

## International Statebuilding in Kosovo: The Shifting Trend in the Level of US – EU Involvement

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### **Abstract**

The international military intervention by NATO against Serbia in the Kosovo War of 1998-99 marked NATO's first ever war and its first ever intervention without a Security Council approval. This intervention, however, enabled the UN to take over, for the first time in its history, the administration of a territory. Supported heavily by both the US and the EU, the international intervention in Kosovo provides an important instance of state crafting under the auspices of the international community. Indeed, the two key players in post-war Kosovo have been the US and the EU. For almost ten years, while Kosovo was under the UN administration, the US and the EU were unable to find a cohesive and mutually agreeable solution to Kosovo's political status. Even in post-independence Kosovo, both the US and EU remain key players. This paper, therefore, looks at the differences and similarities in the US and EU responses and their approaches to the Kosovo problem since the beginning of the Kosovo War in 1998. This is not to say, however, that the Kosovo problem did not exist before the war. I look at three key phases of the process that created the newest state in Europe, the Republic of Kosovo, in which both the US and EU were important actors. Given that the end result of this joint US-EU exercise in the Balkans was the creation of an independent state, I use two key state-building theories to explain the US and EU approaches – deconstruction and cooption. The three phases I identify are the war period, the period of UN rule over Kosovo, and the post-independence period. Based on the US and EU's intensity of involvement in Kosovo in these three particular phases, I determine their respective roles as supporting, participating, or leading actors.

### *Introduction*

As NATO was getting ready to celebrate its fiftieth anniversary in 1999, it was faced with an enormous challenge in the very backyard of the European Union. The war in Kosovo was escalating and so was the refugee crisis with over one million Kosovars having been forced into its neighbouring countries due to ethnic cleansing committed by the Serbian regime of the time.

With the international community's diplomatic efforts to end the war having ultimately failed after the Kosovar Albanian delegation signed the Rambouillet

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Agreement, but the Serbs did not, NATO's credibility was put in line given the use of force threat it had issued at the beginning of the Rambouillet conference.

Without a clear UN Security Council mandate, but dedicated to protect innocent civilians in Kosovo, under the leadership of the US, NATO marked its first ever war when it started a 78-day bombing campaign against Serbia. To date, NATO remains present in Kosovo and so does the EU. They have both played an important role in shaping Kosovo's post-war future.

Indeed, the two key players in post-war Kosovo have been the US and the EU. For almost ten years, while Kosovo was under the UN administration, the US and the EU were unable to find a cohesive and mutually agreeable solution to Kosovo's political status. It was the American dedication to end the status-quo in Kosovo that was also supported by the EU that finally brought about Kosovo's independence. Even in post-independence Kosovo, both the US and EU remain key players. A small nation in the backyard of the EU, Kosovo has turned to be an important issue for the foreign and security policies of both the US and EU.

This paper, therefore, looks at the differences and similarities in the US and EU responses and their approaches to the Kosovo problem since the beginning of the Kosovo War in 1998. This is not to say, however, that the Kosovo problem did not exist before the war. The Kosovo problem is perhaps the oldest problem in the turbulent history of the Balkans. So, I look at three key phases of the process that created the newest state in Europe, the Republic of Kosovo, in which both the US and EU were important actors. Given that the end result of this joint US-EU exercise in the Balkans was the creation of an independent state, I use two key state-building theories to explain the US and EU approaches – deconstruction and cooption. The three phases I identify are the war period, the period of UN rule over Kosovo, and the post-independence period. Based on the US and EU's intensity of involvement in Kosovo in these three particular phases, I determine their respective roles as supporting, participating, or leading actors.

The paper does also briefly look at the approaches that the US and EU took as the Kosovo problem went from bad to worse in the 1980s and 1990s. Despite the

fact that Kosovo was right in the backyard of the EU, during this time, the role of the EU was that of a distant monitor whereas that the US a close monitor.

The transatlantic relations between the US and EU have certainly been shaped by the Kosovo problem. But, these relations have also shaped the way in which the new state of Kosovo was crafted.

Finally, I will provide some concluding remarks that bring one key conclusion to light: as the US role in Kosovo decreased, the EU role increased. The process of international state crafting in the case of Kosovo seems to be a zero-sum game, in which what one actor loses the other gains, whether for good or bad, or whether willingly or not so willingly.

### *I. International State-Crafting in Kosovo and the US-EU Involvement*

In what follows, the key three phases of the US and EU's involvement in Kosovo are elaborated, paying particular attention to the intensity or the leadership role that one or the other has taken. At each phase, as the role of the US decreases, one cannot but not how the EU role increases accordingly. From the involvement in the Kosovo War to the post-independence Kosovo, one can easily see how the roles of the US and the EU have shifted: the former has moved from a leading actor position to a participating actor, while the latter has moved in the exact opposite direction – from a participating actor to a leading actor position.

#### *A. Kosovo War and NATO's Intervention: EU's Supportive Role*

Before the Kosovo War of 1998-99, the international response to the growing crisis in Kosovo was sporadic, at best. A more sustained response, however, came from the United States. As early as 1986, when even within Kosovo there were only a handful of intellectual elites talking openly about the unfair treatment of Albanians within Yugoslavia, a couple of concurrent resolutions were introduced in the U.S. Congress to bring to the attention of the U.S. this problematic situation in Europe. H. CON. RES. 358 of 17 June 1986 condemning the repression of ethnic Albanians by the Government of the Socialist Federated Republic of Yugoslavia (SFRY) was introduced in the U.S. House of Representatives sponsored by U.S. Representative Joseph J. DioGuardi, concurrently with CON. RES. 150 expressing concern over the

condition of ethnic Albanians living in the Socialist Federal Republic of Yugoslavia, which was introduced in the U.S. Senate sponsored by U.S. Senator Bob Dole (AACL: URL). The intensity of new resolutions being introduced in the U.S. Congress increased with time. Indeed, the Albanian-American diaspora played a key role in convincing the United States to take a firm stand in stopping ethnic cleansing and then brining about Kosovo's independence.

Contrary to the U.S., the European Union was more negligent about the situation in Kosovo, despite geo-strategic proximity of the latter to the EU. Indeed, despite the fact that former Yugoslavia was considered a problematic area that could threaten the values of the EU, the Union had neither the necessary "political will" nor "an underlying policy or appropriate mechanisms" to successfully get involved in the escalating crisis in former Yugoslavia (Muguruza, 2003). More specifically, until 6 April 1996 Kosovo was not even mentioned in any EU or EC documents. It is in the 'Declaration of Recognition by EU Member States of the Federal Republic of Yugoslavia (FRY),' which called for a larger autonomy for Kosovo within FRY of that date that Kosovo was referred to for the first time (Muguruza, 2003). By the time the EU was finally taking some interest in the unrest in Kosovo, the crisis there would approach its peak in just two years.

By 1998, the situation in Kosovo presented an inevitable descent into a full-fledged war. The brutal repression of the Serbian regime on the civilian Kosovo Albanian population increased in the spring of 1998 and the massacres of February-March of that year against ethnic Albanians strengthened the commitment of international community to seriously deal with Kosovo. In many ways, the brutality in Kosovo was a reminder to the international community of what had happened in Bosnia a few years earlier (Muguruza, 2003).

The Kosovo Liberation Army (KLA), which was created in December 1993 (Judah, 2008), was now seen as a key player in the Kosovo issue, despite the fact that the parallel state institutions of Kosovo remained committed to a peaceful resolution. KLA was funded and armed mainly by the Kosovo Albanian diaspora in Western Europe and the United States (Perritt, 2008; Sullivan, 2007).

A series of UN Security Council Resolutions, European Parliament Resolutions, EU joint actions, and common decisions, did not stop Milosevic from continuing his

ethnic cleansing in Kosovo. Given the experience of the war in Bosnia and Croatia, it was generally accepted among international decision-making circles that Milosevic only understands the use of force (Reveron, 2002; Clark, 2002).

The international community, mainly under the auspices of the Contact Group for Kosovo (consisting of Britain, France, Germany, Italy, Russia, the U.S., and representatives of the European Union Presidency and the European Commission) worked intensively to bring a peaceful resolution to the Kosovo war. Partly as result of diplomacy and mainly due to NATO's threat to intervene militarily, Serbia accepted an OSCE (Organization for Security and Cooperation in Europe) peace mission, the Kosovo Verification Mission, to enter Kosovo in October 1998 (McKinnon, 2008; Hosmer, 2001).

At the same time, the Contact Group, this time greatly supported by the European Union as well, organized the Rambouillet Conference which aimed at bringing an end to the war in Kosovo. This was perhaps the last diplomatic attempt to resolve the crisis – especially after the OSCE Kosovo Verification Mission documented the massacre of 45 ethnic Albanian civilians by the Serbian forces on January 15, 1999. The Kosovo delegation at Rambouillet included representatives from the peaceful movement and KLA. To back up the diplomatic action of the Contact Group, NATO had issued a bombing warning for the non-complying party. The Rambouillet Conference concluded in diplomatic dismay when only the Kosovo Albanian delegation, despite the fact that the Rambouillet Agreement would not grant Kosovo independence immediately, accepted the agreement while the Serbian/FRY delegation rejected it. The Serbian rejection of the internationally brokered peace agreement at Rambouillet marked the immediate start of NATO's activation order for airstrikes against FRY, which started on March 24, 1999 (Hosmer, 2001).

The 79-day NATO bombing campaign against Serbian targets throughout Kosovo and FRY ended with the Kumanovo Technical-Military Agreement between NATO and FRY, which gave way to the UN-mandated KFOR (Kosovo Force), a NATO-led military presence, to enter Kosovo in June 1999 while facilitating an immediate and complete withdrawal of all Serbian troops from Kosovo (Clark, 2002). NATO's mission in Kosovo mainly revolved around security and peacekeeping

– providing a secure and peaceful place for all, protecting Kosovo’s borders, and ensuring the demilitarization of the KLA (Clark, 2002).

With KFOR on the ground and the war over, a new era started in Kosovo. KFOR’s mandate as a peacekeeper in Kosovo represents, perhaps, one of the most successful international peacekeeping operations involving NATO. In efforts to stimulate modern state-building and development, “well-meaning developed countries” have intervened in post-conflict and failed state situations in many ways, including “military occupation,” but often such interventions have “actually made things worse” (Fukuyama, 2004). If NATO’s intervention in Kosovo is viewed as a military occupation, however, it is a successful one, despite Fukuyama’s scepticism. Indeed, in the eyes of Kosovars, KFOR has been continuously ranked as the international institution enjoying the highest public satisfaction with an average satisfaction level of over 83% between November 2002 and April 2009 (UNDP, 2009).

Beyond its security mandate, however, KFOR has become also a social facilitator and reconciliatory actor between Kosovo Serbs and Albanians. It has also played an essential role in transforming the KLA into the Kosovo Protection Corps (KPC) after the war and it is now also charged with training and helping build the capacities of the Kosovo Security Force (KSF) in the post-independent Kosovo. Supporting community projects – such as building bridges, roads, schools, etc – has also become an important task of KFOR since its deployment to Kosovo in light of the weaknesses of other institutions to do so (KFOR: URL). What KFOR has been doing in Kosovo seems to be in line with a state-building process of peacekeepers that Fearon and Laitin (2004) define as a need for peacekeepers to “foster state-building if there is to be any hope for exist without a return to considerable violence.” Other authors also assert that peace-building missions mean state-building (Paris, 2002; Barnett and Zuercher, 2008).

Furthermore, Dobbins et al. (2007) distinguish between two approaches to state-building: cooption and deconstruction. Cooption tries to work within existing institutions and is the approach mostly used by the UN. Deconstruction, which is mainly associated with the U.S. interventions, involves a process by which certain groups or existing state apparatus in the target society are disempowered while other

groups within that society are empowered (Dobbins et al, 2007). The case of Kosovo, given NATO's military intervention and the post-war UN administration, provides an example of both these approaches being used.

NATO's U.S.-led intervention in Kosovo certainly disempowered all existing Serbian institutions. It simply got rid of all Serbian political and military instalments from Kosovo, and in due course empowered the post-war Kosovo institutions, now in the hands of the other groups in Kosovo, namely the Kosovo ethnic Albanians. This seems fully in line with the deconstruction approach to state-building. On the other hand, as we will see in the next section, the UN Mission in Kosovo (UNMIK) used a cooption approach to state-building in Kosovo.

Therefore, in light of the above, NATO's intervention in Kosovo presents the first phase of active US and EU involvement in international state-crafting in Kosovo, especially in terms of a deconstruction approach to state-building.

#### *B. Kosovo's UN Administration: EU's Active Participation*

UN Security Council Resolution 1244 of 10 June 1999 gave birth to what became known as UNMIK – the United Nations Interim Administration Mission in Kosovo. UNMIK was mandated by the UN Security Council to administer Kosovo until its final political status would be resolved. The resolution stipulated no duration for the mission. Once NATO troops entered Kosovo in June 1999 and consequently UNMIK deployed, within weeks, some 850,000 Kosovo refugees returned to their homes, in what can be regarded as the fastest and largest refugee return in recent history (Hysa, 2004).

UNMIK initially was organized into four major pillars. The first pillar was that of civil administration, the second was that of the judiciary (including the UN police), the third was in charge of institution building and elections (entrusted to the OSCE) and the fourth was the reconstruction and economic development pillar (a responsibility entrusted to the European Union). Post-independence, the role of UNMIK has been significantly reduced. As of June 2008, the UNMIK structure comprised the Democratization and Institution Building pillar under the auspices of OSCE (UNMIK, 2008).

Despite its unprecedented sweeping mandate to provide Kosovo with a “transitional administration while establishing and overseeing the development of

provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo,” (UNMIK, 2008) UNMIK itself was not democratic. As Chesterman (2004) notes, a 2003 report of the Ombudsperson in Kosovo clearly stated that “UNMIK is not structured according to democratic principles, does not function in accordance with the rule of law, and does not respect important international human rights norms. The people of Kosovo are therefore deprived of protection of their basic rights and freedoms three years after the end of the conflict by the very entity set up to guarantee them.”

Nevertheless, UNMIK seemed to have understood immediately that without involvement of the local political leadership, its mission was next to impossible. Initially, UNMIK established a Joint Administrative Council (JAC), which was a government-like body, and the Kosovo Transitional Council (KTC), which was a legislature-like body. Yet, only UNMIK had the authority to decide any matters related to Kosovo (Hysa, 2004). The establishment of the Provisional Institutions of Self-Government (PISG) in Kosovo came after the first free and democratic elections were organized – locally in 2000 and nationally in 2001. With time, UNMIK transferred a series of competences to the PISG (UNMIK, 2008). Involvement of local political forces in the process of administering Kosovo since the beginning of the work of UNMIK presents a good example of facilitating “local ownership” which Narten (2006) argues is an essential part of successful state-building.

As the role of UNMIK started to fade away, the role of the EU increased in Kosovo, especially when negotiations on the final status of Kosovo started in late 2005. For the EU, Kosovo presented both a challenge and an opportunity in terms of its international crisis involvement.

The involvement of the international community in the Kosovo war and the post-war administration of Kosovo, found the EU unprepared to deal with such crisis. Kosovo served a precursor to the EU’s commitment for a credible European security strategy, which resulted in the European Security and Defence Policy (ESDP). The EU security and defence policy was tasked to the Western European Union (WEU), but its capability was never fully operationalized in practice (Latawski and Smith, 2003). And, if WEU security and defence policies were to have any



impact, they were to meet three key conditions, as defined by Bretherton and Vogler (2006): presence, opportunity and capability. Since WEU did not have capability, EU turned to ESDP given an important change in British policy in regards to the EU having its own capability in the area of defence and security policy that took place at the Saint-Malo meeting in 1998, in light of the violent events in Former Yugoslavia (Bretherton and Vogler, 2006).

So as the negotiations for the final status determination continued, Kosovars continuously grew tired of UNMIK's presence. In November 2002, the satisfaction of the Kosovo people with the UNMIK was as high as 65% while by December 2007, the satisfaction level dropped to only 27%. Apart from political reasons, mainly related to the prolongation of the final status determination, Kosovo under UNMIK was not progressing in terms of economic development either. Unemployment and poverty remained among key problems that Kosovars were faced with (UNDP, 2008).

The role of UNMIK finally became completely redundant when Kosovo declared independence on February 17, 2008, and the EU took over major tasks in post-independence Kosovo as we shall see in the next section.

But, despite its difficulties and perhaps sometimes undemocratic practices, UNMIK presents the second phase of the EU and US involvement in international state-crafting in Kosovo. In terms of Dobbins et al (2007), UNMIK presents the case of cooption approach to state-building in Kosovo. UNMIK, which has always kept a representative office in Belgrade, has always recognized the importance of Belgrade over Kosovo issues. Despite the non-existing Serbian regime establishments in post-war Kosovo itself, UNMIK nevertheless continued to work with Belgrade in all areas regarding socio-political and economic issues in Kosovo. This indicates that the cooption approach to state-building was also used in the case of Kosovo.

The work of UNMIK, furthermore, represents the involvement of international community in state-building. UNMIK, as a UN-mandated mission, was practically a multilateral institution charged with building institutions of self-government in Kosovo. As such it also represents a good example of what Fearon and Laitin (2004) refer to as multilateral state-building "under the banner of neo-trusteeship."

Given its executive and legislative mandate over Kosovo, UNMIK (initially on its own and since 2001 in consultation with the PISG) brought about a series of regulations to Kosovo, signed international treaties on behalf of Kosovo, among other things. It is in this way that Kosovo under UNMIK became a player on the international stage. For instance, in 2006 Kosovo entered the Central European Free Trade Agreement (CEFTA), became a participant of the European Stabilization and Association Process (SAP), and approved the European Partnership Action Plan (EPAP). This international engagement of Kosovo under UNMIK is in line with Paris' (2002) assertion that peace-building missions serve as mechanisms for globalization of values and institutions.

It should also be noted that the structure and role of UNMIK is fully in line with tasks that Dobbins et al (2007) ascribe to nation-building such as: security - rule of law; humanitarian relief – return of refugees; governance – public administration; economic stabilisation; democratization – elections; and development – economic growth. In UNMIK terms, these tasks translate as follows: security – UN police and judiciary; humanitarian relief – facilitating the return of refugees to Kosovo; governance – Pillar One tasked with Civil Administration; economic stabilisation – facilitating a safe business environment and establishing Euro as the official currency in Kosovo; democratization – Pillar Three tasked with organizing elections and promoting democracy under the leadership of OSCE; and development – Pillar Four under the EU, promoting economic growth through facilitation of Kosovo's presence in CEFTA and other economic initiatives.

*C. The Ahtisaari Plan for Supervised Independence: EU's Front Seat Role through EULEX and ICO*

With the appointment of Martti Ahtisaari, a former Finnish president, as UN Special Envoy for the Kosovo final status talks between Prishtina and Belgrade in November 2005, a fourteen-month long negotiations process to find a political compromise for Kosovo's final status took place in Vienna. Yet, Prishtina and Belgrade could not come to an agreement. As a result, in March 2007, Ahtisaari submitted to the UN Secretary-General a Comprehensive Proposal for the Settlement of the Kosovo Final Status. With his support, on 26 March 2007, Secretary-General

forwarded the document to the UN Security Council for consideration. It was expected that the UN Security Council, in light of the Ahtisaari Plan, would reach a new resolution superseding UNSC Resolution 1244, and mandating a new international presence in Kosovo to help implement the Plan (ICG, 2007).

The Ahtisaari Plan envisioned a multiethnic, independent Kosovo under international supervision. It gave Kosovo supervised independence – which would satisfy the objectives of the majority Kosovo Albanians, while it also gave a high degree of local autonomy to majority Serbian municipalities within Kosovo, including special links with Serbia through a decentralization process that was an integral part of the Plan. Moreover, the Plan called for major and substantial EU involvement in the fields of justice, rule of law, and customs and for an International Civilian Office (ICO) to ensure the full implementation of the plan. The chief of ICO, the International Civilian Representative (ICR) would still have executive powers and could intervene to override legislation or other decisions of the Kosovo authorities if they were deemed to be in violation of the letter or spirit of the Plan. The EU rule of law, justice, and customs mission would also have a rather limited executive mandate. KFOR's presence was deemed necessary to continue while the Kosovo Protection Corps would be dissolved and a new, modern but small military force called the Kosovo Security Force would be created under KFOR's guidance and direction. The Plan also suggested that continuation of international administration in Kosovo was not sustainable (UNOSEK, 2007).

Once the Ahtisaari Plan was introduced in the UN Security Council, a sharp divide ensued among Western powers on one side and Russia and China on the other. The U.S. and E.U. were fully in support of the Plan, but Russia firmly opposed it – claiming that without Serbia's consent, Kosovo cannot become independent as it would set a dangerous precedent for other separatist movements around the world and especially in Eurasia (Antonenko, 2007). On the other hand, the U.S. and E.U. saw Kosovo's independence as *sui generis*. In a statement to the UN Security Council, UK Ambassador Sawers said “the unique circumstances of the violent break-up of the former Yugoslavia and the unprecedented UN administration of Kosovo make this a *sui generis* case, which creates no wider precedent, as all EU member States today agreed” (UN News Centre, 2008).

As no progress was in near sight at the UN Security Council given Russia's threat to veto any new UN Security Council resolution giving way to Kosovo's independence, the Kosovo authorities, in close coordination with Washington and Brussels, unilaterally declared Kosovo an independent and sovereign state on February 17, 2008. Kosovo's Declaration of Independence, however, made specific mention of the Ahtisaari Plan and pledged that Kosovo would fully implement it (Assembly of Kosovo, 2008).

So without a new UN Security Council resolution, UNMIK's existence continued, despite the fact that its role as an all-powerful entity expired with Kosovo's declaration of independence. A new international presence, however, was established in post-independence Kosovo: the EU Rule of Law Mission (EULEX) and ICO, headed by the ICR/EU Special Representative (EUSR). At first glance, it may seem that indeed UNMIK was replaced by an EU Mission. But, there are substantial differences between the two.

Let's recall that EU was given a role within UNMIK as well – tasked with reconstruction (William, 2005), but that was not because of EU's political importance but rather because of UN's need for EU's economic and development resources necessary for the post-war Kosovo (King and Mason, 2006). EULEX, however, represents the most ambitious EU mission ever and the largest of all twenty-two ESDP missions to date (Pond, 2008). As opposed to UNMIK, EULEX does not have a civil administration mandate and it cannot adopt legislation or regulations on behalf of Kosovo. The EULEX mission statement stipulates that "EULEX is not in Kosovo to govern or rule." Its legal basis stems from the European Council Joint Action 2008/124/CFSP of 4 February 2008 (EULEX: URL). While EULEX does not enjoy a UN mandate, it deployed at the invitation of the Kosovo government (Pond, 2008). Despite the fact that EULEX is an EU mission, non-EU member states such as the U.S., Canada, Turkey, and Norway have also contributed police officers to it (EUSR, 2009).

The International Civilian Office, on the other hand, is headed by a double-mandated International Civilian Representative (ICR) / EU Special Representative (EUSR). The ICR/EUSR reports to the European Council and the International

Steering Group (ISG) on Kosovo. The purpose of the ICO, however, is “international support for a European future” for Kosovo and its aims include “ensuring full implementation of the Kosovo’s status settlement and supporting Kosovo’s European integration.” ICO strives to achieve its purpose and aims by “advising Kosovo’s government and community leaders” (ICO: URL).

Even though both EULEX and ICO are relatively new in their presence in Kosovo, opinion polls indicate a favourable assessment of their roles by the Kosovo public. Approval ratings for EULEX, for instance, in the beginning of its mission in May 2008 were relatively low, only about 12%, while by April 2009, the approval ratings more than tripled to about 40%, which was slightly higher than approval ratings for either the Government or Assembly of Kosovo (UNDP, 2009).

Given the context and missions of both EULEX and ICO, it seems that Kosovo’s way forward as an independent state, currently recognized by some 76 countries, is inseparably connected to its prospects of a European future. So, one challenge of state-building which refers to what kind of state is being built (Samuels and von Esiedel, 2004), in the case of Kosovo seems properly addressed. State-building in Kosovo, in light of Kosovo’s aspiration for EU integration and international community’s intention to help Kosovo in that direction, seems to be building a European state in Kosovo. Another question that remains open, however, is when will the EU be able to leave full sovereignty in the hands of Kosovars? Fearon and Laitin (2004) argue that perhaps embedded monitoring by international institutions may be a more appropriate aim of state-building process in the context of neo-trusteeship. And, it is likely that in the case of Kosovo, EU supervision either through EULEX, ICO or both, will continue until Kosovo’s full integration into the EU, which is when, indeed EU monitoring would actually be “embedded” in Kosovo.

Given Kosovo’s aspirations for a European future and the fact that democracy is at the core of EU values, a full-fledged and functioning democracy in Kosovo is required, among others, before Kosovo can join the EU. Whether Kosovo has come to meet this criterion yet remains to be seen as Kosovo conducts itself and its policies as an independent state from now on. But, democracy must be promoted and nourished even though Kosovo may not be a “well-functioning state” yet (Carothers, 2007).

Therefore, what we see in post-independence Kosovo is the third phase of the EU and US involvement in international state-crafting in Kosovo. It includes the declaration of independence, partial but significant international recognition, and an increased EU involvement through EULEX and ICO with objectives of bringing Kosovo to its European future. As an independent nation, by late June 2009, Kosovo became the 186th member of the IMF (IMF, 2009) and the newest member of the World Bank Group by joining “the IBRD, the International Development Association (IDA), the International Finance Corporation (IFC), the Multilateral Investment Guarantee Agency (MIGA), and the International Centre for Settlement of Investment Disputes (ICSID). With the admission of Kosovo, membership now stands at 186 countries for IBRD, 169 for IDA, 182 for IFC, 174 for MIGA, and 144 for ICSID” (World Bank, 2009). Kosovo’s policy-makers and politicians do see Kosovo’s membership in the IMF and the World Bank Group as a way forward to ensuring that more countries will recognize Kosovo and that “because the IMF is an international club, joining also is an important step on an arduous road to acceptance as a member of the international community” (Andrews and Davis, 2009)

The international involvement, especially that of the EU, in post-independence Kosovo seems to answer a challenging state-building question of what kind of state Kosovo is to be. The answer to this question, however, does not conclude the state-building process in Kosovo. Indeed, the process may continue for many more years, especially in the fields of democracy promotion and sustainable development.

## *II. International Involvement in Shaping a New State’s Institutions*

The following two sections of the paper provide a closer look at how the US and EU’s involvement in international institutions and presences in Kosovo has shaped the creation of Kosovo’s own state institutions and what the views of the people of Kosovo are vis-à-vis these international bodies operating in Kosovo in comparison to Kosovo’s own government.

### *A. Puppet Political Institutions*

When the first internationally organized, supervised, and recognized, free and fair local elections took place in post-war Kosovo in October 2000, representatives of the international community working in Kosovo – either for the UN or EU or NATO – were positively surprised with the high voter turnout of 79% (KAM, 2000). However, what we see right after the 2000 elections is a significant drop in voter turnout in only one year's time. The voter turnout in Kosovo's national elections of 2001 was not higher than 64% (CEC: URL)—down by some 15 percentage points from a year before. This negative trend of voter turnout has continued all the way to the latest national Kosovo elections of 2007 (54%) and local elections of 2009 (45%) (CEC: URL).

One major reason that may help us understand why the Kosovo electorate was seemingly losing its trust for the power of vote and thus turning away from one of the fundamental rights of democracy is related to the role of UNMIK in particular and the international presence in Kosovo in general.

According to UNMIK Regulation 1999/1, UNMIK became both the executive and legislative body of power in Kosovo. Despite the fact that UNMIK organized elections in Kosovo and established institutions of self-government, all powers rested with it and the Special Representative of the Secretary-General (head of UNMIK). Indeed, even the Constitutional Framework that gave rise to Kosovo's Provisional Institutions of Self-Government was formulated in a way that could exclusively be changed only by the SRSG and stipulated that all powers of the PISG were derived from the powers of the SRSG and always required his or her approval. No matter what the Kosovo elected institutions would say or decide, the SRSG could override it. So, going out to vote for political institutions that, except for the name, did not bear much power seemed unimportant.

Furthermore, the proportional electoral system with one electoral district can be considered as another contributing factor to the decreasing voter turnout. Many think-tanks and civil society organizations have continuously pressured the international community and Kosovo's institutions to change the electoral system

from a one-district system to a multi-district system (KDI, 2008). Just recently, political parties have also started to publicly speak in favour of a multi-district electoral system and call for necessary changes to the election laws (Frangu, 2010). It makes sense that Members of Parliament that would be directly elected by their own district electorate would have to be more responsible and accountable to their constituents as opposed to those elected through political parties based on a one-district electoral system.

Whether the political institutions of post-war Kosovo had any real power or not, people's satisfaction with their work seems to have decreased with voter turnout. According to UNDP's Kosovo Early Warning Report, one can see that from a record-high satisfaction level of some 70-80% in 2002, people's satisfaction with the work of either the Government of Kosovo or the Assembly of Kosovo continuously dropped on average all the way to 2007 (UNDP, 2009). Indeed, this decrease in people's satisfaction with the work of Kosovo's political institutions seems to be independent of the share of power that these institutions had vis-à-vis UNMIK.

For example, right at the time when UNMIK had handed over a larger share of power to Kosovo's political institutions as the negotiations for the final status were approaching their end (in 2006 and 2007), people's satisfaction with these institutions hits record-low levels. What this may indicate, however, is the inability of Kosovo's political institutions to perform to the expectations of the people when more power was given to them. And, this inability could have come from many years of full dependence on UNMIK and EU to run Kosovo in terms of political administration and economic reconstruction, respectively.



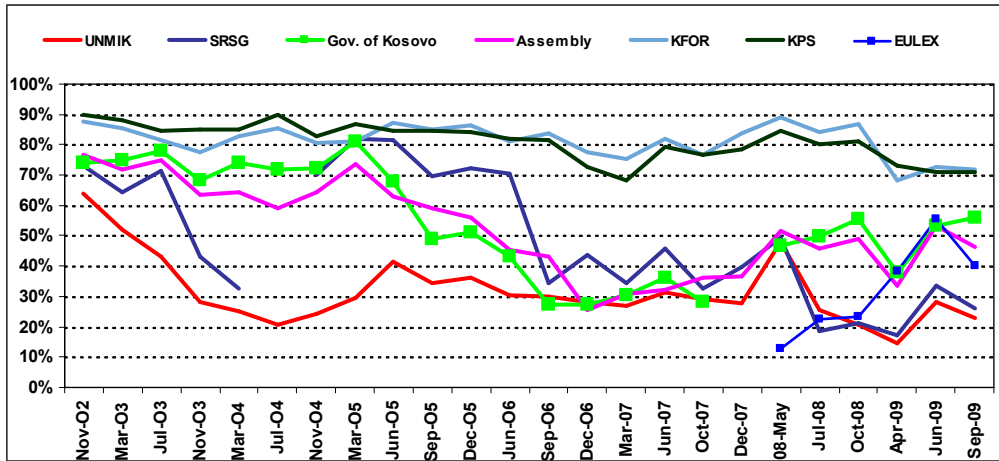


Figure 1: Satisfaction with Kosovo institutions

Source: UNDP Kosovo, Early Warning Report #26, November 2009

While the international community tried to develop democratic political institutions in Kosovo, by way of keeping them fully dependent on UNMIK’s executive mandate, it shot itself in the foot since it gave Kosovars no good reason to believe in these institutions.

Data from a UNDP Kosovo Early Warning Report shows that from 2003 all the way 2008, on average, more Kosovars held UNMIK responsible for Kosovo’s political situation than the Government of Kosovo and Kosovo’s political parties (UNDP, 2009), with a couple of exemptions (during the second half of 2006 when negotiations for the final status were ending, and late 2007 when Kosovo was getting ready to declare its independence). Since July 2008 (months after the declaration of independence of 17 February 2008), more Kosovars have been holding the Government of Kosovo and its political parties, as opposed to UNMIK, responsible for Kosovo’s political situation. This indicates that people will no longer tolerate their own political institutions to hide behind the international presence in Kosovo when it comes to political responsibility and accountability.

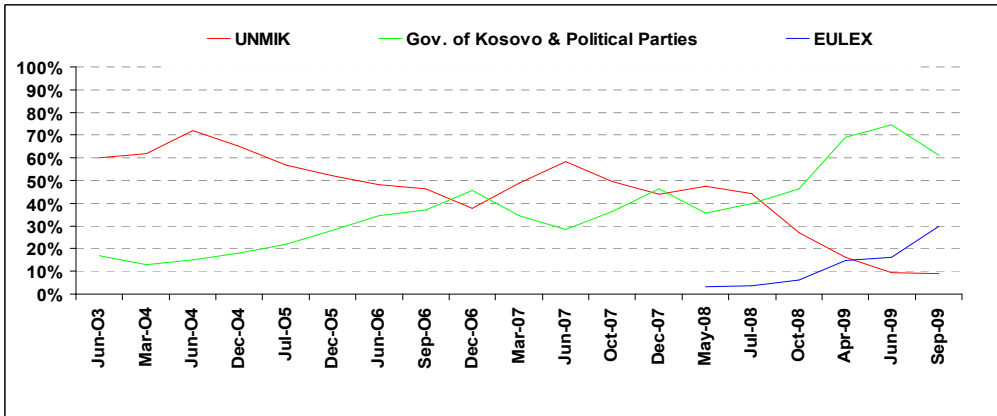


Figure 2: Responsibility for Kosovo's political situation

Source: UNDP Kosovo, Early Warning Report #26, November 2009

### B. Independent but Supervised Political Institutions

When Kosovo declared its independence on 17 February 2008, it made sure that the Declaration of Independence (Declaration of Independence of Kosovo, 2008) would itself recognize the Ahtisaari Plan as the basis for the foundations of the new state. One major component of the Ahtisaari Plan that affects Kosovo's statehood and state-building process is the supervision of independence by the EU.

As discussed in the previous two chapters, EU's role in Kosovo has significantly increased post-independence through EULEX and ICO. But, what do these international presences (EULEX and ICO) mean for Kosovo political development? Have Kosovo's political institutions become fully independent now? De jure and de facto no, since they still depend on EULEX for rule of law issues and still need ICO's approval for major financial decisions or constitutional changes (Constitution of Kosovo, 2008).

Despite the fact that both ICO and EULEX continuously make remarks about their supervisory and not executive role in Kosovo, Kosovars seem to perceive EULEX, for instance, as directly responsible for Kosovo's political situation. As can be seen from Figure 2, the portion of Kosovars that find EULEX responsible for Kosovo's political situation has continuously and significantly increased. What is more worrisome is the fact that between June and September 2009, the portion of

Kosovars holding EULEX responsible for Kosovo's political situation has increased while the portion of Kosovars holding the Government of Kosovo responsible for Kosovo's political situation has decreased. If this trend were to continue, we could face a situation similar to that with UNMIK in the first six years of post-war Kosovo: Kosovars would see the EU presence as more responsible than Kosovo's own political institutions for the country's political situation.

If Kosovo slides back into holding the EU presence more responsible than its own political institutions about its political situation, Kosovo loses the battle of consolidating its own institutions of the new state. Kosovo's political institutions cannot be fully consolidated unless they are held fully responsible for the country political situation. Delaying the consolidation process of these institutions prolongs the state-building process of Kosovo. The EU supervision of Kosovo's independence cannot now serve as a curtain behind which Kosovo's institutions can hide and thus avoid being responsible and accountable to Kosovo's people.

In a process of democratic state-building, proper institution-building is essential. So far, however, in the case of Kosovo it seems that domestic political institutions have usually taken a second seat in the process of state-building – first during the UNMIK time when they were deemed provisional and non-executive, and now under EULEX and ICO when they sometimes choose to be on the second seat. Institution-building under international authority is neither easy nor short, because of the fact that domestic institutions do not have all the room they want for political and policymaking manoeuvres they want or need to make (Tansey, 2007).

Not only are Kosovo institutions legally obliged to respect ICO and EULEX decisions, but they also sometimes prefer to have important political decisions be made by ICO and EULEX even though they could make such decisions on their own. It seems as if the international presence knows better and thus should be allowed to make those decisions on behalf of Kosovo. But, there are no guarantees that the international presence knows better or always has the right and good motivations to make the correct decisions (Bain, 2007).

For example, Kosovo has its own Anti Corruption Agency, but it has never acted against much talked about corruption affairs within government ministries and other public institutions. On the other hand, EULEX used its executive mandate and

carried out several search operations in an effort to shed some light over claims of corruption involving high-ranking government officials (Telegrafi, 2010). Another example would be the Government of Kosovo's decision to announce a political strategy for integration of Kosovo's north only when such strategy was approved by the ICO and a European Ambassador in Kosovo took the lead in supporting and monitoring its implementation (Koha Ditore, 2010). Both of these examples are indicators of Kosovo's political institutions' unwillingness to act as independent actors yet.

Besides the issue of institution-building, the issue of sovereignty comes up in the context of EU's supervision of Kosovo's independence. Sovereignty is not a precursor to statehood; rather it is one fundamental characteristic of the state and is defined as "plenary competence that states *prima facie* possess" (Crawford, 2006). In the case of Kosovo, sovereignty was "seized" (Van Roermund, 2002) by UNMIK and the SRSG given their executive, legislative and judiciary powers over the territory. Even post-independence, Kosovo still lives under partially seized sovereignty given the executive roles of ICO and EULEX in certain areas of power.

If sovereignty is a central characteristic of the state and Kosovo does not have full sovereignty yet (while it is under supervision by the EU), then it seems that Kosovo is somewhat of a partial state. This brings us to the question of whether state-building can work without full sovereignty. By the same token, we can also ask whether it is possible to have full sovereignty without completing the state-building process.

Consequently, we see that what we face is a 'catch 22' situation because it seems that Kosovo will not be able to get full sovereignty until it builds a fully functional and democratic state, while it cannot build such a state until its sovereignty belongs to none but Kosovo.

In a recent trip to Kosovo, however, the EU's High Representative for Foreign Affairs and Security Policy, Catherine Ashton, stated that "The European Union is completely united in the belief that Kosovo's future is within the European Union," despite the fact that five EU member states have not yet recognized Kosovo (B92, 2010). Kosovo's joining of the EU, thus, may be the only way out of the current

“catch 22” situation. The issue of sovereignty becomes much less important when Kosovo gets closer to EU membership, while the state-building process could be well advanced by helping Kosovo fulfill all the required criteria to become eligible for EU membership. Without the prospects of EU membership, the political development of Kosovo would at best stagnate or completely collapse in the worst case scenario.

### *Conclusion*

It is apparent that without the support and involvement of the US and the EU, Kosovo would have never come to where it is today. The international community’s support for Kosovo – namely under the leadership of either the US or the EU – has been essential to creating a new, democratic, and functioning state in Europe. Yes, this new state faces many problems and challenges, but it also has some opportunities before itself to make succeed as a new democracy.

Despite many problems that the international presences in Kosovo has faced and have brought upon Kosovo, from a transatlantic relations point of view, the international involvement in state-crafting in the case of Kosovo shows one important element in the US-EU relations in regards to their roles in international crises or international involvements: their engagement in Kosovo was a zero-sum game – when one was in the leadership role, the other was in the supporting role and vice-versa.

Given that a picture is worth one thousand words, I hope that the following table helps us better understand the key conclusion that this paper brings out.

#### Involvement in Kosovo

	<i>Pre-War (before 1998)</i>	<i>During the War (1998-99)</i>	<i>After the War (1999-2008)</i>	<i>After Independence (after 2008)</i>
<b>E.U.</b>	Distant Monitor	Supporting Actor	Participating Actor	Leading Actor
<b>U.S.</b>	Close Monitor	Leading Actor	Participating Actor	Supporting Actor

Because this paper does not fully elaborate the US and EU's roles in the Kosovo problem before 1998, their roles are determined to be those of monitors, since neither the US, nor the EU were part of any international presence in Kosovo. The US, however, had an information office in Prishtina, something the EU did not have at all. Hence, their labels as distant monitor for the EU (i.e. no presence on the ground, no sustained policy debate over Kosovo) and close monitor for the US (i.e. continued Congress resolutions, Department of State reports, and presence on the ground through the US Information Office).

And, because the US led NATO's intervention in Kosovo, its role was that of a leading actor, whereas the role of the EU was rather supportive, partly because most of the EU member states are also NATO member states and partly because the EU as such had no military capabilities at that time.

In the post-war period, namely the UNMIK time, both the US and the EU held participating actor positions: the chiefs of UNMIK would always be European while the deputy chiefs would always be American; the EU was in charge of economic reconstruction, while the US led the diplomatic efforts at the UN to break out of the status-quo. Both, however, were actively involved during this time, despite the fact that perhaps formally, the UN was in charge, and therefore in the driving seat.

Finally, in the post-independence period, we see a complete shift from the war period. Now, as opposed to then, the EU has the position of the leading actor (i.e. EULEX and ICO), while the US that of a supporting actor (i.e. supporting the ICO and KFOR).

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