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ASSESSING THE EU SPECIAL  
REPRESENTATIVE PERFORMANCE:  
Samuel Žbogar's performance through Two  
Mandates



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Assessing the EU Special Representative: Samuel Žbogar's performance  
through Two Mandates

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# ASSESSING THE EU SPECIAL REPRESENTATIVE: SAMUEL ŽBOGAR'S PERFORMANCE THROUGH TWO MANDATES

## I. INTRODUCTION

He is the highest-ranking European Union official on the ground in Kosovo. He manages the distribution of tens of millions of Euros for Kosovo's progress towards the EU. He heads an office that advises on every piece of Kosovo legislation to ensure that it is in line with European standards. He handles the day-to-day implementation of the fragile dialogue between Kosovo and Serbia on the Kosovo side. He mediates between Kosovo Albanians and Kosovo Serbs, between disparate EU member states and between the EU and third parties. As the EU Special Representative to Kosovo, Samuel Žbogar is the most important international official in Kosovo. Given his importance, it is vital that he be able to work effectively towards ensuring Kosovo's European future. This report evaluates his performance over his first two and a half years in Kosovo to consider the way forward as his new mandate begins. It will look at the background of his position, the Special Representative, and where it fits in the Kosovo context. It will also consider how he came to be the Special Representative in Kosovo and examine his mandate in depth. After this background, the report will discuss the two aspects of his mandate: coordinating the EU presence in Kosovo and ensuring Kosovo's European path, before concluding and giving recommendations for the Special Representative and the EU.

This report does not seek to give Žbogar a report card, grading him on individual subject areas; instead, it looks back on his first three years and a half to draw a roadmap for the future. While evaluating his performance is necessary, this report intends to use this evaluation to look forward, not litigate the past. It does not aspire to hagiography or subversion of Žbogar. To deny the biases of the author and interviewees would be foolish, but hopefully preconceived notions, at least on the part of the author, were minimized. Overall, the report gives a positive evaluation of the Special Representative, as his outreach to minorities, his advocacy on Kosovo's behalf in the EU and aid to Kosovo's legislative process, among other actions, far outweigh the problems present in a sometimes timid approach to local politics and sporadic communication breakdowns with the member states. This exceptional performance makes it all the more problematic that the EU seems so unwilling to trust its Special Representative, as it undermines him by ignoring his advice and withholding information. While Žbogar's performance could improve, the EU should put greater faith in him and his understanding of Kosovo.

## II. SPECIAL REPRESENTATIVE

Special Representatives hold an amorphous position within the EU hierarchy. Created in 1996, they represent the EU in crisis areas and, in certain cases, manage the EU's presence in these areas. Though originally appointed solely by the Council of the EU, the High Representative now nominates Special Representatives while the Council only confirms or denies the appointment. Special Representatives receive their mandates from the Council and recommended to last 12 months before renewal, with individual Special Representatives serving no longer than four years. Special Representatives receive direction from both the Council and from the High Representative, though technically serve under the High Representative.<sup>1</sup> A nasty bureaucratic struggle over the position has broken out between the High Representative, Catherine Ashton, and the member states. The position grates on the High Representative, who believes it undermines her authority and that of the European External Action Service (EEAS) in foreign

affairs. This impression may be accurate, as member states value the position because it gives them some control over the EU's response to particular crises. Ashton has responded with traditional tools of bureaucratic infighting: budget cuts and workarounds. She essentially terminated the Special Representative to the Middle East Peace Process by eliminating its budget.<sup>2</sup> She nominated "Special Envoys" to Libya and Central Asia— regions traditionally monitored by Special Representatives—as these envoys fall under her authority. Predictably, the Council disapproves. The UK especially fought bitterly against attempts by Ashton to eliminate the Special Representatives.<sup>3</sup> This struggle will continue, as the High Representative seeks control over foreign policy and the Council struggles to keep its voice.

The peculiarities of the Special Representative to Kosovo protect it from these bureaucratic politics, but do not make it immune. The Ahtisaari Plan called for an extensive EU presence in Kosovo and for an official to manage that presence and handle supervised independence. Such a role, with its ad hoc nature and issue-specificity, was typical for EU Special Representatives and Pieter Feith of the Netherlands became the first Special Representative to Kosovo after the position was created.<sup>4</sup> In its brief existence, the position has been combined with and divided from other positions. Feith held it also heading the International Civilian Office supervising independence; his interim successor, Fernando Gentillini, held the position alone; Samuel Žbogar, the subject of this analysis, currently holds it as part of "double hat" of the Special Representative and Head of the EU Office, making him the head of a consolidated EU presence in Kosovo. This "double hat" and the consolidation of the EU presence into the EU Office—save EULEX, as will be discussed below—was partly on demand of local officials and civil society groups in Kosovo, who found the EU too scattered and poorly coordinated in Kosovo.<sup>5</sup> The double hat was meant to make Žbogar the point of the strengthened EU spear in Kosovo.

Since the Special Representative also heads the EU Office, the High Representative will not use control over the budget to terminate the position. The essential tension remains, though, as the High Representative does not solely direct the EU's foreign policy representative in Kosovo. She can nominate individuals to the position, but the Special Representative still must receive assent from the Council. He must also report to the Council and take guidance from the Council as well as the High Representative. The Special Representative is thus beholden to both and, as one is a *mélange* of 28 positions, there will be conflict.<sup>6</sup> More worryingly, the High Representative and other officials in Brussels may bypass the position to avoid conflicts with the Council. Outside of this bureaucratic fight to control the EU's foreign policy, member states disagree over continuing to send Special Representatives to Kosovo. While some officials consider Special Representatives valuable, they believe it wasted in Kosovo. In a small country sixteen years removed from a conflict and eight years removed from the independence where EU policy is mostly united, the Special Representative position may be an inappropriate instrument.<sup>7</sup>

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<sup>1</sup> Council of the European Union, "Guidelines on appointment, mandate and financing of EU Special Representatives," 7510/14 (PESC 254/FIN 202/RELEX 216), 11 March 2014

<sup>2</sup> Erwan Fouéré, "The EU Special Representative: A dying breed?" Center for European Policy Studies, Brussels, Belgium, 13 December 2013, available at [www.ceps.be/ceps/dld/8748/pdf](http://www.ceps.be/ceps/dld/8748/pdf)

<sup>3</sup> European Scrutiny Committee, *Third Report of Session 2014-15*, (HC 2014-2015, 219-iii), available at <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmeuleg/219-iii/219iii.pdf>

<sup>4</sup> Wolfgang Koeth, "State building without a state: The EU's dilemma in defining its relations with Kosovo," *European Foreign Affairs Review* 15, (2010): 227-247

<sup>5</sup> Vetevendosje! Member of the Assembly, interview with the author, 10 July 2014.

<sup>6</sup> Fouéré, "The EU Special Representative: A dying breed?"

<sup>7</sup> Official at embassy of recognizing EU member state, interview with the author, 3 July 2014. This is not exclusive to Kosovo. The official interviewed also expressed doubts about the existence of a EU Special Representative for Bosnia- Herzegovina. The official noted that this was a personal position, not necessarily that of the member state's government.

In opposition are states such as the UK who believe the position is vital to the EU presence in Kosovo, especially during the upcoming transition to EULEX.<sup>8</sup> While the complaints of divided loyalties and questionable functionality have merit, the EU should still send a Special Representative to Kosovo. First, to treat Kosovo as if it were Serbia or Montenegro would ignore the EU's investment in Kosovo. The EU member states should be able to confirm or block the person managing this investment. Second, the EU needs an official to coordinate member state policies in Kosovo, because, due to non-recognition by five member states, no one knows where the EU's Kosovo policy is going. To give the EU strategic direction, a dedicated official on the ground in Kosovo must drive policy. Third, while not as tenuous as in 2014, Kosovo's politics remain fragile. The slow, fraught process of integrating the northern Serbs into Kosovo's institutions just began and gains remain threatened. While not an acute crisis, Kosovo remains a tinderbox that requires dampening. An EU Special Representative thus remains an important tool for the EU in Kosovo.

## I. Žbogar's Path to Kosovo

Samuel Žbogar is a career diplomat who served in the Slovenian foreign ministry for the first twenty years of the republic's independence. In his first decade, he represented Slovenia in the European Communities' Western Balkan monitoring mission during the Bosnian War, handled Slovenia's extra-European relations, save for the US, and served in Slovenia's delegations to China and the UN in New York. He then became State Secretary in the Ministry of Foreign Affairs in the critical period before Slovenia's accession to the EU and NATO, leading the negotiations for Slovenia's NATO accession. He then served as Slovenia's ambassador to the United States from 2004 to 2008 before becoming Foreign Minister in November 2008.<sup>9</sup>

As Slovenia's Minister of Foreign Affairs, Žbogar ardently advocated of EU enlargement to the Western Balkans and Kosovo's European path. Early in his tenure, he pushed for a more active, more tolerant EU in the region to help build institutions, infrastructure and economies.<sup>10</sup> He also named a specific coordinator in the Slovenian government for the region and prioritized Slovenia's entrance into Western Balkan regional organizations.<sup>11</sup> He supported Kosovo's entrance into international financial institutions early on and took great pride in Slovenia's economic involvement in the state.<sup>12</sup> However, he also supported Serbia's integration into the EU and sought solutions to keep the integration path of both states moving forward.<sup>13</sup> From an early stage, he pushed for Kosovo-Serbia talks and wished to be involved in the negotiation process.<sup>14</sup>

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<sup>8</sup> David Lidington, "Explanatory memorandum of the European Union's Common Foreign and Security Policy: Council Decision extending the mandate of the European Union Special Representative in Kosovo," Foreign and Commonwealth Office, Unnumbered (12 June 2014), available at [http://europeanmemoranda.cabinetoffice.gov.uk/files/2014/06/Unnumbered\\_doc\\_Special\\_Representative\\_Kosovo\\_\(28883\).pdf](http://europeanmemoranda.cabinetoffice.gov.uk/files/2014/06/Unnumbered_doc_Special_Representative_Kosovo_(28883).pdf)

<sup>9</sup> Samuel Žbogar, "Curriculum Vitae," *European Parliament*, accessed 16 June 2014, available at [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/sede/dv/sede250111cvzbogar/\\_sede250111cv\\_zbogar\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/sede/dv/sede250111cvzbogar/_sede250111cv_zbogar_en.pdf)

<sup>10</sup> "Slovene foreign minister advocates Western Balkans' EU accession," *Slovenian Press Agency (STA)*, 6 February 2009, provided by BBC Worldwide Monitoring, retrieved from [lexisnexis.com](http://www.lexisnexis.com) on 16 June 2014

<sup>11</sup> "Slovene government adopts guidelines for Western Balkans," *Slovenian Press Agency (STA)*, 11 March 2010, provided by BBC Worldwide Monitoring, retrieved from [lexisnexis.com](http://www.lexisnexis.com) on 16 June 2014

<sup>12</sup> "Slovene foreign minister, senior Kosovo officials discuss ties," *Slovenian Press Agency (STA)*, 21 April 2009, provided by BBC Worldwide Monitoring, retrieved from [lexisnexis.com](http://www.lexisnexis.com) on 16 June 2014

<sup>13</sup> "Slovene minister, Serbian chief negotiator discuss talks with Kosovo, EU bid," *Slovenian Press Agency (STA)*, 13 May 2011, provided by BBC Worldwide Monitoring, retrieved from [lexisnexis.com](http://www.lexisnexis.com) on 16 June 2014

<sup>14</sup> "Slovene minister says Kosovo, Serbia, 'gain from talks on practical issues,'" *Slovenian Press Agency (STA)*, 10 June 2010, provided by BBC Worldwide Monitoring, retrieved from [lexisnexis.com](http://www.lexisnexis.com) on 16 June 2014

The appointment of Žbogar as Special Representative to Kosovo ended a long, fraught process.

The office had no permanent occupant for nine months. The previous holder, Pieter Feith, left in April 2011. Fernando Gentellini replaced him on an interim basis. The first round of recruitment failed to find what was considered a suitable candidate, though suitability may have been in the eye of the beholder.<sup>15</sup> MEP Ulrike Lunacek applied for the post, but her long history of pushing pro-Kosovo resolutions most likely made her unacceptable to non-recognizing states. She also had never held a senior foreign policy position, which likely made her unacceptable to Kosovo's allies in the Council of the EU who wanted to show seriousness for the position by selecting a seasoned, senior diplomat.<sup>16</sup>

The meddling of US Ambassador Christopher Dell also implanted the need for a serious nominee. Dell's intervention into the selection of the Kosovo President, his advocacy for an unneeded highway between Kosovo and Albania and his various other misdeeds infuriated the EU. Suspecting that it needed a stronger, more reputable official to stand up to Dell and the US, the member states wanted a senior official in a member state government to take the post.<sup>17</sup> It is doubtful the EU wanted its own version of Dell. EU and local officials freely admit that only the US has the ability in Kosovo to make a decision and carry it out on its own<sup>18</sup>—and several times this has been to Kosovo's detriment and hurt its integration into European standards. More likely, the EU wanted a brake on the US and the other Quint countries and believed a strong Special Representative would serve the purpose.<sup>19</sup>

Thus, when Žbogar applied for the post in November 2011 during the second round of recruitment, EU officials recognized him as a strong candidate and short-listed him for the post. Žbogar filled many of the requirements that Lunacek did not. He was a skilled diplomat with a long history with the region. He held a cabinet post in a national government, showing the required seniority. His advocacy for the whole of the Western Balkans soothed the concerns of non-recognizing states put off by Lunacek.<sup>20</sup> He also solved another problem. Slovenia had complained that their diplomats did not receive enough respect in the EEAS and deserved an ambassadorial post.<sup>21</sup> A Slovenian Special Representative stopped the complaining.<sup>22</sup>

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<sup>15</sup> European Scrutiny Committee, *Fifty-second Report of Session 2010-12*, (HC 2010-2012, 428-xlvii), available at <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmeuleg/428-xlvii/42835.htm>

<sup>16</sup> Tanjug, "Austrian MEP wants to run EU delegation in Kosovo," b92, 28 April 2011, available at [http://www.b92.net/eng/news/politics.php?yyyy=2011&mm=04&dd=28&nav\\_id=74043](http://www.b92.net/eng/news/politics.php?yyyy=2011&mm=04&dd=28&nav_id=74043). One interviewee thought that Lunacek would have been a great Special Representative, but believed her appointment was overwhelmed by the EU member states' desire to name a high-level official to the position. Vetevendosje! Member of the Assembly, interview with the author, 10 July 2014.

<sup>17</sup> Vetevendosje! Member of the Assembly, interview with the author, 10 July 2014

<sup>18</sup> Vetevendosje! Member of the Assembly, interview with the author, 10 July 2014; United Kingdom embassy official, interview with the author, 10 July 2014

<sup>19</sup> Vetevendosje! Member of the Assembly, interview with the author, 10 July 2014

<sup>20</sup> European Scrutiny Committee, *Fifty-second Report of Session 2010-12*

<sup>21</sup> At this point, Slovenia was the only member state besides Malta and Cyprus that did not have a diplomat serving as

an EU ambassador. "Slovene outgoing foreign minister main candidate for EU envoy to Kosovo," *Slovenian Press Agency (STA)*, 25 November 2011, provided by BBC Worldwide Monitoring, retrieved from [lexisnexis.com](http://www.lexisnexis.com) on 16 June 2014

<sup>22</sup> There is a misconception that Žbogar was a compromise candidate for the post. Without access to Council debates, it is impossible to disprove this claim, but it is much more likely that Žbogar was simply the only candidate that met the high standards that the Council of the EU and High Representative Ashton set for the post. Therefore, he was only a compromise in the sense that the pro-Kosovo member states, the non-recognizing member states and Ashton agreed that only a highly qualified person should hold the post.

To a certain degree, Žbogar used the position to parachute out of his foreign minister role, which he was about to lose. He was not included on the electoral list of the governing Social Democrats heading into Slovenia's general election in December 2011 and the government had very poor prospects heading into that election anyway.<sup>23</sup> Due to the EU's standing interest in the Balkans, the Special Representative role would allow him to continue working in the region. Ashton obliged on 21 December 2011, nominating Žbogar for the role.<sup>24</sup> The Council approved his nomination for a mandate to serve from 1 February 2012 through 30 June 2013.<sup>25</sup> His mandate was retroactively extended by 12 months on 9 July 2013 and extended again for eight months ending 28 February 2015 on 26 June 2014.<sup>26</sup> An additional extension of eight months of his mandate occurred from 28 February 2015 until 31 October 2015. Nevertheless, on 16 November 2015, the Council of the European Union extended the mandate of Mr. Samuel Žbogar as the European Union Special Representative in Kosovo until 28 February 2017.<sup>27</sup> Given the intention that the EU Special Representative should guide the transition from EULEX over the next two years, Žbogar remains the EU Special Representative for two more years, even though this breaks the guidelines for Special Representatives by extending Žbogar's tenure beyond four years.<sup>28</sup> Žbogar's mandate would only go the few months beyond the cap—under this rule, he should give up his post on 31 January 2018, a little over four months before the end of the new EULEX mandate—to see through the phasing out of EULEX and the increased role of the EU Office.

## 2. Žbogar's Mandate

Žbogar's mandate has changed little from the original after several extensions. It has nine points, five of which refer to building the EU's relationship with Kosovo and four of which refer to managing the EU's presence. This combination reflects his double-hatted position, working both to reach out to Kosovo as the EU representative through the EU Head of Office and trying to manage the EU presence and policy in Kosovo as the EU Special Representative. The mandate is somewhat vague, befitting a position that requires a great amount of flexibility and requires the agreement of 28 states on its goals, but many of the specific duties can be read from the points. This section will go through each one.

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<sup>23</sup> "Slovenian Social Democrats present list for general election," *Slovenian Press Agency (STA)*, 7 November 2011, provided by BBC Worldwide Monitoring, retrieved from [lexisnexis.com](http://lexisnexis.com) on 16 June 2014; Grega Repovž, "Končnavolilnanapoved Mladine in Ninamedie: Zadnjidanmočanpadec SDS, Jankovičevalista in SD navzgor! Totalenobratniizključen!" *Mladina*, 2 December 2011, available at <http://www.mladina.si/107295/koncna-volilna-napoved-mladine-in-ninamedie-zadnji-dan-mocan-padec-sds-jankoviceva-lista-in-sd-nav/>

<sup>24</sup> "Slovene outgoing foreign minister main candidate for EU envoy to Kosovo"; European Scrutiny Committee, *Fifty-second Report of Session 2010-12*

<sup>25</sup> "Council Decision 2012/39/CFSP of 25 January 2012 appointing the European Union Special Representative in Kosovo," *Official Journal of the European Union*, L23 (26 January 2012), p. 5-8, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:023:0005:0008:EN:PDF>

<sup>26</sup> "Council Decision 2013/366/CFSP of 9 July 2013, amending and extending the mandate of the European Special Representative in Kosovo," *Official Journal of the European Union*, L189 (10 July 2013), p. 9-11, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013D0366&from=EN>; "Council Decision 2014/400/CFSP of 26 June 2014 extending the mandate of the European Union Special Representative in Kosovo," *Official Journal of the European Union*, L188 (27 June 2014), p. 68-72, available at [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014\\_188\\_R\\_0007&rid=1](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014_188_R_0007&rid=1)

<sup>27</sup> 'Press Release: EU extends the mandate of the European Union Special Representative in Kosovo', available at: <https://www.europeansources.info/showDoc?ID=1208434>

<sup>28</sup> Lidington, "Explanatory memorandum"

<sup>29</sup> "Council Decision 2014/400/CFSP"

a. "Offering the Union's advice and support in the political process"<sup>29</sup>— The Special Representative and his staff must offer help to Kosovo's democratic development. This has a variety of functions, but the most notable include offering European election monitors to ensure clean elections and commenting on legislation to ensure compliance with democratic norms. While the Kosovo government ostensibly chooses to engage these functions, the EU wants them in place and the Special Representative actively tells the Kosovo government of their availability and the EU's desire to have them in place.

b. "Promote overall Union political coordination in Kosovo"<sup>30</sup>—The chief function of any Special Representative, this requires Žbogar to try to establish a common policy between the member states so that the EU may act with a united front in Kosovo. The goal is to avoid clashing on issues so that the EU member states may pool their political influence to affect EU priorities in Kosovo.

c. "Strengthen the presence of the Union in Kosovo and ensure its coherence and effectiveness"<sup>31</sup>—This vague point likely requires the Special Representative to make the EU an effective political actor in Kosovo that can have direct and indirect impacts on the government. While working to strengthen the EU's presence, he must avoid the fracturing that occurred in the EU presence in Kosovo before the establishment of the double-hatted position.

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"<sup>32</sup>—The concept of "political advice" has been a difficult issue in defining the EU Special Representative's mandate. The EU Office interpreted it as providing regular consultations between the Special Representative and the EULEX Head of Mission to identify priorities and provide political guidance. The EU Special Representative also provides some political cover for EULEX on difficult issues, such as the arrest of high-ranking officials.<sup>33</sup>

e. "Ensure consistency and coherence of Union action in Kosovo, *including in guiding the EULEX transition locally*"<sup>34</sup> —This vague article appears to repeat points B and C. However, it implies an advisory role for the Special Representative in the EU's policy, as his role as the head of the EU presence on the ground should allow input on EU actions and policies in Kosovo. The guidance of the EULEX transition was tacked on in 2014. Since the EU Office may take over many of EULEX's tasks in 2016,<sup>35</sup> the EU Head of Office would naturally need to ensure coherence in the transfer of responsibilities.

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 broader understanding and support from the Kosovo public on issues related to the Union, *including the work of EULEX*"<sup>36</sup> —This point emphasizes the quasi-ambassadorial role that Žbogar plays. The EU remains a union of democratic states. Kosovo's European integration needs public support for any legitimacy. Thus, Žbogar must appeal to the population to support EU integration, including assurances that a European future awaits Kosovo. EULEX was added on to the mandate in 2014, likely to explicitly ensure political cover for the unpopular new war crimes tribunal, though, as noted above, political cover was already thought to be part of the mandate.

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<sup>30</sup>*Ibid.*

<sup>31</sup>*Ibid.*

<sup>32</sup>*Ibid.*

<sup>33</sup> EU Official, Interview with the author, 15 July 2014

g. "Monitor, assist and facilitate progress on political, economic and European priorities, in line with respective institutional competencies and responsibilities"<sup>37</sup>—This point gives the Special Representative the most authority to affect Kosovo's politics. Under this part of the mandate, Žbogar nudges Kosovo towards freer and more open democratic politics. He also must push Kosovo towards a functioning, free-market economy. Finally, Žbogar must demand progress towards Kosovo's alignment with the *acquis communautaire*, the European collection of laws and regulations.

h. "Contribute to the development and consolidation of respect for human rights and fundamental freedoms in Kosovo, including with regard to women and children and *protection of minorities*, in accordance with the Union's human rights policy and Union Guidelines on Human Rights"<sup>38</sup>—The most visible version of this point requires aiding the integration of minorities into Kosovo's public life, especially, though not exclusively, Serbs. Oddly, the protection of minorities was only explicitly added to the mandate in 2014, even though the rights of minorities were an inevitable focus for the Special Representative. This part of the mandate also includes less evident tasks such as helping push greater prominence for women in public life and helping disadvantaged minorities receive better education in their own languages.

i. "Assist in the implementation of the Belgrade-Pristina dialogue facilitated by the Union"<sup>39</sup>—Žbogar serves as the EU official managing the day-to-day relationship in the Kosovo-Serbia Dialogue. He provides an office for the Serbian liaison officer to Kosovo and must try to help the Dialogue be implemented on the Kosovo side. This means helping the IBM crossing points to function, elections be held in the north of Kosovo, the return of cadastral records and civil registries to Kosovo and all of the other points to which the two sides have agreed.

These nine points form the mandate as it was written in Brussels. Some of the points overlap, especially B, C and E as well as A and G, but each contributes a different piece to the Žbogar mandate. Generally, they can be clearly divided, as noted above, into two broad mandates: points B, C, D and E require the EU Special Representative to coordinate the EU presence in Kosovo effectively; points A, F, G, H and I require the EU Special Representative to push Kosovo along the EU path. The next two sections will discuss how Žbogar has approached the first two mandates.

### 3. Coordinating the EU Presence

Since much of the mandate repeats and rephrases the same terms, the EU Special Representative's role in coordinating the EU presence actually breaks down into three parts as opposed to the four:

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<sup>34</sup>"Council Decision 2014/400/CFSP." Italics provided by the author to indicate what was changed for the 2014 extension of the mandate.

<sup>35</sup> EU official, Interview with the author, 15 July 2014

<sup>36</sup>"Council Decision 2014/400/CFSP." Italics provided by the author to indicate what was changed for the 2014 extension of the mandate.

<sup>37</sup>*Ibid.*

<sup>38</sup>*Ibid.* Italics provided by the author to indicate what was changed for the 2014 extension of the mandate.

<sup>39</sup>*Ibid.*

strengthening the EU's role in Kosovo—pushing the EU as the leader of the international presence in Kosovo and impacting Kosovo's political debate—coordinating EU policy in Kosovo—making sure that member states and EU institutions are working together, not at cross-purposes, and that EU members and institutions are well-informed of EU policies so that a solid, coherent EU front can be maintained—and working with EULEX—giving political advice to EULEX and ensuring that politics does not undermine EULEX's mission. Žbogar's role in this area has been mixed, though this is partly due to a lack of trust from officials in Brussels and among the member states.

#### 4. Strengthening the EU Role in Kosovo

Žbogar's strengthening of the EU role has been mixed. In certain areas, the EU is undeniably stronger. Its presence in the north has been strengthened by Žbogar's ability to reach out to the northern mayors and his maintenance of an EU Special Representative Office in North Mitroica. The EU has a significant role in Kosovo legislation and works with the European Integration Committee in drafting bills.<sup>40</sup> The ratification of a Stabilization and Association Agreement (SAA) with Kosovo has given the relationship a contractual basis and he has kept the EU's leverage on the Kosovo government high, though he only uses it reluctantly. The EU's role as mediator and guarantor for the Kosovo-Serbia Dialogue, as well as much of its implementation in the north, means its hand has strengthened, not lessened as EULEX has been wound down and the two sides look towards a long-term arrangement. While Žbogar had little control over these points, he has implemented them well.

However, the US remains the de facto lead power in Kosovo and even members of the European Integration Committee in the Parliament look to the US for guidance on amending legislation.<sup>41</sup> The European Union tacitly acknowledges the US's strong position and, in the run-up to the Kosovo-Serbia Dialogue moving to the level of prime minister, Žbogar leaned on the US support for the EU-mediated dialogue to strengthen its legitimacy.<sup>42</sup> A strong role for the US may be inevitable, as it is widely acknowledged as the only power to have the capacity and the influence to act unilaterally in Kosovo.<sup>43</sup>

However, this is not necessarily an ability the EU wants or should want. US Ambassador Dell's antics were damaging to Dell, the US and Kosovo.<sup>44</sup> The US remains active with current Ambassador Greg Delawie playing a facilitative role, but he appears more willing to let Kosovo politicians make their own choices.<sup>45</sup> The US has also recognized the EU as the nominal leader of the foreign presence in Kosovo.<sup>46</sup>

<sup>40</sup> Democratic League of Kosovo (LDK) Member of the Assembly, interview with the author, 27 June 2014

<sup>41</sup> *Ibid.*

<sup>42</sup> Arben Ahmeti, "Žbogar: Time for political dialogue," *Koha Ditore*, 31 July 2012, translated from Albanian and provided by BBC Worldwide Monitoring, retrieved from lexisnexis.com

<sup>43</sup> Vetevendosje! Member of the Assembly, interview with the author, 10 July 2014

<sup>44</sup> Paul Lewis, Lawrence Marzouk, Petrit Collaku and Erjona Rusia, "US ambassador to Kosovo hired by construction firm he lobbied for," *The Guardian*, 14 April 2014, available at <http://www.theguardian.com/world/2014/apr/14/us-ambassador-kosovo-construction-contract-firm-highway>; Julia Amalia Heyer, "'Tito, we miss you': young Kosovars lose patience with foreign helpers," *Der Spiegel*, 12 August 2011, available at <http://www.spiegel.de/international/europe/tito-we-miss-you-young-kosovars-lose-patience-with-foreign-helpers-a-779236-2.html>

<sup>45</sup> Radio-Television Kosovo TV, "Kosovo parties fail to agree on creation of army," *RTK TV*, 30 April 2014, transcript translated from Albanian and provided by BBC Worldwide Monitoring, retrieved from lexisnexis.com; "EU denies interference in Kosovo government formation," *Koha Ditore*, 1 July 2014, translated from Albanian and provided by BBC Worldwide Monitoring, retrieved from lexisnexis.com

<sup>46</sup> Bodo Weber and Lowell West, "EULEX—Towards an integrated exit strategy—Strengthening the rule of law through EU integration," Group for Legal and Political Studies, April 2014, available at [http://legalpoliticalstudies.org/download/Policy%20Report%2005%202014\(2\).pdf](http://legalpoliticalstudies.org/download/Policy%20Report%2005%202014(2).pdf)

Žbogar, in contrast to Dell and, to a certain extent, Jacobson, loathes interfering in Kosovo's politics, adhering to strict neutrality to the point of avoiding criticizing Kosovo's political parties even as a group. He has also worked to make the tendering process for EU funding in Kosovo more transparent and competitive, not less,<sup>47</sup> though he has a penchant for praising Slovenia's relationship with Kosovo in his EU role.<sup>48</sup> While Žbogar should not aspire to be Dell, a more assertive and critical stance, especially with regard to cronyism, corruption and illicit campaigning, would be welcome and is widely desired.<sup>49</sup> For now, the EU's role is only stronger relative to the US as long as the more reserved American policy continues. Žbogar must act out more to take the strength of the EU presence into his own hands as opposed to those of the Americans.

## 5. Coordinating EU Policy in Kosovo

Coordinating the EU policy in Kosovo takes on several facets. First and foremost, the EU Special Representative must work with the missions of the member states in Kosovo. The EU Special Representative meets at least every two weeks with the heads of mission of member states with a diplomatic presence in Kosovo. Meetings below the level of head of mission take place on specific issues, such as donor coordination, immigration issues and promoting investment. Beyond this work, the EU Special Representative and his office keeps member states without a presence in Kosovo informed about events on the ground, reports to Brussels and consults with the Political and Security Committee.<sup>50</sup>

Both local and European member state officials complain about Žbogar's role in coordinating EU policy, though the two views could not be more disparate. Locally, Žbogar is seen as an "ambassador of the EU," holding no position higher or more special than the other embassies. He is not seen as a leader within the community and is believed to simply take the member states' line. When the member states are divided, which is suspected on issues of visa liberalization, Žbogar is thought to paper over differences and obfuscate the position.<sup>51</sup> Žbogar thus does not coordinate the positions of the member states so much as the member states coordinate among themselves, sometimes with the help of Žbogar, sometimes not, and then give him their output to deliver the message to Kosovo.

Ironically, among some of the member states, Žbogar takes too many actions without consulting them. They believe the flow of information too slow and they find out about initiatives and Instrument for Pre-Accession (IPA) projects too late.<sup>52</sup> They lack clarity on the function of advisors around Žbogar and how IPA funding is spent.<sup>53</sup> The tensions between Žbogar's two hats seem highest on this point. As EU Head of Office, he must be separate from the member states, serving the EU as a whole, where the member states approve budgetary measures, but the Commission makes decisions.

<sup>47</sup> Kosovo non-governmental organization head, interview with the author, 24 June 2014

<sup>48</sup> Arben Ahmeti, "Žbogar: Kosovo will get contractual relations during this summit," *Koha Ditore*, 27 February 2012, transcript translated from Albanian and provided by BBC Worldwide Monitoring, retrieved from lexisnexis.com

<sup>49</sup> LDK Member of the Assembly, interview with the author, 27 June 2014; Kosovo non-governmental organization head, interview with the author, 24 June 2014

<sup>50</sup> EU official, interview with the author, 15 July 2014; Official at embassy of recognizing EU member state, interview with the author, 3 July 2014

<sup>51</sup> LDK Member of the Assembly, interview with the author, 27 June 2014

<sup>52</sup> Official at embassy of recognizing EU member state, interview with the author, 3 July 2014. This feeling is not universal. The UK believes it receives an exceptional flow of information from the EU Office, though the interviewee allowed that, as a member of the Quint, the UK might thirst less for information from the EU Office than states outside the Quint. United Kingdom embassy official, interview with the author, 10 July 2014.

<sup>53</sup> Official at embassy of recognizing EU member state, interview with the author, 3 July 2014. Other officials confirmed and expanded on these points on deep background.

However, as EU Special Representative, he represents and coordinates the member states as well as work for the EU as a whole. In defense, the EU Office points out that with many initiatives, such as those involved in the Dialogue, keeping member states up-to-date is difficult when events are moving so fast.<sup>54</sup> Žbogar's use of initiatives and IPA funds has appeared to embrace his Head of Office role over his Special Representative role, much to member states' consternation.

To Žbogar's credit, the local civil society members perceive tenders for EU IPA projects to be more transparent than before.<sup>55</sup> If he moves too quickly, he at least does so in a transparent manner that can be criticized. In a state often rife with patronage and graft, it shows the potential for transparent activity in Kosovo and dovetails with his mandate to build the EU's legitimacy.

The perspectives of local officials and the member states do not necessarily contradict one another. Kosovo's European integration enjoys a broad enough consensus among the member states that Žbogar's public statements appear guided by the member states, but represent the EU as a whole. An official from a member state dismissed the possibility that Žbogar's statements on visa liberalization papered over political divisions, saying obstacles to visa liberalization were technical and tangible, not political.<sup>56</sup> Žbogar could thus appear very close to the member states by happenstance, while in reality be more independent of the EU member states than expected. However, the reported lack of communication on initiatives and IPA projects could contribute to another noted problem among local politicians and civil society members: inefficiency in EU projects and initiatives. The causes of the inefficiency are disputed: a member of the Assembly blamed hiring of expensive contractors from EU member states over locals, causing the funds to leave Kosovo; the head of a civil society organization said that a lack of auditing of projects and upkeep, meant many initiatives and projects are performed sloppily and will not survive long.<sup>57</sup> In either case, more information to the member states could lead to more peer-review and advice. This would cause delays, but fewer mistakes may result.

More ominous than whether Žbogar is too beholden or too independent of the member states or the perceived lack of efficiency is a belief that Žbogar is undermined from Brussels, making coordinating the EU mission impossible. This has a fair amount of support reading interviews with Žbogar. He has several times predicted a particular EU policy and then seen the opposite policy be put into place. For example, he predicted in 2012 that EULEX would focus much more on its executive mandate and wind down monitoring and mentoring activities, only for monitoring and mentoring activities to be given a focused division and priority.<sup>58</sup> It is suspected that Ashton and her office has mostly cut him out of the Dialogue and multiple times Žbogar has been caught unaware by events about which Brussels may have known, yet failed to inform him.<sup>59</sup> This is not the fault of Žbogar and should be seen as gross interference from Brussels, which appears to have given Žbogar the mandate of a Special Representative without any intention of letting him perform to his best ability.

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<sup>54</sup> EU official, interview with the author, 15 July 2014

<sup>55</sup> Kosovo non-governmental organization head, interview with the author, 24 June 2014

<sup>56</sup> Official at embassy of recognizing EU member state, interview with the author, 3 July 2014

<sup>57</sup> Kosovo non-governmental organization head, interview with the author, 24 June 2014; LDK Member of the Assembly, interview with the author, 27 June 2014

<sup>58</sup> Ahmeti, "Žbogar: Kosovo will get contractual relations during this summit"

<sup>59</sup> Vetevendosje! Member of the Assembly, interview with the author, 10 July 2014. Other officials voiced these concerns, in greater specificity, on deep background.

While all of these problems exist, it is also important to emphasize that Žbogar has achieved

much in keeping member states onside. While Žbogar believes that the EU must be more forthright in its intentions about Kosovo,<sup>60</sup> he has been able to coordinate coherent responses from both the recognizing member states and non-recognizing states. At least one EU member state notes that most issues in Kosovo have broad consensus among the EU member states and, given the complaints of local officials, public spates appear rare.<sup>61</sup> This was especially notable on the deeply political SAA, as all member states, recognizing and non-recognizing approved of the step and gave honest input. Coalition building by Žbogar and others has helped build a previously nonexistent contractual relationship between Kosovo and the EU.<sup>62</sup>

## 6. Working with EULEX

The EU Special Representative and the EU Rule of Law mission (EULEX) were integral to the Ahtisaari Plan. Originally, the EU Special Representative was supposed to operate as something of an EU policy czar in Kosovo, controlling the implementation of a settlement, supervising Kosovo's independence and directing EULEX.<sup>63</sup> The EU chose not to follow this vision, as the head of EULEX and the EU Special Representative have no authority over one another.

Instead, they consult with each other, according to their two mandates. This "consultation" weighs more heavily on the EU Special Representative than the commander of EULEX; the Special Representative's mandate specifically notes a duty to advise the EULEX Head of Mission, while the EULEX head of mission only must inform the Special Representative when he deems necessary.<sup>64</sup> The EU Special Representative has some oversight over EULEX. He and the Head of EULEX serve together on the Joint Rule of Law Review Panel and, as noted above, consult regularly. However, the lack of unified command structure immediately the EU Special Representative must work with and defend EULEX without full control over what EULEX does. The EU Special Representative must thus establish a good relationship with EULEX to make sure the EU presence in Kosovo remains unified.

Žbogar has proven able to ford this obstacle. He and the current head of EULEX, Gabriele Meucci, have an amiable working relationship where Žbogar's advice is sought and appreciated. Žbogar ensures that EULEX's mandates get passed in the Kosovo Assembly and keeps EULEX from turning into a political punching bag, reminding the Kosovo Assembly that the Kosovo government invited EULEX.<sup>65</sup> He also manages political complaints about EULEX so the mission focuses on rule of law issues. This was an improvement, as Feith had been reluctant to use his status-neutral EU role to politically cover EULEX and Gentellini, has had such a short mandate that he was not taken seriously.<sup>66</sup> Žbogar also softens the blows of EULEX's actions, assuring that actions were taken for judicial as opposed to political reasons.<sup>67</sup>

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<sup>60</sup> See "Communication Kosovo's European Perspective" below

<sup>61</sup> Official from recognizing EU member state, interview with the author, 3 July 2014

<sup>62</sup> Taulant Kryeziu, Advisor to the Minister of European Integration, interview with the author, 9 July 2014; EU official, interview with the author, 15 July 2014

<sup>63</sup> Comprehensive Proposal for the Kosovo Status Settlement, Annex IX, available at [http://www.unosek.org/docref/Comprehensive\\_proposal-english.pdf](http://www.unosek.org/docref/Comprehensive_proposal-english.pdf)

<sup>64</sup> "Council Decision 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO," *Official Journal of the European Union*, L42 (16 February 2008), p. 92-98, available at [http://www.eulex-kosovo.eu/en/info/docs/JointActionEULEX\\_EN.pdf](http://www.eulex-kosovo.eu/en/info/docs/JointActionEULEX_EN.pdf); "Council Decision 2014/400/CFSP"

<sup>65</sup> Lidington, "Explanatory memorandum"; EU official, interview with the author, 15 July 2014

<sup>66</sup> EU official, interview with the author, 15 July 2014

<sup>67</sup> This does not always work and, as seen below, it can also undermine EULEX. Lidington, "Explanatory memorandum"

Žbogar's role as promoter of the EU within Kosovo also comes with the task of supporting EULEX locally. This vague role leads to dueling perspectives between EULEX and local officials, catching Žbogar in the middle. EULEX expects Žbogar to smooth over its activities with the local population, preferably without interference.<sup>68</sup> Local officials expect Žbogar to keep EULEX from what they perceive as abusing its power and acting on political motivations as opposed to judicial ones.<sup>69</sup>

The role of Special Representative makes this decision for Žbogar, as he represents the EU in Kosovo, not vice versa. He has no authority over EULEX and can only push so hard for his voice to be heard in his political role. The balance of power between the office of the EU Special Representative and EULEX has decidedly gone against the Special Representative, at least in Brussels. In his latest mandate, the UK inserted new language specifying Žbogar's public relations mission to include building local support for EULEX.<sup>70</sup> The UK explained the change as needing greater specificity to evaluate the effectiveness of its seconded officials to the EU Special Representative Office and EULEX, something the vague previous mandate did not do.<sup>71</sup> This had the side effect that Žbogar's role explicitly includes molding political reality to make the environment more hospitable for EULEX. He now appears subordinate to EULEX. At a time when the EU should be winding down EULEX and turning the EU Special Representative and EU Office into the prime EU presence in Kosovo the opposite occurred. Žbogar and his office appear closer to accessories to EULEX than independent political actors.

### III. AIDING KOSOVO'S EUROPEAN PATH

#### I. Communicating Kosovo's European Perspective

While the hardest part of Žbogar's mandate to measure, his most important role may be communicating and encouraging Kosovo's European perspective. He must advocate Kosovo's EU integration and give the population hope of European integration existing down the road while promoting reforms and realistic expectations. This requires detailing how the EU can help Kosovo develop, but showing Kosovo that only meaningful progress will be rewarded. This is important, as, in spite of the near unanimity in favor of a European perspective in Kosovo's political sphere, it is not the only political narrative in Kosovo society and, if progress towards the EU stagnates or is perceived to be too slow, other narratives may become more powerful.

Žbogar appears aware of the importance of this duty. He regards his job as bringing "as much EU to Kosovo as possible and to bring Kosovo as close to the EU as possible."<sup>72</sup> He advocates tirelessly Kosovo's integration into the EU, traveling widely within Kosovo and extolling the benefits of European integration. He also communicates what Kosovo must do to achieve it, writing op-ed pieces on the need for clean elections,<sup>73</sup> speaking about the need to implement the Dialogue<sup>74</sup> and emphasizing the need for better policing.<sup>75</sup>

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<sup>68</sup> Weber and West, "EULEX-Towards an integrated exit strategy"

<sup>69</sup> LDK Member of the Assembly, interview with the author, 27 June 2014

<sup>70</sup> Lidington, "Explanatory memorandum"

<sup>71</sup> United Kingdom embassy official, interview with the author, 10 July 2014

<sup>72</sup> Ekonom, "Kosovo: EU's new ambassador expects accession," *Unrepresented Nations and Peoples Organization*, 2 February 2012, available at <http://www.unpo.org/article/13829>

<sup>73</sup> Samuel Žbogar, "Žbogar: every vote counts—and should be counted!" *KosovoLive360*, 5 June 2014, available at <http://www.kosovalive360.com/zbogar-every-vote-counts-and-should-be-counted.html>

<sup>74</sup> S. Ahmeti, "You decide about elections!" *Kosova Sot*, 14 February 2014, translated from Albanian and provided by BBC Worldwide Monitoring, retrieved from lexisnexis.com.

<sup>75</sup> Fitim Gashi, "Žbogar: Elections, guide for Kosovo's future in the EU," *KohaDitore*, 6 June 2014, translated from Albanian and provided by BBC Worldwide Monitoring, retrieved from lexisnexis.com.

He also advocates for Kosovo in Brussels, pushing for visa liberalization and the SAA process forward to reward Kosovo for reforms.<sup>76</sup> In this latter role, he may be too zealous of an advocate for Kosovo, papering over problems that Kosovo must fix, especially in the rule-of-law sector. Some in the Assembly and civil society feel he should be more aggressive in noting Kosovo's shortcomings, not less.<sup>77</sup>

These efforts have not generally moved polling numbers in the EU's favor. With 61 percent of Kosovars having a "positive" or "very positive" view of the EU, the EU's approval rating in Kosovo is at its lowest since the EU began polling in 2010. Ethnic Serbs, a group to which Žbogar has reached out repeatedly, increasingly disapprove of the EU: 31 percent had a "negative" or "very negative" view of the EU, up four points from 2013. For Žbogar himself, his name recognition rate (from a previous poll) has increased—56 percent of people can now name him as EU Special Representative compared to 51 and 54 the last two years—but his approval rating decreased—though admittedly to a robust 75 percent among those recognizing him.<sup>78</sup>

There are some encouraging numbers. Perceptions of the EU as a supporter of economic development, democracy and peace all improved, while the EU is seen as less of a threat to local tradition. Ambitions in Kosovo appear more realistic as well. While the share of people placing importance on strong ties with the EU increased, the share of people believing Kosovo will join the EU within the next three years fell.<sup>79</sup> Greater awareness of the long road ahead tied to a belief that Kosovo should increase ties to the EU shows a long-term commitment to Kosovo's integration into the EU and better education about the EU enlargement process.

Unfortunately for Žbogar, the EU may have undermined his efforts to encourage support for Kosovo's European perspective. The EU's position on visa liberalization for Kosovo appears opaque; e.g. a politician felt that the EU was dishonest in not admitting that political problems exist for visa liberalization. This feeds the gnawing fear the EU door may shut on Kosovo and feeds a counter-narrative.

Žbogar understands this reality and thus deserves little of the blame. Žbogar is thought to be an advocate for the EU to commit unequivocally to Kosovo's future membership, regardless of non-recognizers.<sup>80</sup> He understands that the EU putting off the issue has harmed its image and that Kosovo needs a commitment now, not continued halfway measures. EU officials remaining undecided over Kosovo's political status and future trap him into continuing to relay waffling statements, but his behind-the-scenes efforts need to be appreciated. He has sought greater clarity and support from Brussels and has not gotten it.

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<sup>76</sup> Kryeziu, interview with the author, 9 July 2014

<sup>77</sup> Kosovo non-governmental organization head, interview with the author, 24 June 2014; LDK Member of the Assembly, interview with the author, 27 June 2014. One local interviewee disagreed with this perspective, arguing that Žbogar did not have the proper incentives or punishments for local officials to be so aggressive. Vetevendosje! Member of the Assembly, interview with the author, 10 July 2014.

<sup>78</sup> UBO Consulting, *Survey of awareness of the EU and European integration among Kosovo residents*, published by European Perspective in Kosovo, 1 July 2014, available at [http://eeas.europa.eu/delegations/kosovo/documents/press\\_corner/2014/20140701\\_survey\\_of\\_awareness.pdf](http://eeas.europa.eu/delegations/kosovo/documents/press_corner/2014/20140701_survey_of_awareness.pdf)

<sup>79</sup> Ibid.

<sup>80</sup> Vetevendosje! Member of the Assembly, interview with the author, 10 July 2014.

## 2. Facilitating Progress towards Economic, Political and European Priorities

Under Žbogar, the EU Office has continued to provide an important source of help and information in the passing of laws. The European Integration Committee and the Assembly as a whole have been very happy with the advice they receive from the EU Office and how it helps them prioritize legislation. The opposition was especially grateful for help in fighting laws pushed by the government that may serve the short-term interests of the governing parties, but do not support the European interests of Kosovo. Žbogar and the EU Office have managed to do this without becoming politicized, at least in the area of writing and passing legislation, as the parties see the EU as a neutral arbiter.<sup>81</sup>

Žbogar has a tenuous role in Kosovo's politics beyond legislation. On the one hand, he will inevitably play a role. The political parties each claim to be the best to lead Kosovo into the EU. His words will weigh on any debate. He also must smooth over arrests of important political figures, giving him a high-profile position. Finally, in his attempts to implement the Dialogue and improve the lot of minorities, he must try to coax Serbs and other minorities into greater participation. On the other hand, if the EU Office became too politicized, it would lose its legislative advantage. It would also be inappropriate for the EU to back a particular political party. Žbogar thus must remain neutral, to deliver the EU's message to all parties. Žbogar zealously guards his neutrality, refusing to name parties when he criticizes Kosovo's politics<sup>82</sup> and reformulating criticisms into positive statements to avoid political backlash.<sup>83</sup> He frequently emphasizes that the EU does not care who wins or loses Kosovo's elections as long as that government fulfills Kosovo's international commitments.<sup>84</sup>

Žbogar's piety for political neutrality does not extend indefinitely. He has treaded on politically sensitive topics several times, such as hailing the Constitutional Court ruling that Atifete Jahjaga could finish out her term, much to the consternation of LDK officials.<sup>85</sup> While he rarely publicly criticizes parties or politicians, he does give thinly veiled public rebukes; in his support for privatization, he countered Vetevendosje arguments against the process without naming the party.<sup>86</sup> These slight interferences are welcome—as noted above, many seek Žbogar to become more involved—but they do make the normative stance of impartiality hollow and unnecessary. They also weaken the message, crimes have no criminals and bad ideas have no supporters. If the EU Special Representative cannot identify those who abuse their position and push the wrong solutions, he only encourages the activity, as perpetrators know that the worst punishment they will receive for their illicit actions is a high-minded approval for their opponent or a veiled jab.

In fairness, Žbogar does give aid to those who confront political parties much more openly. He has been crucial in helping Kosovo civil society gain access to European officials and for discussing what the EU would and would not tolerate in terms of the media. He always makes sure that visiting EU officials interact with civil society as well as with local politicians and members of his office.<sup>87</sup>

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<sup>81</sup>*Ibid.*

<sup>82</sup> E.g. FitimGashi, "Government mentions achievements, calls stagnations identified in report challenges," *KohaDitore*, 17 October 2013, translated from Albanian and provided by BBC Worldwide Monitoring, retrieved from lexisnexis.com

<sup>83</sup> E.g. BlertonAjeti, "Pleased by Court," *Express*, 7 July 2012, translated from Albanian and provided by BBC Worldwide Monitoring, retrieved from lexisnexis.com; S. Ahmeti, "There is no autonomy for North," *Kosova Sot*, 3 May 2013, translated from Albanian and provided by BBC Worldwide Monitoring, retrieved from lexisnexis.com

<sup>84</sup>Gashi, "Žbogar: Elections, guide for Kosovo's future in the EU"

<sup>85</sup>Ajeti, "Pleased by Court"

<sup>86</sup>Ahmeti, "There is no autonomy for North"

He also has been intolerant of political interference in the media, notably criticizing laws that curbed journalists' right to protect sources.<sup>88</sup>

On European priorities, the EU Office under Žbogar helped move the SAA negotiations quickly. When the members of the Kosovo government giving comments on the draft SAA needed to speak with a member of the Commission regarding a particular issue, the EU Office worked quickly to set the meeting up.<sup>89</sup> While Žbogar himself was not intimately involved in the negotiations, as the negotiations were between Kosovo and the Commission and the EU Office simply relayed requests and provided technical advice, he made it a clear priority for the EU Office to respond quickly and make sure Kosovo's SAA negotiations did not drag on as in other Balkan states.<sup>90</sup> This demand ensured quick and professional negotiation of the agreement, as the EU Office understood the need to establish a solid contractual relationship with Kosovo as quickly as possible. Kosovo officials are very happy with the result and the SAA nudged the EU closer to the deeper commitment Žbogar wants it to give.<sup>91</sup>

Žbogar's role in pushing priorities in Kosovo has not been perfect. He failed to cajole the Assembly to pass electoral reform long demanded by the EU. It is unclear how much blame he deserves in this case. He did not ignore the process, as he was deeply involved in all attempts to pass electoral overhaul.<sup>92</sup> He could not force the legislation through himself and Kosovo politicians repeatedly killed it. However, he noted it as a priority of his tenure as early as April 2012 and picked up on an EU demand from January 2011, yet it still did not come to fruition.<sup>93</sup> Two elections passed without significant reform. In an editorial ahead of the 2014 general election, Žbogar expressed hope that the election would bring greater clarity to electoral reform.<sup>94</sup> This made light of an EU priority and did not address the Kosovo Assembly's failure to address EU concerns. His excuse for the process, other important priorities simply got in the way, indulged Kosovo politicians in their dilatory activities. While both elections after Žbogar began his mandate were much cleaner than those in 2010, the patience for Kosovo's government to adapt a new electoral law must end. Otherwise, structural problems present in 2010 will fester as a canker at the root of Kosovo's democracy.

Žbogar also pushed Kosovo's acute economic issues to the bottom of the priority list until recently. Before 2014, his standard response to questions of economic development was that it would come when the rule of law was strong enough to attract foreign investment.<sup>95</sup> Only in June 2014 did he mention economic development as a priority commensurate with the rule of law.<sup>96</sup> The muted protestations of the rule of law and the vague treatment created space for parties to make extravagant, unrealistic promises on economic growth.<sup>97</sup> They may have made these promises anyway, but if Žbogar had a strong, coherent statement on economic development, there would have been a counter-narrative from the EU Office. Instead, he inadvertently encouraged over-the-top promises by stating the new Prime Minister should prioritize economic development,

<sup>87</sup> Kosovo non-governmental organization head, interview with the author, 24 June 2014

<sup>88</sup> "Kosovo Association of Journalists says criminal code violates media freedom," *Express*, 24 June 2012, translated from Albanian and provided by BBC Worldwide Monitoring, retrieved from lexisnexis.com.

<sup>89</sup> Kryeziu, interview with the author, 9 July 2014

<sup>90</sup> EU official, interview with the author, 15 July 2014

<sup>91</sup> Kryeziu, interview with the author, 9 July 2014

<sup>92</sup> LDK Member of the Assembly, interview with the author, 27 June 2014

<sup>93</sup> Tanjug, "EU dissatisfied with electoral reform in Kosovo," b92, 20 April 2012, available at [http://www.b92.net/eng/news/politics.php?yyyy=2012&mm=04&dd=20&nav\\_id=79861](http://www.b92.net/eng/news/politics.php?yyyy=2012&mm=04&dd=20&nav_id=79861)

<sup>94</sup> Žbogar, "Žbogar: every vote counts—and should be counted!"

<sup>95</sup> "EU envoy in Kosovo says no one putting pressure on Pristina, Belgrade to agree," *Radio-Television Kosovo TV*, 21 March 2013, translated from Albanian and provided by BBC Worldwide Monitoring, retrieved from lexisnexis.com.

<sup>96</sup> Gashi, "Žbogar: Elections, guide for Kosovo's future in the EU"

<sup>97</sup> ArijetaLajka, "Big promise, few details in Kosovo election," *Balkan Insight*, 2 June 2014, available at <http://www.balkaninsight.com/en/article/kosovo-parties-long-on-promises-short-on-details>

but not noting the need for a more realistic approach.<sup>98</sup> Here again, Žbogar's loathing of political interference worked against him. Žbogar and his office deserve recognition, however, for changing tack on the economic issues recently. The rhetoric has been matched with some action, as EU member states recently established a group effort to bring investors to Kosovo and show them opportunities.<sup>99</sup> The expanded effort on economic issues forms part of a broader EU desire to improve economic governance and development in the whole region. EU Enlargement Strategy noted economic governance and development as part of a need to return to fundamentals in enlargement, namely only admitting states with functioning market economies.<sup>100</sup> The EU Office also responded to the local political debate, which shifted to focus on the economy. This showed flexibility in the EU's message. Overall, awareness has increased in the EU that the economic situation creates a vicious cycle, where poverty and unemployment weaken the rule of law, driving away investors, thus worsening poverty and unemployment. Laudably, the EU wishes to replace this with a virtuous circle driven by development.<sup>101</sup> The EU must continue this renewed focus on improving Kosovo's market economy.

### 3. Integrating Minorities and Women

The participation of minorities and women in Kosovo's politics and society provide a particularly vexing problem for the EU and its Special Representative. On the one hand, the EU has been distressed by the slow efforts to integrate minorities and the generally low participation of women in politics and the economy.<sup>102</sup> On the other hand, these are broad systemic issues that require changes of culture and society. While Žbogar made clear that he would prioritize both the integration of minorities<sup>103</sup> and greater participation by women<sup>104</sup> during his tenure, one civil society member doubted how much he could accomplish due to the scale of the issues.<sup>105</sup> EU officials agree with this position, admitting that it is beyond their capacity and desire to change Kosovo's society structurally. Instead, they prioritize keeping the issues high on the agenda.<sup>106</sup>

In spite of these limitations, Žbogar has had some success highlighting women's rights and women's participation. He was critical of all political parties—though, as usual, not by name—for pushing so few women's mayoral candidates in the November 2013 local elections as well as simply scraping the bare minimum of female candidates required.<sup>107</sup>

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<sup>98</sup>Gashi, "Žbogar: Elections, guide for Kosovo's future in the EU"

<sup>99</sup> EU official, interview with the author, 15 July 2014

<sup>100</sup> "Communication from the Commission to the European Parliament and the Council," *Enlargement Strategy and Main Challenges 2013-2014*, COM(2013) 700 final (16 October 2013), available at [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/strategy\\_paper\\_2013\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/strategy_paper_2013_en.pdf)

<sup>101</sup> EU official, interview with the author, 15 July 2014

<sup>102</sup> "Commission Staff Working Document: Kosovo\* 2013 Progress Report," *Enlargement Strategy and Main Challenges 2013-2014*, SWD(2013) 416 (16 October 2013), available at [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/brochures/kosovo\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/kosovo_2013.pdf)

<sup>103</sup> Elton Tota, "IBNA's exclusive interview with the EU Special Representative in Kosovo, Samuel Žbogar," *Independent Balkan News Agency*, 6 June 2014, available at <http://www.balkan.eu.com/ibnas-exclusive-interview-eu-special-representative-kosovo-samuel-zbogar/>

<sup>104</sup> "Žbogar: Deciding about the future with more gender balance," *European Union Office Kosovo/European Union Special Representative*, 12 July 2013, available at [http://eeas.europa.eu/delegations/kosovo/press\\_corner/all\\_news/news/2013/20130712\\_en.htm](http://eeas.europa.eu/delegations/kosovo/press_corner/all_news/news/2013/20130712_en.htm)

<sup>105</sup> Kosovo non-governmental organization head, interview with the author, 24 June 2014

<sup>106</sup> EU official, interview with the author, 15 July 2014

<sup>107</sup> "Žbogar: Deciding about the future with more gender balance"

The EU Office involves women in various aspects of its presence, with officials meeting with women's groups both north and south of the Iber River. It also scrapped its generic International Women's Day celebration on 8 March each year, replacing it seminars in Kosovo on specific women's issues.<sup>108</sup>

Given the EU's limitations in this area, little more could be expected in promoting women's rights. However, it was striking that this was the only area where the EU Office appears comfortable with the gap between legislation and implementation. Since the Special Representative declined to be interviewed for this paper, this paper cannot speak to his views. However, an EU official interviewed noted gender quotas for parties and the Assembly as progress on the issue, glossing over that women almost always hold the lowest position possible on a party's list—every third name—and that the Assembly barely meets the gender quota.<sup>109</sup> Legislation failed to normalize women's participation in politics to the point that quotas become superfluous.<sup>110</sup> Since the EU Special Representative emphasizes implementation of the letter and spirit of other legislation, it is disappointing that they are so comfortable with the gap between legislation and implementation in women's participation.

In the area of helping minorities integrate into Kosovo, Žbogar may have done his best, if most polarizing, work. Under his guidance, the EU assisted Kosovo in closing the last camps for Roma, Ashkali and Egyptian families as those remaining were given housing and children who suffered from lead poisoning were given treatment.<sup>111</sup> Education for these communities has improved, albeit rather slowly, and the EU has had an instrumental role in building learning centers to encourage minorities to continue their education.<sup>112</sup>

Žbogar has specifically prioritized integrating Kosovo's Serb community into the rest of the country during his tenure. In this area, he has been more successful than his predecessors. While this is partly due to advances made in the Kosovo-Serbia Dialogue, Žbogar's role should not be underestimated. He openly pushed for and gained the launch of Kosovo's Serbian language broadcaster, RTK 2. He successfully lobbied and cajoled the Kosovo Government to use Serbian more often. He has also been consistent in his refrain that Serbs are part of Kosovo and must be treated as part of the community. In general, these efforts have won. Žbogar praise for his important contribution on integrating minorities into Kosovo's civic life.<sup>113</sup> Kosovo Albanian politicians, however, believe that they carry the burden for integration, while the minority populations extract concessions. The earlier fight over the establishment of the Kosovo Armed Forces brought this out into the open, as the Democratic League of Kosovo (LDK) and Vetevendosje Movement accused the minority populations of blackmailing them by demanding a continuation of reserved seats be attached to a constitutional amendment creating the Kosovo Armed Forces.<sup>114</sup>

<sup>108</sup> EU official, interview with the author, 15 July 2014

<sup>109</sup> *Ibid.*

<sup>110</sup> The failure of several EU states to reach this position speaks poorly of them and does not excuse Kosovo. Poorer, less-developed countries such as Rwanda reached this threshold. Kosovo should be able to as well.

<sup>111</sup> "The closing down of Osterode Camp is marked," *M-Magazine*, 13 December 2012, available at <http://www.m-magazine.org/en/Kosovo/The-closing-down-of-Osterode-camp-is-marked-3719>; "EU facilitates closer of Leposavic camp and resettlement of 31 RAE families," *KosovoLive360*, 17 December 2013, available at [http://time.ikub.al/7071d39313/c8ec8ec481c1e9560a60696c4fbeb5e/Lajm\\_EU-facilitates-closure-of-Leposavic-camp-and-resettlement-of-31-RAE-families.aspx](http://time.ikub.al/7071d39313/c8ec8ec481c1e9560a60696c4fbeb5e/Lajm_EU-facilitates-closure-of-Leposavic-camp-and-resettlement-of-31-RAE-families.aspx)

<sup>112</sup> "Commission Staff Working Document: Kosovo\* 2013 Progress Report"

<sup>113</sup> Kosovo non-governmental organization head, interview with the author, 24 June 2014

<sup>114</sup> Kosovo's Constitution requires Amendments be approved by both two-thirds of all deputies in the Assembly and two-thirds of all minority deputies. Edona Peci, "Kosovo opposition rejects reserved MP seats for minorities," *Balkan Insight*, 28 April 2014, available at <http://www.balkaninsight.com/en/article/kosovo-opposition-rejects-conditioning-vote-on-reserved-seats-for-minorities>

According to a member of LDK, they had received no support from the EU Office on this matter; instead, the EU Office pushed a compromise to which the then-opposition was publicly opposed. While not opposed to providing support for minority communities or guaranteeing their rights, the then opposition believed that this was a naked power grab by the minority populations enabled by the EU Office.<sup>115</sup> In their minds, Žbogar has emboldened the minority populations, not integrated them into Kosovo's broader society.

Even more controversial with regard to minority populations has been Žbogar's outreach to the mayors and other elected officials in the recalcitrant Serb communities in the north. More than any other official in Kosovo, Žbogar holds the trust of the northern Serb community and Belgrade to look out for the northern Serbs best interests. He meets frequently with the mayors of the four municipalities and will occasionally work around them with Belgrade to ensure their slow integration into Kosovo.<sup>116</sup> They trust him to manage the development fund for the north and to manage the EU's pre-accession projects in the region.<sup>117</sup> In return, he responds when they have concerns while integrating the region into Kosovo.

On the one hand, this has helped slowly pacify the north and ratchet down the tension between Serbs and Albanians. The barricade crisis has not resumed and northern Serbs began participating in Kosovo civic life in the past two elections. Outreach to Belgrade has helped keep the region calm. One civil society group head specifically credited Žbogar with lowering the tension between Albanians and northern Serbs enough to expand communication between the two groups.<sup>118</sup> It has also helped the development of the Serbian communities and kept an EU presence in the region that has slowly expanded.<sup>119</sup>

On the other hand, the special effort at outreach has undermined some of Žbogar's other goals and may have created a crutch for the Serb communities to lean on instead of integrating into the broader Kosovar state. His visit to see Mitrovica mayor Oliver Ivanovic's coterie was particularly dangerous, as Ivanovic was imprisoned by EULEX for war crimes and Žbogar raced to reassure his councilors that he would be treated fairly.<sup>120</sup> This may have seemed necessary to pacify the cantankerous Ivanovic, but it also sent two horrible messages. First, it implied that EULEX could not be trusted to be diligent and careful in its arrests, undermining the rule-of-law mission. Second, it showed that any complaint by an important northern Serb would receive the immediate attention of the EU Special Representative.

Opinions are split on these efforts in the north. In support of Žbogar, this role may have been inevitable. The Kosovo national government has no credibility with northern Serbs. Žbogar painfully built trust over more than a year to mediate between the Kosovo government and its recalcitrant Serb population. While it would have been preferable for the Kosovo government to take over and work with its own citizens, building enough trust for direct action could take years. Žbogar must step into the void to start the trust-building process.<sup>121</sup>

<sup>115</sup> LDK Member of the Assembly, interview with the author, 27 June 2014

<sup>116</sup> European Scrutiny Committee, *Third Report of Session 2014-15*

<sup>117</sup> Agron Halitaj, "Treasury to open account for fund for north," *Koha Ditore*, 2 February 2013, translated from Albanian and provided by BBC Worldwide Monitoring, retrieved from [lexisnexis.com](http://www.lexisnexis.com)

<sup>118</sup> Kosovo non-governmental organization head, interview with the author, 24 June 2014

<sup>119</sup> Lidington, "Explanatory memorandum"

<sup>120</sup> Tanjug, "Oliver Ivanovic's councilors meet with international officials," *inSerbia*, 28 January 2014, available at <http://inserbia.info/today/2014/01/oliver-ivanovics-councilors-meet-with-international-officials/>

<sup>121</sup> Kosovo non-governmental organization head, interview with the author, 24 June 2014

In opposition to Žbogar, he may have overplayed his role. His activities coddled the Serb leaders and gave them the political means to stay outside of the state system and extract concessions from the Kosovo government. His intervention prevented a dialogue from taking place directly between the Serb communities and Pristina and has guaranteed Belgrade's meddling in the process. He thus has blocked a reconciliation that could have been both quicker and more lasting. Now, with all of his efforts to soothe the fears of the northern Serb leaders, he may have prevented complete reconciliation from taking place.<sup>122</sup>

EU officials find these critiques unrealistic. EU officials are adamant that, without Belgrade's involvement, there would have been no improvement in relations with Serbs in the north.<sup>123</sup> Other observers had noted that the flooding in Serbia, which distracted from government involvement in Kosovo this spring, proved how useless and difficult officials in the north were without Belgrade leaning on them.<sup>124</sup> Officials from both the EU and the member states see the Dialogue and Žbogar's efforts as having been crucial for the integration of both Serbs in the north and the south. The greater worry is that the Serbs are too dependent on Belgrade to make effective decisions on their own, not that Žbogar coddles them too much.<sup>125</sup>

While Žbogar deserves criticism for his role, especially for visiting Ivanovic, many criticisms center on an unrealistic belief that the northern Serb community would trust approaches from the Kosovo government. The 2011 barricade crisis showed the depth of mistrust and fear in the northern Serb community. Žbogar deserves credit for getting Serbs to buy into local governance structures. It is a valid concern that a direct, sustainable relationship between the north and south has not been established, but the indirect, mediated relationship that exists now is better than the high-friction hostility that existed before. Hopefully with the passing of time and the establishment of a new generation of Serb leaders in the north who will be more independent from Belgrade, the intense suspicion will evaporate and a more sustainable relationship will take its place. However, with the current leadership in the northern municipalities, Žbogar's role was necessary and the results are a major accomplishment.

#### 4. Assuring and Implementing the Kosovo-Serbia Dialogue

Žbogar's mandate also makes him the EU official on the ground to assure implementation of the Kosovo-Serbia Dialogue in Kosovo. His remit does not include putting pressure on Serbia, though he often does interact with Belgrade to put pressure on the northern municipalities to comply with the Dialogue.<sup>126</sup> Thus he "can speak in relation to Kosovo only"<sup>127</sup> should only be judged by Kosovo's implementation of the Dialogue and his influence on this process. This being said, Žbogar has done quite well. He was an early proponent of the Dialogue reaching the political level, saying that the two sides could not put off difficult issues.<sup>128</sup> He also emphasized the need to involve Serbia, as its investments in north Kosovo were too deep to make it irrelevant.<sup>129</sup>

<sup>122</sup>ArbenSylejmani, "Kosovo nationalists demand end to Serbia talks," *Balkan Insight*, 26 June 2014, available at <http://www.balkaninsight.com/en/article/vetevendosje-insists-in-changing-kosovo-serbia-dialogue>; LDK Member of the Assembly, interview with the author, 27 June 2014; Vetevendosje! Member of the Assembly, interview with the author, 10 July 2014

<sup>123</sup> EU official, interview with the author, 15 July 2014

<sup>124</sup> Noted to the author on deep background

<sup>125</sup> EU official, interview with the author, 15 July 2014; United Kingdom embassy official, interview with the author, 10 July 2014

<sup>126</sup> United Kingdom embassy official, interview with the author, 10 July 2014

<sup>127</sup>Tota, "IBNA's exclusive interview"

<sup>128</sup> "Žbogar: Time for political dialogue," *M-Magazine*, 31 July 2012, available at <http://www.m-magazine.org/sr/Kosovo/Zbogor-Time-for-political-dialogue-2867>

<sup>129</sup> Rohan Kocharekar, "Kosovo and the Hard Road to Stability," *Future Foreign Policy*, 13 November 2012, <http://www.futureforeignpolicy.com/kosovo-and-the-hard-road-to-stability/>

As the Dialogue resulted in political agreements, he was adamant it continue in spite of protests and violence.<sup>130</sup> He also had a vision for what would be required beyond the Dialogue, noting that for Kosovo to move forward, there would have to be dialogues: between Kosovo and Serbia, between the Kosovo government and the northern Serbs and between northern Serbs and southern Serbs, though neither of the latter two has started.<sup>131</sup> His encouragement of the Dialogue and his ability to see where it needs to go and what it needs to achieve has thus been exemplary, though Kosovo is not yet close to the end of this process.

Partly through his efforts, agreements on the Dialogue that had previously been slow to implementation were jump started. In January 2014, Serbia for the first time handed over the cadastral records taken from Kosovo in 1999 as part of a September 2011 agreement.<sup>132</sup> The pace quickened on the handover of civil registry books, with over half handed over by January 2014, after only around 30 percent up in the first two years after the agreement in 2011.<sup>133</sup> The two sides began implementing the Integrated Border Management (IBM) Agreement, opening all six proposed checkpoints, a feat for which the UK gave Žbogar much of the credit.<sup>134</sup>

Žbogar has also been vital to the implementation on the First Agreement on Normalization, both in leaning on the Assembly to pass the required legislation and in ensuring the implementation was able to overcome small disputes, such as symbols on ballots and the campaigning of Serbian officials in the north. He helped pressure the Kosovo Assembly to ratify the agreement and to pass the necessary Law on Amnesty for Serbs in the north. His talks with local Serb authorities allowed the elections pass in the north not once, but twice. He thus broadly succeeded in pushing implementation of the Dialogue forward and the EU member states have been very happy with his efforts.<sup>135</sup> The UK would like the effort to continue and for implementation of the Dialogue to be fulfilled and consolidated in the next part of Žbogar's mandate.<sup>136</sup> The EU can start looking past the Kosovo-Serbia Dialogue and begin looking at the reconciliation required to consolidate the Kosovar state so that it may move forward.

#### IV. CONCLUSION AND RECOMMENDATIONS

In his work as EU Special Representative to Kosovo, Samuel Žbogar has, on the whole, positively impacted Kosovo. He managed an EU Office that has proven quite helpful in assisting the writing of legislation and regulations. In a relationship with EULEX that could have turned sour quickly due to bureaucratic rivalry, he has built an amiable, symbiotic relationship and, with the exception of a few rough points where Žbogar may have undermined EULEX's legitimacy, he has served EULEX well. In terms of his relationship with local officials, he has avoided becoming politicized, allowing him to continue working with all major parties.

<sup>130</sup> STA and T.M., "Žbogar: EU's determination in Kosovo unaffected by EULEX member murder," *Slovenia Times*, 20 September 2013, available at <http://www.sloveniatimes.com/zbogar-eu-s-determination-in-kosovo-unaffected-by-eulex-member-murder>

<sup>131</sup> Besnik Krasniqi, "Žbogar does not expect long-term solution from Kosovo-Serbia Dialogue," *KohaDitore*, 8 March 2014, provided by and translated from Albanian by BBC Worldwide Monitoring, retrieved from lexisnexis.com.

<sup>132</sup> Tanjug, "Cadastral data for three KiM municipalities submitted," *inSerbia*, 24 January 2014, available at <http://inserbia.info/today/2014/01/cadastral-data-for-three-kim-municipalities-submitted/>

<sup>133</sup> EULEX Kosovo, "EULEX supports the Dialogue implementation in area of civil registries-808 civil registry books handed over," *EULEX Kosovo*, 3 September 2013, available at <http://www.eulex-kosovo.eu/en/pressreleases/0480.php>; IlirDeda and ArianaQosaj-Mustafa, "The implementation of agreement of Kosovo-Serbia political dialogue," published by Kosovar Institute for Policy Research and Development, July 2013, available at [http://www.kipred.org/advCms/documents/22356\\_The\\_Implementation\\_of\\_Agreements\\_of\\_Political\\_Dialogue.pdf](http://www.kipred.org/advCms/documents/22356_The_Implementation_of_Agreements_of_Political_Dialogue.pdf)

<sup>134</sup> European Scrutiny Committee, *Eighth Report of Session 2013-14*, (HC 2013-2014, 83-viii), available at <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmeuleg/83-viii/8326.htm>

<sup>135</sup> European Scrutiny Committee, *Third Report of Session 2014-15*

<sup>136</sup> United Kingdom embassy official, interview with the author, 10 July 2014

He has advocated for civil society and media independence as elements of Kosovo's democracy. He pushed an SAA with Kosovo as well as visa liberalization. He has also paid remarkable attention to minorities and integrating them into Kosovo society. The closing of the remaining camps for the Roma, Ashkali and Egyptians, as well as the opening of pilot programs to educate Gorani is at least partly thanks to his efforts. His attention to the local Serbs has built an amount of faith and trust unknown to most other officials; his personal visits and oversight of the launch of RTK 2 were especially noteworthy. His relationships with the northern Serb mayors have help ratchet down the tensions between the Serbs and Albanians, and he deserves much of the credit for avoiding another ethnic crisis. Finally, the assurance and implementation of the Dialogue under Žbogar has improved. He helped push Kosovo and Serbia to negotiate at the most senior level. He oversaw the opening of six border crossings under the IBM agreement, the first return of cadastral records and a quickening of the return of civil registries. While other factors undoubtedly played a factor, he deserves credit all the same for facilitating these events.

However, Žbogar's term has not been flawless. He and his office have often kept member states ignorant of initiatives and IPA projects. Consulting the member states may have been slower, but it could have helped better manage projects that have suffered from lack of auditing. While part of his mission is to help integrate the north, he must be more selective about acting when EULEX arrests a Serb official. His rushing to assure the family of Oliver Ivanovic was triply poisonous: it undermined EULEX, it infuriated the majority Albanians who already believe they are more shabbily treated by EULEX and the EU, and it reinforced the crutch that northern Serb leaders lean on to avoid talking to Pristina. In interacting with local politics, he too often protests neutrality and withdraws. Žbogar should criticize politicians and the government more according to many, not less. Electoral reform especially requires more vigor, as it has languished for over three years. Žbogar must also show greater awareness for the connection between perceptions of the EU in Kosovo and the comparative treatment of minorities and Albanians. EU criticism has fallen heavily on the Albanians. For the most part, this is fair, as they are the dominant ethnic group, but reserving no criticism for the ethnic minorities plays into the Kosovo narrative that it is an innocent victim. Žbogar should not indulge such fantastic self-pity, but he needs to be more aware of it in his relationship with minorities. Finally, the apparent double standard on emphasizing implementation of legislation to its letter and to its spirit for most policy areas, but not for women's participation in Kosovo's society is disappointing.

Overall, Žbogar should be given high marks for his time as Special Representative. This would be deserved on his aid implementing the Dialogue and creating something of a détente between the Kosovo Albanians and the northern Serbs alone. His ability to manage the bureaucratically tricky relationship with EULEX and run an EU Office that continues to be helpful to the local officials should also be praised. His on-the-ground work for minorities, press freedom and women's political participation also deserves credit. His marks also get a slight curve for degree of difficulty, as he holds a position that is currently subject to a bureaucratic war between the High Representative and the member states, must push a united front in an issue where the EU appears to have no idea about its strategic direction and has to deal with pressure on the issues most important to Kosovo—visa liberalization and an SAA—without being able to give firm, clear answers. The government and people of Kosovo should hope that he continues forward as Special Representative past February 2017.

No matter if Žbogar gets the extension past February 2017, the EU Office and EU Special Representative position deserve far more respect and information from the office of the High Representative, the European Commission and the Council of the EU. The constant wrong footing of the Special Representative due to lack of information is appalling. The inability to

listen to advice, even advice as urgent as the need for a clear statement on Kosovo's European future now and not in several years, from an official with such a clear understanding of the region is equally reprehensible. The EU Office and the EU Special Representative are not the High Representative and Council's telegraph service; they serve more purpose than to simply pass messages. They should be treated like the valuable assets they are.

The Office of EU Special Representative to Kosovo cannot and should not last forever. While, for reasons enumerated above, this paper believes the position is still necessary for Kosovo's development and political consolidation, it should be an encouraging sign, not one to be feared, that officials in EU member states are questioning the need for the Special Representative. It is important to remember the EU Special Representatives are created to deal with flashpoints; acute problems requiring the EU's concentrated resources and attention. An EU Special Representative is meant to coordinate policies among all of the member states and to help defuse a crisis or problem for the betterment of EU interests. The EU Special Representative's position thus contains the self-destructive mandate that, if they are successful, their positions are terminated. That Samuel Žbogar has created enough unity among the member states and ratcheted down tensions in Kosovo enough that there murmurings of terminating the position means he has made great progress in at least helping Kosovo get to a place with less conflict, for which he should be commended.

## V. Recommendations

- a. Samuel Žbogar should be more outspoken and more aggressive in demanding reforms and identifying malfeasance. His restraint overcorrected from other foreign interference and he is too often silent or vague when he should criticize political malfeasance.
- b. While Žbogar should continue to protect minority rights and should not indulge the narrative of victimization, he must at least push more conciliation from both sides as opposed to simply pressing the majority.
- c. Electoral reform must remain a high priority for the EU and Samuel Žbogar should push harder for its passage. A full election cycle should not have passed without a new election law and the current situation cannot continue.
- d. The Special Representative, the EU Office and the member states must follow through on their newly expanded interest and efforts for improving economic governance and development in Kosovo. The early signs are encouraging, but the economy so far has been one of the more neglected parts of the Special Representative's mandate and needs greater attention, as a reformed and bustling market economy can help Kosovo improve in other priority areas, such as rule of law, anti-corruption and integrating minorities.
- e. The objective of promoting the rights and participation of women in Kosovo's society and politics should be held to the same standard as every other issue in Kosovo's European integration. The EU has admittedly limited capacity in this area, but it cannot highlight the gap between legislation and implementation as a problem in other sectors and then blithely accept it in this one.
- f. The new High Representative should propose an extension of Samuel Žbogar's mandate through the end of February 2018. While his performance had some flaws, he has still proven highly capable in pushing EU priorities, reaching out to the Serbian communities and being an advocate for Kosovo's European integration.
- g. In any future mandate, the reference to trying to build up local support for EULEX's mission should be struck out by the Council of the EU. The need to hold seconded officials must be balanced against the need to show that the Special Representative is the authoritative voice of the EU in Kosovo. The changes made Žbogar appear subordinate to EULEX. As the

Special Representative will outlast EULEX in Kosovo, he must receive respect and authority in Kosovo and in Brussels.

h. The High Representative, the Council of the EU and all officials in the European Commission who handle the EU's Kosovo policy need to have greater faith in their Special Representative. Too often they have undercut him by withholding information, bypassing his office or refusing to heed his advice. Samuel Žbogar holds the respect of the government and the opposition; of official Kosovo and civil society; and of Serbs in the north and Serbs in the south. He is one of the few figures in Kosovo that cuts across divides of politics, ethnicity and geography. This overarching achievement shows he can bring Kosovo closer to the EU as a functional whole. The EU's preference for secrecy and delay gives it no credit. It must come to an end.

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## **POLICY REPORTS**

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