessary economic self-sufficiency to function as an independent state. It relies on funds from the central government to pay its debts, which by 2020 represented more than 50% of its GDP.⁷⁰ Serbia may not be enthusiastic about a possible union with Republika Srpska as its Sandzak region, which is mainly populated by Bosniaks, may demand to secede if any such union takes place. Sandzak had voted in favour of autonomy in an October 1991 referendum that was declared unconstitutional by the Serbian authorities.⁷¹ Today, it is one of the poorest regions in Serbia; its Bosniak residents often complain about poor infrastructure, inadequate investment opportunities and difficulties in gaining access to public-sector jobs. The region's problems only worsened with the COVID-19 pandemic, which revealed the incapacity of its local healthcare system and strained ties with Belgrade. It is highly probable that Serbia will refrain from encouraging secessionist tendencies in Republika Srpska, which would further alienate and radicalise its own Bosniak population. North Macedonia, on the other hand, has come

a long way towards accommodating the grievances of its ethnic Albanian citizens by expanding their democratic representation and cultural rights. The 2019 Law on the Use of Languages, for example, made Albanian a co-official language at the state level. The inclusive and integrative approach of the North Macedonian government towards its Albanian minority seems likely to attenuate separatist currents in the country.

Wars and threats

Kacowicz's model holds that a history of war between the parties to a territorial-exchange negotiation may help them reach a settlement. The Kosovo War of 1998–99 may have ended more than 20 years ago, but it was an important learning experience, especially for Serbia, which has demonstrated much more caution, restraint and moderation in its international dealings compared to the pre-war period. Although Vucic has consistently refused to atone for the violence inflicted by Serbia during the Kosovo War, and has even claimed that the Racak massacre of January 1999, in which Serbian forces killed 45 Albanian civilians, is a fabrication, he has also acknowledged that Serbia lost Kosovo and should move to normalise relations by reaching an agreement.⁷²

The presence of a third-party threat against one of the negotiating sides may also contribute to the resolution of a territorial dispute. Although neither Serbia nor Kosovo appears to be experiencing such a threat, Serbia's progressive tilting towards the EU has triggered some problems with Russia, whose intelligence services have taken action in that country.⁷³ Russia's meddling may increase if Serbia's EU-membership journey, which is very much dependent on the normalisation of its relations with Kosovo, is put on hold. This situation may serve as another motivating factor for a land swap between Belgrade and Pristina.

Domestic politics

In many ways, conditions appear to be favourable for a possible territorial exchange between Belgrade and Pristina. Yet domestic politics remain a factor to be reckoned with in both states. In Serbia, the prospective land-swap arrangement was vehemently rejected by nationalist and conservative opposition parties, and the Serbian Orthodox Church. The Serbian Radical

Party, the Democratic Party of Serbia, the Dveri Movement and the People's Party all declared that they would oppose any solution that would relinquish Serbia's authority over Kosovo.⁷⁴ The Serbian Orthodox Church, which sees Kosovo as the heartland of Serbian Orthodox spirituality and identity, also came out strongly against the division of Kosovo on the grounds that the Serbian community living south of the Ibar River and its sacred sites would be deprived of adequate protection in such a scenario.⁷⁵

The well-being of the Serbian population residing south of the Ibar River and the protection of Serbian religious sites will loom large in any land-swap deal between Serbia and Kosovo. Most of the Serbs in the central and

The Orthodox Church rejected the swap

southern parts of Kosovo live in the municipalities of Gracanica, Klokot, Novo Brdo, Partes, Ranilug and Strpce. The livelihood of these communities mostly depends on agriculture, dairy production, cattle-breeding and low-level trade. Illegal logging and frequent thefts of agricultural machinery and livestock vehicles, coupled with an insufficient response

to such crimes by the Kosovo police, have undermined living conditions in these communities and eroded their trust in Kosovar institutions.⁷⁶ Improving the infrastructure of these municipalities by building sewage systems and wells, paving roads, and solving problems of public lighting and electricity supply, along with more serious action by the Kosovo police on crimes against minorities, would help to remedy the woes of Serbs living south of the Ibar.

Kosovo hosts about 1,300 Orthodox churches, monasteries and other religious sites, four of which (Bogorodica Ljeviska Church, Gracanica Monastery, Peja Patriarchate and Visoki Decani Monastery) appear on UNESCO's World Heritage List.⁷⁷ Kosovo is equipped with the requisite legislation (its Cultural Heritage Law and Law on Special Protective Zones) to ensure the protection and security of these religious institutions. Yet the occasional desecration or robbery of churches and cemeteries, as well as construction near protected areas, caused tension to build between the Serbian Orthodox Church and Albanian-majority municipalities. Municipalities are responsible for the maintenance of public cemeteries and therefore should be

attentive to the complaints of the Serbian minority concerning the upkeep of such places. Likewise, the Kosovo government should not allow municipal officials to ignore the implementation of court decisions regarding sacred sites. The religious diversity of Kosovo's population should also be taken into consideration when setting up police units to protect religious sites. The implementation of much-debated amendments to the Law on Freedom of Religion, which permit religious groups to acquire legal status, conduct business, acquire real and personal property, and open bank accounts, should have positive implications for the relationship between the Serbian Orthodox Church and Kosovar institutions.

The SNS received nearly 61% of votes in the June 2020 election and captured 157 seats in Serbia's 250-member parliament, which demonstrated that Vucic and his party continued to retain credibility in the eyes of the Serbian public. The party formed a coalition government with the contribution of 31 deputies. The SNS has the majority to call for a national referendum concerning a possible territorial exchange with Kosovo. Guarantees that the Serbian community and Serbian sacred sites south of the Ibar River will be protected may persuade the Serbian public to tilt towards the deal, as nearly half of Serbs think that it is not possible for Serbia to regain full control or sovereignty over Kosovo.⁷⁸

Rumours of a possible territorial exchange with Serbia have aroused the ire not only of the parliamentary opposition but of some members of the ruling coalition as well. Then-prime minister Ramush Haradinaj called the partition proposal irrational, and his party, the Alliance for the Future of Kosovo, declared that it might lead to more war.⁷⁹ The Democratic Party of Kosovo, the Social Democratic Initiative, the Democratic League of Kosovo, the Social Democratic Party of Kosovo and the Alliance for a New Kosovo all voiced their objections to the proposed scheme and criticised *Thaçi* sharply.⁸⁰

One of the plan's most vocal critics was Albin Kurti, the leader of the *Vetëvendosje* (Self-determination) party, who accused *Thaçi* of bargaining Kosovo's territory with Vucic and insisted that there was no room for discussion of Kosovo's partition.⁸¹ Kurti became prime minister of Kosovo in February 2020, but his government collapsed on 25 March that same year after a vote of no confidence initiated by its coalition partner, the

Democratic League of Kosovo. In the February 2021 parliamentary election, the Vetëvendosje party won a landslide victory, acquiring 50.28% of the vote. This electoral success returned Kurti to the prime ministerial post in March 2021.

Progress on any territorial-exchange scheme with Serbia will be complicated by the need to pass constitutional amendments to allow a referendum on the deal, which will require a two-thirds majority vote in Kosovo's Assembly.⁸² None of the political parties is willing to back such a move at present. However, Kosovar politicians are aware of Kosovo's dire economic conditions, which are only worsened by the feud with Serbia. Kosovo is the third-poorest country in Europe in terms of GDP per capita, and its economy is still highly dependent on remittances from the diaspora.⁸³ Youth employment hovers at around 50%, and 100,000 people leave the country for good every year.⁸⁴ The coronavirus pandemic also took its toll, resulting in GDP contraction and job losses. Capital investments that were slow even before the pandemic nearly came to a halt.⁸⁵ The country's egregious financial situation is keenly felt by the public, who give unemployment (84%), corruption (53%) and fighting the coronavirus (48%) as the biggest problems Kosovo faces.⁸⁶ It does not help that the government has been paying rent for unused state offices in Leposavic, North Mitrovica and Zubin Potok, and paying salaries to former Civil Protection Corps members in northern Kosovo who, despite being employed at various ministries and state agencies, do not show up for work.⁸⁷

Convincing the public

Serbian and Kosovar politicians, as well as the publics of both countries, should keep in mind that the normalisation of relations between them is a prerequisite for achieving political stability, economic prosperity and EU membership. Serbia, by taking back at least a part of Kosovo, may finally accept the independence of the country. Kosovo may finally be able to focus on internal state-building without striving in vain to integrate an unruly Serb population into its state structures.

Any territorial-exchange agreement between Serbia and Kosovo would almost certainly be subjected to referendums in both countries to ensure

popular consent. The full and direct participation of the citizens of Serbia and Kosovo in this crucial decision is needed as it will affect their daily lives. Furthermore, territorial adjustment goes beyond the mandate granted to politicians in general elections, so referendums are needed to legitimise any action.

If the land-swap deal is accepted in a referendum, the acquired rights of people living in territories which are subject to the exchange should be protected. They may also be given the choice to retain their existing nationality. Even if the land-swap deal goes through, there will still be Albanians, Bosniaks and Roma living in northern Kosovo, and Serbs and Roma residing in Bujanovac and Presevo. These stay-behind minorities should retain the right to be educated in their own language, to profess and practise their own religion, and to enjoy their own culture. Forcible population transfers are out of the question as they would violate fundamental human rights such as the right to family life, the right to freedom of movement and the right to own property.

Most of the prospective new minorities in Kosovo and Serbia live in rural areas and engage in farming and the raising of livestock. Developing rural infrastructure and creating a secure and suitable environment for the sale of agricultural products to other regions may speed up the adaptation of these minorities to their new countries. Another important issue that should be handled carefully is the language barrier. Kosovo's Roma speak Serbian, and the language of Bosniaks is similar to that of Serbs. However, Albanians in northern Kosovo, especially the young generation, do not speak Serbian, and Serbs and Roma in Bujanovac and Presevo have little knowledge of Albanian. The Serbian and Kosovar governments may prepare learning programmes to help their new Albanian and Serbian minorities to learn the language of the majority, which will accelerate their integration into their respective societies. Albanian-language classes may also encompass the Kosovar Serbs living south of the Ibar River.

It is to be expected that some members of the affected minorities may want to leave their places of residence due to the difficulties of becoming accustomed to new political, legal and economic systems. People who make this decision should be compensated for their material losses. Another risk

is the possibility of future amendments to Kosovo's constitution, which may result in the curtailment of some of the privileges enjoyed by the remaining Serbian minority. In order to prevent this from happening, the prospective territorial-exchange agreement should contain strong clauses to guarantee the political and legal rights of minorities in both countries.

* * *

The mediocre performance of the power-sharing systems that have been introduced in the Western Balkans since the mid-1990s has encouraged a search for alternative solutions to conflicts there, particularly partition schemes. The proposed territorial-exchange plan between Serbia and Kosovo is one such alternative.

The material power imbalance between Serbia and Kosovo, Serbia's new foreign-policy outlook – which eschews military adventures and attaches special importance to potential EU membership despite the displeasure of its long-term ally Russia – and the similar political regimes of the two countries are factors that could facilitate the realisation of a land-swap deal.

The support of the EU and the US, the most important third parties with a stake in the peaceful resolution of the Serbia-Kosovo dispute, will also be crucial for the achievement of any agreement. While the US seems ready to discuss any kind of peace deal so long as the parties are in agreement, Germany, an influential EU member, has been more circumspect, probably because of concerns that a deal may incite conflict in Bosnia-Herzegovina and North Macedonia. Yet the current stalemate is not to the benefit of the EU either, because it strengthens hardliners in both Serbia and Kosovo. For this reason, many high-ranking EU representatives have expressed the view that the Union may demonstrate flexibility concerning the adjustment of borders so long as the parties reach an agreement that brings stability.

The success of a possible territorial exchange between Serbia and Kosovo is, however, very much dependent on overcoming domestic political obstacles in both states. Inserting extensive guarantee clauses into the prospective agreement for the protection of the political and legal rights of minority

communities in Serbia and Kosovo, and subjecting the deal to a referendum in both countries, may attenuate opposition. Ultimately, the decision should be left to the inhabitants of Serbia and Kosovo, as it is their future well-being that is at stake. The current situation appears unsustainable, however, as not only is it hindering an enduring rapprochement between Belgrade and Pristina, but it also presents a major stumbling block in each country's European journey.

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