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"But We Have To Do Something" : the drivers behind EU crisis management operations

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Citation

Pohl, B. (2012, September 27). *"But We Have To Do Something" : the drivers behind EU crisis management operations*. Retrieved from <https://hdl.handle.net/1887/19885>

Version: Not Applicable (or Unknown)

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Date: 2012-09-27

CHAPTER V: EULEX KOSOVO

EULEX Kosovo was set up by the Council of the EU on 4 February 2008. In the respective Joint Action, the Council mandated the mission to ‘assist the Kosovo institutions, judicial authorities and law enforcement agencies in their progress towards sustainability and accountability’ through ‘monitoring, mentoring and advising, while retaining certain executive responsibilities’ (Council of the EU 2008e: art. 2).³¹ As in the case of Bosnia, this entails a puzzle as to why the ESDP instrument was employed at such a late stage. Given that NATO intervened in Kosovo in 1999 and that the international community has been highly engaged ever since, why did the EU set up this monitoring mission only in 2008?

In examining this puzzle, the present chapter again applies the theoretical alternatives elaborated in chapter two. In order to avoid repetitiveness, this introduction will only highlight one feature of the operation that is specific to this case and therefore deserves preliminary mention. Whereas the balancing proposition has generally been applied to the EU’s relationship with the US, in the case of Kosovo we also need to consider the auxiliary proposition based on ‘balance of threat’ theory (cf. Walt 1987). Given the conflict between Russia and the West over Kosovo, the EU may accordingly also have attempted to contain or repel Russian influence in the Western Balkans. EU governments would consequently have wanted to limit US and/or Russian influence by transferring political control over regional events from the UN (Security Council) to the European Union. The consequences of the remaining three propositions are analogous to those developed for the Bosnian case (see introduction to previous chapter).

A. BACKGROUND

Kosovo has been on the international agenda for many years. Formerly an autonomous province in Yugoslavia, it has long been subject to contention between the territory’s majoritarian Albanian population and Serbia, the Yugoslav republic of which it was part. Its degree of autonomy from Belgrade increased during the 1960s and 1970s, yet it never became a full republic within Yugoslavia. This status would have given it the theoretical right to secede that the republics eventually all exercised after the fall of communism. Moreover, Kosovo’s autonomous status

³¹ When referencing international legal documents, the abbreviation para. refers to the paragraphs in the preamble, whereas art. refers to the actual articles.

within Serbia was rescinded in 1989 at the instigation of Serbian president Milosevic – a measure frequently credited with pivotal significance in bringing about Yugoslavia's disintegration (e.g. Judah 2008: 67). During the years of Yugoslavia's violent implosion 1991-1995, Kosovo Albanians resisted Serbian control primarily by civil disobedience. However, their strategy changed when the Dayton Accords of November 1995, which ended the war in Bosnia, brought about an international reevaluation of the Milosevic regime without promising amelioration for Kosovo Albanians (Judah 2008: 79). Aided by a huge increase in the regional availability of weapons following Albania's temporary implosion in 1997, the 'Kosovo Liberation Army' (KLA) took up a violent campaign against Serbian authorities and civilians in Kosovo (cf. Judah 2008: 79-84). The Milosevic regime responded with a brutal crackdown and severe human rights abuses. Western-instigated negotiations between the two sides in February 1999 at Rambouillet failed to bring about a solution. When the Albanian side accepted the deal proposed by Western powers but Milosevic refused, Western leaders took a tough stance. Haunted by guilt over their indecisive action earlier in Bosnia, they decided to take military action against Yugoslavia (cf. Judah 2008: 87). Even though NATO could not obtain an explicit UN Security Council mandate, on March 24, 1999 it started bombing targets across Yugoslavia.

NATO's air campaign was to last for 78 days towards the end of which Milosevic was coerced to accept the arrangement set out in annex II of UN Security Council Resolution 1244 (UNSC 1999; cf. Ker-Lindsay 2009a: 146). At the root of this deal was a compromise between NATO and Russia arrived at the May 1999 G8 summit which combined the withdrawal of Yugoslav forces from Kosovo with some form of autonomy for the latter, to be decided in future negotiations (cf. Ker-Lindsay 2009a: 146; Kim and Woehrel 2008: 4). Meanwhile, resolution 1244 authorized a UN civilian mission (UNMIK) as well as an international security presence under NATO command (KFOR) to take control of the province. UNMIK's objective was to 'provide an interim administration for Kosovo [...] while overseeing the development of provisional democratic self-governing institutions' as well as '[f]acilitating a political process designed to determine Kosovo's future status, taking into account the Rambouillet accords' (UNSC 1999: art. 10; 11(e)). UNMIK was structured into four pillars which comprised police and justice (initially humanitarian aid), civil administration, democratic institution-building and reconstruction (Kim and Woehrel 2008: 10). The first two pillars were led by UNMIK whereas the Organization for Security and Cooperation in Europe (OSCE) took the lead for institution-building and the EU for reconstruction. UNMIK was backed up by NATO operation KFOR. The latter peaked at nearly 50.000 soldiers in 1999, decreased to 16.000 soldiers by 2004, yet remained at that level until 2009 (Kim and Woehrel 2008: 12-13; Woehrel 2010: 3).

Kosovo's international administration was among history's most extensive in scope and depth. It provided for extensive executive powers and *de facto* turned the province into an international protectorate. A constitutional framework for Kosovo was created in May 2001, and subsequently governmental authority was gradually transferred to local institutions. However, UNMIK and its masters did not allow these institutions to directly challenge the notion of Yugoslav (Serbian) sovereignty, in part so as not to endanger democratic transformation in Belgrade where Milosevic had been forced from power in October 2000 (cf. Ker-Lindsay 2009a: 148-149). In response to Kosovar pressure for a status decision, UNMIK in 2002 adopted a 'standards before status' approach. This policy conditioned talks on final status on progress in eight key areas comprising fields such as functioning democratic institutions, rule of law, and refugee returns and reintegration (cf. Ker-Lindsay 2009a: 149; van Willigen 2009: 82-83). However, the ensuing delay and uncertainty over a future status solution contributed to increasing problems for UNMIK to keep Kosovar calls for political progress towards independence at bay.

Matters came to a head in March 2004 when violent demonstrations and attacks on Serbian enclaves in Kosovo surprised the international community (cf. Kim and Woehrel 2008: 6; Ker-Lindsay 2009a: 150). Unable to contain the violence during two days, KFOR and UNMIK lost much of their standing in the province. Not only did the riots lay bare the lack of progress that had been made towards inter-ethnic reconciliation, thereby damaging whatever prospects for a potential future reintegration of Kosovo into Serbia there still were, they also showed that Kosovo could not continue to exist as an international protectorate for much longer (cf. Ker-Lindsay 2009a: 151). It was in the wake of the subsequent discussions on the way forward that an eventual ESDP mission came into play.

B. PUTTING EULEX ON THE ESDP AGENDA

The riots came as something of a shock to the international community regarding how unpopular UNMIK, and how urgent political progress in Kosovo had become. The UN, increasingly disillusioned with the mission's prospects, subsequently came to look for an exit from Kosovo. Its administrative role in Kosovo had been exceptional anyhow, and it had always been, in the words of UN envoy Eide, 'little more than a holding operation seeking to avoid the question of Kosovo's future status' (Eide 2004a). In fact, it was obvious after 1999 that the Albanian majority in Kosovo would hardly accept any solution short of independence (cf. Weller 2008: 17). Yet Western capitals had been interested in delaying final status for as long as possible. Such a postponement, it was hoped, would allow fresh wounds from the war in Kosovo to heal and avoid knock-on effects in Bosnia, Macedonia, or even the frozen conflicts in the former USSR (cf. Weller 2008: 17).

Over time, this holding operation proved unsatisfactory however because it failed to provide Kosovars with the perspective and recognition they craved, and because it lacked economic viability. The absence of clarity over status deterred investment, and the social concomitants, unemployment and poverty, further fed Kosovar dissatisfaction with the *status quo* (UNSG 2007a: para. 8-9). As one official put it, it was 'obvious that UNMIK was not welcome anymore' (Interview with MS official). Another pointed out that 'Kosovo had been an unhappy experience for the UN because all Special Representatives had eventually gone native from the UN headquarters view', adding that '[t]he March 2004 events figured on the list of top 5 UN disasters' (Interview with CGS official; cf. King and Mason 2006: 189).

THE RESPONSE OF WESTERN CAPITALS

After the riots, Western capitals came to accept that putting off a status solution would undermine stability in the province (Interview with CGS official; Ker-Lindsay 2009a: 152; Woehrel 2005: 3-4; Weller 2008: 82). They now needed to weigh their preference for further delay against the risk that renewed violence might potentially be directed against UNMIK and KFOR. The International Crisis Group (ICG) opined shortly after the riots that the latter had 'exposed the UN Mission in Kosovo (UNMIK) and the NATO-led peacekeeping force (KFOR) as very weak. [...] KFOR and NATO have lost their aura of invulnerability and invincibility'; lest immediate action be taken 'Kosovo risks becoming Europe's West Bank' (ICG 2004a: 1). The leading German weekly excitedly quoted the assessment of a Kosovar veteran that 'one dead KFOR soldier each day would suffice' to expel the foreign occupiers (Flottau and Kraske 2004). A British observer noted more soberly that 'it would have been difficult for those leaders who had advocated intervention just five years earlier to explain to their electorates why the very people they had saved were now shooting at them' (Ker-Lindsay 2009b: 109). Domestically, EU governments were thus caught between the need to vindicate their earlier intervention, fear for Westerners' safety, and headlines describing Western troops there as 'paper tigers' and 'milquetoasts' (Kraske and Szandar 2004; Flottau et al. 2004). Because NATO troops had taken responsibility for security in Kosovo, Western governments now had to prove their ability in getting a grip on the situation (cf. King and Mason 2006: 14; 16; 253-54). Consequently, they needed progress on the political front.

In view of the Kosovo Albanian position, it was rather clear by this time that the only viable answer to the 'status question' would be independence, and that the process to this end could not remain on hold for much longer (cf. Ker-Lindsay 2009a: 151; Weller 2008: 17; 21). As two former UNMIK officials reasoned in 2006 – i.e. when status talks were just beginning, – the March 2004 violence had 'produced a paradigm shift that some might describe as accepting reality and others as giving up.

[...] Violence had once again advanced the independence agenda as nothing else in the previous five years' (King and Mason 2006: 189; 191). In short, Western governments came to perceive Kosovar independence as the only viable way out. As one analyst put it, 'those countries that had originally supported humanitarian intervention [...] had no choice but to support independence in order to extricate themselves from the situation before they too became seen as some form of neo-colonial occupier' (Ker-Lindsay 2009a: 155). As the quote makes clear, there was little enthusiasm in Western capitals about the prospect of another Balkan statelet, but it was simply seen as the least bad option.

It took some time before Western governments became fully conscious of the fact that Kosovo was heading for independence, and even longer before they admitted it (cf. Ker-Lindsay 2009a). The US administration played a pivotal role in this process as its early decision to push for status talks and Kosovo's independence reduced the chances for EU governments to continue attempting to muddle through (Interviews with CGS and MS officials; Ker-Lindsay 2009a: 153; Wood 2006). A few months after the riots, the German defence minister's complaint that soldiers' presence in Kosovo could no longer serve as a substitute for political courage to address the province's status had still earned him an angry rebuke by Germany's foreign minister (cf. Beste and Szandar 2004a). At that point EU capitals still hoped to contain Kosovo's ambitions for just a bit longer, relying not least on the goodwill of Kosovars towards the US. Once the latter stated its intention to complete 'unfinished business in the Balkans' (cf. Burns 2005), the limited leverage EU capitals had vis-à-vis Pristina however diminished further. As one official put it laconically, 'the path to independence was decided in Washington, with good arguments' (Interview with MS official). London followed suit, with a senior diplomat publicly stating in February 2006, i.e. *before* the actual start of status negotiations, that 'Kosovo can win independence' (Reuters 2006; cf. Ker-Lindsay 2009b: 24). In December 2005, France's president Chirac had reportedly been the first major world leader to point out the inevitability of Kosovar independence to the Serbian president (cf. Ker-Lindsay 2009b: 29). Germany's government was less keen, as were other EU capitals, and the US repeatedly deferred to the EU by not insisting on its own, shorter timelines (cf. Ker-Lindsay 2009b: 52; ICG 2007a: 15; Harnisch and Stahl 2010: 20). Yet Washington's decision that accepting independence was the easiest way to extricate itself and the international community from Kosovo limited the wriggle room for EU capitals.

Whereas the international community came to see progress on Kosovo status as urgent, it also took note of the fact that implementation of the standards which had originally been supposed to precede status negotiations was 'uneven', and particularly that '[t]he Kosovo police and judiciary are fragile institutions' (Eide 2005: 2; 3). The prospect of UNMIK's withdrawal and eventual independence thus

raised the issue of some form of 'bridging structure' to chaperon Kosovo on its path from international protectorate to full sovereignty (Interview with MS official; cf. Rupnik 2001: 26; Ker-Lindsay 2009b: 18). Echoing Eide's call for 'efforts to bring Kosovo closer to European standards even after the conclusion of future status negotiations', the UN Special Representative (UNSR) at the time opined that 'I believe that there will be a need for some sort of international presence, both military and civilian, for many years to come' (Eide 2004b: 4; Jessen-Petersen 2004). It was at this point that EU capitals as well as the European institutions came to consider an ESDP mission (Interviews with MS officials). Indeed, Eide himself argued in 2004 that '[w]ith the future-status question looming, UNMIK should be looking to reduce its presence and to hand increasing responsibilities to the European Union' (Eide 2004a). On the one hand, this was indeed 'natural' given Kosovo's professed European vocation. On the other hand, the EU was simply the one institution that was left when considering all possibilities. As one official put it, 'the UN was already there and had screwed up, NATO does not have a civilian arm, the OSCE has no teeth, the Council of Europe no means at all – which leaves the EU' (Interview with MS official). Moreover, given that the Western Balkans are surrounded by EU members, no international organization was interested in competing with the EU as the intervention structure of choice (Interview with MS official).

With the benefit of hindsight, the EU's decision to deploy an ESDP mission in Kosovo can easily seem 'natural development' rather than discrete decision. When the author asked various officials as to when the idea for this mission had come up, they usually argued that 'there had always been a feeling that the EU would take over' and that it was 'clear from the beginning' that Kosovo was 'an EU baby' (Interviews with CGS and MS officials; cf. Koeth 2010: 232; Economides and Ker-Lindsay 2010: 497). This may appear obvious in view of the EU's role as Kosovo's major donor (cf. Koeth 2010: 227). Yet prior to the riots and the subsequent soul-searching within the international community the EU had not envisaged replacing UNMIK. A declassified report by Javier Solana to the Council of the EU just one month earlier makes no mention of potentially employing ESDP instruments, but only recommends enhanced effectiveness, coherence, visibility and focus of EU actors, within and beyond UNMIK (Solana 2004). Less than two weeks after the riots, however, German Foreign Minister Joschka Fischer was reported in the German press to have ruminated that 'in the long run [...] everything points to an European Union protectorate' (Beste and Szandar 2004b). In short, the March 2004 riots acted as a catalyst for an enhanced EU engagement, the moment after which the 'feeling that the EU would take over' crystallized. With the UN eager to leave the province, an EU official noted that UNMIK 'actively tried to pull in the EU' (Interview with CGS official). Moreover, the US was also instrumental in pushing for a transfer of

responsibility: 'the US wanted the UN out and regional organizations in, as elsewhere' (Interview with CGS official).

THE EU'S STANCE

Although both the UN and the US were interested in pulling in the EU, the Union was not only sucked into Kosovo for want of other options. To the contrary it proved keen to increase its engagement in Kosovo, for a number of reasons. First, EU governments were clearly interested in finding a sustainable solution for the province in order to foster regional stability and prevent any 'security spillover' in the shape of renewed hostilities, refugees, and/or organized crime (Interview with MS official; cf. Judah 2008: 15; Toshev and Cheikhameguyaz 2005: 274-5). In other words, they wanted Kosovo sorted out, no matter by whom. In light of their hope that European integration would help in overcoming sectarian tensions, it was only 'natural' for the EU to take control of as many levers as possible in attempting to steer the province into a European direction. Given geographical proximity and the fact that the greatest part of KFOR troops came from EU countries, EU governments also had the highest stake in ensuring Kosovo's stability. Secondly, EU governments wanted to give a signal that Europe was in a position to take responsibility in Kosovo – especially in view of the EU's reliance on the US during the Kosovo crisis of 1999 (Interviews with French and German officials; cf. Pond 1999: 90). Thirdly, member states as well as the European institutions saw an opportunity in such an engagement to buttress ESDP's standing in the security realm (Interviews with MS officials; cf. Toshev and Cheikhameguyaz 2005: 275; Dijkstra 2011: 224-8).

In many ways the transition in Kosovo presented the crisis the EU had been waiting and preparing for to bolster its credentials. Several other civilian crisis management missions – the rule of law mission EUJUST Themis in Georgia, the Aceh Monitoring Mission (AMM) and the Palestinian missions (EUPOL COPPS and EUBAM Rafah) – were done with the forthcoming Kosovo mission in mind; internally, they were even partly justified in terms of testing ESDP structures for the prospective tasks in Kosovo (Interviews with MS officials). While the EU's focus on Kosovo was partly a consequence of the West's earlier intervention and the subsequent need for an exit strategy, EU governments were also eager because they expected that agreeing on a solution would be easier than it eventually turned out to be (Interview with MS official). Initially, the divisive issue of whether to recognize an independent Kosovo loomed only under the surface. The working hypothesis was that there would a negotiated solution subsequently endorsed by the UN Security Council or, in the absence of a negotiated compromise, a solution imposed by the latter (Interview with MS official). Equipped with such a mandate, and building on UNMIK's work, Kosovo appeared a feasible task for the EU, one through which it would likely gain in

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reputation (Interviews with MS officials). Last but not least, the mission afforded the opportunity to affirm the geographic priority many EU capitals attach to the Western Balkans in terms of ESDP deployments (Interview with MS official; cf. Schaefer 2007).

EU governments and institutions thus started preparing for an eventual ESDP engagement. Javier Solana in particular set about extending his influence in the province: immediately after the March riots, he appointed a 'personal representative' in Pristina (CGS 2004). Moreover, the UN in July 2004 chose the EU Special Representative in Macedonia as the new UN Special Representative (UNSR) , in a sign of the future shift in responsibility from the UN to the EU, and after lobbying by Solana (Dijkstra 2011: 224; cf. Der Spiegel 2004). The close relationship between the new UNSR and Solana's Council Secretariat was further underlined when the latter seconded personnel to the former (Interview with CGS official). Unsurprisingly, the new UNSR echoed Eide in his call for a transition from the UN to the EU (Jessen-Petersen 2004). The UN subsequently invited the EU in late 2005 to join the discussions in Vienna on the 'future arrangements' regarding Kosovo (Interview with CGS official). Last but not least, the Council Secretariat became closely involved in the discussions of the 'Balkan Contact Group', an informal institution for discussing questions related to the former Yugoslavia which comprised the US, Russia, the UK, France, Germany and Italy. Although the EU institutions previously had not had a role in this setting, the Solana-appointed 'EU Representative' to the Kosovo status process, Stefan Lehne, became an increasingly important actor in the course of the negotiations regarding Kosovo's future governance (Interview with MS official; cf. Solana and Rehn 2005a).

Javier Solana and the Council Secretariat thus played a significant role in formulating EU policy regarding Kosovo (cf. Dijkstra 2011). They did so, however, with full support of the 'Quint', the members of the Balkan Contact Group minus Russia (Interviews with MS and CGS officials; on the role of the Quint, cf. Gegout 2002). For the Quint, the benefit of involving the Council Secretariat lay not only in enabling the latter to prepare for an eventual engagement, but also in building broader legitimacy among EU governments for future action without having to involve 27 bureaucracies in the delicate deliberations. In February 2005 the European institutions thus received an explicit tasking by EU governments: in its conclusions, the 'Council invited the SG/HR [i.e. Solana, BP] and the Commission, in close cooperation with the Presidency, to examine with the United Nations and other relevant players what might be the future contribution of the European Union to the efforts of the international community in Kosovo to implement Resolution 1244, how the EU might assist in the overall evaluation of the implementation of the standards, and what it might contribute to the later stages of the process' (Council of the EU 2005c: 12). This tasking resulted in two joint reports in 2005 by the High Representative

Solana and the Commissioner for Enlargement Olli Rehn which foresaw among other measures the preparation of a possible ESDP rule of law mission in Kosovo (CGS 2005; Grevi 2009b: 355).

The reports emphasized that police and the rule of law should be priorities for a potential future EU engagement (Solana and Rehn 2005a; cf. Dijkstra 2011: 227). This focus in many ways again represented a 'natural' development. As one official put it, 'there was not such a great deal left of UNMIK' (Interview with CGS official): of the four pillars, the fourth, economic reconstruction, was being wound down in the advent of the EU's 'Stabilization and Association Process' – and would have been outside ESDP's remit in any case. The third pillar, institution-building, remained with the OSCE, and the second pillar, civil administration, had already been downsized and largely transferred to Kosovar authorities (Interview with CGS official). The first pillar, police and the rule of law, was what was essentially left – and where numerous observers attested to serious deficiencies (Interviews with MS officials; Eide 2004b; Weller 2008: 82; King and Mason 2006: 194-95; Grevi 2009b: 363).

The EU's increasing engagement in Kosovo would not be limited to the ESDP mission in the area of rule of law which is the focus of this analysis. Apart from numerous initiatives by the European Commission in preparation of eventual EU membership, the planning team preparing the ESDP engagement worked alongside a second preparatory mission tasked with preparing the office of an International Civilian Representative (ICR) who would simultaneously serve as EU Special Representative (EUSR) (Council of the EU 2006b; Grevi 2009b: 355-57). The ICR was to oversee the implementation of the status settlement (UNSG 2007a: Annex, 11.). Endowed with sticks in the form of corrective powers along the lines of the High Representative in Bosnia, he would also double as EUSR in order to harness the carrot of closer association with the EU. As EUSR he would 'promote overall EU political coordination in Kosovo' and 'give local political guidance' to the prospective EULEX mission, but he would not be directly involved in the mission's chain of command which ran from the Head of Mission via the CGS to the PSC (Council of the EU 2008d: art. 3).

EULEX's agenda-setting phase was characterized by a remarkable degree of consensus among EU governments. Strengthening rule of law in Kosovo was perceived by all to be in their shared interest, even though the process was largely driven by the member states represented in the Contact Group as well as by the European institutions. Their collective interest lay in extricating themselves from a situation in which they, through KFOR, were left with the thankless and dangerous responsibility for stability in Kosovo – and in demonstrating the EU's maturity as a security actor by showing that, this time around, EU governments would be able to

effectively take responsibility for the Western Balkans. Whereas this proved relatively uncontroversial among European capitals, consensus for the EU mission built on the assumption that there would indeed be a negotiated solution and a UN mandate before any ESDP deployment (cf. CGS 2005: 2; Ker-Lindsay 2009a: 152). As subsequent developments showed, this proved too strong an assumption.

C. PREPARING EULEX KOSOVO

In November 2005, UN Secretary-General Kofi Annan appointed former Finnish president Martti Ahtisaari as UN Special Envoy for Kosovo status talks which were to determine the province's future. Just as the first direct talks between Serbian and Kosovar representatives started in Vienna, the EU in February 2006 sent a fact-finding mission to Kosovo to explore its potential future engagement (Council of the EU 2006a: para. (10); Kim and Woehrel 2008: 15). Upon return the latter advised member states, *inter alia*, to set up a permanent European Union Planning Team in Kosovo (EUPT) to prepare for a civilian mission (Council of the EU 2006a: para. (10)). This planning team was authorized on 10 April 2006, and established itself in Pristina about a month later (Council of the EU 2006a; Dijkstra 2011: 229). It was tasked to keep preparations in sync with the status process, to report on and take into account local conditions, and not least to facilitate an eventual transfer of responsibility from UNMIK (Council of the EU 2006a: art. 1, 2). At that point, the EU expected a conclusion of the status talks by early 2007 and consequently a transfer of responsibility from UNMIK to a future ESDP mission by summer 2007 (Grevi 2009b: 356).

The idea for preparing the mission via a planning team reportedly originated within the Council Secretariat, whose civilian planning capabilities at the time were too embryonic to allow for preparing a mission of the size envisioned for Kosovo (Interviews with CGS and MS officials). There had already been a precedent in having a planning team prepare for a potential mission, namely for a potential rule of law mission for Iraq (cf. Council of the EU 2004b). In the Iraq case, the team had primarily served as a diplomatic compromise allowing Atlanticist Member states to claim that the EU was already doing something for Iraq while it permitted the war's discontents to argue that such a decision had not yet been taken (Interview with MS official). Consequently, British and French officials had haggled over every Euro for the Iraq planning team (Interview with GER official). For the EUPT, it was different: the planning team was seen as a technical rather than political instrument and encountered little controversy. In contrast to the discussions about the earlier Iraq planning team, 'it was only about – how do we get more money in' (Interview with MS official; cf. Dijkstra 2011: 234-5).

Given the uncertainties and difficulties that plagued the international community's dealings with the Kosovo dossier, how come the EUPT encountered so little controversy? To some extent this was due to the fact that it was only a preparatory step for a *possible* EU crisis management operation – the relevant Joint Action explicitly specified that the planning team did not prejudice any subsequent decision on whether or not an ESDP mission was to take place (Council of the EU 2006a: para. (13)). In theory, every capital kept the right and opportunity to shape or even veto a later, substantial mission. More importantly, EUPT planning at first relied on the assumption that there would be a negotiated and UN-mandated status solution for Kosovo. The EU furthermore built on intense preliminary discussions in the 'Quint', meaning that basic policy outlines had already been agreed among key foreign ministries (Interviews with French and German officials; cf. Weller 2008: 24; 26). Finally, for non-Quint EU governments, the EUPT and the EU's collective planning process offered a better opportunity to remain 'in the loop' and to provide input than the implicit alternative of leaving planning to the Quint (cf. Koeth 2010: 234). Yet whereas the idea underlying the EUPT was uncontroversial across EU capitals, some rifts emerged as to how 'robust' the mission should eventually become.

THE DEBATE ON ROBUSTNESS

The first clear manifestations of EU thinking on what the role of ESDP in Kosovo might be can be found in the Solana-Rehn reports of 2005 which described rule of law as a priority sector for the EU and took pains to emphasize that any new mission 'cannot be EUMIK' (Solana and Rehn 2005a, 2005b; cf. Dijkstra 2011: 227). This emphasis on discontinuity between UNMIK and any EU successor mission was due to the need to demonstrate to Kosovo Albanians that the EU was not the continuation of UNMIK by other means. As UNMIK had become hugely unpopular in Kosovo, the EU had obvious incentives to emphasize that its mission entailed the beginning of a new chapter. Yet a modest size also reflected the capability constraints and financial means available in the CFSP framework, and the international community's opinion as summarized by Ahtisaari's Austrian deputy who argued that a future international civilian operation in Kosovo ought to be 'as light as possible and as robust as necessary' (Rohan 2006). So when the 12 EUPT staff members started work in Pristina in May 2006, the assumption was that the EU would eventually field a mission considerably smaller than UNMIK (Dijkstra 2011: 230). An options paper by EUPT of 26 September 2006 thus presented three alternatives regarding the future mission strength but recommended the 'light' mission with 800-850 international personnel, to focus on monitoring, mentoring and advising rather than 'executive policing' where international police would partially substitute local efforts (cf. Dijkstra 2011: 230; Grevi 2009b: 357).

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The original preference for a 'light footprint' came to be qualified over time. This was partly a consequence of the evolving circumstances, with a negotiated status solution becoming less likely and the potential for violence and hence the need for robustness increasing accordingly (Dijkstra 2011: 231). However, it also reflected the discrepancy between what headquarters considered desirable for the political reasons elaborated above and what the planners on the ground considered necessary (Interviews with MS officials). At issue was primarily the question whether and to what extent the prospective mission would dispose of crowd and riot control units which could be called upon to intervene in violent demonstrations in instances where Kosovar police would be unwilling or unable to do so. In such cases, the EU would not just monitor and mentor local police but substitute them and take up an executive role. Whereas Solana and his Secretariat wanted a mission 'as light as possible', the planners in Pristina increasingly considered a more robust setup necessary and were able to prevail due to the constant interaction with member states that EUPT's format as a quasi-mission permitted (Interview with MS official; cf. Dijkstra 2011: 234). In this sense one member state official argued that EUPT had been a 'miserable experience' for the Council Secretariat in that it lost control over the planning process (Interview with MS official).

The question how big and robust the future mission should become not only reflected tensions between the political and operational levels. It also echoed disagreements between capitals (cf. Bono 2010: 261-2). Whereas France in particular pressed for an (important) executive engagement, others such as Ireland, Austria and Italy were initially rather disinclined (Interviews with FRA and GER officials). A French official reminisced that Paris wanted a 'credible and important' mission, emphasizing the significance of 'the first executive engagement' (Interview). He went on to argue that there was 'a big reluctance to engage in some kind of muscular ESDP', that 'many states were reluctant about this possibility', and that 'France was really instrumental in taking forward the idea that we needed executive functions' (Interview with FRA official). Specifically, Paris suggested transferring crowd and riot control (CRC) units thitherto under KFOR command to EULEX, whereas British officials reportedly argued that EU-led riot control units would be too expensive and instead suggested a 'pragmatic approach' of 'combining' KFOR and EULEX in this respect (Interview with FRA official).

In hindsight, French officials expressed surprise at the controversy and hypothesized that other capitals may have suspected them of pursuing 'anti-NATO' politics by attempting to wrest control over crowd and riot units from NATO's KFOR (Interviews). The French side countered by underlining that KFOR itself was adamant to rid itself of its responsibilities for riot control and get involved only as 'third responder' (i.e. after local police and EULEX would fail to get a grip) and that therefore such units needed to be under EULEX' rather than KFOR's control

(Interviews with FRA officials). Moreover, they contended that it would be politically awkward if the international military *expanded* its role in this field after Kosovo's independence and the transition from UN to EU supervision, and that the EU therefore needed to have as many riot police units as UNMIK previously did (Interviews with FRA officials).

Officials from other member states confirmed heated debate on the subject but qualified French claims of having been instrumental in endowing EULEX with riot police (Interviews with MS officials). According to them, the need for such units was quickly acknowledged. More contentious instead was the question of how many CRC units were needed. German officials put differences in this respect down to conflicting national policing traditions rather than disagreements regarding KFOR, especially with respect to the issue as to how robustly violent demonstrations ought to be quelled (Interviews). In this debate, the 'soft' side was reportedly represented by Ireland (where uniformed police do not carry firearms), and most outspokenly opposed by France, which favoured its national gendarmerie model (Interview with MS official). Given that the police were to operate as *one* force, the EU had to reach some agreement as to which weapons and demeanour the mission would collectively display. Worries about the French approach increased when France (successfully) put forward the candidacy of a retired military general as head of the civilian EULEX mission.

Differences between national policing systems in Europe reach beyond riot control demeanour. It was also difficult to ensure compatibility between civilian policing models and gendarmerie-style forces which operate under military command. In the case of Germany, for example, police are legally barred from operating under military command. In order to be able to participate, German officials thus needed to ensure that any framework would be flexible enough to accommodate German conceptions of policing (Interviews with GER officials). They were hence particularly unenthusiastic about French proposals of integrating another (military) chain of command in the shape of the European Gendarmerie Force, an idea which Paris therefore dropped (Interview with FRA official).

Beyond these difficulties of reconciling diverging national policing traditions, the debate on the role of international CRC units also related to the question of local ownership. One faction, led notably by Austria, wanted to give as big a role as possible to Kosovars, and therefore opposed an extensive EU riot police engagement (Interview with GER official). On the one hand, EU governments explicitly embraced the idea of strengthening local capacity and were certainly not eager to substitute for Kosovar efforts (cf. Grevi 2009b: 357; ICG 2007a: 19). A British official thus commented that the UK 'wanted the mission to be primarily about mentoring and advising. We don't want to see a creep towards a more executive mandate, with

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Kosovo structures left wanting once the international community leaves' (Interview with UK official). On the other hand, EU governments did not wish to be entirely dependent on Kosovar police and wanted some leverage in theatre. In the course of discussions, the number of EU Integrated Police Units (IPUs) thus increased from 2 to 4, but the EUSR-to-be, Pieter Feith, did not succeed in his request for 'at least 6 IPUs' (Interview with GER official). Finally, these debates also related to financial and distributional concerns. Germany in particular did not want costs to skyrocket and argued that EULEX in any case could not cover every possible contingency, a concern which British officials shared (Interviews with FRA, GER and UK officials).

In the end, EU governments endorsed a Kosovo mission of around 2000 international staff, which was significantly larger than originally envisaged (cf. Grevi 2009b: 360; Dijkstra 2011: 230). As one official noted, this was partly a consequence of a shift in focus from the police more narrowly to the entire rule of law system (Interview with MS official). It was partly a consequence, too, of the discontinuity in planning that resulted from the 'spillovers' of the status process (cf. Dijkstra 2011: 231). Yet it also reflected greater appetite in Paris for a strong executive mission, risk aversion in other capitals, and the fact that the mission was planned from the field rather than within the Council Secretariat.

The preparatory phase encountered difficult problems beyond that of the mission's size. They included the precise tasks for the mission, its structure, its presence in the municipalities of northern Kosovo, how to organize witness protection in Kosovo, how much non-EU contributions to accept, and many logistical questions, especially on how to organize and pay for the transfer of UNMIK property to EULEX (Interviews with MS officials). Originally, these questions were difficult primarily on their own, technical merit and politically not very divisive. Yet discussions in the Council (working groups) became increasingly difficult as doubts rose over the soundness of the underlying 'working hypothesis': that Ahtisaari would be able to come up with a solution for the status issue which the UN Security Council would subsequently endorse. That claim had always been tenuous. As a German official commented, 'it was obvious that things might turn out differently, but then we always pointed to the working hypothesis' (Interview). This gimmick enabled the EU to finalize a (preliminary) draft concept of operations in early 2007, which was subsequently 'frozen' pending the results of the status process.

THE PROBLEM OF STATUS REVISITED

By the time the EU had largely agreed the planning documents for its future ESDP operation in spring 2007 the status process had stalled. After 14 months of negotiations including 17 rounds of direct talks and 26 expert missions to Belgrade and Pristina, Martti Ahtisaari concluded on 10 March 2007 that 'the potential of

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negotiations is exhausted' (Ahtisaari 2007). As he considered the parties unable to reach a negotiated solution, Ahtisaari forwarded his own 'Comprehensive Proposal for the Kosovo Status Settlement' to the UN Secretary-General, along with his recommendation of 'supervised independence' (cf. UNSG 2007a). The proposal did not mention status though in many ways it implied statehood for Kosovo, e.g. by covering all powers associated with statehood (cf. Weller 2008: 47-9). Its main thrust however lay in committing Kosovo to a range of minority rights primarily benefiting Kosovo's Serbs, rights whose implementation would be monitored and guaranteed by the international community with the EU taking on a pivotal role (cf. Weller 2008: 47-55). In the accompanying recommendation, Ahtisaari argued explicitly that 'the only viable option for Kosovo is independence' and that Kosovo, rather than setting a potentially dangerous precedent for separatism elsewhere, 'is a unique case that demands a unique solution' (UNSG 2007a: para. 5; 15). The separation of the comprehensive settlement from the recommendation of supervised independence was intended to allow the Security Council 'to endorse the substance of the settlement without necessarily confirming the status' (Weller 2008: 44). The UN Secretary-General on his part endorsed both the proposal and the recommendation and, on 26 March 2007, forwarded them to the UN Security Council (UNSG 2007a).

The UN Security Council approved neither the recommendation nor even just the comprehensive settlement however. Instead, negotiations in New York and within the Balkan Contact Group dragged on. By July 2007, Western capitals presented a decidedly less ambitious UNSC draft resolution (Weller 2008: 57-9). Without referring to status or even just Ahtisaari's 'comprehensive proposal', it proposed further negotiations, but provided that UNMIK would ultimately be replaced by an EU International Civilian Representative and an ESDP mission after a four month delay (UNSC 2007a: art. 4-7). This would have allowed the EU to eventually implement the Ahtisaari proposal under an explicit Security Council mandate, yet without clarifying Kosovo's status. Russia however opposed this solution as an indirect endorsement of the Ahtisaari proposal which in turn might have been read as UN acquiescence into Kosovar independence (cf. Weller 2008: 59). Instead, the Contact Group only agreed to conduct another round of negotiations under new mediation – a troika of EU, US and Russian diplomats – and strict deadlines, but without any automaticity (cf. ICG 2007c: 2). With the Ahtisaari proposal on the table, Kosovar negotiators were however not inclined to make new concessions or even go back on the question of independence, which Belgrade refused to accept (Weller 2008: 60-7).

While the Contact Group decided to make one last attempt at negotiation, patience in Kosovo was running out (cf. ICG 2007d: 6-7). Already in November 2006 the ICG had captioned its analysis of the situation with 'Kosovo Status: Delay is Risky' (ICG

2006a). Kosovo Albanians became ever more angered at the international community's perceived tolerance of, and rewards for Serbia's delaying tactics (cf. UNSG 2008a: para 33.; Weller 2008: 66; ICG 2007a: 10; 2007c: 7-8; Bilefsky 2007; Patten 2007). The prospect of continued limbo for Kosovo thus led to concerns in Western capitals that Pristina might act unilaterally or even resort to violence – as was arguably Belgrade's and Moscow's intention (ICG 2007a: 10-11; 13; 2007c: 11; 2007d: i; 2008b: 10). Therefore, Western capitals had stressed that the troika negotiations would be the very last attempt to arrive at a negotiated solution. To calm Kosovar nerves, US president Bush went so far as to promise, in Tirana and prior to the start of the troika negotiations, that the US would recognize Kosovo's independence (ICG 2007c: 6). Yet when the troika process concluded in December 2007, the Security Council went back to deliberating on Kosovo, and both Serbia and Russia made clear that they considered this just the beginning of further negotiations (cf. Weller 2008: 66-7).

DISCONNECTING STATUS FROM EULEX

Given that the troika seemed hopeless yet risky, why did EU governments agree to such negotiations? Some may have hoped against better knowledge that a mutually tolerable solution could still be found – although the lack of progress on the Kosovo dossier at the US-Russia summit in Kennebunkport on 1-2 July 2007 should have made it irrevocably plain for EU governments that there would not be any Security Council resolution (cf. ICG 2007a: 12; Kim and Woehrel 2008: 18). The second reason, however, was that the Quint hoped that such negotiations would at last persuade all EU governments that all possibilities for a negotiated settlement had been exhausted, and that there were only downsides to further delaying the decision on Kosovo's status (cf. ICG 2007c: 4; 2007a: 19; Economides and Ker-Lindsay 2010: 503). For this reason, the troika negotiations were led by an EU representative (cf. Weller 2008: 60-6).

The Quint's first objective was to persuade as many EU members as possible to support a unilateral declaration of independence should the UN Security Council predictably fail to reach agreement. The ICG noted that a French official 'alluded to a straw poll among political directors in Lisbon in mid-July that suggested a large majority would be prepared to move [i.e. recognize Kosovo without a Security Council endorsement, BP], a major shift from three months earlier when only five had that position' (ICG 2007a: 13; cf. Spiegel Online 2007). In other words, as long as there was hope that the UN Security Council might find a compromise (or such hope needed to be expressed for the sake of public diplomacy), very few governments were prepared to discuss any alternatives. Once that hope had visibly vanished, however, a large majority was willing to weigh the real options – a supervised and

controlled transition versus volatile local dynamics – and opted for the former (Economides and Ker-Lindsay 2010: 500-4). The second objective consisted in building a minimal consensus in the EU regarding the supervision of a newly independent Kosovo independent of a UN Security Council approval. Once it became clear that not all EU governments would be willing to recognize a unilateral declaration of independence, the focus shifted to achieving EU unity in supporting the ESDP mission (cf. Ker-Lindsay 2009b: 97). By fall 2007 this reasoning was broadly accepted across EU capitals. The ICG thus quoted an UN official that EU member states ‘want the missions much more than they don’t want independence’ (ICG 2007c: 21).

By the end of 2007, EU governments managed to achieve unity insofar as they agreed on the common message that the negotiation process had been exhausted, that Kosovo was a ‘sui generis’ case and did not represent a precedent, that the EU stood ‘ready to play a leading role’ (code for the ESDP mission) and that the Western Balkans’ future lay in Europe (European Council 2007: para. 65-71). However, this show of unity masked disagreement as to the legal foundation on which to base the ESDP mission. The absence of a fresh UN Security Council resolution implied a significant deviation from planning assumptions and posed considerable headaches in a number of EU capitals. Whereas the UK and France in particular argued that UNSC resolution 1244 in combination with an invitation by the newly sovereign Kosovo authorities would suffice, others insisted on an explicit invitation by the UN Secretary-General (cf. ICG 2008c: 11). For those that would not recognize Kosovar independence, the latter’s invitation was obviously insufficient, and with an invitation from Belgrade not forthcoming, they at least wanted an invitation by the UN Secretary-General to replace UNMIK, which could be read as a confirmation that the UN saw EULEX indeed as compatible with resolution 1244 (cf. Richter 2009: 34; Haber 2009: 86-7; ICG 2008c: 11; 31).

Whereas the Quint indicated that it would recognize the new state, five EU member states – Spain, Romania, Slovakia, Greece and Cyprus – made their opposition to independence clear. As one official noted, the last days before the Joint Action’s approval thus saw difficult negotiations at the highest level, with the Cypriot president reportedly personally deciding against a veto in the Committee of Permanent Representatives at the last moment (Interview with MS official; cf. Bilefsky 2007; Economides and Ker-Lindsay 2010: 503-4). Cypriot opposition clearly did not so much concern Kosovo as relate to the domestic problem of Northern Cyprus and the fear of creating a precedent in which the EU decided to override the UN on such a matter (Interview with MS official; cf. Ker-Lindsay 2009b: 121-2). The four other countries opposing Kosovar independence similarly feared domestic repercussions as they comprised sizeable minorities with actual or suspected separatist ambitions, Basque and Catalan in the case of Spain and Hungarian in

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Slovakia and Romania. Greece in turn is generally supportive of Cyprus' concerns and shares with Serbia a bond in Orthodox culture – as do Cyprus and Romania (cf. Koeth 2010: 242).

These differences among EU governments with respect to Kosovo's status impacted on the last part of the planning phase. The draft 'concept of operations' worked out in early 2007 under the assumption of a UNSC endorsement of the Ahtisaari proposal now needed to be adjusted to the new circumstances and translated into an Operational Plan. The challenge consisted in consenting hundreds of pages of planning documents that related to the exercise of sovereign powers (police, judiciary, and customs) while keeping the very notion of sovereignty at bay. At this point, the five countries that would not recognize Kosovo created considerable obstacles. For example, they insisted on removing from official planning documents all terminology reminiscent of sovereignty, i.e. 'citizen', 'government', 'borders', 'legislation' etc. (cf. Richter 2009: 38; ICG 2008c: 11). EU diplomats in the end succeeded in overcoming this recipe for acrimony. The results amounted to, in the words of one participant, 'doing the same thing, but calling it differently' (Interview with MS official). According to another, the five non-recognizing governments 'just kept raising questions about basic principles, on every small logistics issue. That was not so helpful, but in the end they did not block it' (Interview with MS official). Yet another recounted how 'the language on status always crept in' and a fourth, asked which civilian ESDP mission had been the most difficult to negotiate, readily declared that 'by far the most difficult, politically most dangerous was Kosovo, definitely' (Interviews with MS officials).

To sum up, EULEX' preparatory phase was characterized by growing dissent between EU capitals as it became clear that there would neither be a negotiated settlement nor a UN Security Council resolution. The most divisive question had originally been the issue of EULEX' size and robustness, an issue that capitals perceived through the lens of national policing traditions. At the same time, the tension between the EU and NATO apparently had some bearing on the discussions as well, at least in the eyes of French officials. Yet these differences regarding the substance of EULEX paled in comparison to the tug-of-war over how disagreement on status would be conceptually-linguistically reflected in planning documents. The Joint Action, by referring to the pre-independence situation, kept all options open, but at the same time implied that the Ahtisaari proposal would be implemented without saying so (Haber 2009: 86). Yet it also built on the assumption that the UN would support a transfer of authority, an issue that would plague EULEX' early implementation phase.

D. IMPLEMENTING EULEX

On 17 February 2008, Kosovo declared its independence in a move coordinated with the Quint (cf. Kim and Woehrel 2008: 19; Weller 2008: 70; ICG 2007c, 2008b).³² After the ‘inevitable’ Troika failure in December 2007 (ICG 2007c: i), Kosovo’s leadership had been persuaded to delay this declaration until after the second round of presidential elections in Serbia on 3 February 2008 (cf. Blockmans and Wessel 2009: 277; Kim and Woehrel 2008: 19). The very day after the elections, the EU approved the Joint Actions authorizing EULEX and the EUSR in Kosovo as well as the concept of operations for EULEX (Council of the EU 2008e, 2008d). The EU then scrambled to finish operational planning in order to allow it to physically launch EULEX on 16 February, one day before Kosovo’s declaration of independence (CGS 2008e; Dijkstra 2011: 237). This timing allowed it to still refer to ‘the institutions (hereinafter the Kosovo institutions) created on the basis of Resolution 1244’, thereby circumventing the implicit (non-)recognition that any (lack of) reference to the newly independent Kosovar institutions would have entailed (cf. Council of the EU 2008e: para. (2)).

The events leading up to and surrounding Kosovo’s declaration of independence were ‘well choreographed’, with Kosovo’s leaders avoiding triumphalism and reaching out to the Serbian minority (ICG 2008b: 2). The declaration included a unilateral commitment by Kosovo’s authorities to implementing the Ahtisaari plan with its extensive guarantees for the Serb minority and an invitation to the EU to monitor and supervise the plan’s implementation (ICG 2008b: 2-3). It was followed by quick recognition of Kosovo’s independence on the part of the Quint and a majority of EU member states. A first step towards the implementation of the Ahtisaari plan was furthermore taken when Kosovo’s parliament, after diplomatic pressure, endorsed the entire Ahtisaari package rather than considering the proposed laws individually and engaging in ‘cherry-picking’ – as would have been conceivable given that such guarantees had initially been foreseen by Ahtisaari as the – now lost – ‘price’ for Serbian recognition of Kosovo (cf. ICG 2008b: 4). With respect to Kosovo’s commitment to the Ahtisaari plan and the attendant invitation to the EU to supervise its implementation, the conditions for the deployment of EULEX as well as the ICR/EUSR were thus quickly met.

³² The International Crisis Group reports that the independence declaration was ‘largely written by the U.S. State Department’ and that even Kosovo’s flag was chosen ‘with strong U.S. involvement behind closed doors’ (ICG 2008a: 4).

AN IMPEDED DEPLOYMENT

Yet the launch of EULEX Kosovo on 16 February 2008 did not translate into an immediate operational 'big bang'. To some extent this was due to the presence of the planning team, which had been used as a vehicle for slowly building up the mission even in advance of its official launch. By February 2008, the EU Planning Team had already grown from the initial 12 to 120 staff (Dijkstra 2011: 238). With a target of around 2000 international staff for EULEX it was obvious that full deployment would take some time. For this purpose the Ahtisaari plan had foreseen a 'transition period' of 120 days, i.e. until mid-June 2008. The slow build-up also served to channel financial resources into the mission. As the annual budget for all civilian CFSP activities was capped at 160 million Euro in 2007 and 285 million Euro in 2008, Kosovo's budgeted cost of 205 million Euro for the first 16 months – in parallel with a number of other expensive missions such as EUPOL Afghanistan – posed significant challenges (cf. CGS 2008a, 2009a; Council of the EU 2008e: art. 16).

The decisive obstacle to EULEX' quick build-up however was political more than bureaucratic. The Ahtisaari plan had foreseen that UNMIK would hand over its responsibilities to the Kosovar authorities and a quickly expanding EU mission during the 'transition period'. Yet due to Russian objections the UN did not initiate this transition period, and therefore the mission's standing and prospective tasks remained shrouded in uncertainty. By default, UNMIK simply stayed on, and this posed a number of problems for EULEX: first, it implied a technical problem insofar as EULEX had counted on, and budgeted, taking over UNMIK's vehicles and buildings. When it turned out that UNMIK was not leaving, EULEX had to re-start procurement processes and find additional financial resources, resulting in delays and distraction from other tasks (cf. Dijkstra 2011: 239-40; Grevi 2009b: 358; ICG 2008c: 13; 31). These delays in turn entailed problems with personnel recruitment as pre-identified and scarce specialists became unavailable (Dijkstra 2011: 240).

More critically still, the lack of an invitation by the UN Secretary-General to EULEX implied political challenges. For most of its tasks the mission depended on UNMIK relinquishing its responsibilities (cf. Haber 2009: 87). Moreover, several EU governments insisted that they would deploy only at the invitation of the UNSG in order to be on a sound legal basis (ICG 2008c: 11; 31; Haber 2009: 87). Finally, Serbia's vehement opposition in conjunction with its connivance if not tacit support of limited violence in Northern Kosovo made EULEX' deployment to this part of the country too risky for many EU governments to consider (cf. ICG 2009: 5-6; 2008c: 4-7; Haber 2009: 88). This in turn compromised deployment plans as EULEX did not want to deploy to Albanian areas only because this could have been interpreted as acquiescence into a *de facto* partition of Kosovo along ethnic lines (cf. ICG 2008c: 31; Grevi 2009b: 359; Koeth 2010: 238). Such acquiescence, proposed for example by

the Swedish foreign minister, would likely have rankled Kosovo Albanians authorities and thereby greatly have limited EULEX' leverage because the former expected the international community to enforce their sovereignty in Northern Kosovo in return for the minority rights they granted (cf. ICG 2008b: 5). At the same time, Kosovo's authorities were determined not to recognize UNMIK's authority anymore come the end of the transition period (ICG 2008b: 6; de Wet 2009: 86). Yet by mid-June, when the transition period should have ended and EULEX have been fully deployed, the mission had grown to only 300 rather than 2000 staff (ICG 2008c: 8). This combination of an emasculated UNMIK and an un-deployed EULEX raised the spectre of a vacuum in terms of international supervision.

The absence of UN endorsement thus created a host of complications. In view of Russia's opposition to the Ahtisaari plan and the attendant transition to EULEX, the ICG had warned as early as August 2007 that 'the UN Secretariat and Secretary-General will have to carry part of the burden of these necessary decisions, most likely in the teeth of Russian opposition' (ICG 2007a: 19). To the disappointment of EU diplomats, and despite his earlier endorsement of the Ahtisaari plan, the UN Secretary-General teetered for a long time before giving the EU a cautious green light. One interviewed official heaved heavy sighs when recalling 'this dreadful Secretary-General who never wanted to decide anything, this Ban Ki Moon, it was just terrible' (Interview with MS official). In view of the protracted difficulties in making the International Civilian Representative and EULEX operable, the International Crisis Group warned that political will in EU capitals might be fading (ICG 2008c: 11). Instead of pushing forward, the ICG feared, the EU was sitting out yet another Serb ballot – parliamentary elections in May 2008 – while blaming the UN for its lack of support, and consequently losing credibility with Kosovars (ICG 2008c: 12).

The EU's patience (or lack of decisiveness) arguably paid off when pro-European forces won parliamentary elections in Belgrade in May 2008 (cf. Pond 2009). Serbia, the UN and the EU subsequently edged forward in finding a complicated compromise: rather than initiate the 'transition' involving UNMIK's transfer of responsibilities to the Kosovo state, EULEX and the International Civilian Representative – as foreseen in the Ahtisaari plan – the UN Secretary-General on 12 June 2008 announced his intention to 're-configure the international civil presence in Kosovo' (UNSG 2008b: para. 19). The UNSG combined this announcement with a letter to the Serbian president which affirmed that resolution 1244 continued to be in force, and which offered talks on a number of practical issues regarding Kosovo (UNSG 2008b: Annex I). While protesting the re-configuration, Serbia accepted the offer of talks since it could interpret the latter as the nucleus for renewed status talks – an answer which amounted to a 'soft no' (cf. Haber 2009: 88). Brokered in the Balkan Contact Group, this compromise deal of 're-configuration' for 'new talks'

enabled each side to move forward while denying significant concessions (cf. Haber 2009: 87). The 're-configuration decision' helped EULEX insofar as the mission could henceforth consider itself covered by UNSC resolution 1244.

COMPROMISE WITH SERBIA

The compromise embedded in the UNSG report of 12 June 2008 was only a first step because UNMIK's re-configuration still had to be implemented and because the EU was reluctant to deploy to Northern Kosovo without a more forthcoming attitude on the part of Belgrade. Despite considerable Russian pressure on the UN Secretariat to refrain from supporting EULEX, the UN finally signed a 'technical arrangement' with the EU on the sale of UNMIK mission assets on 18 August 2008 (ICG 2008c: 17-18). After further intensive negotiations, a more far-reaching compromise was found between the UN, the EU and Serbia in November 2008: accordingly, Serbia accepted to cooperate with EULEX under the condition of the latter's 'status neutrality' and in view of further talks with the UN on issues regarding Kosovo; Pristina demanded EULEX' quick deployment while rejecting such talks; the EU reminded Serbia of the basic principles of EULEX, thereby implicitly reiterating the content of the Ahtisaari package; and the UN Secretary-General noted further talks while the UN Security Council indirectly endorsed EULEX via a presidential statement (Haber 2009: 88; UNSG 2008c: XI.; Annex I; UNSC 2008a). The documents' quasi-simultaneity allowed each side to maintain its own interpretation and to underline the inclusion of those parts particularly palatable to its respective constituency, even though other parties did not accept those parts.

The actual agreement, in terms of overlap of stated positions, was all parties' acceptance of EULEX. As a French official put it with satisfaction, the agreement thereby vindicated the Quint's strategy because it 'managed to disconnect the question of independence from the question of EULEX', the objective of which 'was to implement Ahtisaari without saying it' (Interview). The same reasoning was given by a senior German diplomat who argued in an opinion piece that EULEX created a mission which – in terms of size, concept and objectives – mirrored the mission suggested by Ahtisaari but omitted mentioning its political implications even though the latter were visibly implemented (Haber 2009: 86).

The complicated compromises elaborated above came at a significant price, however. As diplomats pointed out, initially there had been 'a general agreement that we should not do "Bosnia bis", that means not a complicated institutional setup of the international presence, but we ended up with something more complicated than in Bosnia' (Interview with MS official). Beyond the complications inherent in

institutional complexity ‘there was a casualty in that new scheme, which was the ICO’³³ (Interview with MS official; cf. Grevi 2009b: 358-9). The lack of clarity on Kosovo’s status weakened the role assigned to Pieter Feith, previously a senior official in the Council Secretariat, who was appointed as both ICR and EUSR. In his role as ICR, Feith represented a coalition of countries which had recognized the independence of Kosovo that he was to supervise. The ‘ICR hat’ was important in that it implied ‘corrective powers’, i.e. the ability to directly intervene and correct decisions by Kosovo’s authorities that the ICR deemed inconsistent with the Ahtisaari proposal (cf. ISG 2008: 3.). With his second hat as EUSR representing the EU as a whole, however, Feith needed to be ‘status-neutral’ and, as officials pointed out, ‘those countries that did not recognize are very scrupulous about what the EUSR says or does in his capacity as EUSR’ (Interview with MS official; cf. ICG 2008c: 11; Richter 2009: 38). The EU’s lack of unity on the question of Kosovo’s status has thus not only weakened its credibility with local actors, but also devaluated the ‘corrective powers’ of Feith’s International Civilian Office – and thus the EU’s ability to induce Kosovo’s authorities to implement the liberal policies contained in the Ahtisaari proposal.

ACHIEVING OPERATIONAL CAPABILITY

After the compromise of 26 November 2008, EULEX quickly took most tasks over from UNMIK. UNMIK remained in Kosovo with a small presence in order to provide the EU’s presence with a ‘UN umbrella’. Yet primary responsibility for monitoring the rule of law shifted to EULEX as the mission declared Initial Operational Capability on 9 December followed by Full Operational Capability on 6 April (CGS 2008d, 2009c). This handover involved considerable inter-institutional acrimony between the UN and the EU as cooperation on the ground in Pristina was not only impeded by political issues, but also by bureaucratic foot-dragging and personal interests related to UNMIK officials’ lack of enthusiasm for losing their jobs (cf. Dijkstra 2011: 239; Richter 2009: 39-40). Yet in keeping with the Quint’s objective of implementing the Ahtisaari plan without saying so, the time span between initial and full operational capability corresponded precisely to the 120-day transition period foreseen by the latter.

Such subtle hints for the initiated notwithstanding, the situation was obviously different from the one foreseen by Ahtisaari in that EULEX officially acted under the

³³ ICO stands for International Civilian Office, which is the structure headed by the International Civilian Representative (ICR), and is tasked with supervising the implementation of the Ahtisaari plan.

old UN resolution and insofar as UNMIK did not entirely wind down (cf. Richter 2009: 36). The ensuing ambiguity implied not only the need to coordinate with a rump UN presence, but it also triggered substantive challenges, among them the question which law the rule-of-law mission would actually help applying (de Wet 2009: 93; Grevi 2009b: 358; Richter 2009: 38-9). The Kosovo authorities which EULEX was sent to support enacted their own legislation. Their expectation that EULEX help them implement this legislation posed problems for the latter because Serbia had, since 1999, established parallel structures in Northern Kosovo that continued to insist on applying Serbian or UNMIK law (cf. Grevi 2009b: 358; ICG 2010c: 18). How could these contradictory expectations possibly be addressed in a 'status-neutral' fashion?

The challenges resulting from the institutionally complicated international presence became particularly salient with respect to Northern Kosovo. On the one hand, EU member states sought to minimize risks for EULEX personnel by limiting their presence in Northern Kosovo as much as possible (ICG 2010c: 21-2; Haber 2009: 88). On the other hand, they were eager to avoid further sanctioning Kosovo's *de facto* partition. Such a partition might become entrenched, they feared, if EULEX would deploy merely to the rest of Kosovo whereas the North remained UNMIK territory. Not only did EU governments fear for the regional implications of such a 'solution', they were also under significant pressure from Kosovo's new government: if the latter would get neither Belgrade's recognition nor at least limited authority over Northern Kosovo, as had been suggested in the Ahtisaari plan, why should they submit to their end of the deal, i.e. extensive rights for the remaining Serbian enclaves and continued international supervision (cf. ICG 2008b: 5-6; 2008c: 33; 2010c: 3)?

In the end, and despite frequent criticism as to the EU's inability to forge a fully coherent and comprehensive policy regarding Kosovo, most analysts credited the EU for managing the transition from UNMIK to EULEX rather well (cf. Grevi 2009b: 366; Richter 2009: 43-4; Pond 2009; Dijkstra 2011: 241). While few of the challenges the mission – and the EU in general – faced in Kosovo have been solved, the new-born state and the region have remained stable to the extent that the International Crisis Group, in August 2010, suggested that a mutually agreed re-drawing of borders between Serbia and Kosovo might be a price worth paying for a comprehensive settlement between Belgrade and Pristina (cf. ICG 2010a: 25). Such a solution had previously always been excluded for fear of stoking revisionist pressures in the region. That the ICG dared tabling it 2,5 years after Kosovo's declaration of independence is an indication that EU governments have so far managed to obtain what they desired most in the Western Balkans – stability and a measure of control, with the EU playing an important role.

EULEX' CONTRIBUTORS

As argued in before, the staff contributions different member states made to EULEX can be seen as an indicator of governments' interest in, and support for the mission.³⁴ The most conspicuous aspect of national contributions to EULEX is once again how broad-based they have been. Whereas the Council Secretariat's fact sheets diplomatically state that 'most EU member states' along with several 'third states' participate in the mission, officials privately specified that all but Cyprus have contributed at one point (Interviews with CGS officials; cf. Grevi 2009b: 354; Busse 2010). Spain's position has also been ambiguous. Originally, the government planned to participate and was thus still engaged at the point of transition to EULEX, but apparently Prime Minister Zapatero eventually decided otherwise (Interviews with CGS and MS officials). Beyond those cases, however, the broad participation confirms the claim made throughout this chapter that EU governments were united in their wish to influence developments in Kosovo from up close, whatever their stance on Kosovo's status. Indeed, Romania as one of those countries not recognizing Kosovo was reported as the biggest contributor to EULEX in summer 2010 (Busse 2010).

Whereas national efforts in terms of contributions to EULEX were broad-based, officials pointed out that in the course of 2009 the UK became noticeably less engaged than France, Germany or Italy – or Sweden and Finland, for that matter. British diplomats justified this drawdown by pointing to the effects of the financial crisis which had not just squeezed the public purse in general, but London's budget for (civilian) peace-building in particular (Interviews). Because a big part of that budget consisted in non-discretionary assessed contributions to the United Nations, the fall of the British Pound Sterling vis-à-vis the dollar had severely curtailed London's discretionary spending in that field and forced it to take a very hard look at priorities (Interviews with UK and CGS officials). Whereas this reasoning is perfectly comprehensible, it does suggest that Kosovo was not among the British government's highest foreign policy priorities.

³⁴ The caveats listed in chapter IV apply here as well. Moreover, EULEX Kosovo has never published even one full breakdown of its personnel by nationality. Finally, aggregate numbers are somewhat misleading as one specialized and experienced prosecutor may constitute a scarcer and therefore more 'valuable' contribution than a readily available, entire unit of riot police. One unofficial overview has been published online by a think tank, but it does not distinguish between seconded and contracted personnel so that, for example, there are a few Spanish nationals listed although Spain as such is not contributing (ISIS 2010; cf. Grevi 2009b: 360).

A final aspect which many interviewed officials stressed was the participation in EULEX Kosovo of a significant US contingent of around 80 personnel. This represented the first time Washington contributed personnel to an ESDP operation. Although the US had previously been engaged in UNMIK, its participation in EULEX was anything but self-evident since the mission legally operates under the 'political control and strategic direction' of EU governments, i.e. without the US officially having a voice at the table (Council of the EU 2008a: art. 1, 2). Whereas it is hardly conceivable that US concerns would not have an important bearing on EU decision-making, the US' acceptance of these terms was hailed by EU officials as evidence that Washington has embraced ESDP as a useful tool in international crisis management.

E. PROXIMATE DRIVERS BEHIND EULEX KOSOVO

Throughout the evolution of EULEX Kosovo, the mission's fate has been closely intertwined with the Kosovo status process. For Kosovo Albanians, the acceptance of international supervision in the realm of minority rights and rule of law was the price to pay for progress in status, a commitment to 'standards after status' as it were. From the point of view of the international community, the mission was conceived as an instrument to manage and control the status process, but at the same time depended on the latter. Over time, the broad consensus that originally underpinned EULEX Kosovo came to be strained by the tension between the EU's wish to manage developments in Kosovo and the region and its disunity with respect to the political finality of this evolution. The interconnection, however, remained and implicitly extended to EU-internal deliberations: the focus on the ESDP mission came to serve as a tool for safeguarding EU unity, but its effectiveness depended on local willingness to cooperate, which in turn was a function of local expectations of, and disappointment with the status process.

For most EU governments but also for Washington, the decisive motive for an ESDP engagement in Kosovo was the desire to disengage from an unsustainable situation that they had come to co-guarantee through NATO while ensuring that the region did not slide back into armed conflict. Unable to effectively counter the charge of neo-colonialism, and unwilling to risk regional security by simply withdrawing or actively suppressing Kosovo's ambitions, the EU came to argue (and believe) that there was no feasible alternative to independence because the *status quo* was unsustainable (European Council 2007: para. 68; cf. ICG 2007d; Patten 2007). As the International Crisis Group summed up, there was 'no good alternative' to Kosovo's independence because '[f]orcing Kosovo Albanians back into a constitutional relationship would reignite violence' (ICG 2007d: i). The consequences of potential policy alternatives, i.e. just staying on in the face of popular protests, simply leaving and letting Belgrade and Pristina figure it out, or colluding with Belgrade in forcing

Pristina into some form of attachment to Serbia simply seemed worse (cf. Ker-Lindsay 2009b: 98). They would likely have implied either responsibility for renewed instability and civilian suffering or the active use of force to suppress Albanian resistance combined with the risk of Western casualties. Either outcome would have been very difficult to communicate after NATO's intervention on the Kosovo Albanian side in 1999.

Independence for Kosovo however also implied risks of renewed instability, not least because of the Serbian minority in Kosovo whose likely marginalization in an Albanian-dominated Kosovo could have reignited inter-group hostilities. For this reason, the Ahtisaari proposal offered the recognition that Kosovars craved on condition of the latter's compliance with a mechanism for the temporary supervision of Kosovo: the ICR and EULEX. Yet the reason for Pristina to tolerate such intrusive EU oversight was European recognition of Kosovo's sovereignty at least in principle. In the course of 2007, the necessity of reciprocity in exchanging oversight for recognition eventually persuaded most EU governments, including all EU members of the Quint (Paris, London, Berlin and Rome). Their collective weight and credibility proved sufficient to convince Kosovo Albanians to tolerate EU supervision despite non-universal recognition.

Clearly, EULEX could have been more effective and the EU's position in the region stronger had the EU taken a unified stance vis-à-vis the question of recognizing Kosovo's independence (cf. Economides and Ker-Lindsay 2010: 510). Apart from avoiding the institutional contortions described earlier, this would have strengthened the mission's standing with Kosovo Albanians, helped the Serbian government to face down nationalist revisionism at home, encouraged third countries to recognize Kosovo and limited Russia's ability of kindling mischief in the region – all objectives that the EU sought. Given these obvious benefits for the EU, and for the mission's universally supported objective of maintaining control over local developments, why was the Union unable to achieve a coherent collective stance on Kosovo's independence?

THE DRIVERS OF EU DISUNITY

While 22 EU member states recognized Kosovo, the governments of Spain, Romania, Greece, Slovakia and Cyprus opted to publicly oppose the Ahtisaari deal – even though they allowed for its implementation (cf. Economides and Ker-Lindsay 2010: 509). They justified this stance by invoking international law, and particularly the sanctity of territorial integrity (cf. Almqvist 2009: 10). Yet this reasoning does not necessarily imply that their policy choice was guided by normative principles. Rather, their position was self-interested insofar as they have been historically close to Serbia and/or host potentially separatist minorities (cf. ICG 2007d: 10).

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Recognition of Kosovo's independence would thus likely have led to domestic repercussions. That the nature of their objection lay in politics rather than concern for the sanctity of international law also showed when they kept to their position even after the ruling of the International Court of Justice that 'the adoption of the declaration of independence of 17 February 2008 did not violate [...] any applicable rule of international law' (ICJ 2010: 122.).

For those governments that recognized Kosovo, it is even clearer that self-interest informed their legal position rather than the other way around. They emphasized time and again that Kosovo was a unique case, thereby explicitly rejecting the idea of a principled decision based on weighing international legal norms (cf. European Council 2007: para. 69; Council of the EU 2008c). Indeed, in systematically comparing the stated reasons of both recognizers and non-recognizers of Kosovo, Jessica Almqvist noted that the former reasoned in terms of political considerations, avoiding legal issues by claiming that 'there is no settled international law governing the case' (Almqvist 2009: 9). One observer noted that 'the finest legal minds in Britain's Foreign Office were charged with finding a solution in international law to legitimise the Eulex mission' (Traynor 2008: 19). Surely this is interest defining norms rather than the other way around. EU internal discussions were moreover dominated by the inevitability of Kosovar independence rather than the question of the 'right' of Kosovo Albanians to secede (cf. Noutcheva 2009: 1072-3). As Gergana Noutcheva points out, had the EU purposely acted as a 'normative' power, Kosovo's independence could have been used as a precedent and 'occasion to move towards reforming the international legal order in line with cosmopolitan law and beyond power politics' by invoking a right to 'remedial secession' as a consequence of past human rights abuses (cf. Noutcheva 2009: 1073).

EU governments' record with respect to the Kosovo issue could thus be (and has been) interpreted as a sign that states put their national interests ahead of general normative principles (cf. Noutcheva 2009: 1072-3). This begs the question of the sources of such interests. It is doubtful whether the 'non-recognizing' governments were primarily concerned about the threat Kosovo's independence might pose to their territorial integrity rather than the travails and risks of explaining to their domestic audiences why it did not. Had these governments been truly concerned about their national territorial integrity, they would have been well advised to fully embrace Western claims that Kosovo presented a '*sui generis*' case. Instead, they undermined this logic by withholding recognition on the grounds that this presented a threat to national unity. They hence *emphasized* the connection between Kosovo and their own separatist questions even when they knew (and tolerated) that Kosovo's independence would soon become a reality. Given that EULEX' mission 'is, de facto, seen to provide political legitimization of Kosovo's structures of governance', these governments arguably abetted independence while publicly

expressing discontent (cf. Economides and Ker-Lindsay 2010: 505-6). In short, their behaviour undermined rather than advanced the cause of their countries' territorial integrity, but helped to elude potentially difficult domestic debates.

The case of Spain, the most important hold-out in the EU against recognizing Kosovo's independence, is instructive in this respect. The ICG notes in one report that Madrid allegedly 'had volunteered to join the first wave of recognizing countries if the independence declaration were delayed after 9 March', i.e. after general elections in Spain (ICG 2008c: 11-12). Spain's centre-left government apparently did not appreciate the prospect of the centre-right opposition accusing it of undermining the cause of Spanish territorial integrity by recognizing Kosovo's unilateral secession (cf. Johansson-Nogués 2008: 2). In order not to undermine its credibility (and thus its domestic legitimacy), Madrid subsequently needed to stay the course. A later ICG report hence quotes a senior Spanish official explaining that 'our position on Kosovo is extremely contradictory between our goal to strengthen EU foreign policy on the one side and the fact that we contribute to weaken it on the European continent itself. In the government everyone is aware of this contradiction, but we cannot change our position for the moment' (ICG 2010a: 2). The Spanish government thus knew that it undermined its own foreign policy objectives, but apparently feared the potential backlash at home should it pursue a more coherent foreign policy (for a similar assessment on Spain's withdrawal from KFOR, see also Abend 2009; Sebastian 2010). In other words, domestic politics weighed more heavily on the Spanish government's decision-making than international consequences.

The Quint acted almost as one within the EU regarding the Kosovo question even though both Berlin and Rome were more reluctant than London and Paris to countenance Kosovo's independence in the absence of a UN Security Council resolution (cf. Spiegel Online 2007; ICG 2007a: 13; Economides and Ker-Lindsay 2010: 498-504). Berlin's comparatively late support for Kosovo's independence reflected greater domestic concerns over UN legitimacy, and greater difficulties for the government to convince its audience at home that all avenues but unilateral independence had truly been exhausted (cf. Spiegel Online 2007; ICG 2007a: 15; Der Spiegel 2008). It is thus no coincidence that a German diplomat was selected to represent the EU in the final troika negotiations (cf. Spoerl 2007). On the one hand, this was intended to bind the German political class to the troika's findings (namely, that it was impossible to reach a negotiated settlement) and thereby to ensure that Berlin would also support Kosovo's unilaterally declared independence. On the other hand, Germany's reluctant agreement to the latter also made it a credible advocate for recognition in other EU capitals, and thereby helped in building the critical mass of support within the EU needed to convince Kosovo Albanians to buy into EU supervision.

In the end, the EU succeeded in splitting the divisive issue of whether to recognize the emerging state from the shared objective of nurturing this state (cf. Economides and Ker-Lindsay 2010: 509). Although even the technical implementation of EULEX became deeply entwined with the politics of recognition, the mission enabled the EU to transcend the unsustainable *status quo* in Kosovo and to demonstrate the EU's ability to act effectively in the external security realm. Simultaneously, it allowed member states with political stakes in emphasizing national territorial integrity to avoid facing the consequences of their national policies, i.e. an uncontrolled process of secession.

THE ROLE OF EUROPEAN INSTITUTIONS

The narrative of this case study with its emphasis on the Quint as the decisive driver behind the evolution of Kosovo may appear to contradict Dijkstra's assessment that the Council Secretariat 'received precious little support from the member states and control was very limited' as well as the claim by a Council official he quotes stating that member states 'did not want to have Kosovo on the agenda, because they knew they would be divided' (Dijkstra 2011: 233). There is indeed some reason to qualify the claim that control was 'very limited'. The planning documents that the Council Secretariat drafted were not only subject to substantial input by member states via the Ahtisaari team and the EU Planning Team, they were also painstakingly negotiated in the Committee for Civilian Crisis Management, with a provisional concept of operations for EULEX agreed on in the first months of 2007 (Interview with MS official). As one member state official recounted, even the working-level committee of CivCom 'in several instances rode roughshod over the ideas of Pieter Feith', the EU's highest prospective office-holder in Kosovo (Interview with MS official). Rather than indicating that mission planning was outsourced to the Council Secretariat, German diplomats characterized the preparation of EULEX and the elaboration of a draft concept of operations as their presidency's greatest and most difficult achievement in terms of ESDP operations – despite the parallel, difficult negotiations on EUPOL Afghanistan (Interviews). One Council official moreover recounted, without prompting, that with EULEX as opposed to other ESDP missions '[t]here is great commitment, even PSC ambassadors are interested in all the details' (Interview). Finally, the presence of a planning team shifted the balance of power between the Secretariat and member states to the advantage of the latter (Interviews).

Whereas the Council Secretariat may indeed have exercised considerable influence in pre-shaping decisions by drafting the relevant documents, it did so within the political parameters set by the Contact Group. The asserted lack of member state control thus needs to be qualified insofar as the Secretariat knew what (particularly

relevant) member states wanted from their constant interaction in the context of the Vienna status talks. However, from a higher vantage point the entire contradiction between member states and the Council Secretariat is spurious. EU governments above all wanted a fix for Kosovo that would not embarrass them, and in this respect faced diverging preferences insofar as the language on Kosovo's independence was concerned; how the Council Secretariat would solve that conundrum in terms of specific policies was distinctly of secondary importance to them (for a similar logic regarding Bosnia in 1995, see Daalder 2000: 139).

F. CONCLUSION

What does EULEX' development suggest with respect to our theoretical propositions? First, the idea that the mission may have been an instrument to balance third powers is hardly tenable. The entire Kosovo status process was collectively managed by the Quint, i.e. a coalition of the four biggest EU member states and the US – and the latter played by far the most important role. Not only was Washington the strongest and earliest backer of Kosovo's independence, it also actively supported the EU's replacement of the UN and eventually agreed to participate in a mission under the 'political control and strategic direction' of the European Union. This belies even the possibility of anti-American motives. To the extent that US power impacted on EU action regarding Kosovo, it was in persistently pushing European capitals both to accept that Kosovar independence was unavoidable and to take primary responsibility for managing the process.

The EU did not balance against Russia either. Wherever strategic considerations on the relationship with Russia had shaped EU considerations, they had aimed at enticing it into a (tacit) consensus. As Marc Weller pointed out, '[t]he US and the EU states were willing to grant Russia a controlling seat at the table, without insisting on collective responsibility for decisions taken' (Weller 2008: 94). The EU proved willing to go to some lengths to accommodate Russian concerns, in particular with respect to ever longer negotiations, and took a more adversarial stance only once it saw no other option. Caught between Kosovar pressure for independence on the ground and its own responsibility for stability, it acted 'unilaterally', but without any tangible intention of containing Russian influence. Neither was balancing Russia implemented: many EU governments hesitated, and some eventually refused to pool political capital in recognizing Kosovo. This refusal to unite came despite the fact that this undermined the EU's credibility, made it more difficult for Serbia to come to terms with the loss of Kosovo, and thereby left 'Russia with a standing invitation to make mischief' (ICG 2008b: 1; cf. Koeth 2010: 246-7; Economides and Ker-Lindsay 2010: 510). Had EU governments indeed acted to balance Russia, they would have colluded to rely on their own collective authority in putting EULEX on the ground, as

originally provided for in the Joint Action of 4 February 2008. Instead, they insisted that the latter's legitimacy depended on the very UN acts that Russia could hold hostage. In short, when it came to Kosovo, there is little to suggest that the EU was motivated by balancing intentions or geo-political considerations more generally. The Union did not maximize its potential collective influence, but rather allowed itself to be divided on the question of Kosovo's status, and thereby weakened.

Secondly, the EU's Kosovo policy was hardly driven by a conscious pursuit of liberal principles such as the defence of international law or the promotion of a remedial right to secession as an ultimate deterrent against human rights violations. Although Kosovo arguably represented an opportunity for the Union to endow the concept of 'normative power Europe' with a real-life illustration of promoting cosmopolitan values, decision-making was instead spurred by EU governments' belief that supervised independence was politically the cheapest exit strategy. Moreover, EU capitals made it clear time and again that they saw Kosovo as a '*casus sui generis*' rather than any precedent for a general right of self-determination (European Council 2007: para. 69; Haber 2009: 84; Council of the EU 2008c). That characterization may have been self-serving, but it demonstrates that EU governments themselves rejected the notion that they were acting on principle rather than convenience.

Yet whereas EU governments' behaviour was self-interested, EULEX was still part of a broader Western intervention that was primarily inspired by concern over human rights violations. Indeed, it was embarrassment over the 'triumph of the lack of will' in Bosnia which got the West into Kosovo in the first place (cf. Ker-Lindsay 2009b: 1; Judah 2008: 87; Gow 1997). What the decision-making on EULEX demonstrated was the limits of Western liberal aspirations in that the original goals of establishing a liberal multi-ethnic entity were postponed if not discounted after the March 2004 riots in favour of a narrower focus on stability and a face-saving retreat from originally higher ambitions.

The third proposition had suggested that EULEX might have served as an instrument for promoting further European integration, presumably driven by European institutions. There is some evidence for such instrumentalism. In explaining the Union's motives, several officials invoked Europeans' earlier reliance in Kosovo on American power and noted that success in the Western Balkans was crucial for the general credibility of the EU's foreign policy. Marc Weller similarly reported frequently hearing the comment from European officials that '[t]his is not about Kosovo, it is about the ability of the EU to act' (Weller 2008: 94; cf. ICG 2007a: 13). Moreover, the substantial role of EU institutions in accompanying the status process and preparing EULEX might be taken as an indication that, in the end, Kosovo was more important as an exercise in identifying a common European purpose than in its

own right (cf. Anderson and Seitz 2006; Pond 1999: 90). There is however little evidence to suggest that Javier Solana and his secretariat were actually allowed to steer Kosovo policy, or even to usurp the credit for the benefit of EU nation-building. The key decisions shaping EULEX and the context into which it would be inserted were taken by EU governments, particularly those represented in the Quint.

The putative aim of furthering European integration is also undermined by the visible limits of the will to European unity. Whereas the objective of safeguarding internal unity within the Union was instrumental in achieving consensus on the mission, it fell short of ensuring unity on status as well. In this respect, EU governments clearly placed national priorities over European unity. By contrast, if the mission were to have served to boost the EU's credentials as a quasi-nation state, agreement in the realm of symbolic politics – rather than just on a technical mission – would have been a pivotal prerequisite. This caveat does not imply that the driver of European integration was entirely absent though. In the absence of a common European foreign policy framework, the dissenting EU governments would likely not have associated themselves with implementing the Ahtisaari framework. That they did so evinces the importance they attached to demonstrating collective purpose.

Finally, what about the proposition that the EU's Kosovo policy principally depended on domestic expectations? There is again little to suggest that EU policy was directly shaped by societal pressure for foreign policy action. Yet in analogy to the Bosnian case EU governments were clearly concerned about the reputation and credibility of their foreign policies, and these concerns are more plausibly linked with domestic rather than foreign criticism: after all, it had been domestic expectations in Western countries that their leaders do something about Milosevic's human rights violations that had triggered the NATO intervention on behalf of Kosovo Albanians in 1999. What was at stake was the ability to remain in control of events, and thus the relevance of their foreign policies. When the March 2004 riots cast doubt on the liberal peace Western leaders claimed they were building in Kosovo, EU governments wanted to show that they were able to manage the transitional process rather than see their hands forced by local politics. As one observer noted, 'it would have been difficult for those leaders who had advocated intervention just five years earlier to explain to their electorates why the very people they had saved were now shooting at them' (cf. Ker-Lindsay 2009b: 109). Renewed instability could easily have triggered not just incomprehension but also domestic blame and derision for governments' inability, despite important investments, to properly handle a small conflict on Europe's doorstep.

Beyond the counterfactual argument above, domestic expectations also form the most plausible explanation for the diverging positions EU capitals took with respect to the question of recognizing Kosovo's independence. Whereas Kosovo's future was

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hardly a topic of much domestic discussion, non-recognizing governments used the occasion to defend 'national interests'. Yet the latter were defined in a way so as to dodge potential domestic political risks and blame rather than by putting maximum distance between their own concerns and the fate of Kosovo. The alleged Spanish interest in adjusting the Kosovo timetable to the Spanish electoral cycle is the most blatant example (cf. ICG 2008c: 11-12), but the opposition to recognizing Kosovo's independence more generally prevents the sort of closure that would strengthen the case for seeing Kosovo as a 'sui generis' consequence of Yugoslavia's disintegration. Whereas such assessments will often be in the eye of the beholder, we can sum up that the drivers behind EULEX Kosovo again contradicted the balancing proposition, provided limited and indirect support for the 'normative power Europe' and 'EU security identity' propositions, and made the 'domestic expectations' proposition look rather plausible.