

# The EU as a Peace-Making Power in the Western Balkans – Solana's Focal Point?<sup>1</sup>

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## 1. Introduction

In many ways, the Balkans provide the ideal test case for the EU's foreign policy. This has to do, first of all, with the spectrum of problems the Union is facing there. Since Yugoslavia stumbled in the abyss of nationalism, war and ethnic cleansing in the beginning of the 1990s, the region has remained Europe's no. 1 trouble-spot – the international tensions following Kosovo recognition being the latest off-spring of the region's troubles. Secondly, regarding South-Eastern Europe, other great powers increasingly attribute problem-solving capacity to Brussels. This was already the case when the George H.W. Bush administration refrained from intervening in the Croatian war in 1991 and also characterizes the gradual political withdrawal from the region by the George W. Bush and Obama administrations in recent years. Thirdly, the EU is increasingly attributing to itself a leading role in the region. In this regard, the revolving Balkan crises have served as a catalyst for the EU's evolving foreign policy, and for the Common Security and Defence Policy (ESDP/CSDP) in particular. So the establishment of the High Representative for Common Foreign and Security Policy (HR) would have been hardly conceivable without the bitter lessons learned in the Bosnian wars (1992-95). In a sense, then, the problems in the Western Balkans helped give birth to the HR.

It seems the commonly held opinion of politicians, journalists and analysts alike that the HR's policy efforts in the Balkans constituted Solana's masterpiece. This study, however, attempts to resist the temptation to either simply praise Solana or – by contrast – to join in conventional realist doom-saying by denying any impact of the part of actors operating outside the traditional nation-state. Rather, I would like to present a more nuanced picture which assesses the EU's foreign policy in the Balkans in general, and Solana's efforts in particular.

The EU's range of options in dealing with the troubled region stretches from merely declaratory rhetoric and symbolic action to financial assistance and the

1 Regarding research activities my thanks go to Kristina Svensson. In addition, I am indebted to the editors for their comments on an earlier draft of this paper.

prospect of eventual accession – the latter being the EU’s most effective foreign policy tool. Since the development of a CSDP capability is still a work in progress, the EU, for military measures, relies on NATO assets, which requires a constructive policy of interlocking.

In this paper, I will look at three case studies which comprise the wide range of challenges with which the EU is confronted in the region. During the Macedonian crisis of 2001, the EU’s conflict management skills were first put to the test. The case of the State Union of Serbia and Montenegro (2002-2006) touches upon an issue that has been of continuing significance within the region since the beginning of the 1990s: the secession problem. And as a variation on this theme, I will focus on the EU’s Kosovo policy, which encompasses two interrelated issues, namely state-building and state recognition.

The aim of this paper is twofold. First, I am asking ‘*what did Solana do in the Balkans?*’ which simply strives to provide a description of events. Secondly, I would like to evaluate the HR’s actions asking ‘*to what degree was Solana successful?*’ Obviously, this question embarks on a rough sea of explanations. For that reason, a model and theoretical tools are required to offer a convincing argument. Thus, I will make use of an EU “actorness” model (see below) which will provide me with a set of questions for the ensuing empirical analysis.

In today’s world, is it possible for individuals to make a difference? Clearly, Solana was acting within a highly complex framework of EU foreign policy. This means that the member states as well as the Commission play an important role, too, so Solana has to be conceived of as being a complementary element in the EU system. In addition, the EU was – of course – not the only player involved. The Balkans have always been the playground of great powers, so, for instance, Solana had to come to terms with Russian and US foreign policy.

Even if we assume that Solana made a difference, the tricky question remains, ‘how precisely can we go about determining the significance of the role he played?’ I will try to come to terms with this fundamental epistemological problem by making some assumptions and referring to an analytical model. First, I will start from the assumption that Solana is indeed embedded in the EU foreign policy apparatus. In foreign policy analysis terms, the HR represents an “embedded agency,” being a subunit of a larger entity (Breuning 2007, 118). Consequently, to a certain extent, my assessments do not refer to Solana alone but will target EU foreign policy in the Balkans as a whole. If I do not find any indicators of deviating behaviour on behalf of Solana in the sources, I simply assume that he is in line with the general foreign policy position which might be represented by the Commission or the Presidency. I admit that this might do some injustice to him since I cannot track Solana’s internal voice opportunities. Yet it is precisely those “deviations” on Solana’s part that, I presume, represent best the “Solana touch” we are looking for in this book. Such deviations are, evidently,

hard to track in operational politics. That is why my contribution focuses on crisis situations. When violence erupted in Macedonia, for instance, we can expect the HR to (re-)act and so his “handwriting” becomes more visible.

The remainder of this paper is structured as follows: In part 2, the theoretical and analytical tool-box for this study will be presented. The subsequent part 3 is then devoted to the case studies. Each case study consists of three parts. First, the context of the respective case is clarified. For that purpose, I mainly rely on secondary sources dealing with the conflict in general. Second, the “Solana touch” is described. Here, I mostly use primary sources, be it EU official documents or press articles covering the region (Frankfurter Allgemeine Zeitung [FAZ], Economist, EUobserver, Deutsche Welle [DW], Neue Zürcher Zeitung [NZZ], New York Times [NYT]). Third, each case study entails an assessment of Solana’s actions based on the analytical tools which will be introduced now.

## 2. *Modelling the High Representative*

“EU foreign policy”<sup>2</sup> is a fast growing topic in the literature. In more recent definitions, the EU’s capacity to take deliberate action is emphasized:

“The foreign policy of the European Union is the capacity to make and implement policies abroad that promote the domestic values, interests and policies of the European Union.” (Smith 2002, 8)

Over time, the EU has been gaining competence in a variety of policy fields complementing, paralleling and interacting with the member states’ foreign policies. From early on, the analytically motivated question arose from this as to whether and, if so, the degree to which the EU could be regarded as an international actor (Sjöstedt 1977, 11). In order to properly respond to this question, specific criteria are required. An early endeavour in this respect was undertaken by David Allen and Michael Smith (1990, 21), when they introduced “presence” as an analytical concept:

“It can be argued [...] that in many ways it is not the actor but the presence itself which is the more significant phenomenon: in other words, the ways in which a particular notion or set of expectations is shaped by the attention of policy makers and institutions can itself enter into the realm of political reality and play a consequential role in unfolding events. Seen in this way, ‘presence’ is a feature or a quality of arenas, of issue-areas or of networks of activity, and it operates to influence the actions and expectations of participants. [...] A particular presence, then, is defined by a combination of factors: credentials and legitimacy, the capacity to act and mobilize resources, the place it occupies in the perceptions and

2 In the early years, the literature spoke of “European foreign policy”. Since this term may include foreign policies of non-EU members like Switzerland, “EU foreign policy” is now the preferred term; Wong (2005), 141.

expectations of policy makers. [...] Four broad forms of presence can be [...] [distinguished]: 'initiator', 'shaper', 'barrier' and 'filter'."

The concept of "presence" seems useful when it comes to assessing Solana's role. When did he initiate policy projects, how did he shape them, which initiatives did he block and how did he "filter" the challenges the EU was facing i.e. how did he prioritize issues? These somewhat narrow behavioural categories might be complemented by a more sophisticated model. I refer here to the model introduced by Jupille and Caporaso (1998).<sup>3</sup> At the core of their actorness concept lies the social-constructivist assumption that the EU's capacity to act is not given, but must be constituted by legal and political means. Variance in actorness stems from variation in the legal *authority* due to changes in primary law. Thus, institutionalism, the idea that legally binding commitments shape actor's behaviour through cost, benefit and legitimacy consideration, is one of the theoretical foundations of the actorness approach.

The EU's actorness is legally defined by the powers which are granted by the treaties. Right from the start of EU foreign policy, the EU's authority was split (see Elfriede Regelsberger's contribution in this book). Whereas the supranational actor, the European Commission, had gained ground by becoming responsible for more and more issue areas, the intergovernmental branch – in form of the European Political Cooperation – has remained legally outside the Communities for a long time (1970-93). Only after the creation of the CFSP in Maastricht was the member states' coordination in foreign policy placed under the umbrella of the union. Yet, the member states' reluctance to align decision-making procedures created the infamous "Maastricht temple structure" – with foreign policy remaining an exclusively intergovernmental realm.<sup>4</sup> Over time, a substantial institutionalisation has been taking place. In Amsterdam, a High Representative and a policy unit were created to give the Union's foreign policy a face. After the summits of Cologne and Helsinki in 1999, an ESDP for power projection was launched, setting up a Military Committee and a Military Staff. Despite the fact that all of this institution-building took place in the intergovernmental second pillar, it meant a significant strengthening of the Union's foreign policy capacity. This process, termed "Brusselisation," came to a peak in the Lisbon treaty, through the creation of the "double hat," when the Commission's DG External Relations Commissioner fused with the High Representative. So, on the whole,

<sup>3</sup> This part draws partly from Harnisch and Stahl 2010, 5-6.

<sup>4</sup> The Lisbon Treaty – in force since December 2009 – superficially abolished the temple structure by introducing the general features on CFSP in the TEU whereas the more specific "communitarised" regulations comprising foreign aid, foreign economic policy etc. can be found in the "Treaty on the Functioning of the European Union of the European Union".

the crises in the Balkans were paralleled by a step-wise but steady up-grade of the Union's authority to act.

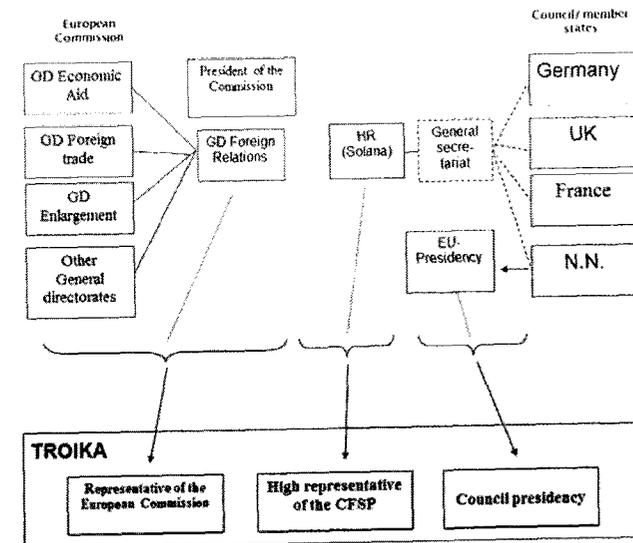


Figure (by the author): The polity of the EU's foreign policy between Amsterdam (1999) and Lisbon (2009)

Following authority, a second source of variation in actorness is *autonomy*. It is defined by the degree of institutional independence or separateness of community institutions vis-à-vis national actors. The underlying assumption here is that these common institutions may exert an independent effect, i.e. propose a common goal, on member states and third parties (Jupille and Caporaso 1998, 217). This characteristic represents the core premise of supranational institutionalism and thus puts autonomy into an uneasy balance with authority and the other actorness drivers when it comes to assigning their relative causal effect.

A third driver deployed by the actorness approach is *recognition*. It is a political and legal category depicting the degree to which external actors recognize the EU de-jure or de-facto as a legitimate 'Other' for interaction. As far as de-facto recognition is concerned, this criterion implies that a foreign actor validates the EU's actorness (and thus power) by recognizing it as a legitimate partner for interaction. The constitutive effect of this recognition through language or practices roots the actorness concept firmly in the social constructivist camp, because EU actorness hinges upon immaterial rather than material factors.

Lastly, Jupille and Caporaso interpose *cohesion* as a mediating category between the other three. It measures the degree to which the norms and goals of member states and of common institutions match (norms/goals cohesion), the degree to which the actors concur on the relevant rules and procedures of decision-making (procedural cohesion), the degree to which the actors agree on tentative common positions despite disagreement over ultimate goals and procedures (tactical cohesion), and finally the degree to which actors' eventual policy choices correspond, despite earlier differences (output cohesion). Since the term "cohesion" is also used in the EU's economic and regional realm, it gave way to similar analytical terms i.e. "coherence" and "consistency". For instance, Simon Nuttall (2005, 97) proposed three forms of coherence: institutional (between different EU organs), vertical (between member states and the EU) and horizontal (between different policies). Hence, applied to the Solana focus of this paper the set of questions for analysis – considering that the issue of authority is tackled by other contributions in this volume – reads as follows:

- To what degree has Solana contributed to the EU's autonomy?
- To what degree has Solana contributed to the EU's recognition?
- To what degree has Solana contributed to the EU's cohesion/coherence?

Yet, actorness models have so far suffered from a serious flaw: They do not incorporate an outcome dimension. To put it in another way, the EU's actorness might be significant but ineffective. The Bosnian war (1992-95) provides a key example for this observation: Despite its prominent role in proposing the Vance-Owen peace plan (1993) and in spite of being highly consistent in the desire to provide humanitarian aid to the Bosnian people, the EU stood by when the horrible conflict there escalated and eventually lasted for two more years – with casualties mounting to 100.000 people. Thus, actorness serves as a necessary but not sufficient condition for the EU's foreign policy success. This insight is largely shared by leadership theories claiming that "desired (..) outcomes not only depend on the accurate assessment of opportunities and constraints but also on the interaction of (..) foreign policy behaviour with that of other countries" (Breuning 2007, 32). In the following, I am trying to operationalise "outcome" by introducing "effectiveness". Common usage of the latter term entails 'having an impact'. As a working definition, I provide the following: A foreign policy shall be reckoned "effective" if a conflict solution turns out to be durable and sustainable (i.e. institutionalized) and is based on the conflict parties' consent. By complementing the actorness model with the plea for effectiveness the navel-gazing of EU foreign policy analysis may be overcome. Thus, in the subsequent case studies, I will go beyond the analysis of Solana's actorness. Rather, I am asking

whether the conflict parties agreed to the policies he pursued: Did he manage to sustainably institutionalise the EU's foreign policy goals?

### 3. Case studies: Solana in action

Solana's inauguration as High Representative for Common and Security Policy coincided with a sea-change regarding the EU's Balkan policy: moving away from a policy that regarded the region as a playground of Western great power interests and toward a sustainable, long-term commitment (Glenny 2000; Swoboda and Stahl 2009). The overarching perspective of a united and free Europe reflected the fundamental identity shift for the EU: South-Eastern Europe should change from a 'near abroad region' to a constitutional part of Europe. As the main instrument, the EU launched the "Stability pact for South-Eastern Europe," which later became the "Regional Cooperation Council".<sup>5</sup> The Council meetings in Feira, Zagreb (2000) and Thessaloniki (2003) impressively confirmed this new approach by finally offering the prospect of accession to countries of the region (Altmann 2005, 8-9).

Yet, when Solana came to power, the institutional distribution of competences did not seem entirely clear. As a consequence, tension between him and Commissioner Patten emerged in the second half of 2000. In November, Solana claimed a leading role for himself in crisis management, to which Patten reacted by writing a letter to the Foreign Ministers emphasising the Commission's role (cf. FAZ 30 November 2000). It was against this backdrop of institutional quarrelling that the Macedonian crisis erupted.

#### 3.1 Solana and conflict management: the Macedonian crisis (2001)

##### 3.1.1 Context

When Yugoslavia dissolved in the early 1990s, Macedonia belonged to the "good guys". While Slovenia suffered from violent ethnic clashes and Croatia and Bosnia even plunged into civil war, Macedonia's relation with rump-Yugoslavia remained peaceful. Only the trouble with Greece over the question of what name the country should be allowed to give itself prevented Macedonia

<sup>5</sup> Stability Pact for South Eastern Europe: SCSP Constituent Document, Köln, 10 June 1999, <http://www.stabilitypact.org/constituent/990610-cologne.asp> [11/11/2007].

from entering Western institutions on a fast track.<sup>6</sup> Like all other successor states, a large proportion of the Macedonian population belong to minorities. The largest group (23%) is represented by the Albanian minority, which is concentrated in the North of the country neighbouring Kosovo and Albania. The Albanians did not support the constitution of 1991 because they were not mentioned as a separate people and felt that their language was not granted proper recognition. The history of the "Albanian question" – Kosovo is another part of the story – dates back to the demise of the Ottoman Empire (1912/13), when the Western powers refrained from creating a Greater Albania. Since then, substantial Albanian minorities have existed in the former Yugoslavia (in Montenegro, Serbia and Macedonia). The Albanian question has been on the Yugoslav agenda ever since because the Albanians were the most deprived and poorest people in the federation. Problems grew after Milošević took power in Belgrade at the end of the 1980s. When the Kosovo-Albanian rebel group – the UCK – violently attacked Serbian institutions in Kosovo after 1996, Macedonia became a safe haven for civilians from Kosovo. In addition, the UCK used the inaccessible border region for retreat. In 1999, as a spill-over effect of the Kosovo conflict, 300.000 refugees escaped to Macedonia (Castellan 2003, 100).

In January and February 2001, the Macedonian Liberation Army (UCK-M, *Ushtria Clirimtare Kombëtare në Maqedonie*) killed Macedonian soldiers and occupied the village of Tanusevci (for a chronology: *Le Monde*, 16 August 2001). With some 100.000 people fleeing from the spreading Albanian violence, the country was on the brink to civil war (Björkdahl 2005, 271). The European Union intervened in the crisis by "speaking softly while carrying a big carrot". The HR, the Commission, the OSCE and NATO all pulled together to solve the problem. On 13 August 2001, all conflict parties signed the Ohrid Agreement, which foresaw a revision of the Macedonian constitution granting more rights to the Albanian minority. That same month, NATO launched Operation "*Essential Harvest*", sending approximately 3.500 NATO troops to disarm ethnic Albanian groups and destroy their weapons. On 15 November, the Parliament in Skopje affirmed the agreement. As the fighting ebbed, the crisis was solved. The EU flanked the post-conflict management by setting up a military operation in Macedonia (CONCORDIA) followed by a EU Police Mission (PROXIMA).<sup>7</sup>

<sup>6</sup> After having overcome the blockade by Greece the international community agreed on recognizing "The Former Yugoslav Republic of Macedonia (FYROM)". Yet Macedonia is still striving for a change of name. Last year, the republic won the US' recognition but the opening of EU accession talks and NATO accession are still blocked by Athens. Macedonia decided to sue Greece before the ICJ.

<sup>7</sup> The European Union launched Concordia on 31 March 2003. This operation was completed on 15 December 2003. The mission PROXIMA followed on 15 December 2003 (Council Joint Action 2003/681/CFSP) and completed on 14 December 2005.

### 3.1.2 The "Solana touch" in the Macedonian crisis

In the beginning, Solana saw a limited role for the EU only. He could not be expected to serve as mediator and merely attributed to himself a role as initiator of talks between the conflict parties (FAZ, 3 April 2001). Yet the HR quickly recognized that this approach would not work. Only a few days after announcing that he would refrain from any mediating efforts, Solana started a huge diplomatic shuttle offensive and became the prime negotiator and mediator in the conflict. In May, he committed himself entirely to the crisis and even sat in on negotiations between the government and the opposition parties in Skopje (*Economist*, 8 May 2001). Moreover, he appointed the former French defence minister, François Léotard, as the EU's Special Representative in order to further enhance the EU's presence in Skopje (for the Special Representatives see Cornelius Adebahr's chapter in this volume). His intense shuttle diplomacy first seemed to pay off when he was able to broker a cease-fire in Aracinovo on 24 June, but fighting continued.

Solana had tended to be over-optimistic when the crisis first erupted. He had played down analyses which anticipated increasing violence and had expressed a strong belief in the government's capacity to squash the rebels (FAZ, 21 March 2001). As early as March, he saw "good signs from Skopje that the rebels are successfully isolated" (FAZ, 24 March 2001) and stated that any fears of a "Greater Albania" were unfounded (FAZ, 25 March 2001). At the end of the day – according to Brussels' plans – the UCK-M would be disarmed by a functioning all-party government (Ahlbrecht 2004, 264). Thus, the EU firmly supported the Macedonian government, which it invited to the Council meeting in Stockholm on 23-24 March 2001.

Over time, however, it became apparent that the Macedonian government had not stuck to its promises. It could neither effectively fight the rebels militarily nor offer credible commitments to solve the conflict – developments which left Solana deeply disappointed (FAZ, 20 July 2001).

As far as the overall grand design was concerned, EU foreign policy vis-à-vis the Macedonian crisis was uncontested right from the start. In order to avoid a fifth Balkan war and to fight the ghosts of partition, the HR vowed to pursue a determined integration strategy (Solana 24 August 2001). Joined by the Commission, Solana believed in the EU's principal carrot: the accession tool. Commissioner Patten went to Skopje in March to offer the Stabilisation and Association Agreement (SAA). But the incentive, signed on 9 April, was of no avail and fighting continued.

Finding himself in perfect agreement with the EU's foreign policy approach to the Balkans, Solana had categorically ruled out any border changes. UCK-M's claims were considered unjustified and detrimental to the region's stability. It

came as no surprise then that the HR was outspoken regarding the status of the UCK-M. It would be a mistake, he asserted, to talk with "terrorists" (FAZ, 21 March 2001). Instead, he negotiated with the Albanian opposition parties and the UCK-leaders in Kosovo to exert influence on the UCK-M (Economist 22 March 2001). Solana's reluctantly adopted moderator role, however, made it essential that he be viewed by all conflicting parties as acting impartially. So, over time, Solana (22 August 2001) softened his rhetoric: "terrorists" were now to be referred to as "rebels".

It is significant to recall that NATO forces were already present at the time that the first violent clashes occurred. Yet the mandate for these troops only permitted them the role of observers along the Kosovar borders. NATO member states could not agree on an extension of the mandate. At most, the alliance was allowed to provide some support for the Macedonian forces. In addition, Solana could draw on his experience as former NATO Secretary-General to bring that security organisation into the game. On 29-30 May, NATO Secretary-General George Robertson joined an EU Council meeting in Budapest focussing on the situation in the Western Balkans. In the following weeks, Robertson actively participated in the shuttle diplomacy and demonstrated the unity of the West in the crisis. In June, NATO responded positively to Skopje's request for troops. Furthermore, Solana used partner organisations, personal connections and informal channels to get in touch with the UCK-M. Since the EU had publicly refused to talk to these "terrorists," Solana's efforts were in fact limited to the official conflict parties. Members of the Western negotiation team were the US diplomats Robert Frowick (OSCE) and James Pardew (Special envoy, State Department), Peter Feith (NL) and Stefan Lehne from the EU's Policy Unit. The US negotiators benefited from their good relations to Kosovo's UCK and were perceived as credible partners by the UCK-M. When the international institutions all cooperated well the crisis could be solved successfully.

### 3.1.3 Assessment

In sum, Solana's efforts largely contributed to the EU's foreign policy success. The crisis eased and the HR and his team implemented sustainable solutions for the Macedonian minority problems. Solana's handling of the crisis demonstrated the degree to which EU foreign policy can make a difference. His commitment and intensive shuttle diplomacy, including the appointment of a special envoy, led to a formidable EU "presence". Moreover, the EU influence was obvious in terms of the follow-on to the crisis. By launching the ESDP missions Concordia and Proxima as follow-ons to NATO's Essential Harvest, the EU upheld its presence in the country while at the same time assuring Macedonia's prospect of ac-

cession. Solana turned out to be a model representative of the EU value system: The Ohrid Agreement can be interpreted as a perfect example of successful norm projection (Björkdahl 2005, 272).

Solana made the EU a coherent actor interacting constructively within the international community bringing all Western stake-holders together. First, he overcame his initial disputes with Commissioner Patten and effectuated the troika. This also led to enhanced EU recognition. For instance, Macedonian television clearly depicted the troika as dominant international actor in this instance (Reichwein and Schlotter 2007, 265). Second, he used his expertise as former NATO Secretary-General and cooperated effectively with NATO, the US and the OSCE.

While recognizing the important role played by Solana, the remaining weaknesses of EU foreign policy should not go unmentioned. The EU used to act as a conservative, status quo oriented power. At the beginning of the crisis, Solana rejected the idea of serving as mediator and offered one-sided support to the Macedonian government. Solana's notion of "terrorists" is a case in point here. In addition, both the Commission and the Council strongly believed in the leverage provided by the accession process and offered an early signing of the SAA. Solana's wishful thinking became apparent in his overly optimistic assessments of the developing crisis as well as his refusal to mediate.

This approach did not work. Solana proved a quick learner and changed course by acknowledging the rebels' claims and deliberately taking up the mediator role. Yet his early positioning turned out to be consequential since he then needed other international negotiators who were not discredited in order to deal with the UCK-M. In analytical terms, the Macedonian case provides some illustration that EU coherence does not always translate into effectiveness and the perspective of accession is over-stretched when it comes to violent conflicts.

## 3.2 Solana and secession: The State Union of "Serbia and Montenegro" (2002-2006)

### 3.2.1 Context

Since the break-up of the former Yugoslavia, questions of statehood, independence and borders had haunted the region. Under the 1974 constitution, the former Yugoslavia had consisted of six republics (Slovenia, Croatia, Bosnia and Herzegovina, Macedonia, Montenegro, and Serbia) and two autonomous provinces (Kosovo, Vojvodina). In 1991, Slovenia and Croatia left the federation, sparking a 10-day war in Slovenia, while Croatia plunged into two wars with Serbia (1991 and 1995). Bosnia and Herzegovina (BiH) declared independence in April 1992

and underwent the horror of war until the Dayton Accord in 1995. Only Macedonia seceded peacefully in 1992 while Montenegro had stayed in the so-called rump-Yugoslavia. The latter was not unexpected since the republic had always proved itself a loyal ally to Serbia. For instance, it was Montenegrin forces which attacked Dubrovnik and ransacked Southern Dalmatia in 1991/92. Yet the longer Milošević ruled in Belgrade, the more Montenegro entered the limelight of Western foreign policy. The US government decided to build-up the republic as a stronghold against the autocratic ruler in Belgrade. The US supported the savvy former communist aparachik Djukanović, who today remains the unchallenged ruler in Podgorica. As a consequence, the republic became *de facto* autonomous from Belgrade's rule as of 1997. A visible indicator was the unilateral introduction of the Deutsche Mark (DM) and the Euro as Montenegrin currency – much to the surprise of the European Central Bank. When Milošević fell from power in October 2000, Western perceptions changed. The support for Djukanović faded away and the stability of the new democracy in Serbia became the primary concern for Washington and Brussels.

### 3.2.2 The “Solana touch” and the State Union

After the demise of the Milošević regime, the Montenegro issue climbed the West's ‘to do’- list. The EU had recognized rump-Yugoslavia after the Dayton Accord, following France's extension of official recognition in 1996. But due to the quasi-autonomy of Montenegro (and the *de facto* UN-protectorate in Kosovo), the state did not look stable. The idea of independence, though strongly desired by the Djukanović government in Podgorica, was not shared at all in Brussels. The basic counter-argument – the so called “domino theory” – has remained unaltered since the secession of Slovenia and Croatia in 1991: Further states would be detrimental to the region's stability since they could serve as a model for further secessions and irredentism movements. Furthermore, Montenegro's separation could further radicalize Serbia while de-stabilizing Montenegro (Tocci 2007, 80). Thus, the EU fought against Podgorica's plea for independence and did its best to find viable alternatives. The EU vision of a democratic Montenegro within a reformed and democratic Yugoslavia was also shared by the US at the time.<sup>8</sup> Solana fully supported the EU's foreign policy principle in the matter and actively lobbied against independence. In a Montenegrin daily he wrote:

“I am following very attentively the debate taking place in Montenegro on the republic's future status. My impression is that Montenegrins need to take the new developments in

<sup>8</sup> See Richard Boucher's opinion, Spokesman for the State Department (Economist, 26 April 2001).

Europe into account. The prosperity of the people in Montenegro will be determined by the level of inward investments not by a seat at the United Nations or a network of embassies. Employment and career prospects for youth will likewise depend on education and training, not on having one's own army. And the dynamism of the economy will depend on its openness and the level of regional integration, not on a separate customs service.” (Solana 22 February 2002)

In the winter of 2001, Solana had been trying hard to convince the governments of Serbia and Montenegro to accept the EU's moderator role (FAZ, 23 May 2006). On 14 March 2002, Solana succeeded in creating the “*Agreement on Principles of Relations between Serbia and Montenegro within the State Union*”. The document laid the foundations for a State Union between Montenegro and Serbia. Formally speaking, the HR only “witnessed” the ceremony – a huge understatement indeed, since the negotiations and the document were basically his work – backed of course by the full consent of the EU member states. Interestingly, no other “witness” – neither the presidency nor the commission – was mentioned in the document. In an earlier era, the great powers of Europe had come together to re-draw borders in the Balkans, but in 2002 the HR of the CFSP sufficed to help shape a new state. His endeavour was even recognized by many Serbs and Montenegrins, who baptized their new fatherland “*Solania*” (FAZ, 23 May 2006). Yet, as one provision foresaw, Montenegro was entitled to withdraw from the State Union after a three year period. As a consequence, the State Union remained a hollow entity. Neither Serbia nor Montenegro sought to breathe life into the new treaty. The State Union's Constitutional Charter required additional mediating on behalf of Solana and was delayed to 2003. Moreover, the Parliamentary Assembly and the Constitutional Court never became really functional (Tocci 2007, 86-87). And the Montenegrin government did not leave any doubt that their principal foreign policy aim remained independence. Solana did his best to stem the tide, avoiding a referendum. His special envoy, the Slovakian diplomat Miroslav Lajcak, later to become the EU's High Representative for Bosnia, proposed raising the bar: Only if 55% of the vote were to endorse independence would Montenegro have been allowed to leave the State Union (Economist, 2 March 2006). This threshold was meant to please the significant Serbian minority in Montenegro. When objections were raised – including from inside the Commission<sup>9</sup> to what was considered Solana's inflexible approach, the HR rejected what he saw as “(...) unsubstantiated criticism,” saying: “I am sure that time will show the viability of the Union. (...) The State Union is clearly the best and quickest way (...) to move towards Europe.” (Solana 20 November 2003).

<sup>9</sup> Telephone interview with a former member of the DG Relex, Reinhard Priebe, on 21 April 2010.

In the end, however, it was all in vain: On 21 May 2006, a 55,5% majority of Montenegrins voted in favour of independence. Solana took this undesired result in stride: Like Serbia, Montenegro was allowed to inherit all past achievements of EU integration from the state-union.

### 3.2.3 Assessment

In retrospect, EU-diplomats praised their futile enterprise in pursuit of the state-union as a valuable policy that had gained time for peaceful solutions (FAZ 23 May 2006). This self-praise seems highly debatable, since the two countries lost four years for transition, given that, without any sustainable territorial solution, the transition to democracy tends to remain highly fragile.<sup>10</sup> In particular, one might insist that the EU involuntarily prolonged Djukanović's reign, giving him the chance to play the independence card, thereby making him the indispensable tsar of a highly corrupt and opportunist regime. For Serbia, the maintenance of the state-union provided no help at all to its stance on Kosovo. Rather, Solana's decision played into the hands of nationalists – particularly the Serbian Radicals and Prime Minister Koštunica – which played up the issues of “Kosovo” and “Serbian identity” at the expense of domestic themes.

The 55% claim that Solana imposed on the referendum deserves even more criticism. First, the EU introduced a new threshold for democracy, which unmasked its real interests. Second, Solana had ignored the Council of Europe Parliamentary Assembly's verdict on the Montenegrin law, which clearly found a possible 50% claim to be in line with international law (FAZ, 2 March 2006). Third, and most severely, the consequences could have been disastrous if only 54% had voted in favour of independence. In such a case – not at all unlikely in light of prior projections – the Montenegrin foreign minister, Vlahović, had already announced that 54% would perfectly suffice to leave the State Union (Economist, 4 March 2006). That could have been a recipe for violent conflict between the Montenegrin government on the one hand and the Serb minority in Montenegro on the other.

On balance, the tension between actorness and effectiveness became highly visible in the State Union case. Solana's presence was overwhelming: He even founded a state! This also accounted for increased autonomy and recognition. Even coherence was not a problem since other actors – like the Commission – acquiesced to Solana's plan. With no doubt, Solana was the EU actor who

10 This is an un-contentious finding of transition theory, see Schmitter 1995, 49; Merkel et al 2003, 229ff.; Linz and Stepan 1996, 5-86.

pushed most for maintaining the State Union. Yet this endeavour failed entirely since he could not rely on the consent of the conflict partners.

### 3.3 Solana, state-building and recognition: The Kosovo issue (2000-2009)

#### 3.3.1 Context

Ever since the demise of the Ottoman Empire in the Balkan wars (1912/13), Kosovo has remained a trouble-spot. Yet the problem was largely neglected by the international community until violence erupted in the province in 1997/98. At the time, the Marxist-oriented rebel-group, UCK (Kosovo Liberation Army), started attacking symbols of Serbian statehood. When the conflict escalated in 1998, the West re-introduced forced diplomacy to bring the two sides to the negotiating table. These negotiations failed in early 1999 (conferences at Rambouillet and Paris) after Milošević refused to acquiesce which drove NATO to launch a bombing campaign. After ten weeks, the Serbian government finally agreed to withdraw from Kosovo, handing it over to an international administration led by the UN Mission in Kosovo (UNMIK), in accordance with Security Council Resolution 1244. In the ten years that followed, the international community pursued a long-term plan to pacify and stabilize Kosovo and to re-build the shattered province economically, politically and socially.<sup>11</sup> Over time, then, the EU has become the prime state-builder in Kosovo.

On the future political status of Kosovo, Resolution 1244 was ambiguous and foresaw that the final status should be fixed later in negotiations between the conflict parties.<sup>12</sup> To gain some time for a political solution, the international community postponed until 2002 any final decision on Kosovo's status in order to avoid further conflicts (ICG 2002, 1-2). In November 2002, UNMIK chief Michael Steiner proposed that only if certain standards of good governance were met would the status question be addressed (“standards before status”).

Then, in March 2004, thousands of people in the province looted some 800 Serbian houses and 30 churches, expelling Kosovo Serbs from their former homeland enclaves in central and eastern Kosovo. 19 people died in the turmoil, including members of UNMIK. KFOR could neither prevent nor stop the vio-

11 Within this framework, NATO is the prime security provider through KFOR – the US, Germany, Britain, France and Italy being the most important troop contributors. UNMIK heads the political administration which is divided into four pillars, with the UN in charge of the police and judicial system (I) and the civil administration (II). Pillar III, institutions and democracy, falls into the OSCE's competence. The EU is responsible for Pillar IV, reconstruction and development.

12 United Nations Security Council: Resolution 1244, New York, 10 June 1999, paragr. 10.

lence.<sup>13</sup> The riots changed the international community's perception on the status question immediately: Shortly thereafter the UN Secretary-General's special envoy to Kosovo, Karl Eide, proclaimed in two reports the intention to reverse course and water down the standards' requirement. Eide made it very clear that only an immediate clarification of its status could pacify the province. He recommended excluding further territorial changes, be they the unification with Albania or the division of the province.<sup>14</sup> In doing so, he rejected the Serbian proposals for a "cantonization" of the province (Judah 2004, 20-22).

Against this background, on 10 November 2005, the UN Security Council mandated the former Finnish President Martti Ahtisaari to serve as a mediator in the status talks. From January 2006 onwards, the UN's Special envoy (UNOSEK) chaired a total of 15 rounds of direct talks between negotiation teams from Belgrade and Priština. With the positions hardening over the course of 2006, Ahtisaari declared in March 2007 that a compromise was not in reach and called off further negotiations: „Belgrade would agree to almost anything but independence, whereas Pristina would accept nothing but full independence.”<sup>15</sup> Following his mandate, he proffered to the Security Council a draft proposal for an agreement that proposed „conditional independence“ for Kosovo.<sup>16</sup> With Russia threatening to veto any declaration in the UN Security Council, a new round of direct talks ensued in the second half of 2007 under the guidance of a Contact Group troika (EU, USA, Russia). After another five different resolutions drafted by the USA, France, and Britain, the mediation reached a final deadlock in December 2007. Two months later, the Kosovar parliament declared independence. To date, 69 countries have recognized Kosovo, among them 22 out of the 27 EU member states. After the declaration, riots broke out in Northern Kosovo and in Belgrade. The same year, the Serbian government called on the International

- 13 One parliamentarian of the Kosovo Assembly went so far as to publicly call the riots a “legitimate revolt by the Albanian population” and “lesson for the international community”, cf. Narten 2009, 273.
- 14 United Nations Security Council: Report on the Situation in Kosovo, New York, 06/08/2004, pp. 3-7, <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/kos%20S2004%20932.pdf> [09.01.2008]; United Nations Security Council (2004): Report; United Nations Security Council: A comprehensive Review of the Situation in Kosovo, New York, 07/10/2005, pp. i-iv, <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kos%20S2005%20635.pdf> [09/01/2008].
- 15 UNOSEK Press Release: Vienna High-level meeting concludes 14 months of talks on the future status process for Kosovo, Vienna, 10 March 2007, [http://www.unosek.org/press-release/UNOSEK-PR-19-Vienna\\_High-level\\_meeting\\_concludes\\_14\\_months\\_of\\_talks\\_on\\_the\\_future\\_status\\_process\\_for\\_Kosovo.doc](http://www.unosek.org/press-release/UNOSEK-PR-19-Vienna_High-level_meeting_concludes_14_months_of_talks_on_the_future_status_process_for_Kosovo.doc) [29/08/2008].
- 16 United Nations Security Council: Report of the Special Envoy of the Secretary-General on Kosovo's future status, 26/03/2007, <http://daccessdds.un.org/doc/UNDOC/GEN/N07/272/23/PDF/N0727223.pdf?OpenElement> [03/02/2008].

Court of Justice to issue a legal opinion on the Kosovo issue. The case is still pending at the time of writing.<sup>17</sup>

### 3.3.2 The “Solana touch” and Kosovo

When the EU committed itself to building up Kosovo the EU Commission became the central player in reconstructing economic institutions in Kosovo in the eight years to come, establishing an external tariff regime, a tax system, the privatisation of previously state-owned companies, a monetary system based on the DM (later on the Euro), a banking system and measures securing energy supply. The Commission streamlined the economic assistance through the European Community Humanitarian Aid Office (ECHO) and the European Agency for Reconstruction and Development (EAR)<sup>18</sup>. On the whole, the Commission spent more than 1.000.000.000 € in Kosovo between 1999 and 2007, becoming its most important donor. These extensive state-building efforts were complemented by a “silencing strategy” with respect to the status issue. The EU rejected any responsibility for assessing the status question. When Milošević was purged in October 2000, Serbia's peaceful transition to democracy gave additional credence to the argument not to raise the “I-Word” (ICG 2002, 15). In this period, several European Councils, the Commission in its association strategy and the European Parliament explicitly stressed the non-violation of borders, territorial integrity and sovereignty in the region.<sup>19</sup> Yet the political pressure exerted by the Kosovar self-government grew, prompting UNMIK's Michael Steiner to develop the “standards before status” proposal making the West's policy explicit. Only if certain standards regarding human rights, democracy and effectiveness are fulfilled would the status issue be tackled. Solana was perfectly in accord with this international consensus:

- 17 On 22 July 2010 the International Court of Justice (ICJ) stated that “the declaration of independence did not violate any applicable rule of international law.” See Advisory Opinion on Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo”, <http://www.icj-cij.org/docket/files/141/15987.pdf> (07.12.2010; annotation by the editors).
- 18 See the special report on the EAR's Kosovo policies in European Voice, 15 May 2008.
- 19 European Council: Conclusions of the presidency, Stockholm, 23-24 March 2001, Paragr. 65, [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/de/ec/ACF191B.html](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/de/ec/ACF191B.html) [14.11.2007]; European Commission: Report of the Commission. The Stabilization and Association process for SEE. First Annual Report, Brussels, 03/04/2002, p. 10, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0163:FIN:DE:PDF> [18/01/2008]; European Parliament: Resolution on the situation in Kosovo, Strasbourg, 15/02/2001, paragr. 8, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P5-TA-2001-0097+0+DOC+XML+V0//DE> [11/11/2007].

"I think that this idea of standards before a status is a good idea. The most important is to construct the standards politically, economically, respect for minorities, all these things that are really fundamental if you want to feel a member of the European family. And then will come the status. That is the timing in which things have to take place." (Solana, 22 January 2003)

Between 1999 and 2003, Solana seemed personally convinced that "the overall direction of developments is right." (Solana, 9 December 2003). This also meant that Solana clearly supported the European attitude toward state-building efforts for Kosovo:

"Kosovo is a part of Europe and together with the rest of the region aspires to become a full member of the European family. [...] Our commitment to help Kosovo to get closer to the EU is therefore beyond doubt." (Solana, 17 December 2002)

Yet, due to the Council's reluctance to set the agenda, the HR took a passive stance, hiding behind UNMIK and behind the US. In hindsight, this silencing policy was mistaken since it triggered new violence and retarded the transition for Serbia and Kosovo. The riots in March 2004 became a formative event, making the West change its approach. Solana was taken by surprise by the disorder and was disgusted by the violence (Solana, 18 March 2004). He heavily criticised the Kosovar leaders for their behaviour since

"(w)e have plenty of information from intelligence services and all the information that we have leads us to the conclusion that last week's violence was organized, therefore, the leaders should also know that we know this." (Solana 24 March 2004)

The EU's reaction was to intensify its state-building efforts in Kosovo. In the process, the Commission and the European Parliament implicitly began to treat Kosovo as a "quasi-state" by, for instance, integrating it into the Stabilization and Association Process (SAP). In September 2004, the Commission opened a „*European Commission Liaison Office to Kosovo*“ in Pristina and created a special department in the Prime Minister's office of the Kosovo self-administration (Papadimitriou et al 2007, 230-231). In June 2004, the Council launched a "*European Partnership for Serbia and Montenegro*", which dealt with Kosovo in a separate chapter. In November 2005, the Commission published for the first time a progress report specifically dedicated to Kosovo (Peci 2005, 26-27). This informal up-grading was complemented by a change of responsibilities in Brussels: Kosovo was transferred from the DG External Relations to DG Enlargement (Alfons 2006, 357). Solana jumped on the bandwagon by founding a CFSP office – the so-called "Solana office" – in Pristina after the March riots. In addition, he appointed a Special Representative there in order to establish a permanent presence.

Considering the above-mentioned UCK leaders' responsibility for the riots, the HR's further reactions were rather mild:

"What happened in Kosovo could affect the speed of resolving the status issue. The evaluation of the implementation of standards was foreseen for next year and based on what

happened last week it could be said that the evaluation will be negative. (...) Violence must never be a shortcut to resolving Kosovo's status and this should be clear to everyone. The international community will never reward violence." (Solana, 24 March 2004)

This plea was understandable and yet the international community did exactly what Solana said it should not do. The international community, led by UNMIK and the US, watered down the standards criteria in order to now approach the status issue. Unfortunately, within the EU, the riots had triggered different learning processes, exacerbating the split on the issue of status that existed between the member states, the Commission and the European Parliament (Toshev and Cheikameghuyaz 2005, 281). While certain member states, fearing domestic ramifications with their own minorities, remained reluctant to even address status, the Commission and even more so the EP supported a settlement of the question under precise deadlines. The EP's resolution wanted the EU member states "to embark on detailed consideration of the final status of Kosovo [...], with a view to defining a time-frame and finalising specific options".<sup>20</sup> In a later, surprisingly forthright resolution, the EP rejected any return of the province to Serbia and Montenegro.<sup>21</sup> In so doing, the Parliament went even further than Eide had in indirectly supporting independence. At this time, the HR became aware of the dwindling EU influence reflecting the disunity on the status issue. UNMIK and the great powers, US and Russia, increasingly set the pace, and the EU could only follow along in their wake. Hence internally, Solana worked hard to convince the member states to regain the initiative. At an informal meeting of EU and accession state foreign ministers in Ireland on 16-17 April, Solana tabled a non-paper that aimed at putting the status question on the agenda (ICG 2004, 29). Yet, the EU's capacity to act upon the status question suffered once more from the lack of consensus among its members: at the time, only three out of the 25 member states could agree on the Solana initiative (Hungary, Luxemburg, Slovenia). Interestingly, even the EU members of the Contact Group Plus (the United Kingdom, France, Germany and Italy) publicly stated that there was no need for immediate action (Toshev and Cheikameghuyaz 2005, 295-298). Privately, some key EU member states had already agreed that some sort of independence would be the only viable outcome (Alfons 2006, 370).<sup>22</sup>

20 European Parliament: European Parliament Resolution on the Situation in Kosovo, Strasbourg, 01/04/2004, paragr. 12, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P5-TA-2004-0271+0+DOC+PDF+V0//EN> [18/01/2008].

21 European Parliament: Entschließung des Europäischen Parlaments zum Stand der regionalen Integration im Westbalkan, Strasbourg, 06/04/2005, Abs. 26, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P6-TA-2005-0131+0+DOC+PDF+V0//DE> [11/08/2008].

22 For instance, French President Chirac had told the Serbian President Tadic so when the latter visited Paris in December 2005 (Ker-Lindsey 2009, 29). In March 2006, UK For-

Externally, Solana did his best to express unity in spite of the evident internal split. Of course, he had to admit that the issue had been delegated to the UN but he still maintained that the EU was interested in an early settlement: "The EU remains firmly united and committed to resolve the status issue as soon as possible" (Solana 11 July 2007). Simultaneously, he actively supported the French president in his attempt to turn the Russians around in order to un-block the deadlock in the Security Council (NYT 12 July 2007).

Overall, Solana was more sympathetic with the Kosovo-Albanian side in the status negotiations. An early indicator of this was his assertion that Priština had demonstrated a "constructive" attitude in the talks.<sup>23</sup> Secondly, he strongly believed that Kosovo's independence was inevitable and often pointed to the contents of the Ahtisaari proposals which recommended some sort of independence in the end (Solana 7 February 2007). And not insignificantly, he demonstrated a very friendly and positive attitude in Priština: "You [the Kosovo-Albanians] are beginning to write the last page of a period of your history in order to begin to write a new one." (Solana 7 February 2007). Solana was the first foreign official to visit Kosovo after its declaration of independence. There he affirmed that "(t)he European perspective is there. The EU collectively, the institutions of the EU, have taken a very important decision (...). We are going to put people on the ground. (...) we are good friends of Kosovo" (20 February 2008). By so doing, he represented the majority view of the member states – though not that of, among others, Spain.

The unilateral Kosovar declaration of independence triggered protests in Belgrade and Northern Kosovo. In the Serbian capital, demonstrators looted western Bank subsidiaries and supermarkets, attacked the Turkish, British, Croatian, German and US embassies and a border check-point in Kosovo. Serbia's government had temporarily withdrawn police protection from those locations. Solana condemned the violence and suspended the Stabilization and Association Agreement (SAA) (NYT 23 February 2008). Yet, only six weeks later, he ignored his earlier words and instead pushed for an early signing of the SAA, prior to Serbian elections in May (DW 17 April 2008). Solana intended to separate Serbia's path to the EU from the Kosovo negotiations (Solana 9 October 2007). When the Serbian government arrested the former Chief of the Bosnian Serbs, Radovan Karadzic, in summer 2008, Solana reacted enthusiastically:

Foreign Secretary Jack Straw called independence nearly unavoidable when the EU Council met in Salzburg (NZZ, 12 March 2006).

23 Interview of Mr Javier Solana published in *Epoka e Re.*, 21/9/2006. This assessment is not echoed by the scientific analyses, see Weller 2008 and – more critical – Ker-Lindsey 2009.

"This is a turning point in fulfilment of well-known conditions set to Serbia on its path to integration with Europe. The EU shall immediately consider what conclusions are to be made from this positive development of events and I am sure we shall move ahead together with Serbia. I very much hope that this shall make possible for the chief prosecutor of the Hague Tribunal to say that the co-operation is developing in good direction. We also expect from the authorities in Serbia to continue with their efforts on locating and arrest of the remaining two fugitives still at large".<sup>24</sup>

In the following weeks, Solana lobbied to lift the Dutch veto on the Interim Trade Agreement, but to no avail. By so doing, he demonstrated that he recommended easing the conditionality principle (Solana, 2 April 2009).

Since the status question could not be sustainably resolved in the negotiations, the issue spilled-over into the EU's state-building efforts in Kosovo i.e. the EULEX mission. In the aftermath of the 2004 escalation, the EU had increasingly inherited competences from UNMIK. For instance, in 2006, UNMIK's standards were incorporated in the EU's association strategy, which turned the EU into the prime monitor for reforms in Kosovo.<sup>25</sup> Furthermore after 2004, with the United States heavily engaged in Iraq, an international consensus emerged that the EU should lead all civilian missions in Kosovo once the status question had been settled. Therefore, the EU began preparing itself for this task and set up a "European Union Planning Team for Kosovo" (EUPT), as well as an "International Civilian Office" (ICO). The latter was intended to prepare the ground for an incoming ESDP-mission (EULEX), which was planned to assist the Kosovar administration in police and juridical affairs (Szemler et al 2007). Initially, EULEX was meant to replace UNMIK.<sup>26</sup> So in 2006, Solana initiated an EU Planning team under the ESDP formula in Brussels to prepare for taking over responsibilities from UNMIK (Papadimitriou et al 2007, 231). Yet Solana had to cope with two problems. First, he had to persuade those member states which proved reluctant to recognize Kosovo not to object to the mission. Indeed, Solana succeeded in convincing the non-recognizing member states – in particular Cyprus – to constructively abstain and so finally to agree to EULEX.<sup>27</sup> This was "in itself

24 Cf. "What Serbia can expect from EU after extradition of Radovan Karadzic", Blic (23 July 2008).

25 Summary Note on the Joint Report by Javier Solana, EU High Representative for the CFSP, and Olli Rehn, EU Commissioner for Enlargement, on the future EU Role and Contribution in Kosovo, Brussels, 09/12/2005, pp. 1-2, [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressdata/EN/reports/87565.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/EN/reports/87565.pdf) [09/01/2008].

26 Summary note on the joint report by Javier Solana, EU High Representative for the CFSP, and Olli Rehn, EU Commissioner for Enlargement, on the future EU Role and Contribution in Kosovo, MEMO/06/286, Date: 17/07/2006.

27 Council Joint Action 2008/124/CFSP of 4 February 2008 on the EU Rule of Law Mission in Kosovo.

quite an achievement of diplomatic skill and manoeuvring" (Blockmans and Wessel 2009, 277).

Secondly, Serbia did not accept EULEX, which it viewed as an EU instrument supporting the new state of Kosovo. Rather, the Serbian government insisted that the mission could only be "status-neutral" i. e. working under the UNMIK mandate given by UNSC resolution 1244. Under moderation by UN Secretary-General Ban Ki-Moon, the EU found a compromise with Serbia basically abiding by the mission's status-neutrality: EULEX "will not replace UNMIK but rather support, mentor, monitor and advise the local authorities while exercising executive responsibilities in specific areas of competence".<sup>28</sup>

Finally, on 9 December 2008, EULEX could at last begin to demonstrate the EU's commitment to the region, contributing to more stability "towards reaching European standards" (Solana, 5 December 2008). This, in turn, caused protest in Priština. The Kosovo government protested against the deal with Serbia and demonstrators burned EULEX vehicles in a mirror-image of the 2008 events in Serbia against Western embassies (NZZ 17 November 2008; DW 27 November 2008).

### 3.3.3 Assessment

The EU's balance sheet on the Kosovo issue shows mixed results at best. On the positive side, the EU demonstrated an overall presence in the region represented by its persistent and enduring efforts to stabilize Kosovo. Solana had his share in those efforts. Not only had he supported the Commission's work, he also had enhanced his own presence in Priština – in particular after the riots in 2004. In so doing, he clearly contributed to an increase in EU autonomy and recognition. His constant endeavour to achieve consistency became obvious in the EULEX case. The mission was meant to also increase the EU's autonomy by replacing UNMIK. When EULEX entered the maelstrom of the status question, he succeeded in convincing the non-recognizing member states to abstain from vetoing the operation. Without any doubt, Solana's impact on the Union's actorness was therefore positive. Yet the results of the EU's state-building remain doubtful. This is the result, first of all, of the highly complex institutional set-up which has been orientated solely towards input legitimacy. At best, the international institutions can be called "*Kosovo's many patrons*" (Papadimitriou et al 2007, 228), at worst a "*multiheaded monster*" (Woodward 2004, 26). Of course, this mess cannot be attributed to the HR alone but, viewed from this perspective, it remains at least

28 EULEX website, <http://www-consilium.europa.eu/esdp>.

questionable whether Solana's proliferation of new institutions in Priština is contributing to a more consistent and lean international presence. Secondly, it should be mentioned that the enhanced actorness regarding state-building has not led to sustainable outcomes on the ground.<sup>29</sup> Again, this judgement targets more the West's and the EU's approach in general than Solana's in particular.

On the negative side, the status issue stands out. The basic problem for the EU was that it helped to build up a state which it could not recognize as such (Vogel 2009). All the actorness criteria that appeared to be proven out during state-building seemed disproven when it came to the problem of status. The more evident the EU's split on status became, the more the EU's autonomy and recognition suffered. Between 2000 and 2005, the EU acted as a straggler. Solana's position demonstrated as much through his endorsement of the EU's silencing strategy prior to 2004. On various occasions, Solana had attempted to regain the initiative by attributing a leadership role to the EU – albeit in vain. Like the EP and the Commission, the lesson that Solana took away from the Kosovo unrest was that some kind of independence would be the likely outcome. But some member states did not follow his appeals and the ensuing discord paralysed the EU. Between 2005 and 2009, Solana could only represent the majority faction in the EU, which had acquiesced to Kosovo independence over time. At the same time, he attempted to compensate for his latent pro-independence position by easing conditionality for Serbia – yet with debatable results (Stahl 2010). The balancing act he had to perform in order to present himself as a friend to the Kosovo-Albanian government while simultaneously representing an officially "status-neutral" EU policy and keeping Serbia on the accession track must have been nerve-racking. The case study provides another example of how coherence is a necessary condition not only for actorness but also for effectiveness. Being split on status, the EU was no longer able to serve as a credible mediator. It became a driven rather than a driving actor. This diminished its leverage to effectively influence the US and Russian positions or to make Serbs and Kosovars move. The policy results were devastating: the state-building results are doubtful, the status talks failed, the EU split on independence, the Kosovo case is pending at the ICJ, Russia has estranged itself from the EU using Kosovo independence as a pretext for its Georgian policy, the EULEX mission in Kosovo becomes increasingly locally contested and the future accession is over-shadowed by the Kosovo issue. Solana's efforts could not help avoid a complete foreign policy failure.

29 For a sobering assessment, see King and Mason, 2006, or Kramer and Dzihic, 2008. In recent articles, EULEX's non-action on corruption is highlighted. Some EULEX members even participated in smuggling activities (DW 29 April 2010, DW 7 May 2010, Süddeutsche Zeitung 9 February 2010).

#### 4. Conclusions

##### 4.1 Considering context: Solana's presence

Since 1999, the EU has been staking its claim in constructively build up the Balkans. Solana perfectly represented this endeavour by investing enormous efforts in pacifying the region. Analytically speaking, this constitutes an outstanding presence: he shaped the negotiations between the conflict parties in Macedonia, he initiated the State Union of Serbia and Montenegro; and he framed Kosovo's pathway to Europe. This presence makes a difference to a traditional intergovernmental grasp of CFSP. Evidently, the national foreign policy apparatuses are not able to provide a presence similar to that offered by the EU institutions. The foreign ministers, for instance, did rarely put in appearances in the region and intervened there only haphazardly. It was Solana and his special representatives who represented the EU in the regional crises, not the foreign ministers of the member states.

In addition to the efforts Solana undertook personally (see Hylke Dijkstra's contribution in this book), one should also consider the unfavourable context of Solana's actions. This unfavourable context has, at least, three features. First, Solana had to come to terms with – to put it modestly – sluggish transitions to democracy in the region. Second, his last five years were overshadowed by growing enlargement fatigue within the EU as well as by the torpedoing of the constitutional treaty. Third, the first decade of the 21<sup>st</sup> century saw the worst US foreign policy since the Second World War, demonstrating a particular lack of interest in either institution-building or co-operative foreign policy. In addition, Solana's second mandate fell within a period of Russian resurgence – starting in 2006. Therefore, a comparison of EU foreign policy to that of either the US or Russia lets Solana's efforts shine in a even more positive light. Considering the worsening context and the lack of partners, the EU was clearly demonstrated to have had the greatest staying power, with Solana serving as its paramount long-distance runner.

##### 4.2 Considering actorness

Solana's overwhelming presence in the region partly translated into enhanced actorness. Regarding state-building in Kosovo, the EU over time became the most important donor and was entrusted to replace UNMIK. In his endeavour to launch EULEX, Solana clearly demonstrated an increasing autonomy by and recognition of the EU. The same applied – as this study has attempted to demonstrate – to the Macedonian crisis and the State Union case. In all of these in-

stances, Solana used his powers extensively to leave his mark on the EU's Western Balkans policy.<sup>30</sup> The Macedonia case has shown that autonomy and recognition went well together with coherence. When the Union was united in taking immediate action to contain and finally solve the crisis, Solana was in a position to successfully mediate in the conflict. The process of state-building in Kosovo and the establishment of the State Union provide further examples that coherence of the EU actors serve as a pre-requisite for any kind of sensible policy. The Kosovo status issue underlines this point: When the member states disagreed on a common stance vis-à-vis Kosovo, Solana was torn between the different camps. His pleas for a united policy went unheard. As a consequence, the Union could neither act autonomously nor was it recognized as a serious actor. This case demonstrates that the HR needs at least the Council's permissive consensus in order to act. Even the big three's consent – so often referred to in the ESDP/CSDP literature as being vital – did not suffice here. Although France, the United Kingdom and Germany acquiesced to the Ahtisaari plan, the deviating five member states inhibited any forceful action on Solana's part. Yet the studies tell a more nuanced story when it comes to the question of effectiveness.

##### 4.3 Considering effectiveness

Up to now, the consensus view has been that coherence is a necessary condition for effectiveness. The State Union case, however, provides a different observation. Even when the EU is united, this does not necessarily translate into foreign policy success. Neither Solana's personal *élan* nor the neatly institutionalized State Union constitution could deter the conflict partners from defecting. When Serbia's government showed no interest in the State Union and the Montenegrin administration actively lobbied against it, Solana's efforts were bound to fail. The same argument can be made with respect to the early period of the Macedonian conflict. Even a fast track membership offer combined with consensual support for the Macedonian government did not serve to quell the violent clashes. And in the years 2000-2004, the EU was largely consistent in suppressing questions about Kosovo's status. This did not only turn out to be ineffective but may have even motivated local *élites* to incite violence.<sup>31</sup>

What lessons can be drawn from this? The EU's identity as a normative or civilian power largely meets Solana's world view. He strongly believes in institu-

30 This was possible – as I have demonstrated elsewhere – due to a substantial overlap of member states' foreign policy identities, see Joerißen and Stahl 2003; Harnisch and Stahl 2009.

31 This argument is elaborated in some more depth in Harnisch and Stahl 2010.

tions and conceives of a world characterized by negotiable conflicts (Barros-Garcia 2008, 5). Border changes shall be avoided. Instead, the peaceful transformation to democracy remains consistently at the top of Solana's wish list. This normative agenda and Solana's outstanding presence add up to the "civilian power play" studied above. Yet this normatively laden EU identity does not always resonate well in shattered societies haunted by ethno-political conflicts. Local (rent-seeking) elites prefer to believe in strong personalities rather than in rules and institutions which results in only superficial, rhetorical acquiescence with EU rules ("*fake compliance*", Noutcheva 2007, 12). In this respect, Solana's and the EU's foreign policy approach has revealed a great degree of wishful thinking during the past decade. This wishful thinking made Solana believe in the State Union, the irrelevance of the status issue and a positive outcome of the status talks. The EU's normative principles did not meet the interests of the conflict partners. Therefore, one lesson that Solana's successor might wish to take away from this experience is to be less dogmatic on principles but more dogmatic on conditionality. In any case, Solana set a high standard for others to follow.

### Bibliography

#### Statements by Javier Solana (primary sources)

- Solana 24 August 2001: comment "Der Weg zum Frieden" by Javier Solana, EU High Representative for the CFSP, in: *Die Welt*, 24/8/2001.
- Solana 22 August 2001: "Why we're in the Macedonia", Article by Javier Solana, EU High Representative for the Common Foreign and Security Policy, Brussels.
- Solana 22 February 2002: "The fastest way to full European Integration", by Javier Solana, EU High Representative for the Common Foreign and Security Policy, Article in the Montenegrin newspaper "Vijesti"
- Solana 17 December 2002: Council Secretariat: Interview with Javier Solana for Zeri, 17 December 2002, p. 2.
- Solana 22 January 2003: Transcript of the interview by Javier Solana, EU High Representative for the Common Foreign and Security Policy, for SOUTH EAST EUROPE TV EXCHANGES, Brussels, 22 January 2003.
- Solana 20 November 2003: Interview of Javier Solana, EU High Representative for the Common Foreign and Security Policy by Elvir Bukalo for MINA Montenegro News Agency and published in several newspapers (Dan, Publika, Pobjeda, Vijesti) on 20 November 2003.
- Solana 9 December 2003: Intervention by the EU High Representative for CFSP JAVIER SOLANA, EU-Western Balkans Foreign Ministers' Meeting, Brussels, 9 December 2003, S0253/03.
- Solana 18 March 2004: Javier Solana, EU High Representative for the CFSP, urges Kosovo leaders to act immediately to stop violence, Brussels, S0075/04.

- Solana 24 March 2004: "Solana: It's a sin that only five years after they were helped by international soldiers, Kosovars are now attacking them", *Koha Ditore* carries an exclusive interview with European Union High Representative Javier Solana.
- Solana 7 February 2007: Summary of remarks by Javier Solana, EU High Representative for the CFSP, and Fatmir SEJDIU, President of Kosovo, at a joint press briefing, Pristina, S047/07.
- Solana 11 July 2007: Javier Solana, EU High Representative for the CFSP, met Kosovo President Fatmir SEJDIU and prime Minister Agim Ceku, Brussels, S203/07.
- Solana 9 October 2007: Interview with Javier SOLANA, EU High Representative for the Common Foreign and Security Policy, for the Serbian Newspaper Blic, 9/10/2007.
- Solana 19 February 2008: Visit of Javier Solana, EU High Representative for Common Foreign and Security Policy, to Kosovo, 19 February 2008, Council Secretariat, Ref. CUE08023, consilium\_15121\_30371\_5572.pdf [10/5/2010]
- Solana 5 December 2008: Javier Solana, EU High Representative for the CFSP, announces the start of EULEX Kosovo, Brussels, S400/08.
- Solana 2 April 2009: "Wellicht gaat Nederland anders over Servië denken", Interview Solana NRC Handelsblad (2/4/2009) p.7

#### Secondary sources

- Ahlbrecht, Kathrin (2004): Coherent European Foreign Policy in Macedonia. From Test Case to Prime Example, in: Mahncke, Dieter/Ambos, Alicia (eds): *European Foreign Policy: From Rhetoric to Reality?* College of Europe Studies: European Interuniversity Studies, pp. 255-275.
- Alfons, Michael (2006): Of Standards and Status. The Role of the European Union in Kosovo: From UNSCR 1244 to the Future Status Talks, in: *Südosteuropa* 54:3, pp. 339-379.
- Allen, David and Michael Smith (1990): Western Europe's Presence in the Contemporary International Arena, in: *Review of International Studies*, 16/1, pp. 19-37.
- Altmann, Franz-Lothar (2005): *EU und Westlicher Balkan. Von Dayton nach Brüssel: ein allzu langer Weg?*, SWP-Studie 1, Januar 2005, Berlin.
- Barros-Garcia, Xiana: Effective multilateralism and the EU as a military power. The worldview of Javier Solana, EU working papers, RSCAS 2007/2008, [http://cadmus.eui.eu/dspace/bitstream/1814/6750/1/RSCAS\\_2007\\_08.pdf](http://cadmus.eui.eu/dspace/bitstream/1814/6750/1/RSCAS_2007_08.pdf) [10/5/2010].
- Björkdahl, Annika (2005): Norm-maker and norm-taker : Exploring the normative influence of the EU in Macedonia, in: *European Foreign Affairs Review*, Vol. 10, issue 2 (summer), pp. 257-278.
- Blockmans, Steven and Ramses A. Wessel (2009): The European Union and Crisis Management: Will the Lisbon Treaty Make the EU More Effective?, in: *Journal of Conflict and Security* 14, no. 2, pp. 265-308.
- Breuning, Marijke (2007): *Foreign Policy Analysis. A Comparative Introduction*, Palgrave MacMillan.
- Castellan, Georges (2003): *Un pays inconnu: la Macédoine*, Paris: Arméline.
- Glenny, Misha (1999): *The Balkans. Nationalism, War, and the Great Powers 1804-1999*, London.

Harnisch, Sebastian/Stahl, Bernhard (2009): Fazit: Die identitären Möglichkeitsräume der EU-Außenpolitik, in: Stahl, Bernhard/Harnisch, Sebastian (eds): Vergleichende Außenpolitikforschung und nationale Identitäten. Die Europäische Union im Kosovo-Konflikt (1996-2008), Series „Außenpolitik und Internationale Ordnung“, Baden-Baden, pp. 275-292.

Harnisch, Sebastian /Stahl, Bernhard (2010): Fractured actorness and its unintended consequences. The EU's Kosovo policy, Paper for the GARNET Conference 'The European Union in International Affairs', Brussels, 22-24 April 2010, <http://www.ies.be/files/Harnisch-Stahl-E5.pdf?download> [30/5/2010].

International Crisis Group (2002): A Kosovo Roadmap (I): Addressing Final Status, Europe Report Nr. 124, 1. März 2002, <http://www.crisisgroup.org/home/index.cfm?id=1640&l=1> [09.01.2008].

International Crisis Group (2004): Collapse in Kosovo, Europe Report Nr. 155, 22. April 2004, <http://www.crisisgroup.org/home/index.cfm?id=2627&l=1> [22.01.2008].

International Crisis Group (2005): Kosovo: Toward Final Status, Europe Report Nr. 161, 24. Januar 2005, <http://www.crisisgroup.org/home/index.cfm?id=3226&l=1> [09.01.2008].

Joerßen, Britta and Bernhard Stahl (2003): Europäische Außenpolitik und nationale Identität - Vergleichende Diskurs- und Verhaltensstudien zu Dänemark, Deutschland, Frankreich, Griechenland, Italien und den Niederlanden, Münster.

Judah, Tim (2004): Serbia's Kosovo policy, in: Altmann, Franz-Lothar/ Whitlock, Eugene (eds): European and US Policies in the Balkans, SWP Paper, Berlin, pp. 19-24.

Jupille, Joseph and James A. Caporaso (1998): States, Agency, and Rules: The European Union in Global Environmental Politics, in: Rhodes, Carolyn (ed): The European Union in the World Community, Boulder/London, pp. 213-230.

Ker-Lindsey, James (2009): Kosovo. The path to contested state-hood in the Balkans, London/NY: I.B. Tauris.

King, Iain and Whit Mason (2006): Peace at any Price. How the world failed Kosovo, Ithaca/New York.

Kramer, Helmut and Vedran Dzihic (2008): Der Kosovo nach der Unabhängigkeit, Friedrich-Ebert-Stiftung, September 2008, <http://library.fes.de/pdf-files/id/ipa/05695.pdf> [20/09/2008].

Linz, J. Juan and Alfred Stepan (1996): Problems of Democratic Transitions and Consolidation: Southern Europe, South America and Post-Communist Europe, Baltimore.

Merkel, Wolfgang et al. (2003): Defekte Demokratien, Band 1: Theorie, Opladen.

Narten, Jens (2009): Dilemma of promoting 'local ownership'. The case of postwar Kosovo, in: Paris, Roland/Sisk, Timothy (eds): Dilemmas of State-Building. Confronting the Contradictions of Postwar Peace Operations, New York, pp. 252-283.

Noutcheva, Gergana (2007): Fake, Partial and Imposed Compliance. The limits of the EU's Normative Power in the Western Balkans; CEPS working document No. 274/July.

Nuttall, Simon (2005): Coherence and Consistency, in: Hill, Christopher/Smith, Michael (eds) International Relations and the European Union, Oxford, pp. 91-112.

Papadimitriou, Dimitris/Petrov, Petar/Greicevci, Labinot (2007): To Build a State: Europeanization, EU Actorness and State-Building in Kosovo, in: European Foreign Affairs Review 12:2, pp. 219-238.

Peci, Lulzim (2005): Herausforderungen des EU-Beitrittsprozesses, in: Ost-West-Gegeninformationen 17:4, pp. 26-30.

Reichwein, Alexander/Schlotter, Peter (2007): Auf dem Weg zu einem kollektiven Akteur? Die EU-Politik gegenüber Mazedonien, in: Jpp, Mathias/Schlotter, Peter (eds) Kollektive Außenpolitik – Die Europäische Union als internationaler Akteur, Baden-Baden, pp. 239-279.

Schmitter, Philipp C. (1995): Von der Autokratie zur Demokratie. Zwölf Überlegungen zur politischen Transformation, in: Internationale Politik 50:6, pp. 47-52.

Reichwein, Alexander und Peter Schlotter (2007): Auf dem Weg zu einem kollektiven Akteur? Die EU-Politik gegenüber Mazedonien, in: Schlotter, Peter/Jopp, Mathias (eds): Kollektive Außenpolitik - die Europäische Union als internationaler Akteur, Baden-Baden, pp.239-277.

Sjöstedt, Gunnar (1977): The External Role of the European Community, Westmead: Saxon House.

Smith, Hazel (2002): European Union Foreign Policy. What it is and what it does, London.

Stahl, Bernhard und Sebastian Harnisch (2009) (eds): Vergleichende Außenpolitikforschung und nationale Identitäten. Die Europäische Union im Kosovo-Konflikt (1996-2008), Series „Außenpolitik und Internationale Ordnung“, Baden-Baden.

Stahl, Bernhard (2010): Failed Europeanization – when the EU's conditionality meets Serbia's denial, Paper for presentation at the workshop "Europeanization and Enlargement" in Bucharest, 10-11 June 2010.

Swoboda, Veit and Bernhard Stahl (2009): Die EU im Kosovo-Konflikt (1996-1999): Von der Vernachlässigung zur Verantwortung in: Stahl, Bernhard/Harnisch, Sebastian (eds): Vergleichende Außenpolitikforschung und nationale Identitäten. Die Europäische Union im Kosovo-Konflikt (1996-2008), Series „Außenpolitik und Internationale Ordnung“, Baden-Baden, pp. 59-80.

Szemler, Tamas et al. (2007): The EU Presence in a Post-Status Kosovo. Challenges and Opportunities, Briefing Paper, European Parliament, Directorate General External Policies of the Union, Brüssel, <http://www.europarl.europa.eu/activities/expert/eStudies.do?language=EN> [03/01/2008].

Tocci, Nathalie (2007): The EU and Conflict Resolution. Promoting Peace in the Backyard, Routledge.

Toschev, Adrian and Gregory Cheikhameguyaz (2005): The European Union and the Final Status for Kosovo, in: Chicago-Kent Law Review 80:1, pp. 273-304.

Vogel, Hansfrieder (2009): Die EU und die Staatswerdung des Kosovo (1999-2008): Gespaltene Actorness und die nicht intendierten Folgen, in: Stahl, Bernhard/Harnisch, Sebastian (eds): Vergleichende Außenpolitikforschung und nationale Identitäten. Die Europäische Union im Kosovo-Konflikt (1996-2008), Series „Außenpolitik und Internationale Ordnung“, Baden-Baden, pp. 233-274.

Weller, Marc (2008): Negotiating the final status of Kosovo, Chaillot Paper 114, ISS.

Woodward, Susan L. (2004): Transatlantic Harmony or a stable Kosovo?, in: Altmann, Franz-Lothar/Whitlock, Eugene (eds): European and US Policies in the Balkans, SWP Paper, Berlin, pp. 25-30.

Wong, Reuben (2005): The Europeanization of Foreign Policy, in: Hill, Christopher and Michael Smith (eds.): International Relations and the European Union, Oxford University Press, pp. 134-153.