

THE UNIVERSITY OF LATVIA
FACULTY OF ECONOMICS AND MANAGEMENT
EUROPEAN STUDIES MASTERS'S PROGRAMME

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MASTER THESIS

EU mission in Kosovo under the Security Sector Reform
Drošības Sektora reforma un ES misija Kosovā

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Riga, 2010

Anotācija

Kosovas konflikts, sākot no 1999. gada, ir ļoti būtiska un faktiskā problēma starptautiskajā politikā. ES misija Kosovā ir strādājuši konflikta zonā jau vairākus gadus un nopietns progress ir redzams. Pētījuma nozīme ir analizēt reālās krīzes vadības un konfliktu risinājumu no drošības sektora reformas koncepcija viedokļa. Tas jau ir izmantota, bet nav pilnībā īstenojusi koncepciju saskaņā ar ES misiju Kosovā. EULEX, EUSR, un ECLO ir galvenās misijas, kas ir labākie piemēri no sadarbības starp ES un Kosovai, saskaņā ar Drošības Sektora Reformu. Daudz kas ir izdarīts politikā, piemēram, institucionāla stiprināšana, demilitarizācija, de-politizācija, tiesu sistēma, sadarbību pašvaldību līmenis, pilsoniskās un tiesu jomas, jomas stabilitāte, demokrātiska un ekonomiska attīstība. Neskatoties uz to, starptautiskās vai nevalstiskās organizācijas vien, pat saskaņā ar pašreizējo reformu, nevar atrisināt problēmu vai novērst konfliktu pilnībā. Lai sasniegtu augsta līmeņa demokrātiskas un attīstīta valsts, kaitējot dalību Eiropas Savienībā, Kosovai vajadzētu reformēties un veikt nopietnus grozījumus ārpolitikā.

Abstract

Kosovo conflict starting from 1999 is still very essential and actual issue in international politics. EU mission in Kosovo has been working in the conflict zone already for several years and the serious progress is visible. The importance of the research is in analyzing the real crisis management and conflict solution from the point of view of the Security Sector Reform concept. It is already used but not fully implemented concept under the EU mission in Kosovo. The EULEX, EUSR, and ECLO are the main missions, which show the best examples of the cooperation between EU and Kosovo, in accordance to the Security Sector Reform. A lot of things have been done, in the policies such as, institutional building, de-militarization, de-politicization, judiciary system, cooperation on the local level, civil and judiciary sector, areas of stability, democracy and economic development. Despite that, the international or non-governmental organizations alone, even under the existing reform, are not able to resolve the problem or prevent the conflict fully. In order to reach the high level of democratic and developed country, disserving the membership of European Union, Kosovo government should reform and make serious amendments in its external policy.

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ABBREVIATIONS:

BiH – Bosnia and Herzegovina

BSEE - Broadband Southeast Europe Initiative

CEFTA - Central European Free Trade Area Agreement

CSDP - Common Security and Defense Policy

CAA - Civilian Aviation Authority

DDR - Disarmament, Demobilization and Reintegration

DAC - Development Assistance Committee

DFID - Department for International Development

EU – European Union

EUSR - European Union Special Representative

EULEX - European Union Rule of Law Mission in Kosovo

ECLO - European Commission Liaison Office

ESDP – European Security and Defense Policy

ETC – Energy Treaty Community

ECAA - European Common Aviation Area Agreement

ESEE - Electronic Southeast Europe Initiative

FRY - Federal Republic of Yugoslavia

FCO - Foreign and Commonwealth Office

GCPP - Global Conflict Prevention Pool

GDP – Gross Domestic Product

IMF – International Monetary Fund

IOM - International Organization for Migration

IPO – International Police Officers

ICO - International Civilian Office

IMP – International Military Presence

IPA – International Police Association

KSC - Kosovo Security Council

KIA - Kosovo Intelligence Agency

KLA – Kosovo Liberation Army

KFOR- Kosovo Peacekeeping Force

KJC – Kosovo Judicial Council

KP – Kosovo Policy

KSF - Kosovo Security Force

LDK - Democratic League of Kosovo

MOJ - Ministry of Justice

MOD - the Ministry of Defense

NGO- Non-Governmental Organization

NATO – North Atlantic Treaty Organization

OECD - The Organization for Economic Co-operation and Development

OMPF – Official Military Police File

PSO - peace support operations

PMSC - policy management Systems Corporation

REPA - Regional School for Public Administration

RS – Republic of Serbia

SALW - Small Arms and Light Weapons

SSR – Security Sector Reform

SSG – Security Sector Governance

SEETO - South-East Europe Transport Observatory

SECI - Southeast European Cooperative Initiative

SAA - Stabilization and Association Agreement

UN – United Nations

UNDP – United Nations Development Program

USA – United States of America

UNMIK – United Nations International Administration Mission in Kosovo

Introduction

Struggling for independence was the leading theme in the history of Balkan people. During centuries there was a permanent tension between Albanian and Serbian people and the minority issue was the most painful case for them. Conflict started in 1912 when the first Balkan war broke out and Serbia first concurred the large parts of Kosovo and western Macedonia. In reaction to the war Albanian people declared their independence and since that time their desire for unification was the main goal. The struggle of Kosovo Albanians for their independence against Yugoslavian Serbs continued for several years. Despite the great willingness of Albanian people, different obstacles were met during their history. The essential question from Albanians in late 80s was following: *“if 600, 000 Montenegrins could have their own republic, why couldn't 2 million Kosovo Albanians?”*

The situation changed dramatically in 1995 after the Dayton Peace Accords, which gave prerogative to Bosnian Serbs by receiving a form of territorial recognition and neglecting Kosovo's position. Despite a lot of attempts to establish a dialogue between Serbian and Albanian parts failed. The Second phase of negotiation was organized by the Contact Group in February 1999 at Chateau Rambouillet in France. According to the agreement, both sides were offered substantial autonomy, but not the independence, to the ethnic Albanians, Serbs was informed, that in case of refusal to sign the NATO military intervention would be inevitable. On the first level, the agreement was neglected from the both side and on the second round Albanian delegation agreed. The event continued as it was promised, the NATO was forced to make good its threat. At the end 10,000 Albanians were dead and 800,000 were refugees.

On the second part of the Rambouillet conference it was supposed to discuss the general principles for solving the problem, including the status of autonomous of Kosovo. On February 17, 2008 Kosovo made unilateral declaration of independence. The United States of America and European Union recognize the tiny state. When Yugoslavia took steps to crush the separatism movements, Western world stand against.

The Security Sector Reform is a wide range concept, developed fifteen years ago, with essential aim to guarantee an efficient and effective protection of state and human security within a framework of democratic governance. The concept is a model of good governance, using such essential tools, as transparency, accessibility, accountability, efficiency, equitability and

democratic methods of policy decision-making and implementation. With the purpose of conflict prevention it works through all those institutions whose main function is to protect state, its citizens and external environment from the risks and dangers that can be occurred as the consequences.

The concept helps to link internal and external policies, promotes the tight cooperation between governmental sectors, international and non-governmental organizations, and on the basis of their successful cooperation gives an excellent example of security and conflict prevention.

The aim of the research is to analyze if the Security Sector Reform is corresponds to and is implemented under the EU mission in Kosovo. Coming out from the study, the hypothesis of the Master Thesis gives subsequent statement, SSR concept is already used and applicable, but not fully implemented approach by the EU mission in Kosovo. In order to research the hypothesis and analyze the aim of the thesis, the following tasks have been identified:

- To define the SSR concept and show its main criteria's;
- To show the history of Kosovo conflict;
- To describe the EU mission in Kosovo and evaluate the way how the EU is utilizing these criteria's for the implementation of the mission;
- To analyze the final results of the EU mission in accordance to SSR concept, show the future perspectives and give suggestions.

The structure of the Master Thesis "EU mission in Kosovo under Security Sector Reform" involves: introduction, tree main chapters and conclusion. The first chapter is about definition of Security Sector Reform, its historical perspectives and criteria's, discusses development donors in this perspective and describes the concept in post-conflict reconstruction and peace-building. The second chapter involves the description of Kosovo history. And the last one is about the European Union Mission in Kosovo, with its main operating bodies; the success of its cooperation under the Concept of Security Sector Reform; and its future perspectives. The total amount of the research is eighty one pages, containing three graphs and one figure, within sixty eight sources.

The main sources of information used by author are: the theories about Security Sector Reform by Michael Brzoska, Heiner Hänggi, Herbert Wulf, and Andrzej Karkoszka, written sources about the SSR Concept and Kosovo history, different kind of official news-papers and applications, internet resources, European Commission's working documents and reports, regulations, international documents, DCAF official papers, and DCA guidelines.

1. SECURITY SECTOR REFORM

1.1. Theoretical Perceptions of International Security

What quality makes something in international relation security issue? It is important to use the word international relations in this case, because the security in this context is not essential and accepted in everyday language. Although it involves some elements of “social security”, international security has its own, and more distinct meaning, it is more rooted in the traditions and power politics. In the traditional military-political understanding of security, international security is always common. The actuality of the issue is mainly essential in such cases, when the threat is to the designated referent object, and traditionally such objects are, state, government, territory or society. In order to handle security threats different and extraordinary measures can be used. One of the good examples can be the invocation of security, which has opened the way to the states to mobilize, or to take special power and handle existential threats. The nature of such kind of threats is changing during the different sectors and levels of analyzes. It is practically different in political, military, economical sector and etc. It would be interesting to analyze existential threat at least in military and political perspective. In case of first sector the main actor usually is a state, although it can be other political entities. For the advanced democracies, defense of the states is the only one and main de facto function of the armed forces. Their military forces are mainly trained in order to operate in such missions as peacekeeping or humanitarian intervention.

Talking about the political sector, threats can be traditionally defined from the constitutional point of view, such as sovereignty, and sometimes from the ideological perspective as well, where the dominant is the state. Sovereignty can be threatened by anything that questions recognition, legitimacy, or governing authority. International regimes or society more broadly can be existentially threatened by the situations that destabilize the rules, norms and institutions constituting those regimes. ¹

In the post-Cold War of the international relation three theoretical perspectives of international security structure emerged: neorealist, globalist and regionalist.

¹ “Security: a new framework for analyzes “by Barry Buzan. Ole Waever, Jaap de Wilde. pp 21 - 23

The neorealist perspective is concentrated on state interest and based on the argument of power-polarity: if not bipolarity then either uni-polarity or multi polarity. This debate in neo realism determines the global political structure, coordinated with the logic of balance of power. Its interpretations of international security structure, after the Cold War, assumes that there were changes of power structures at the global level, and the main goal of it is to identify the nature of those changes and conclude the security consequences. Neorealist unlike regionalist and globalist at some extent does not have problems with territoriality. They provide better template for differentiating the global and regional levels of our security constellations, yet there remains a problem within the nonrealistic concept of polarity as the key to the system-level security structure.²

The Globalist perspective is rooted in cultural, transnational and international political approaches. The leading theme for such theory is the deterritorialization of world politics. This phenomenon can be understood in two ways. Firstly, from the Marxism's point of view it evaluates all, before it taking states, and the state system, of the center stage of world politics. But based on Milder's version, it leaves the state and the state system in, but has lots of non-state actors and systems operating across and outside stated boundaries.³

Opposite of the neorealist's, globalists do not have state-centric approaches. The above-discussed perspective is the acknowledgement of the independent role of both transnational entities, such as corporations, non-governmental organizations, and intergovernmental organizations and regimes as well. It focuses on how the territorial sovereignty is revised in the international world where the different kinds of actors are involved at different levels. The state is often the player, but not necessarily the one who controls the situation in this network.

Cha and Guehenno both think that the globalization increases the necessity for the state to pursue as much cooperative policies as possible and especially at the regional level. Others, from the global perspective, think that it is essential to ignore the state-centric ideology as such and concentrate on the center-periphery model. What is most important nowadays is how globalization in general or the specific aspects of it become securitized by the actors in the international system. If the globalizations is seen and acted on as a threat by states and other

² "Regions and Powers: the structure of international security " by Barry Buzan Ole Waever p-30

³ Held et al. 1999:7-9; Scholte2000; Woods 2000; Clark 1999.

actors in the system, than it plays a long-side role, and competes with, more traditional securitizations of neighbors, great powers or internal rivals. From them the global level is directly and indirectly present in a constellation of securitization.⁴

Typical securitizations from the non-liberal perspective on globalization have been in the “new” non-military areas of security. They focus on stability, inter alia, on the coordination between persecution of capitalism and sustainability of the planetary environment, and on the homogenous pressure of global culture. The threat to these poses danger to other cultures, languages and identities. During the 1990’s the globalizations perspective was more concentrated on military-political securitization, it was kind of mixture between neo realists and globalists at the same time.

Regionalist approach illustrates a distinct level of analyzes located between the global and the local. Lake and Morgan were the first who draw the distinction between regional and global. It is obvious that the region should be much more less than the whole, in this case global. Some difficulties can occur when it comes to the specification of the boundary, meaning to what falls on each side of the border. There won’t be big trouble to distinguish that the United States is a global level actor, while the security dynamics among the Southern America state are at the regional level. But the difficulties arise, when it is necessary to position particular actors, for example, should Russia be considered global power or regional one? The securitization process can cover not only the global spectrum, but also some typical regions, meaning that the theories can come out from the regional perspective as well. The interventions of “light” powers and American/Western hegemony have some aspects of globalizations, which can easily trigger regional responses. In the securitizations process the threats can come as from global levels (financial instability, global warming) also from the other levels (community, state or region). Global caucuses can have different effects on different regions. The real challenge for regionalization is when globalization is securitized as a threat, which is sometime common in present time.⁵

It is very important and essential to designate the threat that forces security actors involve in this process and take emergency measures. And it’s natural that the existed situation should be

⁴ “Regions and Powers: the structure of international security “ by Barry Buzan Ole Waever p-8

⁵ Ibid

accepted by a significant audience. Coming out from this logical division by collective unites and principles, it would be normal to apply security analysis to a variety of sectors without losing the essential quality of the concept.

Sectors are “views of international system through a lens that highlights one particular aspect of the relationship and interaction among all of its constituent units”⁶ From the analytical point the purpose of sectors can be various: military, political, economic, societal and environmental. So it is very logical to characterize them base on this units by logical sectors and the nature of survival and threat will be differed across deferent types of sectors. In other words security is a generic term that has a distinct meaning but varies in forms.

1.2. Historical Perspective of Security Sector Reform

The military related issues first were discussed by the theoreticians and practitioners of development policy in early 1960s. At that time the main subject of the debate were several issues. First issue was how the military resources are used by the armed forces, whether it is the right way, or it should be spent in another way, in order to promote the development of the concrete sphere. And the second one was related to the contribution of armed forces in the nation-building of states that often had artificial borders or large social gaps.

Coming out from the position of many academics and policy-makers, the military was one of, if not, the most modern institution in many developing countries, with respect to both organizational capacity and the value orientations of its members. This positive view changed slowly in the late 1960s and early 1970s. The military issues became less actual in development policy agendas. The main reason for this was East-West confrontation. The question whether country was ruled by the military or by civilians was depended on which side the ruling group was acting during the East-West conflict. Both sides the West and the East were trying not to play with military rule and to use armed forces as rarely as possible. Development policy-makers thought it would be the best option to avoid military and security-related issues where possible.

But at the end of the Cold War it was particularly unavoidable to continue the same policy and ignore the military-related issues in development policy. This had several reasons: bilateral

⁶ Busan, Jones and Little 1993

donors, such as Germany and international organizations such as World Bank and the International Monetary Fund, convicted excessive military expenditures, as they thought them to be harmful for economic development. They even encouraged governments of developing countries to reduce such kind of spending and introduced excessive military expenditure that was kind of criteria to determine the size of development aid used by the states. However, it was quite difficult to find such one that would specify the size of expenditure that can be accessible. Also, the lack of reliable data on those expenditures made assessments difficult. The less attention was paid to the saving as well, which should have development purposes.

The end of the military rule in Latin American in 1980s and the “second wave” of democratization in Africa once underlined the necessity how to bring armed forces under civilian control. Two approaches were prioritized: First was professionalization of armed forces and strengthening of civilian institutions. If they were high qualified professionals working in strong structure, they would prevent them from stepping outside their country. And the second approach was the strong civilian institutions, elected parliaments and governments which were strong barriers for military intervention in politics.

The discussion on excessive military expenditures became part of such general debate as effective development assistance. The use of such resource was one of the elements of good governance. It meant that military forces should be controlled under the general rules of parliament, and that accountability was one of the most important elements to establish transparency and legitimacy in the government. If armed forces put themselves outside the jurisdiction of the law they could directly affect on governance, and the example for this could be the violation of human rights and etc.

There is always strong imbalance in post-conflict situations between the types and numbers of armed forces, which effect either on politically desirability or on economically sustainability. Military-style forces are generally too large and need to be reduced, but at the same time, however various types of armed forces may need to be integrated into one military force. On the other hand there are often major problems of internal security which require the build-up of appropriate institutions and forces. However in number of countries development assistance has been provided, in order to implement police reform, and supplement nationally financed programs to enhance internal security, for example United Nations mission in Mali 1994-1995.

Internal security problems have also been on the agendas of development policy-makers in post-conflict situations. A major obstacle for economic growth and human development, especially in post-conflict situations can be considered a lack of physical security.

In 1990s, the military-related issues were considered quite actual and relevant topic to the development debate. For the beginning, excessive military expenditures, was often discussed in narrow economic terms. Later clearly political topics such as institution-building in post-conflict situations entered into the debate.⁷

1.3. The concept of Security Sector Reform and its criteria's

The Security Sector Reform policy agenda has developed over the past fifteen years as the traditional concept of security evolved. During the Cold War, SSR concerns were seen as secondary to which sides ruling groups were taking part in the East-West conflict.⁸ Development practitioners were trying to avoid security issues, which seriously were linked with political ideologies. Security policy was focused on the protection of states from military threats and, very often, was providing illegitimate regimes with illegitimate support. Since the end of the Cold War concerns have changed and security issues have become more complex as well. It is quite well-known nowadays that states have often failed to fulfill their security obligations, or have even actively compromised the security of their own people. Consequently, the security agenda has broadened including the well-being of populations and human rights, SSR being part of the wider 'human security' framework.⁹

Since the late 1990s, Security Sector Reform (SSR) has become widely accepted by development practitioners, security experts and, to a lesser extent, democracy advocates. The concept itself is relatively difficult to define, as it includes various kinds of issues and activities related to the reform of the elements of the public sector, charged with the provision of external and internal security. The essential aim of this reform is to guarantee an efficient and effective protection of state and human security within the framework of democratic governance. Despite the fact, that the Security Sector Reform is a disputable concept, lessons learned from practical

⁷ Bonn international center for conversion . The concept of Security Sector Reform Michael Brzoska

⁸ The beginner's guide to Security Sector Reform, December 2007. GFN.SSR pp6

⁹ Ibid

experiences are still not enough, they increasingly shape international programs for development assistance, security cooperation and democracy promotion.

In practical point of view, the definition of SSR changes substantially according to the specific reform context. There is generally recognized that the common model of SSR does not exist and that, in principle, each country adopting SSR constitutes a special case and follows a different reform context. However, for analytical purposes, a broad definition of the concept can be made, which contain a number of similar cases – depending on the criteria for categorization. Based on the assumption of this statement three broad contexts of SSR can be distinguished, each reflecting a different rationale for reform. First, SSR has been adopted by international development donors as an instrument to improve the efficiency and effectiveness of development assistance.¹⁰ Second, SSR has become a tool to facilitate the practical coordination and conceptual integration of defense and internal security reforms in post-authoritarian states, particularly in post-communist states in Central and Eastern Europe and beyond.¹¹ Third, SSR has gained most practical relevance in the context of post-conflict reconstruction of so-called ‘failed states’ and states emerging from violent internal or inter-state conflict, as evidenced by a wide variety of cases such as Afghanistan and Iraq. In both cases, SSR is viewed by peacekeepers and development actors as key to success in the overall reconstruction effort.¹²

As the debate concerning the security sector reform has clearly widened the agenda for reconstruction and reform beyond the military, which in the past was mainly the only relevant institution, is no more unanimous view how far this label should be stretched. A narrow definition of the security sector focuses on the provision of public security, covering all organizations and agencies which are existed to threaten or use violence in order to protect the state, its citizens or its external environment. A more extensive definition of the term includes all potential players, institutions, policies and contextual factors affecting security. In this broader version, SSR illustrates a model of good governance that is transparent, accessible, accountable, efficient, equitable and democratic processes of policy decision-making and implementation. Accordingly, the concept covers all institutions and elements that in one way or another determine, implement or control the provision of public security or able to destabilize it.

¹⁰ ‘Development Donors . Brzoska

¹¹ ‘The second generation problematic: rethinking democracy and civil-military relations’, *Armed Forces and Society*, Cottey, A., Edmunds T., Forster, A., vol. 29, no. 1 (December 2002).

¹² *Conceptualizing Security Sector Reform and Reconstruction* Heiner Hänggi

It is essential to list all those three major objectives that SSR involves in it:

First objective is the provision of security. This includes the protection from and prevention of political violence by state or non-state elements (such as criminal and militant opposition groups), which are a major problem of most post-conflict situations, particularly those which have international character. Linked to this provision of physical security, is the proper functioning of the courts and the prison system as well as arms control.

Second objective is the prevalence of certain norms in the delivery of security. That should be insured and guaranteed particularly with respect to governance and the rule of law. These essential norms of security sector governance are transparency, accountability and professionalism. As an element of accountability, security institutions have to be brought within the realm of the rule of law.

Third objective is an effectiveness and efficiency of the security sector institutions. In many post-war cases there is a need to de-militarize, meaning to reduce the number and size of armed forces and equalize military expenditures with economic means.

The measures for achieving over listed objectives can be grouped into three clusters:

First cluster can be the complex of disarmament, demobilization, reintegration and transformation of all kinds of armed forces as well as the prosecution of illegally armed non-state players in order to reestablish a state monopoly on the use of justifiable force;

Second cluster aims to create new security sector institutions in such states where it does not exist, or **to prevent the establishment and revival of repressive state security institutions** from intervening into politics, economy, and society;

Third one is the long-term goal of building up accountable, efficient and effective security forces. In order to achieve these objectives, a wide spectrum of instruments can be used: strengthening civilian and democratic participation and control ('the primacy of the civil'), reallocating military (material, economic and human) resources for civilian ends ('conversion',

‘demilitarization’ and control of military spending), reforming military and police institutions to perform specific tasks (professionalization, capacity building), developing an independent judiciary and a humane penal system and undertaking security analyses and creating policy models.¹³ In order to have more visible vision of the situation it would be nice to illustrate the above-listed objectives and clusters in the form of table.

Table: N 1 SSR Objectives and clusters for achieving them

OBJECTIVES :	OBJECTIVE – I	OBJECTIVE – II	OBJECTIVE – III
	Provision of security. the protection from and prevention of political violence by state or non-state elements (criminal and military opposition groups)	Prevalence of certain norms in the delivery of security. The elements of transparency, accountability and professionalism have to be brought in the security institutions within the realm of rule of law	An effectiveness and efficiency of the security sector institutions. By reducing the number and size of armed forces and equalizing the military expenditures with economic means
CLUSTERS:	CLUSTER – I	CLUSTERS – II	CLUSTERS – III
	disarmament, demobilization, reintegration and transformation of all kinds of armed forces as well as the prosecution of illegally armed non-state players	Creation of new security sector institutions and prevention of establishing the repressive state security institutions	Building up accountable, efficient and effective security forces. By strengthening civilian and democratic participation and control, reforming military and police institutions, developing an independent judiciary and a humane penal system, undertaking security analyses, creating policy models. ¹⁴

Source: Graph N1: on the basis of 14 .made by author

¹³ Evaluating International Partnerships in Security Sector Reform in Post-Conflict Reconstruction and Peacemaking Paper prepared for International Studies Association Annual Convention New York. Feb 15-18, 2009 Michael Brzoska

¹⁴ Ibid.

Security Sector Reform aims to create a secure environment that is conducive to development, poverty reduction, good governance, in particular, the growth of democratic states and institutions based on the rule of law. This relies on the ability of the state to mitigate its people's vulnerabilities through development, and to use a range of policy instruments to prevent or address security threats that affect society's well-being. This includes establishing appropriate civilian oversight of security actors. Thus, a broader range of state institutions is now being considered, in the provision of security, with the military sense, as one instrument among many. The 'security sector' includes traditional security actors such as the armed forces and police; oversight bodies such as the executive and legislature; civil society organizations; justice and law enforcement institutions such as the judiciary and prisons; as well as non-state security providers.

Whilst SSR is a relatively new term, it has been adopted by major international bodies and countries as a holistic concept that includes various disciplines and covers many different sectors. However yet there is no one universally accepted definition.

The United Nations Security Council believes that SSR is "critical to the consolidation of peace and stability, promoting poverty reduction, rule of law and good governance, extending legitimate state authority, and preventing countries from relapsing into conflict". As such, the Security Council emphasizes that "security sector reform must be context-driven and that the needs will vary from situation to situation".

The Security Council encourages States to formulate their security sector reform programs in a holistic way that encompasses strategic planning, institutional structures, resource management, operational capacity, civilian oversight and good governance. The Security Council emphasizes the need for a balanced realization of all aspects of security sector reform, including institutional capacity, affordability, and sustainability of its programs. The Security Council recognizes the interlinkages between security sector reform and other important factors of stabilization and reconstruction, such as transitional justice, disarmament, demobilization, repatriation, reintegration and rehabilitation of former combatants, small arms and light weapons control, as well as gender equality, children and armed conflict and human rights issues".¹⁵

¹⁵ "The beginner's guide to Security Sector Reform". December 2007. GFN.SSRpp 5-6.

The UK Government's Global Conflict Prevention Pool (GCPP), defines SSR as: "a broad concept that covers a wide spectrum of disciplines, actors and activities. In its simplest form, SSR addresses security related policy, legislation, structural and oversight issues, all set within recognized democratic norms and principles."¹⁶

The Organization for Economic Co-operation and Development – Development Assistance Committee (OECD-DAC) defines SSR as: "seeking to increase partner countries' ability to meet the range of security needs within their societies in a manner consistent with democratic norms and sound principles of governance, transparency and the rule of law. SSR includes, but extends well beyond, the narrower focus of more traditional security assistance on defense, intelligence and policing."¹⁷

The definition of the security sector is also several, coming out from the scholars and institutional actors, involved and participated in this field. In this case they are made from the different perspective.

From a *security perspective*, the security sector reflects the broad notion of security because it does not cover the military alone, but acknowledges the importance and in some countries the predominant role of non-military security forces in the provision of public security, internal or external one. Accordingly, the security sector encompasses all those state institutions, which have a formal mandate to ensure the safety of the state and its citizens against acts of violence and coercion such as the armed forces as domestic also foreign ones, the police, gendarmerie and paramilitary forces, the intelligence and secret services, border and customs guards as well as judicial and penal institutions. Given the prevalence of private and other non statutory security actors in an increasing number of states, however, forces such as guerrilla and liberation armies, non-state paramilitary organizations as well as private military and security companies, have to be considered either as part of the *de facto* security sector or at least as important actors shaping security sector governance. Thus, the security sector – as defined from a broad security perspective – would include statutory and non statutory security forces.

¹⁶ "The beginner's guide to Security Sector Reform". December 2007. GFN.SSR pp 8

¹⁷ Ibid pp 5

From a *governance perspective*, the security sector covers the elements of the public sector responsible for the exercise of the state monopoly of coercive power and has traditionally been a key feature of the modern nation-state. This includes the elected and duly appointed civil authorities responsible for management and control of the security forces, such as the executive government, the relevant ministries (so-called ‘power ministries’, particularly the ministries of defense and of the interior), the parliament and its specialized committees. Like any other part of the public sector, the security sector should be subject to the principles of good governance such as accountability, transparency and democratic participation. Given the broad notion of security and the increasing importance of internal security issues, particularly in the wake of 9/11 and its aftermath, justice and law enforcement institutions are viewed as relevant actors for security sector governance.¹⁸

Judiciary and ministries of justice, criminal investigation and prosecution services, prison regimes, ombudspersons and human rights commissions should be considered as a component part of the security sector if defined in the broad notion of the term. Given the importance of civil society for democratic governance, non-statutory civil society groups such as media, research institutions and non-governmental organizations play, or should play, an important role in security sector governance. Thus, the security sector, as defined from a democratic governance perspective, would include a wide range of civil society actors in addition to the state institutions tasked with security sector management and oversight.

From a security and a governance perspective, one would assume that limited involvement by non statutory security forces and a strong role of non-statutory civil society actors are more desirable than the contrary. In sum, the definition of what constitutes the security sector is multifaceted, evolving, and therefore debatable. However, in response to the new security agenda resulting from post-Cold War and post-9/11 developments, there seems to be a tendency to broaden the scope of the security sector beyond its state-centric core. This results in (1) the consideration of non statutory private security and civil society actors as parts of the security sector and (2) the conceptualization of the security sector on regional and trans-regional levels.

¹⁸ “Conceptualizing Security Sector Reform and Reconstruction” – Heiner Hanggi pp11-14

A dysfunctional security sector is the point of departure for security sector reform. A security sector can be considered as dysfunctional if it does not provide security to the state and its people in an efficient and effective way or, even worse, if it is the cause of insecurity. Moreover, as a consequence of the aforementioned broad definition, a security sector cannot be viewed as functional if it is deficient in terms of governance. Thus, SSR is meant to reduce security deficits (inefficient and ineffective provision of security or even provision of insecurity) as well as democratic deficits (lack of oversight over the security sector) which result from dysfunctional security sectors. In other words, SSR is a mean that serves the objective of providing ‘security within the state in an effective and efficient manner, and in the framework of democratic civilian control’. It needs three components for existence:

1. Groups with the authority and instruments to use force (e.g. militaries, police, paramilitaries, intelligence services);
2. Institutions that monitor and manage the sector (e.g. government ministries, parliament, civil society—see chapter on governance); and
3. Structures responsible for maintaining the rule of law (e.g. the judiciary, the ministry of justice, prisons, human rights commissions, local and traditional justice mechanisms).

In states affected by armed conflict, the security sector also includes non-state actors such as armed opposition movements, militias and private security firms. Additionally media, academia and civil society can play an important role in monitoring activities and calling for accountability. The reform of this sector is important for promoting peace and good governance in the short and long term. In the short term, SSR is needed to ensure that: forces do not regroup to destabilize or pose a threat to peace; bribery and corruption are eliminated; and the sector is fully transformed so as to gain credibility, legitimacy and trust in the public eye.

If the security sector is not handled adequately and in time, it is likely that funds will continue to be misdirected, putting a severe constraint on the process of post conflict reconstruction. In the longer term, SSR is typically understood to have four dimensions:

1. Political, primarily based on the principle of civilian control over military and security bodies;
2. Institutional, referring to the physical and technical transformation of security entities, for example structure of security establishment, number of troops, equipment, etc;

3. Economic, relating to the financing and budgets of forces;
4. Societal, relating to the role of civil society in monitoring security policies and programs.¹⁹

In an address to the World Bank staff in October 1999, UN Secretary-General Kofi Annan made a strong case for security sector reform. Referring to the concept of good governance, he noted that ‘another very important aspect is the reform of public services – including the security sector, which should be subject to the same standards of efficiency, equity and accountability as any other service’.²⁰ A recent authoritative definition of SSR stems from the Development Assistance Committee (DAC) of the Organization for Economic Co-operation and Development (OECD), which states that ‘security system reform is another term used to describe the transformation of the security system – which includes all the actors, their roles, responsibilities and actions – working together to manage and operate the system in a manner that is more consistent with democratic norms and sound principles of good governance and this contributes to a well-functioning security framework’.²¹

Initially concentrating on the reduction of excessive military expenditures, in the late 1990s the development community began to embrace the SSR concept permitting at least some donors to justify greater involvement in security-related issues.²² Since then, the concept has gained much wider recognition, particularly in the debate about increasing the efficiency and effectiveness of development assistance.²³ In other words, SSR in a developmental context is an externally, particularly donor-driven process, which may be used as an incentive, or a political condition, for the provision of development assistance.²⁴

As we already mention ‘Security Sector Reform’ is another term used to describe the transformation of the ‘security system’ – which includes all the actors, their roles, responsibilities and actions – working together to manage and operate the system in a manner that is more consistent with democratic norms and sound principles of good governance, and thus contributes to a well-functioning security framework. It includes the following actors:

¹⁹ ‘Inclusive Security, Sustainable Peace: A Toolkit for Advocacy and Action’ Sanam Naraghi, Anderlini and Camille Pampell, Norway

²⁰ ‘Peace and Development – One Struggle, Two Fronts’, Annan, K., Address of the United Nations Secretary-General to World Bank Staff, October 19, 1999, p. 5.

²¹ Security System Reform, p. 16.

²² ‘Development Donors’, Brzoska, pp. 20-22.

²³ ‘The Concept’ Karkoszka, pp. 10-11.

²⁴ Conceptualizing Security Sector Reform and Reconstruction Heiner Hänggi

- Core security actors: armed forces; police; gendarmeries; paramilitary forces; presidential guards, intelligence and security services (both military and civilian); coast guards; border guards; customs authorities; reserve or local security units (civil defense forces, national guards, militias).
- Security management and oversight bodies: the Executive; national security advisory bodies; legislature and legislative select committees; ministries of defense, internal affairs, foreign affairs; customary and traditional authorities; financial management bodies (finance ministries, budget offices, financial audit and planning units); and civil society organizations (civilian review boards and public complaints commissions).
- Justice and law enforcement institutions: judiciary; justice ministries; prisons; criminal investigation and prosecution services; human rights commissions and ombudsmen; customary and traditional justice systems.
- Non-statutory security forces, with which donors rarely engage: liberation armies; guerrilla armies; private body-guard units; private security companies; political party militias.²⁵

The security sector is taken to mean all those organizations which have authority to use, or order the use of force, or threat of force, to protect the state and its citizens, as well as those civil structures that are responsible for their management and oversight. The security sector can therefore be viewed as forming three pillars:

- a) Groups with a mandate to wield the instruments of violence – military, paramilitaries and police forces;
- b) Institutions with a role in managing and monitoring the security sector – civilian ministries, parliaments and NGOs; and
- c) Bodies responsible for guaranteeing the rule of law – the judiciary, the penal system, human rights ombudsmen and, where these bodies are particularly weak, the international community.²⁶

²⁵ “DAC Guidelines and Reference Series Security System Reform and Governance”. DAC Reference Document. Organization for Economic Co-operation and Development

Table N 2: Contexts of Security Sector Reform

	Developmental context	Post-authoritarian context	Post-conflict context
Key criteria	Level of economic development	Nature of political system	Specific security situation
Key problem	Development deficit	Democratic deficit	Security and democratic deficits
Key reform objective	Development	Democratisation	Peace-building / nation-building
General reform process	Transition from underdeveloped to developed economy	Transition from authoritarian to democratic system	Transition from violent conflict to peace
Nature of external involvement	Development assistance coupled with political conditionality	Accession to multilateral institutions as incentive for reform	Military intervention / occupation; mostly UN-led peace support operations
Key external actors	Development/financial actors: multilateral donors (e.g. OECD, UNDP, World Bank); bilateral donors; non-state actors	Security actors: international (e.g. EU, NATO, OSCE); governments; non-state actors (e.g. INGOs, PMCs)	Security actors: intervention forces; peacekeeping forces under international auspices; non-state actors (e.g. PMCs)
Specific security sector problems	Excessive military spending; poorly managed / governed security sector leads to ineffective provision of security, thereby diverting scarce resources from development	Oversized, over resourced Military industrial complex; strong state, but weak civil society institutions; deficiencies in implementing SSR policies	Government and civil society institutions collapsed; displaced populations; privatization of security; possibly pockets of armed resistance; abundance of small arms and anti-personnel mines
Possibilities for SSR	Mixed (depending on political commitment to reform, strength of state institutions, role and state of security forces, regional security environment, donor approach to SSR, etc.)	Rather good (strong state institutions, professional security forces, border democratization process), even better if external incentives available (e.g. accession to EU or NATO)	Rather poor (weak and contested state institutions, privatisation of security, dependence on peace support / intervention forces) ²⁷

26 "A Review of the Security Sector Reform". Hendrickson, Dylan, London: The Conflict, Security and Development Group funded by DfID, Centre for Defence Studies at King's College London, September 1999 pp29

²⁷ "Conceptualizing Security Sector Reform and Reconstruction", Heiner Hanggi. pp.10

Security Sector Reform is the transformation of security institutions so that they play an effective, legitimate and democratically accountable role in providing external and internal security for their citizens. Transformation requires broad consultation and includes goals such as strengthening civilian control and oversight of the security sector; professionalization of the security forces; demilitarization and peace-building; and strengthening the rule of law.²⁸ The object of security is not only the state, but also individuals and society more widely, it represents the evolution and rapprochement of two distinct policy and academic communities concerned with the spheres of development on the one hand, and defense and security on the other. As from external, also from internal military threats such as civil war, violence, crime, disorder, injustice and impunity constitutes a serious obstacle to sustainable economic development, social justice and poverty alleviation. If state is enable or inefficient in providing for the basic security needs of its citizens it can cause a significant obstacle to stabilization and democratic consolidation.

1.4. Development Donors and the Concept of Security Sector Reform

The development donor community had begun to debate security-related issues intensely in the early 1990s. Donor activities in the realm of security sector reform were largely *ad hoc* while conformity among various donor activities was minimal. The one reason for this was that, previously, the donor community had largely refrained from discussing security-related issues. Many actors in the donor community had had, and still have, a strong judgment against working with security sector players, particularly with the military. Another reason was that new demands, such as dealing with the aftermath of peacekeeping operations, were unfolding fairly rapidly in the 1990s. Lastly, dealing with security-related issues required dealing with new sets of actors. Development donors came into contact with actors who had previously been largely outside their fields of activity, such as police forces and the military, both in their own and developing countries.²⁹

²⁸ Netherlands Institute of International Relations “Clingendael” Towards a better practice framework in security sector reform Broadening the debate Occasional SSR Paper No. 1 August 2002Clingendael - International Alert - Saferworld

²⁹ “Developing Donors and the Concept of Security Sector Reform”, Michael Brzoska. Geneva Center for the Democratic Control of Armed Forces (DCAF). Occasional paper No 4. pp 7.

Since the 1990s, the development donor community has been permanently overestimating its own place in the post-Cold War world. Development donor agencies had more maneuvering space, including access to security-related themes. However, at the same time, increased demands were also being laid on development donors, for instance with respect to conflict prevention, post-conflict rehabilitation, and – particularly after September 11, 2001 – also anti-terrorism.

Development donor agencies who wanted to address security-related activities in a programmatic way had to redefine their relations not only with regard to their clients in the developing countries, but within their own national governments as well. The willingness of development donors to engage and work with the new concept of security sector reform had been changing remarkably from agency to agency in the years since it was first established.

In early 1990s, the reduction of military expenditure was becoming an important theme in development donor discourse, much promoted by the International Monetary Fund (IMF) and the World Bank, plus some middle-sized donors as well as the US Congress (Ball, 1998b).

The reduction of military expenditure for development purposes, in industrialized as in developing countries, had been on the international agenda for some time. As early as 1953, the UN General Assembly adopted resolution 724A, asking member states to reallocate money to development assistance through disarmament. The explanation of the existing situation is very simple, that if nowadays money was not spend for so much military purposes and the same amount had been given to the poor countries the future of the Third World would look totally different. Economists and political scientists researching the links between military expenditure and economic models, using various models and differing data came to conflicting results. However, the overarching view is that, if used for productive purposes, the additional resources that would become available from a reduction in military expenditure would provide a stimulus for economic growth, thus creating a ‘peace dividend’. The concept of security sector reform came in quite handy for development donors to keep the concern with ‘overspending’ alive. Now it was up to the governments of developing countries themselves to decide what to spend on their security sectors, but this was to be based on principles of transparency and accountability, acceptable at the same time to development donors.

As military expenditure was discussed as a development issue in the 1990s, development donors were confronted with the urgent need to directly address matters of physical security within their work. The growing number of international peacekeeping missions, along with a wider spectrum of activities by development donors in post-war situations, led to new challenges that brought development donors into contact with uniformed forces, demining, small arms control and policing. The cost of wars and post-conflict reconstruction also strengthened the impetus to develop more effective assistance for the prevention of militant conflicts.

After wars, regardless of whether they end with the victory of one side or in a negotiated peace, military forces regularly need to be reorganized and downsized. One reason is their cost, which needs to be reduced in order to make more money available for development purposes. Another thing is that, armed forces during the war often take over most of the security functions of the state, external and internal alike. In the post-war the government's role is completely recognized for protection its citizens' security and human rights, while armed forces have to be downsized, often a national police force needs to be thoroughly reformed, or sometimes even newly created, in order to make it professional, civilian, well-trained and deserving of the respect of the entire population.

Post-conflict reconstruction and peace-building continue to be experimental situations – not only for a great many of the development donors but also, for example, for peacekeepers. During peacekeeping operations, the division of labor among the various external actors, especially among peace-keeping troops, UN administrations, humanitarian organizations and development donors, is often unclear. However, as peacekeeping troops generally do not stay in the respective country long, the question of succession soon arises. More or less naturally, eyes then turn to development donors. They, however, have needed time to gain experience in these fields, and in dealing directly with players such as the armed forces and police. While in theory, there is a 'peacekeeping-to-development' continuum in security related activities, similar to the 'relief-to-development' continuum on the humanitarian side, in practice a gap has opened up in many cases between activities begun (or not begun) by peacekeepers and continued (or not continued) by development donors. In fact, many issues relating to the division of labor in post-conflict situations remain unclear and tend to be solved in an *ad hoc* manner.³⁰

³⁰ Geneva center for the Democratic Control of Armed Forces (DCAF) OCCASIONAL PAPER NO. 4 "Development donors and the concept of Security Sector Reform". pp 9 - 14

In the past few years, efforts have been made to close this gap from both sides. Peacekeepers have become more aware of the importance of taking longer-range development objectives into account, particularly by initiating and actually commencing activities related to demobilization, de-mining and disarmament. Development donors have also been increasingly asked to concern themselves with the security-relevant aspects of post-conflict situations where external peacekeepers are absent. A number of development donors have gained experience in a wide range of post-war activities, including demobilization, demining, police reform and judicial reform. The World Bank and the International Organization for Migration (IOM), for instance, have conducted a good number of demobilization and reintegration programs, while UNDP has organized various police reform projects.

A third root of the current usage of security sector reform, concerns with improvement in the effectiveness and efficiency of the provision of government services. ‘Governance’ had been a primary concept of development policy since the early 1990s, and reform in the provision of public services one of the major instruments of development policy. They have also stressed the importance of a balance between civil society and state institutions capable of delivering public benefits, not only those such as a good infrastructure but also justice and security. In development donor discourse on ‘governance’ in the early and mid-1990s, the neo-classical model was dominant, resulting in a preference for downsizing over improvements in the delivery of public goods. For many donors, with the World Bank and the IMF in the lead, the provision of a limited set of public services at the lowest possible cost was the priority. Donors quite aggressively pushed recipient countries to implement major government reform programs for public enterprises, government agencies and government ministries. More transparency and accountability were seen as fundamental means to improving efficiency in generally overstuffed public sectors.³¹

In the late 1990s donors began to redirect their attention to the provision of public goods again, focusing on the way these were delivered more than on cutting costs. Programs aimed at reducing corruption and improving accountability and transparency in governments gained an importance in the late 1990s. Despite the importance of governance reform for development

³¹ Ibid

donors in the 1990s efforts largely excluded defense ministries; the military, police and other security bodies remained largely outside such reform efforts until the late 1990s. The reasons for this were limited effect of policies on military expenditure. One principal reason was that the organizations leading the governance reform agenda, such as the World Bank and the IMF, were concerned that they might overstep their mandates which exclude political activities. Similarly, bilateral donors had long entertained reservations about extending their programs into security-related issues that were not directly linked to economic measures such as military expenditure. Nor were governments in recipient countries keen on development donor intervening in this core area of statehood. In fact, the military, police and judiciary gained an importance as sectors where ruling politicians could place cronies. There are in fact some indicators – such as increasing corruption in the international arms trade in the early 1990s – that the level of ‘good’ governance in the military sector actually fell with the efforts of the international donor community to increase it in other sections of the recipient governments. It was, in fact, not until the late 1990s that they got involved in this field and then it was with a particular agenda to promote transparency and accountability under the new label of ‘security sector reform’.³²

In recent years, the emphasis among donors has been that sustainable development and peace-building must be based on strengthening governance in the security sector in order to remove the barriers to the state’s ability to provide security for its citizens as well as the threats to citizens’ security. Security sector reform has been accepted as a necessary condition for democratization and development. In the absence of democratic, civilian control security forces are able to act with impunity in all the four areas mentioned above, with negative consequences for both human development and security.

In 2001 the Organization for Economic Co-operation and Development (OECD) published a Conceptual Framework with six broad categories of recommendations for members of the Development Assistance Committee (DAC) to develop security sector reform policies and more integrated approaches to security and development (OECD/DAC, 2001). In these six categories the OECD suggested:

³² Geneva center for the Democratic Control of Armed Forces (DCAF) Occasional Paper No. 4 “Development donors and the concept of Security Sector Reform”.

1. To recognize the developmental importance of security issues;
2. To conceptualize a comprehensive security system reform that outlines the appropriate roles for actors;
3. To identify the required capacity and institutional reforms in donor countries;
4. To develop an effective division of labor among development and other relevant international actors;
5. To work towards the integration of security systems concerns in overall foreign and trade policy and;
6. To provide assistance to enhance domestic ownership of and commitment to reform processes.

Now we would like to talk about the significant differences in donor approaches and terminology. While some donors have developed a stand-alone program, promoted the concept and undertook the internal institutional reforms to present a coherent policy, many governments are still grappling with the concept, terminology and its integration into their overall policies. The difficulties are mirrored in the complicated relations between development, defense, security and foreign policy actors in many OECD countries.

The World Bank for example is rather reserved about working too closely with the military. With particular reference to its own tasks and mandate, the World Bank emphasizes transparency and management in the security sector, as well as the potentials of donor organizations and countries. It expressly identified, already in 1999, the development of civilian expertise for assessing security needs and security threats; setting security policy; effectively managing and overseeing the security sector; training for civil servants in developing control and accounting systems for budgets and expenditure planning; support for democratically elected parliaments to assess security issues; reform of the judicial, legal and penal systems; and strengthening the capacity of civil society to monitor these reforms. The World Bank suggests that the donor community should provide support for such programs³³.

The divergent views, policies and projects can be exemplified by four of the largest donors. First, the UK government combines the knowledge and resources of the Ministry of Defense (MOD), the Department for International Development (DFID) and the Foreign and Commonwealth

³³ “Security sector reform in developing and transitional countries” Herbert Wulf pp 9- 10

Office (FCO). In this ‘joined-up government’ initiative the departments concerns are encouraged to integrate their policy making and program delivery and pool their resources in a Global Conflict Prevention Pool and another pool focusing on Africa. Second, U.S. involvement in security sector reform has been conducted through several agencies including the Department of Defense, the Drug Enforcement Agency, the Department of Justice, and the Department of State. Yet this is not a government-wide concept, since their programs frequently compete with each other, with little co-ordination, and tend to take a narrow view of foreign assistance. Third, the response in Germany is a strong emphasis on promoting civilian oversight of security sector institutions. Support for justice and internal security and police reform is widely accepted. However, there is only limited engagement in working directly with the military. The generally positive response to security sector reform has not materialized in a comprehensive program but is directed at pilot projects. Four, France, although having traditionally strong ties to many security sector agencies in Franco-phone developing countries, has so far not explicitly taken on board the security sector reform paradigm.³⁴

The development donor community, for whose purposes the concept was first developed, required a concept that intellectually justified its venture into security-related activities. The original justification – reducing military expenditure and investing the savings in development – had proved too narrow a focus. Growing post-conflict reconstruction requirements and conflict-prevention activities raised the profile of issues relating to militaries, police forces and the justice sector, that were often more conflict-enhancing than conflict solving.

As we already mentioned the term ‘security sector reform’ has emerged over the last few years – joining related concepts such as ‘governance’, ‘public sector reform’, ‘conflict prevention’ and ‘peace-building’ – as a state-of-the-art term in donor discourse. This does not mean that the policy concerns now labeled security sector reform has not already exist – only that they are now placed together under this conceptual umbrella, recognizing that security issues cannot be excluded from development strategies³⁵.

The demand in the development donor community, at least by some of its actors, to find a concept to justify greater involvement in security-related issues was met in the 1990s by an

³⁴ “Security sector reform in developing and transitional countries” Herbert Wulf

³⁵ Lilly et al 2002, p. 1

opportunity for these actors to do so. The Cold War taboos on not alienating certain governments no longer had their previous effect. Security policy in industrialized countries had to be reconsidered and reorganized – in a way necessitating security sector reform throughout the world³⁶.

Especially in nowadays security sector reform has become, for a number of donors, a commonly used phrase. There is a tendency today to include all economic co-operation projects pursued to date which might ‘somehow’ fit under the heading ‘security sector reform’: poverty reduction, crisis prevention, peacekeeping, disarmament, demobilization and reintegration, de-mining, assistance to strengthen human rights etc. Traditional military and police assistance, which usually were implemented in the context of ideological conflict, and involved the supply of modern weapons or other equipment, are sometimes simply included under the new heading. Similarly, technocratic and apolitical notions derived from previous, and often unsuccessful, projects in public sector reform (with, for example, arbitrary limits of a certain percentage of GDP for military expenditures). They are bound to fail as long as the power relations in society and the legitimate use of the state monopoly of force are not addressed.³⁷

1.5. Security Sector Reform in post-conflict reconstruction and peace-building

Post-conflict generally describes the period, when after intra or interstate hostilities have ceased, violence may continue anyway. It usually follows a cease-fire or the signing of a formal peace agreement, whereby the major warring factions register their commitment to end hostilities and begin the process of reconstruction. External actors can play an important role in a post-conflict environment. There are a number of challenges that are essential to a post-conflict environment.

First - the security situation remains unstable, making security provisions by external actors a top priority and a necessary pre-condition for the successful implementation of security sector programs.

³⁶ Winkler, 2002, pp. 34-39.

³⁷ “Security sector reform in developing and transitional countries “ Herbert Wulf pp11

Second - such kinds of security programs that grow out of international peace support operations (PSOs) tend to have a strong military component that may be inclined to prioritize security capacity building over security governance. In other words, programs focused on training and equipping the country's security forces while neglecting to build systems to help ensure the transparency and democratic accountability of the security sector.

Next problem is that, State institutions are usually weak or illegitimate that magnifies the governance challenges, particularly in countries that may have had little or no experience with democracy and the rule of law. Socio-economic conditions tend to be unsafe; during conflict by the destruction of infrastructure, the collapse of economic institutions and the discrediting or decimation of local elites.

A shortage of local managerial capacity is another challenge that is caused by the fact that external actors often need to assume broad governance responsibilities in the immediate post-conflict phase. This often results in weak local ownership of SSR efforts that may prove difficult to correct once local circumstances have stabilized.

Post-conflict environments can attract huge numbers of external actors, creating daunting management and coordination problems. Finally, external actors often apply short term approaches to challenges that require sustained commitment. This maybe one of the main reasons why there is a risk of resumption of conflict, as happened in Afghanistan after 2006.³⁸

Elements of what is generally regarded as falling under the security sector reform agenda soon also became an issue for peace support operations.³⁹ The objectives of massive international interventions, including military forces, in conflict and post-conflict situations have expanded over time, both in number and depth. Interventions have become broader in scope and longer in duration. Earlier interventions, officially prevented military operations, such as in Somalia, or to support political settlements, such as in Mozambique and Cambodia, were the principal aimed was to restore order and facilitate elections. The demobilization and disarmament of combatants

³⁸ The DCAF backgrounder Series on Security Sector Governance and Reform. Security Sector Reform in post-conflict peace-building 05/2009

³⁹ United Nations, Report of the Panel on United Nations Peace Operations, chaired by Lakhdar Brahimi, New York, UN doc, A/55/305 – S/2000/809, 21 Aug. 2000.

was an early precursor of essential efforts towards reconstruction and reformation of security sector within the peace support operations. In parallel, but generally with little coordination, development agencies began to operate in the areas of public and human security.⁴⁰

Activities that are currently subsumed under the heading of SSR, mostly are taking place in post-conflict settings. Clearly, engaging in SSR in post-conflict environments creates special challenges, and also presents particular opportunities. On the one hand, SSR seems to be particularly difficult in an adverse environment such as a post-conflict setting, usually characterized by weak state institutions, a fragile inter-ethnic or political situation, with influential armed and other security forces, both statutory and non-statutory, and precarious economic conditions.⁴¹ On the other hand, given the quite obvious need to ‘right size’ the security sector and reform or even reconstruct it after the end of the conflict, post-conflict situations represent ‘windows of opportunity’ for security sector reform or, in many cases, security sector reconstruction programs.⁴² Generally speaking, in such societies there is a strong will to accept external support for all kinds of reforms, even in the most sensitive areas such as the security sector. This holds true only for the cases of civil war and internal conflict prior to the post-conflict reconstruction efforts. In cases where an inter-state war, such as a foreign military intervention aimed at regime change and resulting in a transitional occupation, preceded post-conflict reconstruction efforts, the security environment may simply be too adverse to implement a comprehensive and effective SSR program (example of Afghanistan and Iraq) where armed resistance means that SSR is taking place under combat conditions. Even without armed resistance against the intervention troops, irrespectively if their presence is legitimized by a UN mandate or not, post-conflict contexts pose the most formidable challenges to SSR. Reform in post-conflict settings follows two key principles namely:

- Establishing security forces which are able to provide public security in an effective and efficient manner and
- Civilian control in the framework of democracy.⁴³

⁴⁰ Evaluating International Partnerships in Security Sector Reform in Post-Conflict Reconstruction and Peacemaking Michael Brzoska pp5

⁴¹ ‘The Concept’ Karkoszka, p. 11.

⁴² Development Donors “Brzoska, p. 32, see also pp. 10-13.

⁴³ “Conceptualizing Security Sector Reform and Reconstruction” Heiner Hänggi

There are several categories of actors engaged in SSR activities from the point of post-conflict situation. National actors in the affected country; intergovernmental organizations such as the UN and regional organizations or alliances; lead nation(s) involved in a military intervention or peace support operations (PSOs) in the affected country; other bilateral donor countries; non-state national or transnational actors; PMSCs (policy management systems corporation).

Concerning the issue of implementation in post-conflict peace-building under the SSR three general models can be underlined:

1. The UN as lead agency (e.g., in Kosovo in the lead up to the declaration of independence). The UN leads efforts to build the managerial and oversight capacity of national actors, to restructure the new police forces and to implement DDR, mine action, transitional justice and SALW reduction. At the same time, it delegates restructuring and integration of the new armed forces to other actors (in this case to regional actors such as NATO and the EU, or to states).
2. A regional organization as lead agency (e.g., NATO and the EU in Bosnia and Herzegovina). The organization leads on certain SSR tasks, such as police and/or armed forces restructuring, and shares other tasks with the UN, other regional organizations or alliances, or lead nations.
3. A state as lead nation (e.g., the UK in Sierra Leone, the US in Liberia). The lead nation leads on certain tasks, such as police and/or armed forces restructuring, and shares other responsibilities with the UN, regional organizations or alliances, other bilateral donors, and even PMSCs.⁴⁴

In all three models, recent experience shows that external actors face problems coordinating their efforts on different levels: internally, across different departments at headquarters and in the field; vis-a-vis one another; and with domestic actors in the affected states.

The design and implementation of SSR programs is often formally directed by a national SSR commission, chaired by national political leaders and including key external actors providing SSR assistance. Yet, SSR programs are unevenly successful at promoting genuine local

⁴⁴ The DCAF backgrounder Series on Security Sector Governance and Reform. Security Sector Reform in post-conflict peace-building 05/2009 pp 4

ownership of the reform process. There are mainly two reasons for this: First thing is, that external actors often find that transferring ownership to national actors is costly and time-consuming; Second - domestic actors often lack the managerial capacity to design and implement reforms.

A number of local factors are likely to affect the success of SSR in post-conflict peace-building. There is a **nucleus of local leadership** capable of and determined to take the SSR process forward. A **major power has a vested interest** in the success of the SSR effort and is willing to invest political capital and resources to facilitate this process. **Neighboring states are supportive** of the peace process generally, and the SSR processes specifically or at least refrain from undermining them. There are **few or no easily exportable or “loot able” natural resources**, whose control provides an incentive for further conflict, or which can be used by the warring parties to fund future hostilities. The **number of warring parties is small**, thus diminishing the likelihood of major armed factions reneging on their commitments under the peace agreement and the SSR process.

Furthermore, the successful outcome of SSR programs would seem to depend on a number of considerations relating to the role of international actors. International actors may foster an environment that is conducive to the success of SSR efforts if: They have a **viable understanding of local conditions and aspirations**. They are perceived by national and regional actors as having a **legitimate right to intervene** in the affected country, use force, and pursue an agenda for change in the security sector. They have a **strategic and balanced plan** to guide their SSR efforts. They have the necessary **leadership, organizational and decision-making structures** to support the implementation of their strategy. They are prepared and able to invest sufficient and appropriate **human and financial resources** to ensure the success of their programs.⁴⁵

For the successful reconstruction, partnership and reform in the field of security sector in post-conflict situations three main international overtones should be taken into account.

First refers to capacities and commitments of external actors. If they intend to play a substantial role in security sector reconstruction and reform, they must be willing to invest a substantial

⁴⁵ Ibid pp7-8

amount of political and financial capital. Security sector management will require a multidisciplinary approach involving legal and constitutional experts, military and police professionals, experts in human resources management, persons and agencies with experience in demobilization, retainers' and labor market experts. Effective security sector reform is best done in cooperation among a wide range of players, including, those involved in peacekeeping and international administration in post-war situations, national and international donor agencies such as the World Bank as well as non-governmental organizations. However, while positive in principle, this multiplicity of international actors with similar mandates and projects operating in the same areas constantly creates 'turf wars'. Sometimes, discord exists even among competing groups from one donor country. Duplication, parallel chains of command, and fights over allocation of funds have a noticeable toll on efficiency and effectiveness. Competing national agendas, unclear division of labor, budgetary problems, and bureaucratic sluggishness result mainly from political negligence. Beyond a shared interest in stabilization, the agendas of international players, which are often driven by national or other parochial interest, often differ. International resources are usually spread over too many independent actors with divergent mandates, and limited willingness to coordinate programs. Overall responsibility for the various aspects of security sector reform is often unclear, or deliberately vague. Security sector achievements have been limited, for example in Afghanistan, because the implementation of the division of labor for elements of the overall reform process, agreed among national donors, has been flawed. In some cases, such schemes have served to unhinge the process, promoting uneven progress in a strategy contingent on immediate functioning of its constituent elements. The best solution for the problem could be to nominate a 'lead nation' for proper management, or establish an international working body and not only propose a supervisory organ for coordination.

The second hypothesis refers to the role of internal actors. SSR will only last if it is based on major input and a growing sense of control by domestic decision-makers and civil society or society groups. Imposition of security sector cannot even succeed in protectorates such as Kosovo and Bosnia-Herzegovina. External leverage has proven to be limited and external dictates to be counter-productive in the long run. It is vital that reform is carried by legitimate domestic actors and not something imposed by outsiders. Within a general framework, external support should be as demand-driven as possible and take the local socioeconomic environment

into account. Projects are too often generated externally, 'from above' and then 'sold' to the recipient country without needs assessment by independent experts or the recipient government.

Finally, design and implementation of partnerships are crucial. This refers both to the cooperation among external actors, cooperation among internal actors, and cooperation between internal and external actors. Complaints about the poor coordination of security sector reform programs are numerous. Chances for success of security sector reconstruction and reform increase if they form an integral part of post-conflict agreements, since they tend to reduce the likelihood of a relapse into violence. The build-up of institutions is of great importance. These institutions need to be domestic institutions, from a functioning parliament able to exercise overall control to functioning bureaucracies, career-building institutions and so on. Partnership in security sector reform and reconstruction is primary partnership in institution-building, both institutions with direct relevance for security sectors and institutions charged with providing the framework for a security sector which supports and promotes peace-building and human security. While security sector reform should not be overburdened by trying to make it into a vehicle for issues better dealt with through democratization or a substitute for comprehensive state-building, assisting capacity building should clearly be connected with de-militarization, de-politicization, and strengthening of the rule of law. Security sector reform should not result in beefing up repressive regimes or authoritarian politics. By raising expectations without sufficient capacities, frustration, blame, and deflecting responsibilities to internationals are the customary repercussions.⁴⁶

Post-conflict situations are really in need of security sector reconstruction and reform. External actors have begun to take up this challenge and have been involved in a great number of security sector reform efforts. Various forms, sequencing and implementation modes for security sector reconstruction and reform have been tried. Despite the big attention from the side of external actors, some problem occurs anyway. Security sector reform promoted by external actor needs to be implemented in partnership with local actors but cooperation among them however, is far from simple or straightforward. Both external and internal parties face a number of challenges, dilemmas and choices, which result from pre-war structures, the conduct of the war and the post-war situation itself.

⁴⁶ Evaluating International Partnerships in Security Sector Reform in Post-Conflict Reconstruction and Peacemaking Michael Brzoska pp 14-16

More recent interventions have become very ambitious, attempting to lay the groundwork for sustainable political, economic and security structures. Elements of this expanded interventionism include: stabilization, post-war reconstruction, economic rehabilitation, democratization and security sector reform. External contributions to security sector reform have been made within a range of circumstances, including where international agreements adopted following the cessation of armed conflict provided a corresponding mandate (Bosnia and Herzegovina, Macedonia), where the UN Security Council provided such a mandate for international interim administrations (Afghanistan, Kosovo, Sierra Leone), and where a ceasefire, mediated and/or backed by international actors, put an end to collectively organized and/or large-scale armed conflict (for example, in Tajikistan, Nagorno-Karabakh and Northern Ireland).

It should definitely be underline, that Security sector reform has, also been attempted in other circumstances. For instance, the support of local initiatives by development donor countries, focusing on administrative reforms, and this rather limited experience, has been incorporated into the wider security sector reform agenda.⁴⁷ Currently, the security sector reform debate reflects a disparity characterized by a long list of general recommendations of what could and should be done, on one side, and a shorter list of concrete suggestions based on a thorough analysis of the problems in a particular post-conflict situation on the other side.⁴⁸

As a summery we can conclude, that the Security Sector Reform is a wide range concept, having various definitions. Despite its compound nature, there are several main milestones that definitely should be alienated.

The milestones of SSR concept

1	Design and implementation of partnerships
2	The build-up of institutions

⁴⁷ Saferworld/International Alert/Netherlands Institute of International Relations ‘Clingendael’, ‘Towards a Better Practice Framework in Security Sector Reform. Broadening the Debate’, Occasional SSR Paper No.1, The Hague, 2002.

⁴⁸ Evaluating International Partnerships in Security Sector Reform in Post-Conflict Reconstruction and Peacemaking Michael Brzoska

3	De- militarization
4	De- politicization
5	Strengthening of the rule of law
6	Implementation of partnership with local actors
7	Stabilization
8	Post-war reconstruction
9	Economic rehabilitation
10	Democratization
11	Security Sector Reform ⁴⁹

Source: made by author

The essentially aimed of this reform is to guarantee an efficient and effective protection of state and human security within a framework of democratic governance. It works with all those institutions whose main function is to protect state, its citizens and external environment from any threat they can face. Broadly this cooperation includes all potential players that can be involved in this process and affected with its consequences. If the country uses carefully all SSR essential tools, such as, transparency, accessibility, accountability, efficiency, equitability and democratic processes of policy decision-making and implementation, it will achieve a model of good governance. The concept helps to link internal and external policies, promotes the tight cooperation between governmental sectors, international and non-governmental organizations, and on the basis of their successful cooperation gives an excellent example of security and conflict resolution.

⁴⁹ Evaluating International Partnerships in Security Sector Reform in Post-Conflict Reconstruction and Peacemaking Michael Brzoska

2. HISTORICAL LEGACIES – DESCRIPTION OF KOSOVO CONFLICT

Fig N1



Source: internet source⁵⁰

2.1. The Albanian questions in Yugoslavia

The Kosovo conflict is known as so-called Albanian question, which emerged at the end of nineteenth century when the new Balkan national states laid claim to the European territories of the destroying Ottoman Empire, especially the provinces of Selanik (Salonica), Monastir (Bitola), and Kosova (Kosovo , part of the Sandshak, and northern Macedonia). During the first

⁵⁰ Figure N1

http://images.google.lv/imgres?imgurl=http://img.timeinc.net/time/daily/special/kosovo/maps/kosovomap.gif&imgrefurl=http://www.time.com/time/daily/special/kosovo/kosovomap.html&usq=__X2eY5giWNaotT0WwplJE_Xfhyygc=&h=451&w=455&sz=51&hl=lv&start=6&um=1&itbs=1&tbnid=7Qcb4aoVj0HSsM:&tbnh=127&tbnw=128&prev=/images%3Fq%3DKosovo%2Bmap%26um%3D1%26hl%3Dlv%26sa%3DN%26rlz%3DIR2GPE_A_ru%26tbs%3Disch:1

half of 1912, Bulgaria, Serbia, Montenegro, and Greece created the Balkan league to achieve their territorial interests against the Sultan. In October 1912, the first Balkan war broke out during which the Ottomans were nearly entirely driven out of Europe. Serbia concurred the large parts of Kosovo and western Macedonia.⁵¹

It was since from that time when “Albanian Question” raised on agenda. The Albanian national movement, had since 1878, unsuccessfully struggled for the autonomy against Ottoman Empire and at least in August 1912 Ottoman government was forced to grant limited Albanian self-government. On 28 November 1912 in reaction to the first Balkan wars Albanian leaders declared their independence. In the first Balkan War of 1912 Albania was attacked by Montenegro, Serbia, Bulgaria and Greece. The Albanians were allied with the Ottomans. Serbs joined the army in large numbers to avenge the Serbian defeat by the Turks at the Battle of Kosovo Polje. At this time Kosovo was mostly Albanian. The Albanians fought fiercely but lost the war and Kosovo came under Serbian authority. At the Conference of Ambassadors in London in 1912 presided over by Sir Edward Grey, the British Foreign Secretary, Serbia was given sovereignty over Kosovo. In 1913, in the second Balkan War, Bulgaria attacked the Serbian and Greek armies in Macedonia. They miscalculated and were quickly and decisively defeated. Among the outcomes Serbia nearly doubled in size obtaining most of Slavic Macedonia.⁵² Since then the desire for the unification of the Albanian people has been the main goal for the national oriented population.

Despite everything the new political order after the First World War left half of the Albanian population outside borders. Almost half million of Albanians living in the geographical areas of southern Serbia, Montenegro, Kosovo, and Macedonia were included within the borders of a newly created kingdom of Serbs, Croats, Slovenes, that was lately in 1929 renamed as Yugoslavia. There was assumption that those population consisted of a single Yugoslavian nation, and the non-Slav people were given no considerable cultural or minority rights. The

⁵¹ M.S. Anders, *The Eastern Question 1774-1923: A Study In International Relations*, London Cambridge University press, 1966.

⁵² Albanians and Serbs in Kosovo: An abbreviated an opening of the Islamic Jihad in Europe: G Richard Jansen, Colorado State University. Fort Collins Co 8052. April 25, 1999, updates July 22,2008. <http://lamar.colostate.edu/~grjan/kosovohistory.html> 10.05.2010

Serbian authorities thus attempted to consolidate their new territorial acquisitions in southern Serbia by a policy of assimilation and colonization.

In 1941 Germany invaded Yugoslavia, which capitulated a few days later. Between 1941-1945 the country disintegrated into several occupied and annexed territories or untruly independent countries. Kosovo and western Macedonia were occupied by Italy and united with Albanian in a Greater Albanian State. Tens of thousands of Serbs were expelled from their homelands.

In November 1943, the Yugoslavian partisans under Tito decided to rebuild the Yugoslavia after the Second World War as a socialist federation. The Albanian National Liberation Committee for Kosovo, headed by Tito, declared the unification of Kosovo with Albanian. But this decision was rejected later when in 1945 the Assembly of National Representatives of Kosovo decided to transform it into a constituent of federal Serbia. On 29 November of the same year the Socialist Federal Republic of Yugoslavia was proclaimed.⁵³

In 1946 Yugoslav constitution granted Kosovo the status of an autonomous region within Serbia. In 1966 it was classified as autonomous province. However, although Yugoslavia had been constituted as a federation, it was almost impossible under “democratic centralism” that the republics and autonomous provinces could have right to take part in any kind of decisions of the communist federal government. It was only under pressure of increasing demands for regional and national independence that the party and the state were gradually federalized from the end of the 1960s.⁵⁴ In 1974 a new constitution granted the republics and the autonomous regions extended powers of self-government. Kosovo gained de-facto federal status and the right to its own constitution. The Albanian authorities started its policy of Albanization, which was strictly criticized by the local Serb population.

The autonomous status of Kosovo failed to satisfy the Albanian population, however, and the growing gap in prosperity between the south and north of Yugoslavia intensified the criticism of Yugoslavian system. Despite the great attempt of Yugoslavian communists to reduce nationalist

⁵³ Maliqi Shkelzen, “The Albanian Movement in Kosova” in *Yugoslavia and After: A Study in Fragmentation, Despair and Rebirth*, edited David A. Dyker and Ivan Vejvoda, eds. Longman n.d. p. 138 - 154

⁵⁴ Denison I. Rusinow, *The Yugoslav Experiment 1948-1974*, Berkeley/Los Angeles: University of California Press, 1977 Sabrina P. Ramet, *Nationalism and Federalism in Yugoslavia 1962-1991*, 2nd edn Bloomington: Indian University Press, 1991.

ideology it was still remaining during the whole Tito era in all parts of Yugoslavia. After Tito's death in 1981 bloody riots took place in Kosovo, as Albanians demanded the recognition of their province as the seventh republic in Yugoslavia and the Serbs denounced the discrimination by the Albanians.⁵⁵

In the mid-1980s, when Slobodan Milosevic had risen to the leadership of the Serbian communists, Serbian nationals were actively promoted by intellectuals and politicians.⁵⁶ In 1989 the right of self-administration of the formerly autonomous provinces of Kosovo and Vojvodina was abrogated. Consequently, the Serbian authorities abolished the province's political and cultural institutions. The approximately 90 per cent Albanian majority in Kosovo responded to Belgrade's removal of province's self-administration by setting up a parallel state structure of its own, with a functioning presidency, government, legislature, and an education and medical system. Mass demonstrations and violent clashes with the police went on throughout 1989 and the spring of 1990, creating widespread feelings of anger and fear among the Albanian population.⁵⁷

This was an early indication of Milosevic's plan to alter the ethnic balance of Kosovo, which was overwhelming Albanian. Milosevic and other Serb extremists even talk about "demographic genocide" to describe the relatively high Albanian birthrate in Kosovo and the ever increasing Albanian share of Kosovo's population, coupled with Serb emigration. Ibrahim Rugova one of the founders of the LDK (democratic league of Kosovo) in 1989 preached passive resistance as a best way to achieve independence, the goal of overwhelming majority of Albanians. There was main question from Kosovo Albanians, if 600, 000 Montenegrins could have their own republic, why couldn't 2 million Kosovo Albanians?

The LDK party almost imposed 3 per cent tax on all Albanians to help pay for burgeoning services. The Kosovo Albanians set up their own schools and clinics. A parallel society developed and Kosovo Albanians had limited contact with official state organs. The policy and

⁵⁵ Maliqi Shkelzen, "The Albanian Movement in Kosova" in *Yugoslavia and After: A Study in Fragmentation, Despair and Rebirth*, edited David A. Dyker and Ivan Vejvoda, eds. Longman n.d. p. 138 - 154

⁵⁶ V. P. Gagnon "Ethnic Nationalism and International Conflict. The Case of Serbia", *International Security*, Vol 19, No 3 Winter 1994/95 pp. 130-166.

⁵⁷ "Kosovo and the Challenge of humanitarian intervention: Selective Indignation, Collective Action, and International Citizenship" Edited by Albrecht Schnabel and Ramesh Thakur. pp 19-22.

the court system were almost entirely Serbian, which would have a major impact on post conflict Kosovo. But in general, Rugova's passive resistance strategy predominated with little violence or militancy in Kosovo from 1989 to 1995.

The strategy changed dramatically after the Dayton Peace Accords were signed in 1995, which ended the war in Bosnia, Milosevic attended the meeting in Dayton, Ohio and signed the agreement on behalf of the Bosnian Serbs. Kosovo Albanians expected the conference to address their demands as well. Unfortunately these expectations were unrealistic; the only issue on the agenda was a peaceful resolution to the war in Bosnia. Kosovo would have to wait. Kosovo Albanians could not help but notice that Bosnian Serbs received a form of territorial recognition in the Dayton Peace Accords with the creation of Republika Srpska along with the Bosnian Muslim-Croatian Federation (which includes Muslim and Croatian areas) within the Bosnian state.

Shadowy groups of Kosovo Albanian exiles had operated in Western Europe for years. This was an event shortly after the disappointment of Dayton that changed the way Kosovo Albanians would fight for their independence; those events would also have a huge impact on the "moral complexity" of Kosovo following the NATO air campaign. In the spring of 1997, a classic Ponzi pyramid financial scandal rocked Albania. Thousands of people bilked of their meager life savings. People frustrated with the lack of government action started to raid army and police weapons all over the country. This was really big advantage for Kosovo Albanian armed groups, who, unhappy with Rugova's policy of passive resistance had recently launched violent attacks against selected Serbs target. What they most lacked was money and weapon, and now thanks to the chaos in Albania, they suddenly had virtually unlimited access to both.⁵⁸

2.2. Kosovo in 1989-1990

Under Milosevic Serbia wished to change its constitution and abolish Kosovo autonomy. Not only did the Albanians of Kosovo not accept the proposal for abolishment of their autonomy, they advocated its upgrading. At the time of voting of changes to the Serbian constitution, the building of the Assembly of Kosovo was surrounded by tanks, military and police, members of

⁵⁸“Kosovo: an unfinished peace” Door William G. O’Neill . pp 21-22

the secret police were present in the hall also. In condition of “state emergency”, without the required quorum, without numbering the votes and by voting of persons that were found in the hall but were not delegates, the president of the Assembly of Kosovo, who was Serb, proclaimed on 23 March 1989 the approval of constitutional amendments and in addition to them some amendments that had not been in public discussion. Therefore, the decision of the assembly of Serbia passed on 28 March 1989 to approve amendments 9-49 of the constitution of Serbia was illegal. Meanwhile the Albanian delegates of the Assembly of Kosovo approved a Declaration of Independence of Kosovo of July 2 1990 that preceded the constitution of the Republic of Kosovo, approved on 7 September 1990.

Despite the repressive regime in the 1990s the peaceful struggle against the Serbian occupation continued. As we already mentioned, the Dayton Agreement signed in 1995, put Kosovo Albanians in disadvantageous positions, opposite to Bosnian Serbs, which had the possibility to be more independent and had the right of territorial recognition. To the response of this event, radical Kosovo Albanians started advocating a military solution to their demands. Disappointed with the slow pace of their community’s struggle for independence in early 1997 they started the armed rebellion against the institutions of Serbian states.⁵⁹

Milosevic and his party had been thrust into power by their uncompromising and brutal policy on Kosovo and taking new angle on the Kosovo question could only lead the political suicide. The opposition also shied away from the political dangers of a rapprochement with the Kosovo Albanian leadership. During the war in Slovenia, Croatia and Bosnia-Herzegovina a considerable anti-war movement among some Serbian opposition parties emerged. However the Regime activates in Kosovo won tactic approval from the other side of political fence. Kosovo policy was regarded as “legitimate measures by the Serbian authorities for the suppression of terrorism and separatism” even when these measures included massacres and retaliation against Albanian civilians. Albanians again became the “terrorists” and “separatists” while the complaints of the Kosovo Serbs were constantly emphasized.⁶⁰

⁵⁹ “Understanding the War in Kosovo” Door Florian Bieber, Zidas Daskalovski . British Library Cataloguing in Publication Data. 2003

⁶⁰ Kosovo and the challenge of humanitarian intervention, Selective indignation, Collective Action and International Citizenship” , Albrecht Schnadel and Ramesh Thakur. pp55-56

Events soon spiraled out of control and the Drenica slaughter in March 1998 dispelled any illusion that armed conflict could be avoided.⁶¹ It also signaled that Albanian patience with a peaceful tactic favored by Rugova was seriously declining.⁶² In fact the KLA began to take more effective role, exacerbating the conflict. The Contact Group demanded the withdrawal of Serbian special police units and urged Milosevic to implement the Education Agreement and begin a dialog with the appropriate representatives of the Kosovo Albanian community. The international community also threatened to re-impose sanctions. Despite such pressure, attempts to establish a dialog failed because the Serbian side refused to include the self-determination on the agenda. Furthermore the Serbian authorities stubbornly resisted any suggestion of mediation by the international community. Despite this, with the war in Kosovo escalating, Milosevic was forced under threat of NATO intervention to accept the presence of the Organization for Security and Co-operation in Europe (OSCE) Verification Mission in Kosovo. Appalled by subsequent massacres and the flow of refugees into neighboring countries and fearing the spillover from the Kosovo war, the Contact Group scheduled negotiations in February at Chateau Rambouillet in France. Negotiations were going on the “take it or leave it” bases. Both sides were offered a plan that would guarantee the substantial autonomy, but not the independence, to the ethnic Albanians and provide for the demilitarization of the KLA. The Serb negotiators were told explicitly that refusal to sign would result in military intervention by NATO. After Rambouillet talks broke down, with both sides unwilling to sign the agreement, negotiations resumed in Paris. Kosovo Albanian delegation agreed to the proposal and the NATO was forced to make good its threat. Intervention began on 24 March 1999. It did not prevent humanitarian catastrophe, as the air campaign did little to protect civilians on the ground. With no ground troops to hinder it, the Milosevic regime used Army, police and paramilitary units to launch a horrific campaign of terror, killings and ethnic cleanings in Kosovo. When it ended 10,000 Albanians were dead and 800,000 were refugees.⁶³

⁶¹ Human Rights Watch Report “Humanitarian Law Violation in Kosovo” www.hrw.org

⁶² Behlul Beqaj, “Drenica, Homogenisation of Albanians”, Helsinki Charter, January 1999

⁶³ “Kosovo and the challenge of humanitarian intervention, Selective indignation, Collective Action and International Citizenship”, Albrecht Schnadel and Ramesh Thakur, pp 55-57

2.3. The international reaction on the conflict

It was in late 1997 when the major international actors put the issue high on the agenda.⁶⁴ Countless international organizations, national governments, and special envoys attempted to mediate between the parties, although mainly in a half-hearted and contradictory fashion.

On 24 September 1997, the International Contact Group for the first time voiced its concerns over tension in Kosovo and issued an appeal for negotiations. The Group which is composed of six most influential countries of the world, United States, United Kingdom, Italy, France, Germany and Russia, first was created in response to the war and the crisis in Bosnia in the early 1990s. The group includes four of the five permanent members of United Council, and the countries which are best in contribution and cooperation of troops and in the military issues. The main mandate of the Group is to assist the peace building efforts in the Balkans.⁶⁵

It established a new working group on this issue and sent a delegation to the FRY (Federal Republic of Yugoslavia). By this time the international community had started to urge Belgrade to initiate a “peaceful dialog” with Pristina, allow an observer mission led by the Organization for Security and Cooperation in Europe (OSCE) to Kosovo, Sandshak and Vojvodinam accept international mediation, and grant “special statues” to Kosovo. Belgrade however declared that “Kosovo is an internal affair and nobody else’s business” and rejected the proposal.⁶⁶ In its Moscow declaration on 25 February 1998, the Contact Group stated that any solution involving a special status on which both sides agreed would be acceptable.

Following the escalation of violence in March 1998, the UN Security Council imposed an arms embargo as well as economic and diplomatic sanctions against FRY, calling for a “real dialogue” between the conflict parties. As the fighting continued, during which several tens of thousands of people were displaced. NATO stepped up its military presence in neighboring Macedonia and Albania in June 1998, and started to threaten Belgrade in air strikes. But until September NATO did not issue an Activation Warning for an air campaign in FRY. In the Resolution 1199 of 23

⁶⁴ Stefan Troebst, “Appendix IC” the Kosovo Conflict” SIPRI Yearbook 1999 Armaments, Disarmaments and International Security , Stockholm International Peace Research Institute, Oxford University Press 1999 pp 47-62

⁶⁵ [http://en.wikipedia.org/wiki/Contact_Group_\(Balkans\)](http://en.wikipedia.org/wiki/Contact_Group_(Balkans)) 8.05 2010

⁶⁶ Stefan Troebst, “Conflict in Kosovo, Causes and Cures.” An Analytical Documentation, Flensburg: European Center for Minority Issues , 1998

September 1998 the UN Security Council called for an immediate cease-fire the withdrawal of military and parliamentary forces, complete access to humanitarian organizations, and cooperation on the investigation of war crimes in Kosovo. Although the Resolution did not explicitly threaten the use of all necessary means, such as military, NATO interpreted this as legitimization for the use of military force against the FRY. By this time the UN High Commissioner for Refugees estimated that there were about 200,000 refugees.

On 12 October 1998, after the ultimatum issued by NATO, Yugoslav President Slobodan Milosevic and UN Special Envoy Richard Holbrooke agreed on a partial withdrawal of the Serbian military forces and the deployment of the OSCE verification mission of 2,000 unarmed personal. Although the situation calmed down with the approach of winter, a number of serious clashes between the Yugoslavia forces and KLA fighters were reported before the informal cease-fire broke down around Christmas.

The Contact Group pressured the conflict parties into negotiations on the legal status of Kosovo on 6 February 1999 at Rambouillet, where it presented a proposal for an interim agreement based on the Contact Group's decision of 19 January 1999, which provided for a large degree of self-government international implementation forces. To achieve an agreement between the parties was quite difficult. Albanians wanted to gain independence and be separate from Serbian ruling, and the Yugoslavian Serbs in itself did not want to concede the territory they demanded. Whereas the Albanian delegation, after long and painful discussions, was finally persuaded to approve the proposal, Belgrade continued to reject agreement, fearing foreign interference in its internal affairs.

On 24 March 1999, NATO started air campaign against FRY with the aim of forcing Serbian side to accept the Rambouillet agreement and preventing inevitable humanitarian catastrophe. The general expectation was that it would take only a few days to make the Belgrade government back down. Instead the military situation continued for 11 weeks before the war came to an end. Serbian military and parliamentary forces reacted with extreme violence against KLA fighters and the civilian population. The result was that more than 800,000 were displaced and thousands were killed.

After the G-8 states had agreed on the text for the UN Security Council resolution that was also accepted to the FRY, on 9 June 1999 representatives of the Yugoslav military and NATO concluded a Military Technical Agreement on the withdrawal of the Yugoslav troops from Kosovo which ended the war. The United Nations in cooperation with numerous international organizations started to build up a civil administration.

From the beginning the UN Mission in Kosovo had a number of serious problems. Many lessons were neglected from the Bosnian peace operation, such as the need of unified civil and military administration and an integrated command structure. In addition the KFOR was unable to prevent the expulsion of more than 250,000 non Albanians, mainly Serbs and Roma, by the KLA. The constitutional political status of Kosovo, which formally remained an integral part of the FRY, was de facto still undefined. The Albanian political leadership and the major part of Kosovo's population continue to insist on independence.⁶⁷

2.4. Declaration of independence of Kosovo

On the bases of already mentioned negotiations in Rambouillet⁶⁸ in February 6, the conference supposed to discuss the general principles for solving the problem, including the status of autonomous of Kosovo that had been worked out by the Contact Group as well. But the delegations were given only the temporary agreement on Peace and Autonomy in Kosovo and Metokhia (Framework Document) and three supplements dealing with the constitution of Kosovo, the elections of local bodies, and judicial system. The Serb delegation accepted all the conditions of the agreement, insisting only on guarantees of territorial integrity. On February 23, the Contact Group declared that progress had been made in the negotiations and that a political settlement would be reached soon.⁶⁹

The continuing problem of the future statues of Kosovo accentuated the problem and division with Kosovo and with the region more generally. It was mainly recognized that there was almost

⁶⁷ "Kosovo and the challenge of humanitarian intervention, Selective indignation, Collective Action and International Citizenship", Albrecht Schnadel and Ramesh Thakur, pp 28-30

⁶⁸ Elena Guskova : "Dynamic of Kosovo crisis and Russian policy", In Kosovo: International aspects of the crisis (Moscow: Gendalf, 1999)

⁶⁹ "Moral Constraints on War: Principles and Cases" Door Nicolas Fotion, Bruno Coppieters

no circumstances in which the Kosovar Albanians would be willing to submit themselves to Yugoslav or Serb Sovereignty. Some suggested that given this reality, recognition should be given to Kosovo independence. It was almost impossible to obtain the international consensus behind such proposal. The alternative, thought to continue ambiguity and uncertainty over the future disposition of the territory sorted its own pathologies.⁷⁰ Within Kosovo it was extremely difficult to construct the viable and lasting civil and political institutions when the underlining legal and political framework was undetermined. More broadly in the region, the sense of uncertainty and the fear that the mono-ethnic Kosovo might gain independence, created great insecurities amongst neighboring countries, most notably Macedonia but also Montenegro, who themselves had substantial Albanian minorities.

With all these post-conflict developments the “problem” of Kosovo continued to present major challenges for all external powers seeking to provide a lasting and durable settlement for the territory and for the region more general. How to manage the dilemmas that the problem of Kosovo presented, such as how to determine the status of entity and how to satisfy the competing Serb and Albanian national and sovereign claims, continued to be highly divisive and essentially unresolved. As such, Kosovo remained a prism through which some of the most divisive issues of post-Cold War internal politics continued to be debated and determined. It was for this reason that the perceptions of outside powers towards Kosovo, both in terms of what had happened and what would happen in the future, remained of such critical importance.⁷¹

On February 17, 2008 a great event took place. Kosovo made unilateral declaration of independence. The United States of America and most of the Europe countries lost no time to recognize the tiny state. When Yugoslavia took steps to crush the separatism movements, Western world stand against. They accused Yugoslavia state of grave violation of human rights of Kosovo’s people. Under these pretext Yugoslavia was attacked by NATO in 1999.

Since the downfall of the Socialist bloc, it has been the policy of the USA to establish a new world order which may insure, expand and consolidate its dominance of the world. For the successful implementation of this plan, it was necessary that strategic regions of Central Asia, West Asia and Balkan be brought under its full control. Therefore the USA was totally

⁷⁰ Susan I Woodward, “Kosovo and the Region: Consequences of the waiting game”. *The International Spectator*, vol 35 no. 1 (January – March 2000) pp.35-47.

⁷¹ “Kosovo: Perspective of War and its Aftermath” Door Mary E . A. Buckley , Sally N. Cummings pp 24-27

concerned that its support of Kosovo's independence would be immoral and illegal at the same time. The fact is that the Kosovo's declaration of independence, the US's and EU's recognition and EU's sending 2000 persons as observers to look after police, customs and judicial system in Kosovo is in gross violation of UN stands⁷².

The Security Council of the U.N.O. in June 1999 had passed a resolution 1244, asking Yugoslavia to withdraw its forces from Kosovo.⁷³ It also authorized a military mission (KFOR) to take over Kosovo. But at the same time the resolution upheld the territorial integrity of Yugoslavia. It did not envisage independence for Kosovo and only prescribed that it should enjoy the substantial autonomy with the Federal Republic of Yugoslavia". It also does not require understanding that the declaration of independence of Kosovo and the recognition of the same is the violation of the Resolution 1244. Such an act was bound to create worldwide ripples and it did.

The government and the population of Serbia reacted sharply. There were big demonstrations against EU and the USA. The president of Serbia Boris Tadic who had soft corner for the USA and EU declared not to "give up fight for our Kosovo." Even the Serbs of Kosovo could not digest the idea of independent State. They wanted to have their own Parliament in the town of Mitrovica and merge with Serbia. It is more likely that Kosovo will get as independence gift an ethnic civil war.

The independence of Kosovo has set up a bad example. It is not going to be accepted and appreciated by the nations who are engaged in fighting separatist movements. Spain, Greece, Bulgaria, Romania, are the members of European Union, but they did not recognize the independence for the simple reason, because they have ethnic minorities, which may be promoted to go Kosovo way. The reason why this assumption can be true is proofed by the reality that Basque minority of Spain and Turks of Cyprus have welcomed Kosovo's independence.

⁷² "Pratiyogita Darpan" May 2008 /1923

http://books.google.lv/books?id=SOgDAAAAMBAJ&printsec=frontcover&as_pt=MAGAZINES&cd=15&source=gs_other_issues#v=onepage&q&f=false 7. 05. 2010

⁷³ Ibid

The reaction of Russia is very sharp; the country instead of recognition independence had challenged its validity. In the eyes of Russia such declaration is “presuppose a revision of commonly accepted norms and principles of international law”. It argues that in 1999, the US and the rest of the NATO had decided to bomb Yugoslavia without UN approval. In 2003, the USA went to war against Iraq in defiance of the UN. In 2008, the US and its allies annexed Kosovo from Serbia because of UN decision. Dimitry Medvedev, at present the president of Russia, made a high profile visit to Serbia in the third week of February 2008, which shattered US hopes that Moscow would be persuaded to accept Kosovo’s split from Serbia. This issues is still the bone of connection between the US and Russia. Strategically the official Moscow would not also accept presence of NATO forces in its proximity. Russia has joined arms with China on this issue in UN. The US and its elites suffered a setback in Security Council of the UN when only 5 out of 15 members supported Kosovo’s Separation.⁷⁴ Russia had pointed out that independence of Kosovo would encourage separatist movements throughout the world. The country has threatened to redefine its relations with Georgia’s break-away republics of Abkhazia and South Ossetia. In other words to balance US Kosovo Russia will have no hesitation in creating its own Kosovo. “Kosovo is a post-modern state, an entity that may be sovereign in name, but is a US-EU protectorate in practice.”⁷⁵

Kosovo officially declared the independence on 17 February 2008. Kosovo Parliament voted to adopt a declaration of independence at an extraordinary session on the province’s independence from Serbia. The proclamations were made by leader of Kosovo’s 90 per cent ethnic Albanian Majority, including former guerrillas who fought for independence in 1998-99 was which claimed about 10,000 civilian lives. All 109 deputies present at the session in the Capital Pristine voted in favor with a show of hands. Eleven deputies from ethnic minorities, including Serbs, were absent. “Kosovo is an independent, Sovereign and Democratic State” - speaker Jakup Krasniqi announced after the vote.⁷⁶ ...

⁷⁴ “Pratiyogita Darpan” September 2008/416

http://books.google.lv/books?id=bugDAAAAMBAJ&printsec=frontcover&as_pt=MAGAZINES&cd=11&source=gs_other_issues#v=onepage&q&f=false 7.05.2010.

⁷⁵ “Pratiyogita Darpan” May 2008 /1923

http://books.google.lv/books?id=SOgDAAAAMBAJ&printsec=frontcover&as_pt=MAGAZINES&cd=15&source=gs_other_issues#v=onepage&q&f=false 7.05.2010

⁷⁶ “Pratiyogita Darpan” April 2008/1703/2.

http://books.google.lv/books?id=UugDAAAAMBAJ&pg=PT10&lpg=PT10&dq=Pratiyogita+Darpan%E2%80%9D+April+2008/1703/2&source=bl&ots=caiqi7sl0E&sig=PW2bb5jpTPmLJhYq_Es1a7UCXZY&hl=lv&ei=YdLdS7mAJJCiOOyLrlgH&sa=X&oi=book_result&ct=result&resnum=1&ved=0CAYQ6AEwAA#v=onepage&q&f=false 7.05.2010

To illustrate Balkan history more precisely and underline the importance of Kosovo case, it would be acceptable to look through the history in chronological way and show the milestones. Struggling for independence was the leading theme in the history of Balkan people. During centuries there was a permanent tension between Albanian and Serbian people and the minority issue was the most painful case for them. Kosovo conflict was continuing almost one century, starting from 1912 when the first Balkan war broke out and Serbia first concurred the large parts of Kosovo and western Macedonia. In reaction to the war Albanian people declared their independence and since that time their desire for unification was the main goal. After the First World War, the new political order showed the new reality to the Albanian people. The territory they were living was included within the borders of newly created Kingdom of Serbs, Croats and Slovenes, called Yugoslavia. Those people were not the population of the country and had no even cultural or minority rights.

The struggle of Kosovo Albanians for their independence against Yugoslavian Serbs continued for several years. Despite the great willingness of Albanian people, there was always great obstacle from Tito regime. During the presidency of Slobodan Milosevic the right of self-administration of the formerly autonomous provinces of Kosovo and Vojvodina was abrogated. There were even talks about “demographic genocide”.

The situation changed dramatically after the Dayton Peace Accords in 1995, which gave prerogative to Bosnian Serbs by receiving a form of territorial recognition and neglecting Kosovo’s position. Albanian people frustrated with Rugova’s policy of passive resistance started more aggressive movements for the defense of their position. Despite a lot of attempts to establish a dialogue between Serbian and Albanian parts failed. Milosevic was forced under threat of NATO intervention to accept the presence of the Organization for Security and Co-operation in Europe (OSCE) Verification Mission in Kosovo.

The Second phase of negotiation was organized by the Contact Group in February 1999 at Chateau Rambouillet in France. According to this agreement, both sides were offered substantial autonomy, but not the independence, to the ethnic Albanians, Serbs was informed that in case of refusal to sign the NATO military intervention would be inevitable. On the first level the agreement was neglected from the both side and on the second round Albanian delegation

agreed. The event continued as it was promised, the NATO was forced to make good its threat. At the end 10,000 Albanians were dead and 800,000 were refugees.

On the second part of the Rambouillet conference it was supposed to discuss the general principles for solving the problem, including the status of autonomous of Kosovo, worked out by the Contact Group as well. On February 17, 2008 Kosovo made unilateral declaration of independence. The United States of America and the part of the Europe recognize the tiny state. When Yugoslavia took steps to crush the separatism movements, Western world stand against. They accused Yugoslavia state of grave violation of human rights of Kosovo's people.

This event has been one of the essential changes in recent international politics. It has been the policy of the USA to establish a new world order which may insure, expand and consolidate its dominance of the world. The reactions in world politics were mostly negative. It is natural that Serbian population reacted sharply. The Kosovo precedent was bad example for those countries as well who are fighting against separatist movements as well: Greece, Spain, Bulgaria, and Romania. In the eyes of Russia independence of Kosovo would encourage separatist movements throughout the world.

3. EUROPEAN UNION MISSION IN KOSOVO

3.1. The main EU bodies operating in Kosovo.

One of the main EU activities and cooperation in the field of conflict prevention is its mission in Kosovo. There are three main EU bodies operating in Kosovo under this aim: First and most important European Union Rule of Law Mission in Kosovo (EULEX), the office of the European Union Special Representative (EUSR) and the European Commission Liaison Office (ECLO). As in the above-mentioned missions the first one is the biggest and most serious, it will be reasonable to describe the aim it has and the reason of its existence.

“The EULEX mission is deployed in order to assist Kosovo in its progress towards reaching European standards in the areas of police, justice, customs and correctional services. The Mission will be crucial for the consolidation of rule of law in Kosovo, and furthermore, the development of rule of law and strengthening of multi-ethnic institutions will be to the benefit of all communities in Kosovo. The mission is proof of the EU's strong commitment towards the Western Balkans and it will contribute to the enhancement of stability in the whole region. “

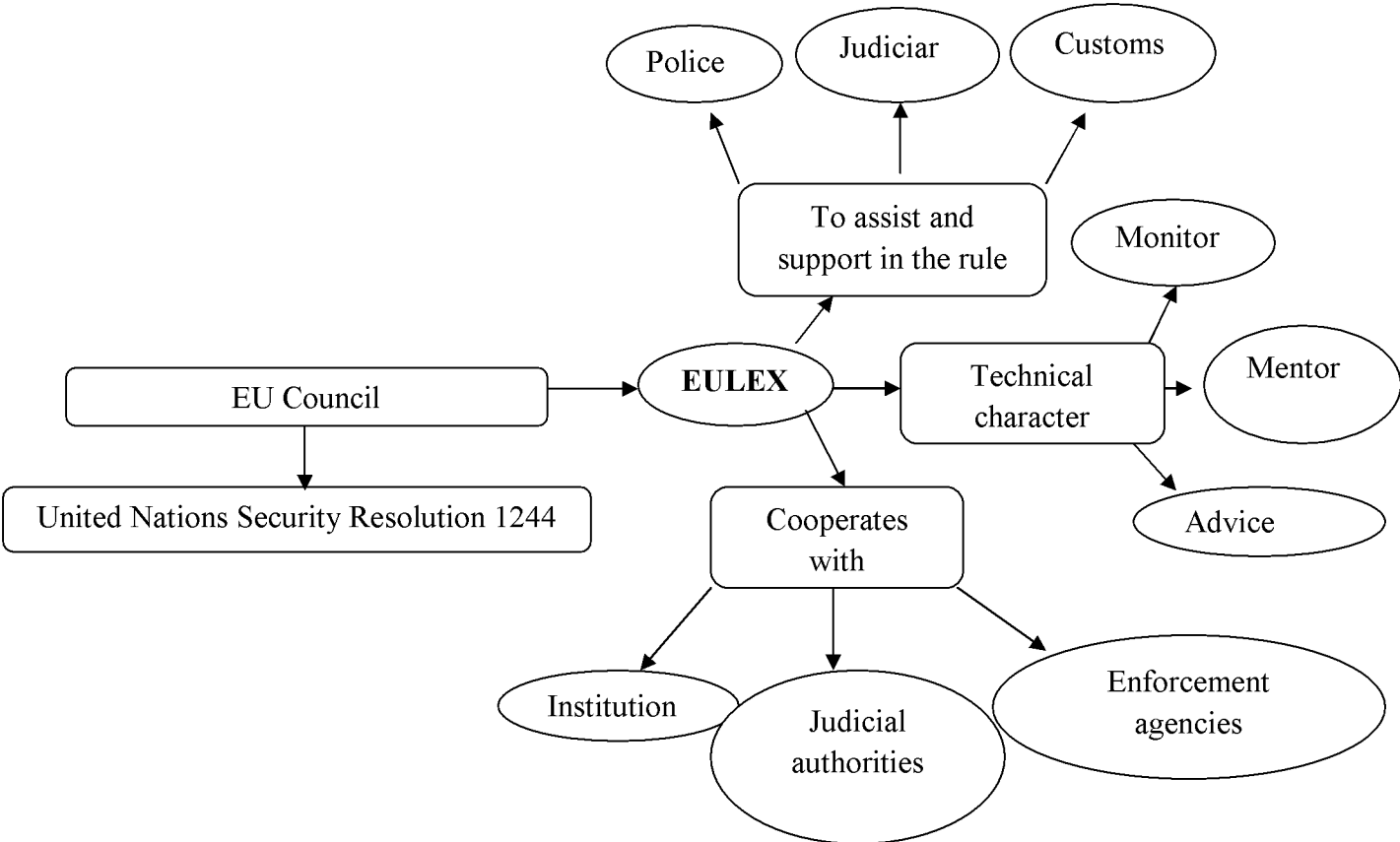
Javier Solana, 9 December 2008

The European Union Rule of Law Mission in Kosovo (EULEX) is the largest civilian mission ever launched under the Common Security and Defense Policy (CSDP). The mission reached its initial operational capability by the EU Council in early December 2008 and its full operational capability on 6 April 2009. EULEX works under the general framework of United Nations Security Resolution 1244 adopted on 10th of June 1999 and has a unified chain of command to Brussels. The head of the mission is Yves de Kermabon, currently on the mission are working 1700 international judges, prosecutors and customs officials and approximately 1100 local staff deployed Kosovo wide. Contribution states are most EU member states, Norway, Switzerland, Croatia, Turkey and the USA. Others have the permission to join.⁷⁷ The central aim is to assist and support the Kosovo authorities in the rule of law area, specifically in the police, judiciary and customs areas. This mission does not exist in order to govern or rule in Kosovo, it has a technical character which will monitor, mentor and advise whilst retaining a number of limited executive powers. The initial mandate is for two years but the Mission is foreseen to be

⁷⁷<http://www.consilium.europa.eu/showPage.aspx?id=1458&lang=en>

terminated when the Kosovo authorities have gained enough experience to guarantee that all members of society benefit from the rule of law.

EULEX cooperates with the Kosovo institutions, judicial authorities and law enforcement agencies in their progress toward sustainability and accountability. Their further aims are to develop and strengthen an independent multi-ethnic justice, policy and customs service, ensure that the above-listed institutions are independent from political interference, and are appropriate to the internationally recognized standards and European best practices. The mission is working with European Union and other international organizations to develop a comprehensive approach to the economic development and stabilizations of the region caused by the Kosovo crisis. It also includes the implementation of the Stability Pact for South Eastern Europe in order to promote democracy, economic prosperity, stability and regional cooperation.⁷⁸



Source: EULEX mandate made by author

⁷⁸ Council joint action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX Kosovo. Official Journal of the European Union 16.2.2008

In order to achieve all these plans and fulfill its mission successfully EULEX has adopted a “programmatic approach”. For the perfect implementation of its job, EULEX has to cooperate very tightly with Kosovo authorities and become one of the partners. For this partnership the program provides six overall aims:

- Help the Kosovo Rule of Law institutions to achieve progress toward **sustainability**. Meaning that an institution should have such proper legal basis, procedures and policies, resources and human skills that it can operate in the longer term. In Rule of Law institutions there are many ingredients for perfect sustainability, such as: an adequate budget, a comprehensive legal framework, detailed policies and procedures, sufficient and appropriate buildings and equipment, professional and ethical leaders, properly trained and motivated staff, and the support of the population;

- Help the Kosovo Rule of Law institutions to achieve progress toward **accountability**. Organizations have a responsibility to present accounts of all their activities and to provide comprehensive and self-consistent documentation of whatever they do for the authorities they are working for. Accountability thus refers to the requirement that officials answer to stakeholders on the disposal of their powers and duties. In democratic states, no individual or organization is above the law. Citizens voluntarily give permission to the state to use the necessary power for maintaining social control and protect their civil, political and economic freedoms through the enforcement of laws.

- Help develop the Kosovo Rule of Law institutions **as multi-ethnic organizations**. This word has the particular importance, especially when it comes to such well-known and long-term ethnical conflict as Kosovo is. In such case the government organizations should fully reflect the society they serve. It is vital that all the government institutions should provide services equally and equitably to all ethnic groups, not to make any distinction, in order not to have additional tension between people. Achieving multi-ethnic Rule of Law institutions is not simply about numbers; this representation should be reflected in all ranks and specialist functions of the organization.

- Help ensure that the Kosovo Rule of Law institutions is **free from political interference**. In the context of a modern democracy, free political interference means that the Rule of Law

institutions are seen to be politically ‘neutral’. Meaning that such institutions need to support the law and serve all citizens in a non-discriminatory way, regardless of ethnicity, religion, sex and also political affiliation, and their staff are tasked with carrying out functions in accordance with the law and free of politically motivated influence when doing so. There should be no division in the above-list criteria’s and all the citizens should be served in same manner.

- Help ensure that the Kosovo Rule of Law institutions adhere to internationally **recognized standards**. Recognized standards are such ones that seek to seize those norms and laws which are introduced by international organizations (e.g. the United Nations, European Union) that recognize and promote fundamental rights and freedoms. Many of these international norms are related directly or indirectly to the exercise of power by the customs, police and the criminal justice system. Although, the task of developing legislation in Kosovo has not fully complete internationally recognized standards. Relevant in this regard for the Kosovo Rule of Law institutions is the compliance with the European Union “acquis communautaire”.

- Help ensure that the Kosovo Rule of Law institutions adhere to **European best practices**. Such practices have progressively and to various extents been developed in the European Union, whether it is for the judiciary, for the police or for customs organizations. Based on European Union experience throughout all its existing period, practices have changed, regularly reviewed and improved. When they have been implemented in technical background or reference documents, these documents constantly contain guidelines and criteria to improve service delivery by the Rule of Law institutions.⁷⁹

In order to achieve its aims and strategic objectives EULEX has designed program activities for monitors and advisors of each Rule of Law component (Judiciary, Police, and Customs). For the purpose to guide EULEX monitors in assessing performance in quantitative or qualitative ways the certain performance measures are created for each monitoring activity. Thus the EULEX Program Office has developed a coordinating system of monitoring, across the Rule of Law sector, in three areas: defining field monitoring activities; setting performance measures or indicators; and devising questionnaires to obtain information.

⁷⁹ EULEX PROGRAMME STRATEGY . <http://www.eulex-kosovo.eu/strategy/EULEX%20Programmatic%20Approach.pdf>

Programming of monitoring activities is long-term operation which means that outputs and performance indicators after each period of six months will guide EULEX in modifying, adapting, reorienting or even redesigning program activities, also adjusting or introducing new performance indicators. Based on this process, the aim, the objectives, the activities and the expected outputs for a six month period are detailed in ‘**program implementation documents**’. After discussing and realizing the outcomes of the previous six months of activities of the Kosovo Rule of Law institutions, new ‘program implementation documents’ will be prepared, providing the action plan for the next six months. While the actual picture is taken and the stronger and weaker areas are identified, in order to achieve future progress, the measures are taken to fix those fields where the Kosovo institutions are not performing adequately or are not leading to standards.

The program is subdivided according to the three Rule of Law components: Justice, Police and Customs. In the **Justice** sector, outputs of operations are set for five subsectors (**Ministry of Justice, Kosovo Judicial Council, Judges and Prosecutors in the Criminal Field, Judges in the Civil Field, and Kosovo Correctional Service**).

As far as the Ministry of Justice (MOJ) is a fairly young institution it will need some time for the transformation and establishment of the institution into a modern and effective ministry, with full resources to respond to the complexity and importance of the legal and constitutional role of the MOJ. For this purpose the MOJ in September 2006 adopted a strategic plan. In June 2002 in order to centralize the work on forensics and missing persons the OMPF was established. Its main task is to investigate the destiny of missing persons and provide Kosovo with a forensic service which operates according to European standards. Currently Kosovo staff is not able to perform their tasks in forensics and missing persons properly without supervision. There is no local forensic anthropologist or archeologist and local forensic capacity remains an area of significant concern.

The overall aim of EULEX and Ministry of Justice (MOJ) cooperation is, as we already mentioned, the successful transformation of the MOJ to a proficiently functioning Ministry across all areas of competences, operate and function in a professional, efficient, accountable and transparent manner. As an effective institution it has to demonstrate a respect for equality and ensure access to justice for all, by strengthening its constituent institutions, by ensuring

compliance with the legal framework and ensuring the development of capacity off one's own bat.

During the first 6 months of operations the Program Office is working on Monitoring, Mentoring and Advisory activities which has the aim to collect main stock of local capabilities and establishing a baseline for further monitoring progress during later operational phases of EULEX. 5 EULEX Advisors will be appointed in the Ministry of Justice and a total of 6 EULEX Advisors for the OMPF.

The Kosovo Judicial Council (KJC) was established as an independent professional body responsible ensuring the maintenance of an impartial, integrated, independent, professional and accountable judiciary, taking into account ongoing reorganization of the Kosovo judicial system. The current Kosovo judiciary system is quite weak, famous for its lack of an efficiency and effectiveness, lack of recruitment and promotion procedure for judiciary personnel, absence of sufficient salaries as a basis for recruiting highly qualified personal and with poor working conditions in terms of adequate premises and equipment. The system is trying to meet the EU standards concerning the work quality.

The overall aim of EULEX participation with the Kosovo Judicial Council (KJC) is the same as for (MOJ), successful transformation of the KJC into a body of judicial self-government, which ensures a professional service of high quality. The KJC leading objective and main point is to move towards the sustainable progress, as an institution free from political interference in the performance of its functions which develops and maintains an efficient, effective and independent Kosovo judiciary.

Two EULEX Advisors will be appointed within the KJC. Two part-time EULEX Advisors will be assigned to the KJC; one of them will be a EULEX Judge.

EULEX Judges and Prosecutors in the criminal filed insure the creation of a legacy to the Kosovo judiciary by increasing local ownership towards a judicial system. Legacy itself considers the commitment of the Rule of Law, sustainably independent, autonomous and impartial. EULEX will ensure anonymous reporting, transparency with respect to the evaluation and sources of information and quality indicators for the judiciary. The main aim of this project

is to achieve the highest level of sustainability and accountability of the performance of the Kosovo Judiciary as a multi-ethnic, impartial, depoliticized Judiciary.

A total of 17 EULEX Judges at District Court level will be deployed throughout Kosovo in the respective District Court regions. At the Supreme Court level three EULEX Judges are working. A total of 11 EULEX Prosecutors at District Court are appointed throughout Kosovo in the respective District Court regions. One EULEX Prosecutor is to the Office of the State Prosecutor of Kosovo and five EULEX Prosecutors - to the Kosovo Special Prosecutor Office.

Civil proceedings in Kosovo have a set of problems, especially in the property related field. The most important ones has to be underlined: falsified documents to certify fraudulent transactions, the question on how to deal with displaced persons, the lack of formal records to prove transactions in the past and not to mention the political dimension of such property claims which impacts the judicial proceedings. Property claims filed against KFOR, UNMIK, local authorities and private persons are an additional dimension of problems. The aim, as in all other cases, is to achieve considerable progress towards sustainably ensuring the objective and effective adjudication and execution of property related cases and thereby ensuring the reduction of the judicial property backlogs. A total of 10 EULEX Judges at District Court level will be deployed throughout Kosovo in the respective District Court regions.

Talking about the Correctional Service we should mention that the prison population has steadily increased for the last five years in the Region. If the situation is going to continue in the same way a subsequent need of additional prison capacity is expected in the long run as a result of extended and more efficient policing and court activity. At the moment, the prison administration does not face a problem of serious overcrowding, but it lacks the maneuvering room of a bigger detention centre in Pristina and an adequate housing for Serb sentenced prisoners, to allocate detainees according to the respective court competency for their trial. Because of such problem they have to be transported regularly to other detention centers or even Dubrava, which increases the number of escorts considerably, which can be the additional service problem for the government.

That's why the Kosovo Correctional Service exists, which aim is to have sustainably progressed, stable and safe confinement system, which is capable of fulfilling its basic functions such as

effective confinement, security and contribution to social rehabilitation with respect for prisoners' rights and the principles of sound management in line with international standards and international human rights standards. Thus, the participation of the EULEX in this project will encourage the strengthening of overall security and stability as well as the rule of law in Kosovo and reinforce the efforts to struggle against impunity made by the police and the courts.

A total number of 55 EULEX Experts will be appointed to the various units of the Kosovo Correctional Service such as in the Kosovo Correctional Service Headquarter, Dubrava prison, Prisoner Escort Lipjan and Dubrava.

The outputs for the **Police** component are structured according to 4 departments (**Operations, Border, Crime, and Administration**)

The Kosovo Police (KP) organizational structure is divided into four command 'pillars', one of which is Operations.⁸⁰ As with the other pillars, Operations is managed and directed from KP Headquarters, Pristina. Its structure and organization is highly centralized model adopted by the KPS. Operational policing is geographically structured into six regional commands across Kosovo: Pristina, Gjilan, Ferizaj, Prizren, Mitrovica, and Peja. Despite the fact that the KP command structure is highly centralized, the applicable law makes the KP more responsive and accountable to local communities in Kosovo's ethnically divided society. The applicable law includes measures to increase the ways in which local communities can influence operational policing. Although much progress has been made in implementing these provisions, it still needs time to put more effort in it and to improve a project that will require EULEX support. In nowadays situation is essential for KP to win the support of Serbian communities by demonstrating multi-ethnicity, both within its ranks and in its style of policing. In addition to the six regional commands, the Operations Pillar also includes a range of central support functions, divided into five sub-units: the Directorate of Traffic, the Department of Specialized Unit, Directorate of Planning and Development, KP Information System and Community Policing Department. The main objective of this project is to assist the KP Operations Pillar in its progress towards sustainability and accountability and in further developing and strengthening an

⁸⁰ As indicated in the KP Administration Functions PID, the former Administration Pillar is now divided into two separate Pillars: namely, Personnel & Training and Support Services.

independent multi-ethnic Police Service, ensuring that the institution is free from political interference and adhering to internationally recognized standards and European best practices.

A total of 170 EULEX International Police Officers (IPOs) will be deployed in support of the Mission objectives within KP Operations Department. These officers will be appointed in the following areas: KP Headquarters; Regional Headquarters; Station level and mobile units. The following list provides details of the functional titles, job descriptions, locations and numbers of EULEX staff.

Another structural division of the KP is Border. Border like Operation is managed and directed from a Department located in KP Headquarters, Pristina. In order to facilitate the command and control of its regional staff, KP Border has three Regional Headquarters: (1) Kacanik (East Region); Djakova (West Region); and Lushane (North Region). The aim of this project is the same as well as above-mentioned project aiming to reach sustainability and accountability and in further developing and strengthening an independent multi-ethnic Border Police Service, ensuring that the institution is free from political interference and adhering to internationally recognized standards and European best practices.

EULEX staff will be exercised in the following spheres: KP Border Headquarters, Regional Headquarters. EULEX officers should act in full compliance with the applicable laws and regulations of the Republic of Kosovo. They will provide monitoring, mentoring and advisory activities within KP Border.

A total of 113 EULEX International Police officers (IPOs) will be deployed in support of the Mission objectives within KP Border in following areas: KP Headquarters; Regional Headquarters; mobile border patrol units; Pristina Airport;.

The command pillar of KP organizational structure is Crime. As with the other pillars, Crime is managed and directed from KP Headquarters, Pristina. It is also critical area of strengthening from the functional and potential character, in terms of the overall aims and objectives of the EULEX Mission mandate. From the structural and organizational point of view its highly centralized model. The Pillar is divided into four sub-units: the Directorate of Major Crime, the Directorate of Crime Analysis, the Directorate of Organized Crime, the Directorate of Forensics,

the Counter-Terrorism Unit and the Unit for Policies and Procedures. The cooperation aim is the same as in the case of other Pillar. To achieve sustainability, accountability, also to develop and strengthen an independent multi-ethnic Police Service, ensuring that the institution is free from political interference and adhering to internationally recognized standards and European best practices.

EULEX staff will provide monitoring, mentoring and advice to all areas of KP Crime, at both Headquarters and Regional levels. This means that the relevant EULEX officers should know all the detailed information and accurate knowledge of the applicable law of Kosovo that are relevant to this police duties, responsibilities and powers. Also the detailed knowledge of those parts of the Procedure Code that apply to the role of the police in support of public prosecutors in the investigation of criminal offences, as well as the applicable law of how use the force by police officers. The discussing issue is related to crime investigation, criminal intelligence, and related fields, that's why the EULEX staff must have an equally knowledge of the KP Policy and Procedure Manual. The 120 EULEX International Police officers are working in support of the Mission objectives within KP Crime Pillar.

The last division of the KP organizational structure is Administration. In November 2007 the functions of the Pillar was divided under the Personnel, Training and the Support Services Pillars. As with the other sectors, these administrative functions are managed and directed from KP Headquarters, Pristina. A range of personnel, administrative and support services are clustered under the two Pillars. The Personnel and Training Pillar provides overall management of resources, policies and procedures, budget allocation, strategic planning and quality assurance in respect of all training provision for KP employees – civilian and police. The Support Services Pillar, in terms of fiscal responsibility stands at the hub of the KP organization. The Department has six functional sub-units: the Directorate of Budget and Finance, the Directorate of Procurement, the Directorate of IT/Communications, the Directorate of Logistics, Directorate of Laboratory (Forensic Laboratory), and Directorate of Facilities Management. Directorate of Budget and Finance has responsibility for the management of all aspects of KP budget and finance. In 2007 the total KP allocated budget was EURO 56.5 million. The Directorate is subdivided into six main functions: budget office, payments, accountancy, buildings and asset management, petty cash office and the office for incomes from accidents. Despite the fact that the KP has successfully developed a team of civilian, rather than police, experts in financial

management, there are immanent risks and problems associated with the relative inexperience of the staff. Strategic planning is one of the problematic areas in an organization that operates in an uncertain economic environment and is in need of better pay and conditions and infrastructure and IT/Comms development. The overall aim of the project in EULEX Mission Statement is practically the same as in previous three cases.

The relevant EULEX officers should have a detailed and accurate knowledge of the applicable laws and regulations that relate to budget, finance and procurement. Others must have an equally detailed knowledge of the KP Policy and Procedure Manual, as it relates to personnel matters, selection and promotion systems, ethnic and gender diversity, and training systems. Those staff deployed with the Professional Standards Directorate will, likewise, need a detailed knowledge of the newly implemented legislation on complaints against KP employees.

A total of 25 EULEX International Police officers (IPOs) will be deployed in support of the Mission objectives within KP Personnel and Training Pillar and Support Services Pillar. These officers will be deployed in the following areas: KP Headquarters and Regional Headquarters.

The outputs for the Custom are set for the component as a whole. UNMIK Customs Service established in 1999 and gradually developed into a modern service. The main priorities of the Customs Service are to collect and protect revenue for the Kosovo budget, facilitate legitimate trade through establishing customs procedures, adopt modern customs practices and techniques; and protect society and legitimate trade from effects of smuggling and fraud. The most important for the institution in future is to support the development, organization and powers of a transparent customs administration, which has the authority to take decisions on customs administrative matters, and to provide effective powers for customs officers to administer and enforce legislation. Management needs to be accountable and responsible, while the Service needs to be free of any political interference, as well as in any operational issue. Customs Service will also have to maintain international standards of operation, while developing in line with the European perspective of the Western Balkans region and the European Partnership Action Plan of the Kosovo Government. Most activities of the EULEX Customs Component, during the first months of operations, are directed towards “taking stock” of local capabilities and establish a “baseline” for further monitoring of progress during later operational phases of

EULEX. A total of 27 international EULEX officers will be deployed within the Kosovo Customs.⁸¹

The second important missions of EU in Kosovo, the Office of the European Union Special Representative (EUSR) was set up by a Council Joint Action on 4th February, 2008. The Head of Office is Pieter Feith. The mission offers advice and support to the Government of Kosovo in the political process towards European integration; provides overall coordination for the EU presences in Kosovo; and contributes to the development and consolidation of respect for human rights and fundamental freedoms in Kosovo.

The European Commission Liaisons Office has been operating in Kosovo since 2004. It helps drive through reforms through regular policy and technical dialogue. The Head of the Office is Renzo Daviddi. The mission provides significant project funding to strengthen institutions, develop the economy and realize European standards; supports the Stabilization and Association process.⁸²

3. 2. The Concept of Security Sector Reform considering by European Union

The EU approach to SSR became more natural and essential after the publication of the European Security Strategy in 2003. In 2005 the Council outlined that although the EU had no exact framework to work in the field of SSR, it had a unique set of tools that could promote it to become a more effective actor. For the purpose of more effective cooperation, the EU expect further requests for assistance from third countries and other international organizations and greater Union involvement in SSR would be welcomed by the international community.⁸³

In accordance with the PSC tasking of 19 July 2005, the Council General Secretariat, in close consultation with the Commission, has drafted the attached EU Concept for ESDP Support to SSR. The Commission intends to present in due course a draft Community concept on SSR⁸⁴ and the EU developed it as a policy framework in 2006. After that date the European institutions

⁸¹ EULEX Program Strategy. <http://www.eulex-osovo.eu/strategy/EULEX%20Programmatic%20Approach.pdf>

⁸² <http://www.eulex-kosovo.eu/?id=7> 9.05.2010

⁸³ 'Initial Elements for an EU Security Sector Reform (SSR) Concept.' Doc. 11241/05.

⁸⁴ Council of European Union . Brussels, 13 October 2005. 12566/4/05 REV 4

http://www.eplo.org/documents/SSR_ESDP.pdf 9.05.2010

were actively engaged in the concept and knew all the conditions for its implementation, including the labor division and bases for cooperation between the Council and Commission. For the Council, the most essential area for proceeding is effectiveness in the field of Common Foreign and Security Policy (CFSP), and European Security and Defense Policy in the sphere of civilian and military crisis management. As for the Commission the SSR related policy areas are several: Enlargement, Stabilization and Association Process, European Neighborhood Policy, Development Cooperation, Conflict Prevention and Crisis Management, Democracy and Human Rights as well as the External Dimension of Justice, Freedom and Security. At the same time, the Council and the Commission documents involve several recommendations with the purpose to strengthen the EU's personnel and planning capacity for SSR and increase its cooperation with the EU's international partners.

The first opened interest, concerning the Western-Balkans countries in security-related issues from the EU side was shown at the conference in Vienna in February 2006.⁸⁵ These included as the capacity of security forces to work in individual countries, also the civil authorities' responsibilities for managing them, the ability of these actors to work together effectively, the practicability of judicial and legal institutions and the role of civil society actors in the security sector.

The attention was also paid to defining how the ESDP can contribute to supporting SSR.⁸⁶ The main advantage of the ESDP in this field is its ability of crisis-management and efficiency in civilian and military spheres and its focus on conflict prevention. With help of ESDP, the EU is able to bring together a wide range of instruments, allowing it to take a holistic approach in supporting SSR across the whole range of activities. The main objective of the organization to be involved in this sector and be one of the donor, was to make the local ownership as an ultimate goal for the security sector; to focus, a holistic approach which addresses the wider security and governance issues of the people, on human security, long-term institution building and good governance; to have a coordinated approach between all state, regional and

⁸⁵ EU Presidency conference on Security Sector Reform in the Western Balkans Conference held at the Vienna Hilton StadtPark Vienna, 13-14 February 2006 http://www.bmlv.gv.at/pdf_pool/publikationen/19_iss_report_2006.pdf 10.05.2010 .

⁸⁶ 'EU concept for ESDP support to Security Sector Reform (SSR)'. Doc. 12566/4/05.

international actors in order to avoid duplication, ensure complementarity and measure progress against predefined and agreed benchmarks.

A number of actions taken by the EU and other international organizations in the Western Balkans in recent years have been directed towards building stability in the region. Emerging from a period of prolonged conflict, most Western Balkan countries provided both productive ground for initial SSR/SSG⁸⁷ responses in a peacekeeping/peace-building framework and countless challenges for international actors in the region.

Since the disintegration of the former Federal Republic of Yugoslavia in the 1990s, the EU and NATO have been intensively engaged with the transition of the six successor countries (Slovenia, Croatia, Bosnia-Herzegovina, Montenegro and the Former Yugoslav Republic of Macedonia, Serbia, including a particular focus on Kosovo) under United Nations Security Council Resolution 1244 established in 1999. All Balkan states benefited from EU and NATO support for SSR. The EU and NATO were practically supporting the defense sector and the rule of law on the grounds. At the same time the organizations were stabilizing the area and ensuring a safe and secure environment. They supported reorganization and creation of defense and security structure, as an essential and crucial component of a functional independent state. Concerning the Kosovo case NATO plays to support the setting up of the Kosovo Security Force (KSF) and its civilian control. Regarding the EU, it operates to support the police, judiciary, administration, border security and penitentiary in Kosovo.

Comparing to other Balkan States, the situation is extremely critical in this province. In the province where the unresolved legal status created not only the massive vacuum in the whole security sector, but led to the Kosovo's total dependence on the international community. The United Nations Mission in Kosovo (UNMIK), the part of the EU's role in Kosovo – the EU Pillar- is mainly concentrated in the economic reforms, with the aim to create an efficient and competitive market economy. The hardest situation in Kosovo was the necessity for creating of security sector rather than its mere reform.

UNMIK the mission implemented by the UN involves itself four pillars, the UN, EU OSCE and NATO. Its main aim in Kosovo's security has to build an impartial multiethnic police force that

⁸⁷ Security Sector Governance and Reform DCAF background 05/2009.

would have operate successfully *vis-à-vis* the population. Despite ethnic and religious differences and great mistrust between the various communities, this goal has been achieved to a large extent by creating the Kosovo Policy Service (KPS). The mission has made a significant progress in several sectors, particularly in building a police force and in reforming the legal and judiciary systems. Another success had been made in the sphere of civil protection in Kosovo. With creating the Kosovo Protection Corps in 1999, UNMIK tried to demilitarize and transform the Kosovo Liberation Army (KLA). KPS tend to reflect the current situation in Kosovo and it can be also mentioned that it was simply another branch of UNMIK.

The UN had implemented in Kosovo, SSR related other activities as well, such as the judicial system and armaments and armed forces control. Talking about the judicial sector, it should be mentioned that the creation of a local judiciary supported by international judges and the initiative for the training of new judges and prosecutors are in progress. Cases related to ethnic strife or war crimes are allocated to panels of judges. With regard to arms control, one of the biggest challenges should be stressed the existence of weapons in virtually every household.

With the help of activities initiated by the international presence and the greater involvement of local government and society, SSR became more advanced and developed concept compared to the past examples. SSR is now one of the key conditions for the Balkan countries to begin EU accession negotiations, with conflict prevention, border management, police reform (especially in BiH) and reform of intelligence services (especially in Serbia) the over-riding priorities.⁸⁸

The triple EU mission in Kosovo such as EULEX, International Civilian Office (ICO) and European Commission Liaisons Office, which we have already mentioned, is representing a holistic and comprehensive package of SSR. In addition to the specific challenges to SSR in Kosovo such as rule of law and ‘hard’ security sector, the EU have to deal carefully with Kosovo’s politico-cultural legacy and the sensitive post independence context. The useful recommendations developed by Eric Scheye, an independent consultant in justice and security sector development and conflict management,⁸⁹ about the UNMIK SSR assessment, have to involve within the strategic planning of EULEX and ICO. One such recommendation - the

⁸⁸ Security Sector Governance in the Western Balkans: Self-Assessment Studies on Defence, Intelligence, Police and Border Management Reform by Anja H. Ebnöther Philipp H. Fluri Predrag Jurekovic. Vienna and Geneva, 2007 pp 28-40

⁸⁹ http://www.csrns-nps.org/logistica/public/staff_faculty/scheye.htm 2.05.2010

principle of local ownership of reform processes - is the fundamental concept for any EU SSR mission. The EULEX as we already discussed indicates that the EU is determined to support, monitor, mentor and advise the locals and their ownership of SSR implementation. Incentives should be encouraged to strengthen confidence-building in the population during the reform processes. This was a challenge which EULEX and ICO had integrated within their mandates in parallel with promotion of civil society dialogue, oversight mechanisms and local ownership.

Before the clarification of the future role in Kosovo up to the end of the transition period and the declaration of its independence, some assumptions were made regarding the evolution of the situation in the Northern region of Kosovo. The first thing was that the UN mission could be engaged in coping with the sensitive situation in the Mitrovica region and in ensuring the security situation. UNMIK could also be involved in dialogue with the Serbian community, who at that time were reluctant to engage in dialogue with the EU. The situation was quite difficult, according to a recent survey carried out by Safer World and Forum for Civic Initiatives,⁹⁰ lack of clarification over the division of labor in creating a new state should be a manipulator of the conflict. That was one of the undermining factors for strengthening Kosovar institutions on local and international level. The creation of a clear distinction between the new EU mandates and UNMIK's responsibilities had a paramount importance. EULEX and ICO, with their ownership character should be at the heart of such a campaign. Civil society in general is encouraging EU representatives to lead information campaigns throughout Kosovo. The messages delivered from the EU should be fully supported and approved by the local authorities. This will in turn assist in legitimizing and giving greater credibility to the EULEX and ICO missions as already, the EU enjoys a "very good image and has an overwhelming support from the majority of Kosovars".⁹¹

In the wake of Kosovo's independence, the challenge to maintain communities was even more important, especially in renewing the links with the Serbian community living in the North, mainly in Mitrovica, where the situation was more tense compare to other regions. The outreach, dialogue and relation building, between EU, ICO and local Serbian community had to be as successful as it was in case of Kosovars. Such conditions was essential to remove tension create greater cooperation between the EU and international organizations on the ground. Nowadays EU is having quite a diplomatic cooperation with the Republic of Serbia, is doing its

⁹⁰ 'Kosovo at the crossroads: Perceptions of conflict, access to justice and opportunities for peace in Kosovo', Saferworld

⁹¹ Mia Marzouk, Team Leader, South-East and Eastern Europe, Saferworld. Interviewed 8 May 2008.

best to reinforce dialogue between Serbs and Kosovars through Belgrad. The recent signature between the EU and Serbia of the Stabilization and Association Process is illustrative of this.

The main challenges regarding the implementation of the EU-led presence on SSR – EULEX and ICO missions - is mainly in ‘hard security’ sector reform (under ICO, EULEX and International Military Presence (IMP) responsibility) and on justice/police customs (under EULEX responsibility). SSR implementation for security forces and intelligence services falls under the mandate of ICO, as ICO is primarily responsible for implementation of the Ahtisaari plan. The plan was represented by the UN Special Envoy Martti Ahtisaari, considering negotiating on the future status of Kosovo. The Kosovo Constitution, the logical continuation of the Ahtisaari Plan, provides detailed information on security sector reform implementation. This was exactly that guideline which promoted to establish the four new security agencies in Kosovo, such as: the Kosovo Security Force (KSF), Kosovo Security Council (KSC), Kosovo Intelligence Agency (KIA) and Civilian Aviation Authority (CAA).⁹²

In order to ensure the coordination and cooperation across Community, external relation and legal competences of the EU institutions, the European Commission has to support Kosovars in their socio-economic and administrative reforms. The reforms can be implemented, combined with the mandate of EULEX, thus enabling sustainability of SSR between the ‘hard’ security and legal sectors. The attempts, from the side of EU institutions in approaching SSR, which definitely should be stressed, is the attention to the security and development linkage, which is one of the stipulations of the Lisbon Treaty , to ensure EU cross-pillar cooperation. The poverty reduction, human development, stable security environment for post-conflict rebuilding, are the issues which are also stressed in the European Commission (EC) progress report on Kosovo, and have the priority responsibilities for the new state. For the purpose to ensure sustainability of measures undertaken by the EU-led presence to rebuild Kosovo, the EC delegation, having a long term perspective, will oversee and support the economic, political and administrative reforms in Kosovo to fill the gaps not covered by the EULEX mission or ICO.⁹³

⁹² Kosovo Constitution, *ibid*, Chapter XI on Security Sector p 47- 50.

⁹³ The prospects for a future Kosovo: the role of Security Sector Reform Number 38, May 2008

3.3. Success toward the EU and the recent history

From 2005 the Commission is concentrated on the economic aspects of Kosovo's development, institution-building and the regional context. The Commission's Progress Reports since 2006 has confirmed that Kosovo had made a significant progress in this filed to come closer to European standards. Kosovo had its achievements towards a sustainable fiscal policy as well; in June 2009 the region became a member of the International Monetary Fund and the World Bank. In 2008 Kosovo improved its donor coordination and European approximation efforts, which finally was finished with establishment of the Agency for Coordination of Development and European Integration in the same year. Kosovo has been working on Stability Pact and its transition to the Regional Cooperation Council⁹⁴. Despite its serious achievement in economic sector, Kosovo has to improve a lot, strengthening public administration, more efficiency in social protection system and strategic approach to employment. Kosovo has been involved in numerous regional cooperation initiatives, such as Energy Treaty Community (ETC), the European Common Aviation Area Agreement (ECAA), the South-East Europe Transport Observatory (SEETO), the Central European Free Trade Area Agreement (CEFTA) and the EU Charter for Small Enterprises. Kosovo has joined the Broadband Southeast Europe Initiative (BSEE), the Electronic Southeast Europe Initiative (ESEE), and the Regional School for Public Administration (REPA), the Southeast European Cooperative Initiative (SECI), two regional environmental initiatives (RENA and ECENA) and the Investment Compact initiative.⁹⁵

The Central European Free Trade Area Agreement has not solved the export blockade problem from Kosovo to Serbia and transit trade to Bosnia and Herzegovina. From 2007 EU is ready to assist Kosovo's economic and political development through a clear European perspective of the region. Council asked the Commission to use Community instruments to promote economic and political development. In December 2008, the EU once again underlined its readiness to assist the economic and political development of Kosovo with help of a clear European perspective, in line with the European perspective of the region.

Coming out from the above-mentioned events, Kosovo has considerable progress in the field of European integration. Croatia and the Former Yugoslav Republic of Macedonia have candidate

⁹⁴ <http://www.rcc.int/index.php?action=page&id=23> 11.05.2010

⁹⁵ Communication from the Commission to the European Parliament and the Council Kosovo* - Fulfilling its European Perspective. Brussels 14/10/2009. Pp.3

status. The Region of Western Balkans is doing its best to come closer to the Europe, to be involved in the intensive cooperation process and as a result achieve its main goal, to be a part of a big European family. EU approximation still is a driving force for reform in Kosovo. In April 2008 Kosovo adopted its Plan for European Integration, and in August 2009 it already had European Partnership Action Plan.⁹⁶ During its ongoing cooperation concerning the integrations issues the Commission is paying its attention on supporting the rule of law, public administration reform, improving business environment, and infrastructure.

It is essential to underline the progress in the area of freedom of movement. A number of countries in the region have been able to benefit from visa facilitation agreements with the EU, in return for agreements on re-admission. Basically this process was the powerful incentive for the countries to carry out reforms. As a result, the Commission has proposed the relevant Council Regulation be amended to make citizens of the Former Yugoslav Republic of Macedonia, Montenegro and Serbia eligible for visa-free travel to the EU as from January 2010.⁹⁷ Citizens from Albania, Bosnia and Herzegovina could also benefit from these conditions as soon as they meet the existing requirements.

In July 2008 started to issue its own passport, and the application process for citizens has been made easier. Based on the EU legislation, most EU Member States has the right to use simple procedures, in order to issue short-stay visas to individual Kosovo residents. The Commission will regularly control Kosovo's progress in the implementation of the strategy will support the Region in the implementation process through technical and financial assistance. The Commission will give the possibility to Kosovo to take part in the judicial cooperation process at the regional level, in order to promote the rule of law and EULEX's activities as a whole.

In case of every country and its regions, social and political stability depends on sustainable economic development and strengthened social cohesion, especially when we are talking about such little and developing region as Western Balkans and in particular Kosovo. As Kosovo is in very limited range integrated in global market, economic crisis has been relatively little affected on it. However the region faces serious challenges in this area, especially in the areas of

⁹⁶ Ibid pp4

⁹⁷ Council Regulation (EC) No 539/2001.

investment, budget deficit, government revenues, domestic production, and so on. Kosovo continues to face a considerable deficit in trade in goods and services.

Kosovo has benefited a lot from the European Commission's financial assistance. In 2008 at the donors' conference for Kosovo, the Commission pledged more than € 500 million. Under the IPA program, Kosovo received € 359 million over the period 2007-2009. The current Multi-Annual Indicative Financial Framework 2010-2012 allocates another € 206 million to Kosovo.⁹⁸

Kosovo's first year of independence was relatively smooth, despite the great fear a violent incidents in the north of the country and Serbian nationalist backlash never occurred. The transition to independence has gone better than expected. The Kosovo government has demonstrated commitment to the Serb minority, by decentralizing the government and protecting Serb cultural heritage. Respectively Serbian signed the SAA (stabilization and association agreement) in July 2008 as a demonstration of its obligation to its European future. As the document was the step forward for the accession of Serbia to the European Union. The new Serbian government also introduced new officials in the governmental sector of Kosovo, who have already negotiated with their Albanian counterparts.

However, the stable situation was not maintained after a year of independence. Kosovo's teething problems are on the agenda in current situation as well. The main challenges economic, social and political issues are compounded by the fact that three parties, Pristina, Belgrade and the Serbian politicians in Kosovo are involved in it, and the international community as well, which has experienced divisions amongst its own members. Belgrade is more intensively involved in this issue and has recently won the right to appeal Kosovo's independence at the International Court of Justice, which may take up to two years. In the meantime, Belgrade's pro-Western political elite has founded an alliance, whose mainstream is the belief in the idea of political fairness and the international system.

Furthermore difficulties have been occurred in the implementation of the Ahtisaari plan. During the disorder in May 2008, when the Ukrainian UNMIK policeman was killed, was the perfect

⁹⁸ Communication from the Commission to the European Parliament and the Council Kosovo - Fulfilling its European Perspective Brussels, 14.10.2009 COM(2009) 5343 pp13

example that even peaceful protests in Kosovo have the potential to overgrow into violent incidents.

The much anticipated rule of law mission, EULEX was slow to deploy. It should be mentioned that EULEX is probably an EU success story. Although five of member states did not recognize Kosovo independence, all member states supported the mission. EULEX is successful in terms of fulfilling its mandate as well. It benefits not only from the long-term experience of international involvement in Kosovo, such as UNMIK, but also from the awareness of the different intervention strategies of recent mission such as ESDP deployments in Bosnia-Herzegovina and Afghanistan. The problem of the mission is that it holds no legitimacy with Kosovo Serbs, which are up 10-15% of country's population. Encouraged by Belgrade, don't recognize the EULEX, which was followed by the anti-EULEX protests in October 2008. From the Belgrade's point of view UNMIK based on UN Resolution should remain, as it is less involved in the actual governance of Kosovo, unlike EULEX, whose deeper involvement is treated with suspicion by Serbia. Kosovo Albanians quite accept the EULEX, as for them it is an undermining of the new country's sovereignty. In general EU has a possibility to have a well prepared and truthful mission, the question is, how much it can achieve on the ground, by taking into account the situation, that large amount of Serbian population are not ready to accept it.

Serbian attitude to the EULEX is an additional challenge facing Kosovo – the virtual apartheid that exists between its populations. Serbian citizens demand on parallel institutions for their population – hospitals, schools, workplaces. Since 2006 Kosovo Serbs have been forbidden to receive salaries from Pristina institutions and many of them still live in enclave.⁹⁹ However the existing problem is coming from above, particularly from Belgrade and Kosovo Serbian authorities- as a sign of protest over independence.

The Serbian government in Belgrade, the one which promised to look after Kosovo Serbs, is concentrating on overturning Kosovo independence. Belgrade is doing its best to prevent Kosovo Serbs integration into Kosovo institutions, they are concentrating on the idea, that as more youth will stay to study and live in Serbia, the stronger and more develop it will be as a country.

⁹⁹ European Union Institute for Security Studies. Kosovo One Year On. Jelena Obradovic. February 2009

Belgrade's attitude towards Kosovo Serbs is quite negative as well. Despite the fact that the Ahtisaar plan was offering minority Serbs rights and security, Belgrade wanted even more than keeping Kosovo a part of Serbian state, but at the same time failed to integrate Kosovo Albanians and Serbs into single functioning political and social institutions. The main interest of Belgrade toward Kosovo has been the interest for its territory and political and historic symbolism. Belgrade was never interested in Kosovo Serbs or Albanians and never demonstrated legitimate concern for the livelihood and wellbeing of citizens.

But unfortunately Kosovo appears to be a weak state, which has no possibility to support its own citizens. It is estimated that only 47 % of the working-age population is actually employed, and the country exists on these remittances coming from abroad. At the same time, 20,000 to 30, 000 young people enter the job market every year. The existing situations, leaves only one choice to Kosovo government, rely on international communities for surviving. The EULEX rule of law mission suggests that country is also no capable of governing itself. Although the above-discussed problems are essential, it should be underlined once more that independence as the overarching issue on the political agenda has displaced all other issues over the last ten to twenty years.

These should be the sign for Republic Srpska. The predictable case of independence of Kosovo, which's movements are active across the globe, has already influenced the rhetoric of would-be independent states such as Republika Srpska. Even before Kosovo became independent, the leader of RS, Milorad Dodik, explicitly stated that if the independence of Kosovo proceeded, than the Bosnian Serb entity would also have a case for independence. He was pushing this idea since then¹⁰⁰.

Kosovo's independence caused a lot of problems in the region. The Office of the High Representative in Bosnia stayed opened, although it had to be closed in the mid of 2008, followed by the high tensions coming from the Dodik's threats of an independence referendum. Balkans is not afraid of the next "explosion" once again, and the new leaders in Serbia have certainly much more pragmatism, than their predecessors. Despite the fact that Serbia was

¹⁰⁰ European Union Institute for Security Studies. Kosovo One Year On. Jelena Obradovic. February 2009
http://www.iss.europa.eu/uploads/media/Kosovo_one_year_on.pdf 10.05.2010

categorically against of Kosovo's independence, and from their point of view it was illegal, current government took some steps forward towards its recognition in 2009 in order to secure European Union membership.

The challenges that Kosovo had before its independence would not be solved immediately, after its recognition. The biggest problems territorial claims and two large antagonistic communities are still on the agenda. Now the international mediation has double importance to control and balance the current situation. Kosovo and Serbia must learn to handle problems of diversity and territorial claims with maturity, addressing the needs of the Kosovo citizens, and accommodating communities in the region rather than antagonizing them and worsening existing problems.¹⁰¹

¹⁰¹ European Union Institute for Security Studies. Kosovo One Year On. Jelena Obradovic. February 2009
http://www.iss.europa.eu/uploads/media/Kosovo_one_year_on.pdf 10.05.2010

SUMMARY AND CONCLUSIONS

Summary

To summarize how the EU is implementing its mission in Kosovo, under the Security Sector Reform, it is important to analyze in details how the EU is executing its various policies in according to the SSR's main objectives and criteria's.

The best example of the partnership implementation, between the EU and Kosovo, are the overall accepted and recognized missions, such as: European Union Rule of Law Mission in Kosovo (EULEX), the office of the European Union Special Representative (EUSR) and the European Commission Liaison Office (ECLO), they are already for several years working on the conflict resolution issue in Kosovo Region. And the EU Security and Defense Policy, which is also the coordination tool between state, regional and international actors.

EULEX is building-up the state's law institutions within its tight cooperation, for their progress toward sustainability and accountability. It assists the institutions to maintain the long-term operational status, by obtaining proper legal basis, procedures and policies, resources and human skills. The mission observes organizations to present accounts of all their activities and to provide all the documentation of whatever they do for the authorities they are working for. It helps different bodies to be developed as a multi-ethnic organization. This attempt can be named as one of the most difficult task for achieving, in case of such ethnic conflict as Kosovo is. In order to rectify the situation all ranks and specialist of the organization should operate in the highest level of accuracy. EULEX ensures that the internationally recognized standards were taken into account. Many of these norms are related to the exercise of power by the customs, police and the criminal justice system. But in this regard, still a lot of problems exist in Kosovo especially in fulfillment of the European Union "acquis communautaire". The mandate of the European Commission Liaisons Office is also to strengthen those institutions, which are operating in different sectors, in order to support the process of stabilization and association. The institution building is one of the main aims of the EU Security and Defense policy as well.

EU Security and Defense Policy's biggest support to SSR is its ability of crisis-management and efficiency in civilian and military spheres and its focus on conflict prevention. The one of the most essential area for proceeding is military crisis management. With help of ESDP, the EU is able to bring together a wide range of instruments, allowing it to take a holistic approach in

supporting SSR across the whole range of activities. Including all those components that are essential for the concept to provide security within the state in an effective and efficient manner. Another example of the reduction of military operations and activities is the initiative of development community, to reduce excessive military expenditure, in order to embrace SSR concept. As in other policies, the European Union, tried to lead the overall recognized concept, in this regard as well. The most western Balkan countries, by the initiative of the EU and other international organizations provided productive ground for initial SSR responses in a peacekeeping or peace-building framework and countless challenges for international actors in the region.

Analyzing the following mile-stone of the SSR – de-politicization – implemented by the EU, we should go back to the European Union Rule of Law Mission in Kosovo. Assuming that, one of the main goal of the mission, is to keep the institutions free from political interference. They should be politically neutral, meaning that such bodies should serve all the citizens regardless their political view, and their staff should operate without politically motivated influence.

EULEX is doing its best to strengthen the rule of law of Kosovo. The significant efforts are done, in already mentioned institutions. The special program, which is renewed each six month, works specifically in the three Rule of Law sectors: Justice, Police and Customs. The mission is responsible that in all the Kosovo judiciary areas everything was implemented with the great accuracy of the rule of law.

In regard to the partnership with local actors the well-know three missions should be stressed: European Union Rule of Law Mission in Kosovo (EULEX), the office of the European Union Special Representative (EUSR) and the European Commission Liaison Office (ECLO). All of them are working for the progress and development of the internal policy of Kosovo. But the spheres of operation are different, law and judiciary, economy and sustainable development and the EU integration issues. The EULEX mandate supports, monitors, mentors and advises the locals and their ownership to implement SSR criteria's and objectives. More attention should be pay to the encouragement and motivation of the population to strengthen their confidence-building, during the reform processes. This was a challenge which EULEX and ICO had integrated within their mandates in parallel with promotion of civil society dialogue, oversight mechanisms and local ownership. The outreach, dialogue and relation building, between EU, ICO and local Serbian community had to be as successful as it was in case of Kosovars.

Nowadays EU is having quite a diplomatic cooperation with the Republic of Serbia, is doing its best to reinforce dialogue between Serbs and Kosovars through Belgrad.

The EULEX mission is working with European Union and other international organizations to expand a comprehensive approach to the economic development and stabilizations of the region, caused by the Kosovo crisis. With the implementation of the Stability Pact for South Eastern Europe the international commonwealth promotes democracy, economic prosperity, stability and regional cooperation. A number of actions are taken; in recent years, by the EU and other international organizations, to encourage the stability building in Western Balkans.

The part of the EU role and its Pillars, are concentrated on the economic reforms, to create efficient and competitive market. In order to ensure the coordination and cooperation across Community, external relation and legal competences of the EU institutions, the European Commission has to support Kosovars in their socio-economic and administrative reforms. The reforms can be implemented, combined with the mandate of EULEX, thus enabling sustainability of SSR between the 'hard' security and legal sectors. The poverty reduction, human development, stable security environment for post-conflict rebuilding, are the issues which stressed in the European Commission (EC) progress report on Kosovo, and have the priority responsibilities for the new state.

Since 2006 Kosovo came quite close to European standards, it has great achievements towards the field of sustainable fiscal policy. The region became a member of several serious economic international organizations and participant a number of international agreements. The country has been involved in numerous regional cooperation initiatives as well. The great achievements should be mentioned in the policy of European integration, progress was made in the area of freedom of movement as well.

Despite the above-listed approaches, still a lot of problems exist. The stability of every region and country is depended on the sustainable economic development and strengthened social cohesion, especially in case of such little and developing region as the Western Balkan and in particular the Kosovo is. The region has serious problems in the areas of investment, budget deficit, government revenues, domestic production, and continues to face a considerable deficit in trade, goods and services.

Kosovo's economy has a large informal sector, and its economic governance, regulatory framework and business environment remain areas of concern. Its businesses lack export capacity. The Region needs to improve the coverage and efficiency of its social protection system and move towards a more strategic approach to employment. Public administration continues to be weak; the participation in regional fora has become increasingly difficult.

Conclusion

Based on study, down following conclusions can be made:

1. The EU's Security and Defense Policy brought together a wide range of instruments, allowing them to take a holistic approach in supporting SSR across the whole range of activities, in the areas of crisis-management and efficiency in civilian and military spheres and its focus on conflict prevention. With the respect of the reduction of the military operations and activities, the initiative of development community, is important approach as well.
2. The three main missions (EULEX), (EUSR), and (ECLO) are the best examples of the partnership implementation, between the EU and Kosovo, in accordance to the Security Sector Reform.
3. SSR's one of the main objectives to build-up the local institutions of the state, has a great progress, with the respect of such missions as EULEX and ECLO and the EU Security and Defense policy. Some problems exist in the realm of multi-ethnic cooperation within the local bodies.
4. The intensive cooperation between the international missions and Kosovo is a good example of, how the EU is taking into consideration the SSR's one of the main criteria's, namely the close partnership with local actors. The EULEX indicates that the EU is determined to support, monitor, mentor and advise the local institutions and keep them free from the political interference.
5. With the respect of the EULEX, the judicial and law sector in Kosovo has improved, especially in the sectors of Justice, Police and Customs.

6. Kosovo has considerable progress in the field of European integration. EU approximation still is a driving force for the Region. During its ongoing cooperation concerning the integrations issues the Commission is paying its attention on supporting the rule of law, public administration reform, improving business environment, and infrastructure.

7. The problem exists in population's encouragement and motivation, for self-confidence, during the reform processes, in parallel with promotion of civil society dialogue, oversight mechanisms and local ownership.

8. Economic sector is one of the problematic issues, in the EU mission in Kosovo under Security Sector Reform. Still serious policies have to be conducted to reach the level of the strong and sustainable economy of the country.

9. According to the Security Sector Reform, a non-discrimination and equality, is one of the most sensitive issues in case of Kosovo. The improvement of the protection of Serb and other minorities and enhancing dialogue and reconciliation between the communities is essential.

10. The Security Sector Reform is already used but not fully implemented concept under the EU mission in Kosovo. Still a lot of efforts are left for the Region to achieve the final progress in order to be a developed, democratic country, disserving the membership of European Union.

My hypothesis, the Security Sector Reform is already used, but not fully implemented concept under the EU mission in Kosovo, has been fully approved.

Suggestions

The local government should more precisely inform its society about the current reforms, implemented by the international organizations. The dialogue between the international commonwealth and civil sector should be improved by intensive involvement of the society in ongoing processes. Accordingly the cooperation process will recover and the achieved result will be productive.

For strong and sustainable economical development, the government should increase its budget by resolving the problem of unemployment, the economical sector should work more intensively, the cooperation between internal and external markets should be promoted, in order to increase the level of import and export in the country. Whole public sector and business

environment should be strengthened and improved and a sustainable macro-economic and fiscal policy has to be established.

Regional cooperation should be one of the pragmatic and constructive approaches. The minorities will be they Serbians or Albanians, leaving in the different regions of the Balkan States, should be treated equally and involved in the external processes, despite their religious, political, ideological views and ethnical origins. With this respect the process of dialogue should be intensively enhanced.

Coming out from these conclusions we can state that Kosovo is still a very fragile society, moving away from the conflict of 1999, but still with very strong inter-ethnic hatred. Security sector reform is well on the way, but not fully implemented concept. But the international or non-governmental organizations alone, even under the existing reform, are not able to resolve the problem or prevent the conflict fully. The mission of such institutions is to regulate the situation, simplify the already existed difficult conditions, by leading the main objectives and clusters of the SSR concept, and intensive cooperation between international organization and the local government itself. Therefore to achieve a fetal result of the collaboration, the external policy should reach its excellence by proper functioning of the government and local institutions.

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The research and drafting of the Master thesis „EU Mission in Kosovo under Security Sector Reform” was carried out at the Faculty of Economics and Management

I confirm that the Master thesis was written by myself and contains explicit references to all the information sources. The electronic version of the Master thesis corresponds to the printed copy.

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Master thesis is submitted for the European Studies Mater’s Programme: _____

Secretary: _____ /Kate Nītiņa /

Master thesis was defended at the Examination Committee

_____ / prot. No. ____, grade_____

Committee’s secretary: _____