



Security and the Rule of Law: A Case Study of EUFOR Althea and EULEX Kosovo

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Abstract

The accession criteria to join the European Union stresses certain conditions that need to be met to join the union. One of these criteria is stability in the rule of law. The concept of rule of law in the Western Balkans is difficult to attain due to the history of instability in the region, specifically in Kosovo and Bosnia and Herzegovina. The European Union has established two External Action Service missions, a civil-military mission in Bosnia and Herzegovina called EUFOR Althea and a rule of law mission in Kosovo called EULEX Kosovo. Bosnia and Herzegovina is still recovering from the Bosnian War and EUFOR Althea is important in restoring stability through the deployment of military forces and training police officers. EULEX Kosovo focuses on the promotion of the rule of law by providing monitoring, mentoring, and advising to police and judiciary. This paper will compare the two programs with the central question being: how does security affect the peace building process and the rule of law in Bosnia-Herzegovina and Kosovo. The EUFOR Althea mission has received positive analyses while critics have perceived EULEX Kosovo negatively. This paper will compare the two missions and attempt to measure their effectiveness and success. In summary, EUFOR Althea has been perceived more successful because the structure is better established, there is a larger focus on the “bottom-up” approach, and there has been a stronger focus on security. On the other hand, the bureaucratic process has bogged down EULEX Kosovo and the lack of security in the region has also hindered the effectiveness.

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Introduction

The accession criteria stress conditions that need to be present to enter the European Union, one of which is the stability in the rule of law. In the Western Balkans rule of law is a concept that is difficult to achieve due to a history of conflict and instability. However, the European Union has been resolute in its efforts to improve the rule of law in Bosnia and Herzegovina and more recently independent Kosovo.

Bosnia and Herzegovina is still recovering from the 1990s conflict and moving trying to move towards a more stable condition. EUFOR Althea has been important in restoring stability within the region through the deployment of military forces improving and maintaining security and training local police officers. While the operation has been successful in maintaining security in the region, Althea has been criticized for militarizing law enforcement in peace operations (Friesendorf & Penska 2017). Regardless, it can be argued that this militarization of law enforcement has been effective since it established security within Bosnia and Herzegovina and facilitated the respect for the rule of law.

Kosovo has declared independence and is in the state building process. To promote the rule of law in Kosovo, the European Union established EULEX Kosovo to monitor, mentor, and advise police and the judiciary to establish the rule of law and promote stability. While the operation has seen some success, it has been marred with criticism and has been generally deemed ineffective. EULEX is also a well-funded program, boasting the highest funding per capita in Europe (Capussela 2011); however, the mission has not been as successful due to domestic constraints and the widespread criminality in Kosovo.

This paper will compare the two External Action Service missions. While they are very different in scope, a civil-military mission (EUFOR) and a rule of law mission (EULEX), they have the same overarching goal of building and maintaining stability in the Western Balkans, with eventual accession of both countries to the European Union. However, the overarching question of the paper is to understand what type of state building approach is most effective.

The paper will go over literature related to EUFOR Althea and EULEX Kosovo as well as articles on peace building and civil military cooperation in stability operations. Further, the hypothesis and methodology will be stated followed by the historical context of the two nations and their respective operations. The case study of Operation Althea and EULEX Kosovo will then be discussed followed by a comparative analysis. The paper will conclude with the overall consensus of the operations and lessons learned from the operations.

Literature on EUFOR Althea and EULEX Kosovo

There has been a large amount of academic literature on both EUFOR Althea and EULEX Kosovo. The literature analyzes the successes and failures of both operations as well as the impact that they can have on the future of the Western Balkans.

The amount of information for the EUFOR Althea mission is vast. Pulko, Muherina, and Peljic analyze the effectiveness of EUFOR Althea by measuring the internal and external effectiveness of the operation. The authors conclude while the presence of the operation was long lasting it has achieved success in maintaining a safe and secure environment, advanced human rights, and also improved the capacity of the armed forces within Bosnia and Herzegovina (Pulko et al. 2016). Trineke Palm argues in her article, *The changing character of EUFOR Althea: power politics or learning*, that operations such as Althea can either reflect power relationships between states or represent collective learning and convergence of interests (Palm 2017). Palm posits that Althea has been primarily an exercise in power politics but has

also had instances of learning in the process. Friesendorf and Penksa study the movement towards the militarization of law enforcement in peace operations. In the article *Militarized Law Enforcement in Peace Operations*, the authors argue that militarization of law enforcement has become common in post cold war peace operations and uses Althea as an example of this situation. Furthermore, they conclude that three dynamics shape this process: role of individuals, regional institutions, and the perceptions of crime and the rule of law; moreover, the authors posit that earlier action in addressing security gaps through the use of constabulary forces can avoid use of excess force in the future (Friesendorf & Penksa 2008). It can be assumed that the consensus is that EUFOR Althea has been generally successful in effectiveness, specifically in security, and has been an exercise in power politics for the European Union; furthermore, Althea has been greatly shaped by the role of institutions, individuals, and perceptions of the rule of law.

The literature of EULEX Kosovo is much more pessimistic, with many scholars criticizing the operation. In *The European Union Rule of Law Mission in Kosovo: An Analysis from the Local Perspective*, Özkanca examines the reconstruction activities in Kosovo with emphasis on the EULEX mission and involvement in the reform of the security sector; furthermore, the author focuses on the relationship between implementation of local ownership and the perception of legitimacy. The article analyses the challenges and shortcomings of the mission and further concludes that the mission has failed to “coordinate priorities and communicate” with the Kosovar government and further questions the future of the rule of law in Kosovo (Özkanca 2017, 89). In *Issues of local ownership in Kosovo’s security sector*, Qehaja and Prezelj analyze local ownership of developmental projects. The article explores the relationship between local and international actors in the security sector and suggests that externally driven methods were imposed on local actors and proved to be unsuccessful and unsustainable by the Kosovar people; moreover, there was disregard by the international community leading to a deeper distrust from the local actors (Qehaja & Prezelj 2017). Cierco and Reis also examine the EULEX mission in *EULEX’s Impact on the Rule of Law in Kosovo*, in which the authors analyze the overall progress in the main areas of the Rule of Law, specifically police and justice. Cierco and Reis posit that the EULEX mission has been effective in strengthening the rule of law in Kosovo, but the mission has been inhibited by endogenous factors, political interferences, inefficiency, and a lack of transparency, as well as exogenous factors, such as lack of political will in member states to provide sufficient staff (2014). In *Analysis of current events: “towards the rule of law in Kosovo: EULEX should go,”* the author Andrew Radin was incredibly critical and argues that the mission has failed to improve institutions, address the rule of law vacuum in the North of Kosovo, or prosecute high profile crimes and that the mission is “fundamentally flawed due to its neutrality about Kosovo’s independence, rejection of conditionality... and difficulty investigating politicized crimes” (Radin 2013, 181). Radin posits that the mission cannot overcome the challenges and conclude that the mission should not be renewed but rather refocused to other international organizations such as NATO. The overall consensus of the literature points out that while EULEX Kosovo has improved aspects of the rule of law, it has been generally unsuccessful and has been harshly criticized.

Theories in State Building

State building is an incredibly difficult task. The process of building institutions such as bureaucracies, armies, police, and judiciary is incredibly difficult. Francis Fukuyama posits that there is also a difference between state building and nation building (2015). While state building

focuses on building institutions, nation building focuses on the creation of a national identity. Fukuyama points out that “national identity has been understood as the byproduct of underlying structural factors, but it is also socially constructed by human agents” (29, 2015).

For Kosovo and Bosnia-Herzegovina, stability needs to occur prior for the state building process to occur. Recently, the state building endeavor in Iraq failed due to the fragility of country and the lack of a resilient state (Bouillon 2012, Pospisil & Kühn 2016). The failure of Iraq is a trying lesson for both the Balkan nations. Stability in fragile states is important to ensure resilience in state building. Resilience state approaches focus on the states’ ability to cope with change, and while a resilient country may be fragile, it has the ability to handle difficult situations (Belloni 2017).

In terms of state building, Paul Miller focuses on four different types of strategies: realist, institutionalism, liberal, and constructivist (2013).

Realist state building focuses on the realist approach that a “state is primarily a coercive force whose success depends on its ability to marshal material resources... to enforce its exclusive sovereignty over a given territory” (Miller 71, 2013). For this approach, realist state building focuses on the elimination of internal challengers and building security within the state contributes to this process. Within this framework Barnett and Zurcher posit four outcomes: cooperative, co-opted, captured, and conflict state building (2009). Within cooperative peace building, local elites accept and work together with the program. While in co-opted (or compromised) peace building, “local elites and peace builders negotiate a peace building program that reflects the desire of peace builders for stability and the legitimacy... the desire of local elites to ensure that reforms do not threaten their power base” (Barnett & Zurcher 3, 2009). Captured state building focuses on the receiving state taking control of state building and is able to manipulate the intervening power to get money and support without having to pay the cost of state building (Miller 2013). Finally, conflict state building is when the receiving state resists the intervener. Barnett and Zurcher find that co-opted state building is the best outcome because the different actors, such as local, state, and subnational elites, all claim victory (2009). However, Miller points out that realist state building tends to focus on a “security first” approach and that strong actors commanding enough guns and money to eliminate opponents does not create good liberal order and will create debilitating state structure (72, 2013).

The institutional approach to state building focuses on the need for institutions to build a resilient and functioning state. This focuses on the need for building constitutions, bureaucracies, legal codes, police, and judiciary. Miller states that:

International state building is largely an exercise in technical assistance, transmitting expertise and knowledge about the effects of different institutional choices, and helping states design institutions that contain conflict, regularize political contestation, and balance power internally (72, 2013).

The institutional approach emphasizes the importance of international actors to provide assistance. International organizations can help reduce costs, increase transparency, share information, and provide a level of predictability to the situation (Keohane 2005). The United Nations or World Bank can provide this role; however for Bosnia-Herzegovina and Kosovo, the European Union plays a major role. Essentially this approach will naturally lead to the strategic emphasis on creating public institutions and enhancing the rule of law. Nevertheless, Miller states that there are set backs to this approach. He states that an institutional approach to state

building assumes that external actors are apolitical; however, dynamics of power tends to be ignored and an attempt to transplant institutional norms to another society can occur (73, 2013).

Liberal state building focuses on the premise of liberalism, in which the state must secure human liberty in order to promote peace (Doyle 1986). Within this state building approach, public acceptance of power and the commitment to human liberty is important. For this to occur free elections need to be held and legal protections for individuals need to be established in exchange for citizen's loyalty to the state (Miller 74, 2013). Liberal support can garner a high level of support, especially in nations that have conflicting populations. However, this approach can be seen as destabilizing in the short term and "naïve about the ability of post conflict societies to manage their own security or rebuild their own institutions" (Miller 74, 2013).

The constructivist approach focuses on the idea that states are socially constructed that depend on the collective belief and perception of the people and states who inhabit them (Wendt 1998). Within this paradigm, state building is "a matter of persuading people to believe in a common vision of the state and to behave accordingly" (Miller 75, 2013). For this state building approach, the focus isn't building legitimacy and security through state building programs but instead creating norms and winning over the "hearts and minds" of individuals. The constructivist approach is incredibly difficult since persuading the populace to perceive new norms and beliefs is an arduous task.

Research Question

The question that I want to address in this paper is, what approach seems to be most effective in state building? On one hand, for Bosnia-Herzegovina the established security environment seemed to promote a better fauna for state building and the EUFOR Althea mission seemed to be more effective even though the funding and man power was much less. On the other hand, the mission in Kosovo has been marred with claims of corruption and incompetence but the environment in Kosovo was much more tense and insecure.

The paper will analyze both missions and apply Annemarie Peen Rodt's methodological framework in measuring effectiveness. I posit that a mix of realist and institutional approach is more successful in promoting security in the state building process. The EUFOR Althea mission has been more effective due to the hierarchical structure of the mission, due the legacy framework established by NATO. While EULEX Kosovo has been less effective because the horizontal and focus on the Kosovar police force over judicial reform has lead to failures within this mission.

Methodology

A comparative will be used and the main sources will be qualitative data from secondary sources, academic articles, journals, books, and archives. Research will focus on data from the start of EUFOR Althea mission in 2004 to the present and the beginning of EULEX Kosovo in 2008 to the present. The measuring effectiveness will be based on the methodology of Annemarie Peen Rodt (2014).

Measuring Effectiveness

Peen Rodt creates evaluative criteria to measure 'effectiveness' in operational conflict prevention with European Union missions and operations (2014). Within the framework it is important to focus on the intervener (EU), the target (conflict), and the aspect of the mission (operational conflict prevention). Effectiveness must include, not only mission and operational

accomplishment, but also the means in which these ends are reached. As Peen Rodt states “appraising not only whether the intervener did the right thing, but also whether it did things the right way” (79, 2014).

Overall, Peen Rodt focuses on a two-pronged approach in effectiveness. The perspectives focus on internal and external levels of effectiveness. Internal effectiveness examines the strategic goals and operational objectives. This perspective assesses the EU on its own merits and “if it achieved what it set out to do in the way that it set out to do so” (79, 2014). The external perspective focuses on mission accomplishment according to the overall purpose of conflict prevention, in this case prevention of (further) violent conflict. Overall this perspective “considers the effectiveness of short-term EU missions with regard to medium-term peace building and long term stability” (80, 2014). Furthermore, the external perspective examines how the operations seek to prevent further conflict and determines the proportionality of these efforts.

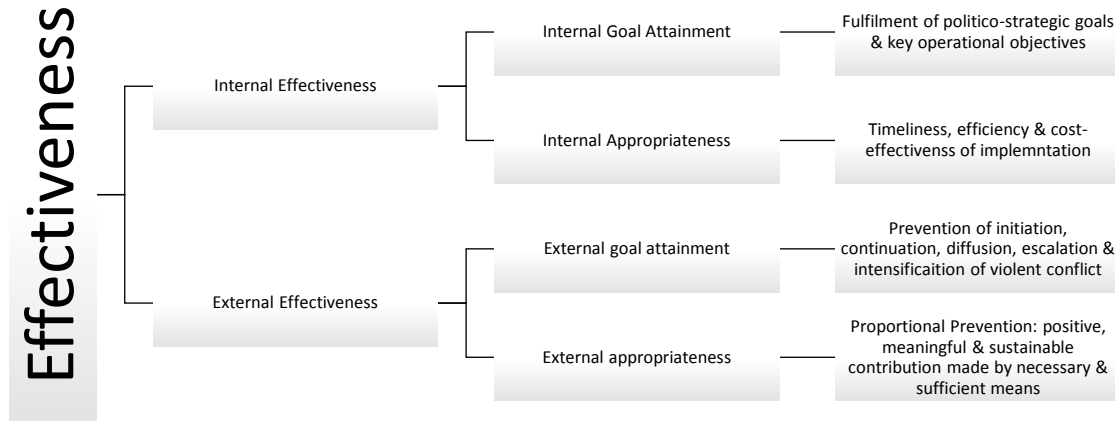
In terms of internal effectiveness, the two main criteria are internal goal attainment and internal appropriateness. Since missions are goal oriented, goal attainment will focus on the analysis of the achievement of the intended purpose or task. The fulfillment of the mandated objectives can be the benchmark for success. Peen Rodt focuses on the fulfillment of politico strategic goals and key operational objectives as the main indicators. These focuses on identifying the main goals and determine whether the mission obtained its *raison d’être* as defined by the Union itself.

Internal appropriateness focuses on the way in which the mission was implemented. This criterion considers if the mission was implemented well on the ground and from the headquarters perspective with the three indicators being timeliness, efficiency, and cost-effectiveness. Timeliness not only depends on when the mission was implemented but also it was executed without delay and in an efficient manner. Efficiency is also related to this, as Peen Rodt puts it “An effective mission/operation should implement its mandate as quickly and efficiently as possible without compromising its effect” (81, 2014). The cost effectiveness focuses on the cost of the mission and the benefits. The cost for these operations is a Member State competency, but these operations must take into account the political cost for the European Union.

External effectiveness focuses on external goal attainment and external appropriateness. External goal attainment focuses on the mission having a positive and sustainable impact on violent conflict on the ground. Peen Rodt focuses on the prevention of violence and uses the criteria of initiation, continuation, diffusion, escalation, and intensification of violent conflict. Initiation is when violence occurs in the immediately. Continuation focuses on violence over a continuous frame of time, this can be over the long-term and short-term with sporadic moments of non-violence. Diffusion is when violence in one area directly or indirectly causes violence in another area. Escalation is when new actors are involved in violent action. Intensification is the process of increasing violence through the number and the nature. Peen Rodt focuses on conflict prevention and not conflict resolution. He states, “The primary purpose of operational conflict prevention is to prevent (further) violent conflict and in this way help to bring about conditions under which the parties involved can resolve the conflict themselves” (82, 2014). Therefore, this criterion focuses on goal attainment through the scope of conflict prevention.

External appropriateness focuses on the way in which the mission seeks to achieve its purpose. External appropriateness “evaluates the implementation of a mission according to a set of standards focused on appropriateness in operational conflict prevention” and as Lund states, “misapplied prevention efforts, even if timely, may be worse than taking no action at all” (Peen

Rodt 83, 2014). External appropriateness is best evaluated through proportional prevention, which “assesses whether more good than harm is done as well as ensuring that what is done is done by proportionate means of power and persuasion to facilitate the effective prevention of (more) violent conflict” (83, 2014). In simpler terms, external appropriateness addresses if the mission scope was appropriate for the challenge at hand.



Case Study: Bosnia and Herzegovina

Bosnia and Herzegovina

The Bosnian war ended in 1995 with the Dayton Peace Accord and established a government based on two ethnically divided states. The Federation of Bosnia and Herzegovina made up of Muslim Bosniaks and Croats, and the Republic of Srpska, a predominately Serb state. The Dayton Accords created a government based on power sharing arrangements that represented all three constituent peoples (Bosniaks, Croats, Serbs) to ensure peace, stability, and prevent future ethno-nationalist conflicts (Transparency International 2014).

Originally a NATO led international peacekeeping force (IFOR) of 60,000 troops was deployed to the region in 1995. Through the years, the personnel was reduced and succeeded by the NATO-led Stabilization Force (SFOR). In 2004, the European Union peacekeeping (EUFOR) troops replaced NATO and have remained active in training and security assistance (CIA World Factbook 2017).

International organizations have been important in democratizing Bosnia and Herzegovina, specifically in setting up institutional reforms, developing infrastructure and establishing a market economy. The UN mandated Office of the High Representative acted as the executive power and was granted authority to impose decisions and amend the constitution. In recent years international organizations have been leaving Bosnia and Herzegovina and a resurgence of nationalistic rhetoric along with ethnically driven independence movements have also appeared. Furthermore, the high unemployment rate and a weak economy coupled with the

corruption and lack of political will have created a very weak state that is highly dependent on foreign aid security services (Transparency International 2014).

EUFOR Althea

EUFOR Althea was established in Bosnia and Herzegovina in December 2004 and took over the mission of NATO Stabilization Force (SFOR). The objective of the mission was to provide capacity building and training to the armed forces, build and maintain a safe and secure environment, and also support the overall EU comprehensive strategy (EU Council Secretariat 2017). The mission is funded through member state contributions, currently at 10.2 million euro, with 17 member states participating and five partner nations (ibid). Operation ALTHEA monitors and supports authorities in their task to control weapons movements and support countermining activities as well as law enforcement.

The EU set up a comprehensive approach towards Bosnia and Herzegovina through short-term, medium-term, and long-term objectives. The short-term objective was a “seamless transition from SFOR to EU Force (EUFOR) in order to help maintain a secure environment for the implementation for the General Framework Agreement for Peace” (Knauer 2011, 7). The medium-term goal was to set up and sign the Stabilization and Association Agreement (SAA). The long-term goal was to build a “stable, viable, peaceful and multiethnic Bosnia and Herzegovina, cooperating peacefully with its neighbors and irreversibly on track towards EU memberships” (Knauer 2011, 7). In summary, the goal was to establish the EUFOR mission, instill a stabilization agreement, and finally establish security peace within the region to move towards EU accession.

While there was still underlying resentment between ethnic groups within Bosnia and Herzegovina, the true challenges in maintaining security in the region was due to the widespread possession of weapons and organized crime within the region. These issues justified the need for military involvement and not just civilian engagement (Knauer 2011).

There have been successes in the different phases of Operation Althea. Within the first phase, which lasted from December 2004 to the beginning of 2007, the operation focused on fighting organized crime and the support of the European Union Police Missions. The outcome of the first phase established a central professional army and a central police force with further confidence within the Bosnian population regarding security and state stability.

The second phase was establishing and approval of a revised Operation Plan in February of 2007 by the Political and Security Committee. This phase lasted from the beginning of 2007 through early 2010 and involved a reduction in forces but maintaining the general mandates and supporting the Bosnian forces. Decreases in serious threats within the security situation led the downsizing of personnel; however, a security presence was still necessary due to the high risk of political instability and the need for intervention (Knauer 2011).

The third phase began in 2011 and is ongoing. The Council of the European Union established a “non executive capacity-building and training support” of Bosnian forces in January of 2010 to maintain support in the region (Council of European Union 2010, 1). The decision of the Council effectively extended the UN mandate and would continue the operations indefinitely.

Success of the EUFOR ALTHEA can be related to inheriting a fairly stable situation and the access to former NATO structures and infrastructure. While the SFOR mission was a military mandate the EUFOR mission was a civil-military mandate, currently the EUFOR mission has been succeeding in moving to a mentoring, monitoring, and advising role.

Effectiveness of EUFOR Althea

Internal Goal Attainment

The politico strategic goal of EUFOR Althea at the time of its founding was to ensure the continued implementation of and compliance with the Dayton-Agreement (Pulko et al 2016). The mission was framed as part of a comprehensive approach therefore it is a mix of civilian and military. The mission has been fairly successful in achieving its politico strategic goals since the military presence has lead to a safe and secure environment and the conditions have lead to the denial of ethnocentric violence (Peen Rodt 2011). The secure environment has provided conditions that allow the EU and other international actors to carry out activities within the country (ibid). However, a greater politico strategic goal of Bosnia-Herzegovina joining the European Union has still not been reached and seems to be a very far goal (Pulko et al 2016). Political and social challenges still hamper the accession of Bosnia-Herzegovina (Minard 2016).

The operational goal for EUFOR Althea has been the establishment of a Bosnia-Herzegovina defense force. This has been quite successful. EUFOR Althea has helped establish a dual role military that focuses on humanitarian services as well as roles of a conventional military (Pulko et al 2016). Further, the Bosnia-Herzegovina military has been participating in NATO and UN led operations. In regards to internal goal attainment, EUFOR Althea has been successful in establishing security and establishing a military force within Bosnia-Herzegovina.

Internal Appropriateness

The first indicator of internal appropriateness is timeliness. Timeliness has been helpful for this mission since the EU took over the NATO mission. Althea took responsibility when most of the violent conflict and military operations have ceased to exist. Security was already established and the need for deploying security forces was not necessary (Pulko et al 2016, Peen Rodt 2011). In terms of operational planning, EUFOR Althea essentially fell into the NATO framework that was already in place. Furthermore, the implementation of Berlin Plus and lesson learned from operations in Macedonia lead to a successful handover that avoided overlap and major misunderstanding between the NATO and EUFOR (Peen Rodt 2011). However, like the EULEX Kosovo mission and other stability operations that have occurred in the past, EUFOR Althea had issues with defining a clear exit strategy (Nilsson & Svensson 2009, Pulko et al 2016).

Efficiency is the other indicator in this field. The aforementioned handover process between NATO and the EU lead not only to greater timeliness but also greater efficiency. Pulko et al posits that efficiency “associated with the capabilities and their implementations is less clear to assess” (Pulko et al 2016). However, the Liaison and Observation Teams that live within the local population have been helpful in gathering information, promoting the operation and engaging with the local populace (ibid). Overall, these Liaison teams have been very successful in promoting stability in the region. However, the short rotations and the lack of personnel within the EUFOR Althea mission has lead to weakness (ibid). Participating nations do not provide proper personnel with the background and skills needed to succeed and the short rotations have affected institutional memory. The major barriers that affect the EUFOR Althea mission are Bosnia-Herzegovina itself. The political structure, a culture of corruption, a lack of meritocracy is just a few factors. Pulko et al posits that poor efficiency is largely connected to

poor policiatl will and comprehensiveness in the region. In general, efficiency in this mission is difficult to measure and also varies in results.

Cost effectiveness is the final indicator. Compared to the EULEX Kosovo mission, EUFOR Althea has a much lower cost with €10 million annually and a smaller footprint of 600 personnel (Council of EU Secretariat, 2015). Considering the smaller budget and footprint compared to the achievements then the EUFOR Althea mission is very successful in terms of cost effectiveness.

With the three indicators it can be seen that EUFOR Althea has been a general success with internal appropriateness.

External Goal Attainment

The focus on external goal attainment is the prevention of violence. The focus on external goal attainment will be with the indicators of initiation, continuation, diffusion, escalation, or intensification of violence. At the end of 2004, Bosnia-Herzegovina was stable and moving towards progression into the European Union. The EUFOR Althea mission was established into a fairly stable environment (Pulko et al 2016). The situation within Bosnia-Herzegovina began to normalize between the two belligerents, and while there were still some underlying tensions the intensity of the situation was defined as low (Knauer 2011). Due to the fact that EUFOR Althea is a military mission with civilian aspects that fight against corruption, potential conflict can arise (Security Council Report 2016). However, EUFOR Althea has facilitated a strong environment of stability and security and there have been no recurrences of violence in the region. Because of this we can assume that external goal attainment has been effective.

External Appropriateness

External appropriateness focuses on the ways that the operation achieved its purpose. The overarching question is, did the EUFOR mission achieve more good than harm? This is measured through proportional prevention, where more good (positive and sustainable contribution to prevent violent conflict) than harm (force, coercion and other negative effects) have been done.

Overall, there have not been negative effects in the EURFOR Althea mission. The mission has not been asked to intervene and has also maintained a secure environment. Interviews conducted by Pulko et al lead to the conclusion that “Bosnians in general, consider the presence of EUFOR Althea necessary and a stabilizing influence” (2016). The EUFOR Althea mission has also been helpful in integrating the different ethnic groups under one organization helping create sustainable change for the different groups (ibid).

However, there were some negative factors. First, there is a level of aid dependency in Bosnia-Herzegovina that can be perceived as a negative effect. In an interview conducted by Pulko et al, an employee points out that “the EU should be stricter in demanding deliverables in return for money that is spent in BiH, which would force local institutions to deliver change” (2016). A second factor is that ethnicity is continually used to divide the people of Bosnia-Herzegovina and political elites continue to use it to divide the populace. Still while there are negative aspects, the good outweighs the bad in the EURFOR Althea mission and the assumption can be made that there is success in external appropriateness.

Table 1: Effectiveness of EUFOR Althea

| EUFOR Althea | | | | |
|---------------------------------|-----------------------------------|----------------|-------------------------------------|----------------|
| Effectiveness Criteria | Indicators | Success | Partial Success/ Failure | Failure |
| <i>Internal Goal Attainment</i> | <i>Politco-Strategic Goals</i> | | x | |
| | <i>Operational Objectives</i> | x | | |
| <i>Internal Appropriateness</i> | <i>Timeliness</i> | x | | |
| | <i>Efficiency</i> | | x | |
| | <i>Cost-Effectiveness</i> | x | | |
| <i>External Goal Attainment</i> | <i>Initiation/Continuation</i> | x | | |
| | <i>Diffusion</i> | x | | |
| | <i>Escalation</i> | x | | |
| | <i>Intensification</i> | x | | |
| <i>External Appropriateness</i> | <i>More Good Than Harm</i> | x | | |
| | <i>Necessary & Sufficient</i> | x | | |
| | <i>Preventative Measures</i> | | | |

Case Study: Kosovo

Kosovo

Kosovo was an autonomous region within Yugoslavia and later Serbia. However, conflict erupted in 1998 between the Kosovar Albanians and Serbs. The war ended as NATO forces intervened in 1999 and, along with the UN, maintained an administrative presence until the declaration of independence in 2008 (Transparency International 2014, CIA World Factbook 2017).

As Kosovo became independent in 2008, international organizations such as the International Civilian Office (ICO) and the European Union aided in their transition to a fully functioning state. The ICO supervised Kosovar independence and the European Union established the Rule of Law mission EULEX Kosovo. However, Kosovo is still struggling to stabilize the relationship with Serbia and is marred with corruption and crime. Furthermore, Kosovo is still developing, has a very high unemployment rate (40%), and maintains economic dependency from foreign aid (Transparency International 2014). Corruption is still one of the biggest issues within the country and the EULEX rule of law mission is incredibly important in establishing and maintaining a sense of justice.

EULEX Kosovo

Beginning in 2008, EULEX Kosovo is the largest civilian mission within the EU Common Security and Defense Policy and has an approximate budget of 90 million euro annually (EEAS 2014). The main goals of EULEX Kosovo are to provide support in the Rule of Law through Monitoring, Mentoring, and Advising (MMA) objective as well as an executive objective (EEAS 2017). The mission consists of judges, prosecutors, police officers, and customs officials with a broader goal of promoting peace and stability within the region (EES 2014). In

summary, the goal of the EULEX mission is to establish Rule of Law and provide public security within Kosovo to stabilize the country and move it closer to accession into the European Union.

Per capita, Kosovo is the biggest recipient of EU assistance with 422 million euros in Instrument for Pre-Accession Assistance (IPA) funding from 2007 to 2011 (Cierco & Reis 2014). Furthermore, 11.7 percent (49 million euros) of this IPA funding was allocated for judicial reform, anti-corruption, and fighting organized crime (ibid). Although a large amount of funds has been allocated in funding justice, police, and customs, the European Court of Auditors stated, “despite significant EU assistance, progress in improving Rule of Law is limited” (ECA 2012, Cierco & Reis 2014, 652). Expectations for EULEX have been high due to the large staff and overall budget; however, execution has been modest and criticisms of the operation have been prominent. Execution in Northern Kosovo, the most ethnically heterogeneous region and highest concentration of crime, has not been successful overall and EULEX has failed to halt illegal trafficking and smuggling across the northern border as well as organized crime in the region (Cierco & Reis 2014). Furthermore, EULEX has had little success in prosecuting high profile individuals, issuing 90 verdicts as of 2014 (Radin 2013, EEAS 2014). The Kosovar people have little trust in their own institutions and have shifted their hopes towards the EULEX mission; however, Kosovar public satisfaction of the mission only stands at 22 percent while the perception in Brussels is that 70 percent of the Kosovar public wants EULEX presence (Cierco & Reis 2014). Furthermore, criticism of the EULEX has been prominent; specifically, Andrew Radin who states that the EULEX mission “has largely failed to achieve its goals in improving the rule of law largely because the mission’s mandate and methods could not overcome the domestic constraints of Kosovo Albanian nationalism and the connection between politics and crime” (2013, 190).

In summary, while the EULEX Kosovo has the largest funding per capita and is a high profile mission it has not been very successful in execution and has met a great deal of criticism. However, the Kosovar ambassador Lirim Greicevci assumes that stakes are high and stated “a EULEX failure in Kosovo would be a failure of the European project in Kosovo, and potentially in the entire region of the western Balkans” (Cierco & Reis 2014).

Effectiveness of EULEX Kosovo

Internal Goal Attainment

In terms of politico strategic goals, EULEX was created as part of a broader EU effort to ensure peace and security in the Western Balkans and to support Kosovar authorities (EEAS 2014). The goal is to prevent further violent conflict, and for the most part this has been successful due to the combined stabilization and efforts of the EU and countries in the region (Zupančič et al, 2017). The integration and assistance of Kosovar authorities has directly helped these reforms as well as progress made with the visa-liberalization process has been regarded as successes (ibid). It can be assumed that politico strategic goals were successful since there have been few instances of violence and stabilization within the region has occurred.

Operational perspectives focus on EULEX as a means to transfer the mandate by UN Mission in Kosovo to another organization. The mandate states that EULEX shall offer support to Kosovar institutions, specifically the judiciary and law enforcement (UNMIK 1999). In a discussion conducted by Zupančič et al the interviewee states, “the primary aim of the mission was to find a way to replace UNMIK and create a mission, who would comply with an independent Kosovo and Western Europe’s aspirations for the country” (6, 2017). This goal has

been successful since the UN is no longer the lead in mission in Kosovo. However, the high number of cases and incompetent judges has hindered the operational process. In general, operational objectives have been partially successful.

Internal Appropriateness

In terms of timeliness, the EULEX mission was deployed at the right time. A planning team was deployed two years prior to the mission and that all member states were involved in the planning process (Council of Europe 2008, Zupančič et al 2017). However, EULEX Kosovo does not have a clear end state and some personnel see the mission as too ambitious and idealistic (Zupančič et al 2017). Still, the mandate has a planned end date of June 2018. In terms of timeliness, EULEX Kosovo is generally successful since planning and timing of the mission was timely, but lack of a clear end state and unclear exit strategy can be seen as negative attributes in timeliness.

Efficiency of EULEX Kosovo has been contested. The bureaucratic organization and the pursuit of member state interest in the mission has been cause for concern (Zupančič et al 2017). Furthermore, the security issues within Northern Kosovo have also lead to questions concerning the efficiency of the mission. Overall, EULEX Kosovo can be seen as a marginal success in terms of efficiency.

Cost-effectiveness is the largest issues. As mentioned earlier, EULEX Kosovo receives one of the highest levels of funding per capita compared to other EEAS programs. Nevertheless, over 50% of the total budget is on salaries and other duties related to deployed personnel (Zupančič et al 2017). Furthermore the political cost of this program is also at stake. The EULEX mission has been criticized for the use of short-term stabilization strategies on a long-term mission (ibid). The advising aspect of the project has also failed to reach its full potential. The severe criticism of Andrea Capussela and allegations of corruption has also affected the mission (Capussela 2015). Zupančič et al states, “the EU and other actors do not coordinate their efforts sufficiently, which leads to overspending, overlapping and misuse of financial and political capital” (8, 2017). With this in mind, it can be assumed that the cost effectiveness is fairly poor with EULEX Kosovo.

External Goal Attainment

The indicators of initiation, continuation, diffusion, escalation, or intensification of violence measure external goal attainment. In general, Kosovo is fairly stable and violent conflict has subsided. While there is a level of tension in Kosovo, especially in the Northern region where a high level of Kosovar Serbs reside, interethnic violence has subsided. Furthermore, there has been positive integration of Kosovar Serb police into the police force as well as a plan for judiciary integration in the north (Hopkins 2014, Zupančič et al 2017). The EULEX mission has promoted normalization and facilitation of dialogue between Serbia and Kosovo (EEAS 2017). Therefore, it can be assumed that the EULEX mission has contributed positively in preventing violence in Kosovo.

External Appropriateness

External appropriateness focuses proportional prevention and the idea that intervention does more good than harm. For law enforcement in Kosovo, the EULEX mission has done more good than harm and invested a lot of effort in the training and effectiveness of the Kosovo police force (Zupančič et al 2017). EULEX has directly improved the Kosovar police forces ability to

deal with riot policing, community policing, and intelligence policing; however there are still issues with information sharing between local police forces and EULEX (ibid). In terms of judicial reform, EULEX has impacted Kosovo positively but the rule of law is still far from fully functioning. The judiciary is still influenced by local political actors and efforts to address illegal activities have been poorly implemented (ibid). Essentially the largest issue is the inability for the local judiciary to internalize EULEX practices, but EULEX also lacks the clarity on what these practices are. Since EULEX is such an extensive mission with a high level of funding and personnel, it should be able to reform the judiciary. However, the focus has been on stability and the resources have been invested in law enforcement (Radin 2014). Because of this, EULEX has not been able to prosecute corrupt political elites and the judiciary is still lacking (Radin 2014, Zupančič et al 2017).

Legitimacy of EULEX Kosovo has been questioned by Kosovars. In a report by UNDP, both Kosovar Serbs and Kosovar Albanians were not satisfied with the EULEX mission between 2009 and 2013 (UNDP 2013, 21-22). As of April 2013, 38% perceive the EULEX mission to be corrupt while the judiciary is perceived to be 56% corrupt (UNDP 2013, 17). Research conducted by the Kosovo Centre for Security Studies suggest varying views on if EULEX should stay or leave. The study found that 32% believe that EULEX should stay for another two years and 20% believed that EULEX should never leave Kosovo (Zupančič et al 2017). However, 44% believed that EULEX should be terminated (ibid). While it can be assumed that EULEX Kosovo has done more good than harm, the public perception of the mission seems to be negative. Even though there has been success in the local police force, the failures in the judiciary have been very consequential in public perception. Since this mission is heavily funded and contains a high number of personnel the outcomes should be more positive. The idea that the means need to justify the ends in external appropriateness has led to the assumption that the mission is no longer sufficient.

Table 2: Effectiveness of EULEX Kosovo

| EULEX Kosovo | | | | |
|---------------------------------|---|----------------|-------------------------------------|----------------|
| Effectiveness Criteria | Indicators | Success | Partial Success/ Failure | Failure |
| <i>Internal Goal Attainment</i> | <i>Politco-Strategic Goals</i> | x | | |
| | <i>Operational Objectives</i> | x | | |
| <i>Internal Appropriateness</i> | <i>Timeliness</i> | x | | |
| | <i>Efficiency</i> | | x | |
| | <i>Cost-Effectiveness</i> | | | x |
| <i>External Goal Attainment</i> | <i>Initiation/ Continuation</i> | x | | |
| | <i>Diffusion</i> | x | | |
| | <i>Escalation</i> | x | | |
| | <i>Intensification</i> | x | | |
| <i>External Appropriateness</i> | <i>More Good Than Harm</i> | | x | |
| | <i>Necessary & Sufficient Preventative Measures</i> | | x | |

Analysis

In terms of effectiveness the EUFOR Althea outperforms the EULEX Kosovo mission. EUFOR Althea was able to achieve most of the internal goals that were set out with greater success in internal appropriateness, especially in the field of cost-effectiveness. External goal attainment and appropriateness was also very successful in Bosnia-Herzegovina with violence being suppressed and effectively creating “more good than harm.” On the other hand, EULEX Kosovo while the internal goals were met the mission suffered from failures in internal goal appropriateness specifically in efficiency and cost-effectiveness. For external goal attainment and appropriateness, EULEX Kosovo was effective in preventing more violence but the allegations of corruption and the issues of legitimacy have hampered external appropriateness.

Table 3: Comparative Table of EUFOR Althea and EULEX Kosovo

| | Internal Goal Attainment | Internal Appropriateness | External Goal Attainment | External Appropriateness |
|---------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| EULEX Kosovo | Success | Partial Success / Failure | Success | Partial Success |
| EUFOR Althea | Partial Success | Success | Success | Success |

Conclusion

The question that I wanted to address in the beginning of the paper was, what state-building approach was most effective? The above-mentioned case studies and analyses shows that the EUFOR Althea mission was much more effective in establishing a secure state that prevented escalation in violence. EUFOR Althea performed well in the effectiveness criterion.

The EUFOR Althea focused on a mix of realist and institutional approach to state building. The realist approach established security within the country. The case for EUFOR Althea was a slight exception because the conflict within the region did subside and the EU mission was taking over the NATO mission that was already established. However, the EUFOR mission was still successful in preventing future escalation of violence. This could be due to the fact that the EUFOR mission mirrored the NATO approach and the planning process that took place prior to establishment lead to an easier handover. Also it is possible that the hierarchical structure of EUFOR creates an organization that promotes better security. The institutional approach was also important since EUFOR Althea helped establish a strong military in the region. These institutions helped create a state that was more resilience in Bosnia-Herzegovina. The EUFOR Althea mission established enough institutions to create a sense of national pride and also a stable state. Overall, a secure situation and resiliency helped facilitate state building in Bosnia-Herzegovina.

The approach that EULEX Kosovo took was a mix of institutionalism, liberalism, and constructivism. The EULEX mission tried to establish a strong judiciary and police force in Kosovo. However, the mission focused on police forces more than judiciary leading to failures in external appropriateness. The EULEX mission also tried to create an environment that promoted liberty and established the rule of law. Since the mission did not focus extensively on the judiciary and the prosecution of corrupt leaders it failed to establish trust in the populace and in turn the EULEX mission never gained full legitimacy. Finally, the constructivist approach focuses on creating new norms for the Kosovar people. The mission failed to establish good

institutions and gain legitimacy, in turn it was difficult to win over the “hearts and minds” of the Kosovar people and establish new norms.

Overall, state building is very difficult. The European Union did effectively cause more good than harm in Kosovo and Bosnia-Herzegovina. Also, the general situation in that region is an ongoing process and intervention to promote stability is a long process. The future for the two nations is most likely bright as long as it continues to move in the right direction and future violent conflict does not occur.

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