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A CONFLICT SENSITIVE UNPACKING OF
THE EU COMPREHENSIVE APPROACH
TO CONFLICT AND CRISES MECHANISM

The EU's Crisis Management in the Kosovo-Serbia crises

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The EU's Crisis Management in the Kosovo-Serbia Crises

EUNPACK Paper

Jozef Bátora, Kari Osland and Mateja Peter*

Introduction

The purpose of the current paper is to map the development of the EU's crisis management throughout the various stages of the Kosovo-Serbia crisis. The key argument proposed here is that the EU's crisis management structures and processes have co-evolved with the Kosovo crisis between 1991 and 2017. Throughout its various stages, the crisis has been a source of learning and adaptation, providing key stimuli in the development of the EU's crisis management structures.

The analytical approach in the paper builds on the overall approach of EUNPACK, i.e. it combines an institutional approach analysing the EU's institutional infrastructure in relation to the region with a bottom-up approach analysing local dynamics in Kosovo. The analysis operates on these two levels and focuses on four stages in the Kosovo-Serbia crisis, namely i) pre-conflict stage (1991-1997); ii) conflict stage (determined by actual outbreak of armed violence and ethnic cleansing operations, i.e. 1998-99); iii) post-conflict stage 1: 1999-2008 (pre-EULEX); and iv) post-conflict stage 2: 2008-2017 (with EULEX on the ground).

In addition to mapping practices of the EU's crisis management, an overall aim of this paper is to produce with useful explanations of how the mechanisms in crisis management stabilised both on the level of local arrangements (e.g. the Mitrovica bridge regime) and on the level of EU-based instruments, such as the EEAS-based dialogue format on 'normalisation' of relations or EU aid funding for various programmes. We also study to what extent the current arrangements on the ground are

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stable in light of growing recent efforts at destabilisation in Kosovo as well as throughout the Western Balkans region.

The paper is structured as follows. The first section revisits some of the key historical developments that lay the groundwork for our understanding of the intricacies of the tensions and conflicts emerging in the course of the last three decades. Subsequently, we outline in section 2 a number of analytical concepts that underpin our analytical thinking about the EU's crisis management in relations between Kosovo and Serbia. The third section maps local societal and political developments through the pre-crisis, crisis and post-crisis stages (the third of which is treated as two separate stages each in its own right), closely examining the EU's structures and practices in its engagement in crisis management in these various stages. The concluding section 4 summarises the findings, outlining how the EU's crisis management structures and mechanisms co-evolved with the Kosovo crisis. Based on this summary, two potential sites are identified where perception studies of the EU's role on the ground might usefully be carried out as a follow-up to the present study.

1. Brief history of developments preceding the Kosovo crisis

In order to understand the intricacies of the political context of the Kosovo-Serbia conflict, in which the EU has intervened, it is essential to start with a brief presentation of the history of the conflict.¹ The infamous Battle of Kosovo Polje was fought on 15 June 1389. Reliable historical sources are scarce but most seem to believe that the Serbian Prince Lazar Hrebeljanovic lost and the Ottoman Empire, under the command of Sultan Murad Hudavendigar, won.² Independently of what really happened, this battle proved to be decisive in creating a national identity in both Kosovo and Serbia. In Serbia, the day of the battle is known as St. Vitus day and there are several other symbolic events that happened on that very same date.³ Furthermore, Kosovo and

¹ In Serbia, the territory is called Kosovo and Metohija, referring to the north-eastern and south-western parts, respectively. This was also the official name of the province in the constitution until the change in 1974. For more on the history, see: Woodward 1995; Silber & Little 1997; Malcolm 1998; Judah 1997; Vickers 1998; Mertus 1999; Judah 2000; Webber 2009.

² One of those with a different view is the historian Noel Malcolm (1998:58) who writes: "There are two popular assumptions about the great battle of Kosovo in 1389: that it was this Turkish victory that destroyed the medieval Serbian empire and that the defeated Serbs were immediately placed under Ottoman rule. Both are false."

³ For instance, in 1876, Serbia declared war on the Ottoman Empire; in 1881, Austria-Hungary and the Principality of Serbia signed a secret alliance; in 1914, the assassination of Archduke Franz Ferdinand of Austria was carried out by Gavrilo Princip; in 1921, Serbian king Alexander I proclaimed the Vidovdan Constitution, and in 1989, the Serbian president at the time, Slobodan Milosevic delivered the so-called Gazimestan speech (the site of the historic battle).



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Metohija has been the seat of the Serbian Orthodox Church from the 14th century, when its status was upgraded into a patriarchate. For the Muslim Kosovo Albanian majority in Kosovo, the site of the battle has gained religious importance since Sultan Murad is buried there. Kosovo Albanians claim to be of Illyrian origin, the people thought of as inhabiting the area first.⁴

Kosovo was part of the Ottoman Empire from the 15th to the early 20th century. In 1804, Serbia again became a state and in 1912, it took control over Kosovo. However, in 1915, Serbs were driven out of Kosovo by Germany and the Habsburg Empire, but regained control over Kosovo in 1918, when the Kingdom of Yugoslavia was established.⁵ During the Second World War, Yugoslavia was occupied in 1941, by Nazi and Fascist forces under Hitler and Mussolini and the borders were redrawn.

During this time, two resistance movements were created, the Serbian Chetnic led by Draza Mihajlovic and the Croat and Communist Partisan group, led by Josip Broz Tito. Tito was supported by the Allied Forces and became Yugoslavia's new and strong leader in the fight against the fascists. In 1945, he declared the Federal People's Republic of Yugoslavia (FPRY) and in 1946 he established a federation consisting of six republics: Croatia, Serbia, Montenegro, Slovenia, Bosnia and Herzegovina and Macedonia. In Serbia, the provinces of Kosovo and Vojvodina were given extended autonomy. According to the Yugoslav Constitution of 1963, when the republic was renamed the Socialist Federal Republic of Yugoslavia (SFRY), Kosovo and Vojvodina were referred to as Autonomous Provinces, but their constitutional status was still to be determined by Serbia's parliament. Their autonomy was further extended in the Constitution of 1974.

Communism under Tito included a fine-tuned system with balance of power between the republics. However, there were large socio-economic differences between the richer republics in the northwest and the poorer republics in the southeast. The death of Tito on 4 June 1980 led to a rise in nationalistic rhetoric, fuelled by a further increase in socio-economic differences between the republics and its people.

The first major outbreak occurred in March 1981 in Pristina, starting with student demonstrations concerning conditions at the University, which turned into general criticism of the authorities and later escalated into nationalistic demands, ranging from

⁴ Arguably, such claims qualify as autochthony (see Geschiere 2009; Gausset et al. 2011).

⁵ Officially called the Kingdom of Serbs, Croats and Slovenes.



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Kosovo becoming a republic to unification with Albania.⁶ During the 1980s, animosities between the Albanians and the Serbs in Kosovo deepened.

On 24 April 1987, Slobodan Milošević, Communist Party Chief of Serbia, was sent to Kosovo to address local Serbs inside a cultural hall. Serbian and Montenegrin demonstrators clashed outside the hall with the local Kosovo Albanian police force. Milošević went out to calm the situation, and his now-famous words fell: “No one should be allowed to beat you.”⁷

However, several authors claim that it was when Milošević became President of the SFRY in 1989 that the dissolution really began.⁸ That same year, Milošević took control over justice, police and security policy in Kosovo. Also in 1989, the Democratic League of Kosovo (LDK) was established, and Ibrahim Rugova became its leader. In 1990, the autonomy that Kosovo (and Vojvodina) had enjoyed since 1974 was further removed. On 2 July 1990, the self-declared Kosovo parliament proclaimed Kosovo a republic in Yugoslavia. On 3 September 1990, demonstrators protested the dismissal of Albanians in the civil service and the police, and the requirement for workers to sign pledges of loyalty. Most Albanians refused to sign such pledges. In consequence, the Kosovo Albanian community created a parallel system, with its own education, taxation, medical care and police.

In 1991, Croatia, Slovenia and Macedonia declared their independence; BiH followed in 1992.⁹ The remaining republics, Serbia and Montenegro, declared a new Federal Republic of Yugoslavia (FRY) in April 1992, under the leadership of Milošević.

2. Analysing EU crisis management in the Kosovo crisis: Key concepts

The EU’s capabilities and capacities in crisis management have been evolving along with, and as a result of, the various crises that the EU has been involved in. The institutional set-up of the EU’s tools and structures in crisis management in 2017 differs substantially from its set-up in 1991. To understand the development of the EU’s crisis

⁶ Malcolm 1998:334–337; Judah 2000:38–42.

⁷ Woodward 1995:90; Malcolm 1998:341; LeBor 2002:79–84.

⁸ Milošević’s rise to power started when he became head of the Serbian Central Committee in 1986 and President of the Serbian League of Communists in 1987. For a detailed analysis of his rise to power and the political landscape in which this happened, see Vladislavljević 2004. See also Silber & Little 1997; Woodward 1995; Malcolm 1998; Judah 2000; Cohen 2001.

⁹ Croatia and Slovenia declared independence on 25 June; the Republic of Macedonia did so following a referendum on independence on 8 September.



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management capacities and capabilities in various stages of the Kosovo crisis, it is useful to revisit some of the key concepts that have been used to conceptualise the EU's capacity development in the realm of crisis management.

An important point of departure for the current assessment is the concept of *capability–expectations gap* introduced by Hill (1993). This concept was used to describe the situation in which the EU found itself in the early stages of the conflicts in former Yugoslavia. These conflicts were initially perceived by the EU, by the wider international community as well as by the parties to the conflicts in Western Balkans as an opportunity for the EU to start playing an active role as peacemaker and crisis manager. There were clear expectations related to the EU's role and aspirations. Yet, as the crises evolved, it became increasingly evident that the EU did not possess the necessary tools, instruments, resources and sufficient coordinated political will among the member states to actually play an effective role in managing the multiple crises dynamically developing into wars in the region in the first half of the 1990s.

Drawing lessons from the inefficiencies of EU crisis management in the early 1990s, the EU has conceptually embraced what Keukeleire et al. (2003) called *structural diplomacy*. This involves an approach in which traditional diplomatic tools are supplemented by tools enabling an actor – in this case the EU – to develop societal structures in a crisis-torn country. Structural diplomacy implies a variety of instruments ranging from military deployments, through classical forms of diplomatic presence, development aid and assistance to developing other aspects of good governance. The challenge with this notion is the systemic difference from classical diplomatic approaches. This relates primarily to the key principle of non-intervention in domestic affairs as enshrined in the 1961 Vienna Convention on Diplomatic Relations. The EU's structural diplomacy in third countries challenges this principle on the level of practices as the EU thus makes intervention in domestic affairs a key operational standard in how it engages countries (Bátora & Hyněk 2014, ch. 6).

A third crucial concept for an analysis of the EU's involvement in managing the crisis between Kosovo and Serbia is the notion of *comprehensive approach*. This involves the idea of commonly understood principles and collaborative processes, enhancing the likelihood of favourable and sustainable outcomes within a particular situation. This approach has been anchored in various kinds of organisational arrangements at the EU level as well as in member states. The institutional setting has been developing over time. During the Kosovo crisis studied here, there was in particular a shift from the 1990s structure towards a post-Lisbon structure introduced in the period post-2009. The former was generally characterised by a relatively well-institutionalised division between the community pillars comprising European Commission-based structures



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including its Directorate Generals (DGs) (RELEX, ENLARGEMENT, DEVCO) and the intergovernmental pillar comprising the Council with its Policy Unit and the High Representative's secretariat. The post-2009 constellation was characterised in particular by attempts to integrate working processes across the pillars and by the setting up of the EEAS as a separate body of the Union in charge of coordinating the Union's external relations. The EEAS is an *interstitial organisation* tapping into various kinds of resources of multiple EU institutions and of the member states, and recombining practices and rules from various domains including diplomacy, defence, intelligence and development aid (Bátora 2013). As such it has been providing a useful organisational framework for the application of the EU's comprehensive approach to crisis management (Weston & Merand 2015; Spence & Bátora 2015; EU Global Strategy 2016).

Following this outline of key concepts that are useful in getting an analytical grip on the changes in the institutional setting of the structures of the EU's crisis management, the paper now turns to discussing the set-up of crisis management structures used by the EU in managing the Kosovo crisis in various stages of the crisis.

3. Mapping of local societal and political developments through four stages of the crisis

3.1 EU crisis management in the pre-crisis stage (1991–1997)

Societal and political developments on the ground

In the early 1990s, Kosovo Albanians were oppressed by Serbs – in some cases using policies and practices reminiscent of apartheid. The Democratic League of Kosovo (LDK¹⁰) aspired to independence based on non-violent means and civil disobedience and grew ever more popular on the Kosovo Albanian side. On 22 September 1991, Kosovo declared its independence, recognised only by Albania, and in May 1992, Ibrahim Rugova was elected President. Rugova sought to resolve the conflict through peaceful means and opted for help from abroad. The aid did not come and with worsening assaults committed by Serb police in particular, many wanted something else. A militant guerrilla movement known as Kosovo Liberation Army (KLA), which came to be led by Hashim Thaçi, was established.¹¹ From 1996, there were attacks by

¹⁰ In Albanian, the name is Lidhja Demokratike e Kosovës – hence the LDK acronym. The party is conservative liberal.

¹¹ Ushtria Clirimtare e Kosoves (UCK) is the Kosovo Albanian name. The People's Movement of Kosovo (LPK), established in 1982, which argued that Kosovo's freedom could only be won through armed struggle, played an important role in the establishment of the KLA in 1993 (Judah 2000).



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the KLA against Serbian police and others seen as loyal to Serbia and the government in Belgrade. At the time, few had heard about the KLA. The impatience by the Kosovo Albanian community increased and from 1997, the attacks on Serbian authorities and police officials by the KLA intensified. Yugoslav President Milošević responded by launching a counter-insurgency campaign.

Development of EU crisis management structures and their conduct

The set-up of the European Communities' (and later the EU's) structures of crisis management in this period underwent rapid development. EC involvement in managing the tensions in Kosovo began formally with the launch of the EC monitoring missions to the Yugoslav regions of Kosovo, Sanjak and Vojvodina in September 1992. The purpose of these missions was to work alongside the OSCE missions and monitor human rights standards and report violations amid growing ethnic tensions. Ironically, these EC missions may have contributed to the tensions as Yugoslav President Milošević accused them publically of interfering with internal affairs of Yugoslavia (Duke 1999:1). Nevertheless, the European Community Monitoring Mission (ECMM) continued to play an important role in surveillance of the situation on the ground well into the early stages of the Kosovo conflict in 1998, supported by a mandate of the UN Security Council Resolution No. 1199. Given the deterioration of the security situation on the ground in the early months of 1998, the foreign ministers of EU member states had declared that the situation in Kosovo was "unacceptable", imposed sanctions on all investments in Serbia and froze all Serbian foreign assets. This was followed by the setting up in July 1998 of the *Kosovo Diplomatic Observer Mission* under the auspices of the Contact Group,¹² the OSCE and the EU, with the aim of monitoring violations of human rights on the ground. In addition, the EU adopted 22 declarations and joint actions relating to the Kosovo crisis between 1996 and 1999, introducing an arms embargo on imports of weapons to Kosovo and economic sanctions against Serb assets abroad (Duke 1999).

Setting up the High Representative post

A key institutional innovation in the CFSP was the post of High Representative for CFSP adopted in the Amsterdam Treaty in 1997. The post was created with the aim of streamlining the CFSP and creating a point of contact and continuity in a situation in which the CFSP was conducted by member states convening in the Council and coordinated by the member state holding the rotating presidency. A particular concern here were the often-competing interests of member states, a lack of coordination as well

¹² The Contact Group included France, Germany, the UK, Italy, the US and Russia. Originally, this format was set up to manage the Bosnia crisis in mid-1990s.

as loss of procedural know-how and institutional memory with the frequent rotations of the Council presidency function among member states. The HR post was also intended to create a basis for strategic coordination, to have a pro-active rather than reactive approach to policy planning and to establish some form of institutional memory for CFSP operations (Duke 1999:8). Former Secretary General of NATO, Javier Solana, took on the job on 18 October 1999. Thus, the Kosovo crisis was the context in which the HR role was introduced and Solana as the first incumbent of the role had to hit the ground running.¹³

Policy Planning and Early Warning Unit

The 1996 Inter-Governmental Conference had produced an agreement on the need to establish a Policy Planning and Early Warning Unit (PPEWU) within the Council Secretariat.¹⁴ This unit, to consist of staff from the Council, the member states, the Commission and the then still operating Western European Union (WEU), had several key functions:

- “– to monitor and analyse developments in areas relevant to the CFSP;
- to provide assessments of the Union’s foreign and security policy interests and identifying areas where the CFSP should focus in future;
- providing timely assessments and early warning of events or situations which may have significant repercussions for the Union’s CFSP, including potential political crises; and
- producing, at the request of either the Council or the Presidency or on its own initiative, argued policy papers to be presented under the responsibility of the Presidency as a contribution to policy formulation in the Council, and which may contain analyses, recommendations and strategies for the CFSP.”¹⁵

Following turf-battles between the EU institutions and between various member states presenting competing visions regarding the role of the PPEWU, it later developed into what came to be known simply as the ‘Policy Unit’ in the Council Secretariat. This became a key structure supporting the work of the HR for CFSP and an important site of socialisation of the EU’s foreign policy elites and became one of the founding cornerstones in the development of the EEAS (Christiansen & Vanhoonacker 2008).

¹³ This was not a radical change for Javier Solana, as he was directly involved in managing the Kosovo crisis as NATO Secretary General – a job he quit two months ahead of schedule and was replaced by George Robertson.

¹⁴ See *Treaty of Amsterdam*, Declarations adopted by the Conference, Declaration 6 on the establishment of a policy planning and early warning unit, 2 October 1997 (as quoted in Duke 1999).

¹⁵ Quoted from Duke (1999:8).



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3.2 EU crisis management during the crisis (1998-99)

Societal and political developments on the ground

In 1998, an increasing number of attacks and counterattacks between the KLA on one side and the Yugoslav People's Army and the police on the other side, occurred. In one of these incidents, some 100 Kosovo Albanians, among them women, children and elderly people, were killed. Within weeks, the KLA grew considerably.

In mid-October 1998 an internationally brokered ceasefire between Milošević and the KLA was agreed, the Holbrooke–Milošević Accord. Still, violent incidents continued to occur, and atrocities were committed on both sides. An unarmed OSCE-led observation mission, the Kosovo Verification Mission (KVM), was established to oversee the ceasefire, but this did not deter either of the parties from resorting to violence.¹⁶ Subsequently came the failure of peace negotiations held in Rambouillet, France, from 6 February to 18 March 1999. The situation on the ground deteriorated. During the first three months of 1999, some 350,000 people fled their homes – mostly Kosovo Albanians. On 22 March, the KVM was withdrawn. On 24 March 1999, NATO launched Operation Allied Force. After 78 days of intense bombing, the EU envoy, Finnish President Martti Ahtisaari, and the Russian special envoy, Victor Tjernomyrdin, managed to negotiate an agreement with Milošević.¹⁷

On 9 June 1999, the Military Technical Agreement (MTA) was signed between the International Security Force, NATO's Kosovo Force (KFOR) and the governments of the Federal Republic of Yugoslavia and the Republic of Serbia.¹⁸ On 10 June 1999, UNSC resolution 1244 established the UN Interim Administration of Kosovo (UNMIK), to administer Kosovo as an autonomous part of Serbia and as a UN protectorate.¹⁹

¹⁶ KVM was deployed to Kosovo from October 1998 to March 1999, mandated to verify the Federal Republic of Yugoslavia's compliance with UNSCR 1160 and 1199. It aimed to verify the ceasefire, monitor movement of forces, and promote human rights and democracy building. See: <http://www.osce.org/kosovo/43378>, accessed on March 5, 2017

¹⁷ For more on the afterplay and trial against Milošević, see Osland 2005.

¹⁸ Also known as the Kumanovo Agreement.

¹⁹ See: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement>, accessed 5 March 2017.



Development of EU crisis management structures and their conduct

The EU approach to crisis management at the peak of the conflict was characterised by lack of unity and problems in implementing decisions once some kind of consensus was reached. An example of this were the attempts to deny Yugoslav Airlines (JAT) the landing rights as part of a complex set of sanctions mechanisms imposed on the government in Belgrade. A decision to that effect was reached by the member states of the then EU15 at the General Affairs Council on June 29, 1998. But due to resistance from Greece and the UK, the decision on JAT landing rights was not actually enforced until September 7, 1998 (Duke 1999:6). Given that even such a relatively minor issue caused major coordination problems in policy positions, a number of analyses of the EU's role in crisis management focused on the central role played by the US (and NATO more broadly) in creating coherence in the EU's approach (ibid.).

With a view of stabilising the situation on the ground in Kosovo in the fall 1998, the EU proposed a number of steps for the post-conflict stage. This included the following:

- establishment of an international interim administration under EU leadership;
- setting up of a police force reflecting population composition of Kosovo;
- holding of free and fair elections; and
- deployment of international military presence on the ground to protect the whole population of Kosovo.²⁰

EU Special Envoy for Kosovo

An important institutional element in the EU's presence in Kosovo was the setting up of the EU Special Envoy for Kosovo. On October 5, 1998, the Council appointed an Austrian official, Wolfgang Petritsch, to the post. The role of the Special Envoy was to act as the main point of contact promoting EU policies in relation to Kosovo and cooperating with the EU Special Representative to Federal Republic of Yugoslavia. Ambassador Petritsch's post received a budget of €510,000 for the period until the end of September 1999 to cover expenditures related to renting infrastructure and remunerating local staff.²¹ Arguably, this Joint Action on 5 October 1998 had not only set up a visible EU presence in Kosovo but, perhaps more importantly, administratively set up a structure taking Kosovo out of the framework of EU relations with the Federal Republic of Yugoslavia. Thereby, the EU set up separate processes for managing

²⁰ See Council Decision adopted on the basis of Article J.4(2) of the Treaty on European Union, on the monitoring of the situation in Kosovo, 13 November 1998, para 6 (quoted from Duke 1999:6).

²¹ Based on Joint Action adopted by the Council on the basis of Article J.3 of the Treaty on European Union in relation to the nomination of an EU Special Envoy for Kosovo, 30 March 1999, 1999/239/PESC.

relations with Kosovo effectively dividing it from relations with the rest of the then Yugoslavia. This system has since expanded and has been perpetuated in various forms until 2017, when Kosovo and Serbia are managed by different aid programme portfolios and by different units within the EU-level institutions (e.g. separate desks for Kosovo and Serbia in DG NEAR).²²

3.3 EU crisis management post-crisis: Stage 1 (1999–2007)

Societal and political developments on the ground

The NATO air strikes justified as a humanitarian intervention²³ were decisive and led to the withdrawal of Yugoslav (mostly Serb) troops from Kosovo. To address the immediate power and security vacuum (in particular, the revenge violence by Kosovo Albanians against the minority Serb population), it was decided that a UN peacekeeping operation was to administer the territory, with KFOR providing security. The civilian and military components were thus separated.

The powers of UNMIK established in Security Council resolution 1244 were unprecedented and virtually suspended Yugoslavia's sovereignty over the territory.²⁴ UNMIK's regulation provided that "all legislative and executive authority with respect to Kosovo, including the administration of the judiciary, is vested in UNMIK and is exercised by the SRSG [Special Representative of the Secretary General]".²⁵ While this was not the first time that the UN assumed some administrative functions inside a state,²⁶ Kosovo was fully entrusted to the administration of a UN peacekeeping operation. Given the difficulty of the crisis, the internal structure that the international civilian presence adopted on the ground was extremely complex. Under the leadership of the SRSG, the responsibilities were initially divided among several international organisations: the UN (civil administration), UNHCR (humanitarian aid programme), the OSCE (democratisation and institution building) and the EU (economic

²² Interview I2, Senior Official, Serbia Desk, DG NEAR, Brussels, 13 October 2016.

²³ Press statement Javier Solana, Secretary General of NATO, 23 March 1999, Press Release 1999(040).

²⁴ UN Security Council resolution, S/RES/1244 (1999), 10 June 1999.

²⁵ UNMIK Regulation No. 1999/1, 25 July 1999.

²⁶ For more on the history of UN administrations see Ralph Wilde, *International Territorial Administration: How Trusteeship and the Civilizing Mission Never Went Away* (Oxford: Oxford University Press, 2008).



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reconstruction), in what has become known as the four-pillar structure.²⁷ This pillar structure was supposed to reflect lessons learned from the experience of managing post-Dayton Bosnia and Herzegovina.²⁸ Nevertheless, there has been lack of local ownership and various governance instruments deployed by international organisations have since been challenged by that. As Ejodus (2016) points out, failure to provide local ownership in early stages of an intervention has lasting effects and remains one of the key challenges for effective crisis management by actors such as the EU.

Despite the ambitious set-up on the ground, the UNSC resolution 1244 did not address the underlying cause of the crisis – the future status of Kosovo. The resolution is riddled with ambiguities and contradictions. In order to secure the agreement of both conflicting parties and to obtain the support of Russia and China for the resolution, its text affirms the “territorial integrity of the Federal Republic of Yugoslavia”, and at the same time repeatedly calls for “the establishment of democratic self-governing institutions” and “substantial autonomy” for the province.²⁹ Because the UN placed Kosovo under international administration without a clear road map for its final status, the two parties to the conflict understood UNMIK’s mandate (and the mandate of the broader international community) differently, leading to much dissatisfaction with the post-conflict settlement from all sides.

The immediate period after the establishment of UNMIK was marred by violent incidents against Kosovo Serbs and other minorities as well as political struggles between several competing Kosovo Albanian parties over who was the legitimate representative of the Kosovo Albanian population. Unelected Kosovar parallel structures established during the conflict were in open competition with each other and the international presence. After months of uncertainty about how the region was to be governed, the SRSG established a Joint Interim Administrative Structure (JIAS), which envisaged involvement of all major local parties.³⁰ In turn for their inclusion in the structure administering Kosovo, the Kosovo Albanian leaders had to give up their earlier claims and dissolve parallel structures. Kosovo Albanians agreed to this arrangement. Although the inclusion of Kosovo Serbs was an integral part of the

²⁷ For more on the initial set-up see Marcus Brand, *The Development of Kosovo Institutions and the Transition of Authority from UNMIK to Local-self Government*. Working paper, Centre for Applied Studies in International Negotiations (CASIN), January 2003.

²⁸ Mateja Peter, Whither sovereignty? The limits of building states through international administrations’. in Joseph R. Rudolph and William J. Lahneman (eds.) *From mediation to nation-building: Third parties and the management of communal conflict* (Lanham, MD and Plymouth: Lexington Books, 2003, 419–438).

²⁹ UN Security Council resolution, S/RES/1244 (1999), 10 June 1999.

³⁰ Regulation 1/2000 of 14 January 2000.



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agreement, they dismissed this regulation as a violation of the UNSCR 1244 and demanded self-government.

Over the following years, UNMIK increasingly withdrew from an active role in the administration to a more supervisory function. A major milestone in this was the Constitutional Framework on Provisional Self-Government adopted in May 2001 by the SRSG. As Brand³¹ writes: “The document is not a constitution as such, as all legislative and executive authority remains with the SRSG himself, it provides rules for the creation and functioning of and interaction between provisional institutions, such as the Kosovo Assembly, the President of Kosovo and the Government, comprised of a Prime Minister and Ministers.” Unlike the post-war structures, these were elected institutions. From the outset, Kosovo Serbs were resisting participation in these new structures as well as other institutions established by UNMIK and Kosovo Albanians, worrying that their participation could be interpreted as endorsement of a new state.

Kosovo Serbs did not recognise UNMIK’s authority and for the most part did not trust KFOR to maintain security in majority Kosovo Serb municipalities in the Northern Kosovo.³² Security considerations also made it difficult for them and other minorities to travel outside their enclaves. To ensure governance of majority Kosovo Serb territories, they established their own parallel structures, including police, courts, schools, and hospitals. These were directly answering to Belgrade and were for most part officially integrated into their respective Serbian ministries, with the Federal Republic of Yugoslavia also declining to recognise UNMIK’s authority. For example, the Serbian Ministry of Internal Affairs continued administering passports and identification cards in Kosovo. These were needed for travel to Serbia proper, as UNMIK issued documents were not treated as valid there. Much international attention was thus directed at trying to bring Kosovo Serbs to participate in UNMIK supported Provisional Institutions of Self-Government, but with little success. For years, the two systems ran side by side.³³

The security situation on the ground remained tenuous and low-level violence continued after the war. Clashes between the Kosovo Albanian majority and the Kosovo Serb minority were a common occurrence. The worst clashes occurred in

³¹ Marcus Brand, *The Development of Kosovo Institutions and the Transition of Authority from UNMIK to Local-self Government*. Working paper, Centre for Applied Studies in International Negotiations (CASIN), January 2003.

³² The northern municipalities usually refer to Leposavić/Leposaviq, Zvečan/Zvečan, Zubin Potok and the northern part of Mitrovicë/Mitrovica municipality.

³³ OSCE report, Parallel Structures in Kosovo, October 2003, <http://www.osce.org/kosovo/42584?download=true>, accessed on March 10, 2017



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March 2004 in the divided town of Mitrovica. The clashes were sparked by the shooting of a Serbian teenager, which led to a blockade by Kosovo Serbs of the main Pristina–Skopje road just outside Pristina. When three Kosovo Albanian children drowned in the Ibar River near the Serb community of Zubin potok, Kosovo Serbs were seen as retaliating for the murder of one of their own. Thousands of Kosovo Albanians gathered on the bridge in Mitrovica, which separates the Kosovo Albanian and Kosovo Serb parts of the town. KFOR peacekeepers blockaded the bridge, but violence erupted and both sides opened fire. The violence quickly spread from Mitrovica to other parts of Kosovo. After the events, the UN Secretary-General reported to the UN Security Council:

A total of 19 persons died in the violence, of whom 11 were Kosovo Albanians and 8 were Kosovo Serbs, and 954 persons were injured in the course of the clashes. In addition, 65 international police officers, 58 Kosovo Police Service (KPS) officers and 61 personnel of the Kosovo Force (KFOR) suffered injuries. Approximately 730 houses belonging to minorities, mostly Kosovo Serbs, were damaged or destroyed. In attacks on the cultural and religious heritage of Kosovo, 36 Orthodox churches, monasteries and other religious and cultural sites were damaged or destroyed.³⁴

Keeping in mind that parallel governance systems and sporadic violence would continue until the situation over the status of Kosovo was addressed, the international community was keen to find a negotiated settlement. But many key local actors were deemed highly problematic, both for their actions during the war (for example, in 2005 the International Criminal Tribunal for the Former Yugoslavia indicted prime minister Ramush Haradinaj, a former rebel commander, for crimes committed during the Kosovo war) and over continued corruption scandals. The newly established Provisional Institutions of Self-Government were also untested. The UN therefore engaged in what has become known as the ‘standards before status’ policy, where local institutions were assessed during periodic review against benchmarks elaborated in the ‘Standards for Kosovo’ document.³⁵ Both Belgrade and Kosovo Serbs distanced themselves from the document and for most part failed to participate in working group discussions.

³⁴ Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, S/2004/348, 30 April 2004.

³⁵ Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, S/2004/71, 26 January 2004



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In early 2006, it was deemed that enough progress had been made on the standards, and the UN-sponsored talks on the future status of Kosovo began under the leadership of Martti Ahtisaari. After almost 12 months of direct talks between Belgrade and Pristina, Ahtisaari concluded that there was no chance for the two sides to reconcile their positions. He proceeded to submit to the UN Security Council his proposal, including his recommendation of independence for Kosovo supervised initially by the international community. Unsurprisingly, the proposal was welcomed by the Kosovar Albanians and rejected by Serbia and Kosovo Serbs. Although the number of serious inter-ethnic incidents remained low in the immediate aftermath of unveiling the plan, the political uncertainty surrounding the status resulted in a fragile security situation. While the proposal was initially supported by many Western states (most notably the United States), Serbian and Russian opposition to the plan meant that it was quickly abandoned as a comprehensive solution. A new round of talks, led by a “Troika”, comprising representatives of the European Union, the Russian Federation and the United States, was initiated, but again it failed to produce a mutually agreed solution.

Development of EU crisis management structures and their conduct

The EU’s presence on the ground in Kosovo involved multiple structures and processes. The EU was instrumental in running Kosovo’s economic governance, which was done in the framework of UNMIK Pillar IV EU’s economic engagement including the creation of Kosovo Trust Agency, which supported the nascent Kosovo authorities in establishing the banking system, controlling revenues from customs on the borders and in privatisation processes. The EU was under high pressure to set up a basic economic governance structure to enable the rebuilding of Kosovo as soon as possible after the cessation of hostilities. In this process, it proved to be a relative advantage for the Commission to approach this with flexible solutions, including such unusual practices as establishing an account in a private bank in Germany and using that account for basic financial operations and deposits of revenues from the newly established Kosovo border customs.³⁶ The practices supporting this process on the ground involved:

- 1) the need to collect the customs revenues money at the borders and transport it physically to the EU headquarters in Pristina (referred to as “the Museum” since the EU HQ was housed in a museum building);
- 2) the need for EU officials to physically guard and transport the collected financial resources by airplanes from Pristina to Frankfurt and
- 3) subsequently depositing them to the account in the bank in Germany.³⁷

³⁶ Interview I1, Senior Official, DG NEAR, Kosovo Desk, Brussels, October 13, 2016.

³⁷ Interview I1



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In the initial months following the post-conflict stage, such basic services in Kosovo as issuing license plates, payments for electricity and other kinds of energy supplies, water delivery, etc., were all administered and operated via this. As observed by one of our interviewees, such a solution was available to the European Commission as part of its mandate in rebuilding economic governance in Kosovo but would have been legally more problematic if it were to be performed by a government or diplomatic service of one of the member states.³⁸

During the first post-crisis stage, the EU also launched a new strategic approach to conflict management summarised in the 2001 *Communication on Conflict Prevention*.³⁹ It promoted the notion of a comprehensive approach to crises where the root causes were to be addressed on various levels in the society by developing the economy, good governance, healthcare and education; building international economic and political ties of crisis-ridden societies; and setting up frameworks and processes of regional integration in a given region. In this sense, the document built on the notion of ‘structural diplomacy’ (Keukeleire 2003). Operationalising this approach in the field, EC Delegations have had the practice of producing Country Strategy Papers and Country Conflict Assessments, in which they would analyse a number of indicators across various domains relevant to peacebuilding and development in a comprehensive manner (Keukeleire & MacNaughtan 2008).

On the macro-level, stabilisation of the situation on the ground was helped by the EU’s launching in 1999 of the Stabilisation and Association Process (SAP) which stipulated that peacebuilding and transformation were processes that could not only lead to normalisation of affairs on the ground but also, over time, provide a perspective for the countries’ membership in the EU. This was confirmed in the conclusions of the Thessaloniki summit in June 2003, pointing out that the region’s future is in the EU following the same process as the countries of Central and Eastern Europe entering in 2004 (Dowling 2007:176). The key instrument used by the European Commission to support SAP was the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) instrument. Through this instrument, the EU channelled €4.6 billion in the region between 2000 and 2006 aimed at reconstruction, democratic stabilisation and development of legislature and institutions (ibid.).

³⁸ Interview II.

³⁹ See *Communication from the Commission on Conflict Prevention*, COM(2001) 211 final, Brussels, European Commission, 11 April 2001 (available at http://eeas.europa.eu/archives/docs/cfsp/crisis_management/docs/com2001_211_en.pdf, accessed on March 15, 2017).



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3.4 EU crisis management post-crisis: Stage 2 (2008-2017)

Societal and political developments on the ground

In November and December 2007, Kosovo held general and municipal elections. After the initial sessions of the Assembly of Kosovo, when the members took their oath and elected their leadership, the members of the Assembly held a session in February 2008, during which they adopted ‘a declaration of independence’, declaring Kosovo an independent and sovereign state. In it, they stated that the new state fully accepted the obligations of the Comprehensive Proposal for the Kosovo Status Settlement, the so-called Ahtisaari plan. The authorities in Belgrade and Kosovo Serbs condemned the declaration of independence. Kosovo Serbs staged daily, largely peaceful, protests and “expanded their boycott of the institutions of Kosovo to include UNMIK Customs, the Kosovo Police Service (KPS), the Kosovo Corrections Service, the judicial system, municipal administration, and UNMIK railways”.⁴⁰ In March 2008, Serb opponents of independence seized a courthouse in Mitrovica, resulting in clashes with UNMIK police.

Shortly before the proclamation of independence of Kosovo, the Council of the European Union adopted a Joint Action creating the European Union Rule of Law Mission in Kosovo (EULEX).⁴¹ As UNMIK was increasingly transferring powers to local institutions, EULEX was intended to substitute for the rule of law functions of the UN mission. The changing circumstances on the ground, including increasing ownership of rule of law matters by the local institutions, were deemed to require a different type of mission, one that was supportive, rather than executive.⁴² However, the timing of the announcement, coinciding with the proclamation of independence, and the fact that EULEX would be replacing an important part of UNMIK, thus empowering local institutions promoting independence, was unfortunate. On the ground, the Serb-controlled territories refused to recognise EULEX authority, insisting on the continued presence of UNMIK, which they saw as status-neutral. The Kosovo Albanian government, on the other hand, preferred to terminate UNMIK’s presence in favour of EULEX. These ambitions stretched beyond rule of law matters and the new constitution passed by the Kosovo Assembly in April 2008 was designed in such a way

⁴⁰ Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, S/2008/211, 28 March 2008, paragraph 8.

⁴¹ Council of the European Union [EU Council], Council Joint Action 2008/124/CFSP, 2008 O.J. (L 42) 92.

⁴² Erika de Wet (2009). “The Governance of Kosovo: Security Council Resolution 1244 and the Establishment and Functioning of Eulex ” in *American Journal of International Law*, 103(1), p. 84.

that it would effectively remove from UNMIK its powers as an interim administration of the territory. As discussed in the sections that follow, this substantially delayed the deployment of EULEX.

In October 2008, the UN General Assembly voted to refer the unilateral declaration of independence to the International Court of Justice. The court delivered its advisory opinion in July 2010, ruling that the adoption of the declaration of independence did not violate general international law because international law contains no prohibition on declarations of independence.⁴³ However, the court did not want to go as far as to say that Kosovo had a right to seek independence. Questions over the status of Kosovo were therefore not resolved, with both sides maintaining their original position. However, as more states started recognising Kosovo as an independent country, Serbia became more willing to enter into direct talks with Kosovo.

The Belgrade–Pristina dialogue was launched following the adoption of the UN General Assembly Resolution.⁴⁴ This dialogue is facilitated by the European Union and commenced in March 2011, as a series of technical negotiations under the auspices of the EEAS Councillor Robert Cooper. These negotiations were then elevated to a high-level dialogue, first overseen by the former High Representative for Foreign Affairs and Security Policy/Vice-President of the Commission Catherine Ashton, and later by her successor Federica Mogherini.⁴⁵ These talks, which are further analysed in the subsequent sections, brought several advancements in normalisation of relations between Kosovo and Serbia. The highlight to date is the April 2013 agreement that granted a high degree of autonomy to Serb-majority areas in northern Kosovo, with both sides also agreeing not to block each other's efforts to seek EU membership. Later that year, Kosovo organised the first local elections supported by Serbia since the 2008 declaration of independence.

Development of EU crisis management structures and their conduct

In the second post-crisis stage, there were several key developments.

EULEX mission

⁴³ International Court of Justice, Accordance with international law of the unilateral declaration of independence in respect of Kosovo, Summary of the Advisory Opinion, Summary 2010/2, 22 July 2010.

⁴⁴ UN General Assembly resolution A/RES/64/298, 13 October 2010.

⁴⁵ https://eeas.europa.eu/headquarters/headquarters-homepage/349/dialogue-between-belgrade-and-pristina_en



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The EULEX mission was formally set up by the EU Joint Action 2008/124/CFSP, adopted by the Council in February 2008. Building on the so-called Ahtisaari plan of February 2007,⁴⁶ the purpose of the EULEX mission was to support development of good governance and rule of law in Kosovo. Upon its launch in December 2008, the primary task of EULEX was to map out existing shortcomings in the application of the rule of law around Kosovo and to come up with measures addressing these. This was critical as the security situation on the ground was volatile; not only due to continuing ethnic tensions related to the previous conflict with Serbia but also due to the fact that Kosovo emerged as a hotbed of criminal networks involved in trafficking and smuggling between countries of the former Soviet Union and Western Europe (Chivvis 2010:32).

The tasks of the EULEX mission were defined in a wide-reaching manner providing the mission with a mandate to profoundly interfere in the domestic affairs of Kosovo. To get a picture of the nature of the powers, it is worth quoting the respective Joint Action at some length. The EULEX tasks were defined as follows:

- monitor, mentor and advise the competent Kosovo institutions on all areas related to the wider rule of law (including a customs service), whilst retaining certain executive responsibilities;
- ensure the maintenance and promotion of the rule of law, public order and security including, as necessary, in consultation with the relevant international civilian authorities in Kosovo, through reversing or annulling operational decisions taken by the competent Kosovo authorities;
- help to ensure that all Kosovo rule of law services, including a customs service, are free from political interference;
- ensure that cases of war crimes, terrorism, organised crime, corruption, inter-ethnic crimes, financial/economic crimes and other serious crimes are properly investigated, prosecuted, adjudicated and enforced, according to the applicable law, including, where appropriate, by international investigators, prosecutors and judges jointly with Kosovo investigators, prosecutors and judges or

⁴⁶ The *Comprehensive Proposal for the Kosovo Status Settlement* of 2 February 2007, as the Ahtisaari plan was formally entitled, contained basic principles on which Kosovo should be governed including constitutional provisions; provisions on the rights of communities and their Members; decentralisation; justice system; religious and cultural heritage, international debt; property and archives; Kosovo security sector; and on international institutions present in Kosovo (including the ESDP mission and International Civilian Representative in Kosovo). Due to Russia's objections, the Ahtisaari plan failed to get UN Security Council support. As a result, Kosovo declared independence without UN support in February 2008 – a development leading to numerous legal ambiguities on the ground.



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independently, and by measures including, as appropriate, the creation of cooperation and coordination structures between police and prosecution authorities;

- contribute to strengthening cooperation and coordination throughout the whole judicial process, particularly in the area of organised crime;
- contribute to the fight against corruption, fraud and financial crime;
- contribute to the implementation of the Kosovo Anti-Corruption Strategy and Anti-Corruption Action Plan;
- assume other responsibilities, independently or in support of the competent Kosovo authorities, to ensure the maintenance and promotion of the rule of law, public order and security, in consultation with the relevant Council agencies; and
- ensure that all its activities respect international standards concerning human rights and gender mainstreaming.⁴⁷

In terms of personnel resources, EULEX consisted of 1,711 international staff members and 818 local staff in April 2009 (Chivvis 2010).

In the first two years of its operation, the EULEX mission staff were mentoring, advising and supporting Kosovo authorities and governance institutions in the three key realms of rule of law: justice, police and customs.⁴⁸ In addition, EULEX also had executive powers.⁴⁹ This allowed the mission to establish practices such as bringing cases to court by international prosecutors and trying them by committees consisting of a majority of international judges. EULEX has also been involved in capacity-building measures at various levels of the Kosovo judicial system by mentoring, monitoring and advising local partners in the Kosovar institutions.⁵⁰ Effectively, EULEX thus became the first EU mission that had the mandate to interfere directly in the domestic affairs of a third state (Chivvis 2010:31). Moreover, it contained a further novelty, namely about 70 US officials operating in Kosovo under EU mandate (ibid.).

The latest mandate extension of EULEX in June 2014 (expiring on 14 June 2018), brought a change to the practices in courts where the composition of panels trying cases

⁴⁷ Quoted from *Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX Kosovo*, Article 3 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008E0124&from=EN>, accessed on Mar 7, 2017).

⁴⁸ See *Short history of EULEX* at <http://www.eulex-kosovo.eu/?page=2,44,197>, accessed on March 3, 2017.

⁴⁹ See e.g. Law No. 03/L-053 on jurisdiction, case selection and case allocation of EULEX Judges and Prosecutors in Kosovo

⁵⁰ See *Short history of EULEX* (ibid.).



mostly consists of Kosovo Albanian judges and the EULEX officials are gradually handing over the judicial agenda to Kosovar authorities. The exception has been the territory of Northern Kosovo, where EULEX continues the judiciary practices featuring international judges and prosecutors as established in 2008.⁵¹

In terms of *organisation*, the EULEX mission mandate extension in 2012 brought a new structural set-up in which the mission received two main sections, namely the 'Executive division' and the 'Strengthening division'. The former has been involved in various forms of governance conduct and the latter has been focusing on monitoring, advice and capacity-building measures. When it comes to *command structure*, since 2008 the EULEX mission command was led by a Civilian Operational Commander based within the Civilian Planning and Conduct Capability (CPCC) in Brussels. The Commander reported directly to the Political and Security Committee and to the High Representative for CFSP and was in direct contact with the EU's Special Representative in Kosovo. Following the creation of the EEAS, the CPCC was incorporated within its structure as of 2010.

The most recent institutional development in the set-up of the EU's crisis management structures with impact on the day-to-day operations of missions like EULEX is the FAC decision on 6 March 2017 to establish Operational Planning and Conduct Capabilities (OPCC) for CSDP Missions and Operations.⁵² This new structure is to be part of the EEAS crisis management unit and will consist of 30-35 officials. As its name suggests, it takes on strategic planning and oversight of CSDP crisis management missions. In the first stage, this concerns missions to Mali and Somalia with a view of expanding the portfolio to include all of the EU's crisis management missions. The OPCC will work together with the Political and Security Committee (PSC) of the Council to establish strategic direction for policies. Moreover, it will work with the EU's Single Intelligence Analysis Capacity (including EU INTCEN within the EEAS and EU Military Staff Intelligence) in developing updated insights on the developments on the ground in crisis regions.⁵³ The purpose of the OPCC is to act as a central coordinating point, streamlining inputs from relevant EU-level institutions and from member states in delivering solutions in the EU's comprehensive approach to crisis management.

⁵¹ See *Short history of EULEX* (ibid.).

⁵² See Concept Note: Operational Planning and Conduct Capabilities for CSDP Missions and Operations, General Secretariat of the Council, 6881/17, Brussels, 6 March 2017.

⁵³ Ibid., p. 3.



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EU-facilitated dialogue for the normalisation of relations between Belgrade and Pristina

In the period March 2011–March 2012, the EEAS, represented by Sir Robert Cooper as a special advisor to HR Catherine Ashton, initiated and facilitated a high-level dialogue between governing authorities in Serbia and Kosovo. HR Ashton herself continued the dialogue in the period between October 2012 and October 2014, when the responsibility for its facilitation was taken over by HR Mogherini.⁵⁴

The purpose of the dialogue was to tackle practical issues in the cooperation between Kosovo and Serbia and finding solutions to issues generating tensions on the ground and in relation to processes of European integration. The Dialogue emerged as a result of opportunities arising in the context of a collusion of various factors. The most notable of those were three processes. First, Catherine Ashton was relatively newly installed as the HR with a new mandate based on the Lisbon Treaty and in charge of a new diplomatic service – the EEAS – seeking to define its new role and prove its efficiency. Second, as Robert Cooper (2015) explains, Serbia had put a question to the UN General Assembly regarding the status of Kosovo and the International Court of Justice at The Hague was going to report to the UN General Assembly on its findings. Third, Serbia had applied for EU membership but their application was being blocked by two or three EU member states' governments criticising Serbia for its position on Kosovo independence. In short, the need to establish closer ties with the EU in both Serbia and Kosovo provided the EU with leverage in the process of setting up the dialogue format and moving forward effectively (ibid.). This was combined with practical requirements on the ground, such as the need to set up a civil registry in Kosovo and set up customs stamps for goods traded from the Kosovar territory.

In practice, the dialogue centred around more than 20 dinner meetings between the HR and top political representatives of Kosovo and Serbia. The frequency of meetings created informal ties that helped to ease what were initially highly tense relations between the two governments. There were differences in how the EU's top negotiators approached the mediation process. Robert Cooper would draft written proposals early on in the process, but his approach often generated tensions and arguments between the parties. Catherine Ashton preferred a more gradual and slower approach, where drafting of written agreements would be preceded by discussions during six or seven joint dinners (e.g. regarding the arrangements in North Kosovo). The document drafted

⁵⁴ See *Dialogue between Belgrade and Pristina*, EEAS web site at https://eeas.europa.eu/headquarters/headquarters-homepage_en/349/Dialogue%20between%20Belgrade%20and%20Pristina; accessed on March 5, 2017.



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based on this approach would be similar to Robert Cooper's in terms of contents, but there would be less friction in achieving agreement on their formulations (Cooper 2015).

In terms of the political aims of the Dialogue, a key issue was, first, to achieve a situation in which North Kosovo would be brought under the control of the government in Pristina and under Kosovo law. Second, it was crucial to provide security to people in North Kosovo. This was informed by a broad notion of human security and by the realisation that any durable stability on the ground depends on a bilateral agreement between the two governments. As Robert Cooper (2015) explains:

The objective was to provide security in all kinds of ways for the people who are living there: the security primarily of living in a place which is governed by law, with proper courts, with proper police and courts, and things like that, which it certainly didn't have at the time. There were informal courts, but they were informal and, therefore, invisible and the police was pretty ambiguous because there were police there but they were receiving in many cases two salaries and orders from two different places. So again there was uncertainty.

In the long run, Kosovo has a history of ethnic cleansing and it seemed to me that these people were at risk, and the only way in which one could secure their future was to have a good relationship between Belgrade and Pristina. Belgrade has an interest because these are Serbs. Belgrade has an interest in them being allowed to lead their lives without undue interference or without security problems. Pristina has an interest in them being brought formally under Kosovo law as a part of the Kosovo state. That's the basis of the agreement. The main objective of it is eventually to provide security for the people who lived there. I don't see how else that can be done.

The Dialogue processes led to the signing of the Brussels Agreement on the normalisation of relations between Kosovo and Serbia in 2013. It is worth noting that purposeful ambiguity in the wording of the agreement seems to have been one of the key instruments enabling its success. It is namely not entirely clear what is the meaning of the term "normalisation" here.⁵⁵ As one of our interviewees pointed out, the process of EU approximation is highly legalistic. In virtually any area of governance, whether the environment or agriculture, the EU is strict about monitoring the implementation of its legal rules, which are often meticulously defined. In the case of the "normalisation" process, however, the EU officials have left this to be very much a bottom-up process and allowing the Kosovars and the Serbs to define what they perceive as a normal state

⁵⁵ Interview I2

of relations. In principle, “when the local actors are happy, the EU is happy”.⁵⁶ In this way, progress can be achieved, but much of the responsibility is left to the local actors.

To support the aims of the dialogue process, the EU has been allotting various kinds of financial resources to the development of Kosovo municipalities both in the South and in the North. DG NEAR, for instance, has been managing a budget of €38.5 million in 2013 directed towards support for rule of law, public sector development and technical assistance to municipalities (garbage management, support civil society, education) in Mitrovica, Zvecen, Zubin Potok and other predominantly Serbian municipalities.⁵⁷

Revitalisation of the Mitrovica bridge

A key symbol in the process of ‘normalisation’ of relations between Kosovo Albanians and Kosovo Serbs has been the Mitrovica bridge, which has been a key site of tensions in the post-conflict period. Hence, as a tangible outcome of the ongoing normalisation dialogue, the two sides and the EU have agreed that the Mitrovica bridge should be revitalised and re-opened to pedestrians to pass freely between the northern part and the southern part of town. Both sides agreed upon the revitalisation project in August 2015, including details such as architectural style and placement of decorative trees, as shown in the drawing in Annex I. The launch of the project was on 14 August 2016 with a planned opening of the bridge on 20 January 2017.⁵⁸ As part of the revitalisation, King Petar Street – the main street of Northern Mitrovica – was going to be turned into a pedestrian zone. The entire process costs estimated to be at €1.2 million were to be covered by the EU. As the EEAS argued, the revitalisation of the bridge “will greatly contribute to facilitating contacts between all people of Mitrovica North and South and will thus contribute to exchanges and understanding”.⁵⁹

At the time of writing in March 2017, the bridge was still not open. The delay related to the rising tensions between Serbia and Kosovo in the fall 2016. As a result of the tensions, the Kosovo Serb local authorities have built a two meter high concrete wall on the northern side of the bridge with construction works finalised on December 8, 2016. Officially, the Kosovo Serb authorities argued this was a supporting wall for the riverside promenade but the authorities in Pristina saw this as an attempt to block public traffic and ordered the wall to be demolished.⁶⁰ The Kosovo Minister in charge of the

⁵⁶ Interview I2.

⁵⁷ Interview I1.

⁵⁸ See https://eeas.europa.eu/headquarters/headquarters-homepage/8592/eu-facilitated-dialogue-implementation-agreement-mitrovica-bridge_en, accessed 10 March 2017.

⁵⁹ Ibid.

⁶⁰ See <http://www.balkaninsight.com/en/article/kosovo-s-symbolic-mitrovica-bridge-opening-delayed-03-08-2017>, accessed 10 March 2017.



Kosovo-Serbia dialogue, Edita Tahiri, convened an urgent meeting in Pristina on Wednesday, 7 December 2016, arguing that the build-up of the wall was a breach of the Brussels Agreement as well as of Kosovo laws and steps would be taken to take the wall down.⁶¹ The meeting convened some of the key actors, including Gazmir Raci, coordinator of the Brussels agreement on revitalisation of Iber Bridge, Artben Citaku, Permanent Secretary of the Ministry of Environment and Spatial Planning, Dren Zeka, coordinator on legal function of northern municipalities, and Rashit Qalaj, Deputy Director of the Kosovo Police. The purpose of the meeting and the ensuing steps were intended, in Tahiri's words, to counter "the logics of walls and barricades".⁶² The EU Office in Kosovo was also involved at this stage. As Tahiri stated:

I have officially informed the European Union on Tuesday evening (Dec 6, 2017) on the latest developments and told them that the construction work is illegal, in violation with the Brussels Agreement and is being implemented by municipal parallel structures controlled by Serbia. I warned that these developments will destabilise the situation and raise tensions, therefore prompt actions are needed to stop this, because this can put at stakes achievements reached so far during the Brussels dialogue. I also talked to the Head of the EU Office in Kosovo, Nataliya Apostolova, informing her about my concerns. An EU delegation is expected to arrive today in Kosovo and building of the wall will be the main topic of our meeting.⁶³

The situation delayed the construction of the bridge and planned opening. Following pressure by the Kosovo authorities as well as the EU, both sides of the dispute decided to convene around the negotiating table. In negotiations facilitated by the EU Office in Kosovo and the US embassy in Kosovo and lasting until 2.30am on Saturday, 4 February 2017 (hence actually on February 5th), representatives of the Serb municipal authorities in North Mitrovica and Kosovar leaders from Pristina agreed to a new solution based on the condition that, as part of the bridge revitalisation project, a further "structure" preventing vehicular access to the King Petar Square in North Mitrovica would be put up 2 meters further back than the original wall (presumably consisting of rising bollards).⁶⁴ The wall was demolished on Sunday, February 5th and the process of opening up the bridge was expected to continue (see Annex II). However, there was

⁶¹ See <http://www.gazetaexpress.com/en/news/tahiri-the-wall-in-mitrovica-north-in-violation-with-brussels-agreement-171585/>, accessed on March 28, 2017.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ See *Mitrovica Wall Comes Down*, available at <http://kosovotwopointzero.com/en/mitrovica-wall-comes/>, accessed on March 15, 2017.



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an official opening scheduled on 3 March 2017 in a ceremony to be attended by HR Mogherini but it eventually was also delayed, for unclear reasons. Apparently, HR Mogherini had visited the bridge a day later on March 4 and stated that although the bridge was “a symbol of the fractures, the wars and the pain marking the history of the Balkans in the last 25 years”, it could now become “a symbol of dialogue, reconciliation and hope”.⁶⁵ At the time of writing, the bridge was scheduled to open in May 2017.

Implementation challenges and progress in the stabilisation process on the ground

The implementation of the Brussels agreement on the normalisation of relations achieved in 2013 depended on numerous factors relating to the intricacies and day-to-day practices on the ground. One of the key challenges was to implement changes towards effectively bringing the territories of North Kosovo under the control of the Kosovo authorities in Pristina. A key measure in doing this was to reorganise the funding of police officials in North Kosovo. Until 2014, the Serbian government paid their salaries. This was changed and virtually all police officials in North Kosovo were paid by the Kosovo public budget in October 2016.⁶⁶

At the time of writing, one of the key problems complicating the security situation on the ground continues to be the ready *availability of fire arms* (including light arms and AK47 assault rifles) throughout the society.⁶⁷ Obviously, this situation has led to low levels of security throughout Kosovo, involving various types of challenges ranging from organised crime-related shootings to so called ‘happy shootings’ – a term referring to accidental deaths of civilians hit by bullets fired in the air during weddings and other kinds of celebrations (apparently, as reported to us, two Kosovo Albanians have died of such causes in the first half of 2016).⁶⁸

Several practical measures had to be implemented to address this problem. First, access to firearms has been promoted by their being transported around Kosovo in cars belonging to members of organised crime groups. This was enabled by the lack of willingness of Kosovo local police to check these cars. Hence, in addressing this problem, EULEX Executive Police have started to systematically check on cars above the value of €50,000 as of 2011. In recent years, numerous cars were actually confiscated by EULEX Executive Police as they lacked proper registration and their

⁶⁵ Ibid.

⁶⁶ Interview I3, Senior EULEX official, EEAS Civilian Conduct and Planning Capability, Operations Division, EULEX Desk, Brussels, 13 October 2016.

⁶⁷ Interview I3.

⁶⁸ Interview I3.



owners owed payments for this. This has led to a decrease in the practice of using regular vehicles for transportation of arms.⁶⁹

Second, smuggling of weapons and other items between Albania, Kosovo and Macedonia and then on towards Serbia and further to the EU has been highly active.⁷⁰ These activities were enabled by a lack of effective collaboration between police in South and North Kosovo. Hence, as of autumn 2015, EULEX Executive Police have introduced the practice of *joint patrols* with North Kosovo police in the so-called ‘Green zone’ - the 1,000-meter broad strip of border between North Kosovo and Serbia proper.⁷¹ Such joint patrols were practised with South Kosovo police until 2012 and ceased in that year when they were no longer deemed necessary. Since 2012, in South Kosovo, EULEX Executive Police merely participate in regular management meetings and they have overall decreased the intensity of monitoring activities there.

Third, processes of stabilisation in North Kosovo depend on the cooperation with the mayors of local municipalities – many of them with a high percentage of Serbian population. The challenge there is that mayors in North Kosovo have been in frequent contact with Serbian authorities and they could easily activate the local population to form roadblocks and challenge execution of governance authority of the Pristina government. Hence, EULEX Executive Police have been seeking to form good working relations with mayors in North Kosovo and use these contacts to promote various governance initiatives in this part of the country. This was, apparently, different in South Kosovo where the emerging central government institutions in Pristina were the main interlocutor for EULEX and not so much the heads of local municipalities.⁷²

Implementation of EULEX mandate and processes of stabilisation have been hampered by several incidents in the fall of 2016 and in early 2017. Three such developments illustrate the situation. First, it was the *Trepca mine issue*, concerning privatisation of a major mine located on the borders of North and South Kosovo around Mitrovica – itself a divided city on the border between the two parts of Kosovo. One of the biggest mines in former Yugoslavia, containing about 40 different mine fields on both sides of the border between North and South and providing various kinds of natural resources including lead, zinc and silver. In autumn 2016, the Pristina government took control of 80% of the mine by acquiring it from private owners leaving 20% ownership in the hands of the miners. This has generated tensions, as North Kosovo communities were

⁶⁹ Interview I3.

⁷⁰ Interview I3.

⁷¹ Interview I3.

⁷² Interview I3.



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not entirely supportive of such a purchase. The implication was that the Serbian government disengaged from the Normalisation Dialogue process under Article 35, and relations have since been under increasing strain.⁷³ This relates to the fact that the Trepca mine was once a cornerstone of Yugoslavia's industrial production employing as many as 20,000 workers in its heyday, and the current Serbian government perceives the appropriation of the mine by Kosovo authorities as theft.⁷⁴

Second, the head of the South Mitrovica police station, Mr Thaci, was arrested when crossing the border to enter Serbia proper in September 2016. This was done by Serbian authorities executing a warrant order issued in Serbia in 1999, in relation to allegations that Mr Thaci was involved in war crimes during the Kosovo war. Since then, the order has been in place but there was no action in terms of executing it. The move by Serbian authorities was hence surprising and contributed to increasing tensions.⁷⁵

Third, in February 2017, Serbia tried to establish a train connection to North Kosovo. It fitted out a modern train featuring Slavic orthodox iconography on the outside of the carriages and inscriptions reading "Kosovo is Serbia" in 21 different languages. Inside the train, there were journalists as well as Serbian volunteers participating in the symbolic journey to Kosovo. The train conductors were young females wearing uniforms in the colours of the Serbian national flag.⁷⁶ The train was on its way to Kosovo with a large international media presence on board when the Pristina government hastily fielded units of well-armed special police with orders to stop the train from entering the territory of Kosovo.

In March 2017, Kosovo's President Thaci announced that Kosovo plans to establish its own regular army by expanding the remit of the currently operating Kosovo Security Force.⁷⁷ These plans were strongly opposed not only by the Serbian government but also by NATO, prompting NATO Secretary General Jens Stoltenberg to publicly ask Kosovo to abstain from such a move and issue a warning that NATO would be forced to "review its level of commitments" in Kosovo if the plan goes ahead.⁷⁸

⁷³ Interview I3.

⁷⁴ See "Kosovo government takes control of Trepca mine, Serbs protest", Reuters, 6 October 2016 (<http://www.reuters.com/article/us-kosovo-mines-idUSKCN12808T>, accessed on 5 March 2017).

⁷⁵ Interview I3.

⁷⁶ Possibly, this may have been part of the forthcoming campaign in the Serbian parliamentary elections in the first half of April 2017.

⁷⁷ See Hasim Thaci, "Kosovo Ready To Step Up Its Balkan Security Commitments", Op-ed article, *Politico.eu*, 10 March 2017 (<http://www.politico.eu/article/kosovo-ready-to-step-up-its-balkan-security-commitments/>, accessed on 10 March 2017).

⁷⁸ See <http://www.politico.eu/article/nato-urges-kosovo-to-ditch-plan-to-create-army/>, accessed on 10 March 2016.



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These developments in relations between Kosovo and Serbia were part of a larger pattern of destabilisation throughout the entire region of the Western Balkans in 2016 and the early months of 2017. As the Slovak Prime Minister Fico argued in mid-March 2017, the countries of the Western Balkans were “beginning to boil”.⁷⁹ A similar view was held by the former Swedish Prime Minister with extensive Balkans experience, Carl Bildt, who argued that due to rising tensions, the Balkans region was “gradually becoming more combustible” (Bildt 2017). This was apparent also in the rising tensions surrounding the issue of whether Serbian presidential elections scheduled for 2 April 2017, would be allowed to be held also in the territory of Kosovo in areas inhabited by Kosovo Serbs. On 29 March 2017, Kosovo Albanians from the towns of Vushtrri and Mitrovica set up temporary road-blocks on the main road leading up to the northern part of Kosovo aiming to block Serbs from the central part of Kosovo from attending an election rally in the town of Leposavic.⁸⁰ A week before the Serb presidential election, it was not clear whether the Kosovo authorities were going to allow these elections to be held in northern Kosovo.⁸¹

4. Conclusion

This paper has reviewed the involvement of the EU’s crisis management capabilities in managing the Kosovo crisis, combining a focus on the development of the EU’s institutional structures and processes with a focus on the political and societal developments on the ground in different stages of the crisis. This included the pre-crisis stage (1991-1997), the conflict crisis stage (1998-1999), the post-conflict stage 1 (1999 – 2008) and then post-conflict stage 2 (2008-2017).

As our analysis shows, the crisis in Kosovo in its various stages has been an important source of stimuli for the development of the EU’s institutional infrastructure in crisis management and in external relations more broadly. The Western Balkans and in particular Kosovo have served as important sources of adaptation indicating inefficiencies and gaps as well as new functional needs in the EU’s institutional structure. Arguably, managing the Kosovo-crisis by introducing comprehensive solutions towards building efficient structures of good governance have been an

⁷⁹ Robert Fico, speech at the 17th Annual Review Conference on the Slovak Foreign and European Policy, Ministry of Foreign and European Affairs, Bratislava, 16 March 2017.

⁸⁰ See <http://www.gazetaexpress.com/en/news/albanians-protest-against-serbian-election-rally-in-kosovo-172297/>, accessed 29 March 2017.

⁸¹ See <http://www.gazetaexpress.com/en/news/no-decision-on-serbia-s-elections-in-kosovo-172300/>, accessed 29 March 2017.



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important source of reform efforts in the development of the EU's foreign affairs apparatus, including the setting up of structures such as the EEAS supporting combined delivery of external affairs services. As indicated by the EEAS-facilitated Brussels Dialogue on the normalisation of relations between Kosovo and Serbia, conditions for achieving useful results require policy opportunities in crisis regions (e.g. efforts at deepening ties with the EU in both Kosovo and Serbia) as well as a coordinated institutional apparatus such as the EEAS that can activate various institutional resources at the EU level in support of stabilisation processes on the ground.

The paper has also identified a number of areas on the ground where there have been rising tensions and the EU has been seeking to address these. This includes processes of revitalising the Mitrovica bridge, where the EU has been heavily involved in reshaping the physical environment, modernising the area and thereby supporting activities and practices leading to normalisation of daily life on both sides of the river Ibar. Rising tensions in the fall of 2016 and early months of 2017 resulting in the building of a new wall by the Kosovo Serbs on the Northern end of the bridge indicate that there are conflicting visions for how stabilisation should be achieved and that levels of trust are low. Of key importance here have been the EU's relations with the local mayors in North Kosovo, as these actors have considerable influence on the local population.

The paper provides a basis for further studies of perceptions of the EU's role in crisis management on the ground. Two such study sites stand out: a) the Mitrovica bridge and b) mayors in North Kosovo. With regards to the former, EUNPACK can study perceptions of the EU's role among the local actors on both sides of the bridge – most notably along the revitalised zones on both sides. Here, the local population (e.g. shop-owners, café owners as well as customers and regular citizens) should provide a good sample for organising focus groups exploring the role of the EU in stabilisation. When it comes to the mayors in North Kosovo, EUNPACK can study their perceptions of the EU's role in stabilising the situation on the ground. Given the rising tensions in relations between northern Kosovo Serbs and the government in Pristina as well as between the governments in Belgrade and Pristina since the fall of 2016, the EU's crisis management capabilities on the ground were being profoundly tested. Local perceptions and dynamics of the EU's role can provide useful leads on the EU's ability to contribute to managing the emerging tensions, to which further studies will be directed.



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Annex I. Mitrovica bridge revitalisation plan, August 2016



Source: The Office of the Prime Minister, The Republic of Kosovo, <http://www.kryeministri-ks.net/?page=2,9,6071>, accessed 15 March 2017.



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Annex II. Wall built by the Serbs in the northern end of the Mitrovica bridge (December 2016 – February 2017)

Wall construction, December 2016



Source: <http://kosovotwopointzero.com/en/mitrovica-wall-comes/>, accessed 15 March 2017.

Negotiations between North Mitrovica Serb authorities and EU Office in Kosovo and US embassy in Kosovo reaching a deal on the demolition of the wall at 2:30 am on Saturday, 5 February 2017



Source: <http://klankosova.tv/be-mirepret-marrevshjen-per-murin-foto/>, accessed 15 March 2017.

Wall demolition, 5 February 2017



Source: <http://kosovotwopointzero.com/en/mitrovica-wall-comes/>, accessed 15 March 2017.