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November 18, 2008

Confusion in Kosovo

By Ian Bancroft, The Guardian

<http://www.guardian.co.uk/commentisfree/2008/nov/17/kosovo-serbia>

Almost nine months after Kosovo unilaterally declared independence from Serbia, the EU's rule of law mission (Eulex) continues to languish amid ongoing disputes over the framework and conditions for its deployment.

Though intended to consolidate peace and stability throughout Kosovo, this continued stalemate is instead fuelling political and social tensions that are further complicating intra- and inter-ethnic relations.

At the request of two of its permanent members, a UN security council session on the issue, scheduled for November 11, was postponed.

With Kosovo's leaders refusing to accept the compromise proposal of the UN secretary-general, Ban Ki-moon, which Serbia supports and on which Eulex's deployment now depends, the EU's capacity to manage crises in the western Balkans is once again being brought into question.

Failure to contend with a plethora of legal, political and technical obstacles has hampered the deployment of Eulex, the EU's largest civilian crisis management mission, which was conceived to train and mentor police, customs officials and judges. It was initially envisaged to be launched on June 15 following a 120-day transition period, but fewer than a quarter of the planned international personnel are in place.

In response to European calls for a more constructive approach to discussions over Eulex, Serbia has outlined three conditions under which it would accept deployment – that Eulex secure UN security council approval, be neutral with respect to Kosovo's status and not implement the Ahtisaari Plan, which also lacks security council authorisation.

The amended six-point plan of the UN secretary-general, which Serbia declared it would support, also envisages an autonomous police force for Serb-majority areas, which would receive directives from the UN's mission in Kosovo (Unmik); with Eulex responsible for policing structures in majority-Albanian areas.

Customs controls at the administrative boundary between Kosovo and Serbia would be operated by international officials, with speculation suggesting that customs revenues from the Serb-populated north will be allocated locally, instead of being transferred to the government of Kosovo.

This compromise reconfiguration of the international civilian presence in Kosovo has been vehemently rejected by Kosovo's president, Fatmir Sejdiu, and prime minister,

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Hashim Thaci, who claim the plan breaches Kosovo's sovereignty, territorial integrity and constitution.

In response, Ban publicly professed his hope that the authorities in Pristina would "understand the importance of flexibility and will act pragmatically", while Bernard Kouchner, the French foreign minister, has insisted that "the UN system has been more or less accepted by the Serbs. It must now be accepted by Kosovars" and that "we need this document to send Eulex".

Despite hopes that Eulex may become operational in December, failure on the part of Kosovo's leaders to reach a compromise threatens the very future of the mission, which is imperative for strengthening the rule of law, specifically with respect to the police and judiciary.

As a recent report by the Organisation for Security and Cooperation in Europe concluded, "courts in Kosovo frequently failed to take into account ethnically motivated factors, which were the cause of many of the crimes. Suspects convicted of serious crimes, such as setting alight religious monuments or injuring people, including policemen, often received lenient sentences, many of which were suspended."

Without Eulex's technical monitoring and mentoring, Kosovo will remain a haven for organised crime and various forms of trafficking.

Widespread opposition within Kosovo to a compromise solution, however, means the issue of Eulex's deployment has the potential to spark a deep political crisis, one that will only serve to exacerbate already challenging socio-economic conditions. Ramush Haradinaj, the leader of the Alliance for the Future of Kosovo (AKK), has warned that the neutrality of Eulex regarding Kosovo's status would have a negative effect on stability.

Albin Kurti, the leader of the Vetevendosje (Self-Determination) movement, meanwhile, has threatened to organise protests and demonstrations should Kosovo's government accept the plan. Any political instability within Kosovo could have severe ramifications for strained intra- and inter-ethnic relations.

The intransigence of Kosovo's leaders with respect to Ban's compromise stems from the legitimisation of their maximalist stance that proponents of independence have permitted throughout negotiations over Kosovo's status; constructive channels for dialogue, compromise and multilateralism having been fundamentally impaired by unilateralism and scant regard for international law. The ramifications of this approach now threaten to undermine the very purpose and authority of Eulex, even before its deployment is fully complete.

Combined with the EU's failure to provide the necessary legal, diplomatic and technical basis for Eulex's deployment, which is now likely to spark greater fragmentation and instability within Kosovo, questions once again surface about the



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EU's capacity for managing crises in the western Balkans and further afield. The faltering role of the EU also demonstrates the need to reinforce, not bypass, the UN's position in international affairs.