

## THE GOOD, THE BAD AND THE RISKY: THREE SCENARIOS FOR THE FUTURE OF SECURITY SECTOR REFORM IN KOSOVO

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### Introduction

The latest Enlargement Strategy of the European Union, adopted in February 2018, presented in a clear and comprehensive way the EU's expectations from the Western Balkans countries (WB6), allowing for the possibility that Montenegro and Serbia – widely considered as the front-runners for European integration – could become Member States by 2025. However, the enlargement perspectives, as outlined in the Enlargement Strategy are considerably less favourable for the other four Western Balkan countries, with Kosovo being recognized as the country that currently stands further away from the EU. Indeed, the European perspective of Kosovo is not only hindered by its open bilateral dispute with Serbia, but also by the fact that Kosovo needs to complete many deep and comprehensive reforms so as to get closer to the well-established membership criteria of the EU. Undoubtedly, one of the most important reforms that Kosovo needs to complete is the Security Sector Reform; a process that since 2013 seems to be stuck in a stalemate.

### The paradox of Security Sector Reform in Kosovo

The process of Security Sector Reform (SSR) that began in Kosovo in 1999 has nowadays resulted in a great paradox. In 2008, Kosovo declared its independence and was recognized as an independent state by many countries, including the majority of NATO members, with the exception of Greece, Romania, Slovakia and Spain. However, more than a decade after Kosovo's declaration of independence and more than five years after the end of Kosovo's supervised independence late in 2012, Kosovo still does not have an army as the transformation of the Kosovo Security Force into a fully-fledged national army remains at a deadlock; therein exactly lies the paradox: Kosovo, as an independent state, continues to depend on NATO's KFOR for its protection. This reality challenges one of the core theoretical underpinnings of SSR during state building, which is the objective to restore the state's monopoly on the legitimate use of force.

The case of SSR in Kosovo represents a considerable exception to the dominant theoretical paradigm of SSR, simply because the security sector in Kosovo was never reformed per se,

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rather it has been built from scratch with the support of the international community. Given that before 1999, Kosovo's security apparatus was associated with and controlled by the regime of Slobodan Milosevic, the international intervention of 1999 marked the beginning of security sector institutional capacity building. Yet, a decade after 2008, the lack of a national army, through which Kosovo can exercise its monopoly on the legitimate use of force, challenges directly the assumption that the establishment and/or reform of a national armed force stands in the core of all conceptual understandings of SSR. In retrospect, it can be argued that the current paradox of Kosovo's case, namely being an independent state without a national army, stems from developments during the period from 1999 to 2008, when SSR in Kosovo was externally driven and the necessity for local ownership was by and large disregarded in favour of ensuring short-term stability and successful implementation of the international missions' mandates. Undeniably, the more time that goes by without Kosovo establishing its own national army, the more the paradox of SSR in Kosovo is being highlighted. In turn, this paradox not only questions the success of almost twenty years of SSR in Kosovo but is also challenges directly the sovereign claim of Kosovo, through the country's continuous dependency on NATO.

### **The legal and political debate on Security Sector Reform in Kosovo**

The on-going debate on the establishment of a Kosovo Armed Force (KAF), through the transformation of the Kosovo Security Force (KSF) has a very important legal component. In fact, the most significant restrictions on the size, armament and competencies of KSF are legal, therefore it comes as no surprise that any relevant discussion touches, to a greater or lesser extent, upon legal arguments. Roughly speaking the debate evolves around two different core arguments. On the one hand it is argued that the transformation of KSF to KAF can only be made possible through a constitutional amendment, while on the other hand it is argued that KSF can be transformed into KAF simply by changing the current legislation and thus a constitutional amendment is not necessary. The first argument claims that the Constitution of Kosovo explicitly stipulates the existence of the KSF as the national security force tasked to protect the people and communities of Kosovo. Thus, if a new institution, namely KAF, is to replace KSF, then the relevant articles of the Constitution have to be amended accordingly. The second argument emphasize that all current restrictions on the competencies of KSF stem from the relevant legislation, rather from the Constitution, as the Constitution includes only one very general article regarding KSF and this article makes no specific references to the Force's competencies; therefore, the KSF can be transformed into KAF simply by changing the Law on the KSF. However, in 2017 the legal debate cleared

The legal question on the transformation of KSF falls within a wider debate, which is essential of a political nature. In fact, it can be argued that as of 2013, when NATO declared that KSF had achieved Full Operational Capabilities (FOC), there is an on-going process of the topic's politicisation, since the actual operational capabilities of KSF are no longer an issue. On the one hand, Kosovo Serbs seems to have a rather clear position on the topic, which can be summarised as follows: NATO's KFOR is enough to cover Kosovo's current security needs and thus there is no actual and real need for the transformation of KSF into KAF; in any case not before the permanent settlement of the Serbia – Kosovo bilateral dispute. On the other hand, Kosovo Albanians understand the establishment of KAF as the final step of a long process of SSR that will complete Kosovo's statehood and gradually reduce Kosovo's dependency on NATO.

Undeniably, the current debate is highly affected by internal political developments in Kosovo and by the developments on the normalisation of the Serbia – Kosovo relations. Therefore, it can be argued that Kosovo Serbs would stop resisting the establishment of KAF, if they were to receive substantial benefits in return. Clearly, the most lucrative quid pro quo for the Kosovo Serbs is the implementation of the agreement on the establishment of the Association of Serbian Municipalities. The agreement that was negotiated between Kosovo and Serbia in August 2015, under the auspices of the EU, has not been activated yet by any Kosovo government, under the pressure of heavy internal criticism from Kosovo Albanians. Other issues could also be used as bargaining chips between the government of Kosovo and the Kosovo Serbs: the appointment of Kosovo Serbs in the deputy-commander positions of all security institutions in Kosovo; the return to the practice of set-aside seats for minority MPs in the Kosovo Assembly, for an indefinite time period; or even the annulment of the recently adopted law that placed the Trepca mining complex under direct government control, initiating fierce reactions both inside the Kosovo Serb minority and in Belgrade. However, all these issues are being placed by Kosovo Albanians under the rubric of national interest, thus it seems highly unlikely that the government of Kosovo would accept under normal circumstances any trade-offs on these specific issues.

### **Three scenarios for the future of the KSF**

While the debate on the transformation of KSF indicates clearly the complexity of the issue, as time goes by the current stalemate results in increased frustration among most of Kosovo Albanians and high pressure on the government of Kosovo.

Nowadays, one can argue that there are in principle three different scenarios for the future. These scenarios stipulate different courses of action, resulting in rather different outcomes.

#### **The Good scenario: Transformation through constitutional amendment**

This scenario stands as the most desirable next-step in the transformation process of KSF. The hypothesis supporting this scenario is that a formal transition from KSF to KAF will not only complete Kosovo's statehood, given that an army is the only core element of statehood that the country is still missing, but will also send, both internally and internationally, a strong symbolic message in support of Kosovo's sovereignty. The establishment of KAF, free of the restrictions that currently apply on KSF, would essentially mean that Kosovo could assume full responsibility for the defence and security of its territory and population, especially in anticipation of NATO's full withdrawal from Kosovo sometime in the future.

The realisation of this scenario requires a constitution amendment, which is not possible without the support of the Kosovo Serb MPs. Thus, this scenario sets as a prerequisite a political agreement between Albanians and Serbs in Kosovo; an agreement that seems much more likely if the government of Kosovo activates the agreement on the establishment of the Association of Serbian Municipalities or offers the Kosovo Serbs another considerable incentive to vote in favour of a constitutional amendment. This way, this scenario would simultaneously satisfy both the Albanians and the Serbs in Kosovo. Additionally, this scenario could possibly have a positive effect on the course of the Serbia – Kosovo normalisation process, as the establishment of the Association of Serbian Municipalities would send a clear message that the government of Kosovo accepts and respects the rights of Kosovo Serbs.

### **The Bad scenario: No transformation for the near future**

This scenario is essentially a prolongation of the existing status quo. The hypothesis underpinning this scenario is that the government of Kosovo, in order to avoid taking any difficult decisions, will not take any initiative for the transformation of KSF into KAF, assuming a rather waiting position for future opportunities to act. In this case, neither the name nor the mission and capabilities of KSF will change any time soon, maintaining KSF as a lightly armed civil protection force. KSF will continue to be under the direct oversight of NATO and KFOR will remain the only security provider in Kosovo.

However, this scenario is in favour of neither the Albanians nor the Serbs in Kosovo. On the one hand, the prolongment of the status quo will bring the government of Kosovo under heavy internal pressure, as the long-unsatisfied expectations for the establishment of KAF have made all Albanian opposition parties, and in fact the Albanian community in general, grow weary and restless. Additionally, the prolongment of Kosovo's dependency on NATO for its protection will continue to undermine the argument of Kosovo's completed statehood. On the other hand, the more time the agreement on the establishment of the Association of Serbian Municipalities remains inactive, the more Kosovo Serbs remain unwilling to engage in a meaningful political dialogue with the Kosovo Albanians. Furthermore, the dissatisfaction of Kosovo Serbs will continue to affect the Serbia – Kosovo relations, humping the prospects of normalisation of their relations.

### **The Risky scenario: Transformation through legislation amendment**

This scenario could be understood as the de facto militarisation of KSF through the amendment of the relevant legislation with a simple majority vote that does not require the support of the Kosovo Serb MPs. The hypothesis supporting this scenario is that, given the implementation of the Ahtisaari Plan has been completed; the government of Kosovo could proceed with the amendment of all legislation relevant to the KSF, increasing its size and capabilities. This scenario would allow the government of Kosovo to remove all restrictions that stem from current legislation, expanding the mission of KSF towards more military-style tasks and responsibilities, through the increase of its personnel and the upgrade its weaponry. Changes to the KSF capabilities would be modest, in order not to overburden Kosovo's budget, while the supremacy of KFOR as the main security provider in Kosovo would not be challenged, even though the militarised KSF could gradually assume more responsibilities in the future.

Yet, this scenario, despite being rather easy to implement – compared to the Good scenario – is a highly risky choice that could result in renewed tensions between Albanians and Serbs inside Kosovo, while it could derail the normalisation process between Serbia and Kosovo. Early in March 2017, President Thaci opted for this scenario, calling the Kosovo Assembly to vote a bill that would remove the restrictions imposed on KSF by the current legislation. His proposal was met with a fierce reaction from the director of Serbia's Office for Kosovo and Metohija who argued that Serbia rejected the establishment of a so-called Kosovo army in its province, demanding the international community to halt without delay this dangerous escalation of political relations. Indeed, Thaci's initiative was not supported by the international community either. Both NATO and the US perceived this proposal as a unilateral decision on behalf of Kosovo and it was met with harsh criticism. Eventually, under fear of alienating

Kosovo's closest allies, Thaci withdraw his proposal, deescalating the growing tensions. Therefore, another attempt to implement this scenario would be an even more risky choice that could have unexpected reactions both from Serbia and from key international players.

### **Concluding remarks**

Kosovo's European perspective seems currently to be both vague and ambiguous. Kosovo's internal structural weaknesses, coupled with the EU's explicit commitment that it will not import any bilateral disputes, set a great challenge for the current and future Kosovo governments; one that, definitely, needs beyond 2025 to be effectively addressed. However, the Kosovo government must and should take initiatives towards showing its commitment to make the necessary reforms to get closer to the European standards and maximise the countries chances for European candidacy. Unquestionably, one of the major issues than need to be resolved sooner rather than later is Kosovo's dependency on NATO, since the completion of SSR in Kosovo remains since 2013 in a stalemate. This paper outlined the three scenarios available to the government of Kosovo, in relation to the future of the KSF and the establishment of a national army. As indicated, all three scenarios are essentially highly political decisions that have different internal and regional implications.

As time goes by, internal pressure on the Kosovo authorities grow and it is safe to say that the government will have to find some sort of compromise between the desirable and the possible. In any case, the time when Kosovo stops being a security consumer and becomes a security provider seem rather far away.