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Unfaithful Allies: Local Resistance and the Failure of Statebuilding

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UNFAITHFUL ALLIES: LOCAL RESISTANCE AND THE FAILURE OF STATEBUILDING
IN THE WESTERN BALKANS

by

ERVIN KALLFA

A dissertation submitted to the Graduate Faculty in Political Science in partial fulfillment of the
requirements for the degree of Doctor of Philosophy, The City University of New York

2016

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Unfaithful Allies
Local resistance and the failure of statebuilding

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Ervin Kallfa

This manuscript has been read and accepted for the Graduate
Faculty in Political Science to satisfy the dissertation requirement
for the degree of Doctor of Philosophy.

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Unfaithful Allies: Local resistance and the failure of statebuilding in the Western Balkans

Adviser: Professor Susan Woodward

International efforts to build strong and legitimate states in developing societies often present a paradox. In many instances they are undermined by the resistance of very local actors with whom the Union partners up. The form that this resistance takes varies by country. In some instances the domestic partners show open defiance. In other cases they formally conform, while working behind the scene to undermine statebuilding.

My dissertation examines the factors that shape the domestic resistance to statebuilding projects by examining EU statebuilding in Albania, Kosovo, and Macedonia. I claim that resistance is the product of the interaction between statebuilding and domestic politics, a process which often generates friction. The main cause of friction is the fact that statebuilding affects how power is distributed in a given society. The local partners will be motivated to resist those aspects of statebuilding that they believe will undermine their authority/power, have a negative impact on local populations, or contradict local values. On the other hand, the local partners will support those aspects of statebuilding that provide them with opportunities to enhance their position, are not threatening to important domestic constituencies, and do not challenge local norms or beliefs. I contend that it is this dual aspect of statebuilding, its potential to both strengthen as well as replace local powerholders, that shapes the local reaction to the international mission, i.e., acceptance or resistance.

Resistance to statebuilding is puzzling because of the alleged asymmetric interdependence between local actors and international statebuilders. This asymmetric interdependence is presumably caused by structural conditions, such as the local dependence on the military and financial resources of the statebuilders. I will argue in this essay that local resistance is made possible by a second set of structural conditions that attenuate the asymmetric interdependence,

Ervin Kallfa

such as the statebuilders' prioritization of security over institutional reform or divisions among statebuilders. The corollary to this is that the state is neither the product of foreign imposition nor does it represent a rejection of alien institutions. Instead, the state is the result of bargaining between the locals and the interveners, a bargain that is shaped by structural conditions.

I contend that the form of resistance is influenced by the domestic legitimacy of statebuilding. If statebuilding is legitimate in the eyes of the local population, the domestic partners do not engage in open resistance, otherwise they do. While both forms of resistance can be equally successful at undermining international statebuilding, I maintain that the form that resistance takes is important. Overt resistance not only undermines those institutions that are opposed by the locals, but it also challenges the ideological hegemony of statebuilders and opens up the possibility for the development of alternative ways of organizing the state.

This dissertation compares EU's efforts to reform the civil services of Albania and Macedonia and the judiciary of Kosovo so as to shed light on the dynamic of domestic resistance to statebuilding.

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Ervin Kallfa

Table of Contents

Chapter 1 Introduction	p. 1
Chapter 2 Statebuilding EU Style	p. 47
Chapter 3 Albania: The Silent Opposition	p. 70
Chapter 4 Kosovo: Confronting the War Legacies	p. 116
Chapter 5 Macedonia: The Nationalist Backlash	p. 162
Chapter 6: Conclusion	p. 211
Bibliography	p. 245

List of Tables

1.1 Summary of the argument	p. 10
2.1 Acquis communautaire	p. 53
3.1 SIGMA’s principles for civil service reforms	p. 84
3.2 SIGMA annual reports recommendations for Albania	p. 85
3.3 European Partnership recommendations for administration reforms in Albania	p. 86
3.4 SAP annual report recommendations for administrative reforms in Albania	p. 86
3.5 Intersectional Strategy for Public Administration Reform (SNAP) 2013	p. 89
4.1. EUSR’s mandate in Kosovo	p. 119
4.2. European Partnership requirements for Kosovo	p. 120
4.3 European Partnership judicial reforms requirements for Kosovo	p. 132
4.4 EULEX’s initial goals	p. 133
5.1 Accession Partnership priority areas for Macedonia	p. 167
5.2 Statebuilding elements of OFA	p. 169
5.3 EU financial assistance to Macedonia	p. 173
5.4. Macedonia’s European Partnership administrative reform requirements	p. 178
5.5 Macedonia’s SAP annual report administrative reform recommendations	p. 178
5.6. SIGMA’s principles for administrative reforms in Macedonia	p. 180
5.7 SIGMA’s annual reports recommendations for Macedonia	p. 180
5.8 Civil service reforms demanded by OFA	p. 181

List of Charts

3.1 Popular support for EU integration in Albania	p. 81
3.2 Murder rate in Albania 1997-2010	p. 97

Ervin Kallfa

3.3 Taxes as a share of the GDP in Albania	p. 97
3.4 Albanian confidence in various institutions	p. 111
3.5 Albanian public opinion on international relationships	p. 111
4.1. Support for EU integration in Kosovo	p. 128
5.1 Public support for EU integration in Macedonia	p. 174
5.2. Murder rate in Macedonia 2000-2010	p.193

Chapter 1

Introduction

Statebuilding is a ubiquitous activity that involves efforts by international actors, such as international and regional organizations or great powers, to rebuild allegedly weak and failed states, i.e., non-Western states, which it is claimed do not function as modern states are supposed to. Despite all the attention and resources that rebuilding states has received, it is difficult to find many (some may say even any) successful examples of statebuilding. The most egregious failures that have led to questioning whether international statebuilding can ever succeed are those of Iraq and Afghanistan, where despite the expenditure of enormous sums of money and years of international (mainly American) tutelage there is not much to show with regard to building strong and legitimate states, and, one can even claim that at the present (2015) both states are weaker than they were before the international intervention.

While many reasons have been offered to explain the dismal performance of statebuilding missions, and I will provide an overview of them later in this chapter, this dissertation will examine one of the causes of statebuilding failure that is both peculiar and, at first look, counterintuitive: the resistance of the local partners of the international actors, i.e., the resistance of those local actors who are supposed to cooperate with the internationals in implementing the statebuilding reforms. I first became interested in this topic in the fall of 2010, while doing research on statebuilding in Afghanistan. The material that I surveyed seemed to show that one of the principal opponents of the US statebuilding efforts was surprisingly America's main man in Kabul, President Karzai. Further research in other statebuilding cases seemed to confirm that those local actors who were allegedly partnering up with the international statebuilders often undermined the very projects that they were in charge of implementing.

This cause of statebuilding failure is peculiar because normally we would expect those who oppose the international interventions or those who are sidelined by the statebuilders to resist the outside efforts to transform or rebuild the state, actors whom Stephen Stedman calls spoilers (Stedman 1997). But there is considerable evidence that shows that even those local actors who have prominent positions in the statebuilding process often resist. Moreover, the resistance of the local partners is counterintuitive because these local actors stand to benefit quite a lot from the transformations brought by statebuilding, and they are highly dependent economically and militarily on the internationals (e.g., it is highly doubtful that Hamid Karzai would have been the leader of Afghanistan if it were not for his selection by and the support that he received from the United States).

In order to shed light on local resistance to international statebuilding, I will examine the statebuilding efforts of the European Union (EU or Union) in three Western Balkan¹ countries: Albania, Kosovo, and Macedonia. More precisely, I will look at how the local partners of the EU in these three states have often undermined the Union's efforts in reforming the civil services of Albania and Macedonia and the judiciary of Kosovo.² By looking at the progress in implementing these reforms, I will try to answer several questions pertinent to resistance: How far have the reforms demanded by the internationals been implemented? If the locals object to these reforms, why do they do so? Is opposition to EU demands expressed openly, or does it take a covert form? Are the shortcomings mentioned in EU reports due to the incapacity of the locals, or are they motivated by the partners' fear of losing power and access to resources?

¹ The Western Balkans is currently comprised of Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia.

² For a more detailed discussion of the reasons behind my case selection refer to the research design section of this chapter.

Besides the peculiar nature of this resistance, I believe that examining why and how the local partners of the international statebuilders resist the very project that they are supposed to assist implementing helps to shed light on the nature and some of the mechanisms of statebuilding. One of the debates to which this dissertation contributes is whether statebuilding represents the spread of universal norms and practices related to the state or whether the institutions that are constructed by the international intervention are alien to local societies. A second debate that I will engage with is whether statebuilding is imposed on powerless local societies or whether it is a process that involves considerable negotiations between the locals and the internationals.

While a more detailed analysis of these questions will be conducted in Chapter 6, my findings suggest that the dichotomy between indigenous state institutions and internationally promoted institutions is not a productive one. Instead, I maintain that statebuilding is the product of a synthesis between local and international politics. In the case of the EU statebuilding reforms that I will examine, the final product reflects both the demands of the Union as well as the concerns of the local partners that some of the EU-demanded reforms are harmful. Also, my findings suggest that the international statebuilders do not simply impose institutions and practices on powerless local societies. On the contrary, statebuilding involves negotiations (albeit informal ones) between the international statebuilders and local actors. Despite their weaknesses, the Western Balkans states that are examined in this study have been able to successfully derail many reforms that they oppose, while at the same time progressing towards their path to EU integration.

This introductory chapter is organized in the following way: The first section details my argument for why and how the local partners of international statebuilders often resist the very

projects that they have agreed to implement. The second section provides a summary of the literature on international statebuilding. The third part of this chapter is taken by the research design for this study, where I define key terms and variables and explain the case selection that I have made. I will conclude this chapter by providing a brief outline of the rest of the dissertation.

The Argument

Considerable evidence gathered in the last two decades indicates that outside interventions to build strong and legitimate states in fragile societies, i.e., statebuilding, often fail because of the resistance offered by the local partners of the interveners. This does not signify that foreign interventions are always opposed by domestic actors. Instead, there is considerable variation of local support for statebuilding programs. Some of them are wholeheartedly embraced, some do not elicit any significant reaction, while others are strongly resisted. Resistance, on the other hand, can take the form of open defiance to the demands of the statebuilders, or resisters can formally accept these demands, while working behind the scenes to undermine them. The questions that I am interested in answering are what factors determine which aspects of statebuilding are going to be resisted by the local partners, what makes this resistance possible, and what influences the form that resistance takes?

I maintain that we can only understand the motivations for resistance to statebuilding if we take into account how statebuilding and local politics interact with each other. Statebuilding is the construction of institutions at the urging and with the assistance of international actors, and it is guided by their ideas and their needs. But this does not necessarily mean that the institutions being built are anathema to local societies, or that domestic actors cannot benefit from them. Local politics, on the other hand, is based on the ideas and needs of domestic actors, which are

not automatically incompatible with international norms. I will argue in this study that it is not useful to view resistance as simply the rejection of alien values or as opposition to breaches of sovereignty; instead, the local reaction to statebuilding is the product of the interaction between local politics and the international intervention, which in some cases can produce cooperation, while in other instances can lead to frictions. This friction, I maintain, motivates the local partners to resist statebuilding.

The main cause of friction is the fact that the process of statebuilding not only shapes the institutions through which power is exercised, but it also affects how power is distributed in a given society. This means that if successful, statebuilding has the potential to reconfigure the power base of domestic politics. The local partners will oppose and will be motivated to resist those aspects of statebuilding that they believe will undermine their authority/power. In addition to these selfish motivations for resistance, the local partners may also oppose certain parts of the statebuilding project because of the negative impact that it may have on local populations or because it contradicts local values. On the other hand, the local partners will support those aspects of statebuilding that provide them with opportunities to enhance their position, are not threatening to important domestic constituencies, and do not challenge local norms or beliefs. I contend that it is this dual aspect of statebuilding, its potential to both strengthen as well as replace local powerholders, that shapes the local reaction to the international mission, i.e., acceptance or resistance.

But friction between statebuilding and local politics is not sufficient for resistance to occur. Not only do the partners need to have the motivation to resist, they also need to have the ability to do so, otherwise resistance will be stillborn. In cases of local resistance to statebuilding, neither side of this struggle is able to completely dominate the other, otherwise there would not

be any resistance, either because it is crushed or because the resisters triumph. Instead, both the locals and the internationals are in the position to make demands on each other. I maintain that there are three main structural conditions³ that enable international actors to make claims on the form and functions of the state institutions being built. First, the internationals can provide security for local societies and in turn demand the setting up of domestic institutions that will allow for sustainable peace and security. Second, the financial resources that many developing countries receive are often tied to the implementation of specific institutional reforms that will foster long-term development. Third, the demands of the statebuilders may be perceived as legitimate by local actors. This legitimacy may be rooted in the fact that the locals have no confidence in domestic solutions or in local acceptance of the hegemony of certain values promoted by the international actors.

On the other hand, there are structural conditions that enable the local partners to counter, i.e., resist, the claims made by the international actors on the state. The international actors that support statebuilding may pursue a variety of goals, even mutually contradictory ones, in the societies that are undergoing intervention. Other than building state institutions, the interveners might be interested in opening local markets to foreign capital, or they may prioritize stability over institutional reforms. Such multiplicity of objectives allows the domestic partners to bargain with the interveners. In addition, in cases in which several international actors (or in the case of the EU, the several components of the Union) are involved in the same statebuilding

³ This is a term that I borrow from Lindsey Whitfield and Alastair Fraser. It refers to the “economic, political, ideological, and institutional context” in which the interaction between international and local actors takes place (Whitfield and Fraser 2009, 39). According to these authors, “structural conditions” provide constraints and resources to local and international actors. In this work, I use the term structural conditions to refer to those factors that provide the EU with the ability to impose its statebuilding demands on the countries of the Western Balkans and to those factors that both limit (constrain) the ability of the EU to reward or punish its local partners and provide the locals with the ability (resources) to resist the demands of the Union. Thus, some structural conditions strengthen the position of the EU versus local actors while others attenuate the asymmetric interdependence between the Union and its local partners.

project, it is not uncommon for differences to arise among the statebuilders. These differences often prevent a coherent approach to statebuilding or allow the local partners to play the internationals against each other. Moreover, the sticks and carrots that the internationals use as inducement for local compliance may not be strong enough to break the resolve of determined resisters. Finally, the local partners can mobilize domestic symbols to challenge the international legitimacy of statebuilding.

I will argue in this study that the end result of statebuilding is the product of the interaction between those structural conditions that permit the internationals to make demands and those structural conditions that permit the locals to resist. The corollary to this is that the state is neither the product of foreign imposition nor does it represent a rejection of alien institutions. Instead, the state is the result of bargaining between the locals and the interveners, a bargain that is shaped by structural conditions.

A second part of the puzzle of resistance that I am interested in explaining concerns the form that resistance to statebuilding takes. According to the literature on state formation, resistance is overt only in those cases in which the power disparity between the state and social actors is not significant. In cases of statebuilding, the power balance is heavily tilted towards the statebuilders, but in some instances local resistance is overt while in others it is covert. The question that we need to ask in such cases is why would the domestic partners of the international statebuilders openly resist the demands of the latter even when the distribution of power and resources would suggest that covert resistance should be the safest and wisest strategy?

I maintain that resistance is shaped not only by the power redistribution consequences of statebuilding, but also by the legitimacy of the institutions that are being built. I contend that the

form of resistance depends on the domestic legitimacy of statebuilding. The partners adjust the form of resistance that they offer based on the local legitimacy of the institutions being built. If statebuilding has local legitimacy and support, the partners do not engage in open resistance, otherwise they do.

The same way that the institutions that are produced through the process of statebuilding may or may not be compatible with local values and interests, the aims of statebuilding projects may or may not have local legitimacy. Instead of looking at the institutions set in place by the internationals as inherently alien to local societies, we should look at how the local and the international actors interact with one another to produce or contest the legitimacy of state institutions.

In many situations of statebuilding, the legitimacy of institutions is not a given, but instead, it is highly contested, and different sources, both internal to the society and external to it, compete to establish it. The institutions set up by the internationals are going to be legitimate if they promise security, economic growth, and higher standards of well-being. This will be particularly so if they do not contradict local traditions, values, and beliefs. Moreover, in many societies undergoing statebuilding, the legitimacy of local actors and institutions is so low and contested that national agreement can only converge on the institutions built by the statebuilders. In such instances, statebuilding as a project enjoys high levels of legitimacy among the local population, but this does not mean that all of the local actors have to accept or agree with the international project. What this means is that there are no significant challenges to the authority of the statebuilding project. On the other hand, the legitimacy of statebuilding might be challenged either because it does not provide any tangible benefits to local societies or because

the institutions that it aims to build and the actions of the internationals contradict local beliefs, values, and symbols.

In cases where statebuilding does not have a high degree of local legitimacy, the domestic partners can afford to openly resist the internationals because they can claim that they are doing so on behalf of the community at large, not for their personal interest. This has two consequences: 1) it makes it more difficult for the statebuilders to censure resisters because it will alienate the population at large and risks fostering conflicts between statebuilders and local actors, and 2) punishing resisters means undermining the local ownership goal of most statebuilding missions. In such instances, the domestic partners can use the public to shield themselves from punishment as well as to force their claims on the international statebuilders.

In cases when the statebuilding goals have local legitimacy, the domestic partners cannot openly resist because this means that they are not only rejecting the international mission, but also that they are going against the wishes of their domestic constituencies. Open resistance in such cases would be very risky. In these situations the international statebuilders can use the public to pressure their domestic partners to act, even when the latter are reluctant to do so. The only option available to the partners is to show public support for the aims of the interveners, while covertly working to undermine them.

While both forms of resistance can be equally successful at undermining international statebuilding, I contend that the form that resistance takes is important. Overt resistance not only undermines those institutions that are opposed by the locals, but it also challenges the ideological hegemony of statebuilders (as well as the hegemony of the liberal state, which is the model that

is most frequently used by statebuilders)⁴ and opens up the possibility for the development of alternative ways of organizing the state.

A summary of my argument is found in Table 1.

Table 1. 1

Motivation for resistance	International-local interaction	Form of resistance
The local partners are motivated to resist when statebuilding is disruptive of the preexisting order.	Structural conditions (such as aid dependency) that permit the statebuilders to impose their projects on their local partners.	Resistance is covert when statebuilding enjoys local legitimacy. This resistance only challenges the proper functioning of state institutions.
The local partners are willing to cooperate when statebuilding either empowers them or does not cause significant disruptions.	Structural conditions (such as statebuilders' concern with security) that make possible the resistance of the local actors.	Resistance is overt when statebuilding lacks local legitimacy. This resistance not only challenges the proper functioning of state institutions, but also it challenges the ideological hegemony of statebuilding.

Literature review

The transformation of the former socialist countries of Eastern Europe in their journey towards EU integration is considered by many a *sui generis* process. Without denying the peculiar characteristics of EU statebuilding (which will be examined in more detail in Chapter 2), this section will provide the context for a) analyzing EU statebuilding as a part of a global trend of international interventions that aim to reform states that do not conform to the Western idea of the state, and b) understanding why I have chosen the resistance of the local partners of the EU as the topic of my dissertation.

The main goal of this section is to show that international statebuilding does not simply involve the imposition of institutions on helpless indigenous societies; but instead, it is a product

⁴ The liberal state is defined by Eriksen as a state that: “a) upholds the rule of law, b) is democratic and c) is based on a market economy” (Eriksen 2009, 653).

of the process of interaction between international and local actors, and an important consequence of such interaction is local resistance. Following Migdal's (2001) findings for the process of state formation, I claim that statebuilding is the result of struggles (and sometimes even cooperation) between the internationals and the locals over the form and purpose of the state. One of the main reasons behind these struggles is that statebuilding is not only involved in rebuilding or strengthening state institutions, but it is also involved in replacing preexisting political orders, the institutions that these orders are built upon, and those local actors who depend on these institutions. This creative destructive⁵ aspect of statebuilding has the potential to generate local resistance to international interventions. A corollary to this is that in examining why statebuilding fails, it is not sufficient only to look at flaws of statebuilding mission design, insufficient funding, and poor implementation, or at local conditions that are inimical to international statebuilding. Instead, it is pertinent to examine how the interaction between statebuilding and local politics affects the chances of mission success.

In order to achieve the above objective, this literature review is divided into three parts. In the first part, I examine the dual nature of statebuilding (its creative destructive aspect), and how this duality might give rise to tensions between the locals and the statebuilders. In the second part, I look at resistance as an important side effect of building states. The third section will provide arguments to show that local resistance should be treated as one of the main factors that have caused international statebuilding to have such a dismal record of success. The final part will examine some of the unique characteristics of EU statebuilding.

⁵ I borrow this term from Joseph Schumpeter who considered the replacement of old ways of producing by innovative ones to be one of the principal features of capitalist economies (Schumpeter 1942). As I will argue in the literature review, one of the key aspects of statebuilding, especially EU statebuilding, is the replacement of preexisting institutions with new ones.

Rebuilding and destroying states

Facilitated by the easing of Cold War tensions, there has been an increase in statebuilding missions since the early 1990s. Statebuilding is the “construction of legitimate and effective governments” through the “creation of new institutions and the strengthening of existing ones” (Paris and Sisk 2007, 1; Fukuyama 2004, 17). The objects of these interventions are failed states, which are states that cannot provide political goods, such as security, rule of law, and human rights (Rotberg 2007). These missions to fix failed states are motivated by both normative and security considerations. State failure is claimed to be one of the main challenges to protecting and promoting human rights (Ignatieff 2003, 299). Failed states are also considered by many as the leading causes of intra-state violence and safe havens for terrorists (Rotberg 2007, 84; Krasner 2004, 86).

It needs to be emphasized that the concept of state failure is a normative one, and it has been criticized of having a Western bias. More importantly, as I will examine below, even in the worst case scenarios, there are local institutions that provide order and public goods. One of the lessons that I draw from my case studies is that institutional “malfunctions” often represent alternative ways of organizing and managing state institutions.

While the locals are blamed for state failures, many scholars argue that domestic actors are not capable of reimposing order and rebuilding states (Rotberg 2007; Keohane 2003; Krasner 2004). This incapacity derives from the fact that local actors often do not have the resources necessary to rebuild states, or local actors in many instances benefit greatly from state failure and have no desire to strengthen the state (Rotberg 2007, 88). Because of these domestic shortcomings, some scholars and practitioners claim that international interventions are necessary to put these societies back on their feet. International actors, such as intergovernmental

organizations and individual or groups of states, are supposed to take charge of the domestic affairs with the aim of creating sustainable peace, political stability, strong state institutions, and economic growth (Engelbert and Tull 2008, 106). It needs to be added that these interventions aim to create a particular type of state, the liberal kind. One of the reasons for promoting this type of state is the belief that liberal democracies and market economies are peaceful (Paris 2004, 151).

International statebuilding is motivated by the assumptions that societies that are subject to intervention either lack state institutions or that the existing institutions do not perform adequately. These assumptions are not backed by empirical evidence and they give a privileged position to the statebuilders at the expense of local actors when it comes to reforming institutions. State failure does not mean that society is in a state of anarchy or that it lacks political institutions (Hagmann and Peclard 2010, 542). Even in the most catastrophic situations, there still exist a significant number of indigenous actors and institutions that try to provide order and survival strategies for local societies. These entities can be traditional ones, they can emerge from the necessities of fighting wars (such as entrepreneurs involved in smuggling or traffickers), or they can be remnants of previous state institutions (Menkhaus 2006/7; Engelbert and Tull 2008).

Indigenous political actors and institutions provide important goods and services, and enjoy considerable local legitimacy (Reno 2008, 143). Mats Berdal argues that many criminal organizations continue to flourish in postwar environments because of the strong links that they have formed with former belligerents (Berdal 2009, 64-70). Such informal institutions also provide crucial survival opportunities to local populations. In Liberia, for example, people took refuge from poverty and official abuse in wartime associations (Reno 2008, 399). Even those

local institutions that are viewed from the Western perspective as impediments to long-term development and prosperity, such as patronage, often provide essential goods and services that the international statebuilders fail to deliver, or at least they fail to do so in the short-term. The EU, for example, has dedicated significant resources to strengthening border controls in the Western Balkans, which are intended to prevent the smuggling of illegal drugs and immigrants into the Union. But, remittances from immigrants who work in EU member states are important to the economic well-being of many people in the Western Balkans. The drug trade has also benefited the region by fueling the construction boom that has provided employment for many. While the EU wants to prevent trafficking in people and controlled substances, it has not provided any meaningful alternatives for the loss of income that is derived from such activities.

International interventions have the potential to disrupt the preexisting order of local societies. Statebuilders often ignore local institutions and influential actors and do not include them in plans for the new state being built (Call 2008, 375). Statebuilding projects can undermine the influences of preexisting local institutions and can threaten the survival strategies of important political actors as well as large swaths of the population. In Afghanistan, initiatives to promote accountability and transparency have threatened the interests of key political actors, especially those who maintain power through patronage, corruption, and the drug trade (Goodhand 2008). Corruption eradication efforts in Liberia were highly disruptive because corruption networks played a significant role in organizing economic activities, and these networks also tied strongmen to the national leadership (Reno 2008). Moreover, international interventions can weaken local states by attracting local professionals with the promise of higher salaries, reducing public expenditures, and decreasing domestic sources of revenue through privatization and trade liberalization (Woodward 2011).

However, not all local actors are affected equally by the disruptions of statebuilding. Some of them may even benefit from these missions. The internationals can strengthen the position of certain groups (Papagianni 2008, 53). Those local actors who provide the international interveners with goods and services, such as food or housing, stand to benefit quite a lot from statebuilding. Moreover, the international statebuilders can provide some actors with legitimacy, and military and economic aid (Pouligny 2006, 190-197). As I will examine in more detail below, in many cases, the international interveners are the main source of financial support for the government, and they provide invaluable services to the local population, e.g., healthcare. International assistance can be especially vital to those governments that are not able to extract resources locally because it frees them from the need to do so (Hesselbein et al. 2006, 2).

There are two important conclusions that I would like to derive from the above discussion. First, in instances of international statebuilding there are multiple actors who content with each other to determine the form and functions of state institutions and we should not focus exclusively on the statebuilders.⁶Second, the creative destructive aspect of statebuilding has the potential to create tensions between the locals and the internationals, one consequence of which is local resistance to statebuilding. The resistance, I maintain, is only potential, not a given, because not every aspect of statebuilding is disruptive and not all local actors are affected negatively by statebuilding. One of the questions that I will answer in this study is under what circumstances the creative destructive aspect of statebuilding gives rise to local resistance.

⁶ Migdal has made a similar argument with regard to the process of state formation (Migdal 2001, 10).

Resistance

Due to the disruptions that it causes, the process of building states has quite often been met with resistance, which is the response of social actors to what they perceive to be threats emanating from the transformations taking place. These threats can come in the form of the advent of the modern economy (Hobsbawm 1959), the imposition of a colonial state (Keesing 1992), attempts by the state to increase its control over the periphery (Scott 2009; Migdal 2001), or the erection of repressive state apparatuses (Boudreau 2004). While the issues being fought over, the actors participating, and the settings differ, what all these acts of resistance have in common are the attempts to confront an order that is considered illegitimate and unjust (O'Brien 1996, 31).

Resistance can take different forms. Malay peasants practiced covert forms of resistance, while professing obedience in public (Scott 1985). On the other hand, Italian bandits openly took arms against the state (Hobsbawm 1959). The form that resistance takes is not haphazard, but instead is conditioned by the risks involved in confronting power (Colburn 1989). The resisters adopt those strategies that maximize their gains while minimizing the chance that they will be sanctioned by the authorities (Straughn 2005, 1613).

At the same time, power and authority play an important role in shaping resistance. Often it is weaknesses within the state apparatus that allow opposition to foment (Piven and Cloward 1979, 11). Jeffrey Herbst maintains that divisions among the authorities can be exploited by the weak to promote their interest (Herbst 1989, 212). In addition, defections among the elites can indicate that opposition is possible (Erickson 2011, 126). Resistance more likely takes place in those social spaces free of state violence (Boudreau 2004). Finally, resisters can appropriate the discourse of those in power to push for their demands (O'Brien 1996; Straughn 2005).

Resistance can be both instrumental and normative. In some cases resistance is caused by changes in material conditions, such as increases in appropriation of resources by the central government or changes in the distribution of power (Migdal 2001). In other instances, the imposition of alien norms and values motivates resistance. Roger Keesing maintains that the main cause of Kwaio (indigenous people of the Solomon Islands) resistance to British rule was not colonialism but the changes that the British tried to impose on their traditional ways of life (Keesing 1992).

Similar to cases of state formation, local resistance is a ubiquitous feature of statebuilding missions (Linden et al. 2009, 588; De Guevara 2008, 348-349). In Bosnia and Herzegovina, local actors resisted international efforts to create independent financial institutions that aimed to undermine the control of local politicians over such institutions (Zaum 2007, 101). In Afghanistan, resistance to international statebuilding has come from those local actors who disagreed with the imposition of Western values as well as from those actors who feared that change would be harmful to their interest (Suhrke 2007, 1304).

The ability of local resisters to undermine statebuilding missions has varied widely. In Bosnia and Herzegovina, local resisters were able to delay the passing of laws and their implementation; but ultimately, the international statebuilders got the upper hand (Zaum 2007, 106). In Afghanistan, on the other hand, local resistance has been very successful in undermining military, judiciary, and administrative reforms (Giustozzi 2011, 12; Goodhand 2008, 416). Like its counterpart in the process of state formation, resistance to statebuilding sometimes has taken a covert form, while in other instances it has been overt. In the case of Bosnia and Herzegovina, resistance to financial reforms mainly took the form of foot dragging (Zaum 2007, 100-110). On

the other hand, in Afghanistan, local resistance to statebuilding has often taken a violent form (Suhrke 2007).

I maintain that we should not view local resistance as an anomaly; but instead, as an integral part of statebuilding processes. The questions that I am interested in exploring in this dissertation are what motivates the local resistance to international statebuilding, what factors make possible this resistance in the alleged presence of asymmetric interdependence between the locals and the internationals, and what determines the form that such resistance takes (i.e., overt or covert)?

In examining local resistance to international statebuilding one can look at several possible sources of such resistance (e.g., former power holders who are excluded from participating in reforming the state or local groups who are overlooked by the statebuilders). This study focuses on those local actors with whom the international statebuilders partner up in order to implement the statebuilding program. The literature on statebuilding finds cooperation with local actors and the local legitimacy of statebuilding to be crucial to mission success. Among the most important local actors in cases of statebuilding are the local partners of the international statebuilders. These partners are supposed to cooperate with the international interveners in implementing the statebuilding project. In some cases the partners are selected by the statebuilders themselves (e.g., Iraqi Interim Government), while in other cases they are elected/selected by local societies (e.g., Kosovo since 2008). There are several reasons why the local partners play an important role in statebuilding missions. First, local ownership has become a widely accepted principle among the international actors involved in statebuilding (Paris and Sisk 2007, 4). Local ownership is intended to provide a cover of legitimacy to international interventions, avoid the accusation of neocolonialism, prepare the locals to take control of state

institutions, and reduce local dependence on outsiders (Paris and Sisk 2007 4-9; Parkinson 2010, 14). In theory at least, international actors have to forge partnerships with local actors in order to implement their statebuilding agendas.

Second, the local partners are often heavily dependent on the international interveners, which in theory should make them among the most important local supporters of the international actors. According to Paris and Sisk, the international statebuilders have the power to define who the “legitimate local leaders” are (Paris and Sisk 2007, 4). Not only can the statebuilders provide international recognition to their local partners, but they can also strengthen the domestic legitimacy of the partners, especially, *vis-à-vis* other local contenders for power (Papagianni 2008, 53). In addition, particularly in cases of post-conflict reconstruction, the international donors are the ones who provide most of the resources needed for the state to function (Rubin 2005, 101). An emblematic case is that of Afghanistan. The international actors provide for most of the military needs of the Afghan government as well as most of the finances for the government’s budget (Giustozzi 2008, 33).

Third, not only do international actors claim that the locals should be in charge of statebuilding, but also many case studies have concluded that the cooptation of local actors is integral to the success of statebuilding missions. Dominik Zaum maintains that in the case of Kosovo, the UN was not able to govern without the support of local actors (Zaum 2007, 143). In Afghanistan, the international interveners have been dependent on local actors to fulfil their mission (Suhrke 2007, 1292). In addition, since statebuilding missions are often understaffed and under-resourced, they need the cooperation of the locals to achieve many of their goals (Pouligny 2006, 232).

In the case of the Western Balkans, the EU relies on local actors to achieve some of its external policy objectives, particularly to stem the flow of drugs and immigrants and to stabilize its neighborhood. I will argue in the case study chapters that this reliance on the locals helps to offset the asymmetric interdependence between local actors and statebuilders and increases their mutual interdependence, which allows the locals to resist those aspects of statebuilding that they consider harmful.

What the above discussion means for my study is that there not only there are local groups that contend with the international statebuilders over the form and functions of the state, but also there is a paradoxical relationship between the local and the internationals. The disruptive aspects of statebuilding lead to local resistance and clashes between the internationals and domestic actors, but at the same time, these two sets of actors are interdependent. The process of statebuilding can only be understood by examining this paradoxical relationship between the multiple actors that are involved in it.

Furthermore, it is this peculiar position of the local partners, they are at the same time crucial to the success of the statebuilding efforts but also highly dependent on the international interveners, that makes their resistance an important topic of study. I am interested in examining the dynamic of why the local partners act to undermine the very process that they are supposed to lead and how they can resist the international efforts while being dependent on the same international actors.

Analyzing statebuilding failures

Not only does statebuilding have the potential to incite local resistance, but I also claim that this local resistance should be included among the main reasons why statebuilding missions so often

fail. There is a general agreement among scholars that statebuilding operations have not been very successful (Woodward 2011, 87). Both international and domestic factors have been blamed for the failures. One of the main criticisms of internationally led statebuilding operations is that they impose on local societies models that have been developed elsewhere (Zaum 2007; De Guevara 2008; Rubin 2005; Sending 2009). These models tend to offer one-size-fits-all solutions and do not take into consideration variations among countries (Suhrke 2007, 1292). The European Union (EU), for example, has implemented the same statebuilding project in the countries of Central and Eastern Europe (CEE) as in the Western Balkans, without taking into account that the challenges that these two regions face are quite different (Pickering 2011, 2). While in the case of CEE the main task was the transition from socialism to democracy and capitalism, in the Western Balkans the wars of the 1990s and early 2000s and the persisting ethnic tensions have threatened the very existence of several of the states of this region (Bieber 2008).

Related to the above point, the interveners offer technical solutions to building strong and effective institutions, focusing on capacity building and institutional effectiveness, while ignoring the political implications of international missions (McGovern 2008, 338; Chandler 2006, 5-7). International actors often perceive building states as checking off a list of needed institutions and best practices. In the case of EU statebuilding in the Western Balkans, the list of reforms that need to be achieved is compiled by bureaucrats in Brussels with little or no input from local actors. For example, the European Partnerships and the Accession Partnerships, the documents that list the EU statebuilding requirements, are issued by the Council of the European Union and the requirements listed in them are similar for all the countries of the Western Balkans, without taking into account the political implications that these reforms will have in

individual countries. For example, implementing a meritocratic system of hiring civil servants involves different political debates in Albania, where ethnic quotas in the civil service are not a political contentious issue, than in Macedonia, where the Albanian minority has pressed for the hiring of more Albanian civil servants, without taking into account whether more civil servants are needed or whether the Albanian candidates have the required skills.

Scholars have also taken aim at the priorities of the international interveners. Some of the most scathing criticism has come from Roland Paris (Paris 2004). He maintains that one of the most significant reasons why international interventions have failed is because they have prioritized political and economic liberalization at the expense of institution building. Capitalism and democracy encourage competition and conflict, and they can be beneficial only if there is a strong institutional framework in place. Moreover, Susan Woodward argues that the way that aid distribution is prioritized creates imbalances within the state. Often, for example, significant resources are dedicated to strengthening institutions within the executive branch, while the needs of the legislative branch are ignored (Woodward 2011). Finally, statebuilding has been accused of giving priority to the needs of the local elites, while ignoring the needs of the average person (Richmond 2009, 561).

Some observers have noted that frequently statebuilding missions are not provided with the resources that they need to fulfill the tasks that they are charged with (Zaum 2007, 65-66; Eriksen 2009, 653). For example, a 2012 audit by the European Court of Auditors discovered that the main EU statebuilding mission in Kosovo, European Union Rule of Law Mission in Kosovo (EULEX), operated at 75% of its strength because EU members had not provided the needed staff (European Court of Auditors 2012, 37). Also, quite often statebuilding missions lack clear mandates and suffer from insufficient planning (Berdal 2009; Call 2008, 369).

These imported solutions to alleged state failures have dire consequences for the state being built. David Chandler argues that these states are not “collective expressions of their societies” and they lack local roots (Chandler 2006, 44). The institutions that are built do not reflect the needs of local societies, but instead the priorities of international actors. In the Western Balkans, the EU has given priority to institution building despite the fact that surveys of public opinion show that economic issues are the main concerns of local populations (see the periodic Balkan Monitor surveys).

The historical legacies of the societies that undergo international interventions can also provide significant hindrances to statebuilding. Traditional political institutions, ethnic relations, and levels of economic development limit the type of state that can be built (Call 2008, 380). In the case of Afghanistan, Antonio Giustozzi maintains that the centuries-long struggle between the center and the periphery has undermined the efforts of international actors to strengthen the national government of that country (Giustozzi 2008). In Kosovo, the dispute between Serbs and Albanians over the status of this former Serbian province has limited the ability of the central government to extend its authority over the northern part of the country, which is inhabited mainly by the Serb minority.

Finally, the literature on statebuilding and peacebuilding identifies spoilers as one of the greatest risks to statebuilding missions (Stedman 1997, 5). Spoilers oppose peace agreements and statebuilding because they benefit materially from mission failure, because they are excluded from agreements that end wars, or because they see international interventions as contrary to their beliefs (Steadman 1997, 5). Some of the most prominent types of spoilers in post-conflict situations are: “bad civil society members” who reject liberal principles, “ethnic entrepreneurs”

who take advantage of social cleavages to boost their support base, and “saboteurs” who use elections to undermine democracy (Paris 2004, 159).

The above summary of reasons why statebuilding fails can be classified into failures that are caused by shortcomings of the international community and failures that are caused by adverse local conditions. What they have in common is that they prioritize the role of the internationals at the expense of the locals when it comes to building state institutions. The whole process is viewed from the angle of what factors affect the ability of the interveners to build state institutions, while ignoring that the internationals are not the only actors involved in institution building. The concept of spoilers, for example, assumes that the state alternatives proposed by the internationals are the only ones that are acceptable and the locals do not have the right to propose alternatives. Without denying the merits of such analyses, I propose that it is important also to look at how the results of the interactions between international statebuilding and local politics can cause international missions to fail. The interactions can produce varying results. The one that I am interested in examining is local resistance.

The importance of resistance to undermining state projects has already been examined by the literature on state formation. While single acts of resistance may look like desperate and futile attempts to change the course of history, the accumulation of many acts can undermine state projects (Scott 1985, 30). This resistance can deny to the dominant force access to resources and the population. More importantly, resistance can limit the choices available to its opponents (Scott 1985, 36). Francis Fox Piven and Richard Cloward maintain that resisters can make the biggest impact when: 1) the contribution that they provide is crucial to others, 2) the opposed have the resources to concede, and 3) obstructionist groups can protect themselves from reprisal (Piven and Cloward 1979, 25). Also, if the resistance is able to affect the electoral balance and

attract the support of political elites, its influence will be greater and more lasting (Piven and Cloward 1979, 31-33).

Another aspect of statebuilding that is recognized by both scholars and practitioners as important to mission success is the legitimacy of international interventions and that of the institutions that they seek to build (Sending 2009; De Guevara 2008; Pouligny 2006). The international statebuilders try to derive legitimacy from three sources. First, the mandate that statebuilding missions receive from international organizations, such as the UN, can be used to legitimize the intervention (Pouligny 2006, 180). Second, the interveners maintain that the fact that statebuilding is based on liberal “norms and principles” (often claimed to be universal norms and principles) is sufficient to legitimize their actions (Sending 2009, 15). Finally, the resources and services that the interveners provide can be used to gain local support for the international intervention (Chandler 2010, 74-75; De Guevara 2008, 356).

The same three sources from which statebuilders claim to derive their legitimacy can also serve to undermine local support for the intervention as well as the institutions that are being constructed. Beatrice Pouligny maintains that having a mandate from an international organization is not enough to provide local legitimacy to the intervention. According to her, what is more important are the results achieved by the intervention (Pouligny 2006, 180-181). Relying on liberal values to justify statebuilding not only is not enough to legitimize it, but also there is the risk of antagonizing local societies that might not share these values. In Afghanistan statebuilding came under attack because many of its aspects contradicted local traditional and religious values. While the international actors have promoted democracy and capitalism, the locals consider Islam to be the solution to most of their problems (Tadjbakhsh 2009, 646-647). Finally, the resources and services provided by the internationals in many instances either do not

make a significant impact on the lives of the average person or they are squandered in illegal deals.

This does not mean that statebuilding always lacks local legitimacy. Instead, in some cases the legitimacy of building new state institutions derives from the international support for these institutions. In the case of CEE, the post-communist reforms of state institutions were often sold to the public as being necessary to join the EU, i.e., to “Europeanize” these countries (Papadimitriou and Phinnemore 2004, 622). In these cases, reform, modernity, and “Europeanization” were conflated into one, and the prescriptions provided by the EU were considered the proper way to reform the state (Grabbe 2006, 5). Thus, the local legitimacy of international interventions and the institutions that they build can neither be taken for granted nor denied under all circumstances.

I maintain that the local legitimacy of statebuilding, similar to resistance, is the product of the interaction between the international intervention and local societies. One of the questions that I will explore in this study is how legitimacy affects the extent and form of resistance that the local partners are going to offer to international statebuilding. I will show in the case study chapters that in those instances in which statebuilding enjoys considerable local legitimacy, such as in Albania, the local partners are limited to practicing covert resistance. On the other hand, when the local legitimacy of statebuilding is problematic, such as in Macedonia, resistance is overt. One of the most important consequences of the form of resistance is that overt resistance not only aims to subvert statebuilding reforms, but it also presents alternatives to the statebuilding project. Covert resistance, on the other hand, does not challenge the hegemonic ideas of statebuilding.

As this section has showed, international efforts and local resistance are the two main engines that drive the statebuilding process. While the first of the two is the subject of many studies, I want to investigate the dynamic of local resistance. But in doing so, I will examine the actions of the local partners as they confront and interact with the international statebuilders.

Note on EU statebuilding

While the peculiar characteristics of EU statebuilding will be discussed in detail in the next chapter, it is warranted to briefly note some of the unique characteristics of the EU and of its efforts to reform states in developing countries. One of the major features of the EU is that it is not a unitary actor, like many state actors that are involved in statebuilding, but it is more than simply another international organization involved in rebuilding institutions, such as the UN. According to Ginsberg, the EU should be understood as the sum of its member states and its institutions (such as the EU Commission) (Ginsberg 2007, 390). It is the interaction between these two components that propels EU policies, i.e., statebuilding. The fact that the Union is not a monolithic institution should caution researchers of simply attributing things to the EU. Quite often, EU policies are promoted by particular member states or institutions. In this study, I will attribute certain actions or policy recommendations to the EU if they appear on official documents that are supposed to state the common position of the Union. On the other hand, in the case studies, I will examine disagreements among EU members and institutions on how to implement statebuilding reforms.

A second peculiar feature of the Union is the fact that it is not simply trying to reconstruct and reform the states of the Western Balkans (like many other international actors have tried to do), more importantly, the EU is trying to build future member states out of the

countries of this region. EU statebuilding is driven to a large extent by the demand that all states that want to join the Union should adopt the *acquis communautaire*, the body of EU laws and legal decisions that all members have to follow. The *acquis* represent a significant intrusion of the EU in the domestic affairs of Western Balkans states because it regulates areas that vary from free trade to social and environmental policy.

A final unique characteristic of the Union is that it is even more dependent than other statebuilding actors on the cooperation of its local members. While the UN or the United States send a large number of officials to implement statebuilding reforms, and often these officials are supported by armed forces, the EU, with Kosovo and Bosnia being partial exceptions, has only a skeletal staff in the field.

Research Design

This section will define the dependent and independent variables of this study, explain their importance to my argument, and describe how I have measured them. In addition, it will provide justifications as to why I have selected Albania, Kosovo, and Macedonia as my case studies, and why I have concentrated on the statebuilding efforts of the EU.

The field research for this project took place between early August 2013 and late January 2014. The main purpose of the field work was to conduct interviews; but at the same time, I also collected written material, such as government reports, that I had not been able to access online. The targets of my interviews were government officials, representatives of the EU, journalists, members of the civil society, and academics. Many of these individuals were identified through reading government and EU reports and pinpointing the key players that are involved in dealing with the EU integration process. Some of my contacts in the three countries that I visited suggested possible people of interest for my research. Finally, through interviews, I learned

Ervin Kallfa

about other people who would be important for me to talk to. In total, I conducted 45 interviews (12 in Albania, 18 in Kosovo, and 15 in Macedonia).

Interviews were used to understand the background of the relationship between these three countries and the EU. Furthermore, the participants in the reform process as well as those involved in managing the EU integration provided valuable insights into important aspects of these two processes. Finally, interviews, especially those with local experts and academics, were helpful in learning about written materials, such as articles, books, and various reports, that I was not aware of.

In addition to interviews, other sources of information that have been used for this project are periodic reports on public administration reforms in Albania and Macedonia and judicial reforms in Kosovo that are published by their respective governments, the EU, and civil society organizations, newspaper and journal articles, and books.

Dependent Variable

The main purpose of this study is to identify the factors that cause the local partners of the Union to resist the EU statebuilding project. According to James Scott, “resistance includes any act(s) by member(s) of a subordinate class that is or are intended either to mitigate or deny claims ... made on that class by superordinate classes... or to advance its own claims... vis-à-vis those superordinate classes” (Scott 1985, 290). More generally resistance involves “action” in “opposition to someone or something else” (Hollander and Einwohner 2004, 539). This study is concerned with resistance as the response of domestic partners to what they perceive as the negative effects of international statebuilding. These negative effects may involve disruption of established practices, or they may involve the creation of new institutions and policies that will

redistribute power and influence at the expense of the local partners. The aim of this resistance, I claim, is to slow down, divert, modify or thwart the undesired consequences of statebuilding.

The most recognized forms of resistance are those that openly defy authority, such as protests or civil disobedience. In these instances, the resisters, their goals, and their instruments are easily identifiable. But, most forms of resistance tend to be covert and the actors involved try to avoid exposure (Scott 1985, 1990). In the case of statebuilding, it is important to distinguish between these two forms of resistance because of the implications that they carry. Overt resistance not only challenges the institutions and policies promoted by the statebuilders, but it also challenges the legitimacy of statebuilding. On the other hand, covert resisters openly acknowledge the righteousness of statebuilding, while working mainly to undermine its implementation. The difference between the two is particularly important in the case of EU statebuilding missions because the Union claims that it is a normative power that aims to transform both the institutional set up of the countries where it is involved and their values as well.

Covert resistance is not easily identifiable, and it can be confused with criminal activities or incapacity (Keesing 1992; Allina-Pisano 2004). Following Scott, I consider resistance those acts that “deny or mitigate claims” by the statebuilders, no matter whether they violate domestic laws or international norms or how strongly they are condemned by the interveners (Scott 1985, 302). This means that actions as varied as the failure to adopt legislation that the EU has demanded, the underfunding of EU-demanded reforms, or the undermining of institutions that the Union has worked to strengthen constitute resistance because their ultimate aim is to oppose EU statebuilding. In order to differentiate between resistance and incapacity, we can look at the resources available to the locals, and compare the efficiency and efficacy of local actors across

similar issues (Allina-Pisano 2004). In the case study chapters, I provide evidence on how the local partners have been able to improve significantly the performance of certain state institutions (especially those institutions that are in charge of maintaining public security, an area that has been very challenging for the countries of the Western Balkans), which shows that they are fully capable of undertaking reforms when they are willing to do so.

Distinguishing between overt and covert resistance is important to my study but, at the same time, it can be challenging to differentiate between these two forms of resistance because often the end results are the same. Following the pioneer work of James Scott (Scott 1985), I look at the “public transcript” of the local partners to determine the form of resistance that they practice. If the partners formally support the EU statebuilding project, pass all the necessary laws, and create the institutions that the EU demands while at the same time work behind the scenes to undermine these reforms, I consider them to be engaging in covert resistance. The corollary to this is that in cases of covert resistance, the legislative and institutional set up conforms to EU demands, while informal practices and institutions distort or even undermine EU statebuilding reforms. On the other hand, if the local partners openly criticize the EU or its statebuilding project or fail to pass laws and build institutions that the EU demands, they are engaged in open resistance. The characteristic feature of this form of resistance is the divergence between the formal legal and institutional setup of a country and the international statebuilding project.

I will examine resistance to statebuilding by looking at civil service reforms in Albania and Macedonia, and judicial reforms in Kosovo. I have picked these issues for several reasons. The reform of public administration is a requirement demanded by both the Copenhagen and Madrid criteria for future EU expansion into the former communist countries (OECD 1999, 3).

Institution building and administrative reforms constitute the centerpiece of EU statebuilding in the Western Balkans (Pickering 2011, 1). Previous studies of the Western Balkans have shown that civil service reform has been a contentious issue between the locals and EU officials (Zaum 2007). Finally, annual EU progress reports for these two countries single out civil service reforms as one of the main problematic areas.

In Kosovo's case, the main EU statebuilding efforts have concentrated in the area of rule of law, of which the judiciary is one of the three main components.⁷ Over 50% of EU assistance to Kosovo is directed towards this issue, and EU spending on rule of law constitutes over 75% of the total spending on rule of law in Kosovo (European Court of Auditors 2012, 13; Kursani 2013). EULEX is the largest Common Defense and Security Policy mission of the EU. By 2014, it employed over 2000 officials, had a budget of 111 million euros (about \$139 million) (EEAS 2014), and had executive authority in Kosovo.⁸ In addition to EULEX, the representative of the EU Commission in Kosovo, the EU Special Representative in Kosovo, has also focused most of his attention on improving the rule of law, with particular attention given to strengthening the judiciary system (Bektesh 2013). Finally, judicial reforms are among the main requirements for visa liberalization⁹ between the EU and Kosovo, something which is highly sought both by the Kosovo government and the population at large. While for comparative purposes it would have been better to have examined the same sector of reforms in the three countries, public administration reforms were not a main issue of discussion between the Kosovar government and the EU until June 2013.

⁷ The other two components are the police and customs.

⁸ After an October 2014 agreement between the EU and Kosovo, the size of EULEX was supposed to be significantly reduced.

⁹ The visa liberalization will permit the citizens of Kosovo to travel to EU member states without the need of a visa.

Not only are these two areas important to the EU, but they are also crucial for local actors. Civil service jobs can be used by the partners to reward their supporters, and pliable civil servants enhance the clout of the partners. In Kosovo, there are allegations of ties between the political elite, war criminals, and criminal organizations, several high officials have faced criminal charges, and reforms have the potential to limit the power of the domestic partners and disrupt how people get access to wealth.

I believe that the issues that I have chosen to examine, civil service reforms in Albania and Macedonia and rule of law in Kosovo, can shed light on how resistance to statebuilding operates because there is both a strong push by the internationals, in this case EU officials, to reform these sectors, and the locals are strongly reluctant to undergo changes.

One final note is need to distinguish between the purposeful resistance of the local partners and failure to implement EU demands. Non-implementation quite often is due to features that are unique to each case, such as historical legacies, and it is not proper to believe that EU demands will be implemented everywhere in the same way. What I am going to show in my case studies is that, without denying the idiosyncratic features of each country, the main cause of failure of EU reforms in each of my three cases has been the resistance of the EU's local partners to implement reforms that they consider harmful.

Independent variables

There are many international actors who are involved in statebuilding in my three case studies, but I only examine the activities of the EU. I have chosen the EU because it is the leading statebuilding actor in the Western Balkans (Anastasakis et al. 2013, 158). The relationship between the EU, on the one hand, and Albania and Macedonia, on the other, is regulated by the

Stabilization and Association Process (SAP). In the case of Macedonia, the obligations arising from the Ohrid Framework Agreement (OFA)¹⁰ are part of the SAP requirements. While Kosovo is part of SAP, in the period that I examine in this dissertation, EULEX was the main EU statebuilding mission in this former Serbian province.

EU statebuilding is often called Europeanization. Originally this term referred to the intrusion of EU policies into the domestic arena of its member states (Featherstone and Papadimitriou 2008, 1). In the case of the Western Balkans, Europeanization is often understood (or misunderstood) as the process through which the countries of this region become more like the EU member states. This definition is problematic because it creates an artificial division between the EU member states and the Western Balkan countries. The latter have historically been part of Europe. Also, many EU countries do not abide by some of the European “values” or “practices,” such as those concerning minority rights that they are trying to impose on the Western Balkans. Because of these objections, in this study, Europeanization is not construed as the process of the Western Balkans becoming more like EU member states, instead Europeanization is defined as the process of fulfilling the SAP requirements as well as other country-specific requirements demanded by the EU.

One of the fundamental claims that I make is that resistance is motivated by frictions between statebuilding and local politics. I identify such frictions by comparing the aims of the EU reforms with how the civil service in Albania and Macedonia and the judiciary in Kosovo have been used by the local partners.

To identify the aims of EU statebuilding, I examined the agreements signed between the EU and my three case studies, periodic EU progress reports, and EU press releases. Admittedly,

¹⁰ OFA concluded the 2001 civil conflict in Macedonia.

these sources tend to be vague and in need of supplementation. The Ministries of European Integration in Kosovo and Albania and the Secretariat for EU Affairs in Macedonia are the main institutions coordinating the relationship between these countries and the EU. I interviewed officials within them to get a better idea of the demands of the Union. I was also able to interview members of the EU delegation in Kosovo and Macedonia. Finally, I reviewed local media reports, parliamentary debates on EU-demanded reforms, and secondary literature (i.e., books and journal articles on role of the EU as a statebuilder).

To uncover how the civil service in Albania and Macedonia and the judiciary in Kosovo have been used to strengthen the power of the local partners, I interviewed members of academia, civil society activists, and journalists in each of these three countries. In addition to these primary sources, I examined secondary literature on political developments in my case studies.

While resistance to statebuilding can be carried out by different local actors, I focus on the domestic partners who are involved in negotiating with the EU and in carrying out the reforms demanded by the Union. These partners are an integral part of statebuilding missions. At a minimum, they are used to grant legitimacy to the intervention (Chandler 2006). Moreover, to overcome shortages in resources, personnel, and local knowledge, the internationals often delegate certain responsibilities to local actors. In addition, powerful local actors have to be incorporated into the statebuilding process so that they will not become spoilers. Finally, democratization is an important part of statebuilding missions, which means that gradually the responsibility for running state institutions should be shifted to the locals.

An array of Albanian, Kosovar, and Macedonian local actors (i.e., government officials, parliaments, and civil society members) are involved, at least theoretically,¹¹ in negotiating with the EU and implementing EU-demanded reforms. Despite this variety of local partners, high government officials overshadow all other partners. As I will show in the case study chapters, the executive branch in these three countries has taken the lead in interacting with the EU, and in these three cases the executive branches of their respective government are not held accountable for their actions by local parliaments. Moreover, it is a known fact that the process of Europeanization concentrates power within the executive (Zaum and Knaus 2013, 238). Finally, civil society organizations not only have very little influence on the government, but also most of them are geared mainly towards receiving grants from the variety of international actors who fund them. For these reasons, I will use the term domestic partners to refer to high officials within the executive branch.

Scholars of statebuilding, especially EU statebuilding, maintain that what makes possible the imposition of statebuilding reforms by the international interveners on local societies is the asymmetric interdependence between the two (Papadimitriou and Phinnemore 2004, 623; Elbasani 2013, 8). International actors provide the locals with goods and services that they desperately need, while the locals have little to offer to the internationals. In such instances, the ability of the locals to resist statebuilding is puzzling. The solution to this puzzle, I maintain, is to redefine the relationship between the international and local actors as one of mutual interdependence.

¹¹ There is broad agreement among those who study the EU that local actors have very little influence on the content of statebuilding projects. This is evident by the fact that Accession and European Partnerships (documents that contain reform requirements for countries that are part of SAP) list similar reform demands for all the countries of the Western Balkans without taking into account differences among them.

I claim that there are structural conditions that make resistance possible by attenuating the asymmetric interdependence between the EU and my three case studies, fostering mutual interdependence between the EU and its local partners, and weakening the EU's main instruments of promoting its statebuilding aims (its "sticks and carrots"). In measuring the interdependence between the EU and its local partners, I look at the structural conditions that make it possible for the EU to demand extensive reforms (e.g., financial assistance, security, ideological appeal, and legitimacy) as well as the benefits that the EU derives from its local partners (e.g., maintaining domestic and regional stability). I measure the strength of EU's sticks and carrots by the degree of unity among EU actors (both among EU institutions and EU member states) when it comes to dealing with Albania, Kosovo, and Macedonia, the presence of other international actors that might affect the ability of the EU to reward or punish these countries, and by the strength of anti-EU domestic coalitions.

While the mutual interdependence between the EU and its local partners and weaknesses in EU's sticks and carrots make resistance possible, I claim that the domestic legitimacy of the EU determines the form that resistance takes (overt or covert). I measure the local legitimacy of EU statebuilding and the institutions that it has created by looking at popular support for the EU, political and intellectual elite enthusiasm for Europeanization, and the presence of ideological alternatives to the EU.

I want to conclude this section on one methodological note on the processes that I will examine in the case study chapters. This study focuses on the interaction between the EU and its local partners in Albania, Kosovo, and Macedonia, but I acknowledge that there are political processes at the EU level and within these countries that respectively determine the Union's and the partners positions regarding statebuilding reforms. In the case study chapters, I will provide

enough information to shed light on the positions taken by both the internationals and the locals with regard to reforming state institutions, but, for two reasons, I will not detail the political dynamics at the EU level or at the local level. First, the political processes that have determine the Union's take on statebuilding and those processes that influence the local partners' position are complicated enough to deserve their own study and cannot be covered adequately in this dissertation. Second, because the focus of this study is to understand the interaction between the EU and its local partners, it is not crucial to examine what processes cause these actors to take the positions that they do; instead, I rely on my field research, primary sources, and secondary literature to describe the stances of these actors toward statebuilding reforms.

Cases Studies Description

Albania, Kosovo, and Macedonia are the case studies that will be used to test my hypothesis. I will argue in the following pages that similarities in size, geographic location, history, demographics, economy, and political development allow to compare the statebuilding processes in these three countries. Moreover, the Union is the principal statebuilder in all of them. On the other hand, there are differences in the local legitimacy of EU statebuilding among these three states that allow to examine how local legitimacy shapes the form of resistance of the local partners.

My case studies are located in the western part of the Balkan Peninsula and neighbor each other. They are quite small in size: Albania and Macedonia have territories of about 29,000 km² (roughly the size of Maryland in the US), and Kosovo is only 11,000 km² (about the size of Delaware in the US) (CIA 2015). They are surrounded by EU member states on the east

(Bulgaria), south (Greece), and west (Italy). In the north, they border two candidate EU states, Montenegro and Serbia.

The populations of these countries are very small, and have declined in recent years because of substantial emigration. In 2013, Albania had a population of about 2.8 million, Kosovo 1.8 million, and Macedonia about 2 million (EU Commission 2014, 63). In Albania and Kosovo, ethnic Albanians make up the majority of the population (respectively 85% and 93%), but both countries have influential minorities, especially Greeks in Albania and Serbs in Kosovo. In Macedonia, ethnic Macedonians (Slavs) make up only about 64% of the population, while Albanians (25%) and Turks (4%) are the largest minority groups. In Albania and in Kosovo, most people belong to the Islamic faith (57% and 96% respectively), with significant Christian minorities in Albania (Catholics 10% and Orthodox 7%).¹² In Macedonia, Orthodox Christians form the majority of the population (65%), while Muslims are a substantial minority (33%) (CIA 2015). With the possible exception of Macedonia, where religious and ethnic identity are closely tied, religion does not play a significant role in the political lives of these countries.

Until the early 20th century, these three countries were part of the Ottoman Empire, but they did not exist as separate administrative units, instead the territories of what would later become Albania, Kosovo, and Macedonia were scattered among different Ottoman provinces (vilayets).¹³ An independent Albanian state was created in 1912, Macedonia became part of Serbia in 1912 and was only recognized as an independent republic within Yugoslavia in 1948. Kosovo, on the other hand, was annexed by Serbia during the 1912-1913 Balkan War, but it never attained the status of republic within Yugoslavia; instead, Kosovo remained a province of

¹² The official figures for Albania might be misleading because in the 2011 Census, many people refused to declare their religion.

¹³ A partial exception to this is Kosovo, whose territory was encompassed in the Kosovo vilayet in 1877 (Malcolm 1998, 192).

Serbia whose degree of autonomy varied over the years.¹⁴ Following the 1999 NATO intervention and a decade-long UN administration, Kosovo declared its independence in 2008.

After the fall of the socialist governments in the early 1990s, these three countries were affected directly or indirectly by the wars that followed the dissolution of Yugoslavia. Albanians in Kosovo, after many years of peaceful resistance, launched an armed uprising against Serbia in the late 1990s,¹⁵ which ended with the NATO intervention in the spring of 1999, when Serbia's control over that province was effectively ended. Macedonia seceded peacefully from Yugoslavia in 1991, but it suffered an uprising by the Albanian minority in 2001, which was supported by the Albanian insurgents in Kosovo. While Albania never officially participated in the Yugoslav wars, it provided the Albanian insurgents in Kosovo with weapons, training, and safe havens. There are also claims that Albanian military advisers planned and directed some of the Kosovo Liberation Army (KLA) military operations. It was this instability in the 1990s and early 2000s that led the EU to include these three countries in one of its most ambitious statebuilding projects, the Stabilization and Association Process (SAP).

Albania, Kosovo, and Macedonia are formally parliamentary republics, but their democratic credentials are tainted by high levels of corruption,¹⁶ weak state institutions, efforts to suppress independent media,¹⁷ and electoral manipulations that have cast doubt on the fairness of elections in these countries. Political life in these countries is controlled by a small group of elites grouped in the Socialist and Democratic Parties in Albania, the Kosovo Democratic Party

¹⁴ Between 1974 and 1989, Kosovo enjoyed a large degree of autonomy, almost equivalent to that of the Yugoslav republics.

¹⁵ The first armed incidents took place in 1996, but the conflict escalated in 1998.

¹⁶ In 2014, Transparency International ranked Kosovo and Albania in the 110th place and Macedonia in the 64th place in its annual corruption survey. The corruption survey for that year listed 175 countries and territories. (Transparency International 2015).

¹⁷ The 2014 Reporters Without Borders report, which ranked 180 countries, listed Albania in 85th place, Kosovo in 80th place, and Macedonia in 123rd place (Reporters Without Borders 2014).

and the Kosovo Democratic League in Kosovo, and the VMRO-DPMNE¹⁸ and Social Democratic Party in Macedonia.¹⁹ These organizations, many of whose leaders are individuals of dubious character, have led Albania and Macedonia since the early 1990s and Kosovo since 1999.

One of the main problems that these three countries face is underperforming economies. To a large extent because of the isolation imposed by its leadership, Albania was before the 1990s one of the poorest countries in Europe. Kosovo and Macedonia, while wealthier than Albania, were among the least developed parts of Yugoslavia (Biberaj 1990, 110; Woodward 1995, 70). In the first decade of the 2000s, these three economies expanded significantly. Between 2001 and 2013, Albania's and Macedonia's GDP doubled, while the GDP of Kosovo more than tripled (EU 2014, 63). Still, these countries remained quite poor. The annual per capita income in 2013 was about \$11,000 in Albania, \$8,000 in Kosovo, and \$13,000 in Macedonia (CIA 2015). The deindustrialization that followed the fall of the socialist governments has shifted economic activities into the low-paid service sector, which by 2013 was the largest sector of the economy in all of these countries. Finally, these three societies are plagued by high poverty rates (around 30% in Kosovo and Macedonia and 14% in Albania) and high unemployment (in 2014, the unemployment rate was 17 % in Albania, 31% in Kosovo, and 29% in Macedonia) (CIA 2015).

The poor state of the economy has caused hundreds of thousands of people to migrate from these countries mainly into the EU. This large-scale emigration has not only helped to lower the unemployment rate, but also remittances sent home by immigrants constitute a

¹⁸ Internal Macedonian Revolutionary Organization-Democratic for Macedonian National Unity.

¹⁹ The two main Albanian parties in Macedonia, the Democratic Union for Integration and the Albanian Democratic Party, have at most been junior coalition partners in the various governments formed by the two leading Macedonian parties.

significant percentage of the GDPs of these countries (up to 12-15% in Albania, 15% in Kosovo, and 13-21% in Macedonia)²⁰ (CIA 2015; IMF 2014, 3). These three economies are highly dependent on the EU in other aspects as well. The Union has provided these countries with significant financial support. Between 2000 and 2013, Albania received from various EU sources about \$2.5 billion (Szemler 2006, 12; MIPD 2011, 13; EIB 2013; EBRD 2013), while Macedonia was the recipient of \$2.9 billion (Szemler 2008, 12; EU Commission 2002, 30; EU Commission 2011A, 12; EIB 2015; EBRD 2015). Kosovo, on the other hand, received \$3.85 billion in aid in the 1999-2013 period (Dzihic and Kramer 2009, 14; EDRB 2014; EIB 2014).²¹ In addition, EU member states are the most important trade partners for these countries. Albania sends 77% of its exports to the EU and receives 64% of its imports from the EU. The Union receives 44% of Kosovo's exports and provides this country with 45% of its import needs. The EU absorbs 73% of Macedonia's exports and is the region of origin of 63% of this country's imports (EU 2014, 65).

These countries are also significantly dependent on the EU for order and security. After the collapse of the Albanian state in 1997, EU member states provided the bulk of the forces for operation *Alba*, which was intended to prevent the further breakdown of the country. In addition, the EU has been the main mediator behind the most significant domestic crises that Albania has faced since 1997. In the case of Kosovo, the EU Rule of Law Mission in Kosovo (EULEX) and NATO are the main forces that guarantee the territorial integrity of this country. Finally, the EU together with the United States were the main international actors that helped to end the 2001

²⁰ The data for Albania cover the period to 2008. After 2008, the share of remittances in the domestic GDP fell to 5.7% due to the fact that most Albanian migrants work in Greece and Italy, countries that were hit particularly severely by the 2008 financial crisis (CIA 2015).

²¹ Using the population numbers that were provided in page 38 and the amount of aid provided above, the per capita EU aid has been \$893 in Albania, \$2,139 in Kosovo, and \$1450 in Macedonia.

conflict in Macedonia, the EU serves as the guarantor of the agreement that ended that conflict,²² and the Union has played an important role in solving domestic political disputes in Macedonia.

Not only are these three countries dependent on the EU, but also the region where these countries are located, the Western Balkans, is important to the EU. Due to its proximity to EU member states, instability and conflict in the Western Balkans have the potential to affect the EU itself. Many of the illegal drugs that are smuggled into the Union flow through this region,²³ and Albanian-speaking criminal organizations, which originate mainly in Albania and Kosovo, are considered to be among the main security threats in the EU (EUROPOL 2011; EUROPOL 2013). Finally, this region also serves as a conduit for illegal immigrants into the Union, as exemplified by the latest (2015) immigration crisis. For these reasons, the EU has been active in promoting security and stability in the Western Balkans as well as in building strong states, which the Union claims that one day are going to become EU members.

In order to promote economic growth, security, and political stability, Albania, Kosovo, and Macedonia have sought foreign assistance, and the main statebuilding actor in these three countries is the Union. EU statebuilding is taking place under the umbrella of SAP, which has as its ultimate aim the creation of future member states (Gordon 2010, 325).²⁴ There are some variations among these countries with regard to the Union's statebuilding programs and focus. In the case of Kosovo, the main EU mission is EULEX, whose goals do not depart from those of SAP but are more focused on rule of law institutions. In Macedonia, fulfilling the OFA requirements has been added to the SAP demands.

²² The Ohrid Framework Agreement (OFA).

²³ Most of the heroin that enters the EU flows through the Western Balkans. The region, particularly Albania, also grows a significant amount of the marijuana that is consumed in the Union (UNODC 2014, 5).

²⁴ A detailed description of EU statebuilding is found in Chapter 2.

The historical, economic, and political commonalities among Albania, Kosovo, and Macedonia, permit the comparison of the statebuilding process in these countries. On the other hand, one significant variation among the three is the local legitimacy of the EU. In Albania, the EU enjoys high levels of support both among the population and among the political and intellectual elites of the country. The overwhelming majority of Albanians support joining the Union, EU-related reforms inspire government reform strategies, and there is no domestic ideology that challenges the Europeanization of the country (Kajsiu 2011; Barbullushi 2008, 6). In Kosovo, on the other hand, even though joining the EU is supported by the overwhelming majority of the population, and allegedly is the main goal of the government, the main EU statebuilding mission (EULEX) is only supported by less than a third of the population (KCSS 2013), and the legitimacy of that mission is constantly challenged both by the government and by various social actors (especially by the war veterans organizations and Vetevendosje²⁵ activists). The legitimacy of the EU in Kosovo suffers because EULEX is perceived as working to tarnish the reputation of the war of independence. Finally, in Macedonia the legitimacy of EU statebuilding has been challenged by a new Macedonian (Slavic) identity promoted by the leading government party, VMRO-DPMNE. This new Macedonian identity emphasizes religion, ethnicity, and nationalism at the expense of the values that the EU is trying to promote in Macedonia (secularism, multiculturalism, and regional cooperation).²⁶ Moreover, many Macedonians perceive two EU member states, Bulgaria and Greece, as existential threats to their identity and/or country.

²⁵ Vetevendosje (Self-determination) is one of the main political parties in Kosovo.

²⁶ While these values are shared by many citizens of EU countries, they are often criticized in the annual EU reports on Macedonia.

There are several reasons why I believe that the results of this study can be generalized to other cases. First, there is significant popular support in these three countries for joining the EU, which is supposed to be the end result of the statebuilding. If resistance happens in these cases, then it is even more likely to occur in those instances where the goals of statebuilding are more contested. Second, EU statebuilding comes with substantial material rewards, 11.5 billion euros (\$13.17 billion) were allocated to SAP countries for the 2007-2013 period alone (Anastasakis et al. 2013, 165). Resistance is going to be more likely in those cases in which the benefits of statebuilding are more ambiguous. Finally, the EU is involved in these countries for the long run, and closely monitors statebuilding in them. I would expect resistance to be more significant in those instances in which statebuilders are more disinterested and are guided by shorter time-frames.

The rest of this study is organized in the following way: Chapter 2 provides a general overview of the EU statebuilding model, and examines those structural conditions that make EU statebuilding possible and those conditions that permit the local partners of the EU to resist. Chapter 3 is the first of the case studies, and it looks at EU's efforts to reform the Albanian civil service. I will argue in that chapter that the interaction between EU's statebuilding efforts and Albanian politics has resulted in a civil service that outwardly complies with EU demands, but the resistance of the local partners has often undermined the spirit of reform. I will show that this resistance always takes a covert form because of the hegemony of Europeanization in Albania. The fourth chapter examines EU's attempts to strengthen the judiciary in Kosovo. Similarly to the Albanian case, the Union has successfully pushed for the adoption of major reforms, but the local partners have been able quite often to thwart the proper implementation of these reforms. Differently from the first case study, the problematic legitimacy of the EU in Kosovo has

allowed local actors to openly challenge statebuilding. The EU's endeavors to reform the Macedonian civil service will be examined in Chapter 5. I will argue in that chapter that because of the weaknesses of the structural conditions that favor the EU and the strength of those conditions that permit local opposition, the EU has been less successful at shaping even the formal aspect of institutions in that country. Moreover, the presence of a strong anti-EU ideology in Macedonia allows the local partners to openly challenge the Union. The last chapter will analyze the lessons that can be derived from the case studies regarding both the local resistance to international statebuilding and the dynamic of the statebuilding process.

Chapter 2

Statebuilding EU Style

European Union (EU or Union) statebuilding has been a major engine of change in the Western Balkans,²⁷ the region where my three case studies are located. But the results of statebuilding have not always met the expectations of the EU. Instead, local actors have been successful in undermining those parts of the Union's project that they consider to be harmful to their personal interest or to the well-being of local societies. The goal of this chapter is to shed light on this EU-local dynamic, which has both significantly transformed the Western Balkans and has frustrated many of the EU's expectations for this region.

I will argue in this chapter that the Union has embarked on an important mission to significantly transform the states of the Western Balkans. This transformation aims to sweep aside preexisting institutions and practices and create model EU member states out of the countries of his region. The EU's project is supported by large amounts of financial aid and technical assistance, its progress is carefully monitored through periodic reports, and the fulfilment of EU demands is a legal obligation on those countries that have agreed to the Union's statebuilding program. I maintain that there are structural conditions, such as this region's economic dependence on the EU, that permit the Union to interfere in the domestic politics of the Western Balkan countries. At the same time, I will show that the Union's multiplicity of goals with regard to the Western Balkans, divisions within the EU, and the dependence of the Union on the cooperation of local actors to achieve external policy objectives, have created structural conditions that both attenuate the asymmetric interdependence between the EU and the Western Balkans and permit local actors to resist at least some of the demands of the Union.

²⁷ The Western Balkans is comprised of Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia.

The first section of this chapter will discuss the historical background of EU statebuilding, describe its main characteristics, and list some of the structural conditions that make possible EU interventions. The second part will examine the principal instruments that the EU uses to promote its statebuilding projects. The third section will look at the goals that the EU pursues through statebuilding, and how contradictions among these goals and disagreements among EU actors create structural conditions that attenuate the asymmetric interdependence between the EU and local actors. The last part will examine how local conditions limit the transformative power of the EU.

The EU Statebuilding Model

Statebuilding is an enterprise in which the EU has only recently and reluctantly been engaged in. The Union has not even developed a statebuilding model of its own; instead, it mostly uses models developed by others (Anastasakis et al. 2013, 158). There have been only two regions, Central and Eastern Europe (CEE) and the Western Balkans, where the EU has developed a unique version of statebuilding (Anastasakis et al. 2013, 158; Glenn 2004, 4).

EU statebuilding in the former socialist countries of Eastern Europe is often called Europeanization. Europeanization “represents a seemingly pervasive but variable intrusion of an external dimension into domestic systems. The dividing line between the EU and domestic politics is thus blurred” (Featherstone and Papadimitriou 2008, 1). According to Radaelli, in this process there is a “a) construction, b) diffusion, and c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, ways of doing things and shared beliefs and norms, which at first are defined and consolidated in the EU policy process and then incorporated into

the logic of domestic discourse, identities, political structures, and public policies” (Radaelli 2003, 30).²⁸

Initially, the goal of EU statebuilding was to create eligible member states out of the Eastern European countries. The Copenhagen Council of 1993 and the Madrid Council of 1995 set out the broad guidelines of the transformation that the Union was trying to accomplish:

- 1) stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- 2) existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union;
- 3) ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union (European Union 2014).

While the above criteria were sufficient in the case of CEE countries, which mainly needed to liberalize their economic and political systems, in the Western Balkans, the EU was confronted with far greater challenges. Not only were the countries of the latter region transitioning from socialism, but also they were coping with the consequences of the conflicts that ravaged the region in the 1990’s and early 2000’s. In this region, the Union was engaged in both post-conflict statebuilding and EU member state building, two processes that are not always compatible (Bieber 2008). While member state building assumes that there is a state whose institutions need to be Europeanized, the inter-ethnic conflicts that have continued to simmer since the end of the 1990’s and early 2000s conflicts have caused many inhabitants of the Western Balkans to question the very existence of the state (this is especially true in Bosnia, Kosovo, and, to a lesser extent, in Macedonia).

²⁸ Among some circles in both the Western Europe as well as in the Western Balkans, Europeanization is equated with modernity and European values and practices. I reject this view for two reasons. First, many of the values and practices that the EU promotes abroad are not shared by all of its member state, e.g., minority rights and religious freedoms. Second, the countries of the Western Balkans have historically been part of Europe, and to consider them in need of becoming “European” is to have a skewed understanding of European history and the diversity of European societies.

The EU statebuilding project in the Western Balkans is formally known as the Stabilization and Association Process (SAP). SAP is very similar to the Europe Agreement program that the Union used to transform the CEE states. The main difference between the two is that SAP places more emphasis on stabilization, war refugees, and regional cooperation. Also, SAP does not provide a guarantee that once its obligations are met, countries will automatically join the Union (Phinnemore 2013, 23-24).

The Western Balkans is an important region to the EU. Its proximity to several member states means that any crisis or instability will have great repercussions on the Union itself. The relationship between the two has evolved considerably since the early 1990's. Initially, the EU was not prepared to deal with the breakup of Yugoslavia and the wars that followed it. Later, the Union developed several instruments that it believed would help solve the political and economic crisis engulfing this region and lead to peace and stability.

The first attempt by the EU to promote stability, regional cooperation, and closer integration of the Western Balkans with EU structures was in 1997, when the General Affairs Council launched the Regional Approach, which was intended to supplement the Dayton Agreement. The Regional Approach included trade and contractual agreements as well as meetings taking place under the auspices of the political dialogue framework among regional leaders and EU officials. For the first time, the Union used political and economic conditionality in its dealings with this region. The Western Balkan countries were required to respect human rights, democratic principles, minority rights, rule of law, and the free market (Turkes and Gokgoz 2006, 675). The Regional Approach divided countries into two groups: a) Albania and Macedonia, which were ready to conclude trade and cooperation agreements with the EU; b)

Bosnia, Croatia, and the Federal Republic of Yugoslavia,²⁹ which had to fulfill their obligations under the Dayton Agreement before any cooperation with the EU could take place (Papadimitriou 2001, 74). The EU used trade concessions and financial assistance as incentives for compliance with its political and economic conditionality.

Two factors increased the intensity of EU involvement in the Western Balkans. First, after September 11, 2001, the United States started to disengage from this region, making the EU the only “game in town” (Anastasakis and Bechev 2003, 4). Second, and most importantly, the Kosovo crisis of 1999 made it clear that the EU’s efforts up to that moment had not been fruitful in stabilizing the Western Balkans, and that there was the need for a new strategy. That latest crisis in the Balkans demonstrated that mere economic reconstruction and political reforms were not enough to promote stabilization (Pippan 2004, 227). The Union decided to use what was believed to be its most powerful tool in influencing domestic development, the membership perspective, and slowly integrate these countries more closely into its institutions.

In order to achieve the above objectives, the EU launched SAP in 1999.³⁰ At the Zagreb Summit in November 2000, regional leaders agreed to participate in this process. SAP has three aims: 1) promote stabilization, 2) promote regional cooperation, and 3) prepare countries for possible EU accession. The centerpiece of SAP is a contractual relationship, the Stabilization and Association Agreements (SAA), and an assistance program, Community Assistance for Reconstruction, Development and Stabilization (CARDS), from 2002 to 2006, and Instruments for Pre-Accession Assistance (IPA) since 2007.

²⁹ The Federal Republic of Yugoslavia (1992-2003) was comprised of Montenegro and Serbia.

³⁰ In 1999, the EU with the cooperation of other international actors (particularly Germany), launched the Stability Pact for South-Eastern Europe. The aim of this agreement was to promote “political, economic, and social dialogue” (Vucetic 2001, 109). In 2008, the Stability Pact was replaced by Regional Co-operation Council.

SAP is a gradual process in which individual countries become more integrated into the EU's structures and receive more aid by showing progress in complying with the political and economic conditionality set forth by the Union. The ultimate goal of SAP is the signing of the SAA, but before countries do so, they have to pass a series of tests. In the beginning, the EU establishes a consultative task force that discusses with officials from individual countries the steps that they need to take in order to bring their country in line with EU conditionality. Then, based on the findings of annual reports by the EU Commission, the EU starts a feasibility study on the SAA. If the feasibility study concludes that a country is ready for the SAA, negotiations for such an agreement start.

The SAAs are contractual relationships between the EU and Western Balkans countries. They involve the gradual adoption of the *acquis communautaire*³¹ (*acquis* for short), trade liberalization, free movement of capital and workers, cooperation in justice and home affairs, and technical assistance (Phinnemore 2003, 82). The goals that countries have to meet in order to fulfill their obligations under the SAA are stated in European Partnership documents, which are revised every few years. Reports are submitted every year to the EU Commission on the progress of countries in fulfilling their duties under the SAAs, and recommendations are made on those areas that need improvement. To help fulfill the demands of the Union, large sums of money (\$14 billion were given in the 2007-2013 period alone) have been given to this region through programs such as PHARE, CARDS, and IPA (EU Commission 2015). This aid is mostly

³¹ The *acquis* is “the body of common rights and obligations that is binding on all the EU member states. It is constantly evolving and comprises: the content, principles and political objectives of the Treaties; legislation adopted pursuant to the Treaties and the case law of the Court of Justice; declarations and resolutions adopted by the Union; instruments under the Common Foreign and Security Policy; international agreements concluded by the Union and those entered into by the member states among themselves within the sphere of the Union's activities” (EU Commission 2015).

targeted to helping countries Europeanize and tackle the priorities indicated by the EU and is conditioned on the countries of this region fulfilling EU requirements (Pickering 2011, 14).

One of the most demanding areas of EU statebuilding is the adoption of the *acquis*. The *acquis* is divided into 35 policy chapters, which are listed in Table 1. As the titles of these chapters suggest, the EU demands reforms in almost all areas regulated by the state. While the adoption of the *acquis* starts as soon as countries sign SAA agreements, its pace significantly increases during EU membership negotiations. Membership negotiations to a large extent involve discussions on the “conditions and timing of the candidate's adoption, implementation and enforcement of all” parts of the *acquis* (EU Commission 2012). According to the EU Commission prospective member countries cannot opt out of any part of the *acquis* (EU Commission 2012).

Table 2.1 *Acquis communautaire*

Chapter 1: Free movement of goods
Chapter 2: Freedom of movement for workers
Chapter 3: Right of establishment and freedom to provide services
Chapter 4: Free movement of capital
Chapter 5: Public procurement
Chapter 6: Company law
Chapter 7: Intellectual property law
Chapter 8: Competition policy
Chapter 9: Financial services
Chapter 10: Information society and media
Chapter 11: Agriculture and rural development
Chapter 12: Food safety, veterinary and phytosanitary policy
Chapter 13: Fisheries
Chapter 14: Transport policy
Chapter 15: Energy
Chapter 16: Taxation
Chapter 17: Economic and monetary policy
Chapter 18: Statistics
Chapter 19: Social policy and employment
Chapter 20: Enterprise and industrial policy
Chapter 21: Trans-European networks
Chapter 22: Regional policy and coordination of structural instruments
Chapter 23: Judiciary and fundamental rights
Chapter 24: Justice, freedom and security

Chapter 25: Science and research
Chapter 26: Education and culture
Chapter 27: Environment
Chapter 28: Consumer and health protection
Chapter 29: Customs union
Chapter 30: External relations
Chapter 31: Foreign, security and defense policy
Chapter 32: Financial control
Chapter 33: Financial and budgetary provisions
Chapter 34 - Institutions
Chapter 35 - Other issues

Source: EU Commission 2012.

While the goals of the SAAs and their implementation are supposed to be agreed through negotiations between the EU and individual countries, many students of Europeanization argue that this process is a top-down one. The EU controls most of the agenda, it is not accountable to local societies, and it is the one that decides when the SAA obligations have been met (Chandler 2010, 76; Anastasakis and Bechev 2003, 13). Moreover, the reforms demanded by the Union are highly intrusive, even more so than what the EU asks from its member states, and they involve significant changes to almost every state institution and political behavior (Merling 2007, 438). It is not uncommon for EU officials to intervene in what are purely domestic affairs under the guise of the SAA.

I maintain that there are several structural conditions that allow the EU to be so intrusive in the domestic affairs of the countries of this region and impose its statebuilding agenda on them. The Western Balkans economies are highly dependent on the EU. The Union is the main provider of aid as well as the leading trade partner for this region. Beside the large amounts of financial assistance that were mentioned above, the EU accounts for 75% of the trade volume of this region (EU Commission 2015). Moreover, the EU plays a very important role in maintaining stability and peace both among the countries of the region as well as within the countries

themselves. Currently (2015), the EU has Common Foreign and Security missions in Bosnia and Kosovo,³² and after the 2001 conflict, the Union deployed a police mission in Macedonia. Moreover, the EU has played an important role in solving domestic political conflicts in the Western Balkans. Also, the Union has significant ideological appeal in the Western Balkans. There is a widespread belief among the elites and the population of the Western Balkans that joining the Union is the only way out of the current difficult situation (Chandler 2010, 74-75). A 2014 poll found out that the inhabitants of the Western Balkans listed economic prosperity, peace, and stability as among the main benefits that they expect from EU membership (Regional Cooperation Council 2015, 46). Finally, this region does not have any other strategic partnership options that will allow it to resist the attraction or the demands of the EU. The two other regional powers, Russia and Turkey, cannot compete with the EU in terms of resources, while the United States does not consider this region to be a priority.

Some scholars of Europeanization maintain that these structural conditions have produced an asymmetric interdependence between the EU and the Western Balkans, which gives the Union the ability to make significant and very intrusive demands (Papadimitriou and Phinnemore 2004, 623; Elbasani 2013, 8). According to this claim, the Western Balkan countries are willing to make great sacrifices and even compromise their sovereignty because the rewards offered by the EU are significant. On the other hand, the EU does not stand to benefit much from these countries, thus, it is not subject to pressures from the Western Balkans.

While acknowledging the significant influence that the above structural conditions provide to the EU, my findings challenge some of these claims about the EU domination of the statebuilding process and the asymmetric interdependence between the EU and the Western

³² The EU mission in Bosnia (EUFOR ALTHEA) is a military mission, while the EU mission in Kosovo (EULEX) is a civilian one, even though it does have military capabilities.

Balkans. As I will show in the case study chapters, while the EU officially determines the statebuilding agenda, the Union's local partners have been quite successful in resisting those parts of statebuilding that they disagree with. I will argue that this resistance has happened because the claim of asymmetric interdependence between the Union and the Western Balkan countries is at best exaggerated. Later in this chapter and in the case study chapters, I will show that in addition to the structural conditions that permit the EU to impose its statebuilding agenda, there are also structural conditions that allow local actors to resist, quite often successfully, these demands. Based on these findings, I will argue later in this study that statebuilding should not be understood as simply imposed on local societies. Instead, statebuilding involves a synergy between local and international actors.

Instruments Used by the EU to Promote Statebuilding

The ability of the EU to promote reforms outside its border has been explained by using two main bodies of theories, rational choice and constructivism (Schimmelfenning and Sedelmeier 2005). Rational choice explains political reforms induced by international actors by using what March and Olsen call the logic of expected consequences (March and Olsen 1998, 949). This theory considers states to be rational actors that have fixed interests and act so as to maximize their utility. States will reform their political systems based on the threats and rewards attached to the introduction of such reforms by international organizations (IOs). Decisions are made after weighing the opportunity cost of reform. As Schimmelfenning argues, states respond mainly to material incentives (Schimmelfenning 2007, 23).

The main international tool to induce compliance according to this school of thought is conditionality. Conditionality is a technique through which IOs try to change the behavior of

states by providing them with rewards and threats (Kelley 2004, 30). Such incentives can be positive or negative. Incentives are positive when they provide rewards for complying with conditionality. On the other hand, negative incentives use the threat of the removal of rewards, such as foreign aid, in order to obtain compliance.

Conditionality is used by the EU in all the cooperation programs that it operates, especially in those that might lead to the accession of countries into the Union. EU conditionality operates through two modalities: a) pre-conditions, which require states to take certain steps before they are offered the promised rewards, and b) trigger steps, which divide the reward into several stages. In the case of the Western Balkans, countries had to meet minimum requirements of political and economic reforms before they were eligible to sign the SAAs. Once the agreements were signed, these countries had to undergo further reforms so as to advance their EU integration.

Conditionality is considered by many to be the most important tool that the EU has in its statebuilding arsenal (Papadimitriou and Phinnemore 2004, 622). It was honed in the 1990's, when the EU first tackled the issue of reforming countries transitioning from socialist regimes, and is now deployed in the Western Balkans. Conditionality has been particularly valuable in fomenting reforms in those countries where the political elite did not necessarily share EU values. Its effectiveness lays in tying the benefits provided by the Union to the adoption and implementation of reforms (Vachudova 2005). On the other hand, the benefits that the EU offered to the countries of CEE, both economic and political, were so significant that many believe that these former communist countries were willing to make major sacrifices in order to reap the rewards offered by the Union (Vachudova 2005, 63; Moravcsik and Vachudova 2003, 43).

Constructivists, differently from rational choice scholars, explain the ability of the EU to induce political and economic reforms by using the logic of appropriateness (March and Olsen 1998, 951). Differently from rational choice theorists, constructivists believe that utility maximization is not the only impetus behind government actions and policies. Governments also take into account the rules and norms of the environment in which they operate. According to this school of thought, international actors can encourage reforms by socializing states to the norms of liberal democracy. Socialization is “the process of introducing actors into the norms and rules of a given community” (Checkel 2005, 804).

Alan Johnson states that socialization can be achieved through two paths: persuasion and social influence (Johnson 2001, 495). Persuasion is the changing of the norms and beliefs of actors without resorting to material means. In this process, states and government officials change by interacting with outside actors. Social influence, on the other hand, depends on the distribution of social rewards and punishment to affect the behavior of states.

There are several reasons why international actors can make states comply with their norms. Martha Finnemore and Kathryn Sikkink argue that peer pressure, the need for legitimacy, conformity, and esteem play an important role in this process (Finnemore and Sikkink 1998, 903). If most of the member states of an organization comply with certain norms, then those who do not conform will feel pressured to abide by organization’s norms. State leaders value the esteem of their peers and do not want to be perceived as rogue actors.

Another crucial component of socialization is the linkages between international actors and individual countries. Steven Levitsky and Lucian Way maintain that states that have dense ties to Western organizations are more likely to adopt Western norms (Levitsky and Way 2005, 23). According to these authors, such states are under greater scrutiny and pressure to conform to

Western norms than states that have fewer ties to the West. Also, their citizens are in closer contact with the West and are more likely to learn and be influenced by its norms.

The EU uses several socializing measurements. The Council of the European Union has initiated dialogues on important reforms with its neighbors. Periodic meetings take place between EU officials and government functionaries of partner countries. The Union observes the political conditions of its neighbors and issues demarches that are intended to embarrass countries into complying with European norms. Finally, twinning programs embed bureaucrats from EU member states into government institutions of other countries.

While the EU has made use of both conditionality and socialization in its statebuilding projects, there is a widespread agreement that socialization has not been by itself able to change the behavior of those countries where the political elite does not share EU values (Noutcheva 2007, 2; Panebianco and Rossi 2004). But this does not mean that the EU has not achieved any success in socializing countries. This method of inducing political and economic reforms has been particularly effective in those countries that had a liberal political elite that needed guidance in designing and implementing reforms (Vachudova 2005). Also, some claim that socialization has helped to maintain the reform gains in the CEE countries after their accession into the EU, when conditionality was not being applied anymore (Pridham 2008). Finally, even in those cases in which socialization has not been able to engender significant reforms, it has often changed the official discourse by introducing EU norms and values in the political debate (van Hullen 2009).³³

My findings challenge the effectiveness of both of these statebuilding instruments. Of my three case studies, socialization into EU norms and values has mainly taken place only in

³³ Recent political developments in Hungary and the response of the CEE countries to the current (2015) immigration crisis have cast doubts on the socialization of these countries into EU norms and values.

Albania, and as I will argue in Chapter 3, this has happened mainly because of domestic factors. In Kosovo and Macedonia, on the other hand, the values promoted by the EU have been challenged by local actors and little socialization has taken place. Conditionality has also proven to be not very effective as well. My research shows that at best, conditionality has only succeeded in changing the laws and formal institutions, but not the implementation of these laws and institutions.

I will argue in the following pages that three of the most important reasons behind the failure of conditionality are the incoherent objectives that the Union and its member states have simultaneously pursued in the Western Balkans, divisions within the EU, and the dependence of the Union on Western Balkan actors to achieve some of its external policy objectives. These factors have created structural conditions that have weakened the effectiveness of conditionality.

The Objectives of EU Statebuilding

In order to understand the effectiveness as well as the results of EU statebuilding, it is important to examine the objectives that the Union wants to achieve through its interventions. It should be emphasized that EU statebuilding and EU expansion are two sides of the same coin. In the CEE and the Western Balkans, EU statebuilding has been understood as the most important requirement for joining the Union. The literature on Europeanization provides five reasons for EU statebuilding/expansion: 1) normative motives, 2) geostrategic concerns, 3) economic gains, 4) rhetorical entrapment, and 5) EU member state drives. I maintain that these disparate reasons behind EU's engagement with the Western Balkans have weakened the coherence of the EU's project and have created opportunities for local actors to resist those parts of EU statebuilding that they disagree with.

According to some authors, the EU is not a traditional military power; instead, it is a normative power. Manners defines normative power as the ability of the EU to “ shape concepts of normal in international relations in line with its unique normative basis, which is rooted in its *sui generis* history and character as a post-sovereignty or post-Westphalian entity” (Manners 2002, 239). Furthermore, he maintains that the foreign policy of the EU aims to spread universal values, such as human rights, democracy, and rule of law (Manners 2002, 239).

Scholars who view the EU as a normative power explain the Union’s programs with other countries, particularly those in CEE and in the Western Balkans, as efforts to export Western European values (Borzel and Risse 2009, 7). Turkes and Gokgoz maintain that one of the main reasons why the EU decided to expand eastward was the expectation that the Union had to take the lead in guiding its eastern neighbors through their transition (Turkes and Gokgoz 2006, 665). Not only was there a desire by the EU to spread its norms abroad, but also the appeal of the EU, what Milada Vachudova calls the Union’s “passive leverage,” played an important role in influencing CEE governments in choosing their transition models (Vachudova 2005, 65). One of the key features of EU’s external policy is the fact that the Union does not depend primarily on military force to disseminate its values; instead, it relies heavily on its power of persuasion, in addition to the economic and technical assistance that it provides (Diez 2005).

Another view holds that the EU statebuilding programs in the former socialist countries, and especially in the Western Balkans, have been motivated mainly by geostrategic considerations. Atsuka Higashino argues that security concerns were very important in the European elite discussion of the Eastern Enlargement. It was feared that the failure to extend membership to the CEE countries might have led to increased nationalism as well as to a possible return of the cold war (Higashino 2004, 350). According to David Phinnemore, EU’s

involvement in the Western Balkans followed the bloodshed of the 1990's and was guided by a desire to prevent conflicts from engulfing the region again (Phinnemore 2013, 26). The main aims of the EU's efforts in the Western Balkans have been to reduce ethnic tensions, promote regional cooperation, and strengthen state institutions, all of which are intended to promote regional stability.

It should be stressed that statebuilding to promote security is not a selfless act by the Union. By maintaining peace in the Balkans, EU officials believe that they are promoting the domestic security of their member states as well (Pond 2006, 5). Of particular concern to the EU are organized crime and immigration flows from the region. This is why the EU has focused so much of its energies when dealing with this region on security and border control (Trauner 2009). The former EU Commissioner for External Relations, Chris Patten, once stated that: "The choice for us in this case is very clear: either we export stability to the Balkans, or the Balkans export instability to us" (Patten 2002).

Statebuilding for security has not been seen as only protecting the interest of EU member states, but also as a long-term strategy for the EU to deal with the Balkans. Olli Rehn, the former EU Commissioner for Enlargement, has stated that the EU's exit strategy from the Balkans is the entry of the Balkan countries into the Union (Belloni 2009, 320).

A third explanation for the EU's engagement with its eastern and southern neighbors deemphasizes the centrality of statebuilding and focuses instead on the economic benefits that the EU and its member states stand to gain from accepting these countries into their fold. According to John O'Brennan, the EU stands to gain in four different areas: 1) a stronger EU position in the global market, 2) an increased control by the EU of the markets of the former communist countries, 3) more voting power for EU countries in important economic forums and

4) the opening up for negotiations of wasteful EU programs, such as the agricultural support regime market (O'Brennan 2006, 133-134).

Andrew Moravcsik and Milada Vachudova provide a fourth argument for why the EU may want to add new members. According to them the enlargement process is pushed by some of the countries that are going to benefit economically or whose geostrategic interest will be furthered by admitting new members to the Union (Moravcsik and Vachudova 2003, 43). One of the main promoters of the Eastern Enlargement was Germany, which was at the same time the largest foreign investor as well as trade partner of eastern European countries. In addition, Germany was particularly concerned in stabilizing its immediate neighborhood so as to improve its own security (O'Brennan 2006, 138).

Finally, Frank Schimmelfenning argues that the expansion of the EU eastward was caused by the entrapment of the Union in its own rhetoric. According to him, the EU views itself as a community of liberal-democratic states that is open for membership to all European countries. The members of this community care about their reputation and want to be perceived as actors whose behavior reflects the values shared by the community. The former socialist countries have claimed that the political and economic reforms that they have undertaken qualify them for EU membership. This has placed existing member states in a difficult position. If they deny entrance to their eastern and southern neighbors, the current EU members would contradict the very values on which the Union was founded. Thus, applicant states and their supporters can shame opponents of the enlargement into changing their behavior (Schimmelfenning 2001, 48). Thus, the enlargement process has a momentum of its own, and often the political elites of candidate countries know that sooner or later the EU will accept them, no matter the quality of the reforms (Gallagher 2009).

The above five goals of EU statebuilding/expansion have been pursued simultaneously, even though it is debatable whether they are compatible. On the one hand, these objectives have the potential to reinforce each other. The desire of the Union to promote stability in the Western Balkans as well as to strengthen its economic position by adding new member states might provide the right incentives for the EU to back up its normative rhetoric with real action. Thus, the EU might use statebuilding to promote these two long-term goals. On the other hand, the Union might only focus on short-term solutions to its concerns, agree to cooperate with unreformed local leaders in order to promote regional security, and ignore the larger agenda of statebuilding. Similarly, some EU member states might lobby to accelerate the pace of integration of those Western Balkan states with which they have close security and economic ties, even though these states might not have fulfilled the EU-demanded reforms. While both of these scenarios are possible, the findings from my case studies indicate that the EU and its member states have often sacrificed statebuilding in order to pursue geostrategic and economic goals.

Not only has the variety of goals that the Union has pursued in the Western Balkans often caused statebuilding to be put on the back burner, but also the EU is dependent on local actors to achieve some its goals in the region. The Union relies on its local partners in this region to stop the flow of illegal immigrants and drugs to EU member states as well as to keep in check simmering conflicts. The countries of the Western Balkans have considerably strengthened their border controls and have agreed to accept back immigrants who illegally enter the Union through their territories, which has made them the first line of defense in preventing illegal immigration (see the annual FRONTEX reports on this issue). As the events of the summer and fall of 2015 have shown, this line of defense is not always effective, but it has at least succeeded in

significantly reducing the number of Western Balkans residents who enter the Union illegally (FRONTEX 2014, 5).

While substantial amounts of drugs continue to be smuggled from this region into the Union,³⁴ the EU in cooperation with local partners have succeeded in preventing these countries from turning into narco states. A telling example is the actions taken by the Albanian government in the summer of 2014 to stop production of marijuana in the village of Lazarat (the village is estimated to have produced about 900 metric tons of marijuana a year) and take control of this village from criminal gangs (The Guardian June 17, 2014). One of the most important reasons why the Albanian government decided to shut down this major center of drug production was the reluctance of several EU member states to award Albania the candidate status while drug dealers operated without any hindrance in this village.

Finally, the Union has relied heavily on local actors to promote stability and prevent the reoccurrence of the conflicts of the 1990s and early 2000s, which posed a threat to the Union itself. The EU relies on its partners in Tirana (the capital of Albania) to curtail the spread of Albanian secessionist movements in the Western Balkans (Primatarova et al. 2012).³⁵ The Union has also relied on the willingness of its Kosovar and Serbian partners to negotiate a solution to the dispute between Kosovar Albanians and Serbia in order to stabilize a troubled area that borders several EU member states.

This reliance on local actors to pursue some of the Union's goals for this region has attenuated the asymmetric interdependence between the EU and the Western Balkans because,

³⁴ Most of the heroin that enters the EU is smuggled through the Western Balkans. This region (particularly Albania) also produces a significant share of the marijuana that is consumed in the Union (UNODC 2014, 5)

³⁵ With the exception of Bosnia and Herzegovina, all the countries of the Western Balkans contain significant numbers of Albanians, and Albanian secessionism has been a significant source of instability in the Western Balkans.

contrary to what some authors claim, not only the countries of this region are in need of the Union, but also the EU is in need of them.

Another issue that the EU has faced in dealing with the Western Balkans is that not all of the Union's institutions and member states agree on the goals that need to be achieved. These contradictions among EU actors weaken the consistency as well as credibility of EU demands. The European Parliament and the European Commission, for example, have been more willing to accelerate the integration of this region into the Union, while the Council of the European Union has been reluctant to expand into what it considers a problematic area. This means the EU quite often has not been able to speak with one voice concerning future enlargements, which has undermined the main incentive (membership) for statebuilding (Sebastian 2008, 6).

I maintain that the different objectives that the Union has pursued, the EU's reliance on local actors to achieve some of its external policy objectives, and disagreements within the Union create structural conditions that decrease the ability of the EU to impose its statebuilding agenda on the countries of the Western Balkans. More precisely, these structural conditions: a) weaken the membership conditionality and b) decrease the asymmetric interdependence between the EU and the Western Balkan countries.

Transformation and resistance

The effectiveness of the Union as a statebuilding agent is controversial. There are many students of CEE who attribute this region's successful transition from socialism to the statebuilding efforts of the EU (Pridham 2005; Vachudova 2005). The EU provided frameworks of reference and guidance to the most liberal of these countries, such as Poland, thus socializing them into the

norms and values of Western Europe. Significant transfers of funds were used to build state institutions and infrastructure and to cope with the challenges of catching up to EU standards.

Not only was the EU successful at influencing those former socialist countries that had embraced liberalism, but there are some scholars who claim that the EU was also successful at influencing also those countries that were led by illiberal elites. The EU was able to do so by changing the opportunity structures that the political elites of these countries faced (Phinnemore and Papadimitriou 2004, 622). Even challenging cases, such as Romania and Bulgaria, reformed their political and economic systems because the rewards offered by the EU were immense and the cost of failure to attain membership were too great (Vachudova 2005).

The rosy picture of the EU statebuilding has come under criticism, especially by studies that have looked at the sustainability of EU inspired structures after the accession of CEE countries. John Glenn maintains that CEE governments did not pursue Europeanization reforms with the same zeal; instead, there has been quite a lot of variation when it comes to implementing EU demands (Glenn 2004, 5). Svein Eriksen sees three main problems with reforms: a) CEE governments have chosen different forms of governments, so that there is no convergence towards one particular model, b) they often only pretended to engage in reforms, and c) their economic liberalization is a flawed one (Eriksen 2007, 335). Finally, the durability of even those reforms that were adopted under EU pressure has been questioned. A good example is public administration reforms in CEE. On paper the countries of this region underwent significant transformation, increasing the independence of their civil services and bringing their state institutions in line with EU demands, but when these countries entered the Union and conditionality was not applied anymore, many of the reforms were reversed (Meyer-Sahling 2009). Particularly damning to the EU statebuilding has been the fact that the Union has not been

very successful in exporting its norms east. Even an enthusiastic supporter of the EU eastern enlargement, Geoffrey Pridham, acknowledges that the Union has not been very good at fostering behavioral changes (Pridham 2008, 437).

While many reasons have been proposed to explain the failures of EU statebuilding, there is a growing number of studies that point to domestic factors as the crucial variables in determining the success of Europeanization. First, there are significant structural features that mitigate the implementation of Europeanization reforms. EU officials have wrongly assumed that the former socialist countries are *tabula rasa* and that they are ready to be molded into liberal market democracies (Eriksen 2007, 336). Features such as the weakness of reformist/liberal elites, the existence of strong patronage networks, a culture of clientelism, historical legacies that are inimical to liberal values, and weak state structures undermine the EU's statebuilding project (Elbasani 2013, 5-9; Featherstone and Papadimitriou 2008, 41).

Second, in many instances there is a significant gap between the reforms that the EU requests and the day-to-day needs of both the domestic political elites and the population at large (Anastasakis and Bechev 2003, 16). In the case of Albania, for example, the Union dedicated 30% of its financial support to reforming the justice and public administration sectors but only 20% of the financial package to agricultural development (EU Commission 2010, 13), even though almost half of Albanians live in rural areas, which are both highly dependent on agriculture and afflicted by chronic poverty. This means that governments are in many cases not willing to prioritize EU demands.

Third, the enlargement process is not without costs for important domestic groups (Schimmelfenning and Sedelmeier 2005, 16-17). Liberalization means that governing elites who in the past have based their appeal on distributing goods and services through their control of

state resources will not be able to do so anymore. Also, many sectors of society that are protected under paternalistic state policies will be exposed to the vagaries of the market. Local actors have worked throughout the former socialist countries to limit or even undermine those aspects of Europeanization that they consider harmful to their interest.

Finally, there is evidence that EU demands have been hijacked by local political actors to promote their interest. Martin Brusis maintains that in Slovakia the regionalization process was driven by the desire of government officials to “assert themselves” against their opponents. The EU was used as a convenient cover to justify actions that were motivated by purely domestic concerns (Brusis 2005). In Macedonia, the human and minority rights that were demanded by the Ohrid Framework Agreement were appropriated by nationalist elites. Instead of using minority quotas to promote greater inclusion in state structures, political entrepreneurs used them to make politically motivated appointments (Koinova 2011, 825). The aims of the EU have been filtered through local structures and have been modified to reflect local needs. This has resulted in the shallow Europeanization of those societies undergoing EU statebuilding.

By taking into account of these local constraints to EU statebuilding and the structural conditions that were mentioned above, which both allow the EU to intervene in the domestic politics of these countries but also allow the local actors to resist EU demands, I maintain that in order to explain the mixed record of EU statebuilding we need to look at the interactions between the EU and local actors. Neither of these two actors (the EU or the locals) is capable of dictating the terms of statebuilding; instead, their cooperation and conflict shape the contents of reforms.

Chapter 3

Albania: The Silent Opposition

The process of reforming the Albanian civil service, one of the main focuses of European Union (EU or Union) statebuilding in this country, is paradoxical. While the development of the formal legal and institutional aspects of the civil service has been guided by EU demands, as this chapter will show, the way that these reforms have been implemented has undermined the very spirit of EU efforts. I will show in the following pages that the main factor behind the failure of these reforms in Albania is the resistance offered by the Albanian partners of the Union, i.e., the very local actors who are in charge of implementing EU statebuilding.

I will argue in this chapter that the paradoxical nature of the Albanian civil service can be explained by examining how the EU and its local partners interact with each other. More precisely, there are structural conditions (such as the EU's aid to Albania) that permit the Union to dictate the official rules of the political game in Albania, while there are other structural factors (such as the EU's prioritization of security and stability in Albania) that permit the Albanian partners to successfully resist many of these reforms. The fact that Europeanization enjoys ideological hegemony in Albania, I contend, forces this resistance to always take a covert form and causes the official laws and institutions in this country to be in compliance with EU directives.

This resistance, I will show, is caused by frictions between the EU's vision of what constitutes a proper civil service and Albanian politics. The Union wants to create in Albania a civil service that is well-organized, well-trained, highly paid, and meritocratic. More importantly, the EU wants to severely restrict political influences in the civil service, especially, in the hiring

process. On the other hand, control over the civil service is crucial to gaining and maintaining power in Albania. The civil service is used to make up for the lack of job creation by the private sector, to reward party supporters, and to gain votes for the governing parties, among other things. The resistance has been successful at thwarting EU's attempts to reduce the Albanian partners' control over the civil service, but those EU-demanded reforms that do not affect the political control of the service, such as the unification of the salary system, have been quite successful.

The chapter is organized in the following manner: The first section provides an overview of the EU's statebuilding project in Albania as well as the structural factors that make possible the intrusion of the EU in Albanian domestic politics. The second section examines the civil service reforms that the Union has demanded from its Albanian partners, the achievements of these reforms, and their failures. The domestic political conditions that have motivated the Albanian partners to resist are examined in the third part. The last section looks at the structural factors that make possible the resistance of the Albanian partners and at how the legitimacy that Europeanization enjoys in Albania causes this resistance to always be covert.

The EU statebuilding project in Albania

The relationship between the EU and Albania started immediately after the fall of socialism and has gone through three phases. As the ties between the two have progressively gotten stronger, the influence of the EU over Albanian domestic politics has increased as well. The role of the Union has shifted from that of a crisis manager in the early years of the post-socialist transition to being the principal architect of Albania's legal and institutional structure since the mid-2000s.

The first phase of the relationship was regulated by the Trade and Cooperation Agreement signed in 1992. This agreement, as the name suggests, was mainly intended to liberalize trade between the two, but it also made Albania eligible for aid under PHARE (Poland and Hungary Assistance for the Restructuring of the Economy). PHARE's assistance was significant because the country went through a humanitarian crisis in the early 1990s. During this first period, Albania tried to deepen its relationship with the Union by asking for a Europe Agreement that would have put the country on a membership track.³⁶ The low political and economic development of the country and the 1997 crisis prevented such steps from taking place (Bogdani and Loughlin 2007, 116).

The second phase of the relationship between Albania and the EU started in 1999, when the EU proposed a new program to manage its relations with the Western Balkans,³⁷ the Stabilization and Association Process (SAP). Albania began negotiating for the main element of SAP, the Stabilization and Association Agreement (SAA), in 2003. Because of its weak institutions and highly polarized political climate, negotiations dragged on for three years. The SAA was finally signed in 2006. This agreement brought Albania a step closer to the EU as SAP's ultimate aim is the integration of the Western Balkan countries into the Union.

SAP has also increased the direct influence of the EU over Albanian domestic politics. In order to prepare for eventual EU membership, the country has taken upon itself to adopt all EU legislation, the *acquis communautaire* (*acquis* for short), within a period of ten years. Under the SAA, the EU issues directives on the reforms that Albania must undergo in order to align its laws

³⁶ The Europe Agreements were treaties signed between the EU and Central and Eastern European (CEE) countries starting in 1991. According to the EU Commission, these agreements were supposed to lead to "economic and political convergence" between the EU and these former communist countries. They were also supposed to prepare the countries of CEE for eventual EU membership (O'Brennan 2006 19-22).

³⁷ The Western Balkans is comprised of Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia.

and institutions with the Union's requirements. Yearly reports examine the state of these reforms. In order to assist this Europeanization process, the EU provides Albania with significant financial aid.

The third phase of the relationship between Albania and the EU started in June 2014, when the country officially became an EU candidate member. The significance of this new development is that the level of demand and monitoring by the EU has increased significantly and Albania is expected to step up the speed and quality of EU-related reforms. As part of the requirements for EU membership, the EU Commission will screen Albanian laws and institutions for their compliance with the 35 chapters of the *acquis*. After the Council of the European Union agrees to open membership negotiations with Albania, negotiations will start over what Albania needs to do in order to fully comply with the 35 chapters of the *acquis*. Negotiations over each individual chapter will not be concluded until each EU member state agrees that Albania has achieved satisfactory progress (EU Commission 2015).

The increase in importance of the EU for Albania is also demonstrated by the strengthening of the Albanian institutions that manage the relationship with the Union. Before 2001, a directorate in the Ministry of Foreign Affairs handled interactions with the Union. With the introduction of SAP, Albania created a State Ministry for European Integration in 2001. At the insistence of European officials, the State Ministry (a junior cabinet institution) became the Ministry for European Integration in 2004 (Vurmo 2008, 6). This ministry coordinates and monitors the implementation of SAA and, recently, it has been given control over the EU economic assistance to Albania (Olta 2013). To strengthen the implementation of EU reforms, European Integration Units have been formed in every ministry.

EU statebuilding (SAP) has made a significant impact on the Albanian legal system as well. Articles 6 and 70 of the SAA demand that Albania align its laws with the *acquis* (Council of the European Union 2006, 10 and 65). To fulfill this requirement, before any law is discussed by the Albanian Parliament, it has to be reviewed by the Ministry of European Integration for compliance with the *acquis*. When draft laws are presented to the Albanian Parliament, their text needs to state which EU requirements (i.e., parts of the *acquis*) they will fulfill, and all laws must contain a table indicating their compatibility with the *acquis*. A review of a sample of laws revealed that generally these requirements are being complied with (Fejzullah and Gugu 2012, 7). This means that the Albanian legal system is now conditioned by the need to fulfil the demands of the Union.

The leading document that sets out the EU's statebuilding goals in Albania is the European Partnership. The latest of such documents was published in 2008, and it outlines short-term priorities, one to two years, and long-term priorities, three to four years. These priorities include both the adoption of legal and institutional reforms and their implementation (Council of the European Union 2008, 3).

The European Partnership priorities are divided into three main groups:

- 1) Political criteria: strengthen the administrative capacities of the government; continue public administration and judicial reforms; implement the anti-corruption policy; observe international human rights law; promote civil, political, social and economic rights; protect the rights of minorities; and fulfill international and regional obligations.
- 2) Economic criteria: maintain fiscal stability, strengthen revenue collection and debt management, maintain price stability, control inflation, complete the creation of the credit information bureau, and reduce the informal economy.

- 3) European standards: promote the free movement of goods, persons, services and capital; reform and align with EU standards the customs and taxation systems; approximate the Albanian legislation on competition and public procurement with the *aquis*; strengthen intellectual property law; implement employment and social policies; continue reforms in the education and research fields; adopt and implement policies on industry and small and medium enterprises, agriculture and fisheries, environment, transportation, energy, information society and media, financial controls and statistics; and continue reforms in the fields of immigration, money laundering, drugs, police, the fight against organized crime and the protection of personal data. (Council of the European Union 2008, 3-11).

Each of these areas targeted for reform is further subdivided into specific goals that need to be achieved.

Several observations can be made regarding the EU's statebuilding plans for Albania. First, the Union is seeking a comprehensive transformation of the Albanian state, society and economy, with the ultimate aim of "Europeanizing" them. Second, the statebuilding model that the EU is using is the liberal one.³⁸ It aims to strengthen the administrative capacities of the state while promoting and protecting individual rights, especially property rights. Third, and most importantly, the reforms that the EU is pushing for are highly technical and they leave little room for discussion. The yearly SAP reports, which are supposed to measure the progress made in achieving SAP requirements, make it clear that the Union does not favor political debates nor does it want Albanian politicians seeking any goals other than those set out by the EU. Instead, it demands national unity in pursuing Europeanization. In the 2005 SAP report the EU Commission wrote:

³⁸ The liberal state is defined by Eriksen as a state that: "a) upholds the rule of law, b) is democratic and c) is based on a market economy" (Eriksen 2009, 653).

In its 2004 report the Commission found that, overall, Albania's medium-term interest was often sacrificed to short-term, narrow political interests, and consolidation of democratic culture was essential to bring about necessary reforms. Adverse political climate—tensions between the main political parties and within the Socialist Party which then held power—delayed reform, with the result that many shortcomings identified in the previous Reports were not addressed (EU Commission 2005, 8).

Some critics of EU statebuilding argue that its goals are too vague to produce any meaningful change. This criticism is only partially correct. While it is true that the aims set out in the European Partnerships are very broad, there are other EU instruments that help specify the goals of the Union. One of them is the Multi-Annual Indicative Planning Document (MIPD) that outlines the priorities of EU financial assistance, Instruments for pre-Accession Assistance (IPA). This document not only indicates the priorities of the EU with regard to each prospective member state, but it also specifies what the EU wants the country to achieve. For example, the 2011-2013 MIPD for Albania set out specific indicators to measure the effectiveness of judicial reforms, e.g., “the reduction of the length of court proceedings and the reduction in the backlog of cases” (EU Commission 2010, 16).

The demands of the EU are further detailed in the annual country reports issued by the EU Commission. These reports play two important roles when it comes to statebuilding. They monitor and comment on the reforms that Albania has implemented, thus indicating whether the Union is satisfied with the work of the government. The 2007 report made these observations regarding progress in fighting corruption:

A proposed change to the parliament's rules on procedure to allow its members' immunity to be lifted on a case-by-case procedure has still not been adopted. The High Inspectorate for Declaration and Audit of Assets lacks mechanisms to investigate declarations. No legislation exists to allow enforcement of the constitutional obligation for political parties to make public their source of finance (EU Commission 2007, 10).

In addition, annual reports often make specific suggestions on the type of reforms that the Union wants Albania to undertake. The 2006 report, for example, made these comments regarding freedom of expression in Albania:

“Changes to the membership of the National Council of Radio and Television and the Steering Committee Council of Albanian Radio and Television to include experts and NGOs should make media supervision more representative and efficient and the public service broadcaster more neutral” (EU Commission 2006, 11).

In implementing its statebuilding project in Albania, the EU interacts with a variety of local actors (i.e., the parliament, government officials, and members of the civil society). While all of these actors are theoretically the local partners of the EU, I consider high government officials to be the most significant domestic partners of the Union for several reasons. First, Albania is represented in negotiations with the EU exclusively by members of the government. The same local actors are also in charge of implementing the reforms demanded by the EU. While the Albanian Parliament does have a committee on EU integration, the parliament does not have any real power or influence when it comes to implementing the EU reform agenda nor does it hold the government accountable for its failures to comply with EU demands (Fejzulla 2011, 3). On the other hand, Albanian civil society organizations are very weak, lack significant popular support, and are highly dependent on foreign funding for their survival. Thus, they do not have any significant influence on the workings of the government.

The next issue at hand is what provides the EU with the ability to demand from its Albanian partners such a significant statebuilding agenda. My research suggests that there are five structural conditions that allow the EU to intervene in Albania’s domestic politics: 1) ideological appeal, 2) EU financial aid, 3) the importance of the Union in solving domestic

Albanian political disputes, 4) popular support for the EU, and 5) regional security provided by the EU. Understanding the importance of these five conditions in allowing for EU interference in Albania's domestic politics is pertinent especially since Albania has never been an EU protectorate, as Kosovo is to a large extent even presently, nor is the Union's presence needed to prevent the breakup of the country, as some claim is in the case of Macedonia. Instead, Albania is a sovereign and rather stable polity whose formal political development is largely shaped by Brussels.

One of the leading reasons for the EU's influence is the ideological attractiveness of the Union to its Albanian partners. After the fall of socialism, Albania looked at Europe for templates to shape its political institutions and reform its economy (Ylli 2013). There was a general belief, both among the public and the political and intellectual elites, that Albania needed to return to Europe from which it had been separated first by the Ottoman conquest and then by the post-WWII dictatorship (Sulstarova 2013). Thus, from the early years of the post-socialist transition, the political elite³⁹ have worked to Europeanize the country. A good example of this ideological influence is a 2010 resolution passed with overwhelming support by the Albanian Parliament that demands that the opinion of the EU Commission as expressed in the Analytical Report⁴⁰ should be the working program for all state institutions (Albanian Parliament 2010). This ideological appeal does not imply that the reforms that the EU demands will always be implemented. Instead it means that the Albanian partners view these reforms as the ideal, but

³⁹ One of the few things that the main political parties in Albania agree on is the need to join the EU. Differently from other countries in the region, there are no anti-EU forces in this country.

⁴⁰ The Analytical Report was issued in 2010 by the EU Commission and it assessed the readiness of Albania to become an EU candidate member. While the EU Commission did not find the country to be ready, it listed a series of reforms intended to prepare Albania for candidate status.

because the desire to Europeanize the country often clashes with the realities of Albanian politics, often EU demands are not properly implemented.

A second factor that enables the EU to make demands on its partners is the significant financial assistance that it provides to Albania. The Union is the largest aid donor to the country. Between 1991 and 2000, which was a period of institutional decay, civil unrest, and humanitarian crisis, the EU provided Albania with 1.02 billion euros (\$1.28 billion) in economic assistance through PHARE and individual EU agencies (Elbasani 2008, 45). Between 2000 and 2006, Albania received 315.5 million euros (\$394.38 million) in aid through CARDS (Community Assistance for Reconstruction, Development, and Stabilization) (Szemler 2008, 12). Finally, IPA, which substituted CARDS in 2007, granted Albania 517.19 million euros (\$646.49 million) between 2007 and 2013 (EU Commission 2010, 13).

In addition to this direct EU assistance, the Union has helped Albania receive 344 million euros (\$430 million) in loans from the European Investment Bank (EIB) and 796 million euros (\$995 million) in loans from the European Bank for Reconstruction and Development (EBRD) (EIB 2013; EBRD 2013). This money has been used to repair Albania's infrastructure, rehabilitate the public administration, and develop the agricultural sector.⁴¹

The EU financial support has been granted on the condition that Albania fulfill its obligations under the European Partnership (Council of the European Union 2008, 17). Such conditionality means that if the Albanian partners do not pay heed to the demands of the EU, the flow of money from Brussels might be in jeopardy.

A third reason for the sway of the EU is that since the early 1990s the EU has become the third main actor in Albanian domestic politics, the other two are the Albanian Socialist Party

⁴¹ For a description of the EIB and EBRD projects in Albania visit their respective websites, <http://www.eib.org/projects/loans/regions/enlargement/al.htm>; <http://www.ebrd.com/albania.html>.

(SP) and the Democratic Party (DP). There is a common credo in local political circles that nothing gets done in the country without the support of the international community, the Union being one of its leaders. Many also believe that the internationals are able to make or break Albanian politicians. These same politicians have publicly blamed the international community for many of the major crises that the country has gone through. For example, after the failure of the first democratically elected government in 1991, Fatos Nano, the prime minister in that government, declared that the crisis was not caused by the government; instead, it was instigated by a cooperation of internal and external forces (Cili 2007, 12).⁴² Furthermore, Albanian political actors have become highly dependent on the international community. This is clearly demonstrated by the mode of conflict resolution that has developed in the country in the last twenty years. Every time there is a significant domestic conflict, Albanian politicians do not sit down with one other and try to solve it, but instead run to Brussels or other European capitals. Major crises, such as those of 1997, 2001, 2002, 2009 and 2011, were only solved through the mediation of the EU.⁴³ The corollary to such dependence is that no Albanian partner can openly challenge the demands of the Union.

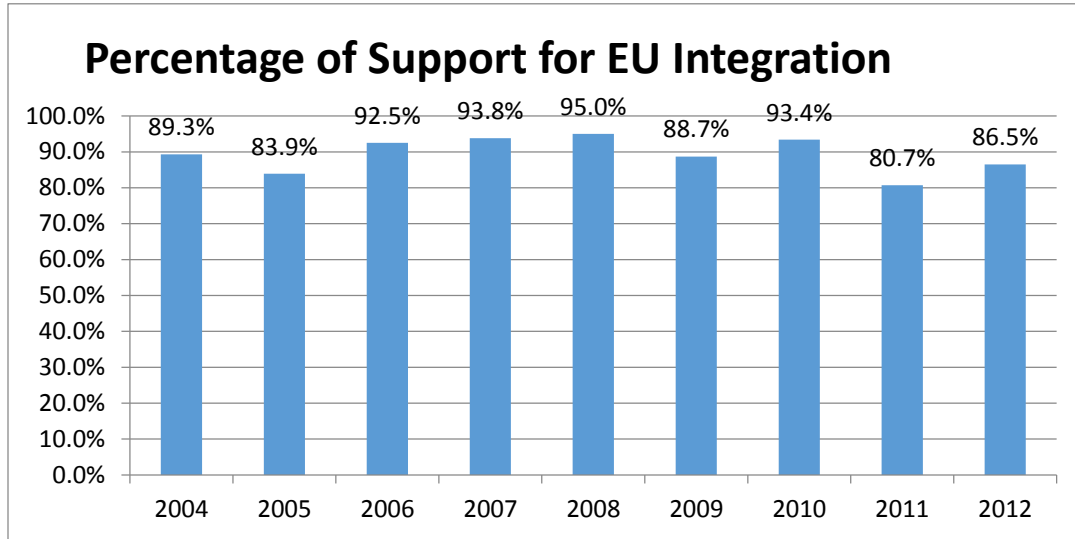
A fourth factor that facilitates EU statebuilding in Albania is the overwhelming popular support for joining the Union. As the chart below shows this support has never dipped below 80%. This overwhelming popular support for the EU means that the Albanian partners cannot oppose the Union's demands without risking to alienate the Albanian population (Altin 2013). This risk is considerable since many Albanians associate joining the EU with the solution to

⁴² For a detailed discussion of the importance of the international community in the eyes of the Albanian political elite see Cili 2007.

⁴³ Worth mentioning are the 1997 crisis, when the Albanian state collapsed and operation *Alba*, most of whose troops were sent by EU member states, helped to prevent the further disintegration of the country. The EU also played a crucial role in the 2009-2010 crisis, when the Socialist Party refused to recognize the results of the 2009 elections and boycotted the parliament. Through the mediation of the Union, the socialist MPs returned to the parliament in 2010.

many of their pressing problems, such as poverty (Albanian Institute for International Studies 2012, 16).

Chart 3.1



Source: Albanian Institute for International Studies 2004, 2005, and 2012.

A final source of influence is the dependence of Albania on the EU for regional security. After the United States shifted its attention away from the Balkans in the early 2000s, the EU became the main guarantor of peace in the region. It has made important contributions to the conflicts in Bosnia, Kosovo, and Macedonia. The Albanian partners believe that forging closer ties with the Union is the best policy in case the region is engulfed again in conflagration. If there is a lesson to be learned from the wars and crises of the 1990s, it is that those local leaders who were supported by the West fared better in the long run.⁴⁴

⁴⁴ On this account, it is worth comparing the fates of Slobodan Milosevic (the former leader of Serbia who was opposed by many in the West) and Hashim Thaci (a Kosovar guerrilla fighter who emerged as one of the leading political figures in the post-1999 Kosovo and who was supported by the United States and many European countries). Both of them committed heinous crimes, but while Milosevic was arrested and tried before the International Criminal Court for Yugoslavia, Thaci up to now (2015) has not been held accountable for his crimes.

A note of caution is needed. I do not maintain that these five factors enable the Union to have full control of domestic political developments in Albania. All I claim is that they allow the EU to pressure its Albanian partners to undertake reforms that they might not have initiated by themselves. In the next section, I will provide examples of such reforms that go against the interest of the Albanian partners but that were strongly demanded by the Union.

The EU has the ability to push its statebuilding agenda on its Albanian partners, but this has not resulted in the Albanian state looking like the perfect model designed by EU bureaucrats. Instead, the Albanian state borrows many features from the EU list of reforms, while rejecting others. This situation is the result of two processes interacting with each other, EU statebuilding and local politics. The next section will unveil how this interaction operates by examining the development of the civil service sector in Albania.

Building Albania's Civil Service

Creating an effective civil service has been one of the main goals of Albania for the last two decades. Unfortunately, as this section will show, achieving this goal has been hampered by historical legacies, low economic development, and constant political interference in the workings of the bureaucracy. During the five decades of communist rule, party and state institutions overlapped, and the bureaucracy lacked independence. In the 1990s, there were abortive attempts to create a modern civil service, such as the passing of Albania's first civil service law in 1996, that failed due to the low technical skills of the Albanian state administrators and continuous political crisis. The origin of the current Albanian civil service can be traced to early 2000, when the 1999 Civil Service Law, drafted with considerable international assistance, came into effect.

For the first few years of its existence, the civil service was in great disarray. The main institutions in charge of running and monitoring it, the Department of Public Administration (DoPA) and the Civil Service Commission (CSC), were poorly staffed and under-resourced, and the CSC did not even have permanent offices (CSC 2002, 3). In addition, the competences of these institutions were not clearly defined. The service lacked a unified salary system, there were no regulations that determined the structure of state institutions or job descriptions for those who staffed them, and there were many contradictions in civil service legislation. State institutions displayed a blatant disregard for the laws that were supposed to govern them (OECD 2002). The 2002 CSC report mentions several such violations, such as the failure to appoint secretary generals in several ministries, political appointees performing civil servant functions, and disciplinary measurements meted out by individuals not authorized by the law to do so (CSC 2002, 15-16). Finally, the Albanian government did not even have the proper resources to support the civil service, which was heavily dependent on international aid, especially for the training of employees (OECD 2002). The Training Institute of Public Administration (TIPA), for example, which was supposed to be the lynchpin of a strong and effective civil service corps, was funded for the first four years by UNDP and the EU (DoPA 2003, 10; 2004, 10).

Starting from this very difficult situation, Albania has made significant strides in improving the quality of its civil service, even though problems persist. One of the main actors, if not the main actor, behind these improvements has been the EU. The Union has assisted its Albanian partners in building the civil service through advice, financial aid, expertise, and by conditioning Albania's EU membership on reforming this sector. The role of the EU in shaping the Albanian civil service has increased progressively since 2000. The significance of the EU is

not only promoted by SIGMA⁴⁵ (Support for Improvement in Governance and Management) and EU reports, but it was confirmed to me in interviews with present and former Albanian civil servants (Teuta 2013; Ermir 2013; Zana 2013)

The civil service reforms that the EU wants its Albanian partners to undertake are found in several key documents, such as SIGMA policy papers and its annual country reports, European Partnerships, and SAP annual reports. SIGMA's list of public administration reforms that potential EU member states, such as Albania, need to fulfill in order to comply with the Union's requirements is found in Table 1. Table 2 contains a summary of the main reform recommendations that SIGMA has laid out in its annual reports on Albania

Table 3.1

SIGMA's Principles for Civil Service Reforms
<ul style="list-style-type: none">-The adoption and implementation of civil service reform programmes that fit the European principles of administration;- The adoption and implementation of civil service laws;- The establishment of central civil service management institutions with sufficient capacity for cross-governmental management of the civil service;- The establishment of a merit recruitment system including open completion for entry, professional examination and independence from political interferences;- The establishment of civil service tenure rules that stabilize public administration and protect employment in the civil service;- The development of a professional and de-politicized senior civil service system including prospects of merit promotion to management positions;- The establishment of fair and effective performance management systems for civil servants;- The establishment of predicable and transparent salary systems as well as adequate salary levels;- The establishment of integrity management systems that provide guidance for ethical behavior in the civil service and regulate, monitor and sanction conflict of interest in the civil service

⁴⁵ SIGMA (Support for Improvements in Governance and Management) is a cooperation between the EU and OECD (Organization for Economic Cooperation and Development). It has been charged by the EU Commission to identify the principles of the European Administrative Space (Meyer-Sahling 2012, 5). These principles embody common practices shared by EU member states as well as decisions of the European Court of Justice in the field of public administration. SIGMA papers 23(Preparing Public Administrations for the European Administrative Space) and 27 (European Principles for Public Administration) detail the principles of the European Administrative Space.

Source: Meyer-Sahling 2012, 5-6.

Table 3. 2

SIGMA Annual Reports Recommendations

- Strengthen the capacities and authority of the CSC and DoPA
- Strengthen staff capacities so that the legal framework can be implemented
- Review the existing Civil Service Law and amend those aspects that are not working well
- Recruitment and promotions should be less cumbersome
- Unify the salary system across the public administration
- Strengthen training of civil servants
- Anticorruption schemes need to be evaluated, sustained and implemented
- Adopt the new Civil Service Law

Source: OECD 2002, 2004, 2008, 2009, 2010, 2011, and 2012.

The foundation of the current relationship between Albania and the EU, the Stabilization and Association Agreement (SAA), lays out in Article 111 the duties that this agreement imposes on Albania regarding public administration reform:

Cooperation shall aim at ensuring the development of an efficient and accountable public administration in Albania, notably to support rule of law implementation, the proper functioning of the state institutions for the benefit of the Albanian population as a whole and the smooth development of the relations between the European Union and Albania.

Cooperation in this area shall mainly focus on institution building, including the development and implementation of transparent and impartial recruitment procedures, human resources management, career development for the public service, continued training and the promotion of ethics within the public administration, and e-government. Cooperation shall cover both the central and the local administration (Council of the European Union 2006, 96).

The 2008 European Partnership singles out public administration as one of the key areas that Albania needs to work on. It asks to “further strengthen public sector governance by improving the quality and impartiality of public administration staff and strengthening the Department of Public Administration” (Council of the European Union 2008, 3). Table 3

contains the list of administrative reforms required by the European Partnership, while Table 4 lists additional recommendations that are found in the SAP annual reports.

Table 3. 3

European Partnership Administrative Priorities
<p>Short- term goals:</p> <ul style="list-style-type: none">- Ensure enforcement of the Civil Service Law and related rules in the public administration.- Ensure that recruitment, appointments, promotions, transfers and dismissals are conducted according to the established rules in order to build an accountable, efficient civil service, based on professional career development criteria.
<p>Long-term goals:</p> <ul style="list-style-type: none">- Ensure that the sectors of the administration responsible for the implementation of the SAA provisions and those involved in the implementation of the EC financial assistance are adequately trained and equipped to carry out their duties.- Introduce result-oriented management and training for civil servants.- Design and implement a civil service salary structure which allows both proper budgetary planning and a motivating career structure.- Ensure the sustainability of reforms in the public administration.
<p>Source: Council of the European Union 2008, 11.</p>

Table 3. 4

SAP Reports Recommendations
<ul style="list-style-type: none">- Clearly define and strengthen the figure of the Secretary General in the ministries- Implement job classification and job evaluation procedures- Widen the scope of the civil service- Restrict political appointments- Limit the number of temporary employment contracts- Improve training
<p>Source: EU Commission 2003 and 2005.</p>

These demands have been repeated in the Multi-annual Indicative Planning Documents (MIPDs) that allocate EU aid according to strategic priorities, and in special reports, such as the

2010 Analytical Report that evaluated the readiness of Albania to become a candidate member state (EU Commission 2010, 15-17). The Union has worked to create in Albania a civil service that is free from political interference, administered by independent institutions, and governed by the rule of law principle (not the whims of government officials or high-level bureaucrats). The civil servants, according to the EU, should be selected based on their skills and knowledge, be well-compensated, be well-trained, and enjoy significant job protection.

Administrative reforms, with a special focus on the civil service, have increasingly become the key to Albania's EU membership. The 2010 Opinion of the EU Commission listed reforms in this area as one of the 12 priorities that Albania had to fulfill in order for it to receive a positive recommendation on its membership application (EU Commission 2010, 11). In 2012, Albania was told that it would only be granted the candidate status if it passed the new Civil Service Law. After deciding to grant Albania EU candidate status in June 2014, the Council of the European Union listed public administration reform as one of the 6 priority areas that the country needs to work on in order to start accession negotiations (Council of the European Union 2014, 1).

To support this very ambitious reform agenda, the EU has dedicated a significant part of its financial aid to Albania to strengthen administrative capacities. From 2000 to 2006, CARDS assigned to this area 51.6 million euros (\$64.5 million) out of a total of 315.5 million euros (\$394.38 million) that it provided to the country (16.4% of the total) (Elbasani 2008, 48). IPA, on the other hand, has granted 81.8 million euros (\$102.25 million) for administrative reforms (15% of the total IPA funds) (EU Commission 2010, 13). This assistance has been used to finance projects which vary from providing office equipment, to training civil servants, and

developing strategies to strengthen the management of the civil service (EU Commission 2010, 17-19).

The EU has not limited its activities to setting out guidelines and financing the Albanian civil service reforms; instead, it has taken a hands-on approach. The Union, together with the World Bank and OSCE, was one of the key actors behind the 1999 Albanian Civil Service Law (Kodra 2008, 6-8). It has been the moving force behind the various civil service reform strategies. The 2013-2020 Civil Service Reform strategy, for example, was developed with significance assistance of EU consultants (Teuta 2013). Even the new Civil Service Law that came into force in 2013 was drafted by experts contracted by the EU (Ermir 2013).

The Albanian partners have been quite responsive, at least outwardly, to the demands of the EU for civil service reforms. This becomes apparent if we look at the last two public administration strategies drafted by the Albanian government. The 2009-2013 reform strategy reads like the list of the EU's priorities. The vision of this reform was to create a stable, transparent, and professional administration that is grounded on a career system and whose members are recruited based on merit (DoPA 2009, 23). In order to achieve these, the strategy planned to : expand the vertical and horizontal scope of the civil service; improve the methods of evaluating potential recruits; rationalize the recruitment process; allow for more mobility in the civil service; strengthen the performance evaluation and disciplinary systems; improve the training of civil servants; review the organization of the public administration so as to make it more efficient; and increase transparency, openness, efficiency, and usage of e-government (DoPA 2009, 24-29).

The 2013-2020 reform strategy draft is even more explicit in its affirmation of EU instructions as the guidelines for reform. The opening paragraph of the document ties the need

for public administration reform with the country's European integration (SNAP 2013, 3). The aims of the strategy are to achieve a public administration that is capable of tackling the priorities of EU integration and bring the Albanian public administration closer to EU standards (SNAP 2013, 6). The list of priorities of this reform strategy, which is found in Table 5, mirrors the demands of the EU.

Table 5.

<p>Intersectional Strategy for Public Administration Reform (SNAP) 2013</p> <ul style="list-style-type: none">- Expand the scope of the civil service- Large scale recruitment of candidates- Develop a senior civil service corps- Improve career development- Reduce the politicization of the recruitment process- Monitor the application of the law- Continue improvements of the salary system- Pass the new Civil Service Law- Improve the training of civil servants- Improve the structural organization of the public administration- Improve the management of human resources system <p>Source: Intersectional Strategy for Public Administration Reform (SNAP) 2013, 8-11.</p>
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While these strategies represent reforms that Albania aspires to achieve, the country has also taken more concrete steps to answer EU demands. The Council of Ministers has issued decrees on strengthening the meritocratic base of the hiring process on four separate occasions (2000, 2002, 2002 and 2006). The same governmental body has decreed on rationalizing the organization of the public administration structures on five separate occasions (2000, 2007, twice in 2010, and in 2011). The Council of Ministers has also distributed instructions on improving the yearly evaluation system of civil servants and has tied these performance evaluations to bonuses, with the hope of providing incentives to improve performance. A 2003 decree by this

council was meant to define the scope of authority of the ministries' general secretary and protect this position from political pressure (DoPA 2011).

Several laws have been passed to improve the functioning of the civil service. Two laws were passed in 2003 to prevent corruption; the first regulates the code of ethics in the public administration and the second controls the declaration of wealth by civil servants (DoPA 2011a, 5 and 39). A law on the prevention of conflict of interest was passed in 2005 (DoPA 2011a, 92). A 2012 law sets out the standards and procedures that need to be followed in order to organize the structures of public administration institutions (DoPA 2012, 14).

These legal reforms culminated in 2013, when the new Civil Service Law was passed. It is supposed to strengthen the service and close the many loopholes of the 1999 law. Several important measurements demanded by the EU were included in this piece of legislation. The size and scope of the civil service have been greatly expanded. The new corps is about four times the size of the old one (Zana 2013). The competences of the DoPA are clearly defined, thus strengthening its capabilities. This institution is now in charge of drafting all laws related to public administration. The law creates a new training institution, the Albanian School of Public Administration, which every civil servant is required to attend. In order to reduce politically motivated recruitment and increase the efficiency of hiring, the new law mandates national exams as the only way to join the civil service. Potential candidates are listed based on their exam scores and hiring can only be made from this list. To improve career development, there are opportunities for parallel movements of civil servants between different institutions, temporary transfers, and promotions. A special corps of high civil servants has been created. The tenure of civil servants is guaranteed because they cannot be fired anymore in instances of institutional restructuring. Instead, they have to be provided elsewhere within the civil service

with a position similar to what they held (Republic of Albania Official Gazette 2013, 3952-3978).

These reform strategies and legal improvements have had a real impact on the quality of the Albanian civil service. As we will see below, its attractiveness, coherence, and effectiveness have increased over the years. The institutions that manage the civil service, DoPA and CSC, have gradually become more influential. In 2004, they solved the issue of overlapping competencies, with DoPA assigned to monitor the state institutions which fall under the authority of the Council of Ministers, while CSC was allocated to monitor independent and local government institutions (EU Commission 2004, 3). Over the years, both of these supervising bodies have improved their cooperation with the institutions falling under their authority, which has led to an increase in respect for the rule of law, although problems continue to persist in this area.

Significant improvements have also been made in increasing the structural, job description, and salary coherence of the civil service. By 2009, the salary system of the entire civil service was mostly unified, and DoPA was put in charge of it (OECD 2012, 23-24). There have been periodic increases in salaries, which have resulted in competitive salaries for the civil service. Strides have been made in increasing the coherence of institutional structures. DoPA reported in 2012 that all the central government restructuring was in line with the law (DoPA 2012, 13). CSC has also observed that local governments have started to follow the 2011 Council of Ministries guidelines regarding the organization of their structures (CSC 2011, 33)

In the mid-2000s, significant strides were made to improve the Information Technology (IT) capabilities of the civil service. DoPA created a webpage that contains summaries of the laws regulating the civil service and advertisements for vacancies. An inter-ministry network

was set in place that has facilitated cooperation and coordination among the various parts of the government. An email service for the central government is now functioning (DoPA 2004, 13-14; DoPA 2005, 20). All of these developments have increased the transparency, accessibility, and accountability of the civil service.

Attempts have been made to close the loopholes that have permeated the politicization of the service. In 2010, the Prime Minister's office issued orders to reduce the number of temporary contracts, which are perceived as being abused to hire those with political connections. The percentage of those employed under such terms decreased from 25% of civil servants in 2010 to 4.8% in 2013 (EU Commission 2013, 2).

Finally, there have been improvements in training. The number of civil servants attending the Training Institute of Public Administration (TIPA) courses has increased over the years. While in 2003, TIPA organized 72 seminars and trained 1167 civil servants, in 2012, it offered 209 seminars that trained 4066 civil servants (DoPA 2003, 12; DoPA 2012, 24). Since 2004, the Albanian government has shown its commitment to improving the quality of civil servants by taking over the financing of TIPA's activities from international donors. In addition to domestic training, there have been efforts to recruit candidates who have studied in the Western Europe and the United States (EU Commission 2007, 3).

Despite all the above legal and institutional improvements, the Albanian civil service continues to be plagued by serious problems. One of its main shortcomings is the weakness of the institutions that are supposed to monitor and regulate the service, DoPA and CSC. These weaknesses are no longer caused by technical or human resource inadequacies; instead, they are of a political nature. Both the EU and SIGMA have continuously reported that institutions employing civil servants often ignore orders issued by DoPA or decisions made by CSC (EU

Commission 2012, 16; OECD 2009 and 2012). For example, the CSC, which served as an administrative court, always complained that state institutions that employed civil servants ignored its decisions with regard to complaints submitted by civil servants (CSC 2012, 3-4).

DoPA is in charge of approving structural changes in central government institutions and granting special permissions for hiring under temporary contracts. Unfortunately, institutional restructuring has been implemented and temporary contracts have been issued, both allegedly for politically motivated purposes, without consulting DoPA (OECD 2009, 3; DoPA 2006, 10-11). CSC, which was terminated by the 2013 Civil Service Law, in addition to monitoring the civil service, also served as an administrative court. Many of the structures that fell under the authority of CSC simply ignored its judicial decisions, especially those requiring the reinstatement of wrongfully fired workers (OECD 2006).

The implementation of the Civil Servants Law and other bylaws is another area of major concern. The disregard for the law has been especially problematic in the areas of temporary contracts and institutional restructuring (EU Commission 2006, 7; EU Commission 2008, 8). Under both the 1999 and 2013 civil service laws, civil servants cannot be employed on temporary contracts, but this practice has been tolerated by the authorities. The justification for hiring temporary workers is that the hiring process is very long, and in some instances there is an urgent need to fill a position. While in some cases this may be true, the CSC has found that many workers were employed under emergency hiring for long periods of time, thus undermining the emergency justification (CSC 2009, 21). In addition, many local governments ignore the law completely and only hire temporary workers (CSC 2009, 22). This is done under the pretense that they do not have the resources to administer civil service exams. The CSC has concluded

that when local governments have been willing to administer exams, they have found the funds to do so (CSC 2011, 39).

Often, the periodic restructuring of institutions has not followed the guidelines set out by DoPA or the Council of Ministers (OECD 2008, 19). Restructuring has usually been accompanied by large scale dismissals of redundant workers, who in turn are put on waitlists. According to the law, these waitlisted workers should be prioritized when new civil servants are hired; however, this almost never happens (CSC 2007, 19). New civil servants have been hired while there are former civil servants on the waitlist. A peculiar situation has been created in which two people, one a regular civil servant and the other a waitlisted one, are paid for the same position (Arben 2013).⁴⁶

A third area of concern is the politicization of the civil service. According to the law, recruitment to the service is based on meritocratic principles, and civil servants are guaranteed tenure. These provisions of the law are rarely applied because the various governments have failed to distinguish between political appointees and civil servants. A sign of the politicization of the Albanian civil service is the large-scale layoffs that follow changes in governments. After the Socialist Party came in power in 1997, it fired about 15,000 civil servants (under the 1996 law, all public administration workers were classified as civil servants) (Pashaj 2010). The same scenario repeated itself in 2005, when the new Democratic-led government fired over half of the civil servants employed by the central state institutions within a year (Elbasani 2013, 98). There is anecdotal evidence that the Socialist-Socialist Movement for Integration coalition, which won the 2013 election, is currently engaging in the same practice.

⁴⁶ Civil servants put on waitlists are paid full salaries for one year.

These mass firings are usually disguised as reforms to improve the quality of the public administration. The Democratic-led government fired large numbers of civil servants claiming that it wanted to reduce the deadwood and increase the performance of the public administration (OECD 2008, 1). The current government has used the fight against corruption to justify firing civil servants.

Following large-scale layoffs, government officials have used loopholes in the hiring system to provide civil service jobs to their supporters. The recruitment of new civil servants is supposed to be done through competitive examinations, but the system has weaknesses that have been exploited. One of them is related to how the final decision is made. After the written and oral part of the exam, the names of the three highest scoring candidates are presented to the immediate superior of the would-be civil servant. The superior has the right to choose any of the three. It is not uncommon for the winner to have scored much lower than the other two. Since it is not difficult for the favorite candidate to make it to the top three, the very purpose of the exam is undermined (DoPA 2005, 6-7).⁴⁷ In addition, people with political connections often ask their friends to take the exam with them, with the caveat that they not do well, so that the minimum number of candidates is reached and the exam is considered valid (Pashaj 2010).

Temporary contracts have also been used to politicize the civil service. Employment under such terms in the central state institutions reached a peak of 25% of all civil servants in 2010 (OECD 2011, 8). Not only do temporary contracts allow politicians to employ their family members and supporters without the hassle of going through the formal process, but they also discourage qualified people from applying to the civil service. A 2008 study revealed that civil

⁴⁷ One of the factors that facilitates the favorite candidate to make it to the top three is the low number of candidates who take the civil service exam. Between 2005 and 2012, the average number of exam takers oscillated between 6 and 9 (DoPA 2012, 6).

service exams were more likely to fail because of a lack of minimum exam takers in those instances in which a temporary worker was performing the duties for which the new civil servant would be hired. The authors of the study claimed that this occurs because of the popular belief that the temporary worker is going to be hired based on his political connections (Shapo et al. 2008, 16-18). There is some evidence to back up this claim. In 2010, the EU pressured the government to reduce the number of temporary workers. The government complied by rehiring the temporary workers as permanent civil servants (Alma 2013).

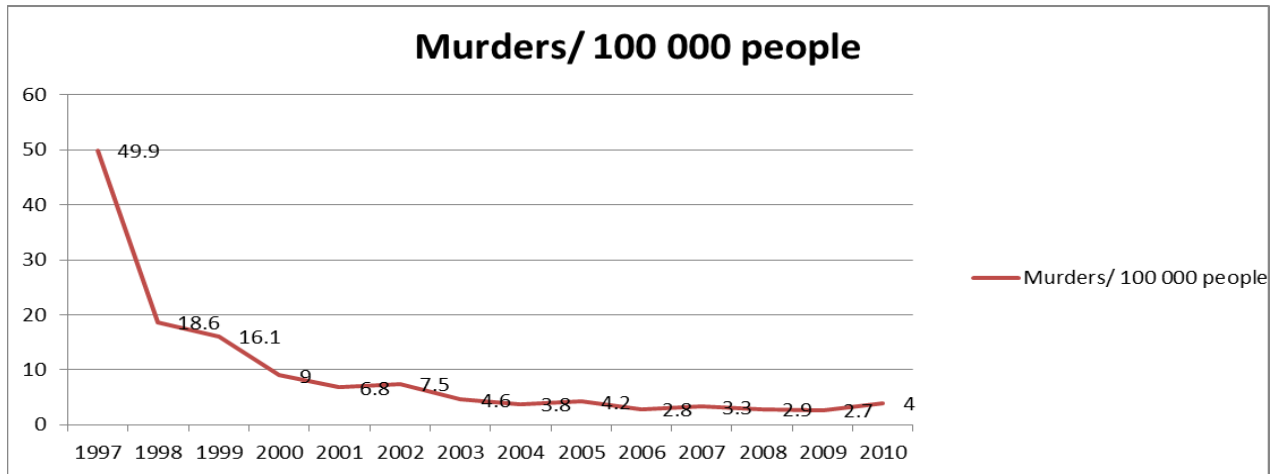
A final problem is the failure of performance reviews. The law mandates that each civil servant should be evaluated every year by his immediate superior. The evaluations are important because they determine annual bonuses and are used to rank workers in cases of layoffs. According to DoPA and EU reports, the evaluations have not achieved the intended results (EU Commission 2007; DoPA 2003, 2006). Most civil servants are given 1s or 2s by their superiors (1 is the highest grade that can be awarded and 4 is the lowest). This happens even in those institutions that are known for poor performance. Field research done by Pashaj shows that the clientelist nature of the Albanian civil service has undermined the evaluation system. People are assessed based on their connection to a minister or other high officials, not on their personal achievements (Pashaj 2010). Since almost all civil servants are hired and keep their jobs because of such connections, their superiors, who are supposed to evaluate the job performance, do not dare to censure the well-connected civil servants.

Explaining the achievements of the civil service reforms

How can we make sense of the failures and successes of the Albanian civil service? It is important first to establish that the Albanian partners of the EU have not purposefully tried to

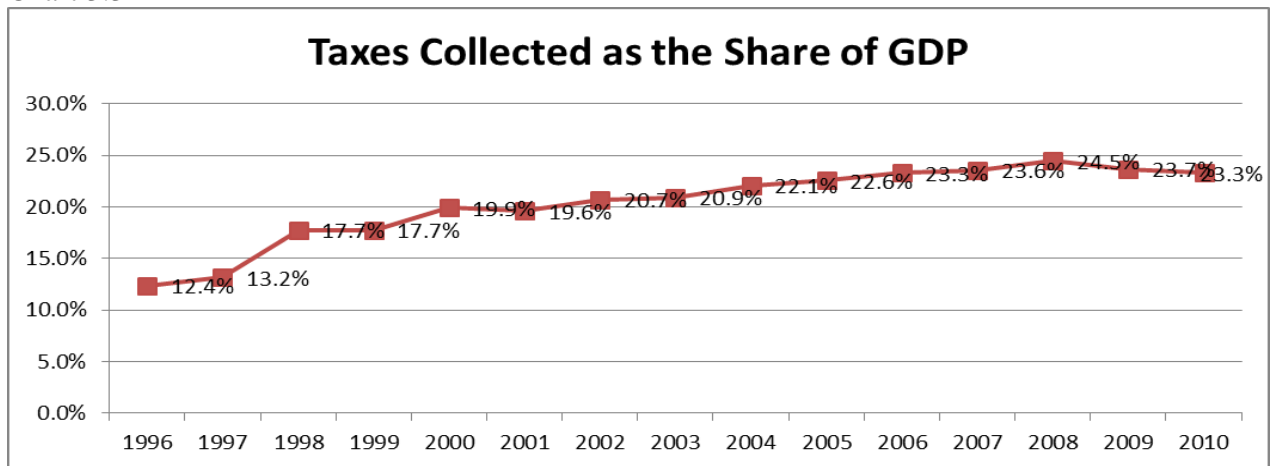
undermine the bureaucracy, nor have they been negligent towards it. If we look at two of the main functions of bureaucracies, to maintain domestic order and to collect revenue, the Albanian bureaucracy has progressively improved in both areas. The ability of the Albanian state to maintain order has increased over the years. The chart below uses the murder rate as a proxy for the state's ability to fight criminal activity.

Chart 3.2



Source: UNODC 2012.

Chart 3.3



Source: INSTAT 2014.⁴⁸

⁴⁸ Albanian Institute of Statistics (INSTAT) <http://www.instat.gov.al/en/home.aspx>.

As the chart above shows, the ability of the Albanian state to collect revenue has increased significantly since the early years of the post-communist transition, a time of great social unrest, and the golden period of the Albanian informal economy.

There are reasons why the partners would be interested in a strong bureaucracy and the 1997 crisis sheds light on them. In the spring of 1997, the Democrat-led government lost control of the country to a large extent because of the weaknesses of the bureaucracy. The state apparatus failed to stop pyramid schemes from syphoning off close to a billion dollars that in turn led to popular discontent. After this discontent gave way to street protests and an armed uprising, the police and the armed forces were too weak to maintain order. Whether they support it in principle or not, Albanian politicians know that only an effective bureaucracy can protect their power.

We can only make sense of the achievements and the failures of the civil service reforms in Albania if we take into account the several different ways in which the public administration serves high government officials, i.e., the partners of the EU. The bureaucracy in Albania is simply not used only to exercise state power. There are other functions that it plays that are as important, if not more important. One purpose of the public administration is to provide employment. The state is one of the leading employers in the country. In 2013, there were 163,900 public employers out of a total of 454,663 nonagricultural workers (36% of nonagricultural workers) (INSTAT 2014). Many people favor government jobs because work conditions in the bureaucracy tend to be much better than in the private sector. The state provides better benefits, more vacation time, shorter work days, and more job protection (assuming there are no changes in government). Wages in the public sector are also significantly higher than in

the private sector. In 2012, the average public employee made 51,500 Lek (about \$490) a month, while the average private sector worker made 37,305 Lek (\$355) a month (INSTAT 2014).

The pressure on the state to employ people is considerable because Albania has a very high unemployment rate. According to official data, in 2013, 16.1% of the working age population was unemployed (INSTAT 2014). The actual unemployment rate is most likely much higher because the official statistic assumes that all people living in rural areas (43% of the population) are employed, which is not necessarily true (Baki 2013).

A corollary to this is the fact that state employment is one of the strongest selling points during electoral campaigns. Voters do not make their decisions based on party ideology or program, but on who is going to offer them work (Kajsiu 2008, 52). In the last national election (2013), 43% of voters were offered employment or gifts by political parties (Likmeta 2014).

Another important function that the public administration plays is to allow for a perverted kind of income redistribution. Blendi Kajsiu, one of the leading Albanian political scientists, argues that corruption and bribe-taking in the public administration serves to alleviate income inequalities in Albania (Kajsiu 2008, 53-54). This was confirmed to me by a high official in the Socialist Party who stated that people want to join the bureaucracy so that they can earn extra cash through bribes (Eglantina 2013). Research on corruption in Albania provides further support for these allegations. A 2011 study by the United Nations Office on Drugs and Crime (UNODC) found that 28.3% of Albanians had been “exposed to bribery” in the previous 12 months. People mainly pay bribes to “receive better treatment, speed up procedures or avoid the payment of a fine” (UNODC 2011, 3-4). Businesses are one of the main cash cows of the Albanian bureaucracy. A World Bank study of corruption in Albanian discovered that close to half of the businesses surveyed, 43%, had paid bribes. These bribes added up to 10.2% of the

annual sales for companies (World Bank 2011, 12-13). One of the leading purposes for paying bribes was to secure government contracts (World Bank 2011, 14).

Governing parties also need to have a pliant civil service in order to close an eye on shady deals between the government and private businesses. Elections in Albania have become increasingly more expensive, and the role of private donations has become more important than ever. Two records were broken in the last national election (2013). First, it was the most expensive election to date. A total of 380,113,328 Lek (about \$3,620,000) were spent. Second, slightly more than half of the money spent (50.2%) came from private donations (Open Data Albania 2013). What has raised concerns both among domestic observers and international ones is that there is very little transparency when it comes to campaign financing. Transparency International Albania (TIA) has stated that the current situation is alarming because it permits the capture of the state by private interests, which exchange electoral financing for favors (TIA 2013, 4). These worries find confirmation in the distribution of the private donations that were disclosed during the 2013 electoral cycle. Most of the private money (52.3 %) went to the main government party, the Democratic Party. The leading opposition party, the Socialist Party, received only 37.4% of private donations (Open Data Albania 2013) This discrepancy in funds received by the governing and the opposing parties becomes even more salient if we take into account that the 2013 election results showed that the Socialist Party had much more popular support in Albania than the Democratic Party. The former received 41.4% of the votes while the latter only 30.6% of the votes (Central Electoral Commission 2013)

There is another purpose that the public administration serves during election time. It is an open secret in Albania that civil servants are supposed to campaign on behalf of the governing coalition in the weeks preceding elections. In 2013, the Organization for Security and

Cooperation in Europe (OSCE) reported allegations that public administration workers were required by their superiors to attend government electoral rallies. It also reported claims, some of which it was able to confirm, that opposition activists or their family members were fired from public administration jobs because of their political affiliations (OSCE 2013, 14).

A final explanation of the nature of the Albanian civil service is the attitude of Albanian politicians towards the state administration. According to Shapo et al., government officials in Albania believe that they can only work with people they trust (Shapo et al. 2008, 15). Since most civil servants have been appointed through political connections, when a new government comes to power it has to get rid of many of the current civil servants, which it perceives to be loyalist of their opponents. This mentality was confirmed to me during a conversation with an activist of the Socialist Party, who expected that his party would fire many public servants because they were appointed by the Democratic Party (Arben 2013).

Based on the above discussion, we can conclude that the Albanian partners believe that the civil service is supposed to play two functions. First, it should exercise state authority and serve the people, which are also goals supported by the EU. Second, the civil service, and the patronage opportunities that it offers, should help the partners access and maintain power, which contradicts the EU's vision.

We can best make sense of the successes and failures of the civil service reforms in Albania if we view them as the product of the interaction between two processes: EU-led statebuilding and domestic politics. The EU has used its influence to shape the formal aspects of the Albanian civil service, its legal and institutional infrastructure. The Union has been especially successful when its demands for reform have corresponded with the needs of the local partners. The increased ability of DoPA and CSC to cooperate with other government

institutions; the rationalization of institutional structures, job descriptions and salaries; increases in remuneration; better IT capabilities; and better trained civil servants not only fulfilled the requirements of the EU, but they also strengthened the reach and effectiveness of the Albanian partners. More importantly, these reforms improve the performance of the Albanian civil service without threatening the control of the partners over the service. It is difficult to say whether these successful reforms would have been implemented without the insistence of the EU. What we know is that the EU provided money, expertise, and templates and that its Albanian partners were willing to use them.

On the other hand, the reforms that have failed, such as the depoliticization of the civil service or political interference in the supervising institutions, DoPA and CSC, challenge some of the key ideas that the partners have about the purpose of the civil service. If these reforms were implemented, they would substantially change the relationships between the partners and the Albanian civil service, as well as the relationship between the civil service and the population. The Albanian civil service would not be a source of employment, redistribution of income, and patronage. Instead it would be an independent and meritocratic institution that exercises state power. Thus, the partners have resisted the demands of the EU no matter how persistent the Union has been.

Two observations are warranted at this point. First, the Albanian partners have been quite successful at resisting those demands of the EU that they believe go against their interests. This has happened even when the Union has upped the ante and made membership conditional on civil service reforms. Second, resistance to the EU demands has almost always taken a covert form, i.e., almost all EU requests for formal legal and institutional reforms have been accepted; at the same time, the partners have worked to undermine those reforms in practice that they

consider harmful. Both SIGMA and SAP reports state that the legal framework of the Albanian civil service is in line with EU requirements. The implementation of this framework, however, is deficient (EU Commission 2009, 9)

The covert resistance to EU statebuilding is not only limited to the civil service, but is also true for other sectors. The EU Commission's 2010 Opinion that evaluated Albania's readiness to open membership talks concluded that in most areas Albania has the proper legal and institutional structure, but implementation of EU-related reforms is lacking (EU Commission 2010)

Explaining resistance to the EU statebuilding project

The ideological, economic, and security dependence of Albania on the EU should lead to asymmetric interdependence between the two and should provide the Union with the ability to influence the domestic political scene of Albania. In addition, the EU has instruments through which it can punish recalcitrant behavior. It can suspend membership negotiations with its Albanian partners, it can reduce, or even cancel, economic assistance, and it can issue demarches, to attempt to shame its partners into compliance. As I will show in this section, not only has the EU not used its enormous influence or its "sticks" to punish resistance to its statebuilding project in Albania, but also it has gradually upgraded ties with the country, which is now only one step away from becoming an EU member state. What enables the Albanian partners to resist the statebuilding?

This section will show that there are structural conditions that have attenuated the asymmetric interdependence between Albania and the EU and have made resistance possible. These structural conditions are: 1) the EU's prioritization of security, stability, and the fight

against organized crime over all other statebuilding reforms, 2) divisions within the EU (both among member states and institutions) on how to deal with Albania, and 3) weaknesses in the instruments that the EU has used to promote statebuilding in Albania.

One structural condition that facilitates resistance is the incoherent approach of the EU to the region where Albania is located, the Western Balkans. The Union is trying to achieve two objectives, promote security and stability and build future member states. These two goals often contradict each other. Of the two, the EU has prioritized security and stability, and Albanian politicians are well aware of this. The Union perceives that there are two security threats that can emerge from Albania. The first is related to the fact that there are significant Albanian populations spread throughout the Western Balkans. There is the fear that Tirana can become a magnet or even an instigator of secessionist movements in the region. This has the potential to throw the region back to the instability of the 1990s (Primatarova et al. 2012, 42). There is a belief among EU officials that the only way to prevent this from happening is to anchor Albania to the Union, no matter its reform achievements. Albanian partners have responded positively to this bargain. After the Kosovo crisis of 1999, the Albanian government stated that it did not wish for Kosovo to be part of Albania because “this would be inconsistent with its quest to join the EU” (Panagiotou 2011, 361). As soon as he assumed office, Edi Rama, the current prime minister, declared that his government would pursue a “zero-problems with neighbors” foreign policy. He added that Albania “would play an important role in fostering regional cooperation” (Balkanweb 2013). In exchange for helping to keep peace in the region, the partners expect the EU to close an eye on some of their shortcomings.

The second security problem that Albania poses to Europe derives from two domestic sources: political instability and organized crime (Primatarove et al. 2012, 7; O’Brennan and

Gassie 2009, 64). Both of these concerns have been at the top of the EU's agenda in Albania, and Albanian partners know that they will be rewarded if they can manage them. It is interesting to note that the major upgrades in the relationship between Albania and the EU, the signing of the SAA and Albania's award of candidate status, did not follow the enactment of major reforms. Instead they occurred after peaceful changes in government. In addition, the Albanian partners have taken drastic steps to curb organized crime, e.g., the ban on speed boats, which were often used by Albanian criminal groups to smuggle drugs and immigrants to Italy, by the Berisha government and the large police/military operation against marijuana production in the village of Lazarat by the Rama government. Berisha was rewarded with the removal of the visa requirement for those Albanians who visit EU countries, while Rama won the candidate status. Both of these achievements happened despite the fact that there were major concerns about the state of reforms in Albania.

A second structural condition that has enabled resistance to EU statebuilding is the successful exploitation by the Albanian partners of divisions within the EU block. There are two such divisions that are worth mentioning. The first one is among EU member states. European countries have failed to speak with one voice when it comes to Albania. The domestic partners have relied on two member states, Italy and Greece, for support. When the granting of candidate status to Albania was being discussed in spring 2014, the Italian president, Giorgio Napolitano, declared that Italy would be an advocate for Albanian integration into the EU (Balkanweb 2014a). A similar high level of support has come from Greece. In 2014, the then foreign minister, Evangelos Venizelos, said that Greece favored immediate granting of candidate status to Albania, which according to him was one of the priorities of the Greek government (Balkanweb 2014c).

This enthusiastic support from its neighbors contrasts with more somber statements issued by other EU member states. At the same time as Italian and Greek officials declared their unconditional support for Albania, members of the German Bundestag stated that Albania's candidate status award might be derailed because of the large-scale layoffs in the public administration following the 2013 government change (Balkanweb 2013). The Dutch government was also skeptical about awarding the status because Albania has failed to fully implement many laws and reforms (Balkanweb 2013).

There are good reasons why Italy and Greece have supported Albania while other members of the EU have been more critical. First, Italy and Greece are the most important foreign investors in Albania (Open Data Albania 2014a). Second, Italy and Greece are home to respectively 349,000 and 435,000 Albanian immigrants (IOM 2007, 14). Any disturbance in the country is bound to send waves of immigrants to neighboring states. It is in their interest to promote the stability and prosperity of Albania by integrating it closer to the Union.

Another division that has prevented the EU from properly dealing with the resistance of its Albanian partners is that among EU institutions. The Council of the European Union historically has been wary of Albania's preparedness for EU membership. On the other hand, the EU Commission and the EU Parliament have been strong supporters of Albania. For a while, Albanian politicians were even able to directly lobby the two main camps of the EU Parliament. The Democratic Party of Albania drew support from the European People's Parties and the Socialist Party of Albania from the European Socialists and Democrats bloc (Primatarova et al. 2012, 28).

Albanian partners have not hesitated to employ more nefarious means to overcome the EU statebuilding demands. One of these has been the granting of economic concessions to

selected European companies in order to receive support from their home country governments. This has allowed the partners to avoid sanctions for their resistance while slowly integrating the country into the Union. Two notorious examples are worth mentioning. In April 2009, Prime Minister Sali Berisha visited France and agreed to sign a deal to purchase 15 helicopters from Eurocopte, a company in which the French government holds the majority of the shares. During this visit, Berisha also received the support of the then French president, Nicolas Sarkozy, for Albania's EU integration. Rumors circulated in French newspapers, later supported by statements of the former American ambassador to Albania, John Withers, that the French support was conditioned on Albania's purchase of the helicopters (Panorama 2011; Tema 2012).

The second episode involved the selling of the Albanian electricity distribution company (OSSH) to CEZ, an energy company where the Czech government holds shares. This took place in 2009, a year when the Czech government held the presidency of the Council of the European Union (Artan 2013). The privatization process was criticized because its procedures were not transparent. The Albanian government was also reprimanded over its decision to take responsibility for the debts of OSSH. There were rumors that this highly unfavorable privatization was done to gain the support of the Czechs for Albania's bid for candidate status. These rumors have been supported by later events. When the Albanian government and CEZ got into a heated dispute in 2013, the Czech government stated that it would condition its support for Albania's candidate status on a "fair solution" to the dispute (Balkanweb 2014, Murati 2013).

A final structural condition that has enabled resistance is the instruments used by the EU to promote reforms. The most important tool that the Union has to encourage statebuilding, but also to punish recalcitrant behavior, is EU membership.⁴⁹ Of these two usages of membership,

⁴⁹ As it was discussed in the previous chapter, EU membership is considered by many to be the most important statebuilding incentive that the Union has. It is claimed that the benefits of membership are so great that

the EU has more often relied on “carrots” than on “sticks,” i.e., it has used integration more frequently to promote reforms than to punish noncompliance. In the 2003 SAP report, for example, the EU Commission stated that Albania was not ready for a Stability and Association Agreement, but it also stated that the EU should start negotiations for one anyway because this was the best way to sustain the reform momentum in the country (EU Commission 2003, 3). This means that the EU is more willing to use the membership carrot to induce reforms than to punish recalcitrant behavior on the part of its Albanian partners. The corollary to this is that the Albanian partners know that if they resist long enough, the Union at some point will integrate them anyway. They can follow the example of Bulgaria and Romania, which became member states even though their governments were severely criticized by the EU, and both countries were far from being ready to join the Union. This belief was confirmed to me by a former prime minister and member of the parliament, who said that at some point in the future Albania will definitely join the EU (i.e., the eventual membership for him was a given, not something dependent on Albania’s fulfilment of EU statebuilding requirements) (Ylli 2013).

The above three structural conditions, the contradictory goals pursued by the EU in Albania, divisions among the various EU actors, and the weaknesses of the instruments used to promote statebuilding have created spaces for resistance to occur.

Since the Albanian partners have already found means through which they can deflect the demands of the EU, it is puzzling why they have not openly rejected EU statebuilding. I believe that the solution to this puzzle is found in the legitimacy that the EU and its project in Albania enjoy among both the elites as well as the masses. According to Blendi Kajsiu, after the fall of the socialist government, the ideological vacuum was filled by Europeanization as the new

governments are willing to comply with EU demands if these demands are tied to future membership (Elbasani 2013, 8; Moravcsik and Vachudova 2003, 43).

“organizing principle of society” (Kajsiu 2012). Joining the EU suddenly become the “new historical mission of the nation” (Sulstarova 2013, 226). The idea of Europeanization has become almost hegemonic among the Albanian political and intellectual elites and has sidelined virtually all other sources of legitimacy (Barbullushi 2007, 6).

The signs of the hegemony of the EU over the political and intellectual elites in Albania are easy to spot. In the last national election the two main political coalitions were named the Alliance for a European Albania (left) and the Alliance for Employment, Prosperity and Integration (right). When a portion of the members of the Socialist Party decided to leave and form a new party, they named their organization the Socialist Movement for Integration.⁵⁰

Even the public discourse of the main politicians and the media is dominated by the talk of EU integration. In 2012, the Open Society Foundation of Albania (OFA) conducted a study that measured how many times the EU is mentioned by the two main political leaders in Albania, Sali Berisha (DP) and Edi Rama (SP), as well as by the leading newspapers of the country. The study found out that the EU is mentioned more in the speeches of the main political leaders and the writings of the leading newspapers than any other issue, even more than issues that affect the daily lives of average Albanians, such as education, employment, and healthcare (OFA 2012).

The programs of Albanian governments are heavily focused on fulfilling EU demands and preparing for the future integration of the country. The 2007-2013 National Strategy for Development and Integration, issued by the DP-led government, declared its vision to be integrating into the EU (Albanian Council of Ministers 2008, 14). Fulfilling the demands of the EU was described as the solution to the main problems facing Albania, i.e., strengthening the rule of law, more efficient institutions, and improving living standards (Albanian Council of

⁵⁰ Integration in both instances mentioned in this paragraph refers to EU integration.

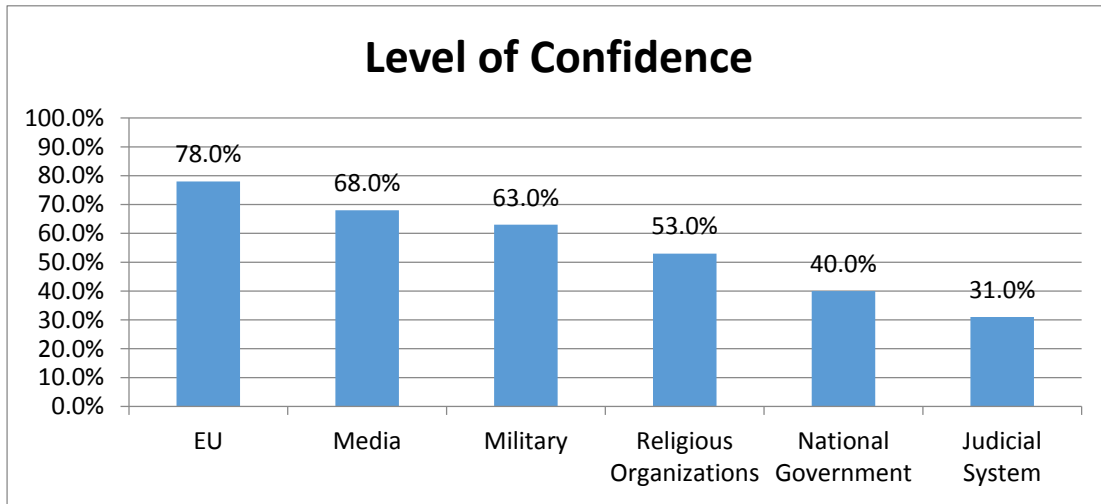
Ministers 2008, 21). Finally, every priority that is listed in the strategy is tied to one of the demands that the Union has made on Albania.

The same infatuation with the EU can be found in the program of the Socialist-led government that came to power in 2013. The program starts by stating that Albania deserves to be part of the European family of nations and that Europe is the future of the country (Socialist Party of Albania 2013, 3). The first part of the program is dedicated to the goal of EU integration, which the document claims will promote stability and bring the transition of the country to an end. The achievement of candidate status and the start of membership talks with the EU are listed as the main goals of the new government (Socialist Party of Albania 2013, 7). As with the previous government's development plan, every goal of the program of the current government is tied to EU standards and EU demands.

The corollary to this unquestioned embrace of the EU and Europeanization is that elites in Albania believe that all they need to do to develop the country is to check off the list of EU statebuilding demands (Sulstarova 2013, 227). This is evinced by the fact that Albania often adopts reforms simply because the EU has demanded them, not because these reforms reflect the needs of the country. The 2013 Civil Service Law is a good example of this. The EU insisted for that law to be passed, and the Albanian Parliament met in a special session to pass it, without debating the desirability of a new civil service law or discussing whether the new law would solve the main problems that the civil service faces.

The Albanian population has embraced the EU project as well. As the chart on page 80 indicates, there is overwhelming support for integration among the citizenry, which has not dipped below the 80% level. Not only is there a lot of support for joining the EU, but the Albanian population has more confidence in the Union than in any domestic institution.

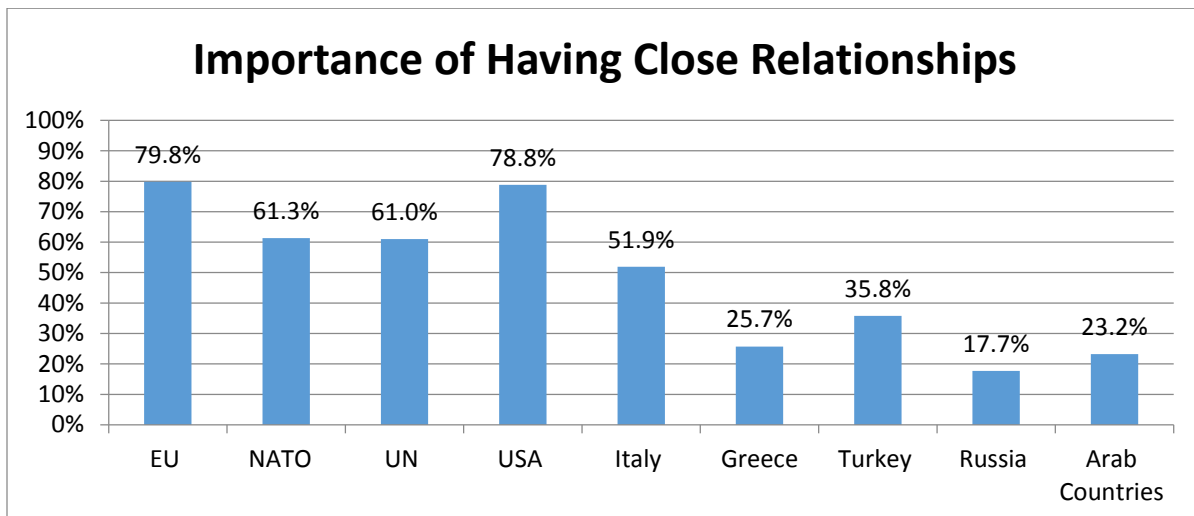
Chart 3.4



Source: Gallup 2010.

This embrace of the EU by the Albanian population is not simply the result of the failure and lack of legitimacy of local institutions. Polls show that Albanians value relations with the EU more than with almost any other international partner. The only exception is the United States, which receives a lot of support in Albania because of its stance on Kosovo.

Chart 3.5



Source: Albanian Institute for International Studies 2012.

The overwhelming majority of Albanians (90.2%) consider integration into the EU to be an important issue (Albanian Institute for International Studies 2012, 30). Joining the Union is viewed as the solution to the most pressing problems. According to a 2012 survey, 79.1% of Albanians think that EU membership will enhance their wellbeing in several ways: 37.8% believe that integration will improve their general standard of living, 18.7% believe that it will create more jobs, 13.4% that it will lead to less corruption, and 9.2% think that it will lessen poverty (Albanian Institute for International Studies 2012, 31).

What strengthens the hegemony of the European project are the absence of Eurosceptical forces in Albania and the fact that no alternative to joining the Union has been taken seriously since the fall of the early 1990s. Even the nationalist forces, represented by the Red and Black Alliance, have not been critical of Europeanization (Alma 2013). The few intellectuals who have dared to criticize the EU have been labeled radicals.

The forms of resistance available to the Albanian partners are limited by the domestic legitimacy that EU statebuilding enjoys. In order for resistance to be overt, the partners should be able to criticize the Europeanization process, they should present alternatives to it, and they must attract at least some popular support. None of these conditions is present in Albania. Because the legitimacy of the partners is based on Europeanizing the country, they are not in the position to criticize EU statebuilding. Even if a partner tries to break the mold and propose an alternative, they will most likely fail because no other source of legitimacy, e.g., religion, ethnicity, or ideology, can compete with the EU. One of the consequences of the dictatorship that ruled Albania from 1944 to 1991 has been the discrediting of almost all domestic institutions and ideologies.

The lack of legitimacy of anti-Europeanization forces constrains the resistance to take a covert form. Resistance exists because it provides benefits to certain groups, but it has no legitimacy to openly challenge the EU project. The Albanian partners can only try to ameliorate those aspects of statebuilding that they consider harmful without presenting an alternative model of organizing the state. Acts of resistance, such as the circumvention of the Civil Service Law, are considered publicly by both the partners and the citizenry as problems that need to be redressed.

Conclusion

This chapter started by pointing out the paradoxical nature of the Albanian civil service. While the formal development of the service has been guided by the demands of EU statebuilding, the way that civil service reforms have been implemented has often undermined the very spirit of the EU's goals. The main culprit for these failures, I maintained, is the resistance of the local partners of the EU. There are several consequences to this local resistance.

First, resistance is not aimed at EU statebuilding per se. Civil service reforms have been a major goal of the Albanian partners as well, and, as this chapter showed, they have been willing to accept EU financial and technical assistance in reforming this sector. Moreover, many of the reforms that the Union has demanded (such as the adoption of IT technologies and salary reforms) have been implemented successfully. Only one category of reforms has been consistently resisted by the partners: the reduction of political control over the civil service. If the Albanian civil service were independent and meritocratic, it would decrease the ability of the partners to gain and maintain power in addition to causing significant social disruptions. As it was showed above, the civil service in Albania is used among other things to reward party

supporters and mobilize voters. In addition, not only does civil service employment help to absorb those workers who cannot find employment in the private sector, but also the wide spread practice of bribery helps to alleviate income inequality in Albania. This means that reforms are not opposed because they are alien to the Albanian society but because they have the potential to redistribute power and cause social disorder.

Second, what local resistance has accomplished in Albania is to claim back some of the sovereignty that this country surrendered to the EU by agreeing to participate in the SAP. As it was demonstrated above, it is not correct to understand EU statebuilding as being imposed by Brussels on helpless Albanian partners. Instead, the contents of statebuilding are produced by an interaction of structural conditions, some of which allow the EU to make demands on its Albanian partners, while others permit the Albanian partners to resist at least some of these demands. The corollary to these structural conditions is the attenuation of the asymmetric interdependence between the EU and Albania, and the increase in mutual dependence.

Third, the hegemony of Europeanization in Albania has conditioned the form of resistance that the partners can offer. One important consequence of this is that the formal legal and institutional development of Albania is guided by the Union's statebuilding demands. While, as this chapter has shown, these formal developments do not guarantee the success of the Europeanization project in Albania, they provide settings for future struggles over the form and function of the civil service.

We can only make sense of the successes and failures of EU statebuilding in Albania by looking at how international and local politics interact. The disruptions caused by statebuilding motivates resistance, but this resistance is shaped by the structural conditions that frame the

Ervin Kallfa

relationship between Albania and the EU as well as by the domestic legitimacy of the EU's project. This has led to the paradoxical nature of the Albanian civil service.

Chapter 4

Kosovo: Confronting the War Legacies

Judicial reforms are one of the main statebuilding goals of the European Union (EU or Union) in Kosovo. But, as this chapter will show, despite the EU's efforts and the significant resources that have been dedicated to this task, the Kosovo judiciary continues to be plagued by serious problems. I will argue in the following pages that the main reason behind the failure of many parts of the judicial reform program is the resistance of the local partners of the EU.

The success of this local resistance in undermining one of the centerpieces of the Union's project in Kosovo is puzzling since the EU enjoys executive powers in Kosovo (i.e., Kosovo is to a large extent an EU protectorate). I will argue in this chapter that to understand the successes and failures of judicial reforms in Kosovo, we need to look at the structural conditions that make possible both the EU's imposition of a reform agenda on Kosovo as well as the resistance of the local partners of the Union. There are certain conditions, such as Kosovo's financial and security dependence on the Union, that permit the EU to demand extensive reforms from its local partners. On the other hand, other conditions, e.g., the EU's prioritization of peace and stability in Kosovo, allow the locals to resist the Union's demands. Moreover, I maintain that this resistance to the EU takes an overt form in Kosovo because of the local legitimacy deficit of the EU, especially the problematic legitimacy of the main statebuilding mission in Kosovo, the European Union Rule of Law Mission in Kosovo (EULEX).

This local resistance, I will show in the following pages, is spurred by frictions between the Union's judicial reform agenda and local politics. The EU aims to create in Kosovo a judicial system that is well-organized, efficient, meritocratic, and highly prepared. More importantly, the

Union wants the Kosovo judiciary to be independent and free from political interference. The local partners, on the other hand, have strongly resisted efforts to depoliticize the judiciary and increase its independence because the local elite that has ruled Kosovo has strong ties with criminal organizations and wants to keep its control over the judiciary. But the local partners have not opposed those reforms, such as improving training programs for new judges and prosecutors, which do not threaten their influence over the judiciary.

The chapter is organized in the following manner: The first section provides an overview of the EU's statebuilding project in Kosovo as well as the structural factors that make possible the intrusion of the EU in Kosovo's domestic politics. The second section examines the judicial reforms that the Union has demanded from its Kosovo partners. The third part details the achievements of these reforms, and their failures. The ties between criminal organizations and the Kosovo partners are examined in the fourth part. The fifth section looks at the structural factors that make possible the resistance of the Kosovo partners. The last section examines how the problematic legitimacy of the EU in Kosovo permits the Union's partners to openly resist statebuilding.

The EU statebuilding project in Kosovo

The Union and Kosovo have a complicated history that dates back to the end of the 1999 Kosovo war. The relationship between the two has gone through three distinct phases, during which the EU has become the main international presence in Kosovo, or at least officially so. In the first phase (1999 to 2008), the EU formed Pillar IV of the United Nations Mission in Kosovo (UNMIK). The EU's role in this period was to help with the economic reconstruction of the war-torn province and to assist in the development of a market economy. The Union was involved in

training government officials, guiding the privatization program, setting up the customs service, and running the banking sector (Papadimitriou and Petrov 2013, 121).

In the second phase, which started after Kosovo's declaration of independence in February of 2008, the Union was assigned by the Ahtisaari Plan the main supervisory duties over this former Serbian province. This plan was named after the former Finnish president, Martti Ahtisaari, who was supposed to provide a final negotiated solution to the status of Kosovo. The Ahtisaari Plan proposed that Kosovo should be granted conditional independence and that Kosovo should be provided with a "road map" that would promote democracy, rule of law, human rights, and minority rights. An international presence would make sure that this "road map" would be implemented (Dzhic and Kramer 2009, 3). According to Article 1.11 of the Ahtisaari Plan, the international presence would consist of an International Civil Office (ICO), headed by the International Civil Representative (ICR), and EULEX, a European Union Security and Defense Policy (ESDP) mission (Muharremi 2010, 362-363).

According to the Ahtisaari Plan, which was accepted by the Albanian leadership of Kosovo, the provisions of the plan take precedence over Kosovo law,⁵¹ and the international presence in Kosovo has the right to use whatever powers necessary to implement the provisions of the plan (Novotna 2010, 590; Muharremi 2010, 362). By accepting these restrictions, Kosovo exchanged its sovereignty in return for independence (ICG 2010, 3).

Even though many countries were slated to contribute to the international presence in post-independence Kosovo, the Ahtisaari Plan gave primacy to the EU (Rotta 2011, 171). The ICO's staff, leadership, and finances came mainly from the Union (Montanaro 2009, 18). The ICO was supervised by a group of 25 countries, but the head of the ICO, the ICR, also doubled

⁵¹ This principle is also found in the 2008 Constitution of the Republic of Kosovo.

as the EU Special Representative to Kosovo (EUSR). The ICO was in charge of overseeing the implementation of the Ahtisaari Plan and guiding the building of “civilian institutions” (Visoka and Bolton 2011, 194). The ICR was provided with executive powers to strike down any laws that contradicted the Ahtisaari Plan. The ICO’s mission in Kosovo was officially terminated in September of 2012.

The EUSR represents the Council of the European Union in Kosovo. After the termination of the ICO in 2012, the EUSR’s office was merged with the European Commission Liaison Office in Kosovo (ECLO) to form the European Office in Kosovo. The main goals of the EUSR are found in Table 1.

Table 4.1

The Mandate of EUSR in Kosovo

In order to achieve the policy objectives, the mandate of the EUSR shall be to:

- (a) Offer the Union’s advice and support in the political process;
- (b) Promote the overall Union political coordination in Kosovo;
- (c) Strengthen the presence of the Union in Kosovo and ensure its coherence and effectiveness;
- (d) Provide local political guidance to the Head of the European Union Rule of Law Mission in Kosovo (EULEX KOSOVO), including on the political aspects of issues relating to executive responsibilities;
- (e) Ensure consistency and coherence of the Union action in Kosovo;
- (f) Support Kosovo’s progress towards the Union, in accordance with the European perspective of the region, through targeted public communication and Union outreach activities designed to ensure a broad understanding and support from the Kosovo public on issues related to the Union;
- (g) Monitor, assist and facilitate progress on political, economic and European priorities, in line with respective institutional competencies and responsibilities;
- (h) Contribute to the development and consolidation of respect for human rights and fundamental freedoms in Kosovo, including with regard to women and children, in accordance with the Union’s human rights policy and Union Guidelines on Human Rights;
- (i) Assist in the implementation of the Belgrade-Pristina dialogue facilitated by the Union.

Source: Commission of the European Union 2012, 5-6.

The ECLO functions under the authority of the EU Commission's Directorate General for Enlargement and cooperates with the Kosovo government under the broader umbrella of the Stabilization and Association Process (SAP) (Derks and Price 2010, 15). The main document that regulates the relationship between ECLO and Kosovo is the European Partnership, which lists the EU requirements for Kosovo (EU Commission 2008, 7). A summary of these requirements is found in Table 2.

Table 4.2

<p>European Partnership Requirements</p> <p>Political Criteria: achieve the full functioning of government institutions; promote democracy; strengthen public administration; attain an effective, independent and accountable judiciary; develop and apply anti-corruption policy; protect human, cultural and minority rights; and strengthen regional and international cooperation.</p> <p>Economic criteria: implement sound fiscal policy, improve bill collection by public utilities, privatize the rest of socially owned enterprises, improve the efficiency of publicly-owned enterprises, and fight the informal economy.</p> <p>European standards: promote the free movement of goods and capital; strengthen the sectors of customs, taxation, public procurements, and intellectual property rights; promote employment and social policies; promote education and research; develop strategies and pass legislation on industry, agriculture, environment, transportation, energy, and information society; strengthen border controls and develop immigration policies; fight money laundering and drugs; and strengthen the capacities of the police.</p> <p>Source: Council of the European Union 2008, 61-70.</p>
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The above demands of the European Partnership can be summarized as efforts by the EU to construct a liberal state in Kosovo,⁵² similar to what the Union is trying to accomplish in other countries that want to join the EU. There is one priority in Kosovo's European Partnership that is not found in the relationship between the EU and other prospective candidate states. Kosovo is required to cooperate constructively with Serbia (EU Commission 2008A, 61). This means that solving the Kosovo-Serbia conflict is one of the main goals of the EU's agenda on Kosovo.

⁵² The liberal state is defined by Eriksen as a state that: "a) upholds the rule of law, b) is democratic and c) is based on a market economy" (Eriksen 2009, 653).

The centerpiece of the EU's involvement in Kosovo is EULEX. This is the largest ESDP mission ever launched by the Union. The reason why the Ahtisaari Plan included EULEX as one of the conditions for Kosovo's independence was because of the belief that Kosovo rule of law institutions were very weak and in need of continuous international supervision (Ker-Lindsey and Economides 2010, 82; Spornbauer 2010, 10). EULEX was set up in February of 2008 and reached full operational capabilities in December of 2008 (Spornbauer 2010, 14). In the beginning, the mission had 2,364 local and international staff members and a budget of 205 million euros (approximately \$256 million) for the first 16 months (Spornbauer 2010, 14; Dzhic and Kramer 2009, 2). The Council of the European Union Joint Action 2008/124/CFSP describes the mission of EULEX as:

EULEX Kosovo shall assist the Kosovo institutions, judicial authorities and law enforcement agencies in their progress towards sustainability and accountability and in further developing and strengthening an independent multi-ethnic police and customs services, insuring that these institutions are free from political interference and adhering to internationally recognized standards and European best practices.

EULEX Kosovo, in full cooperation with the European Commission Assistance Programmes, shall fulfill its mandate through monitoring, mentoring and advising, while retaining certain executive responsibilities (Council of the European Union 2008, 92-93).

EULEX has three pillars: 1) a police component, which is comprised of four anti-riot units and advisers to various Kosovo police departments; 2) a judicial component that consists of judges, prosecutors and forensic experts involved in providing guidance to their Kosovo counterparts; and 3) a customs component involved in assisting the local customs service with expertise at the operational and policy levels (Derks and Price 2010, 11).

The main tasks of EULEX are to monitor, mentor, and advise (MMA) Kosovo officials involved in rule of law activities. Monitoring means that EULEX staff are supposed to observe their local counterparts and identify areas in need of improvement. Through mentoring, EULEX

members show their Kosovo colleagues how tasks should be accomplished. Finally, advising involves the international staff providing information to their local counterparts on how to achieve optimal results (EULEX 2009A, 3).

Because of the weaknesses of the Kosovo rule of law institutions, EULEX has the right to use its executive powers and take over accomplishing a task that the locals are not able to perform. This has been particularly used in the judiciary component, where EULEX prosecutors have either initiated investigations on their own or have taken over sensitive cases that their Kosovo colleagues have been unable or unwilling to deal with (ICG 2010, 4).

As soon as it reached full operational status, EULEX carried a review of the areas falling under its mandate, and in its 2009 report, it included a list of subjects that needed improvements. This review was the basis for the *Action Fiches* that describe in detail the goals that EULEX wants to achieve, the methods that will be used to achieve these goals, and the local institutions that are responsible for achieving them. A tracking mechanism is used to measure progress, and progress reports are issued every six months (EULEX 2009A).

The start of EULEX's mission was very controversial. Initially, EULEX was supposed to substitute for the UNMIK (United Nations Interim Administration Mission in Kosovo) presence in Kosovo, something that would have happened in tandem with a final solution of Kosovo's status. Because of the impasse in status negotiations between Serbia and Kosovo, the Kosovo Assembly declared independence in February 2008. The declaration of independence was followed by a formal invitation by the Kosovo government for EULEX to be deployed. Meanwhile, Kosovo's independence was not recognized by Serbia, Russia, and five EU member states: Greece, Cyprus, Romania, Slovakia, and Spain (the EU Quint). Because of opposition within the Security Council by Russia, and the fact that five EU member states did not recognize

the sovereignty of Kosovo, EULEX was forced to be deployed as a status-neutral mission within the umbrella of UN Resolution 1244, which set up Kosovo as a UN protectorate. This means that officially EULEX has not recognized the legitimacy of the Constitution of Kosovo. It also signifies that the actions of EULEX can be challenged in Kosovo courts for being illegitimate (Muharremi 2010, 377).⁵³ As I am going to demonstrate later in this chapter, one of the consequences of the controversial status of EULEX is that the legitimacy of this mission in the eyes of the Kosovar society has been tarnished.

The third phase of the relationship between Kosovo and the EU started in May of 2014, when negotiations for a Stabilization and Association Agreement (SAA) between Kosovo and the EU were concluded. This was an important step for two reasons. First, countries that sign SAAs are subject to more demands and scrutiny by the EU (Vjollca 2013). Second, for other countries in the region, signing an SAA was the first step towards applying for EU membership, one of the main goals of Kosovo society and government as well. One caveat needs to be added. The Kosovo SAA differs from other similar agreements in one crucial aspect. Because five EU members do not recognize Kosovo, the SAA was not agreed with the Council of the European Union, but with the EU Parliament. This means that the EU as an organization has not recognized the independence of Kosovo, and negotiations for possible EU membership are contingent on the five non-recognizing members changing their minds.

Cooperation between the EU and Kosovo currently takes place within two fora. EULEX and the Kosovo government have set up the Joint Rule of Law Coordination Board (JRCB). The Stabilization and Association Process Dialogue (SAPD) brings together representatives of the EU Commission and local actors to discuss issues related to Kosovo's participation in SAP. An

⁵³ Since EULEX does not recognize the independence of Kosovo, from a legal point of view, it is not the mission that the Kosovo Assembly invited in 2008. Thus, EULEX is illegal under Kosovo law.

array of Kosovo partners engage with EU representatives: government officials, members of the Kosovo Assembly, and civil society members. Despite this variety of local partners, government representatives overshadow all other partners. Kosovo is represented in negotiations with the EU by members of the executive, whom the Kosovo Assembly has not been able to hold accountable. There is widespread agreement among experts on Kosovo that the Assembly defers to the executive and has very little autonomy.⁵⁴ A 2013 report by the Kosovo Democratic Institute (KDI), an NGO that monitors the Kosovo Assembly, shed light on the deference of the legislative to the executive. Not only have almost all laws that the Assembly has voted on been proposed by the Government,⁵⁵ but the Government has also issued instructions on how its supporters in the Assembly should vote (KDI 2013, 15 & 19). High Government officials routinely refuse to accept invitations to report in plenary Assembly meetings, they do not answer questions by Assembly members, and they ignore Assembly recommendations (KDI 2013, 15). Additionally, as in other countries subjected to EU statebuilding, the process of Europeanization has concentrated power within the executive (Zaum and Knaus 2013, 238). Civil society organizations not only have very little influence on the government, but most of them are also mainly geared towards receiving grants from the variety of international actors who fund them. For these reasons, in this chapter I will use the term local partners to refer to high officials within the executive branch of the Kosovo government.

In order to show its commitment to getting closer to the Union, the Kosovo government has strengthened the structures through which it manages EU relations. At independence, this relationship was managed by an agency, the Agency for European Integration (AEI), which

⁵⁴ One of the reasons for the dominance of the Assembly by the Government is the fact that parties in Kosovo lack internal democracy (CRPM 2012), and the leadership of governing parties usually holds executive positions, not parliamentary ones.

⁵⁵ Individual members of the Assembly and the president of Kosovo also have the right to propose bills.

according to the EU Commission's 2008 report was very weak, had a high staff turnover, and lacked "strategic guidance" (EU Commission 2008, 11). In 2010, AEI was upgraded into the Ministry of European Integration. European integration departments have been created in every Kosovo ministry, where they formulate policy and coordinate integration related actions (EU Commission 2011, 8).

The Union has made a significant impact on the processes of lawmaking and institution building in Kosovo. Both domestic and international observers maintain that these two processes are guided to a significant extent by Brussels, and often EU directives take precedence over domestic needs (Zaum and Knaus 2013, 236; Flamur 2013).⁵⁶ In addition, all laws in Kosovo need to be reviewed by the Ministry of European Integration for compliance with the *acquis* and other EU demands before they are enacted (Ana 2013).

The next question that needs to be addressed is what enables the EU to intrude so deeply into the domestic affairs of Kosovo. My research suggests that there are five structural conditions that allow the EU to make demands on its local partners. First, the EU through EULEX has executive authority in Kosovo. This means that the EU can open criminal investigations on recalcitrant Kosovo partners. Several local experts whom I interviewed in Kosovo told me that Hashim Thaci, who served as the prime minister (PM) of Kosovo from 2007 to 2014, was very afraid that EULEX would initiate investigations into his ties to organized crime. This forced him to be more cooperative with the EU than he would have otherwise been (Zogu 2013; Flamur 2013; Enver 2013). The power of the EU to dig up dirt and expose the wrongdoings of Kosovo politicians was demonstrated by the so-called "pronto affair." A few days after the Kosovo PM

⁵⁶ According to Zaum and Knaus, the Kosovar government has focused considerable resources on security and rule of law issues (EU priorities), while ignoring important issues to the local population, such as agriculture (Zaum and Knaus 2013, 236).

and other leading politicians criticized one of the EULEX's arrests, a recording of conversations among those same critics discussing nepotism was leaked to the press. EULEX admitted that it recorded those conversations, but it denied releasing the tapes (Kursani 2013, 17). Locally, this event was interpreted as a EULEX effort to silent its critics. It also showed that EULEX has confidential information on local politicians that it can use to bring them down, or even worse, to arrest them (Kursani 2013, 17).

A second condition that allows the EU to interfere in the domestic affairs of Kosovo is Kosovo's heavy financial dependence on the Union. The EU is the largest donor to Kosovo (European Court of Auditors 2012, 11). From the end of the 1999 conflict until the declaration of independence in 2008, Kosovo received 2.3 billion euros (approximately \$2.9 billion) from the EU (Dzihic and Kramer 2009, 14). Since 2008, Kosovo has received almost 570 million euros (\$712 million) through the EU's Instrument for Pre-accession Assistance (IPA) and about 190 million euros (\$238 million) from the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB) (EDRB 2014; EIB 2014). Moreover, 50 percent of Kosovo's foreign direct investment (FDI) and over 50 percent of Kosovo's imports come from the EU (Ker-Lindsey and Economides 2012, 82-83). This heavy economic dependence should provide the Union with considerable leverage because conditionality is attached to the EU's financial assistance. If the Kosovo partners do not pay heed to the EU's demands, the Union may reduce its financial support.

EULEX also plays a crucial role in maintaining domestic security in Kosovo. I was told by a member of the Kosovo Assembly that the presence of EU military forces is one of the main reasons for peace and stability in Kosovo (Ana 2013). This is especially true when it comes to the northern municipalities of Kosovo, which are inhabited by the Serb minority.

Communication between the Albanian authorities and Serb police officers in the north was channeled through EULEX before the 2013 Brussels Agreement between Serbia and Kosovo. Also, before 2013, the customs posts in the north were only able to operate with EULEX assistance because both Serbia and the Serb minority in Kosovo do not recognize Kosovo as an independent state. These northern customs were either exclusively run by EULEX staff or the Albanian personnel had to be transported under EULEX guard in order to guarantee safe passage.

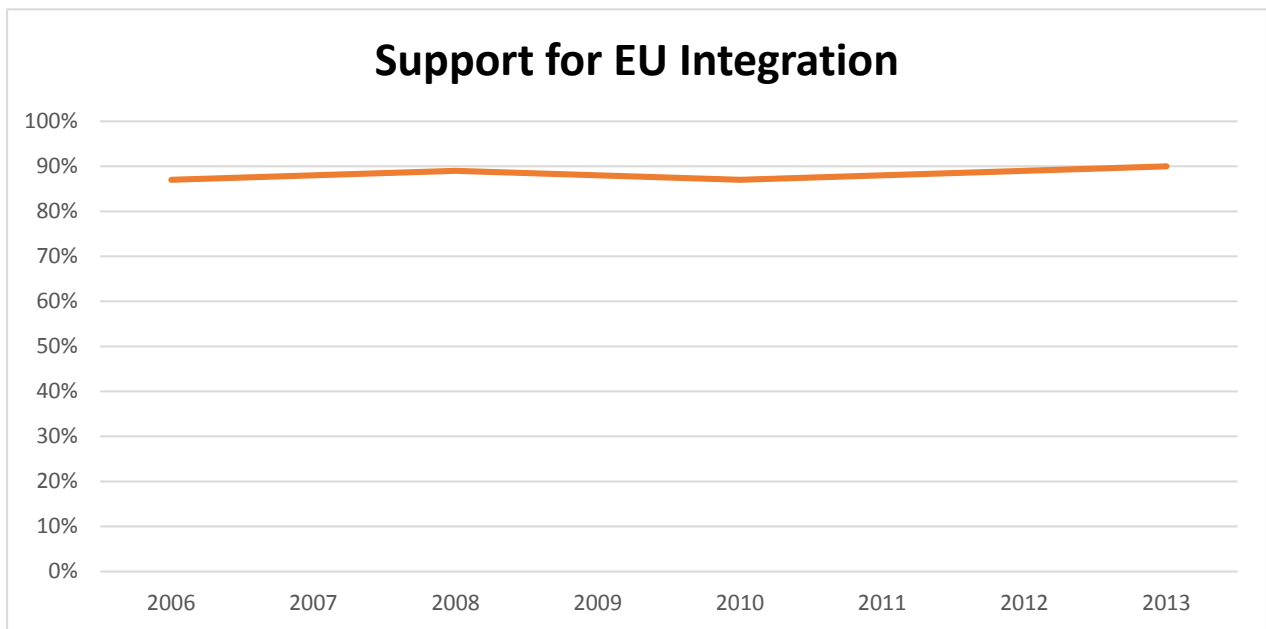
A fourth condition that enables the EU to make demands on Kosovo is the international legitimacy that the Union can provide to the contested independence of this country. According to two well-regarded Kosovo experts, Shpend Kursani and Ilir Deda, Kosovo leaders believe that by engaging with the EU and fulfilling its demands, they can normalize the international status of their country (Kursani and Deda 2012). These leaders believe that if the EU recognizes Kosovo as an independent state, the international legitimacy of Kosovo will be greatly boosted. Kosovo politicians also view cooperating with the EU as the only way to solve their ongoing conflict with Serbia, since the EU is the leading international actor that has pushed for negotiations between these two neighboring countries (Ana2013).⁵⁷ Lastly, EULEX facilitates cooperation in the rule of law area between Kosovo and those countries that do not recognize its independence (EU Commission 2011, 11).

A final condition that permits the EU to ask for significant statebuilding reforms from its Kosovo partners is the high level of support that the Union has among the local population. As the chart below shows, popular support for joining the Union has hovered at around 90 percent since independence. In many interviews with local experts, I was told that the only hope for

⁵⁷ The United States is a major actor in these negotiations, but it has operated manly behind the scenes.

Kosovo to get out of its current difficult situation is to join the Union (Shpresa 2013, Vjollca 2013, Ana 2013). A high-ranking official of one of the leading parties told me that the EU has taken on almost a religious significance in Kosovo (Flamur 2013). Salvation will be achieved once Kosovo receives EU membership. Because of this high level of popular support for joining the Union, government officials feel compelled to, at least formally, engage in EU-demanded reforms.

Chart 4.1.



Sources: Gallup Balkan Monitor 2009 & 2010; UBO Consulting 2013.

A cautionary note is necessary at this point. I do not maintain that the above five conditions enable the EU to have complete control over internal developments in Kosovo. Instead, these conditions enable the EU to pressure its Kosovo partners to engage in reforms that they would not have undertaken by themselves.

With the support and guidance of the EU, significant statebuilding reforms have been undertaken in Kosovo since 2008. But these reforms have not resulted in a Kosovo that looks

anything like the ideal EU model of the state. Instead, the Kosovo state is a hybrid whose institutions are shaped by both the EU and its local partners. The goals of these two sets of actors are only partially compatible. The next two sections will unveil the dynamic of EU statebuilding in Kosovo by examining the Union's efforts to reform Kosovo's judicial system.

Building Kosovo's Judicial System

Rebuilding Kosovo's judicial system has been one of the most daunting tasks faced by the international statebuilders in this former Serbian province. This challenge has been compounded by the fact that by the end of the 1999 conflict, the level of local skills in this field had been deteriorating for a decade. From 1989 to 1999, the repressive policies of the Milosevic regime caused most of the Albanian cadre to be excluded from the judiciary (KIPRED 2011, 8).⁵⁸ During those ten years, the judiciary in Kosovo was run almost exclusively by ethnic Serbs, most of whom left the province at the end of the conflict.

After the 1999 conflict, the international community⁵⁹ had the daunting task of rebuilding the Kosovo judicial system. During the decade of UN trusteeship, significant resources were dedicated to this area and some progress was achieved. New institutions were created, Albanian judges were retrained and reinstated in the court system, and progressively more responsibilities were given to the locals (KCSS 2011, 12-17).

Despite the progress achieved between 1999 and 2008, the Kosovo judiciary continued to suffer from serious deficiencies at independence (February of 2008). Because of such

⁵⁸ As with many aspects of Kosovar history, there is an Albanian version (the one that is presented in the text) and a Serbian version of what happened in Kosovo after 1989. The Serbian version maintains that Albanians decided to withdraw from state institutions by themselves, and form their own parallel state institutions.

⁵⁹ Between 1999 and 2008, Kosovo was under UN administration, but the UN delegated to the Organization for Security and Cooperation in Europe (OSCE) the task of rebuilding the Kosovo judiciary.

persisting problems, one of the main motivations behind the deployment of EULEX was the assumption that the locals did not have the ability or the will to tackle serious crimes, such as war crimes and inter-ethnic crimes (Rotta 2011, 170). Through EULEX, the Union took over the responsibility of reforming and strengthening the Kosovo judiciary. The EU Commission's 2008 report on Kosovo depicts a grave situation. The Ministry of Justice (MoJ), which at that time was in charge of the judiciary, had very limited capacities. Several key institutions, such as the Constitutional Court and the Kosovar Judicial Council (KJC), either did not exist or suffered from the lack of crucial pieces of legislation.⁶⁰ The legal framework, in general, was missing key laws required for the proper functioning of the judiciary. No meaningful witness protection program existed. Local judges were not willing to deal with many criminal cases, especially cases involving war crimes or crimes involving high government officials. A significant backlog of cases had developed, about 160,000 civil cases and 36,000 criminal cases. The court system lacked adequate human and organizational resources. Judges were poorly paid and they had not received a raise since 2002. The capacities of the prosecutor's office were underdeveloped (EU Commission 2008, 13-15).

At the beginning of its mission, EULEX conducted its own survey of Kosovo's judiciary and the findings were published in the EULEX's 2009 report. This report added the following observations to those of the EU Commission's 2008 report. The Disciplinary Committee of the KJC was not functioning. The judiciary lacked *de jure* and *de facto* independence from the executive and to a lesser extent from the legislative branch, especially with regard to appointment of judicial staff. Judges and prosecutors were not provided adequate security either in the courtrooms or outside. This hindered their ability to deal with sensitive cases. Limited

⁶⁰ In 2008, for example, the KJC existed as an institution, but the Law on KJC had not been adopted as of yet.

courtroom space led many judges to hold court in their offices. The Case Management Information System (CMIS), which assigns cases randomly to judges, was not fully operational. The number of judges and prosecutors per capita was lower than in neighboring countries.⁶¹ The performance evaluations of judges and prosecutors were not being performed, which reduced both the accountability and meritocracy of the judicial system (EULEX 2009).⁶²

The EU has put strengthening rule of law in Kosovo, of which the judiciary is one of the main components, at the top of its agenda for the country. I was told by local and international observers in Kosovo that the EU has put considerable pressure on its Kosovo partners to reform the judiciary (Bektesh 2013, Jackie 2013). Not only has the EU made demands, but it has also provided generous financial assistance for the reforms that it has asked. Between 2007 and 2011 alone, the Union spent 680 million euros (\$850 million) on strengthening rule of law in Kosovo. The 2014-2020 Multi-annual Indicative Document (MIPD)⁶³ lists the judiciary as one of the main components of the rule of law reforms demanded by the EU (EU Commission 2014, 20). While the 2014-2020 MIPD does not provide a breakdown of the funds allocated to each component, the rule of law assistance as a whole is worth 126.2 million euros (about \$158 million) (EU Commission 2014, 37).

These funds allocated by the EU have been used to vet Kosovo judges and prosecutors, promote legal education, strengthen the administrative capacities of the judiciary, improve the ability of the Ministry of Justice to draft laws, reduce the backlog of court cases through alternative dispute mechanisms, upgrade the infrastructure of the judiciary, strengthen anti-

⁶¹ Kosovo had 14 judges per 100,000 people in 2009, while neighboring Montenegro had 51/100,000, Croatia had 41/100,000, and Hungary had 27/100,000. In the same year, Kosovo had 4 judges per 100,000 people, Montenegro and Croatia had 13/100,000, and Hungary had 17/100,000 (EULEX 2009, 88-89).

⁶² The same problems with the judiciary have been noted by various OSCE reports (see OSCE 2009; OSCE 2010; OSCE 2012).

⁶³ MIPDs list the priority areas that are going to receive EU financial assistance.

corruption institutions, and improve the juvenile justice system (EU Commission 2011A, 15).

The list of judicial reforms demanded by the EU under the Stabilization and Association Process (i.e., European Partnership requirements) is found in Table 3.

Table 4. 3

European Partnership Judicial Reforms Requirements
<p>Short-term priorities</p> <ul style="list-style-type: none">- Insure effective, independent, accountable and impartial courts and prosecution offices, free from political influence.- Strengthen the Prosecutor's office to ensure that it is able to comply with the principles of autonomy and impartiality. Continue to strengthen the Special Prosecutor's Office. Ensure the implementation of an efficient witness protection security scheme.- Approve laws on courts and prosecution and implement them. Develop a system of administrative justice and streamline relevant legislation and competences.- Implement the automated case management system fully in all courts and prosecution offices. Reduce the backlog of cases and the enforcement of civil court decisions.- Strengthen municipal courts and police action to address, prevent, and sanction illegal occupation, use and construction in an impartial manner.- Further develop legal education and training, particularly for judges, prosecutors and administrative personnel. Transform the Kosovo Judicial Institute into a viable institution responsible for judicial training.- Develop the capacity in the government free from undue political influence to take on responsibilities in the areas of justice and interior. Implement a system of appointment, dismissal and career promotion for judges and prosecutors in line with European standards, free from political interference.- Increase efforts to meet international standards in the handling of mutual legal assistance requests in criminal matters and extradition requests.- Strengthen access to justice of minority communities and reinforce mechanisms such as the courts' Liaison Offices.- Continue to take measures to facilitate an equitable ethnic representation of judges.- Strengthen the administrative capacity, coordination and the effectiveness of the judiciary and all law enforcement agencies. Ensure the viability of a comprehensive legal aid system.
<p>Medium-term priorities</p> <ul style="list-style-type: none">- Define and consolidate a complete body of law that respects the rights and interests of all communities, drawing from all legal sources currently applicable in Kosovo.- Develop an alternative dispute resolution mechanism to courts.- Improve the penitentiary system with particular attention to security, control, management, vocational training and reintegration schemes, as well as the condition of facilities.

Source: Council of the European Union 2008, 62 & 67.

The requirements stated in the European Partnership are vague, but they are specified further in the annual SAPD meetings. In these meetings, EU officials discuss with their Kosovo partners the achievements of the judiciary in the past year and identify challenges to Kosovo's EU integration. In the 2010 meeting, for example, EU officials identified international legal cooperation as one of the challenges that Kosovo faced. EU officials asked their Kosovo partners to adopt "four laws mirroring the series of bilateral agreements MoJ should sign this year to improve international legal cooperation framework" (SAPD 2010, 11).

The EU Commission's MIPDs have also been used to identify areas that the EU wants Kosovo to work on and to list the benchmarks that will be used to measure success. For example, the 2011-2013 MIPD identified the fight against organized crime as one of the sectors where the judiciary needed to show improvement. The benchmarks that it set were: "Number of successful prosecutions for cases of organized crime, corruption, money laundering and trafficking of human beings and narcotics" (EU Commission 2011A, 17).

At the start of its mission in Kosovo, EULEX produced a program strategy that listed the goals that the mission wanted to achieve in the first six months (EULEX 2009A, 4-5). Table 4 summarizes the justice component of the program. The attainment of these goals has been monitored by a tracking mechanism that publishes progress reports every six months.

Table 4. 4

EULEX's Initial Goals

Ministry of Justice

- Establish the extent to which the MoJ properly applies relevant primary and secondary legislation and policies.
- Establish the extent to which the MOJ delivery of services are provided equitably to all the people of Kosovo.
- To establish the extent to which Judiciary and related Government body's functions are operational in each monitored sector.

- Establish the number and nature of recorded incidents of political (or ‘party political’) interference in the MoJ’s decision making.
- Establish the level to which recruitment into and promotion within the MoJ is based on merit and is in compliance with relevant legislation, policies and procedures in the appointment and selection process of MoJ personnel.
- To establish the degree to which organizational structures and job descriptions are available and fully understood by all MoJ monitored personnel.
- To complete an assessment to identify current strengths/ weaknesses and further opportunities for Judiciary and related Government body’s coordination and co-operation structures to combat organized crime.
- To establish the level to which non-majority communities and women are fully represented at all levels within the Ministry of Justice.

Kosovo Judicial Council

- Establish the degree to which Kosovo Judicial Council monitored personnel have received appropriate vocational training and development in core skills and procedures.
- Establish the level to which the Kosovo Judicial Council’s delivery of services is provided equitably.
- Establish the extent to which Kosovo Judicial Council functions are operational.
- Determine and scrutinize the number, nature and outcome of all complaints recorded against the Judiciary in particular based on alleged misconduct of Judiciary personnel.
- Report the nature of responsibilities assumed to ensure the maintenance and promotion of the rule of law, public order and security together with the grounds for assuming the responsibility.
- Establish the number and nature of recorded incidents of political interference in the Kosovo Judicial Council’s decision making.
- Establish the level to which recruitment into and promotion within the Kosovo Judiciary and Kosovo Judicial Council is based on merit.
- Establish the degree to which organizational structures and job descriptions are available and fully understood by all Kosovo Judicial Council personnel.
- Establish the degree to which adjudication functions connected to serious crimes are fully operational.

Judges and Criminal Prosecutors

- EULEX Assembly of Judges and EULEX Assembly of Prosecutors to establish the extent to which Kosovo Judges and Public Prosecutors properly apply relevant primary and secondary legislation, policies and approved operating procedures.
- EULEX Assembly of Judges and EULEX Assembly of Prosecutors to establish the extent to which Kosovo Judiciary have received appropriate vocational training and development in core skills and procedures.
- EULEX Assembly of Judges and EULEX Assembly of Prosecutors to establish the extent to which Kosovo Judiciary is operational in each monitored sector.
- EULEX Assembly of Judges and EULEX Assembly of Prosecutors to report the nature of responsibilities assumed to ensure the maintenance and promotion of the rule of law, public order and security together with the grounds for assuming the responsibility.

- EULEX Assembly of Judges and EULEX Assembly of Prosecutors to assess the degree to which Kosovo Judiciary comply with the applicable law in adjudicating and prosecuting and adjudicating serious crimes.
- EULEX Assembly of Judges and EULEX Assembly of Prosecutors to assess the degree to which prosecutorial and adjudication functions connected to serious crimes are fully operational.
- EULEX Assembly of Judges and EULEX Assembly of Prosecutors to complete an assessment to identify current strengths and weaknesses and further opportunities for Kosovan Judiciary coordination and co-operation structures to combat organized crime.

Source: EULEX Programme Strategy 20-26.

It should be noted that these statebuilding reforms are largely technical in nature, which means that they do not take into account the historical and social background of Kosovo. The Union's officials operate under the assumption that what they are demanding of their Kosovo partners is in the interest of both the EU and the locals. The next section will examine the results of EU-demanded judicial reforms in Kosovo.

Achievements and shortcomings of judicial reforms in Kosovo

Under the supervision of the EU, the Kosovo judiciary has undergone significant reforms, but major problems continue to persist. The improvements that have occurred fall under four broad categories: 1) legal reforms, 2) increases in the formal independence of the judiciary, 2) increases in the effectiveness of the judiciary, and 4) improvements in training. These reforms, which have built upon the work that was accomplished during the UNMIK period, have provided the Kosovo judiciary with a sound legal and institutional basis (OSCE 2012A, 6).

As far as legal reforms are concerned, an important package of four laws regulating the Kosovo Judicial Council (KJC), the Kosovo Prosecutorial Council (KPC), the court system, and

the prosecutor's office was passed in 2010.⁶⁴ These laws are important because they deal with several of the key weaknesses inherited from the pre-independence era. The new laws put the KJC, an independent institution,⁶⁵ in charge of recruiting judges. Judges are guaranteed tenure as long as they are on good behavior (OSCE 2012, 12-13). The laws created the KPC, also an independent institution,⁶⁶ which recruits prosecutors and manages the prosecutorial system as a whole (KCSS 2011, 24). The laws also increased the salaries of judges, who had not had a raise since 2002, so as to make them comparable to the salaries of high officials within the executive branch (KCSS 2011, 25-26).

Laws have been passed to strengthen the ability of the judiciary to fight organized crime and corruption. For example, a law regulating the witness protection program is now in place. The criminal code has been amended so as to make the failure to declare property and false statements criminal offenses (EULEX 2014, 18). A law that created the Constitutional Court was passed in 2009 (EU Commission 2009, 9). Finally, with the help of EULEX, the KJC and the KPC have adopted regulations for the evaluation of judges and prosecutors (EULEX 2013, 18-19). EULEX advisors embedded in the MoJ, the KJC, and the KPC have provided considerable support for drafting the above laws as well as other crucial pieces of legislation that regulate the Kosovo judiciary (EULEX 2010, iv-v; EULEX 2010, 11; EULEX 2012, i and iv).

Since 2008, the independence of the judiciary in Kosovo has increased, at least formally so. The judiciary, which used to be under the control of the Ministry of Justice (MoJ), is now

⁶⁴ The EU pushed hard for these laws to be passed (Jackie 2013).

⁶⁵ Article 3 of the Law on the Kosovo Judicial Council states: "The Council is a fully independent institution in the performance of its functions with the purpose of ensuring an independent, fair, apolitical, accessible, professional and impartial judicial system which reflects the multiethnic nature of the Republic of Kosovo and applies the Constitution as well as internationally recognized principles of human rights and gender equality."

⁶⁶ Article 3 of the Law on the Kosovo Prosecutorial Council states: "The Council is an institution fully independent in exercising its functions with the purpose of ensuring an independent, professional and impartial prosecution system, reflecting the multiethnic nature of the Republic of Kosovo as well as the internationally recognized principles of gender equality."

managed by independent institutions, the KJC and the KPC. In 2011, two important steps were taken towards increasing the independence of the judiciary. First, judges participated for the first time in the election of two new members of the KJC (EULEX 2011). Second, the KJC started selecting candidates for judges (EULEX 2011, 12). Furthermore, an important institution that deals with disciplinary matters in the judiciary, the Office of the Disciplinary Council, has been removed from the MoJ and is now part of the KJC (EULEX 2010, 27; EULEX 2012, 23). This should decrease undue influence from the executive in the judiciary.

The effectiveness of the judiciary has increased since independence. A major step that was taken in this direction was the vetting of judges and prosecutors in 2009. The Independent Judicial and Prosecutorial Commission (IJPC), supported financially by the EU and the United States, was set up to evaluate the quality of judges and prosecutors and to make recommendations for permanent appointees (OSCE 2012A, 14; EULEX 2011, 32). This vetting process was important because over half of the practicing judges and prosecutors were found to be unfit for the job (ICG 2010, 14). Another major improvement has been the decrease in backlog cases. In 2008, there were over 190,000 pending cases in front of courts (EU Commission 2008, 14). With the prodding of the EU, there was a 65% reduction in the backlog by 2013 (EU Commission 2013, 11). In addition, the EU has provided technical assistance that should increase the efficiency and effectiveness of the judiciary. EULEX has helped set up the Court Management Information System, which randomly assigns cases to judges, thus reducing instances of conflict of interest (EU Commission 2010, 10). EULEX has assisted in creating specialized units within the Kosovo prosecutor's office, which should increase the efficiency of prosecutorial services. An example of this is the assignment of one prosecutor in each of Kosovo's regions to work on corruption cases (EULEX 2011, 1). Finally, EULEX has played an

important role in setting up the witness protection program (EULEX 2013, 5). Since one of the main weaknesses of the Kosovo justice system has been the intimidation of witnesses, the witness protection program should help alleviate this problem.

A welcoming development has been the creation of the Kosovo Judicial Institute (KJI), a training institute for judges and prosecutors. The KJI provides initial training to newly hired staff and continuous training to practicing judges and prosecutors (EULEX 2011, 32). The first class of trainees graduated in December of 2009 (EU Commission 2010, 10). The EU has provided 3.6 million euros (\$4.5 million) in support of legal training (Court of Auditors 2012, Annex II). Finally, to improve the retention of qualified judges, EULEX has worked with the KJC to develop a performance evaluation mechanism for judges (EULEX 2012, 1).

One of the problems that the Kosovo judiciary has faced since independence has been cooperation with countries that do not recognize Kosovo as an independent state. In 2011, EULEX entered into a Technical Arrangement for Mutual Legal Assistance with Kosovo that allows EULEX to handle communications between Kosovo and non-recognizing countries (EULEX 2011, ii).

Not only have the ECLO and EULEX assisted in building the legal and institutional aspect of the Kosovo judiciary, but EULEX judges and prosecutors have also used their executive powers to fight criminal activities. From 2009 to 2014, EULEX judges and prosecutors were involved in 2,270 cases. EULEX judges have rendered verdicts in about 370 criminal cases, 90 of which involved highly sensitive cases (e.g., war crimes and corruption cases) (EULEX 2014, 2). EULEX officials have led the charge in four major war crimes trials,” Klecka,” “Drenica,” “ Geci,” and “Llapi,” which have involved former leading KLA commanders, e.g., Fatmir Limaj and Sami Lushtaku. Corruption cases initiated by EULEX prosecutors have

targeted influential Kosovo politicians, such as Nexhat Daci and Bujar Bukoshi. Several of EULEX's investigations have targeted connections between organized crime and government officials. This exercise of executive powers by EULEX has assisted in strengthening the Kosovo justice because EULEX has helped sentence individuals whose actions (such as intimidation of judges) were a threat to the independence of the judiciary. EULEX has also facilitated the removal of the aura of immunity from criminal figures.

Despite the above improvements, serious problems continue to plague the Kosovo judicial system. These weaknesses fall under seven categories: 1) political interference in the working of the judiciary, 2) inability to tackle high-profile cases, especially those involving senior politicians, 3) insufficient funding of the judicial system, 4) lack of proper protection for judges and prosecutors, 5) the deliberate weakening of the Anti-Corruption Agency, 6) problems with the proper functioning of the Case Management Information System, and 7) technical problems.

Despite its official independence, the judiciary in Kosovo continues to be subject to political interference by the executive and, to a lesser extent, by the legislature. OSCE has observed that the process of vetting and reappointing judges in 2009 was influenced by Kosovo's president. The individuals recommended for reappointment by the IJPC were not the same as the ones who were ultimately chosen (OSCE 2012, 15). Presidents have rejected candidates for judges proposed by the KJC without providing justification, which is in contravention of the law. In 2010, for example, President Jakup Krasniqi rejected the nomination of three candidate judges without an explanation, which caused both local and international experts to claim that the rejections were politically motivated (Kosovo Law Institute 2011, 14; OSCE 2012, 17). Past presidents have also issued pardons to individuals who were serving time for serious crimes

without justifying why they deserved to be pardoned (EU Commission 2010, 11).⁶⁷ President Fatmir Sejdiu, for example, pardoned individuals who were serving time for human trafficking, even though according to Kosovo laws individuals serving time for such a crime cannot be pardoned. President Sejdiu also pardoned people who were serving time for organized crime and drug trafficking. President Krasniqi pardoned prisoners doing time for aggravated murder and corruption (Musliu and Gashi 2012, 13-14).

The former Prime Minister of Kosovo, Hashim Thaci, tried to create structures within the judiciary intended to undermine judicial independence. In 2011, he issued an executive order to create the Consultative Council for Justice (CCJ), an advisory organ to the government. According to Article 9 of the executive order, the independent judicial bodies, the KJC and the KPC, have to seek the opinion of the CCJ when they draft legislation. This was considered by local experts as an attempt to provide the executive with undue influence over the workings of independent judicial institutions (BIRN 2011, 1). Similarly, in 2010, the Kosovo PM decided to create an Anti-Corruption Task Force within the Special Prosecutor's Office. Local experts viewed this as an effort by the executive to exert undue influence on the workings of the Special Prosecutor's Office (Qosja-Mustafa 2010, 24).

In addition to the above, there have been more blatant acts through which government officials have tried to influence the decisions of the judiciary. After the arrest of Fatmir Limaj,⁶⁸ the Minister of Justice publicly declared that Limaj was innocent. In 2011, the government issued a statement voicing its concern over the EULEX's prosecution of former KLA members for war crimes. The statement called the EULEX accusations "unsubstantiated and slanderous"

⁶⁷ Atife Jahjaga, who has served as the president of Kosovo since 2011, issued a decree in 2012 that set out stricter criteria for pardons (Musliu and Gashi 2012, 11).

⁶⁸ A former PDK (Partia Demokratike e Kosoves) official who has been indicted by EULEX both for war crimes and corruption.

(Amnesty International 2012, 54). These are just two examples of many instances in which government officials through their actions or words have tried to undermine the independence of the judiciary.

A second problem that the judiciary in Kosovo has continued to suffer from is its inability to deal with certain types of crimes. More precisely, Kosovo judges and prosecutors have not been very successful at handling cases involving: 1) corruption, 2) senior politicians, 3) war crimes, and 4) electoral manipulation. To a significant extent, this is due to political pressure that aims to undermine these investigations (Qosja-Mustafa 2013, 6-7).

Kosovo judges and prosecutors have been particularly unable to deal with politically sensitive cases. EULEX observed in 2009 that Kosovo judges have been unwilling to be involved in cases where the defendants were influential members of the government or former KLA fighters (EULEX 2009, 30). For this reason, most sensitive court cases have been handled by EULEX judges. In one such case, a Kosovo Albanian judge⁶⁹ declared that he thought that the defendant was innocent, but was forced by the EULEX judges to render a guilty verdict (OSCE 2012, 23).

War crimes have been particularly difficult to investigate and prosecute in Kosovo. According to OSCE, such crimes have not been prioritized and sufficient resources have not been dedicated to them (OSCE 2009, 6). Moreover, there is evidence that many of these cases have been deliberately undermined. OSCE has reported that the investigation, trial, and appeals of such cases have suffered from unnecessary delays (OSCE 2009). A 2012 report by Amnesty International concludes that the situation has not improved much since OSCE (2009) issued its criticism of how war crimes are handled in Kosovo (Amnesty International 2012).

⁶⁹ This case was adjudicated by a panel of judges that included both EULEX and Kosovo judges.

Electoral fraud was a significant problem in the 2007 and 2010 national elections. Many observers believe that the 2010 election was stolen by the main governing party, PDK. The 2011 BIRN report on the Kosovo judiciary states that the electoral fraud cases that made it to court were treated very leniently by judges. Defendants found guilty were sentenced at most to three months in prison, even though the law prescribes in such cases prison sentences ranging from six months to five years (BIRN 2011, 34). Even in cases where individuals were prosecuted, no effort was made to discover the extent of the fraud (OSCE 2012).

Many of the shortcomings of the Kosovo judiciary are caused by government's negligence. The judiciary is too underfunded to properly fulfill its functions. The neglect becomes more glaring if we compare the funding of the judiciary with that of other sectors. In 2013, the judiciary was assigned only 0.47% of the GDP. In the same year, the Ministry of Transportation was assigned 11.2% of the GDP, even though strengthening the rule of law in Kosovo is more critical than building roads (Qosja-Mustafa 2013, 7). According to one local expert, the government is not interested in providing the judiciary with the resources that it needs, but, on the other hand, road construction provides opportunities for patronage (Haki 2013). Furthermore, EULEX has noted that the Kosovo Assembly has failed to properly fund key pieces of legislation related to the judicial system (EULEX 2012, 21).⁷⁰

Security is another arena where the government has neglected to provide for the judiciary. Both the EU and OSCE have noted in their reports that Kosovo judges and prosecutors are frequently subjected to threats and intimidation that aim to affect their verdicts (EU Commission 2011; OSCE 2010). Despite these warnings, the government has done little to

⁷⁰ An example of this was the refusal of the Assembly's Budget Committee in 2011 to provide additional funding to the KJC for the full implementation of the Law on Courts (EULEX 2012, 21).

improve security for court personnel, especially for those judges and prosecutors who are involved in sensitive cases.

A big step towards fighting corruption in the Kosovo judiciary was the installation of the Case Management Information System (CMIS), which allows for the random assignment of court cases among judges. While the equipment for this system has been distributed to courts and training by EULEX has taken place, EULEX has noted that CMIS is not being used properly and cases are still not allocated randomly (EULEX 2012, 22).

A key institution that is supposed to assist the Kosovo judiciary in its fight against corruption and organized crime is the Anti-Corruption Agency (ACA). Unfortunately, this agency's work has been deliberately undermined by the government. ACA has not been provided with adequate staff or budget. According to its director, Hasan Preteni, the resources available are not enough for the agency to fulfill its mission (Kosovar Initiative for Stability, 2010, 19). Even when ACA has sent to prosecutors cases to investigate, only a small number of those cases have resulted in court filings (ICG 2010, 4). Between 2007 and 2009, ACA sent 168 cases to prosecutors. Only five of them resulted in indictments (ICG 2010, 4).

In addition to the above weaknesses, a host of problems have affected the proper hearing of court cases. It is common for cases not to be announced to the public. Often cases are not heard in courtrooms but in judges' offices. Proper procedures are not followed during court hearings. The timing of court cases is not well coordinated between judges and prosecutors, which in turn leads to the cancellation of many hearings. The parties concerned are often not properly summoned, which causes many of them to fail to attend court. There are unjustifiable delays in setting up court dates and issuing judgments. It is not uncommon for the prosecution to attend court unprepared (BIRN 2011 5-6; BIRN 2012, 15; EULEX 2012, 22).

The problems that were discussed above have perpetuated the weaknesses of the Kosovo judiciary. There is widespread agreement among observers of Kosovo that the main culprits for these weaknesses are the local partners of the EU (European Court of Auditors 2012, 21, Derks and Price 2010). It is high government officials, i.e., the partners of the EU, who continue to exert undue influence on the judiciary. These officials are also the ones who have failed to provide proper security for judges and prosecutors. While the funding of the judiciary is done by the Assembly, the legislature is mostly under the control of the executive, which again puts the burden for the inadequate funding on the EU's local partners.

It needs to be pointed out that not all major officials in Kosovo have worked to undermine the judicial system. The current president of Kosovo, Atife Jahjaga, has been involved in several initiatives intended to strengthen the Kosovo judiciary. In 2012, she established the National Anti-Corruption Council, which aims to better coordinate the fight against corruption by bringing together the main stakeholders in this struggle. President Jahjaga also leads the National Council on European Integration, which aims to foster national consensus on EU integration reforms. Judicial reforms have been one of the main themes discussed in this forum. Finally, President Jahjaga has been an important advocate for the establishment of the Special Tribunal for war crimes, an EU requirement (Koha Ditore 2015).

Not all international efforts to strengthen rule of law in Kosovo have failed. There is evidence that when the EU's local partners have been willing to strengthen an institution, they have cooperated with the international statebuilders to do so. The Kosovo Police is an example of a rule of law institution that is quite effective. It was initially built with the assistance of UNMIK, but it has continued to perform well even after the withdrawal of most of the international assistance. Its performance has been rated to be higher than that of most police

forces in the region (Rotta 2011, 168). Even the judiciary is capable of handling most types of crimes (ICG 2010, 3). The fact that Kosovo is very safe, the murder rate in 2009 was 2.9 per 100,000,⁷¹ is a testament to the ability of rule of law institutions to maintain order (ICG 2010, 3).

In the next section I will examine why the Kosovo partners of the EU have worked to undermine the EU-demanded judicial reforms in this country.

War Legacies

The EU statebuilding in Kosovo did not start with a *tabula rasa*; instead, it confronted especially the legacies of the war of the late 1990s. One of the most relevant aspects of these legacies is the ties between state institutions and organized crime. After the 1999 conflict, criminal enterprises in Kosovo have used the state to enrich themselves, exert influence, and gain immunity from prosecution. At the same time, some of the worst criminals in Kosovo are also leading political figures. I argue in this section that these close ties between the Kosovo state and the criminal world motivate the EU's Kosovo partners to resist the Union's efforts to create an independent and effective judicial system in Kosovo.

The relationship between the Kosovo political and military elite and organized crime was established in the early 1990's (Strazzari 2008, 158). During this period, new actors emerged among the criminal organizations that smuggled drugs and other types of contraband to Western Europe. Up until then, the market was controlled by Turkish criminal syndicates, but in the 1990s they were increasingly being challenged by ethnic Albanian groups, the most powerful of which originated from Kosovo. These Kosovo organizations forged strong ties with the Italian Mafia, and together they ended up controlling the heroin trade in Europe (Pugh 2005, 3).

⁷¹ In 2009, the murder rate in the United States was 5 per 100,000 (UNODC 2013).

As ethnic Albanians were increasingly controlling organized crime in Europe, a different drama was developing in the then Serbian province of Kosovo. Because of repressive Serbian policies, Albanians decided to form their own parallel governing institutions. To finance this shadow government and the guerrilla movement that developed in the mid-1990s, Kosovo Albanians relied to a significant extent on money coming from the large Kosovo diaspora, not all of which originated from legal sources (Teran 2007, 9).

Illicit money became very important for equipping and running the Kosovo Liberation Army (KLA), which at one point had about 30,000 guerrilla fighters (ICG 2000, 18). There is disagreement over the exact role of the KLA in the drug trade of the 1990's. Some have accused it of being a principal drug smuggling agent, which in the late 1990's was smuggling around \$2 billion of heroin into Western Europe (Teran 2007, 9). Others claim that the KLA was not directly involved in trafficking, even though it had close ties to criminal organizations (ICG 2000, 18). Despite this debate, there is no doubt that the KLA benefited significantly from Albanian criminal organizations, and its leaders forged strong ties with them.

One note of caution is warranted. While the connection between the KLA and organized crime is supported by considerable evidence, it does not mean, as some have suggested (see Marty 2011), that the KLA was a criminal organization. Most of its members decided to join because they were motivated by a desire to remove the yoke of the Milosevic regime, and the vast majority of the rank and file have not benefited financially from criminal activities. Those who equate the KLA with organized crime not only offend the sensitivities of Kosovo Albanians, but they also undermine the legitimacy of the fight against crime in the eyes of the Albanian population.

The bonds between the Kosovo Albanian leadership and criminal syndicates that were forged during the turbulent decade of the 1990's would have significant consequences for the process of statebuilding after 1999. Two factors strengthened the ties between organized crime and state structures in Kosovo: 1) large scale poverty and economic stagnation, and 2) the control of the state by former KLA fighters. The result has been the consolidation of those organized crime structures that existed in 1999 (European Court of Auditors 2012, 18).

Kosovo was the poorest region of Yugoslavia, a situation that was only made worse by the breakup of that country and the imposition of sanctions on the Federal Republic of Yugoslavia/Serbia in the 1993. After the 1999 conflict, the Kosovo economy became heavily dependent on foreign assistance and remittances from the diaspora (Montanaro 2009, 13). Both of these sources have been able to alleviate the worst consequences of poverty, but they have not fostered economic development. A recent report on Kosovo described its economy as suffering from a lack of economic opportunities and a dearth of investments (Briscoe and Price 2011, 11). Unemployment has been persistently high, 35% in 2013 (UNDP 2013), and 30% of the population lives in poverty (World Bank 2014).

The main economic actor in Kosovo is the state, and as one of my Kosovar interlocutors mentioned, capturing the state is the principal way to riches (Haki 2013). State capture can serve two purposes. On the one hand, the control of the rule of law institutions can shield from justice those actors who are involved in criminal activities. On the other hand, the economic resources that the state possesses, such as socially owned enterprises or procurement contracts, can be used for private purposes. The dire economic situation of Kosovo has led many of its inhabitants to look at illicit economic activities for profit.

After the fighting ended in the summer of 1999, the KLA guerrilla forces did not disband. Instead, they transformed themselves into political parties and into the Kosovo Protection Corps.⁷² Since 1999, the government of Kosovo has been led mostly by former KLA fighters or people affiliated with them (Marty 2011, 13).⁷³ Of the five leading Kosovo parties, Partia Demokratike e Kosoves (PDK), Aleanca per Ardhmerine e Kosoves (AAK), NISMA, Levizja Demokratike e Kosoves (LDK), and Vetevendosje, the first three have been founded by former KLA members.

After the withdrawal of Serbian forces from Kosovo in 1999, the political wing of the KLA took control of most of the Albanian-majority municipalities in Kosovo (ICG 2000, 3). This takeover was not recognized by the UN, which created the Provisional Institutions of Self-Government to serve as the local administration for Kosovo. In these new governing structures, UNMIK did not bring new actors, but for the sake of stability, it coopted former KLA figures (Briscoe and Price 2011, 9-10).

Finally, many of the former KLA fighters were integrated⁷⁴ into the Kosovo Protection Corps (KPC) and the Kosovo Police (KP). KPC, which initially had approximately 5000 members, retained many of the features of the KLA. Not only did its rank and file come from the former guerrilla force, but its leadership and command structure also remained the same (ICG 2000, 6-7). It was supposed to deal mainly with civilian emergencies, but it did not lose its military capabilities. When the Kosovo Police was set up, it favored KLA members because it counted military service as one of the qualifications for admittance (ICG 2000, 11). This meant that the new police force was heavily infiltrated by former guerrilla fighters.

⁷² The Kosovo Protection Corps was an emergency management organization.

⁷³ Between 1999 and 2014, prime ministers not affiliated with the KLA were in office for only about two years.

⁷⁴ This was a decision taken by NATO.

It is not a surprise that criminal activities have become the most profitable enterprises in post-war Kosovo. A study has estimated that between 2004 and 2006, up to 386 million euros (\$483 million) were generated from the black economy (B&S Europe 2007, 39). Also, there are good reasons to believe that the post-war construction boom in Kosovo, especially in its capital (Prishtina), has been used to launder illicit money. In one of my interviews, I was told that about a billion dollars' worth of real estate was being built in Prishtina in 2013, a sum that is too high for a poor country (Mirdit 2013). An investigation by the Balkan Investigative Reporting Network (BIRN) has revealed that road construction in Kosovo, which has been plagued by allegations of corruption, has particularly benefited companies tied to the war structures of KLA (Marzouk and Collaku 2010). Finally, large sums of money have been invested in casinos, which many suspect are used to launder illicit profits (Qosja-Mustafa 2013, 14).

The identity of the main leaders of criminal organizations in Kosovo is of no surprise. A NATO report leaked by WikiLeaks states that most organized crime members are former KLA fighters who also have strong ties to local politicians. The same report accuses Hashim Thaci, who was Kosovo's prime minister between 2007 and 2014, and Ramush Haradinaj, a former prime minister and the leader of one of the main parties in Kosovo (AAK), of having ties to organized crime. The same allegations about these two leaders were made in a 2005 German intelligence report (WikiLeaks). According to an investigation by the European Parliament, organized criminal structures in Kosovo continued to mirror the structures of former KLA units even a decade after the end of the conflict (Marty 2011, 13).

Former guerrilla fighters and the political organizations that they have set up are not the only actors involved in criminal activities. Two of the leaders of LDK,⁷⁵ Fatmir Sejdiu and Uke

⁷⁵ LDK is the party of the late Ibrahim Rugova, an intellectual who advocated peaceful resistance.

Rugova, have been accused of corruption and involvement in organized crime (Briscoe and Price 2011, 19; BIRN 2014, 7). Behxhet Pacolli, the leader of Aleanca Kosova e Re (AKR), was involved in a major corruption scandal in Russia (Strazzari 2008, 162).

What has happened in Kosovo since 1999 is the fusion of state structures with those of organized crime. This symbiosis rests on a mutual exchange of wealth and influence. The Kosovo political elite have used this relationship to get wealthy, to stay in power, and to exert influence. One of the most glaring facts about the leading Kosovo politicians is that most of them are very wealthy, which cannot be explained by their official remuneration (Preteni 2011, 16). For a long time, there was resistance on the part of the political elites in Kosovo to declare their wealth, but because of international pressures, they have started to do so. Even though now we have a better picture of the worth of top government officials, they still refuse to declare the origin of their wealth (Qosja-Mustafa 2013, 9).

Briscoe and Price argue that there has been an evolution in the type of criminal activities taking place in Kosovo. While in the past trafficking in drugs, weapons, and people⁷⁶ was the most important criminal activity, rent seeking from the state is becoming more significant (Briscoe and Price 2011, 15). A 2011 report by the anti-corruption organization COHU has unraveled the link between state procurement and political patronage. In two ministries that COHU investigated, the Ministry of Education and the Ministry of Transportation, most of the procurement contracts were awarded to companies hailing from the same region as the ministers in charge of these institutions. (Haraqia and Bajrami 2011, 27).

⁷⁶ There are allegations that some former members of the KLA have been involved in organ trafficking (see Marty 2011).

The COHU report also revealed that those companies that have won public tenders have also been among the leading contributors to PDK.⁷⁷ For example, eight companies that financed the 2009 election of PDK received 40 million euros (\$50 million) in government contracts (Xhemajli and Bunjaku 2011, 41). Many of the donations made by these companies were illegal because they surpassed the limits of campaign contributions. For example, a company that won a bid worth 291,251 euros (\$364,000) from the Ministry of Transportation made a contribution to PDK worth 31,500 euros (\$40,000), while the legal limit for donations is 10,000 euros (\$12,500) (Xhemajli and Bunjaku 2011, 45).

A more notorious aspect of the ties between the government and organized crime is the existence of underground intelligence services. During the conflict of the late 1990's and in the immediate post-war period, all the major political parties in Kosovo created intelligence services, the most influential of which is Sherbimi Informativ i Kosoves (SHIK), which is tied to PDK. SHIK was supposed to have been officially disbanded in 2008, but it continues to operate. This organization plays two important functions for PDK. First, it provides financial resources to the party. SHIK is heavily involved in drug trafficking, extortion, and bribery. Some estimates maintain that these activities generate about \$200 million a year (Phillips 2010A, 8). SHIK is also involved in public procurements and receives a share of the contracts doled out by the government (Phillips 2010, 94-95). Second, SHIK has been used by PDK to coerce its opponents (Zaum and Knaus 2013, 238).

Resistance to the EU-demanded judicial reforms in Kosovo is motivated by a clash between the priorities of the Union and the priorities of its local partners. One of the main goals

⁷⁷ PDK was the main governing party in Kosovo between 2007 and 2014.

of the EU in the Western Balkans,⁷⁸ where Kosovo is located, is the fight against organized crime. The EU has made it a priority to strengthen the judicial systems and border controls in this region. The Union is not acting out of selfless motivations. Instead, the EU perceives the flow of drugs, human trafficking, and weapons from the Western Balkans as one of the most important threats that it faces. Moreover, ethnic Albanian criminal syndicates, many of which have ties to Kosovo, are among the most dangerous criminal enterprises operating in EU member states. For these reasons, the EU has dedicated the bulk of the resources allocated to Kosovo to strengthening the rule of law.

On the other hand, as this section has shown, the Kosovo partners of the EU have strong ties to the criminal world, thus these local partners are not interested in creating a strong and independent judiciary. Both domestic and international experts on Kosovo agree that the main weaknesses of rule of law institutions are the consequence of the actions of the EU's Kosovo partners (ICG 2010, 1; IKS 2010). Those Kosovo politicians who have worked to strengthen the judiciary, such as President Jahjaga, do not have any ties to criminal organizations.

It is the friction between the EU's project in Kosovo and the interests of the Kosovo partners that motivates local resistance to EU statebuilding. While this friction explains why the local partners want to resist EU-demanded judicial reforms, it does not explain what enables the partners to resist EU demands in the presence of the alleged asymmetric interdependence between Kosovo and the Union. The next section will tackle this issue.

⁷⁸ The Western Balkans include the following countries: Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia.

Explaining resistance to EU statebuilding in Kosovo

At first glance, the extent of resistance to the EU statebuilding in Kosovo is surprising. Kosovo is highly dependent on the EU for security, economic assistance, and international recognition. There is overwhelming public support for the Europeanization of the country. Finally, the EU can use its executive authority in Kosovo to punish recalcitrant partners. But as previous sections have shown, the resistance of the local partners has been very successful at undermining large parts of the EU statebuilding project. The Kosovo partners have been able to weaken the judiciary and limit its independence. Moreover, they have undermined the ability of both local and EULEX judges and prosecutors to bring the “big fish” to justice.

My research indicates that there are structural conditions that attenuate the asymmetric interdependence between the EU and Kosovo, thus allowing the local partners to resist the demands of the EU. The structural conditions that make resistance possible are: 1) the significant influence yielded by the United States in Kosovo, 2) the EU’s concern with promoting dialogue between Kosovo and Serbia, 3) the Union’s prioritization of domestic stability in Kosovo, and 4) divisions within the EU regarding the status of Kosovo.

Even though the United States has formally delegated to the EU the responsibility to deal with Kosovo, it still continues to be very influential in the domestic politics of this country. In interviews with both local and international experts, I was told over and over again that the United States is considered to be Kosovo’s most important international ally (Haki 2013, Luan 2013, Visar 2013). The United States is influential in Kosovo because of its role in creating an independent Kosovo state. There is a widespread belief among the Albanian population that the US was the most important international actor to *de facto* separate Kosovo from Serbia in 1999. The United States was also one of the first countries to recognize the independence of Kosovo,

and has pushed other countries to do the same (Woehrel 2013, 9). Since 2008, American officials have publicly defended the “sovereignty and territorial integrity” of Kosovo (Woehrel 2013, 10). Many Kosovo politicians believe that without the support of the American Embassy, they cannot form domestic political alliances or win popular support (Skendaj 2014).

Even in cases in which the EU has taken the lead, such as the dialogue between Prishtina and Belgrade, the US continues to be present behind the scenes (Shaban 2014). The American clout is felt in many important decisions made by the Kosovo government and political elite. A good example of this is the US role in solving the impasse following the June 2014 election. Kosovo politicians spent months trying to form a government with no success. The deadlock was only overcome after the American Ambassador to Kosovo, Tracy Ann Jacobson, helped in negotiating an agreement between the two leading parties, PDK and LDK (Nushi 2014).

There are instances in which the United States and the EU share the same goals, such as the creation of the Special Tribunal for war crimes. In these cases the EU has been able to get its local partners to do things even against considerable domestic opposition. Unfortunately, in many instances the United States and the Union do not see eye to eye, and the local partners have used these divisions to stall the reforms that they do not like (Andrew 2014). For example, it took six years to pass a law regulating the court system (Court of Auditors 2012, 36). The Kosovo government, which was opposed to the law, used divisions between USAID and ECLO to justify the delay (Court of Auditors 2012, 36). Also, there have been cases in which US officials have sided with the locals, thus undermining the work of the EU. When EULEX arrested a high PDK official, Fatmir Limaj, the US ambassador to Kosovo declared that the Union should not politicize arrests (Visoka and Bolton 2011, 203).

For the EU, regional stability has often trumped the need to build effective and legitimate institutions in Kosovo. Promoting dialogue between Kosovo and Serbia, so as to end once and for all a potential source of conflict in the Balkans, is high up on the EU's agenda. As was mentioned earlier in this chapter, the European Partnership lists this dialogue as one of the priorities for the Kosovo government (EU 2008A, 61). The importance of the dialogue for the EU is so great that Kosovo was offered an SAA by the Union because of a 2013 breakthrough in negotiations with Serbia. But not all Kosovo politicians have the domestic legitimacy to negotiate with Serbia. Those political leaders with a KLA background, such as Hashim Thaci, can provide the proper legitimacy to the negotiations because of their strong nationalist credentials (Alma 2013). Unfortunately, these are also the same individuals whose interest is threatened by the EU's statebuilding program. In dealing with this dilemma, the Union's officials have preferred to close an eye to the actions of their local partners as long as they continue to engage with Belgrade.

Domestic peace and stability in Kosovo is for the EU, as well as other international actors involved in Kosovo, one of the most important goals (Zaum and Knaus 2013, 234). There is the fear that if the statebuilding demands are pushed too hard on the local partners, the partners might cause disturbances. Those partners with KLA connections can mobilize SHIK and war veterans' organizations against the EU. There is a precedent for this in the riots of March 2004. A second feature of this security concern is the dependence of the EU on its local partners to contain the most "radical elements" of Kosovo society, such as Vetevendosje⁷⁹ or war veterans' organizations, who agitate for the removal of the international presence (Flamur 2013, Armand

⁷⁹ Vetevendosje is one of Kosovo's largest political parties.

2013).⁸⁰ As with the dialogue with Serbia, the Union is willing to tolerate abuses by its Kosovo partners as long as they maintain domestic stability.⁸¹

A final factor that enables resistance to EU statebuilding is the non-recognition of Kosovo by five EU members (the EU Quint): Cyprus, Greece, Romania, Slovakia, and Spain.⁸² This weakens the EU carrot in Kosovo. Many observers of Europeanization maintain that EU membership is the most powerful statebuilding tool that the Union possesses. Because of opposition from the Quint, the Union as an organization does not recognize the independence of Kosovo, thus it cannot offer this country a roadmap to membership. Even the SAA that has been negotiated is a *sui generis* pact that, differently from other SAAs with neighboring states, does not contain provisions for future membership. This in turn means that the Union does not have many sticks, with the exception of the “nuclear options” of cutting off aid to Kosovo or using its executive powers to prosecute local politicians, through which it can punish its Kosovo partners.

These four structural conditions attenuate the asymmetric interdependence between Kosovo and the EU. They make possible the resistance of the local partners to the EU by reducing the likelihood that recalcitrant behavior on the part of the partners will be punished.

The form of resistance

Differently from their Albanian counterparts, the Kosovo partners of the EU have increasingly openly resisted the EU project, especially the presence and activities of EULEX. This open

⁸⁰ The reasons why these groups opposed the international presence are discussed below.

⁸¹ Currently (October 2015), several of the leading opposition parties in Kosovo have strongly protested an EU-sponsored deal between Serbia and Kosovo, which would give to the Serb minority in Kosovo considerable political autonomy. Several of these protests have turned violent, but the Kosovo government has been largely successful in containing the conflict.

⁸² One of the reasons why these countries do not recognize the independence of Kosovo is the large minorities that the five of them have. They are afraid that the secession of Kosovo from Serbia can be used as an example by their own domestic groups that are trying to do the same.

resistance falls under three broad categories: 1) public criticism of EULEX, 2) efforts to limit the scope of EULEX activities, and 3) demands for EULEX to end its mission.

EULEX has been the subject of criticism by its Kosovar partners and their associates. This criticism has been more scathing in those instances in which the mission has arrested former KLA fighters on charges of war crimes or organized crime. For example, after EULEX arrested several people in a war crimes case, the Minister of Justice expressed his conviction that those arrested were innocent. The former president of the Kosovo Assembly, who used to be a member of PDK, once stated that EULEX is not neutral, meaning that EULEX has a bias against Kosovo and KLA (UN Security Council 2013, 16). These are just a few examples of many instances in which the local partners have openly criticized the actions of EULEX.

The Kosovo partners have also worked to limit the mandate of EULEX. In 2011, a law was passed that curtailed the ability of EULEX to oversee the privatization process (UN Security Council 2011, 7). A law enacted in 2013 gives the Kosovo Intelligence Agency the prerogative to collect all legal interception of communications (UN Security Council 2013, 15), thus greatly reducing the ability of EULEX to collect evidence independently of the Kosovo government. Finally, Prime Minister Hashim Thaci has on many occasions expressed his desire to end the executive functions of EULEX (Koha Ditore 2013), something which he achieved when the mandate of EULEX was renewed in October of 2014.

Lastly, there have been calls from the Kosovo partners and their associates to end the mandate of EULEX altogether. After the 2012 arrest of four leading KLA fighters, Prime Minister Thaci and other government officials asked the Assembly to revisit the mandate of EULEX (UN Security Council 2013, 7). Deputy Prime Minister Hajredin Kuci, who was the right hand man of Thaci, declared in 2013 that Kosovo was ready to handle rule of law issues

and that EULEX should wind up its presence (Koha Ditore 2013A). These efforts to terminate EULEX culminated in a July of 2013 resolution of the Kosovo Assembly that demanded that EULEX leave Kosovo (Kosovo Assembly 2013).

Even though the Kosovo partners of the EU have the ability to attenuate the asymmetric interdependence and resist the Union's statebuilding demands, it is puzzling why the resistance takes an overt form. This is puzzling for two reasons. First, the state formation literature informs us that in instances of great power disparity, such as the one between Kosovo and the EU, resistance is going to be covert (Colburn 1989, Scott 1990). Second, the EU's partners in Albania also have the ability to resist statebuilding for similar reasons as the Kosovo partners, but in Albania the resistance is not overt. I maintain that the form of resistance in Kosovo is determined by the problematic legitimacy of the Union in Kosovo.

The Kosovo partners, similarly to their Albanian counterparts, try to legitimize many of their actions by referring to the need to join the EU (Alma 2013, Flamur 2013). But differently from the Albanian case, where the main political ideology comes from outside sources, the partners in Kosovo have a domestic source of legitimacy. The Kosovo leadership's legitimacy comes to a large extent from the struggle for independence from Serbia. Every major Albanian leader of Kosovo was involved in this struggle, which was a major "formative experience" for a whole generation of Kosovo Albanians (Montanaro 2009, 6).

On the other hand, the EU's stance towards Kosovo's independence and some of the Union's actions are perceived as being against the national aspirations of Kosovo Albanians. Because the EU Quint has refused to recognize Kosovo as a sovereign state, many Kosovo Albanians are reluctant to embrace the Union as a major international ally. EULEX, on the other hand, has targeted former high-ranking KLA members in its criminal investigations. This has

Ervin Kallfa

created suspicion among the Albanian population that the Union is trying to tarnish the legitimacy of the war of independence.

The Kosovo partners have taken advantage of the legitimacy deficit of the EU to openly resist statebuilding. Their opposition is often cast in terms of protecting war heroes. This is exemplified by a statement issued on March 11, 2011, on Kosovo Radio and Television:

The Kosovo government issued a statement expressing concern over EULEX raising war crimes charges against some former KLA soldiers. In the statement, the Kosovo government assessed that any attempt to taint the KLA soldiers will fail. The Kosovo government is convinced that these accusations will be proven unsubstantiated and slanderous, because the KLA war was there to protect the country and its people. The government appeals to the citizens for restraint and to believe in the innocence of the accused and in the justice system (quoted in Amnesty International 2012, 54).

Deputy Prime Minister Kuci has provided another strand of criticism. According to him, EULEX's mission has to end so that Kosovo can finally achieve its full sovereignty (Deutsche Welle September 20, 2013).

In opposing the EU, the Kosovo partners can rely on significant strata of society that resent the EU, especially EULEX. Less than a third of Kosovars support EULEX (KCSS 2013). There are periodic large scale protests against EULEX. These protests have been organized by students, NGOs, and particularly by the KLA War Veterans Organization (OLV KLA) and Vetevendosje. Protests in 2008, 2009, 2011, 2013, and 2014 have attracted thousands who have demanded either the freedom of former KLA fighters arrested by EULEX or the end of EULEX's mandate. OLV KLA and Vetevendosje activists, especially, constantly demand the termination of EULEX's mission. OVL KLA has accused EULEX of trying to discredit the KLA's war effort by arresting and prosecuting former guerilla fighters, and it has charged EULEX with doing the bidding of Serbia (Kosova Sot 2012; Telegrafi 2013). This organization has called on Kosovo politicians to terminate EULEX's mandate (Telegrafi 2013).

Vetevendosje not only agrees with OLV KLA that EULEX is trying to delegitimize the Kosovo war of independence, but also this party disagrees with the general statebuilding model promoted by the EU (Flamur 2013). It accuses EULEX of undermining democracy and development in Kosovo by focusing primarily on security matters. It charges EULEX of partnering up with the worst criminals in Kosovo in order to promote its agenda. Finally, Vetevendosje resents EULEX's lack of local accountability, which according to this party perpetuates Kosovo's dependence on international actors (Vetevendosje 2012).

The problematic legitimacy of the EU in Kosovo and the fact that important groups in Kosovo resent the EU presence allow the local partners to openly challenge the Union. This open criticism, even though it is intended to undermine those EU-demanded reforms that hurt the interest of the partners, is couched in values that are shared by most Kosovo Albanians. In this way, the Kosovo partners are able to mobilize enough domestic support to stand up against the EU.

Conclusion

Similarly to the case of Albania, the EU's statebuilding efforts in Kosovo have achieved mixed results. In this chapter, I argued that despite the large sums of money spent and the executive authority that the Union has in Kosovo, the local partners of the Union have been quite successful at undermining those aspects of judicial reforms that they consider harmful to their interest. There are important consequences to this resistance.

First, the Kosovo partners of the EU have not rejected the entire Europeanization agenda, but only part of it. Many EU-demanded reforms have been successfully implemented, such as the passing of new laws or the creation of a witness protection program. The only category of

reforms that has been consistently resisted is the weakening of political controls over the judiciary. This shows that resistance is not motivated by the fact that the reforms are being pushed by Brussels or because these judicial reforms are alien to Kosovo. Instead, resistance is motivated by the fact that the loosening of political controls over the judiciary would significantly decrease the power of the Kosovo partners, and they may even end up going to prison because of their ties to organized crime and other criminal activities.

Second, this resistance has been able to undermine the Union's prerogative over judicial reforms in Kosovo and insert local interests and concerns into the statebuilding process. This is true because, as this chapter showed, statebuilding in Kosovo is not simply imposed by the EU, but it is the product of the interaction between the Union and local actors. Certain structural conditions allow the EU to demand significant judicial reforms from its Kosovo partners. On the other hand, other structural conditions allow the local partners to resist those EU demands that they consider harmful. The interaction between these two sets of conditions has produced statebuilding results that reflect both EU demands and local concerns. Moreover, the coexistence of these structural conditions attenuate the asymmetric interdependence between the EU and Kosovo and make local resistance possible.

The fact that the problematic legitimacy of the EU in Kosovo has allowed the local partners to openly resist the Union has had important implications. Differently from Albania, resistance in Kosovo has not only challenged the functioning of institutions, but it has also challenged some of the norms that the Union has tried to promote, especially those concerning how to treat former KLA combatants. Also, in Kosovo the Union has had a harder time than in Albania establishing formal institutions, particularly those that are supposed to deal with war crimes.

Chapter 5

Macedonia: The Nationalist Backlash

As in Albania, civil service reforms are one of the main pillars of the European Union (EU or Union) statebuilding in Macedonia. Considerable progress was achieved in this sector between 2001 and 2005, but since 2006, the pace of reforms first slowed down and then stalled starting in 2010. In addition, in certain areas there has been significant regress. I will argue in the following pages that the main cause for these drawbacks has been the resistance of the Macedonian partners of the EU, especially of those partners who came to power in 2006.

I will contend in this chapter that to understand the dynamic of EU statebuilding in Macedonia one needs to look at the structural conditions that frame the relationship between the Union and its Macedonian partners. There are certain conditions, such as the significant aid that Macedonia receives from the EU, which allow the Union to demand deep reforms from its Macedonian partners. On the other hand, there are conditions, e.g., the divisions within the EU on how to deal with Macedonia, which permit the local partners to resist EU demands. This set of structural conditions coexist, and I will argue that their interaction shapes the possibilities for civil service reform and other EU statebuilding reforms in Macedonia. Not only have the local partners resisted many EU reforms, but also I will show in this chapter that the existence of a strong anti-EU ideology in Macedonia coupled with the problematic legitimacy of the Union in this country have permitted the local partners to openly contest the EU's project, more so than even in Kosovo.

The motivation for this resistance, I maintain, is not the imposition of EU statebuilding since many reforms that the Union has demanded, such as the increase in minority

representation, have been successfully implemented. Instead, I will show that the frictions between certain elements of the Union's program, particularly those efforts that aim to create a civil service that is independent and free from political interference, and Macedonian politics spur the resistance of the partners. Control over the civil service is crucial to the political survival of the local partners of the EU since it provides them among other things with a source of patronage that is crucial in winning elections. In addition, the partners have used their political control over the civil service to promote inter-ethnic peace and to employ those who cannot find work in the private sector.

The chapter is organized in the following manner: The first section provides a general overview of the EU's statebuilding project in Macedonia and lists the structural factors that make possible the intrusion of the EU in Macedonian domestic politics. The second section examines the civil service reforms that the Union has demanded from its Macedonian partners, the achievements of these reforms, and their failures. The local conditions that have caused the partners to resist parts of the EU's reform agenda are discussed in the third part. The last section looks at the structural factors that make local resistance possible and shows how the problematic legitimacy of the EU in Macedonia and the presence of an influential anti-EU ideology permits the Union's partners to openly resist statebuilding.

EU Statebuilding in Macedonia: A General Overview

The Union and Macedonia have had a tumultuous relationship that has gone through three distinct phases. The first phase of the relationship, 1991-1999, was a rocky one. After the country declared independence from Yugoslavia in late 1991, Greece claimed that the name of the newly independent country, Republic of Macedonia, implied territorial claims against one of

its northern provinces, which has the same name. Because of Greek opposition, the EU did not forge diplomatic ties with Macedonia until a temporary agreement on the name issue was reached in 1995, according to which Macedonia at the international level was going to be known temporarily as the Former Yugoslav Republic of Macedonia (FYROM). Other than Greek opposition, there were domestic causes that led Macedonia to establish ties with the Union much later than other Balkan countries. In the early post-independence years, the Macedonian government preferred to chart an independent path, instead of allying with any major power (Atanasova et al. 2008, 227). The positive highlights of this first period were the signing of a trade agreement between the EU and Macedonia and Macedonia's membership in the PHARE (Poland and Hungary: Assistance for Restructuring their Economies) program, through which it became eligible to receive financial aid from the Union.

The period between 2001 and 2005 marks the second phase of the relationship between the EU and Macedonia. During this time, Macedonia moved rapidly to strengthen its ties with the Union and become the forerunner of the Western Balkan⁸³ countries seeking EU membership. This new phase started with the signing in April 2001, of a Stabilization and Association Agreement (SAA), a contractual agreement which is part of the Stabilization and Association Process (SAP), between Macedonia and the Union. Macedonia was the first Western Balkan country to enter into such an agreement. In December 2005, Macedonia was awarded EU candidate status, the second Western Balkan country (after Croatia)⁸⁴ to receive this status.

One of the effects of signing the SAA has been the increase in influence of the EU over Macedonian domestic politics. In order to fulfill the contractual obligations under the SAA, the

⁸³ The following countries make up the Western Balkans: Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia.

⁸⁴ In 2005, Croatia was considered part of the Western Balkans.

country has agreed to adopt all EU legislation, the *aquis communautaire* (*aquis* for short), within a period of ten years. The SAA also empowers the EU to issue directives on the reforms that Macedonia must undergo in order to align its laws and institutions with the European ones. The progress in these reforms is measured by annual reports issued by the EU Commission. In order to assist Macedonia on its path towards EU membership, the Union provides the country with a generous financial package. In addition, the candidate status has brought Macedonia politically closer to the EU. Since December 2005, the Macedonian government has gained observer status at EU summits and at meetings of the Council of the European Union (Atanasova 2008, 232).

During this second phase, not only did the EU forge stronger diplomatic and institutional ties with Macedonia, but the EU also played a critical role in resolving an ethnic conflict that risked dismembering the country, and in the process, the Union participated in reshaping the Macedonian state. In February 2001, an Albanian insurgent group, the National Liberation Army (NLA), started military operations against the Macedonian state. The group claimed that it was fighting for the rights of the Albanian population, which had allegedly suffered from discrimination since the independence of Macedonia.

The Albanians complained that they were being discriminated against with regard to employment in the police, army, and public administration. They were not allowed to display ethnic Albanian symbols or to have institutions of higher education teaching in Albanian. Moreover, the Macedonian Constitution defined the state as that of the Macedonian people, thus delegating ethnic minorities to a secondary status. The Constitution also gave a privileged position to the Macedonian Orthodox Church over all other religious groups⁸⁵ (Daskalovski, 4-5).

⁸⁵ Almost all Albanians in Macedonia are Muslims.

The EU, together with the United States, quickly intervened to contain the conflict. The Union nominated a special representative,⁸⁶ Francois Leotard, who was engaged in negotiating an end to the conflict (Daftary 2001, 298). To show its commitment to solving the conflict, the EU sent its High Representative for Common Foreign and Security Policy, Javier Solana, repeatedly to Skopje to push for negotiations between Albanians and Macedonians (Tonne 2010, 8). Finally, after much prodding by the EU and the United States, the representatives of the Albanian and Macedonian communities agreed to sign an agreement, the Ohrid Framework Agreement (OFA), in August 2001.

The role of the EU did not end after the signing of OFA. The Union became the guarantor for the implementation of the agreement, which became one of the main preconditions for Macedonia's EU integration (EU Commission 2003, 1). OFA also assigned to the EU the task of monitoring a new census, a very controversial endeavor in Macedonia (Tonner 2010, 11).⁸⁷ Finally, the EU provided 34.9 million euros (\$43.6 million) for post-war reconstruction, and in cooperation with the World Bank, the Union organized a donor's conference, where 578 million euros (\$722 million) were pledged for post-war reconstruction and economic development (EU Commission 2002, 30).

In order to promote the long-term stability of Macedonia and to strengthen its ability to maintain order, the Union launched three operations. Mission *Concordia* (2003) was assigned to "monitor the security situation and implement confidence-building measures" (EU Commission 2004, 8). Mission *Proxima* (2003) "monitored, mentored, and advised" the country's police force (Yusufi 2005, 73). In 2004, at the request of the Macedonian authorities, the *European Union*

⁸⁶ The US had its own representative in these negotiations, James Pardew (Daftary 2011, 298).

⁸⁷ The EU had already helped organize a census in Macedonia in 1994.

Police Mission was sent to advise the Ministry of the Interior as well as local police stations (EU Commission 2004, 8).

The third phase of the relationship (2006-present) has been marked by Macedonia's effort to initiate membership negotiations with the Union. In 2009, the EU Commission, which is in charge of monitoring Macedonia's progress in fulfilling membership obligations, recommended the start of negotiations between this country and the Union. Unfortunately, because of a new flare up of the name dispute with Greece and negative political developments within Macedonia (details about these developments will be provided later in the chapter), Macedonia's EU integration has stalled.

The leading document that sets out the EU's statebuilding goals in Macedonia is the Accession Partnership. The latest of such documents was published in 2008, and it outlines short-term priorities, one to two years, and long-term priorities, three to four years. These priorities include both the adoption of legal and institutional reforms and their implementation. The list of the priority areas is found in Table 1.

Table 5. 1

Accession Partnership Priority Areas
Political criteria: Parliament/Elections. Government. Public administration. Judicial system. Anti-corruption policy. Human rights and protection of minorities. Regional issues and international obligations.
Economic criteria Energy market. Labor policy. Public spending. Public infrastructure. Land and real estate.

Ability to assume the obligations of membership

Free movement of goods.
Right of establishment and freedom to provide services.
Free movement of capital.
Public procurement.
Company law.
Intellectual property law.
Competition policy.
Financial services.
Information society and media.
Agriculture and rural development.
Food safety, veterinary and phytosanitary policy.
Transport policy.
Energy.
Taxation.
Statistics.
Employment and social policies.
Enterprise and industrial policy.
Regional policy and coordination of structural instruments.
Judiciary and fundamental rights.
Justice, freedom and security.
Science and research.
Education and culture.
Environment.
Customs union.
Foreign, security and defense policy.
Financial control.

Source : Council of the European Union 2008, 35-42.

In addition to the above requirements, which are similar to what are found in other documents stating the statebuilding aims of the EU in Western Balkans countries, the EU, as was mentioned above, has made the full implementation of OFA one of the main requirements that Macedonia needs to fulfill in order to advance on its path towards EU integration (EU Commission 2003, 1). Table 2 lists the main statebuilding requirements emerging from OFA.

Table 5. 2

Statebuilding elements of OFA

- The adoption of a revised law on local self-government that strengthens and enlarges the powers of local officials and reflects EU principles. This law will be complemented by legislation regulating the proper financing of local governments and redrawing of municipal boundaries.
- The local heads of the police will be selected by the Ministry of the Interior from lists provided by the municipal councils.
- Non-discrimination will be protected by law, and the public administration should take action to address ethnic representation imbalances at all levels of government.
- The support of the majority of non-ethnic Macedonian members of the Parliament is necessary to choose one-third of the Constitutional Court judges, three Judicial Council members, and the Ombudsman. The support of the majority of minority parliamentarians is also required to pass laws dealing with culture, language, the issue of IDs, local financing, and the redrawing of municipality boundaries.
- The language spoken by a group representing at least 20% of the population should be considered to be one of the official languages of Macedonia. Such a language can be used to communicate with government officials at the local and central level.
- Ethnic minorities are allowed to use national symbols in local government buildings.
- Religious groups are separated from the state and are equal before the law.

Source: Ohrid Framework Agreement 2001.

Parallel to the increase in importance of the EU in Macedonian domestic politics and the strengthening of institutional and legal ties between the two, the various Macedonian governments have developed an extensive institutional framework through which to manage interactions with the EU, which, at least in theory, significantly impact domestic political developments in Macedonia. There has been an evolution and strengthening of the main organ of the Macedonian government in charge of coordinating EU affairs. Before 2001, EU interactions were managed by a unit within the Ministry of Foreign Affairs. In 2001, this unit was upgraded into a Sector for European Integration within the General Secretariat of the government. Finally, in 2005, the Secretariat for European Affairs was established, which is headed by the Deputy Prime Minister in charge of European Affairs (Atanasova et al. 2008, 224).

To strengthen the influence of the EU integration process in the everyday working of the government, in 2006, sectors for EU affairs were created in all ministries. Each of these sectors is subdivided into units for the adoption of the *acquis*, units for the management of EU funds, and units for the monitoring of EU-related activities (EU Commission 2007, 8).

The Macedonian Parliament has also become active in EU integration matters. In 2003, it established the Committee on EU Affairs (EU Commission 2004, 5). The role of this committee is to monitor: the National Strategy for Integration, the duties arising from the SAA, the conformity of Macedonian legislation with the *acquis*, and the activities of the government with regard to EU membership (Atanasova et al. 2008, 223). Since 2003, all bills that are presented to the parliament must be accompanied by a “Statement of Compliance with EU Legislation,” which is intended to integrate EU *acquis* into Macedonian law (CRPM 2007, 8). The Macedonian Parliament also holds joint sessions with delegations of the European Parliament. In these sessions, challenges to Macedonia’s EU integration are discussed.

Finally, the National Council for EU Integration (NCEUI) was established in 2008. It is headed by a member of the Macedonian opposition and brings together representatives of the main parties of the parliament as well as members of civil society (EU Commission 2008, 8). One of the most important functions of this organ is to discuss the annual reports issued by the EU Commission on Macedonia. NCEUI is also supposed to foster national consensus on how to tackle the challenges that lie ahead.

As this brief review shows, Macedonia has developed quite an elaborate formal structure that not only manages the EU integration process, but also integrates the Europeanization process into the domestic political developments of Macedonia. But two important issues need to be pointed out. First, most of this structure was put in place before the nationalist VMRO-

DPMNE⁸⁸ (Internal Macedonian Revolutionary Organization—Democratic Party for Macedonian National Unity) came to power in 2006. Second, while a variety of local actors are formally involved in negotiating the Macedonian EU integration (the government, parliament, and civil society), I consider the top government officials to be the principal EU local partners. The Macedonian government is in charge of negotiating with the EU, and the Macedonian Parliament, despite the fact that theoretically it is involved in the negotiation process, too, does not act independently of the government (Atanasova et al. 2008, 70-71; OECD 2011, 3-4). This is clearly shown by the ability of the government to pass laws that it considers important with little parliamentary discussion (OECD 2011, 18). The most important pieces of legislation are discussed and agreed upon by party leaders outside the parliament (Atanasova et al. 2008, 71). In addition, as in other former communist countries that have gone through the process of EU integration, the Europeanization of Macedonia has concentrated power in the executive. Finally, civil society organizations in Macedonia do not have much influence on the government, they lack significant support among the population, and are mainly funded by international donors.

My findings suggest that there are five structural conditions that allow the EU to push such a significant statebuilding agenda on its Macedonian partners: 1) the EU's important role in maintaining domestic stability in Macedonia, 2) the generous financial assistance that the Union has provided over the years, 3) the popular perception that EU membership will be the cure for all ills that affect the Macedonian society, 4) popular support for European integration, and 5) the strategic use of the integration card by EU officials.

As I examined above, the EU, in cooperation with the United States, intervened in Macedonia in 2001 to prevent the country from breaking up. The EU, also, took upon itself to

⁸⁸ VMRO-DPNE has been the main governing party since 2006.

guarantee the implementation of the agreement that was reached between the Albanian and Macedonian communities. This is shown by the importance of EU mediation in solving major political crisis. Following the opposition's boycott of the parliament in 2012 and 2014, EU intervention brought VMRO-DPMNE and the leading opposition party, the Social Democratic Union of Macedonia (SDSM), to the negotiating table.

More importantly, some have argued that the "prospective of EU membership" is what keeps the country from splitting into separate Albanian and Macedonian entities (Giandomenico 2009, 90).⁸⁹ Ali Ahmeti, the leader of the main Albanian party, the Democratic Union for Integration (DUI), has threatened that unless Macedonia progresses towards EU membership, the ethnic Albanians of Macedonia are going to get Albanian passports, a movement which is perceived by ethnic Macedonians as a step towards Albanian secession (Almakos 2013).⁹⁰ On another occasion, while trying to dampen Albanian separatist feelings, Ahmeti declared that all ethnic Albanians will be able to live together under the umbrella of the Union (Todorov 2013).

The large amount of financial assistance that the EU has provided to Macedonia since 1991 provides the Union with significant clout over this country. From 1991 to 1999, Macedonia received 363.8 million euros (\$454.8 million), mainly from the EU's PHARE program (Szemler 2008, 8). Between 2000 and 2006, the Union granted 298.2 million euros (\$372.8 million) to Macedonia through the successor to PHARE, CARDS (Community Assistance for Reconstruction, Development, and Stabilization) (Szemler 2008, 12). Finally, from 2007 to 2013, the Union's new financial aid mechanism for prospective members, IPA (Instruments for Pre-Accession Assistance), provided Macedonia with 616.9 million euros (\$771.1 million) (EU

⁸⁹ The United States and NATO also play a crucial role in preventing the fragmentation of Macedonia.

⁹⁰ If ethnic Albanians who live in Macedonia were to gain Albanian citizenship, it would strengthen the claim that Albania, not Macedonia, is their homeland.

Commission 2011A, 12). The EU also provided 34.9 million euros (\$43.6 million) in reconstruction aid, disbursed separately from CARDS, following the 2001 conflict (EU Commission 2002, 30). Table 3 lists the annual amount of CARDS and IPA financial assistance (in millions of US dollars) for Macedonia since 2000.

Table 5.3

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Amount of Aid	16.25	70.25	51.875	54.375	73.75	56.25	50	73.125	87.75	102.25	114.625	122.5	127.375	141.5	1141.875
Type of Aid	CARDS	CARDS	CARDS	CARDS	CARDS	CARDS	CARDS	IPA	IPA	IPA	IPA	IPA	IPA	IPA	

Sources: EU Commission 2014 and Szemler 2008, 12.

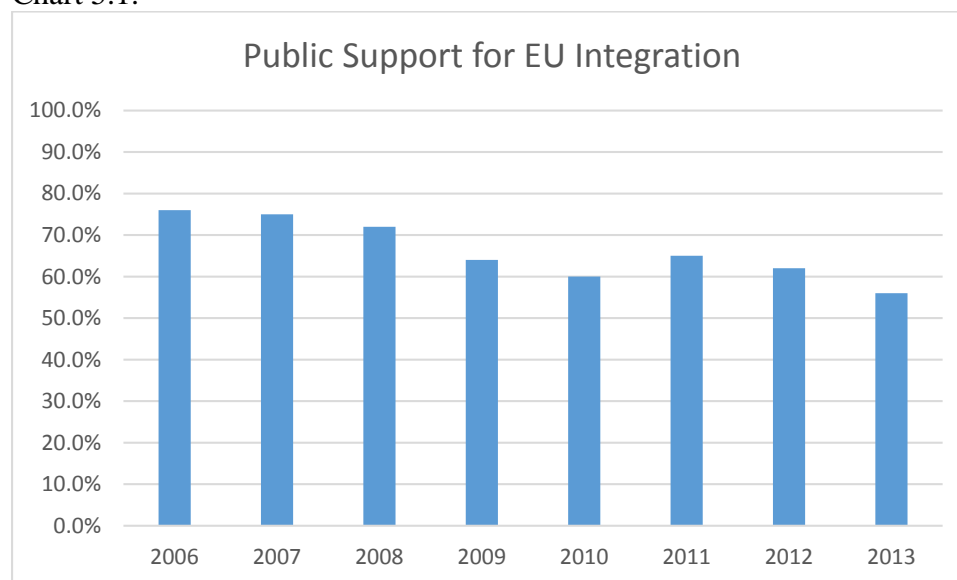
In addition, Macedonia has benefited from 675 million euros (\$843.8 million) in loans from the European Investment Bank (EIB) and 700 million euros (\$875 million) in loans from the European Bank for Reconstruction and Development (EBRD) (EIB 2015; EBRD 2015). These loans have been used to finance important projects in transportation, energy, and urban development. The assistance that the EU has provided to Macedonia is conditioned on the country’s implementation of Europeanization reforms, and a large part of the funds is directed towards supporting such reforms (EU Commission 2011A, 4).

A third reason that explains the EU’s influence in Macedonia’s domestic politics is the belief among both the political class and the general population that significant progress will come from joining the Union (Damjanovski 2005, 4). A 2014 survey found that 61% of Macedonians believe that joining the EU will lead to “more internal tolerance,” 68% believe that membership will lead to economic prosperity, and almost 70% believe that EU integration will strengthen democracy, political rights, and the rule of law (Marichikj and Petkovski 2014, 29).

In general, most citizens of Macedonia support EU integration, which is the fourth reason why the EU can influence Macedonian domestic developments. As the chart below shows, in the last decade, support for EU integration has not dipped below 50%. In addition, in one key

constituency, the Albanian community, over 90% of the members support EU integration (Marichikj and Petkovski 2014, 28). This popular support for integration, in turn, puts pressure on politicians to work towards EU integration.

Chart 5.1.



Source: Gallup Poll 2010 and Marichikj and Petkovski 2014, 23.

A final reason for the influence of the EU in Macedonia is the skillful use of the integration carrot by the Union, at least in the 2001-2005 period. In this period, the EU put Macedonia on a fast track to integration in exchange for major political concessions and institutional reforms. The signing of the OFA in 2001 was facilitated by the signing of the SAA between Macedonia and the EU earlier that year. The significant legal and institutional reforms that took place between 2001 and 2005 were rewarded with the granting of candidate status in 2005 (Giandomenico 2009, 61-63).⁹¹

⁹¹ Since 2005, the ability of the EU to use the carrot of integration to induce reforms has decreased for two main reasons. First, Greece has taken the position that Macedonia's integration should be stalled until the name dispute is solved. Second, since 2006, Macedonian governments have been led by VMRO-DPMNE, which is not very interested in EU integration.

The above five structural conditions provide the EU with the ability to demand that its Macedonian partners undertake Europeanization reforms, i.e., EU statebuilding. But as we will see later in this chapter, Macedonia is far from being the perfect model of the candidate country that EU bureaucrats would want it to be. Instead, the resistance of the EU's Macedonian partners has undermined a significant part of the Europeanization project in this country. This resistance, I maintain, is due to frictions between the EU statebuilding and the interest of the EU's local partners.

Reforming Macedonia's Civil Service

While being part of Yugoslavia, Macedonia had a professional, effective, and largely not-politicized public administration. Unfortunately, as with other former Yugoslavian republics, the quality of the Macedonian public administration deteriorated during the first decade of its independence (Rabrenovic and Verheijen 2005, 2-3). In the late 1990's, public administration reform became one of the priorities of the government, and a comprehensive reform strategy was developed in 1999, a product of which was the 2000 Law on Civil Servants. Moreover, the 2001 conflict spurred additional reform activities meant to satisfy the demands of the Albanian minority. As I will examine below, the period between 1999 and 2006, before the VMRO-DPMNE domination of Macedonian politics, was a period of significant civil service reforms that were guided to a large extent by the desire to join the EU. After 2006, the pace of civil service reforms slowed down, and after 2010, it almost completely stopped (Azizi 2011, 887; Micevski 2013).

At the beginning of the civil service reform period, Macedonia's civil service was rated by SIGMA⁹² the best in the Western Balkans (OECD 2004, 7). Despite this, the civil service had many shortcomings that needed to be addressed.⁹³ The Law on Civil Servants of 2000 was not fully implemented in the early years, and it needed to be amended in accordance with the OFA. Many pieces of secondary legislation were missing. The Law on Civil Servants was frequently amended, which prevented stability in the administration. The salaries of civil servants were very low. There was no institutionalized training for civil servants, which was conducted on an *ad hoc* basis. The civil service in the early years was not very responsive to the needs of the public, and it was very difficult for citizens to appeal the decisions of administrative agencies or have their complaints against the bureaucracy redressed. While recruitment into the civil service was transparent, it was also time-consuming and costly because civil service exams had to be performed for every individual opening instead of in bulk. There were no laws regulating career advancement within the civil service. Civil servants could not have been promoted to a higher position, instead, "open competitions" were organized for every opening, where even candidates outside the civil service were allowed to apply. The register of public employees was not complete. Finally, the yearly assessment of civil servants, which was demanded by the Law on Civil Servants, was not being performed by the majority of institutions employing civil servants (OECD 2002; OECD 2004). Minorities were significantly underrepresented.⁹⁴ Even though

⁹² SIGMA (Support for Improvements in Governance and Management) is a cooperation between the EU and OECD (Organization for Economic Cooperation and Development). It has been charged by the EU Commission with identifying the principles of the European Administrative Space (OECD 2012, 5). These principles embody common practices shared by EU member states as well as decisions of the European Court of Justice in the field of public administration. SIGMA papers 23 (Preparing Public Administrations for the European Administrative Space) and 27 (European Principles for Public Administration) detail the principles of the European Administrative Space.

⁹³ To identify the shortcomings, I use SIGMA reports. While there may be biases in these reports, they are used by the EU to identify areas in need of reform, which in turn form the basis of EU demands for civil service reforms.

⁹⁴ The main ethnic groups in Macedonia are: ethnic Macedonian (slaves) 64.2%, Albanian 25.2%, Turkish 3.9%, Roma (Gypsy) 2.7%, Serb 1.8%, other 2.2% (CIA 2015).

ethnic Macedonians made up only about 65% of the Macedonian population in 2004, ethnic Macedonians comprised over 90% of the civil service work force (Risteska 2013, 30).

Civil service reforms have been high on the agenda of the Union in Macedonia, and according to both local and international experts, the reforms of the Macedonian civil service have been to a large extent motivated by the desire to join the Union (Selami 2009, 1). From the beginning, the EU singled out public administration reforms in Macedonia as one of the key priorities for the country's European integration (EU Commission 2003, 4). The Stabilization and Association Agreement (SAA) of 2001, which is the founding document that regulates the relationship between Macedonia and the Union, states in Article 74: "In cooperation in justice and home affairs the Parties will attach particular importance to the reinforcement of institutions at all levels in the areas of administration... (Council of the European Union 2001, 68)." While this article is vague in its demands, learning from the experience of integrating the former communist countries of Central and Eastern Europe, the EU has increasingly become more specific when it comes to the public administration reforms that it demands.

The 2008 Accession Partnership, which serves as the road map for the reforms that Macedonia needs to implement in order to be ready for EU membership, also emphasizes the need for public administration reforms. It asks the EU's Macedonian partners to "Ensure that recruitment and career advancement of civil servants is not subject to political interference, further develop a merit-based career system and implement fully the law on civil servants" (Council of the European Union 2008, 34). Table 4 contains the list of administrative reforms required by the Accession Partnership, while Table 5 includes some of the main recommendations that are found in the annual SAP reports on Macedonia, which are written by the EU Commission and are supposed to measure the pace of Europeanization reforms.

Table 5. 4

<p>Accession Partnership Administrative Priorities</p> <p>Short- term goals:</p> <ul style="list-style-type: none">- Introduce a merit-based career system in order to build an accountable, efficient and professional public administration at the central and local level.- Ensure effective implementation of the code of ethics for civil servants.- Strengthen administrative capacity, notably by developing the capacity for strategic planning and policy development as well as enhancing training, and develop a strategy for the training of civil servants.- Implement effectively the measures adopted to ensure transparency in the administration, particularly in the decision-making process, and further promote active participation by civil society.- Ensure adequate administrative capacity to programme and manage IPA funds effectively. <p>Medium-term goals:</p> <ul style="list-style-type: none">- Further develop the capacity of the administration to implement the Stabilization and Association Agreement. <p>Source: Council of the European Union 2008.</p>

Table 5. 5

<p>SAP Reports Recommendations</p> <ul style="list-style-type: none">- Improvements to key laws.- Public administration that is transparent, professional, and free of political interferences.- Provide the CSA with the means to implement civil service reform.- Promote transparency in the public administration and in all state bodies.- Implement the legal framework.- Improve policy formulation and policy-related budgeting.- Ensure respect for the provisions and spirit of laws.- Ensure the application of the merit-based system and the continuous recruitment of minorities.- Improve policy to combat politicization.- Ensure equal representation. <p>Source :EU Commission 2002, 2003, 2004, 2008, 2009, 2011, 2012, and 2013.</p>
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The importance of public administration reforms for the EU integration of Macedonia is reinforced by the fact that such reforms are one of the five key areas of the High Level Accession Dialogue (HLAD), which is a forum launched in 2012, where the Macedonian government and

EU officials discuss necessary reforms that the country needs to implement in order to start membership negotiations.

Moreover, the Multi-annual Indicative Planning Documents (MIPDs), which indicate the priority areas for reform as well as the sectors that will receive EU financial assistance, have singled out public administration reforms as one of the seven priority areas (EU Commission 2011A, 10). MIPDs are also documents where the EU specifies the sometimes vague demands that are found in the SAP reports or in the Accession Partnership document. For example, the 2011-2013 MIPD demanded the professionalization of the public administration, and it set out as indicators for such professionalization “the reduction of staff turnover in the public sector” and the “decrease in complaints on recruitment procedures for not being in line with principles of merit-based and apolitical administration” (EU Commission 2011A, 16).

Even the annual SAP reports, while generally vague, are sometimes used to specify the general principles of civil service reforms that are found in other EU documents on Macedonia. For example, the 2009 SAP report singled out the hiring of temporary staff as a threat to the “merit-based recruitment” principle that the Union wants Macedonia to implement (EU Commission 2009, 12).

SIGMA’s list of public administration reforms that potential EU member states, such as Macedonia, need to fulfill in order to comply with the Union’s requirements is found in Table 6. Table 7 contains a summary of the main reform recommendations that SIGMA has laid out in its annual reports on Macedonia.

Table 5. 6

SIGMA’s Principles for Civil Service Reforms

- | |
|--|
| <ul style="list-style-type: none">-The adoption and implementation of civil service reform programmes that fit the European principles of administration;- The adoption and implementation of civil service laws; |
|--|

- The establishment of central civil service management institutions with sufficient capacity for cross-governmental management of the civil service;
- The establishment of a merit recruitment system including open completion for entry, professional examination and independence from political interferences;
- The establishment of civil service tenure rules that stabilize public administration and protect employment in the civil service;
- The development of a professional and de-politicized senior civil service system including prospects of merit promotion to management positions;
- The establishment of fair and effective performance management systems for civil servants;
- The establishment of predicable and transparent salary systems as well as adequate salary levels;
- The establishment of integrity management systems that provide guidance for ethical behavior in the civil service and regulate, monitor and sanction conflict of interest in the civil service.”

Source: Meyer-Sahling 2012.

Table 5. 7

SIGMA Annual Reports Recommendations

- Review the consistency of the administrative legal framework.
 - Implement the obligations deriving from OFA.
 - Improve the transparency and accountability of the public service.
 - Strengthen the capacity of CSA, especially with regards to its ability to provide training.
 - Increase civil service salaries in order to attract qualified individuals.
 - Abolish the performance-related dismissal policy in the civil service.
 - Implement in the public administration the complaints that are received by the Ombudsman.
 - Observe the provisions on recruitment of the Law on Civil Servants.
 - Stop the fragmentation of the civil service.
 - The CSA should be under the government not under the parliament.
 - More cooperation between the government and the civil service unions is required.
 - Strengthen the ethics code in the civil service.
 - Extend the scope of the civil service.
 - Improve the career expectations of civil servants by allowing vertical movements within the service.
 - Improve the performance of the appraisal system.
 - Develop comprehensive training strategies.
 - Fill the legislative gap regarding conflicts of interest involving civil servants.
 - Implement consistently the civil service legislation.
 - Facilitate vertical career steps.
 - Elaborate a general law that avoids too much detail.
- Source: OECD 2002, 2004, 2007, 2008, 2009, 2011, and 2012.

SIGMA's annual reports on civil service reforms in Macedonia are very detailed in the description of the problems that the civil service faces and the reforms that should be implemented. The 2011 report, for example, criticized the introduction of semi-annual evaluations because it claimed that such frequent evaluations would be an "unbearable administrative burden on managers" and would introduce managerial practices from the private sector into the civil service, which, according to the report, go against the spirit of public administration (OECD 2011, 3). These reports are used by the EU Commission to evaluate the progress that Macedonia has achieved in civil service reforms and to recommend areas that need improvements.

Since one of the main complaints of the Albanian community has been underrepresentation in the public administration, OFA contains provisions on civil service reforms that are also demanded by the EU. Table 8 summarizes some of the main requirements.

Table 5. 8

Civil Service reforms demanded by OFA

-The principle of non-discrimination and equal treatment of all under the law will be respected completely. This principle will be applied in particular with respect to employment in the public administration and public enterprise.

-Laws regulating employment in public administration will include measures to assure equitable representation of communities in all central and local public bodies and at all levels of employment within such bodies, while respecting the rules concerning competence and integrity that govern public administration. The authorities will take action to correct present imbalances in the composition of the public administration, in particular through the recruitment of members of underrepresented communities.

-The Assembly shall adopt by the end of the term of the present Assembly amendments to the laws on the civil service and public administration to ensure equitable representation of communities in accordance with Section 4.2 of the Framework Agreement.

Source: Ohrid Framework Agreement 2001.

One of the accusations that has been levied against EU statebuilding is that its requirements are very vague, and noncompliance may be the result of the lack of direction from Brussels. But as the above summary shows, the EU has provided its Macedonian partners with both general principles (such as those found in the Accession Partnership) on how to organize the civil service as well as with specific reforms (e.g., the elimination of temporary employment in the civil service) that it wants them to undertake.

This very ambitious agenda of transforming the Macedonian civil service has been backed by considerable EU financial assistance. IPA alone distributed almost 50 million euros (\$62.5 million) in the 2007-2013 period (EU Commission 2011A, 12).

The EU has not only set out guidelines for the kind of civil service reforms that it expects its Macedonian partners to implement, but the Union has also taken a hands-on approach to guiding civil service reforms in Macedonia. EU consultants have participated in drafting the various amendments that the Macedonian Law on Civil Servants has undergone (OECD 2009, 110). The Union also has provided advisors to the Macedonian government who have helped with structuring the salary scale and cataloguing job positions within the civil service (OECD 2013, 6). During the 2004-2006 period, two EU programs, TRAIN1 and TRAIN2, provided training for members of minority groups who wanted to join the civil service (Risteska 2013, 29). These are just a few examples of direct EU participation in reforming the Macedonian Civil Service.

At the EU's urging and with its support, the Macedonian civil service underwent significant reforms between 2000 and 2013,⁹⁵ even though the most significant changes occurred in the 2002- 2006 period, when the country was run by SDSM. One of the areas that has seen the

⁹⁵ This is the period covered by this study.

most changes has been the legislation regulating the civil service. The SDSM-led government reviewed the legal framework that regulated the civil service to make sure that it was in compliance with EU standards (OECD 2004, 20). The laws were also amended in order to make them comply with the OFA requirements that were mentioned above. Significant changes to the Law on Civil Servants were adopted in 2005, many of them directly tackling some of the major demands of the Union. The scope of the law was expanded to include more state institutions. The changes strengthened CSA, reorganized it, and clarified its functions. The amended Law on Civil Servants streamlined the recruitment process and reduced its costs. The amendments specified the rights and duties of civil servants. They clarified disciplinary procedures, identified which offences can be subject to disciplinary procedures, and introduced new disciplinary measures. These changes defined the conditions under which civil servants can be dismissed. The amended law strengthened the annual assessment of civil servants. The amendments also made it obligatory for state institutions to report the numbers of their employees to CSA. Finally, the amended law improved career prospects by making vertical mobility possible (OECD 2006, 28).

Further amendments to the Law on Civil Servants were adopted in 2008. To reduce the politicization of state secretaries, the highest civil servants in ministries, candidates for such positions are required to have at least three years of experience as civil servants. The changes also improved the process of recruitment. They established deadlines for the whole process, and the decisions have to be posted online. Opportunities for vertical promotion of civil servants which were introduced in 2005 were increased even further by the amendments adopted in 2008 (EU Commission 2009, 11).

Other significant legislative activities have aimed to improve the quality of the civil service and bring it more in line with EU standards. In February 2006, the Law on Free Access to

Public Information was adopted. This law allows for greater transparency in the workings of the public administration, and it also set up the Commission on Protection of the Right of Free Access to Public Information, which is supposed to reinforce the law (OECD 2006, 23 and 27). The legal framework regarding ethics and the prevention of corruption has been strengthened. CSA issued a code of ethics for civil servants in 2001, which was amended in 2004 (OECD 2004, 29). The Law on Prevention of Corruption, which was passed in December 2006, made it obligatory for civil servants to submit a “property declaration” within 30 days of joining the civil service as well as within 30 days of leaving the civil service. This is supposed to help identify properties that might have been acquired in an illegal manner. A law on conflict of interest was adopted in 2007, and the State Commission on Prevention of Corruption was created to reinforce it (OECD 2007, 5 & 7).

Several actions of the EU’s Macedonian partners have demonstrated their commitment to strengthening the civil service. To show the importance of such reforms, starting with the SDSM-led government, public administration reform has been led by the prime minister (OECD 2006, 7). The VMRO-DPMNE government included some of the concerns of the EU regarding the public administration in its program (OECD 2007, 1). In 2009, the prime minister established a High Committee on Public Administration in order to revitalize reforms in this sector (EU Commission 2009, 10). The Special Group on Public Administration was formed in 2010 (EU Commission 2010, 5).

As I will show below, these legal reforms and governments’ commitment to improving the civil service have helped improve the quality of the service in Macedonia. The role of the institution managing the civil service has been strengthened. In 2007, the government passed two decrees that empowered the CSA to regulate the organization of state bodies employing civil

servants and to systematize job positions within the service (OECD 2007, 8-9). Both of these moves were important because they reduced arbitrariness in the civil service. In 2007, the CSA started playing a more active role in disciplining civil servants. By 2010, the CSA was empowered to draft by-laws and oversee the equal representation of minorities in the civil service (EU Commission 2010, 10-11). In 2010, most of the competences of the CSA were transferred to the new Ministry of Information Society and Administration (MISA), a step that had been demanded by the EU for a long time. MISA, as part of the executive, should be able to administer the civil service better.

After a very problematic start in 2005, when most state institutions did not submit performance appraisals of their civil servants, the annual evaluation started being implemented in a more rigorous manner in 2006, when more than half of state institutions submitted such evaluations. By 2011, more than 90% of the obligatory evaluations were carried out (OECD 2008, 7; OECD 2013, 10). These performance assessments are important because they determine the annual salary supplement that civil servants are supposed to receive, among other things.

Significant improvements have also been achieved in providing Macedonian civil servants with competitive salaries. The salary part of the 2000 Law on Civil Servants was not implemented in the early reform years, especially the part that would have added to the basic salary career, position, and performance supplements. This in turn was considered one of the main challenges in attracting high quality employees (OECD 2002, 3). Salaries were increased by 10% in both 2007 and 2008, and the “career supplements”⁹⁶ that are prescribed by the Law on Civil Servants were finally implemented in 2008 (EU Commission 2008, 11). Periodic increases have continued since then.

⁹⁶ These are yearly increases awarded to civil servants based on the results of the annual performance evaluations.

Improvements have also occurred in the area of civil servant training. The first significant work towards establishing a training strategy and creating a corps of trainers started with the coming into power of the SDSM-led government in 2002 (OECD 2004, 27). In 2005, the CSA was put in charge of coordinating the training of civil servants and managing foreign assistance, which has provided most of the funding for training activities (OECD 2006, 5). In 2008, the CSA created a training department that is in charge of manage training programs (EU Commission 2009, 11). Several training strategies and training programs were developed in the 2008-2009 period (OECD 2009, 120).

Important technical achievements, especially the introduction of IT technologies, have been reached. Since 2005, applications for civil service jobs have been standardized and can be submitted online (OECD 2006, 9). Now even the entrance exams for the civil service are in an electronic format (Koneska 2007, 142). In 2011, MISA introduced a “one-stop-shop” system for the electronic exchange of documents between different institutions as well as a score-board grading system that can be used by citizens to evaluate the performance of institutions (EU Commission 2011, 10). All ministries are required to create an electronic version of the “Citizens’ Charter” that can be used to evaluate the performance of government institutions (Koneska 2007, 143). The 2010-2012 National Strategy for e-Government aimed to increase the number of government services that can be provided through the internet.

Arguably, the greatest achievement of the civil service reform has been the significant increase in the representation of minority groups within the civil service.⁹⁷ The percentage of Albanians, the largest and the most politically influential minority group in Macedonia, in the Macedonian Civil Service increased from 5.6% in 2004 to 24.2% in 2010 (Risteska 2013, 32).

⁹⁷ I consider this to be the greatest achievement because one of the main complaints of the Albanian insurgents in 2001 was the underrepresentation of the Albanians in the civil service.

During the same period, the percentage of Roma civil servants tripled and the percentage of Turkish civil servants doubled (Risteska 2013, 32). This is a great achievement, especially if we take into account the strong opposition to equal minority representation among many ethnic Macedonians. The SDSM-led government deserves most of the credit for this achievement because it laid the legal and technical groundwork that made adequate ethnic representation in the civil service possible (OECD 2004).

Despite these improvements, the Macedonian civil service continues to be plagued by significant problems. What is more important for this study, the pace of reform greatly decreased after the election of VMRO-DPMNE in 2006. Azizi maintains that from 2005 to 2010, the EU kept on emphasizing the same problems with the Macedonian civil service to no avail (Azizi 2011, 887). Moreover, civil service reforms stalled between 2010 and 2013 (Micevski 2013). Not only were there no major initiatives launched after 2006, but also, as I will examine below, in several areas there has been regression.

Among the most problematic areas have been the implementation of the reform strategies (both the 1999 and the 2010 strategies) and the application of the laws that regulate the civil service. The main objectives of the 1999 strategy were: rule of law, transparency, competency, stability, responsibility, predictability, equal treatment, efficiency, and ethics (Markic 2004).⁹⁸ Even the Macedonian government has accepted that it failed to reach most of these goals, which is why it formulated a new strategy in 2010 (Dimeski 2012, 2-3). The Law on Civil Servants is continuously being ignored by the bureaucracy. The most blatant abuses have happened with regards to the provisions that regulate recruitment. According to SIGMA, such rules are systematically ignored, and recruitment decisions are not made based on merit but based on

⁹⁸ The 2010 reform strategy has almost the same goals (Dimeski 2012, 6).

political connections (OECD 2011, 4). Since 2007, the Macedonian Ombudsman has continuously complained about the lack of meritocracy in the civil service (see the annual Ombudsman reports).

The transparency of the Macedonian civil service has suffered because of the non-implementation of the Law on Free Access to Public Information. Many government institutions simply refuse to provide information, and between 2012 and 2013, the number of complaints to the National Commission for Protecting Access to Information (NCPIA) tripled (EU Commission 2010, 11; EU Commission 2013, 9). The 2013 SAP report noted that one third of government bodies failed to submit annual reports to NCPIA, and no penalties were imposed on them (EU Commission 2013, 9). Another aspect of the continuing lack of transparency is that many government institutions do not report the numbers of their employees.

Not only is the Law on Civil Servants ignored by many institutions, but there are also formal aspects of the law that have become increasingly problematic. One of them is the very frequent amendment of this law. Between 2001 and 2012, the law was amended 11 times (Davitkovski et al. 2012, 13). This has created significant instability in the civil service. While some of the amendments were necessary, such as the ones that added the OFA principles to the Law on Civil Servants, other amendments were not. Often changes in the law have been done to benefit particular constituencies that support the government. For example, I was told by an EU official in Skopje that in July 2013, the law was amended so that the government could hire 1,000 new civil servants (Micevski 2013). This was done to boost support for the government in the upcoming elections.

In addition to these frequent changes, there has been a tendency to fragment the Macedonian civil service through the creation of groups within the service that are governed by

special laws. For example, in 2008, a special law was created to regulate the civil servants who work in the court system (OECD 2009, 107). The official explanation is that there are particular sectors of the civil service that require special rules, but this can also be achieved by passing a general civil service law, while later adopting special by-laws for these areas. Unfortunately, the result of these actions has been further politicization of the civil service. Since 2006, the EU has warned the Macedonian government against such practice, but fragmentation (and politicization) has increased (OECD 2006, 5; EU Commission 2012, 8-9).

Not only have the laws regulating the civil service proven to be ineffective, but also the institutions in charge of overseeing the service, the CSA and MISA, have proven to be very weak. Despite the fact that the CSA was an independent agency, it did not escape from politicization (OECD 2006, 4). The appointment of the head of this agency was based more on political affiliation than on meritocratic principles (OECD 2004, 24). Moreover, the CSA's ability to manage the civil service was undermined by the fact that many state institutions would often decide not to follow the "obligatory decisions or guidelines" issued by the CSA (OECD 2009, 109). For example, often recruitment of civil servants happened without the involvement of the CSA, which was contrary to the law, and the agency was not notified of the hiring of temporary workers. Even MISA, which was supposed to improve on many of the shortcomings of the CSA, has been a disappointment. MISA has not been provided with the appropriate budgetary or staff resources to fulfill its duties (EU Commission 2011, 9). This ministry seems to be more focused on information society and IT technologies than on the management of the public administration (OECD 2013, 7).

The policy of annual appraisals is another area where problems have been encountered. As was mentioned above, after a problematic beginning in 2005, almost all civil servants in

Macedonia were being evaluated by 2011. Unfortunately, these evaluations have not been objective. Almost all civil servants have been receiving high marks, which is difficult to reconcile with the low quality of the public administration in Macedonia (OECD 2013, 10).

The politicization⁹⁹ of the civil service has been on the rise since 2006, when VMRO-DPMNE came to power. Politicization was a problem even before 2006, but it was mainly confined to the upper levels of the civil service (Rabrenovic and Verheijen 2005, 13). Since then, even the middle and lower levels have become politicized (OECD 2012, 1). It is a common knowledge in Macedonia that only supporters of VMRO-DPMN and its junior partner DUI have access to civil service jobs. As soon as VMRO-DPMNE came to power in 2006, it summarily dismissed over 500 civil servants within a month (Cierco 2013, 6). The new Prime Minister, Nikola Gruevski, did not even bother to find a legal justification for firing such a large number of civil servants whose jobs are supposed to be protected by the law. Instead, he simply stated that every government wants to govern with its own group of people (Cohen 2010, 19). To some extent, politicization has been institutionalized in Macedonia. In 2010, a government document was leaked to the media listing party members who had been provided with jobs in the public administration (Sulejmani 2011, 5).

One factor that allows the politicization of the Macedonian civil service is the manner in which recruitment takes place. A commission is set up by the Administrative Agency to administer the exam and to interview the best candidates. The names of the top three candidates are then provided to the state secretary of the hiring institution, who in turn makes the final decisions. This last step opens up the possibility for political interference in the recruitment process. For a long time, the position of the state secretary was part of the civil service, even

⁹⁹ I use the term politicization to refer to the hiring of civil servants primarily based on their political affiliation, not on their capabilities.

though it was not beyond political interference. Beginning in 2010, this position is held by a political appointee, which almost certainly guarantees employment to only those people with the right political connections (Meyer-Sahling 2012, 45).

Another factor that has permitted the politicization of the civil service has been the increase in the number of temporary workers who perform civil service duties. The practice started in 2006 and has grown out of control since then. By 2012, 25% to 35% of posts that should have been filled by civil servants were instead being filled by temporary workers (Meyer-Sahling 2012, 45). Temporary workers do not have to go through the proper examination procedures, as civil servants do, thus allowing for more flexibility in picking government supporters. Also, many individuals who are initially hired as temporary workers are later provided with permanent civil service positions.

Even what has been called the most significant achievement of the civil service reforms, the increase in minority representation within the civil service, has turned out to be problematic. According to research done by Marija Risteska, the program for increasing the number of minorities in the civil service was based on meritocratic values up to 2006 (Risteska 2013, 30). Since then, it has degenerated into a spoils system, which benefits mainly those members of the Albanian minority who are affiliated with the main Albanian party, DUI (Risteska 2013, 30). For many years, the annual SAP reports have complained that recruitment of minorities is being done only on a quantitative basis, without taking into account institutional needs or the skills of those who are hired (EU Commission 2012, 9). Many of those who are hired are employed only on paper. This allows them to stay home and receive a salary (Amina 2013). In 2011, for example, 1,600 minority members were hired as civil servants without justifying why more civil servants were added to an already bloated bureaucracy (EU Commission 2011, 10).

At this point, it is warranted that we compare the civil service reforms in Macedonia with those in Albania, so as to clarify the different types of resistance practiced by the Macedonian and the Albanian partners of the EU. First, in Albania there has been a continuous process of civil service reforms, with the aim of aligning the Albanian bureaucracy with the principles espoused by the EU, even though the reforms have not always been successful. In Macedonia, the reform process slowed down after 2006, and it stalled altogether after 2010. Moreover, the Macedonian government refused to include the EU's suggestions in its 2010 Public Administration Reform Strategy (OECD 2011, 1). Second, in Albania the legislation regulating the civil service is highly compatible with EU standards, and much of this legislation has been written by EU consultants. In Macedonia, on the other hand, even the formal aspects of the civil service, such as civil service laws, are digressing from the model that the EU demands. Thus, in Albania there is formal compliance with EU demands, even though the Albanian partners of the EU work behind the scenes to undermine the reforms. On the other hand, in Macedonia the rejection of EU civil service reforms has become increasingly more overt.

EU Statebuilding Confronts Macedonian Domestic Politics

The next question that we need to answer is what explains the poor results of civil service reforms in Macedonia. First, we need to dispel the notion that Macedonian governments have either been unable or unwilling to strengthen the bureaucracy. One of the most important and challenging functions of bureaucracies is to maintain order, and Macedonia has performed quite well in this regard. The chart below uses the murder rate as a proxy for the Macedonian

governments' ability to fight crime. Between 2003 and 2010, Macedonia reduced the murder rate by almost 46%, a very impressive achievement.

5.2



Source: United Nations Office on Drugs and Crime 2012.

The fact that the Macedonian government has been able to reduce murder rates despite the country being located along main drug trafficking routes, the violent conflict of 2001, and simmering ethnic conflicts is proof that the bureaucracy in Macedonia is fully capable of handling major challenges.

In order to understand why the EU-demanded civil service reforms have not been very successful, we need to look at the competing interests of the EU and of its Macedonian partners when it comes to the purpose that the civil service should play in Macedonia. As the second section of this chapter showed, the EU is interested in creating a professional, depoliticized, and effective civil service in Macedonia. On the other hand, the EU's Macedonian partners have other designs on the civil service. More precisely, my research shows that the Macedonian partners are interested in using the civil service to: 1) provide employment in order to make up

for an underperforming private sector, 2) attract voters, 3) promote ethnic peace, and 4) provide a loyal bastion through which the government can implement its program. I maintain that frictions between these two competing visions on the civil service motivate the local partners of the EU to resist.

It is an open secret in Macedonia that the civil service serves as an employment bureau that makes up for the failure of the private sector to generate enough employment (Azizi 2011, 886). Since 2001, the country has had a very high unemployment rate. The official unemployment rate decreased from 37% in 2001 to 29% in 2013 (Macedonian State Statistical Office 2015). Between 2001 and 2013, the public sector employs about 20%¹⁰⁰ of the workforce (thus making it the largest employer in the country), and in recent years it has been the main source of job creation (Halili 2014, 2).

Not only does the government make up for the lack of employment in the private sector, but public sector jobs are more sought after than private sector jobs. A 2012 poll conducted among young people revealed that there was an overwhelming preference for public sector employment among the youth. The most coveted jobs (31.6%) were public administration positions, and only less than 10% of the youth were interested in working for private companies (REACTOR 2012, 22). There are several reasons why young Macedonians prefer to work for the state: 1) state jobs are less demanding, 2) they offer better work conditions, 3) they represent more secure employment, and 4) they offer competitive salaries (Pasholli 2014, 4). According to the Macedonian State Statistical Office, in 2010 (the latest year for which I was able to find data) the average monthly pay was 30,600 denar (\$566), while the average monthly pay in the public administration was 39,400 denar (\$730), almost 30% higher than the average monthly salary

¹⁰⁰ I have calculated this percentage using data from Macedonian State Statistical Office yearbooks and the 2004 SIGMA report on Macedonia.

(Macedonian State Statistical Office 2015). The competition for state employment also is very fierce. For example, in 2009, there were 43 applications for each opening in the civil service (Azizi 2011, 886).

Because of the high unemployment rate and a strong demand for public administration employment, Macedonian governments, especially those formed by VMRO-DPMNE, have used public employment to gain votes, thus leading to the politicization of the bureaucracy. One method to accomplish this has been the announcement of job openings around election time. Only weeks before the April 2014 elections, the Macedonian government announced that it would employ 300 new civil servants and provide state employment to retired army veterans. This has happened despite the fact that the electoral law prohibits advertising for public employment during the electoral campaign period (Jakov-Marusic, 2014).

Not only has the government used employment in the civil service as a carrot to attract voters, but it has also used threats to force civil servants to support it at the polls. The Organization for Security and Cooperation in Europe (OSCE), which monitors Macedonian elections, has noticed that in both the 2011 elections and the 2014 elections, civil servants were required by VMRO-DPMNE party activists to provide lists with names of people who would vote for the party, otherwise they would get fired (OSCE 2011,10; OSCE 2014,14). These accusations by OSCE were corroborated by the findings of an investigation conducted by A1 TV.¹⁰¹ The investigation uncovered that during the 2011 election, VMRO-DPMNE members asked civil service managers to provide lists with the names and phone numbers of 30 people who would vote for VMRO-DPMNE, while low-level civil servants were asked to provide only 15 names and phone numbers (Jakov- Marusic 2011). While it would be difficult for VMRO-

¹⁰¹ A1 is a Macedonian TV station.

DPMNE to verify that the people included in these lists voted for this party,¹⁰² by asking civil servants to provide names of those who are going to vote for VMRO-DPMNE, the party creates an atmosphere of fear and intimidation. Civil servants have also been used to campaign for the VMRO-DPMNE during work hours, pressured to attend government rallies, and warned not to participate in opposition rallies (OSCE 2011, 10; OSCE 2014, 14). In the 2011 elections, 30% of the Macedonian civil servants were involved in campaigning on behalf of government coalition parties (Meyer-Sahling 2012, 67).

Ethnic divisions in Macedonia, and especially past discrimination in civil service employment, have also undermined the meritocratic basis of the Macedonian civil service. Since 2001, employment in the civil service has been used to promote social peace between the Albanian and Macedonian communities (Jahiu 2013; Micevski 2013). As was described above, the post-OFA efforts to employ more minorities in the civil service have benefited mainly Albanians. In order to buy the loyalty of the Albanian community, Macedonian governments have simply hired a large number of them, without taking into account their skill level or the need for more civil servants. Thus the principle of meritocracy has been sacrificed in order to lower inter-ethnic tensions.

If meritocratic principles of recruitment had been used, it would have meant that minority members would have gradually substituted for ethnic Macedonian civil servants. This, in turn, would have alienated the Macedonian community. To avoid such a situation, Macedonian governments have expanded the number of civil servants in order to accommodate new minority employees. Between 2004 and 2010, the number of Albanian civil servants expanded fivefold, while the number of Macedonian civil servants remained almost the same

¹⁰² The partial exception to this is small rural areas, where the tight-knit society makes it easier to know who supported which party.

(Risteska 2013, 32). The competition over civil service jobs between Albanians and Macedonians has prevented the emergence of a meritocratic and efficient civil service.

A final hurdle that EU-inspired reforms have had to confront has been the stark politicization of Macedonian society. Macedonians are deeply divided between those who support the government and those who support the opposition.¹⁰³ This means that political parties in Macedonia doubt the loyalty of civil servants who are not their supporters. Since most civil servants have been appointed through political connections, when a new government comes to power, it has to get rid of many of the current civil servants, whom it perceives to be loyal to the opposition. This is best exemplified by the response that Prime Minister Gruevski gave to the EU criticism of the firing of hundreds of civil servants by the new government. Gruevski said: “it is normal that a political team coming to power with its own program wants to work with people it trusts” (quoted in Cohen 2011, 19).

This resistance to EU-demanded reforms cannot be brushed off as simply the work of unenlightened, illiberal, and selfish politicians. Instead, part of it is motivated by legitimate Macedonian concerns. The civil service reforms that the EU demands do not necessarily reflect the interest of the Macedonian society. For example, if Macedonia trims its bloated civil service, the already-high unemployment rate will increase even further. Also, if the Macedonian partners apply meritocratic principles in hiring minorities, especially Albanians, ethnic tensions may increase, since minorities have demanded that the composition of the civil service should reflect the ethnic composition of society as soon as possible. The resistance of the Macedonian partners

¹⁰³ This is true for both ethnic Macedonians, who are divided between supporters of VMRO-DPMNE and supporters of SDSM, and Albanians, who are divided between supporters of DUI (that has been part of the government since 2008) and supporters of the Albanian Democratic Party (ADP).

to civil service reforms is motivated partly by the political concerns of the partners and partly by the genuine concerns of Macedonian society.

The implementation of EU-demanded civil service reforms in Macedonia has been limited by clashes between the EU and the local visions of the role that the civil service should play. Those reforms that have aimed at depoliticizing the service and at creating a merit-based recruitment process have failed because they go against the interest of the local partners. Frictions between the EU and local interests explain the motivation for the resistance of the local partners, but they do not explain how the partners are able to resist in the presence of asymmetric interdependence between the EU and Macedonia. The next section will examine this issue.

Resistance to EU Statebuilding

At the first glance, the resistance of the local partners to EU demands is surprising if we take into account the asymmetric interdependence that was described in the first section of this chapter. But as this section will show, there are structural conditions that have attenuated the asymmetric interdependence between Macedonia and the EU and have made resistance possible. These “structural conditions” are: 1) the Union’s prioritization of security over all other issues, 2) divisions among EU institutions as well as among EU member states, 3) the EU’s fear of failure in Macedonia, and 4) the alliance between the main Albanian and Macedonian nationalist parties, DUI and VMRO-DPMNE.

In Macedonia, as in the rest of the Western Balkans, the EU has prioritized the promotion of peace and stability. This becomes clear if we examine the three main steps that Macedonia has already taken towards becoming an EU member: the signing of an SAA in 2001, the award of candidate status in 2005, and the 2009 recommendation by the EU Commission for the start of

membership negotiations. The SAA was signed while the conflict between the Macedonian security forces and the Albanian insurgents was still raging. Usually, the Union demands at least a minimum level of political stability within a country before it starts integrating it.¹⁰⁴ In Macedonia's case, the carrot of closer ties to the EU was used as an instrument to induce the Macedonian government to negotiate with representatives of the Albanian community (Giandomenico 2009, 64). EU officials have stated that the 2005 candidate status was granted mainly to reward Macedonia for its progress in implementing the OFA (Giandomenico 2009, 63; Sahlin 2007, 107). Progress in implementing the OFA was also one of the main reasons behind the 2009 EU Commission's recommendation for the opening of membership negotiations (Cvetkovic 2013). This EU approach to Macedonia has made it clear that as long as the government maintains domestic peace and stability, the EU will not only refrain from sanctioning it over the problematic pace of Europeanization reforms, but the Union will also open the doors of integration.

Another factor that enables resistance is the failure of the EU to speak with one voice. The EU Commission has for the last five years, 2009-2014, recommended the start of accession negotiations, especially since it views these negotiations as crucial to sustaining the reform process in Macedonia. In the preface to the 2014 SAP report, the EU Commission wrote: "The Commission recalls its view that, if the screening and Council discussions on the negotiating framework were under way, the necessary momentum could have been created which would have supported finding a negotiated and mutually accepted solution to the name issue even before negotiating chapters were open" (EU Commission 2014, 1).

¹⁰⁴ Even though the Stabilization and Association Agreement (SAA) is supposed to foster stability, the EU requires that before countries sign an SAA, they should be stable enough to carry the reforms demanded by such an agreement.

The EU Parliament is also supportive of opening negotiations with Macedonia, which it too sees as important in continuing domestic support for EU integration. In a 2014 resolution on Macedonia it stated:

Whereas the European Council has decided for the fifth consecutive year not to open the accession negotiations with the country in spite of the positive recommendation of the Commission in this respect; whereas this further postponement is adding to the growing frustration of public opinion in the country over the stalemate reached in the EU integration process and risks exacerbating domestic problems and internal tension; whereas bilateral issues should not represent an obstacle to the official opening of accession negotiations, although they should be solved before the end of the accession process.... Reiterates its call to the Council to set a date for the start of accession negotiations without further delay (EU Parliament 2014, 2-3).

On the other hand, the Council of the European Union has persistently insisted that Macedonia solve its outstanding issues with its neighbors (i.e., Bulgaria and Greece) before negotiations begin:

As set out in the European Council conclusions of June 2008 and the General Affairs and External Relations Council conclusions of December 2008, maintaining good neighborly relations, including a negotiated and mutually accepted solution to the name issue, under the auspices of the UN, remains essential. There is a need to bring the longstanding discussions on the name issue to a definitive conclusion without delay. Resolute action is required. In light of the overall importance of maintaining good neighborly relations, the Council notes the continued high level contacts between the former Yugoslav Republic of Macedonia and Bulgaria and looks forward to their translation into concrete actions and results (Council of the European Union 2014, 8).

These divisions among EU institutions allow the Macedonian government to shift the blame for the stall in EU integration from its failure to fulfill EU demands to the political divisions that exist in Brussels and Strasbourg. Also, the lack of a common EU position on Macedonia because of continuing Greek obstruction makes it less likely that the domestic partners will be punished for resisting EU statebuilding.

Divisions among EU member states are probably as important in enabling resistance as institutional divisions within the EU. Bulgaria and Greece, two EU members that border

Macedonia, have set conditions on the EU integration of the country that have nothing to do with the EU reforms required for candidate countries. Bulgaria claims that the Macedonian language is in fact Bulgarian, and many Bulgarians do not recognize Macedonian as a separate ethnic identity. Such claims are strongly rejected by Macedonians, which has caused Bulgaria to veto the start of EU membership negotiations with Macedonia until the relationship between the two improves (Jakov Marusic 2012). As was discussed earlier in this chapter, Greece does not recognize Macedonia by its official name¹⁰⁵ and has insisted that it will not allow Macedonia to take any more steps towards EU (or NATO) membership until the name dispute between the two is resolved (Tziampiris 2012, 160).

This opposition to Macedonian EU integration facilitates domestic resistance. First, it removes the carrot of faster integration in exchange for domestic reforms. Macedonian politicians know that no matter how committed they are to the Europeanization process, Greece and Bulgaria will still oppose them on identity issues. Because the Union requires unanimous agreement among its member states in order to accept new members, Greece and Bulgaria can, and have, vetoed the integration of Macedonia. Second, it was mentioned to me by several Macedonian politicians and analysts that Greek and Bulgarian opposition has been used by the VMRO-DPMNE government to conceal its slow (and many argue, intentionally slow) pace of reform and integration (Stojilovska 2013; Milcin 2013). If Macedonia were to comply with EU demands, VMRO-DPMNE would find it difficult (but certainly not impossible) to use many of the methods, such as the coercion of civil servants or intimidation of opposition media, that it has employed to stay in power.

¹⁰⁵ Macedonia calls itself the Republic of Macedonia, while because of Greek opposition to this name, the country is known internationally as the Former Yugoslav Republic of Macedonia (FYROM).

Another factor that enables resistance to the EU is the belief among many of the locals that the EU cannot afford to disengage from Macedonia. The EU has dedicated a lot of financial and political capital to rescue Macedonia from ethnic conflict and to put it on the path towards EU integration. The Union in the past has considered Macedonia to be an EU success story (Giandomenico 2009, 59). If the relationship between the two sours, it is going to be perceived as an EU failure (Lembovska 2013). Moreover, if the EU decides to sanction Macedonia for the resistance of the domestic partners, for example by reducing financial support or by the EU Commission withdrawing its recommendation for the beginning of accession negotiations, the EU risks undermining its own influence in the country. The Union is well aware that any actions that it might take to punish resistance might very well backfire. This mindset was confirmed to me by an EU official in Skopje, who said that the EU Commission toned down its criticism of the country in the 2013 SAP report because of the fear that such criticism might have led to domestic disturbance (Qendresa 2013).

A final factor that has enabled resistance to EU statebuilding in Macedonia is the alliance between the major Albanian and Macedonian political parties, respectively DUI¹⁰⁶ and VMRO-DPMNE. As we saw earlier in this chapter, ethnic Albanians overwhelming support joining the Union. DUI lists EU integration as one of its main objectives and has been critical of the slow pace of the integration process.¹⁰⁷ This means that theoretically the Albanian community should be a natural partner of the Union. Unfortunately, since the 2008 election, VMRO-DPMNE and DUI have agreed to rule the country together. VMRO-DPMNE has given DUI supporters a share of the civil service jobs, it has provided financing for reconstructing Albanian neighborhoods, it

¹⁰⁶ DUI dominates the Albanian political life in Macedonia. The other major Albanian political party, ADP, is slowly withering away.

¹⁰⁷ ADP also is a strong supporter of EU integration.

has pledged support for the Albanian university in Tetovo,¹⁰⁸ and it has supported interpreting the amnesty law so as to provide immunity to high DUI officials (ICG 2011, 3-7).

In exchange for VMRO-DPMNE support, DUI has agreed to control the Albanian population and to keep ethnic tensions down. The effects of this pact were shown by the reaction of DUI to the protests following the controversial sentence handed down to six ethnic Albanians by an ethnic Macedonian judge in the summer of 2014.¹⁰⁹ Instead of supporting the Albanian protesters, DUI worked to defuse the situation.¹¹⁰

The above four factors undermine the carrot and stick associated with EU conditionality. Thus, these factors diminish the chance that the Macedonian partners of the EU will be punished for resisting EU statebuilding. They reduce the degree of asymmetric interdependence between the Union and Macedonia.

The next question that needs to be answered is why resistance to EU statebuilding has increasingly become more overt. Civil service is not the only area of Europeanization in which the Macedonian partners have openly defied the Union. In my interviews with both supporters and opponents of the current government, I was repeatedly told that the speed of EU-demanded reforms in Macedonia has significantly slowed down (Cvetkovic 2013, Bogdanovski 2013, Lembovska 2013). According to Atanasova et al., VMRO-DPMNE started ignoring EU-demanded reforms once it came to power in 2006 (Atanasova et al 2008, 228).¹¹¹

¹⁰⁸ A Macedonian town inhabited primarily by Albanians.

¹⁰⁹ The six ethnic Albanians were given life sentences for the killing of five ethnic Macedonians. The Albanian community in Macedonia claimed that it was an ethnically motivated sentence.

¹¹⁰ In September 2015, two leading members of DUI defected and created a new party, Unity. This split might affect the ability of DUI to control the Albanian population.

¹¹¹ I put most of the blame for this on VMRO-DPMNE instead of its Albanian coalition partners. As I will show below, the overt shift away from the EU has been a VMRO-DPMNE project, while the Albanian parties, at least rhetorically, are still strong supporters of the Union.

By 2014, the situation had deteriorated so much that there were genuine concerns that the EU Commission would not have renewed its recommendation for opening accession negotiations. The VMRO-DPMNE-led government has increasingly become more authoritarian. It maintains power especially by manipulating the media, controlling public administration employment, and coercing its opponents. It has not hesitated to pass controversial laws even in the face of severe EU criticism. Examples of such laws are the new constitutional changes that define marriage as a union between a man and a woman and a restrictive media law. Instead of aligning its institutions and legislation with those of the EU, Macedonia is drifting further away.

Not only have the Macedonian partners increasingly become more non-compliant with EU statebuilding demands, but they have also increasingly become more vocal in attacking the Union. Erwan Fouéré, the EU representative in Skopje from 2005 to 2010, was severely criticized by government supporters and, according to a former member of the government, was forced to leave the country (Bogdanovski 2013). A high VMRO-DPMNE official, Vlatko Gjorcev, accused Fouéré of inappropriately interfering in the workings of the government and of being a supporter of the opposition (Jakov Marusic, 2010).

Nikola Gruevski has rejected EU criticism as “exaggerated” and as “a part of a ‘new tactics’ forged by ‘individuals in Brussels or beyond’ to force his government to succumb to an unjust settlement with Greece” (Jakov Marusic 2011). Gruevski has also labeled the EU “hypocritical” and has accused the Union of “using double standards” (Neskova 2011). Reacting to the EU Commission’s 2014 report, Ilija Dimovski, the spokesperson of VMRO-DPMNE, said that the EU is using unfair conditions, referring to the EU condition that Macedonia should resolve its name dispute with Greece (Zeqiri 2014, 3).

Some have tried to explain this overt resistance of the Macedonian partners as being caused by the Greek veto and by the failure of the Union to provide incentives to its Macedonian partners, i.e., the failure to start accession negotiations. The problem with this argument is that, while Greece has not shown willingness to solve the name dispute, the highly provocative actions of VMRO-DPMNE, such as the naming¹¹² of the Skopje airport “Alexander the Great,” have added fuel to the fire. Also, the Macedonian partners cannot claim that the Greek veto is the only thing that is stopping them from starting negotiations because the reform process started slowing down before the Greeks announced their veto to Macedonia’s Euro-Atlantic integration.¹¹³

Instead, I argue that this overt resistance is both the result as well as part of a new Macedonian identity that VMRO-DPMNE has been trying to create in order to legitimize its power. VMRO-DPMNE has fashioned itself as a Christian nationalist party, has relied heavily on ethnic appeals, and has tried to revive a mythical glorious past in order to attract voters (Panovski 2008; Markovic and Damjanovski 2010). This new identity has a strong tint of xenophobia, which contradicts two of the principal EU demands on Macedonia, inter-ethnic harmony and good neighborly relations.

The party relies heavily on ethnic mobilization among Macedonian Slavs in order to win votes.¹¹⁴ In the 2014 parliamentary election, Gruevski called on ethnic (Slavic) Macedonians to vote for his party so as to prevent Albanian political parties from demanding political

¹¹² Several historical figures, such as Alexander the Great, are a bone of contention between Macedonia and Greece.

¹¹³ While there is no doubt that Greece has opposed Macedonia’s EU membership, and Macedonia will not become an EU member state until Greece gives the green light, I claim that Greek opposition is not the only factor behind the failure of Macedonia to meet EU membership requirements, i.e., the failure of domestic reforms. Before the election of VMRO-DPMNE in 2006, Macedonia was further ahead in meeting EU demands than other Western Balkan countries. The slowdown in reforms happened after the election of VMRO-DPMNE and before Greece announced its latest veto (2007).

¹¹⁴ The irony is that while Gruevski has relied on ethnic appeals to attract ethnic Macedonian (Slavic) voters, he has not hesitated to form coalitions with Albanian parties.

concessions through blackmailing Macedonian parties (Jakov Marusic 2014). In general, ethnic tensions have risen since VMRO-DPMNE came to power. These ethnic appeals are successful in mobilizing voters, but they also go against EU directives, which call for a more inclusive society.

The government has also openly promoted religion. This is reflected in the frenzy of building religious objects, with preference given to Orthodox Christianity (Pisarev 2014, 9). The official Christian Orthodox church of Macedonia has received from the government real estate without charge, the government has used public funds to build Orthodox churches, and only Orthodox clergy are invited to participate in government functions (US State Department 2012, 3). In addition, the government has passed controversial legislation, such as putting restrictions on abortions or defining marriage as a union between a man and a woman, to promote Christian values (Jakov Marusic 2013).

The most ambitious government program has been the antiquization¹¹⁵ of the Macedonian identity. Since 2006, the Macedonian government has worked on creating a myth that the current ethnic Macedonians are descendants of Alexander the Great. These efforts to recreate the Macedonian identity have involved intellectual efforts that through linguistic and archeological endeavors have been trying to establish that there is a direct line connecting the present Macedonian population with the people who lived during the time of Alexander the Great. In addition, the government has spent hundreds of millions of dollars on *Skopje 2014*, a project whose aim is to revamp the central area of the Macedonian capital by building monuments and cultural centers that celebrate the glorious Macedonian past, with particular emphasis on antiquity.

¹¹⁵ This is a neologism referring to the process of linking the current Slavic Macedonians to the ancient Macedonians.

This new identity that VMRO-DPMNE has been promulgating is a challenge to the return-to-Europe myth, which has provided legitimacy to EU statebuilding in other former communist countries. The values that VMRO-DPMNE promotes (religion, ethnicity, and nationalism) directly contradict the values that the EU is trying to promote in Macedonia (secularism, multiculturalism, and regional cooperation). Thus, this new Macedonian identity runs against “European values.” The myth of the EU is being substituted with the myth of the glorious Macedonian people.

The corollary to the development of this new identity is that, differently from their Albanian counterparts, the Macedonian partners of the EU have not put themselves in a rhetorical trap where legitimacy is derived from the Europeanization of the country. They can afford to be openly critical of the EU and not look like they are contradicting their principles. Also, differently from Albania, the EU is not always perceived as a benevolent actor in Macedonia. Two of its members, Greece and Bulgaria, are viewed as being a threat to the Macedonian nation, and the EU’s Macedonian partners have used these popular perceptions to justify their overt challenging of the Union. Finally, as Damjanovski and Markovic argue, the EU’s condition of solving the name dispute with Greece is viewed as a direct threat to the new Macedonian identity (Damjanovski and Markovic 2010, 22), which in turn legitimizes open criticism of the EU by its Macedonian partners.

The importance of the structural conditions and the new identity that VMRO-DPMNE has created in giving rise to resistance to EU statebuilding become clear if we compare the rule of VMRO-DPMNE with that of SDSM (2002-2006). The Europeanization of Macedonia proceeded at a quick pace under the SDSM-led government, and that government even implemented some very controversial EU demanded reforms, especially with regard to OFA

obligations. In the 2002-2006 period, some of the structural conditions that have facilitated resistance in later years did not exist. Tensions between Macedonia and Greece were less intense.¹¹⁶ Bulgaria was not yet an EU member state, thus it could not veto the EU integration of Macedonia. There was much more unity among EU institutions with regard to Macedonia. While DUI was part of the SDSM-led government, DUI did not dominate the Albanian political life the way that it would do in later years. Local resistance to EU statebuilding was more difficult during the 2002-2006 period because the EU was more coherent in its approach to Macedonia, the Union could deliver on its promise of EU integration, and Macedonian domestic coalitions were too weak to guarantee peace without the presence of international actors.

In addition to the above, SDSM, differently from VMRO-DPMNE, also lacked the ideological basis with which to challenge the EU. I was told by a local expert in Skopje that SDSM tried to derive a lot of its legitimacy by advancing Macedonia's EU integration (Cvetkovic 2013). This party cast itself as pro-European. EU membership was given the highest priority by the SDSM-led government and significant reforms were implemented in order to join the Union (Atanasova et al. 2008, 228).

Conclusion

This chapter has shown that the EU has achieved mixed results in Europeanizing Macedonia's civil service. The main cause of failure has not been the inability of Macedonia to implement them; instead, it has been the resistance of the very Macedonian partners who have been entrusted with implementing these reforms. This resistance has important implications.

¹¹⁶ Greece, for example, did not oppose Macedonia from becoming an EU candidate member.

First, as in the case of Albania, the resistance of the Macedonian partners, particularly in the 2001-2006 period, cannot be explained as a rejection of the whole Europeanization project. Many of the reforms that the Union has demanded, such as those related to salary reforms or training, have been successfully implemented. This means that the institutions and practices that the EU has pushed for in Macedonia are not necessarily alien to Macedonian society. Only one category of reforms has been consistently resisted, reforms that would decrease the control of the partners over the civil service. If this class of reforms were implemented, it would affect the ability of the partners to gain and stay in power because political control over the civil service has been used by the partners to attract voters and maintain social peace, among other things. Thus resistance is aimed at those EU reforms that have the potential to redistribute power in Macedonia or cause social problems.

Second, one of the main achievements of the resistance has been to take back from the EU control over institution building that was surrendered to the Union when Macedonia signed the SAA and OFA. Contrary to what some authors claim, EU statebuilding in Macedonia is not simply imposed by Brussels; instead, it is the product of the interaction between local actors and the EU. This interaction itself is framed by a set of structural conditions that allow the EU to impose its demands on the Macedonian partners, and a second set of conditions that allow the Macedonian partners to resist these demands. One consequence of the presence of these two types of structural conditions is that the asymmetric interdependence between the EU and Macedonia has been greatly attenuated, which in turn has weakened the Union's conditionality, the main instrument in the EU's statebuilding arsenal. Also, one factor that has led to the stall in reforms since 2006 is the strengthening of those conditions that enable the locals to resist. Especially, divisions within the Union over the integration of Macedonia and the formation of

Ervin Kallfa

the coalition between VMRO-DPMNE and DUI have considerably weakened the ability of the EU to impose its demands on the Macedonian partners.

The problematic legitimacy of the EU in Macedonia and the influence of nationalist ideology promoted by VMRO-DPMNE has had serious implications. By openly resisting the Europeanization process, the Macedonian partners have challenged the hegemony of EU norms. Differently from Albania, EU statebuilding is not considered the only path for the development of Macedonia. One consequence of this is that in Macedonia even the institutional landscape does not comply with EU demands.

Chapter 6

Conclusion

The purpose of this study was to shed light on one ubiquitous aspect of statebuilding missions, the resistance of the local partners of the international statebuilders to building strong and legitimate states. My inquiry revolved around several questions: What motivates the resistance of the local partners to statebuilding programs that at least officially they have agreed to support? What enables the resistance of the local partners in the alleged presence of asymmetric interdependence between the locals and the international statebuilders? Finally, what factors determine the form that local resistance to international statebuilding takes? In this final chapter, I will summarize the main findings from the three case studies, and I will draw lessons that can be applied to other instances of international statebuilding. But before I do so, a few notes on the subjects of this study are warranted so as to provide the context for the analysis that will follow.

Scholars who study statebuilding have provided many reasons for why it often fails to achieve its goals, such as the lack of resources, wrong priorities, and limited local knowledge (Zaum 2007; Berdal 2009; Paris 2004). There were three principal reasons why I decided to investigate the resistance of the local partners. Resistance to the construction of state institutions is a well-examined and theorized topic in the literature on state formation (see for example Scott 1985 and Migdal 2001). James Scott maintains that resistance to state formation has been one of the main factors that has undermined state projects, e.g., the Confederacy and the French state during the early post-revolutionary years (Scott 1985, 30-31). There are good reasons to believe

that the same should be true for states that are built with the support and at the urging of international actors since statebuilding presents two of the most important features that scholars have identified as giving rise to resistance to the state: 1) disruption of the preexisting order, and 2) creation of state institutions that do not take into account local needs (Call 2008, 375; Richmond and Franks 2008, 168).

A second reason why I decided to investigate this topic is that while resistance is acknowledged as one of the factors that have impeded the successful implementation of statebuilding missions, most works have either not looked at resistance as their principal subject (Zaum 2007), or they have not theorized how local resistance undermines international statebuilding (Mac Ginty 2011).

This study focuses on one group of local actors, the domestic partners of the international interveners for three reasons: First, “local ownership” of statebuilding has become a widely accepted principle of international interventions (Suhrke 2010, 10; Paris and Sisk 2007, 4). This means that international actors have to forge partnerships, at least formally, with local actors. The EU, for instance, has emphasized that its statebuilding missions in the Western Balkans are partnerships between the Union and local governments (Chandler 2010, 75). Second, many case studies of statebuilding have concluded that the cooptation of local actors is integral to the success of statebuilding missions and sustainability (Zaum 2007, 143; Suhrke 2007, 1292). Local actors can provide legitimacy to the international interveners and can alleviate the shortage of staff and resources that the internationals so often face. Finally, the local partners are frequently dependent on the statebuilders as well, which at least in theory gives them a stake in statebuilding missions. The internationals can provide their local partners with legitimacy, both

international and domestic, and economic and military resources (Paris and Sisk 2007, 4; Papagianni 2008, 53; Pouligny 2006, 196-197; Giustozzi 2011).¹¹⁷

What allowed the comparison of statebuilding in Albania, Kosovo, and Macedonia, my three case studies, is their shared history, geographic proximity, similar demographics, comparable levels of political and economic development, and the fact that the EU is the principal international statebuilder in all of them. These factors kept to a minimum differences among the cases that affect the relationship between the locals and the international statebuilders.

The Union is not a disinterested statebuilder; instead, it has an important stake in building strong and legitimate states in these three countries. One of the key reasons why the EU launched its main statebuilding program in the Western Balkans,¹¹⁸ the Stabilization and Association Process (SAP), was to prevent the reoccurrence of the bloody conflicts that engulfed this region in the 1990s and early 2000s (Phinnemore 2013, 26). SAP was intended to assist the Western Balkan countries in strengthening their state institutions by providing them with generous financial assistance and the possibility of future EU membership. The EU through SAP has been trying to promote its own security as much as the security of the Western Balkans. Of particular concern to the EU are criminal activities that originate in the Western Balkans (EUROPOL 2011). Many EU officials believed that these illegal activities are made possible by the weak states of the region.

Not only is the EU interested in building strong states in my three case studies, but also the EU is particularly interested in civil service reforms in Albania and Macedonia and judicial

¹¹⁷ While many local actors are formally involved in negotiating with the EU in the three counties that are examined in this study (the government, parliament, and civil society), I consider top government officials to be the main EU local partners. For a more detailed discussion of this issue, refer to Chapter 1 as well as to the case study chapters.

¹¹⁸ The following countries make up the Western Balkans: Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia.

reforms in Kosovo, the topics that I have used to explore in detail the dynamic of EU statebuilding. According to Antoaneta Dimitrova, the Union has sought to radically transform the public administrations of its eastern neighbors so as to bring their state institutions in line with European norms and practices (Dimitrova 2005, 82). In addition, after the fall of the socialist governments, the capacities of the civil services of the Western Balkans deteriorated to such an extent that the countries of this region were not in the position to fulfill their contractual obligations towards the EU. Kosovo, on the other hand, is a major hub for illicit trafficking into the EU member states. Reforming and strengthening the Kosovo judiciary is one of the three main goals of EULEX (the European Rule of Law Mission in Kosovo), the largest Common Security and Defense Policy mission that the Union has ever launched.

The rest of the chapter is organized in the following manner: The first section provides a recapitulation of my argument. The second part summarizes the main findings from the case studies. The third section looks at the implications of my findings not only on resistance to statebuilding, but also on our understanding of statebuilding in general. The final part provides suggestions on future areas of research.

The Argument

I maintain that resistance to statebuilding is caused by the interaction between statebuilding and local politics. Statebuilding is the construction of institutions at the urging and with the assistance of international actors. It is guided by the ideas and needs of international actors, but this does not necessarily mean that the institutions being built are always against the interest of local societies. Local politics, on the other hand, is based on the ideas and needs of domestic actors, but it is not necessarily incompatible with international norms. While there can be

significant overlapping between the goals of statebuilding and local politics, there can also be friction, and this friction motivates the local partners to resist statebuilding.

The main cause of friction is the fact that statebuilding not only shapes the institutions through which power is exercised, but it also affects the distribution of power. The local partners will support those aspects of statebuilding that provide them with opportunities to enhance their power. On the other hand, the partners will resist those aspects of statebuilding that undermine their power.

Resistance to statebuilding is puzzling because of the alleged asymmetric interdependence between local actors and international statebuilders. This asymmetric interdependence is presumably caused by structural conditions, such as the local dependence on the military and financial resources of the statebuilders. I maintain that in addition to the conditions that allow the statebuilders to demand reforms, there are also structural conditions that allow the local partners to attenuate the asymmetric interdependence. The local partners can mobilize domestic resources to lessen dependence on foreigners, even though this can have political costs. Also, the international statebuilders might be interested in issues other than statebuilding, such as security or access to local markets, which can be used by the locals as bargaining chips. In addition, there might be differences among the various international actors involved in statebuilding that, in turn, allow the domestic partners to play them against each other. Finally, the sticks and carrots that the internationals use as inducement for local compliance may not be strong enough to break the resolve of determined resisters.

I have argued in this study that the end result of statebuilding is the product of the interaction between those structural conditions that permit the internationals to make demands and those structural conditions that permit the locals to resist. The corollary to this is that the

state is neither the product of foreign imposition nor does it represent a rejection of alien institutions. Instead, the state is the result of bargaining between the locals and the interveners, a bargain that is shaped by structural conditions.

The form that resistance to international statebuilding takes (overt or covert) is puzzling as well. I contend that the type of resistance offered depends on the domestic legitimacy of statebuilding. If statebuilding is legitimate in the eyes of the local population, the partners do not engage in open resistance, otherwise they will.

Statebuilding is legitimate at the local level if it promises security, economic growth, higher standards of wellbeing, and especially if it does not contradict local norms and beliefs. On the other hand, the local legitimacy of statebuilding might be compromised either because the internationals cannot provide any tangible benefits to local societies or because the institutions that they aim to build contradict local values.

In cases when statebuilding does not have a high degree of local legitimacy, the domestic partners can afford to openly resist the internationals by claiming that they are doing so on behalf of the community at large. On the other hand, when statebuilding has local legitimacy, the domestic partners cannot resist openly because by doing so they would go against the wishes of the local community. The only option available to the partners is to openly support the international mission, while working covertly to undermine it.

While both forms of resistance can be equally successful at undermining international statebuilding, I have contended that the form that resistance takes is important. Overt resistance not only undermines those institutions that are opposed by the locals, but it also challenges the ideological hegemony of statebuilders and opens up the possibility for the development of alternative ways of organizing the state.

Case study findings

Among the main aims of the EU statebuilding in the Western Balkans is the building of strong institutions, with particular emphasis on the civil service and the judiciary.¹¹⁹ These institutional reforms have a double purpose. First, they are supposed to promote internal stability and order in the countries of this region. Second, they are designed to prepare these countries to meet the requirements of EU membership. At the same time, the EU intervention has not been confronted with a *tabula rasa*; instead, the weaknesses of state institutions that were produced by the fall of the socialist governments and the conflicts of the 1990s and early 2000s have benefited certain domestic actors in the countries of this region. The story of EU statebuilding in Albania, Kosovo, and Macedonia is that of the interaction between the international intervention and the local political order. While this interaction has greatly transformed and strengthened the civil services of Albania and Macedonia and the judiciary of Kosovo, the end results of the Europeanization reforms in these sectors have often been significantly different from what the EU had wanted. Below, I will provide a short summary of the achievements and failures of EU statebuilding in reforming these two sectors.

In the early 2000s, the Albanian civil service was in great disarray. The main institutions in charge of running and monitoring the service, the Department of Public Administration (DoPA) and the Civil Service Commission (CSC), were poorly staffed and under-resourced. The civil service lacked a unified salary system, there were no regulations that determined the structure of state institutions or job descriptions, and there were many contradictions in civil service legislation. State institutions displayed a blatant disregard for the laws that were

¹¹⁹ Institution building is one of the five priority areas that are funded through the Instruments for Pre-accession Assistance (IPA). The other four are: cross border cooperation, regional development, human resources development, and rural development (EU Commission 2015).

supposed to govern them and routinely ignored recommendations and orders issued by DoPA and the CSC. Finally, the Albanian government did not even provide the civil service with the resources needed to fulfill its functions.

Similar to Albania, the Macedonian civil service by the year 2000 had many shortcomings. The Law on Civil Servants was not being fully implemented, and many pieces of secondary legislation were missing. The Law on Civil Servants was frequently amended, which prevented stability in the administration. The salaries of civil servants were too low to attract quality staff. There was no institutionalized training for new employees. The agency in charge of managing the civil service, the Civil Service Agency (CSA), was an independent agency under the parliament, a placement which prevented it from properly coordinating its work with that of the executive branch. The civil service in the early years was not very responsive to the needs of the public. There were no regulations concerning career advancement within the service. Minorities were significantly underrepresented. The register of public employees was not complete. Finally, the yearly assessment of civil servants was not properly implemented.

In Kosovo, the judiciary was in a dire situation in 2008, the year when the EU largely substituted the UN as the main statebuilder in this former Serbian province. The capacities of important judicial institutions, such as the Ministry of Justice and the Kosovo Judicial Council (KJC), were very limited. The legal framework was missing key legislation. The judiciary lacked *de facto* and *de jure* independence. Courts were unwilling and/or unable to deal with several categories of crimes, i.e., war crimes, organized crime, and corruption cases involving high government officials. The infrastructure of the court system, its human resources, and its organizational configuration were in a very precarious state.

In Albania and Macedonia, the goal of the EU-inspired civil service reforms has been to promote the European principles of public administration as formulated by SIGMA.¹²⁰ The Union has focused on several key elements: The adoption and implementation of civil service laws has been at the top of the reform agenda. The EU has requested the strengthening of the institutions that regulate the civil service, especially by providing these regulatory bodies with considerable autonomy from the government. Both countries have been asked to rationalize the internal organization of their civil services and to increase the transparency and accountability of these institutions. In order to prevent politicization and nepotism, the Union has demanded the strengthening of the meritocratic principle with regard to hiring and career advancement, as well as the adoption and implementation of ethics codes and conflict of interest regulations. So as to attract highly qualified staff, Albania and Macedonia have been asked to improve the compensation of civil servants, establish a career-based systems, and expand the training of civil servants. Finally, the implementation of the Ohrid Framework Agreement (OFA),¹²¹ which contains several clauses related to the public administration, is listed among the EU requirement for the Macedonian civil service reforms.

In Kosovo, the EU has put particular emphasis on promoting an independent and impartial judicial system that is free from political interference. To achieve this goal, the Union has demanded the adoption of a recruitment and career advancement system that is based on meritocratic principles and the strengthening of those independent institutions that are in charge

¹²⁰ SIGMA (Support for Improvements in Governance and Management) is a cooperation between the EU and OECD (Organization for Economic Cooperation and Development). It has been charged by the EU Commission with identifying the principles of the European Administrative Space (Meyer-Sahling 2012, 5). These principles embody common practices shared by EU member states as well as decisions of the European Court of Justice in the field of public administration. SIGMA papers 23 (Preparing Public Administrations for the European Administrative Space) and 27 (European Principles for Public Administration) detail the principles of the European Administrative Space.

¹²¹ OFA is the agreement that ended the 2001 civil conflict in Macedonia.

of the judiciary, the Kosovo Judicial Council (KJC) and the Kosovo Prosecutorial Council (KPC). Since the Kosovo judiciary was in a state of disarray when the EU took over in 2008, the Union has also prioritized the adoption and implementation of laws that regulate this field, the improvement of administrative capacities, and the training of judges and prosecutors so as to increase their capacities. Finally, in order to promote a more inclusive judiciary, the EU has asked for increasing the representation of minorities and women in the judicial system and facilitating minority access to judicial institutions.

Not only has the EU laid out the reforms that these countries must undertake, but also the Union has taken an active role in transforming the civil services of Albania and Macedonia and the judiciary of Kosovo. These sectors have received significant funds from the EU. IPA (Instruments of Pre-accession Assistance) has provided \$102.25 million for civil service reforms to Albania and \$62.5 million to Macedonia. In the 2007-2011 period alone, the EU dedicated \$850 million to the rule of law sector in Kosovo, one of whose main pillars is the judiciary. Moreover, the EU has provided significant technical assistance in designing and implementing the reforms that it requires of these countries. Finally, to energize the reform process, the EU has made civil service reforms in Albania and Macedonia and judicial reforms in Kosovo among the main requirements for EU integration.

Since 2000, the Albanian civil service has undergone major reforms, which to a large extent have been guided by the EU. Major pieces of legislation have been passed to bring the Albanian civil service in line with EU requirements. The initial 1999 Civil Service Law was supplemented in 2003 by two laws tackling corruption in the public administration. A law dealing with conflicts of interest was passed in 2005. A 2012 law regulates the organization of the public administration. Finally, a new civil service law which was adopted in 2013, and was

written by EU consultants, aims to strengthen the civil service and to close the many loopholes found in the 1999 law.

These legal reforms have significantly improved the quality of the Albanian civil service. DoPA and the CSC have been strengthened and have become more influential in managing the service. The salary and job description systems have been unified, and there are now guidelines that determine the structure of state institutions. The Information Technology (IT) capabilities of the civil service have improved significantly. The Training Institute of Public Administration (TIPA) has greatly increased both the number of seminars that it offers and the number of civil servants that it trains.

At the urging and with the support of the EU, the civil service in Macedonia underwent significant reforms in the 2000-2013 period, with most reforms taking place between 2002 and 2006, when the Social Democratic Union of Macedonia (SDSM) was in power. The legal framework that regulates the service underwent substantial changes. The civil service laws were reviewed and amended to make them compliant with EU standards and the provisions of OFA. Bylaws have been adopted that deal with free access to information, corruption, and conflicts of interest.

On the practical side, the institutions that regulate the civil service, the CSA (2000-2010) and the Ministry of Information Society and Administration (MISA) (2010-present), have been strengthened. These institutions have been empowered to set guidelines on the structure of the public administration, systematize job classification, draft bylaws, and discipline civil servants. Since 2011, almost all state institutions have submitted annual evaluations of their civil servants. Salaries have been increased periodically starting in 2007. Several strategies and training programs have been designed, and in 2008, the CSA created a department in charge of training

civil servants. Significant steps have been taken to improve the IT capabilities of state institutions. The application for civil service jobs can now be completed online, and the exam itself is in electronic format. A one-stop-shop system for the exchange of documents between different state institutions is in place, and citizens can submit online evaluations of the performance of government institutions. Finally, minority representation in the Macedonian civil service has improved considerably.

Since 2008, the Kosovo judiciary has undergone significant reforms. An important package of laws regulating the court and prosecutorial services was passed in 2010. In addition, laws regulating the witness protection program, declaration of property by government officials, and the Constitutional Court have been adopted. Many of these laws have been drafted with the support of EULEX advisors embedded in the Ministry of Justice, KJC, and the Kosovo Prosecutorial Council (KPC).

Other improvements have taken place as well. The management of the courts and prosecutorial services has been transferred from the Ministry of Justice (a political institution) to the KJC and KPC (institutions that operate independently of the executive). The vetting of judges in 2009 removed many unqualified individuals. Significant decreases in backlog court cases have occurred. The adoption of the Cases Management Information System (CMIS), which distributes cases randomly among judges, has reduced the chance of conflicts of interest. The Kosovo Judicial Institute started training judges and prosecutors in 2009.

Since early 2009, EULEX judges and prosecutors have been involved in 2270 cases, and they have tackled highly sensitive cases involving war crimes and corruption (e.g., the “Klecka” case and the prosecution of the former minister of transportation, Fatmir Limaj). This has helped remove the aura of impunity surrounding major criminal figures.

Despite the above improvements, serious shortcomings have plagued statebuilding reforms in these three countries. In the case of Albania, public administration institutions routinely ignore orders and recommendations issued by DoPA and the CSC, especially those concerning the hiring of new employees and the restructuring of institutions. Also, state institutions often fail to follow the provisions of the Civil Service Law, particularly those provisions that regulate the recruitment process. The civil service continues to be highly politicized, which has led to large-scale turnovers in civil service staff every time there is a change in government. Loopholes, such as the hiring of temporary workers, that allow hiring managers considerable discretion have been used to undermine the meritocratic principles of the service.

The Macedonian civil service continues to suffer from serious problems as well, and since 2006, the pace of civil service reforms has slowed down considerably. The application of laws regulating the civil service leaves a lot to be desired, especially those legal provisions that regulate recruitment. The frequent amendment and fragmentation of civil service legislation has created quite a lot of instability. The CSA and MISA have suffered from continuous weaknesses. Many state institutions used to ignore CSA orders and recommendations, while MISA has been too underfunded and understaffed to properly fulfill its functions. Politicization of the Macedonian civil service has been on the rise since 2006, when VMRO-DPMNE¹²² came to power. Finally, the large scale recruitment of minorities has turned the civil service into a spoils system, which has benefited mostly those members of the Albanian community with ties to the ruling DUI¹²³ party.

¹²² VMRO-DPMNE (Internal Macedonian Revolutionary Organization—Democratic Party for Macedonian National Unity) has been the main ruling party since 2006.

¹²³ DUI (the Democratic Union for Integration) is the main Albanian party in Macedonia.

Despite improvements, the Kosovo judicial system continues to be affected by serious problems. One of the most problematic areas is political interference in the working of the judiciary. This interference has limited the ability of Kosovo judges and prosecutors to deal with sensitive cases. The judiciary continues to be underfunded, and judges and prosecutors are not provided with appropriate security services. The Anti-Corruption Agency has not been assigned adequate staff or financial resources, and its investigations have been routinely ignored by prosecutors. Finally, the Kosovo judiciary continues to suffer from many technical problems, such as the improper usage of CIMS or the failure to follow proper procedures by judges and prosecutors.

While the above failures are due to several causes, the main responsibility for the failure of the Albanian and Macedonian civil services and the Kosovo judiciary falls on the local partners of the EU. They are the ones who have not only neglected to properly implement EU directives, but they have also often worked to undermine the very EU project. In Albania, the partners are responsible for the politicization of the service, which is the leading problem faced by the Albanian civil service. Mass layoffs of civil servants always follow changes in governments, and governing political parties have pressured civil service managers to hire almost exclusively party supporters. The Albanian partners have shown that they are able to close the loopholes, such as temporary contracts, that have been used to undermine the meritocratic principle of the service when they are willing to do so. The bloated Albanian bureaucracy is also an indicator of the fact that the civil service in Albania is used to make up for the failure of the private sector to generate enough employment. Finally, it is up to the local partners, as the heads of the executive, to make sure that state institutions follow the orders and

guidelines issued by DoPA and CSC. Unfortunately, not only have the partners failed to support these two institutions, but they have also worked to undermine them.

The local partners are also responsible for the failure of civil service reforms in Macedonia. There is agreement among experts on this country that since 2006, the Macedonian government, or more precisely the leading Macedonian governing party (VMRO-DPMNE), has purposively misused the civil service to win elections. Nicola Gruevski, the VMRO-DPMNE prime minister, has even publicly acknowledged that he wants to run the state with his own group of people (Cohen 2010, 9). Also, the politicization of minority hiring is the fault of the partners, because they are the ones who have hired minority members when there is no demonstrated need for new employees (EU Commission 2011, 10). In addition, the partners are the ones who have pushed for the continuous amendment and fragmentation of the civil service law, often so as to expand opportunities for patronage. Finally, the local partners have failed to take punitive actions when state institutions ignore the provisions of the Law on Civil Servants.

Even in Kosovo, the most detrimental weaknesses of the judiciary are due to the actions (or inactions) of the local partners (Court of Auditors 2012, 21; Derks and Price 2010). It is the partners who have put undue pressure, such as through public statements that are intended to influence court rulings, on the judiciary not to deal with certain types of crimes. They have tried to undermine the independence of the judiciary by either creating parallel institutions, e.g., the creation of the Consultative Council for Justice by Prime Minister Thaci, or by influencing the appointment of judges. Lastly, the partners have failed to provide the judiciary with either a proper budget (the budget for the judiciary is less than 0.5% of Kosovo's GDP) or adequate security, both within the courtrooms as well as outside (Qosja-Mustafa 2013, 7).

As the above summary shows, the efforts of the EU to reform the civil services of Albania and Macedonia and the judiciary of Kosovo have produced mixed results. No one disputes that these institutions have been significantly transformed since the start of EU statebuilding. At the same time, it is clear that these institutions are far from functioning the way that the Union wants them to.

These failures are not due to the inability of the partners to implement the EU-demanded reforms or to the weaknesses of local bureaucracies. When they have been willing, the partners have been able to successfully tackle even very challenging problems. One of the biggest challenges that these three countries were facing at the beginning of the period examined in this study was high levels of violence, which was due to a large extent to the conflicts that engulfed the Western Balkans in the preceding decade. But as the case study chapters showed, the bureaucracies of these three states have been quite successful in curbing the occurrence of violence and maintaining social peace. The murder rates in these countries, for example, are lower than in some EU member states. In 2010, the murder rates in Lithuania and Estonia, for example, were respectively 7 and 5 murders per 100,000 inhabitants and in , while in Albania it was 4 per 100,000 and in Macedonia it was 2 per 100,000 (World Bank 2015). In Kosovo, the murder rate in 2009 was 2.9 per 100,000 (ICG 2010, 3).¹²⁴

At this point it is warranted to explain why I consider these actions of the local partners resistance but not something else, such as noncompliance. First, these actions fall within the definition of resistance that I have borrowed from James Scott.¹²⁵ I consider resistance those acts of the local partners that are intended to mitigate or deny claims made by the statebuilders. By

¹²⁴ I was not able to find the murder rate in Kosovo for the year 2010.

¹²⁵ According to James Scott, “resistance includes any act(s) by member(s) of a subordinate class that is or are intended either to mitigate or deny claims ... made on that class by superordinate classes... or to advance its own claims... vis-à-vis those superordinate classes” (Scott 1985, 290).

signing the SAA (which are binding international agreements), Albania and Macedonia took upon themselves the legal obligation to fulfil the requirements of EU statebuilding. Article 143 of the Constitution of the Republic of Kosovo, on the other hand, states that the provisions of the Ahtisaari plan (EULEX is one of them) are binding on Kosovo and take precedence over all domestic laws. Since, the agreements signed between these three countries and the EU are legally binding, and because the EU has made extensive and detailed demands, the EU is in charge of reforming the civil services of Albania and Macedonia and the judiciary of Kosovo. As the case study chapters showed, the resistance of the partners is intended to mitigate or deny some of the claims of the EU.

Moreover, other writers on statebuilding have labeled resistance actions similar to the ones that I have described in the case studies. Dominik Zaum, for example, calls resistance the actions of local politicians in Bosnia and Herzegovina (such as foot dragging) that were intended to prevent the adoption or implementation of reforms demanded by the international community (Zaum 2007, 101-105). Astri Suhrke uses the same term to depict the efforts of Afghans (which varied from public acts of violence to surreptitious actions) to undermine the international statebuilding efforts (Suhrke 2007).

These acts of resistance not only show that relatively weak local actors can undermine the projects of powerful statebuilders, but they also allow us to explore the dynamic of international statebuilding. The next section will look at the lessons that can be drawn from the findings of these three case studies both about local resistance and about statebuilding in general.

Resistance and the dynamic of statebuilding processes

This section will tackle the question of what does the resistance of the local partners of the EU in Albania, Kosovo, and Macedonia reveal about the dynamic of international statebuilding. I will argue in the following pages that statebuilding is not simply the imposition of alien institutions on indigenous societies by international actors; instead, it is a process that is driven by the interaction among local and international actors. There are several features that animate this process: 1) EU statebuilding both creates new institutions and destroys old ones; 2) there are multiple actors (local and international) that compete and cooperate over shaping the form and the functions of the state; 3) the agendas of these actors overlap only partially, which explains why they sometimes cooperate with while other times they oppose each other; 4) there are structural conditions that allow both sets of actors to make demands over the state being build, which causes state institutions to be a compromise between the locals and the internationals; and 5) the institutions are shaped not only by the material endowment of the actors involved in the struggle, but also by the local legitimacy of the international intervention.

Commonly, EU statebuilding in the Western Balkans is examined through the lens of positive transformation: the stabilization of the region, the strengthening of domestic institutions, and modernization (Grabbe 2006, 5).¹²⁶ What is missing from this conventional view is the destructive aspect of EU statebuilding and the fact that there are local actors who are not completely on board with EU's project. When the Union undertook to Europeanize these countries, it did not start building institutions from scratch; instead, it had to confront preexisting institutions, practices, and local preferences. More importantly, the EU's project almost always is

¹²⁶ There are a few exceptions to this such as the volume edited by Schimmelfennig and Sedelmeier (2005), but even the contributors to that edition sees EU statebuilding as undermining corrupt and backward institutions, not as being a threat to the wellbeing of people.

implemented by the local partners, who commonly have a stake in the preexisting order. This preexisting order did not only shelter corrupt and authoritarian politicians, but it also provided coping strategies to large segments of the population. The resistance of the local partners is motivated by the desire to undermine those aspects of EU statebuilding which they consider to threaten their interests, their values, or the welfare of local societies.

In the case of Albania and Macedonia, it would be next to impossible for any of the partners of the EU to come to power without promising their supporters employment in the state administration because both countries suffer from high unemployment rates, and what most people expect from the government is jobs.¹²⁷ Furthermore, since the private sectors in these countries have failed to produce enough jobs, the government has to employ many who do not have any other recourse.¹²⁸ Also, in both countries it is widely accepted by the people that work in the civil service is found only through personal connections to politicians.¹²⁹ Finally, in both Albania and Macedonia the politicization of the civil service promotes social welfare in other ways. In Albania, the bribery of civil servants serves as a perverted form of income redistribution. In Macedonia, the mass hiring of Albanians, even though many of them are not needed, has helped to pacify the Albanian minority and has promoted social peace. (This is not intended to deny that the civil services of Albania and Macedonia have not been abused by the partners for their own selfish reasons, as the chapters on these two countries clearly demonstrated.)

¹²⁷ Both the hiring of civil servants based on their political connections (politicization) and nepotism, the main ways through which civil servants are hired, are condemned by the EU.

¹²⁸ The Union has called for the streamlining of the civil service in these countries, which, if implemented, will reduce the number of civil servants.

¹²⁹ This is based on my experience living in Albania and my conversations with many people in Macedonia.

As Chapter 4 showed, in Kosovo, organized crime has penetrated deeply inside the governments, many of whose officials have either served time in jail or have been accused of criminal activities. On the other hand, the wealth and influence that have been derived through such criminal activities have allowed the local partners of the EU to develop extensive networks of patronage and garner significant popular support. In addition, many of the figures that EULEX has targeted in its judicial investigations are considered by the local population to be war heroes. Thus, EU statebuilding activities in Kosovo not only threaten the local partners, but they also go against strongly held popular values.

The above discussion means that statebuilding should be viewed as a struggle among different actors who do not necessarily share the same agenda. Also, there is no reason to prioritize any of them, since both the locals and the internationals are involved in shaping the form and the functions of the state. Looking at statebuilding from this perspective challenges labeling of the domestic partners as spoilers (Paris 2004) or illiberal actors (Vachudova 2005). While some of their actions have undermined parts of EU statebuilding that enjoy considerable domestic support, and resistance is partly motivated by purely selfish reasons, resistance also promotes the interest of significant local groups and has considerable local support. To call the partners spoilers or illiberal actors means to elevate the interest and expertise of the EU at the expense of the local ones. Moreover, it implies that the local partners do not have the right to oppose the negative side effects of EU statebuilding. Finally, as I will discuss in more detail below, resistance is not directed against the whole statebuilding project; but instead, it targets specific aspects of the international intervention. The local partners are not trying to “spoil” the EU statebuilding, nor are they trying to promote illiberal values. What they are trying to do is resist reforms that they perceive as threatening to themselves or to society at large.

By looking at statebuilding as a process that involves multiple actors helps to shed light on the forces that drive statebuilding projects. Many scholars of statebuilding maintain that international statebuilding violates local sovereignty and imposes alien institutions (Zaum 2007; Owen 2002; Rubin 2005). In the case of EU statebuilding in Albania, Kosovo, and Macedonia, the signs of imposition are quite obvious. The documents that state reform requirements, such as Accession Partnerships or European Partnerships, are drafted in Brussels with very little input from these three countries. Moreover, the statebuilding requirements are remarkably similar in the three cases, which points to the fact that local differences are not taken into account by the Union. While SAP is supposed to be a partnership between the states of the Western Balkans and the EU, only the EU can decide when the demands of SAA have been fulfilled, and whereas the locals are held accountable by the EU, the Union is not accountable to the locals. Finally, the locals can be punished for failing to fulfil their part of the agreement, but the EU does not suffer any penalties for failing to integrate these countries.

At the same time, there is wide agreement that the building of state institutions in Albania, Kosovo, and Macedonia has not followed the blueprints designed in Brussels, and local resistance is to a large extent responsible for this discrepancy. What the resistance of the local partners has accomplished is to take back from the EU some of the authority to determine the contours of state institutions, and by doing so, the local partners have introduced local politics and local concerns into the EU statebuilding. Thus, local resistance ameliorates the problems that arise from the violation of state sovereignty and the imposition of institutions by the Union. What the case study chapters have shown is that the local partners have been able through resistance to deny to the EU the claim (albeit a silent one) of exclusivity when it comes to reforming these states, and they have been quite successful in having the civil services in Albania

and Macedonia and the judiciary in Kosovo reflect to a large extent local interests (even though not all local interests) and the local distribution of power.

For example, one of the main EU demands regarding the civil services of Albania and Macedonia and the judiciary of Kosovo has been their depoliticization. At the same time, retaining political influence over these institutions is crucial to the local partners. Despite, EU pressures, demands, promises, and threats, the reformation of these institutions (and they have changed significantly since the start of EU statebuilding) has not resulted in their depoliticization.

Related to the above topic are the criticisms that statebuilding creates institutions that neither have linkages to local societies nor reflect local interests or needs (Chandler 2006, 9; De Guevara 2008, 349). As it was mentioned above, this study partially confirms this claim. In Kosovo, for instance, both the local partners and the population at large are appalled by the efforts of the EU to prosecute KLA veterans. But, I maintain that this criticism is only partially correct because not all institutions and reforms demanded by the EU have been rejected by its Albanian, Kosovar, or Macedonian partners. As the case studies show, there are many examples of successful reforms. In the case of Albania and Kosovo, the EU has been quite successful in promoting legal reforms. In Albania, the structure, job description, and salaries of the civil service have become more coherent. In Kosovo, the EU has been able to create from scratch or to strengthen important judicial institutions, such as the KPC and KJC. In Macedonia great strides have been made in achieving equal representation of minorities in the civil service.

These cases show that only part of the EU's statebuilding agenda has been resisted. Some reforms have either been embraced or have not elicited any opposition by local actors. The claim that the institutions created by statebuilders are alien to local societies is problematic. It

perpetuates an artificial divide between the West, in this case the EU, and the rest of the world. The implication is that non-Western societies do not provide a fertile ground for building “modern” institutions, and nonwestern individuals should be instead governed by their native and “exotic” institutions. This artificial divide does not take into account the close relationships between western and nonwestern societies and mutual exchanges between the two. The Western Balkans, for example, has historically been part of Europe, and the creation of the modern states of this region has been greatly influenced by European powers.

Instead of viewing statebuilding as imposed by the international actors and resistance as being motivated by the desire to protect “indigenous” institutions, it is more productive to look at how statebuilding affects local power dynamics. Susan Woodward maintains that the resources that are provided by statebuilders “will influence the political balance among domestic actors in their contest over the state and its transformation in that historical moment” (Woodward 2011, 88). The implication for local resistance is that the domestic partners are selective with regard to which parts of the international statebuilders they oppose. The strengthening of the state institutions demanded by the EU can significantly benefit the local partners by increasing their ability to exercise power, and that is one of the reasons why in Albania, Kosovo, and Macedonia the reforms demanded by SAP are often given priority by the governments of these countries. Instead, only those aspects of Europeanization that threaten the power of the local partners, contradict local values, or represent a threat to local societies are resisted.

In the cases of Albania and Macedonia, only those civil service reforms that contradict the local vision of the civil service, e.g., to serve as an instrument for exercising government control, have been resisted. On the other hand, many other reforms, such as improvements in training of civil servants or increases in salaries, have been quite successful. In Kosovo,

principally efforts to create an independent and depoliticized judiciary have been resisted, while significant progress has been achieved in reforming the laws and institutions that regulate the judiciary. The claim that this resistance is quite selective is supported by the fact that the institutions that were examined in this study have been substantially transformed, mainly along the lines demanded by the EU, since the beginning of EU statebuilding.

More importantly, these transformations propelled by the EU cannot be dismissed as just a façade, unless one thinks that formal institutions do not matter. Instead, they are bound to have important effects on local politics, just not necessarily the exact effects that the EU intended them to have. In Kosovo, for example, the presence of EULEX and the strengthening of the judiciary has led to the successful prosecution of influential local politicians (such as Sami Lushtaku, the popular mayor of Skenderaj who was a top KLA commander).¹³⁰ At the same time, EULEX has not been able to cut the linkages between criminal organizations and the Kosovo government.

The fact that the statebuilding process involves different actors who do not share the same agenda is not enough to explain neither the form and functions of state institutions nor the effectiveness of local resistance in undermining parts of the statebuilding. Instead, the case studies show that there are structural conditions that empower both the international interveners and the local partners to make claims on each other over the form and functions of the state.

What is puzzling in the success of the local resistance in Albania, Kosovo, and Macedonia in undermining large parts of the EU's statebuilding projects is the fact that such resistance has taken place in the presence of alleged asymmetric interdependence between these countries and the EU. The literature on the EU's expansion into the former socialist countries

¹³⁰ Sami Lushtaku is currently serving a 12-year sentence for war crimes.

maintains that the Union was able to impose its statebuilding agenda on these countries because of significant “power asymmetries” between the two (Hughes et al. 2004, 524). Simply put, the benefits derived by the former socialist countries from the EU were by far greater than what they provided in return to the Union (Moravcsik and Vachudova 2003, 460; Vachudova 2005, 63). And since access to these EU benefits, particularly EU membership, was conditioned on these countries complying with the Union’s statebuilding agenda, the EU was able to impose its statebuilding on them.

The evidence of Albania’s, Kosovo’s, and Macedonia’s dependence on the EU is overwhelming. The EU is the largest international donor to these three countries. Between 2000 and 2013, Albania received about \$2.5 billion in aid from various EU sources, while Macedonia received \$2.9 billion. From 1999 to 2013, Kosovo obtained \$3.85 billion in aid. Moreover, the EU is an important factor in maintaining domestic stability and regional security for these countries. The EU is one of the leading actors that has helped preserve the territorial integrity of Kosovo and Macedonia. It is also one of the main actors that intervenes to find negotiated solutions for the frequent domestic crises that plague the countries of the Western Balkans. The Union also enjoys significant popular (as well as elite) support. In Albania and Kosovo, the overwhelming majority of the population supports EU integration, and in all of the three countries, the EU is seen as the solution to the most pressing social and economic problems (such as economic stagnation and unemployment). Finally, in Kosovo, EULEX enjoys executive authority, which means that the EU can override the decisions that are made by its Kosovar partners.

But the findings of this study suggest that the claims of asymmetric interdependence between the EU and my three case studies are exaggerated at best. There are several structural

conditions that help to attenuate this asymmetric interdependence. One of the main structural conditions that has empowered the local partners of the EU to resist is the prioritization by the EU of stability and security in the Western Balkans over statebuilding. Interethnic peace in Macedonia, dialogue between Serbia and Kosovo, and the forswearing of ethnic Albanian secessionism by Albania have been used as cards by the local partners to avoid punishment for their failures to follow through with EU-demanded reforms and to further integrate their countries into the Union.

Another important condition is the divisions at the EU level, both among member states and EU institutions, on how to deal with these countries. The EU Parliament and the EU Commission have in general been more supportive of the integration of Albania and Macedonia, while the Council of the European Union has been reluctant to integrate these countries. Greece and Italy have pushed for the integration of Albania into the EU, while other EU members, such as the Netherlands and Denmark, have been more critical. Greece and Bulgaria have vetoed the integration of Macedonia for reasons that have nothing to do with the implementation of Europeanization reforms. Finally, five EU member states, Cyprus, Greece, Romania, Slovakia, and Spain, do not recognize the independence of Kosovo, which means that as of now, Kosovo cannot become a member of the EU. These divisions have both reduced the ability of the EU to either reward the implementation of statebuilding reforms with further integration, or punish recalcitrant partners, i.e., divisions within the EU have blunted both the carrots and the sticks that the EU normally uses to thwart resisters.

Moreover, instead of asymmetric interdependence between the EU and these three Western Balkan countries, the case study chapters show that there is more of a mutual interdependence. What this mutual interdependence means is that the process of statebuilding not

only transforms the EU into an actor participating in the domestic politics/struggle of these state, but also permits the local partners to become involved in EU-level politics. The same way as the resources provided by the EU affect the balance of power within each of these three countries, the resources possessed by the domestic partners are important in solving problems that the EU faces, such as those regarding the traffic of drugs and illegal immigrants and conflicts at the EU's periphery.

The Western Balkans is a major route for smuggling illegal immigrants into EU member states. The Union relies on the countries of this region to stop such flows. In exchange for allowing the citizens of the Western Balkans to enter the EU without visas, the Union has asked that these countries provide their citizens with biometric passports, which are very difficult to forge, and significantly strengthen border controls. In addition, these countries have agreed to readmit all illegal immigrants who enter the EU through their territory, even if they are not their own citizens (see the visa liberalization roadmaps provided by the EU to the countries of Western Balkans for more on this topic).¹³¹ This strategy has worked, and the flow of illegal immigrants from the Western Balkans has decreased significantly since the institution of the visa-free regimes (FRONTEX 2014, 5).¹³²

The Western Balkans is also a major trafficking route for drugs into EU member states. Most of the heroin that is smuggled into Western Europe passes through this region, and Albania has become a major producer of the marijuana that is consumed in EU countries (UNODC 2014). The United Nations Office on Drugs and Crime (UNODC) has estimated that more than

¹³¹ The European Stabilization Initiative website has a collection of the visa liberalization roadmaps for each Western Balkans country. <http://www.esiweb.org/index.php?lang=en&id=352>

¹³² Even though the citizens of the Western Balkan countries, with the exception of Kosovars, can enter the EU without visas, they still need to fulfill certain conditions, such as have a significant amount of money deposited in a bank account, before they are allowed into EU member states.

60 tons of heroin are smuggled through the Western Balkans annually, and 48 tons of marijuana were seized in 2012 (UNODC 2014, 5). The Union's strategy to fight the war on drugs has relied heavily on cooperating with the countries of this region (EUROPOL 2013, 9).

Finally, the EU has relied on local partners to promote the stability of this region and prevent the recurrence of the conflicts of the 1990s and early 2000s. In Kosovo, the Union has pushed for a negotiated solution to the dispute between this country and Serbia. The Union has also used Albania to stop the tide of Albanian separatism (there are significant Albanian minorities in Greece, Macedonia, Montenegro, and Serbia). Finally, the Union needs the cooperation of its partners in Macedonia to ease inter-ethnic tensions in that country. This interdependence has reduced the ability of the EU to impose its agenda on the locals as well as to punish recalcitrant behavior (i.e., resistance) by the partners.

The structural conditions mentioned above have shaped the possibilities for institutional reforms in these three countries. Those conditions that empower the EU have allowed the Union to significantly influence the formal legal and institutional aspects in Albania and Kosovo, and to a lesser extent in Macedonia. On the other hand, those structural conditions that empower the local actors have allowed the partners to successfully undermine large parts of the EU's statebuilding agenda. The end results of this struggle are states that reflect partially the program of the interveners and partially the interest of the locals.

The implication of all this discussion is that EU statebuilding is more of a negotiation between the Union and the local partners than an imposition of reforms by a stronger actor over dependent weak actors. The reasons why I am calling this a negotiation is because what is at stake is EU membership for Albania, Kosovo, and Macedonia, the main reason why these three countries have engaged in EU statebuilding. But joining the Union is dependent on successful

Europeanization (at least officially). Because these three countries have progressed in EU integration even though their reform of state institutions is problematic,¹³³ it means that the Union has had to lower its standards of what is considered an acceptable level of Europeanization. I need to point out that these are only informal negotiations because, publicly, neither side considers the EU reform demands (Europeanization) as negotiable.

While structural conditions permit the resistance of the local partners of international statebuilders, I maintain that the legitimacy of the international intervention and the institutions that they build determines the form that resistance takes. The importance of local legitimacy of statebuilding missions has already been noted in the literature as being important in ensuring mission success (Sending 2009; De Guevara 2008; Pouligny 2006). I claim that not only is the local legitimacy of the international mission crucial to statebuilding success, but it also shapes the kind of local resistance the statebuilders will face.

In Albania, the EU statebuilding mission has a significant support both among the population and among the political elite. Periodic public opinion polls have shown that the overwhelming majority of Albanians support EU integration, and Albanians rank the EU as the most important ally of their country and as more trusted than any local institution. At the intellectual and ideological level, not only are there no anti-EU groups in Albania, but also the return-to-Europe myth and the Europeanization ideology are hegemonic. In the last election, the two largest party coalitions both made reference to EU integration in their names. The left coalition was named the Alliance for a European Albania, while the right coalition was named the Alliance for Employment, Prosperity, and Integration. Finally, a study conducted by the Open Society Foundation of Albania found that the EU was mentioned more in the speeches of

¹³³ As of 2015, Albania and Macedonia have advanced to candidate status, while Kosovo has signed a Stabilization and Association Agreement.

the leading Albanian politicians than any other topic (OFA 2012). One consequence of this is that Albanian governments justify their acts based on the need to join the Union. For example, the national strategy for development of the previous government listed EU integration as its vision (Albanian Council of Ministers 2008, 14; Socialist Party of Albania 2013, 3). The program of the current government lists EU integration as its main goal. Also, the Albanian partners of the EU refrain from openly challenging the EU because if they do so they would go against one of the main sources of their legitimacy, and they would not be able to mobilize significant support against the Union.

In Kosovo the legitimacy of the EU has been challenged for two reasons. First, since most of the Kosovo partners of the EU have a KLA background, they can use the legitimacy of the war of independence to attract popular support. Second, the main EU statebuilding mission in Kosovo, EULEX, has often targeted in its investigations KLA veterans, whom the local population considers to be war heroes. This has undermined the EULEX's legitimacy in Kosovo, where it is often accused of doing the bidding of Serbia. This lack of local legitimacy by EULEX is reflected in the low public approval of the missions, the large numbers that protests against EULEX have attracted, and by the numerous anti-EULEX graffiti painted throughout the capital of Kosovo, Prishtina. This lack of legitimacy of EULEX has allowed local actors to resist openly. Moreover, this open resistance is couched in rhetoric that claims to defend KLA war heroes, the legitimacy of the KLA war, and the protection of Kosovo sovereignty.

Finally, in Macedonia, the legitimacy of the EU has suffered because of the hurdles that two of the Union's members (Bulgaria and Greece) have put on Macedonia's path to EU membership, but also because of the development of a nationalist and religious Macedonian identity by VMRO-DPMNE. Public opinion polls show that popular support for the EU has

fallen considerably, and more importantly most ethnic Macedonians (Slavs), the largest ethnic group in Macedonia, oppose EU integration. The Macedonian partners, on the other hand, have used the lack of legitimacy of the EU to openly resist the Union. It is telling that these acts of resistance are couched in rhetoric that claim to protect the Macedonian nation from foreign threats.

Legitimacy is important in determining the form of local resistance because both the statebuilders and their local partners need to mobilize local support in order to promote their versions of state reforms. With no local legitimacy, the EU's efforts to punish recalcitrant behavior would turn into an insurgency. On the other hand, the locals can use the EU's lack of legitimacy to mobilize the population against the EU (as the partners have done in Kosovo and Macedonia), thus both increasing their bargaining chips during the informal negotiations that were mentioned above and decreasing the possibility that the EU will punish them because such punishment will be perceived as aimed at the whole country, not just the partners.

While as the case study chapters have shown, both forms of resistance have been able to undermine significant parts of the EU's statebuilding, it is important to differentiate between these two forms of resistance. Open resistance not only undermines EU statebuilding, but also challenges the ideological hegemony of Europeanization. In Macedonia and to a lesser extent in Kosovo, the local partners have proposed alternatives to the EU model of the state. This is particularly a significant blow to the Union, which prides itself as being a normative power.

Because formal institutions and laws, even when they are not implemented properly, still matter is a second reason why the form of resistance is important. Formal institutions can provide local actors with opportunities to act. An example of this is the Albanian law prohibiting smoking in public spaces, which was passed at the urging of the EU. The law was enacted in

2007, but the then-government did not enforce it. The government that was elected in 2013, on the other hand, has implemented this law, which has significantly reduced smoking in cafes and restaurants, thus greatly reducing second hand smoking. Second, formal laws and institutions can also define the rights of groups and opportunities for actions. While critical journalists face government retribution in all the countries of the Western Balkans, the fact that Macedonia has enacted restrictive media laws, which are opposed by the EU, has worsened the plight of Macedonian journalists.

By looking at the resistance of the local partners to international statebuilding, in this study, I have shown that statebuilding is an interactive process that involves both local actors and international ones. My main aim was not to show that the locals opposed some parts of the statebuilding agenda, this is quite obvious to all the students of this field. Instead, I have shown how the locals and the internationals cooperate and compete in building state institutions, and I have shed some light on the forces that propel this dynamic. These forces, I have argued, limit the type of state that can be constructed.

Avenues for future research

In this study, I have focused almost exclusively on the resistance of the local partners of the EU, a resistance that is motivated by the disruptive effects of EU statebuilding. But the negative aspects of statebuilding do not only affect the local partners of the statebuilders, but they also affect other local actors as well. Civil service employees in Albania and Macedonia and war veterans in Kosovo are threatened by at least some of the reforms that the EU is pushing for. At the same time, there are many locals who stand to derive significant benefits from statebuilding.

Many young professionals, minority groups, and certain businesses¹³⁴ can potentially benefit substantially from the further integration of these three countries into the EU. There is the need for future studies to investigate how the rest of society reacts to statebuilding, and more particularly, there is the need to examine the interaction between those actors who benefit and those local actors who are hurt by statebuilding.

There is also the need to investigate resistance across different issues. I suspect that EU officials and their local partners differ with regard to the importance that they attach to various reforms. There are issues, such as the fight against corruption, where the locals have a lot at stake and would be willing to offer significant resistance. Based on the experience of the integration of other former socialist countries, e.g., Romania, the EU has been willing to close an eye to official corruption. On the other hand, there are issues that are very important to the Union, such as border controls, for which I suspect that the EU will be more determined and more unified in combating local resistance.

One of the issues that I did not investigate in this research project is the variation in local resistance over time. It should be expected that both the influence of the international statebuilders and the structural conditions should not be static. There are good reasons to assume that the influence of the EU in the Western Balkans was greater until 2005. Up to that year, the local states were still reeling from the conflicts of the 1990s and early 2000s, the local economies and societies were more in need of EU financial aid, and the membership carrot of the EU was more believable. On the other hand, there are reasons to believe that the influence of the EU should have decreased after 2005, when the Union became reluctant to add new members from the Western Balkans. Especially, the influence of the EU should have decreased after the

¹³⁴ EU member states are eligible to receive structural funds from the EU, which have been helpful in the economic development of the poorest EU members.

financial crisis of 2008. Also, the structural factors that enable resistance have changed over time. In the case of Macedonia, the coalition between the two main Albanian and Macedonian parties (DUI and VMRO-DPMNE) has helped to contain ethnic conflicts, thus reducing the need for EU interventions. In Albania, local politicians have learned to appeal directly to EU member state governments in order both to protect themselves from EU criticism and to further Albania's EU integration.

While in the case study chapters I show how the resistance of the local partners has been able to undermine significant parts of the EU's statebuilding project, more research is needed to determine the long term effect of resistance on the "Europeanization" of these countries. Of particular interest is the interaction between formal institutions that comply with EU requirements and informal institutions that do not. Will the underperforming local institutions that have been set up at the EU's request slowly atrophy and be replaced by purely indigenous institutions or will the informal institutions slowly wither away as these countries become more integrated into the EU, and, especially, as the economic justifications for these informal institutions disappear? This last point is especially important in Albania, whose legal and institutional landscape is highly compliant with EU demands, while the behavior of the political elite is not.

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