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**KOSOVO: AN ANALYSIS ON STATE-BUILDING
AND THE ROLE OF EU AND INTERNATIONAL ACTORS**

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Table of Contents

Abbreviations	3
Abstract	4
Introduction	5
Research methodology	10
Chapter I – Theoretical Framework and Research Methodology	11
1.1 Defining state-building	11
1.2 The emergence of state-building practice and theory	15
1.3 Critical elements of state-building	17
1.4 Sources of state legitimacy	19
1.5 Rankings and indices	20
1.6 Summary	22
Chapter II – Historical and political context of Kosovo	24
2.1 From the Serbian to the Ottoman Empire	25
2.2 From the Balkan Wars to Yugoslavia	27
2.3 Kosovo under Tito’s Yugoslavia	29
2.4 The 1990s – Milošević-Rugova years	32
2.5 The Kosovo War	34
2.6 Summary	39
Chapter III - Peace- and state-building in practice: international presence in Kosovo	41
3.1 Kosovo under United Nations Rule	42
3.1.1 Kosovo Force	44
3.1.2 United Nations Interim Administration Mission in Kosovo	46
3.2 March 2004 riots and the road to independence	52
3.3 European Union Rule of Law Mission in Kosovo	58
3.4 Forced justice – Kosovo Specialist Chambers and Specialist Prosecutor’s Office	65

3.5 Summary	68
Chapter IV – Indices and Rankings - Results and Analysis	70
4.1 World Bank – Worldwide Governance Indicators	70
4.2 Transparency International – Corruption Perception Index	75
4.3 The Heritage Foundation – Index of Economic Freedom	76
4.4 Summary	78
General Conclusions	80
References	82
Appendix	92
Interview with Alban Pruthi	92
Interview with Albana Rexha	103
Interview with Arber Fetahu	107

ABBREVIATIONS

ESDP – European Security and Defence Policy Mission

EU – European Union

EULEX – European Union Rule of Law Mission in Kosovo

EUSR – European Union Special Representative

ICJ – International Court of Justice

ICR – International Civilian Representative

ICTY – International Criminal Tribunal for former Yugoslavia

IRMCT – International Residual Mechanism for Criminal Tribunals

JIAS – Joint Interim Administrative Structure

KFOR – Kosovo Force

KLA – Kosovo Liberation Army

KPC – Kosovo Protection Corps

KPS – Kosovo Police Force

KSC & SPO – Kosovo Specialist Chambers and Specialist Prosecutor’s Office

KVM – Kosovo Verification Mission

LDK – Democratic League of Kosovo

NATO – North Atlantic Treaty Organization

OSCE – Organization for Security and Co-operation in Europe

PGK – Provisional Government of Kosovo

SFRY/FRY – Socialist Federal Republic of Yugoslavia

SITF – Special Investigative Task Force

SRSG – Special Representative of the Secretary-General

UN – United Nations

UNMIK – United Nations Interim Administration Mission in Kosovo

UNTAC – United Nations Transitional Authority in Cambodia

ABSTRACT

With the development of internationally led state-building, external actors increased their willingness to exercise authority and intervene in the domestic affairs of countries, with peace being the end goal. However, many scholars analyzing the state-building process point out recurring problems and shortcomings resulting from externally assisted state-building. States in fragile situations and hybrid political orders tend to exhibit issues of legitimacy that pose a fundamental challenge to the state-building process. The thesis analyzes the conflicting sources of legitimacy through the role of international and domestic actors in the state-building process in Kosovo. The methodological approach used is an analysis of the two most extensive peace- and state-building missions in Kosovo – the UNMIK and EULEX. Hence, the thesis explores the correlation between the presence of influential actors and their stakes and agendas and Kosovo's political elites as constellations of power. The results show that external actors working in fragile contexts need to invest more effort in acquiring a detailed understanding of the local sources of legitimacy, rather than creating a false appearance of change in their efforts to build the newest 'state-in-waiting' in Europe.

Keywords: state-building, Kosovo, legitimacy, EULEX, rule of law.

INTRODUCTION

The process of internationally led state-building rose to prominence as a response to the growing number of conflicts in the post-cold war period. As an external actor, the international community¹ increased its willingness to exercise authority and intervene in the domestic affairs of countries to end violent conflicts. Although a recent phenomenon, state-building takes various approaches depending on the context and political order of the affected state. Thus, the purpose of international state-building entails rebuilding institutions, increasing the rule of law, and reinforcing state legitimacy in post-conflict societies. Consequently, states in fragile contexts and with hybrid political orders tend to exhibit issues of legitimacy that pose a fundamental challenge to the state-building process. Such is the Kosovo case, a complex and internationally salient topic since the end of the 20th century.

As a strenuous long-term issue in the Western Balkans, the Kosovo question remains in a stalemate even after more than two decades of peace- and state-building efforts. Characterized as a conflict-affected country with a complex historical and political background, Kosovo became an urgent case in need of international involvement and state-building practices. It is important to note that external actors have exercised executive power at every level in the legal system of Kosovo. International actors had the convenience and opportunity to lay the foundations of Kosovo's post-conflict legal system, which was essentially a "tabula rasa" with a non-existent rule of law system. Since NATO intervened in 1999 to end the violent conflict in Kosovo, external actors have faced many challenges in their state-building efforts. Some of the issues included the rule of law, high-level corruption, and economic development, to name a few.

¹ Throughout the thesis, the terms 'international community' and 'international actors' are used to refer to non-state organizations and international institutions - most notably the United Nations and its bodies, as well as states that are in pursuit of a commonly held sense of the good. The 'international community' is to be understood as "*the embodiment of liberal normative ideals exerting an influence on international politics*" (Lindberg, 2014). Although the term is imprecise, it is frequently used to imply the existence of a mutual point of view in matters connected to human rights. Furthermore, as a community of law, the concept of international community is certainly at the base of the development of international law concepts such as *jus cogens* and *obligatio erga omnes*, obliging all governments to respond to genocide, war crimes, and crimes against humanity. This creates a legal community with norms that are set out with a fundamental and higher value to the community (Rao, 2008, as cited in Lindberg, 2014). As in the case of Kosovo, the term includes, but is not limited to, liberal democratic countries and their respective governments (the West – with the United States holding the biggest influence as a global power), international and regional organizations, unions, and alliances, such as the UN and the creation of the criminal tribunal for former Yugoslavia, the OECD, OSCE, EU and NATO. Depending on the situation, and, whenever possible, the thesis omits the term 'international community' with specific countries and/or bodies involved in the case of Kosovo.

However, state-building cases in post-conflict and secessionist countries are more complex for various reasons. Out of the many is the political settlement or the elites that agree on the power distribution. Therefore, the international community can stumble upon limits on what it can and should do as an external actor. Besides the issues of the institutional approach in state-building, the research question concerns how external actors achieve effective state-building in post-conflict states and areas with limited statehood while facing shortcomings in dealing with emerging political elites. In line with this, the research question deals with the issues that external actors face regarding their state-building approach, but more importantly, their interactions with local elites in a complex political environment. To answer the research question, the thesis takes the Kosovo issue as a specific case in post-conflict state-building, exploring the connection between the issues of legitimacy between the emerging political elites and state-building actors and the recurring problems and shortcomings resulting from externally assisted state-building.

Specifically, the thesis focuses on the United Nations Interim Administration Mission in Kosovo (UNMIK) and the European Union Rule of Law Mission in Kosovo (EULEX) as the biggest peace- and state-building interventions and their respective decision-making powers. The thesis provides an overview of and analyzes both missions, explicitly concerning the political process and power distribution, as well as the West's validation of the emerging corrupt elite in Kosovo. The main argument of the thesis builds upon the legitimacy issues that entail domestic and international actors and the implications it has on the state-building process. Domestic perception becomes integral in cases of international development efforts as a form of domestic legitimacy relating to external actors. On the other hand, domestic participation by the political elite is another determining factor for legitimacy, as the end goal is to be seen as legitimate by the local population. As a result, a lack of legitimacy threatens an environment where violent conflicts and instability perish.

Another dimension of legitimacy that the thesis explores is related to the exposure of external actors in limited statehood to different legitimacy audiences. External actors are accountable to their domestic legitimacy audience, on which they depend for funding and approval. However, Walter-Drop and Remmert (2018) argue that external actors need to embrace a legitimacy-centered approach in international interventions while taking different legitimacy audiences seriously in order to be effective. The local values, social norms, and goals of the domestic legitimacy audience

vary across the world and should not be disregarded, as opposed to the export of Western liberal models in countries with limited statehood. On the other hand, what gives legitimacy to international actors and interventions is the global discourse on human rights and democratic governance that is increasingly becoming rooted in international relations.

Whether a peace- or a state-building process, the prospects of international interventions widely depend on the balance of power between elite groups in a post-conflict society. It is even harder for external actors if criminal groups and emerging corrupted political elites control power distribution or ‘the rules of the game.’ In the case of Kosovo, the international community was focused more on security issues than corruption, and it preferred primarily the emerging political elites that avoided violence. Two decades later, Kosovo remains the poorest and least developed country in the Balkans, left with an inefficient legal system that lacks independence, accountability, capacity, and integrity. As a precedent case in state-building, Kosovo’s situation allows for a deeper analysis of the effectiveness of the policies and decisions of international actors, considering the positive and negative effects on governance in an area of limited statehood.

Besides the heavy international involvement by the UNMIK and EULEX, international recognition played and still plays a vital role in Kosovo’s development. Only half of the world’s countries recognize Kosovo, considering that its independence is irreversible. As permanent members of the U.N. Security Council, Russia and China used their veto rights and declared Kosovo’s independence as illegal, thus making it impossible for Kosovo to join the U.N. formally. Regionally, the E.U. lacks harmonization in its foreign policy due to five member-states still not recognizing Kosovo as an independent country. The absence of Kosovo’s recognition by a large part of the international community created an East-West divide between world powers that had implications for Kosovo domestically and in its relations with Serbia. Russia and China backed Serbia’s side, while the West established its presence in Kosovo. However, the efforts of UNMIK and EULEX in the process of reconciliation between Kosovo and Serbia must be noticed. In 2013, the Brussels Agreement, negotiated under E.U. guidance, normalized the relations between the two governments. In 2020, Washington took the role of a mediator on the Kosovo and Serbia Economic Normalization Agreements. Increased dialogue and cooperation between the two countries resulted from the efforts of the international community to move from the status quo.

*

The thesis begins with the theoretical framework in Chapter I, explaining the key terms and concepts related to state-building, the linkages and differences between state-building and peacebuilding, and the critical aspects and actors in the state-building process. This chapter lays out the relevant theories on legitimacy-centered approaches to state-building, which are later connected in the subsequent chapters with the international involvement in the Kosovo case. Use is made of academic and historical sources such as books, research articles, interviews, government reports, rankings, and indices to understand Kosovo's state-building case. To better analyze the contextual information, the thesis also uses progress reports by the European Commission, policy analyses and mission reports by regional and international organizations, and critiques and policy recommendations by scholars in international state-building.

To better understand the state-building process in Kosovo, Chapter II of the thesis provides an overview of the historical and political context of the region. This chapter focuses on the constitutional changes in minority rights and autonomy under Yugoslavia regarding the status of Kosovo, followed by the rise of nationalist pursuits of former Yugoslav countries, the Kosovo War in 1998, and NATO's intervention in Serbia to end the violent conflict in 1999. Chapter II is essential as it gradually lays out the beginning of international involvement in Kosovo. As a consequence stemming from the conflict, the U.N. Security Council adopted resolution 1244 and established the UNMIK, with the primary goal of guaranteeing peaceful conditions in Kosovo after the war and ensuring stability in the region. Even though the UNMIK started as a peacebuilding mission that promoted peace and stability after the war, it has continued to operate in Kosovo in close coordination with EULEX since 2008.

The presented theories on international state-building in the previous chapter are put into practice in Chapter III. The thesis mainly concentrates on the efforts of the two most extensive international missions in Kosovo – the UNMIK and EULEX. This chapter provides an overview of the missions' establishments and mandates, with a strong focus on their decision-making powers and the rule of law. Further analysis is made on the connection between the legitimacy issues, the political settlement, and corruption in fragile situations such as post-war Kosovo. Examining the UNMIK and EULEX's success reveals (to some degree) Kosovo's overall progress in the political processes and governance, the legal system, and the rule of law. Following the analysis, the thesis

provides some preliminary answers on the advances and failures of the missions, leaving space for recommendations and lessons for the future.

Chapter III also analyzes Kosovo's justice system, the rule of law, and the EU's role in establishing the Kosovo Specialist Chambers and Specialist Prosecutor's Office (KSC & SPO) as a new form of the so-called "hybrid tribunals." As a substantial developmental assistance of international intervention, the KSC comprises international judges and staff, with the legal base being Kosovo's domestic law. The exclusive control of judges and prosecutors over the KSC & SPO makes it an international tribunal that investigates, prosecutes, and tries international crimes during and after the Kosovo conflict. This chapter also considers the success of the International Criminal Tribunal for former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals (IRMCT), as both the Tribunal and later the Mechanism dealt with prosecution of war criminals committed during the Kosovo War.

Chapter IV presents the results of international indices and rankings for Kosovo, primarily regarding the rule of law, control of corruption, transparency, and political stability. Use is made of the World Bank, Transparency International, and the Heritage Foundation data. The results include data from other Western Balkan countries to facilitate comparisons between Kosovo's state-building case and states where international intervention is limited. Besides comparisons, the analysis compares Kosovo's results chronologically and notes changes throughout the years.

Finally, the thesis provides a conclusion and answers regarding the research question and addresses multiple connecting arguments laid out throughout the thesis. The unsteady relation between Kosovo's political elite and external actors greatly impacted Kosovo's peace- and state-building case. Indeed, peace and security must be the principal goals on the agenda of international actors. Since state-building is a profoundly political process, they must compromise with local elites. In line with the argumentation, the conclusion offers future recommendations that external actors must adopt a legitimacy-centered approach to state-building. At the same time, it is crucial for external actors to understand the power relations and interact devotedly with emerging elites in areas with limited statehood and governance.

Research methodology

Primary and secondary sources, books, academic papers, and historical sources are the basis for a better understanding of the case at hand. First, the thesis explains Kosovo's historical and political context as a basis for the development of peace- and state-building. Due to the importance of the historical and political background of Kosovo, the thesis highlights and thoroughly explains crucial periods of Kosovo's history. Once the background has been laid, the thesis attempts to scheme Kosovo as a case of peace- and state-building through the establishment of the UNMIK and EULEX. Analyzing the initial period in which Kosovo was placed under international intervention is crucial for the primary purpose of the thesis – the legitimacy issue, the emerging political elite, and the role of external actors. Thus, the theoretical framework outlined above serves as a basis for further analysis of the contextual information which is discussed throughout the thesis.

More importantly, the rankings and indices outlined in section 1.5. of the following chapter are used to facilitate comparisons and give a solid basis for the results presented in Chapter IV. Parallel to the qualitative research and analysis, the rankings and indices are taken as results of the work and input of local and external actors. First, the results of the indices and rankings for Kosovo are presented and compared in chronological and analytical order to get an understanding of its development throughout the years regarding the rule of law, corruption, and institutional and economic development. Second, the results of Kosovo's international rankings and indices are compared to other Balkan countries (primarily Albania, North Macedonia, Serbia, and Montenegro). An analysis is made between the developmental results of Kosovo as a state-building case versus countries with minimal interference from international actors in their respective development.

Additionally, use is made of reports and policy papers published by key organizations, such as progress reports by the European Commission, annual reports by the United Nations Development Programme (UNDP), and mission reports by the Organization for Security and Co-operation in Europe (OSCE). The thesis also utilizes policy and research papers from regional civil society organizations and national/international think tanks. Next to this, several semi-structured interviews are conducted with experts in the Kosovo state-building case. As a result, the thesis analyzes the qualitative data obtained from the interviews to find mission deficiencies and issues that are not present in other sources.

CHAPTER I – THEORETICAL AND CONCEPTUAL FRAMEWORK

In order to be able to analyze the Kosovo issue as a state-building case, the thesis lays out the theoretical and conceptual framework in this chapter. The aim is to provide sufficient support to explain the relevance of the study at hand through the use of academic sources, books, and policy guidelines. In this regard, it begins defining the abstract term *state-building*, followed by an explanation of the key terms and concepts and the emergence of state-building practice. Although scholars use state-building and peacebuilding interchangeably, this chapter defines the linkages and differences between the two interrelated concepts.

Through the historical overview of the different generations of state-building, Chapter I distinguishes the most important theories as lessons learned from previous peace- and state-building activities. The successive sections establish the importance of the emerging elites and state actors, as well as the critical role that external actors have in the state-building process. Concerning this, the chapter focuses on the legitimacy-centered approaches to the state-building process, which serve as the main argument of the research. Additionally, identifying the sources of legitimacy constitutes a solid basis for the analysis in the subsequent chapters on Kosovo's international intervention. Finally, this chapter establishes the most important rankings and indices and connects the data on Kosovo with the sources of legitimacy.

1.1 Defining State-building

The OECD's Development Assistance Committee (2008) defines state-building as "*an endogenous process to enhance capacity, institutions, and legitimacy of the state driven by state-society relations.*" Paris and Sisk (2009) provide a similar definition, in which state-building "*refers to the strengthening or construction of legitimate governmental institutions in countries that are emerging from conflicts.*" Following this definition, the state-building process needs to be shaped through the exchanged relations between a state that delivers services for its citizens and societal groups that effectively engage with the state. The rise of the 'institutional approach' rooted in the Weberian sociology of legitimacy and the state is focused on strengthening the capability of state institutions; state-building implies reconstruction regarding the collapse of state institutions. Other scholars, such as Fukuyama, focus exclusively on the institutional effectiveness of state-building and the transfer of strong institutions to developing countries (2004). However, the

process of state-building largely depends on the historical and structural factors that aid the process of state formation, as well as the underlying circumstances of the concerned country.

Primarily understood as a domestic process, state-building involves participation by the local actors, meaning that the role of the international community is necessarily restricted. While state-building cannot be determined by external actors, the international community can engage constructively and effectively under the doctrine of ‘do no harm’ (OECD DAC, 2008). State-building can be incredibly complex in conflict-affected and post-conflict environments, as the development depends on legitimate, autonomous, and capable state institutions (Paris & Sisk, 2009). What makes the process even more difficult is that post-conflict states tend to prevail with criminal and other forms of violence, or in some cases, there are reoccurring threats of violent conflicts which put neighboring countries and regions in danger of spillover effects. Therefore, our discussion needs to differentiate between the challenges of state-building to those of peacebuilding².

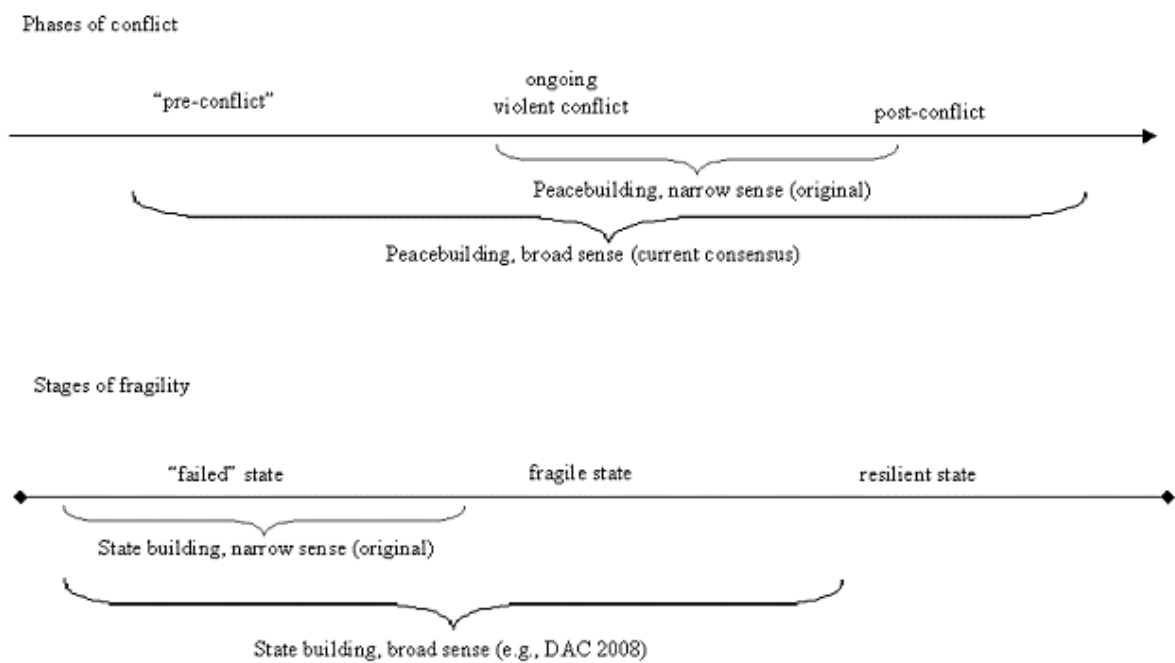
The U.N. Department of Peacekeeping Operations (2008) defines peacebuilding as *“a range of measures targeted to reduce the risk of lapsing or relapsing into conflict by strengthening national capacities at all levels for conflict management, and to lay the foundation for sustainable peace and development.”* Measures undertaken by peacebuilding operations focus on the transition from war to peace in environments where violent conflicts are emerging, ongoing, or recently over. Both concepts are overlapping and interrelated, as they address underlying mutual issues and have fundamentally consistent goals. State-building and peacebuilding both *“aim to help societies move in directions that are conducive to sustained development; both are aimed at supporting capable, legitimate and responsive states characterized by peaceful relations among communities and with neighbors, in which power is contested non-violently”* (Sisk & Wyeth, 2009 as cited in OECD, 2011). Although peacebuilding and state-building can engage in different areas and approaches, they are both complex, long-term processes that create the necessary conditions for the end goal of sustainable and positive peace.

Both concepts, with their evolution, exhibited a tendency to broaden their focus (as shown in Figure n.1): peacebuilding was used interchangeably with peace-keeping and was bound to the

² Due to their common overall purpose and goals, many scholars use state-building and peacebuilding interchangeably.

phases of ongoing violent conflict and immediate post-conflict. However, peace-builders soon recognized the linkage between different stages of conflict and peace and expanded their view of peacebuilding “to the whole spectrum from the prevention of violent conflict to the long-term formation of sustainable arrangements of conflict management in post-conflict societies” (Grävingholt, Gänzle, & Ziaja, 2009). As for state-building, the process encompassed the reconstruction of political institutions in the post-conflict period and later extended to tasks arising in fragile situations.

Figure n.1 – The Broadening Focus of Peacebuilding and State-building



(Grävingholt, Gänzle, & Ziaja, 2009)

Besides their broadening focus, the differences between peacebuilding and state-building can be seen through their key objectives. The International Dialogue on Peacebuilding and Statebuilding, in their Synthesis Report (2010), outlines the key peacebuilding objectives as shown in Table n. 1. On the one hand, the two concepts are not identical, but on the other, state-building is generally recognized to be supporting peacebuilding activities as well. In this regard, Call & Couzens (2007) note that “successful state-building supports the consolidation of peace in a number of ways. First, it enhances mechanisms for security and conflict resolution at the national level that should carry legitimacy in the eyes of the populace and the outside world. Such mechanisms—be they justice

systems, policing systems, or service delivery agencies—provide a credible arena and framework (or at least a foundation for a framework) for social groups to express their preferences and resolve their conflicts non-violently. If states work mainly to provide public goods rather than line private pockets, they reduce the incentives for populations and political elites to use violence” (p. 12).

Table n. 1 – Key peacebuilding and state-building objectives

Peacebuilding objectives	State-building objectives
- Preventing countries from lapsing or relapsing into violent conflict	- Developing the capacity and legitimacy of the state and promoting a constructive relationship between the state and society
- Establishing structures and incentives for the peaceful mitigation of conflicts	- Building inclusive political processes to facilitate a continuous exchange between the state and society
- Incentivizing elite commitment to peace processes while laying the groundwork for those processes to be made more inclusive over time	- Developing state capacity to perform its functions in ways that meet people’s expectations
- Establishing a framework for political, security, and economic transition	*Key state functions include:
- Jump-starting recovery	- Delivery of security and justice
- Demonstrating peace dividends by meeting the urgent needs of the population	- Revenue and expenditure management
	- Basic service delivery
	- Economic management

(International Dialogue on Peacebuilding and Statebuilding, 2010)

Paris and Sisk (2009) also provide a distinction between the two concepts through the four features of the state-building definition. The first feature distinguishes between state-building and peacebuilding, which refers to post-conflict peacebuilding as an effort to create an environment where violence will not reappear. Thus, state-building should not replace peacebuilding but continue in the process of strengthening effective and legitimate governmental institutions (p. 14). The second feature focuses on the sources of legitimacy and the relationship between *legitimate* governmental institutions and civil society; therefore, state-building should not be limited to “top-

down” or “bottom-up” approaches. The third feature distinguishes state-building from nation-building, as the latter refers to strengthening a population’s collective identity, unity, and distinctiveness. Although there is no fixed list of state-building activities, the fourth feature provides some of the core functions: security provisions, the rule of law (including a body of laws with effective police and the justice system), essential services such as healthcare, the ability to formulate and implement budget plans, and taxation (p. 15).

State-building can also be conceptualized regarding how the modern state came into existence. The modern state “*exists when there is a political apparatus (governmental institutions, such as a court, parliament, or congress, plus civil service officials), ruling over a given territory, whose authority is backed by a legal system and the capacity to use force to implement its policies*” (Giddens, 1993, as cited in Barnett & Zürcher, 2009). Accomplishing this process widely depends on the legitimacy of post-conflict institutions: the importance of public support and the willingness of individuals to abide by their government’s decisions.

1.2 The emergence of state-building practice and theory

During the 20th century, the international environment was rapidly changing due to waged wars and the evolution of the global capitalist system (Barkey and Parikh, 1991, as cited in OECD, 2011). During the Cold War era, the U.N.’s security functions focused primarily on deploying lightly-armed military forces, maintaining cease-fires, and stabilizing conflicting situations. The practice of peacekeeping started in 1948 with the deployment of U.N. military observers to the Middle East (UN DPO, 2008). Faced with many restrictions, the U.N. peacekeepers stayed out of the domestic politics of the host states and restrained from taking the role of cease-fire observers. The first setback was the prohibition of the organization “*to intervene in matters which are essentially within the domestic jurisdiction of any state*” contained in Article 2(7) of the UN Charter (1945). Second, due to the Cold War’s intense ideological differences and international power struggles, peacekeepers couldn’t reach an agreement on the model of domestic governance. The Soviet Union and the United States were careful of possible interference in their spheres of influence (Paris & Sisk, 2009).

The changing conditions brought about by the end of the Cold War allowed the U.N. peacekeeping missions to work on the containment of conflicts and their peaceful resolution (UN DPO, 2008). Following the revolutionization of the organization's peace operations, the U.N. directed its efforts to end several long-standing conflicts in Namibia, El Salvador, and Bosnia, to name a few. Activities undertaken by the U.N. went well beyond the past constraints and involved monitoring and disarmament of fighters, organizing elections, and overtaking temporary administrations. In 1992, the U.N. Secretary-General Boutros Boutros-Ghali presented the new security aims of the U.N. (Boutros-Ghali, 1992). The new scope included three categories of operations: peacekeeping (understood as lightly armed missions with observation functions), peace enforcement (more heavily armed peacekeepers authorized by the Security Council to use force not just for self-protection (Paris & Sisk, 2009, p. 5), but to restore international peace and security in societies that are facing a threat to peace or an act of aggression), and post-conflict peacebuilding (strengthening and solidifying peace to avoid a relapse into conflict) (p. 11).

As peacebuilding was becoming the U.N.'s primary peace and security activity, scholars distinguished three generations of literature on peacebuilding operations (Paris & Sisk, 2009). The peace missions launched between 1989 and 1997 were categorized as first-generation peacebuilding efforts, revealing the international community's inexperience and failures in dealing with post-conflict stabilization. Peacebuilding operations relied on quick fixes, such as elections, rather than focusing on building the institutional foundations of the post-war state. On the other hand, the literature on second-generation peacebuilding in the late 1990s and early 2000s focused on multiple sub-areas and approaches. Arguments stressing the need to pay more attention to state-building goals rose to prominence.

Chesterman (2004) was among the first scholars to offer an analysis of the state-building's dilemmas and contradictions. He criticized peacebuilders' efforts in establishing sustainable institutions and economic stability, specifically the failure to create a functioning judicial system and law enforcement in the missions in Bosnia and Hercegovina, and Kosovo. Another perspective presented by Krasner (2004) focused on the emerging elites, characterizing them as *"failed, inadequate, incompetent, or abusive national authority structures [...] have sabotaged the economic well-being, violated the basic human rights, and undermined the physical security of their countries' populations"*.

The third generation of peacebuilding scholarship does not offer a ‘solution’ to state-building but investigates the underlying tensions that challenge the state-building process. The movement from peacebuilding to state-building raised additional concerns over efforts to strengthen the rule of law and the shift to longer-lasting missions. Due to the extended and somewhat intrusive role of the international community, critiques portrayed state-building as a form of neo-imperial intervention, implying the dangers of fostering a ‘culture of dependency’ (Chandler, 2006). Contrary to promoting sustainable self-rule with domestic governing capacities, the longer-lasting missions raised doubts about the unending dependency of post-conflict states. The difficulty of reinforcing different sources and forms of state legitimacy in fragile situations opened a sub-area in the literature on postwar state-building. Scholars characterized these missions as a hybrid, as they include personnel under mixed command by the United Nations and some regional organizations under separate mandates and management.

Lastly, the historical and structural legacies gained from past experiences in state-building over the decades serve as vital lessons for the international community. The history of state formation and violent conflict is a relevant factor for the success of state-building, as independence struggles can leave a lasting consequence on the process. Another historical legacy is that differences in population impact state-building as a potential source of conflict or discontent. In fragile situations, even structural conditions such as the geography of the host state, economic development, and poverty play a tremendous role in state-building efforts (OECD, 2011).

1.3 Critical elements of state-building

Providing the theoretical framework on the linkages between legitimacy and state-building is a crucial element for the analysis and conclusions of the thesis. One of the central issues for post-conflict countries, particularly in the case of Kosovo, is the issue of legitimacy and institutional strengthening. External actors have paid insufficient attention to it, assuming that legitimacy would naturally result from improved state performance. For instance, Paris and Sisk (2009) note that state-building *“is no panacea; although analysts and international organizations have increasingly recognized the importance of state-building as a core element of peacebuilding, ongoing efforts to build effective, legitimate government institutions in war-torn countries rely on limited foundation of knowledge. Understanding what works in postwar state-building, and what*

does not work, will require more that lists of lessons learned from previous missions [referring to the second generation of state-building practices]” (p. 15).

To understand the dynamics of state-building, the OECD Guidelines (2011) provide three critical aspects for external actors in their efforts to support host countries: the political settlement, the capability and responsiveness of the state to effectively fulfill its principal functions, and the general social expectations and perceptions about what the state should do (p. 30). External actors must take all dimensions equally, placing legitimacy at the center of the interaction between the three aspects.

As the first element, political settlement refers to how the balance of power is settled between elite groups and the rules of political engagement. A fundamental problem for external actors in post-conflict states is that *“political and economic elites may have very little interest in building more effective and legitimate state capacity, and indeed have strong personal interests in undermining it”* (OECD, 2010). The way in which power struggles are settled is essential in reaching a consensus between elites on the means of avoiding violence (Brown and Grävingholt, 2009, as cited in OECD, 2011). Ultimately, for state-building to work, external actors must account for the presence of the emerging elites and their interests. However, scholars note that allowing prominence to elite settlements in the state-building process should not require an “embrace of patronage politics” to reach peace (Salmon & Anderson, 2013).

In cases of fragility, economic settlement is deeply connected to the concept of political settlement. Due to the uneven distribution of wealth and control over state resources, extreme disproportion favors the emerging elite. Therefore, achieving a political settlement by elites that abide by the rules and provide accountability is the desired outcome of local political processes. Capussela (2015) extended this argument in his book *State-building in Kosovo*, asserting that *“in the absence of constraints to its political power, the existing elite will typically prevail in such a debate: the new economic institutions will accordingly distribute to its members a disproportionate share of the resources of the economy, which the elite will then be able to use in order to reshape the political institutions too in such a way as to increase also its own de jure political power”* (p. 17).

The second critical element underpinning state-building is the capability and responsiveness of the state to provide key services and effectively fulfill its principal functions. Parallel to the political settlement, international interventions focus on improving the state institutions and their capacity.

There are key state capabilities that serve as a benchmark for the effectiveness of countries. For example, the security function encompasses the ability of the state to successfully consolidate the legitimate use of force to protect its citizens and territorial integrity. In addition, state effectiveness is unlikely to be achieved if countries cannot provide the conditions for independent justice, law-making, and conflict resolution - functions that serve as decisive criteria for effective states. On the other hand, to support state institutions, countries need to raise and expend revenues and provide essential services such as healthcare, water, and education. The last function that states need to carry is to enable conditions for economic development and employment. A state fulfilling the abovementioned functions is well on its way to a resilient state (OECD, 2011).

Finally, the third element relates to the interaction between the responsiveness of the state and the expectations of society, providing the basis for a “social contract.” In fragile situations, social expectations about the state tend to be either heterogeneous or polarized, as in cases of uneven distribution of public goods. Two distinctions are made regarding how society sees the state – realistic and normative expectations. The former refers to what society expects the state to deliver in reality (based on previous experiences). In contrast, the latter is based on perceptions and beliefs about what a state should deliver. It is important to note that normative expectations relate to the evolution of legitimacy narratives on state-society relations (OECD, 2011). The gap between normative and realistic expectations is especially more profound in fragile situations, as society does not have big expectations from the state as a service provider. Resilience is achieved when societal expectations correspond with what the state can deliver.

1.4 Sources of state legitimacy

Although many scholars note the importance of building resilient institutions, state legitimacy is crucial as it provides the basis for rule by consent. A political order, actor, or institution is legitimate to the extent to which society regards it as successful, while at the same time, there is the belief that no available alternative will be superior. In state-building efforts, external actors have paid little attention to legitimacy. Encompassing aspects of legitimacy that result from shared beliefs and traditions rather than following Western models should be the focus of international actors. Paris and Sisk (2009) note the importance of domestic and international sources of state legitimacy as crucial and integral to the state-building process.

The OECD (2010) report on *The State's Legitimacy in Fragile Situations* provides four main sources of legitimacy:

1. *Input or process* legitimacy refers to the agreed rules of procedure in which the state makes binding decisions and organizes participation by society. In Western countries, these rules will be formal, while in traditional political orders, they will be based on customary law or practice.

2. *Output or performance* legitimacy relates to the performance, quality, and effectiveness of goods and services that the state delivers.

3. *Shared beliefs* include political ideologies, social practices, ideas, religion, and tradition. All these components allow society to see the state or other public authorities as the rightful and overarching authority. Charismatic legitimacy, which enables leaders to claim legitimacy due to their virtues and personal attributes, is considered in this section.

4. *International legitimacy* refers to the recognition of the state's legitimacy and sovereignty by the international community, which has an impact on the state's internal legitimacy.

1.5 Rankings and indices

The thesis uses the available rankings and indicators as a relevant basis for the analysis and conclusions on the Kosovo case. Examining the data from the rankings and indicators throughout the years is beneficial to answer the research questions on the legitimacy issues that entail domestic and international actors and the implications on the state-building process. A chronological comparison and data analysis are made to determine the development of Kosovo regarding its institutional functioning, effectiveness, accountability, the rule of law, legislative implementation, and democratic character of the governmental system, to name a few.

Specifically, the thesis connects the data from the rankings and indices to the different sources of legitimacy explained in section 1.4. As such, output legitimacy relates to the data on governmental effectiveness of policy outcomes, while input legitimacy is linked with the results from the data analysis on the responsiveness of government institutions, participation by the people and civil society, and public perceptions of corruption. Shared beliefs are also considered with regard to the data analysis on popular participation in the political process, as well as the electoral framework

and the functioning of the multiparty systems. As for international legitimacy, a summary is made on the international recognition of Kosovo, with detailed explanations for specific countries that have an implication on Kosovo's recognition. Additionally, the thesis considers how different decisions by state and non-state actors have repercussions on the overall development in Kosovo, as well as the effects it has on the data in specific years.

Due to the broad scope of the data, the thesis considers only relevant indices and ratings. The first data that the thesis uses is The World Bank's DataBank, which serves as an online web resource offering access to collections of time series data. For the purpose of the research, data from the World Development Indicators (WDI) is used, presenting accurate and current global development figures. As the primary World Bank collection of development indicators, WDI is compiled from officially recognized international sources (The World Bank, 2023). The Worldwide Governance Indicators, on the other hand, offer data and estimates on the rule of law, control of corruption, government effectiveness, political stability and absence of violence/terrorism, and voice and accountability. As an example, control of corruption captures *"perceptions of the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests"* (Kaufmann, Kraay, & Mastruzzi, 2010). The World Bank also offers databases on country policy and institutional assessment, such as transparency, accountability, and corruption in the public sector, economic development indicators, and ratings on the sustainable development goals.

The Corruption Perceptions Index (CPI) is another essential index that has been published annually by the non-governmental organization Transparency International since 1995. The CPI ranks countries by their perceived level of corruption in the public sector, determined by expert assessments and society opinion surveys. The index ranks countries on a scale from 100 (very clean) to 0 (highly corrupt). The final country score is derived as a combination of at least three data sources drawn from various corruption surveys and assessments. The data sources are collected from different reputable institutions, such as the World Bank and the World Economic Forum (Transparency International, 2022).

The principles of economic freedom are measured in the Index of Economic Freedom, which is an annual guide published by The Heritage Foundation. Economic freedom is measured through 12

quantitative and qualitative factors³, which are grouped into four categories and pillars: the rule of law, government size, regulatory efficiency, and open markets. A country's overall score is based on the average of the four categories on a scale of 0 to 100. The Index of Economic Freedom also considers every component equally crucial in achieving the benefits of economic freedom. Each component is weighted equally in determining the final country scores (The Heritage Foundation, 2022).

1.6 Summary

Various definitions of state-building mutually refer to the complex process of reconstruction and strengthening of legitimate governmental institutions in post-conflict societies. Participation by local actors and emerging elites is crucial, while external actors engage in the state-building process under the doctrine of 'do no harm.' Scholars distinguish state-building from nation-building and see it as a continuation of peacebuilding, focusing on core state functions such as security provisions, the rule of law, and providing essential services. On the other hand, as an interrelated concept, peacebuilding aims to help post-conflict societies reduce the risk of relapsing into conflict and lays the foundation for sustainable peace. The linkages between peacebuilding and state-building can be seen through their broadening scope throughout the years and their mutual aim of helping societies achieve sustainable development and supporting legitimate states to attain peaceful and non-violent relations among societies.

The emergence of state-building is traced back to 1948 through the peacekeeping practice and deployment of U.N. military observers in the Middle East. This period is characterized by many setbacks - the most prominent being Article 2(7) of the U.N. Charter, which prohibited the U.N. from intervening within the domestic jurisdiction of states, as well as the ideological differences and bipolarity during the Cold War. The changing conditions that resulted from the end of the Cold War allowed the U.N. to undertake new security aims which went beyond the previous constraints and included activities such as peacekeeping, peace enforcement, and post-conflict peacebuilding. Consequently, the literature on peacebuilding and state-building operations is divided into three

³ The 12 factors include: property rights, government integrity, judicial effectiveness, government spending, tax burden, fiscal health, business freedom, labor freedom, monetary freedom, trade freedom, investment freedom and financial freedom.

generations: the first generation consists of the peace missions launched between 1989 and 1997, the second generation comprises peacebuilding activities that took place in the late 1990s and early 2000s, while the third generation, although contemporary, stresses the shift from peacebuilding to state-building practices that do not look for a ‘quick fix.’ However, the long-lasting state-building missions raised doubts among scholars, implying the dangers of fostering a ‘culture of dependency’ in post-conflict countries.

With the development of state-building activities, the literature on the third generation of state-building practices pointed out the need for external actors to consider a legitimacy-centered approach, besides the need to build resilient institutions in post-conflict societies. As such, the OECD Guidelines provide three critical aspects for external actors in their efforts to support host countries: the political settlement, the capability and responsiveness of the state to effectively fulfill its principal functions, and the general social expectations and perceptions about what the state should do. For state-building to work, external actors must account for the presence of the emerging elites and their interests, including the power struggles, with the final goal of avoiding violence. External actors must take the critical aspects equally, placing legitimacy at the center of the interaction.

Finally, the theoretical framework focuses on the four main sources of legitimacy: input or process legitimacy, output or performance legitimacy, shared beliefs (charismatic legitimacy), and international legitimacy. The sources of legitimacy are connected to the analysis of the data from the rankings and indices, such as governmental effectiveness of policy outcomes, the responsiveness of government institutions, participation by the people and civil society, public perceptions of corruption, and popular participation in the political process. Before embarking on the analysis, and in order to understand the root causes of the Kosovo issue, the thesis establishes Kosovo's historical and political context in the following chapter.

CHAPTER II – HISTORICAL AND POLITICAL CONTEXT OF KOSOVO

Winston Churchill famously said that “*the Balkans generates more history than it can locally consume*” (Tharoor, 2012). As such, the history of Kosovo is complex, with roots of the issues between Serbs and Albanians going back in history. To understand the state of the Kosovo issue today, the second chapter of the thesis lays out and analyzes the historical context chronologically. This chapter presents the deep-rooted issues and hostilities between Serbs and Albanians, stemming from their own claims of first occupancy over Kosovo. The analysis of Kosovo's historical and political context spanning from the medieval period until the 19th century presents a history marked by constant migration, forced expulsions, and claims of democratic changes by both sides. The complex political environment and historical claims are taken into consideration in this chapter, as they later influence future instability and insecurity in Kosovo.

With the end of the Second World War, significant decisions affecting the position of Kosovar Albanians are examined under Tito's rule in Yugoslavia. As such, the constitutional changes in Yugoslavia in 1974 and 1989 regarding Kosovo's autonomy and minority rights and the unrest following Tito's passing are critical periods presented in this chapter. Kosovo's revoked autonomy with the constitutional changes in 1989 is one of the major factors influencing its fight for liberation. The thesis focuses on crucial moments that were developing in the 1990s: the Serbian nationalist discourse under Milošević versus Rugova's non-violent resistance, the creation of the Kosovo Liberation Army, and the unrest and violence that followed by the end of the decade. These developments are crucial to consider, as the events triggered the beginning of international involvement in Kosovo during and after the conflict. The period covered in this chapter gradually introduces the international community's initial role in Kosovo – focused exclusively on security and safety issues and post-war reconstruction. The historical and political overview also presents how certain political decisions and events can drastically escalate into conflict, making way for the international community to initiate post-conflict peace-building missions while considering the region's complexity and history as a vital factor for the success of peace- and state-building.

2.1 From the Serbian to the Ottoman Empire

In order to understand the historical claims of Serbs and Albanians, this chapter goes back to the medieval period. During the medieval era, Kosovo was under the rule of the Serbian Empire, serving as an administrative and cultural center. From a Serbian perspective, as Daskalovski (2003) writes, Kosovo was ‘the heart of Serbia’, representing an important political and economic center of the Serbian nation. The peak of the Serbian state in medieval times happened under King Stefan Dušan, incorporating territories from Belgrade, reaching across Albania, Epirus, Macedonia, and Thessaly. Dušan called himself ‘*the emperor of the Serbs, Greeks, Bulgars and Arbanasi [Albanians]*’ (Bogdanovic, 1986). By 1385, the territory of the medieval Serbian Empire fell under the Ottoman Empire. The famous battle of Kosovo Polje (Kosovo Field) on June 28, 1389, where Prince Lazar made the final stand against the Ottoman Empire Army, is regarded as an important and symbolic event in Serbian history. For Serbian intellectuals and historians, the Kosovo and Metohija⁴ region is viewed as the cradle of their civilization, rather than a myth.

With the collapse of the Serbian Empire, the Ottoman Empire controlled the region of Southeast Europe, encompassing the whole Balkan area. The Empire lasted for more than four centuries, causing Serbs to migrate to the north. As a religious organization, the Ottoman Empire regarded anyone who converted to Islam as having the same rights as the Ottomans (Bogdanovic, 1986). The demographic changes that followed in the 18th and 19th centuries can be regarded as a consequence of the mass conversion to Islam (voluntary or forced). Serbs were taking the Austrian side when fighting the Ottomans, and they migrated from Kosovo due to defeats. Around 185,000 people were estimated to migrate, resulting in a change in the ethnic element in Kosovo. At the same time, new Albanian settlers penetrated Kosovo, which were protected by Ottoman authorities as they were Muslims by faith, marking a religious division (Jelavic, 1991). As for church buildings, Christian communities were permitted to maintain them, with the Serbian Orthodox Church enjoying a particularly favored position after the re-establishment of the Patriarchate of Pec (Malcolm, 1998). Kosovo was also given the status of ‘vilayet,’ meaning ‘administrative division’ in Turkish, and allowed many Albanians from mountainous areas to move to Kosovo as

⁴ ‘Metohija’ represents the southwestern part of Kosovo. The term is continuously used by Serbia as its meaning ‘monastic estates’ references the large number of villages and estates that were owned by the Serbian Orthodox monasteries. Albanians refer to this part as ‘Rrafshi I Dukagjinit’ meaning ‘the plateau of Dukagjin’ taken from the name of the Dukagjini family who ruled this region during the 14th and 15th centuries.

it was more livable geographically. According to Bogdanovic (1986), the numerous Albanian penetrations and mass colonization represented a genocide for the Slavic population living in Kosovo.

From the other side's perspective, Albanians have claimed Kosovo, too, establishing a cultural and ethnic continuity between the Illyrians and the medieval Albanians. They maintain that their ancestors inhabited Kosovo before the sixth century when Serb tribes arrived. Although Albanians claim they are descendants of Illyrians, Serbian archaeologists assert that they are '*an intermingling of both Illyrian and Thracian elements*' (Vickers, 1998). Regardless, they certainly inhabited the region before the Serbs, albeit in smaller numbers (Rogel, 2003). Returning to the migration in the 18th and 19th centuries, Malcolm (1998) notes that "*the idea that a fixed but gradually eroded Serb population was swamped by a tide of Albanian immigration is misleadingly schematic; there was flux and emigration, settlement and resettlement, in all sectors of the population*" (p. 178).

The nineteenth century was most notable for the national revolutions of the Balkan nations as they tried to get rid of the Ottoman rule. Following the two uprisings in 1804 and 1815, Serbs marked their liberation movement, and by the end of the 1860s, they had won autonomy. With the unrest in Bosnia in 1875, Serbia and Montenegro declared war on the Ottomans in 1876 (Daskalovski, 2003). The Treaty of San Stefano, and later the Congress of Berlin with the Treaty of Berlin of 1878, resolved the international crisis, granting Serbia and Montenegro full independence. As previously mentioned, the demographic picture of Kosovo has been a topic that divided both sides. For example, Serbian ethnographers declared that around 150,000 Serbs left the territory of Kosovo between 1876 and 1912, drastically changing the demographic statistics (Dragnic & Todorovic, 1984). On the other hand, the Albanian claim is that there were forceful, mass movements of Albanians that consequently followed the Serbian-Ottoman wars in 1877-1878. This resulted in 60,000 Albanian refugees moving from their native territories in Macedonia and 60,000-70,000 in the 'vilayet' of Kosovo (Daskalovski, 2003).

2.2 From the Balkan Wars to Yugoslavia

The Balkan Wars in 1912 and 1913 brought about a period of disruption and profound changes in the territory of the Balkans. The region of Kosovo, including the surrounding Albanian ethnic space, was occupied by the Serbian and Greek armies, besides the establishment of an independent Albanian state. Albanians comprised 90 percent of the population in Kosovo in 1912, according to the census of the Serbian military regime. However, according to Albanian sources (Shtylla, 1993), in the period between 1912 and 1941, approximately 300,000 Albanians were expelled from Kosovo, while 14,000 Serbs settled in the region. As a consequence of colonization and ethnic cleansing, the Albanians comprised less than 70 percent of the population in 1941. During this period, the Serbian attempt to consolidate and establish their administration over Kosovo succeeded.

After the Balkan Wars, Kosovo was divided among the Kingdom of Serbia (the geographical part called ‘Kosovo’) and the Kingdom of Montenegro (the geographical region called ‘Metohija’). With the Kingdom of Montenegro proclaiming unification with the Kingdom of Serbia in 1918, both geographical regions of Kosovo became an integral part of the newly created Kingdom of Serbs, Croats, and Slovenes. In 1929, King Alexander I changed the official name of the state to the Kingdom of Yugoslavia (also known as First Yugoslavia), encompassing today’s Bosnia and Hercegovina. Kosovar Albanians did not welcome the inclusion of Kosovo within Yugoslavia due to previous hostilities between the Serbs and Albanians (Biserko, 2017). During this period, the local Kosovar Albanians continued fighting, organizing various rebellions and movements⁵ to liberate themselves. Under the new Yugoslav Kingdom, they were viewed with the utmost suspicion, with Serbian authorities attempting to consolidate their administration in Kosovo. Limani (2017) contextualizes the history of Kosovo under the Kingdom of Yugoslavia “*as a continuous process of colonization combined with agrarian reform to induce the expulsion of Albanians from Kosovo and the settlement of Serb and Montenegrin colonists, policies, which ultimately further strengthened inter-ethnic enmity in Kosovo*” (p. 280).

⁵ Ethnic Albanians who especially enjoyed reputation among the Kosovo Albanians formed the Committee “National Defense of Kosovo” in May 1918. The main purpose was creating a movement with a strong liberation character. The Committee, led under Hasan Prishtina and Bajram Curri, fought for Albanian national rights in Yugoslavia.

According to the 1931 census, Kosovo's Albanian population was down to 62.8 percent, characterized as a second colonization program by the Serbs. The areas surrounding the Albanian state were most subject to the forced expulsion of Kosovar Albanians, with the Serbian academic Vasa Cubrilovic as the most prominent advocate for their removal. As such, he listed proposals for mass resettlements of ethnic Albanians, considering countries like Albania and Turkey as host countries due to their uninhabited and uncultivated territories (Vickers, 1998). The culmination of the second colonization program happened with the signing of the 1938 agreement between Yugoslavia and Turkey for the emigration of 200,000 ethnic Albanians, Muslims, and Turks from Kosovo and Macedonia. Although the agreement was never implemented, the deportation of Albanians was organized efficiently: the majority went to Turkey, some went to Albania, and others to Arab countries.

During the Second World War, once Yugoslavia was occupied by the Axis powers, most of the territory of Kosovo was assigned to Albanian control. By April 1941, aided by Italy⁶, Kosovo became a part of Greater Albania (it also encompassed the ethnic boundaries of Albanians in Kosovo and Western Macedonia), resulting in migrations of Albanians in the region. Although most of Kosovo had been conquered by German troops, it was agreed that the largest part of Kosovo was placed under Italian control and joined Albania. The Italian and German foreign ministers considered this decision to “*prevent Albanian ethnic irredentism from becoming the driving force of an anti-German resistance movement*” (Malcolm, 1998). Most Kosovar Albanians were regarded as Nazi-collaborators⁷ by the Serbs and refused to join the Yugoslav Partisans, with a considerable number treating the Italians as their liberators rather than occupiers (Limani, 2017). At the same time, Serbian history marked this period with a reign of terror, as there were mass killings of Serbs in Kosovo. According to Serbian historians, around 60,000 Serbs and Montenegrins were killed in a campaign of expulsion during the war (Burg, 1983, p. 48). With the outcome of the Second World War, the second Yugoslavia came into existence. At the same time, Kosovo's territory fell' under Belgrade's establishment and Josip Broz Tito as the leader of the new communist state.

⁶ Although Albania was a separate kingdom in this period, it was ruled by the King of Italy, Victor Emmanuel III until 1943.

⁷ Despite eliciting a mixed reaction amongst Albanians, the German-Italian administration was supported due to the promise of 'Greater Albania' and schools in Albanian language.

2.3 Kosovo under Tito's Yugoslavia

Under Yugoslavia, Kosovo's autonomy status and constitutional changes are presented, which had a large impact on the development of events in Kosovo. The new Socialist Federal Republic of Yugoslavia (SFRY) consisted of six republics: Serbia, Montenegro, Bosnia and Hercegovina, Croatia, Macedonia, and Slovenia. Kosovo was officially named the 'Autonomous Region of Kosovo and Metohija'⁸ as an integral part of Serbia. In 1953, the President of Yugoslavia, Josip Broz Tito, made an agreement with the Turkish Foreign Minister Fuad Kuprili to expatriate Kosovar Albanians to Turkey. In the period between 1950 and 1966, more than 246,000 Kosovar Albanians left their homes and emigrated to Turkey. However, in 1966, Kosovo's position changed significantly with the dismissal of Aleksandar Rankovic as the head of the secret police. Rankovic was heavily criticized by Tito for his treatment of Kosovar Albanians, leading the secret police to open 170,000 files on Kosovar Albanians and consider them suspects and spies (Limani, 2017). Nevertheless, the constitutional reform in 1963 granted Kosovo more autonomy – it received the title of a province, and Albanian became the official language (Judah, 2008).

The 1970s was a reasonably prosperous decade for Kosovar Albanians under Yugoslavia. The establishment of the University of Pristina at the beginning of the decade marked a development of an intellectual class and rapid economic⁹ and cultural progress. Following the demonstrations in 1968, Kosovo was entrusted with a separate constitution from the Serbian one in 1974. With the adoption of the federal Yugoslav Constitution in the same year, Kosovo was granted significant autonomy – including positions for the highest officials, such as Presidency and Government. By the end of the decade, Fadil Hoxha served as Vice President of SFRY, while Sinan Hasani was appointed President of the Presidency of SFRY in 1986-1987. Additionally, Kosovo represented almost a complete federal entity with its own government, parliament, a national bank, and police (Judah, 2008). However, the new constitution, which replaced the one in 1963, granted the right to secede from the federation only to the six republics and excluded the provinces of Kosovo and Vojvodina (Weller, 2009).

⁸ In 1963, the official name was changed to 'Socialist Autonomous Province of Kosovo', the term 'Metohija' was removed, while at the same time it was granted the same level of autonomy as the other 'Autonomous Province of Vojvodina' of the Socialist Republic of Serbia.

⁹ In 1971, a World Bank loan was given to SFRY that was primarily invested in the least economically developed countries: Kosovo, Bosnia and Hercegovina, Macedonia, and Montenegro.

The results of Tito’s leadership in creating the Yugoslav nationality and prohibiting nationalistic activities – no matter from which republics or regions in SFRY – meant a low chance of ethnic conflict happening between Serbs and Kosovar Albanians. Malcolm (1998) writes, “*Tito is still remembered with genuine affection by many Albanians in the former Yugoslavia. They see him as the man who halted or reversed the most objectionable policies of the previous Yugoslav regime – the colonization programme and the suppression of the Albanian language*” (p. 314).

The creation of Yugoslav identity was also evident among Kosovar Albanians in the ’70s and ’80s, as they were reaping the benefits of being a citizen of Yugoslavia. Granted, the 1970s are seen as a golden age for Kosovar Albanians regarding education, health, culture, and wealth. In terms of demographics, in 1981, the proportion of Kosovar Albanians almost doubled (as shown in Table n. 2), while the Serbian population decreased to one-sixth compared to 1961 (Vickers, 1998). Illiteracy fell from 73 percent in 1948 to 31.5 percent in 1979 due to the education available in their mother tongue (Judah, 2008). As for health, vaccinations helped in a massive increase in population and a decrease in child mortality. In terms of culture, the capital of Kosovo was transforming into a modern town with emerging artists and writers.

Table n. 2 – Demographic changes in Kosovo’s population from 1948 – 2006

Year of census	Total	Albanians	Serbs	Turks	Roma	Others
1931	552.064	-	-	-	-	-
1948	733.034	498.244	176.718	1.320	11.230	45.522
%	100	68.0	24.1	0.2	1.5	6.2
1953	815.908	524.562	189.869	34.590	11.904	54.983
%	100	64.3	23.3	4.2	1.5	6.7
1961	963.988	646.605	227.016	25.764	3.202	61.401
%	100	67.1	23.5	2.7	0.3	6.4
1971	1.243.693	916.168	228.264	12.244	14.593	72.424
%	100	73.7	18.4	1.0	1.2	5.8
1981	1.584.440	1.226.736	209.798	12.513	34.126	101.267

%	100	77.4	13.2	0.8	2.2	6.4
1991	1.956.196	1.596.072	194.190	10.445	45.745	109.744
%	100	81.6	9.9	0.5	2.3	5.6
2006	2.100.000	1.932.000	111.300	8.400	23.512	24.788
%	100	92	5.3	0.4	1.1	1.2

(Statistical Office of Kosovo, 2008)

Following Tito’s death in 1980, the whole decade was characterized by unrest and political and economic instability. In Kosovo and the rest of SFRY, economic decline and stagnant industrialization became evident due to internal debt estimated at \$40 billion (Boduszynski, 2010). For 35 years, Tito had control over a system that began to unravel the consequences after his death. For Kosovo, this started early as the student protests at the University of Pristina in 1981 signaled the growing tension between Belgrade and Pristina. Although it began as a riot where students demanded better conditions¹⁰, it grew into a general discontentment with the political, social, and economic situation of Kosovar Albanians (Limani, 2017). Political demands were especially strong, with Kosovar Albanians requesting an independent Kosovo. Judah (2008) depicts the protests as *“the story ended with tanks on the street, special police forces deployed, and a state of emergency. (. . .) In the eight years following the demonstrations, more than half a million people were at one time either arrested or questioned”* (p. 58).

Although Kosovar Albanians were in charge of Kosovo (at least until 1989), there was a popular viewpoint that Serbia retained its power over Kosovo. Consequently, the Serbian minority in Kosovo was under intimidation and harassment by Kosovar Albanians, which resulted in increasing numbers of Serbs leaving the region. On the other hand, Serbian politicians demanded centralization through the unity of Serb lands and the protection and promotion of Serbian culture. The Yugoslav leadership at the time decided that the demonstrations *“threatened the territorial integrity and sovereignty of Yugoslavia”* (Daskalovski, 2003). The protests changed the course of history for Kosovo, as many of the people that were imprisoned were later part of the Kosovo Liberation Army. On a national level, the demonstrations initiated the beginning of a deep crisis in Yugoslavia: on the one hand, the economic decline and fiscal debt caused increased

¹⁰ Kosovo had the highest ratio of both illiterates and students in Yugoslavia, besides the drop of percentage of illiterate people between 1948 and 1979.

unemployment and hyperinflation, while on the other, the discourse and emergence of nationalist narratives were exploited by Slobodan Milošević, that worsened the Belgrade-Pristina relations without repair (Limani, 2017).

2.4 The 1990s – Milošević-Rugova years

The complex political environment and historical claims reach their peak and are most evident throughout the 1990s, as they later influence future instability and insecurity in Kosovo. Contrary to Tito's policy of forbidding nationalist movements from the regions, the political reaction to the Kosovo crisis during the '80s harmed the situation more than it improved. Complaints by Kosovar Albanians were marked together as 'counterrevolutionaries,' while the assumption for independent Kosovo was taken as a threat of uniting with Hoxha's Communist Albania (Malcolm, 1998). This led to another round of nationalist accusations between Kosovar Albanians and Serbians, while the emergence of Milošević in 1987 as a force in Serbian politics gave rise to Serbian nationalism.

The situation started worsening a year before with the leaked Memorandum from the Serbian Academy of Science and Arts, which claimed that the Serbian population was under a *'political, legal, physical, and cultural genocide in Kosovo'* (Limani, 2017). Following the Memorandum, in 1987, a petition was signed by 60,000 Kosovar Serbs supporting the genocide claims. In the same year, Milošević addressed Kosovar Serbs in his speech at Kosovo Polje and promised them protection from the abuse and oppression of Kosovar Albanians. As Judah (2008) notes, *"Milošević knew that by playing the nationalist card he could secure both supreme power in Serbia, and then hopefully Yugoslavia, and also survive the demise of communism. (. . .) His intention was then to dominate Yugoslavia. This was where he miscalculated. He destroyed it instead"* (p. 65).

The turning point for Kosovar Albanians happened in 1989 with the imposition of martial law on the whole territory, followed by constitutional changes that stripped Kosovo from its autonomy. On March 23, 1989, the President of the Assembly of Kosovo (a Kosovar Serb) proclaimed the approval of the constitutional amendments regarding Kosovo's revoked autonomy status. The decision resulted in a decade of suppressing Kosovar Albanians under the Serbian regime. Due to the 'state of emergency,' the voting to change the Serbian Constitution was without the required

quorum. At the same time, the building of the Assembly of Kosovo was surrounded by military personnel and police (Daskalovski, 2003). In 1990, Albanian delegates from the Assembly of Kosovo approved a Declaration of the Independence of Kosovo, followed by the Constitution of the Republic of Kosovo. However, the Serbian authorities considered this move illegal. This step was an initial response for Kosovar Albanians to pursue non-violent resistance and protest the Serbian regime (Limani, 2017).

The development of the situation in Kosovo widely depended on the conditions in the other republics in Yugoslavia. On a national level, the disintegration of Yugoslavia began in 1991, with Slovenia and Croatia declaring their independence, followed by Macedonia in September of the same year. Although the ten-day war in Slovenia resulted in the withdrawal of the Yugoslav Army, the war in Croatia resulted in the Vukovar massacre, where Serb paramilitaries and the Yugoslav military committed atrocities against Croats (Curtis, 1992). On the contrary, Macedonia¹¹ was the only country that peacefully gained independence without resistance from the Yugoslav authorities¹².

Following the unrest, Bosnia and Hercegovina held a referendum on independence in 1992, which triggered the Serbs to declare the independence of the Republika Srpska¹³ and impose a siege on the capital Sarajevo, marking the start of the Bosnian War (Hoare, 2010). Milošević, at the time, was preoccupied with the situation in Bosnia and had no reason to provoke another conflict in Kosovo. Thus, Serbs did not impede the ‘illegal’ elections of Kosovar Albanians for president and parliament in 1992, electing Ibrahim Rugova’s shadow government for the self-declared Republic of Kosovo. Rugova’s passive resistance of not inciting violence, but primarily the focus on the war in Bosnia, brought little attention to the rights of Kosovar Albanians. With the end of the Bosnian War and the establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY), the international focus hurriedly switched to Kosovo.

¹¹ The thesis uses the name ‘Macedonia’ in a historical context as the official name of the country until 2017, when it changed its constitutional name to the ‘Republic of North Macedonia’ with the Prespa Agreement and resolved the name issue with neighboring Greece.

¹² The Federal Republic of Yugoslavia is referred as ‘Yugoslavia’, comprised only of Serbia and Montenegro after the disintegration of Yugoslavia in 1991.

¹³ Republika Srpska is one of the two entities of Bosnia and Hercegovina, while the other is the Federation of Bosnia and Hercegovina. It holds the biggest Serbian population which resulted from the expulsion of Croats and Bosniaks and an inflow of Serbs during the war.

An important note for this period is that between 1992 and 1996, an entire set of parallel institutions was created by Rugova and his political party – the Democratic League of Kosova (LDK) – as one of the strongest Kosovar Albanian political parties in this period. Considering the employment of *“Gandhi-like tactics of non-violent opposition to Serbian administration in Kosova”* (Guzina, 2003), the Serb-controlled administration was totally separated from the newly created Albanian-controlled institutions. Due to their participation in the protests, Serbian authorities started terminating the employment of Kosovar Albanians working for state institutions. As health workers and teachers were also affected, Kosovar Albanians organized their own parallel system of hospitals and schools, mostly on private premises. Judah (2008) comments on the parallel educational system as *“rudimentary but it was a system that worked. It also meant that for the first time since 1918 Serbia had no say whatsoever in the content of what pupils were taught. [. . .] Serbs and Albanians now learned quite different histories of Kosovo and the region, and Albanians no longer learned Serbian either”* (p. 73). The conditions were far from great – lessons were held in homes, stores, and underground locations, with students crammed in small spaces, some of them standing because of a shortage of chairs. As for healthcare, new private medical clinics opened in Pristina to care for Kosovar Albanians that refused to visit Serb-staffed public hospitals. (Landay, 1992). For the parallel institutions to function properly, Rugova and LDK started collecting an income tax of three percent on a voluntary basis, domestically and in the diaspora (Malcolm, 1998). However, arbitrary arrest and violence by the Serb authorities continued, even for ‘verbal crimes’ committed by the Kosovar Albanians.

2.5 The Kosovo War

Bearing in mind the historical developments explained throughout this chapter, the underlying issues for the Kosovo War go back to their historical claims over the territory of Kosovo and the constant hostilities between both sides. While Serbia kept Kosovo under tight control, Kosovar Albanians continued their peaceful struggle until the Dayton Peace Agreement¹⁴ in 1995, when radicals started advocating for a military solution for Kosovo’s independence. The Bosnian war

¹⁴ The Dayton Agreement is the peace agreement that put an end to the Bosnian War and the creation of a single sovereign state composed of two parts: the Federation of Bosnia and Hercegovina (mostly populated by Bosniaks and Croats) and Republika Srpska (largely Serb-populated).

had another effect on Kosovo's situation: the rhetoric of Serbian nationalism (especially Radovan Karadzic's speeches) and the Islamic 'threat' of the growing Muslim population in Bosnia was identical to the rhetoric used for Kosovar Albanians. However, Malcolm (1998) writes that "*in fact the Bosnian and Kosovar political movements had had little contact with each other; and although Islam, in a non-fundamentalist form, did play a part in the political awakening of the Bosnian Muslims, its political role in Kosovo was so slight as to be quite invisible*" (p. 351). For Kosovo, the Bosnian war had a more severe effect in practical terms: the international economic sanctions imposed on Serbia and Montenegro and the closing of the Kosovo-Macedonian border had affected not only Serbs but Kosovars too.

A significant development for Kosovo's liberation path was the creation of the Kosovo Liberation Army (KLA) in 1993, remaining relatively quiet until 1996. The relationship between the KLA's radicals (as a new, non-state actor) and Rugova's people and party were frequently antagonistic and somewhat tricky. The KLA saw Rugova as a Serbian collaborator with his non-violent policies, while Rugova's political party and its people regarded the KLA members as extreme activists that risked bringing down disaster to Kosovar Albanians (Judah, 2008). Kosovar Albanians had no means at this point to arm themselves properly, and Rugova considered that there was no credible way to wage war against the Serbs. Contrary to this, the KLA started its central policy – guerrilla tactics and terrorist activities against Serb authorities present in Kosovo.

By 1997, the KLA started attacking Serbian police officers and their institutions and engaged in what was regarded as terrorist activities¹⁵ against Yugoslav authorities. The failure of the Ponzi schemes in Albania (Albanians invested billions of dollars worth of life savings in the schemes) caused the Albanian Rebellion of 1997: the military and police personnel started deserting and leaving their arsenals unlocked. Suddenly, thousands of weapons, such as Kalashnikov rifles, were available for as little as \$5 each (Judah, 2008). The KLA, notwithstanding the risk, obtained most of its arms relatively easily from neighboring Albania. As the situation on the ground began to change with new demonstrations, KLA's clashes, and the seizing of state properties, the Serbian police started their counteroffensive - burning villages and houses and fighting back.

¹⁵ Robert S. Gelbard, an American diplomat and an envoy to the Balkans in the Clinton administration, condemned the violence by the Serb police, but at the same time, considered the attacks against the police by the KLA as "*terrorist actions, and it is the strong and firm policy of the United States to fully oppose all terrorists actions and all terrorists organizations*" (Gelbard, 1998).

By 1998, violence between Serbs and Kosovar Albanians significantly increased. As the Contact Group negotiators¹⁶ led by the Special Presidential Envoy Richard Holbrooke pushed for a solution and initiated meetings between Serbs and Kosovar Albanians to stop the violence, both sides were called to look at proposals for Kosovo's future. The Interim Agreement for Peace and Self-Government in Kosovo, also known as the Rambouillet Agreement, was the initial proposed peace agreement between the two sides, drafted by NATO in early 1999. The Rambouillet Agreement called for the KLA's demilitarization, partial withdrawal of Serb forces, and a timeline for the 'final settlement' of Kosovo in a period of three years. The U.S. diplomatic engagement increased significantly in this period, with officials warning Milošević of future consequences if the violence and massacres of Kosovar Albanians did not stop (Steinke, 2015). The Kosovar Albanian delegation consisted of the most prominent ethnic Albanians in Kosovo, such as Rugova and Hashim Thaçi, while the Serbian team comprised Milošević and other nonentities, chosen due to their ethnicity: Turks, Roma, and Kosovar Muslims (Judah, 2008). With this, the Serbian side wanted to show diversity and inclusion of other minorities in their delegation and, in a way, to assert that ethnic Albanians are not the only minority in Serbia.

However, the agreement was rejected as the Serbian side did not want Kosovo's pre-1990 status quo restored, together with 30,000 NATO troops in Kosovo (especially regarding their freedom to move to the rest of Yugoslavia). On the other hand, the Kosovar Albanian leadership objected to the plan as it did not give them independence, and they still had to remain under Serbian authority (Weller, 1999). Although Thaçi was under tremendous pressure not to sign the agreement, the U.S. Secretary of State Madeleine Albright (2003) reveals the conversation with Thaçi in her memoir: *"If you say yes [to the Rambouillet Agreement] and the Serbs say no, NATO will strike and go on striking until Serb forces are out and NATO can go in. You will have security. And you will be able to govern yourselves"* (p. 446).

In the late fall of 1998, two significant actions were taken: the first one was the establishment of the Kosovo Verification Mission (KVM) to verify the cease-fire and monitor border control activities and the movement of forces on the ground. The second significant action was the

¹⁶ The meetings or 'talks' were brokered by the diplomats of the Contact Group: the U.S., Germany, U.K., France, Italy, Russia, the OSCE, and UN Security Council representatives. (Steinke, 2015)

establishment of a NATO-led aerial surveillance mission. Both measures were endorsed by the United Nations Security Council Resolution 1203 (UN Security Council, 24 October 1998).

With the massacre of 7,000 Bosniaks causing the Srebrenica genocide in Bosnia and Hercegovina, the international community was afraid that if these crimes had happened before, there was no assurance that they would not happen again in Kosovo. Violence by the Serbs increased significantly: the massacre of forty-five Kosovar Albanians on January 15, 1999, was a retaliation for the killings of four Serbian police officers by Kosovar Albanians (Hosmer, 2001, as cited in Steinke, 2015). The conflict's death toll until March 1999 reached 2,000 victims, with the UNHCR reporting more than 250,000 displaced persons (Judah, 2008). Although Thaçi was happy to sign the peace agreement at a meeting in Paris on March 15, the Serbian side came back with a new proposal and crossed almost half of the original agreement. Due to the continuous excessive use of force by the Serbian police and the Yugoslav Army, NATO officials came to the opinion that the Alliance needed to act and began bombing the former Yugoslavia on March 24, 1999. As a result of a miscalculation of the size of the conflict, Western leaders believed that the bombing would last for a short period of time. However, for the next 78 days, Serbia, Kosovo, and parts of Montenegro were targets of major aerial bombardment by NATO forces (Steinke, 2015).

With the withdrawal of OSCE monitors before the bombing, Milošević was encouraged to continue Operation Horseshoe – the alleged plan by the Serbs to ethnically cleanse Kosovar Albanians (House of Commons, 2000). At the same time, NATO deployed 25,000 forces on the ground in Macedonia and Albania, with the U.S. administration pushing NATO to increase the number to 50,000 (Steinke, 2015). During the NATO bombing, the Yugoslav Army started a broad campaign of violence against Kosovar Albanians, including torture, physical and psychological abuse, sexual assaults, and destruction of cultural and religious sites. As a result, approximately 800,000 Kosovar Albanians were forcefully deported through the creation of an atmosphere of fear and oppression by the Yugoslav forces (ICTY, 1999).

The NATO bombardment was suspended on June 10, 1999, as Serbia yielded to NATO terms and accepted the peace plan to end the fighting in Kosovo and withdrawal of all Serb and Yugoslav forces from Kosovo. A week before the bombing came to a halt, the Yugoslav federal government and the Serbian parliament approved the plan.

In a letter addressed to the Secretary-General, the Chargé D'affaires of the Permanent Mission of Yugoslavia to the United Nations wrote that *"the Government of the Federal Republic of Yugoslavia and the Assembly of the Republic of Serbia accepted on 3 June 1999 the Peace Plan (principles) presented by Martti Ahtisaari, President of the Finnish Republic, representing the European Union and the United Nations, and Viktor Chernomyrdin, personal envoy of Boris Yeltsin, President of the Russian Federation. In doing so, the competent authorities of the Federal Republic of Yugoslavia and of the Republic of Serbia were guided by the goals of peace, putting an end to aggression, the plight of the civilian population and the destruction of natural resources, guaranteeing the sovereignty and territorial integrity of the country, preventing terrorism and separatism and creating conditions for a safe return of refugees and displaced persons, as well as for a political solution in the Serbian province of Kosovo and Metohija on the basis of broad autonomy and equality of all citizens and national minorities* (Jovanovic, 1999). However, NATO continued the airstrikes until the Yugoslav government demonstrated that the fighting was over and that Serb forces were withdrawing from Kosovo (Williams, 1999).

The *Operation Allied Force*, as NATO referred to the bombing, captured the world's attention and divided many scholars on the legality and justifiability of NATO's actions. NATO did not receive, nor did it seek, approval for its actions by the U.N. Security Council. From an international law (and the law of armed conflict) standpoint, it challenged the limits of *jus ad bellum* (international laws of war governing the conditions under which states are permitted to use force) and *jus in bello* (international humanitarian law - the laws that govern the way in which war is conducted) (Steinke, 2015). The investigation by Human Rights Watch found no evidence of war crimes caused by the NATO bombing. However, it concluded that *"NATO violated international humanitarian law, (. . .) took insufficient precautions identifying the presence of civilians when attacking convoys and other mobile targets, and caused excessive civilian casualties by not taking sufficient measures to verify that military targets did not have concentrations of civilians"* (Human Rights Watch, 2001, p. 440).

The report by the Independent International Commission on Kosovo (2000) also concludes that the NATO intervention was illegal (as it did not receive approval from the Security Council) but legitimate, because there was no alternative way to stop the atrocities as all diplomatic avenues

were exhausted. However, in several aspects, the Commission has criticized the way the NATO intervention was conducted.

2.6 Summary

Through the complex history of Kosovo, this chapter outlined the historical claims made by the Serbian and Albanian sides. The Serb claim over their 'right to Kosovo' goes back to the tenth century with the creation of the Serbian Empire and the establishment of the Serbian Orthodox Church. They refute the claim that Albanians are descendants of Illyrians, and even if that holds true, Albanian territorial rights over Kosovo do not count as in that period of time - there were no states or nations in a contemporary understanding. Although the Serb claim is one of first occupancy, as Daskalovski (2003) writes, it is similar to the Albanian claim that Illyrians were the majority on the territory of Kosovo before the Serbs started migrating in the tenth century. Despite constant settlement and resettlement, mass deportations, expulsions, and killings, Albanians remained the biggest ethnic group in Kosovo, but they were still unable to have their own state. Albanians continuously support their claim with demographic statistics, while Serbs use the creation of their institutions in Kosovo (the medieval state, the Patriarchy, monasteries, and churches) to support their claim.

With the creation of Yugoslavia, Albanians did not welcome Kosovo's inclusion in the federation due to previous hostilities between the Serbs and Albanians. Although the constitutional changes in 1974 granted Kosovo autonomy and a separate constitution, independence was still unattainable. The Serbs considered Kosovo an internal affair of Serbia, and the rise of nationalist pursuits was followed by the abolishment of the autonomy of Kosovo in 1989. The 1990s was a critical decade - the disintegration of Yugoslavia produced an independence wave among Kosovar Albanians, while the Bosnian War brought little attention to the Kosovo issue. With the Assembly of Kosovo proclaiming its Constitution, Rugova was elected President of the self-declared Republic of Kosovo, creating parallel institutions. As a separatist movement that wanted to change internationally recognized borders, the Albanians in Kosovo and the KLA were seen as a threat by the Serbs. Nationalist policies enacted by Milošević and the violence that followed worsened the relations between Albanians and Serbs without repair.

Negotiation talks led by foreign diplomats and officials by the Contact Group did not succeed, and the conflict's death toll until March 1999 reached 2,000 victims, with more than 250,000 displaced persons. Due to the continuous excessive use of force by the Serbian police and the Yugoslav Army, NATO officials came to the opinion that the Alliance needed to act and began bombing the former Yugoslavia for 78 days, forcing Serbia to yield and accept the peace plan. Experts regard the NATO campaign with concern, as it challenged the limits of *jus ad bellum* and *jus in bello* and created an alarming precedent. The establishment of the monitors and missions in Kosovo can be seen as the beginning of international involvement in Kosovo, which will be later continued through the establishment of the UN Mission in Kosovo. Chapter III deals in detail with the work of the UNMIK as the first peace- and state-building activity led by external actors while taking into consideration the events that shaped the future of Kosovo in the period between 1999 and 2008. Additionally, the chapter focuses on the EU's role in Kosovo and the issues with local elites, especially the creation of EULEX and the Kosovo Specialist Chambers.

CHAPTER III – PEACE- AND STATE-BUILDING IN PRACTICE: THE INTERNATIONAL PRESENCE IN KOSOVO

The following chapter focuses on post-war Kosovo and puts the presented peace- and state-building theories into practice. Taking Kosovo as a specific case, this chapter is crucial in linking the research question, i.e., how external actors can achieve effective state-building in a fragile context with all the recurring problems and shortcomings that result from externally assisted state-building. First, it provides the legal basis for establishing the Kosovo Force and the UN Mission in Kosovo, specifically focusing on post-war security and stability. Following the initial security situation, UNMIK's extensive mandate, authority, and organizational structure are analyzed through Resolution 1244. As outlined in the theoretical framework, this chapter analyses the political settlement of the elites vis-a-vis external actors and their consensus on the means to avoid violence, serving as a vital component of the main argument.

Furthermore, the chapter analyses the participation of the political elite and the domestic perception as determining factors for legitimacy. It is crucial to note UNMIK's results in acquiring a detailed understanding of the local sources of legitimacy, rather than creating a false appearance of change. Next, the chapter presents the mission's successes and failures, considering the efforts in the judicial and security pillars and the creation of Kosovo's Provisional Institutions. In line with this, the chapter connects the theories presented in Chapter I, arguing that the international community was explicitly focused on security issues rather than issues connected with the legitimacy of the political elites.

Second, the chapter focuses on the March 2004 riots and the implications on Kosovo's independence path. In line with Kosovo's independence, Chapter III discusses Ahtisaari's Plan as a blueprint for Kosovo's Constitution. Here, the thesis links the theoretical framework on the role of the local actors with external actors engaging in the state-building process under the doctrine of 'do no harm.' Third, the chapter outlines EULEX's establishment, mandate, and organization. Throughout the section on EULEX, the thesis discusses the gradual transfer of responsibilities from the international to the national level. Specifically, it thoroughly examines the EU's role in dealing with political elites in Kosovo and the impact of specific actors in the process. The EU's lack of addressing the legitimacy issues and the power distribution between elites in Kosovo aligns

with the thesis argumentation, as *“political and economic elites may have very little interest in building more effective and legitimate state capacity”* (OECD, 2010).

Finally, Chapter III focuses on the establishment of the Kosovo Specialist Chambers and Specialist Prosecutor’s Office while linking the EU’s role in the formation of the hybrid tribunal and the recent developments of its cases. As explained in the theoretical framework, Chapter III argues that allowing prominence to elite settlements in the state-building process should not require an “embrace of patronage politics” to reach peace (Salmon & Anderson, 2013). Although late, external actors paved the way for a political settlement that abides by the rules and provides accountability. For Kosovo to achieve state effectiveness, external actors provided the initial conditions for independent justice, law-making, and conflict resolution – functions that serve as decisive criteria for effective states.

3.1 Kosovo under United Nations rule

The UN Security Council was categorically acting under Chapter VII (Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression) of the UN Charter when authorizing Member States and the Secretary-General to establish and maintain international peace and security in Kosovo by means of Resolution 1244. Scholars note the wide acceptance of Chapter VII of the Charter as it provides a sufficient legal basis for the formation of a territorial administration vested with executive and legislative powers (Friedrich, 2005). Article 39 of Chapter VII states that *“the Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security”* (UN, 1945). Additionally, Articles 41 and 42 leave space for the Security Council to make decisions with respect to non-military measures (Article 41). If they prove inadequate, the Security Council may take military measures (Article 42).

The adoption of Resolution 1244 by the Security Council on 10 June 1999 provided the following provisions summarized in Table n.3.

Table n.3 – Summary of the provisions of Resolution 1244

Provisions	Description
Ending violence	Full cooperation of the Federal Republic of Yugoslavia to end the violence and repression in Kosovo, as well as withdrawal of all military, paramilitary, and police forces;
Deployment of an international civil and security presence in Kosovo	Under the auspices of the UN, the international civil and security presence had the following responsibilities: deter renewed hostilities, maintain and enforce a ceasefire, ensure the withdrawal and prevent the return of the Yugoslav and Serb forces in Kosovo, demilitarize the KLA and other armed groups, establish a secure environment for the return of the refugees, ensure public safety, and other various security activities;
Appointment of a Special Representative	The Special Representative had the responsibility to control and closely coordinate the implementation of the international civil presence in Kosovo;
Establishment of an international civil presence to provide an <i>interim administration</i>	Kosovo's citizens can enjoy substantial autonomy within the FRY, while a transitional administration will establish and oversee the development of provisional democratic self-governing institutions to ensure peaceful conditions and normal life for Kosovo's citizens. The primary responsibilities of the interim administration were the following: promote the establishment of self-government and substantial autonomy in Kosovo, facilitate a political process to determine Kosovo's future, transfer the administrative responsibilities of the provisional institutions to institutions established under a political settlement, maintain civil law and order through establishing local police forces, protect and promote human rights;
Contribution by other parties	Contribution by all Member States and international organizations to economic and social reconstruction. Specifically, it welcomes the work of the European Union to develop a

	comprehensive approach to stabilization and economic development of the region affected by the Kosovo crisis.
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(UN Security Council, 1999a)

A crucial thing that must be noted here is the question of Kosovo’s independence. Resolution 1244 is contradictory and unclear in key parts, as it clearly states that it reaffirms the “*sovereignty and territorial integrity*” of FRY. Still, it demands taking full account of the Rambouillet Agreement, which speaks of Kosovo’s final settlement “*on the basis of the will of the people*” (Judah, 2008). However, the Resolution notes that the creation of a “*transitional*” interim administration is to establish and oversee the development of “*provisional*” democratic self-governing institutions. Additionally, the Resolution is clear on the areas of responsibility and positions: the security presence – the Kosovo Force (KFOR) should be “*coordinating closely with the work of the international civil presence*” in a manner that is “*mutually supportive*” (UN Security Council, 1999a). Therefore, KFOR must generally support UNMIK but still retain an independent position, as it is authorized separately with its own area of responsibility.

3.1.1 Kosovo Force (KFOR)

Before dwelling on UNMIK’s establishment and tasks as provided in the outlined provisions, it is important to lay out the security objectives and the general format of the security mission. Two days after the adoption of Resolution 1244¹⁷, KFOR, led by NATO, entered Kosovo under a mandate derived from the Resolution and the Military-Technical Agreement between NATO, the Federal Republic of Yugoslavia, and Serbia. KFOR, as a peace-support operation in Kosovo under the auspices of the United Nations, took over the security provisions and was initially composed of around 50,000 men and women from NATO member and partner countries, as well as non-NATO countries under unified control and command (NATO, 2022). Former NATO Secretary General Javier Solana said in a press conference in Pristina that “*KFOR’s role is to reestablish law and order and create a secure environment so that Kosovar Albanian refugees can return*”

¹⁷ Resolution 1244 was adopted by a vote of 14 in favor (including the Russian Federation) and none against (UN Security Council, 1999b). China abstained from voting, despite being critical of the NATO intervention and the bombing of its embassy by U.S. guided bombs in Belgrade (Ponniah & Marinkovic, 2019).

home safely,” as well as urged *“both sides to put aside ethnic hatred and work together for reconciliation”* (Kozaryn, 1999).

Eight days after the first elements of KFOR entered Kosovo, the Serb forces completed their withdrawal, and KFOR established its headquarters in Pristina successfully. In order to undertake peacekeeping, KFOR divided the area of Kosovo into five zones, each zone to a different NATO country. The north of Kosovo was placed under France’s control with 7000 troops, the south under Germany’s responsibility with 8000 troops, the west was placed under Italy’s control with 6000 troops, while the central and eastern regions were under the responsibility of the United States (6000 troops) and the United Kingdom (8000 troops) (The Independent International Commission on Kosovo, 2000). Russian participation in KFOR operations was agreed with an accord signed in Helsinki, with *“five battalions with a total strength not exceeding 2850 troops, plus up to 750 troops for the airfield and logistics base operation combines, plus 16 liaison officers”* (Helsinki Agreement, 1999).

Initially, a phased approach for public safety was applied – KFOR took responsibility until UNMIK had set up its police. This included protection, even in the long run, of UNMIK and other international organizations. Friedrich (2005) notes that *“such an initial complete substitution of local police authority had rarely been done before”* (p. 236). Indeed, the situation after the War raised many challenges. The first was the infrastructural damage caused by Belgrade’s security forces and NATO, which affected some 120,000 houses.

Additionally, nearly sixty-five percent of Kosovo’s agricultural produce was damaged, with a widespread loss of livestock (FAO, 1999). The second challenge regarding KFOR’s ability under its *Operation Joint Guardian* was confiscating weapons from paramilitaries in order to create a secure environment. This goes in line with the third challenge – criminality, which was closely associated with the need to develop legal institutions and enforcement agencies. According to Ramet (2000), the legal system in Kosovo was in *“disarray and widely held in contempt,”* as UNMIK was *“slow to arrive and make its presence felt”* (The Independent International Commission on Kosovo, 2000).

3.1.2 United Nations Interim Administration Mission in Kosovo (UNMIK)

On one side, KFOR's responsibilities and strong mandate resembled the UN's traditional authorized troops, but on the other, UNMIK's tasks were "*of an unprecedented scope*" (Friedrich, 2005). UNMIK was tasked with "*re-establishing and running a complete transitional civil administration, responsible for everything from security, justice, law enforcement, health, and education to matters as mundane as garbage collection,*" which amounted to "*reestablishing all the state institutions*" (UN Security Council, 2006). To better coordinate the different organizations and multitude of objectives, UNMIK has been divided into four pillars (UN Security Council, 2006):

- Pillar I: coordination and provision of humanitarian assistance provided by the Office of the High Commissioner for Refugees (former Pillar I). The humanitarian engagement was terminated in June 2000 with the end of the emergency stage. The new Pillar I consisted of a police and justice administration led by the United Nations;

- Pillar 2: civil administration led by the United Nations;

- Pillar 3: democratization and institution building under the leadership of OSCE;

- Pillar 4: reconstruction and economic development led by the EU.

Besides its tasks, the interim administration's authority must be further analyzed. According to UNMIK Regulation¹⁸ no. 1999/1 from 25 July 1999, "*all legislative and executive authority with respect to Kosovo, including the administration of the judiciary, is vested in UNMIK and is exercised by the Special Representative of the Secretary-General (SRSG)*" (UNMIK, 1999a). The SRSG can also appoint or remove any person within the judiciary and civil administration. As Friedrich (2005) writes, "*the scope of such an authority is all-encompassing, as it gives the SRSG complete control over the legislature, the executive and the judiciary of Kosovo*" (p. 238). When compared with other missions, UNMIK's responsibilities reached unprecedented levels, but even in 1999, this was not entirely new. As an example, the United Nations Transitional Authority in Cambodia (UNTAC), established by Security Council Resolution 745 in 1992, provided for

¹⁸ UNMIK Regulations are the legislative acts which take precedence over any other law that is in force. According to UNMIK Regulation no. 1999/24, the applicable law in Kosovo shall be "*the regulations promulgated by the Special Representative of the Secretary-General and subsidiary instruments issued thereunder*" and "*the law in force in Kosovo on 22 March 1989 (before the withdrawal of the autonomy)*" (UNMIK, 1999b).

administration (including judicial and legislative functions), security, law and order, humanitarian aid and reconstruction, human rights promotion, and free elections (UN Security Council, 28 February 1992).

Surroi comments on the administration's authority and its internal paradox, explaining that UNMIK *“was here to build a democratic society, and the basic precondition of that is the rule of the law. But if the UN is the supreme law, it does not allow a society of the rule of law because it is the final authority. The SRSG can pass any law, because [it] is the final authority. So, you have a kind of postmodern neocolonial power”* (Surroi, 2008, as cited in Judah, 2008). However, UNMIK's fulfillment of the objectives required full legislative powers and initial judiciary control. In other words, as Friedrich (2005) explains, *“the objectives could not be pursued in practice without possessing full governmental powers”* (p. 242).

The initial results of UNMIK's establishment were presented in the report of the former Secretary-General Annan in 2000. Regarding security, *“UNMIK police have made significant progress towards bringing order to the streets of Kosovo, and the training and development of the locally recruited Kosovo Police Service (KPS) is now well underway”* (UN Security Council, 2000). The demilitarization process was also underway, and the formation of the Kosovo Protection Corps (KPC) allowed for the transformation of soldiers into civilians. However, as Jones et al. (2005) note, security in Kosovo rested on *“overcoming three fundamental challenges: organized crime, corruption, and ethnic bias”* (p. 28). This is evident with the upsurge of orchestrated attacks against members of minority communities. For the first quarter of 2000, out of 411 cases classified as serious crimes, two-thirds were inter-ethnic in nature, directed mainly against Kosovo Serbs. Aside from the security situation, the humanitarian assistance went well underway – more than 700,000 refugees returned home, while reconstruction and preparations for winter were progressing successfully (UN Security Council, 2000).

Former Secretary-General Annan also mentioned the success of including local political leaders, who *“share some of the responsibility for guiding Kosovo”* (UN Security Council, 2000). Indeed, in January 2000, UNMIK initiated the so-called 'proto ministries,' which were headed by a local and a foreigner. But from the beginning, UNMIK faced the need to gain the acceptance of the people over which it exercised power. Pula (2003) connects the problem of gaining legitimacy to the fact that *“no single representative of the Kosovars had given any formal consent to the UN*

...serving as a transitional government for Kosova” (p. 199). This goes in line with Pula’s first proposed component – co-option of local elites – in which a fragmented local elite offers external actors the possibility of negotiating individually and limiting their share of power. For example, the creation of the Joint Interim Administrative Structure (JIAS)¹⁹ allowed for creating an effect among Kosovars that local politicians are included in the political processes and the UN’s administration. Inclusion was especially important as UNMIK was challenged by the creation of the KLA-led Provisional Government of Kosova (PGK)²⁰. The other components presented by Pula include economic co-option of the local population, a favorable view of the international intervention by the local population, and the limited use of coercion, which make the international administration more legitimate in the eyes of the people it is ruling (Pula, 2003).

Here, it is crucial to connect the theoretical framework on the political settlement and political elites' balance of power, considering the consensus to avoid violence. In May 2001, a constitutional framework for provisional self-government was adopted with Regulation no. 2001/9, which promulgated that *“Kosovo shall be governed democratically through legislative, executive, and judicial bodies and institutions”* and allowed for the creation of an assembly, presidency, government, courts, and other bodies and institutions (UNMIK, 2001). Further responsibilities of the Assembly were the election of Kosovo’s President (merely a representative role) and the government led by a Prime Minister (executive body). Besides the basic provisions and principles, the constitutional framework included a special chapter on human rights, in which the Provisional Institutions of Self-Government shall ensure and observe the internationally recognized human rights and fundamental freedoms as set forth in international instruments²¹. An essential characteristic that must be noted is that 20 out of the 120 seats of the Kosovo Assembly are reserved for minority communities, with at least two ministers from the non-majority community.

¹⁹ The creation of JIAS included the creation of the Interim Administration Council (IAC), and it expanded the initial Transitional Council (TC) which contained individuals who were politically relevant and influential in Kosovo. The JIAS also included the creation of administrative departments (proto ministries) and local administration boards.

²⁰ The PGK was formed in April 1999 with the signing of the political agreement in February the same year in Rambouillet, France, by the three representatives that led the Kosovar delegation to the peace talks: Ibrahim Rugova, Hashim Thaçi, and Rexhep Qosja.

²¹ The Constitutional Framework included the following international instruments: the Universal Declaration on Human Rights, the European Convention of Human Rights and Fundamental Freedoms and its Protocols, the International Covenant on Civil and Political Rights and the Protocols thereto, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, the European Charter for Regional or Minority Languages, and the Council of Europe’s Framework Convention for the Protection of National Minorities.

Chapter four of the Constitutional Framework deals in detail with the rights of communities and their members, including their protection mechanisms. As for the powers and responsibilities, the Provisional Institutions of Self-Government were restricted, while a long list of reserved powers and responsibilities remained exclusively under the SRSG.

The transfer of competencies from the international to domestic level included the responsibility for economic and financial policy; science, education, and technology; health; labor and social welfare; public administration services; and environmental protection. Although the transfer of authority started with the adoption of the Framework, it failed to limit the powers of the UNMIK, which were closely connected with sovereignty: foreign affairs, justice, defense, and interior affairs. As for the SRSG, some of the concrete powers reserved were the right to dissolve the Assembly, call for new elections, enforce public safety and order, exercise final authority over the status of judges and prosecutors, as well as conclude agreements with states and international organizations (UNMIK, 2001).

On the other side, it is essential to consider the hierarchy of the Constitutional Framework, as it is not intended to be a constitutional document. The Framework shares the same rank with other regulations, and the UNMIK remains within the limits of Resolution 1244. Contrary to this, allowing Kosovo to have a constitution would mean moving towards an independent status without a previously established political settlement, inconsistent with the provisions of the Resolution (Friedrich, 2005). As shown in Table n. 4, UNMIK adopted a total of 443 regulations and 211 administrative directions. The most extensive number of regulations were adopted in 2000 and 2006, whereas most concerned the promulgation of laws, the economic field, and the judiciary and police (as shown in Table n. 5).

Table n. 4 – UNMIK regulations and administrative directions in the period from 25 July 1999 to 14 June 2008

Year	Number of regulations	Number of administrative directions
1999	27	4
2000	69	29
2001	41	26

2002	23	27
2003	41	32
2004	56	31
2005	56	23
2006	61	18
2007	35	14
2008	34	7
Total	443	211

(UNMIK, 2001-2008)

Table n. 5 – UNMIK regulations related to specific policy fields in the period from 25 July 1999 to 14 June 2008

Year	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
UNMIK's authority, state symbols, and state-level matters	5	26	6	4	-	6	9	7	8	6	71
Economic field (including budgeting and fiscal affairs)	11	18	21	8	7	6	16	6	6	4	99
Judicial field and police affairs	9	15	13	6	8	8	5	9	3	5	76
Education	-	1	-	-	-	-	-	-	-	-	1
Promulgation of laws	-	-	-	4	24	32	25	33	16	19	134
Media	-	2	1	-	-	-	-	-	-	-	3
Property laws, refugees/return of displaced persons, reconciliation	1	4	-	-	1	3	1	4	-	-	14
Municipal matters	3	3	-	1	1	1	-	2	2	-	11

Total	27	69	41	23	41	56	56	61	35	34	443
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(UNMIK, 2001-2008)

UNMIK faced many challenges regarding the establishment of the judicial system too. The shortage of international judges and prosecutors and the uncertainty about which law to apply affected the judicial system’s effectiveness and fairness. By February 2000, more than 400 judges, prosecutors, and lay judges were sworn in.²² However, the judicial system continued to be ‘*snail-like*.’ This also related to both ordinary criminal cases, as well as war crimes and ethnically motivated crimes (The Independent International Commission on Kosovo, 2000). The issue of adopting the criminal code undoubtedly affected law enforcement, while the controversy was fixed by reinstating Kosovo’s 1989 criminal code. The lack of adequate law enforcement and criminal conviction has “*created an environment conducive to organized crime and other types of criminal activity*” (Pula, 2003). A subsequent challenge for UNMIK was the application of the law. The judicial system consisted primarily of ethnic Albanians, while Serbs refused to accept appointments as prosecutors and judges out of fear or general resentment (Jones et al., 2005).

Besides the ethnic issue and the low percentage of Serb representation in the judiciary, UNMIK had taken direct action to tackle Kosovo’s primary security threats. Various organizational units were implemented through the Police and Justice Pillar, while legislation centered on criminal procedure and organized crime was amended with the new Provisional Criminal Code in 2004. Organized crime problems included drug trafficking, trafficking in persons, and weapons smuggling. Corruption of public officials was also a big problem. Throughout 2002-2003, UNMIK’s police arrested several high-profile officials involved in corruption. For example, the arrests of the director of the property registration office, the director of the public housing authority, and the director of the vehicle registration office incentivized the creation of the Financial Inspection Unit within the Police and Justice Pillar in 2003 (Jones et al., 2005).

²² UNMIK created the Joint Advisory Council on Judicial Appointments (replaced later by the Advisory Judicial Commission) that started the process of recommending judges and prosecutors. Initially, UNMIK “*had appointed nine judges and prosecutors who served as a mobile judicial unit with jurisdiction consisting of the entire Kosovo region*” (Jones et al., 2005).

3.2 March 2004 riots and the road to independence

Despite UNMIK's efforts to establish stability and democracy in the region, ethnic tensions between Kosovar Albanians and Kosovar Serbs persisted. On March 16, 2004, the drowning of three young ethnic Albanians in the Ibar River sparked a series of protests and riots that quickly spread throughout the country. The media blamed the incident on Serb nationalists, accused of throwing the young men into the river. The protests²³ quickly turned into the worst ethnic violence in Kosovo after the 1999 conflict, with mobs attacking Serb-owned property, including homes, businesses, and religious sites (Traynor, Fourteen Dead as Ethnic Violence Sweeps Kosovo, 2004). Prior to the March violence, two events are crucial to mention that sparked the situation to become tense. The first event is connected to the shooting of the Serb Jovica Ivic (claiming the attackers were Albanians), while the second event encompasses the protests over the arrests of former KLA commanders charged with war crimes (UN Security Council, 2004a).

The March riots lasted for three days, resulting in the deaths of at least 23 people and the displacement of thousands of Serbs and other minorities. The UN mission in Kosovo (UNMIK) was unable to control the violence and had to call in NATO troops to restore order. The causes of the riots were complex and multifaceted, resulting of deeper-seated issues related to the status and governance of Kosovo. The riots also highlighted the failures of the UN administration in Kosovo in their inability to protect people and their property (Humanitarian Law Center, 2021). Even though UNMIK and KFOR have been tasked with establishing stability and democracy in the region, the riots exposed the mission's weaknesses in dealing with ethnic tensions and violence. The riots highlighted the lack of progress in resolving these issues and the fragility of the political and social situation in the region. In a report on the March riots, Human Rights Watch criticizes UNMIK and KFOR's inability to protect Serbs and other minorities, noting that it is *"a cause for grievous concern."* But of *"equal concern, however, are the near-collapse of the international security organizations in Kosovo when confronted by the violence and unrest of March 2004, and the inability of KFOR, UNMIK international police, and the local KPS to provide effective protection to Kosovo's minority communities during the two days of violence"* (Human Rights Watch, 2004). As for the violence, the report notes that the March events were both spontaneous

²³ According to the OSCE (2004) report, some 50-60,000 people took to the streets on 17 March, compared to the KLA protests the day before, when the overall number of protesters was 18,000.

and organized, with international officials describing the acts of violence as having a degree of organization by ethnic extremists behind them.

OSCE, on the other hand, criticized the role of the media, claiming that “*without the reckless and sensationalist reporting on 16 and 17 March, events could have taken a different turn. They might not have reached the intensity and level of brutality that was witnessed or even might not have taken place at all*” (OSCE, 2004). In particular, it underlined the clear spin by the media of the fatal drowning of the children as unsupported by any journalistically valid accounts.

Retrospectively, the UN years can be divided in two, with March 17, 2004, being the date that separates them. Judah (2008) outlines the first period of Kosovo’s status as UNMIK’s “*major plank and international policy was called Standards before Status. Its aim was to put off questions about Kosovo’s final status for as long as possible, while still setting European standards for Kosovo’s government*” (p. 108). However, after the March violence, the policy on Kosovo’s status changed as it was clear that it was not sustainable. In this regard, Kai Eide²⁴ was asked by the former Secretary-General Annan to conduct a comprehensive report on the policies and practices of all actors in Kosovo and to provide recommendations in accordance with Resolution 1244. The report underlined that the policy of “Standards before Status” should be replaced with a “dynamic priority-based standards” policy in order to facilitate future status discussions, along with regional and European integration efforts (UN Security Council, 2004b). In his recommendations, Eide stressed that the international community should intensify its dialogue with the authorities in Belgrade while the EU should urgently develop an economic development strategy.

It is crucial to mention two things from Eide’s summary and impressions working on the report on Kosovo’s future status in October 2004. First, considering the Albanian majority perspective, the cause of violence related to the lack of economic opportunities and the insufficiency of a clear political way forward. Inter-ethnic conflict was primarily regarded as the root cause of the March violence; however, the protests addressed deep-rooted issues and general dissatisfaction with UNMIK’s policy of “Standards before Status.” As one young Kosovar Albanian said: “*You gave us freedom, but not a future*” (Eide, 2004). Second, Eide noted that the timing of discussions on

²⁴ Kai Eide is a Norwegian diplomat with considerable experience of the Balkans and Kosovo. Eide served as a Special Envoy of the UN Secretary-General to undertake comprehensive review of Kosovo in June 2005. Eide also served as the Special Representative of the Secretary-General in Bosnia and Herzegovina in 1997-1998 (UN Secretary-General, 2005).

the future status would never be ideal. Considering the declining international presence in the coming years and *“the fact that the economy is continuing to deteriorate – thereby adding to the level of frustration and dissatisfaction – raising the final-status question sooner rather than later seems to be the better option and is probably inevitable”* (para. 9).

In line with Eide’s recommendations, former Secretary-General Annan appointed Martti Ahtisaari as his Special Envoy for the Future Status Process for Kosovo in November 2005 (UN, 2005). The appointment of Ahtisaari, a key figure during the peace talks in 1999, marked the beginning of the process on Kosovo’s future status. At last, UNMIK’s mandate on making Kosovo a self-governing democratic polity rather than an independent state did not seem like an obstacle anymore. Capussela (2015) summarizes that *“separating state-building from statehood was necessary for the West to obtain the sanction of the Security Council for the post-conflict intervention,”* but *“it perversely led Kosovo’s population and elite to perceive UNMIK’s state-building mandate as an obstacle to achieving independence. This crippled the mission once the progress towards independence began, in 2005”* (p. 34).

The initial talks led by the Troika²⁵ took place in Vienna in the beginning of 2006 and, in general, proved inconclusive due to the diametrically opposed positions. On the one hand, Belgrade demanded Kosovo’s autonomy within Serbia and relied on Russia’s support if the independence issue ever came to the Security Council. On the other hand, Kosovo did not accept anything short of independence (Judah, 2008). After more than a year of negotiations (17 rounds of talks over 14 months), any potential to produce a mutually agreeable outcome was exhausted, with no amount of additional talks that would overcome the impasse (UN Security Council, 2007).

The Comprehensive Proposal for the Kosovo Status Settlement, or the Ahtisaari Plan, was submitted by Ahtisaari to the Security Council, together with a report concluding that *“the only option for Kosovo is independence, to be supervised for an initial period by the international community”* (UN Security Council, 2007). Ahtisaari also stressed that reintegration into Serbia is not a viable option, while continued international administration is not sustainable. Three crucial things need to be mentioned regarding the Ahtisaari Plan. First, the Provisions of the Settlement (as shown in Table n. 6) and the overall body of the Plan did not mention the word ‘independence’;

²⁵ The Troika consisted of representatives from Russia, the USA, and the EU.

however, they implied statehood for Kosovo. Instead, Ahtisaari only talked about ‘supervised independence’ in the covering report on Kosovo’s status to the Security Council. Second, the core of the Plan was decentralization. Judah (2008) depicts it as a ‘code for Serbian autonomy’ within the territory of Kosovo. Third, the Plan foresaw an international presence exercising power in Kosovo. As such, NATO-led troops would continue their presence, while two new organizations would be deployed under the European Security and Defence Policy with a 120-day transition period (UN Security Council, 2007).

Table n. 6 – Main Provisions of the Comprehensive Proposal for the Kosovo Status Settlement

Provisions of the Settlement	Description
1. Kosovo’s governance	Multi-ethnic society governing itself democratically, with full respect for the rule of law and international instruments; Adoption of a constitution; Right to negotiate and conclude international agreements.
2. Rights of communities	Protection of culture, language, education, and symbols; Albanian and Serbian – official languages of Kosovo; Minority community representation in key institutions and the Assembly.
3. Decentralization	Enhanced municipal competencies for Kosovo Serb majority municipalities; Extensive municipal autonomy in financial matters (transparent funding from Serbia); Establishment of six new or expanded Kosovo Serb majority municipalities.
4. Justice system	Mechanisms to achieve an inclusive justice system of all communities; Access to justice of all persons in Kosovo.

<p>5. Protection and promotion of religious and cultural heritage</p>	<p>The Serbian Orthodox Church to be recognized by Kosovo authorities, inviolable property, tax, and customs duty privileges;</p> <p>Protective zones for more than 40 key religious and cultural sites, additional security from NATO.</p>
<p>6. Returns/protection of property</p>	<p>Refugees/internally displaced persons shall have the right to return and reclaim property or return to a place of their choice in Kosovo;</p> <p>Cooperation between Serbia and Kosovo to resolve the fate of missing persons.</p>
<p>7. Economy</p>	<p>Transparent procedures to settle disputed property claims and continued privatization process;</p> <p>Mechanisms to determine Kosovo’s share of Serbia’s external debt;</p> <p>Property restitution.</p>
<p>8. Security</p>	<p>Local ownership with international oversight;</p> <p>Unified chain of command for the Kosovo Police Force with local police officers reflecting the ethnic composition of the municipality;</p> <p>Establishment of a new, multi-ethnic Kosovo Security Force within one year after the end of the 120-day transition period.</p>
<p>9. Future international presence</p>	<p>International Civilian Representative (ICR) - supervisory authority over the implementation of the Settlement (double-hatted as the EU Special Representative (EUSR) appointed by the Council of the EU and re-appointed by the International Steering Group for Kosovo);</p> <p>European Security and Defence Policy Mission (ESDP) – monitor, mentor, and advise on all areas related to the rule of law;</p> <p>International Military Presence – NATO-led military mission continues the current task of KFOR;</p>

	OSCE mission – monitoring the successful implementation of the Settlement.
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(UN Security Council, 2007)

Ahtisaari unveiled the draft of his plan after the Serbian presidential elections²⁶ on February 2, 2007, partly due to the far-right nationalist candidate Nikolic who was running for president. His plan was later presented to the Security Council, but even with extensions for further talks, Russia and China rejected the draft resolution on Kosovo’s future (MacDonald, 2007). In effect, Kosovar Albanians got recognition and support from the majority of EU states as long as they incorporated the Provisions of the Settlement into their law.

Kosovo unilaterally declared independence on 17 February 2008, while the Ahtisaari Plan incorporated much of the relevance to drafting the Kosovar Constitution (Ministry of Foreign Affairs, 2009). Although Serbia sought international validation over the legality of the declaration, the International Court of Justice (ICJ) concluded that it had not violated general international law. The Court also considered whether the declaration was in accordance with Resolution 1244, and it concluded that *“the object and purpose of that resolution was to establish a temporary, exceptional legal régime which [. . .] superseded the Serbian legal order [. . .] on an interim basis”* (ICJ, 2010).

Finally, the long-awaited independence was within reach, albeit supervised. Although Ahtisaari’s plan of transferring UNMIK’s legislative and executive authority to Kosovo’s authorities proceeded, the termination of UNMIK’s mandate²⁷ after the transitional period did not go as intended. Kosovo shifted from being a UN protectorate to an EU protectorate, “at least in those areas where Albanians lived” (Judah, 2008). As such, Kosovo’s independence was followed by the endorsement of the two EU missions – the EUSR (double-hatted as ICR) as a supervisory body and EULEX to monitor, advise, and mentor on all areas related to the rule of law in Kosovo.

²⁶ Boris Tadic won the presidential elections with 51 percent of the vote to Tomislav Nikolic’s 49 percent. Nikolic was the leader of the far-right Serbian Radical Party (SRS). The SRS, on the other hand, was formed by Vojislav Šešelj, who was on trial for war crimes at the UN’s criminal tribunal in The Hague (Judah, 2008).

²⁷ UNMIK is still present in Kosovo, with a total of 374 personnel and an approved budget for the period of 1 July 2022 to 30 June 2023. The Mission’s priorities “remain to promote peace, security, stability, and respect for human rights in Kosovo and the region” (UNMIK, 2023).

3.3 European Union Rule of Law Mission in Kosovo (EULEX)

The following section outlines the correlation between the presence of influential actors and their stakes and agendas and Kosovo's political elites as constellations of power. Through an analysis of the role of the EU in Kosovo, the thesis demonstrates the need for a different approach by external actors in order to attain effective state-building through controlling corruption, improving the rule of law, and attaining government effectiveness and transparency. Although the EU had a strategic role in Kosovo during the UN's interim administration through Pillar 4 – managing economic governance policy – it fell predominantly under the scope of Resolution 1244 and UNMIK's governance. Following Ahtisaari's Plan, the EU's role in post-independence Kosovo gained much prominence by transferring some of the remaining international duties to the newly created ESDP Mission (Doli, 2018). Capussela²⁸ (2015), in his book *State-building in Kosovo*, explains in detail the reasons for the EU intervention: *“On its independence Kosovo risked state capture. Without external intervention, both the economy and the political system were likely to fall under the tight control of the elite because Kosovo lacked sufficiently large, effective, and organized social forces to act as a counterpoise to the political, economic, and military power of the dominant coalition. This coalition was made up of organizations comprising politicians, state officials, criminal leaders, and businessmen, among whom those who held military power were prevalent”* (p. 93).

Two challenges must be noted here. The first challenge was the legal basis of transferring the competencies from the UN to the EU. The legal basis for handling UNMIK's authority, as prescribed in Resolution 1244, to an EU ESDP Mission (without an act of suspension by the UN Security Council) was reached in two ways. The first way was that Ahtisaari's Plan had a course of circumventing Resolution 1244 by playing with the EU's role in Kosovo after its independence. The second way was the exchange of letters between the EU and the UN Secretary-General, which is considered a practical legal approach outside of the scope of decision-making of the UN Security Council (Doli, 2018). The second challenge was connected to the question of Kosovo's sovereignty concerning the new EU mission. The new mission needed to comply with Kosovo's internal legal sovereignty due to the executive authorities. However, Article 20 of Kosovo's

²⁸ Capussela was working as the head of the economic unit of the International Civilian Office in Kosovo until the end of March 2011.

Constitution stressed that *“the Republic of Kosovo may, on the basis of ratified international agreements, delegate state powers for specific matters to international organizations”* (Assembly of the Republic of Kosovo, 2008). This constitutional provision served as a legal basis to accommodate the EU mission within Kosovo’s sovereign legal order.

As previously mentioned, the EU has been designated to play a crucial role in the process of Kosovo’s international status settlement, divided into two specific areas: the supervisory role undertaken by the ICR and the EUSR, and the ESDP Mission (EULEX) (UN Security Council, 2007). In line with the Ahtisaari Plan, the Council of the European Union adopted Council Joint Action 2008/124/CFSP and established EULEX. The Joint Action²⁹ specified that the Brussels European Council *“underlined the readiness of the EU to play a leading role in strengthening stability in the region in line with its European perspective and in implementing a settlement defining Kosovo’s future status”* (Council of the EU, 2008). The main objective of EULEX focused on supporting the development of a stable, democratic, and multi-ethnic Kosovo by assisting the local authorities in building a reliable justice system, strengthening the rule of law (specifically in the areas of police, judiciary, and customs), and ensuring human rights protection. The provisions of the Joint Action stressed the following:

1. Scope: EULEX is authorized to operate in Kosovo under the UN Security Council Resolution 1244, which established the UNMIK (see section 3.1 of this chapter for more details). The Joint Action also considers the UN Security Council Resolution 1674 on the protection of civilians in armed conflict: *“There is a need to prevent, on humanitarian grounds, possible outbreaks of violence, acts of persecution and intimidation in Kosovo”* (Council of the EU, 2008).

2. Structure: EULEX shall be a unified ESDP mission across Kosovo. The Civilian Operation Commander exercises command and control of EULEX at the strategic level, including proper and effective implementation of decisions and issuing instructions to the Head of Mission. The Head of Mission exercises command and control over personnel, implements the EULEX budget, represents EULEX in operations, and works closely with the competent Kosovo authorities. The Head of Mission is directly responsible to the Civilian Operation Commander.

²⁹ A joint action was a legally binding act, however, with the Treaty of Lisbon in 2009, it was replaced by the *decision* (EU Monitor, 2010)

EULEX Kosovo is divided into three components: a police component, a justice component, and a customs component (Council of the EU, 2008).

3. Police and security: EULEX shall ensure the maintenance of public order and security. EULEX executive officers are considered police officers in the meaning of the law ‘applicable to the Kosovo police.’ The EULEX police work in five defined areas: financial crime, war crimes, organized crime, terrorism, and corruption. It investigates crimes independently from the Kosovo Police and may hand over cases directly to the Prosecutor’s Office (Spernbauer, 2010). The police component also provides training and advice to the Kosovo police and monitors their activities to ensure that they comply with the rule of law.

4. Tasks: EULEX shall monitor, mentor, and advise the Kosovo institutions on all areas related to the rule of law (including a customs service) while retaining specific executive responsibilities. EULEX shall ensure that Kosovo’s institutions are free from political interference. It shall also ensure the maintenance and promotion of the rule of law, specifically that “*cases of war crimes, terrorism, organized crime, corruption, inter-ethnic crimes, financial/economic crimes, and other serious crimes are properly investigated, prosecuted, adjudicated and enforced, according to the applicable law, including, where appropriate, by international investigators, prosecutors and judges jointly with Kosovo investigators, prosecutors, and judges or independently, and by measures including, as appropriate, the creation of cooperation and coordination structures between police and prosecution authorities*” (Council of the EU, 2008).

5. Cooperation: EULEX Kosovo is authorized to cooperate with other international organizations and bodies, including UNMIK, the International Criminal Tribunal for the former Yugoslavia (ICTY), and the European Union's Special Representative in Kosovo.

6. Funding: The Joint Action provides for the funding of EULEX Kosovo through the European Union's general budget, as well as voluntary contributions from member states and other participating countries. The amount intended to cover the expenditure in a period of 16 months shall be EUR 205,000,000.

7. Review of the mission’s duration: The Joint Action provides that the Council shall evaluate whether EULEX should be extended not later than six months after the start of the operational phase.

It is interesting to note how the Joint Action ‘conceals’ EULEX’s executive mandate in its provisions on the operational tasks. This goes in line with EULEX’s power to “*reverse or annul operational decisions taken by the competent Kosovo authorities in consultation with the relevant international civilian authorities in Kosovo*” in situations necessary for the “*maintenance and the promotion of the rule of law, public order, and security*” (Council of the EU, 2008). The possibility of reversing operational decisions by EULEX seems to refer to the powers of the SRSG as Head of UNMIK. However, Ahtisaari’s Plan foresaw the International Civilian Representative/ EUSR as the highest and final authority, which will provide reciprocal consultations with the Civilian Operation Commander as required. The obligation of consultation for EULEX suggests that even though the mission holds full operational responsibility in the rule of law sector, it is not the highest civilian authority compared to the previous UN mission. Spornbauer (2010) writes that the obligation of consultation is a “*clear indication that it would be incorrect to speak of a replacement of UNMIK by EULEX in terms of the administration of a territory being exercised by an international organization*” (p. 17).

It goes without saying that the partial executive mandate set EULEX apart from other EU civilian missions deployed in the region. Capussela (2015) provides the reason for this: “*the transition of Kosovo from international protectorate to independence offered to the West the occasion for tackling its governance and criminality problems through a direct form of intervention, rather than through instruments usually employed elsewhere: political dialogue, aid conditionality and the incentives of EU accession*” (p. 96). Building on this, other scholars note that the EULEX mission encountered serious obstacles and issues in its interactions with national elites (Van der Borgh et al., 2018). For example, the European Court of Auditors report noted the slow process of strengthening the rule of law and that the Kosovo authorities ‘have given a low priority to anti-corruption activities’ (Vogel, 2012). As for the slow pace of the justice component, it is worth noting that EULEX inherited 1200 war crimes cases from UNMIK and initiated 51 new cases related to war crimes. Due to a lack of evidence, 500 cases were closed or dismissed. Another factor was the complexity of the cases, as the Head of Mission Borchardt stated: “*the truth is that the majority of war crimes cases rely on witness testimony*” for their successfulness (Borchardt, 2013). Following the hand-out of case files to domestic judges and prosecutors in 2018 with the phasing out of EULEX’s executive mandate (EULEX, 2022), around 900 war crimes cases were expected to be transferred to local prosecutors (Haxhiaj, 2018). Besides terminating the executive

mandate, EULEX introduced a Case Monitoring Unit, which assesses the functioning of the judiciary and police in terms of legal, procedural, and human rights compliance. The monitoring activity covers the entire criminal justice chain (prosecution, courts, and the police) (EULEX, 2020).

Besides UNMIK's voluminous 'legacy' of war crimes cases, EULEX, from the start, faced far more significant challenges. Two months after Kosovo declared independence, Carla Del Ponte³⁰, the ex-chief prosecutor of the ICTY, unleashed allegations of human organ trafficking executed by Kosovar Albanian guerrillas after the NATO bombing in 1999 (Traynor, 2008). In her memoir, Del Ponte writes that there was corroborative evidence, but *'this evidence was, unfortunately, insufficient'* to pursue a full investigation of the claims (Del Ponte & Sudetic, 2008). Following Del Ponte's allegations, in 2010, Swiss Senator Dick Marty issued a report based on a two-year investigation on behalf of the Parliamentary Assembly of the Council of Europe (Marty, 2010).

The Marty Report substantiated many of the claims made by Del Ponte and specifically accused high-ranking KLA members³¹ of involvement in crimes such as organ-trafficking (although to a lesser degree than Del Ponte's claims), torture, murder, abductions, and forced disappearances. The Marty Report notes that *"the international organizations in place in Kosovo favored a pragmatic political approach, taking the view that they needed to promote short-term stability at any price, thereby sacrificing some important principles of justice. For a long time, little was done to follow-up evidence implicating KLA members in crimes against the Serbian population and against certain Albanian Kosovars"* (Marty, 2010). In line with this, the Parliamentary Assembly invited EULEX to proceed with its investigative work and to cast light on the indications of organ trafficking, corruption, and criminal disappearances.

In the context of the allegations, EULEX has been criticized extensively, as it insufficiently addressed the problem of the involvement of political elites in organized crime and corruption. Feith³² argues that the political support of key EU member states (like the UK and Germany) and

³⁰ Carla del Ponte was the ICTY Chief Prosecutor for the case of Slobodan Milošević. The trial formally ended following Milošević's death in the Tribunals Detention Unit in March 2006, just weeks away before a verdict could be passed (ICTY, 2007). The verdict included 66 counts of genocide, crimes against humanity, and war crimes. The unfinished trial of Milošević dominated Del Ponte's eight years at the Tribunal (John, 2007).

³¹ The Marty Report included several politically prominent and notable KLA fighters accused of crimes, among them Hashim Thaçi (the prime minister at the time and later president), and Kadri Veseli (one of the founders of KLA and a former head of the intelligence service).

³² Pieter Feith was a former EU Special Representative and an International Civilian Representative in Kosovo.

the USA to take harsher measures was lacking “*since a tougher stance would have come at the cost of stability in Kosovo*” (Feith, 2016, as cited in Van der Borgh et al., 2018). Capussela (2015) has a similar stance on this issue and provides an impeccable summary: “*To reverse the evolution of Kosovo’s social order, the international community had to be ready to confront the factions of its elite, seize their weapons, expose their political and economic power to greater competition, stem their corrupt practices and enforce the law upon them. But doing so could have provoked instability, because those power structures could have retaliated: indeed, the passive policies that the international community had consistently followed since 1999 had led the dominant coalition to expect that its primary interests would not be encroached upon. This opened a similar alternative to that which UNMIK and KFOR had faced when they ordered the KLA to disarm*” (p. 97).

Van der Borgh et al. (2018) conclude that the EU needed a more straightforward strategy and a capable coalition to implement it in order to break the power of national elites in Kosovo. In contrast, a more intrusive role by the EU would increase the risk of security and spillover effects. This goes in line with the theoretical framework on the way in which power struggles are settled in reaching a consensus between elites on the means of avoiding violence. However, the failure of external actors in Kosovo is that UNMIK and EULEX embraced “patronage politics” and allowed prominence to elite settlements in order to reach peace. On the one hand, participation by local actors and emerging elites is crucial for effective state-building and domestic legitimacy. On the other hand, external actors must set checks and balances for the political elite and be wary of state capture. Although many scholars note that the power of external actors in international interventions should be limited, external actors in Kosovo did not effectively tackle the corrupt practices of the political elite – which had a devastating impact on the rule of law, affected the trust in public institutions, and hindered legitimacy.

But besides all the criticisms for the problem of Kosovo’s elites, the EU had a clear strategy for the facilitated Dialogue in 2013 when Kosovo and Serbia agreed on the First Agreement of Principles Governing the Normalisation of Relations (also known as the Brussels Agreement³³). The Agreement was signed by the Prime Minister of Kosovo, Hashim Thaçi, and the Prime

³³ The Agreement was reached after ten rounds of talks in the EU-facilitated Dialogue, and was immediately hailed as a profound shift in the Belgrade-Pristina relations (Martino, 2014).

Minister of Serbia, Ivica Dačić, as a result of a series of talks that began in March 2011, aimed at resolving issues between Kosovo and Serbia, including the status of Kosovo and the rights of Serbs living in Kosovo. More specifically, it addressed the issue of the Community of Serb-majority municipalities and the integration of their parallel structures in the north of Kosovo (Balkans Policy Research Group, 2023). With the signing of the Agreement, the political dialogue and negotiations moved to the highest levels of representatives of both countries. Ten years after the Brussels Agreement, the EU proposed a plan to normalize Belgrade-Pristina relations in February 2023. The proposal calls for both parties to develop good-neighborly relations and “*mutually recognize their respective documents and national symbols, including passports, diplomas, license plates, and customs stamps*” (EEAS, 2023). Moreover, the proposal stipulates that Serbia should not object to Kosovo’s membership in international organizations. Although Kosovo’s Prime Minister Kurti offered to sign formally, Serbia was not ready, as Serbian President Vucic focused on the implementation aspect (Kostreci et al., 2023).

Apart from the EU’s role in normalizing the relations between Kosovo and Serbia, EULEX has managed to conduct the following activities successfully:

- Facilitated the establishment of the Kosovo Specialist Chambers and Specialist Prosecutor's Office (KSC and SPO – as explained in the next section) and established a Special Investigative Task Force (SITF) in order to conduct the investigations. SITF’s legal authority was derived directly from the EU Council Decision (former Joint Action) and not from Kosovo law (Muharremi, 2016).
- Supported the establishment of the Academy of Justice (former Kosovo Judicial Institute), which has successfully provided training for judges, prosecutors, and other legal professionals, leading to a more competent and professional justice system in Kosovo (Academy of Justice, 2022).
- Strengthened the capacity of Kosovo law enforcement agencies, which has resulted in a significant reduction in organized crime and other serious crimes in Kosovo (EULEX, 2018a).
- Assisted with the development of Kosovo's legal framework, which has resulted in the adoption of a new criminal code, a new criminal procedure code, and a new law on the rights of detainees and convicted persons, leading to a more transparent and fair justice system (EULEX, 2018b).

3.4 Forced justice – Kosovo Specialist Chambers and Specialist Prosecutor’s Office (KSC and SPO)

The Kosovo Specialist Chambers and Specialist Prosecutor's Office represent a judicial institution established to investigate and prosecute crimes committed during and after the Kosovo conflict. The creation of the KSC and SPO goes in line with the efforts of external actors in tackling the legitimacy-centered issues with the political elite in Kosovo. Although imposed, the creation of the KSC and SPO can be seen as a successful way for international actors to provide the conditions for state effectiveness for Kosovo. Considering this, external actors initiated the conditions where the rule of law can be applied appropriately by minimizing political interference and corrupt practices and achieving a political settlement by elites that abide by the rules and provide accountability. The incentive for creating the KSC and SPO was drawn from the allegations (especially by Del Ponte and Marty) of serious human rights violations, including war crimes, crimes against humanity, and other crimes committed during the period between 1998-2000. As EULEX’s mandate was to expire in 2014, the President of Kosovo requested an extension of EULEX’s mandate and provided details for SITF’s proceedings.³⁴ In response, the EU High Representative accepted EULEX’s invitation and stated that *“the work of EULEX KOSOVO’s Special Investigative Task Force (“SITF”) and any judicial proceedings deriving from it shall continue until such time as the Council of the European Union notifies Kosovo that the investigation and these proceedings have been concluded”* (Muharremi, 2016).

The Chief Prosecutor of SITF believed that *“the Task Force would be in a position to file an indictment against certain former senior officials of the Kosovo Liberation Army responsible for an organized campaign of persecution that targeted minorities and included the commission of unlawful killings, abductions, enforced disappearances, illegal detentions, sexual violence, forced displacements and the desecration and destruction of churches and other religious sites”* (UN Security Council, 2014). As for the concerns that the Specialist Chambers will be a special court

³⁴ In a letter addressed to the EU High Representative, the President of Kosovo stated that if the SITF investigation turns in an indictment and trial proceedings, a specialist prosecutor’s office in Kosovo would be used for such organization (Muharremi, 2016).

just for KLA members, the Chief Prosecutor stated that the ICTY did not have the jurisdiction to address crimes that took place after the Kosovo conflict.³⁵

Bearing the fact that Kosovo could not unilaterally terminate the proceedings as they were controlled by the EU, and taking into account the significant pressure from the United States (Ochs & Walters, 2022), in 2015, the Assembly of Kosovo³⁶ amended the Kosovo Constitution to include the law on the KSC and SPO. Amendment no. 24 (Article 162) of the Kosovo Constitution allowed for the KSC and SPO to have “*full legal and juridical personality and shall have all the necessary powers and mandate for their operation, judicial co-operation, assistance, witness protection, security, detention and the service of sentence outside the territory of Kosovo for anyone convicted*” (Assembly of the Republic of Kosovo, 2015). In an interview³⁷ conducted on February 24th, 2023, Pruthi argued that “*from a more objective perspective, I would say politicians, I think they were forced. I mean, they were quite corrupt. So, I think the international community played this card very well, especially the United States, it's like – you would accept this or say goodbye to your political career. I don't think they had a lot of maneuvering, and frankly, let's say our former Prime Minister and other people that signed, they are in the Hague. So, you know it backfired in a way, objectively, I think KLA did have some bad actions towards the local Serbs living in Kosovo, and also they ignited destruction, and what not. But at the same time, it's not justifiable.*” However, he considers that the whole concept of the KLA “*was a counter-reaction to two decades of oppression and wars in the former Yugoslavia. Cause we [Kosovars] tried for a decade with Rugova through a pacific movement, kind of like a Gandhi approach*” (Pruthi, 2023).

³⁵ In a statement dated 29 July 2014, the Chief Prosecutor of the SITF stated that “*the reality is that the International Tribunal for the Former Yugoslavia had the jurisdiction to address crimes occurring during the period of armed conflict, in other words, until the war ended in mid-June 1999. Pursuant to its jurisdictional mandate, the Tribunal brought a number of prosecutions against senior Serbian officials for crimes against humanity and war crimes during the period, for acts directed at Kosovo Albanian victims. The Tribunal, however, was prevented from prosecuting crimes in the post-war period – the period which has been the primary focus of our investigation – because its jurisdiction did not allow for prosecutions outside armed conflict. In 2000, Tribunal Prosecutor Carla del Ponte actually requested revisions to the statute to allow the Tribunal to investigate and prosecute crimes during this period, but her request was not acted upon*” (UN Security Council, 2014).

³⁶ The establishment of the KSC and SPO was resisted by the Kosovo’s ethnic Albanian political parties. In January 2015, the Minister of Justice publicly stated that the establishment of the Specialist Chambers was a “political compromise to prevent Russia from raising the prosecution of the allegations made in the Mart Report”. The members of the Kosovar Assembly had the option to vote only for or against (without the option to make changes) the draft legislation that was prepared by the European Union. The approach “take-it-or-leave-it” was not the only issue; the opposition parties considered this step a violation of the sovereignty of Kosovo (Muharremi, 2016).

³⁷ The transcript of the interview is attached in the appendix at the end of the thesis.

The Specialist Chambers started operating in 2017 in The Hague, Netherlands, and is entirely funded by the EU, Switzerland, and Norway, with a total budget of EUR 150 million between 2016 and 2020 (Crowcroft, 2021). Although the KSC and SPO follow Kosovo law (including the Criminal Code, the Criminal Procedure Code, and the Law on Specialist Chambers and Specialist Prosecutor's Office), the institution is separate from the Kosovo judiciary (Muharremi, 2016).

The KSC and SPO is regarded as a hybrid tribunal³⁸ – it combines aspects of domestic and international justice, and it is comprised of international judges, prosecutors, and officers. The structure of the Specialist Chambers minimizes local Kosovar involvement, which in turn minimizes the real threat of witness tampering and political interference – “*critical issues that have plagued prior courts devoted to prosecuting crimes committed in Kosovo*” (Ochs & Walters, 2022). The Tribunal has the authority to conduct investigations and prosecutions independently and is not subject to interference or influence from any outside parties. The KSC/SPO also has the authority to issue indictments and arrest warrants, as well as to conduct searches and seizures (KSC and SPO, 2022a).

Since its establishment, the KSC/SPO has undertaken several high-profile cases. Some of the most notable cases are:

- The case against Hashim Thaçi et al. (Pre-trial stage): The case involves four alleged former officials of the KLA - Hashim Thaçi (former Prime Minister and President), Jakup Krasniqi (former acting President), Kadri Veseli (former Chairman of the Assembly), and Rexhep Selimi (senior figure in Vetevendosje³⁹). The charges for the accused are part of a ‘joint criminal enterprise.’ They include six counts of crimes against humanity (persecution, imprisonment, torture, murder, enforced disappearance of persons, and other inhumane acts) and four counts of war crimes (illegal or arbitrary arrest and detention, cruel treatment, torture, and murder).

³⁸ The Office of the UN High Commissioner for Human Rights defines hybrid courts “as courts of mixed composition and jurisdiction, encompassing both national and international aspects, usually operating within the jurisdiction where the crimes occurred [. . .] Hybrid courts are often designed in a way that only a nominal number of defendants accused of particularly serious crimes, such as war crimes or crimes against humanity, will come before them. Most defendants will, theoretically, face justice before the domestic justice system— situations this judicial system is often unprepared for. In post-conflict situations, domestic courts often suffer from systemic problems that include inadequate laws, endemic corruption, incompetence, poor conditions of service and pay, lack of access to justice, including inadequate legal representation, and little, if any, case-law reporting (OHCHR, 2008).

³⁹ Vetevendosje (‘Self-determination movement’) is a left-wing nationalist party led by Albin Kurti (current Prime Minister), which won the majority of seats in the parliamentary elections in 2019 and 2021 in Kosovo (Zivanovic & Isufi, 2019; VOA News, 2021).

Following their arrest by the Specialist Prosecutors, the accused were transferred to the Detention Facilities of the KSC in 2020. The presentation of evidence is expected to commence on 11 April 2023 (KSC and SPO, 2023).

- The case against Salih Mustafa (Pre-appeal stage): Mustafa is a former KLA commander and a former intelligence chief of the Kosovo Security Force. He was arrested in September 2020 and, in 2022, was found guilty of war crimes, torture, and murder and was sentenced to 26 years of imprisonment. The charges relate to the crimes committed at a compound in the village of Zllash used as a base by the Guerrilla unit of the KLA in April 1999. The victims in the Mustafa case were Kosovo Albanians, while the Judges specified that the “*detainees were accused of being spies, Serb collaborators, traitors, thieves, or liars and held in inhumane, degrading conditions, without sufficient water, food and medical care*” (KSC and SPO, 2022b).

These cases represent a small sample of the investigations and prosecutions that the KSC and SPO have undertaken since its establishment. The KSC/SPO continues to investigate and prosecute individuals who are alleged to have committed crimes during and after the Kosovo conflict, with the goal of bringing justice to victims and their families.

3.5 Summary

The adoption of Resolution 1244 by the UN Security Council provided the legal basis for establishing the Kosovo Force and the UNMIK to maintain international peace and security in Kosovo. However, even though the Resolution reaffirmed the sovereignty and territorial integrity of FRY, the transitional interim administration was created to establish and oversee the development of provisional democratic self-governing institutions. Initially, the phased approach for public safety was undertaken by KFOR until UNMIK set its own police. As for its mandate and authority, UNMIK’s tasks were of unprecedented scope, with all legislative and executive authority vested in the SRSG. Following UNMIK’s establishment, the process of gradual transition of responsibilities to local political leaders was underway with the creation of the Provisional Institutions of Self-Government. The adoption of the constitutional framework paved the way for the transfer of competencies from the international to the domestic level. Still, it failed to limit the powers of the UNMIK. Additionally, UNMIK’s challenges can be seen through the plethora of

issues in the judiciary. At the same time, the lack of adequate law enforcement gave rise to organized crime and corruption of public officials.

On the other hand, the March 2004 riots highlighted UNMIK's incapability to deal with its primary task – security and safety in post-conflict Kosovo. It exposed the mission's weakness in dealing with ethnic tensions and violence. Even though the role of the media played an essential role in the development of the protests, the March events were an incentive for the international community to change its policy on Kosovo's status. The 'Standards before Status' policy was not feasible and provided poor results toward a clear political way forward. UNMIK's state-building mandate was seen as an obstacle to achieving independence for Kosovo. In this regard, Ahtisaari's Plan concluded that the only option for Kosovo was independence, supervised by the international community. However, although independent, Kosovo's political elite was limited in its decision-making process with the arrival of EULEX and the ICR as a supervisory body. Besides its monitoring and advising role, the EU mission retained specific executive responsibilities in order to maintain and promote the rule of law. The biggest obstacle for EULEX was connected to its interactions with national elites, as it unsuccessfully approached Kosovo's governance and criminality problems. The allegations by Del Ponte and Marty on the involvement of high-ranking KLA members in organized crime and corruption showed EULEX's failure to break the power of national elites in Kosovo for the price of stability and security in the region. Based on the allegations, the EU's pressure on Kosovo to create the KSC and SPO is seen as forced justice - the same political elite that fought for Kosovo's independence now has to pay the price of the Kosovo conflict.

CHAPTER IV – INDICES AND RANKINGS - RESULTS AND ANALYSIS

Parallel to the qualitative research and analysis in the previous chapters, Chapter IV focuses on the results and analysis of the rankings and indices in order to measure the influence and the role of the external actors which were present in Kosovo. The following chapter includes data from three sources: the World Bank – Worldwide Governance Indicators (WGI), Transparency International – Corruption Perception Index (CPI), and the Heritage Foundation – the Index of Economic Freedom. First, the results of the indices and rankings for Kosovo are presented and compared in chronological and analytical order to get an understanding of its development throughout the years regarding the rule of law, corruption, and institutional and economic development. The results are connected with the sources of legitimacy presented in the theoretical chapter, especially the output or performance legitimacy as it relates to the effectiveness, quality, and performance of goods and services that the state delivers. This chapter links the results of voice and accountability to the input or process legitimacy, referring to the agreed rules of procedure in which the state makes binding decisions and organizes participation by society.

Second, the results of Kosovo's international rankings and indices are compared to other Balkan countries (primarily Albania, North Macedonia, Serbia, and Montenegro). The chapter presents the developmental results of Kosovo as a state-building case (directly or indirectly affected by the role of the external actors) versus countries with minimal interference from international actors in their respective development. Through this, chapter IV takes into consideration the role of external actors and the effects of different policies and decisions on the developmental results of Kosovo. Although the role of external actors and the change of government had a significant impact, the analysis shows that Kosovo has made advancements in recent years regarding the rule of law, control of corruption, government effectiveness, and political stability but is still behind when compared to Western Balkan countries.

4.1 World Bank – Worldwide Governance Indicators (WGI)

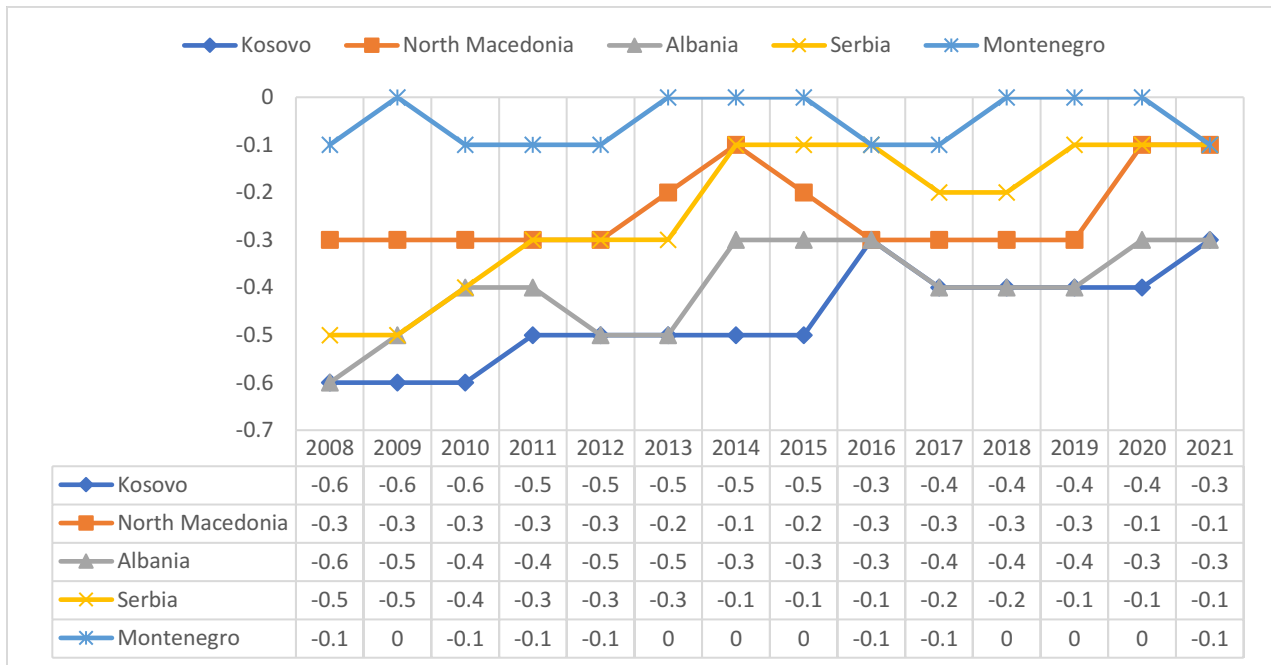
- Rule of Law

The rule of law refers to the extent to which the laws of a country are implemented and enforced fairly and impartially. According to the World Bank's Worldwide Governance Indicators, the “*rule*

of law captures perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence. Estimate gives the country's score on the aggregate indicator, in units of a standard normal distribution, i.e., ranging from approximately -2.5 to 2.5" (Kaufmann, Kraay, & Mastruzzi, 2010).

As shown in Figure n.2, Kosovo's rule of law has shown improvement over the past decade, with a score of -0.6 in 2010, increasing to -0.3 in 2021. However, Kosovo (including Albania) has the lowest score (but with an increasing estimate over the years) compared to other countries in the region, such as Montenegro, North Macedonia, and Serbia. Even though there is little data available for Kosovo under the initial UNMIK period from 1999 until 2008, Pruthi (2023) concluded that the UNMIK 'has done a good job' in establishing Kosovo's institutions, while Fetahu (2023) expressed the importance of the mission in terms of the expertise, knowledge, and funding, which helped the process of transferring competencies to the political elite. As for the EULEX period, the results show only a slight increase in the estimate of the rule of law.

Figure n.2 – Rule of Law: Estimate



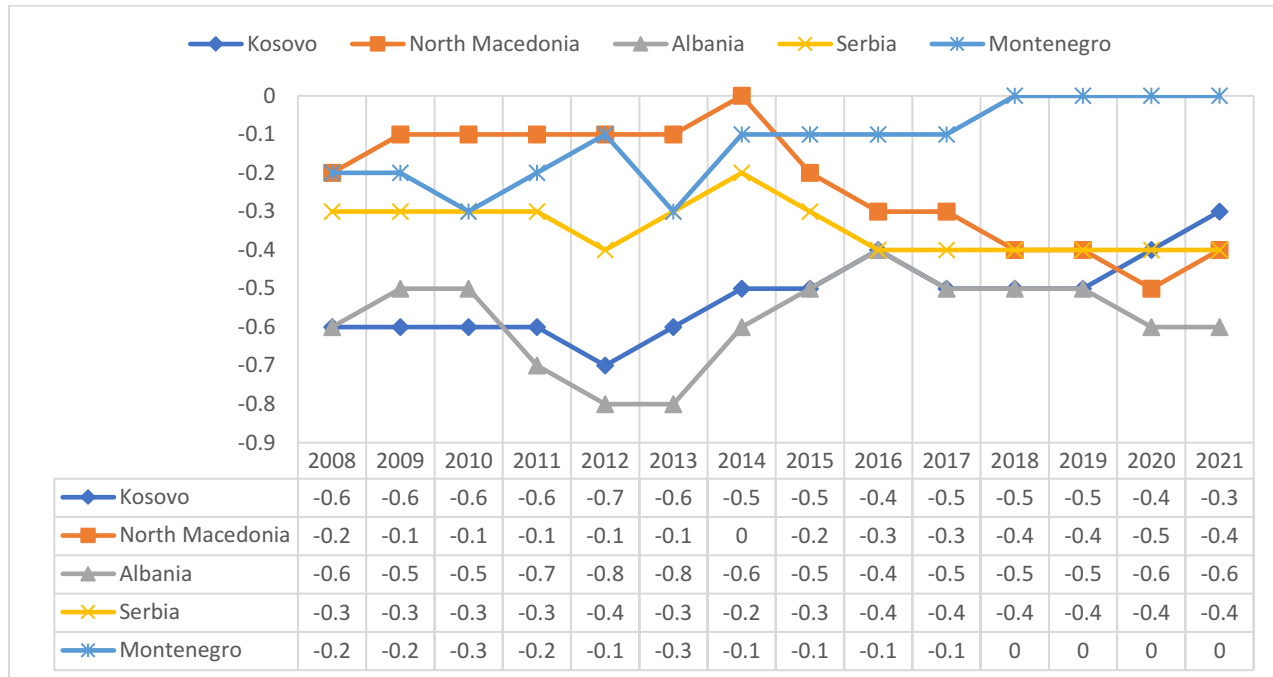
Source: Worldwide Governance Indicators (The World Bank, 2023)

- Control of Corruption

Control of corruption refers to the degree to which public power is exercised for private gain, including petty and grand forms of corruption. As the most important indicator related to the research question, control of corruption shows perceptions of the ‘capture’ of the state by elites and private interests (Kaufmann, Kraay, & Mastruzzi, 2010). According to the Worldwide Governance Indicators, Kosovo's control of corruption has improved slightly over the past decade, with a score of -0.6 in 2010, increasing to -0.3 in 2021. Here, it is essential to mention that in the EULEX period, the estimate for the control of corruption decreased in 2012 to -0.7 and increased only after 2013.

Compared to neighboring countries, Kosovo’s score is somewhat better than Albania's but lower than the rest of the countries until 2019. The change of political elites, with Kurti’s party winning the parliamentary elections in 2019, contributed to the overall score for Kosovo. Thus, the change in perceptions is partly related to Kurti’s clean background, bringing Kosovo’s score higher than North Macedonia and Serbia. Rexha (2023) summarizes that there is a difference in the perceptions “in terms of how people view [. . .] this government” due to Kurti’s willingness to fight against corruption. Fetahu (2023) also notes that the new government doesn’t have the pressure and baggage of the past in terms of corruption and clientelism. Montenegro’s score, on the other hand, is higher than all the countries included in Figure n.3.

Figure n.3 – Control of Corruption: Estimate

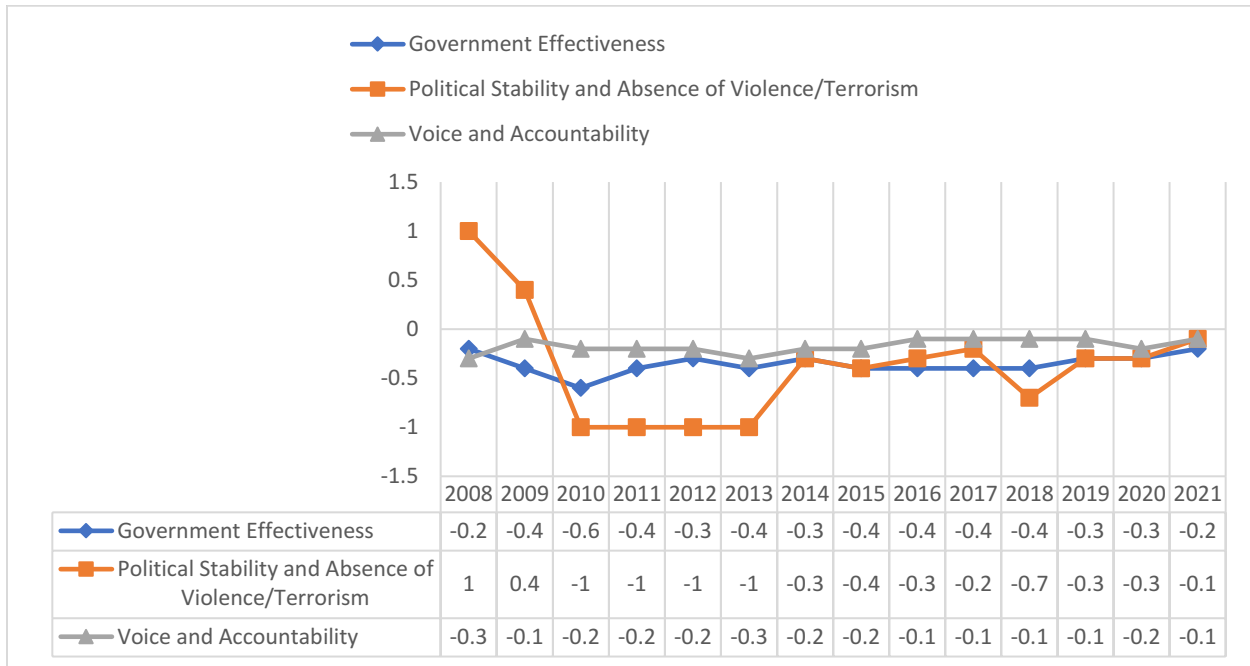


Source: Worldwide Governance Indicators (The World Bank, 2023)

- Government Effectiveness

Government effectiveness measures the quality of public services, the degree of independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies. According to the Worldwide Governance Indicators, Kosovo's government effectiveness has improved over the past decade, with a score of -0.6 in 2010, increasing to -0.2 in 2021. It is worth noting that Kosovo had the same score of -0.2 in 2008, while the score in 2010 was the lowest throughout the years 2008-2021, as shown in Figure n.4.

Figure n.4 – Government Effectiveness, Political Stability and Absence of Violence/Terrorism, and Voice and Accountability: Estimate



Source: Worldwide Governance Indicators (The World Bank, 2023)

- Political Stability and Absence of Violence/Terrorism:

Political stability and absence of violence/terrorism measure perceptions of the likelihood of political instability and/or politically motivated violence or terrorism. According to the Worldwide Governance Indicators, Kosovo's political stability and absence of violence/terrorism indicator sharply dropped after its independence, from 1.0 in 2008 to -1.0 in the period between 2010-2013. As shown in Figure n.4, Kosovo's score remained relatively stable, with a slight increase from -0.3 in 2014 to -0.1 in 2021. The results also show the direct impact of external actors in Kosovo – the slight increase in political stability (Kosovo's political stability is mostly related to the relationship with Serbia) resulted mostly from the efforts of the EU and other actors in signing the Brussels Agreement in 2013 between Kosovo and Serbia. However, the issues in the north of Kosovo remain an issue that interferes with political stability. Fetahu (2023) notes that even with external help, Kosovo has little to no access to the north, especially in terms of the rule of law and justice, and the developments will determine how the Kosovo-Serbia dialogue will go.

- Voice and Accountability

The indicator for voice and accountability measures the extent to which citizens are able to participate in selecting their government, as well as freedom of expression, association, and media. According to the Worldwide Governance Indicators, Kosovo's voice and accountability have remained relatively stable throughout the years, ranging from -0.3 as the lowest score in 2008 and 2013, increasing to -0.1 in 2021. Fetahu (2023) comments that civil society is very strong and vivid and, together with the media, contributes to making Kosovo more open and democratic. Rexha (2023) also notes that creating a civil society in Kosovo is not an easy decision undertaken by political elites and that the civil society “*is very active in terms of monitoring and criticizing*” the government.

4.2 Transparency International – Corruption Perception Index (CPI)

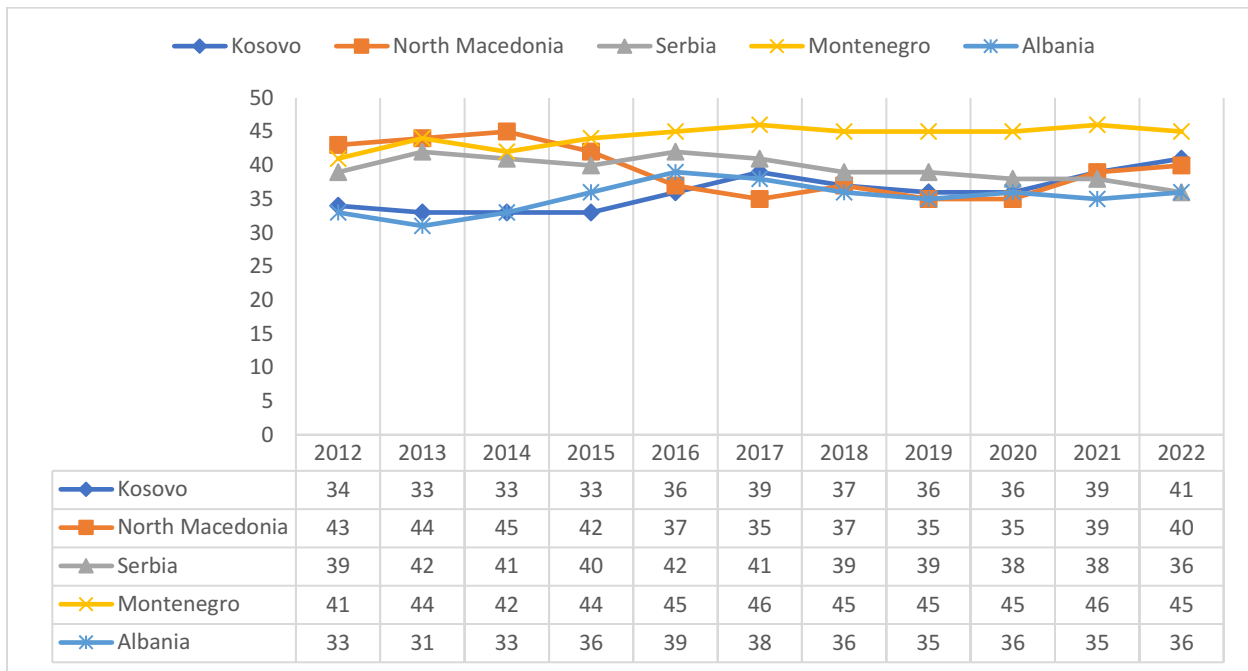
In this analysis, the thesis uses data from Transparency International's Corruption Perception Index (CPI) to assess the level of corruption in Kosovo and compare it with other countries in the region. The CPI measures the perceived level of public sector corruption in countries worldwide, using a scale from 0 to 100⁴⁰, where a higher score indicates a lower perceived level of corruption (Transparency International, 2022). According to the CPI data, Kosovo's score has improved gradually over the past decade. As shown in Figure n.5, Kosovo scored 34 out of 100 in 2012, indicating a high level of corruption in the country. Even though external actors were present in Kosovo, specifically EULEX, the perception of Kosovar citizens regarding control of corruption did not improve. Pruthi (2023) criticizes EULEX, saying that “they ended up doing the same thing that the locals are doing,” considering the corruption scandals of the EULEX staff. However, since 2015, Kosovo's score has been increasing, reaching 39 in 2017 and 2021 and 41 in 2022.

Kosovo is also well above the average score for Eastern Europe and Central Asia (35) but is still below the global average of 43. This represents a significant improvement in the country's perceived level of corruption, as it has a higher score than Albania, Serbia, and North Macedonia but worse than Montenegro's score. Transparency International notes that Kosovo has made

⁴⁰ The CPI measured the perceived level of public sector corruption using a scale from 0 to 10, but changed the scale from 0 to 100 in 2012. Kosovo's score in 2010 was 2.8 out of 10, while in 2011 it increased to 2.9 out of 10. (Transparency International, 2011)

progress in improving its legal framework for political and election campaign finance, but “*the government still needs to improve transparency and refrain from any interference in the justice system. While corruption scandals have not come to light in the past year, this doesn’t mean corruption is under control*” (Transparency International, 2023).

Figure n.5 – Corruption Perceptions Index for the period 2012-2022



Source: Corruption Perceptions Index (Transparency International, 2012-2022)

A report by Transparency International in 2020 examines two key enabling factors of state capture in the Western Balkans: tailor-made laws and impunity for high-level corruption. The report stresses the ineffectiveness of the judiciary in handling grand corruption and other corruption by high-level officials. As a common pattern in countries in the Western Balkans, the report shows how “*undue influence on law-making in the service of private interests help to achieve and maintain state capture*” (Transparency International, 2020).

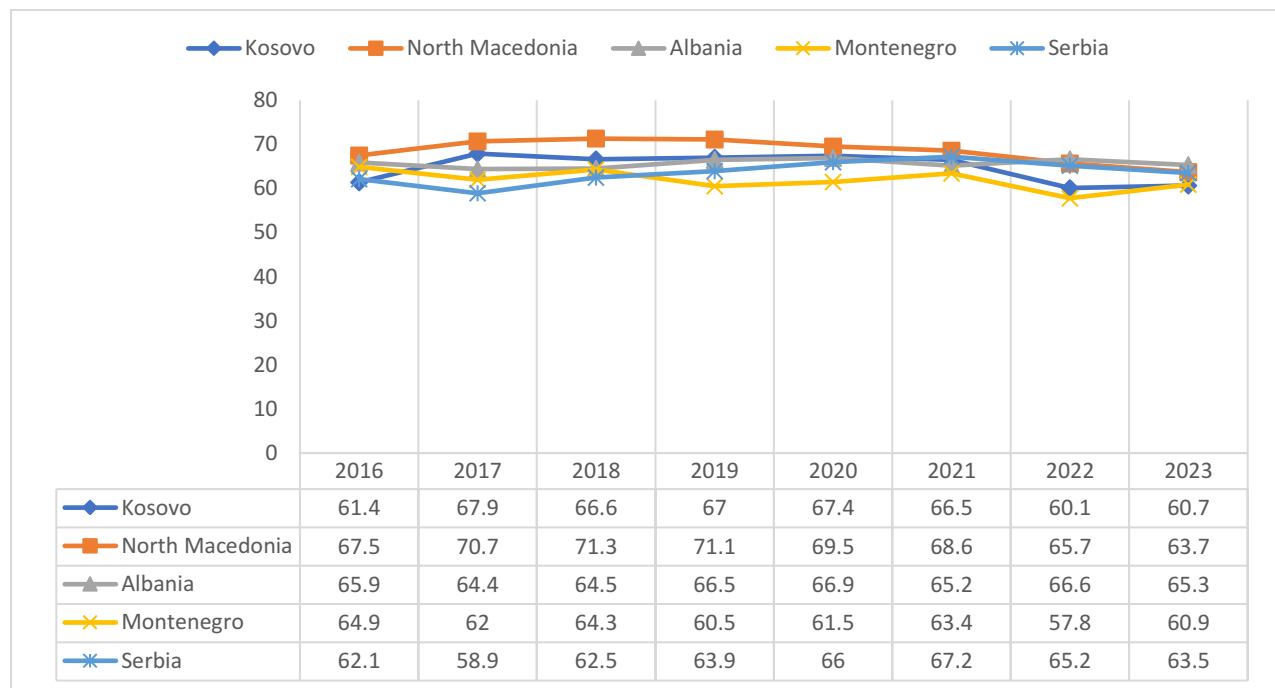
4.3 The Heritage Foundation – Index of Economic Freedom

The Heritage Foundation's Index of Economic Freedom assesses the state of economic freedom in Kosovo and compares it with other Balkan countries. The index measures the degree of economic

freedom in countries around the world based on four categories: the rule of law, government size, regulatory efficiency, and open markets. A higher score indicates greater economic freedom on a scale of 0 to 100 (The Heritage Foundation, 2022).

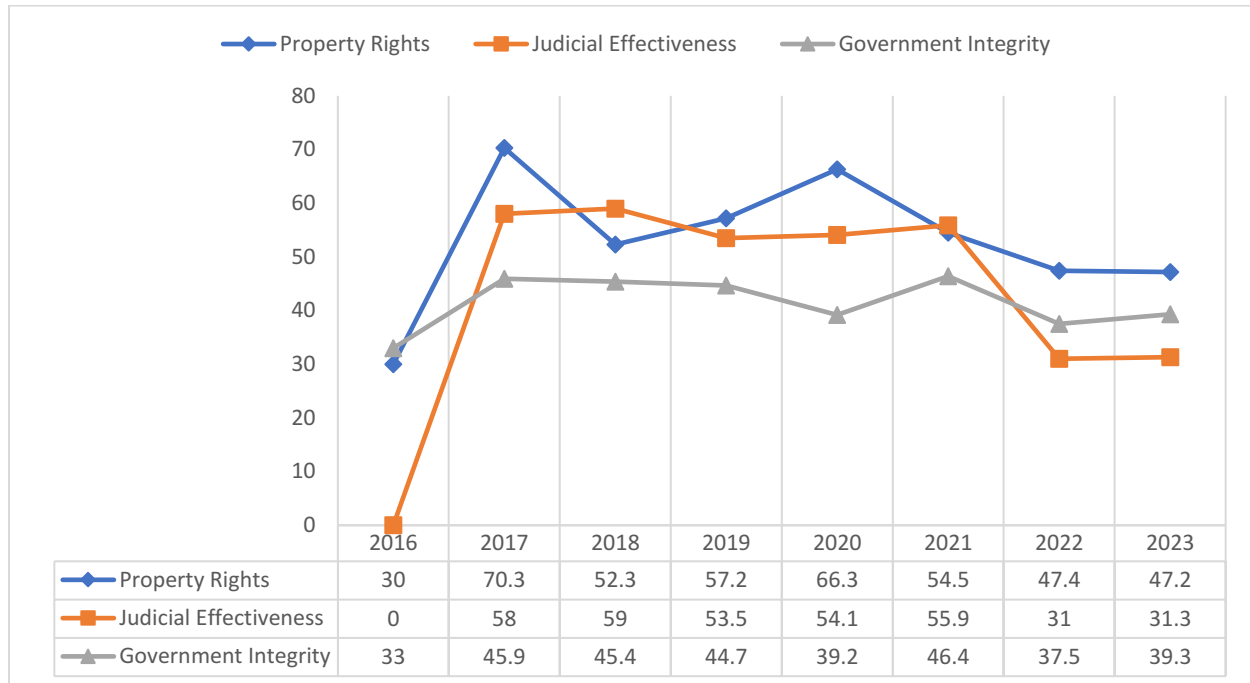
A general trend for the countries shown in Figure n.6 is that their overall scores are generally decreasing. According to the Heritage Foundation, Kosovo has been steadily improving in recent years, excluding 2022 and 2023. In 2022, Kosovo's overall score was 60.1, a decrease from 66.5 in 2021. This indicates that Kosovo is making progress in establishing a legal framework (considering the other categories), but compared to other Balkan countries, Kosovo's score is the lowest. Rexha (2023) notes that economic development and migration will be one of the main challenges in the coming years because “*there is not much progress, and the private sector is not developed.*” Pruthi (2023), on the other hand, comments that “*economically speaking, we lack vision, we lack the kind of expertise to counter-argue to the international community. The importance of having qualified technical and expert people in the right position at the right time is crucial.*”

Figure n.6 – Average country score for the period 2016-2023



Source: Index of Economic Freedom (The Heritage Foundation, 2022)

Figure n.7 – The rule of Law in Kosovo for the period 2016-2023



Source: Index of Economic Freedom (The Heritage Foundation, 2022)

As for the rule of law, there has been a decrease in recent years in all three freedoms: property rights, judicial effectiveness, and government integrity. The score of judicial effectiveness was the highest in 2018 (59), but it decreased in 2022 and 2023 to 31 and 31.3, respectively, as shown in Figure n.7. The score for judicial effectiveness is the lowest considering the other components. Even though external actors (both UNMIK and EULEX) specifically focused on strengthening the judiciary, the results show that their role in doing so is quite unsuccessful, bearing in mind the missions' executive and monitoring divisions in Kosovo's judiciary.

4.4 Summary

Overall, Kosovo's governance indicators have shown some improvement over the past decade but remain low compared to other countries in the region and the world average. This also shows the impact of external actors in the state-building process in Kosovo, as the primary goal for both missions, especially for EULEX, was strengthening the rule of law, controlling corruption, and building a strong judicial system. Even though there is no available data for the UNMIK period,

the mission can be granted with the success of establishing Kosovo's institutions in the most fragile post-conflict period. As for the period under EULEX, the results of the rankings and indices for Kosovo (and the comparison with other Balkan countries) show prolonged and unsteady improvement in the rule of law, control of corruption, and political stability. On the other hand, even though EULEX had an executive function (which in 2018 started handing over cases to the local judiciary and began monitoring the judicial system), the results show a negative trend in the judicial effectiveness of Kosovo. Here, it is more evident that the role of external actors, as well as their success, was directly affected by the legitimacy issues with the political elites. A positive trend in the results is evident from 2018, not directly connected with the role of external actors per se, but with the change of government and their 'zero claims to corruption and clean sheet' (Pruthi, 2023).

As for future recommendations, the Kosovo government should continue to invest in strengthening the rule of law, control of corruption, government effectiveness, political stability, and transparency to improve its governance and foster sustainable development. To continue enhancing Kosovo's score on the rankings and indices, the government should focus on implementing anti-corruption measures and strengthening institutions responsible for combating corruption. Even though a change of government improved Kosovo's overall score, the Corruption Perception Index shows that Kosovo should focus on increasing transparency in government operations, improving accountability for public officials, and enhancing the independence of the judiciary. By taking these steps, Kosovo can continue to make progress in reducing corruption and building a more prosperous and equitable society.

As for the Heritage Foundation's Index of Economic Freedom, the results suggest that Kosovo's economy is making progress in terms of establishing a legal framework that protects property rights and enforces contracts, maintaining a relatively small government size, promoting regulatory efficiency, and opening to international trade and investment. However, there is still much work to be done to improve Kosovo's economic freedom and competitiveness, particularly in comparison to other Balkan countries. Kosovo should continue to focus on improving the rule of law, promoting greater efficiency in the regulatory environment, and opening to international trade and investment to drive more significant economic growth and development.

GENERAL CONCLUSIONS

Using the case of Kosovo, the thesis addressed the research question – how external actors achieve effective state-building in post-conflict states and areas with limited statehood while facing shortcomings in dealing with emerging political elites. In line with this, the research question addressed the issues that external actors face regarding their state-building approach, but more importantly, their interactions with local elites in a complex political environment. The thesis argued that issues of legitimacy can deeply challenge the effectiveness of the state-building process in fragile and post-conflict situations. The main challenge faced by the international presence in Kosovo lies in the consensus between external actors and Kosovo's political elite, with the primary goal – avoiding violence and spillover effects.

Indeed, Kosovo's complex history proved that stability should be a priority for the international community, as was the case with the establishment of the UN-led peace-building mission. Unmet expectations and lack of local input seriously undermined UNMIK's domestic legitimacy as an external actor. Considering that UNMIK's task was unprecedented in scope and complexity, vested with legislative and executive powers, the mission proved ineffective in upholding the rule of law, preserving public trust and confidence, and enhancing access to justice. On the positive side, it established Kosovo's transitional institutions and provided a safe environment for the gradual transfer of power to Kosovo's political elite through the concept of local ownership.

The shift of the 'Standards before Status' into a priority-based policy caused by the March 2004 riots paved the way for Kosovo's independence, but international involvement did not stop. EULEX's aim to improve governance was overshadowed by the main issue that it had to tackle - corruption. The EU's efforts in strengthening the rule of law and state capacity through the creation of rational-legal political institutions were sidelined, as it failed to consider the political settlement and break the power of local actors. Given the high levels of competition for legitimacy and power in complex political environments, external actors can influence and enhance, although severely limited, the position of one group of political actors in relation to others (OECD, 2010).

For the international community, the case of Kosovo (and the Balkans in general) has illustrated the lack of adequate instruments to deal with post-conflict situations, bearing in mind the complex socio-political interaction processes. However, in the case of Kosovo, external actors favored a pragmatic political approach and sacrificed important principles of justice for the price of short-

term stability. The growing international pressure raised by influential actors on the Kosovo issue urged the EU to change its strategy of ‘attentiveness’ towards Kosovo’s political elite assembled around the LDK party (Capussela, 2015) and enforce the primary assignment of EULEX – the rule of law. But although delayed, the EU’s straightforward strategy brought results through ‘forced justice’ (Ochs & Walters, 2022), as the same political elite that was pressured by the EU to include KSC&SPO’s establishment in Kosovo’s legal system is now facing justice.

Besides the domestic issues of legitimacy, Kosovo is still not part of the UN system, while the EU’s neutral status with its five states that do not recognize Kosovo creates problems concerning international legitimacy and Kosovo’s future status (Rexha, 2023). Additionally, the USA had a far clearer stance on Kosovo’s status and independence compared to the EU’s neutral status (Fetahu, 2023). Due to the structural flaws and conceptual mistakes of the two missions, and the misaligned interests and influence of Europe and the USA, the international community's attempt to establish a well-governed state in Kosovo was doomed to be ineffective. Since 1999, the structural flaws – primarily weak accountability and oversight – as well as the conceptual errors – disregard for the democratic principle, a failure to recognize the limitations posed by Kosovo's political economy, an excessive reliance on constitutional engineering, and an often disjointed, fragmentary approach to it - have vastly not changed (Capussela, 2015). As long as EU countries do not have a firm positioning around Kosovo’s status, legitimacy will pose a significant issue (Pruthi, 2023).

The interests and powers of the EU and the USA have already been discussed, but Washington's role was far more influential than what the thesis implied. As the only actors who could exert significant influence on Kosovo's government decisions, US support for the state-building effort was de facto essential. The future recommendations stress that Kosovo still must work on and settle the domestic issues in the north and stabilize relations with Serbia before seeking international recognition and legitimacy. The new EU-led proposal on the path to normalization between the two countries can be a ground-breaking outcome for reaching a consensus, but even with consistent and effective implementation, finalizing the normalization process is not a foregone conclusion.

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APPENDIX - INTERVIEWS

This appendix contains the transcript of the three interviews conducted with civil society representatives and policy researchers from Kosovo. The first person interviewed was Alban Pruthi, a SAIS Fellowship Recipient and former Client Relations Analyst for the World Bank in Washington, D.C. The second person is Albana Rexha, a Senior Public Policy Analyst at Democracy Plus in Kosovo. The third person is Arber Fetahu, a Research Fellow at the Group for Legal and Political Studies in Kosovo. The interviews were conducted on Zoom and were subsequently transcribed.

Interview with Alban Pruthi, SAIS Fellowship Recipient, former Client Relations Analyst at the World Bank in Washington D.C.: February 24th, 2023

Q: To begin with, let's go back to the post-conflict period and the establishment of the UN interim administration mission in Kosovo. There are many reports and criticisms of the work of the UNMIK, but in your opinion, to what degree were they successful in managing the situation in Kosovo?

The UN is a fascinating international body, but we already know, especially us in the Balkans, the limitations, and the high political degree of the United Nations. Me as a Kosovar I can only remember, for example, Srebrenica, or things that happened in Bosnia and Herzegovina. So, that kind of already puts me 'off' in relation to the United Nations, and rightfully so right now, should we kind of like ditch the entire UN? No, because let's be realistic, especially what you're looking at – legitimacy - the UN is kind of the middle ground. When, for example, any actions can be controversial, or any actions can be right, questionable. And basically, as we know, of course, we have players like the United States that have pursued the UN approach partly to legitimize it's concept of self-determination and state-building, which I think is solely an American thing, because, as we know, historically, United States kind of came up with this, you know, like from Woodrow Wilson and whatnot, this is not like a novel concept in the European or other continents. So, the UN comes in very handy. Now I will give you an anecdote. So, I think I was like 23 or 24, it was post-conflict. So basically, I was working for the OSCE, and it was an interesting mission, because their focus was security and corporation. Europe was to establish the first post-conflict

elections in Kosovo. And I was working with the very impressive Dutch Ambassador Daan Everts, who, I think, did a great job given the circumstances. Now, the United Nations Mission in Kosovo had been established. My cousin was working there, and she had colleagues in the office who were saying that some of the computers were not working. The computers worked perfectly, but that staff from the United Nations didn't know how to turn on the computers.

Q: But was the staff local or international, or both?

No, it was international. So, this gives you immediately an idea or insight of the quality or of the cadre, that the United Nations, I mean things might have changed, because let's face it. This was like, in 2000 or something. But they laughed because they're like "oh, my God, why have they brought these people?" So, in terms of legitimacy of the mission and credibility, imagine if you have that type of leadership, just to begin with, right? So I think those. And then, obviously, the corruption, and, you know, I call it as a priest - do as I say, don't do as I do. But now let's be realistic in terms of geopolitical issues and in terms of legitimacy. I think either they like or dislike the United Nations Mission in Kosovo, but it did serve initially. I think, probably in the first, like 5 years, an important role to just kind of settle the dust, to sort of pave the way. Now you might ask, should they have continued, or should have basically stopped and maybe bring other regional or other actors. I think the EU should have taken a more active role, cause that would have saved quite a lot. But there was a lot of opposition at the high powers, I mean at the Security Council, Serbia was constantly challenging, and still, I mean, it's still bringing it back which is like ridiculous. So, I see a positive role in the sense that, like, given the real politics in the world, the UN can play a very important role. However, I wish it would be more temporary then, you know, like this prolonged, I mean, can you believe that we still have the United Nations mission in Kosovo? But again, this reflects the dysfunctional environment when it comes to international diplomacy. And I think the very real politic of how diplomacy is conducted. I mean, let's face it. Germany and major powers in Europe they still kind of felt "okay, Russia is a bear, but it's a bear that we can control." One thing I agree with Trump is to get your military ready. Get prepared, don't free ride on NATO, and frankly, they realized that with the war in Ukraine. So, the German politics actually had a quite a big change. I didn't know how much you have followed. I have friends there, and you know you had all these green environmentalists, and the whole energy issue trying to close all the nuclear plants so that they are not becoming dependent on Russia. So, to

summarize, I think the United Nations Mission in Kosovo, despite all the things temporarily, has done a good job because it's unrealistic or it's naive to believe that you can have a start process in a post-conflict zone if you don't have that sense of legitimacy.

Q: The literature on state-building is quite recent, with Kosovo being an example of a hybrid mission, meaning that it included and still has personnel under mixed command by the United Nations and regional organizations such as the European Union under separate mandates and management. What were the biggest challenges for external actors in terms of the legitimacy of the emerging political elites in the state-building process?

I would still say, what are the biggest challenges? Because we do face quite a lot of challenges for external actors in terms of legitimacy. So first, let's face it. There's a lot of perception that the United States goes, 'prepares the meal' and then leaves it to the EU and other actors to 'clean the dishes,' and they don't like this, but then you can make the counterargument. [. . .] UN has saved face for the United States. Otherwise, Europeans never have had the guts, especially in recent history, to take a firmer positioning. I mean, let's face it, even with Macedonia and Greece. We all know, for example, what Macedonia went through with the whole European integration process, and how it has been sabotaged by Greece. It's ridiculous what Europeans are incapable of doing because I love Europe, but I'm very objective. My peers at the university say the US kind of screwed things up, but at least it takes action versus the European Union. This provides a lot of insecurity. So, I think these are realities that we cannot ignore. In my opinion, you see this happening over and over again, so that provides a lot of challenges. I don't know. Like one of my political science professors would say for example, Germany has the capacity and the economic cloud, but they are afraid of their own past, as you know, like it was, I think, the first time Germany got in a military involvement [after the Second World War] they were so afraid that they're still going to be labeled 'Nazi.' We have this theme in our discussions, with great power comes great responsibility. Now, to what extent do these countries match their power and responsibility?

Q: With the creation of the Kosovo Specialist Chambers and Prosecutor's Office, what were the initial reactions and public opinions on the indictments of the former Kosovar politicians? Do you think that KSC's work will contribute to a positive change?

So, I can speak more from a population's perspective. I feel that many Kosovars believe, due to our inabilities and due to Serbia's strength that the whole reality has been distorted. Now, what do

I mean by that? I mean that, for example, the whole concept of the Kosovo Liberation Army, which we believe, and I think is still to a certain extent justifiable, was a counter-reaction to two decades of oppression and the wars in former Yugoslavia. Cause we tried for a decade with Rugova through a pacific movement of kind of like a Gandhi approach. Well, I mean, what happened in Bosnia and Croatia then they might know that we're going to be slaughtered and I can attest to that. So, it was the reaction of the realities on the ground. People had to defend themselves. Now, Serbia has managed and well done to them, to kind of put the whole Milosevic aggression on the same leveling with the KLA. There was Carla del Ponte with the whole human trafficking. I was in Washington. I was reading a novel on human trafficking, and then I hardly knew details of human trafficking. And I was just amazed, from the medical point of view, what equipment and what kind of swiftness you have to have. If you want to get a kidney, or especially lungs or heart. And they were saying, cooks. I was a refugee in cooks. I knew the infrastructure in cooks. It was wild, there's no way that organs could have been trafficked in those circumstances, environments, so I don't know. I had doubts. That said, we hated it because we just felt that at first, it was an insult. Okay, to what has happened, and it was equalizing. Now from a more objective perspective, I would say politicians, I think they were forced. I mean, they were quite corrupted. So, I think the international community played this card very well, especially the United States, it's like you would accept this or say goodbye to your political career. I don't think they had a lot of maneuvering, and frankly, let's say our former Prime Minister and other people that signed, they are in the Hague. So, you know it backfired in a way, objectively, I think KLA did have some bad actions towards the local Serbs living in Kosovo, and also they ignited destruction, and what not. But at the same time, it's not justifiable. I mean, it's terrible. I personally believe that every person, every human being, deserves a decent life, and it doesn't matter if you're of whatever nationality. So, those people, I think, should be brought to justice because I strongly believe that a criminal is a criminal and as long as criminals are free, a society cannot prosper. For example. I admired Zoran Djindjic, and I mean, they [Serbs] didn't agree with the historical concept of Kosovo, but they were very realistic, and they acknowledge the reality, and they wanted to move on, and they were like 'we don't want this to be used as a kind of scapegoat for whatever problem Serbia faces realistically'. And let's not forget Serbia had the capital of Yugoslavia, and Serbs do have this sense of superiority.

Q: The external influence was the most evident with the constitutional changes and the creation of the KSC and SPO. How did the political elite accept it?

I would say that, for example, some were forced to accept it, some totally opposed it, like, for example, the current Prime Minister of Kosovo and his leadership, his movement [Vetevendosje], they were totally against it. But the other parties [PDK] which were the former KLA in the biggest part, then there was the other political party, which was like the southern part of the KLA, and then the Pacific movement [LDK]. I think these 3 major political parties were sort of cornered to accept it, because they were very involved in many different things. How can you explain that most of their children of these big politicians, they're loaded. And being from a town, sometimes when you see the stuff they do, seriously they're like these villagers who knew nothing. But there's a saying if you're under the apple, you eat the apple. I think that at least from the urban area we kind of stayed a bit more distant, because we were not involved, especially in the military part or aspects of these things.

Q: What is the biggest challenge in integrating the Serbian community in Kosovo? Does it solely depend on the daily politics or are there other factors?

I would say first, anecdotally. Two days ago, I went to this store in downtown Pristina and two Serbian girls get in. They speak Serbian, they order in Serbian, and they sit down and chat in Serbian. For me as a diaspora, because, as some of my friends say, Alban, your clock has stopped, I was impressed, and to be honest, I was really happy because I felt the whole multi-ethnic concept as we know, it's super difficult. I mean, you have the same issue in Macedonia, but I still when I see these examples, it gives me hope. First, the population has sort of like, you know, kind of moved on here. I don't know how it's for my hometown Gjakova. It might be much trickier, because there are still missing people, and we still never had a huge number of Serbs living there. And there's horrendous things that have happened. I mean, unfortunately, I've lost my dad, the neighboring family have been killed all, so for people there, and with this whole isolation with visa liberalization taking forever. It's just that people haven't had the chance to see the other side. So now in terms of the institutional side, I think the Euro serves in Kosovo something that's unthinkable in other countries. And this is not highlighted so much. They have, because I know, I worked at the OSCE when we did the electoral system. They have set aside seats which can be instrumental in terms of building coalitions, having an important element, let's say Gorani, or Bosniaks don't have that. And frankly, Serbs are not numerically big compared to other minorities in Kosovo. But, of course, it's a different thing. So, the Euro, I think, offers a lot to Kosovo. Now,

this argument of giving more autonomy to the whole enclosure is ridiculous, and it's actually bad, in my opinion, it's like replicating what was done in Bosnia and Herzegovina and we definitely know how dysfunctional this is at so many levels. Even how it has hampered their state-building. Now, I think, as long as Serbia plays a direct role and involvement in Kosovo and with Kosovar Serbs holding elections and running this parallel, unfortunately quite corrupted, I might say, and of course there are also local opinions who collaborate, because, as you know, as one of my professors would say in the Balkans, the biggest integration has been the Mafia and the black market, right. So they don't care about what nationality you are, and I wish our politicians would have a bit more of this stance, at least from the institutional point or perspective. Now, things have become more complicated and links to your other question with Russia. I think Russia has been using Serbia as a puppet to whatever advance and political ambitions. And thirdly, I would say there must be some form of international community pressure on the local Serbs to accept the reality and make use, yes, that has been done to a certain extent, but it hasn't been done firmly and with clear determination. Now again this brings us to this whole multi-messy leadership, that we have at these multinational organizations. Because I worked with the World Bank for 12 years, and while the World Bank is a little bit better because they don't have to deal so much with political things as the United Nation, there's a lack of leadership so that's an important factor. I think another element could be maybe economic development. I'm very critical of the international missions when it comes to development. And while the World Bank does a great job, there are so many shortcomings, because they don't genuinely look at things that could really, truly contribute to the people on the ground, it's more like what the donors want. What are the political realities on the ground, I mean just to give you an example, we helped establish an institution in Afghanistan. We spent maybe 5 million dollars. That institution could serve maybe 20 borrowers, because there was no borrowing market in Afghanistan, but many international organizations. They needed to show that they're working in post-conflict and fragile states. So, donors would basically allocate money. Now, if you ask me, and we know what happened in Afghanistan, that's 5-million-dollar bureau. It's under Taliban [rule], and who knows what. Right now, you could ask me what could we have done with those 5 million dollars? I would say, well, why not have a small/medium enterprise and a program that will help minorities and connect them. But they don't think this way in this term. So, I would say, these 4 factors. I did independent research on Quebec because it's fascinating as a Kosovar. I was like people telling us that we want to be independent. But I mean you, as

Macedonian, can relate as well. But why do French Quebecois want to be independent? Canada is a peaceful country, they get lot of money from Alberta, Saskatchewan, the whole sand-oil. Why is there this fervent, independent movement, and frankly, I came to a conclusion that self-determination can be something that kind of penetrates you in an emotional and intellectual way. But the economy is important, and people think with their wallet. They have had many referendums, none of their referendums have passed, because some actually value the whole Canadian Federation, and they value their positioning with North American Trade Association. And they would never be able to have that status. I mean, what UK did actually with the European Union right? So, they're cautious. When you have your belly full, when you have your things well, and as a former Yugoslavian, I strongly believe in this. I think we did have problems like obviously, no one was beating anybody - that was Populist propaganda, I can attest to that at least anecdotally. Were there atrocities and things that happened? Of course, it was a one political party or single party system. Here, ethnicity doesn't have to do with it. It has to do with the regime. [. . .] Albania was quite close to joining the former Yugoslavia, but I think Tito was very smart, so he probably knew that having like 6 million Albanians in this country would be a little bit hard to deal with, and then, obviously, as you know, there are pockets of Albanians living in Macedonia, Montenegro, Serbia.

Q: What are some of the biggest challenges for Kosovo in the near future – in 5-10 years from now?

First, politically, the whole concept of legitimacy. I do applaud the legitimacy that has been established to this extent. Obviously again, the UN, like it or dislike it, has not accepted Kosovo. But I think realistically with Russia having a seat at the Security Council, so that will hardly happen. It's bizarre that Putin has been using Kosovo as a form to legitimize the whole invaded regions of Ukraine, which I find it ridiculous. I don't know the Russian claims when it comes to for example, the terror, or the threatening of the Russian community in Ukraine. But I mean my American mindset, because obviously we are also part of these parallel worlds tells me that it's not true. It's not a valid fact. It's the same what Milosevic did when he said, for example, for certain parts of Kosovo, that Serbs were being beaten. Might have been individual conflicts or something yes, here and there, but no. Because I think that's how people operated. So, this is a challenge - legitimacy, as long as EU continues to not have a firm positioning, and I've studied the common

foreign and security policy of the European Union, because I did European studies in my master's. It will pose so many challenges, and the whole accession of the Balkan countries and the whole isolation has created so many issues of people being jaded, I mean even the political elites. For example, the whole concept of the Open Balkans – it will be a fantastic opportunity for the corrupted elite. So, I was totally opposed to it. Because let's put it frankly, we're not capable of regional initiatives. We don't have leaders. One novelty, and it links well to your other question in terms of corruption - we have a Prime Minister in Kosovo that, actually unlike many other politicians in the region, has zero claims to corruption. So, he comes with a clean sheet. Now that is to be welcomed, however, now I'm going to link again to the question. I think the lack of state-building and leadership skills required to put things forward is quite crucial in Kosovo, and as long as, for example, we don't have the right people who have the expertise and the the vision, we'll face challenges in terms of state-building. Economically speaking, we lack vision, we lack the kind of expertise to counter argue to the international community. The importance of having qualified technical and expert people in the right position at the right time is crucial. So, as long as Kosovo doesn't find a way to attract individuals, because there's so many, especially now in this length of 20 years, and, as you know, 20 years before Yugoslavia so many Albanians left Yugoslavia and this advanced to unprecedented levels. Thirdly, it's just the whole reality is on the ground, I mean America, kind of plays with us as we want, Russia plays with Serbia as they want. So, it's like we just don't really come to a common ground. [. . .] Kosovo is an incredibly surprising case of American involvement. I think they see it as a successful case, which to a certain extent they kind of like to make up for whatever bad things that have been done. There are some connections, I mean with Woodrow Wilson, for some reason, had this affection for Albania, he sort of stood up to the great Powers with the whole self-determination concept. So, I would say, the legitimacy issues, economy, and the lack of expertise leadership and approaching these developments.

Q: Does the Russia-Ukraine War have an influence on the situation on Kosovo? Although different, many experts were making comparisons with the Kosovo War. What are your comments on this?

Politically, we strongly identify again, the aggressor versus the repressed. Many people have started talking 'but Ukraine hasn't recognized us' but I don't care, it's a similar situation [to Kosovo]. Now, institutionally, I think there's been quite a lot of support, extremely high, I think

this plays well with the [Kosovar] Prime Minister, because he is one of those philosophers that truly believes in self-determination, and I was actually pleasantly surprised by some arguments - we approach the Ukraine situation from a very Western perspective, we don't really have the capacity to see it from the Eastern perspective. Now, what does that mean? That means that we're fed in our bubble. And frankly we see the NATO expansion as something that is rightful, and that's something that originated authentically as opposed to being bred. That means kind of growing this kind of sentiment inside. And these are valid arguments, and we ought to consider them, we might disagree with them, but we ought to consider that maybe the Western community has had a say, because they want to basically redraw the whole border of influence with Russia. There are Ukrainian flags displayed so yeah, I mean, people feel from the sufferings, seeing the babies and the destruction and all that. It's just that people relate a lot emotionally, and historically in a way. Frankly, from what I have learned is that Ukrainian and Russian are quite similar, it's like Bosnians and Serbs. In former Yugoslavia, Macedonians, Albanians, and Slovenes to a certain extent were kind of distinctive in their own way, even linguistically speaking.

Q: In terms of external influence and intervention, which country/organization had the biggest influence and positive impact in the peace- and state-building processes in Kosovo?

My answer would be the United States indirectly through UNMIK, even through EULEX, to certain extent. I think EULEX has been an upgrade to UNMIK, but still with a lot of glitches. Unfortunately, I do recall, for example, the affair, the corruption affair with the whistleblower - the woman from the UK. Basically, EULEX paid her like a lot of money to shut up and not expose the corruption that was happening on the ground. Now, you might ask me what's the objective of this mission, it is to legitimize, bring credibility and offer this is how things are done. And what did this mission do? They ended up doing the same thing that the locals are doing. Now, what does this do to the legitimization process? What does this do to the whole moving things forward? Can we equalize them? No, because it's not to the same degree. But, as we know, reputation matters. That's what makes this mission super sensitive. And I don't think this happened due to bureaucratic and clientelist reasons to be honest, because I worked at the World Bank, I know. [. . .] This is my understanding. I'm very practical. You have to also understand, not be naive and understand the complexity of leading and establishing multinational missions, it's ridiculously difficult. So, you can't underestimate those aspects as mundane as they might be. I think the United States, and

obviously through these multinational organizations, I think Germany has started playing quite an important role, especially in terms of the EU integration and Angela Merkel played this counterbalance, even the current Chancellor sort of politely declined the whole Open Balkan initiative.

Q: How would you grade the institutional building by UNMIK and EULEX, especially the judiciary?

To be honest, very poorly. I used to think it was better, but recently, there has been a lot of violence towards women, and that concerns me quite a lot. There have been rape cases, this happens in any society, but I think it happens a lot also in isolated societies, and we have had some influence from the Middle East for the whole 'Islamization' in the institutional approach, and frankly it's sad that a person that steals cows is given a bigger prison sentence than a person that rapes a girl. I think this speaks volumes at the level of prosecutions. Now again we have to be realistic. We can't expect miracles coming from a post-Yugoslav system, that the judiciary was non-existent as long as you didn't belong to the single political party. But I think more could have been done. And again, here this links to the lack of vision, the lack of a more credible involvement of the European Union and avoiding these things. Because again, perception matters and it's very important. Obviously, we have had different presidents, and in the Balkans, people believe that the U. S. Presidents wake up, and they think of the Balkans. Living in Washington, I learned how diplomacy and politics breathe. Americans take interest if there is something to take, they kind of want to have a consistent approach. But they're not head over heels about it. They have other fish to fry, and I don't think many people here in the region understand. But they [the USA] have done a decent job, at least we have institutions. So, you got to start from somewhere. [. . .] And I think people's expectations [in Kosovo] are high because we did have 'bisexually Socialist' regime. We benefited from funds from the Western world, but we employed our own version of Communism in Yugoslavia. And this works well, and Tito did an excellent job in maintaining this balance in the Cold War.

Q: In terms of corruption, Kosovo fared well beyond Albania and Serbia, as well as North Macedonia in the Transparency International Perception Index by one place. Do you think external influence on domestic policies had an impact on the score, or is it good governance with the change of political elites?

What I'm seeing recently is that, for example, again, the Balkan operates on the premises of do what I say, but don't do what I do. So, for example, there was something that happened recently with a Kosovar ambassador in Croatia. There have been some reports that he has been implicated in some corruption charges. I was quite surprised to find out that the Prime Minister and even his leadership sort of ignored this as being fueled by the opposition parties in a way to discredit and frankly I think, again, we're talking about credibility. We're talking about legitimacy. It's like a fine glass, once it starts being chipped, it can crack. So, for you to be taken seriously, and to have this clean slate you have to keep your credibility. But I think luckily and surprisingly the Kosovar constituency, and I'm very proud of this, like of the electoral system, because let's face it. Albania is still a mess when it comes to elections. I don't know about Macedonia to be honest. So, I was there when we established elections, and I think Daan Everts did an impressive job. I'm very subjective, of course, because I have worked there. So, you have to take that with a you know grain of salt. But nonetheless, the electoral system was put in place, in a spectacular way because we started from scratch, we call it the beginner's advantage in theoretical terms. So, we didn't have to reform a system or anything. We started from scratch, we came up with the Constitution, then they sort of swayed the electoral results to benefit the more pacifistic movement, because I think at that time KLA would have won, but they did something to kind of come up with a formula. While there might be some challenges, we actually are many years ahead of many other Balkan countries. And the election of our Prime Minister, which I disagree on so many things with him, is a Testament to that. But in terms of holding elections, the correctness, and the whole thing of Kosovo has a better electoral system than the United States, believe it or not. So, I think that's impressive, and it's something that is underplayed, and there are reasons why people do that. Because there's also like this whole, you know, you guys don't know you're so young, versus the established democracies. We have had elections. I've voted also in American system. It's incomparable with the Kosovo system.

**Interview with Albana Rexha, Senior Public Policy Analyst, Democracy Plus Kosovo:
February 24th, 2023**

Q: How is Kosovo progressing towards its European path and which are the most influential actors in the process?

The policy making level, for instance, and how influential are these actors in terms of setting the agenda, because you know, the public policy cycle has some status to follow. At least in literature, but also in practice, like, when it comes to planning, designing, monitoring, and all this. So, for instance, this is what I've been doing. This is what I'm also sharing with you. If we look at for instance, agenda-setting at the highest levels of policy making in our country, you would see that everything is pretty much defined when we signed the Stabilization Association Agreement (SAA) with the EU. So now Kosovo has this national plan for implementation of the Stabilization Association Agreement, which I think North Macedonia also had. So pretty much everything in terms of what will be done in the coming years is set in the agenda, and it's not that we define certain problems. And we make these discussions with the people and civil society to see what will be our priorities, because we already know where the budget is going to go. If we want to prosper on our European path, we also have the European Reform Agenda. I think North Macedonia has also something similar. A 2-year agenda, which prioritizes basically the SAA, some of the policies from the SAA. So, in case a certain investor wants to come to Kosovo, they will already know, like what laws are planned to be changed, what new strategies, what projects, and what will come in the future. So, it's completely dependent, I would say, on the EU in this case, as an external actor. But of course, the U. S. Is very much present here as well in terms of agenda-setting when it comes to the rule of law and the expertise and the support that they provide to institutions and to civil society, in order for us to be a constructive player and 'watchdog' for the Government. So, in terms of like policy making, I would say they are both influential. And they basically set the agenda, no matter what we hear, when the political campaigns are going on, that 'we will do this, we will prioritize this'. I mean, that could be just some very big words, but nothing like, concrete can happen, because the priorities all are already set. When it comes to, for instance, the policy planning phase in terms of like developing further these policies to comply with EU legislation, here, I have to say that the EU is again very influential. How they do it – they

surely work directly with the Government, they have their own monitoring reports – the country reports, but they also support financially the external actors, who then would either monitor the Government, or through other actors, civil society, they would build other sustainable mechanisms at the local level to engage more citizens in the policy development phase. Again, they're everywhere, they're very much influential in this phase, but using different mechanisms. Maybe from the Agenda-setting phase. So again, when it comes to implementation and monitoring they support institutions and other actors to do the same job - to monitor institutions and to provide comments on what they're doing. So, I mean, they are again present and influential in terms of what they do when it comes to state-building efforts like the rule of law, economic development, public administration, or anything. So, they basically cover all of this because everything is included in the SAA, and it's crucial because it is this horizontal agenda that makes it possible for all the other policies to be implemented rightly and on time.

Q: In terms of corruption, Kosovo fared well beyond Albania and Serbia, as well as North Macedonia in the Transparency International Perception Index by one place. Do you think external influence on domestic policies had an impact on the score, or is it good governance with the change of political elites?

Well, in my view, when it comes to these changes, like change in public administration, reform, or adoption of specific laws that would combat corruption, usually politicians and decision-makers are reluctant because they are rational actors, I would say. They would put their own interest in winning the next elections, which, in my view, is legitimate. Before making real changes in the country, they would always think how to get the new elections. For instance, if they want to change, we have this law on asset declarations, or on confiscation of illegal property, and they've always talked a lot about this. But I remember, I've done myself research back in 2013 on this law, and the same recommendations apply today, because the benefits that they get in this case from the EU are smaller compared to what they would lose if they would demand these changes to the law. So, basically, they would always do this cost-benefit analysis for any change that touches upon themselves as well. So, there needs to be a lot of pressure when it comes to anti-corruption initiatives or public administration also, because, I mean, here the public administration has continued to be one of the biggest employers for a very long time, and this is how the next party won again, the election, like promising job positions to people within the administration. So,

giving, like creating, for instance, a civil service, that is not prone to political influence - it's not an easy decision for them, because again, the costs will be higher than the benefits they would get from the EU in this case. So, usually what they did in the past was changing or creating some specific strategies for which no one was held accountable or amending maybe some specific laws for which no budget was allocated, or for which they made sure that it will not be basically implemented, and no one from the political parties or decision-makers would get punished. So, I think this is applicable in general to all political parties, but the pressures for these changes, of course, continues from the external actors, like the EU and the US when it comes to the rule of law and anti-corruption efforts. Civil society is also very active in terms of monitoring and criticizing when it comes to these aspects. But it is true that at least the perception has changed now with a new government, because you might have, rather than their main promise, and the rhetoric of their electoral campaign was fight against corruption, and new jobs. so I wouldn't say in this case it could be international pressure, but the pressure from the outside was there as well with the other political parties before, but no real changes took place. Now, I think this political party had the willingness to do something for real, this is what they promised. This is what everyone else also promised, but they didn't do so. In my view, I can see a difference also, in terms of how people view these aspects with this government, because they have, for instance, said that they will draft the law on confiscation of illegal wealth and make some fundamental changes, and they are already drafting this. But maybe it could be only the perception of people that has changed because we know how the Transparency International Index is based. It is all perceptions of citizens, of businesses, but perceptions, in my view, also are very important, because they are created based on the interaction with the institutions themselves. So. there is something that is true, otherwise we cannot say these are subjective views, and we cannot account for it but maybe this high move in places was also because other places have not, like progressed a lot. So, with very few changes, Kosovo managed to move up the ladder. Still, in my view, they wanted to do some changes, because this is what they've promised. This was the rhetoric. These are the people's expectations. The pressure was there, and in my view the leader of the party [Vetevendosje] also pushed for these changes more seriously compared to other leaders of political parties. I know that this is only my view. I cannot give proof but, in my view, he was more serious when it came to anti-corruption efforts. But as a civil society activist this is how I view this government.

Q: Integrating Kosovo into the system of the United Nations is still difficult. How is that process going so far with all the constraints considering Serbia?

Considering the costs and benefits, what organizations should be prioritized for Kosovo to join, which UN specialized agencies should be a priority for our country, because with the current resources that the country has, as we know how foreign policy works as a small country, it's not that you can do a lot and you need to prioritize from those from which you will benefit the most as a country, and I mean in terms of legitimacy from outside. If I'm using for instance, UNICEF, or some other organizations, or the WTO that are more present in the global arena, maybe it will help us to consolidate our statehood. We have so far the agreement that was made in Washington between Kosovo and Serbia didn't allow Kosovo for some time to apply in any international organizations and somehow this process of new recognition and joining international organizations, has stopped for a while. Before [the Agreement] there was a status quo, and then, with the agreement we couldn't apply anywhere. We failed to join a few times in UNESCO and some other organizations. I am not very optimistic that anything positive will happen soon in terms of new memberships or new recognitions, because somehow now everything is related to the dialogue with Serbia, it was not like this before. But if you check from when it started in 2011 to now, this is how it transferred and it became a challenge because now any country and any organization is related to that. And even if we apply, for sure, Serbia will use all of its own resources to block the country in joining these organizations. We have now applied for the candidate status for joining the EU, the Council of Europe, and Serbia already sent formal letters to the 5 countries that do not recognize Kosovo. So, it's like everything, even in the Council of Europe, is related to that. Everything is now related to the dialogue. There is so much pressure coming from key EU countries, so we will need to see what is going to happen, because the current government is openly saying that they will not sign anything related, or that is similar to an Association [for the Serbian minority] and that is against the Constitution and that is not in line with the principles.

Q: What about the 5 EU countries that do not recognize Kosovo? Do you think there will be anything beneficial happening in the future on changing their stance?

Well, from what I've read in terms of the agreement being proposed, it's not that, because it's not public, it's not secret. Somehow, it's not clear, but it's not that even if Kosovo signs this agreement,

it is not clear whether we will be recognized by the 5 EU non-recognizers. Although before it was being said that they will recognize [Kosovo] once we solve the problem with Serbia, because some of these countries also have their internal problems like Spain, so they will not have what to say. They will not have a valid argument anymore. But even with the new agreement, if that is signed, it's not clear whether there will be any movement. Greece has been so far the closest. We also have an office here and in Athens, but nothing concrete from what I know.

Q: In your opinion, what are some of the biggest challenges for Kosovo in the near future in 5-10 years from now?

I guess economic development will be one of the main challenges in the coming years. Since migration is also high these years - this is the case for North Macedonia, as well. So, people are leaving the country, also people with higher education, which, in my view, will be a very big challenge for the country in the future. So economic development and migration maybe would be the 2 big problems in the future for Kosovo because there is no progress. If you check data on economic development and employment pretty much everything is the same in the last decade. There is not much progress, and the private sector is not that developed, and the good side of all of this is that the IT sector is being developed in the country. But still people are leaving, and people also are living public administration, I see jobs in the private sector or for leaving to Germany and to some other EU countries. So, I don't know how Kosovo will manage this, or will it be able to actually manage this? Because of lack of human resources, I mean to perform specific tasks. Of course, it's a big challenge for the country.

Interview with Arber Fetahu, Research Fellow at the Group for Legal and Political Studies in Kosovo: March 10th, 2023

Q: To begin with, let's go back to the post-conflict period and the establishment of the UN interim administration mission in Kosovo. There are many reports and criticisms of the work of the UNMIK, but in your opinion, to what degree were they successful in managing the situation in Kosovo?

In my perspective, based on my research, it is true that there is a lot of criticism about the UNMIK in Kosovo. But I would not see the UN mission only from the perspective of negativity, on criticism, and what has been done in Kosovo so far. Because if we see how Kosovo's state-building process has gone, and bearing in mind, even though that we had some state elements in the former Yugoslavia being a former province and former autonomous region - almost the status of a republic. We had some sort of self-governance and institutions. We had the Minister of Foreign Affairs, or somehow similar to a Minister of Foreign Affairs with the Constitution of 1974, we had the directors in the Ministry. However, the ultimate authority was within the Yugoslav Republic, and bearing in mind that Kosovo was not a republic, we still lacked the capacities for self-governance, and we didn't have the full independence to run our things. What we had after the traumatic 1999 period after the war is the UN Mission in Kosovo. So now we also have some sort of a distinctive period from former Yugoslavia and the former Socialist, somehow, model, of running things. Now we went into another period, the post-conflict period with many unknown questions in front of us. Also, entering to a new system in terms of economy and politics, which was more of a neoliberal system, because we see also the public enterprises. They were privatized after 1999. We had the self-governance, economy, institutions, self-governance of political institutions in the security domain and so forth. So, what I would see beneficial from the UN Mission is that they provided some tools and expertise that helped the course of our self-governance institution to be equipped with more practical knowledge and with more expertise, that after the independence, our institutions, our capacities, will be more strengthened and will have more opportunities to self-run the institutions. So, the expertise and the models brought by the UN, despite the many criticisms, and despite that they were somehow considered as post-colonial or colonial, how they would tend to implement things, but the expertise, the knowledge, and the funding that they brought, also, the standards that they listed after 2000, that every institution should have full fulfilled, and you know, to see if we are capable of that – was very important.

Q: The literature on state-building is quite recent, with Kosovo being an example of a hybrid mission, meaning that it included and still has personnel under mixed command by the United Nations and regional organizations such as the European Union under separate mandates and management. What were the biggest challenges for external actors in terms of legitimacy of the emerging political elites in the state-building process?

I think this was one of the biggest crashes, and in the post-1999 state-building process, because we had a mission, to be honest, they have legitimacy because after 1999, Kosovo citizens were looking forward and they were very reliant on international funding, support, and aid. So, somehow, they had some sort of legitimacy because our status was not clear. We were still not an independent country; we were not a sovereign state. However, with time passing by, the UNMIK 'lost it' for quite a long time, even though it had extra powers. Somehow it crashed with the emerging elite, and it crashed also with the citizens of Kosovo, because we were seeing that we have yet an extra authority that we have to be reliant on, and we had to ask everything and for any issue. So, after the war, which was some sort of a period that Kosovo's people thought that we would be granted independence as soon as possible. Then we added in a phase of international mission, still the citizens and the emerging elites were subordinates of other missions. This way in that time it was different because the Serbian occupation was gone, so the international mission was more acceptable to the citizens of Kosovo and the emerging elites. But there were crashes on the way in how things should be run in Kosovo, because we have simultaneously 2 models or 2 ideas how things should be run in Kosovo. Also, we could see from international reports and interviews from people here and from the politicians that sometimes there was some sort of competition between the emerging elites and the UN Mission, because many things, even in terms of negative things, and the corruption, or the processes that were on in Kosovo from emerging elites at that time and the UN Mission were different and somehow they crash on how the things should be run. However, despite the clashes and the different opinions and different views, and how Kosovo's post-independence should be governed, in order to be prosperous for the international community - it was a period that it didn't have any other alternative. So, when you don't have any other alternative, there can be some sort of unpleasant perspectives, also there can be different opinions, different ways of how you want to run the institutions. But at the time there were other alternatives to govern in Kosovo. Sometimes, my perception is that the UN Mission governed sometimes excluding the domestic perspective of our citizens and Kosovo's politics because they came from above. So, it wasn't a bottom-up approach, but it was a top-bottom approach. So, when you impose to a country, to a society, to a post-colonial society, and still set the objectives and rules, and you don't want interference, that can cause a misbelieve from the citizens and emerging elites. That's why at the time many movements emerged, such as Vetevendosje (Self-Determination) which was against the UN Mission. There were also civil society actors that were opposing this idea that everything

should be imposed without contextualizing the politics, the society, and the citizens of Kosovo, so these were the biggest crashes in my perspective.

Q: Moving on to the EU Mission, what changed in regards to political elites and legitimacy? Also considering legitimacy of the external actors?

In the case of the EU I think it was different, because we have 2 different periods, also for the citizens and elites of Kosovo, because we had the independence in 2008 and with this the UN Mission somehow lost its relevance, and its impact on Kosovo's politics and the state-building process and so forth, because it exists but it doesn't have major impact in the decision-making, so some sort of the UNMIK degrades in terms of competencies and in terms of the mission. Now we have the EU mission, which is highly involved in Kosovo's state-building process and the political elites, but at this time the perspective of citizens and Kosovo's political elites was different, because now we have the elites who have the competences to run the state. On the other hand, with UNMIK, we didn't have a say in almost anything, because the way how Kosovo was constructed at that time was different compared to the post-2008 period. I think the role of the EU could be determined in two aspects: in the technical aspects, in funding which helped a lot in the state-building process with different fundings in terms of economy, security, education, and the other aspect is the political tool, which in some sort internationalized the issue of Kosovo. It helped with the state-building process in political terms, in the affirmation, and also in other things. One of the most important notions of EU, which was the EULEX mission in policy and security of Kosovo, despite that it was constructed to be a technical mission it purely had the elements of state-building, or the elements that could help Kosovo's state-building process, because they have extra competences in security and decision making in judiciary, in war crimes. So, this mission also had some extra competences, that were prone to the state-building process of Kosovo. However, still, because from 2000 we always had an international mission in Kosovo, there were crashes with the political elites in the way how the things should be run. So, the EU had some missteps or misjudgment of the situation because we could see with EU when the corruption and the allegations erupted in EULEX. In some sort they lost the trust of the citizens, and Kosovo's citizens didn't have faith and trust in the international mission, in the EU mission in Kosovo, in relation to justice and security. Somehow this was a big crash to the political elites, Kosovo's citizens, and the EU as a supranational actor in terms of EULEX. These crashes somehow helped the political

elites to uphold the power in Kosovo, because they had a tool to say, 'you see, the international missions are corrupted as well'. So, some sort with this kind of running of the mission of EULEX, and some sort of allocation of corruption that erupted within the mission, there's some sort of misconception between Kosovo's citizens, and also Kosovo's elites in regard to the EU mission paved the way for Kosovo elites, or at the time Kosovo's government to uphold the power to say that 'you see that all international missions are corrupted and we have to run things for us by ourselves', which in a way serves to some sort of maintain the power of political elites in Kosovo, or which we call 'stabilitocracy' in Kosovo.

Q: With the creation of the Kosovo Specialist Chambers and Prosecutor's Office, what were the initial reactions and public opinions on the indictments of the former Kosovar politicians? What do you think about scholars that depict the KSC as forced justice?

Yes, if you see how the [law on] the Specialist Chambers was voted in the Parliament, everything around this process, you could see that there are elements of forced justice. Because even now, when you see the declaration of the MPs of the political forces and stuff like that, because they were forced somehow to vote to form the Specialist Chambers because there was a pressure that there will be 'sticks' above the heads of Kosovo, if this institution, this mechanism, could not be voted. So yet again, we have a top bottom approach of the international community towards Kosovo, which somehow it backlashes and has setbacks because you cannot run endlessly with the process of top-bottom and with the aspects of 'sticks' and threats and other tools, because it will backfire in the future or Kosovo will have a setback in the stake-building process because if it doesn't come organically, sometimes some things are deemed to fail or to be prolonged or to have other aspects, failures or elements of state failures, because if it doesn't come from the bottom, or organically from the society and the elites. I am very aware that some processes cannot come organically, because the elites are corrupted, and corruption prevails, and we have very big interests of both political leads, political groups. There are things that cannot be changed unless there is some pressure from outside, from external factors. But somehow the way how the things were done, they excluded the decision-making of the citizens from these processes. Therefore, we have some sort of distrust between the citizens and these international mechanisms. However, Kosovo's political elites agreed on voting and proceeding with that. So now there is no time to

complain, or to brag about it. The Specialist Chambers are a model of how the international community and external factors have run the things within Kosovo, which sometimes have caused backlash and setbacks, and I think that the effects about some processes, we will have time to see also in the future, not only now, and it also will be determined how Kosovo will be governed in the upcoming years, because if we are deemed to repeat the problems, some issues in regard to justice, for foreign policy, domestic politics and corruption, we could see the effects of also having things imposed from outside, not coming from within the society or political elites.

Q: What are some of the biggest challenges for Kosovo in the near future, let's say in 5 to 10 years from now? You mentioned the rule of law and the judiciary. Are there any other issues that can arise?

It's very hard to predict. But I will just give my hypothesis on all these issues. It will be also a big breakthrough on what will happen between the Kosovo-Serbia dialogue. So, if we will have an agreement that would somehow pave the way for Kosovo's integration in international structures, or international and multilateral organizations, if we'll see that we'll have some sort of breakthrough and open the horizons for international prosperity for Kosovo. So, the Kosovo-Serbia dialogue is the big, determinant of Kosovo's future in regard to the state-building process, and in regards to completing the statehood in the international society, because we are not a UN member state. We have 5 non-recognizers within the EU, so one of the biggest problems is the five EU member-states. We'll see if this will proceed positively, because our challenge will be to be part of the European Union. However, if we have an European proposal and agreement sealed, and if everything will be legally binding, and if Serbia will not oppose Kosovo's membership in international organizations and the five member-states will change perspective, we could see that in the upcoming years, Kosovo will start the process of European integration. But there is a long run ahead, or one of the main challenges in the 5 to 10 years I would say is Kosovo's membership in the UN. I don't see the perspectives and the prospects for Kosovo to be part of the UN in the 5 years or 10 years bearing in mind the situation with China and Russia, because they are 2 permanent UN States that do not recognize Kosovo, and we do not see any indication that they will change the perspective or the stances towards Kosovo so this is one of the biggest challenges – Kosovo becoming a part of the UN. Another challenge is Kosovo to be able to run independently in the international arena and having some sort of agency in international relations. Also

domestically, in a clear and right way, due to the high reliance on international actors, but this is one of the challenges in the upcoming years. However, my hypothesis is that in 5 to 10 years, Kosovo will prospect in some international mechanisms, namely the Council of Europe, which will determine the actorness of Kosovo in international multilateral mechanisms. Also, there could be some opportunities like Partnership for Peace prior, and we'll have the discussions of maybe joining NATO, as this would serve also the interests of NATO in the Balkans, or also preserving the Russian influence in Western Balkans. I think this will be the main challenge. But the biggest challenge will be being part of the UN. Considering China, Russia, Serbia that will somehow stop the process of Kosovo, and since we don't have the de jure recognition of Serbia, this is another obstacle. There will be challenges in the international community and the international affairs of Kosovo. However, I see that in 5 years some progress will be made in certain international organizations regarding Kosovo. Another challenge will be the rule of law, which, in Kosovo, especially in the north of Kosovo, because so far, we have little to none access to the north in terms of the rule of law, justice. This is some sort of mixed competences with EULEX, NATO, and KFOR, so this is one of the biggest issues that it prolongs Kosovo to somehow excel and exercise its sovereignty in all its territory, so the rule of law in the north and in specific areas in Kosovo also will be an issue that will go at least for the upcoming year. This will also determine how the Kosovo-Serbia dialogue will go and how Serbia's government approach to Kosovo and towards the Kosovar Serbs will be.

Q: In terms of corruption, Kosovo fared well beyond Albania and Serbia, as well as North Macedonia in the Transparency International Perception Index by one place. Do you think external influence on domestic policies had an impact on the score, or is it good governance with the change of political elites?

I think it's both because, as I said in the beginning, despite some negative criticism on the international missions, they also had their impact in creating some expertise and creating technocratic institutions. Also, the international funding of EU, for instance, in public organization, in other fields, also in the judiciary, it had its impact and effect on Kosovo's institutions to perform better. Also, another thing is that we have a very vivid democracy. We had different governments, and we had three elections at least after 2010. The elections were fair, democratic, and, you know, based on the rule of law and the criteria from the international standards and mechanisms. We have

the alternation of power very often, we had the change of elites, we had both very big politicians that somehow retired, or those people who decided to retire. These are the factors that make Kosovo to progress also, we have a new government that it doesn't have the pressure of the past in terms of corruption of the elites of the clientelism, so they don't have the baggage of the past, because they are mainly a new political lead. New ministers don't have the baggage of the past, and also the baggage of the war, most of them do not have the baggage of the war, and the constituencies from the former KLA, and so forth. So, this new government, but also the governments year by year they perform better in some fields, and worse in some fields, you know, even the previous governments, even though there were some corrupt ministers and staff, there were some portfolios that performed very good, or at least good, or they went progressing. So, we have a vivid civil society as well compared to other Western Balkan countries. Still, society is very strong, and the media is very strong as well. We have media which makes this society and Kosovo more open and more democratic in some way. The international state-building process with the setbacks and with the criticism had some positive impact. And this alternation of power year by year and term by term somehow made Kosovo's society more democratic, and its institutions more accountable, even though there is a lot of work to be done. We can see that the changes are going the good direction.

Q: In terms of external influence and intervention, which country/organization had the biggest influence and positive impact in the peace- and state-building processes in Kosovo?

Well, it's hard to name only one, but I will name EU as a supranational organization and also EU Member States, because with the EULEX and funding through the EU Office in the public administration, economy, also with the loans that grants education, so it had an impact in the state-building process of Kosovo. Also, I would say the United States due to the high intensity of political action that United States has done in the international society in relation to support the independence of Kosovo, we could see that many international recognitions, state recognitions from many countries came as a result due to the support of the United States. Twenty or more states that recognized Kosovo because the United States did so. The United States also lobbied that Kosovo should be recognized. Also, for example, the acceptance of Kosovo in the World Bank and the IMF, which are very big, international specialized agencies. Also, we have international aid from the US in terms of education, USAID, in terms of other programs, in terms of judiciary –

this made this actor one of the most influential actors in Kosovo's society and Kosovo's politics. So, I would say, the EU and the US. Maybe the US more, because it has a clear stance for Kosovo, while the EU is neutral to the status of Kosovo. Also, US advocacy in the international community is bigger compared to the EU, while the EU has done some projects on the ground that are very good, very prudent, and very immediate for Kosovo's society and Kosovo's institutions. So, I think they complement each other in the way of helping Kosovo to excel in the international community and in the state-building process.

