Evaluating EU Actorness as a State-Builder in 'Contested' Kosovo

# Evaluating EU actorness as a state-builder in 'contested' Kosovo

## Elena Baracani

## Introduction

Ten years after Kosovo's controversial declaration of independence, this article seeks to analyse how, through different foreign policy tools, the European Union (EU) has gradually become the main external actor in the facilitation of the state-building process in Kosovo, how its approach to state-building has evolved, and how the state contestation issue, in combination with other factors, has shaped its actorness in this domain. By combining the literature on EU foreign policy with recent empirical insights on how the state contestation issue shapes the EU's role as a state builder, this article proposes to make the state contestation issue central to the debate on the EU's actorness as a state-builder in Kosovo in the period 2008-2018. Therefore, rather than considering the actual impact or reception of the EU's activity in state-building, it presents a diachronic examination of how the various parameters of state contestation – lack of international recognition, of effective government and of territorial control – have shaped, in combination with other factors, the EU's ability to engage in some form of purposive action in the state-building process of Kosovo.

The case of Kosovo is considered in the literature to be a prominent example of a 'contested state' (Weller 2009; Papadimitriou and Petrov 2012). Contested states can be defined as entities that have declared independence and display some statehood characteristics (population, territory, government, capacity to enter into relations with third states), but have different degrees of difficulty in terms of external sovereignty (because they are not recognised by a significant part of the international community) and/or internal sovereignty because they are not able to control a part of their territory and/or to govern effectively (Geldenhuys 2009; Bouris and Kyris 2017, 756). On the basis of this definition,

Kosovo can be considered a contested state because it has problems of both internal and external sovereignty (Krasner 2001, 2 and 6-12). Kosovo's internal sovereignty is compromised by the fact that the government is unable to govern in the Serb-populated municipalities in the north, and by the fact that it is unable to govern effectively in the rest of the country. Kosovo's external sovereignty is compromised by the fact that the international community is divided over Kosovo's independence. At the beginning of 2018, ten years after its declaration of independence, 80 out of 193 (41.5%) United Nations (UN) member states did not recognize Kosovo, including Russia and China (members of the Security Council), and five EU member states (Cyprus, Greece, Romania, Slovakia and Spain). Study of the Kosovo case is relevant also from the perspective of the EU's external relations and foreign policy. Even if it has fewer than two million inhabitants and the poorest economy in Europe, Kosovo represents, in terms of the political geography of the EU's external relations, one of the main testing grounds for its renovated foreign policy. Indeed, because Kosovo is geographically and politically closer to the EU than other contested states, it can use a wider set of foreign policy tools to foster the state-building process. Finally, from a EU foreign policy perspective, while at the time of the escalation of the conflict, neither the European Political Cooperation nor the Common Foreign and Security Policy were able to stop it, since the early 2000s Kosovo has become the site of the most comprehensive EU foreign policy approach.

The content analysis presented in this article is based on qualitative sources, mainly policy documents by EU foreign policy actors (European Commission, European Council, EU Council, High Representative, and European External Action Service) on relations with Kosovo and the Western Balkan countries for the period 1999-2018, but also official documents by the United Nations on Kosovo and by the Republic of Kosovo. For the phase of EU state-building during monitored independence (2008-2012) I had the opportunity to

conduct an in-depth telephone interview with the senior Dutch diplomat and international crisis management expert Peter Feith,[1] who was the most important external actor in Kosovo during this phase, holding at the same time the position of International Civilian Representative and EU Special Representative. Thanks to this interview it was possible to go beyond official documents and to know something more on the *modus operandi* on the ground of the international civilian presence, and on how his 'double-hat' constrained his role in Kosovo. For the phase after monitored independence (2012-present) I carried out in-depth telephone interviews with the political desk officer for Kosovo and with the judiciary and fundamental rights policy officer for Kosovo in the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) of the European Commission,[2] and with the head of the Balkan unit in the European External Action Service.[3] The purpose of these in-depth interviews was to clarify the differentiation of functions between the European Commission and the European External Action Service (since the creation of this body in 2011) in their state-building activity towards Kosovo and their informal coordination in order to evaluate possible problems in terms of horizontal inconsistency in EU foreign policy towards Kosovo.

The article is organized into two sections. The first, after a brief discussion of the origins and of the main policy developments of the EU as a state-builder, shows how the issue of state contestation has been largely disregarded by the debate on the liberal peace idea, as well as in the studies on the EU's role in peacebuilding. It presents the conceptual framework of this study. Section two examines the EU's state-building activity of post-conflict Kosovo in three phases – UN interim administration (1999-2008), the period of international monitored independence (2008-12), and the period that started with the end of the international monitored independence and is still ongoing (2012-present). For each of them it analyses how the state contestation issue, in combination with other factors, contributed to shaping EU

actorness as a state-builder and to accounting for variation in different types of EU state-building.

**The EU's role as a state-builder: evaluating actorness in 'contested' states**

Since the end of the Cold War, there has been an extraordinary upsurge of activism by the international community in peacebuilding. It comprises all those activities undertaken by third parties to favour structural prevention before the armed escalation of the conflict, direct or operational prevention during that escalation, and post-conflict stabilization at the end of the escalation (Wallensteen and Möller 2008, 57). In his 1992 Agenda for Peace, the UN Secretary General Boutros Ghali specifically defined post-conflict peacebuilding as 'action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict' (UN Secretary General 1992, point 21). This definition of post-conflict peacebuilding was not specifically focused on state-building and it potentially covered the creation of different structural conditions that could foster a peaceful environment, such as poverty reduction, economic development, the creation of democratic institutions, the normalization of bilateral relations, and reconciliation among communities. However, in the practice of the UN system, state-building, which can be considered as 'a particular approach to peacebuilding, premised on the recognition that achieving security and development in societies emerging from civil war partly depends on the existence of capable, autonomous and legitimate governmental institutions' (Paris and Sisk 2009, 1), became the dominant project in post-conflict peacebuilding.

This approach originated from the liberal peace idea according to which stable peace requires the existence of functioning political and economic institutions, based on the

principles of liberal democracy and market economy (Fukuyama 2004; Paris 2004; Richmond 2011). Over time, this institutional understanding of state-building, conceived as a technical/apolitical process of institutional capacity building, has recognized the limitations of separating the rebuilding of state institutions from the process of constructing a shared sense of identity and common destiny (nation-building) and started to focus also on the reconstruction of civil society (Allen 2010).

Overall, the results of post-conflict peacebuilding activity based on the liberal peace idea have not been fully satisfactory. While on the one hand such activity has managed, in most cases, to prevent the recurrence of violence, on the other hand it has not been able to build legitimate states, due mainly to local resistance to external actors and their projects. As a consequence, the liberal peace framework has been criticised for reproducing a novel form of colonialism, for 'compromising sovereignty to create sovereignty' (Woodward 2001), for the lack of legitimacy accorded to the activity of external actors, for the lack of local ownership, for the absence of formal accountability provisions available to local populations towards international actors, and for being tied to the state elite rather than to the civil society and the lower strata of society.[4] Indeed, all these features may have the unintended consequences of fuelling nationalist reactions, which may further obstruct international peacebuilding efforts.

The EU's state-building is part of its broader peacebuilding activity, which since the outset has been based on the liberal peace idea (Richmond, Björkdahl, and Kappler 2011, 452). Indeed, after the Treaty of Maastricht, the 'maintenance of peace and of international security' became an objective of its Common Foreign and Security Policy. And at the same time the EU established, among its Common Foreign and Security Policy objectives, the consolidation of democracy and the rule of law (Treaty on the European Union 2007, art. 21). The process itself of European integration that through the consolidation of democracies, the functioning of market economies and the creation of common institutions, favoured the

achievement of stable peace in Europe, can be interpreted as a liberal peace project (see, for example, Russett and Oneal 2001, 24).

In the years that followed, the EU started to develop its capabilities or foreign policy tools for peacebuilding. On the one hand, the European Commission (1996; 2001; 2002; 2006), in its policy documents on this issue, started to envisage a set of non-conventional foreign policy tools for peacebuilding,[5] such as closer economic and political relations with the EU, the promotion of democratic institutions and human rights, the strengthening of civil society, and the promotion of regional cooperation, which confirmed its state-building approach to peacebuilding. On the other hand, the member states, after their failure to intervene to stop the wars in former Yugoslavia, which caused 100,000 casualties and the displacement of 2 million people, decided to provide the EU with operational capabilities for conflict management. This was done through the creation of the European Security and Defence Policy (renamed Common Security and Defence Policy by the Lisbon Treaty), which has given the member states the opportunity to deploy military and civilian missions in third countries during all the conflict phases (Treaty on the European Union 2007, art. 43(1)).

This approach to peacebuilding, inclusive of both conventional and non-conventional foreign policy tools, was confirmed and clarified after the institutional changes introduced by the Lisbon Treaty. In December 2013, the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission presented the so-called 'EU's comprehensive approach to conflicts and to external shocks'. This 'comprehensive' approach referred to both the horizontal dimension of the joint deployment of different tools of the EU and to the vertical dimension of the shared responsibility of the actors at the EU and member state levels (High Representative and European Commission 2013, 3).

With the European Union Global Strategy, presented by the High Representative Federica Mogherini in June 2016, the EU's comprehensive approach has become the 'integrated

approach to conflicts', providing some new elements for the EU's approach in this area (EU Global Strategy 2016, 9 and 28). The document states that '[i]mplementing a multidimensional approach through the use of all available policies and instruments aimed at conflict prevention, management and resolution is essential' (EU Global Strategy 2016, 28). This had already been proposed by the comprehensive approach that, according to the EU Global Strategy, would be expanded, through: 1) pursuing a multi-phased approach 'acting at all stages of the conflict cycle'; 2) pursuing 'a multi-level approach to conflicts acting at the local, national, regional and global levels'; 3) pursuing a 'multi-lateral approach engaging all those players present in a conflict and necessary for its resolution' (EU Global Strategy 2016, 29). This new approach seems to be much more inclusive, since it considers not only the various foreign policy tools at the disposal of the EU, but also the temporality and the spatiality of the EU's action in this domain. This is done by underlining the need to be active in all phases of the conflict (before escalation, during the escalation, and after) and the need to involve, in a multilateral way, all relevant actors acting at different levels.

In addition, it is interesting to observe that, in this document, the EU has tried to address most of the criticisms brought against the liberal peace idea by combining its traditional state-building approach with some new elements (like local agency) typical of a more contextually relevant form of peacebuilding which, if implemented, should enable the EU to attain more legitimacy in the target countries. The dimension of local agency of the state-building process is addressed in the part of the document on 'Conflict settlement', where it is affirmed that '[e]ach conflict country will need to rebuild its own social contract between the state and its citizens …. When the "centre" is broken, acting only top-down has limited impact …. Through Common Security and Defence Policy, development, and dedicated financial instruments, we will blend top-down and bottom-up efforts fostering the building blocks of sustainable statehood rooted in *local agency*' (EU Global Strategy 2016, 31). Based on this

document, Table 1 classifies the main EU foreign policy tools for state-building according not only to the conventional/structural nature of each tool but also to the top-down/bottom-up approach.[6]

-----------------------------------------------Table 1 about here ------------------------------------------

This brief discussion of the origins and of the main policy developments of the EU as a state-builder in the framework of the debate on the liberal peace idea shows that the issue of contestation has been largely disregarded by this debate[7] as well as by the EU policy documents' conceptualization of its role as a state-builder. In a similar way, most scholars analysing the EU's role in peacebuilding have focused on its foreign policy tools, the mechanism of conditionality, and the impact on the target countries, largely neglecting the issue of state contestation. Indeed, while some studies (Jorgensen 1997; Blockmans 2008; Gross and Juncos 2011; Whitman and Wolff 2012) have considered the EU's activity for peacebuilding in the specific framework of Common Foreign and Security Policy, other studies (Kronenberger and Wouters 2004; Diez, Albert, and Stetter 2006; Tocci 2007; Blockmans, Wouters, and Ruys 2010) have conceptualized the EU's activity for peacebuilding as a cross-sector of its broader foreign policy, taking into consideration not only its Common Foreign and Security Policy tools but also those of the structural foreign policy, as the different levels of political and economic integration. In particular, this second group of studies have shown that the promise of membership can increase the ability of the EU to contribute to post-conflict stabilization. For example, Diez, Albert, and Stetter (2006) have outlined that the integrationalist logic for peace is a significant advantage for the EU, and Richmond, Björkdahl, and Kappler (2011, 455) consider the notion of regional (political and economic) integration as the EU's addition to the liberal peacebuilding project.

9

Considering the similarities concerning the EU's relations with Central-Eastern European countries, it should not come as a surprise that the academic literature on EU relations with Western Balkan countries has used the concepts of external Europeanization, member state building and conditionality in order to analyse EU foreign policy towards this geographic area (Anastasakis 2005; Blockmans 2007; O'Brennan 2008; Belloni 2009; Fagan 2010; Bieber 2011; Noutcheva 2012; Elbasani 2013; Keil and Arkan 2015). Bieber (2011, 1791), for example, has affirmed that the EU's activity in the Western Balkans was based on a 'dual strategy of state-building and European integration', relying strongly on conditionality, which suggests that the 'elite will transform the institutions of their country if rewarded by the EU with membership'. Conditionality is considered by Schimmelfennig (2012, 659) to be a mechanism of Europeanization, through which the EU 'proactively disseminates its system and rules of governance by setting them as conditions that external actors have to meet in order to obtain rewards and avoid sanctions' (Schimmelfennig 2012, 659). Indeed, conditionality can be positive and negative. While positive conditionality requires a benefit (as membership) in return for compliance with the EU's conditions, negative conditionality entails the infliction of a punishment (as diplomatic or economic sanctions) if conditions have not been respected (Tocci 2007, 10).[8]

In the Western Balkan countries, the EU has promoted the building of political and economic institutions, according to its normative standards, by positively conditioning advances along the path to membership on fulfilment of its conditions/normative standards on state's institutions. However, while the promise of membership to Western Balkan countries is expected to increase the EU's ability to contribute to post-conflict stabilization, the associated mechanism of conditionality has some problematic features. First, as argued by Schimmelfennig (2008, 919-920), the legacy of ethnic conflict creates domestic obstacles to effective conditionality because EU conditions are related to issues of national identity that

impose potentially high political costs of compliance on the target governments. Second, the mechanism of conditionality is mainly based on élite-level cooperation and focuses on promoting institutional development rather than intercommunal reconciliation (Belloni 2009, 314; Bieber 2011, 1791; Keil 2013, 346 and 350; Belloni 2016, 533). Third, the mechanism of conditionality favours rule adoptions rather than rule internalization (see, for example, Economides and Ker-Lindsay 2015). This means that new norms are adopted by the government in order to comply with the EU conditions, but they are not internalized by society, making it difficult to implement them. All these problematic features, associated with the mechanism of conditionality, can have the unintended consequence of undermining local legitimation for the EU's activity as a state-builder (Noutcheva 2012; Elbasani 2013; Yabanci 2016), and consequently fuel nationalist reactions, which may further obstruct the EU's peacebuilding efforts (see, for example, Krasner and Risse 2014).

Overall this literature on the EU's state-building through integration approach in the Western Balkans has underlined the presence of an additional challenge for the EU's transformation capacity in this region, which stems from the fact that the EU must also deal with contested states, like Kosovo and Bosnia and Herzegovina, or very weak states resulting from the violent break-up of Yugoslavia.[9] However, the state contestation issue and its implications for the EU's role have largely remained under-researched. It is only in recent years that some scholars have started to make this issue central to their studies (Bouris 2014; Kyris 2015; Bouris and Kyris 2017; Coppieters 2018). Bouris and Kyris (2017, 756), for example, have identified three main parameters of state contestation – lack of international recognition, of effective government and of territorial control – and examined how they may differently mediate the engagement and impact of the EU in different case studies. Through their empirical analysis they have found that lack of international recognition, in the case of the Turkish Republic of Northern Cyprus, has induced the EU to design new institutional

solutions in order to engage with a contested state (Bouris and Kyris 2017, 671), while the weak state structure and lack of full control of the territory, in the case of Palestine, have limited the EU's ability to implement its foreign policy tools but also provided the EU with state-building opportunities (Bouris and Kyris 2017, 763-765). These parameters of contestation are extremely useful because they underline the fact that contested states, like Kosovo, might have not only problems in terms of external sovereignty (lack of international recognition), but also in terms of internal sovereignty (lack of effective government and of territorial control). In addition, these parameters, which can also change with the passage of time, allow account to be taken of both temporal and spatial (among different case studies) variation in how the contestation issue shapes the EU's foreign policy role.

Starting from these recent empirical insights, this study makes the state contestation issue central to the debate on the EU's role as a state-builder in Kosovo in the period 2008-2018 by taking into consideration how the various parameters of the state contestation – lack of international recognition, of effective government and of territorial control – contribute to shaping the EU's actorness as a state-builder. Differently from the external Europeanization literature which considers the actual impact or reception of the EU's activity in the target country, this study uses the concept of EU actorness in order to evaluate how different factors have shaped the EU's ability to engage in some form of purposive action in the state-building process of Kosovo. Actorness has become one of the most prominent concepts for analysing the EU's functioning in international relations (Drieskens 2017, 1534) rather than its (external) impact on and/or effectiveness in specific policy issues or target countries. The notion of actorness was introduced to grasp the extent to which international organizations, like the UN and the European Community, could be considered as international actors like the predominant nation-states (Cosgrove and Twitchett 1970). Starting from the *sui generis* nature of the European Community as an international actor, Sjöstedt (1977, 15) developed a

model in which two internal conditions – a minimal degree of internal cohesion and of separateness from its internal environment – should be fulfilled for the European Community to be considered an international actor. During the 1990s Jupille and Caporaso (1998) and Bretherton and Vogler (1999 and 2006) presented alternative operationalisations of actorness focusing on different dimensions. While Jupille and Caporaso (1998) aimed for a framework with relevance beyond the EU and focused mainly on factors related to the EU's internal functioning, Bretherton and Vogler (1999 and 2006) focused on the EU and placed an equally strong focus on identity and systemic factors. In particular, Bretherton and Vogler (1999; 2006; 2013) proposed a constructivist conceptualization of 'actorness' centred on the dimensions of opportunity, presence and capability in order to account for the prerequisites for the EU's ability to engage in some form of purposive external action. This conceptualization underlines the importance of considering as prerequisites for the EU's external action: 1) 'the structural context of action' which 'denotes factors in the external environment of ideas and events which constrain or enable actorness' (opportunity); 2) 'understandings about the fundamental nature, or identity of the EU and the (often unintended) consequences of the Union's internal priorities and policies' beyond its borders (presence); 3) 'the internal context of EU external action – the availability of policy instruments and understandings about the Union's ability to utilize these instruments' (capability) (Bretherton and Vogler 2006, 24; Bretherton and Vogler 2013). Therefore, this conceptualization of EU actorness takes into consideration not only how the unique institutional set-up of the EU (capability), but also how events in the external context (opportunity) and the identity and external perceptions of the EU (presence) shape its foreign policy role.

Overall, this conceptual framework based on Bretherton and Vogler's conceptualization of EU actorness, combined with the state contestation issue, makes it possible to: 1) evaluate the

EU's ability to engage in some form of purposive action in the state-building process of Kosovo rather than its impact; 2) examine how EU actorness as a state-builder in Kosovo is constrained or enabled by the external context in which it operates (opportunity) as well as by its identity and external perception (presence) and by its ability to formulate priorities and develop policies and its availability of and capacity to use policy instruments (capability); 3) investigate how EU actorness as a state-builder is shaped by the state contestation issue of Kosovo; 4) present a diachronic analysis of the EU's state-building activity in Kosovo and account for variation in different types of EU state-building in Kosovo in the period 1999-2018.

**EU state-building of post-conflict Kosovo**

The EU's state-building activity of post-conflict Kosovo can be analysed in three phases, which correspond to the period of UN interim administration (1999-2008), the period of international monitored independence (2008-12), and the period that started with the end of the international monitored independence and is still ongoing (2012-present). For each phase, the analysis presents how the state contestation issue, together with other factors, contributed to shaping EU actorness as a state-builder (see Table 2).

*During the UN interim administration (1999-2008): state-building through the conditionality approach*

In 1998, the escalation of the conflict, with the massacre of Kosovo-Albanian civilians by Serbian authorities, forced the international community to intervene to end the violence. After the failure of the diplomatic efforts to de-escalate the conflict, on 24 March 1999 NATO started an air bombardment campaign on Yugoslavian military installations in Kosovo to force the withdrawal of Serbian forces. The Kosovo crisis strongly affected the EU by increasing frustration over its military impotence and dependence on the United States. Indeed, the crisis led France and the United Kingdom to agree, in the framework of the Saint-Malo Declaration (1998), to make EU foreign policy become more action oriented and focused on proactive crisis management.[10]

After ten weeks of external military action, on June 9, a peace agreement, also known as the Kumanovo Agreement, provided for the cessation of hostilities and the deployment of a NATO security force in Kosovo under the UN's auspices (NATO 1999). A few days later, the UN Security Council resolution 1244, of 11 June 1999, endorsed ex-post NATO military intervention and transferred the territory of Kosovo under the authority of the UN (UN Security Council 1999). The EU played a significant role during the final phase of the external military intervention, when it participated, through the appointment of the Finnish President Martti Ahtisaari as its mediator, in the diplomatic activity which led to the deployment in Kosovo of the NATO security force and of the UN interim administration mission (EU Council 1999). In particular, on June 2, 1999, President Ahtisaari, representing the EU in the diplomatic negotiations with the Serbian government and the Russian negotiator Viktor Chernomyrdin, presented to President Milosevic a document which was approved the day after by the Serbian parliament and the federal government. This document listed the 'principles to move towards a resolution of the Kosovo crisis', which included 'an immediate and verifiable end of violence' and the '[d]eployment in Kosovo under United

Nations auspices of effective international civil and security presences' (UN Security Council 1999, points 1 and 3 of Annex 2).

The following paragraphs analyse how during the UN interim administration EU actorness as a state-builder in Kosovo was enabled by the UN Security Council resolution 1244 of 1999 and by the appointment in 2005 of Ahtisaari as the UN special envoy to negotiate between Belgrade and Pristina on the final status issue (see Table 2). The EU's actorness was also facilitated by its ability to formulate a specific policy for the Western Balkan countries – the Stabilisation and Association Process – modelled on the enlargement policy, as well as by shifting its international reputation from a weak foreign policy actor unable to deal with crises at its borders to a successful foreign policy actor,[11] which in 2004 and 2007 had completed its enlargement to ten Central Eastern European countries (see Table 2). However, during this phase, the state-building activity of the international community was constrained by the lack of settlement over the status of Kosovo, which induced the Serbian minority to refuse to engage with Kosovo provisional institutions of self-government (see Table 2).

The UN Security Council resolution 1244 is usually considered a 'historic' turning point for Kosovo (Keath 2010, 228-229), because it *de facto* finished Serbian sovereignty by transferring this territory under the authority of the UN interim administration mission in Kosovo (UNMIK). However, it did not manage to resolve the dispute with Serbia on the status of that territory. Indeed, due to the Russian support for Serbia's positions, resolution 1244 did not contain any provision on the future status of Kosovo (UN Security Council 1999). Nevertheless, it created new opportunities for the state-building activity of the UN and it also opened the way for a stronger involvement of the EU in Kosovo and for the restoration of its international reputation lost at the time of the NATO military intervention.

The UN interim administration mission in Kosovo has been considered an example of external state-building 'through direct intervention' because it directly intervened 'in the

structure and construction of the state, through the creation of new institutions, the imposition of laws and other acts which are conventionally reserved for domestic actors' (Bieber 2011, 1790). Indeed, the mission, deployed a few weeks after its constitutive resolution, was vested with legislative, executive and judiciary powers organized into four pillars. They were: 1) humanitarian assistance led by the Office of the UN High Commissioner for Refugees; 2) civil administration under the UN; 3) democratization and institution building led by the Organization for Security and Cooperation in Europe; and 4) reconstruction and economic development managed by the EU.

During the first years of the mission's deployment, the complex issue of the political status of Kosovo was postponed and the UN's activity was guided by the so-called principle of 'standards before status', which induced the organization to prioritize the achievement of basic standards on the democratic functioning of provisional institutions of self-government, rather than addressing the final status issue. This approach led to the elections of 2002, which established a president, an assembly, and a government to which the UN mission progressively delegated responsibilities for an increasing number of competences. However, from their inception these institutions were confronted with significant legitimacy problems by the Serbian minority, which refused to engage with them, opting instead for a parallel system of administration that relied on Serbia.

While in the framework of the UN interim administration mission in Kosovo, the EU took charge of the reconstruction and economic development of Kosovo and became the main donor of economic aid,[12] at the EU level, it elaborated its first policy framework for the countries of the Western Balkans – the Stabilization and Association Process (SAP) – in order to take responsibility for their future by developing closer relations with them (European Commission 1999). The Stabilization and Association Process was enhanced, in June 2000, by the European Council decision to complement this new policy with a future

membership 'perspective' for all the Western Balkan countries, which were granted the status of potential candidates for accession (European Council 2000). However, in the specific case of Kosovo, as the final status issue had not yet been addressed, it was not clear whether the provision on a future European perspective applied also to this territory. Notwithstanding this, the policy framework of the Stabilization and Association Process, the significant amount of economic assistance and the future membership perspective enabled the EU to introduce its conditionality approach, modelled on the enlargement process of Central and Eastern European countries, in the relations with Western Balkan countries, but at an earlier stage than in the case of accession candidate countries (Pridham 2007; Elbasani 2013), and incorporating extra demands on the issue of regional cooperation in order to take the legacy of recent conflict in this area into consideration (Phinnemore 2003; Pippan 2004). Therefore, in 2004, within the Stabilization and Association Process policy framework, the EU started to elaborate a series of political, economic, and *acquis*-related priorities with which Western Balkan candidates had to comply in view of their future integration into the EU. In the case of Kosovo, most of these priorities aimed at contributing to the building and good functioning of its institutions. For example, in the first 'European Partnership with Serbia and Montenegro including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999', Kosovo was asked to 'strengthen the capacity of all Kosovo institutions to enact and effectively enforce EU compatible policies and legislation', to 'implement a public administration reform in order to streamline public administration and build a professional and accountable civil service', and to 'strengthen the judiciary and law enforcement agencies' (EU Council 2004, 21). It is for this reason that Bieber (2011, 1790-1791) affirms that 'conditionality as a mechanism of the EU's Eastern enlargement is transferred to state-building projects'.

Meanwhile, in March 2004, the eruption of new clashes between Serbs and Kosovo-Albanians, made the issue of the final status of Kosovo a priority for the international community. Therefore, the UN Secretary General Kofi Annan appointed, in November 2005, the former Finnish President Martti Ahtisaari, as his special envoy with the task of negotiating between Belgrade and Pristina on the final status. It is interesting that the EU clarified its position on the future membership perspective of Kosovo and started to design its strengthened role in the country only in 2005, once the decision on the final status had become high on the international political agenda. Indeed, it was only in 2005 that the European Commission clarified the position on Kosovo, by affirming that '[t]he European perspective of the Western Balkans … is also open to Kosovo' (European Commission 2005, 2). In addition, following the appointment in 2005 of Ahtisaari as the UN Secretary General's special envoy with the task of negotiating between Belgrade and Pristina on the final status, two high-ranking EU officials, one from the Council and one from the Commission, were appointed to assist him in his mediating role (Koeth 2010, 232), and in September 2006, the EU Council explicitly declared its willingness to strengthen the EU's role in Kosovo, once the decision on its final status had been reached (EU Council 2006, 29-33). However, one-year long negotiations did not produce any result, because Belgrade was determined to preserve Serbian sovereignty over Kosovo, while the Kosovars insisted on independence as the only viable solution. In February 2007, Ahtisaari decided to resolve this impasse by submitting his Comprehensive Status Proposal for a resolution (the so-called Ahtisaari Plan) in which, emphasizing the uniqueness of the case, he recommended granting Kosovo independence, which should be monitored by the international community (Ahtisaari 2007).

*During monitored independence (2008-12): state-building in the framework of its comprehensive approach to conflicts*

As well as the UN Security Council resolution 1244, the Ahtisaari Plan was an important turning point for Kosovo because it opened the way to its independence monitored by an international civil presence. The following paragraphs analyse how, during this phase, EU actorness in Kosovo was favoured by the presence of an internationally defined state-building agenda (the Ahtisaari Plan) and later by the International Court of Justice advisory opinion on the accordance of Kosovo's declaration of independence with international law, and by the UN General Assembly Resolution which called for a dialogue between Belgrade and Pristina to be facilitated by the EU (see Table 2). While at the EU level, its determination, dating back to the previous phase, to be in the 'driver's seat' of the process of monitored independence and the elaboration of creative institutional solutions allowed the EU to overcome the division of its member states on the recognition of Kosovo and to strengthen its role by assuming two additional responsibilities – implementation of the Ahtisaari Plan and normalization of relations between Pristina and Belgrade (see Table 2). However, EU actorness was constrained by the state contestation issue, which led the Kosovo Serbs to consider the International Civilian Representative/EU Special Representative and the EU rule of law mission as not legitimate, and by the EU's internal division on the recognition of Kosovo, so that the EU's potential membership perspective was perceived as not credible (see Table 2).

On 17 February 2008, as a result of the Ahtisaari Plan, the Kosovo assembly, as the provisional institution of self-government, declared Kosovo an independent state, accepted the Plan to become part of its own constitution, and welcomed an international civil presence to monitor the implementation of the plan and the deployment of a EU mission to strengthen

the rule of law (Assembly of Republic of Kosovo 2008, points 1 and 5). As foreseen by the Ahtisaari Plan, a few days after the declaration of independence, the first group of states recognizing Kosovo formed the International Steering Group with the task of supporting, for a limited period, the implementation of the Plan, and it appointed the Dutch diplomat Peter Feith as the International Civilian Representative.

The International Civilian Representative had the final authority on the interpretation of the Ahtisaari Plan and the task of coordinating all international presences in the implementation of the Plan. Peter Feith was supported in his tasks by an International Civilian Office. The international supervision of Kosovo's independence, as foreseen by the Ahtisaari Plan, has been regarded as an example of external state-building through 'close monitoring of the state-builders' (Bieber 2011, 1790). According to this new type of external state-building, 'international actors do not impose laws themselves, but pressure domestic actors to pursue a particular state-building agenda, which is internationally defined' (Bieber 2011, 1790). Indeed, the Ahtisaari Plan can be considered an internationally defined state-building agenda which, by committing Kosovo to protecting the rights, identity and culture of Kosovo's non-Albanian communities in order to create the conditions that would allow them to remain in Kosovo, and to accept some limitations on its sovereignty,[13] opened the way to its independence. Peter Feith (2018) has observed that, while the previous phase (UN interim administration) was characterised by an 'intrusive international scrutiny' of Kosovo, this new phase was based on 'equal partnership' with the Kosovo political élite and a commitment to 'local ownership, transparency and respect'.

At the EU level, Kosovo's declaration of independence led to a significant division among the member states on the issue of recognition, because five of them opposed recognizing it. While Cyprus, Slovakia, Spain and Romania were opposed because of the precedent that such recognition might represent for separatist movements on their own territory, Greece did

not consider recognition because of solidarity with Cyprus and because of cultural affinities with Orthodox Serbia. Madrid became a *de facto* leader among the non-recognising member states and, reflecting on the precedent that Kosovo could represent for separatist movements on the territory of the member states, it declared that it would not compromise to save EU unity after its own basic national interests had been ignored by other EU member states intent on moving Kosovo rapidly to independence (International Crisis Group 2008, 11).

This internal division among its member states was apparently overcome through a 'status neutral' position, according to which the EU neither supported nor opposed Kosovo's independence, and an 'approach of diversity on recognition, but unity in engagement' (European Commission 2009, 4). Overall, this peculiar approach allowed the EU to strengthen its role in Kosovo and therefore to complement its state-building through the conditionality approach with additional tools, of conventional nature, which made Kosovo become a key test case for its comprehensive approach to conflicts. In particular, the EU took care of the implementation of the Ahtisaari Plan through the appointment in 2008 of its Special Representative for Kosovo, the Dutch diplomat Pieter Feith, who was also the International Civilian Representative, and through the deployment in 2008 of the largest Common Security and Defence Policy rule of law mission ever launched (EULEX) to assist the Kosovar authorities in shaping police, justice and border management structures. Moreover, in 2011 the EU started to address the issue of the normalization of relations between Pristina and Belgrade by starting its mediation activity between them on technical issues.

The combination of the two positions – International Civilian Representative and EU Special Representative – holded by Peter Feith originated from the recommendation of July 2006 of the Secretary General/High Representative Solana and the European Commissioner Rehn, according to which the head of the international civilian mission should be 'double-

hatted' as EU Special Representative (EU Council 2006, 1), and from the EU Council joint action of September 2006 which created 'a team to contribute to the preparations of the establishment of a possible international civilian mission in Kosovo, including a EU Special Representative component' (EU Council 2006, art. 1). It is thanks to this preparatory work, that the Ahtisaari Plan established that '[T]he International Civilian Representative and the European Union Special Representative … shall be the same person' (Ahtisaari 2007, art. 11). This EU activism and creative institutional solutions, well before Kosovo's declaration of independence, was motivated by the fact that the EU wanted to be in the 'driver's seat' of the process,[14] while at the same it had to deal with the diverging views of its member states and avoid a stalemate in its policy. However, the two mandates of the International Civilian Representative/EU Special Representative were strictly separated[15] and the overall role played by Peter Feith was strongly constrained by the lack of recognition of Kosovo by five EU member states. Whilst as International Civilian Representative, Peter Feith recognized Kosovo's independence, as EU Special Representative, he was expected not to recognize Kosovo and to continue to consider the UN interim administration mission and the UN Security Council resolution 1244(1999) as the highest authority. As said by Peter Feith (2018): 'in whose name was I expected to speak of the 'status-neutral' EU or of the 'status-committed' International Civilian Office?'. According to Feith, the distinction between the two roles had the double effect of reducing the leadership of the International Civilian Representative/EU Special Representative and therefore his capacity to coordinate among the various international presences, and of undermining his legitimacy *vis-à-vis* Belgrade, which tried to limit his activity in Serb-majority areas.[16]

The state-building activity of the international community was also strongly constrained by the opposition of Russia and China to the approval by the Security Council of the Ahtisaari Plan. The Serb government rejected the Ahtisaari Plan, refused to cooperate with

the International Civilian Office and to have contacts with the Kosovo government, and encouraged Kosovo Serbs in the north to leave Kosovo institutions by supporting them with the creation of parallel governing structures. Furthermore, on 8 October 2008, Serbia submitted a resolution to the UN General Assembly requesting the International Court of Justice to issue an advisory opinion on the accordance with international law of Kosovo's declaration of independence. Kosovo Serbs opposed to the deployment to the north[17] of the International Civilian Office and the EU rule of law mission (because they were not endorsed by the Security Council), and the transfer of responsibility from the UN interim administration mission to local institutions, the International Civilian Representative/EU Special Representative and the EU rule of law mission, after a 120-day provisional period as envisaged by the Ahtisaari Plan, was more difficult than expected. It was only thanks to a plan of six points presented in June 2008 by the UN Secretary General, and approved in November by the Security Council, that the EU rule of law mission was allowed to operate under the overall status-neutral authority of the UN interim administration mission, which continued to be present in the north of Kosovo, representing for the Serbs the only legitimate international civil presence (UN Secretary General 2008). Notwithstanding this harsh reaction by the Serb government and the Serb community in the north, which imposed severe limitations on what the international community could achieve,[18] Kosovo continued its process of building and strengthening state institutions, and on 22 July 2010, the International Court of Justice ruled that Kosovo's declaration of independence did not violate international law (International Court of Justice 2010).

The rule of law has been the most important domain on which the state-building activity of the international community in Kosovo has focused, because it is generally considered a pre-requisite for economic development and also of strategic importance for the internal security of the EU. The EU has been strongly engaged in this field: in the period 2007-11 more than

half of its assistance to Kosovo was allocated to the rule of law, mainly through the EU rule of law mission and rule of law projects funded by the Instrument for Pre-Accession (European Court of Auditors 2012, 11). The report of the European Court of Auditors shows how the different parameters of the state contestation issue in Kosovo – the lack of territorial control, the lack of effective government and the lack of recognition by all EU member states – constrained the implementation of the EU rule of law assistance to Kosovo. First, the audit found that 'there has been almost no progress in establishing the rule of law in the north of Kosovo' due to the 'lack of control over the north by the Pristina-based Kosovo authorities' (European Court of Auditors 2012, 27). Indeed, rule of law projects, which were intended to cover all Kosovo, did not target the north of Kosovo and the staff of the EU rule of law mission had numerous difficulties in implementing their activities in the north (European Court of Auditors 2012, 27-28). Second, the audit found that 'the low starting point at independence for building up the rule of law', due to its 'recent history' and 'limited experience of self-administration' contributed to the limited effectiveness of EU assistance (European Court of Auditors 2012, 30 and 43). Finally, the Court concluded that the absence of a common EU position on Kosovo independence had jeopardized the incentive of potential EU accession (European Court of Auditors 2012, 43) because it had not sufficiently encouraged the Kosovo political authorities to commit themselves to the rule of law agenda.

Towards the end of the period of monitored independence, the EU further strengthened its role in Kosovo by assuming responsibility for the facilitation of dialogue between Pristina and Belgrade. This facilitation of dialogue was based on the UN General Assembly Resolution 64/298 of 13 October 2010, which called for a dialogue to be facilitated by the EU and established that 'the process of dialogue in itself would be a factor for peace, security and stability in the region, and that dialogue would be to promote cooperation, achieve progress on the path to the EU and improve the lives of the people' (UN General Assembly 2010, art.

2). It was an important responsibility because it could also address the final status of Kosovo, and therefore the origins of the problems associated with the state contestation issue. EU mediation started in March 2011 and it represented the beginning of the European External Action Service's activity towards Kosovo.[19] Indeed, as its facilitator the EU appointed Robert Cooper, who was the High Representative Ashton counsellor in the European External Action Service. He began to encourage constructive dialogue between Kosovo and Serbia, the purpose being to find technical solutions to the problems that affected citizens' everyday lives, rather than address the final status issue (Cooper 2015). By February 2012, this facilitation of dialogue led Kosovo and Serbia to finalize seven technical agreements on the free movement of persons, customs stamps, mutual recognition of university diplomas, exchange of cadastral records, civil registries, a mechanism for integrated border management, and the participation of Kosovo at meetings of regional organizations.

It seems that with the beginning of its mediation activity, the EU started to change its approach towards Kosovo by prioritising the normalization of relations with Belgrade rather than the implementation of the Athtisaari Plan. Indeed, since the beginning of its mediation activity, the EU had conditioned advances in its bilateral relations (with both Kosovo and Serbia) on positive developments in the dialogue rather than progress in the implementation of the Ahtisaari Plan and in the building and good functioning of state institutions. For example, it was thanks to the conclusion of the above-mentioned agreements on technical issues that the EU rewarded Kosovo with the green light for the Feasibility Study on the conclusion of a Stabilization and Association Agreement and Serbia with the long-awaited status of 'candidate country'. In their joint statement of 24 February 2012 on the agreement reached in the latest round of Belgrade-Pristina dialogue, the High Representative/Vice President Ashton and Enlargement Commissioner Füle declared that 'these agreements … are particularly welcome in view of the deliberations in the Council next week regarding

candidate status for Serbia', and that 'the Commission proposes to launch a feasibility study for a Stabilisation and Association Agreement between Kosovo and the EU' (High Representative and European Commission 2012). Consequently, in October 2012 the European Commission presented its Feasibility Study for Kosovo, in which it raised new hopes concerning the conclusion of a Stabilization and Association Agreement, from both a substantive and legal perspective (European Commission 2012, 3 and 7).

Meanwhile, even if Kosovo's state institutions were still weak, there was no democratic accountability, corruption was on the rise, and the north of Kosovo was *de facto* under Serbian control (Gashi 2013, 284), on 10 September 2012, the International Steering Group unanimously decided to terminate the mandate of the International Civilian Office with immediate effect because the Ahtisaari Plan had been substantially implemented (Feith 2012). According to Peter Feith, the main achievements were the transfer of competences to the municipal level and the creation of new Serbian-majority municipalities,[20] the protection of religious monuments of the Serbian Orthodox Church, the appointment of judges in the Constitutional Court, economic and fiscal reforms including property rights and privatisation.[21] In his statement to the Assembly of Kosovo, Peter Feith affirmed that the Constitution of Kosovo had been amended to take into consideration the ending of the international monitored independence and to include the values and key principles of the Ahtisaari Plan, paving the way for the next phase, i.e. integration of an independent country with the EU (Feith 2012, 1-2). According to this document, the most problematic situation was in the north of Kosovo, where Serbia had continued to maintain hospitals, schools, municipal administrations, security services and judicial structures, and where the local population was overly dependent on public employment and social assistance financed by Belgrade (Feith 2012, 4-5).

*After monitored independence (2012-present): state-building through prioritising the normalization of relations with Belgrade*

According to the International Civilian Representative/EU Special Representative, since the end of the period of monitored independence in Kosovo a new phase has begun which should lead to the integration of an independent country into the EU (Feith 2012, 1-2). During this new phase the EU has become the most important international actor in Kosovo,[22] even if during this period the EU has started to be generally perceived as weaker international actor due to its internal crises and divisions.[23] It has not only continued to facilitate the state-building process in Kosovo by means of various foreign policy tools (economic aid, Stabilization and Association Process, European perspective, conditionality, the presence on the ground of a EU Special Representative and the rule of law mission,[24] and the facilitation of dialogue with Belgrade) in the framework of its comprehensive approach to conflicts. It has also managed to reinforce its state-building activity in Kosovo by the entry into force, on 1 April 2016, of the Stabilization and Association Agreement with Kosovo, and in February 2018 by the presentation of a new strategy for the EU's engagement with the Western Balkans. It is apparent that, through these new foreign policy tools, the normalisation of relations with Belgrade gained prominence in the Union's state-building approach. The following paragraphs analyse how, during this phase, EU actorness in Kosovo has been shaped by the lack of control by Kosovo authorities of the north of the territory, by the lack of unity on recognition among EU member states, as well as by the increasing influence of Russia in the Western Balkan region (see Table 2).

After an eight-month break due to elections in Serbia, the EU started its second phase of mediation in October 2012; mediation which for the first time involved the prime ministers of both sides under the facilitation of the High Representative of the Union for Foreign Affairs

and Security Policy, Catherine Ashton and thereafter Federica Mogherini. During this phase, the EU focused its facilitation activity on more political issues, including the question of how to integrate the Serbian communities living in the north of Kosovo, and it continued its strategy of conditioning advance on the EU path to progress in the dialogue with Belgrade. It is interesting how the situation in North Kosovo, where the Pristina government did not have control of the territory, affected the EU's philosophy in this new phase of the mediation activity, as explained by Cooper. This was the EU's 'philosophy as far as the North of Kosovo was concerned': '[w]e did not want to change the way that Serb people lived in Kosovo: we find it reasonable that police and court officials in the North should be mainly ethnic Serbs. But they have to operate under the law of the land – in this case Kosovo (and that law has to meet European standards)' (Cooper 2015). Therefore, in the framework of this second part of the dialogue, Kosovo was asked to accept some influence by Serbia within Kosovo through the integration of the existing parallel structures and the expansion of the autonomous self-governance of the Serb community in Kosovo.[25]

This dialogue led, in April 2013, the two sides to sign a 14-point 'First Agreement of Principles Governing the Normalization of Relations', also known as the 'Brussels Agreement', which was complemented in May by a comprehensive implementation plan. The Brussels Agreement stipulated the establishment of an Association of Serb Majority Municipalities, as an ethnic entity preserving control over the governance, security and judiciary of the northern part of Kosovo, and the integration of Serbian police and courts into the Kosovo structures of governance. In addition, both parties pledged not to impede the other's process of European integration. This was an important commitment. It shows that the EU had learnt from the case of Cyprus than once a conflict party is inside the EU, it becomes more difficult for the EU to play a significant role because this state would block the adoption of foreign policy tools towards the other conflict party.

It is also interesting that, during this phase, the EU continued its strategy of conditioning advances along the EU path to progress in the dialogue with Belgrade. The European Commission called this agreement 'historic' and a 'further proof of the power of the EU perspective and its role in healing history's deep scars' (European Commission 2013, 1). According to the Commission, this 'historic agreement creates the conditions for building a common European future for both sides' (European Commission 2013, 12). Indeed, it 'paved the way for the European Council decision to open accession negotiations with Serbia and the Council to approve negotiating directives for the Stabilization and Association Agreement with Kosovo' (European Commission 2013, 12).

The Stabilization and Association Agreement with Kosovo was negotiated between October 2013 and May 2014, and initialled in July 2014. Commenting on this matter in its enlargement strategy communication, the European Commission affirmed that '[c]ompletion of the negotiation of a Stabilization and Association Agreement with Kosovo … is a milestone on Kosovo's European integration path', and that it was possible thanks to 'the progress made by Kosovo in the reforms and its continued commitment to the normalisation of its relations with Serbia' (European Commission 2014, 25-26). Then, starting from the consideration that '[t]he context of accession negotiations can generate political impetus for the resolution of disputes', the Commission stated that it had 'integrated the requirement for normalisation of relations into the negotiating framework with Serbia and the Stabilization and Association Agreement with Kosovo' (European Commission 2014, 17).

In the same way, the signing of the Stabilization and Association Agreement with Kosovo, on 27 October 2015, was linked to progress in the dialogue with Belgrade. It was thanks to the Kosovo political elite's 'commitment to the normalization of relations with Serbia, by reaching a number of key agreements [on energy, telecommunications, the establishment of the Association/Community of Serb majority municipalities, and the bridge in

Mitrovicë/Mitrovica] in August', that it was possible to reach this 'milestone on Kosovo's path towards a European future' (European Commission 2015, 4). However, in its report the European Commission expressed, for the first time, its concern about the increased polarization between government and opposition on the agreements reached with Belgrade in August 2015 (European Commission 2015, 4-5) because the nationalist opposition party – Vetëvendosje (VV) – responded with protests and accusations that the ruling Democratic Party of Kosovo (PDK) was too generous to the ethnic Serbian minority.

The text of the Stabilization and Association Agreement confirms the prioritisation of normalisation of relations between Belgrade and Pristina. First, 'Kosovo commits to continued engagement towards a visible and sustainable improvement in relations with Serbia', and this commitment constitutes an essential principle of the agreement, according to which in the case of non-compliance by Kosovo, the EU may take the measures it deems appropriate, including suspending all or part of the Stabilization and Association Agreement (EU Council 2015, art. 5). Second, Kosovo's commitment to a visible and sustainable improvement in relations with Serbia 'shall ensure that both can continue on their respective European paths, while avoiding that either can block the other in these efforts, and should gradually lead to the comprehensive normalisation of relations between Kosovo and Serbia, in the form of a legally binding agreement, with the prospect of both being able to fully exercise their rights and fulfil their responsibilities' (EU Council 2015, art. 13(2)).

Notwithstanding the polarisation of the political situation in Kosovo, the Stabilization and Association Agreement with the EU entered into force on 1 April 2016. By providing for enhanced political dialogue, closer trade integration, and new forms of cooperation, it potentially gave the EU more leverage. In particular, under the implementation of the Stabilization and Association Agreement, in November 2016 the Commission and Kosovo adopted the European Reform Agenda which, by outlining priority actions in the fields of

good governance and the rule of law and enhancing political dialogue, provided the European Commission with more tools to steer the reform process in the country.[26] Also to be noted is that the EU's will to make bilateral relations with Kosovo progress, notwithstanding the lack of recognition of Kosovo by five of its member states, led the EU to develop its institutional (and legal) creativity further by elaborating the first comprehensive framework agreement, not of transitional nature, with a non-recognized entity. In order to avoid problems with the ratification by its member states, the Stabilization and Association Agreement with Kosovo is of *sui generis* legal nature (Van Elsuwege 2017, 394-395), because it is the only Stabilization and Association Agreement with the Western Balkan countries which has been concluded by the EU alone (and not by the EU and its member states).

On 6 February 2018, the European Commission, in an attempt to address increasing competition and influence by Russia in the Western Balkan region,[27] and to boost pro-European movements in the region, presented a new strategy for the EU's engagement with the Western Balkans. This strategy, by suggesting the completion of the accession process for Serbia in 2025, has given further prominence and urgency to the normalisation of the relations between Belgrade and Pristina. In this document, the European Commission has further underlined that '[w]ithout effective and comprehensive normalisation of Belgrade-Pristina relations … there cannot be lasting stability in the region', and that '[a] comprehensive, legally binding normalisation agreement is urgent and crucial so that Serbia and Kosovo can advance on their respective European paths' (European Commission 2018, 7). In addition, the Commission has illustrated the following steps in order for Serbia to complete the accession process in 2025: 1) a comprehensive, legally-binding normalisation agreement will have to be 'concluded urgently', 2) the implementation of the agreement on normalisation of relations with Kosovo will need to have 'advanced substantially' and 3) an 'irreversible implementation' of the agreement with Kosovo, 'reflecting the consolidation of

the full normalisation of relations', will have to be reached in order to close the accession negotiations (European Commission 2018, 8). Notwithstanding this prioritisation of the normalisation of the relations between Kosovo and Serbia, it will be very difficult to achieve certain objectives, considering that political opinion in Serbia is not ready to accept formal recognition of Kosovo as an independent state, that Russia will express its support for the Serb position, and that in Kosovo there is not sufficient domestic support for the agreements reached in the framework of the dialogue.[28]

---------------------------------------------Table 2 about here --------------------------------------

## Conclusion

The foregoing analysis of the EU's state-building activity has shown that, while at the time of the UN interim administration and of the international monitored independence, the EU participated with other international actors, under the umbrella respectively of the UN and of the International Steering Group, in the post-conflict reconstruction of Kosovo, since 2012, with the end of the period of monitored independence, the EU has become the primary actor in the state-building process of Kosovo. The analysis of the main foreign policy tools through which the EU has tried to facilitate the state-building process in Kosovo has shown how its approach has varied. While the EU initially adopted a state-building through conditionality approach, modelled on its enlargement policy, after 2008, thanks to EU institutions' elaboration of foreign policy tools to intervene in post-conflict context, the EU complemented its conditionality approach with additional tools, of conventional nature, which made Kosovo into a key test case for its comprehensive approach to conflicts. Finally, in recent years, due also to a differentiation of functions between the European Commission,

which is in charge of the compliance with the *acquis communautaire* and the enlargement process of Kosovo, and the European External Action Service, responsible for the political aspects of EU-Kosovo relations,[29] the EU has prioritised the normalisation of relations with Belgrade, in its state-building approach in Kosovo. However, the prioritisation of the normalisation of relations with Belgrade has induced the EU to rely much more on top-down foreign policy tools (see Table 1), like the facilitation of dialogue, through which the EU is tied much more to the state elite than to the local context. This may yield nothing more than a negative peace, because it is unable to encourage support and legitimation by individuals and communities for the Union's state-building activity. In addition, this new approach contradicts the 2016 EU Global Strategy, which has sought to combine the EU's traditional state-building approach with new elements, such as local ownership, that should enable the EU to attain more contextual legitimacy in contested states like Kosovo.

The analysis has also presented some examples of how EU actorness as a state-builder is shaped by the state-building approach of the international community (opportunity), by its identity and external perception (presence), by its ability to formulate priorities, develop policies and use policy instruments (capability), and by the state contestation issue. The state-building approach of the international community can constrain or enable EU actorness in this domain. For example, when in the initial period the UN's activity was guided by the principle of 'standards before status', the EU was given only a technical task (reconstruction and economic assistance). Instead, after 2005, when the UN state-building approach in Kosovo changed and the issue of the final status became a priority, the EU clarified its position on Kosovo by affirming that the European perspective was also open to Kosovo, and it declared its willingness to strengthen its role once the decision on its final status had been made. In a similar way, it was the UN General Assembly Resolution that called for a dialogue between Belgrade and Pristina facilitated by the EU. EU actorness as a state-builder in

Kosovo has also been shaped by its general perception (presence) of a weaker or stronger international actor as well as by its willingness and capacity (capability) to be in the driving seat of the state-building process, notwithstanding the lack of unity of its member states on the issue of Kosovo's recognition.

EU actorness in the state-building process in Kosovo was also shaped by the contestation issue, and its main parameters – lack of international recognition, of effective government and of territorial control. The lack of recognition by five of its member states shaped the EU's actorness as a state-builder in various ways. While on the one hand, it induced the EU to devise creative institutional and legal solutions (the 'approach of diversity on recognition but unity in engagement', the two different roles delegated to the International Civilian Representative/EU Special Representative, and the *sui generis* legal nature of the Stabilization and Association Agreement with Kosovo) in order to overcome its internal division, on the other hand it strongly reduced EU leverage[30] because the EU was not perceived as a credible actor by other international actors, by local actors in Kosovo and by Serbia. The lack of effective government, due to its recent history, limited experience of self-administration, and low starting point at independence also contributed to shaping EU actorness in the state-building process. While on the one hand, it induced the EU to make Kosovo become the recipient of the largest amount of EU aid per capita in the world since 1999 (European Court of Auditors 2012, 10), on the other hand the weak state apparatus of Kosovo constrained the effectiveness of EU economic assistance. The lack of territorial control over the north by the Pristina-based Kosovo authorities strongly shaped EU actorness. While on the one hand, EU actorness was constrained because it found implementing its policies impossible or very difficult in that part of the country, on the other hand it also shaped the EU's philosophy on the north of Kosovo during the second part of the dialogue, inducing the EU to make Kosovo accept some influence by Serbia within Kosovo.

The first lesson that can be learnt from this case-study concerns the important role played by the international community at the end of the conflict in solving or otherwise an eventual contestation issue. The case-study of Kosovo shows that when the international community is not united and there is at least one important international actor that supports the position of one conflict party, against the rest of the international community, it is impossible to solve the contestation issue. The second lesson that can be learnt from this case-study is that the EU, notwithstanding the division of its member states on recognition, was able to become the most important international actor on the ground and to make use of its vast array of foreign policy tools to promote the state-building process. This is something that the EU is not able to do towards other cases of contested states. And this implies that, as the EU foreign policy had potentially more chances to be successful in the case of Kosovo, a EU failure in this context would represent a huge failure for its foreign policy, especially at a time in which the EU is generally perceived as a weaker international actor.

NOTES

[1] This interview took place on February 12, 2018.

[2] These interviews took place on March 12, 2018.

[3] This interview took place on April 17, 2018.

[4] For these criticisms and an alternative approach to peacebuilding see Mac Ginty 2011.

[5] For the distinction between conventional and non-conventional foreign policy tools see Keukeleire and Mac Naughtan 2008, 25.

[6] For a comprehensive typology of EU foreign policy tools for peacebuilding and state-building see also Musu 2010, 121; Papadimitriou and Petrov 2012, 751; Bouris 2014.

[7] See, for example, Ker-Lindsay (2018, 335) who argues that the study of contested states has 'gained prominence in International Relations in recent years'.

[8] There is also a distinction between ex ante and ex post conditionality, according to whether conditions have to be fulfilled before a contract is signed or conditions specified in an agreement must be respected or else the contract may be suspended (Tocci 2007, 11).

[9] Bieber (2011, 1791), for example, suggests the need to distinguish between institution building, which has been at the centre of EU conditionality in Central and Eastern Europe, and state-building, which more effectively captures the nature of EU relations with the Western Balkan countries with problems of contested or weak states. See also O'Brennan 2008, 508 and Keil 2013, 343.

[10] Through the establishment of the Common Security and Defence Policy.

[11] See, for example, Bretherton and Vogler 2013, 376-377.

[12] In the period 1999-2007 Kosovo received 3,5 million euros in donor assistance, two thirds of which came from the European Commission and EU member states (European Court of Auditors 2012, 11).

[13] Such as the prohibition of union with another country, restrictions on its future security force, international supervision of its independence for an initial period, and a continued international military presence.

[14] Differently from what happened in Bosnia a decade earlier, when the EU let the United States take the driver's seat (Keath 2010, 232). It also seems that the appointment of Peter Feith as International Civilian Representative had been informally agreed with the United States (Keith 2010, 235).

[15] While in his capacity of International Civilian Representative Peter Feith had to supervise the implementation of the Ahtisaari Plan; in his capacity as EU Special Representative he had to provide political guidance to EU rule of law mission and to coordinate EU presence in Kosovo.

[16] Interview with Peter Feith, February 12, 2018.

[17] The north of Kosovo comprises the municipalities of Leposaviq/Leposavi , Zubin Potok and Zveçan/Zve an as well as the part of Mitrovicë/Mitrovica municipality north of the river Ibër/Ibar. This area is predominantly inhabited by Serbs.

[18] Interview with Peter Feith, February 12, 2018.

[19] The European External Action Service was created in January 2011.

[20] However, he regrets that it was not possible to secure an agreement on setting up an association of Serb municipalities in accordance with Kosovo law as foreseen by the Ahtisaari Plan, given that this project has not yet been realized (Feith 2018).

[21] Interview with Peter Feith, February 12, 2018.

[22] The NATO-led Kosovo Force, under the authority of the UN interim administration mission, continues to be present in Kosovo in order to keep the peace between the ethnic Albanian majority and the Serb minority.

[23] See, for example, EU Global Strategy 2016, 13; Juncker 2016, 2.

[24] The mandate of the rule of law mission, reconfigured and reduced, has been extended until 14 June 2020.

[25] Former EU official quoted in Visoka and Doyle 2016, 8.

[26] Interviews with the judiciary and fundamental rights policy officer for Kosovo and the political desk officer for Kosovo in the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) of the European Commission, March 12, 2018.

[27] The President of the European Commission also underlined this issue by mentioning that if the EU is not able to 'find unity when it comes to the Western Balkans … our immediate neighbourhood will be shaped by others' (Juncker 2018, 4).

[28] This lack of domestic support for the agreements reached in the framework of the mediated dialogue fuelled nationalist reactions which culminated in the Parliament of Kosovo's resolution which called for a suspension of the EU-facilitated dialogue between Belgrade and Pristina (European External Action Service 2017).

[29] Interview with the head of the unit of Kosovo in the European External Action Service, 17 April 2018.

[30] Interview with the head of the unit of Kosovo in the European External Action Service, 17 April 2018.

# References

Ahtisaari, M. 2007. Comprehensive Proposal for the Kosovo Status Settlement. 2 February 2007. Accessed July 3, 2018. https://www.kuvendikosoves.org/common/docs/Comprehensive%20Proposal%20.pdf.

Allen, D. 2010. New Directions in the Study of Nation-building: Views through the Lens of Path Dependence. *International Studies Review* 12 (3): 413-429.

Anastasakis, O. 2005. The Europeanization of the Balkans, *Brown Journal of World Affairs* 12 (1): 77-88.

Assembly of Republic of Kosovo. 2008. Kosovo Declaration of Independence. Accessed July 3, 2018. https://www.assembly-kosova.org/common/docs/Dek_Pav_e.pdf.

Belloni, R. 2009. European integration and the Western Balkans: lessons, prospects and obstacles. *Journal of Balkan and Near Eastern Studies* 11 (3): 313-331.

Belloni, R. 2016. The European Union Blowback? Euroscepticism and its Consequences in the Western Balkans. *Journal of Intervention and Statebuilding* 10 (4): 530-547.

Bieber, F. 2011. Building impossible States? State-building strategies and EU membership in the Western Balkans, *Europe-Asia Studies* 63 (10): 1783-1802.

Blockmans, S. 2007. *Tough Love: The European Union's Relations with the Western Balkans*. The Hague: TMC Asser Press.

Blockmans, S. 2008. *The European Union and Crisis Management*, ed. The Hague: Asser Press.

Blockmans, S., J. Wouters, and T. Ruys. 2010. *The European Union and Peacebuilding: Policy and Legal Aspects*. The Hague: Asser Press.

Bouris, D. 2014. *The European Union and Occupied Territories: State-Building without a States*. Oxon: Routledge.

Bouris, D. and G. Kyris. 2017. Europeanisation, Sovereignty and Contested States: The EU in Northern Cyprus and Palestine. *The British Journal of Politics and International Relations* 19 (4): 755-771.

Bretherton, C., and J. Vogler. 1999. *The European Union as a Global Actor*. London: Routledge.

Bretherton, C., and J. Vogler. 2006. *The European Union as a Global Actor*. 2nd ed. London: Routledge.

Bretherton, C., and J. Vogler. 2013. A global actor past its peak? *International Relations* 27 (3): 375-390.

Cooper, R. 2015. The Philosophy of the Belgrade-Pristina Dialogue. *European Western Balkans*, 16 July 2015. Accessed July 3, 2018. https://europeanwesternbalkans.com/2015/07/16/sir-robert-cooper-the-philosophy-of-the-belgrade-pristina-dialogue/.

Coppieters, B. 2018. 'Statehood', 'de facto Authorities' and 'Occupation': Contested Concepts and the EU's Engagement in its European Neighbourhood. *Ethnopolitics*, 17 (4): 343-361.

Cosgrove, C.A., and K.J. Twitchett. 1970. Part one: international organisations as actors. In *The New International Actors. The United Nations and the European Economic Community,* eds. C.A. Cosgrove and K.J. Twitchett, 9-51. London: Macmillan St Martin's Press.

Diez, T., M. Albert, and S. Stetter. 2006. *The European Union and Border Conflicts. The Power of Integration and Association*. eds. Cambridge: Cambridge University Press.

Drieskens, E. 2017. Golden or gilded jubilee? A research agenda for actorness. *Journal of European Public Policy* 24 (10): 1534-1546.

Economides, S. and J. Ker-Lindsay. 2015. 'Pre-accession Europeanization': The Case of Serbia and Kosovo. *Journal of Common Market Studies* 53 (5): 1027-1044.

Elbasani, A. 2013. *European Integration and Transformation in the Western Balkans: Europeanization or Business as Usual?* ed. London: Routledge.

European Commission. 1996. The European Union and the Issue of Conflicts in Africa: Peace-Building, Conflict Prevention and Beyond. Brussels, March 6.

European Commission. 1999. Communication from the Commission to the Council and the European Parliament of 26 May 1999 on the Stabilisation and Association Process for Countries of South-Eastern Europe. Brussels, May 26.

European Commission. 2001. Communication of the European Commission on the prevention of conflicts. Brussels, April 11.

European Commission. 2002. One Year On: The Commission Conflict Prevention Policy. Brussels, March 18.

European Commission. 2005. Communication from the Commission. A European Future for Kosovo. Brussels, April 20.

European Commission. 2006. Supporting Peacebuilding. An Overview of European Community Activity. Brussels, June 1.

European Commission. 2009. Communication from the Commission to the European Parliament and the Council. Kosovo∗ - Fulfilling its European Perspective. Brussels, 14 October.

European Commission. 2012. Communication from the Commission to the European Parliament and the Council on a Feasibility Study for a Stabilisation and Association Agreement between the European Union and Kosovo. Brussels, October 10.

European Commission. 2013. Communication from the Commission to the European Parliament and the Council. Enlargement Strategy and Main Challenges 2013-2014. Brussels, October 16.

European Commission. 2014. Communication from the Commission to the European Parliament and the Council, the European Economic and Social Committee and the Committee of the Regions. Enlargement Strategy and Main Challenges 2014-15. Brussels, October 8.

European Commission. 2015. Kosovo 2015 Report. Brussels, November 10.

European Commission. 2018. A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, Strasbourg, 6 February.

European Council. 2000. Feira Presidency Conclusion. 19-20 June.

European Court of Auditors. 2012. European Union Assistance to Kosovo Related to the Rule of Law. Special Report No 18/2012.

European External Action Service. 2017. Statement on Kosovo Parliament's call for suspension of the Dialogue. Brussels, March 9.

EU Council. 1999. Declaration on Kosovo. May 31.

EU Council. 2004. Decision of 14 June 2004 on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999. Brussels, June 14.

EU Council. 2006. Joint Action 2006/623/Common Foreign and Security Policy of 15 September 2006 on the establishment of a EU-team to contribute to the preparations of the establishment of a possible international civilian mission in Kosovo, including a European Union Special Representative component, Brussels, September 15.

EU Council. 2015. Stabilisation and Association agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo*, of the other part. Brussels, October 2.

EU Global Strategy. 2016. Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy. Brussels, June.

Fagan, A. 2010. *Europe's Balkan Dilemma: Paths to Civil Society or State-Building.* London: I. B. Tauris.

Feith, P. 2012. Speech by ICR Pieter Feith to the Assembly of Kosovo. September 10.

Feith, P. 2018. Overseeing Kosovo's conditional independence. European Council on Foreign Relations Commentary. February 9.

Fukuyama, F. 2004. The imperative of state-building. *Journal of Democracy* 25 (2): 17-31.

Gashi, K. 2013. Nations in Transit Report for Kosovo. Freedom House.

Geldenhuys, D. 2009. *Contested States in World Politics*. Basingstoke: Palgrave Macmillan.

Gross E. and A.E. Juncos. 2011. *EU Conflict Prevention and Crisis Management. Roles, Institutions, and Policies*. eds. London: Routledge.

High Representative and European Commission. 2012. Joint statement of High Representative/Vice President Catherine Ashton and Commissioner tefan Füle on the agreements reached in the latest round of Belgrade-Pristina dialogue. Brussels, February 24. Accessed July 3, 2018. 2012, http://europa.eu/rapid/press-release_MEMO-12-133_en.htm.

High Representative and European Commission. 2013. Joint Communication to the European Parliament and the Council. The EU's Comprehensive Approach to External Conflict and Crises. Brussels, December 11.

International Court of Justice. 2010. Accordance with International Law of the Unilateral Declaration of Independence in Respect to Kosovo. July 22.

International Crisis Group. 2008. Kosovo's Fragile Transition. Europe Report N°196, September 25.

Jorgensen, K. E. 1997. European Approaches to Crisis Management. The Hague: Kluver Law International.

Juncker, J.C. 2016. State of the Union Address. September 14.

Juncker, J.C. 2018. State of the Union Address. September 12.

Jupille J. and J. A. Caporaso. 1998. States, Agency and Rules: The European Union in Global Environmental Politics. *The European Union in the World Community.* ed. C. Rhodes, 213-229. Boulder, CO: Lynne Rienner.

Keath, W. 2010. State Building without a State: The EU's Dilemma in Defining Its Relations with Kosovo. *European Foreign Affairs Review* 15 (2): 227-247.

Keil, S. 2013. *State-building in the Western Balkans European Approaches to Democratization.* ed. Abingdon: Routledge.

Keil, S., and Z. Arkan. 2015. *The EU and Member State Building: European Foreign Policy in the Western Balkans.* eds. London and New York: Routledge.

Ker-Lindsay, J. and E. Berg. 2018. Introduction: A Conceptual Framework for Engagement with de facto States. *Ethnopolitics* 17 (4): 335-342.

Keukeleire, S., and J. MacNaughtan. 2008. *The Foreign Policy of the European Union*. Basingstoke: Palgrave.

Krasner, S. 2001. Problematic Sovereignty: contested rules and political possibilities. New York: Columbia University Press.

Krasner, S. and T. Risse. 2014. External actors, state-building, and service provision in areas of limited statehood: Introduction. *Governance* 27 (2): 545-567.

Kronenberger, V., and J. Wouters. 2004. *The European Union and Conflict Prevention: Policy and Legal Aspects*. eds. The Hague: Asser Press.

Kyris, G. 2015. *The Europeanisation of contested statehood: The EU in Northern Cyprus*. London: Routledge.

Mac Ginty, R. 2011. *International Peacebuilding and Local Resistance: Hybrid Forms of Peace*. London, Palgrave Macmillan.

Musu, C. 2010 *European Union Policy Towards the Arab-Israeli Peace Process*. Basingstoke: Palgrave Macmillan.

NATO. 1999. Military Technical Agreement between the International Security Force and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia, 9 June. Accessed July 3, 2018. https://www.nato.int/kosovo/docu/a990609a.htm.

Noutcheva, G. 2012. *European Foreign Policy and the Challenges of Balkan Accession Conditionality, legitimacy and compliance.* Abingdon: Routledge.

O' Brennan, J. 2008. *The EU and the Western Balkans: Stabilization and Europeanization through Enlargement.* London: Routledge.

Papadimitriou, D., and P. Petrov. 2012. Whose Rule, Whose Law? Contested Statehood, External Leverage and the European Union's Rule of Law Mission in Kosovo. *Journal of Common Market Studies* 50 (2): 746-763.

Paris, R. 2004. *Towards More Effective Peacebuilding: Institutionalization before Liberalization-Building Peace after Civil Conflict*. Cambridge: Cambridge University Press.

Paris R., and T. Sisk. 2009. *The Dilemmas of State-building: Confronting the Contradictions of Postwar Peace Operation*. eds. Oxon: Routledge.

Phinnemore, D. 2003. Stabilisation and Association Agreements: Europe Agreements for the Western Balkans. *European Foreign Affairs Review* 8 (1): 77-103.

Pippan, C. 2004. The Rocky Road to Europe: The EU's Stabilisation and Association Process for the Western Balkans and the Principle of Conditionality, *European Foreign Affairs Review* 9 (2): 219-245.

Pridham, G. 2007. Change and Continuity in the European Union's Political Conditionality: Aims, Approach, and Priorities. *Democratization* 14 (3): 446-471.

Richmond, O. 2011. *A Post-Liberal Peace*. Abingdon: Routledge.

Richmond, O., Björkdahl, A., and S. Kappler. 2011. The emergence EU peacebuilding framework: confirming or transcending liberal peacebuilding? *Cambridge Review of International Affairs* 24 (3): 449-469.

Russett. B. and J.R. Oneal. 2001. Triangulating Peace: Democracy, Interdependence, and International Organizations. New York: W.W. Norton.

Saint-Malo Declaration. 1998. Franco-British Saint-Malo Declaration, 4 December 1998. Accessed November 11, 2018. https://www.cvce.eu/content/publication/2008/3/31/f3cd16fb-fc37-4d52-936f-c8e9bc80f24f/publishable_en.pdf.

Schimmelfennig, F. 2008. EU political accession conditionality after the 2004 enlargement: consistency and effectiveness. *Journal of European Public Policy* 15 (6): 918-937.

Schimmelfennig, F. 2012. EU External Governance and Europeanization Beyond the EU. In *The Oxford Handbook of Governance*, ed. D. Levi-Faur, 656-669. Oxford: Oxford University Press.

Sjöstedt, G. 1977. *The External role of the European Community*. Farnborough: Saxon House.

Tocci, N. 2007. *The EU and Conflict Resolution. Promoting Peace in the Backyard*. Abingdon Oxon: Routledge.

Treaty on the European Union. 2007. Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community. Lisbon. December 13.

UN General Assembly. 2010. Resolution 64/298. October 13.

UN Secretary General. 1992. An Agenda for Peace. June 17.

UN Secretary General. 2008. Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo. June 12.

UN Security Council. 1999. Resolution 1244 (1999) on the situation relating Kosovo. June 10. Accessed July 3, 2018. https://peacemaker.un.org/sites/peacemaker.un.org/files/990610_SCR1244%281999%29.pdf.

Van Elsuwege, P. 2017. Legal creativity in EU External Relations: The Stabilization and Association Agreement between the EU and Kosovo. *European Foreign Affairs Review* 22 (3): 393-410.

Visoka. G. and J. Doyle. 2016. Neo-Functional Peace: The European Union Way of Resolving Conflicts. *Journal of Common Market Studies* 54 (4): 862-877.

Wallensteen, P. and F. Möller. 2008. Third Parties in Conflict Prevention: A Systematic Look. In Third *Parties and Conflict Prevention,* eds. A. Mellbourn and P. Wallensteen, 56-72. Stockholm: Gidlunds.

Weller, M. 2009. *Contested Statehood: Kosovo's Struggle for Independence*. Oxford: Oxford University Press.

Whitman, G. R., and S. Wolff. 2012. *The European Union as a Global Conflict Manager*. eds. Abingdon Oxon: Routledge.

Woodward, S. 2001. Compromised Sovereignty to Create Sovereignty: Is Dayton a Futile Exercise or an Emerging Model. In *Problematic Sovereignty: Contested Rules and Political Possibilities,* ed. S. Krasner, 252-300. New York: Columbia University Press.

Yabanci, B. 2016. The (Il)legitimacy of EU state-building: local support and contention in Kosovo. *Southeast European and Black Sea Studies* 16 (3): 345-373.

**Tables**

Table 1. EU main foreign policy tools for state-building

|  | **Conventional (Common Foreign and Security Policy)** | **Structural (non Common Foreign and Security Policy)** |
|---|---|---|
| **Top-down** | - Mediation/facilitation/dialogue<br>- Special Representatives | - Integration/association |
| **Bottom-up** | - Common Security and Defence Policy post-conflict stabilization missions | - Development cooperation<br>- Dedicated financial programmes |

Source: EU Global Strategy 2016, 31 (author's elaboration)

Table 2: Evaluating EU actorness as a state-builder in Kosovo (1999-2018)

| | | MAIN DIMENSIONS OF ANALYSIS | | | | TYPE OF STATE-BUILDING |
|---|---|---|---|---|---|---|
| | | Opportunity | Capability | Presence* | Contestation issue** | |
| **PHASES** | **Interim administration (1999-2008)** | - UN Security Council resolution 1244 (1999)<br>- Russian support for Serbia's position (1999)<br>- Ahtisaari becomes UN special envoy to negotiate between Belgrade and Pristina on the final status (2005)<br>- Ahtisaari Plan (2007)<br>- Opposition of Russia and China to the Ahtisaari Plan (2007) | - Diplomatic activity (1999)<br>- Economic assistance (1999)<br>- Stabilization and Association Process (1999)<br>- Conditionality (2004)<br>- European perspective (2005) | - From the perception of a weak international actor (not able to intervene in crisis' situations at its borders) to the perception of successful foreign policy actor (completion of Eastern enlargement) | - Serbian minority does not recognize the legitimacy of Kosovo's provisional institutions of self-government and opts for a parallel Serbian system of administration | State-building through conditionality approach |
| | **Monitored independence (2008-12)** | - International Court of Justice advisory opinion (2010)<br>- UN General Assembly resolution (2010) | - EU neutral position on the status of Kosovo (2008)<br>- Approach of diversity on recognition but unity in engagement (2008)<br>- EU Special Representative for Kosovo (2008)<br>- EU rule of law mission (2008)<br>- Facilitation of dialogue (2011) | - EU internal division makes EU potential membership for Kosovo perceived as not credible | - Lack of legitimacy for the Kosovo Serbs of the International Civilian Representative /EU Special Representative and for the EU rule of law mission<br>- Lack of control of the north of Kosovo makes it difficult to implement EU foreign policy tools | State-building in the framework of the comprehensive approach to conflicts |
| | **After monitored independence (2012-18)** | - Increasing influence of Russia in the Western Balkan region | - Stabilization and Association Agreement (2016)<br>- European reform agenda (2016)<br>- New strategy for the Western Balkans (2018) | - Perception of the EU as a weaker international actor due to its internal crises and divisions, and consequent waning power of its enlargement | - The lack of control of the north of Kosovo affects the EU's philosophy in mediation<br>- Sui generis legal nature of the Stabilization and Association Agreement because of the lack of unity on recognition | State-building through prioritizing the normalization of relations with Belgrade |

Author's elaboration

\* 'Presence' refers to the general perception of the EU as a foreign policy actor and not to the specific perception of the EU by Kosovars.

\*\* Even if in the first phase Kosovo cannot be considered as a contested state, because it had not yet declared independence, the contestation issue, in the form of the dispute with Serbia on the status of Kosovo, was already present.