STANDARDS *AND* STATUS

HOW KOSOVO BECAME INDEPENDENT

Joachim Ruecker

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This is a personal account which as a matter of course does not necessarily reflect the views of the UN or any other organization. It does not aim at strict academic standards either, so I do apologize for possible shortcomings. I am very grateful to people like Nebi Qena and Lulzim Peci who have given me valuable advice and support. And I am deeply thankful to my wife Ines Kirschner and to my children who have supported me in many ways during my time in Kosovo.

Joachim Ruecker

FOREWORD

In the summer of 2010, the International Court of Justice gave its Advisory Opinion on the legality of Kosovo's declaration of independence of 17 February 2008. The court came to the conclusion that the declaration did not violate general international law, neither did it violate UN Security Council Resolution 1244.

Resolution 1244 was the basis for what became the United Nations Interim Administration Mission in Kosovo (UNMIK), the largest civilian peackeeping mission in UN history. Its threefold mandate in governance, peacekeeping and support for the process to determine Kosovo's final political status was, and still is, quite unique.

Joachim Ruecker has been in the front line of this mission for three and half very decisive years, setting an UNMIK record in continuity, first as Deputy SRSG and head of the EU Pillar for Economic Reconstruction and then, for almost two years until June 2008, as SRSG. In this period he has strongly supported my, and UNOSEK's, mediation work with the parties within the framework of his mandate.

During Joachim Ruecker's time in Kosovo peace and stability were largely maintained, while Kosovo declared itself independent and UNMIK started its downsizing in

order to let the European Union and the Kosovo institutions take over. How, exactly, did that happen?

The answer to this question is in this book, which Joachim Ruecker has written from his own personal perspective. It is a convincing account, which also shows that the author did not fall into any one of Lakhdar Brahimi's famous "seven sins" traps for SRSGs (ignorance, arrogance, partiality, impotence, haste, inflexibility, false promises).

After the very clear Advisory Opinion of the International Court of Justice on the legality of Kosovo's declaration of independence, it is now time for both Kosovo and Serbia to agree on a modus vivendi without reopening the status question The future of *both* countries lies in the European Union. This book can help to understand the issues. It comes at the right time.

Martti Ahtisaari
Peace Nobel Prize Laureate 2008

INTRODUCTION

In June 2006, I had been Deputy Special Representative of the Secretary General (DSRSG) for about a year and a half, in charge of the United Nations Interim Administration Mission in Kosovo's (UNMIK's) "European Union Pillar" for Economic Reconstruction.

During a short private trip to China, I got a call from New York. Would I consider serving as the Special Representative of the Secretary General Kofi Annan (SRSG) after the end of the mandate of the then SRSG Søren Jessen-Petersen? I said I would.

On the one hand, I felt confident that I could do "it", "it" meaning especially *managing the transition process*, helping to bring Kosovo over the finish line of final political status. After all, I had collected some useful experience in politics, top executive positions and enterprises, including my past as mayor of the industrial city of Sindelfingen in southern Germany, and in the Foreign Service.

In particular, I felt that after a challenging but also rewarding period of hands-on work with the international community and with its local partners in the Balkans, first

as a Deputy High Representative in Sarajevo and now in Pristina, I had a better understanding than ever before of the roots of the conflicts we were about to overcome. At least that was my hope. My first deep involvement with the breakup of Yugoslavia dates back to 1991, when I had been foreign policy adviser to the Social Democratic Parliamentary Group in the German Bundestag and advised to support the timely recognition of Croatia, based on the Badinter Commission's findings.

Most importantly, I had come to like the people a lot, who had suffered so much and deserved better.

On the other hand, I knew instantly that being the interim administrator in a place like Kosovo would be different from all I had done before. Besides, I expected considerable headwinds, even if the general expectation at the time was that the process to determine Kosovo's final political status was in its very last phase. As a matter of course this mission would be a political challenge, but maybe even more so a managerial challenge.

International players and Kosovo's leaders were expecting that before the end of the year the Secretary General's Special Envoy and former Finnish President Martti Ahtisaari would fulfill his mandate and submit his proposal on Kosovo's final political status to the Secretary General and to the United Nations Security Council.

Then a new resolution would endorse it, replacing UN Security Council Resolution 1244, and pave the way for UNMIK and the SRSG to finally leave Kosovo and transition oversight authority to a new EU-led international civil presence and hand over the governance of Kosovo to the local authorities.

UN Security Council Resolution 1244 stemmed from 1999 and was a result of NATO's intervention in the former Yugoslavia in order to stop Milošević's brutal oppression and expulsion of the Kosovo Albanians. It had been adopted on 10 June 1999, one day after the Yugoslav Federal Army had signed the Military Technical Agreement with NATO in Kumanovo and withdrew completely from Kosovo.

According to the Security Council Resolution 12441 the SRSG controls, for an undefined *interim* period, until the final political status is determined, "…the implementation of the international civil presence" in Kosovo. The job, as detailed in Resolution 1244's paragraph 11, included responsibilities such as:

- to administer Kosovo, including maintaining law and order, and at the same to establish provisional institutions for self government (PISG) and transferring administrative responsibilities to them (*governance role*);
- to support peacekeeping and peacebuilding activities with all communities (*peacekeeping role*) and
- to facilitate the process of determining Kosovo's final political status (*status process role*).

This threefold mandate, to be pursued in close cooperation with the NATO-led international security presence Kosovo Force (KFOR), is quite unique if one stops to review the UN peacekeeping missions since the end of the Cold War. In Kosovo, it became particularly complex, because operating in this era of newly found multilateral cooperation, it meant constant balancing and constant efforts to reach consensus. This was one reason why UNMIK became the largest civilian UN peacekeeping

mission. The stakes were high for both the Secretariat in New York and for the administrators on the ground, who were on the frontline of the so far irreconcilable demands of Kosovo Albanians and Serbia, and also confronted with the political aspirations of the local players. I had dealt with these complexities as a Deputy SRSG, but becoming an SRSG at this crucial point was a unique challenge and a unique responsibility at the same time.

1 TURNING THE TIDE

CREATING A MARKET ECONOMY

On 7 February 2005 I walked up the stairs of the blue-glass building housing UNMIK's fourth department, known as the "EU Pillar" or as "Pillar IV". It was an oddly shaped, communist-style building like most of the buildings in Kosovo's capital Pristina, which gave it a grim look. My offices were adjacent to the government offices, clearly reminding us of our intertwined fate in these transitional years for Kosovo.

We *and* the government needed to get our job done, which was making Kosovo economically sustainable and lower the economic tensions already simmering and at times adding to the flammable cocktail of ethnic and political rivalries that had gripped the place.

After all, Resolution 1244 had laid out clearly what this mandate ought to entail, setting out such goals as "reconstruction of key infrastructure and other economic reconstruction" as well as a "comprehensive approach to the economic development and stabilization of the crisis

region", and made it a European Union responsibility to do so.[2]

In 1999, when UNMIK came to run Kosovo, my first predecessor Joly Dixon found a province that was neglected for decades, a dilapidated infrastructure and numerous factories that had only occasionally enjoyed a heyday in former Yugoslavia.

Before Yugoslavia's disintegration, Kosovo was already the most underdeveloped and impoverished part of the federation.

In the 1990s, the production in Kosovo came more or less to a complete halt when the vast majority of ethnic Albanians - for simplification, also in the following, often referred to as "Albanians" –were expelled from their working places in the events following the revocation of its autonomy status on 23 March 1989. During these difficult years, Albanians lived off remittances from the large Albanian Diaspora in Western Europe and the United States and only a handful of Albanian businesses in form of bars or shops were allowed to operate, partly because they were made to pay hefty taxes to Serbian authorities running the administration.

As UNMIK, our task was two-fold. Initially, we had to help maintain the little infrastructure we found and attempt to create a sense of normalcy for Albanians picking up the pieces of their lives after the armed conflict and for Kosovo's ethnic Serbs - for simplification, also in the following, often referred to as "Serbs" - who, despite the imminent threat posed to them in the conflict's immediate aftermath, were determined to stay in their homes.

The second task was related to the bigger picture, from which we could not afford to lose sight: building the legal and institutional framework for an open economy in Kosovo that would set it on the path towards regional economic cooperation, eventually even EU integration, and make it attractive to much needed foreign investment.

When addressing audiences outside of Kosovo, I pointed out that Kosovo's society was actually in a threefold transition process, going, simply speaking, from war to peace, from dictatorship to democracy and, in addition, from a communist economy (Yugoslav style) to a market economy. It didn't hurt that I had done some academic work on the necessary preconditions for implementing a liberal market economy under adverse circumstances.[3]

One of the core responsibilities of the EU Pillar was to administer and restructure, through the Kosovo Trust Agency (KTA), Kosovo's utilities, the Publicly-Owned Enterprises (POEs), including Post and Telecommunications (PTK), the Energy Corporation (KEK), the Airport and the Railways. All of these enterprises were eventually turned into Joint Stock Companies with improved corporate governance structures, financial transparency, accounting procedures and ultimately performance.

Some efforts were internationally recognized, for example when in June 2006, Pristina International Airport was awarded the *Best Airport 2006 Award* by the Airports Council International (ACI). Winning airports were selected for excellence and achievement across a range of

disciplines including airport development, operations, facilities, security and safety, and customer service.

The second responsibility of the EU Pillar was to turn the idle assets of some 500 formerly Socially-Owned Enterprises (SOEs) to productive use, that meant to privatize them to help jumpstart the economy.

That process had not really taken off yet when I came to Kosovo in 2005, in fact it was stalled, and when I entered the brightly lit office in the EU Pillar building in Pristina, a pile of legal documents already waited for me at my desk.

Since its establishment, the Pillar had tried to fine-tune the legal undertakings to allow for the SOEs' privatization. At all times, we were walking a fine line.

According to an analysis conducted by the Pillar, these enterprises represented 90% of Kosovo's industrial assets[4] and yet by the time Kosovo was placed under UNMIK administration, they had become ineffective business organizations, the majority of which were bankrupt. Despite their unfortunate state, the people of Kosovo believed that these businesses were viable and key to their economic success. We had to carefully manage those expectations.

The other hurdles were directly linked to Kosovo's limbo. Because of Kosovo's unresolved legal status, UNMIK could not apply all of the established norms of privatization in former Eastern bloc countries, which had gone through a similar process of transition to market economy, and find creative and unique solutions that would aid Kosovo's economy, but would not prejudge its final status.

The creation of the KTA, in 2002, was the answer.

The agency was established to act as a trustee for owners of socially-owned enterprises and land titles were given into 99-year leaseholds.[5] In essence, the KTA introduced a merging of well-known privatization practices with a specific trusteeship concept, similar to the German "Treuhand", that allowed owners and creditors to file claims for compensation in parallel to the ongoing privatization.[6] Owners could claim only 80% of the sales proceeds, while 20% would go to the workers.

However, there were uncertainties. During the 1990s, "ownership of SOEs" had become a blurred concept. In many cases, ownership was transferred to Serbs, or the state, in what clearly appears to be part of Milošević's discrimination agenda. In other cases, ownership transfers might have had a more solid legal basis. How was KTA to deal with these cases, how was it avoid potential liability issues?

The uncertainties prompted Serbia to protest the start of KTA's privatization program, which slowed it down, while UNMIK started to reflect on closing potential loopholes. Not surprisingly, the Kosovo Albanians saw this slow down and eventually the complete stalling of the process as an appeasement to Serbia.

The privatization issue became especially problematic for my predecessor, Nikolaus Graf Lambsdorff, and then UNMIK chief Harri Holkeri. They were under pressure from UN headquarters in New York. Headquarters did not want to extend legal immunity to KTA's international staff, nor did they allow UNMIK to invalidate Milošević laws that were discriminatory in their handling of Kosovo public property.[7]

The situation grew so tense that this episode of privatization made it into analysis as one of the main factors that led to the 2004 meltdown in Kosovo,[8] partly because it was criticized as slow and ineffective, partly because it was seen as a cave-in to Belgrade, but largely because it "was a tangible litmus test as to which realities of the 1990s the international community would legitimate: Serbia's revocation of autonomy or the Kosovo Albanian resistance."[9]

Given this depressing situation, I was determined to work on two fronts to get the process re-started.

On the first front, the pile of legal documents on my desk seemed to suggest that the way forward to avoid potential liability issues was to introduce legislation that is called "Eminent Domain" in the US. Such legislation would explicitly confirm UNMIK's right to expropriate with due diligence for the public good, without the owners' consent, whoever the owner may be, of course with due compensation. After intensive discussions both within UNMIK and in a second step with New York we managed to get it introduced in April 2005, in the form of changes to the KTA Regulation.

On the other front, I felt that we needed to have more local co-ownership in the whole privatization process. I wanted to place the emphasis on cooperation with the Provisional Institutions of Self-Government (PISG) and see Kosovo authorities as our partners. It was necessary to explain in detail the legal hurdles we were facing, which led to the changes of April 2005, so that our partners too spread the message to their constituents and felt as participants in the process.

It was even more necessary to look at the decision making process in the KTA Board. Decisions were taken at the monthly KTA Board meetings, chaired by the DSRSG of the EU Pillar. The PISG was represented by three ministers: the Minister of Trade and Industry as the board's vice-chairman, the Minister of Finance and the Kosovo Serb Minister for Returns. The latter delegated board attendance to a top official. Other ministers were consulted as necessary.

When I took over the chairmanship of the KTA Board in early 2005, I was determined to reach results on all the agenda items, eventually fully supported by the Minister of Trade and Industry and vice-chairman Bujar Dugolli as well as by the Minister of Finance Haki Shatri. As a rule, I did not want the decisions to be taken by majority votes but instead to reach unanimity. This led to lengthy, sometimes even noisy meetings, with lots of coffee. Ten hours or more were not at all unusual. We would only interrupt for sandwich breaks and for the smokers. But we would in almost all cases reach results.

So in spring 2005, the KTA became fully operational and launched 30 waves of successful privatization in the following three years,[10] as explained in the chapter on "The Big Leap."

The EU Pillar was also instrumental in promoting Kosovo's European and regional integration.

The Stabilization and Association Process (SAP) represents the long-term engagement of the EU in the Western Balkans region, both in terms of political efforts as well as financial assistance through, during my time, especially the European Agency for Reconstruction (EAR),

which in Pristina was headed by Thierry Bernard-Guele. To ensure that Kosovo can fully participate in the SAP, the Stabilization and Association Process Tracking Mechanism (STM) was created specifically for Kosovo. The STM established a forum for dialogue between Kosovo and the European Union and has proven to be a valuable tool to assist the Kosovo authorities in steering Kosovo's reforms and to ensure that Kosovo benefits fully from the various instruments of the SAP. Important elements of the STM are regular high-level meetings between European Commission experts and the Kosovo authorities. In recent times, and understandably, there were calls to turn the STM into a full pre-accession exercise.[11]

Regional integration was promoted when, for example, I signed in Athens, in October 2005, the treaty on the regional Energy Community, to further integrate energy markets through legally binding common market rules based on the EU Acquis, or when we signed in Bucharest, in December 2006, the treaty on the enlargement of the Central Free Trade Agreement (CEFTA), which created a free trade area for over 25 million people. In all these endeavors, the support of the EU Commission, in particular of Enlargement Commissioner Olli Rehn, and of the Stability Pact for South Eastern Europe, under the leadership of Erhard Busek, was crucial, also when it came to overcoming Serbia's objections regarding Kosovo's participation.

Looking at macroeconomics, in June 2008 – that is "before Lehman", which, however, did not affect Kosovo quite as much as others - Kosovo's GDP growth stood at a respectable 5 percent, the budget was balanced, inflation

was low as a result of the use of the Euro, tolerated by the European Central Bank (ECB), and the still huge trade deficit had at last started to decrease.

Of course, given the population increase in Kosovo, GDP growth will have to be considerably higher to curb the high unemployment rate of 30% or considerably more, the latter depending on weak statistics.

In fact growth alone will not work. What Kosovo urgently needs are new labor migration options, as "…it is simply incoherent to invest hundreds of millions of euros in the stabilisation of Kosovo, and at the same time to slam the door so abruptly on any further migration". This is one of the key conclusions in the European Stability Initiative's report from 2006 called "Cutting the lifeline. Migration, Families and the Future of Kosovo".[12] In talks with international and European visitors I stressed the same thing with a different metaphor, stating that it was necessary to (re-) open "the valve" called labor migration if we were expected to be successful.

Kosovo's economic performance benefitted also from close, albeit at times difficult cooperation with the International Monetary Fund (IMF) and the whole donor community. We were all quite proud when, in November 2005, after some extended night sessions and tough bargaining, the IMF, the SRSG and the Prime Minister were able to sign a "Letter of Intent" covering 2006 and beyond.[13] On this basis, a Medium Term Expenditure Framework was prepared for the period 2006-2008. This was followed, in April 2006, by a donor meeting, jointly chaired by the European Commission and the World Bank, with the result of significant pledges.[14]

All in all with good reason, the EU Pillar declared "mission accomplished", as detailed in my successor Paul Acda's "End of Mission Report", and it ceased its operations at the end of June 2008[15]. Acda was, understandably, quite proud of the Customs Service, which he had built "from scratch" and which has become one of the most modern and efficient services in South East Europe. The EU Pillar has no after-life like other parts of UNMIK, a fact which was mentioned, with a frown, in the Secretary General's report to the Security Council from 12 June 2008: "It is…my understanding that the European Commission has informed my Special Representative that it would end funding for operations of the economic reconstruction pillar of UNMIK (Pillar IV) as from 30 June 2008. The Secretariat has informed the (EU) Commission that that decision did not benefit from consultations with United Nations Headquarters…"[16]

IN THE DARK

It is impossible to speak about Kosovo without, rather sooner than later, discussing the energy situation. Whether we liked it or not, it was used as a measuring stick by journalists and public opinion alike to judge UNMIK's efficiency in Kosovo. If I were to take a survey of my colleagues and other internationals who served in Kosovo, the power outages would probably rank at the top of their frustrations.[17] The Kosovars, too, were frustrated, and concern over electricity supply was one thing that united Albanians and Serbs, united them in protest.

In principle, the situation represented a paradox, since Kosovo has huge lignite reserves, right under the surface, and hence easily exploitable. Why then did we encounter so many difficulties? The truth is that the Kosovo Energy Corporation (KEK) was in extremely poor condition when UNMIK took over in 1999.

As I recall my colleagues and many Kosovar friends telling me, days would go by with just one hour of electricity – not even enough to warm up water for the shower or for charging house appliances. Yet, at that time people were patient and expected no immediate miracles, but over the years international staff in charge were generally deemed to be at least ignorant, especially if they would rely on power generators, and at worst corrupt; the latter with reference to the infamous case of the German national, Joe Truschler, a manager who was convicted in Germany in 2003 for stealing 4.5 million Euros from KEK.[18] Fortunately, the money was recuperated from his private bank account.

KEK's extremely poor condition was true for all the different activities of this vertically integrated electricity utility: coal mines, generation, transmission grids and supply. This was the result of decades of underinvestment, de-capitalization, mismanagement, the lack of adequate maintenance and low environmental, health and safety standards. The armed conflict had a further deteriorating effect, as almost all Kosovo Albanian staff had been dismissed in the early 1990s, and almost all Serbian staff left in 1999. Following their spontaneous return, and now uncontrolled recruitment, the enterprise soon became

overstaffed with some 8,000 employees on its payroll, who had to re-learn how to operate such a complex utility.

International donors moved in immediately to cover the cost of emergency electricity imports, provide assistance to KEK for the rehabilitation of power plants and give managerial support to the company.

In this context, since 1999 until I left, at least 500 million Euros were mobilized from donors and about the same amount from the Kosovo Consolidated Budget (KCB). This led to a rather steady annual average increase in electricity generation capacity of just over 12%, but consumption increased by even higher rates.

After deduction of expenditure for emergency electricity imports and the repairs of the large damage caused by a lightning strike in the Kosovo B power plant in 2003, only some 350 million Euros were actually invested, which means less than 50 million Euros per year. Experts have advised that European utilities of comparable size and age to KEK would normally invest up to five times this amount on capital expenditure in the same period.[19]

The relative lack of financing from donors or the KCB was exacerbated by KEK's inability to self finance the needed investment: revenue collection or more generally "the payment culture" was the Achille's heel of KEK.

When I came to Kosovo in early 2005, only some 35% of the energy available for sale was actually paid for by customers; the rest was either billed and unpaid or stolen. With the help of a Joint UNMIK/PISG/donors Task Force we were able to bring the collection rate up to almost 55% in 2007, which was not so bad considering that there were also some political restrictions to collecting in Kosovo Serb

areas. In absolute terms, this improvement is in the magnitude of some €50 million in yearly revenues. Unfortunately and against my advice, the new government from 2008 did not back these efforts, the Task Force became dormant and the collection rate remained the most troublesome aspect of KEK's financial stability.[20]

In hindsight many people asked, why we did not take all the money given to KEK to build a new power plant? If we assume, somewhat boldly, that 1 billion Euros would have been sufficient, the answer is simple: as an interim administration for a totally undefined period, UNMIK did not have the planning horizon to make this choice. In addition, total neglect of the existing infrastructure, for the benefit of a new plant, would have meant importing unbelievable amounts of electricity for the whole building period. Who would have picked up such a bill?

During my time, however, the government, UNMIK and all stakeholders, including major donors like EAR, USAID, and even the initially reluctant World Bank, agreed to jointly prepare and oversee a tender in line with EU domestic market rules, inviting private investors to build, and also operate, the so called Kosovo C power plant(s) with some 2000 MW capacity. As a matter of course, the tender would require state of the art clean-coal-technology, not least to finally minimize pollution.

In this way, Kosovo would take advantage of one of its major comparative advantages, namely huge lignite reserves. The project would allow to finally meet *domestic* demand, assuming people would pay, but also to *export* electricity to the region.

The "expression of interest" for this tender was very successful. Four serious international consortia were competing, willing to invest.

Unfortunately, and against my advice, the new government from 2008 did not follow through with this tender (practically "a Golf ball on the T") and decided to redesign and downscale the project to a more or less *domestic* dimension. Thus, valuable time was lost and eventually the consortia's interest.

For decisions on KEK, the KTA Board needed to consult with the Minister for Energy and Mining. From 2005 until 2007 the minister was Ethem Çeku from the Alliance for the Future of Kosovo (AAK), with whom I developed a special relationship.

What united us was our deep concern over KEK and our determination to improve the electricity supply for Kosovo's people and businesses, our determination to work hard to get to the bottom of this. For example, once the minister had decided to join me as a key member in the "Joint Task Force" to improve KEK's collection rate, we travelled together all over Kosovo, in all kinds of weather, to town halls and private homes, to convince people that the situation cannot improve unless they start paying. We also tried the traditional way – KEK officials and Ministry officials, including minister Çeku, went to enlist the support of the family of the former Kosovo Liberation Army (KLA) commander Adem Jashari for systematic bill collection.21 We even defended the controversial but in general quite successful ABC system, whereby, on top of a labor intensive and for KEK's employees often threatening individual disconnections policy, KEK tried to reward well

paying (A) *areas* with 24 hours supply, while not-so-well (B) or not-at-all (C) paying areas would get less supply.

We also tried to draw *everybody's* attention to the issue of bill collection. I was content when in the summer of 2006 Prime Minister Agim Çeku invited me for an hour-long discussion to, as the newspaper Koha Ditore wrote, "…find a common language on *who is to blame* for the lack of electricity in Kosovo". 22

Minister Çeku and I were also largely united when it came to bringing all stakeholders on board for the Kosovo C project, which was finally achieved as explained above.

What divided us was the minister's confrontational approach to the Irish Turn-Around-Management (TAM) of KEK, which had been contracted through a pre-2005 KTA Board decision, and to KEK in general. In my view, the TAM was reasonably successful in a tough environment, both with regard to reducing shortages and with regard to the decisive collection issue. Moreover, UNMIK and the donor community did not think that the minister's alternative to the TAM, namely a de facto ministry takeover of KEK, was a good idea, let alone in line with the new corporate governance rules requiring an independent board of expert directors to steer the utility.

On the other hand, it was not tenable to have a minister of energy who publicly opposed KEK and refused political ownership, but was expected to approve and in any case be accountable for large budget subsidies for KEK.

So, in order to overcome the stalemate, we made a deal: as an exception to the rule, we would both join the KEK board of directors, the minister would fully support the Joint Task Force on collection and the TAM's contract

would be extended, as I had insisted, but for a limited period in order to prepare for local successors.

For me, working on a board like KEK's was totally in line with my previous work as head of the board of my city's utility provider (Stadtwerke) and as head or member of the board in a number of regional utilities in southern Germany. I was ready to share that experience with my counterpart.

Our conscious effort to get the Minister of Energy and Mining to accept ownership for KEK through membership in its board of directors was later criticized by others including the UN's Office of Internal Oversight in New York. The latter considered the OECD Guidelines for Corporate Governance, on which we had based our general approach, as something like binding international law, which would not allow exceptions. That, of course, is not the case.

In any case, with the Minister of Energy and Mining and myself on the KEK board, there was the sudden advantage of a visible, joint responsibility and a transparent, documented decision making process. It led eventually, in fall 2006, to the departure of the TAM, who handed over to a TAM trained local management team with USAID support.

However, after I had become SRSG and had therefore left the KEK board, minister Çeku used the opportunity to take over the chairmanship of the board and immediately replaced the TAM-trained team, seriously stressing relations with UNMIK and major donors like USAID.

In 2008, after the formation of the new government, USAID came close to withdrawing its team, as the new

government, at least in the beginning, went back to the "no ownership" posture and hesitated to nominate new members of the board.

Electricity added to the tensions with Serbia. In the winter of 2005/2006, Serbia accused KEK and UNMIK of discriminating Kosovo Serbs by taking them off the grid due to previous debts and refusal to pay their current bills. Objectively, KEK had not disconnected Kosovo Serb consumers, but in certain areas there were technical breakdowns of the grid due to an overload of illegal connections. Instead of ignoring these areas, KEK and the TAM, with some UNMIK guidance, had introduced an explicit policy for reconnecting them provided certain rather generous conditions were met. Nevertheless, President Boris Tadić and Prime Minister Vojislav Koštunica sent a letter to the UN Secretary General, appealing for help by allowing them to supply the Serb-inhabited so called enclaves with electricity from Belgrade. I recieved a letter with a similar content. The idea, repeated in the winters to follow, was to bypass KEK and make the Kosovo Serb areas a de facto part of Serbia's electricity grid and supply system.

We responded - in due consultation, but not necessarily always in full agreement with the Minister of Energy and Mining, KEK and the market regulator - that for the time being KEK was the only licensed electricity supplier in Kosovo, but that Serbia's monopolist supplier could, in line with EU regulations, apply for a license from the regulator and subsequently contract with customers, targeted or not.

To have an immediate impact, we suggested that the Serbian government could give money to the hitherto

mainly non-paying Kosovo Serbs, and then, especially under the ABC policy, KEK would provide 24 hrs "A" supply instead of the "C" supply that was given anyway, on humanitarian grounds, to non paying areas. We even suggested that such payments could be in kind, i.e. in MW hours delivered to KEK.

In addition, we offered that for an interim period the relevant customers could simply enter into a collective contract instead of going through the tedious, and for some politically challenging, procedure of signing individual contracts with KEK.

In short: as a UN mission, we went to the very limits, and even beyond, of what we could reasonably offer since this was, or should have been, about people and not about politics. Nothing worked. I came to conclude that the Serbian offer was not in good faith.

I used the opportunity, however, in this winter and in the winters to follow, to ask Serbia to cooperate with spirit and letter of the Athens Energy Community Treaty.[23] From time to time we had a hard time believing that Serbia's transmission system operator, for what was always called "technical reasons", could not transmit electricity to Kosovo which KEK had contracted from different sources in the region.

PRIVATIZATION: THE BIG LEAP

When the KTA was created in 2002, around 500 SOEs were waiting for privatization. Excluding the two special cases of the Brezovica Ski Resort and of the Trepča Mining

Complex, at the end of the KTA's mandate, i.e. per end of June 2008, we could say with confidence that 90% of the total value of the SOEs in Kosovo were tendered and privatized. The "90%" was the target I had quite intentionally set after taking over as the chairman of the KTA Board in the beginning of 2005, although I had hoped to reach it before 2008. In any case, proceeds, as received and banked, stood at almost Euro 400 million at the end of the KTA's mandate.

These proceeds were, and still are, placed in trust funds until rightful claimants and owners are identified. During my time, "we", that is the internationals on the KTA board, had a controversy with the government over investment strategies, namely whether to invest with Kosovo's banks in Kosovo or with international banks elsewhere. As much as the former might have been desirable, we had unambiguous legal advice that only top rated banks would be compatible with our trustee function. That was, of course, in the "before Lehman"world.

In November 2007, the European Agency for Reconstruction published a survey, based on a representative sample, showing that on average, revenues in the new companies had multiplied by seven since their privatization, planned investment was more than 450 000 Euro per company and a considerable number of new jobs had been created or secured.

The largest single case was completed in April 2006, when an international investor bought the mining company Ferronickel. This transaction alone created 1 500 new jobs and cut Kosovo's chronic trade deficit by half. What was even more important was the strong signal that

we were able to send to international investors that Kosovo was stable and it welcomed open-handedly international investment and partnership.

Other prominent privatizations included wineries, a flourmill, construction material companies, a seed factory, a fish farm, a mineral water plant, the Peć/Peja brewery and a tobacco factory.

Some of the inaugurations, or anniversaries, in privatized SOEs were unforgettable experiences. For example, I was deeply moved when I came – together with the KTA's able director of privatization Ahmet Shala, later a Minister of Finance in Prime Minister Thaçi's cabinet - to the Orahovac/Rahovec Winery after its reopening under new ownership and learned that, for the first time in years, the grape farmers from the vicinity had actually been paid again, including Kosovo Serbs.

The EU Pillar's assertion at the end of its mandate, that this was one of the most successful privatization processes conducted in an Eastern European country on its way from socialism to a market economy is, in my view, no exaggeration.[24]

It goes almost without saying that the privatization process was a contribution to improve Kosovo's dire economic situation, including the unemployment situation, but it was not and could not be the remedy.

Also it goes almost without saying that there were shortcomings.

One such shortcoming was that there was not enough interest from "independent" foreign investors. Many of those interested were members of Kosovo's diaspora.

Another shortcoming was the lack of participation from the Kosovo Serb community. I note for the record that – after the April 2005 amendments to the KTA legislation - even Sandra Rašković Ivić, the president of the Coordination Center for Kosovo in Belgrade (CCK), confirmed to me that Serbia does not question UNMIK's and the Kosovo Trust Agency's (KTA) right to privatize in Kosovo. In spite of this, the Kosovo Serb community did practically not participate in the privatization program.

There were, however, notable exceptions to this rule when it comes to our frustrated efforts to revitalize the Brezovica Ski Resort and the Trepča Mining Complex.

In the case of the ski resort *Brezovica*, after a very successful expression-of-interest process, the majority Kosovo Serb municipality of Štrpce/Shterpcë practically begged the KTA to go ahead with privatization, but lacking Belgrade's green light could not sustain their request formally, which - regrettably - led New York to withhold authorization to proceed.

In the case of the industrial conglomerate *Trepča* near Mitrovica, where the KTA sought to pursue a constructive insolvency procedure with subsequent restructuring including privatization (in US terms a "Chapter 11" insolvency), the opposition came from the government in Pristina, while consent from the Kosovo Serbs and Belgrade seemed to be in reach.

2 GETTING READY

PRUDENT PLANNING FOR STATUS

When I started to serve as SRSG on 1 September 2006, there were still some 6, 000 staff – international and local - working for UNMIK, including some 2, 000 UNMIK Police officers, international judges and prosecutors, staff from the OSCE Mission in Kosovo, which represented UNMIK's "Pillar III" for democratic Institution Building, and from the EU "Pillar IV" for Economic Reconstruction. The former UNMIK Pillars I and II, encompassing rule of law and civil administration functions, had already been integrated into the Office of the SRSG as Rule of Law Office and Department of Civil Administration respectively during the time of my predecessor.

Prudent planning - a term we had coined to signify both UNMIK's engagement and caution in the status process - for Kosovo's post-status future had already been started by my predecessor Søren Jessen-Petersen with a first internal report on the "restructuring" of UNMIK, a

metaphor for its downsizing, where we would manage to complete our mission.

At meetings with journalists, we were asked about the ceremony of lowering the UN flag, and if we were excited to have a mission successfully completed. Clearly, the expectations were high that all the players would reach a consensus on Kosovo's final status.

Given the general expectation, post-status prudent planning had to be accelerated. It required the immediate creation of a mission-wide project which we called "Transition Planning and Implementation" (TPI). In a short time and in close cooperation with our international and local partners, we produced a very detailed *blueprint* on how exactly UNMIK, with all its activities as described in Resolution 1244, and in much more detail in the "Constitutional Framework" from 2001, would phase out and how the Kosovo authorities and an assumed new international civilian presence would phase in during an assumed 120-day period.

The blueprint, a complex project management or Gantt chart, was structured in five sections:

- Constitution,
- Security Transition,
- Legal Transition (default laws from FRY times, UNMIK Regulations, Administrative Directives and Executive Decisions; handover of agreements in the area of international cooperation, handover of donor agreements),
- Technical Transition (Civil Administration, property and economy, rule of law, governance) and

- "Other" (administration of state property, handover of archives and working documents).

STANDARDS

While facilitation of the status process, including TPI as the "technical side", was a priority for the mission, I tried to make sure that another precondition for dealing with the status issue would stay high on the agenda. This was the "Standards for Kosovo", a dynamic process dealing with benchmarks for good governance and in particular for a multiethnic society.

The Standards for Kosovo were established in 2002-2003. They comprised eight major fields, seen as priorities for the recently-established PISG institutions. The catch phrase "Standards before Status," represented a strategy of charting a set of conditions that Kosovo had to meet before moving onto the stage of determining its future status. Although UNMIK was not mandated to build a nation, in many ways the Standards provided a measuring stick for the viability of any nation or self-governing society in the world: multi-ethnicity, democracy, tolerance, freedom of movement and equal access to justice for all.

The eight fields identified were functioning democratic institutions, rule of law, freedom of movement, sustainable returns (of refugees and internally displaced persons) and the rights of communities and their members, economy, property rights (including cultural heritage), Pristina-Belgrade dialogue, and the Kosovo Protection Corps

(KPC), a civil emergency organization formed out of the disbanded Kosovo Liberation Army.

Within these eight fields 109 goals were set and presented to the Security Council in December 2003 in the document 'Standards for Kosovo'. This document in turn was implemented through a matrix tool called 'Kosovo Standards Implementation Plan' (KSIP).

A progress report on the implementation of the Standards, the so called "Technical Assessment of Standards Implementation", was a regular attachment to the quarterly reports of the Secretary General to the Security Council.

The principal working groups were co-chaired by Kosovo ministers and senior UNMIK officials. International representatives were usually present at all Standards working groups, monitoring the progress. The most notable presence was that of the Contact Group, which consisted of Britain, France, Italy, Germany, Russia and the US and in the "plus" format also the EU. Initially set up as an ad-hoc group in response to the war in Bosnia, the Contact Group came to be the focal point for carving out the international community's policies in relation to the Balkans and, very important for us on the ground, a link to the Security Council, the ultimate decision maker. Their presence and support for Kosovo's Standards stressed the importance of the process as Contact Group representatives made frequent references to it in their statements.

Analysis of the performance under the Standards program shows at least some progress on every one of the 109 goals, and major progress on many of them. The proof

of this is the increasing normalcy of life for most people in Kosovo.

There was a bottom line to much of this. Already during my tenure as DSRSG I became increasingly convinced that with regard to Standards implementation, *UNMIK had largely achieved what was achievable* under the circumstances, while further significant and no doubt necessary progress depended on the start and eventual conclusion of the status process.Eventually, this assessment made it into the UN Secretary General's reports to the Security Council.

It was especially true with regard to the main shortcoming, namely insufficient minority returns, in particular of Kosovo Serb internally displaced persons (IDPs), where it seemed to me that especially Belgrade was not keen on a "premature" success story in Kosovo. In this context it should not be overlooked that close to one million non minority refugees have returned.

Tackling the shortcomings of the judicial system and addressing sensitive areas, particularly serious crime, organized crime and corruption at all levels of Kosovo's society represents a *permanent* challenge.[25] Investigation, prosecution and conviction rates are well documented in UNMIK's reports. Key crime rates have become comparable to the rest of the region or even to Western Europe. Witness protection was a special challenge. For expample, with support from the US and the UK, all district courts were equipped with state of the art technical systems. In 2007, a task force has been established with a mandate to review all aspects of the existing witness protection program in Kosovo. In general, we tried to put the emphasis on doing as opposed to talking.

I could not help but wonder if it was the other way around with some visitors, including intelligence people, who seemed to know *everything* about organized crime in Kosovo. When confronted with allegations, I usually stated that I was not naïve, and not inclined to turn a blind eye on anyone, but would need something called sufficient factual evidence, in which case the visitor and I could jointly go to the police, or to the prosecutor, and trigger investigations.[26]

THE EIDE REPORT: STANDARDS *AND* STATUS

In May 2005, progress on Standards implementation paved the way for the next step in finding a settlement for Kosovo. The Secretary General warranted Norway's Permanent Representative to NATO, Ambassador Kai Eide, to carry out a comprehensive review of Kosovo as his Special Envoy, in order to determine if the conditions were in place to enter into a political process for determining Kosovo's political status.

In his report from October 2005 Eide concluded that while Standards implementation in Kosovo had been uneven, the time had come to move to the next phase of the political process, which was to start talks between Pristina and Belgrade on determining Kosovo's future status. Eide cautioned that "once the process has started, it could not be blocked and must be brought to a conclusion."[27]

Based on Eide's assessment, the UN Secretary General on 31 October 2005 informed the Security Council of his intention to appoint Mr. Martti Ahtisaari, former President

of Finland, as his Special Envoy for the future status process for Kosovo, and Mr. Albert Rohan (Austria), as Deputy to the Special Envoy. On 10 November 2005, the Security Council supported their appointment.

After the status process was launched, UNMIK emphasized that further progress in implementation of the Standards for Kosovo must continue and intensify. This was largely achieved, as documented in the quarterly reports to the Security Council, although the "political class" and line ministries alike were at times distracted due to the status process. What started off as "Standards before Status" developed into "Standards *and* Status".

For practical purposes, we succeeded in 2007 in merging the Standards implementation process with the European Partnership Action Plan (EPAP) from the EU side, thus avoiding a duplication of highly focused working groups while enhancing the majority community's incentives to put real effort into Standards implementation. The comprehensive EPAP document outlines measures that the Kosovo institutions intend to take to reach the priorities set out in the European Partnership and to fulfill the Standards for Kosovo.

Within the framework of EPAP, Kosovo also continued to participate in the Stabilization and Association Process (SAP), through, as explained, the Stabilization and Association Process Tracking Mechanism (STM).

Of course, not only the UN and the EU were interested to follow progress in Standards implementation and assess political perspectives. I was keen to keep key stakeholders like Contact Group foreign ministers in the loop and traveled also, for example, to brief the Council of Europe's

Committee of Ministers' Deputies in January 2007 in Strasbourg and the OSCE's Permanent Council in November 2007 in Vienna. In Vienna, I was able to express deep appreciation for the OSCE's contributions to UNMIK and Kosovo, not only with regard to democratic institution building, but also with regard to laying, against many odds, the ground rules for the media sector including a public broadcaster.

KOSOVO'S POLITICAL LANDSCAPE: ONE GOAL, MANY PATHS

The challenges faced in Kosovo were unique and shaped by Kosovo's complicated historical legacy. Like all other constitutive units in Yugoslavia, Kosovo had a one-party system and most of the members of the intellectual elite were members of the Communist Party. The rest of the people who were active in Kosovo's politics took their activity underground or moved to Western Europe, to places like Germany and Switzerland, where most of them sought political asylum during Milošević's rule and the abolition of Kosovo's autonomy. As mentioned, this took place on 23 March 1989, just three months before Milošević delivered his infamous Gazimestan speech on the 600th anniversary of the battle of Kosovo on 28 June 1989 (Vidovdan).[28]

Kosovo Albanians in general rallied around the Democratic League of Kosovo (LDK), a movement founded by Albanian writers and prominent intellectuals who advocated Kosovo's right for self-determination as

Yugoslavia's republics were looking for a way out of the crumbling state. Overnight, the cry for independence became the goal of an estimated 2 million Albanians in Kosovo, who would counter the rejection of that demand with "peaceful resistance" and participation in clandestine elections that gave LDK legitimacy internally and within the Albanian camp, but were not recognized internationally[29]. Therefore, before the armed struggle, the LDK led by Ibrahim Rugova, was the dominant party giving voice to Albanian demands. It pursued a non-violent strategy against the Serb regime. The emergence of the Kosovo Liberation Army (KLA), the guerrilla force that fought Serbia in 1998-1999 broke the LDK's political monopoly among Albanians. The two were not different in their ultimate goal for Kosovo, which remained to secede from Serbia and make it an independent state, but their competition for legitimacy within the Kosovo Albanians introduced pluralism in a society not used to such politics.

The KLA, or members that would later come to be part of the group, was reportedly training since 1993, in response to Serb repression, but also in a challenge to Rugova's insistence not to provoke the regime. The KLA's armed resistance reached a momentum in 1998, with the attack of Serb forces in Kosovo's heartland, a hilly region known as Drenica, where they killed 53 family members of Adem Jashari, a KLA local commander.[30] In the words of journalist Tim Judah, the deaths of the Jasharis "left Kosovo reeling – years of accumulated frustration boiled over and … the status quo that had held since 1990 began to collapse."[31] The event was broadcast all across Kosovo and gave impetus to KLA's efforts, drawing an

overwhelming number of recruits and money among the Albanian Diaspora to support the armed resistance.[32]

The uprising of Kosovo's Albanians was boosted by the collapse in Albania, in 1997. The looting of military depots enabled the KLA to equip itself with low caliber weapons, at a time when the "army dissolved, the police ran away and arms depots were thrown open."[33]

The armed conflict peaked with the massacre of Albanian civilians in the village of Račak/Reçak, on 15 January 1999 that left 45 civilians dead. This was considered as the last straw in Milošević's defiance to international pressure for ending the violence and subsequently the Contact Group invited Serb and Albanian delegations to an international peace conference at Rambouillet, just outside Paris.

The Kosovo Albanian delegation was made up of a broad base of representatives, gathering for the first time KLA representative and their adversary, pacifist leader Ibrahim Rugova. Although hampered by internal divisions, the Kosovo Albanian delegation still presented a serious front in comparison to Yugoslavia's delegation that sought to deflate the importance of the talks and present it as biased and prejudiced against Yugoslavia.

Backed by US Secretary of State, Madeleine Albright, the Kosovo Albanian delegation ultimately agreed to an accord that would guarantee a referendum within three years after the cessation of hostilities. The Yugoslav delegation refused to sign the accord, while the Kosovo Albanians did so on 15 March, in Paris. The price for Yugoslavia to pay was NATO's 78 days of bombing, the alliance's first war ever.

After a painful and protracted air campaign that aggravated Serb forces actions against the civilian population in Kosovo, Yugoslavia's Army signed the Military Technical Agreement with NATO, in Kumanovo, effectively relinquishing control of Kosovo to NATO and the UN, that adopted Resolution 1244, on 10 June 1999.

In the summer of 1999, the KLA political insurgents benefited from the political vacuum left by Rugova's departure from Kosovo during the war and his slow return, and quickly installed a self-appointed central government and mayors throughout Kosovo, defying the LDK-led establishment. The competition for power was fierce within the KLA camp too. The KLA was not the homogeneous group that it often presents itself to have been; in fact from my experience dealing with its founders and leaders it was quite decentralized with commanders, some young and ambitious, running their own show. This is best illustrated by the creation of at least two political parties shortly after the KLA was disbanded.

One of them, the Democratic Party of Kosovo (PDK), is and was led by the political leader of the KLA, Hashim Thaçi, who is prime minister today. The other one, the Alliance for the Future of Kosovo (AAK), is and was led by Ramush Haradinaj, a commander in Kosovo's west and later an able prime minister for 100 days until March 2005.

The postwar mix, however, had characteristics of disaster. A year after the war the elections were to produce municipal councils that would not have the power to take up Kosovo's contentious final status, but would force the leaders to deal with bread-and-butter issues. This was a novelty in Kosovo's politics that had been structured

around the issue of independence for more than a decade. In decentralizing power and through power-sharing, my colleagues from the UN tried to introduce democracy in Kosovo. They were also hoping to challenge the parties formed more around personalities than around programs. It is a process that happened way before I came to hold senior UN positions in Kosovo, but it is this legacy that sets the tone in Kosovo politics to this day, the rattles of which I had to grasp and deal with throughout my tenure.

Despite popular support for KLA's taking up arms against Serbia, until 2007 Rugova's party won the elections in Kosovo at the local, municipal level and the general, parliamentary polls.[34]

Yet, UNMIK and in particular its OSCE Pillar installed in Kosovo a proportional election system that helped diffuse intricacies by creating an environment where interparty cooperation was not an option, but a necessity. The system, based on the Saint-League formula and pushed by then head of the OSCE in Kosovo, Dan Everts, also favored smaller political parties with the assumption that everyone should have a fair chance at persuading voters. The institution-building exercise has been rather successful. Parties have shared power since Kosovo was placed under UN administration, and given the intra-Albanian conflicts that go back well into the 1990s, this should not be underestimated.

A bold and somewhat unexpected move, however, came after the elections of October 2004,[35] when Haradinaj, the former KLA commander, negotiated a coalition government with the now-deceased President Rugova with himself, Haradinaj, as prime minister. The deal came

as a shock to many. Haradinaj's AAK had garnered only 8 percent of the vote in the elections and in a political Scene where the concept of "kingmaker" was relatively new, it triggered a lot of passion. The LDK was short of votes to form a government on its own and needed a partner to secure its rule. This, however, had also been the case after the first election in 2001, when LDK, PDK and AAK chose to govern together and the prime minister, Bajram Rexhepi, came from the PDK.

In late 2004, however, the circumstances were different. Kosovo had just been rocked by the largest wave of violence since 1999.

In March 2004, throughout Kosovo, Albanian mobs targeted anything that was Serb.[36] In the end, 19 people were dead, 11 Kosovo Albanians and 8 Kosovo Serbs, over 30 Serb Orthodox churches were damaged or destroyed, and some 4,000 Kosovo Serbs and others were displaced.

The violence had spread like wildfire following reports that three Albanian kids were chased into death by drowning into the Ibar/Ibër River, not far from Kosovo's ethnically split town of Mitrovica. One kid survived and told his story to the local media. Within hours, masses of people were on their way to Mitrovica.

UNMIK Police and KFOR were overtaken by the severity of the events. And the reaction from Kosovo's leaders was more than inadequate.

Against this background it was clear that there was a need for strong leadership in Kosovo and it had to be developed with a degree of autonomy and ownership by the Kosovars. The international overseers, while aware of the coalition-making negotiations and details on the table

between Haradinaj and Rugova, were not able, or willing, to swing them one way or the other. After all, Haradinaj had broken the ice between Rugova's "pacifists" and the "war parties." Although multi-party coalitions were forged in the past, this marked the first departure from all-inclusive, broad coalitions.

Yet, the warming up of Haradinaj to Rugova was unsettling for Thaçi, as well as for the UN and other international representatives in Kosovo, albeit for diametrically opposed reasons.

Thaçi was concerned about what he perceived as a chance for Rugova to gain more and more legitimacy from those who had led the armed struggle as their leader too, a major point of cleavage between two camps that ran on similar programs and an identical goal of statehood for Kosovo.

Internationals had other concerns: just days before he had struck the deal to become Kosovo's prime minister, Haradinaj was interviewed by two investigators of the International Criminal Tribunal for the former Yugoslavia (ICTY) from The Hague on allegations of war crimes during his time as a commander in the KLA.[37] To my international colleagues at UNMIK, these developments bore the signs of internal dangers. They were concerned about the security situation in Kosovo, where, as events in March had shown, Albanians were becoming impatient with the UN rule, the Serbs and their own political leaders. How would they react if this prime minister was indicted? In addition, they were worried about the sort of message that the election of a potential war crimes indictee would send to the outside world, and particularly to the Kosovo

Serbs and the efforts to secure their participation in the political and economic life of the territory.

In any case, Haradinaj pressed on with determination, and success, to become Kosovo's prime minister and Rugova secured another term as president with the required two-thirds majority in the Assembly of Kosovo.

Predictions were dramatic, yet none of the doom was substantiated. For 100 days of government, Haradinaj proved a capable man of running the place. He quickly established himself as a partner to the international community, an interlocutor with ideas and enough patriotic credentials to push forth and implement projects that remained unpopular with his ethnic kin, especially on matters such as decentralization, i.e. a high degree of local self-government, which represented the most plausible policy to secure the Serbian minority's reengagement with the institutions.

Not everything was smooth. Haradinaj and his party, like all players on Kosovo's political scene, had no previous experience in governance. This lack of know-how was combined with unrelenting rumors of Haradinaj's imminent indictment by the Hague Tribunal. Officials, analysts and journalists, international and local, speculated about the meaning of these decisions made under "Carla's sword," referring to the ICTY chief prosecutor Carla Del Ponte, who was to bring charges against Haradinaj for allegedly killing civilians as part of a joint criminal enterprise during the war.[38] Therefore Haradinaj's rule developed in an atmosphere of uncertainty that undermined his personal dedication.

In March 2005, as he was preparing to face the press on the achievements of 100 days of his government, Haradinaj had different news to break to Kosovo's eager reporters amid the noise of KFOR Black Hawks hovering on top of the government building. The ICTY had unsealed the war crimes indictment against him and he would be surrendering to the Hague Tribunal to be detained and undergo a trial, which would eventually allow him to return to Kosovo. This, in fact, turned out to be true, not only because the ICTY allowed a temporary and strictly conditional release from detention, but because he was acquitted in April 2008. Much later, in summer 2010, the ICTY in fact decided to start a partial retrial against Haradinaj.

After his departure in March 2005, however, there was a momentary vacuum of power. Haradinaj remained president of the AAK, but party officials had been advised that the reins of the prime minister's office should go to Bajram Kosumi, Minister for Environment and Spatial Planning and a senior member of AAK, but lacking the clout within the party, and outside it, compared to that of its leader. This naturally impacted his efficiency in keeping the two coalition partners in check and managing a group of people who were ministers, but would not respect his authority.

At these moments of crisis, however, new leaders emerged. I worked closely with Ardian Gjini, an advisor to Haradinaj, who had become Minister for Environment and Spatial Planning. Gjini took his job seriously and was an outstanding performer. Spatial planning remained a risky task. In 1999, Pristina's city planner was assassinated

because he tried to prevent the illegal construction and the postwar urban chaos. Despite the political tensions and their concern with the larger question of Kosovo's independence, leaders like Gjini kept at their work with concrete plans and proposals for their ministry and sat with international representatives to enhance the trust between communities.

We also worked closely with Gjini when houses in the village of Hade, right on top of KEK's key coal mining sites, were about to collapse and needed to be evacuated, with due compensation for the owners.

PREPARING FOR STATUS NEGOTIATIONS

As the process for defining the future status was launched in fall 2005, it still took a lot of discussion and international pressure to convince Albanian political leaders to sit around a table to map out the strategy regarding the imminent, much-awaited talks with Serbia. The talks were expected to get underway in November 2005, following approval from the UN Security Council. Since Ahtisaari still had to pick his team, this was a bold assumption.

In any case, on 28 October, Kosovo's leaders met in President Rugova's house in Pristina's suburb of Velania to discuss their plans. Apart from President Rugova (LDK), this was Prime Minister Kosumi (AAK), parliament speaker Nexhat Daci (LDK), opposition leaders Hashim Thaçi (PDK) and Veton Surroi (ORA; a 7% party appealing to urban intellectuals), as well as Blerim Shala, a distinguished publicist and an important Albanian

interlocutor with the international community and UN. This first meeting of what was to be called the "Team of Unity" throughout the status process was a moment Albanians had long waited for. Nevertheless there were problems ahead.

Rugova had just announced that he was diagnosed with lung cancer and as much as we wanted to believe that he was going to lead the talks, as the time passed it became clear that Rugova would not manage to see it through. We could not rule out that a power struggle would ensue that would neither benefit the final talks nor the internal politics in Kosovo.

To make matters worse, the first meeting of Kosovo Albanian leaders ended with no apparent agreement on how these leaders would approach the talks. Surroi, an eloquent Kosovo intellectual and a prominent opinion-maker, told reporters that more work was needed and offered a hint that the meeting included some heated exchanges, appealing for tolerance.[39]

In fact for most of the preparations, the relations between Albanian leaders were filled with tensions. However, the tensions were eventually contained and they did speak with one voice when faced with Belgrade.

Shortly into preparations, in January 2006, Rugova died and in a smooth transition of power Fatmir Sejdiu became Kosovo's president. A law professor at Pristina's University, Sejdiu was to continue to hold the position throughout my tenure in Kosovo. His position as the new president of the LDK, following Rugova, was "frozen", in the sense of "not exercised", as the Constitutional

Framework required that the president not exercise such function.

It was not difficult to develop a solid professional and also personal relationship with President Sejdiu. He is a very likeable person, unpretentious, down to earth, soft-spoken, with a very sharp intellect and a fine sense of humor. In other words he is the opposite of a cliché Balkan politician. Without much ado, we understood each other, also in our different roles.

The change of presidents also brought about the change of prime ministers. On 1 March 2006, just over a week into final status talks and soon after the UN Secretary General gave a critical assessment of Kosovo's progress in creating a multiethnic society, Kosumi resigned.

He was replaced on 2 March – a few days before the arch enemy Slobodan Milošević died in the Hague - by Agim Çeku, a late comer in commanding the KLA at the end of the Kosovo war. Still Çeku, a former Croatian army officer who fought for Croatia's independence against Serbia in early 1990s, oversaw the demilitarization of the KLA in the fall of 1999 and ever since headed the Kosovo Protection Corps, a civil emergency organization bound to the UN authority.[40] He enjoyed overwhelming popularity and was seen as a leader who would try to ease the intra-Albanian tensions and bridge the divide with the Serbs by actively reaching out to them. His challenge, however, was to keep together an estranged government, already making headlines for alleged corruption and mismanagement.

Çeku had another acute problem. Although his candidacy for prime minister was pushed forth by the AAK, he himself had no power base in the party or outside

it. It was his first political step and on the top job, without going through the painful task of mobilizing a political base. The lack of such foundation haunted Çeku: although popular among the Albanians and the international community, he had no power over a dozen ministers who would repeatedly shun his orders.

As the head of the KPC (in Albanian: TMK), Çeku was known as a shrewd negotiator. For years, he had pressed the international community to expand the mandate of the 2,000 plus men of the KPC to include a security role. He had tried in 2004 and again in 2005, always pushing the envelope a little further. Of course, from the Albanian perspective, nothing less was acceptable. For UNMIK it was imperative to respect the regulations that set up the KPC. The organization had a few instances of breakdown in discipline, which required the intervention of UNMIK and KFOR to establish order by clearing its ranks of dubious elements.

Çeku went through a significant change by moving into politics. His inaugural speech had parts read out in Serbian, something none of the previous prime ministers had done.

From the very beginning, our relationship was based on what I always felt was a mutual respect: respect for our different pasts, respect for our different roles under the present circumstances and respect for our mutual responsibility for Kosovo's people, including in particular the Kosovo Serbs, who were still traumatized by the March 2004 events. We knew it was up to us, the PISG and UNMIK, together with our partners from KFOR, to maintain stability. The only way to do that was to support

the efforts for resolving Kosovo's political status, or face growing unrest that would undermine years of constructive work.

3 TIME FOR CLARITY

STATUS NEGOTIATIONS

From the start of my mandate in September 2006, I asked key interlocutors, especially in the Security Council and in the Contact Group, to "*keep the momentum*" in the status process led by President Ahtisaari and his team from the United Nations Office of the Special Envoy for Kosovo (UNOSEK) in Vienna.

Indeed, when I was asked to address the Contact Group "plus" at their meeting on 20 September 2006 in New York's Waldorf Astoria, I felt a lot of support for this position and also personally, both in the plenary session and in a number of initial encounters with foreign ministers and other key players like the EU High Representative for the Common Foreign and Security Policy (CFSP) Javier Solana and NATO's Secretary General Jaap de Hoop Scheffer. All of these contacts proved to be of ciritical importance in the months to come.

As explained earlier, Ahtisaari was mandated by the United Nations Secretary General to mediate the

negotiations on Kosovo's future, a process that would have to result in a final settlement, in line with the requirements of Resolution 1244 and with Eide's findings.

The general expectation was that Ahtisaari's proposal would be submitted to the Secretary General and to the Security Council before the end of the end of 2006, i.e. at the end of a year of broad and deep negotiations.

Then a new resolution would endorse the proposal, replacing UN Security Council Resolution 1244, and pave the way for UNMIK and the SRSG to finally leave Kosovo and transition oversight authority to, most likely, a new EU-led international civil presence and hand over the governance of Kosovo to the local authorities.

Already in early 2006 Ahtisaari and his deputy Albert Rohan had hired a hand-picked support team and set up UNOSEK's hub in downtown Vienna, steps away from the Hofburg and other government buildings and not too far from the UN offices in the Vienna International Center. For – in the end – nearly two years, Vienna became the central venue of meetings between the delegations of Kosovo and Serbia.

Getting Serbia and Kosovo Albanians to agree on Kosovo's future was a daunting task even for Ahtisaari, a seasoned mediator who returned to the scene nearly a decade after he had negotiated the end of NATO's bombing against Serbia in exchange for Milošević's withdrawal from Kosovo.

With both sides holding diametrically opposed views on what Kosovo should become, it was very important that right at the outset the Contact Group, endorsed by the UN

Security Council, had established a number of ground rules, the so called "Guiding Principles".[41]

The Guiding Principles reiterated Eide's request that once "the process has started, it cannot be blocked and must be brought to a conclusion."

"Three no's" were supposed to determine the outcome:

- no return to the pre-1999 situation,
- no partition of Kosovo and
- no union with any part of another country.

At their London meeting on 31 January 2006 the Contact Group established a "fourth no" principle, namely that the settlement needs to be acceptable to the people of Kosovo.[42]

When the Guiding Principles were first presented in October 2005 they were hailed by the Kosovars. No return to the pre-1999 situation for them meant there was no going back to Serbia. In addition, at the London meeting the Contact Group countries specifically said that the character of Kosovo's problem, shaped by the disintegration of Yugoslavia and consequent conflicts, ethnic cleansing and the events of 1999, and the extended period of international administration under Resolution 1244, must be fully taken into account in settling Kosovo's status. "The disastrous policies of the past lie at the heart of the current problems" was a key phrase.[43]

The Contact Group supported Ahtisaari in many ways, not only with the Guiding Principles, but also when it came to charting the way for a post-UNMIK future with a continued NATO and an enhanced EU presence. A typical statement from 24 July 2006 read:

"We welcome initial planning underway within NATO for the continuation of the international military presence in Kosovo following a status settlement. Equally, we welcome planning activities underway within the EU to determine the EU's role after the status settlement, in particular through a robust policing and rule of law mission, and the practical means to realize Kosovo's European perspective."[44]

However, in spite of - or maybe regardless of – a general willingness to "*keep the momentum*", the Contact Group's engagement and the tremendous efforts of President Ahtisaari and his team during the course of the year 2006, the political reality, as so often, did not follow the plan, that is the process did not conclude in 2006.

The main reason for this was that Belgrade was half on board and half not. It suspected that Ahtisaari would, at the very end, and in spite of the technical nature of all hitherto negotiations on effective minority rights, propose some form of independence for Kosovo, and for that reason it became increasingly clear that it did *not* want the process to come to a conclusion in December 2006. It wanted delay.

In fact, as my predecessor once remarked, Belgrade's strategy increasingly appeared to go beyond just delaying the process, it appeared to be more of a "four Ds" strategy: *delay* (results), *discredit* (the mediator; there were some dead-on-arrival attempts to question Ahtisaari's integrity), *destabilize* (Kosovo; mainly through influencing the Kosovo Serbs) and thus *derail* (the whole process).

When late in 2006 Belgrade scheduled an extraordinary round of Serbian parliamentary elections for 21 January 2007, and requested that the presentation of Ahtisaari's

proposal should be delayed until after that, the key players in the Contact Group and in the Security Council agreed rather swiftly, in spite of the obvious risks involved and warnings that were embodied in the "four Ds". Ahtisaari, in turn, made clear that he was ready, but that of course he would wait if that was required.

DOMESTIC CHALLENGES

The delay was bad news for us "on the ground," because it was widely perceived as a victory for Belgrade, which had been "given the key" for further progress in the status process. This in turn translated into frustration and vindicated the calls of those among the Kosovo Albanian leaders who advocated "quick solutions." Those largely meant a swift declaration of independence by Kosovo's parliament in a move that would be neither coordinated with nor guided by the international community.

Amid this ongoing uncertainty, Kosovo's ethnic Albanian majority was growing restless and suspicious. After almost a decade of peaceful resistance to Serbia, under Rugova's leadership, an armed struggle of the Kosovo Liberation Army and close to one million refugees, forced out of their homes by Serbia's forces, they considered themselves entitled to nothing less than independence.

When the war ended in 1999 and the UN took over Kosovo's administration, the Kosovo Albanians' initial expectation was that the UN would remain in the territory

for up to three years before the status would be settled. To them, our stay was long overdue.

Despite the objections and the frustrations, Albanians in general did not target the UN - certainly not to the degree that one sees in Afghanistan or Iraq.

And in spite of the terrible events of March 2004, relations between Serbs and Albanians were showing an improvement, a proof that the Standards for Kosovo process was actually functioning.

By early 2007 the UNDP Early Warning said that approximately 70% of Kosovo Serb respondents agreed to live on the same street with Kosovo Albanians, which was an increase of some 25% compared to September 2006 and 50% compared to December 2005. Also, some 75% of Kosovo Serb respondents agreed to work and live in the same town or village with Kosovo Albanians. In addition, the report listed a major decrease in the number of Kosovo Serb respondents considering Serb-Albanian relations as tense and without improvements, an indicator of improved relations. In December 2006 some 23% Kosovo Serbs considered relations tense and would continue to be such, which is some 35% lower than in September 2006. [45]

Divisions existed and the cleavage was sharp. That also entailed suspicion of each other. But, by many counts the two sides had chosen to, if not to forget the past, than at least to ignore it as far as daily issues were concerned.

Regardless of the apparent thawing in relations between the two groups, Kosovo's Albanian leadership was growing impatient because their political future hinged on delivering the final status and they were concerned that their authority to keep control over radical elements was

running thin. They were aware that any eruption of violence, any small interethnic incident would be blamed exclusively on them. In turn such incidents would validate Serbia's claim that Kosovo was a destabilizing factor in the region and its leadership could not provide security for Kosovo's remaining Serbs. This would prolong international presence, and most certainly delay final status.

The main threat to the Kosovo Albanian leadership and their authority was internal and concerned their legitimacy. One of the most active groups critical of Kosovo's leadership was a gathering of young activists, led by the charismatic leader Albin Kurti. He had shot to international fame overnight as the leader of student protests in 1997. These protests marked the first serious challenge of Milošević's regime by Kosovo's Albanian society. The students demanded more rights, including the right to return to the institution from which Milošević had kicked them out in the early 1990's as he was consolidating his grip over the province.

The dreadlocked Kurti, wearing a green military jacket, was the inspirational leader of the protest and the favorite of the foreign media that had gathered in the autumn of 1997 to report on this tiny place waving a threatening fist to Milošević. The protest was brutally broken up by Serb police who used teargas and batons to disperse the crowd. Kurti was arrested and beaten up. It was not to be his first arrest. He would go in and out of Serbian prisons, and in the future in and out of UNMIK-run and Kosovo-made prisons. But, in 1997 his group also picked on Rugova, signaling a change in the times to come, ahead of the

armed struggle. He later became a spokesman for the KLA, alongside his long-time idol, another former political prisoner of the Yugoslav regime, Adem Demaçi.

Kurti was imprisoned by Serbian authorities during the NATO bombing in 1999. Once released in December 2001, following months of campaigning and pressure from international organizations, Kurti was tipped to be one of the future leaders of Kosovo. Soon after his release he set up an organization that sought to mend relations between the Serb minority and the Albanian majority. I do not think there is a particular moment when he changed course to become an ethnic Albanian hawk, but when he did it made a difference in Kosovo. Along with a new generation of students, the eloquent Kurti founded a youth movement called Vetëvendosje, which stands for Self-determination in English. As such the group was against international presence in Kosovo, considering it a colonizing force; it demanded outright independence from Serbia and blamed the Kosovo leadership for all of Kosovo's ills. They called them servants to the international community and later traitors for negotiating, under Ahtisaari's auspices, with Serbia. The group staged protests throughout 2006 and beyond.

The protests initially numbered several thousands. As time progressed the protests became more violent, and the actions of Kurti's friends more radical – overturning UN cars, slashing tires, sandwiching the UN sign on the cars between an F and a D to spell FUND, the Albanian word for END. Obviously, their forms of protests also attracted local and international media attention. In any case, in the

winter of 2006/2007 they signified an end to the patience among Kosovo's majority.

UNMIK's and KFOR's main objective to keep Kosovo stable and maintain a safe and secure environment was at risk.

At the time, this was also confirmed, for various reasons, by the report on the Internal Security Sector Review (ISSR) which had been conducted with the help of UNDP and others.[46]

THE AHTISAARI PLAN BECOMES PUBLIC

When the delay in the status process became a reality, I pleaded, once again, with the international community, the Contact Group and the UN to *"keep the momentum."* I compared the situation to a bicycle ride and the obvious need to continue pedaling or risk falling on the ground.

Within Kosovo, however, expectation management and in particular *calling for patience* was key, not only with regard to a widely perceived loss of momentum but also more generally, ownership.

Management of expectations and calls for patience were also necessary with regard to the structure and content of the Special Envoy's proposal. Some of its essentials were leaked even before Ahtisaari travelled to Pristina and Belgrade to present it to the parties on 2 February 2007, a few days after the Serbian elections.

In these elections Vojislav Koštunica, who became prime minister after his predecessor, Zoran Djindjić, was

assassinated in Belgrade in March 2003, was tipped off as the possible kingmaker in a tight race between the pro-European reformists, represented by President Boris Tadić and his Democratic Party (DS), and nationalist hardliners, which included the Serb Radical Party (SRS). As no side was poised for an outright win, Koštunica with his Democratic Party of Serbia (DSS) was headed for the best deal from the camp that would get the edge on forming the government. The race seemed to put Serbians in front of a grave dilemma that would continue for a few more years: going back to Milošević's allies, or moving closer to Europe.

The general thinking among European Union officials was that the imminent unveiling of the Ahtisaari plan – which was assumed to suggest an internationally supervised independence for Kosovo – could tip that fragile balance in favor of the Radicals. This was, of course, also an argument why postponing such unveiling was not a bad idea.

During the campaign, it had become clear that Koštunica's approach was to back in principle pro-European economic reforms, and at the same time be very tough on Kosovo. He had been the driving force behind a successful campaign to change Serbia's constitution in the fall of 2006, declaring Kosovo "an integral part of Serbia", regardless of the ongoing negotiations in Vienna, let alone their outcome.

On 21 January 2007, the SRS won the most parliamentary seats, but Tadić's DS came out strongest within the pro-democracy bloc. He relied on an agreement with Koštunica to form a government. In many ways, this

became Koštunica's moment, the opportunity to insist on retaining his job as prime minister and appeal to the sentiments of the Serbian public by pushing for a rejection of Ahtisaari's imminent proposal as one condition for a coalition. Not surprisingly, but this time unsuccessfully, Tadić asked for another delay before Ahtisaari would present his plan. Constitutional provisions specified that a government had to be formed up to 90 days after the poll, and coalition talks would be tough.

On the Kosovo side, the ethnic Albanians leadership was eager to move on and to share Ahtisaari's proposals with the Kosovo media. They were interested to know how public opinion would react to specific provisions, and maybe also looking for evidence to show that a provision in the plan would be unpopular or even unworkable.

In addition, the negotiators in the Team of Unity were actually expected to communicate with the public on what was going on, at least in general terms, and the media were eager to do their job.

Against this background, and considering the broad spectrum of representation, it was not surprising that some essentials regarding structure and content of the Special Envoy's proposals were communicated even before Ahtisaari travelled to Pristina and Belgrade on 2 February 2007, and with good reason thereafter. The mediators themselves, however, did not make public any of the documents produced during the talks until they would be officially presented to the UN Secretary General.

The public knew about the starting positions of each party. They were made known in the weeks prior to the

negotiations. Now the public became aware that Ahtisaari intended to present a two-part proposal.

Part one was "more technical", the "Comprehensive Proposal (CP) for the Kosovo Status Settlement" on

- minority rights,
- decentralization, i.e. a re-drawing of key local boundaries combined with a high degree of local self-government especially for the Kosovo Serbs,
- religious and cultural heritage,
- economic and property issues,
- security including the creation of a "Kosovo Security Force" and dissolution of the KPC, and other matters.

This became fully public in February 2007.

Part two was "more political", the "Report of the Special Envoy of the Secretary General on Kosovo's future status" with the actual status proposal and as an Annex the *main provisions* of the Comprehensive Proposal. The Secretary General submitted this document, together with the Comprehensive Proposal, to the Security Council on 26 March 2007 and it became fully public at that time.[47]

The status proposal called for Kosovo's independence, but under the condition that it remains under international supervision, deemed necessary given the fragility of Kosovo's institutions.

This supervision was a matter of course. It would be unfair to generalize, but I believe that there is consensus among international administrators and Kosovars themselves that Kosovo's democratic foundations are still developing and

the civic society is only now gaining some ground, while the political parties are still formed more around cult personalities than around programs. Besides, weak civic traditions led to the rise of nationalism and polarized ethnicities. The West's writing off the wars in Yugoslavia as ancient hatred did little to help. Some have suggested that the West reacted inadequately to Yugoslav wars and now it bore the responsibility to correct that late response.[48]

Concretely, the proposal foresaw a future international civilian presence, headed by an International Civilian Representative, who would be double hatted as the EU Special Representative (EUSR), a NATO-led military presence as well as a European Security and Defense Policy (ESDP) Mission to monitor the rule of law.

The proposal, also referred to as "the Settlement", provided the necessary blueprint "for a future Kosovo that is viable, sustainable and stable." Very importantly, it saw Kosovo as a sui generis case:

"Kosovo is a unique case that demands a unique solution. It does not create a precedent for other unresolved conflicts. In unanimously adopting Resolution 1244 the Security Council responded to Milošević's actions in Kosovo by denying Serbia a role in its governance, placing Kosovo under temporary UN administration, and envisaging a political process designed to determine Kosovo's future. The combination of these factors makes Kosovo's circumstances extraordinary."

On the very contentious issue of decentralization, the plan sought to reconcile opposing demands. Initially, Koštunica demanded the outright division of Kosovo, which foresaw its territorial fragmentation along ethnic lines. This demand was dropped in the course of the

negotiations and instead Belgrade proposed the creation of 12 majority Kosovo Serb municipalities, in part geographically connected, with a high level of autonomy, strong inter-municipal ties and direct institutional ties with Belgrade. Pristina offered four, including a sub-municipal unit in northern Mitrovica, without sidestepping Pristina's central authorities. The settlement plan in the end established six new or enhanced municipalities with a Kosovo Serb majority. It entailed the splitting of Mitrovica into two municipalities of north and south, with cooperation and coordination between them facilitated through a newly established Joint Board. The proposal stipulated that all municipalities would be responsible for their own budgets and be entitled to financial resources of their own including "the right to receive financial and technical assistance from Serbia" [49] in a transparent manner.

With regard to UNMIK's departure, Ahtisaari proposed a four-month transition period. UNMIK's mandate would remain unchanged during that time, while allowing for Kosovo's Assembly and the International Civilian Representative to provide oversight for the plan's implementation, to approve a new constitution and laws. Upon the conclusion of the transition period, the constitution and the newly created institutions would become effective immediately.

"At the end of the transition period UNMIK's mandate shall expire and all legislative and executive authority vested in UNMIK shall be transferred en bloc to the authorities of Kosovo, in accordance with the Settlement."

No later than nine months after that, Kosovo would organize general and municipal elections. [50]

For UNMIK, prudent planning now required to adapt the "Transition Planning and Implementation" (TPI) document to reflect Ahtisaari's proposal. TPI was always treated as a living document and neatly adapted to changing circumstances. Sometimes these circumstances changed swiftly.

As facilitators of the status process, we remained silent on the actual status proposal, but engaged actively in explaining the potential advantages of the Comprehensive Proposal by continuously reaching out to all of Kosovo's communities and conducting numerous meetings in town halls, schools, restaurants, cafes, streets – often together with PISG members and occasionally with KFOR and also with the representatives of key UN member states.

We focused in particular on decentralization. It was the crux of the proposal and in the eyes of many Kosovo Albanians the gambit played in return for independence. Some likened it to the "bitter pill" that Albanians had to swallow given their record of performance with minorities, namely Serbs, in the war's aftermath.

In fact, there was nothing to add to what the Contact Group ministers had said: *"Decentralization of local government can help communities in northern Kosovo preserve their identity and protect their rights. In particular, decentralization can facilitate transparently provided assistance from Belgrade and provide local governments with greater autonomy to respond to the specific needs of their constituents."*[51]

UNREST

Nevertheless, despite our joint appeals that the Comprehensive Proposal was the best way forward to a viable future, the plan was met with skepticism or even hostility by the Albanian majority because it was perceived as a document that made major concessions to Belgrade.

In this context, it should not be overlooked that people knew about the Comprehensive Proposal rather early in February 2007, if not before, but learned about the Report, i.e. “the independence part”, rather late in March 2007.

In addition, when Javier Solana came to visit Pristina on 7 February 2007, his messages did not go well with Kosovo's leaders, who were amazed that Solana seemed to condition even the unveiling of the status plan with the eventual formation of a new government in Belgrade. Some went on to describe this as a "stab in the back." [52]

The statement came to be considered as pouring oil on fire, just days ahead of a Vetëvendosje protest. Albin Kurti had come out clearly against the settlement, because to him the plan stopped short of giving Kosovo full independence. He argued that the Comprehensive Proposal was unacceptable for Albanians as it did not even mention independence. Maintaining that 80% of Kosovars were against the plan, Kurti announced massive protests against it on 10 February 2007.

Sensing the danger of a popular backlash, the Team of Unity came out to appeal that independence was imminent and that Russia would not block the process. The statements rang hollow for some.

Vetëvendosje had put up posters counting down the days to the protest. Kurti and the organizers anticipated a massive protest, and measuring the public opinion pulse, we believed we had to be concerned. So when some 3,000 people gathered, we were relieved to see that despite the delays and the uncertainty of the plan, Kurti had failed to mobilize the many. The protesters carried banners reading "No negotiation, Self-determination", and speaking through a megaphone Kurti said the demonstration was "against Ahtisaari's package, which does not reflect the will of the people of Kosovo, but only the privileges of one minority, the Serb minority, which is being manipulated by Serbia." He was making the case that the self-rule envisioned for Kosovo's Serb minority in Ahtisaari's plan would lead to the creation of a separate Serb entity within Kosovo, referring to the Republika Srpska in Bosnia.

Our temporary relief with regard to a small crowd venting its anger soon evolved into a nightmare. Although it was announced as a peaceful protest, the demonstration took the most tragic turn. Two Albanians - 30 year-old Man Balaj and 35 year-old Arben Xheladini - were killed with rubber bullet wounds to the head. The protest turned violent when demonstrators tried to break through a security cordon and head toward a government building. As the protesters started throwing stones at the officers, the police responded with rubber bullets and tear gas.

Apart from the death of two, some 70 protesters required medical assistance, mainly from the effects of teargas, while eight people were wounded in the clashes, four seriously. Fifteen protesters were arrested and eight officers were hurt.

These dramatic events required a swift reaction. We had to find out what had taken place, investigate thoroughly. I demanded a full inquiry into the incident and UNMIK Police Commissioner Stephen Curtis pledged it would be “open, transparent and thorough."

The first political step following the protest was the resignation of Kosovo's Minister of Interior, Fatmir Rexhepi, who was responsible for the Kosovo Police (KPS), who, as usual, took part in the action, jointly with UNMIK Police, but had no rubber bullets in their arsenal.

Curtis maintained that it was the demonstrators who "compelled the police to take defensive measures to restore order", which was correct in principle but sidestepped the question that had immediately captured the public and especially the media: why did UNMIK-Police rubber bullets kill people? Was the use of force adequate? Was it disproportionate?

Prime Minister Çeku was among the first to imply and say that the fault could lie with aggressive security at the protest.

Upon my return from Brussels, where I had attended the General Affairs Council of the European Union, I took and returned dozens of phone calls and met with key staff including the Police Commissioner to understand the gravity of the situation.

A decision was needed. I talked to UN Headquarters in New York. Then, on 14 February, Stephen Curtis gave a press conference stating that “UNMIK Police and the KPS will operate to the highest standards of integrity, the highest levels of responsibility and the highest levels of

accountability. And on that basis I have offered my resignation to the Secretary-General today."

This resignation was a very noble act as such, but even more so it was a great contribution to installing a culture of responsibility and accountability in Kosovo. Together with the resignation of the Minister of Interior it was *the* key to avoiding a spiral of violence.

Just how close we had come to total havoc is illustrated by the front page of Epoka e Re, a newspaper close to Thaçi, but closer to Vetëvendosje, which ran a photo of the Team of Unity and the title "MURDERERS" in big, bright letters. Accompanying the dramatic headline were also photos of the road covered with blood from the protest and the injured.

Ten days after the protest a clandestine group calling itself UÇK, the Albanian acronym for the Kosovo Liberation Army, took responsibility for blowing up three UN cars in downtown Pristina. An email from the alleged perpetrators said the KLA had regrouped in order to "avenge the death of two protesters."

Clearly, Kosovo was on the world map again at a very sensitive junction and for all the wrong reasons. While they pointed to the impatience of the Albanians, they also provided those who opposed Kosovo's move to statehood with arguments.

Ultimately the UNMIK investigation showed that the rubber bullets used in Pristina were 13 years past their expiration date. Bullet manufacturers put a time limit on their use because the coating can harden over time, making the projectile potentially fatal.

This led to an UNMIK ban of rubber bullets in Kosovo and UN consultations on a general ban in all peacekeeping missions.[53]

Regrettably the Romanian UNMIK-Police contingent who had used the bullets left Kosovo despite the unfinished investigation into their role and that of individual officers. This was done against the expressed will of the UN and the Kosovo government.

In any case, shortly after the incident my US deputy Steven Schook visited the Xheladini family and I visited the Balaj family. We wanted to show responsibility and extend our heartfelt sympathy and condolences to the families of the victims.

Paradoxically, Belgrade's refusal of the plan helped soothe the sores of the Kosovo Albanians. More concretely: after Serbia's Assembly adopted a negative resolution in response to the Settlement Proposal on 14 February, Ahtisaari stressed the likelihood of no deal at all. This in turn caused those Kosovo Albanians who were in doubt to reflect on the wisdom of taking to the streets, or taking to the streets again, at the next protest. Kosovo's leaders said that Serbia's refusal was an argument for accepting the plan.

I felt the need to re-emphasize caution. My message was that Kosovo was so close to reaching its status goal that no mistakes could be made. I used the analogy of climbing a mountain, roped together. If one was to slip now, so close to reaching the peak, we would all fall. And it would have been a free fall indeed.

As explained, we were conducting numerous town-hall and other meetings, together with PISG leaders, with

KFOR and also with the representatives of key UN member states, focusing on the Comprehensive Proposal and in particular on decentralization.

In this context, we found that the Kosovo Serb community had a general lack of knowledge of the Comprehensive Proposal, regarding both its existence and its broad and deep minority protection elements ("we do not hear from Belgrade's negotiators"). As a rule, the Kosovo Serbs reacted positively to these elements once they were thoroughly explained to them. It was obvious that the lack of knowledge we encountered in the Kosovo Serb community was also a consequence of the fact that all the key Serb negotiators were from Belgrade.

Talking to the public contained its risks, and they might have been more potent than I wanted them to be. On 3 March, shortly before yet another Vetevendosje demonstration, Prime Minister Çeku and I had decided to speak to the demonstrators, if needed, even *during* the demonstration, in order to defuse tensions. My UNMIK security staff were used to such outreach attempts and usually ready to bear with me. This time, however, UNMIK's chief security officer asked me to re-consider, otherwise he would resign with immediate effect and report to New York that I was acting irresponsibly. Unconvinced I gave in and dropped the plan.

Tough talk happened also in New York. On 19 March, UNMIK's quarterly report was discussed in the Security Council. In my statement I welcomed the Ahtisaari process and the Comprehensive Proposal, asking the Council members, as always, to keep the momentum, stressing that the people in Kosovo needed clarity on status and that

what we had at the moment was untenable. Maybe as a sign of things to come, the Russian Ambassador Vitaly Churkin left the Security Council meeting and – according to the media – stated that he found my statements "extremely one-sided and unhelpful."[54] Others in the Council did not share this view and said so.

THE AHTISAARI PLAN REACHES THE SECURITY COUNCIL

As mentioned, the UN Secretary General submitted Ahtisaari's plan to the Security Council on 26 March 2007.

In his covering letter, the Secretary General fully supported the plan: "Having taken into account the developments in the process designed to determine Kosovo's future status, I fully support both the recommendation made by my Special Envoy in his Report on Kosovo's Future Status and the Comprehensive Proposal for the Kosovo Status Settlement."

In other statements the Secretary General expressed his belief that the plan contains "all the right elements for a fair and sustainable solution".[55]

On this basis, the Security Council scheduled a presentation and discussion of Ahtisaari's plan on 3 April. Ahtisaari was to make the presentation himself, Serbia's PM Vojislav Koštunica was invited and so was, under Rule 39 of the UN Security Council's Provisional Rules of Procedure, Kosovo's President Fatmir Sejdiu. The rule specifies that "the Security Council may invite members of the Secretariat or other persons, whom it considers competent for the purpose, to supply it with information or to give other assistance in examining matters within its competence."[56]

This was supposed to be the first time Kosovo's representative would be allowed to take the floor, as opposed to the usual procedure where the SRSG would

address the Council, mostly accompanied by the prime minister in second row. This would also make sense with regard to the fact that the future status of Kosovo as such, in other words Ahtisaari's "Report", was not in the SRSG's mandate.

Things turned out differently, though. It became known over the weekend immediately preceding Tuesday 3 April that Russia objected to President Sejdiu taking the floor and insisted that, still, only the SRSG could speak for Kosovo, even in this special case that involved final status. So once again, and literally at the last minute, I had to travel to New York in order to speak in the Security Council, with President Sejdiu in second row. In the meeting, I announced that I would not make a statement of my own, which I deemed also appropriate in view of the fact that the Secretary General himself had already taken a clear position. Instead, in a quote-unquote manner, I simply read the speech which President Sejdiu had prepared. In this speech, he welcomed Ahtisaari's recommendations without concealing how challenging some of the proposals were for Kosovo's majority population.

The discussion in the Council was controversial, as Russia and Serbia challenged the plan, and the outcome was inconclusive.

Nevertheless, the Council members decided to visit Kosovo to gather more information. They did so swiftly. After visits to Brussels and Belgrade, the Ambassadors arrived in Kosovo on 26 April 2007.

The delegation was lead by Johan C. Verbeke, Permanent Representative of Belgium to the UN. It was to

be a balanced and realistic agenda. Standards had not brought miracles, but they had enabled the development of institutions and a certain normalcy of life. There was nothing to hide, on the contrary: it was in everybody's interest that the delegation would see all aspects of life in Kosovo, meet with different communities and be exposed to different viewpoints.

The UN Security Council members enjoyed the regional pastry, known as burek, with the President and the Prime Minister during a dinner at the new Government Building in Pristina. The Pristina government briefed them on their readiness for supervised independence. European specialists briefed them on their readiness to do the supervising.

In Orahovac/Rahovec distressed Serbs surrounded them asking for help. Minutes later they listened to ethnic Albanian widows in Mala Kruša/Krushë e Vogel recounting how their husbands and sons were herded into a house and machine-gunned to death.

They broke bread with ethnic Serb returnees on the first floor of a new Schoolhouse in Brestovik. They heard the UN praised during a meeting in south Mitrovica and condemned in a similar session in the northern half of the town. And so on it went.

At a final press conference at Pristina International Airport on 28 April, Ambassador Verbeke stressed that the delegation had come to a better understanding of the situation on the ground and felt ready to continue deliberations on a resolution.

He said: *"The very purpose of ours is to be fully informed and being fully informed means that we have to bridge the gap*

between what we learn and know in New York, on the basis of the multiple reports with which we are on the daily basis confronted, and then the realities here in Kosovo. Not that there is a gap in the terms of differences but that it enables us better to see what these concepts exactly mean so that we have now a proper understanding to, in the days and weeks to come, start deliberating on the issue, discussing and perhaps negotiating."[57]

A report on the mission was submitted to the Security Council on 2 May.[58]

Subsequently, the Security Council tried to agree on a resolution for Kosovo, but without a tangible result.

Besides, delays in setting up a government in Belgrade spoke of further delays in the status process. After the 21 January 2007 parliamentary elections in Serbia, the formation of a new government stumbled upon ideological differences that took four months to resolve. Also, by delaying the formation of the new government, some hoped to cushion international resolve for solving Kosovo's status and maybe even force Kosovars into a premature move to declare unilateral independence.[59] Finally, in May 2007, a deal was reached between Tadić's DS, Koštunica's DSS and the more liberal G 17 Plus party to continue governing together and confirm Koštunica as prime minister. It was a fragile government that was destined to be short-lived, under pressure from the EU and the US to deliver on indicted war criminals and settle on Kosovo, but bound by Koštunica's hardline approach to both issues.

THE GERMAN CONNECTION

With this stalemate, prolonged hopes for a breakthrough were linked to the fact that Germany held both the EU presidency in the first half of 2007 and the G8 presidency for the whole year. As a member of the Contact Group and a major stakeholder in the Western Balkans in many respects, Germany was a trusted friend in Kosovo and the region.

As a major Troup Contributing Country (TCC) it had a consistent KFOR lead presence in southern Kosovo since 1999. It was also a major Police Contributing Country (PCC) with regard to UNMIK Police.

It was felt that even if meetings in New York and Brussels did not, the G8 summit hosted by Germany at Heiligendamm from 6 – 8 June 2007 could succeed.

In fact, it was more than that. In Kosovo *all* eyes were focused at the G8 summit as *the* place where Kosovo's future status could be clarified, the only chance to reach agreement on a subsequent UN Security Council resolution.

From all we learned, German chancellor Angela Merkel and four of her Contact Group colleagues tried hard to convince Russian President Vladimir Putin and Foreign Minister Sergei Lavrov of the advantages of solving Kosovo's status on the basis of the Ahtisaari plan.

In this context, French President Nicholas Sarkozy even suggested a six months moratorium before a UN resolution would be taken, which sent shockwaves through Kosovo's political landscape.

In the end, however, all efforts failed, since apparently the Russians elaborated that regardless of the UN-sponsored plan on the table, it was Serbia's call. There was not much flexibility or room to maneuver in such stand; it meant that only if Serbia was content with the plan and a new resolution, the Russians too would be on board. This was translated into a Russian "no" to all hitherto efforts and it did not bode well for the summer and beyond.

Pristina was damped with confusion. The high hopes that the G8 would be able to hammer out a deal were now sunk. Kosovo was taking the dangerous path of uncertainty.

I met with the Team of Unity to exchange information. I insisted we should wait for the conclusions from the summit, rather than jump to conclusions about a purported 6-month delay or worse. I expressed my conviction that whatever solution is found for Kosovo it would be in accordance with the principles set out by the Contact Group.

The Team of Unity leaders demanded publicly that Kosovo not be held hostage to Russia's threats to veto a Security Council resolution and requested that such a resolution should be tabled in any case. They feared a backlash from Kosovo's people who by then felt as if all past efforts were in vain and were putting pressure on their leaders to declare independence in spite of international developments. The uncertainty had clearly eroded the legitimacy of the Kosovo leadership that had placed its entire trust in the US and the EU to find a solution with Russia.

Koha Ditore, a very respected Pristina daily, reported that the G8 summit had exceeded the worst expectations of Kosovo's Albanians. It spoke of the Heiligendamm "accident", of a treachery from the international community whose internal actions seemed not to have been coordinated, considering Sarkozy's proposal. [60]

Suddenly, the Kosovars not only fell behind on "plan A", a resolution at the Security Council, but they were suspicious of "plan B", a metaphor for action in the absence of a resolution. The paper called for a unilateral declaration of independence, with or without international backing.

The "plan A" and "plan B" concept had been introduced by Prime Minister Çeku as we drew closer to the G8 summit. "There is always a plan B, but we don't talk about it since if we do it then it becomes plan A", he had said somewhat surprisingly, at one of our joint weekly press conferences, which followed our regular meetings. Of course, UNMIK could sympathize with "plan A", but it could certainly *not* be part of any "plan B". Therefore I distanced myself and asked the prime minister to refrain from such statements, at least not to repeat them in a way that would, or could, imply UNMIK consent.

Widespread doubts over what, exactly, was going to happen after the unsuccessful Heiligendamm summit were soon to be quelled. To assure Kosovo of its support, President George W. Bush visited Tirana on 10 June, where he said: "At some point in time, sooner rather than later, you've got to say enough is enough. Kosovo is independent. And that's the position we've taken." However, he voiced support for UN Special Envoy Martti

Ahtisaari's plan for Kosovo. "We are trying to convince all the members of the UN Security Council to support Ahtisaari's plan, and at the same time we offer our explanations why this plan is reasonable and that this plan will bring peace", he said.[61].

Coming from the US President, the country that Kosovo Albanians revere, the speech was a tremendous assurance and a boost to independence efforts. It was followed promptly by press conferences from most Kosovo leaders, seeking to reassure Kosovars that independence was the end result of the entire effort. Çeku went as far as saying that Bush had almost singlehandedly declared independence for Kosovo. [62]

But despite the strong wording, there was still no deadline as to when the Kosovo saga would end. The Bush-Putin meeting on 2 July came and went without a breakthrough.

Wanting to avoid a Russian veto at the Security Council, the EU and others were eager to explore a way forward, some sort of a compromise resolution which would nevertheless be based on the Ahtisaari plan in one way or another. Therefore not only defense ministers, as usual, but also foreign ministers came to Pristina, trying very carefully to test the waters, but also showing solidarity with the Kosovars as did, for example, Italy's Foreign Minister Massimo D'Alema, whom I had visited in Rome before, on 15 June.

On 9 July, I was supposed to address the Security Council once again, in the context of UNMIK's next quarterly report. For the first time, I traveled together not only with Prime Minister Agim Çeku, but also with

COMKFOR Lieutenant General Roland Kather. He had been asked to give a presentation from KFOR's perspective in an informal session (Arria format), which preceded the formal session of the Security Council.

We had both taken up our duties as SRSG and COMKFOR respectively on 1 September 2006 and we concurred regarding the assessment of the situation in Kosovo and the way forward. We also coordinated all our steps very closely, as required by spirit and letter of Resolution 1244.

We both knew that this had not always been the case in the joint history of UNMIK and KFOR.

That two top jobs in Kosovo went to two Germans was a coincidence, but it did not exactly hurt that we would use our mother tounge when appropriate. Nevertheless, two Germans at the top of Kosovo institutions, Germany in the double role as EU and G8 presidency: many observers believed that this was by design, a German “master plan 2007” not least to solve the Kosovo issue.

In reality, it was what it was: coincidence. Fortunately, I was able to maintain the close and productive relationship with KFOR also when General Roland Kather's successor, French Lieutenant General Xavier de Marnhac, took over on 1 September 2007.

At the time KFOR had 16,000 troops stationed in Kosovo. Kather was well aware of the impatience simmering underneath and he did not shy away from talking about it.

"People want to have clarity, people want to know what's the way ahead and what will be the future,” he said in March 2007.[63]

When Danish Defense Minister Søren Gade came to Kosovo in June, he and Kather expressed their hope that "the settlement of the status for Kosovo is coming up sooner rather than later."[64]

By August, on the eve of his departure from Kosovo, he was warning publicly: "Patience is not endless… For security reasons ... we should come up with a decision about status as soon as possible."[65]

Kather's main worry was that extremists and frustrated individuals would use the tension to provoke political trouble.

Tensions in Kosovo were rising and it was our responsibility to stay truthful to the facts on the ground. If this conviction was the essence of "the German Connection", then it might have existed in spite of all the coincidences.

THE SECURITY COUNCIL CAN NOT AGREE ON THE AHTISAARI PLAN

In his report to the Security Council for the 9 July session, the UN Secretary General supported the Ahtisaari Plan once again in no uncertain terms and stated: *"The determination of Kosovo's future status should remain a priority for the Security Council and for the international community as a whole. My Special Envoy's settlement proposal and recommendation on Kosovo's future status contain the right elements for a sustainable solution to Kosovo's future status, including continued international supervision. I welcome the European Union's pledge to play the leading role in the future*

international presence in Kosovo, as envisaged in the settlement proposal." [66]

What COMKFOR and I said in New York left no room for doubt that tensions on the ground were mounting and that we found it difficult to maintain stability and a safe and secure environment if there was no perspective on the status question.

In the Security Council, I stated that the time had come to provide "a roadmap, a timetable, to assure Kosovo's two million inhabitants of where they are headed."

I added: "Throughout the process, the people of Kosovo have been remarkably patient. But today – in mid 2007 – there is an undercurrent of anxiety throughout the population and among Kosovo's political leaders. They fear that the status process is losing momentum and what appeared to have been an imminent resolution of Kosovo's status will unravel...The people deserve clarity on status; the people need clarity on status."

Alas, people did not get clarity on status. Rather it became crystal clear that Russia would veto *all* attempts to make the Ahtisaari plan, in one way or another, the basis of a new resolution on Kosovo. Even "soft" drafts, where the plan's entry into force would be contingent on conditions like yet another round of talks, similar to what President Sarkozy suggested at Heiligendamm, were blocked.

Of course, there was much speculation on the Russian motive for taking such a hard line. Looking back over the Russian position during the course of the last years including the Contact Group's statements on Kosovo and on the Ahtisaari process, Russia's western partners

expected some sort of a political price to be paid, but they did not expect that the process would be completely blocked.

After all, two thirds of the settlement proposal were about the rights, and in fact privileges, of the Kosovo Serbs, it was so to speak an excellent deal.

Also, following the break up of the Soviet Union, the Russian Federation had used its veto power only four times (twice over Cyprus in 1993 and 2004, over Myanmar in 2007 and Yugoslavia in 1999.)

Most importantly: why had Russia accepted the Contact Group's Guiding Principles for the process, as endorsed by the Security Council at the end of 2005, if it did not want to finalize it? Why had it supported the famous "three no's" that were supposed to determine the outcome – no return to the pre-1999 situation, no partition and no union with any part of another country? Why had it supported the "fourth no" principle that the settlement needs to be acceptable to the people of Kosovo?

I assume that the Russian position changed over time; that the Kosovo issue became an item on the global agenda and therefore was not entirely judged on its own and quite unique merits any more. The events in Georgia after the conflict in August 2008 seem to support that theory. Some of the principles upheld in the case of Kosovo did not seem to matter.

In any case, in July 2007 it was clear that we had all fallen into a political hole and once again we were called upon to manage the situation on the ground.

That was not easy.

It became most evident how tired, frustrated and disappointed the vast majority of the people in Kosovo were with the status process, which in their view had started not when Eide or Ahtisaari were mandated, but no later than 1999, with their leaders and with the international community including the UN.

Those who had always argued that there would never be a solution were vindicated. Calls for a unilateral declaration of independence were louder than ever before and gained traction not only in the media but also in the "political class".

This in turn raised anxieties in the Kosovo Serb community.

While I continued to reach out to all communities in Kosovo, trying to address anxieties, calling for restraint and patience and *strongly discouraging unilateral steps*, I also appealed to the international community to avoid the perception of a void, which was quickly spreading, and to *restore the momentum* in the status process, repeating the key phrase "the people need clarity on status" any number of times with all interlocutors and visitors.

There were quite a few such visitors from the EU and national parliaments and governments, including many who, during all times of UNMIK's existence, would come to see us to assess the situation on the ground, such as on 13 July French Foreign Minister Bernard Kouchner, one of my predecessors. With regard to 17 February 2008, Swedish Foreign Minister Carl Bildt, also a regular visitor "before", was the first one "after".

ELECTIONS IN SPITE OF, BECAUSE OF, OR REGARDLESS OF THE STATUS PROCESS?

On a different note, I argued with local and international stakeholders in the summer of 2007 that the question of whether to have or not have municipal and central elections in Kosovo in November 2007 had to be placed in the Standards context. On the one hand, the moment was not exactly convenient with a view to the status process. On the other hand, democracy had to run its course, the elections were required by law and there was a widely perceived lack of legitimacy at all levels of government, also due to the fact that municipal elections had already been postponed for a year. Postponing elections once again - and then until when? - would have sent the wrong signal that democracy can be suspended. In the end, the elections were held, deemed generally free and fair by the international observers, and successful in refreshing the legitimacy of Kosovo institutions.

In summer, however, I pleaded with the Team of Unity, the people, and all those that felt elections should be put aside until status was resolved, that I was worried about the status process, but I was even more worried about Kosovo's leaders having their legitimacy questioned at a very decisive point in time.

Quite a few people thought differently. Some argued that the holding of elections was an idea of the international community to keep people busy, or distracted, in the absence of a status perspective. Others argued that elections would harm the status process. Not

surprisingly, the government coalition was doubtful while the PDK opposition was supportive.

In the international community, I encountered a paradox: those who argued that the status process needed much more time tended to disagree with elections, while those who argued that all things must come to an end tended to accept elections.

With a fragmented political scene, it was indeed anybody's guess as to which way it would go. One could, however, assume that with the status race coming to an end, or hopefully coming to an end, the voters would go for the most reliable engine that could take them over the finish line.

I used a metaphor, which I had become quite fond of, namely that Kosovo's government had run out of legitimacy fuel and that it needed to make a stop at the gas station to refill the tank and then, tank full, it could cover the last stretch of the road to the status finish line.

During the month of August, the Team of Unity and I, with political help from the Contact Group after they had come on board, reached an agreement to have elections under the following conditions:

- That elections would not delay the status process (some cynics added: or what is left of it); otherwise we would reconsider.
- That the Team of Unity would stay united and engage constructively and in good faith in the Troika-led talks.
- That technical deadlines for party registration, lists etc would be fully respected.

Although I announced the poll on 17 August and set the date "17 November" on 31 August[67], all the necessary arrangements were put in place thanks to the enormous efforts of both internationals and Kosovars, in particular thanks to the OSCE Mission in Kosovo, under the able leadership of Werner Wnendt and Tim Guldimann, and the Central Election Commission.

There were concerns that some 1.2 million registered voters would be overwhelmed with the ballots considering that this time around they were presented with three ballots held on the same day for the Kosovo Assembly, Municipal Assembly and Mayoral elections. Additionally, "open lists" were introduced for the Kosovo and Municipal Assemblies. As it turned out, voters were quite able to handle complexity.

Our biggest concern was over participation of the Kosovo Serbs in these elections. Would Belgrade call for a boycott once again? If so, would the Kosovo Serbs be able to withstand the pressure?

When talking to the Serb community, I frequently referred to the metaphor of the football game, where you cannot win by standing at the sidelines. If the Kosovo Serbs wanted to have a say, not least at the municipal level, it was important to get in the game and vote.

What was encouraging was the relatively large number of Serb political entities that registered for the vote. It was bigger than any time before. To me it was a sign that the Serb community was interested to take their fate into their own hands and emancipate from Belgrade's influence.

Belgrade's attitude, however, was disappointing. There were numerous reports that Serbs who were contemplating

to vote or to run in the poll were intimidated. It seems that not least the Serbian ministry for Kosovo pressured the Kosovo Serbs from outside and, during visits, inside Kosovo not to participate in the 17 November elections. For example, State Secretary Dušan Proroković gave an interview to Radio Kragujevac on 26 October in which he clearly warned Kosovo Serbs that voting would mean losing their income from Serbia.[68]

When, after the elections, KFOR Commander de Marnhac and I visited Goraždevac on 7 December 2007, we were given a copy of a "black list" of Kosovo Serbs from Goraždevac who had "dared" to vote in Kosovo's elections and were reported, name by name, to the ministry in Belgrade. This was most probably just the tip of the iceberg.

The UN, and the international community in general, urged the Serbian government to refrain from preventing the Kosovo Serbs from voting. In October, I sent a letter to Prime Minister Koštunica warning against any form of pressure that would keep the Serbs from the polling stations. Listening to Belgrade's call for a boycott the Kosovo Serbs would not hurt the majority Albanians, nor would they hurt the international community. They would hurt themselves. Most Kosovo Serbs were aware of this.

The 17 November 2007 elections were monitored by international observers from the Council of Europe who assessed that the elections had been run in accordance with international standards and could be deemed generally free and fair.

Since 1999 UNMIK had authorized five elections over nine years. They were all deemed free and fair.

Of the total 120 seats in the Kosovo Assembly, the parties representing minorities have 20 seats reserved and they won an additional four seats.

As far as the major parties were concerned, Hashim Thaçi's Democratic Party of Kosovo (PDK) won 37 seats, the Kosovo Democratic Alliance (LDK) 25 seats, Ramush Haradinaj's Alliance for the Future of Kosovo (AAK) 10 seats and Behgjet Pacolli's New Kosovo Alliance (AKR) 13 seats.

These 13 seats were an impressive result for Pacolli, a newcomer to the political scene.

A wealthy businessman based in Switzerland, he had returned to Kosovo seeking a political future. Although many in Kosovo considered him out of the loop in terms of Kosovo politics, he brought what Kosovars felt they needed most: money. Pacolli's business career took him through the corridors of power in the East. His Mabetex company worked on the restoration of the Kremlin and he was often accused of harboring close links with Russia, hence with Serbia as well.

Pacolli had direct contact with Milošević during the NATO bombing campaign in an effort to broker a solution. This did not go to his credit with parts of the political elite, those associated with the KLA in particular.

He made a positive impact on the public psyche, however, when he negotiated a deal with the Taliban in Afghanistan for the release of a Kosovo girl, Shqipe Hebibi and two others in 2004.

The real surprise of the poll, however, was the failure of Veton Surroi's ORA to even get into the parliament. A seasoned politician, apt diplomat and now important

member of the Team of Unity, Surroi had been part of decision making in Kosovo for over two decades. Now the end game of Kosovo's political status would see him on the sidelines.

Voter turnout was lower than in the past, just above 40 percent. This was partly blamed on the adverse weather conditions.

Kosovo Serb participation remained very low, but it was higher than in 2004. In other words: there was no complete boycott and in a number of Kosovo Serb towns, like Gračanica/Graçanicë, where political representatives like Rada Trajković were in favour of the poll, a lot of people came to cast their ballot.

Already the first results indicated that Thaçi's PDK was the big winner, on its way of getting 35 percent of the vote. The LDK, the hitherto champion, saw its support whittle to 22 percent, down from 45 percent in 2004. This immediately sparked speculation of a PDK-LDK coalition, an unimaginable option just a few years before.

With the final results on the table and the "legitimacy tank refilled", I asked political parties not to delay the constitution of a new government and indeed, after a record two weeks, a coalition deal was struck between PDK and LDK.

They were stressful weeks, however. In legal terms, Sejdiu was the president and needed no reelection. In political terms, both parties deemed that it could be advantageous to make the presidency a part of the coalition deal. PDK saw the advantage of demonstrating who was actually in the driver's seat, LDK saw the advantage of securing a longer term for the president, i.e.

five years starting now instead of four years already partly consumed.

Five years starting now was only possible if the Constitutional Framework was changed, which I agreed to do if, in line with the Framework's provision 14.3, there was a request supported by two-thirds of the members of the Assembly.

This was the case and on 9 January 2008 the new Assembly (re-) elected the President and went on to install the Assembly President as well as Prime Minister Hashim Thaçi and his PDK/LDK cabinet.

The (re-) election of the president, who had resigned for a "logical second", developed into a cliff hanger when in the secret ballot apparently not all members of the PDK and LDK groups voted the way they were expected to. After three rounds of voting, intermissions and lots of discussions on the margins, Sejdiu was finally (re-) elected.

Several days after that, I amended the Constitutional Framework again to accommodate the request of the AAK for representation in the Assembly leadership, which was also supported by two-thirds of the members of the Assembly. Koha Ditore, Kosovo's most influential daily newspaper, branded Sejdiu, Thaçi and me "the three musketeers for amending the Constitutional Framework",[69] but I felt it gave Kosovo an even broader base for what was ahead of it.

THE TROIKA PROCESS AND WHY IT FAILS

In August 2007, the Contact Group managed to fill the political void and somehow restore the momentum in the status process. It proposed to the Secretary General that an additional 120 days of negotiations between the two parties from Belgrade and Pristina should be held in search of a compromise.

UN Secretary-General Ban Ki-moon confirmed that the new round of negotiations would be led by a "Troika" of three representatives from the European Union, the United States and the Russian Federation. All of them were seasoned diplomats: Wolfgang Ischinger (Germany- EU), Frank Wisner (U.S.), and Alexander Botsan-Kharchenko (Russian Federation). By 10 December 2007, the group would report to the UN Secretary General and the Security Council.

There was not much hope that the sides would budge from their positions, but the Troika vowed to "leave no stone unturned" in the search for a mutually acceptable outcome. The team reaffirmed commitment to Security Council Resolution 1244 and to the Guiding Principles of the Contact Group.

The first rounds of shuttle diplomacy saw little being achieved. The Troika met the Belgrade and Pristina sides separately, including in proximity talks format, in meetings in Vienna, Belgrade, Pristina and London.

By the end of September, on the margins of the General Assembly in New York, Contact Group Ministers stressed that finding an early resolution of Kosovo's status was

"crucial to the stability of the region and Europe as a whole."

They also supported the UN Secretary General's assessment that prolonging the status quo would damage Kosovo's political, social and economic development.[70]

On 27 September, also in New York, the Troika oversaw face-to-face talks. Both parties presented their opposing views of Kosovo's future. Pristina presented its previously undisclosed "treaty on good neighborly relations between the two states of Kosovo and Serbia". The deal offered was to focus on issues of mutual interest including the protection of minorities, the search for missing persons, and the return of IDPs. From its part Serbia presented its offer of "the highest degree of autonomy" for Kosovo, but within Serbia.

There was a glimpse of hope when, at the end, both sides endorsed a statement in which they reiterated their commitment to engage seriously in the talks and reaffirmed their commitment to refrain from any activities or statements that might jeopardize the security situation.[71]

The Troika promised to step up the pace of negotiations in the run up to the 10 December deadline, while UN and EU officials were careful to reiterate that they do not want to prejudge the talks by speaking about planning for scenarios beyond that date.

In Pristina I said it was too early to say what the final outcome of negotiations would be. What was significant, however, was the Contact Group's continued commitment to its Guiding Principles.

Among the Team of Unity members, Prime Minister Agim Çeku was the most vocal supporter of a "UDI", a

unilateral declaration of independence, should there be no agreement by 10 December. He even wrote a letter to the UN Secretary-General, pledging to declare independence after 10 December, but clarifying that by "unilateral declaration", he in fact meant a coordinated declaration with the support of the United States and key European allies.

"Our goal is to have independence, based on the Ahtisaari package, by the end of this year", he said in a press conference in early October after one of our regular trilateral security meetings with the new Commander of KFOR, Lt.-Gen. Xavier de Marnhac.[72]

I underlined for the media that Resolution 1244 was the basis and that it was up to the Contact Group and, of course, the UN Security Council members to decide what to do after 10 December, in the light of the Troika report. We were facilitating the process on the basis of Resolution 1244, not more, not less. In this context, UNMIK would continue its "prudent planning".

In his autumn report on Kosovo, distributed to the Security Council on 28 September 2007, the Secretary General was very clear in many respects. He confirmed that, under the circumstances, UNMIK had achieved what was achievable and that further progress depended on status. He underlined that a further prolongation of the status process would actually put at risk the achievements since June 1999. He took note of "the substantial gap between the parties" engaged in the Troika process and called for "consideration to be given" on how to proceed should the sides fail to reach an agreement". He also reconfirmed his commitment to the Ahtisaari plan "which I

continue to fully support and regard as a fair and balanced proposal".[73]

I did not belong to those who thought that the Troika process had lacked any prospect for finding an agreement, in particular when it came to an "agreement to disagree" type, based, for example, on the "German model". On the basis of principled West German non-recognition of East Germany, both joined the UN and had a structured relationship, a modus vivendi.

The Croatian President Stipe Mesić was so interested to hear more about this idea that he invited me over. We had a productive exchange of views, followed by a lunch in Tito's former "hunting hut" near Zagreb.

So in a spirit of realistic optimism, fully mindful of my mandate to facilitate the status process, I did everything I could to encourage the parties, especially the Team of Unity, to be in good faith and constructive.

However, there were limits and an obvious *lack of incentives on both sides*, which was widely attributed in the case of Belgrade to the perceived "silver bullet" of "owning" the Russian veto right in the Security Council, and in the case of Pristina to the US "enough is enough" promise to bring things to a close one way or another.

The Troika process terminated without an agreement between the parties and the Troika presented a final report to the United Nations Secretary General – on time - on 4 December 2007.

The report[74] was discussed in the Security Council on 19 December 2007 in close session with statements from the Serbian Prime Minister Vojislav Koštunica and from

Kosovo's President Fatmir Sejdiu, who was invited under Rule 39. This time 'round I was allowed to stay in Pristina.

There was no agreement on the way forward. In any case, the most tangible result of the Troika process was the parties' continued commitment to non-violence and more generally to a civilized process.

4 INTO THE UNKNOWN

A DECLARATION OF INDEPENDENCE

When the Troika efforts failed the Contact Group became visibly divided, with Russia, like Belgrade, calling for more negotiations, and "the Quint" (the Contact Group without Russia)[75] starting to prepare, with Pristina, for a "Coordinated Declaration of Independence" on the basis of the Ahtisaari plan and in accordance with UN Security Council Resolution 1244.

It was intimated that the "Coordinated Declaration of Independence" could happen sometime after yet another round of Serbian elections, in this case Presidential Elections, on 20 January / 3 February 2008.

In this context it was very significant that, in the course of December 2007, both NATO (on 7 December) and the EU (on 14 December) declared their willingness to continue to help Kosovo, with implied references to the Ahtisaari plan.

The European Council on 14 December 2007 was particularly clear, referring to the UN Secretary General's

assessment that the staus quo in Kosovo was unsustainable. The Council stated:

"On Kosovo, the European Council noted the conclusion of the Troika process on 10 December and the final report submitted by the Contact Group to the United Nations Secretary-General. It expressed its gratitude to the Troika for having tirelessly explored all options to secure a negotiated settlement of the status of Kosovo. In particular, it thanked Ambassador Wolfgang Ischinger, the EU's Representative to the Troika, for his efforts.

The European Council underlined that the negotiating process facilitated by the Troika between the parties on Kosovo's future status has been exhausted. In this context, it deeply regretted that the two parties were unable to reach a mutually acceptable agreement despite the Troika's comprehensive and good faith efforts, fully supported by EU Member States.

The European Council welcomed the fact that both parties have committed repeatedly during the Troika process to refrain from any activities or statements which might endanger the security situation and to avoid violence. This commitment to peace, which is also important for regional stability, must continue.

The European Council agreed with the UN Secretary-General that the status quo in Kosovo is unsustainable and, thus, stressed the need to move forward towards a Kosovo settlement, which is essential for regional stability. Such a settlement should ensure a democratic, multiethnic Kosovo committed to the rule of law, and to the protection of minorities and of cultural and religious heritage.

The European Council underlined its conviction that resolving the pending status of Kosovo constitutes a sui generis case that does not set any precedent.

The European Council noted that the United Nations SC will address this issue in December. The European Council underlined that the EU stands ready to play a leading role in strengthening stability in the region and in implementing a settlement defining Kosovo's future status. It stated the EU's readiness to assist Kosovo on the path towards sustainable stability, including by an ESDP mission and a contribution to an international civilian office as part of the international presences." [76]

The EU's ambitious police and justice mission EULEX, based on the common European Security and Defense Policy ESDP, was to be aimed at assisting Kosovo's rule of law institutions. It would come to derive its mandate from a Joint Action of the EU Council,[77] stating the mission objective as a mentoring and monitoring mission, but including, as it turned out, also executive functions.

In less than a month, the UN Security Council met twice on Kosovo, once, as explained, on 19 December 2007, to take stock after the end of the Troika process and subsequently, on 16 January 2008, to discuss the Secretary General's regular report in the context of an increasingly tense situation.

The Secretary General had summarized the situation as follows: *"Expectations in Kosovo remain high that a solution to Kosovo's future status must be found rapidly. As such the status quo is not likely to be sustainable. Should the impasse continue, events on the ground could take on a momentum of their own, putting at serious risk the achievements and legacy of the United Nations in Kosovo. Moving forward with a process to determine Kosovo's future status should remain a high priority for the*

Security Council and for the international community. Uncertainty and a loss of forward dynamic in the future status process could create a risk of instability, both in Kosovo and in the wider region; as well as a potential risk to the safety of United Nations staff. The parties are urged to reaffirm and act upon their declared commitments to refrain from any actions or statements that could endanger peace, incite violence or jeopardize security in Kosovo and the region. The United Nations, with the support of relevant international organizations, is committed to assisting Kosovo in the path towards sustainable stability. In this regard, I note the readiness of the European Union to play an enhanced role in Kosovo, as reflected in the conclusions of the European Council on 14 December… I acknowledge the commitment of the North Atlantic Treaty Organization (NATO), expressed at the ministerial meeting on 7 December, that KFOR shall remain in Kosovo, that national force contributions, including reserves, will be maintained at current levels and with no new caveats and that NATO will respond resolutely to attempts to endanger the safety of any of the inhabitants of Kosovo."[78]

On January 16, Prime Minister Thaçi was invited under Rule 39 and both he and I spoke, and so did Serbia's President Tadić, in an open session.

I informed on the November 2007 elections and reiterated the Secretary General's stand that UNMIK had achieved all it could in relation to the Standards and that the next step in achieving more was directly linked to finding a settlement for Kosovo which was in accordance with the will of Kosovo's people.

In an emotional contrast to my report, which pointed to measurable achievements like freedom of movement for the Kosovo Serbs, Tadić read aloud a letter from a 15 year-old Kosovo Serb, Slobodanka Pašić, form Bostane. In her letter she said her father had gone missing in 1999 and the house she was born in was grazed.

She had gone through the deplorable fate of many Kosovo Serbs that were targeted by vengeful Kosovo Albanians after the armed conflict.

Tadić, supported by Russian Ambassador Churkin, also made calls for renewed talks and expressed Serbia's willingness to resume them. After the Troika's sober conclusions, however, other members of the Council were not convinced. Neither was Prime Minister Thaçi.

For Kosovo, it seemed that there was only one way forward now. The date of the declaration of independence was anyone's guess. There were fears that announcing it in advance would be an additional security risk.

Speculation was already brewing as to what the immediate effect of declaring independence was going to be. Opinions ranged from a full outbreak of violence pitting Serbs against Albanians, to a massive exodus of Kosovo's Serbs into Serbia proper, an echo of the massive migration of Serbs escaping Ottoman conquest.

With Kosovo's Albanians declaring independence, the analogy went, the beleaguered minority would rather leave their centuries-old hearths than live under the Muslim Albanians.

Rumors circulating said the declaration would be on a Sunday so that the UN Security Council could not convene to annul it. On 26 January 2008 Koha Ditore quoted "EU

sources" stating that the date would be either 17 February or 9 March, both Sundays. [79] The reasoning went that both dates would allow for calling a solemn session of Kosovo assembly members and they would fall a day ahead of a regular EU Foreign Ministers meeting. Otherwise, the Slovenians, who held the rotating presidency of the EU, would have to call an extraordinary Foreign Ministers meeting. [80]

Furthermore, with Europe six hours ahead, by the time the UN Security Council convened, supposedly upon Russia's request, three of the five permanent members would have already recognized Kosovo's independence. The EU member states, at their Foreign Ministers meeting, would come out with a statement 'noting' Kosovo's declaration of independence and then, on that "platform", have country-by-country recognitions.

This would also give time to the UN Secretary General to acknowledge the EU's readiness to take up its new responsibility in Kosovo. Some claimed that Ban confirmed this approach by stating in Bratislava, on 28 January, that Kosovo was a European issue and recalling that in his latest report he had *taken note* of the intention of the European Union to deploy a rule of law mission. [81] Others, closer to reality, observed that the Secretary General did not *welcome* any more the Regional Organization's pledge to alleviate the UN's burden and to play "the leading role in the future international presence", as he had done in July 2007.

On 4 February, with effect of 15 February, the EU nominated Pieter Feith as its Special Representative in Kosovo and, on the basis of UN Secuirty Council

Resolution 1244, launched EULEX KOSOVO, which was widely interpreted as yet another signal that "it" could, and should, happen any day now.

But which day it would be? As explained, it was anyone's guess.

Apart from that, there were worries over the aftermath of the declaration of independence. Local and international actors were keen to avoid headlines for the wrong reasons. It was to be a managed affair and, in the end, a Euro-American affair, with the UN being left aside, irrespective of my regular reports to New York on what I saw, heard and expected.

Still, in Kosovo we as UNMIK were followed closely by local and international media for any signs of preparation that "Independence Day" was imminent.

In our regular tri-partite UNMIK/KFOR/PISG meetings we continued to coordinate all issues related to stability and a "safe and secure environment". Without any doubt, I held ultimate executive power and KFOR was in charge of security. We were eager to demonstrate this. There would be no security vacuum, regardless of the political circumstances.

On a different note, and in coordination with UNMIK, UNHCR had developed an emergency plan for the eventuality of larger streams of refugees.

For the UN staff on the ground, UNDP had developed an evacuation plan, should the need arise.

None of the bleak foretelling came true.

On 17 February, Kosovo assembly members held an extraordinary session to adopt a "Declaration of

Independence", declaring Kosovo an independent and sovereign state.

One hundred and nine out of 120 assembly members present voted in favor of the declaration. The 10 Kosovo Serb deputies of the Assembly did not attend the session. The declaration's text was as follows:

Kosovo Declaration of Independence[82]

Sunday, 17 February 2008, 17:20 hrs

Assembly of Kosovo,

Convened in an extraordinary meeting on February 17, 2008, in Pristine, the capital of Kosovo,

Answering the call of the people to build a society that honors human dignity and affirms the pride and purpose of its citizens,

Committed to confront the painful legacy of the recent past in a spirit of reconciliation and forgiveness,

Dedicated to protecting, promoting and honoring the diversity of our people,

Reaffirming our wish to become fully integrated into the Euro-Atlantic family of democracies,

Observing that Kosovo is a special case arising from Yugoslavia's non-consensual breakup and is not a precedent for any other situation,

Recalling the years of strife and violence in Kosovo, that disturbed the conscience of all civilized people,

Grateful that in 1999 the world intervened, thereby removing Belgrade's governance over Kosovo and placing Kosovo under United Nations interim administration,

Proud that Kosovo has since developed functional, multi-ethnic institutions of democracy that express freely the will of our citizens,

Recalling the years of internationally-sponsored negotiations between Belgrade and Pristina over the question of our future political status,

Regretting that no mutually-acceptable status outcome was possible, in spite of the good-faith engagement of our leaders,

Confirming that the recommendations of UN Special Envoy Martti Ahtisaari provide Kosovo with a comprehensive framework for its future development and are in line with the highest European standards of human rights and good governance,

Determined to see our status resolved in order to give our people clarity about their future, move beyond the conflicts of the past and realize the full democratic potential of our society,

Honoring all the men and women who made great sacrifices to build a better future for Kosovo,

Approves

KOSOVA DECLARATION OF INDEPENDENCE

1. We, the democratically-elected leaders of our people, hereby declare Kosovo to be an independent and sovereign state. This declaration reflects the will of our people and it is in full accordance with the recommendations of UN Special Envoy Martti Ahtisaari and his Comprehensive Proposal for the Kosovo Status Settlement.

2. We declare Kosovo to be a democratic, secular and multi-ethnic republic, guided by the principles of non-discrimination and equal protection under the law. We shall protect and promote the rights of all communities in Kosovo and create the

conditions necessary for their effective participation in political and decision-making processes.

3. We accept fully the obligations for Kosovo contained in the Ahtisaari Plan, and welcome the framework it proposes to guide Kosovo in the years ahead. We shall implement in full those obligations including through priority adoption of the legislation included in its Annex XII, particularly those that protect and promote the rights of communities and their members.

4. We shall adopt as soon as possible a Constitution that enshrines our commitment to respect the human rights and fundamental freedoms of all our citizens, particularly as defined by the European Convention on Human Rights. The Constitution shall incorporate all relevant principles of the Ahtisaari Plan and be adopted through a democratic and deliberative process.

5. We welcome the international community's continued support of our democratic development through international presences established in Kosovo on the basis of UN SC resolution 1244 (1999). We invite and welcome an international civilian presence to supervise our implementation of the Ahtisaari Plan, and a European Union-led rule of law mission. We also invite and welcome the North Atlantic Treaty Organization to retain the leadership role of the international military presence in Kosovo and to implement responsibilities assigned to it under UN SC resolution 1244 (1999) and the Ahtisaari Plan, until such time as Kosovo institutions are capable of assuming these responsibilities. We shall cooperate fully with these presences to ensure Kosovo's future peace, prosperity and stability.

6. For reasons of culture, geography and history, we believe our future lies with the European family. We therefore declare our intention to take all steps necessary to facilitate full

membership in the European Union as soon as feasible and implement the reforms required for European and Euro-Atlantic integration.

7. We express our deep gratitude to the United Nations for the work it has done to help us recover and rebuild from war and build institutions of democracy. We are committed to working constructively with the United Nations as it continues its work in the period ahead.

8. With independence comes the duty of responsible membership in the international community. We accept fully this duty and shall abide by the principles of the United Nations Charter, the Helsinki Final Act, other acts of the Organization on Security and Cooperation in Europe, and the international legal obligations and principles of international comity that mark the relations among states. Kosovo shall have its international borders as set forth in Annex VIII of the Ahtisaari Plan, and shall fully respect the sovereignty and territorial integrity of all our neighbors. Kosovo shall also refrain from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

9. We hereby undertake the international obligations of Kosovo, including those concluded on our behalf by the United Nations Interim Administration Mission in Kosovo (UNMIK) and treaty and other obligations of the former Socialist Federal Republic of Yugoslavia to which we are bound as a former constituent part, including the Vienna Conventions on diplomatic and consular relations. We shall cooperate fully with the International Criminal Tribunal for the Former Yugoslavia. We intend to seek membership in international organizations, in which Kosovo shall seek to contribute to the pursuit of international peace and stability.

10. Kosovo declares its commitment to peace and stability in our region of southeast Europe. Our independence brings to an end the process of Yugoslavia's violent dissolution. While this process has been a painful one, we shall work tirelessly to contribute to a reconciliation that would allow southeast Europe to move beyond the conflicts of our past and forge new links of regional cooperation. We shall therefore work together with our neighbors to advance a common European future.

11. We express, in particular, our desire to establish good relations with all our neighbors, including the Republic of Serbia with whom we have deep historical, commercial and social ties that we seek to develop further in the near future. We shall continue our efforts to contribute to relations of friendship and cooperation with the Republic of Serbia, while promoting reconciliation among our people.

12. We hereby affirm, clearly, specifically, and irrevocably, that Kosovo shall be legally bound to comply with the provisions contained in this Declaration, including, especially, the obligations for it under the Ahtisaari Plan. In all of these matters, we shall act consistent with principles of international law and resolutions of the SC of the United Nations, including resolution 1244 (1999). We declare publicly that all states are entitled to rely upon this declaration, and appeal to them to extend to us their support and friendship.

Just ahead of the day, on 16 February, French President Nicolas Sarkozy visited a primary school. He approached a map of Europe, pinpointed a place with his index finger and told students there was to be a new country called Kosovo in that place.

This was enough to trigger the festivities in Kosovo.

A 1.5 ton cake in the shape of Kosovo was already made and was to be cut by the prime minister. People had started waving flags. Many had made customized T-shirts and signs saying farewell to Serbia. Outside the Grand Hotel, just behind the UN headquarters, drums were beating and people had joined hands to start dancing to traditional music. In the shops, food prices went up. Shop-owners said it was because of Serbia's threat with economic sanctions if Kosovo declared independence. Kosovo imports most of its food from Serbia. Buyers argued it was a chance for the owner to make more money. In the end it mattered little. The people were about to live through something unique.

The day itself, 17 February, went without any incidents. Even the grounded fear that Albanians would mark the start of celebrations by resorting to their arsenal of weapons, a traditional way of expressing joy in this part of the world, was muted. There were fireworks, of course, and lots of firecrackers that engulfed Pristina, and shots fired here and there, but there was no waving of illegal Kalashnikovs or other guns.

Within UNMIK, the OSCE pillar had been particularly worried about “Happy Shooting”. Before the decisive weekend, it distributed an internal memo asking staff to dodge bullets from celebratory gunfire. "What goes 'up' during 'Happy Shooting' must come 'down', so stay inside and don't get caught up in the crowds" the memo from the mission's security head said. It also said the memo was intended for field staff outside the capital Pristina, that is for the mostly rural area still awash with weapons left from the 1998-99 war, despite UNMIK’s and KFOR’s

collection efforts. Staff was also warned that roads throughout Kosovo could be heavily congested because of an influx of ethnic Albanians from neighboring countries, and erratic driving could pose a danger. Employees were also warned the mobile phone network could be overloaded.

UNMIK had orders from New York that staff should not to be seen as taking sides on the independence issue. The UN was to remain "status-neutral", as was KFOR and obviously also the OSCE.

On the ground, as so often, it was hard to convince international staff, let alone local staff, to view the events with neutrality. Many took to the streets to feel the atmosphere and went on to bars and cafes, where "the real celebrations" started. There were understandable arguments like: "How often does one come across a territory declaring itself an independent country, anywhere in the world, let alone in Europe?"

I drew the line where planned public events were concerned, like the actual declaration of independence in Parliament, and surrounding planned public festivities.

Accordingly, our seats were empty as Kosovo's philharmonic orchestra played the EU anthem and Beethoven's "Ode to Joy" to mark the event. And we could only see from the UN building the unveiling of the yellow-painted metal structure of giant letters spelling out "NEWBORN." It was placed just across from the UN headquarters and autographed by President Sejdiu and Prime Minister Thaçi.

Afterwards, high profile places like the "De Rada Brasserie" in downtown Pristina were packed with

Kosovo's political class and any number of foreign observers and diplomats. Prime Minister Hashim Thaçi, his associate Fatmir Limaj and others were sitting at the top round table surrounded by bibulous celebrators, or so I was told. This was their night.

To grasp the atmosphere, and in private capacity, I went to a coffee-bar in the center of Pristina. One couldn't turn a blind eye and pretend nothing had happened.

On a different note, the Albanian diaspora had flocked into town. Some lucky enough to be well informed on when the act would happen, or exercising sound judgement, booked weeks in advance. By the time the date was confirmed, airplane tickets were long gone. So they were celebrating in other capitals of the world. In Vienna, NYC, Strasbourg, Geneva, Brussels, Malmö, London, people waved the Albanian, US and EU flags. The newly created Kosovo flag was still to be distributed abroad.

Journalists also rushed to cover a story. Many had been here before and had reported on the Kosovo war. They felt close to the story. For them, the Kosovo war was an end to Milošević's wars. After the tragic events in Croatia and Bosnia, the media coverage of Kosovo triggered off a much more rapid response to what was actually happening. Still, for 10,000 people it was too late. But in a way the media were powerful enough to impact, for the better, another tragedy in the making. Since then, many had moved on to other crises in Iraq and Afghanistan. Understandably, the ones that were new to Kosovo were more keen on looking at the legality of the declaration of independence and the security of the Serb minority.

The buzz was incredible. Kosovo's people seemed to see the TV trucks and crews rushing around Kosovo as yet another confirmation that "it" was really happening.

Since the whole world was watching, it was also important to "Celebrate with Dignity", as posters all over Kosovo demanded in no uncertain terms. That Kosovo was able to master such challenges had already been demonstrated under different circumstances, most notably when President Rugova died in January 2006. Not only Albanians, but many state leaders from all around the world had poured in for the funeral. The event, although sad, brought a sigh of relief among both Kosovars and internationals, when it became clear that protocol, safety and security issues were handled in a very professional manner.

And, just as in January 2006, temperatures on and around 17 February 2008 were freezing cold.

Some of the rivalry had remained, however. While Thaçi was in Prekaz, home of the Jashari family, a giant photo of Rugova was removed from the staircase in the Kosovo assembly, just a day ahead of the solemn session. Several assembly members threatened to boycott the session. Sejdiu requested an immediate explanation. The reasoning given was that the photo was removed for cleaning. After a meeting between Sejdiu and Thaçi, and some advice from the Quint members, the photo was restored[83] .

To push the envelope further, Thaçi paid special attention to the Jashari family during his speech on Independence Day, but refrained from giving Rugova his

credit, an act that irritated many of his supporters and highlighted the still simmering rivalries.

On 18 February, the Security Council met to discuss Kosovo's declaration of independence upon Serbia's request. By the time Serbia's President Boris Tadić had arrived in the UN headquarters, three of the five permanent members had already recognized Kosovo as independent: France, the United Kingdom and the United States. Other UN member states including most, but not all of the EU states, followed in the days to come. At the meeting Russian Ambassador Churkin demanded the UN to annul Kosovo's unilateral act arguing it was illegal under UN Security Council Resolution 1244. The motion failed, however, as Western members backed Kosovo's independence and termed the process irreversible. Tadić warned the Security Council members the declaration would be a precedent for other separatist regions and that failure by the UN Security Council to act on this occasion would encourage other similar acts elsewhere. The US Ambassador to the UN, Zalmay Khalilzad, echoed Ahtisaari's conclusions whereby Serbia's sovereignty over Kosovo was revoked in 1999 and that Kosovo was a sui generis case.[84] The UN Secretary General did not take sides and declined to brand the declaration of independence legal or illegal, but stated that Resolution 1244 remained in place.

In Belgrade the declaration was met with an outpour of anger. The violence of the 1990s resurfaced and media were quick to link it to the Milošević days. Nine Western embassies were attacked, the US embassy most viciously.

The riots led to the destruction of property and looting. At the same time, Serbia's nationalistic wing felt strong tailwinds.

UNMIK'S NEW ROLE: "STATUS NEUTRALITY", FIRMNESS, DIALOGUE

The events put UNMIK and myself into a very difficult position, especially since in legal terms both groups of UN member states, i.e. Russia, Serbia and others on the one hand, and EU, US and others on the other hand, based their approaches on Resolution 1244, albeit different interpretations thereof.

The former group argued that the declaration of independence, lacking agreement from Belgrade, was null and void, hence Kosovo would remain a part of Serbia.

The latter group argued that that 1244 was silent on how the "final settlement" was generated, hence by declaring independence on the basis of the UN Special Envoy's plan, and by being recognized on that basis, Kosovo had entered into the *final phase* as per Article 11 f of Resolution 1244, while *interim phase* provisions of 1244, including those related to FRY sovereignty and territorial integrity, were abrogated.

Personally, I found both legal concepts arguable and I continue to do so. In other words: I thought - at least until the International Court of Justice's helpful and clear cut Advisory Opinion as mentioned in the foreword - that from a legal point of view no concept was per se superior or inferior.

One way of dealing with the phenomenon of a divided UN membership on the ground was to continue to invite the local Contact Group or Contact Group plus for regular meetings with the SRSG, and never the Quint.

Another format I occasionally used for briefings and local advice was "UN Security Council members present in Pristina".

In any case, I duly reported to the Secretary General on all developments and asked for instructions how to implement my mandate under changing circumstances.

As I had expected, the Secretary General did not instruct me to invalidate the declaration of independence.

He did instruct, however, that UNMIK implement its mandate in what was termed again a "status neutral" way, which meant on the one hand a degree of firmness, because there still *was* a mandate to implement, and on the other hand a degree of caution and, especially, dialogue with all local actors, and to the degree possible also with Belgrade.

In this context it is important to understand that both groups of UN member states concurred that for the time being UNMIK's and KFOR's, competencies under Resolution 1244, *and* the Constitutional Framework, were still valid. Unfortunately, this view was not entirely shared by local actors, who however expressed their rejection in divergent ways with critical implications for the Mission's responses to them.

With regard to the Kosovo Albanians and Pristina's authorities, dialogue was regular, but firmness was called for in making it very clear to all, that not only Resolution 1244, but also the Constitutional Framework was still in

place, that the SRSG continued to sign or reject laws, that UNMIK was still administering Kosovo and that especially in the rule of law sector UNMIK continued to have ultimate control.

This led to significant “showdown” situations, e.g. between the UNMIK Police Commissioner and his Kosovo Police Service deputy.

These were, however, defused without incident since *in principle* the Pristina authorities were respecting my primacy and that of Resolution 1244 and the Constitutional Framework in the quasi-"Transition Period" called for under the Ahtisaari plan that they and the recognizers considered began with the declaration of independence and was to conclude with entry into force of the new Kosovo Constitution.

With regard to the Kosovo Serbs, and the government in Belgrade, dialogue was also frequent as required, but firmness was called for especially when a violent mob destroyed the UNMIK Customs Service points on 19 February and again when protesters forcefully seized the UNMIK courthouse in northern Mitrovica on 14 March.

As regards the first incident, the destruction of the UNMIK Customs Service points, it was troubling that according to reports the Serb mayor of Zubin Potok and the deputy mayor of Leposavić accompanied the assailants.

What was even more troubling was the fact that Serbia's minister for Kosovo, Slobodan Samardžić, told the media the attacks were “not pretty”, but in line with Serbian government policy. "Belgrade has the intention to take over the customs in northern Kosovo", Samardžić told the

private B92 television channel. "The customs points were intended to become part of (Kosovo's) state border and we are not going to let that happen."[85]

The next day, on Wednesday 20 February, COMKFOR, Thaçi and I held a joint press conference to discuss the situation in the north. Thaçi was eager to show it was an isolated incident so as not to spoil the image of Kosovo's dignified festivity. KFOR and UNMIK pointed to the Kosovo Serbs' and Serbia's obligation to continue to respect their respective mandates and institutions, including the UNMIK Customs Service, under Resolution 1244.

In fact, after the end of the Troika process, UNMIK had made it very clear that under *all* circumstances the Kosovo Serbs, in particular those in the north, and by extension Belgrade, were expected to respect three "red lines":

1. In everybody's own interest: no interference with the functioning of the Police Service; in particular no changing of uniforms or the like in order to create Serb "parallel structures".
2. Continued respect for the mandates of, and cooperation with, UNMIK and KFOR.
3. No violence, in line with the post-Troika commitment.

As it were, the incidents at the northern gates and in Mitrovica were violations of red lines two and three.

At the same time, there were also violations of red line one. Under pressure from Belgrade, more and more Kosovo Serbs started to withdraw from the Kosovo Police Service, albeit stopping short of changing uniforms.

Kosovo Serbs also withdrew from the Customs Service and from the Mitrovica Court.

In all cases it was stated that Kosovo Serbs could not work in integrated structures any longer, but were ready to report to UNMIK directly.

I note that eventually, in summer 2009, more than one year after the government change in Belgrade, almost all the KPS employees came back to the integrated structures in the south of Kosovo. In the north, where "un-integrated structures" had been accepted, Kosovo Serb KPS officers are now – after Belgrade's green light - cooperating with EULEX instead of UNMIK and have reasonable cooperation with Pristina.

The customs and court situation is different. I note that in summer 2010, the Kosovo Serbs have not come back yet.

In this context, it is necessary to rewind somewhat and focus on UNMIK's peacekeeping role and on my relationship with the Kosovo Serbs and with Belgrade.

And it's also necessary to shed some light on what is known as "the parallel structures": Belgrade sponsored arrangements for the Kosovo Serbs only.

PEACEKEEPING AND PEACEBUILDING; REACHING OUT TO ALL COMMUNITIES; "PARALLEL STRUCTURES"

When it comes to UNMIK's role in trying to avoid interethnic conflict and building the foundations for a multiethnic society in Kosovo, I had *limited success* during

my tenure, but I would put the accent not only on "limited", but also on "success".

Like my predecessors, I tried to reach out in particular to the Kosovo Serbs, trying to listen to their concerns, trying to reassure them, trying to familiarize them with the status process, explaining the Standards for Kosovo process and addressing, with constant operational involvement, shortcomings especially in the area of returns of Internally Displaced Persons (IDP). The latter contributed to a moderate increase in IDP returns in 2007 as compared to 2006.

In all since the end of hostilities almost 18,000 displaced persons of minority communities had returned to Kosovo. Nearly half were Kosovo Serbs. A famous European Stability Initiative report from 2004 called "The Lausanne Principle, Multiethnicity, Territory and the Future of Kosovo's Serbs"[86] comes to the conclusion that not some 200,000, as alleged by Serbia and adopted by international organizations, but rather some 65,000 Kosovo Serbs fled Kosovo and still live in Serbia and Montenegro today.

It is important to realize that "the Kosovo Serbs" are by no means a homogenous community; on the contrary. The political spectrum ranges from moderates working in and with Kosovo institutions - *and in this context it should not be overlooked that Kosovo Serb representatives have, after many years of absence, once again joined the Assembly and the government after the 17 November 2007 elections* - all the way to hard-line radicals, especially in the north (the so called "hospital connection"), who seem to be driven by personal power considerations more than anything else, even if for most of the time these interests coincided, or seemed to

coincide, or were even coordinated with and by, the then dominant faction in the Belgrade government.

Similarly, the Serbian Orthodox Church in Kosovo is visibly divided between a moderate and a rejectionist wing, each with links to the sympathetic Belgrade parties. It was always fruitful to talk to Bishop Teodosije and Father Sava from the Visoki Dečani monastery. On the other hand, it was very difficult and in 2008 almost impossible to even talk to Bishop Artemije of Raška and Prizren, then the Serbian Orthodox Church's highest representative in Kosovo.

All Kosovo Serbs depend on Belgrade in one way or another, even those who are working in Kosovo institutions would usually have some links e.g. with the Liberal Party there.

A great number is financially dependent, i.e. they are on Belgrade payrolls especially in the education and in the health sectors, or receive benefits.

Since Belgrade salaries are, or were, as a rule, much better than "Pristina salaries", benefits the same, it is likely that even the at least temporary walk-outs of Kosovo Serbs from rule of law institutions which occurred after 17 February 2008 were not quite as politically motivated as they seemed.

More generally, Belgrade and its northern allies have long used this financial leverage to exert political influence, e.g. when it came to the desired boycott of the 17 November 2007 elections. With only a small grain of salt, it is safe to say that Belgrade "controls" the Kosovo Serb community and the main key to its attitude is to be found there. In this sense, the "political color" of the Government

of Serbia matters, even if one cannot expect wonders from Belgrade's current Kosovo minister Goran Bogdanović and his state secretary Oliver Ivanović , who have been working constructively with me in the past.

On a different note, and in a way almost regardless of the 17 February 2008 events, interethnic relations in Kosovo are not as bad as they are sometimes portrayed outside of Kosovo.

This is, first and foremost, true for the relations between the majority Kosovo Albanians and the non-Serbian minorities, that is the Roma, Ashkali and Egyptian (RAE) communities, the Bosniak community, the Turkish community and the Gorani (Serb muslim) community.

Reconstructing the Roma Mahala in the southern part of Mitrovica, a neighborhood from which, in June 1999, thousands of RAE were forced to flee fearing retaliation for alleged cooperation with Serb authorities, was a priority not only for UNMIK and the international community, but also for the PISG and Kosovo Albanians who felt responsible. In March 2007, we were able to welcome back the first RAE families, while others, in close cooperation with WHO, UNHCR, UNICEF, key donors and NGOs, were at least moved from terrible, lead contaminated camps in northern Kosovo to a safer interim camp called Camp Osterode. Whether it is wise to return greater numbers of RAE from European countries to Kosovo now is a different question. During my time, based on UNHCR assessments, we asked that RAE returns be deferred and found understanding, including with German interior minister Wolfgang Schäuble when I met him in Berlin to discuss repatriation policies.

When it comes to the majority's relations with the Kosovo Serbs, isolated cases of harassment and intimidations still occur. Most criminal acts in Kosovo, however, are intra-ethnic, rather than between different ethnicities. On top of this, freedom of movement for Kosovo's minorities, including Serbs, had improved visibly, with some 90 percent travelling outside of their areas of residence. Even Kosovo Albanian – Kosovo Serb relations are reasonable in various parts of Kosovo, especially in "mixed municipalities", and when it comes to doing business together. Even in the hot spot of Mitrovica I was invited to regular North / South business luncheons.

Nevertheless interethnic relations in Kosovo need continued international community support and focus on political, infrastructure, economic development and civil society projects.

A systematic, long term approach to post-conflict peacebuilding and reconciliation, like the OSCE's work with the High Commissioners on National Minorities Rolf Ekéus and Knut Vollebaek, is also needed and deserves every support.

When it comes to relations with Belgrade, I had established reasonable working relations with the Coordination Center of Kosovo (CCK) - the precursor of the minister for Kosovo - and Government of Serbia ministers during my time as DSRSG for Pillar IV, which included regular visits to Belgrade.

When I became SRSG, President Tadić and Prime Minister Koštunica avoided meetings in Belgrade, which I had suggested repeatedly, although we had occasional encounters in the UN Security Council or on the margins of

South-East European Cooperation Process (SEECP) or other summit meetings. At the CEFTA summit in Bucharest's overtowering "Palatul Parlamentului", in December 2006, I tried to break the ice with Koštunica by informing him that the hero of my youth was a Serb from Belgrade: Petar Radenković, the famous goalkeeper of my favorite club, 1860 München.

UNMIK's and my relations with other members of the Government of Serbia, including the Minister for Kosovo and Metohija Slobodan Samardžić, were reasonable, but at times strained, and their commitments to me were often not reliable.

In any case, I never hesitated to call Serbian government members "24/7" when there were issues and neither did they.

On a different note, I was very impressed with some Serbian NGOs, for example the Serbian Helsinki Committee for Human Rights and its chairwoman Sonja Biserko. I met with her both in Pristina and Belgrade. On 23 November 2007, when tensions were high and words counted more than ever before, the German Heinrich Böll foundation organized a very helpful, frank and yet calm panel debate in Belgrade in which we both participated, together with Oliver Ivanović. The latter stated that it was "almost certain" that Kosovo would declare independence.[87] I stressed, as often in this fall 2007, that the prolongation of "no status" had already played and would continue to play in the hands of extremists on both sides.

It should also be noted that peacekeeping and peacebuilding in Kosovo is not only about the Kosovo Serbs and other minorities, but also about the Kosovo Albanian 90% majority and its different segments.

They had been deeply traumatized by the 1990s and became increasingly tired and frustrated with their "in limbo" status since UNMIK's arrival.

Against this background, it was a major challenge to constantly call for patience and point to perspectives without going to the very substance of status, which was not UNMIK's mandate.

Also, at times there was an unwise tendency among actors outside Kosovo to rely on the evident forbearance of the majority population, including after 17 February 2008, as though it was a given, which was not the case at all.

In this context it should be noted that there was no significant *interethnic* confrontation or violence after 17 February 2008 until my departure and beyond.

The only reported inter-ethnic incident was over a month after the declaration of independence, when Serb and Albanians pelted each other with stones, albeit from afar, in Suhi Dol, a tense neighborhood in the north.

When it comes to the famous "parallel structures" I found it necessary, and helpful, to differentiate. Our policy was to tolerate parallel structures in the education and health sectors, to reject parallel structures in administration, i.e. Belgrade attempts to govern Kosovo more or less directly, and to strongly reject parallel security structures.

The latter two violated not only Resolution 1244 but also subsequent Belgrade-UNMIK agreements which framed Belgrade's limited acceptable interaction with Kosovo's Serb community.

This differentiated approach, and its limits, were tested by Belgrade and certain Kosovo Serbs, especially in the

north, ever since UNMIK started, with all my predecessors and me.

After 17 February 2008, however, the situation changed in so far as Belgrade now propagated its concept of "co-governance", explicitly in a proposal from Serbia's Kosovo Minister Slobodan Samardžić from March 2008. He presented my deputy Larry Rossin with a draft agreement on "common implementation of UN Security Council Resolution 1244 between UNMIK and Serbia" in the six areas of policing, customs, justice, control of the boundaries, transport and infrastructure and protection of Serbian cultural and religious heritage.

This meant that UNMIK should depart from considering Kosovo as one legal space and allow that under a layer of formal UNMIK authority, and in explicit collaboration with Belgrade, Serbian laws and institutions would govern "wherever Kosovo Serbs live", while different laws and institutions could govern everywhere else in Kosovo.

This ethnic partition agenda was not in line with the letter and spirit of Resolution 1244. Consequently, UNMIK rejected the concept of "co-governance".

While such firmness in principle was important, dialogue and in particular a degree of pragmatism was also required. An example for this was our approach to Belgrade's attempt to build parallel administrative structures by organizing, on 11 May 2008, local elections in Kosovo under Serbian law, which is incompatible with Resolution 1244. UNMIK was very clear that such elections and their results were illegal, but it never contemplated physically preventing them.

For the record I note that one of our key Kosovo Serb interlocutors, now a high official in the new Government of Serbia, supported our course of action with a tendency to go even further in the direction of preventing the "parallel" elections.

VIOLENT CHALLENGES

Back to the violent challenges to UNMIK's authority after 17 February 2008. While UNMIK was still discussing with local and international interlocutors how to re-establish its Customs authority after the incident on 19 February, violent Serb protesters forcefully seized the UNMIK courthouse in northern Mitrovica on 14 March. The courthouse was part of a larger court/police/corrections complex and according to credible sources it was only a matter of days, if not hours, before the protesters would move on to take over the UNMIK Police station and potentially even the corrections facility.

What we saw was not only a transgression with regard to UNMIK's "red lines". Now UNMIK's very mandate, the *continued* existence of which was important to Serbia in international fora, and the UN's authority, was at stake and literally on the brink of vanishing.

After serious, but fruitless dialogue with all concerned and subsequent clear warnings, including on TV, UNMIK Police, supported by KFOR, retook control of the courthouse on 17 March as part of an operation to forestall a police station takeover and to secure the whole court/police/corrections complex.

Subsequently, a violent mob attacked the UNMIK Police and KFOR with automatic weapons and Molotov cocktails, resulting in the tragic death of one Ukrainian police officer and injuries to others including also KFOR soldiers.

A few weeks later, I was deeply moved when I participated in the Ukranian police's medal parade in honor of their friend who had lost his life.

In any case, no further violence occurred from the Kosovo Serb side, or Belgrade, after the 17 March events.

These events elicited a variety of international reactions, both supportive and critical.

Critical reactions seemed to be receptive to arguments used by certain Kosovo Serbs and certain Government of Serbia members, like Slobodan Samardžić, who were justifying violence, regardless of the post-Troika commitments, against specific UNMIK rule of law institutions like customs and courts on the grounds that UNMIK had "illegally" transferred its responsibilities to the PISG and, therefore, was not in control of these institutions any more.

This was incorrect on both accounts.

The progressive transfer of more and more responsibilities to the PISG was not illegal but a core requirement under Resolution 1244.

Apart from that, UNMIK had made it very clear to *all* sides that it was still in ultimate control of the institutions, in line with Resolution 1244 and the Constitutional Framework.

Of course, the Government of Serbia's and in particular Samardžić's behavior needs to be seen in the context of the developments in Belgrade after the presidential elections of

20 January/3 February 2008. They were also a manifestation of the political infighting going on in Belgrade between Prime Minister Koštunica, including his ally Samardžić, and President Tadić.

Results of the first round in the presidential election gave SRS nationlist leader Tomislav Nikolić, an ally of Slobodan Milošević, a slight edge over President Boris Tadić. Nikolić won about 40 percent of the vote, while incumbent Tadić had 35 percent, forcing the two into the 3 February runoff.

Just ahead of that date, the EU had offered Serbia to move forward with the Stabilisation and Association Process. This was widely interpreted as a clear sign of support for Tadić, who had already declared that the nation was facing a stark choice: moving closer to the European Union or going back to international isolation.

Tadić won the runoff by a narrow margin. He got about 51 percent of the vote, nationalist leader Tomislav Nikolić won 47 percent.

Subsequently, especially after Kosovo's declaration of independence, Koštunica and Tadić were locked over whether Serbia should sign the Stabilisation and Association Agreement (SAA), in spite of the EU's position on the Kosovo issue and its plans to send the EULEX mission to replace UNMIK. In Kostunica's eyes, signing the SAA would mean that Serbia has approved the EU's mission to Kosovo and thus, at least indirectly, the province's independence. The government faction allied with Tadić insisted on signing the agreement, saying it has nothing to do with Kosovo. But it needed formal approval from the government, which Koštunica refused to convene.

By early March Koštunica declared: "The government is in a major crisis...I no longer trust the current coalition partners that they are sincerely fighting for the preservation of Kosovo."[88]

Serbia's parliament was dismissed the next day and early elections called for on 11 May 2008. The campaign for these elections kicked off with Kosovo as one of the main issues. Tadić accused Samardžić of wanting to partition Kosovo, and Samardžić retorted with the same accusations.[89]

During the campaign, the SAA was signed on 29 April 2008 in Luxembourg by Deputy Prime Minister Božidar Đelić (DS) on behalf of Serbia., The signing was attended by President Boris Tadić (DS), and Foreign Minister Vuk Jeremić (DS).

The outcome of the elections brought a pro-European coalition between Tadic's DS, the G 17 Plus and somewhat surprisingly - the Socialist Party of Serbia (SPS) of the late Milošević under the leadership of Ivica Dacic. The expectation was that this government would be more open to working with the EU presences in Kosovo.

Back to Samardžić. He, and other ministers from Belgrade, visited Kosovo on a more or less regular basis and usually requested police escort, stating inconspicuous reasons. As a rule, UNMIK did not refuse such escort requests, let alone the visits as such, apart from the question of the political wisdom of such steps. This was usually criticized by the media in Kosovo.

Indeed many of the visits were not inconspicuous at all.

For example, according to a transcript we received, Samardžić told a group of people in the culture house in

Gračanica on 1 November 2007, when the Troika negotiations were still in full swing: "The worse the Kosovo situation is, the better for us".

As explained, there were also numerous reports that the Serbian ministry pressured Kosovo Serbs from outside and, during visits, inside Kosovo not to participate in the 17 November 2007 elections.

It was not at all surprising, and in all fairness not objectionable, that Samardžić travelled to Kosovo also on 17 February 2008. He told Serbian state television RTS that the visit was to assist the "functioning of the Serbian state institutions" in Kosovo.[90]

On 25 February, he planned to visit a construction site just outside Pristina. I had initially refused to grant him permission to enter Kosovo, following his inflammatory statements in support of the violence at the UNMIK Customs points. However, after consultations, I decided to allow his visit upon the condition that he would meet with me and would clearly distance himself from supporting violence.

When I met Samardžić, I asked for clarification as to whether Serbia continues to respect UNMIK's mandate, especially with regard to executive functions like Police, Customs and Justice. The reply was ambiguous. So was, in fact, his attempt to publicly condemn all forms of violence.

After the meeting, Samardžić complained to New York via the UN's Belgrade Office, a channel he seemed to favor, that I had said that Kosovo's declaration of independence was consistent with UN Security Council Resolution 1244.

What I had said in reality was always the same since 17 February, no matter to whom I spoke, and no matter if the meetings were private or public:

Personally - mindful that it was not part of my mandate to make that judgement - *I found both legal concepts, based on UN Security Council Resolution 1244, arguable, I did not think that any one was per se superior or inferior.*

In other reports it was criticized that I "included the EUSR Pieter Feith in internal UNMIK decision making" when, as a matter of course, I simply continued to closely consult him as well as the other representatives of the Contact Group.

In any case, Samardžić continued to visit Kosovo until he was replaced after the Serbian elections in May 2008. Goran Bogdanović became the new minister, a Kosovo Serb leader from Tadić's party with whom, as explained earlier, I had a good working relationship throughout my time.

Thaçi's first trip abroad after the declaration of independence came on 29 March, when he and I attended the informal EU Foreign Ministers "Gymnich" meeting in Brdo, Slovenia. The EU Presidency came out with a statement reconfirming the European future for all of the Western Balkans countries.

Thaçi and I briefed the ministers on the situation in Kosovo. In his speech Thaçi laid out his vision of Kosovo, rooted in full adherence to the Ahtisaari plan with special regard to the rights of the minorities. I, in turn, pointed out that UNMIK had reached something like a finite point and that, in accordance with Resolution 1244, and of course

subject to decisions in New York, a reconfiguration of the international presence would be logical.

When partcipants assembled for a group photo, the Spanish Foreign Minister Moratinos approached me and questioned my intervention. This resulted in a light moment. Solana, who had overheard this, came from behind, put his arms around our shoulders and told me "Don't listen to him!" before I could say something.

By then most EU member states had recognized Kosovo, with the exception of the Czech Republic, Malta and Portugal who came to recognize somewhat later. Five member states had said that they would – for the time being - not recognize: Cyprus, Greece, Romania, Slovakia and Spain.

On 21 April, Thaçi and I attended the Security Council meeting in New York and briefed again on the situation in Kosvo. It was a meeting in close session. The communiqué states that "Mr. Joachim Ruecker, His Excellency Mr. Boris Tadić, President of the Republic of Serbia, and Mr. Hashim Thaçi had an exchange of views."

As far as the UN was concerned Kosovo was not a state, but it was not simply Serbia either. A fresh look was needed.

5 A WAY FORWARD

GREEN LIGHT FOR UNMIK'S PHASE OUT

Ever since 17 February 2008, it was of course clear to us in UNMIK, and in New York, that it was necessary, but not sufficient to point to, implement and defend a mandate based on Resolution 1244 *and* the Constitutional Framework, i.e. a largely *unchanged* mandate.

A medium term UN-strategy was called for in order to reconcile, to the extent possible, the diverging agendas of two groups of UN member states and "their" local actors.

The four basic elements of this strategy were developped in spring 2008:

1. The Secretary General would report to the Security Council and, in the absence of guidance from the Security Council, take the initiative to "reconfigure" UNMIK, adjusting to the profoundly changed realities on the ground like the planned entry into force of the Kosovo constitution on 15 June, by which the Kosovo authorities intended to, with the recognizers' backing,

take over the SRSG's prerogatives under the Constitutional Framework. In this context, the EU's rule of law mission EULEX would come under a "UN umbrella", something that Russia and Serbia had requested as a precondition for its acceptance, enabling it to take over current UNMIK functions, including executive ones. In this new phase of UNMIK's life cycle, it would also make sense to appoint a new SRSG.

2. The Secretary General would signal to Serbia the UN's readiness to address, in talks on "practical arrangements", concerns in a number of areas where UNMIK's mandate had been challenged: customs, courts, policing, but also transport, boundaries and religious heritage. UNMIK would have a residual role as a facilitator of these talks on "practical arrangements". The Secretary General would write to President Tadić to that effect.
3. The Secretary General would also write to President Sejdiu to explain the initiative.
4. The Secretary General would instruct UNMIK to reconfigure, including a significant downsizing to a "residual presence", and he would allow UNMIK to transfer premises and assets to EULEX.

While there was general agreement between UNMIK and headquarters on this strategy and its elements, it is no secret that I also had some specific concerns, especially with regard to element two.

For obvious reasons, closely related to UNMIK's mandate, I was keen to ensure

- that it could *not* be perceived as the UN's ready acceptance of Samardžić's proposal from March on UN and Belgrade "co-governance" in six areas;
- that it would *not* jeopardize Kosovo as a single legal space as opposed to a patchwork legal space;
- that it would *not* be a step towards partition, for example by allowing a *territorial* division of labor between international players ("UN in the North, EU in the South" or similar) and
- that it would really be about "*talks*" on practical arrangements, as opposed to "*negotiations*" on status.

Not all of my arguments were met with enthusiasm. There were people like, for example, the head of UNMIK's Mitrovica office. He seemed to pursue his own not-quite-so-status-neutral agenda, calling the declaration of independence "illegal" and maintaining close personal relations with key "actors" in the north. These relations were at times useful, but especially after 17 February 2008 posed a security risk for UNMIK operations. My principal deputy Larry Rossin and I were convinced that this risk required action, but New York asked to postpone such action. Overruled, we duly offered our resignation to the Secretary General. He did not accept it, so we continued for the larger good and tried to deal with the Mitrovica situation as best we could.

The International Crisis Group, as always, came up with recommendations. It saw a need for the EU and the U.S. to lobby for more recognitions and push for Kosovo's admission into international organizations. For the UN it saw the necessity to get concrete instructions from New

York on how to deal with the EU presence in order for the downscaling to commence..[91]

In any case, my main task in this spring 2008 was to *work hard with all local and international partners* in Pristina and beyond to help headquarters to prepare the ground for the Secretary General's initiative. This meant explaining the logic of all four elements, not as "pick and choose", but as parts of a balanced package, while at the same time, as per element four, going back to TPI and providing headquarters with a detailed reconfiguration plan, including options, and making sure the mission was ready to implement it if and when the instructions would come.

On 12 June 2008, the Secretary General submitted his report to the Security Council, attaching the letters to Presidents Tadić and Sejdiu.[92]

After nine years UMIK was about to make room for something new.

"I believe that the United Nations is confronting a new reality in Kosovo, with operational implications", the Secretary General's report said. *"I intend, pending guidance from the Security Council, to reconfigure the international civil presence in Kosovo. There is a practical need for a recalibrated international presence that is better suited to address current and emerging operational requirements in Kosovo. In consideration of the European perspective of Kosovo and Serbia and in keeping with the expressed willingness of the European Union to play an enhanced operational role in Kosovo in the area of the rule of law, I intend to move forward with practical arrangements to enable the European Union to enhance its operational role in that sector"*, the report continued.[93]

The EU did move to enhance its role, in a fashion that for the most part rather impressed onlookers.

It had already sent Pieter Feith as its Special Representative. As foreseen in the Ahtisaari plan, Feith was, and still is today, double-hatted as the *International Civilian Representative* heading the International Civilian Office. In this second capacity, he is reporting not to the EU but to the International Steering Group, consisting of key "recognizers".

The EU had also sent the French general and former COMKFOR Yves de Kermabon to establish the EU's rule of law mission EULEX, set to take over its competences from UNMIK in a phased process.

My concern was that international attention and engagement for Kosovo would diminish before we could afford it. In this context, it was vital that the European Commission prepared another donor conference, which was to be convened on 11 July 2008. At the conference, which built on the results of our donor meeting from April 2006[94], 1.2 billion Euros in aid were pledged, which was rightly considered a success.

As for the Kosovo institutions, the government's main priority in the spring 2008 was to enshrine the Ahtisaari plan into codex, adopt the necessary laws and upgrade the PISG institutions, including creating new ones like the Ministry of Foreign Affairs. The Ministry of Internal Affairs made preparations for issuing Kosovo passports.

It was purported that these activities benefitted from UNMIK's prudent planning, and especially from the TPI document with its neat list of what to do after an eventual

endorsement of the Ahtisaari plan by the UN Security Council.

The new constitution was approved in Parliament on 9 April and entered into force on 15 June.

On 12 June, when the Secretary General's report was submitted to the Security Council, I was accused of taking arbitrary steps to reduce UNMIK. In a statement, Russian Foreign Ministry spokesman Andrei Nesterenko said: "We are talking about a glaring case of arbitrary action, which must decisively be prevented. We proceed from the assumption that administrative measures will be taken against Joachim Ruecker, up to dismissal from his post."[95]

President Tadić stated on 15 June that "there will be no reconfiguration of the international civilian presence in Kosovo without a UN decision". "Only the UN Security Council has jurisdiction to make such a decision. The EULEX mission is welcome in Kosovo under two conditions: that it is preceded by a UN Security Council decision and that it does not implement the Ahtisaari plan, which includes Kosovo's supervised independence," Tadić concluded.[96]

These and other interventions seemed to reflect a misunderstanding that we would immediately implement the far reaching reconfiguration plan which we had duly sent to New York.

TIME TO SAY GOOD BYE FOR THE LAST TRADITIONAL UNMIK SRSG

A few days later, on 20 June, the Secretary General's report was discussed in the Security Council and *broad support was given to the Secretary General's initiative*. Also on 20 June, my successor, the experienced Italian diplomat Lamberto Zannier, arrived and I handed over my mandate to him. Very swiftly he has received headquarter instructions on the reconfiguration and downsizing of UNMIK to *residual* functions as described in the Secretary General's report.

The instructions were implemented in due course; the number of UNMK staff, which had been some 6,000 during my time, including the "pillars", is now down to less than 500.

At the same time, EULEX has fully deployed. It wasn't exactly warmly greeted because of deep suspicion among the Serb community that EULEX would be there to cement Kosovo's independence. But a warm welcome was not expected either and, step by step, trust can be built.

I note that Kosovo's declaration of independence and the course of events thereafter did not generate a regional or global crisis, as predicted by its adversaries. On the contrary, Kosovo is largely on its European track, though the economic and financial crisis is taking its toll.

I also note, as mentioned before, that up to now, the new Kosovo saw incidents, but no major *interethnic* confrontation or violence.

This is not to say there is no tension. It is most visible in Mitrovica, where there have been scuffles between Serbs and Albanians over rights to rebuild houses in areas that

bring the two communities in close proximity to each other and protests over government offices.

UNMIK's achievements in the nine years from 1999 to 2008 were not small. Together with our partners in Kosovo, we built the foundations for a functioning democracy, a functioning rule of law sector and a functioning market economy. Some individuals have set standards in state building, for example Richard Monk with his contribution to the Police Service.

As much as this is true, it is also true that there is still significant room for improvement.

In any case, in June 2008, after the entry into force of the new constitution, there was a logical break in the work of the mission, the beginning of a totally new phase.

Some said "mission accomplished".

I said "time to go". I was not the *last* UNMIK SRSG, as I had hoped, but I was certainly the *last traditional* UNMIK SRSG. This term was also used by Kosovo's media.

As an aside, and fully aware that being an SRSG is by no means a popularity contest and it should not be, we cannot have done everything wrong since September 2006. At that time, the SRSG's and UNMIK's approval rate as monitored by UNDP, with respondents from *all* communities, was around 30%. In June 2008 it was around 50%.

It has been an honor and a privilege to work for the UN Secretary General as his Special Representative and head of UNMIK during a critical period.

It was my aim to implement a unique threefold mandate in good faith with all parties and, in this way, to

contribute to peace and security, to stability and progress in Kosovo and in the region.

I am grateful to all of UNMIK's international partners, including the Contact Group and its tireless representatives in Pristina like, for example, Tina Kaidanov (USA) and Andrej Dronov (Russia), KFOR, the EU, the OSCE and the UN agencies, funds and programs, who helped to achieve this aim against considerable odds.

And I am deeply grateful to the people of Kosovo, to all my partners from the different communities and from all walks of life. The people of Kosovo, who have suffered so much, deserve a better future as part of the European Union family, in line with the European Union's "Thessaloniki promise"to the Western Balkan countries. If I was able to contribute to this future, my three and a half years in the front line of UNMIK were a good investment.

And yes, since I left the UN I do recognize Kosovo as an independent country.

SOME CONCLUSIONS

It seems safe to say that all in all UNMIK did reasonably well in managing a complex *transition process* without a clear political horizon. This is not a given, even if there are other examples, partly comparable, like the United Nations Transitional Administration in East Timor (UNTAET) or, somewhat closer to Kosovo, the United Nations Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium (UNTAES).

Looking back over the past nine years and with my own personal experience in Kosovo, there can be no doubt that a double structure with an international administration on the one hand and local institutions taking over more and more competencies on the other hand is, by design, not conducive to optimal governance, especially when its duration is unknown, which translates into “no planning horizon”.

I am convinced that UNMIK will continue to work closely with the UN Department for Peacekeeping Operations (DPKO) Division of Policy, Evaluation and Training to derive "lessons learned" from its unique mandate and experience to inform any possible future interim administration Mission with which the UN may be tasked.

A particular point in question, regardless of its “by 1244 design” nature, is the accumulation of legislative, executive and judicial powers with the UNMIK SRSG, the lack of a balance of powers, which was often attacked in the media, including from a Human Rights perspective.

With regard to the latter, I have established the Human Rights Advisory Panel, which is designed to deal with grievances against UNMIK, and in this way provides an appeal mechanism. In future interim administration missions, it might be an idea to explicitly task different international organizations with different balance of power roles, even if there is a UN umbrella structure.

When drawing conclusions, it is also important to pay credit to all the good people who have been working for UNMIK since 1999.

Both local and international staff of the mission were generally very dedicated and professional, but in view of the prolonged uncertainty about the future of UNMIK - the "no planning horizon" phenomenon - it was quite a challenge to maintain the team spirit and morale and, in particular, the sense of direction.

Of course it helps if the right people are on board. I am particularly grateful to UNMIK's senior leadership team who during my time contributed so much to internal cohesion and effectiveness of the mission, including the PDSRSGs Steven Schook and Larry Rossin and the DSRSGs from the EU and OSCE pillars Paul Acda, Werner Wnendt and Tim Guldimann. To work with a Police Commissioner like Richard Monk was a great privilege. Also I have been quite fortunate with my Political Directors, most recently Jolyon Naegele, with the Legal Advisor Alexander Borg-Olivier, with my spokesperson Alex Ivanko, with the Special Advisors Kim Freidberg, Fredrik Wesslau and Andriani Mortoglou and with my immediate office staff.

Obviously some key "change management" rules needed to be observed, like being open and sharing relevant information with staff in a timely fashion.

We also focused on the considerable risks connected with staff leaving the Mission prematurely and tried to prevent the "draining out" effect with a Staff Retention Package consisting of several elements including, for local and international staff alike, timely extensions of the usual six-months-contracts and a commitment to eventually help with onward placements.

My relations with our headquarters in New York were generally good, in spite of occasional tensions as mentioned above.

Of course, after 17 February 2008, there were new challenges both for our headquarters and for UNMIK, as described above, and different groups of UN member states were trying to influence decision making in one direction or another.

It was clear, and logical, that UNMIK's mandate had to be implemented in a "status neutral" way, and that both firmness and dialogue were required, but what that meant in operational terms was not always clear.

I am convinced, however, that under the unique and very difficult circumstances, UNMIK did well in "translating" New York's policy guidance and instructions into operations.

In this context, it was useful to discuss seemingly mission specific issues with others at the regular UN heads of mission conferences and realize that a number of them were not specific but general, drawing general conclusions where possible. I believe that the updated UN Peacekeeping Operations principles and guidelines (Capstone Doctrine) reflect the results of these discussions, including when it comes to blurred boundaries between conflict prevention, peacemaking, peacekeeping, peace enforcement and also Peacebuilding Commission and Fund activities. The Capstone Doctrine needs to be adapted further in the light of new peacekeeping challenges. The Secretariat's paper on "A New Partnership Agenda: Charting the New Horizon for UN

Peacekeeping"[97] shows clearly where these challenges lie , ten years after the landmark Brahimi process.

Note: the manuscript was written mainly in 2008/2009 and covers mainly the period from 2005 – June 2008. However, a few developments, from the period July 2008 – 2010 are reflected.

ANNEX 1

UNITED
NATIONS

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Security Council

Distr.
GENERAL

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,

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 synchronized;

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 coordinate closely with the international security presence to ensure that both presences operate towards the same goals and in a mutually supportive manner;

7. Authorizes Member States and relevant international organizations 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;

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) Demilitarizing 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 organizations;

10. Authorizes the Secretary-General, with the assistance of relevant international organizations, 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) Organizing and overseeing the development of provisional institutions for democratic and autonomous self-government pending a political settlement, including the holding of elections;

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

13. Encourages all Member States and international organizations to contribute to economic and social reconstruction as well as to the safe return of refugees and displaced persons, and emphasizes 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 demilitarization 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 organizations to develop a comprehensive approach to the economic development and stabilization 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;

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.

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 organizations;

- 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 demilitarization of the KLA;

- Comprehensive approach to the economic development and stabilization 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 Organization participation must be deployed under unified command and control and authorized 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 organizations.

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 demilitarization 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 stabilization 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.

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.[1] 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.

ANNEX 2

United Nations S/2007/168

Security Council

Distr.: General
26 March 2007

Original: English

Letter dated 26 March 2007 from the Secretary-General addressed to the President of the Security Council

Pursuant to the statement of the President of the Security Council dated 24 October 2005 (S/PRST/2005/51), by which the Security Council requested that the Secretary-General provide regular updates on progress in determining Kosovo's future status, and in accordance with resolution 1244 (1999), I have the honour to convey herewith the report of the Special Envoy of the Secretary-General on Kosovo's future status and, in an addendum, the Comprehensive Proposal for the Kosovo Status Settlement (S/2007/168/Add.1) prepared by my Special Envoy for the future status process for Kosovo, Martti Ahtisaari.

Having taken into account the developments in the process designed to determine Kosovo's future status, I fully support both the recommendation made by my Special Envoy in his report on Kosovo's future status and the Comprehensive Proposal for the Kosovo Status Settlement.

I should be grateful if you would bring these documents to the attention of the members of the Security Council.

(*Signed*) **Ban** Ki-moon

07-27223 (E) 230307

S/2007/168

Report of the Special Envoy of the Secretary-General on Kosovo's future status

Recommendation: Kosovo's status should be independence, supervised by the international community

1. In November 2005, the Secretary-General appointed me as his Special Envoy for the future status process for Kosovo. According to my terms of reference, this process should culminate in a political settlement that determines the future status of Kosovo. To achieve such a political settlement, I have held intensive negotiations with the leadership of Serbia and Kosovo over the course of the past year. My team and I have made every effort to facilitate an outcome that would be acceptable to both sides. But after more than one year of direct talks, bilateral negotiations and expert consultations, it has become clear to me that the parties are not able to reach an agreement on Kosovo's future status.

2. Throughout the process and on numerous occasions, both parties have reaffirmed their categorical, diametrically opposed positions: Belgrade demands Kosovo's autonomy within Serbia, while Pristina will accept nothing short of independence. Even on practical issues such as decentralization, community rights, the protection of cultural and religious heritage and economic matters, conceptual differences — almost always related to the question of status — persist, and only modest progress could be achieved.

3. My mandate explicitly provides that I determine the pace and duration of the future status process on the basis of consultations with the Secretary-General, taking into account the cooperation of the parties and the situation on the ground. It is my firm view that the negotiations' potential to produce any mutually agreeable outcome on Kosovo's status is exhausted. No amount of additional talks, whatever the format, will overcome this impasse.

4. Nevertheless, resolution of this fundamental issue is urgently needed. Almost eight years have passed since the Security Council adopted resolution 1244 (1999) and Kosovo's current state of limbo cannot continue. Uncertainty over its future status has become a major obstacle to Kosovo's democratic development, accountability, economic recovery and inter-ethnic reconciliation. Such uncertainty only leads to further stagnation, polarizing its communities and resulting in social and political unrest. Pretending otherwise and denying or delaying resolution of Kosovo's status risks challenging not only its own stability but the peace and stability of the region as a whole.

5. The time has come to resolve Kosovo's status. Upon careful consideration of Kosovo's recent history, the realities of Kosovo today and taking into account the negotiations with the parties, I have come to the conclusion that the only viable option for Kosovo is independence, to be supervised for an initial period by the international community. My Comprehensive Proposal for the Kosovo Status Settlement, which sets forth these international supervisory structures, provides the foundations for a future independent Kosovo that is viable, sustainable and stable, and in which all communities and their members can live a peaceful and dignified existence.

Reintegration into Serbia is not a viable option

6. A history of enmity and mistrust has long antagonized the relationship between Kosovo Albanians and Serbs. This difficult relationship was exacerbated by the actions of the Milosevic regime in the 1990s. After years of peaceful resistance to Milosevic's policies of oppression — the revocation of Kosovo's autonomy, the systematic discrimination against the vast Albanian majority in Kosovo and their effective elimination from public life — Kosovo Albanians eventually responded with armed resistance. Belgrade's reinforced and brutal repression followed, involving the tragic loss of civilian lives and the displacement and expulsion on a massive scale of Kosovo Albanians from their homes, and from Kosovo. The dramatic deterioration of the situation on the ground prompted the intervention of the North Atlantic Treaty Organization (NATO), culminating in the adoption of resolution 1244 (1999) on 10 June 1999.

7. For the past eight years, Kosovo and Serbia have been governed in complete separation. The establishment of the United Nations Mission in Kosovo (UNMIK) pursuant to resolution 1244 (1999), and its assumption of all legislative, executive and judicial authority throughout Kosovo, has created a situation in which Serbia has not exercised any governing authority over Kosovo. This is a reality one cannot deny; it is irreversible. A return of Serbian rule over Kosovo would not be acceptable to the overwhelming majority of the people of Kosovo. Belgrade could not regain its authority without provoking violent opposition. Autonomy of Kosovo within the borders of Serbia — however notional such autonomy may be — is simply not tenable.

Continued international administration is not sustainable

8. While UNMIK has made considerable achievements in Kosovo, international administration of Kosovo cannot continue. Under UNMIK authority, Kosovo institutions have been created and developed and have increasingly taken on the responsibility of managing Kosovo's affairs. This has set into motion a dynamic political process, which has reinforced the legitimate expectations of the Kosovo people for more ownership in, and responsibility for, their own affairs. These expectations cannot be realized within the framework of continued international administration.

9. Further, while UNMIK has facilitated local institutions of self-government, it has not been able to develop a viable economy. Kosovo's uncertain political status has left it unable to access international financial institutions, fully integrate into the regional economy or attract the foreign capital it needs to invest in basic infrastructure and redress widespread poverty and unemployment. Unlike many of its western Balkans neighbours, Kosovo is also unable to participate effectively in any meaningful process towards the European Union — an otherwise powerful motor for reform and economic development in the region and the most effective way to continue the vital standards implementation process. Kosovo's weak economy is, in short, a source of social and political instability, and its recovery cannot be achieved under the status quo of international administration. Economic development in Kosovo requires the clarity and stability that only independence can provide.

Independence with international supervision is the only viable option

10. Independence is the only option for a politically stable and economically viable Kosovo. Only in an independent Kosovo will its democratic institutions be fully responsible and accountable for their actions. This will be crucial to ensure respect for the rule of law and the effective protection of minorities. With continued political ambiguity, the peace and stability of Kosovo and the region remains at risk. Independence is the best safeguard against this risk. It is also the best chance for a sustainable long-term partnership between Kosovo and Serbia.

11. While independence for Kosovo is the only realistic option, Kosovo's capacity to tackle the challenges of minority protection, democratic development, economic recovery and social reconciliation on its own is still limited. Kosovo's political and legal institutions must be further developed, with international assistance and under international supervision. This is especially important to improve the protection of Kosovo's most vulnerable populations and their participation in public life.

12. Kosovo's minority communities — in particular the Kosovo Serbs — continue to face difficult living conditions. The violence perpetrated against them in summer 1999 and in March 2004 has left a profound legacy. While Kosovo's leaders have increased their efforts to reach out to Kosovo Serbs and to improve implementation of standards, protecting the rights of minority communities requires their even greater commitment. At the same time, Kosovo Serbs need to engage actively in Kosovo's institutions. They must reverse their fundamental position of non-cooperation; only with an end to their boycott of Kosovo's institutions will they be able to protect effectively their rights and interests.

13. I therefore propose that the exercise of Kosovo's independence, and its fulfilment of the obligations set forth in my Settlement proposal, be supervised and supported for an initial period by international civilian and military presences. Their powers should be strong — but focused — in critical areas such as community rights, decentralization, the protection of the Serbian Orthodox Church and the rule of law. These powers should be exercised to correct actions that would contravene the provisions of the Settlement proposal and the spirit in which they were crafted. Recognizing Kosovo's current weaknesses, the international community's intensive engagement should extend also to institutional capacity-building. I envisage that the supervisory role of the international community would come to an end only when Kosovo has implemented the measures set forth in the Settlement proposal.

14. Notwithstanding this strong international involvement, Kosovo's authorities are ultimately responsible and accountable for the implementation of the Settlement proposal. They will succeed in this endeavour only with the commitment and active participation of all communities, including, in particular, the Kosovo Serbs.

Conclusion

15. Kosovo is a unique case that demands a unique solution. It does not create a precedent for other unresolved conflicts. In unanimously adopting resolution 1244 (1999), the Security Council responded to Milosevic's actions in Kosovo by denying Serbia a role in its governance, placing Kosovo under temporary United Nations administration and envisaging a political process designed to determine Kosovo's future. The combination of these factors makes Kosovo's circumstances extraordinary.

16. For over a year, I have led the political process envisaged in resolution 1244 (1999), exhausting every possible avenue to achieve a negotiated settlement. The irreconcilable positions of the parties have made that goal unattainable. Nevertheless, after almost eight years of United Nations administration, Kosovo's status must be urgently resolved. My recommendation of independence, supervised initially by the international community, takes into account Kosovo's recent history, the realities of Kosovo today and the need for political and economic stability in Kosovo. My Settlement proposal, upon which such independence will be based, builds upon the positions of the parties in the negotiating process and offers compromises on many issues to achieve a durable solution. I urge the Security Council to endorse my Settlement proposal. Concluding this last episode in the dissolution of the former Yugoslavia will allow the region to begin a new chapter in its history — one that is based upon peace, stability and prosperity for all.

S/2007/168

Annex

Main provisions of the Comprehensive Proposal for the Kosovo Status Settlement

I. General

1. The aim of the Comprehensive Proposal for the Kosovo Status Settlement is to define the provisions necessary for a future Kosovo that is viable, sustainable and stable. It includes detailed measures to ensure the promotion and protection of the rights of communities and their members, the effective decentralization of government, and the preservation and protection of cultural and religious heritage in Kosovo. In addition, the Settlement prescribes constitutional, economic and security provisions, all of which are aimed at contributing to the development of a multi-ethnic, democratic and prosperous Kosovo. An important element of the Settlement is the mandate provided for a future international civilian and military presence in Kosovo, to supervise implementation of the Settlement and assist the competent Kosovo authorities in ensuring peace and stability throughout Kosovo. The provisions of the Settlement will take precedence over all other legal provisions in Kosovo.

II. Provisions of the Settlement

2. **Kosovo's governance**. The Settlement defines the basic framework for Kosovo's future governance. Kosovo shall be a multi-ethnic society, governing itself democratically and with full respect for the rule of law and the highest level of internationally recognized human rights and fundamental freedoms. Kosovo shall adopt a constitution to enshrine such principles. While the Settlement does not prescribe a complete constitution, it defines key elements that must form part of that constitution. Kosovo shall have the right to negotiate and conclude international agreements, including the right to seek membership in international organizations.

3. **Rights of communities**. With respect to the protection and promotion of community rights, the Settlement addresses key aspects to be protected, including culture, language, educations and symbols. Albanian and Serbian shall be the two official languages of Kosovo, while other community languages — such as Turkish, Bosnian and Roma — shall have the status of languages in official use. To ensure adequate representation of communities in public life, the Settlement defines specific representation mechanisms for key institutions. Communities that are not in the majority in Kosovo shall continue to be guaranteed representation in the Kosovo Assembly. To protect their rights in the legislative process, the Settlement also provides that key laws of particular interest to communities may only be enacted if a majority of their representatives present and voting in the Kosovo Assembly agree to their adoption.

4. **Decentralization**. The extensive decentralization provisions are intended to promote good governance, transparency, effectiveness and fiscal sustainability in public service. The proposal focuses in particular on the specific needs and concerns of the Kosovo Serb community, which shall have a high degree of control over its own affairs. The decentralization elements include, among other things: enhanced municipal competencies for Kosovo Serb majority municipalities (such as in the

areas of secondary health care and higher education); extensive municipal autonomy in financial matters, including the ability to receive transparent funding from Serbia; provisions on inter-municipal partnerships and cross-border cooperation with Serbian institutions; and the establishment of six new or significantly expanded Kosovo Serb majority municipalities.

5. **Justice system**. The Settlement includes specific provisions to ensure that the justice system is integrated, independent, professional and impartial. It provides for mechanisms to achieve a justice system that is inclusive of all communities, and in which the judiciary and prosecution service reflect the multi-ethnic character of Kosovo. Moreover, the Settlement provides for, and is premised upon, the access to justice of all persons in Kosovo.

6. **Protection and promotion of religious and cultural heritage**. The Settlement places great emphasis upon ensuring the unfettered and undisturbed existence and operation of the Serbian Orthodox Church in Kosovo. The Church and its internal organization shall be recognized explicitly by the Kosovo authorities, its property shall be inviolable, and it shall enjoy tax and customs duty privileges. Protective zones shall be created around more than 40 key religious and cultural sites. Without prejudice to ownership of the property in protective zones, specific restrictions shall apply to activities within those zones to guarantee the peaceful existence and functioning of major religious and cultural sites. NATO shall also provide additional physical security for selected sites, until such time as the military presence decides the conditions have been met for a transfer of their protection responsibilities to the Kosovo Police Force.

7. **Returns/protection of property**. All refugees and internally displaced persons from Kosovo shall have the right to return and reclaim their property and personal possessions based upon a voluntary and informed decision. The Settlement reaffirms the principle that displaced persons shall be able to return to a place of their choice in Kosovo, and not only to their original place of residence. The Settlement also calls upon Kosovo and Serbia to cooperate fully with each other and the International Committee of the Red Cross to resolve the fate of missing persons.

8. **Economy**. The Settlement includes specific provisions designed to promote and safeguard sustainable economic development in Kosovo. The Settlement prescribes transparent procedures to settle disputed property claims and for a continued privatization process, both with substantial international involvement. In addition, the Settlement defines mechanisms to determine Kosovo's share of Serbia's external debt, and to address the issue of property restitution.

9. **Security**. The Settlement provides for a professional, multi-ethnic and democratic Kosovo security sector, encouraging significant local ownership in its development, while retaining a level of international oversight necessary for ultimate success in this sensitive area. The Kosovo Police Force shall have a unified chain of command throughout Kosovo, with local police officers reflecting the ethnic composition of the municipality in which they serve. In Kosovo Serb majority municipalities, the Municipal Assembly shall have enhanced competencies in the selection of the police station commander. A new professional and multi-ethnic Kosovo Security Force shall be established within one year after the end of the 120-day transition period envisaged in the Settlement. It shall have a maximum of 2,500 active members and 800 reserve members. The Settlement stipulates that

the current Kosovo Protection Corps shall be dissolved within one year after the end of the transition period.

10. **Future international presence**. In general, Kosovo shall be responsible for the implementation of the Settlement. To safeguard and support such implementation, the Settlement defines the role and powers of the future international civilian and military presences.

11. **International Civilian Representative**. The International Civilian Representative, who shall be double-hatted as the European Union Special Representative and who shall be appointed by an International Steering Group, shall be the ultimate supervisory authority over implementation of the Settlement. The International Civilian Representative shall have no direct role in the administration of Kosovo, but shall have strong corrective powers to ensure successful implementation of the Settlement. Among his/her powers is the ability to annul decisions or laws adopted by Kosovo authorities and sanction and remove public officials whose actions he/she determines to be inconsistent with the Settlement. The mandate of the International Civilian Representative shall continue until the International Steering Group determines that Kosovo has implemented the terms of the Settlement.

12. **European Security and Defence Policy Mission**. The European Security and Defence Policy Mission shall monitor, mentor and advise on all areas related to the rule of law in Kosovo. It shall have the right to investigate and prosecute independently sensitive crimes, such as organized crime, inter-ethnic crime, financial crime, and war crimes. In addition, it shall have limited executive authority to ensure Kosovo's rule of law institutions are effective and functional, such as in the areas of border control and crowd and riot control.

13. **International Military Presence**. The International Military Presence shall be a NATO-led military mission. It shall continue the current task of the Kosovo Force (KFOR) to provide a safe and secure environment throughout Kosovo, in conjunction with the International Civilian Representative and in support of Kosovo's institutions until such time as Kosovo's institutions are capable of assuming the full range of security responsibilities.

14. **Organization for Security and Cooperation in Europe mission in Kosovo**. The Organization for Security and Cooperation in Europe, with an extensive field presence in Kosovo, is requested to assist in the monitoring necessary for a successful implementation of the Settlement.

III. Implementation

15. Upon the entry into force of the Settlement, there shall be a 120-day transition period during which the existing mandate of UNMIK remains unchanged.

16. During the transition period, the Kosovo Assembly, in consultation with the International Civilian Representative, shall be responsible for approving a new constitution and the legislation necessary for the implementation of the Settlement and the establishment of the new Kosovo institutions it calls for. The constitution and legislation shall become effective immediately upon the conclusion of the transition period.

17. At the end of the transition period the UNMIK mandate shall expire and all legislative and executive authority vested in UNMIK shall be transferred en bloc to the authorities of Kosovo, in accordance with the Settlement.

18. Finally, general and local elections are to be held within nine months of the entry into force of the Settlement.

ANNEX 3

List of UN Security Council meetings on Kosovo during my mandate as SRSG. Detailed documents can be obtained through: http://www.un.org/Depts/dhl/resguide/scact.htm

1. S/PV.5522 13 Sept. 2006
2. S/PV.5531 (closed) 22 Sept. 2006
3. S/PV.5588 13 Dec. 2006
4. S/PV.5640 (closed) 19 Mar. 2007
5. S/PV.5654 (closed) 3 Apr.2007
6. S/PV.5672 2 May 2007
7. S/PV.5673 10 May 2007
8. S/PV.5811 (closed) 19 Dec. 2007
9. S/PV.5822 (closed) 16 Jan. 2008
10. S/PV.5835 (closed) 14 Feb. 2008
11. S/PV.5839 18 Feb. 2008
12. S/PV.5850 11 Mar. 2008
13. S/PV.5871 (closed) 21 Apr. 2008
14. S/PV.5917 20 June 2008

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NOTES

[1] See Annex 1.

[2] UNSC Res. 1244 (1999) paras. 11(g), 17.

[3] *J. Rücker*, Grenzen neoliberaler Strategie im Nord-Süd-Konflikt, Freiburg 1982.

[4] UNMIK European Union Pillar, The 10 Key Achievements: End of Mission Report 1999-2008, Mitrovica, September 2008, p. 17.

[5] Ibid.

[6] Ibid., p. 8.

[7] International Crisis Group (ICG) Europe Report No. 155, Collapse in Kosovo, 22 April 2004, p. 6. The report is available at: http://www.crisisgroup.org.

[8] In March, throughout Kosovo, Albanian mobs targeted anything that was Serb. In the end, 19 people were dead, 11 Kosovo Albanians and 8 Kosovo Serbs, over 30 Serb Orthodox churches were damaged or destroyed, and some 4,000 Kosovo Serbs and others were displaced. See for example UNMIK, 1999-2008, June 2008, p. 7, available at:

http://www.joachim-ruecker.de/UNMIK1999-2008.pdf. See also p. 41 and endnote 33.

[9] ICG Europe Report No. 155, Collapse in Kosovo, p. 6.

[10] *A. Wittkowsky*, Squaring the Circle: A Short History of UNMIK's European Union Pillar, 1999-2008, Südosteuropa Mitteilungen 1 (2009), p. 24.

[11] *H. Grabbe*/ *G. Knaus*/ *D. Korski*, Beyond wait-and-see: the way forward for EU Balkan policy, European Council on Foreign Relations Policy Brief, London 2010, p. 4.

[12] See: http://www.esiweb.org/pdf/esi_document_id_80.pdf, p. II.

[13] UNMIK EU Pillar, Key agreements driving Kosovo's economic development, p. 9, available at: http://www.unmikonline.org/archives/EUinKosovo/upload/Regional%20integration%20Key%20agreements%20driving%20Kosovos%20economic%20development%20FINAL.pdf

[14] http://www.unmikonline.org/archives/euinkosovo/upload/Joint%20EC%20WB%20Concluding%20Statement%20Donor%20Meeting%205%20April%202006.pdf

[15] UNMIK European Union Pillar, The 10 Key Achievements: End of Mission Report, p. 3.

[16] http://daccessdds.un.org/doc/UNDOC/GEN/N08/377/90/PDF/N0837790.pdf?OpenElement, p. 2, para 9.

[17] See for example: *S. Drude*, Hundert Wochen Kosovo, Aachen 2008.

[18] See for example: http://www.unmikonline.org/press/2002/mon/dec/lmm051202.

[19] *A. Wittkowsky*, Squaring the Circle, pp. 28-29.

[20] Compare: Ibid., pp. 28-31.

[21] UNDP. Early Warning Report Kosovo No. 13, January – June 2006. See: http://www.ks.undp.org/repository/docs/undp-ewr-final15.08.2006.pdf, p. 43.

[22] Laura Katona, Ceku and Ruecker do not agree on who is to blame for the "dark", Koha Ditore, 5 August 2006, p. 2. See also UNMIK Media Monitoring, 5 August 2006: http://www.unmikonline.org/archives/EUinKosovo/upload_economic/Economic%20News%2005%2006%20August%20FINAL.pdf.

[23] On this issue, see for example *M. Henneke*, Heated atmosphere in freezing cold, Focus Kosovo January/February2006, at: http://www.unmikonline.org/pub/focuskos/feb06/focuskeco1.htm.

[24] Compare UNMIK EU Pillar, Privatisation in Kosovo – an economic success story, Pristina 2008.

[25] Recently, the Kosovar Institute for Policy Research and Development (KIPRED) has published an interesting report on "The Fragile Triangle" between police, public prosecutors and Kosovo courts. See: http://kipred.net/site/documents/TheFragileTriangle.pdf

[26] The issue of sufficient factual evidence is also relevant in the context of alleged KLA crimes, e.g. of organ-trafficking

and disappearances, mentioned in Carla Del Ponte's memoirs from April 2008 and, based on these, in findings of the Council of Europe's Legal Committee. See: https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=PR977(2010)&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE

[27] Letter from the Secretary-General addressed to the President of the Security Council, 7 Oktober 2005, S/2005/635. See: http://www.unosek.org/docref/KaiEidereport.pdf.

[28] To better understand the Albanian perspective of the historic battle it is helpful to read *I. Kadare*, Elegy for Kosovo, New York 2000.

[29] For further details on Albanian political development during the 1990s see *N. Malcolm*, Kosovo: Short History, New York 1998; *F. Bieber/ Ž. Daskalovski*, Understanding the war in Kosovo, London 2003.

[30] For more on Adem Jashari and his role in Kosovo's Albanian myth making see for example *A. Di Lellio*, The Case for Kosova: Passage to Independence, London / New York 2006.

[31] *T. Judah*, Kosovo: War and Revenge, Yale 2000. p. 140.

[32] *S. Sullivan*, Be Not Afraid, For You Have Sons in America: How a Brooklyn Roofer Helped Lure the U.S. into the Kosovo War, New York 2004.

[33] *T. Judah*, Kosovo: War and Revenge.

[34] Elections in Kosovo have been organized and monitored by the OSCE. For further details on results and their

conduct see the organization's mission in Kosovo website: http://www.osce.org/kosovo/.

[35] For complete results on Kosovo elections see the OSCE website: www.osce.org/kosovo/13208.html.

[36] For an account of the facts and background on the political context underlying the March 2004 riots see ICG Europe Report No. 155, Collapse in Kosovo. See also pp. 13-14 and endnote 8.

[37] A score of media have extensively written on the prospects of Haradinaj's election as Kosovo's prime minister and also the alarm that international officials felt about this choice in Kosovo. A story from New York Times on Nov. 22, 2004, while not the only analysis on this event, captures the essence of these developments. See *N. Wood*, "Ex-Guerrilla is Put Forward as Kosovo's Prime Minister", New York Times, 22 November 2004.

[38] The full description of charges against Haradinaj can be found in the ICTY indictment *(Prosecutor v. Haradinaj, Balaj and Brahimaj*, Indictment, ICTY Case No. IT-04-84-I, 4 March 2005) at: http://www.icty.org/x/cases/haradinaj/ind/en/har-ii050224e.pdf. After two years of trial, Haradinaj was acquitted.

[39] See for example: http://setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2005/10/31/feature-01.

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and can be found at: http://www.unmikonline.org/regulations/1999/re99_08.pdf.

[41] UNOSEK, Guiding Principles of the Contact Group for a Settlement on the Status of Kosovo, 7 Oktober 2005. See: http://www.unosek.org/docref/Contact%20Group%20-%20Ten%20Guiding%20principles%20for%20Ahtisaari.pdf.

[42] UNOSEK, Statement of the Contact Group on the Future of Kosovo, 31 January 2006. See: http://www.unosek.org/docref/fevrier/STATEMENT%20BY%20THE%20CONTACT%20GROUP%20ON%20THE%20FUTURE%20OF%20KOSOVO%20-%20Eng.pdf.

[43] *T. Judah*, Kosovo: War and Revenge, p. 128; UNOSEK, Statement of the Contact Group on the Future of Kosovo.

[44] UNOSEK, Contact Group Statement at the High-Level Meeting on the Future Status of Kosovo, Vienna 24 July 2006. See: http://www.unosek.org/docref/Statement_of_the_Contact_Group_after_first_Pristina-Belgrade_High-level_meeting_held_in_Vienna.pdf.

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UNMIK and the Significance of Effective Programme Management: The case of Kosovo, in: *H. Hänggi Vincenza Scherrer (Eds.),* Security Sector Reform and UN Integrated Missions, Experience from Burundi, The Democratic Republic of Congo, Haiti and Kosovo, Wien/Zürich/Berlin 2008, pp 169-219. *H. Hänggi*, Establishing Security in Conflict-Affected Societies: How to Reform the Security Sector, in: *J. Krause/ Charles King Mallory IV* (eds.), International State Building and Reconstruction Efforts, Aspen Institute Germany, Opladen & Farmington Hills 2010, pp 77-97.

[47] Report of the Special Envoy of the Secretary General on Kosovo's Future Status, 26 March 2007, see Annex 2 and: http://www.unosek.org/docref/report-english.pdf; Comprehensive Proposal for the Kosovo Status Settlement, 26 March 2007, see: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/279/01/IMG/N0727901.pdf?OpenElement

[48] *M. Mazower*, The Balkans: A Short History, London 2000, p. 154.

[49] Comprehensive Proposal for the Kosovo Status Settlement, Articles 10-11.

[50] Comprehensive Proposal for the Kosovo Status Settlement, Article 15.

[51] UNOSEK, Contact Group Statement on the Situation in Northern Kosovo, 4 August 2006. See: http://www.unosek.org/docref/2006-08-04_-_CG%20_Statement_on_the_situation_in_Northern_Kosovo-english.pdf.

[52] See UNMIK Media Monitoring 8 February 2007: http://www.unmikonline.org/dpi/localmed.nsf/0/ABF9018F1E58F090C125727C0031AC6D/$FILE/Headlines%20-%2008.02.07.

[53] See: http://www.un.org/apps/news/story.asp?NewsID=23130&Cr=kosovo&Cr1

[54] *W. Hoge*, Russia Objects To U.N. Plan For Kosovo As 'One-Sided', New York Times, 20 March 2007, p. A3.

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[56] http://www.un.org/Docs/sc/scrules.htm.

[57] Focus Kosovo, May 2007, p.3; available at: http://www.unmikonline.org/pio/fokus_kosovo_eng.htm.

[58] Briefing by the Head of the Security Council Mission on the Kosovo Issue, New York 2 May 2007, S/PV.5672. See: http://www.unosek.org/docref/s-pv5672-briefing%20by%20the%20Head%20of%20the%20UNSC%20mission%20to%20Kosovo%20-%202007-05-01.pdf.

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[65] http://www.b92.net/eng/news/politics-article.php?yyyy=2007&mm=08&dd=14&nav_category=91&nav_id=43023.

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[71] Statement Troika Meeting with Belgrad and Pristina, New York, 28 September 2007. The Statement can be found at: http://www.ico-kos.org/pdf/troik28.pdf.

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[74] http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/634/56/PDF/N0763456.pdf?OpenElement.

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[79] *A. Palokaj*, Pavaresia me 17 shkurt ose me 9 mars, Koha Ditore, 26 January 2008, p. 1.

[80] Ibid.

[81] Secretary General's press conference with Slovakian President Ivan Gasparovic (unofficial transcript),

Bratislava, 28 January 2008. The transcript can be found at: http://www.un.org/apps/sg/offthecuff.asp?nid=1123.

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[83] Rugova's picture endangered declaration of independence, Koha Ditore, 21 February 2008, see UNMIK Media Monitoring 21 February 2008, p. 1, at: http://www.unmikonline.org/dpi/localmed.nsf/f0300?OpenForm.

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[85] http://www.buzzle.com/articles/179002.html.

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[87] Heinrich Böll Stiftung, Jahresbericht 2007, Berlin 2008, p. 27, available at: http://www.boell.de/downloads/stiftung/Boell_Jahresbericht_2007-V24-kommentierbar.pdf; see also: http://www.newkosovareport.com/20071124215/Politics/ruecker-kosovo-is-ready-for-independence.html

[88] http://dalje.com/en-world/serbian-leader-no-longer-trusts-coalition-allies/130118.

[89] ICG Europe Briefing No. 49, Will the Real Serbia Please Stand Up?, 23 April 2008, p. 6.

[90] http://www.msp.rs/Bilteni/Engleski/b170208_e.html#N5.

[91] ICG Europe Briefing No. 47, Kosovo's First Month, 18 March 2008, p. 2. See: http://www.crisisgroup.org/~/media/Files/europe/b47_kosovo_first_month.ashx.

[92] http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/377/90/PDF/N0837790.pdf?OpenElement.

[93] http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/377/90/PDF/N0837790.pdf?OpenElement, p. 5, para 19.

[94] See p.20

[95] http://www.b92.net/eng/news/politics-article.php?yyyy=2008&mm=6&dd=12&nav_id=51037&version=print.

[96] Tadic: Kosovo Constitution legally invalid, B92, 15 June 2008. The article can be found at: http://www.b92.net/eng/news/politics-article.php?yyyy=2008&mm=06&dd=15&nav_id=51104.

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Also useful in this general context: *S. Weiss/ H.J. Spanger/ W. van Meurs* (eds.), Diplomacy, Developmentand Defense: A Paradigm for Policy Coherence, Gütersloh 2009.

1. With employees of the Trepča Mining Complex. August 2006

2. At the Ibar river bank, participating in a clean-up project in Mitrovica. October 2006

3. With COMKFOR and Prime Minister Çeku answering questions from the media. November 2006

4. Outreach meeting in Novobërdë/Novo Brdo with Deputy Prime Minister Lutfi Haziri and Mayor Petar Vasić. December 2006.

5. With Prime Minister Çeku at the opening ceremony of the privatized flourmill "M & Sillosi". November 2006

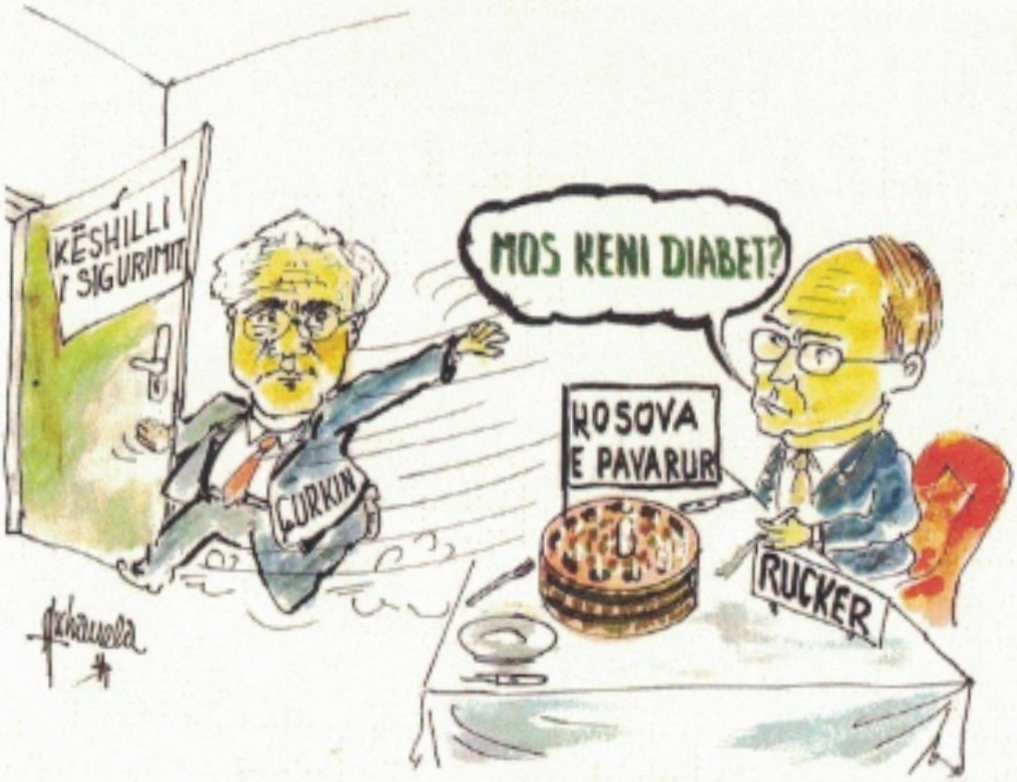
6. With Bishop Teodosije, Father Sava and KFOR officials at the medieval Orthodox Church of Visoki Dečani after the Orthodox Christmas Service. January 2007

7. UN Special Envoy Martti Ahtisaari comes to Pristina to present his proposal to the President Fatmir Sejdiu and the Team of Unity...

8. ...and to talk to the media, here together with Deputy Special Envoy Albert Rohan and spokeswoman Hua Jiang. February 2007

9. An Albanian man holds the Albanian flag during a Vetevendosje protest outside UNMIK headquarters. February 2007

10. Inauguration of the reconstructed Roma Mahala (Roma neighborhood) in South Mitrovica. March 2007



11. A cartoon depicting myself offering an "independence cake" to Russia's UN Ambassador Vitaly Churkin: "Are you diabetic?" By Kosovo cartoonist Fahri Axhanela. March 2007

12. Russia's UN Ambassador Vitaly Churkin arriving at UNMIK headquarters in Pristina during the UN Security Council visit to Kosovo. April 2007

13. UN Security Council delegation members in a morning briefing at UNMIK headquarters in Pristina. April 2007

14. Sharing a light moment with South African Ambassador Dumisani Kumalo during the Security Council visit to Kosovo. April 2007

15. With children painting the concrete barricade outside the UN mission in Kosovo. June 2007

16. With Lt.-Gen. Sylejman Selimi, commander of the Kosovo Protection Corps, during a field training exercise at Batlava Lake. June 2007

17. Arriving at UN headquarters in New York with COMKFOR, Lt.-Gen. Roland Kather. July 2007

18. During one of the Kosovo sessions at the UN Security Council with Prime Minister Çeku and UNMIK Political Director Bernd Finke. July 2007

19. Always good support from France: with French Foreign Minister (and former UNMIK SRSG) Bernard Kouchner. July 2007

20. …and with French Defense Minister Hervé Morin, August 2007

21. Outdoor meeting with citizens in Zheger/Žegra. August 2007

22. With citizens near Gjilan/Gnjilane. August 2007

23. Meeting with the Team of Unity. Clockwise to my right are President Fatmir Sejdiu, opposition leader Hashim Thaçi (PDK), Steven Schook (PDSRSG UNMIK), Skender Hyseni (LDK), Fredrik Wesslau (Special Advisor UNMIK), Ylber Hysa (ORA) and Prime Minister Agim Çeku. August 2007

24. At a meeting of the Foreign ministers of the South East European Co-operation Process (SEECP). The meeting took place in the Korona Express train, which used to belong to Tsar Boris III. September 2007

25. Visiting the "Adem Jashari" memorial complex in in Prekaz. September 2007

26. With the Minister of Trade and Industry Bujar Dugolli and then opposition leader Hashim Thaçi at the inauguration of the NewCo Ferronikeli in Gllogovc/ Glogovac. September 2007

27. Addressing the media after a UN Security Council session on Kosovo. October 2007

28. Meeting with Kosovo Serb youth representatives. November 2007

29. Meeting with Sonja Biserko, the chairwoman of the Serbian Helsinki Committee for Human Rights. November 2007

30. Greeting invitees at the UNMIK/KFOR Joint New Year Reception together with COMKFOR Lt.-Gen. de Marnhac. January 2008

31. With TV 21 anchorwoman Antigona Baxhaku during one of the numerous interviews. March 2008

32. With COMKFOR and Prime Minister Thaçi answering questions from the media after 17 February 2008 – the arrangement underlines that the UN is still in charge. February 2008

33. EU Foreign Ministers meeting in Brdo, Slovenia. March 2008

34. At Pristina Airport with Transport Minister Fatmir Limaj and Prime Minister Hashim Thaçi to my left. May 2008

35. During a press briefing at UNMIK headquarters in Pristina. For close to a decade UNMIK's Division of Public Information held weekly press conferences open for local and international media. June 2008

36. Bota Sot frontpage: "The Last Traditional SRSG". June 2008

37. Joint Farewell Reception (SRSG and PDSRSG Larry Rossin). June 2008

38. Joint Farewell Reception. June 2008

39. Joint Farewell Reception. June 2008

41. Handing over to the EU—partially at least. Meeting with Javier Solana, the High Representative for the Common Foreign and Security Policy.