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Kosovo After Independence

Is the EU's EULEX Mission Delivering
on its Promises?

■ Kosovo today, despite its declaration of independence, is an »unfinished state«, with only limited sovereignty and divided, de facto, into a Serb north and an Albanian dominated south. Neither UNMIK nor EULEX have so far been able to do anything to prevent the partition of the country.

■ Every important macroeconomic indicator points to negative development, a situation only made worse by the global economic crisis: low economic growth, a rising trade deficit and high poverty and unemployment rates. Eighteen months of independence have done nothing to ameliorate this catastrophic situation.

■ EULEX, in its role as »guardian of democracy and the rule of law«, has only modest achievements to show for its first six months. Closer scrutiny of the objectives, legal mandate and activities of the new EU mission gives rise to the rather sobering realisation that, basically, the previous, failed policy of UNMIK is still being pursued.

■ To date, the EU has not been able to take substantial steps to integrate Kosovo in the Stabilisation and Association Process and thereby to establish a real prospect of EU integration. Vague promises of membership will not suffice to get development moving in Kosovo.

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1 Introduction

Kosovo, which declared itself independent on 17 February 2008 – on the collapse, after two years, of negotiations between Prishtina and Belgrade, the West (the USA and the EU) and Russia – is now, after nearly one and a half years of new-found statehood, a country without real sovereignty. In the words of the respected newspaper editor and Kosovan intellectual Veton Surroi, it is an »unfinished state«, in which the government is able to exercise its authority only over parts of the country and in which five »protectorate masters« – UNMIK, EULEX, ICO, KFOR and OSCE – operate. The Kosovan government's hopes that Kosovo's independence would be recognised by most UN member states have not been fulfilled. As things stand (July 2009), Kosovo is recognised by only 62 of the 192 UN member states, the most notable refrainers being the Latin American countries and most Islamic states. Even five of the 27 EU member states – Cyprus, Greece, Romania, Slovakia and Spain – refuse to recognise Kosovo owing to their own minority problems. Furthermore, in October Serbia was able to obtain a majority in the UN General Assembly for a review of the independence declaration's basis in international law by the International Court of Justice (ICJ). The ICJ's decision is not expected before spring 2010, however. At the same time, there was an important diplomatic breakthrough for an independent Kosovo in May and June 2009, when the country achieved membership of the International Monetary Fund (IMF) and the World Bank.

The European Union's EULEX mission – officially launched on 9 December 2008 – is its biggest and financially most lavish civil intervention abroad to date. Approximately 2,600 people are currently active there within the framework of EULEX, including around 1,650 international police officers and judges and around 900 locals. The operational budget for the first 16 months amounts to 205 million euros, in addition to which the EU is investing 209 million euros in Kosovo in 2008 and 2009 via the so-called IPA (Instruments for Pre-Accession Assistance) funds (European Commission Liaison Office in Kosovo 2009). On top of that, the international community is covering the costs of the 800 OSCE staff members in Kosovo, as well as of the at present 14,500 KFOR troops (to be reduced to a deployment of 10,000 from January 2010).

EULEX's start-up was delayed until December 2008 by the Serbian government's opposition to the original plan to take over UNMIK's agendas in July 2008. In late autumn 2008, in the face of protests from the government in Prishtina, a significant concession was

made to Belgrade and Moscow with regard to EULEX's legal basis. The Serbian government managed to ensure that, in the Six-Point Plan agreed by UN Secretary General Ban Ki Moon with the EU and the USA, the EULEX mission would continue to operate within the framework of UN Resolution 1244, that is to say, »status free«, or without Kosovo's independence being formally recognised.

The aim of this study, besides giving an overview on the most important stages on the way to an independent Kosovo, is to provide an analysis of the political and economic situation in Kosovo since the independence declaration and to put under the microscope the priorities and expected problems of the EU mission, which, in coming years, will cost European tax payers millions of euros. The present investigation is based on a book published in 2005 and revised in 2006 and on interviews and research in Kosovo since 2002 (Džihic, Kramer 2006).

2 Development of the Status Issue up to 2008

2.1 Period from 1999 to 2005

The debate on the status of Kosovo in international law, which was »resolved« in February 2008 by Prishtina's unilateral declaration of independence, shaped the development of Kosovo between 1999 and 2008. With the adoption of UN Security Council Resolution 1244 on 12 June 1999, the resolution of Kosovo's status was postponed and the development of »substantial autonomy« for Kosovo within the Federal Republic of Yugoslavia – today, the two states of Serbia and Montenegro – laid down as one of the core objectives of the international intervention under the leadership of UNMIK.¹ The uncertainty concerning its future international law status developed »more and more into an obstacle to the normalisation process« (Rohan 2003).²

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1 International involvement in Kosovo under UNMIK leadership and with the participation of NATO (in the form of KFOR troops), the EU, the OSCE and many other international organisations, as well as – to begin with – a large number of foreign NGOs, represents the most extensive and ambitious »peace-making«-mission in the history of the UN.

2 Albert Rohan, deputy to Martti Ahtisaari, Special Envoy for the Future Status Process for Kosovo (UNOSEK). For more on this, see also the presentation by Stefan Lehne (2009), EU representative for the negotiations on Kosovo's future status from November 2005 to the beginning of 2009.

With the adoption of the Constitutional Framework for Provisional Self-Government on 15 May 2001 the transfer of powers to Kosovo's newly created institutions of self-government, formulated in Resolution 1244, obtained a higher profile. From 2002, the then head of UNMIK, Special Representative of the Secretary General (SRSG) Michael Steiner, sought to strike a positive note with his »standards before status« strategy, and so gave impetus to the status question, too. This concept laid down criteria of political and social development whose fulfilment would be the precondition of commencing negotiations on the status issue. The standards laid down proved to be too vague or ineffective, and their implementation by the Kosovan government was at best desultory. Søren Jessen-Petersen, SRSG from August 2004, was the first UNMIK head who consistently took the view that a decision on the status question could not be postponed indefinitely. The new strategy read: »standards and status« – standards should be complied with as soon as possible and negotiations begin on Kosovo's status in the foreseeable future.

The heavy rioting in March 2004 – in the course of which an Albanian mob, incensed by media reports of the alleged murder of Albanian children, attacked and killed Serbs and members of other minorities, and burned down their houses – ushered in a new phase in the development of post-war Kosovo. It was a »rude awakening«, not only for Kosovans, but for the international community. By this time, it had become clear that Kosovo's development as a society had stalled in the most important areas, and that the impatience of Kosovo Albanians, above all due to the unresolved status question, could boil over at any time. In these circumstances, the international community decided to get the status negotiations under way.

2.2 The Status Debate 2005/2006 and the Ahtisaari Plan

The report by the Special Envoy of the UN Secretary-General, Norwegian Kai Eide, heralded the opening of the »hot« phase of status negotiations in October 2005. In his comprehensive report on the situation in Kosovo, Eide proposed that, despite the extremely »uneven« implementation of the development standards called for by the international community, a clarification of Kosovo's international status should constitute the next phase of the political process (Eide 2005). The Secretary-General and the UN Security Council appointed former President of Finland Martti

Ahtisaari »Special Envoy for the Future Status Process for Kosovo«. ³ The negotiating team around Ahtisaari and his Austrian deputy, Albert Rohan, commenced the first direct negotiations on resolving the status question in Vienna on 20 February. Even after a year no agreement could be reached on any of the substantive issues. The talks were plagued by mutual recriminations and mistrust between Prishtina and Belgrade. The Kosovo Albanians insisted on their demand for independence, while the members of the Serbian delegation retreated to a unspecified, but non-specific negotiating position based on »continuing autonomy« (»more than autonomy, less than independence«).

After a number of negotiating rounds between leading representatives of the Serbs and the Kosovo Albanians, the diametrically opposed positions of the two sides brought Ahtisaari to the conclusion that further talks would make no sense. As a result, on 2 February 2007, he presented his final report, entitled »Comprehensive Proposal for a Kosovo Status Settlement«. On 26 March 2007, the final document on the solution of the status question, the »Final Comprehensive Proposal«, was presented to the UN Security Council in New York, together with the Ahtisaari report (UN Security Council 2007a, 2007b).

The Ahtisaari plan, which was to serve as the formal basis for independence in 2008 and as the »road map« for the subsequent period, envisaged »limited« independence for Kosovo. Accordingly, Kosovo should be a multi-ethnic, stable and democratic state formation that fully respects the principle of the rule of law and guarantees all internationally recognised human and civil rights. The Kosovan government was to have the right to conclude international treaties and to apply for membership of international organisations. Even the creation of its own armed security forces, which would take on the function of a Kosovan army and would be supported by NATO/KFOR, was envisaged. However, Kosovo's sovereignty would be limited by means of a new form of international presence under the leadership of the EU and the continuing authority of a representative of the international community (International Civilian Representative – ICR). This international representative was to succeed UNMIK in conjunction with the EU mission EULEX. The plan also envisaged special safeguards for the non-Albanian inhabitants of Kosovo, in particular for Serbs, but also for other Kosovan

³ The negotiating team operated under the aegis of the Office of the Special Envoy of the Secretary-General of the United Nations for the future status process for Kosovo set up by the Secretary-General in Vienna (UNOSEK).

minorities. Alongside the rights of cultural autonomy guaranteed to all minorities and the right to their own symbols and representation in Kosovan institutions, the plan also laid down far-reaching rights of autonomy for the Serb population in Kosovo, who were to retain extensive rights in the areas of health care and education, as well as police operations in the communities inhabited predominantly by Serbs. In addition, the possibility of a veto right in the Kosovo parliament was envisaged for the Serb population in case of the infringement of »vital interests«, although a similar instrument in Bosnia-Herzegovina has gravely hampered the running of the state. The plan also provides for transparent financial support for the Kosovan Serbs from Serbia, as well as special protection for Serbian monuments and religious shrines.

2.3 Failure to Reach a Consensual Solution

When the direct negotiations on the status question, led by Ahtisaari, got under way in Vienna, it still seemed that, under certain conditions, Russia was ready to cooperate with the West.⁴ For example, Russia signed the Statement of the Contact Group – USA, Russia, China, Great Britain, France, Germany and Italy – of 31 January 2006, in which it was stated that every effort should be made to achieve a negotiated settlement in the course of 2006. The document made it clear that there should be »no return of Kosovo to the pre-1999 situation, no partition of Kosovo, and no union of Kosovo with any or part of another country« (Kosovo Contact Group 2006). In the following months, however, it turned out, to the »painful surprise« of the West, that President Putin and his government were ever more emphatically becoming »Serbia's advocate« on the status question (Böhm 2007; Petritsch 2008). From summer 2006 on it became clear from the statements of Putin and Foreign Minister Lavrov that Moscow had scaled up the question of Kosovo's independence into a matter of international law. According to Moscow, a unilateral declaration of independence by Kosovo would signify a grave violation of the principles of international law and trigger a chain reaction of »active separatism« in other problem regions of the world. Russia – supported by a rather reluctant Chinese govern-

ment – now announced that it would block adoption of the Ahtisaari plan in the Security Council. In the words of the Austrian Balkans expert Wolfgang Petritsch, Kosovo thereby became the first »victim« of a new Russian foreign policy oriented towards »precisely calculated economic, political and strategic aims«.⁵ A window of opportunity for a consensual solution to the status question was thereby firmly shut. According to Belgrade political scientist Bratislav Grubačić, the West, which, up to 2005, »could have pulled off the envisaged independence without significant resistance from Moscow«, had decisively lost »momentum« (Roser 2007).

While the USA pressed ever more strongly for Kosovo's independence, and Russia, with its newly acquired and demonstrative self-confidence in foreign policy, blocked any solution that pointed in the direction of independence, the EU was increasingly riven by disharmony and conflict. The majority of EU states – in particular, the major EU powers France, Great Britain and Germany – came out in favour of Kosovo's independence, while other countries (such as Cyprus, Slovakia and Spain), rejected such a move.

The deadlock and the international community's helplessness in the face of this complex situation further increased in summer 2007. After the rejection of the compromise solution based on the Ahtisaari plan presented to the UN Security Council by Russia and China in July 2007 a last-chance solution was envisaged in the form of a Troika comprising representatives of the USA, Russia and the EU. Wolfgang Ischinger for the EU, Frank Wiesner for the USA and Alexander Botsan-Karchenko for Russia were tasked with resuming negotiations. With the delivery of the Troika's report to UN Secretary-General Ban Ki Moon on 10 December 2007 the final round of negotiations on the status of Kosovo also ended in failure.

3 Kosovo Becomes Independent

3.1 The Consequences of the Declaration of Independence

Supported by the USA and most EU states, Kosovo Albanian politicians decided to declare »limited« independence unilaterally on the basis of the Ahtisaari

4 Although, as a rule, the People's Republic of China supported the Serbian and Russian positions in the UN Security Council, on this »European issue« it acted with conspicuous restraint. »Western diplomats assumed that Beijing by itself would not stand in the way of a Security Council decision« (Lehne 2009: 8).

5 Petritsch (2008) is here referring to the Russian investment in the building of the »South Stream« gas pipeline, based on a Memorandum of Understanding, which is to pass through Serbian national territory towards the West and to the Russian stake in the largest Serbian oil company, NIS.

plan.⁶ On 17 February 2008, the Kosovo Albanian-dominated parliament in Prishtina, after consultations with the USA and the most important European states, declared Kosovo independent. The declaration of independence, drafted for the most part by the US State Department, was read out – in Albanian and Serbian – by Kosovo's new prime minister, Hashim Thaçi. The meticulously planned celebrations in Kosovo went off without incident. The new Kosovan government endeavoured to make at least rhetorical concessions to the Serbian population of Kosovo. It also displayed some sensitivity – not least due to pressure from the USA and the EU – in the choice of flag and other state symbols, such as a national anthem without words, so as not to provoke the Serb minority. Work commenced right away on a constitution, which was adopted by Parliament on 9 April 2008 and came into force on 15 June 2008. Together with the USA and the supporting EU states a campaign was launched to achieve acceptance of independence as quickly and as broadly as possible (International Crisis Group 2008).

The declaration of independence in Prishtina – Kosovo is the seventh state to emerge from the former Yugoslavia – gave rise to emotional and even violent reactions in Serbia. In Belgrade, Western embassies were set on fire and US and EU countries national flags were burned. Goaded on by the nationalist Serbian politicians Prime Minister Vojislav Koštunica and Radical Party president Tomislav Nikolić the demonstrating crowds plundered and vandalised Western businesses. In the north of Kosovo, in the Serbian part of Mitrovica, there were large protest rallies and two border crossings between Serbia and Kosovo were destroyed. In the rest of Kosovo, the situation remained calm, however, which can be attributed also to the stabilising presence of KFOR troops (there was a contingent of 14,500 in spring 2008). Also, the feared mass exodus from the Serbian enclaves in the south did not materialise. The Serbian government did implement the diplomatic measures it had announced against states that had recognised Kosovo, downgrading diplomatic relations and recalling its

ambassadors to Belgrade,⁷ but the threatened economic boycott in the areas of trade and electricity and water supply was not carried through. Instead, the government in Belgrade resorted to a de facto secession of the primarily Serb northern Kosovo and a reinforcement of »parallel structures« – that is, institutions in the north and the Serb enclaves in central and southern Kosovo financed and controlled by Belgrade (see Section 3.2). As the Balkan expert Tim Judah pointed out recently: »The north of Kosovo is lost for the foreseeable future« (UNMIK Media Monitoring 2009a). The most serious consequence of the declaration of independence, therefore, is the de facto partition of the country along ethnic lines, which constitutes a major breach of the principles in whose name NATO and the West intervened in 1999.

In Republika Srpska (RS) in Bosnia-Herzegovina, too, there was a very emotional and politically well calculated reaction on the part of the Serb population and their political leadership around Milorad Dodik. As in Belgrade, there were sometimes violent demonstrations in most towns in Republika Srpska. The political leadership there condemned Kosovo's declaration of independence in a parliamentary resolution, as well as what it saw as the West's one-sided recognition policy. The resolution also provided for the possibility of a referendum on whether Republika Srpska should remain in the Bosnian federation or secede from it. To this extent Kosovo's declaration of independence gave considerable impetus to those Serb forces aiming at the establishment of Republika Srpska as a separate state entity. In contrast to Bosnia-Herzegovina, in the Albanian populated Preševo Valley and in Macedonia there were no disturbances worth mentioning. The situation remained calm, although at present it is extraordinarily difficult to evaluate the medium- to long-term consequences of Kosovan independence for political development in the region.

3.2 The Serbian Government's Blocking Politics

Even after the parliamentary elections on 11 May 2008 there was no fundamental change in Serbia's policy towards Kosovo. Despite the major political differences between the narrowly victorious pro-European camp and the national-conservative parties, there is still a fundamental consensus among all

6 The USA and the EU persuaded the government in Prishtina to delay the declaration of independence until after the presidential elections in Serbia at the end of January 2008. The elections in Serbia resulted in a narrow victory for the incumbent president Boris Tadić over the deputy leader of the Radical Party, Tomislav Nikolić. In the course of 2008, Nikolić increasingly distanced himself from former Radical Party leader Vojislav Šešelj, which eventually led to a split. In the meantime, Tomislav Nikolić's newly formed Serbian Progressive Party (Srpska Napredna Stranka) celebrated its first electoral successes and established itself as the strongest opposition party in Serbia.

7 After the formation of the new Serbian government under Prime Minister Cvetković in July it was decided to end the diplomatic blockade by returning the ambassadors to their posts.

Serbian political parties⁸ concerning Serbia's historical right to Kosovo and resolute rejection of Kosovo's independence. With the formation of the new government coalition in June 2008, consisting of the heterogeneous block around Tadić's Democratic Party (DS) and the former Milošević party (Socijalistička partija Srbije) of Ivica Dačić, the *pas de deux* between a strongly nationalistic Kosovo policy and pragmatism as regards EU membership seems set to continue.

It is uncertain how much popular support there is for continuing this seemingly implacable stance, shared by both government and opposition on the Kosovo issue. To be sure, relations with Kosovo, in which around ten per cent of the Serbian population have their origins, still have considerable nationalistic and patriotic resonance, not only among the general public but also the intelligentsia. However, the overriding concern of most Serbs is improving the economic situation, social security, prosperity and freedom of travel (almost 70 per cent of young people have never been abroad). In opinion polls conducted in summer 2008, unemployment (45 per cent of respondents) and low living standards (35 per cent) were cited as Serbians' biggest problems and worries. Only 25 per cent of respondents mentioned Kosovo as an important problem (*Der Standard* 2008). In an opinion poll carried out in June 2009 by the Serbian CESID institute, only four per cent of Serbs of voting age considered Kosovo's remaining within Serbia as a priority (CESID 2009).

Serbia's strategy, after Kosovo's declaration of independence in February 2008, was directed primarily towards consolidating control over northern Kosovo and undermining the authority of the government in Pristina at all levels. When irate Serbs destroyed the two border crossings in northern Kosovo, the Serbian authorities looked the other way. Furthermore, under pressure from Belgrade and radical Serb nationalists in the north, the majority of Serb policemen in the Kosovo Police Service (KPS) resigned their posts and many Serb officials abandoned Kosovan institutions, especially the administrative bodies in the municipalities. The forced entry of Serb employees into the court building in North Mitrovica on 17 March 2008 – the fourth anniversary of the riots against the Kosovo Serbs and the other non-Albanian minorities in 2004 – resulted in open conflict between UNMIK, KFOR and Serb demonstrators, which the Serbian side took as justification for ratcheting up the rhetoric in its policy towards Kosovo. On 11 May 2008, in parallel with the parliamentary elections in Serbia,

elections were held in the Serbian controlled north of Kosovo and in the enclaves. The representatives of Nikolić's party and Koštunica's Democratic Party of Serbia (DSS) were able to secure significant majorities.⁹ In the course of June and July 2008, parallel Serb municipal councils were set up in accordance with the election results and a »Kosovo Serb Assembly« brought into being. In this way, despite strenuous protests from UNMIK and the new Kosovan government, further progress was made in the direction of *de facto* self-government in the Serb part of Kosovo, under Belgrade's control.

Besides its »undisguised policy of divisiveness« (Dérens and Geslin 2009) in both the north and south of Kosovo, Serbia also sought to apply political pressure in opposition to Kosovo's independence on a second front, namely in the diplomatic sphere. President Tadić declared repeatedly that on the Kosovo question Belgrade would proceed primarily on the diplomatic and legal levels: »We do not wish to further politicise the Kosovo problem, but to transfer it to the legal playing field« (Ivanji 2008). Orchestrated by the very active new Foreign Minister Vuk Jeremić, the Serbian government and Serbian diplomats, who in this instance were able to count on support from traditional ties and former allies of Tito's Yugoslavia, were an extraordinarily active international presence. The Serbian government's most striking success came in October 2008, when its call for a review of the legality of Kosovo's independence by the International Court of Justice won a clear majority in the UN General Assembly.

On the other hand, despite all its efforts, Serbia was unable to prevent the neighbouring countries and the successor states of Tito's Yugoslavia – with the exception of Bosnia-Herzegovina, in which the representatives of Republika Srpska vetoed such a decision – from coming out in favour of recognising Kosovo. Recognition by Slovenia and Croatia ensued as early as spring 2008, and Macedonia and Montenegro followed suit – notwithstanding of Serbia's vehement protests – in October 2008. International acceptance of Serbia's appeal to international law suffered further damage in August 2008 in connection with Russia's military incursion into Georgia and Moscow's policy in the Caucasus. Having been outspoken in its support for the international law principle of strict preservation of territorial integrity on the Kosovo issue, Russia now supported the secession of South Ossetia and Abkhazia from Georgia on the same grounds as those put forward by the West in

8 The Liberal Democratic Party (LDP), led by Čedomir Jovanović, constitutes an exception.

9 Support for the Serbian nationalist parties was significantly weaker among Kosovo Serbs in the south of the country.

favour of Kosovo's independence, while the United States, the EU and NATO now defended Georgia's territorial integrity, which the Western powers had not conceded to Serbia on the Kosovo question. Dušan Janjić, of the Forum for Interethnic Relations in Belgrade, stated that »Russia is applying in reverse the model that NATO used for Kosovo« (*Die Presse* 2008).

Serbia's efforts on the diplomatic front were certainly one of the main reasons why the international wave of declarations of recognition expected by the government in Prishtina and its Western supporters did not take place in the course of 2008 and 2009. Despite intensive lobbying on the part of the United States and the largest EU states – with the exception of Spain – by the time of writing (July 2009) no more than 62 states have recognised Kosovo's independence: that is, fewer than one-third of the 192 UN member states. Most notably, recognition has not been forthcoming from the majority of countries in Latin America, Asia and Africa, including important states such as India and Brazil and almost all Islamic countries.

Another serious problem for the Kosovan government and the EU mission in Kosovo is that five EU member states – Cyprus, Greece, Romania, Slovakia and Spain – continue to resolutely oppose Kosovo's independence. This lack of unity in the EU, which had already manifested itself before the declaration of independence in the positions of EU countries on the status issue in Kosovo, considerably complicated the setting up of the EULEX mission and made it difficult to pass the relevant resolution. The dilemma was resolved by the Council of Foreign Ministers. Before the declaration of independence, the decisions on the arrangements for the EULEX mission »were rushed through in January and early February 2008, as the support of all the 27 (Cyprus abstained) would have been more difficult to achieve following a declaration of independence. The formula of diversity on recognition and unity in engagement was successful in safeguarding the EU's continued role in the management of the Kosovo issue. However, as the experience of the coming months showed, the policy was far from easy to implement in practice« (Lehne 2009: 11).

4 Kosovo in 2009

The situation in Kosovo is still critical and highly unstable with regard to every important aspect of society, despite the enormous injection of resources by the international community since 1999.¹⁰ This applies in particular to the economic and social situation, the rule of law, with regard to which the judicial system is powerless in the face of deeply entrenched corruption and mafia influence in society and its structures, and the relations between the Albanian majority and the Serbs, as well as other minorities living in Kosovo. To be sure, it has been possible to establish reasonably well-functioning political institutions and to hold parliamentary and municipal elections without major problems. However, the development of a democratic political culture has been patchy at best. The strategies of UNMIK, the OSCE and the EU to support democracy-building in Kosovo have been only moderately successful, among other things owing to the role of the international community as representatives of a protectorate structure. Their broadly applied right to intervene has decisively narrowed the scope and autonomy of Kosovan political actors. On top of this, the »internationals«, dwelling as they do in a structure of privileges completely divorced from the lives of ordinary Kosovans, not to mention their awkward entanglement in webs of corruption, soon lost any entitlement to be regarded as role models (see Kramer and Džihic 2006: 237ff; Zaremba 2007).

One of the main reasons why Kosovan policymakers have, over the years, failed to pursue an effective reform policy in such crucial areas as economic and social policy, education, health care and administration has been a »status fixation« on the part of the Kosovan political class. The achievement of independence, even if for the time being this means only a »limited sovereignty«, became a kind of vague screen of a better future on which the population has projected unrealistic expectations, namely the rapid improvement of the economic situation and the solution of the most pressing social problems. As a result of these exaggerated expectations the Kosovan authorities find themselves in something of a cleft stick. Rapid progress, especially in the economic and social realm, is not possible, since the urgent problems in Kosovo are to a considerable extent structural in nature, that is, largely the outcome of extremely

¹⁰ Since the end of the war in June 1999 the international community has spent around 25 times more in Kosovo than in Afghanistan, per head of population, in both the military and the civilian spheres (Rubin et al. 2004: 9).

unfavourable historical and societal circumstances and framework conditions. This means that any solution is possible only in the medium or long term.

4.1 The Security Situation in Kosovo

One of the few real success stories in Kosovo in the period leading up to the declaration of independence was the improvement of the security situation. The deployment of the international UNMIK police force (in spring 2008, 2,006 UNMIK policemen were stationed in Kosovo), the establishment of the Kosovo Police Service (KPS) – at present with just over 7,000 policemen in Kosovo – under UNMIK and the OSCE, and the important stabilising function of KFOR made it possible, after several months of lawlessness in the second half of 1999, to stabilise the security situation and to create a reasonably secure environment in which the tasks of civil reconstruction could be addressed. The fact that this process of reducing interethnic violence has continued to develop positively – interrupted only by the violence of Kosovo Albanians stirred up against Serbs and other minorities in March 2004 – was also shown during the politically tense and emotional situation surrounding Kosovo's independence proclamation. KFOR's resoluteness and military strength encouraged the Serbian government to refrain from even hinting at possible military action in its protest strategy.

KFOR, under the supreme command of French general Xavier de Marnac, brought in another 500 troops for the declaration of independence, which certainly contributed significantly to the fact that the Serb areas of settlement and enclaves in the south remained calm and that the demonstrations by Serbs incensed by the declaration in the north of Kosovo were swiftly contained. There was only one serious incident, when, as a result of the forced entry of Serb employees into the court building in north Mitrovica on 17 March 2008, there were bitter clashes between radical Serbs and KFOR, which resulted in the death of a Ukrainian KFOR officer and in serious injuries to a number of KFOR soldiers, UNMIK police officers and Serb demonstrators.

Violent incidents grew in frequency in North Mitrovica in December 2008 and the first few weeks of 2009. There were explosions with several casualties and violent conflicts between Kosovo Albanians and Serbs. In April 2009, the return of Albanian families to their homes in North Mitrovica led to violent protests on the part of the Serbian population, which KFOR troops and the Kosovan police were able to quell only after a number of days. In addition, there

were repeated protests in Serb municipalities against the power cuts instigated by the Kosovan Electricity Company (KEK) in response to unpaid electricity bills. While the security situation in northern Kosovo remains precarious, it has improved in the Serb enclaves and areas of settlement in the south of the country, where relations between Kosovo Albanians and Kosovo Serbs have relaxed significantly (see Section 4.2).

The Kosovan population takes a very positive view of KFOR,¹¹ not least owing to the economic benefits enjoyed by the Kosovan communities in which their troops are stationed. Its approval ratings in the opinion polls conducted regularly since 2002 by the UNDP-financed »Early Warning System«-Team are, like those of the Kosovo Police Force (KPS), much higher than those of UNMIK or of Kosovan politicians, political institutions and the judicial system in Kosovo. In the most recent survey, carried out in April 2009, the approval ratings of KFOR and the KPS were 68 per cent and 74 per cent, respectively, while UNMIK was viewed positively by only 16 per cent of Kosovans and the government by only 35 per cent (UNDP 2009b).

Since the security situation in Kosovo – apart from the northern part of the country, where things are »stable but fragile«, according to a report by the US State Department in March 2009 (US Department of State 2009) – has clearly improved, since autumn 2008 NATO has been considering, sometimes in public, KFOR troop reductions. Finally, a decision was taken at a NATO Council meeting in Brussels on 11 June 2009 and it was announced that the KFOR deployment in Kosovo would be reduced – probably by January 2010 – by one-third, to approximately 10,000. One US NATO official was quoted as saying that KFOR was now entering the next phase of its operations in Kosovo, one of a »deterrence presence«. (UNMIK Media Monitoring 2009h,i). The announcement of KFOR troop reductions was viewed by the Kosovo Albanian side as proof of the stability of Kosovo, while politicians in Belgrade unanimously condemned the scaling down as unwarranted, given the »serious security situation of the Serbs in Kosovo« (Radio Slobodna Evropa 2009a, 2009b).

¹¹ The largest KFOR contingents – as of June 2009 – are from Germany (2,350) and Italy (1,935). The United States, which maintains one of its largest military bases, Camp Bondsteel, there, has deployed 1,483 troops. Austria has the largest KFOR contingent among non-NATO member states (606). (KFOR 2009).

4.2 Minorities in Kosovo

Alongside the majority Kosovo Albanians, Kosovo is inhabited by Serbs, Roma, Ashkali and Balkan Egyptians, Bosniaks and Gorani (Muslim Slavs), as well as Turks. The Serb population in Kosovo today is a minority in numerical terms (around 120,000 Serbs, one-third of whom live in the north), but for historical and political reasons abjures the term »minority«. ¹² Relations between the majority Albanian population and the Serbs have, throughout the history of Kosovo, tended towards intense hostility and the social isolation of the two population groups. The armed clashes between the UCK and the Serbian army or Serb paramilitary in 1998 and 1999, the massive expulsions of Kosovo Albanians by Serbian troops and the NATO operation against the Federal Republic of Yugoslavia (FYR) widened the gulf even further between the Albanian and Serb populations in Kosovo. The »reverse expulsion«, carried out in summer and autumn 1999, of Serbs, Roma, Ashkali, Balkan Egyptians and members of other minorities also ratcheted up inherent tensions in interethnic relations (on this, see Pradetto 2008).

Owing to the concentration of the international community and of local institutions and actors since 1999 on the main line of conflict between the Serbs and Albanians, the extremely difficult circumstances of the other minorities have tended to be neglected. For example, the living conditions, especially of the Kosovan Roma, Ashkali and Balkan Egyptians, some of whom are still living in refugee camps, are more precarious than those of the Albanian majority population and the Serbs. Particularly scandalous is the fact that in ten years UNMIK was unable to ensure decent housing of Roma and Ashkalis driven out of their settlements in Mitrovica, who since 1999 have been living in refugee camps under conditions that are extremely hazardous to health (*Der Standard*, 2009). Although seats were set aside in the Kosovan parliament for representatives of the other minorities, they have been unable to assert their interests in the political process dominated by Kosovo Albanians and Serbs. Kosovo's declaration of independence has only made things worse for these minorities. A detailed report by the Minority Rights Group International documents that the »vacuum in effective international protection for minorities« and »a lack of political will among majority Albanians and poor investment in protection mechanisms have resulted in minority rights being eroded or compromised in the

post-independence period« (Stevens 2009: 3). The desperate economic situation and discrimination in education and on the labour market will, according to the report, intensify the flight of non-Serb minorities from Kosovo (cf. Bancroft 2009 and Mattern 2008).

The declaration of independence has had drastic consequences for the Serb population in Kosovo, however. On the one hand, the de facto partition of the country along the Ibar has entrenched the two »separate worlds« that exist in Kosovo. This is expressed succinctly in the UN Secretary-General's report on Kosovo, discussed on 17 June 2009 by the UN Security Council: »The municipalities in the north of Kosovo, as well as northern Mitrovica/Mitrovica continue to operate largely separately from the rest of Kosovo« (UNMIK 2009). On the other hand, the attitude of the Serb population in the southern enclaves, as a number of indicators and reports testify, has become more cooperative with regard to Kosovan institutions and the majority population. This is owing to the fact that, not least because of its own parlous economic situation, exacerbated by the current global economic crisis, Serbia simply does not have the resources – or will not make them available – to support the southern enclaves economically. The Serbs in the enclaves and their politicians at municipal level appear at long last to be waking up to the fact that Kosovo will not be restored to Serbia and are increasingly distancing themselves from the rabble-rousing representatives of the Serbian Orthodox Church (International Crisis Group 2009; Kosovar Institute for Policy Research and Development 2008). There is also common ground between the Kosovo Serbs and Kosovo Albanians in their equal exposure to the catastrophic economic situation, as a UNDP opinion poll on the factors and reasons for instability and insecurity in Kosovo demonstrates: »This is the first time ... that [Kosovo Serb respondents], contrary to citing further aggravation of interethnic relations as in the July and October 2008 polls, selected unemployment and poverty as the main factors that threaten Kosovo's stability« (UNDP 2009a).

Since the declaration of independence in February 2008 the return to Kosovo of Serb expellees has virtually come to a standstill. For example, according to UNHCR statistics for 2000–2007, no more than around 15,000 refugees have returned to Kosovo from among the approximately 150,000 Serbs and other minorities who were expelled or became refugees. In 2008, there was a further »dramatic decline in the voluntary minority returns to Kosovo compared to earlier years« (UNMIK 2009: 6), when only 582 people from minority groups returned to Kosovo,

¹² On the minorities in Kosovo see the very informative report by Stevens (2009).

in comparison with 1,816 in 2007 and 1,669 in 2006. Moreover, the UN Secretary-General's Kosovo report, discussed by the Security Council in June 2009, states, wrapped up in the usual diplomatic jargon: »The number of voluntary returns in 2009 is gradually increasing, even though it remains disappointingly low and continues to lag behind the 2008 figures« (Ibid: 5).¹³

4.3 Economic and Social Development¹⁴

In the one and a half years since independence the catastrophic state of the Kosovan economy has not improved. Kosovo continues to be dependent on foreign aid and to register a serious budget deficit and high unemployment. It is also running an unsustainable import surplus. The hopes of Kosovo Albanians that the resolution of the status question would bring about a significant improvement of their economic situation have not been fulfilled. Furthermore, although the global economic crisis has hit Kosovo less than other states in the region, it has intensified uncertainties about the progress of Kosovo's economic catch-up process and has exacerbated popular dissatisfaction with the economic and social situation. In this regard, the population remains pessimistic. For years, surveys have repeatedly shown that almost three-quarters of Kosovans are dissatisfied with their personal economic situation. In December 2007, this fell – primarily owing to the hopes invested in independence and the mantra of Kosovan politicians promising economic and social improvements as a result of it – but since spring 2009 the proportion of those dissatisfied has returned to its pre-independence level and the willingness of Kosovans to protest because of the economic situation stood at 79 per cent in April 2009. In the same survey, 92 per cent of Kosovans – who up until independence had for the most part blamed UNMIK – held their own government responsible for the poor state of the economy (UNDP 2009a).

A glance at the main macroeconomic indicators reveals the weaknesses of Kosovo's economic system all too plainly. Economic growth slumped in 2005, rising to between 3.5 and 3.8 per cent in 2007, but is still

much lower than in the other countries of the region. Much higher growth rates would be needed to bring about an improvement in the dismal labour market situation. The majority of other economic indicators also continue to be extremely negative. That applies in particular to the trade deficit. For example, in 2006, goods in the value of €106 million were exported, set against imported goods in the value of €1.26 billion. The trade balance deteriorated further in 2008, so that the deficit now stands at €1.8 billion (Dumbs, Roser and Schneider 2009). Although Kosovo is an agrarian country – around three-quarters of the population live in rural areas and 60 per cent of the land is agriculturally productive – the bulk of foodstuffs have to be brought in from abroad, mostly from Serbia. This enormous dependence makes it clear that both Serbia and Kosovo, leaving aside the political conflict, have an interest in an improvement in regional trade relations that would facilitate greater investment in Kosovo from Serbia. At present, the political entanglements hinder any step in this direction.

The labour market situation is beyond dismal. The number of unemployed is increasing constantly and in 2007 and 2008 stood at almost 45 per cent (Fuster 2008) – the highest rate in the Balkan region (Commission of the European Communities 2008). A high percentage are long-term unemployed (Ibid.; UNMIK European Union Pillar 2006a: 7). Youth unemployment is particularly alarming, standing at 70 per cent. Kosovo is one of the youngest societies in Europe, as a consequence of which every year around 30,000 new job seekers enter the labour market, of whom only about 5–6,000 have any chance of finding a job. As things stand at the moment, around 44 per cent of young people, according to an opinion poll, would be willing to leave Kosovo as a consequence of the poor labour market situation (*Die Presse* 2009a). Unemployment is particularly high among women and minorities (55 per cent of women were unemployed in 2007 in comparison with »only« 38.5 per cent of men) (Commission of the European Communities 2008: 57). The lack of jobs serves only to enhance the existing propensity of Kosovans to emigrate. The EU is currently in no position, nor is it willing, to offer the Kosovan population anything positive in terms of immigration, which would contribute – also in its own long-term interests, since Kosovo exhibits high demographic potential and so represents a substantial reservoir of the workers Europe needs – to relieve the labour market situation in Kosovo. Liberalisation of the visa system would constitute a first step in this regard (see Section 5.4).

As a small market, with a poor infrastructure, Kosovo has attracted very little foreign direct investment

¹³ It should be mentioned here that the number of persons »involuntarily repatriated to Kosovo« – that is, primarily Kosovans made redundant in EU labour markets – has recently been strongly increasing (in 2008, the number was 2,495). (Cf. UNMIK 2009: 6.)

¹⁴ In writing this section we have benefited greatly from the insights of Vladimir Gligorov of The Vienna Institute for International Economic Studies.

in recent years. Apart from the unresolved status question, the reasons for this include the problems that arose in the process of the privatisation of formerly socialist enterprises and the general legal uncertainty in Kosovo. Besides the service sector, international aid and support and remittances from the Kosovan diaspora have been responsible for economic growth. Since 2000, more than €2.6 billion have flowed into Kosovo though UNMIK and its sphere alone – according to Mark Auboin, resident IMF representative in Kosovo, annual expenditure for UNMIK infrastructure amounted to between €100 and €150 million. In 2007, foreign aid amounted to €352 million, down from €465 million in 2006 (UNDP Early Warning Report Kosovo 2008a: 6), showing a falling trend even before independence. Foreign direct investment is rising (from €250 million to €422 million in 2007) (Commission of the European Communities 2008), but in comparison to the other countries in the EU region it remains very low (in Serbia, FDI amounted to €2.27 billion in 2007, in Montenegro to €2.2 billion and in Macedonia to €2.1 billion) (Glogorov 2007: 27).¹⁵

Remittances from the Kosovan diaspora, which play a crucial role in the Kosovan economy and for the bulk of the population, have probably totalled around €600 million a year since 1999 (UNMIK European Union Pillar 2006b). In 2008, foreign remittances totalled €535 million, 14 per cent of the Kosovan budget (Osservatorio Balcani e Caucaso 2009). It is not yet possible to assess the consequences of the global economic crisis for remittances. The Kosovan Central Bank has issued provisional trends for 2009, according to which there was a fall of around ten per cent in the first two months of 2009 and this tendency is continuing owing to the crisis in Western economies (ibid.). What is crucial in this regard is how much money the Kosovan diaspora will have in its suitcase when it returns home in the summer.

Living standards in Kosovo are far lower than in neighbouring countries and rates of poverty are high. GDP per capita in 2006 was much lower in Kosovo (1,100) than in Albania (2,300), Bosnia and Herzegovina (2,400) and Serbia (3,400) (Fuster 2008). The average monthly pension in Kosovo is around €50 and the average wage only a little over €200. In comparison, the salaries of the »Internationals« seem

exorbitant, as do those of the Kosovans who work for them (€500 to €600 for interpreters, for example). Almost 40 per cent of Kosovans live in poverty, 15 per cent of them in »extreme poverty« (with a daily »budget« of less than 90 euro cents) (Tenbrock 2008). Membership of the IMF and the World Bank will do much to bring the fight against poverty to the fore, but success will depend strongly on economic improvements across the board.

One problem that renders Kosovo a »third world« society in terms of the daily grind is the fact that households and businesses suffer power cuts for several hours each day due to the catastrophic electricity supply. The large, aging power stations, into which the EU has injected several hundred million euros, are extremely inefficient. No rapid improvement of the situation is in prospect. In general, the energy sector is one of the few areas which could attract foreign direct investment. Kosovo has considerable potential in terms of mineral resources, but their productive exploitation would require enormous investments in infrastructure, which at present is unrealistic.

The status fixation of the Kosovan political authorities and the population has generated enormous expectations related to independence in recent years. Above all, the Kosovan population hoped for an improvement in the economic and social situation. It has become clear, however, that formal independence is not a magic wand capable of eliminating structural underdevelopment overnight and of transforming it into productive and sustained economic and social development.

Kosovo will be unable to bring about a stable and lasting improvement of the economic situation without foreign assistance, at least in the medium term. Foreign financial aid and direct investment on a large scale, as well as remittances from the Kosovan diaspora, will be needed to kick start economic development and alleviate the social crisis. Kosovo's membership of the IMF and the World Bank will furnish greater budgetary leeway and offer potential investors more security for investments in Kosovo. It is to be expected that the IMF and the World Bank will supervise and regulate central and local government more closely. Membership of the international financial institutions opens up the prospect of financing for additional infrastructural projects, as well as the possibility of so-called »soft loans«.

However, future development of the Kosovan economy will depend in particular on an effective strategy for strengthening small and medium-sized enterprises as the basis of the national economy, the normalisation of economic relations with Serbia and the elimination of energy supply problems. Expan-

¹⁵ See also Hunya 2009. This recent study confirms that in 2008 there was a marked fall in foreign direct investment in Kosovo's neighbours. Unfortunately, this study does not contain data on Kosovo. One may assume, however, in view of the global economic crisis, that the level of foreign direct investment fell in Kosovo in 2008, as in the neighbouring countries.

sion of the service sector will require, in particular, the modernisation of the education system, which entails massive investment.¹⁶

4.4 Functional Democracy in Kosovo and the Crisis of the Political Class

At the level of the embedding of formal democratic institutions, the orderly conduct of elections and the institutional establishment of local administration and an administrative and judicial system there has certainly been progress since 1999. This development makes it clear that, by and large, both parties and politicians, as well as the population accept the formal rules of modern parliamentary democracy, and that, apart from certain minor political groupings, there are no significant political forces that seek system change or – leaving aside the riots against Serbs and other minorities in March 2004 – a policy of violence.

On the other hand, the inefficiency and lack of democratic legitimacy of the political institutions set up by UNMIK and the OSCE, as well as the manifest deficiencies of Kosovan politicians are reprehensible. Government posts and positions of power are seen and utilised as the domain of clientelistic parties dominated by strong leaders; the development of an independent civil service is largely blocked; and complex matters of fact glossed over by means of diversionary rhetoric. Ethno-nationalist arguments and symbolism¹⁷ exert a decisive influence on politicians' public utterances. Women play only a marginal role in political decision-making in Kosovo and are barely represented in leading government and political positions.¹⁸

A major obstacle to the development of a democratic political culture are the, in some cases, very close relations between politicians and the structures and actors of organised crime. For example, a study of the involvement of the international community in

Kosovo written by two former UNMIK officials asserts that in many areas an »Al Capone-like combination of violence and corruption continues to colour public life« (King and Mason 2006: 23). In May 2009, the chair of the LDK's Women's Forum, Melihate Termkolli, declared that »the current government not only fails to fight crime, but in certain cases is encouraging it ... In fact, I said at the last assembly that crime and criminals are ruling Kosovo.« (UNMIK Media Monitoring 2009c). The political class in Kosovo, who have little experience of the institutions of modern democracy, have to contend with the dilemma of a »double crisis of legitimacy«. On the one hand, they have to justify their actions in the eyes of the international community, which demands adherence to certain standards, while on the other hand, they cannot neglect the wishes and expectations of the population. People's increasing dissatisfaction with the political authorities is clearly manifest in the low electoral turnouts. At the last parliamentary elections, in 2007, which resulted in a victory for Hashim Thaçi's Democratic Party of Kosovo (PDK) and the formation of a coalition government between the PDK and the Democratic League of Kosovo (LDK), turnout was the lowest since 1999, at only 42 per cent. The peak approval rating achieved by head of government Thaçi when independence was declared in February 2008 has fallen back sharply. Now only 38 per cent – a fall of 19 percentage points in comparison with October 2008 – are satisfied with the government.

Given the political dominance of clientism and ethno-nationalism, which eclipse virtually every area of life, a vigorous democratic culture and political representatives who devote themselves to solving the vital problems of the population rather than to self-enrichment and backing their political cliques will be a long time coming in Kosovo. Decisive in this respect will be whether or not younger politicians, who exhibit a democratic, citizen-oriented understanding of politics, such as Minister for Education, Science and Technology Enver Hoxhaj, who completed his doctoral studies in Austria, or former chief editor of ZERI, Blerim Shala (currently vice president of the AAK, led by Haradinaj), will be able to assert themselves in their new positions of prominence. The emergence of vigorous and critical civil society structures – which would make it possible to firmly establish important issues, crucial to people's everyday lives, in the public discourse and effectively monitor political decision-makers – is hindered by the fact that, on the one hand, a major part of Kosovan NGOs are largely dependent on foreign finance, and, on the other hand, the government and the other political parties have shown little inclination to take civil society groups

16 »Kosovo's education system continues to be affected by resource and budgetary constraints, a lack of adequate facilities and poor quality of teaching. Teachers' motivation is seriously hampered by low salaries and the inadequate career system.« Commission of the European Communities 2008: 41.

17 By »ethno-nationalism« is meant any political principle or fundamental political position which goes hand in hand with an ethnic and exclusive conception of the nation and aggressively distinguishes one's own nation from others.

18 For example, no woman was included in the negotiating team which went to Vienna to discuss the status process with Ahtisaari and representatives of the Serbian government (Ante 2008: 341).

and representatives seriously and to cooperate with them constructively (UNDP 2008). As a result, the efforts of many committed NGOs – for example, in the areas of women and children rights or interethnic reconciliation – have not had much effect.

4.5 Corruption and Organised Crime

One of the most intransigent obstacles to improving the economic and social situation, as well as a democratic political culture in Kosovo is corruption. For example, at the end of 2007, 74 per cent of the Kosovan population believed that corruption is rampant in the Kosovo Energy Corporation; 61 per cent of respondents alleged corruption in the Kosovo Trust Agency that manages the privatisation process, while 45 per cent suspect corruption in the general administration and almost 40 per cent in hospitals and among doctors (UNDP 2008a: 30).¹⁹ The Anti-Corruption Authority set up by the Kosovan government is powerless against the corrupt practices in which influential members of the Kosovan political class are implicated. Furthermore, corruption scandals keep coming to light involving UNMIK and EU personnel.²⁰

Alongside the corruption that pervades society at every level, organised crime, whose tentacles reach into every sphere, constitutes a huge problem for the independent Kosovo. According to estimates by the Directorate of Organised Crime (DOC), the daily turnover of organised crime in Kosovo amounts to around €1.5 million, corresponding to an annual turnover of €550 million. This represents around one-quarter of Kosovo's Gross Social Product (Institut für Europäische Politik 2007: 53).

Apparently, organised crime is the sole profitable branch of the economy – in which there is cooperation between Albanians and Serbs. Criminal organisations in the Balkans – in particular, Albanians, Kosovans, Serbs and Macedonians, together with Turk-

ish gangs – control the heroin trade in Europe. The Balkans is the transit route for heroin from Afghanistan and, increasingly, from other Central Asian countries; around 90 per cent of the heroin destined for central, western and northern Europe passes through it. According to the European police authorities, Kosovo Albanian gangs play an important role in the organisation and control of drug smuggling routes in the Balkans, as well as the regional and international distribution networks in the surrounding area, for example, in Switzerland, Italy and Greece (UN Office on Drugs and Crime 2008: 58f).

Another very profitable area of organised crime in Kosovo and the surrounding countries is cigarette and petrol smuggling. Regional cooperation, again, is intensive, involving gangs primarily from Macedonia, Serbia and, in particular, Montenegro. Since the end of the war in 1999, there has been an increase in the trafficking of women and girls from South Eastern Europe and the forced prostitution linked to it. An international study on human trafficking in South Eastern Europe – produced jointly in 2003 by the OSCE, UNICEF and the UN High Commission for Human Rights – reports on the increasing number of children and young women abducted to the West as cheap labour and prostitutes. Kosovo is identified in the report as an important target destination and less as a transit country or source location for women and girls (Limanowska 2003: 43f). Even today, in every larger town in Kosovo there are many brothels disguised as cafes and restaurants, which are also frequented by »internationals«. According to the latest reports, the situation here has not improved: »Kosovo remains a source, transit point and destination for trafficking in human beings. It is also affected by internal trafficking.« (Commission of the European Communities 2008: 20).

As already mentioned, the entanglement of structures of organised crime with the political class is a major hindrance to positive future development in Kosovo. Dušan Reljić speaks in this connection of a »nexus between politics and cross-border crime« and the phenomenon of so-called »multifunction persons« who pursue political, economic and criminal interests simultaneously (Reljić 2007: 16f; Mappes-Niediek 2003). In the IEP report mentioned above, the international community's passive policy towards corruption and organised crime is also criticised sharply. It asserts that »in recent years the international community ... has clearly contributed to the stabilisation of local organised crime power structures by allowing leading actors a major say in political and societal reconstruction« (Institut für Europäische Politik 2007: IX).

¹⁹ In the latest study by Transparency International (2009) Kosovo does as badly as the neighbouring countries in terms of the perception of corruption. This report shows clearly that, of all political or state institutions, the judicial system is suspected of corruption on the largest scale. Cf. on perceptions of corruption and crime in Kosovo the study by the Kosovar Stability Initiative (2008).

²⁰ In 2007, internal UN investigations of corruption within the ranks of UNMIK – namely against SRSG Rüdiger, his deputy Steven Schook and the head of UNMIK's legal department Alexander Borg-Olivier – caused a sensation. As a result, Steven Schook left Kosovo in December 2007 and his contract with UNMIK was not renewed (Deda 2008: 320f). In the meantime, Steven Schook has returned to Kosovo and is now a political adviser to AKK leader Haradinaj.

5 The EU in Kosovo

5.1 The EU in Kosovo up to 2007

The EU's original mandate in Kosovo is derived directly from Security Council Resolution 1244. In Point 17 the EU's efforts to contribute to the process of economic development and stabilisation in the region are emphasised. Consequently, the EU was tasked in the first phase of the international intervention – within the framework of UNMIK – with leadership of Pillar IV and so generally with responsibility for reconstruction and the international community's economic aid measures. By virtue of this, the EU, through the European Commission Taskforce for the Reconstruction of Kosovo, the European Humanitarian Aid Office (ECHO) and the European Agency for Reconstruction took on the main financial burden of the reconstruction and stabilisation of Kosovo. The rebuilding of houses, schools and other public facilities was accomplished rapidly and successfully. The establishment of a functioning economy in a context of underdevelopment and lack of infrastructure proved almost impossible, however.

The EU's intervention in Kosovo since 1999 – the aim of which was to assist, not only in the rebuilding of the war-ravaged country, but also in laying the foundations for viable economic development, both in Kosovo and in the region as a whole (as laid down in Point 17 of Security Council Resolution 1244) – has been characterised by a number of strategic defects. Given the EU's enormous financial outlay – 2.3 billion euros between 1999 and 2008 – the reward, in terms of the real effects on the Kosovan economy and its modernisation, has been meagre indeed. The fact that EU aid has been unable to improve the deplorable economic situation in Kosovo decisively is also owing to its mistaken choice of priorities. As in Bosnia, initially the priority was to improve the security situation, while overlooking the development of a clear and consistent economic strategy. This is particularly striking with regard to rural development. Kosovan agriculture, which employs 30–40 per cent of the workforce, was largely neglected. One major omission was support for smaller agricultural operations by means of grants and aid projects, thereby reducing Kosovo's dependence on foodstuffs imported from neighbouring countries. While agriculture and, therewith, the rural population in EU candidate countries, such as Croatia or Macedonia, were able to benefit from subsidies in the context of EU preaccession agricultural aid, Kosovo, which is particularly in need in this respect, was excluded from this aid as it is not a candidate country (cf. Ante 2008:

264f).²¹ All in all, as in the case of UNMIK's state-building and democratisation strategies, economic aid measures have not been sufficiently adapted to conditions and realities in Kosovo and so have not been able to strengthen and to develop local institutions, actors and capacities.

Numerous transgressions and abuses blighted the activities of UNMIK and the EU-led Pillar IV. For example, in the major EU projects – in particular, in the running of the largest electric power station in Kosovo (Kosovo Energy Corporation – KEK), for which the EU has provided more than 400 million euros since 1999 – or the expansion of the airport at Prishtina, millions of euros have seeped away owing to inadequate controls and flagrant corruption.²² The question of the manner of implementation of the privatisation process, which is so important for economic development, progressed slowly and was criticised on all sides. (The Kosovo Albanian side had insisted on the revocation of illegal privatisations carried out during the Milošević period and, at the same time, expected a new boost for economic development from the more efficient running of former state-owned enterprises.) In 2003 and 2004, the privatisation process became virtually a symbol of the misguided policies of UNMIK and the EU. For example, Karl Eide, in his report to Kofi Annan in August 2004, declared: »Privatisation has become a symbolic issue and a sign of unfulfilled promises by UNMIK« (Eide 2004:12). Up to 2008, 551 enterprises were offered for privatisation, 417 of which were in fact privatised (Wittkowsky 2009: 24). The majority of enterprises were sold at below their market value. The new owners, the bulk of whom came from the Kosovan diaspora, did far too little to modernise infrastructure, increase productivity and create jobs in these former state-owned enterprises, so that the expected impetus for the development of the Kosovan economy did not materialise. The Kosovo Trust Agency, which is responsible for privatisation, along-

21 In justification of their inability to provide effective economic aid the international community and the EU have intoned the same old arguments about institutional weaknesses in Kosovo – legal uncertainty, poor administrative capacities, corruption and so on – as a hindrance to the productive use and control of international funds (cf. Ehrke 2003).

22 Investigations by the EU and UNMIK into instances of corruption involving high-ranking EU officials have at best been half-hearted. Recently, for example, the European Parliament conducted an investigation of »suspicious cases of corruption and misuse of EU funds that occurred during the UNMIK administration which failed to issue indictments against suspected officials« (UNMIK Media Monitoring 2009d; Kramer, Džihic 2006: 237ff).

side KEK, which is also run by the EU, has, over time, become the very emblem of a corrupt and inefficient institution (UNDP Early Warning Report 2009b).

A further obstacle to a consistent EU economic strategy in Kosovo was certainly the fact that, owing to the unresolved status issue, the hands of both the EU and the Kosovan authorities were tied with regard to the EU accession process. The deployment of the SAP (Stabilisation and Association Process) Tracking Mechanism instead of full integration in the EU's Stabilisation and Association Process for the Western Balkans was insufficient incentive for the implementation of important reforms and dampened the effect of the EU's conditionality policy. In the absence of progress in the direction of Kosovo's integration in the EU and the EU's poor performance in Pillar IV, the goal of EU accession increasingly became little more than a mirage shaped by the unrealistic expectations and demands of both the population and politicians (cf. Section 5.4).

5.2 From UNMIK to EULEX

The EU began preparations for a new mission in Kosovo in 2006. It was clear from the beginning of the status negotiations that the formal solution of the status issue must be followed by a fundamental reorganisation of the international community's operations in Kosovo and, therefore, those of the EU. According to the international plans, after the declaration of independence UNMIK was to be succeeded by an international mission undertaken by the EU, as detailed in the Ahtisaari plan. The European Union Planning Team Kosovo (EUPTK), established in April 2006, assumed the task of making preparations for the EULEX mission (Official Journal of the European Union 2006).

The report published in July 2006 by Javier Solana and Enlargement Commissioner Olli Rehn, entitled *On the Future EU Role and Contribution in Kosovo*, formulated EU involvement in terms of three components. First, the installation of an EU Special Representative (EUSR) on the model of Bosnia-Herzegovina, who would, at the same time, head the International Civilian Office (ICO), which was tasked with assisting Kosovo in the EU integration process and implementing the provisions of the Ahtisaari Plan (ICO 2009).²³ Second, the definition of the role of EULEX in the

area of the rule of law. In parallel with this, funds were to be made available for Kosovo from the future Pre-Accession Instruments. Third, the EU planned at this time to intensify its activities in Kosovo within the framework of the Stabilisation and Association Process, as well as to prepare concrete steps for a EU accession of Kosovo.

EULEX was conceived as the EU's biggest ever civilian foreign mission and is intended to support Kosovan institutions in the area of the rule of law, and in particular in strengthening capacities in the police, the judiciary and the customs service. The legal basis for the mission was created in a Joint Action resolution of the European Council of 4 February 2008. The establishment of the office of an EU Special Representative was laid down in the same resolution – and Dutchman Peter Feith appointed the first EUSR – which was to implement the EU's policy aims. It was foreseen when Kosovo declared independence that, owing to Belgrade's policy of obstruction and the lack of international and European consensus on the question of recognition, it would be extraordinarily difficult to put the new mission into operation. As a consequence, the EU – similar to UNMIK in the first phase of its mission in summer and autumn 1999 – was much too passive. For example, between mid-February and mid-June 2008 the EU issued no statements and merely reacted to decisions taken by the UN Secretary-General. The EU manifestly underestimated the lack of political consensus – a condition of the establishment of the EULEX mission – both in Kosovo and Serbia, as well as in the UN Security Council (International Crisis Group 2008a: 3, 11).

5.3 »Reconfusion« instead of »Reconfiguration« – Initial Dilemmas of the New EU Mission in Kosovo

One fundamental difficulty facing the EULEX mission from the outset was the fact that the »reconfiguration« of UNMIK – in other words, the reduction of personnel of the UN mission and the redistribution of tasks and competences with EULEX in the transitional period – was only vaguely conceived and above all suffered from a lack of legal clarity. An editorial in the Kosovan newspaper *Kosovo Sot* hit the nail on the head when it asserted that what was going on was less a »reconfiguration« than a »reconfusion« (UNMIK Media Monitoring 2008a). A legal basis for the replacement of UNMIK and the installation of EULEX could have been established only with a new mandate from the UN Security Council. In the face of vehement Serbian protests against a new UN man-

²³ By the end of 2008, the ICO was to have a staff of 300. According to the ICO homepage, there are currently (June 2009) 102 national and 64 international employees within the framework of the Mission.

date for EULEX, which in Belgrade's eyes would render Kosovo's independence definitive and irreversible, as well as support for Serbia's position from Russia in the Security Council, no compromise could be reached, despite the efforts of Secretary-General Ban Ki Moon. This resulted in legal chaos, which more or less jeopardised to all previous plans, strategies and concrete preparatory steps on the part of the EU Planning Team for Kosovo.

In May and June 2008, an attempt was made in the course of intensive negotiations within the EU and with Serbia and Prishtina to work out a »status neutral« transition model (Secretary-General Ban Ki Moon) as a compromise solution, according to which UNMIK and EULEX would function in parallel for a while. An option was sought on the basis of which – as demanded by Serbia and Russia – Resolution 1244 would remain in force, but EULEX would, within the framework of UNMIK's mandate, take over the central role as a »Rule of Law Mission«. The confusion concerning the reconfiguration of UNMIK continued in summer 2008. In the UN Secretary-General's report to the Security Council of 12 June 2008, and in the accompanying letters to the Serbian and Kosovan presidents Tadić and Sejdiu, the contours of the later »Six-Point Plan« were already outlined and the new UN strategy was formulated: »The European Union will perform an enhanced operational role in the area of the rule of law under the framework of resolution 1244 (1999) and the overall authority of the United Nations. The European Union will, over a period of time, gradually assume increasing operational responsibilities in the areas of international policing, justice and customs throughout Kosovo« (UN Security Council 2008b: 4).

The organisational chaos to which this gave rise found expression in the fact that Pieter Feith, on the one hand, as International Civilian Representative (ICR) was supposed to support and implement Kosovo's independence and the Ahtisaari Plan, and on the other hand, as EU Special Representative (EUSR) was supposed to be »status neutral«. »[I]nstitutional confusion in Kosovo has eroded a clear sense of the priorities of external assistance« (Martin 2009: 9). Since the EU pillar was the only part of UNMIK to be concluded within the scheduled 120-day deadline – on 28 June 2008 – there was no orderly handing over of its tasks to EULEX. In the end, therefore, neither the Kosovan government nor the UN and the EU were in a position to adequately take over the economic tasks performed so far by the EU pillar (Wittkowsky 2009: 22).

After the Security Council session on 26 July 2008, at which, once again, no compromise could be

achieved on the question of restructuring international operations in Kosovo, a tacit agreement was reached between the official UN representatives, the EU member states and the USA, despite the continuing legal uncertainty, to make a start with the reorganisation or dismantling of UNMIK. Meanwhile, the so-called »operationalisation phase« of EULEX began, with the dispatch of staff and their induction and, at the same time, the reduction of UNMIK personnel.

In the second half of 2008, there was a decisive turning point and a blatant »deal« between the EU and the USA and Serbia. Belgrade, which was itself pursuing a dual strategy of rapprochement with the EU and simultaneous rejection of Kosovan independence, vehemently resisted the replacement of UNMIK by an EU mission, which would operate on the basis of the independence of Kosovo and its new constitution, based on the Ahtisaari Plan. In tough negotiations with the UN and the EU member states, Serbia managed to push through its idea of a status neutral EU mission, in parallel with a continuing, albeit reduced, UNMIK presence. In November 2008, the UN Secretary-General presented the so-called »Six-Point Plan«, which provided for a »status free« role for EULEX and the extension of Resolution 1244 in the Security Council. Under this plan, the protection of the rights of Kosovo's Serbian population with regard to policing, customs, justice, transport, infrastructure, the borders of Serb communities and Serb Orthodox religious heritage was transferred to the Serbian government.

The Kosovan government was not included or consulted in the decision-making process. Prime Minister Thaçi and President Sejdiu remained absolutely passive in this situation, certain in the belief that they had the full support of the USA, so that the compromise with Serbia and the change in Washington's stance took them completely by surprise. The government in Prishtina must have seen the Six-Point Plan as an acceptance of the de facto division of the country and a direct attack on the integrity of the new state, but reacted much too late to Serbia's indisputable political and diplomatic success with its own »Four-Point Plan«. This rather vague plan – in which it was emphasised that the Kosovan government insisted that EULEX would operate on the basis of independence and the new Kosovan constitution and also would cooperate closely with the USA, the EU and NATO (UNMIK 2008b) – did find its way into the UN Report of 24 November 2008, at the insistence of the USA. But this did nothing to change the fact that actual interaction between UNMIK and EULEX would take place on the basis of the Six-Point

Plan. At the end of November 2008, a coalition of NGOs and other representatives of civil society organised two large, peaceful demonstrations against the Six-Point Plan and the ineffectual, irresolute policy of the Kosovan political authorities, attended by more than 40,000 people.

The Six-Point Plan enabled the EU to save face diplomatically and to forge ahead, after the initial legal chaos, with setting up the EULEX mission, which officially commenced on 9 December 2008. The USA backed the about-turn in Western policy towards Kosovo. US Vice President Joe Biden explicitly confirmed this »realistic turn« in the Western Kosovo policy in the course of visits to several capital cities in the Western Balkans in May 2009, declaring that both sides in the Kosovo issue should adopt »more realistic expectations« and that the USA no longer expects that Serbia will recognise Kosovo's independence, at least in the near future. From Washington's point of view, Serbia's EU accession should not be dependent on its recognition of independence, but the USA expected Serbia to adopt a cooperative approach in Kosovo (and also in Bosnia and Herzegovina) (UNMIK Media Monitoring 2009b,e).

As might be expected, there are widely divergent answers to the question of whether or not the Six-Point Plan, with its far-reaching concessions to Serbia, is really the optimal strategy for the EU and the West to get things moving, both diplomatically and politically, on the Kosovo question and to make the EU mission work. Representatives of the EU and the USA regard the Six-Point Plan as an awkward compromise, but also as the only way of giving the EULEX mission a chance to actively help the people of Kosovo in their efforts towards a better economic and political future. However, Kosovans, the government in Prishtina and representatives of Kosovan civil society have sharply criticised the new strategic arrangement between the EU and the USA, on the one hand, and Serbia and Russia, on the other, as backtracking on their support for independence and a betrayal of the principles which led the international community to intervene in Kosovo in the first place. For example, a newsletter published by the very popular political movement *Vetënvendojse* (Self-Determination) after the visit by US Vice President Joe Biden declared: »In the name of preserving stability, Serbia was given by the US and EU the instruments and power to undermine Kosova's sovereignty and territorial integrity as well. Now, in the name of stability, neither the US nor the EU is willing to use any leverage against Serbia« (Movement for Self-Determination 2009). In practice, however, the Kosovan government has taken no further steps to substantiate

its own Four-Point Plan and to lobby for it at the UN. Their strategy still seems to be to continue to implement the provisions of the Ahtisaari Plan in the Albanian populated areas, de facto simply to ignore UNMIK and to sharply criticise Belgrade's policy in the north of Kosovo.

5.4 EULEX's First Six Months

Since spring 2009, when EULEX began to exert a stronger influence and UNMIK, which is now boycotted almost completely by Kosovo Albanians, began to be scaled down, the new institutional arrangements seem gradually to be sorting themselves out. In terms of *realpolitik*, UNMIK is increasingly marginalised and plays a role only in the Serb-dominated north. UNMIK's representation of the Kosovan government at international conferences, which the government is not authorised to attend as a full partner, owing to the opposition of Serbia and Russia, is perceived as an affront by Prishtina and sharply criticised. As far as the Kosovo Albanians are concerned, in practice they no longer cooperate with UNMIK and the government is calling on the UN to wind up the UNMIK mission as soon as possible. Prime Minister Thaçi and President Sejdiu have refused even to hold talks with UNMIK head SRSZ Zannier since spring 2009. Meanwhile, support for the UNMIK presence among the Kosovan population has sunk to an all-time low of 16 per cent (UNDP 2009a:1).²⁴ UNMIK personnel had been reduced to 507 by June 2009, around 150 of whom have so-called »substantive roles« (UNMIK Media Monitoring 2009h).²⁵ Of the 3,329 people employed in the area of the »Rule of Law«, all but 22 have been dismissed, although many of them have been taken on by EULEX and, to some extent, even by OSCE – former UNMIK staff seem to have found it difficult to part with their privileged positions and exorbitant salaries in Kosovo.

EULEX reached full operational strength on 6 April 2009. The Mission is led by French general Yves de Kermabon, KFOR commander between September 2004 and August 2005. As of 31 May 2009, there were 2,569 people in the EULEX deployment, 1,651 of them internationals and 918 locals (UNMIK 2009). Alongside the personnel from EU member states,

²⁴ Separate data are not available on Kosovo Albanians and Kosovo Serbs, but the latter view UNMIK much more positively, while UNMIK's approval rating among Kosovo Albanians may even be significantly lower (at around ten per cent).

²⁵ The 507 UNMIK staff include those working at the UNMIK bureaus in Belgrade and Skopje.

there are also persons representing countries outside the EU (Croatia, Norway, Switzerland, Turkey, the USA). With its three units – the police component (the largest in terms of number of staff), the judicial component and the customs component – EULEX aims to perform the tasks laid down for it in the Council document of 4 February 2008, namely to »monitor, mentor and advise the competent Kosovo institutions on all areas related to the wider rule of law (including a customs service), whilst retaining certain executive responsibilities« (Council Joint Action 2008). The first report on its operations in Kosovo, dated 31 May 2009 and debated in the Security Council on 17 June, details EULEX's activities so far (Secretary General 2009: Annex 1). On balance, the EU's Rule of Law mission has enjoyed only modest success during its first six months. For example, in the report on EULEX's performance it is mentioned that, in April and May, EULEX police units intervened alongside UNMIK and KFOR in North Mitrovica (see Section 4.1). Furthermore, at the end of May 2009 EULEX was able to re-establish control of border crossings to Serbia in the north, based on an arrangement with Belgrade (UNMIK Media Monitoring 2009e).²⁶ In fact, Serbia had every reason to want to put an end to the illegal trading in northern Kosovo, together with the criminal activities that go hand in hand with it, owing to its enormous revenue losses. As far as judicial matters are concerned, the Report records that EULEX judges had commenced holding sessions in the District Court House in North Mitrovica and that two war crimes cases had been concluded. This rather threadbare account also mentions that EULEX judges had made a start with hearing civil cases dealing with interethnic property disputes. To summarise: »Through monitoring, mentoring and advising the rule of law institutions in Kosovo, EULEX built up a picture of the competence of those authorities, and identified areas for further targeting of reform efforts« (*Der Standard* 2008).

Considering the fact that, according to EULEX's report on its first six months, UNMIK had passed on to it more than 400 unresolved cases which had remained in limbo for years – although, according to the testimony of Norwegian jurists, the number of cases which UNMIK failed to conclude was far in excess of 1,000²⁷ – and that the Kosovan justice system, in the estimation of numerous international audit reports (US Department of State 2008; Commission of

the European Communities 2008: 13),²⁸ is one of the country's principal weak points (and also judged to be such by the population) the question arises of whether, given the prevailing political conditions, the strategies and methods adopted by the EU mission ever really had a chance of realising its central task, namely the consolidation of the rule of law by strengthening the judicial and criminal prosecution authorities in Kosovo. EULEX is operating exactly like UNMIK – which, after almost ten years and with more than twice as many staff as EULEX, had little to show for its efforts to establish the rule of law in Kosovo – with a staff of international judges and police officers on short-term contracts and with lucrative foreign allowances, who are coming into a country with whose culture and language they have only a passing acquaintance based on superficial induction courses. The international judges, who have to rely on interpreters and translations of court transcripts and documents from Albanian and Serbian, are confronted in Kosovo not only with an administration of justice that is extremely chaotic, but also with three different legal systems. For example, in the Serb areas the courts still apply Serbian law and continue to be paid by Belgrade. It goes without saying that the cooperation between the extraordinarily well-paid EULEX jurists and local judges and public prosecutors, who receive around 200 euros per month – Kosovan legal personnel have not had a pay rise since 2002 – does not always go smoothly or is based on mutual trust. Finally, mention must be made of the new EU mission's reluctance, like that of UNMIK before it, to take decisive measures against corruption and organised crime, without which no judicial reform will be possible in Kosovo. The report on EULEX's first six months fails even to mention the drugs trade or the trafficking of women and children.²⁹

Closer scrutiny of the objectives, the legal mandate and the activities of the new EU mission gives rise to the rather sobering realisation that, in essence, it is a continuation of UNMIK policy. Kosovo expert Verena Knaus expresses the situation rather trenchantly: »You don't establish the rule of law just by former UN po-

26 For more details on the Serb protests in the north against the restoration of customs, see UNMIK Media Monitoring 2009g.

27 See the detailed documentation available at: <http://www.dontinvestinkosovo.com> (accessed on 8 July 2009).

28 In May 2009, a detailed analysis of work in four district courts and seven local courts was published: see Balkan Investigative Reporting Network 2009.

29 A report published by the US State Department in June 2009 on human trafficking declares: »Kosovo continues to be a source, a transit country and a destination for trafficking of women and children for sexual purposes«. The Kosovan government is condemned in this report for its unwillingness »to launch adequate investigations, and prosecute the traffickers, for failing to address trafficking-related corruption and for failing to identify the victims« (US Department of State 2009).

lice officers swapping their light-blue [UN] berets for dark-blue EU ones» (Wöfl 2009). Albin Kurti, spokesperson for Vetëvendosje, is even more critical: »EULEX has the same cars, the same headquarters and many of the same staff as UNMIK and it is founded on the same legal basis as UNMIK. Not surprisingly, EULEX's employees are, like UNMIK, already demonstrating they believe they are above the law – here to implement it for us, but not for themselves«. ³⁰ An increasing number of critical voices are arguing that, given the dubious effectiveness of the international judicial and police apparatus established by the EU, the millions of euros involved could be spent much more wisely and effectively, for example, on better pay for Kosovan judges and public prosecutors or KPS police officers and, above all, on meaningful reform of education and health care, which are in dire financial need. The EU – but also the OSCE, which still has a large staff (800)³¹ dealing with the protection of minorities and election supervision³² – would be well advised to instigate a fundamental and public review of their priorities and specific operations as soon as possible and on the broadest possible basis, above all with the inclusion of representatives of Kosovan civil society.³³ A report by the European Stability Initiative on the activities and fundamental strategy of UNMIK and the EU in 2006 declares that: »(b)oth the citizens of Kosovo and the European taxpayer deserve better than a set of policies that are failing and bound to fail in the future« (European Stability Initiative 2006).

5.5 Does Kosovo Have a European Future?

The Stabilisation and Association Process (SAP) is one of the central components of the EU's strategy to stabilise the countries of the Western Balkans by gradually bringing them into the EU, one by one. However, the continuing refusal on the part of five EU member states to recognise Kosovo's independence has so far

prevented the EU from integrating the independent Kosovo into SAP, which would bring the prospect of EU membership a little nearer for Kosovans.

Another obstacle standing in the way of EU integration for Kosovo is the »enlargement fatigue« in the EU itself, which has intensified since the Irish no-vote on the Lisbon Treaty and the EU's continuing failure to live up to the Thessaloniki Agenda of 2003. »The promises of Thessaloniki have remained mainly a pipe dream«, according to Vessela Cherneva, who also called for a stronger commitment on the part of the EU to speed up the accession process for the countries of the Western Balkans (Tcherneva 2008: 25). The events surrounding recognition of Kosovo and the EU's difficulties both in and with Kosovo over the past few years show that the deployment of EU »soft power« alone, together with the vague promise of EU membership in the distant future, is no longer sufficient to get regional development moving.

Of course, it is up to the EU how Kosovo's accession process goes forward, but a change in Serbia's policy towards Kosovo is also needed. It is clear that, 18 months after Kosovo's declaration of independence, EU promises to expedite Serbia's integration in the Union will not suffice to persuade the Serbian government to make concessions. In our view, it is not enough to artificially separate a change in Serbian policy on the Kosovo question and Belgrade's EU accession process on the political level. EU policy will have to be substantially revised in a number of areas. That applies above all to membership prospects: »The EU will also need to be creative in finding a way to keep the accession machine moving forward for both Kosovo and Serbia, irrespective of the Kosovo stalemate« (Sebastian 2009: 5). At present, Kosovo is the only country in the Western Balkans which has not yet signed a Stabilisation and Association Agreement (SAA) with the EU. As a first step, within the EU, towards the intensification of Kosovo's EU integration process and the commencement of SAA negotiations a pragmatic strategy should be found for dealing with the five member states which have so far refused to recognise Kosovo's independence. One solution might be a Twin-Track Accession Process,³⁴ which would provide Kosovo with the possibility of making more rapid and effective progress in the direction of the EU, irrespective of the recognition dilemma. In the meantime, the EU should urge the Kosovan political authorities to step up implementation of the

³⁰ Kurti is referring to the fact that EULEX personnel, like their UNMIK predecessors, enjoy legal immunity in Kosovo.

³¹ The OSCE is currently working on a new action programme for Kosovo, under pressure from the USA, which is also urging a significant scaling back of OSCE personnel.

³² After protracted quarrels between the government and the opposition the date of the next local elections was fixed by President Sejdiu for 15 November 2009.

³³ At a meeting of the International Steering Group for Kosovo (ISG), which was held on the first anniversary of parliament's adoption of the Kosovan constitution, it was announced that »the ISG is expected to review the competencies of the International Civil Representative in a meeting that will be held in February 2010« (UNMIK Media Monitoring 2009j).

³⁴ Like the one applied between 2003 and 2006 to the loose federation of Serbia and Montenegro, when the two individual entities conducted separate negotiations with the EU.

priorities arising from the European Partnership with Kosovo.

However, the biggest obstacle to softening Serbia's uncooperative attitude on the Kosovo question is EULEX's policy towards the Serb populated north. As we have seen, the authority of the Kosovan government is still not recognised in the north. Neither UNMIK nor EULEX have so far been able to do anything about the de facto partition of Kosovo. Current EULEX policy amounts to a gradual depoliticisation of central areas of conflict and an attempt by means of practical arrangements on the ground – for example, on the question of establishing customs borders – to calm and »juridify« the situation in the north. The stalemate can be broken in the medium to long term only by means of a clear EU policy towards both Belgrade and Prishtina. Since EU membership represents a key political objective for Serbia but making the accession process conditional on recognition of Kosovo's independence is politically out of the question, efforts to make any further progress by Belgrade towards EU membership dependent on cooperation with EULEX and direct dialogue with the Kosovan government must be much more resolute than hitherto. Serbia must be induced to take concrete steps in that direction, which, ultimately, would be very much in its interest. A decisive area for future cooperation between Belgrade and Prishtina is the controversial process of decentralisation. At the same time, Prishtina should also be urged to engage in dialogue with Belgrade on practical matters.

Any EU success will ultimately depend – and this has been pushed very much to the periphery of public attention in EU countries owing to the concentration on diplomatic conflicts between Prishtina and Belgrade and the difficulties concerning the EULEX mission's legal mandate and organisational arrangements since the declaration of independence – on substantial economic and social progress. A crucial role in this will be played by how and by what means and strategies the EU supports the Kosovan government in order to defuse the »ticking bomb« of unemployment and poverty.

Despite the lack of unity concerning recognition of Kosovo's independence the EU must find a modus vivendi if it is to avoid leaving Kosovo a »visa ghetto land« in the process of visa liberalisation for the Western Balkan countries, managed in Brussels. While, during the past few weeks, Serbia, Montenegro and Macedonia have harvested the fruits of their efforts to meet the conditions laid down by the European Commission for the lifting of the visa obligation (»road map«) and from the beginning of 2010 will enjoy freedom of travel, Kosovo was not even taken

into consideration in the Commission's assessment (UNMIK Media Monitoring 2009f,i; European Stability Initiative 2006).

With the very real danger that Kosovo will be the only country in the Western Balkans excluded from the envisaged visa liberalisation,³⁵ the profound contradiction in the EU's Kosovo strategy, of which the decision-makers in Brussels and the member states are unaware, becomes clear: the discrepancy between the enormous aid effort, in terms of both resources and personnel – millions of euros for EULEX, which at present is more, as one diplomat in Prishtina put it, of »a face-saving exercise for the EU than an effective rule of law mission« (Mayer 2008: 95) – and the refusal to consider measures towards opening up EU markets to Kosovan labour and to take a public stand to that effect. Andreas Wittkowsky talks of the »absurdity of European development policy ... pouring millions into the country, while at the same time keeping the borders closed to all those whose labour could contribute to development. Since the end of the war, the Europeans have barred the door to immigrants from the Balkans who, a few decades ago, could still find a welcome as guest workers, even in Germany. Tens of thousands of Kosovo Albanian refugees were ... sent home. In this context, short-term contracts or the opportunity for seasonal employment in the richer parts of Europe could be of great benefit to Kosovans« (Wittkowsky, cited in Tenbrock 2008).

Be that as it may, considerable aptitude in the skills of *realpolitik* will be required in order to obtain the agreement of all 27 member states on Kosovo's next steps on the road to EU accession. The EU's institutional dilemmas, the difficulties arising from the consequences of the global economic crisis and the current lack of agreement in most EU countries on an active enlargement policy decisively narrow the EU's room to manoeuvre in Kosovo. Policy-makers in Brussels and the governments of the member states must be willing – and here independent academics and, above all, representatives of civil society in the countries concerned should be listened to – to break with previous policies on Kosovo, which were mainly reactive and confined to the diplomatic and technocratic level.³⁶ To that end, efforts must be made to »identify

35 In June 2009 the EU Enlargement Commissioner, Olli Rehn, announced that it is planned, within the framework of the Swedish presidency in the second half of 2009, to seek a way forward for visa liberalisation or exemption also for Kosovo. (UNMIK Media Monitoring 2009I).

36 See the critique of »technocratic attentism« in the international community's Kosovo strategy in Džihic, Kramer 2006: 261 f.

priorities« and, on that basis, to »formulate coherent policies« (Katsioulis 2008: 12) in order to make sure that Kosovo does not remain an »isolated poorhouse in Europe« (Robelli 2009).

6 Recommendations

1. Since EU membership represents a key political objective for Serbia, efforts to make any further progress by Belgrade towards EU membership dependent on cooperation with EULEX and direct dialogue with the Kosovan government must be much more resolute than hitherto. The Serbian government must be induced to take cooperative measures in the areas of security and the rule of law and in combating organised crime, as well as concrete steps and compromises on the question of decentralisation. In a long-term perspective, the development of dialogue on important political issues, to which the government in Prishtina also has a substantial contribution to make, could be strengthened and safeguarded above all by the common interests of Serbia and Kosovo in bilateral and regional economic integration.
2. EULEX's meagre achievements so far point to a need for structural changes in personnel policy, such as longer-term contracts and well trained staff, but above all for consideration of measures and strategies which might improve the lives of the Kosovan population: the enormous expenditure on the Rule of Law Mission should be made proportionate to investments directed towards clear improvements in Kosovo's economic and social situation. Alongside massive investments in education and health care, there should be targeted direct investments in SMEs and agriculture in order to reduce Kosovo's foreign dependence to a sustainable level and to create economic and social foundations which would be able to defuse the »ticking bomb« of high unemployment and poverty in large sections of the population.
3. EULEX must work out and implement an active and concerted strategy to counter the organised crime and excessive corruption that is rife in Kosovo and the region as a whole. Effective control of privatisations and investments in major projects must ensure that funds do not, as hitherto, seep away into dubious channels. Here, too, there must be a resolute investigation of corruption among the »internationals«, with demonstrable results and consequences in order to restore the credibility necessary for the acceptance of international organisations by the Kosovan population.
4. The success of EULEX and the other international actors in Kosovo will depend strongly on the extent to which Kosovo's prospects of EU integration become more tangible. As things stand, Kosovo is the only country in the Western Balkans which has not yet signed an SAA with the EU. The first step in an intensification of the EU integration process and the commencement of the SAA negotiations should be – already during the Swedish presidency – to find a pragmatic strategy for dealing with the five EU member states which refuse to recognise Kosovo's independence. One solution might be a Twin-Track Accession Process, on the Montenegrin model, which would provide Kosovo with the possibility of making more rapid and effective progress in the direction of the EU, irrespective of the recognition dilemma. The opening up of Kosovo's EU prospects must go hand in hand with a solution of the visa question, as well as strategies for managing the high emigration pressure in Kosovo.
5. EU policy in Kosovo is, to a large extent, reactive and – as the deal with Serbia on the status question shows – determined primarily by the aim of maintaining stability in the region. Decisions are taken by a small group of politicians and diplomats, with the general public largely kept in the dark. Given the immense costs of the EU mission in Kosovo and the extremely meagre results of the first phase of operations, there should be, a year after the commencement of EULEX's intervention (December 2009), a politically binding evaluation of the mission's strengths and weaknesses. Representatives of Kosovan civil society and independent academics should also be included in this evaluation process, alongside the European Commission, the European Parliament, OSCE, KFOR and the Kosovan government.

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