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Master's thesis

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# **UN involvement in Kosovo: A path-dependent process?**

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## **Abstract**

The following master's thesis studies the role of the United Nations (UN) in the process towards Kosovo's independence. The aim of the study is to verify whether the UN engagement in Kosovo can be described as a path-dependent process. In doing so the thesis places itself into the general framework of new institutionalism, historical institutionalism in particular, that brought the concept of path-dependence into political science. As the case of UN involvement in Kosovo is a unique case, a single case study method, process tracing, is chosen as the methodological approach to conduct the study. The research relies on secondary textual data such as reports, resolutions and other documents of the UN, reports of non-governmental organizations present in the region and writing of other scholars. Based on these sources the process of UN engagement in Kosovo is reconstructed analyzing the conditions that led to each decision and the impact these decisions had on the future course of events to decide whether or not the UN engagement in Kosovo can be described as a path-dependent process.

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## Introduction

The break-up of the Soviet Union and Yugoslavia resulted in the emergence of many newly independent countries. While most of these new states became recognized as independent and sovereign countries, there were also several secessionist conflicts that resulted in *de facto* independent but not internationally recognized entities. Kosovo is one of the most controversial of these cases because of the role different international organizations played in this conflict and in its aftermath, but also because it has managed to acquire a relatively wide spread international recognition to its statehood. It is quite common that international or regional collective security organizations get engaged in secessionist conflicts when they become threatening to regional stability, as was the case in Kosovo. The fragile security situation of the Balkan region in the 1990s only adds to the concern of the international community and their engagement in Kosovo is therefore understandable. The United Nations (UN) played a particularly important role in the post-conflict Kosovo taking over the exercise of sovereignty in the region with an indefinite mandate – an unprecedented mission in the history of the United Nations. However, the outcome of the United Nations engagement – a (*de facto*) independent Kosovo, is somewhat more surprising, especially when taking into consideration the general attitude of the UN towards secession and the position taken from the beginning on the status of Kosovo reaffirming the sovereignty and territorial integrity of Yugoslavia. This controversy poses the question how did the engagement of the UN in Kosovo end up creating a result contrary to its initial intentions.

The United Nations action in Kosovo has been the subject of many studies. Most of them are focusing on the rather unusual function that the organization decided to take on in Kosovo, assessing the performance of their action in governing the region and/or in guaranteeing regional stability<sup>1</sup>. Another category of studies treats the UN

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<sup>1</sup> de Wet, Erika, 2009 ; Kirgis, Frederic L., 2001; Matheson, Michael J., 2001; Schmitt1, Daniella Christova, 2008; Silander, Daniel, 2009; Stahn, Carsten, 2001; Strohmeyer, Hansjorg, 2001; Yannis, Alexandros, 2002

involvement in Kosovo from the standpoint of humanitarian intervention<sup>2</sup>. However, the concept of humanitarian intervention in this case of is more related to the NATO intervention than to the role the UN took on in the aftermath of the conflict. In any case, these studies are more interested in the development of the concept of humanitarian intervention than in the UN involvement in the concrete case of Kosovo in its quest for independence. There are also studies that focus directly on the United Nations role in Kosovo analyzing the impact of different decisions on the evolution of the situation in the region and on the status question. Nevertheless, these studies have a rather descriptive approach to UN actions in Kosovo and to the progress made in the resolution of the status problem, without providing a theoretical explanation for the process<sup>3</sup>.

Therefore the process of UN involvement in Kosovo itself, the conditions that influenced it and led to an independent Kosovo – an outcome hardly imaginable in the beginning, have not been studied yet. There are no theoretic explanations providing verifiable hypothesis on this case or on the role of international organizations in national self-determination in general. Moreover, most of the studies of UN action in Kosovo focus on a particular moment in time or on a particular set of policies. However, in a case such as this, in order to adequately analyze a given development, the whole process has to be studied as previous decisions strongly influence the ones possible at any given time. Thus, the current study aims to fill this gap by providing a theory-based explanation to the UN involvement in Kosovo, analyzing the process from the beginning to the present day.

The UN involvement in Kosovo seems to be to a large extent explainable in the context of the path-dependence concept. While it is mostly argued that it is the target country that becomes dependent (path-dependent) in its process of nation and state-building<sup>4</sup>, it seems to be the other way around in the case of UN involvement in Kosovo. It appears

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<sup>2</sup> Merriam, John J., 2001 ; Thomashausen, Sophie, 2002; Tziampiris, Aristotle, 2002

<sup>3</sup> Duić, Dunja, 2009, Harland, David, 2010

<sup>4</sup> Allen, 2010

that from the beginning of the UN involvement in Kosovo, its range of options became more and more limited with every step taken and with some of those actions being of critical significance and largely determining the course of events to follow. The course of actions led eventually to the creation of an independent Republic of Kosovo that was originally not envisaged but was impossible to prevent as the decisions already taken were impossible to reverse. Therefore the hypothesis of the current thesis is the following: UN involvement in the establishment of Kosovo's independence was not anticipated in the beginning – there were possible alternative scenarios (causal possibility), but they became less and less probable in time (closure) through contingent or random events that were crucial to the developments thereafter (contingency) leading to a point where the UN was constraint to the chosen path as switching to other alternatives became unimaginable or too costly (constraint). If this hypothesis is confirmed, Kosovo represents a clear case of path-dependence. Confirming or rejecting this hypothesis is the main aim of the thesis.

The study is based on the theory of new institutionalism, in particular on historical institutionalism that brought the concept of path-dependence into political science. In the context of the current work it is considered that the use of path-dependence concept helps to explain the activity of the UN in the case of Kosovo that has led to an outcome it did not favor in the beginning and that arguably goes against its own principles, by explaining the causal processes that led to the UN involvement in Kosovo and finally to the declaration of independence of Kosovo and its acquiring partial international recognition. While it is an approach relatively little used in the study of international relations, it has a potential to contribute substantially to this field. Especially in this case it enables to take into consideration variables that have been attributed little attention until now while having potentially a crucial impact in the following development of the events. Therefore the current project contributes to a general understanding of the role of international institutions in the process of national self-determination through unilateral secession, a phenomenon very little studied until now. Furthermore, the thesis also aims to widen the scope of path-dependence as a theoretical approach in

international relations and develop this concept further by offering a new approach to its application.

Taking into consideration the uniqueness and the complexity of the case of UN involvement in Kosovo as well as that of the concept of path-dependence assumed to apply in this case, in-depth single case study, process tracing in particular, appears to be the most suitable methodological approach to be used and is therefore chosen for the current thesis. The study is based on secondary textual data such as the resolutions, reports and other documents of the UN concerning Kosovo, reports of nongovernmental organizations involved in Kosovo like International Crisis Group and writings of scholars on this matter. Relying on these materials, the process and evolution of UN involvement in Kosovo is studied to bring out the options available for the UN in the beginning and the narrowing of these possibilities with every further step taken. It is also attempted to bring out the tipping points of the UN involvement in Kosovo that were the most crucial decisions for determining the path dependent character of the process and also the direction it took.

The thesis is divided into three main chapters. The first chapter elaborates the theoretical framework of the study, bringing out the general approach and explaining in detail the concept of path-dependence and how it is used in the present the study. The second chapter describes the methodological approach of process tracing: when is its application most suitable, what are its strengths and weaknesses and why was it chosen for the current study. The third chapter in its turn is fully dedicated to the empirical study of the case. In its different sections first the institutional context of the United Nations influencing its action in the case of Kosovo will be discussed. Then a historical overview of the evolution of events in Kosovo and of UN involvement in the region will be given, at the same time analyzing the reasons and conditions influencing these processes. Finally the case will be analyzed purely from the point of view of path-dependence enabling to confirm or reject the hypothesis.

## **1) Theoretical framework**

The current study relies on the theory of new institutionalism, in particular on its subcategory historical institutionalism. One of the main concepts of historical institutionalism is path dependence. As the aim of the study is to control the validity of the hypothesis that UN involvement in Kosovo can be described as a path-dependent process, a clear understanding of what path-dependence implies is crucial to the study. In this section the general theory of new institutionalism and historical institutionalism in particular will be discussed. Special attention will be attributed to the concept of path dependence that is the underlying concept of the present study. Necessary conditions that need to be present in order to be able to talk about a path-dependent process will be brought out enabling operationalization of the concept for the purposes of the study.

### **1.1 New institutionalism**

According to the definition of DiMaggio and Powell the new institutionalism “in organization theory and sociology comprises a rejection of rational-actor models, an interest in institutions as independent variables, a turn toward cognitive and cultural explanations and an interest in properties of supraindividual units of analysis that cannot be reduced to aggregations or direct consequences of individuals' attributes or motives”<sup>5</sup>. The emergence of new institutionalism is closely linked with a more general behaviorist movement in the social sciences in 1960s and 70s<sup>6</sup> that places observed and observable behavior in the center of research. This is also a starting point for new institutionalism, but it adds that observable behavior cannot be the sole and unique basis of analysis in political science as behavior occurs in a context of institutions that

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<sup>5</sup> DiMaggio, Powell, 1991

<sup>6</sup> Immergut, 1998; Hall and Taylor, 1996: 936

influence behavior and should therefore be included in the analysis.<sup>7</sup> New institutionalism goes even further than that, it claims that institutions have a significant impact on the decision-making process and in order to understand the process the functioning of the institution has to be analyzed. According to new institutionalism collective phenomena cannot be considered as simply an aggregation of individual behaviors, but rather that the channels that institutions provide for collective phenomena determine to a large extent its nature. At the same time new institutionalisms also rejects the a priori principles of objective standards of social determinism or Marxism.

The theoretical frame of new institutionalism is somewhat contested in the scientific community. First of all this is because it is claimed that the new institutionalism does not bring in anything significantly new<sup>8</sup> as the institutions have been in the center of political science research since the beginning. Secondly, it is claimed that the overlapping framework of new institutionalism is ambiguous as it actually consists of three separate branches of scholarship – rational choice institutionalism, sociological institutionalism and historical institutionalism<sup>9</sup>, whereas there is no overarching theoretical framework.<sup>10</sup> The study of Hall and Taylor (1996), “Political science and the three new institutionalisms”, has quite successfully defined the limits of these three branches and explained their differences. However, Immergut (1998) convincingly argues that these three sub-categories do have many common traits that justify their regrouping under the general umbrella of new institutionalism. For the purpose of clarity only one of the three branches of new institutionalism that is of most interest in the context of the current research project, namely historical institutionalism, will be focused on hereafter.

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<sup>7</sup> Immergut, 1998: 5-7

<sup>8</sup> Selznick, Philip, 1996

<sup>9</sup> Hall and Taylor, 1996; Immergut, 1998; Thelen, 1999

<sup>10</sup> Immergut, 1998: 5

## 1.2 Historical institutionalism

Historical institutionalism is strongly influenced by the structural functionalist thought, but tries to go beyond<sup>11</sup>. The underlying characteristic of historical institutionalism is the fact that it treats institutions as something pre-given and poses the question how do institutions influence the behavior of individuals and the outcome of institutional processes (in contrast to the rational approach that focuses on the question how individuals influence institutions). Institutions are viewed as legacies of historical processes and understanding the processes by which institutions were created is crucial, as they will influence their functioning in the future. At the same time as Thelen puts it, “institutions are conceived in relational terms and institutional arrangements cannot be understood in isolation from the political and social setting in which they are embedded”<sup>12</sup>. The study of Immergut (1998) called “The Theoretical Core of the New Institutionalism” has been especially important in defining the theoretic characteristics of historical institutionalism and underlining the contribution of this particular approach to political science.

Within the overall framework of new institutionalism, historical institutionalism focuses mainly on the topics of power and interests while attributing attention to norms and culture of the institution under study. There is an assumption that “policymaking systems tend to be conservative and find ways of defending existing patterns of policy, as well as the organizations that make and deliver those policies”<sup>13</sup>. This assumption gives way to path-dependence, an underlying concept in historical institutionalism. Path dependence is closely related to the three main themes that characterize in particular historical institutionalism: “alternative” rationalities, contextuality of causality and contingencies of history. History in itself is viewed more as a discipline and not as a method – having a historical approach to research is a theoretic positioning emphasizing the irregularities of history and underlining the limitations of universal causal models,

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<sup>11</sup> Hall and Taylor, 1996: 936

<sup>12</sup> Thelen, 1999: 384

<sup>13</sup> Peters, Pierre, King, 2005: 1276

and not a methodological approach.<sup>14</sup> The concept of path-dependence is of particular interest for the purpose of the present study, and will be analyzed in detail hereafter.

## **1.3 Path-dependence**

### *1.3.1 What is path-dependence?*

The concept of path-dependence was first developed in the economic theory<sup>15</sup>. It is most often associated with the writings of W. Brian Arthur on positive feedback and increasing returns where he comes to the conclusion that “once chance economic forces select a particular path, it may become locked in regardless of the advantages of other paths”<sup>16</sup>. In economic theory path-dependence therefore means the dependence of future economic outcomes on the choices previously made and not simply on the current circumstances. The best-known case in economics of such a process is the example of the QWERTY keyboard (the version of the keyboard currently used) that ended up being the prevailing version used in all the computers while it was not the most efficient and rational version of keyboards. According to economists this is largely due to the increasing returns effect operating through positive feedback – this was the first version to be used and typing schools and manuals began to teach the use of this version leading to the growing market share of QWERTY keyboard until it was acknowledged as the standard keyboard. Today path-dependence is widely accepted in the economic theory and it is used to explain a wide range of phenomena from the localization of production to the causes of economic growth.

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<sup>14</sup> Immergut, 1998: 17-19

<sup>15</sup> David, 1985, 1986; Arthur, 1989

<sup>16</sup> Arthur, 1990: 92

In political sciences path-dependence grew out of historical institutionalism<sup>17</sup>. Scholars like Bennett and Elman (2006, 2006(b)), Thelen (1999) and Pierson (2000, 2004) have been particularly influential in defining and developing the concept of path-dependence for the use in political sciences. However, the notion of path-dependence in this field is not quite the same as it is in economics. Economists use path-dependence to explain sub-optimal outcomes in economic life highlighting the importance of contingent factors to outcome. Historical institutionalists, on the other hand, use the concept to explain the emergence and development of institutions, embedded in concrete temporal processes and social context. The main claim of historical institutionalism is that choices made when the institutions are created or when policies are worked out will have a constraining effect in the future. This means that once a certain path is chosen it necessitates significant effort to divert towards an alternative path thereby formulating the basis for path-dependence.<sup>18</sup> The notion of increasing returns that is an important part of the explanation of path-dependence in economics also applies when the concept is used in political sciences. In the case of an increasing returns process once a particular step is taken the probability of taking further steps in the same direction increases as the relative benefits of the activity in comparison to other alternatives rise in time and therefore the process becomes self-reinforcing<sup>19</sup>. A basic principle of path-dependence is the belief that “history matters” and in order to understand what is going on at any particular moment in time the whole process should be analyzed from the beginning. In particular, path-dependence emphasizes the importance of specific patterns of timing, sequence and seemingly unimportant or contingent events to outcome. According to path-dependence it can be almost or completely impossible to reverse particular courses of action once they have been introduced and for this reason there are often critical moments that shape, not to say determine, political development thereafter.<sup>20</sup> Path-dependence links closely together time, sequence of certain events and the outcome. It is not only important what happens, but also when it happens<sup>21</sup>. The same events in a different sequence and timeframe may according to path-dependence lead to different outcomes as the constraints increase in time. After a particular path has

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<sup>17</sup> Greener, 2005: 63

<sup>18</sup> Greener, 2005: 62

<sup>19</sup> Pierson 2000, 252

<sup>20</sup> Pierson 2004: 18-19

<sup>21</sup> Pierson 2000: 251

been chosen (or contingents events have forged a path) it becomes more and more costly in time to leave this path because of a variety of mechanisms that make it preferable to other alternatives<sup>22</sup>.

Bennett and Elman bring out four necessary conditions in defining path-dependence: causal possibility, contingency, closure and constraint<sup>23</sup>.

By causal possibility it is meant that there is more than one possible path to be taken, different outcomes are possible by making different choices. Therefore path-dependence does not apply when there is only one possible path available to be followed from early on. Mostly it is thought that in the case of path-dependence causal possibility is greater in the beginning of the timeline and diminishes as it proceeds through tipping points.

Contingency in its turn refers to one or more random or unaccounted factors in the causal link that are required in order to talk about path-dependence. This means that some random or exogenous factors that cannot be explained by prior events or initial conditions impact the causal process<sup>24</sup>. The outcome of a path-dependent process is therefore to some extent contingent, either the outcome is only one among many possible or it is an unlikely or inefficient one in comparison to potential alternatives.<sup>25</sup> At the same time it should be pointed out that opinions about the necessity of contingency in order to be able to talk about path-dependence vary among scholars. There are those, like Pierson (2004), Thelen (1999) and others, who consider contingency to be a possible feature of path-dependence, often present in a path-dependent process, but not a required condition to be able to talk about path-dependence. However, others, like Mahoney and Schensul (2006), find that some form of contingency has to be present for a phenomenon to be described as path-

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<sup>22</sup> Bennett, Elman 2006(b): 464

<sup>23</sup> Bennett, Elman 2006: 252

<sup>24</sup> Mahoney, 2000: 511

<sup>25</sup> Bennett, Elman 2006: 252

dependent.<sup>26</sup> According to them otherwise almost everything could be considered path-dependent as long as it can be said that earlier events affect later events<sup>27</sup>.

Closure implies that in the course of events the range of options becomes narrower and some paths or possible courses of action become less and less likely therefore narrowing or closing the range of paths. Closure is closely connected to tipping points that are moments in time, a certain action or decision that to a large extent defines the course of events to follow, makes one path more likely to be followed than others. Constraint in its turn refers to the process(es) that tie the actors to the path chosen restraining them to change the path by eliminating this possibility altogether or connecting it to high costs so that it becomes highly unlikely.<sup>28</sup>

For the purposes of the current thesis, it is considered that in order to be able to talk about path-dependence all four above-mentioned criteria: causal possibility, contingency, closure and constraint, need to be present. This choice is made because regardless of the differences over the degree of necessity of different criteria to define path-dependence, there seems to be a consensus among scholars that these are the characteristics to be addressed when defining path-dependence. In addition, conceptualizing path dependence based on these four criteria avoids an overly fuzzy definition whereby everything could be described as being path-dependent as soon as “earlier events affect later events”,<sup>29</sup> as is almost always the case.

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<sup>26</sup> Bennett, Elman 2006: 256

<sup>27</sup> Mahoney 2000: 510

<sup>28</sup> Bennett, Elman 2006: 252

<sup>29</sup> Mahoney 2000:510

### *1.3.2 Using path-dependence in the study of UN involvement in Kosovo*

In the light of current research project the path-dependence concept will be applied from the perspective of the United Nations' involvement in Kosovo and its role in Kosovo declaring its independence and acquiring partial recognition (Kosovo is today recognized by 90 countries, including 22 European Union member states). Path-dependence is chosen to be used in this case because certain timing and sequence of events seem to be crucial for the UN in making the decision to intervene in the case of Kosovo. At the same time it appears that in the beginning it was not clear where such an action would lead in the future and it is very unlikely that the outcome (Kosovo's declaration of independence and acquisition of partial and growing recognition) was envisaged in the beginning. According to path-dependence concept, the first tipping point that to a large extent limited possible paths to follow was probably the establishing of UN administrated Kosovo that made Kosovo at least *de facto* independent from Serbia. Starting from this point it can be argued that a path towards independent Kosovo state was taken and this course was already very hard to reverse. This all follows perfectly the path-dependence general logic and this is why it was chosen for this research project.

As stated in the Introduction, the aim of the study is to confirm or reject the hypothesis that the UN involvement in Kosovo can be described as a path-dependent process. In order to do that, the four necessary conditions for path-dependence of causal possibility, contingency, closure and constraint in the process of UN involvement in Kosovo will be studied. For this, the process of UN involvement in Kosovo will be reconstructed from the beginning to the present day analyzing the potential alternatives, contingency factors, tipping points, sequences, conditions that narrow the opportunities and that further determine the path and finally constrain the UN to the path chosen. This means that in order to confirm the hypothesis that UN involvement in Kosovo can be described as a path-dependent process there must be evidence that in the beginning of the process UN had several possible paths to be followed (causal possibility) with the options

decreasing in time (closure) through contingent or random events that were crucial to the developments thereafter (contingency) leading to a point where UN was constrained to the chosen path as switching to other alternatives became unimaginable or too costly (constraint). If that evidence is found, the UN involvement in Kosovo can be considered as a path-dependent process.

## **2) Methodology**

### **2.1 Single case study**

The study of UN involvement in Kosovo is a study of a single case. Case studies are believed to be extremely beneficial in the field of International Relations as they allow studying the complexity of phenomena present in the International Relations subfield making modeling and statistical testing very difficult<sup>30</sup>. A single case approach was chosen for this study as there are no other cases alike where the UN involvement and the causal relations leading to an outcome that was not envisaged in the beginning of this process could potentially be explained by path-dependence. Although the Kosovo case is very often analyzed in comparison with East Timor<sup>31</sup>, especially when it comes to the role of the UN, this approach can not be applied to the current research project as in the case of East Timor the purpose of the UN mission – the independence of East Timor was relatively clear from the beginning and the final outcome of the UN involvement there can therefore not be described from the perspective of path-dependence. For this reason Kosovo can be considered as a unique case from the standpoint of this study. The aim of the study is to test the hypothesis that UN involvement in Kosovo can be described as a path-dependent process and a study of a single historical case is considered to be appropriate to establish causation “through

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<sup>30</sup> Bennett, Elman 2007: 171

<sup>31</sup> Matheson, 2001 ; Stahn, 2001 ; Silander, 2009 ; Kirgis, 2001 ; Schmitt1, 2008; Strohmeyer, 2001

uncovering traces of a hypothesized causal mechanism<sup>32</sup>” making it the best suited method for the purposes of the current study.

A particular case-study method, process tracing, that seeks “historical explanation of an individual case”<sup>33</sup> is the most appropriate methodological approach to conduct such a research. Causal relations in this case can be assumed to have multiple interaction effects and the outcome cannot be explained by only a few independent variables. It should also be taken into account that the current research project aims to explain causal processes and not only to determine the existence of causal links between different variables, and for this purpose process tracing method seems to be the most suitable. Another reason why process-tracing method was chosen in this particular case is that the study of UN involvement in Kosovo assumes that path-dependent causal relations apply in this case and as Bennett and Elman<sup>34</sup> put it, then process-tracing method is especially well suited for the study of path-dependence as it enables to take into account “the temporal dimension of social processes”<sup>35</sup> that path-dependence requires.

## **2.2 Process tracing**

### *2.2.1 What is process tracing?*

Process tracing is a case study method of qualitative analysis that “seeks an *historical explanation* of an individual case, and this explanation may or may not provide a theoretical explanation relevant to the wider phenomenon of which the case is an instance”<sup>36</sup>. According to this method a researcher will follow a process from its “suitably chosen beginning” to the end and thereby providing a more persuasive

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<sup>32</sup> Bennett, Elman 2006(b): 459

<sup>33</sup> Bennett 2008

<sup>34</sup> Bennett, Elman 2006: 206

<sup>35</sup> Pierson 2004: 4

<sup>36</sup> Bennett 2008

explanation of the process and its causal mechanisms than studies that try to capture the process only at a certain point in time<sup>37</sup>. Process tracing method can be used in testing theories that contain multiple interaction effects and cannot be explained through only a few independent variables that bring about the outcome. The main aim of process tracing is to identify the causal process – that is causal chain and causal mechanism, which bring about the outcome. For this reason it is fundamentally different from cross-case analyses based on covariance as all the intervening steps must be predictable by a hypothesis in order for the hypothesis to be valid<sup>38</sup>. The studies using process-tracing method are more persuasive if there is very little, or preferably none at all, substantial breaks in the causal story; and if the most important links in the hypothesized process are supported by evidence. At the same time one should be aware and avoid the confirmation bias while carrying out a study using the process tracing method. For this reason it is important to look within a case also to try to find proof to support other alternative explanations of the process, only by doing this can one explanation be proved to have more explanatory power than the others.<sup>39</sup>

The process tracing method in its turn can be divided into sub-categories according to the purpose of particular research projects that include: detailed narrative, analytical explanation and a general explanation. The simplest form of these is a detailed narrative. The purpose of this kind of research is to see how certain events occurred. When the narrative is at least to some extent accompanied by a causal hypothesis it is no longer dealt with a detailed narrative. Analytical explanation is a form of process tracing where historical narrative is used to come up with an analytical causal explanation and to provide theoretical understanding of a case. A general explanation approach in its turn focuses on identifying the main causal relations rather than on providing a detailed study of the process. In choosing a concrete process tracing technique attention should also be paid to the character of causal relations that can be

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<sup>37</sup> Bennett, Elman 2006(b): 459

<sup>38</sup> George, Bennett 2005: 206-207

<sup>39</sup> Bennett, Elman 2006(b): 460

either linear causality, convergence of several conditions, interacting causal variables or path dependent process.<sup>40</sup>

Process tracing can be used both for theory testing and theory development<sup>41</sup>. This method is especially useful in the study of path dependence as it allows at the same time a holistic view of the case and a detailed understanding of events<sup>42</sup> which is necessary to explain the complicated relations and interaction of different variables in a path dependent process of causal relations. The process tracing method, when possible, should also pay attention to alternative hypothesis generated by other scholars. In order to make a convincing case in proving the accuracy of a hypothesis of interest other alternative hypothesis should be proven invalid<sup>43</sup>. That is to say that alternative explanations should not be completely disregarded as the explanation of interest is not convincing unless it is proven to be the only one that applies in a chosen case.

### *2.2.2 Using process tracing method to study the UN involvement in Kosovo*

The current study of UN involvement in Kosovo uses the method of analytical explanation sub-category of process tracing. This method seems to be the most appropriate as the aim of this project is to provide an analytical explanation and theoretical understanding of the case and its assumedly path-dependent causal relations between variables rather than just give a narrative overview of the events (detailed narrative approach to process-tracing). At the same time the current research project focuses on giving a detailed study of the case not barely a general explanation (general explanation approach to process-tracing) and therefore the process tracing method of analytical explanation is used. The aim can also be considered to be theory testing as

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<sup>40</sup> George, Bennett 2005: 209-212

<sup>41</sup> Bennett 2008, George, Bennett 2005: 213

<sup>42</sup> Bennett, Elman 2006: 260

<sup>43</sup> George, Bennett 2005: 217

path-dependence concept is relatively specified to provide direct hypothesis for testing that is according to George and Bennett<sup>44</sup> a necessary precondition for theory-testing to be possible with process tracing method. Though, in this case it is more theory-testing in the sense that the aim is to find out whether the theory can be applied in this particular case rather than to test the validity of the theory itself. This aim mostly derives from the peculiarity of the case that so far is not convincingly explained through any other theory. Neither has there been anything similar to be seen in other cases making the UN involvement in Kosovo a unique case and therefore attractive for further research.

Moreover, the current study is also the first one to try to explain the process of UN involvement in Kosovo itself, providing a theory-based explanation and an empirically testable hypothesis. While potentially contributing to the understanding of the phenomenon in a significant way, this, however, also means that it is not possible to control the validity of alternative hypothesis, simply because no alternative hypothesis on this subject have been formulated yet by other scholars. For this reason the present thesis will use the process tracing method solely to test the validity of its own hypothesis by reconstructing the process of UN involvement in Kosovo and analyzing if there is evidence of all four necessary conditions of path-dependence. To do that, first a historical background of UN involvement in Kosovo will be given. Then the presence of four necessary conditions to talk about path-dependence (causal possibility, contingency, closure and constraint) will be tested empirically.

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<sup>44</sup> George, Bennett 2005: 217

### **3) UN involvement in Kosovo and path-dependence**

This chapter will focus on the empirical evidence, trying to capture the historical process and causal relations of UN involvement in Kosovo, to find evidence to confirm or reject the hypothesis that the UN involvement in the establishment of Kosovo's independence was not anticipated in the beginning – there were possible alternative scenarios (causal possibility), but they became less and less probable in time (closure) through contingent or random events that were crucial to the developments thereafter (contingency) leading to a point where UN was constraint to the chosen path as switching to other alternatives became unimaginable or too costly (constraint). To fulfill this task first the institutional framework of the United Nations is described, as it is crucial to understand its decisions taken in the case of Kosovo. Then, a historic background of the UN involvement in Kosovo will be given followed by a reconstruction of the UN engagement in the region and its evolution analyzing the process in the light of the four necessary conditions of path-dependence to confirm or reject the hypothesis of the thesis.

#### **3.1 Institutional framework of the United Nations**

Deriving from the theoretical framework of the current study, it is essential to understand the institutional setting of any given institution when analyzing its decisions and its actions. This is also true in the case of UN involvement in Kosovo.

The United Nations (UN) was founded during the Second World War at the San Francisco conference in 1945. It was designed to be a collective security organization similar to its predecessor the League of Nations while trying to fix the inefficiencies this

organization had that led to its inability to prevent a catastrophe like the World War II. Therefore the aim of the UN was to guarantee the peace of security in the world. Moreover this function to maintain international peace and security was given to the executive body of the UN, the Security Council, vested with extensive powers for this occasion, namely under the Chapter VII of the Charter of the United Nations. The Security Council consists of five permanent members with veto power (United States, Great Britain, France, China and the Soviet Union, later Russia) who also had an “unlimited discretion to determine the existence of a threat to peace”<sup>45</sup> making it prone to political considerations. The Security Council was created as an executive body of the organization to be able to act quickly if necessary and avoid the situations like those where its predecessor, the League of Nations, found itself when it was unable to act in times of crises due to lack of consensus among its member states. At the time of the creation of the UN the five permanent members of the security council were all allies in the war and did not imagine that their relations in the years after the war would become as complicated as they did, to the extent that the work of the whole organization would be largely blocked in the important cases as it came out to be throughout the Cold War period. The working of the Security Council was even more complicated by the fact that nowhere in the United Nations Charter is there a definition what can and what cannot be considered as a threat to peace, however it was in general considered that it was limited to cross-border aggressions and did not include intra-state conflict that were seen as belonging to the domain of state sovereignty. At the same time most of conflicts taking place after the end of the Cold War are intra-state conflicts with often serious impact on regional and international security forcing the UN to act in a domain it was not originally meant for and where it’s capabilities are limited.

However, gross human rights violations in Rhodesia and South Africa raised this issue to the attention of the United Nation and with its resolutions on Southern Rhodesia (1965) and South Africa (1977) classified gross and systematic human rights violations a threat to international peace and security. That also means that state sovereignty is no longer absolute and intervention in domestic affairs of a state is justified if fundamental

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<sup>45</sup> Thomashausen, 2002: 10

human rights are being violated leading later to the redefinition of sovereignty altogether and development of the concept responsibility to protect. The trend towards protection of human rights instead of mere protection of state's rights was further amplified by the events in Somalia, Rwanda and in the Balkans in the beginning of the 1990s that demonstrated the atrocities taking place in intra-state conflicts leading to the reemergence of the "never again" debate on preventing large scale human rights violations and crimes against humanity. At the same time these events also did serious damage to the image of the United Nations who, while present, showed to be completely incapable to deal with that kind of situations highlighting the necessity to reform the UN peacekeeping system, but also putting pressure on the organization to avoid that type of events from repeating.

All these developments are crucial to understand the UN actions in the case of Kosovo and the decisions that finally led to an independent state of Kosovo.

## **3.2 Evolution of the situation in Kosovo and UN engagement**

### *3.2.1 Background*

#### **On the way to conflict**

Kosovo was an autonomous region within the Socialist Federal Republic of Yugoslavia (hereafter Yugoslavia) while being a constituent part of Serbia since 1946. This autonomy was further confirmed with the 1974 constitution of Yugoslavia adopted by Josif Broz Tito. Accordingly, Kosovo was legally a province of Serbia, but it had its own territorial identity and government bodies including their own representation in the

collective bodies of Yugoslavia. It was also one of the poorest regions of Yugoslavia and while being part of Serbia, a vast majority of its population was Albanian.

The beginning of tensions in Kosovo began in 1980 after the death of the Yugoslavian President Yosif Broz Tito with student demonstrations for higher wages, freedom of expression and republic status of Kosovo. Some 20 000 Serbs moved out of the region between 1981 and 1987 claiming the Albanian leadership being the reason for that, while the Albanians explained it by economic reasons.<sup>46</sup> Nevertheless these tendencies were seen as secessionist claims from the part of Kosovo by Serbian leadership. In attempt to oppress the separatist tendencies that were thought to be emerging, the Serbian President Slobodan Milosevic unilaterally recalled the autonomous status of Kosovo in 1989, although this move was illegal under the 1974 constitution. It is also then that policies of Serbian domination and discrimination of Albanians in the region where 90% of the population is Albanian began. These policies included limiting property rights in Kosovo for Albanians, limiting their access to higher education and employment in civil service, policies of imposing Serbian language (Albanian newspapers and radio stations were shut down, Serbian was imposed in public schools, street names were replaced by Serbian names etc.), encouraging Serbians to settle in Kosovo and in contrast Kosovo Albanians to leave the region<sup>47</sup>. Arbitrary arrests and ethnic violence against Albanians also took place, but was relatively little in scale until late 1990s. A referendum was organized in the region in 1990 in which the Albanians voted overwhelmingly for independence. This development followed the general logic of dissolution of Yugoslavia, but in contrast to Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro and Macedonia, who were autonomous states within the Socialist Federal Republic of Yugoslavia, Kosovo was merely an autonomous province. For this reason the international community took the stand that Kosovo did not enjoy the same right to secede under the 1974 constitution of Yugoslavia that granted the right to self-determination to all the nations of Yugoslavia, even though the actual autonomy of Kosovo within Yugoslavia was very similar to that of the autonomous states – it had its own Federal Presidency, Federal Parliament and Federal

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<sup>46</sup> Duić, 2009: 146

<sup>47</sup> Independent International Commission on Kosovo, 2000: 41

Constitutional Court, as well as its own central bank and other institutions of self governance (constitution, separate police, regional parliaments and governments). Regardless of these factors, this referendum was dismissed by the international community who did not recognize the autonomy of Kosovo or its government of Ibrahim Rugova, the leader of the Democratic League of Kosovo (LDK), formed after the referendum that turned into a parallel system of government for ethnic Albanians.<sup>48</sup> For these reason the question of Kosovo received very little international attention in the beginning of 1990s until the violence started to escalate in 1997.

The degree on UN engagement in Kosovo has varied a great deal since the Balkan question started to attract international attention, or as Albrecht Schnabel put it “the UN has been on a political roller coaster in its involvement in Kosovo”<sup>49</sup>. In the beginning of the 1990s the main worry for the UN was the situation in Bosnia and Kosovo was deliberately sidelined not to halt a solution of this conflict. Milosevic was seen as a key person to reach an agreement and he would have probably refused any consideration of revisiting the status of Kosovo. Consequently, in order not to jeopardize the possibility to reach an agreement on Bosnia, Kosovo found no mention in the Dayton agreements that ended the Bosnia conflict in 1995. Nevertheless, it can be said that the UN was somewhat present in Kosovo already in the beginning of the 1990s through its specialized agencies. UNESCO tried to mediate an agreement on education between the Serbian and Kosovo Albanian authorities. UNICEF and WHO were also active in Kosovo, carrying out a joint initiative of polio vaccination in the region in 1996. In addition to that, UN Special Rapporteurs for Human Rights were regularly monitoring the situation, but didn’t seem to have much influence on the actual course of UN actions at that time. The UN General Assembly also passed several resolutions on Kosovo, mainly to raise awareness about the human rights situation in the region. A resolution was passed in General Assembly also to support the return of the OSCE monitoring mission to Kosovo in 1993.<sup>50</sup> However, regardless of these initiatives that can be considered to be very low profile ones as none of them actually had a real effect on the

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<sup>48</sup> Thomashausen, 2002: 88-89

<sup>49</sup> Schnabel, 2000: 34

<sup>50</sup> The Independent International Commission on Kosovo, 2000: 59

development of events on the ground, the UN interest in Kosovo and its engagement with this issue was very limited up throughout the Balkan conflicts. It was only during the second part of the 1990 that the situation in Kosovo came to the attention of international community.

### **The conflict**

Dissatisfied with the results of Rugova's peaceful attempts to self-determination, Kosovo Albanian rebels formed an armed group called Kosovo Liberation Army (KLA or UCK) using guerilla tactics against the Yugoslavian army and Serb militias. In response the Yugoslavian army and Serb militias launched a disproportionate attacks against the KLA, but also against the civilian populations creating a large-scale humanitarian problem that spelt over to neighboring countries. It soon became clear that under the excuse of suppressing the KLA, Serbia was actually conducting ethnic cleansing in Kosovo. Even then the mayor issue for the international community and in particular for the Contact Group<sup>51</sup> (consisting of United States, United Kingdom, France, Germany, Russia and Italy) charged with establishing peace in the Balkans was the question of Bosnia and ensuring the implementation of the Dayton Accords<sup>52</sup>. Serbia was crucial to the implementation of these accords and thus the Contact Group, especially the United States, tried to stay on good terms with Serbia largely ignoring the problems in Kosovo and classifying the KLA a terrorist group according to Serbian claims.

However, the situation changes in March 1998 when Serbian police and paramilitary forces intensify their crackdown on KLA. One particular incident in the village of Srbica, where many people are killed while no difference is made between the KLA rebels and civilians, shifts the international community to condemn Serbia's actions.

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<sup>51</sup> The Contact Group was originally created in 1994 during the Bosnian war, but it was reactivated in 1998 for the Kosovo crisis trying to find a peaceful political solution

<sup>52</sup> Thomashausen, 2002: 89-90

These attitudes harden even further when Serbia continues its crackdown with a campaign in the Drenica region of Kosovo soon after the Srbica incident. These two events remind the international community of the incident of Srebrenica in Bosnia, where 8000 Bosnian civilians were killed in a village that was supposed to be a “safe area” protected by the UN peacekeepers, but due to an insufficient mandate and capacities on the ground they were unable to prevent this from happening. UN presence and the role it played in Bosnia were largely criticized thereafter putting pressure on the organization to prevent that kind of incidents from repeating and not to turn a blind eye to ethnic cleansing. It was then clear that the events in Kosovo could not be considered as merely an internal matter of Yugoslavia and international assistance is needed to resolve the conflict that threatens to destabilize the fragile balance reached in the region.

The first one to address the issue of Kosovo is the Contact Group, reactivated in 1998 to try to find a peaceful solution the issue of Kosovo. In addition the usual members of the Contact Group, representatives of the EU Presidency, EU Council, European Commission and NATO also attended Contact Group meetings. The Contact Group aimed to pressure Serbia into ending the repression in Kosovo and to bring the parties together to negotiate a solution. Regardless of the sanctions, namely an arms embargo, imposed on Serbia by the Contact Group, Milosevic refused to negotiate with the Albanians and also rejected a European peace plan. To put further pressure on Serbia to cease hostilities in Kosovo, the UN Security Council adopted a resolution 1160 on March 31, 1998, imposing an arms embargo on Yugoslavia until it “withdraw[s] the special police units and cease[s] action by the security forces affecting the civilian population”<sup>53</sup>. This resolution had little effect on the ground, but Milosevic did finally agree to negotiate once the Contact Group threatened to impose economic sanctions. At the same time, while negotiating, Serbia increased the presence of its special forces in Kosovo up to 40 000-50 000 men and intensified its campaign of ethnic cleansing<sup>54</sup>. It should also be kept in mind that through the international media the general public around the world was relatively well informed about the events going on in Kosovo

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<sup>53</sup> UN Security Council resolution 1160, 1998

<sup>54</sup> Thomashausen, 2002: 91-92

putting pressure on governments to act. In the light of recent events in other areas of the Balkans and the failure of international organizations, UN in particular, to prevent these atrocities from happening, only add to this pressure not to repeat the same mistakes again.

The inaction of NATO is particularly criticized in 1998 as it had earlier threatened Serbia with military intervention if it does not stop the ethnic cleansing in Kosovo and still refused to take any action even if it was clear that Serbia was only intensifying its policies. It was considered, based on previous experience in the Bosnia crisis, that normal negotiation tactics do not work with Slobodan Milosevic and any kind of diplomatic efforts have to be backed by force to be effective. In the meanwhile the humanitarian situation deteriorated, hundreds of thousands of people were forced to leave their homes, contributing to a general radicalization of the ethnic Albanian population, increasing the popularity of the KLA and decreasing the popular basis of the moderate Rugova thereby making negotiations even more complicated.

To face this deteriorating situation another UN Security Council resolution, 1199, was adopted on September 23, 1998. The resolution had more or less the same aims as the previous one, but it adds that if required actions are not taken it will “consider further action and additional measures to maintain or restore peace and stability in the region”<sup>55</sup>. The resolution did not bring out what these “further actions” would be and this ambiguous wording of the resolution proved not to be enough to legally justify the use of force. However, without the ambiguity Russia who was sided with Serbia throughout the conflicts in the Balkans would not have supported the resolution. Therefore, the weakness of the resolution was a consequence of a necessary trade-off between the permanent members of the Security Council to be able to adopt the resolution on the situation in Kosovo. At the same time, the European Union also became more and more engaged in Kosovo and adopted a comprehensive approach to Kosovo, together with a common strategy on the Western Balkans in the framework of

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<sup>55</sup> UN Security Council, resolution 1199, 1998

Common Foreign and Security Policy<sup>56</sup> - a very recent development within the Union foreseeing a gradual creation of European crisis management capabilities.

In the meanwhile, the situation on the ground deteriorated further with another attack launched against KLA by the Serbs in October displacing approximately 400 000 people<sup>57</sup>. In a new effort to find a solution to the situation in Kosovo US envoy Richard Holbrooke with the US ambassador to Macedonia, Christopher Hill, went to Belgrade for another round of negotiations. This time the diplomatic efforts were supported by NATO, who authorized airstrikes against Yugoslavia if Serbian forces were not withdrawn from Kosovo within 96 hours. As a result of these efforts, an agreement was reached October 13, 1998, that met the conditions set by resolution 1199. An international Kosovo Verification Mission (KVM) organized by OSCE and consisting of 2000 unarmed international observers was formed to monitor the implementation of the agreement. Another agreement permitting the creation of an aerial verification mission by NATO in support of the KVM was also signed. As a reaction of these positive developments, UN Security Council adopted resolution 1203 welcoming the agreements signed and continuing to ask for a negotiated solution to the situation that still poses a threat to international security in the region<sup>58</sup>.

After these agreements the situation in Kosovo seemed to improve. No more attacks were carried out in the region, although not all the Serb forces were withdrawn. Ambassador Hill started to work on a political solution that would be acceptable to both parties. However, the situation in Kosovo deteriorated once more in December 1998-January 1999 when Serbs broke the agreement by launching attacks on villages of Pozaranje and Racak killing dozens of civilians, including women and children. Once more the threat of NATO airstrikes was used to force parties to negotiate. The talks took place at Rambouillet, France, in February 1999, but no agreement was reached as the Serbs refused to accept the plan proposed by the negotiators (the representative of

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<sup>56</sup> Duić, 2009: 148

<sup>57</sup> Thomashausen, 2002: 94

<sup>58</sup> UN Security Council, resolution 1203, 1998

Kosovo Albanians finally signs it) that included autonomy for the Kosovo region and foresaw NATO troops stationing in Kosovo until stabilization of the situation. This put NATO into a situation where they had to either back down on their threat, or begin airstrikes against Yugoslavia. A last effort was made to make Milosevic accept the Rambouillet agreement – US envoy Holbrooke went to Belgrade to talk to Milosevic, but he remained firm. After receiving intelligence that Serbia was moving supplementary military forces to Kosovo in addition to those already stationed there, Xavier Solana, the Secretary General of NATO, authorized to begin airstrikes against Yugoslavia without UN Security Council explicitly authorizing it. A resolution to authorize NATO airstrikes was never even worked upon as it was clear from the beginning that Russia, and probably China, would be against the use of force and having no explicit authorization was considered to be a better solution than having Russia (and China) veto such a resolution, especially as the ambiguous wording of resolution 1199 does not exclude the use of force as a “necessary further measure”. From the point of view of NATO, which was still looking for its new role in the post Cold War world order where its initial enemy had disappeared, taking action in Kosovo after having threatened with the use of force several times (without it having the expected impact) was inevitable to stay credible.

The NATO air campaign that was expected to last for only a couple of days ended up lasting for 78 days until Milosevic capitulated and agreed to NATO demands for a peace plan. During this period violence against Kosovo Albanian population intensified: out of a population of under 2 million people an estimated 10 000 people were killed, 863 000 civilians were forced to seek refuge outside Kosovo and 590 000 people were internally displaced.<sup>59</sup> On June 10, 1999, once it was confirmed that Yugoslav security forces were withdrawing from Kosovo, NATO stopped the airstrikes. On the same day the UN Security Council adopted resolution 1244 under Chapter VII of the UN Charter laying down ground rules for the future of Kosovo.

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<sup>59</sup> The Independent International Commission on Kosovo, 2000: 2

Therefore, to conclude this first part of UN (dis)engagement it can be said that during the first half of the 1990s the United Nations had all the possible options of action regarding Kosovo on the table. The Kosovo question could have been included in the general peace process for the Balkans trying to reach an agreement with Milosevic on the status of Kosovo and the UN peacekeeping forces could have been deployed in Kosovo as they were in Bosnia and Macedonia. This would have probably prevented the escalation of violence and a peaceful solution to the status of Kosovo could have been found relatively easily, especially since in the beginning of 1990 the Kosovo Albanians only asked for the restitution of their autonomy under the constitution of Yugoslavia and not independence. Even later, when the tensions in Kosovo had already risen, UN could have taken a more active role in trying to find a peaceful solution to the crisis. There is reason to believe that Milosevic would have accepted the Rambouillet accords, if instead of NATO presence in Kosovo that was seen as US dominated and thus partial, it would have foreseen a UN presence as a more neutral organization. Therefore the military conflict and the humanitarian catastrophe it brought about could have been prevented. Instead, the UN chose not to take a significant role in the negotiation process or even to be part of a solution at this early stage. As the situation in Kosovo in the first half of 1990s was relatively calm, especially compared to the atrocities that had taken place in other parts of Yugoslavia, the first priority of the UN was to find a peaceful solution to the Bosnian crisis that had had such a devastating impact on UN reputation. Even later the UN tried to leave the resolution of the Kosovo conflict to other organizations, approving their action but without taking a significant role themselves. All this shows that the UN initially had no will to get engaged in Kosovo and it was the course of events that made it change the direction. So it can be said that, while it had a variety of possible options of action available, the UN chose to ignore the question of Kosovo in the first half of 1990, but to a large extent up until the end of hostilities in 1999.

### 3.2.2 UN involvement in Kosovo

#### **Resolution 1244**

The adoption of resolution 1244 in June 1999 completely changed the situation in Kosovo, especially when it comes to UN involvement in the region. The resolution reaffirms the territorial integrity of Yugoslavia at the same time asking for substantial autonomy for the Kosovo region and establishes “an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia” also defining its main responsibilities.<sup>60</sup> Resolution 1244 is based on the agreement reached between the foreign ministers of the G-8 countries on general principles of the resolution of the Kosovo conflict in May 1999 and on the agreement of a set of principles developed by the government of Yugoslavia in June 1999, both also included as annexes of the resolution. According to the resolution a joint security force for maintaining security in Kosovo, called Operation Joint Guardian or KFOR, was created. At the same time UN Interim Administration Mission in Kosovo (UNMIK) was set up *de facto* separating Kosovo from the rest of Serbia. According to resolution 1244, the Special Representative of the United Nations will perform the executive functions of government during the transitional period until new legitimate authorities and state institutions are established. Therefore while the sovereignty of Yugoslavia over Kosovo was confirmed by the resolution, it will be the United Nations exercising this sovereignty in the interim period without foreseeing a final solution or an end date to such a situation. It should also be mentioned that there are no provisions for this kind of function of the UN in its Charter, nor has the organization previous experience from similar type of missions. Thus it can be said that the creation of UNMIK is an *ad hoc* approach to the situation in Kosovo whereby the Security Council is actually widening the scope of its functions directly derived from the Charter.

Another crucial factor that will have an important impact on the development of events thereafter, is the fact that in contrast to the usual UN practice, resolution 1244 gives an

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<sup>60</sup> UN Security Council resolution 1244, 1999

open ended mandate to the UNMIK. This means on one hand that it is not subject Security Council bargaining, as no additional decision is needed to prolong the mission that has an indefinite duration. At the same time, it also means that there are no deadlines given to reach a more permanent solution favoring the status quo in opposition to solving the question of Kosovo's final status. However, it makes the legitimacy of the UNMIK governance questionable<sup>61</sup> as it vests the highest executive power into non-elected bodies and individuals, making it clear that this governance should be limited in time. This is an important controversy in the design of the UNMIK that put off the solving of the status question too long thereby consolidating the existing separation between Kosovo and Serbia and limiting the range of potential acceptable outcomes.

The adoption of resolution 1244 and especially its design in organizing the administration of Kosovo is the most important tipping point in the UN action in Kosovo strongly constraining possible solutions thereafter as not only in doing that was the region *de facto* separated from Serbia, but this situation was bound to last indefinitely thereby creating a feeling that Kosovo's return under Serbian rule was not really envisaged. It seems evident that the longer the mission lasts, the more it consolidates the separation between Kosovo and Serbia and yet the resolution foresaw no framework for negotiations over the final status of Kosovo that could end this interim period – a measure that could have put pressure on both sides to find a political solution. Therefore the design of the mission goes directly against its purposes. From one hand the territorial integrity of Yugoslavia is emphasized, while on the other hand with the role that is taken on in the region, the separation of Kosovo is consolidated. This decision is especially surprising since the UN never encouraged the secessionist movement in Kosovo, quite the contrary – even throughout the hostilities Yugoslavian sovereignty over the region was constantly reaffirmed. Furthermore, its unwillingness to get engaged in Kosovo is clear to all the parties involved. However, with resolution 1244 the direction was taken towards the independence of Kosovo and to change the course becomes more and more difficult with the time that passes.

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<sup>61</sup> Knoll, Bernhard, 2005

What led the Security Council to take on such an unprecedented mission in Kosovo? As mentioned in resolution 1244 giving the mandate to UNMIK, its function was supposed to be temporary, lasting only through the interim period while finding a more permanent status accord between the parties. The humanitarian situation in Kosovo was catastrophic and threatened the fragile stability of the whole region. Therefore it was urgent to stabilize the situation on the ground, especially when it comes to refugees and internally displaced people. For that some kind of governance was needed, but it was clear that the question of final status of Kosovo was a controversial one and would need time consuming negotiations. It was also clear that after the large-scale human rights violations taking place during the armed conflict, forcing a big part of Kosovo Albanian population to leave their homes, direct Serbian control over the region, without a negotiated solution, could not be restored. A European solution could also not have been envisaged as the European Common Foreign and Security Policy that foresaw creation of European capabilities in crisis management and peace keeping, largely motivated by the Balkan lesson, was only in the starting stage and had not achieved any operational capacity yet. For these reasons the UN seemed to be the only one to be capable to assume the governing role in Kosovo while a more permanent solution was found. In addition, the UN felt obliged to *finally* take on a substantial role in Kosovo and to prevent a further degradation of the humanitarian situation in the region as it had consciously ignored the problem at an earlier stage where the humanitarian catastrophe and military conflict could probably have been avoided. So there was a pressure to show its determination to get engaged with all possible means (and even beyond) to protect the population and reconstruct Kosovo, a kind of redemption for earlier inaction in Kosovo and tragic inefficiency and lack of means in cases such as Bosnia, Rwanda or Somalia. This shows that the UN decision to adopt resolution 1244 with the content it had was strongly influenced by contingent factors, that is by conditions not explainable by initial conditions nor its past actions in Kosovo.

At the same time it should also be kept in mind that this solution was advocated in the Security Council by three of its permanent members – the US, France and Great Britain,

who were also the countries most engaged in Kosovo and behind the decision to use force (largely responsible for the humanitarian catastrophe). There was a will to stabilize and start rebuilding Kosovo after NATO airstrikes that had a devastating impact in the region, not to disengage as soon as Milosevic agreed to the peace plan. It was also clear that international presence was needed to avoid recourse to violence in the region. The UN was seen as a more or less neutral actor, especially in comparison to NATO, therefore accepted by Serbia and its supporters Russia and China in the Security Council. The UN itself also needed to demonstrate that it was capable to assume its function in defending peace and security and that it was capable to act in a decisive manner when peace and security was threatened, something that was being questioned by many in light of its previous actions.

### **The aftermath of the conflict**

The conflict left Kosovo devastated. As much as 800 000 people out of a total population of 1,7 million in 1998 had sought refuge in neighboring countries and up to 500 000 people had been internally displaced. The United Nations High Commissioner for Refugees (UNHCR) is going to lead the process of resettlement of refugees.<sup>62</sup> This process was challenged by lacking security environment and law enforcement, as the KFOR forces were not yet deployed at their full capacity. The UNMIK staff arrived in Pristina within days after secession of hostilities and in the beginning of July a part of unarmed civilian police officers from the United Nations Mission to Bosnia and Herzegovina was redeployed in Kosovo to assume the function of international police forces. There are also other UN agencies present in Kosovo trying to relieve the humanitarian urgency: the World Food Programme (WFP), UNICEF, the World Health Organization (WHO) and the International Organization for Migration (IOM),<sup>63</sup> United Nations Development Program (UNDP) and a variety of others (UNFPA, FAO, ILO, IOM, OHCHR, UNIFEM, UN HABITAT, UNHCR, UNOPS). United Nations Kosovo Team is set up to facilitate cooperation between different UN agencies present, as well

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<sup>62</sup> Report of the Secretary General on the United Nations Interim Mission in Kosovo, 12 July 1999

<sup>63</sup> Report of the Secretary General on the United Nations Interim Mission in Kosovo, 12 July 1999, p 7

as the financial institutions International Monetary Fund (IMF) and the World Bank<sup>64</sup>. The UNMIK mission is the highest authority in Kosovo, but it operates in cooperation with different organizations to fulfill its mission. The UNMIK itself was responsible for restoring public services, such as health and education, exercising the function of the police in the short term and creating local police capacities in the long term as well as rebuilding the judicial system (pillar I). The OSCE was responsible for promoting democracy and human rights and for increasing local capabilities in these fields (pillar II). The UNHCR coordinated humanitarian assistance to the displaced persons and their eventual return (pillar III). The European Union in its turn was charged with economic recovery and reorganization of currency, trade and banking matters (pillar IV).<sup>65</sup>

In the aftermath of the conflict the situation of Kosovo was frozen<sup>66</sup> and the question of its future status was not treated, as all the parties seemed to understand that the situation on the ground was too fragile and international presence was the only thing preventing an open conflict from reemerging. Therefore the priority was to bring stability to the region and to try to relieve the humanitarian emergency as the chaotic situation in Kosovo after the conflict threatened to escalate into a problem for the fragile stability in the whole Balkan region<sup>67</sup>. To fulfill this task some kind of governance, even if it was just to be an interim one, had to be established. Following its mandate, this task was attributed to the UNMIK. Democratic self-governing bodies were created in Kosovo and the first democratic elections took place in 2000 bringing Rugova to power as official head of the provisional government. There were also a number of other international or regional organizations involved in the post-conflict reconstruction of Kosovo, the most important ones on these are the European Union and the OSCE. The European Union had an important role in reconstruction and economic development (also known as the EU pillar of the UNMIK) and later (after the declaration of independence) in building up Kosovo's capacities in the fields of rule of law and police. The OSCE who had considerable experience from Bosnia in its turn focused on

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<sup>64</sup> United Nations Kosovo Team webpage <http://www.unkt.org/>

<sup>65</sup> de Wet, 2009: 84

<sup>66</sup> Yannis, 2002: 177

<sup>67</sup> Matheson, 2001: 78

democratization and institution building. All these developments make Kosovo to resemble more and more to an independent state, especially so as Serbia had in reality no control over this region.

Starting from 2001, but especially from 2004, the UNMIK began to hand over its powers to local institutions that were created, allowing it to scale down its international presence<sup>68</sup>. There was an approach “standards before status” meaning that Kosovo’s institutions should first acquire functional capabilities according to international standards in eight areas of governing before the question of the final status could even be taken up for discussion<sup>69</sup>. According to Michael Steiner, the head of UNMIK between 2001 and 2003, these standards should reflect the ones necessary for Kosovo’s potential integration into the European structures.<sup>70</sup> As a consequence, Kosovo not only resembled to an independent state, but also growingly exercised its administrative power as if it was one. This led to a sentiment in Pristina that the UNMIK had fulfilled its mission and that the interim period was over as Kosovo was now capable of exercising its own sovereignty, something that the UNMIK had developed it to do without raising the question of the final status. This tendency reflects once more how the UNMIK’s open-ended mandate constrained the UN more and more to the path towards an independent state of Kosovo as it developed the region’s capabilities to govern itself as an independent country and it growingly did so during this interim period. It was also evident that the more time Kosovo exercises its sovereignty (regardless of the official UNMIK superiority) the more difficult (not to say impossible) would it be to imagine a final solution bringing the region back under Serbian rule. In addition, the popularity of UNMIK among the local population and elites decreased considerably in time – what was first seen as a milestone towards independence became to be perceived as an obstacle<sup>71</sup>. It was clear in these conditions that a next step has to be taken as this interim solution cannot last forever. However, the choice of possible solutions was already very strongly constrained by previous actions.

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<sup>68</sup> de Wet, 2009: 84

<sup>69</sup> These areas are: functioning democratic institutions, rule of law, freedom of movement, returns and reintegration, economy, property rights, dialogue with Belgrade, and the Kosovo Protection Corps.

<sup>70</sup> Address to the UN Security Council by Michael Steiner, (UNMIK Press Release, 30 July 2002)

<sup>71</sup> Harland, 2010: 79

### **The negotiations over Kosovo's final status**

The official freeze of the status of Kosovo persists until 2005 when as a result of growing dissatisfaction of the provisional government and Albanian population of Kosovo, official negotiations over the final status of Kosovo began. The situation in Montenegro and its independence from Serbia in June 2006 also has an impact on Kosovo and its growing expectations that an independent state of Kosovo could be achieved as a solution to the status problem. The negotiations over the status of Kosovo were presided by the Finnish president Martti Ahtisaari, assigned by the United Nations. The beginning of the negotiations looks promising – the guiding principles are agreed upon by the Contact Group, including no return to the pre-March 1999 situation, no changes in the current territory, and no unilateral solution. Moreover, it is agreed that any final decision on the status of Kosovo should be approved by the Security Council.<sup>72</sup> However, the process turned out to be extremely difficult as the positions of negotiating parties were wide apart: Kosovo, supported by the US and other allies, was reluctant to consider any other solution apart from independence, Serbia in its turn was unwilling to even discuss the option of possible independence for Kosovo. In addition, the Serbian input to the negotiations was very limited as they suspected that regardless of their opinion, Ahtisaari would propose independence for Kosovo. Therefore Ahtisaari was unable to reach an agreement between the parties, as their positions were irreconcilable.

Nevertheless, as a result of these negotiations Ahtisaari presents his Comprehensive Proposal for the Kosovo Status Settlement (known as the Ahtisaari plan) to the UN Security Council in May 2007. The plan foresees “a supervised independence” for Kosovo by the international community through the establishment of a European Union rule of law mission and an International Civilian Office (ICO). The plan was immediately accepted by Kosovo and found the support of the UN Secretary General

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<sup>72</sup> United Nations Security Council, 2005, Annex

and most western states as it would allow a smooth exit for the UN whose main functions would be taken over by the European Union who has considerably developed its peace keeping and peace building capabilities under the Common Foreign and Security Policy since the beginning of 2000s. However, the Ahtisaari plan found serious resistance in the Security Council with Russia as its main adversary, but other countries such as China, Indonesia and South Africa also voicing their concerns.<sup>73</sup>

Regardless of numerous efforts by the United States and European countries to change its position, the Security Council approval of this plan was blocked by Russia. An additional period of negotiations of 120 days was then proposed by France after which if there was still no agreement, the Security Council would endorse the Ahtisaari plan. This period of 120 days was identical to the transitional period foreseen in the comprehensive proposal during which Kosovo would have the time to adopt its constitution and other crucial legislation. For this new occasion the Contact Group formed a Troika of negotiators, led by Ambassador Wolfgang Ischinger of Germany, representing the EU, together with Alexander Botsan-Harchenko of Russia and Frank Wiesner of the United States.<sup>74</sup> During the negotiations Serbia showed willingness to accord Kosovo bigger autonomy than it had ever enjoyed and decreased the claims of powers it wished to exercise in the region. If Serbia would have had such an open position on the status of Kosovo during the Ahtisaari talks, its proposals would most likely have been endorsed by the plan and the solution could have been imposed on Kosovo by the Security Council. However, it was too late for these proposals now as after the Ahtisaari plan there was little willingness from the side of international actors to start everything from scratch. Kosovo had accepted the plan as the final solution and was now reluctant to even consider any kind of proposal falling short of independence.<sup>75</sup> In the end the Troika had no other option but to conclude: “After 120 days of intensive negotiations ... the parties were unable to reach an agreement on Kosovo’s status. Neither side was willing to yield on the basic question of

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<sup>73</sup> Harland, 2010: 81

<sup>74</sup> Weller, 2009: 1224-1226

<sup>75</sup> Weller, 2009: 1230

sovereignty”<sup>76</sup>. This shows that a negotiated solution on the status of Kosovo other than independence could have been possible even after years of UNMIK rule, but the efforts from the Serbian side came a bit too late. Timing is often crucial in this kind of complicated negotiation processes where the two sides have only very difficultly reconcilable positions and this time the timing further favored a direction towards the independence of Kosovo.

Unable to reach an agreement with Russia, the US and key European partners, working together with Kosovo authorities, decided to implement the Ahtisaari plan outside the Security Council framework and work towards the independence of Kosovo. This scenario was intended to confront the Serbs and their supporters to the new realities. At the same time they searched reassurance from the Secretary General Ban Ki-moon that the UN would not denounce the unilateral declaration of independence.<sup>77</sup> These developments led to the unilateral declaration of independence of the Republic of Kosovo on February 17, 2008.<sup>78</sup> Russia upon requests from Serbia immediately turned towards the UN Security Council regarding this issue and asked it to declare the declaration of independence of Kosovo void. As the Security Council permanent members could not agree on what should be done with the declaration of independence of Kosovo, the Council, strongly influenced by the position of the Secretary General, neither embraced the declaration nor announced it to be void, but left the matter into the competence of member states. Therefore every UN member state decides on its own according to its past practice, weather to recognize the independence of Kosovo or not. So far Kosovo is recognized by 90 UN member states and the number is constantly growing.

This step can be considered as another crucial tipping point in the United Nations’ involvement in Kosovo as it in a way allows its independence. Although the Security Council does not formally endorse the declaration of independence, it is clear that since

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<sup>76</sup> Report of the European Union/United States/Russian Federation Troika on Kosovo, 2007

<sup>77</sup> Harland, 2010: 82

<sup>78</sup> Perritt, 2010: 3

the declaration is not declared void, but is left for deliberation of member states, the recognition of the independence of Kosovo is acceptable. In doing this the UN sent a strong message to the international community and to Kosovo itself, but it also further limited its own room of maneuver making a final solution other than an independent Kosovo, recognized as a sovereign actor in international relations, hardly even imaginable.

### **Situation after the Declaration of Independence of Kosovo**

In June 2008 Kosovo adopted a new constitution that has no mention of the role of UNMIK. UNMIK in its turn continued its activity according to resolution 1244 even after the Declaration of Independence. However, this new situation puts UNMIK into a difficult situation as its legitimacy on the soil is questioned by the Kosovo authorities that now claim to govern according to the constitution of Kosovo, adopted on 15<sup>th</sup> of June 2008. Formally it is still the Special Representative of the Secretary General who is vested with the executive authority (as foreseen by resolution 1244), but in reality he is unable to exercise this authority and has in fact taken very few executive decisions since the adoption of the constitution.<sup>79</sup> It should be reminded that the UNMIK was created as an *interim* solution until a more permanent political organization could be reached. With the declaration of independence and the new constitution, the Kosovo's (provisional) government claims that they have reached this state thereby considering that UNMIK has exhausted its mandate and resolution 1244 is no longer relevant<sup>80</sup>. Therefore the UN Security Council by taking no stand on the declaration of independence of Kosovo and leaving the decision on the recognition up to each member state *de facto* recognized the independence of Kosovo changing completely the role of UNMIK on the ground. The changed situation necessitated some kind of reaction from the UN – either to reinforce their role in Kosovo and underlie its legitimacy as the highest authority in Kosovo derived from resolution 1244, or to accept the realities on the ground and the legitimacy of the Kosovo administration that it had itself developed.

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<sup>79</sup> Report of the Secretary General on the United Nations Interim Mission in Kosovo, 2008:7

<sup>80</sup> Report of the Secretary General on the United Nations Interim Mission in Kosovo, 2009: 2

Once more it was the Secretary General who played an important role in choosing the course of action to be followed by the UN. He felt that it was necessary to move forward in Kosovo and to follow the course of history. At the same time it was constantly emphasized that Kosovo is a *sui generis* case and does not provide a precedent in international relations, something that most of the adversaries of the Kosovo's independence were afraid of. The Secretary General was also perfectly aware of the differences that the question of Kosovo poses in the Security Council and therefore decided to take on a more active role in promoting one particular solution on this issue than is traditionally expected from a Secretary General. The changed situation in Kosovo, in his opinion, necessitated some kind of reconfiguration of the UNMIK, even if the Ahtisaari plan could not be endorsed by the Security Council. However, the question whether the UN administration should be reconfigured after the declaration of independence and adoption of constitution or not was also subject to serious disagreements within the Security Council. As could be expected, Russia was against any kind of change in the UNMIK since it did not recognize the independence of Kosovo and considered UNMIK to still be in charge in the region. It was the Secretary General, Ban Ki Moon that took a strong stance towards reconfiguration of UNMIK thereby moving closer to the position of those states that recognize Kosovo, without a clear Security Council authorization.<sup>81</sup> There seemed to be a general consensus on the fact that the European Union should take on more responsibilities in Kosovo and eventually completely take over the UN mission in Kosovo. This solution was more or less accepted by both parties (although Serbia had some reservations) as well as the European Union itself that had since the Kosovo crisis build up considerable civilian and military crisis management capabilities it was ready to deploy in its immediate backyard – a strategically important region for the Union. It was also thought that the prospect of eventual membership could stabilize the whole region and be useful for economic development, like it was the case in the Eastern Europe after the fall of the Soviet Union.

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<sup>81</sup> Marquand, 2008

In February 2008 the International Steering Group was constituted, headed by the EU Special Representative to Kosovo as the International Civilian Representative for Kosovo exercising the functions foreseen by the Ahtisaari plan<sup>82</sup>. As a result the international civil administration represented by the UNMIK in the framework of resolution 1244 was reconfigured, even though their mandate formally remained the same. The European Union Rule of Law Mission (EULEX) that was deployed only after the declaration of independence of Kosovo assumed more responsibilities in the areas of policing, justice and customs, while remaining under the overall authority of the United Nations, being headed by the EU Special Representative. However, the some difficulties arose in the deployment of EULEX, namely over its role in the Serb-populated areas in the north of Kosovo. The UN tried to negotiate a solution with Serbia over the situation of the Serb-populated areas of Kosovo. Their proposal became known as the six-point plan because it included six different fields: police, customs, justice, transportation and infrastructure, boundaries, Serbian patrimony<sup>83</sup>. This plan would in reality create alternative structures for Serb enclaves and was perceived as undermining Kosovo's sovereignty by its government, but also the European Union. Serbia and the UN wanted to link the deployment of EULEX to a solution in the northern regions (according to the six point plan) whereas Kosovo and the EU were opposed to the six point plan and to connecting the EULEX deployment to this plan. Finally the EU and the UN, in particular Ban Ki-Moon and Javier Solana (High Representative of the Foreign Affairs at the time) were able to agree that the two processes will take place in parallel, but without being linked together. It became clear that the interim period of Kosovo had already lasted too long, they had become used to being completely independent from Serbian rule and any kind of step back was no longer possible, even if the UN favors it.

From then on the reconfiguration of the UNMIK started. The number of its staff has decreased considerably since the year 2008 – 90% of its staff has left Kosovo leaving behind only a small political presence<sup>84</sup>. The majority of staff now stations at the

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<sup>82</sup> Weller, 2009: 1237

<sup>83</sup> Report of the Secretary General on the United Nations Interim Mission in Kosovo, 2008:8-11

<sup>84</sup> Harland, 2010: 92

administrative headquarters allowing UNMIK to accommodate the EULEX growing demand for office space, especially in regional centers<sup>85</sup>. In 2009 the presence of UNMIK personnel had decreased to 510 individuals<sup>86</sup>. So it can be said that the European Union has taken over the operational functions of United Nations in Kosovo according to the status neutral approach and formally remaining under the umbrella of UNMIK – still the highest authority in Kosovo. In parallel OSCE has also assumed bigger responsibility in the fields of democracy promotion, minority rights, reconciliation and cooperation of communities,<sup>87</sup> further decreasing the role of the UNMIK in Kosovo.

In reality the reconfiguration (meaning significant decrease) of the UNMIK in the form it was undertaken was a compromise, falling short of the official hand-over of functions foreseen by the Ahtisaari plan and maintaining at least a nominal supremacy of UNMIK in Kosovo. At the same time it still allowed the UN to disengage from Kosovo and the EU to take on more responsibilities in the region without dealing with its internal disagreement on the status of Kosovo. This move was positively received by Pristina as it signified the end of UNMIK in operational terms, something Pristina had been strongly advocating for to consolidate its independence. Moreover, this solution allowed Serbian moderate government headed by Tadic to accept the reconfiguration of UNMIK thereby not alienating the EU and upholding the prospect of eventual membership without causing significant dissatisfaction internally for being too soft on Kosovo.<sup>88</sup>

The declaration of independence also changed the relations with Serbia who so far had been considered at least legally being sovereign over the territory of Kosovo. Not surprisingly Serbia contested the independence of Kosovo and refuses to even consider recognizing Kosovo as an independent state. In October 2008 Serbia turned to the International Court of Justice to deliver an advisory opinion on the question “Is the

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<sup>85</sup> Report of the Secretary General on the United Nations Interim Mission in Kosovo, 2008:7

<sup>86</sup> Report of the Secretary General on the United Nations Interim Mission in Kosovo, 2009 (b): 1

<sup>87</sup> Report of the Secretary General on the United Nations Interim Mission in Kosovo, 2010: 1

<sup>88</sup> Harland, 2010: 83

unilateral declaration of independence by the Provisional Institutions of Self-Government in Kosovo in accordance with international law?'. After deliberating the Court announced its decision in July 2010 – it was found that the declaration of independence of Kosovo was not in breach with international law. This decision, however, changed little in the relationship between Kosovo and Serbia nor did it noticeably facilitate Kosovo's quest for international recognition or change the functioning of UNMIK. On the other hand, Serbia is not against the reconfiguration of the UNMIK and the increasing role of European Union in Kosovo through its EULEX mission, as long as they act according to resolution 1244 and remain neutral when it comes to the status question. Nevertheless the neutrality of EULEX on the status of Kosovo is sometimes questioned and Serbia does prefer UN as the highest authority in Kosovo, even if it is only by name and not by operational capacity.

At the same time the two communities in reality remain separated and the declaration of independence of Kosovo does not facilitate their cooperation. Serbian enclaves in Kosovo to a large extent boycott Kosovo's state institutions and continue to organize themselves according to Serbian legislature. After the declaration of independence Serbia from its side has boosted its efforts to cut off Serbian-populated communities from Kosovo. If this strategy is difficult to enforce in the isolated enclaves inside Kosovo, it had been quite successful in the Serb-populated areas in the northern Kosovo next to the Serbian boarder over which Kosovo has largely lost control. In addition, Serbia is trying to limit the number of countries recognizing Kosovo thereby preventing it to exercise its sovereignty as an independent country in international affairs, especially when it comes to membership in organizations such as the United Nations or the World Bank.<sup>89</sup> Moreover, the standoff in the north that has escalated in to violent confrontations is challenging the consolidation of statehood of Kosovo seriously hindering the stability of the country and the region in general<sup>90</sup>. The question therefore has now moved from talking about Serbian territorial integrity in relation to the independence of Kosovo to talking about Kosovo's territorial integrity in relation to the

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<sup>89</sup> Harland, 2010: 82

<sup>90</sup> International Crisis Group, 2012

northern territories demonstrating once more the inevitability of the outcome that previous actions have forged.

### **3.3 Evidence of path-dependence?**

In the process of UN involvement in Kosovo, path-dependent tendencies seem to be present. As mentioned in a previous section, in order to talk about path-dependence, four conditions need to be present: causal possibility, contingency, closure and constraint. This means that in order to confirm the hypothesis that UN involvement in Kosovo can be described as a path-dependent process there must be evidence that in the beginning of the process UN had several possible paths to be followed (causal possibility) with the options decreasing in time (closure) through contingent or random events that were crucial to the developments thereafter (contingency) leading to a point where UN was constraint to the chosen path as switching to other alternatives became unimaginable or too costly (constraint). The exact conditions, tipping points, sequences, existing alternatives, contingency factors will also have to be determined.

The following section will focus on analyzing the UN involvement in Kosovo according to these four conditions.

### *3.3.1 Causal possibility, contingency and closure*

In order to talk about causal possibility of UN involvement in Kosovo several different paths have to be possible in the beginning of the process, the range of which becomes narrower in time through contingent events and tipping points. It is clear that in Kosovo UN had a wide range of options for engagement in the beginning, ranging from completely ignoring the issue of Kosovo (as was to a large extent done in the first half of 1990s) to taking over exercising the sovereignty in the region (as was done in 1999 with the UN Security Council resolution 1244). The most efficient one for the UN, but also for the regional stability would probably have been a strong UN presence in the negotiation process, with readiness to deploy peace-keeping forces and an administrative support mission in the region, at least at the Rambouillet process. There is reason to believe that an UN supported solution (including UN presence in the region) could have been accepted by both sides as the humanitarian catastrophe had not yet taken place and Kosovo's demands were much more moderate than they were afterwards. However, it can be observed that the UN at that time does not want to get engaged in Kosovo. Instead, it prefers to leave the issue of Kosovo out of their general solution in the Balkans. This tendency is expressed by the decision not to consider Kosovo equal to the states comprising Yugoslavia in its right to self-determination (even though it enjoyed basically the same rights according to the 1974 constitution) as well as by the fact that the Kosovo question was completely neglected in the Yugoslavia peace process and in the Dayton accords as it was considered to be an internal matter of Serbia. Even later it is evident that the UN lets other organizations, such as the Contact Group or NATO (perceived as partial by Serbia), take the lead in Kosovo without being really engaged in finding a solution, when it could have made a difference in the negotiation process.

However, the course of events in late 1990s made it impossible for the UN to completely ignore the situation in Kosovo. It was the escalation of violence in the region that started attracting international attention in 1997/1998. At the same time the

reaction of international community to the situation in Kosovo, including the UN, was to a large extent influenced by past events and failed interventions in Somalia in 1992-1995, in Rwanda in 1993-1996 and in Bosnia in 1992 that put pressure on international community, especially the UN, not to make the same mistakes again. This situation was even further exaggerated by the atrocities committed by the Yugoslav army and Serb militias in the Balkan wars and by the reputation of Milosevic. Nevertheless, the situation in Kosovo before NATO airstrikes was not comparable with that in Bosnia during the Balkan wars and the large-scale violence and human rights violations only broke out after the beginning of NATO airstrikes. The UN resolution 1244 was clearly influenced by the NATO air campaign and its consequences and would probably not have been adopted without these events. It also reflects in a way the UN's own guilt that it had not taken the necessary means earlier when the NATO intervention and the humanitarian catastrophe that followed could have been prevented. Resolution 1244 and its extraordinarily strong mandate was to a large extent to make up for the lacking political will earlier. Therefore it can be said that the reaction of the UN to the situation in Kosovo was largely influenced by contingent factors and not that much by what was actually going on on the ground and what the organization had decided on the status of Kosovo.

The UN action after the secession of hostilities demonstrates perfectly its quest to prove its capability to deal with complicated humanitarian situations like the one Kosovo had become by the end of the armed conflict. If in its previous failed interventions the UN had been blamed of lack of political will and means to effectively deal with the situation on the ground, the mission put in place in Kosovo with resolution 1244 was to prove the contrary. In fact, it was the most invasive mission ever authorized by the UN Security Council at that time being charged with completely exercising sovereignty in Kosovo. The creation of UN Mission in Kosovo is even more surprising as there is no end-date envisaged nor does it foresee a concrete framework for resolution of the question of the final status of Kosovo. The nature of this open-ended mandate goes against its purpose – the longer the mission lasts, the more it consolidates the separation between Kosovo and Serbia. Moreover it leaves an impression to Kosovo authorities that although their

independent status is not official, nobody really envisages their return under Serbian authority. For this reason the decision to create an open-ended mission remains somewhat surprising. It is the first and the most important tipping point leading towards the independence of Kosovo as a direct result of the UN action. Until resolution 1244, and in this resolution itself, the UN strictly emphasized the territorial integrity of Yugoslavia giving no reason to believe it would encourage the secession of Kosovo. Although it was clear that some kind of international assistance needed to be set up in Kosovo after the conflict, UN could have offered assistance through one of its already existing frameworks, without taking on a task it had no experience, and arguably even no mandate under its Charter, to perform, like it did by directly exercising sovereignty on Kosovo and *de facto* separating it from Serbia. In doing so, the UN further action already became strongly constrained on a path towards independent Kosovo making envisaging a different solution very complicated.

Therefore it can be said that UN had a wide range of possible degrees of engagement in Kosovo in the beginning of the process ranging from ignoring the issue to its actual decision to take over the exercise of sovereignty in the region. It can also be seen that its degree of engagement changed radically in time and was more influenced by contingent events like its previous failed missions and experience with Milosevic or the actions of other actors (NATO), than the actual situation on the ground and the position it had adhered towards the status of Kosovo. The first and most important tipping point towards the independence of Kosovo was the creation of UNMIK that *de facto* separated Kosovo from Serbia and started building up independent institutions of Kosovo. This decision was even more surprising taking into consideration the previous attitude of UN towards the status of Kosovo that was always emphasized to be a constituent part of Serbia and the unwillingness of the UN itself to get engaged in the region (even in the negotiation process), very explicit up until 1999. In many ways creation of a simple peace-keeping or capacity building mission in Kosovo under the sovereignty of Serbia seems much more efficient and in cohesion with the previously expressed UN attitudes, underlying even further the contingent character of the UN engagement in Kosovo. However, it is evident that the decision to create UNMIK to

administer Kosovo strongly closes up the range of possible paths to be chosen by the UN later, making a political solution other than an independent state of Kosovo quite improbable.

### 3.3.2 *Constraint*

As said, with the creation of UNMIK and the *de facto* separation of Kosovo from Serbia closes up the range of possible paths to be chosen by making the path towards an independent Kosovo the most probable one. The subsequent action of UN through UNMIK further constrains UN to this path. First of all independent institutions of Kosovo are created and developed under UNMIK. Even if the legal sovereignty still lies in the UNMIK and in the Special Representative, these institutions begin to assume a growing responsibility for the administration of the country. By its action the UN enforces an independent Kosovo making it unacceptable for its Albanian population and government to accept a political solution to the status of Kosovo that falls short of a completely independent Republic of Kosovo.

Another important tipping point in this direction is the failure of the UN supported negotiations on the status of Kosovo and the subsequent rejection of the Ahtisaari plan in the UN Security Council in May 2007. This signifies the end of attempts to find a permanent political solution to the status of Kosovo through negotiations as it becomes clear that the minimum requirements of the parties are irreconcilable. The interim administration of Kosovo had lasted too long creating a sense of independence in the region and the momentum for a negotiated solution had past. With this acknowledgement the eventual independence of Kosovo becomes inevitable even if this was not envisaged as a purpose in the beginning of UN engagement in Kosovo, not even when the UNMIK was created. This inevitability becomes even clearer through another tipping point towards the independence of Kosovo when the region declares its

independence on 17<sup>th</sup> of February 2008, largely backed by the US, UK and France – three permanent members of the UN Security Council. More important than the declaration itself is the UN Security Council reaction to it. Against the Russian request, the UN Security Council does not declare the Declaration of Independence void, but leaves it to the competence of each member state to decide according to its previous practice whether to recognize the independence of Kosovo or not. In doing so the UN *de facto* legitimizes the independence of Kosovo that becomes from this moment on a *fait accompli*. This is especially true in the light of its further action – upon the claims of the government of Kosovo that they now function according to the constitution of Kosovo (giving no mention of resolution 1244) and that the mandate of UNMIK has exhausted itself, UNMIK has to a large extent handed over its authority to the institutions of Kosovo, supervised by the EULEX mission. Although *de jure* it is still the Special Representative who holds the highest authority in Kosovo, it has in reality very little influence over the administration of Kosovo. Through its own previous action, the UN was constrained to accept the realities on the ground that it had itself created and adjust its mission to the new developments, even if these were not in accordance with its initial aims. Thereby it can be said that the UN action is fully constrained on the path towards an independent Republic of Kosovo and it is only a question of time when Kosovo will assume full independence legal capacity under international law, whereas in reality the country is already administered as an independent state.

To conclude it can be said that the hypothesis of the thesis found confirmation: UN involvement in the establishment of Kosovo's independence was not anticipated in the beginning – there were possible alternative scenarios (causal possibility), but they became less and less probable in time (closure) through contingent or random events that were crucial to the developments thereafter (contingency) leading to a point where the UN was constrained to the chosen path as switching to other alternatives became unimaginable or too costly (constraint). Therefore the UN engagement in the process towards the independence of Kosovo is a clear case of path-dependence.

## Conclusion

The current thesis focused on the role of the United Nations in the process towards the independence of Kosovo. This particular case was chosen as the UN engagement in Kosovo differs greatly from its other missions. In addition, the initial aim of the organization when setting up its mission and the actual outcome now when it has pulled out the majority of the effectives, is very different posing the question what led to this unanticipated result. The hypothesis of the study was that the UN involvement in the establishment of Kosovo's independence was not anticipated in the beginning – there were possible alternative scenarios (causal possibility), but they became less and less probable in time (closure) through contingent or random events that were crucial to the developments thereafter (contingency) leading to a point where the UN was constraint to the chosen path as switching to other alternatives became unimaginable or too costly (constraint).

The first chapter of the thesis focused on the theoretical framework of the study briefly describing the general framework of new institutionalism, its subcategory historical institutionalism in particular, that brought the concept of path-dependence to political science. The concept of path-dependence itself was analyzed in more detail also explaining why it was chosen for the current work. The second chapter was dedicated to the methodological approach of the thesis bringing out the strengths and weaknesses of the process tracing method and explaining why this approach was chosen for this study. The third section focuses on the empirical analysis of the case first describing the institutional characteristics of the United Nations that are important in the case under study. Then the process of UN engagement in Kosovo and the evolution of the situation are reconstructed analyzing the conditions that influenced the course of events and the impact they had in their turn on the developments to follow. In the end, the particular conditions necessary to confirm or reject the hypothesis were laid out and alternative approaches to the case were addressed to control for the confirmation bias.

As a result of the empirical analysis, the hypothesis of the thesis found confirmation: the UN engagement in the process towards Kosovo's independence can be described as a path-dependent process. In the beginning the UN had a variety of possible paths (causal possibility) ranging from ignoring the Kosovo problem (as was done until late 1990s) to completely taking over the exercise of sovereignty in the region (as was done with resolution 1244) or supporting the independence of Kosovo (that was completely excluded in the beginning) passing by taking an active role in the negotiation process that could have changed the final outcome in the region but was not chosen at the time. However, with resolution 1244 that was the first and the most important tipping point in the process, the most unlikely path leading towards an independent Kosovo was chosen. The open-ended nature of the UNMIK and the independent administrative capacity it developed for Kosovo's institutions made a final solution other than an independent Republic of Kosovo less and less likely in time (closure). While being crucial to the developments in Kosovo later, resolution 1244 was largely motivated by the decision of NATO to use force and the consequences it had on the ground, as well as by the UN's previous failed missions and guilt of earlier inaction in Kosovo – therefore conditions not directly linked to the UN intentions in Kosovo. Influenced by these conditions the most unlikely outcome in the beginning – the independence of Kosovo, became the direction (unconsciously) taken (contingency). The failure of negotiations led later on to a unilateral declaration of independence by Kosovo backed by the US, UK and France in the UN Security Council. The second major tipping point was the UN decision not to announce this declaration to be void thereby *de facto* recognizing the independence of Kosovo further constraining the organization to the path chosen. Its actions after the declaration of independence, namely the reconfiguration of the UN that in reality meant withdrawal of the UN mission, even though they nominally still hold the highest authority in Kosovo, closed up the possibility of any other outcome than an independent Kosovo recognized as such under international law (constraint). The number of countries recognizing the independence of Kosovo that has reached 90 and is constantly growing only confirms this trend.

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## Kokkuvõte

Käesolev magistritöö analüüsib ÜRO rolli Kosovo iseseisvumise protsessis. Antud juhtum valiti tema erandlikkuse tõttu – iial varem ei olnud ÜRO omandanud seesugust rolli oma missiooni sihtmaal võttes täielikult üle suveräänsuse haldamise. Samuti püstitab asjaolu, et ÜRO eesmärgid protsessi algul ning protsessi lõpptulemus on vastandlikud, küsimuse, miks kujunes lõpptulemus just selliseks, nagu ta seda on. Magistritöö hüpotees on, et ÜRO roll Kosovo iseseisvumises on iseloomustatav raja-sõltuvuse kontseptiga: protsessi algul oli ÜRO-l mitmeid erinevaid valikuvõimalusi (*põhjuslik võimalikkus*), kuid aja möödudes nende võimaluste hulk kahanes (*alternatiivide kahanemine*) läbi ootamatute või juhuslike sündmuste (*juhuslikkus*) viies olukorrani, kus ÜRO oli seotud valitud rajale, kuna alternatiivid muutusid võimatuteks või liiga kulukateks (*seotus*).

Töö esimene osa keskendub teoreetilise raamistiku kirjeldamisele, andes põgusa ülevaate uus-institutionalismi teooriast, ennekõike ajaloolisest institutsionalismist, mis tõi raja-sõltuvuse mõiste politoloogia valdkonda. Raja-sõltuvuse (*process tracing*) kontseptist antakse põhjalik ülevaade, põhjendades miks antud kontsept valiti antud juhtumi seletamiseks. Teine peatükk on pühendatud magistritöö metodoloogiale, tuues välja protsessi analüüsi (*process tracing*) meetodi tugevad ja nõrgad küljed ning selgitamaks miks just antud metodoloogiline lähenemine valiti käesoleva magistritöö otstarbeks. Kolmas peatükk on juhtumi empiiriline analüüs. Esmalt kirjeldatakse ÜRO institutsionaalset raamistikku, mis on oluline antud organisatsiooni otsuste analüüsiks Kosovo kontekstis. Seejärel vaadeldakse ÜRO rolli Kosovos ning selle muutumist sündmuste arenedes, analüüsides tingimusi, mis mõjutasid sündmuste käiku ning kuidas need sündmused omakorda avaldasid mõju järgnevatele arengutele. Lõpetuseks tuuakse välja asjaolud, mis võimaldavad kinnitada või lükata ümber käesoleva töö hüpotees ning pööratakse mõningast tähelepanu ka teistele lähenemistele antud juhtumi analüüsil, et vältida pelgalt oma hüpoteesi kinnitamise probleemi.

Magistritöö empiirilise osa tulemusena leiab käesoleva töö hüpotees kinnitust: ÜRO roll Kosovo iseseisvumisel on näide raja-sõltuvast protsessist. ÜRO-l oli algul mitmeid erinevaid võimalusi (*põhjuslik võimalikkus*) varieerudes Kosovo olukorra ignoreerimisest (nagu suurel määral tehti kuni 1990ndate lõpuni) kuni suveräänsuse haldamiseni Kosovos (nagu tehti pärast resolutsioon 1244) või Kosovo iseseisvumise toetamiseni (mis esialgu täielikult välistati). Nende variantide vahele jääb ka läbirääkimiste aktiivne toetamine, mis oleks potentsiaalselt võinud muuta olukorra edasist arengut, kuid ei osutunud valitud kursiks. Resolutsiooniga 1244, mis on ka üks olulisimaid murdepunkte ÜRO rollis Kosovos, võeti kurss hoopis Kosovo iseseisvusele, mis protsessi algul oli üks ebatõenäolisemaid võimalikke lahendusi. ÜRO missiooni tähtajatu mandaat ning iseseisev administratiivne võimekus, mida missiooni käigus välja arendati, muutsid misiganes teise lõpplahenduse peale iseseisva Kosovo Vabariigi aja möödudes üha vähem ja vähem tõenäolisemaks (*alternatiivide kahanemine*). Hoolimata sellest, et resolutsioon 1244 oli järgnevate sündmuste seisukohalt määrava tähtsusega, oli see ise suurel määral mõjutatud NATO otsusest Kosovos sõjaliselt sekkuda ning selle tagajärgedest regioonis, samuti nagu ka ÜRO enda eelnevate missioonide ebaõnnestumisest ja süütundest seoses varasema tegevusetusega Kosovos – kokkuvõttes, tingimustest, mis ei ole otseselt seotud ÜRO enda kavatsustega Kosovos. Mõjutatuna nendest asjaoludest, muutus algul kõige ebatõenäolisem lahendus – Kosovo iseseisvus, (mitteteadlikult) valitud tegevussuunaks (*juhuslikkus*). Hilisem läbirääkimiste ebaõnnestumine viis Kosovo unilateraalse iseseisvusdeklaratsioonini, mida toetasid Ameerika Ühendriigid, Ühendkuningriigid ja Prantsusmaa ÜRO Julgeolekunõukogus. Teiseks oluliseks murdepunktiks oli ÜRO otsus mitte kuulutada antud iseseisvusdeklaratsiooni õigustühiseks seeläbi *de facto* tunnustades Kosovo iseseisvust ning üha enam sidudes organisatsiooni varasemalt valitud teele iseseisva Kosovo suunas. ÜRO käitumine iseseisvusdeklaratsiooni järgselt, ennekõike UNMIK-i ümberkorraldamine, mis sisuliselt tähendas missiooni lõppu, kuigi nominaalset säilitati oma positsioon kõrgeima võimu kandjana Kosovos, tähendas praktiliselt ka võimalike alternatiivide kadumist iseseisva Kosovo kõrval, mida tunnustatakse suveräänse riigina ka rahvusvahelise õiguse kohaselt (*seotus*). Kosovo iseseisvust tunnustavate riikide arv, mis tänase seisuga on jõudnud 90ni ning tõsiasi, et nende hulk pidevalt suureneb, annab omakorda tunnistust antud suundumuse paikapidavusest.