

# Bad versus good enough: Negativity bias and institutional choice

Cooperation and Conflict

1–27

© The Author(s) 2025



Article reuse guidelines:

[sagepub.com/journals-permissions](https://sagepub.com/journals-permissions)

DOI: 10.1177/00108367251352092

[journals.sagepub.com/home/cac](https://journals.sagepub.com/home/cac)

**Birte Julia Gippert**  
and **Theresa Squatrito** 

## Abstract

Why do decision-makers choose to create new international institutions, even though an existing institution appears to be both suitable and good enough? This article examines this puzzle. Existing literature suggests that a status quo bias leads decision-makers to view the creation of a new institution as the choice of last resort. Existing institutions will, therefore, be used or modified when they are suitable for a given cooperation problem and their past performance is good enough. Yet, as the case of the Kosovo Specialist Chambers and Specialist Prosecutor's Office (KSC) suggests, decision-makers at times reject existing institutions that are suitable and good enough. We identify the phenomenon of rejection-led creation and explain why it occurs. We argue that negativity bias, which is a known principle of human cognition, can account for why leaders might reject an institution and create another in its place. Negativity bias manifests during processes of institutional choice as loss aversion and failure salience. Empirically, we illustrate how negativity bias led to the rejection of the European Union (EU) Rule of Law Mission in Kosovo and the subsequent establishment of the KSC. This article contributes to literature on institutional choice theory and behavioralism in International Relations.

## Keywords

institutional choice, negativity bias, international institutions, Kosovo and war crimes

## Introduction

In 2008, Carla Del Ponte, former Chief Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY), alleged that serious crimes committed in the Kosovo conflict in the late 1990s had gone unpunished (Del Ponte, 2009 [2008]). A 2011 report commissioned by the Parliamentary Assembly of the Council of Europe (CoE) supported

---

### Corresponding author:

Theresa Squatrito, London School of Economics and Political Science, Houghton Street, London WC2A 2AE, UK.

Email: [t.j.squatrito@lse.ac.uk](mailto:t.j.squatrito@lse.ac.uk)

these allegations, finding that Serbian and Albanian Kosovars had been held in secret detention camps by the Kosovo Liberation Army (KLA) and subjected to inhuman treatment, disappearances, and organ trafficking (CoE, 2011). The report received intense international publicity and put pressure on international actors to renew efforts to prosecute war crimes in Kosovo, despite having already been underway since 1993 through the ICTY, the United Nations Interim Administration Mission in Kosovo (UNMIK), and the European Union (EU) Rule of Law Mission (EULEX). Decision-makers, predominantly the EU and United States (US), ultimately decided that none of the three existing institutions could be used or modified for use. Instead, in 2015 they created a new institution—Kosovo Specialist Chambers and Specialist Prosecutor's Office (KSC).

The decision to reject and create raises a theoretical puzzle: how can we explain a decision to create a new institution following the rejection of an existing institution that appears both suitable and good enough? This question is significant for several reasons. The creation of new international institutions is more than ever situated in an environment of regime complexity, marked by a dense set of nested and overlapping institutions (Alter and Raustiala, 2018). Although scholars have observed continued creation of new international institutions (Pevehouse et al., 2020; Vabulas and Snidal, 2021; Westerwinter, 2021), this heightened complexity means it is less obvious why a new institution is necessary or preferable, and why no existing institution is a feasible choice in the face of new or resurgent problems. Moreover, in an era of high politicization and contestation of international organizations (Morse and Keohane, 2014; Walter, 2021; Zürn et al., 2012), rejection of sufficient institutions is likely to be more common, as the British exit from the EU or the first Trump administration's withdrawal of the US from the United Nations Educational, Scientific and Cultural Organization suggest. Rejection-led creation may offer new insights into the exit from, replacement and death of international organizations (Debre and Dijkstra, 2021; Dijkstra and Debre, 2022; Eilstrup-Sangiovanni, 2020, 2021).

Scholars have studied what leads to the creation of new international institutions, especially when creation incurs duplication, competition, and overlap within global governance. Some have argued that new institutions are established because existing ones are "unsuitable" as they do not accommodate key elements of a cooperation problem. In particular, creation often follows from significant changes to state preferences, interstate power dynamics, or cost constraints (e.g. Abbott and Faude, 2021; Lipsky, 2017; Pratt, 2021; Urpelainen and Van de Graaf, 2015). Other instances of creation are attributed to poor performance and inability to deliver (Dijkstra and Debre, 2022); they are simply not "good enough" (Jupille et al., 2013).

This article complements and contributes to existing accounts by specifically examining rejection-led creation. We propose this as a previously unidentified type of creation, namely, creation following the exclusion of an institution from a choice menu despite being "suitable" and "good enough." Extant institutional theory expects that so long as an institution is "suitable" and "good enough," it will be used, selected or modified (Jupille et al., 2013). Moreover, creation following from rejection—what we call rejection-led creation—is considered especially unlikely because creation comes with significant replacement costs and uncertainty. Risk leads decision-makers to have a status quo bias and creation is the least desirable option (Jupille et al., 2013). Thus, this article fills a gap in the existing literature by identifying rejection-led creation.

In addition, we offer an account for why rejection-led creation occurs. For this purpose, we look to negativity bias—a well-established principle of human cognition which means that “in most situations, negative events are more salient, potent, dominant in combinations, and generally efficacious than positive events” (Baumeister et al., 2001; Rozin and Royzman, 2001: 297). Specifically, we theorize how negativity bias intervenes in the process of institutional choice through the mechanisms of loss aversion and failure salience. Drawing on literature from cognitive psychology, we argue that negativity bias offers a novel explanation for why creation might happen despite the suitability and adequate performance of existing institutions. Revealing the significance of negativity bias on institutional choice also contributes to behavioralism in International Relations (IR) (Davis and McDermott, 2021).

An empirical analysis supports this argument. The aim of the article is to refine existing theory and build new theoretical insights. Case studies and process-tracing are suitable for this aim (Beach and Pedersen, 2019). We, therefore, focus our analysis on the creation of the KSC, tracing how negativity bias manifests through loss aversion and failure salience and leads decision-makers to reject and subsequently create. The empirical analysis is guided by observable implications that we identify. It shows that indeed creation can occur despite the existence of suitable institution(s) that were good enough. It also reveals that negativity bias plays a crucial role in determining why institutions are rejected and leaves decision-makers with no choice but to create a new institution.

This article proceeds in six sections. First, it reviews the contributions presented by institutional theory, which reveals a gap with regards to rejection that is followed by creation. The second section defines rejection-led creation and elucidates the puzzle that this type of creation presents in the case of war crimes prosecution in Kosovo. Third, we present our theoretical argument on the role of negativity bias, how it operates through the mechanisms of loss aversion and failure salience, and develop observable implications that guide our empirical analysis. Section four describes our research design. The fifth section comprises the empirical analysis where we trace the rejection of EULEX and the choice to create the KSC. Finally, we discuss the implications of our findings and conclude.

## **Institutional choice theory: suitability and past performance**

Institutional choice theory, developed by Jupille et al. (2013), offers a natural starting point for explaining changes in the landscape of international institutions, including the creation of new institutions.<sup>1</sup> Importantly, institutional choice theory accommodates regime complexity, which scholars now recognize as a crucial consideration for theorizing around international institutions. A regime complex is “a set of overlapping and perhaps even contradictory regimes that share a common focus” (Alter and

---

<sup>1</sup>Institutions are defined as “explicit arrangements, negotiated among international actors that prescribe, proscribe, and/or authorize behavior” (Koremenos et al., 2001: 762; see also Jupille et al., 2013: 22). Accordingly, international organizations, their constitutive organs, international treaties, and international courts can be conceived as institutions.

Raustiala, 2018: 330). Institutional choice theory notes that as a result of regime complexity decision-makers will typically have a wide array of choices. When deciding among institutional options, decision-makers collectively choose between the “Use” of a focal institution, “Selection” of alternative existing institutions, “Change” of an existing institution, or the “Creation” of a new institution. The authors have stylized this framework as a decision-tree that marks “diachronic steps in a sequential institutional choice process” (Jupille et al., 2013: 28).

The foundation of institutional choice theory is new institutionalism—comprising of the three strands of historical institutionalism (HI), sociological institutionalism (SI) and rational-choice institutionalism (RCI). The three strands differ along their key behavioral assumptions, their treatment of actors’ agency and preferences, and the role of exogenous factors. They also come to varied conclusions about when the institutional landscape will be significantly altered (Hall and Taylor, 1996; Peters, 2019; Thelen, 2004). HI expects institutions to have significant staying power, as past decisions constrain future choices and lead to path dependency (Fioretos, 2011; Mahoney and Thelen, 2009; Pierson, 2004). According to HI, despite dysfunction and inefficiencies, significant change is rare and limited to instances of exogenous shocks (i.e. critical junctures, punctuated equilibria) (Capoccia and Kelemen, 2007). SI assumes actors have cognitive and informational limitations and display “bounded rationality” (Kahler, 1998; Simon, 1997). It also expects institutional stability, as institutions create meaning, cultural values, and myths that are self-preserving and reinforcing (March and Olsen, 1989; Meyer and Rowan, 1977). The perceived need to retain these systems of meaning and identity can blind actors to other options, leading existing institutional templates to stick. SI is generally ill-equipped to explain significant change, aside from ad hoc accounts that suggest that new actors succeed in displacing old institutions (Zorn et al., 2006). RCI, on the other hand, assumes synoptic rationality. Actors are assumed to have complete information and make choices that lead to optimal institutional outcomes. Institutions are sustained as long as they serve their purpose, and new ones are created when old ones are inefficient and no longer match actors’ preferences or the cooperation problem (Weingast, 2002). Creation is, therefore, a negotiated outcome that aims to optimally address the cooperation problem at hand (Koremenos et al., 2001). Inefficiencies, such as failures to achieve goals or inadequate accommodation of actors’ preferences, will, therefore, account for changes in the institutional landscape.

Institutional choice theory combines insights from the three strands of new institutionalism to address their individual shortcomings and explain choices between use, selection, change, or creation. Institutional choice theory, like SI, assumes that decision-makers “have a limited view of the available alternatives, cannot look all the way down the [decision] tree, and consequently choose satisfactory outcomes which are not necessarily optimal ones” (Jupille et al., 2013: 32). Rather than assume a search for optimum outcomes as RCI would do, boundedly rational decision-makers employ heuristics such as “satisficing” which results in outcomes that are *good enough* as opposed to optimal (Jupille et al., 2013: 31, 32). An institution that is good enough is vaguely defined as one that “produce[s] results above some minimum threshold” (Jupille et al., 2013: 7). In keeping with the status quo bias, the threshold for rejection as not good enough is high, and includes instances of “systemic breakdown,” “major crisis” (p. 10),

or “enormous insufficiency” (p. 12), in short, situations in which actors have “no choice” but to create a new institution (p. 48). Like HI, Jupille et al. (2013) assume actors are cognizant of institutional constraints imposed by past decisions which cannot easily be backtracked. Boundedly rational decision-makers, therefore, are biased in favor of the status quo because choices that transform the institutional landscape are costlier and riskier (Jupille et al., 2013: 38). This indeed might account for the lower death rates of IOs that are older and larger (Eilstrup-Sangiovanni, 2020) or more institutionalized (Debre and Dijkstra, 2021). Overall, institutional choice theory expects a significant status quo bias, such that good enough will suffice and an adequately performing institution will be chosen.

Drawing on RCI, institutional choice theory also maintains that institutional choice will be driven by key elements of a cooperation problem (Jupille et al., 2013: 23, 24; see also Koremenos et al., 2001: 773–780). Specifically, an institution needs to be *suitable* to address the given cooperation problem. Suitability includes actors’ preferences and distributional concerns (i.e. strategic interests), institutional costs and constraints, and group characteristics (number of actors, preference heterogeneity, distribution of power, etc.). The institutional choice process, therefore, is expected to entail bargaining to ensure chosen institutions are suitable for the cooperation problem, and the final institutional outcome will hence “depend partly on the relative power and strategies of different actors” (Jupille et al., 2013: 31). Recent scholarship demonstrates that institutional creation often arises due to unsuitability. For instance, shifts in state power mean that existing institutions no longer adequately address distributional concerns and actors’ preferences, resulting in the creation of rival institutions or shifts to other institutions (Lipsy, 2017; Morse and Keohane, 2014; Pratt, 2021; Urpelainen and Van de Graaf, 2015). Similarly, IO death is most closely linked to major shifts in international power balances (Eilstrup-Sangiovanni, 2021). Sometimes existing regimes are unfit for new problems (Poast and Urpelainen, 2013) or do not meet cost demands (Abbott and Faude, 2021), leading to the formation of new IOs.

Taken together, extant theory contends that the choice between use, selection, change or creation is determined by two multidimensional criteria—adequate performance (“good enough”) and suitability. Consequently, institutional choice theory expects that decision-makers will choose an existing institution (by use, selection, or change) so long as it is *suitable* and *good enough*. Political costs and uncertainty make creation a risky choice. Decision-makers will, therefore, be biased in favor of the status quo and creation will be the choice of last resort. This means that the decision to create is more likely when no available institution is suitable or can be modified to be suitable to address the problem and no existing institution is good enough. In other words, existing institutional theory has no clear account for why suitable and adequate institutions are rejected, let alone a new institution being created in lieu of those that exist.

## The puzzle: rejection-led creation

A brief retelling of events leading to the creation of the KSC suggests that rejection-led creation is a potential outcome of institutional choice. Table 1 summarizes the relevant institutions and timeframes. The Kosovo Specialist Chambers and Specialist Prosecutor’s

**Table 1.** Institutional efforts to apply criminal accountability for international crimes committed in Kosovo.

| Institution | Supporting IO | Jurisdiction over conflict violence | Jurisdiction over post-conflict violence | Period of operation  |
|-------------|---------------|-------------------------------------|--|----------------------|
| ICTY        | UN            | Yes                                 | No                                       | 1993-2017            |
| UNMIK       | UN            | Yes                                 | Yes                                      | June 1999–April 2008 |
| EULEX       | EU            | Yes                                 | Yes                                      | April 2008–June 2018 |
| KSC         | EU            | Yes                                 | Yes                                      | 2015 onward          |

UNMIK, EULEX, and KSC also have jurisdiction over crimes against national law.

Office were created in 2015 as a hybrid international court.<sup>2</sup> It has jurisdiction to prosecute crimes against humanity and war crimes that were “either commenced or committed in Kosovo or committed by or against persons of Kosovo/FRY citizenship.” Its jurisdiction extends from 1 January 1998 to 31 December 2000, covering the period of armed conflict in Kosovo and the violent post-conflict period (KSC, 2018).

The Kosovo conflict, from early 1998 to June 1999, arose when Serbia attempted to assert military dominance over its province. Resistance became militarized when the KLA engaged the Serbian military forces in guerilla-style warfare (Judah, 2002). Failed peace talks led to the March 1999 NATO (the North Atlantic Treaty Organization) bombings against Serbia and Montenegro and culminated in the Serbian withdrawal and the deployment of NATO troops throughout Kosovo from June 1999 (King and Mason, 2006). With the end of the conflict, the UN Security Council (UNSC) established the UN Interim Administration Mission for Kosovo (UNMIK), whose executive authority for administering Kosovo was slowly shared with Kosovars as domestic institutional structures were built (see UNSC, 1999).

The first international effort to prosecute war crimes in Kosovo was the ICTY, established in May 1993 by the UNSC (see UNSC, 1993). The ICTY had the power to prosecute persons responsible for war crimes, genocide, and crimes against humanity committed in the territory of the former Yugoslavia, including Kosovo (ICTY Statute, 1993). Its jurisdiction covered crimes committed from 1991 onward *during armed conflict*. The ICTY closed in December 2017 and transferred all remaining cases to a residual mechanism. The Kosovo conflict fell clearly within its temporal jurisdiction, while the violent post-conflict period did not (International Crisis Group [ICG], 2002: 18). UNMIK also had a mandate to prosecute war crimes in Kosovo, including in the post-conflict timeframe (ICG, 2002: 20). After initially failing to adequately prosecute these crimes through Kosovo’s courts, UNMIK adapted and established special hybrid panels, which were composed of a majority of international judges who served alongside a Kosovar judge to adjudicate war crimes trials (Nouwen, 2006). While UNMIK remains in Kosovo to this day, all rule of law aspects of its mandate (including the prosecution of

<sup>2</sup>As a hybrid international court, the KSC is formally embedded in the domestic legal system of Kosovo, yet it is located in the Netherlands. Its jurisdiction includes some crimes under Kosovo law, such as murder and kidnapping, and crimes of interference with the proceedings of the KSC.



war crimes) were transferred to the EU Rule of Law Mission in Kosovo (EULEX) in April 2008.<sup>3</sup> Like UNMIK, EULEX had powers to investigate and prosecute war crimes (see Council Joint Action 2008/124/CFSP, Article 3(d)). EULEX also used hybrid panels, composed of a majority of international judges (Law No. 03/L-053) until the end of its executive mandate period in June 2018 (EULEX, 2025). EULEX continues to operate in Kosovo to this day.

While the ICTY and UNMIK as well as EULEX and the KSC overlapped in action and time period, in practice, the overlap was limited. The ICTY stopped accepting new cases as part of its Completion Strategy from 2003/2004 (ICTY, n.d.). During overlapping periods of operation with UNMIK (1999–2003/4), ICTY prosecutors and the applicable crime and law determined which institution would take precedence. The overlap between EULEX and the KSC was limited because the KSC only became “fully judicially operational” in July 2017 (BIRN, 2017).

Just as EULEX began operating in 2008, former ICTY Chief Prosecutor Carla Del Ponte released her memoirs in which she alleged that serious crimes in Kosovo had gone unpunished (Del Ponte, 2009 [2008]). These crimes were said to have been committed by members of the KLA following the end of the conflict. In response, the CoE’s Parliamentary Assembly commissioned an investigation into the allegations and appointed Dick Marty of Switzerland as rapporteur (CoE, 2008). The Marty Report found evidence that Serbian and Albanian Kosovars had been subjected to disappearances and inhuman and degrading treatment (CoE, 2011), causing considerable international attention. These events renewed the international cooperation problem and started the process of international institutional choice.

A Special Investigative Task Force (SITF) was set up in September 2011 to examine the events covered in the Marty Report. It was led by US Chief Prosecutor Clint Williamson with a staff of internationals (UNSG, 2011). The SITF was an investigative and prosecutorial body that conducted investigations to determine if indictments were possible and to collect evidence for potential prosecutions. In July 2014, Williamson issued a final statement, explaining that the SITF was able to file indictments, including against senior officials of the former KLA (SITF, 2014: 1–4). The SITF’s final report raised the question of which institution would be tasked with prosecuting and adjudicating those suspected of war crimes.

EULEX was the focal institution at the time. It was an obvious choice given it already had a pertinent mandate, was actively operating, satisfied the preferences of most relevant actors, and, although not perfect, it had a decent record of completing trials, addressing the backlog remaining from UNMIK, and closing cases (Borchardt, 2013; EULEX, 2011; Peci, 2014). Yet, EULEX was rejected, despite being suitable and good enough, which ultimately led to the creation of the KSC. The KSC presents the puzzle of rejection-led creation.

---

<sup>3</sup>While EULEX’ mandate started in April 2008, it only reached “initial operational capacity” in December 2008 and “full operational capacity” in April 2009 (Spernbauer, 2010: 81–782).

## Rejection-led creation and negativity bias

Why was EULEX rejected, leading to the creation of the KSC? More broadly, how can we explain creation after dismissal of suitable and satisfactorily performing institutions? We argue that negativity bias, previously unaccounted for, factors into institutional choice and helps explain rejection-led creation. Negativity bias is a key principle of human cognition that is often summarized as “bad is stronger than good” (Baumeister et al., 2001). More specifically, it means that “events that are negatively valenced (e.g. losing money, being abandoned by friends, and receiving criticism) will have a greater impact on the individual than positively valenced events of the same type (e.g. winning money, gaining friends, receiving praise)” (Baumeister et al., 2001: 323).

Studies have demonstrated the broad applicability of negativity bias, including for learning, attention and salience, voting behaviour, and decision-making (Baumeister et al., 2001; Bloom and Price, 1975; Rozin and Royzman, 2001). For instance, research shows that positive traits or characteristics in people can be canceled out by a single negative one (Corns, 2018) or that students learn more effectively from negative than from positive stimuli (Baumeister et al., 2001: 328). Hundreds of experimental studies have confirmed negativity bias across disciplines, including neurological studies that show the brain reacts more strongly to negative stimulation than to equivalent positive ones (Ito et al., 1998).

Psychologists argue that the human tendency to overvalue negative information has its roots in the evolutionary need to survive, as negative events can be potentially lethal while positive ones rarely are (Haselton and Nettle, 2006; Johnson and Tierney, 2019). Negativity bias does not, however, mean that bad will always win or that positive information does not matter, “rather, good may prevail over bad by superior force of numbers” (Baumeister et al., 2001: 323). According to the literature, there are different “types” of negativity bias, which means that the same bias can manifest in different ways (Rozin and Royzman, 2001: 296). We focus on two which seem particularly relevant to institutional choice, namely, loss aversion and failure salience. Specifically, we consider how loss aversion and failure salience act as mechanisms through which negativity bias shapes decision-makers’ choices.

*Loss aversion* means that “negative entities are stronger than the equivalent positive entities” (Rozin and Royzman, 2001: 297). This is encapsulated in Prospect Theory’s maxim that “losses loom larger than gains” (Kahneman and Tversky, 1979: 279). Building on this insight, Kahneman and Tversky (1979: 268, 269) found that people are more risk averse when they operate in a “positive domain,” meaning a scenario in which they stand to gain something, than if they operate in a “negative domain” where they stand to lose something. Loss aversion also underlies the “sunk cost fallacy” where people feel they have invested too much to quit (Teger, 1980). Previous IR scholarship demonstrates that loss aversion affects decision-makers’ preferences by altering their views on options and constraints—leading them to “double-down” or to “go all in,” often with suboptimal outcomes (Jervis, 2017; Johnson and Tierney, 2019; Welch, 2005).

*Failure salience* is the other mechanism through which negativity bias shapes institutional choice. It means that “combinations of negative and positive entities yield evaluations that are more negative than the algebraic sum of individual subjective valences



would predict” (Rozin and Royzman 2001, 299). It hence explains why the proverbial bad apple spoils the entire bushel. In the context of IR, failure salience explains why failures are likely to have heightened salience in the minds of those who make institutional choices, overriding positive achievements (Peeters, 1971). Change, reform, and innovations are, therefore, more likely after perceived failures (Johnson and Tierney, 2019: 112-114), even when an institution is otherwise effective or sufficient. This is supported by recent research on international organizations (IOs), which links “previous failings” to IO replacement and/or death (Debre and Dijkstra, 2021: 334).

The status quo bias and negativity bias present different expectations about decision-makers’ perceptions and behaviors. Table 2 summarizes these expectations. According to status quo bias, decision-makers are expected to create a new institution when others are unsuitable and/or had inadequate performance. We would expect a status quo bias, therefore, to be revealed by three observations. First, decision-makers will express views that existing institutions are unsuitable, meaning they would claim that existing institutions do not have, or could not be modified to have, the capacity to address the policy problem or the ability to accommodate preferences of key actors or distributional concerns. Second, decision-makers will consider an institution’s successes, perhaps overvaluing it, or assess whether an existing institution meets a minimal threshold of performance. Third, decision-makers will recall institutional constraints imposed by past decisions (Jupille et al., 2013).

In contrast, negativity bias is expected to have the opposite effect of status quo bias and to make actors more inclined to reject institutions and create new ones. Therefore, it has different observable implications which we separate by the two mechanisms of loss aversion and failure salience. Loss aversion is an actor’s perception that they operate in a negative domain, an area of loss, but that they have invested so heavily already that they cannot give up now (Kahneman and Tversky, 1979; Teger, 1980). Losses can be regarded as reputational, monetary, or other resources, as well as progress toward a goal. We, therefore, expect to observe loss aversion through statements that reflect “sunk costs” reasoning or being too invested to quit or to accept mediocre compromises. Perceptions inform behaviors, so we expect decision-makers to “double-down,” to exhibit risk-taking behavior, including raising stakes. Moreover, we expect to observe language or behaviors that justify, downplay, or ignore (increased) costs associated with choices. If negativity bias manifests as failure salience, we expect decision-makers to perceive their choices through the lens of a positive-negative asymmetry where negative information is stressed and positive information minimized (Peeters, 1971). We would expect decision-makers to justify institutional rejection and creation with past failures or the need to adopt “clean slate” policies to avoid contagion effects.

## Research design

Previous efforts to incorporate cognitive psychology into models of decision-making in political science and IR rely extensively on experimental designs and focus on individual cognitive bias (Davis and McDermott, 2021). While experimental designs are well-suited for individual decision-making, previous research in political science shows the benefit of using case studies to research biases in collective decision-making (Johnson,

**Table 2.** Summary of expectations and observable implications.

| <i>Perceptions</i><br><i>Behaviors</i><br><br><i>Observable</i><br><i>implications for</i><br><i>choices</i> | Status quo bias  | Negativity bias  |   |
|--|--|--|---|
|  |  | Loss aversion  | Failure salience  |
|  | <ul style="list-style-type: none"><li>• Uncertainty and risk</li><li>• Satisficing</li><li>• View as unsuitable for problem, preferences, or distributional concerns</li><li>• Recognition of good performance</li><li>• Cognizance of institutional constraints</li></ul> | <ul style="list-style-type: none"><li>• Domain of loss</li><li>• Risk-taking</li><li>• Raising of stakes</li><li>• Describe as too invested to quit, sunk costs</li><li>• Justify, downplay, ignore risk</li></ul> | <ul style="list-style-type: none"><li>• Positive-negative asymmetry</li><li>• Establish clean-slate</li><li>• Emphasize bad performance, neglect good performance</li><li>• Describe as tainted, need for fresh start</li></ul> |

2020; Mintz, 2007; Yetiv, 2013). Moreover, since the aim of this article is theory-building, we use process-tracing of a single case of institutional choice (Beach and Pedersen, 2019). Our case study focuses on the decision-making period leading to the creation of the KSC, beginning with the release of the CoE's Marty Report in January 2011 and ending with the KSC's creation in 2015.

The KSC provides a good case for exploring the role of negativity bias because the choice between the ICTY, UNMIK, EULEX, or a new institution adds a dimension of within-case comparison to our analysis. We also select the KSC because its creation was costly and uncertain. The KSC was created formally by international agreement, known as the "Exchange of Letters," between Kosovo and the EU, and endorsed by relevant partner states (e.g. United States, Canada, Norway). The KSC is hence an international institution to which the EU is a member and donor (KSC, 2018). Given that five EU member states do not recognize Kosovo as an independent state, their willingness to support this international agreement was highly uncertain. Similarly, its creation necessitated ratification through Kosovo's Assembly and constitutional reform to embed it within Kosovo's legal system, which was highly controversial and required significant political maneuvering (BIRN, 2017). Last, there was little certainty that yet another effort to address crimes in Kosovo would yield different outcomes.

Process-tracing is a method that entails the unpacking of causal mechanisms by identifying sequential evidence connecting variables (Beach and Pedersen, 2019: 302). Our empirical analysis seeks to trace the process of international decision-making which led to the establishment of the KSC. Within this process, we look for evidence of loss aversion and/or failure salience, as we have theorized them as the key mechanisms through which negativity bias might affect institutional choice. At the same time, we compare this evidence to data which might be indicative of a status quo bias. Moreover, our empirical analysis is guided by explicit observable implications, or the footprints that status quo and a negativity bias are theoretically expected to leave on the empirical record (Gonzales-Ocantos and Masullo, 2024). These observable implications are spelled out in the previous section, and thus we look for the presence (or absence) of these observable expectations as evidentiary steps in the traced process.

In examining the process of institutional choice leading to the creation of the KSC, we rely on a triangulation of data. First and foremost, we rely on semi-structured elite interviews with key decision-makers. Elite interviews provide access to decision-makers' perceptions, rationales, and motivations for behavior (von Soest, 2022). While we do not expect actors to be fully aware of their biases at the time of decision-making, retrospections can assist in revealing them. Interviews help to trace interactions in collective decision-making. While interviews can raise reliability issues due to problems with memory, post-decision bias or individuals' desires to look good (Berry, 2002), we try to mediate these potential issues in different ways. Open-ended questions permitted interviewees to reflect on their own motivations and actions but also on those of colleagues. The ability to reflect on colleagues can diffuse interviewees' own part in events and reduce the incentive to embellish. Since the decision-making episode is over 10 years ago and most interviewees hold different positions today, we expect less need for interviewees to amend their reflections to look good.

Interviews for the purpose of process-tracing can be a useful tool, but require careful identification of observable implications and structured interview protocols (Gonzales-Ocantos and Masullo, 2024). We followed these practices. Our interview protocol included questions about if and how the ICTY, UNMIK, and EULEX were featured in the decision-making leading up to the creation of the KSC. We systematically queried interviewees about key states' preferences, political constraints, and views of institutional performance to capture expectations related to the status quo bias.

We conducted all interviews between July 2020 and July 2021. We used purposive sampling to ensure we spoke to actors closely involved in the decision-making process (Tansey, 2009).<sup>4</sup> We interviewed 11 individuals from the EU, United States, and partner states who held key roles at the time the institutional choice process was ongoing (2011–2015). This included staff from the European External Action Service, Civilian Planning and Conduct Capability, Committee for Civilian Aspects of Crisis Management, Political and Security Committee, and European Commission. The small number of interviews reflects the small group of people involved in the decision-making process. To guarantee confidentiality, all interviews are referenced only by date.

We relied on additional data to complement the interview material (Davies, 2001). In particular, we made extensive use of official reports from international organizations, including the United Nations (UN), the CoE, Organization for Security and Cooperation in Europe (OSCE), and EU, all of which actively reported on the relevant institutions involved with Kosovo. Finally, we draw on reports by nongovernmental organizations and academic literature.

## **The case of the KSC: rejection-led creation and negativity bias**

Why did international decision-makers choose to reject EULEX and create the KSC to adjudicate the findings of SITF? Applying the expectations summarized in Table 2, we review the evidence of status quo and negativity biases. We first examine why the focal institution EULEX was rejected, as well as the ICTY and UNMIK. To do this, we ask whether they were suitable and good enough in line with the expectations of institutional choice theory.

### *Were the existing institutions suitable?*

Institutional choice theory and status quo bias expects that for an institution to be chosen, it needs to be suitable for addressing the given cooperation problem, including whether an institution meets actors' preferences, distributional concerns, institutional constraints, and group characteristics. Interviews and reports reveal that the main decision-makers in this case were the EU,<sup>5</sup> the United States, and Kosovo on one side and Russia and Serbia on the other.

<sup>4</sup>Due to Covid-19 travel restrictions, all interviews were conducted virtually.

<sup>5</sup>We do not consider the EU a homogeneous institution; the different member states held different views on Kosovo and the importance of adjudication war crimes there. We include these into the analysis where relevant.

The initial decision that needed to be made was which international organization should lead the efforts to prosecute and adjudicate the suspected war crimes that transpired in Kosovo—the EU or the UN. Given both the UN and EU’s previous and ongoing involvement in Kosovo through EULEX, UNMIK and the ICTY, both were possibilities. Each evoked different political preferences and strategic interests. The question of the UN versus the EU split the main actors and incurred intense bargaining. The EU, with the support of the United States, insisted on retaining its institutional leadership, given Kosovo’s European future, epitomized by the then pending Stabilization and Association Agreement (Macdowall, 2015). Interviewees explain,

for the EU, the UN was not an option, yes? The EU said, “We took over the responsibility. We do not want to have a flashback into the past. We do not want to have the UN coming into the game again.” (Interview, 5 August 2020)

Other interviewees concurred, “The European Union, with the support of the United States, from the beginning, took the position that the EU had assumed responsibility for rule of law functions in Kosovo, that UNMIK had handed over its executive authorities to EULEX, and, therefore, the EU was the appropriate vehicle for taking this investigation forward” (Interview, 23 June 2021). The government of Kosovo’s preferences matched the EU’s. For Kosovo, the UN evoked the recent history of tutelage and foreign administration and was considered incompatible with their unilateral declaration of independence in 2008 (Rashiti, 2019). Kosovo, therefore, preferred an EU-led institution, viewing it as more consistent with respect for its declared sovereignty. Another strategic interest of the EU and United States was that of retaining control over the investigations and their influence in Kosovo more broadly,

So that was also a danger that if we were to give it to the UN, we lose the possibility to really focus on what we want to be investigating . . . [If] we have the UN, we have Russia there, we have China there. . . . We could not allow Russia to strengthen their role in Kosovo again. (Interview, 30 April 2021)

Russia and Serbia’s preferences were diametrically opposed to those of the EU and United States after NATO’s intervention in Kosovo (Brovkin, 1999). Serbia, with Russian support, lobbied heavily in the UN to garner support for setting up a new tribunal for Kosovo under the authority of the UN (Ristic, 2012). However, interviewees explain there was

very little enthusiasm for that within the P5. Britain and France, as members of the International Criminal Court, which they were paying a significant amount of money to support, and Germany, which was then on the Security Council, also in the same boat, were very reluctant to create another international court that they were going to pay for. (Interview, 23 June 2021)

Serbia’s relatively weak bargaining power, given other states would carry the financial burden of any court, undermined their UN aspirations. Yet, their preference for the UN was not strong enough to try to derail an EU-led process (Interview, 14 August 2020). Although this meant relinquishing control over the future process to the EU and United States, Russian and Serbian preference for a court proved stronger than their preference for a UN court, so they accepted the EU framework.

Although the EU member states agreed that the EU should play a central role in any Kosovo war crimes adjudications, they disagreed on the EU's stance toward Kosovo's independence, which influenced institutional choices. The EU had to find a way to accommodate five member states that do not recognize Kosovo's independence, each of whom had a veto over the final institutional choice. Any institutional choice needed to at least formally respect the preferences of these member states (Bargués et al., 2024). Interviewees explain,

The EU was in a tricky situation. As a bloc, the EU generally recognized Kosovo in a way. [. . .but] they had to toe the line between supporting and building Kosovo institutions while facing the very strong opinions of member states who did not recognize Kosovo. (Interview, 10 August 2020)

As the above indicates, the ICTY and UNMIK were considered unsuitable since, as UN institutions, they did not match the EU's, United States' or Kosovo's strategic preferences. Moreover, they were more costly as they would have entailed backtracking previous decisions to shut-down the ICTY<sup>6</sup> or transfer rule of law authority from UNMIK to EULEX. Institutional constraints were also impediments because choosing the ICTY<sup>7</sup> and UNMIK would have required UNSC approval.

However, in contrast, EULEX was a suitable institution for use across all relevant criteria: it had the correct mandate and membership, and it was EU-led yet accommodated the five non-recognizers. EULEX had a mandate covering war crimes committed during and after the conflict period (unlike the ICTY), enabling KLA war crimes prosecutions (Council Joint Action 2008: Article 3(d)). EULEX was already deployed throughout the country which meant starting a new or revised mandate would have been comparatively quick and cheap, requiring no lengthy political debates or new agreements—in other words, it would provide greater certainty, lower risks and costs. The mission also had relevant experience, having investigated and prosecuted war crimes since 2008, including those of the Marty Report before SITF got set up (Ristic, 2012). The new adjudications may have required additional staff and budget, but no more than starting afresh. In short, EULEX as the existing, focal institution for war crimes in Kosovo was suitable for use.

### *Was EULEX good enough?*

The second reason recognized by institutional choice theory and status quo bias for decision-makers not to choose an existing institution concerns its past performance, or whether it was good enough. Good enough is conceived as achieving “satisfactory (expected) benefits” (Jupille et al., 2013: 45), which is operationalized primarily in terms of the outcomes produced by the institution.<sup>8</sup> Adopting this operationalization to

<sup>6</sup>The UNSC first adopted a “completion strategy” for the ICTY in 2003, which the ICTY had already begun implementing (see UNSC, 2003, 2004). Only a decision by the UNSC could reverse the completion strategy.

<sup>7</sup>Use of the ICTY would have required a change to the ICTY's jurisdiction to include the post-conflict violence in Kosovo. The UNSC had previously refused to make this modification (ICG, 2002, 18).

<sup>8</sup>For example, in assessing the performance of the General Agreement on Tariffs and Trade, Jupille et al. (2013: chapter 3) look to the extent of protectionism and trade flows.



**Table 3.** War crimes cases with completed trials.

|              | Years          | No. of completed war crimes trials | Average per year | Source                     |
|--------------|----------------|------------------------------------|------------------|----------------------------|
| <b>ICTY</b>  | 1993-2013 (21) | 62                                 | 3.0              | ICTY website               |
| <b>UNMIK</b> | 1999-2008 (10) | 40                                 | 4.0              | Amnesty International 2012 |
| <b>EULEX</b> | 2008-2014 (7)  | 30                                 | 4.3              | EULEX website, Peci, 2014  |

Compiled by authors. Partial year is counted as a full year. We use 2014 as a cut off for EULEX because it was not until this point in time that the institutional choice was made. 2013 is the cutoff for the ICTY because the residual mechanism began operating in 2013 and all but one trial had been completed (excluding appeals). UNMIK and EULEX prosecuted other crimes, such as organized crime and financial crimes. We exclude these from our count.

understand whether EULEX was good enough, we compare the annual average number of completed trials of EULEX to its predecessors (Table 3). The average annual number of completed trials is appropriate because the three institutions operated for different lengths of time, and therefore it provides a standardized performance metric. It is also an indirect proxy for the integrity of trials. Trial integrity was a structural obstacle for all three institutions, as it is for most international tribunals, because war crimes trials rely heavily on witness statements (Ford, 2014). The integrity of trials hence depends on clear and robust witness statements and on ensuring the security of these witnesses.<sup>9</sup> In all cases tried by UNMIK, the ICTY and EULEX, witness security and trial integrity were challenging, derailing several high-level trials. This stemmed in part from the perception among Kosovo Albanians that the KLA were the heroes of independence (Warren et al., 2017), which could put pressure on witnesses in KLA trials. Furthermore, keeping witnesses safe from intimidation or worse in a small community like Kosovo was difficult even though both the ICTY and EULEX operated international witness protection schemes (Amnesty International, 2012; OSCE, 2010).

The ICTY completed a total of 62 war crimes trials, UNMIK completed 40 trials, and EULEX completed 30. However, the three institutions were active in their roles as war crimes adjudicators for different lengths of time, 21, 10, and 7 years, respectively.<sup>10</sup> Since the timeframe directly affects the number of war crimes cases each institution completed, we present the data averaged by year. This shows that the ICTY completed an average of 3 cases per year, UNMIK an average of 4 cases, and EULEX an average of 4.3 cases. The seemingly low number of cases per year are due to the complexity of war crimes cases in general and are not particular to Kosovo (Ford, 2014; Wippman, 2006). The data suggest that in comparison with its predecessors, EULEX was the most successful of the three institutions regarding its ability to complete trials.

<sup>9</sup>The evidentiary challenges for all international trials of war crimes or crimes against humanity, not only in the Balkans, are considerable and affect evidence collection, witness security, and evidence presentation in court (May and Wierda, 2002).

<sup>10</sup>We limited the timeframe for this analysis to the years of operation before the establishment of the KSC. This excludes three ICTY cases pending as of June 2013 and 92 EULEX cases pending as of February 2014 (Ford, 2014; Peci, 2014).

Since completed trials are only one indicator, though a very important one, we also reviewed additional data that can shine light on EULEX's war crimes performance. First, EULEX showed a significant capacity to manage the backlog left by UNMIK. EULEX reportedly inherited 1187 war crimes cases from UNMIK when it began operating in December 2008 (CoE Report 2011, 7) and had reviewed 888 of these by March 2010 (UNSG, 2010, 13).<sup>11</sup> These reviews were crucial to show which case files included sufficient evidence for prosecution, informing decisions on which trials to open. Second, international and local watchdog organizations also note EULEX's "significant contribution to strengthening the efficacy of the judicial system in Kosovo, both with respect to investigating most severe crimes and with respect to prosecuting them" (Amnesty International, 2012: 19; Humanitarian Law Centre, 2018; OSCE, 2010). Evaluating EULEX's performance more broadly, Zupančič et al. (2018: 600) find that "contrary to prevailing assessments, EULEX has made positive contributions to conflict prevention, though not without challenges and deficiencies." Third, membership commitments can indicate whether an institution is seen as satisfactory (Jupille et al., 2013). In the case of EULEX, throughout the period of institutional choice, EU member states renewed EULEX's mandate in 2010, 2012 and again in 2014 and dedicated a total of EUR 757 million in funding (see Council Decision 2014/349/CFSP). This itself suggests EU states remained committed to EULEX and considered its work and progress satisfactory.

Many reports note challenges and weaknesses, especially regarding local perceptions and EULEX's broader mandate (Mahr, 2018; Rashiti, 2019), suggesting EULEX was not an optimal choice. However, institutional choice theory assumes decision-makers are satisficers, and the status quo bias will lead to acceptance of good enough institutions. As the above evidence suggests, EULEX was "good enough" and performing satisfactorily.

Overall, according to extant theory, we would expect decision-makers to choose EULEX and stick with the status quo. EULEX was suitable according to all aspects of suitability and its performance was good enough across a number of measures. So why was it rejected?

### *Negativity bias through loss aversion*

Loss aversion suggests that actors who perceive themselves to be in a domain of loss are more likely to raise the stakes and double-down to avoid further loss, often referred to as sunk cost fallacy. EU member states had invested a lot of time, money, and political capital into Kosovo—first through the UN umbrella and then via the EU institutions. Kosovo's future path had been politically and institutionally linked to the EU since the 2003 Thessaloniki Council decided that all Western Balkan states had prospects for EU accession (European Council, 2003). EULEX as the EU's flagship mission had been deployed to Kosovo since 2008, an EU Special Representative led the International

<sup>11</sup>This represents a 75% decrease in the backlog inherited from UNMIK within 16 months, or roughly 70 cases per month. Also, it should be noted that EULEX was not fully operational until April 2009.

Civilian Office (vested with executive powers until 2012), and the EU High Representative has led the Kosovo-Serbia dialogue for normalization of relations since 2012 (European External Action Service, 2022).

Interviews suggest that EU decision-makers perceived themselves to be acting in a domain of loss due to their past investments into Kosovo when the Marty Report spotlighted the need for renewed action. Interviewees explain,

I think it was, what is it called? It's sunk cost bias, we've invested so much into this now, we can't turn back . . . This is too big to fail, we can't be seen to be failing in our first foray into multilateral judicial . . . post-conflict judicial administration.<sup>12</sup> (Interview, 18 June 2021)

EU decision-makers considered themselves too committed to step back, "the train is already rolling and you just have to keep going with it" (Interview, 10 August 2020). Another interviewee pointed to the perceived negative consequences of backtracking on commitments, it would be "like *Bankrotterklärung* [declaring bankruptcy] for the EU" (Interview, 30 April 2021), to fail there would "undermine what the EU has built up over the years in Kosovo and in the Balkans . . . we've come too far" (Interview, 30 April 2021).

The perception that decision-makers were acting in a domain of loss and dealing with sunk costs shaped subsequent choices. Decision-makers were prepared to allocate considerable extra resources, over 379 million between 2016 and 2025 (KSC, 2018, 2020, 2021). While there were budget discussions between member states and the European Commission about distribution of costs (Interviews, 30 April 2021; 8 June 2021; 11 May 2021), interviewees confirmed that "member states were committed to this [course of action]" (Interview, 18 June 2021).

Decision-makers also accepted political costs and risks. The EU and United States had to expend considerable political capital to pressure the Kosovo Assembly into accepting the idea of a new tribunal for war crimes (BIRN, 2017; Ristic, 2015). A war crimes tribunal focusing on the post-war period, and by extension the KLA, was deeply unpopular with Kosovar Albanians and imposed high sovereignty costs on Kosovo (Muharremi, 2019; Warren et al., 2017). Political risk emanated from reopening the arrangements pertaining to war crimes investigations and trials, a deeply contested issue between Serbia and Russia on the one side, and the EU and United States on the other (BIRN, 2017; Interview, 23 June 2021). The clashing preferences had already hindered the negotiations for the hand-over from UNMIK to EULEX (Gippert, 2017: 103, 104), a new institution would risk upsetting the fragile status quo.

Interview statements which indicate that the prevailing perception of decision-makers was to be acting in a domain of loss, coupled with their risk-taking behavior suggest that negativity bias through loss aversion influenced the decision to reject EULEX.

---

<sup>12</sup>We did not use the term "sunk cost" during interviews.

### *Negativity bias through failure salience*

Failure salience manifests as a perceived positive-negative asymmetry, where negative information and events receive disproportionate attention and importance. This stands in direct opposition to the status quo bias, where we expect an overvaluing of positive information, but also of rational choice theory which expects a rational (meaning balanced) valuing of positive and negative information.

EULEX's performance was reviewed negatively by all decision-makers interviewed. So much so that only one interviewee explicitly mentioned any positive achievements of EULEX: "the thing is, the mission really did get on with a lot of good stuff" (Interview, 18 June 2021). In all other interviews, the performance of EULEX in the war crimes trials element of their mandate was considered negatively. The two main issues highlighted were witness security and trial integrity. An interviewee elaborates,

it was [EULEX'] track record, I mean. . . it was the fact that any time there had been cases against high-level Kosovar officials, or even mid-level, anyone who had been in a meaningful role with the KLA, that you had political manipulation, political pressure put on the court, that you had leaks to the media that were never criticized by the government, in fact, were welcomed by the government when witnesses were exposed, threats were brought against witnesses. (Interview, 23 June 2021)

Another interviewee concurs, "EULEX had a lot of witnesses with tainted testimonies and the prosecutors couldn't rely on the witness testimony to stay the same as it was during the investigation" (Interview, 14 August 2020). The overwhelmingly negative performance reports of EULEX suggest a positive-negative asymmetry due to the near absence of any positive mentions of EULEX's achievements—in stark contrast with the comparative performance assessment presented above.

We also find evidence that suggests that the perception of the positive-negative asymmetry shaped decision-makers' view on institutional options by fostering a preference for an institutional clean slate for fear of contagion. Interviewees report that once the decision had been taken to investigate the allegations of the Marty Report through the SITF, SITF staff kept their distance from EULEX:

What I recall very well is that we were told all the time, from the beginning, from these guys . . . "we don't want to have anything to do with you" and they did everything they could also in public appearance to make sure they are not linked to EULEX. (Interview, 5 August 2020)

Other interviewees agree, "as the SITF got established, they very much got to a point of no real contact with EULEX [ . . . ] they did not want to have those links at all" (Interview, 10 August 2020). Although these concerns for separateness were contextualized in the need for the SITF to ensure operational security and independence, several interviewees used the word "tainted" when referring to EULEX (Interviews, 5 August 2020; 14 August 2020). Another interviewee made the direct connection between the negative perceptions of EULEX and the need for a fresh institutional start, agreeing that there had been a perceived "value in newness" (Interview, 25 June 2020).

In short, there is evidence to suggest that decision-makers perceived their choices through failure salience, which affected their evaluations of EULEX and facilitated the decision to reject EULEX and create a new institution.

Overall, we find evidence that despite EULEX's suitability and sufficient performance, it was rejected. The status quo bias cannot adequately explain this outcome. Instead, we find evidence that decision-makers were affected by loss aversion and failure salience, linking negativity bias to the rejection of a tainted EULEX. The creation of the KSC provided a clean slate through which decision-makers doubled-down on their commitment to ending impunity in Kosovo, despite uncertainty, risk, and political costs.

## Discussion and conclusion

The analysis confirms important aspects of existing institutional theories which seek to explain decision-makers' institutional choices to reject and create. In particular, a lack of suitability, encompassing states' preferences, power, institutional constraints and problem structure, explains the choice to not select or modify the ICTY or UNMIK. Yet, it complements existing institutional choice theory in two important ways. First, our empirical analysis reveals a previously unidentified type of institutional creation—*rejection-led creation*. The decision not to use EULEX was a rejection of it, as decision-makers clearly dismissed it as an option despite it being suitable and good enough. In fact, decision-makers appeared unmindful to the positive aspects of its performance. Second, the analysis shows that negativity bias—not status quo bias—best explains the rejection and subsequent creation of the KSC. Negativity bias manifested through the mechanisms of both loss aversion and failure salience, which left decision-makers with no choice but to create a new institution.

Two other possible explanations are worth mentioning. First, some may suggest that the creation of the KSC was driven by normative shifts or contestation over the anti-impunity norm. While it is true that the anti-impunity norm was contested in the 2010s, this surfaced in relation to the International Criminal Court and decisions to prosecute heads of state in Africa (Han and Rosenberg, 2021; Mills and Bloomfield, 2018). We have not identified any impact of norm contestation on institutional choice in this case.<sup>13</sup> Rather, we see consistent normative pressure across the operations of the ICTY, UNMIK, EULEX, and KSC to hold individuals from both sides of the conflict criminally liable for international crimes. Criticism of EULEX was consistently linked to *not* implementing the anti-impunity norm adequately (Aliu, 2012).

Second, some might argue that institutional legitimacy (or lack thereof) explains the rejection of EULEX and the creation of the KSC. Our argument is compatible with this view. Legitimacy is an intersubjective quality and reflects key audiences' perceptions or beliefs about an institution's authority (Tallberg and Zürn, 2019). Negativity bias, especially through the mechanism of failure salience, skews decision-makers' perceptions

---

<sup>13</sup>Local elites and communities often opposed the prosecution of individuals whom they viewed as the liberators of Kosovo, but they desired an end to impunity for other parties and crimes (Humanitarian Law Centre, 2018).

and assessments of an institution due to a positive-negative information asymmetry. Negativity bias, in other words, means that negative information weighs more heavily on legitimacy evaluations than positive information. So, negativity bias may in fact contribute to why an institution is believed to have a legitimacy deficit, and therefore why it is rejected. The intersection between legitimacy and cognitive biases remains under-researched and constitutes a relevant field for future study.

We identified rejection-led creation and the role of negative bias based on a single case study, yet existing case study research leads us to think it extends to other cases. The creation of the UN Human Rights Council following the rejection of the UN Commission on Human Rights is one possible example (Lauren, 2007). Similarly, negativity bias may have contributed to the rejection of the Kyoto Protocol and creation of the Paris Agreement. While a complicated case to speculate on, “by the time Kyoto was ready to be implemented, it was already labeled a failure” (Allan et al., 2021: 928) and evidence suggests that the Kyoto Protocol’s performance, while suboptimal, did have successes (e.g. Maamoun, 2019). Future research is needed to fully understand how broad a phenomenon rejection-led creation is. Even if it occurs in rare instances, the impacts of negativity bias on other aspects of institutional choice are likely. For example, negativity bias probably affects whether institutions are selected for use. Berejekian (1997) argues that loss aversion contributed to the European Community’s (EC) decision to choose the Montreal Protocol. Also, negativity bias may inform institutional design. In the case of the KSC we observe that the founders insisted on housing the KSC outside of Kosovo, based on the view that previous failings were attributed to their in-country operations. Finally, status quo bias and negativity bias are probably often in interplay, raising questions about the conditions under which one bias trumps the other. In our case, we speculate that a mixture of high public salience and high stakes for actors contributed to why negativity bias trumped the status quo bias. Berejekian (1997) similarly notes that when negotiating an international agreement to address the depletion of the ozone layer, the EC shifted from a domain of gains to one of loss. Losses loomed larger when public salience grew (due to scientific consensus) and economic stakes became higher for industrial actors. Future research, however, is needed to understand how higher stakes and salience, or indeed other conditions, shape the interplay status quo and negativity biases.

Our argument has broader implications for the study of international institutions. Negativity bias may contribute to the current dilemmas facing international organizations and the broader liberal international order (Copelovitch et al., 2020; Ikenberry, 2018). There is growing recognition that international institutions are now more than ever before politicized and facing backlash (Walter, 2021; Zürn et al., 2012). These dynamics seen through the lens of negativity bias might add insights into this wave of contestation, and its related consequences, including competitive regime creation (Morse and Keohane, 2014), unilateral exit (Von Borzyskowski and Vabulas, 2019) or death without replacement (Eilstrup-Sangiovanni, 2020). Some see these challenges to the existing order as the result of structural factors including the expansion of international authority (Zürn et al., 2012) and the diffusion of power (Ikenberry, 2018). Our argument suggests this rejection may be influenced by micro-level factors, including cognitive biases and how they affect actors’ perceptions of, for instance, institutional performance (Tallberg et al., 2016). Incorporating the negativity bias into institutional theory can help



to differentiate individual and collective rationales for rejecting multilateral institutions and what factors contribute to contestation and politicization.

Last, this article contributes to “behavioral IR” (Davis and McDermott, 2021; Hafner-Burton et al., 2017), showing the impact of cognitive biases on international institutions. Previous efforts to incorporate cognitive psychology into this area of study draws on bounded rationality (Jupille et al., 2013; Poulsen and Aisbett, 2013) or use survey experiments to account for an individual’s cognitive limitations (e.g. Ghassim et al., 2022). Our analysis extends this field to collective decision-making and the role of negativity bias. Gaining ground on how such biases impact collective decision-making is in our view crucial to behavioral IR in the context of international cooperation and institutions, which are by their very nature a collective endeavor. Despite the methodological caveats which limit case studies, we suggest that careful use of elite interviews may help reveal dimensions of decision-maker bias which experiments struggle to account for, raising the importance of mixed-method approaches.

### Acknowledgements

We would like to thank Alexandra Williams-Woods, Nicholas Lees, Ulrich Petersohn, Mathias Koenig-Archibugi, Marc Froese, Henning Schmidtke, and Maria Debre. Earlier versions of this paper were presented at the ECPR General Conference 2020 and ISA Annual Conference 2021. We thank participants for their feedback. All errors remain ours.

### ORCID iD

Theresa Squatrito  <https://orcid.org/0000-0002-6726-7629>

### Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

### Declaration of conflicting interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

### References

- Abbott KW and Faude B (2021) Choosing low-cost institutions in global governance. *International Theory* 13(3): 397–426.
- Aliu F (2012) EU mission fights back against critics. *Balkan Insight*, 14 June. Available at: <https://balkaninsight.com/2012/06/14/eulex-fights-back-to-critics/> (accessed April 2025).
- Allan JI, Roger CB, Hale TN, et al. (2021) Making the Paris Agreement: Historical processes and the drivers of institutional design. *Political Studies* 71(3): 914–934.
- Alter K and Raustiala K (2018) The rise of international regime complexity. *Annual Review of Law and Social Science* 14(1): 329–349.
- Amnesty International (2012) Kosovo: Time for EULEX to prioritize war crimes. Available at: [www.amnesty.eu/wp-content/uploads/2018/10/260412\\_EULEX\\_Report.pdf](http://www.amnesty.eu/wp-content/uploads/2018/10/260412_EULEX_Report.pdf) (accessed 12 April 2023).

- Bargués P, Dandashly A, Dijkstra H, et al. (2024) Engagement against all odds? Navigating member states' contestation of EU policy on Kosovo.' *The International Spectator* 59(1): 19–38.
- Baumeister RF, Bratslavsky E, Finkenauer C, et al. (2001) Bad is stronger than good. *Review of General Psychology* 5(4): 323–370.
- Beach D and Pedersen RB (2019) *Process-Tracing Methods: Foundations and Guidelines*. University of Michigan Press.
- Berejekian J (1997) The gains debate: Framing state choice. *American Political Science Review* 91(4): 789–805.
- Berry JM (2002) Validity and reliability issues in elite interviewing. *Political Science and Politics* 35(4): 679–682.
- BIRN (2017) Kosovo specialist chambers: From investigation to indictments. Available at: <http://birnsource.com/en/folder/256> (accessed 21 August 2021).
- Bloom HS and Price HD (1975) Voter response to short-run economic conditions: The asymmetric effect of prosperity and recession. *American Political Science Review* 69(4): 1240–1254.
- Borchardt B (2013) EULEX and War Crimes. *EULEX*, 13 June. Available at: [www.eulex-kosovo.eu/?page=1,10,1513](http://www.eulex-kosovo.eu/?page=1,10,1513) (accessed 5 September 2024)
- Brovkin V (1999) Discourse on NATO in Russia during the Kosovo war. *Demokratizatsiya* 99(7): 544–560.
- Capoccia G and Kelemen RD (2007) The study of critical junctures: Theory, narrative, and counterfactuals in historical institutionalism. *World Politics* 59(3): 341–369.
- CoE (2008) *Resolution 1782: Inhumane Treatment of People and Illicit Trafficking in Human Organs in Kosovo*. Parliamentary Assembly, Committee on Legal Affairs and Human Rights, Doc. 11574, 15 April, Strasbourg.
- CoE (2011) *Inhuman Treatment of People and Illicit Trafficking in Human Organs in Kosovo*. Parliamentary Assembly, Committee on Legal Affairs and Human Rights, Doc. 12462, 7 January, Strasbourg.
- Copelovitch M, Hobolt SB and Walter S (2020) Challenges to the contemporary global order: Cause for pessimism or optimism? *Journal of European Public Policy* 27(7): 1114–1125.
- Corns J (2018) Rethinking the negativity bias. *Review of Philosophy and Psychology* 9(3): 607–625.
- Council Decision 2014/349/CFSP of 12 June 2014 amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO. Available at: [www.eulex-kosovo.eu/eul/repository/docs/WECouncil-Decision-2014.pdf](http://www.eulex-kosovo.eu/eul/repository/docs/WECouncil-Decision-2014.pdf) (accessed 16 March 2025).
- Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO. Available at: [www.eulex-kosovo.eu/eul/repository/docs/WEJointActionEULEX\\_EN.pdf](http://www.eulex-kosovo.eu/eul/repository/docs/WEJointActionEULEX_EN.pdf) (accessed 13 August 2020).
- Davies PHJ (2001) Spies as informants: Triangulation and the interpretation of elite interview data in the study of the intelligence and security services. *Politics* 21(1): 73–80.
- Davis JW and McDermott R (2021) The past, present, and future of behavioral IR. *International Organization* 75(1): 147–177.
- Debre M and Dijkstra H (2021) Institutional design for a post-liberal order: Why some international organizations live longer than others. *European Journal of International Relations* 27(1): 311–339.
- Del Ponte C (2009 [2008]) *Madame Prosecutor: Confrontations With Humanity's Worst Criminals and the Culture of Impunity*. With Chuck Sudetic. Other Press.
- Dijkstra H and Debre MJ (2022) The death of major international organizations: When institutional stickiness is not enough. *Global Studies Quarterly* 2(4): 1–13.

- Eilstrup-Sangiovanni M (2020) Death of international organizations: The ecology of intergovernmental organizations 1815-2015. *Review of International Organizations* 15(2): 339–370.
- Eilstrup-Sangiovanni M (2021) What kills international organisations? When and why international organisations terminate. *European Journal of International Relations* 27(1): 281–310.
- EULEX (2025) Monitoring. Available at: <https://www.eulex-kosovo.eu/?page=2,58> (accessed April 2025).
- EULEX (2011) Special prosecution office statistical booklet. Available at: [www.eulex-kosovo.eu/docs/justice/SPRK-booklet-28-06-2011.pdf](http://www.eulex-kosovo.eu/docs/justice/SPRK-booklet-28-06-2011.pdf) (accessed 21 August 2021).
- European Council (2003) Presidency conclusions, Thessaloniki European council, 19-20 June 2003. Available at: [www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/76279.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/76279.pdf) (accessed 12 September 2024).
- European External Action Service (2022) Belgrade-Pristina dialogue. Available at: [www.eeas.europa.eu/eeas/belgrade-pristina-dialogue\\_en](http://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue_en) (accessed 18 July 2022).
- Fioretos O (2011) Historical institutionalism in International Relations. *International Organization* 65(2): 367–399.
- Ford S (2014) Complexity and efficiency at international criminal courts. *Emory International Law Review* 29(1): 1–69.
- Ghassim F, Koenig-Archibugi M and Cabrera L (2022) Public opinion on institutional designs for the United Nations: An international survey experiment. *International Studies Quarterly* 66(3): 1–19.
- Gippert B (2017) *Local Legitimacy in Peacebuilding: Pathways to Local Compliance with International Police Reform*. Routledge.
- Gonzales-Ocantos E and Masullo J (2024) Aligning interviewing with process tracing. *Sociological Methods & Research*. Epub ahead of print 14 June. DOI: 10.1177/00491241241258229
- Hafner-Burton EM, Haggard S, Lake DA, et al. (2017) The behavioral revolution and International Relations. *International Organization* 71(Suppl. 1): S1–S31.
- Hall PA and Taylor R (1996) Political science and the three “new institutionalisms.” *Political Studies* 44(5): 936–957.
- Han Y and Rosenberg ST (2021) Claiming equality: The African Union’s contestation of the anti-impunity norm. *International Studies Review* 23(3): 726–751.
- Haselton MG and Nettle D (2006) The paranoid optimist: An integrative evolutionary model of cognitive biases. *Personality and Social Psychology Review* 10(1): 47–66.
- Humanitarian Law Centre (2018) In the end of Eulex’s executive mandate: Contribution undisputed, expectations not met. Available at: [www.hlc-rdc.org/?p=35210&lang=de](http://www.hlc-rdc.org/?p=35210&lang=de) (accessed 13 April 2023).
- ICG (2002) *Finding the Balance: The Scales of Justice in Kosovo*. International Crisis Group, Balkans Report no. 134, 12 September. Available at: [www.crisisgroup.org/europe-central-asia/balkans/kosovo/finding-balance-scales-justice-kosovo](http://www.crisisgroup.org/europe-central-asia/balkans/kosovo/finding-balance-scales-justice-kosovo) (accessed 13 August 2022).
- ICTY (n.d.) Completion Strategy. Available at: <https://www.icty.org/en/about/tribunal/completion-strategy> (accessed April 2025).
- ICTY Statute (1993) U.N. DocS/25704 at 36, annex (1993) and S/25704/Add.1, adopted by Security Council on May 25, 1993, U.N. Doc. S/RES/827.
- Ikenberry JG (2018) The end of the liberal international order? *International Affairs* 94(1): 7–23.
- Ito TA, Larsen JT, Smith NK, et al. (1998) Negative information weighs more heavily on the brain: The negativity bias in evaluative categorizations. *Journal of Personality and Social Psychology* 75(4): 887–900.
- Jervis R (2017) *How Statesmen Think: The Psychology of International Politics*. Princeton University Press.

- Johnson D (2020) *Strategic Instincts: The Adaptive Advantages of Cognitive Biases in International Politics*. Princeton University Press.
- Johnson D and Tierney D (2019) Bad world: The negativity bias in international politics. *International Security* 43(3): 96–140.
- Judah T (2002) *Kosovo: War and Revenge*. Yale University Press.
- Jupille J, Mattli W and Snidal D (2013) *Institutional Choice and Global Commerce*. Cambridge University Press.
- Kahler M (1998) Rationality in International Relations. *International Organization* 52(4): 919–941.
- Kahneman D and Tversky A (1979) Prospect theory: An analysis of decisions under risk. *Econometrica* 47(2): 263–291.
- King I and Mason W (2006) *Peace at Any Price: How the World Failed Kosovo*. Cornell University Press.
- Koremenos B, Lipson C and Snidal D (2001) The rational design of international institutions. *International Organization* 55(4): 761–799.
- KSC (2018) First report. Available at: [www.scp-ks.org/sites/default/files/public/content/ksc\\_spo\\_first\\_report\\_en.pdf](http://www.scp-ks.org/sites/default/files/public/content/ksc_spo_first_report_en.pdf) (accessed 13 August 2022).
- KSC (2020) Annual report. Available at: [www.scp-ks.org/en/kosovo-specialist-chambers-publishes-2020-annual-report](http://www.scp-ks.org/en/kosovo-specialist-chambers-publishes-2020-annual-report) (accessed 13 August 2022).
- KSC (2021) Frequently asked questions. Available at: [www.scp-ks.org/en/frequently-asked-questions](http://www.scp-ks.org/en/frequently-asked-questions) (accessed 19 August 2021).
- Lauren PG (2007) To preserve and build on its achievements and to redress its shortcomings: The journey from the Commission on Human Rights to the Human Rights Council. *Human Rights Quarterly* 29(2): 307–345.
- Law No. 03/L—053 On jurisdiction, case selection and case allocation of EULEX judges and prosecutors in Kosovo, adopted 13— March 2008. Available at: [www.scp-ks.org/en/documents/law-specialist-chambers-and-specialist-prosecutors-office](http://www.scp-ks.org/en/documents/law-specialist-chambers-and-specialist-prosecutors-office) (accessed 6 August 2022).
- Lipsy P (2017) *Renegotiating World Order: Institutional Change in International Relations*. Cambridge University Press.
- Maamoun N (2019) The Kyoto protocol: Empirical evidence of a hidden success. *Journal of Environmental Economics and Management* 95: 227–256.
- Macdonald A (2015) Kosovo signs EU association agreement. *Politico*, 27 October. Available at: [www.politico.eu/article/kosovo-eu](http://www.politico.eu/article/kosovo-eu) (accessed 12 September 2024).
- Mahoney J and Thelen K (eds) (2009) *Explaining Institutional Change: Ambiguity, Agency, and Power*. Cambridge University Press.
- Mahr E (2018) Local contestation against the European Union Rule of Law Mission in Kosovo. *Contemporary Security Policy* 39(1): 71–94.
- March JG and Olsen JP (1989) *Rediscovering Institutions the Organizational Basis of Politics*. The Free Press.
- May R and Wierda M (2002) *International Criminal Evidence*. Brill.
- Meyer JW and Rowan B (1977) Institutionalized organizations: Formal structure as myth and ceremony. *American Journal of Sociology* 83(2): 340–363.
- Mills K and Bloomfield A (2018) African Resistance to the International Criminal Court: Halting the advance of the anti-impunity norm. *Review of International Studies* 44(1): 101–127.
- Mintz A (2007) Why behavioral IR? *International Studies Review* 9(1): 157–162.
- Morse J and Keohane R (2014) Contested multilateralism. *Review of International Organizations* 9(4): 385–412.
- Muharremi R (2019) The Kosovo specialist chambers from a political realism perspective. *International Journal of Transitional Justice* 13(2): 290–309.

- Nouwen S (2006) 'Hybrid courts': The hybrid category of a new type of international crimes courts. *Utrecht Law Review* 13(1): 157–176.
- OSCE (2010) Kosovo's war crimes trials: An assessment 10 years on (1999–2009). Available at: [www.osce.org/kosovo/68569](http://www.osce.org/kosovo/68569) (accessed 13 August 2022).
- Peci E (2014) EU Kosovo mission denies biased prosecutions. *Balkan Insight*. Available at: <https://balkaninsight.com/2014/02/11/eu-kosovo-mission-denies-biased-prosecutions/> (accessed 12 April 2023).
- Peeters G (1971) The positive–negative asymmetry: On cognitive consistency and positivity bias. *European Journal of Social Psychology* 1(4): 455–474.
- Peters BG (2019) *Institutional Theory in Political Science: The New Institutionalism* (4th edn). Edward Elgar Publishing.
- Pevhouse JC, Nordstrom T, McManus RW, et al. (2020) Tracking organizations in the world: The correlates of war IGO version 3.0 datasets. *Journal of Peace Research* 57(3): 492–503.
- Pierson P (2004) *Politics in Time: History, Institutions, and Social Analysis*. Princeton University Press.
- Poast P and Urpelainen J (2013) Fit and feasible: Why democratizing states form, not join, international organizations. *International Studies Quarterly* 57(4): 831–841.
- Poulsen L and Aisbett E (2013) When the claim hits: Bilateral investment treaties and bounded rational learning. *World Politics* 65(2): 273–313.
- Pratt T (2021) Angling for influence: Institutional proliferation in development banking. *International Studies Quarterly* 65(1): 95–108.
- Rashiti N (2019) Ten years after EULEX: Key principles for future EU flagship initiatives on the rule of law. CEPS Papers in Liberty and Security in Europe, no. 2019-07. Available at: <https://www.ceps.eu/ceps-publications/ten-years-after-eulex/> (accessed July 2025).
- Ristic M (2012) Serbia requests UN convention on Organ trafficking. *Balkan Insight*. Available at: <https://balkaninsight.com/2012/03/01/serbia-requests-un-convention-on-organ-trafficking/> (accessed 12 September 2024).
- Ristic M (2015) Kosovo's new war court: How will it work? *Balkan Insight*. Available at: <https://balkaninsight.com/2015/08/06/how-will-special-kosovo-court-work-08-05-2015/> (accessed 12 September 2024).
- Rozin P and Royzman EB (2001) Negativity bias, negativity dominance, and contagion. *Personality and Social Psychology Review* 5(4): 296–320.
- Simon H (1997) *Models of Bounded Rationality*. MIT Press.
- SITF (2014) Statement of the chief prosecutor of the special investigative task force. Available at: [www.ceas-serbia.org/images/2015-i-pre/EU-SITF-Statement\\_of\\_the\\_Chief\\_Prosecutor\\_of\\_the\\_SITF\\_29\\_July\\_2014.pdf](http://www.ceas-serbia.org/images/2015-i-pre/EU-SITF-Statement_of_the_Chief_Prosecutor_of_the_SITF_29_July_2014.pdf) (accessed 10 August 2022).
- Spernbauer M (2010) EULEX Kosovo: The difficult deployment and challenging implementation of the most comprehensive civilian EU operation to date. *German Law Journal* 11(7–8): 769–802.
- Tallberg J and Zürn M (2019) The legitimacy and legitimation of international organizations: Introduction and framework. *Review of International Organizations* 14: 581–606.
- Tallberg J, Sommerer T, Squatrito T, et al. (2016) The performance of international organizations: A policy output approach. *Journal of European Public Policy* 23(7): 1077–1096.
- Tansey O (2009) Process tracing and elite interviewing: A case for non-probability sampling. In: Pickel S, Pickel G, Lauth H-J (eds) *Methoden Der Vergleichenden Politik- Und Sozialwissenschaft*. VS Verlag für Sozialwissenschaften, pp. 481–96.
- Teger AI (1980) *Too*. Pergamon.
- Thelen K (2004) *How Institutions Evolve: The Political Economy of Skills in Germany, Britain, the United States, and Japan*. Cambridge University Press.

- UNSC (1993) Resolution 827 on the tribunal (former Yugoslavia), adopted 25 May. S/RES/827. Available at: <http://unscr.com/en/resolutions/827> (accessed 5 June 2022).
- UNSC (1999) Resolution 1244 on the situation relating to Kosovo, adopted 10 June. S/RES/1244. Available at: <http://unscr.com/en/resolutions/1244> (accessed 5 June 2022).
- UNSC (2003) Resolution 1503 on implementation of completion strategies of the ICTY and ICTR, adopted 28 August. S/RES/1503. Available at: <https://digitallibrary.un.org/record/501171> (accessed 12 September 2024).
- UNSC (2004) Resolution 1534 on necessity of trial of persons indicted by the ICTY and ICTR, adopted 26 March. S/RES/1534. Available at: <https://digitallibrary.un.org/record/518305?ln=es&v=pdf> (accessed 12 September 2024).
- UNSG (2010) Report of the secretary-general on the United Nations Interim Administration Mission in Kosovo, Doc. S/2010/169, 6 April. Available at: <https://digitallibrary.un.org/record/680378?ln=en> (accessed 6 August 2022).
- UNSG (2011) Report of the secretary-general on the United Nations Interim Administration Mission in Kosovo, Doc. S/2011/675, 31 October. Available at: <https://unmik.unmissions.org/sites/default/files/s-2011-675.pdf> (accessed 6 August 2022).
- Urpelainen J and Van de Graaf T (2015) Your place or mine? Institutional capture and the creation of overlapping international institutions. *British Journal of Political Science* 45(4): 799–827.
- Vabulas F and Snidal D (2021) Cooperation under autonomy: Building and analyzing the informal intergovernmental organizations 2.0 dataset. *Journal of Peace Research* 58(4): 859–869.
- Von Borzyskowski I and Vabulas F (2019) Hello, goodbye: When do states withdraw from international organizations? *Review of International Organizations* 14(2): 335–366.
- Von Soest C (2022) Why do we speak to experts? Reviving the strength of the expert interview method. *Perspectives on Politics* 21(1): 277–287.
- Walter S (2021) The backlash against globalization. *Annual Review of Political Science* 24(1): 421–442.
- Warren MJ, Koliqi K, Maksimović N, et al. (2017) Public perception of the Kosovo specialist court 2017. Available at: <https://paxforpeace.nl/media/download/pax-report-public-perception-of-the-kosovo-specialist-court.pdf> (accessed 13 August 2022).
- Weingast BR (2002) “Rational-choice institutionalism.” In: Katznelson I and Milner HV (eds) *Political Science: State of the Discipline*. W.W. Norton, pp. 660–692.
- Welch DA (2005) *Painful Choices: A Theory of Foreign Policy Change*. Princeton University Press.
- Westerwinter O (2021) Transnational public-private governance initiatives in world politics: Introducing a new dataset. *Review of International Organizations* 16(1): 137–174.
- Wippman D (2006) The costs of international justice. *American Journal of International Law* 100(4): 861–880.
- Yetiv SA (2013) *National Security Through a Cockeyed Lens: How Cognitive Bias Impacts U.S. Foreign Policy*. Johns Hopkins University Press.
- Zorn D, Dobbin F, Dierkes J, et al. (2006) The new firm: Power and sense-making in the construction of shareholder value. *Nordic Organization Studies* 3:41–68.
- Zupančič R, Pejič N, Grilj B, et al. (2018) The European Union Rule of Law Mission in Kosovo: An effective conflict prevention and peace-building mission? *Journal of Balkan and Near Eastern Studies* 20(6): 599–617.
- Zürn M, Binder M and Ecker-Ehrhardt M (2012) International authority and its politicization. *International Theory* 4(1): 69–106.



**Author biographies**

Dr Birte Julia Gippert is a Reader at the University of Liverpool. Her research focuses on the global governance of peace and security, international peacekeeping, and legitimacy and legitimisation.

Dr Theresa Squatrito is an Associate Professor in International Relations at the London School of Economics and Political Science. Her research focuses on international organisations and international law.