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Identities and Identifications: Politicized Uses of Collective Identities

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**Identity and Civilian Missions: Is there Such a Thing? The
Case of EULEX-Kosovo**

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Abstract

Identity, as a definition and as a concept, is a complex issue. It cannot be reduced to a *unicum* and, far from the individual and the societal level, it may be most appealing to unveil in *systems of sub-systems of international organizations*. EULEX being a system (civilian mission) of a sub-system (CSDP) of an international organization (European Union) provides the most interesting example where the identity-concept may be investigated. The argument of this paper is that identity is of utmost importance for systems of sub-systems of international organizations, as it is for human beings and/or groups, for enabling the system to move smoothly in its environment while accomplishing its duties and achieving its goals. *Has EULEX an identity?* The truth is that it is endowed with *multiple identities*. Notwithstanding its *necessity* from all sides, the ever largest civilian mission deployed by the EU so far looks like a *sidelined (but successful) negotiator* before the High Representative for Foreign Affairs and Security Policy, a *disappointing (unsuccessful) necessity* before the European Parliament; a *partner-digger* before the Commission and a *dis-oriented technician* towards the Self. All these are the main *ingredients* for its poor performance in the north.

Keywords: Identity, European Union, Common Security and Defence Policy, EULEX, rule of law, multi-ethnicity, north Kosovo.

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Introduction

Identityⁱ, both as a definition and as a concept, is a complex issue and therefore it cannot be reduced to a *unicum*. In the usual jargon, it is generally associated with human beings (*human identity*) or with society (*societal identity*). In fact, the argument the author aims at making here is that it is most intriguing and fascinating to unveil in *systems* of *sub-systems* of international organizations. Everything becomes even more appealing if the international organization under consideration is the European Unionⁱⁱ which, *last but not least*, is committed in a context with a peculiar, what the author labels, *ethno-biography*: north Kosovo.

With the term *system*, briefly aforementioned, the author refers to one of the *practical tools* of the European Union external action namely a Common Security and Defence Policy operation. In this concrete case, the focus is on a specific civilian mission: EULEX. With the term *sub-system* it is intended to be referred to the *instrumental tool* which enables and/or activates the practical tool abovementioned and this is the Common Security and Defence Policy itself. But *why* is it important to unveil identity in systems of sub-systems of international organizations? And *how* can we say that a system of a sub-system of an international organization has its own identity?

Concerning the first question, the argument is that identity is important for systems of sub-systems of international organizations, in the same way it is for human beings, society and/or groups, to the extent that it enables the *system* to position itself towards the *self* and towards the *environment*. Only if the perception of the *self* and the *environment* converge we can say that a *system-identity*ⁱⁱⁱ exists. By transcending reality a *system-identity* is to be intended as an ideal-model. In fact, in everyday life such pure system-identity does not exist. But the attempt at approaching this purity-level is what may enable the *system of a sub-system* of an international organization to be more efficient. From a concrete perspective, EULEX (system), as civilian operation of the Common Security and Defence Policy (sub-system) of the European Union (international organization), should make (more) efforts to approach the *system-identity* briefly aforementioned in the north of Kosovo. It should do so first and foremost to bring about concrete results on the ground. When talking about the *system-identity* of EULEX Kosovo, it can be said that it comprises two different system-levels: the EU-Brussels level and the Prishtinë/Priština-level. The EU-Brussels-level, briefly aforementioned, comprises various sub-systems (institutions) which are the following: the High Representative of the Union for Foreign Affairs and Security Policy; the Council of the European Union; the Commission, and the European Parliament. By its side, the Prishtinë-Priština-level comprises various sub-systems as well and they can be summed up as follows (i.e. the Head of Mission, the EUSR and other mission staff).

On the whole and from a general perspective, at the European Union foreign policy level^{iv} there is awareness from one hand of the main challenges of transition societies, and from the other hand on what kind of help the European Union may provide for guaranteeing a long-lasting stability to them. The EU *foreign policy arm* clearly acknowledges that the establishment and the reinforcement of independent, transparent and effective institutions is of utmost importance for providing the basis of trust in a transition country, while constituting the pillars for further development and *last but not least* for effectively tackling organized crime and corruption. The above mentioned reforms are the *conditio sine qua non* for enabling macroeconomic stability to emerge. There is also awareness that the Common Security and Defence Policy (CSDP) may play a key role in transition societies, as well as that there is neither a *uniform prescription* for the guarantee of a successful transition, nor a one sole EU response. And it is also acknowledged that there is the need to look for tangible improvements^v since the *incipit* to help establishing confidence and promoting political stability and social cohesion; on the key role played by the security sector in transition societies, and in the specific case of Kosovo this is carried out by EULEX over the need that the EU and its Member States should act as one sole entity for being effective and successful. But awareness itself is not conducive to concrete results and this can be achieved if there is a common identity (of goals and actions) between the the system (EULEX) and its the sub-system (CSDP).

Concerning EULEX-Kosovo (system) which is the focus of this paper, it is to be acknowledged that it has been operating, in the youngest Balkan *State*, for almost five years and with poor results in the north. The argument is that its low performance in this part of the country is to be attributed to EULEX lack of *identity*. In the following paragraphs the author figures out this issue by looking both at the way the core EU institutions (the High Representative of the Union for Foreign Affairs and Security Policy, the European Parliament, the Commission and the Council of the European Union) and the way EULEX perceives itself.

1.1 EULEX-Kosovo and the High Representative of the Union for Foreign Affairs and Security Policy: A *Sidelined* Negotiator

The choice of the author to start unveiling (and/or attempting to do so) EULEX identity by the way the EU largest civilian mission is acknowledged by the High Representative of the Union for Foreign Affairs and Security Policy (and Vice-President of the Commission)^{vi} is grounded on that she embodies the face of the EU foreign policy *tout court*. Therefore, it is worth-doing to be acquainted with the way EULEX looks like before the eyes of the EU top-chief diplomat who, *last but not least*, represents (or is deemed to do so) *coherence* and *consistency* of the EU foreign policy. It is probably without coincidence that at the early stage of her responsibilities, Catherine Ashton starts to be active from the Balkans and to be precise from Serbia^{vii}. And it is probably without coincidence that all this took place two years and one day after a historical date for both the region and the EU: Kosovo's declaration of independence (17 February 2008). Catherine Ashton acknowledges that EULEX is the EU ever largest civilian mission deployed in December 2008. She pinpoints that different views on the *status* should not prevent the European Union from moving forward in solving practical issues. But *pragmatism* should go hand in hand with a *coherent approach* if this is going to bring about concrete results. In fact, EULEX Kosovo seems to be a counter-demonstration of that necessary *coherence* and *consistency* between the Common Foreign and Security Policy and the Common Security and Defence Policy, as this is claimed under the letter of the Lisbon Treaty. EULEX rather embodies a CFSP – CSDP coherence and consistency/Treaty provisions versus reality gap. The author's main argument is that EULEX success is to be understood within a *pragmatic* versus *coherent* EU CFSP/CSDP approach, which would enable the mission to be endowed not only with a body which merely carries out orders dictated from the above but with a soul as well (identity). Such scenario would provide room for visible outcomes. A positive end-result is needed if the European Union does not want to fail in the Balkans (and in Kosovo), somehow the birthplace of the EU foreign policy^{viii}, and if it really aims at *being* a "giant conflict resolution machine"^{ix}.

EULEX is the ever largest civilian mission, endowed with a specific rule of law mandate, deployed by the European Union. The core itself of its own mandate, *rule of law*, is the key for "deep democracy"^x and development^{xi}. However, EULEX has been encountering the main challenges at laying its basic foundations in the north of Kosovo so far, for being a *purely technical mission* entrusted, under the letter of Council Joint Action 124/2008/CFSP^{xii} to *implement the mandate*. It has adopted a *status-neutral* position over Kosovo *statehood*. This framework is (and was) the *conditio sine qua non* for enabling the mission to work under the umbrella of the United Nations Security Council 1244 (1999)^{xiii}. Council Joint Action 124/2008/CFSP is the result of a compromise between the Member States. Its repercussions are most visible in the north of Kosovo where the mission is unable to implement the mandate, namely to bring about rule of law and multi-ethnicity in the police, justice and customs field. The *pragmatism*, Catherine Ashton talks about, as briefly aforementioned, is not providing results. The reason lies in that technicism *per se* is unlikely to work in a high-ethno politicized environment northern Kosovo-like. EULEX is supported by all its twenty-seven Member States^{xiv}. But not all twenty-seven Member States^{xv} have recognized Kosovo independence. Catherine Ashton expressly stated that "There is absolute clarity from the UN about the position of Kosovo and you know within the European Union there are different views. The European Union itself doesn't recognize anyone; it's Member States who recognize countries."^{xvi}

In the framework of the Foreign Affairs Council, in the fall of January 2012, the High Representative Catherine Ashton expressed her optimism on the way forward between Serbia and Kosovo^{xvii}. Four years after Kosovo declaration of independence, High Representative Catherine Ashton reiterated how important is the situation in the Serbia-Kosovo relations for the European Union and that their future lies in the EU^{xviii}. In the fall of February 2012 she welcomed the mutual commitment of the then Serbian President Boris Tadić and Kosovo Premier Hashim Thaçi to bring forward the agreements reached under the EU umbrella^{xix}. Concerning these agreements they are merely *technical ones*^{xx} and EULEX is *anchored* to them by means of supporting their implementation.

At the end of October 2012 High Representative Ashton met, together with the USA State Secretary Hillary Clinton, the Serbian Prime Minister Ivica Dačić and the Serbian President Tomislav Nikolić in Belgrade. On that occasion Catherine Ashton stressed the importance of the EU-facilitated dialogue between Prishtinë/Priština and Belgrade, while pinpointing the need for the agreements achieved under the *Dialogue* to be implemented by both sides. Ashton clearly stated that "[...] the dialogue with Pristina and the normalization of relations – which is not asking for recognition – is really important."^{xxi} However, it is to be acknowledged from one hand that the non-recognition of Kosovo by Serbia is *de facto* hindering the full implementation of these agreements. From the other hand, Kosovo-Serbs, who somehow developed an identity of their own disentangled from Belgrade, keep rejecting not only independence but the presence of EULEX itself which is deemed to support the implementation of the agreements briefly aforementioned. It is to be questioned how effectively EULEX is going to achieve this goal in the practice if its own presence is neither accepted nor recognized on the ground^{xxii}.

However, it also to be acknowledged that the EU facilitated-dialogue has been activated from March 2011 and in the summer of the same year the situation escalated in the north of Kosovo^{xxiii} (see Reuters Bloomberg, *Kosovars seize border post from EU mission*, The International Herald Tribune, July 27, 2011: 4). One month after

the riots Farid Zarid, the UN acting envoy to Kosovo, depicted the situation in the north tense and unpredictable (the article *U.N. Envoy: Situation in Kosovo Is Still Tense*, The Wall Street Journal Europe (Europe News) 31 August 31, 2011: 6). The same (then) Serbian President Boris Tadić stated that “the peace in Kosovo is fragile” and that the disputed issues, which turned into clashes at the two northern border crossings at the end of July 2011, could reignite tensions. (See the article *Belgrade: Serbia warns against action by Kosovo affecting its Serbs*, The International Herald Tribune (World News – Europe), September 14, 2011: 4). At the end of October 2011 the situation escalated further and Serbs erected barricades at the two northern border crossings which have *de facto* impeded the free movement of goods and persons. Serbs acted in consideration of their refusal over Kosovo police and customs officers stationed there and which would imply, in practice, the recognition of Kosovo’s independence and authority over this part of the country (see the article *Northern Kosovo Blocked – An impasse that could turn nasty*, The Economist, October 29th – November 4th 2011: 33; (See Andrej Ivanji, *Der Kampf um die Barrikaden im Nordkosovo*. Die Tageszeitung (Ausland), November 1, 2011: 11; see also Interview with Hashim Thaçi *Nordkosovo ist ein Schandfleck für ganz Europa. Die Kosovarische Ministerpräsident Hashim Thaçi über die Spannungen im Norden und die Wahrheitssuche nach dem Marty-Bericht*, Neue Zürcher Zeitung, (International), October 28, 2011: 4). *Last but not least* Kosovo-Serbs turned to Moscow for help in mid-December 2011^{xxiv} (the article *Russian aid convoy to Kosovo is center of dispute at border*, The International Herald Tribune, (World News Europe), December 15, 2011: 4). This scenario sheds light on the even gloomier situation which reigns in the north, where the Kosovo-Serb communities have somehow developed a sense of identity distinct than that from Belgrade. At the end of November 2011 the situation in the north of Kosovo escalated further, when clashes took place between KFOR troops and the Kosovo-Serbs^{xxv} (see the article *Blockaden im Kosovo geräumt*, Frankfurter Allgemeine Zeitung, (Ausland in Kürze), December 6, 2011: 7; the article *Deutsche Soldaten im Kosovo verletzt*, Frankfurter Allgemeine Zeitung (Politik), November 29, 2011: 6). In mid-January 2012 clashes broke out again but this time from the side of Kosovo-Albanians^{xxvi} (see Michael Martens, *Klimawandel im Kosovo. Die Lage ist seit der Unabhängigkeitserklärung 2008 recht stabil, doch im serbisch-Kosovarischen Grenzgebiet wächst die Spannung*, Frankfurter Allgemeine Zeitung, (Politik), January 16, 2012: 3; see also article *Ausschreitungen bei Grenzblockade*, Die Tageszeitung, (Ausland), January 16, 2012: 10; see also Thomas Fuster, *Proteste an Kosovos Grenzen. Aktion Vetevendosjes gegen den Güterhandel – Zusammenstöße*, Neue Zürcher Zeitung, (International), January 16, 2012: 5). *Last but not least*, few days after four years from the Kosovo declaration of independence, a referendum legally meaningless took place in the north of Kosovo (see Sophie Guesné, *«Que veut dire une indépendance sans souveraineté?»*, Tribune de Genève, (Monde), February 18, 2012: 7; see also *Serben stimmen über Regierung ab*, Stuttgarter Zeitung, (Aussenpolitik), February 15, 2012, 1; Frankfurter Allgemeine Zeitung, *99,7 Prozent gegen Prishtina. Ergebnis des Referendums der Kosovo-Serben*, (Politik), February, 17, 2012: 5). Whether referred to as legally meaningless, it is a fact that it represented a strong opposition to the government in Prishtina/Prishtinë by the northern Serbian communities. The referendum took place on the 14th and 15th of February 2012 and it was somehow a proof of rejection towards Prishtinë/Prishtina^{xxvii} (see Le Monde, *La minorité serbe annonce un référendum contre Pristina*, (Europe), December 30, 2011: 6; see also Frankfurter Allgemeine Zeitung, *99,7 Prozent gegen Prishtina. Ergebnis des Referendums der Kosovo-Serben*, (Politik), February 2012, 17: 5).

Further events took place in the north of Kosovo in the course of the year 2012. They represent somehow a counter-demonstration of that *normalization* of relations between Belgrade and Prishtinë/Prishtina, the EU-facilitated Dialogue is deemed to contribute to. On 6th of May 2012 Kosovo-Serbs communities participated to the Serbian parliamentary and presidential elections notwithstanding both the EU and the then Tadić’s government opposition^{xxviii}. At the beginning of June 2012^{xxix} clashes broke out in the north of Kosovo where EULEX, by supporting NATO-KFOR at gate 1 near Jarinje and gate 31 near Brnjak, provides monitoring activities. The situation in the north has been described as delicate in that moment^{xxx} although some positive results had been achieved, namely the signing of an agreement over the border crossings management between Belgrade and Prishtinë/Prishtina^{xxxi}. If KFOR is neither thought nor equipped to solve the political problem, the European Union should actively moderate between both sides so as to smoothly move ahead^{xxxii}. At the end of June 2012 violent clashes took place at the border between Kosovo and Serbia according to information released by the Kosovo Minister of Internal Affairs Rexhepi^{xxxiii} (see the article *Verletzte an Grenze von Kosovo und Serbien*, Frankfurter Allgemeine Zeitung, (Politik), Juni 29, 2012: 6). At the beginning of July 2012 protests^{xxxiv} erupted once again in the north following the decision to close down the International Civilian Office (ICO) (see the article *Strassenblockaden in Nordkosovo*, Neue Zürcher Zeitung, July 4, 2012: 2).

The briefly aforementioned scenario is a proof somehow that neither *normalization* between Belgrade and Prishtinë/Prishtina has been achieved, nor *normalization* between Kosovo-Albanians and Kosovo-Serbs over a common sense of belonging and living has been activated by the European Union so far. The author’s main argument is that, in fact, it can do so by making EULEX more active as well and not by equipping it as a pure *technical appendix* of its foreign policy. What the author wants to stress is that the delicate political situation in the north would not be solved and rule of law in this part of the country would not be fulfilled if EULEX is not *anchored* to the wider CFSP. The main observation to be made here is that EU-LEX current mandate and structure are ill-fitting. The truth is that peace in the north of the country is purely *de façade*. All the events listed above seem

rather to counter-argue the official position of the EU foreign policy, embodied by Ashton, in the youngest Balkan State over the achievement of a positive normalization of relations between Belgrade and Prishtinë/Priština. *What normalize and what does normalization mean in this context? And what about the Kosovo-Serb communities?*

The EU-facilitated dialogue as it has been conceived so far aims (and/or it is deemed to do so) at a *normalization* of the relations between Belgrade and Prishtinë/Priština, without having in mind and/or clarifying what it intends for *normalization*. Is just the signing of agreements a proof of *normalization*? If this is (were) to be the case it could be said that this has been achieved. However, by looking at the High Representative tough agenda and commitment for bringing forward the Dialogue^{xxxv} it seems rather the contrary. The issue is that the EU as a whole, and EULEX as its CSDP arm, should better *define* what they want to achieve. This concept is to be strictly linked to the suggestion over the need of what the author labels *assertive framing*^{xxxvi}. It is quite difficult to achieve *normalization* at any level in the practice, if this has not been clearly framed since the *incipit*^{xxxvii}. As a matter of fact, the end-result since the launch of the Dialogue in March 2011 is that this vague-claimed *normalization* is far away. It is to be acknowledged, however, that the EU-facilitated dialogue launched under the EU umbrella, rating quota seven meetings so far^{xxxviii}, has achieved some agreements, as they have been briefly aforementioned, but it has still not come to terms over a solution of the most disputed dilemma: north Kosovo. The author's argument is that, in fact, first of all this issue had to be made a more strict pre-condition for any further development as it has been done in the practice. Secondly, EULEX had to be anchored to the Dialogue and endowed with a voice. The suggestion is that EULEX spokespersons (i.e. Head of Mission, EUSR and so forth) had to be made an active part of the negotiations between the contracting parties, namely Catherine Ashton the Serbian and Kosovar government representatives, as well. In the practice, its participation has been an indirect one as its own self-conception. EULEX is present in the Dialogue by (solely) contributing to the implementation of the agreements achieved in that framework. Thirdly, the Kosovo-Serb concerned communities had to be enabled to take part in the Dialogue as well.

Five years after Kosovo declaration of independence (17 February 2008) and almost five years of EULEX deployment (9 December 2008), the north of Kosovo issue remains unsolved. This is not something marginal to the extent that it may have repercussions not only for the stability of the country itself but for the whole region. Little incidents may lead at any time to a spiral of provocations and reactions and to finally bring to extensive clashes^{xxxix} (see the article NATO-Befehlshaber. *Lage im Kosovo 'überhaupt nicht stabil'*, Handelsblatt, Juli 21, 2012. Accessed Juli 21, 2012. <http://www.handelsblatt.com/politik/international/nato-befehlshaber-lage-im-kosovo-ueberhaupt-nichtstabil/6905222.html>).

After a brief overview of the current situation in the north of Kosovo the author aims at making two main observations. From one hand, the conflict has not been solved. From the other hand, EULEX although not directly mandated to solve the conflict *per se* but to promote rule of law and multi-ethnicity Kosovo-wide, in fact, has done little for achieving its goal in the north while this being the key for the *solution* of the conflict. For doing so, the author argues that EULEX has been deprived of an *identity* by consequentially behaving as a *dis-embedded*^{xli} and *dis-oriented technician*. EU-LEX has missed to catch the reach of the things: it has under-estimated to be deployed in a context where symbols play a big role and where the wall which splits the country is neither made up of building material nor of steel but it is in the people's minds and *last but not least* everyone is firmly convinced of his/her own truths (see Pierre Hazan, *Au Kosovo, le choc des vérités antagonistes*, Le Temps, (Eclairages) juillet 5, 2012. Accessed July 5, 2012. http://letemps.ch/Page/Uuid/c1e1ae10-c5ea-11e1-a9f0-9fe966b8392d/Au_Kosovo_le_choc_des_vÃ©ritÃ©s_antagonistes). By pinpointing that EULEX may have been better equipped so as to effectively address the *conflict of minds*, the intention is not to neglect the factual reality. The future and solution for the north is strictly linked to Serbian domestic politics and this is a fact which cannot be ignored^{xlii}. But it is also to be acknowledged that whether it is true that EULEX is (solely) a CSDP mission mandated to promote rule of law and further strengthen multi-ethnicity in its three fields of intervention namely police, justice and customs, as it has been previously mentioned, how is it possible to achieve that if the *conflict of minds* has not been addressed? Is it possible to solve it? And if yes, *who* is going to do that and *how*? The argument is that, of course, it is possible but it takes time. If the EU and EULEX is willing to play a major role in the country, it should be in charge of this duty but not under the current structure. The only tangible result so far is that northern Kosovo "remains a kind of unclear condominium between Belgrade, UNMIK and EULEX which benefits the criminal organization"^{xliii}.

By conceiving EULEX as a mere *technical mission* the fallacy of the EU CSDP approach is most evident in the north of Kosovo. *What are (if any) the lessons (to be) learned?* First of all, a CSDP mission EULEX-like deployed in a high ethno-politicized environment such as north-Kosovo cannot provide concrete results if it lacks of its own *identity*. This latter shapes itself both through the self-perception and the other(s)^{xliiii} perception towards the self. If the former is poorly clear since the *incipit* the likely end-result is that the perception of the others is going to be the same as well. Identity is *embedded*, *relation-constructed* and this is valid not only at the individual, societal, and/or group level but at the level of systems of sub-systems of international organizations as well. Furthermore, the argument is that the *identity-embeddedness* notion, briefly aforementioned, is of utmost importance for actions to be effective. It is clear that EULEX has been equipped as it is in order to deal with a very delicate political situation. This means that the choice over its (absurd) status-neutrality, its deployment in conformity with UNSC resolution 1244 (1999) and its mere technical nature were (are) the conditions for its own "existence". EULEX conception in

its current structure is, of course, the result of a compromise between the twenty-seven Member States which all take part in the mission, as mentioned in the previous pages, and which by unanimity approved its mandate. At Brussels-level there are rules which cannot be passed by. They exist and must be observed. But this does not hinder the solution for overcoming (and/or the attempt at doing so) the *impasse*, although difficult to be achieved in the practice, to be explored as this paper is targeted to do.

EULEX achievement in the north of Kosovo has been minimal so far and this is a fact. But such shortcoming is not seen and/or perceived as an obstacle by the European Union at continuously stressing the future perspective for Kosovo to be in the EU. However, the risk of such rhetorical statements is that of sponsoring a better future when the basis for this to become a reality has not been established. On 31 October 2012 High Representative Catherine Ashton met, together with US Secretary of State Hillary Clinton, Kosovo Prime Minister Hashim Thaçi to whom she expressly said “your future lies with the European Union [...]”.^{xliiv} On the same occasion the EU chief diplomat, by reminding the importance of the *Dialogue* briefly mentioned above, said “[...] this dialogue is about making lives better. It’s about normalizing life, so that people who live in the north can go about their daily lives feeling part of a community, feeling part of a society.”^{xliv} However, the reality seems far from reflecting such scenario and *last but not least* the concerned Kosovo-Serb communities have not been made an active part of the negotiations.

EULEX from its side has been praised by Catherine Ashton for its assistance at supporting the achievement of concrete results in the Prishtinë/Priština-Belgrade dialogue, namely the implementation of the Integrated Border Management (IBM) agreement with the first two gates operational, with two more to follow by the end of the month. In her views this achievement is a sign of clear commitment by both sides^{xlvi}. Once again in mid-February 2013 High Representative Catherine Ashton recalled the concrete results achieved under the umbrella of the EU-facilitated dialogue between Serbia and Kosovo, namely an agreement to take forward the implementation of Integrated Border/Boundary Management (IBBM); an agreement on arrangements for the protection of religious and cultural heritage; and an agreement to appoint liaison officers to be hosted in the EU premises in Belgrade and Pristina. She also recalled the first meeting ever (beginning of February 2013) between the Serbian President Tomislav Nikolić and Kosovo President Jahjaga as an important step in the normalization of the mutual relations^{xlvii}. But all these achievements seem far from either bringing to *normality* or to a *rule of law-based society*. The fact is that the EU missed to actively involve, together with Kosovo-Serb communities, EULEX in the Dialogue.

On 13th March 2013 the High Representative of the Union for Foreign Affairs and Security Policy met the Serbian President Nikolić, the Serbian Premier Đačić and the vice-Premier Vučić within the framework of the EU-facilitated dialogue between Belgrade and Prishtinë/Priština. On this occasion they reviewed the progress made under the Dialogue, as well as the need to bring to an end the still unsolved issues, namely north Kosovo^{xlviii}. On the 20th of March 2013, the last and seventh meeting carried out within the EU-facilitated dialogue framework so far^{xlix}, took place in Brussels. High Representative Ashton expressed her view over her belief to be close to a solution to the northern Kosovo issue, while reminding that the purpose of this Dialogue is the *normalization*^l of relations between Belgrade and Prishtinë/Priština^{li}. At the end of March 2013 negotiations between Belgrade and Prishtinë/Priština, carried out under the EU-facilitated dialogue, saw the emergence of two conflicting positions. From one hand Serbia and with it its Prime Minister Ivica Đačić, who clearly defined the article of the Constitution which considers Kosovo as an integral part of Serbia as a chimera^{lii}, is in favour of the establishment of an association of Kosovo-Serb communities to be endowed, together with powers in the field of education, culture, planning and health^{liii}, with competences in the field of justice and police as well. But this is something not acceptable for Prishtinë/Priština which sees in such option the establishment of a State within a State as it is the case in Bosnia and Herzegovina. The fact is that the concerned northern Kosovo-Serb communities have been involved in the process in no way. And if the end-agreement is achieved and they are not likely to endorse it, the potentialities of a permanent crisis are on agenda. This is taking place although the case of Bosnia Herzegovina has clearly shown that even the most sophisticated constitutional arrangements do not give the State legitimacy (For an overview on the negotiations briefly aforementioned, see the article of Andreas Ernst. *Gefährdete Kosovo-gespräche*, Neue Zürcher Zeitung (International), March 27, 2013: 7).

In the north of Kosovo we are witnessing neither *normalization*, nor *legitimacy* and *rule of law*. In fact, all these three aspects are closely interlinked. If you do not have *normalization* you cannot achieve either *legitimacy* or *rule of law*. This observation further pinpoints that EULEX deployment as a *pure technical mission*^{liv}, deprived of an *identity* and an *embedded role*, together with the negligence of first and foremost solving the northern issue, has been an underestimation of both its though mandate and the context of its own commitment: (north-)Kosovo. EULEX exercises its powers in the field of justice, police and customs in the youngest Balkan State, and the poorest one of whole Europe, by limiting *de facto* its own sovereignty. EULEX is to be aware that it is *embedded* into a context whereas the identification with the nation is more important than that with the State and this is something typical in the Western Balkans. *Last but not least* EULEX is operating into an artificial constructed entity where the state enacted identity has *de facto* deepened ethnic divisions^{lv}. It is also to be acknowledged that in Serbia the aim of the politicians, since the formation of the Kingdom in the XX century, was mainly to bring the nation and the state together. It was mostly a question of how national unity could be realized and not whether the State should be democratic. This is the setting where the ever largest civilian mission deployed by the EU is *embedded*. In fact, the

way it has been equipped and its poor performance in the north are likely conducive to the fact that EULEX has under-estimated all this. (Over the issue of limited sovereignty and EULEX, the identification with the nation, the state enacted identity, the importance to bring together the nation and the state since the time of the Serbian Kingdom in the XX century, see the article *Die Albaner auf dem Balkan rücken zusammen*, *Neue Zürcher Zeitung* (Meinung&Debatte), March 23, 2013: 25).

The author choice to go through from one hand the way the EU top-chief diplomat looks at the EU ever largest civilian mission, and from the other hand to provide the narration over the main steps made between Belgrade and Prishtinë/Priština, within the framework of the EU – facilitated dialogue, together with a description of the main events which have occurred in the north starting from the summer 2011 onwards, is grounded on the aim at enabling, as much as possible, a whole overview of the current scenario where EULEX is *embedded*. The *conclusion* the author comes to about the way the mission is seen and/or perceived by the High Representative is that it resembles much as *sidelined negotiator*.

1.2 EULEX and the European Parliament: A Disappointing Necessity

The reason for looking at the way the European Parliament^{lvi} sees and/or perceives EULEX may be summed up in the words of the High Representative Catherine Ashton when she says “[the] Parliament and [its] members [...] have a *critical* role in ensuring [...] an effective and democratic EU foreign, security and *defence* policy.”^{lvii} From a wider CSDP perspective there is awareness, in the European Parliament, over the need to discuss on how to *embed* CSDP operations, namely their rationale and end-state, in the political strategic framework of the EU foreign policy priorities of a country or a region^{lviii}. It clearly stressed the need for CSDP actions to be *embedded* in a comprehensive policy and that CSDP operations should provide real added value while promoting peace, stability and rule of law. In addition, the European Parliament underlined the need for a more accurate lessons-learned process which would assess in detail the successful implementation of each peace operation^{lix}.

The European Parliament welcomed the deployment of EULEX and it openly declared its expectations that it would be operational Kosovo-wide^{lx}. In fact, *ex post* this has not taken place yet^{lxi}. EULEX Kosovo got its full support from the European Parliament since the very beginning. At a time when it had not still been deployed on the ground, the European Parliament expressed its own regret over the refrain of the then UNSG from recognizing EULEX as part of the international civilian presence in Kosovo, by expressly declaring its worry over the delay of this recognition and the repercussions on the implementation of the mission from one hand and the stability of the region from the other hand^{lxii}. The commitment of the European Parliament^{lxiii} towards the ever largest civilian mission is to be met on various occasions. It is here to be acknowledged that the European Parliament showed its commitment towards EULEX since the very beginning. On 4th October 2008^{lxiv} a joint AFET-SEDE mission^{lxv} visited Kosovo^{lxvi}. On this occasion the head of the Parliament delegation, Karl von Wogau^{lxvii}, expressly stated, during the press conference in the media centre in Çagllavicë/Čaglavica, “If we want rule of law EULEX is in that segment very important instrument. [...]”^{lxviii} The head of the Parliament delegation, Karl von Wogau, and the Kosovo Rapporteur Joost Lagendijk both stressed that EULEX is very important for the future of Kosovo and it is necessary that the mission is deployed on the entire territory of Kosovo in the interest for all communities. The deployment of EULEX Kosovo-wide cannot be questioned in the view of the Parliament delegation because if it were not the case then the decision to have a divided Kosovo, with EULEX in the south and UNMIK in the north, was something to be taken since the very beginning. From the Parliament perspective a division of the country is unacceptable, while the deployment of the mission throughout the whole country is the key condition for its own success. The Parliament delegation also made it clear that there should be a distinction between the issue of recognition and the possibility for the mission to implement its mandate^{lix}. But in the view of the author, in fact, this dual-basis is *de facto* hindering EULEX performance in the north. The Parliament delegation also made it clear that EULEX has not been sent in to finalize the independence of Kosovo. In the words of the Kosovo Rapporteur Joost Lagendijk “We have sent that mission in order to be able to help Kosovo to fully develop its independence and access the EU, and that is the mission objective. [...] There is not Security Council yet, due to disagreement of Russia and some other countries that don’t like what is going on and disagree with that. That is the situation we have, but despite of that the EU had made progress and we said we shall send the mission, because we are convinced and believe that we cannot wait to have full consent of all Security Council members, including Russia.”^{lxx}

In September 2009 the European Parliament welcomed the signing of an agreement between EULEX and the government of Serbia with a view at enabling the mission to smoothly operate in the north^{lxxi}. In spring^{lxxii} 2012 EULEX was to be the protagonist of a public hearing entitled “EULEX Kosovo – Strategic Review”, organized by

the European Parliament Committee on Foreign Affairs (AFET), with the aim at tracking record and looking at the future work of EULEX^{lxxxiii}. The Committee on Foreign Affairs (AFET) and its Subcommittee on Security and Defence (SEDE) were willing to send a joint delegation to Serbia and Kosovo from 29 to 31 October 2012 with a view at meeting representatives of the Serbian government and civil society and to visit EULEX Kosovo, as well as to meet the Kosovo government and parliamentary representatives^{lxxxiv}. The European Parliament recognizes since the very beginning the important role played by EULEX in *promoting* inter-ethnic reconciliation, rule of law, public order and security, together with the need of increasing the number of prosecutors working in the north and calling on Member States to provide additional personnel^{lxxxv}.

In the view of the European Parliament, EULEX overarching objective is the downsizing of crime in Kosovo^{lxxxvi}. The Parliament commitment towards EULEX, and mainly in the north, shapes on its interest at knowing how the Council may assess the performance of the mission in this part of the country^{lxxxvii} as well. EULEX is conceived and/or seen as *multi-taskoperation* by the European Parliament in charge of safeguarding the rights of the minorities; improving the democratic infrastructure, helping judges, training the police^{lxxxviii}. The bi-cephalous EU-based institution also acknowledges the main shortcomings of the mission such as its inability at guaranteeing the free movement of persons and protecting all citizens Kosovo-wide^{lxxxix}, as well as the almost lacking rule of law in the north. And if the High Representative of the Union for Foreign Affairs and Security Policy, Catherine Ashton, looks at EULEX as a success, as outlined in the previous paragraph, the mood in European Parliament is quite different^{lxxx}. Rather EULEX is looked at as being not appropriately staffed and lacking clear aims. The *conclusion* which could be made here is that from one hand the European Parliament strongly supports (and it did so from the very beginning) the mission by acknowledging its importance for the future of Kosovo. From the other hand, the Parliament realizes that EULEX current structure is unable to provide the desired result which, in fact, is a reflection of the current reality in the north.

1.3 EULEX and the European Commission: A *Partner-Digger*

EULEX is said, by the European Commission^{lxxxxi}, to have consistent judicial cooperation with the relevant authorities in Belgrade^{lxxxii}. It, however, acknowledges that important challenges remain in the field of the rule of law in Kosovo^{lxxxiii}. In the view of the European Commission one of the main tasks of EULEX is the fight against organized crime, including drug-trafficking and organ-trafficking^{lxxxiv}. EULEX is perceived by the Commission as a *partner-digger*. In its 2011 progress report, the Commission from one hand highlights that the situation south of the Ibar/Ibërriver concerning the integration of Kosovo-Serbs has improved. From the other hand, it clearly pinpoints that circumstances in the north shed light on the need for cooperation with the mission by all parties concerned^{lxxxv}.

Olli Rehn, former EU Commissioner for enlargement and neighbourhood policy said “The mission of the European Union Rule of Law in Kosovo (EULEX Kosovo) [...] is *limited* to assist Kosovo’s institutions, judicial authorities and law enforcement agencies in their progress towards sustainability and accountability and in further developing and strengthening an independent and multi-ethnic justice system and multi-ethnic police and customs service, ensuring that these institutions are free from political interference and adhering to internationally recognized standards and European best practices. UNSCR 1244 does not provide for *any territorial limitations* inside Kosovo to the international presence to implement its mandate.”^{lxxxvi} It remains, however, that if from a legal point of view (UNSC resolution 1244) no limitation is foreseen to EULEX deployment throughout Kosovo, *de facto* the mission is unable to fully carry out its tasks in the north. It is a reality that EULEX is not accepted by Kosovo-Serbs. One of the reasons is to be met in the mission’s lacking of partners. From a historical and contextual point of view^{lxxxvii}, it was something to be expected that the EU mission may have encountered opposition from the local population, as it happened in the practice. But north-Kosovo *ethno-biography* was something well-known in Brussels. It is to be questioned *why* not more consistent steps have been undertaken in order to provide the ground for a constructive partnership EULEX *versus* north-Kosovo population since the *incipit*. No real improvements have been achieved in the north^{lxxxviii} of Kosovo so far and it is a reality that its authority is still not welcomed by Kosovo-Serbs^{lxxxix} after almost five years since its deployment on the ground.

The view of the European Commission, as briefly outlined above, over the lack of a partnership should guide, upon suggestion of the author, both EULEX future activities and the EU as a whole in the north. One *lesson (to be learned)* is that there is no room for a rule of law-based society in this part of the country if first the concerned local

authorities are not made active partners of the negotiations, as highlighted in paragraph 1.2 of this paper, and secondly if EULEX keeps at behaving as a mere *technical* mission^{xc}.

1.4 EULEX Self-Perception: *Dis-oriented Technician*

The author's argument in this paper is built around the assumption and the necessity that the *identity* concept is relevant not solely for human beings but for *systems of sub-systems of international organizations* as well. Following the system discourse, briefly aforementioned, EULEX is to be looked at as a *system* of a sub-system (CSDP) of an international organization (EU). In the previous pages the author has provided an overview on the way the core EU institutions^{xci}, committed in the field of the Common Foreign and Security Policy, look at and/or perceive the ever largest civilian mission deployed so far. The mantra is the same: EULEX is a *necessity* in Kosovo. But the views over its performance are different. If the High Representative of the Union considers Kosovo as a success, some in the European Parliament don't agree and argue that much more has to be done. The Commission highlights that EULEX needs partners. *But how does EULEX perceives itself?* The need for providing (and/or the attempt at doing so) an answer is grounded on that *identity* is shaped not only on the other's perception towards the *self*, but on the one's own *self-perception* as well.

Before the European Parliament the then European Union Special Representative (EUSR) and International Civilian Representative (ICR)^{xcii}, the Dutch diplomat Pieter Feith, explicitly said that there is no alternative to a multi-ethnic society in Kosovo, while recognizing that this is a long-term process. Concerning EULEX the then EUSR/ICR stated that its deployment, as agreed by all 27 EU Member States, has been an important decision^{xciii}. Notwithstanding almost five years since its deployment and the necessity over its presence in Kosovo, EULEX visibility has been very low^{xciv} in the north. The scenario is even more complex because of a still ghostly presence of the UNMIK administration which was supposed to withdraw from the country after taking over its duties to EULEX. In fact, since the declaration of Kosovo's independence, on the 17th February 2008, UNMIK has ceased to operate throughout Kosovo at the exception of the municipality of Mitrovicë/ Mitrovica (UAM – UNMIK Administration Mitrovica)^{xcv} where it does overlaps, although endowed with no executive powers, with the Serbian municipal administration.

Northern Kosovo, which comprises the municipalities of Leposavić, ZubinPotok and Zvečan and a small part of Mitrovicë/Mitrovica municipality north of the Ibër/Ibarriver, is about one-tenth of whole Kosovo that is around 1,000 square kilometres, and 3% of the population. It is estimated that between 55,000 and 65,000 Serbs and 6,000 to 10,000 non – Serbs, mainly Albanians and Bosniaks live there^{xcvi}. EULEX presence in the north is still very limited, as briefly aforementioned, and it is facing continuous challenges. Since 2011 the Serb minorities keep blocking EULEX convoys because they consider the EU mission as supporting Priština/Prishtinë's government which they do not recognize (see the as article *Serbenim Kosovo. Konvoi der Eulexerneutblockiert*, Die Tageszeitung, (Ausland), March 7, 2012: 10). The reality is that the north is not stable and this is acknowledged, not only among the young population, but in the EULEX^{xcvii} circles as well (see the article of Kerstin Schwann, *WirbrauchenmehrWirtschaftsfachleutealsSoldaten*, Frankfurter Allgemeine Zeitung, (Wirtschaft), May 4, 2012: 16).

As pinpointed in paragraph 1.2 *EULEX-Kosovo and the High Representative of the Union for Foreign Affairs and Security Policy: A Sidelined Negotiator*, EULEX has been deployed under Council Joint Action/124/CFSP of 4 February 2008 which is the result of a compromise between the Member States and this is a reality which cannot be ignored^{xcviii}. In the author's view, however, the poor performance of EULEX-Kosovo in the north is also to be attributed to the complex and *compromising* legal framework the EU mission is operating in. As a matter of fact EULEX has been deployed, under the letter of Council Joint Action 124/2008/CFSP of 4 February 2008, in conformity with the United Nations Security Council resolution 1244 (1999) which *de jure* recognizes the sovereignty and territorial integrity of Serbia. This of course represents somehow the *Achilles' heel* of EULEX operability in the north. From one hand the mission is supported by all 27 EU Member States which *de facto* participate in the civilian operation. From the other hand there exists a CFSP-CSDP gap, as it has been mentioned in the previous pages, because among the 27 Member States which take part in the mission five of them (Greece, Cyprus, Spain, Romania and Slovakia) do not recognize Kosovo. It can be argued^{xcix} that EULEX is a CSDP mission launched by Joint Action 2008 approved by all 27 Member States and that this reality has to be taken into account. To be said in other words in order "[to] be able to fully implement its mandate EULEX *needed to be* under the 1244 umbrella as this for example gave the legal basis for transferring certain activities from

UNMIK (in concrete for example court cases that were later dealt with by EULEX judges)^{cc}. Notwithstanding this factual reality, there may have been room for enabling the circumstances to take another direction. The author's suggestion is that EULEX, instead of *needing to be deployed* in conformity with UNSC resolution 1244, which *de facto* brings with it a consequential past legacy, *may have been* deployed within the framework of the International Civilian Office (ICO)^{ci} which, of course, is a different organization because it is the *creation* of the so-called International Steering Group (ISG) that comprises only those countries which have recognized Kosovo's independence. But since 22 EU Member States (the majority) consider Kosovo an independent State, it is to be *questioned* the validity of UNSC resolution 1244 (1999), as legal basis (at the international level), of EULEX deployment, considering that it recognizes *de jure* the sovereignty and territorial integrity of Serbia.

The former and first Head of Mission, the French Yves de Kermabon, outlined that the north was marked by tensions and that his hope was that the Prishtinë/Priština-Belgrade dialogue, EULEX is supporting, may have helped at bringing the two communities closer to each other at both a political and technical level. His priority was to maintain a stable environment in the north in two ways: by expanding EULEX footprint in this part of the country and by *normalizing* the mission's presence there. This two-step approach would have enabled, in his view, EULEX to get a better understanding of the situation while being accepted by the local population^{cii}. In fact, neither *normalization* between Prishtinë/Priština-Belgradenor acceptance of EULEX presence in the north has occurred so far.

The newly (as of the 1st of February 2013) appointed Head of Mission of EULEX-Kosovo, the German diplomat Bernd Borchardt, concerning the mission commitment in the north says that it is doing something. On how long Kosovo needs the mission, Borchardt simply recalled that the mandate has been extended until June 2014 and that the way, the if, the form, how the mandate of the future mission's commitment will look like, all these things are not defined and an agreement is needed between the EU member States and the government of Kosovo. The Head of Mission clearly outlined the commitment of the Member States for the mission but the way it should be in the future is not settled^{ciii} yet. Such statements shed light on a lack of strategy by the mission for the north. But EULEX seems to be aware that agreements *per se* are not conducive to a *solution* of the Serbia-Kosovo relations^{civ}.

Whether it is to be outlined that the situation in the north of Kosovo is the relict of the past French troops' decision to stop at the Mitrovicë/Mitrovica's bridge over the Ibër/Ibar river, which enabled the set-up of Serbian settlements in the north of the city, and by acknowledging that UNMIK has been unable to solve the situation, it is to be questioned what has been the added-value (if any) of EULEX commitment there?^{cv} From EULEX perspective the mission implements its mandate which has been agreed by all twenty-seven Member states. EULEX supports Kosovo on its path to a greater European integration in the rule of law area. EULEX skills and expertise are being used to support the key EU aims in the visa liberalization process, the Feasibility Study and the Pristina-Belgrade dialogue. EULEX also supports the Structured Dialogue on the rule of law, led by Brussels. EULEX continues to concentrate on the fight against corruption and works closely with local counterparts to achieve sustainability and EU best practices in Kosovo. Northern Kosovo is a priority for the Mission and the overall aim is to improve the rule of law for all communities. Since the Mission began in 2008, it reopened the Mitrovicë/Mitrovica District, now the Basic Court of Mitrovica, and EULEX judges have delivered around 60 verdicts in serious criminal cases, including in war crimes, organized crime, smuggling, trafficking, and aggravated murder. EULEX has advisors at the correctional centre in the north. EULEX has an executive presence at the crossing points in the north. We have a dedicated Task Force based in Mitrovicë/Mitrovica which is investigating serious crime, including organized crime. The Task Force includes organized crime investigators and prosecutors. EULEX supports, through monitoring, mentoring and advising actions, the Kosovo Police in the four northern police stations. EULEX also has other aspects of the Mission reflected in the north including political/reporting, programme officers, Department of Forensic Medicine officers and press officers located in the EU house in the north^{cvi}. The fact is that this purely technical architecture is not providing the basis for a rule of law society in the north^{cvi}.

Conclusion

The paper aims at unveiling the necessity for peace operations *tout court* and EU civilian missions EULEX-like, in the specific, to be endowed with an identity. To be said in other words, for a civilian

mission to accomplish its mandate, into a high ethno-politicized environment such as the north of Kosovo, there is the need, together with a body, of a soul. The *conclusion* over EULEX Kosovo is that its performance in the north of the country has been minimal so far, apart from acknowledging the factual reality (delicate political situations, Belgrade politics, tense relations between Belgrade and Prishtinë/Priština), for being deprived of an identity. Its self-conception and architecture as a *pure technical mission* is not bringing concrete results. After almost five years since its deployment, the EU ever largest civilian mission's presence is still contested by the local population (Kosovo-Serbs). In the paper, the author has attempted at highlighting the major reasons behind this poor outcome which are not deemed to be exhaustive but to give an overview of a complex scenario EULEX is *embedded* in. First of all, whether it is to be appreciated EULEX commitment in the Prishtinë/Priština-Belgrade Dialogue, by supporting its implementation, the author's argument, as highlighted in the first paragraph, is that EULEX had to be endowed with a *voice* in this Dialogue since the *incipit* and Kosovo-Serbs had to be involved as well. Secondly, from a legal point of view it has been myopic, although the result of a factual compromising reality, to allow deployment of the mission (of a major regional organization) within the UNSC resolution 1244 (1999) framework, while the suggestion is that it may have been possible to deploy within the ICO framework. The result is that EULEX has not a face in the north of Kosovo at all and there is no surprise if it is facing challenges at establishing a constructive partnership with the local authorities there.

Bio-Note

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ⁱFrom a philosophical point of view *identity* (from Latin: sameness) is the relation a thing bears just with itself. The sociological notion of identity, by contrast, has to do with a person's self-conception, social presentation, and more generally, the aspects of a person that make him/her *unique*, or qualitatively different from others. Over time the notion of identity has been subject to various debates and there is neither a common view nor a clear-cut definition of it.

ⁱⁱ The author has used the term *international organization* for referring to the European Union only as an explicative device, while clearly acknowledging that it is not to be listed among the international organizations *tout court* to the extent it represents a hybrid body of the international system.

ⁱⁱⁱ With the process of convergence of the self and of the environment, which gives birth to what the author labels *system-identity*, the aim is not to argue that if the self and the environment have dichotomous perceptions we do not have an identity. Rather the observation which is made here is that for a *system-identity* to emerge these two conditions are needed.

^{iv} The European Union foreign policy level is chaired by the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission, who, at the time of writing end of March 2013, is Ms Baroness Catherine Ashton.

^vI.e. democratic rights and freedoms including cultural rights, job creation and removing constraints to growth, public service delivery, including basic social services, recovery of lost assets and re-establishment of livelihoods.

^{vi} At the time of writing (end of March 2013) the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission is the British Baroness Catherine Ashton. The High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission, Catherine Ashton, has been the first to be appointed in this role in November 2009. This new position is the creation of the Lisbon Treaty entering into force in December 2009. The post brings together previously separate roles with a view at making the EU foreign policy more consistent and coherent. While carrying out her duties and tasks, Catherine Ashton is supported by the European External Action Service (EEAS) which started to be operational as of 1st January 2011. The EEAS merges the Commission and the Council foreign departments, while bringing in diplomats from national diplomatic services. The first speeches of Catherine Ashton which are published on the EEAS website (www.eeas.eu) date back only to 11 January 2010. For the interests of this paper and its focus, namely EULEX (north-)Kosovo, the author went through all the speeches Ms Ashton held with reference to EULEX itself, as well as with Serbian and Kosovar representatives. Other more general speeches have been chosen on the ground of dealing with democracy and rule of law, what the EU and EU-LEX are trying to contribute to in the youngest Balkan *State*.

^{vii} She took part in the "Civil Society meeting" held in Belgrade on 18 February 2010. On that occasion Catherine Ashton clearly stated that dialogue with civil society is an important element of the EU's commitment world-wide. She clearly stressed that the Western Balkans are key to the European Union. See European Union. Catherine Ashton High Representative/Vice President *The EU and the Western Balkans in a changing world Civil Society Meeting*, Belgrade, 18 February 2010, Speech/10/32. Accessed March 23, 2013. http://europa.eu/rapid/press-release_SPEECH-10-32_en.htm?locale=en

^{viii} In these terms the EU High Representative Catherine Ashton intervened on the occasion of the joint debate with the European Parliament on foreign and security policy held in Strasbourg on 10th March 2010. See European Union. Catherine Ashton High Representative/Vice President *Joint Debate on Foreign and Security Policy* European Parliament Strasbourg, 10 March 2010. Accessed March 23, 2013. http://europa.eu/rapid/press-release_SPEECH-10-82_en.htm?locale=en

^{ix} This term has been used by the High Representative of the Union for Foreign Affairs and Security Policy, Catherine Ashton, on the occasion of the MegaronPlus Lecture and Exhibition Series, held in Athens on 8 July 2010. In that framework, the EU chief diplomat was also pleased to announce the vote taken one day before, at the European Parliament session in Strasbourg, over the launch of the EEAS, as well as on how the Lisbon Treaty makes a difference in the EU's external relations so as to enable a step change in EU foreign policy. See European Union. Catherine Ashton EU High Representative for Foreign Affairs and Security Policy and Vice President of the European Commission Europe and the world Megaron "The Athens Concert Hall", Athens, Speech/10/378, 8 July 2010. Accessed March 23, 2013. http://europa.eu/rapid/press-release_SPEECH-10-378_en.htm?locale=en.

^x Catherine Ashton better clarified what she means for „deep democracy „on the occasion of a speech on the main aspects and basic choices of the CFSP and the CSDP before the European Parliament in Strasbourg on 11 May 2011. In her words deep democracy implies rule of law, freedom of speech, respect for human rights, an independent judiciary and impartial administration, while asking for enforceable rights and free trade unions. See European Union. *Speech of High Representative Catherine Ashton on main aspects and basic choices of the Common Foreign and Security Policy and the Common Security and Defence Policy*, European Parliament - Strasbourg, A 179/11, Brussels, 11 May 2011. Accessed March 25, 2013. http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/121939.pdf

^{xi} Over the key role of supporting and promoting rule of law as the main foundation of what Catherine Ashton defines "deep democracy", the same High Representative of the Union for Foreign Affairs and Security Policy intervened on the occasion of a speech at the Corvinus University in Budapest on 25th February 2011. She conceives "deep democracy" as a lasting stable, tolerant and cooperative system both domestically and internationally. See European Union. Catherine Ashton EU High Representative for Foreign Affairs and Security Policy/Vice President of the European Commission *A world built on co-operation, sovereignty, democracy and stability*, Corvinus University Budapest, 25 February 2011. Accessed March 25, 2013. http://europa.eu/rapid/press-release_SPEECH-11-126_en.htm?locale=en

^{xii} Council Joint Action 124/2008/CSFP is the legal basis of EULEX Kosovo. It is to be acknowledged that CJA 124/2008/CFSP has been adopted by unanimity by all 27 Member States. See Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX Kosovo, L 42/92 Official Journal of the European Union, 16.2.2008. Accessed 16 April 2009. http://www.eulex-kosovo.eu/en/info/docs/JointActionEULEX_EN.pdf

^{xiii} United Nations Security Council resolution 1244 (1999) is the legal framework which ruled Kosovo for almost ten years, namely since the end of the 1999 war until June 2008. From that moment on, the plan was that EULEX had to take over all previous UNMIK responsibilities. However, *de facto*, a ghost United Nations appendix, known under the acronym UAM (United Nations Administration Mitroviča) is still operative in the north of Kosovo. For UNSC resolution 1244 (1999), see United Nations Security Council resolution 1244 (1999), S/RES/1244 (1999), 10 June 1999. Accessed 16 April 2009. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement>.

^{xiv} See Catherine Ashton clearly acknowledged this aspect on the occasion of her visit to EULEX headquarters in Pristina, where she met the then Head of Mission, Xavier Bout de Marnhac. See European Union. *Remarks by Catherine Ashton, EU High Representative for Foreign Affairs and Security Policy, while visiting EULEX headquarters, Pristina*, A 212/11, 27 May 2011, Bratislava. Accessed March 25, 2013. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/122262.pdf

^{xv} Spain, Greece, Cyprus, Slovakia and Romania keep rejecting Kosovo's independence because they fear instability within their own borders, since all of them have unsolved minorities' issues at home.

^{xvi} Catherine Ashton intervened in these terms on the occasion of her meeting with Kosovo Prime Minister Hashim Thaçi. She also stressed how the technical dialogue (EU facilitated dialogue) between Belgrade and Prishtinë/Priština is a practical tool for change. In the specific, the technical dialogue here referred to is the one launched under the EU umbrella as of March 2011. The Dialogue has enabled to achieve improvements in the Belgrade-Prishtinë/Priština mutual relations thanks to various agreements signed by both parties (i.e. border management control; civil registry books, licence plates, diplomas). See European Union. *Remarks the High Representative Catherine Ashton at the press point with Prime Minister Hashim Thaçi*, Prizren, A 213/11, 27 May 2011, Brussels. Accessed March 25, 2013. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/122270.pdf

^{xvii} See European Union. *Remarks by HR Catherine Ashton following the Foreign Affairs Council*, A 20/12, Brussels, January 23, 2012. Accessed March 27, 2013. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/127478.pdf

^{xviii} She intervened in these terms on her visit to the then USA State Secretary Hillary Rodham Clinton on 17 February 2012. See European Union. *Remarks by Catherine Ashton, High Representative of the Union for Foreign Affairs and Security Policy/Vice President of the Commission, following her meeting with US Secretary of State Hillary Rodham Clinton*, Washington, D.C., A 64/12, February 17, 2012. Accessed March 27, 2013. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/128047.pdf

^{xix} See European Union. *Remarks by High Representative Catherine Ashton following the Foreign Affairs Council meeting*, A 87/12, Brussels, 27 February 2012. Accessed March 27, 2013. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/128229.pdf See also European Union. *Remarks by High Representative Catherine Ashton following the meeting with President of Serbia Boris Tadić*, A 86/12, Brussels, 27 February 2012. Accessed March 27, 2013. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/128227.pdf

^{xx} I.e. integrated border management, customs, return of the civil registry books, freedom of movement, representation in regional cooperation structures.

^{xxi} See European Union. *Remarks by High Representative Catherine Ashton at the press point with PM Dačić and US Secretary of State Hillary Clinton after their meeting together with President Nikolić*, A 483/12, Belgrade, 30 October 2012. Accessed March 27, 2013. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/133265.pdf

^{xxii} It is to be said that Kosovo-Serbs keep considering UNMIK (United Nations Administration Mission) as the only credible interlocutor.

^{xxiii} A trade dispute between Serbia and Kosovo broke out at the end of July 2011. The reason was an embargo on Serbian products imposed by Priština/Prishtinë, a measure to be understood in the framework of Serbia's non recognition of Kosovo's declaration of independence. Kosovo forces seized a frontier post under EU-LEX supervision and one Kosovo police officer has been shot in the head on the occasion of a fire fight with ethnic Serbs. These latter set up roadblocks so as to prevent Kosovo police from taking control of two other border crossings area, Jarinje and Rudare. NATO Kfor intervened by dividing the two sides of the Ibar River in Mitrovicë/a with armoured vehicles. However, Kfor's intervention has just lessened the potential worsening of the situation, but it did not provide for a solution of the most inner conflict. It is a fact that the "customs conflict" between Serbia and Kosovo is the "waiting room" of a wider conflict. Of this latter issue, see Michael Martens, *Der Vertrag von Mitrovica*, Frankfurter Allgemeine Zeitung, August 24, 2011: 1.

^{xxiv} A Russian convoy of more than 20 Russian trucks, headed by the Russian ambassador to Serbia Aleksandr Konuzin, carrying canned food, blankets, tents and power generators have been sent to the Serbian communities. Moscow refused EULEX's police escort. Russia supported Kosovo-Serbs on another occasion as well: by granting them (more than 21.000 had submitted request) the Russian citizenship. According to the Russian embassy in Belgrade, and the organizer of this action Zlatibor Djordjevic, the number of requests could have raised to more than 100.000. See the article *Kosovo – Problem für Russland*, Neue Zürcher Zeitung, (International in Kürze), November 16, 2011: 2.

^{xxv} KFOR soldiers intervened by trying to remove street blockades, erected by the Kosovo Serbs, near the village of Zubin Potok, about 60 kilometers, or 40 miles, northwest of Priština/Prishtinë. Later on Kosovo-Serbs started with the dismantling of the barricades they had previously set up and which provoked clashes with the NATO-KFOR troops. Two German soldiers had been shot and injured, while eight Austrian soldiers have been lightly hit. Serbs argued that the dismantlement has taken place on the ground of an agreement with the KFOR. The shooting, briefly aforementioned, came after months of tensions. Kosovo-Serbs had been provoked by the Kosovo government's decision to extend its authority in the areas under *de facto* Serbian rule.

^{xxvi} Both the police and demonstrators have been injured. The demonstrations were carried out by the main Kosovo's opposition movement "Vetëvendosje" (from the Albanian self-determination) A link-oriented nationalist movement led by Albin Kurti. According to him and his followers no goods at all from Serbia have to be exported to Kosovo in the future. The main objective of its action was to avoid the import of Serbian goods into Kosovo, while enabling the free movement of people. The movement's leader claimed that the protest was peaceful and its target was not the police but Serbia. Nevertheless about fifty men have been injured and among them thirty-one were security forces. Vetëvendosje protested again against Hashim Thaci's government on 27th of February 2012. This time they accused Priština/Prishtinë of playing with Kosovo's sovereignty. In the specific, reference is here made to the complex diplomatic agreement, which has been reached at the very last minute after three days of intense negotiations in Brussels on the 23rd of February 2012 (together with the mutual cooperation over the border crossings control) and according to which Kosovo is allowed to present himself at regional conferences under the label Kosovo*. The name holds a star with a footnote specifying that Kosovo is here intended in conformity with the UNSC Resolution 1244/99 and with the ICJ's 2010 ruling opinion. In practise, Serbia got what it wanted: no mention of the name "Republic of Kosovo". (See Erich Rathfelder, *Kosovaren praktisch über den Tisch gezogen. EU-Beitritt Serbien ist der Status eines Beitrittskandidaten zur EU de facto in die Hand versprochen. Das sorgt im Kosovo für Proteste, die sich in erster Linie gegen die Unfähigkeit der eigenen Regierung richten*, Die Tageszeitung, (Ausland), February 28, 2012: 11).

^{xxvii} The ballot paper's central question was "Do you accept the institutions of the so-called Republic of Kosovo? With the "no" to the recognition of the government in Priština/Prishtinë, 99.7% of Serbs who voted on the 14th and 15th of February 2012 made it clear that they feel to be part of Serbia.

^{xxviii} In fact, the government of Tadić changed his previous position thereof under EU pressure.

^{xxix} On that occasion two KFOR soldiers, of the German army (Bundeswehr), and at least five Kosovo-Serbs remained injured. NATO-KFOR soldiers wanted to remove street blockades being erected, a year earlier, by the Kosovo-Serbs at the border crossing near Mitrovicë/a. On the background of the NATO-KFOR's action in the north, the Serbian State Secretary responsible for Kosovo, Oliver Ivanovic, said that it was high-risky. He assumed that behind that course of action there was the attempt of Prishtinë/Priština to strengthen its own position before the resuming of a dialogue with Belgrade. See the article *Erneut Schüsse in Nordkosovo. Zwei Kfor-Soldaten verletzt*, Neue Zürcher Zeitung, (International), June 2, 2012: 5. See also the article *Deutsche Soldaten im Kosovo verletzt. Zusammenstöße bei Räumung von Straßensperren/Bericht über Einsatz von Tränengas*, Frankfurter Allgemeine Zeitung, (Politik), June 2, 2012: 6; and the article *Serbische Kennzeichen verboten*, Neue Zürcher Zeitung, May 30, 2012: 2.

^{xxx} In these terms intervened the KFOR-Contingent, the German Major-general Drews on the occasion of a visit of the German Defence Minister de Mazière.

^{xxxi} In these terms intervened the German Defence Minister de Mazière on the occasion of his visit to the KFOR contingent in Kosovo.

^{xxxii} Over the issue that KFOR cannot solve the political problem, while the EU should actively commit itself between Belgrade and Prishtinë/Priština intervened the German Defence Minister de Mazière on the occasion of his visit to the KFOR contingent in Kosovo in summer 2012. See the article *Zu Besuch bei Soldaten auf gefährlicher Mission*, Frankfurter Allgemeine Zeitung (Politik), June 5, 2012: 4.

^{xxxiii} In the specific, more than 30 policemen and 13 Serbs have been injured. Serbs wanted to take part to their national public holiday in honor of Vidovan, who also participated in the Serbian army fight against the Osman in the Amsfeld in 1389. This battle signed the rebellion of the Serbs against the Ottoman occupation.

^{xxxiv} According to the police, however, protests did not lead to incidents. Demonstrators had blocked for about two hours the traffic on the motorways in the north of the country. A representative of the Kosovo-Serbs, RadenkoNedeljkovic, said that they (Kosovo-Serbs) will never accept the institutions of the Republic of Kosovo at any price.

^{xxxv} The next round of meetings is to be held on the 2nd of April 2013.

^{xxxvi} The author developed this term and concept on the occasion of a previous paper presentation under the title EULEX Damocles' sword in North Kosovo: *Dis-Embeddedness*, for the international conference *The Balkans Dialogue. Conflict Resolution and EU Accession Politics in the Balkans and Turkey*, Institute for Cultural Relations Policy, KodolányiJános University of Applied Sciences, Budapest, Hungary, February 8 – 9, 2013. It is enough here to say that the author argument is that EULEX poor performance in the north, which is to be attributed to its compromising legal framework, may have been somehow circumvented by being more visible in its own mandate, namely by stressing that not only all the twenty-seven EU member States participate in the mission, but also that twenty-two of them have recognized Kosovo as an independent State. This is not an issue of pure labeling but of clearly defining its own identity, while providing the basis for that *coherence* and *consistency* between the CFSP and the CSDP which remains *à la carte* so far.

^{xxxvii} By going through all the High Representative Speeches and Statements over the EU-Facilitated Dialogue, the EU commitment in Kosovo and EULEX, there is no reference at all to what the EU means (and/or is deemed to) for *normalization*.

^{xxxviii} Time of writing end of March 2013.

^{xxxix} In these terms intervened NATO-KFOR Commander, General Major Erhard Drews, who also made it clear that a downsizing of NATO-KFOR troops cannot be established on the basis of a calendar and it is not foreseeable for the moment. As of the end of July 2012, 5700 KFOR troops were deployed in Kosovo.

^{xl} The author has clarified the use of term “dis-embeddedness” with reference to EULEX Kosovo in a previous paper. NicasiaPicciano. EULEX Damocles' sword in North Kosovo: *Dis-Embeddedness*. Paper presented at the international conference *The Balkans Dialogue. Conflict Resolution and EU Accession Politics in the Balkans and Turkey*, Institute for Cultural Relations Policy, KodolányiJános University of Applied Sciences, Budapest., Hungary, February 9 – 9, 2013.

^{xli} It is not the purpose of this paper to go through the Belgrade politics towards Kosovo. It is here enough to acknowledge that whether the previous government of Boris Tadić which ruled Kosovo from 2008 until May 2012 had, under EU pressure, made some concessions and showed compromise over Kosovo, the newly elected Serbian government (as of the end of May 2012) under the leadership of the former extreme-nationalist TomislavNikolić does not leave much room for hope.

^{xlii} The original textis «[...] bleibt [...] eine Art rechtlich ungeklärtes Kondominium von Belgrad, UNMIK und EULEX, was die organisierte Kriminalität gegünstigt». The translation from German into English of the text is of the author). See Bruno Schoch. 7.3 *Was wird auf dem Nordkosovo?*, in *Demokratisierung im ungeklärten Staat? Das UN-Protectorat im Kosovo – eine Bilanz*, (Frankfurt am Main: HSFK - Hessische Stiftung Friedens- und Konfliktforschung, Report N.13/2010): 28. It is a fact that criminality reigns in the north of the country with 6,200 soldiers still stationed there in the fall of September 2012. In 1999 they were 60,000.

^{xliii} The author used the term „the other“ by referring to Kosovo-Serbs.

^{xliv} See European Union. *Remarks by High Representative Catherine Ashton at the press point with Prime Minister of Kosovo HashimThaçi and US Secretary of State Hillary Clinton during the visit to Kosovo*, A 484/12, Pristina, 31 October 2012. Accessed March 27, 2013. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/133267.pdf

^{xlv} See in *ibidem*.

^{xlvi} See European Union. *Remarks by High Representative Catherine Ashton following the Foreign Affairs Council*, Brussels, A 567/12, 10 December 2012. Accessed March 28, 2013. http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/134153.pdf

^{xlvii} See European Union. *Remarks by High Representative Catherine Ashton at United Nations Security Council: Cooperation between the UN and regional and sub-regional organizations*, A 82/13, New York, 13 February 2013. Accessed March 28, 2013. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/135451.pdf

^{xlviii} See Union Européenne. *Déclaration de Catherine Ashton, Haute Représentante, à l'issue de sesentretiens avec les dirigeantsserbesdans le cadre du dialogue mené avec la médiation de l'UE*, A 128/13, Bruxelles, 11 March 2012. Accessed March 28, 2013. http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/FR/foraff/136030.pdf

^{xlix} Time of writing end of March 2013.

^l In fact, it is not clear what is intended for *normalization* from an EU perspective.

^{li} See European Union. *Remarks by High Representative Catherine Ashton after the seventh meeting in the framework of the EU-facilitated Dialogue*, 20 March 2013, A 155/13, Brussels, 21 March 2013. Accessed http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/136378.pdf

^{lii} This position represents a step forward to the extent that Serbia has always jealously looked at this article as untouchable.

^{liii} It is to be said that this plan is the one which has been sponsored by Brussels and which is de facto opposed by Belgrade.

^{liv} In a previous conference paper *The European Union Common Security and Defence Policy Re-visited. EULEX Kosovo a Test for a Common Peace Educational Policy* the author suggested the set-up of what she labels *Common Peace Educational Policy* (CPEP) which is intended to complement, and not to substitute, the Common Security and Defence

Policy mandate – mission, in this case EULEX-Kosovo. Paper presented for the International Conference *Europe Inside-Out. Europe and Europeaness Exposed to Plural Observers*, Euroacademia, Paris, 27 – 28 April 2012. The paper has been published as NicasiaPicciano. *The European Union Common Security and Defence Policy Re-visited. EULEX Kosovo a Test for a Common Peace Educational Policy*, in EmanueleCrudu and DavideBradani (2013), *Europe Inside-Out. Europe and Europeaness Exposed to Plural Observers*, Euroacademia Publishing, Paris, ISBN 978-2-9543146-0-0.

^{lv} This is not only the case of Kosovo but of Bosnia and Herzegovina (BiH) as well. It is enough here to say that the 1995 Dayton Accords which brought to an end the war in BiH, but did not solve the conflict, have *de facto* put the basis of an ethnic compartmentalization by leaving no room for “other ways of being”. By so doing, ethnicity has been made normative, exclusive and discriminatory.

^{lvi} The European Parliament is the only directly-elected European Union institution. The European Parliament shares legislative power equally with the Council of the European Union. This implies that it is endowed with the task of adopting European Laws (directives, regulations, etc.). It can accept, amend or reject the content of European legislation.

^{lvii} See European Union. *Speech by High Representative Catherine Ashton in the European Parliament on the Brok Report on the Annual Report on CFSP*, A 402/12, Strasbourg, 11 September 2012. Accessed March 27, 2013. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/132366.pdf (Emphasis added).

^{lviii} In the specific the European Parliament clearly outlined this shortcoming and priority at the same time while addressing the Council with reference to its 2010 Annual Report. While so doing, the European Parliament also, and clearly, stated that in its view the 2010 Council Report did not reflect the ambitions of the Lisbon Treaty in various ways (i.e. by not providing strategic guidelines for the CFSP and by clearly distinguishing between medium and long-term priorities, not clarifying policy mechanisms for enabling consistency and coherence among the different actors of the EU foreign policy; not clarifying the role of the EEAS and the Union’s delegations to be aligned with foreign affairs priorities). See Annual Report from the Council to the European Parliament on the Common Foreign and Security Policy, European Parliament resolution of 12 September 2012 on the Annual Report from the Council to the European Parliament on the Common Foreign and Security Policy (12562/2011 – 2012/2050 (INI), PT_TA-PROV(2012)0334, Assessment of the 2010 Council Annual Report on CFSP: 3.

^{lix} See Annual Report from the Council to the European Parliament on the Common Foreign and Security Policy, European Parliament resolution of 12 September 2012 on the Annual Report from the Council to the European Parliament on the Common Foreign and Security Policy (12562/2011 – 2012/2050 (INI), PT_TA-PROV(2012)0334, Thematic CFSP priorities (Common Security and Defence Policy): 24.

^{lx} See Annual Report from the Council to the European Parliament on the Common Foreign and Security Policy, European Parliament resolution of 12 September 2012 on the Annual Report from the Council to the European Parliament on the Common Foreign and Security Policy (12562/2011 – 2012/2050 (INI), PT_TA-PROV(2012)0334, Strategic priorities: concentric circles of peace, security and socio-economic development (The Western Balkans): 9.

^{lxi} Time of writing end of March 2013. In fact, it is to be pointed out that EULEX is present in the north but both its visibility and operability is still limited.

^{lxii} See European Parliament (Committee on Foreign Affairs) Draft Report with a proposal for a European Parliament recommendation to the Council on the EU priorities for the 63rd Session of the UN General Assembly, (2008/2111(INI)), (Rapporteur, Alexander Lambsdorff) *Improving EU-UN cooperation in practice*, 6 May 2008: 7.

^{lxiii} For the purpose and the aim of this paper the author has focused on various documents of the European Parliament such as Questions addressed during parliamentary sessions, reports concerning EULEX-Kosovo.

^{lxiv} This was taking place before EULEX deployment on 9th December 2008 on the ground. The purpose of the visit was to gather all possible information on the situation on the ground, as expressly stated by the Kosovo Rapporteur, JoostLagendijk, needed for drafting a report to be referred for review to the European Parliament for the session at the beginning of the following year (2009). This was to be the second report issue by the European Parliament. The first one was published in 2007 when the European Parliament supported the supervised sovereignty of Kosovo in accordance with the Ahtisaari’s proposal.

^{lxv} AFET is the acronym for the Parliament Committee for Foreign Affairs, whereas SEDE is the acronym for the Parliament Subcommittee on Security and Defence.

^{lxvi} The delegation met Mr Pieter Feith (former EUSR and ICR) and the EULEX-mission (Mr Roy Reeves, Deputy Head of EULEX Kosovo. See European Parliament (Subcommittee Security and Defence), SEDE_PV(2008)13_10, PE 415. 188, 13 October 2008: 1, available for access on the public register of the European Parliament.

^{lxvii} Among other outstanding participants to the press conference are to be mentioned JoostLagendijk as Kosovo Rapporteur and Armand Franjuline Head of the Sub-Committee of the European Parliament.

^{lxviii} The author requested access for the AFET-SEDE joint delegation visit to Kosovo of 4th October 2008 on the public register of the European Parliament. On the 27 March 2013 the author has been notified on the request by the Directorate C – DG Presidency, European Parliament (Transparency – Public Access to documents unit).

^{lxix} The Kosovo Rapporteur JoostLagendijk intervened in these terms while addressing a question raised by a participant to the press conference in Čaglavica on 4th of October 2008. The question had been raised by ArtanHaracija (RTK): *As I know, compromise is a key word for the European Union. How do you explain that it is that difficult to come to a compromise in the EU, given that there are some countries that are strongly against Kosovo independence?*, in *ibidem*. In terms of composition, it is true that also the non-recognizing EU Member States participate in the mission and they do that by supporting its budget but not sending people in the mission, as clearly stated by Karl von Wogau, question time after the press conference in Čaglavica on 4th October 2008, in *ibidem*.

^{lxx} The Kosovo Rapporteur JoostLagendijkintervened in these terms by answering to a question addressed to him by JasminaStojkovic (TV Most) on the occasion of the October 2008 press conference in Čaglavica. The question raised by MsStojkovic is the following: *Mister Lagendijk, can you now [...] tell us that [the] decision on [the] EULEX*

mission has been endorsed to at last finalize the independence of Kosovo and that it is the only objective for the mission? In that case, if you do that without clear consent of largest international legal body, i.e. the Security Council, because it is the objective as per my understanding is Europe ready to accept responsibility in the future for making decisions solely to create new states in region, since obviously it is going to be only and just with Europe's [honor]?, in ibidem.

^{lxxi} See European Parliament. Delegation for Relations with Albania, Bosnia and Herzegovina, Serbia, Montenegro and Kosovo, National Assembly of the Republic of Serbia Committee on European Integration, 3rd Interparliamentary Meeting, *Joint Statement*, 16 – 17 December 2009, Strasbourg, DSSE_DT(2009)1217, 5 July 2010: 5, available for access on the public register of the European Parliament.

^{lxxii} The guest speaker, invited to take part in the public hearing, was Engjellushe Morina, former Director of the Kosovo Stability Initiative. Access for request to the document referring to the public hearing sent by the author via the online public register of the European Parliament on 18 March 2013. Access to the document received on 27 March 2013. However, the end-programme of the hearing, held on 11 April 2012, has not dealt with EULEX but with the future financing of enlargement and the new instrument for pre-accession assistance. No access to the hearing debates has been provided to the author.

^{lxxiii} Elmar Brok Chair of the Committee on Foreign Affairs (AFET), EPPE_LTD(2012)201734, 18 April 2012.

^{lxxiv} See European Parliament, Conference of Presidents, Minutes of the ordinary meeting of 6 September 2012, B. Proposals without Debate (18. Request from the Committee on Foreign Affairs and Subcommittee on Security and Defence to send a joint delegation to Serbia and Kosovo from 29 to 31 October 2012 – Letter from Mr Brok and Mr Danjean, Chairs of the committee and subcommittee concerned) PV CPG 07.09.2012, E-7/CPG/PV/2012-16: 39. The author has forwarded request for access to the findings of the joint delegation visit to Kosovo and she is still waiting for a feedback, time of writing end of March 2013, from the European Parliament (Directorate C – DG Presidency), Transparency – Public Access to documents Unit.

^{lxxv} See European Parliament, 2008 annual report on CFSP. European parliament resolution of 10 March 2010 on the annual report from the Council to the European Parliament on the main aspects and basic choices of the Common Foreign and Security Policy (CFSP) in 2008, presented to the European Parliament in application of Part II, Section G, paragraph 43 of the Interinstitutional Agreement of 17 May 2006 (2009/2057 (INI)), P7_TA(2010)0060, 45. *Western Balkans*: 10.

^{lxxvi} In these terms intervened Pino Arlacchi (S&D) before the European Parliament while addressing a question for written answer to the European Commission, see Question for written answer, P7_QE(2011)004536, PE 465. 251, E-004536/2011, 10 May 2011. In the specific he addresses the issue that between 10% and 15% of organized crime in Kosovo is to be attributed to the members of the so called “Drenica Group” which gathers the former Kosovo Liberation Army (KLA) fighters.

^{lxxvii} The Euro-parliamentarian Bernd Posselt (PPE) addressed a core question to the Council concerning EULEX in northern Kosovo: *What is the Council's assessment of the performance of the EU Rule of Law mission EULEX in Kosovo, particularly in Northern Kosovo and Mitrovica, and what measures is it taking to improve the work of this important body? See See European Parliament. Bernd Posselt (PPE) QH(2011)000195, H-000195/2011, PE 459. 242, 26 April 2011. The author has asked for access to the answer of the Council to Posselt's question and has not been provided with a feedback yet (time fo writing, end of March 2013).*

^{lxxviii} This view is outlined in the report of the Committee for Foreign Affairs (AFET) chaired by Jacek Saryusz-Wolski (EEP-ED, PL) on the Council's 2006 Annual Report on the Common Foreign and Security and Defence Policy. See European Parliament (Committee on Foreign Affairs), Press Release *A more effective EU foreign policy in prospect, but more parliamentary scrutiny*, 03A-DV-PRESSE_IPR(2008)05-05(28139), REF.: 20080505IPR28139, 07 May 2008, available for access on the public register of the European Parliament. Over EULEX duty at improving infrastructure, help judges and train the police, intervened the German Christian Democrat Doris Pack who chaired a delegation of MEPs from the Foreign Affairs Committee (AFET), visiting Kosovo from 17 to 19 April 2008 to talk with ordinary people and politicians about the scenario of post-independence. They met with the President, the Prime Minister and the Speaker of Kosovo Parliament. See Doris Pack (MEP. Back from Kosovo, Pack calls for reconciliation on the ground, 03A-DV-PRESSE_STO(2008)04-18(27002), Ref.: 20080418STO27002, 21 April 2008, available for access on the public register of the European Parliament.

^{lxxix} For instance, some 21,000 Kosovo-Serbs asked for passports to Moscow in the hope that Russia would protect them from violence and discrimination they have been (and are) target by the Kosovo-Albanian majority. See paragraph 1.2 over this issue.

^{lxxx} For instance, the European parliamentarian Ulricke Lunacek (Green, Germany) questions that EULEX is to be looked at as a success. See European Parliament. Report of proceedings (final version), P7_CRE(2010)03-10, 10 March 2010: 8 & 23, Available for access on the public register of the European Parliament.

^{lxxxi} It is to be acknowledged that the European Commission is fully committed to foster institution-building with a view at consolidating democracy throughout Kosovo. The European Commission fulfills this objective while providing consistent financial assistance, so as to guarantee a functioning rule of law.

^{lxxxii} See Füle Štefan. Answer to Question No P-009048/12, 16 November 2012. Accessed on the Public Register of the European Union, March 20, 2013.

^{lxxxiii} See Füle Štefan. Answer to Question No E-011136/12), 5 February 2013. See table at the end of the paragraph.

^{lxxxiv} See Olli Rehn Answer to written question No E-3564/2008, P6_RE(2008)3564/2008, 22 July 2008.

^{lxxxv} See Štefan Füle, Answer to written question No E-010810/11, E-011051/11, P7_RE(2011) 010810, 25 January 2012, available for access on the public register of the European Parliament.

^{lxxxvi} See European Commission, answer to question No E – 1874/08, P7_RE(2008)1874, 14 May 2008, available for access on the public register of the European Parliament. (Emphases added).

^{lxxxvii} At the EU institutional level the European Commission had clearly portrayed the *distinctiveness* of north Kosovo. its report covering the period from early October 2008 to mid-September 2009. We do find here mention, for instance, over that the court in northern Mitrovicë/Mitrovica is made up of EULEX judges and prosecutors only and it works in a limited way. Kosovo-serb municipalities do not cooperate with the central authorities, and the Ombudsman office has limited capacity towards Serbian parallel structures. Access to justice mainly in the north of Kosovo is not guaranteed and no Kosovo-Serb representative was based in the district legal office in southern Mitrovicë/Mitrovica. In the field of education, for instance, Serbian-speaking children are often taught *via* a parallel educational system, and this situation does not ease the reconciliation process and multi-ethnicity. There is a situation, as for the period covered by this Commission's report, where from one hand, Kosovo-Albanian children are taught according to the Kosovo curriculum as per Kosovo law, while Kosovo-Serb children follow the Serbian curriculum as per Serbian law. *Last but not least* Kosovo diplomas are not recognized by Serbian authorities. The situation of the minority communities is not a happy one. In addition, many from minority communities continue to benefit from services of parallel structures for education, social protection and health care. Mention is also given to the break-up of inter-ethnic violence in the north of Kosovo. In sum the integration of the minority communities has met limited progress. Furthermore, the plans of Kosovo-Albanians to return to northern Mitrovicë/a saw the break-up of clashes between Kosovo-Serbs, and police forces, NATO's KFOR and EULEX. Concerning the customs area, anti-smuggling units started, as per the reporting period, to patrol throughout Kosovo at the exception of the north, while EULEX, however, started to register the goods entering at the gates 1 and 31 in northern Kosovo, with the clearing being carried out at Mitrovicë/a terminal. Concerning travel documents (it is just to be briefly mentioned that Kosovo issued new passports as of 2008, and all countries recognizing Kosovo started to issue visas on them, while the great majority of UNMIK travel documents was to expire by August 2010) its proliferation was an issue of concern which hindered control over migration and the fight against organized crime, and Serbian parallel structures represented a challenge at this regard. Kosovo's borders remain porous and in need of a stronger securitization with the north representing a particular challenge. At the same time violent incidents have been registered throughout Kosovo during the reporting period, including EULEX's property. In northern Mitrovicë/a four police stations have been found not to directly report to Prishtinë/a, this implying a lack of effectiveness for the fight against organized crime in this area. This latter remains of concern above all in the north, as well as on the boundary line between Kosovo and Serbia. In addition, it existed (as per the reporting period) a lack of cooperation between Prishtinë/Priština and Belgrade, as well as between the Kosovo authorities and the structures in the north. See Commission of the European Communities, Commission Staff Working Document, *Kosovo Under UNSCR 1244/99 2009 Progress Report accompanying Communication from the Commission to the European Parliament and the Council Enlargement Strategy and Main Challenges 2009 – 2010*, SEC(2009) 1340, Brussels, 14 October 2009 (COM(2009) 533 final): 10 - 11, 13 - 14, 18 - 19, 29 - 30, 34, 44, 46 - 47. Accessed October 14, 2009. http://ec.europa.eu/enlargement/pdf/key_documents/2009/ks_rapport_2009_en.pdf

^{lxxxviii} As outlined in paragraph 1.2 of this paper the situation in the north escalated in the summer 2011 and from that moment on the context is much of an apparent calm. For an overview on that there has not been real improvement in terms of integration in this part of the country, see para. 1.2. *Context*, in European Commission, Commission Staff Working Paper Kosovo* 2011 Progress Report Accompanying the document Communication from the Commission to the European Parliament and the Council 'Enlargement Strategies and Main Challenges 2011 - 2012, Sec(2011) 1207 final, Brussels, 12.10.2011: 4. Accessed July 26, 2012. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2011:1207:FIN:EN:PDF>

^{lxxxix} In its 2011 Kosovo Progress Report the Commission mentions, for instance, over the establishment in spring 2011 of an indicator-based system entrusted with the task of assessing the performance of municipalities. The system became operative in every municipality except in the three ones in the north. In addition, the continuous support by Belgrade of parallel structures in the north hindered the decentralization process there. See Para. 2 *Political criteria (2.1. Democracy and the rule of law)* in European Commission, Commission Staff Working Paper Kosovo* 2011 Progress Report Accompanying the document Communication from the Commission to the European Parliament and the Council 'Enlargement Strategies and Main Challenges 2011 - 2012, Sec(2011) 1207 final, Brussels, 12.10.2011: 8 - 9. Accessed July 26, 2012. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2011:1207:FIN:EN:PDF>

^{xc} For the purpose of being a draft paper, the author wants to pinpoint that this part referring to the European Commission's visions and/or perceptions towards EULEX is not complete. It is going to be accomplished in the final version of the paper.

^{xcⁱ} For reasons of being a draft the paper it is not complete and the final version is going to include the Council of the European Union's views on EULEX as well.

^{xcⁱⁱ} At the beginning the EUSR was double-hatted thus carrying out the duties of the head of the International Civilian Office (ICO) as well. The ICO was a creation of the Ahtisaari's plan (2007) entrusted with the tasks of supervising Kosovo's independence. On 10th September 2012 the ICO has been closed down upon assumption that it has fulfilled its duties. In fact, one of this and most important one, namely the integration of the north, has been missed.

^{xcⁱⁱⁱ} See European Parliament (External Relations) *Kosovo 1 year on: EU Special Representative Pieter Feith interviewed*, 03A-DV-PRESSE_STO(2009)02-13(49395), REF 20090213STO49395, 17 February 2009, available for access on the public register of the European Parliament.

^{xc^{iv}} See III. (Dis)integration, A. The "Strategy for the North", in Crisis Group Europe Report (N. 211), *North Kosovo: Dual Sovereignty in Practice*, 11 - 14 March 2011, International Crisis Group (Working To Prevent Conflict Worldwide): 9.

^{xcv}UAM is small and it comprises just 123 employees and it also works for the (Serbian) Mitrovica municipality, and in so doing it provides legitimacy for its decisions as well. See in Crisis Group Europe Report (N. 211), I. Introduction: *North Kosovo: Dual Sovereignty in Practise*, 11 – 14 March 2011, International Crisis Group (Working To Prevent Conflict Worldwide): 2.

^{xcvi}See in Crisis Group Europe Report (N. 211), I. Introduction *North Kosovo: Dual Sovereignty in Practise*, 11 – 14 March 2011, International Crisis Group (Working To Prevent Conflict Worldwide): 1.

^{xcvii}The chief of staff of EULEX Thomas Mühlmann explicitly said that investments are likely to take place only when the north is politically stable.

^{xcviii}Over this issue the author had an exchange of views with Dr. Tanja Tamminen, Political Advisor/Reporting Officer working for the Political/Reporting Office at EULEX Kosovo, Pristina Pristina (Kosovo), in a text-message March 21, 2013.

^{xcix}In these terms Dr. Tanja Tamminen expressed her views with the author, *in ibidem*.

^cDr. Tanja Tamminen, in a text-message. Emphasis added by the author.

^{ci}The ICO, which has been closed down on 10th September 2012, was foreseen by the so-called Ahtisaari plan. The Finnish diplomat Martti Ahtisaari had been entrusted in 2007 by the UN to draft a plan for the future Kosovo's status. This plan has been built around the concept/suggestion of a "supervised independence" to be carried out by an international body (ICO). The Ahtisaari plan has not been endorsed by the UNSC but it has been *de facto* absorbed in the Constitution of the Republic of Kosovo entering into force on 15th June 2008.

^{cii}Head of Mission Speech to European Parliament, March 15, 2011; (Evidence added by the author). Accessed March 16, 2013. <http://www.eulex-kosovo.eu/en/info/search.php?cx=018011383341497658006%3Anat5hag6cgy&cof=FORID%3A11&ie=UTF-8&id=21&m=2&q=Yves+de+Kermabon+speeches&sa=Search+the+EULEX+site>.

^{ciii}He expressly stated "[...] wirbewegnhieretwas" (We move something here – translation of the author). See Interview of Bernd Borchardt with Deutsche Welle. *EULEX-Chef Borchardt, "Wir haben noch viel zu tun"*, March 27, 2013. Accessed March 28, 2013. <http://www.kosovo-news.com/2013/03/eulex-chef-borchardt-wir-haben-noch-viel-zu-tun/>

^{civ}In these terms and referring to the December 2011 IBM agreement signed between Belgrade and Pristina, under the EU umbrella, intervened a EULEX spokesperson, as reported by Monika Flašíková Beňová while addressing a question to the European Commission on the Serbia-Kosovo border conflict. See European Parliament. Monika Flašíková Beňová (S&D). *Serbia-Kosovo border conflict*, P7_ QE(2011)01247, PE 479.967, 9 January 2012.

^{cv}The author addressed the question to Dr. Tanja Tamminen Political Advisor/Reporting Officer EULEX Kosovo) on 10th March 2013, in a text-message.

^{cvi}On all the issues briefly aforementioned the author had an exchange of views with Dr. Tanja Tamminen, in a text-message to the author on the 21st March 2013

^{cvi}For the purpose of being a draft paper this paragraph concerning EULEX self-perception is not complete and it is going to be accomplished in the final version.