Chapter 3

The EU's Affair with Kosovo

In the 1990s, as part of efforts to build a new, post-Cold War identity the EU made a significant endeavour to become seriously involved in the successful management and resolution of conflicts in its close vicinity (Keukeleire and MacNaughtan 2008, 242). The turbulent region of South East Europe, and the so-called Western Balkans within it, thus seemed to be an appropriate testing ground for 'testing' the power and credibility of the EU.¹ Several studies had focused on the EU's efforts to stop war in former Yugoslav countries, showing the EU had reacted poorly to the outbreak of those conflicts (Andreatta 1997; Joseph 2005; Juncos 2005; Keukeleire and MacNaughtan 2008). As Wouters and Naert (2004, 9) point out, "the EU undertook numerous, but mostly rather unsuccessful diplomatic efforts to prevent, contain and resolve the conflict". After the failure of the EU to preserve or establish peace in its neighbourhood in the 1990s, the countries of the Western Balkans remained a site for the EU to further develop and improve its capabilities, with the goal of integrating the region into the European family and stabilising it in the process.²

The EU's interaction with the former Yugoslav countries has had a major impact on how the EU's foreign policy has developed, particularly the CSDP.³ The main question explored in this chapter is how and why the EU became involved in the armed conflicts in former Yugoslavia or, better, how and why did the EU 'drag' itself into these conflicts? Further, how did the notion of peacebuilding develop in the Western Balkans region in the 1990s and what did the EU learn from these interventions? Why did the EU later become involved in the conflict in Kosovo so voraciously; alternatively, when and why did it start to think that Kosovo might provide a way for the EU to show it is developing into a global security actor with

¹Croatia, Bosnia and Herzegovina, Serbia, Montenegro, Macedonia and Albania.

²As mentioned in Chap. 2 with regard to the institutional development of these capabilities, "with the end of the 1990s, the war in Kosovo in the EU's vicinity and at the same time, impotence of the EU to intervene, this increased action in the field of conflict prevention coincided with the development of the ESDP".

³For more, see Chap. 2.

both the means and willingness to act decisively for the sake of international and regional peace?

The next chapter aims to give insights into the EU's gradual recognition of the importance of this region being stable, the history of the Kosovo conflict and how it was managed prior to the EU's full-scale involvement.

3.1 Engaging the EU in “The Blood-Stained Balkans”

To those who have not visited them, the Balkans are a shadow-land of mystery; to those who know them, they become even more mysterious... You become, in a sense, a part of the spell, and of the mystery and glamour of the whole. You contract the habit of crouching over your morning coffee in the café and, when you meet a man of your acquaintance, at least half of what you say is whispered, portentously. Intrigue, plotting, mystery, high courage, and daring deeds—the things that are the soul of true romance are today the soul of the Balkans. (Todorova 2001, 14)

The Balkans has historically been perceived not only as politically enigmatic and complex—somewhat Delphic—but in derogatory terms, at odds with European values and traditions (Juncos 2005): barbaric, uncivilised, prone to violence and lagging behind “the developed” (Zupančič and Arbeiter 2016).⁴ Such discourse on the Balkans and other similar “Balkanisms” (Todorova 2001)—not to mention the wars in the 1990s—have not done much good for the region.

Yet, taking into account the politico-economic reality in the former Yugoslavia until the war in the 1990s, the EC actively engaged with the country mainly through contractual trade relations. It actually became the SFRY's most important foreign market, taking up as much as 60% of the country's exports. The EC did not perceive the SFRY as either the East or the West; its relationship with SFRY was much more extensive than the relation with any other CEE state during the Cold War. Ginsberg (2001, 59) names this relationship as a “history of firsts” in East-West relations.

The SFRY was the first CEE state to accredit its diplomatic representative to the Commission and open a diplomatic mission in Brussels already in 1968. It was also the first CEE country to negotiate and implement a formal trade agreement with the EC in 1970. The EC opened its mission in Belgrade in 1980. The EC's trade and diplomatic relations with Belgrade were founded on the Community's concept of *ostpolitik*—the opening and normalisation of relations with the Eastern bloc, especially by the Federal Republic of Germany (West Germany)—with the CEE states. On the other hand, the former SFRY was a major beneficiary of the EC's Generalised System of Preferences, a system of reduced tariffs on imports of goods from developing countries (ibid.).

⁴Derogatory terms “such as the term Balkanization, were already in use following the Ottoman Empire's demise at the turn of the 20th century, when Serbia, Montenegro, Greece, Romania and Bulgaria achieved statehood” (Zupančič and Arbeiter 2016).

In the 1970s, the SFRY was placed within the framework of the EC’s new Mediterranean Policy that linked the Community’s tariff preferences and economic assistance to states and thereby helped the EC to promote peace and stability in volatile regions. The EC and the SFRY signed another preferential trade accord in 1973 in which each signatory offered the other most-favoured-nation treatment. By 1989, the two had already entered a new Cooperation Agreement that further extended the scope of their bilateral cooperation (Ginsberg 2001, 59–60).

In this post-Tito period, the EC made arrangements to help stabilise the country, and initiated improvements in the cooperation accord etc. In this regard, Ginsberg (1989, 124) claims these improved relations were designed to send signals to the USSR regarding the EC’s interests in the country’s territorial integrity and political sovereignty; the indivisibility of the SFRY was also strongly favoured by the USA (Zupančič 2016). Moreover, by the end of 1980s the EC and the former SFRY had decided to include meetings at the political level in their cooperation, reflecting the position taken by both sides that it was necessary to cement their relations amid the big changes happening in the CEE states and the Soviet Union. Yugoslavia also asked for new loans in 1989. Yet just as relations between the EC and the SFRY were developing in this new political framework of cooperation, the SFRY came to the verge of unravelling (Ginsberg 2001, 59–60).

Before the wars in the former SFRY during the 1990s, the country’s former political elites presented its “socialist society” to the world as an ideal form of multicultural coexistence. In 1980 and after the death of the Yugoslav leader Josip Broz—Tito, who had managed to keep a lid on different alleged and actual inter-ethnic tensions, fuelled by a desire to form independent political entities the various nations in the SFRY started to more decisively pull the national(istic) strings in the direction of creating independent republics (Juncos 2005). These desires were also driven by the geopolitical changes brought by the end of the Cold War.

It is also crucial to understand the economic factors underpinning the complexity of former Yugoslavia. One should note that when the Partisans emerged victorious from the World War II, they were confronted with a very difficult economic legacy—this was especially obvious in the periphery of the country since the SFRY was very unevenly developed. An urgent measure undertaken by the Yugoslav government to counter this was to decentralise the country, which later inspired the separatist tensions of individual republics and autonomous regions—decentralisation led to growing income differences between the richest republics and poorest regions. The gap between the per capita social product of Kosovo and the richest republic, Slovenia, expanded from 1:4 to 1:7 between 1952 and the late 1980s (Becker 2017, 841–842). Kosovo’s per capita social product amounted to a mere 30% of the Yugoslav average at the time, while Slovenia’s level was up to 200% (Rusinow 2008, 260).

In the 1980s, when the country was hit by a significant economic crisis, the republics and regions were characterised by the heavy proliferation of decentralised social, educational and cultural institutions, as well as strong patterns of uneven

economic development.⁵ Becker (2017, 841) notes “this crisis had its roots in the attempt to bridge the chronic account deficit and to modernise the economy through capital goods imports, which incurred external debt in the 1970s”. The government reacted by applying austerity programmes in the 1980s that were controlled by the International Monetary Fund (IMF), but these led to economic stagnation, a decline in GDP, inflation, increasing poverty and rising unemployment (Becker 2017, 842).

Again, the impact of this crisis hit Yugoslavia unevenly. Djeković (1989, 25) noted that unemployment in Kosovo was 30% while Slovenia had almost full employment with an unemployment rate not exceeding 2%. Together with the clear outbreak of nationalism, which often occurred at the expense of other nations, these circumstances only contributed to the SFRY falling apart (Daskalovski 2003). At the end, this resulted in more than 100,000 deaths, 2.4 million refugees and more than 2 million additional people who were internally displaced (Watkins 2003, 10).

During the wars in the 1990s, several foreign journalists reproduced and recreated the mentioned negative image of “the blood-stained Balkans” as something separated and alienated from the notion of civilised ‘European’. This image was associated with the term ‘Balkanisation’: denoting division, violence, chaos, authoritarian regimes—against which a positive image of Europe and the West was constructed (Juncos 2005). In the words of Susan Sontag (2003, 71–72):

That there could be death camps and a siege and civilians slaughtered by the thousands and thrown into mass graves on European soil fifty years after the end of the Second World War gave the war in Bosnia and the Serb campaign of killing in Kosovo their special, anachronistic interest. But one of the main ways of understanding the war crimes committed in Southeastern Europe in the 1990s has been to say that the Balkans, after all, were never really part of Europe.

The media helped create an image of the Balkan wars that are today seen as bloody, violent and primitive (Juncos 2005; Zupančič and Arbeiter 2016).⁶ At this point, it must be noted that public opinion in EU member states was largely shaped by Anglo-Saxon media. Lindstorm (2003) and Juncos (2005) argue that political elites from the region itself also used—and are still using—the ‘Balkanisation’ theme as a political weapon to dismiss their competition or political enemies: detaching

⁵For more on the decentralisation and separation of Kosovar societal institutions, see Chap. 3: Kosovo in socialist Yugoslavia.

⁶Zupančič and Arbeiter (2016, 1060) write that, in comparison, the First Gulf War (1991) which started around the same time as the beginning of the dissolution of Yugoslavia and lasted for 17 days, has been portrayed as a “short and flawless operation”. However, the number of victims in the First Gulf War, which is at least half the total number of war victims killed in the wars in former Yugoslavia, was created in 17 days only. The pace of brutality is thus hardly comparable. Moreover, the media forgot about the fact the Vietnam War resulted in 3 million deaths of Vietnamese people. Nevertheless, the journalist did not stop short of depicting the wars in the 1990s in former Yugoslavia as a consequence of the “ancient hate” and “brutality of the Balkans people”.

themselves from the term by claiming to hold European aspirations, while presenting their neighbours or political competitors as representatives of ‘the Balkans’ or being “balkanised”. Zupančič and Arbeiter (2016) write that, especially during the war, negative stereotyping was employed to promote the conflict: portraying another nation as crude, violent and as blameworthy for their nation’s misery.⁷

This negative image influenced how some countries presented themselves, such as Slovenia, Croatia, Bulgaria and Romania, that sought to distance and detach themselves from the region after gaining independence. However, neither the ideal picture of multicultural cohabitation nor the negative stereotyping of the primitive Balkans reflects the truth—a complex picture based on both ethnic tensions and peaceful co-existence in the region (Juncos 2005).

Integration of this region into European structures might end this debate and finally designate the region as European. Yet, due to the negative image of the people in the region being primitive, by analogy, their economies should also be backward, underdeveloped—this all strengthened the perception this area has no place in a stable, peaceful and Europeanised continent—making the terms “the Balkans” and “European integration” incompatible (Uvalic 1997, 19–34 in Juncos, 2005). Nevertheless, already after the wars in the 1990s the EU maintained the view that all of the former Yugoslav countries had European prospects. This was a consequence of the “hour of Europe” in the 1990s, discussed in the following chapter, and the EU’s efforts to be seen as a viable security and normative actor not only in this region, but beyond.

3.1.1 *“The Hour of Europe in the 1990s”: The EU and the Breaking up of Yugoslavia*

In the 1970s, Duchêne (1973, 43) talked about the EC’s role in the world, describing it as a “civilian power”. This implies its influence goes beyond the use of military force, but also applies diplomatic and economic instruments which he believed are more important. Juncos (2005, 94) notes that “to be a civilian power, the EU needed to eschew the use of force in international relations (implying military instruments) and to pursue ‘civilian’ ends such as the promotion of democracy, human rights, rule of law, and multilateralism”. This was the role the EC (later the EU) followed prior to the wars in former Yugoslavia and was also pursued in wartime (1991–1995).

The outcomes of the events mentioned in the previous chapter—less strong socialist regimes, economic and political crisis—weakened the idea that the SFRY

⁷As Zupančič and Arbeiter (2016) note, the problem of a stereotype is that it is self-fulfilling—whenever perceives a certain stereotype as true will quickly notice certain behaviour that corresponds to this regional stereotype, but not the opposite behaviour (one who upsets the true image or opposes it).

could persist in its multi-ethnic formation led by a central government (rotating presidency) while nationalism in the republics was gaining ground. Fuelled by the irredentist tensions and nationalist rhetoric, the Yugoslav identity and the political stability of the country were then further eroded by its political leaders. The first republics of the six to formally leave the SFRY were Slovenia and Croatia, both declaring their independence on 25 June 1991. While Slovenia's path to independence was comparatively short with a small number of causalities, Croatia's struggle for independence was more difficult. However, it was in Bosnia and Herzegovina—the most ethnically diverse country of all the Yugoslav republics, over which both Croatian and Serbian nationalisms maintained claims—where the armed conflict of the 1990s proved to be deadliest (Mahmutćehajić 2001, 139–145).

For the EC, the chaos in former Yugoslavia could not be ignored since it was practically taking place on its borders (Brenner 1992, 587). With the start of armed hostilities in 1991, the EC tried to find a negotiated solution. From today's perspective, it could be argued that this was one of the first difficult tests for the (then non-existing) CFSP. At the beginning of the crisis, the EC sent a high-level mediation team to Belgrade, aimed at bringing the Yugoslav Government and the 'rebel' republics of Slovenia and Croatia back to the negotiating table. Before leaving for the meeting in Belgrade, the Chair of Presidency of the Council of the EU Jacques Poos referred to the member states' high expectations regarding the development of the common foreign policy stance and the Community's responsibility to act in a crisis threatening European stability. "This is the hour of Europe", he said, "It is not the hour of the Americans" (ibid.). Calling attention to the European initiative that was independent of the USA, Poos expressed the feelings of expectation and hope that accompanied this self-conscious presentation of the Community's diplomatic self-reliance (Brenner 1992, 588). The EC therefore held a high profile at the start of the conflict, and put various diplomatic and economic sanctions in place. However, the issue of the recognition of the breakaway republics hampered those efforts as it did later on in the negotiations regarding the war in Croatia and Bosnia and Herzegovina (Juncos 2005).

After the meeting, the mediation team announced the parties had agreed to accept certain measures to end the conflict.⁸ The Community warned it would suspend economic aid of almost USD 1 billion if the Yugoslav Government did not halt the Yugoslav People's Army's military operations against Slovenia and Croatia.⁹ The breakaway republics, on the other hand, had to commit themselves to cease all activities related to independence. Last but not least, it has to be said that the EC wished to preserve Yugoslavia as a single political entity. This stance was also clearly repeated by the US administration on all possible occasions (Zupančič 2016).

⁸The then Prime Minister of SFRY Ante Marković, Slovenian President Milan Kučan and Croatian President Franjo Tuđman.

⁹Some authors (Woodward 1995) claim that some of the more effective instruments of the EC, such as economic assistance, were not used as a trump card before the crisis, but this case shows the Community actually used this 'ace'.

The European negotiation team offered assistance in redrafting the Yugoslav constitution to help retain a single entity and grant greater autonomy to both republics. Yet, the Community was not unanimous on the action due to disagreements over the importance it should have paid to the potentially contradictory principles of self-determination and territorial integrity. Germany argued for the right to self-determination of Slovenia and Croatia (probably due to the Christian Democratic Party of Germany’s close ties with the Slovenian and Croatian Catholic parties). France stated that Yugoslavia’s territorial integrity was a priority and this was supported by Great Britain, Italy and Spain (New York Times 1991; Zupančič 2016).

The Community’s negotiators’ first effort to end the armed hostilities was the Common Declaration on the Peaceful Resolution of the Yugoslav Crisis, also known as the Brioni Agreement. It was signed by the Slovenian authorities, the Yugoslav Government and the EC in July 1991. The EU-brokered agreement brought about a cease-fire which effectively stopped the war in Slovenia. However, it was then clear that the remains of former Yugoslavia, then dominated by Slobodan Milošević, were not so concerned with Slovenia leaving the federation (the ethnically relatively homogenous Slovenia had never appeared on maps of Great Serbia which, together with the maps of Great Croatia, paved the way to bloodshed). Although the EC’s ministerial threesome, invoking the earliest elements of the common foreign policy, believed in the success of the Community’s intervention it was soon clear a three-month moratorium on Slovenia’s declaration of independence, as envisaged in the Brioni agreement, was not enough to prevent bloodshed; the Yugoslav People’s Army and Serbian paramilitaries started to regroup in Croatia and Bosnia and Herzegovina, in preparation for continuation of the armed conflict (Helsinki Committee for Human Rights in Serbia 2016).

The EC sponsored the Hague Peace Conference in September 1991, namely the last attempt to preserve the Yugoslav single entity as a confederation or loose federation. Important for understanding the future war in Kosovo in 1998–1999 is the arbitration process known as the Badinter Commission.¹⁰ It started work in November 1991. Its mandate was to resolve constitutional issues in dispute, such as who is eligible to declare independence under the Yugoslav Constitution of 1974 and who is not. The EC presented its view that the Yugoslav republics—and not *peoples* or so-called *autonomous regions* like Kosovo or Vojvodina—were those who could seek secession. The EC imposed a deadline by which republics could apply for recognition of their independence.

¹⁰The Arbitration Commission of the Conference on Yugoslavia (known as the Badinter Arbitration Commission) was set up by the Council of Ministers of the European Economic Community in 1991 to provide the Peace Conference on Yugoslavia with legal advice. The president of the five-member Commission, consisting of presidents of the Constitutional Courts in the EEC, was a French lawyer and professor called Robert Badinter. The Arbitration Commission produced opinions on major legal questions raised by the conflict between the republics of former SFRY (Radan 2000).

This was a turning point in European foreign policy and diplomacy. But, as a consequence of the Badinter Commission's findings, the EC did not support the claims of Kosovars for independence. Further, Macedonian independence was also not recognised due to Greece's objections following the unresolved dispute over the official name of the former Yugoslav country. The EC's recognition of Slovenia and Croatia was also delayed; it only came under the pressure of Germany in January 1992 after the brutal occupation and destruction of Vukovar and shelling of Dubrovnik by the Yugoslav People's Army and paramilitary troops, linked to the regime in Belgrade (ibid.).

This inability to act or agree on common action during the initial stages of violence in the region showed the limits of the coordination through then EPC mechanisms, as skilfully exploited by local protagonists in former Yugoslavia (Juncos 2005). The EC had several opportunities and means available, at least strong political pressure. Yet disagreements among the European actors themselves (the EC and EC member states) prevented any joint military action.

When the violence intensified, the EC was marginalised by the intervention of other actors, but continued to play a diplomatic and humanitarian role within the UN framework. In August 1992, the EC launched an International Conference on the former Yugoslavia in Geneva under the UN's auspices, and also supported and committed itself to implement a new regime of sanctions approved by the UNSC. This later proved to be detrimental for every party to the conflict in terms of self-defensive measures, except for the Yugoslav People's Army that was already heavily armed. The EC was also an important actor for humanitarian assistance and for supplying the United Nations Protection Force (UNPROFOR) mission in Bosnia and Herzegovina with troops (ibid.).

In 1994, five states established the Contact Group (the USA, the Russian Federation, France, Great Britain and Germany). Consisting of representatives of influential states, this group began leading international efforts to bring the conflict in the former SFRY to an end. This saw the EU's role significantly decrease. Today, Poos' reference to 'the Hour of Europe' even paradoxically symbolises what the EU failed to do in former Yugoslavia in terms of supranational action (Glaudić 2011).

3.1.2 Seeking a Civilian Power Identity: The EU and Creation of "The Western Balkans"

In December 1995, the Dayton Peace Agreement was signed in Ohio in the USA, with the EU as an institution not playing any significant role. Namely, it was the influential states whose resolution to halt the hostilities culminated in NATO's military operation against the Yugoslav People's Army that brought the war to an end. However, the EU later gained new momentum and was given a major role by being put in charge of assisting the post-conflict reconstruction of war-torn territories. At the Madrid European Council in December 1995, the EU expressed its

intention to implement the civilian aspects of the peace agreement using its strengths and capacities as a civilian power (Juncos 2005).

Learning from its failures during the initial period of war in former Yugoslavia and reacting to criticism of its inability to react in time, the EU launched the most extensive external involvement in the region in the form of post-conflict reconstruction and peacebuilding after the conflict. The region was also given the so-called European perspective to encourage the creation of states that would provide for stability in the region. The term “Western Balkans” was coined in the context of the Stabilisation and Association Process (SAP). The SAP was developed as a common framework governing relations with the Western Balkans up till their accession to the EU. This was the first instance in which the region was offered prospects of EU integration (WOSCAP 2017, 13).¹¹ The process has since become the dominant political goal of countries in the region following the dissolution of the socialist regimes in the SFRY and Albania. The term Western Balkans denotes the Balkan countries without Bulgaria and Romania, which “were left outside this security-political framework” (Dolenc et al. 2014, 66). After Croatia also joined the EU, the term stood for countries in South East Europe in principle eligible for EU membership: Bosnia and Herzegovina, Serbia, Montenegro, Macedonia, Albania, and Kosovo. Put shortly, the term is a genuine political label used specifically in the European integration process (ibid.).¹²

Aware of the Union’s non-existing military capacities, EU officials believed that peacebuilding and other efforts of a non-coercive nature could become a credible means for the EU’s external engagement and also ‘a hallmark’ of the institution. In Bosnia and Herzegovina, the EU adopted a civilian approach based on diplomatic and economic instruments. Apart from humanitarian assistance, Bosnia and Herzegovina benefited from trade preferences as well as the PHARE and OBNOVA

¹¹The European Commission actually laid down the principles for the SAP in the context of the EU’s inability to stop the violence during the war in Kosovo (WOSCAP 2017, 13). This happened in the Communication to the Council and the European Parliament in May 1999, which was confirmed by the Council in June 1999. The content of the SAP contained the development of Stabilisation and Association Agreements, a form of contractual relationship, including the individual situation of each Western Balkans country. The Agreement offers the prospect of EU membership once the Copenhagen criteria are met. Next, it offered the development of economic relations within the region, the reorientation and development of the existing economic assistance, increased assistance for governance, democratisation, education, institution-building, civil society. Moreover, the SAP brought a promise of new opportunities for cooperation in other fields, such as justice and home affairs, as well as the development of political dialogue, including dialogue at the regional level (ibid.).

¹²It otherwise connects countries of diverse political, historical and social backgrounds, which are coincidentally geographically close and were part of socialist regimes, but have entered the new millennium even more diverse and divided than after the World War II. The Western Balkans is nowadays also the poorest region of Europe, with 30–40% of the EU-28 GDP average, but its countries differ in their socio-economic and political context (ibid.). Dolenc and others (2014, 68) argue that while the process of European integration is the source of the convergence process, these differences lead us to expect substantial divergence in performance with respect to the reforms they should conduct in the process.

programmes, which established the basis for political and economic conditionality (respect for human rights, democracy, and rule of law). Therefore, in 1997 the EU started emphasising the normative aspects of its involvement in the Western Balkans in its regional approach to encouraging cooperation and the region's long-term structural perspective (Juncos 2005).

Conversely, NATO's military intervention that effectively ended the war in Bosnia and Herzegovina and the successive NATO military presence in the country was more of a short-term and 'tougher' approach. This allowed the EU a secondary role in the region, while re-enforcing the status of NATO as the leading provider of security in Europe. The EU was limited to providing economic assistance under the auspices of the UN (*ibid.*). However, after the events in Kosovo, and the St. Malo Summit in 1998, this EU approach would start to change when the UK and France agreed on the need to develop the EU's military capabilities (Wouters and Naert 2004, 35).

Since the St. Malo Declaration, the use of military force has been included in the EU's toolbox of conflict prevention capabilities and considered necessary for effective external action. Pilegaard (2004, 19) notes that "the EU's contribution as a civilian power arguably presupposes the existence of a military power, able and willing to pave the way for subsequent civilian efforts to have an impact". The EU back then had to depend on the USA for this military support, but made an effort to address its lack of military power by developing a stronger European capacity to project military force (*ibid.*).

Manners' (in Juncos 2005, 98) analysis of the EU's involvement in Bosnia and Herzegovina shows the EU's preference to use civilian instruments and long-term structural approaches to conflict prevention. The EU claimed it is concerned with the root causes of the conflict, instead of simply bringing a certain conflict to an end. The latter peace-enforcement approach is essentially conditioned by having strong military capabilities at its disposal, instead of 'only' keeping the peace. Yet once it started to develop its military component, the EU could no longer argue that the institution could be seen only as a normative power in the Balkans.

The main lesson arising from the conflict in Bosnia and Herzegovina was that "if the EU wanted to be a credible and effective international actor and a promoter of norms in its neighbouring area, it needed to be able to back up its diplomacy with military coercion" (Juncos 2005, 99). And, indeed, at the beginning of the new century, the EU finally resorted also to military means—Bosnia and Herzegovina was selected as the "real test of the first ESDP missions, the first ever EU Police Mission in January 2003 and the largest EU military mission, EUFOR Althea, to date" (Juncos 2005, 88).

3.2 Kosovo: A Problem in the EU's Immediate Vicinity

Since the beginning of the wars in Slovenia and later in Croatia and Bosnia and Herzegovina, the focus of the EC and the member states was on maintaining peace and stability in the region. The war in Kosovo (1998–1999) was the final phase of

violence surrounding the disintegration of former Yugoslavia. However, it was also in Kosovo where the first signs of Yugoslav political instability were clearly visible: one should remember the demonstrations of Kosovo Albanian students demanding more rights and better conditions in 1981. Nevertheless, fully-fledged war in Kosovo did not erupt in the early 1990s, as was the case in Slovenia, Croatia, and Bosnia and Herzegovina. But while political entities with the legal status of republics achieved statehood early in the 1990s, Kosovo, on the other hand, remained under the jurisdiction of Belgrade despite the clear desires of Kosovo Albanians who wanted their own state (Zupančič 2015).

Led by President Slobodan Milošević, the authorities in Serbia fiercely ruled this option out. They claimed that Kosovo had never held the status of a republic—which would theoretically provide the right to secession according to the Badinter Commission—and that Kosovo is a cradle of Serbian statehood, the heart of Serbia, and its national soul (ibid.). Tensions between the Albanians and the Serbs in Kosovo escalated throughout the 1990s, until full-scale war broke out in 1998. The war continued until the ceasefire, followed by the withdrawal of the Yugoslav Armed Forces and Serbian-Montenegrin paramilitary troops in June 1999, which was a direct consequence of the NATO military operation against FRY from March until June 1999 (Judah 2002).

The end of the war in Kosovo presented a new opportunity for the EU to introduce itself as a strong peacebuilding actor able to use its normative power to influence the country's reconstruction and become credited as 'a force for good'. The central point of the EU's engagement in the Western Balkans has since then been aimed at Kosovo because back then the other countries of the region seemed to be on the path to stabilisation.

The current conflict in Kosovo has significantly different dimensions to the nature of the armed conflict in the territory during the 1990s. This is precisely why one needs to understand the background to the complicated relationship between the Albanians and Serbs in Kosovo. Without observing and knowing about the root causes of the conflict, the role of EULEX and its role in support of building and reforming the judiciary, a multi-ethnic police and customs service in Kosovo, which makes up the core of this book, cannot be understood properly. This is the main reason why the next subchapters analyse the root causes of the conflict in Kosovo.

3.2.1 *The Period Before the War in Kosovo*

Navigating between Historical Facts and Myth

The Albanian-Serbian conflict is a conflict marked by the infamous question of *who was in this territory first* and who, as a result, holds the *historical right* to not only inhabit but exclusively manage the territory. The dilemma of 'who is first' and the historical arguments—from which the myths derive from—have been used countless times in political battles between the two peoples. While the argument of Serbs builds on their right to inhabit the territory of the Serbian medieval kingdom—the symbol of

unification of their ancestors, descendants and God, as they believe—the argument of the Kosovo Albanians finds its basis in ethnogenesis, claiming to be of Illyrian origin and therefore ‘there first’—or, at least, before the Slavs (*ibid.*).

Historically speaking, the tribe of Illyrians which in the 4th century BC inhabited the territory of what is today Kosovo, spoke a language similar to Albanian. On the other hand, the Serbs, a nation of South Slavic origin, settled in the Balkan Peninsula in the 5th and 6th centuries when the last remnants of the Roman Empire's authority were disappearing from the area (King and Mason 2006, 26). At the time, the Balkan Peninsula was a conglomerate of different tribal groups moving around the area in their search of territory and related resources.

The transition from the 1st to 2nd millennium brought new challenges for the territory of today's Kosovo. The Byzantine Empire ruled here between 1014 and 1018, but did not last long. Two centuries later, at the start of the 13th century, a new force formed north of Kosovo—the Serbian dynasty of Nemanjić—which conquered the territory and triggered a cultural and religious boom in Kosovo. The area saw the construction of the first monasteries and, at the end of the 13th century, the seat of the Orthodox Church was transferred to Peja/Peć (today the most important city in the western part of Kosovo).

Between 1331 and 1346, the medieval Serbian state was ruled by king Stefan Dušan, also known as Dušan the Mighty. His kingdom centred in Skopje expanded to some parts of what is today's Montenegro (Bar), Macedonia (Epirus), Albania (Valoro), Greece (Thessaly) and Kosovo (Prizren). Albanian nobility helped King Dušan win over Epirus and Thessaly; the nobility was also an active factor in the Serbian state. The king of state, which spread from the Danube to Corinth in modern Greece, was even called “the ruler of the Serbs and the Greeks” by the patriarch of the Serbian Orthodox Church (Drançolli 1984, 29–31; Krstić 2006, 28).

However, the Serbian rulers were soon forced to acknowledge the superiority of a certain emerging power in the neighbourhood. It was the Ottomans who began consolidating their rule in the Balkans in the 14th century following the Serbian army's defeat in the battle of Maritsa in 1371 and continuing with invasion of the Serbian kingdom (Malcolm 1999; Krstić 2006). Within a few decades, the Ottoman Empire had conquered the entire Balkan Peninsula. Historical sources bring us testimonies of Albanian rebellions against the conquering army in which Serbian nobles also participated (Drançolli 1984, 31). The combined armed forces of the Serbs and Albanians managed to defeat them in the area of the present-day Montenegro. After the defeat, Sultan Murad I started to build up a massive army to take revenge, ultimately leading to the battle at Kosovo Polje in 1389 (Weller 2009, 25).

The Battle at Kosovo Polje and the “500 Years of Injustice” Argument

The battle at Kosovo Polje supposedly took place on 28 June 1389, not far from modern-day Prishtina (Malcolm 1999). Historical sources are quite short in credible information about the battle, but concur that the Serbian local commander, Prince Stefan Lazar Hrebeljanović, did not want to surrender to the Ottoman Empire. Instead of giving in, he took up arms against the Ottoman army. A week prior to the battle, he established an interesting coalition to fight the Ottomans. Namely, he

invited the Albanians into the coalition, together with the Serbs, Bosnians and certain other so-called Christian armies. The fact they all fought shoulder to shoulder against the Ottomans is not something many people in Serbia or Kosovo are glad to be reminded of (Weller 2009, 25; Drançolli 2008, 38–39).

The Ottomans were the winners of this battle that reshaped the history of this part of South East Europe (Voje 1994, 114). Despite the Ottoman victory, the Serbs retained some sort of control over Kosovo for the next few decades, during which time most of the feudal lords became Ottoman vassals. Yet the situation changed in 1459 when the Ottomans obtained complete control over the area (Ruvacac 1992). The battle itself was not particularly important in military terms, and was not particularly well-known throughout history until the 1980s when details of the battle were 'rediscovered' for political purposes (yet it should be noted that Kosovo 'existed' in Serb literature as an important place of remembrance). Referring to this very battle, Slobodan Milošević, aided by a considerable share of the Serbian cultural and intellectual elites, managed to build a myth around it that presented the Kosovo battle in terms of "the Serbs against the rest" or as a struggle of justice against evil (Malcolm 1999).

Like Prince Lazar's decision to fight the Ottoman sultan was based on an alleged struggle to choose between the 'earthly kingdom of power and comfort, but without pride' on one hand and the 'heavenly realm of eternal justice' on the other, the Serbian elites also saw modern Serbia's struggle for the conquest of Kosovo as the same. Long before Milošević rose to power, Popović (1976) pointed out that some historical facts about the battle of Kosovo had been completely intertwined with fake and mythological content. This kind of merging history and fiction represents a new danger for those unable or unwilling to recognise what is true and what is made up in this story.

During the Ottoman occupation of the Balkans, most Albanians—until then predominantly Christian—slowly embraced Islam as their religion. This was also due to existential calculations since Muslims were not obliged to pay taxes to the Ottomans. This put them in a privileged position (Drançolli 1984, 40–47; Ruvacac 1992; King and Mason 2006, 26). Nevertheless, some Albanians remained loyal to their original faith (predominantly Orthodox and Catholic). This internal divorce within a single nation that led to the emergence of two or even three faiths is thought to have contributed to the Albanian national consciousness' relatively late development. Another element was the inconsistent use of alphabets: in the south of the ethnic Albanian territory the Greek alphabet was used, while Latin was used in the north. Moreover, some Albanians used Arabic writing as a sign of respect for Islam (King and Mason 2006, 26–29).

Albanian communities were known for their quite isolated life in certain remote areas that had practically not been reached by the Turkish authorities. Thus, some traditional laws were preserved, the best known certainly being the *Kanun of Lekë Dukagjini* (*Kanun Lek*). This practice of oral laws was preserved in some places until the mid-20th century. The law encompassed practically all areas of social life, including blood revenge (*hakmarrje*). Blood revenge in practice meant a man could kill a person who had seriously offended or humiliated him. Moreover, even a close

male relative of the person humiliated could carry out the vengeance, which might also be imposed on a family member of the one committing the original 'crime'.

Horrible circles of revenge have often dragged on for decades, causing some families to build proper fortresses to prevent revenge, while possible targets of retaliation have been forcibly detained in them (King and Mason 2006, 28). Some people have practically disappeared from public eye due to this practice. Unsurprisingly, in the late 1980s and early 1990s intellectual elites in Serbia often argued that this practice, which is nowadays limited, shows the Albanians lag behind in civilisational terms (Zupančič 2015).

While the Albanians gradually adapted to Ottoman rule, the Serbs did not feel at ease in the late 17th century and *en masse* started to leave the area of Kosovo for central Serbia. One of the motivating factors to move north included the desire to help the Austrian army liberate Serbia from Ottoman domination. Unfortunately for the Serbs, the Habsburg army was defeated. After troops of the Habsburg Empire withdrew, the Serbs became the target of the Ottomans' cruel revenge (Weller 2009, 26).

Some authors (Jelavich 1983; Vickers 1997) understand these migrations of the Serbs as the beginnings of a change in the ethnic composition of Kosovo—in favour of the Albanians and at the expense of the Serbs. All this led to the awakening of Serbian national identity in the early 19th century. As a direct consequence, a series of Serbian uprisings (*ustanak*) against the Ottomans followed (Zupančič 2015, 52). In 1844, Ilija Garašanin, a well-known politician and statesman, who was also the Minister of the Interior and the Prime Minister of the Serbian Government, published the political manifesto *Načertanije*. The document for the first time contained clear Serbian claims for some territories in the Balkans. Certain observers claim *Načertanije* represents the start of the Great Serbia idea, later harnessed by aggressive Serbian politicians in the 1990s (*ibid.*).

From the Congress of Berlin to the end of the World War II (1878–1945)

An important turning point for Kosovar territory came in 1878, when the Congress of Berlin was held. The European Great Powers then recognised the right of statehood to Serbia and Montenegro. Pan-Slavic and Orthodox sympathies for the Slavic nations from imperial Russia played an important role here. On the other hand, the Albanian requests for statehood were largely ignored. Just four years later (1882), Serbia proclaimed its independence and also demanded the accession of Kosovo to its territory, then still under Ottoman rule (Weller 2009, 26). By completely ignoring the Albanians' demands for statehood, the Berlin Congress is one of their darkest moments in recent history (Rrecaj 2006).

With the Ottoman Empire's dissolution and the rise of Serbia, the desire of the Albanians to have their own state was growing. To help facilitate this aspiration, the Albanians founded the League of Prizren, a political assembly that sought to unite all Albanian-populated areas within a single autonomous unit (Glenny 2001). The Prizren League demanded that all state officials speak Albanian, and that local authorities be put in charge of managing at least one part of the taxes collected.

The Albanian aspirations grew bigger when the Turkish Empire disintegrated and, during the anti-Turkish riots in 1912, turned into a request for complete

independence. The Balkan wars followed in which Serb-Montenegrin units, helped by Bulgaria and Greece, defeated the remaining Turkish troops and conquered Kosovo and central Macedonia.¹³ The Treaty of Bucharest (1913) legalised this new reality on the ground and so the territory of Serbia expanded from 18,650 to 33,891 square kilometres—and Kosovo *de iure* became part of Serbia (Skendi 1953).

When World War I erupted in 1914 and the Central Powers attacked Serbia, the Battle at Kosovo Polje of 1389 started to become glorified in Belgrade. When the Serbian army had to retreat from their positions and find shelter elsewhere, a few hundred thousand Serbian civilians fled with them. The only escape was to the south: this meant crossing the territory of central Serbia, through Kosovo and Montenegro to Albania and the island of Corfu. King Peter with his family, along with the army and scores of civilians, also fled along this path. In addition to a harsh winter, attacks by groups of Albanians obstructed their retreat. The attacks and extreme weather conditions saw some 200,000 to 240,000 Serbs lose their lives. This level of “hospitality” only deepened the grievances between the two nations (Ćorović 1993, 583–585).

The Paris Peace Conference (1919–1920) reaffirmed that Kosovo was a constitutive part of the Kingdom of Serbs, Croats and Slovenians despite opposition to this ‘solution’ from the Albanians from Kosovo. Serbia succeeded to convince the winners of World War I, who were legitimising the new world order at the Paris Conference, to recognise its right to Kosovo, which since the Balkan wars in 1912–1913 had been under Serbian control. Great Britain and France in particular were sympathetic to the Serbian arguments that Serbia needed Kosovo to recover from the trauma it had suffered during World War I (King and Mason 2006, 32).

However, Albanian national consciousness was already well formed. In 1921, the Kosovo Albanians handed a petition to the League of Nations to let Kosovo join Albania (King and Mason 2006, 32). They referred to the argument the Albanian identity was under threat in the new political formation because, according to their estimates, the Serbs had killed 12,371 inhabitants of Kosovo from 1918 to 1921 and imprisoned another 22,000 (Vickers 1997). The League of Nations did not approve the Albanians’ request.

Zejnullah Gruda (in Rrecaj 2006, 14) thus claims that at that time Kosovo became a synonym for the denial of fundamental human rights. The concealment of resistance, which occasionally turned into aggression against the Albanians,

¹³Reports of the time talk of the crimes against the Albanian population in this period (Weller 2009; Krstić 2006). Lampe (1996, 97) states the Serbian army justified the crimes referring to the expulsion of 150,000 Serbs from Kosovo from 1870 onwards. A reporter from the Pravda newspaper and later Bolshevik revolutionary Lev Trotsky mentioned the words of the Serbian officer in his report “Soon after crossing the border with Kosovo, we witnessed atrocities: the whole Albanian villages turned into fiery pillars; property and settlements where their fathers and grandfathers lived disappeared in flames. These scenes were reproduced on our way to Skopje, where the Serbs went to the Turkish and Albanian houses and prey and kill...” (Trotsky in King and Mason 2006, 31). The international public was not well acquainted with the crimes of the Serbian army and paramilitary in the Balkan wars.

manifested in various forms. It is worth mentioning the plan of the Serbian intellectual Vasa Čubrilović in 1937 that proposed to expel Albanians from Kosovo and settle the territory with Serbs (Rrecaj 2006, 19; Elsie 2017).

During World War II, the majority of Kosovo Albanians saw an opportunity to do away with the 'Slavic state' forever and join up with 'the mother-state Albania'. Albania had already been invaded by the fascist Italian troops in 1939 and functioned as an Italian protectorate governed by the fascist puppet governments of Shëfqet Vërlaci (1939–1941) and Mustafa-Merlika Kruja (1941–1943). Unsurprisingly, the Albanians of Kosovo retaliated against the Serbs in large numbers (Pearson 2006, 167).

But at the end of World War II it was the Serbs who emerged victorious. It was almost impossible to believe they could forgive what they called the Albanians' opportunistic approach during the war. Consequently, the Serbs' revenge was fierce when they gained momentum at the end of war, after the defeated forces withdrew. The area was soon occupied by Tito's partisans that soon began retaliating against the Albanian 'collaborators'. The Partisans especially attacked the Albanian organisation Balli Kombëtar which, after the capitulation of Italy in 1943, entered the service of the Third Reich. Serious violence triggered a rebellion of the Albanians, which lasted for a couple of months. In response, no fewer than 30,000 partisans were sent to Kosovo to violently suppress the resistance (Nečak 1984, 193–200; Weller 2009, 28).

Kosovo in Socialist Yugoslavia

An important year for understanding the conflict in Kosovo is 1945 when World War II finally ended. It was then that the Serbian National Assembly proclaimed Kosovo as an autonomous region within Serbia. The common interest of the Communist Party of the SFRY and the Albanian Communist Party—the two parties fighting fascism and Nazism in their respective countries—contributed to the idea of the two countries merging to become more effective and respected in the international arena. In addition, some other interesting ideas were floated before and after World War II, for example, the confederative idea of merging Yugoslavia, Albania, Bulgaria, Turkey and Greece to create a 'Balkan Federation' based on a leftist ideology. This idea never took off as the USSR did not support the move (Stanić 1984, 56; Dranqoli 2011).

In 1946, at a Special Plenary session of the Central Committee of the Communist Party of Albania party leader Enver Hoxha asked whether the SFRY should be required to allow the accession of Kosovo to Albania and then proceed with merging Yugoslavia and Albania. He himself then replied that such an idea is not advanced, because "democratic Yugoslavia is more advanced than we are /.../ and it is in our own interest that Yugoslavia is strong, since having a strong democratic SFRY will mean that democracy will prevail also in other parts of the Balkans". Ideas about merging remained in circulation for some time, but fell apart after Tito's dispute with Stalin in 1948 (the Informbiro crisis). The Albanian leadership had to choose between Tito and Stalin; it chose the Soviet option and accused Yugoslavia of 'betraying socialism' while cancelling all agreements with

the country in the same year. These political changes also sealed Kosovo's fate within the SFRY (Stanič 1984, 56; Dranqoli 2011).

According to the new legislation, Kosovo became one of two autonomous provinces of Serbia within Yugoslavia. The post-war period was, among others, characterised by repression and the migration of tens of thousands of Albanians mostly to Turkey (Mertus 1999; Weller 2009). They were especially encouraged to do so by the third strongest political figure in the SFRY Aleksandar Ranković and his group;¹⁴ the Albanians were offered a simplified procedure for changing nationality and issuing documents when departing for Turkey. The number of Yugoslav citizens who emigrated to Turkey rose: from 1953 to 1966 more than 230,000 people left for Turkey; more of 80% were of Albanian descent (Radio Free Europe 1983; Hoxha 1984, 214).

In the 1960s, the situation of Kosovo Albanians improved somewhat and they demanded more political rights. A glimpse of a freer society was also enabled as a result of Tito's purge of Ranković and his allies in 1966. In 1968, the Albanians of Kosovo organised mass protests, shocking the political leadership of the SFRY; the slogan "Kosovo Republic" was first heard at these demonstrations and made for a sobering moment for the leadership regarding the (un)success of the politics of 'fraternity and unity'. Gradually, the political rights of Kosovo Albanians have been expanding. In 1969, a new statute for Kosovo was issued, further expanding the autonomy of the province (Radio Free Europe 1983; Meier 2005, 27; Boer and van der Borgh 2011).

Another milestone for the Albanians of Kosovo was the establishment of the University of Prishtina in 1970, when the Albanians were given a chance to study in their mother tongue at university level for the first time in history (Radio Free Europe 1983; Boer and van der Borgh 2011, 72). The Kosovo Albanians gained more rights in 1974. This year is perceived as one of the most important milestones in the modern history of Kosovo (and Yugoslavia) since it was when the new Yugoslav Constitution entered into force. Pursuant to it, Kosovo acquired almost the same rights as the six 'constitutive republics of Yugoslavia': Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro and Macedonia (Meier 2005).

In this period, Kosovo acquired its own constitution, provincial parliament and provincial government. Although this was a step further for the rights of Albanians in Yugoslavia, Kosovo—as an autonomous province—did not gain the right to succeed from Yugoslavia. This important right remained 'reserved' for the republics only, contrary to the wishes of the Kosovo Albanians (Weller 2009). After 1974, the cultural identity of Kosovo Albanians started to grow as well. Educational and cultural institutions were established and the Albanians as a nation started to become more organised, creating dissatisfaction among the Serbs. The

¹⁴After World War II, Aleksandar Ranković served as Yugoslav minister of the interior and chief of the notorious intelligence agency UDBA (*Uprava državne bezbednosti*). He was stripped of power in 1966 upon accusations of bugging Tito's private premises (Radio Free Europe 1983).

demographics of Kosovo also started to change in favour of Albanians—at the expense of Serbs (Islami 1994).

In 1981, violent protests broke out at the University of Prishtina due to the harsh economic circumstances and unfair treatment of Albanians. These protests were quickly used by Kosovar politicians demanding more rights; this time, they requested that Kosovo's status be raised from autonomous region to a republic. The trigger of the demonstrations, which altered the political situation in Kosovo, was somewhat peculiar. Namely, an Albanian student allegedly found a cockroach in the soup in the university canteen; not surprisingly, the news quickly spread and protests began (Mertus 1999; Zupančič 2015).

The police intervened quickly and arrested some leaders of the protest. Now joined by ordinary citizens, the students demanded the release of those arrested. Protests by several thousand Kosovo Albanians were then given a new dimension: while initially demanding improved conditions at the university, they now called for better living conditions throughout the whole province of Kosovo. In two weeks, similar protests occurred in Prizren and again in Prishtina. The authorities declared an emergency, leading to the deployment of some 30,000 soldiers of the Yugoslav army and police forces to Kosovo. But the Kosovo Albanians continued to take to the streets, demanding a decent life and the proclamation of the Republic of Kosovo. Some went even further, calling for unification with Albania (Mertus 1999, 31).

The Yugoslav security apparatus responded fiercely in its attempt to suppress 'the nationalistic rebellion'. Support for the rights of Albanians in Kosovo also came from certain other republics opposed to the politics of the authorities in Belgrade. Slovenia in particular was allied with the "Kosovo cause" (Zupančič 2015). However, the repression of the Kosovo Albanians continued. In 1981, 60% of all political prisoners in Yugoslavia were ethnic Albanians. The authorities justified this repressive response by stating that Kosovo Albanians were responsible for the increasingly difficult situation of the Serbs in Kosovo (displacement of Serbs from state services, the poor economic situation etc.) (Mertus 1999, 97).

The Serbs' enormous dissatisfaction with the situation in Kosovo was enshrined in the Memorandum of the Serbian Academy of Science and Art from 1986. It stated the Serbs in Kosovo had been forced to endure "physical, political, legal and cultural genocide" (Srpska akademija nauka i umetnosti 1986). The grievances of many Serbs throughout the SFRY deepened. Hence, it is no surprise the disappointed Serbs became easy prey for the President of the Serbian Communist Party Slobodan Milošević, until then a well-known opponent of all forms of nationalism (King and Mason 2006, 36).

His political mentor Ivan Stambolić, President of the Republic of Serbia, sent Milošević to Kosovo on 24 April 1987 to address the demands of the ever more dissatisfied Kosovo Serbs. At that time, he uttered the (in)famous words: "No one is allowed to beat you [the Serbs]!" (King and Mason 2006, 36). Those words, together with the alleged understanding of the problems faced by Serbs in Kosovo, propelled Milošević into Serbian political orbit. This sentence heralded a new political discourse: while previously based on socialism, from now on nationalism

was gaining ground (van der Borgh 2012, 35). The unhappy Kosovo Serbs became Milošević's 'shock troops' at around 100 events called 'Meetings of the Truth', massive pro-Serbian nationalistic protests against the alleged promotion of Kosovo's independence by the Albanians, which strengthened the Serbian image of the Serbs being the victims of historical injustice. The alleged trauma was later popularised as "The 500 years of injustice" argument (Zupančič 2015, 59).

To keep his promise to the Kosovo Serbs, Milošević abolished the autonomy of Kosovo in 1989. He managed to do so by initially forcing the governments of Vojvodina and Montenegro to resign in 1988, and then by putting in place puppet governments supportive of his brand of politics. He did the same in Kosovo when a new, favourable political leadership was put in power in Prishtina; the Serbian political leadership succeeded in removing the pro-Albanian leader of the Communist Party of Kosovo, Azem Vllasi, and assigned Rahman Morina to the position. Vllasi was also arrested in January 1989 on the basis he had been involved in preparing the demonstrations and strikes by Kosovo Albanians (Zupančič 2015, 60).

In response to Belgrade's political manoeuvring, Kosovo Albanians started a strike that shook the very foundations of socialist Yugoslavia and echoed across the country. Almost 2000 miners working in the Trepča/Stari trg mine near Kosovska Mitrovica started protesting against Milošević and his allies. Many miners closed themselves off within the mine, claiming they would not come to the surface until the SFRY started to respect the rights of the Kosovo Albanians (Zupančič 2013, 163–164).

Protests against Milošević and his circles continued in 1989 and the Serbs of Kosovo wanted more protection from the state authorities. It has to be acknowledged that several Serbs in Kosovo and their property were attacked by the Albanians on various occasions. Milošević promised the Kosovo Serbs full protection in a nationalistic speech delivered in Gazimestan at Kosovo Polje close to Prishtina. The speech on 28 June 1989, a day celebrated throughout Serbia as Saint Vitus Day (Vidovdan), was organised on the occasion of the 600th anniversary of the battle in Kosovo Polje (1389). After this event, extensive police actions followed and many Kosovo Albanians who had organised the protests against the regime in Belgrade ended up in prisons. Due to these political tensions, 23 Albanian activists (mostly intellectuals) founded the Democratic League of Kosovo. Dr Ibrahim Rugova, a pacifist professor and literary critic, who later became the president of Kosovo, was elected the party's president (Zupančič 2015, 60–61).

3.2.2 The SFRY's Dissolution, the War in Kosovo and NATO's Military Operation Against the FRY (1991–1999)

On 22 September 1991, the Albanians in Kosovo held a referendum on Kosovo's political future. Declared illegal by the authorities in Belgrade, the referendum saw 99% of Kosovo residents, mostly Albanians, vote for the independence of Kosovo.

'The will of the nation' was reaffirmed by members of the Kosovo Assembly in October 1991 who declared Kosovo an independent republic (Surroi 1997; King and Mason 2006, 39; Rogel 2003, 173).

Although the political structures in Serbia did not consider this political move of the Kosovo Albanians as either legal or legitimate, the Albanians started to establish parallel structures to address their basic needs: schools, health institutions, tax collection system etc. The main reason for the emergence of these parallel structures was the Albanians' claim they had been discriminated or even threatened in the existing state institutions, then mostly led by the Serbs; some claimed that Serbian doctors and nurses had 'treated' Kosovo Albanians in such a way their health deteriorated or they even died due to suspicious treatment methods (Bekaj 2010, 12; Kubo 2010, 1138).

Different ideas on how to achieve independence were discussed by the Kosovo Albanians. One part of the nation led by Ibrahim Rugova promoted a peaceful path, while the other thought that peaceful means—finding a political solution with Belgrade—had already been exhausted. This led to the establishment of the KLA that gained wider support only after the Dayton Agreement was adopted in 1995, when the 'Kosovo question' once again remained unsolved. The document that effectively ended the war in Bosnia and Herzegovina came as a great disappointment for the Kosovo Albanians since they believed their fate would also have been settled then. Rugova's peaceful policy, according to which the international community would put pressure on Serbia in favour of Kosovo, became less and less popular among the Kosovo Albanians as the oppression of them continued or even worsened (Mulaj 2008, 1106–1108; Kubo 2010).

Events Leading to War and Conflict

What tipped the scales in favour of finally transforming the KLA from a group of 'dissatisfied youth' to a paramilitary force was the crash of the 'financial pyramids' in Albania in 1997. The collapse of pyramid schemes, a fraudulent business model that promised its members huge profits, meant many Albanian citizens lost all their hard-earned savings (Bekaj 2010, 19). Consequently, Kosovo's neighbouring country of Albania descended into chaos: the borders became even more porous, military warehouses were broken into, the country became flooded with weapons and with many of them being smuggled over the mountains to Kosovo, where demand was high (Kubo 2010, 1143).

The first uniformed members of the KLA appeared in the Drenica region—a relatively remote and poor region in central Kosovo. They soon began to build their rising power and the trust of their oppressed compatriots at mass burials of KLA members killed in clashes with the armed forces of the FRY and paramilitary troops. In some cases, up to 20,000 people turned up at such funerals (Mulaj 2008; Kubo 2010).

The conflict escalated in 1998 when the Yugoslav armed forces killed Adem Jashari and 58 other Kosovo Albanians—many of them Jashari's relatives—in Prekaze, a small town near today's Skenderaj (Srbica) in the region of Drenica. The spirited resistance shown by Jashari, *komandanti legjendar* (»legendary commander «), is nowadays remembered and celebrated throughout Kosovo as one of the

most heroic acts in the Kosovo Albanian's struggle against the Serbs. The open aggression not only had a significant impact on the Albanians from Kosovo, but also from Albania who became even more keen to join the KLA. Adopted on 23 September 1998, UNSC Resolution 1199 requested the immediate end of the armed conflict and an improvement in the humanitarian situation (Zupančič 2013, 163–169).

In October 1998, NATO threatened to bomb the FRY if its armed forces and paramilitary units did not pull out of Kosovo. To demonstrate his alleged preparedness to negotiate with the Kosovo Albanians and the international community, Milošević allowed observers from the OSCE to visit Kosovo. However, the violence in the province did not cease. The trigger event for NATO's intervention was a massacre in the Kosovar village of Rečak/Račak in early 1999 when almost 50 civilians were found executed. France, Germany, Great Britain, the USA, Italy and the Russian Federation proposed the Rambouillet Agreement, which the FRY refused to accept.

NATO then fulfilled its threat and on 24 March 1999 launched the military operation Allied Force against the FRY (King and Mason 2006, 44–5; Mulaj 2008, 1113). Throughout the military campaign against the FRY, NATO's leaders repeatedly emphasised the offensive's objectives, which Milošević was required to accept. The 11-week aerial offensive was not authorised by the UNSC. The Russian Federation and China, the two countries that had stood beside Milošević, made it clear they would have vetoed any proposal for military action against the FRY (Daskalovski 2003).

NATO's determination to carry out the military operation weakened several times during the process as the air strikes did not initially bring the desired effects. The Yugoslav army, after the NATO bombings started, began to blame Albanian civilians for the NATO strikes; hence, the KLA was no longer the main target of the regime, but civilians. The military operation against the FRY was less effective in a military sense than it could have been had the alliance's military aircraft operated at lower altitudes. This was, however, forbidden also due to a fear for the safety of the NATO personnel. NATO also made some drastic mistakes that partly discredited the alliance in the eyes of the international community (Simić 2000; Weller 2009, 166).

For example, supposedly by mistake, NATO attacked a convoy of refugees on tractors and trains in Kosovo, killing scores of civilians. In addition to the “collateral damage” alleged by NATO spokesman Jamie Shea, the bombing of the Chinese Embassy in Belgrade—again, supposedly a mistake—resonated strongly in the international community (Weller 2009, 166). Only a few believe NATO's official interpretation that the cause of the incorrect bombing of the Chinese Embassy was the old military maps NATO had used when choosing a target (Simić 2000; Weller 2009).

Sweeney et al. (1999) in a report based on interviews with senior NATO officials (whose identities are not disclosed) argue that NATO deliberately attacked the Chinese Embassy after NATO's electronic intelligence system detected certain signals (relevant information) were being sent to the FRY's military units from the embassy area. Three NATO officers acknowledged they knew the Chinese Embassy

in Belgrade had provided a transmitter to the armed forces of the FRY after the FRY army's own transmitters were destroyed in April 1999 by NATO bombing. The Chinese also supposedly monitored incoming NATO missiles, helping the Yugoslav army combat them more effectively. Another speculation concerning the bombing is the belief that the Serbs had promised China—in return for helping to resist NATO—the remnants of the F-117 military aircraft and its advanced stealth technology that had been shot down by the Yugoslav army.

Throughout the armed conflict, diplomats were working to find a solution to end the hostilities. The hostilities between NATO and the FRY ceased after 78 days when a Military-Technical Agreement was signed by the two parties. Also known as the Kumanovo Agreement, the ceasefire was accepted on 9 June 1999 and called for the gradual withdrawal from Kosovo of the Yugoslav units and paramilitaries linked to them. It also envisaged the deployment of NATO troops in the province and the establishment of a so-called buffer zone. The demilitarised zone included 5 kilometres of Serbian territory (measured from the Kosovo border) and FRY troops were prohibited from entering it (Weller 2009, 176–179).

The FRY *de facto* lost control over Kosovo as all of its institutions, including the armed forces, had to leave the province. Despite many discussions following NATO's unauthorised use of force, the decision is today considered a turning point in understanding of human rights and international law. Namely, several scholars and members of the international community have started to believe that the mass violation of human rights, such as what happened in Kosovo, should no longer be viewed as an internal matter of a sovereign state but that it has an international dimension. The sacrosanct principle of a state's exclusive sovereignty over its territory—and the people living there—has come under question. While chiefly explained as “a humanitarian intervention”, the air strikes quickly led to development of the concept Responsibility to Protect (Bellamy 2008).

The political and scholarly debate on whether the NATO military campaign was justified and legally in line with (a new understanding of) international law remains alive today. Nevertheless, one fact is clear: since the summer of 1999 and adoption of UNSC Resolution 1244 on 10 June 1999 the reality has changed significantly in Kosovo. *De facto* ruled by the Serbs from 1912 until 1999, the province came under international supervision and became some sort of international protectorate headed by the UN Mission in Kosovo (UNMIK) and aided by other international organisations, including the EU.

3.2.3 *The Impact of the War and Conflict Management Activities (1999–2008)*

Violence Against Civilians

The war in 1999 produced more than 619,000 refugees, around 700,000 internally displaced people and an international refugee crisis not seen in Europe since World

War II. Almost 2000 people are still listed as missing. By the end of 1999, 820,000 Kosovo Albanians had returned to Kosovo, encountering dangerous landmines and destroyed homes, forcing humanitarian agencies like the United Nations High Commissioner for Refugees to step in and set up rehabilitation programmes (ICMP 2011).

The tide of violence took a new course. As the Kosovo Albanian refugees were returning to their destroyed homeland, many wished to revenge the Serbs living in Kosovo, mostly civilians. Although Kosovo Force (KFOR) troops began arriving, it took some time to establish a basic level of security and safety. Due to this security vacuum, several Kosovo Albanian gangs were formed *ad hoc* and started attacking and intimidating the remaining Serbs and other minority groups. According to some estimates, around 160,000 to 200,000 Serbs and other ethnic minorities left their homes in Kosovo (Glenny 2001, 658–662).

Many have become internally displaced, concentrating in areas with a greater Serbian presence (e.g. Dobratin, Gračanica, Velika Hoča, Goraždevac, Orahovac, Kosovska Mitrovica and other areas north of the Ibar River). Most Serbs killed in this time were unprotected civilians (the FRY troops did not experience such violence as they were both armed and protected by KFOR during the withdrawal from Kosovo). Along with this, several abductions, detentions and different abuses of Serb civilians and other minority groups, including rape, occurred immediately after KFOR troops entered Kosovo; the KLA's intention was to expel from Kosovo all Serbs and other members of ethnic minorities believed to have cooperated with Yugoslav forces before and during the war. A distinctive feature of the armed violence was the systematic destruction of religious heritage, mostly Serb Orthodox sites, after the war in 1999, primarily as part of revenge attacks (Kostadinova 2011).

The Roma, Ashkali, Egyptian and Gorani ethnic minorities were mostly targeted by Albanian paramilitary groups because many Albanians saw them as collaborators with the Serbian side. The population of these communities almost halved compared to the pre-war situation. For example, the Gorani are one of the smallest minorities in Kosovo and only approximately 8000 still live there, whereas almost 18,000 Gorani lived in Kosovo before the war. Data show that the international organisations taking over responsibility for safety and security in Kosovo in June 1999 were anything but effective in preventing violence against non-Albanians (Dursun-Ozkanca 2010).

Building Peace in Kosovo (1999–2008)

Even though the NATO airstrikes were not authorised by the UNSC, they were successful in bringing the mass violence to an end, leading to the FRY troops' withdrawal from Kosovo. Established under UNSC Resolution 1244, UNMIK was *de facto* put in charge of Kosovo and administering it from 10 June 1999 to the declaration of independence in 2008. Its mandate was to establish a functioning civil administration, ensure the overall safety of all ethnic minorities and organise municipal elections (Džihic and Kramer 2009; Yannis 2004, 67).

The mission set up four main pillars to rebuild Kosovo society and prevent new outbreaks of armed conflict. UNMIK was in charge of the first pillar (civil

administration), UNHCR of the second pillar (humanitarian assistance), the OSCE was responsible for the third pillar (democratisation and institution-building) and, finally, the EU took on responsibility for the fourth pillar (reconstruction and economic development). In line with UNSCR Resolution 1244, NATO was tasked with maintaining security in Kosovo, meaning the military aspect of peace-building was not included within the framework of the UNMIK civilian mission (Zupančič 2015).

Thus, KFOR troops *de facto* worked as the main security provider, separated from the UNMIK pillar structure. There was much competition and confusion regarding the division of work among all the international actors stationed in Kosovo, even though the division of labour was clearly specified in the four-pillar structure. The first period of UNMIK's presence in Kosovo (1999–2001) was marked by the mentioned mass violence of Kosovo Albanians against Kosovo Serbs and other minorities, which UNMIK and KFOR could not stop due to the small number of experienced staff. The biggest problem had its roots in the mission's mandate since the Special Representative of the Secretary General (SRSG) lacked executive authority over the other missions in Kosovo (Zupančič 2015, 132).

In 2003, UNMIK adopted the so-called Standards for Kosovo, a set of UN-endorsed benchmarks for the development of democracy in Kosovo and an overall improvement in conditions. This came before the start of negotiations on the future status of Kosovo (Knoll 2005, 639). Despite all the efforts to improve the situation and find an agreeable solution to resolve the Kosovar knot, the international organisations were again unable to respond to the outbreak of violent riots in March 2004 when Kosovo Albanians targeted Serb and other ethnic minorities (Weller 2009).

The riots were actually caused by a relatively small incident that triggered a spiral of violence. On 15 March 2004, unknown persons shot and killed an 18-year-old Serb in Čaglavica on the outskirts of Prishtina. Serbs from Čaglavica and the surrounding settlements organised protests and closed off the main road linking Prishtina with the south of Kosovo and Albania immediately following the incident (Zupančič 2015).

Only a day later, three Albanian boys drowned in the Ibar River in unclear circumstances. According to unverified sources, the boys had been chased by a group of Serbs seeking to avenge the murder in Čaglavica. The fact the boys were actually persecuted by the Serbs has not been confirmed by any commission or inquiry. When 'news' of this spread among the Kosovo Albanians, they wanted to cross the bridge in Mitrovica and enter the northern part of the city chiefly populated by Serbs (*ibid.*).

The planned march against the Serbs was prevented by KFOR. However, violence quickly spread to other parts of Kosovo. After three days of rioting, blood had been spilled: 19 people killed and around 1000 wounded (including 61 members of KFOR and 55 policemen). Moreover, 550 houses and 27 Orthodox churches or monasteries were burned down and over 4000 people—most of Serbian origin—temporarily fled their homes (BBC 2004; Weller 2009, 187).

At first, the March 2004 riots backfired on the Kosovo Albanians as they lost the international community's sympathy which they had enjoyed as the main victims of the armed violence. Yet the riots also served as a wake-up call to the international community indicating the situation in Kosovo was still unstable and the question of Kosovo's political status still had to be resolved (Koeth 2010, 231).

Indeed, after the riots Kai Eide, a special envoy of the UN Secretary-General, prepared a proposal to revise and reconfigure UNMIK. He suggested, among others, that the EU should take on more responsibility for overseeing Kosovo.¹⁵ He also stated the Kosovo Albanians had been dissatisfied with the ineffective international administration. The report continued that new priorities and more realistic standards should be set and negotiations on the status of Kosovo should begin since any delaying of the talks could aggravate the security and political situation. Overall, Kai Eide's report confirmed the situation in Kosovo was unsustainable (Weller 2009, 194–195).

Negotiations started in 2005 when the UN organised talks between Belgrade and Prishtina. On behalf of the UN, the mediation was led by a Finnish diplomat Martti Ahtisaari, who was assisted by officials from the Council of the EU and the European Commission. The chances the talks would find a compromise between the two sides were slim, as “particularly the Serbian politicians feared being associated with a process that would result in a loosening Serbian grip on Kosovo” (WOSCAP 2017, 5).

One year later, the team presented the Comprehensive Status Proposal—the so-called Ahtisaari Plan (Report of the Special Envoy of the Secretary-General on Kosovo's future status 2007).¹⁶ It recommended conditional independence of Kosovo supervised by the international community since reintegration into Serbia was not considered viable but, on the other hand, it was also clear that continuing the international administration was also not sustainable (Koeth 2010, 232; WOSCAP 2017, 5).

In fact, the proposal sought to prepare the grounds for the ‘supervised independence’ of Kosovo, although the word independence was avoided (Report of the Special Envoy of the Secretary-General on Kosovo's future status 2007). Yet it also provided for extensive rights of the ethnic minorities. This idea was a direct

¹⁵He produced a report on Kosovo's future for UN Secretary-General Kofi Annan. The international community was taken by surprise by the riots in Kosovo in March 2004 and failed to properly understand the depth of dissatisfaction of most of its citizens, as well as the vulnerability of the minority. Moreover, it gave the impression of being in disarray, lacking strategy and internal cohesion. UNMIK became the main target of the criticism, but was in itself a victim of an international policy that lacked cohesion and vision. The report stated that UNMIK needed to be re-energised to bring its various components more closely together and focus on key priorities in a more organised way. However, with the future-status question looming, Eide stated, “UNMIK should be looking to reduce its presence and hand increasing responsibilities to the European Union” (Eide 2004).

¹⁶*Report of the Special Envoy of the Secretary-General on Kosovo's future status* (Comprehensive proposal for the Kosovo Status Settlement), UN Document S/2007/186.

consequence of the increased cooperation with the OSCE High Commissioner on National Minorities. The proposal included a transition period of 120 days after which the UNMIK mandate would have expired and power would be transferred to Kosovo's governing authorities (Economides and Ker-Lindsay 2010). Ahtisaari's proposal stirred wide debate in the international community. The Kosovo Albanians and NATO endorsed the proposal, while the Kosovo Serbs, the Russian Federation and Serbia all rejected it (Bieber 2015).

Already during the negotiations, the EU started considering Kai Eide's suggestion that the EU play the most prominent role in post-conflict Kosovo society (Eckhart 2016, 92). After all, the EU had by then already established its first police reform mission, as well as a military one in the same region of South East Europe (in Bosnia and Herzegovina). Where, if not in Kosovo, should the EU successfully continue its involvement, was a question that resonated in Brussels; the EU Council was very receptive of such thinking.

In particular, Javier Solana, the EUHR for the CFSP, who had served as NATO Secretary-General during the Kosovo war, saw the EU mission in Kosovo as an important way for the EU to prove itself as a peacebuilding actor (Eckhart 2016, 93). A 2005 report published jointly with Olli Rehn, the EU Commissioner for Enlargement, brought the first official EU statement referring to the future rule-of-law mission in Kosovo. Moreover, in December 2005, when the EU's multi-annual financial framework (2007–2013) was being discussed, the budget for CSDP missions and operations turned out to be substantially higher than previously anticipated (*ibid.*).

Already in January 2006, the EU dispatched a joint Council-Commission Fact Finding Mission to Kosovo to explore the scope of action of any possible EU mission in the field of the rule of law. The Fact Finding Mission recommended the EU set up a planning team to prepare a possible rule-of-law mission integrating the police, justice and customs dimensions. An EU Planning Team (Eupt) was therefore established in April of the same year. The EU's member states and institutions based their approach on the expectation the negotiations on Kosovo's future status would end by late 2006 or early 2007. The Eupt included 80 international and 55 local personnel. It had a justice, police and administration team and was mandated to "initiate planning to ensure a smooth transition between selected tasks of UNMIK and a possible ESDP operation" (Grevi 2009, 356).

Initially, three modes of deployment were discussed: light, medium and robust, with light being the preferred option since the EU was still hoping for a UN solution. The light option meant the deployment of no more than 850 experts who would monitor and advise local officials; the medium option meant more staff who would focus on a stronger police and customs component, made up of 800 to 900 international personnel; while the robust option implied substantially greater staff and more extensive executive powers. The planning mission also based its functioning on the assumption any mission would focus more on the tasks of monitoring, mentoring and advising (MMA), and limit its executive powers to a minimum. The objective would be to transfer ownership as soon as possible to the local authorities, putting them in the driver's seat (Grevi 2009, 357).

However, despite the vague intention to use the EU's conflict-prevention instruments in Kosovo, the EU remained politically divided on the issue of the Ahtisaari Plan and the question of Kosovo's future political status. While 22 states accepted the proposal, 5 expressed reservations (Cyprus, Greece, Romania, Slovakia and Spain). Romania and Slovakia were officially against due to, as they argued, the lack of legitimacy since the UNSC had not approved it. Cyprus, Greece and Spain were more worried about the situation in their own countries: Spain had been fighting secessionist movements in its territory for decades (Basque, Catalonia), and Cyprus and Greece still had unresolved issues with the Turkish community on Cyprus (Tzifakis 2013). One group of states insisted the UNSC should have passed a legally binding resolution based on the Ahtisaari proposals, while those opposed to the proposal suggested new negotiations. It was soon obvious that a unanimous solution could not be reached within the UNSC (Richter 2009).

Seeing that no solution would come from the UNSC, the UN Secretary-General formed what is called the Troika. The Troika consisted of experienced diplomats from the most relevant international actors: Frank Wisner (the USA), Wolfgang Ischinger (the EU) and Alexander Botsan-Kharchenko (the Russian Federation). The three diplomats were tasked with facilitating a further round of negotiations to last 120 days, starting in August 2007. They were supported by all parties to the conflict, as well as the Russian Federation, the USA, the EU, NATO and the UN. The Troika reaffirmed that the UNSC resolutions, the Guiding principles of the Contact Group and the Ahtisaari Plan should be the basis for settling the status issue. However, the Troika clearly stated it would gladly accept any other alternative solution if agreed to by all parties to the conflict (*ibid.*).

Their work was carried out over 10 sessions, 6 of which were face-to-face dialogues, including a final 3-day conference in Austria, and 2 trips to the region. During the negotiations the two sides insisted on their demands: the Kosovo Albanians demanded independence based on the Ahtisaari Plan, while the Serbs rejected it. Despite the Troika's innovative suggestions, neither side was prepared to yield. It is also important to note that during the negotiations the local population in Kosovo felt extremely frustrated since they were not included in the talks regarding the very place they were living in and the future that awaited them (Caruso 2008; Zupančič 2015).

The key conclusion of the Troika was that no agreeable solution could be found and that any further negotiations would be futile. After this message was brought to the UN, the UNSC signalled it was giving up on trying to find a negotiated solution, and that any further work on the issue should come from the outside the UN. In these circumstances, the EU, backed by the USA, stepped in. European and American representatives announced their intention to take over the responsibility, while Moscow clearly reiterated that any acceptable solution should have the UNSC's backing (Caruso 2008). The stage was thus set for the EU to demonstrate its capacities and power as a global and regional peacebuilding actor ('a force for good'), able to project its normative standards on the external environment.

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