

KOSOVO and ISRAEL

A LONG WAITED RECOGNITION

*Recognition of states and territories in the
contemporary international politics*

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This publication is supported by:

Royal Norwegian Embassy



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Balkans Policy Research Group (BPRG)

ACRONYMS

CFSP	Common Foreign and Security Policy
EU	European Union
ICJ	International Court of Justice
ILC	International Law Commission
KIDIC	Israeli Development and Investment Corporation in Kosovo
LVV	Movement for Self-Determination
MASHAV	Israel Agency for Development and International Cooperation
MEP	Member of European Parliament
MFA	Ministry of Foreign Affairs
MFAD	Ministry of Foreign Affairs and Diaspora
MOFAE	Ministry of Foreign Affairs and Expatriates
NATO	North Atlantic Treaty Organisation
OIC	Organisation of Islamic Cooperation
PDK	Democratic Party of Kosovo
PLO	Palestine Liberation Organisation
SAA	Stabilisation and Association Agreement
UAE	United Arab Emirates
UK	United Kingdom
UN	United Nations
UNSC	United Nations Security Council
US	United States
VP/HR	Vice President/ High Representative

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EXECUTIVE SUMMARY

The recognition of Kosovo by Israel came as a result of the Economic Normalisation agreement with Serbia, brokered by the United States (US) on 04 September 2020. It was a much welcomed event that Kosovo had been impatiently waiting for, but it also generated dilemmas and reactions in the international spectrum. Kosovo is recognised by the majority of the countries in the world, yet continues to face hurdles in its path to full recognition due to the dispute with Serbia. The non-recognition by five EU countries and two permanent members of the United Nations (UN), and a large part of the Global South, makes Kosovo dependent on the foreign policy interests of other countries and differently affected in comparison to them.

The recognition by Israel came at a time when Kosovo was facing a 'recognitions vacuum'. Thus, it had an emblematic significance to Kosovo. The mutual recognition between Kosovo and Israel is likely to enhance economic, political, and security ties and possibly help Kosovo secure recognition by some of Israel's allies, however it will also have some implications, especially in the early years, that could potentially complicate further Kosovo's path to full international recognition and undermine its prospects for securing sufficient votes for membership in International Organisations. While for other fully-recognised states, placing their embassies to Jerusalem might have limited international repercussions, the decision of Kosovo, whose international independence remain challenged, to open its embassy in the western side of Jerusalem has raised a number of questions whether such a move helps or hinders Kosovo's path to full membership into the international system.

Jerusalem remains a contested city and marks one of the most controversial issues in the Arab-Israeli conflict. It is home to the most significant religious sites in the world and since 1947 is set aside as a territory belonging neither to the Arab nor the Jewish state. The occupation of East Jerusalem in 1967 by Israel, pushed the international community to react. The United Nations General Assembly (UNGA) has regularly issued resolutions calling on Israel to end the occupation while also calling on all States not to recognise any changes to Jerusalem, other than those agreed through negotiations. In 2017, the situation took another turn as the US President Donald Trump decided to recognise Jerusalem as Israel's capital, which was followed by moving the US Embassy in Jerusalem in May 2018. Soon after, Guatemala became the second country to move its embassy in Jerusalem. And now, Kosovo is the third country to do so.

The opening of Kosovo's embassy in Jerusalem in March 2021 presents a critical test case for Kosovo's challenging foreign policy. Apart from the US and Israel, the opening of Kosovo's embassy in Jerusalem was widely condemned by both Kosovo's European and Middle Eastern allies as well as its regional and international adversaries. This act portrayed Kosovo as the first European and Muslim country to open an embassy in Jerusalem. When in fact

the country is secular by the constitution. For some of the Muslim and Arab allied countries, including Turkey, and large number of the Organisation of Islamic Cooperation (OIC) members who have a strong pro-Palestinian stance, with this move, Kosovo was perceived as rigidly taking Israel's and US's side and thus not worthy of support for recognition and membership of International Organisations. Some others argued that since Kosovo took the decision against the advice of the European Union (EU), it can have implications for the country's European integration perspective.

Furthermore, most of Kosovo's opponents, including Serbia and Russia, will likely discourage third countries to support Kosovo's bids for membership in International Organisations. The early warning signs of such diplomatic repercussions for Kosovo are evident with the strong condemnation statements issued by Turkey, Palestine, Jordan and a number of other OIC members and structures, as well as the explicit regret expressed by the EU and a number of European countries.

Yet, by opening its embassy in the western part of Jerusalem, Kosovo has not explicitly recognised Israel's claim over the entire city nor its sovereignty over other occupied territories and settlements. The country, as the government argues, has not taken a side in the peace process but rather has claimed that they support the international position, including that of the EU and the US on a two state solution. The location of the Embassy in this regard is determined by the host country and does not carry any political connotations, as portrayed.

RECOMANDATIONS

Beyond the debate around these complex issues, Kosovo should undertake other steps to build upon these new relations with Israel, mitigate potential challenges and strengthen its foreign policy actions, which at least should include the following:

- 1. Kosovo should maintain intense diplomatic activity to justify the opening of the embassy in Jerusalem and establish a well-elaborated interpretation of the purpose and function of the embassy and its position on the city of Jerusalem. In particular, Kosovo needs to communicate that the decision to open its embassy in the western part of Jerusalem is without prejudice to the future status of the city or the outcome of the negotiated settlement between Israel and Palestine.*
- 2. In parallel, Kosovo should engage in dialogue with Israeli government and institutions to leverage its relationship beyond recognition and seek their diplomatic support for recognition by third countries upon which Israel has influence.*
- 3. Kosovo should open, in a near future, a consulate- and place a senior diplomat- in Tel Aviv, where all embassies are placed. The office will help the government to communicate*

with all other diplomatic representatives of the world, and to better coordinate with partners and allies on the ground.

In line with the policy of the current US Administration, Kosovo should aim to open a diplomatic office in the Palestinian territories (East Jerusalem or West Bank). The government must seek to establish communication, dialogue and relations with Palestinian authorities and institutions.

4. The government of Kosovo should establish a permanent mechanism for consultation with the US and the European Union. It should seek their engagement, share positions, policy agendas and views, and ensure that both its key partners develop a more supportive stance towards Kosovo and its international position. The government must insist to initiate the political dialogue within the Stabilisation and Association Agreement (SAA), on the alignment with the EU's foreign security policies.

5. Beyond these immediate measures, Kosovo needs to redefine its foreign policy and priorities, or better to say establish them. It must prioritise foreign affairs with an increased budget and substantial extension of network of embassies. The time is ripe for Kosovo to develop a niche foreign policy and cultivate bilateral cooperation with other non-western countries that have recognised Kosovo. It should devise region-specific strategies and establish departments and hubs for key regions, Middle East, Latin America, and South Asia, to define its priorities in each region of the world. Kosovo should establish regional hubs/departments and deploy more human capital to enhance cooperation with most important regions of the globe.

INTRODUCTION

Thirteen years after the declaration of independence, Kosovo has not managed to earn universal recognition and is not yet admitted to the United Nations (UN). According to Kosovo's Ministry of Foreign Affairs and Diaspora (MFAD), 117 countries have recognised Kosovo's independence and the country is member of dozens of regional and a few International Organisations and bodies, including the World Bank and the International Monetary Fund.¹ The US, the overwhelming majority of European Union (EU) and North Atlantic Treaty Organisation (NATO) members have recognised Kosovo. Yet, Serbia, two of UN Permanent members (Russia and China) and a significant number of Global South countries oppose its independence.² Kosovo is caught in the middle of the geopolitical rivalry between Western and non-Western states, which has resulted in leaving it outside the UN and other major International Organisations. This makes it a vulnerable subject in world politics and subject to dependency on the foreign policy interests of other countries.

For a long time, Kosovo had been lobbying for securing Israel's recognition and it has always argued that it should "be judged as a case unto itself rather than by comparing it to the Palestinian declaration of independence".³ However, Israel has feared that recognising Kosovo would backfire and strengthen the case of Palestine for independent statehood. Other consideration guiding Israel's non-recognition policy were economic and political ties with Serbia, which also played a role, as well as domestic consideration for not disrupting pro-Russian sediments among a good number of Jewish citizens who have historical ties with Russia. Despite these considerations, in February 2021, Kosovo and Israel signed diplomatic relations in a virtual ceremony, where among other protocol features they also unveiled the plaque that will be placed at the entrance of the Kosovo embassy in Jerusalem, symbolising that mutual recognition was tied in with the opening of embassy in Jerusalem.

The decision was a by-product of the Washington Agreement of 04 September 2020, where Kosovo and Serbia signed separate letters of intent on economic normalisation brokered by the United States (US) President Donald Trump.⁴ The documents on economic normalisation contained a mixture of provisions which partially satisfied the interests of all involved parties.⁵ The documents contain provisions that satisfied Serbia's desire for deepening ties

¹ Although the number of states that have recognised Kosovo remains contested, especially since 2017, over 15 countries have allegedly withdrawn or frozen the recognition of Kosovo, this figure is promoted in public by the Government of Kosovo and also confirmed by an internal source within the MFAD of Kosovo. Balkans Group interview with a Kosovo diplomat, Prishtina, 13 April 2021.

² Global South refers to the regions of Latin America, Asia, Africa, and Oceania. For more, see <https://worldpopulationreview.com/country-rankings/global-south-countries>.

³ Enver Hoxhaj, Kosovo and its Relationship with Israel, The Israeli Institute for Regional Foreign Policies, Tel Aviv, 24 February 2015.

⁴ See Economic Normalisation Agreement at <https://dialogue-info.com/economic-normalization/>.

⁵ For more, see <http://dialogue-info.com>. See also Robert Muharremi, The Washington Agreement between Kosovo and Serbia, ASIL Insights, March 2021 at <https://www.asil.org/insights/volume/25/issue/4/washington-agreement-between-kosovo-and-serbia>.

with the US, advancing strategic interests through expanding regional connectivity, receiving reassurances on the protection of its religious heritage in Kosovo, opening the prospects for having a say on Kosovo's water resources, and finally neutralising temporarily Kosovo's foreign policy through postponing Kosovo's ambitions for applications for membership in International Organisations. Kosovo, on the other hand, on paper scored some potential investments in modernising its rail infrastructures crucial for economic development, identifying the remains of missing persons which might bring closure to the families of missing persons in Kosovo, as well as receiving reassurances that Serbia will suspend its de-recognition campaign while Kosovo was explicitly to suspend its application for membership in international bodies for at least one year.

As many argue, similar to the agreement between Israel and United Arab Emirates (UAE) known as the Abraham Accords, that President Trump brokered, the US aimed at 'benefiting' from this occasion by promoting it as Trump's victory in advancing global peace, neutralising Russian and Chinese interests in the Balkans, and satisfying the interests of domestic and lobbying groups in the US with provisions on Israel.⁶ Thus, the most interesting feature of this economic normalisation arrangement was the inclusion of provisions on Israel. Serbia's version of the document contained a provision where Serbia pledged to move its embassy to Jerusalem by July 2021, whereas Kosovo's version of the document contained a provision which stated that "Kosovo [Pristina] and Israel agree to mutually recognise each other".⁷ Although Kosovo's version of the document did not explicitly contain a provision for opening of the embassy in Jerusalem as part of the transactional recognition by Israel, members of the Kosovo delegation have indicated that it was an unwritten agreement between parties and was mediated by Trump's close aides.⁸ This was the understanding of the Israeli government; Dan Oryan, director for Western Balkans at the Israel Ministry of Foreign Affairs stated "we were offered something we could not reject", meaning the placing of the embassy in Jerusalem.⁹

The MFA of Israel was initially hesitant to recognise Kosovo.¹⁰ Israeli Ambassador to Belgrade Jahel Vilan admitted on 12 May 2021 in an interview for Serbian media that "Israel's decision

⁶ Peter Baker et al, *Israel and United Arab Emirates Strike Major Diplomatic Agreement*, The New York Times, 2 September 2020, at <https://www.nytimes.com/2020/08/13/us/politics/trump-israel-united-arab-emirates-uae.html>. Abraham Accords refers to an agreement between Israel, the United Arab Emirates and United States of America which was reached on 13 August 2020 as a commitment to maintaining and strengthening peace in the Middle East and around the world based on mutual understanding and coexistence, as well as respect for human dignity and freedom, including religious freedom. It emphasises the commitment to make ongoing efforts to consolidate and expand such friendly relations based on shared interests and a shared commitment to a better future.

⁷ Text of both signed documents available at: <http://www.dialogue-info.com>.

⁸ Balkans Group interview, Prishtina, 7 June 2021.

⁹ Gazeta Express, Drejtori izraelit për Ballkan në një intervistë ekskluzive për T7 jep detaje lidhur me konfliktin e Izraelit me palestinezët, 13 May 2021.

¹⁰ Balkans Group interview with a Kosovo diplomat, 13 April 2021.

to recognise Kosovo was made...under American pressure".¹¹ The decision was taken at the highest political level and was part of the US-led efforts to support Israel's normalisation of relations with Muslim countries.¹² However, on the occasion of mutual recognition, Minister of Foreign Affairs of Israel Gabi Ashkenazi thanked the United States for its efforts to promote world peace and for promoting Israel's relations with countries with they we did not have diplomatic relations until recently.

Recognition by Israel represented an important milestone for Kosovo. It symbolised that Kosovo's quest for international recognition is alive, especially since it had been affected since 2017 by numerous alleged withdrawals of recognition by a number of countries, as part of the successful de-recognition campaign from Serbia.

On 14 March 2021, Kosovo opened its embassy in Jerusalem. Although the recognition itself was an important milestone in Kosovo's path toward full international recognition, in substance the act of opening of embassy in Jerusalem might cause some harm too. Primarily because the status of the city of Jerusalem remains highly sensitive and one of the major contentious issues in the Israeli-Palestinian conflict. There is a wide international consensus that countries should not move or open embassies in Jerusalem as it would contradict international law and UN resolutions, and it would undermine the prospects for achieving a lasting peace between Israelis and Palestinians, including the likelihood of Jerusalem to eventually become the shared capital city of both states.

Despite the challenges, Kosovo possesses a number of diplomatic tools and arguments to mitigate the potential consequences. It needs to better leverage the diplomatic ties with Israel to benefit the country's economic development and advance its international standing. Moreover, the country needs to ensure that from now on it pursues a consistent foreign policy, and work to enhance cooperation with the EU and the US.

This paper is of a distinct character, which combines the political and legal analysis. The first section explores briefly the views on the recognition and non-recognition of states and contested territories. It sets the intellectual and scholarly context for examining whether the opening of embassies in contested territories, such as the city of Jerusalem, contradicts to the norms of international law and the implications that such act could carry. The second section offers contextual nuances explaining Kosovo's decision and exposes internal dynamics and external reactions, which indicate the opportunities and challenges arising

¹¹ Zeri, Ambasadori izraelit në Beograd thotë se Serbia e ka njohur Kosovën me Marrëveshjen e Washingtonit, 5 May 2021, at <https://zeri.info/aktuale/407495/ambasadori-izraelit-ne-beograd-thote-se-serbia-e-ka-njohur-kosoven-me-marreveshjen-e-washingtonit/>.

¹² The Guardian, Kosovo and Serbia give Israel diplomatic boon after US-brokered deal, 4 September 2020, at <https://www.theguardian.com/world/2020/sep/04/kosovo-and-serbia-hand-israel-diplomatic-boon-after-us-brokered-deal>.

from the diplomatic exchange that Kosovo has established with Israel. The third and final section weights those opportunities and challenges, and explores mitigation strategies. The paper aims to help Kosovo officials, its diplomatic service and those directly involved in the foreign policy as well as think-tanks and scholars, to better understand the context of recognition and non-recognition in the sense of international law and politics, fields that are intertwined.

RECOGNITION AND NON-RECOGNITION OF STATES AND DISPUTED TERRITORIES

The recognition of states remains an unregulated aspect in the international system, yet it continues to play a crucial role in the constitution of world politics.¹³ It has become a core criterion for determining matters concerning statehood, sovereignty, subjectivity in international law and membership in International Organisations.¹⁴

Bilateral and collective recognition of states

The most common view held among scholars is that the political existence of a state is independent from the recognition by other States as long as the state fulfils certain substantive criteria.¹⁵ This implies that states' exist a priori and recognition is only a formal acknowledgement

"The Political existence of the state is independent of recognition by other states".

of what already objectively exists. Article 3 of the Montevideo Convention holds that "the political existence of the state is independent of recognition by the other states. Even before recognition, the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organise itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts".¹⁶ From this perspective, recognition is a political act left at the discretion of states, which historically has been invoked for different reasons. This derives from an understanding that "recognition of States is not a matter governed by law but a question of policy".¹⁷

This discretion is largely exercised as bilateral and mutual recognition of states. Bilateral recognition signifies a formal recognition of independence and sovereign statehood and the legal personality to share benefits and obligations of international law.¹⁸ In certain

¹³ Gëzim Visoka, Edward Newman and John Doyle, *Introduction: Statehood and Recognition in World Politics*, in G. Visoka, J. Doyle, and E. Newman (eds) *Routledge Handbook of State Recognition*, London: Routledge, 2020, pp. 1.

¹⁴ James Crawford, *The Creation of States in International Law*, Oxford: Oxford University Press, 2007.

¹⁵ Gëzim Visoka, *Acting Like a State: Kosovo and the Everyday Making of Statehood*, London: Routledge, 2018.

¹⁶ Montevideo Convention on the Rights and Duties of States (1933) League of Nations Treaty Series, 165: 19.

¹⁷ Hersch Lauterpacht, *Recognition in International Law*, Cambridge: Cambridge University Press, 1947, pp. 1.

¹⁸ It entails the process when a state indicates its decision to recognise the independence and sovereign statehood

instances, recognition is implied when diplomatic relations are established or the claim over a particular territory or space is recognised as belonging to a specific state. For instance, Kosovo so far has gained international affirmation and has partially integrated in the international system through bilateral recognitions by over 100 UN member states.¹⁹

"Recognition of States is not a matter governed by law but a question of policy".

In principle, when states recognise another state, they tend to assume that the claimant state possess the objective criteria of statehood, namely population, territory, governance, and capacity to enter international relations.²⁰ Over time, in particular with the dissolution of former Yugoslavia, additional subjective criteria have been added, such as the protection of minorities and acceptance of international democracy consolidation assistance.²¹ For example, countries that have recognised Kosovo have argued that Kosovo fulfils

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both objective and subjective (additional) criteria of independent statehood. They have argued that Kosovo has a stable population, a defined territory stipulating from its status as federal unit in the former Yugoslavia, a functioning government created and supervised over the years by the international community, and the capacity to enter in international relations through its diplomatic

service.²² Other additional justifications include Kosovo's acceptance of the Ahtisaari Plan and its provisions on minorities, and cooperation with the international community on a wide range of domestic and regional affairs.²³ Once a state is proclaimed a sovereign and independent state, there are no restriction on their ability to recognise other states. Though, in practice, the more recognised a state is and the greater access to multilateral organisations it has, the more credible will be their capacity to recognise other states, and vice versa, the more contested a state is the less significant their foreign policy actions are.

However, state practice throughout modern history demonstrates that the recognition of states was guided mostly by self-interest and was used as an instrument to weaken rival powers intermeshed with situational normative references. The historical patterns of state

of the claimant state over a specific territory through an official statement, press release, or a diplomatic note. John Dugard, *Recognition and the United Nations*, Cambridge: Grotius Publications Ltd, 1987, pp. 165.

¹⁹ Visoka, *Acting Like a State: Kosovo and the Everyday Making of Statehood*, pp. 8.

²⁰ For more, see Montevideo Convention on the Rights and Duties of States (1933) League of Nations Treaty Series, 165: 19.

²¹ For more, see Richard Caplan, *Europe and the Recognition of New States in Yugoslavia*, Cambridge: Cambridge University Press, 2005; Jure Vidmar, *Democratic Statehood in International Law: The Emergence of New States in Post-Cold War Practice*, Oxford: Hart Publishing, 2013.

²² Gëzim Visoka, *Acting Like a State: Kosovo and the Everyday Making of Statehood*, pp. 94-108.

²³ Ahtisaari Plan or The Comprehensive Proposal for the Kosovo Status Settlement (CSP) is a status settlement proposed by Martti Ahtisaari which covers a wide range of issues related to the status of Kosovo. For more, see <https://www.refworld.org/docid/4a54bc360.html>.

recognition show a tendency among states to use legal principles and norms to support political decisions. In other words, diplomatic recognition is predominantly a transaction – it is granted in exchange of specific political, economic, or military goods. These patterns also show that the support of major powers and influential states plays an important role. Bridget Coggins finds that external factors, namely great power politics, play a significant role in explaining why recognition occurs over domestic-level explanations or the merits of independence claims.²⁴

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Seen from this perspective, although the right to recognition is delegated to individual states, they often follow great powers in their foreign policy conduct due to political and economic dependency, sheltering under common security regimes and sharing the same ideological orientation. For instance, in the case of Kosovo, recognition by the US, and the majority of European powers, such as the United Kingdom (UK), France and Germany, has influenced the response of other European and non-European countries. Yet, without a global consensus for the formation of new states and for granting universal recognition, the recognition of states by one political bloc of states can politicise and complicate the recognition process in broader perspective. As a result of these global rivalries, Kosovo enjoyed partial international support.

Bilateral recognition is important, but without consensual and collective recognition by big powers or admission to international organizations (i.e. UN) the status of the aspirant state can be contested.

The US, the UK, France and the majority of European countries support Kosovo, whereas Russia, China, and a large number of non-western states remain reluctant to recognise it.²⁵ There are fragmentations within the each bloc of states, as exemplified with the hesitancy of Spain, Greece, Romania, Slovakia and Cyprus to extend recognition to Kosovo. Bilateral recognition is important for accruing the benefits of independent statehood and building an international critical mass, but without consensual and collective recognition by big powers or admission to International Organisations such as the UN, the status of the aspirant state can be contested.

²⁴ Bridget Coggins, *Power Politics and State Formation in the Twentieth Century: The Dynamics of Recognition*, Cambridge: Cambridge University Press, 2014.

²⁵ Edward Newman and Gëzim Visoka, *The Geopolitics of State Recognition in a Transitional International Order*, *Geopolitics*, 2021, DOI: [10.1080/14650045.2021.1912018](https://doi.org/10.1080/14650045.2021.1912018).

In an effort to control the discretionary nature of state recognition and also limit the use and abuse of state recognition for geopolitical and self-interest, there have been efforts to establish an informal regime of norms, rules, and guidelines on state recognition, manifested through collective recognition and non-recognition of states or contested territories. Collective recognition has emerged as the most effective method for entering in the international society as it reduces the burden of bilateral recognition as well as enhances the international legitimacy of the new state. Such a collective decision of a group of states is made within the framework of multilateral organisations. In practice, there is a prevailing consensus that “admission to full UN membership is tantamount to collective de jure recognition” and that it is “likely to facilitate the entry of the new state into other multilateral organisations”.²⁶

There is a prevailing consensus that admission to full UN membership equals to collective de jure recognition and that it is likely to facilitate the membership in other multilateral organisations.

The application for admission to the UN goes through three major steps.²⁷ First, in principle, admission to the UN is open to all peace-loving states who accept the obligations in the UN Charter and are willing and able to carry out those obligations.²⁸ This entails that only sovereign states can apply for admission. They must demonstrate their peace-loving character and commitment to peaceful resolution of inter-state disputes. And they must be able and willing to carry out obligations enshrined in the UN Charter. Second, the aspirant states submit the application to the Secretary-General who sends a copy to the General Assembly. Third, the blessing of the permanent members of the UN Security Council and affirmative support of other non-permanent members is crucial before the recommendation for membership is sent to the UNGA to make a final decision. Yet, in practice, such a decision is shaped by political motives, gatekeeping practices, and arbitrary decisions of great powers and other groups of states or major normative shifts such as those surrounding the decolonisation process which led to the largest expansion of the UN since its foundation in 1945.²⁹ For instance, Kosovo has not yet applied for admission to the UN – despite demonstrating its peace-loving character and readiness to accept the UN Charter – due to the threat by Russia and China to use their veto against Kosovo. However, there are other states that have been created with the consent of the former base states – from Eritrea to Timor-Leste and South Sudan, and exception being Bangladesh – they have been admitted to the UN without

²⁶ Deon Geldenhuys, *Contested States in World Politics*, Basingstoke: Palgrave Macmillan, 2009, pp. 22.

²⁷ Thomas D Grant. *Admission to the United Nations: Charter Article 4 and the Rise of Universal Organisation*, Leiden: Brill, 2009, pp. 5.

²⁸ Simon Chesterman, Ian Johnstone, David M. Malone, *Law and Practice of the United Nations*, The UN Charter, pp. 7. For more, see International Court of Justice (1948) Charter Article 4 and the Rise of Universal Organisation.

²⁹ Grant, *Admission the United Nations*.

any complication.

Collective non-recognition of states and contested territories

In a number of cases, the international community has generated consensus in denying recognition to states and contested territories that have breached the fundamental norms of international law.³⁰ Collective non-recognition is grounded on the conviction that “states are under an obligation not to recognise, through individual or collective acts, the purported statehood of an effective territorial entity created in violation of one or more fundamental norms of international law”.³¹

The UN defines as peremptory norms of general international law (jus cogens) those norms which are “accepted and recognised by the international community of States as a whole, as norms from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character”.³²

Some of the key norms that the International Law Commission identified as jus cogens include: the prohibition of aggression and the illegal use of force; genocide and racial discrimination and apartheid; the prohibition of cruel, inhuman or degrading treatment and crimes against humanity; and the principle of permanent sovereignty over natural resources, among others. While there are uncertainties on how to determine the violation of these fundamental norms, as Stefan Talmon maintains, states are obliged to “to refrain from any action implying recognition of the legality of the situation in question”.³³ Moreover, Nina Caspersen illustrates, “the International Law Commission’s (ILC) 2001 Articles on Responsibility of States for Internationally Wrongful Acts hold that non-recognition also obliges states not to “render aid or assistance in maintaining” the unlawful situation”.³⁴

“States are under an obligation not to recognize, through individual or collective acts, the purported statehood of an effective territorial entity created in violation of one or more fundamental norms of international law”.

³⁰ Some of the most prominent examples of collective non-recognition are: Southern Rhodesia, Turkish Republic of Northern Cyprus, Transkei, and Crimea.

³¹ David Raič, *Statehood and the Law of Self-Determination*, The Hague: Kluwer Law International, 2002, pp. 442.

³² See UN, Peremptory norms of general international law (jus cogens) at <https://legal.un.org/ilc/reports/2019/english/chp5.pdf>.

³³ Stefan Talmon, *The Duty Not to ‘Recognise as Lawful’ a Situation Created by the Illegal Use of Force or Other Serious Breaches of a Jus Cogens Obligation: An Obligation without Real Substance?*, in T. Tomuschat and JM Thouvenin (eds) *The Fundamental Rules of the International Legal Order*, Leiden: Martinus Nijhoff Publishers, 2006, pp. 112.

³⁴ Nina Caspersen, *Collective Non-Recognition of States*, in G. Visoka, J. Doyle, and E. Newman (eds) *Routledge Handbook of State Recognition*, London: Routledge, 2020, pp. 232.

Deriving from this non-recognition entails abstaining from establishing diplomatic and consular offices and activities in situations and territories that are unlawfully occupied or controlled by a state and in breach of fundamental norms of international law.

Concerning contested or occupied territories, the policy of collective non-recognition is slightly different from that of non-recognition of statehood. There is more scope for de facto acceptable authority, or controlling or occupying power over a contested territory.³⁵ One of relevant examples of

A relevant examples of collective non-recognition of contested territories is the city of Jerusalem, namely Israel's claim over the entire city and the occupation of the eastern part.

collective non-recognition of contested territories is the city of Jerusalem, namely Israel's claim over the entire city and the occupation of the eastern part. The status of Jerusalem remains one of the most sensitive issues in the Arab-Israeli conflict, as it hosts some of the most significant religious sites in the world.³⁶ According to the 1947 UN Partition Plan, the city of Jerusalem was to be set aside as a corpus separatum, a territory belonging neither to the Arab nor the Jewish state. There was a tendency to push for the internationalisation of the city under a special international regime. Between 1948 and 1967, the status quo of the city was maintained. However, following the six-day war of June 1967 between Israel and three Arab countries, East Jerusalem fell under the control of Israeli military forces. The occupation of East Jerusalem in 1967 and the subsequent annexation of the Old City and surrounding area by Israel has received wide international condemnation and as such has not been recognised internationally. The UN General Assembly has regularly issued resolutions and statements calling "an end to the Israeli occupation that began in 1967, including of East

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Jerusalem" and reaffirmed "its unwavering support, in accordance with international law, for the two-State solution of Israel and Palestine, living side by side in peace and security with recognised borders, based on the pre-1967 borders".³⁷ The UNGA has also called on "all States, consistent with their obligations

under the Charter and relevant Security Council resolutions,...not to recognise any changes to the pre-1967 borders, including with regard to Jerusalem, other than those agreed by the parties through negotiations, including by ensuring that agreements with Israel do not imply

³⁵ Bruno Coppieters, (2018) 'Statehood', 'de facto Authorities' and 'Occupation': Contested Concepts and the EU's Engagement in its European Neighbourhood, *Ethnopolitics*, 17(4): 343-361.

³⁶ It is the site of the Western (Wailing) Wall, the last remnant of the second Jewish Temple; the Church of the Holy Sepulchre and the Passion of Crucifixion; and the Al-Aqsa Mosque, the first kibla and third holiest sanctuary of Islam. The status of these holy places as well as the civil status of Palestinian residents and their property remains central to the dispute as well.

³⁷ UN General Assembly, Peaceful settlement of the question of Palestine, UN Doc. A/75/L.34, 23 November 2020, pp. 3-4.

recognition of Israeli sovereignty over the territories occupied by Israel in 1967".³⁸

Thus, those who argue that the opening of Kosovo's embassy in Jerusalem was against the international law allude to the UN resolutions which condemn the Israeli occupation of Palestinian territories that began in 1967 and that any change of status quo of the city of Jerusalem undermines the peace process and international consensus that a two-state solution remains most viable option for settling the Israeli and Palestinian protracted conflict. Yet, there is an ambiguity among legal scholars on the recognition of Jerusalem as Israel's capital city.

For instance, Professor Brad Roth raises the question "whether locating an embassy within the territorial limits of Jerusalem is in itself an international legal problem, given that the UNGA's 1947 partition plan designated Jerusalem as a *corpus separatum*".³⁹ From this perspective, Roth argues "a foreign state might simply locate its embassy within West Jerusalem, while articulating that "West Jerusalem is the capital of Israel and we anticipate opening another embassy in East Jerusalem once it becomes the capital of a Palestinian state, with which we look forward to opening full diplomatic relations at the conclusion of final status negotiations".

Other scholars, such as Victor Kattan, argue that the International Court of Justice (ICJ) advisory opinion in the Wall case "referred only to East Jerusalem as occupied, without passing judgment on West Jerusalem".⁴⁰ Deriving from this, West Jerusalem is considered to be a disputed territory whereas East Jerusalem is treated as an occupied territory.⁴¹ This leaves room to dispute those who argue that the opening of embassies in the Western part of the city breaches international law.

A major crack in the international response to the contest over the status of Jerusalem emerged in 2017, when the US President Donald Trump decided to recognise Jerusalem as Israel's capital, and consequently moved the US Embassy there in May 2018. This reversed US's decades-long foreign policy on Israeli-Palestine conflict.⁴² President Trump justified the decision as an "acknowledgement of the obvious" and "nothing more or less than a recognition of reality", adding that "It is also the right thing to do".⁴³

US President Donald Trump decided to recognize Jerusalem as Israel's capital, and consequently moved the US Embassy there in May 2018.

³⁸ UN General Assembly, Peaceful settlement of the question of Palestine, pp. 5.

³⁹ Recognition in the Context of the Israeli-Palestinian Conflict: Proceedings of an international workshop held at the Hebrew University of Jerusalem, 5 November 2018 (2019), *Israel Law Review*, 52(3), pp. 379.

⁴⁰ Recognition in the Context of the Israeli-Palestinian Conflict: Proceedings of an international workshop held at the Hebrew University of Jerusalem, pp. 398.

⁴¹ *Ibid*, 398.

⁴² Recognition in the Context of the Israeli-Palestinian Conflict: Proceedings of an international workshop held at the Hebrew University of Jerusalem, 5 November 2018 (2019), *Israel Law Review*, 52 (3) pp.399.

⁴³ Mark Landler, *Trump Recognises Jerusalem as Israel's Capital and Orders U.S. Embassy to Move*, *The New York Times*, December 2017, at <https://www.nytimes.com/2017/12/06/world/middleeast/trump-jerusalem-israel-capital>.

The Trump Administration argued that the decision aims to overcome decades of stalled conflict resolution, adding that recognising Jerusalem as Israel's capital city was "a long overdue step to advance the peace process".⁴⁴ However, President Trump added: "We are not taking a position on any final status issues, including the specific boundaries of the Israeli sovereignty in Jerusalem, or the resolution of contested borders. Those questions are up to the parties involved".⁴⁵

Palestinians strongly objected this US's move on the grounds that "it prejudices the negotiations on final status and prejudices the special status of the city".⁴⁶ Soon after, the US withdrew from the Optional Protocol to the Vienna Convention on Diplomatic Relations, stating that the US was undertaking a review of all other compromise clauses and would probably also withdraw from those.⁴⁷ The League of Arab States also strongly condemned the move. Other major powers haven't changed their position on Jerusalem. While the EU does not have a common policy regarding the recognition of Palestine's statehood, it has a common position on the Middle East Peace Process, which is "a just and comprehensive resolution of the Israeli-Palestinian conflict, based on the two state solution, with the state of Israel and an independent, democratic, contiguous, sovereign, and viable State of Palestine, living side by side in peace and security and mutual recognition".⁴⁸

The EU has a common position on the Middle East Peace Process, which is "the just and comprehensive resolution of the Israeli-Palestinian conflict, based on the two state solution [...]".

The Russian Federation has indicated that the optimal solution would be that an independent state of Palestine uses East Jerusalem as its capital and that West Jerusalem would be the capital of Israel.⁴⁹ China, on the other hand, said that it is open to support "the establishment of a fully sovereign and independent State of Palestine, based on its 1967 borders and with East Jerusalem as its capital".⁵⁰ Despite wide international objection, the US under the Trump Administration has continued lobbying to other countries to follow their course and

[html](#).

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ On 14 May 2018, the Palestine Ministry of Foreign Affairs issued a note verbale to the State Department, stating that "any steps taken by the United States to relocate the embassy to Jerusalem would constitute a violation of the Vienna Convention on Diplomatic Relations read in conjunction with the relevant United Nations resolutions", "Recognition in the Context of the Israeli-Palestinian Conflict: Proceedings of an international workshop held at the Hebrew University of Jerusalem", 394.

⁴⁷ Ibid, 394.

⁴⁸ Council of the European Union, Council Conclusions on the Middle East Peace Process, Press Release No. 610/15, 20 July 2015, at <http://www.consilium.europa.eu/en/press/press-releases/2015/07/20-fac-mepp-conclusions/>.

⁴⁹ See the statement made by Russia at the Security Council, The Situation in the Middle East, including the Palestinian Question, 8 December 2017, UN Doc S/PV.8128.

⁵⁰ United Nations Security Council 8139th Meeting, The Situation in the Middle East, including the Palestinian Question, 18 December 2017, UN Doc S/PV.8139 (UNSC 8139th Meeting).

recognise Jerusalem as Israel's capital city in order to gradually create a critical mass of international support and overcome the US's diplomatic isolation on this matter. The more countries recognise Israel's claim over

"The ultimate status of Jerusalem is a final status issue which will need to be resolved by the parties in the context of direct negotiations".

Jerusalem as its capital city the more normal and acceptable the US's original decision would appear in the world stage. Soon after, Guatemala moved its embassy in Jerusalem too. And now Kosovo is the third country to do so. Allegedly, Honduras has pledged to move its embassy to Jerusalem, but it hasn't yet done so. The

Biden Administration has confirmed that "The US position is that our embassy will remain in Jerusalem, which we recognise as Israel's capital," adding that "The ultimate status of Jerusalem is a final status issue which will need to be resolved by the parties in the context of direct negotiations".⁵¹

As illustrated, despite divergent views and diverse state practices, there is a corpus of norms and practices which tend to play an important role in shaping state responses when it comes to granting or withholding recognition to the claim of a state over a certain territory. However, short of global consensus on state recognition and the prevalence of power politics and state arbitrariness, the norms and practices of state recognition are in constant flux and thus subject to change and abuse for different political motives.

THE OPENING OF KOSOVO'S EMBASSY IN JERUSALEM

Understanding the context

Prior to opening of the embassy in Jerusalem, there was a dose of hesitancy in Kosovo, especially among the newly formed government led by the Movement for Self-Determination (Lëvizja Vetëvendosje, LVV). Such hesitation was partially about the European and international reactions to the opening of embassy in Jerusalem – as discussed below – and partially about the scepticism towards Washington agreement and precedent involvement in the dialogue for normalisation of relations with Serbia. The new government in Kosovo feared that the opening of Kosovo's embassy in Jerusalem would undermine Kosovo's relations with the EU and the Muslim world, including Turkey. Key European powers, through their ambassadors in Kosovo, put pressure on the Government of Kosovo not to open the embassy in Jerusalem stating that Kosovo is the only European country to break the EU's stance on the city of Jerusalem.⁵²

⁵¹ Niels Lesniewski, *White House confirms Biden will keep embassy in Jerusalem*, Roll Call, February 2021, at <https://www.rollcall.com/2021/02/09/white-house-confirms-biden-will-keep-embassy-in-jerusalem/>.

⁵² Balkans Group interview with a Kosovo diplomat, Prishtina, 18 May 2021; Balkans Group interview with director of a research think tank in Kosovo, Prishtina, 7 June 2021.

The new Kosovo government feared that the opening of the embassy in Jerusalem would undermine Kosovo's relations with the EU and the Muslim world, including Turkey.

Trying to tame European pressure, one of the key figures within LVV, Glauk Konjufca, who served as Kosovo foreign minister for a short period of time in 2020, stated that prior to opening its Embassy in Jerusalem, Kosovo should examine "all the original documents, how this promise [to open of its embassy in Jerusalem] came about" and discuss that decision with the EU first.⁵³ However, since such a decision was taken in close consolidation with the US government, there wasn't much polemic in Kosovo. Diplomatic sources highlight that it was the US's diplomatic pressure behind the scene.⁵⁴ Kosovo's former Ambassador to the United States, Vlora Çitaku admitted "Recognition by Israel is a direct product of US Administration involvement... formal recognition would never have happened without the direct involvement of the US administration. More than a commitment to us, this is a commitment that Israel has made to Washington".⁵⁵ However, other sources within Kosovo MFA believe that Kosovo had some space to avoid opening the embassy in Jerusalem and take the same approach as Bahrain and Oman did by normalising the relations with Israel and opening their embassy in Tel Aviv.⁵⁶

"Recognition by Israel is a direct product of US Administration involvement... More than a commitment to us, this is a commitment that Israel has made to Washington".

The US's envoy for the Western Balkans, Matthew Palmer argued that: "it really is up to the Kosovo government and other Kosovo authorities to decide where the embassy should be", adding that US's embassy will continue to remain in Jerusalem.⁵⁷ However, to avoid association with such a decision, Bekim Kupina, a media advisor to the then acting president stated that "the opening of the Embassy of Kosovo in Israel was not done by the decree of the President Vjosa Osmani, but by decree of former President Thaçi [...]".⁵⁸ Moreover,

⁵³ Gazeta Express, Konjufca i njëjtë edhe pas hapjes së ambasadës në Jerusalem: Do ta shqyrtojmë vendimin, 16 March 2021, at <https://www.gazetaexpress.com/konjufca-i-njejte-edhe-pas-hapjes-se-ambasades-ne-jerusalem-do-ta-shqyrtojme-vendimin/>. Indeks Online, Osmani flet për vendosjen e Ambasadës së Kosovës në Jerusalem: Do të koordinohemi me SHBA-në, 6 March 2021, at <https://indeksonline.net/osmani-flet-per-vendosjen-e-ambasades-se-kosoves-ne-jerusalem-do-te-koordinohemi-me-shba-ne-7/>.

⁵⁴ Balkans Group interview with a Kosovo diplomat, Prishtina, 18 May 2021.

⁵⁵ Sbunker, Episodi 8: Politika e SHBA-së ndaj Ballkanit dhe Kosovës - Mysafir: Vlora Çitaku, 13 March 2021, at <https://sbunker.net/rendi-boteror-blllogje-tematike/90889/episodi-8-quot-politika-e-shba-se-ndaj-ballkanit-dhe-kosoves-quot-mysafir-vlora-citaku/>.

⁵⁶ Balkans Group interview with a Kosovo diplomat, Prishtina, 13 April 2021.

⁵⁷ Zeri, Palmer: Kosovës i takon të vendos për lokacionin e ambasadës, e jona do të vazhdojë të mbetet në Jerusalem, 12 March 2021, at <https://zeri.info/aktuale/397983/palmer-kosoves-i-takon-te-vendos-per-lokacionin-e-ambasades-e-jona-do-te-vazhdoje-te-mbetet-ne-jerusalem/>.

⁵⁸ Decree number 155/2020, dated 27 October 2020 for the opening of this Embassy was signed by the former President, Hashim Thaçi, at the request of the Ministry of Foreign Affairs for the opening the embassy in Israel. So, the decree for the opening of this Embassy was signed before Vjosa Osmani took over the duty of President. Gazeta Express, Presidenca distancohet nga hapja e Ambasadës në Jerusalem: Është bërë me dekret të Thaçit, 15 March 2021, at <http://www.gazetaexpress.com/presidenca-distancohet-nga-hapja-e-ambasades-ne-jerusalem-eshte-bere-me-dekret-te-thacit/>.

the fact that the decision was taken by the former Prime Minister of Kosovo, Avdullah Hoti, made it easier for the incumbent government to accept it as a done deal.⁵⁹ It appears that since there was wide consensus across the entire political spectrum in Kosovo for opening Kosovo's embassy in Jerusalem, it was very easy for Kurti's government to accept such a decision.

In March 2021, Kosovo's Ministry of Foreign Affairs and Diaspora announced the opening of its embassy in the western part of Jerusalem through a press statement: "based on the Washington Agreement of 04 September 2020, which formalises the mutual recognition between

"It really is up to the Kosovo government and other Kosovo authorities to decide where the embassy should be".

the Republic of Kosovo and the State of Israel and the Commitment of the Government of Kosovo to the Israeli Government and the US Administration and the actions taken from 01 February, the Ministry of Foreign Affairs and Diaspora reported that the Embassy of Kosovo in the State of Israel, based in Jerusalem, had been officially opened".⁶⁰

In an effort to mitigate the unwanted criticism, the MFAD of Kosovo instructed their diplomatic missions around the world to justify Kosovo's decision if requested by their host countries, but avoided sending demarches to European and Muslim countries who reacted harshly, fearing that such a move would further amplify negative reactions.⁶¹ Nonetheless, in their internal channels of communication with European and Muslim countries, Kosovo diplomats maintained the following positions:

- 1. Opening of the embassy in Jerusalem is a product of mutual recognition with Israel and affirmation of historical ties;*
- 2. This act should not be seen as interference in the peace process and is not taking sides in the conflict;*
- 3. Kosovo is a secular country and should not be labelled as Muslim country;*
- 4. It is the host country who determines the location of embassy;*
- 5. Kosovo is not opening the embassy in East Jerusalem and contested parts of the city;*
- 6. Kosovo favours the international position for a two-state solution; and*
- 7. Despite Palestine's pro-Serbian stance, Kosovo has never come out against Palestine and their international status.*⁶²

⁵⁹ Koha, Kiçmari: Hapja e ambasadës së Kosovës në Jerusalem, jo e lehtë për marrëdhëniet me vendet tjera, 10 March 2021, at <https://www.koha.net/arberi/261829/kicmari-hapja-e-ambasades-se-kosoves-ne-jerusalem-jo-e-lehte-per-marredheniet-me-vendet-tjera/>.

⁶⁰ He further described the recognition by Israel as one of the most important recognitions that Kosovo has received since declaring independence in 2008. "States do not change their positions based on the change of governments or administrations. This is a state decision which I believe will be respected by the next government", MFAD. 2021. "At the building of the Embassy of the Republic of Kosovo in Jerusalem has been placed the plaque and state flag." The Kosovo Ministry of Foreign Affairs and Diaspora, 14 March, 2021, at https://www.mfa-ks.net/en/single_lajmi/4320.

⁶¹ Balkans Group interview with a Kosovo diplomat, Prishtina, 18 May 2021.

⁶² Ibid.

Most importantly, Kosovo's decision to open the embassy in Jerusalem was mostly procedural and bilateral in nature. From its point of view, when Kosovo agreed to establish

The location of the embassy was determined by the host country and it followed practical reasons.

diplomatic relations with Israel, Jerusalem was the capital city of Israel, hosting most important political institutions, and who would be Kosovo's main local interlocutors. As a diplomatic source confirmed: "By opening an embassy in Jerusalem, Kosovo respected

the international norms and the sovereign decisions of the host country which decides on its own for its capital city and the seat of the government".⁶³ The location of the embassy was determined by the host country and it followed practical reasons and convenience.⁶⁴

In Israel, the decision of Kosovo was perceived as a victory for their campaign to affirm Jerusalem as their capital city. Politicians and media have portrayed Kosovo as the first European as well as the first Muslim-majority country to establish its embassy in Jerusalem.⁶⁵ However, in turn, Israel did not express immediate plans to open an embassy in Kosovo but committed to having a non-resident ambassador to Kosovo.⁶⁶ Sensing this uncertainty within Kosovo's leadership, the then Prime Minister of Israel, Benjamin Netanyahu, wrote a congratulatory letter to Albin Kurti who won the general elections in February, inviting him to inaugurate the embassy of Kosovo in Jerusalem.⁶⁷

In response, Kosovo's Prime Minister Albin Kurti welcomed the fact that "the relations between our two peoples have elevated to diplomatic relations between our countries" and promised "to

"The relations between our two peoples have elevated to diplomatic relations between our countries".

strengthen the political, economic and cultural cooperation".⁶⁸ In an attempt to mitigate unwanted attention and effects, neither Kosovo's Prime Minister nor acting minister of foreign affairs accepted to attend the ceremony for opening of the embassy in Jerusalem. Instead, they authorised Kosovo's the charge d'affaires, Ines Demiri, to attend the opening ceremony of the embassy.⁶⁹ Such a move was also criticised by the former foreign minister

⁶³ Balkans Group interview with a former foreign minister of Kosovo, Prishtina, 18 May 2021.

⁶⁴ Balkans Group interview with a former foreign minister of Kosovo, Prishtina, 13 May 2021.

⁶⁵ The Times of Israel, Kosovo officially opens Israel embassy in Jerusalem, 14 March 2021, at https://www.timesofisrael.com/liveblog_entry/kosovo-officially-opens-israel-embassy-in-jerusalem/.

⁶⁶ The Jerusalem Post, Kosovo opens embassy in Jerusalem after establishment of diplomatic ties, 14 March 2021, at <https://www.jpost.com/israel-news/kosovo-opens-embassy-in-jerusalem-661966>.

⁶⁷ Bekim Shehu, Situatë diplomatike delikate - vendosja e ambasadës së Kosovës në Jerusalem, DW, 13 March 2021, at <https://www.dw.com/sq/situatë-diplomatike-delikate-vendosja-e-ambasadës-së-kosovës-në-jerusalem/a-56847776>.

⁶⁸ Gazeta Express, Kurti i shkruan Netanyahu, e pranon ftesën për ta vizituar Izraelin, nuk e përmend ambasadën, 3 March 2021, at <http://www.gazetaexpress.com/kurti-i-shkruan-netanyahu-e-pranon-ftesen-per-ta-vizituar-izraelin-nuk-e-permend-ambasaden/>.

⁶⁹ Former Foreign Minister of Kosovo Meliza Haradinaj Stublla, who led the mutual recognition and opening of embassy in Jerusalem but resigned before the inauguration of the embassy, reacted to the statement of Acting Foreign Minister Tahiri, stating that "the truth is that they did not have the courage or the vision to formalise this historic act, nor to work outside the personal/political contours for the long-term state interest", at <https://telegafi.com/haradinaj-stublla-reagon-pas-deklarates-se-tahirit-se-pandemia-eshte-shkak-per-mospjesemarrje-ne->

and Democratic Party of Kosovo's (PDK) acting leader, Enver Hoxhaj, stating that "an outgoing government and an incoming government did not have the courage, determination or experience to mark the opening of the Kosovo Embassy in Israel, leaving a bitter taste in the whole process of recognition between our two countries".⁷⁰ However, the debate was finally closed when Kosovo's new Minister of Foreign Affairs and Diaspora, Donika Gërvalla Scharz, stated in early April 2021 that "I have welcomed the diplomatic recognition by Israel and I think that the issue of our embassy in Israel is a done deal. We will not enter into diplomatic adventures to reconsider an issue that has ended".⁷¹ Similarly, Kosovo's President Osmani-Sadriu sent a letter to her counterpart in Israel confirming that Kosovo sees "Israel as a close and important partner of our Republic with whom we share common interests and goals".⁷²

International Reactions

International reactions to Kosovo opening its embassy in Jerusalem have been largely negative. The reactions have widely highlighted that Kosovo risks contradicting the customary international law and consensus on the status quo of the city of Jerusalem pending a settlement between Israelis and Palestinians, and dilemmas of Kosovo's ability to undertake such controversial actions in foreign policy under the conditions of vulnerability and limited international recognition. Only the US supported Kosovo's move. On the location of the Kosovo

Embassy in Israel, US Ambassador to Kosovo Philip Kosnett stated that the US position has made clear that Kosovo has a sovereign right to decide on this issue. He added: "Our desire is to see Kosovo and Israel focusing on the economic, security

"Our desire is to see Kosovo and Israel focusing on the economic, security benefits of this relationship. But we are observers in this and this issue of the location of the Embassy belongs to Kosovo and Israel".

benefits of this relationship. But we are observers in this and this issue of the location of the Embassy belongs to Kosovo and Israel".⁷³ Similarly, the Israeli Foreign Ministry stated that it "warmly welcomes the opening of the Embassy of Kosovo in Jerusalem today, a natural development of the relations and a realisation of the Washington agreement".⁷⁴

[hapjen-e-ambasades-ne-izrael/](https://www.kosovonews.com/hapjen-e-ambasades-ne-izrael/).

⁷⁰ Lajmi.net, Hapja e ambasadës në Jerusalem, Hoxhaj kritika ndaj qeverisë në shkuarje dhe asaj në ardhje, 14 March 2021, at <https://lajmi.net/hapja-e-ambasades-ne-jerusalem-hoxhaj-kritika-ndaj-qeverise-ne-shkuarje-dhe-asaj-ne-ardhje/>.

⁷¹ Gazeta Express, Gërvalla e mbyll debatin: Çështja e Ambasadës në Jerusalem është çështje e kryer, nuk futemi në aventura, 30 March 2021, at <https://www.gazetaexpress.com/gervalla-e-mbyll-debatin-ceshtja-e-ambasades-ne-jerusalem-eshte-ceshtje-e-kryer-nuk-futemi-ne-aventura-ge/>.

⁷² President of Kosovo, Letter sent to the President of the State of Israel, Mr Reuven Rivlin, 14 April 2021.

⁷³ Klan Kosova, Kosnett për Marrëveshjen e Washingtonit: Qeveria Kurti të shoh përtej politikës së saj, at <https://klankosova.tv/kosnett-per-marreveshjen-e-washingtonit-qeveria-kurti-te-shoh-pertej-politikes-se-saj/>.

⁷⁴ Lahav Harkov, Kosovo opens embassy in Jerusalem after establishment of diplomatic ties, The Jerusalem Post, 14 March 2021, at <https://www.jpost.com/israel-news/kosovo-opens-embassy-in-jerusalem-661966>.

However, many others condemned this move. Palestinians and a number of Muslim-majority countries including Turkey, strongly opposed the Kosovo decision, which was also received with regret and concerns by the European Union. The Palestinian Ministry of Foreign Affairs and Expatriates issued a statement arguing that “the agreement Kosovo signed with the occupying power [Israel] and declaring its intention to open an embassy in occupied Jerusalem is a step that contradicts everything that Kosovo is trying to do to persuade the world to recognise it”.⁷⁵ They called on Kosovo “to quickly reconsider this step and correct this wrong move if it wants to give an example of its commitment to international legality and international law”.⁷⁶ Wasel Abu Youssef, a member of the executive committee of the Palestine Liberation Organisation (PLO), said the opening of Kosovo’s embassy in Jerusalem contradicted UN resolutions and aimed to “weaken the Palestinian cause”.⁷⁷ Similarly, the spokesperson for Hamas, Hazem Qasem, stated that: “Kosovo’s decision to open its embassy in Jerusalem is a flagrant violation of all international resolutions and a clear inclination towards the occupation”.⁷⁸

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The General Secretariat of the Organisation of Islamic Cooperation issued a statement on 03 February 2021 and decried “the decision by Kosovo to open an embassy in occupied al-Quds al-Sharif as running counter to relevant international and UN resolutions, most notably Security Council resolution 478; “A contrary, unilateral action is the worst course of action to take, and it will not serve the peace process”, the OIC statement further stressed.⁷⁹ Similarly, Jordan’s foreign ministry spokesman Dhaifallah Ali Al-Fayez said that Kosovo’s decision to recognise Jerusalem as Israel’s capital was “null [...] and has no legal effect”.⁸⁰ Back in September 2020, the Ministry of Foreign Affairs and Expatriate Affairs of Jordan issued a statement condemning “the decisions of the Republic of Serbia and the Republic of Kosovo

⁷⁵ Wafa, Foreign Ministry calls on Kosovo to go back on embassy decision and to abide by international law, 2 March 2021, at <https://english.wafa.ps/Pages/Details/123109>.

⁷⁶ Ibid.

⁷⁷ Reuters, Kosovo follows US, Guatemala in opening embassy in Jerusalem, 14 March 2021, at <https://tribune.com.pk/story/2289410/kosovo-follows-us-guatemala-in-opening-embassy-in-jerusalem>; CGTN, Kosovo follows U.S., Guatemala in opening ‘embassy’ in Jerusalem, 15 March 2021, at <https://news.cgtn.com/news/2021-03-15/Kosovo-follows-U-S-Guatemala-in-opening-embassy-in-Jerusalem-YDRxdrH5Ty/index.html>.

⁷⁸ Gazeta Express, Hapja e ambasadës së Kosovës në Jerusalem, reagon grupi radikal islamik, Hamas, 15 March 2021, at <https://www.gazetaexpress.com/hapja-e-ambasadës-se-kosoves-ne-jerusalem-reagon-grupi-radikal-islamik-hamas/>.

⁷⁹ OIC, Kosovo’s Decision to Open Embassy in al-Quds Runs Counter to UN Resolutions, 3 March 2021, at https://www.oic-oci.org/topic/?t_id=25804&t_ref=16258&lan=en.

⁸⁰ Al Arabiya News, Palestinians condemn Kosovo for opening embassy in Jerusalem, 16 March 2021, at <https://english.alarabiya.net/News/middle-east/2021/03/16/Palestinian-Israeli-conflict-Palestinians-condemn-Kosovo-for-opening-embassy-in-Jerusalem>.

to transfer their embassies to Jerusalem, and rejected the two decisions as a clear violation of international law".⁸¹

Turkish MFA issued a press statement warning Kosovar leaders that their actions were "against international law".⁸² They called on Kosovo leaders to "give up this irresponsible and unlawful step". While Turkish authorities were unclear what they referred to when they invoked international law, it can be assumed that reference was to UN resolutions and statements. Prior to the opening of the embassy, in a congratulatory letter sent to Albin Kurti, Turkish President Recep Tayyip Erdogan stated that "it would be useful to avoid such a step, which could cause great damage to Kosovo".⁸³ Following the appointment of Albin Kurti as Kosovo's new Prime Minister, in March 2021, Turkish President Erdogan asked him to review the issue of the Kosovo Embassy in Jerusalem.⁸⁴ To add pressure to Kosovo, a protest was held in the end of March 2021 in Ankara, against the opening of the Kosovo embassy in Jerusalem.⁸⁵ In response to the Turkish reaction, local and international commentators have considered such a move an interference to Kosovo's own sovereign decisions.⁸⁶

Serbia also reacted to the establishment of diplomatic relations between Israel and Kosovo. It seems that Serbia's expectation was that neither Kosovo nor Israel would implement the provision on mutual recognition.⁸⁷ President Aleksandar Vučić stated that they "did not want to encourage, but to discourage Israel from taking such an action, but Israel decided that America is more important".⁸⁸ The speaker of the Serbian parliament, Ivica Dačić, added: "Serbia has the right to be angry with Israel for establishing diplomatic relations with Kosovo. Israel has repeatedly and clearly been told that this will certainly disrupt our relations".⁸⁹ Although Serbia agreed to open an economic office in Jerusalem and was expected to move the embassy to Israel as well, they used the excuse of mutual recognition between

⁸¹ For more, see <https://www.mfa.gov.jo/news/1040>.

⁸² MFA of Turkey, Statement of the Spokesperson of Ministry of Foreign Affairs, Mr. Hami Aksoy in Response to a Question Regarding Kosovo's Commitment to Opening its Embassy in Jerusalem, 2 February 2021, at https://www.mfa.gov.tr/sc_-3_-kosova-nin-kudus-te-buyukelcilik-acma-taahhodu-hk-sc.en.mfa.

⁸³ Bekim Shehu, Situatë diplomatike delikate - vendosja e ambasadës së Kosovës në Jerusalem, DW, 13 March 2021, at <https://www.dw.com/sq/situatë-diplomatike-delikate-vendosja-e-ambasadës-së-kosovës-në-jerusalem/a-56847776>.

⁸⁴ Koha, Erdogani uron Kurtin, i kërkon ta rishikojë çështjen e Ambasadës së Kosovës në Jerusalem, 25 March 2021, at <https://www.koha.net/arberi/263893/erdogan-uron-kurtin-i-thote-ta-rishikoje-ceshtjen-e-ambasades-se-kosoves-ne-jerusalem/>.

⁸⁵ Koha, Protestë në Ankara për të kundërshtuar hapjen e ambasadës së Kosovës në Jerusalem, 25 March 2021, at <https://www.koha.net/arberi/263931/proteste-ne-ankara-per-te-kundershtuar-hapjen-e-ambasades-se-kosoves-ne-jerusalem/>.

⁸⁶ Edlira Bllaca, Phillips: Reagimet e Turqisë për ambasadën e Kosovës në Jerusalem – përpjekje për shtrirje të ndikimit, Zëri i Amerikës, 17 March 2021, at <https://www.zeriamerikes.com/a/5818222.html>.

⁸⁷ Aljazeera, Israel-Kosovo diplomatic ties slammed by Serbia, Turkey, 2 February 2021, at <https://www.aljazeera.com/news/2021/2/2/serbian-fm-slams-israel-kosovo-diplomatic-ties>.

⁸⁸ Koha, Vuçiqi: Serbia e pakënaqur me marrëveshjen Izrael-Kosovë, 1 February 2021, at <https://www.koha.net/arberi/256731/vuciqi-serbia-e-pakenaqur-me-marreveshjen-izrael-kosove/>.

⁸⁹ KoSsev, Dacic: Withdrawal of Kosovo's recognition is an unstoppable process that can only be temporarily halted, 3 February 2021, at <https://kossev.info/dacic-withdrawal-of-kosovos-recognition-is-an-unstoppable-process-that-can-only-be-temporarily-halted/>.

Israel and Kosovo to argue that “something like this is unlikely to happen, especially after the Israeli recognition of the so-called Kosovo”.⁹⁰ Russian Foreign Ministry spokeswoman Maria Zakharova also reacted claiming that “the so-called “embassy” of Kosovo opened in Jerusalem on 14 March in violation of UNSC Resolution 1244”, adding that “Jerusalem needs to become the capital of two independent states, Palestine and Israel, open for all three monotheistic religions”.⁹¹ Zakharova also added the step was “contrary to UN Security Council Resolution 1244, according to which Kosovo’s right to have special diplomatic relations with other countries has not yet been regulated”.⁹²

Finally, following the signing of documents in Washington, the European Union expressed concern over Kosovo’s commitment to establish an embassy in Jerusalem. As early as November 2020, the EU’s High Representative/Vice-President Joseph Borrell warned both Kosovo and Serbia that “any diplomatic steps that go against the EU’s common position on Jerusalem are a matter of serious concern and regret”.⁹³

Yet, the EU admitted that “elements of the recently signed documents in Washington D.C., building on previous Dialogue-related commitments undertaken by the two parties, could provide a useful contribution to

“Any diplomatic steps that go against the EU’s common position on Jerusalem are a matter of serious concern and regret”.

reaching a comprehensive legally binding agreement in order to normalise their relations”.⁹⁴ Immediately after the establishment of diplomatic relations between Kosovo and Israel, where it was said that the Kosovo embassy is to be deployed in Jerusalem, an EU spokesman said, on 15 March 2021, that “the EU regrets Kosovo’s decision to depart from the EU position on the Jerusalem issue. The EU position is well known and is in line with UN Security Council Resolution 478 of 1980, which calls on all UN member states to withdraw their diplomatic missions to Israel from Jerusalem. All EU countries, as well as the EU delegation to Israel, are based in Tel Aviv”.⁹⁵ The EU’s long-standing position is that “a way must be found through negotiations to resolve the status of Jerusalem as the future capital of both states, and that the aspirations of both parties must be fulfilled”.⁹⁶

⁹⁰ MFA Serbia, Селаковић: Нетачне тврђење амбасадора Израела, 12 May 2021, at <https://mfa.rs/mediji/vesti/selakovic-netacne-tvrdenje-ambasadora-izraela>.

⁹¹ MFA Russia, Twitter, 18 March 2021, at https://twitter.com/mfa_russia/status/1372577862428020738?s=21.

⁹² Wafa, Russia: Kosovo has no right to open a mission in Jerusalem, 18 March 2021, at <https://english.wafa.ps/Pages/Details/123722>.

⁹³ Josep Borell, Answer given by High Representative/Vice-President Borrell on behalf of the European Commission, European Parliament, 20 November 2020, at https://www.europarl.europa.eu/doceo/document/E-9-2020-004852-ASW_EN.html.

⁹⁴ Ibid.

⁹⁵ Gazeta Express, Bashkimi Evropian reagon pas hapjes së ambasadës së Kosovës në Jerusalem, 15 March 2021, at <http://www.gazetaexpress.com/bashkimi-evropian-reagon-pas-hapjes-se-ambasades-se-kosoves-ne-jerusalem/>.

⁹⁶ Josep Borell, Answer given by High Representative/Vice-President Borrell on behalf of the European Commission, European Parliament, 19 November 2020, at https://www.europarl.europa.eu/doceo/document/E-9-2020-005098-ASW_EN.pdf.

The EU's long-standing position is to find a way through negotiations to resolve the status of Jerusalem as the future capital of both states.

In a parliamentary question addressed to the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy on 18 September 2020, MEP Bert-Jan Ruissen asked if “a decision to open embassies in Jerusalem [would] hamper EU-Serbia/Kosovo relations and the normalisation process between the two countries”. The same MEP also raised the dilemma that since “the EU's aim to be united on its common position on Jerusalem seems to contradict the fact that the EU itself is not united on the recognition of Kosovo as an independent state and on the normalisation process”, and asked “what is the VP/HR's view on this and what would be his first priority?”.⁹⁷

In a written answer by the High Representative/Vice-President Borrell on behalf of the European Commission, it is stated that since “both Kosovo and Serbia have identified EU integration as their strategic priority...the EU expects both to act in line with this commitment”.⁹⁸ In a response to another question later, Borrell, added that “the EU has raised the issue in its public statements and in its exchanges with Kosovo, which has identified EU integration as its strategic priority and the EU expects it to act in line with this commitment”.⁹⁹ These responses leave room for interpretation whether Kosovo should have engaged in a political dialogue with the EU prior to making the decision to open its Embassy in Jerusalem, in light of the fact that the EU has never engaged in a mutual political dialogue with Kosovo to discuss foreign policy alignment.

“The EU's aim to be united on its common position on Jerusalem seems to contradict the fact that the EU itself is not united on the recognition of Kosovo as an independent state and on the normalisation process”.

It can be argued that unless the EU generates sufficient internal unity to have a common and affirmative position on Kosovo's independence, the quality of political dialogue and the implementation of the Stabilisation and Association Agreement (SAA) will fall short of offering Kosovo the same treatment other countries in the Western Balkans have received over the years. Beyond loosely public reactions, ambassadors of key EU member states in Kosovo have put tremendous pressure on the Prime Minister and Foreign Minister of Kosovo to avoid opening of the embassy in Jerusalem.¹⁰⁰ Through the External Action Service, sources

⁹⁷ Bert-Jan Ruissen, Question for written answer E-005098/2020 to the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, European Parliament, 18 September 2020, at https://www.europarl.europa.eu/doceo/document/E-9-2020-005098_EN.html.

⁹⁸ Josep Borell, Answer given by High Representative/Vice-President Borrell on behalf of the European Commission, European Parliament, 19 November 2020, at https://www.europarl.europa.eu/doceo/document/E-9-2020-005098-ASW_EN.pdf.

⁹⁹ Josep Borell, Answer given by High Representative/Vice-President Borrell on behalf of the European Commission, European Parliament, 23 April 2021, at https://www.europarl.europa.eu/doceo/document/E-9-2021-001174-ASW_EN.pdf.

¹⁰⁰ Balkans Group interview with a director of a think-tank in Kosovo, Prishtina, 7 June 2021.

indicate that the EU mobilised member states to limit cooperation with Kosovo and prioritise the process of dialogue between Kosovo and Serbia under the EU framework as the only venue for Kosovo to advance towards the EU and international recognition.

The full normalisation agreement with Serbia has become a stronger condition for Kosovo after the recognition of Israel

That was expressed clearly in the congratulation letters the new Prime Minister Albin Kurti has received from the leaders of the EU institutions and member states with the key reference to the EU-led dialogue as a precondition to advance Kosovo's path toward the EU.

The Kosovo leaders sensed the growing pressure coming from the EU after the opening of the embassy in Jerusalem. Prime Minister Albin Kurti said "I am the Prime Minister of Kosovo, not the Prime Minister of Dialogue with Serbia [...] The EU treats me like the latter [...] I know dialogue with Serbia is important and interlinked, but Kosovo has other development priorities in working with the EU and member states".¹⁰¹ Cautious not to raise tensions with the US, who played a key role in brokering the agreement between Kosovo and Israel, the EU officials privately press on Kosovo and demand it invests to achieve its full international statehood only through the EU-led talks that have begun in 2011, mandated by the UN General Assembly.¹⁰²

Kosovo's decision, taken against the strong advice of EU member states and its European partners, was also a signal of dissatisfaction with EU's status-neutral policy towards Kosovo's independence and its delayed visa liberalisation, but also a gesture of further deepening the special relationships with and reliance the US. Kosovo has claimed that they support

Kosovo's decision to open its embassy in Jerusalem was driven purely by political considerations with little attention at the legality of such decision.

the international position, including that of the EU and US on a two state solution. In a nutshell, Kosovo's decision to open its embassy in Jerusalem was driven purely by political considerations with little attention at the legality of such decision. As such opening of the Embassy in Jerusalem was the ultimate outcome of mutual recognition between Kosovo and Israel.

The most recent developments show that the Biden Administration is pursuing what Trump Administration has started and can have positive implications for Kosovo in this regard. In September 2021, US Secretary of State Antony Blinken pledged that the Biden administration would actively work to support and expand the growing diplomatic ties between Israel and Arab nations, by laying out three main lines of effort: fostering Israel's ties with the United

¹⁰¹ Balkans Group conversation with Prime Minister Albin Kurti, 24 April 2021.

¹⁰² For more, see Kosovo-Serbia Dialogue: Path to the Agreement, at <https://balkansgroup.org/en/kosovo-serbia-dialogue-path-to-the-agreement/>.

Arab Emirates (UAE) and Bahrain as well as Morocco, Sudan and Kosovo; deepening Israel's existing relationship with Egypt and Jordan; and encouraging more countries to join the Abraham Accords.¹⁰³

The Biden administration will actively work to support and expand the growing diplomatic ties between Israel and Arab nations.

BENEFITS AND CHALLENGES

The establishment of diplomatic relations with Israel offers Kosovo a number of bilateral political and economic cooperation opportunities and, potentially, with a number of other international and diplomatic benefits. As a Kosovo diplomat highlighted "The goal for Kosovo was clear: advancing our international subjectivity, breaking a long-standing period of so called "recognition withdrawals", diverting away from drawing similarities between Kosovo and Palestine, aligning with outgoing and incoming US Administration's foreign policy, and preserving Kosovo's existing bilateral and multilateral relationships".¹⁰⁴ The main benefit is the potential for deepening economic and trade relations. Along the same lines, Kosovo's former foreign minister Meliza Haradinaj-Stublla stated "The Memorandum of Understanding signed on the day of the establishment of diplomatic relations between Kosovo and MASHAV (Israel Agency for Development and International Cooperation) envisages cooperation in innovation, agriculture, health, education, and water management, through the establishment of a joint working group".¹⁰⁵ The President of Kosovo Vjosa Osmani Sadriu stated that "we look forward to strengthening our ties to extend mutually beneficial opportunities for our citizens by improving national well-being and security, developing science, innovation and trade as well as fostering inter-societal, academic, cultural, and tourist exchanges".¹⁰⁶ Similarly, Prime Minister Albin Kurti highlighted that "our people share a historical tie, and we look forward to strengthening it in the present, especially through economic cooperation".¹⁰⁷

"We look forward to strengthening our ties to extend mutually beneficial opportunities for our citizens by improving national well-being and security, developing science, innovation and trade as well as fostering inter-societal, academic, cultural, and tourist exchanges"

¹⁰³ The Times of Israel, Blinken pledges US backing to expand Abraham Accords between Israel, Arab States, 17 September 2021, at <https://www.timesofisrael.com/blinken-pledges-us-backing-to-expand-abraham-accords-between-israel-arab-states/>.

¹⁰⁴ Balkans Group interview with a Former Foreign Minister of Kosovo, Prishtina, 18 May 2021.

¹⁰⁵ Meliza Haradinaj-Stublla, Marrëdhënia Bilaterale Kosovë- Izrael, Facebook, 26 March 2021, at <https://www.facebook.com/melizaharadinajstublla/posts/268453694900697>.

¹⁰⁶ Vjosa Osmani, Congratulatory letter to President Reuven Rivlin, Twitter, 15 April 2021, at <https://twitter.com/VjosaOsmaniPRKS/status/1382781559116283909?s=20>.

¹⁰⁷ Zeri i Amerikes, Demiri: Njohja nga Izraeli thyen të gjitha tabutë e ngritura nga ata që nuk e njohin Kosovën, Zëri i Amerikës, 21 April 2021, at <https://www.zeriamerikes.com/a/kosovo-israel/5861932.html>.

The US Ambassador in Kosovo, Philip Kosnett, added that: “[...] Israel can be an example and partner for Kosovo. They have a lot in common. These are countries with small populations but amazing human capital. Very talented young people especially in the technology sector. And the United States would like to see not only the governments of Kosovo and Israel, but also their business communities making connections. We think this is really exciting and both countries will benefit. I hope American companies are also involved in this process”.¹⁰⁸ Soon after Kosovo and Israel established diplomatic relations, the Israeli Development and Investment Corporation in Kosovo (KIDIC) opened its office in Pristina.¹⁰⁹ Within days after opening the embassy in Jerusalem, as a gesture of good friendly relations, Israel provided medical assistance for the recovery of three children from Kosovo suffering from a heart disease.¹¹⁰ Overall, there seem to be interest on both sides to deepened economic ties, which is a promising start and can potentially set a model of how Kosovo should utilise diplomatic relations to increase foreign direct investment in the country.

Internationally, Israel’s recognition of Kosovo could unlock its path towards some more recognition. Kosovo charge d’affaires in Jerusalem, Ines Demiri, argued that “recognition by Israel is very important for Kosovo and breaks all taboos raised by those who do not recognise Kosovo. This recognition helps Kosovo’s international position and its integration in International Organisations”.¹¹¹ Similarly, former advisor to President Atifete Jahjaga, Garantina Kraja, argued that “with the act of recognition, Israel has overcome the obstacle for the recognition of Kosovo’s independence to set a precedent for states that share similar concerns with territorial disputes and challenge their sovereignty and integrity”.¹¹² As part of the arrangement for mutual political consultation, there is space for Kosovo to work closely with Israel to lobby for securing diplomatic recognition by a number of states that the State of Israel has influence on.¹¹³

“Recognition by Israel is very important for Kosovo and breaks all taboos raised by those who do not recognize Kosovo. This recognition helps Kosovo’s international position and its integration into international organizations”.

¹⁰⁸ Klan Kosova, Kosnett për Marrëveshjen e Washingtonit: Qeveria Kurti të shoh përtej politikës së saj, at <https://klankosova.tv/kosnett-per-marreveshjen-e-washingtonit-qeveria-kurti-te-shoh-pertej-politikes-se-saj/>.

¹⁰⁹ KIDIC, Welcome to KIDIC, at <https://kidic.net/#KIDIC>.

¹¹⁰ Zeri, Tre fëmijë nga Kosova do të shkojnë për shërim në Izrael, 24 March 2021, at <https://zeri.info/aktuale/400196/tre-femije-nga-kosova-do-te-shkojne-per-sherim-ne-izrael/>.

¹¹¹ Zeri i Amerikes, Demiri: Njohja nga Izraeli thyen të gjitha tabutë e ngritura nga ata që nuk e njohin Kosovën, 21 April 2021, at <https://www.zeriamerikes.com/a/kosovo-israel/5861932.html>.

¹¹² Garantina Kraja, Një pikëpamje për Kosovën nga Jerusalemi, Sbunker, 11 March 2021, at <https://sbunker.net/op-ed/90887/nje-pikepamje-per-kosoven-nga-jerusalem/>.

¹¹³ Balkans Group interview with a Kosovo diplomat, Prishtina, 18 May 2021.

Kosovo can now work closely with Israel to lobby for securing diplomatic recognition by a number of states that the State of Israel has influence on. At least, Israel can assist to establish some form of communication and cooperation between the government of Kosovo and these countries.

There is some room for hope that Israel will be in a favourable position to help Kosovo secure recognition by a number of African countries, such as Ethiopia, Morocco, and Sudan, and Latin American countries such as, Brazil, Argentina, Guatemala, and Ecuador, and potentially in Southeast Asia, recognition by India.¹¹⁴ At least, Israel can assist to establish some form of communication and cooperation between the government of Kosovo and these countries, and to set prospects for recognition. Moreover, the opening of Kosovo's embassy in Jerusalem has given an impetus to the Jewish community globally to support Kosovo. So, Kosovo has scope to work with Jewish diaspora communities in non-recognising countries to lobby for Kosovo's recognition.¹¹⁵

Despite these potential benefits, Kosovo has exposed itself to adverse challenges which can reduce the country's existing international allies and the chances of making new diplomatic allies. This is primarily related to the fact that Kosovo's statehood remains contested, which exposes the country to multiple vulnerabilities at the global stage. Kosovo's decision could affect its relations with Arab and Muslim countries.¹¹⁶ A Kosovo diplomat admitted that "certainly, some of the Arab countries, or those that have a majority of Arab residents were not that happy with the fact that we have opened an embassy in Jerusalem".¹¹⁷ He added that what Kosovo "needs to do is to commit to balancing these attitudes or explaining to their diplomats our position to convincingly argue with patience and diplomatic tact".¹¹⁸ The possibility that Turkey and other Arab and Muslim countries will suspend, withdraw or lower their support for Kosovo in bilateral and multilateral affairs is real.¹¹⁹ In the wake of inaugurating Kosovo's embassy in Jerusalem, the Palestinian Ministry of Foreign Affairs and Expatriates (MOFAE) called on OIC to cut ties with Kosovo "in implementation to the organisation's policy towards countries that violate

OIC countries form the largest group of states within the UNGA (with over 50 members) and make a powerful bloc which can play a role in eventual bid of Kosovo for admission to the UN or access to different UN agencies and programmes

¹¹⁴ Balkans Group interview with a Kosovo diplomat, Prishtina, 13 April 2021.

¹¹⁵ Balkans Group interview with a Kosovo diplomat, Prishtina, 24 April 2021; Balkans Group interview with a former foreign minister of Kosovo, Prishtina, 18 May 2021.

¹¹⁶ Balkans Group interview with a Kosovo diplomat, Prishtina, 15 April 2021.

¹¹⁷ Erdonita Hebibi, Ish-ambasadori: Rruga e për në BE e sigurt, Qeveria e re të fokusohet për anëtarësim në organizata ndërkombëtare, *Ekonomia Online*, 13 March 2021, at <https://ekonomiaonline.com/politike/ish-ambasadori-rruga-e-per-ne-be-e-sigurt-qeveria-e-re-te-fokusohet-per-anetaresim-ne-organizata-nderkombetare/>.

¹¹⁸ Ibid.

¹¹⁹ Palestine News and Info Agency, Foreign Ministry calls on Kosovo to go back on embassy decision and to abide by international law, 3 February 2021, at <https://english.wafa.ps/Pages/Details/123109>.

international law, Islamic summits' decisions, and the international legitimacy resolutions".¹²⁰ It is important to note that OIC countries form the largest group of states within the UN General Assembly (with over 50 members) and are a powerful bloc which can play a role in eventual bid of Kosovo for admission to the UN or access to different UN agencies and programmes. The Palestinian Ambassador to Serbia, Mohammed Nabhan, who has been in the country since 2006, threatened Kosovo by mentioning that Palestine "will take steps that Kosovo will not like, at the level of the Arab League and Islamic Cooperation", and added that "Kosovo is not a member of any of these organisations, but many members have recognised the so-called Kosovo, and we will ask those countries to now consider their recognition of Kosovo".¹²¹ There is a risk that Kosovo will not have the votes of these countries when it applies for membership in International Organisations.¹²² Apparently, Turkey has warned Kosovo that it will no longer be in the position to prevent de-recognition of Kosovo, which it has successfully prevented from happening in a few occasions (Turkey had secured recognition of Kosovo by Pakistan).¹²³ Yet, the continued bilateral meetings between Kosovar and Turkish diplomats and the evidence of cooperation on economic and security affairs is an encouraging signal that Turkey will not form a hostile attitude towards Kosovo.

There is a risk that Kosovo will not have the votes of OIC countries when it applies for membership in international organisations.

Despite the efforts in Kosovo to minimise the importance and the adverse impacts arising from opening an embassy in Jerusalem, it has become clear that now Kosovo is expected to take a stance. On 13 May 2021 for instance, the Director for Balkan in the Israeli MFA Dan Oryan, openly stated that they expect Kosovo to clearly condemn Hamas's launch of rockets against Israeli civilians.¹²⁴ Kosovo acted on that and the MFA tweeted on 16 May 2021 recognising the right of Israel for self-defence condemning the firing of rockets by Hamas and blaming them for "holding Palestinian civilians hostage in its war", while ambiguously urging for "refrain, stop of violence & seeking peaceful solution".¹²⁵ Such a position of Kosovo has raised some public dissatisfaction and polarisation, who have organised rallies both in support of Palestinian and Israeli civilians affected by the most recent escalation of violence.

¹²⁰ Asharq Al-Awsat, Palestinians Demand Cutting Ties with Kosovo, 15 April 2021, at <https://english.aawsat.com/home/article/2920036/palestinians-demand-cutting-ties-kosovo>.

¹²¹ Kosovo Online, Nabhan: Otvaranjem ambasade u Jerusalimu Kosovo krši naša prava, to neće proći nekažnjeno, 15 March 2021, at <https://www.kosovo-online.com/vesti/politika/nabhan-otvaranjem-ambasade-u-jerusalimu-kosovo-krsi-nasa-prava-nece-proci-nekaznjeno>.

¹²² Ibid.

¹²³ Balkans Group interview with a Kosovo diplomat, Prishtina, 18 May 2021.

¹²⁴ Gazeta Express, Drejtori izraelit për Ballkan në një intervistë ekskluzive për T7 jep detaje lidhur me konfliktin e Izraelit me palestinezët, 13 May 2021, at <https://www.gazetaexpress.com/drejtori-izraelit-per-ballkan-ne-nje-interviste-ekskluzive-per-t7-jep-detaje-lidhur-me-konfliktin-e-izraelit-me-palestinezet/>.

¹²⁵ MFA Kosovo, *Twitter*, 16 May 2021, at <https://twitter.com/MFAKOSOVO/status/1393866125436456962?s=20>.

As expected, Serbia will use the opening of Kosovo embassy in Jerusalem to lobby against further recognition and when possible to pursue de-recognition of Kosovo. Since the declaration of Kosovo's independence in 2008, one of the key priorities for Serbian diplomacy has been to undermine Kosovo's international standing. While for almost a decade it has failed to prevent the recognition and membership of Kosovo in international bodies, after 2017 it has managed to persuade around 20 countries to either suspend or freeze diplomatic relations with Kosovo or not vote in support of Kosovo's bids for membership in International Organisations.¹²⁶

What stopped Serbia's de-recognition campaign for a year is the commitments taken as part of the Washington agreement. So, after opening of its embassy in Jerusalem, Kosovo has potentially added to the list more countries who will lobby against its recognition and reject supporting its bids for membership in multilateral organisations. While Serbia was powerless to stop Israel from recognising Kosovo, President Vučić indicated that "after the establishment of Kosovo-Israel diplomatic relations, no Muslim country will want to recognise Kosovo's independence".¹²⁷ A similar signal that Serbia will this as a pretext to lobby for the de-recognition of Kosovo came also from former foreign minister and current speaker of the National Assembly of Serbia, Ivica Dačić, who argued on the one hand that "it is practically up to Israel to decide what is better for them" while on the other hand calling on "all Muslim countries to immediately withdraw recognition of Kosovo".¹²⁸

Another challenge is Kosovo's European integration process. With the signing of the Stabilisation and Association Agreement in 2015 and its entry into force in April 2016, Kosovo has entered into contractual relations with the European Union (EU) to

After opening of its embassy in Jerusalem, Kosovo has potentially added to the list more countries who will lobby against its recognition and reject supporting its bids for membership in multilateral organizations.

undertake comprehensive political, economic, and legal reforms necessary for eventual membership in the EU. One of the central features of the SAA is the political dialogue, which aims to strengthen bilateral ties between the EU and Kosovo in a number of policy areas including Kosovo's alignment with EU's common foreign, security, and defence policies.¹²⁹ Article 11 of the SAA clearly states that political dialogue aims to promote the "advancement of Kosovo's European perspective and rapprochement with the EU", as well as to promote

¹²⁶ Gëzim Visoka, *The Derecognition of States*, Book manuscript under preparation and forthcoming with the University of Michigan Press.

¹²⁷ Koha, Vuçiqi: Serbia e pakënaqur me marrëveshjen Izrael-Kosovë, 1 February 2021, at <https://www.koha.net/arberi/256731/vuciqi-serbia-e-pakenaqur-me-marreveshjen-izrael-kosove/>.

¹²⁸ KoSsev, Dacic: Withdrawal of Kosovo's recognition is an unstoppable process that can only be temporarily halted, 3 February 2021, at <https://kossev.info/dacic-withdrawal-of-kosovos-recognition-is-an-unstoppable-process-that-can-only-be-temporarily-halted/>.

¹²⁹ Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo*, on the other part, 2 October 2015, at <https://data.consilium.europa.eu/doc/document/ST-10728-2015-REV-1/en/pdf>.

“convergence with certain Common Foreign and Security Policy measures”.¹³⁰

Article 11 of Stabilisation and Association Agreement

“The political dialogue is intended to promote in particular [...] increasing convergence with certain Common Foreign and Security Policy measures, in particular restrictive measures taken by the EU against third countries, natural or legal persons or non-State entities also through the exchange of information as appropriate, and, in particular, on those issues likely to have substantial effects on the Parties [...]”

It is expected that in the period leading to accession all aspirant countries must progressively align their policies towards third countries (non-EU states), and their positions within International Organisations with the policies and positions adopted by the EU and its Member States. The EU expects that aspirant countries align their policy with the EU’s policy towards third countries as well as building direct political links with third countries with which the EU has political, economic, and strategic interests. These include the European Neighbourhood Policy, including the Eastern Partnership and the Southern Mediterranean, the Middle-East Peace Process, and the Transatlantic Cooperation.¹³¹ However, so far EU has not explicitly invited Kosovo to align with the EU’s foreign and security policies, instead they have prioritised the normalisation of relations with Serbia as the main requirement for Kosovo.¹³²

So far, EU has not required from Kosovo to align with the EU’s foreign and security policies, instead they have prioritized the normalisation of relations with Serbia as the main requirement for the country.

¹³⁰ Ibid.

¹³¹ Countries covered by the Eastern Partnership are: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine. These countries have not yet recognised the independence of Kosovo. Countries covered by the Southern Mediterranean are: Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, Syria, Tunisia, and Turkey. Seven countries in this list have not yet recognised the independence of Kosovo.

¹³² Nedzma Džananović, Foreign Policies in Western Balkans, April 2020, at <http://library.fes.de/pdf-files/bueros/sarajevo/16144.pdf>.

Therefore, the decision to open the embassy in Jerusalem against EU's advice is not likely to contribute positively to its relations with the European Union. In the short turn, no significant pressure is expected on Kosovo since the EU is interested in advancing the dialogue for normalisation of relations with Serbia. However, in the long run, the EU is likely to return to the issue of Jerusalem embassy and to make it another condition for Kosovo to address as part of the European integration path.¹³³

THE WAY FORWARD: GOING BEYOND MITIGATING CHALLENGES

Thirteen years after the Independence, Kosovo faces many challenges on its path to become a fully-fledged and internationally recognised state. With more than 100 recognitions, Kosovo remain contested by a considerable number of the UN member states, including five out of 27 EU member states and 4 out of 30 NATO members. The EU-led talks with Serbia, since 2011, brought little change and its path to membership in International Organisations remains contingent to an agreement with Serbia. Israel's recognition has been a welcome step, but the placement of the embassy in Jerusalem may not ease Kosovo's bumpy road towards full integration in the international system. What is the way forward for Kosovo now?! What mitigation strategies can the country put in place to limit the negative impacts and leverage the potential benefits?! Kosovo must consistently work in turning the challenges into benefits, or simply mitigating them, and also increase the changes to consolidating its international sovereignty.

A consistent diplomatic campaign to justify the opening of the embassy in Jerusalem

Kosovo needs to initiate a tailored diplomatic campaign to explain to its international allies, especially the European and Arab countries, why it has opened its embassy in Jerusalem. Its foreign policy apparatus needs to have a well-elaborated interpretation of the purpose and function of the embassy and a clarification of its position on the city of Jerusalem.¹³⁴ In particular, Kosovo should clear up the fact that its decision to open its embassy in the western part of Jerusalem is without prejudice to the future status of the city or the outcome of the negotiated settlement between Israelis and Palestinians.¹³⁵

To disseminate this narrative, Kosovo should undertake a proactive diplomatic campaign and reach out to Arab and Muslim countries. Such a discourse needs to be part of bilateral meetings with all countries concerned or who raised the issue. In particular, Kosovo needs

¹³³ Balkans Group interview with an EU official in Kosovo, Prishtina, 1 July 2021.

¹³⁴ Balkans Group interview with a Kosovo diplomat, Prishtina, 15 April 2021.

¹³⁵ Garentina Kraja, Një pikëpamje për Kosovën nga Jerusalemi, 11 March 2021, at <https://sbunker.net/op-ed/90887/nje-pikepamje-per-kosoven-nga-jerusalemi/>.

to work with Turkey and Arab countries to avoid undesirable consequences to their bilateral relations.

Maximising the benefits from opening the embassy in Jerusalem

Parallel to mitigating the unwanted consequences, Kosovo should engage in dialogue with Israeli government and institutions to leverage this relationship beyond recognition and seek their diplomatic support for recognition by third countries upon which Israel has strong influence. In the short-term, Kosovo should conduct regular meetings to explore new pathways for diplomatic cooperation and support and lobbying for further recognition and membership of Kosovo to countries and organisations where Israel and their diplomatic network has significant influence. Kosovo should also request that Israel either opens its embassy in Pristina or covers it from Tirana and not Belgrade.

In the long-term, there are also opportunities to organise political consultation in a trilateral format bringing in other allies or countries who haven't recognised Kosovo yet, to explore joint economic and political cooperation. Moreover, Kosovo could seek support in multilateral organisations. With Israel's advanced security and military technology capabilities, Kosovo should seek to establish a bilateral security cooperation arrangement. There is also scope to deepen cooperation with Israel on digital economy and technology which could be a niche economic development segment for Kosovo's young population. Beyond political, economic and security cooperation, Kosovo should develop programs with Israel and invest on people-to-people diplomacy and create platforms for deepening cultural ties. Kosovo can especially learn from Israel's experience of commemoration, memorialisation, documentation, and dealing with the past, especially Holocaust and historical and collective suppression of Jewish communities across Europe and other parts of the world.

Opening of a consulate in Tel Aviv

Kosovo should open a consulate in Tel Aviv, where most of the countries have placed their embassies. Having a representation and senior diplomats placed in Tel Aviv will help Kosovo reach out to a large number of governments, and their representatives, and establish regular communication and consultations with them. This will help Kosovo better align its policies with allies and partners on the ground.

Another possibility for mitigating unwanted risks is to reach out to the Palestinians and express the willingness for building diplomatic relations or at least some sort of normalisation of relations with them. There is already a significant overlap of third countries who recognise both Israel and Palestine and have good relations with both sides. The US has also indicated that they would open an autonomous office in charge of diplomatic relations with the Palestinians. Kosovo could follow with the same arrangement. Such an arrangement could

reduce aversion coming from Turkey and other Arab and Muslim countries, it could neutralise and mitigate Serbia's de-recognition campaign, and most importantly, it could include the opening of a diplomatic mission in East Jerusalem or the West Bank.

Enhancing consultations with the US and the EU

Kosovo should at least establish permanent consultation mechanisms with both partners, the US and the EU. It should exploit improving transatlantic ties and ensure that both of its partners develop a more supportive stance towards Kosovo and its international position. To its European partners, Kosovo needs to make it clear that it supports the EU's position on the Middle East Peace Process, namely their efforts for a peaceful resolution of dispute between Israel and Palestinian authorities, including the option for the creation of two separate states living side by side. Kosovo needs to escape the trap where its bilateral relations with the EU are limited to the dialogue for normalisation of relations with Serbia and its main interlocutor is the EU's special representative for Western Balkans. The government needs to develop a three-track interaction strategy with the EU, and build strong bilateral ties with individual and influential EU member states who will defend Kosovo's interests within the EU structures. The country needs to develop equally vibrant and effective relationships with all EU institutions, structures and bodies and avoid the decrease of interactions only with the enlargement directorate. And finally, Kosovo should continue working with special envoys, influential personalities, civil society, and think-tanks that operate within the EU to ensure the support of both EU member states and EU's institutions.

While Kosovo is likely to get negative points from the EU for opening its embassy in Jerusalem, it shouldn't be asserted that the EU will use it as an excuse to harden its conditions on Kosovo. In relation to the alignment of its foreign policy with that of the EU, Kosovo has an opportunity to use the Jerusalem challenge and discuss more openly the foreign policy alignment with the EU within the SAA framework. Although the SAA includes references and provisions to the progressive alignment with EU positions within the framework of CFSP, in practice Kosovo is not yet invited to align with the EU's foreign, security and defence policies. If the EU wants to be taken seriously, it should search for a sustainable formula for political consultation of Kosovo with the EU, on foreign affairs matters, as agreed under the SAA (Title II). Kosovo should seek bilateral dialogue on foreign policy with the EU, and explore ways for actualising EU's commitment to promote its participation in the international democratic society. It is advisable that Kosovo sets up a clear and transparent mechanism to measure and demonstrate foreign policy alignment with the EU.

Reorganising the foreign policy and priorities

Beyond these immediate measures, Kosovo needs to redefine its foreign policy and priorities, or better to say establish them. Kosovo must prioritise foreign affairs with an

increased budget and substantial extension of network of embassies. The time is ripe for Kosovo to develop a niche foreign policy and cultivate bilateral cooperation with other non-western countries that have recognised Kosovo. Kosovo must invest in mechanisms to facilitate coordination, exchanges and policy debates with the diplomatic offices. It should devise region-specific strategies where it defines its interests and priorities in each region of the world. Kosovo should establish regional agencies and deploy more human capital, providing non-financial humanitarian and development assistance and cooperation within the regions: Africa, Latin America, Asia, the Middle East, and the Pacific. This would preserve existing diplomatic recognitions, secure more recognitions and help Kosovo's efforts to join International Organisations.

The Balkans Policy Research Group is an independent, regional think-tank based in Pristina, Kosovo. We provide timely policy analysis and recommendations on a wide array of state building issues; institutional and democratic consolidation; minority integration and good neighborly relations: European integration and policy change. We have decades of experience in policy reporting and development, strategic thinking and advocacy with governmental, international and non-governmental organizations.

Our rigorous, detailed, impartial reporting, always based on in-depth fieldwork, is the core of our work. We go beyond mainstream positions and seek to make change through creative, feasible, well-measured and forward-looking policy recommendations with the aim of helping develop strong, vibrant democracies, prosperous states and societies based on rule of law in the Western Balkans.

We engage in high-level advocacy, domestically, regionally and internationally, impacting policy discussions and options with regard to the home affairs and European policies toward the Western Balkans.

Balkans Group has developed other tools and platforms to achieve this change:

The Policy Dialogue promotes Kosovo's domestic dialogue, cohesion and reform-making agenda.

The Policy Forum (a Think-Tankers High-level Advocacy Forum) committed to enhancing the dialogue between the civil society and the institutions.

The Kosovo Serbia Policy Advocacy Group (a forum for Cross-Border Civil Society Cooperation) that aims to communicate, promote and enhance dialogue toward full normalisation between Kosovo and Serbia, and their societies.

Women in Politics promotes the empowerment of women and girls; their security and inclusiveness; and is committed to strengthen the Women Caucus' impact and reach throughout Kosovo.

Youth in Politics promotes an active participation from youth from different political parties in the institutions. This component helps in developing a culture of dialogue and cooperation, by providing capacity building trainings on key policy areas and skills and leadership.

The Dialogue Platform promotes the dialogue process between Kosovo and Serbia, by informing the wider public and generating debate about the agreements, benefits and challenges of the Dialogue.

Expert Support component provides policy support to the government and key institutions on key policy areas, peace and state-building agendas.



Norwegian Embassy