
Ready when you are? Understanding the EU's evolving policy on Kosovo's accession

Talk given at ISPE College, Prishtina

Outline of argument

1. Implementing the Stabilization and Accession Agreement (SAA) and eventually joining the EU resembles joining a club that constantly changes the rules for joining the club: the readiness of the EU for new members (4ht Copenhagen Criteria) is a variant not a constant.
2. The EU – as an enlarging entity – is not a supranational (coherent) actor, but a mix of intergouvernmental and delegated competences.
3. Therefore, assessing the chances for an eventual membership depends upon estimating the readiness of the EU as a whole and each of its member states to ultimately ratify Kosovo accession.
4. IR theories help us to understand and „foresee“ current and future obstacles to these readinesses:
 1. Realism stresses a favourable power maximizing/stabilizing effect of Kosovo's accession, both internally and externally.
 2. Liberalism focusses on the economic/political gains of K.'s membership.
 3. Constructivism pinpoints the changes to the „ontological security“ of the EU and its member states as a result of Kosovo's accession.

PROGRAM OF THE GOVERNMENT OF THE REPUBLIC OF KOSOVO 2015-2018

- “In all of its policies the government will promote and strengthen the vision of Kosovo as an independent, democratic and integrated state in Euro-Atlantic structures.” (p.5)

Cost-Benefit-Analysis of EU for further enlargement

	Benefits	Costs
Economics	Enlarged common market	Strain on EU budget (CAP)
Politics	Stabilization of K. as a young democracy Increased external voting power of EU	More veto players
Security	Enlarged security perimeter	Internalization of conflicts

IR Theories and Kosovo's EU Accession

Theory/ Causal pathway	Independent variable	Benchmark for accession/membership
Realism	Balance of power	If Kosovo accession increases the EU's overall power – and does not significantly shift the EU's internal power structure, it may join.
Liberalism	Balance of interests	If K's accession has more benefits than costs – competition for EU funds or vetos in EU decisions, then it may enter
Constructivism	Balance of values	If K's accession does strengthen the EU's and MS identity as rule-based and democratic polities, it may enter.

Current Status: Important steps in the EU accession agreement process of Kosovo

- Special report no. 18, 2001, European Court of Auditors: “The European Union Assistance for Kosovo relating to rule of law.”
- October 2012: Feasibility study for a Stabilisation and Association Agreement (SAA) between the EU and Kosovo: defining benchmarks
- European Commission and High Representative (2013) Joint Report on Kosovo’s Progress: declaring benchmarks to have been met.
- April 19 2013 Brussels Agreement: First Agreement of Principles Governing the Normalisation of Relations.
- 25-07-2014: The EU and Kosovo chief negotiators initialled the Stabilisation and Association Agreement between the EU and Kosovo in Brussels.
- 27 Oct. 2015: SAA is signed.
- April 1st, 2016. SAA enters into force: implementation phase begins.
- **But take note: Art. 49 (TEU) states that every ‘state’ can apply for accession, which, at this time, is not recognized by all EU member states. Accordingly, the EU-Kosovo SA mentions a “European perspective” not a “European integration”.**
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EU-Kosovo SAA provisions

- SAA contains ten "titles" (main chapters or headings), and seven appendices, five protocols and a joint statement.
 - Title I: General Principles;
 - Title II: Political Dialogue.
 - Title III: Regional Cooperation.
 - Title IV: Free movement of goods;
 - Title V: Establishment, Supply of Services and Capital;
 - Title VI: Approximation of Kosovo's law to the EU Acquis, law enforcement and competition rules;
 - Title VII: Freedom, Security and Justice;
 - Title VIII: Cooperation Policies;
 - Title IX: Financial Cooperation, and
Title X: Institutional, General and Final Provisions.

See more at: <http://www.mei-ks.net/en/stabilization-association-brprocess-#sthash.8ct3QLep.dpuf>

SAA Implementation structures

1. Stabilization and Association Council (Highest political level);
2. Stabilization and Association Committee.
3. Stabilization and Association Sub-Committee;
4. Stabilization and Association Parliamentary Committee (Joint structure between European Parliament and Kosovo Assembly).

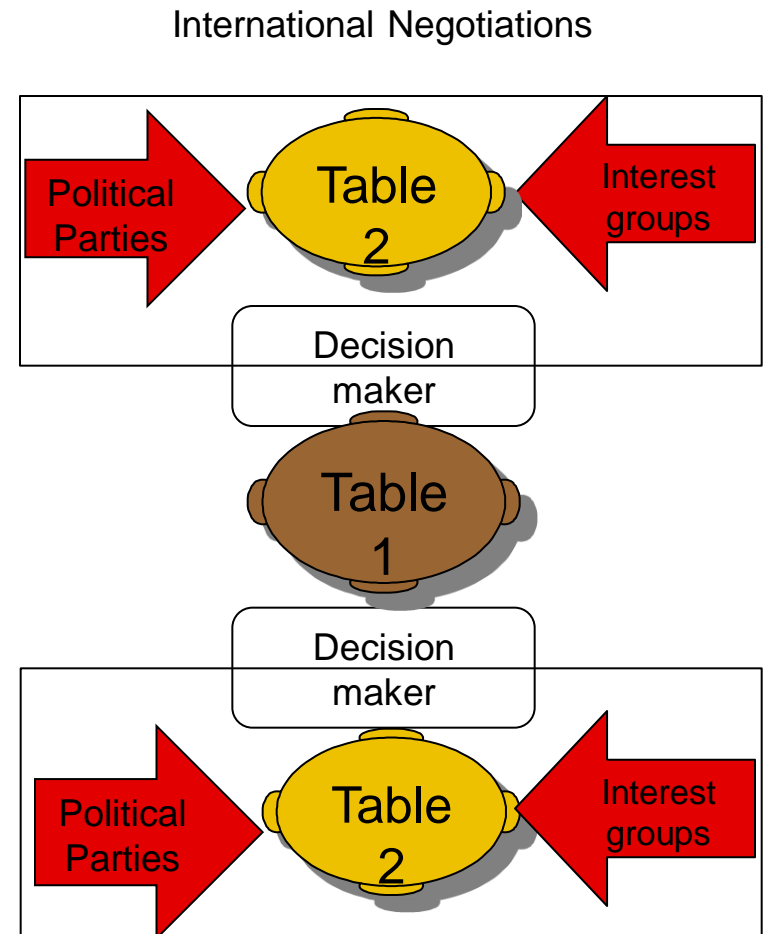
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Two-Level Game approach: Explaining the EU's readiness to Kosovo's accession

Two-Level-Game (Putnam 1988)

Key assumptions:

1. Decision makers, not states, are the central actors, which have to reconcile diverging interests on two distinct negotiation tables.
2. In a two-step process DCM have to first negotiate at Table 1 while guaranteeing the ratification of the negotiation result at table 2 either through parliamentary or popular referendum.



Key terms of the TLG approach

- **win-set:** „We may define the ‚win-set‘ for a given Level II constituency as the set of all possible Level I agreements that would ‚win‘ – that is, gain the necessary majority among the constituents – when simply voted up or down“ (Putnam 1998: 437)
- **voluntary defection:** “reneging by a rational egoist in the absence of enforceable contracts“ (Ibid.: 438)
- **involuntary defection:** “reflects the behavior of an agent who is unable to deliver a promise because of failed ratification“ (Ibid.)

TLG: Assumptions and Hypothesis

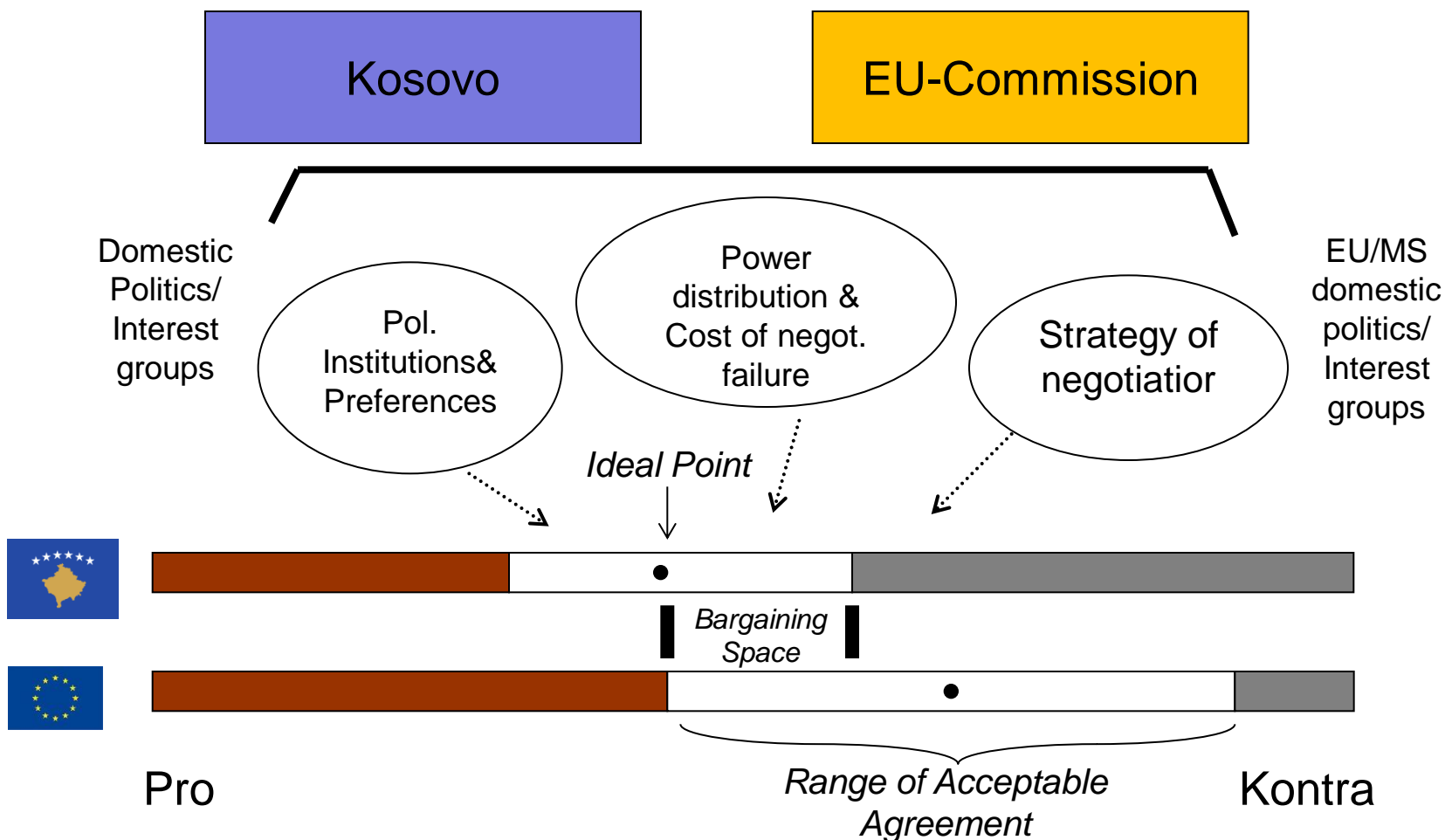
1. „The larger the perceived win-set of a negotiator, the more he can ‚be pushed around‘ by the other Level I negotiators“ (440)
2. „Conversely, a small domestic win-set can be a bargaining advantage: I’d like to accept your proposal, but I could never get it accepted at home“ (440)

EU-Kosovo SAA talks: a Three-Level-Game

- “Divisions in the EU regarding the recognition of Kosovo are an advantage because this enables us to be the best possible facilitator of the dialogue between Kosovo and Serbia. We tell the Kosovars that your independence is a done deal, because you have been recognized by 22 of our member states. We tell to the Serbs that five EU countries do not recognize Kosovo; therefore, we are status neutral.”
- Senior official in the EU External Service, who was engaged in facilitating the dialogue between Kosovo and Serbia.as cited in KFOS Report 2015, 25.

TLG-Modell: Kosovo and EU accession talks (SAA)

Conditions of accession

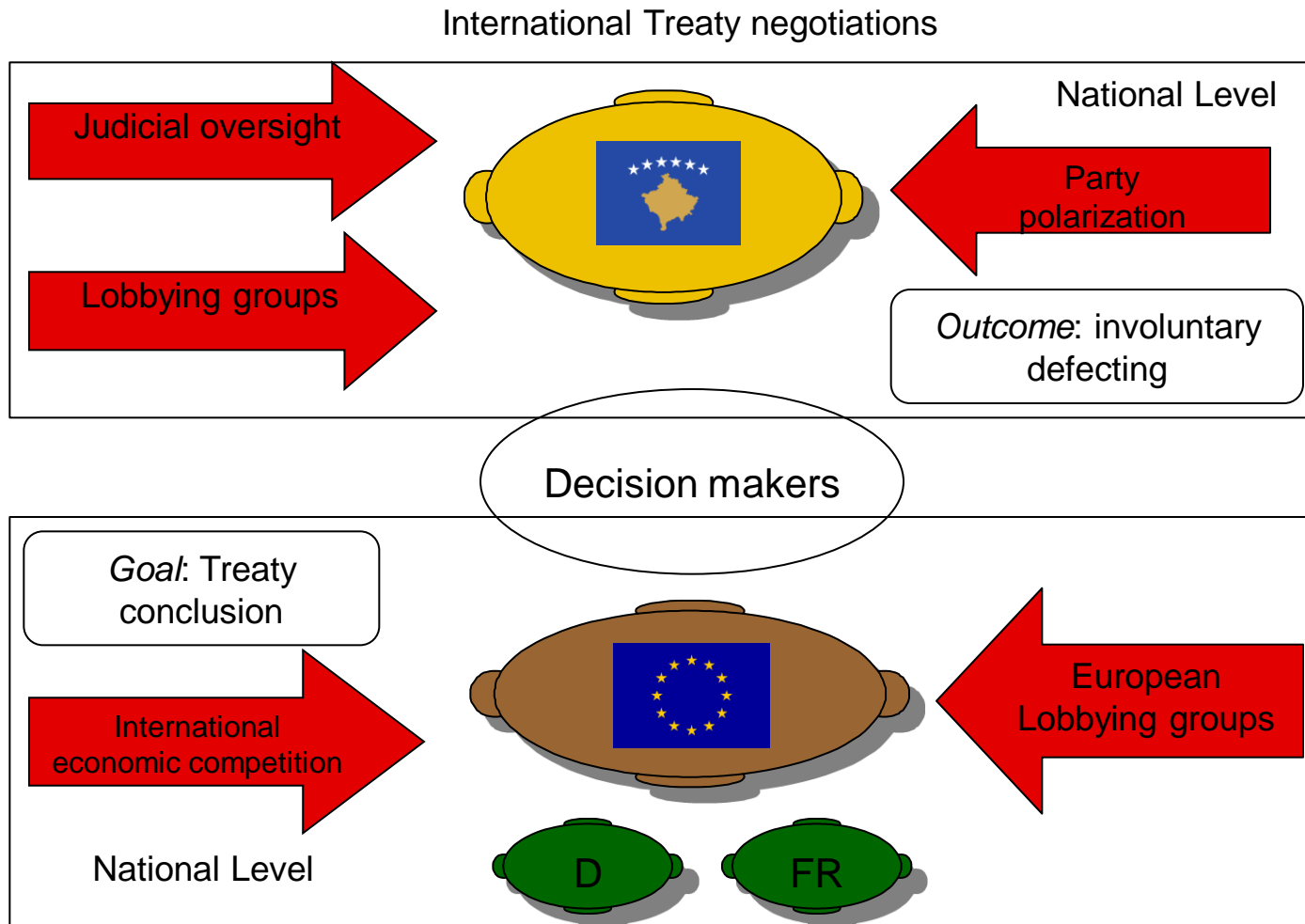


Moravcsik 1998: Delegation and Pooling

„Pooling and delegation are... „two-level“ strategies designed to precommit governments to a stream of future decisions by removing them from the unilateral control of individual governments“ (Moravcsik 1998: 73)

- **Delegation:** „Sovereignty is delegated when supranational actors are permitted to take certain autonomous decisions, without an intervening interstate vote or unilateral veto“ (Ibid.: 67)
- **Pooling:** Sovereignty is pooled when governments agree to decide future matters by voting procedures other than unanimity“ (Ibid.)

Three Level Game: Ratification within EU Members states



Defining the range of EU's and EU member states readiness for Kosovo's accession

The EU's junctim: Kosovo and Serbia may only join cooperatively!

- In autumn of 2009, this was affirmed by the former Commissioner on Enlargement, Gunther Verheugen. He claimed that Serbia could not adhere to the EU integration processes without recognizing Kosovo because the EU does not want to import unsolved territorial problems.
- In autumn 2012, even the President of the European Parliament, Martin Schulz, said that for integration with the EU, Serbia should recognize Kosovo as a state. “Irrespective of diplomatic necessity, we have to ensure peace and there should not be violence. This is the major aim of the European Parliament currently, but then ... mutual recognition as a precondition for integration with the EU is very clear,” said Schulz.

Realism stresses a favourable power maximizing/stabilizing effect of Kosovo's accession, both internally and externally

- **Externally:** Militarily speaking Kosovo is of little strategic value today. However, if the strategic environment changes, Kosovo may become an important staging ground against an adversarial nationalist Serbia/Albania.
- Also, if the EU could satisfy policy expectations by important partners, such as the US, it may determine Kosovo membership is in the EU's wider strategic interest.
- **Internally:** Militarily speaking, Kosovo in its current territory will not upset the EU's internal balance of power, but depending on its internal and external policy path it may shake the subregional balance of power if aligning with Albanian diasporas beyond its borders.
- => the respective lessons of Cyprus/Greece accession are that the EU must not internalize more inter-state conflicts which block its external action capacity.

Liberalism focusses on the economic/political gains of Kosovo's membership.

- The rise of Eurosceptic parties in EP as well as the growing economic disparities between member states suggest that the EU and its member states will be increasingly hesitant to admit new members.
- An increasing number of MS require a popular referendum on further accessions: at this time over 70 national and regional parliaments have to tolerate further accessions.
- A potential shock event – GREXIT and follow-up – could either hasten or dampen the prospect for early EU accession of Western Balkan states, depending on the necessity to stabilize Greece's neighbors.

Do Kosovo's institutions provide enough reassurances that EU law will be implemented?

- Checks and Balances: Commission officially warns the Kosovo government: “You are one of the rare countries where the Government controls the Parliament, whereas the work of the Parliament is most frequently being boycotted by the party that is in power.”
- Judicial capacity: Court of Auditors Report mentioned that Kosovo has only 14 judges for 100,000 inhabitants, which is extremely low. As a comparison, it is mentioned that Montenegro has 53 and Croatia has 41 judges for 100,000 inhabitants. The proportion of prosecutors is even lower. In Kosovo there are only 3.7 prosecutors for 100.000 inhabitants, whereas in Montenegro 13.4 and in Hungary 17.3.
- Prioritizing anti-corruption: In an action program of the European Partnership for 2012, only € 17 000 was allocated for five anti-corruption actions, whereas, € 25,000 was allocated for the program ‘eco drive;’

Constructivism pinpoints the changes to the „ontological security“ of the EU and its member states as a result of Kosovo’s accession

- Kosovo’s EU accession becomes more likely if it is considered „appropriate“, i.e. deserved through meeting EU criteria without exceptions: rule of law, corruption and Special Court could become a hot issues here.
- Kosovo’s EU accession becomes more likely if there are strong „advocats“, i.e. EU members which persuade other members that Kosovo is complying.
- Kosovo’s EU accession become more unlikely if Kosovo’s position vis-à-vis a „Greater Albania“ or the Albanian diaspora outside Kosovo, e.g. in Macedonia and Albania challenges the CSCE Helsinki accords.

Conclusion and Outlook

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1. Kosovo's accession to the EU depends as much on its own readiness as on the preparedness of the EU accept further member states.
2. The readiness on the EU and members state level has decreased lately:
 - a) Lessons of Bulgarian and Romanian accession
 - b) Lessons and fallout of the Euro- and Greek crisis
 - c) Rise of Euroscepticism in EP/member states (BREXIT)
 - d) The lesson of the Ukrainian accession process
- However, Kosovo is small in size, pro-European and may move forward in accepting the „acquis“ so that accession may eventually take place.