

A POLICY REPORT BY THE GROUP FOR LEGAL AND POLITICAL STUDIES

NO. 01 – JANUARY 2013



Freedom of Movement, Revisited:

— the struggle to instate rule of law and
trigger effective governance in the north
of Kosovo



GROUP FOR LEGAL
AND POLITICAL
STUDIES

ABOUT GLPS

Group for Legal and Political Studies is an independent, non-partisan and non-profit public policy organization based in Prishtina, Kosovo. Our mission is to conduct credible policy research in the fields of politics, law and economics and to push forward policy solutions that address the failures and/or tackle the problems in the said policy fields.

Policy Report 01/2013

Freedom of Movement, Revisited: the struggle to instate rule of law and trigger effective governance in the North of Kosovo

Aubrey Hamilton

January 2013

© Group for Legal and Political Studies, January 2013.

The opinions expressed in this document do not necessarily reflect those of the GLPS donors, their staff, associates, or representatives. All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any mean without permission. Contact the administrative office of the Group for Legal and Political Studies for such requests. Information on contacts can be found at the website of the Group. If you wish to further use this paper, please contact GLPS for permission.

Group for Legal and Political Studies
'Rexhep Luci' str. 10/5
Prishtina 10 000, Kosovo
Web-site: www.legalpoliticalstudies.org
E-mail: office@legalpoliticalstudies.org
Tel/fax.: +381 38 227 944

GLPS is institutionally supported by:



Freedom of Movement, Revisited: the struggle to instate rule of law and trigger effective governance in the North of Kosovo

Background

Finding a solution for the north of Kosovo remains the biggest challenge for the Government of Kosovo and international stakeholders. The absence of freedom of movement in the north of Kosovo is a feature of Kosovo's lack of sovereignty over the entire territory, and, as such, signifies a long-term problem that could continue to plague the relationship between Kosovo and Serbia. As it stands, the Government of Kosovo has little to no presence in the north, Belgrade has maintained their parallel structures and influence over northern Kosovo Serbs, EULEX has been unable to prompt rule-of-law in the north, the north has not capitalized on the positive effects of decentralization in the south leaving northern citizens without local representation and rights, and, lastly, freedom of movement remains a problem for EULEX, Kosovo customs and Police,¹ and citizens within the north and between the north and south of Kosovo.² The aim of this policy report is to analyze the latter problem – freedom of movement in the north– while examining the interdependent nature of the aforementioned challenges in the north. The purpose of such a policy report is to point stakeholders towards the necessary policy changes and a comprehensive strategy that will ensure progress in regard to freedom of movement in the northern Kosovo. Freedom of movement is of crucial concern to the Government of Kosovo, citizens living in Kosovo, and international stakeholders as ensuring the freedom of movement, particularly in northern municipalities, is critical for rule-of-law development, the transport of goods and people, economic development, normalization of the lives of citizens in the north, and fulfillment of EU benchmarks for visa liberalization. EULEX, KFOR, the Administration in the north, the Government of Kosovo, and the EU as a facilitator of the Dialogue must pursue a strategy to address the remaining barricade over the Iber Bridge, the remaining 'checkpoints' that deter rule of law structures and customs officials from traveling freely throughout the north, and border control along Kosovo's porous northern border.

I. The Northern Barricades: Serving Belgrade's Politics of Blockage and Control for the Northern Kosovo

The human blockades and physical barricades that have prevented freedom of movement in the north since summer 2011 can be traced to the EU's inability to facilitate the negotiation of a timely and thorough Customs/border agreement, Serbia's politics and pervasive influence in the

¹ It is critical to note that "Police stations in the north, predominantly staffed with Kosovo Serbs, are in principle integrated in the Kosovo Police chain of command, but in reality their communication with Headquarters in Pristina is limited. Kosovo's specialized crowd and riot police units are mostly staffed with Kosovo Albanians, which is a source of tension when they are deployed in the north. (European Court of Auditors. Special Report No 18/2012). *European Union Assistance to Kosovo Related to the Rule of Law*. Page 29-30). As such, references to 'Kosovo Police' refer to police under the control of the Government of Kosovo not police acting under parallel institutions that also receive salaries from Belgrade and (given their status as Kosovo Serbs) can travel relatively freely in the north.

² According to Koha Ditore, the Republic of Serbia operates and directly funds four security institutions within Kosovo consisting of 1000 police officers, intelligence service agents and military intelligence agents. Koha Ditore, 16 November 2012, Prishtina.

North of Kosovo, and Kosovo's unilateral attempt to implement an embargo on Serbian goods in July 2011. While the inability (of the EU) and unwillingness (of Serbia) to negotiate a Customs Agreement in July 2011 coupled with Kosovo's unilateral enforcement of reciprocity enflamed an already tense situation in the north, the attempted implementation of superficial Customs and IBM agreements set fire to flame, fueling the situation of blockades, barricades, and tension in the north of Kosovo that continues to this day.

According to the Italian Ambassador and former EU Representative to the northern Kosovo Mr. Giffoni, what happened between the end of June and the end of September "was the anticipation of a crisis', and both the Kosovo and Serbia governments had readied themselves to take alternative action when the EU-facilitated dialogue failed or did not match their agenda."³ When Serbia neglected to attend the July 20th meeting, Kosovo looked to Plan B—reciprocity in the form of an immediate back embargo on Serbian goods.⁴ Ms. Edita Tahiri, Kosovo's former lead negotiator in the Dialogue, argues that this embargo was not because Kosovo wanted to strengthen its sovereignty or assert its authority in the north but was rather, after three years of tolerating an embargo on Kosovo goods without reciprocation, a reaction to Serbia's opposition to reach an agreement on free trade or customs stamps.⁵ EULEX manned the borders with little control and limited ability to enforce the embargo, allowing Serbia to challenge Kosovo's decision and transport goods into Kosovo via the 'fragile' and 'porous' EULEX-guarded northern borders (Tahiri). Therefore, according to Ms. Tahiri, it was Serbia's violation of Kosovo's decision to place an embargo that pushed Kosovo to undertake the action of the 25th of July, "in the name of rule of law."⁶

On July 25, the Kosovo Government sent special units of Kosovo Police to regain control over border points 1 and 31. Kosovo Serbs in the north were quick to react to the Police-enforcement of the Prishtina-originated embargo on Serbian goods. On July 25th, northern Kosovo Serbs blocked roads leading to the border crossings 1 and 31 and fired upon the border points.⁷ Belgrade was also seemingly prepared to react directly, sending their Chief Negotiator for the Dialogue Boris Stefanovic to the north on the 25th to negotiate on behalf of Kosovo Serbs. The speedy mobilization of northern Serbs (and political forces from Belgrade) in response to the enforcement of the embargo further supports speculation that Serbia pursued a dialogue strategy throughout the summer months while awaiting and preparing for Kosovo's ultimate enforcement of the back embargo. In response to the riots, the Kosovo Police units retreated southward, during which a Kosovo Albanian special Police officer was killed by a Serbian sniper on July 26, 2011.⁸ On July 27th, Kosovo Serbs in the north set fire to Kosovo customs posts and vandalized the Jarinje border crossing leading KFOR to take greater control over the two border points.⁹ The riots and violence that erupted in the north in response to Kosovo's enforcement of the embargo had numerous consequences. First, the reaction of northern Kosovo Serbs to the

³ Giffoni, Michael. Personal Interview. 9 January 2012.

⁴ Lazarevi, Tatjana (2011) 'The northern Kosovo barricades', *Osservatorio Balcani e Caucaso*, (2 August 2011), Retrieved from: <http://www.balcanicaucaso.org/eng/Regions-and-countries/Kosovo/The-northern-Kosovo-barricades-99713>.

⁵ Tahiri, Edita. Personal Interview. 6 January 2012.

⁶ Ibid.

⁷ Lazarevi, Tatjana (2011) 'The northern Kosovo crisis' *Osservatorio Balcani e Caucaso*, (29 July 2011), retrieved from: <http://www.balcanicaucaso.org/eng/Regions-and-countries/Kosovo/The-northern-Kosovo-crisis-99511>.

⁸ Szpala, Marta. "Tension on the Serbia-Kosovo border escalates: the crisis has been resolved but the problem is still present." *OSW Centre for Eastern Studies*. (10 August 2011). Retrieved from <http://www.osw.waw.pl/en/publikacje/ceweekly/2011-08-10/tension-serbiakosovo-border-escalates-crisis-has-been-resolved-problem>.

⁹ Ibid.

arrival of Kosovo Police at the two border crossings pushed the Kosovo Government and the EU farther from their goal of integrating northern Serbs, enacting rule of law, and normalizing life in the north. Second, the events in late July had both negative and positive effects on the dialogue process. The conflict over the border in late-July also prevented the resumption of dialogues until early September. The long break in the dialogue process (and the inability of the EU to produce a customs agreement that could have prevented the events of late-July) likely undermined the EU's perceived legitimacy as an effective and efficient mediator.¹⁰

To find a way out of the late-July border conflict, the EU and KFOR were forced to resume discussion with the parties from Belgrade and Prishtina separately. On July 29th, Belgrade's Representative for the Dialogue Borislav Stefanovic reached an 'agreement' with Erhard Buhler over the customs posts and border crossings.¹¹ Although on August 3, KFOR reached an agreement with the government of Kosovo stipulating that the border crossing would remain under KFOR control until September, that trucks carrying goods would not be allowed through, and that the roadblocks must come down.¹² On September 2, 2011, the EU brokered a customs agreement wherein Kosovo and Serbia would mutually accept each other's custom stamps (Kosovo's custom retained its label as 'Kosovo customs') to enable trade and movement via the northern border. While Serbia found itself able to accept a Customs Agreement on September 2, the agreement quickly fell apart during implementation. The agreement stipulated that the mutual trade embargoes would be lifted and that stamps from Kosovo would be marked with 'Kosovo customs'.¹³ However, when the agreement took effect at checkpoints 1 and 31 on September 16, the border crisis, still simmering from July, reignited.¹⁴ In response to the EU-facilitated Customs Agreement that was passed on 2 September 2011 and allowed for the passage of people and goods across Kosovo's northern border into Serbia, Kosovo sent government Police and Kosovo customs official to the northern border.

The response from the north was swift and effective. Networks of Kosovo Serbs in the north, some influenced or coerced by parallel structures with support from Belgrade and some who strategically align with the cause,¹⁵ immediately erected barricades that effectively prevented EULEX and Kosovo Customs and Police from reaching the northern border and prevented the people and goods from moving freely throughout much of the northern Kosovo. On September 16, Kosovo Serbs in the north with extensive support from Belgrade and Serbian officials barricaded major roads and bridges in the northern municipalities preventing EULEX, Kosovo Police, and KFOR from traveling throughout the north.¹⁶ Again Serbia and Serb networks in the north had been prepared to react against Kosovo's presence at the border. Unable to move throughout northern Kosovo, Kosovo Customs and Police, EULEX, and KFOR lost control over the northern municipalities and were forced to access border points 1 and 31 via helicopter

¹⁰ More on this argument see: Policy Report by Group for Legal and Political Studies. (February 2012). "From Technical Arrangements to Political Haggling."

¹¹ Todoric, Vladimir and Leon Malazogu. "Belgrade-Prishtina Dialogue: Transformation of Self-interest Required." The New Policy Center; Project on Ethnic Relations. (November 2011).

¹² Szpala, Marta, (10 August 2011).

¹³ EU Press Release 294. "EU facilitated dialogue: Agreement on Customs Stamps and Cadaste." (2 September 2011).

¹⁴ More on this argument see: February Policy Report by Group for Legal and Political Studies. (February 2012). "From Technical Arrangements to Political Haggling."

¹⁵ EULEX Political Office. Personal Communication. October 2012.

¹⁶ Lazarevi, Tatjana (2011) 'Game of nerves in the North of Kosovo', OsservatorioBalceni e Caucaso, (22 September 2011), retrieved from: <http://www.balcanicaucaso.org/eng/Regions-and-countries/Kosovo/Game-of-nerves-in-the-North-of-Kosovo-103242>.

on September 16.¹⁷ While the shaky presence of EULEX and Kosovo customs officials allowed for the movement of goods across the border points 1 and 31, the barricades effectively prevented the trade and transportation of goods throughout the north. Northern Serbs manned blockades near the border posts and the main bridge in Mitrovica.¹⁸ The barricades not only translated into an issue of freedom of movement but into a new political reality wherein parallel structures maintained tangible and physical control over Kosovo's northern territory.

Attempts by KFOR and EULEX to remove the barricades were met with networks of northern Kosovo Serbs who rallied to physically reinforce the blockades. The strategy here was to use civilians to confront KFOR and EULEX should they attempt to remove the barricades by force. These barricades remained throughout the rest of 2011 and some remained throughout the beginning of 2012. After nearly 40 Serb protesters and at least 8 KFOR soldiers were injured in clashes after KFOR attempted to remove the barricades in Zupce and Jagnjenica on October 20 2011. Kosovo Serb mayors in the north offered on October 22 to allow KFOR LMTs to move freely throughout the north for troop resupply, but refused to extend the deal to EULEX (or KFOR heavy and battle forces).¹⁹ KFOR partially removed the barricade in Jagnjenica, in the Zubin Potok municipality, leaving the route leading to Gate 31 in Brnjak unblocked, where EULEX Police took control.²⁰ While, on one hand, the violent clash did prompt this deal and a step forward for the relationship between KFOR and authorities in the north and towards freedom of movement surrounding the Brnjak crossing, on the other hand, it aggravated those nations that contributed troops to KFOR's multinational task force (eight of which were injured during this clash)²¹ and prompted increased international attention on the situation in the north and additional international pressure on Belgrade. After this violent clash between KFOR and Serb protestors in the north, Germany in particular changed its position towards Belgrade, becoming stricter in requiring concessions from Serbia regarding the Kosovo issue and the north. (Chancellor Merkel even asked Serbia to indict those who attacked the German KFOR troops in this clash).

Unfortunately, the deal between KFOR and mayors in the north was not implemented by Kosovo Serbs in the north. On October 27, after orders from President Tadic to remove the barricades, local Serbs agreed to partially remove the barricades in order to allow KFOR through.²² Throughout November, there were continued clashes between KFOR and northern Kosovo Serbs due to KFOR attempts to dismantle remaining Serb roadblocks. Dozens of northern Kosovo Serbs and KFOR soldiers were injured in clashes throughout November 2011, and on November 29, President Tadic called again on northern Kosovo Serbs to leave the barricades.²³ Tadic's call was formal and largely initiated to garner EU support and achieve EU candidate status for Serbia. In addition, it had some effect on convincing Kosovo Serbs to remove the

¹⁷ BBC News. "EU Police fly in to secure Kosovo border crossings." (16 September 2011). Retrieved from <http://www.bbc.co.uk/news/world-europe-14943576>

¹⁸ Ibid.

¹⁹ Southeast European Times. Karadaku, Linda and Ivana Jovanovic. (20 October 2011). "KFOR launches action in the north, tension simmers." Retrieved from http://setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2011/10/20/feature-01, and International Crisis Group. "Crisis Watch Database." Retrieved from <http://www.crisisgroup.org/en/publication-type/crisiswatch/crisiswatch-database.aspx?CountryIDs=%7BE549D816-1DF9-4BC0-B890-0F3A2B62FD1B%7D>.

²⁰ Southeast European Times. Karadaku, Linda and Ivana Jovanovic. (20 October 2011). "KFOR launches action in the north, tension simmers." Retrieved from http://setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2011/10/20/feature-01

²¹ Ibid.

²² Ibid.

²³ Ibid.

barricades. But rather as a result of the EU-facilitated IBM agreement on December 2 2011 which slightly reduced the legitimacy of Kosovo Customs and Police officers as national border guards, northern Kosovo Serbs partially dismantled the barricades at the Jagnjenica and Jarinje border crossings on December 5 in order to allow KFOR to move freely; EULEX was still unable to travel freely and new barricades were erected blocking EULEX from moving throughout the north in response to the European Council's decisions to delay Serbia's EU candidacy.²⁴

While KFOR was able to travel relatively freely throughout the north by December 2011, networks of Kosovo Serbs continued to organize around remaining roadblocks preventing EULEX and Kosovo Customs and Kosovo Police from moving throughout the north and to the northern border crossings.²⁵ The inability of EULEX and Kosovo Police to travel freely throughout the north wholly prevented them from realizing their objective of instating rule of law in the north of Kosovo, and moreover from instating security and control (outside of the parallel structures) over the northern territory. The questioned remained as to why KFOR was able to travel freely but EULEX was still prevented from passing barricades and 'rallying points' in the north. According to KFOR officials, this likely stems from the perception that, in the north, EULEX stands as a partial proxy of the Government of Kosovo (this is particularly a result of EULEX vow to investigate and arrest besides the citizens living in the north of Kosovo as a function of their rule-of-law mandate).

Due to KFOR's ability to travel relatively freely throughout the north, KFOR, in the beginning months of 2012 ceased to place pressure on Kosovo Serbs to dismantle the remaining roadblocks that halted EULEX and Kosovo Police and customs from moving freely. Perhaps because KFOR was no longer inhibited by the remaining barricades and community-networks that rallied to reinforce the roadblocks blocking EULEX and Kosovo officials from passing, KFOR allowed a gap of around two months to pass without conducting any barricade removals. According to KFOR officials, this gap was not illustrative of a shift in KFOR methodology of strategy. Rather, KFOR intentions remained the same during this period – to minimize casualties and eliminate obstructions to freedom of movement when needed, when appropriate, and when technical considerations and opportunities coincided to allow KFOR a strategic advantage in eliminating obstructions to freedom of movement.

Because the roadblock removal operations were halted in early 2012, clashes between international troops and northern Kosovo Serbs were minimal until mid-February. Serbs even began to allow EULEX to pass the barricades twice a day.²⁶ However, this practice makes manifest EULEX's lack of control in the north and mission-dependence on the willingness of northern Serb cooperation; for EULEX, this allowance of two-a-day crossings built a precedent of EULEX obedience to the barricades and the tactics of parallel structures and supporters in the north. It also, evidences the EULEX's incapacity to exercise its core function while parallel structures and northern Kosovo Serbs remain committed to deterring their movement and authority in the north.

On 23 February 2012, KFOR and Serbian Police removed barricades at the Jarinje and Brnjak crossings, 'allowing cars to cross border into Serbia'.²⁷ According to KFOR officials, this

²⁴ Ibid.

²⁵ NATOCHANNEL.TV (11 December 2011). "Kosovo Tests Freedom of Movement." Retrieved from http://www.nato.int/cps/en/natolive/topics_48818.htm.

²⁶ International Crisis Group. "Crisis Watch Database." <http://www.crisisgroup.org/en/publication-type/crisiswatch/crisiswatch-database.aspx?CountryIDs=%7BE549D816-1DF9-4BC0-B890-0F3A2B62FD1B%7D>

²⁷ Ibid.

change was not the illustration of underlying changes in KFOR's policy or strategy, but rather this roadblock removal after a halt of such actions for over a two month period reflected KFOR's strategy to engage a mix of kinetic action and soft power and when KFOR could gain technical superiority to affect the change (or removal) that was required; KFOR took this time to engage with people, communicate with those in the north, and express their intentions. This form of decisive action that followed constant engagement creates trust between the locals and KFOR, reported KFOR officials, (something that is lacking between the locals and EULEX).

Regardless, Serbs responded violently to thwart their attempts at dismantlement. These roadblocks prevented EULEX and Kosovo customs and Police from reaching the northern border checkpoints, which fulfilled the Kosovo Serbs' objective of preventing Republic of Kosovo officials from manning what they considered not to be a national border. Although, according to KFOR officials, the roadblocks were gradually removed throughout the year, suggesting their strategy of mixing kinetic action with soft power had largely succeeded. By the summer of 2012 only a few barricades remained. "Preferring patience and dialogue, holding many talks with the representatives of the citizens of northern Kosovo, keeping lines of communication open, we were always eager to emphasize and encourage that they themselves would remove the obstacles, the barricades, the barriers to Freedom of Movement. But then inevitable comes the moment when KFOR has to act and remove the roadblocks, as we did early this month [of June] at Rudare".²⁸ When KFOR attempted to remove the barricade in a village near Zvecan in June, violent clashes again broke out between KFOR troops and Kosovo Serbs wherein four Serbs and two KFOR soldiers were wounded.²⁹ This operation which received "a violent reaction occurring some two and a half kilometers away...involving three separate incidents of live firing with murderous intent on KFOR troops, indicates a will to kill not representative of the inhabitants but of a small criminal minority impairing progress for the peaceful right-thinking majority".³⁰ KFOR is careful to note that the "criminal" and "illegal" population in the north represents only a very small segment of northern Kosovar society, a rhetorical strategy that should be increasingly adopted by Government of Kosovo who has made a habit of alienating northern Kosovo Serbs by using this criminal rhetoric to define their population in the north.

In the morning on the first of June, KFOR successfully removed the roadblock in the vicinity of Rudare.³¹ "The roadblock at south Rudare permanently hampered access to northern Kosovo requiring KFOR to resupply Camp Nothing Hill and GATE 1 by helicopter".³² Despite this success, and the success at closing road DOG 16, in the vicinity of Brnjak, another attack came in response on the 19th of June, which was the second attack on KFOR soldiers in a week. On the same day, representatives of Kosovo Serbs in the north met with KFOR officials to demand (somewhat ironically) the reopening of roads that were closed.³³

By the end of August 2012, only one major barricade remained fully in place – a blockade on the Iber Bridge, which is the primary transit route for people and goods moving between the southern and northern parts of Kosovo's territory. However, partial roadblocks remained in place

²⁸ KFOR. Drews, Erhard. (June 2012). "COMKFOR Message." *KFOR Chronicle*.

²⁹ B92. (8 June 2012). "Freedom of movement must be ensuring in Kosovo." Retrieved from http://www.b92.net/eng/news/politics-article.php?yyyy=2012&mm=06&dd=08&nav_id=80651

³⁰ KFOR. Drews, Erhard. (June 2012). "COMKFOR Message." *KFOR Chronicle*.

³¹ Harvey, D. (June 2012). "Rudare Roadblock Removal." *KFOR Chronicle*.

³² *Ibid.*

³³ Balkan Insight. Aliu, Fatmir. (19 June 2012). "Attack on NATO Forces in North Kosovo Condemned." Retrieved from <http://www.balkaninsight.com/en/article/nato-peacekeepers-injured-in-kosovo>

that, in addition to northern Serb community members who rallied to block travel along certain roads, were effective at continually preventing EULEX and Kosovo customs and Police from moving throughout the north. On the 23rd of August 2012, Serbs in the northern Kosovo prevented EULEX from passing a blockade at Zupce; in response, EULEX temporarily seals all roads to Zubin Potok during the KFOR dismantlement of this barricade.³⁴ This barricade in Zupce, in the Zubin Potok municipality, stood for months as a sand and wood blockade that inhibited vehicles from approaching the Brnjak border crossing with Serbia.³⁵

According to KFOR officials, on 24 August 2012, KFOR closed bypasses that were directly in the vicinity of authorized gates, which enhanced traffic through the authorized gates. According to these officials, KFOR did not directly close alternative routes across the northern border, as their role is not one of border control. However, unauthorized roads which fell within KFOR's security region were unable to be used. In this regards, KFOR's measures do in many cases prevent smuggling (in that KFOR sends transport vehicles back when encountered on these alternative routes).

For the time being, only the barricade on the Iber Bridge remains in place, according to KFOR's Press and Information Office. On August 9, KFOR Commander Erhard Drew argued that this barricade must go. This barricade has remained in place since the summer of 2011 and is a key challenge that maintains the separation between the north and south of Kosovo and thwarts Kosovo's territorial integrity. Director for Protection and Rescue of the Municipality of Mitrovica, even went so far as to argue that remaining blockades are "barricades of shame, preventing the free movement of citizens and making their lives more difficult".³⁶ Officials from the Municipality of Mitrovica who sit on the Security Committee alongside the Deputy Mayor of Mitrovica, requested that security structures should act quickly to remove the remaining barricade.³⁷ (They have been requesting this for over a year, with little effect.)

The fact that only one physical barricade remains over the Iber Bridge suggests formal progress for freedom of movement in the north of Kosovo (although the north remains substantively restricted in regards to freedom of movement). While the barricades within the north have been dismantled allowing KFOR to "travel" freely throughout the northern territory (although remain across the Ibar River), the barricades have been replaced by 'checkpoints,' networks of Kosovo Serbs protesting over the presence of Kosovo Police and customs on the border with Serbia and preventing the freedom of movement for many groups in the north.³⁸ The removal of physical barricades met with the instatement of human barricades that continue to prevent KFOR troops with heavy arms, EULEX, Kosovo Police and customs, and individuals from travelling freely throughout Kosovo's northern territory (and particularly around and to the Jarinje and Brnjak border crossings). What KFOR has begun calling Serb 'checkpoints' have replaced the barricades, and while KFOR has been able to move relatively freely throughout the north, EULEX

³⁴ International Crisis Group. "Crisis Watch Database." Retrieved from <http://www.crisisgroup.org/en/publication-type/crisiswatch/crisiswatch-database.aspx?CountryIDs=%7BE549D816-1DF9-4BC0-B890-0F3A2B62FD1B%7D>

³⁵ BalkanInsight. (24 August 2012). "NATO Won't Dismantle Barricade in Mitrovica." Retrieved from <http://www.balkaninsight.com/en/article/kfor-the-barricade-in-mitrovica-bridge-to-remain>

³⁶ Behxhet Bala qtd in M-Magazine. (27 August 2012). "The security situation in the North is calm, although some incidents." Retrieved from <http://www.m-magazine.org/en/Kosovo/The-security-situation-in-the-north-is-calm-although-some-incidents-3017>

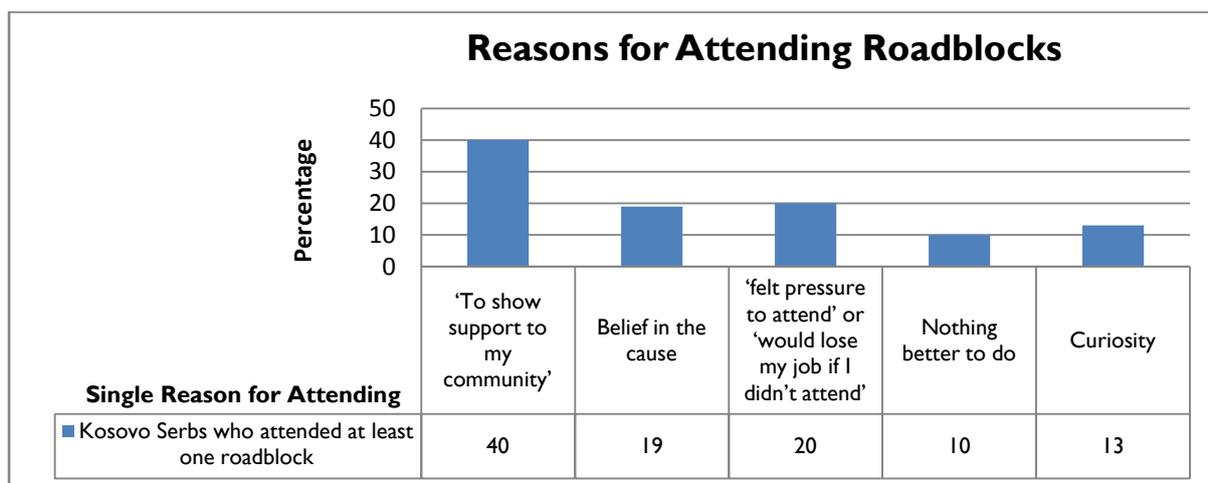
³⁷ Riza Haziri qtd in Kosova Press. (16 July 2012). "Freedom of movement, challenge for north." Retrieved from <http://kosovapress.com/?cid=2,85,149951>.

³⁸ Balkan Insight.Aliu, Fatmir. (19 June 2012). "Attack on NATO Forces in North Kosovo Condemned." Retrieved from <http://www.balkaninsight.com/en/article/nato-peacekeepers-injured-in-kosovo>

has not garnered the same benefits from the dismantling of barricades.³⁹ Moreover, northern citizens and parallel structures continue to use both virtual ‘checkpoints’ and the threat of violence to deter and, at times, prevent EULEX, Kosovo Police, Kosovo Customs, and even KFOR from moving throughout Kosovo’s northern territory. Occasional violence directed towards EULEX, KFOR, and Kosovo Customs and Police is an effective deterrent, while northern ‘checkpoints’ infrequently but can at any time rally community networks to prevent the passage of KFOR, EULEX, or Kosovo authorities.

Yet, two critical challenges remain that must be addressed as soon as possible to ensure the freedom of movement throughout the north of Kosovo. First, EULEX and the Government of Kosovo in consultation with local Serb leaders in the north must pursue policy and strategy options that prompt the removal of remaining roadblocks and ‘checkpoints’ and that promote the freedom of movement for EULEX and Kosovo Police and customs official so that these parties can realize their rule of law objectives in the northern Kosovo. Second, the removal of the barricade on the Iber Bridge should be a top priority of KFOR in order to normalize life and movement for citizens in Kosovo, to safeguard Kosovo’s territorial integrity, and to open a space for increased cooperation and transport between the citizens and communities in south and north of Kosovo.

The first is a complicated process, because northern Kosovo Serbs support and supply the human capital and physical capacity to maintain the barricades and checkpoints for a number of reasons shown in Graph 1.

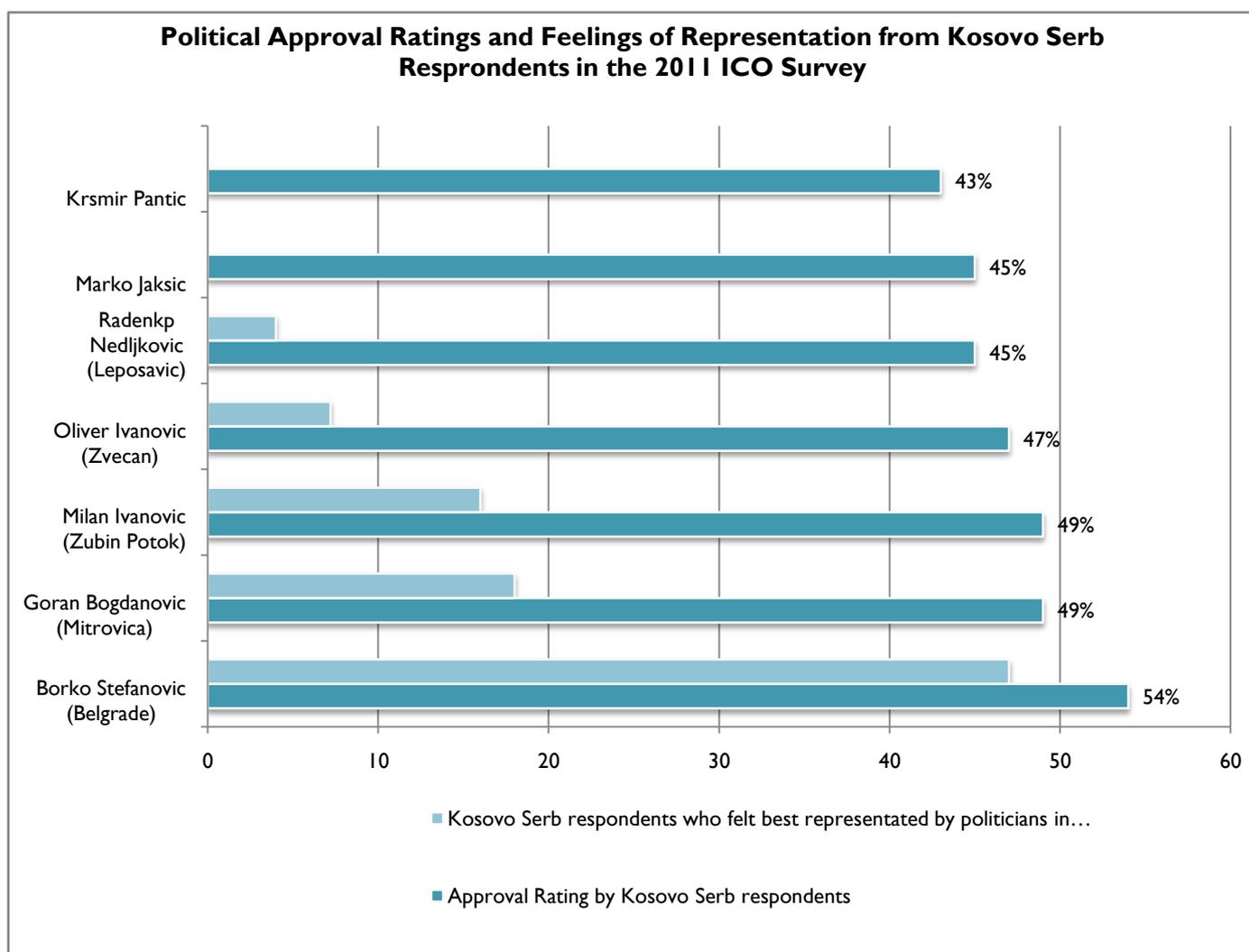


This graph, built with data provided by a 2011 ICO Survey,⁴⁰ shows that northern Kosovo Serbs were not only maintaining and supporting the northern barricades and checkpoints due to pressure from parallel structures. While 20 percent of the sampled northern Kosovo Serbs who attended the roadblocks reported attending due to external pressures, 59 percent attended due to either support for their communities or belief in the cause. This data reveals that in order to combat the interests of northern Kosovo Serbs that are prompting their attendance and

³⁹ NATO CHANNEL. TV. (11 December 2011). “Kosovo Tests Freedom of Movement.” Retrieved from http://www.nato.int/cps/en/natolive/topics_48818.htm

⁴⁰ ICO Opinion Poll. (September 2011). “Roadblocks and Reciprocity.”

reinforcement of barricades (now, *the* barricade) and checkpoints, KFOR, EULEX and the Government of Kosovo must pursue a two-tiered strategy. On one hand, KFOR, EULEX and Kosovo authorities must combat the parallel structures and the authority of the parallel structures that are influencing and coercing northern citizens to reinforce roadblocks and prevent/deter KFOR, EULEX, and Kosovo authorities from moving freely throughout the north. On the other hand, KFOR, EULEX and Kosovo authorities must pursue a strategy of public diplomacy and real-results that prompts northern Kosovo Serbs to shift their allegiance or at least not to work against international and Kosovo authorities. Combating the parallel structures will be difficult. Kosovo Serbs in the north show greater approval for and feel better represented by politicians with a link to Belgrade over municipal/local or Kosovo politicians, as shown below in a chart built with data from a September 2011 ICO Survey.⁴¹



⁴¹ Ibid.

While the ICO Survey clearly shows that northern Kosovo Serbs feel better represented by the Government of Serbia over the Government of Kosovo,⁴² this chart reveals that northern Kosovo Serbs approve of and feel more represented by Belgrade politicians rather than local/municipal leaders, leaving little space for KFOR, EULEX, or the Government of Kosovo to affect change or influence northern Kosovo Serbs via local municipal leaders. Moreover, this reveals that Serbian-based political parties in the south of Kosovo have been unsuccessful at providing quality representation for Serbs in the north. A look at taxpaying among northern Kosovo Serbs makes further manifest the allegiance of northern Kosovo Serbs to Belgrade and the parallel structures. Only 26 percent of Kosovo Serbs in the north reported paying taxes.⁴³ Of this 26 percent, 63 percent paid taxes to Serbia while only 25 percent paid taxes to Kosovo.⁴⁴ This tax spread reveals that they parallel structures attracted the majority of tax revenue from northern Kosovo Serbs, while the Government of Kosovo maintained very little authority or influence among northern Kosovo Serbs. Belgrade still carried more authority in comparison with local/municipal structures, wherein (if given a choice) 75 percent of Kosovo Serb respondents said that they would prefer to pay taxes to Serbia while only 22 percent would prefer to pay taxes to Mitrovica.⁴⁵

As such, it will be important for the EU to place pressure on Belgrade to eliminate the parallel structures in the north and allow EULEX to move freely as a mechanism for improving the security situation in the north. This should be a stated benchmark for Serbia's accession talks and a priority item for the Dialogue that is expected to resume in the late fall of 2012. After all, 80 percent of polled Kosovo Serbs reported that they had confidence that the EU would find a durable and just solution for Kosovo and 64 reported that they say the EU as a 'neutral actor'.⁴⁶ While both the EU and EULEX support development in Kosovo and Serbia respectively, EU facilitation of the Dialogue and EULEX's role in enhancing rule of law in Northern Kosovo and supporting border control and customs at the border between Kosovo and Serbia require neutrality. It is critical to remember that while the EU and EULEX take a pervasive administrative and governing role in Kosovo, their position in the dialogue and intern-ethnic issues is neutral and, according to their mandate, should not favor Kosovo over Serbia or Kosovo Albanians over Kosovo Serbs.

While it will be difficult for Kosovo authorities, KFOR, or EULEX to influence those Kosovo Serbs who deter EULEX and Kosovo Authorities' freedom of movement due to pressure from parallel institutions (without the compliance of the parallel institutions or Belgrade themselves), rather KFOR, EULEX, and the Government of Kosovo must ensure that those northern Kosovo Serbs who were attending roadblocks due to support for the cause, support for their community, or curiosity no longer deter the freedom of movement of these authorities, see increasing tangible benefits from the Kosovo Government's presence in the north, and are convinced of the rule-of-law benefits that would result from KFOR, EULEX, and Police being able to efficiently move freely and combat crime throughout the north and along the northern border. While combating the influence of parallel structures requires help from the EU (in putting pressure on the Government of Serbia to dismantle parallel structures), KFOR, EULEX, and the Government of Kosovo should target those northern Kosovo Serbs who were attending roadblocks due to support for the cause, support for their community, or curiosity; if this group (who did not note

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

influence/coercion by Belgrade as a reason for attending the barricades) perceives reforms and developments led by the Government of Kosovo, KFOR, or EULEX to benefit their community, their will to deter these authorities from carrying out their function in the north of Kosovo is most likely to wane as compared to those who are influenced and coerced by parallel institutions.

It is clear that the majority of those living in the north do not feel taken care of by the Kosovo Government. If the Government of Kosovo, in collaboration with the Administrative Office in the north, were to attempt to win over the hearts and minds of those living in the north, or at least appease them to the extent that they would allow Kosovo and international authorities to move freely, they should start with the issues that are most important to those living in the north of Kosovo. If the Government of Kosovo, KFOR, EULEX, and the Administrative can make certain achievements regarding the issues that are of the highest importance to those living in the north, these authorities may be able to engender increased trust and willingness to comply with the initiatives of Kosovo and international authorities among Kosovar Serbs living in the north. According to respondents in the 2011 ICO Survey,⁴⁷ the three most important issues for Mitrovica are first, Jobs (50 %), second a better water supply (36%), and thirdly the arrest of criminals (25 %).⁴⁸ In regards to public services, Kosovo Serb respondents identified water (66 %) as the first public service that should be addressed and Police (32 %) as the second.⁴⁹ As such, it is clear that to truly meet the needs of those living in the north, the Government of Kosovo in conjunction with KFOR and EULEX must attempt to improve the number of jobs, the water supply, rule of law, the arrest of criminals and Police services in the north of Kosovo.

The Administrative Office in the north in coordination with the Government of Kosovo should focus on achieving noticeable results regarding the water supply over the course of the next year and should pursue a strategy to seek foreign investment while employing northern citizens to construct the infrastructure and ensure that services are met. In regards to the arrest of criminals and improved policing in the north, the Government of Kosovo in conjunction with EULEX and KFOR must pursue a public diplomacy strategy that propagates and disseminates the perception that the arrest of criminals and improved policing is largely reliant on the ability of EULEX and Kosovo Police to move freely throughout the north and fulfill their rule-of-law function and on the elimination of alternative illegal routes across the northern border and the remaining barricade.

2. Border Points: Key Challenges for Kosovo's Security Policy in the North

The barricades and blockades in the North of Kosovo largely stemmed from dissatisfaction and competition over Kosovo's northern border and the authorities that control the crossing points along the border between Kosovo and Serbia. Originally, the barricades that prevented freedom of movement for many since the summer of 2011 were erected by northern Kosovo Serbs with support from Belgrade and parallel structures to prevent Kosovo customs officials and EULEX from reaching the border crossings along Kosovo's northern border with Serbia. While the barricades originated out of a reaction by northern Kosovo Serbs (prompted by Belgrade) to Kosovo's enforcement of a reciprocity-based embargo on Serbian goods and the Customs and IBM Agreements facilitated by the EU, the barricades themselves – while a reaction to confusion

⁴⁷ Ibid.

⁴⁸ ICO Opinion Poll. (September 2011). "Roadblocks and Reciprocity."

⁴⁹ Ibid.

and competition for control over Kosovo's northern border with Serbia – quickly garnered much publicity and overshadowed border issues as the centerpiece in the discussion on freedom of movement in the north of Kosovo. However, it is critical to note that the barricades were a Belgrade-supported reaction to Kosovo's (EU-facilitated) attempt to regain some control and authority over their northern border; and while the barricades (bar one) have come and gone since the crisis at the border that began in July 2011, border control and the implementation of previous EU-facilitated agreements remains as the premiere challenge for stakeholder wanting to ensure freedom of movement in the north of Kosovo.

There are three key challenges in providing for the successful administration of Kosovo's northern border – border demarcation, border control, and the transport of EULEX, Kosovo Police and Customs officials to and from the northern border.

A. Demarcation

The Governmental Commission of Demarcation is working on the eventual demarcation of the border with Serbia. While no part of Kosovo's northern border with Serbia has been demarcated, it is important that the demarcation process begins in the near future, as an indicator of Kosovo's long-term sovereignty over their entire territory and as a mechanism to close alternative 'illegal' routes that cross Kosovo's northern border into Serbia. The Government of Kosovo has asserted that the 'lack of normal relations and border demarcation between Kosovo and Serbia is a major impediment to stability, security and prosperity throughout the Balkans'.⁵⁰ On the 18th of August, the Government of Kosovo announced long-awaited plans to begin strategizing the demarcation process of the borders with Montenegro, first, and Serbia, later on.⁵¹ It was be foolish not to expect serious complications involved with demarcating Kosovo's northern border with Serbia. Border demarcation should be a priority issue for Kosovo and Serbia when the EU-facilitated dialogue resumes. However, it is unlikely that an agreement will be easily negotiated, as Serbia continues to claim the Kosovo's northern border with Serbia is in fact a 'boundary' or mere 'checkpoint' and is not representative of *national* borders; as such, the EU may need to place pressure on both parties to negotiate a timely agreement. If the issue of border demarcation makes it onto the Dialogue table, which is necessary and expected, there are a number of potential outcomes – a) a timely agreement is negotiated and implemented b) an agreement is negotiated but complications inhibit implementation/cause further tension in the north c) an agreement cannot be negotiated. If an agreement cannot be negotiated, then Kosovo should unilaterally begin the process of demarcating the border with Serbia. A number of complications will likely arise from this scenario. Unilateral attempts to demarcate the border would almost certainly ignite tensions between northern Kosovo. If Kosovo ultimately does pursue a unilateral strategy for border demarcation with Serbia, the Government of Kosovo and authorities in the north (including EULEX and KFOR) should expect repercussions that could include erecting new barricades and roadblocks to prevent authorities from reaching the northern border, successfully demarcating the northern border, and eliminating alternative routes that are heavily used by the parallel structures and criminal groups in the north.

⁵⁰ Voice of America. Freund, Larry. (21 August 2012). "UN Urges Serbia-Kosovo Talks." Retrieved from <http://www.voanews.com/content/un-urges-serbia-kosovo-talks/1492544.html>

⁵¹ International Crisis Group. "Crisis Watch Database." Retrieved from <http://www.crisisgroup.org/en/publication-type/crisiswatch/crisiswatch-database.aspx?CountryIDs=%7BE549D816-1DF9-4BC0-B890-0F3A2B62FD1B%7D>

Rather, the diplomatic facilitation of an agreement between Serbia and Kosovo would be a preferred alternative to a unilateral attempt to demarcate Kosovo's northern border with Serbia. The Government of Kosovo should communicate border demarcation as a top priority – particularly as this falls in line with the EU's mission and objectives for an improved security situation in the north of Kosovo. According to Serbian media outlets,⁵² Germany has made it clear to Belgrade that the removal of structures from the north remains a key condition for opening accession talks with the European Commission. The EU must highlight border demarcation and the elimination of alternative routes across the northern border (which currently facilitates the illegal movement of criminal groups and arms from Serbia into Kosovo and vice versa) as priority benchmarks for an improved security situation in the north. This approach will place increased pressure on Serbia to accept a border demarcation agreement facilitated by the EU, as a necessary requirement for accession talks. Unfortunately however, according to Kosovo's Minister of Internal Affairs, there is no readiness of Serbia for border demarcation; as expected given Serbia's unwillingness to accept the border as a state border, a deal likely will not start soon.⁵³ Moreover, many states in the region have not embarked on formal border demarcation, placing Kosovo (in their efforts to physically demarcate their border with Montenegro and Serbia) in advance of many other states in the region.⁵⁴

If an agreement can be facilitated during the Dialogue that prompts the timely demarcation of the northern border, this will go a long way for ensuring that all parties must use official crossings and for eliminating illegal traffic and trafficking across the northern border. However, to truly halt the illegal traffic across the border that sustains criminal groups in the north and eliminates the possibility of eradicating crime and ensuring security in the north, the EU should provide financial investment and equip border controls with state of the art technology in order to develop a system of 24-hour surveillance and control over the entire border line between Kosovo and Serbia. While a system of increased surveillance over an entire border line is not illustrative of EU norms, Serbia and Kosovo must achieve full border control before adopting a more European relaxed border regime down the road. While both Serbia and Kosovo look towards EU integration and accession, which in the long-term would mean visa free travel and a less rigid concept of borders and system of border control, in regards to the current border situation between Kosovo and Serbia, they must take one step in the other direction before taking the many steps towards European integration and the adoption of their border system. Somewhat paradoxically, Kosovo and Serbia must fully implement integrated border management and gain full control over their entire shared border in order to maintain and gain visa-free travel in the European Union and to continue on the path towards European integration. In the absence of border demarcation, both Kosovo, Serbian, and EU officials should pursue a comprehensive strategy for border monitoring and patrol that allows these parties to reassume control over the northern border, eliminate illegal trafficking across the northern border, and place both Serbia and Kosovo on back on track for long-term, stable visa-free travel throughout Europe.

⁵² Balkan Insight. (14 September 2012). "Serbia Resists German Pressure Over Kosovo." Retrieved from <http://www.balkaninsight.com/en/article/serbia-dubs-german-conditions-on-kosovo-impossible>

⁵³ Rexhepi, Bajram. Personal communication. (3 October 2012).

⁵⁴ Ibid.

B. Border Control

The situation over Kosovo's northern border with Serbia has been particularly problematic. The security situation in northern Kosovo deteriorated in July 2011 due to a customs dispute.⁵⁵ A failure to negotiate a Customs Agreement in July 2011 prompted Kosovo to adopt swift reciprocity measures involving an embargo on imports from Serbia. Because EULEX manned the borders with little control and limited ability to enforce the embargo, allowing Serbia to challenge Kosovo's decision and transport goods into Kosovo via the 'fragile' and 'porous' EULEX-guarded northern borders, Kosovo sent special units of Kosovo Police to regain control over border points 1 and 31 and to enforce the embargo.⁵⁶ This action led Kosovo Serbs to violently retaliate and halted all transport of goods and people across the northern border; northern Kosovo Serbs blocked roads leading to the border crossings, fired upon the border points, pushing Kosovo Police to retreat southward and KFOR to take greater control over the two border points.⁵⁷ KFOR's assistance and control over the northern border during July 2011 delegitimized the control of EULEX and Kosovo customs as viable authorities over the northern border. The border troubles in the north during the summer of 2011 garnered massive media and public attention further politicizing the issue of border control in the north and the north of Kosovo itself. This attention and politicization has resulted in stagnation and gridlock regarding the northern issue, and has made it difficult for the EU to influence either side (Belgrade or Pristina) due to the attention and expectations of their relative publics. Furthermore, the inability of the EU to produce a timely customs agreement and influence the timely removal of barricades and effective functioning of the northern borders undermined the EU's perceived legitimacy as an effective and efficient mediator. While in early summer 2011, the situation in the north was fragile but manageable, the Belgrade's unwillingness and the EU's inability to foster a Customs Agreement by July 2011, the unilateral reaction by Kosovo, and the secondary reaction by Belgrade-supported northern Kosovo Serbs negatively transformed a relatively manageable situation into a completely unstable and unmanageable situation. When the EU finally succeeded in producing a Customs Agreement on 2 September 2011 that would enable trade and movement via the northern border, northern Kosovo Serbs again reacted to the presence of Kosovo customs officials and Police at the northern border by barricading major roads and bridges on September 16th with Belgrade's support. Kosovo customs and Police, EULEX and KFOR lost control of the north and were forced to access border points 1 and 31 by helicopter. The situation in the north resulting from the implementation of the September Customs agreement reflected poorly on both the Kosovo and Serbian governments. Kosovo lost all visible authority in the north, while the EU faced heavy criticism. Finally, on 2 December 2011, the EU facilitated the IBM Agreement (integrated border management) which ordered one border point between the two territories that would be manned by one official from the EU, one Serbian official, and one Kosovar official. However, this agreement provided too little, too late. President Tadic's call in later November to remove the barricades, furthered by the facilitation of the retroactive IBM Agreement did prompt the northern communities to remove the barricades at the border points 1 and 31 on December 5. Many barricades remained in place, allowing few

⁵⁵ NATO. "NATO's role in Kosovo." Retrieved from http://www.nato.int/cps/en/natolive/topics_48818.htm

⁵⁶ Tahiri, Edita. Personal interview. 6 January 2012.

⁵⁷ Szpala, Marta. (10 August 2011). "Tension on the Serbia-Kosovo border escalates: the crisis has been resolved the problem is still present." OSW Centre for Eastern Studies. Retrieved from <http://www.osw.waw.pl/en/publikacje/ceweekly/2011-08-10/tension-serbiakosovo-border-escalates-crisis-has-been-resolved-proble>.

opportunities for movement throughout the north or rule of law enforcement and providing a space where the parallel Serb-owned institutions, schools, businesses could function unchecked and fortify their foundations in the north. The fortification of parallel structures during this time fueled the divisions between Kosovo Serbs as to whether aligning with Kosovo institutions would be an issue of national loyalty and made the situation in the north and over the borders increasingly unmanageable.

Clearly, many of the problems that now plague the north can be traced back to and directly attributed to the conflict over the northern border that occurred in the summer of 2011. Contention regarding the placement of Kosovo customs and Police at the northern border halted border traffic and limited the freedom of movement across the northern borders, while also inciting the establishment of barricades that also inhibited movement throughout the north. The contention over border control was heavily publicized and garnered extreme levels of public and political attention, further politicizing the issues of border control and freedom of movement in the north (and making it for both sides to negotiate at the Dialogue table). EULEX's and Kosovo's authority and control over the northern border remained weak (and challenging due to their inability to travel freely to and from the northern borders), leaving the northern border 'fragile' and 'porous' as it had been before the Agreements were facilitated.

While the barricades (except for one that remains on the Iber Bridge) have been dismantled, Kosovo Serbs in the north maintain 'checkpoints' and occasional violence against EULEX and Kosovo customs that deter these authorities from moving freely to and from the northern border and which challenge the authority of international and Kosovo authorities at the northern border crossings. This has prevented EULEX and Kosovo authorities from not only realizing full control over the 'official' northern border crossings but also from limiting movement along the alternative and illegal routes that cross the northern border. Clearly, the northern border remains a delicate issue, and Kosovo's Interior Ministry has made it a priority for 2012 to strengthen the border control at border points 1 and 31 (Jarinje and Brnjak) and to intensify joint patrols with KFOR.⁵⁸ (However, KFOR's unwillingness to remove the barricades which has been called for by the Government of Kosovo suggests that KFOR strategy and policy differentiates from that of Pristina; as such, the Government of Kosovo's intention to strengthen joint patrols with KFOR is likely not shared with KFOR itself, suggesting that this intention is largely unrealistic and unilateral.) Violent clashes and confrontation between northern Kosovo Serbs and international troops and Kosovo Customs officials at the border have occurred since the IMB agreement was finalized last December. Even after many of the barricades were dismantled by summer 2012, violence continued to plague Kosovo's border control; even as recently as 19 June 2012, 2 grenades were thrown at the Brnjak crossing barracks, making border control a risky and continually contentious business.⁵⁹

Gaining control over the northern border should indeed become a top priority as part of Kosovo's security strategy and comprehensive agenda for the north. Border control is important for eliminating alternative 'illegal' routes between Serbia and Kosovo that support the parallel structures and criminal groups in the north, for ensuring Kosovo's territorial sovereignty, and for legitimizing and strengthening the authority and control of Kosovo authorities and EULEX in the

⁵⁸ Southeast European Times. Karadaku, Linda. (23 August 2012). "Kosovo seeks firm borders with Montenegro, Serbia." Retrieved from http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2012/08/23/feature-01

⁵⁹ International Crisis Group. "Crisis Watch Database." <http://www.crisisgroup.org/en/publication-type/crisiswatch/crisiswatch-database.aspx?CountryIDs=%7BE549D816-1DF9-4BC0-B890-0F3A2B62FD1B%7D>.

north of Kosovo. Moreover, border control is an important benchmark for visa liberalization for Kosovo⁶⁰ and (within the context of improving the security situation in the north) an important benchmark for accession talks for Serbia. Lastly, the EU has put pressure on the Government in Belgrade to implement previous agreements, particularly the IBM (Integrated Border Management) agreement. According to the EU press release after the December 2011 meeting of the Dialogue, the parties (Serbia and Kosovo) “will gradually set up the joint, integrated, single and secure posts at all their common crossings points...The IBM concept will be gradually implemented as soon as practically possible”.⁶¹

On the 25th of September, Oliver Ivanovic, former state secretary at the Ministry of Kosovo, pointed out that one major ramification that was needed to make IBM implementable is for EULEX officers to be deployed permanently at the Jarinje and Brnjak gates.⁶² He argued that at this point in time, the IBM agreement between Pristina and Belgrade is hardly enforceable.⁶³ However, contrary to the statement of Mr. Ivanovic, statements from Belgrade suggested that the implementation of the IBM agreement is set to begin soon (or, rather, discussions with the EU that may prepare Serbia for full implementation of the IBM agreement is set to begin soon). On 26 September 2012, Belgrade team head Dejan Pavićević said that the implementation of the IBM agreement would begin in about two weeks.⁶⁴ He also acknowledged that Belgrade’s goal is to ensure, and clearly define in the Dialogue, that EULEX has an executive role, performs all customs procedures, and is present at all administrative crossings.⁶⁵

However, on December 4, 2012, Prime Minister Thaqi and Dacic agreed to implement the IBM accord.⁶⁶ Following that, on 10 December 2012 both Kosovo and Serbia started to implement the IBM in both border crossings. As a result, both Kosovo and Serbian police and custom officers started to work on a single border point in separate stations located only few meters away from each other, with EULEX supervising the implementation of the agreement. However, the implementation of the IBM agreement was associated with disputes as to the application of customs taxes over the goods intended for the northern Kosovo territories. On the one hand, Serbian government argued that in the dialogue they reached an agreement that custom-related duties would not be paid for goods up to 3.5 tons intended for the northern municipalities. On the other hand, however, Kosovo Government acknowledged that all the incoming goods from Serbia need to pay the respective custom duty (according to the CEFTA Agreement), and that they extended a temporary consent only to Serbs living in the north to enter to Kosovo duty-free goods up to 3.5 tons until 10th of January, 2013.

The disputes over the custom duties have of course inflicted a number of protests by Serbs living in the north mainly supported by the businesses and parallel structures that utilized the lack of control in both border crossings for their personal benefit.

⁶⁰ For more see: European Commission, 2012, Roadmap on Visa Liberalization with Kosovo, available at: http://www.mei-ks.net/repository/docs/Kosovo_visa_roadmap_FINAL.pdf

⁶¹ Council of the European Union. (2 December 2011). “EU facilitated dialogue: Agreement on IBM.” Press 473.

⁶² Tanjug. (25 September 2012). “Agreement on crossings hardly enforceable.” Retrieved from <http://www.tanjug.rs/news/60446/agreement-on-crossings-hardly-enforceable.htm>.

⁶³ Ibid.

⁶⁴ B92. (27 September 2012). “IBM agreement to be implemented in two weeks.” Retrieved from http://www.b92.net/eng/news/politics-article.php?yyyy=2012&mm=09&dd=27&nav_id=82376

⁶⁵ Ibid.

⁶⁶ Balkan Insight, ‘Kosovo, Serbia Put Border Deal in Action: Belgrade and Pristina have started implementing the Integrated Border Management, IBM, agreement at two crossing points on Monday morning’. Edona Peci and Bojana Barlovac, 10 December 2012, retrieved from: <http://www.balkaninsight.com/en/article/kosovo-serbia-put-border-deal-in-action>

3. Restricted Routes and Leftover License Plates

A. Closing alternative routes

Many ‘illegal’ and alternative routes remain leading from the north of Kosovo into Serbia. First and foremost, these illegal routes allow for massive amounts of smuggling that hurt the government’s budget and the economy of both Serbia and Kosovo, giving both a reason to close these alternative routes, provide additional security and enforcement along the border, and eliminate the economic losses that are currently a result of smuggling and inadequate control over the border (or ‘boundary’ as according to Serbian officials). A new-age of smuggling between these two states began in 2005 when Serbia passed a decree on the application of the Law on VAT in the territory of Kosovo. This law was intended to serve as assistance to Serbs who live in Kosovo because goods would cost less in stores and be more competitive in the market.⁶⁷ However, a six-month investigation by Insajder journalists revealed that the state’s decision lacked adequate control; goods were leaving Kosovo only on paper to appear again in Serbian markets, or goods were travelling via ‘gray channels’ to end up in the southern Albanian part of Kosovo.⁶⁸ The control on trucks and tank trucks was minimal and implemented poorly. After receiving a certificate for the goods from the Serb side of the administrative crossing, which is needed for Serbian exporters to be reimbursed for the VAT duty, many alternative routes off of the main road allowed (and to a lesser extent still allow) trucks to double-back into Serbia or enter northern Kosovo without having to register at the EULEX checkpoint.⁶⁹ Even while EULEX checkpoints, just a few kilometers from the Serbian customs crossing, halted many trucks (and subsequently issued a double invoice) and directed these vehicles to the Kosovo Customs terminal, many alternative routes led off of the main road between the EULEX checkpoint and the official Kosovo Customs terminal, allowing trucks transporting goods (VAT free) from Serbia to pass into northern Kosovo via alternative roads without passing Kosovo Customs (and paying the appropriate tax).⁷⁰ This left two types of ‘illegal’ or black market goods on the market: those that travelled back into Serbia (although they had been excused of VAT duty for purportedly going to Kosovo) and those that did reach northern Kosovo but had avoided Kosovo customs and not paid taxes to Kosovo to the export of these goods.⁷¹ Some of these black market goods that crossed into northern Kosovo (paying no taxes due to the elimination of the Serbian VAT tax for goods intended for northern Kosovo and the avoidance of the Kosovo Customs tax by travelling via alternative routes) would cross to the south without control, where they were then sold to Kosovar Albanians in the south.⁷²

According to Minister of Internal Affairs Bajram Rexhepi, most often these tales of profitable smuggling involve oil and derivatives, while other cases involve light and medium-sized arms, drugs and alcohol, and also perishable goods.⁷³ This is a very profitable business for those involved because they do not need to pay the Serbian VAT tax while, for the same good, find ways to evade Kosovo customs taxes, and in many cases cooperate with black market traders in the

⁶⁷ B92. (25 September 2012). “Insider: Mechanisms of ‘patriotic pillage.’” Retrieved from http://www.b92.net/eng/insight/tvshows.php?yyyy=2012&mm=09&nav_id=82355

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Rexhepi, Bajram. Personal communication. (3 October 2012).

south of Kosovo.⁷⁴ The Insajder team found that “double amounts of fuel per capita, compared to what is sold in Serbia, were delivered to northern Kosovo”.⁷⁵ Since 2005, when the VAT duty was abolished for the transport of goods to northern Kosovo, 40 gas stations were opened in northern Kosovo. Moreover, more than 1,000 companies have been registered in Kosovo since the abolishment of the VAT duty in 2005, many of which are “fictitious firms with the same owner who imported and exported goods”.⁷⁶ While “most oil in the first few years after the VAT duty was abolished was delivered to big companies, to have completely unknown companies appear only in the past years, that have one or two employees. All these companies, based on the trade with Kosovo, recorded turnovers worth millions of euros”.⁷⁷ Over the course of 6 years (from 2005 to 2011), the difference in the value of goods transported out of Serbia (two billion euros worth) and into Kosovo was over 600 million euros.⁷⁸ This Insajder investigation reveals that the governments of both sides lost money and credibility by allowing these alternative routes across the border to be used by transporters and traffickers who made enormous profits at the expense of the people and the Governments. Moreover the results of the investigate may shed light on why northern Serbs were paid to attend the barricades, and the purpose that the barricades held in supporting the smugglers and trafficking: a) the barricades preventing Kosovo Police and EULEX (the two rule of law officials in the north) from reaching many of the alternative routes that were used by smugglers; b) the barricades drew the focus of KFOR, EULEX, and Kosovo Police to certain territories, allowing smugglers to use alternative routes without the attention of the Kosovo and international authorities. As such, it is critical to illustrate both the political pressures and the economic pressures that aim to confuse and inhibit movement in the north of Kosovo. In a political context, Belgrade continues to support the parallel structures and the barricades and rallying points (via influence over northern Kosovo Serbs) which inhibit freedom of movement, rule of law, and the authority of the Government of Kosovo in the north. In an economic context, smugglers, traffickers and organized crime networks involving beneficiaries from both sides act in their monetary self-interest to prevent the freedom of movement of international and Kosovo forces, to complicate border and customs control, and to maintain alternative ‘illegal’ routes across Kosovo’s northern border with Serbia.

While KFOR has begun to close some of these ‘illegal’ roads, pushing locals to use the official crossings manned by EULEX and Kosovo customs agents, the routes remain heavily used by criminal groups and parallel structures. KFOR began closing down alternative ‘illegal’ roads and routes in early summer 2012. This was met with some contention, with representatives of Kosovo Serbs in the north meeting with KFOR officials to demand the restoration of these roads and compensation for damage that was caused while digging up these alternative pathways used to enter Serbia.⁷⁹ These routes remain heavily used by criminal groups and Serbian parallel structures. Closing these routes will seriously challenge the maintenance and existence of Serbian parallel institutions and ‘illegal’ groups and transport in the north of Kosovo. As such, the Government of Kosovo and KFOR should increasingly focus on creating strategies to close these

⁷⁴ Ibid.

⁷⁵ B92. (25 September 2012). “Insider: Mechanisms of ‘patriotic pillage’.” Retrieved from http://www.b92.net/eng/insight/tvshows.php?yyyy=2012&mm=09&nav_id=82355

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Balkan Insight. Aliu, Fatmir. (19 June 2012). “Attack on NATO Forces in North Kosovo Condemned.” Retrieved from <http://www.balkaninsight.com/en/article/nato-peacekeepers-injured-in-kosovo>

alternative routes that do not provoke escalation of conflict or re-enforcement of the barricades and blockades in the north of Kosovo.

As Kosovo makes strides towards visa-liberalization and Serbia hopes for accession talks, these illegal routes stand in the way as a major roadblock for the hopes of Kosovo and Serbia in regards to their EU aspirations. Already, these alternative routes crossing Kosovo's northern border with Serbia threaten the EU's security strategy as Serbia has already been granted visa-free travel throughout the European Union. The maintenance of these alternative illegal routes for trafficking goods and people threatens not only the EU's security strategy for the region but also the potential for expanding visa-liberalization throughout the region. As such, the EU must focus on closing these alternative illegal routes and border control as top priorities for the Dialogue led by Prime Minister Thaqi. The EU should also make it an explicit condition for Serbian accession talks for Serbia to fully block from their side any form of illegal route across the border with Kosovo.

The Minister of Internal Affairs for Kosovo, Bajram Rexhepi, argues that KFOR must be decisive in closing alternative routes across the border and that this is a main responsibility of KFOR.⁸⁰ However, authorities from KFOR, argue that, since KFOR's mandate does not extend to border control per se but rather ensuring a secure environment for the northern Kosovo, their function in relation to the alternative routes only extends to establishing security zones which, as a side effect, may inhibit traffic along alternative routes and inhibit high levels of smuggling and traffic among these routes that cross the northern border.⁸¹

However, while KFOR argues that their direct objectives would not include closing alternative routes unless they received a mandate from NATO, their actions in the past month suggest that inhibiting traffic along these alternative routes is a well-considered side effect when establishing their security zones. In mid-June KFOR successfully completed an operation to physically close the bypass DOG 16 in the vicinity of BRNJAK, preventing unauthorized movement across the border.⁸² This operation, maintains the *KFOR Chronicle* in line with their traditional rhetoric, was carried out to "permit KFOR troops to concentrate on the conduct of tasks central to their mission of contributing to a safe and secure environment".⁸³ The results, moreover, are indicative of underlying considerations regarding the closing of alternative routes. KFOR established checkpoints and secured a number of cordoned off areas "for safety reasons," that resulted in DOG 16, a road near the Brnjak crossing that was used heavily for the smuggling and trafficking of goods across the border, to be closed off and control by KFOR troops.⁸⁴ After the closure of DOG 16 resulted in a demonstration by protestors, KFOR focused their efforts on "engaging in dialogue with representatives of the local inhabitants...The unauthorized bypass made impassable, the reaction contained through dialogue, the operation was stood down".⁸⁵

In a similar situation in early August 2012, Polish KFOR troops set up a checkpoint near the administrative line in Tresava, leaving about a dozen trucks waiting to enter Kosovo. While passenger vehicles were allowed cross (as KFOR's mandate does not extend to any form of border control, only to ensuring a stable security environment), trucks were redirected to the

⁸⁰ Rexhepi, Bajram. Personal communication. (3 October 2012).

⁸¹ KFOR officials. Personal communication. October 2012.

⁸² Loshaj, V. (June 2012). "Brnjak Bypass Blocked." *KFOR Chronicle*.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid.

official Jarinjje crossing. Serbs who refuse to use the Jarinjje crossing imply that they do not want to pay customs duties to Kosovo.⁸⁶

While KFOR's mandate does not extend to border control or the direct objective of closing alternative routes, the closing of routes that allow for high levels of trafficking and smuggling across the northern border has been a highly convenient 'side-effect' of KFOR's establishing these security zones. Leposavic Municipal Council member Zoran Milojevic told Tanjug that he believes KFOR has exceeded its mandate and taken over the role of the Police and that "instead of trying to secure the freedom of movement, the mission is doing exactly the opposite".⁸⁷In response to Milojevic's claims, first, freedom of movement does not include the unregulated and illegal transport of goods across borders (in order to evade taxes and customs). This has been clearly stated by KFOR. Second, the checkpoints, while as a side effect, halt traffic and curb high levels of smuggling along these illegal routes, are very much intended to secure high-risk areas with high levels of criminality. KFOR is not destroying or eliminating alternative, illegal routes, which may fall under the mandate of EULEX, but rather KFOR is securing areas such as Trevasa and the zone between Raska across Vucijarupa to Leposavic.⁸⁸

While Kosovo could attempt to prompt NATO to include the closing of alternative routes in KFOR's mandate, this would likely prompt animosity and distrust against KFOR by northern citizens. As KFOR remains as the international "stronghold" in the north, gaining trust and compliance from northern citizens, this would likely not be a wise decision. Rather, the Government of Kosovo would be wise to allow KFOR to cordon off their security zones (with the side-effect of closing alternative routes) while fighting hard to enhance the effectiveness of the EU facilitated 'implementation groups' that intend to address the implementation of the IBM agreement and to establish mechanisms, as part of these discussions, to address the alternative routes and illegal smuggling and trafficking that is detracting from both states budgets and economies.

Although, as it stands, KFOR should build upon their partnership with EULEX to ensure that EULEX maintains control over these alternative routes to prevent smuggling and trafficking once KFOR opens their security zones. However, KFOR acting along and simply closing roads temporarily seems an ineffective strategy and viable only in the short-term. Every week the illegal groups open new routes across the border in the interest of smugglers, according to Minister Rexhepi.⁸⁹ However, it would be unwise for the Government of Kosovo to attempt to close these routes unilaterally. According to Minister Rexhepi, of Kosovo's Ministry for Internal Affairs, the Kosovo Police could not be successful in closing these alternative routes; if they attempted, this would require the use of special units, which would likely incite violence.⁹⁰ Therefore, there is an indispensable need for a rule of law authority to indict those violating the border control laws and trafficking goods, illegal substances and arms.

⁸⁶ B92. (8 August 2012). "KFOR troops block alternative road in north." Retrieved from http://www.b92.net/eng/news/politics-article.php?yyyy=2012&mm=08&dd=08&nav_id=81674

⁸⁷ B92. (8 August 2012). "KFOR troops block alternative road in north." Retrieved from http://www.b92.net/eng/news/politics-article.php?yyyy=2012&mm=08&dd=08&nav_id=81674

⁸⁸ Ibid.

⁸⁹ Rexhepi, Bajram. Personal communication. (3 October 2012).

⁹⁰ Ibid.

B. Civilian Travel: Vehicles and License plates

The second agreement facilitated during the Dialogue concerned freedom of movement, providing for persons to travel across the border on the basis of ID cards and addressing car insurance and vehicle license plates.⁹¹ This agreement provided for those living in Serbia to travel in Kosovo with Serbian license plates and those living in Kosovo to travel in Serbia with KS license plates, with the requirement of vehicle registration and purchasing insurance at the crossings. Kosovars with RKS license plates could also register their vehicles and purchase insurance at the border, but are given a temporary license plate to use instead of their RKS license plate.

While this agreement was facilitated in early 2011, full implementation has not yet taken place, particularly in the north of Kosovo where complications remain. Many Serbs in the north continue to use Serbian-issued license plates for the Kosovo municipalities in the north. According to politicians from Belgrade, such as Boris Stefanovic, the freedom of movement agreement does not force Serbs in the northern Kosovo to use Kosovo plates.⁹² Stefanovic argued that “during the negotiating process, we were clear that this regulation cannot refer to north Kosovo due to its specific characteristics, it only comprises Serbs south of the Ibar River given that the situation in the north is different.”⁹³ He also pointed out that Serbs south of the Ibar River needed the right to use alternative status-neutral license plates labeled KS. However, the controversial statements by Belgrade politicians raise a moot point, in arguing that any citizens north or south of the Ibar River should have the right to use status-neutral KS plates. Kosovo citizens may use either KS or RKS license plates or even Serbian plates in cases (and pay an international insurance fee), but may not use Serbian plates issued for Kosovo municipalities. It appears that politicians from Belgrade are referencing the use of status-neutral KS versus RKS plates, both of which are allowed in Kosovo, as a mechanism to complicate and incite contention regarding EULEX’s and the Kosovo Interior Ministry’s decision to enforce the ban on the movement of vehicles in Kosovo that have Serbian license plates with initial letters of Kosovo towns.⁹⁴

EULEX Spokeswoman Irina Gudeljevic stated that the Belgrade-Pristina agreement covering freedom of movement does indeed apply to Kosovo’s entire territory; this agreement, contrary to what Stefanovic implied, clearly states that ‘all car owners with residence in Kosovo will use license plates with RKS or KS initials’,⁹⁵ but that the use of Serbian license plates for municipalities in Kosovo is not in line with the EU-facilitated agreement on vehicle registration and license plates that was facilitated in 2011. Until recently, this agreement was not seriously enforced, particularly in the north of Kosovo. But in early June 2012, both EULEX and the Kosovo Interior Ministry did make efforts to enforce the formerly unimplemented ban on Serbian license plates issued for municipalities that fall within Kosovo’s territory. As of 1 June 2012, the Ministry of Internal Affairs decided to ban the movement of vehicles in Kosovo that have license plates with initial letters of Kosovo towns, and subsequently EULEX began handing out flyers in early June 2012 to inform drivers in the north that they must have their vehicles registered with KS or

⁹¹ European Union Press Statement. (2 July 2011). Presse 225. “EU facilitated dialogue: three agreements.”

⁹² B92. (8 June 2012). “License plates agreement ‘does not apply to north.’” Retrieved from http://www.b92.net/eng/news/politics-article.php?yyyy=2012&mm=06&dd=08&nav_id=80654

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ B92. (8 June 2012). “EULEX: License plate deal applies to entire Kosovo.” Retrieved from http://www.b92.net/eng/news/politics-article.php?yyyy=2012&mm=06&dd=08&nav_id=80664

RKS license plates.⁹⁶ According to Minister Rexhepi, the deadline for issuing Kosovo drivers licenses in September 1.⁹⁷

EULEX intends to support the gradual implementation of this agreement in the north of Kosovo, which has met with serious contention from Belgrade. Serbian politicians argue that this agreement was made with the intent to exclude the north of Kosovo. However, the Agreement on freedom of movement includes that 'all car owners with residence in Kosovo will use license plates with RKS or KS initials' explained EU spokesperson.⁹⁸ EULEX must come up with an appropriate strategy for prosecuting or refusing freedom of movement to those with 'illegal' license plates when the time comes, and should allow for a lengthy 'warning period' as to not incite violence and retaliation from northern Kosovo Serbs. As the Dialogue resumes, the EU should correspondingly place pressure on Serbia to implement previous agreement regarding vehicle travel and license plates and should make Belgrade aware of their duty and the responsibility of parallel structures under their influence to cease the issuing and dissemination of Serbian plates whose letters correspond with Kosovo municipalities.

4. International Presence: Responsibility and Approach in the North of Kosovo

A. KFOR

Freedom of Movement one Barricade at a time NATO's Kosovo Force, KFOR, maintains over 5,000 troops who cooperate with other international actors to support the development of a stable and democratic state in Kosovo, with a focus on maintaining a safe and secure environment and freedom of movement for all citizens.⁹⁹

As such, KFOR is the critical international element through which freedom of movement should be ensured. In response to the deterioration of the security environment in northern Kosovo in July 2011, a NATO Operational Reserve Force was deployed in August with around 600 soldiers.¹⁰⁰ Amid the heightened tension in northern Kosovo, KFOR argues that it acted to create a stable environment, ensure freedom of movement and security.¹⁰¹ While many barricades continued to prevent the freedom of movement throughout the rest of 2011, agreements between KFOR and local mayors and calls from Serbian President Tadic to remove the barricades provided for KFOR's ability to move freely throughout the north of Kosovo by late December 2011.¹⁰²

Depending on the state of tensions in the north regarding the barricades, KFOR has taken alternating stances regarding their role in the removal of the roadblocks. Throughout late 2011, KFOR attempted to remove many of the barricades which met with increased tensions, violent clashes, and reinforcement by Kosovo Serb community members who rallied in protest to physically fortify the barricades. At that point in time, both KFOR and Kosovo Serbs in the north were pursuing a 'salami slicing strategy' where each side attempted to gain ground through a

⁹⁶ Ibid.

⁹⁷ Balkan Insight. (11 June 2012). "Kosovo to Ban Serbian Plates." Retrieved from <http://www.balkaninsight.com/en/article/kosovo-to-ban-serbian-plates>

⁹⁸ Ibid.

⁹⁹ NATO. "NATO's role in Kosovo." Retrieved from http://www.nato.int/cps/en/natolive/topics_48818.htm

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² NATO CHANNEL TV. (11 December 2011). "Kosovo Tests Freedom of Movement." Retrieved from http://www.nato.int/cps/en/natolive/topics_48818.htm

chain of minor actions, as KFOR dismantled barricades one-by-one when offered a strategic opening and northern Kosovo Serbs erected barricade one-by-one to gain ground or reclaim lost ground. After a couple months of stand-off in early 2012, KFOR again attempted to remove barricades in the spring and summer of 2012 which resulted in violent clashes with injured parties from both sides. However, KFOR General Erhard Drews took an alternative stance regarding the sole remaining barricades that stands over the Iber Bridge, separating Albanian communities in southern Mitrovica from the primarily Serbian communities in the northern part. In early August General Drews argued that the remaining barricade on the Iber Bridge is a shame and should be removed immediately, but that KFOR should not forcibly attempt to remove this barricade.

While on one hand, this strategy suggests that KFOR has shifted their strategic model from that of a military force into a diplomatic one; on the other hand, KFOR's diplomatic rhetoric is applied in cases where KFOR considers a barricade dismantlement or roadblock on an alternative road across the northern border to be nonstrategic and weigh poorly in a cost-benefit analysis. According to KFOR officials, KFOR does not maintain a strategic policy regarding the dismantlement of barricades. Rather, KFOR considers whether the placement and effects of a barricades are severely inhibiting for rule of law, freedom of movement, and normalization of life in the north; if the benefits of removing the barricade are great, KFOR pursues a strategy of dismantlement; where the benefits are small (and a barricade does not seriously inhibit freedom of movement, rule of law, and normalization of life in the north), KFOR opts not to use military force. As such, KFOR's diplomatic rhetoric at times may reveal their view that the dismantlement of a specific barricade would be nonstrategic in that the costs (increased tensions, political backlash, violence and risk to life) would be greater than the benefits of removal (particularly if the barricade is only slightly inhibiting and there are other opportune or parallel routes). For instance, General Drew's reasoning for refraining from the use of force to remove the remaining barricade on the Iber Bridge is that the barricade makes manifest "greatly important political symbolism" and that the beliefs behind this political symbol cannot be changed through the use of military force; in the past, he argued, "removal of political symbols by military means did not yield good results."¹⁰³ Thus, KFOR's policy regarding the remaining barricade is that "the removal of firm political symbols by military means is not good".¹⁰⁴ This adopted philosophy has been KFOR's response to pressures from Prishtina that urge KFOR to use force to remove the remaining barricade over the Iber Bridge. While this diplomatic rhetoric allows KFOR to refrain from dismantlement when considered nonstrategic and costly, it also allows them to stand against the Government of Kosovo's calls for KFOR to pursue a policy of blanket dismantlement while also allowing KFOR to disengage from the politically-oriented policies regarding the barricades.

It is clear that this diplomatic rhetoric regarding the remaining barricade is strategic in that the "political symbol" argument would logically apply to all barricades. However, KFOR claims that this logic only applies to the barricade over the Iber Bridge and has in many cases dismantled barricades that inhibited freedom of movement and rule of law in strategic areas. For instance, on the 23rd of August 2012, Serbs in the northern Kosovo prevented EULEX from passing a blockade at Zupce; in response, KFOR temporarily sealed all roads to Zubin Potok and

¹⁰³ B92. (9 August 2012). "Barricade in Kosovske Mitrovica 'must be removed.'" Retrieved from http://www.b92.net/eng/news/politics-article.php?yyyy=2012&mm=08&dd=09&nav_id=81700

¹⁰⁴ Ibid.

took over, without dismantling, the barricade in the village of Zupce.¹⁰⁵ KFOR has pursued an alternative strategy to prompt the removal of barricades and the use of official customs crossings; KFOR has begun closing alternative routes to prompt an opening of official (partially blocked) roads in the north and use of the official border crossings, particularly those of Brnjak and Jarinje.

However, due to a shift in command, many are curious to see whether KFOR's philosophy and strategy will shift as well. On 7 September 2012, KFOR Commander Erhard Drews handed over command to General command to General Volker Halbauer who will command over 5,000 troops in Kosovo and is tasked with restoring the freedom of movement throughout all of Kosovo's territory.¹⁰⁶ NATO sent an additional 700 peacekeeping troops to Kosovo; these troops stand as part of the Operational Reserve Forces and deployed in October to the north of Kosovo, giving KFOR a total strength of over 6,100 troops¹⁰⁷

With this large KFOR troop deployment in the North of Kosovo and only one barricade left, will KFOR play an increasing role in ensuring a safe and secure environment and freedom of movement? And what shape will this role assume? With only one barricade left and KFOR playing an increasing role in cordoning off security zones (aka. closing alternative routes), it is likely that we will see KFOR play a larger role in eliminating alternative routes and, while staying within their mandate of maintaining a safe and secure environment, eliminating the heavy flow of traffickers, smugglers, and criminal groups that illegally cross the border between Serbia and Kosovo and fuel the informal, black market economy and organized crime in both territories. If this is the case, KFOR in coordination with EULEX to eliminate and indict high-level smugglers, traffickers and organized crime networks along Kosovo's northern border with Serbia. KFOR, acting under a security mandate, can inhibit trafficking or isolate traffickers along certain routes while EULEX, acting under a rule of law mandate, can, in close communication with KFOR, identify and arrest those smugglers and traffickers who frequent the alternative routes across the border. In this sense, KFOR and EULEX can serve as perfectly complimentary actors in the fight against smuggling, trafficking, and organized crime while both acting under their mandates and supporting freedom of 'legal' movement and increased traffic through official border points.

B. EULEX: Little Progress Instating Rule of Law in the North of Kosovo

Kosovo's parliament has recently provided a domestic legal basis EULEX, voting to extend their mandate by two years, until 2014. In early September 2012, President Jahjaga asked for a two year extension of EULEX's mandate, which was granted by the parliament providing a domestic legal basis for their mission. EULEX now maintains a staff of over one thousand experts as part of their rule-of-law mission in Kosovo. However, while EULEX has increased their task force in the north, the inability of EULEX officials to reside and travel north of the Iber River has stifled their progress. "Since 2011 EULX has been aiming to establish a larger 'footprint' in the north and has increased its staff living there to 40. It also set up a special 'Task Force Mitrovica to develop criminal investigations in cooperation with the EU Office of Criminal Intelligence, drawing on

¹⁰⁵ International Crisis Group. "Crisis Watch Database." Retrieved from <http://www.crisisgroup.org/en/publication-type/crisiswatch/crisiswatch-database.aspx?CountryIDs=%7BE549D816-IDF9-4BC0-B890-0F3A2B62FD1B%7D>

¹⁰⁶ U.S. Department of Defense, American Forces Press Service. Miles, Donna. (31 August 2012). "Kosovo Force Rotation Prepares for Peacekeeping Mission." Retrieved from <http://www.defense.gov/news/newsarticle.aspx?id=117702>

¹⁰⁷ Balkan Insight. (24 August 2012). "NATO Won't Dismantle Barricade in Mitrovica." Retrieved from <http://www.balkaninsight.com/en/article/kfor-the-barricade-in-mitrovica-bridge-to-remain>, and, NATO. (8 October 2012). Retrieved from http://www.nato.int/kfor/structur/nations/placemap/kfor_placemat.pdf

resources from the Kosovo Police, the Kosovo Customs, EULEX Police and EULEX Customs. However, difficulties in the north have resulted in the task force's officers residing in the north having to be relocated south of the river Ibar".¹⁰⁸ As such, EULEX has been largely prevented from realizing the rule of law, meaning support for the judiciary, policy and customs. This is largely due to the inability of EULEX to move freely throughout the north. Roadblocks "restricted the mobility of EULEX judges and prosecutors who were not able to administer law in the Mitrovica Court from July 2011 until February 2012".¹⁰⁹ Freedom of movement has improved slightly for EULEX since early 2012, when northern Kosovo Serb leaders agreed to allow EULEX to travel freely in the north and particularly on the roads leading to the Brnjak and Jarinje crossings as long as EULEX officials do not transport Albanian customs officers.¹¹⁰ However, northern Serbs maintain 'checkpoints' which have replaced many of the barricades where KFOR is permitted to cross freely but EULEX is not.

By September 2012, EULEX was not inhibited from moving throughout the north of Kosovo. Although bursts of occasional violence against KFOR and EULEX continue to *deter* EULEX's movement. As stated earlier, the remaining 'checkpoints' and continued violence against international troops do more to *deter* EULEX's freedom of movement than to prevent it nowadays. However, this deterrence reveals that the northern Kosovo Serbs and their influential parallel structures seem to have indeed conditioned EULEX in such a way as to deter them from attempting to move freely throughout the north and thus inhibiting from realizing their rule of law objectives. The ability of northern Kosovo Serbs and parallel structures to achieve such deterrence makes manifest the control that is maintained by parallel structures in the north and the absence of EULEX authority in the north of Kosovo.

Many have agreed that EULEX has largely failed in their rule of law mission in the north of Kosovo. According to the European Court of Auditors, "EU interventions have [in the north] have been very limited and there has been almost no progress in establishing rule of law".¹¹¹ In October 2012, German Defence Minister Thomas de Maiziere argued that EULEX, Police in Kosovo are "on the wrong track" and have failed to carry out their rule-of-law mandate; he called for a "new start, new name, new structure, and new mandate" which should be decided upon at the EU level.¹¹² Indeed, Maiziere's suggestions may not be so off track. EULEX is perceived by northern Serbs as highly biased and not to be trusted. Shifting the mandate and name of EULEX to be more in line with the current situation on the ground may be necessary for the organization to carry out their rule-of-law mandate. Although this would pose complications in that EULEX judges and prosecutors sit in many courts in Kosovo and would also fall under the purview of this restructuring. The Government of Kosovo, Parallel Structures, and New Northern Administration

The absence of freedom of movement in the north of Kosovo and pervasive parallel structures is a sign of the frozen conflict in the north. The absence of freedom of movement in the north reflects the inability of the Government of Kosovo to govern and ensure sovereignty throughout its entire territory. In regards to freedom of movement, this is seen in the inability of

¹⁰⁸ European Court of Auditors.(Special Report No. 18/2012).*European Union Assistance to Kosovo Related to the Rule of Law*. Page 30.

¹⁰⁹ Ibid.

¹¹⁰ B92. (18 February 2012). "EULEX allowed freedom of movement in north." Retrieved from http://www.b92.net/eng/news/politics-article.php?yyyy=2012&mm=02&dd=18&nav_id=78848

¹¹¹ European Court of Auditors. (Special Report No18/2012). *European Union Assistance to Kosovo Related to the Rule of Law*. page 29.

¹¹² Indeksonline. (10 October 2012). "Berlin criticized EULEX Police failures." Retrieved from <http://www.indeksonline.net/?FaqlID=2&LajmlID=32189>

government Police and Kosovo customs officials to freely move throughout the north. However, the end of supervision largely signals that the international community would like to give Kosovo institutions more power in the north and the authority to govern Kosovo's entire territory. The EU, unable to manage and find a solution for the situation in the north of Kosovo via the Dialogue or EULEX, has transferred accountability for the situation in the north – a hot potato so to speak – to the Government of Kosovo.

Even though Kosovo has acquired the accountability for the northern situation, parallel structures continue to impede the ability of the Government of Kosovo and international actors (KFOR and EULEX) to exert authority in the north of Kosovo. Parallel institutions, such as schools, healthcare, town councils, post offices, and Police, continue to receive funding from Belgrade while many employees receive double salaries from Serbia and Kosovo.¹¹³ These economic benefits from Serbia allow Belgrade to maintain influence and ensure the allegiance of Serbs and even Albanians who receive double salaries or higher pay from Serbian parallel institutions.

The best way to combat the parallel structures in the north is to provide freedom of movement and eliminate alternative routes between Kosovo and Serbia, and to ensure that Kosovo-based institutions can ensure better representation, safeguard the rights of citizens, maintain rule of law and offer competitive pay and benefits. The Kosovo-based Administrative Office for the north of Kosovo opened on July 9th. However, the opening of the Administrative Office met with local protests.¹¹⁴ Both protests regarding the opening of this office as well as the protests and community networks organized to reinforce roadblocks and prevent the freedom of movement reveal that northern Kosovo Serbs are not ready to relinquish the parallel structures and accept their authority of the Government of Kosovo. However, the first deputy PM of Serbia, Aleksandar Vucic, announced that the Serbian government may reach a decision to eliminate salaries for those receiving salaries for Kosovo. Dragisa Vasic, the president of the municipality of Leposavic confirmed that he received salaries from both Serbia and Kosovo (also admitting that he therein recognized the independent state of Kosovo).¹¹⁵ Indeed the third episode of "Patriotic Pillage" revealed that more than 1,200 Serbs from Kosovo receive salaries from the Government of Kosovo.¹¹⁶ Salaries from Serbia remain as the key factor that allows Belgrade to remain fully influential in the lives of Kosovo Serbs in the northern Kosovo. Behind Belgrade KFOR maintains the most authority/credibility in the north, followed by EULEX who has some presence and little to no authority/credibility in the north, and the Government of Kosovo who holds little to no presence, authority, or credibility in the north of Kosovo. The Government of Kosovo must strategize a comprehensive agenda for the north of Kosovo, begin to achieve results in improving the water supply and eradicating crime in the north of Kosovo, and, in conjunction with the EU, place formal pressure on Serbia to eliminate parallel institutions in the north of Kosovo.

¹¹³ Balkan Insight. Aliu, Fatmir. (24 August 2012). "NATO Won't Dismantle Barricades in Mitrovica." Retrieved from <http://www.balkaninsight.com/en/article/kfor-the-barricade-in-mitrovica-bridge-to-remain>

¹¹⁴ International Crisis Group. "Crisis Watch Database." Retrieved from <http://www.crisisgroup.org/en/publication-type/crisiswatch/crisiswatch-database.aspx?CountryIDs=%7BE549D816-1DF9-4BC0-B890-0F3A2B62FD1B%7D>

¹¹⁵ B92. (11 October 2012). "Multiple salaries in Kosovo to be abolished next week." Retrieved from http://www.b92.net/eng/news/politics-article.php?yyyy=2012&mm=10&dd=11&nav_id=82616

¹¹⁶ Ibid.

5. The Way Forward: Policy Recommendations and Strategic Solutions

Freedom of movement should be ensured for Kosovo security structures, citizens, trade, economic operators, KFOR, EULEX, and civilian administrations. Freedom of movement remains a key issue for human security, rule of law, normalization of life, and democracy in the northern Kosovo. Three basic steps must be taken to ensure the freedom of movement in the north of Kosovo.

First, KFOR, EULEX, but primarily Kosovo Customs must gain full control of the border line between Kosovo and Serbia. Gaining control over the border line requires a number of measures. KFOR should support the elimination of alternative, unofficial, and 'illegal' routes between Kosovo and Serbia. These alternative routes are used for the illegal trafficking of goods, arms, and equipment which are used by parallel structures and 'illegal' groups to control the situation in the north. Furthermore, these alternative routes allow these illegal groups and even northern citizens to circumvent the official border points and Kosovo customs. The Government of Kosovo, in conjunction with the Government of Serbia, should embark on border demarcation. This will undoubtedly be a contentious and time consuming process. Ideally the process can be accelerated and successfully completed if the EU focuses on facilitating a border demarcation agreement in the upcoming months. It is in the interest of the Government of Kosovo, KFOR and EULEX to prompt the EU to adopt border demarcation as a top priority for the Dialogue and as a benchmark for Serbia to begin accession talks.

Second, Kosovo security structures, EULEX and KFOR should provide full security in the north of Kosovo and normalize life in the north of Kosovo. Most critical for enabling Kosovo security structures and EULEX to complete ensure rule of law is their ability to travel freely throughout the north of Kosovo. This means that KFOR and northern administrations must collaborate to remove/convince northern communities to remove the remaining 'checkpoints' that continue to inhibit EULEX and Kosovo Customs and Kosovo Police from moving freely throughout the north of Kosovo and ensuring the rule of law and to remove the remaining barricade over the Iber Bridge that prevents security and normalization of life in the north of Kosovo by blocking Kosovo security structures, citizens, trade, economic operators, KFOR, EULEX, and civilian administrations from travelling easily between the northern and southern parts of Mitrovica. While northern Serbs have opened 'checkpoints' and allowed EULEX to travel more freely, this comes at the cost of not being able to transport Kosovo Customs and Police officials, which compromises Kosovo's border control. While KFOR maintains committed to not using military force to remove the barricade over the Iber River – as a grand 'political symbol' – against the wishes of the Government of Kosovo, one must find an alternative mechanism to urge the northern communities to remove this barricade.

Third, the EULEX Rule of Law Mission must prosecute the core criminal groups who intimidate and control the situation in the north. EULEX Rule of Law Mission should support the establishment of courts in north Mitrovica, including prosecution and the ensuring the safety and oversight of the prosecutorial and justice staff. Moreover, EULEX and Kosovo Police should continue to advocate for Serbs who are targeted by Albanians in the north and should use a heavy-hand to prosecute perpetrators. Timely responses by EULEX and Kosovo Police to investigate and prosecute perpetrators of violent crimes may aid EULEX in promoting a more unbiased image than they currently hold in the north. KFOR and EULEX and the Administrative Office in the North must collaborate to remove/convince northern communities to remove the remaining 'checkpoints' or 'rallying points' that continue to inhibit EULEX from moving freely throughout the north and realizing their rule of law function.

6. The Dialogue as a Mechanism for Achieving Results

The EU should condition Serbia with required progress over customs issues, border demarcation, and rule of law without directly adopting the north of Kosovo as an issue of the Dialogue. Finnish President Marti Ahtisaari has argued that if the north of Kosovo becomes an official topic of the Dialogue, this will set a precedent for Belgrade's penetration into Kosovo's internal affairs. However, one can expect many challenges in addressing customs and border demarcation as topics of the Dialogue. Keeping the issue of territorial sovereignty out of the dialogue has been particularly difficult as the freedom of movement, free trade, and customs agreements all involve the regulation of territorial borders. Discussing border demarcation as part of the Dialogue "would mean that Serbia recognizes de facto and de jure the power of the official Pristina on the entire territory of Kosovo. A huge international pressure would be needed to get Serbia to sit down at the table with Kosovo on this subject".¹¹⁷

The German veto serves as a serious threat for the future of Serbian entry talks with the EU. Andreas Schockenhoff, a senior member of Merkel's CDU announced in Belgrade that Germany expects Serbia and Kosovo to sign a joint, legally binding statement of mutual relation, which would be implemented by the end of entry talks, as well as to fully implement and allow for the implementations of agreements already reached with Kosovo. Moreover, Germany has many times iterated their expectations that Serbia halt funding for 'parallel structures' in the northern Kosovo.¹¹⁸ The German President of the European Parliament, Martin Schulz, even went so far as to announced on September 4 that 'Serbia should recognize Kosovo if it wants to join the EU'.¹¹⁹ Obviously, there are internal complications inherent in this requirement – as 5 of the EU member states themselves have no recognized Kosovo (due to the existence of secessionist territories within these states). However, the EU's new Enlargement Strategy suggests that the EU may be taking a harder stance towards Serbia regarding the Kosovo issues. The Enlargement Criteria for Serbia included additional engagement and regional cooperation and neighborly relations, normalization of relations between Serbia and Kosovo, wherein each are fully able to exercise their rights and fulfill their responsibilities, steps towards visible and sustainable improvement of relations with Kosovo, and, most notably and carrying serious rhetorical implications, to improve relations between Serbia and Kosovo in order to *each to continue their respective paths toward the European Union, while avoiding that either can block the other in the process*. This last criterion is notable in that it suggests the EU's acknowledgement that Serbia and Kosovo are indeed permanently separate states that exist on individual paths towards the European Union. Moreover, KFOR acknowledges that "the solution regarding northern Kosovo, when it comes, be swift or slow, will be political".¹²⁰ Indeed, it seems that many actors involved in enabling freedom of movement and security in the north of Kosovo are looking towards the Dialogue and EU facilitation and 'stick and carrot' methods as the game-changer that will affect the largest changes and development for the north of Kosovo.

On 19 October 2012, EU High Representative Catherine Ashton met with Serbian Prime Minister Dacic and Kosovo Prime Minister Thaci, marking the first time that Prime Ministers from

¹¹⁷ Southeast European Times. Karadaku, Linda. (23 August 2012). "Kosovo seeks firm border with Montenegro, Serbia." Retrieved from http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2012/08/23/feature-01

¹¹⁸ Balkan Insight. (14 September 2012). "Serbia Resists German Pressure Over Kosovo." Retrieved from <http://www.balkaninsight.com/en/article/serbia-dubs-german-conditions-on-kosovo-impossible>

¹¹⁹ Ibid.

¹²⁰ KFOR. Drews, Erhard. (June 2012). "COMKFOR Message." *KFOR Chronicle*.

Serbia and Kosovo have met since Kosovo declared independence in 2008. The main topic of this meeting was the continuation of the EU-facilitated Belgrade-Prishtina Dialogue; both parties agreed that the Dialogue should continue and should resume in the very near future.¹²¹ Since then several meetings have been convened. This renewed dialogue offers again the possibility for progress regarding the situation over Kosovo's northern border with Serbia and for the EU to pursue a stick and carrot strategy with both sides by pressuring Belgrade to cut financing and support for parallel institutions and to support and condition Kosovo in full-heartedly fighting for development, rule of law, normalization and authority in their northern territory. The Dialogue has the capacity to prompt beneficial talks and action that could address the porous border line and alternative routes across the Kosovo-Serbia border, could clarify the agreement on license plates and demand implementation (and acceptance of such from Serbia), and could condition Serbia with removal of support for parallel institutions and of financial support for northern Kosovo Serbs who engage with the 'checkpoints' and remaining barricade in the north. While, if conducted more efficiently and thoroughly than the last rounds of talks, the Dialogue could offer many benefits for the north of Kosovo and border control, ensuring and safeguarding freedom of movement in northern Kosovo rests on the shoulders of KFOR, EULEX, and the Government of Kosovo. KFOR must continue to use their military means to secure strategic areas, particularly those wherein smugglers, traffickers, and organized criminal networks use alternative routes to illegal transport goods, arms, and other illegal substances, in order to halt illegal traffic across the border, secure the northern territory, and allow EULEX and Police to travel and make arrests in critical areas; EULEX must rely on this cooperation with KFOR to arrest and indict high-level traffickers, smugglers, and organized crime networks, to work with both Kosovo Serb and Kosovo Albanian Police to facilitate arrests and prosecution, and to oversee and support the functioning of the official border points between Kosovo and Serbia; the Government of Kosovo must devise a strategy in conjunction with the EU and Serbia to secure the northern border for the benefit of both Kosovo's and Serbia's tax-income and, most importantly, must focus wholly on addressing the needs of northern Kosovo Serbs (jobs, water supply, arrest of criminals, and policing) in a financially and administratively feasible and efficient way to lessen incentives for northern Kosovo Serbs to inhibit the freedom of movement of Kosovo Police and Kosovo Customs and to begin to support and assume responsibility for the lives of northern Kosovo Serbs.

¹²¹ B92. (19 October 2012). "EU's Ashton, Serbian, Kosovo PMs meet." Retrieved from http://www.b92.net/eng/news/politics-article.php?yyyy=2012&mm=10&dd=19&nav_id=82735

POLICY REPORTS

Policy Reports are lengthy papers which provide a tool/forum for the thorough and systematic analysis of important policy issues, designed to offer well informed scientific and policy-based solutions for significant public policy problems. In general, Policy Reports aim to present value-oriented arguments, propose specific solutions in public policy – whereby influencing the policy debate on a particular issue – through the use of evidence as a means to push forward the comprehensive and consistent arguments of our organization. In particular, they identify key policy issues through reliable methodology which helps explore the implications on the design/structure of a policy. Policy Reports are very analytical in nature; hence, they not only offer facts or provide a description of events but also evaluate policies to develop questions for analysis, to provide arguments in response to certain policy implications and to offer policy choices/solutions in a more comprehensive perspective. Policy Reports serve as a tool for influencing decision-making and calling to action the concerned groups/stakeholders.