

The EU's Test in Kosovo

Yesterday's fierce arguments about Kosovo cast (Albanian) adherents of self-determination against (Serb) champions of sovereign rights. Today's more pragmatic feuds, half a year after Kosovo declared and began practicing "supervised independence," pit optimists against pessimists.

Without quite calling the exercise a slam dunk, European optimists claim that size, commitment, and geography all work in favor of the European Union's most ambitious foreign policy venture to date: building capacity in rule of law and the mentality to go with it in a land that has traditionally sought justice through personal connections. A senior German diplomat commented that "[w]e are doing so much for Kosovo in troops, money, and [the] EULEX [EU Rule of Law Mission in Kosovo]," referring to the 16,500 NATO-led peacekeepers, the €2 billion the EU has poured into this land of 2.4 million people, and the offer of future EU membership. He added, "Kosovars know they are dependent on us. They know they have to reform."¹

Pessimists, on the contrary, contend that Kosovo's history, nonexistent infrastructure, and organized crime all render the EU's rule of law enterprise a mission impossible. Veteran Balkan journalist Misha Glenny glumly concluded, "The EU will now be lumbered with responsibility for a chronically dysfunctional state for many years to come."²

History's judgment between these opposing convictions will, of course, decide the fate of Kosovo and the surrounding Balkans. It will also show, however, whether a common EU and transatlantic foreign policy is possible in the diffuse post-Cold War world, whether the West can ever succeed at would-be benign intervention in failed or failing states and in the experimental postcon-

Elizabeth Pond is a Berlin-based journalist and author of *Endgame in the Balkans: Regime Change, European Style* (Brookings Press, 2006). She may be reached at elizabeth.pond@yahoo.com.

© 2008 by The Center for Strategic and International Studies and the Massachusetts Institute of Technology
The Washington Quarterly • 31:4 pp. 97–112.

flict executive policing and institution building that this entails, and whether Europe can thwart organized crime in its own backyard.

What is already clear is that the EU is pioneering uncharted territory. It is not actually governing this Wales-sized land, as the UN Mission in Kosovo (UNMIK) did for the past nine years, with increasing disillusionment all around; nor is it simply providing external financial and technical assistance, as the Europeans have done for decades in the developing world. The EU's 200–300 personnel in the International Civilian Office (ICO) in Pristina are far too few to run a country, even if the ICO's head and double-hatted EU special representative, Pieter Feith, holds ultimate authority to annul any violations by the new Pristina government of guaranteed rights for Kosovo's 10 percent non-Albanian population. Yet, the 2,000-odd international members of the EULEX team will soon be working inside the offices of the Kosovar police, prosecutors, and judges whom they are mentoring in a hands-on way that UNMIK never attempted.

The prospects are iffy, but at least they look better this fall than they did last spring, primarily because of a *deus ex machina* out of Belgrade. The coalition government that emerged months after the May 11 Serbian election was not an ultranationalist one after all, but a pro-European one. Spectacularly, the new government has already arrested Radovan Karadzic, the Bosnian Serb political leader indicted for genocide at the 1995 Srebrenica massacre, after he had evaded capture for more than a decade. Less obviously, the Serbian government is treating Kosovo pragmatically and according Pristina and the EU mission urgently needed peace and quiet.

Nurturing Independence

In the shorthand favored by European media, it was a bossy Washington that dictated the EU's support for Kosovar independence from Serbia and from the UN placeholder that administered the province for almost a decade after Serbian troops killed 10,000 people, drove 70 percent of the majority Albanians from their homes, and were in turn driven out of Kosovo by NATO.

Brussels certainly wanted to follow Washington's lead and was determined not to repeat the nightmare of the transatlantic split and the rift within the EU's own ranks over the U.S. invasion of Iraq in 2003. Yet, other considerations also informed the Europeans' decision to favor conditional Kosovar independence as the least worst course. The EU worried that prolonging Kosovo's indeterminate status and uncertain property rights and the consequent bar to desperately needed investment in the Balkans' poorest land could again rekindle ethnic violence and destabilize the region.³ They also cherished a broader desire for the EU to become a political as well as an economic giant

some day and feared that if the EU could not speak with a single voice over this challenge in crisis management in its own backyard, such failure would doom their broader global aspirations.

As the Serb-Kosovar Albanian talks ended in deadlock in December 2007, the West agreed with the Kosovar government-in-waiting on the proposal for conditional independence drawn up by UN special envoy Martti Ahtisaari. The heart of this plan, laid down in more than 90 percent of its provisions, consisted of protection of minority (Serb) rights, overproportional minority seats in parliament, and other positive political discrimination, all to be guaranteed by EU supervision.

Independence, proclaimed in Pristina in mid-February 2008, got off to a reasonably smooth start. Despite initial jitters, there was no significant interethnic violence or mass exodus of Serbs from Kosovo. Prime Minister Vojislav Kostunica of Serbia and his allies did not carry out their various preindependence threats to send Serbian security forces back into Kosovo after their nine-year absence, close the Serbia-Kosovo border, or cut the critical supply of Serbian electricity to Kosovo. Moreover, Serb politicians in the Republika Srpska stopped talking about holding a referendum on a copycat secession from Bosnia and even resolved the five-year impasse on bringing Bosnia's three-ethnicity police force under one roof with Bosniak colleagues.

Nonetheless, the advance EU team in Kosovo had to cope with three immediate challenges. The first was how to finesse the transfer of oversight of Kosovo from UNMIK to the EU mission that the Serbs and Russians branded illegitimate. The second was how to deal with the "parallel structures" that Serbian political and plainclothes security forces had built up in Kosovo in the lax UNMIK era, especially in the northern part of Kosovo that abuts Serbia. The third was how to minimize the expected negative fallout from the Serbian snap election scheduled for May 11. In the face of the urgent, the merely important, such as ensuring clear Kosovar legislation outlawing insider financial profiteering and conflict of interest, got pushed well down the list of priorities.

When the West finally grasped that Russia really would wield its veto in the UN Security Council to block any shift of the Kosovar protectorate from UNMIK to EU patronage, it turned to alternate sources of legitimacy for the changeover. These consisted of direct invitations from the newly independent government in Pristina to the EU to supervise Kosovo's independence and to the NATO-led Kosovo Force (KFOR) peacekeepers to stay on and, the Europeans hoped, a personal nod to the new arrangement by UN secretary-general Ban Ki-moon. Pristina's invitations were issued immediately, but Ban's

**The EU is
pioneering
uncharted territory.**

acknowledgement was withheld for a painful four months because Ban was reluctant to cross Serbia's sponsor, Russia.

As the EU realized that Ban's resistance to its diplomatic scenario would leave some form of UNMIK in place indefinitely, it took advantage of the forced cohabitation to downplay its own substantive replacement of UNMIK as nothing more than a technical "reconfiguration" of UN modalities in Kosovo under UN Security Council Resolution 1244, which established UNMIK in 1999. In this judo, the inertia of the status quo thus came to favor the West

The government that emerged was not ultranationalist after all, but pro-European.

rather than Russia. If all that was occurring was a fine-tuning of UN involvement long since agreed on, the Russian veto was voided; there would be no new Western motion for a change of status that Moscow could vote down, but rather only a passive continuation of Resolution 1244 that Russia could never muster a simple Security Council majority to overthrow.

On the second immediate problem, the EU declared from the beginning that it could not roll back Belgrade's networks of influence and pressure on Serbs in Kosovo that UNMIK and the United States had left unchallenged for almost a decade. Indeed, the Ahtisaari plan explicitly allowed continuation of existing special ties between Belgrade and Kosovo Serbs in such areas as health care, education, and pensions so long as these links were transparent. Implicitly, the plan signaled that EULEX itself would not feel strong enough to oust Serbia's furtive security agencies from northern Kosovo.

What the West was trying to do at this point, as Assistant Secretary of State for European and Eurasian Affairs Daniel Fried defined it, was to prevent the *de facto* arrangements in Kosovo north of the Ibar River from turning into *de jure* partition.⁴ The dividing line between soft and hard partition is blurry. Initial Serbian probes of it included the burning of Kosovo customs posts at the border by Serb "hooligans" who were secretly "organized" by hardliners around Kostunica, according to Defense Minister Dragan Sutanovac of President Boris Tadic's pro-European Democratic Party;⁵ takeover of the railway north of the Ibar River; occupation of the Kosovo court in Serb-majority northern Mitrovica by Serbs who had been employed by the court in the era of Serbian strongman Slobodan Milosevic; threats against EU personnel that forced them to evacuate northern Mitrovica altogether; the postindependence refusal of Serb officers in the Kosovo Police Force to take orders from Kosovo Police Service (KPS) superiors or anyone else except UNMIK; and Belgrade's declared intent to stage not only parliamentary but also, for the first time, local elections in Serb localities in Kosovo on May 11.⁶

At the border crossings and court premises, it required the last resort of the KFOR to restore order. In the court confrontation, KFOR troops evicted the Serb squatters at lethal cost as Serb protesters quickly gathered, stoned the KFOR soldiers and UNMIK international police, fired automatic weapons, detonated 20 to 30 heavy-duty grenades, and killed one Ukrainian international police officer. There were strong indications that the Serb protesters were led by Serbian plainclothes security agents who have long been operating freely in northern Mitrovica in collaboration with municipal bosses Marko Jaksic and Milan Ivanovic.⁷

The robust KFOR response drew praise from Berlin, London, and Washington, but criticism from a more cautious Paris, even though the KFOR commander at the time was French Lieutenant General Xavier Bout de Marnhac. In retrospect, the KFOR evacuation of the court clearly caught the Mitrovica Serbs by surprise and remained, as de Marnhac pointed out, the sole exchange of weapons fire in postindependence Kosovo.⁸

As for the May 11 elections, UNMIK informed Belgrade that its intent to organize polling stations for Kosovo Serbs to vote in Serbian parliamentary elections was appropriate for Kosovo Serbs with double Serbian citizenship but that the unprecedented Serbian attempt to organize municipal elections violated Resolution 1244. The Serbs ignored the warning. Outgoing Prime Minister Kostunica's Democratic Party of Serbia and the even more hard-line Radical Party won overwhelmingly in northern Mitrovica. The Serbian minister for Kosovo, Slobodan Samardzic, thereupon organized a quasi-parliamentary council of municipal officials in Kosovo that had no precedent in Serbian governance.

Notably, the Kosovar Albanians left the restoration of order in northern Mitrovica to the internationals. They did not, as in 2004, mobilize toughs from the youngest population in Europe to swarm into northern Mitrovica. "We will not provoke, and we will not be provoked," explained Mayor Bajram Rexhepi.⁹ He stated that the Albanians would respect scrupulously all the guarantees of minority rights and positive discrimination enshrined in the Ahtisaari plan. Having finally won independence after close to a century of heavy-handed Serbian rule, they could afford to be generous in implementing what is widely regarded as the most far-reaching legal protection of minority rights in Europe today.¹⁰

Bujar Bukoshi, a member of parliament who back in the 1990s collected taxes for the Kosovar independence movement from the large Albanian diaspora in western Europe, agreed. He noted that Albanians "had to sacrifice a lot" in endorsing the Ahtisaari decentralization that gives new Serb-majority municipalities extensive self-rule, in granting "fantastic privileges" to Serbs, and in restricting Kosovo's sovereignty. In the long term, however, Kosovo must in any

case meet this standard of respect for minorities and other international legal norms to realize its dream of EU membership. “Kosovo must be nurtured to become a normal state with the rule of law. That is the alpha and omega.”¹¹

Supervised Sovereignty

The new constitution of independent Kosovo went into force on June 15, 2008. For the first time, the final packet of model laws translating the Ahtisaari plan into domestic legislation was signed, not by the head of UNMIK, but by President Fatmir Sejdiu of Kosovo. The Kosovo government now assumed full sovereignty, according to the three-week-old International Steering Group of nations that recognized Kosovar independence. Celebrations were muted.

On June 12, three days before the new holiday of Constitution Day, Ban finally broke his 17-week silence and addressed the issue of “reconfiguration” of the international presence in Kosovo “in light of the evolving circumstances.” In parallel letters to Sejdiu and President Boris Tadic of Serbia, he indicated vaguely that the EU would have an “enhanced operational role in Kosovo,” while UNMIK would continue to function. Resolution 1244 would remain “in force until the Security Council decides otherwise”; the UN position on the status of Kosovo was “one of strict neutrality.” Ban further stipulated in his letter to Tadic—the letter he sent to Sejdiu without ever addressing him as “president” omitted these points—that, under “temporary arrangements,” Kosovar Serb police officers “should report to international police” rather than to the KPS and that “[a]dditional local and district courts serving relevant Serb-majority areas may be created.”¹²

Kosovar Albanian politicians were stunned both by the implied toleration of existing Serb rule in northern Kosovo and by EU irresolution in the face of UN equivocation. Indeed, as Ban publicly ignored the EU week after week, the EULEX buildup of personnel had stopped dead. It was originally scheduled to have been fully operational by 120 days after independence. Now, the can has been kicked down the road for another 120 days, until October.

After Ban’s letters, Bukoshi is far more impatient with the state of affairs than he was in March. “It’s a circus! The international community treats the Serbs like a great power! Up to now, we are not a real Assembly. All we do is say amen to the Ahtisaari plan,” he objected. “We did it voluntarily with the calculation that if we accepted the Ahtisaari plan, we would become independent. But that is not realistic now. It’s only on paper.... If this appeasement policy isn’t stopped, it will end in a great catastrophe. That’s not a threat. It’s just the way things are going.”¹³

Assembly Speaker Jakup Krasniqi also voiced concern that Ban’s formulation could lead to a hardening partition, with the Kosovar government and EU

functioning only in the south and the Serbian government and UNMIK ruling in the north. “If the UN mission is still staying in Kosovo to produce a final status for Kosovo, then it has no meaning.... The political status of Kosovo is already settled. Kosovo is already a sovereign and independent country.”¹⁴

For their part, the Europeans are relieved that Ban has at last acknowledged the existence of the EU mission. They are careful, however, to specify their own interpretations of his Delphic words and omissions. Feith put the best face on Ban's lack of any reference whatsoever to the ICO. With a confidence not shared by all of his European colleagues, he grounded ICO legitimacy in authority conferred by the states that have recognized Kosovo, as well as by the Pristina government's invitation to the EU to supervise Kosovar independence in accord with the new constitution.¹⁵

During his last week in office, outgoing UNMIK chief Joachim Rucker also laid some markers in noting questions being asked “about why it is necessary in the middle of Europe—and this is the middle of Europe—that the UN would be a net exporter of security to Europe.” He suggested that the “logic of events [is] for the EU to take a larger role” in its own security.¹⁶

In part, the Europeans' relative tranquility about the current institutional anarchy reflects prudent patience in the early days of the Serbian *deus ex machina*. The unexpected pragmatic government coalition in Belgrade emerged a week and a half after Kosovo's Constitution Day. The kingmaker in Belgrade was, of all unlikely parties, the remnant of Milosevic's old Socialists, who now sought to end their pariah status and turn themselves into respectable European Social Democrats by downplaying nationalism and allying themselves with Tadic's Democratic Party. The Serbian political class, after four years of shrill chauvinism that culminated in five months of anti-European histrionics over Kosovo in the spring of 2008, finally moved on and made a historic choice for Europe.

European officials on the ground in Kosovo are pinching themselves and warning each other against unrealistic hopes. One senior European analyst in Pristina cautioned that “[t]he new government won't change anything; it will only prevent things from getting worse.”¹⁷ Yet, the ebbing of nationalist fervor as Belgrade now gives top priority to urgent economic development, and fast advance toward EU membership presages a less confrontational Kosovo policy. Furthermore, the Democratic Party certainly has no desire to collude with local bosses in the Radical Party hotbed of northern Kosovo to heighten tensions.¹⁸

Can the EU avoid being perceived as a quasi-colonial occupier?

Clarifying the Role of EULEX

Although tiny by U.S. standards of foreign intervention, EULEX is by far the largest and most ambitious of the 20 joint European Security and Defense Policy ventures undertaken since 2003. It is leaving the sharp end of security to the 16,500 KFOR troops, as will Kosovo's small gendarmerie-like security force of 2,500. Moreover, it eschews any American-like proclamations about grand democratization. Even with its narrowed mandate, however, it is still reaching for the stars in trying to generate in a few years the legal, political, social, and economic revolutions it took France, Germany, and other EU stalwarts six or eight generations to effect.

Given this highly ambitious task, can the EU avert the fate of the unloved UNMIK and avoid being perceived by Kosovars in another year or two as a quasi-colonial occupier? Those optimists who answer yes point out that Kosovo, unlike the obligatory control cases of Afghanistan and Iraq, is small enough, peaceful enough, and near enough to the EU geographically for the EU operation to have real effect. The EU's €2 billion of aid goes a long way in such a small country. The peak ratio of KFOR peacekeepers to the population was 20 per 1,000 inhabitants, far higher than the 1 per 1,000 in Afghanistan or 2 per 1,000 in Iraq; correspondingly, they are able to enforce security better. The peak ratio of international civilian police was 2 per 1,000 in Kosovo, higher than the zero in Afghanistan and Iraq.¹⁹ The trump card is that the Kosovar Albanians, like everyone else in the Balkans, yearn to join the EU of peace and prosperity and must be on their best behavior to qualify. This combination of dependency and hope enhances EU leverage. Moreover, the whole premise of EU supervision, unlike the UNMIK interregnum, is that the EU is helping to build the permanent capacities, institutions, and, ultimately, state that will at some point enable Kosovo to join the postnational EU fraternity. Kosovar Albanians are therefore likely to regard EULEX officials as friends rather than taskmasters.²⁰

Certainly, the EU has already turned over to the Kosovars more competences and accountability than UNMIK ever did. Kosovar "ownership" of the reforms has been the byword ever since EU foreign policy chief Javier Solana and Commissioner for Enlargement Olli Rehn wrote the conceptual papers that underlie the present mission. Rehn further stresses partnership in getting Kosovo to qualify as fast as possible for a contractual agreement with the EU, which would be a functional equivalent of the Stabilization and Association Agreements that all other Balkan states have now signed as the first step toward EU membership.²¹

Finally, supporters contend that the EU's choice of strategy is feasible. The EU is bold in its grand vision of societal metamorphosis yet modest in the

means it is applying to that end. Instead of scattering its resources on a wide array of projects, it is focusing on the single node of rule of law, an aspect of nation building that was largely neglected as the West first grappled with post-Cold War transitions in the 1990s but is now widely seen as a prerequisite for political, economic, and social reforms to be sustainable.

By contrast, skeptics doubt that the EU's advantages over UNMIK can offset Kosovo's historical handicaps. They point out that Kosovar Albanians have never experienced anything approaching self-rule. Real governance of the ethnic Albanians has continued to reside in the traditional patriarchal structure of fierce clan loyalty. In the 1990s, the Kosovar Albanians did organize underground elections, elect semiotician Ibrahim Rugova as president, and organize clandestine Albanian-language schools. Yet, Rugova ran his Democratic League of Kosovo (LDK) top-down like one of the old Yugoslav Communist mass organizations. Following his death in 2006, the LDK fractured, but not in a way that evolved beyond clientele loyalty and identity politics. The main beneficiary of LDK fission, the Kosovo Democratic Party (PDK) of Prime Minister Hashim Thaci, remains a network based on its regional stronghold of Drenica. Similarly, the PDK's bitter rival, the smaller Alliance for the Future of Kosovo lead by Ramush Haradinaj, is a mutual benefit network based in western Dukagjin. No middle-class urban party has showed staying power, and the recent rise of the New Kosovo Alliance of the Lugano-based multimillionaire Behgjet Pacolli ("the richest Albanian in the world") is less an aggregator of citizens' common interests than a populist surge. In the categories of Charles Tilly, these parties exhibit the divisiveness of exclusive trust networks that block rather than invite broader political integration and mediation.²²

It is in this unpromising environment that the EULEX team is promoting rule of law in protecting minorities, mentoring law enforcement officials, and, with luck, sapping the might of organized crime. For all the emphasis accorded to minority protection in the Ahtisaari plan, this may in fact turn out to be the easiest of the EU's tasks. EULEX by no means entertains hopes of creating a multicultural melting pot. It does, however, intend to guarantee tolerance and safety for the estimated 120,000 remaining Serbs and the other minorities. This goal is reasonable enough; the real enforcer of Albanian civility toward the long-feared Serbs will probably be self-interest rather than EU oversight. The new state has every incentive to help boost its recognition tally to the critical mass of a 100 or so states by showing magnanimity toward the Ashkali, Bosniak, Roma, Serb, and other minorities in their midst.²³

Instead of scattering its resources, the EU is focusing on the rule of law.

There is always a risk of ethnic violence, of course, especially in northern Mitrovica and in the Serb enclaves in the south. Yet, Kosovar Albanians have not attacked Serbs so far. Kosovar Serbs, although skirmishing with the Kosovo police and KFOR, have avoided targeting vulnerable Albanian civilians in their enclaves in the north. The worst ethnic clash since independence was stone-throwing between Serbs and Albanians over extending a water pipeline to an Albanian village in northern Kosovo.

Executive policing has only been practiced on a significant scale in East Timor and Kosovo.

The second task facing EULEX in supervising Kosovo's independence is executive policing and mentoring of prosecutors, judges, and customs officials. Executive policing will require innovation; it is a new type of operation that has been practiced on a significant scale in only two places so far: East Timor and Kosovo itself. Its importance was ignored not only in Baghdad in failing to prevent looting in 2003, but also in UNMIK's first year in Ko-

sovo; intertwined political-clan-criminal networks in the province staking out their extortion turf was a direct result. Executive policing by external forces is essential in a postconflict situation that is by definition lawless. It fills the gap of civilian protection until a local police force can assume control and includes criminal investigations, arrests, and enforcement by international police who are not only advisers but also "executors" empowered to act in their own right, especially in the sensitive areas of interethnic, serious, and organized crime.

In this area, EULEX hopes to improve on its UNMIK predecessors, who never fully compensated for their slow start in civilian law enforcement. To be sure, many credit UNMIK with success in building the KPS from scratch and setting professional standards for KPS work in the 97 percent of "ordinary" crime cases that are not especially sensitive. The internationals seem to have shielded the KPS against institutional capture by any one of the trafficking gangs or murky party intelligence networks that spun off from Kosovo Liberation Army bands. It has brought Serbs and women into the service. It has inculcated in the more than 8,000 graduates of the five-month police school training course both an *esprit de corps* and the novel idea that police, far from acting as local enforcers for a powerful ruler, should instead be the protectors and servants of their communities. Already, KPS officers rank high in opinion surveys about trust in institutions, and random Kosovar comments on the street suggest that the public no longer automatically expects to be shaken down by police for bribes.

Nevertheless, critics say that UNMIK's international police, prosecutors, and judges were too reluctant to devolve competences onto their counterparts

or even to keep the Kosovars informed of what they themselves were doing. (Critics of the critics retort that information about investigations that was shared with Kosovar colleagues tended to leak instantly to subjects of the investigations.) Whatever the merits, today's EULEX mentors say that they intend to make their counterparts full partners and hand even sensitive cases over to them as fast as possible. EULEX is increasing the number of international judges to more than 30 and international prosecutors to 18 and expects them to spend more time than their UNMIK predecessors colocated in regional offices of counterparts.

In close collaboration, EULEX and U.S. Department of Justice representatives are also setting up a new Kosovo Special Prosecutors Office to handle organized crime cases. For the first time since 1999, there will be further systematic vetting—"reappointment" is the official term—of the professional competence of jurists, including those who came out of the old Yugoslav system or, as ethnic Albanians, were in the 1990s denied access to the prerequisite education by their Serbian masters. In addition, the accountability of Kosovar judges will be enhanced by increasing their participation in hybrid decision panels with international judges in cases of serious crime and by making a single jurisdictional system of the five district courts so that cases cannot be shunted arbitrarily from one court to another by influential defendants in search of malleable justice.²⁴

Of all the EULEX tasks, the most difficult will surely be curbing organized crime and high-stakes corruption. To be sure, Kosovar Albanians are hardly unique in this curse. Large numbers of Serbian and other Communist-era secret police in the region turned to freelance criminal activity as the relative discipline of the monopoly party waned in the post-Cold War years. Their smuggling profits soared during the embargoes against Milosevic's Yugoslavia in the 1990s and the subsequent insider privatization, and their ability to launder profits grew with the simultaneous liberalization of global financial flows. Bulgaria's Center for the Study of Democracy observes that "[r]ather than being deviant behavior, as it generally is in other societies, in post-communist states ... organized crime was an essential attribute of a society in transition from state to private property."²⁵ The latest EU reports on rampant graft and malfunction of justice in new EU member states Bulgaria and Romania have illustrated how difficult it is to root out entrenched Balkan crime.²⁶

Some distinguishing features of ethnic Albanian organized crime, however, make the mafia grip on Kosovo especially difficult to break. There are few countervailing economic or social structures in the world's newest state. There is no professional middle class, no layer of small and medium business, no jobs for more than 60 percent of youths, and no culture of crusading prosecutors or dogged auditors.²⁷ Serbia, despite the hemorrhage of Belgrade's middle class in

the past two decades and the continuing state-within-the-state of old secret policemen, criminals, and protectors of the fugitive Srebrenica commander Ratko Mladic, has outstanding lawyers, prosecutors, judges, and human rights watchdogs. Kosovo, by contrast, does not, at least not yet. A disconcerting number of young boys in the Pristina area, when asked what they want to do when they grow up, aspire to becoming mafia bosses.²⁸

Further distinctive features of ethnic Albanian mafias include exclusivity in recruiting and a brutality that is renowned even in the underworld. Although

Of all the EULEX tasks, the most difficult will be curbing organized crime and corruption.

they gladly outsource specific operations to Italians, Macedonians, Serbs, and other colleagues in collaborative smuggling, the Albanians hire their own cadre from within their clans, thus rendering their networks all but immune to infiltration by undercover police agents. Their swift success in muscling out Russian gangs in St. Pauli, Kurds and Turks in the Middle East-to-Europe heroin trade, and Italians and others in New York testifies to their comparative advantages and earned them the only special

ethnic section in the Europol 2003 report, along with shared billing with the Chinese and Russians in its 2004 report.²⁹

EU Planning Team spokesperson Victor Reuter declares that organized crime “is absolutely a priority” for EULEX.³⁰ Yet, the Europeans will find formidable barriers to reducing the power of organized crime in Kosovo. Italian *carabinieri* units do bring their expertise in combating organized crime in national and international contexts to Kosovo. Yet, the recent high turnover in international police commissioners and the difficulty of persuading top-flight domestic police officers to interrupt municipal career paths with six-month tours in the wilderness tend to deprive the internationals of the cumulative street knowledge that is key to tracking down and winning convictions of organized criminals. The record of bribes, blackmail, and threats toward international officials in Pristina by criminal networks is also discouraging. There are serious reports from insiders already about criminal investigations having been called off by Western home capitals because they cut too high into Pristina’s political and business elite and might destabilize Kosovar politics.³¹ Such constraints may be teaching a different lesson about the independence of justice from politics than the one EULEX intends.

No sources in Pristina say it in so many words, but a conscious policy choice does appear to have been made not to pursue showcase verdicts of high-profile crime bosses as a warning to others. Instead, it seems, the more modest tactic will be to hope that economic growth; social evolution, as more Kosovar Alba-

nians who have studied and worked in Germany and Switzerland come home; and increasing transparency and accountability work together to constrict the space for major crime through gradual maturing processes. The gamble is that electoral legitimacy, growth in licit business opportunities, and elevation to the European stage will then let new leaders distance themselves progressively from shadowy business operations and that the “communicating vessels” of the Balkans, as described by Ivan Vejvoda, executive director of the Balkan Trust for Democracy, will help the whole region curb transnational crime as they gravitate toward the EU.³²

Test of EU Mettle

In fall of 2008, the best interim conclusion about the EU's most ambitious foreign policy mission to date might be described as the following: It is possible for diplomatic legerdemain to produce “virtual unanimity” on goals, as Foreign Minister Carl Bildt of Sweden once put it,³³ among the EU's disparate 27 members. It is possible, with continuous improvisation and resiliency, to adapt to the institutional anarchy and bureaucratic demoralization as UNMIK downsizes haphazardly, with no instructions from New York and as a still-skeleton EULEX drifts. It is possible for the United States and Europe to agree on operations abroad when they do not involve a war of choice. It is probable that the rule of law mission will be a net plus rather than a minus for Kosovo, that the courts will have somewhat reduced their backlog of cases a decade from now, and that Kosovo will not have degenerated into a failed state. It is possible for the EU magnet to work even on Serbs, and it is now probable that most of the Balkan peoples will gradually improve their standard of living and their neighborhood safety within this magnetic field.

Yet, the loss of EU momentum in Kosovo from the constant improvisations and delays is already palpable, and there will be no miracles. The heroin flow from Afghanistan that transits Kosovo will no doubt continue until addicted western Europeans curb their demand. The mafias will no doubt continue to suborn susceptible Kosovars and internationals before the Italian *carabinieri*, Nordic police, and KPS officers on monthly salaries of €225 begin putting organized crime bosses behind bars.

In the end, whether Kosovo escapes a criminal future, and perhaps too whether the EU develops a taste for other adventures farther from home, will depend on the balance between the synergy of those Kosovars and internationals who believe in rule of law and the synergy of those Kosovars and internationals who believe in filling their own pockets. The pace will depend crucially on individual choices, as *Koha Ditore* editor Agron Bajrami suggested. “How did it happen in America?” he asked rhetorically about Chicago's escape

from the grip of Al Capone. “How in Italy?” A few judges, prosecutors, and ordinary citizens stood up to the criminals:

The majority of the people are not involved in wrongdoing. Out of this will come people whom we will later call heroes, not because they want to get killed, but you act because you need to do something. Sometime, I think, decent people will show they can be better judges and policemen than they are now. Some have been doing this already. But if there is no political support from the international community, it doesn't evolve into a bigger trend. It remains individual acts.³⁴

The support of EULEX is therefore essential. It has, according to Bajrami, “a mission that will last until people among us are capable of continuing to do the right thing.” In today's feud, Bajrami at least is clearly on the side of EULEX and the optimists.

As history would have it, Kosovo won its independence from Serbia in the short window in which intractable ultranationalists in Belgrade drove the exasperated EU to approve Kosovar secession as the least worst solution in the Balkans and before an EU-friendly government in Belgrade would have voided EU support for independence. It now remains to be seen whether Kosovars and their European supervisors can build from scratch the kind of robust institutions and civil society in Kosovo that Serbia already enjoys and whether the Kosovars, like today's Serbs, can expel their own worst demons.

Notes

1. Senior German diplomat, interview with author, Berlin, March 2008.
2. Misha Glenny, “You Broke It, You Own It,” *Prospect*, April 2008, p. 16.
3. See International Crisis Group (ICG), “Kosovo: No Good Alternatives to the Ahtisaari Plan,” *Europe Report*, no. 182 (May 14, 2007), <http://www.crisisgroup.org/home/index.cfm?id=4830>.
4. Daniel Fried, interview with author, Washington, D.C., March 2008.
5. See “Kostunica: The Young Defended International Law,” *Blic Online*, February 22, 2008, <http://www.blic.co.yu/news.php?id=1621>.
6. ICG, “Kosovo's First Month,” *Europe Briefing*, no. 47 (March 18, 2008), <http://www.crisisgroup.org/home/index.cfm?id=5335&l=1>.
7. Senior European official, interview with author, Pristina, March 2008. See ICG, “UNMIK's Kosovo Albatross: Tackling Division in Mitrovica,” *Europe Report*, no. 131 (June 3, 2002), <http://www.crisisgroup.org/home/index.cfm?id=1603&l=1>; ICG, “Kosovo After Haradinaj,” *Europe Report*, no. 163 (May 26, 2005), <http://www.crisisgroup.org/home/index.cfm?id=3474>; Division of Public Information, United Nations Mission in Kosovo (UNMIK), “10 Serbian Ministry of Internal Affairs Offices in Kosovo,” *Media Monitoring*, March 26, 2008, p. 1, [http://www.unmikonline.org/DPI/LocalMed.nsf/0/3EDC404346A90312C1257418005007E5/\\$FILE/Headlines%20-%2026.03.08.doc](http://www.unmikonline.org/DPI/LocalMed.nsf/0/3EDC404346A90312C1257418005007E5/$FILE/Headlines%20-%2026.03.08.doc).

8. Xavier Bout de Marnhac, interview with author, Pristina, March 2008.
9. Bajram Rexhepi, interview with author, Pristina, March 2008.
10. Ibid.
11. Bujar Bukoshi, interview with author, Pristina, March 2008.
12. Print copies of Ban's letters to Tadic and Sejdiu circulated in Pristina on June 12, 2008.
13. Bujar Bukoshi, interview with author, Pristina, June 2008.
14. Jakup Krasniqi, interview with author, Pristina, June 2008.
15. Pieter Feith, interview with author, Pristina, March 2008; Pieter Feith, telephone interview with author, June 2008.
16. Joachim Rücker, interview with author, Pristina, June 2008.
17. Senior European analyst, interview with author, Pristina, June 2008.
18. Ivan Vejvoda, telephone interview with author, June 2008; Oliver Ivanovic, interview with author, Mitrovica, June 2008 (northern Mitrovica politician).
19. James Dobbins et al., *The UN's Role in Nation-Building* (Santa Monica, Calif.: RAND, 2005), pp. xxii, xxiii.
20. European and American officials, interviews with author, Berlin, Brussels, Washington, and Pristina, January to June 2008.
21. Olli Rehn, interview with author, Brussels, January 2008.
22. Charles Tilly, *Democracy* (Cambridge: Cambridge University Press, 2007), pp. 80–105.
23. For a contrary stress on the failure to convict ethnic Albanian perpetrators of anti-Serb pogroms in 2004, see Human Rights Watch, "Kosovo Criminal Justice Scorecard," March 2008, <http://hrw.org/reports/2008/kosovo0308/>.
24. Alessio Zuccarini, interview with author, Pristina, March 2008; Victor Reuter, interview with author, Pristina, June 2008.
25. *Organized Crime in Bulgaria: Markets and Trends* (Sofia: Center for the Study of Democracy, 2007); *Partners in Crime: The Risks of Symbiosis Between the Security Sector and Organized Crime in Southeast Europe* (Sofia: Center for the Study of Democracy, 2004); *Weapons Under Scrutiny: Implementing Arms Export Controls and Combating Small Arms Proliferation in Bulgaria* (Sofia: Center for the Study of Democracy, 2004); "Operationalisierung von Security Sector Reform (SSR) auf dem Westlichen Balkan - intelligente/kreative Ansätze für eine langfristige positive Gestaltung dieser Region" [Operationalization of security sector reform (SSR) in the western Balkans – Intelligent/creative starting points for a long-term positive shaping of this region], Institut für Europäische Politik, January 9, 2007; CARPO Regional Project, "Update of the 2006 Situation Report on Organised and Economic Crime in South-eastern Europe," PC-TC(2007) 6, June 2007, http://www.coe.int/t/e/legal_affairs/legal_co-operation/combating_economic_crime/3_technical_cooperation/CARPO/Pctc_2007_6_EN.pdf.
26. Commission of the European Communities, "Report From the Commission to the European Parliament and the Council on Progress in Bulgaria Under the Co-operation and Verification Mechanism," SEC(2008) 2350, July 23, 2008, http://ec.europa.eu/dgs/secretariat_general/cvm/docs/bulgaria_report_20080723_en.pdf; Commission of the European Communities, "Report From the Commission to the European Parliament and the Council on Progress in Romania Under the Co-operation and Verification Mechanism," SEC(2008) 2349, July 23, 2008, http://ec.europa.eu/dgs/secretariat_general/cvm/docs/romania_report_20080723_en.pdf.
27. "For Kosovo, It's All About the Economy," *Southeast European Times*, December

- 18, 2006, http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/articles/2006/12/18/reportage-01.
28. Academic analyst of crime in Kosovo, interview with author, Berlin, January 2008.
 29. Europol, "Annual Report 2003," July 2004, <http://www.europol.europa.eu/index.asp?page=publar2003>; Europol, "Annual Report 2004," <http://www.europol.europa.eu/index.asp?page=publar2004>; CARPO Regional Project, "Situation Report on Organised and Economic Crime in South-eastern Europe" Strasbourg, August 2005, http://www.coe.int/t/e/legal_affairs/legal_co-operation/combating_economic_crime/3_technical_cooperation/CARPO/Pctc_2006_20.pdf.
 30. Victor Reuter, interview with author, Pristina, March 2008.
 31. Incumbent and former international officials in Kosovo, interviews with author, Pristina and Washington, D.C., February and March, 2008.
 32. Ivan Vejvoda, presentation at Bosch Foundation, Berlin, June 2008.
 33. Dan Bilefsky, "After 8 Years in Limbo, Frustrated Kosovo Awaits Its Future," *New York Times*, December 11, 2007, p. A20.
 34. Agron Bajrami, interview with author, Pristina, March 2008.