Rule of law: a tool for security implementation in post-war contexts

An analysis of the EU’s engagement in Kosovo through the assessment of the political capability of EULEX

Laura Marie Binet

European Studies – Politics, Cultures and Societies
Bachelor's programme
Bachelor Thesis, 15 credits
Spring 2021
Supervisor: Michel Anderlini
# Table of content

1. List of abbreviations ................................................. 4

2. Introduction ............................................................. 5
   2.1 Background ....................................................... 5
   2.2 Research question and aims ................................... 6
   2.3 Outline .......................................................... 6

3. Literature review ..................................................... 7
   3.1 EU enlargement .................................................. 7
   3.2 EU as a Security actor .......................................... 10

4. Theoretical framework ............................................... 12
   4.1 Theories .......................................................... 12
   4.2 Concepts ........................................................ 15
   4.3 Hypotheses ....................................................... 16

5. Research design ....................................................... 17
   5.1 Methodological Approaches ................................... 17
   5.2 Data Collection and Method Analysis ....................... 19
   5.3 Material ......................................................... 20

6. Analysis ................................................................. 21
   6.1 Background ....................................................... 21
      6.1.1 Kosovo’s struggle for independence .................... 21
      6.1.2 EULEX ..................................................... 23
   6.2 Assessment of EU’s capability in security ................. 25
      6.2.1 Rights and authorities ..................................... 25
      6.2.2 Resources .................................................. 26
      6.2.3 Competences and knowledge ............................. 29
      6.2.4 Organizing capacity ....................................... 30

7. Conclusion ............................................................. 31

8. Reference list .......................................................... 35
0. Abstract

Corruption and low judicial structures are two downsides that post-conflict reconstruction countries are experiencing when declaring independence. In the case of Kosovo, at the eve of its unilateral independence, there were no definite objectives launched by neighboring countries in order to counter the flaws introduced by the new actuality of things. The EULEX mission launched the same year of Kosovo’s independence is often seen as a major step by the EU in order to implement security in a post-war context, through the introduction of a tool said to help to strengthen policies: the rule of law. However, it has been seen that it is not the first time the EU is getting involved in such missions under such circumstances, leaving individuals speculating on the true intentions of the EU within its foreign policy. This research aims at analyzing the EU engagement in Kosovo from a rationalist lens, with the help of the theory of political and democratic capabilities introduced by March & Olsen in 1995. The research question being: ‘How and to what extent is the EU developing political capabilities to implement security in post-war countries?’, it is intending on assessing if EULEX Kosovo has developed political capabilities and the extent of it, in order to determinate the commitment of the EU to establish security in the country.

*Keywords: Kosovo, security, rule of law, foreign policy, political capability*

Word count: 11 762
## 1. List of abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>CFSP</td>
<td>Common Foreign and Security Policy</td>
</tr>
<tr>
<td>EDF</td>
<td>European Development Fund</td>
</tr>
<tr>
<td>EEAS</td>
<td>European External Action Service</td>
</tr>
<tr>
<td>ENP</td>
<td>European Neighborhood Policy</td>
</tr>
<tr>
<td>EPAP</td>
<td>European Partnership Action Plan</td>
</tr>
<tr>
<td>ESDP</td>
<td>European Security and Defense Policy</td>
</tr>
<tr>
<td>ESDC</td>
<td>European Security and Defense College</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>EUAM</td>
<td>European Union Advisory Mission</td>
</tr>
<tr>
<td>EUFOR</td>
<td>European Union Force</td>
</tr>
<tr>
<td>EUFP</td>
<td>European Union Foreign Policy</td>
</tr>
<tr>
<td>EULEX</td>
<td>European Union Rule of Law Mission</td>
</tr>
<tr>
<td>EUMM</td>
<td>European Union Monitoring Mission</td>
</tr>
<tr>
<td>EUPT</td>
<td>European Union Planning Team for Kosovo</td>
</tr>
<tr>
<td>EUPOL</td>
<td>European Union Police Mission</td>
</tr>
<tr>
<td>FRY</td>
<td>Federal Republic of Yugoslavia</td>
</tr>
<tr>
<td>IcSP</td>
<td>Instrument contributing to Security and Peace</td>
</tr>
<tr>
<td>IR</td>
<td>International Relations</td>
</tr>
<tr>
<td>KFOR</td>
<td>Kosovo Force</td>
</tr>
<tr>
<td>KLA</td>
<td>Kosovo Liberation Army</td>
</tr>
<tr>
<td>OPLAN</td>
<td>Revised Operation Plan</td>
</tr>
<tr>
<td>TEU</td>
<td>Treaty of the European Union</td>
</tr>
<tr>
<td>UNMIK</td>
<td>United Nations Mission in Kosovo</td>
</tr>
<tr>
<td>UNSCR</td>
<td>United Nations Security Council Resolution</td>
</tr>
<tr>
<td>WJP</td>
<td>World Justice Project</td>
</tr>
</tbody>
</table>
2. Intro

2.1 Background

Since the Maastricht Treaty signed in 1993, the EUFP has invested considerable - political and material - efforts in trying to promote the will of the EU to establish peace with its neighbors, whether be it political or economic, and it resulted in a solid and working CFSP (Bigo et al., 2021). It has, however, often been argued by many authors that the EU in terms of security is relatively ineffective, and that the capabilities-expectations gap is too significant to be ignored by researchers and that its actions are unsatisfactory (Toje, 2008; Zielonka, 2008; Sjursen, 2003). At the center of those debates, one issue is the lack of cohesiveness and decision-making of the CFSP resulting in a failure in establishing security within its area, only engaging in ad hoc actions while not having any standing army to keep up its external relations.

It can be seen that the EU, through the framework of the ESDP, has been involved in several missions - whether be it civilian or military - under the CFSP with the aim of preserving its local and international security and cooperation promotion (Legrand, 2020). Within this context, the involvement of the EUFP in post-war countries can be observed, especially in the post-Soviet area and in the former Yugoslavian countries. The involvement in Bosnia and Herzegovina, for example, with its EUFOR Althea or in the Former Yugoslav Republic of Macedonia with the CONCORDIA missions - both being military - has been in the prospects of establishing further stability in the region. Those missions are a great example of how the EU is implementing security within its foreign policies. However, not only is the EU launching missions in conflict prevention through military action, but it is also aiming at helping in state-building processes in newly independent countries such as in Georgia (EUMM), Ukraine (EUAM) and Kosovo (EULEX) through a civilian approach. It is with the enlargement perspective for and enhanced EU enlargement with the Balkans that the EU has been aspiring at “strengthening the rule of law (…), implementing trial monitoring of (…) corruption cases and (…) deploy advisory missions” in the region (Ppio, n.d.). In the case of Kosovo, it has been stated that the EU’s support in the rule of law sector was crucial. With the previously mentioned controversies concerning the said effectiveness of the CFSP, one can only wonder to why, to what extent, and with what resources is the EU getting involved in security building in post-war countries.
2.2 Research question and aims

This thesis aims at assessing the EU engagement and behavior in post-war contexts with the rule of law as a tool for it, and is doing so by addressing the EU’s steps towards establishing security in its neighboring countries. Therefore, it aims to measure the Union’s involvement in security processes in newly formed countries in its neighborhood. With the help of the previously assessed background and aims, the research question that will direct this research towards significant and transparent results is “How and to what extent is the EU developing political capabilities to implement security in post-war countries?”

It has been decided that due to the scope of the research and to the limited length provided to write on this subject, this very research will be focusing on only one country and one ESDP mission, EULEX rule of law mission in Kosovo. It seeks to assess, as hinted, the EU political capability in Kosovo while looking at the steps taken and the means made available through EULEX in order to engage in security building in the country, from a rationalist point of view. This research question stems from an extensive analysis of academic literature carried out prior to commencing the writing process. The goal is not to assess whether the EU is effective or not since much research on the subject has been made in the past, but rather assessing its foreign policy’s political and democratic capability in the context of post-war and post-independence countries, with a focus on Kosovo and EULEX. This implies that this thesis will not cover all the aspects of the mission and the estimation of it and is aiming at analyzing the EU behavior in those contexts with these criteria. The timeline of the analysis is situated from the independence of Kosovo in 2008 up until 2014 when the second mandate of the ESDP civilian mission EULEX Kosovo ended. Justifications concerning the design and research choices are laid out later on in this thesis.

2.3 Outline

Concerning the research organization, the thesis is divided in five different parts, each playing an important role in assessing the presented research question. A literature review will first be presented with the goal of introducing the previous research and different stances on the subject while situating the place this research is fitting in. The first part of the literature review focuses
on the research on EU enlargement since it is said to be a vital element of the motivations for the EU to undertake foreign policy missions, especially in establishing security in its neighborhood, linking it to the ENP. The second part focuses on the work done on the EU and the evaluation of its quality as a security actor and through which lens it has been assessed before, giving the reader an idea of where this research fits in the broader literature. The next part will introduce the theories used as a prism to the research and the groundings of the thinking behind the analysis presented, as well as the tools used.

The following part is seeing a focus on the methodologies and a more detailed explanation of the materials used and the processes used while being critical over the methods and design chosen for the analysis. The data collection and analysis part will be divided into two main parts: the first component will provide a background for Kosovo’s situation and its struggles to independence while briefly introducing the EULEX Kosovo rule of law mission proceedings and aims. On the other hand, the second will be focusing on analyzing the engagement of the EU in security building in Kosovo through EULEX by breaking down the four types of political capabilities by March & Olsen introduced in the theories and methods part. Each type of political capability will serve as a subsection to evaluate the EU actions in that path through each segment of the theory. For each capability, an operationalizing question will be laid out at the beginning of each section. Lastly, a conclusion will be presented as the closing of this thesis. A summary of the findings will be provided while assessing the limitations of the research and opening the way to possible future research.

3. Literature review

3.1 EU enlargement

“Enlargement is often called the most successful foreign policy of the European Union”
(Schimmelfenning & Scholtz, 2008)

The topic of the EU enlargement and democracy promotion has seen many authors disagreeing on the actual motivations but also the effectiveness of the policies allowing the EU to further
integrate new countries in its area and is today the subject of many book-long studies on it. Due to the scope of this study, the goals of this literature review on ENP and EU enlargement are not to cover every corner of the debate nor establishing a hierarchy in the different views presented. It is indeed aiming at providing a short summary and overview of the main arguments and debates on the matters of the ideas and effectiveness of the ENP while comparing some of the main authors’ opinions.

Before analyzing how has the efficiency of the ENP in the previous research been assessed, it is important to establish the link between the ENP and EU enlargement since it may appear counter-intuitive if taken at face value. Kelley (2006) is considering the ENP as an extension and, in addition to an adaptation of the active foreign policy role during enlargement; it is its raison d’être (p. 31). This could be explained by the fact that when getting involved in its actions, the ENP has often laid out a ‘carrot of membership’ to the countries it was interacting with, but never really as a real recompense. It can be seen that without the membership to look forward to, ENP countries might simply lose motivation to undertake domestic reforms (2006, p. 36). This could be transposed to the case of Kosovo which, while not being part of ENP, is still looking for the conditionality of the EU accession in the future and this could explain its will of complying with the EU action towards establishing security in the country.

With regards to the EU and its foreign policy towards its external environment, there is an ongoing debate about whether the approach is seen as successful or not. Investing in external partnerships with neighboring countries as the EU is aiming at through the enactment of ENP, as said by several authors (Grabbe, 2001; Sasse, 2008), relies on the normative power of the EU. Concerning this competence as a normative power within its enlargement policy, the wider literature is clearly divided on the idea of the true motivations and consequences behind the advancement of it. One can also easily wonder the reasons the EU is showing engagement with the CFSP missions, given the will of the ENP strategy released in 2004 that establishes a framework for “consolidating the Union's relations with neighboring countries” while establishing further stability, prosperity and security with them (Balasan, 2013, p. 325). Furthermore, the main debates are equally split about which theory is best fit to explain the ENP’s internal functions within the political system of the EU, as well as a global disagreement on the effectiveness of this policy.
Koenig (2016) on her policy paper about the gap between conception and performance on the ENP argues that the whole enlargement platform while allowing “closer political and economic integration” on the EU neighboring countries has seen a shift throughout its existence and has come from a “ring of friend” to “a ring of fire” (p. 1). The author is hinting a shift in the idea of its enlargement policy by stating that originally, the EU was willing to bring its surroundings together and closer by the force of its shared values, power of attraction and stable friends (2016, p. 2) but quickly faded into an interest-driven policy. Koenig is arguing a change in ideas due to where the first decades of failures this policy lead to and is arguing that combining both opposite theories could allow a broader understanding of the ENP actions and undertakings. Moreover, it is shown throughout this policy paper with the help of Christopher Hills’ capabilities-expectations gap theory that there are “discrepancies” between the original ideas and goals of the ENP and the actual facts and effectiveness (2016, p. 30). This suggests that the ENP, according to Koenig, is not seen as successful as its self-image would like to.

According to some authors, this very “unsuccessfulness” of the ENP is strictly related to the failure of the EU to keep its promise of integration into the Union to the countries it is operating in. As a matter of fact, Gawrich et al. (2010) argue that this gap in guaranteeing a brighter future for the greater good of the countries with which the ENP is active is “discouraging (…) elite groups” by not offering any reward for their efforts in action (p. 1220). This text also shows within the same ideas that when launching a rule of law support in one of its neighboring countries, the perspective of accessing the Union could also serve as a carrot to make the carriage of implementation go forward. Schimmelfenning & Scholtz in their ‘EU Democracy Promotion in the European Neighbourhood Political Conditionality, Economic Development and Transnational Exchange’ text are agreeing to this view and are being pretty outspoken about the EU keeping its promise to “deliver the reward in case of compliance” as well as “withhold the reward in case of non-compliance” (2008, p. 6). The authors are justifying this by arguing that the idea of adopting norms like human rights and rule of law in neighboring countries is considered to cause a “loss of autonomy” and will, in consequences, require for more counter-balancing help like military protection or economic assistance to protect the state (2008, p. 6). Therefore, the EU accession after such actions in the eye of the promotion of EU democracy within its neighborhood policy is argued by these authors to be a “necessary condition” (p. 3).
However, Coppeland is showing his disagreement to Schimmelfenning & Scholtz about the prospects of EU accession in ENP actions, suggesting that the argument about how the criteria of effectiveness of the ENP is based on the promise of an integration into the Union does not rely on any proper EU law base and is therefore not credible (2013). According to him, the ENP was originally created to be “membership prospect neutral” and is pointing out that if an accession perspective would be offered to a certain neighboring country during or after EU involvement, it would be a “separate process” (2013). Yet, Coppeland is still supporting the view previously presented from Schimmelfenning & Scholtz on the fact that the ENP has failures, but is applying a firm stance on the fact that the origin of these failures are not internal as the previous authors would state, but rather external.

In their informed approach to the European Neighborhood Policy, the authors consider the consequences of one actor’s choice between a rational or normative logic on the other actor’s choice and the resulting relationship. Besides, many authors explore and analyze the evolution of ENP through member states’ point of view, never from a specific action model like in Kosovo.

3.2 EU as a Security actor

The previous research focusing on the foreign policy of the EU mainly focuses on conflict resolution and the different lenses that have been used in the past to assess its actions mostly centralized around the coherence, moreover the lack of it in the policies. It has often been seen in the previous literature on the subject of the European integration process two main points of divergence from the authors. Where some argue that the EU integration project is the product of heavy negotiations and is all part of a greater intergovernmental objective, almost considered as bargaining (Dorussen & Nanou, 2006; Slapin, 2008), and those who saw it as a continuous process towards a supranational state (Risse, 2005). Throughout the years, the debates have slowly faded and a compromise has emerged within the literature agreeing on an ‘in-between’ status of the EU in integration and security processes (Rieker, 2007).

The consequences of this compromise made by most scholars on the subject has been identified by Rosamond (2000) as that the study of the EU has, to a large extent, ‘shifted from the study of integration to the study of governance (…) defined as being about the exercise of
authority with or without the formal institutions of government’ (p. 109). When it comes to how the CFSP has been assessed in the past, it is clear to see that on the wide part of it, the ‘normative model’ has been chosen in order to assess the role of the EU as a security actor, with vocabulary such as EU as a ‘normative power’ arising (Manners, 2002, p. 253). Those appellations are said to be variant concepts of civilian power, and to which authors seem to have other versions of it (e.g. structural foreign policy actor (Keukelaire and Mac Naughtan 2008), soft power (Nye, 2004), etc.).

As seen in those previous works and research, the authors have either considered, while assessing the CSFP/ESDP actions, constructivism as a means for the EU to get involved into a more important aspect of the international scene (e.g. Risse, 2005) or rationalism (Balasan, 2013). The latter argues that the main reason underlying the EU actions is to “reduce rationalist interests” when regarding the CFSP as the “second best alternative” (p. 326). Unfortunately, by doing so, the author is still showing explicit interests in getting involved in missions; the interests here to not have any interests. While choosing one of those two theories seem to be in most cases fit to analyze the foreign policy of the EU the most accurate version possible it can appear sometimes fragile as a base in order to discuss the CSFP actions in the context chosen for this thesis which is post-war contexts. Some authors (Ciancara, 2020; Fearon & Wendt, 2002) argue that a bridge is possible between those two, in appearance, opposite theories by assessing the origin of ambiguity and conflict between them, but never by truly using a unique design in order to analyze a particular and precise CFSP/ESDP mission.

Within all of these debates about which theories to use it is crucial to state that when trying to assess the EU’s actions in security-building in post-war countries in the previous literature, the tool of assessment of the democratic, political and material capabilities have never been exploited to that particular phenomenon. Rather it was, as described above, a never-ending debate about the motivations and the clear outcomes of the analyzed reality. Having acknowledged all the above, it is necessary to keep in mind that this thesis’ limited scope is not allowing for a complete and structured assessment of which theory or prism is best to use. It is merely seen as a modest contribution to the subject and is aiming at analyzing the EU’s actions in security building in Kosovo from lenses that have been accorded too little focus: in this case, political capabilities and rationalism.
4. Theoretical framework

4.1 Theories

Although the ENP has attracted considerable interest among scholars, its theorization remains underdeveloped (Kostanyan et al., 2017)

When trying to tackle the subject of the European Foreign Policy and the EU’s actions towards security by state-building in Kosovo, one needs to analyze this issue through a certain theoretical lens and choices need to be made in that direction. The basic theoretical tools of this thesis take their roots in the theories of European integration and IR theories. As a matter of fact, the foreign policies of the EU are put in perspective here, making ground for IR theories to be applied to the ESDP missions and furthermore, to every step closer to the pursuit of security establishment in Kosovo. The main approaches used to explain the EU involvement in former Yugoslavia in terms of rule of law and security in the previous works mainly focused, on the one hand, on constructivism and the idea of how the ESDP missions and else contributed to the enhancement of the EU’s identity as an actor in those states. On the other hand, many authors argue that only rationalism could be used in order to assess the EU’s behavior towards helping new states in its vicinity since it would justify these actions making them part of a greater European objective.

However, as previously stated, the goal of this thesis is to fill a gap in the existing knowledge. Therefore, the lens that was preferred in order to comprehend and furthermore analyze the case of the EU involvement in Kosovo within 2008-2014, while adding a strategic dimension to the policy is the one of the rational choice institutionalism theory. As a matter of fact, it has been decided that rather than using a fluid theoretical framework as many authors have done before, this thesis aims at approaching the EU’s actions in security and rule of law in Kosovo building with a strict focus on rationalism and the theory of political capabilities. In order to put those two theories in practice in the analysis part of this thesis, one first needs to define the basics of each.
The rational choice theory is thought to have emerged in the 20th century, during which period it became one of the most widespread theories within the field of political sciences. The theory argues that the political behavior of states of international organizations is largely dependent on an assessment of the costs and benefits of engaging in any political actions or policies, pursuing its close interests and ways to achieve its political goals (Glaser, p. 23, 2010). It conveys the idea that any action undertaken within an international setting is part of a greater benefit for the - in this case, political - body and that all initiated strategies are rational. In the spectrum of the ‘traditional’ IR theories, it could be argued that rationalism places itself on an invisible line centrally located between realism and internationalism. Depending on which part of the spectrum the researchers are positioning themselves, the approach to that theory will either be on the distribution of power and the bodies’ motives (such as in structural realism) to begin such actions, or rather on the international situation and environment of the state or organization involved by stating that its relations with other states would influence its decisions (such as in internationalism).

In the case of the foreign security policies of the EU and its actions in Kosovo, both approaches could be used by the researcher since the ESDP for instance is acting on behalf of the EU; it is a case of distribution of power. While at the same time taking into account the international environment the Union was in when each action was launched, both attitudes are pertinent when analyzing the objective the EU of getting involved. According to Glaser (2010), the two levels of analysis introduced here, respectively called unit and structural levels are often said to be competing but in fact, when using the strategic choice theory, they can be merged as of to create a sufficient base to analyze this case (p. 24). The unit level explains the behavior of any state or political body towards enlargement or involvement in security actions with the help of the awareness of the motives and goals of those whereas the structural level explains this behavior through the constraints and opportunities presented by the international environment (Glaser, 2010, p. 25). In this case, the unit-level analysis is mainly used as it argues a balance of economic and political interest for any external actions. The main limitation of the use of this theory is that when assessing that a state is rational, it is not to determine whether a state is greedy or instead motivated by security (p. 27).
For the study of the case of Kosovo, both levels of analysis are being used since the goal of this thesis is to analyze the EU’s behavior and involvement in security building. Therefore, both the unit level focusing on the goals of the EU to get implicated in Kosovo and the structural level seeing the international environment and its pressure are being used in this research in order to being able to reach a much higher degree of accuracy in the analysis. It is with the help of this theoretical framework that the hypotheses which will operationalize this thesis are created in order to direct the analysis towards a rationalist assessment of the proceedings. It is argued in this thesis that the EU is a security actor and that its involvement in rule of law building in Kosovo has greatly influenced its ‘actorness’ in matters of security and democratic governance. Therefore, the need of using the work of theorization of governance capability written by March & Olsen (1995) as a tool for analysis is undeniable. As a matter of fact, they are developing a theory around four types of political and administrative abilities: rights and authorities, resources, competencies and knowledge, and organizing capacity (1995, p. 92-95).

With the aims of focusing on the EU’s capability in security building in Kosovo, assessing the political and administrative involvement through concrete criteria is what is deemed best fit throughout this study as a tool for analysis. ‘Rights and authorities’ refer to the legitimate authority officials have and to the autonomy given to citizen (p. 92). This is made sure through the enforcement of rules and regulations that protect certain actions. ‘Resources’, on the other hand, are “the assets that make it possible for individuals to do (or be) things or to make others do (or be) things” (p. 93). In this case, it will allow the analysis to focus on the material capacity and financial means made available by the EU in order to establish security in Kosovo through its different steps within the rule of law implementation objective. ‘Competences and knowledge’ refers to the tools given or taught to citizens (e.g. education) in order to be able to be properly active as such in the political life (p. 94). This implies assessing any action taken in the goal of educating and formatting populations to be a part of civil society within security-building. The last type of capability described by March & Olsen is ‘Organizing capacity’.

This relates to the “effective utilization of formal rights and authority, resources, and competences”; it requires the attention to be focused around a specific political action, people to be consulted and resources able to be expanded in a timely manner (p. 95). In the case of this thesis, all of those types will be used as individual criteria in order to analyze the EU’s security
and political capability in Kosovo. Although the publication of this theory is not contemporary, this thesis posits that the tools within it are still applicable to the timeframe delimited for this specific case study.

4.2 Key Concepts

As the focus of this thesis is on the EULEX mission launched to Kosovo in order to establish security and strengthen the rule of law in the new independence frame; it is therefore important to define those two terms for a better understanding of the stances of this research on the matters. The goal of this section is not to provide extensive definitions of the concepts, but rather to briefly introduce them and to offer the chosen meaning of those concepts for the purposes of this research.

The concept of the ‘rule of law’ is a popular, debated but vague term and describes the legal principle that laws should govern a nation and its citizens, given a certain number of criteria to identify it. It implies the notion that no one is above the law, and everyone is subject to the law; everyone is equal in front of the law. According to the UN, it is “fundamental to international peace and security and political stability; to achieve economic and social progress and development; and to protect people’s rights and fundamental freedoms” (United Nations, n.d.).

It finds its roots in democracy and governance field; for example in the EU. As a matter of facts, the Treaty on the European Union is founded on the principles of “liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law” (art. 6, TEU). It is also part of the Copenhagen criteria (described later in this thesis) which decides potential EU membership grant to countries who will meet the conditions required to admission, included in the acquis communautaire. In the case of EULEX, it refers to the implementation of police and custom-related missions launched by the EU.

When it comes to defining ‘security’, the scope needs to be refined since the concept of security itself is of great broadness. It is often linked to the sense of an ‘absence’ of threat or danger (Booth, 2005, p.21), and can relate to the areas of economic, political, societal, environmental and military aspects. Within the framework of this thesis, the meaning taken as value is the political one hinted in the goals of the CFSP or, in other words, international security
within the framework and theory of the international relations. This then implies taking the meaning of it as preserving peace, strengthening international ties, promote cooperation, develop and consolidate democracy as well as human rights (europa.eu, 2021). Besides being considered a contested concept since it is not measurable or standardized, security remains a driving force of any foreign policy implementation in international politics. From a rationalist approach as this thesis is using, ‘security’ is connected to the statement of state centrism, with a focus on the military or civilian aspect of it, all in a pursuit of power where security comes from the mitigation of threats (Tripp, 2013).

4.3 Hypotheses

In order to answer the research question, this thesis is testing hypotheses created with the help of the theorization previously done and it is set that they will provide a basis for the operationalization of it. The goal of formulating hypotheses is to direct the research path of the thesis while giving possible answers to the research question. In this case, the hypotheses will be used to help explain the EU’s behavior towards Kosovo in security matters and the steps taken by the EU towards helping Kosovo in the state formation process through a rationalist lens.

The first hypothesis – “the EU is getting involved as a security actor in the Balkans in order to strengthen its role as a security power” – is focusing on analyzing the actions undertaken by the EU towards implementing the rule of law in Kosovo from 2008 to 2014 with the help of the rationalist lens introduced before. This hypothesis requires an assessment of the CFSP’s role especially towards Kosovo and the EULEX rule of law mission while evaluating the EU’s involvement in it and the steps taken by the EU to implement security. The second hypothesis “EU getting involved in rule of law building in Kosovo is with the prospect of integrating more of the country within the Union’s actions” – is equally focusing on the goals and impacts of the EU steps taken towards helping Kosovo in state-building processes while looking at any action initiated by the Union to integrate more of Kosovo in the years following EULEX Kosovo once again from a rational institutionalism perspective. Added to that is the use of the theory introduced by March & Olsen which is directing the expectations from the findings towards the development of security in Kosovo divided in four steps. Therefore, this study is expected to find with the political capability criteria that; first, the EU in its steps towards Kosovo is developing
rights and authorities. Second, that ‘significant resources’ have been put in place to achieve security with state-building methods. Third, that sufficient knowledge and formation have been made available to the population and that, fourth, formal rights are put in sufficient movement in order to achieve refined security building in a post-war context. These hypotheses result from the theories presented above and will be used to conduct and select the direction in which this thesis is heading.

5. Research design and methodology

5.1 Methodological Approaches

Using qualitative research, the methodology used in this thesis with the goal of testing the hypotheses introduced before will revolve around the use of a case-study research design, with a focus on one case; therefore making it a single-case study. In the will of analyzing the EU engagement in post-war contexts and due to the limited scope of this study, it has been decided that in order to dive in this subject, a focused analysis of the situation in one country could add to the debate. In light of this design and the objectives of the thesis in mind, the case of Kosovo as presented before has been selected to direct the analysis towards a more detailed approach, as well as assessing the real-life behavior of the EU within its foreign policy on one country in particular. Using case-study as a research design therefore allows a deeper understanding of a specific issue or, in this case, country delimited by the scope of the study. By doing so, it is expected that the results will be of more accuracy since it focuses on narrower material while reaching a higher level of validity. In this thesis’ framework, the case of Kosovo is chosen as a post-war context in order to help answering the research question: ‘How and to what extent is the EU developing political capabilities to implement security in post-war countries?’ on a more focused and well-defined way.

The choice of Kosovo as a point of focus for this study can be justified by the fact that when looking at the use of the rule of law processes by the EU in order to establish security in a post-war country, the case of Kosovo stands out due to the fact that the ESDP mission EULEX Kosovo is said to be the largest and still on-going (with the most recent mandate extended to the 14th June 2021) rule of law mission regarding the EU foreign policy in security. When it comes
to the previous research made on the matter, most authors when it came to try to assess the role of the CFSP as a stabilizing project focused on more ‘successful’ missions *per se* such as EUFOR Althea in Bosnia-Herzegovina or even EUFOR Concordia in North Macedonia. This is justifying the choice of EULEX Kosovo. Besides, it has been mostly seen that for many researchers, assessing the CFSP’s role in security consisted on focusing on a case or a country where military missions were launched or use of arms forces. The choice to converge the attention on a newly-created country at the time of assessment for this thesis as well as the EU involvement in it being mainly of civilian support is therefore considered as attractive so as to achieve a certain level of originality in this work.

When using a particular research design, one researcher seeks to be aware of the flaws of the methods of analysis chosen. In this case, the main possible weakness of the use of case-study as a research design that has been identified is the risk of the lack of possible generalization to a broader issue. George and Bennett (2005) indicate that where other authors would see this fact as a ‘flaw’, some, including themselves, argue that the use of case-study as an approach is supposed to offer transparent answers since it allows the chosen case to be the focal point of the research and will, consequently, provide a meticulous evaluation. Owing to the awareness of potential skepticism concerning case studies, this research will ensure that the conclusions drawn from the interpretations made of primary and secondary sources are unambiguous and easily retraceable for the reader to grasp the links made. It is therefore necessary to assess whether the conclusions channeled are classified as only applying to the case of Kosovo or are critical of the complete security framework of the EU.

The time frame chosen to operationalize this thesis is from 2008 to 2014, judging the year of 2008 as an important landmark in Kosovo’s state-building process since it not only presents the unilateral independence of the country on the 17th February, but also the launching of the EULEX Kosovo mission deployed later that year. The end date for the analysis is 2014 since it is marking the third mandate renewal of EULEX Kosovo, while indicating the enactment of the Stabilization and Association Agreement of the EU with Kosovo. This marks the last step taken by the EU towards establishing security in the area that will be analyzed in this thesis. Therefore, any steps taken by the EU towards establishing security in Kosovo before 2008 will be discarded by the author.
5.2 Data Collection and Methods of Analysis

The method that will be carried out in order to analyze changes and identify the political capability and objectives of security implementation in Kosovo by the EU and through EULEX is of the semantics analysis of the primary and secondary sources. Therefore, it would be safe to assume that the most reasonable way to carry out the main data collection would be to use the qualitative content analysis, with only a slight use of quantitative data. According to Bowen (2009), document analysis is a method of analysis and interpretation of data in order to “elicit meaning, gain understanding and develop empirical knowledge” (p. 27). This would imply reading, describing and interpreting any textual material in a systematic way. It is also crucial to keep in mind the timeframe of the material analyzed, since the cultural or ideological context may greatly influence the interpretation of certain results. Within the scheme of this thesis, it is important to consider that as this method requires an interpretivist approach from the author and will be used by looking for patterns in texts and analyzing the semantics of the primary and secondary sources.

The method of analysis that is used throughout the thesis for data collection and concluding the findings is made to be deductive. By using this approach, the goal is to make sure the observations and arguments produced can be logically, realistically proven and leading to a specific conclusion to answer the said research question. In the case of analyzing the EU’s involvement in security process in Kosovo, this thesis is operated on the understanding of the previously assessed hypotheses driven by the theories and concepts introduced in order to provide a clear structured thesis body. This research strategy is offering a more reliable way to conduct and reach the set research goals. In this thesis, rationalist ontology is used as a frame for the data collection and analysis as a prism to evaluate EU’s engagement in security in Kosovo in order to keep in mind the prospects and motives as argued in the theory, seen through a rational point of view.

As described earlier in the theoretical framework, this study is making use of the democratic governance and political capability theory developed by March & Olsen (1995). This is serving as a method of analysis since it will regard the EU actions in security undergone in Kosovo in the defined time period with the help of the checklist presented by these authors. The goal is to critically assess the EU’s behavior and steps taken in line with helping rule of law
building in Kosovo while insuring security in the potentiality of an EU enlargement with the help of the four identified types of capabilities. This implies determining the evolution of the EU capabilities made available through the analysis of the primary sources (looking at amendments in papers, changes of budgets, etc.), while using as a prism for analysis the types and definitions introduced by March & Olsen. The presented types of capability in politics will be assessed in a structured manner and each will help organize the assessment of the EU’s security engagement in Kosovo.

5.3 Material

In order to assess the EU’s behavior towards establishing security in Kosovo by means of the rule of law tool and with the help of content analysis, the material that will be scanned through with that method will mainly revolve around primary sources, with some secondary sources to complete the analysis. Concerning primary sources, the leading documents are government policy data and Council Joint Action papers, as well as the help of policy reports and all the documentation available at Europa.eu since it accurately recalls the proceedings of any EU actions and consequences in Kosovo in security building. When it comes to secondary sources, journals will make up most of the data while cross-checking the information collected in those documents with the original and signed official EU papers. Concerning the time frame, all of the documents were selected since they were produced or published within our time focus: 2008-2014.

The first hypothesis as seen earlier will direct the data collection towards the security goals cited in the Council Joint Action documents. It will therefore lead the analysis of said documents on the search for words and semantics that will indicate relevant information, through the rational lens as explained earlier. The second hypothesis, however, requires an assessment of the CFSP’s role towards Kosovo and each step taken by the EU to link closer ties with Kosovo on security matter, and will therefore focus on some secondary sources in addition to the published regulations during that time period or any framework agreements listed by the author as relevant. By using mainly primary sources such as legal texts, joint action papers and policy reports, the thesis is assuring accuracy in the information conveyed. It is said that even if subject to the author’s interpretation of it, the data comes from certified and official sources that have
not undergone any interpretation by any other researcher yet and is therefore of utmost reliability.

6. Analysis

6.1 Background

6.1.1 Kosovo’s struggle for independence

It is true for many internationally-recognized conflicts that one decides to stand where one starts from (Warbrick, 2008, p. 675). In the case of Kosovo and its desire for independence and the processes of it, one could go way back in history in order to find the answers it seeks. In the will of respecting the scope of this study, the historical background given to the analysis will start in the early 90s, not taking into account the previous steps taken towards independence.

Kosovo has always existed in some ways or another, whether be it the colonization of it by the Serbian Kingdom, ruled by the Ottoman Empire, or more recently being a part of the Socialist Federal Republic of Yugoslavia. The demise of the Soviet Union has created, metaphorically, a ‘snowball’ effect that hit most of Eastern Europe and the disintegration of its Yugoslav units started. Most of the said regions had the will to reconnect to their old, sometimes lost identities made of cultures, languages, and religions. Yet, Kosovo has remained after this and for almost twenty years under the hegemony of Serbia the “southern province” of it (Rosenberg, 2018). Even though Serbia has expressed the will to keep its control over its neighboring provinces, some Christian states did gradually gain independence over the course of the 90s and the early 2000s (e.g. Slovenia, Macedonia, Montenegro). However, when Bosnia and Herzegovina or Kosovo, both Muslim majority regions decided to go on their own path, Serbian was not so keen on letting go, resulting in troops being sent marking the start of war.

The entire ‘post-Yugoslavia’ period is said to have been all a bit confusing, especially from the eyes of Kosovo, which had no clear constitutional status when the Serbia-Montenegro region started to be called the Federal Republic of Yugoslavia (FRY). At this point in the process, the ethnic cleansing of the Kosovo Albanians by Serbia started, leading to a breaking
point in 1998. That year marks when the KLA increased its military dimension and decided to strike as reaction to the deteriorating treatments of its minorities (Warbrick, 2001, pp. 676-677). It resulted in what is now called the Kosovo War and the start of NATO intervention with its bombing campaign on the Serbian forces deployed in Kosovo in 1999, often criticized for its legal legitimacy. It is within this context that the United Nations Interim Administration Mission in Kosovo (UNMIK) was authorized by means of the adoption of the UNSC Resolution 1244. This resolution was aiming at providing a political solution to settling the Kosovo crisis and the disputes through allowing an international civil and security presence in the country (even if it reaffirmed Kosovo to be *de jure* part of Serbia). This resolution included features such as the demilitarization of most armed groups, the establishment of a humanitarian aid, and, most importantly, the end of violence and repression perpetrated by FRY towards Kosovo (art. 3, art. 9, art. 12 UNSC 1244). This resolution showed the first of many steps taken by the international community in order to establish security in Kosovo, as well as marking a crucial milestone in the quest for independence of the region. It suspended the Yugoslav control of Kosovo, transferring it under the UN umbrella which was expected to provide local institutional support and civil administration, while KFOR would be in charge of security, as authorized in UNSC 1244 (Warbrick, 2001, p. 677).

The time lapse between 1999 at the adoption of the Resolution and 2008 which is known to be the actual date of Kosovo’s independence has seen many struggles, while at the same time witnessing FRY dividing into Serbia and Montenegro. This resulted in a revive in the debate about whether or not Kosovo could become independent, given that a return to the Serbian authority was deemed impossible. In February 2007, Martti Ahtisaari (the UN special envoy) proposed what was called the ‘Ahtisaari Plan’ which hinted “supervised independence” for Kosovo and this triggered a long series of negotiations ahead of the agenda, looking at the prospects of the potential independence of Kosovo. According to the Independent International Commission in Kosovo (2001), the four potential outcomes of the will of independence of Kosovo laid down by the Commission in the UNSC Resolution 1244 were the following: partition, indefinite protectorate, full independence, and autonomy in a democratic FRY (p. 22). In the end, the conditional independence implying the development of self-governance with the help of UNMIK (the UNSC executive team) was preferred and would allow Kosovo to a certain degree be independent, however conditional, outside FRY.
It is therefore on February 17th, 2008 that the official drafting of the ‘Declaration of Independence’ was published by the Assembly of Kosovo, unilaterally declaring its independence *erga omnes*. After having faced the independence challenge successfully, Kosovo entered its next one: recognition. Given that 22 of the EU member states recognized Kosovo as a country and its independence, it is still not optimal since five others (Spain, Greece, Slovakia, Romania and Cyprus) do not and are therefore hindering the Union’s efforts to integrate Kosovo, since without an *en bloc* recognition; the EU accession would only remain a dream. This disunity added to the lack of action by the EU in solving the Serbia-Kosovo conflict is greatly delaying Kosovo’s integration path (Weber & West, 2014, p. 7). It has been evidently presented, however, that Kosovo was expecting under the umbrella of its independence a potential EU accession and this could explain why the EULEX mission was received with grace.

“For reasons of culture, geography and history, we believe our future lies with the European family. We therefore declare our intention to take all steps necessary to facilitate full membership in the European Union as soon as feasible and implement the reforms required for European and Euro-Atlantic integration” (Declaration of Independence, para. 6. 2008. Assembly of the Republic of Kosovo)

6.1.2 EULEX Kosovo

With the struggles of Kosovo in the independence and security field being visible to the international community, it is said that this ignited a will for the EU to engage in to bolster EU identity as a political and security actor (New York Times, April 28th 1999). This lays the foundation of the launching of the EULEX mission in late 2008 which tasks consisted of, on the base of the UNSC Resolution 1244, among others, “monitoring, mentoring and advising the competent Kosovo institutions on all areas related to the wider rule of law” (art. 3 2008/124/CFSP). According to Chivvis (2010), this focus put on the rule of law fixing is clearly reflecting the prevalence of post-conflict reconstruction in the EU philosophy (p. 32). This largest civilian mission even launched by ESDP allowed the EU to enhance its power as a security actor while allowing Kosovo to expand its capacity in a potential EU integration prospect. On Kosovo’s side, the EU is attractive because it provides a wide protection umbrella including a single market, free movement of persons, capital, goods and services. Indeed, the
EULEX being a civilian mission in the objective of implementing the rule of law in Kosovo and since the rule of law is part of the Copenhagen criteria laying out the EU accession prerequisites, one can easily notice the interests from both sides to initiate the mission. As a matter of facts, the 1993 Copenhagen Council decision states that

“Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union.” (1993, p. 13)

It is said that EULEX Kosovo is considered as an “upgrade” of the UNMIK previously launched (Bigo, 2021, p. 477) and is aiming at fighting corruption, organized crime, war crimes and political interference. Added to that is the tasks of the EU of assisting the institutions, judicial authorities and law enforcement agencies in the prospect of maintaining a coherent justice system and meet the recognized international standards (art. 68, Special Report No 18/2012). It is said, however, that the EU has been largely critiqued for not reaching its indicated original goals, both by international and local actors. The reasons for this are that, firstly, that the mission suffered from structural contradictions and constraints. Secondly, that no clear benchmark for a mission assessment led to too broad bureaucratic apparatus and too opaque organizational culture implying problematic relations between the executive function and capacity building (Weber & West, 2014, p. 7). Added to that is the determination of Russia, Serbia and other countries to object to the deployment of the mission since it would imply the recognition of Kosovo as independent (Chivvis, 2010, p. 39). It is important to note that EULEX is the first ESDP mission with an executive power since it is in charge of integrating staff of police, rule of law, and customs and border patrol (Chivvis, 2010, p. 31).
6.2 Assessment of political capability

6.2.1 Rights and authorities

As seen earlier in the text, ‘rights and authorities’ is a criterion used to assess political and democratic capability. In the case of the EU involvement in Kosovo, an analysis of the main steps taken towards establishing security in the country and the evaluation of each of those steps’ legal framework is mandatory in order to answer the following question: ‘How and to what extent has EULEX Kosovo and other steps taken in the security objective developed a legal framework for the EU competencies in the subject?’.

In the will of assessing rights and authorities, it is important to identify the legitimate authority under which the actions were launched. With the rule of law mission EULEX launched in 2008 said to be the most important landmark in security building in Kosovo, the ‘rights and authorities’ criterion is crucial and is requiring discretion over under which rules were set in order to establish such actions. When trying to gauge the EULEX Kosovo legal authority and its legitimacy, the main point of reference in order to do so is by analyzing the CFSP framework which governs the ESDP missions. The CFSP’s legal base takes its roots in the Treaty of Maastricht in 1993 and became one of the three pillars of the EU with the goal of preserving peace and strengthening its international relations and security within its surroundings. In the Council Joint Action 2008/124/CFSP of 4th February 2008 launching the European Union Rule of Law Mission in Kosovo, it is determined that the legal base and surroundings of this operation take its roots in articles 14 and 25 paragraph 3 of the Treaty of European Union (TEU) as well as the United Nations Security Council Resolution 1244/99 (UNSCR 1244/99). Where one states that “the European Parliament shall exercise functions of political control and consultation as laid down in the Treaties” (TEU art. 14), the other assures that the “Secretary-General, with the assistance of relevant international organizations, (are allowed) to establish an international civil presence in Kosovo” (UNSCR paragraph 10/11). Those texts are providing certified and valid authority to the EU’s actions in security in Kosovo and this adds to the legitimacy of the undertakings of the EULEX mission as it is presenting authenticity. This therefore shows how is the EU is justifying its security actions on the legal basis.
6.2.2 Resources

This part of the thesis is measuring the resources and material capacities made available in the steps taken by the EU within its goals. This includes financial engagement, number and types of staff deployed and other earthly concerns concerning the implementation of security in Kosovo. This section is answering to the following question: ‘How and to what extent has the EU made available sufficient funds to carry out its security objective in Kosovo?’

It has been established in the Treaty of Maastricht that the expenditures of EU actions shall not be charged equally whether those are from ‘administrative’ origin or more ‘executive’ one (art. J.11 TEU). In the former case, the budget will be attributed to the EC, whereas in the latter the budget will be charged to the EC, or, to “the Member States, (...) to be decided” (art. J. 11 TEU). However, the CFSP is posing as an exemption of these laws since too many debates have arisen on where to draw the line between the two elements. That is why the CFSP missions under the EU are either financed by official European financial instruments such as the EDF, the IcSP, ATHENA or by national contributions directly (Rieker, 2007, p. 15). This is allowing more transparency into what and how is the EU allocating as budget to get involved in its CSFP missions in general.

In the case of EULEX Kosovo, it has been set in the Council Joint Action 2008/124/CFSP which is the former draft launching it that the budget allocated for the mission would be of EUR 205 000 000 (art. 16.1). However, it can be seen in the following years’ Council decisions amending that particular Joint Action paper (e.g. Council decision 2014/349/CFSP) that the expenditures have been of clear diminution throughout the years (cfr. Fig. 1). Indeed, the financial support has seen a decline from the original budget up to EUR 34 000 000 only allocated for the 2014 mandate (paragraph 6a). This implies that the financial plan and allowance for security implementation in Kosovo through EULEX is decreasing from year to year and from mandate to mandate.
As seen just above, the budget allocated has been reduced starting from 2011, seeing a significant change in expenditures in the rule of law mission. The reasons for it lie in the extension of the EULEX mandate which was linked by a wish to “downsize” the staff and budget and “restructure” the mission (EULEX Webpage, n.d.). The official sources justify that this shift is due to the 2011 mandate renewal witnessing a scission in the responsibilities distribution, making the “Executive Division” working on the executive part of the mandate and the “Strengthening Division” which was in charge of “monitoring, mentoring, and advising local counterparts” (EULEX Webpage, n.d.). This implies that the repartition of resources was updated and therefore led to a decrease of resources. However, this does not match the global CFSP budget which, on the other hand, has been expanding exponentially throughout the course of the years (cfr. Fig. 2)

Fig. 1 Total annual budget for EULEX mission in Kosovo (2009-2014), in million euros
March and Olsen (1995) would explain this depletion in physical capabilities by the fact that when financial resources are put somewhere, they will not be spent at another faction (p. 96). With this, conclusions are drawn on as it can be seen above that the total CFSP budget is increasing each year whereas the EULEX Kosovo mission (part of CFSP) budget is on its part, decreasing. It can therefore be concluded that choices have been made in where to use the allocated finances: noticeably not in EULEX Kosovo, making the ‘resources’ capacity, according to March & Olsen’s theory, “depleted by use” in this case.

Concerning the human capability and staff made available to intervene in Kosovo through EULEX, it is stated that the numbers and competence of the EULEX KOSOVO staff shall “be consistent with its Mission Statement set out in Article 2, the tasks set out in Article 3 and the structure of EULEX Kosovo set out in Article 6” (Council Joint Action 2008/124/CFSP, art. 9). It can be seen with this statement that the clear numbers of human capability have not been laid out in the open at the launching of the mission itself. It was only four years after the start of the mission that in a Special Report about the European Union assistance to Kosovo related to the rule of law that it was stated that approximately 2500 staff were working in executing the mission’s goal, including some international help (Special report No 18, 2012). It
can therefore be seen that in its urge to getting involved in security matters and rule of law help, the EU has put to work material resources and is still doing so by regularly amending its physical capacity.

6.2.3 Competencies and knowledge

The next criterion assesses the knowledge and competencies of individuals or institutions given or gained through education, training or experience in order to increase their effectiveness in political settings (March & Olsen, 1995, p. 94). In this case, the focus is on ‘How and to what extent is the EU providing knowledge and competencies to the people and instruments involved in EULEX Kosovo?’ This part is therefore focusing on what was put in place in order to maintain a certain level of efficiency in security assurance in Kosovo and make the actions as competent as can be in this context.

In the case of EULEX Kosovo, the knowledge and competencies laid out in the Council Joint Action 2008/124/CFSP are included and implied in its entirety. However, two articles are more specifically focusing on this capability. The first one, Article 3, details the tasks and, therefore, competencies laid out in order to fulfill the Mission Statement, such as “monitor, mentor and advise the competent Kosovo institutions on all areas related to the wider rule of law” (art. 3a). This aims at defining the area of the competencies and describing what is expected and allowed from the executive power of EULEX. Article 4, on the other hand, is displaying the training and preparation phase for the individuals involved in the mission, mentioning the use of OPLAN and EUPT as tools to execute the said mandate. OPLAN can be described as an element establishing the code of conduct and discipline of EULEX, including behavioral components and requirements, as well as professional conduct requirements (OPLAN, 2012). The latter is disclosing an appropriate use of authority expected from the staff involved in the mission, while engaging in what can be considered faulty or not. However, it is stated in the Special Report No 18/2012 on the ‘EU assistance to Kosovo related to the rule of law’ that while OPLAN and EUPT are considered the main planning and implementing documents, it “does not contain benchmarks and objectively verifiable indicators to assess progress in meeting the objectives” (art. 68). This entails that, while the main stations are allowing and laying clear abilities and
means put in place in advance in order to succeed in reaching the mission goals, it does not set out a clear assessment of the increasing or decreasing in competencies.

Added to that is the statement that EULEX Kosovo shall have a “unified chain of command, as a crisis management operation” (art. 11 2008/124/CFSP) which is hinting the presence of a compartmentalization in the presented competences and a clear disclosure of them (seen through the EUPT tool). On the other hand, the ESDC ingrained within the EEAS is providing training at the strategic level (laid in Council Joint Action 2005/575/CFSP) and is therefore establishing a common formation to individuals about to be involved in CFSP/ESDP missions. Those instruments would allow the EU to, therefore, act appropriately as a capable security actor with competencies and knowledge, even with a few hindrances in terms of benchmarks as assessed above.

6.2.4. Organizing capacity

The ‘organizing capacity’ capability is permitting the use of the other three types of capabilities combined in order to make the institution, or, in this case, the mission as effective as can be with its capacity maximized. It implies that this criterion being a canopy under which the other types of capabilities fit is a crucial part of the development of democratic polities; it’s the structure which makes democracy effective (March & Olsen, 1995, p. 95). Far from aiming at re-stating the assessment of the EU capability in Kosovo as did in the previous parts, this section is providing a brief structural overview of the mission while identifying the potential obstacles to it.

In the case of EULEX, it can be seen that regular and numerous amendments to the Council Joint Action establishing the mission are published and each time, several articles are modified in order to add more precision or to broaden its impact. It can be seen, for instance, in the case of the resources allowed for the mission that the budget allowed has been changed each year, and each year saw a decrease. This implies major structural reorganization in the making and can hint the will of the EU to implement an efficient strategic and structural roof under which EULEX could operate, by constantly re-assessing its objectives and means. For instance, the same occurred and can be observed in 2013 when the political framework got substantially
changed based on a strategic review of the mandate (Weber & West, 2014, p. 6). The reason behind this was that the audit in question which articulated the lack of effectiveness and coordination of the EU assistance to Kosovo in the field of the rule of law was published, also describing the overall process of improving the rule of law in the region (art 3., Special Report No 18/2012).

This audit, alongside identifying the main issues about EULEX, is also presenting several options that would counter those hindrances. It is presented in this document that the objectives “have not been sufficiently clearly defined and coordinated (and) capacity building and roles are not clearly defined” (art. 67). It is laying out some justification for those issues, for instance with the specific circumstances of Kosovo, staffing constraints, or even the lack of dialogue between the EEAS and the Commission giving a difficult time to the implementation of capacities within EULEX (art. IV). However, as said before, solutions are suggested in order to stabilize those issues in organizing capacity; an “exit strategy” for EULEX is proposed as a way to counter possible lacks of coordination or programming in the procurement procedures, giving the power on the mission’s operational needs to the Commission directly (art. VI). It is shown with those articles and legal texts that while being aware of the flaws in the organizing capacity of the mission, the regular special reports are allowing a certain level of self-awareness when assessing the goals reached or not within the security objective of the EU. With the introduction of the IcSP into the framework of the ESDP missions, it is certain that improvements are expected in that direction, however, as Rieker (2007) quotes, it remains to be seen whether those changes are sufficient to solve the problems related to the EU’s coherence as a security actor (p. 39).

7. Conclusion

This thesis has been aiming at assessing the role of the EU as a security actor in post-war contexts, with the choice of the use of the case-study design analysis of Kosovo, in order to more precisely determining what has been put in place by the EU to implement security. The research question conducting the research was ‘How and to what extent the EU is developing political capabilities to implement security in post-war countries?’ and the operationalization of it allowed a consistent analysis laying out limpid results and answers to it.
It has done so by examining the development of political capabilities from a rationalist lens and within the view that the EU had an enlargement objective in line when getting involved in EULEX under the ENP. By the use of the political capabilities theory mixed with the lens of rational choice institutionalism theory, the research presented made sure to cover all necessary landmarks in the analysis for the purposes of answering the given research question while providing originality. By analyzing the implementation of security and rule of law by the EU in Kosovo from 2008 to 2014 as stated in the intro, the used methodology was gauged the most effective in the body of this research. It is naturally within the framework of a single-case study that this thesis found most of the relevant answers to the research question. While using this methodology may have limited the possibility of a broader application of the results on the more general landscape of research, it allowed a better illustration of the EU actions in the matters discussed, while allowing to ‘zoom-in’ the details of the analysis.

The analysis first comprised a historical and political background of the struggles for independence of Kosovo and the process of it, as well as providing a short introduction to the EULEX mission dissected in this thesis. The second and main part of the analysis has made use of the typology presented by March & Olsen (1995) which is aiming at assessing whether a democratic actor in terms of security has made available political or material capabilities in order to reach that goal of security implementation. It comprised the following criteria: rights and authorities, resources, competencies and knowledge, and organizing capacity.

The results indicate that; first, the EU through EULEX is achieving security building in Kosovo with the help of rights and authorities, assessing that the legal and institutional bases of the mission are sufficient to permit the EU action in the newly independent country. It can be seen in the findings that EULEX actions are provided discretion by the TEU, CFSP legal framework, Council Joint Action 2008/124/CFSP, as well as the UNSC Resolution 1244. This, according to theory, offers legitimate authority since the mission is backed up by institutions. Secondly, the ‘resources’ assessment of the mission is showing that albeit the annual CFSP budget has been increasing in the timeframe analyzed, the allocated budget for EULEX has, in its sense, been decreasing (from 205 million EUR in the first mandate up to 34 million EUR in 2014). This goes in contradiction with the evident desire of the EU to give sufficient financial help to the pursuit of the rule of law strengthening in the region, as stated in the released Joint
Actions. Besides, it is discrediting the will of the EU, under the ENP, to seek further Kosovo accession in enlargement since the material resources show otherwise. Thirdly, the ‘knowledge and competencies’ criterion has assessed whether the EU is allowing the institutions or individuals involved in the mission to gain sufficient intellectual or manual means in order to reach higher efficiency. It has been seen that with the help of instruments such as OPLAN, EUPT or ESDC, adequate training and skills development tool has been laid out for the components of the mission.

Lastly, the organizing capacity has been presented and is assessing the merging of the last three capabilities and is identifying some drawbacks. Those have been identified such as being: lack of definition and coordination of the capacity building forces and roles, staffing constraints, lack of dialogue between institutions, and exceptional field circumstances linked to the current situation in the North of Kosovo. It also presented solutions, whether be it long or short termed, with an unknown concerning the outcomes and their assured effectiveness. It can therefore be concluded that the EU and through the use of the rule of law initiatives in Kosovo is developing a compelling set of competences related to security implementation in a post-war country.

When it comes to assessing the limitations of this study, one can easily indicate, as hinted throughout the text, the use of a single-case study and the possibility of it to hinder generalization of the issue which has been addressed earlier. Added to that is the choices made in the focus area of research, narrowing the scope enough to present clear answers to what is researched. It is also essential to mention that due to the constraining word count of the study; only the delimited objectives have been analyzed, not taking into account a lot the controversies. The analysis is focusing on a set time frame and could therefore suggest a small coverage of the proceeding of the EULEX mission since it started in 2008 and is still, contemporarily executed. The fact that this time frame relates to the start of the mission really, up until the third mandate of it, could direct the findings of the EU capability in security building into more criticized findings since the data analysis period shows the onsets of the mission, with some prelude’s obstacles expected. It would, therefore, be engaging to replicate the study with a different or larger lapse of time in order to truly be able to assess the development of political capability of the EU in Kosovo through EULEX. Parenthetically, the aims presented of the thesis concerning the estimation of the EU engagement in security building in Kosovo are hinting a will to analyze
every step taken towards that goal. However, due to the limited scope, this research chose to focus its attention on the EULEX mission and its evaluation. Meaning that as a suggestion for further research on the same subject, including other steps taken toward the same goal (such as the Stabilization and Association Agreement, the European Partnership Action Plan, or even the Instrument for Pre-accession Assistance) could be integrated in the study of the development of political capabilities.
8. Reference list


Consolidated Version of the Treaty on European Union, [2012] OJ C202/1


Council of the European Union (May 16th, 2012) Revised Operation Plan (OPLAN) for the European Union rule of law Mission in Kosovo, EULEX KOSOVO - 10022/12 EXT 1


Special Report No 18/2012 ‘European Union assistance to Kosovo related to the rule of law’


