

# HOW SERBIA OVER CALCULATED ITSELF ON EULEX

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## **Keywords**

Belgrade, European Union, ESDP, EULEX, “Kosovo Policy”, supervised independence, weak state.

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## **Introduction**

EULEX, the most ambitious rule of law mission carried out by the EU so far, became operational only after Belgrade<sup>2</sup> authorities were promised that Resolution 1244 will continue serving as the legal ground for international presence in Kosovo, therefore reaffirming EU mission’s neutrality in regard to Kosovo’s final status. However, fielding of EULEX in the northern part of Kosovo, dominated by ethnic Serbian population, became possible only after Belgrade reached the agreement with UNMIK on the “six points” that redefined UN mission’s mandate. Such development of events proved to be unacceptable for Pristina, since it implied an indirect denial of the independence its authorities had proclaimed in February 2008. EULEX was however fielded and began implementing its mandate in December.

The mission, planned since 2006, faced a daunting task. EULEX criminal judges inherited approximately 200 criminal cases from UNMIK. The list includes preliminary and pre-trial investigations, indictments, trials, appeals, extraordinary legal remedies and

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<sup>2</sup> Our point of view is that independence of Kosovo within its proclaimed boundaries is not a realistic disposition. Neither an autonomous province of Serbia, as Belgrade sees it, nor a sovereign country, it remains under international supervision, as envisaged by the Ahtisaari plan. We are, however, intentionally using terms “Belgrade” and “Pristina”, referring to political leaderships of both ethnic communities. When we are using the term “Kosovo” it is only to delimit the territory of this entity.

re-trials. The charges brought in these cases vary from war crimes and acts of terrorism, to organized crime, including money laundering and bribery.<sup>3</sup>

Still, in four months before EULEX was finally declared fully operational, its personnel was deployed throughout Kosovo, including the north, one war crimes case was prosecuted, first trial in the Mitrovica courthouse was held (since March 2008 unrest), 23 missing persons' remains were identified and new potential exhumation sites were found. Many might say "too little, too late", compared with the number of almost 2.000 persons still missing. Yet, EULEX police remain deployed throughout Kosovo in 34 police stations and six regional Kosovo Police headquarters in accordance with its "capacity building" mission. The mission maintains 24-hour surveillance of the Special Police Units and border police and customs officers at crossings 1 and 31 that border Serbia. Finally, it performs 24-hour patrols with quick response capability by "Integrated Police Units" throughout the country.<sup>4</sup>

Furthermore, EULEX was frequently portrayed as an EU success story from the very beginning, on the grounds that although five of the member states did not recognise Kosovo independence, all member states contribute to the mission, providing personnel and funding. Jelena Obradovic added to this how in terms of fulfilling its mandate, EULEX is likely to be successful too, benefiting not only from the experience of long-term international involvement in Kosovo (i.e. UNMIK), but years of engagement in Iraq and Afghanistan.<sup>5</sup> On the other hand, influential organisations as Amnesty International, Human Rights Watch and Norwegian Helsinki Committee warned how if it is to succeed, the new EU-led international mission must be subject to much greater scrutiny and accountability than its predecessor, the United Nations Mission in Kosovo (UNMIK).

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<sup>3</sup> EULEX Kosovo, "200 Criminal Cases to be Brought for Trial", July 28 2009, <http://www.eulex-kosovo.eu/?id=8&n=127> (accessed July 30 2009)

<sup>4</sup> Besa Bequiri, "EULEX becomes fully operational", South East European Times, April 7 2009, [http://www.setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/features/2009/04/07/feature-02](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2009/04/07/feature-02) (accessed April 10 2009)

<sup>5</sup> Jelena Obradovic, 2009, "Kosovo One Year on", European Union's Institute for Security Studies Opinion, [http://www.iss.europa.eu/uploads/media/Kosovo\\_one\\_year\\_on.pdf](http://www.iss.europa.eu/uploads/media/Kosovo_one_year_on.pdf) (accessed April 12 2009), p. 1-2

The “accountability gap” of the UN mission had been widely criticized for the limited remedies available to those who allege violations of their rights by UNMIK.<sup>6</sup>

The eventual success of EULEX was not at the primary focus of our research, however. Instead we have concentrated our effort on understanding another ongoing phenomenon which could have significant implications. After almost a year of difficult balancing between conflicting priorities of its foreign policy, Belgrade came around and fully embraced EULEX. We aim to understand why.

This paper therefore begins with a presentation of the foundations of Serbia’s policy towards Kosovo. From there we proceed by mapping the proponents and opponents to EULEX on Serbia’s political *mise-en-scène*. We will also describe the greatest challenges up to date to this evolving relationship. Once this mapping of opinions of decision-makers in Belgrade and representatives of Serbian communities living in Kosovo is complete, we will offer our interpretation of Belgrade’s recent position on EULEX. Paper concludes with a brief presentation of the challenges EULEX will face in implementing its mandate that are considerably tougher than the one posed by Belgrade.

### **The foundations (and aims) of Belgrade’s Kosovo Policy**

What Belgrade wants to achieve, is first, to slow down the recognition process putting it to a complete standstill, and second, to place the status of Kosovo on the negotiating table once again. In doing so, it asked for support of Russia and China in the first place, as permanent members of UN Security Council, then EU member states which have not recognized Kosovo, and finally developing countries in Africa, Asia and Latin America perceived as influential within the Non-Aligned Movement.

First act of the Kosovo policy of the new Serbian Government, formed in July 2008, was to request from International Court of Justice (ICJ) to assess the legality of Kosovo’s independence. 77 countries voted “yes”, only six were opposed (including the United States) and 74, including all of the EU member states and most of the Western Balkans

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<sup>6</sup> Human Rights Watch, “Kosovo: EU Should Ensure International Mission is Accountable”, March 9 2008, <http://www.hrw.org/en/news/2008/03/09/kosovo-eu-should-ensure-international-mission-accountable> (accessed April 11 2009)

countries were abstained.<sup>7</sup> The fact that the ruling of the ICJ is not binding does not ease the great concern it will cause.

The second act came at the end of November last year, when former Serbian Armed Forces (SAF) Chief of General Staff Zdravko Ponos announced request by Serbia for revision of the Kumanovo treaty through the suspension of the “Ground Security Zone”, formed from the border areas adjoining Kosovo. This zone, extending along 384 kilometres of the administration line, is controlled by the SAF’s Second, Third and Fourth brigade of the Ground Forces deployed at more than 20 camps and checkpoints. The initiative probably came from President Tadic’s inner circle of advisers. The reasoning behind such move was that nine years after the conflict in Kosovo ended, trust between Serbia and NATO had been affected by the NATO decision to assist the setting up of the Kosovo Security Forces (KSF). At the time, Ponos stated how Serbia “expects from NATO to make a move showing in practice that it treats Serbia as a partner”<sup>8</sup>. It took Jap de Hoop Scheffer two months to answer the Serbian controversial request and even then he concentrated on the “no flight zone” disregarding the ground zone itself.<sup>9</sup>

The third act was in the making. Initially, the new Government in Belgrade continued to recognize only UNMIK, since it operated on the basis of UN SC Resolution 1244 that affirmed Serbia’s sovereignty over its disputed province. It refused to cooperate with both EULEX and the International Civilian Office, since they were set up on Ahtisaari plan, proposing supervised independence for Kosovo. However, UN Secretary General Ban tried to obtain Belgrade’s support for the re-configuration of UNMIK and the deployment of EULEX, by using the “six points” on which Belgrade in the future could have its say. “Points” essentially suggested that in the Serbian enclaves and in the north of Kosovo matters related to customs, police, justice, transport, telecommunications and religious and cultural heritage would continue to be dealt with under UN SC 1244, while EULEX would continue to operate under the UN that is UNMIK.<sup>10</sup>

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<sup>7</sup> B92.net, “Serbian Resolution Wins UN GA Backing”, October 8, 2008, <http://www.b92.net/eng/news/politics-article.php?mm=10&dd=8&yyyy=2008> (accessed April 10 2009)

<sup>8</sup> Blic Online in English, “NATO for Suspension of the Security Zone in Kosovo”, January 20, 2009, <http://www.blic.rs/news.php?id=3695> (accessed April 11 2009)

<sup>9</sup> Ibid.

<sup>10</sup> Johanna Deimel and Armando Garcia Schmidt, 2009, “Kosovo 2009: Uncertain Future”, Spotlight Europe, issue 1/2009, p. 3

When agreement was reached between Belgrade, Brussels and Ban Ki-Moon on November 26, 2008, Security Council accepted the deployment of EULEX within the framework established by UN SC Resolution 1244. This was a second moment of triumph for Belgrade, since Pristina was completely sidelined from the process. Now its “internationally supervised independence, based on the Ahtisaari package and enshrined in the constitution” seemed “totally absurd”.<sup>11</sup>

Still the effects of Belgrade’s policy remain to be seen. The expected “wave” did not happen, but countries around the world do continue to recognize Kosovo.<sup>12</sup> Within the time limit fixed by the ICJ (17 April 2009) on the question of the legality of Kosovo’s unilateral declaration of independence (UDI), 36 member states of the United Nations had filed written statements.<sup>13</sup> The public hearings will open on December 1, 2009. At the hearings, the authors of the UDI will be able to present an oral contribution. The United Nations (and its Member States) as well as the authors of the UDI can indicate to the Court whether they wish to participate in the hearings until September 15, 2009.<sup>14</sup>

Despite these two “successes”, the decision to accept EULEX was not taken lightly in Serbia. As the Ban Ki Moon’s plan was negotiated over, opposition parties voiced their concern. For them, EULEX was the facilitator of Kosovo’s independence, nothing more than that. Because little was known of the scope of authorities handed over to the new mission, general public was confused. This jeopardized the chances for wider approval of Belgrade’s decision. Now political leaders had to employ all their leverage in order to guarantee cooperation of the compact Serbian community living in the north of Kosovo.

### **The difficulties of making EULEX plausible to Serbian public opinion**

After it became obvious that EULEX will be fielded in northern Kosovo, an extraordinary session of the National Assembly was called for by the parties of the

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<sup>11</sup> Ibid, p. 4

<sup>12</sup> As of August 20, 2009, 62 countries around the world have recognized independent Kosovo and there are 13 announcements, soon to be formalized, according to the web site <http://www.kosovothanksyou.com> .

<sup>13</sup> B92.net, “35 Countries to Take Part in ICJ Case”, April 21, 2009, [http://www.b92.net/eng/news/politics-article.php?yyyy=2009&mm=04&dd=21&nav\\_id=58662](http://www.b92.net/eng/news/politics-article.php?yyyy=2009&mm=04&dd=21&nav_id=58662) (accessed April 22 2009)

<sup>14</sup> International Court of Justice press release, “Public Hearings To Be Held from 1 December 2009”, July 28 2009, <http://www.icj-cij.org/docket/files/141/15349.pdf?PHPSESSID=10ede467097c3488ab9e8a526b60dd79> (accessed August 3 2009)

opposition. Former Minister for Kosovo in Kostunica's Government, Slobodan Samardzic, said how EULEX aims to carry out monitoring of the independence of Kosovo, the basis of Marti Ahtisaari's plan. Other speakers were harsher. Head of Serbian Radical Party Dragan Todorovic shouted how accepting EULEX makes a conscious deceit of citizens and a betrayal of Kosovo. Fears of the opposition were however best summoned by the President of the Serbian Progressive Party (SNS) Tomislav Nikolic, who dismissed the possibility of EULEX being status neutral. He warned that "within six months or a year Serbia might be completely cut off from Kosovo". Finally, he was concerned because "there is the impression that this is one big game designed to put Serbia to sleep, where Kosovo will slowly come close to receiving the full recognition of independence, and even place in the UN".<sup>15</sup>

Belgrade authorities exactly knew what they were doing. In a statement for BBC programme in Serbian, State Secretary in the Ministry for Kosovo Oliver Ivanović stated that the reason for Government of Serbia missing the opportunity to explain its policy to Kosovo Serbs was that "it had to wait to get what Serbia insisted on and to see that adopted in the Security Council". The Government was to make an effort to explain to Kosovo Serbs that the task of EULEX was to monitor the work of the police and the judiciary, in the best interest of all ethnic communities. More importantly, Ivanović added that at the same time Belgrade will cooperate with EULEX in order to *impose the solution of the problems that are priority for the Serbs* (italics added by the author) such as physical security, legal and security of property.<sup>16</sup>

First issue to test this newly found trust was the problem of command over Kosovo Police Service (KPS). After UNMIK transferred jurisdiction in the fields of police, customs and justice to the EULEX, the question was set whether the Serbian police officers in the north of Kosovo working for the KPS will be under the command chain of EULEX, or Pristina. When asked, commander of the police station in Northern Mitrovica Milija Milosevic said how members of the KPS in Northern Mitrovica are submitting

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<sup>15</sup> B92.net, "Serbian political parties on EULEX", December 9, 2008, [http://www.b92.net/info/vesti/u\\_fokusu.php?id=24&start=195&nav\\_id=333305](http://www.b92.net/info/vesti/u_fokusu.php?id=24&start=195&nav_id=333305) (accessed June 12 2009)

<sup>16</sup> Danas, "EULEX mission in the interest of the people", December 10, 2008, [http://www.danas.rs/vesti/politika/rad\\_misije\\_euleks\\_u\\_interesu\\_naroda.56.html?news\\_id=147951](http://www.danas.rs/vesti/politika/rad_misije_euleks_u_interesu_naroda.56.html?news_id=147951) (accessed June 13 2009)

reports on their work to EULEX police only.<sup>17</sup> Minister for Kosovo in Serbian Government Goran Bogdanovic responded by saying that “the only acceptable chain of command [...] is the one that comes from EULEX, and not from Pristina. He added how Belgrade insisted on the “Six Points”, keeping the chain of command and opening of new police stations in Serbian communities precisely because of that reason.<sup>18</sup>

Bogdanovic made another important step in making EULEX more acceptable to Serbian public opinion. He visited influential and vocal “Association of the Families of the Kidnapped and Murdered in Kosovo and Metohija”<sup>19</sup> where he said that the opening of EULEX offices in Belgrade is very welcome, because it will, among other things, “help families of missing persons find more information about their dearest”.<sup>20</sup>

As the New Year approached, expectations from EULEX ran high in Belgrade. “We expect from EULEX and the United Nations to establish order in the province, to provide *full protection of all citizens, especially Serbs* (italics added) being most vulnerable [...] and to contribute to efforts of returning the property usurped in the province” said Mirko Cvetkovic, Serbia’s Prime Minister.<sup>21</sup> This belief was all but lost in the days that followed.

In the first days of January, a string of events undermined the fragile stability in the northern part of Mitrovica. First, an attack on KPS police officer occurred, then in the centre of Mitrovica sixteen-year-old Nikola Bozovic was stabbed, and finally, two days later in the incidents in Bosnjacka Mahala community (the only ethnically mixed community north of Ibar river) six firemen on duty were beaten and injured, as well as the crew of the Radio Television of Serbia (RTS). Minister Bogdanovic said that the

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<sup>17</sup> B92.net, “Serbs from KPS cooperate with EULEX”, December 16, 2008, [http://www.b92.net/info/vesti/u\\_fokusu.php?id=24&start=180&nav\\_id=334711](http://www.b92.net/info/vesti/u_fokusu.php?id=24&start=180&nav_id=334711) (accessed June 12 2009)

<sup>18</sup> Danas, “EULEX will prove neutrality”, December 17, 2008, [http://www.danas.rs/vesti/politika/euleks\\_ce\\_dokazati\\_neutralnost\\_.56.html?news\\_id=148553](http://www.danas.rs/vesti/politika/euleks_ce_dokazati_neutralnost_.56.html?news_id=148553) (accessed June 13 2009)

<sup>19</sup> English version of the web site available at <http://kosmetskezrtve.org.rs/eng/index.php> (accessed June 14, 2009)

<sup>20</sup> Danas, “EULEX will prove neutrality”

<sup>21</sup> Blic Online, “Cvetkovic: Providing security makes the greatest challenge for EULEX”, December 29, 2008, <http://www.blic.rs/politika.php?id=72306> (accessed June 12 2009)

mission of the European Union had done little or almost nothing to prevent the incidents.<sup>22</sup>

What ensued was the decision made by three out of four ethnically Serbian municipalities in the North not to cooperate with the EU mission. Municipal assemblies from Kosovska Mitrovica, Zubin Potok and Zvečan even “vowed” to cooperate only with UNMIK. At the same time, Serbs living in the enclaves south of the Ibar river decided to wait, noting that “the start of EULEX mandate was not encouraging for Serbs: they (EULEX) had no position on the security forces in Kosovo and reacted inadequately to the incidents in the northern part of Mitrovica”. State officials approved by Belgrade knew what to do: “a decision on co-operation in our areas will be brought in accordance with the situation on the field. Cooperation with EULEX depends on how this mission will be set, will it meet the basic requirements of Belgrade, in the first place about the status of neutrality, application of the Resolution 1244 and the compliance to the Six Points plan”, said Goran Arsić, Head of the Kosovo district<sup>23</sup>. Dragan Nikolić, Head of Kosovo Pomoravlje District replied in similar manner, “taught by events in the past, we will be careful in terms of cooperation with the new mission. Since *the top (referring to the political elite) accepted the mission’s arrival, it is up to us to cooperate*” (italics added).<sup>24</sup>

However, as EULEX came closer on achieving full operability, in February and March four new events made the relationship between Serbia and EULEX even more problematic. After Serbs blocked for one hour the crossing Lower Jarinje as well as Pristina-Raska and Ribarice-Kosovska Mitrovica roads, the President of Zvečan Municipality Dragisa Milović said such action was a warning to representatives of international community that Serbs will not allow border creation between Kosovo and Serbia. This protest had a wider agenda. Head of district controlled by opposition parties, Kosovska Mitrovica, Radenko Nedeljković said protests were the way to show that

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<sup>22</sup> Blic Online, “Bogdanović: EULEX did nothing to prevent incidents in Mitrovica”, January 4, 2009, <http://www.blic.rs/politika.php?id=72955> (accessed June 12 2009)

<sup>23</sup> Districts (*okrug* in Serbian) are the horizontal branch of government placed between municipalities and the Republic. They are kept in Kosovo, as Belgrade insists that the entity can not be understood as separated from Serbia.

<sup>24</sup> Vecernje Novosti online, „Serbs are already disappointed“, January 16, 2009, [http://www.novosti.rs/code/navigate.php?Id=1&status=jedna&vest=135911&title\\_add=Srbi%20su%20ve%C4%87%20razo%C4%8Darani&keyword\\_add=srbi%20na%20kosovu%2C%20euleks&search=euleks](http://www.novosti.rs/code/navigate.php?Id=1&status=jedna&vest=135911&title_add=Srbi%20su%20ve%C4%87%20razo%C4%8Darani&keyword_add=srbi%20na%20kosovu%2C%20euleks&search=euleks) (accessed June 13 2009)

„paying customs duties and tariffs was unacceptable for Serbs, and that Serbs and other non-Albanians should not be encouraged to enter Kosovo Security Force”.<sup>25</sup>

Soon after, Minister Bogdanovic was humiliated when he was denied entrance to Kosovo because of the protest of Pristina authorities. He indirectly accused EULEX, saying how the decision made “just deepens intolerance between Serbs and Albanians” and how, since he lives in Kosovo, wonders “whether latest actions of Pristina meant that Serbs who originate from the area were not welcome as well”.<sup>26</sup>

Again, two hundred members of Serbian judiciary blocked Municipal and District Court in northern part of Kosovska Mitrovica in protest against the possibility of ruling under the laws of “The State of Kosovo”. Judge Nikola Kabasic explained that members of judiciary protested against using the seals of “The Republic of Kosovo” as well as laws and verdicts proclaimed in the name of the “people of Kosovo”.<sup>27</sup>

The final challenge was the greatest. One of the first decisions made by the Assembly of EULEX judges was to acquit Fljorim Ejupi of the first-instance verdict on forty years’ imprisonment, that was brought by UNMIK for planting and activating of an explosive device on the road under which “Nis express” bus was passing in 2001, when twelve Serbs died and twenty-two were wounded.

All of this proves that the complexities in implementing the “six points” plan were actually never fully appreciated by the Serbian side. In an interview for Politika daily, Minister Bogdanovic admitted that during autumn intensive conversations led before UN Secretary General Ban Ki Moon’s report to UNSC, the terms under which this court could be re-opened were never discussed. The exact way of implementation of each of the six points was left to be defined *after the fielding of the mission* (italics added).<sup>28</sup>

Late March State Secretary Ivanovic warned how the prospects for cooperation with EULEX remain unclear. In his opinion, EULEX had not yet defined its mission or its

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<sup>25</sup> Politika, “Protest against EULEX on Jarinje”, February 6, 2009, <http://www.politika.rs/rubrike/Politika/Na-Jarinju-protest-protiv-Euleksa.sr.html> (accessed June 13 2009)

<sup>26</sup> B92.net, “Bogdanovic: Unacceptable decision”, February 23, 2009, [http://www.b92.net/info/vesti/u\\_fokusu.php?id=24&start=90&nav\\_id=346640](http://www.b92.net/info/vesti/u_fokusu.php?id=24&start=90&nav_id=346640) (accessed June 12 2009)

<sup>27</sup> Politika, “Against functioning under the State of Kosovo laws”, February 27, 2009, <http://www.politika.rs/rubrike/vesti-dana/Protiv-rada-po-zakonima-drzave-Kosovo.sr.html> (accessed June 13, 2009)

<sup>28</sup> Biljana Mitrinovic, “Now EULEX is on the move”, Politika, March 3, 2009, <http://www.politika.rs/rubrike/Politika/Sada-je-Euleks-na-potezu.lt.html> (accessed June 13, 2009)

relation to the “Six Points” plan. He warned, referring to the plan, that “if the foundation stone is moved, the foundations would collapse as well”, that is, “if the plan fails, than there will be no cooperation with EULEX. If Serbia does not cooperate with EULEX, neither will the Serbs on Kosovo and Metohija, so we could all have a serious problem on the field”.<sup>29</sup>

Yet, the reaction of the Serbian Government to Ejupi’s acquittal was somewhat mild. An statement read how “the Ministry considers it inadmissible that the person who, even in the conditions of initially inadequately carried investigation, was proven responsible for the death of twelve and wounding of twenty two people is acquitted due to the lack of evidence. We hope that [...] EULEX will have enough strength and credibility to reassess this case and bring the perpetrators to justice and in that way show clearly [...] that its arrival represents the beginning of the rule of law in Kosovo and Metohija”.<sup>30</sup>

Even when Minister of Foreign Affairs Vuk Jeremic was asked in an interview whether he was satisfied with the EULEX mission on Kosovo he did not reply directly, but said how “each start is difficult, (that) there is room for improvement and (how) we (Serbian public) should be patient [...] we continue working with international community on administering of Resolution 1244 and other Security Council decisions”.<sup>31</sup> In June, his colleague Bogdanovic stated that EULEX mission is “one of our main partners” and that “Serbian side has proven its willingness to cooperate” by recognizing EULEX.<sup>32</sup>

### **Belgrade’s mistake in perception**

In fact, Belgrade authorities have over calculated themselves in relying on EULEX as an asset in their Kosovo policy. As we have shown, without strong evidence, they believed

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<sup>29</sup> Dragana Zecevic, “To Kosovo escorted by UNMIK”, Vecernje Novosti, March 8, 2009, [http://www.novosti.rs/code/navigate.php?Id=1&status=jedna&vest=139597&title\\_add=Na%20Kosovo%20u%20pratnji%20Unmika&keyword\\_add=Oliver%20Ivanovi%C4%87&search=euleks](http://www.novosti.rs/code/navigate.php?Id=1&status=jedna&vest=139597&title_add=Na%20Kosovo%20u%20pratnji%20Unmika&keyword_add=Oliver%20Ivanovi%C4%87&search=euleks) (accessed June 13 2009)

<sup>30</sup> Politika, “EULEX acquitted Ejupi”, March 13, 2009, <http://www.politika.rs/rubrike/vesti-dana/Euleks-oslobodio-Ejupija.sr.html> (accessed June 13 2009)

<sup>31</sup> Dusica Radeka, “The world is yet to hear for Kosovo”, Vecernje Novosti, April 17, 2009, [http://www.novosti.rs/code/navigate.php?Id=1&status=jedna&vest=143346&title\\_add=Svet%20%C4%87e%20tek%20%3Cbr%2F%3E%C4%8Duti%20za%20Kosovo&keyword\\_add=vuk%20jeremic%2C%20jeremic&search=euleks](http://www.novosti.rs/code/navigate.php?Id=1&status=jedna&vest=143346&title_add=Svet%20%C4%87e%20tek%20%3Cbr%2F%3E%C4%8Duti%20za%20Kosovo&keyword_add=vuk%20jeremic%2C%20jeremic&search=euleks) (accessed June 13 2009).

<sup>32</sup> Dusica Radeka, “EULEX owes more”, Vecernje Novosti, June 5, 2009, [http://www.novosti.rs/code/navigate.php?Id=1&status=jedna&vest=147560&title\\_add=%3Cspan%20class%3D%22pret\\_rec%22%3EEuleks%3C%2Fspan%3E%20%3Cbr%2F%3Eduguje%20vi%5%A1e&keyword\\_add=goran%20bogdanovic&search=euleks](http://www.novosti.rs/code/navigate.php?Id=1&status=jedna&vest=147560&title_add=%3Cspan%20class%3D%22pret_rec%22%3EEuleks%3C%2Fspan%3E%20%3Cbr%2F%3Eduguje%20vi%5%A1e&keyword_add=goran%20bogdanovic&search=euleks) (accessed June 13 2009)

how cooperation with EULEX will help them impose the solution of those problems that are priority for the Serbs. They also held EULEX responsible for physical protection of Serbian population, a gross overstatement of its mission.<sup>33</sup> As said before, the complexities in implementing the “six points” plan were actually never fully appreciated by the Serbian side, while the exact way of implementation of each of the six points was left to be defined after the fielding of the mission.

All of this strained the relationship between Serbia and EULEX to the greatest extent. Belgrade authorities were certain that EU mission leaders “owe them more”, for being constructive and capable of influencing the community leaders in Kosovo. It is, however, hard to understand what exactly this “more” may be. Regardless of the current state of relations between the two sides, the need for cooperation is there. As Minister Bogdanovic himself admitted, “we (Government of the Republic of Serbia) have to trust someone, and we can do it (cooperation) only with international community representatives, EULEX, UNMIK, KFOR, despite the fact that they have shown many times they are biased, and that they might be working in favour of one side only. It is upon us to point to these problems, and we are in contact on literally day-to-day basis.”<sup>34</sup>

Despite efforts of the Serbian Government, EULEX still holds little legitimacy with Kosovo Serbs living north of the river Ibar. This compact community is not under Belgrade’s political control, since parties participating in Serbian Government do not fare well with the population. The newly self-proclaimed “Assembly of the Community of Municipalities” of northern Kosovo was created by Serb leaders elected in the municipal elections held by Serbia in May 2008 in Serbia, including in Serb communities throughout Kosovo. It is dominated by parties which do not participate in the Government and oppose EULEX in principle. Though this election was recognized neither by the EU, Pristina or even Belgrade, this Assembly composed of 45 delegates from 26 municipalities’ functions as a *de facto* parliament of Serbs in Kosovo.

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<sup>33</sup> EULEX’s central aim is “to assist and support the Kosovo authorities in the rule of law area, specifically in the police, judiciary and customs areas. The mission is not in Kosovo to govern or rule. It is a technical mission which will monitor, mentor and advise whilst retaining a number of limited executive powers”: “What is EULEX”, <http://www.eulex-kosovo.eu/?id=2> (accessed April 12, 2009)

<sup>34</sup> B92.net, “Doubts about the actions of EULEX”, May 1, 2009, [http://www.b92.net/info/vesti/u\\_fokusu.php?id=24&start=30&nav\\_id=358322](http://www.b92.net/info/vesti/u_fokusu.php?id=24&start=30&nav_id=358322) (accessed June 12 2009)

One can speculate whether the Serbian government has used Serbs living in the North to place EULEX under pressure. With communities in the South being totally dependent on cooperation with international actors, ignoring the interest of those living in the enclaves would be a policy hard to defend. The challenge lies in acknowledging the uneasy fact, how official Belgrade can not be held fully responsible for what some of political leaders in the North do or say.

### **Tough challenges ahead**

The EU has made it clear that its mission will not substitute for UNMIK. Rather, it was created as a mission designed on the basis of co-ownership. Its tasks are only to monitor, mentor and advise on various aspects of the rule of law. However, the only, yet all-important exception to this ownership is the handling of special types of crimes: organised crime, war crimes and, if needed, riot control where a more executive role by the EU mission might be needed until the local authorities are deemed ready to perform such tasks by themselves.<sup>35</sup> This is where those who argue that Kosovo is a weak political entity step in. They perceive Kosovo as a society incapable of self-governance, infiltrated with organised crime, with no functioning economy and dependent on foreign aid. These are the reasons why, in their opinion, international community had decided to supervise Kosovo's independence.<sup>36</sup>

On the other hand, proponents of Kosovo's independence are furious with such perception. In their opinion, most of this is an "image problem". In the executive summary of a research conducted by Forum 2015 from Pristina, it is said how "Kosovo is no longer a country emerging from conflict [...] Kosovo and the Balkan region as a whole are amongst the safest in Europe".<sup>37</sup>

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<sup>35</sup> Gemma Collantes Celador, 2008, "The European Union and the Kosovo Challenge", European Institute of the Mediterranean *Panorama*, <http://www.iemed.org/anuari/2008/aarticles/EN163.pdf> (accessed August 4, 2009), p. 165-166

<sup>36</sup> Frances Maria Peacock, May 2008, "Is Kosovo Really an Independent State?", Kosovo Compromise, <http://www.kosovocompromise.com/cms/item/analysis/en.html?view=story&id=873&sectionId=2> (accessed July 30, 2009)

<sup>37</sup> Forum 2015, "Image Matters! Deconstructing Kosovo's Image Problem", 2008, <http://www.forumi2015.org/home/images/stories/image.pdf> (accessed July 30, 2009)

Various failed states indexes now available do not provide separate figures for Kosovo, even in 2009.<sup>38</sup> Still, Freedom House declared Kosovo as being “not free”, making it the only entity in the region described as such in their well known survey of political rights and freedoms.<sup>39</sup> Amnesty International has reported that non-Albanians are subjected to both direct and indirect discrimination when seeking access to basic civil, political, social, economic and cultural rights.<sup>40</sup>

Impunity for past inter-ethnic violence prevailed. In July the OSCE reported that after the ethnic violence of March 2004, in 1,400 cases reported to the police in whom 19 people were killed and more than 900 injured only 400 prosecutions had been brought to trial. Trials were delayed when witnesses, including police officers, reportedly failed to attend court or provided conflicting statements while sentences imposed were inconsistent with the gravity of the offences.<sup>41</sup>

Gravest problems continue to be social. Poverty is widespread. Approximately 45 percent of the population live in poverty and 15 percent in extreme poverty, while 41 percent are unemployed. The list of groups most at risk in terms of income poverty includes children, the elderly, female-headed households, the disabled, the unemployed, unsteady job holders, residents of shanty towns, and non-Serb ethnic minorities (such as Roma and Slav Muslims).<sup>42</sup>

The most positive finding was that residents of Kosovo perceive corruption as being present in their society to a lowest average grade, if compared to their neighbours in other Western Balkans countries.<sup>43</sup>

### **Who is accountable for failure?**

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<sup>38</sup> See for example “Failed States Index Scores 2009”, available at Fund for Peace web site, [http://www.fundforpeace.org/web/index.php?option=com\\_content&task=view&id=391&Itemid=549](http://www.fundforpeace.org/web/index.php?option=com_content&task=view&id=391&Itemid=549) .

<sup>39</sup> Freedom House, “Country Report 2009: Kosovo”, “Freedom in the World 2009 edition”, <http://www.freedomhouse.org/template.cfm?page=22&year=2009&country=7757> (accessed July 31, 2009)

<sup>40</sup> Amnesty International, “Serbia Report 2009”, <http://report2009.amnesty.org/en/regions/europe-central-asia/serbia> (accessed July 31, 2009)

<sup>41</sup> Ibid

<sup>42</sup> The World Bank, “Kosovo Country Brief 2009: Social Environment”, <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/KOSOVOEXTN/0,,contentMDK:20629286~menuPK:297777~pagePK:1497618~piPK:217854~theSitePK:297770,00.html> (accessed July 31, 2009)

<sup>43</sup> Transparency International, “Global Corruption Barometer 2009”, [http://www.transparency.org/policy\\_research/surveys\\_indices/gcb/2009](http://www.transparency.org/policy_research/surveys_indices/gcb/2009) (accessed July 31, 2009), p. 29

The EU's relationship with Kosovo is based on what Carton calls "equal or contractual partnership".<sup>44</sup> The process may be complicated by the fact that entity still constitutes a disputed territory, but is in fact the same. Plainly speaking, involvement of the EU is subject to local politicians' consent. It is a precondition of the Stabilisation and Association Process Tracking Mechanism (STM) and the activities of the EU under Pillar IV of UNMIK, from which it derived its legal basis. The process is run by the European Commission, however, and European partnership with a region as small and economically underdeveloped as Kosovo can not be anything close to equal.<sup>45</sup>

Therefore if EULEX fails, this will not only have to do with leaders in Belgrade and Pristina, but with the vagueness of its mission as well as insufficient coordination with the other actors involved in the process of establishing security and rule of law in Kosovo. Since the fielding of EULEX, two structures have emerged: one abides by UNSCR 1244 and is formally status neutral, and it includes the UNMIK, the EULEX and NATO's Kosovo Force (KFOR). Second is "composed" of International Civilian Office (ICO), an Ahtisaari-based *ad hoc* body in which most EU members participate and with whom Belgrade refuses to cooperate, since it was set to assist Pristina in achieving prerogatives of full independence. Because it is run by Pieter Feith, also the EU Special Representative (EUSR), EU credibility has been caught between these two mandates.<sup>46</sup> Still, the November report of the Secretary General of the UN did not even mention ICO. Feith's status and the status of his office remain unclear to both the international actors and the population of Kosovo. And yet, according to the Ahtisaari plan, the task of coordinating international actors in Kosovo should have been assigned to a committee led by Feith. Since his office is "pro-status", this was impossible.<sup>47</sup>

The international community remains divided on the issue of EULEX's status neutrality. In the meantime Kosovo continues to send an image its inhabitants are not proud of: a society suffering from high youth unemployment, institutions dangerously close to organized crime and incapable of engaging minorities. All this despite the fact that since 1999, international aid sent to the entity surpassed in absolute numbers aid sent to

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<sup>44</sup> Wim Carton, "Beyond the Kosovo status question: the limits to the Europe's state building efforts", p. 10

<sup>45</sup> Ibid

<sup>46</sup> Sofia Sebastian, 2009, "Making Kosovo Work", FRIDE Policy Brief No. 7, March 2009, p. 2

<sup>47</sup> Johanna Deimel and Armando Garcia Schmidt, p. 5

Afghanistan for 25 times.<sup>48</sup> In 2009, dividend caused by the more pragmatic stance of new Government in Belgrade still waits to be collected.

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<sup>48</sup> Gordon N. Bardos, "Balkanizing Barrack", National Interest online, <http://www.nationalinterest.org/Article.aspx?id=20630> (accessed August 19, 2009)