

Kosovo's State-building: Exceptional Case in International Political Practices

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Abstract

This paper analyzes Kosovo's state-building and its exceptionality compared to other countries. Its independence was conducted under international supervision through specific political implementing mechanisms. In terms of stability and peace, NATO installed the KFOR mission in Kosovo, and UN the UNMIK mission after the 1999 war. The Ahtisaari Plan, commissioned by the UN, is embodied in the Kosovo's Constitution. ICO was in charge to ensure its implementation, while ISG was responsible to monitor Kosovo's self-proclaimed independence. Recently, the European Union established EULEX to enforce the rule of law in Kosovo. Its political and legal model is "sui generis" and produces a unique phenomenon in international relations, incorporating foreign political elements inside the domestic constitutional order.

Keywords: State building, Coordinated Independence, New International Institutions.

Introduction

The paper has an academic importance as could explain modern concepts of state-building as in the case of Kosovo. Kosovo's independence and state building process is unique in comparison with the historical practices; Kosovo's statehood derives from a history of struggle for freedom, war as a result, and international intervention (NATO, UN) to ensure peace. Kosovo's state building has special political and legal character regarding international political circumstances, since it blends local constitutional framework with international bodies; this coexistence is exceptional. This research will crystallize special relations between Kosovo and international supervisory mechanisms of its independence (ISG, ICO) that derive from the Ahtisaari Plan which is a part of the Kosovo Constitution.

The research question is quite specific and new to social science; academic treatment of this phenomenon may produce mater that will be explored by future researchers. Today, Kosovo is a democratic state with constitution which integrates universal human principles and applies high standards of minority rights and freedoms. The international community in Kosovo

oversees the implementation of multi-ethnicity, and the protection of minorities as a prerequisite for functional state.

The birth of Kosovo state and international recognitions

Kosovo's declaration of independence on February 17, 2008, marked an important date in the political journey of the newly state. Shortly before 15:00 pm, 109 members of the Assembly of the Republic of Kosovo gathered in the assembly hall to attend solemnity of declaration of independence. After the vote on the agenda by MP's, Kosovo's Prime Minister Hashim Thaci came to floor and read the Declaration of Independence in which Kosovo was declared independent and democratic state. The Declaration of Independence is the answer of the people's call to build a society that honors human dignity and affirms the pride and purpose of its citizens, while protecting and promoting the diversity of the people. As stated in the declaration, Kosovo is declared a democratic republic secular and multiethnic, led by the principles of non-discrimination and equal protection under the law, and accepting full obligations contained in the Ahtisaari Plan - obligations which will be incorporated in the constitution. In the declaration, Kosovo welcomes the continued support of the international community for established democratic support through international civilian presence, which will supervise the implementation of the Ahtisaari Plan. The declaration states full cooperation with these presences to ensure peace, prosperity, and stability in Kosovo. Kosovo will adhere to the principles of the United Nations Charter, the Helsinki Final Act, and other acts of OSCE, and the international legal obligations and principles of international community that mark the relations among states, respecting the sovereignty and territorial integrity of all its neighbors. Through the Declaration of Independence, Kosovo takes its international obligations including those achieved by the Mission Interim Administration of the United Nations in Kosovo (UNMIK) and treaty obligations and other obligations of the former Socialist Federal Republic of Yugoslavia, including the Vienna Conventions of Diplomatic and Consular relations. The statement noted the efforts to contribute to good neighborly relations and cooperation with the Republic of Serbia, while promoting reconciliation among peoples (Kosovo, 2008).

Immediately after the declaration of independence, Kosovo was internationally recognized as an independent state from U.S, United Kingdom, France, Turkey, Albania, Afghanistan, Costa Rica, to continue with Australia, Senegal, Latvia, Germany, Estonia, Italy, Denmark, Luxembourg; today officially/unofficially it marks 111 recognitions (kosovothanksyou.com). Kosovo's declaration of independence has been described as 'coordinated independence'

meaning a new concept of state formation appeared for the first time in history (Renata, 2007). If you refer to the International Public Law (IPL), we see that IPL recognizes the principles of subject in international law; subject who owns the rights and obligations in international level. This means that IPL recognizes only the entity which is part of the international system under the rule of IPL (Elena Andreewska; Azizi, Abdulla, 2008). Due to the imperfect nature of IPL, there isn't any legal clarification when an entity meets the requirements to be a state, or not! Current IPL principles deal only with appearance (birth) of state, the moment when state is actually present. This moment is taken as the starting legal situation, and it does not matter how this state was founded, if it has been created in accordance with the existing legal order, or international one (Zejnnullah, 2009). The firm document on which Kosovo's statehood could be based is "Montevideo Convention" on the rights and obligations of states, which in Article I says:

"The state, as a subject of international law should possess the following qualifications:

a) A permanent population;

b) A defined territory;

c) Government;

d) Capacity to enter into relations with other states (Elena Andreewska; Azizi, Abdulla, 2008, p. 33)"

The reaction of the United Nations (UN) on the occasion of the Kosovo's declaration of independence was silent; even though at that time Kosovo was administered by the United Nations Mission in Kosovo (UNMIK), operating under the full authority of resolution 1244 of UN Security Council. The UN authorities didn't decline the Kosovo's declaration of independence, even though they were supreme authority in Kosovo since the Special Representative of the Secretary General as head of UNMIK was the most senior international official in Kosovo. He enjoyed maximum civilian executive powers envisaged and provided by UN Security Council Resolution 1244 (1999), and is the final authority on interpretation of them (General, 1999). To remind the reader that UN had authorized UNMIK mission to protect the fundamental human rights proclaimed by the "Universal Declaration on Human Rights in 1948 (Charter of the United Nations)".

Three Montevideo principles were fulfilled after Kosovo's independence, while fourth principle was fulfilled in May 2009 when Kosovo was accepted in CEFTA; and June 29 in World Bank (WB) and International Monetary Fund (IMF). Interesting statistic is reflected with countries that have recognized Kosovo's independence, and their composition within various international organizations; out of 192 UN countries 111 have recognized Kosovo as an independent and sovereign state, that percentage falls around 57.51% of total UN members, then 3 out of 5 states of the UN Security Council which is about 61.05%. Another statistic shows that 23 of the 27 European Union (EU) countries have recognized Kosovo that percentage falls to about 82.14%. And 24 of the 28 states of the NATO have recognized Kosovo state that percentage translates to 85.71%. Analyzing these percentages we can easily conclude that Kosovo has won qualitative recognitions (powerful countries), and in the practices of international relations and diplomacy, this political acceptance means the strengthening of the subjectivity in international level.

The political organization of the Republic of Kosovo

The Republic of Kosovo is characterized as the new parliamentary republic with a president who has a unifying role and considered political authority defined by constitution. Kosovo has a strong government elected in a democratic vote. Kosovo President is head of state and represents the unity of citizens. The executive is vested to the Prime Minister and the relevant ministers. The Prime Minister is also the head of government, ministers and deputy ministers of state. Judicial and prosecutorial system is independent in its functioning and is constructed from: the Supreme Court of Kosovo, the Kosovo Judicial Council, the State Prosecutor, Kosovo Prosecutorial Council and Advocacy. The Constitutional Court is the final authority on the interpretation of the Constitution, while legislative authority is distributed between Assembly (adopts laws) and the Government of Kosovo (which proposes laws). Kosovo's local administration is composed of 38 municipalities.

International Institutions (NATO, UN) in the Republic of Kosovo and their history

The Albanian-Serbian conflict has its roots in the early history from Conference of Ambassadors in London 1912; disestablishment of Kosovo's autonomy by Milosevic regime in 1974; students protest in 81-86, and War and persecution of the civilian population in 1999. Many international diplomatic forces were advocating solving this war; starting from the peace conference in Rambouillet; to the initiatives of U.S. envoy Holbrooke (Weller,

2009). Unfortunately all these efforts failed, and cleansing conducted by Serb forces couldn't be stopped! Earlier on February 06, 1999 parties met in Rambouillet (France), at the international community's efforts to stop the fighting and ensure peace. On 18 March Kosovo side acknowledged the Rambouillet Agreement, while Serbian side rejected it. Serbs accounted that NATO will not have courage and undertake any military attack against Serbian targets, but their calculations went wrong. On March 24, 1999 NATO began military action against Serb targets; the action lasted 78 days in a row, and forced Serbian forces to sign "Kumanovo Agreement" and withdraw from Kosovo. Western countries agreed that something had been undertaken in order to stop the bloodshed and genocide on European soil, in this context NATO intervention was the only rational decision, and had a vital character. Emphasizing the growing importance of human subjectivity in international law as the indisputable, arguments in which western countries were called were numerous, ranging from:

a) *United Nations Universal Declaration on Human Rights (1948)* (Charter of the United Nations, p. Preamble)

b) *European Convention on Human Rights and the rights and fundamental freedoms* (Europe, 1950, p. Article 2).

c) *Convention (IV) relative to the Protection of Civilian Persons in Time of War* (ICRC, 1949, pp. Article 3, no 1).

So, the international norms don't recognize the right of government to rule a population with repression and against its will, and violate human rights as result of repression. But, on other hand UN Charter of 1945 in article 2/4 bans the use of force against territorial/political integrity, and independence of any country; an argument that Serbia referred before NATO intervention. Blending these controversial principles come the "Kumanovo Agreement" was reached on 09 June 1999 by Yugoslav Army/Police commanders Svetozar Marjanovic and Obrad Stevanovic, and General Michael Jackson NATO representative; agreement envisioned entrance of 30,000 NATO soldiers in Kosovo to stop the conflict and maintain peace. Since agreement was signed by Military Generals it is binding for their mother countries, since according to IPL if Generals reach agreements of peace, these agreements are automatically binding for respectful country! Shortly after the agreement was signed it opened the possibility of the NATO (KFOR) deployment on June 10, 1999.

Immediately after NATO, on June 10, 1999 the UN endorsed the start of its mission in Kosovo known as UNMIK (The United Nations Interim Administration Mission in Kosovo). The mandate of UNMIK was to help Kosovo to restore normal and peaceful living conditions under resolution 1244, simultaneously ensuring return for all refugees and displaced persons to their homes. The UNMIK was organized and oversaw the development of the Provisional Institutions of Democratic Self-Government (PISG) until a political settlement (UNSCR, 1999). UNMIK was organized in four columns (Pillars), both of which were led by UN, one by OSCE and other by EU. The four pillars of UNMIK accounted for: police and judiciary, the civil administration, democratization and institution building (OSCE), and reconstruction and development (EU). UNMIK plans to hand over authority to the EULEX mission failed as a result of Russian opposition to the Kosovo's unilateral declaration of independence, so the Secretary General of UN Ban Ki-moon decided to reconfigure UNMIK for a temporary period. According to some articles, UNMIK will give way to the upcoming EU mission in the regions of Kosovo Albanians majority, and keep some control in the northern part of Kosovo inhabited by Serbs (Tribune, 2006). UNMIK mandate is still ongoing and it's not determined when it would finish, as it will require cancellation of 1244 UN resolution! These international missions' acknowledge Kosovo's exceptionalism in its political and legal buildup; making Kosovo's state building unique compared through political timeline of other states.

Kosovo's State Building: Exceptional Case in International Political Practices

Widely accepted form of political organization in the world is state – nation, often seen as the only legitimate unit of political rule. Until the Declaration of Independence, and the adoption of Constitution, Kosovo was ruled by a constitutional framework based on UN Resolution 1244 which allows the Provisional Institutions of Self-Government (PISG) certain powers reserved to the Special Representative of the Secretary General of United Nations. The basis for the establishment of UNMIK was Resolution 1244 of the Security Council of the United Nations, this resolution left the status of Kosovo's unresolved. Prior to 2005 there were several negotiations between representatives of Kosovo and Serbia under the chairmanship of the UN to find a compromise solution for Kosovo's status. In November 2005, negotiations for a final agreement began in Vienna, Austria. Martti Ahtisaari, the former Finnish president, led the team of the Special Envoy of the United Nations for Kosovo (UNOSEK) that was engaged in extensive talks with the negotiating teams from Belgrade and Pristina and the international partners. On March 26, 2007, President Ahtisaari presented his comprehensive package to

Security Council of the United Nations (UNSC) in New York to solve the Kosovo problem. In late April 2007, a fact-finding mission of the UNSC visited Brussels, Belgrade, Pristina and Vienna. On 29 July 2007, because of political differences remaining on the issue of Kosovo in the UNSC the High Representative for the Common Foreign and Security (CFSP) Javier Solana appointed Ambassador Wolfgang Ischinger as the EU representative in the troika team of EU – U.S. - Russia, charged with facilitating a further period of engagement between Belgrade and Pristina about Kosovo's future. Secretary General of United Nations Ban Ki-moon welcomed the initiative of the Contact Group to resolve the Kosovo issue by recommending that the international community must find a solution that is timely, addresses the key concerns of all communities living in Kosovo and provides clarity for Kosovo's status, since status quo is not sustainable. Once they reviewed the circumstances and gathered facts about the process, on December 4, 2007 the final report on Kosovo was released by Troika. The report noted that parties discussed a wide range of options, such as full independence, supervised independence, territorial partition, substantial autonomy, confederal arrangements and also a silent status "agreement to disagree". According to the report the parties were unable to reach an agreement on the final status of Kosovo; neither party was willing to cede its position on the fundamental question of sovereignty over Kosovo (UNSC, 2007, pp. 11-12).

Since the agreement couldn't be reached, Kosovo continued its political journey alone, hoping for the support of friendly countries which lined up with the demands of Kosovo people.

Key Provisions of the Settlement foresee multi-ethnic democracy. Kosovo's multi-ethnic society will govern itself democratically and in full respect for the rule of law, human rights and fundamental freedoms, while promoting peace and prosperity for all its inhabitants. Kosovo will enshrine the above principles in a new constitution. The Ahtisaari Plan also defines other key elements that must be included, such as the protections and rights of members of all communities as described below. Kosovo will have the right to negotiate and conclude international agreements and to seek membership in international organizations. A central element of the Plan is protecting and promoting the rights of all people and communities in Kosovo, including the protection of their culture, language, education, and community symbols. The Plan also provides for the representation of Kosovo's non-Albanians in key public institutions to safeguard their rights and to encourage their active participation in public life. Plan proposes wide-ranging local municipal powers. The Kosovo Serb community will have a high degree of responsibility over its own affairs, to include health care and higher

education. Serb-majority communities will have extensive financial autonomy and will be able to accept transparent funding from Serbia and to take part in inter-municipal partnerships and cross-boundary cooperation with Serbian institutions. Six Serb-majority municipalities will be established or greatly expanded: Gracanica, Novo Brdo, Klokott, Ranilug, Partes, and Mitrovica-North. Kosovo's justice system will be ethnically integrated, independent, professional, and impartial. The Plan also mandates the creation of a new Constitutional Court. The Plan sets forth provisions to safeguard the Serbian Orthodox Church in Kosovo. Protective Zones will surround more than 40 key religious and cultural sites to preserve their dignity. The Serbian Orthodox Church will be granted property rights, will be exempt from taxes and customs duties, and will be free to maintain links with the Serbian Orthodox Church in Belgrade. All refugees and internally displaced persons will have the right to return and reclaim their property and personal possessions in accordance with international law. The Settlement calls upon Kosovo and Serbia to cooperate fully with the International Commission of the Red Cross to resolve the fate of missing persons. The Settlement prescribes procedures to settle property disputes and for continued privatization, both with substantial international involvement. The Plan also defines ways to determine Kosovo's share of Serbia's international debt. The Plan encourages a high level of local involvement in developing a professional, multi-ethnic security sector, under democratic control and international oversight. The Kosovo Police Force will have a unified chain of command throughout Kosovo, with police reflecting the ethnic composition of the municipalities in which they serve. The Kosovo Security Force (KSF), a professional multi-ethnic force, will be established. It will have a maximum of 2,500 active members and 800 reserve members. The current Kosovo Protection Corps (KPC) will be disbanded within one year of the establishment of the KSF.

Kosovo will have continued international supervision and support, with three main components: An International Civilian Representative (ICR) – The ICR will supervise implementation of the Plan and have ultimate authority over its interpretation. This individual will serve in a dual role as ICR and European Union Special Representative. The ICR will have authority to annul decisions or laws and to sanction or remove public officials whose actions are determined by the ICR to be inconsistent with the letter or spirit of the Plan. The ICR will be the final authority in Kosovo regarding the civilian aspects of the Plan. A European Security and Defense Policy (ESDP) Mission will monitor, mentor and advise on all areas related to the rule of law. It will assist Kosovo in developing efficient, fair and representative police, judicial, customs, and penal institutions. A NATO-led International Military Presence will provide a safe

and secure environment throughout Kosovo, in conjunction with the ICR and in support of Kosovo's institutions until those institutions are capable of assuming their full security responsibilities. The Plan also requests that the 56-nation Organization for Security and Cooperation in Europe (OSCE) assists in monitoring implementation of the Plan.

Kosovo pledged to respect all principles of the Ahtisaari proposal, and incorporate them in its constitution unilaterally. The Serbian side rejected the Ahtisaari proposal and expressed willingness not to proceed with provisions, and possibly block the process organized by UN authorities. The Kosovo's Constitutional Commission has created a list of issues that should be addressed in the document, examining constitutions, treaties and conventions from around the world. The 'Ahtisaari Plan' provides specific rights to minority groups and strengthens a safe environment for them and all other citizens Kosovo. The proposal was presented to the members of the Security Council of the United Nations by UN Secretary General on March 26, 2007. This proposal was developed by a team led by President Martti Ahtisaari (Special Envoy of the Secretary General) and is the result of negotiations that lasted more than a year, including direct meeting between Belgrade and Pristina.

In the Declaration of Independence on 17 February 2008, Kosovo fully committed to the implementation of 'Ahtisaari Plan', and has invited international presences including the International Civilian Office (ICO) to oversee its implementation. Earlier on April 4, 2007 Kosovo's Assembly had accepted the proposal stating that its implementation would be a legal obligation. Settlement provisions are now contained in the Constitution of Kosovo adopted on 9 April 2008 by the Assembly. This Constitution has been certified by the International Civilian Representative (ICR) on April 2, and entered into force on 15 June 2008 (ICO).

As we argued earlier, an important element of the agreement is the term given to a civilian and military international presence in Kosovo to supervise implementation of the agreement and to assist the Kosovo authorities in ensuring peace and stability throughout Kosovo. An International Civilian Representative (ICR), also known as the EU Special Representative, was appointed by International Steering Group (ISG), which includes major international actors. ICR will have the highest supervisory authority over the implementation of the agreement. ICR will vest special powers that will allow him to take necessary actions to oversee and ensure successful implementation of agreement. These include authority to annul decisions or laws adopted by Kosovo authorities, and sanction or remove public officials whose actions are determined by the ICR to be inconsistent with the spirit of the agreement. ICR will also be the

final authority in Kosovo regarding the civilian aspects of the agreement. During the transition period, the Kosovo Assembly, in consultation with the ICR, will be responsible for approving a Constitution and the legislation necessary to implement the agreement. The new Constitution and legislation will take effect immediately after the transition period. At the conclusion of the transition period, UNMIK's mandate was foreseen to expire and all legislative and executive authority that UNMIK enjoys to pass to the authorities of Kosovo, in accordance with the agreement (UNOSEK). Within nine months of the entry into force of the agreement, general and local elections should be held. The mandate of the ICR will continue until the ISG determines that Kosovo has implemented the terms of the agreement. The ICO's mandate in Kosovo will depend on how the provisions of the above can be implemented by the Kosovo authorities, and how ICR respectively ICO is evaluating this accomplishment, therefore the completion of mission depends on the dynamics of fulfilling the provisions by Kosovo authorities.

If we examine this paragraph above, we may say that Kosovo could be characterized as a country with an exceptional model of political organization; on one side there are state institutions mandated by people's sovereignty (arising from the votes of the citizens of Kosovo in a free and democratic vote) and international institutions which are derived from people's sovereignty but are constitutional components (Constitution). Kosovo's legal - political model unites two different concepts of state building; classical one (president, constitution, government, territory, people) and modern one (delegation of part of sovereignty to external mechanisms, example the European Union)(Constitution). Kosovo's state building model is unique and produces a new phenomenon in the practice of international relations and diplomacy; incorporating external political factors within the constitutional system.

If we examine the U.S. Constitution, namely article 6, we see that the U.S. Constitution is the highest act of the country and supreme authority, meaning that all laws obey to the Constitution (United States). Similar is with the German Constitution, in Article 20, sections 2 and 3, is noted the authority that emanates from the people and is exercised by the German Constitution to determine the constitutional order. The Turkish Constitution in article 6 specifies the nation's sovereignty, and that Turkish nation should exercise sovereignty through the competent authorities described in constitutional principles. In all three cases above the constitution is final authority in country, and all laws are binding to it, while in case of Kosovo transitional provisions and international mechanisms (ICO) are over Kosovo's constitution itself!

According to this logic, Constitution of Kosovo is the highest act of the country, but after international mechanisms that have the highest authority in Kosovo!?

The declaration of independence of 17 February 2008 expressly invites an international civil presence as envisaged in the Proposal for the Kosovo Status Versatile drafted by Ahtisaari. The moment passed Kosovo Constitution automatically bore the International Civilian Office (ICO) and Kosovo began to fulfill its commitment towards the provisions of the Ahtisaari Proposal, this enabled the incorporation of ICO to the Constitution and the beginning of implementation of mission it. ICO office provides international support for Kosovo's European future; to guarantee full implementation of the proposal for resolving the status of Kosovo, support Kosovo's integration in Europe advising the Kosovo government and community leaders. International Civilian Office (ICO) assists the International Civilian Representative (ICR) in the fulfillment of its mandate. The International Civilian Representative (ICR) has been appointed by the International Steering Group (ISG), namely the International Steering Group on 28 February 2008 in Vienna, mandated Pieter Feith, a former senior official of the NATO and the Secretariat of the Council of the European Union as International Civilian Representative. After a 25 year career at Dutch diplomatic service, Feith served in a variety of tasks in NATO and the Secretariat of the EU Council. Most recently, he has been Deputy Director General of the Council for Political-Military Affairs. ICO office consists of: Office Reception, Office of Policy, Advisory Office for Security, Office of Community Affairs (including issues Decentralization and Religious Affairs and Cultural), the Office for Economic and Fiscal Law Office, Press Office and Public Information, the Office of Administration and Management of the General Office of Security Office in Mitrovica, Regional Offices (Peja, Pristina, Prizren). As a result of Kosovo's progress in implementing the provisions of Ahtisaari, the ICO office was closed in January 2011 (ICO)

The role of the International Steering Group (ISG)

After the independence of Kosovo on 17 February 2008, and at the request of the leaders of Kosovo, on 28 February 2008 a group of countries that supported Kosovo's independence formed an International Steering Group (ISG) to support the full implementation of the 'Versatile Proposal for Kosovo Status Settlement' of the UN Special Envoy Martti Ahtisaari, adopted on March 2007. ISG then appointed Mr. Pieter Feith as the International Civilian Representative (ICR) for Kosovo. The ISG comprised of countries that support full implementation of the Comprehensive Proposal for the Kosovo Status Settlement, ISG charged

the ICR through ICO, with the specific task to ensure that the Government of Kosovo implements the Comprehensive Settlement Proposal Status. ISG helped in the direction of democratic development of Kosovo through its mission. Its primary task was to promote good governance, much ethnicity and the rule of law in Kosovo. The role of the EU Mission's

The European Union Rule of Law Mission (EULEX)

Currently EULEX is the largest civilian mission of EU so far, deriving from EU's Common Policy on Security and Defense Policy (CSDP). Its main aim is to assist and support the Kosovo authorities in the rule of law, especially in the police, judiciary and customs. The mission is not to govern or rule in Kosovo. This is a technical mission which will monitor, mentor and advise whilst retaining a number of limited executive powers. EULEX works under the general framework of UNSCR 1244 and has a unified chain of command in Brussels. General Staff in beginning was around 3,000 members (1,900 international, 1,100 local). Current Mission head is Bernd Borchardt, while the main headquarters are in Pristina, Kosovo. Mission contributing countries are all EU states as well as Norway, Switzerland, Turkey, Croatia, USA and Canada. The mission is open for cooperation and enables the attachment of other countries; making it kind of international mission.

As mentioned earlier EULEX's origin is from EU - CSDP mission to assist Kosovo's judicial and law enforcement agencies in their progress towards sustainability and accountability in legal sector. Mission's objective is to develop and strengthen weak justice system, police services and customs, ensuring multi ethnicity among institutions. Also ensuring Kosovo institutions are free from political interference and making shore that institutions adopt best European practices. The mission is in full cooperation with the programs of the European Commission assistance, and implements its mandate through monitoring, mentoring and advising, while retaining certain executive and several liabilities (EULEX). The legal basis of the EULEX mission is a document of the Council of the European Union "Council Joint Action 2008/124 / CFSP of 4 February 2008" on Mission to the European Rule of Law in Kosovo, announced in the Official Journal of the European Union on 16.02.2008. Powers of the mission's staff are regulated by the Law on Jurisdiction, Case Selection and Allocation of judges and prosecutors of EULEX in Kosovo. The law was passed in the Assembly of Kosovo 3.13. 2008 and promulgated by Decree no DL-019-2008, dated 15.06.2008 of the President of the Republic of Kosovo.

The EULEX is divided into three main components scope: Police Component, Customs and the Judiciary. Police Component is part of the overall support of EULEX to Kosovo authorities in the rule of law. EULEX helps Kosovo Police (KP) to work towards a multi - ethnic police that is free from political interference and serves the people of Kosovo. EULEX does this by monitoring, mentoring and advising the KP. EULEX mandate gives the opportunity to use corrective powers, and would intervene if Kosovo authorities fail to prevent violence against non-majority communities or in cases of political interference undermining the rule of law. The personnel are structured according to their respective tasks in three departments: Strengthening Department, Executive Police and Special Police Department.

The other component of EULEX is Judiciary component, which aims sizing and strengthening of the judiciary in Kosovo, incorporating elements of multi-ethnicity in. This component is committed to providing a court without political influence which is capable of holding fair trials and with high international standards and European best practices. The Judges and EULEX prosecutors carry out their functions according to objective criteria established by law; they work closely with their local counterparts in good mutual relations. The Custom component of EULEX works closely with the Kosovo Customs (KC), which is a new and ambitious service. Like other Western Balkan customs, Kosovo Customs is prioritizing its European perspective for aligning with European standards. KC staff has a comprehensive knowledge of EU customs operations and customs component of EULEX will give an important contribution and help to ensure that Kosovo Customs can achieve its objectives to benefit of society and its people. EULEX is enforcing KC to combat the illegal trade in cooperation with other agencies for law enforcement contributes to fight against terrorism and organized crime and help to protect intellectual property rights. Currently EULEX is monitoring, mentoring and advising KC and when necessary, to exercise law executive responsibilities in mixed teams of international and staff Kosovo Customs.

Conclusions

If we briefly analyze foreign institutions that are part of Kosovo's statehood, we see that new Republic is different compared to other countries in aspects as: constitutional form international political involvement, external relations, and inherited history. Kosovo has exceptional model of statehood since it blends conventional political system (institutions mandated from citizens vote), and international institutions which don't derive from people's sovereignty; but are/were part of constitution and other political processes. Currently, Kosovo

has done its homework to adopt highest standards required from international institutions that supervised newest state at periods of pre-independence, and afterwards. These institutions left with satisfactory recommendations that Kosovo has achieved their requirements, simultaneously they opened a path for newest state to strength its statehood in international level. But Kosovo must not stop, it needs to be a proactive partner to remaining international institutions that are still present on its territory; it has to acquire best military practices from KFOR (NATO's mission in Kosovo) and incorporate them as benchmark for future army. Kosovo's membership to NATO will depend on its ability to absorb and implement these standards, and cope with Euro-Atlantic agenda.

As for the internal developments, Kosovo must close the process of fulfillment of all Ahtisaari principles, including ones that deal with Serbian minority's administrative setup - meeting final obligations in accordance with proposal requirements. Kosovo was always a reliable partner to international community, showing constructivism through period of pre-independence and after-independence. For a lot of scholars Kosovo's process of state building was considered as 'coordinated independence', meaning that Kosovo Government has cooperated with international community while trying to achieve its final objective of independence; if contrary happened, the independence will be hard to achieve.

Through EU oriented policies and a professional administrative body who will implement them, Kosovo could achieve tangible results in EU integration progress and start working for membership. When it comes to EU standards, Kosovo must require additional presence of EULEX mission until the approximation date with EU comes closer, simultaneously must pressure EU to politically condition (currently only Germany does) Serbia's membership to EU - meaning that Serbia must resolve border issues with Kosovo in order to proceed towards membership in EU. If Serbia agrees to legally settle border issue with Kosovo and remove Kosovo from its constitution, then there is a good opportunity for Kosovo, since 23 out of the 27 EU states recognized Kosovo in its current borders. The direct talks between Serbia and Kosovo to resolve technical issues between two countries could expand on implementation of European agenda and mutual recognition, respecting the "Brussels agreement 2013" and "landmark agreement 2015" will facilitate reconciliation. This scenario will also reflect the facilitation of Kosovo's eventual admission to the UN, the Russian veto power will be politically 'neutralized', and for Kosovo it will remain only providing 2/3 of the member states of the General Assembly that will vote in favor of Kosovo's membership. This situation would

be difficult to achieve, but it wouldn't be impossible, since the Republic of Kosovo has been recognized by 111 countries, and Russia has declared many times that they will accept any solution for Kosovo that Serbia accepts.

In history questions of state recognition were bilateral issues; while current political and legal constellations require coordination in all aspects if one entity wants to become state. If coordinated, newly state will be recognized by international community and politically integrate in international institutions, if opposite, it will be impossible (case of Nagorni Karabah) to be recognized.

Kosovo's deficiency remains at the extension of sovereignty in the whole territory; it's a major challenge, especially in northern Kosovo where authorities will need to find modalities to enforce the constitutional order. Capacity building and state administration reform such as judicial are desirable, but caution must be addressed on independence of this system, with particular emphasis on the Kosovo's Constitutional Court that is contributing positively to modern state building process, and with its recent judgments (Presidents Sejdiu/Pacolli) forces the principles of separation of powers like in strong democratic systems.

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