

Assessing the Planning and Implementation of the EU Rule of Law Missions: Case Study of EULEX Kosovo

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ABSTRACT

The European Union Rule of Law Mission Kosovo (EULEX) is one of the most ambitious and complex EU Common Security and Defence Policy engagements to date. Its planning and deployment have gone through several political and legal difficulties that have challenged the overall EU planning process and exposed some of its internal flaws. This paper assesses the planning phase of EULEX and tries to identify some of the lessons learnt. It draws from the interviews conducted in Kosovo and takes into account both the EU and the non-EU perspectives. Both structural and political challenges affected the assessed planning process and delayed the deployment of EULEX in Kosovo. Due to the various partial interests among EU institutions and member states, the technical aspects of the planning have often been subject to political compromises. The paper further notes that the CSDP missions are positioned relatively low on the agenda of the member states and may occasionally rather serve as an instrument for the EU to “wave its flag” on the occasions where the EU cannot form a unified position. The initial CSDP framework was generally intended to serve as a rather short-term instrument; thus the paper comes to the

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conclusion that if the EU wants to plan and conduct complex, long-term civilian CSDP missions efficiently, then the mandates and general approach of the EU should be adapted accordingly.

KEY WORDS: EULEX, Kosovo, European Union, CSDP, mission, civilian planning

POVZETEK

Misija Evropske unije za krepitev pravne države na Kosovu (EULEX Kosovo) je ena izmed najbolj ambicioznih in kompleksnih angažmajev v okviru Skupne varnostne in obrambne politike (SVOP) EU. Načrtovanje in napotitev misije sta bili soočeni s številnimi političnimi in pravnimi ovirami, ki so predstavljale izziv za celostni proces načrtovanja misij EU in izpostavile nekatere notranje pomanjkljivosti. Članek obravnava načrtovanje misije EULEX in identificira pridobljene izkušnje v tem procesu. Prispevek temelji na intervjujih, ki so bili izvedeni na Kosovu in upošteva tako perspektivo EU kot tudi zunanje perspektive. Tako strukturni kot politični izzivi so vplivali na proces načrtovanja obravnavane misije in podaljšali čas, potreben za njeno ustanovitev. Zaradi parcialnih interesov EU institucij in držav članic so bili tehnični vidiki načrtovanja pogosto izpostavljeni političnim kompromisom. Članek ugotavlja, da so SVOP misije na političnih agendah držav članic pogosto uvrščene razmeroma nizko in lahko občasno, ko EU ne zmore oblikovati enotnega stališča, služijo zgolj kot instrument EU, da izkaže svojo navzočnost na konfliktnem oz. pokonfliktnem območju. Prvotni okvir SVOP misij je bil načrtovan predvsem kot instrument kratkotrajne narave, ne pa kot dolgoročni angažma EU na nekem območju. Avtorja ugotavljata, da v kolikor EU želi učinkovito načrtovati in izvajati kompleksne in dolgotrajne civilne SVOP misije, potem morajo biti mandati in pristop EU k njihovi izvedbi smiselno prilagojeni.

KLJUČNE BESEDE: EULEX, Kosovo, Evropska unija, SVOP, misija, civilno načrtovanje

INTRODUCTION

The aspirations of the EU to become a global actor and provider of security and stability have perhaps most significantly materialized in the region of the Western Balkans, where the EU has launched its most extensive external engagement, including several CSDP missions. One of the focal points of its engagement has been Kosovo, with the European Union Rule of Law Mission (EULEX) being labelled as the prime example and the “flagship” of the EU Common Security and Defence (CSDP).

EULEX is not only by far the largest CSDP mission so far, it is also the most complex, expensive and one of the longest lasting EU civilian CSDP missions.³ We can label it a flagship CSDP mission, both from the aspect of the dedicated financial and human resources, and from the perspective of an ambitious decision by the EU to undertake an unprecedentedly complex and challenging mission (Keukeleire and Thiers 2010; Capussela 2015). The EU recognition that the advancement of the rule of law in Kosovo is essential to the maintenance of peace and security, sustainable development, and the protection of human rights and fundamental freedoms is reflected throughout its external efforts and most notably materialized through the deployment of the extensive rule of law mission (Cierco 2014). Some of the authors noted that the objectives of EULEX go beyond common peace-keeping or peace-building and engage in institution and state building (Keukeleire and Thiers 2010; Papadimitriou and Petrov 2012). In spite of its extensive resources and unprecedented powers, the mission has so far undergone several criticisms, claiming that the mission has largely failed to achieve its goals of improving the rule of law.

Kosovo remains one of the most underdeveloped countries in Europe. According to the World Bank (2014 Worldwide Governance Indicators report), Kosovo continues to be the lowest

³ EULEX is currently fulfilling its objectives through two organizational divisions: the Executive Division and the Strengthening Division, accompanied by its “North” and “Support to Dialogue Implementation” objectives, which are included within the framework of the above-mentioned divisions. The number of EULEX staff was the highest in late 2008/early 2009 when it amounted to 3,200 personnel – more than all other CSDP missions at the time combined. Currently there are about 1,300 EULEX staff members, approximately half of them locally contracted.

ranking country in the region of the Western Balkans, albeit receiving by far the largest support from the international community (World Bank 2016). Musliu and Geci describe EULEX's presence in Kosovo as defined by inaction and avoidance (2014). The ambiguous position deriving from status neutrality has often been noted as a challenge to the mission's efficiency (Derks and Price 2010). Several analysts concluded that the mission made only limited progress in the field of judiciary, especially in relation to the organized crime and corruption, while modest contributions to other aspects of the rule of law are noted (e.g. police and customs) (Kursani 2013; Radin 2014; Cierco 2014; Malešič and Juvan 2015; Malešič 2015; Zupančič, 2015; Capussela 2016). The criticism was further highlighted by the European Court of Auditors report, which found that the EU assistance to Kosovo in regards to the rule of law had not been sufficiently effective (The European Court of Auditors 2012). Infamous allegations of corruption among EULEX staff put the mission in the public spotlight and questioned its reputation. The review of the EULEX Kosovo mandate implementation conducted by Professor Jean Paul Jacque delivered a list of recommendations and noted that a substantial reform of the mission was needed (Jacque 2015).

This paper will examine the capability of the EU to effectively plan for and engage in complex, comprehensive and potentially long-term civilian missions. It will use the case of EULEX Kosovo to present the dynamic range of challenges and obstacles that should be taken into consideration in the civilian CSPD planning process and try to offer some lessons that could be transmitted to the planning and implementation of the future civilian CSDP missions. Firstly, we will briefly analyse the background and political and security environment that led to the establishment of EULEX Kosovo. We will continue with the examination of the EULEX planning process and assess some of the identified challenges that emerged during this process. The paper identifies the main achievements and challenges that emerged during planning of EULEX, as well as evaluates the process by examining the perspectives of both the EU and non-EU actors. The implications of the planning process, both direct and indirect, on the current operational capabilities of the mission will be analysed

and the identified lessons will be presented at the conclusion of this paper. The paper will try to answer the main research question, namely, is the EU, as an aspiring global actor, adequately equipped to effectively plan (and carry out) complex long-term civilian CSDP missions, based on its performance in the case of EULEX Kosovo.

METHODOLOGICAL FRAMEWORK

This paper is based on the original research carried out by the authors which was conducted in the form of a qualitative analysis of the interviews and focus group discussions within the framework of the project: Improving the Effectiveness of Capabilities in EU Conflict Prevention (IECEU).⁴ The field trip to Kosovo was conducted in March 2016. During the trip, interviews with 21 individuals were made, primarily in Pristina and Kosovska Mitrovica. The sample includes the current and former EULEX personnel, EU officials, NATO KFOR personnel, staff employed by local institutions, members of the local government, experts from non-governmental organizations, academia and research institutions and officials from member states contributing to the EULEX mission.

Both the EU and non-EU perspectives were taken in consideration during the analysis. Due to the political and security sensitivity of the issues discussed, the interview responses in this paper were anonymized.⁵ Following the preliminary research findings which were based on the analysis of the interviews, a focus group of international experts was invited to the roundtable, organized

⁴ The IECEU (Improving the Effectiveness of Capabilities in EU Conflict Prevention) project is aiming to enhance the conflict prevention capabilities. This project has received funding from the EU Framework Programme for Research and Innovation HORIZON 2020. The IECEU Consortium (11 participants from 7 different European countries) itself consists of a diverse group of civilian, research and military organizations. The IECEU analyses the best practices and lessons learned with a view to enhance the civilian conflict prevention and the peace building capabilities of the EU with a catalogue of practices, new solutions and approaches. The main goals of the IECEU -project are: analysing the current situation of on-going and past European Union CSDP missions and operations; learning from the lessons provided by these CSDP missions and assessing the different options; providing new solutions, approaches and recommendations for the EU to guarantee long-term stability through conflict prevention and peace-building.

⁵ The interview data and details are in the possession of the authors.

in Slovenia, to present their views and positions on the gathered information; adding another perspective to this research.⁶ Their comments have been anonymized and included in the paper. The paper will further draw from the authors' extensive research on the matter and analysis of the primary and secondary sources on EULEX Kosovo and CSDP in general.

THEORETICAL FRAMEWORK: OVERVIEW OF CSDP PLANNING FRAMEWORK AND THE EVENTS THAT LEAD TO THE PLANNING OF EULEX KOSOVO

The case of EULEX Kosovo is significant for the EU (civilian) CSDP mission planning process for several reasons. Firstly, the mission was and remains by far the biggest CSDP mission ever planned and deployed by the EU. It was supposed to be the flagship mission that would showcase the dedication of the EU to the region and its role as a security provider. Secondly, the complexity of the mission, including its executive mandate, has brought many new responsibilities but also challenges that had to be addressed. Thirdly, the mission was preceded by a special dedicated planning mission, which was tasked to conduct advance contingency planning for the possible deployment of the EU mission on the territory of Kosovo. Furthermore, the case of the EULEX mission has exposed several internal and external challenges, both before and during the deployment that are relevant for the analysis of the efficiency of the EU civilian CSDP missions.

It is worth noting that the EU civilian crisis management concept and procedures have still been in their development phase

⁶ The roundtable was organized by three consortium partners in the IECEU project (University of Ljubljana, FINCENT, Centre for European Perspectives – CEP) on 24 May 2016 at Jable Castle, Slovenia within the framework of WP2 'The Balkans', as envisaged in the Grant Agreement. In addition to that, the representatives of the security-enforcement institutions (Slovenian Armed Forces and Slovenian Police), Ministry of the Interior, Ministry of Foreign Affairs, think tanks and academia also participated in the public part of the event, so as to evaluate the IECEU researchers' findings from various perspectives. Experts present at the roundtable include: Mr Kurt Bassuener (Democratization Policy Council); Mr Tobias Flessenkemper (CIFE – Centre International de Formation Européenne); Mr Simone Guerrini (participated in his personal capacity (former EULEX, seconded expert from the Italian MFA); Mr David Palmer (CIV. SHAPE EU/EUSG, Op ALTHEA, EU OHQ at SHAPE); Ms Ariana Qosja (Kosovar Institute for Policy Research and Development – KIPRED); Mr Christian Ramet (European External Action Service, the EULEX Kosovo desk).

at the time of EULEX Kosovo planning.⁷ The Union has decided to develop the civilian aspects of the crisis management in four priority areas defined by the Civilian Headline Goals adopted at the Feira European Council in June 2000: police, strengthening of the rule of law, strengthening civilian administration and civil protection (European Union External Action Service 2016). The aspirations and goals of the EU in the field of civilian crisis management have been further reinforced by the 2008 Civilian Headline Goal and 2010 Civilian Headline Goal (European Union 2016). With the availability of a wide spectrum of civilian instruments of an economic, social or diplomatic nature, the EU focus on preventative activities is not surprising (Malešić 2015). Since the first (civilian) CSDP mission launched in 2003 (EUPM Bosnia and Herzegovina), civilian CSDP missions have varied in their scope (police, monitoring, justice, and security sector reform), nature (non-executive and executive), geographic location and size (European Union 2009).

There are currently 10 civilian CSDP missions on 3 continents: Afghanistan, Ukraine, Georgia, Kosovo, Libya, the Palestinian Territories (Ramallah and Rafah), Niger, Mali, and the Horn of Africa (Somalia & Somaliland) (European Union 2016). In general, the planning process within the EU takes up to 1 year; in cases where a strong political will is exhibited it can take less. Planning and implementing the EUMM Georgia could be perceived as a best practice case, since the process only took around 2 months. As seen from the case of Kosovo, due to several reasons, the planning was stretched over longer period.

⁷ E.g. An important CSDP planning capability was established in 2007 – the civilian Planning and Conduct capability (CPCC) – which had been established under the General Secretariat of the Council with about 60 staff. It has a mandate to: 1) plan and conduct civilian missions under the political control and strategic direction of the PSC; 2) provide assistance and advice to the High representative of the Union for Foreign Affairs and Security Policy; 3) direct, coordinate, advise, support, supervise and review the civilian mission in the areas of the police, border assistance management, rule of law and the security sector. The CPCC Director is the EU Civilian operations Commander who exercises control and command at the strategic level for the planning and conduct of the civilian crisis management operations.

INTERNATIONAL FRAMEWORK LEADING TO PLANNING OF THE EU-LED MISSION IN KOSOVO

Following the 1999 NATO intervention, Kosovo has been put under the interim United Nations administration (UNMIK) in accordance with the United Nations Security Council Resolution 1244 (UNSCR 1244). Over time, with signs of security and political stabilization, some of the governing powers eventually started to be gradually transferred to the Kosovar Provisional Institutions of Self-Government (PISG). The international community, however, was still unable to reach a consensus on the highly disputed Kosovo status (Derks and Price 2010). Under the growing pressures for Kosovo independence, Martti Ahtisaari, a Finnish diplomat, was tasked by the UN Secretary General on October 31, 2005 to prepare a comprehensive plan for the settlement of the Kosovo status issue, which he delivered in 2007 (Keukeleire and Thiers 2010; Guttery 2007). The report, commonly known as the Ahtisaari plan, proposed supervised independence for Kosovo, which meant that Kosovo would become independent but its independence would be closely supervised by the International Civilian Representative with a veto power over the decisions of the Kosovo government, KFOR would continue to be present throughout Kosovo and an EU mission that would monitor, mentor and advise Kosovo in the field of the Rule of Law would be deployed (United Nations Security Council 2007).

Keukeleire and Thiers noted that one of the important advantages of the transfer of leadership from the UN to the EU, as argued at the time, has, aside from other reasons, also been the aspiration of both Kosovo and to a certain extent Serbia, to become EU members. It was considered that the EU was the best placed actor to have an influence on both sides. Thus the utilization of the EU power of attraction is noted by the authors as an important leverage of the EU for its increased engagement in Kosovo (Keukeleire and Thiers 2010). Other conditionality-driven processes, such as the visa liberalization process, have also been identified as important instruments in the hands of the EU that could be used as part of its comprehensive approach to advance its engagement in Kosovo. The Union has on the other hand been

keen on taking greater responsibility in the region of the Western Balkans. As noted by some of our interviewees, the EU was at its strongest peak at the time of the planning of the mission, with recent important enlargements, its increased actorship in the Balkans and high aspirations of becoming a global actor (Interview no. 5). With signs of the possible transfer of responsibility from UNMIK to the EU led mission (Cierco 2014), the necessity for the establishment of the planning team for a potential civilian EU mission in Kosovo was already recognized in early 2006 (Keukeleire and Thiers 2010).

THE EULEX PLANNING PROCESS

The planning of civilian CSDP missions is based on the EUs Crisis Management Procedures, which outline EU engagement in a crisis from the political level down to the mission level, how responses are planned, carried out and terminated (Kermabon 2014). While the political considerations date even further back, the planning of the EU engagement in Kosovo within the framework of the CSDP most notably started with the formation of the EU planning Team in 2006. For the purpose of the advance contingency planning for the possible deployment of the EU mission on the territory of Kosovo, the EU formed the so called Planning Team (EUPT), which was deployed to Kosovo. The Joint Action 2006/304/CFSP “On the establishment of an EU Planning Team (EUPT Kosovo)” was adopted on 10th of April 2006. (European Council 2006). The planning team was tasked to prepare the ground for a possible EU crisis management operation in the field of the rule of law and possible other areas in Kosovo. It has been emphasized that the establishment of the planning team did not prejudice the outcome of the status process nor any subsequent decision by the EU to launch the ESDP mission in Kosovo.⁸ Among the variety of tasks that were assigned to the EUPT, in the authors’ opinion the following are central to the present research: to transfer the responsibilities from UNMIK to the EU; to prepare all the necessary legal acts; to work in the field and learn about local needs and expectations etc. The EUPT team was also

⁸ The European Security and Defence Policy (ESDP) has been renamed to the Common Security and Defence Policy (CSDP) with the 2009 Treaty of Lisbon.

tasked to draw from the lessons learnt from the experience in BiH which should lead to the transfer of good practices and the avoidance of mistakes made in EUPM BiH.

According to the conducted interviews and focus group discussions, the deployment of the EUPT prior to the deployment of the CSDP mission has been mostly assessed as a positive practice that should be replicated in future CSDP missions (Interview no. 20). A similar conclusion can be drawn from the findings of other authors (e.g. Derks and Price, 2010). Among the main positive effects of the planning missions, it was mentioned that the EUPT benefited from its local presence in Pristina, its full support of the Council Joint Action and the budget, as well as the comparatively lengthy time it was given to work (Directorate-General for External Policies of the Union 2012).

The EUPT had a role in the initial deployment phase of the EULEX mission as defined in Article 4 of the Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo. According to that article EUPT Kosovo was appointed to lead the planning and preparation phase. The EUPT has thus been responsible for the recruitment and deployment of the staff, equipment and services for EULEX in the initial phase when the mission had not yet reached its full operational capacity. It worked in the field to identify the local needs and discuss the forms of cooperation with local authorities. Further on, the EUPT contributed to the planning of the Concept of operation (CONOPS) and the operational plan (OPLAN) and for developing the technical instruments necessary to execute the mandate of EULEX (Council of the European Union 2008).

One of the perhaps most important phases of the planning process that, accordingly to the analysis performed by the Directorate-General for External Policies of the Union, exposed the lack of the EU's "plan B" and the (over)confident trust in the success of the initial plans, was at the time of the realization, that the Ahtisaari plan was not approved by the UNSC. It seemed to catch the EU by surprise. The analysis finds that this lack of a "plan B" was seen to be the consequence of either the EU's inability to

anticipate it, or political resistance to deviate from the assumption that the UNSC approval would pass. (Directorate-General for External Policies of the Union 2012). The mission mandate, which was agreed upon on 4 February 2008, tasked EULEX with supporting Kosovo authorities by monitoring, mentoring, and advising (MMA) on each of the rule-of-law components (Judiciary, Police, Customs), while also retaining certain executive powers, in particular with respect to investigating and prosecuting serious and sensitive crimes.

The mandate was thus largely following the initial plan despite the political reality and the framework of deployment which since then has been vastly changed. When the EU consequently “entered” Kosovo – a decade after the start of the Kosovo war and just before the declaration of Kosovo’s independence – after the lengthy considerations, internal disputes over the mission’s legal status and political disagreements, the mission was tasked with a confident but complex mandate. Our interlocutors noted that EULEX raised high expectations, with a substantive EU presence and a relatively robust and extensive civilian mission, giving big promises of reforming the rule of law, the implementation of the European legal norms, the elimination of political interference, and going after “big fish” (Interviews no. 9, 10, 18, 19, 20).

Local interviewees noted that the initial attraction of EULEX vanished rather quickly, as the promises were eventually only partially met by the mission. For example, they mentioned that: *“EULEX was never perceived as part of society. The mission was harmed even before deployed because of the status issue. /.../ EULEX was initially wanted in Kosovo because people believed Kosovo institutions could not deal with problems of corruption and organized crime by themselves. /.../ The missions, however, failed to explain the difference between them and UNMIK. Expectations from EULEX decreased when they saw it is only continuation of UNMIK.”* (Interview no. 19). It was also suggested that: *“EULEX devoted too much of their efforts to investigating war crimes’ allegations, which is important for the reconciliation process, but not at the cost of neglecting the fight against organized crime and corruption. /.../”* (Interview no. 18). EULEX was exposed to severe pub-

lic criticism and distrust due to its presumed inefficiency, failure to deliver on its promises and even allegations of possible corruption among EULEX officials (Interviews no. 5, 9, 10, 17, 18, 19).

Despite the efforts to base mission planning on a substantial on-the-ground analysis, it was acknowledged that there was a difference between the last document of the EUPT, when its representatives were planning the mission, and the first EULEX OPLAN (Interview no. 9). It has been claimed that among other reasons, this was due to the fact that the mission served (also) as a substitute for the political aims of the EU that go beyond the mission's mandate. As argued by the focus group experts, the mandate is always deriving from the political will of the member states. That in turn means that it may not totally reflect the needs on the ground. Furthermore, as mentioned above, one of the most fundamental circumstances of mission planning substantially changed – the mission was initially envisioned as an integral part of the Ahtisaari plan.

With the plan failing to be agreed upon in the Security Council, the framework of the mission had to be re-structured. The mission was eventually deployed under the Security Council Resolution 1244 as part of the UNMIK. This, according to de Wet, brings us to one of the main points of the controversy, concerned whether the EULEX mandate was reconcilable with the Security Council Resolution 1244. Since UNMIK was still in place at the time when EULEX was created (and still is), the question arose in particular whether Resolution 1244 gave the necessary legal basis for the introduction of EULEX especially considering that the mission was to operate alongside UNMIK at least for a certain period and, if so, how these two missions were to operate in practice given the potential overlaps in their mandates (de Wet 2009; Guttry 2007). It is not in the capacity of this article to argue for one side or the other. From a planning perspective, it was noted however, that those legal and political dilemmas pushed against the initial EU optimism and complicated the situation on the ground, where due to the above-mentioned disagreements, legal and political restraints; EULEX was limited in its deployment phase which led to delays beyond the initial EU forecasts

(Keukeleire and Thiers 2010). This essentially meant that it took around two years for the EU CSDP mission to be deployed to Kosovo from the initial start of planning with the deployment of the EU planning team in 2006. If we consider that the mission only became fully operational as of April 2009, this process was even longer.

Some of the interviews suggested that the CSDP missions and operations are often deployed to countries without a clear and unified EU policy, which contributes to difficulties in their planning. It was also noted that the effectiveness of the mission itself may often be of lesser importance than the political significance of the statement made by the EU by solely deploying the mission. It seems as if the CSDP missions are regarded by some rather as a way for the EU to “wave their flag” on the ground, when no other instruments are available. In general, it seems that the CSDP missions are perceived to be very low on the political agendas of the member states (Interviews no. 4, 9, 16, 19). Our analysis of the case of EULEX to some extent confirms this claim. While the EU was eventually able to agree on deploying a CSDP mission, it did not manage to form a unified position regarding the indicated and eventually announced Kosovo independence. Five member states⁹ had reservations and did not recognize the statehood of Kosovo. Due to the lack of political unity in the EU and the fact that several EU member states still do not recognize Kosovo as an independent state, the strategic planning and consequent EULEX status neutral position, had far-reaching effects (Derks and Price 2010). As noted by Keukeleire and Thiers, the EU status issue deliberations in a way confirm the view that the EU is capable of acting as a foreign policy actor when it is to contribute to the peace-building actions which are devised by other actors (e.g. UN), but having trouble finding a consensus on politically sensitive matters (when acting on its own) (2010). They nevertheless agree with Ker-Lindsay and Economides (2012) who argue that despite the divisions on the question of status, EU member states were nevertheless united on the need to improve standards on the ground, regardless of the status, as a matter of practical urgency, which eventually led to a compromise solution (Keu-

⁹ Romania, Slovakia, Spain, Cyprus, and Greece

keleire and Thiers 2010). This is an important observation from the perspective of the planning process as it indicates the ability of the EU to eventually reach an agreement on technical matters in spite of political reservations and disagreements. Nevertheless, the negotiations on the status issue required a lot of cooperation and negotiations with several stakeholders. This consequently prolonged the already lengthy EU CSDP planning process.

The adopted EULEX mandate declared the mission as status neutral, but at the same time tasked it with strengthening the rule of law institutions of the independent Kosovo. While the adopted compromise was necessary due to the political objections of the above-mentioned five member states, the solution was at least partially self-contradictory. Whilst the mission is supposed to act neutrally in regards to the status issue, the mandate tasks it to assist and mentor the institutions of this very same state. The interviewees noted that the ambiguous position impacted EULEX in many different aspects but perhaps most significantly its public image, specifically from the local standpoint (Interview no. 19). It consequently limited the desired showcase of a strong and dedicated EU, capable of solving the challenges in its neighbourhood and beyond. Due to the lack of political unity, the mandate and capacity of the mission, strategic planning and political guidance are sometimes not as clear and direct as desired, and consequently, bound to compromises, which often result in vagueness. The interviewees and focus group experts mostly agreed that the ambivalent stance of EULEX was an issue, though acknowledging that concrete alternatives to the existing compromise solution are missing. It was thus noted that the unresolved status of Kosovo is something that the EU had to and has to learn to live with (Interviews no. 19, 20).

EULEX CHALLENGES ORIGINATING FROM AND RELATED TO PLANNING PROCESS

In addition to the already mentioned political and strategic obstacles during the planning process, this paper identifies various other challenges related to or originating from the mission planning. Taking into consideration the framework in which

the mission was planned and operates many of our interviewees agreed that it is in fact actually quite impressive what EULEX managed to achieve in those circumstances. In order for EULEX to become operational in the area of the contested statehood and due to its commitment to neutrality, it had to address the considerations from both Kosovars and Serbs. As noted by Kursani, from Kosovo's standpoint, EULEX's presence is legally and practically justified by referring to the Declaration of Independence of the Republic of Kosovo, the Ahtisaari Plan and the Constitution of the Republic of Kosovo, all three rejected by Serbia. While from Serbia's point of view, EULEX's presence is justified under the terms of the "status-neutral" mandate and implementation of the UNSG Six Point Plan, both considered unacceptable by Kosovo (Kursani 2013). These disputes lead to the neutral approach that tries to "please" both sides.

It was mentioned quite often from the local actors that the needs of Kosovo were conceptualized wrongly or not necessarily entirely based on the factual demands on the ground (Interviews no. 1, 9, 10, 15, 18, 19). This brings us back to the planning dilemma already mentioned above. Local interviewees for example pointed out that there is a lot of demand for the rule of law present on the ground but the mission focuses too much on the war crimes and cares too much about stability even when compromises in the rule of law are made, etc. EULEX is most often criticized by locals for its inability to successfully transform the Kosovo rule of law system and conclude its lengthy legal procedures, which could potentially lead to convictions in high level cases. It was argued by some interviewed locals that due to the so called 'stability mantra', EULEX had many times been perceived even as a tool for strengthening the political elites. Radin (2014) noted that the need to prevent violence and to avoid undermining the potential of the EU accession in the region, may have led EULEX to avoid risky but transformative activities. This brings us to important planning challenge of balancing the priorities, in this case stability and the rule of law.

The central role of member states in shaping and defining the goals and vision of the mission has been emphasized during the

research. According to some of the interviewees, however, this vision is often non-existent or very limited. That can be visible at many different levels: from the cumbersome administrative procedures, the lack of a clear (“Brussels-based”) leadership, to the observations by some of the international staff that their home countries are often simply not interested in the information they (the staff) are in the position to share with them, which leads us back to the finding that the CSDP missions are often low on the political agendas of member states (Interviews no. 16, 19). On the other hand, it was also suggested that the Civilian Planning and Conduct Capability Directorate (CPCC) might be understaffed. As noted by the interviewees, CPCC officers have to deal with several missions simultaneously; while only two officers are assigned specifically for EULEX (Interview no. 4, 16). The challenge of the EEAS structure has been identified as an ongoing difficulty but the EU member states seem to be reluctant when it comes to the possibility of increasing the funds and carrying additional financial burdens. This was noted as frustrating for the mission staff as their requests are occasionally delayed and the procedures take too much time. Furthermore, according to the mission staff, reporting is occasionally mismatched with the discussions in Brussels. As they claim, the reports often do not have the desired impact.

On the other hand, challenges related to mission staff have been evident early from the formation of the mission. The challenges were attributed both to the (un)availability of the staff, their (lack of) competences and the (short) planned durations of the deployments of international seconded staff. Both international and local staff interviewed for this research noted the negative implications of relatively short term deployments and exposed certain limitations in staff pre-deployment training (Interviews no. 1, 3, 4, 7, 8, 10, 11, 13, 15, 16, 20). An especially concerning situation has been observed in regards to the judiciary branch, as member states are not willing to second their best judges and prosecutors, or are not seconding a sufficient number of judicial staff at all. The limitation of the durations of deployments was further emphasized by the experts at the roundtable who noted it as a particularly significant problem in relation to

the relatively lengthy judicial proceedings. It means that a judge or a prosecutor often could not conclude some of the lengthier and more complex cases, as his or her mandate expired within the course of the proceedings. Those are consequently passed to his or her successor which inevitably delayed the process. Similar findings were also indicated before by Jacque, as well as Cierco and Reis, which points to the persistence of the challenge (Jacque 2015; Cierco and Reis 2014). Better planning of human resources and increasing the training level of the deployed staff thus seems crucial in order to achieve higher levels of efficiency.

Perhaps even more fundamental than the above-mentioned challenges is the mission's lack of clearly set goals and exit strategy. The mission statement perceives a desired end state through sustainable and accountable Kosovo institutions, judicial authorities and law enforcement agencies, an independent multi-ethnic justice system and a multi-ethnic police and customs service, free from political interference and adhering to internationally recognized standards and European best practices (Council of the European Union 2008). Some of the interviewees and experts participating in the focus group noted that it was hardly imaginable that the mission could achieve the overall goals of the mandate in the foreseeable future (Interviews no. 4, 16, 18). As noted by one of the interviewees: *"Certain end goals and standards envisaged in the mission's mandate are overly ambitious. If the mission was to fully fulfil its mandate, it could stay in Kosovo for another 20 years or more"* (Interview no. 4).

The lack of a clear end-state or exit strategy does not help in preventing the CSDP engagements from being seen as 'eternal' and without 'feasible goals' by the local communities that should benefit from the CSDP. It also poses a certain challenge in relation to comprehensiveness and contributes to a lack of clarity in the mission's future, both in relation to other international actors and Kosovo institutions. On the other hand, the CSDP missions in general are political tools, and as such their deployment and potential closure is essentially a political rather than a technical decision. The desired end state and goals are thus defined and agreed by 28 EU member states, which again raises the questions

of EU cohesiveness and common policy objectives. Some of our interlocutors even noted that an overly ambitious and vague end state is an instrument of non-recognizing countries by which they continuously push the EU to retain a substantive international presence in Kosovo.

CONCLUSION

The CSDP missions and operations have been envisaged to be a rather short-term response to the crisis. The current trends, however, indicate that they are used as relatively long-term post-conflict institution-building instruments. This is especially evident in the case of EULEX; creating discrepancies between the strategic framework in which the missions are planned and their implementation. The case of EULEX has proven to be an especially complex case both from the planning and operational perspective. Several political and legal obstacles were in a way of the mission planning, which resulted in a relatively long planning process and eventual settlement for a compromise solution that was acceptable to all EU member states, the international community and conflicting parties. While compromises enabled the mission to finally be deployed, they also lead to certain limitations, raising the question of balancing the political considerations and on-the-ground needs in the mission planning.

The EUPT had been pointed out as a positive practice albeit the concerns that the results of the planning were to a certain extent adapted when the mission was eventually deployed in order to fit the political context. On the operational planning level, the issues such as, for example, a poor public perception, human resources planning challenges and the limited capability of the mission to effectively fulfil its executive role; all of which at least partly derive from the above-mentioned planning questions, are perhaps even more obvious than the noted strategic considerations. The standardization of pre-deployment training, the definition of common EU-best practices and adapted durations of staff deployments are just some of the broader CSDP challenges that should be taken in consideration.

If we draw some conclusions from this case study and apply them to a broader CSDP civilian framework, the following can be said. First, the reaction and planning process of the CSDP missions is still relatively long; it often takes a lot of time to reach a political consensus within the EU, especially, as evident in the case of EULEX, on more complex and sensitive issues. Second, there are many partial interests both within various EU institutions and among member states, which prolong the decision-making process and often result in compromises that do not necessarily reflect the actual needs of the host countries. Third, the CSDP missions are still very low on the political agendas of the member states. This is reflected in many respects, including in the reluctances of the member states to second their best staff to these missions. Fourth, while the CSDP framework has evolved substantially during the years, there are still certain structural challenges to be addressed in order to make it a truly functional instrument, adequate for longer lasting and complex engagements.

The findings of this paper thus indicate that if the EU wants to efficiently plan and conduct complex, long-term civilian CSDP missions, then the mandates, structures and general approach of the EU should be adapted accordingly. This is of particular importance in the light of the new EU Global Strategy, stating that the CSDP “must become” more responsive and effective.

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