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KOSOVO: The limits of international post-conflict governance

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This text builds on the results of the seminar "Understanding the limits of International-Conflict Governance: the case of Kosovo", organised by CIDOB on December 4th 2015 in Barcelona, with the support of the Europe for Citizens programme. Four major contributions were presented by Francisco de Borja Lasheras, Associate Director of the Madrid Office of ECFR, Eran Fraenkel, Associate Senior Researcher of CIDOB, Besa Shahini, independent analyst from Pristina, and Valerie Hopkins, journalist at the Balkan Investigative Reporting Networking (BIRN), Pristina. The debates were introduced by Jordi Bacaria, Director of CIDOB, and conducted by Nicolas de Pedro, Research Fellow at CIDOB, and Pere Vilanova, author of this paper.

Kosovo? A small paradigm of mismatches generated in the contemporary world system since the fall of the Berlin Wall in November 1989, and a clear example of some of the paradoxes aroused by this in European (and by extension, the world's) public opinion. Indeed, now almost everyone has heard of Kosovo. Before 1989, only a few specialists on central and eastern Europe might have thought about it. During the wars in the former Yugoslavia, starting in Slovenia in July 1991, Kosovo began to be known outside its borders, but the ferocity of the war in Croatia and especially the slaughter of Serb radicals perpetrated in Bosnia-Herzegovina left it as a secondary concern. Ever since, it has been appearing on and disappearing from the front pages of the newspapers. During a trip to several European countries in 2007 and in Albania, specifically, President Bush came out with a strong statement in two stages: one, the implementation of the peace

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plan could not wait indefinitely; and two, if the UN Security Council did not recognise Kosovo's independence (due to Russia's threat of veto), the United States might consider unilateral recognition. And so it happened in 2008, and became a trigger for many other states' recognition of Kosovo. Serbian nationalism, one of the strangest phenomena taking place in Europe at the turn of the century, has always regarded Kosovo as the cradle of its identity, its spirituality and its history: that is, the root, the matrix and the backbone of the Serbian nation. But, as often occurs, this narrative is a story based on several myths deliberately built on the reformatting of some historical facts and the neglect of others. Unfortunately for the myth, Kosovo has a predominantly ethnic Albanian population (approximately 92%) and a Serbian minority. But unlike Bosnia-Herzegovina, for example, where until the war mixing between communities – even among first-degree relatives

(wife, husband, father, son, etc.) – was very common, in Kosovo the populations never mixed and never socialised in their everyday lives. So they are not forgotten, it is worth recalling some of the milestones. Now we know that with the disappearance of Tito in 1980, the Yugoslavian state lost almost all its federative power. The attempts to maintain it through a collegial presidency consisting of eight members, one from each of the Yugoslav territories (though Serbia controlled the four votes from Serbia, Montenegro, Vojvodina and Kosovo), lasted only a few years. In 1986 the (then) famous *Memorandum* of the Serbian Academy of Sciences and Arts emerged, which explained that Serbs had never been more threatened in their identity and their future than at that time. The document stated that the situation had not been worse since the defeat by the Turks in 1804, and that in particular the Serbs in Kosovo had, since 1981, been undergoing a political, cultural, legal and physical genocide. In 1987 and 1989, Milosevic built his rise to power in Serbia through speeches made precisely in Kosovo. In 1989, on the anniversary of the Serb defeat to Sultan Murad on the Field of Blackbirds, Milosevic said that the "no one will raise a hand against a Serb" and "Serbia is where there is a Serbian grave". Again in Kosovo. And in March 1989, months before the fall of the Berlin Wall, and two years before the independence of Slovenia and Croatia, Milosevic unilaterally suspended the statute of autonomy for Kosovo within Serbia.

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The rest is well known: the "passive resistance" led by Rugova, the emergence of Kosovar armed groups from 1997-1998, increased repression in the province, especially during 1998, as confirmed by an OSCE observation mission which had to be evacuated in early 1999 due to insecurity. And, finally, the Rambouillet negotiations, their failure, the subsequent NATO intervention and later deployment of the UN mission known as UNMIK (in fact agreed with Russia). The Ahtisaari plan was, in short, the project commissioned by the Security Council from this prestigious Finnish diplomat at the end of 2005, and which its author delivered in early 2007. But unknowns remain today, chief among them the threat of a Russian veto of any normalisation.

Kosovo today: an expensive experiment

Starting in 1999, the UN saw Kosovo as a testing ground for new governance strategies and policies. Today, after eight years of direct – and another eight of indirect – international state-building, the situation in terms of some socioeconomic indicators goes as follows.

Kosovo is still poor and 60% of the population lives in rural areas. For a population of approximatively 1,815,000 and a land area of 11,000km² the GNP is €6.5bn (to compare, Serbia's is €38bn). Exports make up €300 million euros (€100 million in processed goods, the rest in raw metals and min-

erals) and imports €2.3bn (mostly financed by the Kosovar diaspora). 80% of the state's budget comes from taxing imports – thus, indirectly, the budget is also financed by the diaspora. Kosovo also suffers from a lack of skilled workers because the whole post-war economic programme was based on one policy only, privatisation, plus the massive external cash flow coming from the international community. So it is safe to conclude that Kosovo has been one of the most expensive international peace building and state-building efforts: it deserves constant and serious debate and evaluation.

The international community has deployed an ambitious multiple format of intervention and supervision, which nowadays continues to be a sort of protectorate. In 1999, the UN launched an extremely ambitious mission by setting up an interim administration in Kosovo (UNMIK). To date, no other mission before or since has intended to do so much in such a short time. From post-war reconstruction to full-scale state-building, this mission marked a clear change in strategic thinking inside the UN about its role in international interventions and in building stable post-conflict states.

After more than four decades of existence, in 1999 NATO launched its second military intervention within the space of four years (the first was in Bosnia in 1995) to neutralise a repressive regime in a European country that was not a NATO member, but a part of a sovereign state, Serbia. This again raised some issues about the territorial dimension of NATO scenarios. By launching KFOR – of which Russia was part until 2004 – NATO gave itself new responsibilities and a new role in international conflicts, which was later ratified in its involvement in the Afghanistan conflict.

In 2008, the EU launched its large, ambitious ESDP (European Security and Defence Policy) mission, to be deployed in Kosovo. Fielding about 3,000 staff, with a budget of over €200 million per year, the EU assumed a large role in state-building outside of the union. EULEX and the presence of the EU Special Envoy deserve study and evaluation. The OSCE has to be considered too, with its programmes on human rights, democratisation and the development of civil society being fairly ambitious and proactive.

In this perspective, it is worth exploring how to make a significant assessment of the action of all these different key international actors, the challenges they have faced, successes they have accumulated and the opportunities they have missed. A special focus is to be placed on domestic political and social actors, as well as domestic institutions (Kosovo's government, parliament and local councils/ municipalities) as the logical counterparts of the international actors involved.

Some additional events should be considered in the exercise of assessing the case of Kosovo. In April 2013, Hashim Thaçi, Kosovo's prime minister, struck a deal with Ivica Dačić, his

Serbian counterpart at the time. The Brussels agreement on principles governing the normalisation of relations between Serbia and Kosovo was widely hailed as "historic". "The agreement today is historic and marks an important moment in the relationship between Serbia and Kosovo as well as in their relations with the European Union", said Herman Van Rompuy, then president of the European Council. In the words of the enlargement commissioner at that time, Stefan Füle, this was "an historic day for Serbia-Kosovo relations, for the entire Western Balkans region and for the European Union". For the former High Representative Catherine Ashton, it was "a step away from the past and, for both of them, a step closer to Europe".

In October 2013, Kosovo was allowed to start negotiations on a Stabilization and Association Agreement (SAA). Enlargement Commissioner Füle announced that "following the Lisbon Treaty, which conferred legal personality to the European Union, the Stabilization and Association Agreement will be concluded in the form of an EU-only agreement", meaning that it will not be ratified by the EU member states. In this respect it is discomforting that the EU has imposed harsher conditions on Kosovo to obtain visa-free travel than on all other Western Balkans countries. In January 2014, Serbia was allowed to formally start accession talks, a crucial step on its path towards membership. But what has Kosovo gained? Five EU member states still have not recognised Kosovo as an independent state.

Even if we assume that Kosovo may be able to conclude the SAA, the next step on the EU integration path is to hand in a formal application for membership. But five EU member countries (Cyprus, Greece, Romania, Slovakia and Spain) do not recognise Kosovo as a state, which may continue to be an insurmountable obstacle. Further, Kosovo's socioeconomic problems are huge. Clear government policies are lacking in many areas. And at the top there is the issue of relations with Kosovo's Serbs. What would really help is a clear and credible EU membership perspective. But for Kosovo this perspective is far more elusive than for all other countries in the Western Balkans.

As for some lessons to be learned, there is still a clash between grand policy objectives (e.g. building rule of law, community integration and strong institutional set-up) and the actual political, social and even cultural context on the ground (in terms of cleavages, clan systems, cultural tensions, etc.). This showcases the limits, at least in terms of transformative and democratisation goals, of the top-to-bottom approach that drives international policymaking, including European policy in the Balkans.

This clash is especially vivid in the governance models, pitting the liberal utopia of a playbook of postmodern rule (externally projected, with strong, accountable institutions at the core to manage differences and conflict, allowing for gradual, orderly transitions) against the informal governance systems actually in place in the Balkans, which are based on power networks, patronage, clans and even kinship, and the deep state.

Some of the major contradictions have to do with the following issues.

The role of local and regional elites. They are presumed to have the willingness or potential to compromise their power interests for the common good or national interest, or for the sake of "Europe". Compromises should be honoured in good faith with some incentives and the occasional use of the stick. But reality is not that simple.

The role of international actors. They themselves should be more committed to honouring their own agreements and red lines. The political consensus brokered at international community level should be constantly maintained and stay put through the usual ups and downs of the process.

The importance of gradual stabilisation and change through an orderly transition. Fundamental processes of change (of power, democratisation and establishment of pluralism) must be achieved with resolve. The challenge, just like in Bosnia-Herzegovina, is state-building. That is, to build modern, resilient states in historically short periods of time.

Different time frames must coexist in the process in which we operate, with "internationals" officially investing in long-term processes (though trapped by short-term dynamics and quick patches too), whereas local power holders are driven by

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short-term survival considerations. As a result, the countries where these kind of transitional experiments are undertaken often live in parallel realities: one is the institutional façade and the other is that of actual power circles, where real decisions are taken. This double reality is also shaped, sometimes detrimentally, by the dysfunctionality and atrophies of the international community (e.g. protectorates).

Benchmarks are needed. Some are relatively tangible, especially regarding underlying causes of conflict – in the security arena, for instance, with the disposal of SALW (Small Arms and Light Weapons), the increase or decrease of incidents, and police interventions in case of limited tensions, etc. Yet the trouble is how some paymasters/ politicians/ heads of institution read these assessments and benchmarks and manipulate them.

There is presently a tendency to move from never-ending capacity building (open to criticisms) to either a box-ticking approach (the EC's inertia), or a sort of project to mission tasks (e.g. build a functional, ethnically integrated and law-abiding policy body in a short period of time). But time is a key factor: you need time (and, preferably, few political setbacks) to make tangible change materialise – minimum 2 to 3 years – and yet nowadays there is less interest than ever in long-term change, so efforts and political support fizzle out.

There is also a sort of double *human turnover* problem that means institutional memory is lost both in the agencies the international community has invested in (a change of clan

or political establishment equals a change of all structures, from "top to bottom", in places such as Albania or Kosovo) and within the international organisations themselves. Incidentally, a common assessment says that international institutions are not very good at handling the issue of *lessons learned* in the aftermath of big crises.

If one looks at Kosovo and around the broader region, it remains unclear whether the impact is profound beyond *immediate* security risks and the absence of *immediate* threat of open war (check any Freedom House or independent monitor's indicators). Superficial, stability seems to equate to limbo. This is partly because spoilers remain empowered, partly because international commitment has been wavering and partly because of the policy flaws laid out above. But substantial indicators can hardly be read in a positive light of work in progress. Generally speaking, in the case of Kosovo, international actors are perceived as a deterrent to massive mischief and as firemen in wait. When it comes to coordination and planning, they try to carry out – both formally and informally – different levels of coordination and even joint planning between likes of EUFOR, the UNDP or the UNHCR. International coordination, though a mantra, certainly enhances the international community's leverage

ing involvement of international actors. Someone call it the *colonial trap*. In this case, more specifically, it would be an *association trap*, tarnishing the internationals' leverage, often with some of the forces for change (e.g. Kosovo protests in late 2015). A variation of it would be the *status trap*, the obsession with solving, or rather tackling, status at the cost of standards on good governance, rule of law and democracy (e.g. the downgrade by the EU of its own Copenhagen criteria). Other types of traps are often identified, such as the *quick fixes trap*, the tendency of internationals, especially the EU, but not exclusively, of hatching power sharing arrangements or facilitating exercises ("the EU *selfie policy*") to arrest immediate effects of instability, without really looking at conflict or power abuse factors. The *insincerity trap* is another one: both elites and internationals reach a point where diplomatic language becomes delusional and a hurdle to tackling impending crises. This void trickles down to society sometimes – politics in the Balkans as a theatre – and is more and more perceived by locals as a game. Finally the issue of double standards or forcing a *geopolitical games trap* points to fostering, strengthening pro-EU and pro-NATO rulers with very poor democratic credentials at the domestic level in order to make it look like real progress.

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and influence, but at play there are very different perspectives of mandates, priorities and political agendas. Some stress standards, others stability. And the states behind them have different readings too.

Some possible traps along the way

The international community should be aware of some of the traps that can easily undermine the process, but this means facing contradictions with no magic formula to solve them.

Power-sharing agreements, designed to further lofty goals (stability, conflict containment, political pluralism), de facto often reward spoilers, entrenching their interests, cementing the agendas that led to conflict in the first place and preventing further transformation on the grounds of "ethnic protection", "vital interests", and so forth. This leads towards the *ethnification* of all problems: "communities", "ethnic", all the jargon alike, etc. Aren't we intensifying differences or cleavages that were not *that* strong or marked, deepening in turn conflict factors? One thing is clear: the ethnic denomination of anything is a dangerous tool of power.

Of course, there is the *dependency trap*: the entanglement of internationals in mostly domestic issues, empowering spoilers and getting engulfed in a vicious circle. Many projects would not materialise without sustained or grow-

Some additional questions and a regional conclusion

1. How do we evaluate the international actors' policies towards Kosovo and Serbia in order to measure the real tangible results of their action?

2. Do international actors (the EU, UNMIK, EULEX, the OSCE, etc.) coordinate and plan the management process jointly? Do they measure the improvements and the setbacks in the current process together?

3. Do they analyse and assess the impact of their actions in terms of enhanced (and enlarged) regional stability?

4. How do we measure the output of the Brussels agreement between the parties? Is it possible to set realistic "benchmarks"?

This last question deserves further exploration, for the EU is in any case doomed to continue to be responsible for Kosovo and the Balkans as a regional unit in any prospective future, once the presence of other international institutions decreases. Or, in other words, NATO / KFOR, UNMIK, etc., are *transitional instruments*, but the EU, while being also an instrument at the current stage, is at the same time the integrating structure for Serbia, Kosovo and the Balkans in any future scenario of *regional stabilisation*.

The list that follows is but a short synthesis of some of the steps that both the EU and the countries of the Western Balkans could take to reach a common goal by aligning process and purpose.

1. First and foremost, the EU should rescind its declaration that no further enlargement will take place during Junck-

er's term. This position only demotivates aspiring countries from any effort to comply with accession standards. More fundamentally, such a reversal must be based on a common decision by the EU that enlargement is an integral aspect of its foreign policy and that a united, common Europe remains a political construct to which all member states are dedicated. The lack of consensus makes moot any further recommendations regarding enlargement.

2. If enlargement does become an instrument of European foreign policy, the EU needs to rely more on positive rather than negative reinforcement practices to motivate aspiring countries to meet accession standards. Not only have punitive actions, such as reducing IPA (Instrument for Pre-accession Assistance) funding, failed to accelerate reforms, they have motivated local elites to continue engaging in policies that serve their own agendas to the detriment of their country's economic and political future.

3. The relationship between the EU and Balkan elites needs to be revisited. At present, the EU negotiates the accession process largely with the elites of the Western Balkans, to the exclusion of civil society and other local leaders who have their own voices and constituencies. By engaging more with leaders who are not beholden to the current political classes, Brussels would:

– increase local ownership both of the way towards and the specific outcomes of the accession process;
– improve the chances of these states meeting accession standards by stimulating greater society-wide demands for positive change.

4. One highly contentious area is the ambiguity of the discourse between Brussels and the countries of the Western Balkans. To avoid misunderstandings and the controversies that stem from them, the EU should use specific and clear language to define which issues the Western Balkan states need to address. In the absence of specific terminology, people in the aspiring countries cannot determine whether or not real progress has been made. Furthermore, the prevalence of ambiguous terminology only reinforces the scope for local politicians to blame Brussels for not accepting achievements that they claim to have accomplished.

5. Accurate terminology to capture progress in the accession process must be accompanied by accurate, reliable and accessible data. Therefore, the EU should put into place a consistent system of statistical data collection and analysis that applies equally to all aspiring countries. Rewarding countries for providing consistent and accurate data will:

– allow everyone engaged in the accession process to see how any given country is doing at a particular time;
– motivate officials in the aspiring countries who are tasked with accession to collect, analyse and make public honest statistical information; and
– make possible meaningful comparisons of progress among aspiring countries.

By combining specific and clear terminology with accurate, consistent and accessible data in its annual progress reports, the EU could:

– set clear and achievable accession benchmarks;
– boost the credibility of its arguments regarding the rate of progress towards benchmarks that have been identified by all parties;
– define realistic minimum standards that must be reached for any country to have its progress acknowledged;
– set specific minimum accession standards for each specific issue an aspiring country needs to address;
– respond to criticism or objections made by Balkan countries regarding inaccuracies or mistakes they identify in reviews of their progress.

To summarise, the EU has to behave as though both the present and the future of the Western Balkans actually matter. The refugee/immigrant debacle has been testing the very notion of a union of member states. It has reignited the debate over sovereignty and the right of member states to define domestic policies that do not necessarily adhere to policies set by Brussels. As it happens, the countries of the Western Balkans are surrounded by member states on

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all sides. Consequently, events taking place in any country of the region impact all countries of the region – members and non-members alike. The EU therefore cannot ignore or downplay events occurring in non-member Balkan countries that undermine the very standards the EU claims to represent. For example, Brussels must inform any Balkan government immediately that shutting down independent media or jailing journalists has direct and immediate negative ramifications for accession. Likewise, Brussels cannot declare any Balkan election to be "adequate" when both domestic and international observers are aware that the process was manipulated with impunity to maintain the ruling oligarchs' rein on power. The role of the EU must be to encourage Balkan aspirations for membership by assisting countries to understand why and how the EU's values will improve the living standards both for each country and for the union as a whole. However, Brussels cannot expect threats of exclusion to force the countries of the Western Balkans to transform themselves into northern or western European societies as the price for admission to the club. There must be room for a more inclusive definition of "Europe", with membership criteria that are achievable for countries that are (and want to be) part of this wider Europe.

Main actors in the process

The mediation area
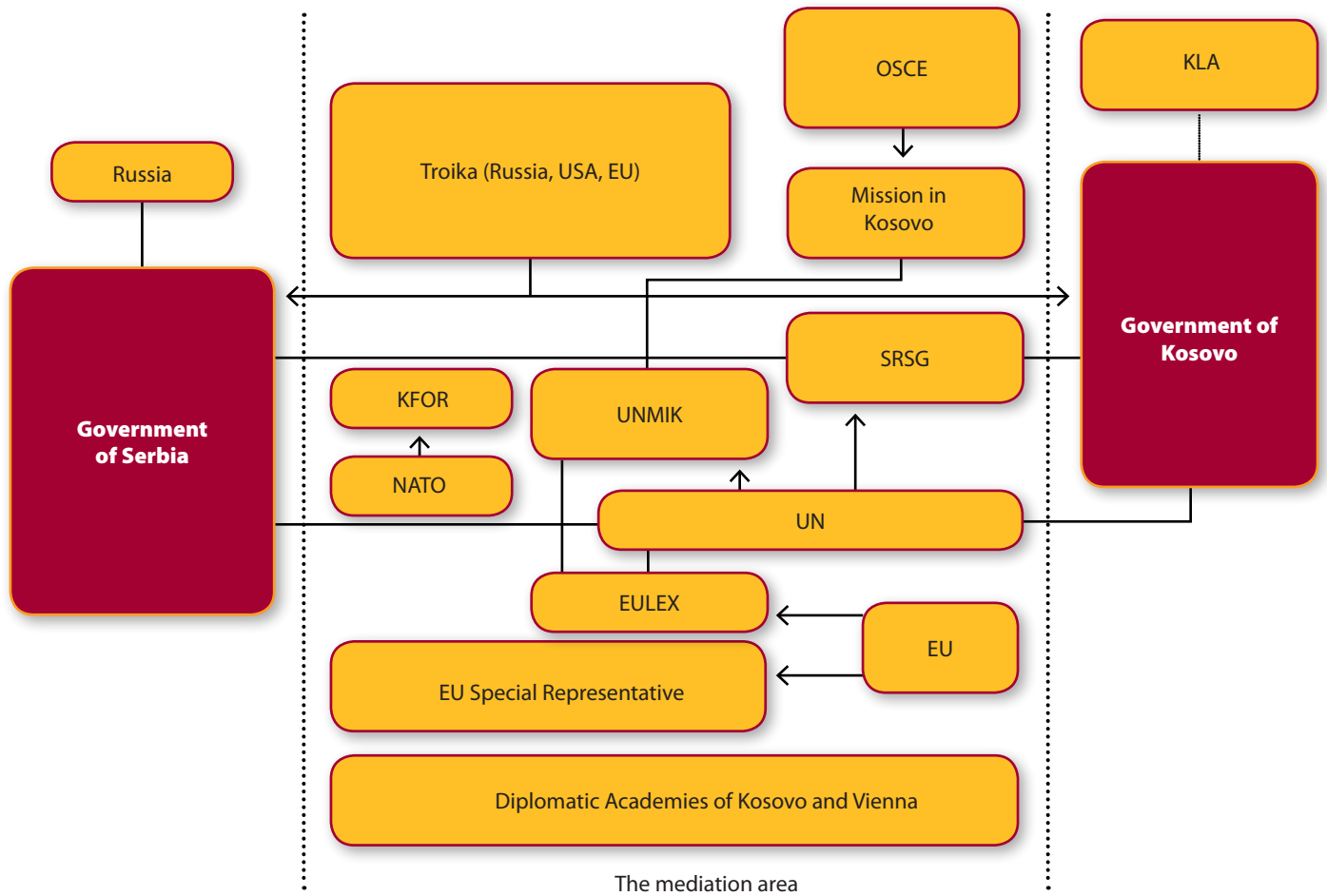
Source: adapted from Anuario de Procesos de Paz 2016, p.209. Escola de Cultura de Pau.
http://escolapau.uab.es/img/programas/procesos/16anuarie.pdf

EULEX European Union Rule of Law Mission
Government of Kosovo
Government of Serbia
KLA Kosovo Liberation Army
KFOR NATO Kosovo Force
SRSG: Special Representative of the Secretary-General for Kosovo
UNMIK United Nations Interim Administration Mission in Kosovo