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ARTICLE



## EU foreign policy and ‘perceived coherence’: the case of Kosovo

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### ABSTRACT

To what extent has the European Union’s (EU) foreign policy been coherent in the Western Balkans? Moreover, is EU policy behaviour seen as coherent by local stakeholders? Such questions are of high significance regarding the role of the EU as an external actor and with regard to the Western Balkans in particular. This article assesses EU policy coherence in the case of Kosovo, focusing on the latter’s EU accession prospects and the EU rule of law mission EULEX. Introducing the novel concept of ‘perceived coherence’, the paper argues that EU policies and actors are not perceived as coherent by both local elites and civil society organizations. As a result, the effectiveness of the implementation of the Union’s foreign policy in Kosovo remains low.

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## Introduction

Since the inception of the Common Foreign and Security Policy (CFSP) of the European Union (EU), the Western Balkans occupied a crucial place in the foreign policy agenda of the EU, not least through the presence of CSDP missions and the enlargement process. More recently, the Western Balkans have been announced as a priority of the 2018 Bulgarian Presidency, and on February 2018, the European Commission adopted its new strategy for the region entitled ‘A credible enlargement perspective for and enhanced EU engagement with the Western Balkans’.<sup>1</sup> In the region, Kosovo is a special case in which both the perspective of enlargement and CSDP are used by the EU as foreign policy instruments, even though Kosovo has not been recognized by five EU member states.<sup>2</sup> More specifically, the EU has been present in Kosovo through the Stabilization and Association Process (SAP), the rule of law mission EULEX and the Belgrade–Pristina Dialogue process focusing on the normalization of relations between Kosovo and Serbia. Accordingly, achieving coherence between these EU foreign policy instruments, the EU institutions and EU member states is a determining factor in achieving an effective foreign policy in Kosovo. Despite its small size, therefore, the case of Kosovo is extremely helpful in assessing EU foreign policy coherence based on the latest available data.

Rendering the EU’s foreign policy actors and its foreign policy instruments ‘coherent’ has been one of the major aims of the Union since the birth of its foreign

policy. Both the EU and experts have focused on the interplay and relationship between EU institutions, EU member states and foreign policy instruments. In other words, the internal dynamics of the EU are considered key in determining foreign policy coherence. What is often missing in the literature, however, is close scrutiny of the interplay between the EU and local stakeholders since the latter are on the 'receiving end' of foreign policy instruments. Although research on that topic is now making an appearance, it remains miniscule compared to the more established literature adopting a top-down approach in analysing EU foreign policy actors (Rayroux and Wilén 2014; Ejodus and Juncos 2018; Müller and Zahda 2017; Dursun-Özkanca 2018; Gippert 2018; Mahr 2018). Elbasani (2018) argues that despite the increase in the number of scholarly works focusing on local actors, the existing literature still largely overlooks the perceptions of local actors, and more research should be conducted to depict 'local actors' rule reception and rule resistance activities. As Müller and Zahda (2017, 1) argue 'perception research can make a valuable contribution to the study of the local dimension in EU peacebuilding'.

This article focuses on the relationship between the internal and 'perceived' coherence of two specific EU policies in Kosovo: the EU accession process of Kosovo and the EU rule of law mission EULEX. How does the degree of internal coherence of EU actors, policies and member states impact the perceived coherence of local stakeholders in Kosovo? How does the perceived coherence of the EU come to shape the effective implementation of EU foreign policy? To tentatively answer these questions, this paper breaks down the concept of coherence into three established analytical categories, namely vertical, horizontal and institutional. It then introduces the concept of 'perceived coherence' to emphasize the interplay between EU esoteric policies and practices and the way these are reflected in the Union's interactions with local stakeholders in Kosovo. Local stakeholders are hereby defined as the receivers of EU foreign policy, specifically the Kosovar political elites, and civil society organizations. Perceived coherence will be analysed as the level of coherence perceived by the receivers of EU foreign policy instruments regarding the actions EU actors and the policy tools used.

Methodologically, this research is based on primary and secondary sources as well as 14 semi-structured interviews conducted by the author in Brussels, Pristina and Mitrovica from January 2017 to February 2018. The interviewees stem from the European External Action Service (EEAS), the EU Office in Pristina and EULEX Office in Mitrovica and are Kosovar politicians and diplomats, members of civil society organizations in Kosovo and academic experts from both Kosovo and the EU.

In what follows, we begin with the crucial analytical distinction and categorization of the concept of coherence, including the introduced concept of 'perceived coherence', before briefly outlining the coherence-effectiveness relationship. The next two sections apply the concept of 'perceived coherence' to the case of EU policy presence in Kosovo by analysing the sub-cases of Kosovo's EU accession prospects and EULEX, respectively. The final section wraps up preliminary results regarding EU Foreign Policy coherence in Kosovo, while the conclusion summarizes the main findings and offers a brief set of policy recommendations to enhance the Union's effective presence in Kosovo.

## Defining and categorizing coherence

Defining the concept of coherence is difficult because of its vague nature. Coherence has mostly been analysed with reference to EU external action or the EU as a global political or economic actor (Tietje 1997; Wessel 2000; Christiansen 2001; Missiroli 2001; Gauttier 2004; Nutall 2005; Hillion 2008; Vanhoonacker 2008; Portela and Raube 2012; Ladi and Tsarouhas 2017). Hillion (2008) defines coherence as ‘the absence of contradictions in the external activities of the Union’ to create synergy and ‘added value in the different component of EU policies’. Thomas (2012, 258) understands coherence as ‘the adoption of determinate common policies and the pursuit of those policies by EU Member States and institutions’. Yet Marangoni’s definition is one of the most comprehensive claiming that coherence is about: ‘the perceived absence of contradictions between policies, instruments, institutions and levels of decision’ (Marangoni 2012, 5). It is this definition that we operationalize in the Kosovo case study.

The existing literature focuses on three forms of coherence. Vertical coherence denotes the degree of coherence between the EU and the member states as to the level of consensus that the two reach on policy positions and actual policies on the ground (Gebhard 2011, 107). Hillion (2010) contends that internal divisions among EU member states have been a crucial factor affecting the coherence, the credibility and efficiency of the Union’s foreign policy. Horizontal coherence focuses on the coherence between different EU policies (such as development and the migration), while institutional coherence refers to the degree of harmonious cooperation between different EU institutions (Christiansen 2001; Nuttall 2005; Cremona 2008; Kostanyan 2014). Some scholars have added a fourth type called ‘external/multilateral’ to analyse the coherence ‘between the EU and third actors’ (Koenig 2011; Gebhard 2017). Since this type is too broad to operationalize here, we will focus on the aforementioned three types instead.

What is largely missing from the coherence literature is a non-esoteric concept that reflects the way in which the Union’s policies and instruments are received by actors on the ground. Given the Union’s reliance on soft power as a foreign policy tool, not least in the context of the Western Balkans and a rapidly changing geopolitical balance of power in the region, it is indispensable to incorporate local perceptions into the analysis. The closest definition of perceived coherence is by Gebhard (2011) and Portela and Raube (2009, 22) who use the term ‘external coherence’. Portela and Raube (2009) argue that external coherence relates to the ‘external representation of the EU’. Gebhard (2011, 108) defines external coherence as ‘the way the EU presents itself to third parties or within a multilateral system, thus having major importance for the Union’s relationship with the UN, OSCE, and NATO’. Thus, external coherence focuses on the coherence between the EU and its international partners. Gebhard (2017) uses the term ‘external/organizational coherence’ and defines this type as the level of coherence between the EU and third actors. Even though the concept of external coherence used by Gebhard (2017) is similar to the concept of perceived coherence introduced here, there are important differences between them. External or organization coherence overlooks the perceptions of local actors, as it adopts a more conventional top-down approach. However, policy tools such as enlargement or visa liberalization are not solely top-down. How so? First, perceptions of local actors are decisive in shaping coherence between the EU and the actors considered. Second, the

degree to which EU foreign policy is seen as coherent is a determining factor as to the effectiveness of the EU's foreign policy instruments. EU foreign policy is not a one-way process in which the internal dynamics of the EU determine the outcome of the Union's foreign policy instruments. For EU foreign policy to be effective, 'stakeholder perceptions should be [the] subject of concern for EU policy-makers' (Müller and Zahda 2018, 18). There are crucial intervening variables that determine the outcome and the effective implementation of EU foreign policy instruments used in a specific country or region, such as the reaction of local 'perceivers' to the internal coherence of EU actors, member states and policies.

### **Coherence–effectiveness relationship: the missing link**

Most of the literature focuses on the relationship between coherence and effectiveness by arguing that achieving coherence is a 'fundamental precondition for effectiveness' (Gauttier 2004; Berteau 2005; Kooops 2011; 125; Thaler 2015). Others, however, argue that the assumption of coherence leading to effectiveness should not be taken for granted (Thomas 2012; Mayer 2013; Niemann and Bretherton 2013). None of the two, however, engage with the critical question of assessing effectiveness based, *inter alia*, on perceptions by those mostly affected by EU policy action. As Lucarelli and Fioramonti (2010, 2) contend '[T]he way in which the EU is perceived by other countries is likely to have a direct bearing on its success as a player in the international arena'. Perceived coherence is certainly not the only factor affecting EU foreign policy effectiveness but is highly important, particularly in fragile states such as Kosovo. Perceived coherence is crucial for analysing the relationship between the internal coherence of EU actors and policies and the implementation of EU policies by local actors. Achieving coherence only within the EU cannot lead to effectiveness in EU foreign policy instruments such as enlargement, where the cooperation of the candidate (or potential candidate) country is crucial. Without perceived coherence in the country concerned, effective policy implementation becomes mere rhetoric and/or disguises structural problems that the Union is likely to face later on. Perceived coherence is also important for the EU to test whether the principle of local ownership has been applied properly. High perceived coherence would have two catalysing impacts. First, the 'perceivers' will cooperate more willingly with the EU regarding either the enlargement or CSDP foreign instrument of the EU. Second, perceived coherence between the EU policies and actors determines the level of actorness of the EU in the eyes of local stakeholders. EU actorness will therefore be expected to increase as the foreign policy instrument of the EU will become more effective to foster local actors' commitment to the process. If perceived EU coherence is high in the context of enlargement, that will strengthen conditionality and thus the credibility of the EU in the country concerned (Schimmelfennig and Sedelmeier 2004). The carrot-stick approach inherent in conditionality will thus likely induce local actors towards a higher degree of compliance and enhance the cost of inaction. Voluntary cooperation by local stakeholders can thus become a win-win strategy and remove obstacles to honest cooperation. In a region such as the Western Balkans and more specifically Kosovo where political elites favour the status-quo over reform to consolidate political power, the perceived coherence of the EU in the eyes of the elites is a determining factor for EU credibility and therefore effectiveness in policy

implementation. Examining the perceived coherence of local actors would also be beneficial in understanding the factors causing ‘accession fatigue’ in the Western Balkans, which is related with the difficulty of implementing EU accession reforms (O’ Brennan 2014).

## EU foreign policy in Kosovo

Kosovo occupies historically a prominent position for the Union’s foreign and security policy as it played a ‘catalyst’ role for the emergence of the CFSP (Shepherd 2009; Tzifakis 2013). During the 1998–1999 war in Kosovo, the inability of the Union to act as a unitary actor revealed the shortcomings of the EU’s foreign policy institutional architecture (Belloni 2009). As a result, and starting from 1999, the EU became the major international actor in Kosovo. The first important initiative by the EU in Kosovo was its contribution to the United Nations Interim Administration Nation (UNMIK). After the bombing campaign of NATO against Serbia, Kosovo was placed under the UNMIK administration under Resolution 1244 of the United Nations Security Council (Papadimitriou and Petrov 2012, 753). The EU was responsible for Pillar IV on economic reconstruction. Pillar IV was financed by the European Commission, the EU Monitoring Mission (EUMM) of the Council of the EU and the European Agency for Reconstruction (EAR) (Koeth 2010).

During the European Council of June 2000 in Santa Maria de Feira, Western Balkan countries were recognized for the first time as ‘potential candidates’. With the European Council of Thessaloniki in 2003, Kosovo became a part of the SAP that became the institutional framework of Kosovo’s potential accession to the EU. The main goals of the SAP are to support the EU accession process of Kosovo, to promote democratization, the creation of a functioning market economy, democratization and institution-building.<sup>3</sup> The Stabilization and Association Agreement (SAA) between the EU and Kosovo was signed on 27 October 2015 and came into force on 1 April 2016.

The second foreign policy instrument of the EU has been the rule of law mission EULEX. EULEX, being the largest civilian mission the EU initiated under the CSDP, was launched ‘a day before the declaration of independence of Kosovo was announced’ (Bono 2010, 257) with the approval of all EU member states. EULEX was initiated with the Joint Action 2008/124/CFSP by adopting the executive tasks of UNMIK with following mission statement:

EULEX KOSOVO shall assist the Kosovo institutions, judicial authorities and law enforcement agencies in their progress towards sustainability and accountability and in further developing and strengthening an independent 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.<sup>4</sup>

EULEX adopts a ‘status neutral’ approach because of the five EU member states not recognizing Kosovo. The mission focuses on police, justice and customs by mentoring, monitoring and advising (MMA) the local rule of law institutions. After 2012, the mission’s staff has been downsized, and the mandate was restructured by the creation of two major divisions: the ‘executive division’ working on the executive tasks and a strengthening division focusing on the MMA tasks.<sup>5</sup> The mission is still currently active.

In addition to the foreign policy instruments of enlargement and the CSDP, since 2011, the EU has been playing the mediator role during the Belgrade–Pristina Dialogue focusing on the normalization of relations between Serbia and Kosovo. On 19 April 2013, the ‘First agreement on principles governing the normalisation of relations’, also called the Brussels Agreement, was signed between the two prime ministers and then EU High Representative Catherine Ashton. To analyse coherence and thus the effectiveness of the EU foreign policy in Kosovo, we focus on the rule of law CSDP mission EULEX and not on the Belgrade–Pristina Dialogue. However, to study the horizontal coherence between different EU policies in Kosovo, the coherence level between the Belgrade–Pristina Dialogue and the EU accession process and EULEX will also be covered.

## **The EU accession process of Kosovo**

### ***Internal EU coherence***

The EU is represented by a multitude of institutional actors in Kosovo. These are the EU Office, the EU Special Representative (EUSR) and the rule of law mission EULEX. The embassies and liaison offices of EU member states in Kosovo also work in coordination with the Union agents in Kosovo. Two Directorate Generals of the Commission play a key role regarding Kosovo. While DG European Neighbourhood Policy and Enlargement Negotiations (DG NEAR) focuses on the Kosovo’s EU accession process, DG Migration and Home Affairs (DG HOME) handles the crucial visa liberalization issue (Oproiu 2015, 158). In terms of the division of tasks, the EEAS staff focuses mainly on the Belgrade–Pristina Dialogue and the EU Office personnel coordinates the instruments for pre-accession. The EUSR, on the other hand, focuses on political work. The head of EU Office is also the EUSR since the position is double-hatted as in the case of Bosnia. The EUSR coordinates the Union’s policies in Kosovo and offers ‘advice and support to the Government of Kosovo in the political process’.<sup>6</sup> The head of the EU Office in Kosovo and the EUSR speak on behalf of the EU and increase coordination with the member states. There is a situation of ‘primus inter pares’ for the EU ambassadors.<sup>7</sup>

The Union’s institutional coherence in Kosovo is problematic because of problems related with the division of labour and intra-institutional competition. The overlap between EU actors on the ground creates inter-institutional competition, and local stakeholder use this by balancing the interests of different actors of the EU.<sup>8</sup> The double-hatted nature of the Head of EU Office/EUSR creates confusion among the EU Office staff. An EU Office staff member in Pristina states that the double-hatted system is not beneficial for the coherence of the EU actors in Kosovo. S/he argues that the ‘EU Office and EUSR staff have different mandate in theory but in practice there is no difference as a result, this situation occasionally creates problems regarding the division of labour’.<sup>9</sup> Brussels and more specifically the High Representative Federica Mogherini prefers the discontinuation of the position of double-hatted EUSR but EU member states object, as the EUSR reports to the Council and not the Commission.<sup>10</sup> The EEAS prioritizes the Dialogue over other EU policies in Kosovo.<sup>11</sup> According to an EU Office Officer in Pristina,<sup>12</sup> the single-minded approach can cause side-tracking. The prioritization of the Dialogue over other issues such as the rule of law impedes the longer-term strategic goals of the Union in Kosovo.



The SAP has been the main foreign policy tool used by the EU in Kosovo for the latter's eventual EU accession. By using the 'carrot-stick' approach of the conditionality process, the SAP supports the 'democratization, economic development' and the 'institution-building reforms of Kosovo' (Yabancı 2014, 123). Even though the SAP is the institutional framework defining the path of EU integration of Kosovo, the process contains ambiguities mainly caused by the non-recognition of Kosovo by five EU member states. To prevent these member states from blocking the process, the Union avoided declaring a specific timetable regarding the eventual accession of Kosovo. This led to a considerable delay in signing the SAP, which was only finalized in 2012 'with the launch of negotiations for the Stabilisation and Association Agreement (SAA) and visa liberalisation dialogue' (Yabancı 2016, 9). Further, there is a considerable difference between the SAA signed with Kosovo and the ones signed with other Western Balkan countries. Unlike the other SAAs, the SAA was signed between Kosovo and the EU institutions and not the member states (Elsuwege 2017). Moreover, the agreement does not mention the term 'European integration', using 'European perspective' instead (Palokaj and Tuhina 2016, 16). Due to the non-recognition issue and following the conclusion of the SAA, the Council stated that:

none of the terms, wording or definition used in this Decision and the attached text of the Agreement, nor any recourse to all the necessary legal bases for the conclusion of the Agreement, constitute recognition of Kosovo as an independent State nor does it constitute recognition by individual Member States of Kosovo in that capacity where they have not previously taken such a step.<sup>13</sup>

To reinforce the message, DG NEAR Commissioner Hahn contented that despite the signature of the SAA, Kosovo cannot officially be a candidate country without the recognition of all of the EU member states (Surroi 2015).

Vertical coherence among member states and between the latter and EU institutions remains problematic because of the non-recognition issue, which in turn creates an ambiguous situation regarding the EU accession perspective of Kosovo.<sup>14</sup> The European Parliament, through its Resolution of 4 February 2016, called on the five EU member states to recognize Kosovo. The European Commission, however, states that 'the issue of recognition is for member states' and not for the EU institutions.<sup>15</sup> The EU does not have the legal competence to recognize a state as this competence belongs to member states.<sup>16</sup> The 'status neutral' situation should be clarified to achieve coherence regarding Kosovo's accession prospect. Despite the uncertainties created by the recognition issue, it should be noted that the five EU member states did not block the SAP and 'have refrained from openly clashing over Kosovo' (Tzifakis 2013, 45). The SAA came into force on 1 April 2016, and the process is moving forward. Accordingly, vertical coherence is low but not fully incapacitated. The Union's 'diversity on recognition but unity on engagement'<sup>17</sup> has prevented stalemate. However, further progress needs unity on recognition, and there is no political will within the EU to overcome the internal split.<sup>18</sup> In 2011, Angela Merkel sought to lead on the issue by starting a political process of dialogue with her visit to Belgrade in 2011. However, this attempt did not yield any result. The five-member states showed little sign of changing their position, and the Eurozone crisis soon reached its peak, distracting Germany from the Kosovo issue.



Visa liberalization is one of the most important ‘carrots’ proposed by the EU to Kosovo ‘once all conditions are met’ (European External Action Service 2012). The ‘Visa Liberalization Dialogue’ was launched by the European Commission in 2012, and the Roadmap on Visa Liberalization addressing the institutional and legislative measures that should be undertaken by Kosovo was published in June 2012 (Van der Borgh et al. 2016, 16). However, Kosovo remains the only Western Balkan country that has not obtained visa liberalization. The Visa Liberalization Roadmap of Kosovo has ‘50 stricter additional benchmarks’ comparing to the other countries of the region<sup>19</sup> (Garaiova and Merja 2012). Another difference is that the latter ‘remains open to amendments by the Commission, in reinforced consultation with the Council and Member States’ (Lekvall 2015, 8). Two main issues prevented the implementation of visa liberalization: the non-ratification of the demarcation agreement with Montenegro and the ‘building up of a track record of high-level convictions for corruption and organized crime’ (European Commission Report on Kosovo 2016). Commission institution and member states acted with one voice, insisting that Kosovo should ratify the demarcation border with Montenegro.<sup>20</sup> As a result, and after many delays and heated debates, the border demarcation agreement has been ratified by Kosovo on 21 March 2018. The coherent stance of the EU regarding the ratification of the border agreement between Kosovo and Montenegro has pushed the majority of Kosovar governing elites to work for the ratification of the agreement.

### ***Perceived coherence***

Incentives given by the Union have been one of the most important factors shaping the perceived coherence by Kosovars regarding the EU accession process. A large majority of Kosovars (85%) ‘[believe] that Kosovo benefits from the European integration process’ (Research Institute of Development and European Affairs 2016). The main incentive has been the visa liberalization (Yabanci 2016, 11) and to a lesser extent the SAA. Seventy per cent of Kosovars believe that the main benefit of EU membership is ‘the right and freedom to travel, study work and live anywhere in the European Union’ (Cucchi 2017, 7). Kosovars focus on ‘tangible’ benefits of the accession process: For instance, only a small portion of the population is ‘aware that Kosovo has signed the Stabilization Association Agreement’ (Research Institute of Development and European Affairs 2016). An EU Office Officer<sup>21</sup> contented that ‘poor and limited communication of the EU regarding the SAA and the visa liberalization process, lowered the level of commitment, of both political elites and civil society organizations’, concerning the EU accession process.

Despite the perceived benefits of European integration, Kosovar public opinion and political elites argues that the EU has applied ‘double-standards’ regarding the visa liberalization process.<sup>22</sup> CSO members in Kosovo argued that ‘Kosovo is not treated in the same way as the five Western Balkans countries and Turkey’ (European Stability Initiative 2015). Kosovar CSO members contend that the EU has been incoherent regarding the visa liberalization progress reports prepared by the Commission. The lack of a ‘precise description of progress’ and the vague language of the reports have prevented a concise evaluation based on specific benchmarks (European Stability Initiative 2015; Lekvall 2015, 8). Further, governing elites

argue that the EU applied a double-standard against Kosovo regarding the ratification of the border demarcation agreement and stated that within the EU there are also border problems such as the demarcation line between Slovenia and Croatia.<sup>23</sup> In response to this argument, an EU Office Officer in Pristina contends that 'the EU also learns from its mistakes' and that the governing elites should not use 'bad examples' to postpone the necessary reforms.<sup>24</sup>

CSO members further contend that the EU has been incoherent concerning the application of the local ownership principle (Cucchi 2017).<sup>25</sup> CSO members in Kosovo express their discontent regarding two significant issues: the allocation of pre-accession instruments and the problems of transparency during the negotiations for SAP and the implementation of the Roadmap for Visa Liberalization (Kosovar Civil Society Foundation 2014). To illustrate, the CSO in Kosovo were not consulted during the programming of pre-accession instruments (Kosovar Civil Society Foundation 2014). Concerning the allocation of pre-accession instruments, Besa Shahini, senior analyst at European Stability Initiative, contends that the funds are generally allocated to EU consulting and construction firms, rather than local ones.<sup>26</sup> Local business thus does not benefit from EU funds. Second, the 'pedagogical and technical approach' of the EU towards civil society prevents the effective participation of the latter to the SAP (Yabancı 2016, 10). Consequently, the EU accession process becomes a dialogue between the EU and local government.

The lack of vertical coherence has been the major factor undermining the perceived coherence of the EU by local stakeholders. Kosovar political elites and civil society organization members share the same view concerning the recognition issue. The discontent of Kosovars regarding recognition derives mostly from a functional rather than nationalist standpoint. According to this view, Kosovo can simply not function effectively without being recognized as a state in the international system. Dren Doli from the Group of Legal and Political Studies contends that there is incoherence between the statement and actions of the EU regarding the recognition of Kosovo.<sup>27</sup> Kosovo has no problems regarding the functioning of state institutions, but there is the problem of statehood. Even though EU policies are based on statehood, its declarations are not. Doli continues:

The recognition cannot be delayed if the EU wants effectiveness regarding the development of Kosovo. The EU has to consider that Kosovo is a part of European Democracy. The EU misses the bigger picture and how much they have achieved in Kosovo. This state is their own product but they do not recognize it.<sup>28</sup>

In a similar vein, the former Minister of European Integration of Kosovo Bekim Collaku, who signed the SAA for Kosovo, harshly characterizes the EU–Kosovo relationship as 'ridiculous and impossible' because of the blocked EU accession process.<sup>29</sup> According to Krenar Gashi, the EU focuses on the technicalities of the recognition issue rather than on the bigger picture, namely the economic and political condition of the country.<sup>30</sup> Problems related with vertical coherence become a pretext for the EU to stick to stability, but the latter is negatively evaluated among influential CSO members in Kosovo.

Finally, the institutional coherence of the EU is also perceived as problematic for local stakeholders in Kosovo. The increasing number of EU institutional actors on the

ground creates a confusion for Kosovar administrators. For the latter, it is often hard to comprehend which EU diplomat or official represents which institution.<sup>31</sup> Problems related with the division of labour among EU actors thus complicate their relationship with local administrators. Repetitive technicalities create coordination problems between the EU actors and local stakeholders.<sup>32</sup> Tamminen (2016, 118) contends that Kosovar stakeholders 'feel burdened by repeated questions posed by differing EU representatives in diverse meeting formats'. In that context, however, it should be stressed that the creation of the EEAS and the HR/VP had a positive impact on the visibility and the representation of the EU in Kosovo ameliorating some of the worst problems the EU faced at an earlier stage.<sup>33</sup>

## **EU rule of law mission: EULEX**

### ***Internal coherence***

The composition of EULEX staff, the status-neutral approach and the vague mandate of the mission create organizational issues. EULEX is composed of 'policemen, judges, prosecutors and customs officials that are seconded by the member states of the European Union or third countries,<sup>34</sup> as well as local staff' (Tolksdorf 2013; cited in Van der Borgh et al. 2016, 19). Seconded national experts stemming from different organizational backgrounds prevent EULEX from having a 'unified position to direct its personnel' (Weber and West 2014, 21). There are also problems of 'high turnover', while the lack of expertise regarding local conditions creates coordination problems (Van der Borgh et al. 2016, 34). Seconded experts rarely stay more than 12 months on duty, and EU member states fail to replace them by qualified and experienced ones (Weber and West 2014, 19). Moreover, the mandate of EULEX regarding the legal system creates confusion among the mission's staff. Specifically, 'EU-contracted personnel did not know whether to 'implement UNMIK law, old Yugoslav law or Kosovo law' (Weber and West 2014, 21). The lack of a legal basis leads to inconsistency regarding the legal system EULEX prosecutors and judges should apply. EULEX also suffers from not having an 'exit strategy' (Zupančič et al. 2017). The fact that the largest CSDP mission lacks specific goal attainment criteria decreases the political will of EU member states contributing to the mission.<sup>35</sup>

Regarding the 'planning and content' of EULEX, EU member states achieved the necessary level of coherence to initiate the mission. Even though Greece is one of the five EU member states not recognizing Kosovo, Ambassador Alexandra Papadopoulou became the Head of EULEX Mission in July 2016 (Armakolas 2017, 31). Nevertheless, the status of EULEX remains to be a problematic issue. To reach an agreement between the EU member states, a 'status-neutral' approach of the United Nations Security Council resolution 1244 was adopted. Despite the 'status-neutral' approach, the mission is not neutral in practice.<sup>36</sup> EULEX was after all launched after reaching agreement with the Government of Kosovo, in other words a government de facto recognized by the EU. As in the previous case study on accession, the non-recognition issue complicates the work of Brussels actors regarding the supervision of EULEX and creates problems with regard to institutional coherence. The five EU member states' contribution to EULEX remains very limited or just symbolic at expert level. The lack of a 'common

approach' by member states prevents the EUSR and the Political and Security Committee from guiding EULEX, 'which is left to its own devices and passes the responsibility down to the individual actors' (Koeth 2012, 12). According to the special report of the European Court of Auditors (European Court of Editors 2012), EULEX suffers from a 'lack of specific and clear' objectives and the difference between its priorities and the agenda of EU member states.

Overall, horizontal coherence between EULEX and other EU policies on the ground has been positive. The 'skills and expertise' of EULEX have also been used for the SAP and the Belgrade–Pristina Dialogue (European External Action Service 2014, 1). The EUSR and EULEX work in tandem in Kosovo.<sup>37</sup> Crossing points were constructed between EULEX and the EU agents in Brussels after the launching of the Dialogue. However, there are still coordination problems on the ground because of significant overlap of EU agents working on the same problem with the same counterparts.<sup>38</sup> The EU also suffered from determining the priorities regarding the agenda-setting between different foreign policy instruments used in Kosovo. The Dialogue led to a shift regarding the priorities of the Union in Kosovo. As a result, both the SAP and EULEX became 'secondary items' on the EU's Kosovo agenda.<sup>39</sup> One of the most important steps taken by the EU in order to improve the horizontal coherence was the creation of the Compact on Joint Rule of Law Objectives in November 2012 with the participation of the EU Office, EULEX and the Government of Kosovo (Tamminen 2016, 130). The compact defined 'the common rule of law objectives for the Government of Kosovo, EU Office and EULEX' (EULEX Press Release 2012) and aimed to harmonize visa liberalization, the SAP and the rule of law.<sup>40</sup> Nevertheless, the initiative was short-lived and 'lost momentum' after three summits (Doyle et al. 2016, 7).

### ***Perceived coherence***

The 'status neutral' approach has been perceived differently by Kosovar Albanians and Kosovar Serbians because of a specific communication strategy used by the Union (Peters 2010). On the one hand, while EULEX was communicating that the mission aims to 'assist the Kosovo government and administration through advice, training and mentoring', it was simultaneously trying to convince the Serbian Kosovar politicians that EULEX should not be seen as a proof of the recognition of the independence of Kosovo (Peters 2010, 22). However, this double-sided communication strategy failed to did not lead to increased local support (Ferati 2012). Kosovar Albanians perceived the mission as a strategy to display that Kosovo is still not an independent state.<sup>41</sup> The fact that Serbia and Russia supported the existence of the mission has been used as an argument in this regard. Kosovar Serbians were also alienated by the status-neutral approach of EULEX.<sup>42</sup> The incoherent and vague status-neutral approach of the EU aiming to prevent local resistance by 'pleasing' both sides creates a climate of confusion which hinders the implementation of the rule of law in Kosovo.

Problems concerning local ownership of EULEX lead to a deterioration in the mission's perceived coherence. The mission is not considered 'local' neither by political elites nor by CSO. The general framework and mandate of EULEX were prepared by the European Council without the involvement of local stakeholders during the initial planning (Yabancı 2014, 129). As a result, CSO members feel silenced since the

initiation of the mission (Ginsberg and Penksa 2012, 11). Ejodus (2017) contends that the local actors' main duty is to execute their 'responsibilities' based on the mandate decided by the EU rather than being one of the actors designing the process itself. The EU acknowledges that the inclusion of civil society both in the planning and the implementation of the mission is crucial for the effectiveness of the latter. Still, a EULEX Officer states:

We are aware of the importance of civil society organizations. They have the local insight. However, it is complicated to increase the role of the civil society in the process for several reasons. First of all, the mandate is too complicated for common people to grasp. Secondly, the presence of two distinct language in Kosovo prevents us to sufficiently reach the civil society organizations.<sup>43</sup>

A local discourse questioning the legitimacy of EULEX has been prominent since the initiation of the mission (Mahr 2018). Locals criticized the presence of international actors such as the UN and the EU by making up terms such as 'Unmikistan' (connoting the land of the UN) and 'Euleksperiment', perceiving EULEX as an EU experiment (Musliu and Orbie 2016, 191). Locals protesting in the UN and the EU criticize the continuation of a system of external political rule, whereby Kosovo remains the guinea pig for dominant actors to test their foreign policy instruments. Political elites in Kosovo also perceive EULEX as a factor damaging the sovereign image of Kosovo, both in the eyes of locals and in international fora. Bekim Collaku states that EULEX should have completed its main objectives and left the rule of law in the hands of local institutions.<sup>44</sup> Local bureaucrats contend that EULEX is a status-quo tool for the EU and that the mission portrays Kosovo as an 'incapable state'.<sup>45</sup> The EU contradicts its state-building policies by not letting the state of Kosovo control the rule of law in its territory according to a Kosovar Diplomat.<sup>46</sup> Some EU representatives acknowledge local discontent. Addressing Federica Mogherini, the Honorary Director General of the Council of the EU Jean-Paul Jacqué states: 'in the long run, if EULEX remains for an indefinite period, this will inevitably be viewed by the local authorities as a colonial-type phenomenon' (Report to the Attention of the High Representative Ms. Federica Mogherini 2015). According to a EULEX Officer, the failure of EULEX to meet the initial high expectations concerning its mandate and the allegations of corruption created a 'climate of cynicism' among the Kosovar public opinion.<sup>47</sup>

### **The impact of internal-perceived coherence on the implementation of EU foreign policy in Kosovo**

Conditionality has been the most important policy anchor of Kosovar political elites lacking a clear domestic development agenda.<sup>48</sup> Consequently, the EU accession process has become the success criterion, a benchmark for much-needed reforms. Local elites perceive the EU accession process as a way of obtaining legitimacy in the international arena. Despite the benefits of the EU accession process, political elites use the process to consolidate their political power. Gashi argues that local elites remain in power solely by box-ticking and faking to be compliant.<sup>49</sup> The Union's failure to reach a consensus on the recognition of Kosovo has lessened its effectiveness. The arduous, incoherent and convoluted nature of the process has created the perception that Kosovo is regarded an unequal

partner compared to other Western Balkan states.<sup>50</sup> Therefore, local political elites portray an incoherent EU by adopting a populist rhetoric. The prospect of integration is so distant that elites do not feel much impetus or urgency to reform.<sup>51</sup> As a result, no progress on EU accession is possible. The lack of concrete progress towards EU membership has created a climate of distrust among the Kosovar civil society concerning EU policies in Kosovo.<sup>52</sup> Kosovar civil society members have started perceiving EU policies as a factor reinforcing solely the interests of political elite; should such perceptions freeze in the public's consciousness, they will cause irreversible damage in the Union's image.

The signature and the coming into force of the SAA has been the most important progress point. With the ratification of the border demarcation agreement with Montenegro on 21 March 2018, an important step has been taken by Kosovo regarding the visa liberalization process. The persistence of the EU regarding the considered requirement has been a major factor obliging Kosovo to ratify the agreement. The second major requirement, which is the strengthening of a track record in the fight against organized crime and corruption, is still to be met.<sup>53</sup> The way Kosovar governing elites perceive EU internal coherence on this matter will be crucial in moving forward.

There are contradicting views concerning the effectiveness of EULEX. Brussels indicates that considerable progress has been achieved by delivering 'over 566 verdicts, including 423 verdicts on criminal cases such as corruption, organized crime and war crimes' (EULEX Implementation of Rule of Law Report 2015). A EULEX Officer contended that after the initiation of the mission, Kosovar public opinion has begun to trust rule of law institutions and particularly the police.<sup>54</sup> However, the mission has also been heavily criticized by local experts. EULEX did not meet the high expectations that came with its initiation.<sup>55</sup> The low perceived coherence of EULEX in the eyes of local stakeholders undermined the credibility of the EU and prevented the successful implementation of the mission's goals. A concrete example was the EULEX failure to convince Kosovar public opinion and officials to support initiatives such as the 'Protocol of cooperation on policing issues' with Serbian counterparts (Group for Legal and Political Studies 2015, 24). The effectiveness of EULEX has also been low concerning the fight against organized crime and corruption in the north of Kosovo (Llaudes and Andrada 2015). Local resistance in the north used barricades to prevent 'EULEX and Kosovo Customs and Police from reaching the northern border' which constrained 'the free movement of people' in the north of Kosovo (Group for Legal and Political Studies 2015, 7).

Local stakeholders perceive a gap between the rhetoric and practice of EULEX concerning local ownership. The EU sees local ownership as a principal criterion to attain the goals set by the EULEX mandate. The EU mission are 'goal oriented in nature' (Zupančič et al. 2017, 5), yet achieving local ownership is not the main EU goal. However, for local stakeholders, local ownership should be the main goal of the EU missions. Governing elites and CSO members argue that the presence of EULEX is downgrading local ownership and that the rule of law should be in the hands of local institutions instead.<sup>56</sup> Consequently, the continuation of EULEX creates local resistance (Mahr 2018) and in turn the mission fails to effectively implement its goals.

## Conclusion

The internal coherence of EU policies, institutions and member states in Kosovo shapes the way Kosovar governing elites and CSO members perceive EU foreign policy in Kosovo. In



turn, the actions of political elites are of utmost importance in determining the implementation of EU foreign policy. When the Kosovar political elites perceive the EU as incoherent regarding the accession process through credible conditionality, they tend to use this incoherence as a leverage, especially during election time, by adopting a populist discourse to solidify their political power. As a result, the process stagnates, and reforms get postponed. The fact that the SAP is signed between Kosovo and the EU (and not the EU member states) creates uncertainty for the future of the accession process, as local elites consider the member states as key in smoothing Kosovo's path towards eventual EU accession. Although the Union's institutional coherence, expressed either vertically or horizontally, has improved in recent years, we have demonstrated that perceived coherence remains low and is in some cases declining. This is particularly problematic in light of the Union's declared commitment to the Western Balkans and its desire to offer the region's states a pathway towards membership.

The EU's Enlargement Strategy for the Western Balkans announced in February 2018 entitled 'A Credible Enlargement Perspective for and Enhanced EU Engagement with the Western Balkans' shows that the EU has started to put more emphasis on the concept of credibility by denoting that 'a credible accession perspective is the key driver of transformation' in the Western Balkans (European Commission 2018, 65). In other words, the importance of perceived coherence has been recently acknowledged by the Union. The 'stability first' approach of the EU should, however, evolve towards a strategy of 'progress first' to create a new momentum regarding Kosovo's accession process. EU effectiveness can be increased in two ways: assuring local ownership with the active participation of the CSOs in the SAP and by not offering concessions to the populist governing elites. Increasing the participation of CSO in the process will increase transparency and in turn public support for the accession process. Regular reports based on public surveys should be prepared regarding the perception of civil society concerning the policies of the EU and the actions of EU actors in Kosovo. Reporting the perceptions of local stakeholders would improve the application of the local ownership principle and increase the effectiveness of EU foreign policy in Kosovo and in the rest of the Western Balkans. Regarding the second major condition of visa liberalization, which is about sustaining a track record on the fight against organized crime, the EU should use the same strategy used during the border demarcation process, which was to keep an uncompromising stance that prevented the opportunist populist discourse that was blocking the accession process. The ratification of the border agreement with Montenegro by Kosovo after a long delay was a product of this approach. In other words, the EU should be consistent about conditionality during the accession process of Kosovo. The current perception of the governing elites in Kosovo is that the international community and the EU are becoming weaker and less able to lead its policies in Kosovo.<sup>57</sup> If the EU takes the lead in a progressive political agenda in the Balkans, reforms would follow. Otherwise, the trend of populist rhetoric of political elites would continue to expand, to the detriment of democratic reforms and economic development.

## Notes

1. See 'Communication: A Credible enlargement perspective for and enhanced enlargement with the Western Balkans'. Available from [https://ec.europa.eu/commission/publications/eu-western-balkans-strategy-credible-enlargement-perspective\\_en](https://ec.europa.eu/commission/publications/eu-western-balkans-strategy-credible-enlargement-perspective_en).



2. The five EU member states not recognizing Kosovo are Cyprus, Greece, Romania, Spain and Slovakia.
3. See Stabilization and Association Agreement between EU and Kosovo. Available from [https://eeas.europa.eu/delegations/kosovo/29175/stabilisation-and-association-agreement-between-eu-and-kosovo\\_en](https://eeas.europa.eu/delegations/kosovo/29175/stabilisation-and-association-agreement-between-eu-and-kosovo_en) .
4. Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX Kosovo.
5. See short history of EULEX by the EEAS. Available from <http://www.eulex-kosovo.eu/?page=2,44,197>.
6. See about the EU Office in Kosovo/EUSR. Available from [https://eeas.europa.eu/delegations/kosovo\\_cs/1386/About%20the%20EU%20Office%20in%20Kosovo%20/EUSR](https://eeas.europa.eu/delegations/kosovo_cs/1386/About%20the%20EU%20Office%20in%20Kosovo%20/EUSR).
7. Author's interview with EU Office Officer 2, 5 May 2017, Pristina.
8. Author's interview with EULEX Officer 1, 5 May 2017, Mitrovica.
9. Author's interview with EU Office Officer 2, 5 May 2017, Pristina.
10. Author's interview with former EUSR, 31 March 2017, Brussels.
11. Author's interview with EU Office Officer 1, 5 May 2017, Pristina.
12. Author's interview with EU Office Officer 2, 5 May 2017, Pristina.
13. Council Decision (EU) 2016/342 of 12 February 2016 on the Conclusion, on behalf of the Union, of the Stabilization and Association Agreement Between the European Union and the European Atomic Energy Community, of the One Part, and Kosovo\*, of the Other Part, OJ (2016) L 71/1.
14. Author's interview with EU Office Officer 2, 5 May 2017, Pristina.
15. See EU Commission says Kosovo's recognition is for member states published 12 February 2018. Available from <https://euobserver.com/tickers/140949> .
16. See Article 47 of the Treaty on European Union.
17. See Communication from the Commission to the European Parliament and the Council – Kosovo –fulfilling its European Perspective /\* COM/2009/0534 final \*/.
18. Author's interview with Bodo Weber, senior associate of the Democratization Policy Council, 26 September 2017, Brussels.
19. Author's interview with Dren Doli, research committee and department member at Group for Legal and Political Studies, 3 May 2017, Pristina.
20. See Ulrike Lunacek, 31 October 2017. Ratify border demarcation with Montenegro. Kosovo Press. Available from <http://www.kosovapress.com/en/news/lunacek-ratify-border-demarcation-with-montenegro-137485/> .
21. Author's interview with EU Office Officer 2, 5 May 2017, Pristina.
22. Author's interview with Krenar Gashi, doctoral fellow at the Centre for EU Studies, Ghent University, co-founder of Sbunker NGO, 15 March 2018, Brussels.
23. Author's interview with Kosovar Diplomat 2, 6 May 2017, Pristina.
24. Author's interview with EU Office Officer 2, 5 May 2017, Pristina.
25. Author's interview with Krenar Gashi, co-founder of Sbunker NGO, doctoral fellow at the Centre for EU Studies, Ghent University, 15 March 2018, Brussels; Author's interview with Besa Shahini, senior analyst at European Stability Initiative, 5 May 2017, Pristina.
26. Author's interview with Besa Shahini, senior analyst at European Stability Initiative, 5 May 2017, Pristina.
27. Author's interview with Dren Doli, research committee and department member at Group for Legal and Political Studies, 3 May 2017, Pristina.
28. Author's interview with Dren Doli, research committee and department member at Group for Legal and Political Studies, 3 May 2017, Pristina.
29. Author's interview with Bekim Collaku, former Minister of European Integration of Kosovo, 4 May 2017, Pristina.
30. Author's interview with Krenar Gashi, co-founder of Sbunker NGO, doctoral fellow at the Centre for EU Studies, Ghent University, 15 March 2018, Brussels.
31. Author's interview with Agon Maliqi, Kosovar writer, activist and consultant. Creator and co-founding editor of Sbunker NGO, 7 May 2017, Pristina.

32. Author's interview with EU Office Officer 2, 5 May 2017, Pristina.
33. Author's interview with Kosovar Diplomat 1, 6 May 2017, Pristina.
34. Canada, Norway, Switzerland, Turkey and the United States contributed to EULEX.
35. Author's interview with EULEX Officer 2, 4 May 2017, Mitrovica.
36. Author's interview with EU Office Officer 1, 5 May 2017, Pristina.
37. Author's interview with EU Office Officer 2, 5 May 2017, Pristina.
38. Author's interview with EULEX Officer 2, 4 May 2017 Mitrovica.
39. Author's interview with EU Office Officer 2, 5 May 2017, Pristina.
40. See 'EULEX Mission. 2014. Joint Rule of Law Coordination Board presents the Compact Progress Report 2014' Press Release 11 July. Available from <http://www.eulex-kosovo.eu/en/pressreleases/0616.php> .
41. Author's interview with Bekim Collaku, former Minister of European Integration of Kosovo, 4 May 2017, Pristina.
42. Author's interview with EU Office Officer 1, 5 May 2017, Pristina.
43. Author's interview with EULEX Officer 1, 5 May 2017, Pristina.
44. Author's interview with Bekim Collaku, former Minister of European Integration of Kosovo, 4 May 2017, Pristina.
45. Author's interview with Kosovar Diplomat 1, 6 May 2017, Pristina; Author's interview with Judge at Kosovo Constitutional Court, 15 December 2017, via email.
46. Author's interview with Kosovar Diplomat 2, 6 May 2017, Pristina.
47. EULEX Officer 1. Author's interview, 5 May 2017, Pristina.
48. Author's interview with Agon Maliqi, Kosovar writer, activist and consultant. Creator and co-founding editor of Sbunker NGO. 7 May 2017, Pristina.
49. Author's interview with Krenar Gashi, co-founder of Sbunker NGO, doctoral fellow at the Centre for EU Studies, Ghent University, 15 March 2018, Brussels.
50. Author's interview with EU Office Officer 2, 5 May 2017, Pristina.
51. Author's interview with Agon Maliqi, Kosovar writer, activist and consultant. Creator and co-founding editor of Sbunker NGO, 7 May 2017, Pristina.
52. Author's interview with EU Office Officer 2, 5 May 2017, Pristina.
53. On 18 July 2018, the European Commission confirmed that Kosovo had fulfilled all required benchmarks of its Visa Liberalization Roadmap. See European Commission Press Release. Available from [http://europa.eu/rapid/press-release\\_IP-18-4562\\_en.htm](http://europa.eu/rapid/press-release_IP-18-4562_en.htm) .
54. Author's interview with EULEX Officer 1, 5 May 2017, Pristina.
55. Author's interview with EULEX Officer 2, 4 May 2017 Mitrovica.
56. Author's interview with Kosovar Diplomat 1, 6 May 2017, Pristina; Author's interview with Bekim Collaku, former Minister of European Integration of Kosovo, 4 May 2017, Pristina.
57. Author's interview with Agon Maliqi, Kosovar writer, activist and consultant. Creator and co-founding editor of Sbunker NGO, 7 May 2017, Pristina.

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No potential conflict of interest was reported by the authors.

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