Engagement against All Odds? Navigating Member States' Contestation of EU Policy on Kosovo

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RESEARCH ARTICLE

Engagement against All Odds? Navigating Member States' Contestation of EU Policy on Kosovo

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ABSTRACT

Disagreements between European Union (EU) member states constrain the Union's capacity to manage conflicts such as Kosovo-Serbia. While Kosovo has long received EU support, five EU member states do not recognise its independence. How does the EU manage to work around member states' vetoes and mitigate contestation? In contrast to previous scholarship, the analysis of the EU enlargement process and visa liberalisation, the Belgrade-Pristina dialogue and the EULEX mission illustrate how institutional, technical and diplomatic solutions have allowed the provision of support to Kosovo, despite internal disagreements. EU member states have delegated to EU institutions the responsibility of overseeing day-to-day conflict management and integration policies concerning Kosovo and Serbia. EU institutions also use technical and constructively ambiguous language to manage conflicts and navigate the absence of political consensus regarding Kosovo's statehood. Additionally, the EU has fostered diplomatic collaboration with the United States (US) and with actors from the North Atlantic Treaty Organization (NATO) to navigate through the Kosovo-Serbia conflict.

The politicisation and contestation of the European Union (EU) and its policies have become important research topics (Hooghe and Marks 2009; Biedenkopf *et al.* 2021). In particular, the EU's Foreign and Security Policy (EUFSP), which has developed over time from a private club "run by diplomats for diplomats" (Nuttall 2000, 272) to a prominent policy instrument, has become increasingly politicised and contested by member states and non-state actors (Alcaro 2018; Balfour 2016; Barbé and Morillas 2019). Disagreements between member states and contestation of EUFSP are problematic to the extent that they are seen to constrain the EU's capacity to engage and manage crises and conflicts successfully (for an overview, see Lovato *et al.* 2021; Hill 1993; 1998; Toje 2008).

EUFSP towards the Kosovo-Serbia conflict is particularly questioned. Twenty-two EU member states have recognised Kosovar statehood, yet five member states (Cyprus, Greece, Romania, Slovakia and Spain) have not because of various domestic political

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considerations (Armakolas and Ker-Lindsay 2020). Such disagreement has serious consequences. Several important studies have shown how internal tensions over EU policies – such as enlargement or the EU-facilitated Belgrade-Pristina dialogue – have constrained the EU's capacity to manage the conflict and integrate both countries into the Union (Baracani 2020; Petrovic and Tzifakis 2021).

However, in spite of such contestation, the EU appears to pursue ambitious foreign and security policy instruments towards Kosovo and Serbia: both countries are part of the reinvigorated EU accession process, with Kosovo achieving visa liberalisation in 2024; the EU has also established its largest mediation mission via the Brussels dialogue and the office of the EU Special Representative (EUSR); and the EU rule of law mission in Kosovo (EULEX) has become the largest EU civilian mission for more than a decade. Therefore, this article seeks to answer the following question: How have the member states established such a far-reaching EUFSP for the Kosovo-Serbia conflict despite their internal disagreements? Our article is thus concerned with the EU and its member states and how they formulate and implement EUFSP. Even though we consider the consequences of EUFSP, the article is not about assessing the effectiveness of EUFSP in addressing the Kosovo-Serbia conflict.

Drawing on the framework presented in the Introduction to this Special Issue (Alcaro and Dijkstra 2024), this article argues that the EU and its member states have resorted to institutional, functional and diplomatic measures to mitigate internal disagreements and EUFSP contestation. Member states have used *institutional strategies* of delegation, by which EU institutions oversee the day-to-day conflict management and integration policies towards Kosovo and Serbia. Delegation prevents stalemate in EU decision-making and temporarily releases individual member states from their obligations. The EU institutions utilise, through *functional* measures, the available space and have developed a number of useful, original strategies to address the conflict and overcome the lack of political consensus on Kosovar statehood. This includes using technical and constructively ambiguous language. The EU has also *diplomatically* partnered with the United States (US) and worked closely with North Atlantic Treaty Organisation (NATO) actors. The use of these institutional, functional and diplomatic measures, amidst internal contestation, is demonstrated by examining the EU enlargement process and visa liberalisation, the Belgrade-Pristina dialogue and EULEX. This analysis emphasises the agency of the EU, which is being increasingly constrained not only by internal disputes but also multipolar competition and regional fragmentation (see Alcaro and Dijkstra 2024, this Special Issue).

While the EU and its member states have formulated and implemented a relatively wide-ranging EUFSP towards Kosovo and Serbia despite internal disagreement on Kosovar statehood, the use of these specific institutional, functional and diplomatic mitigation measures has had serious consequences. The article concludes that this *modus operandi*, in which the EU bypasses the member states' disagreements, neither provides a sustainable peace nor accelerates the EU integration of Serbia and Kosovo. Indeed, the EU's distinct approach has lost its legitimacy particularly in Kosovo (Mahr 2018) and has thus far failed to achieve a final settlement.

The article builds on official documents, secondary studies and recent publications. It also draws on 36 interviews with EU and member states' officials as well as local Kosovar and Serbian officials, experts and civil society representatives.[1] Interviews were conducted in Athens, Belgrade, Brussels, Pristina, Madrid and via online video conference

mostly in September 2022 (see List of Interviews).[1] While most interviews were helpful in terms of providing a comprehensive picture of the EU's approach, we only explicitly refer to those interviews which were used to make empirical claims. As far as structure is concerned, the article proceeds as follows. The first section discusses the academic literature on EU member states' contestation in EUFSP as well as the literature on the EU's role in the Kosovo-Serbia conflict. Subsequently, the article focuses on delegative, functional and diplomatic strategies regarding the enlargement policy, the dialogue and EULEX. The conclusion provides an assessment of the EU's mitigation strategies and discusses the drawbacks of EUFSP for the Kosovo-Serbia conflict.

Member states' contestation of EU foreign and security policy

The lack of a common understanding among EU member states and between the member states and EU institutions on how to tackle an external crisis has become increasingly visible in the past decade (Biedenkopf et al. 2021; Dyduch and Müller 2021; Juncos and Pomorska 2021; Maurer and Wright 2021). Even the definition and perception of a crisis seem to generate dissensus since it is heavily politicised and interpreted differently by EU member states (Karakir and Karacasulu 2016; Peoples 2022). These disagreements can undermine the EU's role, above all in the field of conflict management, where swiftness, coherence, sustainable engagement and cooperation with external players are key factors (Pirozzi 2015; Whitman and Wolff 2010).

Since the post-Lisbon reforms (including the creation of the double-hatted High Representative for Foreign Affairs and Security Policy and Vice-President of the Commission [HRVP], and the European External Action Service [EEAS]), EU institutions have gradually and significantly expanded their role within EUFSP. However, the transfer of powers from member states towards the Brussels level has sparked politicisation and consequently contestation (Hofmann 2013; Juncos and Pomorska 2021). Indeed, over the years member states have disagreed over common positions and resorted to informal channels to further their individual interests – thus affecting the coherence of EUFSP (Aggestam and Bicchi 2019; Juncos and Pomorska 2021). Contestation takes many forms and can occur at various levels of the foreign policy cycle (agenda-setting, policy formulation, decision-making, implementation) (Biedenkopf et al. 2021). Rather than normal disagreements that occur in all political processes, this type of contestation should be seen as fundamentally questioning the very existence of EUFSP or its capacity to act (Biedenkopf et al. 2021, Müller et al. 2021).

When it comes to the conflict between Kosovo and Serbia, the internal EU disagreement on Kosovo's status has directly affected EUFSP. Scholars have explained this lack of consensus by analysing the role of domestic political actors, such as political parties, interest groups, civil society organisations, public opinion and the media, in the formation of EUFSP (Jorgensen et al. 2015). They have shown that the Spanish position is informed by its government's opposition to the Basque and Catalan independence movements, the latter of which held an illegal referendum on independence in 2017 (Ferrero-Turrión 2021). Likewise, Cyprus' non-recognition of Kosovo is related to the

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[1]Interviews were conducted in line with the ethics guidelines of the JOINT Horizon project, of which this research was part, approved by the Italian CNR Research Ethics and Integrity Committee on 9 August 2021.

Northern Cyprus dispute (Ioannides 2020), whereas Greece acts in support of Cyprus' concerns, trying to avoid opening the Pandora's box of secessionism that could affect the island's disputed territory.[2] As regards Romania and Slovakia, scholars identify the large ethnic Hungarian minorities in both countries and the fear that recognising Kosovo would fuel secessionism (Ivan 2020; Nič 2020).

Interestingly, the literature has problematised the dichotomy between recognisers and non-recognisers of Kosovo's independence and shown the wide variation in engagement practices that both recognising and non-recognising member states maintain with the Kosovo authorities (Ker-Lindsay and Armakolas 2020). Thus, all the five non-recognisers interact with Kosovar representatives at multilateral summits; some (Greece, Romania, Slovakia) have diplomatic representations in Pristina; and all but Spain accept Kosovar passports. At the same time, the degree of interaction with Kosovo is very limited for some member states, such as Poland and the Czech Republic, even if they have formally accepted the independence of Kosovo (Dopita 2020; Wiśniewski 2020). The existing differences in the level of engagement with Kosovo has led scholars to classify the member states into "weak" and "strong" recognisers as well as "soft" and "weak" non-recognisers (Ker-Lindsay and Armakolas 2020, 5). In other words, practices of engagement are as important as legal recognition processes and may signal openings to be exploited at the EU level in day-to-day policy implementation, as will be argued below.

Given the EU's extensive involvement in Kosovo, scholars have attempted to understand the Union's approach to the Kosovo-Serbia conflict. Some have drawn comparisons between the EU's external peacebuilding efforts and its internal neo-functionalist peace-making narrative that seeks to deconstruct larger political problems into smaller technical resolutions (Visoka and Doyle 2016). Others have emphasised the ways in which the EU masks its internal disagreements on Kosovo by simulating power in its mediation of the Kosovo-Serbia dialogue (Gashi 2021). Another group of scholars have highlighted the instrumental use of EU conditionality in trying to normalise relations between Serbia and Kosovo (Economides and Ker-Lindsay 2015). Others have tried to evaluate the EU's actorness, given the contested nature of Kosovo's statehood (Baracani 2020; Noutcheva 2020), or studied the causes and results of the slow progress made in resolving the long-standing conflict (Bergmann and Niemann 2015; Hajrullahu 2019; Zupančič et al. 2018).

Ultimately, most of these studies have observed that the political interests of member states, their disagreements over the status of Kosovo and policies such as enlargement, have undermined the capacity of the EU to act satisfactorily (Petrovic and Tzifakis 2021). Given the slow, incomplete process of state-building and of EU integration of both Serbia and Kosovo as well as the recurrent episodes of instability, insecurity and tension between the two, the extant literature is almost invariably critical of the EU intervention (Beha 2023; Elbasani 2018; Kartsonaki 2020).

While we do not necessarily disagree with these assessments, we have a slightly different concern. Our focus is on addressing how the EU engages in conflict management, given the strong contestation over Kosovar statehood (Alcaro and Dijkstra 2024, this Special Issue). In that sense, we are primarily preoccupied with how the EU makes policies rather than with what effect these policies have on the ground. We examine

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[2]Interview #5, Policy expert, Athens, 2022; Interview #6, Academic expert, Athens, 2022. See also Armakolas (2020).

the constraining factors that intervene in the process of EUFSP-making in this particular case study. Although multipolar competition and contestation as well as regional dynamics and fragmentation decisively affect the peace process and constrain the EU's capacity to solve the Kosovo-Serbia conflict (see Alcaro *et al.* 2022), we focus specifically on EU internal contestation. We argue that the member states have mitigated their own internal disagreement over the conflict by way of *institutional* strategies that delegate policy implementation to EU institutions. This has created considerable space for EU institutions to act. They have used *functional* measures such as the adoption of technical language and exploiting creative ambiguity about the intent and potential consequences of EU policies to sidestep internal EU contestation temporarily. The EU has also collaborated *diplomatically* with the US and worked closely together with NATO actors.

Of the three mitigation measures designed to circumvent internal disagreements between member states, *institutional strategies of delegation* are particularly prominent in EUFSP towards Kosovo and Serbia. Member states delegate tasks to EU institutions when they are either unable or refuse to perform those tasks themselves (for discussion on the principal-agent model, see Pollack 2003; Dijkstra 2013; Delreux and Adriaensen 2017). As member states are at an impasse on the status issue, they have realised that delegation is a better course of action in the Kosovo-Serbia conflict. It allows member states to evade responsibility and avoid blame by domestic actors (Fiorina 1982; Bartling and Fischbacher 2012; Heinkelmann-Wild and Mehrl 2022), while at the same time not being criticised in the international arena (Putnam 1988). Yet while delegation decisions normally take place in areas of "low politics" (Hoffmann 1966), in the case of Kosovo and Serbia, member states have also delegated diplomatic and security functions to EU institutions (that is, in areas of 'high politics'). The latter has empowered EU institutions to become key actors even on the most sensitive sovereignty-related questions by acquiring a facilitating role in the negotiations between the two parties and by engaging in state-building in Kosovo, irrespective of the internal discord on Kosovo's status.

Strategies of delegation do not just allow member states temporary relief from responsibility, they also create space for EU institutions to pursue their own agendas and engage in *functional strategies* through creative policy entrepreneurship. While in a normal delegation relationship, member states seek to keep strict control over policy implementation by EU institutions (Pollack 2003; Delreux and Adriaensen 2017), this is not always straightforward. Precisely because the member states disagree heavily amongst themselves on Kosovar statehood, the EU institutions are given some additional leeway (Kiewiet and McCubbins 1991; Epstein and O'Halloran 1999; Nielson and Tierney 2003; Delreux and Adriaensen 2017; Heldt and Schmidtke 2017). Following this institutionalist line of argument, we argue that the EU institutions have considerable agency in the Kosovo-Serbia conflict, although they remain careful not to overstep the red lines of member states. Furthermore, by *diplomatically* engaging closely with third parties, such as the US and NATO actors, the EU institutions have strengthened their own positions *vis-à-vis* the contesting member states.

EU policies towards the Kosovo-Serbia conflict

The EU has deployed a large spectrum of foreign policy instruments in its search for a solution to the Kosovo-Serbia conflict. It has specifically mobilised its enlargement, diplomatic and security toolbox in an attempt to steer the two sides towards a final

settlement. Yet how was such a comprehensive policy formulated given that member states were so divided on Kosovo's statehood?

In what follows, we examine how the EU and its member states have pursued various policy instruments through institutional, functional and diplomatic mitigation strategies, despite the constraints arising from internal contestation. Not surprisingly, the European Commission has been at its most entrepreneurial as a manager of the accession process, skilfully using its technocratic mandate to forge a contractual relationship with Kosovo on behalf of the EU while steering away from national politics. The EU institutions have also used the EU's diplomatic resources to mediate and bring the two sides to the negotiating table. They have put in place a structured process of technical negotiations between Kosovo and Serbia, relying on secrecy in mediation diplomacy, among other things, to insulate the discussions from public scrutiny and shield the (non-recognising) member states from their domestic audiences. Likewise, the EU institutions have engaged in hands-on supervision of Kosovo's *de facto* independence on the ground, working around the implementation difficulties through technical and sometimes creative solutions, and progressively earning the trust of local and other regional parties. The EU has worked in tandem with the US and NATO, which have provided considerable support for EU policies. In short, institutional, functional and diplomatic measures go a long way in accounting for the EU's far-reaching, multi-faceted policy towards Serbia and Kosovo.

Enlargement policy and visa liberalisation

The EU extended the membership prospect to Western Balkans countries at the Thessaloniki Summit in 2003 (European Commission 2003). The main goal was to stabilise and democratise the region while preparing it for full integration into the EU. While strictly speaking not a conflict resolution tool, the accession process has always been expected to have a positive spillover effect on reconciliation, as it would have incentivised the governments in Belgrade and Pristina to put old quarrels behind them in the name of a common European future (Hehir 2007).

Following internal contestation of Kosovar statehood, the EU enlargement policy officially follows "a status neutral" approach that puts aside the non-recognition of Kosovo by five member states.[3] In all official documents, the EU consistently refers to Kosovo with an asterisk and a footnote indicating that its policy is "in line with United Nations Security Council Resolution 1244/99 and the opinion by the International Court of Justice on the Kosovo declaration of independence".[4] Even though enlargement policies are ultimately about the sensitive question of whether (recognised) states can join the EU, the enlargement to Kosovo and Serbia has not been internally contested. All member states have unanimously agreed to promise membership to both sides of the conflict. Kosovo and Serbia were subsequently given separate tracks in the EU accession trajectory; the European Commission, as the main interlocutor on the EU side, was delegated the task of forging relations with both governments separately.

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[3]Interview #35, EU official, Brussels, 2022.
[4]See, for example, European Commission (2023c).

Over the years, the European Commission has proved instrumental in advancing Kosovo's accession bid, notwithstanding the legal challenges surrounding its status. In 2015, the EU signed a Stabilisation and Association Agreement (SAA) with Kosovo, which entered into force the following year after ratification by the European Parliament (EUR-Lex 2015). SAAs are normally mixed agreements that cover both EU and national competences and involve ratification by all member states as well as the European Parliament. To secure unanimity, a pragmatic compromise was found that enabled the EU to engage with Kosovo in a contractual relationship by including in the agreement only the areas of cooperation that belong to the EU competences.[5] This prevented individual member states from having to agree to the SAA, with potentially difficult domestic parliamentary discussions. Likewise, the European Commission has overseen Kosovo's compliance with the EU's Visa Liberalisation Roadmap and proposed the lifting of visa requirements for Kosovo's citizens in 2016, which member states formally accepted in March 2023 (Council of the European Union 2023). Member states have approved of this creative entrepreneurship by the European Commission – a functional mitigation measure on top of the institutional mitigation measure of delegation – as it has relieved them of responsibility and potential gridlock.

Serbia's accession bid has unfolded in parallel. The country has been negotiating accession with the EU since 2014, and by December 2021, it had 22 chapters (out of 35) of the *acquis communautaire* opened and two provisionally closed (European Commission 2023a).[6] Chapter 35 requires the normalisation of relations with Kosovo; the expectation is that the two sides reach an agreement between themselves before accession can be realised. However, this does not complicate nor prevent Serbia's legal alignment with the rest of the EU *acquis*. As a matter of fact, between 2017 and 2021, Serbia has progressively opened all chapters under cluster 1 on the so-called 'fundamentals' and cluster 4 on the Green agenda, intensifying its substantive discussions with Brussels on both rule-of-law issues (chapters 23 and 24) and issues related to its functional integration into the EU (the rest of the opened chapters) (European Commission 2023a).

Overall, Serbia's accession negotiation progress so far has been sluggish, partly due to domestic problems with a decline in democratic standards since 2011 (V-Dem database 2023), whereby power has been concentrating in the hands of one party/leader, with fewer checks and balances,[7] and partly owing to the reluctance of the EU to admit new members after the 2004-07 enlargement (O'Brennan 2014). Also, it is particularly relevant to note that while Serbian foreign policy is geared towards the EU, this often clashes with other Serbian priorities, including influencing developments in Bosnia and Kosovo or enhancing cooperation with Russia and the People's Republic of China (PRC) (Džankić *et al.* 2021). As a result, Serbia's alignment with Common Foreign and Security Policy (CFSP) declarations, a strong expectation in the accession process, has been dismal, dropping from 64 percent in 2021 to 45 percent in August 2022 (European Commission 2022). At the core of this issue is the country's refusal to implement the EU's sanctions against Russia, making Serbia appear in EU policy circles as the "bad pupil" in the group of Western Balkans accession candidates, while others have

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[5]Interview #34, EU official, Pristina, 2022.
[6]Interview #36, EU official, Brussels, 2022.
[7]Interview #7, Civil Society, Belgrade, 2022; Interview #8, Academic expert, Belgrade, 2022; Interview #11, EU official, Belgrade, 2022. See also Petrovic (2021).

shown full solidarity with the EU on Ukraine.[8] And while the EU member states may have tolerated a looser alignment with CFSP in the past, the Russia-Ukraine war has elevated the requirement for CFSP alignment to a priority for Serbia and a *conditio sine qua non* for its accession progress (European Commission 2023b).[9] In this sense, Serbia's accession negotiation progress is less affected by legal complications related to the dispute over Kosovo's sovereignty (barring negotiations on chapter 35) than by the choices of its government over domestic and foreign policies.[10]

In short, the EU has used visa liberalisation and accession policies as conflict management tools to overcome nationalist disputes. Through the *institutional* strategy of delegation, internal member states' contestation has been avoided. Progress has been possible because of the *functional* and entrepreneurial approach of the European Commission, which has done its utmost to advance Kosovo's accession path regardless of the legal difficulties surrounding the lack of formal recognition by all member states. The European Commission has emphasised that these policies belong to the EU competences and taken responsibility away from domestic parliaments.

Facilitation of dialogue between Serbia and Kosovo

The EU-facilitated dialogue between Kosovo and Serbia presents another prominent instrument of EUFSP. The dialogue dates back to the unilateral declaration of independence in 2008. At the time, the UN General Assembly (UNGA) requested an advisory opinion from the International Court of Justice (ICJ) on the legality of the declaration. The ICJ's advisory opinion establishing that the declaration as such did not violate international law was important for Kosovo, but it did not result in Serbian recognition of Kosovar statehood. In response to the ICJ judgement, the UNGA therefore mandated "a process of dialogue between the parties", "facilitated" by the EU.[11] Since the dialogue began in 2011 it has been conducted under the auspices of the EU institutions and particularly the EU High Representatives Catherine Ashton, Federica Mogherini and Josep Borrell.

The purpose of the facilitated dialogue is to address technical cooperation issues between Kosovo and Serbia with a view to the eventual normalisation of relations. The facilitated dialogue had some early successes, resulting in the 2013 Brussels Agreement that aimed at normalising the relations between the two parties (covering issues such as Serbian municipalities in Kosovo, policing, municipal elections, energy and telecommunication, amongst others), the opening of the EU accession negotiations with Serbia in 2014 and the signing of the SAA with Kosovo in 2015, but has made less progress since then (Emini and Stakic 2018).

In subsequent years, both Belgrade and Pristina have reinforced their antagonistic positions and violated parts of the Brussels Agreement. For example, Kosovo has not implemented decentralisation – the self-governing association of Serbian municipalities

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[8]Interview #10, Policy expert, Belgrade, 2022.
[9]Interview #11, EU official, Belgrade, 2022; Interview #36, EU official, Brussels, 2022.
[10]It is beyond the scope of this article to examine the reasons behind Serbia's foreign policy choices and its (de-) democratisation trajectory in the last three decades. For a discussion, see Bechev (2021), Panagiotou (2021), Ross Smith *et al.* (2021), Richter and Wunsch (2020).
[11]Interview #29, (Former) Kosovo official, online, 2022. See also UN General Assembly (2010).

remains unestablished at the time of writing – while Serbia has launched a derecognition campaign.[12] Leaders in both Pristina and Belgrade benefit politically from taking an antagonistic stance against each other since the status of Kosovo is arguably the most sensitive – and emotionally powerful – issue in both countries (Ejdus 2020). In this already polarised context, disinformation exacerbates the difficulties in the process. Another domestic element that constrains progress in the dialogue is "state capture", whereby Serbia's President Aleksandar Vučić and his clientelist networks have come to monopolise state structures like the security and the judiciary sectors and the media, accelerating a process of democratic backsliding (Richter and Wunsch 2020; Stojanović-Gajić and Pavlović 2021).

Despite these difficulties, the dialogue forms one of the cornerstones of EU policy. To overcome the intra-EU disagreement on Kosovar statehood, EU member states have a clear incentive to promote the normalisation of relations between Kosovo and Serbia. If both countries develop better relations, which may ultimately result in Serbia's formal recognition of Kosovo, internal EU disagreements would become irrelevant or less salient. Again, the *institutional delegation* of responsibilities to the EU and to Serbia and Kosovo (the EU acts only as a 'facilitator') took responsibility away from member states. This institutional strategy has been coupled with a *diplomatic strategy* in which the EU institutions work more closely with the US and NATO actors, as evidenced by the diplomatic coordination taking place between them. Although cooperation between the EU and the US became less smooth during the Trump presidency, the US has provided sustained support for Kosovo's Euro-Atlantic integration, represents a stability and security actor along with NATO and holds legitimacy among Kosovar elites and public opinion (Gashi and Kelmendi 2023).

In April 2020, the EU appointed Miroslav Lajčák as the EU Special Representative (EUSR) for the Belgrade-Pristina Dialogue and other Western Balkans regional issues (EUR-Lex 2020). This was an attempt by EU member states and HRVP Josep Borrell to give new impetus to the dialogue. Lajčák, as a former president of the UNGA, Slovak foreign minister, chairman-in-office of the Organisation for Security and Cooperation in Europe (OSCE), and EUSR and High Representative in Bosnia in 2007-09, did not just have considerable diplomatic eminence, but also commanded a deep knowledge of the Western Balkans (Council of the European Union 2020). He was given a substantial office consisting of ten advisors in Brussels as well as an advisor and local officials in both Belgrade and Pristina. His office also included 18 experts dealing with the implementation of the dialogue who were located in the EULEX premises (the EULEX mission is addressed below).[13] All this indicates strong support for EUSR Lajčák among the member states. Indeed, the member states intensified the dialogue through their institutional strategy of delegation. Similar to member states' support for enlargement talks, intra-EU disagreement clearly did not prevent a common policy on the dialogue.

The appointment of an official from a non-recognising country (as mentioned, Lajčák is Slovak) in combination with a Spaniard as High Representative initially raised eyebrows in the Kosovar government.[14] In the first few months of his appointment

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[12]Interview #8, Academic expert, Belgrade, 2022.
[13]Interviews#24, EU official, Pristina, 2022; Interview #30, EU official, Brussels, 2022.

Lajčák and his team also had to contend with Covid-19 and the fact that they were side-lined during the Kosovo and Serbia Agreement of September 2020 – intended to normal-ise economic relations and advance the issue of recognition – under the auspices of Trump's administration.[15] Lajčák needs to be careful with the terminology and cannot unequivocally support Kosovar statehood, even though that seems to be the most likely end point of the dialogue.[16] Furthermore, Lajčák has to balance (including infor-mally) a diverse set of principals. He has to deal with five recognising states in the Quint format (France, Germany, Italy and non-EU member states like the United Kingdom (UK) and the US), and to maintain a close working relationship with Gabriel Escobar, the US Deputy Assistant Secretary for the Western Balkans. At the same time, Lajčák needs to persuade non-recognising states such as Spain, who keep a close eye on the EUSR's work.[17] Lajčák provides limited process transparency and information in an attempt to navigate these complicated political dynamics. This comes with a cost: civil society organisations in Belgrade and Pristina criticise the secrecy of the dialogue and the fact that the dialogue takes place in Brussels behind closed doors, with little discus-sion in the Serbian and Kosovar parliaments.[18]

Despite overall EU support for the dialogue, member states have disagreed about the potential outcomes of the process. In 2018, the idea of border adjustments by way of land swaps – an idea that had been around since the 1990s – was revived by Serbian President Vučić and the then President of Kosovo, Hashim Thaçi. This possibility gained even more traction when it was backed by John Bolton – Trump's National Security Advisor in 2018-19 – Johannes Hahn and Olivér Várhelyi – EU Commissioners for Neighbourhood and Enlargement respectively – and even HRVP Borrell (Fehér and Rédl 2021). Some EU member states, such as Belgium, Hungary, Austria, Romania and Spain, did not reject the idea. Spain did not openly oppose this solution to the conflict because both Serbia and Kosovo initially seemed to agree upon this option.[19] On the other hand, Finland, Luxembourg and especially Germany opposed the propo-sal[20] on the grounds that it would open a contentious precedent for the region as well as bring major implementation challenges (Zweers and de Boon 2022). Lajčák sided with the latter group. To avoid a decision that could cause controversy and divide member states, the option was to "defer" the solution (Bargués-Pedreny 2018). Diplo-macy thus prevailed and saved the EU from exposing its differences publicly.

Lajčák seems committed to infusing new life into the EU-brokered dialogue. With clashes at the Kosovo-Serbian border in 2021 and 2022 over ID cards and licence plates, the EU had to intervene by forcing both parties back to the negotiation table. The EU, represented by Borrell and Lajčák himself, relied heavily on the US and NATO, a diplomatic strategy designed to increase their own credibility with the parties but also the divided member states. In the words of NATO Deputy Secretary

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[14]Interview #27, International official, Pristina, 2022.
[15]Interview #27, International official, Pristina, 2022; Interview #30, EU official, Brussels, 2022. See also Semenov (2021).
[16]Interview #23, National official, Brussels, 2022; Interview #30, EU official, Brussels, 2022.
[17]Interview #22, (Former) Kosovo official, online, 2022; Interview #26, International official, Pristina, 2022; Interview #27, International official, Pristina, 2022; Interview #30, EU official, Brussels, 2022.
[18]Interview #7 Civil Society, Belgrade, 2022; Interview #8, Academic expert, Belgrade, 2022. See also Tadić (2019).
[19]Interviews #1, Spanish official, Madrid, 2022; Interview #2, Spanish official, Madrid, 2022; Interview #3, Spanish official, Madrid, 2022.
[20]Interview #8, Academic expert, Belgrade, 2022.

General, "NATO Headquarters, KFOR, Allies as well as the European Union and the OSCE have been tireless in their efforts to de-escalate the situation in northern Kosovo and bring both sides to the negotiation table, within the framework of the EU-led dialogue between Belgrade and Pristina".[21] The need to re-engage in such crisis management activities, coupled with the ongoing war in Ukraine, also created an impetus to take steps towards a final agreement between Kosovo and Serbia. Initially prompted by a proposal from the diplomatic envoys of French President Emmanuel Macron and German Chancellor Olaf Scholz in the fall of 2022, the EU brokered a key agreement in February 2023 that included a commitment to work towards full normalisation. While the EU institutions led these key negotiations in the framework of the dialogue, they benefited from diplomatic pressure from France, Germany and the US on both parties. At the time of writing, it remains unclear whether this renewed attention to the Kosovo-Serbia conflict will have any lasting effect, with both parties wavering over their commitments.

Overall, it is perhaps easy to dismiss the EU-facilitated dialogue for not yet producing a breakthrough on the final settlement of Kosovo's sovereignty. It is true that sometimes the EU seems to act 'to stop the fire' *only* when political tensions escalate. Nevertheless, it remains remarkable that the EU was the only actor able to build on the dialogue by overseeing talks between the sides in a formal negotiating setting. What matters here is that this has been possible because the member states have entrusted EU diplomats to mediate in close cooperation with US and NATO actors. Furthermore, presenting their work as technical and facilitatory in nature and invoking at times the secretive character of negotiations, the EU diplomats have skilfully been able to insulate the dialogue from the public, not least to spare their principals from the public exposure of their disagreements on Kosovo's statehood.

Security policy and the EULEX rule of law mission

The EULEX rule of law mission represents the third element of the ambitious EUFSP tools used for the Kosovo-Serbia conflict. This civilian mission is part of the Common Security and Defence Policy (CSDP) and was launched in 2008 following the recommendation of UN Special Envoy Martti Ahtisaari as part of the broader strategy of recognising Kosovo's independence (EUR-Lex 2008). Originally envisioned as a relatively small mission, which would take over only some functions from the United Nations Mission in Kosovo (UNMIK), EULEX became the EU's largest civilian CSDP mission at that time (Dijkstra 2011). The mission remains important to support rule-of-law institutions in Kosovo to this date. EU member states were very concerned about the local security sector and Kosovar rule-of-law institutions and, as such, decided to employ almost 3,000 international and local staff. Its mission was to support Kosovo's rule-of-law institutions to increase "their effectiveness, sustainability, multi-ethnicity and accountability, free from political interference and in full compliance with international human rights standards and best European practices" (EULEX 2023).

Because EULEX involved such a large EU presence in Kosovo and member states were divided on Kosovar statehood, the member states exceptionally decided to adopt the

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[21]Quoted from NATO (2023).

Joint Action on EULEX about a week prior to the official unilateral declaration of Kosovar independence on 17 February 2008. With the EULEX planning completed and the mission agreed *before* member states needed to express their opinions on Kosovar independence, the EU guaranteed that EULEX could move ahead. With the tacit consent of the membership, the whole planning and initial implementation of the mission was therefore moved away from the member states, with the EU institutions playing a significant role (Dijkstra 2011). In addition, Cyprus for the first time used the right to constructive abstention enshrined in Article 31(1) of the Treaty on European Union (TEU) in order not to block the mission, showing respect for the wish of other member states for an active engagement in Kosovo and thus allowing the EU to go ahead with practical arrangements (Cremona 2009).

While EULEX was originally launched with a lot of buy-in from EU member states, who fully supported the CSDP mission, it soon encountered local opposition. The mission's size, its capacity to bypass Kosovar institutions on issues of justice, rule of law and security, as well as multiple scandals early in its tenure, weakened Kosovar public support for EULEX (Mahr 2018). What had worked in Brussels to satisfy the membership – namely the deployment of a 'technical' rule of law mission run by the EU institutions – did not work sufficiently on the ground. As with all EUFSP instruments for Kosovo and Serbia, EULEX had to perform an ambivalent role, operating under a 'status neutral' mandate and reducing the salience of politics, while simultaneously developing the Kosovar state and its institutions (see Bargués-Pedreny 2016; Musliu 2020).

To enable local ownership, over time, EULEX has reduced its footprint and gone through important mandate changes, notably in 2012, 2014 and 2018 (Council of the European Union 2018). EULEX currently consists of almost 400 international and local staff (EULEX 2023). Under the current mandate, EULEX has fewer executive tasks. It retains one Formed Police Unit (FPU) with 105 Polish police officers as Kosovo's second security responder in charge of riot and crowd control (after the Kosovo Police and before NATO's KFOR). The FPU carries out daily reconnaissance patrols in the north of Kosovo and has a Quick Reaction Force permanently on standby. As the security situation on the ground worsened in 2022, EULEX was temporarily reinforced with a Reserve Unit of 70 police officers from France and Portugal.[22] The FPU also provides operational support to the Kosovo Specialist Chambers in The Hague, which deal with war crimes. The rest of EULEX plays a more supportive role, including acting as an interface for policy cooperation between Kosovo rule of law authorities, on the one hand, and Europol, Interpol and the Serbian authorities, on the other. EULEX furthermore continues to monitor the Kosovar judiciary and correctional service. It provides forensic expertise and runs small-scale projects. Until December 2022, when it was transferred to the EU Office in Pristina, EULEX was hosting the Dialogue Support Team, which dealt with the implementation of the facilitated dialogue. Progressively, the EULEX mandate has been trimmed of its core state functions as the Kosovo authorities have taken charge of domestic governance. Presently, it involves more technical roles that are also more easily accepted and less contested by the Kosovar population.

EULEX has had a difficult relationship with former Prime Minister and President Thaçi (2008-14; 2016-20), whose case for alleged war crimes and crimes against humanity

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[22]Interview #24, EU official, Pristina, 2022.

committed during the 1998-99 war is in the pre-trial stage at the Kosovo Specialist Chambers. However, the relations with the current Kosovar government led by Prime Minister Albin Kurti are markedly better.[23] Kurti has in the past been critical of EULEX (and UNMIK), but he has found an ally in the EU mission in his fight against corruption and organised crime (EULEX 2020). The markedly technical role of EULEX is its biggest asset against contestation. It is unhesitantly supported by EU member states and has not been a serious target for Russia, for instance, or other major powers. As such, contestation between member states seems currently to affect EULEX less than the more contentious dialogue between Kosovo and Serbia. EULEX has also had a close working relationship with the NATO mission on the ground, which has proven vitally important during the border tensions in 2021, 2022 and 2023 (NATO 2023).

Overall, the EU's contribution to state-building in Kosovo via the EULEX mission has been made possible by member states' flexibility in launching the mission, putting aside divisive arguments about the status question and focusing on the practicalities of super-vising the governance of a *de facto* state. This involved the constructive abstention by one of the five non-recognising states as well as the entrepreneurial role of the EU insti-tutions, which planned and implemented the mission. EULEX itself steered a difficult course of charting an independent future for Kosovo's authorities while respecting the sensitivities of the EU member states on Kosovo's final status and making it acceptable in the eyes of the local population. The case of EULEX, in this regard, once again high-lights institutional strategies of delegation amidst internal divisions between EU member states, functional strategies to navigate the status-neutral mandate of EULEX as well as close diplomatic cooperation with NATO.

Conclusion

The contestation of EUFSP by member states has become a real challenge for formulat-ing and implementing effective policies (see Alcaro and Dijkstra 2024, this Special Issue). The Kosovo-Serbia conflict is a key example of a heavily contested EUFSP dossier. At the same time, in spite of this contestation, the EU has still managed to develop an ambitious policy consisting of enlargement, diplomacy and security instru-ments. This article has tried to explain how the member states have established a far-reaching EUFSP for the Kosovo-Serbia conflict despite their internal disagreement on Kosovar statehood.

While there is an extensive literature on the Kosovo-Serbia conflict and the role of the EU therein (*inter alia* Armakolas and Ker-Lindsay 2020, Baracani 2020, Elbasani 2018, Ker-Lindsay and Armakolas 2020, Kartsonaki 2020), this article has taken an EU-focused perspective in trying to understand EU foreign and security policy-making amidst internal contestation. It has focused on uncovering how EUFSP can work amidst internal disagreements. The findings are threefold. First, the member states have deployed *institutional strategies* of delegation, by which EU institutions oversee the day-to-day running of EUFSP towards Kosovo and Serbia. Delegation has tempor-arily relieved individual member states from their responsibilities and avoided a

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[23]Interview #24, EU official, Pristina, 2022.

gridlocked EUFSP. Second, the EU has adopted a *functional strategy*, consisting of using technical language and a methodology that emphasises governance and avoids disputed political issues. The enlargement processes and EULEX are clearly geared towards strengthening Serbian and Kosovar institutions, but also the dialogue itself seeks to reinforce technical cooperation between the two countries. Third, the EU has also made use of *diplomatic measures*, such as close cooperation with the like-minded US and NATO actors.

Such EU 'output' amidst internal contestation is not always appreciated, even more so as the actual effectiveness of EUFSP towards the Kosovo-Serbia conflict is oftentimes criticised (see Kartsonaki 2020). Furthermore, the member states' strategies of delegation have only provided temporary respite. The fact that the EU has remained fundamentally divided on statehood has over the years undermined its leverage with respect to Kosovo. Security incidents at the Kosovar-Serbian border in 2021 and 2022 could only be resolved through the involvement of the US, which remains Kosovo's most trusted partner. It has furthermore turned out to be wishful thinking, particularly on the side of the five non-recognisers, that the delegated EU technical approach would eventually bring Serbia around. Hiding behind Serbia on the key question of Kosovar statehood has become particularly embarrassing since the start of the Russian war against Ukraine in 2022.

Over time, the EU's technical approach has therefore lost considerable legitimacy with Kosovo, which is understandably dissatisfied with the *status quo* more than 15 years after its unilateral declaration of independence. Importantly, it also seems to have run into a dead end with regard to actual conflict management (Morina 2022). The 2021 and 2022 border tensions were serious, with disputes over ID cards and license plates resulting in barricades, protests, gunfire and even Serbia putting troops on 'highest alert', with MIG fighter jets flying along the Kosovo border. The 2023 military stand-off between the two sides in Northern Kosovo is the most recent and most significant reminder that normalisation remains elusive. Moreover, Russia's war against Ukraine and hybrid meddling in the Western Balkans region have generated urgency among EU policy-makers to speed up the European integration of the region and to settle the outstanding conflicts that mar accession prospects (Bechev 2023).

In conclusion, this article has explained how the member states have established a far-reaching EUFSP for the Kosovo-Serbia conflict, despite their internal disagreements. The sustained EU involvement with Kosovo over a long time frame is particularly significant; it is difficult to think of another country where the EU has had such an extensive long-term involvement. At the same time, this article has also shown that the shortcut taken by the member states – ignoring their own differences and delegating the problem to the EU institutions – has had considerable consequences for the effectiveness and legitimacy of EUFSP. For all the efforts by the EU and its member states over time, Kosovo and Serbia are clearly not yet 'on the road to Europe' and the member states themselves are partly to blame.

Acknowledgements

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List of interviews

For this study, we conducted 36 interviews which are all listed here. Such a substantial number of interviews has resulted in a wealth of empirical data, including for the purpose of background information and triangulation. We explicitly reference interviews when we rely on them in terms of the empirical claims and analysis provided.

Interview 1 – Spanish official, Madrid, 21 July 2022.
Interview 2 – Spanish official, Madrid, 21 July 2022.
Interview 3 – Spanish official, Madrid, 21 July 2022.
Interview 4 – Member of the Spanish Parliament (opposition party), online, 26 July 2022.
Interview 5 – Policy expert, Athens, 5 September 2022.
Interview 6 – Academic expert, Athens, 6 September 2022.
Interview 7 – Civil Society, Belgrade, 24 September 2022.
Interview 8 – Academic expert, Belgrade, 26 September 2022.
Interview 9 – Spanish official, Belgrade, 26 September 2022.
Interview 10 – Policy expert, Belgrade, 27 September 2022.
Interview 11 – EU official, Belgrade, 28 September 2022.
Interview 12 – Academic expert, Athens, 31 August 2022.
Interview 13 – Academic expert, Athens, 31 August 2022.
Interview 14 – Academic and policy expert, Athens 1 September 2022.
Interview 15 – Official and academic expert, Athens, 2 September 2022.
Interview 16 – Official and academic expert, Athens, 2 September 2022.
Interview 17 – Former Kosovo official, online, 20 September 2022.
Interview 18 – Policy expert, Pristina, 27 September 2022.
Interview 19 – Policy experts, Pristina, 27 September 2022.
Interview 20 – Kosovo official, Pristina, 28 September 2022.
Interview 21 – Kosovo academic and former official, Pristina, 8 September 2022.
Interview 22 – (Former) Kosovo official, online, 20 September 2022.
Interview 23 – National official, Brussels, 21 September 2022.
Interview 24 – EU official, Pristina, 27 September 2022.
Interview 25 – International official, Pristina, 27 September 2022.
Interview 26 – International official, Pristina, 28 September 2022.
Interview 27 – International official, Pristina, 28 September 2022.
Interview 28 – (Former) Kosovo official, Pristina, 28 September 2022.
Interview 29 – (Former) Kosovo official, online, 30 September 2022.
Interview 30 – EU official, Brussels, 30 September 2022.
Interview 31 – A researcher from a Kosovo think-tank, Pristina, 27 September 2022.
Interview 32 – An international official in Kosovo, Pristina, 27 September 2022.
Interview 33 – A former Kosovo government official, Pristina, 28 September 2022.
Interview 34 – EU official, Pristina, 28 September 2022.
Interview 35 – EU official, Brussels, 30 September 2022.
Interview 36 – EU official, Brussels, 30 September 2022.