



LEGITIMISING EXTERNAL MISSIONS:
**DECONSTRUCTING CITIZENS'
PERCEPTIONS TOWARDS EULEX
IN KOSOVO**



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Author: Emma-Louise Rose

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EXECUTIVE SUMMARY

EULEX has been present in Kosovo for over a decade (since 2008), with an aim to create and improve rule of law institutions, free of corruption and political interference and embracing internationally recognised standards. EULEX is accompanied by other international missions in Kosovo namely KFOR who is mandated to ensure safety and security for citizens of Kosovo. On the EU's part, EULEX has been its largest ever civilian mission in an attempt to strengthen what is considered to be the EU's weakest spot: foreign and security policy.

Despite its lengthy presence, EULEX has not gained the trust of the citizens of Kosovo. The Kosovo Security Barometer (KSB) conducted annually by KCSS has been measuring the amount of trust that Kosovo citizens have in the mission and have found the number to be consistently low when compared to other local and international institutions. The lack of trust, and therefore support, from the public seems to stem from many different areas particularly EU/EULEX's neutrality on the issue of Kosovo independence (due to lack of recognition by 5 member states) and a failure to carry out its mission. Based on the quantitative measurement of KSB, the lack of trust has remained fairly stable over the years, with all of the given statistics being within 15% of each other (between 16% and 31%), the lowest amount of trust was recorded in 2015. This brought the legitimacy and public support for the mission into question.

This paper has examined the years that the KSB have measured public trust in the mission and the corresponding events concerning the mission that happened in that year and has analysed the reasons given for the lack of trust both in various editions of the KSB and other sources such as academic journals, studies conducted by other researchers and first person reports of people who have been involved in the mission. The main findings were that the public has never had a large amount of trust in EULEX, but still sees the EU as a positive aspect as it wishes to become a member state. There are also regional and ethnic differences in levels of trust, which can be explained by issues of sovereignty and EULEX activity in different areas of Kosovo. Overall, this paper questions whether EULEX still has a mandate to remain in Kosovo given that gaining the trust of both Kosovo-Albanians and Kosovo-Serbs seems an almost impossible task, and the fact it has done little to improve the situation in Kosovo despite their public narrative claiming otherwise.

CONTEXT OF EULEX PRESENCE IN KOSOVO

Kosovo's criminal justice system has gone through multiple changes in a relatively short period of time. When Kosovo was a part of the Social Federal Republic of Yugoslavia between 1974 and 1989 it had a great deal of autonomy – almost equivalent to the level of six republics - with multiple independent institutions. However, during the rule of Slobodan Milošević Serbian authorities were given full power over Kosovo, similar to its status prior to 1974, as a result of abrogation of its autonomy in 1989. This resulted in the systematic oppression of Kosovar Albanians being subject to a great deal of segregation combined with different forms of structural violence.

Following the Yugoslav wars which resulted in its breakup and Kosovo's war of 1998-1999, Kosovo was classified as an international protectorate and a UN mission was launched in an attempt to maintain stability in the region following the United Nations Security Council (UNSC) resolution 1244. The United Nations Interim Administration Mission in Kosovo (UNMIK) is still in operation along with EULEX, although there was some debate when EULEX first launched concerning overlapping duties, with EULEX taking over many of UNMIK's duties.¹

EULEX, or the European Union's Rule of Law Mission in Kosovo, is the largest EU civilian mission and was launched in February 2008 just after Kosovo declared independence and became fully operational in April 2009. Although EULEX had an original aim of guiding Kosovo through a transitional period of supervised independence it subscribed to UNSC resolution 1244 which meant that it should remain neutral in respect to Kosovo being an independent state.² Its legal basis is complemented with the formal invitation of Kosovo institutions which formally invites EULEX every second year through exchanged letters. While Kosovo has been recognised by over 100 countries of the world and also became member of dozens of interna-

1 Erika De Wet, 'The Governance of Kosovo: Security Council Resolution 1244 and the Establishment and Functioning of Eulex'. *The American Journal of International Law*, vol 103 (2009), pp 83-96.

2 Martina Spornbauer, 'EULEX Kosovo: The Difficult Deployment and Challenging Implementation of the Most Comprehensive EU Operation to Date'. *German Law Journal*, vol 11 no 8 (2010), pp 769-802.

tional organisations, its recognition by the EU has been greatly hindered by lack of consensus and refusal by five of its member states to follow the pattern of the other 22 members.

In its mission statement, EULEX aims to address 6 key concepts: sustainability, accountability, multi-ethnicity of the police, justice and customs, freedom of the justice system from political interference, and giving the justice system internationally recognised standards. Overall, it aims to “europeanise” Kosovo’s rule of law institutions.³ Notwithstanding EULEX’s status-neutral position, it should be recognised that the rule of law institutions it aimed to improve are traditionally related to, and vital for, the apparatus of an independent state, and Kosovo has been recognised by the EU as a potential candidate for membership in the future.

During its presence in Kosovo EULEX has been reformed several times and its mission has been extended more than once. During the 2008-2010 mandate period the mission’s primary duties were to monitor, mentor and advise the Kosovo authorities in each component of Rule of Law - judiciary, police and customs. However, EULEX also obtained executive powers where sensitive or serious crimes were concerned. This, however, was later discovered to be a major weak point in EULEX’s mission. There have been concerns voiced about the executive powers of EULEX when combined with its lack of accountability. As one local policy document points out, the people of Kosovo cannot oversee or control EULEX’s actions, yet there was a lack of democratic accountability from Brussels once the mission was deployed.⁴

EULEX’s time in Kosovo has not been entirely peaceful, and it has faced a considerable amount of criticism. In 2009, not long after the mission fully launched, there were violent protests in Prishtina regarding the agreement signed between EULEX police and Serbia. The agreement concerned EULEX cooperation with Serbian authorities in fighting all forms of crime in Kosovo and was said to be in line with UNSC 1244.⁵ This, along with EULEX’s neutral status, understandably caused considerable discomfort in Kosovo as it brought into question EULEX’s loyalties and position. However, the violent protests that it resulted in, including EULEX vehicles being attacked, are considered to be unjustified.

3 EULEX, *What is EULEX*, 2020. < <https://www.eulex-kosovo.eu/?page=2,16>>.

4 KIPRED, *A Comprehensive Analysis of EULEX: What Next?*, 2013.
<https://www.academia.edu/8298704/A_Comprehensive_Analysis_of_EULEX_What_Next>.

5 Ewa Mahr, ‘Local contestation against the European Rule of Law Mission in Kosovo’. *Contemporary Security Policy*, vol 39 issue 1 (2018), pp 72-94.

In 2010, EULEX was extended for a further two years, with its objectives remaining the same, but the second extension in 2012 brought with it a decrease in staff - from almost 3000 at its height to around 1600) and a restructure of the mission. It was divided into two components: executive, which dealt with EULEX's executive mandate, and strengthening, which aimed to deal with the monitoring, mentoring and advising aspects.⁶ This was after a report by the European Court of Auditors which brought the effectiveness of the mission into question.⁷ This report rightfully pointed out the high levels of corruption that remained in the country, the continuing political interference, and the failure to make progress in the north of Kosovo. There have also been criticisms from local research groups regarding the staffing of EULEX, with concerns voiced about the impact of staff only being there for a relatively short time before being replaced, and how its ability to be effective was negatively impacted by the lack of coordination between its own staff, and the mission's hesitance to pursue cases that would 'rock the boat'.⁸

In 2018, EULEX was extended by a further two years for what was hoped to be the last time. It ended many of the executive functions, instead handing cases over to the Kosovo authorities. However, it still monitored the correctional service as well as case files that were handed over prior to the case handover. EULEX also still provided support to Kosovo's police and retained a few executive responsibilities. Despite the hope that EULEX would withdraw from Kosovo in 2020, its mandate has been extended for a further year and the mission will remain in Kosovo until June 2021.⁹

Despite EU reports and EULEX reshuffles, as well as a Human Rights Review Panel designated to review the EULEX mission, the mission is still seen to be unsuccessful in the eyes of the citizens of Kosovo, and every year the Kosovo Security Barometer reports low levels of trust in the mission. This report will continue by analysing the continuing levels of distrust in the EULEX mission as public support of the mission is considered to be a vital aspect of the continuation of any international mission. It will also draw on the Kosovo Security Barometer and other sources to try and determine reasons for the distrust.

6 EULEX, *Short History of EULEX*, 2018. < <https://www.eulex-kosovo.eu/?page=2,44,197>>.

7 European Court of Auditors, *European Union Assistance to Kosovo Related to the Rule of Law*, 2012. < https://www.eca.europa.eu/Lists/ECADocuments/SR12_18/SR12_18_EN.PDF>.

8 Balkans Policy Research Group, *A Decade After EULEX*, 2019. < <https://balkansgroup.org/wp-content/uploads/2020/01/A-Decade-after-Eulex-New-approach-to-improve-rule-of-law-in-Kosovo.pdf>>.

9 European Western Balkans, *EULEX mandate in Kosovo extended for another year*, 2020. < <https://europeanwesternbalkans.com/2020/07/13/eulex-mandate-in-kosovo-extended-for-another-year/>>.

PUBLIC PERCEPTION VIS-À-VIS EULEX

Between 2012 and 2018, the period that this paper will be examining, the trust in EULEX has been consistently low among Kosovan citizens. There have been dips and rises in public trust, with the most trust being reported in 2014 with a relatively large dip by 2015, but there has been overall little difference over the period. This lack of trust is concerning, considering that it is the citizens of Kosovo who will be affected by the outcome of the mission.

The first edition of the Kosovo Security Barometer (KSB) was published in 2012 and brought with it a poor report of the Kosovan public's view of the EULEX mission.¹⁰ Asked to rate their satisfaction on a Likert scale from 1 to 5, with 1 being the least satisfied, only 22% of respondents expressed satisfaction with the mission. In addition, a majority of respondents thought that EULEX was biased when compared with KFOR.

It is interesting to note that the 2012 report was published after the reorganisation of the mission, and the EU High Representative stated that "EULEX is doing an important and good job in supporting the rule of law in Kosovo".¹¹ This disparity between the representative's opinion of how the mission was going and the low satisfaction reported by the KSB is even more questionable when the report by the European Court of Auditors, which makes clear the failures of EULEX in Kosovo, is taken into account. In addition, there was widespread public dissent with the mission, with citizens arguing that EULEX had done nothing to fight the corruption that was occurring at high levels of Kosovan authority, and accusations of EULEX accomplishing nothing in the north of the country. This prompted a reply from EULEX in the form of a media campaign.¹²

For 2012 through to 2018, a graph with the percentage of trust over this period will be provided below.¹³

10 KCSS, *Kosovo Security Barometer*, 2012.

< http://www.qkss.org/repository/docs/Kosovo_Security_Barometer_Report_English_152996.pdf>

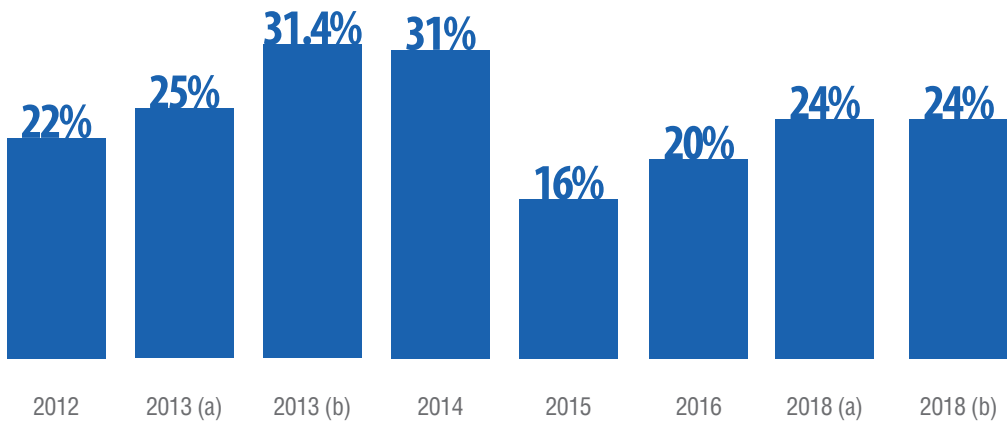
11 EULEX, *EULEX Mission Extended until June 2014*, 2012. <<https://www.eulex-kosovo.eu/en/news/000368.php>>.

12 Fatmir Aliu, 'EU Kosovo Mission Fights Back Against Critics'. *Balkan Insight*, 14th June 2012.

< <https://balkaninsight.com/2012/06/14/eulex-fights-back-to-critics/>>.

13 Figures are taken from the 3rd edition of the KSB in 2012 through to the 8th edition in late 2018.

Trust in EULEX (%)



The first 2013 KSB brought little improvement in public satisfaction of EULEX, with only 25% reporting that they were satisfied with the mission, which gave EULEX one of the worst ratings of any authority present in Kosovo at that time and a factor that would be consistent across the following years.¹⁴ Further on in 2013 the second KSB of the year (and 3rd edition of the report) found 31.4% satisfaction in the mission. This KSB also measured public trust in EULEX, with 29.2% reporting that they trusted the EULEX mission. In addition, only 7.3% of the public reported having contact from the mission.¹⁵

Trust in EULEX remained low in 2014, with only 31% of respondents stating they trusted the mission. This KSB respondents reported that their distrust was due to “limited contribution of this mission in supporting the Kosovo institutions in preventing and combating corruption and organized crime”.¹⁶ Indeed, this edition of the KSB also found that even after the mission had been working in Kosovo for almost a decade (and this is not including the presence of UNMIK before that), the public still felt that there were high levels of corruption amongst the Kosovan authorities despite this being one of the main aims of the mission. The Government

14 KCSS, *Kosovo Security Barometer, The Voices of Kosovo: Insights and Perceptions*, 2013. <http://www.qkss.org/repository/docs/Kosovo_Security_Barometer-The_voices_of_Kosovo_Insights_and_Perceptions_199745.pdf>.

15 KCSS, *Kosovo Security Barometer Third Edition*, 2013. <http://www.qkss.org/repository/docs/Kosovo_Security_Barometer_Third_Edition_20786.pdf>.

16 KCSS, *Kosovo Security Barometer Fourth Edition*, 2014. <http://www.qkss.org/repository/docs/Kosovo_Security_Barometer_-_Fourth_Edition_383440.pdf>.

was seen as the most corrupt, with 58.7% of respondents thinking it was 'very corrupt'. In addition, 72.8% thought that internal corruption was one of the greatest threats to Kosovo's security.

The fifth edition of the KSB in 2015 reported that only 16% of respondents trusted the mission and the report points out the fact that for the first time the Prosecution and Courts had more trust from citizens than EULEX, linking this to both the ongoing failure of EULEX to fight corruption and to a corruption scandal in late 2014 and early 2015.¹⁷ The scandal was in regard to claims that there had been three cases dropped by EULEX prosecutors who were bribed. In 2015 the UK newspaper *The Guardian* reported on this issue, stating that the person responsible for uncovering the scandal, Maria Bamieh, had been dismissed from the mission¹⁸. It took a year for EULEX to launch an internal investigation of the claims. In March 2015, the report was complete and found Bamieh's claims to be untrue, although it did raise questions as to whether EULEX could finish its mission in Kosovo successfully.¹⁹ With the mission in Kosovo both failing in its aims and seemingly suffering internally from the same issues as the ones it was trying to fix in Kosovo, the continuing distrust in the mission by Kosovo citizens is understandable.

Similarly, in 2016, the 6th edition of the KSB reported that only 20% of citizens trusted the EULEX mission, with the corruption scandals of 2014 and 2015 showing a prolonged effect. Citizens also again reported concern that the corruption remained in the Kosovo justice system, showing that EULEX was still failing to achieve its mission.²⁰ The 7th edition of the KSB published in early 2018 reported that only 24% of respondents trusted EULEX. However, this report also broke the levels of trust down by both region and ethnicity, finding low levels of trust among the Kosovan-Serb minority and in the North Mitrovica region.²¹ The increased distrust in this region is likely because of the prior agreement made between EULEX officials

17 KCSS, *Kosovo Security Barometer Fifth Edition*, 2015.

<[http://www.qkss.org/repository/docs/Kosovo_Security_Barometer - Fifth Edition_523670.pdf](http://www.qkss.org/repository/docs/Kosovo_Security_Barometer_-_Fifth_Edition_523670.pdf)>

18 Julian Borger, 'EU's biggest foreign mission in turmoil over corruption row'. *The Guardian*, 5th November 2014. <<https://www.theguardian.com/world/2014/nov/05/eu-facing-questions-dismissal-prosecutor-alleged-corruption>>.

19 Jean-Paul Jacqué, 'Review of the EULEX Kosovo Mission's Implementation of the Mandate with a Particular Focus on the Handling of Recent Allegations', 2015. <https://www.eulex-kosovo.eu/eul/repository/docs/150331_jacque-report_en.pdf>.

20 KCSS, *Kosovo Security Barometer Sixth Edition*, 2016.

<http://www.qkss.org/repository/docs/KSB-Sixth-Edition_327922.pdf>.

21 KCSS, *Kosovo Security Barometer Seventh Edition*, 2018. <http://www.qkss.org/repository/docs/KOSOVO_SECURITY_BAROMETER_7_ENGLISH_FINAL_891249.pdf>.

and Serbia stating that no Albanian law officials would be able to work on EULEX cases in North Mitrovica as reported by James Hargreaves, a US judge who for a time served the mission in Kosovo.²² In late 2018 the trust, or lack of, in EULEX remained the same at 24%.²³

From the analysis of the numerous editions of the KSB and other sources, a few themes have been found that are a persistent factor in the Kosovo public's lack of trust in EULEX. Seemingly one of the biggest concerns is that despite EULEX's presence in Kosovo for a decade, there is no decrease in corruption in both the Government and law agencies in Kosovo and indeed EULEX itself seemed to be corrupt. Although EULEX had promised that they would ensure the rule of law institutions would be free of political interference, there was evidence that this was still happening. In his personal experience, Hargreaves had witnessed that judges felt that either they or their family would be punished if they agreed to a conviction²⁴. This suggests that in 2014, after 5 years of EULEX presence in Kosovo, there was still a high level of political involvement in the rule of law institutions. As was mentioned earlier in the report, respondents consistently felt that there were still high levels of corruption, and the public's perception is supported by Transparency International's Corruption Perception Index which shows that between 2011 and 2019 there was only a two point improvement in Kosovo's level of corruption.²⁵ For the largest EU civil mission, this is admittedly a poor achievement. For example, a source has also stated that on average a EULEX judge resolves 0.17 cases of corruption every year and 0.07 cases of organised crime²⁶ which is undeniably a poor performance especially when the accounts of bribery and corruption within EULEX itself are taken into account.

Another potential reason for the Kosovo public's lack of trust is one that was mentioned whilst placing EULEX into context, and that is that EULEX was placed as a status-neutral mission to reflect the differences of opinion between EU members. Yet despite this, the Kosovo-Serb minority has even less trust in the mission than Kosovo-Albanians did, according to the

22 James Hargreaves, *The EULEX Legacy in the Kosovo Courts*, 2014. <<https://www.balcanicaucaso.org/eng/Areas/Kosovo/The-EULEX-Legacy-in-the-Kosovo-Courts-156872>>.

23 KCSS, *Kosovo Security Barometer Eighth Edition*, 2018. <http://www.qkss.org/repository/docs/barometri2018-eng2_477654.pdf>.

24 James Hargreaves, *The EULEX Legacy in the Kosovo Courts*, 2014. <<https://www.balcanicaucaso.org/eng/Areas/Kosovo/The-EULEX-Legacy-in-the-Kosovo-Courts-156872>>.

25 Transparency International, *Corruption Perception Index: Kosovo*, 2019. <<https://www.transparency.org/en/cpi/2019/results/ksv>>.

26 Selvije Bajrami, 'The Rule of Law in Kosovo: Mission Impossible?'. *Balkan Insight*, 17th November 2011. <<https://balkaninsight.com/2011/11/17/the-rule-of-law-in-kosovo-mission-impossible/>>.

6th edition of the KSB as they criticise it for being pro-Kosovo independence and their lack of prosecuting crimes against Kosovo-Serbs. As a result, there is a bipartisan distrust towards EULEX although not always for the same reasons.

Indeed, a collection of interviews reported on by Mahr in 2017 found that many Kosovo Albanians gave EULEX's refusal to acknowledge their independence as a contributing factor in local contestation against the mission, including a large-scale protest by Vetëvendosje.²⁷ The North of Kosovo also proved to be a factor on which the Albanians and Serbs within Kosovo disagreed on. Serbia considers exercises control over northern part of Kosovo due to it being majority Kosovo Serb inhabited region but so Kosovo sees EULEX's continuing failure to establish a rule of law system in the North without Serbian interference to be vital. On the other hand, Kosovo-Albanian and Kosovo-Serbs also point to EULEX's trials of ex-KLA members as a point of bias. Kosovo-Albanians see KLA members as heroes in a war (though not necessarily in peace) and condemn EULEX's prosecution of failing to prosecute Serbian war criminals, yet Kosovo-Serbs believed that EULEX is 'pro-Albanian' due to inefficiency in preventing and investigating attacks from Kosovo-Albanians.²⁸

In addition to not fixing the issues that it set out to fix, EULEX has also gained a reputation for having low contact with the people it is ultimately trying to help, and being dismissive of the people that it did contact. Whilst the EULEX website pages are filled with reports of meetings and donations, there are first person experiences of inside those meetings that tell a different story. One source that experienced first-hand contact with EULEX described meetings he attended where it seemed the EULEX officials wanted the participants to follow a script and, when confronted with the issues and the results of the KSB, they stated that they needed time to fulfil their mission.²⁹ This raises the question: are EULEX staying in Kosovo longer because they do not want their long and extremely expensive mission to be deemed a failure? Are they staying to save face? At this point, with their mission extended for only an extra year, it seems unlikely they will finally make any significant improvement. EULEX has also historically had a low amount of contact with the Kosovo public. The following graph shows how many

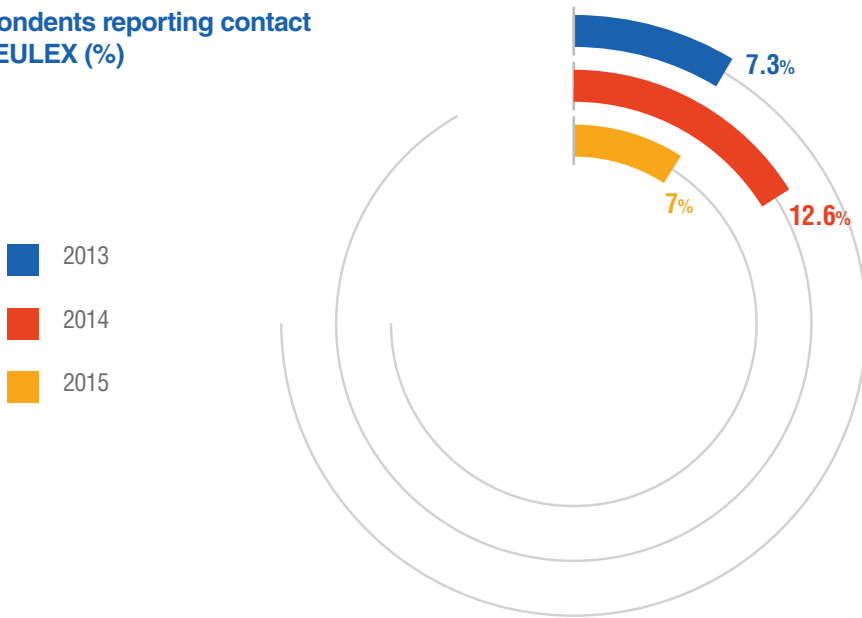
27 Ewa Mahr, 'Local contestation against the European Rule of Law Mission in Kosovo'. *Contemporary Security Policy*, vol 39 issue 1 (2018), pp 72-94.

28 Ewa Mahr, 'Local contestation against the European Rule of Law Mission in Kosovo'. *Contemporary Security Policy*, vol 39 issue 1 (2018), pp 72-94.

29 Dr Florian Qehaja, 'Why EULEX should have been phased out a long time ago', 2020. <<https://sbunker.net/oped/90556/why-eulex-should-have-phased-out-a-long-time-ago/>>.

KSB respondents had reported having contact with EULEX from the third edition in December 2013 to the fifth edition – the only period where the KSB reported on levels of contact.³⁰

Respondents reporting contact with EULEX (%)



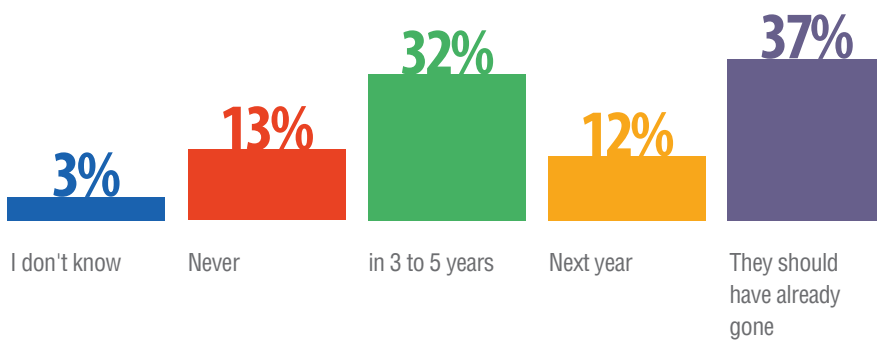
An interesting comparison can be made between EULEX and another international presence in Kosovo: the Kosovo Force, or KFOR, has been a NATO presence in Kosovo since 1999. Across all editions of the KSB that report on the subject, KFOR has consistently had more public trust than EULEX. Coincidentally, it has also had more contact with the public. Although this is at present a correlating factor, and cannot yet be proven to be a causation, the lack of contact that EULEX has with the public could be a contributing factor to the lack of trust. In fact, it could be inferred from the numerous articles on EULEX’s website compared to the reported levels of contact with the local public that officials involved with the mission are more concerned with how the international community see the mission than they are with the views of the Kosovo public. The higher level of trust in KFOR also implies that it is not the fact that the mission is conducted by the international community that is the issue: it is specific actions that EULEX have done throughout its presence in Kosovo. The years that the public’s trust

³⁰ Statistics taken from the corresponding editions and years of the Kosovo Security Barometer.

have significantly dipped correspond to scandals in the mission. In the 2012 edition of the KSB, the Kosovo public also commented on how they felt KFOR was less biased than EULEX.

When asked about the future of EULEX and whether they should remain in Kosovo, although a few respondents thought that they should never leave, most respondents thought that EULEX's time in Kosovo should be limited, and that they should leave within the next few years. The following graph was taken from the 2015 edition of the KSB:³¹

Perception of Citizens towards the future of EULEX



When taking into account the low trust in the mission, the fact that the vast majority of respondents were in favour of EULEX leaving Kosovo is understandable. This graph was also taken five years ago and therefore the respondents here believed that by this year (2020), EULEX should have left.

Taking into account all of the analysis, with the low lack of trust from the public, the corruption within the mission itself, and the failure to succeed it is questionable whether EULEX still has a mandate to operate in Kosovo, as public support is a large contributing factor to the continuing mandate of an international mission such as this and EULEX's reasons behind remaining in Kosovo can be brought into question.

31 Graph taken from the 2015 edition of the KSB.

CONCLUSION

The EULEX mission in Kosovo aimed to help build non-corrupt Rule of Law institutions that were free from political interference and conformed to international standards supported by a large budget and many staff, the latter of which decreased over time. It has been present in Kosovo for over a decade (since 2008), however there has been little tangible improvement and it lacks trust from the public of Kosovo, which could arguably be the most important group that it needs to gain trust from in order to have a legitimate reason to remain.

During EULEX's time in Kosovo corruption has remained stable on the Transparency Index, which strongly suggests that there have been no improvements on what is regarded by the Kosovo public a dangerous threat to internal security. There have also been numerous scandals regarding bribery when deciding on the verdicts of cases, or even deciding whether to prosecute someone. In addition, EULEX has not made any extensive efforts to communicate with the local public, who have reported having very little contact with the mission when compared to other international missions present in Kosovo such as KFOR. When they have held meetings, it has been to inform instead of to discuss and concerns were dismissed as 'needing more time'.

Potentially, opening lines of communication could help to increase public trust and EULEX should work to gain their trust through increasing two-way communication and listening to the concerns of the people they are ultimately trying to help. There is also a need for further primary research into the exact reasons that the public of Kosovo have so little trust in EULEX, as primary sources so far have been scarce. The research could include a more detailed breakdown as to the differences in public trust between international missions and in trust between different ethnicities in Kosovo, as the KSB has shown that there are ethnic differences in trust. Meanwhile, the KSB should continue to track public trust in the mission for as long as the mission remains in Kosovo, although it is currently due to end in 2021.

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