

## **KOSOVO REPORT CARD**

28 August 2000

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## **KOSOVO REPORT CARD**

### **EXECUTIVE SUMMARY**

Over its first 15 months the international mission in Kosovo has a number of accomplishments to its credit. These include negotiating an agreement with the Kosovo Liberation Army (KLA) to disband and to publicly commit to hand over its weapons – although few believe the KLA's disarmament has been complete; heading off, in the early months after the war, an incipient conflict between backers of the KLA and the other major political force in Kosovo, Ibrahim Rugova's Democratic League of Kosovo (LDK); creating the framework of an administrative structure for Kosovo, and mobilising humanitarian assistance that helped feed and get more than one million Kosovo refugees into homes or temporary shelters before the first post-war winter.

Neither the NATO-led Kosovo Force (KFOR) nor the UN were prepared to deal effectively with the violence that unfolded in Kosovo after the war as returning Albanian refugees sought revenge against Serbs. Over half of Kosovo's Serb population fled and the rest now live a separate and heavily guarded existence in isolated enclaves or to the north of divided Mitrovica, which KFOR and the UN have until recently left for many purposes under Belgrade's control. As Kosovo moves toward local elections scheduled for 28 October 2000 political violence among Albanian groups is growing. The international mission has yet to develop the capacity to uncover and move against the illegal armed groups that appear to be acting under the surface in Kosovo, just as it has failed to move against the influence that Milosevic continues to exert over the Kosovo Serbs.

Impatience among Kosovo's majority Albanian population is growing with the international mission's slowness in putting in place some of the basic structures of normal life – 15 months after the end of the war the judicial system is still getting started and Pristina suffers prolonged daily power outages. The UN police, although nearing its level of authorised deployments, has yet to deal effectively with the climate of lawlessness and disrespect for public authority. Albanians have seized with both hands the opportunities for creating a flourishing small business economy – thanks in part to the UN Mission in Kosovo (UNMIK) chief Bernard Kouchner's decision to introduce the DM as the Kosovo's currency – but the international community has yet to begin the process of privatisation and market reform that is critically necessary to restart the Kosovo economy and to channel investment into legitimate economic activity and away from the quasi-legal grey economy.

Underlying virtually all of Kosovo's problems is the international community's continued unwillingness to resolve the issue of Kosovo's final status. With neither the Albanian nor the Serb communities nor the international mission itself having any idea what Kosovo's status will be in the future, it is unrealistic to expect either successful moves toward reconciliation or long-term investment. There is no magic wand on this issue – the international community is if anything even more divided on the issue of Kosovo's future

status than it was at the end of the 1999 war – but failure to address this problem will have growing consequences that in the end could cause the entire mission to unravel.

## **RECOMMENDATIONS**

### **A. Security**

- 1) The international mission should state publicly that it will not allow Serb military and police personnel to return to Kosovo.
- 2) KFOR member states should drop restrictions on the employment of national contingents outside their respective zones.
- 3) KFOR and UN police should adopt a more aggressive posture in protecting all threatened minorities.
- 4) KFOR and UN police should adopt a more aggressive posture toward finding and eliminating armed groups operating beneath the surface in Kosovo.
- 5) KFOR should continue vigorous efforts to locate covert weapons caches and take prompt action against those responsible for them.
- 6) KFOR and UN police should remove “bridge watchers” from northern Mitrovica, followed by political and economic measures to re-unite the city.
- 7) KFOR should adopt a more aggressive posture in backing up UN police.
- 8) UN police should receive additional specialised equipment and personnel needed to function as a modern police force.
- 9) Additional resources and training should be provided to the Kosovo Police Service (KPS) to allow it to take on primary police responsibilities in Kosovo by 2002.
- 10) Financing of the Kosovo Protection Corps (KPC) should be regularised by including it in the Kosovo budget.
- 11) Resources and equipment for the KPC should be increased to allow it to carry out its assigned civil missions.
- 12) Vigorous investigation and prompt action should be taken against KPC members found to engage in improper activities.
- 13) During the election particular attention should be taken to enforcing the ban on KPC political activities.

### **B. Political**

- 14) The international community should make clear, in a way that does not involve commitment at this stage to Kosovo’s formal independence, that Belgrade has forfeited all moral and legal right to return to Kosovo in a ruling capacity.

- 15) Interim self-government institutions should be agreed by the end of 2000 with Kosovo wide elections early in 2001.
- 16) The international community should make clear to the people of Kosovo that how the issue of final status is resolved depends on how they handle self-rule in such areas as minority rights and good relations with neighbours.
- 17) The interim self-government arrangements should allow Serbs the right to their own local institutions within Kosovo, with participation open to all who register as Kosovo residents.
- 18) UNMIK should make establishment of a functioning judicial system its highest administrative priority, by deploying more foreign judicial personnel, devoting more resources to local judicial personnel and infrastructure, and introducing modern criminal and civil law codes by the end of 2000.
- 19) The international mission needs to undertake a concerted security, legal, and political campaign against political violence, including moves against political leaders and parties identified with the violence.

### **C. Economic**

- 20) The international mission should promptly create a mechanism to resolve issues of enterprise ownership and begin the process of privatising state and socially owned enterprises early in 2001.
- 21) The international mission should draw up a comprehensive document showing the elements of the Kosovo infrastructure that it plans to reconstruct and set out a strategy for financing the rest through long-term capital loans and internal financing.

**Pristina/Brussels 28 August 2000**



## **KOSOVO REPORT CARD**

### **I. OVERVIEW**

This report is an evaluation of the performance of the international mission in Kosovo over the first fourteen months of its existence. The format of the report is based on UN Security Council (UNSC) Resolution 1244, which was adopted on 10 June 1999 to codify and give operative guidance to the international mission responsible for implementing the deal which the international coalition negotiated with Milosevic to end the war. This Overview section gives a broad summary evaluation of the international military and civilian presence. Sections II and III evaluate the performance of KFOR and the international civilian presence respectively in more depth, based on the tasks set forth in paragraphs 9 and 11 of UNSC Resolution 1244. The concluding section IV develops a number of recommendations for the future activities of both the military and civilian presence that follow from the analysis in the previous sections.

The international mission has made progress, especially if conditions in Kosovo today are compared to those of a year ago. But the international mission in Kosovo resembles a ship that has left its harbour without any final destination and whose crew—forced to sail without rudder or keel—is unable to prevent their craft lurching from one course to another depending on the prevailing winds from the major nations participating in the mission or on developments in Kosovo itself. This lack of direction reflects the failure of the international coalition—which went to war in 1999 without any agreed war aims—to develop a post-war objective in Kosovo or a strategy for dealing with Milosevic, who continues to influence events in Kosovo through his enduring hold over the Serbs there.

Underlying the continued tensions within Kosovo—as well as many of the practical problems experienced by the international mission—is the failure of the international community to address the issue of Kosovo’s final status. As long as Albanians fear and Serbs hope that Belgrade’s rule may one day return to Kosovo, both communities will continue to dig themselves deeper into their respective ethnic trenches. This is a constant refrain in conversations with Albanian leaders and ordinary citizens alike; it also underlies the continued refusal of Serbs to accept the notion that Kosovo—and not Serbia—is their homeland.

International involvement in Kosovo is still at the beginning of what is likely to be a long process. However, the mission threatens to go quickly off the rails unless it tackles three critical issues. The first—given the continued inability of the international community to resolve the issue of final status—is to create interim governmental institutions at all levels to draw the people of Kosovo into their own

self-rule—under progressively diminishing international supervision. The second is to quickly begin the privatisation of Kosovo's medium and large-scale enterprises and to introduce the legal framework needed to rebuild Kosovo's economy on a market basis. The third is for the international community to establish institutional mechanisms to draw the areas where Serbs now live into Kosovo's political and economic life, the first step of which must be breaking Belgrade's continued influence among the Kosovo Serbs.

The international mission in Kosovo was slow in getting started—a problem not entirely of its own making—and arrived with some misunderstandings about the conditions in which it would have to operate. Albanian refugees returned more quickly to Kosovo than the international community expected and their return was accompanied by massive violence against the Serbs. Initially, the violence was partly a spontaneous response to the suffering experienced by the Albanians at the hands of the Serbs. However a study by the Organisation for Security and Co-operation in Europe (OSCE) found much of the violence to be “following a systematic pattern, organisation, and careful targeting of victims,” with “many witness statements testifying to the Kosovo Liberation Army (KLA) involvement.”<sup>1</sup> The Kosovo Force (KFOR) and other elements of the international mission proved unable to stop the violence, in part because it lacked the resources to protect the Serbs who lived scattered through the Kosovo countryside and cities. But the international mission also failed to adopt a consistent approach; despite the scope of the violence it never adopted martial law and a curfew was only spottily enforced. Suspects in violent attacks were regularly released because detention facilities were not available to house them.

The international mission in Kosovo has also notched up some accomplishments. Humanitarian assistance programs helped get almost all of Kosovo's more than one million refugees into homes or temporary shelters before winter's onset. Over 900,000 people received regular food aid over the winter and the population was protected against significant outbreaks of disease. In the spring, many of Kosovo's farmers received at least rudimentary supplies of seeds and other materials to allow them to begin planting.

A major accomplishment—for which both KFOR and the UN Mission in Kosovo (UNMIK) deserve the credit—was the undertaking on de-militarisation of the Kosovo Liberation Army KLA and the prevention of an incipient civil war between supporters of the KLA and Ibrahim Rugova's League of Democrats of Kosova (LDK), which threatened to break out in the chaotic and violent conditions of immediate post-war Kosovo. Few post-war guerrilla armies have agreed even in principle to disband and surrender their weapons as the KLA did in September 1999. Its decision to commit to doing so was a testimony to the determination of the KFOR officials leading the negotiations and the wisdom of those at the top of the KLA structure, who understood that their best interest lay in co-operating with the democratic nations of NATO. The KLA, however, was never a fully unified body and few believe that every element associated with the KLA carried out the commitment to hand over all their weapons.

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<sup>1</sup> “Kosovo/Kosova: As Seen, As Told,” OSCE, 1999, p. xii.

Unfortunately, after achieving the KLA's agreement to disarm, the international community walked away from the required follow-up. Not until a year after the end of the war did KFOR move strongly against covert weapons stocks. So far, moreover, there has been little serious effort to move against elements associated with the KLA who are widely believed to operate underground political and quasi-criminal economic networks and are generally considered responsible for much of the ugly climate of violence—against both Serbs and Albanian political opponents—that continues to characterise Kosovo. This failure to deal with underground armed groups and political structures severely complicates the efforts of the international mission to govern Kosovo.

The Kosovo Protection Corps (KPC), which was formed out of the KLA, has suffered from a chronic lack of international support. Not included in the regular Kosovo budget, financing for the KPC depended on contributions from a few interested nations, which at one point in the late summer threatened to dry up completely. This kind of hand-to-mouth approach is not calculated to help maintain the independence of the KPC, some of whose members are suspected of engaging in intimidation and corruption.

In part because of its preoccupation with the incipient conflict between the KLA and the LDK, UNMIK was slow in getting its own institutions started. Not until the beginning of 2000 did the Joint Interim Administrative Structure (JIAS) become fully operational, as a mechanism to involve Kosovars in an advisory fashion in the process of governance. UNMIK also established a structure of twenty administrative departments. Experience with the departments has been mixed. Many are starting to function but some seem to exist primarily on paper. All of the departments suffer from insufficient staff and resources, policy neglect at the top, lack of co-ordination between the departments, and lack of transparency between international and local co-heads.

Staffing has been a constant problem for the international mission, both in terms of quantity and quality, especially in the UN. Although the international mission to Kosovo contains many hard-working and dedicated people, cumbersome UN personnel policies have generally kept UNMIK from filling more than about 60 per cent of its authorised positions. A decision to allow UNMIK to recruit and hire international staff locally may help overcome this problem. The OSCE—the other major element of the civilian presence in Kosovo—experienced less administrative meddling from its Vienna headquarters than does UNMIK from New York but morale among the working level staff at OSCE is mixed. Many OSCE employees are seeking employment in other missions outside Kosovo as their contracts expire.

Despite these problems, some aspects of the international mission are beginning to show positive results. Daily life in the summer of 2000 is significantly improved in comparison to the violence, devastation, and chaos that characterised Kosovo a year ago. UNMIK has created a budget for Kosovo and is attempting to establish mechanisms for the collection of local revenues through customs and taxes. Of the UN's total projected 2000 Kosovo budget of 423 million DM, 199 million DM, or slightly less than half was projected to be collected locally but by mid-August significant shortfalls were emerging, especially in local tax collection.



Education, medical care and some municipal services are also functioning, albeit at a basic level and—in many cases—thanks primarily to the work of the local Albanian staff. There are major problems with the salaries of those employed in the state sector. One is the imbalance between the salaries that UNMIK pays local staff employed in local institutions and the salaries which locals can earn working directly for international institutions. Doctors, for example, are paid far less than drivers at the international mission. This has had a predictable impact; doctors are reported to be leaving the official system and setting up private practice—charging fees that many Albanians have difficulty meeting. UNMIK also experiences major problems in paying even these low wages. Some Kosovo employees go months without being paid; a problem which is especially severe in the troubled utility sector, where salaries are supposed to be paid by revenue from bills collected—creating a vicious circle as Kosovars are naturally reluctant to pay for utilities services which are still received on an irregular basis.

One year after the end of the war, a climate of lawlessness and disrespect for the institutions of public order is perceived by most Kosovars as the greatest institutional and public policy failure of the international mission. UN police are taking hold at the street level but there are shortages of basic police equipment such as radios and specialised police functions such as forensic analysis and anti-drug units are lacking. UN police were slow in arriving but by early July almost 3,900 out of an authorised strength of 4,718 were in Kosovo, although this is well below the 6,000 that the advance party estimated would be necessary to police Kosovo effectively. There are also problems with the uneven quality of police from some countries. Many UN police are able and conscientious but some arrived without the required ability to speak English and others lack recent experience on the beat.

Four thousand international policemen are not enough for Kosovo with its two million inhabitants. But the security situation in Kosovo also requires a greater emphasis on local rather than international police. UNMIK police – even if they were more numerous, better equipped and trained – would still have difficulty in dealing with many specific problems such as ‘hate crimes’ or the activities of underground groups, without the support of the locals. A local police force, the Kosovo Police Service (KPS) is being trained and deployed to address this problem but the process moves slowly and suffers from insufficient resources. By mid-summer 1,400 of a projected total of 4,000 KPS officers were in the streets.

Delays in establishing a functioning and impartial judicial system remain a major obstacle to introducing the rule of law into Kosovo. International efforts have been hampered by a lack of resources, a flawed initial approach to the legal system to be used in Kosovo, and especially the failure to establish a climate of security in which local judges and prosecutors could work in an objective fashion free from pressure or intimidation. The international mission tried initially to reintroduce the law code that functioned in Kosovo during the Serb occupation, which met with predictable non-co-operation by the Albanian population. Kouchner—reportedly after a direct appeal to UN Secretary General Kofi Annan—decreed that the law of the land in Kosovo would be the law code used prior to Milosevic’s 1989 suppression of the province’s autonomy, with the addition of some European human rights provisions to smooth some of the roughest edges of this Communist era code.

Re-establishment of a functioning judicial system faced major practical difficulties—only now beginning to be addressed through international assistance—including destruction of court buildings and penal facilities, absence of basic equipment, and slowness in finding personnel. By 10 August UNMIK had appointed 405 local judges and prosecutors and 724 support staff, level close to what was envisioned as sufficient to meet Kosovo's needs. Almost all of these are Albanians; only a handful of Serbs have been hired to UN judicial positions and few of these are actually working.

A major problem has been the perception that Albanian judicial personnel are subject to outside pressure and administer the law in a biased fashion against other ethnic groups. After almost a year in Kosovo the international mission decided to deal with the problem by establishing two international judges and one international prosecutor in each of Kosovo's five district courts. By mid-August six international judges and two prosecutors had been appointed and others were in the pipeline. Senior UNMIK officials also view a projected Kosovo War and Ethnic Crimes Court (KWECC) that would consist of 17 judges, including nine internationals, as an answer to the problem of impartial justice for ethnic-related crime in Kosovo. The KWECC, however, has yet to be approved in New York, in part according to UNMIK officials because of doubts about its utility in some nations—including the United States, which fears its troops might be exposed to prosecution – and out of concern that it could become a possible diversion from their primary task of establishing a local judicial system.

The economy is an area where the record of the international mission in Kosovo is decidedly mixed. One of UNMIK Chief Kouchner's most important decisions—reportedly taken on his own authority after months of delay in New York—was to introduce the Deutsch mark as the currency of Kosovo. This step de-linked Kosovo from the stumbling Serbian economy, gave it a stable convertible currency, and opened Kosovo to international trade. Kosovo Albanians—possessed of a native entrepreneurial instinct and backed by a wealthy diaspora—responded by creating a host of flourishing small businesses.

Unfortunately, the international community has not been as efficient in tackling Kosovo's macro-economic problems. The EU component in UNMIK put together an ambitious and urgently needed plan for privatising Kosovo's medium- and large-scale enterprises and for introducing the legal underpinning needed to establish a market economy. Implementation of this plan has been held up in New York by concerns among the UN bureaucracy and some Security Council members that it would prejudice the issue of Kosovo's final status. The proposed plan has also met some opposition within UNMIK. An interim plan to side-step the ownership issue by giving foreign investors long-term leases—while potentially promising—has so far attracted only one instance of concrete investment.

Senior UN and EU officials state that failure to break this logjam will block the foreign investment needed to restart the Kosovo economy and cause a decline in foreign economic assistance. Kosovo Albanians, for their part, cite slowness in privatisation as one of their major complaints against the international community, one that could well become sharper in the future as Kosovars watch

the facilities of their pre-war economy crumbling away because of what they perceive as international dilatoriness.

One year after the end of the war the international mission is beginning to recognise that its efforts to administer Kosovo have scarcely penetrated beneath the surface. The obvious answer to this problem is to create institutions to include Kosovars in their own democratic self-government, something that is expressly called for under UNSC 1244. But here, as in so many other areas, international bickering over Kosovo's final status is slowing progress. Municipal elections have been scheduled for 28 October 2000 but there is no agreement on Kosovo-wide elections – which Kosovo Albanians are becoming increasingly impatient to hold.

Discussion of constitutional structures is largely conducted behind closed international doors to the virtual exclusion of Kosovars themselves. Kosovo Albanians are becoming impatient with this state of affairs and pressure is building for a more rapid approach on interim structures. The international community should seek consensus and then draw Kosovars into a process of defining the main parameters of central institutions of self-government, including a parliament, president, cabinet, and supreme court by the end of 2000. These institutions could be based on a revised version of the constitution contained in the March 1999 Rambouillet accord, which was accepted at the time by all the Albanians and all major nations participating in the Kosovo mission, but other versions are also possible. What is important is that Kosovar citizens quickly see the prospect of realistic self-government at all levels, which should be ratified by Kosovo-wide elections held early in 2001. This would allow the inauguration of Kosovo's first democratically elected government—which would remain under loose international supervision—by June 2001, the second anniversary of the end of the war.

So far, the international community has failed to come up with any credible strategy for dealing with the Serbs in Kosovo. After the war approximately 150,000 Serbs fled Kosovo; perhaps 100,000 remain in enclaves or in a solid Serb sector north of the divided city of Mitrovica. Near-term prospects for the reintegration of Serbs and Albanians into one community are nil. Kosovo has, in fact, already been separated into Albanian and Serb sectors. The issue facing the international community is how to integrate the existing separate parts into a united Kosovo, not the recreation of Kosovo as a place of multi-ethnic harmony which, unfortunately, it has seldom been.

The first step in any viable approach to dealing with the Serbs in Kosovo has to be breaking the influence Belgrade continues to exercise by virtue of the money, propaganda, and personnel it supplies to Mitrovica and to the Serb enclaves in the south. In Mitrovica, the international mission took a welcome but long-overdue step in this direction by seizing control of the Trepca smelter and mining complex and by announcing steps to exercise greater control over the border with Serbia. Further military and police measures based on the willingness to use force will be needed to take back the streets of northern Mitrovica from the charismatic local leader Oliver Ivanovic and the "bridge watchers" whom he controls. The international mission can also reduce Milosevic's influence by using the leverage offered by the escorts KFOR provides for the convoys to Serbia, on which the enclaves depend for survival and by appointing local officials who are

not dependent on Milosevic. Kouchner's 18 August announcement discouraging efforts by Belgrade to try to hold Yugoslav elections within Kosovo was also a welcome move against Milosevic's influence in Kosovo.

But the international community will also have to offer some positive incentives—security, political, and economic measures—to give the Serbs reason to stay in Kosovo, while at the same time manoeuvring through the inevitable Albanian backlash. A beginning has recently been made in this direction through an agreement providing special security and administrative measures for Serb enclaves, which Kouchner negotiated with Bishop Artemije, the leader of the moderate faction of Serbs in the Gracanica monastery, and in a US-hosted Airlie House meeting between Albanian and Serb leaders which called for a sustained, high-level dialogue on reducing violence. The international mission should ensure that these promising initial steps are followed by specific implementing measures, to prevent them from trickling away into another set of failed good intentions. The international mission should also encourage recent moderate steps by Ivanovic, such as his participation in the work of an international-led committee on Serb returns to Kosovo, but make it clear that he will not be accepted as a legitimate Serb representative until he halts violent actions by the "bridge watchers" and agrees to participate fully in international institutions in Kosovo.

The stakes are high. Failure to reintegrate the Serbs would likely lead to formalisation of Kosovo's de facto partition along the Ibar River, which divides the northern and southern portions of Mitrovica. In that event, however, the Serb enclaves in the rest of Kosovo would probably be swept away in a renewed round of violence which could well spread into the Albanian-inhabited Presevo region in Serbia proper.

A stable, permanent settlement in Kosovo cannot be achieved in Kosovo alone. However the issue of Kosovo's final status is decided, the resulting structure will need to be embedded in a series of political, economic, and security ties among the nations of the region. Even as the international community begins—albeit far too slowly—to consider interim political structures in Kosovo, it is also time to begin thinking about how a final settlement in Kosovo can be integrated into a broader package of regional security, economic, and political measures.

The international community and UNMIK should welcome and support growing co-operation between Macedonia, Albania, and Montenegro. Sub-regional co-operation may turn out to be more efficient economically and politically than the broader "inter-Balkan co-operation" on which past international efforts have focused. The international community should allow Kosovo and Montenegro to participate, without prejudice to their final status, in various regional forums, including the Stability Pact.

## II. THE INTERNATIONAL SECURITY PRESENCE: KFOR

### A. Introduction

The nearly 50,000 KFOR soldiers from approximately 30 countries are the essential underpinning for all other aspects of the international presence in Kosovo. Without KFOR no other elements of the international mission could function.

KFOR performed well in carrying out the three major military tasks it faced over its first year of operation—monitoring the withdrawal of Serb forces, deterring renewed Serb intervention, and negotiating an agreement on disbanding and disarming the KLA, although all indications are that elements associated with the KLA continue to operate beneath the surface and to maintain covert weapons stocks. KFOR—along with other elements of the international presence—failed in its other major security related task—protecting Serbs and other minorities against revenge attacks by returning Albanians.

KFOR's mandate and rules of engagement (ROEs) reflect a conscious decision by the Western coalition to correct some of the mistakes of the Bosnian experience, by allowing KFOR a more active role in assisting civilian implementation. The KFOR commander and UN chief Kouchner hold a daily co-ordination meeting with a full exchange of views on the situation and operational plans. UNMIK Deputy Chief Jock Covey, a veteran of the first years of Bosnian peace implementation, described co-operation between the top levels of UN and KFOR as close and based on mutual understanding. He pointed out that the words "mission creep" were never employed by KFOR in its relations with the UN, a strong contrast to NATO's behaviour in the initial stages of Dayton implementation<sup>2</sup> when the phrase was used to squash NATO assistance to civilian implementers.

As it enters the second year of what promises to be a long period of engagement in Kosovo, KFOR faces the challenge of re-orienting its mission. While KFOR will always have sufficient strength to deter outside aggression, the security challenges it faces over the coming years are more likely to resemble counter-terrorism than classic military ones. To break the power of the Belgrade regime, which still largely dominates Serbs both in the enclaves and Mitrovica, and to defeat the violent groups operating below the surface in the Albanian community, KFOR will need to reconfigure some of its deployments, develop new intelligence capabilities, and integrate its operations more closely with the UN police.

### B. Deterring Renewed Hostilities

UNSC Resolution 1244, paragraph 9 (a), provides that the responsibilities of the international security presence include: *"Deterring renewed hostilities, maintaining and where necessary enforcing a ceasefire, and ensuring the withdrawal and preventing the return into Kosovo of Federal and Republic military, police and paramilitary forces, except as provided in point 6 of annex 2 [which permits the return of a limited number of Serb personnel to Kosovo]."*

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<sup>2</sup> Conversation with ICG in early July.

NATO forces entered Kosovo behind departing Serb military and police forces and then deployed in a fashion to keep them out. This most basic of KFOR's functions has been a resounding success. Serb forces left Kosovo in accordance with the Military Technical Agreement (MTA) signed between KFOR and the governments of FRY and Serbia. Senior KFOR officials have stated that the MTA is being implemented "to the letter of the law."<sup>3</sup> KFOR does not believe that Belgrade's armed forces left behind any substantial covert stocks of weapons or personnel, although it cannot be excluded that a small number of personnel—primarily from Kosovo itself—were left behind among the remaining Serb population.

One probable exception to this judgment on Serb compliance with the MTA relates to the so-called "bridge watchers" in the divided city of Mitrovica. The "bridge watchers" are a group of perhaps several hundred young men who monitor the bridge which separates the Serb and Albanian parts of the divided city. Equipped with Motorola radios and sometimes truncheons, they have engaged in and incited violence against Albanians and internationals. Although many of the "bridge watchers" are local, some are reportedly infiltrated into Mitrovica by Belgrade and likely report to the Serbian Ministry of Interior (MUP). Similar agents of Belgrade, although less numerous and conspicuous than the "bridge watchers," are reportedly present in many of the Serb enclaves in the south and central parts of Kosovo. Agents of Belgrade, for example, were held to be responsible for organising a demonstration in early July in the enclave of Strpce in which several international personnel were beaten. The presence of MUP personnel in Kosovo would be a clear violation of the MTA.

The MTA established a Joint Implementation Commission (JIC) to monitor implementation of the MTA. NATO sources described co-operation between KFOR and FRY representatives on the JIC as "excellent" with respect to purely military issues.<sup>4</sup> KFOR and Serb personnel co-operated in locating and returning the remains of Serb personnel killed in the 1999 war. The mine maps the Serbs provided KFOR have been more accurate than the ones provided by NATO regarding bombs dropped during the war. The two sides have also co-operated in returning personnel that have accidentally strayed over the line into territory where their presence is not allowed under the MTA.

Issues with a political colouration have been more contentious. The Federal Republic of Yugoslavia (FRY) has taken the position that its forces should have already returned to Kosovo under the provision of UNSC 1244 authorising the return of "an agreed number of Yugoslav and Serb military and police personnel"—that would number "hundreds not thousands"—to perform liaison functions, mine clearing, and maintaining a presence at patrimonial sites and key border crossings. KFOR has tacitly—and wisely—shelved the issue by adopting a position that Serb forces should not return to Kosovo until that would contribute to improving the security environment in the region.

KFOR has also wisely sidestepped the issue of a status of forces agreement (SOFA) as is required by Annex 2 of the MTA. The FRY has strongly pushed for KFOR to conclude a SOFA as a reaffirmation of its sovereignty over Kosovo. KFOR, instead, has worked with UNMIK to develop a regulation governing its

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<sup>3</sup> Discussion with ICG in June 2000.

<sup>4</sup> Ibid.

forces in Kosovo, on the grounds that a SOFA must be concluded with the governing authority of the territory in question and that UNSC 1244 gives this function to UNMIK. Since KFOR has chosen not to use FRY territory for transit or re-supply of its forces, it has taken the position that a SOFA with the FRY is unnecessary.

### **C. Demilitarising the KLA**

UNSC Resolution 1244, paragraph 9 (b), provides that the responsibilities of the international military presence include: "*Demilitarising the Kosovo Liberation Army (KLA) and other armed Kosovo Albanian groups*".

The second major military accomplishment of KFOR's mission in Kosovo has been negotiating the KLA's public commitment to disband itself and the agreement to hand over its weapons to the international mission, although compliance in this regard has clearly been less than perfect. The stage for demilitarisation was set on 20 June 1999, when KFOR and the KLA concluded the "Undertaking of Demilitarisation and Transformation of the KLA." In this agreement the KLA confirmed its intention to comply with the terms of UNSC 1244 and agreed to a cease-fire, disengagement from the zones of conflict, and a phased, 90 day demilitarisation.

On 21 September 1999, the formal process of demilitarising the KLA culminated in the creation of the Kosovo Protection Corps. UNMIK regulation 199/8 established the KPC as a civilian emergency service with a mission to perform such tasks as disaster response, search and rescue, and humanitarian assistance. The KPC was forbidden any role in defence, law enforcement, riot control, internal security or any other task connected with maintaining law and order. Authorised a maximum strength of 5,000 personnel, of whom 2,000 are supposed to be reservists, KPC members wear military style uniforms but without insignia of rank. KFOR's Statement of Principles provides for 2,000 weapons to be held by KFOR "in trust" for the KPC, of which 200 may be used by the KPC for guarding installations and for personal protection of authorised officers.

The negotiations over the formation of the KPC revealed fundamental disagreements about the role of a future armed Albanian force in Kosovo, most of which have only been postponed by the "Undertaking." KLA officials repeatedly described the new corps as the nucleus of a future national army. KFOR, by contrast, insisted that it would be the only military force allowed in Kosovo. General Agim Ceku, the KLA's war-time Chief of Staff who became the KPC commander, acknowledged that the KLA was not happy with the demilitarisation requirement but said the KLA had recognised that Kosovo's long-range interests were best served not by attempting to retain its weapons but by working closely with NATO.<sup>5</sup>

During de-militarisation the KLA handed over an impressive stock of arms, including 10,000 weapons, 5.5 million rounds of ammunition, and 27,000 grenades. Over its first year of operation, KFOR conducted arms searches throughout Kosovo but these never yielded more than small quantities of weapons. Few believed, however, that the KLA had surrendered all its weapons.

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<sup>5</sup> Discussion with ICG in July 2000.

In Skenderaj, long a centre of Albanian militancy, international officials noted that the existence of KLA arms dumps in the region and covert military training by members of the KPC was virtually an open secret in the town.

In mid-June, KFOR launched Operation Leatherman, a large-scale search for covert weapons stocks in the Malisevo region south of Skenderaj. This operation led to the highly publicised discovery of two major weapons caches. In one bunker alone, KFOR troops found 67 tons of weapons and explosives. British military sources told the press that documents found in the bunkers clearly linked the KLA to the arms and that the cache appeared to have been in active use.<sup>6</sup>

Ceku insisted that the arms found in the cache had not been present in Kosovo during the war or at the time of demilitarisation. He speculated that the weapons might have been in the pipeline to the KLA from foreign sources when the war ended and only later infiltrated into Kosovo.<sup>7</sup>

KFOR spokesmen said that the weapons cache had been discovered accidentally by a British soldier peering at a distant hillside through his binoculars. Other sources have said that low-flying reconnaissance aircraft were also involved. But these points explained neither the scope nor the timing of "Operation Leatherman." In fact, the decision to launch "Operation Leatherman"—KFOR's first major search for weapons in an area where the existence of secret caches had long been rumoured—seemed carefully crafted to send a message of resolve to both the Albanian and Serbian communities in Kosovo to act against suspected illicit organisations engaged in violent actions.

Shortly after Leatherman, General Ortuno and other senior KFOR officials told ICG that KFOR was intensively investigating the question of who was responsible for the apparent major violation of the Undertaking on Demilitarisation. KFOR detained the owner of the land where the weapons were found but by mid-August KFOR officials were only willing to tell ICG that the investigation into responsibility for Leatherman cache was "on-going." Although Ceku is widely viewed as committed to the KPC's mission as a civil assistance organisation, it strained credulity to believe that he could have been completely unaware of the existence of a major weapons cache in the same area where he had had his wartime headquarters. At the time of the KPC's formation, moreover, both Ceku and KLA political leader Hashim Thaci issued public statements confirming the KLA's de-militarisation. For the sake of its own credibility KFOR needs to take appropriate action against higher level individuals judged responsible for the apparent violation of the Undertaking.

How to respond to the weapons seizure also became wrapped up in the issue of support for the KPC. After the September agreement on disbanding the KLA, the international community neglected the KPC. Both KFOR Commander General Ortuno and Ceku complained that the international community has failed to provide sufficient funding and equipment for the KPC.<sup>8</sup> UNMIK's budget for Kosovo establishes a figure of 20.7 million DM, or about 5 per cent of total expenditures, for funding the KPC in 2000. Supplied entirely by donor grants, funding for the KPC has been irregular and in mid-summer of 2000 threatened

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<sup>6</sup> BBC World News, 20 June 2000.

<sup>7</sup> Discussion with ICG.

<sup>8</sup> Discussions with ICG in June and July 2000.



for a time to dry up entirely.<sup>9</sup> Although interested nations eventually furnished contributions to fund the KPC through 2000, the level of support is hardly adequate. According to Ceku, he is paid 660 DM per month while the lowest level enlisted man receives 150 DM per month—this at a time when the UN and the OSCE regularly pay their drivers 1200 DM per month or more.

Despite its orphan status, Ceku described morale in the KPC as high, saying that the KPC troops—90 per cent of whom fought in the 1999 war—were pleased to have remained together and in uniform. The KPC headquarters are spotless and the troops there seem well-turned out. Foreign observers who have spent time at other KPC installations in Kosovo, however, report that the troops appear to have little to do and that many complain about being given neither the training nor equipment needed to carry out their current missions nor a clear idea from their own leadership about their expected future role. A major problem with the KPC is the proclivity of its regional commanders—all of whom were senior KLA officers during the war—to carve out local fiefdoms for themselves. There are also credible reports that elements within the KPC engage in corruption or shakedown type activities. In June 2000, the director of a factory reported that the KPC commander in Skenderaj, Sami Lushtaku, had visited him in uniform and demanded that the factory supply him with material free of charge.

Through mid-August there have been 177 incidents of KPC “non-compliance with UNMIK standards,” of which thirteen were reports of intimidation and five of illegal taxation. The numbers of such incidents are declining according to KFOR. In March, 45 “non-compliance” cases were registered by KFOR while there were seven in July and only two in the first half of August.<sup>10</sup>

Asked about corruption in the KPC, Ceku said that he had heard such reports but that corruption would be a violation of the KPC disciplinary code and severely punished if uncovered. Ceku acknowledged, however, that KPC members sometimes sought “donations” from local businesses and individuals, although he added that such donations were supposed to be transparent, free from pressure and without specific sums requested. The potential for abuse of such “donations” is obvious.<sup>11</sup>

Ceku seemed uncomfortable with the irregularity of “donations” or of private “funds” as sources of financing for the KPC, and the international community should be as well. If the international community wishes to resolve the problem of possible corruption and improper activities by the KPC, it should ensure that KPC members are given a decent wage and are provided the training and equipment to carry out their assigned civilian mission.

Defining the KPC’s proper role in Kosovo will also require the international community to address an unresolved question that goes to the very heart of Kosovo’s future status—who will be responsible for Kosovo’s external defence in the future? Clearly, NATO is going to have to defend Kosovo, at least until Slobodan Milosevic is replaced by a democratic government in Belgrade. There is no escaping the fact that the withdrawal of NATO would lead to renewed large-

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<sup>9</sup> Kosovo Consolidated Budget; UNMIK Central Fiscal Authority; 22 December 1999, p. 9.

<sup>10</sup> Conversation with ICG, August 2000.

<sup>11</sup> Conversation with ICG; July 2000.

scale violence in Kosovo. Those who argue for an early international pullout from Kosovo cannot ignore this problem.

For the moment, Kosovo Albanians recognise that only KFOR can provide for their defence. As the issue of Kosovo's final status looms closer, however, the question of defence will likely be one of the two or three critical points around which the debate over sovereignty and independence revolves.

KFOR officials deny that the KPC is ever intended to be anything more than an unarmed civil defence force. But Albanians—whatever they say publicly—definitely see the KPC as the nucleus of a future army of an independent Kosovo. In a 24 March 2000 interview in the Zagreb magazine *Globus*, Ceku—who served in the Croatian forces during Zagreb's war with Milosevic—described the KPC as “preparing in the long term for independent defence.” On 11 June several hundred uniformed KPC troops, some of them armed, paraded through downtown Pristina and took up guarding positions around the podium in the central stadium for a celebration of the first anniversary of the war's end. The demeanour of the KPC troops and their enthusiastic reception by the population left little doubt in the minds of viewers that—legal technicalities aside—most Albanians and KPC members themselves regard the KPC as the successor to the KLA and as the predecessor of a future Kosovo army. A recent poll conducted by the Institute for Democratic Ethnic Relations in Pristina on the attitudes of Kosovo Albanians to the KLA found that 67 per cent thought that the KPC should be led on military principles in the future.<sup>12</sup>

The Undertaking on De-militarisation expressly states that the international community should give due consideration to “the formation of an Army in Kosovo on the lines of the US National Guard in due course as part of a political process designed to determine Kosovo's future status.” Some Kosovo Albanians are already beginning to discuss the issue of Kosovo's defence. In the 29 June edition of the Pristina daily *Zeri*, the respected Albanian intellectual Shkelzen Maliqi said two views on Kosovo's future defence can be found among Kosovo Albanians. Some former KLA members, who do not trust the international community's ultimate intentions toward Kosovo, believe that secret stocks of weapons are Kosovo's best guarantee of security. A second view, according to Maliqi, held that a lightly armed local protection force should be created, under KFOR supervision, in parallel with interim Kosovo government institutions, and in a later phase the KPC could take on the function of Kosovo's defence. Once Kosovo-wide government structures have been chosen through democratic elections it will be difficult for the international community to avoid such propositions.

Asked about this issue, General Ceku described the KPC as a “school of leadership,” out of which the most outstanding individuals would create a defence force for a future independent Kosovo.<sup>13</sup> General Ceku emphasised, however, that this force would be closely linked with NATO, which would always have to be primarily responsible for Kosovo's security. It would be better for the international community to begin to engage with Kosovars on the issue of defence early on, while the views expressed by Ceku remain predominant, rather

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<sup>12</sup> *Zeri*, August 10, 2000.

<sup>13</sup> Conversation with ICG, July 2000.

than risk waiting until impatience among Albanians leads to a less co-operative approach.

#### **D. Establishing a Secure Environment**

UNSC Resolution 1244, paragraph 9 (c), provides that the responsibilities of the international military presence include: *"Establishing a secure environment in which refugees and displaced persons can return home in safety, the international civil presence can operate, a transitional administration can be established, and humanitarian aid can be delivered"*; and paragraph 9 (d) adds *"Ensuring public safety and order until the international civil presence can take responsibility for this task."*

The greatest failure of KFOR and of the international mission in Kosovo generally has been its inability to protect Serbs and other minorities from violence at the hands of vengeful Albanians. A year after the international mission's entry approximately 150,000 Serbs had fled Kosovo. The remaining Serbs lived almost completely separated from the Albanian population, either in enclaves in the south under permanent KFOR guard, or in Mitrovica and the regions north to the Serbian border. Kosovo has been effectively divided into Albanian-inhabited and Serb-inhabited areas and the international community has not developed a coherent strategy for addressing the consequences of this fact.

Some of the reasons why the international mission in Kosovo was poorly equipped to handle the violence against the Serbs go back to the negotiations that ended the war. The intensive and closely held high-level negotiations that ended the war in early June 2000 left little time for advance planning on handling the challenges of post-war Kosovo. A senior humanitarian official, who entered Kosovo together with KFOR forces, says he never attended any planning sessions with UN or KFOR officials. "There was no grand strategy," this official concluded.<sup>14</sup>

In the early days of the international presence in Kosovo, both KFOR and international civilian officials also appear to have acted on the basis of faulty assumptions about how Serbs and the Albanians would behave after the end of the war. Many of these were based on a misreading of the applicability of the international experience in immediate post-war Bosnia, where many officials involved in the Kosovo mission had also served. Some international officials have reported that the international mission entered Kosovo predicting little inter-ethnic violence because there had been little in Bosnia when NATO entered there after Dayton.

Such expectations, however, failed to reckon with the differences between Bosnia and Kosovo, most importantly in the minds of the peoples involved. The Dayton peace came at the end of a long and bloody war, which had left people on all sides exhausted and eager for an end to the violence—even if they were not equally ready to begin reconciliation. The Dayton territorial settlement also reflected the results of three years of ethnic cleansing, which had left the peoples of Bosnia living largely in separate enclaves. In Kosovo, by contrast, Serbs lived

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<sup>14</sup> Conversation with ICG; June 2000.

scattered in various parts of the province but—with the exception of the area north of Mitrovica—seldom in compact, contiguous areas.

International officials, nevertheless, knew that Serbs who had taken an active part in the war would flee and that some Albanians would seek revenge for the murderous campaign the Serbs had waged against them during the war. Officials admit, however, that they were surprised by the scope and speed of both phenomena. The head of UNHCR in Kosovo over the first year, Dennis McNamara, said subsequently that UNHCR was surprised by the magnitude of the Serb exodus.<sup>15</sup> Senior KFOR officials also acknowledged to ICG that the military had been surprised by the scope of the violence in post-war Kosovo.<sup>16</sup>

Perhaps 20,000 Serbs fled during the interval between the announcement of the end of the war and the beginning of the Serb pullout on 13 June 1999. Humanitarian officials who entered Kosovo on the first day reported that some roads were already clogged with fleeing Serbs, a phenomenon they called—comparing the Serb flight to that of the Albanians going in a different direction only a few weeks previously—“tractors in reverse.”

International officials were also surprised by the speed with which Albanian refugees returned from camps in neighbouring countries. By 24 June, less than ten days after NATO began entering Kosovo, 50,000 people per day were crossing the border back into Kosovo. Within three weeks, half a million had returned to Kosovo. This massive return, together with the destruction of war, the vacuum left by the collapse of Serb-dominated institutions, and the slow establishment of international institutions to replace them, created a climate of chaos, confusion and disorder which made violence against Serbs all the harder to control.

KFOR's initial preoccupation was naturally to ensure a peaceful withdrawal of Serb forces from Kosovo. Once Belgrade's forces were out of Kosovo, however, KFOR and other elements of the international mission were slow in their response to the violence unfolding against the Kosovo Serbs. KFOR, which had a much more robust mandate with respect to assisting in civilian tasks than IFOR had been given at Dayton, seemed unprepared and unwilling to accept the practical consequences of its role as the only organisation with the capability to maintain public order in Kosovo immediately after the war. Senior UN and KFOR officials discussed on several occasions whether to adopt martial law but both opposed this step. KFOR had no desire to take on itself the entire practical and legal burden of policing Kosovo, which would have been the implication of martial law. UN officials viewed martial law as a surrender of their responsibility for governing Kosovo. On leaving Kosovo after the completion of his one year assignment UNHCR chief McNamara told the press, “There was from the start an environment of tolerance for intolerance and revenge. There was no real effort or interest in trying to deter or stop it.”<sup>17</sup>

Another senior official in Pristina from the beginning contended that the violence could have been reduced—although certainly not eliminated—if the international community had adopted a tougher approach from the outset. “When we first

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<sup>15</sup> Conversation with ICG, August 2000.

<sup>16</sup> Conversation with ICG, August 2000.

<sup>17</sup> *New York Times* “UN Official Warns of Losing the peace in Kosovo,” Steven Erlanger, , July 3, 2000.

came in we should have been hard-nosed," he said,<sup>18</sup> especially in view of the fact that the Kosovo intervention is under Chapter VII of the UN Charter.

A number of observers have commented on the disastrous effect of the international habit of releasing individuals picked up on suspicion of engaging in violent activities, often because of a lack of regular detention facilities to house them. Serbs saw this practice as confirmation that the international mission was not really interested in protecting them while those engaging in the violence saw it as a green light to continue. In view of the emergency situation and the gravity of the offences being committed, it would have been perfectly proper and feasible to have accommodated those suspected of arson or violent attacks against Serbs in temporary facilities. "If refugees could live in tents, so could criminals," the official cited above concluded.

By winter the failure to protect Serbs had led to a de facto partition of Kosovo, which endures until the present. Almost all of the approximately 100,000 Serbs remaining in Kosovo live either in enclaves scattered through the south and central part of Kosovo or in the Serb fastness in Mitrovica and the north.

KFOR guard posts are the essential shields behind which Serb enclaves were able to form. KFOR also escorts convoys of Serb vehicles between the enclaves and Serbia proper, which are the only regular source of food and other supplies for the enclaves. In prevailing conditions, when a Serb would risk death simply by shopping in an Albanian store, these convoys are essential for the survival of the enclaves. They also, however, constitute one of the ways in which the Milosevic regime infiltrates the people, money, and propaganda that it uses to maintain its enduring influence over the minds and daily lives of the Serbs in the enclaves.

Even after the formation of the enclaves, neither KFOR nor the UN police have been able to stop the violence against the Serbs. Since the beginning of 2000 a total of 89 Albanians and 46 Serbs have been killed in Kosovo, according to the UN police. With roughly twenty times more Albanians than Serbs living in Kosovo, a Kosovo Serb is ten times more likely to be killed in ethnic violence than a Kosovo Albanian.

An upsurge in violence occurred in early June, around the time of the first anniversary of the end of the war, which Belgrade claimed would mean the end of the UN mandate in Kosovo, the withdrawal of KFOR, and the return to Kosovo of Serb military and police. In one incident, violence that resulted in the injury of a number of persons and the destruction of several vehicles broke out when a grenade was thrown from a passing car in the Serb enclave of Gracanica. In another incident, an Albanian opened fire on a group of Serbs gathered in front of a store in the southern village of Cernica, killing three people, including a four-year-old child. Ethnic violence continued through the summer; on 18 August nine Serb children were injured in a village near Pristina when a grenade was thrown from a passing car.

These incidents – no different in their essentials from the violent outbreaks that are almost a daily feature of life in Kosovo— highlight the difficulties that KFOR faces in protecting individuals against ethnic violence as well as the need for the

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<sup>18</sup> Conversation with ICG, July 2000.

international mission as a whole to do more to prevent it. The grenade in Gracanica was thrown from a car that was no more than a few hundred yards from a permanent KFOR checkpoint, manned by several Swedish soldiers with an armoured vehicle. Although it may have been impossible to prevent the grenade from being thrown, why KFOR troops did not stop or fire on the vehicle, which subsequently drove through the KFOR checkpoint and was later found abandoned, has never been satisfactorily explained. Cernica, one of the few places where Serbs and Albanians live in the same village, is permanently guarded by heavily armed U.S. soldiers who had worked hard at reconciling the two ethnic groups, including bringing Serb and Albanian residents together for several meetings. These efforts, however, proved insufficient to prevent an Albanian from approaching a group of Serbs and opening fire, apparently at random.

But interethnic violence is not the only type of violent activity in Kosovo. In the summer of 2000, as municipal elections approached, incidents of violence against Albanian political activists escalated dramatically. Many – but not all – of the attacks came against individuals associated with Rugova's LDK. In early August, the head of the LDK organisation in Skenderaj, Sejdi Koci, was shot and wounded shortly thereafter the badly burned body of an LDK leader from the near-by town of Istok was found a few days after he had been kidnapped by unknown individuals. On 18 August the LDK office in Malisevo, south of Skenderaj, was badly damaged in a bomb explosion.<sup>19</sup>

No one has been detained in connection with these incidents of political violence. UN police believe that much of the violence and intimidation has come from former KLA members and persons associated with Hashim Thaci's PDK. Members of the KPC have also been implicated in the violence.<sup>20</sup> A senior official of the LDK told ICG that during a meeting in one municipality to decide who would represent the party on the local electoral lists, a senior KPC officer in uniform had entered and asked pointedly why anyone would want to represent a party that he claimed had betrayed the Albanian people during the war. The LDK official also asserted that his party was subjected to an organised campaign of violence and intimidation led by people formerly associated with the KLA. He said that LDK activists were sometimes threatened by individuals claiming to represent secret armed groups who warned them that lists were being drawn up of "traitors to the Albanian people" and that it could be distinctly unpleasant to find one's name on such a list.<sup>21</sup>

Thaci, for his part, has publicly condemned the violence, and, in a meeting with ICG strongly denied that his party had any association with it. Thaci asserted that the PDK is far ahead in Skenderaj and would have no incentive to engage in violence against there. He said that PDK activists had themselves suffered from violent attacks in Klina and Istok and accused the LDK of exaggerating reports of politically motivated violence in order to blacken the PDK's reputation and to gain international sympathy and support.

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<sup>19</sup> See ICG report *Elections in Kosovo: Moving Toward Democracy?* Balkans Report N° 98, 7 July 2000, for a discussion of political violence in Skenderaj and elsewhere.

<sup>20</sup> "Political Violence in Run-up to Kosovo Vote," Richard Mertens, *Christian Science Monitor*, August 15, 2000.

<sup>21</sup> ICG conversation, August 2000.

Thaci also complained, with considerable justice, about the tone of intolerance and intimidation that appears in some elements of the Kosovo press, especially the daily *Bota Sot* which is close to the LDK. He pointed out that *Bota Sot* often adopts a tone of shrill accusation, in which political opponents were portrayed as "pro-Serb" or as "traitors" to the Albanian people. Noting that the international mission had temporarily closed down the daily *Dita* (whose editorial line tends to support the PDK) for publishing accusations of war-time criminal activity against a Serb who was later found dead, Thaci asked why the international mission did not also move against *Bota Sot*, which has injected a tone of violence and intimidation into the pre-electoral campaign atmosphere.<sup>22</sup>

In the fall of 1999 the respected Kosovo Albanian journalist Veton Surroi warned that the violence against Serbs would have consequences for the Albanians themselves. Surroi wrote that the crimes of the Serbs against Albanians were no justification for vengeance and warned that the violence against the Serbs had allowed "the spectre of facism to appear" in Kosovo. Shortly thereafter, Kosova Press, the news agency of the Kosovo Albanian Provisional Government, then led by Thaci, called Surroi and a colleague "pro-Serb vampires" and warned that they should not expect to go unpunished.<sup>23</sup> In the summer of 2000 Surroi's warning has proved all too prophetic. The international community, led by the United States, has been preoccupied with measures to deal with ethnic violence against the Serbs in Kosovo. These efforts are important and should continue but the international mission – KFOR, UNMIK, and OSCE, which is responsible for organising the elections – also need urgently to adopt a program for dealing with political violence associated with the election.

Mitrovica is probably the most glaring example of the failure of KFOR and the international community generally to deal with the harsh ethnic realities of Kosovo and of the consequences of this failure for the future of Kosovo and of the entire region beyond it. Within days of their arrival, KFOR troops in Mitrovica, primarily French, established barriers on the bridges over the Ibar River that divides the northern and southern parts of Mitrovica. The reason for this action remains obscure since some observers have asserted that by the time NATO arrived in Mitrovica the level of violence was relatively low and that, in any case, it was more or less equally concentrated on both sides of the river.

The effect of drawing the line across the Ibar bridges, however, was to create two Mitrovicas—a southern, Albanian city and a northern Serb-dominated region which stretches beyond Mitrovica to the border with Serbia proper 40 kilometres to the north. Over the past year French KFOR troops have presided over an uneasy peace in Mitrovica, broken periodically by outbreaks of violence from both sides that have sometimes led to a number of dead or injured. KFOR failed to protect Albanians and other non-Serb groups in the north or to stop a similar process of counter cleansing against Serbs in the southern part of the city.

Until mid-August, to cross the Ibar River was, in effect, to leave Kosovo and enter Serbia. Civil servants continued to be paid by Belgrade, newsstands sold only papers available in Belgrade, prices were quoted in dinars, schools used the

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<sup>22</sup> Conversation with ICG, August, 2000.

<sup>23</sup> "Forces of Intolerance Threaten to Consume Kosovo," Peter Finn, *Washington Post*, October 13, 1999.

Serbian curriculum, and in the northern municipalities Milosevic's coalition parties led the local administrative councils and boards. "Bridge watchers" control the streets of northern Mitrovica. In mid-August the international mission took a welcome first step in Mitrovica by seizing control of the major mining and metallurgical complex of Trepca including a lead smelter which had shortly before reopened under Milosevic's control and begun pumping deadly pollutants into the atmosphere, endangering the health of locals and internationals alike. KFOR and UN police also announced steps to exercise greater control over the flow of people and goods over the border with Serbia and hinted at measures to remove some of the pro-Milosevic officials in the Serb-dominated municipalities to the north of Mitrovica. Unless these moves are followed by further energetic steps by KFOR to take back control of the streets of Mitrovica itself from Ivanovic and his bridge watchers and dismantle Belgrade's apparatus the partition line will remain and be increasingly hard to break, with obvious implications for Kosovo's future as a united territory.

Developments in Mitrovica have also highlighted the command and co-ordination problems caused by the different doctrines and styles of operation among the various national components of KFOR, which in fact is more of a loose coalition of national components than a tightly organised military structure and whose members sometimes refer to themselves ironically as "the confederation of KFOR." French troops in Mitrovica appear to operate under a philosophy that defines calm in the streets as the desirable end-point. When demonstrations have broken out, the French have moved against them— sometimes taking casualties in the process. But the French have failed to prevent on-going day-to-day harassment of minorities in northern Mitrovica or to act against the control exercised by local Serb leader Oliver Ivanovic and his "bridge watchers." Nor have the French been willing to intervene to protect either the persons or the property of international civilian workers in northern Mitrovica, which on one occasion led UNHCR to lead a temporarily withdrawal of civilian aid workers from the north. French hesitations over the tactics of the seizure of the Trepca smelter delayed by one day the operation, which was actually carried out by British forces brought into Mitrovica for the purpose.

KFOR's problems in Mitrovica, however, have not been confined to the French. During a major, multi-national KFOR operation in Mitrovica in February 2000, aimed at seizing weapons held in the Serb side of the town, a U.S. company participating in the operation was ordered by U.S. officers to withdraw in the face of a hostile Serb crowd. According to senior KFOR officials, the incident that provoked the U.S. withdrawal occurred when a knife-wielding Serb threatened to kill a U.S. soldier. Shortly after the operation, the U.S. press reported that Joint Chiefs of Staff Chairman General Hugh Shelton had written to NATO commander General Wesley Clark to question the wisdom of sending U.S. troops to volatile areas. The letter reportedly said that other KFOR troop contributing nations should send more soldiers to Kosovo before significant numbers of American troops would again be allowed on a mission outside the U.S. sector.<sup>24</sup> KFOR Commander General Ortuno acknowledged that, in order to get U.S. troops to operate out of their assigned zone, he would need to seek approval up the chain

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<sup>24</sup> "Joint Chiefs Chairman Protests Troops Mission to Kosovo Town," Jane Perlez, *New York Times*, March 1, 2000.



of command through SACEUR, while other senior KFOR officials told ICG separately that approval by the U.S. Secretary of Defence would be required.<sup>25</sup>

General Ortuno told ICG that he has all the forces he needs at his disposal and said he is developing a reserve force under his command. But no KFOR commander can be absolutely certain of his ability to direct the behaviour of individual national forces within KFOR in the absence of agreement from their capitals. KFOR's second commander, German General Klaus Reinhardt, highlighted the realities of KFOR's fragmented structure, telling the German daily *Die Welt* on 19 June 2000 that "One of the most important things I have learnt in Kosovo is that the man who is KFOR commander, in fact doesn't have anything to command."

Although KFOR will always need to be able to deter Belgrade, the problems caused by the continuing low-level violence in Kosovo highlight the need for KFOR to develop more effective ways to carry out another aspect of its mission, providing a secure environment for the political and economic reconstruction of Kosovo. KFOR is already in the process, according to General Ortuno, of examining how its forces could be better deployed to meet this task but more needs to be done.

The continued killings of both Serb and Albanian civilians by gunmen that almost always manage to escape highlights the need for KFOR to re-orient both its deployments and the way it interprets its rules of engagement (ROEs) to allow it to act more effectively against small, armed groups of both nationalities. To meet this challenge, troop-contributing nations will have to be convinced to give KFOR what amounts to an enhanced capability to conduct counter-terrorist-type operations.

Without ignoring the external threat, KFOR needs to re-direct some intelligence assets toward hostile armed groups within Kosovo itself and then put this intelligence to use through improved operational interface with UN police and the local judicial system. At present, KFOR ROEs allow troops to detain individuals only if they are actually observed committing a serious crime. To get around this problem, KFOR needs to work more closely with special units of the UN police. This will require considerable practical co-ordination as well as some flexibility with respect to intelligence sharing. KFOR and the relevant contributing nations need to develop ways to share intelligence more fully not only with UN police but possibly also within the Kosovo judicial system.

A potential area of tension between the international mission and Kosovo Albanians is connected with the activities of Liberation Army of Presevo, Medveda, and Bujanovac (UCPMB) in the Presevo area of southern Serbia, a region inhabited by significant numbers of Albanians. The UCPMB – generally considered to be an off-shoot of the war-time KLA although its commander recently publicly called Thaci a "thug" – has built up a stronghold in the area around the border city of Dobrosin in Serbia, in the Ground Safety Zone where the presence of FRY military personnel is forbidden. In early summer several hundred Albanians crossed into Kosovo after bombs exploded in the region and

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<sup>25</sup> ICG conversations, June and July 2000.

throughout the summer there have been reports of scattered incidents of small arms fire and explosions.

In July KFOR introduced measures to make cross border access by the UCPMB more difficult, including strict identity checks and searches at the border with Dobrosin and blocking some of the secondary roads in the region which could be used for infiltration of supplies into the Presevo region. On August 22 KFOR detained four members of the UCPMB in connection with a search for two mission Serbs.

Estimates of the size of the UCPMB vary widely. Its commander recently claimed in an interview in the Kosovo daily *Bota Sot* to have more than one thousand soldiers in uniform and to control significant sections of the Presevo valley – both assertions almost certainly exaggerations. Another Albanian leader estimated the UCPMB had 200 fighters in the region. Senior KFOR officials told ICG in July that they had observed no violations of the border exclusion zone by the Serb military but that Serb militarised police units had on some occasions been observed in the zone.

So far, neither Belgrade nor the UCPMB has chosen to push the situation into major conflict but should this happen there would be a serious danger of significant violence and flows of Albanian refugees into Kosovo. Although support for the shadowy UCPMB does not appear to be widespread among Kosovo Albanians, there is considerable sympathy for the plight of the Albanians in Presevo and should Milosevic decide to move against them pressure would build in Kosovo to aid them, which would increase the potential for confrontation with the international mission.

## **E. Demining**

UNSC Resolution 1244, paragraph 9 (e), provides that the responsibilities of the international military presence include: *"Supervising demining until the international civil presence can, as appropriate, take over responsibility for this task."*

The Mine Action Co-ordination Centre (MAAC) was established in Pristina under the auspices of the United Nations Mine Action Service (UNMAS). MAAC functions under Pillar I, covering Humanitarian Affairs. It co-ordinates mine clearance and unexploded ordinance (UXO) clearance with KFOR, as well as "mine awareness" educational programs. UNICEF supports mine awareness education programs, and the International Committee of the Red Cross assists MAAC in collecting data for assistance to victims. In the first year, 800 people were trained in mine clearing.

Djakovica, which lies in a mountainous area and was treated by the Serbs as a centre of Albanian resistance, has been the municipality worst affected by mines. By the end of April 2000, some 3.2 million square metres of area had been physically cleared of mines and UXO. In addition, deaths and injuries from mines have been drastically reduced. In June 1999 there were 44 deaths and 109 serious injuries in mine and UXO incidents; in April 2000 there were no deaths and 15 serious injuries.

According to a statement by Bernard Kouchner in June 2000, 1,415 known or suspected minefields remain in Kosovo, of which 503 are classified as first priority with a very high impact on the community.

In the first year, 3,450 antipersonnel mines and 3,800 antitank mines had been removed and more than 4,100 cluster bombs destroyed. Kouchner predicted final resolution of the Kosovo mine and UXO problem within three years.

### **III. THE INTERNATIONAL CIVIL PRESENCE: UNMIK**

#### **A. Introduction**

The international civil presence in Kosovo, which combines the activities of a number of UN and other international organisations, necessarily has a more complex structure than its military counterpart, which—at least in theory—operates under a single chain of command. The “preliminary operational concept for the overall organisation of the civil presence” established under UNSC 1244 is contained in the 12 June 1999 report of the UN Secretary General (UNSYG). As with KFOR, the mandate established for the international civil presence drew on the experience the international community had gained in implementing the Dayton Agreement in Bosnia.

The UNSYG’s report sought to establish a clear chain of command to ensure that all activities of the international community in Kosovo were carried out in an integrated manner. The head of UNMIK, therefore, was given “overall authority to manage the Mission and co-ordinate the activities of all UN agencies and other international organisations operating as part of UNMIK.” Under the UNMIK umbrella a structure of four pillars was formed, in which different international agencies were assigned lead responsibility for aspects of the international civil mission as follows:

Pillar One—Humanitarian Affairs: UNHCR

Pillar Two—Interim Civil Administration: UN

Pillar Three—Institution Building: OSCE

Pillar Four—Economic Reconstruction: European Union.

In order to improve military and civilian co-operation, which —thanks largely to U.S. concerns over “mission creep”— had been conspicuous largely by its absence in the early stages of Dayton implementation, the UNSYG’s report noted the “imperative” that UNMIK and KFOR “co-ordinate their activities closely.” The UNMIK chief and the KFOR commander were enjoined to establish effective arrangements for regular consultations and a military liaison unit was established on the UNMIK staff.

The mission in Kosovo is distinguished in several key respects from that in Bosnia. Most important is the fact that in Kosovo—unlike in Bosnia—the international presence acts as the government with full executive, legislative and judicial powers. UNSC 1244 assigned the UNMIK chief responsibility for performing basic civilian administrative functions as long as necessary. This was codified on 25 July 1999 in UNMIK’s first regulation which vested, “all legislative and executive authority with respect to Kosovo, including the administration of

the judiciary," to UNMIK. In June 1999, as the international community entered hard on the heels of the retreating Serbs, Kosovo was a blank slate on which the UN and the other elements of the international mission had complete authority to create, for the first time in Kosovo's history, a fully functional democratic society consciously moulded in the Western image.

How far they have succeeded is discussed in the following sections.

## **B. Promoting the Establishment of Self-Government**

UNSC Resolution 1244, paragraph 11 (a), provides that the main responsibilities of the international civil presence include: *"Promoting the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo, taking full account of annex 2 and of the Rambouillet accords."*

Underlying all of the difficulties facing the international mission in Kosovo is the absence of clarity about Kosovo's future. Neither Albanians nor Serbs are yet convinced that conflict in Kosovo is over. Each remains preoccupied with ethnic issues and symbols to the virtual exclusion of other practical issues such as the economy.

The problem that this lack of clarity about the future is a constant thread among conversations with Albanian leaders and ordinary citizens alike. Mahmut Bakalli, the Communist leader of Kosovo who was deposed as a result of the 1981 demonstrations but who remains quite influential among Albanian political circles, has said that uncertainty about final status was causing "national homogenisation" among Kosovo Albanians.<sup>26</sup> Adem Demaci, whose 28 years in Serb jails earned him the sobriquet "the Kosovo Mandela" and who urged a crowd in Pristina celebrating the first anniversary of the end of the 1999 war to show more toleration for Serbs, has stated that as long as Kosovo's final status was uncertain, Albanians would oppose the return of Serbs to Kosovo.<sup>27</sup>

Uncertainty about final status is also causing a host of practical problems. It has delayed international decisions about holding elections and introducing interim institutions of self-government. It has blocked privatisation and market reform, which many see as key in attracting the long-term investment necessary to secure Kosovo's reconstruction.

Lack of clarity about the future has also allowed Serbs to avoid facing up to the issue of what kind of Kosovo they are prepared to live in. It fosters ambitions of partition among the Serbs in Mitrovica and allows Serbs in the enclaves in the southern and central parts of Kosovo to continue to assert that they cannot live in a Kosovo not ruled by Belgrade.

Given the complete absence of any agreed international strategy for Kosovo's future, a decision on final status now is impossible. However this does not mean that the international community can simply continue to ignore the issue. What is critically necessary now is for the international community to make clear that Belgrade will never be allowed to regain effective control over Kosovo and to

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<sup>26</sup> ICG conversation, June 2000.

<sup>27</sup> ICG conversation, May 2000.

include the people of Kosovo in the process of creating interim institutions of self-government that will function under continued international supervision. Failure to do this will increase the already noticeable sense of impatience among Kosovo Albanians with the international mission in Kosovo and continue to impede international efforts to foster reconciliation between Kosovo Serbs and Albanians.

Albanian impatience with the policies and actions of the international community does not translate into any significant desire to see the international mission in Kosovo leave. Albanians fully understand that the international presence remains their only guarantee against Belgrade's return. Most Albanians recognise that they are not ready, politically, economically or militarily, to survive on their own. Albanians also have a relatively sophisticated understanding of the dynamics of the international diplomacy over Kosovo. Although the number of Kosovo Albanians who do not believe that their homeland should eventually be independent could comfortably fit inside a phone booth, most understand that independence now is not possible and many would also argue that it is not desirable at the present moment.

Over the summer of 2000 there was a perceptible rise in the level of irritation between Albanians and the international mission. Many Albanians viewed the international community's reaction to the violence against Serbs and international efforts to bring the moderate faction of Gračanica Serbs back into UNMIK's Interim Administrative Council (IAC) tilted too far toward the Serbs. Albanians contrasted international efforts on behalf of the undoubtedly threatened Serbs in the enclaves with the international mission's unwillingness to break Serb control of the northern Kosovo town of Mitrovica, although the international mission's seizure of a heavily polluting, Serb-run smelter connected to the Trepça mining and metallurgical complex has helped redress this balance in Albanian eyes.

The 29 June conclusion by Kouchner of a Memorandum of Understanding (MOU) with Bishop Artemije, the leader of the moderate Gračanica Serbs, crystallised Albanian unhappiness. Even though the MOU was primarily a catalogue of steps that the international mission either has taken or intends to take with respect to the Serbs, Albanians reacted with outrage, claiming the MOU was the first step to the "cantonisation" of Kosovo. PDK leader Thaci temporarily pulled out of the IAC and demanded a laundry list of international actions before he would return. Thaci's withdrawal was widely seen as an electoral ploy, an effort to bolster his credentials as the true defender of Albanian interests. He subsequently told ICG that his main problem with the MOU was that it had been concluded without consultations with the Albanians<sup>28</sup> The broad criticism of the MOU across most of the Albanian community, however, marked it as one of the most significant incidents of Albanian disagreement with an international action since the beginning of the international mission in Kosovo.

There is also a growing sense of impatience with the international community's perceived slowness either to take effective control of the process of governing and rebuilding Kosovo or to offer Albanians a tangible prospect of doing the job themselves. In a range of practical areas, some of which are discussed more thoroughly elsewhere in this report, Albanians perceive that a year after the end of the war the international community is not taking hold. In the economy, for

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<sup>28</sup> Conversation with ICG, August 2000.

example, Albanians contrast the success of their own entrepreneurs in creating a vibrant small business sector with the failure of the international community to even begin privatisation of medium and large-scale businesses or to lay the legal or institutional groundwork for the transition to a market economy. Even more important is the unhappiness that virtually all Albanians express with what they see as a decline in law and order and slowness in establishing a functioning judicial system. A further grievance, which has exacerbated tensions between Albanians and the international community, is the inability to win release of the more than one thousand Albanians still held in Milosevic's jails.

Albanian impatience with the international community has led to growing demands for a more rapid introduction of the interim institutions of self-government. LDK leader Rugova told ICG he believes the dynamic of events in Kosovo is moving faster than the international community understands.<sup>29</sup> Rugova—who continues to publicly reiterate his long-standing demands for independence—stressed that a Kosovo government structure, including a president, prime minister and parliament, should be promptly introduced by UN regulation but argued against a full-fledged constitution at this time because that would prematurely raise the issue of Kosovo's final status. After publicly calling for interim constitutional arrangements to be in place before the fall municipal elections, Thaci subsequently told ICG that these should be introduced immediately after the municipal ballot to avoid inflaming the electoral atmosphere.<sup>30</sup>

The international community has stepped up its preparations to introduce some kind of Kosovo-wide institutions but international efforts have predictably been too slow, marked by disagreements among the countries involved, and conducted in a secrecy which is completely inappropriate with either normal democratic practice or any effort to build up a sense of acceptance among Albanians for the legitimacy of the international efforts.

UNMIK chief Kouchner and senior officials around him understand that the absence of an agreed international vision about Kosovo's future contributes to a climate of tension and violence in Kosovo. Kouchner told ICG that he wants to move more quickly to involve Kosovars in a discussion of interim governmental arrangements under the status of "substantial autonomy" as called for in UNSC 1244. His efforts to move in this direction, however, continue to be complicated by divisions among the international community over the substance of the interim arrangements and the tactics of their implementation.

In mid-August Kouchner began to hold a series of meetings with Kosovo citizens to explain his concept of a "Pact," in which the Albanians would guarantee their support for security, toleration, and political rights for Serbs and minorities in Kosovo and the UN would introduce, in a phased manner, interim, Kosovo-wide institutions of self-government, under continued UN guidance. So far, however, there appears to be little public understanding about the specific content of the "Pact." As of mid-August real work on a UN regulation on Kosovo-wide institutions has not yet started. Secrecy within the Contact Group, disagreements among its members, and lack of clarity about the final objective are the main problems.

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<sup>29</sup> ICG conversation, June 2000.

<sup>30</sup> ICG conversation, August 2000.

Kouchner told ICG he would prefer to introduce this institutional framework in a step-by-step fashion over an extended period, perhaps eighteen months, in order to maintain leverage over the Albanians. This procedure would also, according to Kouchner, allow the people of Kosovo to be more involved in the process.<sup>31</sup> The United States and possibly some other Contact Group nations, by contrast, would prefer to introduce the interim self-government institutions at one time in order to get basic democratic institutions in place quickly.

There are merits to both approaches but, on balance, the most important factor is the need to include Albanians in the process of governing Kosovo. The performance of the international community over the past year has amply demonstrated that it cannot run Kosovo alone from the top down as some kind of protectorate. Albanians, moreover, accumulated considerable experience in running their own affairs during the ten years of the "parallel state" under Serb police occupation.

However Kouchner is correct in asserting that the best way to build legitimacy for the democratic institutions the international community wishes to bequeath to Kosovo is by including the Kosovars themselves in the process of their creation. The way to do this is to immediately move the current discussion of interim institutions out of the confines of the Contact Group and devise a mechanism for including representatives of all political and ethnic groups in Kosovo. The objective should be to have interim structures of self-government agreed by the end of 2000, in time for the holding of the first Kosovo-wide elections in the spring of 2001 and the inauguration of the first democratically elected president of Kosovo by June 2001, on the second anniversary of NATO's victory.

Creating these institutions with the participation of the Kosovars will necessarily be a time-consuming and frustrating process but would also yield immediate benefits. Showing the Kosovars that the international community is prepared to work with them to create a way forward to their own self-government in a reasonable time-frame would help defuse the growing frustration among the Albanian community. It would also allow Serbs the opportunity to participate in the shaping of a democratic Kosovo in which they and Kosovo minorities would enjoy an appropriate place. Failure to adopt this approach, by contrast, virtually guarantees that the current sense of drift will worsen, ensuring the continuation—and possibly escalation—of the current low-level violence in Kosovo.

### **C. Performing basic Civilian Administrative Functions**

UNSC Resolution 1244, paragraph 11 (b), provides that the main responsibilities of the international civil presence include: *"Performing basic civilian administrative functions where and when as long as required."*

Over its first year of operation the UNMIK set up the skeleton of a structure capable of performing basic administrative functions. But UNMIK was slow in establishing its presence, especially outside Pristina. A major achievement in this area, however, was UNMIK's ability to elbow aside the parallel Albanian

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<sup>31</sup> Conversation with ICG, July 2000.

governmental structures operating in Kosovo after the 1999 war and establish itself as the only formal governmental authority in Kosovo, although informal organisations continue to operate beneath the surface.

There was little time to plan for a mission that would have unprecedented broad authority over every aspect of the lives of the two million Kosovars. Staff and equipment had to be assembled quickly and dispatched with little planning into a highly unsettled situation. The situation in Kosovo immediately after the war was characterised by the destruction of war, the disappearance of the previous Serb administration, the existence of competing and often hostile groups among the Albanians, and a campaign of violence against the Serbs who sought to remain.

In agreeing to allow Kosovo to be administered by the United Nations, instead of another organisation such as the OSCE or NATO, the international community made a major move toward Milosevic. Having had considerable experience with the UN in Bosnia, Milosevic calculated that many of its characteristic traits—a political and bureaucratic culture which fosters caution and delay, chronic shortage of funds, and divisions among its leading members—would make it more difficult to overcome the climate of instability and turmoil on which Milosevic has always relied to advance his own objectives. Milosevic also knew he could count on sympathisers in the Security Council to prevent revisions to UNSC 1244 that would run counter to his interests in Kosovo.

At the end of the war, the UN found two distinct Kosovo Albanian groups trying to fill the administrative and security vacuum left by the departure of Serb forces. The so-called "Provisional Government of Kosova," headed by KLA chief Hasim Thaci, claimed governmental authority in Kosovo. Backed by the armed force of the KLA, the "Provisional Government" assumed the authority to issue decrees, appoint enterprise managers, and change the names of towns and streets. It also established its own municipal authorities throughout the Albanian inhabited towns and countryside of Kosovo and its military police called in a number of people for questioning in what was often viewed as an intimidating fashion.

Many assumed that Ibrahim Rugova, who led non-violent resistance to the Serbs for ten years, had been fatally compromised by his widely publicised meeting with Milosevic during the war and his slowness in returning after the war. Once Rugova was back, however, it became evident that he and his LDK party continued to maintain a hold over much of the Kosovo population. Rugova asserted that the Government of the Republic of Kosovo, which he headed as President, and the other institutions of the parallel state continued to exist. Throughout the summer and fall of 1999 the KLA and the LDK jostled for position across Kosovo, with the KLA usually coming out on top of the informal structures of authority thanks to its armed might, but with sympathy for Rugova and the LDK quietly growing, especially among urban, educated Kosovo Albanians who tended to resent the overbearing and sometimes corrupt behaviour of some of the brash young KLA fighters.

The Serbs who remained in Kosovo recognised neither the authority of the UN nor that of the contending Albanian factions. Many Serbs continued to look to Belgrade for direction and financial support. In Mitrovica and the predominantly Serb territories to the north, the Serbs quickly established their own separate governing structures, based largely on the pre-war Serb administration, together



with personnel, financial and other forms of support which Milosevic continued to provide.

UNMIK chief Bernard Kouchner and his deputy Jock Covey have both made the point that preventing incipient civil war between the contending Albanian groups was a major accomplishment of the international mission during the second half of 1999.<sup>32</sup> Although this evaluation is undoubtedly correct, one effect of this preoccupation was to delay the establishment of governing structures under the UN's authority. Not until 25 July 1999, six weeks after the end of the war, did UNMIK issue its first regulation, which vested "all legislative and executive authority with respect to Kosovo, including administration of the judiciary" with the UNMIK chief.

Not until 15 December 1999—six months after the end of the war—did UNMIK establish a formal structure for administering Kosovo. The Joint Interim Administrative Structures (JIAS) include the Interim Administrative Council (IAC), a kind of embryonic Kosovo government; the Kosovo Transition Council (KTC), a shadow parliament with no decision-making authority; and local administrations in each of Kosovo's 30 municipalities.

The IAC, chaired by UNMIK chief Kouchner, consists of four members from the international mission and four Kosovars—three Albanians and one Serb. The three Albanians—Rugova, Thaci, and Rexhep Qosja the head of the United Democratic Movement (LBD) were chosen as representing the Albanian delegation to the negotiations in Rambouillet in February 1999. The Serb member of the IAC is drawn from the moderate group centred around Bishop Artemije and the Serbian Orthodox monastery at Gracanica. Neither the Serb leader in Mitrovica, Ivanovic, or other Serb leaders in the enclaves have so far been willing to participate in JIAS institutions.

Decision-making in the IAC is nominally based on the principle of a three-quarters majority vote. The IAC meets twice a week. Its agenda is determined by UNMIK and the UNMIK staff prepares all supporting materials. Until recently, at least, Thaci has been the most engaged of the Albanian participants on the IAC and Rugova the most reserved. Although Kosovar participants can sometimes succeed in shaping IAC decisions, real authority always remains with Kouchner, who has the right to veto decisions adopted by the IAC or to impose his own. Kouchner, moreover, is under no obligation to use the IAC to reach his own decisions. He by-passed the IAC in negotiating the MOU with the Gracanica Serbs.

The 35-member Kosovo Transition Council (KTC) includes a range of Albanian political parties, religious communities, ethnic minorities, and human and civil rights activists. It meets once a week and largely functions as a soapbox, allowing the international mission to hear the opinions of the Albanian representatives who dominate the KTC numerically but without giving them any real role in decision-making. The Albanians, of course, understand this which on the one hand sometimes encourages KTC participants to take extreme or irresponsible positions, and on the other hand, increases frustration with their lack of any real influence over the governance of Kosovo.

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<sup>32</sup> Conversation with ICG, August 2000.

At the same time that UNMIK established the IAC and the KTC, it also established twenty departments that cover the normal range of internal governmental functions exercised in a European state, except for external functions such as foreign affairs, defence, or foreign trade. Each of the departments has an international and a local co-head, who are distributed among the major Albanian political parties and several Serbs. Real authority in the departments, however, remains with the international head, as one local co-head discovered on finding by accident a copy of a memo to all international department heads which they were enjoined not to share with the Kosovar co-heads.

UNMIK senior officials regard the establishment of the departments as one of their major accomplishments. Some departments, such as the medical department and the Central Fiscal Authority (discussed in more detail below) are making a serious effort to carry out their responsibilities. Other departments seem to be much slower in getting started. All of the departments have experienced a lack of material support, including shortage of money, staff, office space, and basic equipment such as computers. The departments also suffer from the general atmosphere of policy drift that pervades the entire international mission in Kosovo. Department heads seldom see Kouchner and some have admitted that they sense an absence of clear policy guidance from the top. Local co-heads and senior staff in particular feel increasingly dissatisfied with their inferior role in the administrative process. The non-Serbian minorities are under-represented in all departments, affecting the efficiency of their operations in ethnically mixed areas.

The Central Fiscal Authority (CFA)—a kind of Treasury Department—has drafted a budget for Kosovo, established a customs collection system, and begun an effort to register local businesses and collect local taxes. Although the first effect of the appearance of the new Kosovo customs system on the border with Montenegro was a massive tie-up of truck traffic—drivers had not been informed in advance about the new measures—by summer the system was settling into something approaching normalcy. Notification mechanisms were in place for transport companies operating into Kosovo and 117 customs inspectors were in action along the border.

By the end of July revenue collection had reached 103 million 98 million DM, primarily through customs. UNMIK officials estimated that approximately 45 per cent of the total Kosovo budget would be covered by local collections, slightly less than had been earlier anticipated. UNMIK has experienced considerable quiet resistance in efforts to register the large numbers of Kosovo businesses for tax purposes. Some larger establishments have begun to pay taxes but the amounts are often questionable. In mid-August shortfall in revenue collection required Kouchner to obtain IAC endorsement for “re-arranging” the existing budget by reducing appropriations to most departments and by asking donor nations to cough up further contributions to the Kosovo budget and to the KPC.<sup>33</sup>

Slowness in creating a functioning and impartial judicial system—a major contributing factor in the climate of lawlessness that prevails through much of Kosovo—is one of the biggest failures of the UN’s interim administration system.

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<sup>33</sup> Conversations with CFA officials in August 2000; and UNMIK press release, August 15 2000, “IAC Endorses Budget Changes”.

International efforts to create a judicial system in Kosovo got off to an unnecessarily bad start when UNMIK in August 1999 decreed that Serb laws in force in Kosovo before the 1999 war should retain their validity. Albanian judicial personnel predictably refused to work under the laws of their Serb oppressors, which had been introduced in a completely illegal fashion after Milosevic forcibly overturned Kosovo's autonomy in March 1989. The boycott lasted until December 1999, when Kouchner sensibly decreed that the law of the land in Kosovo would be that in effect prior to Kosovo's March 1989 loss of autonomy, with modifications to build international human rights standards into this Communist era law code.

The unnecessary episode with the law code is yet another example of the difficulties caused by the ambiguity about Kosovo's final status. According to senior UN officials, the UN legal department insisted that the 1999 Serb code must remain in force in Kosovo, out of concern that doing otherwise would undermine the notion enshrined in UNSC 1244 that FRY sovereignty over Kosovo continues. This position held, despite its obvious paralysing effect on the judicial system and the climate of law and order in Kosovo, until Kouchner obtained permission to overturn the decision through a personal appeal to UN Secretary General Kofi Annan.

Even after Kosovo's rulers and ruled had agreed on the legal system to be in effect in the region, establishing a functioning judicial system faced formidable obstacles. Sylvie Pantz, the international co-head of the UNMIK Judicial Department pointed out to ICG that little of the physical or human infrastructure needed to establish a judicial system existed when the international mission began its work in Kosovo. Most Albanian judges and prosecutors had been fired after the Serb take-over in 1989, while most Serb judicial personnel fled after the 1999 war. Many court buildings had been destroyed in the fighting of 1998 and 1999 and most of those that survived had been stripped by the retreating Serb forces of everything useful.<sup>34</sup>

But the undoubted difficulties in rebuilding physical infrastructure were not the major problem inhibiting the establishment of a modern, impartial judicial system. The failure of the international mission to establish a secure environment after the end of the war also impeded efforts to establish a credible judiciary, whose absence, in turn, was also a major contributing factor to the climate of lawlessness. Lack of security is why, despite intense international efforts, so far only one Serb judge has agreed to return to sit in areas under Albanian control. But lack of security also affects Albanian judges and prosecutors, who are reluctant to take controversial cases, especially those involving locally prominent personalities or figures associated with the former KLA, out of concern that they might be subject to pressure outside the courtroom.

A year after the end of the war there are signs of progress in mobilising human and material resources for the judicial system. A judicial structure consisting of a Kosovo Supreme Court, five District Courts, and eighteen municipal courts has been established. Altogether, by mid-August 56 courts and 13 prosecutors' offices had been staffed. By mid-August 405 local judges and prosecutors had

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<sup>34</sup> Conversation with ICG, June 2000.

been appointed by the UN, although how many of these were actually taking cases is unclear. Material support for the facilities of the judicial system was also being provided by a number of donor countries, including France, which sent a case-tracking management system, and the United States, which provided two million dollars worth of computers, office equipment, and other supplies. In June, UNMIK reopened a former Yugoslav prison, which more than tripled the Kosovo penal system's capacity to hold inmates.<sup>35</sup> The level of activity throughout the court system has shown a steady increase. In February only 24 persons were tried in District, Municipal, or misdemeanour courts. In March and April the figures were 132 and 172 and in the period from 1 May to 7 June 367 persons were tried.<sup>36</sup>

Despite these signs of progress, a fully functioning and impartial judicial system in Kosovo has yet to be achieved. By June 2000, 695 criminal and misdemeanour cases had been completed. By mid-July, of approximately 100 filed murder cases, five had been brought to trial according to UN police sources while at least ten had been completed according to UN judicial officials.<sup>37</sup> When the problems with impartiality and pressure on Kosovo legal personnel became obvious, one solution proposed by UNMIK was to introduce foreign judges and prosecutors – initially only in Mitrovica and later throughout Kosovo – with the objective of having one international judge and prosecutor in each Kosovo district court and two on the Supreme Court. By mid-August 2000 six international judges and two international prosecutors had arrived, although more were in the pipeline. An additional complicating factor in the use of foreign judicial personnel is the large number of expert support staff (legal officers, translators, court recorders, and administrative staff) that each requires. By mid-August, 34 of these staff had been appointed.<sup>38</sup>

Senior UNMIK officials saw the establishment of the Kosovo War and Ethnic Crimes Court (KWECC)—planned as a mixed court of nine international and eight local judges with competency over war crimes and serious ethnic crimes—as another solution to the problems of partiality and pressure experienced by regular Kosovar judicial personnel. By mid-summer 2000, however, the fate of the KWECC seemed very much up in the air. Doubts about its purpose and efficacy persisted in New York, Washington—which was concerned that U.S. troops might be subject to the KWECC—and Pristina, where Ms Pantz admitted that she saw potential difficulties with the KWECC's jurisdiction and worried that it might divert resources from what she considered to be the primary task of establishing a functioning judicial system staffed by local personnel.<sup>39</sup>

The international mission has, of course, brought many improvements to daily life in Kosovo, especially measured against the immediate post-war chaos or the brutality of the pre-war Serb occupation regime. Pristina's traffic-choked streets, crowded shops, and frantic pace of new construction are a testimony to the vibrant activity undertaken by the Kosovo Albanian community after the war. One sign of change is the increasing access to modern consumer items. More

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<sup>35</sup> UNMIK Press releases; "Reviving Kosovo's Judicial System," 5 June 2000; and "New Judges and Prosecutors Appointed," 10 August 2000.

<sup>36</sup> Conversation with international judicial personnel, August 2000.

<sup>37</sup> ICG conversations with police and judicial personnel, July and August 2000.

<sup>38</sup> ICG conversation with international judicial personnel, August 2000.

<sup>39</sup> ICG conversations in June and August 2000.

than 55 per cent of Kosovo households own cars and 18.7 per cent have purchased one over the past year. Mobile phones are owned by 22.6 per cent of households – a figure which more than doubled in the period from April to July 2000. 8 per cent of Kosovo households report owning a computer – a relatively high figure for the Balkans.<sup>40</sup>

Underneath the surface signs of prosperity, however, deep problems exist. Although reliable economic data is hard to come by, Kosovo remains a poor region. In July 2000, 20.5 per cent of the work force declared themselves to be unemployed.<sup>41</sup> International efforts to rebuild municipal services have been slow and imperfect. Large parts of Pristina remain without reliable telephone service. Many sections of Pristina regularly go without water several hours a day and some parts of the town have suffered prolonged water and power shortages. Garbage collection in Pristina is spotty, at best. The international administration has tended to rely on modern, imported garbage collection canisters but their numbers are insufficient and they seem frequently to be used improperly by local personnel. A stroll around the ICG office, near Pristina's centre, revealed only two places where garbage containers were located within a radius of several blocks. In one area where several high-rise apartment buildings were located there were no garbage containers at all.

Many Kosovo Albanians lack either valid internal identity documents or internationally recognised travel documents. The problem stems from deliberate Serb efforts during the war to deprive Kosovo Albanians of their documents, as part of an apparent effort to eliminate traces of the Albanian presence in Kosovo; UNMIK delays in producing internal identity cards; and uncertainties about Kosovo's final status which have precluded the issuance of Kosovo passports. The difficulty of obtaining internationally accepted travel documents is one of the most personally vexing aspects of international rule for many Kosovo Albanians, who often complain that they feel like virtual prisoners in tiny Kosovo.

As part of the preparations for the October municipal elections the UN and the OSCE conducted a joint process of civil and electoral registration of all Kosovar residents. This registration, the electoral portion of which ended 15 July 2000, was intended to produce both a new voter registration list and a new civil list for all Kosovo residents. Valid registrants are to receive a UN identity document attesting to their status as Kosovo residents. The process of issuing identity documents has been plagued by repeated delays. The first identity documents, which were promised originally in July, are now expected in September. Even if current schedules hold, all of the approximately one million Kosovars over 16 who registered will not receive their ID cards until the end of 2000 or possibly later.

Currently, only Kosovars with a valid passport from the pre-war Belgrade regime can routinely travel abroad. Many Kosovo Albanians, however, lack valid FRY passports and others who do have these passports are reluctant to use them for political or emotional reasons. Kosovars who wish to travel abroad but lack a valid passport must now obtain special permission, a time-consuming and cumbersome process that requires the signature of UNMIK chief Kouchner for each trip. The UN plans to create interim travel documents for Kosovar residents in place of a passport but it will not begin accepting applications for these until

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<sup>40</sup> Gallup polls undertaken for KFOR, April and July 2000.

<sup>41</sup> Ibid.

after the issuance of identity documents begins. Negotiations will be required to gain the acceptance of nations for this Kosovo quasi-passport, which could further delay the process.

The above survey of international efforts over the past year to create a functioning administrative structure and to bring life in Kosovo back to something approaching normal shows that despite the hard work of a number of dedicated individuals and despite a mandate that gave it virtual dictatorial powers, the international mission has been capable only of scratching the surface of developments in Kosovo. This argues for greater efforts to involve the Kosovo population in the direct administration of its own affairs under continued but diminishing international supervision, something Kosovo Albanians are becoming increasingly impatient to see happen.

#### **D. Economic Reconstruction**

UNSC Resolution 1244, paragraph 11 (g), provides that the main responsibilities of the international civil presence include: "*Supporting the reconstruction of key infrastructure and other economic reconstruction.*"

Approximately 120,000 dwellings in Kosovo suffered significant wartime damage; over 80,000 of these were completely destroyed. In addition, much of Kosovo's infrastructure was also damaged in the war, including bridges, roads, and public facilities such as the Pristina PTT.

The international mission arrived in Kosovo aware that it would face the traditional tasks of post conflict reconstruction—rebuilding ruined homes, public facilities, and infrastructure. The mission was unprepared for another—and in the long run even more important reconstruction task—managing Kosovo's transition from a socialist to a market economy.

Kosovo was the poorest region in the former Yugoslavia. In 1988, the last year of Kosovo's autonomy, its per capita income was only 27 per cent of the Yugoslav average.<sup>42</sup> Although many Kosovo Albanians today look upon Tito's Yugoslavia as a kind of "golden era," the Yugoslav system of self-management socialism imposed significant distortions on the Kosovo economy. Kosovo received significant amounts of aid from other Yugoslav republics, but much of this was wasted on flashy prestige projects or in Communist-style heavy industry that could not provide sufficient employment to Kosovo's largely agricultural and rapidly expanding population. Socialism also encouraged habits inconsistent with a modern market economy, such as politically motivated investment, lax management practices, and poor labour discipline.

The Serb occupation regime, from 1989-1999, also caused significant damage to the Kosovo economy. In the period 1990-1992, virtually all Albanian managers and the majority of the Albanian work force were fired from their jobs. They were replaced, if they were replaced at all, by Serbs from Kosovo or outside the province who often were unqualified for their jobs and had little interest in enhancing Kosovo's long-term economic prospects. One consequence of this act was to deprive an entire generation of Albanian managers and skilled workers of

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<sup>42</sup> Dijana Plestina, *Regional Development in Communist Yugoslavia*, p. 18.

the opportunities to develop new skills during a critical period in world economic development when the use of computers and the Internet became common. The Milosevic regime also starved Kosovo infrastructure and industry of investment, leaving many facilities operating by the end of the decade on the cannibalisation of aged equipment.

However reconstruction in Kosovo also enjoyed some advantages. Kosovo Albanians possess a native entrepreneurial spirit and a strong interest in opening small businesses. In this regard, the Milosevic regime probably did the Albanians something of an unintended favour. By forcing them out of Kosovo's official economy, the Serbs drove the Albanians into creating a parallel economic system that emphasised private initiative and small business. The Albanian diaspora in Western Europe and the United States was a source of funds for humanitarian relief and investment that was under the control of the Albanians themselves and not dependent on outside parties.

The report of the UN Secretary General of 19 June 1999, which set out a preliminary operational concept for the international mission in Kosovo, provide that "the tasks of reconstruction would be led by the European Union and should be aimed at rebuilding the physical, economic, and social infrastructure and systems of Kosovo and supporting the reactivation of public services and utilities." Specific guidance for reconstruction is sparse—the Secretary General's report calls for near-term projects in agriculture and markets, activities to re-establish public services and longer term capital projects in the areas of housing, utilities, transportation, and communications.

Reconstruction has also been complicated by divisions within the international community about the practical implications of the sovereignty over Kosovo that the FRY still formally retains under UNSC 1244 and by the lack of clarity about Kosovo's final status. Neither the IMF nor World Bank can carry out their traditional functions in Kosovo because they cannot obtain the necessary "sovereign loan guarantee." The IMF has been unable to provide its usual macro-economic policy guidance and monetary support. The World Bank has been unable to provide the large-scale loans for infrastructure reconstruction and sectoral restructuring that have been a feature of its activities in similar areas elsewhere in the world.

The EU has taken the lead role in funding and co-ordinating Kosovo reconstruction, a decision which reflects the importance that ties with Europe will play in Kosovo's future, the fact that EU members provide about 70 per cent of all reconstruction assistance to Kosovo, and a Congressional requirement that US assistance be limited to 15 per cent of the overall international outlay. According to USAID, total US government support for Kosovo was \$491 million in the fiscal year 1999 and \$312 million in fiscal year 2000.<sup>43</sup>

Under the "four pillar" structure of the international mission in Kosovo, Pillar Four, led by the EU, was responsible for reconstruction. It has suffered chronic shortfalls in money and staff. Because of the EU's inability to recruit qualified staff on a timely basis, during the first year of the Kosovo mission USAID stepped in to partially fill the gaps by recruiting contract personnel. The problem

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<sup>43</sup> ICG conversation, July 2000.

continues into the second year of the international mission's operation. In mid-summer, according to a European official, the EU component of Pillar Four was at least 30-40 positions short of its authorised strength.

### *1. Privatisation*

Pillar Four had two broad tasks: creating the economic departments of the UN's JIAS; and transforming the Kosovo economy into a modern market system. In its first task, which has been discussed earlier, Pillar Four enjoyed modest success, but in the second it has so far accomplished little. One reason for the slowness of moves on privatisation was a battle within the international mission over the appropriate strategy for privatisation between a market-oriented group within Pillar Four and a group within UNMIK, which was concerned about potential legal pitfalls if privatisation were carried out before issues associated with ownership changes carried out by the Milosevic regime in the 1990s and the final status of Kosovo were settled.

In May 2000, UNMIK Pillar Four drafted a White Paper on managing Kosovo's transition to a market economy, which called for a two-stage process of verifying the ownership of Kosovo enterprises and then privatising the bulk of those that appeared to be economically viable. In the first stage, an independent Ownership Adjudication Commission (OAC) would determine on an accelerated basis the ownership and legal status of approximately 160 medium and large-sized enterprises in Kosovo. In the second stage, a Kosovo Privatisation Agency (KPA) would restructure the enterprises to enhance competitiveness and increase attractiveness to prospective buyers. Privatisation would be carried out through a competitive bidding process open to domestic and foreign bidders. 20 per cent of the shares in an enterprise to be privatised would be reserved for employees and managers, in return for which workers would renounce any claims toward the enterprise. Proceeds from privatisation would go into the Kosovo budget.

The White Paper also describes the laws and institutions that need to be introduced into Kosovo to create a modern, prosperous market economy that can attract both the domestic and foreign investment needed to fuel self-sustaining growth. The UNMIK decision that the existing law of the land in Kosovo is the law in force before Milosevic suppressed Kosovo's autonomy in 1989 makes sense as a temporary measure but, as the White Paper notes, the legal and regulatory framework of socialist Yugoslavia is unsuitable for a modern market economy. Pre-1989 law needs to be quickly replaced by a new set of rules that foster competitiveness and private investment, including a company law that would allow the creation of enterprises as "juridical persons," introduction of generally accepted accounting principles, a bankruptcy law, contracts law, labour laws, and regulations governing foreign investment, including the repatriation of profits. Privatisation must also be accompanied by greater efforts to establish the rule of law through an independent and impartial judicial system, to prevent the process from being hijacked by underground political or criminal groups.

The White Paper ran into a buzz-saw of opposition from some parts of the UN bureaucracy in Pristina and New York and from some Security Council members worried that proceeding with privatisation now could be seen as undermining Belgrade's sovereignty over Kosovo and could subject the UN to lawsuits if enterprise owners currently recognised by the FRY challenged the results of



privatisation. There was also concern that few legitimate investors would be attracted if privatisation were carried out before the rule of law had been secured and before the real value and status of the assets to be privatised had been established.

By August it appeared that the plan for rapid privatisation advocated in the White Paper was dead, replaced by a more cautious approach which included a period of international management for the rather small number of Kosovo's major economic enterprises, such as Trepca, the Grand Hotel in Pristina, Kosovo's major agricultural enterprise, Agrokombinat, and a few others. Senior UN officials described the privatisation of these facilities as a "political issue" which needed to be done in a fully transparent manner after Kosovo had its own governmental institutions and only after the legal issues associated with the transfers of these enterprises during the 1990s under the Milosevic regime had been resolved. Under this approach, already adopted by UNMIK for Trepca, these major assets would be taken over by the international mission and administered by mixed international and local management boards, one of whose major tasks would be to train local managers. These management boards would establish the true value and operating condition of the enterprises, seek to attract private capital for their modernisation and operation, and then manage them for the people of Kosovo pending resolution of ownership issues and the question of Kosovo's final status.<sup>44</sup>

Although the opponents of too rapid or uncontrolled privatisation raised a number of good points – including the likely difficulty that the EU would have in providing sufficient staff to manage the process – the approach that seems to have prevailed also raises some questions. It appears to attach too much legal validity to Milosevic's dubious sales of Kosovo assets in the 1990s. It also seems questionable whether significant private investment could be attracted for the modernisation and operation of these assets if they were being run as state enterprises whose ultimate ownership remained uncertain.

Most importantly, the approach has a political "tin ear." It seems to be based on the assumption that Kosovo can be administered for a prolonged period as an international protectorate – albeit a benevolent one. Kosovo Albanians are becoming increasingly impatient with what they view as international mismanagement of the basic functions of daily life and they simply will not sit still for an approach which would leave internationals in the driver's seat of what they regard as the major elements of their economic heritage, especially if this approach fails to attract the capital needed for modernisation. Some Kosovo Albanians, moreover, are likely to see this approach – with its emphasis on the legal difficulties stemming from Kosovo's uncertain political status – as the economic component of a strategy aimed at restricting the likelihood of independence as a final outcome.

Milosevic's forcible suppression of Kosovo's autonomy in 1989 was an illegal act, even within the framework of the laws in force in Yugoslavia and Serbia at the time. It also ran counter to the clearly expressed views of the overwhelming majority of the inhabitants of Kosovo. Any actions undertaken by the occupation

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<sup>44</sup> ICG conversation, August 2000.

regime Milosevic established in Kosovo after March 1989, including transfers of ownership of Kosovo enterprises, can have no legal or moral validity.

UNMIK has the mandate and faces the necessity to proceed promptly with privatisation and market reform in Kosovo. UNMIK is charged with establishing "conditions for a peaceful and normal life for all inhabitants of Kosovo." This must obviously include their economic well being, which can only come from a modern economy stimulating development and attracting investment. The UN Secretary General's Report of 12 July 1999, calls on the UNMIK chief to "create a viable market-based economy and to develop a comprehensive approach to the economic and social development of Kosovo." UNMIK's first regulation in Kosovo vested all executive and legislative powers in the UNMIK chief, including administering state property.

The failure of this regulation to refer to socially owned property, which under Yugoslav practice included many of the enterprises in Kosovo, has been cited as a reason why such enterprises cannot be privatised by UNMIK. The Yugoslav socialist concept of socially owned property was a complex one, but for privatisation purposes socially owned enterprises can be treated as public ones with employees compensated as noted above by receiving shares in the privatised enterprise. Given the importance attached to socially owned property in Yugoslav practice, and therefore also in the minds of many Kosovars, however, it might be useful to amend UNMIK regulation 1999/1 to state clearly that the authority of the UNMIK chief also extends to socially owned property.

The consequences of failure to act on privatisation and market reform are nowhere better set forth than in the UN's own white paper. "There is no alternative; state or socially owned enterprises simply do not work well enough to provide the growth, the new jobs, and the new investment Kosovo needs if it is to meet the aspirations of its people." The Kosovo budget cannot afford to subsidise loss-making public enterprises. Private investment—on which growth depends—cannot occur in significant amounts until the issue of ownership is clarified. "Attracting such investment in Kosovo will remain almost impossible as long as it is unclear who owns a particular business."

Failure to act on privatisation and market reform also means that the bulk of those investment funds that find their way to Kosovo will continue to go into a "grey economy," helping to build up the unregulated, untaxed and often quasi-criminal activity that is spreading rapidly through Kosovo and which is a major contributing factor to the climate of lawlessness in the area. Senior European assistance officials pointed out that failure to move on privatisation and market reform will quickly reduce levels of foreign assistance to Kosovo since donors will be reluctant to see their money going to benefit this "grey economy."<sup>45</sup> In short, failure to act on privatisation and market reform ensures that Kosovo will continue to be an economic "Wild West."

The UN has also adopted a plan to seek necessary investment in Kosovo's medium-sized enterprises, pending resolution of the ownership issue. In June 2000, an agreement was announced regarding an investment program for the reconstruction and renewed operation of the Sharr cement plant in Kacanik, near

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<sup>45</sup> Conversation with ICG, August 2000.

the border with Macedonia. The agreement guaranteed the foreign investor a ten-year period of full control and management of all matters relating to operation of the plant. So far, however, the Sharr plant is the only such example of an interim investment plan although two others are said to be pending. In any case, investment under such interim schemes is likely to be applicable in a limited number of situations, where investors can be confident of obtaining a profitable return over a relatively short period. It is clearly a "second best" alternative to privatisation. It imposes a heavy administrative burden on limited international resources and, at the end of the day, leaves the issue of ultimate ownership still unresolved.

## *2. Infrastructure*

The second major component of the international mission's reconstruction activities in Kosovo is the repair and rebuilding of infrastructure and other facilities. In July and November 1999 the international donor community pledged 2.6 billion DM for the reconstruction of Kosovo. Subsequently, the Kosovo administrative departments set up by UNMIK put together a plan for their needs in the area of capital reconstruction. By April 2000, 1.2 billion DM had been actually committed to these identified needs.<sup>46</sup> More money has been committed since then but the gap between donor pledges and money actually appearing on the ground remains an enduring problem, especially in the eyes of the people closest to the situation. In mid-June 2000, the senior British commander in Kosovo, Brigadier General Richard Shirreff voiced public frustration at the EU's slowness in actually getting promised reconstruction projects actually up and running. Shirreff lamented that, "the EU seems incapable of getting anything done without a bureaucratic wrangle."<sup>47</sup>

Seventy per cent of reconstruction funds for Kosovo have come from the member nations of the European Union. In order to administer reconstruction activities funded by the European Commission, Brussels established the European Agency for Reconstruction (EAR) in Pristina. In 1999, the EAR allocated 127 million euros for Kosovo reconstruction and in 2000 the equivalent figure was 180 million euros. In the immediate post-war period of 1999, the EAR's highest priority was emergency reconstruction; 45 million euros accordingly were spent in conjunction with KFOR on emergency assistance in such areas as housing, energy, and water supplies. In 2000, the EAR's highest priorities are in housing and rebuilding energy, transportation, and water infrastructure.

EAR officials in Pristina—although acknowledging some slowness in getting started—believe their program has been a success, especially in comparison with similar post-war reconstruction efforts around the world. According to EAR officials, Brussels has given them unusual flexibility to manage operations directly, including the ability to conclude contracts and make payments directly, without going through Brussels. They assert that this flexibility has allowed an unusually large percentage of EAR funds for housing reconstruction to be used for the purchase of construction materials from local purveyors of building supplies that have sprung up in Kosovo to meet the needs of rebuilding war damage.<sup>48</sup>

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<sup>46</sup> "Kosovo reconstruction 2000; UNMIK/EU Department of Reconstruction, April 2000, pp. 5-7.

<sup>47</sup> *The Times*, London, 18 June 2000.

<sup>48</sup> ICG conversations in June 2000 with EAR officials.

Housing—one of the international community's highest priorities in Kosovo—typifies the continuing problems experienced in the area of reconstruction. Around 120,000 dwellings in Kosovo suffered significant wartime damage or destruction.<sup>49</sup> In 1999, the EAR financed the reconstruction of 3,500 houses and in 2000 it will finance the reconstruction of 8,000 more. Not until the middle of 2000, however, were homes whose reconstruction had been financed in 1999 being completed. Contracts for the reconstruction of homes authorised in 2000 were not let until the summer of that year. By the middle of 2000, a total of 17,000 damaged homes had been repaired using international assistance. When these funds run out in 2002, according to international officials, it is anticipated that less than half of the 80,000 homes in Kosovo that were completely destroyed will have been rebuilt through international assistance.<sup>50</sup>

Roads are another area showing the mixed results of reconstruction assistance to date. Kosovo has 2,000 km of main and regional hard-surfaced roads and 3,000 km of local unpaved roads. The Kosovo road network has suffered from ten years of neglect under Milosevic, the 1999 war in which some bridges and key road junctions were bombed by NATO, and since the war by the constant pounding of thousands of KFOR vehicles and a rapidly expanding fleet of privately owned cars and trucks. The result is that even the best roads in Kosovo are often no more than strips of rough pavement connecting axle-snapping potholes. Driving in Kosovo is enlivened by the experience of vehicles on both sides of the road swinging, often simultaneously, from one side to the other to avoid these potholes.

Over the first year of the international mission in Kosovo, road reconstruction was limited to emergency bridge replacement and road patching, largely by KFOR, and the donation of 22 snowplows by the EU.<sup>51</sup> Activities planned for 2000 will provide welcome relief on a few main arterials but will do little to alleviate the catastrophically deteriorating situation over most of the Kosovo road net. The EAR plans to spend 55 million DM in 2000 to completely rebuild 81 km of main roads, including the much-needed routes connecting Pristina with Prizren and with the Macedonian border. Other projects appear to spread resources too thinly to accomplish much in the way of real reconstruction. The EAR plans to spend six million DM for maintenance work over an additional 625 km of main roads, five million DM on maintenance of approximately 460 km of regional roads, and ten million DM to maintain streets in regional centres.<sup>52</sup>

EAR officials acknowledged that outside their programs, virtually nothing was being done to rebuild Kosovo's rapidly disappearing road system. And even full achievement of some of the EAR's planned road maintenance activities appeared to be questionable because they depended on the Kosovo Protection Corps (KPC) carrying out the work with road-building equipment that has yet to be provided by the international donor community.

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<sup>49</sup> "Pillar One Activity Overview," April 2000; UNHCR, p. 1.

<sup>50</sup> *New York Times*, July 7 2000, Carlotta Gall; "In the Hundreds of Thousands, Kosovo Homeless feel Forsaken.")

<sup>51</sup> "Kosovo Reconstruction 2000" and ICG conversations with EAR officials.

<sup>52</sup> "Roads—Year 2000 Planned Activities," International Management Group for the EAR, April 2000.

Road reconstruction also seems to be an example of poor co-ordination between international and local officials. Kacusa Jashari, the local Director of the UNMIK Department of Transportation's Bureau of Roads, said that her office had not been consulted on plans for the EAR-funded road rebuilding, including the centrepiece project linking Pristina with Prizren.<sup>53</sup> Ms. Jashari also pointed out that UNMIK had failed to come up with a plan for financing road building and maintenance out of local Kosovo resources. Ms. Jashari, who was the last independent Communist head of Kosovo before Milosevic extinguished the province's autonomy, noted that in the former Yugoslavia a road tax levied on gasoline had generated the equivalent of 24 million DM annually and estimated that a similar tax would generate 50 million DM today.

In contemporary Kosovo, where the roads are clogged with vehicles and a rumoured 600 private gasoline stations are being built, it is hard to understand why UNMIK does not introduce a gasoline tax to cover road maintenance. In any case, unless more is done quickly in this area, road travel in Kosovo will soon slow to the pace of the horse-drawn vehicles that only a decade ago were frequently seen there.

Utilities, another area of international reconstruction priority—are also unfortunately another example of international failure to deliver any noticeable post-war improvements to the Kosovo population. The extent of the problem in this area was highlighted for the 500,000 plus residents of Pristina in July 2000 when for almost a week—a time when the temperature often soared over to 40 degrees Celsius—most of the city was without electricity and water. The failure of a single senior UNMIK official to provide an authoritative explanation for what in most European or American cities would have been regarded as a major humanitarian catastrophe—and the failure of the residents of Pristina to demand one—simply highlighted the low expectations that both Kosovars and their international rulers have for each others' behaviour.

The electric power company of Kosovo (KEK) provides power from three sources; two lignite-fired thermal power stations—Kosovo A (200 MW) and Kosovo B (660 MW)—and a hydropower plant capable of producing 35 MW. Kosovo A was built in 1963 and is nearing the end of its life while Kosovo B, built in 1985, has suffered from lack of maintenance and from operation by unqualified personnel during the Serb occupation of the 1990s. KEK's 10,000 employees are supposed to be paid 270 DM per month but even these paltry wages—dependent on the still-spotty collection of electric bills—are largely theoretical. KEK employees were paid a total of 150 DM apiece for the entire second quarter of 2000. One reason for the patchy wage payments, according to KEK officials, is the failure of the Kosovar population to pay its electric bills. In mid-July 2000, outstanding electric bills totalled 60 million DM. Under these conditions, the director of Kosovo B described management of the facility as carried out through a combination of "personal authority and patriotism."<sup>54</sup>

Despite commitments by April 2000 of almost 138 million DM for electric power system rectification including training and spare parts, in early July senior EAR

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<sup>53</sup> ICG conversation, July 2000.

<sup>54</sup> ICG conversation, July 2000.

officials told ICG that failure to make a dent in the problem was one of their biggest concerns.<sup>55</sup>

Another area of international procrastination has been in the banking sector. So far, Kosovo has only one functioning bank, which is affiliated with German and Dutch counterparts. A number of other applications to open banks, including some by Kosovars, are said to be pending but the timing of their appearance as well as the reason for the delay is uncertain. Delays in establishing a banking system have also contributed to difficulties in providing micro-credits to small businessmen—an urgent need in the current Kosovo economic situation.

The Stability Pact, set up by the EU to great fanfare over a year ago to provide a regional planning focus, has played no role in Kosovo. Senior EAR officials, who said that “so far the Stability Pact has been absolutely useless,” described most assistance to Kosovo as being planned and implemented on a bilateral basis.<sup>56</sup>

## E. Humanitarian Relief

UNSC Resolution 1244, paragraph 11 (h), provides that the main responsibilities of the international civil presence include: *“Supporting, in co-ordination with international humanitarian organisations, humanitarian and disaster relief aid.”*

Humanitarian assistance, under the leadership of the UN High Commission for Refugees (UNHCR), which headed UNMIK Pillar One, has generally been a success story in Kosovo, despite getting off to a slow start in the immediate post-war period. The UNHCR’s major task—managing the provision of food, shelter, and medical assistance for over one million returning Albanian refugees and Internally Displaced Persons (IDPs)—was all the more remarkable considering the level of destruction in Kosovo and the unexpected speed of the Albanian return. The UNHCR in Kosovo effectively continued the tradition it developed in Bosnia of being one of the international agencies most effective in putting real assistance directly into the hands of those who needed it, regardless of their ethnic background.

UNHCR and the 300 private and governmental organisations it helped co-ordinate faced massive challenges in carrying out their mandate of humanitarian assistance. Around 120,000 dwellings in Kosovo suffered significant wartime damage or destruction. During the war, Serb forces drove over one million Albanians from their homes and in the months after the war perhaps 200,000 Serbs were forced from their homes. As a result of the fighting in the summer of 1998 and the war in the spring of 1999, Kosovo had experienced two years without a normal harvest.

International officials were surprised by the rapid return of Albanian refugees. UNHCR officials had expected 500,000 Albanians to come back to Kosovo by October 1999; in actuality 480,000 returned in the first three weeks of June.

UNHCR’s first priority was a comprehensive emergency shelter program, which provided assistance to over 700,000 persons over the winter months. Types of

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<sup>55</sup> ICG conversation, June 2000.

<sup>56</sup> ICG conversation, June 2000.

assistance included emergency repair kits to provide 60,000 families living in damaged homes with at least one dry room over the winter. In addition, over 12,000 roofing kits, over 1,000 pre-fabricated homes, and 3,000 wood-stove equipped tents were distributed.

During the first four months after the conflict, relief agencies distributed rations for 1.5 million people across Kosovo. Over the winter, 900,000 or almost half of the Kosovo population received food aid. Overall, the World Food Program and its partners provided 160,000 metric tons of food aid to Kosovo in the first ten months after the conflict.<sup>57</sup>

International relief agencies also found themselves needing to assist Serbs and other minorities in Kosovo, including Roma (also known as Gypsies), various Slavic speaking Moslem groups, and Turks. In addition to such traditional humanitarian assistance as food, shelter, and medical care, the UNHCR and other groups mounted regular monitoring missions to visit and identify needs such as increased security or transportation for at-risk minority communities. With KFOR escorts, UNHCR and other elements of the international mission established eight freedom-of-movement bus lines between Serb enclaves in the Albanian dominated parts of Kosovo, as well as a train service between Serb communities in Kosovo Polje and Mitrovica. Although these lines were often suspended as a result of ethnic violence, when in operation they provided a vital lifeline for isolated Serb communities.

## **F. Maintaining Civil Law and Order**

UNSC Resolution 1244, paragraph 11 (i), provides that the main responsibilities of the international civil presence include: *"Maintaining civil law and order, including establishing local police forces and meanwhile through the deployment of international police personnel to serve in Kosovo."*

The performance of the UN police force in Kosovo illustrates both the successes and the limits to success of the international mission in Kosovo. After a slow start, the international police are a visible presence in the streets of Kosovo, conscientiously carrying out normal police functions as well as mentoring newly trained members of the local Kosovo Police Service (KPS). Back in the station, however, serious problems remain, including the absence of a functioning judicial system, the lack of any police records going back before the 1999 war, and shortages in some of the specialised equipment and personnel required by a modern police force. But the problem goes beyond numbers and equipment. More than a year after the arrival of the international mission in Kosovo, it is becoming increasingly obvious that it is virtually impossible for a foreign police force—dependent on interpreters and on other local personnel whose ultimate loyalty may well be to structures outside the force—to effectively police Kosovo.

The mandate and mission of the UN police in Kosovo have been consciously shaped to reflect experience gained in Bosnia, where some of the leaders of the UN police in Kosovo have also served. In Kosovo, in contrast with Bosnia, UN police are armed and have full law enforcement authority, including the power to investigate crimes and make arrests. The UN police constitute the only

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<sup>57</sup> Pillar One Activity Overview, UNMIK, April 2000.

authorised police force in Kosovo. They have had to create an entirely new local force at the same time they were attempting to build their own police force from the ground up. This is another strong contrast to Bosnia, where the International Police Task Force there had to co-operate with three existing, ethnic police forces.

Unfortunately, the international community proved unable to cope effectively with the wave of violence that swept Kosovo as returning Albanian refugees sought vengeance against the Serb population of Kosovo. As early as 20 July 1999, only six weeks after the end of the war, the finger-pointing began. In Congressional testimony US Defence Secretary William Cohen and Chairman of the Joint Chiefs of Staff General Henry Shelton criticised the UN for slowness in establishing a presence in Kosovo. Cohen told the U.S. Senate that "The UN and associated institutions have been slow off the mark to get the appropriate trained professional police into both Bosnia and now Kosovo."<sup>58</sup> Cohen sought to deflect blame from KFOR to the UN saying, "The more we do, the less incentive there is for the UN to come in and assume that burden." Although there was some justification for complaints about the UN's slowness in organising the international police, the statements by the leading Pentagon officials did not mention that the mandate of the international mission in Kosovo expressly assigned KFOR responsibility for internal security in Kosovo and failed to recognise that in the conditions prevailing in Kosovo at the time only KFOR had the capability to stop the violence.

As the police presence grew, the problems of co-ordination and co-operation persisted. In only two of Kosovo's five police regions has the security situation been brought to a level where the UN police, and not KFOR, have the primary responsibility for investigations and enforcement of law and order, a situation formally defined as "police primacy" and "tactical primacy." In the remaining three regions the UN police have "investigative authority."<sup>59</sup>

One of the most serious problems is differences in the degree of support that UN police receive from different national contingents in KFOR. The worst example of this problem is in the divided city of Mitrovica where UN police threatened to pull out of the Serb-controlled northern part of the city after French KFOR troops failed repeatedly to back them against violent Serb demonstrators.

Structurally, the UNMIK police operate under a commissioner and three deputy commissioners, directing departments of operations, administration, and planning and development. Each department has its own subordinate structure, but the operations department maintains five regions in the province. There are 45 operational police stations or substations.

Senior UN police officers have described continuing problems with the numbers of police to be assigned to the mission.<sup>60</sup> Initial UN plans called for a force of 3,100, but when the first UN police assessment team arrived in Kosovo in early July, it estimated that 6,000 would be needed to police Kosovo effectively. It proved impossible to meet this figure, in part because of difficulties in recruiting qualified personnel and in part because the United States and some other

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<sup>58</sup> *New York Times*, 21 July 1999; "U.N. Drags Feet in Kosovo, Pentagon Leaders Declare."

<sup>59</sup> ICG conversations with UN police, August 2000.

<sup>60</sup> Conversation with ICG, August 2000.



countries objected to the cost of such a large force. The authorised force level was set at 4,718, with 3,156 of these deployed as of mid-July 2000. There are also approximately 700 "special police"—out of an authorised level of 1,125, whose mission is crowd control and similar tasks. These police apparently have never been used for this purpose.

According to UN police statistics, from January until the beginning of August 2000 a total of 14,878 criminal offences were reported in Kosovo. These included 172 murders, 116 kidnappings, 160 attempted murders, and 220 grievous assaults. The ethnic profile of the murder victims included 89 Albanians, 46 Serbs, 12 Romas, and 8 Slavic Moslems. Over the same period 3,734 people were arrested.<sup>61</sup>

UN police come from 48 countries. In early July, the most numerous national contingents were the U.S. with 542 officers, India with 536, Jordan with 468, Germany with 302, and Pakistan with 200. Although police officials say there were few intercultural difficulties among the national contingents, there have been problems with the qualifications of some police officers sent to Kosovo. Some officers could not speak English, the official language of the UN police in Kosovo, drive vehicles, or use weapons to a minimal standard. In the beginning many police officers were repatriated back to their home countries due to the fact that they did not meet mission requirements, in part according to senior UN police officials, because the UN did not inform contributing states fully regarding specific UNMIK requirements. Some police were ordered home, but their countries, seeking to preserve the income accruing from their assignments, refused their return. In one case, a police dentist showed up to serve as a patrol officer.<sup>62</sup>

Numbers do not tell the whole story. The UNMIK police arrived in a blank-slate situation. Officers described arriving in Kosovo with none of the normal operational materiel used by a police department—no stations, no desks, no telephone lines, no water service, no mail, no radios, few vehicles, no stationery, and above all, in the trenchant comment of one officer, "no law."<sup>63</sup>

One year later, some of these gaps remain. The UN has now delivered a large portion of specialised police equipment but some officers still feel a need to bring their own equipment to the mission. (At UN police headquarters in Pristina, complaints are still heard about shortages, including that radios are used in shifts and office supplies remain scarce.) UN police still lack sufficient forensic and evidence analysis resources, a witness protection program, and experienced personnel for organised crime enforcement. Criminal investigation departments have been established at the central and regional level to deal with serious crimes. A mechanism for combating organised crime will be set up in the near future and co-operation with international police organisations is being established. The requirement to carry out numerous non-police functions, such as the movement of prisoners, remains a problem in diverting resources from regular police functions. Many of these problems stem from the failure of donor countries to provide promised funds or personnel.

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<sup>61</sup> UN police web site; accessed 9 August 2000.

<sup>62</sup> Conversation with ICG, May 2000.

<sup>63</sup> Conversation with ICG, August 2000.

A local police force, the Kosovo Police Service (KPS) is being created and eventually will replace UNMIK police in maintaining law and order in the Kosovo of the future. By mid-July 2000, 842 KPS were on the street, with 4,000 projected by February 2001. 12 per cent of KPS recruits are members of ethnic minorities. Serb and Albanian KPS members serve exclusively in their own ethnic areas. Senior UN police officers have expressed concern that donor countries are insufficiently interested in supporting the KPS. It is important to support the KPS with sufficient modern police equipment, which in the interim can also be used by UN police officers, and left behind for local use in the future.

The UNMIK police planning and development department runs the KPS. Politicisation of the KPS is not commonly visible in their behaviour on the street but is a major issue in their recruitment and a potential problem in the future. A substantial number of KPS slots have been reserved for de-mobilised KLA fighters, while other KPS members are said to owe allegiance to Rugova's LDK. How these varying factions within the KPS will react in the future as Kosovo self-government institutions take hold is uncertain.

A related issue is the low pay of KPS officers, who receive no more than 380 DM per month. Some UNMIK officers believe that this will be an incentive to the recruitment of dedicated officers, inspired by other than opportunistic goals, but it is probably more realistically viewed as an invitation to corruption, especially in the freewheeling Kosovo environment.

The KPS is seen as having made significant advances in operational proficiency. An interview with a woman KPS officer disclosed that Kosovar women now show a greater willingness than at any time in the past to complain of domestic violence to the KPS.<sup>64</sup> Female KPS officers are also taking a demonstrable lead in combating prostitution in Pristina.

KPS rank and file officers show a healthy dissatisfaction with the slow pace of investigations and arrests. They also join their international colleagues in complaining of the continuing absence of a judicial system. The KPS, unfortunately, faces additional challenges. One of its major weaknesses is the brief period of its training. While police officers in the West are usually trained in an academy, over a period of at least six months, followed by a year's supervised work on the street, KPS officers originally had six weeks, and now have nine weeks' academy training, plus nineteen weeks of field training. This results in a lack of street proficiency, and according to some UNMIK officers has made "green" KPS officers vulnerable to assaults.

Within the KPS there are complaints about undifferentiated treatment and second-class status. All KPS recruits, regardless of whether or not they have had prior police experience, go through the same basic training course and are assigned to a beat on the street under the supervision of UN police officers. This is sometimes resented by those KPS officers who served in the Kosovo police before the Milosevic take-over. So far, there do not appear to be any efforts to train KPS officers as specialists in the range of specialised functions needed for a modern police force.

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<sup>64</sup> Conversation with ICG, August 2000.

UNMIK officers indicate other gaps in the overall law and order picture in Kosovo. While patrolling and answering emergency calls have shown great advances in Pristina, emergency communications and response remain hampered by the lack of a system of repeaters, sabotage of the communications system by frivolous and harassing calls—many of them from Serbia proper—and the lack of a central dispatching location for emergency response vehicles such as ambulances, as well as counsellors for refugees and women in domestic violence and rape cases. Overall, however, senior UN police officers believe that the most crucial aspect of establishing a climate of law and order is now to establish a fully functional judicial system; otherwise the UN police and the whole judicial system will lose credibility among the Kosovo population.<sup>65</sup>

UNMIK officers also state that parallel taxing and other structures remain in place, underground, but that a consistent response to them cannot be undertaken without an improvement in police intelligence. Traffic control remains a serious problem in Kosovo; out of 280 trauma cases in March 2000, 230 were traffic-related.

## **IV. CONCLUSIONS**

### **A. Security**

To help clear the air on Kosovo's future, the international community should issue a statement that it will not allow the return to Kosovo of the limited number of FRY and Serb military and police personnel called for under the Military Technical Annex (MTA). It should cite as a reason the dangerously destabilising violence that the return of these forces would almost certainly provoke, which would be inconsistent with other provisions of UNSC Resolution 1244, such as those calling for a secure environment, maintaining civil law and order, and facilitating a political process.

NATO needs to face up to the consequences that the lack of command unity and different approaches to peace keeping have had in Kosovo. Some of the actions suggested in this report are likely to provoke resistance, at least initially. They cannot be undertaken as long as significant national elements in KFOR continue to be motivated primarily by the desire to avoid casualties and as long as they define the desired status in Kosovo primarily as one of calm. The absence of casualties and a calm atmosphere are desirable but if they become the primary objective, the mission will surrender the initiative to those prepared to engage in violence to achieve their objectives, which has already happened in Mitrovica. As part of this re-examination, the United States and other KFOR members with a similar policy should drop limits on deployment of national contingents outside their normal zone, restoring to the KFOR commander the operational flexibility he needs to deploy troops under his command as he sees fit.

KFOR, UNMIK and all elements of the international mission need to do a better job of protecting Serbs and minorities in Kosovo. It is inexcusable that grenades can be thrown or churches destroyed within sight of KFOR checkpoints; KFOR should take steps to prevent this in the future. KFOR and UNMIK police also

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<sup>65</sup> Conversation with ICG, August 2000.

need to adopt a more focused and aggressive posture against the illegal armed groups that are clearly operating beneath the surface in Kosovo and are responsible for at least some of the ethnic violence. KFOR and UNMIK police need to develop and direct intelligence assets against these groups and when they are detected take steps to apprehend or destroy them. Penetrating and destroying these groups will be a challenging task but it is not impossible, as SFOR's experience with Croat groups in Mostar shows. The international mission should not make the same mistakes of underestimating the potential strength of these groups and of adopting the wrong tactic of simply watching and waiting without serious attempts to involve locals in countering the illegal groups. At this stage most Albanians oppose the activities of the underground armed groups. Already, however, there have been a few incidents of some UNMIK units being subject to isolated armed attacks by Albanians. With frustration growing, and with the international community continuing to dither on the issue of final status, it is not inconceivable that one day the international mission could become the target of an armed underground Albanian extremist group, which would have tragic consequences both for the international mission and for the people of Kosovo.

KFOR should continue vigorous efforts to locate covert weapons caches and those responsible for them should be held accountable. Once the interim government institutions required by UNSC Resolution 1244 have been established, KFOR and UNMIK should carefully begin a discussion of possible alternatives on how Kosovo's external defence will be handled, in conjunction with NATO. Whatever decision on Kosovo's final status is reached, external defence will have to be a component of it. Continuing the current "head in the sand" approach on this issue only encourages those in the Kosovo Albanian community who believe that covert weapons stockpiles are needed as a hedge against the future. NATO also needs to accept that its presence at some force level will be required indefinitely to keep the peace between Kosovo and Serbia, until a post-Milosevic democratic government in Belgrade accepts final status arrangements.

The de facto partition of Mitrovica and northern Kosovo has been the result of a tacit decision by KFOR elements in the area to eschew use of force in reuniting the city. To overcome the problem, NATO governments will have to be prepared to follow up their success in Trepca by moving against the "bridge watchers" in northern Mitrovica and, when that is accomplished, be prepared to prevent returning Albanians from driving out Serb civilians residing in Mitrovica. "Bridge watchers" associated with or acting under the direction of Belgrade's Ministry of Internal Affairs (MUP) should be detained as violators of the MTA and expelled using authority that UNMIK already has under its existing regulations. This must be followed by a co-ordinated campaign of political and economic measures aimed at reuniting Mitrovica, protecting the Serb and the Albanian populations, and giving the Serbs political and economic incentives to remain within Kosovo. If this is not done promptly, the Ibar River is likely to become a permanent partition line and the international mission will fail in its objective of preserving a united Kosovo, a failure that would have consequences beyond Kosovo alone.<sup>66</sup>

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<sup>66</sup> See the ICG report *Kosovo's Linchpin: Overcoming Division in Mitrovica*, Balkans Report N° 96, 31 May 2000, for more details on a suggested approach for resolving Mitrovica.

On police, the focus of international efforts should be in three areas. All national contingents in KFOR should immediately increase the degree of support that UN police officers can expect from KFOR in case of need. It is unconscionable to expect police officers to risk their lives in the potentially dangerous Kosovo environment without assurance that they will be backed up by KFOR. Second, the international mission should establish a date—for example 12 June 2002, three years after the entry of the international mission—at which time primary responsibility for policing Kosovo will be assigned to the KPS, under continued international supervision. The international mission should focus on providing the KPS with the training, street experience, and equipment needed to accomplish this task. As a first step in that direction, the pay of KPS officers should be significantly increased. In the interim, before this transition, the international community should provide the UN police with the equipment and specialised personnel it needs to function as a fully modern police force with the expectation that this equipment and the expertise of the specialised personnel will be available to the KPS as the role of the UN police gradually diminishes.

KFOR and UNMIK need to develop a coordinated and consistent policy for dealing with the Kosovo Protection Corps (KPC). As a first step, the financing of the KPC should be regularised by including it as part of the Kosovo Consolidated Budget, with funds for the KPC provided in the same way as other elements of the budget. The international donor community should also provide the funds and equipment necessary to allow the KPC to carry out its missions of disaster relief and civil defence. KFOR and UNMIK should work with the KPC leadership to end improper activities. This should include such measures as raising the salary levels in the KPC to at least those of equivalent civilian employees of the Kosovo government, banning so-called “donations” as a vehicle for financing the KPC, vigorous investigation by KFOR and UNMIK police of allegations of improper activities by some KPC leaders, and prompt action against those who are found to have engaged in such activities. In the run-up to the election KFOR and UNMIK should also pay particularly strict attention to the enforcement of existing rules against political activity by the KPC.

## **B. Political**

The international community should move promptly to address the political and practical problems caused by the lack of clarity over Kosovo’s final status. At a minimum, to clear the air, a statement should be issued to the effect that Belgrade has forfeited all moral and legal right ever to return to Kosovo again in a ruling capacity. That would not be the same thing as acknowledging Kosovo’s right to independence, which most members of the international community are at this stage reluctant to do. One of the constitutional options it would leave open, for example, would be the possibility of a confederal (or equal status) solution of the kind that the Montenegro government has proposed for its own relationship with Serbia.

The international community should move quickly to introduce the interim self-government institutions for Kosovo’s internal affairs, which are called for under UNSC Resolution 1244 pending resolution of Kosovo’s final status. The objective should be to have an interim governmental structure agreed by the end of this year, with Kosovo-wide elections held early in 2001, in order to allow Kosovo’s first democratically elected president to take office no later than June 2001, the second anniversary of the entry of the international mission. It should be made

clear to the people of Kosovo that how the issue of final status is resolved will depend largely on how they meet the challenge of self-rule, including on such critical issues as minority rights and good relations with neighbouring states.

The international community needs to act more effectively to improve security for Serbs in Kosovo and to find mechanisms to integrate them into the political structure of Kosovo. The June 29 MOU which UNMIK chief Kouchner concluded with Bishop Artemije, and the statement issued at the end of the July 2000 Airlie House conference of Kosovo Albanian and Serb leaders<sup>67</sup> were good beginnings. They need to be followed by a comprehensive strategy for dealing with the Serbs, that is clearly understood and accepted by Kosovo Albanian and Serb leaders and communities. A critical element of this approach is regaining international control of Mitrovica, which is discussed in more detail in the security section above. The international mission also has to move quickly and in a co-ordinated fashion to break the control that Milosevic continues to exercise in the enclaves. To do so, KFOR and UNMIK should make more effective use of the leverage offered by the convoys to Serbia on which the enclaves depend for supplies and use UNMIK's authority to nominate members of the local administrations in Serb areas to remove local leaders who represent Milosevic.

The international mission should move promptly to implement the Special Local Security Measures intended to implement the security aspects of the MOU, including beefing up UN police and KFOR around the enclaves, establishing special mobile police units to deal with ethnic violence, and coordinate the intelligence, surveillance and criminal investigative assets of KFOR and the UN police. The international mission should also move quickly to implement the institutions of local administration for the enclaves that are contained in the MOU, in a way that makes it clear to both Serbs and Albanians that these are part of the Kosovo administrative structure and do not establish the enclaves as entities separate from Kosovo. To gain the benefits of participation in the local institutions, however, Serbs should do more to demonstrate their willingness to live in a democratic Kosovo under the interim self-governing institutions set up by the international mission. To that end, UNMIK should make clear that Serbs who have not registered as residents of Kosovo in the civil registration being conducted by the UN and OSCE and who have not obtained the Kosovo identity document that such registration makes possible by an agreed date, such as 12 June 2001, will not be allowed to use the local offices or to participate in any self-government institutions set up for Serbs.<sup>68</sup>

UNMIK should make the establishment of a functioning judicial system its highest priority task in the area of local administration. As a first step, the UN in New York, UNMIK in Kosovo, and concerned nations need to resolve any policy or funding issues impeding the deployment of international judges and prosecutors. At the same time, recognising that a functioning judicial system will have to rely primarily on local personnel and institutions, UNMIK should immediately double the salary of local judges, with the salaries of other judicial personnel raised

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<sup>67</sup> See Appendix B.

<sup>68</sup> Because of the lack of civil documentation in Kosovo, UNMIK and the OSCE set up a joint process of voter and civil registration intended to produce both a voter list and a civil registration list for the Kosovo population. Registration for the municipal elections anticipated in the autumn of 2000 ended 15 July 2000 but civil registration, through which Kosovars register as residents of Kosovo and receive a Kosovo identity document, continues indefinitely.

commensurately. The international mission should closely monitor the performance of Kosovo judicial personnel. Judges and other personnel who demonstrate ethnic bias in the performance of their duties should be disciplined, including through removal from office in the case of serious or repeated abuses. Work on introducing modern criminal and civil law codes should be accelerated with the objective of having them in place by the end of 2000. It is not necessary to reinvent the wheel in this area, especially since the Kosovars themselves will likely modify these codes after they gain full authority over their own affairs. UNMIK should choose appropriate national codes, modified as necessary to fit Kosovo conditions, and decree them into force.

UNMIK and KFOR need to do a better job of preventing political violence and responding to that which does occur. The first step is a recognition that over the pre-election period deterring political violence will probably be as important as ethnic violence, on which most efforts so far have focused. Formation of a joint KFOR and UN police task force to deal with political violence, together with increased use of local police and undercover personnel to penetrate groups responsible for the violence, would be a first step. International election authorities should be prepared to use existing election regulations to take tough action against individuals, parties, and leaders which either engage in or condone political violence. At times it may be necessary for international officials to act against individuals or parties based on a preponderance of available evidence, even if this would be insufficient to meet legal standards in developed democracies where free elections have already been secured. International elections and media officials should use existing election and media regulations against media organs that adopt an approach of consistently encouraging political intolerance and violence, including, in particular, *Bota Sot*.

### **C. Economic**

The international mission should act on the understanding that managing Kosovo's transition from a socialist to a market system is the highest priority task of economic policy, without which all other aspects of reconstruction will only be band-aids. This is another area where it is not necessary to reinvent the wheel. More than a decade after the collapse of communism in Europe, privatisation and market reform are familiar concepts. By 1 October 2000, the international mission should have in operation the Ownership Adjudication Commission (OAC) called for in the UNMIK white paper, "Enterprise Development Strategy," or an equivalent body to determine property ownership issues. Privatisation of the first of Kosovo's large and medium sized enterprises should begin in 2001, with the aim of completing the entire process in two years. Drawing on appropriate models from countries that have already gone through the transition process, UNMIK should aim to have in place, by the beginning of 2001, the commercial law codes and other economic legislation needed for a modern market economy.

UNMIK and the EU should draw up a straightforward public document, showing what has already been accomplished in the way of infrastructure reconstruction, and what the international community can realistically expect to accomplish over the next couple of years, after which it is anticipated that international funds for Kosovo's reconstruction will begin to diminish. This document should, for example, state how many miles of the Kosovo road system will be reconstructed and how much of Kosovo's power generation capability will be modernised, and how much will be left to the Kosovars themselves to accomplish. It should also

set out a strategy for financing that portion of infrastructure reconstruction that will not be met by the international community, for example through a gasoline tax for road building and tariffs for utilities, and through long-term capital loans.

**Pristina/Brussels 28 August 2000**



**Appendix A: UN SECURITY COUNCIL RESOLUTION 1244**

United  
Nations

S/RES/1244 (1999)

10 June 1999

RESOLUTION 1244 (1999)

Adopted by the Security Council at its 4011th meeting, on 10 June 1999

The Security Council,

Bearing in mind the purposes and principles of the Charter of the United Nations, and the primary responsibility of the Security Council for the maintenance of international peace and security,

Recalling its resolutions 1160 (1998) of 31 March 1998, 1199 (1998) of 23 September 1998, 1203 (1998) of 24 October 1998 and 1239 (1999) of 14 May 1999,

Regretting that there has not been full compliance with the requirements of these resolutions,

Determined to resolve the grave humanitarian situation in Kosovo, Federal Republic of Yugoslavia, and to provide for the safe and free return of all refugees and displaced persons to their homes,

Condemning all acts of violence against the Kosovo population as well as all terrorist acts by any party,

Recalling the statement made by the Secretary-General on 9 April 1999, expressing concern at the humanitarian tragedy taking place in Kosovo,

Reaffirming the right of all refugees and displaced persons to return to their homes in safety,

Recalling the jurisdiction and the mandate of the International Tribunal for the Former Yugoslavia,

## **APPENDIX A**

Welcoming the general principles on a political solution to the Kosovo crisis adopted on 6 May 1999 (S/1999/516, annex 1 to this resolution) and welcoming also the acceptance by the Federal Republic of Yugoslavia of the principles set forth in points 1 to 9 of the paper presented in Belgrade on 2 June 1999 (S/1999/649, annex 2 to this resolution), and the Federal Republic of Yugoslavia's agreement to that paper,

Reaffirming the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other States of the region, as set out in the Helsinki Final Act and annex 2,

Reaffirming the call in previous resolutions for substantial autonomy and meaningful self-administration for Kosovo,

Determining that the situation in the region continues to constitute a threat to international peace and security,

Determined to ensure the safety and security of international personnel and the implementation by all concerned of their responsibilities under the present resolution, and acting for these purposes under Chapter VII of the Charter of the United Nations,

1. Decides that a political solution to the Kosovo crisis shall be based on the general principles in annex 1 and as further elaborated in the principles and other required elements in annex 2;

2. Welcomes the acceptance by the Federal Republic of Yugoslavia of the principles and other required elements referred to in paragraph 1 above, and demands the full cooperation of the Federal Republic of Yugoslavia in their rapid implementation;

3. Demands in particular that the Federal Republic of Yugoslavia put an immediate and verifiable end to violence and repression in Kosovo, and begin and complete verifiable phased withdrawal from Kosovo of all military, police and paramilitary forces according to a rapid timetable, with which the deployment of the international security presence in Kosovo will be synchronised;

4. Confirms that after the withdrawal an agreed number of Yugoslav and Serb military and police personnel will be permitted to return to Kosovo to perform the functions in accordance with annex 2;

5. Decides on the deployment in Kosovo, under United Nations auspices, of international civil and security presences, with appropriate equipment and personnel as required, and welcomes the agreement of the Federal Republic of Yugoslavia to such presences;

6. Requests the Secretary-General to appoint, in consultation with the Security Council, a Special Representative to control the implementation of the international civil presence, and further requests the Secretary-General to instruct his Special Representative to co-ordinate closely with the international security presence to ensure that both presences operate towards the same goals and in a mutually supportive manner;

7. Authorises Member States and relevant international organisations to establish the international security presence in Kosovo as set out in point 4 of annex 2 with all necessary means to fulfil its responsibilities under paragraph 9 below;

## **APPENDIX A**

8. Affirms the need for the rapid early deployment of effective international civil and security presences to Kosovo, and demands that the parties cooperate fully in their deployment;

9. Decides that the responsibilities of the international security presence to be deployed and acting in Kosovo will include:

- (a) Deterring renewed hostilities, maintaining and where necessary enforcing a ceasefire, and ensuring the withdrawal and preventing the return into Kosovo of Federal and Republic military, police and paramilitary forces, except as provided in point 6 of annex 2;
- (b) Demilitarising the Kosovo Liberation Army (KLA) and other armed Kosovo Albanian groups as required in paragraph 15 below;
- (c) Establishing a secure environment in which refugees and displaced persons can return home in safety, the international civil presence can operate, a transitional administration can be established, and humanitarian aid can be delivered;
- (d) Ensuring public safety and order until the international civil presence can take responsibility for this task;
- (e) Supervising demining until the international civil presence can, as appropriate, take over responsibility for this task;
- (f) Supporting, as appropriate, and coordinating closely with the work of the international civil presence;
- (g) Conducting border monitoring duties as required;
- (h) Ensuring the protection and freedom of movement of itself, the international civil presence, and other international organisations;

10. Authorises the Secretary-General, with the assistance of relevant international organisations, to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo;

11. Decides that the main responsibilities of the international civil presence will include:

- (a) Promoting the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo, taking full account of annex 2 and of the Rambouillet accords (S/1999/648);
- (b) Performing basic civilian administrative functions where and as long as required;
- (c) Organising and overseeing the development of provisional institutions for democratic and autonomous self-government pending a political settlement, including the holding of elections;

## **APPENDIX A**

- (d) Transferring, as these institutions are established, its administrative responsibilities while overseeing and supporting the consolidation of Kosovo's local provisional institutions and other peace-building activities;
- (e) Facilitating a political process designed to determine Kosovo's future status, taking into account the Rambouillet accords (S/1999/648);
- (f) In a final stage, overseeing the transfer of authority from Kosovo's provisional institutions to institutions established under a political settlement;
- (g) Supporting the reconstruction of key infrastructure and other economic reconstruction;
- (h) Supporting, in coordination with international humanitarian organisations, humanitarian and disaster relief aid;
- (i) Maintaining civil law and order, including establishing local police forces and meanwhile through the deployment of international police personnel to serve in Kosovo;
- (j) Protecting and promoting human rights;
- (k) Assuring the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo;

12. Emphasises the need for coordinated humanitarian relief operations, and for the Federal Republic of Yugoslavia to allow unimpeded access to Kosovo by humanitarian aid organisations and to cooperate with such organisations so as to ensure the fast and effective delivery of international aid;

13. Encourages all Member States and international organisations to contribute to economic and social reconstruction as well as to the safe return of refugees and displaced persons, and emphasises in this context the importance of convening an international donors' conference, particularly for the purposes set out in paragraph 11 (g) above, at the earliest possible date;

14. Demands full cooperation by all concerned, including the international security presence, with the International Tribunal for the Former Yugoslavia;

15. Demands that the KLA and other armed Kosovo Albanian groups end immediately all offensive actions and comply with the requirements for demilitarisation as laid down by the head of the international security presence in consultation with the Special Representative of the Secretary-General;

16. Decides that the prohibitions imposed by paragraph 8 of resolution 1160 (1998) shall not apply to arms and related matériel for the use of the international civil and security presences;

17. Welcomes the work in hand in the European Union and other international organisations to develop a comprehensive approach to the economic development and stabilisation of the region affected by the Kosovo crisis, including the implementation of a Stability Pact for South Eastern Europe with broad international participation in order to further the promotion of democracy, economic prosperity, stability and regional cooperation;

## APPENDIX A

18. Demands that all States in the region cooperate fully in the implementation of all aspects of this resolution;
  19. Decides that the international civil and security presences are established for an initial period of 12 months, to continue thereafter unless the Security Council decides otherwise;
  20. Requests the Secretary-General to report to the Council at regular intervals on the implementation of this resolution, including reports from the leaderships of the international civil and security presences, the first reports to be submitted within 30 days of the adoption of this resolution;
  21. Decides to remain actively seized of the matter.
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### Annex 1

Statement by the Chairman on the conclusion of the meeting  
of the G-8 Foreign Ministers held at the Petersberg Centre  
on 6 May 1999

The G-8 Foreign Ministers adopted the following general principles on the political solution to the Kosovo crisis:

- Immediate and verifiable end of violence and repression in Kosovo;
- Withdrawal from Kosovo of military, police and paramilitary forces;
- Deployment in Kosovo of effective international civil and security presences, endorsed and adopted by the United Nations, capable of guaranteeing the achievement of the common objectives;
- Establishment of an interim administration for Kosovo to be decided by the Security Council of the United Nations to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo;
- The safe and free return of all refugees and displaced persons and unimpeded access to Kosovo by humanitarian aid organisations;
- A political process towards the establishment of an interim political framework agreement providing for a substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region, and the demilitarisation of the KLA;
- Comprehensive approach to the economic development and stabilisation of the crisis region.

## Annex 2

Agreement should be reached on the following principles to move towards a resolution of the Kosovo crisis:

1. An immediate and verifiable end of violence and repression in Kosovo.
2. Verifiable withdrawal from Kosovo of all military, police and paramilitary forces according to a rapid timetable.
3. Deployment in Kosovo under United Nations auspices of effective international civil and security presences, acting as may be decided under Chapter VII of the Charter, capable of guaranteeing the achievement of common objectives.
4. The international security presence with substantial North Atlantic Treaty Organisation participation must be deployed under unified command and control and authorised to establish a safe environment for all people in Kosovo and to facilitate the safe return to their homes of all displaced persons and refugees.
5. Establishment of an interim administration for Kosovo as a part of the international civil presence under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, to be decided by the Security Council of the United Nations. The interim administration to provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo.
6. After withdrawal, an agreed number of Yugoslav and Serbian personnel will be permitted to return to perform the following functions:
  - Liaison with the international civil mission and the international security presence;
  - Marking/clearing minefields;
  - Maintaining a presence at Serb patrimonial sites;
  - Maintaining a presence at key border crossings.
7. Safe and free return of all refugees and displaced persons under the supervision of the Office of the United Nations High Commissioner for Refugees and unimpeded access to Kosovo by humanitarian aid organisations.
8. A political process towards the establishment of an interim political framework agreement providing for substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region, and the demilitarisation of UCK. Negotiations between the parties for a settlement should not delay or disrupt the establishment of democratic self-governing institutions.
9. A comprehensive approach to the economic development and stabilisation of the crisis region. This will include the implementation of a stability pact for South-Eastern Europe with broad international participation in order to further promotion of democracy, economic prosperity, stability and regional cooperation.

## APPENDIX A

10. Suspension of military activity will require acceptance of the principles set forth above in addition to agreement to other, previously identified, required elements, which are specified in the footnote below.<sup>1</sup> A military-technical agreement will then be rapidly concluded that would, among other things, specify additional modalities, including the roles and functions of Yugoslav/Serb personnel in Kosovo:

### Withdrawal

- Procedures for withdrawals, including the phased, detailed schedule and delineation of a buffer area in Serbia beyond which forces will be withdrawn;

### Returning personnel

- Equipment associated with returning personnel;
- Terms of reference for their functional responsibilities;
- Timetable for their return;
- Delineation of their geographical areas of operation;
- Rules governing their relationship to the international security presence and the international civil mission.

### Notes

#### 1 Other required elements:

- A rapid and precise timetable for withdrawals, meaning, e.g., seven days to complete withdrawal and air defence weapons withdrawn outside a 25 kilometre mutual safety zone within 48 hours;
- Return of personnel for the four functions specified above will be under the supervision of the international security presence and will be limited to a small agreed number (hundreds, not thousands);
- Suspension of military activity will occur after the beginning of verifiable withdrawals;
- The discussion and achievement of a military-technical agreement shall not extend the previously determined time for completion of withdrawals.

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