RIDEA Research Institute of Development and European Affairs

THE EVENTUAL MEMBERSHIP OF KOSOVO TO THE NORTH ATLANTIC TREATY ORGANIZATION (NATO): PROCEDURES AND PROSPECTS

November **2019**

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INPUT

ON

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Contents

Abbreviations i

Introduction 1

A brief history of NATO's involvement in Kosovo 2

NATO's membership criteria and its post-Cold War expansion 7

Kosovo and NATO: A NATO 'child' treated as an outcast 13

The experience of regional countries and 'lessons learned' for Kosovo 20

Conclusions 24

Recommendations 27

Abbreviations

EU	European Union
FRY	Federal Republic of Yugoslavia
IMP	International Military Presence
ISSR	Internal Security Sector Review
KSF	Kosovo Security Force
KLA	Kosovo Liberation Army
KPC	Kosovo Protection Corps
MAP	Membership Action Plan
NATO	North Atlantic Treaty Organization
NLAT	NATO Liaison and Advisory Team
PDD	Public Diplomacy Division
PfP	Partnership for Peace
SOFA	Status of Forces Agreement
SSSR	Strategic Security Sector Review
UN	United Nations
US	United States
UNMIK	United Nations Interim Administration Mission in Kosovo
UNSCR	United Nations Security Council Resolution

Introduction

1. Kosovo's recent history is intertwined with the role of the North Atlantic Treaty Organization (NATO) to guarantee peace and security in Europe. NATO's decision to launch Operation Allied Force on March 24, 1999, was instrumental not only in stopping the oppression of Kosovo Albanians by the Milosevic regime but, importantly, in setting in motion a military, diplomatic and political process that, first, liberated Kosovo from the Serbian rule and then set the course for the establishment of new institutions of self-governance under the United Nations Mission in Kosovo (UNMIK) auspices. Almost a decade later, in 2008, Kosovo declared its independence, thus formalizing its independent existence as the newest state in Europe.

2. While the political process around Kosovo's status has significantly progressed in the last twenty years with all its twists and turns, NATO's mandate has remained essentially the same since 1999. Its mandate stems from the Military Technical Agreement between the International Security Force (KFOR) and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia (the Kumanovo Agreement) and UN Resolution 1244.

3. Given the inability of Western powers to replace Resolution 1244 or ensure that Kosovo gains UN membership, NATO's presence in Kosovo (KFOR), has had to practically adapt its role based on the changes on the ground without formally changing its original mission. Yet, despite the positive impact of NATO's presence in Kosovo, the ongoing Kosovo status dispute has created various legal and political impediments in Kosovo's relations with KFOR as well as its relations with NATO. Above all, it has complicated the prospects of NATO membership in the foreseeable future.

4. This paper/study will provide a legal and political analysis of firstly, NATO's involvement and mandate in Kosovo; secondly, the history of NATO enlargement after the end of the Cold War with the view of highlighting the key membership criteria and providing an overview of relevant examples from the region; thirdly,

Kosovo's attempts to establish its security structures and align itself with NATO. The paper/study will conclude with a discussion of policy options and recommendations.

A brief history of NATO's involvement in Kosovo

5. NATO has been leading a peace-support operation in Kosovo - the Kosovo Force (KFOR) - since June 1999. KFOR was established in the aftermath of NATO's 78-day air campaign against Milosevic's regime, aimed at putting an end to violence in Kosovo. The operation derives its mandate from United Nations Security Council Resolution 1244 (1999) and the Military-Technical Agreement between NATO, the Federal Republic of Yugoslavia and Serbia. According to article 4, Annex 2, of the UN Resolution 1244, "The international security presence with substantial North Atlantic Treaty Organization participation must be deployed under unified command and control and authorized to establish a safe environment for all people in Kosovo and to facilitate the safe return to their homes of all displaced persons and refugees."

6. KFOR operates under Chapter VII of the UN Charter and, as such, is a peace enforcement operation. Its original objectives were to deter renewed hostilities, establish a secure environment and ensure public safety and order, demilitarise the Kosovo Liberation Army (2008), support the international humanitarian effort, and coordinate with the international civil presence. Twenty years since its deployment, KFOR continues to contribute towards maintaining a safe and secure environment in Kosovo and freedom of movement for all per its original mandate.

7. In 1999, KFOR consisted of more than 50,000 troops, which operated under a single chain of command/authority of the Commander of KFOR (COMKFOR), who reported to the Commander of Joint Force Command in Naples, Italy. Over time, as the security situation improved, NATO has gradually adjusted KFOR's force posture towards a smaller and more flexible force with fewer static tasks. Today, KFOR consists of approximately 4,000 troops from 28 different countries. It continues to help maintain a safe and secure environment and freedom of

movement for all people and communities in Kosovo, according to its original mandate.[1]

8. In addition to the key mission of providing a safe and secure environment in Kosovo, KFOR has played a vital part in the establishment of Kosovo's security structures. Towards this end, KFOR has played an important role in supporting the Kosovo Protection Corps (KPC), established in the process of demilitarisation and transformation of the KLA, and Kosovo Police Service. In particular, NATO and its peacekeeping mission in Kosovo were involved in the training and day-to-day supervision of the KPC.

9. In 2005, the Internal Security Sector Review (ISSR) process was launched, which aimed to evaluate institutional design, enhance local ownership, and propose the new security architecture within Kosovo. The ISSR paved the way for a process of gradual transfer of competences in the field of security to local institutions. Importantly, the ISSR recommended a small defense force of no more than 2,500 people that would absorb the functions performed by the KPC. The defense force was to be recruited from across the population with no ethnic bars and no restrictions on members of the KPC applying for posts individually--but also no rights to posts for KPC members.[2]

10. The declaration of independence of Kosovo in 2008 represents a crucial turning point in actual relations between Kosovo and KFOR. While on the one hand, KFOR's mandate stays the same under Resolution 1244, which also means that NATO adopts a 'status neutral' position towards Kosovo, in practice, it undertook several measures to adjust to the new reality. This included both transfer of security duties to the new security institutions of Kosovo (police) but also additional capacity-building tasks with regards to the newly established Kosovo Security Force (KSF).

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[1]NATO (2018), 'NATO's Role in Kosovo'. Available at: https://www.nato.int/cps/en/natolive/topics_48818.htm# [Accessed on: October 22, 2019].

[2] Yll Bajraktari and Christina Parajon (2006) 'The Future of Kosovo's Security Sector'. Available at: https://www.usip.org/publications/2006/12/future-kosovos-security-sector [Accessed on: October 22, 2019].

11. As regards the issue of NATO's position vis-à-vis Kosovo's status, in December 2007, NATO foreign ministers agreed that KFOR would remain in Kosovo based on UNSCR 1244, unless the Security Council decided otherwise. At the Bucharest Summit in April 2008, NATO leaders agreed that NATO and KFOR would continue to work with the authorities. They also agreed that bearing in mind its operational mandate, KFOR would cooperate with and assist the United Nations, the European Union, and other international actors, as appropriate, to support the development of a stable, democratic, multi-ethnic and peaceful Kosovo.

12. Likewise, NATO foreign ministers, on 2-3 December 2008, reaffirmed that the UN-mandated NATO-led KFOR presence would remain in Kosovo based on UNSCR 1244. They reaffirmed that NATO would continue to work towards the standing down of the Kosovo Protection Corps and the establishment of the Kosovo Security Force on the basis of NATO's voluntary trust funds.[3]

13. As the security situation continued to improve, NATO continued with the implementation of the so-called unfixing process: the gradual transfer of security for religious and cultural heritage sites under KFOR protection to Kosovo Police responsibility. Thus, by the end of 2013, KFOR had unfixed eight properties with Designated Special Status: the Gazimestan Monument, Gracanica Monastery, Zociste Monastery, Budisavci Monastery, Gorioc Monastery, the Archangel site, Devic Monastery, and the Pec Patriarchate. Only one designated site – the Decani Monastery – currently remains under fixed KFOR protection.[4] Similarly, KFOR has gradually transferred the responsibility of border (with Albania, Montenegro, and Macedonia) control to the Kosovo Police.

14. As regards capacity building tasks, on 12 June 2008, NATO agreed to start implementing additional tasks in Kosovo, i.e., assist in the standing down of the Kosovo Protection Corps (KPC) and in the establishment of the Kosovo Security

[3]KFOR (2019), 'History'. Available at: https://jfcnaples.nato.int/kfor/about-us/history [Accessed on: October 22, 2019].
[4]NATO (2018), 'NATO's Role in Kosovo'. Available at https://www.nato.int/cps/en/natolive/topics_48818.htm# [Accessed on: October 22, 2019].

Force (KSF), as well as a civilian structure to oversee the KSF. The following tasks have been implemented in close coordination and consultation with the relevant local and international authorities.

15. NATO's continued role in Kosovo has been enshrined in the Comprehensive Proposal for the Kosovo Status Settlement (the Ahtisaari Proposal). According to Article 13 (International Military Presence) of the Proposal, "NATO shall establish an International Military Presence (IMP) to support the implementation of this Settlement, as set forth in its Annex XI." In addition to its role in ensuring the implementation of the Proposal, the IMP is also responsible for providing a safe and secure environment throughout the territory of Kosovo until Kosovo's institutions are capable of assuming responsibility. The Proposal also foresaw the development of a process to provide a transition plan for the hand-over of IMP security responsibilities overtime.

16. Yet, given the inability of the Security Council to adopt the Ahtisaari Proposal, a complete handover of security responsibility to Kosovo's institutions is postponed indefinitely. Nevertheless, this hasn't prevented NATO from exercising its responsibility for the development of the KSF. Since 2008, NATO has supervised the stand-up and training of a multi-ethnic, professional, and civilian-controlled KSF.

17. NATO's capacity-building in Kosovo is exercised through the Advisory and Liaison Team (NALT) that reached full operational capability in January 2017. This team was created following the merger of the NATO Liaison and Advisory Team (NLAT), that continued to support the KSF beyond the North Atlantic Council's declaration of the KSF's full operational capability in July 2013; and the NATO Advisory Team (NAT), created in 2008 to supervise the establishment of a civilian-led organization of the Kosovo authorities to exercise civilian control over the KSF.

18. The NALT is a team of 41 military and civilian personnel, coming from 13 Allied and partner countries. The Team provides practical assistance and advice to the security organizations in Kosovo from the executive to the force level in areas such

as logistics, procurement, and finance, force development and planning, as well as leadership development. The NALT is also playing a pivotal role in the implementation of enhanced interaction with Kosovo that was approved by the North Atlantic Council in December 2016.[5]

19. So, in post-independent Kosovo, NATO's role is twofold: first, it continued to engage in supporting capacity-building efforts with regards to the KSF and, second, continues to provide a safe and secure environment for all people and communities in Kosovo according to its United Nations mandate until conditions are established for a full transfer of competences to local institutions. To this end, NATO and KFOR have actively supported the Brussels dialogue between Kosovo and Serbia.

20. Yet, political issues have continued to be a thorn in Kosovo's relations with NATO. This is best manifested in the case of the transformation of the KSF from a civil protection force into an army. Although in July 2013 the North Atlantic Council declared that the Kosovo Security Force has reached full operational capability and is fully capable of performing the tasks assigned to it within its mandate, to standards designated by NATO, the process of transformation has been delayed for five years due to disagreements over the legal path to follow in the process of transformation.

21. NATO's position has been that the process of transformation should occur only through constitutional changes, which in practice implied the consent of the Serb MPs in the Kosovan Parliament. In a situation when the main Serb party, *Srpska Lista* (the Serb List), is directly controlled by the Serbian Government, such a solution proved practically impossible.

22. Despite NATO's reservations, Kosovo Parliament voted in December 2018 to change the mandate of the KSF while maintaining its name. Regardless of the US support, NATO acted warily, citing concerns about the 'ill-timing' of the decision.

[5] Ibid.

According to NATO Secretary-General Jens Stoltenberg, "NATO supports the development of the Kosovo Security Force under its current mandate. With the change of mandate, the North Atlantic Council will now have to re-examine the level of NATO's engagement with the Kosovo Security Force."[6]

23. Nevertheless, the establishment of the KSF as an armed force with a new mandate is a landmark event in the process of both completing the security architecture in Kosovo and consolidating statehood. This opens new horizons for Kosovo in its military cooperation with NATO and its individual member states with the aim of joining the alliance in the near future. Yet, before assessing Kosovo's readiness to join NATO, we will briefly overview the process of NATO membership and its political and military requirements.

NATO's membership criteria and its post-Cold War expansion

24. Since its foundation in 1949, the NATO Alliance has grown from 12 to 29 countries through seven rounds of enlargement. As a collective defense alliance, NATO's purpose is to guarantee the freedom and security of its members through political and military means. It also promotes democratic values and enables members to consult and cooperate on defense and security-related issues to solve problems, build trust and, in the long run, prevent conflict.

25. NATO's door remains open to any European country in a position to undertake the commitments and obligations of membership and contribute to security in the Euro-Atlantic area. In concrete terms, NATO membership remains open to "any other European state in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area." Currently, NATO has 29 members, and four partner countries have declared their aspirations to NATO membership: Bosnia and Herzegovina, Georgia, the Republic of North Macedonia, and Ukraine.

[6] NATO (2018), 'Statement by the NATO Secretary General on the adoption of the laws on the transition of the Kosovo Security Force'. Available at: https://www.nato.int/cps/en/natohq/news_161631.htm [Accessed on: October 22, 2019].

26. Countries that have declared an interest in joining the Alliance are initially invited to engage in an Intensified Dialogue with NATO about their membership aspirations and related reforms. In addition to having to demonstrate that they are in a position to further the principles of the 1949 Washington Treaty and contribute to security in the Euro-Atlantic area, aspiring countries have to meet certain political, economic, and military criteria, which are laid out in the 1995 Study on NATO Enlargement.

27. The 1995 Study on NATO Enlargement is a study conducted to consider the merits of admitting new members and how they should be brought in the light of the opportunities provided by the end of the Cold War to build improved security in the entire Euro-Atlantic area. It also discusses ways in which NATO enlargement would contribute to enhanced stability and security for all.

28. According to the Study, countries seeking NATO membership would have to be able to demonstrate that they have fulfilled certain requirements. These include: a functioning democratic political system based on a market economy; the fair treatment of minority populations; a commitment to the peaceful resolution of conflicts; the ability and willingness to make a military contribution to NATO operations; and a commitment to democratic civil-military relations and institutional structures.[7]

29. The 1995 Study highlights the importance of democratic reforms and thus broadens the scope of the Alliances' focus beyond security matters. In practice, these requirements were difficult to achieve by the aspiring countries of the former Eastern Block who were undergoing a comprehensive process of economic, political, and military reforms. Thus, in order to provide advice, assistance, and practical support tailored to the individual needs of countries wishing to join the Alliance, NATO launched in April 1999, the Membership Action Plan (MAP).

[7]NATO (2019), 'Enlargement'. Available at: https://www.nato.int/cps/en/natohq/topics_49212.htm [Accessed on: October 22, 2019].

30. The primary purpose of the plan is to help countries aspiring to NATO membership in their preparations, and it drew heavily on the experience gained during the accession process of the Czech Republic, Hungary, and Poland, which became members in the Alliance's first post-Cold War round of enlargement in 1999.[8] The Membership Action Plan, which is a practical manifestation of the Open Door policy, is divided into five chapters: I. Political and Economic issues; II. Defence/Military issues; III. Resource issues; IV. Security issues; V. Legal issues.

31. The MAP process provides a focused and candid feedback mechanism on aspirant countries' progress on their programs and includes both political and technical advice. A key element is the defense planning approach for aspiring countries, which provides for elaboration and review of agreed planning targets. MAP helped prepare the seven countries that joined NATO in the second post-Cold War round of enlargement in 2004 (Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia) as well as Albania and Croatia (which joined in April 2009) and Montenegro (which joined in 2017). Current participants in the MAP are Bosnia and Herzegovina and the Republic of North Macedonia.

32. A look back in history clearly shows that success in democratization was the most important factor in favour of post-communist state's progress toward NATO membership.[9] For instance, Poland, Hungary, and the Czech Republic (and Slovenia) were the only consolidated democracies in post-Communist Europe when NATO invited them to join the alliance at its 1997 Madrid Summit. It took other countries more time to achieve consolidated democracy and democratic civilian control over the armed forces and thus opened the doors to NATO membership.

33. In a nutshell, according to NATO procedures, a country that declares an interest in joining the Alliance is initially invited to engage in an Intensified Dialogue with NATO about its membership aspirations and related reforms. Aspirant countries

[8]NATO (2019), 'Membership Action Plan (MAP)'. Available at: https://www.nato.int/cps/en/natolive/topics_37356.htm [Accessed on: October 22, 2019].
[9] Barany, Z. (2009), 'Stretching the umbrella: NATO's eastern expansion' p. 231–238, 233.

may then be invited to participate in the MAP to prepare for potential membership and demonstrate their ability to meet the obligations and commitments of possible future membership. Once the Allies have decided to invite a country to become a member of NATO, they officially invite the country to begin accession talks with the Alliance. This is the first step in the accession process on the way to formal membership.

34. The speed of accession varies significantly and depends on the capacities of individual countries to undertake the necessary reforms and meet the required standards. For instance, Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia joined the MAP in 1999 and became NATO members in 2004. On the other hand, Montenegro joined the MAP in December 2009 and became a member of the Alliance in June 2017. In the case of Albania, it took the country a decade to become a NATO member since it joined the MAP in 1999.

35. North Macedonia is a notable exception. It joined the MEP in 1999 and was ready to receive an invitation to join accession talks in 2008 together with Albania and Croatia. However, Greece used its veto to block Macedonia's NATO membership. However, on 11 July 2018, following the historic agreement between Athens and Skopje on the solution of the name issue, Allied leaders invited the government in Skopje to begin accession talks to join NATO. North Macedonia is on course to become NATO's 30th member state.

36. The North Macedonian case highlights an important issue about NATO membership. Namely, the unanimous decision making principle applied to invite new countries to join the Alliance. So, although Macedonia had fulfilled all the criteria and was ready to start accession talks in 2008, its name dispute with Greece became an insurmountable obstacle. In the concrete case of Kosovo, given that four NATO members (Spain, Greece, Slovakia, and Romania) do not recognize Kosovo, a decision to launch formal membership talks is unrealistic if not impossible for the time being.

37. Similarly, Cyprus remains the only EU member that is not a NATO member or part of some partnership programme. This is due to Turkey's refusal to recognize the Republic of Cyprus authorities as to the sole representatives of the divided island. This has not only prevented Cyprus from working closely with NATO, but also has become an obstacle in NATO's strategic cooperation with the EU.[10]

38. However, besides formal membership, NATO has developed a network of partnerships with some 40 non-member countries from the Euro-Atlantic area, the Mediterranean and the Gulf region, and other partners across the globe. These countries pursue dialogue and practical cooperation with the Alliance, and many contribute to NATO-led operations and missions internationally.

39. A major such partnership program is Partnership for Peace (PfP) launched in 1994. It is a program of practical bilateral cooperation between individual Euro-Atlantic partner countries and NATO. It allows partners to build up an individual relationship with NATO, choosing their own priorities for cooperation. Currently, there are 21 countries (including Serbia) in the Partnership for Peace programme. Many countries participating in this program chose to contribute with troops in NATO's peacekeeping operations around the world. For instance, several NATO partner countries have deployed peacekeepers as part of the NATO-led peacekeeping force in Kosovo (KFOR).

40. Another important partnership is the Adriatic Charter, an association formed by Albania, Croatia, the Republic of North Macedonia, and the United States for the purpose of aiding their attempts to join NATO. The Charter was signed on 2 May 2003 in Tirana under the aegis of the United States. Bosnia and Herzegovina and Montenegro joined in 2008. Kosovo and Serbia are observers since 2012. Kosovo's membership application in 2014 was rejected due to opposition from Bosnia and Herzegovina.

[10] Peter Ricketts (2019), 'Why EU-NATO cooperation has proved so difficult'. Available at https://www.kcl.ac.uk/news/why-eu-nato-cooperation-has-proved-so-difficult [Accessed on: October 22, 2019].

41. In sum, NATO's Open Door policy has been the dominant approach in the aftermath of the fall of communism. While NATO's founding mission and values are still in place, its membership requirements and procedures have been modified in the light of the changes in the post-Cold War context. In practice, NATO has become a significant transformative power in Eastern Europe.

42. Moreover, the long-standing close relationship between the democracies of Europe and North America has been based on shared values such as the spirit of individual liberty and the conviction that governments must be bound by the rule of law that preserves the rights of individuals and minorities, plus a willingness to make sacrifices to defend these values.[11]

43. Thirty years after the end of the Cold War, it has become clear that there is no viable alternative to NATO's security umbrella over Europe. "The eastern part of the continent is confronting a revisionist and expansionist Russia. Its stability can only be ensured by an effective alliance that establishes permanent bases in the most vulnerable regions as a deterrent to Moscow's aggression. A strong US presence within a broad alliance that includes all of Europe's democracies is in America's national interest and that of all NATO members."[12]

44. The new threat posed by a resurgent Russia, as well as other actors with anti-European and anti-democratic agendas, make NATO membership all the more important for the countries of the Western Balkans. With an EU that finds itself struggling to reform while maintaining unity, NATO is the sole remaining institution that upholds international security.

45. NATO enlargement in post-communist Europe has developed in par, and in some cases, has preceded the Europeanization process. It "has provided the basis for an extension of the 'thick' core of European international society as new members

[11] Lee Crowley, B. (2011), 'The Transatlantic Relationship: An Alliance of Values' p. 121–126. Available at: https://journals.sagepub.com/doi/10.1007/s12290-011-0161-7 [Accessed on: October 22, 2019].
[12] Bugajski, J. (2016). Only NATO Can Defend Europe. European View, 15(1), 27–35, 27. Available at: https://journals.sagepub.com/doi/10.1007/s12290-016-0383-9 [Accessed on: October 22, 2019].

have become enmeshed in the institutional, political and social practices associated with the Alliance and NATO."[13]

46. Yet, despite NATO's direct involvement in Kosovo for 20 years, Kosovo is yet to establish any official, bilateral, or contractual relations with NATO. More than eleven years since the declaration of independence, Kosovo still remains the only Western Balkan country that does not have any form of formal cooperation with NATO. In what follows, the paper/study assesses Kosovo's state of affairs in the security sector and its relations with NATO.

Kosovo and NATO: A NATO 'child' treated as an outcast

47. Kosovo's relations with NATO are complex and paradoxical. In many ways, Kosovo owes its existence and security to the NATO Alliance. Yet, the country is the only one in the region without any bilateral relations with NATO. Welcome, as it is by Kosovo institutions and its people, NATO is present in Kosovo not as a result of a formal agreement with Kosovo but based on an agreement with a country that does not exist anymore – the Federal Republic of Yugoslavia (FRY). Despite this and other significant changes that have happened in the meantime, most importantly, Kosovo's declaration of independence in 2008 and the establishment of Kosovo's armed forces in 2018, NATO's mandate still remains the same and stems from UN Resolution 1244.

48. Kosovan legislation contains several clauses that reaffirm NATO's mandate and Kosovo's intention to join the Alliance. On the one hand, the very preamble of the Kosovan Constitution affirms "the intention of having the state of Kosovo fully participating in the processes of Euro-Atlantic integration".

49. On the other hand, Article 153 [International Military Presence] of the 2008 Constitution, stipulated that "Notwithstanding any provision of this Constitution,

[13] Webber, Mark (2011) 'NATO: Within and Between European International Society.' *European Integration*, 33:2, 139-158, 154.

the International Military Presence has the mandate and powers set forth under the relevant international instruments including United Nations Security Council Resolution 1244 and the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007. The Head of the International Military Presence shall, in accordance with the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007, be the final authority in theatre regarding the interpretation of those aspects of the said Settlement that refer to the International Military Presence. No Republic of Kosovo authority shall have jurisdiction to review, diminish or otherwise restrict the mandate, powers, and obligations referred to in this Article."

50. This article recognizes both KFOR's mandate according to Resolution 1244 and Kosovo's lack of jurisdiction to review, diminish, or otherwise restrict such mandate. This article was however abrogated[14] in 2012 at the end of Kosovo's supervised independence period, thus imposing the need for a new framework regulating bilateral relations between Kosovo and NATO. Nevertheless, NATO has so far shown no signs of willingness to negotiate a new agreement on its presence in Kosovo. It continues to operate according to its original mandate, albeit with reduced engagements on the ground. All the changes that have occurred so far related to NATO's tasks and responsibilities have been undertaken by NATO members without formal consultations with Kosovo authorities.

51. Nevertheless, as part of the process of gradually assuming more responsibility for its security, in March 2012 the Government of the Republic of Kosovo initiated a Strategic Security Sector Review[15] (SSSR). The purpose of the SSSR was to conduct a comprehensive analysis of all the aspects of security in the Republic of Kosovo in order to analyze current and future security challenges; clearly define roles of each institution in the security sector to avoid duplication and maximize

[14] *Amendments on the Constitution of the Republic of Kosovo Regarding the Ending of International Supervision of Independence of Kosovo [Published in the Official Gazette of The Republic of Kosova / No. 25 / 7 September 2012, Pristina]*

[15] Government of Kosovo (2014), 'Analysis of the Strategic Security Sector Review of the Republic of Kosovo'. Available at: http://www.kryeministri ks.net/repository/docs/Analysis_of_Strategic_Security_Sector_Review_of_RKS_060314.pdf [Accessed on: October 22, 2019].

institutional capabilities, and to identify capabilities required to provide for the safety and security of Kosovo's citizens.

52. Albeit the SSSR process was a serious, methodical, analytical process, which was conducted quite successfully in order to develop a response to security needs in line with financial abilities, many of its recommendations haven't been implemented or have been delayed by relevant institutions.[16]

53. By far, the main development has been the establishment and development of the Kosovo Security Force (KSF) following NATO standards. KSF achieved its operational capacities in 2013, but the process of transformation had been postponed until 2018 due to legal and political obstacles. The full process of transition will take almost a decade and requires institutional coordination, enhanced efforts, and an increased budget.

54. In par with its training and development of operational capacities, the KSF and the Ministry of Kosovo Security Force has made efforts to enhance cooperation with other countries and armies. This way, the Ministry for the Kosovo Security Force (renamed into Ministry of Defence in 2018), based on bilateral agreements and the Law NO. 04/L-177 on the Deployment Abroad of the KSF has participated in several humanitarian missions and many joint exercises and training abroad with the partner states.

55. To this date, Kosovo, based on Articles 18 and 65 (1) of the Constitution of the Republic of Kosovo, has managed to sign and ratify only the SOFA (Status of Forces Agreement) with Albania (Law No. 04 / L-248 on ratification of the agreement on the status of members of the Forces Armed Forces of the Republic of Albania and the Security Force of the Republic of Kosovo during their temporary stay in the territory of respective states, (February 2014), as well as Law No. 04 / L-122 on the ratification of exchange of diplomatic grades for status of foreign forces

[16] Besa Kabashi-Ramaj (2016) 'Kosovo's Strategic Security Sector Review: A Missed Opportunity', *FES*. Available at: http://www.fes-prishtina.org/wb/media/Publications/2016/KOSOVOS%20STRATEGIC%20SECURITY%20SECTOR%20REVIEW_permiresimet_final.pdf [Accessed on: October 22, 2019].

between the Republic of Kosovo and the United States of America (February 2012). Concerning the US, the KSF has established close cooperation with the National Guard of Iowa.

56. Currently, Kosovo faces *two main challenges* in terms of advancing its relations with NATO. First, it needs to find a way to sign some sort of agreement on the NATO presence in Kosovo based on Kosovo's legislation, which also reflects the new reality on the ground after the transformation of the KSF mandate in 2018. This would regulate the presence of KFOR according to the standard practice of Status of Forces Agreement (SOFA) and provide a plan for the gradual transfer of competences from NATO to the KSF on military matters.

57. Kosovo is not a NATO SOFA signatory, and there is no bilateral agreement on the status of military forces with the majority of NATO members (except the US and Albania), and this is a serious legal issue that prevents the participation of armed forces of the NATO partners in the activities organized by the KSF or any other Kosovo institution. For this reason, there is an immediate need for the legal regulation of the status of foreign military forces in Kosovo until the day the country can become a NATO SOFA signatory.

58. In reality, all NATO members are part of the NATO SOFA Agreement. Besides, there is also the PfP SOFA (the Partnership for Peace Status of Forces Agreement), which is a multilateral agreement between NATO member states and participating countries in the Partnership for Peace program. This important document also tackles the status of foreign forces, while present in the territory of another state and is crucial in regulating such matters between NATO countries and other non-member partner countries participating in NATO programs.

59. In 2018, the Government of Kosovo had adopted a Concept Document for the Status of Foreign Armed Forces in the Republic of Kosovo, prepared by the

Ministry for Kosovo Security Force. [17] Given Kosovo's lack of bilateral relations with NATO, the document proposes the adoption of a special law to regulate the status and procedures of entry/exit, temporary stay or transit movement of foreign armed forces in the territory of the Republic of Kosovo. Such a special law is seen as a better alternative to signing individual SOFA agreements with all the NATO members.

60. The second challenge in relations between Kosovo and the NATO Alliance is more complex and has to do with Kosovo's future relations with NATO and potential membership. NATO membership remains a key foreign policy and security objective of Kosovo institutions, together with that of EU integration. Yet, more than 11 years since the declaration of independence of Kosovo, no breakthrough in relations with NATO has occurred.

61. According to the Kosovan Government, in the course of the development and transformation of the KSF, the overall goal is to achieve membership of the Republic of Kosovo in the PfP (Partnership for Peace) program, which consists of two aspects: political and military. In political terms, through PfP, Kosovo intends to start a new chapter of cooperation and partnership with NATO, which constitutes a step forward to full integration into the Euro-Atlantic structure. In military terms, Kosovo intends to participate in joint military exercises with NATO and PfP members. It also aims to extend the possibility of sending its members to academic and training school centers, joint field exercises, and real humanitarian and peacekeeping operations with partner countries.[18]

62. In 2015/16, an exchange of letters between then Kosovo's Prime Minister Isa Mustafa and NATO Secretary-General, Jens Stoltenberg, seemed to open a new window of opportunity in relations between Kosovo and NATO. On November 19th, 2015, the Prime Minister of Kosovo sent a letter to the Secretary General of NATO, Mr. Jens Stoltenberg, through which he requested for Kosovo to establish

[17] Ministry for the Kosovo Security Force (2018), 'Concept – Document: For the Status of Foreign Armed Forces in the Republic of Kosovo'. Available at: http://konsultimet.rks-gov.net/viewConsult.php?ConsultationID=40327 [Accessed on: October 22, 2019].
[18] Ibid.

an individualized and cooperative relationship with NATO, which could include these elements: a) regular political dialogue between NATO and Kosovo at the highest political and ministerial levels; b) the establishment of a Kosovo liaison office with the NATO headquarters in Brussels; c) assistance, assessment, and development of an individualized cooperation program to form the basis for strengthened cooperation with NATO; d) upgrading of NATO-s civilian and military presence in Kosovo, and, specifically, the consolidation of the NLAT (NATO-s Liaison Advisory Team) and the NAT (NATO-s Advisory Team) into a single integrated team; e) Public Diplomacy Division (PDD) co-sponsorship grants for Kosovo's institutions, NGOs, universities, think-tanks, and other pertinent civil society organizations on peace and security related issues; f) access to NATO's programs and tools, such as the Science for Peace and Security and Building Integrity Programs, which can enhance cooperation and dialogue with NATO and its partners based on scientific research innovation and knowledge exchange with Kosovo.[19]

63. In response to Kosovo's Government's demand to establish direct bilateral relations, NATO set a framework of cooperation, known as "NATO-Kosovo Enhanced Interaction," that would enable Kosovo's involvement in specific NATO programs for state and nonstate institutions of Kosovo. However, such an interaction does not imply that Kosovo is a partner country of NATO due to the fact that 4 NATO members still don't recognize Kosovo.

64. In the framework of the new NATO-Kosovo Enhanced Interaction, bilateral communication and regular visits of NATO's senior officials to Kosovo have intensified, and KSF members have been allowed to participate in various NATO training programs.[20] Furthermore, Kosovo was allowed to participate in multiple NATO programs such as Building Integrity Programme, NATO Science for Peace and Security program, Public Diplomacy.

[19] KIPRED (2016), 'The Kosovo Security Sector Observer: Volume I.' Available at: https://goo.gl/jNkFl3 [Accessed on: October 22, 2019].
[20] RIDEA interview with the KSF Commander-in-Chief. Pristina, 28 June 2019.

65. It is still not very clear, however, whether Kosovo's cooperation with NATO will significantly be affected by its decision to transform the Kosovo Security Force into an army through the change of the law and not through constitutional changes. It is worth recalling that in a reaction to the decision by the Kosovo Parliament in December 2018, the NATO Secretary-General had stated that "With the change of mandate, the North Atlantic Council will now have to re-examine the level of NATO's engagement with the Kosovo Security Force."

66. Important as it may be from a symbolic point of view, the NATO-Kosovo Enhanced Interaction framework does not address Kosovo's two key challenges with regards to its future relations with NATO and potential membership in the Alliance. Nonetheless, it still may benefit Kosovo until conditions are right for a partnership agreement and formal accession process.

67. The revision of the security sector in Kosovo and the ongoing process of transformation of the Kosovo Security Force are landmark developments towards the development of a modern security system in Kosovo. They will bring Kosovo closer to NATO standards and increase its readiness to start accession talks when political conditions are right.

68. Kosovo has benefited from NATO's presence not only in terms of KFOR's role in guarantying safety and stability but also in terms of gaining from NATO's capacity building role in the development of the KSF in accordance with NATO standards. This means that in terms of the five MAP criteria, Kosovo stands in a good position to begin the process of membership when political conditions allow it.[21] Security experts estimate that based on the examples from the region and Kosovo's current state of affairs in the security sector, Kosovo would need 5-7 years to become a full member from the time of a formal invitation to start a dialogue.[22]

69. NATO's mandate based on Resolution 1244 and its status neutral approach dictated by lack of unanimity on Kosovo's statehood remains significant obstacles,

[21] RIDEA interview with Deputy-Minister of KSF. Pristina, 24 June 2019.
[22] RIDEA interview with a Security Expert. Pristina, 25 June 2019.

nonetheless. In particular, Spain has become a staunch opponent of any advancement in NATO's relations with Kosovo. For instance, in 2016, even though the KSF was invited, on the initiative of its supporters, in the most extensive military maneuvers of the East Wing of NATO after the Cold War, named "Anaconda 16", its participation was canceled due to Spain's protest.

70. In many ways, the future of NATO's relations with Kosovo is dependent on the outcome of the Kosovo-Serbia talks and the end of Kosovo's status dispute. To the frustration of Kosovo institutions and its allies alike, NATO's mandate stemming from Resolution 1244, as well as its principle of consensus among member states of the Alliance on all matters of importance, has become an insurmountable barrier for Kosovo to establish a formal partnership with NATO. As a result, Kosovo's actual readiness in fulfilling the formal membership criteria is of little relevance at the moment.

The experience of regional countries and 'lessons learned' for Kosovo

71. As mentioned before, most of the post-communist countries went through a process of comprehensive political, economic, and military reforms to meet the criteria of NATO membership. Despite NATO's 'Open Door' policy that, in principle, allows any European country in a position to undertake the commitments and obligations of membership and contribute to security in the Euro-Atlantic area to apply, Balkan countries had different paths to NATO membership.

72. While Slovenia was a clear frontrunner and champion of reforms having needed five years from joining the Membership Action Plan (MAP) to full membership (1999-2004), it took longer for the rest of the countries to join. In the case of Croatia, it took 7 years (2002-2009), Montenegro 8 years (2009-2017), and Albania 10 years (1999-2009). Macedonia was in the same group with Albania and

Croatia and would have joined in 2009 (10 years after joining (MAP), but the name dispute with Greece prevented it from entering until now.

73. In many ways, Montenegro has had the fastest progress towards NATO membership. The country became independent in 2006, and that same year joined the Partnership for Peace programme. It joined the Membership Action Plan in 2009 and formally became the 29th member of NATO in 2017. It managed to achieve this despite many challenges related to being a new state and a divided country with strong public opposition to NATO membership, mainly by Serb and pro-Russian parties.[23]

74. Some of the critical issues that determined these countries' path towards NATO membership include: domestic reforms, defense reforms, and ability to contribute to allied missions, public support for NATO membership, and regional issues.[24] Most of the post-communist countries faced immense challenges in carrying our painful domestic (political, economic, and military) reforms. Experience shows that there is no shortcut to achieve such reforms; it takes clear commitment and persistence to achieve democracy, the rule of law, political stability, economic progress and respect for human and minority rights.

75. The faster the pace of comprehensive reforms, the shorter the route to NATO membership. Slovenia and Montenegro are positive examples of small countries without significant military capabilities that could make steadfast progress in their NATO membership path as a result of undertaking successful domestic reforms. On the other hand, Croatia's involvement in a war in the 1990s, as well as Albania's collapse of state institutions in 1997-8, had a significant impact in slowing down their progress towards NATO membership.

[23] Associated Press (2017) 'Montenegro ratifies Nato membership in historic shift to western alliance.' Available at: https://www.theguardian.com/world/2017/apr/28/montenegro-ratifies-nato-membership-in-historic-shift-to-western-alliance [Accessed on: October 22, 2019].
[24] Morelli, V., Ek, C., Belkin, P., Woehrel, S., and Nichol, J. (2009), 'NATO enlargement: Albania, Croatia, and possible future candidates'.

76. The second important factor is related to the ability of states to carry out necessary defense reforms and has the ability to contribute to allied missions. This includes both efforts to reform armed forces in line with NATO standards and be able to contribute to the Alliance's military capabilities and its missions abroad. Undauntedly, a country's resources play a role in both aspects.

77. The more prosperous and more stable countries such as Slovenia and Montenegro have been able to carry out the necessary reforms quicker to transform their armies into a small, efficient, well-trained force that can operate effectively within NATO. On the other hand, Macedonia and Albania have struggled to commit enough resources and undertake the necessary reforms.

78. Two other elements are essential here. First, as in the case of the previous round of enlargement, NATO has encouraged candidate states to develop "niche" capabilities to assist NATO missions[25]. Albania, for instance, has focused on creating a Rapid Reaction Brigade, military police, special operations forces, explosive ordnance disposal teams, engineers, and medical support units.

79. Second, all of these countries have acted as *de facto* NATO allies for years before becoming members. They have either had bilateral agreements of cooperation or have joined various NATO programs that have enabled them to participate in training but also contribute to multiple peacekeeping missions abroad. All of the regional countries that are NATO members have been part of the PfP program and have contributed to NATO missions well before becoming a member.

80. The third important factor includes public support for NATO membership. The existence of higher support is crucial in providing a lifeline to reforms and build momentum in favor of NATO membership. Most of the former Yugoslav republics have recorded modest support in favor of NATO membership, thus turning it into a weakness.

[25] Ibid.

81. Slovenia was the only country to organize a referendum, where some 66 percent of people voted in favor of NATO membership (compared to 89 percent who voted in favor of EU membership). Public support in Croatia during the negotiating process ranged from 50-60 percent. Support in Montenegro has been continuously low, ranging from 37 to 53 percent. Macedonia has recorded higher public support of around 80 percent in favor of NATO. On the other hand, Albania remains one of the countries with the highest ever support – more than 95 percent - in favor of NATO membership.

82. The last important factor is related to regional disputes. Clearly, countries with good neighborly relations and no outstanding regional disputes have been able to make faster progress towards NATO membership. As mentioned before, Macedonia is a prime example of a country that had its membership delayed for a decade due to its name dispute with Greece.

83. These countries' experiences provide a number of essential lessons for Kosovo. *First*, domestic reforms are crucial. In other words, Kosovo should work hard to strengthen its democracy and the rule of law to be ready to meet NATO accession criteria. There is no easy path or shortcut to domestic reforms.

84. *Second*, defence reforms are essential, and they involve careful planning as well as unwavering political and financial support. Kosovo's current yearly budget for defense is lower compared to all other states in the region; in 2019 Kosovo's defense budget was 53 million €, compared to Montenegro's 71 million €, Macedonia's 110 million € and Albania's 157 million €.[26] It is essential that Kosovo commits a higher budget to meet the needs of the KSF and increase its capabilities to contribute to NATO's missions abroad.

85. Likewise, given Kosovo's limited resources and military capabilities, it is essential that the country invests in 'niche' skills such as search and rescue missions to

[26] KCSS (2019) 'Transformation of the KSF into the Kosovo Armed Forces'. Available at: http://www.qkss.org/repository/docs/FactSheet-FSK(2)_770792.pdf [Accessed on: October 22, 2019].

provide valuable assistance to NATO's missions. Indeed, Kosovo should build on KSF's existing strengths and capabilities to enhance its chances of making a meaningful contribution to NATO's missions in the future.

86. *Third*, when it comes to public support, just like Albania, Kosovo has since the end of the war recorded very high public support in favor of NATO membership. This, in fact, is a significant advantage for Kosovo in its path towards NATO membership, and as such, it should be utilized in future negotiations with NATO.

87. Last but not least, it is crucial that Kosovo learns from other countries' experiences to close all regional dispute as early as possible before the application process for they can significantly delay accession, as shown in the case of Macedonia. Therefore, it is crucial that Kosovo engages in closing the status dispute with Serbia, which at the same time, would eliminate a major hurdle in its NATO membership route.

Conclusions

88. Twenty years since the NATO intervention in Kosovo, the new country has gone a long way to establish democratic institutions, a modern security apparatus, and a stable society. In all this, KFOR has played an instrumental role and, in particular, has been indispensable in its role as the main security force in Kosovo. As such, it enjoys much respect among citizens and institutions alike.

89. While NATO continues to provide the very essence of the backbone of the system of security in Kosovo, today, the 28-country Kosovo Force (KFOR) acts mainly as a "third reserve" after the local police and the EULEX mission. NATO maintains that it is still needed in Kosovo. Yet, the declaration of independence of Kosovo and the establishment of a functional security apparatus that includes Kosovo Police, Kosovo Security Force, Kosovo Intelligence Agency and other relevant law enforcement agencies have altered the situation on the ground and thus impose the need for a new formal partnership between Kosovo and NATO.

90. Over the years, Kosovo has undertaken comprehensive reforms in the security sector and has proven capable of taking enhanced responsibilities in the field of the rule of law and security. A reconfiguration of relations with NATO would be a stepping stone in the process of moving from a consumer of security to an exporter of security, regionally as well as internationally.

91. In particular, given Kosovo's long-standing territorial threat posed by Serbia's refusal to recognize its independence, NATO membership remains quintessential. It is much more important than just securing a place on the table at NATO Summits. It's about cementing borders, its independent existence, and being able to be part of the biggest security umbrella in the world and sharing values of freedom and democracy with the Atlantic alliance.

92. Likewise, NATO membership is crucial in consolidating democracy and statehood in Kosovo. The role played by NATO in reducing external threats is essential to create preconditions for reform and democratization. Studies on the former Soviet republics clearly show that a reduction in the level of external threat remains a significant factor in the likelihood of democratic transition, and survival for democracy tends to follow peace.[27]

93. Kosovo's membership in NATO is also essential for regional stability. Its eventual membership, which would leave only Serbia and Bosnia and Herzegovina outside, would contribute to bringing near to a close a process which has been ongoing since the mid-1990s, namely the integration of the former Yugoslavia into a NATO-guaranteed zone of stability.[28]

94. Kosovo faces two main challenges in its path to NATO membership: 1) fulfilment of the formal criteria and 2) overcoming political obstacles posed by the non-recognizers. Both are interconnected in many ways and should not be treated

[27] Gibler, D. M., & Sewell, J. A. (2006). 'External Threat and Democracy: The Role of NATO Revisited.' *Journal of Peace Research*, *43*(4), 413–431, 429.
[28] Webber, Mark (2011) 'NATO: Within and Between European International Society.' *European Integration*, 33:2, 139-158, 141.

separately. In other words, the country should focus on making overall progress on both fronts.

95. Regarding the formal criteria, the country's small size and poverty will likely prevent it from making a substantial contribution to the Alliance's military capabilities. With the assistance of the United States and other NATO countries, Kosovo is trying to develop a small, efficient, well-trained force that can operate effectively with NATO, but the process is long and very costly. The process of transformation of the KSF should work at an increased pace and, importantly, be followed by an increased budget that in the shorter run meets the needs of the new army, while in the long run seeks to come close to the NATO target of 2 percent of GDP dedicated on defense.

96. As regards political obstacles, they mainly stem from its status dispute. Given that political circumstances are not very favorable for Kosovo at the moment, the country is faced with three main options:

a. Kosovo chooses to focus on the transformation of the Kosovo Security Force according to the existing plan as well as on the consolidation of national security and defense until a final deal with Serbia is reached, which would pave the way for the transformation of NATO's mission in Kosovo and unlock the NATO membership process;

b. Kosovo actively pushes to expand the existing enhanced interaction framework to gain access in various NATO programs while at the same time deepens military and security cooperation with individual member states in the regions and beyond;

c. Kosovo insists on the establishment of a particular process, based on the principle of 'status neutrality' (akin to the SAA process with the EU) that would allow Kosovo to join the Partnership for Peace (PfP) program and the Membership Action Plan (MAP) with a final decision on accession talks being subject to the achievement of a final settlement with Serbia.

Recommendations

97. This paper/study recommends the following measures to the relevant Kosovan institutions:

- Kosovo's institutions should undertake comprehensive steps to improve the rule of law, democracy, and human rights as a means of enhancing the country's prospects and position in the future NATO membership negotiations;

- Kosovo leaders should continue to engage in maintaining good neighborly relations with all the countries in the region and actively participate in reaching a final solution with Serbia as a means of eliminating any outstanding disputes with other countries;

- Kosovo's institutions should work tirelessly to improve the security situation on the ground given that any future decision on further reducing KFOR's footprint in Kosovo or changing its mission will be dictated by continued positive conditions on the ground;

- Kosovo's institutions should follow up on the 2014 Analysis of Strategic Security Sector Review and address all the conclusions and recommendations with utmost priority. All the necessary measures to be adopted should be examined in the light of the five key criteria needed for NATO membership;

- Kosovo's institutions should fully commit to supporting the process of transformation of the Kosovo Security Force into an army with the view of reaching full operational capacities within 7-10 years from now. In particular, they should commit to the steady increase of the military budget with the aim of meeting NATO standards;

- Kosovo's security institutions should work closely with NATO allies to identify and develop "niche" capabilities, such as special operations forces, explosive

ordnance disposal teams and search and rescue, which would enable the country to make a meaningful contribution to NATO missions in the future;

- The Kosovo Assembly should urgently adopt a special law to regulate the status and procedures of entry/exit, temporary stay or transit movement of foreign armed forces in the territory of the Republic of Kosovo. This will be a temporary measure until Kosovo can join the Partnership for Peace SOFA;

- Kosovo institutions should renew efforts to join the Adriatic Charter and profit from the US and regional countries' assistance to move closer to NATO standards. A potential way to overcome the Bosnian veto would be to use the tax levy on Bosnian products as a bargaining chip;

- Following other countries' positive experiences, Kosovo's leaders should seek potential venues to join NATO missions abroad and thus be able to act as a *de facto* NATO ally even before formal negotiations for accession can begin;

- Kosovo should treat NATO membership with utmost priority and should not overlook it at the expense of EU integration. Evidence from Eastern Europe has shown that while NATO membership is more easily attainable than EU membership, security and political benefits are bigger;

- Kosovo institutions should actively seek to develop a comprehensive strategy that addresses the existing situation with regards to NATO's stance on Kosovo and explores potential venues to break the deadlock and advance relations with the Alliance;

- An inter-ministerial task force should begin a process of extensive consultations with the participation of all relevant stakeholders on the merits of all the different options, including the three options briefly outlined here, that Kosovo could pursue in the near future;

- Last but not least, Kosovo should carefully study other regional countries' experiences and draw lessons from them. In particular, Montenegro's rapid process of transformation from independence in 2006 to full NATO membership could provide valuable lessons for Kosovo.

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