

## Strategy Group

### for a political, societal and economic European integration of the Western Balkans Six

#### Positioning paper on the proposal of land swap as part of a normalization agreement between Serbia and Kosovo

Since summer 2018, the idea of a final deal, an all-encompassing, historical agreement between Serbia and Kosovo dominates behind-the-scenes diplomacy of the Balkans. Allegedly, part of such an agreement would be the redrawing of borders or swapping territories along ethnic lines. The discussions have put the Western Balkan region back on the agenda of world politics. This brief examines the pitfalls of border change as a possible solution and addresses the question of integrity of the international community's involvement into this discourse. It does so by confronting value-based and pragmatic-realpolitik arguments, essentially arguing that partitioning Kosovo is neither a guarantee for normalization, nor a step towards the EU for both Kosovo and Serbia.

**Argument: An agreement has to be found by Serbia and Kosovo bilaterally.**

**Our Counter-Argument:** A normalization agreement and a compromise have to be found and concluded by the democratically elected governments of Serbia and Kosovo. It is however naïve to deny the international and regional dimension of the issue. Internationally, a "land swap" solution would send the message that there is international recognition for resolving inter-state disputes between governments bypassing frameworks of international organizations and conventions, in this case the Ahtisaari plan. The EU's support for such a deal would jeopardize its role as a strong normative organization based on the rule of law. Furthermore, it would give a dangerous precedent of legitimizing ethnically and linguistically claimed territory such as the Russian Annexation of Crimea, frozen conflicts in Abkhazia, South Ossetia and Eastern Ukraine.

**Argument: Land swap will close the Pandora's box of the Balkans by resolving the last remaining barrier to European integration of Western Balkan states.**

**Our Counter-Argument:** Land swap or border correction will actually re-open the Pandora's box of ethnic conflict, historical narratives and ethnic claims over territory. Repeated threats by the Bosnian entity Republika Srpska to organize a referendum on "uniting" with Serbia is one of them. Similar claims are expected from regions in Northern Macedonia with an Albanian majority, such as Tetovo, to join Kosovo or Albania. It would further exacerbate the political, economic and cultural isolation of minorities that live concentrated in certain parts of Serbia, such as Albanians in Southern Serbia, Hungarians in the northern province of Vojvodina or Bosniaks in the Sandžak. Partition would hence be the introduction to the internal reorganization and fragmentation of Serbia with potentially similar consequences for other European countries. Belgrade still sees the "Serbian issue" as an open question. It encourages the idea about unification of Albanians as an excuse for unification of Serbs, that is the resolution of the Serbian question as outlined in Ilija Garašanin's "Načertanije" from 1844, later reiterated by the Serbian Academy of Sciences and Arts (1986) as an intellectual roadmap to Milošević's belligerent break-up of Yugoslavia. A land swap solution would legitimize ethno-nationalist claims of creating Greater Albania, Greater Serbia and Greater Croatia.

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**Argument:** The conflict hasn't been resolved for 20 years – it's time to act and bring about a new dynamic.

**Our Counter-Argument:** There is no rational reason to rush for a deal. Personal timetables of the EU commission or the governments to deliver tangible results, or a rose-garden ceremony during the Trump presidency are irrelevant compared to the challenge of finding a lasting peace solution. The idea of a Kosovo partition is not new for Belgrade, but its revival in the last two years has relativized efforts to improve relations between Belgrade and Pristina by finding compromise in the fields of Kosovo police, judiciary and telecommunications. The Serbian idea of a mono-ethnic state, along with the assumption that ethnic homogeneity guarantees stability and security, was what pushed the region into war in the 1990s.

**Argument:** The EU is ideological about multi-ethnicity in the Balkans.

**Our Counter-Argument:** Universal human rights and liberties represent the very essence of the EU and Europe in general. This has always entailed minority rights and equality of all people before the law in any EU member state. Not being ideological with regard to multi-ethnicity and equal rights would reduce the EU to its economic internal market role only and strip it of its founding documents. But border change also harms the very essence of the young state of Kosovo and the role of the international community. Since its initial engagement, the international community's Contact Group has set the fundamental principles on the Vienna Negotiation Process for Settlement of Kosovo's status. One of those fundamental principles was that the territorial definition of Kosovo will not change in any scenario. The international engagement and process is based on the Ahtisaari Plan, which instilled the notion of inviolability of borders and a multi-ethnic Kosovo. The Plan makes it clear that the original design of the Kosovo polity was to ensure a multiethnic society, wherein both Albanians and Serbs share common values and interests by jointly participating in an integrated state structure. This solution was inherently embedded on the premise that Serbs should perceive Kosovo's institutions as their own, and therefore choose to live and participate in its public life. Contrary to that option, border change would impose a notion that ethnic lines are those that will delineate the deal between Kosovo and Serbia, and that could well be read as an invitation to local communities in the affected areas to reconsider staying in Kosovo or in the Preševo Valley. Movements of people (e.g. Serbs from South of the Ibar and Albanians from Southern Serbia) would instill such a strong uncertainty between affected people that their future participation in public life would be seriously questioned. The only sustainable solution is the full integration of the Serbian community into Kosovo institutions, maintenance of Ahtisaari standards of individual human rights for them and the freedom to exercise their political representation in a self-determined fashion.

**Argument:** A Grand Bargain would eventually resolve the Albanian-Serbian conflict in the region.

**Our Counter-Argument:** The ethnic construction of the question, as being between Albanians and Serbs, is part of the problem. That approach – by intentionally disregarding the normalization as an issue between Kosovo and Serbia – aims to frame the problem in an ethnic logic. It would reinforce nationalistic narratives over pro-European narratives because the strongmen of Serbia and Kosovo

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would have found their ethnic settlement. Finally, the highly undemocratic nature of the deal: no debates or participation, no follow-up of the internal dialogue of Serbia on Kosovo, no clear communication of what the deal actually entails; would be legitimized and would reemphasize the stabilitocracy concept of public governance that already alienates many liberal voices in the Balkans.

#### Recommendations

- All sides should immediately stop discussions on land swap or so-called historic agreements between Serbs and Albanians.
- Kosovo should lift its 100% import tax on Serbian and Bosnian products. Return to the dialogue facilitated by the EU on the basis of the Brussels agreement. Serbia should stop blocking Kosovo's membership in international organizations including the UN.
- As part of the dialogue, to settle all issues related to the Serbian community's status in the accordance with Kosovo constitution.
- Serbia should re-launch the internal dialogue in cooperation with civil society with the aim of discussing a possible compromise that would enable a long-term peace solution.
- The Kosovo government should as soon as possible start an internal dialogue - supported by the EU and with participation of NGOs - with the Serbian community as per implementation of a plan to fully integrate them in state institutions and give them sufficient space to materialize their individual rights.
- The EU should put substantially more efforts and focus on real policy reforms in areas such as rule of law, fight against corruption and organized crime and fights against poverty in Western Balkans states.

The "Strategy Group for a political, societal and economic European integration of the Western Balkans Six" is a group of legal, historical and political researches from all WB6 countries organized by Heinrich Böll Stiftung's Belgrade, Sarajevo and Berlin offices. Its aim is to credibly advocate for a more effective European integration of the Balkans in European as well as Balkan capitals. The paper at hand was prepared by Izabella Kisic, Helsinki Committee of Human Rights Belgrade, Fisnik Korenica, Group for Legal and Political Studies Pristina and Simon Ilse, Heinrich Böll Stiftung Belgrade.