

American University of Central Asia

European Studies

The Role of the European Union Mission Rule of Law (EULEX) in Kosovo

By

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## **Abstract**

The European Union Rule of Law Mission (EULEX) is the biggest mission ever launched under Common Security and Defense Policy. With the Declaration of Kosovo Independence on 17th February 2008 under Ahtisaari proposal Kosovo authorities accepted the European Union mission to rule the law. The full deployment of the mission took place in December, 2008. The mission functions in three different directions: police, customs and justice. During five years of mission's deployment in the country, EULEX faced difficulties in attaining set up goals. The mission did not gain so much support from both Kosovar-Albanians and Kosovar-Serbs. Weak cohesion policy of EU was a push towards its first failures. The ongoing negotiations on Kosovo's status led the EULEX to function under six point plan. Moreover, EU mission's attempts to prosecute former KLA members who were suspected for war crimes committed during 1999 war led to massive demonstrations against the mission. Strong nationalistic spirit of Kosovar-Albanians brought obstacles to EULEX effective functioning. However, due to recent events in 2013 between Kosovo and Serbia, EULEX restored its image of an effective political actor.

## Le résumé

La mission EULEX au Kosovo est une mission civile menée par l'Union Européenne dans le cadre de la Politique Européenne de Sécurité et de Défense (PESD), qui vise à promouvoir l'État de droit au Kosovo. Le 17 février 2008 par la Déclaration de l'indépendance de Kosovo les autorités de la région ont approuvé la mission de l'Union Européenne de gouverner la loi selon la proposition d'Ahtisaari. EULEX fonctionne dans trois directions différentes: police, douane et justice. Pendant cinq ans de fonctionnement de la mission dans le pays, EULEX a rencontré des difficultés dans la réalisation de ses objectifs. La mission n'a été soutenue ni par des Kosovar-Albanais ni des Kosovar-Serbes. La cohésion faible de la politique de l'Union Européenne a été poussée vers ses premiers échecs. Les négociations sur le statut de Kosovo ont mené l'EULEX à fonctionner selon "le plan de six points". De plus, l'EULEX a mis en œuvre ses tentatives de poursuivre les ex-membres de KLA soupçonnés pour les crimes commis pendant la guerre de 1999 menés à des morts de masses. Le fort esprit nationaliste des Kosovar-Albanais a apporté des obstacles au fonctionnement efficace d'EULEX. Cependant, grâce à des événements récents de 2013 entre Kosovo et Serbie, l'EULEX a restitué son image d'un acteur politique efficace.

## **Abbreviations**

EU-European Mission

ESDP - European Security and Defense Policy

EULEX-European Union Rule of Law Mission

EUSR- European Union Special Representative

ICR - International Civilian Representative

ISG - International Steering Group

KFOR - Kosovo Force

KLA - Kosovo Liberation Army

KP - Kosovo Police

MMA- Monitor Mentor Advice

NATO - North Atlantic Treaty Organization

CFSP - Common Foreign Security Policy

UCK - Ushtria Çlirimtare e Kosovës

UN - United Nations

UNMIK - United Nations Mission in Kosovo

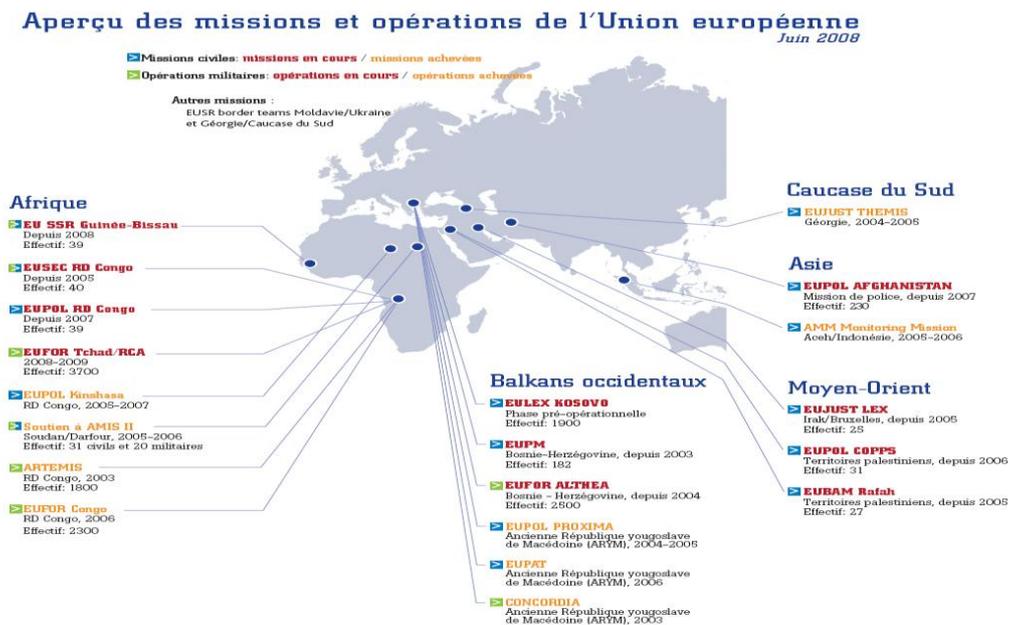
## **Introduction**

The European Union Rule of Law Mission in a Kosovo (EULEX) is the European Union's biggest mission in the world launched under the Common Security and Defense Policy (CSDP). The main goal of EULEX is to assist and support the Kosovo authorities in the issues of the rule of law precisely speaking in police, judiciary and customs areas. Mission's aim is not to govern or rule, it is mainly a technical mission which monitors, mentors and advises (MMA) whilst retaining a number of limited executive powers. The mission functions within the framework of the United Nations Security Council Resolution 1244. The deployment of EULEX in Kosovo took place in 2008, after the proclamation of independence by Kosovo. What makes the topic unique and important?

The topic on the role of EULEX in Kosovo is important and interesting in its essence. Firstly, the reason of the chosen topic lies on its relations with International law. Kosovo was the first case in the world history when considerable number of states went against the international law practices by recognizing ethnic minority. Moreover, Kosovo independence burnt a huge discontent from Catalans and Basques living in the territory of Spain, Palestinians who fight for their independence for decades, and other ethnic and national minorities who seek to separate and establish their own states.

Secondly, the topic is very important and instructive for the Common Security and Defense Policy, since EULEX is the largest, most financed and integrated missions ever launched under CSDP by now. Moreover, this is the first CSDP

practice in terms of executing powers. All previous missions ever launched under CSDP such as EUPOL COPPS (Palestine), EUJUST-LEX (Iraq), EUJUST THEMIS (Georgia), EUFOR ALTHEA (Bosnia and Herzegovina), and EUPM (Bosnia and Herzegovina) and etc. did not have executive functions.



### “Missions launched under CSDP”

The disclosure of the topic will serve as a good example for further EU peace keeping operations, since it will demonstrate both success and failures of CSDP’s biggest mission.

Thirdly the case of the EULEX is unique, since its members are not only EU countries, but in addition, the countries that are not within the EU as such, e.g. the United States of America (USA), Canada, Switzerland, Norway, Turkey and Croatia. However, these are not the only reasons why the chosen topic is interesting and significant. Moreover, five members of EU did not recognize Kosovo as an

independent state: Slovakia, Greece, Cyprus, Romania and Spain, but despite their non-recognition of Kosovo these countries are members to the EULEX.

Moreover, Kosovo is a region that went through a terrifying war and impacted in International Law. Kosovo's unilateral proclamation of Independence brought to a huge dispute between the strong powers. On the one side is the USA, which is in favor of Kosovo-Albanians, on the other side is Russia which supports Kosovo-Serbs and the EU which is in-between. Fragile Kosovo seems like a "chess game" in the hands of main political actors. To all above, the case of Kosovo is important to the Central Asian region, given that Tajikistan has problems with its Gorno-Badakhshan autonomy, Kyrgyzstan with its ethnic Uzbeks living in the southern part of the country and Kosovo may serve as a precedent.



“Kyrgyz citizens against Kyrgyz Kosovo”

During five years of full deployment from 2008-2013, EULEX faced both success and failures which further built EULEX image. However, first three years the mission faced complaints and dissatisfactions from Kosovar citizens. People skeptically reacted on EU presence and moreover publicly demonstrated their non-supportive attitude towards the mission. The following research aims to prove that both

Kosovar-Serbs and Kosovar-Albanians are distrustful towards the EU mission; both communities have lack of sympathy towards EULEX and consider the mission to be incompetent in completing their set-up goals. Moreover, the thesis aims to seek the answers for the following question: what are success and failures of EULEX in the field of rule of law which caused people to be suspicious to mission?

## **Chapter I.**

### **I.I Literature review**

Kosovo is indeed much discussed topic due to its political impact as well as impact on international law. For about eight years the region was UN's protectorate however with the declaration of Independence in February 2008 the status of protectorate ended for Kosovo. The United Nation Interim Mission (UNMIK) was replaced by the EULEX, the biggest in its number of staff and budget the mission ever launched under CSDP. However due to numerous reasons the mission was considered not to be as successful as it could be. Until recently many researches have shown interest in examining the theory of Actorness and Effectiveness for the European Union which will be applicable in the case of EULEX to define the causes of its failures.

In the research "EU Actorness in International Affairs" Labinot Graicevci (2011) referred to Jupile and Caporaso approach in defining EU actorness and further implemented in the case of Kosovo. According to Jupile and Caporaso, the EU can be successful if it suits four main components:

- 1) recognition
- 2) autonomy
- 3) authority
- 4) cohesion

As for recognition, Jupile and Caporaso (1998) underline the acceptance and interaction with the entity by others. In other words, the recognition of EU by other

actors for instance with local ones or regionals. By recognition it is also meant cooperation with state authorities since once the mission has close cooperation and joint actions in achievement set up goals with governmental agencies it directly signifies its recognition by the state. Another important feature in order to be considered as a good international actor is autonomy, meaning the institutional distinctiveness and independence from other actors. Under authority Jupile and Caporaso underlined the legal basis for the establishment of the entity. Cohesion component was considered as the main precondition for the Union to behave deliberately. Under cohesion Jupile and Caporaso meant that EU members have to agree on common positions or policies. Jupile and Caporaso (1998) divide cohesion on four separate dimensions: value cohesion, tactical cohesion, procedural cohesion and output cohesion. Value cohesion refers to the similarity or compatibility of basic goals. However, if the goals are different but may fit each other is called tactical cohesion. Another form is procedural cohesion which comes when consensus between different members is obtained in the process where conflict exists. Output cohesion refers to the articulation and formulation of common policies, the most visible sign of actorhood. All these dimensions stick to the one main point – the EU should speak with one voice. However, the EU members put their national interests above; thereby they do not come to consensus.

Like Jupile and Caporaso, Bretherther and Vogler (1999) also suggested some prerequisites in order to be an effective international actor. On the other hand they underline only two prerequisites: cohesion and opportunities which is similar to autonomy. Nevertheless, cohesion is the main point should be taken into account in order to be a good political actor (Jupile, Caporaso 1998). The same view is supported by Groenleer and Van Schaik (2007) who put cohesion at the top of their list.

According to Labinot Graicevci (2011), the lack of cohesion within the EU policy served the EULEX mission failures. First of all, it should be taken into account that five European countries, these are: Greece, Cyprus, Spain, Romania and Slovakia did not recognize the unilateral proclamation of Independence of Kosovo (2008), thereby bringing internal disputes within the EU. Moreover, such behavior brought to unstable the EU foreign policy image in the eyes of the Serbia as well as Russia. All these investigations give us a good picture of problems within the EU decision making process and its influence in international affairs, thereby giving us the point could be used in finding the weaknesses of its missions in global arena and ways to prevent it in further post-conflict resolutions. To make any meaningful claims concerning the EU's performance in international negotiation it is need to go beyond actorness and consider the EU's effectiveness.

Young (1994) defines effectiveness as goal-attaining. While actorness deals with internal dimensions-something that is created inside the EU, the input side, effectiveness is considered to be the output side. To make it more comprehensible, in order to find the effectiveness of EULEX it is important to consider whether it achieved its set-up goals.

Apart from theoretical literature review (Actorness and Effectiveness) the resources which are discussed below paid attention on EULEX and Kosovo from historical background. The article "The European Union Rule of Law Mission in Kosovo (EULEX) from the Perspective of Kosovo Constitutional Law" research by an Albanian scholar Robert Muharemi can significantly contribute in investigation of legal problems of the European Union Rule of Law Mission in Kosovo and its impact on the perception of the European Community by Kosovar-Serbs. Moreover, the

article underlines the legal basis for the establishment of the EULEX which is one of the pre-conditions for the international actor.

Andrea Capussela (2011) in his publication “EULEX in Kosovo: a shining symbol of incompetence” explains people’s discontents on European mission policy thereby calling it for reforms and mandates. The given article provides factual examples of EULEX incompetence in the process of investigation of political “big fishes” and its fear of wrecking the stable political relations with Kosovo governmental officials thereby giving a hook with regard to its failure on the issue of fair investigation. Nevertheless, the limits of the article are the insufficient evidences on the accusation that EULEX serves as a costly veil that hides the shenanigans of the elite from the eyes of Kosovo’s citizens and the lack of scientific research. It should be taken into account that the newspapers cannot be considered as reliable sources and might contain subjective opinions.

One year after EU mission’s deployment, precisely speaking in 2009, the Balkan Policy Institute (IPOL) published an article “EULEX in search of identity” where it evaluated mission’s job during its first years of deployment. In the same article the Balkan Institute evaluated mission’s failure and the reasons that stay behind of it. In 2010 the same institute published another article called “EULEX Still in the search of identity” where it marked its continuing failures. The strength of the articles stands on the published Institute since it is an independent one and respectively objective.

The Kosovar Institute for Policy Research and Development (KIPRED) is another institute that evaluated EULEX’s activities. In 2010 the Institute published an article “Strengthening Rule of Law in Kosovo: the fight against corruption and

organized crime” where it assessed EU mission’s job in fighting serious crimes. The following report gave both EULEX failures and achievements in combatting those crimes. The strength of the article stands on the Institute that published it, since it covers public opinion.

All these above articles can help to find the answer to the put research questions on the failures’ and success of EULEX in Kosovo. The theory of actorness and effectiveness which is defined by Jupile and Caporaso is helpful to understand EULEX’s activities. However before coming to the analytical part it is necessary to look at historical background of Kosovo in order to see what a small Kosovo means for both Kosovar-Serbs and Kosovar-Albanians and understand the political situation in the region nowadays. In this regard, the significant role can play scientific articles “Where it all began” written by a prominent scholar Carole Rogel (2003) and “International Diplomacy and the Crisis in Kosovo” written by Richard Caplan who began their researches from what Kosovo is for both communities: Kosovar-Albanians and Kosovar-Serbs. The article will contribute by giving a clear picture of the meaning and importance of this small region to both communities and their national spirit which was not cut off by a number of conflicts. Since conflict resolution is applicable in conflicting regions and its aim is to take measures to end violent clashes it is important to look at Kosovo’s historical background to resolve the conflict.

Both Kosovar-Serbs and Kosovar-Albanians tie Kosovo to their historical past. For Kosovar-Serbs Kosovo is Metohija, meaning monastic lands while for Kosovar-Albanians Kosovo symbolizes a territory of Illyrians, who are claimed to be ancestors of Albanians (Rogel, 1998). Thus, ethnic Albanians were certain that were settled in Kosovo much earlier than Serbs did, although in smaller numbers. Moreover, from the

same article we can find out the reasons of the 1998-1999 war in Kosovo and its results which further brought to the deployment of international communities in the region. With the deployment of international communities in Kosovo it is necessary to consider the establishment of United Nation Mission in Kosovo under the resolution 1244 which later led to the deployment of EULEX mission in Kosovo. The main principles of the resolution were to insure peace and stability in the province and return of all refugees; make Kosovo a UN protectorate; demilitarize Kosovo Liberation Army and other armed Kosovo Albanian groups and authorize a NATO Peacekeeping Force.

## **I. II. Methodology**

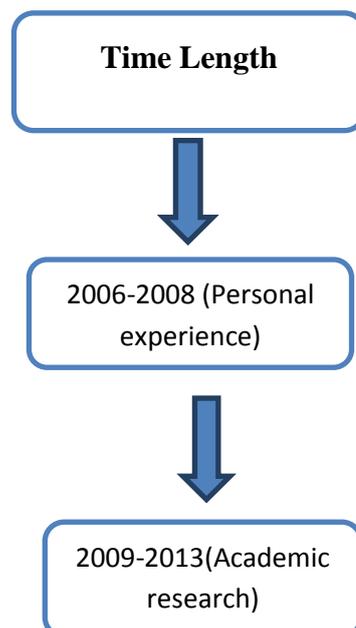
The thesis is aimed to be qualitative which aims to collect data and make a deep analysis. Moreover it aims not to measure numbers but in contrary to understand the opinion of people and why they have come to the exact opinion, what caused their attitude about the situation, thus the qualitative method is applicable in this thesis.

First of all the situation around Kosovo is widely discussed since the collapse of Yugoslavia and thus relevant information can be found in the articles made by prominent scholars who had a chance to make field researches in the region and collect all data. Moreover due to the weak political situation in Kosovo and its continuous unclear status, the region is much discussed by important politics, mass media and different research institutions which indeed can serve as sources for the given thesis. The thesis is not accompanied either with questionnaires' or interviews. Due to time and financial limitations plus university schedule I was unable to have

field research and conduct the interviews. However, much attention was paid on scientific articles published by Balkan Policy Institute (IPOL) and Kosovar Institute for Policy Research and Development (KIPRED) who depicted public opinion. Moreover, conduction of several interviews and questionnaires via Skype will not depict the perception of the EU mission by all people thus the thesis is secondary source analysis.

The thesis was aimed to examine the documents such as the articles by prominent scholars, researches done by research institutions, books, articles from the newspapers. Since the historical background to the current situation in Kosovo is included, the examination of documents was thus especially important to investigate patterns and trends from the past.

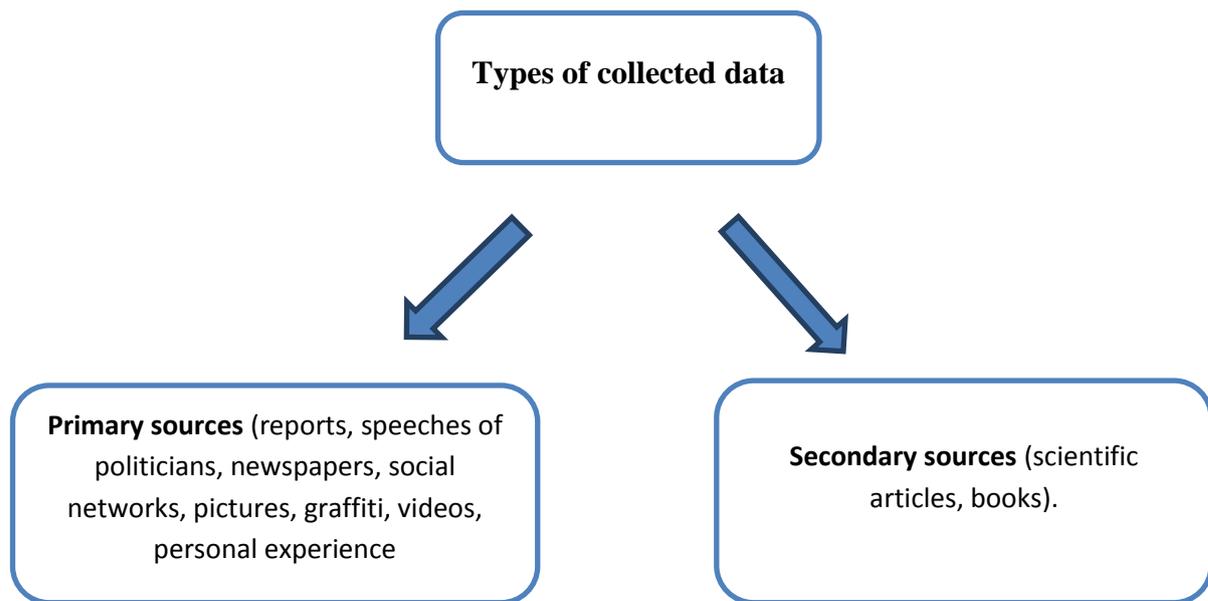
Nevertheless my personal experience living in Kosovo from June 2006 to July 2008 made a big impact on collecting, understanding, perceiving and analyzing the data. As non-participant observer I was intruded into the lives of Kosovars by entering their communities but remained passive during their conversation about EU presence in the region so as not to influence the natural occurring behaviors and conversation.



The two years presence in Kosovo gave a push towards further studying of the region. During four years of academic studies I was able to examine the region from historical, political as well as legislative perspectives. During my third year of studies I was able to write a term paper on “Kosovo conflict” in Multicultural societies class which indeed had a big impact in writing the senior thesis. Having collected the data during four years of studies I narrowed down my topic to EULEX mission due to its nowadays presence and the lack of scientific research on its success and failures.

Moreover, while collecting the data, sampling technics was used. In order to analyze people perception and the attitude toward the EULEX mission the attitude of both Kosovar-Serbs and Kosovar-Albanians was taken into consideration since both communities made the majority of Kosovo populations and both were not in favor of the EU mission. Also, while collecting the data on success and failures of EULEX the documents provided by the mission were excluded from observation due to the possible subjection of data. While collecting the data snowball technic was used, meaning chain referral sampling. While reading one article few other directions were found out those were reliable to my topic.

Besides scientific researches, books, newspapers, speeches of prominent politicians, reports - pictures, graffiti and videos were used which built visual perception of people’s attitude towards the mission. However, the main obstacle was faced during conducting the data is language limitation.



The aim of the presented thesis is to study the actorness and effectiveness of the biggest CSDP mission as an international actor. To be more exact, the paper aims to study EULEX both success and failures. The case of EULEX is unique, since not all EU states recognized the independence of Kosovo thereby causing some obstacles in its effectiveness.

There stands urgent need of examining following questions:

1. Whether EULEX complies all four criteria set up under Jupile and Caporaso concept of actorness?
2. What is the effectiveness of EULEX with the main success and failures?

## **Chapter II.**

### **II. I. Historical Background**

Both Serbs and Albanians tied Kosovo to their historical past. As for Serbs, Kosovo was the heart of the first Serbian state, founded in late 1100 (Rogel, 2003). It became a holy land of the Serbian nation, as soon as the Serbian Orthodox Church's Patriarchate was relocated to Peja (Pec) in 1346. As a result, Kosovo was called "Metohija" which means monastic lands. Until the breakup of Yugoslavia in 1991 there still left dozens of monasteries in Kosovo, which is why ethnic Serbs claimed the land to be called Kosovo-Metohija. As for ethnic Albanians, Kosovo was initially a territory of Illyrians, who are claimed to be ancestors of Albanians. Thus, ethnic Albanians were certain that were settled in Kosovo much earlier than Serbs did, although in smaller numbers.

The result of the World War I had a positive impact on the establishment of a Serb nation. Some Austrian and Ottoman territories were joined with Serbia to form the Kingdom of Serbs, Croats and Slovenes, which was later renamed to Yugoslavia (Rogel, 2003). Kosovo within its 400.000 population was included in this state, although they wished to be a part of Albania.

A lot changed after the World War II, when Yugoslavia was invaded by Germans. Small Kosovo was divided between Germans, Bulgarians and Italians. During the war, Albanians formed a Bali Kombetar movement demanding for unification of Kosovo with Albania. Surprisingly, in 1943, after the collapse of Italy, Tito's supporters actively took part in recruiting some Albanians for their National Liberation Movement, promising them to support the unification of all Albanians. The

plan did not work and as it turned out, Kosovo as well as Vojvodina became a part of Serbia. Due to its small population, Kosovo was given the status of “autonomous region”.

Being a part of a new Yugoslav state, consisted of six Balkan states, Kosovo continued to believe in its unification with Albania. In 1946, the Constitution of Yugoslav state characterized Kosovo Albanians as a “nationality” rather than a “nation”, since they presumably had their homeland in Albania (Caplan, 1998). According to this fact, Kosovo Albanians would never have their own state, since only “nations” could have a state of their own. However, the things have changed to positive sides for Kosovars in 1970s. The 1974 Constitution made Kosovo one of eight official units of the Yugoslav federation (Rogel, 2003). Since that stage, Kosovo gained a status of a Socialist Autonomous Province, enjoying virtually all the prerogatives of a republic, including constitution, government, courts and national bank (Caplan, 1998). By 1980s, Albanians already made a majority of Kosovo population being no more a cause for ridicule. The death of Tito and ethnic Albanian’s population increase led to several clashes between two ethnic groups. Moreover, with the regime of Slobodan Milosevic, the things have worsened. As soon as he took a position of the president of Yugoslavia, he started violating the rights of ethnic Albanians. However, the biggest mistake of Milosevic was the abolishment of Kosovo’s autonomy in 1989, precipitating a crisis which hastened the breakup of the Yugoslavia.

The collapse of the Social Federal Republic of Yugoslavia led to a struggle for independence of its member states. In December, 1991 Kosovo along with Croatia, Bosnia-Herzegovina and Slovenia submitted the request for Independence. The EC refused the demand of Kosovo, since according to the constitution of Yugoslavia it was not a republic and was part of Serbian territory. Since Kosovar-Albanians did not get

the support of International communities, they started to act themselves. Initially they used peaceful policy but having understood that pacifism will bring to nowhere ethnic Albanians begun to use force in order to be heard by International communities. In 1995, the Kosovo Liberation Army (KLA) grew its support not only in Kosovo, but also in Macedonia and Albania from ethnic Albanians. It was a national movement for liberation of Kosovo and was highly supported by Albanians. The KLA hold series of attacks toward Serbian police stations and Yugoslav army resulting to be called a “terrorist group” by international communities.

In February 1998, the situation worsened between ethnic Albanians and Serbs causing large numbers of refugees to immigrate to its neighboring states. The struggle for independence grew to war. It was not anymore a conflict between both ethnic group officials, else worse, it have become a combat among its inhabitants. The Yugoslav army and Serbian police began fighting against ethnic Albanian civilians. In late September, UNSC issued its Resolution 1199 calling on both ethnic groups to stop the hostility, but was ignored by both communities. Given circumstances have required international communities to interfere in Kosovo’s internal affairs. For the first time, North Atlantic Treaty Organization (NATO) had taken actions outside its borders relying on humanitarian emergency (Rogel, 2003). International communities put much effort to bring both sides to a compromise; however their attempts were not justified and it was clear that the war was about to happen.

The war in Kosovo began on March 24, 1999 and lasted seventy-eight days until June 10. It was a hard time, particularly for Kosovar-Albanians. Much blood has been spilled, many natives left homeless. If earlier both groups living next no another were tolerate toward each other, with the beginning of the war they became the most persisting enemies. Besides, with the beginning of war NATO began its Operation

Allied Force. Its two major objectives were to help to achieve a peaceful resolution of the crisis by contributing to the response of the international community and to promote stability and security in neighboring countries with particular emphasis on Albania and the Former Yugoslav Republic of Macedonia (NATO, 1999). However, as the war has started, NATO began air strikes against Serbian military targets (Britannica). For the first time NATO used military action outside its territory against a sovereign state. Indeed, it was a big risk to interfere in Kosovo's internal affairs; however these risks were worth taking; for not to have acted would have meant that the Atlantic community legitimized ethnic cleansing in its immediate neighborhood (Solana, 1999). As a result, the war between ethnic groups grew into the combat between NATO and Serbs. From hopelessness, the Serb leader Slobodan Milosevic has addressed for the help to Russians, however in reply he was refused. Boris Yeltsin, the ex-president of Russia who was experiencing problems within his country did not want to spoil political relations with Atlantic Community (Rogel, 2003). At the same time, Russian diplomats were pushing Slobodan Milosevic to give up and pull out of all Serb forces from Kosovo. Meanwhile, a neutral mediator, Marti Ahtisaari was chosen to deal with the Serbs. In June, Russians finally agreed on idea that all Serb forces should leave Kosovo. The Russian envoy, Victor Chernomyrdin together with Marti Ahtisaari brought the message to Milosevic, who few days earlier along with other four government officials was accused by International Criminal Tribunal for the Former Yugoslavia .

The war finally ended on June 9, 1999. Serb officials together with NATO military leaders signed a Military Technical Agreement. The agreement was signed by General Sir Michael Jackson, on behalf of NATO, by Colonel General Svetozar Marjanovic of the Yugoslav Army and Lieutenant General Obrad Stevanovic of the Ministry of Internal Affairs on behalf of the Governments of the Federal Republic of

Yugoslavia and Republic of Serbia (NATO, 1999). The document declared that all Serbian police, military and paramilitary forces must be removed from Kosovo. Moreover, it welcomed the presence of international security to monitor the agreement and ease return of all refugees. On June, 10 Atlantic community officially stopped bombing the Serb army and the UNSC passed its Resolution 1244, setting up a United Nations Interim Administration Mission in Kosovo (UNMIK). It was headed by Frenchman Bernard Kouchner, a founder of Doctors without Borders (Rogel, 2003). The main principles of the resolution were to insure peace and stability in the province; return of all refugees, make Kosovo a UN protectorate; demilitarize KLA and other para-military Albanian organizations and authorize NATO Peacekeeping Force (KFOR). Indeed, by late autumn, things have stabilized. More than 800.000 Albanians who left their homes and had fled to neighboring countries were returned. Additionally, Kosovar -Albanians abandoned the idea of unification with Albania for two reasons: the fall of regime of Sali Berisha in 1997 (the Prime Minister of Albania) and decline of economic conditions in Albania.

## **II. II. EULEX Establishment**

The EULEX in Kosovo was established few days before Kosovo's Unilateral Proclamation of Independence however the full deployment was achieved in December, 2008. What EULEX is and how does it differ from other Rule of Law Missions - the questions this chapter aims to analyze.

Some people believe that EULEX replaces United Nations Interim Mission in Kosovo (UNMIK). After the bloody violence between Kosovo and Serb authorities which had reached its pick in 1998-1999 and followed by NATO bombing Serbia, the UN Security Council passed the Resolution 1244 (UNMIK). Under the following Resolution, UN represented by a Special Representative of the Secretary General received legislative as well as executive powers over Kosovo meaning that the small region was governed under UN's supervision (Wet, 2009). UNMIK was established in June 1999 and put an end to NATO's intervention in Kosovo, massive violation of Human Rights practiced during Milosevic's regime and the clashes between KLA and Serb forces. UN's engagement in Kosovo's affairs cannot be thought as a peace operation only that could practice its executive authority. UNMIK served as a government for the whole territory and people. Human rights violations which were practiced by Kosovar-Albanians under Milosevic's government were rebuilt by UN presence in the region. UNMIK had to build a justice system from the bottom, simultaneously protecting the public order and negotiating co-existence with Albanian ad-hoc institutions (UNMIK).

During the UN's deployment in the region, Kosovo practiced its full autonomy. Under the authority of the Resolution 1244, the Provisional Institutions of Self-Government was established including the Government, the Parliament and the President. The riots of 2004, which were caused by Serbs killing the Albanian children in the North of Kosovo (Mitrovica) brought to the new period of age for the UN Mission in Kosovo (Dzihic and Kramer, 2009). The conflict resulted to the massive destruction of houses and religious sites. Several years of International Communities' efforts to reestablish the stability in the region crashed in a minute. International Communities understood that the issue of Kosovo status can no longer remain unresolved, that the suspense will bring to a greater violence and destabilize the current situation in the region. It was clear that both communities will continue fighting with each other, unless the issue of Kosovo is resolved. Thus, in 2005 International community began its negotiations on Kosovo further status. Kosovo-Albanians resisted on their Independence, while Serbia continued claiming that Kosovo is Metohija, a holy land of the Serbian nation which will never belong to Kosovo-Albanians. In UN meeting on Kosovo's further status Russia and China put veto about its independence (Dzihic and Kramer, 2009). This can be explained by the fact that both ex-communist countries have political interest not to recognize Kosovo's independence: China due to its problems with Taiwan while Russia due to common religion that unites them with Serbs and its internal interests.

The solution was a Comprehensive Proposal for the Kosovo Status Settlement submitted by the UN Special Envoy for the future of Kosovo Marti Ahtisaari, a Finnish diplomat, who took the future of the region in his hands. In his proposal, Ahtisaari focused on the protection of human rights, especially of non-Albanian Communities, their language, cultural identity and heritage.



**Source: UNMIK**

In his proposal Marti provided ethnic Serbs with all necessary rights: seats in the parliament, the use of Serbian language as an official one despite the fact that Kosovo-Serbs make less than 10% of the population (Pond 2008). Moreover, it was proposed that Kosovo to become independent under the special international supervision. Prishtina welcomed the proposal, while Serbia vetoed. Russia and China in support of Serbia put veto on the proposal in Security Council (Greicevci 2011).

Despite Serbia's refusal, on February 2008 Kosovo with the support of the US declared its independence. France, Turkey and the United Kingdom were the first states that recognized Kosovo Unilateral Statement. After the Unilateral Declaration of Independence Albanians started to exult their division from Serbia and Kosovar-Serbs put all their efforts to demonstrate their dissatisfaction with the giving situation. In the Northern part of Kosovo where the majority constitutes ethnic Serbs, the situation went out of control. Dissatisfied Serbs blocked Serbia-Kosovo borders and made massive demonstrations. Serbia also demonstrated its dissatisfaction with Western's support of Kosovo's Independence by burning the flags of those countries in the capital city of Serbia. Moreover it claimed that will never recognize it as an

independent state. *“Serbia will never recognize the independence of Kosovo... For the citizens of Serbia and its institutions, Kosovo will forever remain a part of Serbia”* (United Nations).

Nevertheless, despite Serbia’s dissatisfaction many European states continue to support Kosovo’s Declaration of Independence. Up to now, only five European Union countries reject the status of Kosovo. These are: Slovakia, Greece, Spain, Romania and Cyprus.



“States that recognize Kosovo’s Independence”

The Day Kosovo declared Independence it claimed to follow the Ahtisaari plan which rewarded all non-Albanian communities with special rights, including seats in the parliament, the preservation of religious sights and cultural identity (Republic of Kosovo). Moreover, it welcomed the presence of the European mission to rule the law and stabilize the situation in the region. Marti Ahtisaari in his proposal about the future of Kosovo status foresaw the necessity of European’s participation in the life of the region’s citizens. His prediction can be justified by the weak policy and multi-ethnic division in the region. Having gone through huge violations of human rights, through massive killings and destructions of religious, ethnical and national

sights Kosovo indeed was not ready to practice its full independence. It was thus proposed to give Kosovo a supervised independence, meaning that the region will continue being assisted and monitored by international powers.

The full deployment of EULEX took place on December 8, 2008. Already one year later the mission claimed to be “neutral” meaning that will no longer support Kosovo authorities in implementation of Ahtisaari proposal (Amer, Swain, Ojendal, 2012). By 2013, Bernd Borchardt, a German diplomat occupies the vacancy of the Head of the Mission (EULEX Kosovo). The headquarter of EULEX is in Priština, in the capital city of Kosovo. The mission is financed through the CSDP. Despite the extension of EULEX, it is also the most financed European Mission in the world. The number of people working within EULEX reached 2500 out of whom 1750 international staff and 800 local staff (see Annex 3). However, due to Referendum held in July 2012, the number of staff has significantly decreased.

The main difference between the European Mission and the UNMIK was the issue of authority. If UNMIK was settled to rule the law, maintain peace and stability, the EULEX could only mentor, monitor and advice and have limited executive powers (Amer, Swain, Ojendal, 2012). EULEX is considered as the EU’s biggest and the most expensive operations ever launched under CSDP. The main goal of the EULEX is to straighten the rule of law in Kosovo and bring closer to EU. To all above, it is the most integrated operation that includes non-EU member states such as Turkey, Canada, Switzerland, Croatia, Norway, and the USA (EULEX Kosovo). As a legal basis, the EULEX refers to the Joint Action resolution adopted under EU Security Council in February 4, 2008 (Spernbauer, 2010) According to the Article 2 of the Joint Action, EULEX “*shall assist the Kosovo institutions, judicial authorities and law enforcement agencies in their progress towards sustainability and*

*accountability and in further developing and strengthening an independent multi-ethnic justice system and multi-ethnic police and customs service, ensuring that these institutions are free from political interference and adhering to internationally recognized standards and European best practices”*. There are mainly six aims for EULEX:

- 1) to assist Kosovo institutions to achieve progress toward sustainability
- 2) to assist Kosovo agencies to achieve progress toward accountability
- 3) to assist Kosovo authorities to achieve multi-ethnic institutions
- 4) to ensure that Kosovo institutions are free from political interference
- 5) to assist Kosovo institutions adhere European best standards
- 6) to assist Kosovo agencies to spread democracy and the rule of law.

EULEX mainly operates in three different fields: the rule of law, customs and police. The maintaining the rule of law is probably the biggest EU's concern, since Kosovo is considered to be a crossroad in human trafficking, especially between the former Soviet Union and the Western Europe. Moreover, the region is claimed to be a transit zone for drug trafficking. According to one observer *“Kosovo is a cesspool that collects contraband and holds it until an outlet is found in Europe”* (Chivvis, 2010). EULEX mission is foreseen to be important and effective to ensure that the cases of war crimes, financial crimes, crimes of terrorism and corruption are properly investigated and worthily punished. Thus ECSP mission involvement in Kosovo affairs considered to be necessity.

With the establishment of EULEX, the International Civilian Representative (ICR) appointed by the International Steering Group (ISG) for Kosovo and the European Union Special Representatives appointed by the Council of the European Union were deployed to make sure that Kosovo authorities follow the conditions of

the Ahtisaari plan. ISG is a body comprised of twenty EU countries and five non-EU member states such as Croatia, Turkey, Norway, Switzerland and the USA who aim to support Comprehensive Proposal for the Kosovo Status Settlement (International Civilian Office). Both ICR and EUSR were in Kosovo to advise and support local institutions during its supervised independence.

During EULEX full deployment in Kosovo, the mission faced several problems, which include both technical as well as political. It is important to note that the recognition of Kosovo's Unilateral Statement was not unanimous among EU member states, that five countries rejected its independence thereby causing problems in EULEX's operations. Despite those challenges, EULEX continues functioning. Its main tasks include:

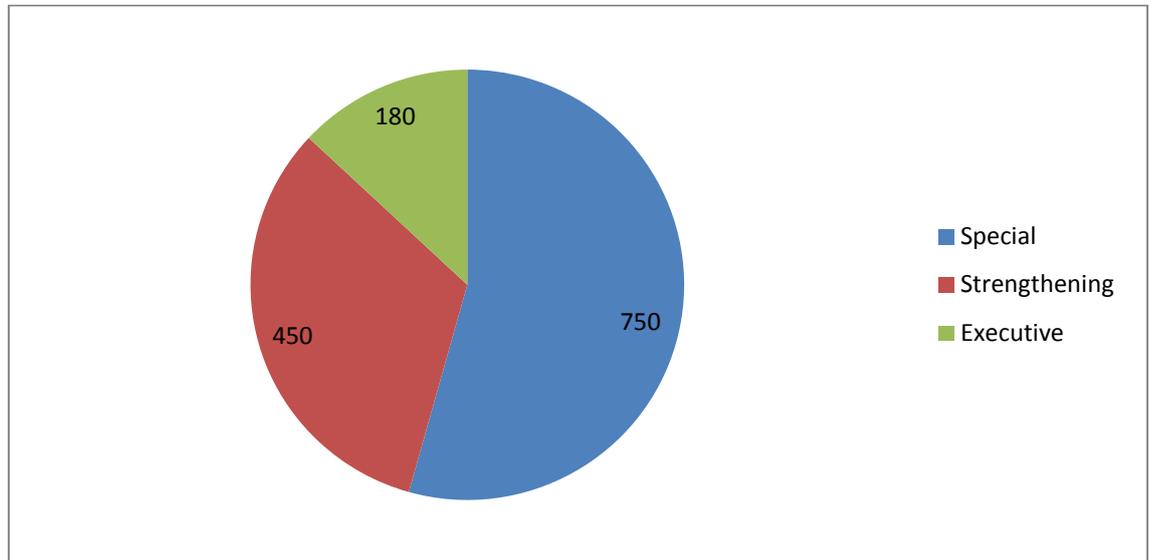
- monitoring, mentoring, advising Kosovo authorities
- cancelling operational decision of authorities for the sake of the rule of law
- ensuring that the judicial system functions independently from local authorities
- investigation of war crimes, terrorism, organized crime, corruption and other serious crimes
- fighting corruption (Chivvis, 2010)

All enumerated tasks make components of EULEX's three main branches: police, justice and customs (Biscop, G.Whitman, 2013).

The police is the first field of EULEX operations. Its main duty is to protect minority groups within Kosovo and fight against political and religious discrimination. Initially, the number of people working in the police unit reached 1400. However, with the amendments made in July 2012 EULEX reduced the number of staff respectively the quantity of EULEX police has also decreased. The unit is

operating in six regional places and is divided into three sub branches: Strengthening, Executive and Special Police.

**Figure 1:** EULEX Police Sub.branches



**Source:** EU Civilian Crisis Management: The Record so Far

The strengthening department under EU Police deals with monitoring, mentoring and advising. The executive investigates serious crimes such as a war crime, organized crime and corruption while the special police deals with public disturbances and security issues in case of disorders (Chivvis, 2010).

The police is considered to be the most successful component of EULEX operation in the region. Its distinguished feature is its close relations with Kosovo Police. “*We assist the Kosovo Police (KP) in working towards a multi-ethnic police that is free from political interference and serves the people of Kosovo*”- stated one of EULEX staff (EULEX Kosovo). However, it is important to note that EULEX police does not train KP, it functions as a monitoring.

Another EULEX component is justice. It was created to strengthen and improve the justice system in the region, to make it multi-ethnic, independent from political interference and fully capable to hold fair trials relatively to international standards. Originally, the number of people within the component was above four hundred. 70 of them functioned in prison system, 60 worked as judges and 30 carried out the position of prosecutor (Balkan Policy Institute, 2011). After September 2012, the number of judges reduced.

As the UNMIK finished its operation in Kosovo, it transferred 185 cases to EULEX which involve proceedings, indictments, investigation, trials, appeals and etc. The Kosovo judicial system is fragile and needs international assistance to bring it to sustainability and accountability. Moreover, EULEX's participation in this sphere is welcomed to restructure some courts and bring to fully functioning, especially those in the Northern part of Kosovo, which is mostly populated by Serbian minority. With the EU's assistance there are more guarantees that the courts will operate without political interference and will have a multi-ethnic composition. The EULEX judges are in close and partnership relations with local judges which in essence make the whole system to come to greater results. Due to Kosovo's uncertain status under International Law, the justice component face a problem what legislation to apply. By now, there are three types of sources of legislation in the region:

- 1) the Yugoslav law which can be found in some cases
- 2) the UNMIK regulations
- 3) Kosovo's declaration of independence legislation (Chivvas, 2010)

Which law to apply is the main dilemma EULEX faces. However, due to Kosovo's unresolved status and EULEX "neutral" status it was decided to apply UNMIK regulations.

Customs is the last but not the least important component of EU's mission in the Republic of Kosovo. EULEX Custom's "*aims is to build an effective service that goes hand in hand with the EU perspective*" (EULEX Kosovo). It was agreed that with the control of customs there will be a significant reduction of organized crimes, such as contraband which remains Kosovo's huge problem. EU's assistance can help to achieve the set up goals. EULEX staff working in this direction are well-informed about EU's customs border thus are free to share their knowledge with Kosovo local staff. By today, EULEX customs department has 76 international and 39 national staff. It's important to note that 70% of money of the government comes from customs (EULEX Kosovo). EULEX has a number of mobile teams working with the Kosovo Customs Flexible Anti-Smuggling Teams at Kosovo's Border Crossing Points (BCPs) and terminals. EULEX main task in the issue of customs is to bring Kosovo customs closer to the EU custom standards. It also aims to equalize the custom policy of the North of Mitrovica to the whole of Kosovo. In other words, to make the same custom policy in the north part of Kosovo which is largely populated by Kosovar-Serbs.

## Chapter III

### III. I. Actorness

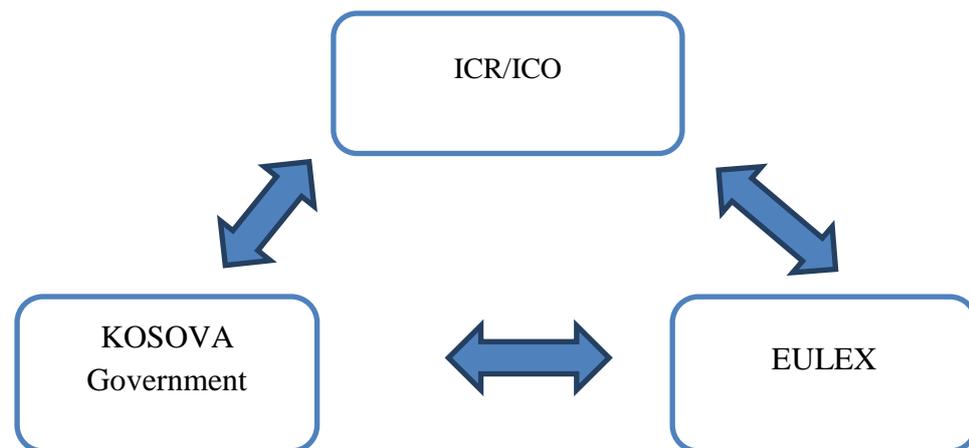
Having considered actorness and effectiveness concepts it is important to apply to EULEX case. As it was discussed in theoretical part in order to be considered a political actor the mission must correspond four prerequisites: recognition, authority, autonomy and cohesion.

Under recognition meant EULEX interaction with Kosovo local entities. Indeed, Kosovo authorities recognized the mission and moreover have close relations in regard to the rule of law. With the declaration of Kosovo Independence in February 2008, Kosovo officially invited the EU presence in the region. *“We invite and welcome international civilian presence to supervise our implementation of Ahtisaari Plan, and a European Union-led rule of law mission”* (Kosovo Declaration of Independence). The given statement clearly shows that EU presence was welcomed by Kosovo authorities. Moreover, Kosovo police closely cooperates with EULEX police and takes an active part in investigation of serious crimes, helps the mission to ensure peace and stability. According to EULEX annual reports, police component of EULEX is the most successful one and the important role in its accomplishments takes its close cooperation with local ones. Moreover, with the deployment of EULEX in December 2008, three hundred UNMIK staff that had a chance to work in police sector and gain more experience was transferred to EULEX Police, thereby making it stronger and efficient (Greiçevci, 2011).

These evidences show that local actors recognized the EU mission and support it in achievement of its aims. Moreover, it's important to note that in referendum hold

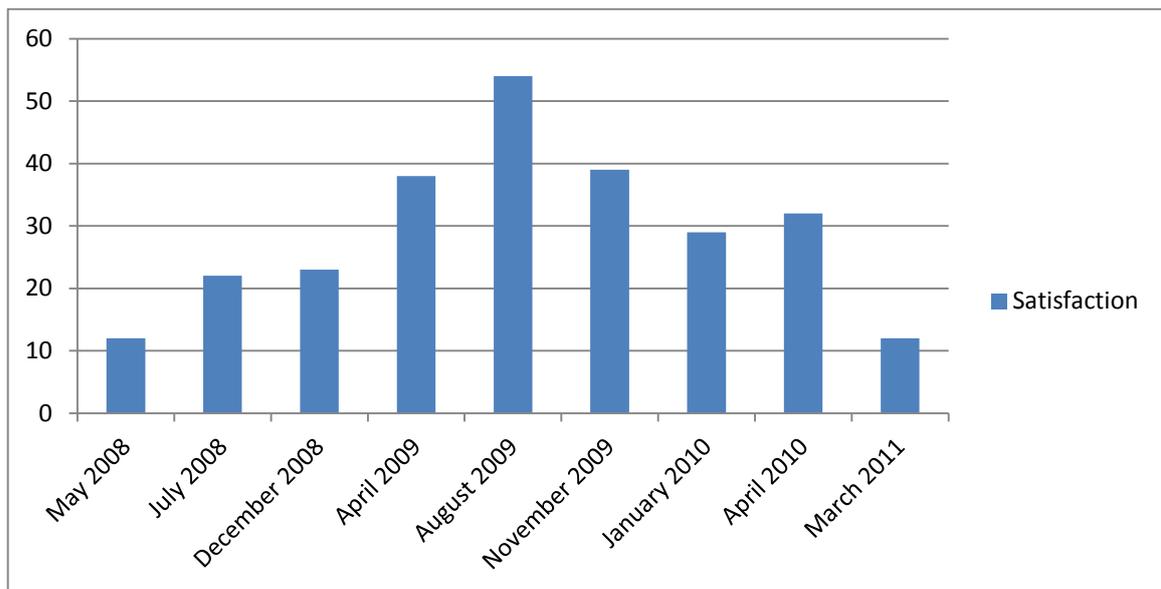
in July 2012 local entities approved and extended EULEX's further functioning in the region. The agreement was accompanied by the exchange of letters between Atifete Yahjaga, the Kosovo president and Catherine Ashton, the High Representative of the Union for Foreign and Security Policy.

Under the degree of autonomy understood the distinctiveness of EULEX from other political actors in Post-Independent Kosovo. Indeed, EULEX has clear functions and differs from other entities in the region. It is important to mark that countries which make part of EULEX are not only EU states, but in additions those which are non-parties to EU. Moreover, unlike other entities which take place in Kosovo, the mission has some executive powers.



Third prerequisite which must be considered in order to be an effective political actor is authority. Under authority meant the legal basis for the mission's deployment in the region. With the adoption of Ahtisaari plan the deployment of the European Mission was one of the priorities and conditions for Kosovo's Independence. Already in April 10, 2006 the Council of the European Union established the EU Planning Team (EUPT) which aimed to establish the EU crisis

management in Kosovo to rule the law in the region. On February 4, 2008 few days before Kosovo's unilateral statement the EULEX was established in Kosovo under the Joint Action Plan 2008/124/CFSP. This legal document became the first legal basis for the establishment of EULEX. However the given act did bring discontents in Serbian-populated areas of Kosovo and did not allow the mission to function throughout the country. Serbia in support with Russia continued to stress that any international presence is illegal in the region without UN Security Council authorization and approval of Serbia and Kosovar-Serbs. The continuing deny of mission's mandate led to several conditions EULEX had to correspond according to Serbia. The implementation of the six point plan was its main condition. It was meant that EULEX had to stop acting on behalf of Ahtisaari plan and assisting Kosovo to reach its full independence, meaning that EULEX had to function under status "neutral" mission. Serbia's statement brought dissatisfaction from Kosovo authorities who stood on their ground and insisted EU mission to follow "four point plan", set up earlier under Ahtisaari proposal. As a result, in December 2009 UN authorized EULEX deployment which begun to function under status "neutral". This happened to be the last legal act that established EULEX authority. However the reformed legal competence brought unpleasant consequences for EU mission and vastly damaged its image.

**Figure 2: Satisfaction with the work of EULEX**

**Source:** Balkan Policy Institute “EULEX and Rule of Law in Kosovo”

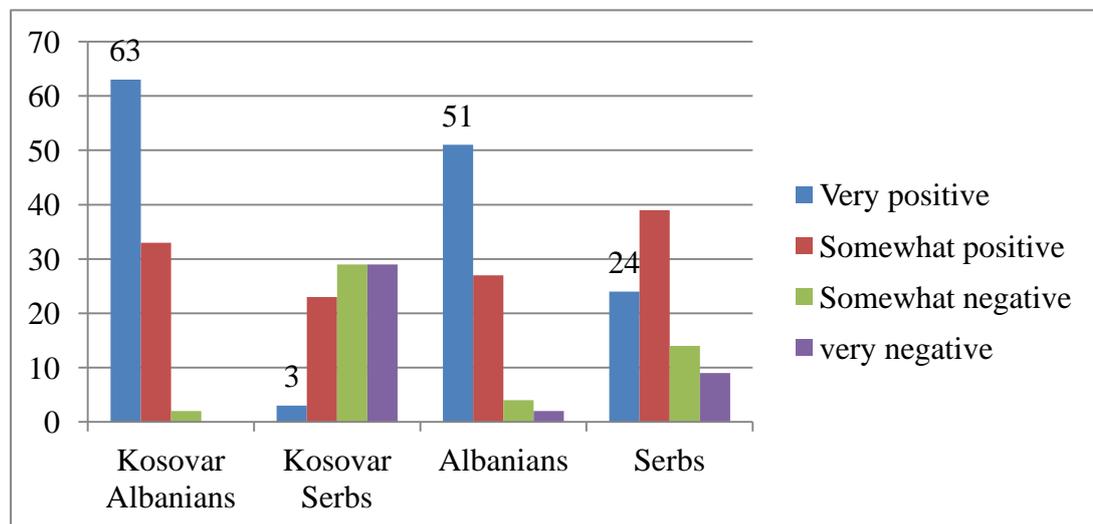
The above illustration shows that EU mission’s pick of success was achieved in August 2009, when more than 50 % of Kosovo population was satisfied by EULEX. However public trust began to decrease by 2010. EULEX reformed legal act played a significant role in ethnic Albanians’ dissatisfaction with the mission. The adoption of the “neutral” status mission provided EU mission with the Serbian support and access to North Mitrovica which is a Serb-dominated area, but on the other hand worsened its relations with Kosovo-Albanians (Amer, Swain, Ojendal, 2012). The lowest satisfaction took part in March 2011, which can be explained by EULEX failure to catch “big fishes” and its attempts to prosecute former KLA members.

The last and one of the most important components of actorness is cohesion. Many scholars are of the opinion that cohesion is the most important actor capacity in global politics. As it was earlier defined, under cohesion is meant EU’s single voice. The non-recognition of Kosovo independence by five European countries resulted in

cautious attitude toward EU mission and in some way resulted in its deployment as the “neutral” status mission. Serbia and Russia having known about five EU states’ position on the status of Kosovo continued causing obstacles Kosovo’s path to full independence. EU’s divergence of views on region’s status led Serbia to further resist Kosovo recognition; Serbia knew that it has a support in the eyes of those five countries that rejected to except Unilateral Declaration of Independence. Moreover, the existence of three European entities: EULEX, ICO and EU office in Kosovo with different tasks prove once more the weak cohesion system of EU in international affairs. Having considered these findings it might be concluded that EULEX has a limited capacity to act as a consistent actor in Kosovo. However a weak cohesion policy is not the only factor that influenced its effectiveness and impacted people’s distrustful attitude toward the mission.

### **III.II. Effectiveness**

The five years presence of the Western community shows that neither Albanians nor Serbs do appreciate and support EULEX deployment. There are many factors that could justify Kosovo citizens’ opinions about the EULEX. Before starting analyzing each of them let’s look at the charter which identifies Kosovo citizens attitudes towards the EU presence before EULEX deployment.

**Figure 2:** EU presence in the region (2007)

**Source:** Balkan Policy Institute

The given chart clearly shows that Kosovar-Albanians more positively reacted towards the EU. In 2007, more than 60% of Kosovo Albanians were very positive toward EU presence, while only 3 % were very negative. Such reaction could be explained by the fact that this was the way for Kosovo to be independent. If we recall, one of the main conditions in Ahtissari proposal was the presence of the EU mission that could monitor and prepare Kosovo for the EU membership. However, the issue of membership could also play a significant role in their positive attitude toward the EU. As for Serbs the chart precisely shows that Kosovo-Serbs were not very positive toward the EU presence. Only 3% of Kosovo-Serbs strongly supported its presence. Such response could be explained by the fact that EU presence would already mean that the European Union is in favor of Ahtisaari plan and thus in Kosovo to supervise the region until it is fully independent.

With the declaration of Independence in 2008, ethnic Serbs publicly started to express their dissatisfaction about the EU. Bearing in mind that most of the member states recognized Kosovo Independence made angry Serbs to burn EU as well as US flags on the Northern part of the country. Such action openly expressed their negative emotions toward EU states' position on the issue of Kosovo.



“Angry Kosovo-Serbs burn EU flag in protest to Kosovo independence”

(Mitrovica, February 25, 2008)

As for Albanians, the attitude toward EULEX became unsupportive few month after its deployment in February 2008. Having clearly pictured in and realized that Kosovo continues being under international supervision Kosovar-Albanians skeptically began to behave towards international presence and their activities. It is important to mark that Kosovo was under UNMIK's supervision for eight years and was full of longing to be fully sovereign and enjoy their rights. But things turned different for Kosovo. Having been recognized by most EU countries, the small region continued to be under International regulation. Even though the main function of EULEX was to mentor monitor and assist Kosovo entities, it was empowered with

some executive powers according to which it could independently run police investigations, conduct trials and annul decisions taken by the authorities of the state.

Moreover, according to most Kosovar - Albanians EULEX was as same as UNMIK and this in fact resulted in people's skeptical attitude toward the EU mission. UNMIK was in Kosovo for eight years from 1999 to 2007 and according to Kosovar-Albanians did little for Kosovo citizens and they thought that EULEX was there to replace UNMIK. During UNMIK's deployment in Kosovo, the mission did not gain people's trust and support. Considering the fact that UNMIK transferred its documents to EULEX on its first operational day in December 2008 proved people's assumption. Moreover, the transfer of staff played a role in people's prediction. In June 2009, there were already 300 UNMIK former officers working within EULEX.

However in the middle of 2009 the support towards the EULEX has grown significantly. The given fact is connected with EULEX's promise to arrest so called "big fishes" (IPOL, 2009). Under big fishes both EU and ethnic Albanians meant high-positioned Kosovo authorities who were suspected in corruption and organized crime. The given promise gave a hope for EU mission to gain local's support. Ethnic Albanians no longer skeptically looked at EU and started to believe in their activities. Moreover, EULEX actively started to appear in Media thereby gaining local's support. Executions and arrests made by EULEX one more time confirmed that EU does its job. Nevertheless it did not last long. Already in 2011 people's satisfaction decreased up to 12 % bringing almost to the same result as in 2008. What caused people's rapid dissatisfaction about EULEX's activities?

One of the main factors that resulted in people's dissatisfaction about the EULEX is the mission's attempts to prosecute ex-KLA members who are freedom

fighters for ethnic Albanians (see Annex 1). EU mission is accused by Kosovar-Albanians for blaming its heroes, the ones who helped to liberate Kosovo at the end of 1990<sup>th</sup>. One of those examples is the arrest of Fatmir Limaj, Nexhmi Krasniqi, Naser Shala and Naser Krasniqi who were accused for war crimes during Kosovo 1999<sup>th</sup> war. All four suspects were considered to be members of KLA who tortured and killed Serbian prisoners of war in the southern Kosovo village of Klecka in 1999. The given case raised a lot of discontents from ethnic Albanians who couldn't reconcile with EULEX's decision. Fatmir Limaj is an ex-minister for transport and telecommunication and the current deputy president of Hashim Thaci's political party and an ex-member of KLA party. Kosovar-Albanians complaints towards EULEX are justified by the fact that EU mission investigates crimes done by KLA. According to them EU mission worked on behalf of Kosovar-Serbs, they blame the mission for its investigations against members of KLA who are considered as national heroes of ethnic Albanians. If we recall at the end of 1990<sup>th</sup> after guerilla operations held by Kosovo-Albanians against ethnic Serbs, the KLA was recognized as a terrorist group. However, ethnic Albanians do not share this view on KLA. According to them the army fought for the freedom of Kosovo, it gathered together Albanians to share their common aim-to free the country and Kosovo nation from Serbia, to let its people to enjoy their human rights they were deprived off during Milosevic regime. As a result, Kosovo citizens and politicians have blamed EULEX for not dealing with war crimes committed by the Yugoslav Army and Serbian police in Kosovo, but rather focusing on KLA and trying to avoid the crimes of Serbia.

According to Kosovar-Albanians, Kosovo's population has been the victim. There was an aggressor who has conducted genocide: the state of Serbia (Brajshori, 2012). Meanwhile, all these years, based on processes developed and trials for war

crimes, it was attempted to change these roles. This is unacceptable for international justice and EULEX needs to focus on its image. Ethnic-Albanians claimed that EULEX should stop the investigations against KLA groups, since Kosovo-Albanians consider the Klecka case fair and reasonable.

While Kosovo-Albanians accuse EULEX for acting on behalf of Serbia, ethnic-Serbs are of a different opinion. When Fatmir Limaj together with other former KLA members was released Serbians called the verdict unjust and humiliating for victims (Brajshori, 2012) The release of ex-KLA members increased ethnic Serb's dissatisfaction toward EULEX and raised doubts among Serbian population on whether EULEX will prosecute war crimes committed against ethnic-Serbs. The practice shows that Albanian's nationalistic spirit is high in Kosovo and their resistance to prosecute war crime criminals brings challenges for EU mission to succeed in the rule of Law. Once the witnesses are found the next day they found killed. Moreover it is important to note that most ex-KLA members who are accused for war crimes and organized crimes nowadays occupy high positions in the government and are protected by immunities thereby bringing challenges for the EU to charge them.

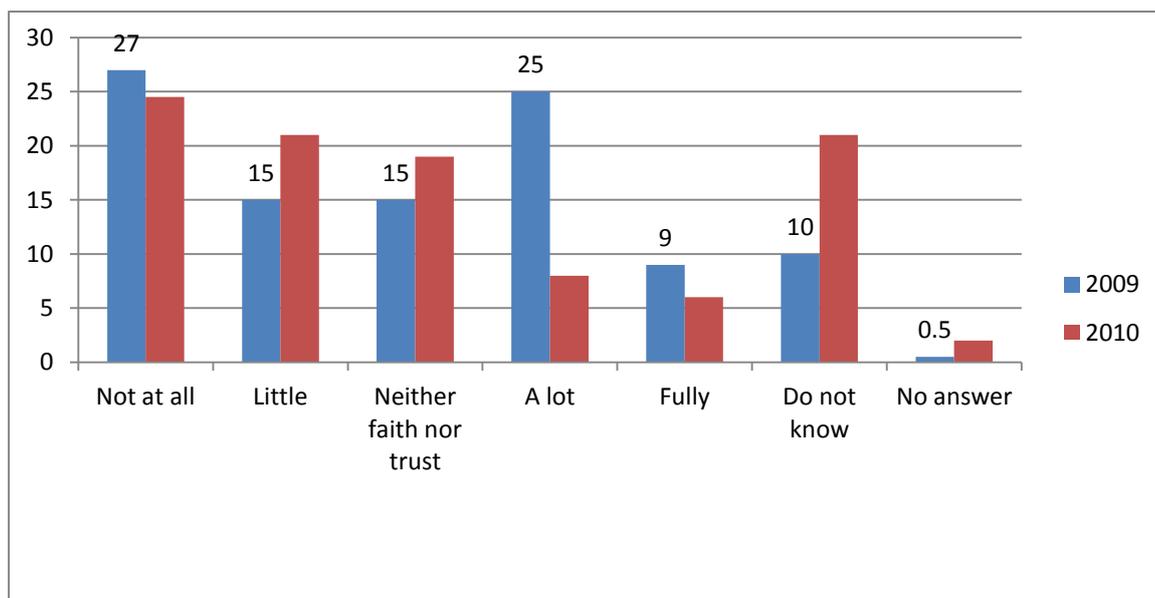
The failure to install operational customs to collect taxes in the North part of Kosovo is indeed another reason that resulted in skeptical attitude toward the mission. Bearing in mind that country's budget is dependent from those taxes this situation had a negative implication for the Kosovo budget, since it implies a substantial loss of revenues for the state. With Kosovo's Declaration of Independence the situation in the northern part of Kosovo has worsened. Kosovar-Serbs stopped paying for the electricity, customs posts and border crossings were burnt down, courts were closed and Pristina decisions were refused.

As soon as Kosovo declared itself independent EULEX deployed throughout Kosovo however except the Northern part. With the change of EULEX mandate in 2009, the mission achieved the permission from the Serb populated side to function in the Northern part of Kosovo too. On July 2011 Kosovo and Serbia reached an agreement on freedom of movement which wasn't able to reach since Kosovo's declaration of independence. However, due to Serbia refusal to recognize Kosovo's customs stamp, the government of Kosovo closed border's to enter Serbian goods, which led to a big crisis. On July 25, Kosovo police unit blockaded the northern border crossings at Jarinje (Gate 1) and Brnjak (Gate 31) where custom checks were conducted by Kosovar-Serbs who were members of Kosovo Police Force and EULEX. In response, Kosovo Serbs barricaded the main access roads and attacked the border posts (Szpala, 2011). One of the members of the special police unit was found killed. In this incident Kosovo authorities blame EULEX for refusal to implement Pristina's decision with regard to customs stamp (see Annex 2).

Despite EULEX statements to arrest so called "big fishes" in 2009 which in fact increased public's trust about the mission, EULEX failed to do so. Its failure to catch big fishes worsened mission's image. To arrest people accused for corruption, war crimes and organized crime is one of the main EULEX's duty. The arrest of Hashim Rexhepi, Central's Bank Governor in 2010 worsened EULEX image and its incompetence in dealing with serious crimes (Capussela, 2011). The charges related to abuse of official position or authority, trading in influence, money laundering, and tax evasion and accepting bribes. However due to unconvincing evidences such as unanimous letters brought by EULEX Rexhepi was released. For Kosovo citizens such unserious investigation was unperturbed and their trust toward EU mission has thus vastly decreased. During 2009-2010 EULEX delivered three verdicts in

organized crimes and four in corruption. However according to Kosovo-Albanians the result is minimal and EULEX needs to behave more active in prosecution of “big fishes”.

**Figure 3:** Reliability of citizens on EULEX



**Source:** The Balkan Policy Institute “EULEX and Rule of Law in Kosovo”

The above chart depicts public attitude towards the EULEX. In comparison to 2010, in 2009 people’s attitude towards the mission was much positive. 25% of Kosovo population highly trusted in EULEX; however already in 2010 this number has vastly decreased. The chart clearly depicts that in 2009 people’s attitude was much positive and trustful to EULEX than in 2010 and this fact is explained by above arguments.

Another reason that indeed played an important role in people’s suspicious behavior towards the mission is Kosovo’s late recognition of Independence by EU states. Going back to the history shows that after the collapse of Yugoslavia in 1990

Kosovo along with Slovenia, Croatia and Bosnia Herzegovina applied for Independence but Kosovo Independence was not recognized. Referring to Bosnia's experience, Kosovar-Albanians understood that they could receive independence only through the war because there had been low level of interest on Kosovo by the West. Some of ethnic Albanians knew that peace negotiations will bring nowhere, that they will not be heard unless they fight for their freedom. Today, many ethnic Albanians accuse Europe for their late recognition. According to them Kosovo would not go through the war if EU recognized the independence of Kosovo in 1990<sup>th</sup>. Most of Kosovar-Albanians blame the EU for the bloodshed, killings, for the loss of loved ones. Albanians are more in favor of American presence, who came to help ethnic-Albanians when the war begun. It was NATO who interfered to Kosovo affairs and sent its missiles to Serbia in 1999; it was NATO who helped Kosovo to resist Serbs, thus Kosovar-Albanians attitude towards the Americans is reverent. Almost all Kosovar-Albanians speak fluently English, almost all Albanians follow American politics. Moreover, there is a street in Pristina named after Bill Clinton.

Moreover, Kosovo's supervised independence played a considerable role in people's undesirable attitude toward the EU mission. "Vetevendosje" (Self-defense), which is a nationalistic political movement in Kosovo founded in 2004, takes all measures to oppose foreign involvement in Kosovo affairs. For about eight years, a small region was under UNMIK's full control being unable to take decisions independently. Having gained a long-awaited independence on February 17, 2008 Kosovo had to follow the Ahtisaari plan and accept international supervision. Even though EULEX's main duty is mostly to mentor monitor and advice (MMA) Kosovo authorities, the country continued to practice lack of sovereignty until September 10, 2012. This date is marked as significant for ethnic-Albanians due to the fact that west

granted Kosovo full sovereignty. Kosovo is no longer under international supervision and can fully enjoy its independence.

At the beginning of July 2012 the referendum was held between Kosovo authorities and the ISG for Kosovo on the future status of the region (International Civilian Office Kosovo). The taken decision was that Kosovo successfully implemented cultural, religious as well as community rights and is ready to be granted full sovereignty. It was also decided that Ahtisaari proposal will no longer be a superior legal act, instead, the constitution of the Republic of Kosovo will represent the basis for the country's legal framework. Despite changes made, EULEX's mandate was extended until June 2014. Officially EULEX will withdraw from the country in 2014. Before EULEX ends its mandate three phases are foreseen.

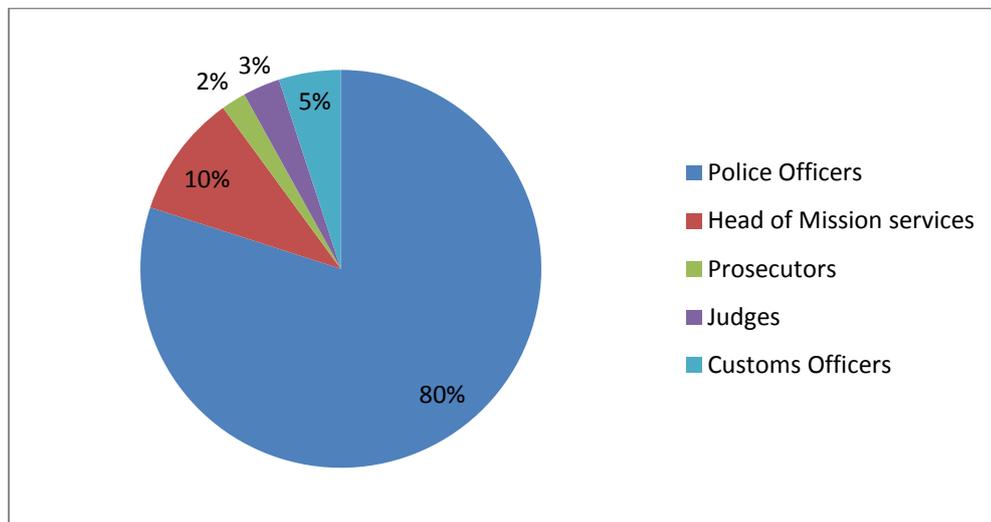
- the first phase begun in September 2012 and lasted until March 2013
- the second phase started in March and continues until September 2013
- the third phase will run from September 2013 to June 2014

June 15, 2014 is the date when EULEX mandate will cease and Kosovo will move forward without EU assistance (KIPRED, 2013). Although amendments were made EULEX continues to operate in the region. In addition to its initial duty to assist and support Kosovo in strengthening the rule of law, the mission continues to hold executive powers. In the issues of organized crime, war crime and corruption, EULEX continues to take an active part.

However, despite EULEX's political failures some big technical deficits were also observed. As it was earlier discussed police component of EULEX makes the

most successful one in comparison with two others. Justice is indeed the weakest one. The failure to be able to function effectively stands on its small number of judges.

**Figure 4: EULEX staff**

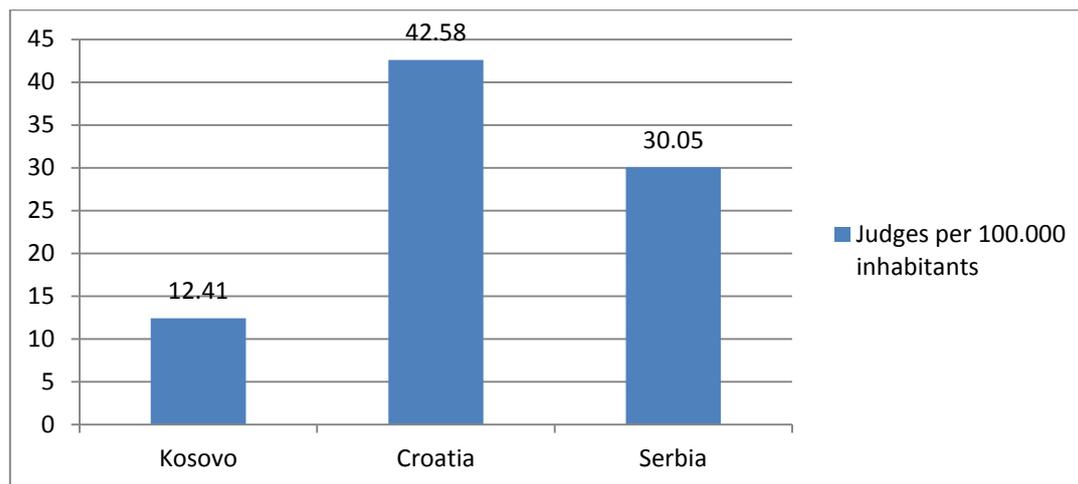


**Source:** KIPRED

The above chart depicts a small number of EULEX judges in the region. Only three percent of EULEX international staff is judges, while eighty percent operate as police. The mission faced difficulties with recruitment of judges and prosecutors of EU member states despite the fact that justice component makes one of the most important pillars and needs to be effective in investigating, prosecuting and sentencing of war crimes, organized crimes and corruption. Even though Kosovo authorities are responsible for prosecution of serious crimes, some judges and prosecutors are unwilling to lead the investigation due to sensitivity of the cases (KIPRED, 2010). In this sense EULEX judges have to work those cases, but due to the low recruitment there is lack of EULEX judges and prosecutors. Moreover, the fact that there are lots of seconded personal within the mission rather than contracted ones brings obstacles to the efficient investigation of serious crimes. (see Annex 3). Judges usually stay in Kosovo from six to twelve month which means that there is a

rotating number of judges and prosecutors dealing with one case. Such rotation causes delays in timely investigation of the cases. However, the insufficient number of judges is the huge problem for Kosovo. In comparison to other Balkan states Kosovo continues to have three to four times less judges.

**Figure 5: Judges per 100.000**



**Source: KIPRED**

Until the summer 2012 referendum there were thirty seven judges supporting Kosovo judges, however it is important to mark that with changes made after September 2012 within EULEX mandate the number of personnel has decreased and respectively the number of staff in justice sector has been also reduced.

Having considered EULEX main failures that substantially impacted on people's suspicious attitude toward the mission, it is important to mark mission's positive results too. During its five years of deployment EULEX has also made substantial contribution in the rule of law. One of its main results is the deployment in the Northern part of Kosovo mainly populated by Kosovar-Serbs. Although its deployment throughout the region brought dissatisfaction from the Kosovar-Albanian side the mission vastly improved the judicial system in the North. Having reached an

agreement with Serbia to function in the Serbian-populated area led EULEX to establish Task Force Mitrovica (TFM). Since 2010 TFM actively takes part in investigation, prosecution and arrest of individuals who involved in serious crimes. In cooperation with Kosovo police, EULEX TFM successfully arrested the accused ones in Brdjani /Kroi i Vitakut murder case. With regard to the killing of the police officer Enver Zymberi who was shot during border crisis in July 2011 the TFM investigators arrested one of the suspect ones. It is important to mark that after 2011 border crisis in Kosovo, Enver Zymberi became a hero for Kosovar-Albanians. People depict his picture everywhere; draw graffiti dedicated to him (see Annex 2). During its two years of functioning the TFM carried out fourteen arrests.

Despite tense relations between Kosovar-Serbs and Kosovar-Albanians EULEX successfully reintegrated three hundred eighteen Serb officers into the Kosovo Police (KP). In comparison to other EULEX pillars police makes the most successful one and the significant role played close cooperation between Kosovar-Serbs and Kosovar-Albanians.

The visa liberalization is another EULEX success. In June 14, 2012 the Commission successfully delivered visa roadmap over to the Kosovo government, which means that Kosovo received reforms they need to implement before they could travel to the EU without visa. The requirements requested to be implement are dealt with freedom of movement, such as reintegration and readmission, document security, border and migration management, the fight against organized crime and corruption and fundamental rights. The pace of the visa dialogue will depend on how quickly and successfully Kosovo authorities will implement those requirements. *«I am particularly pleased to be able to present this eagerly anticipated document to the Kosovo government. Today's handover ceremony brings the citizens of Kosovo a step*

*closer to visa-free travel. The roadmap to visa liberalization sets out reforms that the Kosovo government will need to implement to create a secure environment for visa-free travel. Whether and how soon visa-free travel becomes a reality depends on the government's commitment to implementing these difficult reforms on the ground. The European Commission stands ready to assist the Kosovo authorities in their efforts",* said Cecilia Malmstrom, a European Commissioner for Home Affairs in the Barroso Commission (Europa). Kosovo already took all measures to implement requirements put under the roadmap which means that step by step a small country integrates the EU. Moreover it has all reasons and aims to fight the organized crime and corruption in short period of time.

The recent event that took place between Kosovo and Serbia is another EULEX main achievement. The normalization of relations between Kosovo and Serbia is indeed the main goal for EU. On April 19, 2013 after long negotiations between Kosovo and Serbia on Kosovo's future both parties finally came to consensus (BBC). After fourteen years of strained relations between Kosovo and Serbia authorities both parties finally had smooth negotiations, considering the fact that earlier it was hard to get them together sitting at the same table. Serbia did not yet recognize Kosovo independence however it is on the way to solve this issue since recognition of Kosovo's independence by Serbia is one of main preconditions for its membership to EU. Under the new deal which was reached between Kosovo Prime Minister Hashim Thaci and Serbian leader Ivica Dacic it was agreed that Serbs living in northern part of Kosovo will have their own police and appeal court (BBC). Moreover, both sides agreed not to block each other's efforts to seek EU membership. This was indeed a good progress in Kosovo and Serbia relations, considering the fact Serbia was actively persisting Kosovo's independence for last several years. The

important part in normalization of both parties' relations played EU. High Representative for the Union Foreign Affairs and Security Policy, Catherine Ashton helped both parties to break the deal.

<b>Major EULEX success</b>	<b>Major EULEX failures</b>
EULEX Task Force Mitrovica	Prosecution of former KLA members
Reintegration of Serb officers to Kosovo police	July 18, 2011 Customs Crisis
The end of Supervised Independence	Failure to catch "big fishes"
Visa Liberalization	Late recognition of Independence
Normalization deal between Kosovo and Serbia	Big number of Seconded staff
	Lack of EU judges

Having weighed and analyzed both success and failures it can be concluded that the EULEX is indeed an effective political actor. The key role in achieving mission's goals plays the possible membership of both Kosovo and Serbia to EU. Both former Yugoslav republics are interested in being members to the European Union and thus both countries will put all their efforts to normalize relationships between each other in order to be parties to EU. Latest improvements in Kosovo and Serbia relations show the effectiveness of the mission. The earlier EULEX obstacles in gaining success were closely connected with Kosovar-Albanians and Kosovar-Serbs high nationalistic spirit.

## **Conclusion**

Throughout EULEX's deployment in Kosovo since 2008, the mission was able to show itself as an effective political actor, which can gain success in monitoring mentoring and assisting Kosovo agencies. Five years of mission's deployment brought positive results which indeed outweigh its failures. EULEX's failures to catch high positioned Kosovar-Albanians authorities were prevented by high nationalistic feeling of ethnic Albanians. Indeed, nationalistic spirit is high in Kosovo; however it has a reasonable ground. Having fought for its independence for decades and gone through a terrifying war where many Kosovar-Albanians lost their beloved ones and left homeless it is hard not to remain patriotic and full of desire to protect the interest of its people, especially of KLA members, who fought for the liberation of Kosovo.

However, despite political failures, EULEX also faced technical problems which could indeed be improved. Firstly, there should be a fixed contract for EULEX. Moreover, EULEX should recruit more international qualified judges in the region, since justice system remains weak in Kosovo. Besides all above, EU missions will not function effectively unless they put interest of the EU above their national ones. As the practiced showed, the cohesion policy of the European Union remains weak which indeed results its failures. However, EU's high interest in Kosovo, its strong desire to stabilize the situation in the region and eliminate further organized crimes which indeed bring risks to security of EU as a whole led to bring both Kosovo and Serbia closer to the European Union. Normalization of relationship between Kosovo and Serbia which had strained relations since the collapse of Yugoslavia was the major EULEX achievement. For the first time two parties were able to have peaceful negotiations and come to consensus. Moreover both parties became more determined in straightening the rule of law in the region. However it is important to take into

consideration the changes that Kosovo might face after June 2014 when EULEX will cease operating in the region. According to recent events, Pristina is ready to give certain rights to Serbia over Northern Mitrovica. Nevertheless, things may have change in one-two years if Kosovar-Albanians decide to have authority over all Kosovo. EULEX deployment gives certain protection for Serb minorities even though they claim that EULEX is more pro-Albanian.

## Appendix

### Annex 1: Kosovar-Albanians expressing negative attitude towards EULEX



“Graffiti in the center of Pristina”



“Massive demonstrations against  
EULEX”



“EULEX has done nothing for you to  
fight high-level corruption”



“Demonstration calling EULEX not to  
prosecute ex-KLA members”



“Say no to EULEX”



“Youth demonstration against EULEX”

### Kosovar-Serbs expressing negative attitude towards EULEX



“Massive demonstrations against EULEX within Kosovar-Serbs”



“Stop EULEX”



“Stop EULEX customs”



“Stop EULEX. Victory or death”

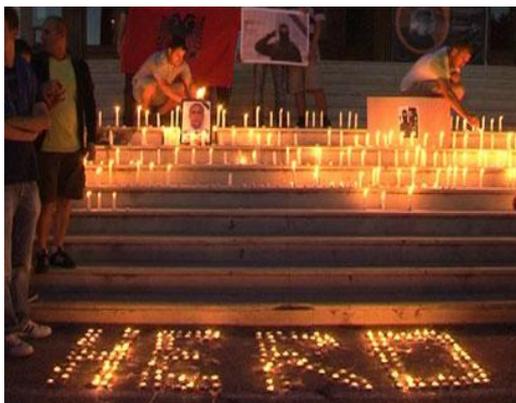


“EULEX Go Home”



The slogan “EULEX go home” on poster

Annex 2: North Kosovo Crisis 2011



**Annex 3: EULEX Staffing by National Origin (April 2009)**

<b>Country</b>	<b>Seconded</b>	<b>Contracted</b>	<b>Total</b>
Austria	26	4	30
Belgium	39	5	44
Bulgaria	37	22	59
Cyprus	0	0	0
Czech Republic	23	1	24
Denmark	54	5	59
Estonia	6	2	8
Finland	58	18	76
France	181	13	194
Germany	132	9	141
Greece	30	7	37
Hungary	50	6	56
Ireland	9	7	16
Italy	176	25	201
Latvia	10	4	14
Lithuania	7	1	8
Luxembourg	2	0	2
Malta	0	1	1
Netherlands	30	4	34
Poland	120	12	132
Portugal	15	4	19
Romania	176	13	189

Slovakia	8	1	9
Slovenia	14	3	17
Spain	9	8	17
Sweden	82	6	88
United Kingdom	63	39	102
Switzerland	7	0	7
Turkey	37	0	37
United States	76	0	76
Total International	1487	224	1711
Local staff			818

**Source:** EU Civilian Crisis Management: The Record so Far

## Bibliography

- Amer, Ramses, Ashok Swain, and Joakim Öjendal. "Liberal State Building and Environmental Security." *The Security-development Nexus: Peace, Conflict and Development*. London: Anthem, 2012. N. pag. Print
- Biscop, Sven, and Richard G. Whitman. "The CSDP in Western Balkans." *The Routledge Handbook of European Security*. London: Routledge, 2013. N. pag. Print.
- Balkan Policy Institute(IPOL). EULEX in Search of Identity. 2009
- Balkan Policy Institute(IPOL). EULEX Still in Search of Identity. 2010
- Balkan Policy Institute (IPOL).EULEX and Rule of Law in Kosovo. 2011
- Bretherton, Charlotte, and John Vogler. *The European Union as a Global Actor*. London: Routledge, 1999. Print.
- Capussela, Andrea. "Eulex in Kosovo: A shining symbol of incompetence." The Guardian. 09 Apr. 2011. Guardian News and Media. 16 Nov. 2013  
<<http://www.guardian.co.uk/commentisfree/2011/apr/09/eulex-kosovo-eu-mission>
- Caplan, Richard. "International Diplomacy and the Crisis in Kosovo." *International*

Affairs 74.4 (1998): 745-61. Print

Chivvis, Christopher. "EULEX Kosovo." EU Civilian Crisis Management: The

Record so Far. Santa Monica, CA: RAND, 2010. N. pag. Print.

De Wet, Erica. The Governance of Kosovo: Security Council Resolution 1244 and

The Establishment and Functioning of EULEX. American Society of International Law, 2009. Web.

Dzihic, Vedran, and Helmut Kramer. Kosovo after Independence: Is the EU's EULEX

Mission Delivering on Its Promises? Berlin: Friedrich-Ebert-Stiftung, 2009. Print.

European Union Assistance to Kosovo Related to the Rule of Law: (pursuant to

Article 287 (4), Second Subparagraph, TFEU). Luxembourg: Publications

Office of the European Union, 2012. Print

Groen, Niemann, A. EU actorness and effectiveness under political pressure at the

Copenhagen climate change negotiations. Ed. University of Mainz. 2012. Web

KIPRED. A Comprehensive Analysis of EULEX. What Next? 2013

Kosovo: Time for EULEX to Prioritize War Crimes. London: Amnesty International, 2012. Print.

Kosovar Institute for Policy Research and Development. Strengthening Rule of Law in Kosovo : The Fight Against Corruption and Organized Crime. Nov.2010

Kushtrime, Ibra. Legal Aspects of the European Union Rule of Law Mission in Kosovo. [S.l.]: Lap Lambert Academic Publ, 2011. Print.

"Lajmet e fundit." Republika e Kosovës. 10 Feb. 2013 <<http://www.assembly-kosova.org/?krye=news>>.

Muharremi, R. The European Union Rule of Law Mission in Kosovo (EULEX) from the Perspective of Kosovo Constitutional Law. 2010. Web.

Reka, Blerim. UNMIK: As an International Governance in Post-war Kosova: NATO's Intervention, UN Administration and Kosovar Aspirations. Skopje 2003. Print.

Rogel, C. Where it all began. Springer. 2003

Serbia-Kosovo Deal Clears Path to EU Accession, but Long Road Remains."

Christian Science Monitor. N.p., 25 Apr. 2013. Web. 26 Apr. 2013.

Spernbauer, Martina. Eulex Kosovo, Mandate, Structure and Implementation:

Essential Clarifications for an Unprecedented EU Mission. The Hague: T.M.C.

Asser Institute, 2010. Print

UCD Dublin | Research | Politics & Int Relations." *UCD Dublin | Research | Politics*

*& Int Relations*. N.p., n.d. Web. 25 Feb. 2013

