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## KOSOVO: multiple crises and a challenging future

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**K**osovo is going through a period of deep crisis on several fronts. On one hand, the institutional and political crisis has been preventing the formation of a new government for almost six months after the June elections. Additionally, the recent scandal related to corruption allegations within EULEX has shaken its strongest institutional pillar and rendered the most important foreign EU mission questionable. The current circumstances may have a negative impact on two other important challenging processes: the establishment of a tribunal to judge war crimes committed by the Kosovo Liberation Army (KLA) and the dialogue for normalizing relations with Serbia. In a climate of tension between Albania and Serbia and the danger of Muslim population radicalizing their stand, there is a possible risk of instability in Kosovo which could have a negative impact on the region.

### Kosovo political crisis and institutional weakness

**Kosovo's deep crisis on several fronts may have a negative impact on two other important challenging processes: the establishment of a tribunal to judge war crimes committed by the Kosovo Liberation Army and the dialogue for normalizing relations with Serbia.**

**Unemployment (35.1% according to official figures), corruption and the poor economic situation of the country (GDP per capita is US \$ 3,579, poverty rate reaching 29.7%) are to be part of the explanation for the strong position against Thaci. With population of 1.8 million, political affiliations have more to do with the personality of the leader -and clientelistic practices- than with ideological or programme differences between parties.**

**A poll conducted in 2013 showed an increasing degree of disaffection towards EULEX, the most important EU foreign mission. The suspicion of corruption within EULEX will only increase this trend.**

**Another vital factor impacting the development of the dialogue is that since 2011 Serbia and Kosovo have signed several agreements in line with the normalization of relations, but many of them are only partially implemented or not implemented at all.**

**The current Serbian conservative government (previously hard nationalist) has received strong critics from the far-right movements for this 180° political spin and has been accused of being a traitor. The recent release of Vojislav Seselj from the ICTY can be very destabilizing for the country.**

**A new national discourse is coming forth in Albania aggravated by internal political factors and magnified by the independence of Kosovo. But the voting polls did not reward this nationalist approach.**

**In a climate of tension between Albania and Serbia and the danger of Muslim population radicalizing their stand, there is a possible risk of instability in Kosovo which could have a negative impact on the region.**

The last parliamentary elections held in June provided victory to the Democratic Party of Kosovo (PDK). However, with only 31% of votes and 37 seats in the parliament (out of 120), the KDP and its leader Hashim Thaci still did not ensure the majority. A coalition was formed by the four main opposition parties: the Democratic League of Kosovo (LDK), Alliance for the Future of Kosovo (AAK), Initiative for Kosovo (Nisma) and the extremist movement Vetëvendosje (VV), reaching 63 seats altogether. The coalition proposed Isa Mustafa, the leader of the LDK, to be the Speaker of the Parliament and Ramush Haradinaj, leader of AAK and the former fighter Kosovo Liberation Army (KLA), for the position of the Prime Minister. However, the Constitutional Court provided an interpretation that only the party winning the elections

(with the largest number of votes) is entitled to propose candidates for the respective positions. Since the largest party (KDP) did not get the majority to propose its candidates and the opposition coalition was not entitled to do it, the formation of the government and the assembly were blocked.

The decision of the Constitutional Court was questioned, since there were claims that this interpretation would be more appropriate for a bipartisan electoral model -which is not the case in Kosovo. Under the Kosovo system, votes are distributed among the four major parties and it is virtually impossible to win the majority without forming a coalition. Some critics point out that this decision of the Constitutional Court was influenced by political interests, putting the independence of the judiciary under question. Furthermore, a new problem emerged as the very composition of the Constitutional Court was questioned. According to the paragraph 2, Article 144 of the Constitution, the Court is made up of 9 judges who "shall be appointed by the President of the Republic of Kosovo upon the Proposal of the Assembly (...)". Currently, as a part of the international agreements signed by Kosovo, three international judges participate in the work of the Court. In August, the president of Kosovo, Atifete Jahjaga, passed the decision of extending their mandates. According to the Ombudsman, this action of the President was a violation of the Constitution since it was taken without consulting the Assembly (which had not been established). However, according to the President's office and EULEX, this was done in line with the agreements

## The dialogue between Belgrade and Prishtina remains the most sensitive element to political instability.

that Kosovo had with the EU - by which the involvement of the Assembly in renewing the judges' mandate would not be necessary. As stipulated in the agreements, an exchange of letters between the President of Kosovo and the High Representative of the EU, Catherine Ashton, would be enough to renew the mandates of judges. The question here is whether EULEX is entitled to nominate members of the Constitutional Court since this power is not explicitly mentioned in the joint agreement and given the special nature of this Court.

The situation seemed very complicated because the main opposition parties had already shown interest in overthrowing Thaci. Haradinaj stated earlier in the year that his party would form a coalition with any other party except with Thaci's PDK. In fact, during the six months preceding the June elections, the parliament had been virtually paralyzed due to the PDK loss of parliamentary majority. Namely two members of the PDK decided to abandon the party accusing Thaci of conducting his politics in an authoritarian manner. They were the ex-guerrilla commander Fatmir Limaj, a former Minister of Transport under Thaci's government and Jakup Krasniqi, Chairman of the Parliament of Kosovo. The relationship between Limaj and Thaci deteriorated after late November 2012, when EULEX raised an indictment over organized crime and corruption against Limaj. The split between them was confirmed in February 2014 when Limaj and

Krasniqi decided to launch a new party, Nisma, now in the opposition block.

Unemployment (35.1% according to official figures), corruption and the poor economic situation of the country (GDP per capita is US \$ 3,579, poverty rate reaching 29.7%) are to be part of the explanation for this strong position against Thaci, but also the personal quarrels between political leaders. With population of 1.8 million, political affiliations have more to do with the personality of the leader -and clientelistic practices- than with ideological or programme differences between parties. That is why the current deadlock is interpreted as an anti-Thaci movement, rather than a programme alternative.

According to some political analysts, an additional element could be factored in the explanation of the situation: political leaders may seek immunity against the war crimes' investigations. As stated above, in 2015 a Special Court to judge war crimes committed by the Kosovo Liberation Army (KLA) is to be established. Many of the current political leaders such as Thaci and Haradinaj were members of the KLA and are expected to be investigated for their actions during the Kosovo war. Thus, being appointed to positions in the Parliament or the Government would be a fast way to ensure immunity.

The international community had tried not to get involved, leaving this young democracy the freedom to find a way out for their own problems. But after five months of institutional deadlock and with major issues on hold -such as the decision on the 2015 budget and the dialogue with Serbia- the USA and Germany began to put pressure on political leaders to find a solution. The international community was also cautious enough not to show a preference. Still, the truth is that a change of government would have been "destabilizing" and a coalition including Vetevendosje (a movement that advocates for a referendum to join Albania and Kosovo) was unacceptable. The solution came upon the 20<sup>th</sup> of November 2014 when Isa Mustafa and Hashim Thaci signed an agreement to form a coalition. This was done in the presence of the President of Kosovo and the US ambassador. Under this new arrangement, the LDK is to nominate the PM and the ministerial posts are to be divided equally.

The political deadlock and the manner in which the solution has been found cast a shadow over the future of Kosovo: the process illustrate the existence of institutions serving to political interests, political leaders (discredited by cases of corruption and organized crime) entangled in personal conflicts and an international community more focused on short-term results than long-term sustainability for Kosovo. In this context, only the extremist movement Vetevendosje stands out of the political quarrel by denouncing the high level of corruption and non-democratic practices backed by the international community. Six years after the independence this situation is worrying. If it remains like this and turns into the normal "way of life", the risks of a wide support to populist and extremist discourses could increase. The current situation also questions the capability of this country to join the EU, as well as the capability of the EU to help Kosovo.

## Cases of corruption within EULEX: the International Community under scrutiny

Maria Bamieh, a British prosecutor working for the EULEX mission in Kosovo, denounced corruption within EULEX in late October. Her declaration has landed as a bombshell. The cases reported by Bamieh had been known by EULEX since 2012 (when she first made her denouncements), but still no investigation was conducted until one year later. The European Parliament was not informed and the only visible result was the dismissal of Bamieh. All of this has been cause of anger not only in Prishtina, but also in Brussels.

EULEX is the most important EU foreign mission, now composed of 1,600 officers, judges and prosecutors. It was created after the Kosovo's unilateral declaration of independence in 2008 to deal (paradoxically) with cases of corruption and organized crime and to advise the government in the process of strengthening the judiciary. However, the poor results so far, particularly in "high level" corruption cases and the lack of accountability, have drawn criticism from both the pro-European actors and those who criticize the maintenance of foreign intervention. In fact, the two-year extension of the EULEX mandate made earlier this year was a subject of a bitter debate. This debate reflected the results of a poll conducted in 2013 that showed an increasing degree (31%) of disaffection towards EULEX. Under the current circumstances, the suspicion of corruption within EULEX will only increase this trend. It will also additionally encourage the criticism of those who question the capability of the international community to defend the interests of Kosovo (the independence is still recognized by a half of the UN members), especially taking into consideration that integration into the EU and the NATO membership are still only vague possibilities.

On the EU side, the alleged corruption cases have raised strong criticism, particularly by the European Parliament that does not understand why they were not informed about the developments regarding EULEX. In a letter addressed to the new High Representative, Federica Mogherini, MEPs Elmar Brok and Ulrike Lunacek set forth a series of pertinent questions highlighting the opacity that surrounds certain procedures in this EU mission. If true (the corruption cases), they would be a huge blow to the EU pretensions of managing the problems in its periphery and a new opportunity to question the "dubious" actions of the international community. Earlier this year another scandal came to light regarding the construction of a highway connecting Prishtina and Tirana. According to the media<sup>1</sup>, the former US ambassador Christopher Dell intervened on behalf of the US Company Bechtel in order to get a contract to build the aforementioned route named "the patriotic Highway". The construction plans were developed even against the negative assessments of the IMF

and World Bank over the handling of the Albanian tendering process. Taxpayers paid € 950 million for the 137km route of the Albanian section and €838 million of the Kosovar one. After the end of his mandate Dell got an employment at Bechtel as Africa country manager.

## A new Special Court to judge War Crimes

Last April, the Parliament of Kosovo approved the establishment of a Special Court to judge war crimes committed by the KLA. This new court will operate under the laws of Kosovo but the judges will be international. It will have an office in Prishtina and another one in The Hague where members of the Kosovo guerrilla forces will be processed.

The need for this Court dates back to 2010 when Dick Marty, rapporteur of the Council of Europe, issued a report stating that KLA members had kidnapped Kosovo Serbs and prisoners belonging to other minorities to harvest their organs and sell them in the black market through a network of illegal prisons in northern Albania. This research established a link between certain members of the KLA and organized criminal networks operating in the territory in the period between the withdrawal of the Serbian army and the takeover of the international forces, i.e. between 1999 and 2000.

After the publication of this report in January 2011, a Special Investigative Task Force (SITF) was established in order

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to conduct an independent criminal investigation of the war crimes allegations. The SITF works under the authority of the EULEX mission and is led by the North-American prosecutor Clint Williamson. Last July, the SITF published a report stressing that KLA Senior Officials will face indictments for crimes against humanity (unlawful killings, abductions, enforced disappearances, illegal detentions in camps in Kosovo and Albania, sexual violence, forced displacements and destruction of religious sites). During a press conference Williamson explained that it is believed that these criminal acts were conducted in an organized manner by top leaders of the KLA. Regarding organ-trafficking, he said that there is not enough evidence to speak about *widespread* trafficking, but it could not be ruled out yet.

The establishment of the Court will be a serious challenge for Kosovo, especially since a number of political leaders (including former PM Thaci) used to be KLA members. The risk of instability can arise for two different reasons. If top level politicians are sentenced, there is a risk of strong reactions being triggered among Kosovo Albanians for whom KLA fighters are foundation fathers. This would further fuel the discourse of extremist movements such as Vetevendosje. In fact, the creation of an International Court has been rejected for the risk of damaging the image of Kosovo. In the words of PM Thaci it is "the biggest injustice

1. Albania-Kosovo highway costs soar to 2 billion euro (23/04/2014), *Balkan Insight*. Available online: <http://www.balkaninsight.com>

and insult which could be done to Kosovo and its people". This is why an active pressure has been made by MPs in order to have an office in Kosovo and judgments according to Kosovo laws, so that it would be differentiated from the ICTY. The international community also does not wish to see the senior politicians supported by the western capitals sentenced for war crimes.

On the other hand, if senior officials under suspicion of having committed war crimes are not indicted and the Court ends up giving the impression of being a superficial operation to "clean" them of responsibility, the Kosovo Serbs may see it as a new evidence of a biased approach of the international community, reinforcing the feeling of injustice and damaging Serbia-Kosovo dialogue. In any case, the Kosovo's political deadlock has already blocked the creation of this Court which was expected to start operating in January 2015. The already undermined image of the international community could cast a shadow over the capability of the Court to carry out independent judgment, which is so much needed for the process of reconciliation.

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### Remaining challenges in the Belgrade-Prishtina Dialogue

Finally, the dialogue between Belgrade and Prishtina, that began in late 2012 and was reinforced by the signing of the Brussels Agreement in April 2013, remains the most sensitive element to political instability. In fact, the year 2014 was an election year in both Serbia and Kosovo and has yielded few results in terms of progress on some key issues. Among others, the creation of a Community of Serb Municipalities is still on hold. Having lost the battle for the non-recognition of Kosovo, Belgrade's policy is aimed at ensuring the protection of the Serb minority present on the territory of Kosovo, particularly in the north, on the border with Serbia -in the municipalities of Zvecan, Leposavic, Zubin Potok and North-Mitrovica.

The Constitution of Kosovo, following the Ahtisaari Plan, provides a significant degree of decentralization and protection of minorities' rights. However, the main trade-off of the Kosovo-Serbia Agreement is that Serbia is to dismantle remaining institutions in northern Kosovo in exchange for the creation of a structure that would "solidify" a high degree of autonomy and self-management for Kosovo Serbs. The problem here is that both sides understand something very different when speaking about community and self-management. While Belgrade wants to create something similar to the Republic of Serpska (Bosnia and Herzegovina), Prishtina thinks on a structure similar to an NGO -it means with weak institutional powers. According to European negotiators, the only limitation established by the Brussels Agreement is that the resulting organ would be integrated into the Kosovo institutional structures, in accordance

with Kosovo's Constitution. This part of the agreement has been criticized by a part of the population fearing that Kosovo could become a new Bosnia. For its part, the Serb minority criticizes Belgrade for "abandoning" them by forcing them to integrate into an independent Kosovo that they refuse to recognize.

Another vital factor impacting the development of the dialogue is the implementation of the agreements brokered so far. Since 2011 Serbia and Kosovo have signed several agreements in line with the normalization of relations, but many of them are only partially implemented or not implemented at all. These agreements involve a wide-range of issues: the recognition of university diplomas, cadastre, Integrated Border Management, freedom of movement or judiciary. It is important that these issues are resolved and their solutions put into practice because it provides the substance and reality to the concept of normalization, improving the quality of life for people on the ground. Additionally, following the logic of conditionality imposed by Brussels, Serbia and Kosovo will not move forward in the integration process if these agreements do not apply. In the case of Serbia, currently involved in the process of negotiations with the EU, the chapter 35 (other matters) will cover the process of dialogue with Kosovo. Although concrete provisions for this

chapter have not been decided yet, the implementation of the Brussels Agreement is expected to be the first benchmark. Serbia is now ready to open other chapters, such as chapter 32 (Financial Control), which is important for the government in order to show to the public that efforts translate into results. But there is tension among European partners, since Germany wants chapter 35 to be the first one to be opened and the last one to be closed. This shows that the integration process will happen in parallel to the real progress of the dialogue with Kosovo.

In the case of Kosovo, even if the pressure is less concrete, negotiations for the establishment of a Stabilization and Association Agreement (SAA) were opened last July. But it maybe even more important that the SAA represents the visa liberalization dialogue for a country in which diaspora (mainly in Germany, Switzerland and Scandinavian countries) and remittance flows are two essential elements of the economy. All the countries in the Balkans have a free-visa travel agreement with the EU except Kosovo, which initiated this process in 2012. In the last assessment made by the Commission in July, the EC declared that Kosovo had made good progress but more efforts would have to be made in order to be granted a visa-free arrangement. So, this element is expected to play also a major role as leverage in the dialogue with Belgrade, especially since the implementation of the dialogue will have a positive impact on the security field by improving Border Management - critical in fighting against organized crime.

### Regional context and new emerging challenges

All the factors mentioned so far must be framed by a regional context, not without tensions and emerging challenges. During the last month two seemingly unimportant events were the origin of ethnically-motivated violence and

diplomatic tensions. The Serbia-Albania football match that took place last October in Belgrade was interrupted by a drone carrying a flag with the symbol of the Great Albania. After that, a series of acts of violence and intimidation took place in Kosovo against Kosovo-Serbs and in Serbia against ethnic Albanians. To avoid further tensions the visit of Albania's PM Edi Rama to Serbia (the first one after 70 years), planned just some days after the football match, was put off. When it eventually took place, the statements of Rama made during the joint press conference with the Serbian PM Aleksandar Vucic caused a diplomatic incident. Rama called on Serbia to recognize the "undeniable reality" of Kosovo's independence and the Serbian PM reacted by saying that it was a provocation and disgrace. According to Vucic, he had asked for leaving this issue out of the visit's agenda. Later, during his visit to Preshevo Valley, a region in the South of Serbia at the border with Kosovo and with a large ethnic-Albanian population, Edi Rama provided an ambiguous statement establishing an analogy between ethnic Albanians in Serbia and ethnic Serbs in Kosovo.

Analysts point out that a new national discourse is coming forth in Albania aggravated by internal political factors and magnified by the independence of Kosovo, besides, and it is the scenery behind these incidents. Created during the last years, two small Albanian political parties introduced a nationalist element into the country's political arena. As result, the then PM Sali Berisha (leader of the Democratic Party of Albania) started adopting a nationalist rhetoric. In fact, during the celebration of the 100th anniversary of the Albania independence (in late 2013), Berisha said he wanted to see the emergence of Great Albania from "from Presevo to Preveza, from Podgorica to Skopje"<sup>2</sup>. But the voting polls did not reward Berisha's nationalist approach and the new Albanian PM Edi Rama and his coalition "Alliance for a European Albania" won the elections. Yet, in his speech after the electoral victory in 2013 and then again during his visit to Preshevo, there was an ambiguous statement about a united nation within a united Europe. Although the unity of the alleged "Albanian lands" is light-years away from being a real possibility it is an easy way to gain popular support and to display strength, especially if this idea is presented in Serbia by the Albanian PM. Even though this idea is not officially in the agenda of any political party (except for the two nationalist parties in the minority), the irresponsible use of these ethnic claims is worrying, since they may cause some "rumbling" in the region.

On the Serbian side, the question of Kosovo's independence is still a very sensitive issue for the Government and the symbol of injustice of the international community. Nevertheless,

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2. Preshevo is placed in the South of Serbia, Preveza is located in Epiro (North of Greece), Podgorica is the capital of Montenegro and Skopje is the capital of Macedonia. See Deloy, C. (28/05/2013) "What Kind of majority will emerge after the Albanian general elections?" Fondation Robert Schuman. Available online: <http://www.robertschuman.eu/en/eem/1443-what-kind-of-majority-will-emerge-after-the-albanian-general-elections>

the Serbian politicians, aiming to integrate into the EU as fast as possible, have left territorial claims aside and focused on the dialogue with Prishtina. The current conservative government (previously hard nationalist) has received strong critics from the far-right movements for this 180° political spin and has been accused of being a traitor. Since the nationalist and far-right movements did not reach the threshold to enter into the Parliament, the situation did not represent any danger. But the recent release of Vojislav Seselj from the ICTY can be very destabilizing for the country. Even if Seselj supporters are a minority, there is an increasing dissatisfaction over the government's reform policies and a threat that the disgruntled population might align to support Seselj as a way to protest against the government. In this context, the recent declarations of the European Parliament urging Serbian government to distance itself from Seselj hate speech are a miscalculation.

Finally, the danger of radicalization of Muslim rhetoric in the Balkans and particularly in Kosovo, should be taken into account. Although there are no official figures, it is believed that 200 Kosovars have entered the foreign fighters' ranks of the Islamic State (20 have been killed in Syria and Iraq).

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According to the International Center for the Study of Radicalization (ICSR), the Balkan countries are the largest contributors of foreign fighters outside Western Europe and the Middle East. Among all the Balkan countries, Kosovo, Albania and Bosnia are at the top of the list. During August and September, police raids in Kosovo ended with the arrest of 55 people suspected of fighting in Iraq and Syria or of recruiting fighters. Some of the people arrested were imams belonging to the Islamic community of Kosovo. A law to prohibit Kosovars joining the armed conflicts outside the territory of Kosovo was drafted before summer but, since the Assembly was dissolved and an institutional deadlock created, the law was not passed and is still on hold.

The main religion in Kosovo is Islam (90%) practicing the Sunni mainstream in a secular state. Religion does not interfere in the political sphere and is exclusively a private matter. Nevertheless recent developments raise concerns about real dimension of this phenomenon. The bleak economic situation together with widespread corruption and the feeling of disenchantment about future that is not bringing what the independence promised can be the ideal breeding ground for an increasing radicalized discourse, particularly among young people. In any case, the international community should invest all their efforts into fighting against the deep-rooted causes of this radicalization. And this should begin with self-examination.