



# KOSOVO-SERBIA DIALOGUE:

## IMPLEMENTING THE **FoM** AND **IBM** FOR THE BENEFIT OF THE PEOPLE

March 2022

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Balkans Policy Research Group (BPRG)

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## LIST OF ACRONYMS

<b>A/CSM</b>	Association/ Community of Serb-majority Municipalities
<b>BCP/s</b>	Border Crossing Point/s
<b>CJA</b>	Council Joint Action
<b>CoB</b>	Council of Bureaux
<b>CP/s</b>	Crossing Point/s
<b>CCP/s</b>	Common Crossing Point/s
<b>CRM</b>	Common Regional Market
<b>EU</b>	European Union
<b>EULEX</b>	European Union Rule of Law Mission in Kosovo
<b>EUROPOL</b>	European Union Agency for Law Enforcement
<b>EUSR</b>	European Union Special Representative
<b>FoM</b>	Freedom of Movement
<b>FRONTEX</b>	European Border and Coast Guard Agency
<b>IBM</b>	Integrated Border Management
<b>IBBM</b>	Integrated Border Boundary Management
<b>ID</b>	Identity card
<b>IG</b>	Implementation Group
<b>IPA</b>	Instrument for Pre-Accession Assistance
<b>KFOR</b>	Kosovo Force
<b>KIB</b>	Kosovo Insurance Bureau
<b>KS/ RKS</b>	Kosovo/ Republic of Kosovo
<b>MAP REA</b>	Multi-annual Action Plan for Regional Economic Area
<b>MMA</b>	Monitoring, Mentoring and Advising
<b>MoIA</b>	Ministry of Internal Affairs
<b>MoU</b>	Memorandum of Understanding
<b>SEED</b>	Systematic Electronic Exchange of Data
<b>ToR</b>	Terms of Reference
<b>UN</b>	United Nations
<b>US</b>	United States
<b>WG</b>	Working Group
<b>ZCP/s</b>	Zones of the Crossing Point/s

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*The Freedom of Movement (FoM) and the Integrated Border Management (IBM) arrangements are closely intertwined in the Kosovo-Serbia context, with one common goal: easing freedom of movement and creating open and secure border crossing points. Deficient implementation has hindered citizens' lives (of both countries) and has consequently lowered their trust and support for the dialogue. Bilateral disputes (between Kosovo and Serbia) over the recognition of the documents and the border crossing procedures prevent the conclusion of new arrangements and the connectivity for the whole Western Balkans region.*

*Free movement of people and goods are fundamental European Union (EU) values. Hence, the EU should insist that Kosovo and Serbia re-pack the IBM and FoM agreements and that they engage -promptly and effectively- in their implementation for the sake of their citizens.*

*The ongoing disputes prevent progress on regional cooperation. The European Union shall step up to resolve these issues and advance implementation of reached agreements between Kosovo and Serbia; these are mandatory for the Western Balkans countries' cooperation -on equal footing- at the regional level.*

## EXECUTIVE SUMMARY

The agreements on Freedom of Movement (FoM) and on Integrated Border Management (IBM) between Kosovo and Serbia, reached in 2011 for easing citizens' lives, remain unimplemented. This ill-fated constellation is to be attributed to domestic politics and the fluctuating positions of the three parties (Kosovo, Serbia and EU) involved. It is critical, therefore, that the parties and the European Union (EU), push these agreements forward, by re-packing them as a single issue and implementing both for the benefit of the people.

Under the agreement on FoM, the parties decided on the free movement of people and goods by accepting each other's documents, vehicle plates and insurances. FoM enabled the citizens of Kosovo and Serbia to move from one territory to the other with their respective personal documents. Yet, the full implementation never came to life, and persisting obstacles, i.e., the issuance of the 'entry-exit' forms, of illegal car plates and the failure to apply the agreed regimes, impede the free movement of people and their security.

The IBM agreement foresaw the construction of six border crossing points (CCPs) to guarantee a balanced presence of all competent authorities there. It set up cooperation and coordination chains between Kosovo's and Serbia's border authorities and enabled the exchange of data among them. But just like many other agreements, IBM has been paused subject to the parties' unwillingness to move forward (i.e., the halting of the construction works in four crossing points, the unwillingness to move to the new premises, the interruption of the regular meetings, etc.).

In 2017, the dialogue process further stagnated. The incessant unconstructive approach of the parties made the EU decelerate -more- its mode of operation on this task. Serbia obstructed the execution of the remaining parts of the agreements, particularly those related to IBM permanent facilities, insisting on the implementation of the Association/Community of Serb majority municipalities (A/CSM) instead. It continued to issue illegal vehicle plates with acronyms of Kosovo's cities. Kosovo in its turn -also a victim of the constantly changing governments- imposed a 100% tariff as a countermeasure (in **November 2018**) and failed to implement the sticker regime for the car plates, neglecting the results of the technical dialogue as well as its advantages. At this point, the EU lost the ability to support and advance both agreements' implementation.

With the Washington Agreement of September 2020, a bit of optimism came back, but it was short-lived. At the same time, the Government of Kosovo decided to end the issuing of the KS vehicle plates following their expiry date in line with the 2016 Agreement. A year later, the situation took another turn when the government deployed police forces at the border crossings to implement reciprocity measures on vehicle plates.

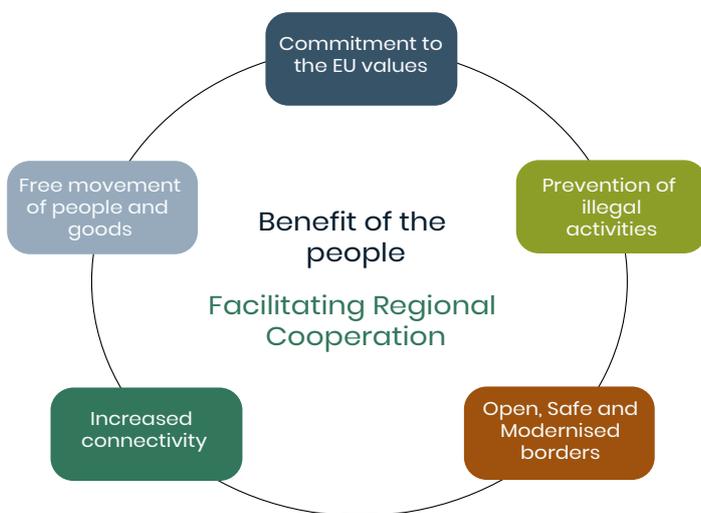
Increased tensions in the northern crossing points followed afterwards. And some days later, Kosovo’s and Serbia’s delegations met in Brussels and agreed to apply the sticker regime.

Both agreements are vital for the citizens of Kosovo and Serbia, as well as for the whole region. The agreements, in fact, closely reflect the fundamental freedoms of the EU. Thus, the EU- within its role as the facilitator of the Kosovo-Serbia dialogue- had promoted and invested in their implementation since the early phases of the process. With the Regional Representation and Cooperation agreement (2012) between Kosovo and Serbia, bilateral issues soon became a regional matter. That was mainly because parties had failed to implement bilateral arrangements, and the EU -unsuccessfully- was in search of a regional platform to bring parties to recognise each other’s documents. There have been various attempts to establish free movement and connectivity within the region. Initiatives from the Berlin Process (the Connectivity Agenda) and Multi-annual Action Plan for a Regional Economic Area (MAP REA) to the ‘Mini Schengen’ and the Common Regional Market (CRM), have revolved around the four fundamental freedoms (of people, goods, services and capital). Yet, it was evident -once again- that bilateral issues continue to drag around any meaningful progress at the regional level.

Border crossings between Kosovo and Serbia are increasingly being used by the citizens of the whole region and beyond, including the European Union. Just as the citizens of Kosovo and Serbia, they -too- encounter delays, long queues and other obstacles due to the current outdated border facilities and the slow operation of the authorities there. All of this is because Serbia and Kosovo have failed to implement the agreed arrangements, and the EU has not managed to persuade them to do so.

To move from the current impasse, the EU should seize the momentum created after the new agreement on vehicle plates (September 2021). It should insist on having

Kosovo and Serbia re-visiting the agreements, particularly the IBM and FoM. This should occur in line with its core values while boosting connectivity for the whole region. Re-packing the two agreements; being interconnected from the very start, will ensure more effective results in the practice. After all, the dialogue has been initiated for the benefit of the people, and so are the IBM and FoM agreements.



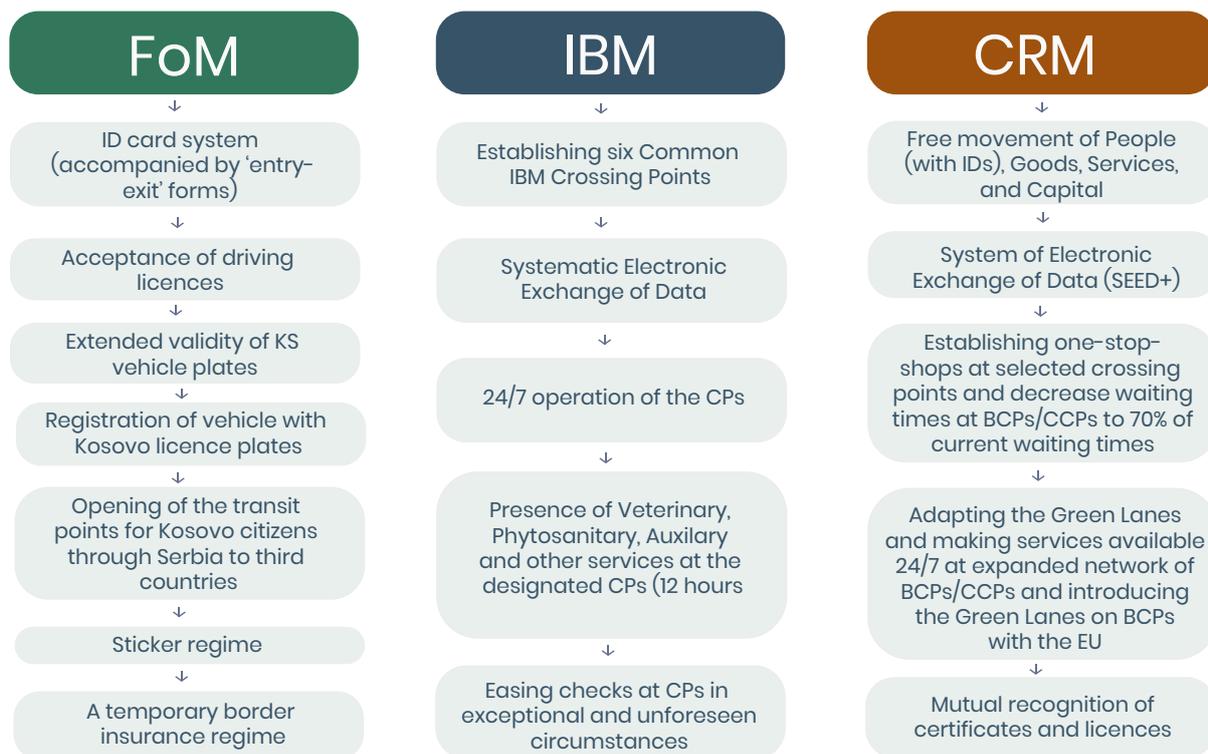
## **RECOMMENDATION: RE-PACKING THE FOM AND IBM AGREEMENTS**

The new agreement on car plates reached between Kosovo and Serbia in September 2021, brought new prospects for re-engagement in the technical dialogue. The domestic political narratives (in Kosovo and Serbia) have hampered the implementation of the FoM and IBM, so far. The EU should use this new momentum and intensify its effort for the implementation of technical agreements, specifically the IBM and FoM. Impactful implementation, in fact, requires a new rational approach. These two agreements should be re-packed and intertwined with one another, considering their common goal: easing the free movement and creating open and secure borders.

They have been viewed, treated, and implemented separately, when -in reality- the IBM agreement itself directly refers to the Freedom of Movement. So, treating them as one set of issues will provide a far better implementation and monitoring; which will -in turn- create more favourable conditions for the continuation of the dialogue. Besides that, it will ease the path towards the final comprehensive agreement.

The current border facilities between Kosovo and Serbia are outdated and there is weak border management and cooperation in place. Free movement is hindered on many fronts; starting with the 'entry/exit' forms to other issues such as not allowing foreign citizens to enter Serbia from Kosovo. The number of staff is limited and even newly constructed border crossing points (such as the one in Merdarë/e and Mutivodë/e) operated with a single lane, until very recently, creating unnecessary waiting hours. These issues not only affects citizens of Kosovo and Serbia but those of the region as well, who transit across those countries; to travel to their neighbours in the region (i.e., Albania) or to the EU countries. Thus, it is important for the EU to push forward the implementation of these agreements.

Investing in infrastructure and addressing the obstructions to free movement, are particularly relevant for boosting cooperation across the region as well as to ensuring the successful implementation of regional agendas, the Berlin Process's Connectivity Agenda and the CRM, which aim to establish the free movement of people, goods, services and capital across the region and to improve connectivity among them.



### Implementing IBM and FoM would benefit Kosovo, Serbia, and the EU.

#### Key Benefits for Kosovo and Serbia include:

- Enhancing the border management based on the concept of open but secured borders;
- Facilitating the free movement of citizens of Kosovo, Serbia and third countries, particularly of the neighbouring countries and EU;
- Benefiting businesses by enabling closer border management cooperation and access of Kosovo's goods to Serbia's and the EU's market;
- Reducing waiting times at the common crossing points;
- Reducing informal economy and other illegal activities (smuggling of people and goods);
- Reducing tensions;
- Increasing tax revenues and investments for the benefit of the communities, in particular for those in the northern municipalities
- Effective processing of passengers and cars from the Kosovo Diaspora, in particular during seasonal holidays;
- Travelling through modernized and secure crossing points for citizens of Kosovo and Serbia;
- Shortening the distance and reducing the costs of travel.

**Key benefits for the EU may include:**

- Boosting its role as a credible facilitator by producing benefits for the citizens;
- Implementing its financial commitments;
- Bringing the Western Balkans countries closer to EU standards and values;
- Advancing regional cooperation and implementation of the regional initiatives for the Western Balkans;
- Strengthening regional security in the Western Balkans;
- Supporting in the prevention of cross-border crimes such as drug trafficking, smuggling of migrants, etc.;
- Enabling data-sharing between EU border agencies (i.e., FRONTEX and EUROPOL) and the EU Member States with border authorities of Kosovo and Serbia.
- Easing travel and trade for the EU citizens and businesses across Western Balkans.

## INTRODUCTION

### WHAT ARE FoM AND IBM

Free movement of people (with ID cards);

Effective border control at all six border crossings between parties;

Mutual acceptance of Phytosanitary and Veterinary Certificates;

Exchange of data and information between the border authorities (including the Electronic Exchange of Customs Data);

Regular meetings between the authorities at all levels;

Removal of barricades in the northern part of Kosovo;

Closure of illegal by-passes;

A temporary solution for vehicle license plates;

Eased border procedures;

Detection and investigation of cross-border criminal activities especially human trafficking, drug trafficking, smuggling of goods, irregular migrants, trade of weapons;

A MoU on mutual acceptance of vehicle insurance;

Mutual Legal Assistance;

Opening of the transit crossing points through Serbia to third countries;

Permanent IBM facilities in 6 Common Crossing Points between parties.

Kosovo and Serbia reached the Agreement on Freedom of Movement (FoM) and that on Integrated Border Management (IBM) in 2011.<sup>1</sup> Although promoted as such, these agreements were more than technical. In the following six years, they have brought tangible practical and economic benefits to the citizens of both countries; two out of six IBM crossing points have been constructed, border cooperation has been ensured and the number of people and goods moving from one territory to the other has significantly increased. Yet, despite some progress – eleven years after – their full implementation is still far away.

The Agreement on FoM enabled the acceptance of IDs, vehicle plates and vehicle insurances between the two parties. It has shortened the distance and lowered the cost of travelling, especially for the Kosovo Diaspora. The agreement has also facilitated the creation of the legal order referring to the use of Kosovo's IDs and legal vehicle plates, together with the removal of parallel offices issuing such illegal documents in Kosovo.<sup>2</sup>

As for IBM, it has enhanced border management and cooperation. Under this agreement, parties have decided to

establish six permanent common crossing points (CCPs) between Kosovo and Serbia and to have a balanced presence of all competent authorities in all six Zones of the CCPs (ZCPs).<sup>3</sup>

<sup>1</sup> For more, see the Freedom of Movement Agreement, 2 July 2011, at <https://dialogue-info.com/freedom-of-movement/>; the IBM Agreement, 2 December 2011, at <https://dialogue-info.com/integrated-border-boundary-management/>; and [Balkans Group report](#) Brussels Dialogue between Kosovo and Serbia, Achievements and Challenges, September 2020.

<sup>2</sup> Ibid.

<sup>3</sup> Integrated Border Management Agreement, 2 December 2011, at <https://dialogue-info.com/integrated-border-boundary-management/>.

Implementation had been promising in the years after. Yet, since 2017, the process stalled and issues such as the 'entry-exit' documents, 'proba' plates, additional fees, double taxation, long queues at the border crossing points, have created extra burden and frustration to citizens of both countries. During this period, there have been countless efforts (primary from the European Union) to bring the parties to the negotiating table again. The political dynamics, and the governments' approaches of both Serbia and Kosovo, however, have prevented the progress.

The United States (US) - brokered 'Washington Agreement' between Kosovo and Serbia (of 4 September 2020), marked an important milestone to the process. As for IBM alone, the agreement foresaw 'Opening and operationalizing the Merdarë/e Common Crossing Point facility; originally agreed in 2011'.<sup>4</sup> Several other meetings took place since September 2020, under the auspices of the European Union (EU), and nothing concrete came until September 2021. During that month the Government of Kosovo introduced reciprocal measures on the vehicle plates and deployed special police forces at the border crossings to implement the same.<sup>5</sup> Accordingly, Serbian-issued license plates would be replaced with temporary ones, when entering Kosovo's borders; a measure that Serbia had been applying since 2011. In response, Kosovo Serbs erected roadblocks leading to the two border crossings with Serbia, Bërnjak/Brnjak and Jarinjë/Jarinje.<sup>6</sup>

After some days of intense negotiations, on 30 September 2021, the parties reached the so-called Conclusions on de-escalation of the situation.<sup>7</sup> The agreement led to the withdrawal of special police forces from Bërnjak/Brnjak and Jarinjë/Jarinje; the application of the sticker regime on the vehicle plates upon the entry to each-other's border; and the formation of a Working Group (WG) of representatives of both parties and the EU, tasked with finding a permanent solution with regards to vehicle plates.<sup>8</sup> The European Commission chief Ursula von der Leyen described the agreement as 'a very positive development' which is 'good for the whole region' while adding that 'now the dialogue must continue'.<sup>9</sup>

The recent developments provided a new opportunity to re-engage in the dialogue and address all outstanding issues. The new agreement, in fact, may yield a window of chances to revisit the early arrangements, especially the FoM and IBM, and implement

<sup>4</sup> Economic Normalisation Agreement, 4 September 2020, at <https://dialogue-info.com/economic-normalization/>.

<sup>5</sup> Gazeta Express, Kosovo introduced reciprocity with Serbia on the use of vehicle plates, 20 September 2021, at <https://www.gazetaexpress.com/kosovo-introduces-reciprocity-with-serbia-on-use-of-vehicle-plates/>.

<sup>6</sup> Deutsche Welle, Kosovo: New restrictions on Serbian license plates spark protests, 21 September 2021, at <https://www.dw.com/en/kosovo-new-restrictions-on-serbian-license-plates-spark-protests/a-59246024>.

<sup>7</sup> Agreed Conclusions, 30 September 2021, at <https://dialogue-info.com/new-agreement-on-vehicle-car-plates/>.

<sup>8</sup> Ibid.

<sup>9</sup> The European Commission chief Ursula von der Leyen, Twitter, 30 September 2021, at [https://twitter.com/vonderleyen/status/1443533366716928005?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1443533366716928005%7Ctwgr%5E%7Ctwcon%5Esl\\_&ref\\_url=https%3A%2F%2Fwww.slobodnaevropa.org%2Fa%2Fsrbija-kosovo-brisel-sever-kriza%2F31485447.html](https://twitter.com/vonderleyen/status/1443533366716928005?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1443533366716928005%7Ctwgr%5E%7Ctwcon%5Esl_&ref_url=https%3A%2F%2Fwww.slobodnaevropa.org%2Fa%2Fsrbija-kosovo-brisel-sever-kriza%2F31485447.html).

them more efficiently.

## THE FREEDOM OF MOVEMENT

The topic of freedom of movement was brought to the negotiation table –for the first time– during the third round of the technical dialogue on 15 April 2011, along with the issues of diplomas and custom stamps. Three months later, on **2 July 2011**, on the fifth round of talks, Kosovo and Serbia reached the Agreement on the Freedom of Movement.<sup>10</sup> The agreement is based on the acceptance of travel documents between the two parties, thus establishing the ‘ID regime’ of travelling between Kosovo and Serbia.<sup>11</sup>

### FoM AGREEMENT AND IMPLEMENTATION ARRANGEMENTS:

- Agreement on the FoM, 2 July 2011;
- Operational Conclusions of FoM, 29 November 2011;
- Conclusions on FoM and Licensing, 16 September 2014;
- MoU on the Mutual Recognition of Motor Third Party Liability Insurance, 25 June 2015;
- Arrangement concerning the finalisation of implementation of 2011 FoM, 14 September 2016;
- Conclusions on de-escalation of situation and implementation of sticker regime, 30 September 2021.

To stimulate Kosovo Serbs to receive legal license plates, while giving up the illegal ones –KM, PR, PE, UR, PZ, GL– Kosovo agreed to extend the validity of KS plates for an initial period of five years, along with RKS plates.<sup>12</sup> As an interim measure, each party would enable the citizens of its counterpart to purchase border/boundary insurance.<sup>13</sup>

The Kosovo Government adopted the necessary legal acts to regulate the procedure for registering vehicles entering its territory with KS plates. This facilitated the overall recording process into the Kosovo Civil Registry. Accordingly, citizens (mostly Kosov Serbs) applying for ‘Republic of Kosovo (RKS)’ documents, could use the old ones to prove their identity and be listed into the system, by the applicable legislation of Kosovo.<sup>14</sup>

<sup>10</sup> Freedom of Movement Agreement, 2 July 2011, at <https://dialogue-info.com/freedom-of-movement/>.

<sup>11</sup> Ibid.

<sup>12</sup> Decision no. 06/42, 13 October 2011 for the registration of vehicles with KS license plates at [http://kryeministri-ks.net/repository/docs/Vendimet\\_e\\_mbledhjes\\_se\\_42-te\\_te\\_Qeverise\\_2011.pdf](http://kryeministri-ks.net/repository/docs/Vendimet_e_mbledhjes_se_42-te_te_Qeverise_2011.pdf); Decision no. 04/44, 26 October 2011, at [http://kryeministri-ks.net/repository/docs/Vendimet\\_e\\_mbledhjes\\_se\\_44-te\\_te\\_Qeverise\\_2011.pdf](http://kryeministri-ks.net/repository/docs/Vendimet_e_mbledhjes_se_44-te_te_Qeverise_2011.pdf); Administrative Instruction no. 24/2011 MIA (31 October 2011), regulating the procedure for registration of vehicles with KS license plates, at <https://mpb-ks.org/repository/docs/UA%20per%20Regjistrimin%20e%20Automjeteve%20me%20Targa%20%2001%2011%202011.pdf>; Decision No 5/134 (1 March 2017), at [http://www.kryeministri-ks.net/repository/docs/Vendimet\\_e\\_Mbledhjes\\_se\\_134-te\\_te\\_Qeverise\\_se\\_Republikes\\_se\\_Kosoves\\_2017.pdf](http://www.kryeministri-ks.net/repository/docs/Vendimet_e_Mbledhjes_se_134-te_te_Qeverise_se_Republikes_se_Kosoves_2017.pdf).

<sup>13</sup> Freedom of Movement Agreement, 2 July 2011, at <https://dialogue-info.com/freedom-of-movement/>.

<sup>14</sup> Ministry of Internal Affairs of the Republic of Kosovo, Administrative Instruction No.24/2011 on the Registration of vehicles with KS registration plates, Article 2, paragraph 1.2.

Legal Acts/ Decisions	Date
Administrative Instruction No 24/2011 on the Registration of Vehicles with KS registration plates	31 October 2011
Administrative Instruction No 38/2012 on the Registration of Vehicles from former FRY plates to temporary plates of Republic of Kosovo	18 December 2012
Administrative Instruction No 05/2017 on the criteria that contain evidence about the citizenship of the FRY and permanent residence in the territory of Kosovo on 1 January 1998	14 July 2017
Administrative Instruction No 02/2018 on the registration of vehicles with KS plates	16 March 2018

On **29 November 2011**, the experts' working group agreed on the Final Operational Conclusions, according to which the implementation was to start on 26 December.<sup>15</sup> These conclusions foresaw the application of the 'entry exit' document (accompanying IDs) from both sides. Kosovo, in reality, has stopped using this form since the early stages of the implementation. The reason for such a choice is twofold: it does not contain a security element for the identification of individuals crossing the border, and it only represents a barrier to free movement.<sup>16</sup> On the contrary, Serbia keeps issuing 'entry/exit' forms to all Kosovo citizens entering its territory up to this day.

Under the conclusions above, two transit border crossings were opened: one between Serbia and Hungary (Horgoš - Röszke), and one between Serbia and Croatia (Batrovci-Bajakovo).<sup>17</sup> RKS licence plates were to be replaced with temporary ones when entering the Serbian border; a right reserved for the Kosovo side too under the guidance of the EU. In contrast, KS vehicle plates were allowed to enter the Serbian border. Parties further expressed their commitment to work on introducing a 'neutral' temporary vehicle license plate as soon as operationally feasible.<sup>18</sup> As for the car insurance, they would, under the auspices of the EU/Council of Bureaux (CoB), continue to work for a commercial arrangement on mutual vehicle insurance for all vehicles on both sides of the border.<sup>19</sup>

**On 26 December 2011**, as the implementation began, parties convened to gradually open all other crossings points.<sup>20</sup> The implementation has been satisfactory, except in the northern part due to the obstacles of political nature, mainly related to the construction of barricades there.

<sup>15</sup> Final Operational Conclusions, 29 November 2011, at <https://dialogue-info.com/freedom-of-movement/>.

<sup>16</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>17</sup> Final Operational Conclusions, 29 November 2011, at <https://dialogue-info.com/freedom-of-movement/>.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Final Operational Conclusions, 29 November 2011, at <https://dialogue-info.com/freedom-of-movement/>.

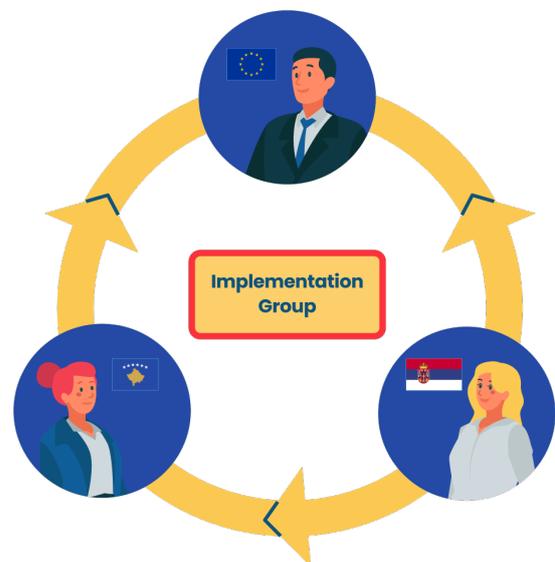
On 20 June 2013, the free movement and access to Jarinjë/Jarinje and Bërnjak/Brnjak Border Crossing Points (BCPs) by road, for Kosovo's and EULEX's officers, resumed.<sup>21</sup> The same has continued regularly ever since, with occasional incidents including the tragic death of a EULEX's staff member from Lithuania.<sup>22</sup>

Gradually, the barricades in the north were removed (between 2013 and 2014). On 18 June 2014, the then mayor of Mitrovicë/a North municipality, Goran Rakic, accompanied by Serbia's Director of Office for Kosovo, Marko Djuric, re-blocked the bridge by placing gravel pots, and renaming it the 'Peace Park'.<sup>23</sup> On 4 and 5 September 2014, the parties met in Brussels and agreed to remove the barricades with the possibility of revitalizing the bridge with EU funds.<sup>24</sup>

On **16 September**, tripartite meetings were held in Brussels with the parties agreeing on the FoM and Licensing to extend the freedom of movement arrangements to six more transit points from Serbia to third countries. Since then, Kosovo citizens could use two border crossing points between Serbia and Hungary (Horgoš - Rösze and Kelebija - Tompa), two border crossings between Serbia and Croatia (Batrovci - Bajakovo and Šid - Tovarnik), a border crossing between Serbia and Bulgaria, (Gradina - Kalotina), and one between Macedonia and Serbia (Preševo - Tabanovce).<sup>25</sup>

On 22 September 2014, the arrangements were further extended to Belgrade and Nis Airports and their implementation commenced on 15 November.<sup>26</sup>

After almost a year later, on **25 June 2015**, parties reached an agreement on mutual acceptance of vehicle insurance, the Memorandum of Understanding (MoU) on Mutual Recognition of Motor Third Party Liability Insurance facilitated by the EU and CoB.<sup>27</sup> In the following month, the implementation of the MoU started and has been satisfactory ever since. Yet, the cooperation of the Kosovo Insurance Bureau (KIB) with Serbia and with Montenegro, needs to advance, in a European spirit, towards membership in the CoB's Green Card



<sup>21</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>22</sup> The tragic death of a EULEX's staff member from Lithuania happened on 19 September 2013.

<sup>23</sup> Mitrovica Bridge Agreement, 22 July 2014, at <https://dialogue-info.com/mitrovica-bridge/>.

<sup>24</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>25</sup> Freedom of Movement Agreement, 2 July 2011, at <https://dialogue-info.com/freedom-of-movement/>.

<sup>26</sup> Ibid.

<sup>27</sup> Memorandum of Understanding, 25 June 2015, at <http://www.kryeministri-ks.net/respository/docs/>.

System. While the CoB, as a facilitator of this agreement together with the EU, is still to explore modalities to ensure Kosovo's admission in the Green Card system, it should focus -in the meantime- on opening points of sale of European green cards in Kosovo.<sup>28</sup>

In **August 2015**, after two years of intensive negotiations, the parties agreed to have the EU funding a project (1.2 million euro) for the revitalization of the Mitrovicë/a Bridge, to open it for all traffic by June 2016.<sup>29</sup> Also, they convened to pedestrianize North Mitrovicë/a's King Peter Street by the same deadline.

A year later, on **14 August 2016**, the barricade was removed from the Mitrovicë/a Bridge.<sup>30</sup> The FoM Agreement and the one on the removal of barricade from the Mitrovicë/a Bridge gave support to the ongoing local efforts of the Kosovo Ministry of Environment and Spatial Planning (MESP) to sign the MoU with Mitrovicë/a South and Mitrovicë/a North in the area of urban planning while abiding by the laws of Kosovo. The purpose was to have the municipality of Mitrovicë/a North accepting the Law on the delineation of the administrative line between the two municipalities, Mitrovicë/a South and Mitrovicë/a North, replacing the line located above the Ibër/Ibar River, and as set forth under the Ahtisaari Plan (2007).<sup>31</sup>

On **14 September 2016**, the parties agreed on the Arrangements concerning the finalisation of implementation of the 2011 FoM. Following this, the administrative infrastructure to register vehicles with license plates -issued by the Kosovo authorities- would be in place by November.<sup>32</sup> Civil Status and Vehicle Registration Offices in the northern municipalities were soon functionalized to provide citizens living there with KS or RKS license plates and

'By 10 October 2015 the maps of administrative boundaries of cadastral areas in Suvi Do/Suhadolli and Kroi i Vitakut/Brdjani area will be solved through the MoU on Municipal Development Plans, the Municipal Zoning Map and Detailed Regulatory Plan between relevant ministries and the two municipalities.'

other necessary documents.<sup>33</sup> Yet, these offices were attacked following the deployment of Kosovo's Police Special Units and the application of temporary probation plates. Later on, Serbia agreed to end the issuing of illegal license

<sup>28</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>29</sup> EEAS, EU-facilitated Dialogue: Implementation of the Agreement on the Mitrovica Bridge, 5 August 2016, at <https://eeas.europa.eu/headquarters/headquarters-homepage/8592/eu-facilitated-dialogue-implementation-agreement-mitrovica-bridge>; BalkanInsight, Kosovo's Symbolic Mitrovica Bridge Opening Delayed, 9 March 2017, at <https://balkaninsight.com/2017/03/09/kosovo-s-symbolic-mitrovica-bridge-opening-delayed-03-08-2017/>.

<sup>30</sup> EU Implementation Plan of the Agreement on the Mitrovica Bridge, 5 August 2016, at <https://dialogue-info.com/freedom-of-movement/>.

<sup>31</sup> For more, see Mitrovica Bridge Agreement, 22 July 2014, at <https://dialogue-info.com/mitrovica-a-bridge/>.

<sup>32</sup> Arrangements concerning the finalisation of implementation of 2011 freedom of movement, 14 September 2016, at <https://dialogue-info.com/freedom-of-movement/>.

<sup>33</sup> In December 2016, 15 officials from the former MUP (Ministry of Interior of Serbia) structures were integrated and employed in the Vehicle Registration Centers in the four northern municipalities, and since then they provided 1734 services to the citizens.

plates and to invalidate them within one year after the agreement.<sup>34</sup>

As for the RKS and SRB plates, both parties decided to use stickers covering their state symbols on their respective car plates when entering each other's territory. With a view to easing the process, Kosovo's authorities agreed to extend the validity of the KS plates to five years.<sup>35</sup> Besides that, the agreement provided a timeframe of 12 months for the registration of all vehicles in the northern municipalities (KM plates) with the license plates issued by Kosovo authorities (KS/ RKS). The registration process was to commence on 15 January 2017.<sup>36</sup> Nevertheless, this agreement was never implemented.<sup>37</sup>



Vehicles registration in the Northern Municipalities with KS-RKS car plates was supposed to commence on 15 January 2017 and to be completed within 12 months.

In its turn, Kosovo did not apply the sticker arrangement due to administrative obstacles with the procurement procedures preventing the authorities to purchase stickers.<sup>38</sup>

In addition, the removal of the remaining illegal plates has not progressed mainly in the northern municipalities with uncounted unregistered cars with illegal plates still in circulation.<sup>39</sup>

Besides that, the Kosovo Government decision to impose 100% tariffs on goods originating from Serbia, in 2018, stalled the whole implementation of the agreement.<sup>40</sup> What's more, the planned information campaign aiming to explain the modalities for re-registration of vehicles to the affected residents was never carried out. In addition to that, the 1-year transitional period was not applied.<sup>41</sup>

On **15 September 2020**, the second 5-year extension for KS plates, pursuant to the 2016 Agreement, expired.<sup>42</sup> And, on **20 September**, the Ministry of Internal Affairs of Kosovo (MoIA) began to implement reciprocity measures obliging all cars to replace the Serbian plates with RKS temporary ones upon crossing the border.<sup>43</sup> The reason behind Kosovo's staunch move is twofold: to counteract Serbia's unilateral application of the same measure for 10 years; and a by-product of the parties' failure to implement the sticker

<sup>34</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>35</sup> Arrangements concerning the finalisation of implementation of 2011 freedom of movement, 14 September 2016, at <https://dialogue-info.com/freedom-of-movement/>.

<sup>36</sup> Freedom of Movement Agreement, 2 July 2011, at <https://dialogue-info.com/freedom-of-movement/>.

<sup>37</sup> The Kosovo Government has approved the new agreement through the Decision No. 2/132, 16 February 2017, at [http://kryeministri-ks.net/repository/docs/Vendimet\\_e\\_Mbledhjes\\_se\\_132-te\\_te\\_Qeverise.pdf](http://kryeministri-ks.net/repository/docs/Vendimet_e_Mbledhjes_se_132-te_te_Qeverise.pdf).

<sup>38</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>39</sup> Ibid.

<sup>40</sup> For more, see Balkans Group report, The Brussels Dialogue between Kosovo and Serbia. Achievement and Challenges, October 2020; Government of the Republic of Kosovo, Decision Nr. 01/74, 6 November 2018.

<sup>41</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>42</sup> On 17 September 2020, Kosovo Minister of Internal Affairs has adopted the decision on abolishing the Administrative Instruction No 02/2018, thus terminating the validity of the KS plates.

<sup>43</sup> MoIA Decision 0612/2021 on reciprocity measures for license plates of Serbia entering to Kosovo.

arrangement. Whereas the decision is fully legitimate, its modalities should have been much different for ensuring implementation and avoiding tensions.

The Government could have launched, for instance, an information campaign –jointly with the Serb-elected representatives in Kosovo (at local and central level)– to raise awareness among its citizens, particularly those living in the northern municipalities and those affected by this decision, on the expiry of KS vehicle plates’ validity and the new arrangement. At the same time, it could have also brought the issue up within the EU- facilitated dialogue framework.

The current governments’ approaches and actions, instead, led to increased tensions in northern Kosovo and showed the fragility of the situation. After days of intense negotiations under the facilitation of the EUSR, supported by the US Deputy Assistant Secretary of State for European and Eurasian Affairs, Gabriel Escobar, the parties agreed to apply the sticker regime as a temporary measure until a final sustainable solution is agreed.<sup>44</sup>

On **30 September 2021**, Kosovo and Serbia finally reached the so-called conclusions on de-escalation of the situation.<sup>45</sup> This arrangement has some similarities and differences with the 2016 conclusions. First and foremost, both agreements enforce reciprocity by applying the sticker regime (covering state symbols on car plates) in search for a long-term arrangement. The 2021 Agreement envisages the establishment of a working group –consisting of representatives from Belgrade, Pristina and EU- to find a permanent solution within 6 months.<sup>46</sup> As for the 2016 Agreement, it did not refer to any similar mechanism. However, it foresaw an information campaign to notify the affected residents about the modalities for re-registering their vehicles.<sup>47</sup> Another major difference concerns the illegal plates with acronyms of Kosovo’s cities, such as KM, GL, PR, PE, UR, PZ etc. The 2016 Agreement foresaw their replacement with KS or RKS plates issued by Kosovo authorities.<sup>48</sup> However, with the 2021 Agreement, the illegal car plates are not explicitly mentioned, meaning that the sticker regime will apply to them too.<sup>49</sup> Consequently, some argue that this arrangement is indirectly ‘legalising’ the illegal car plates.<sup>50</sup> Pertaining to the issue of KS car plates; the 2016 Agreement extended their

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<sup>44</sup> VoA, Kosovo, Serbia reach deal to end border Tensions, 30 September 2021, at <https://www.voanews.com/a/kosovo-serbia-reach-deal-to-end-border-tensions-/6251804.html>.

<sup>45</sup> Agreed Conclusions, 30 September 2021, at <https://dialogue-info.com/new-agreement-on-vehicle-car-plates/>.

<sup>46</sup> Ibid.

<sup>47</sup> Freedom of Movement Agreement, 2 July 2011, at <https://dialogue-info.com/freedom-of-movement/>.

<sup>48</sup> Ibid.

<sup>49</sup> Agreed Conclusions, 30 September 2021, at <https://dialogue-info.com/new-agreement-on-vehicle-car-plates/>.

<sup>50</sup> Alsat M, Fillon Zbatimi i Marrëveshjes për Targat, Kosova e Serbia mbulojnë Simbolet Shtetërore, Kosovo and Serbia cover their state symbols, 4 October 2021, at <https://alsat.mk/fillon-zbatimi-i-marreveshjes-per-targat-kosova-e-serbia-mbulojne-simbolet-shteterore/>; RadioFreeEurope, Abelard Tahiri: Për herë të parë në Kosovë, Qeveria Kurti legalizoi targat e lëshuara nga Serbia, 6 October 2021, at <https://www.radiokosovaelire.com/abelard-tahiri-per-here-te-pare-ne-kosove-qeveria-kurti-i-legalizojte-targat-e-leshuara-nga-serbia/>.

validity for 5 more years, while the 2021 Agreement ended their circulation.<sup>51</sup> Lastly, through the 2021 Agreement, Kosovo special force units were removed from the two CCPs in Bërnjak/Brnjak and Jarinjë/Jarinje and KFOR was deployed for approximately two weeks to maintain a secure environment and free movement.<sup>52</sup>

The Kosovo government shall do the utmost to make long term arrangements with Serbia, otherwise, these issues will again become a source of tensions.

Agreement 2016	Agreement 2021
Covering of state symbols of one's own car plates, when entering the other party's border (not applied in practice).	Covering of state symbols of one's own car plates, when entering the other party's border (applied).
Carrying an information campaign to inform the affected residents about the modalities of re-registering their vehicles.	Establishing a Working Group to find a permanent solution to the license plates within six months.
Extending the validity of KS plates for 5 years.	Ending the circulation of KS plates.
Replacing Serbian [illegal] license plates (PR, GL, KM) with Kosovo [legal] plates (KS and RKS).	Temporarily applying the sticker regime to Serbian [illegal] license plates.

## Between Progress and Setbacks

The implementation of the FoM agreement has positively affected citizens' lives in a consistent way. To start with, there has been an enormous increase in the movement of passengers and cars between Kosovo and Serbia, since December 2011. Also, it has shortened distance and reduced costs of travelling to European countries for citizens and particularly for the Diaspora, in comparison to other transit options, via Albania, Macedonia or Montenegro, which are much more distant, and thus more expensive.<sup>53</sup> The MoU on mutual acceptance of vehicle insurance has also removed the additional costs (tariffs) that citizens had to pay for insuring their vehicles on crossing from Kosovo to Serbia and the other way around. Besides that, it has facilitated the establishment of a legal order regarding the use of Kosovo IDs and legal vehicle license plates, as well as the removal of parallel offices that issued such documents in Kosovo. Over 60,000 members of the Serb community received Kosovo IDs, whereas 1782 cars in the northern municipalities have been registered with Kosovo license plates.<sup>54</sup> Despite the benefits, some obstacles remain. Particularly, the continued issuance of the 'entry-exit' form,

<sup>51</sup> Freedom of Movement Agreement, 2 July 2011, at <https://dialogue-info.com/freedom-of-movement/>.

<sup>52</sup> Agreed Conclusions, 30 September 2021, at <https://dialogue-info.com/new-agreement-on-vehicle-car-plates/>.

<sup>53</sup> Freedom of Movement, 2 July 2011, at <https://dialogue-info.com/freedom-of-movement/>.

<sup>54</sup> Data from the Civil Registration Agency, Ministry of Internal Affairs, Republic of Kosovo, 21 December 2021; Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

Registration of vehicles in northern municipalities with RKS plates	
Leposaviq/ Leposavić	239
North Mitrovicë/a	937
Zubin Potok	359
Zveçan/Zvečan	247
<b>TOTAL</b>	<b>1782</b>

by Serbian authorities, for all passenger holders of Kosovo ID cards causes constant delays. The rationale behind this practice is to avoid the Serbian authorities 'facing' documents of the Republic of Kosovo.<sup>55</sup>

At the start, both governments made efforts to fulfil their part of the commitment and implement

the agreements in good faith, despite some setbacks or minor incidents on the ground. Their initial engagement was due to high expectations both in Belgrade and Prishtina. Concretely, Serbia was expecting accession to the EU.<sup>56</sup> And Kosovo was willing for advancement towards the EU and for gaining recognitions.<sup>57</sup> Nevertheless -by 2017- parties lost the *momentum* to advance constructively with the pace of implementation.

Unilateral actions of Serbia and Kosovo -arbitrary arrests, intentional restrictions and hindrances to the free movement, taxes (10% and 100%), issuing of the illegal vehicle plates etc. - have certainly devastated the implementation of the FoM and the IBM. What complicated things further was Serbia conditioning the implementation of agreements with other arrangements, specifically the Association/ Community of Serb-majority Municipalities (A/CSM).<sup>58</sup>

## SERBIA

## KOSOVO

Conditioning the implementation of other agreements with that of ASM

Issuing license plates with denomination of Kosovo cities

Arbitrary arrests of Kosovo citizens travelling in or through Serbia

Intentionally slowing down border controls during the holiday seasons

Preventing third-country nationals to enter Serbia from Kosovo (with Passports that don't have an extant (90-days) Serbian entry stamp), despite the EU Chapter 35 calling on Serbia to resolve this issue

Unwilling to implement ASM, following the Kosovo Constitutional Court's ruling of 25 August 2015

Deciding to impose tariffs (10% and 100%) on Serbian goods entering its territory

Disbanding the Ministry for Dialogue as well as all relevant implementation mechanisms at the technical level such as IBM IGs

In Kosovo, the Haradinaj government dismantled the Ministry for Dialogue and it is to question whether this move signalled somehow a drawback in the overall process. Yet, in absence of a proper governmental structure dealing with the dialogue, Kosovo

<sup>55</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>56</sup> European Parliamentary Research Service, Belgrade- Pristina Dialogue: The rocky road towards a comprehensive normalisation agreement, March 2021, at <https://cor.europa.eu/en/events/Documents/CIVEX/6th-enlargement-day/Belgrade-Pristina%20dialogue.pdf>.

<sup>57</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>58</sup> Ekonomia Online, Daçiq: Pa Asociacionin, nuk ka marrëveshje të Brukselit, 27 February 2018, at <https://ekonomiaonline.com/globi/rajon/daciq-pa-asociacionin-nuk-ka-marreveshje-te-brukselit/>.

has missed the opportunity to engage effectively, while not pushing the agreements' implementation forward. In fact, this has affected the IBM Implementation Group (IG) meetings at all levels. But, shifting the focus to searching for 'a final comprehensive agreement' is what particularly made the parties lose track on FoM and IBM. In this context, the EU stepped back.

### Custom stamps: between FoM and IBM

The first phase of the EU-facilitated dialogue didn't address IBM. Rather, it dealt with issues such as freedom of movement, registry books, cadastral records, free trade, recognition of university diplomas, etc. But the parties agreed on the necessity to enhance cooperation in border management as a tool/platform to facilitate the implementation of the agreements, mainly the one on FoM, following the developments on the ground.

At that time, Serbia was only accepting UNMIK stamps, thus banning the entry of Kosovo goods. As a consequence, the then Kosovo Ministry of Trade imposed reciprocity by not accepting the custom stamps of Serbia on **20 July 2011**.<sup>59</sup> After five days, the government deployed special police units to take control of two CP's in the north, Jarinje/Rudnica (Gate 1) and Brnjak/Tabavije (Gate 31), in a bid to enforce the trade ban for Serbia's goods. Unrest in the northern municipalities followed. One Kosovo police officer was killed in the operation.<sup>60</sup> The roads to the northern municipalities of Leposaviç/Leposavić and Zubin Potok were blocked by trucks, and barricades were erected afterwards by the so-called parallel structures. Serbia called for an urgent session of the UN Security Council to discuss the situation in Kosovo.<sup>61</sup>

On respectively **28** and **31 July 2011**, the Assembly of Kosovo and that of Serbia adopted separate documents calling on the peaceful settlement of the crisis.<sup>62</sup>

On 5 August, the Kosovo Government and KFOR reached an agreement making KFOR's troops responsible for the border crossing points until 16 September 2011.<sup>63</sup>

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<sup>59</sup> Reuters, Kosovo bans Serbian imports, taxes Bosnian goods, 20 July 2011, at <https://www.reuters.com/article/kosovo-serbia-trade-idUSLDE76J1AC20110720>.

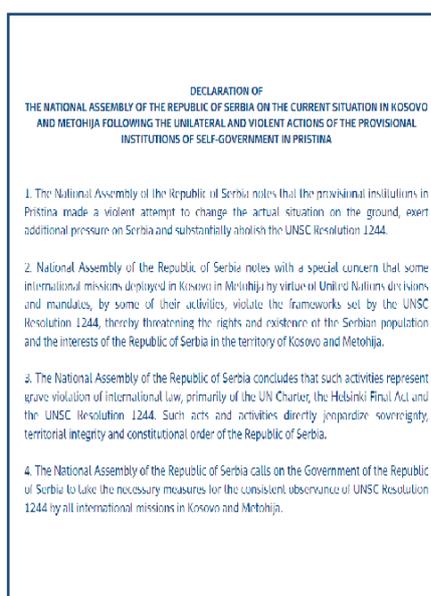
This measure has triggered the parties to agree on Custom Stamps and IBM agreements. Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>60</sup> International Crisis Group Report, Kosovo and Serbia: A Little Goodwill Could Go a Long Way, 2 February 2012, at <https://www.crisisgroup.org/europe-central-asia/balkans/kosovo/kosovo-and-serbia-little-goodwill-could-go-long-way>.

<sup>61</sup> *ibid.*

<sup>62</sup> Assembly of the Republic of Kosovo, Resolution for the North, 28 July 2011, at: [http://old.kuvendikosoves.org/common/docs/Rezoluta\\_per\\_veriun\\_e\\_%20Kosoves.pdf](http://old.kuvendikosoves.org/common/docs/Rezoluta_per_veriun_e_%20Kosoves.pdf); Assembly of the Republic of Serbia, Declaration on the Current Situation in Kosovo and Metohija following the Unilateral and Violent Actions of the Provisional Institutions of Self-Government in Pristina, 31 July 2011, at: <https://www.srbija.gov.rs/kosovo-metohija/en/98377>.

<sup>63</sup> This was a bilateral agreement between the Government of Kosovo and KFOR, which cannot be related to the involvement of KFOR in the dialogue process, as it was the case with the 2021 Agreement. Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina



Meanwhile, before all barricades would be removed and the freedom of movement restored, Kosovo's Border Police and the customs officers would be transported to the northern CP's by EULEX's helicopters, to execute their duties. On **2 September 2011**, under the EU-facilitation,

Kosovo and Serbia reached an agreement on Custom Stamps.<sup>64</sup>

## THE INTEGRATED BORDER MANAGEMENT (IBM)

Shortly after agreeing on FoM and Customs Stamps, the parties involved in the dialogue realized that IBM is the missing puzzle that would provide the instruments to facilitate free movement of people (FoM) and goods (Custom Stamps) in the practice.

On **11 October 2011**, then EU mediator Robert Cooper visited Prishtina and introduced –for the first time– the idea of Integrated Border Management (IBM) between Kosovo and Serbia. The first meetings to discuss IBM arrangements were held on 20 and 21 October 2011 in Brussels.<sup>65</sup>

One month later, on 10 November 2011, the EU presented the first version of IBM to both parties. Kosovo refused it because the acronym of IBM was changed into IBBM (Integrated Border/ Boundaries Management). The Government, in fact, confirmed its position for an agreement based on EU standards and the genuine concept of IBM.<sup>66</sup>

Ten days later, between 21 and 22 November 2011, the seventh round of talks of the technical dialogue took place in Brussels, with one topic on the agenda– IBM. Within two weeks (21 November to 2 December 2011), the parties discussed fourteen (14) drafts of the IBM agreement.<sup>67</sup>

On **2 December 2011**, the delegations of Kosovo and Serbia finally concluded the Agreement on IBM.<sup>68</sup> The following year, on 24 January 2012, Kosovo's team of experts

<sup>64</sup> Custom Stamps Agreement, 2 July 2011, at <https://dialogue-info.com/custom-stamps/>.

<sup>65</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>66</sup> Ibid.

<sup>67</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>68</sup> IBM Agreement, 2 December 2011, at <https://dialogue-info.com/integrated-border-boundary-management/>.

finalized the first draft of the IBM protocol and submitted it to the EU.<sup>69</sup>

#### IBM AGREEMENT AND IMPLEMENTATION PROTOCOLS:

- Agreement on IBM, 2 December 2011;
  - IBM Technical Protocol, 23 February 2012;
- Final Action Plan of the Implementation Group (IG) for the Technical Protocol on IBM, 4 December 2012;
- Agreement on Electronic Exchange of Customs Data (SEED), 24 January 2013;
  - Agreement on Mutual Legal Assistance, 9 January 2013;
  - Agreement on layouts for the IBM Permanent Crossing Point, IBM Implementation Group (IBM IG), 4 September 2014.

Throughout February 2012, other meetings were held in Brussels. On 21 and 22 February 2012, the twelfth pre-final draft of the technical protocol was discussed in the plenary meeting with the participation of both chief negotiators. Key contentious issues were the role of EULEX at the CCP's and the equal treatment of all common crossings, including the location of IBM CCP's.<sup>70</sup>

To provide for more clarity on EULEX's mandate, Baroness Ashton sent a letter, on **23 February 2012**, to Serbian President Tadić explaining that the mission's mandate was pursuant to Council Joint Action (CJA) 2008/124 (Monitoring, Mentoring, and Advising - MMA) within the Framework of 1244 Resolution.<sup>71</sup> On the same day, the Prime Ministers of Kosovo and Serbia Signed the Technical Protocol for the implementation of the agreement on IBM.<sup>72</sup>

On 29 February, Kosovo Government approved the Technical Protocol and authorized the Minister of Internal Affairs to sign it and to formally notify the EU mediator thereupon.<sup>73</sup> The Serbian government adopted it only seven months later, on 27 September.<sup>74</sup>

On 10 September 2012, the IBM Implementation Group (tri-partite expert teams, known as

<sup>69</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>70</sup> Press Statement, EU facilitated dialogue: Agreement on Regional Cooperation and IBM technical protocol, 24 February 2012, Brussels, at <https://data.consilium.europa.eu/doc/document/ST-5455-2012-INIT/en/pdf> and Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>71</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina; Official Journal of the European Union, Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX Kosovo, 16 February 2008, at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008E0124>; EULEX's website, at <https://www.eulex-kosovo.eu/?page=2,44,197>.

<sup>72</sup> Integrated Border Management Agreement, 2 December 2011, at <https://dialogue-info.com/integrated-border-boundary-management/>.

<sup>73</sup> Republic of Kosovo, Decision, 29 February 2012, at [https://kryeministri.rks-gov.net/wp-content/uploads/docs/vendimet\\_e\\_mbl\\_63.pdf](https://kryeministri.rks-gov.net/wp-content/uploads/docs/vendimet_e_mbl_63.pdf).

<sup>74</sup> Balkans Group interview with a member of the EU facilitation team in the IBM IG, November 2021. Officially, Serbia's justification was related to internal legal procedures/governmental decrees. Nevertheless, it was clear that Belgrade tried to postpone the implementation and to re-open the discussion on certain aspects of the agreement.

IG) had its first meeting in Brussels. They discussed the draft Action Plan and Terms of References.<sup>75</sup>

On **4 December**, the parties agreed on the IBM Action Plan paving the way to start implementing the IBM Agreement and Technical Protocol. As per the Technical Protocol and the Action Plan, both parties established IBM Crossing Points at Jarinjë/Rudnica, Dheu i Bardhë/Konçulj, Tabavije/Bërnjak, Merdarë/Merdare, Depce/Muçibabë and Mutivodë/Mutivode.<sup>76</sup>



On **10 December**, the IBM CCPs Jarinjë/Jarinje and Merdarë/Merdare were fully operational; followed by Dheu i Bardhë/Konqul and Tabalije/Brnjak on 31 December, and finally Depce/Muçibabë- and Mutivodë/Mutivode on **28 February 2013**.<sup>77</sup>

The agreement explicitly confirmed the validity of jurisdiction of each respective party: 'At the core of the arrangement, there will be a clear assignment of applicable legal responsibilities and

liabilities to each party's jurisdiction'.<sup>78</sup>

The parties agreed to establish a balanced presence of all competent authorities in the ZCPs, in line with the necessary requirements, such as Customs, Police, Phytosanitary and Veterinary, auxiliary, and other services. Each party's competent authority agreed to carry out separate controls in their respective ZCPs. These were bound to fully respect human rights as guaranteed by European and international standards.<sup>79</sup>

Overall, IBM aimed to enhance border management and cooperation. Yet, it was not projected to become a one-stop shop, like the one between Albania and Montenegro in Muriqan-Sukobina. The parties agreed that Kosovo will be the hosting party (meaning

<sup>75</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina. Members of the Kosovo expert team were: Chief Advisor in the Ministry for Internal Affairs (Coordinator of the Group), Chief Advisor of the Deputy Prime Minister for the Dialogue, Head of Strategic Planning Office of the Prime Minister, Head of Customs, Director of Border Police, Chief Executive Officer of the Food and Veterinary Agency and Director of the Cadastral Agency.

<sup>76</sup> Previously, these Crossing Points were called Administrative boundary lines. Integrated Border Management Agreement, 2 December 2011, at <https://dialogue-info.com/integrated-border-boundary-management/>.

<sup>77</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina; Balkans Group interview with an EU expert, 3 March 2022, Prishtina.

<sup>78</sup> Ibid.

<sup>79</sup> Technical Protocol for implementation of the IBM, 23 February 2012, at <https://dialogue-info.com/integrated-border-boundary-management/>.

'In line with the Lisbon treaty and relevant EU legislation, and given that both parties are part of the EU Western Balkans Agenda, they will be required gradually to harmonize their legislation with the EU Acquis and in particular apply the concept of IBM'.

that it will be responsible to prepare the necessary setup for the IBM facilities placed on its territory) of three CCPs: Merdarë/Merdare, Bërnjak/Tabavije and Mutivodë/Mutivode. Whereas Serbia would host three others: Jarinjë/Jarinje Rudnica, Depce/Mucibabë and Dheu i Bardhë/Konqul.<sup>80</sup>

The hosting Party, in agreement with the other Party, was responsible to make all necessary arrangements for the provision of the locations for establishing appropriate interim CP facilities. Also, it was in charge of making available the necessary infrastructure for a balanced presence of all competent authorities, such as Customs, Police, Phytosanitary and Veterinary, auxiliary and other services (as set out under Article 3 of this Technical Protocol), in the two parties' respective territory. This *modus operandi* was in line with the requirements of all competent authorities of each Party, for carrying out controls by their mutual applicable legal responsibilities and liabilities.<sup>81</sup>

- Customs;
- Police;
- Phytosanitary and Veterinary;
- Auxiliary; and other services.

The Technical Protocol and the Action Plan laid down two phases of IBM CCPs: an interim phase with temporary buildings and a second phase with the establishment of permanent ones in line with the EU standards. The design of each IBM CP has followed the agreed template, which was adapted to the requirements/needs/traffic/terrain for each CP.<sup>82</sup>

The hosting party was also responsible for the safety and security of all officials deployed to the CCPs/ZCPs within its boundaries, as well as for the security of those of the other party.<sup>83</sup>

The parties agreed for the IBM CPs to operate 24/7. Customs, Police, Phytosanitary and Veterinary, auxiliary, and other services, as appropriate, are functioning according to a twelve (12) hours shift. At the CP, the use of force and other law enforcement is regulated by

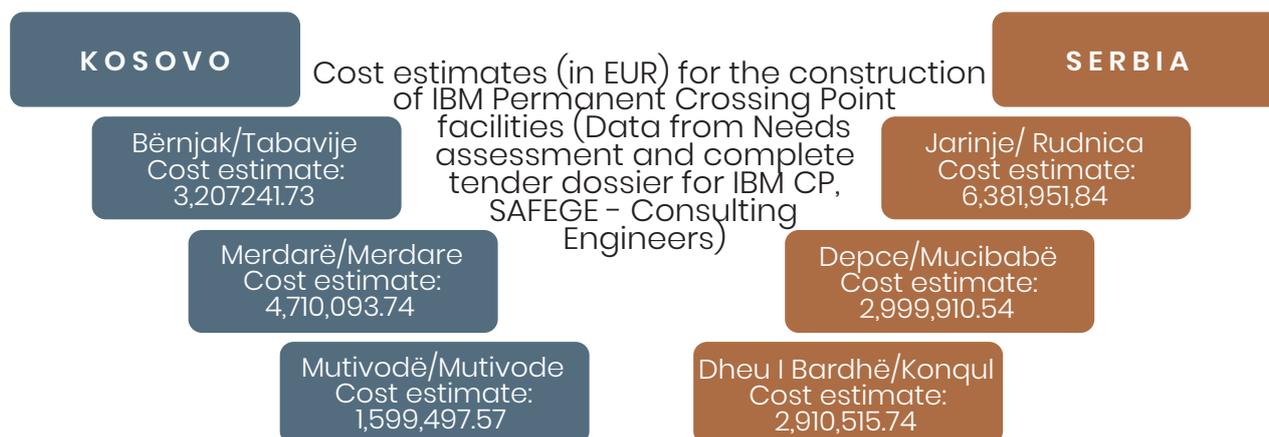
<sup>80</sup> Technical Protocol for implementation of the IBM, 23 February 2012, at <https://dialogue-info.com/integrated-border-boundary-management/>.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid. The maintenance, including that of services such as water, electricity, waste collection, was provided by the hosting Party, where the respective CP/ ZCP was located. Besides that, the hosting Party was in charge of covering the costs for operating/maintaining the CP/ZCP in its territory.

<sup>83</sup> Ibid. The planning and implementation of relevant safety and security measures were undertaken in line with the EU standards. Pursuant to internationally established practices, the actions carried out by the officials of the parties on their way to and in the Zone of CCPs are considered as undertaken in the respective territory of the Party concerned. When CCPs/ZCPs are located in the territory of one party, the road behind the hosting Party is under its control for IBM checks, as well as for any other purpose.

each party's own legislation.<sup>84</sup> The parties also agreed to establish temporary measures for eased traffic controls in case of extraordinary and unforeseen circumstances, caused by unusual and increased levels of traffic flows. On **4 September 2014**, the parties agreed on the IBM permanent common crossing point model under a single roof and based on EU standards.<sup>85</sup> The European Commission/Directorate for Enlargement allocated EUR 22 million, from the IPA funds of both countries, for the construction of permanent crossing points.<sup>86</sup>



The construction of the permanent facilities followed the arrangement 3+3 applied for the interim facilities. As for the location, the parties agreed to present their maps and organized tri-partite field visits with cadastral experts, by disposing of proper digital equipment to mark the dots on the exact location of the future IBM CP facilities. Also, they decided that the location for the permanent CCPs should take into account the terrain and technical considerations on the ground, as close as possible to the agreed and marked dots, but within 200 meters.<sup>87</sup>

Kosovo had embarked immediately on the implementation process regarding the construction of the IBM permanent buildings. A project multi-stakeholders board was founded as per the planned dynamics, carrying out its responsibilities related to the implementation of the project designs and other related assignments.<sup>88</sup> On 27 November 2014, Kosovo proposed the Action Plan for Permanent CCPs to the EU.<sup>89</sup>

<sup>84</sup> Technical Protocol for implementation of the IBM, 23 February 2012, at <https://dialogue-info.com/integrated-border-boundary-management/>.

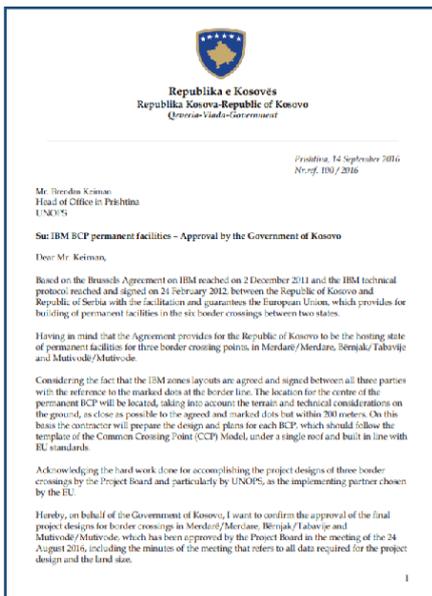
<sup>85</sup> Brussels Agreement on Layouts for the IBM Permanent Crossing Points between two states, 4 September 2014, at <https://dialogue-info.com/integrated-border-boundary-management/>.

<sup>86</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina and IPA Committee Meeting, 30 September 2015, at [https://www.europa-nu.nl/id/vjuu4wywdcq/agenda/7th\\_ipa\\_ii\\_committee\\_meeting\\_30\\_june?ctx=vhpxzxt55hxy](https://www.europa-nu.nl/id/vjuu4wywdcq/agenda/7th_ipa_ii_committee_meeting_30_june?ctx=vhpxzxt55hxy).

<sup>87</sup> Conclusions of the IBM IG Chair, 20 November 2013.

<sup>88</sup> Republic of Kosovo, Official Letter from Minister for Dialogue, Edita Tahiri, to UNOPS, 14 September 2016. The project board was composed of the Ministry of Dialogue – as the Chair of the board, the Ministry of Internal Affairs, the Ministry of Environment and Spatial Planning, Kosovo Police, Kosovo Customs, the European Union, The European Union Office in Kosovo and UNOPS.

<sup>89</sup> Balkans Group interview with a Kosovo member of the IBM IG, November 2021.



As per the agreed layout, the new permanent IBM common crossing points would consist of the following construction requirements: Perimeter security requirements for the crossing point; Road-works for the upgraded crossing point; Parking/overflow areas for vehicles; Administrative building for officials; Structural steel canopy across the main elements of the crossing point; Public and service buildings for citizens; Installation of electrical network and systems, including main power, low voltage power, CCTV infrastructure, street lighting, communications; Installation of mechanical network and systems for water, fire-fighting and stormwater/sewerage drainage systems; Public utility/services connection for the infrastructure; Soft landscaping and planting.<sup>90</sup>

#### THE IMPLEMENTATION MEASURES INCLUDED:

- Expropriating the land where the IBM CCPs will be built;
- Verifying whether there are urban regulatory plans in place for the locations, where the IBM CCPs will be constructed;
- Issuing the construction permits for IBM CCPs; verification of the state and condition of supporting infrastructure (electricity, water, sewage, and telephone);
- Establishing which buildings need to be removed or demolished in the area;
- Setting forth the temporary measures, which need to be taken to maintain the functioning of the existing IBM CCPs until the new ones are built etc.

The construction of the Merdarë/Merdare IBM CP kicked off on **16 February 2017** and was completed in **October 2018**.<sup>91</sup>

The construction of Mutivodë/Mutivode IBM CP started just a few months later and ended in **July 2019**. The same did not commence in Bërnjak/Brnjak, because -allegedly- the Mayor of the Municipality of Zubin Potok, under the instructions from the authorities in Belgrade, obstructed the process and failed to cooperate in creating the pre-conditions (electricity, water, sewage, etc.) for the construction work

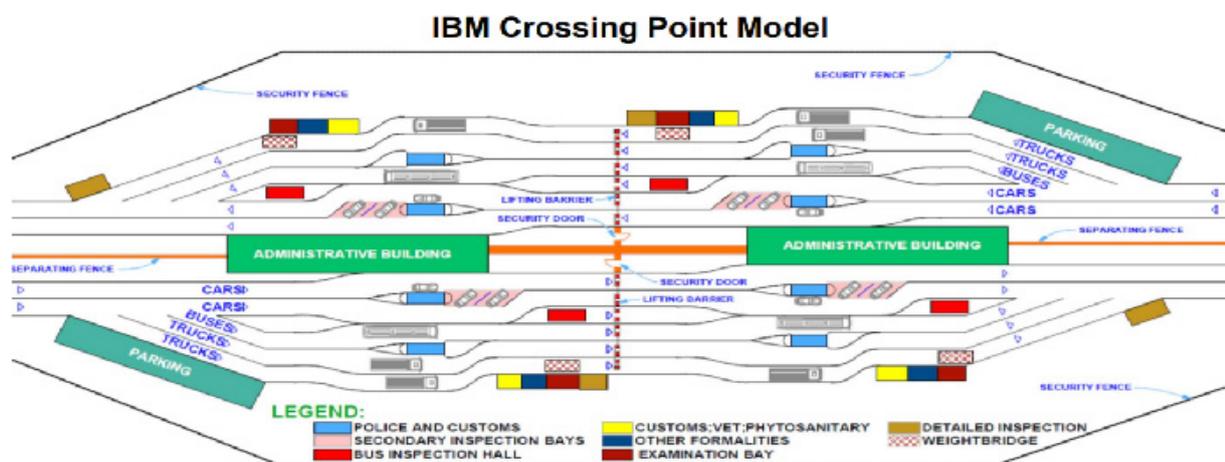


<sup>90</sup> For more, see UNOPS's website at [www.unops.org/news-and-stories/stories/crossing-points](http://www.unops.org/news-and-stories/stories/crossing-points).

<sup>91</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

to begin.<sup>92</sup>

In addition to the existing 6 CCPs, Kosovo and Serbia agreed to open two new crossing points respectively in Kapia e Sfirçës, located between the municipality of Kamenicë/a (Kosovo) and Medvegjë/Medveda (Serbia), and in Izvor, located between the municipality



of Zubin Potok (Kosovo) and Novi Pazar (Serbia).<sup>93</sup>

Kosovo had initiated talks on the new CCP at Kapia e Sfirçës with the aim of reducing the distance for travelling for citizens of both sides living near the border areas. The opening of the new common crossing point in Kapia had the full backing of the municipal authorities in Kamenicë/a and Medvegjë/Medveda. It would facilitate the free movement of citizens, especially those from Medvegjë/ Medveda, by shortening their travelling time to about 100 km. Through this crossing point, citizens will be able to come to Kosovo by road for 28 kilometres only.<sup>94</sup> Furthermore, during the summer season and holiday periods, this CCP would allow the Diaspora travellers to have one more access point in and out of Kosovo. Also, it may help to improve the economic situation of residents of this border zone, as the terrain is very suitable for rural tourism. Serbia had initiated talks on the opening of CCP Izvor to allow local communities in the area of Zubin Potok and Novi Pazar to enjoy the same practical benefits.<sup>95</sup>

Up to date, the construction of the common crossing points in Kapia and Izvor are completed,<sup>96</sup> yet since the IBM IG did not meet to finalise agreements to the opening of both CCPs, they remain non-functional.<sup>96</sup>

Overall, whether the interim common crossing points with Kosovo continue to be

<sup>92</sup> Ibid.

<sup>93</sup> A regular meeting of the IG on the IBM Agreement, 23 June 2016, Brussels, at <https://dialogue-info.com/a-regular-meeting-of-the-implementation-group-on-the-ibm-agreement/>.

<sup>94</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina.

<sup>95</sup> Balkans Group interview with an EU expert, 3 March 2022, Prishtina

<sup>96</sup> Ibid.

operational, there has been no progress in establishing the permanent IBM CCPs between Serbia and Kosovo as stipulated in the agreement. Serbia did not start implementation of permanent crossing points on the Serbian side. This situation led to a suspension of EU funds in July 2018.<sup>97</sup>

### **Information-sharing and regular meetings**

Parties had established mechanisms for exchanging information and other data in relevant areas for the prevention, detection, and investigation of criminal activities, as well as for the protection of lives and health of people, animals and plants, environment, and food safety, in their respective areas of responsibility.<sup>98</sup> These mechanisms have included the exchange of statistics on the movement of persons and goods. The parties even agreed to assist one another in all areas related to any kind of criminal or any other illegal activities at the border within their areas of responsibility.

A critical achievement was setting up meetings at the local, regional and central level. Meetings at the local –the CP– level took place at least once a week (later changed to biweekly), between the competent authorities, in line with the requirements, such as Customs, Police, Phytosanitary and Veterinary, auxiliary, and other services of each Party at the ‘BCP’. Also, the competent authorities had established their Terms of Reference (ToR). Meetings at the regional level took place at least once a month (later changed to bimonthly), between the respective officials in charge of the border regions.<sup>99</sup> As for the meetings at the central level, these were held twice a year between the respective heads of agencies of both parties.<sup>100</sup> These meetings continued until the end of March 2018, when Belgrade cancelled all joint meetings.<sup>101</sup>

The meeting places alternated between the parties. The inviting/hosting party drafted an official record (agenda and minutes), which was then agreed with the other party. Both sides opted for direct verbal communication by telephone and established Technical Working Groups. In addition, the IG has been meeting regularly in Brussels (until 2017) to take stock of the implementation and address any inconsistencies or concerns that the parties might raise.<sup>102</sup>

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<sup>97</sup> European Commission, Commission Staff Working Document Serbia 2020 Report, page 67, at [https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/serbia\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/serbia_report_2020.pdf).

<sup>98</sup> Ibid.

<sup>99</sup> There are 3 Regional Border Directorates: ‘North’; ‘East’ and ‘West’. Regional Directorate North is responsible for the following border crossing points: Merdare, Jarinje, Brnjak and Mutivode. Regional Directorate East is responsible for: Dheu i Bardhe and Muqibabe. Hani i Elezit and Gllloboqice. Regional Directorate West is responsible for: Vermice, Qafe Prush, Qafe Morine, Kulle, Shishtavec, Orqushe and Borje.

<sup>100</sup> Balkans Group interview with a member of the Kosovo’s team of experts, October 2021, Prishtina.

<sup>101</sup> Balkans Group interview with an EU expert, 3 March 2022, Prishtina.

<sup>102</sup> Ibid.

## Mutual Legal Assistance, Systematic Exchange of Data and Mutual Recognition for Veterinary Certificates

On **9 January 2013**, the parties agreed on the Procedures of Mutual Legal Assistance, during the IG meeting in Brussels. The agreement derives from the Technical Protocol of IBM, which reads as follows: 'Facilitated by the EU, the parties will aim to establish mutual legal assistance.'<sup>103</sup> However, the implementation process has not been smooth, with Serbia failing to respond to Kosovo's requests related to sharing official information.

Despite this shortcoming, on **24 January 2013**, parties reached the systematic electronic exchange of data (SEED) agreement, in Rome (SEED server is in Rome) between their respective customs' authorities.<sup>104</sup> This document, deriving from the Technical Protocol of IBM as well, has enabled both Kosovo and Serbia to perform electronic exchange

### IBM TECHNICAL PROTOCOL

'The EU will make best efforts to facilitate that. The parties to the IG will exchange information through EU established regional initiatives/projects/systems (i.e., Systematic Electronic Exchange of Data (S.E.E.D.) etc.'

of data in real-time before the arrival of goods exported to the customs of the other country. The implementation of the SEED has been satisfactory so far.<sup>105</sup>

The first breakthrough for the harmonisation of certificates was the Phytosanitary Certificate on 5 September 2013, which was

then used as a template for all other certificates, primarily Veterinary Certificates but also the Certificate of a Pharmaceutical Product and the ADR Certificates (European Agreement concerning the International Carriage of Dangerous Goods by Road).<sup>106</sup>

## From Progress to Setbacks

In addition to facilitating free movement and improving infrastructure, the CCPs facilities have increased control over the borderline and reduced contraband and smuggling activities in the surrounding area. Besides that, there is currently a full scope of exchange of data between the customs' authorities of both states ensuring far better control of the flow of goods and reducing the informal economy.<sup>107</sup>

<sup>103</sup> Technical Protocol for the implementation of the IBM, 23 February 2012, at <https://dialogue-info.com/integrated-border-boundary-management/>.

<sup>104</sup> Conclusions of SEED Meeting, 24 January 2013, at <https://dialogue-info.com/integrated-border-boundary-management/>.

<sup>105</sup> According to the Kosovo's Customs, the implementation of the SEED agreement is at a satisfactory level and will benefit all countries in the region, including Serbia. Concretely, it is helping the Kosovo's Custom to carry out a much better custom revenue collection, by also fighting against informality and smuggling activities in a significant way. For more, see <https://dogana.rks-gov.net/en/kosovo-customs-receives-support-by-european-commission-for-the-advancement-of-seed-system/>.

<sup>106</sup> Balkans Group interview with an EU expert, 3 March 2022, Prishtina.

<sup>107</sup> Formore, see <https://dogana.rks-gov.net/en/kosovo-customs-receives-support-by-european-commission-for-the->

A major milestone of IBM was setting up the local, regional, and central level meetings between border authorities of the two parties, which are not taking place anymore.

Yet, like for the FoM, the implementation of the IBM deteriorated too. The construction of four IBM common

crossing points did not start. The Merdarë/Merdare and Mutivodë/Mutivode, are fully constructed, but the Serbian authorities have refused to move to the new facilities for some years.<sup>108</sup>

IBM agreement reached after 14 drafts negotiated;  
 Technical Protocols agreed after 12 drafts negotiated;  
 6 Interim IBM crossing points established;  
 22 million € allocated from EC to construct permanent facilities;  
 More than 30 meetings of the IBM expert teams.

As of 14 March 2021, both sides of Merdarë/e Common Crossing Point are opened (with 5 lanes for entry and exit).

Following the Washington Agreement, on **20 October 2020**, the Serbian border authorities finally moved to the new premises in Merdarë/Merdare, thus marking the official opening of the IBM permanent facility.<sup>109</sup> This common crossing

point operated with very limited capacity until recently. However, after some increased pressure from the EU, Serbian authorities agreed to open all border crossing lanes (gates) of Merdarë/e. The lanes will operate on an as-needed basis. Also, Mutivodë/Mutivode is expected to open soon.<sup>110</sup>

Although the parties have agreed to harmonise the working procedures, shift patterns, deploying balanced presence of police officers to the IBM CCPs, issues such as the 'entry/exit' form, insufficient deployment of border personnel and intentional slow procedures resulted in long queues up to 5km particularly during the peak time (seasonal holidays).<sup>111</sup>

Other problems still persist in the absence of regular meetings between the respective border authorities (Police, Customs, Food and Veterinary agencies) of the two countries. The meetings at the local, regional, and central levels were meant to address all outstanding issues in the implementation process, to enhance practical cooperation in the field, and to avoid situations of bringing technical or operational issues for discussion

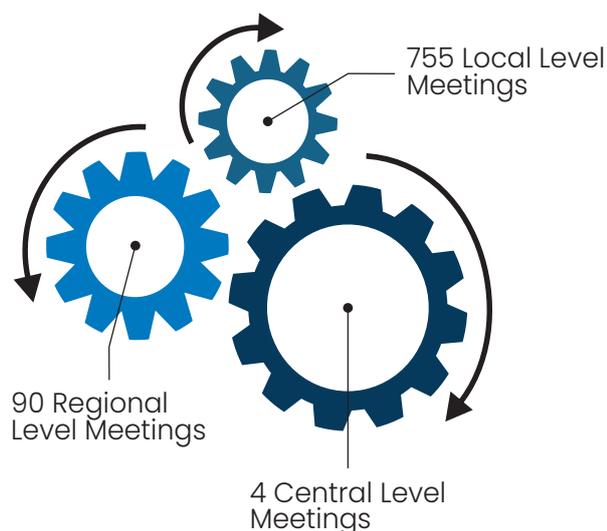
[advancement-of-seed-system/](#).

<sup>108</sup> Economic Normalization agreement, 4 September 2020, at <https://dialogue-info.com/economic-normalization/>.

<sup>109</sup> US President Special Envoy for the Kosovo-Serbia Dialogue, Richard Grenell, tweeted considering this as a big move. See more, at [https://twitter.com/RichardGrenell/status/1316040765571846144?ref\\_src=twsrc%5Etfw](https://twitter.com/RichardGrenell/status/1316040765571846144?ref_src=twsrc%5Etfw).

<sup>110</sup> Balkans Group interview with official of the Kosovo Police, 18 March 2022, Prishtina.

<sup>111</sup> BalkanInsight, Kosovo talks in Brussels Postponed, 20 July 2011, at <https://balkaninsight.com/2011/07/20/another-round-of-kosovo-talks-expected-to-bring-new-agreements/>; Integrated Border Management Agreement, 2 December 2011, at <https://dialogue-info.com/integrated-border-boundary-management/>.



in the IG and the Heads of delegation meetings in Brussels.<sup>112</sup> Since **March 2018**, as the dialogue stagnated, the meetings are not taking place.<sup>113</sup> Consequently, there are no formal mechanisms to address concerns and/or proposals from the parties to advance the cooperation in the framework of the IBM agreement.<sup>114</sup>

Despite some progress, the implementation has stagnated. Therefore, both parties need to re-engage in the EU-

facilitated dialogue to advance cooperation, and to ease the free movement of people and goods across both countries in a significant way.

IBM Implementation and Monitoring Mechanisms

Implementation Mechanisms	Level	Timelines	Job Description as per ToRs
Local Level Meetings	Level of the Border Crossing Point (structures)	Biweekly	Address obstacles, problems at the level of IBM CCP
Regional Level Meetings	Level of the Border Region	Bimonthly	Address obstacles, challenges at the regional level which may include two or more IBM CCPs
Central Level Meetings	Heads of Border Agencies (Police, Customs, Veterinary & Phytosanitary)	Twice a year	Coordinate cooperation in the area of IBM and propose new initiatives for enhanced border cooperation
Tri-partite Implementation Group IG	Technical Experts from both parties	At least once a year	Implementation of all aspects of the IBM Technical Protocol, including the Permanent CP facilities

<sup>112</sup> Balkans Group interview with a member of the Kosovo's team of experts, October 2021, Prishtina. EULEX facilitated the meetings. The tripartite IBM IG met at least once a year in Brussels. From 2012-2017, three Central level meetings were organized in Prishtina and two in Belgrade.

<sup>113</sup> Balkans Group interview with an EU expert, 3 March 2022, Prishtina

<sup>114</sup> Ibid.

## FOM AND IBM: FROM EU VALUES TO REGIONAL COOPERATION AGENDAS

In the first phase of the dialogue (in 2011), parties had agreed on technical issues such as the Freedom of Movement, Custom Stamps, Recognition of Diplomas and Integrated Border Management, which were supposed to ease their lives.<sup>115</sup> All these topics are connected to the four fundamental freedoms: of people, goods, services and capital. The four freedoms are at the heart of the EU, guaranteed by the Single European Act since 1986.<sup>116</sup> Their importance stems from easing citizens' lives, by enabling them to travel freely from one country to another, while boosting mutual cooperation. Right after signing the agreement on the Free Movement, the EU facilitator Robert Cooper, had stated that 'an agreement on free movement in the Balkans in a material way not only

helps ordinary people lead more normal lives but makes it into a more European area'.<sup>117</sup> The EU has 'engraved' the same core values in the parties' advancement towards the European Union; Stabilisation and Association Agreement for Kosovo and Negotiation Chapters for Serbia.<sup>118</sup>



Soon, what started as a bilateral issue (free movement and border management between Kosovo and Serbia) became a regional matter. The EU

went after a regional platform that would resolve some of the difficult bilateral issues, in particular those between Kosovo and Serbia.<sup>119</sup> In 2015, one of the most important agendas – The Connectivity Agenda– for Western Balkans Six (WB6) was launched

<sup>115</sup> For more see <https://dialogue-info.com/the-dialogue/> and [Balkans Group report](#) Brussels Dialogue between Kosovo and Serbia, Achievements and Challenges, September 2020.

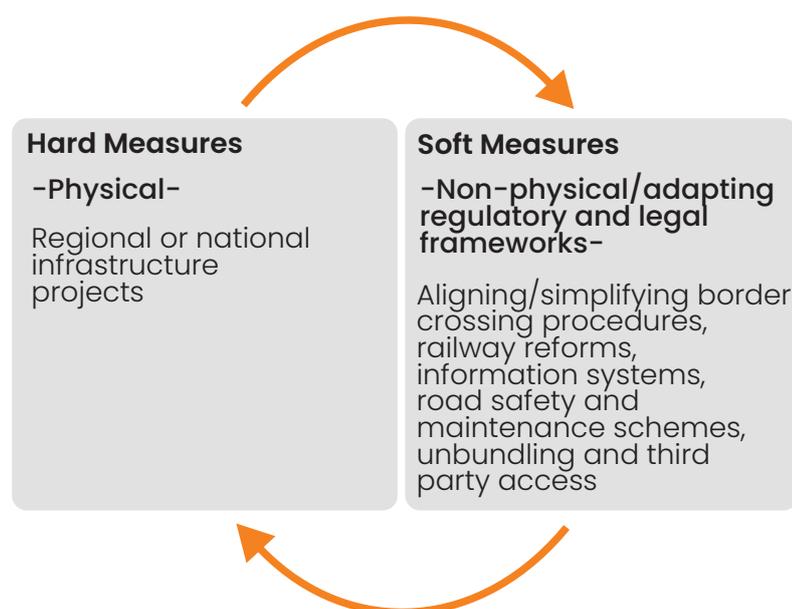
<sup>116</sup> Official Journal of the European Communities, Single European Act, 29 June 1987, at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:11986U/TXT&from=EN>.

<sup>117</sup> France 24, Serbia and Kosovo agree to resolve practical issues, 3 July 2011, at <https://www.france24.com/en/20110>.

<sup>118</sup> Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, on the one part, and Kosovo\*, on the other part, 2 October 2015, at <https://data.consilium.europa.eu/doc/document/ST10728-2015-REV-1/en/pdf>. According to Article 8: 'Kosovo commits to continue to foster cooperation and good neighbourly relations in the region including an appropriate level of mutual concessions concerning the movement of persons, goods, capital and services as well as the development of projects of common interest in a wide range of areas, including the rule of law'; The negotiating framework for Serbia, 9 January 2014, at <https://data.consilium.europa.eu/doc/document/AD%201%202014%20INIT/EN/pdf>. Chapter 1 covers the Free Movement of Goods, Chapter 2 covers the Free Movement of People, Chapter 3 covers the Free Movement of Services and Chapter 4 covers the Free Movement of Capital.

<sup>119</sup> The Berlin process was launched as a 4-year platform for high-level cooperation between the leaders of the Western Balkan countries (WB6) and the Berlin Process host countries, also including the region's civil society, youth, and businesses. The four goals of the process were: 1. Resolution of outstanding bilateral and internal issues; 2. Achieving reconciliation within and between the societies in the region; 3. Enhancing regional economic cooperation; 4. Laying the foundations for sustainable growth. GIZ, The Berlin Process in a Nutshell, at [https://www.giz.de/en/downloads\\_els/The\\_Berlin\\_Process.pdf](https://www.giz.de/en/downloads_els/The_Berlin_Process.pdf).

under the Berlin Process.<sup>120</sup> Three years earlier, in **February 2012**, Kosovo and Serbia had reached the Regional Representation and Cooperation agreement which enabled Kosovo to participate and represent itself –with an asterisk– in regional organisations and initiatives.<sup>121</sup> The Connectivity Agenda aimed at improving connectivity within the Western Balkans, as well as between the WB and the EU by benefiting the region’s economies and citizens.<sup>122</sup> The Agenda consists of the ‘hard measures’ (physical) such as regional or national infrastructure projects and the ‘soft measures’ (non-physical/adapting regulatory and legal frameworks) such as aligning/simplifying border crossing procedures, railway reforms, information systems, road safety and maintenance schemes, unbundling and third-party access.<sup>123</sup>



The idea was to improve –through connectivity– the links between the EU and Western Balkans with a spill-over effect to the resolution of the bilateral issues in the region.<sup>124</sup>

The Multi-annual Action Plan for a Regional Economic Area in the Western Balkans (MAP REA) aimed to enable the unobstructed flow of goods, services, capital and highly skilled labour across

the Western Balkans in four components– Trade, Investment, Mobility, and Digital Integration.<sup>125</sup> Yet, the ongoing bilateral disputes, particularly between Kosovo and

<sup>120</sup> In 2014, the German Chancellor Angela Merkel and German Foreign Minister Frank-Walter Steinmeier launched the Berlin Process for the Western Balkans Six (Kosovo, Albania, Montenegro, Bosnia and Herzegovina, North Macedonia and Serbia). For more, see The Berlin Process for the Western Balkans: Gains and Challenges for Kosovo, 17 January 2018, page 5.

<sup>121</sup> Regional Representation and Cooperation, 24 February 2012, at <https://dialogue-info.com>.

<sup>122</sup> European Commission, Connectivity Agenda, Co-financing of Investment Project in the Western Balkans in 2015, at <https://www.wbif.eu/storage/app/media/Library/6.%20Connectivity%20Agenda/27.%20Vienna-Info-Pack-Finalpdf>.

<sup>123</sup> Ibid. Soft connectivity measures aim at the removal of non-physical barriers (regulatory and procedural constraints primarily at the borders). The complementarity of investments in infrastructure or hard measures is highly dependent on the implementation of the soft measures, including adapting existing legislation. For more, see Balkans Group report, The Berlin Process for the Western Balkans: Gains and Challenges for Kosovo, 17 January 2018, page 5.

<sup>124</sup> For more, see Western Balkans Summit Vienna, Final Declaration by the Chair of the Vienna Western Balkans Summit, 27 August 2015, at [https://wbc-rti.info/object/document/14449/attach/0\\_Chairmans\\_Conclusions\\_Western\\_Balkans\\_Summit.pdf](https://wbc-rti.info/object/document/14449/attach/0_Chairmans_Conclusions_Western_Balkans_Summit.pdf); European Commission, Connectivity Agenda, Co-financing of Investment Projects in Western Balkans in 2015, at <https://www.wbif.eu/storage/app/media/Library/6.%20Connectivity%20Agenda/27.%20Vienna-Info-Pack-Final.pdf>.

<sup>125</sup> RCC, Multi-annual Action Plan for a Regional Economic Area in the Western Balkans Six, 12 July 2017, at <https://www.rcc.int/docs/383/>.

## Connectivity medium-term targets for 2020

Opening of the transport market

Implementation of rail reform strategy

Establishment of competitive, reliable and safe transport system

- Improvement of road safety.
- Trade and transport facilitation.
- Intelligent Transport System (ITS) deployment on the Core Network.
- Establishment of functioning maintenance system ensuring no section in poor/very poor condition by 2020.

Increasing the effectiveness of Border Crossing Procedures

- Effective Border Crossing Agreements.
- Implementation of IBM strategy

Serbia, have reduced the regional capacity to implement specific measures and have affected the overall implementation of MAP REA.<sup>126</sup>

Further efforts were made through other venues; some other regional initiatives flourished in the following years with hopes to improve regional cooperation and the quality of life of WB citizens. Even the most controversial initiative (like the ‘Mini-Schengen’) sought

to establish the free movement of people, goods, services and capital in the Western Balkans -using only ID cards- by the end of 2023.<sup>127</sup> Soon, the idea of the Common Regional Market (CRM), absorbing issues addressed by the ‘Mini Schengen’, specifically those related to four freedoms, creating a complimentary bridge between the regional initiatives, stepped up.<sup>128</sup>

### REGIONAL TRADE AREA

*Free movement of goods, services, capital and people, including crosscutting measures, such as the Green Lanes, to align with EU-compliant rules and standards and provide opportunities for companies and citizens;*

### REGIONAL INVESTMENT AREA

*To align investment policies with the EU standards and best international practices and promote the region to foreign investors;*

### REGIONAL DIGITAL AREA

*To integrate the Western Balkans into the pan-European digital market;*

### REGIONAL INDUSTRIAL AND INNOVATION AREA

*To transform the industrial sectors, shape value chains they belong to, and prepare them for the realities of today and challenges of tomorrow*

*Action Plan for CRM to be implemented by the end of 2024*

<sup>126</sup> Balkans Group report, Regional Cooperation in the Western Balkans. Regional Economic Area, the “Mini-Schengen” and the Common Regional Market, January 2021, page 20.

<sup>127</sup> Ibid, page 24.

<sup>128</sup> Ibid, page 27.

Following Miroslav Lajčák's appointment –on April 2020– as EU Special Representative for the Belgrade–Pristina Dialogue and other Western Balkan regional issues, the focus shifted to the dialogue between Kosovo and Serbia and on resolution of bilateral disputes, again.<sup>129</sup>

The same year (in **April 2020**), region witnessed a promising illustration of regional cooperation with the establishment of the Green Corridors/Lanes between CEFTA/Western Balkans 6 and the EU Member States, ensuring the fast flow of goods in time of pandemics.<sup>130</sup> The initiative –supported and developed in close cooperation with the European Commission– aims to eliminate waiting times at the BCPs between the WB6 countries and the EU, by thus establishing better–managed borders and the 'one–stop–go' at all border crossings.<sup>131</sup>

In the fall of 2021, the EU, German Chancellor Angela Merkel and French President Emanuel Macron, made efforts to convince leaders of Kosovo and Serbia, Albin Kurti and Aleksandar Vučić, to agree on four issues, including recognition of ID Cards and Diplomas under the Berlin Process arrangements for the Western Balkans.

The lengthy talks failed largely because Serbia insisted that arrangements between Kosovo and Serbia supersede regional arrangements.<sup>132</sup>

In the current context and from the several failed attempts to increase connectivity at the regional level, the lesson learned is that regional cooperation cannot substitute for resolving bilateral disputes. The unresolved bilateral disputes and the lack of progress in the implementation of bilateral arrangements between Kosovo and Serbia, have narrowed down the progress at regional level.<sup>133</sup> And, whereas these disputes are still present, the pursuit of regional cooperation continues to be tough.<sup>134</sup>

The border crossings between Kosovo and Serbia are not only used by the citizens of these these two countries. Increasingly, the citizens of the region (Western Balkans and beyond) and of the European Union travel through Kosovo – Serbia borders. Similarly

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<sup>129</sup> European Union External Action Service, EUSR for the Belgrade–Pristina Dialogue and other Western Balkan regional issues, 31 May 2021, at [https://eeas.europa.eu/headquarters-homepage\\_en/3606/EU%20Special%20Representatives](https://eeas.europa.eu/headquarters-homepage_en/3606/EU%20Special%20Representatives).

<sup>130</sup> Western Balkans 6 Chamber Investment Forum, Establishment of Green Corridors between CEFTA (WB6) and EU Member States, at <https://www.wb6cif.eu/>.

<sup>131</sup> Ibid.

<sup>132</sup> Balkans Group interviews with government and international officials, Prishtina, October–December 2021. . "We support agreements in which all WB6 countries are treated as equals and citizens are the end–beneficiaries", tweeted Prime Minister Albin Kurti, 6 October 2021, at <https://twitter.com/albinkurti/status/1445759058481352705>.

<sup>133</sup> In Poznań Summit, in July 2019, parties acknowledged the fact that bilateral issues continue to act as a drag on the progress of the region and are an impediment to developing better cooperation in all fields. This was witnessed in the issue of Mutual Recognition of Professional Qualifications, which was removed from the agenda due to fundamental disagreement between Kosovo and Serbia. Balkans Group report, Regional Cooperation in the Western Balkans. Regional Economic Area, the "Mini–Schengen" and the Common Regional Market, January 2021, page 23.

<sup>134</sup> Balkans Group report, Regional Cooperation in the Western Balkans. Regional Economic Area, the "Mini–Schengen" and the Common Regional Market, January 2021, page 20.

trade exchanges are rapidly growing with goods moving from Kosovo through Serbia into the EU market. Or vice versa, from the EU market, through Serbia, into the Kosovo market or even to the Adriatic coast (Albania).

The EU should use this opportunity and insist on the implementation of the two agreements. But also, for not sweeping away the invested billions of funding for motivating Serbia and Kosovo to sit at the negotiating table to undertake the necessary steps to move forward implementation of those two agreements, critical for enhancing connectivity for the whole region.

Border Crossing Points between Kosovo and Serbia	Entries/exits of citizens of Kosovo and Serbia	Entries/exits of citizens of the region (ALB, MK, BiH and MNE)	Entries/exits of citizens /passport holders of the EU/ EEA countries
<i>Years 2017-2021</i>			
Bërnjak/Tabavije	1,490,619	159,598	65,762
Jarinjë/ Rudnica	3,727,744	122,655	169,962
Merdarë/e	4,339,913	254,562	1,009,469
Dheu i Bardhë/ Konçulj	6,795,247	111,068	690,045
Muçibabë/ Depce	3,200,168	194,527	206,931
Mutivodë/e	477,255	5,350	107,070

*Source: Kosovo Police, Department of Border.. Data are aggregated by Balkans Group.*

Kosovo's Prime Minister Albin Kurti himself stated that the upcoming dialogue will be for the benefit of the people.<sup>135</sup> In short, many of the technical agreements reached in Brussels, if fully implemented, will serve –first and foremost– the people.

## CONCLUSIONS

The Kosovo-Serbia dialogue must continue and both parties should constructively re-engage in this format. The previously reached agreements –especially IBM and FoM– need to be revisited and implemented to ease the lives of the citizens of Kosovo, Serbia and the region as a whole. Several regional initiatives, which aimed at increasing connectivity and easing the free movement of people, capital, goods and services (Berlin Process's Connectivity Agenda, MAP REA, Mini-Schengen and CRM), have failed to deliver the unobstructed flow of goods and people, to create open secure borders, to increase border management and cooperation, due to the unresolved bilateral disputes. Serbia and Kosovo did only manage to do the 'bare minimum' of accepting each other's

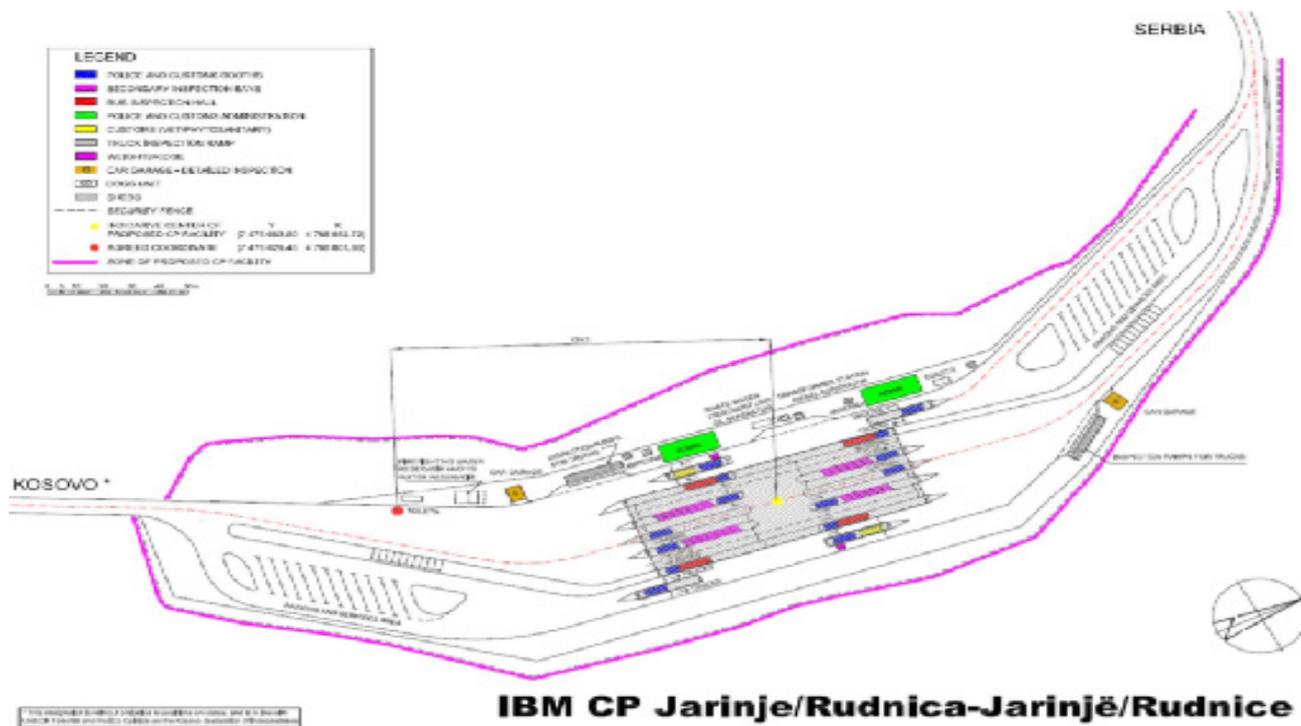
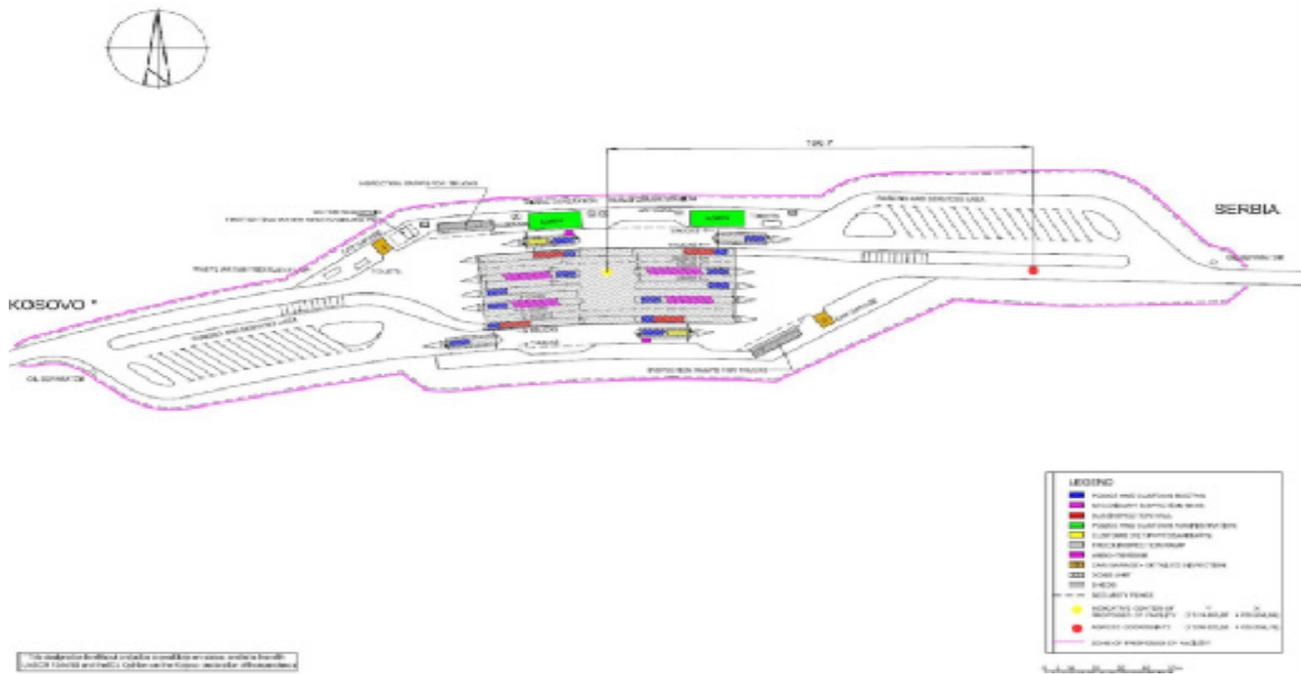
<sup>135</sup> The Prime Minister Office, Speech by Prime Minister Kurti at the plenary session on the progress of the dialogue process with Serbia so far, 11 June 2021, at <https://kryeministri.rks-gov.net/en/speech-by-prime-minister-kurti-at-the-plenary-session-on-the-progress-of-the-dialogue-process-with-serbia-so-far/>.

documents.

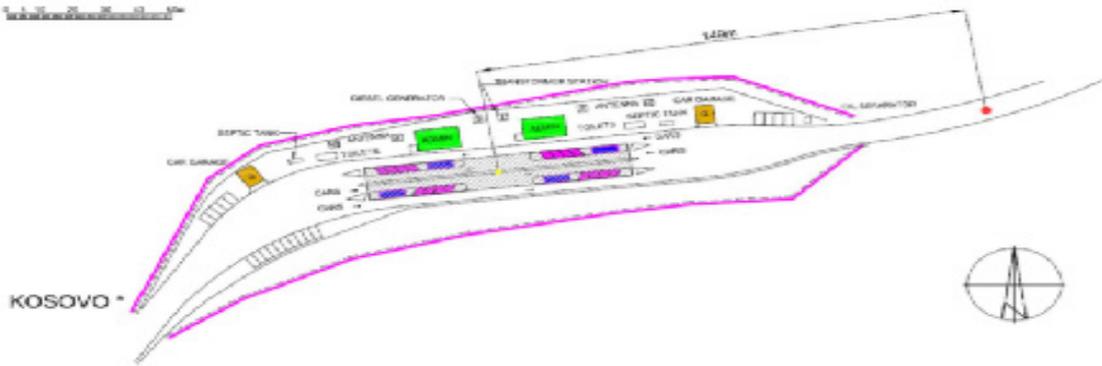
Therefore, Serbia and Kosovo need to go back to the negotiating table to re-visit some of the technical agreements -IBM and FoM- that affect their citizens but also those of the whole region. The EU should insist on prioritising these agreements at bilateral level, as a precondition for furthering regional connectivity. In addition, it should facilitate the negotiation and implementation process to create a convenient ground for cooperation in a wider perspective, be it regional or European.

## ANNEX I. IBM CCPS

### IBM CP Merdarë/Merdare-Merdare/Merdare

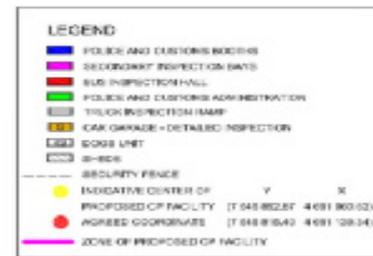


### IBM CP Jarinjë/Rudnica-Jarinjë/Rudnice



\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

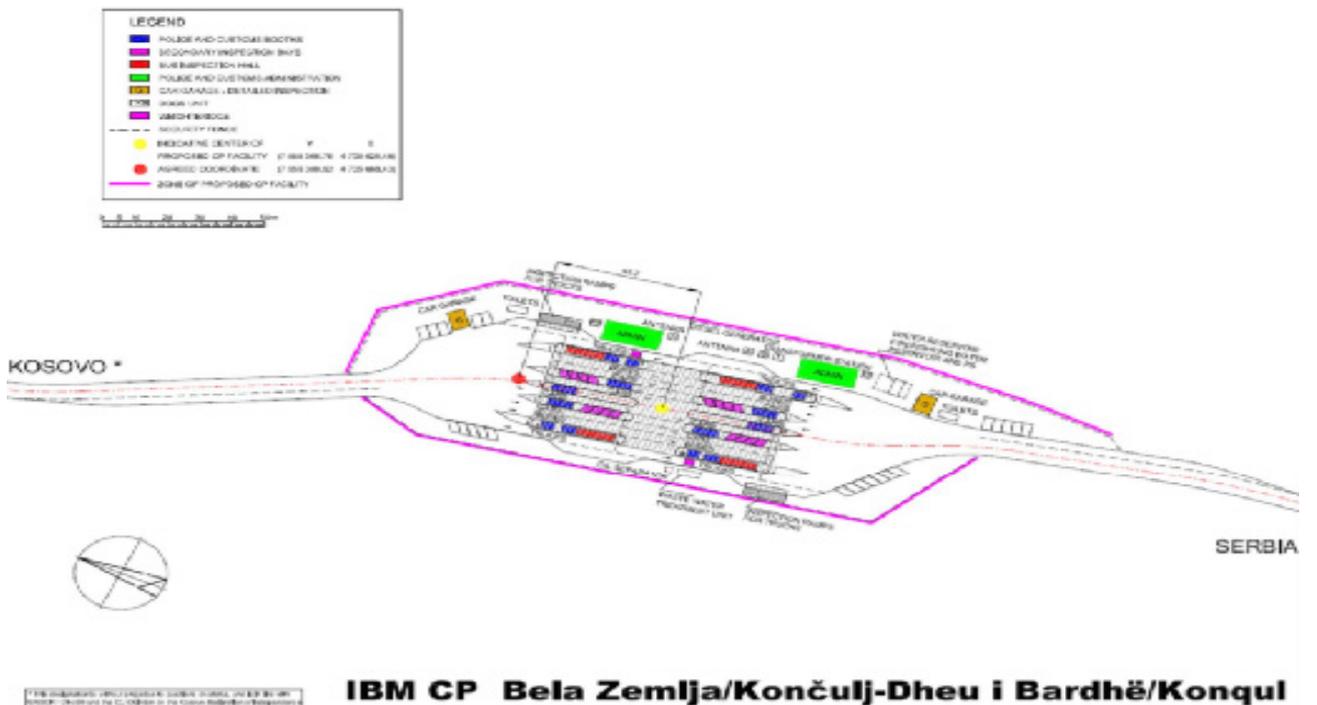
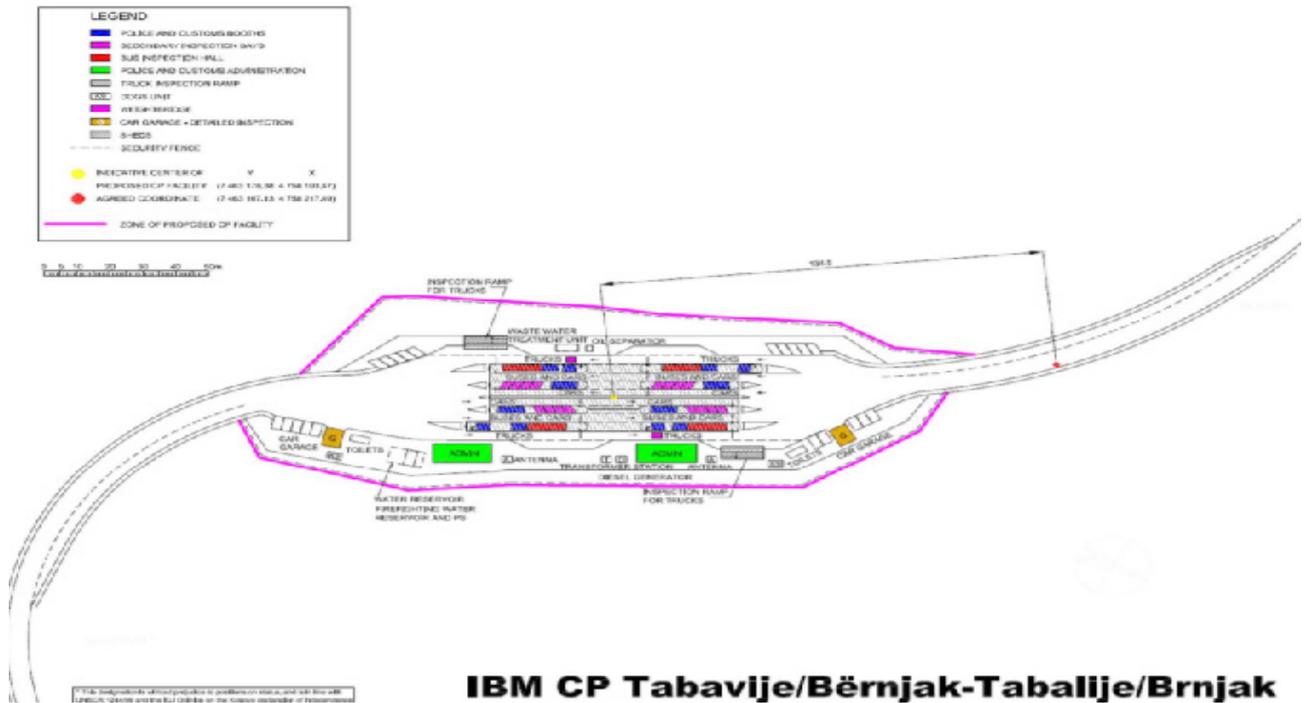
**IBM CP MUTIVODË/MUTIVODE-MUTIVODE/MUTIVODE**



\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.



**IBM CP DEPÇE/MUÇIBABA - DEPCE/MUÇIBABË**



## ANNEX II: ENTRIES/EXITS OF PEOPLE (FROM 2017-2021) TO/FROM KOSOVO-SERBIA BORDERS

	Bërnjak/ Tabavije	Jarinjë/ Rudnica	Merdarë/e	Dheu I Bardhë/ Konçulj	Muçibabë /Dëpce	Mutivodë/e	All CPs
<b>Year 2017</b>							
Entries/exits of citizens of Kosovo and Serbia	275,970	530,044	885,003	1,299,770	659,772	99,954	3,750,513
Entries/exits of citizens of the region (ALB, MK, BiH and MNE)	40,858	18,512	32,787	26,278	51,433	1,004	170,872
Entries/exits of citizens/passport holders of the EU/ EEA countries	13,698	29,929	206,005	123,071	38,321	24,702	435,726
<b>Year 2018</b>							
Entries/exits of citizens of Kosovo and Serbia	301,861	598,154	844,819	1,383,093	730,261	108,194	3,966,382
Entries/exits of citizens of the region (ALB, MK, BiH and MNE)	39,927	23,527	38,212	27,335	64,178	1,420	194,599
Entries/exits of citizens/passport holders of the EU/ EEA countries	15,125	31,705	187,689	132,509	48,376	27,616	443,020
<b>Year 2019</b>							
Entries/exits of citizens of Kosovo and Serbia	332,970	766,385	842,627	1,430,743	112,150	108,194	4,179,316
Entries/exits of citizens of the region (ALB, MK, BiH and MNE)	38,030	29,202	45,972	25,814	54,167	1,476	194,661
Entries/exits of citizens/passport holders of the EU/ EEA countries	15,125	31,705	187,689	132,509	48,376	27,616	499,136
<b>Year 2020</b>							
Entries/exits of citizens of Kosovo and Serbia	208,700	709,506	658,505	1,122,383	464,351	65,113	3,228,558
Entries/exits of citizens of the region (ALB, MK, BiH and MNE)	11,626	18,718	39,860	11,448	11,102	434	93,188
Entries/exits of citizens/passport holders of the EU/ EEA countries	3,910	19,673	120,868	86,490	19,693	6,711	257,345
<b>Year 2020</b>							
Entries/exits of citizens of Kosovo and Serbia	371,118	1,123,655	1,108,959	1,559,258	651,343	91,844	4,906,177
Entries/exits of citizens of the region (ALB, MK, BiH and MNE)	29,157	32,696	97,731	20,193	13,647	1,016	194,440
Entries/exits of citizens/passport holders of the EU/ EEA countries	15,359	51,132	279,917	198,103	48,012	21,671	614,194

Data from Kosovo Police, Department of Border.

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