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EU Kosovo mission up in the air

Euractiv, Brussels

<http://www.euractiv.com/en/enlargement/eu-kosovo-mission-air/article-171662>

EU-Lex Kosovo, a major European Union initiative, faces an uncertain future following internal and external questioning of its legal basis. While Russia has attacked it as "illegal" and a "mistake", key EU countries are also considering following Spain's example in deciding not to participate in the Rule of Law mission until the legal issues are resolved.

Deploying the EU-Lex mission is "a big mistake on behalf of the EU," stated Russian Ambassador to the EU Vladimir Chizhov at a press conference yesterday (15 April). He said that the EU mission was "not legal" and dismissed hopes that it could become so if UN Secretary General Ban Ki-Moon transferred the authority from UNMIK to EU-Lex.

Ban Ki-Moon "is not in a position to do that and he was well advised during his visit to Moscow on that particular issue just days ago," he said.

Chizhov warned against "possible attempts to force EU-Lex into deployment across Kosovo, to re-establish those elements of the international presence in northern Kosovo by force".

The only way to proceed is to resume the negotiating process between Belgrade and Pristina, he added.

Serbia strongly opposes the EU-Lex mission and insists on dealing only with UNMIK, the mandate of which recognises the territorial integrity of Serbia. Its positions were hardened following the declaration of independence by Pristina on 17 February, leaving EU-Lex in a situation where it could be unable to control certain Serb enclaves in Kosovo, despite the fact that in theory its mandate covers the whole of Kosovo.

But this is not the only threat facing the initiative. The EU Council insists that EU-Lex is based on UNSCR 1244. But the only paragraph of the resolution from 1999 which gives grounding to such an understanding is one that states that the UN Secretary General is authorised to establish an international civil presence in Kosovo.

Diplomats said Western countries had expected Secretary General Ban Ki-Moon to use this text to transfer authority from UNMIK to EU-Lex. However Ban Ki-Moon stated recently that UNMIK should continue to exert authority over Kosovo, pending further instructions from the Security Council.



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What's more, Article 5 of the Council decision establishing EU-Lex reads that "the operational phase of EU-Lex Kosovo shall start upon transfer of authority from the United Nations Mission in Kosovo, UNMIK".

However this objective seems to have been discretely modified in the meantime. The official website of the European Union Planning Team for Kosovo, in charge of launching EU-Lex, reads that "EU-Lex will not replace UNMIK". Council sources explain this discrepancy by saying UNMIK and EU-Lex have "different philosophies".

They confirmed that UNMIK would stay in charge until an agreed date, yet to be fixed. But in the meantime, uncertain about the future of their mission, key personnel from UNMIK have been looking for other employment.

Amid the confusion, Spain has decided not to give the green light to the participation of its personnel in the EU mission until UNMIK transfers its jurisdiction. Spanish Foreign Minister Miguel Angel Moratinos told reporters during an informal meeting of EU foreign ministers in Slovenia on 29 March that Spain is purely adhering to international law and to Article 5 of the Council document.

According to diplomatic sources, several other EU countries, including at least one 'key player', may follow the example of Madrid, unwilling to set a precedent by ignoring the UN prescriptions.

Sources from the EU Council indicated they have no such information, saying the only problem was that some countries had minor problems in putting their seconded personnel on the ground on time.

In the meantime, Slovenia - which holds the current EU presidency - and France (its successor) have called on Serbia not to oppose EU-Lex if it wants to join the European Union.

But such messages may well play into the hands of the Radical Party in the wake of the early elections in Serbia on 11 May.

The Serbs in northern Kosovo will vote in these elections despite the protests of the President and the Prime Minister of Kosovo, whose territory declared independence on 17 February. Serbian Prime Minister Voislav Kostunica expressed his ambition for elections to be held across the whole territory of Kosovo to give out the message that the province "still remains part of Serbia".