The European Union’s involvement in the settlement of bilateral disputes in the Western Balkans

Serbia’s Kosovo issue and Macedonia’s naming issue

Florent Marciacq

Associate Researcher

University of Luxembourg, European Governance Programme
University of Vienna, Department of Political Sciences

research@marciacq.org

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Abstract:

Serbia and Macedonia both face unresolved neighbourly disputes. But none has had as critical implications as the “naming issue” for Macedonia and the “Kosovo issue” for Serbia. The former is responsible for the derailment of Macedonia’s European and Euro-Atlantic integration processes in 2008; the latter remains a stumbling block in Western Balkans’ security architecture. In both, the European Union (EU) remains an important (f)actor, despite mixed results. The EU’s contribution to settling Macedonia’s naming issue has proven minimal at best, whereas its involvement in the Kosovo negotiations has led Serbia to gradually inflect its principled approach. This paper uses a multi-theoretical framework to identify the factors that made the EU’s involvement in the resolution of these disputes (un)successful. It first identifies (non) changes in Serbia and Macedonia’s respective approaches, then enquires into the structural conditions, the normative dispositions and the purposive intentions underpinning those (non) changes, and finally discusses their propensity to act as domestic or international sources of change. The paper finds that European integration and EU conditionality have led Serbia to inflect its Kosovo policy, while cornering Macedonia in entrenchment; that the configuration of the negotiation process matters; and that the domestic politics of dispute settlement are paramount.

Keywords: European Union, foreign policy, neighbourly disputes, Macedonia’s naming issue; Serbia’s Kosovo issue.
1. Introduction

Bilateral disputes have long remained a domain subject to international law. Their settlement by peaceful means has been consistently advocated by the United Nations for the past 50 years as a reflection of a general principle pertaining to good neighbourliness. In the 1970s, this principle entered the realm of European security through the Helsinki Final Act, and in the 1990s, it integrated the EU’s nascent foreign policy architecture, first in the East, through the “Balladur Plan” for Central and Eastern Europe, and soon after in the Western Balkans, through the still-born Royaumont process and the more institutionalised Stability Pact for South Eastern Europe. By the end of the 1990s, as the Kosovo war broke off, the EU was still calling Western Balkan states to “normalise their relations and restore dialogue and confidence”\(^1\). To no avail though.

Despite its failure to have its voice heard in the Western Balkans (or perhaps because of it), the EU, since then, never stopped beefing up its understanding of good neighbourliness and its commitment to settling bilateral disputes. It introduced a new practice of international law in this area by integrating the general principle in its own acquis politique, positing it as one of the pillars of its European foreign policy and diffusing it through its conditionality regimes. Gradually, the EU linked the accession perspectives of non-EU states willing to join the EU to the observance of this principle and the resolution of bilateral disputes\(^2\); it specified that this conditionality applies to all kind of bilateral issues, including those “falling outside areas of EU competence”\(^3\); it created a framework, the political dialogue, to discuss these bilateral disputes with states with no accession perspectives; and got increasingly involved in mediation processes themselves\(^4\). Once merely a factor in the politics of dispute settlement, the EU has now become more of a security actor. For the best, but also for the worst.

In the past ten years, scholars have been studying the EU’s role in dispute settlement matters in different geographical areas. Their findings indicate that the EU’s capacity to affect the stakes of bilateral disputes and transform neighbourly conflicts has yielded mixed results. Dietz, et al. (2006, 2008), to start with, have argued that the EU, in Northern Ireland, Greece and Turkey, Cyprus, Europe’s North or Israel-Palestine, potentially, can impact border conflicts through different pathways, whether directly like through exercise of accession conditionality or the selective funding of certain non-governmental initiatives, or indirectly by helping legitimising alternative policies or challenging prevalent constructions of social identities. Their argument resonates with Coppiters, et al. (2004), who found that the Europeanisation, in Cyprus, Serbia-Montenegro, Moldova-Transnistria or Georgia-Abkhazia, could be used as “a method of conflict resolution” by “linking the final outcome of the conflict to a certain degree of

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\(1\) Council of the European Union. 9 November 1998. ‘Common Position Concerning the Process on Stability and Good-Neighbourliness in Southeast Europe’, art. 1.  
\(2\) “Cooperation and good-neighbourly relations form an essential part of the process of moving towards the EU”. Council of the European Union. 13 October 2003. ‘Council Conclusions on the Western Balkans’, p.3.  
\(3\) Council of the European Union. 5 December 2011. ‘Council Conclusions on Enlargement and Stabilisation and Association Process’.  
\(4\) For instance, the EU led a mediation between Georgia and Russia in 2008, proposed a mediation to Slovenia and Croatia in 2009 and chairs the negotiations between Belgrade and Pristina since 2011.
The ambiguous role the EU actually plays in dispute settlement matters, all in all, contrasts with its principled support for good neighbourliness. The gap between the two remains a source of enquiries for scholars—and a source of concerns for European foreign policy actors. This paper intends to build on this debate by examining whether and how the EU contributes to the transformation of existing conflicts in the Western Balkans. It focuses on two cases: Macedonia’s naming issue and Serbia’s Kosovo issue. The first one, which has attracted little scholarly attention so far, is a dispute between Skopje and Athens, which concerns in its core the name of the state of Macedonia, and in its peripherals, the use of cultural, linguistic and historical references to Antique Macedonia. Although many view the on-going dispute with a certain amusement, its apparent triviality is deceptive. The dispute has had wide-ranging implications over the past two decades: it is responsible for the delayed admission of Macedonia to the United Nations in 1993 (under the name of FYROM); for a 20-month economic blockade imposed by Greece in 1994-1995; for the belated establishment of full diplomatic relations between Macedonia and the European Union in December 1995; and for the derailment in 2008 of Macedonia’s European and Euro-Atlantic integration processes. As for the second case, it refers to the dispute opposing Belgrade to Pristina on Kosovo’s claim for statehood. Following the end of the war, attempts were made at finding a common ground between the two protagonists, but they never ended up in the successful resolution of the issue. Eventually, in 2008, the authorities of Pristina unilaterally declared the independence of Kosovo, which used to be an autonomous province subject to Belgrade until its

\(^3\) In this paper, the unofficial label of “Macedonia” designates irrespectively the Republic of Macedonia and the former Republic of Macedonia.

\(^6\) Most of the literature on the subject was produced in the mid 1990s as Macedonia strived to gain international recognition. Among the few recent academic writings on the naming issue specifically, see Ragaru (2011); Mavromatidis (2010) and Shea (2008).
placement under international administration in 1999 pursuant UNSC resolution 1244. In both cases (i.e. in Serbia and Macedonia), the EU plays an important role: in the former, it acts as international mediator since 2011, and does so rather effectively, judging by the extent to which Serbia has inflected its Kosovo approach; in the latter, it provides a conditionality framework supporting UN-led negotiations, but therein, the EU dramatically failed to inflect Macedonia’s position; it instead contributed to Macedonia’s entrenchment. The paper analyses the underpinnings of these inflections (or lack thereof) in the light of the EU’s involvement in dispute settlement matters between 2008 and 2012.

The rest of the paper is organised as follows. First, the paper presents the research design upon which the analysis is built. Second, the paper provides a descriptive analysis of the (non) changes in Serbia and Macedonia’s respective approaches. It examines, third, the factors that facilitated or constrained changes in Serbia and Macedonia’s respective approaches, explores the structural conditions, the normative dispositions and the purposive intentions underpinning, i.e. more specifically, the configuration of the EU’s conditionality regimes in dispute settlement matters, the domestic politics of EU dispute settlement and the purposive logic pursued by the parties in the framework of the negotiations. The paper, in conclusion, discusses its results in the light of the EU’s ambitions in foreign policy matters.

2. Research design

The paper starts at the domestic level with a descriptive analysis indentifying changes and continuities in Serbia and Macedonia’s respective approaches towards Kosovo and Greece. It describes these phenomena, which it posits as dependent variable, and highlights meaningful differences. The paper, then, proposes an argumentative analysis based on a multi-theoretical inspired by Carlsnaes’s “synthetic approach to foreign policy analysis” (2008: p. 341). Carlsnaes’s idea is that in explaining foreign policy actions, one should not “substantively prejudge explanation in favour of any particular type or combination of empirical factors (such as ‘domestic structure’)”; that action (or non-action, for that matter) is always a “combination of purposive behaviour, cognitive-psychological factors and the various structural phenomena characterizing societies and their environment”; and as a result, that foreign policy analysis should explore these dimensions and draw from different positions in the debate on social action in international relations (Carlsnaes 2008: p. 342). Carlsnaes’s approach, for that matter, departs from approaches strictly committed to either methodological holism or methodological individualism, because it considers that both actors and structures matter in accounting for foreign policy actions.

The paper accordingly explores the structural, dispositional and intentional forces, the combination of which best can account for Serbia and Macedonia’s specific course of action with respect to the Kosovo issue and the naming issue respectively. The structural analysis (point 4.1. to 4.3. in this paper) is based on the assumption that agency is “never pursued outside crucible of structural determination” (Carlsnaes 2008: p. 343). Social action, after all, is also a matter of structural necessity. Structural necessity provides the
conditions based on which we make choices. When the EU demands changes in Serbia and Macedonia’s dispute settlement approaches, and when it links its expectations to the countries’ accession perspectives, it shapes the environment in which decisions are made at the domestic level. In this paper, the structural analysis will therefore very much focus on conditionality studies. It will examine the differences in the EU’s conditionality regimes but also enquire into the subsidiary role the member states of the EU have in backing the EU’s conditionality approach.

The dispositional analysis (point 4.4. and 4.5. in this paper) aims at understanding why certain purposes, goals, preferences or choices have been invoked at a given moment, but not others. Social action, in this understanding, is a matter of inclination. Because actors hold certain causal and principled beliefs (dispositions) regarding the appropriateness of an action, they will develop corresponding intentions and seek to act accordingly. When the EU frames actors’ choices through conditionality, it is still Serbia and Macedonia’s actors who decide to inflect their approach (or not). Their decision is taken based on what they deem appropriate – vis-à-vis their citizenry at the domestic level or their peers at the international level. In this paper, the dispositional analysis will focus on the domestic politics of dispute settlement and the format of the negotiation process.

The intentional analysis (point 4.6. in this paper) finally aims providing teleological explanations in terms of goals and individual preferences. Rooted in actor-based, individualistic theories, it seeks to understand the relationship between a given phenomenon (e.g. change in foreign policy) and the goal that was pursued by actors as the phenomenon ensued. Sometimes, indeed, social action is a matter of will. Non-changes in Macedonia’s approach may result from failures to change –or it may be the expression of a purposive course of action aimed at ‘not changing’. In this paper, the intentional analysis will focus on Serbia and Macedonia’s respective goal in dispute settlement negotiations –whether they aim at prevailing by right or finding a compromise.

Throughout the analysis, the methodological technique used will be the qualitative content analysis of official and unofficial documents and discourses. The analysis also builds on a series of face-to-face interviews carried out with Serbian, Macedonian and European diplomats in 2011-2012 in the framework of the author’s PhD research.

3. Changes and continuities: Serbia’s Kosovo issue and Macedonia’s naming issue

3.1. Macedonia: between stalemate and entrenchment

The naming issue arose in 1991, as Skopje declared its independence under the name of “Republic of Macedonia” (RoM). This name, enshrined in the 1991 Constitution, followed the appellation borne by Macedonia in the SFRY between 1963 and 1991. The republic was then known as the “Socialist Republic of Macedonia”. Having an independent “Republic of Macedonia” bordering the Greek region of Macedonia, however, ran into Athens’ most outspoken opposition, for several reasons. First, Athens considers that the term of “Macedonia” evokes the ancient kingdom of Macedon, which
reportedly “belongs to the Hellenic nation” and is part of Greek culture. Skopje’s claim, then, according to Athens, is nothing but “theft of Greece’s historical and cultural heritage”. Second, the dispute has a plainly political dimension. Greece accuses Skopje of “treacherous […] intentions”, i.e. the “promotion of irredentist and territorial ambitions […]” in the Greek region of Macedonia. Greece, finally, articulates its argument in the realm of international law, accusing Skopje of “contravening the fundamental principles of international law and order; specifically for good neighbourly relations, sovereignty and territorial integrity”. Greece denounces, more specifically, Skopje’s alleged violations of the Interim Accord, which was reached in 1995 by the two countries under the aegis of the United Nations and the patronage of the US. The 1995 Interim Accord commits both countries to abide to a code of conduct in international affairs. The accusations of Greece concern a set of specific provisions: those stating that none of the parties shall question or undermine the territorial integrity of the other (arts 2-4, 6.2), that the two parties shall refrain from provocative actions (art. 7.1), that Macedonia shall forswear controversial symbol (art. 7.2), and that Macedonia shall be referred to as FYROM in international settings for Greece not to veto its membership (art. 11).

Because Skopje allegedly violates the commitments agreed upon under the auspices of the United Nations, Greece considers that the naming issue is not a sheer matter of bilateral relations. In the 2000s, it therefore took retaliation measures against Skopje, and chose to multilateralise the issue in order to put Skopje under greater pressure. In a landmark decision, Greece decided to react in 2008 by preventing Macedonia from being invited to join Nato at the Bucharest Summit. Greece applied the same logic of “no solution, no invitation” to Macedonia’s integration process in the EU. Since 2008, it keeps blocking the opening of Macedonia’s accession negotiations, despite the positive recommendations of the Commission and the European Parliament. The decision of the European Council, reflecting the Greek position, provides that

> “further steps by the former Yugoslav Republic of Macedonia in its progress towards the EU are possible, [...] maintaining good neighbourly relations, including a negotiated and mutually acceptable solution on the name issue, remains essential”.

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7 Ministry of Foreign Affairs of the Hellenic Republic. ‘Fyrom Name Issue’.
8 Ibid.
9 Ibid.
10 Ibid.
11 Greece, officially, did not acknowledge the use of its veto power in the North Atlantic Council to prevent Macedonia from securing its invitation. Still, in its 2011 ruling, the ICJ observed that the ground for the objection of Greece laid in the naming dispute, not in other factors. Although no formal veto was used at the Bucharest Summit, the position of Greece, in practice, therefore amounted to the unlawful use of veto powers, pursuant the Interim Agreement. See Para 71, International Court of Justice. 5 December 2011. ‘Judgment of the Court Regarding the Objection by Greece to the Admission of the Former Yugoslav Republic of Macedonia to Nato’.
12 GreekNews. 25.2.2008.
This position, first uttered in 2008, has been reiterated ever since on a yearly basis, and the stalemate remains effective.

The Macedonians, on the other side, view the term of “Macedonia” as part of their national identity. Already questioned by the Serbs, who oppose the autocephaly of the Macedonian Orthodox Church, and by the Bulgarians, who challenge the idiosyncrasy of Macedonian language, the Macedonians perceive the objections of the Greeks as a threat to their fragile sense of identity and a denial of their fundamental “right to self-identification”. They argue, indeed, that every country should be allowed to choose its own name; that its constitutional name, “Republic of Macedonia”, is already in use for bilateral purposes in most of the UN Security Council (e.g. by the United States, the United Kingdom, China and Russia most notably), and that it has been recognised by the majority of the UN membership. For Macedonia, using RoM should be the norm in international affairs, and Skopje thus reserves the right to deny the establishment of diplomatic relations with countries that fail to use RoM, especially at the bilateral level, such as Cyprus. In multilateral settings, Macedonia takes a more acceptant position, pursuant the 1995 Interim Accord and the UNSC resolution 817/1993. Therein, it accepts “being provisionally referred to” as FYROM.

Macedonia also systematically rejects the accusations of Greece regarding its alleged plans for territorial expansion. It recalls that its Constitution was amended in January 1992 in order to explicitly provide that the country has “no territorial claims against neighbouring states” and that it remains committed to the 1995 Interim Accord, which provides that each Party “undertakes to respect the sovereignty, the territorial integrity and the political independence” of the other Party, and that “neither of them will assert or support claims to any part of the territory of the other Party or claims for a change of their existing frontier”. Skopje therefore claims that the decision of Greece to hamper Macedonia’s integration in the EU and in Nato is neither legitimate, nor legal. Dismayed by the conclusions of the Bucharest Summit in 2008, Skopje sued Athens before the

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14 This claim has been reiterated by leading figures of the government over the past fifteen years. See e.g. Kurir. 14.6.2012.
15 The Macedonian identity is even more fragile, as it is split between Slavo- and Albano-Macedonians. But this difference does not seem to create a cleavage in the position towards Macedonia’s name. Despite their electorate, which is often more open to a compromise with Greece, Albanian parties tend to align themselves with Slavo-Macedonian parties, when they enter a ruling coalition.
16 Republic of Macedonia. 16 November 2012. ‘Address by the President H.E.Mr. Gjorgje Ivanov at the Congress “90 Years of Paneuropa”’.
17 As of September 2012, 134 countries reportedly recognised Macedonia under its constitutional name. Republic of Macedonia. 27 September 2012. ‘Address by the President H.E.Mr. Gjorgie Ivanov at the 67th Session of the General Assembly of the United Nations’.
18 Macedonia has established diplomatic relations with 167 states to date. Not all of them recognise Macedonia under its constitutional name though. France, Germany and of course Greece, for instance only use FYROM in their official correspondence.
22 art. 4, Ibid.
International Court of Justice (ICJ), with success. Greece was found guilty of breaching its obligation under Article 11 of the 1995 Interim Accord by objecting to the Nato admission of Macedonia\textsuperscript{23}. Despite this ruling, Greece continued to block Macedonia’s integration in transatlantic and European structures, e.g. in the 2012 Chicago Summit.

This Greek blockade of Macedonia’s European and Euro-Atlantic integration fuelled increasing frustrations in Macedonia, and prompted an escalation of the tensions between the two countries. A line was crossed in 2009, when the Macedonian government launched a urban project, called Skopje 2014, aiming at revitalising the city centre in an overly historicist style recalling the ancient kingdom of Macedon. The project foresaw the construction of a large dozen of official buildings, several bridges, and a plethora of monuments. The “antiqisation” of the city was intended to foster Macedonian “nation-building” and underline the cultural roots of Macedonians in history\textsuperscript{24}. The erection on Skopje’s main square of a 25-meter high statue of a “Warrior on a Horse”, which evidently depicts Alexander the Great (in front of another giant statue of Philip II of Macedon), unsurprisingly infuriated Athens. The whole project is primarily supported by the right-wing government led by the VMRO-DPMNE since 2006.

In order to resolve the naming dispute, Macedonia and Greece have conducted (fruitless) negotiations in the past 15 years under the auspices of the United Nations. The EU, interestingly, did not take any active part in this process. Its involvement is limited to condition the European integration of Macedonia to finding a “negotiated and mutually acceptable solution” in that matter. Since December 1999, the negotiations are chaired by Matthew Nimetz, a Personal Envoy of the UN Secretary General. The diplomat brought forth different propositions for Macedonia’s name, but to no avail. First opposed to any proposition that would include the term of “Macedonia”, Greece gradually revised its position and, in the framework of the negotiations, now supports a compound name solution, i.e. a “name with a geographical qualifier for use in relation to anyone” (erga omnes solution). Skopje, by contrast, stands for a “dual name” solution, whereby RoM would continue to be used by those states that have recognised Macedonia under its constitutional name, and FYROM would elsewhere be substituted by a compound name.

3.2. Serbia: from rejection to acceptance

The Kosovo issue certainly is the thorniest faced by Serbia since the end of the war. Placed under international administration in 1999, the small province made it clear that “could not accept anything but independence” (Lehne 2012: p. 4). Throughout the 2000s, its government then struggled to establish its sovereign authority over the territory of Kosovo. Internally, it claimed supreme and independent authority over the whole territory of Kosovo, including the North and the enclaves populated by Kosovo Serbs. Externally, it first sought to enhance its international visibility and then struggled for international recognition after its unilateral declaration of independence in 2008. Following the Kosovo war, Belgrade, by contrast, could envision nearly “anything but

\textsuperscript{23} International Court of Justice. 5 December 2011. ‘Judgment of the Court Regarding the Objection by Greece to the Admission of the Former Yugoslav Republic of Macedonia to Nato’.

\textsuperscript{24} See MINA. 7.1.2012.
independence” (Lehne 2012: p. 4). This no-independence position has been tirelessly advocated ever since, with little variations and astonishing unity in Serbia. It is engraved in the new Constitution of 2006, which stressing that “the province of Kosovo and Metohija is an integral part of the territory of Serbia”, creates “constitutional obligations [for] all state bodies to uphold and protect the state interests of Serbia in Kosovo and Metohija in all internal and foreign political relations”. In fact, giving way to Kosovo’s claim for statehood, according to the Serbian state organs, would not only harm Serbia; it would contravene international law, and as such be “a dangerous precedent with unforeseen long term consequences for the international order in general”25. No wonder then that a few weeks after Kosovo declared its independence in 2008, Serbia reacted by severing its ties with Pristina, cooling its relations with those states that were recognising Kosovo and boycotting those regional events, where Kosovo was given a seat on an equal-footing. In an attempt to build up its international legitimacy, Serbia also brought the case in front of the ICJ (to no avail though). And in order to hinder further recognitions and challenge the existing ones, from January 2010, Belgrade finally sought to re-open the status talks under the aegis of the UN, which had failed a few years before. Wary of this possibility, France, Germany, Italy, the UK and the USA expressed their firm opposition to this plan, and proposed instead to have the EU facilitating “a process of dialogue between the parties”26.

Dragged into this new round of negotiations, the EU designed a negotiating framework, aimed at helping Belgrade and Pristina finding “practical ways to make sure that ordinary life can go on more smoothly” in Kosovo27. The negotiations were to focus on three domains: regional cooperation, freedom of movement and rule of law. Of course, each of the issues discussed had status-sensitive aspects, and the negotiations, designed to be technical in nature were in fact highly political. In this dialogue, the role of the EU went beyond that of mere facilitator: its representatives had competences in agenda-setting, they proposed solutions, and above all, linked the negotiation process to the EU’s enlargement strategy. The process (still ongoing) eventually proved successful: Serbia and Kosovo agreed on a series of bilateral agreements. Although Serbia, officially, upholds its no-independence position, in practice, it has made essential concessions by recognising partially or fully the qualifications Kosovo possesses as a person of international law28.

Serbia, first of all, acknowledged its physical separation from Kosovo. Until recently, Serbia considered its boundary with Kosovo as an administrative line under international and European supervision –and certainly not an international border. This difference was

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26 United Nations General Assembly. 9 September 2010. ‘Resolution on the Request for an Advisory Opinion of the International Court of Justice on Whether the Unilateral Declaration of Independence of Kosovo Is in Accordance with International Law’.
27 European Union. 8 March 2011. ‘Statement by the Spokesperson of Catherine Ashton, EU High Representative on the Start of the Belgrade - Pristina Dialogue’.
28 According to the 1933 Montevideo Convention, these are (a) a permanent population; (b) a defined territory; (c) a government exercising effective control and (d) a capacity to enter into relations with other States.
essential to Belgrade, since it deprived Pristina from the “defined territory” it needed to assert its sovereign authority, especially in the Northern part of Kosovo, controlled by the Serbs. The (failed) attempt in 2011 by the authorities of Pristina to forcefully seize the checkpoints adjacent to Serbia’s border in the North infuriated Belgrade, but also revealed the how fragile and unstable this no-law buffer area was. Under the leadership of the EU, Belgrade and Pristina then started to negotiate an agreement on Integrated Border Management, which could be signed in December 2012. The agreement, which institutes 4 permanent border checkpoints in the North with Serbian and Kosovo nationals working under one same roof, gives Kosovo “the defined territory” it strives for in its quest for sovereign statehood.

Serbia, then, acknowledged the capacity of Kosovo to enter into relations with other states. Until 2008, Kosovo was represented in international fora by the United Nations mission in Kosovo (UNMIK): the Kosovo government could not directly participate in international meetings. This changed with the declaration of independence. Pursuant the new Constitution, proclaimed in 2008, the authorities in Pristina claimed their right to represent the state of Kosovo abroad and maneuvered to free themselves from the administrative supervision of the UNMIK. Belgrade protested by systematically boycotting the regional meetings in which Kosovo took a seat, which slowed down the whole dynamic of regional integration in the Western Balkans. The EU seized upon this issue and put it on the negotiation table. In February 2012, Serbia inflected its position and allowed Kosovo to be directly represented in regional fora under the name of “Kosovo*”

29. Against its initial statements, Belgrade also admitted that the act of recognising Kosovo’s independence was not hostile to Serbia.

Serbia, finally, made a breakthrough inflection of its Kosovo approach in April 2013, as it accepted after lengthy negotiations led by the EU to dismantle the parallel institutions it maintained in Northern Kosovo (in police, justice and electoral matters). These institutions used to undermine the government in Pristina in its effective control over the region. The agreement concluded by Serbia and Kosovo also creates a association of Serbian municipalities in Northern Kosovo, which it places under the legal and administrative authority of the government in Pristina. This implies, in short, the recognition by Serbia of Pristina’s sovereign rule over Kosovo. For the first time, in November 2013, Belgrade, for instance, accordingly called the Kosovo Serbs to participate in the electoral process set up by government Pristina, in accordance with Kosovo electoral rules.

4. Facilitating vs. constraining dispute settlement

4.1. Conditionality framed through collective vs. individualistic interests

The EU does not impose any condition on Serbia and Macedonia that would prescribe the adoption of a preferred solution, and for good reason: it has no united stand on Serbia’s

29 The “footnote agreement” provides that an asterisk should be placed next to the name of Kosovo with a footnote stating that this denomination is consistent with UNSCR 1244 and the ICJ Opinion relative to the declaration of independence of Kosovo.
Kosovo issue and Macedonia’s naming issue, due to the member states’ divergent positions in those matters. Nearly half of them, for instance, make a relatively consistent use of Macedonia’s constitutional name in their bilateral relations. These are mostly states that joined the EU later, in 1995 or 2004/2007. The others, by contrast, make a consistent use of FYROM in their multilateral and bilateral relations, and do not support Macedonia’s claim against Greece. Most of EU member states, likewise, do not support Serbia in its no-independence policy towards Pristina. But five of them did not recognise the independence of Kosovo and are more supportive of Belgrade’s claim (Cyprus, Greece, Spain, Slovakia and Romania).

This is not to say that there is no EU position at all, even at the embryonic state, upon which the EU’s conditionality approach is built. A deeper analysis shows that behind its obvious disunity, the EU has kept some memories of institutional unity in favour of Kosovo’s independence, whereas no such reminiscence characterises its approach to Macedonia’s naming issue. A few years ago, EU member states unanimously endorsed the Ahtisaari plan recommending the independence of Kosovo under international supervision⁴⁰. Their endorsement was backed by the EU’s High Representative Javier Solana and the European Parliament⁴¹. This EU position, however, was subject to the approval of the UN Security Council, a condition the EU failed to fulfil. In consequence, the plan and the EU’s common position thereupon were thrown into oblivion. Yet, the ideas those conveyed (implying the inflection of Serbia’s no-independence position towards the Ahtisaari proposal for supervised independence) remained latent, embedded within the institutional memory of EU supranational bodies. They recurrently resurfaced, despite the EU’s official commitment to status-neutrality since in 2008. In February 2009, for instance, the European Parliament adopted a resolution in which it “encourage[d] those EU Member States which have not already done so to recognise the independence of Kosovo”⁴². The Ahtisaari idea even took root in the Commission, though in a much less outspoken way. In its 2012-2013 enlargement strategy paper, for instance, the Commission rightfully applied the “footnote agreement”. It referred to Kosovo* “without prejudice to positions on status”; but in the same document, the Commission, for the first time, also called Serbia to “respect [...] the territorial integrity of Kosovo”⁴³—a prescription that is reminiscent of the recommendations contained in the Ahtisaari plan. Of course, in enlargement matters, it is not the Commissioners or the Parliamentarians who ultimately make decisions on the conditions that Serbia shall meet to join the EU. The Council does, and its members, whether they recognised Kosovo or not, are in this respect quite vocal: officially, recognition is not a condition for Serbia to join the EU, but the normalisation of the relations between Belgrade and Pristina is. And behind closed doors, according to interviews, Serbian and EU national diplomats, doubt of the possibility to lastingly decouple normalisation (which is a process) from recognition (which is the usually outcome of normalisation). This experience the EU

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⁴⁰ Council of the European Union. 18 June 2007. ‘Conclusions on the Western Balkans’.
⁴² European Parliament. 5 February 2009. ‘European Parliament Resolution on Kosovo and the Role of the EU’.
⁴³ European Commission. 10 October 2012. ‘Enlargement Strategy and Main Challenges 2012-2013’.
made when it lobbied for the Ahtisaari process remains important to understand the collective approach, which underpins the EU’s mediation today. Despite its commitment to status-neutrality, the EU now mediates the negotiation talks based on an understanding of the Kosovo issue, which builds on what has previously been achieved. This contrasts with the experience of the EU vis-à-vis the naming issue.

This is not to say that the EU has no approach on that matter. On the contrary, it has a very strong position. But instead of being moulded in the collective interest of the Union, it reflects in fact the national individualistic interest of Greece. Being both EU member state and party to the dispute, Greece actively engaged in advocating the use of EU negative conditionality to block Macedonia’s integration process. Its conditional approach “no solution, no invitation”, which lies at the crux of Macedonia’s stalled integration processes since 2008, has been uploaded in, and adopted by the Council as a sine qua non for the opening of Macedonia’s accession talks. Although many EU member states do not share Greece’s firm stance against Macedonia, they usually refrain from opposing it, out of solidarity. As argued by an EU diplomat,

“There is an element of solidarity amongst the member states. We’ll defend the members first [i.e. Greece], against the outsiders [i.e. Macedonia], and when the latter join, we will defend them against the outsiders as well. There is a lack of understanding here about how strong this feeling is.”

This “element of solidarity” allowed Greece to literally shape the EU’s conditionality regime towards Macedonia and to ascertain the blockade of Skopje’s European perspectives. The European Councils’ conclusion since 2008 directly echo Greece’s “no solution, no invitation” approach. Since the dispute shall be settled in a “mutually acceptable” way, the structure of the EU’s conditionality regime towards Macedonia is highly asymmetrical and provides Greece with a major asset: further steps in Macedonia’s progress towards the EU eventually depend on the positive assent of Greece. This asymmetry, built in the EU’s conditionality regime, is problematic, if the EU is to seek a credible role as mediator in the settlement of the naming dispute: somehow, it makes Brussels a party to the dispute.

4.2. **Active vs. passive involvement of EU member states**

Another structural difference that helps understanding the incapacity of the EU to influence Macedonia’s approach is the general lack of interest that prevails among EU member states on that matter. Most of them remain outstandingly passive: they do not advocate a specific solution, openly side with one or the other party, or suggest that the EU should take a more stringent or lenient position. Certainly, for some of them, Macedonia is not a matter of primary concern –their bilateral relations with Skopje are irrelevant, and Western Balkan politics is a distant matter. When the naming issue does come through their diplomatic agenda, it is typically formulated in negative terms, as something the EU should not get involved with. As explained by a Slovenian diplomat

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34 Interview with an Official from Delegation of the European Union to the Former Yugoslav Republic of Macedonia. Skopje, 01/11/2011
quoting his colleagues, “many say: we do not want to bring problems in the EU, so let’s handle that in the UN, and we’ll open negotiations for accession when it’s done”.

In the past ten years, only a few member states actively engaged in fostering the dispute settlement between Macedonia and Greece, in one way or the other. Their engagement was often sudden, arising as those states held the Presidency of the Council of the EU. Getting involved in the dispute settlement primarily aimed at gaining international credit for (hopefully) succeeding where others failed. Hungary, for instance, prioritised the resolution of this question during its Presidency in 2011. And Slovenia offered to host informal meetings in Ljubljana and to share the lessons it drew from the settlement of its own dispute with Croatia. Both EU member states, however, refrained themselves from attempting to drag the EU into the negotiation process in a more proactive and durable way. And their initiatives lacked impetus. Only Greece showed a keen interest in the naming issue –but as a party to the dispute, not a facilitator.

The picture is very different for the Kosovo issue, in which many (if not most of) EU member states have expressed a thorough interest. This is understandable, since most of them have civilian and military personnel in the field and are therefore directly affected by the outcome of the negotiation process. Of course, this common interest for the Kosovo issue does not imply a community of view. EU member states hold different views on the Kosovo issue, and as the Council put it in the aftermath of Kosovo’s declaration of independence, “Member States will decide, in accordance with national practice and international law, on their relations with Kosovo”. It nonetheless means that EU member states actively engage in the international debate on the Kosovo issue, that they interact more purposefully with Serbia at the bilateral level in order to support or inflect its national approach, and that they also contribute more constructively to shaping the EU’s conditionality regime with Serbia at the EU level, despite their disunity. Their very active involvement for the question (particularly from the side of Germany) and starkly contentious positions (cf. Cyprus) preclude that they settle for an a minima solution. EU member states have instead helped designing a conditionality regime that supplements or completes (rather than adorns or replaces) their national preferences, while allowing them to continue expressing their national preferences.

Cyprus, for instance, is one of the strongest opponents in the EU to Kosovo’s claim for independence. It views the case as a precedent potentially supportive of the separatist claims of Northern Cyprus. Romania, Spain, Slovakia and Greece concur in this argument, all concerned that Kosovo’s precedent could undermine their own territorial integrity. In 2008, Nicosia, followed by the other non-recognisers, thus rejected the plan circulated by Great Britain in the Council, which envisioned the creation of a common EU platform to recognise Kosovo’s declaration of independence. In 2009, it sent

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36 24 EU member states contribute or have contributed to the Nato-led KFOR mission, i.e. all EU member states but Cyprus, Latvia and Lithuania. All EU member states but Cyprus contribute to the EULEX mission in Kosovo.
37 Council of the European Union. 18 February 2008. ‘GAERC Conclusions on Kosovo’.
38 United States Embassy in Nicosia. 15.2.2008.
lawyers to The Hague, together with Romania and Spain, in order to argue against the legality of Kosovo’s declaration of independence. These lawyers faced some of their colleagues coming from EU recognising states, sent before the ICJ in order to back Kosovo’s claim\(^39\). The position of Cyprus (and other non-recognisers) here strikingly contrasts with the behaviour of several recognisers, which used diplomatic démarches in order to promote Kosovo’s independence. France, for instance, lobbied in the Arab world and African countries for the recognition of Kosovo’s independence\(^40\). Together with some partners, it approached Serbia directly in order to inflect its border management approach\(^41\). This kind of démarches, interestingly, was not strictly conducted at the bilateral level. They often maintained an ambiguity, with France, Germany or the UK speaking as EU member states *primus intra pares*. There is thus among EU member states, nothing close to the solidarity element that has been pinpointed in the EU’s approach to the naming issue. And for good reasons: the Kosovo issue does not involve a particular EU member state directly (unlike Greece in the naming issue). This gives both recognisers and non-recognisers a certain margin of manoeuvre at the EU level to create space for the exercise a richer EU conditionality regime towards Serbia.

Despite (or perhaps because of) the considerable differences in the views EU member states hold, the fact that most of them engage in the debate on the Kosovo issue also makes EU conditionality more legitimate in the eyes of the parties to the dispute. EU conditionality, in Serbia’s case, is not merely constituted by the expression of a single national approach projected at the EU level with the sympathetic consent of other member states. It has to be validated internally by actors having antagonistic preferences. Therefore, unlike Macedonia, which could argue that the hand of Greece stood behind the EU’s conditionality regime, Serbia cannot question the collective character of the conditions posed by the EU in dispute settlement matters.

4.3. **UN-dependent, shallow vs. autonomous, deep conditionality**

Serbia and Macedonia are not subject to the same type of conditions in dispute settlement matters. The expectations the EU has addressed to Macedonia in the past ten years are plain as far as the goal is concerned: to “find rapidly a negotiated and mutually acceptable solution within the framework of UN Security Council resolutions 817/93 and 845/93”\(^42\). But beyond this goal, there no indication on how to proceed, what intermediary step should be achieved, etc…The EU only conceives of its conditionality regime with Macedonia in dispute settlement matters, as a framework supportive of the role of the UN. It leaves few imprints of its own, which would alter the substance or the format of the negotiation process, despite its negligible achievements. This backseat positioning of the EU, backed by Greece, is no means of gaining influence on the dispute settlement process. It does not create the opportunities for conditionality to be applied

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\(^39\) Germany, Austria, Bulgaria, Denmark, Finland, France, the Netherlands, and the United Kingdom presented arguments in favour of the legality of Kosovo’s declaration of independence at public hearings.


\(^41\) United States Embassy in Belgrade. 11.1.2008.

\(^42\) UN Security Council resolutions 817/93 and 845/93 call Greece and Macedonia for negotiating a solution under the auspices of the UN. See European Commission. 9 November 2005. ‘Analytical Report for the Opinion on the Application from the Former Yugoslav Republic of Macedonia for EU Membership’.
effectively in dispute settlement matters, since progress in European integration matters, for Macedonia, depends on the outcome of a process negotiated in another framework, without the EU. There is, here, a contradiction in terms: European integration cannot be effectively conditioned on processes unfolding outside the scope of European integration.

The EU’s conditionality dialogue with Serbia was, until the Kosovo’s declaration of independence, quite similar to that with Macedonia. It also limited itself to the promotion of dispute settlement in general terms, insisting on the obligation for Serbia to comply with UNSC resolution 1244 (recognising the territorial integrity of the Former Republic of Yugoslavia but placing Kosovo under international supervision). As the Kosovo status process came to an end, the EU, however, supported the idea of amending the UNSC resolution 1244 by passing a new resolution adopting the Ahtisaari proposal in order to give Kosovo supervised independence. The EU’s conditionality regime with Serbia would have then been adapted in order to magnify the compellingness of the Ahtisaari plan. But this idea failed to materialise in July 2007, as the draft proposal did not receive the approval of the UN Security Council, because of the opposition by Russia. Wary of the status quo, the EU faced a dilemma. Its conditionality regime with Serbia had been designed to magnify the compellingness of UNSC resolution 1244, but at the same time, it was now the UNSC resolution 1244 which had been invoked by Serbia (and Russia) as a means to perpetuate the status quo. The EU had no time to solve this dilemma -the declaration of independence of Kosovo in February 2008 broke the status quo. What the EU did, however, is that it started bracketing in its proceedings the references to the UNSC resolution 1244 (recognising the territorial integrity of Serbia) as cornerstone in its conditionality regime with Serbia. It ceased, in particular, to advocate the reinforcement of Belgrade’s dialogue with Pristina pursuant UNSC resolution 1244, and increasingly supported it for its own sake. By relaxing its lineage with UNSC resolution 1244, the EU’s conditionality regime became somehow less permeable to international politics. It expectation was no longer the observance of UNSC resolution 1244; it was primarily to have Serbia “taking steps towards a visible and sustainable improvement of relations with Kosovo”.

The EU also used this opportunity to reframe its conditionality regime in a tailor-made fashion. It fractionated the Kosovo dispute into a series of technical, albeit status-sensitive, issues of lower intensity, which it gradually brought on the negotiation table, under its mediation. The conditionality logic not only applied to the whole process (aimed at normalising relations); it also targeted successively each of the intermediary steps. This fractioning of the EU conditionality logic is a major difference to the scheme submitted to Macedonia. In customs and border management matters, the Commission demanded observable progress before it could deliver its positive opinion recommending that Serbia be granted the candidate status. The conclusion of two agreements in this field in September and December 2011, which gave Kosovo a “defined territory”, were concessions made by Belgrade in order to back its application as potential candidate. In regional representations matters, the Council (and in particular Germany) conditioned its decision to accept the recommendation of the Commission regarding Serbia’s candidate

43 Council of the European Union. 5 December 2011. ‘Council Conclusions on Enlargement and Stabilisation and Association Process’.
status to the conclusion of the “footnote agreement” enhancing the external sovereignty of Kosovo. The agreement was only signed a few hours before the General Affairs Council convened to discuss Serbia’s candidate status in preparation of the European Council of March 2012. As for the agreement of April 2013 about the dismantlement of Serbia’s parallel structures in Kosovo and the recognition of Pristina’s legal and administrative authority in Kosovo, it was concluded for Serbia to be allowed to envisage the opening of accession talks in January 2014. In all those matters, it is striking to see how specific and consistent the EU’s conditionality regime was. The EU not only expected Serbia to normalise its relations with Kosovo is general terms; it drew a roadmap to achieve this goal, and gave incentives for each turn Serbia would consent on doing. Conditionality, in this context, could be exerted in a more credible way.

4.4. The domestic politics of dispute settlement

In Macedonia, first, there has been little substantive debate on the naming issue since the beginning of the stalemate. When the National Assembly of Macedonia addressed the question (e.g. in 2008, following the Bucharest Summit or in 2012, on the eve of the Chicago Summit), it was above all to back the ruling party and the Government against Greece. Since it coming to power in 2006, the ruling party VMRO-DPMNE has pursued a policy of nation-building based on the ill-founded claim that today’s Macedonians are descendents of the Kingdom of Macedon’s people. This claim, defended both at the domestic and international level, has brought much sympathy to the VMRO-DPMNE. The party, which has won every election since 2006, has a free end in handling the negotiations with Greece. And the more critical and uncompromising it is against Athens, the more political credit it gains domestically. In 2008, it promised its voters that it would organise a referendum on any agreement reached with Greece. And in 2012, following Nato’s Chicago Summit, its leader (and Prime Minister) accused Greece of committing a “political genocide” against Macedonians. In the UN General Assembly, he added:

“Imagine the virtual state that my citizens find themselves in, blackmailed, with a blocked development and perspective – because of the blockages from our southern neighbour to enter the Euro-Atlantic institutions, just because for what we are, i.e. what we feel like”.

Much of Macedonia’s inflexible approach in dispute settlement matters can be traced back to the domestic gains the ruling party VMRO-DPMNE yields from the non-resolution of the naming issue and the enmity with Greece. Other political parties, here, have not succeeded or not even attempted to voice alternative courses of action. The coalition partner of the ruling party, the Albanian party BDI, repeatedly conditioned its support for the VMRO-DPMNE to the resolution of the naming issue, often by means of an ultimatum (e.g. in 2009 or 2011). The Albanians, indeed, are strong supporters of European and Euro-Atlantic integration, and often find themselves excluded from the nation-building narrative promoted by the VMRO-DPMNE. But every time the ultimatum expired, the BDI systematically forwent leaving the ruling coalition. As for the

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44 Republic of Macedonia. 24 September 2011. 'Address by the Prime Minister H.E.Mr. Nikola Gruevski at the General Debate of the 66th Session of the General Assembly of the United Nations'.

opposition party SDSM, it gradually came closer to the VMRO-DPMNE hard-line position on the naming issue in order to regain popularity.

Serbia’s dispositions to settle the Kosovo dispute did not prove more amenable to compromise. As soon as the public debate lapsed into Kosovo-related matters, Serbian politicians usually gave up on the strategic character of the EU integration objective. EU accession remained important throughout the past ten years, but at least as important, domestically, as Serbia’s commitment to territorial integrity. That is why most of the inflections of Serbia’s Kosovo approach have been disguised as technical steps. Under the leadership of Boris Tadić, Serbia sought to reconcile the objective of European integration and its commitment to territorial integrity, a “policy for Kosovo and the EU” according to the ruling party at that time, the DS. If the mandate of the DS seemed clear at first sight, in practice, it was ensconed with a veil of elusiveness as to the means to embrace the EU while retaining Kosovo. The margin of manoeuvre was not large. But at least, the new government, unlike other political forces, did not posit its preference of Kosovo over the EU as ab initio position. It simply remained elusive, giving officially the precedence to none of the two strategic objectives, and avoided their bundling. In the following years, President Tadić sought to preserve his margin of manoeuvre in Serbian politics, urging the EU not to push Serbia for choosing between EU accession and Kosovo. Walking the thin line reconciling EU demands for normalising Belgrade’s relations with Pristina without acknowledging the de facto independence of the former province, however, became increasingly difficult, for the electorate in Serbia unambiguously stood in favour of the defence of Kosovo. President Tadić’s elusiveness as for Serbia’s actual priority eventually harmed his popularity, both domestically and in European circles. His last minute agreement on Kosovo’s representation in regional fora left a bitter taste in the electorate—the taste of being blackmailed by the EU.

In May 2012, Boris Tadić and his party eventually lost the parliamentary and presidential elections in Serbia. Tomislav Nikolić, who had headed the SRS in the absence of Vojislav Šešelj until the party split in 2008, became President of Serbia. His party, the SNS, won the parliamentary elections and formed a coalition with the SPS, the party Milošević founded in 1990. His leader, Ivica Dačić became Prime Minister. Although the 2012 elections brought nationalist forces to power, they did not signify a reversal of Serbia’s approach to Kosovo. The ruling coalition, under the leadership of President Nikolić, did not turn back the clock and overturn the achievements of the previous government, despite its attacks against the agreements sealed under the aegis of the EU. More generally, it maintained the dual commitment of embracing the EU while retaining Kosovo, but repeatedly stated that if it had to choose, it would not give up on Kosovo. But instead of openly challenging the EU by discarding ab initio any efforts that would be vain if it was to end up with giving up on Kosovo, the ruling coalition adopted a comforting tone, insisting publicly on the fact that the EU does not posit the recognition of Kosovo’s independence as precondition for Serbia’s membership; that the EU-facilitated dialogue is no threat to Serbia’s territorial integrity; and that it is in Serbia’s best national interest to proceed with the dialogue. With no major political opponent to the negotiation process, the nationalist ruling coalition fell under less domestic pressure

45 B92. 10.3.2008.
than the previous government. This gave the governing coalition a certain margin of manoeuvre, since it is not easily accusable of treason. In order to avoid losing ground in the electorate, the ruling coalition argued that every step made towards the EU (in the form of an agreement normalising Belgrade’s relations with Pristina) is not a step away from Kosovo. While the precedent government had permanently to demonstrate its dedication to the defence of Kosovo, the present government focuses on less symbolical issues (e.g. gaining legislative and executive rights for Kosovo Serbs), where limited concessions can be made and disguised as technical agreements with no general significance as regards the status of Kosovo.

4.5. Face-to-face vs. shuttle diplomacy

Macedonia’s representatives usually do not meet face to face with the representatives of Greece to discuss the naming issue. Their meetings are mostly brief informal encounters, taking place “out of courtesy” on the sidelines of international Conferences or Summits. Instead of meeting face-to-face at regular intervals, the UN Special Envoy Matthew Nimetz travels to Skopje and Athens successively in order to mediate the dispute or convenes with the representatives of Macedonia and Greece in New York at the United Nations. The absence of permanent, face-to-face form of communication between Macedonia and Greece on the naming issue is a weakness of the dispute settlement process. Physically and communicatively apart, the parties do not directly exchange views, nor do they develop an intersubjective understanding of what a collective way of settling a dispute could be. They nourish instead distrust and entrench prejudices.

The situation is drastically different in Serbia’s case, at least since the establishment of the EU-facilitated dialogue between Belgrade and Pristina. Between March 2011 and March 2012, Serbia’s representatives have met their Kosovo counterparts at regular intervals in Brussels, at nine occasions, and conducted face to face negotiation in the presence of the EU’s mediator and EEAS Counsellor Robert Cooper. After an eight-month interruption due to the elections in Serbia, the dialogue resumed in October 2012, at the prime-ministerial level and under the mediation of the EU’s High Representative Catherine Ashton herself. Between October 2012 and March 2013, Serbian Prime Minister Dačić met his Kosovo counterpart Thaçi at six occasions, i.e. once every month in Brussels. These face-to-face meetings have born fruits—not only concrete ones, measurable through the conclusion of a series of agreements. They have helped building confidence between the two parties.

4.6. Prevailing by right vs. finding a compromise

In the past ten years, Macedonia has dedicated much effort in trying to level the asymmetrical playing field in which it pursued its negotiations, rather than considering possible inflections for its position. It did so by looking for external supports, ready to take side. Within the EU, Macedonia continues to plead its case at the bilateral level, seeking Germany’s support for instance. At the EU level, it also called for a more active

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46 See European Union External Action. 'News'.
47 BBC News. 25.2.2012.
engagement of European institutions, but primarily in order to tame Greece. In the absence of clearer involvement of the EU, the support of the USA, received in 2004, has been no negligible achievement. In the past ten years, Macedonia has taken good care of its relations with the Washington, hoping that the Americans would increase their pressure on Athens. Skopje, for instance, introduced an exception to the jurisdiction of the ICC, applicable to US citizens arrested in Macedonia, which does not comply with the EU’s acquis.

More generally, convinced of being well within their rights, Macedonian leaders conduct the negotiations on the naming issue with the intention of prevailing by right, not necessarily finding a negotiated compromise. They, incidentally, often speak of the naming issue as “irrational” or “absurd”, and complain of Greece’s “unreasonable” and “irrational” stance. Since their intention is to prevail, they are tempted to discard the proposals made by the UN Envoy Matthew Nimetz altogether (as does Greece), instead of specifying the conditions which they would deem acceptable. For many Macedonians, in fact, there is simply no dispute with Greece, which can be solved through negotiations and compromise, since it is “impossible for a state/nation to have a dispute over its own name and self-identification” (cit. in Vankovska 2010). What politicians can at best achieve is to explain to Greece how absurd its claims are. Of course, such premises can only cast doubt on Macedonian’s motivation to truly engage in the negotiation process.

Serbia, on the other hand, also seeks to secure the support of third parties against Kosovo’s independence –most notably Russia. But whereas Macedonia genuinely strove for obtaining the support of the US against Greece, Serbia rather plays its Russian card as a negotiating chip. Before becoming Prime Minister, Ivica Dačić thus cautioned the EU that

“If the EU and America fail to understand our position and are always taking the side of ethnic Albanians, it is to be expected that a political option will come to power that might turn to Russia”.

But most of these warnings, as well as those aimed at reviving the Non-Aligned Movement went unheeded or became dead letter. For Serbian governments, since 2008, all committed themselves to support the integration of their country in the EU, including by intensifying their dialogue with Pristina’s authorities. This unambiguous commitment does not imply that Serbia would be ready to give up Kosovo, if the EU posited it as condition. But it shows the motivation with which Serbian elites engage in the Belgrade-Pristina’s dialogue –a motivation pegged to concrete goals, which does not elude the possibility of negotiating a compromise. Of course, the form that this compromise shall take remains undetermined. But Serbian officials already carried out a series of comparative surveys in the EU in order to learn from existing experiences in that field.

48 See for instance MIC. 30.5.2011.
49 Republic of Macedonia. 9-11 November 2012. 'Address by the President H.E.Mr. Gjorgje Ivanov at the International Conference "Leaving Europe's Waiting Room"'.
50 B92. 15.2.2012.
51 Interview with an Official from the Ministry of Foreign Affairs of Serbia, Directorate for Neighbouring and South-East European Countries. Belgrade, 15/09/2011
These concern, for instance, Northern Ireland’s “double sovereignty”, South Tyrol’s autonomous status in Italy or the “two Germanys” system of 1972. Unlike Macedonia, Serbia’s engagement in the Kosovo negotiation process is motivated by intentions often directly connected to European integration. Such intentions certainly increase the leverage of the EU in fostering changes in Serbia’s foreign policy approaches.

5. Conclusion

The relations between Serbia and Kosovo on the one hand and Macedonia and Greece on the other had are due to remain complicated. Despite notable progress in gradually normalising its relations with Pristina, Belgrade still opposes the independence of Kosovo. Yet, the inflections in its approach have been substantive: Serbia recognised at least partially that Kosovo possesses the qualifications required to become a sovereign state in the international community: a defined territory (with de facto borders), a central government exercising its sovereign authority (imposing its legal and administrative order throughout Kosovo) and its capacity to enter into relations with third parties (bilaterally, but also in regional intergovernmental fora). Under the leadership of the EU, Serbia started to connect the dots of Kosovo’s independence, whilst refraining from considering the big picture, though. The EU’s achievement therein was to urge Serbia to solve a difficult puzzle by looking at the shape of its pieces rather than the image on them. How far this strategy will bring the EU and its negotiating partners remain uncertain: technical solutions on specific issues can facilitate political agreements of a larger scope; but they are no surrogate for them. With Macedonia, the situation is even more complex—and unfortunately, left to providence (namely, the United Nations). Its approach to the naming issue has not changed into a more compromising one. One the contrary, it has become more of a hardliner since 2008. And the ambiguity of EU in this matter is no contribution to dispute settlement.

What made the EU more successful with Serbia than with Macedonia may be a combination of several factors—structural, dispositional and intentional. First, there is the fact that the EU’s conditionality regime towards Serbia is impregnated by the reminiscence of an earlier community of views, which prescribed the supervised independence of Kosovo (according to the Ahtisaari plan). This earlier community of views continues to frame the EU’s approach to Serbia’s Kosovo issue and more importantly, it provides a normative (albeit unsaid) teleology to the EU’s conditionality regime towards Serbia. Towards Macedonia, by contrast, there is no sign of such reminiscence of a community of views. The EU, in the past, never adopted a collective, prescriptive position regarding the settlement of the naming issue, and it never ventured explaining what the “negotiated and mutually acceptable” solution should look like.

The EU’s conditionality regime towards Serbia, second, also critically differs from Macedonia because of the constructive engagement of EU member states. It is indeed remarkable that many (if not most of) EU member states have expressed a thorough interest for the Kosovo issue, whereas most of them, in the dispute over the naming issue, passively refer themselves to the EU’s solidarity principle, which shall urge them to support Greece, irrespective of their substantive appreciation. This more proactive
involvement of the EU member states makes the EU’s conditionality regime richer, despite their disunity, whereas their passiveness and their reluctance to deal with the substance of the naming issue cast doubt on the legitimacy of the EU’s conditionality regime. Unlike Macedonia, which could argue that the hand of Greece stands behind the EU’s conditionality regime, Serbia cannot question the collective character of the conditions posed by the EU in dispute settlement matters. Unless Macedonia sinks again into instability (which it could, considering recent events).

Third, it is remarkable to note the insistence with which the Commission and the Council hint at the UN-mediated negotiation process with regards to the naming issue, despite its lack of results. The EU conditions the opening of accession talks with Macedonia to the resolution of the naming issue under the auspices of the UN. But conditionality cannot be effective when it links a European integration reward to an outcome negotiated in a framework that has nothing to do with European integration. This logic of conditionality misses the point of Europeanisation, which is here to transform domestic approaches through an encounter with European processes. The case of Serbia shows that anchoring dispute settlement within a European integration framework, fractioning the dispute into smaller, technical parts, and offering rewards for each step rather than for the full completion of the process works better. Of course, the fact that Greece is a member of the EU precludes the use of accession conditionality tools. But conditions can still be posed (e.g. in economic and financial matters) to level the asymmetry in relations between the two parties to the dispute, should the EU take the lead in the mediation.

Domestic politics, fourth, is no friend of dispute settlement. Both in the naming issue and the Kosovo issue, hardliners are more likely to get popular support for opposing compromise than inflicting their country’s approach. But hard-liners also are those who are the most capable of making concessions without being accused of betraying their nation. The room of manoeuvre is not large, but the EU, unlike the UN, succeeded therein in framing the negotiations in such a way that political stakes remained low on the face of the agenda. It called for pragmatic progress in (at least seemingly) technical issues rather than for the one-off comprehensive resolution of the dispute at the political level. This approach is more adapted to political landscapes dominated by hardliners.

Fifth, the format of the negotiations matters. Face-to-face diplomacy, as it is practiced since 2011 with Serbia and Kosovo, is more likely to build confidence than shuttle diplomacy. And finally, prevailing by right, as Macedonia aims at, cannot be a baseline rationale in reasonable negotiations. Its result is intransigence and stalemate. When the EU took over the leadership of the negotiations on the Kosovo issue, it made it clear that the aim of the process was to improve the life of the people in concrete ways. The difference between the two approaches is one between pursuing absolute gains (the improvement of the relations between Serbia and Pristina) versus relative gains (the demonstration against Greece of Macedonia’s right to identify itself as it pleases). Framing the negotiating process so that it pursues absolute rather than relative gains arguably creates more room for compromise.
6. List of References

   [accessed 1.8.2014]

B92. 15.2.2012. ‘Next Government Might Turn to Russia’.
   [accessed 1.8.2014].

BBC News. 25.2.2012. ‘Gruevski: "I Seek the Support of the Chancellor” ’
   http://the-macedonian-tendency.blogspot.co.at/2012/02/gruevski-i-seek-support-of-chancellor.html
   [accessed 1.8.2014].

Carlsnaes, W. 2008. ‘Foreign Policy’. In Handbook of International Relations, eds. Carlsnaes, W.,

Celik, A. B.and Rumelili, B. 2006. ‘Necessary But Not Sufficient: The Role of the EU in
   Resolving Turkey’s Kurdish Question and the Greek-Turkish Conflicts’. European Foreign


Coppieters, B., et al. eds. 2004. Europeanization and Conflict Resolution: Case Studies from the

Council of the European Union. 13 October 2003. ‘Council Conclusions on the Western Balkans’
   Council of the European Union. 18 February 2008. ‘GAERC Conclusions on Kosovo’.
   Council of the European Union. 18 June 2007. ‘Conclusions on the Western Balkans’.
   Council of the European Union. 5 December 2011. ‘Council Conclusions on Enlargement and
   Stabilisation and Association Process’.

Council of the European Union. 9 November 1998. ‘Common Position Concerning the Process
   on Stability and Good-Neighbourliness in Southeast Europe’


Diez, T., et al. 2006. ‘The European Union and Border Conflicts: The Transformative Power of

   and Association, Cambridge: Cambridge University Press.

European Commission. 10 October 2012. ‘Enlargement Strategy and Main Challenges 2012-2013’.

European Commission. 9 November 2005. ‘Analytical Report for the Opinion on the Application
   from the Former Yugoslav Republic of Macedonia for EU Membership’.


   2006/2267.

European Parliament. 5 February 2009. ‘European Parliament Resolution on Kosovo and the Role
   of the EU’.

   7.3.2013].

European Union. 8 March 2011. ‘Statement by the Spokesperson of Catherine Ashton, EU High
   Representative on the Start of the Belgrade - Pristina Dialogue’.

   http://www.greeknewsonline.com/karamanlis-no-solution-means-no-nato-invitation-to-
   skopje/ [accessed 1.8.2014].

Interim Accord between the Hellenic Republic and the Former Yugoslav Republic of Macedonia.
   13 September 1995.
International Court of Justice. 5 December 2011. ‘Judgment of the Court Regarding the Objection by Greece to the Admission of the Former Yugoslav Republic of Macedonia to Nato’.

Interview with an Official from Delegation of the European Union to the Former Yugoslav Republic of Macedonia. Skopje, 01/11/2011.


Interview with an Official from the Slovenian Embassy to Macedonia. Skopje, 02/11/2011.


MIC. 30.5.2011. 'Obama Promises Ivanov He Will Talk to Papandreou About Naming Issue'.


Republic of Macedonia. 16 November 2012. ‘Address by the President H.E.Mr. Gjorgje Ivanov at the Congress "90 Years of Paneuropa"’. [accessed 15.2.2013].


Republic of Macedonia. 9-11 November 2012. 'Address by the President H.E.Mr. Gjorgje Ivanov at the International Conference "Leaving Europe's Waiting Room"'. [accessed 15.2.2013].


