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Recognition of Kosovo: limitations of the GDR model

Uznanie Kosowa: ograniczenia modelu NRD

Abstract: The Russian full-scale invasion of Ukraine in 2022 led to a reassessment of the system of international relations by various international actors, from China to the European Union (EU). For the EU, the reassessment meant, inter alia, the increase in priority of the EU integration of the Western Balkan states. One of the prerequisites for the complete EU integration of the Western Balkans is the normalization of the relations between Serbia and Kosovo. The importance of such normalization is reminiscent of the significance of the establishment of relations between FRG and GDR, in particular the 1972 Basic Treaty for the security and stability in Europe at the time of the détente (the GDR model). Given the pragmatic but reserved approach used in the 1972 Treaty, it was not surprising that the Treaty provisions were used in drafting the Agreement on the path to normalization between Kosovo and Serbia.

However, there are numerous crucial differences between the two situations, and a full understanding of such differences is critical for the implementation of the GDR model in the normalization of Serbia-Kosovo relations.

In the article, some of the political, economic, religious, and legal factors differentiating the FRG-GDR situation from the Serbia-Kosovo situation are compared and analysed. Thus, the limitations of the GDR model will be determined as used for the Serbia-Kosovo normalization. Such determination will be useful in designing the future steps in the Serbia-Kosovo normalization.

Keywords: recognition, Kosovo, international agreements

Streszczenie: Rosyjska inwazja na pełną skalę na Ukrainę w 2022 r. doprowadziła do ponownej oceny systemu stosunków międzynarodowych przez różnych aktorów międzynarodowych, od Chin po Unię Europejską (UE). Dla UE ponowna ocena oznaczała m.in. zwiększenie priorytetu integracji unijnej państw Bałkanów Zachodnich. Jednym z warunków pełnej integracji UE Bałkanów Zachodnich jest normalizacja stosunków między Serbią a Kosowem. Znaczenie takiej normalizacji przypomina znaczenie nawiązania stosunków między RFN a NRD, w szczególności Układu z 1972 r., dla bezpieczeństwa i stabilności w Europie w okresie odprężenia (model NRD). Biorąc pod uwagę pragmatyczne, ale powściągliwe podejście zastosowane w Układzie z 1972 r., nie

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było zaskoczeniem, że przy opracowywaniu Porozumienia w sprawie drogi do normalizacji między Kosowem a Serbią wykorzystano postanowienia Układu. Istnieje jednak wiele istotnych różnic między obiema sytuacjami, a pełne zrozumienie tych różnic jest kluczowe dla wdrożenia modelu NRD w normalizacji stosunków Serbia–Kosowo.

W artykule porównano i przeanalizowano niektóre czynniki polityczne, ekonomiczne, religijne i prawne, odróżniające sytuację RFN–NRD od sytuacji Serbia–Kosowo. Tym samym zostaną określone ograniczenia modelu NRD stosowanego w normalizacji Serbia–Kosowo. Takie określenie będzie przydatne przy projektowaniu przyszłych kroków w normalizacji Serbia–Kosowo.

Słowa kluczowe: uznanie, Kosowo, umowy międzynarodowe

Introduction. The 2023 Ohrid Agreement vs. the FRG-GDR 1972 Basic Treaty

The Agreement on the path to normalisation between Kosovo and Serbia (the Ohrid Agreement) was developed on the basis of the 1972 Treaty on the Basis of Relations Between the Federal Republic of Germany and the German Democratic Republic (the Basic Treaty between the Federal Republic of Germany (FRG) and the German Democratic Republic (GDR))¹. In the year following the conclusion of the Basic Treaty, both FRG and GDR became UN members and opened permanent missions in Bonn and East Berlin, respectively.

As noted on 17 March 2024, by Josep Borrell, EU High Representative for Foreign Affairs and Security Policy, in reference to the Ohrid Agreement on the path to normalisation between Kosovo and Serbia (hereinafter also referred to as “the Ohrid Agreement”) “(f)or the first time during the EU-facilitated Dialogue, the Parties agreed on clear parameters defining the trajectory of the process to normalise their relations”. At the same time, he admitted that “despite extensive efforts by the EU and the broader international community, there has so far been very limited progress by both Kosovo and Serbia in implementing the obligations they accepted under this Agreement”².

- 1 *Belgrade-Pristina Dialogue: Agreement on the path to normalisation between Kosovo and Serbia*, EEAS, https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-agreement-path-normalisation-between-kosovo-and-serbia_en [11.05.2024]. *The Basic Treaty (21 December 1972)*, https://www.cvce.eu/content/publication/1999/1/1/3b9b9fod-6910-4ca9-8b12-accfcb91d28e/publishable_en.pdf [11.05.2024].
- 2 *Belgrade-Pristina Dialogue: Statement by the High Representative on the anniversary of the Agreement on the Path to Normalisation and its Implementation Annex*, EEAS, https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-statement-high-representative-anniversary-agreement-path-normalisation_en [9.05.2024].

Several months earlier, in its resolution of 19 October 2023, the European Parliament indicated that “despite the facilitation efforts of the EU over the past few months, Serbia and Kosovo have failed to make progress towards the normalisation of their relations”. In the same document, the European Parliament remarked that “Serbia’s continued close relationship and partnership with Russia and China raises questions about Serbia’s strategic direction and hinders the country’s economic and political development” and that “Russia is using its influence in Serbia to try to destabilise, interfere with, and threaten neighbouring sovereign states, including Kosovo”³.

1. The objective of the article

The implementation of the Ohrid Agreement has so far not been a success story, even though its parties also agreed on the implementation annexe thereto⁴. The use of an earlier international agreement or a political arrangement as a model for the resolution of a problem of international relations is not impossible in principle. However, political, legal, religious, and economic factors must be duly analysed in order to adequately assess impediments and develop anticipations. The objective of the article is thus to contribute to this analysis by identifying and analysing the key factors affecting the implementation of the Ohrid Agreement in comparison with the factors of the normalization process between GDR and FRG, and thus to determine the limitations of the “GDR model”, as applied to the Serbia-Kosovo normalization.

2. Methodology

In this article, the comparative analysis method is used. For the purposes of this research, all the factors determining the effectiveness

3 *Texts adopted – Recent developments in the Serbia-Kosovo dialogue, including the situation in the northern municipalities in Kosovo – Thursday, 19 October 2023*, https://www.europarl.europa.eu/doceo/document/TA-9-2023-0372_EN.html [8.05.2024].

4 *Belgrade-Pristina Dialogue: Implementation Annex to the Agreement on the Path to Normalisation of Relations between Kosovo and Serbia*, EEAS, https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-implementation-annex-agreement-path-normalisation-relations-between_en [11.05.2024].

of the Serbia-Kosovo normalization are divided into three groups: legal, political (which includes religious factors), and economic.

3. Legal factors

The FRG-GDR 1972 Basic Treaty was used as the basis for the 2023 Ohrid Agreement because in both situations at least one party was not prepared politically to fully recognize the other as an independent state de jure and because of the constitutional obstacles for such de jure recognition⁵.

The fact that the Ohrid Agreement was in oral, rather than in written form is not by itself a major impediment to its implementation⁶. Indeed, as evidenced by the treatment of the Ihlen Declaration⁷ or by the Finland-Denmark settlement in 1992⁸, international law does not preclude the legal validity of oral international agreements, as long as the intention of the parties was to agree.

However, the Ohrid agreement was designed as a written agreement, not, for instance, as minutes of oral discussions. Also, after the announcement of the Agreement, the President of Serbia was quoted as saying that he did not want to sign any international legally binding documents with Kosovo because Serbia did not recognize its independence⁹. These facts would not be helpful in confirming the intentions of the parties if doubts thereon are ever to surface.

The Basic Treaty between FRG and GDR was challenged in the Federal Constitutional Court of the FRG. On 31 July 1973, the Federal

5 See: *Basic Law of the Federal Republic of Germany* (23 May 1949), https://www.cvce.eu/content/publication/1999/1/1/7fa618bb-604e-4980-b667-76bfocdodd9b/publishable_en.pdf [11.05.2024]; *Constitution of the Republic of Serbia*, http://www.parlament.gov.rs/upload/documents/Constitution_%20of_Serbia_.pdf [11.05.2024].

6 See Article 3 of the *Vienna Convention on the Law of Treaties* (1969), https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf [9.05.2024].

7 See *Legal Status of Eastern Greenland Case (Denmark v. Norway): International Case Law, Court Opinions & Decisions*, Justia, <https://law.justia.com/cases/foreign/international/1933-pcij-series-a-b-no-53.html> [9.05.2024].

8 M. Koskenniemi, *International Court of Justice: Order Discontinuing the Proceedings in Case concerning Passage Through the Great Belt (Finland v. Denmark)*, "International Legal Materials" 1993, vol. 32, no. 1, pp. 101–105.

9 *Serbia, Kosovo 'gentlemen's agreement' on EU-backed deal unpacked*, Euractiv, <https://www.euractiv.com/section/enlargement-neighbourhood/news/serbia-kosovo-gentlemens-agreement-on-eu-backed-deal-unpacked/> [10.05.2024].

Constitutional Court indicated “(t)he GDR is a state in the sense of international law and, as such, a subject of international law. This statement is independent of any recognition of the GDR under international law by the FRG.”¹⁰ It then went on to state that “(w)hat is special in this Treaty is that it is a bilateral treaty between two states to which the rules of international law apply and which has the force and validity like any other treaty under international law, but between two states that are parts of a comprehensive state of all Germany which still exists, even though it is incapable of acting because it is not yet reorganized, with a unitary population, within borders which it is not necessary here to define more precisely”¹¹. Such or similar legal arguments are not applicable in the case of the Serbia-Kosovo normalization.

The 2013 First Agreement of Principles Governing the Normalization of Relations (the 2013 Brussels Agreement)¹² was challenged in the constitutional courts of both parties¹³. The Constitutional Court of Serbia, in 2014, refused to consider the constitutionality of the 2013 Agreement, claiming that the agreement “did not meet the requirements of ratified international conventions and applicable law of the Republic of Serbia”¹⁴ and that it is “by nature nearest to political *modus vivendi*, an intermediate solution termed for the decision about the final status of Kosovo and Metohija that in the light of the relevant rules of international law has no legal force, but it creates a political commitment in the spirit of the so-called soft law”¹⁵.

The efforts of the Federal Republic of Germany in 1955–1969 on the basis of the Hallstein Doctrine to prevent as many states as possible from recognizing the German Democratic Republic could be compared with the diplomatic efforts of Serbia, allegedly aided by the Russian Federation¹⁶, which in some cases involved persuasion

10 B. Simma, *Legal Aspects of East-West German Relations*, “Maryland Journal of International Law and Trade” 1985, vol. 9, p. 106.

11 *Ibid.*

12 *Brussels Agreement*, <https://www.srbija.gov.rs/specijal/en/120394> [10.05.2024].

13 F. Bieber, *The Serbia-Kosovo Agreements: An EU Success Story?*, “Review of Central and East European Law” 2015, vol. 40, no. 3–4.

14 M. Nastić, *Constitutional Review of International Agreements from Comparative Perspective*, “FACTA UNIVERSITATIS – Law and Politics” 2015, vol. 13 no. 1, p. 68.

15 *Ibid.*

16 T. Papic, *De-Recognition of States: The Case of Kosovo*, “Cornell International Law Journal” 2020, vol. 53.

of states to “de-recognize” the independence of Kosovo. Thus, the benefits of the normalization of the bilateral relations between Serbia and Kosovo will, similarly to the FRG-GDR situation, include saved political costs of such diplomatic efforts.

The assessment of the legal aspects of the role of Russia and China in the normalization between Serbia and Kosovo must include the analysis of the rules of each relevant international intergovernmental organization. For instance, admission to the UN can be blocked by any of the permanent members of the UN Security Council, including Russia and China. As regards a number of other international organizations, these two states play a much less decisive role therein or simply are not members thereof. Thus, the Parliamentary Assembly of the Council of Europe in April 2024 recommended that Kosovo should become a member of the Council of Europe¹⁷, although the final decision on the matter is for now delayed because of the disagreements on the steps to be taken to protect the rights of the Serbian minority as a prerequisite of the positive decision on the membership of Kosovo¹⁸.

As regards the accession to the European Union, the implementation Annex to the Ohrid Agreement provides for the amendment of the Chapter 35 benchmarks to reflect Serbia’s obligations “stemming from the Agreement and this Annex”¹⁹. Such an amendment has been made. Moreover, the same Annex provides that “Kosovo and Serbia recognise that any failure to honour their obligations from the Agreement, this Annex, or the past Dialogue Agreements may have direct negative consequences for their respective EU accession processes and the financial aid they receive from the EU”²⁰.

17 *PACE recommends that Kosovo* becomes a member of the Council of Europe*, https://www.coe.int/en/web/portal/-/pace-recommends-that-kosovo*-becomes-a-member-of-the-council-of-europe [12.05.2024].

18 *Why the green light for Kosovo joining the Council of Europe is likely to be delayed*, Euronews, <https://www.euronews.com/2024/05/09/why-the-green-light-for-kosovo-joining-the-council-of-europe-is-likely-to-be-delayed> [11.05.2024].

19 *Belgrade-Pristina Dialogue: Implementation Annex to the Agreement on the Path to Normalisation of Relations between Kosovo and Serbia*, EEAS, https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-implementation-annex-agreement-path-normalisation-relations-between_en [11.05.2024].

20 *Ibid.*

However, the normalization of Serbia-Kosovo relations is in their best national interests even regardless of the perspectives of the EU accession. The lack of such normalization causes legal uncertainty and major disruptions of economic and political relations, as evidenced by the introduction of the 100% duty by Kosovo in 2018, unrest in connection with the license plate regulations, or clashes in connection with religious issues.

4. Political factors

In 2018, political protests took place in Serbia, focusing on such issues as combating corruption and the protection of the environment. The opinion polls at that time showed the belief of the voters that the Serbian government should prioritize economic development, public health, and combating corruption²¹. However, one of the features of the current political discourse in Serbia has been the persistence of the issue of Kosovo as an important part of the political debates²². Both before and especially after 2008, the political agenda of Serbia included the issue of Kosovo, even as the importance of the issue for voters declined relative to other political issues²³.

Among the key causes of such a situation is the level of “personalization” of Serbian politics. Such “personalization” has its roots in the last years of the Socialist Federal Republic of Yugoslavia, at the time of the transformation of the League of Communists of Serbia and the creation in 1990 of the Socialist Party of Serbia of Slobodan Milošević. As noted by T.S. Pappas, “In the absence of permanent and effective democratic institutions, the contest over federal structure and economic reform was decided by individual leaders able to stir social discontent and mobilize popular support”²⁴.

21 *Kosovo not a Priority for Most Serbs*, Balkan Insight, <https://balkaninsight.com/2018/04/19/serbs-choose-eu-over-kosovo-survey-04-19-2018/> [9.05.2024].

22 *Serbia before early parliamentary elections*, Casimir Pulaski Foundation, <https://pulaski.pl/en/serbia-before-early-parliamentary-elections/> [19.05.2024].

23 O. Canveren, M. Aknur, *European Union Agenda in Serbia's Party Politics: A Clash Between Rationality and Identity Politics*, 2020.

24 T.S. Pappas, *Shared culture, individual strategy and collective action: explaining Slobodan Milošević's charismatic rise to power*, “Southeast European and Black Sea Studies” 2005, vol. 5 no. 2, p. 192.

In 2018, Alexander Vucic, the current President of Serbia²⁵, while speaking to Kosovo Serbs, called Slobodan Milošević “a great leader”²⁶. More than 30 years after the Socialist Party of Serbia was built around the image of Slobodan Milošević, “political parties in Serbia are most often perceived and recognised in reference to their leaders ... instead of using the names of the parties”²⁷. At the same time, Serbia still “belongs to a group of countries with weak, institutionalised, and relatively young party systems”²⁸.

The more a political campaign is based on the personality of a politician, the more weight in the political debate belongs to emotional rather than rational arguments²⁹.

In addition, many of the emotional arguments on Kosovo are related to religion³⁰. For instance, the rule in the Balkans of the Ottoman Empire, which had defeated the Serbian forces in 1389, is associated in the Serbian historical memory with the proliferation of Islam and discrimination of Christians³¹. No such or similar emotional arguments were applicable or relevant in the context of the 1972 FRG-GDR Basic Treaty.

Thus, the low priority of the Kosovo issue demonstrated in the rational circumstances of opinion polls does not translate into the de-prioritization of the issue in the political discourse. The de-prioritization of the border issue for the FRG voters, however, was a crucial factor in the normalization of FRG-GDR relations.

In FRG in the late 1960s, a critical mass of voters with fresh views on historical experience and political realities was accumulated. This fact played a decisive role in reformatting of the ruling coalition in Germany

25 His political record includes the position of the Minister of Information from March 1998 till October 2000.

26 *Serbian president's praise of Milosevic seen by neighbouring states as a provocation*, <https://www.latimes.com/world/europe/la-fg-serbia-president-vucic-20180910-story.html> [11.05.2024].

27 D. Spasojević, Z. Stojiljković, *The presidentialisation of political parties in Serbia: Influence of directly elected president*, [in:] G. Passarelli, *The Presidentialisation of Political Parties in the Western Balkans*, 2018, p. 49.

28 Ibid.

29 See: O. Canveren, M. Aknur, *European Union Agenda...*

30 F. Bieber, *Nationalist Mobilization and Stories of Serb Suffering: The Kosovo myth from 600th anniversary to the present*, “Rethinking History” 2002, vol. 6, no. 1.

31 J. Waardenburg, *Politics and Religion in the Balkans*, “Islamic Studies” 1997, vol. 36, no. 2/3, pp. 383–402.

when the CDU/CSU for the first time in the history of the Federal Republic of Germany found themselves outside of the ruling coalition³². Eventually, this fact also played a decisive role in making Ostpolitik a reality³³. No similar change of generations has been attested in Serbia so far and no similar political developments took place in Serbia in the years after the declaration of independence of Kosovo. Nor are they likely to take place in the near future³⁴.

A significant number of the voters in the FRG were prepared to acknowledge, in the words of Egon Bahr (whose signature is on the 1972 FRG-GDR Basic Treaty) from his famous Tutzing speech, that "(i)f ...the Zone cannot be snatched away from the Soviet sphere of influence, then the logical consequence is that every policy aimed directly at toppling the regime over there is hopeless. This conclusion is excruciatingly uncomfortable and runs counter to our feelings, but it is logical"³⁵.

The normalization of the relations with GDR was not only the result of the acceptance of the unpleasant reality but also a rationally calculated strategic step to win the hearts and minds of the people in the GDR through intensified economic and cultural contacts with the ultimate objective of integrating the Eastern German lands³⁶.

Such a strategy, however, is not applicable in the case of Serbia-Kosovo relations. No improvement of economic and cultural contacts between Serbia and Kosovo would persuade the majority of the citizens of Kosovo to reintegrate with the Serbian state.

It is also notable that the early 1970s were a time of détente between the USA and the USSR. Even though the U.S. was apprehensive of the broader implications of the Ostpolitik, suspecting that the logic of the process may eventually force the FRG government to drift

32 D. Orlow, *West German Parties since 1945: Continuity and Change*, "Central European History" 1985, vol. 18, no. 2.

33 See: B. Atzili, A. Kantel, *Accepting the unacceptable: Lessons from West Germany's changing border politics*, "International Studies Review" 2015, vol. 17, no. 4, p. 596; J. Nagle, *The National Democratic Party: Right Radicalism in the Federal Republic of Germany*, Univ of California Press, 1970, p. 72.

34 *Situation in Serbia following the 2023 elections*, Think Tank, European Parliament, [https://www.europarl.europa.eu/thinktank/pl/document/EPRS_ATA\(2024\)757638](https://www.europarl.europa.eu/thinktank/pl/document/EPRS_ATA(2024)757638) [19.05.2024].

35 *Change through Rapprochement*, https://ghdi.ghi-dc.org/sub_document.cfm?document_id=81 [11.05.2024].

36 E. Moreton, *All Quiet on the German Front? Germany in the Post-Detente Era*, "Government and Opposition" 1984, vol. 19, no. 4, p. 443.

geopolitically farther away from the U.S.³⁷, such apprehensions did not translate into any significant counteractions. The current geopolitical situation is very far from, if not opposite to, *détente*. Two nuclear powers (Russia and China) do not recognize the independence of Kosovo. For Russia, this is not so much a way of supporting Serbia, which Russia views as part of the sphere of its traditional national interests³⁸, as it is one of the directions of its geopolitical game. This further reduces the feasibility of the implementation of the Serbia-Kosovo normalization plan based on the “GDR model”.

In 2022, for the first time since the commencement of the EU accession negotiations with Serbia, the polls showed that the supporters of the EU accession are in the minority in Serbia³⁹. The political value of the EU accession for the ruling coalition is thus further decreased, while at the same time the European Union “cannot afford to let the Western Balkan countries remain outside its sphere of influence”⁴⁰.

5. Economic factors

On 25 January 2008, Russia and Serbia concluded an agreement to direct the South Stream through Serbia as well as to establish a joint company which would construct the Serbian part of the pipeline and a gas storage facility by Banatski Dvor⁴¹. In 2008, the Naftna Industrija Srbije (NIS) was sold to Gazprom. This would ensure the dominance of Russia in the Serbian energy market, making the Serbian

37 *Memorandum for President Nixon from Kissinger, “Brandt’s Eastern Policy”*, Wilson Center Digital Archive, <https://digitalarchive.wilsoncenter.org/document/memorandum-president-nixon-kissinger-brandts-eastern-policy> [11.05.2024].

38 M. Babić, *Rosja na Balkanach Zachodnich. Interesy narodowe i wpływy polityczne*, Zakład Europejskich Studiów Subregionalnych, Instytut Europeistyki WDiNP, 2014.

39 *For the first time, a majority of Serbs are against joining the EU – poll*, Euronews, <https://www.euronews.com/2022/04/22/for-first-time-a-majority-of-serbs-are-against-joining-the-eu-poll> [15.05.2024].

40 A. Adamczyk, M. Karadzosi, *A Challenge for the EU Enlargement Process in the Balkans—The Case of North Macedonia*, [in:] E. Latoszek et al. (eds.), *Reshaping the European Union Internally and Externally – A New Matrix?* Warsaw 2019, p. 103.

41 *Russia signs Serbia, wins “pipeline war” with EU*, Reuters, <https://www.reuters.com/article/idUSL25151424/> [29.05.2024].

political agenda heavily influenced by the geopolitical considerations of the Russian Federation⁴².

On 29 May 2022, a mere three months after the full-scale invasion of Russia into Ukraine, the Serbian President announced that he had reached an agreement with the Russian President on the supply of gas to Serbia at the most favourable price in Europe⁴³.

Thus, Russian economic cooperation with Serbia remains not so much an economic activity but more a form of political rivalry with the EU. By making Serbia dependent “on Russian raw materials, Russia increases its political influence in the region”⁴⁴. The *Serbia 2023 Report*, prepared by European Commission staff, points out the dependence of Serbia upon the Russian gas supply and the Russian majority control of Serbia’s gas infrastructure and oil industry as issues relevant to its accession process⁴⁵.

Investment by Chinese companies in Serbia has been significantly increasing in recent years. An illustrative example of Chinese investment activity is the Budapest-Belgrade railway project⁴⁶. Some of these investment projects cause human rights controversies⁴⁷ and claims of non-compliance with the law of the European Union⁴⁸.

As noted by researchers “(t)he Western Balkans region seems to be a “battleground” for geopolitical influence ... with the most sought-after country in the Western Balkans being Serbia”⁴⁹. For the EU,

42 A. Reka, *Energy and Regional Geopolitics in the Western Balkans and Eastern Mediterranean*, [in:] H. Gardner (ed.), *Geopolitical Turmoil in the Balkans and Eastern Mediterranean*, 2023.

43 Vucic Says Serbia Secures Gas Deal With Russia Following Phone Talks With Putin, <https://www.rferl.org/a/serbia-vucic-gas-deal-russia/31873908.html> [9.05.2024].

44 T. Stępniewski, *Russia in Global Politics in the Context of the Western Balkans*, “Rocznik Instytutu Europy Środkowo-Wschodniej” 2015, vol. 13, no. 5, p. 54.

45 *EUR-Lex – 52023SC0695 – EN*, EUR-Lex, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023SC0695> [18.05.2024].

46 J. Hornat, L. Csicsmann, J. Starzyk-Sulejewska, *The Political Elite’s Thematic Framing of China in Recent Central European Elections*, “Issues & Studies: A Social Science Quarterly on China, Taiwan, and East Asian Affairs” 2023, vol. 59, no. 1, p. 14.

47 *Chińczycy budują w Serbii fabrykę, w której w niehumanitarnych warunkach pracują Wietnamczycy*, Dziennik.pl, <https://gospodarka.dziennik.pl/news/artykuly/8296046,serbia-chinczycy-fabryka-wietnamczycy-nieludzkie-warunki-shandong-linglong-tire-co.html> [7.05.2024].

48 *Texts adopted – Forced labour in the Linglong factory and environmental protests in Serbia – Thursday, 16 December 2021*, https://www.europarl.europa.eu/doceo/document/TA-9-2021-0511_EN.html [9.05.2024].

49 *China and its impact on the EU accession process of Serbia*, Strategic analysis, <https://www.strategicanalysis.sk/china-and-its-impact-on-the-eu-accession-process-of-serbia/> [11.05.2024].

the significance of the Western Balkans has grown from one of the five neighbourhood areas⁵⁰ to the strategic area for potential enlargement.

Since 2020, China has been the single largest source of investment in Serbia. Moreover, the amount of Chinese investment in the country has grown immensely since the process of Serbia's EU accession negotiations commenced in 2014. The Serbian government does not appear to be interested in changing the status quo, at least in terms of investment policies. For instance, in May 2024 Serbia was visited by the head of the Chinese state. During the visit, new agreements were signed, described by both parties as agreements on the common future of Serbia and China⁵¹.

Conclusions

The use of the "GDR model" for the normalization of Serbia-Kosovo relations is constrained by legal, political, religious, and economic factors, some of which are radically different from the issues of the implementation of the 1972 Basic Treaty.

The legal factors include the principles of the legal systems of Serbia and Kosovo, the rules of international law applicable to oral agreements as well as the rules of international intergovernmental organizations. The approach used by the Federal Constitutional Court of the Federal Republic of Germany provided for a relatively more balanced approach to the issue of the territorial status of East Germany, which was rooted in certain constitutional concepts specific to the German legal doctrine.

The political factors include the features of the political discourse in Serbia and the role of religious concepts therein. The highly emotional approach to politics in general and especially to issues of the status of Kosovo contrasts with a more rationalised strategic approach to the issue of the status of East Germany, endorsed at the time by many voters in the Federal Republic of Germany.

50 A. Podraza, T. Stępniewski, *Międzynarodowa pozycja Unii Europejskiej w warunkach niestabilności południowego i wschodniego sąsiedztwa*, „Rocznik Integracji Europejskiej” 2017, no. 11, p. 95.

51 *China, Serbia chart "shared future" as Xi Jinping visits Europe*, Reuters, <https://www.reuters.com/world/chinas-xi-jinping-visit-serbia-anniversary-1999-nato-bombing-2024-05-07/> [20.05.2024].

The Russian full-scale invasion of Ukraine made the EU accession of the West Balkan states a priority of the external policies of the European Union. The EU perceives the accession of these states as a major component of its security policies, aimed, inter alia, at minimizing the influence of Russia in the region. However, the Serbian government is not decreasing its interactions with China or with Russia in recent months, intensifying its multivector foreign policy, rather than adjusting it to accommodate EU concerns. With the support for EU accession by the Serbian voters declining, the political incentives for the Serbian government to implement the normalization agreement are further diminished.

None of the factors negatively affecting the implementation of the Ohrid Agreement precludes its eventual execution. However, for such execution to be feasible, the strategy of the European Union and its members should include effective steps to minimise the role of the negative factors. These steps should include deepened dialogue with Serbian political parties, better coordination with other international donors in the region, implementation of programs aimed at the development of political institutions, and coordinated efforts to stimulate investment from the EU member states in Serbia.

While the prospects of EU accession are an important incentive for the normalization of the relations between Serbia and Kosovo, they cannot be a decisive factor, given the economic and political role of Russia and China in the region and the nature of the political discourse in Serbia. Eventually, the normalization of relations will depend on the political will in Serbia and Kosovo, as such normalization is first and foremost in the interests of these two subjects.

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