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Kosovo

On 9 December 2008, the UN Interim Administration Mission in Kosovo (UNMIK) transferred operational responsibility for law and order to the EU Rule of Law Mission in Kosovo (EULEX). The latter, which had maintained a core group of staff in Kosovo since spring 2008, expanded rapidly. By the third quarter of 2009, it numbered over 1,600 personnel, including 1,220 civilian police as well as judges and customs officers—not only the largest civilian operation launched by the EU, but also the largest police mission under the aegis of any international organization in the last year. The mission’s performance is a major test of the EU’s ability to sustain large-scale operations and stabilize its neighborhood.

The UNMIK-EULEX transition followed nine months of diplomatic wrangling and sporadic violence sparked by Kosovo’s unilateral declaration of independence in February 2008. It was the result of pressure by the EU on Serbia and efforts by UN Secretary-General Ban Ki-moon to reach a compromise on Kosovo’s status that would be acceptable to Belgrade.

EULEX’s first full year of operations has gone relatively smoothly. Serbs in north Kosovo protested violently early in the year, and smaller-scale Serb demonstrations have continued since. There have been repeated attacks on EULEX vehicles by Kosovo Albanian radicals who would like the international presence to end altogether.

But neither side has escalated the violence to levels that seriously test EULEX, and local elections in November passed off peacefully. There is growing evidence that significant elements of the Serb minority (5 percent of Kosovo’s inhabitants) want to integrate into the nascent state, although Serbs in north Kosovo retain a far stronger affiliation to Belgrade.

These positive signs have raised hopes of an increased normalization of Kosovo’s politics and security situation. NATO, which has over 10,000 troops in Kosovo, is planning radical force reductions. However, normalization may not come fast enough for much of the population. EULEX is often accused of failing to break decisively from UNMIK’s legacy, and enjoyed only 40 percent public approval in September.¹ Polls show that the public now holds the government responsible for Kosovo’s political and economic situation; the international presence, despite its size, has to negotiate growing political constraints.



Background

The EU and other international organizations that maintain a presence in Kosovo cannot adapt freely to local political dynamics because of international differences on the province's status. These differences set the parameters for the transition to EULEX in late 2008. Serbia's objections aside, the main obstacle to a transition had been divisions within the international community as how to recognize Kosovo's declaration of independence. In the EU, there were differences between the "recognizing" members and a "non-recognizing" minority (Cyprus, Greece, Romania, Slovakia, and Spain). EU planners had been working on how to take over from the UN in Kosovo since 2006—the European Council authorized EULEX shortly before Kosovo declared independence. But although its initial complement of staff deployed to Kosovo in the spring, European splits still had the potential to derail the mission.

While EU and US officials dealt directly with Belgrade, the UN laid out a six-point plan (dealing with police, courts, customs, boundaries, infrastructure and transport, and Serb heritage sites) aimed at finding common ground with Serbia on keeping the peace in Kosovo. The immediate focus was north Kosovo, where Serbs are in the majority, and the administration of justice had ground to a halt after the declaration of independence. The plan implied that northern Kosovo would have a *de facto* special status within Kosovo, while remaining part of one economic and political space.

While Belgrade was open to negotiations on this basis, Kosovo's government rejected it, tabling a four-point plan of its own, focused on asserting its sovereignty. But given the compound problems at the UN, in Brussels, and in Kosovo itself, the EU was not in a position to deploy a mission without some sort of working compromise with Belgrade.

All sides finally accepted a Security Council statement of 26 November 2008, approving Ban Ki-moon's proposal that EULEX should operate "under the overall authority and within the status-neutral framework of the United Nations."²² In legal terms, this means that the transition did

not imply recognition of Kosovo's statehood. Although UNMIK remains in place in a much-reduced form, EULEX reports to Brussels. The EU's High Representative for the Common Foreign and Security Policy in turn sends reports to the UN Secretary-General, who annexes them to his own reports to the Security Council.

The need to balance the interests of EU members is a tricky task for the EU, and it has been reported that some of the "non-recognizing" governments frequently interfere in the mission's activities. Partly as a result, EULEX decisions are often referred upward to Brussels.

Relations between UNMIK and EULEX staff, often strained in 2008, have improved. Both have to sustain relations with three further missions. These include two long-standing elements of the international presence: NATO's Kosovo Force (KFOR), which remains the ultimate source of security, and the OSCE Mission in Kosovo (OMIK). Both retain a "status-neutral" approach. By contrast, the International Civilian Office (ICO) was set up in 2007 on the presumption that independence was coming: it supervises and supports with the government in Pristina to implement the Comprehensive Status Proposal and is "status-positive." It answers to an International Steering Group of twenty-five states that recognize Kosovo's independence.

To complicate matters further, the ICO's head, International Civilian Representative (ICR) Pieter Feith, is "double-hatted" as the EU Special Representative (EUSR) in Kosovo—a formula agreed before the current peacekeeping arrangements emerged. This has raised inevitable questions over whether EUSR can really be status-neutral while the ICR is not. For much of 2009, EULEX's leadership was reportedly wary of being seen to cooperate too closely with Feith, lest this compromise the mission's neutrality. But the need to address evidence of serious corruption in Kosovo's government stimulated better cooperation toward the year's end.

Status-neutrality has created other challenges for EULEX. Kosovo's government is sensitive to EULEX dealing directly with Serbia. This proved particularly problematic in the summer of 2009, when EULEX and Belgrade

concluded an agreement on sharing information on cross-border crime. EULEX officials saw this as a technical procedure, and were surprised when the government objected on the grounds that the negotiations undercut Kosovo's sovereignty. The memorandum of understanding was signed after delays on 11 September, in spite of public protests and continued government complaints.

The situation in north Kosovo continues to be the primary test of how effectively EULEX can balance Pristina and Belgrade. Although the UN's 2008 six-point plan is no longer the basis for active negotiations, the north remains detached from Pristina's rule. Serb-ethnicity police officers in the region report to EULEX rather than Kosovo Police officials (Serb-ethnicity officers elsewhere in the country are in the normal chain of command), and the north's courthouse at Mitrovica is staffed by EULEX judges. EULEX customs officials also have freedom of movement in the north, whereas Kosovar officials do not. EULEX's presence in the area perpetuates an internal division of Kosovo that existed in the UNMIK period, reflected in the six-point plan.

UNMIK personnel have also remained in municipalities in north Kosovo. While NATO and the OSCE also have access to the north, ICO officials have had limited freedom of action there since their first office in Mitrovica was attacked in 2008. They have, however, continued to develop contacts in the area from new offices in an Albanian area. While Kosovo's government would struggle to impose its authority in the north, it believes the status-neutral elements of the international presence—EULEX included—are blocking it from this part of its territory. Status-neutrality, although a convenient political formula, contains contradictions that will continue to trouble the EU.

Key Developments

EULEX

Although EULEX had a presence in Kosovo for much of 2008—by 6 June that year, it already

had 100 police officers in place—its full deployment was complicated by the dispute on the province's status. Nonetheless, it expanded very rapidly in the last quarter of 2008: by 5 December, when it was declared to have reached its initial operating capacity, it already numbered 1,300 international staff (police and civilians).

This permitted an “off-on” transition from UNMIK to EULEX on 9 December—at no point did the two missions have joint responsibility for security issues. EULEX's three components—police, justice, and customs—did not all make the transition equally smoothly. The police passed their first major test by deploying in north Kosovo as well as Albanian-majority areas, although their presence sparked a series of minor incidents.

From the transition on, EULEX has had two main sets of duties. The first is to monitor, mentor, and advise the Kosovo Police, a force of some 7,500 officers trained since 1999. The second is to respond directly to security incidents: the Kosovo Police is designated as first responder, with EULEX and KFOR as second and third responders.

EULEX has deployed four formed police units in this response role. Two (from Italy and Poland) have been based in Pristina, with two more (from France and Romania) stationed near Mitrovica. Immediately following the transition, EULEX deployed formed police units—alongside customs officials, border police, and KFOR troops—to protect two major crossings from north Kosovo into Serbia that had been destroyed in riots in 2008.

Formed police units were also put to use in April and early May in a confrontation with Kosovo Serb demonstrators (some with grenades and light weapons) protesting Albanian construction near Mitrovica. EULEX police used tear gas, and maintained control during fifteen days of demonstrations. Violence has recurred around the construction site (Kroj I Vitakut/Brdjani), and both EULEX police and KFOR have deployed to break up mobs.

EULEX's monitoring role is based on a network of field offices, although staff emphasize

that they are less intrusive than their UNMIK predecessors. Many are former UNMIK police officers, although all have been revetted by the EU. Unusually, the mission includes roughly seventy US police officers alongside those from Europe.

The missions' mentoring work has taken the form of training programs, of which thirty-five had been approved by September 2009 following a needs assessment carried out over the summer. A recurrent concern remains—integrating Serb and other ethnic groups into the police. At the beginning of the year, some 325 Serb-ethnicity policemen were refusing to report for work. EULEX scored an early symbolic success in January by forming a mixed unit of Serb, Bosniak, and Albanian officers to patrol in Mitrovica. It gave the absentees a deadline of 30 June to return to work or lose their jobs; 317 did so.³

EULEX has been a target for violence by Albanian as well as Serb radicals. On 25 August, a group of youths who were opposed to any foreign presence in Kosovo damaged twenty-eight EULEX vehicles in a parking lot in central Pristina. But in this and other cases, the attackers have steered clear of violence against EULEX personnel. In the first half of the year, EULEX's overall approval ratings rose to over 50 percent, but fell again around the time of the dispute over sharing information with Serbia. A fall 2009 survey found that a third of respondents believed EULEX police to be corrupt—a far higher figure than for local police—although there is no evidence of any wrongdoing.

EULEX's second component—justice—includes judges and prosecutors who are primarily responsible for monitoring, mentoring, and advising, but they retain executive responsibilities concerning war crimes, inter-ethnic crimes, and terrorism. This component also includes a special prosecution office that deals with money laundering and organized crime; an office of missing persons and forensics; and a correctional-unit escort group. EULEX's judges and prosecutors are distributed in regional centers and some also serve with Kosovo Albanian counterparts in the Supreme Court.



Ethnic Albanian protesters overturn a vehicle during an anti-EULEX rally in Pristina, Kosovo, 25 August 2009.

EU Rule of Law Mission in Kosovo (EULEX)

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| • Authorization Date | 4 February 2008 |
| • Start Date | 9 December 2008 |
| • Head of Mission | Yves de Kermabon (France) |
| • Budget | \$153.0 million |
| • Strength as of | Civilian Police: 1,220 |
| 30 September 2009 | Civilian Staff: 435 |

The justice pillar has had a troubled history. Although justice personnel were in place from mid-2008, they had a particularly disputatious relationship with UNMIK justice staff. An official UNMIK-EULEX transfer of case-files began with the signature of two memorandums of understanding in December 2008, but the process was not completed until March 2009. The mission has also suffered from an ongoing shortage of qualified judges, legal officers, and interpreters—it was 30 percent short of legal personnel in August.

EULEX lawyers have worked hard to make up the shortfall: prosecutors were involved in 467 cases in the first four months of 2009 alone.⁴ However, some legal staff are concerned that

Box 2.4.1 Can the EU Rebuild Failing States? A Review of Europe's Civilian Capacities

Daniel Korski and Richard Gowan

Since the establishment of the European Security and Defense Policy (ESDP) a decade ago, the EU has rested its conflict management reputation on acting as the so-called global civilian power. In theory, the EU is meant to be able to deploy almost 10,000 police officers to faraway theaters, to exploit the expertise of more than 40,000 diplomats, to dip into the world's largest development budget, and to ensure that its deployed civilians are able to work hand-in-glove with military deployments. This is an essential element of power in a world where stability in Afghanistan, Kosovo, or Somalia is seen as a direct corollary to security across EU capitals.

Despite this stated power, the EU's recent postconflict civilian interventions have struggled to find staff for its missions and have rigidly relied on operational models that are inappropriate for most modern conflict settings. Naturally, the results of the EU's deployment of civilians have been uneven. The "Bosnia template,"

which seemed appropriate for the EU's police-training intervention in that country nearly a decade ago, has been applied elsewhere and proved ineffectual. The EU has focused on judicial reform in places where basic security has not been properly established, like Iraq, Afghanistan, and the Congo, or in theaters where locals have no incentive to cooperate politically, like the Palestinian territories.

The next generation of security challenges that will face the EU will be fluid and violent, with little to distinguish the good from bad guys. These scenarios will of course require a far stronger emphasis on crisis management skills. Yet the experience the EU has acquired over six years of ESDP missions may not leave it best placed to cope with these challenges. When the EU has deployed into hostile environments, its personnel have usually been protected by UN, US, or NATO troops; when it has managed to deploy speedily and without protection, as in Aceh and

Georgia, its civilian capacities have been put under severe strain. EU civilian missions are woefully ill prepared to deal with threats to their own security, and the EU has struggled to coordinate the activities of its civilians with military forces—even its own peacekeepers.

If the EU is to effectively tap into its "civilian power" and constructively assist in the rebuilding of failed states, it will need to drastically rethink the way it designs, deploys, and maintains its foreign interventions. Crisis management situations that the EU can expect to deal with in the coming years will require it to adapt its mechanisms and staff to focus on three factors: speed, security, and self-sufficiency. Ultimately, the effectiveness of the EU's future interventions will rely on the willingness of its member states to strengthen their own capacities to enable missions to serve a more constructive role.

Source: EU Council on Foreign Relations.

Note: For more information, visit http://www.ecfr.eu/content/entry/civilian_capacities_report_page.

EULEX has placed too great a priority on the quantity of cases covered and too little on the quality of the justice system. They note that many of the Kosovars who approach EULEX to discuss cases have little knowledge of the mission's role, but are simply looking for a second opinion after losing a case in front of domestic judges.

EULEX's third component—customs—has focused on restoring a customs regime in north Kosovo. After the 2008 declaration of independence, Serb mobs burnt down crossing points into Serbia, while the Kosovo government established checkpoints to the south of the river Ibar (the internal boundary with north Kosovo). This created an excellent environment

for smuggling and trafficking, and Belgrade grew concerned that criminality in north Kosovo was infecting Serbia itself.

EULEX's decision to send customs officers to the destroyed crossing points thus met with cooperation from Serbia. It was less popular with many local Serbs who resented its political symbolism or had profited from smuggling. The customs officers were harried by demonstrators who set up ad hoc barriers and "observation posts," and EULEX has still not devised a method for raising and distributing revenue at the Serb border. It has been able to monitor traffic reasonably consistently. But it needs to sign memorandums of understanding with both Kosovar and Serb customs officers on

information-sharing: a tricky proposition given the previous clashes over the police.

UNMIK and OMIK

While EULEX's role expanded, UNMIK completed a process of reconfiguration that left it with a much reduced presence and profile—it is now headquartered in UNMIK's former logistics base on the outskirts of Pristina. As of 1 July 2009, it had 510 staff, but many UN officials believe that this is surplus to requirements: the figure has been kept artificially high to satisfy the majority of UN members that do not recognize Kosovo's independence.

UNMIK's residual duties center on facilitating dialogue between communities in Kosovo and between Pristina and Belgrade. But as Ban Ki-moon told the Security Council in September 2009, the Kosovo government "opted to maintain very limited contacts."⁵ UNMIK staff members also accompany Kosovar representatives to some regional diplomatic meetings from which they would otherwise be barred, but Kosovo has attempted to limit this as far as possible. UN officials in north Kosovo continue to act as convenient interlocutors for Albanian inhabitants of the north, EULEX, and KFOR.

The OSCE's mission (OMIK) remains its largest field presence, but it is largely sidelined in political discussions—even relative to UNMIK. It has primarily focused on small-scale projects on human rights, assisting displaced persons, and increasing community access to legal information. It provided advice and planning support to Kosovo's central election commission in preparing for November's local elections—as did UNMIK—but did not monitor them or oversee ballot-counting.

ICO

After a difficult year in 2008, during which it struggled to define its role in light of Kosovo's disputed status, the International Civilian Office gained momentum in 2009. It played a significant role in preparing the legislature to create a Kosovo security council, civil aviation authority, and intelligence agency. ICO officials typically argue that they see themselves as part

UN Interim Administration Mission in Kosovo (UNMIK)

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| • Authorization and Start Date | 10 June 1999 (UNSC Res. 1244) (note: paragraph 19 of the resolution states that international civil and security presences are established for an initial period of twelve months, to continue thereafter unless the Security Council decides otherwise) |
| • SRSO | Lamberto Zannier (Italy) |
| • Budget | \$46.8 million (1 July 2009–30 June 2010) |
| • Strength as of 31 October 2009 | Military Observers: 9 Police: 6 International Civilian Staff: 148 Local Civilian Staff: 283 UN Volunteers: 26 |

For detailed mission information see p. 294

OSCE Mission in Kosovo (OMIK)

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| • Authorization and Start Date | 1 July 1999 (PC.DEC/305) |
| • Head of Mission | Ambassador Werner Almhofer (Austria) |
| • Budget | \$36.0 million (1 October 2008–30 September 2009) |
| • Strength as of 30 September 2009 | Civilian Staff: 172 |

of a governance-building project rather than a traditional peace operation. In October 2009, they facilitated the settlement of a border dispute between Kosovo and Macedonia, leading to the establishment of full diplomatic relations.

The ICO's other main activity has been to oversee the creation of five new municipalities (and enlargement of one existing one) to give Kosovo Serb communities greater autonomy. This has long been seen as necessary for equitable peace in Kosovo, and follows similar initiatives elsewhere in the former Yugoslavia, such as eastern Slavonia.

By November 2009, the ICO had made progress on developing all but two of the new municipalities—reflecting willingness among

Serbs outside the north to cooperate with government and its international allies. The holdouts were north Mitrovica and Partesh. There was evidence that a good number of Serbs in the main part of Kosovo participated in the local elections, in spite of calls for a boycott from traditional Serb leaders and political parties.

While the ICO maintains four regional offices, in addition to an office in Mitrovica, there have been persistent rumors that it will streamline itself and focus solely on Pristina. It has also been suggested that the post of EU Special Representative may be decoupled from the ICO to reduce the potential frictions with EULEX. The ICO has not yet confirmed any of this speculation.

KFOR

KFOR remains the single largest international mission in Kosovo, and the most popular among Kosovars—although its popularity ratings have fallen from 80–90 percent to around 70 percent, possibly because it maintains status-neutrality. It also enjoys a degree of trust among Kosovo Serbs, who see it as a more reliable protector than EULEX or the Kosovo Police. But, with NATO nations committed elsewhere, there have been calls for KFOR to shrink.

KFOR received an unpleasant surprise in March 2009, when Spain announced that it was withdrawing its contingent—an implicit protest

against Kosovo's independence. The move was more politically than militarily significant, as Spain accounted for only 650 troops. NATO ministers have concluded that a more general drawdown is possible. In June, they announced that KFOR would shrink from its then size of 13,800 to 10,000 by January 2010—and undergo further reductions in two phases over two years. The goal is to have only 2,500 troops in Kosovo by the end of this period, providing a deterrent.

There has been talk of shifting KFOR to a lighter, deterrent posture before—it remains to be seen whether the process will take place on schedule or be slowed by future shocks. In the meantime, KFOR has overseen the training of the Kosovo Security Force, meant to tackle crisis management, civil protection, and mine clearing (but not all-out war). It replaces the Kosovo Protection Corps, which initially consisted of former anti-Serb guerrillas but had little operational use. The Kosovo Security Force reached an initial operating capacity of 1,400 by September 2009, and is slated to reach a final strength of 2,500.

Conclusion

Kosovo has had a fairly quiet year, in which violence by both Albanians and Serbs has failed to disrupt the successful transition to a new peacekeeping structure. However, challenges remain. Evidence of corruption within the government is growing, and Kosovo's leaders are willing to play on public resentment toward the ongoing international presence.

Matters may come to a head in 2010, when the International Court of Justice will announce an opinion on Kosovo's status, further to a 2008 resolution referring the issue by the UN General Assembly. A number of EU members, including Cyprus, Romania, and Spain, are set to make presentations against Kosovo's independence before the Court in proceedings that began in December 2009.

NATO Kosovo Force (KFOR)

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| • Authorization and Start Date | 10 June 1999 (UNSC Res. 1244) |
| • Force Commander | Lieutenant-General Markus Bentler (Germany) |
| • Budget | \$43.0 million (1 October 2008–30 September 2009) |
| • Strength as of 30 September 2009 | Troops: 12,631 |

Notes

1. Public opinion figures in this chapter are taken from UNDP and USAID, *Early Warning Report* no. 26, November 2009.
2. United Nations, *Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo*, UN Doc. S/2008/692, 24 November 2008.
3. Of the remaining eight, one had died in the meantime.
4. For this and other very useful data on EULEX's early performance, see Giovanni Grevi, "EULEX Kosovo," in Giovanni Grevi, Damien Helly, and Daniel Keohane, eds., *European Security and Defence Policy: The First Ten Years (1999–2009)* (Paris: EU Institute for Security Studies, 2009), pp. 353.
5. United Nations, *Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo*, UN Doc. S/2009/497, 30 September 2009.