

FFI RAPPORT

TACKLING TERRORISM TOGETHER. Potential Benefits of Civil-Military Cooperation in Post-Conflict Territories - The Kosovo Case

Aaser, Josefine Ingela

FFI/RAPPORT-2003/00329

FFISYS/845.161

Approved
Kjeller 15. October 2003

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P O BOX 25
 N0-2027 KJELLER, NORWAY
REPORT DOCUMENTATION PAGE

SECURITY CLASSIFICATION OF THIS PAGE
 (when data entered)

1) PUBL/REPORT NUMBER FFI/RAPPORT-2003/00329	2) SECURITY CLASSIFICATION UNCLASSIFIED	3) NUMBER OF PAGES 55
1a) PROJECT REFERENCE FFISYS/845/161	2a) DECLASSIFICATION/DOWNGRADING SCHEDULE -	
4) TITLE TACKLING TERRORISM TOGETHER. Potential Benefits of Civil-Military Cooperation in Post-Conflict Territories – The Kosovo Case		
5) NAMES OF AUTHOR(S) IN FULL (surname first) Aaser, Josefine Ingela		
6) DISTRIBUTION STATEMENT Approved for public release. Distribution unlimited. (Offentlig tilgjengelig)		
7) INDEXING TERMS IN ENGLISH:		
a) <u>Terrorism</u>		IN NORWEGIAN:
b) <u>Peacekeeping</u>		a) <u>Terrorisme</u>
c) <u>NATO</u>		b) <u>Fredsbevaring</u>
d) <u>International Institutions</u>		c) <u>NATO</u>
e) <u>Kosovo</u>		d) <u>Internasjonale institusjoner</u>
		e) <u>Kosovo</u>
THESAURUS REFERENCE:		
8) ABSTRACT This report explores whether and how civil-military security cooperation in peace operations can be a resource in counter-terrorism by studying the international presence in Kosovo 1999-2002. The Kosovo terrorism scene is one of a nationalist dissident type, and includes significant elements of organized crime and ethnic violence. Civil-military cooperation is here defined as cooperation between KFOR and UNMIK. Institutionally, cooperation is a firmly established principle on the command level. Inherent structural differences between civil and military organizations have produced somewhat different goal perceptions, however, where KFOR is exit oriented and UNMIK is end state oriented. Operationally, cooperation overwhelmingly takes place through task division and a reactive day-to-day approach to challenges in the field as they appear. Joint operations are generally planned and executed on brigade level and below, and have been relatively rare but quite successful. Cooperation in the field has unquestionably yielded results in terms of resource efficiency and an improved security situation on the ground. Obstacles to extended cooperation seem to be of a practical nature, stemming mainly from institutional differences as well as national agendas. In conclusion, there is reason to believe that civil military cooperation offers untapped benefits in counter-terrorism endeavors, and that this option should be further investigated		
9) DATE 15. October 2003	AUTHORIZED BY This page only Ragnvald Solstrand	POSITION Director of Research

ISBN-82-464-0756-2

UNCLASSIFIED

SECURITY CLASSIFICATION OF THIS PAGE
 (when data entered)

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TACKLING TERRORISM TOGETHER. Potential Benefits of Civil-Military Cooperation in Post-Conflict Territories - The Kosovo Case

1 INTRODUCTION

The present report deals with two central issues currently high on the agenda of international relations: Peace operations, and the fight against terrorism. Both of these issues have emerged as focal points of international cooperation in the past few years. Conflicts both within and between states have proliferated since the end of the Cold War, and have in turn created malicious spill over effects in other countries and societies. Peace operations and terrorism are both elements in this problem complex. There is a general consensus that terrorism, "the weapon of the weak", is frequently born out of conflict. It is employed to alter preferences and goals of opponents and their supporters when it is obvious they cannot be defeated in open combat. Peace operations, on the other hand, are launched as a means to help opponents of a conflict to settle their differences in a peaceful way. If a conflict is settled in a way that all parties can support, the ground for terror should also be barred.

The heightened terror alert world wide the last few years has prompted a greatly intensified search for ways to predict and protect societies against terrorism, taking into consideration the fact that traditional security planning has failed at crucial points. This report is one modest contribution to that quest. It explores if and how civil-military security cooperation in peace operations can be a valuable contribution in what has become known as "the fight against terrorism", by looking into the experiences of the international presence in Kosovo in this field.

The following two chapters are introductions to the issue of terrorism and the case of Kosovo respectively, followed by a chapter on the crime/terror scene in Kosovo. The ensuing analysis of civil-military cooperation in counter-terrorism in Kosovo is organized around the difference between institutional and operational cooperation, and different categories of crime. Terrorism and organized crime will be treated as integral to each other. The final chapter is a summary of the findings and makes the basis for an evaluation of the value of civil-military cooperation in counter-terrorism in a peace operations setting.

The report is based on a graduate thesis presented at the University of Oslo, Department of Political Science, in May 2003, by the author.¹

¹ Josefine Ingela Larsen (2003): "The significance of success criteria for civil-military security cooperation in Kosovo".

2 ON TERRORISM

No single definition of terrorism exists. Indeed, the question of a terrorism definition is politicised, as it will inevitably reflect any particular concern or interest of the formulator. However, most definitions in use share some common denominator, which together give meaning to the concept²: *"Politically motivated illegal use of violence, or threats of violence, against innocent and frequently civilian targets, committed by non-state actors"*.³

APPENDIX Acts of terror can be said to be instrumental, in that they are committed for the purpose

of provoking political change of some sort. A key feature of terror acts is the surprise element, their unpredictability. The victims tend to be random and not directly linked to or responsible for the circumstances deemed unacceptable by the perpetrators. At the base of terror act lay almost always extremist beliefs. The terrorists define themselves and their cause as righteous and just, and above all of superior priority to everything else. Consequently, the loss of innocent lives tends to be seen as a regrettable but necessary price to pay in order to bring across the message.⁴

All of the above characteristics make terrorism especially able to create fear in societies, and the need to pre-empt terror acts is perceived as acute. At the same time, the nature of terrorism is such that ordinary security planning does not adequately address the threat that it constitutes. The security apparatus of states tends to be designed to meet military threats from other states. As argued above, terrorism does not work in this way. It constitutes what is called an *asymmetric threat*.

3 ON KOSOVO

The background for the international intervention in Kosovo is well known. Suffice it here to point out circumstances of special significance for the subject of civil-military security cooperation.

3.1 Historical background

Kosovo is a province in the Federal Republic of Yugoslavia (FRY, or Yugoslavia) that enjoyed considerable autonomy until 1989, when president Slobodan Milosevic brought it under direct control of Belgrade. Its population consists of a majority of Kosovo Albanian Muslims and a minority of Serb orthodox Christians. The change of status of Kosovo led to a privileged position for Serbs on the expense of Albanians, in the eyes of the latter. Albanians charged an

² Martin (2003), 32.

Cronin (2003), 33.

³ Violence committed by state actors is notoriously difficult to brand illegal, as the use of force is the prerogative of states in the international community as we know it.

⁴ Martin (2003), 30

independence struggle, seeking to break free from Yugoslavia to form their own state. Violent conflict between (Albanian) independence fighters and (Serb) Yugoslav police and paramilitary forces erupted, widely involving attacks also on civilians. Repeated attempts by the international community fronted by NATO to help the parties reach a peaceful, mediated solution, failed. Meanwhile refugees were flooding out of Kosovo reporting human rights abuses conspicuously sounding like organized ethnic cleansing by Serbs against Kosovo Albanians. The United Nations Security Council (UNSC) issued increasingly sharp resolutions calling upon the parties to stop the atrocities. UNSC Resolution 1203 of October 1998 affirms that the ongoing situation constitutes a threat to peace and security in the region, *acts* under Chapter VII⁵, and goes on to list a number of demands to be met by Yugoslavia. It does not actually call for armed intervention in the case of non-compliance.⁶

NATO *interpreted* the UNSCR 1203 as a green light for intervention.⁷ The military activities that paved the way for Yugoslavia's surrender were not, however, unequivocally supported by international law.⁸ On June 9th 1999 the so-called Military Technical Agreement (MTA) was signed between the Kosovo International Security Force KFOR, and the governments of the Federal Republic of Yugoslavia and the Republic of Serbia. The Agreement outlines conditions for all Yugoslav forces' withdrawal from Kosovo and a mandate for KFOR operations in Kosovo. UNSCR 1244 was adopted unanimously on June 10th. The same day NATO's North Atlantic Council authorized the deployment of KFOR troops, an operation named "Operation Joint Guardian". The actual deployment started on June 12th.

3.2 The Mandate: UNSCR 1244

The presence of KFOR and the United Nations Mission in Kosovo (UNMIK) in Kosovo enjoys a clear mandate in UNSCR 1244 of June 1999, based on Chapter VII. The legality of the international presence in Kosovo is thus formally not disputed, except by the Former Yugoslav Republic, which claims the restoration of its rightful sovereignty as a state.⁹

The entire mandate text (UNSCR 1244) is provided in Annex 1. It is nevertheless appropriate at this point to highlight some vital features of the mandate, which significantly shape and direct the efforts of the civil-military security cooperation in Kosovo.

First of all, the mandate does not envisage an end state for Kosovo. The final political status of Kosovo is simply left out of the mandate with the notorious goal formulation:

⁵ Chapter VII of the UN Charter refers to threats and/or breaches of international peace, and is the only chapter in the Charter that can authorize armed intervention against sovereign states. (Fife (1996), 29.)

⁶ www.kforonline.org; www.unmikonline.org; March 2002

⁷ www.kforonline.org; March 2002

⁸ The 1999 NATO air raids against Yugoslavia over Kosovo is a problematic issue legally speaking. The issue of military action was never brought up in the UNSC – it would not have passed the Russian vote and probably not the Chinese one. The UNSC never disowned the NATO actions either. That would not have passed the American and British votes. The air strikes were not sanctioned and not condemned.

⁹ The Kosovo Report 2000: 101-102

“[establishing an international 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 in Kosovo [.....] pending a political solution*”.¹⁰

Bearing in mind that conflict over Kosovo’s political status and independence aspirations were crucial elements in the preceding violence, this looks like a recipe for continuous unrest.

Maintained inter-group violence and non-compliance with the mandate has indeed proved a highly salient problem for the international presence.

....Secondly, the UN explicitly instructs the security presence (NATO’s KFOR forces) and the civilian presence (UNMIK) to “*coordinate their activities closely to ensure that both the military and the civilian presences operate in a mutually supportive manner towards the same goals, as required by paragraphs 6 and 9 (f) of resolution 1244 (1999)*”.¹¹ The Kosovo operation is an example of international administration, the most comprehensive form of peace support operations (PSO) in terms of societal penetration and use of force. The international presence is charged with, among a range of other tasks, re-establishing security for the peoples and territory of Kosovo – both inside the territory and on the borders.¹² In a post-conflict territory it is frequently the case that domestic security institutions have either disintegrated or been forcefully dismantled by intervention forces, creating a security void in the society. In addition comes the fact that post-conflict areas tend to be plagued by especially serious security threats, including organized crime and violence, terrorism, and a general proliferation of arms and low thresholds for their use. International forces have increasingly been pushed into assuming actual policing tasks under such circumstances.¹³ In Kosovo, they have indeed been assigned such a role by the UN – as a transitional arrangement pending a political solution. UNSCR 1244 instructs the “security presence” – that is KFOR – to maintain security internally as well as externally until such a time when UNMIK is prepared and fit to take over responsibility for civilian law and order. This process is ongoing at the time of writing.¹⁴

4 ON KOSOVO AND THE PROBLEM OF TERRORISM

Before looking more closely into coordinated civil-military measures against terrorism in Kosovo, it is necessary to discuss the definition of terrorism employed for this project. Gus Martin (2003) proposes a typology of terrorism, largely organized around the motivations of

¹⁰ Emphasis added by author.

¹¹ Report of the Secretary General to the Security Council # S/1999/672, II 7.

¹² Caplan (2002), 13-16

¹³ Hansen (2002), 31

the groups in question. The dominating challenges in Kosovo come from nationalist dissident terrorism, and criminal-political terrorism.

Nationalist dissident terrorism refers to people who champion national aspirations of (a) group(s) distinguished by cultural, religious, ethnic or racial heritage. They seek autonomy, self-governance, or independence, and try to motivate one demographic group against another, or against a government. Terrorism has historically been an attractive tool for national dissidents because they usually face an opponent with overwhelming military capabilities (a state). They would be chanceless in traditional combat with the opponent. The basic terror strategy of national dissidents is to raise the opponent's costs of status quo so much that withdrawal becomes a better option.

Criminal-political terrorism is a phenomenon of blurred lines between political extremism, organized crime, and trafficking. Said simply, it consists of engaging in lucrative criminal activity, such as smuggling of drugs or arms, in order to finance a dissident movement and/or cause. It is a convergence of interests between profit-oriented criminals and political extremists, a pattern increasingly evident in the terrorism problematique all over the world.

The relevance for Kosovo is as follows: The Albanian nationalist group KLA (Kosovo Liberation Army) did employ terrorism as a part of their independence struggle leading up to the 1999 NATO involvement in Kosovo. This was financed by controlling drug trafficking, primarily heroin, from Afghanistan and Pakistan to the Western European markets – the so-called Balkan Route. The income from drugs sales was used to buy illegally trafficked weapons mainly from Georgia and Chechnya.¹⁵ When NATO intervened in Kosovo, disarming and dismantling the KLA was a task of the highest priority, considered completed by September 1999. Since then, the involvement of former KLA combatants in organized and armed opposition to the international presence as well as organized crime has been a persistent problem. Trafficking in drugs and arms remains a stable and high source of income. High profile attacks on moderate political leaders as well as ethnic minorities bearing signs of being highly motivated and carefully planned have also occurred.

Whenever former KLA fighters are suspected and apprehended for such acts, the international security personnel has met a wall of silence from the community, who generally has opted not to come forward with any information.¹⁶ This speaks of a worrisome degree of communal support to the causes of the nationalist groups and their criminal means of operation. Consequently, it can be argued that terrorism in Kosovo is motivated by nationalist goals, financed by organized criminal activity, and probably silently supported by significant parts of the civilian population.

UNMIK Police claims in their 2000 Annual Report that terrorism is a sporadic phenomenon in Kosovo. This is a statement that must be modified. UNMIK Police in this context refers to organized violence against minorities to make them leave Kosovo, and

¹⁵ Martin (2003), 206-7

against moderate political leaders and symbols in order to reverse the political developments towards reconciliation. While spectacular acts of terrorism comparable to, for example, the Bali Blast in October 2002 may be few and far between in Kosovo, there have certainly been events that clearly qualify as terrorism. A rocket attack on a bus carrying Serbs safely from one enclave to another in Kosovo in March 2000 is one example. A bomb attack on a Yugoslav civil servant in Pristina in April 2001 is another. Moreover, it is very important to ask how ethnic violence is categorized. If all violence and all threats committed in Kosovo out of ethnic antagonisms with the purpose of making a political statement were to be defined as terrorism, then terrorism is a pressing issue in Kosovo. Nearly every report of the UN Secretary General to the UN Security Council pursuant to UNSCR 1244 stresses the continued dire security situation of minorities in Kosovo. Ethnically motivated violence is not one thing; rather, it is a phenomenon which exists along a continuum. It can be argued that only organized attacks with many casualties qualify for a proper terrorism definition.

However, because terrorism in the present context clearly is of a nationalist-dissident kind, ethnic violence must be considered as a central challenge for the international presence in Kosovo and as an aspect of terror. The emphasis will here be on the *motivations for violence*, and ethnic violence will therefore be discussed as a relevant element in counter-terrorism efforts.

5 ON CIMIC AGAINST TERRORISM IN KOSOVO

For the reasons explained in the previous chapter, organized crime and terrorism will be treated as two sides of the same story in this context. Several concerns regarding the value of civil-military security cooperation against terrorism will be discussed in the following.

Civil-military security cooperation is here understood as cooperation between UNMIK and KFOR, in line with the UNSG's role distribution. It can be analysed in a meaningful way by reviewing on one hand institutional aspects, and on the other hand operational aspects. Through such an approach both formal and actual cooperation will be brought into the light. On the basis of this review, some topics of particular relevance for the research questions will be more thoroughly discussed. These are civil-military collaboration in the law enforcement sector, generation and use of intelligence, judicial concerns, and the significance of multi-nationality.

¹⁶ UNMIK Police Annual Report 2000

5.1 Institutional cooperation

The KFOR and UNMIK organizations are enormous and in constant development. Suffice it here to provide an overview of the institutions directly involved in security provision.

5.2 KFOR

KFOR is an international peace enforcement force led by NATO and composed by military personnel and resources from 30 nations (members and non-members of NATO).¹⁷ It is divided into 4 region-specific brigades; Centre, Northeast, Southwest, and East. These brigades each have the overall responsibility for maintaining security in their assigned region. One brigade consisting of special police units (MSU; Multinational Specialized Unit) is located in Pristina city but has a functional, Kosovo-wide responsibility for organized crime, terrorism, and other especially serious threats. The KFOR Headquarter is also located in Pristina and is the central command for all brigades. Formally, all KFOR units fall under a single chain of command under Commander of KFOR (COMKFOR), currently Lt. Gen. Mini of Italy.¹⁸ COMKFOR in turn reports to the NATO Southern Europe headquarters (CINCSOUTH) in Naples, Italy. The mission of KFOR is *”to establish a safe and secure environment”* in which the UN and other agencies can work to deliver all the remaining elements of societal reconstruction listed in UNSCR 1244. This means KFOR has a more limited time horizon for their involvement in Kosovo than does UNMIK; KFOR ultimately aims to withdraw.¹⁹

5.2.1 UNMIK

Because UNMIK is entrusted with international administration of Kosovo pending a lasting political solution, UNMIK is basically responsible for most public administration functions normally carried out by a state for its citizens. Since May 2001, administration has been organized under 4 so-called *”pillars”*. Pillar I is Police and Justice, Pillar II is Civil Administration, Pillar III is Institution Building, and Pillar IV is Economic Reconstruction. The two first pillars are the responsibility of UNMIK, while the OSCE and the EU are in charge of Institution Building and Reconstruction respectively. For all four pillars it is true that local representatives and bodies should assume the responsibilities as soon as possible, and steps are continuously being taken to transfer authority in this respect.²⁰

It is Pillar I which is of interest in the present context. The UNMIK Police and Justice Pillar is led by a Deputy Special Representative of the (UN) Secretary General. The area is a

¹⁷ Contributors in alphabetical order: Argentina, Austria, Azerbaijan, Belgium, Bulgaria, Canada, the Czech Republic, Denmark, Finland, France, Estonia, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Lithuania, Luxembourg, Morocco, the Netherlands, Norway, Poland, Portugal, Romania, Russia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, the United Arab Emirates, the United Kingdom, the United States. <http://www.nato.int/kfor>, 22.06.2003

¹⁸ <http://www.nato.int/kfor>, 22.06.2003

¹⁹ Wilson (2002), in FFI Report 2002/01551

²⁰ Report of the Secretary General to the Security Council: S/2001/565, III E

reserved function of UNMIK after the Kosovo Assembly elections of November 2001, which led to a significant transfer of responsibilities to institutions of self-government.

The UNMIK Police is without a doubt the biggest enterprise within Pillar I. The Police is led by a Police Commissioner. In his office there are Special Advisors for Politics, Human Rights, and Special Police Units/Border Police, as well as assistants and a Press Office. Under his direct command are the Operations, Administration, and Planning & Development departments, each led by a Deputy Commissioner.

Operations handle the actual policing and is therefore the only division to be reviewed here. On the central level it has 4 planning offices in the capacities of Policy & Planning, Special Operations, Investigations, and Operations MHQ. It's divided into 5 regions: Pristina, Gnjilane, Prizren, Pec, and Mitrovica, with a total of 34 police stations. Currently 49 nations contribute personnel to UNMIK Police, totaling 4468 officers.²¹

Special units within UNMIK Police which deal directly with organized crime and terrorism include the following: The **Special Police Units** (SPU) is a police force that consists of 6 national contingents of self-sufficient police officers²² with military status and capabilities.

The role of a separate public order agency is affirmed in Report of the Secretary General to the Security Council S/1999/779 (VI 2 62), and specifically includes area security and support and protection for UNMIK Police. They are capable of rapid deployment to high-risk situations. In Kosovo they deal with, *inter alia*, public disorder/riot control and protection of UNMIK Police and Border Police and facilities. The SPUs are formally subordinated the UNMIK Police Commissioner and bound by UNMIK Police rules and codes of conduct, while daily command is executed within the national units. The **Border Police** are in charge of law enforcement and ensuring compliance with immigration laws at 5 border crossing points towards Albania, the Former Yugoslav republic of Macedonia and Montenegro, and Pristina airport.²³ KFOR patrols the borderline between checkpoints. **Protection Units** were established in recognition of a need for special protection, "body guarding" services of VIP persons as well as persons in exposed positions. **Trafficking and Prostitution Investigation Unit (TPIU)** was formed in the autumn of 2000 to meet a major and growing problem of trafficking in women mainly from different Eastern European countries to Kosovo.²⁴

²¹ Figures correct as of July 4th, 2003. www.unmikonline.org/civpol

²² 1166 officers that come in addition to the 4468 of UNMIK Police. July 4th, 2003. www.unmikonline.org/civpol

²³ As Kosovo is formally a legitimate part of the Federal Republic of Yugoslavia, the line separating the provinces of Kosovo and Serbia today is an administrative boundary.

²⁴ UNMIK Police Annual Report 2000, 12-27

5.3 Institutional cooperation

At the command level coordination has been institutionalized almost from the start. In addition to frequent and regular meetings between COMKFOR and SRSG, there is direct, top-level coordination on security and police issues. KFOR participates in the Security Panels of Pillar I, and one of the deputy commanders in the KFOR Command Group is charged with Civil Affairs.²⁵ The following figure shows established relations between KFOR and UNMIK, NATO and UN, and the contributing nations²⁶:

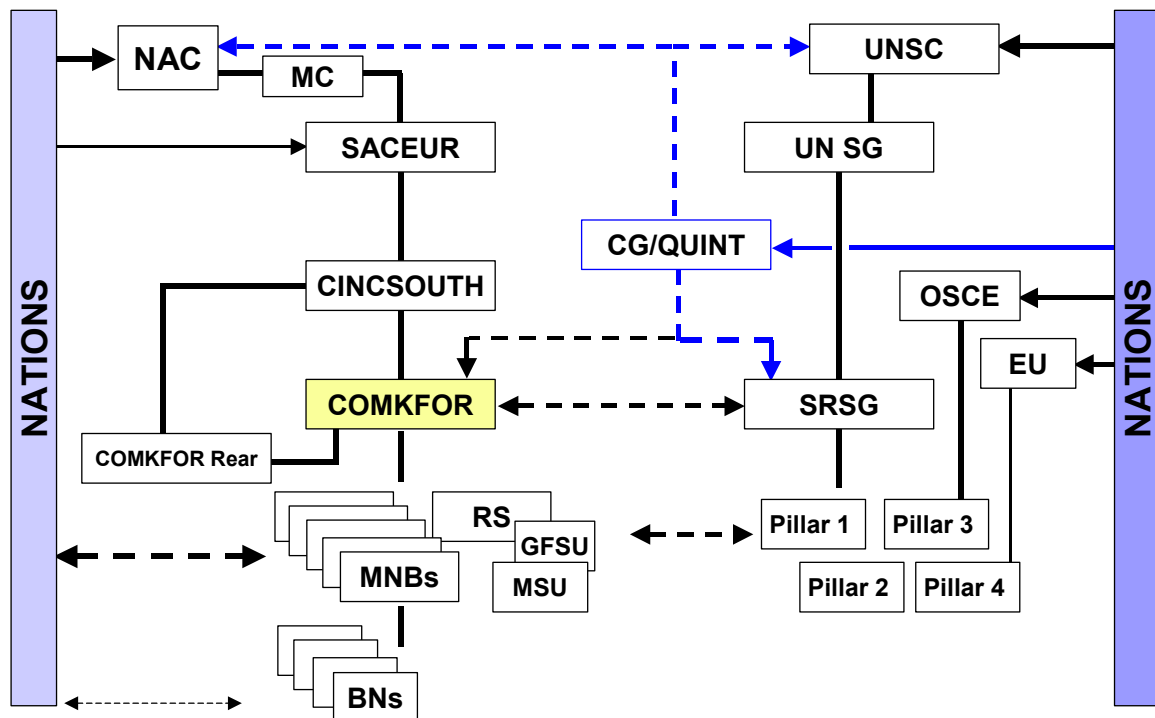


Figure 5.1 Command relationships within which COMKFOR and SRSG operate

By the first quarter of 2000 the liaison institution functioned satisfactory. Monitoring and analysis of the security situation based on information brought into the UNMIK Situation Center from military liaison officers throughout Kosovo, including KFOR headquarters, was well established.²⁷ Close liaison has been ensured through frequent meetings between SRSG and COMKFOR. UNMIK has dispatched military liaison officers to KFOR HQ and Brigade commands and KFOR has sent command level staff to UNMIK. The purpose is to facilitate planning, coordination and information sharing.²⁸

KFOR has established guidelines for civil-military cooperation within many categories. The guidelines are broad and general, do not incorporate plans for coordinating and

²⁵ Lindemann (2002), 96

²⁶ Taken from Otterlei (2002), 69

²⁷ Report of the Secretary General to the Security Council: S/2000/177, II D 36

²⁸ Wentz (2002), 319

synchronizing activities, and do not specify measures of effectiveness or envisaged end states. Objectives for the civil-military cooperation are not articulated.

The fact that no end state is formulated for Kosovo means no overall strategic plan exists, something that has exacerbated problems in conducting coordinated, goal oriented efforts. UNMIK has lacked the authority for directing and synchronizing civil-military activities.²⁹ KFOR has a mission of establishing a safe and secure environment. In theory, this could be accomplished sooner than UNMIK's mission of comprehensive reconstruction of *inter alia* law and order structures. In the event that a safe and secure environment becomes a reality, KFOR could withdraw regardless of the status of all the other tasks UNMIK is dealing with. Withdrawal is, after all, the final goal of KFOR. However, effective and functional civil structures of the kind envisaged in UNSCR 1244 and entrusted to UNMIK to build, depend on a minimum level of interethnic tolerance. Security for all persons and communities is probably a minimum prerequisite for such tolerance to come about. Hence, KFOR and UNMIK are not only obliged to cooperate by mandate. They are also forced to do so because of the situation on the ground. Very simplified it could be said that KFOR is *exit* oriented, while UNMIK is *end state* oriented. KFOR ultimately works to make itself superfluous, and UNMIK towards a lasting solution for Kosovo. But neither can succeed if the other fails. Inherent in the final goals duality lie differences in institutional approach to the *Problem*, as well as different time scopes. The military organization is, almost by definition, result oriented. Resources and decision-making processes all focus on reaching objectives quickly. The civil organization, on the other hand, is above all process oriented. Their task is creation, management, and implementation of a certain development, something that has a much longer timeframe and much more diffuse objectives and benchmarks. Cooperation and coordination in concrete issue areas between organizations of such different outlooks is almost destined to be fraught with friction.³⁰

While the mandate requires both KFOR and UNMIK to be involved in these sectors in an initial phase, it does not specify how cooperation should be organized, or how/under what conditions the transfer of security tasks from KFOR to UNMIK should take place. A military organization such as KFOR can act swiftly due to its structure, discipline, command lines and training. Civil bureaucracies, on the other hand, are slow in the making. As KFOR was responsible for everything until UNMIK was capable of taking over, this led to a "mission creep" – raised expectations of perpetuate military involvement in such law and order tasks that were clearly supposed to be transferred to the CivPol unit. KFOR was not keen on acting as police, and the slowness with which UNMIK Police were deployed and equipped has caused resentment.³¹ This deployment gap³² produced overlapping security institutions in the

²⁹ Ibid., 332-34

³⁰ Lindeman (2002), 104

³¹ Wentz (2002), 322-323

³² A concept referring to a very common time gap between deployment of military versus civilian police forces to a peace support operation. See Dziedzic (1998), 4-7, for a more detailed discussion of this concept.

law enforcement and public order sectors. The most obvious example is the parallel institutions MSU and SPU.

5.4 Operational cooperation

In this section actual counter-terrorism cooperation "on the ground" between KFOR and UNMIK will be more closely scrutinized. The ensuing discussion will be loosely organized around categories of crime. Under normal circumstances it would arguably be a quite straightforward process to provide clear definitions of crime categories. The difference between random and organized violence, for example, is immediately understandable to most.

In this context it is not so easy, and the question of ethnic violence is especially difficult to handle. Ethnic violence in Kosovo more often than not bear the mark of political motivations, and it does contribute to a generally unstable security situation as well as considerable fear among the population. This corresponds well with many definitions of terrorism. Analytically it is nevertheless meaningful to separate acts committed by individuals in a moment of passion/rage, which normally do not qualify as terrorism, and acts that are planned by a group, which do. The problem regarding the Kosovo situation is that it is not always clear whether a crime belongs to the former or the latter category, and it has proved notoriously difficult to find witnesses who will make a statement to help solve cases. In this report ethnic violence in general will therefore be treated as a politically motivated crime and as a symptom of the unrest that is a perpetuate problem all over the province, recognizing the fact that there is a continuum between single victim cases and multiple victim cases. A special section is dedicated to the town of Mitrovica, because of the unique and serious nature of the security challenges there.

Some security challenges in Kosovo (and in PSOs in general) are so serious that they in fact pose potentially existential threats to an area and/or a society. In such situations good arguments exist for involving military forces in law and order tasks, although this is strictly the domain of civilian police under normal circumstances. For Kosovo, there are two main arguments. One is the lack of adequate functional and judicial capacity within the civilian law enforcement agencies. The other is the clear link between armed resistance groups inside and in the border regions to Kosovo, and perpetrators of organized crime, ethnic violence and general extremism.³³ KFOR started their mission with a focus on external threats to the Kosovo territory, but were soon forced to act beyond that for a meaningful security situation to appear at all attainable. Two years on, elements formerly constituting an external threat (guerillas) had become an integral part of criminal networks operating not only in Kosovo but in the whole Balkan region. Their activities are a blend of ethnic violence, political extremism, smuggling, and trafficking, and so they pose a threat simultaneously to internal and external security for which KFOR initially was not intended or equipped. These "gray zone" security

³³ Otterlei (2002), 9

challenges thus pose maybe the most obvious and also the most serious arenas for security cooperation between KFOR and UNMIK.³⁴

The following account is largely based on reports of the Secretary General to the Security Council pursuant to UNSCR 1244.

5.4.1 Terrorism, insurgencies, non-compliance

Organized, armed opposition to the international administration of Kosovo has been a serious challenge to the re-establishment of law and order in the province. Former combatants of the KLA have repeatedly been involved. Initially, resistance was met by KFOR troops as part of the demilitarization of KLA. When that process was declared completed in September 1999, insurgencies became a law and order problem and not a demilitarization issue. UNMIK Police claims that acts of terrorism are a sporadic phenomenon in Kosovo. Such acts are directed both at minorities in order to make them flee Kosovo, and at moderate political figures and symbols in order to reverse the reconstruction and reconciliation process. They tend to be highly motivated and carefully planned, and therefore difficult to investigate. The greatest obstacle for investigators is, however, non-cooperation on the part of the public, whose members display great reluctance to come forward with information.³⁵

During the late fall of 1999 there were several serious incidents of non-compliance with UNSCR 1244 by former KLA members. Involvement in criminal activity, keeping of weapons arsenals, and attempts to act illegally as law enforcement officials are some examples. To counter such developments and make clear to all that non-compliance would be firmly and swiftly dealt with, UNMIK and KFOR worked together but in separate competencies. UNMIK Police arrested several suspected perpetrators and KFOR conducted a series of raids on former KLA assembly areas and offices. Joint efforts were conducted at both the political and operational levels to address issues of illegal law enforcement, detention facilities and police stations.³⁶

A bomb attack in central Pristina killed one prominent Yugoslav civil servant on April 18th 2001. Joint UNMIK Police and KFOR investigations led to the arrest of one person only 2 days later.³⁷ Meanwhile, a growing trend of non-compliance was evident in the increase in aggressive behavior and attacks on international security personnel all over the territory. The trend seemed to go on unabated throughout the year.³⁸ Violence against KFOR and UNMIK Police continued to increase in 2002.³⁹

In order to strengthen the work against terrorism and organized crime, UNMIK established 5 special units in the end of 2001. One, the Sensitive Information and Operations

³⁴ Lindeman (2002), 102

³⁵ UNMIK Police Annual Report 2000, 35

³⁶ Report of the Secretary General to the Security Council, S/1999/1250, II A 12-14 and IV C 64

³⁷ Report of the Secretary General to the Security Council, S/2001/565, II B 6

³⁸ Reports of the Secretary General to the Security Council, S/2001/565, II B 7; and S/2001/926, II B 10

³⁹ Report of the Secretary General to the Security Council, S/2002/436, III B 23

Unit, caters to UNMIK Police and KFOR by providing expertise on organized crime and terrorism and by processing sensitive information into evidence that can be presented in the courtroom.⁴⁰

5.4.2 Organized crime

Already in late 1999 the UN Secretary General directed the attention of the Security Council to the problem of organized crime in Kosovo, noting the apparent consolidation of networks operating in smuggling, extortion, gambling, human trafficking, drugs, and establishment of illegal security structures. All of this is further seen to undermine the goals of stabilization and establishment of rule of law set forth by the UN in UNSCR 1244.⁴¹

In early 2000 human trafficking and forced prostitution were recognized as serious threats to security and not least human rights, although neither was a crime according to Kosovo law. Legislative review to remedy this shortcoming only started in 2000.⁴² These crimes were targeted by joint KFOR/UNMIK counter-actions from the start. Several raids against suspected brothels were conducted in joint operations, and shelter for female victims was established under KFOR security. Victims were largely foreign women who had been kidnapped and smuggled into Kosovo, but a disturbing increase in the abduction of local girls and women was also noted at this time.⁴³

Throughout the year, joint operations were conducted, culminating with major operations in November in which several persons were arrested for trafficking of women (among other things) in Kosovo Polje and Pristina.⁴⁴ UNMIK Police established a designated unit for tackling trafficking in women and forced prostitution at this same time, which proved quite successful from the start.⁴⁵ In January 2001 the new law⁴⁶ (UNMIK regulation) on trafficking came into effect, and by the end of 2001 teams from the Trafficking and Prostitution Investigation Unit were in place in each of the five regions in Kosovo.⁴⁷

Joint operations against organized crime evolved to become a cornerstone for both UNMIK Police and KFOR law enforcement efforts throughout the year 2000. In October and November major operations were carried out that resulted in the arrest of 3 Serbs, 27 Albanians, and several other persons of unspecified ethnic origin, and seizure of large quantities of weapons including bomb making equipment, unaccounted-for cash, and drugs.⁴⁸ KFOR conducted a unilateral operation called “Eagle” aimed at stopping smuggling.

⁴⁰ Report of the Secretary General to the Security Council, S/2002/62, VI A 26

⁴¹ Report of the Secretary General to the Security Council, S/1999/1250, II C 19

⁴² Report of the Secretary General to the Security Council, S/2000/538, VI B 49

⁴³ Report of the Secretary General to the Security Council, S/2000/177, IV B 61

⁴⁴ Report of the Secretary General to the Security Council, S/2000/1196, II B 18

⁴⁵ Report of the Secretary General to the Security Council, S/2001/218, III D 34

⁴⁶ Pending a political solution, UNMIK is authorized to issue regulations that have the force of law in Kosovo.

⁴⁷ UNMIK Police Annual Report 2000, 23

⁴⁸ Report of the Secretary General to the Security Council, S/2000/1196, II B 18

During KFOR 5 (2001) a working group called Task Force Eagle 2 was formed to look at ways to improve cooperation against smuggling. A large, joint vehicle search operation called “Groundhog”, which incorporated all MNBs and UNMIK Police, was launched Kosovo-wide and coordinated by KFOR’s Joint Operation Center (JOC). One of the benefits sought was the possibility to monitor and pursue if necessary vehicles checked in one sector into another sector, something that normally was difficult due to different KFOR commands in different sectors. Operation Groundhog demonstrated the usefulness of sharing information, however. Significant amounts of weapons were discovered and seized with the support of a joint database allowing for monitoring and tracking of suspected persons and vehicles throughout Kosovo and the region at large.⁴⁹

5.4.3 Illegal weapons

The proliferation of weapons due to the conflict, combined with a general state of fear and lawlessness, has been a persistent major threat to stability and security in Kosovo. Illegal weapons form an important part of the joint activities of organized criminals and political extremists. The seizure of weapons has therefore been a high priority and a task where KFOR and UNMIK have routinely cooperated.

During the fall of 1999 more than 10.000 weapons were confiscated, ranging in caliber from pistols to anti-tank weapons, from former KLA fighters, citizens of all ethnic groups, and departing Yugoslav forces.⁵⁰ Joint search and seize operations between KFOR and UNMIK Police are mentioned in almost every report from the Secretary General to the Security Council from the beginning of 2000 to September 2002. Operations take the form of house searches and checkpoints with vehicle searches. Smuggling of weapons into Kosovo remains a problem, and joint border monitoring and checks have produced significant arms confiscation. Amnesties have been declared twice to encourage people to turn in any weapons, which then have been destroyed.⁵¹

Continuous Albanian resistance in the border region towards southern Serbia, the so-called Ground Safety Zone, has provided a considerable market for smuggled weapons, landmines, and ammunition with consequent KFOR seizures and arrests. A truckload of weapons destined for this area was discovered and confiscated in Pec in May 2001.⁵² Between May and October 2001, confiscation throughout Kosovo amounted to 1100 rifles/pistols, almost 1700 grenades, 1100 anti-tank weapons and nearly 170.000 rounds of ammunition. 1000 persons were detained for unlawful possession of arms.⁵³

In December 2001 the largest joint weapons search operation to that date was launched by KFOR and UNMIK Police, in which all 5 brigades were involved. This and other joint

⁴⁹ Lutz (2002), 55

⁵⁰ Report of the Secretary General to the Security Council, S/2000/177, II B 25

⁵¹ Report of the Secretary General to the Security Council, S/2002/436, III B 27

⁵² Report of the Secretary General to the Security Council, S/2001/565, II C 9

⁵³ Report of the Secretary General to the Security Council, S/2001/926, II B 8

search operations have proved to be valuable in the sense that they contribute to greatly improving operational cooperation.⁵⁴

5.4.4 Public order issues – ethnically and/or politically motivated organized violence

The main threat to public order in Kosovo remains ethnic antagonisms. Immediately upon the withdrawal of Serb security forces from Kosovo in 1999, a wave of violence against Kosovo Serbs committed by Kosovo Albanians practically emptied parts of Kosovo of Serbs. The ethnic groups in Kosovo were not separated by boundaries, security zones or residing in isolated enclaves, they were uneasily mixed throughout the land. The population was also not war-weary. The OSCE reported ruthless vengeance campaigns committed by Kosovo Albanians against Kosovo Serbs and other minorities during the summer of 1999.⁵⁵ Atrocities included murder, arson, looting, kidnapping, and unlawful expropriation of property, and KFOR in its early days proved unable to effectively counter the developments.⁵⁶ With the arrival of UNMIK CivPol officers and consolidation of KFOR presence, the international administration assumed a firmer grip on the situation as work to restore order and security progressed. Tackling crime, preventing ethnic violence and diffusing, or at least keeping a lid on, ethnic tensions were pivotal security concerns from the start.⁵⁷ Still, July 2002 is the first time the UNSG reports that the security situation for minorities “*seems to have improved*”.⁵⁸

As early as July 1999, KFOR and UNMIK brought together leaders of the Albanian and Serb communities in Kosovo in order to agree on concrete measures to be taken to enhance security for all inhabitants in Kosovo. The meeting produced a joint statement on cooperation for security.⁵⁹ By September, calls for tolerance and non-violence had not yet significantly reduced either the number or the ferocity of attacks against minorities. KFOR was nevertheless praised for its progress in providing a secure environment assisted by some 1100 UNMIK Police officers – while it was acknowledged that twice the effort was needed at a minimum to provide acceptable security for minorities. The international community was urged to mobilize and deploy the mandated number of civilian police quickly to this end.⁶⁰

Throughout the rest of the year 1999, minorities all over Kosovo continued to suffer attacks in many forms: killings, arson, abductions, illegal arrests and detentions, unlawful seizure of property including eviction, beatings, threats and harassment. The freedom of movement for minorities was seriously restricted due to this situation. KFOR and UNMIK coordinated several measures to alleviate the situation. UNMIK set up a shuttle bus service between enclaves inhabited by ethnic minorities to facilitate a degree of freedom of movement

⁵⁴ Report of the Secretary General to the Security Council, S/2002/62, V 22

⁵⁵ OSCE: *As Seen, As Told*, 2000

⁵⁶ Report of the Secretary General to the Security Council, S/1999/779, II A 6

⁵⁷ Wentz (2002), 320

⁵⁸ Report of the Secretary General to the Security Council, S/2002/779, IV A 23

⁵⁹ Report of the Secretary General to the Security Council, S/1999/779, III 26

⁶⁰ Report of the Secretary General to the Security Council, S/1999/987, II 4, VII 46

for non-Albanians in October 1999, together with KFOR who provided security (armed escort). The service was temporarily suspended after an attack on a convoy of some 127 Serbs on October 27th. Another joint initiative to provide security for minorities conducted this fall was installation in homes of emergency calling devices, reinforcement of doors, and the establishment of a hotline to and between UNMIK Police and KFOR.⁶¹

Of special concern was the emergence of an apparent trend of organized criminal elements to use juveniles to commit such crimes. Due to the lack of juvenile courts and detention facilities juveniles were not prosecuted at the time, producing de facto impunity for underage offenders.⁶²

A repeated call was made to the international community to rapidly send more police officers to Kosovo, despite the fact that KFOR and UNMIK Police had doubled their security efforts since September. Already some months after intervention took place, the UN Secretary General was forced to face a lack of international commitment to Kosovo in terms of resources allocations. Simultaneously, the UNSG had to face an apparent lack of commitment to the peace process by significant numbers of people in Kosovo. This, of course, exacerbated the resource problem.⁶³

February 2000 was violent. Between the 1st and the 19th UNMIK Police and KFOR reported at least 36 separate incidents of violence against Serbs, including grenade attacks, arson, and murder. Destruction and/or seizure of property remained a problem with victims in all ethnic groups, as did inhibited access to vital public services such as food aid, health care, and shelter. In February a rocket attack on a bus carrying 49 Serbs killed 2 and injured 3. The bus belonged to UNHCR and was escorted by 2 KFOR vehicles. The incident spurred a wave of violence in Mitrovica more closely described below. Following the riots in Mitrovica there was an increase in grenade and arson attacks on Serb enclaves in Kosovo in general.⁶⁴ An increase in what seemed to be orchestrated violence against Serbs during the spring of 2000 prompted a continued focus on and enhanced UNMIK/KFOR cooperation in public order. Expanded response to incidents, more joint operations, better communication and tactical coordination – all in the field – were among the most important measures, especially in the Mitrovica region.⁶⁵ Other targeted measures to counter the heightened threats included armed guard of residences, installment of reinforced doors and windows in residences, guarded bus lines, improved distribution of commodities, improved access to satellite and mobile phones in isolated ethnic enclaves, and increased UNMIK presence in minority areas.

In March 2000 the UN noted that the security situation for minorities had not improved. The UN Secretary General emphasized that neither the people nor the leaders of

⁶¹ Report of the Secretary General to the Security Council , S/1999/1250, III B 25-26

⁶² Report of the Secretary General to the Security Council , S/1999/1250, II C 15-18 and III B 25-26

⁶³ Ibid, VII 110-111

⁶⁴ Report of the Secretary General to the Security Council , S/2000/177, II B 20, 21, 24

⁶⁵ Report of the Secretary General to the Security Council , S/2000/538, II B 21-23

Kosovo demonstrated the necessary commitment to promote inter-ethnic tolerance, even less reconciliation.⁶⁶ The concern was repeated some months later.⁶⁷

The joint efforts did not appear to have an immediate ameliorating effect, as minorities, and Serbs in particular, continued to suffer from crime to a disproportionate degree throughout 2000. Arson, assault, and murder were the most prevalent crimes, in that order. Access to public services and aid remained limited for minorities due to the security situation, despite the efforts of the UNMIK Police, KFOR and different aid agencies to reverse this development. UNMIK Police and KFOR jointly started a special minority protection project in Pristina in order to provide immediate physical security as well as to ensure long-term security through city development projects.⁶⁸

Towards the end of 2000, KFOR and UNMIK Police all over Kosovo cooperated in the management of public events security to counter political violence, pivotal in this period because of the local elections held in November. A Political Violence Task Force was established staffed with UNMIK Police and KFOR officers all over Kosovo, to coordinate activities between the two organizations on local, regional, and central levels. The most common security responses were provision of military/police patrols and personal protection of highly-at-risk individuals.⁶⁹ Cooperation in special security measures for threatened minority communities was also effectuated. The municipal elections went ahead peacefully, preceded by only insignificant violence, although violence picked up again following the elections.⁷⁰

In December 2000/January/February 2001 orchestrated riots by ethnic groups took place on many locations. UNMIK Police and KFOR were not only jointly acting to stem the riots but were indeed targets of the violence in their own right. In the Prizren and Pristina regions several mortar and explosives attacks on Serb civilian, cultural, and religious targets as well as a school bus occurred despite concerted and coordinated KFOR/UNMIK Police measures to stop such violence. An attack on a Serb bus under KFOR escort in February exacerbated local feelings that the international presence provides inadequate protection for everyone but Albanians. The bus attack was, however, followed by unusually efficient and well-coordinated joint actions by KFOR and UNMIK Police to provide emergency medical services and prevent any follow-up violence.⁷¹ In March 2001 the UNSG reiterated that ethnic/political violence remains a real threat to the fulfillment of the entire mandate. Mitrovica was still a source of instability not only to itself, but to surrounding areas as well.

During the first half of 2001 violence against Serbs in particular was so severe that it prompted temporary suspension of bus lines and train services, which in turn further hampered

⁶⁶ Report of the Secretary General to the Security Council, S/2000/177, IV A 58-59 and XII 153

⁶⁷ Report of the Secretary General to the Security Council, S/2000/538, XI 123

⁶⁸ Report of the Secretary General to the Security Council, S/2000/538, III A 39-44

⁶⁹ Report of the Secretary General to the Security Council, S/2000/1196, II B 16

⁷⁰ *ibid*, XI 107

⁷¹ Report of the Secretary General to the Security Council, S/2001/218, II B 6-10

this group's freedom of movement.⁷² Both were resumed towards the end of 2001, but then under full UNMIK responsibility. They had formerly been operated by UNHCR, with KFOR protection under certain circumstances.⁷³

Prior to the Kosovo general election in November 2001, the Political Violence Task Force was revived following several criminal incidents that appeared to be politically motivated, including an assassination attempt on a local politician.⁷⁴ After the first Kosovo-wide elections in November 2001 the level of serious crime against minorities finally decreased somewhat. Minor incidents were nonetheless rife, including a number of cases of stone throwing by juveniles against minority targets (persons and property).⁷⁵

The decline continued through the first half year of 2002. Nevertheless, heavy police and KFOR presence was deployed to the Gnjilane region following an upsurge in violence against Serbs in January/February 2002. Curfews and searches of buildings and vehicles were implemented to curb the harassment.⁷⁶ From April to July 2002 no organized, ethnically motivated violence was reported and the general security situation for minorities seemed to have improved. By July economic gain seemed to be the most prevalent motif for criminal activity, as opposed to previously ethnic animosity. Random attacks were indeed carried out, but previous periods were characterized by apparently systematic attacks. Based on this positive trend, KFOR and UNMIK started planning the transfer of further responsibilities from KFOR to UNMIK Police.⁷⁷

However, the UN Secretary General has pointed out that while the concerted initiatives by KFOR and UNMIK Police certainly have had a positive effect, a significant part of the explanation is greater segregation due to many members of minorities having left Kosovo or staying in enclaves.⁷⁸ After a visit in August 2001, the UNDP confirms the impression that it is in fact ethnic segregation consolidated by default that is the main reason for the reduction in ethnic violence.⁷⁹

5.4.5 Mitrovica

The divided town of Mitrovica in North Kosovo is one of few towns in Kosovo where groups of different ethnic origins still co-exist in substantial numbers. The Serb and the Albanian parts of town are separated physically by the Ibar River. A small bridge crossing the river has become a focal point of tension and a political headache, as it represents, *de facto*, an ethnic segregation. The level of ethnic violence is exceptionally high, acceptance of the international

⁷² Report of the Secretary General to the Security Council, S/2001/565, II B 6

⁷³ Report of the Secretary General to the Security Council, S/2001/926, II B 7

⁷⁴ Report of the Secretary General to the Security Council, S/2001/926, II B 9

⁷⁵ Report of the Secretary General to the Security Council, S/2002/62, V 21

⁷⁶ Report of the Secretary General to the Security Council, S/2002/436, III B 22

⁷⁷ Report of the Secretary General to the Security Council, S/2002/779, IV A 23

⁷⁸ Reports of the Secretary General to the Security Council, S/2002/436, III B 21; S/2002/779, IV A 21

⁷⁹ UNDP/DPKO 2001, 15

presence's authority exceptionally low.^{80 81} Due to these circumstances, KFOR is still in charge of the security situation at large in Mitrovica, although law enforcement and public order is now carried out in regulated cooperation with UNMIK Police in the daily life.

The MNB Mitrovica belongs to (Northeast) is under French command. Initially, the brigade command was left to handle the many problems of Mitrovica alone. The French chose to place an armed checkpoint on the bridge over the Ibar, complete with razor wire and tanks, in order to keep Albanians and Serbs on each side from fighting. The result was that the city for all practical means became divided, which is contrary to the spirit and letter of the UNSCR 1244. KFOR proved unable to protect Albanians resident in the North of the city as well Serbs in the South, which reinforced the feeling of division and undermined public confidence in the international presence.⁸²

In February 2000 serious violence took place over the course of several days. Displaying characteristics of urban warfare, it included an initial grenade attack on a civilian target, exchange of gunfire as well as sniper fire, and confrontation between Albanian demonstrators and KFOR forces where tear gas was dispersed to stop the crowd from entering the Serb part of town. The Serb population openly advocates ethnic segregation of the town, firmly believing this alone can guarantee their security. The Albanian inhabitants are vehemently opposed to such an idea. It also runs counter to UNSCR 1244, which rules out altering any aspect of territorial status in Kosovo. The SRSG is determined to establish unitary self-governing institutions in Mitrovica just as in the rest of Kosovo.⁸³

The riots in February 2000 put the relations between UNMIK and KFOR to a severe test. Responsibility for security ultimately rested with a 250-man infantry battalion of French KFOR soldiers, while there were 65 UNMIK Police officers deployed to patrol both sides of the river. During the riots there were several occasions when KFOR failed to respond to UNMIK Police calls for reinforcement. In one incident one CivPol officer and a group of French paratroopers attempted to reach a group of Albanians trapped in the Northern part of town. The CivPol officer was knocked down by the mob, whereupon the French retreated to cover instead of coming to his rescue. Eventually some Danish KFOR troops got him and the Albanians out. The episode created many hard feelings between UNMIK Police and the French KFOR. The already negative attitude in the Albanian population in Mitrovica towards the French hardened. They were convinced a historical affinity existed between the French and the Serbs, something that did not enhance the Albanians' feeling of security under French protection. No formal explanation of the French priorities in this situation has been given, but

⁸⁰ The incidents of ethnic violence in Mitrovica are too many to account for in detail, so only landmark events will be described with their consequences.

⁸¹ UNMIK Police Annual Report 2000, 15

⁸² Perito (2002), 14

⁸³ Report of the Secretary General to the Security Council, S/2000/177, II B 21-23

the episode does illustrate the centrality of national commands within KFOR.⁸⁴ No higher command was authorized to order the French to change their course of action, despite the fact that the brigades formally are under the command of the KFOR Headquarters and COMKFOR.

In April 2000 the first UNMIK Special Police Unit, from Pakistan, arrived in theatre, ready to take responsibility for public order, riot control, and similar challenges. They were deployed directly to Mitrovica. However, KFOR has primacy of every law and order task in Mitrovica. It was free to choose its course of action in the many incidents of public riots that took place in the spring and summer of 2000, and it relied on itself. The Pakistani SPU was never called upon by KFOR to perform the duties they were designated for, and in one incident in June the SPU was forcefully prevented by French KFOR from responding to a call for backup from UNMIK Police in North Mitrovica. The fact that the French has a unit of Gendarmes, police with military status, within their contingent has made it possible for French KFOR to meet public order challenges in a meaningful way. The Gendarmes are specially trained for such duty and routinely engage in it in France. Additionally, French KFOR and Gendarmes have complete language and equipment compatibility, which makes operational coordination in heated situations a matter of routine. It could potentially pose many and serious complications to coordinate operations with the Pakistani SPU due to these practical issues. Other suggested reasons for non-cooperation with the SPU are that the French were worried about the human rights record of Pakistani security forces, and that it would fuel rather than calm the situation to send in a unit of Muslims against the Orthodox Christian Serbs.⁸⁵ By the end of 2000, an improvement in the general security situation in Mitrovica was recorded. The credit for this is given to a joint KFOR/UNMIK strategy to broaden the control over northern Kosovo.⁸⁶

The following winter (Jan./Feb. 2001) Mitrovica saw a re-emergence of violence instigated by Kosovo Albanian youth, directed at the Northern side of town as well as against KFOR and UNMIK Police vehicles. UNMIK and KFOR consequently persuaded Kosovo Albanian leaders to issue a declaration calling for increased KFOR/UNMIK Police/KPS presence and adherence to the principles of peaceful and constructive coexistence. The Serb community promptly issued a statement of non-concurrence to the declaration.⁸⁷ In March this disobedience was expressed by violent demonstrations against UNMIK Police following the arrest of 3 Serbs, in which 21 UNMIK Police officers were injured and several UNMIK Police houses and vehicles damaged. UNMIK Police suspended patrols in North Mitrovica in the wake of these events, which seemed orchestrated to drive UNMIK out of that area. Patrols resumed in May, reinforced by KFOR troops. UNMIK and KFOR authority was further

⁸⁴ Perito (2002), 16

⁸⁵ Perito (2002), 17-18

⁸⁶ Report of the Secretary General to the Security Council, S/2000/1196, II B19

⁸⁷ Report of the Secretary General to the Security Council, S/2001/218, II B 6

challenged in North Mitrovica and surroundings by illegal blockades of critical roads, apparently erected by rivaling Serb leaders. The blockades were dismantled in mid-May.⁸⁸ Towards the end of 2001 the situation appeared stabilized, although on a tense level.

A joint strategy for Mitrovica was endorsed at a meeting in the North Atlantic Council (NATO) in June 2001, at which both COMKFOR and the SRSG were present. It was decided that Kosovo Albanian leaders and Serb leaders in Belgrade (in Yugoslavia proper) be involved in the strategy through dialogue.⁸⁹ The Serb community has remained opposed to the international authorities. It has established at least one parallel security structure, the so-called “Bridge Watchers”, to serve the Serbs in north Mitrovica. The Bridge Watchers are in clear violation of the UNSCR 1244 because the resolution grants law enforcement powers to the international presence alone.⁹⁰ UNMIK Police and KFOR have met the Bridge Watchers with concerted and robust measures. Examples of joint efforts are increased community policing, search and arrest operations, and public information campaigns. Much of the reported violence committed by Serbs was directed at UNMIK and KFOR personnel, as opposed to civilian inhabitants, and ranges from grenade attacks to demonstrations.⁹¹

By April 2002 the Bridge Watchers were still active and enjoyed considerable popular support among Serbs in Mitrovica, despite the continued coordinated efforts of KFOR and UNMIK to break down parallel security structures and simultaneously meet the security needs of the Serb population. At this time KFOR support was still required in order for UNMIK Police to perform their duties in north Mitrovica.⁹²

Mitrovica in many ways illustrate the hub around which political developments in Kosovo spin: a fundamental lack of support from the different ethnic communities to the explicit goal of the international presence, namely peaceful, multi-ethnic coexistence within Yugoslavia.

5.5 Civil-military collaboration in law enforcement:

Using military personnel for policing duties in PSOs is a practice that has evolved almost by default, as a response to developments on the ground in the different theatres of intervention. The Kosovo operation represents the first attempt by the international community to recognize the need for reinforced law and order capacity in a post-conflict environment by way of mandating civilian-military cooperation in policing and security. By placing law and order responsibility on KFOR until UNMIK Police was ready to take over, significantly not specifying a time at which such capacity should be in place, the UNSC sought to overcome the problems of deployment and enforcement gaps.

⁸⁸ Report of the Secretary General to the Security Council, S/2001/565, II B 8

⁸⁹ Report of the Secretary General to the Security Council, S/2001/926, E 4

⁹⁰ Perito (2002), 14-15

⁹¹ Report of the Secretary General to the Security Council, S/2002/62, V 23

⁹² Report of the Secretary General to the Security Council, S/2002/436, III B 24

The international administration is responsible for law and order in Kosovo until local structures for law enforcement that are conducive to international law and human rights have been established and consolidated.

In an initial phase KFOR had to carry out civilian policing duties for the time that it took UNMIK Police to reach operational capacity. Duties have since been transferred step by step. From the end of 1999 KFOR and UNMIK Police cooperated on tracking and maintaining criminal statistics. Both agencies had at this time also established routines for the gathering of incriminating evidence which could be presented in courts⁹³. Towards the end of 2002, KFOR has retained primacy in Mitrovica, although with active participation by UNMIK Police in daily patrolling and investigation. In line with the intentions of UNSCR 1244, UNMIK Police has in turn transferred certain policing responsibilities to the local Kosovo Police Service, which by late 2002 conducts independent police work in confined areas and disciplines under UNMIK supervision.⁹⁴

By mid-2000, the UN Secretary General reported that 15-20% of UNMIK Police personnel were at any given time required to perform non-police security related tasks. He also made it clear that joint operations with KFOR were necessary to bolster police ranks with military personnel and resources.⁹⁵ UNMIK seems to emphasize the concerted efforts to enhance security, the common cause of KFOR and UNMIK, in its periodical reports to the UNSG and the UNSC and in reports and evaluations presented to the public over web. KFOR takes every opportunity to point out that their responsibility is a safe and secure environment and that they have a conservative interpretation of that concept, leaving policing, reconciliation, reconstruction etc. all to UNMIK. The dilemma for KFOR is that a safe and secure environment very much depends on effective policing, a domain KFOR wishes to leave entirely to UNMIK. Effective policing in turn depends on radically improved interethnic relations, which the OSCE and the EU attempt to achieve through institution building, economic reconstruction and education. Success in this respect is heavily reliant on the active support of the local population. Local support has showed a tendency to appear or disappear in parallel with an improved or deteriorated security situation. So, security depends on effective policing, which depends on interethnic tolerance, which depends on security.

Alice Hills analyzes some important aspects of civilian-military cooperation in policing and security in *International Peacekeeping*⁹⁶. The reason why the military becomes involved in law and order maintenance in the first place, is usually a combination of several factors. Non-compliance with the peace process on the part of one or more belligerent/s, a general state of lawlessness, and CivPol weakness in the face of severe violence and instability are the most prominent ones. The military tends to be reluctant to engage in civilian policing. This is partly

⁹³ Report of the Secretary General to the Security Council, S/1999/1250, IV C 64 and V C 84

⁹⁴ Report of the Secretary General to the Security Council, S/2002/436, III B 31

⁹⁵ Report of the Secretary General to the Security Council, S/2000/538, III 33-34

⁹⁶ Vol. 8 No. 3, Autumn 2001

because their personnel are not specifically trained for it, but more importantly because the military is a coercive resource of the last resort and cannot be seen to fail. Police personnel, on the other hand, tend to be suspicious of military involvement in policing for a number of reasons. Lack of training in investigation techniques and different operations approaches are two prominent ones. Nevertheless, the military is usually acknowledged as a necessary evil in a phase of an operation. Reinforcement in terms of security backup and logistics is generally both necessary and welcome. The issue of meaningful cooperation then becomes first and foremost a question of establishing a functional partnership. The process leading up to that rests on three “critical parameters” in the words of Hills: the nature of police work, points of interface, and national perspectives.

What constitutes police work is difficult to define and varies greatly between countries. For PSOs, however, it is generally true that police work is artificial and selective. It is artificial because the foreign police forces are fundamentally alien to the population. They lack the local knowledge they would normally rely on when policing at home. Multi-nationality reinforces artificiality. In addition, in PSOs the international police are assigned tasks not normally within their duties, such as election monitoring, local forces supervision, etc. It is selective because a range of concerns determines exactly what situations will produce intervention by whom. Specific problems, national restrictions, vested interests and fear of mission creep⁹⁷ are central examples. As a result, civil-military cooperation tends to be a practical, situation-bound business – not a product of high-level strategic considerations, planning and institutional coordination. As the above examination has demonstrated, this is indeed the case in Kosovo.

Points of interface are the situations where the police lack capabilities to deal with a security threat that is not territorial. Riot control is a typical example. In Kosovo, special units of police with military status have been deployed to cover this ground, an issue that will be dealt with below.

National perspectives play perhaps a greater role than many would like to admit. As mentioned before, what constitutes police work varies between countries. So does the nature of relations between police and military forces, and the professional standards they abide by. Therefore, views on appropriate task division, cooperation, professional conduct etc., tend to vary between national contingents in the field as well as between decision-makers of different nationalities. Military contingents in PSOs remain under national command for all practical purposes. As a rule, they arrive in theatre with plenty of national restrictions and a nation specific training background. Police officers are much less affected by national restrictions, as they are commonly employed by the UN and not the home government. Nevertheless, training and experience do vary greatly between officers of different nations.

All of the concerns Hills brings up are represented in Kosovo. Mitrovica is a prime example of the challenges pointed out by Hills.

The special units of police with military status deployed both to KFOR and UNMIK is a determined attempt to fill the conceptual space between civil and military security agents and address security challenges that do not fit into their respective regular responsibilities.⁹⁸ Public disorder was acknowledged by the UN as an especially difficult security challenge in post-conflict territories for the first time in UNSCR 1244. Accordingly, special units with a combination of police and military capabilities were assigned to respond to the heightened threat level that public disorder represents.

KFOR's Multinational Special Unit (MSU), is an integrated part of KFOR and abides by KFOR Rules of Engagement (ROE). They have been deployed when and where needed in a police capacity, but possess specialized skills and resources in crowd control, anti-terrorism, and organized crime.

It took a considerable amount of time for the UN to deploy the UNMIK Special Police Units (SPU). By the time the SPUs were completely deployed, the immediate public order threat was largely quelled in Kosovo by an assertive KFOR presence and growing and consolidated UNMIK Police presence.⁹⁹ In the incidents of civil disorder and ethnic violence that have taken place, the SPUs were generally not used. Where UNMIK has primacy of law and order, UNMIK Police has been reluctant to deploy SPUs for several reasons. The police command was from Northern Europe and America, societies with no culture for police forces with military status. The SPUs largely come from non-European countries. There has been considerable scepticism regarding their methods, because such forces usually are empowered to resort to force when they themselves deem necessary in order to accomplish whatever mission they are on.¹⁰⁰ There have been concerns that SPUs could resort to disproportionate violence against civilian crowds, potentially provoking questions as to the legitimacy of the entire international operation. KFOR was not very interested in utilizing the resources of the SPUs in their areas of primacy, preferring instead to use the MSUs, which are organic to KFOR.¹⁰¹ On the ground, the SPUs have ended up performing a range of security related duties that have nothing to do with crowd control. UNMIK Police, not knowing quite what to do with the SPUs when they arrived, took the opportunity to free their own ranks from duties not related to law enforcement and investigation, especially various assignments of stationary and mobile guard duty. One exception is joint weapons search operations with KFOR, where SPUs often serve for UNMIK Police.¹⁰²

⁹⁷ A situation where a mission ends up taking responsibilities not specifically assigned to it, based on developments on the ground rather than decision.

⁹⁸ Larsen (2002), 18

⁹⁹ Perito (2002), 23

¹⁰⁰ Larsen (2002), 29, 32

¹⁰¹ Perito (2002), 21-22

¹⁰² *ibid.*, 21-24

5.5.1 Intelligence

Accurate information has emerged as maybe the single most important asset of agents in any conflict situation. Intelligence, especially military but also criminal, is therefore, as a general rule, national property. Even within NATO there is no such thing as an agency for intelligence sharing.¹⁰³ Information is exchanged on a request-basis, if at all. This is true also in multinational peace support operations.

COMKFOR does not possess the necessary tools to produce intelligence which is consistent with operational needs. The national military components gather intelligence and may or may not share with military components of other countries. The Intelligence Unit in KFOR HQ is largely a forum for contact and exchange of information, as well as an arena where COMKFOR can communicate to the nations his priorities in the intelligence field. It is not an independent body that gathers intelligence for the benefit of the mission.¹⁰⁴ That means national priorities determine what intelligence is produced, which creates duplication in some areas and voids in others. It also means national considerations determine what information becomes available for mission planning.¹⁰⁵ Sharing military intelligence with civilian agencies is generally met with great reluctance by the military establishment, out of security considerations.

In Kosovo this circumstance has greatly complicated cooperation in the security sector. Military intelligence is, as a general rule, not released to either police or the judicial system. The result is that on several occasions known culprits have gone free of prosecution, because information that could have been presented as evidence in court is not accessible for the criminal investigation authorities.¹⁰⁶

In addition, national constraints on intelligence sharing for security reasons can, in fact, increase rather than reduce security risks for personnel. Nations possessing separate bits of information may, taken together, have information crucial for operations. If they don't share, efficiency is greatly reduced and forces can even be unnecessarily endangered. The joint UNMIK/KFOR Operation Groundhog described above was a pilot project in terms of meaningful intelligence sharing. Information from UNMIK and KFOR was combined in a database that enables effective monitoring and tracking of persons and vehicles (suspected of weapons trafficking) in the province as well as in the region, to facilitate interdiction by police or military units as appropriate. The large amount of weapons and ammunition confiscated during Groundhog speak of the potential benefits that intelligence sharing represents for efficient civil-military security cooperation.¹⁰⁷

¹⁰³ Otterlei (2002), 69

¹⁰⁴ Otterlei (2002), 69

¹⁰⁵ Ibid, 11

¹⁰⁶ See discussion of this topic below

¹⁰⁷ Lutz (2002), 54-55

5.6 Multi-nationality

The questions of national agendas, priorities, restrictions, and allowances pop up more or less on every level of KFOR and UNMIK organizations respectively, and in their cooperation. Analyses speak volumes of small and greater obstacles – and, by all means, opportunities – created by the fact that anywhere between 40 and 80 nations contribute people and resources to the joint operation. Meanwhile, KFOR and UNMIK official presentations of themselves on the web and elsewhere make hardly any mention of nationality issues, except in general statements praising the consensus represented by such an extensive multi-nationality in the operation. This discrepancy alone indicates the sensitive nature of the issue. In the following some central points as to how national agendas have affected UNMIK/KFOR cooperation will be made.

On the macro level there is, on one hand, institutionalized and tight coordination mechanisms between KFOR and UNMIK. On the other hand, COMKFOR is in no position to commit either manpower or resources to joint initiatives. This is because each national contingent is bound by its specific set of national constraints on the use of the troops and abides by its national commander – who receives his final orders from the home capital.¹⁰⁸ KFOR contingents cannot be deployed or moved according to need without permission from its capital. Many times commanders in the field have been prevented from issuing the appropriate orders pending a go-ahead from home. Another aspect of multi-nationality was that contingents from different countries had different training and different professional cultures. There can be, and frequently is, very diverging views regarding task distribution for example between police and military forces in different states, and regarding what are proper responses to different problems. Additionally, the composition of qualifications and competence of the personnel did not correspond with needs in the field, but with whatever the headquarters in the capitals decided to send. For the military a consistent problem has been that personnel sent to fill positions within intelligence have no previous experience or training in intelligence. In KFOR 5 (2001), as many as 34% of the staff in the Intelligence Unit had never previously worked with intelligence or received prior training in this. The mission has been forced to provide on-the-job training, for which there is no program and no resources in the organization.¹⁰⁹

In reality, operational cooperation can be organized on brigade level at the most, because KFOR is strictly organized around brigade fixation. Each KFOR national contingent arrives in peace operations with their own equipment. Even within NATO states do not have compatible military equipment and communications systems. UNMIK employs and pays its international staff on an individual basis, which means personnel are ultimately loyal to UNMIK – not the home government. This is true also for police personnel, even if national bureaucracies naturally assist UNMIK in the recruitment process. The SPUs are in a different

¹⁰⁸ Otterlei (2002), 11

¹⁰⁹ Wilson (2002), 38

position, however, since they are organized as military units. The consequence for cooperation is obviously that it is extremely complicated to institutionalize it operationally. Any joint operation requires clearance from numerous agencies within and outside of Kosovo. The practical solution has been to conduct operational cooperation basically on a local level, and mostly on a case-by-case basis.

On the micro level language remains a huge obstacle for cooperation, indeed for the individual organizations. Although English proficiency is a required qualification for international personnel in Kosovo, states do not always find they have enough adequate English speaking personnel to offer and end up sending staff that in fact cannot use English as a working language. The SPUs are exempt from the English proficiency requirement that applies to all other UNMIK personnel.

5.7 The judicial dimension

In the Kosovo operation a central task stated in the mandate is the rebuilding of the judicial sector according to international law and human rights.¹¹⁰ One prominent dilemma has proved to be the balance between security for the collective and security for the individual in the Judiciary. Indeed, this balance has become a legal issue of controversy in many countries following September 11th 2001, as new laws have been passed in order to prevent terrorists from abusing individual rights in liberal countries.

On the Legislative side the UNSCR 1244 stipulates application of the law of the land to the extent that this does not run counter to international law and human rights. It is a problem that there was no consensus in Kosovo regarding which law was valid at the time of intervention, combined with the fact that the UNSCR 1244 does not specify which law of the land to apply. The law that applied prior to international take-over was the Yugoslav law from 1989 that in the eyes of the Albanian community discriminated them and was part of the reason for the uprising, so Albanians refused to acknowledge this law. The law that applied up to 1989 was generally passed by the Albanian assembly of the time, and thus the Serb community refused to acknowledge this law.¹¹¹ Anyway, it was decided to use the latter legal framework. However, the Special Representative of the Secretary General (SRSG), the leader of UNMIK, is charged with the authority to issue regulations that carry the competence of law and that subordinates all other applicable law. Such regulations are not subject to consultation during the process of drafting, and not of any auditing of the ready drafts. As a result laws have been passed by the SRSG that do not fit into the existing legal system so can be implemented only with difficulty. It has also happened that laws have been in violation of

¹¹⁰ The Organization for Security and Cooperation in Europe (OSCE) is formally in charge of training and monitoring in this sector. The focus here remains the executive. There is no room for a thorough analysis of the other two sides of the power triangle legislative - executive – judicial authorities. Such ambitions would have called for an independent analysis. However, as the Legislation is the starting point and the Judiciary is the end station of law enforcement, these elements do carry an impact on the security situation for people in Kosovo.

¹¹¹ The Kosovo Report (2000), 113

human rights, the concern for which was the very justification for international presence in Kosovo. In addition, laws are effective immediately upon promulgation, but initially available only in English. Translation into the local languages is then slow and distribution poor.¹¹²

KFOR and UNMIK personnel enjoy immunity from prosecution for acts committed in official capacity. While this provision importantly does not grant impunity for criminal offences committed in a private capacity, in reality no accusation and investigation of UNMIK or KFOR personnel has resulted in a court case. In the few cases where investigation has resulted in findings that indicate the likely guilt of the officer that stands accused, repatriation of the officer for obscure reasons has been the preferred reaction. This is a circumstance that leaves a large number of people in Kosovo virtually outside the laws of the land^{113 114}.

Another concern regarding judicial security is the authority of the SRSG and of KFOR to detain people outside of the judicial process. That means people can be kept in detention without basis in law or a court order, and without access to have his or her case reviewed by an independent body. The practice is in use mainly by KFOR, and the legitimacy for it lies, as KFOR sees it, in the UNSCR 1244 requirement of re-establishing a safe and secure environment. Detainees have not been presented to the court on the grounds that the evidence against them is classified military intelligence, and on grounds that KFOR considers the existing legislative framework unfit to deal with the type of crime the detainee is held for. Extra-judicial detention is clearly in violation of international human rights. KFOR, however, points to the general authorization granted it by UNSCR 1244 to use *all necessary means* for the purpose of re-establishing a safe and secure environment.¹¹⁵

Finally, the question of judicial independence from the legislative and executive branches of the justice sector is problematic. As the ultimate goal of the transitional administration is capacity building to enable local responsibility for the reformed justice sector, local judges and lawyers are increasingly becoming operative in Kosovo. There have been numerous cases, however, where UNMIK has discovered and documented ethnic bias in the job performance of local legal officials. Animosity between different ethnic groups remains a grave threat to both public and individual security in Kosovo, so the SRSG has issued regulations stipulating authority to appoint or remove international judges and prosecutors to court cases at the discretion of the SRSG in order to prevent ethnic bias in the courtroom. The same line of reasoning applies to the extensive powers to detain people bestowed upon KFOR and UNMIK, and to the continuing issuing of UNMIK regulations that sanction increasing flexibility of law enforcement officials to meet specific security challenges.¹¹⁶ Recruitment of international judges and prosecutors is carried out by UNMIK through normal employment

¹¹² OSCE (2002), 16

¹¹³ UNMIK and KFOR personnel are, of course, at any given time subject to rules and regulations specific to their station of international service.

¹¹⁴ OSCE (2002), 40-41

¹¹⁵ *Ibid*, 47-49

¹¹⁶ UNDP/DPKO (2001), 18-19

procedures on time-limited contracts. There is no supervision or auditing of their performance during their service time, and no disciplinary mechanisms apply to them. In effect, the only instance of holding them accountable occurs if and when an appointee requests a renewed contract. Local judges and prosecutors work on one-year contracts and are subject to scrutiny during as well as at the end of each contract period.¹¹⁷ All of these circumstances suggest a factual subordination of the judiciary to the executive. In his report to the Security Council, the UN Secretary General even states that “*full control and authority by my Special Representative over the judiciary*” is an important feature of the Constitutional Framework being implemented in Kosovo.¹¹⁸ This is another clear violation of international human rights, which dictate independence between the legislative, the executive and the judiciary powers for the sake of checks and balances. The dilemma is, of course, that evidence and experience indicate that local officials do not universally support the impartiality ideals that constitute an equally important element in international human rights concerning the justice sector. Minority protection is explicitly presented as one of the main reasons why the Special Representative retains all powers over the judiciary.¹¹⁹ Non-action on the part of the SRSJ could therefore also be a human rights violation in these complicated problem complexes.¹²⁰

6 THE VALUE OF CIVIL-MILITARY COOPERATION IN COUNTER-TERRORISM: AN ASSESSMENT OF THE KOSOVO CASE

The effectiveness of KFOR-UNMIK security cooperation can and should be assessed in at least two perspectives: First, to what degree have their efforts actually suppressed terrorism and provided security for Kosovars (and surrounding territories and peoples)? And second, how well is the actual cooperation between the two institutions working?

6.1 Assessing the results on the ground

The overall security situation has unquestionably improved since June 1999 when the international administration took charge in Kosovo. It is, however, impossible to gauge exactly how much of a difference KFOR-UNMIK security cooperation makes in terms of counter-terrorism, because it cannot be estimated what the situation would be like had they never intervened.

¹¹⁷ OSCE (2002), 28-32

¹¹⁸ Report of the Secretary General to the Security Council, S/2001/565, 7

¹¹⁹ Ibid

¹²⁰ UNDP/DPKO (2001), 18-19

It appears that the most serious security challenges that Kosovo faces, which KFOR and UNMIK must address, are persistent ethnic violence, non-compliance to the peace agreement by segments in Kosovo society, and organized crime in several areas.

The above account indicate that ethnically and politically motivated violence constituted a persistent threat to peace and stability in Kosovo throughout 2002. Minorities continue to suffer from unprovoked attacks and harassments. Attacks on public transportation between minority enclaves have been recurrent, although not rife. Juveniles have been responsible for threats and violence against minorities. They are apparently organized by criminal groups and networks who capitalize on the non-existence of a juvenile court, hence the immunity of youngsters, in a judiciary aspiring to respect human rights and international law. KFOR has focused on erecting security structures to keep people off each other's throats. In a sense this has been a success, as ethnic/political violence seems to have abated throughout 2002 compared with previous years. However, it also seems clear that the reduction in incidents is a direct consequence of increased segregation. UNMIK has conducted a broad effort in virtually everything it does to encourage and enforce multi-ethnicity in the rebuilt Kosovo. The establishment of an unbiased, reliable law enforcement sector is a pivotal part of that effort. Considering the developments in the crime scene, nothing suggests that the population of Kosovo is demonstrating a dedicated commitment to the multiethnic Kosovo envisaged by the UN. UNSCR 1244 makes clear that it is the intention of the international community that Kosovo remains multi-ethnic and that it should move toward ever increasing and consolidation of interethnic tolerance. In this respect, the situation in Kosovo does not offer good prospects for the departure of the international presence anytime soon.

Organized crime with economic motivations has emerged as a prime security challenge. The Balkans has become perhaps the largest transit area in Europe for human trade, above all in the sense of sex slaves. The brutal nature of organized crime is in itself a potential security threat to people in Kosovo. With a tangible increase in kidnapping and trading of Kosovar girls the security situation has further deteriorated. Organized crime is closely connected with drugs and illegal weapons. Joint KFOR and UNMIK operations targeting organized crime and smuggling have indeed produced significant seizures of weapons (including bomb making equipment), drugs, and cash wads. As mentioned above, organized criminal groups have realized the impunity of juveniles and started to use youngsters to commit violence crimes on their behalf.

Non-compliance refers to the segments of Kosovo society that actively oppose the UNSCR 1244 and therefore refuse to cooperate with the international presence. Aspirations of national independence is the most common reason for non-compliance, which of course is a barrier to successful implementation of the UNSCR 1244. Resistance struggle also threatens security whenever it takes the form of actual fighting. In terms of counter-terrorism, however, the greatest concern is the perpetuate unwillingness of witnesses to come forward and make statements in courts of law. This undermines simultaneously efforts to convict those guilty of

ethnic/political violence and organized crime, and efforts to build a proper judiciary which respects international legal and human rights standards and ensures civil liberties. The judiciary process is damaged in two ways due to non-cooperation: Its credibility suffers considerably when it fails to convict known culprits, and again when KFOR acts outside the judicial process to detain culprits who would go free from prosecution due to lack of evidence.

It is significant that the many Kosovar political groups and agents that do work together with the international presence, ultimately hold independence ambitions too. They have opted to cooperate instead of fighting, so represent an optimistic trend of politics by dialogue. It should cause concern in the international community that large parts of Kosovo's people do not support the solution envisaged for Kosovo in the UNSCR 1244. The crucial question is "*What will happen when NATO and the UN leave?*" – the answer to which few dare to speculate.

6.2 Assessing cooperation

On the command level, there is a tight and well-organized pattern of cooperation and coordination. This is represented by regular meetings between COMKFOR and SRSG, as well as an active participation by officers from each organization in offices, councils, and boards of the other organization – especially in the security sector. The general perception seems to be that cooperation on this level works satisfactory.

On the operational level, practical cooperation tends to be a product of day-to-day concerns and necessities. The above account shows three dominant features of KFOR/UNMIK cooperation in the security sector: One: The missions of KFOR and UNMIK are intertwined. The establishment of a safe and secure environment and the re-establishment of law and order are jobs that go hand in hand. Two: In practice, cooperation seems to be predominantly a matter of task division, not joint operations. And three: Where actual cooperation is taking place, it is overwhelmingly carried out based on the day-to-day challenges met in the field. It has evolved and changed according to developments in the theatre. Civil-military cooperation is taking place by default, rather than design.¹²¹

Most joint operations are planned and conducted on brigade level and below, thus pertaining to a region, town, neighborhood or other limited geographic locus. Joint operations are also overwhelmingly reactive, that is, planned and conducted for the purpose of solving a problem, responding to a challenge, or meeting a need – they are rarely preventive and/or have a long-term perspective. It must be assumed that this model works well, as most operations are branded successful in terms of accomplishing the mission for each situation.

As pointed out, a safe and secure environment depends on effective and successful policing. This makes for uneasy inter-dependency between competencies of the military

¹²¹ Lindeman (2002), 104-105

KFOR and the civilian UNMIK. Reports point to KFOR being in possession of more security personnel and more resources than UNMIK Police. KFOR's reluctance to contribute personnel and resources with reference to mission creep has been reported to create resentment in UNMIK Police. As a result, KFOR has come to provide backup for UNMIK Police under two circumstances. One is in situations where KFOR still retains primacy according to the mandate. The other is in situations where success for a given police operation is perceived as a precondition for the safety of KFOR troops in the area, or for success for any KFOR assignment in the area. Mitrovica is a good example of a working cooperative relationship between KFOR and UNMIK on a day-to-day basis, one where KFOR both retains primacy and recognizes that its own mission depends on effective policing. KFOR quite explicitly does not want to conduct policing, but has plenty of evidence that UNMIK Police does not possess the capabilities Mitrovica requires. Thus, KFOR has assumed an operational support role, which it fills comparatively well.

Practical security cooperation is a matter of duty (adopted as a principle in UNSCR1244), and a matter of necessity, but apparently a difficult concept for the agents to get a holistic grasp of. As seen previously, they are provided with no specific guidelines in the mandate. Therefore, task division according to normal separation between military and civilian tasks seems to be followed as far as possible. Joint operations are organized in response to specific problems and limited in time and scope. This *modus operandi* overall constitute a security cooperation pattern dictated by developments on the ground, not by design and targeted intention. Incentives are still strong to demonstrate a clear separation between UNMIK and KFOR. Community policing is a central concept in UNMIK Police daily operations, meaning a low-key approach where public relations and gaining public trust are some of the most important tools in tackling crime.¹²² For KFOR, maintaining the contrasting image of professional soldiery is equally important.

When it comes to division and coordination of tasks between UNMIK and KFOR within security, the UNSCR 1244 prescribes a gradual transfer from full KFOR to full UNMIK responsibility. The actual situation in this respect is that transfer of powers has reached different stages in different task areas. Mitrovica is still KFOR's responsibility, although joint operations with UNMIK Police now are the order of the day. Criminal investigation, on the other hand, is more or less completely in the hands of UNMIK.

The above description of operations shows two dominant features of task distribution: For one, it has largely been conducted on the basis of developments on the ground. The situation, not a plan or scheme worked out in headquarters, has determined the time, pace and circumstances for transfer of powers. Second, joint operations have most often taken place when one of the agencies has requested the assistance of the other. Only on rare occasions have operations been carried out on a truly common basis, where both agencies have

¹²² UNMIK Police Annual Report 2000, 29

participated on equal footing in all stages of planning and implementation. “Groundhog” is one such notable exception. Both of these features speak of a significant element of *ad hoc* in the implementation of UNSCR 1244. The resolution is notoriously vague regarding the “hows” and “whens” of civil-military cooperation, a feature which has manifested itself in the actual conduct of cooperation. This is not necessarily bad, as flexibility can be a crucial asset in the unpredictable environment of a post-conflict territory. However, a more target oriented approach could be more cost-efficient and provide operations with a focus and a purpose greater than getting through the present day.

Between the command and operational level there should be, according to most common organization models, lines of command or at least guidelines. The intentions set forth for the mission as a whole should, ideally, be communicated to the operational instances which should in turn direct their efforts primarily towards those targets. Such an intermediate level would be where doctrines, perhaps some general SOPs, and success criteria more specific and situation-bound than those proposed in the mandate, would be found. A critical assessment of the international operation in Kosovo suggests, however, that this level is virtually non-existent. Why this apparent void in the organizational pyramid? The findings suggest that national agendas is a factor that figures high on the list of reasons why coordination and cooperation are conducted in a sub-optimal way, despite ambitions to the contrary across the operation and the capitals. Political influence on the international arena, volume of contributions, domestic agendas, and national priorities vis-à-vis other states are all elements that count in this equation. For example, it is obvious that the Quint in reality can control KFOR activities much more than COMKFOR and the HQ, although the Quint is formally subordinated COMKFOR in the KFOR organization. The implication is, of course, that whatever is discussed and agreed upon at the highest level between COMKFOR and the SRSG must be in accordance with Quint consensus. Consequently, it is hoped that each brigade commander nation is able to persuade the other states in its sector to participate, if and when decisions are made as to joint operations or altered organizational structures.

Another factor that seems to complicate cooperation and coordination, is a factual difference in military and civilian working methods and agendas. In this case it is especially an issue for policing. The question of military contributions to law enforcement, and intelligence sharing illustrate this. Military instances regularly refuse to provide intelligence that is often the only, and crucial, evidence against a suspect to police and prosecutors, thus preventing judicial authorities to take him or her to court and make a conviction within the due process of law. Instead military units have opted to keep known criminals under confinements outside of judicial processes and defined the practice as “maintaining a safe and secure environment.” Civilian observers have interpreted these circumstances as proof that the military has no business engaging in law enforcement. Military sources reply they would like nothing better than to give up law enforcement, but that the inadequate resources of the civilian agency leave

them no choice as long as they are responsible for maintaining security. Good arguments back each of these positions, but do not reconcile them.

6.3 Conclusions

Much suggests that there are significant potential benefits from civil-military cooperation in peace operations when it comes to counter-terrorism. In Kosovo, the comparatively few truly joint operations between KFOR and UNMIK, when both agencies have planned and carried out operations together, have yielded very good results in terms of seizures and detentions of suspects. The regular cooperation is really only a question of task division and to a certain degree coordination of activity. There is every reason to expect such a limited cooperative approach to be more productive than if the two agencies should operate isolated from each other. Isolation has normally been the case in peace operations where concerns have been high on the agenda to not confuse military with civilian agents and tasks. Nevertheless, when one compares the joint operations in Kosovo with regular task division and coordination, it looks as if the potential benefits have not been fully exhausted. Obstacles to enhanced joint activity are mainly of the practical sort. Differences in perspectives and working methods between civil and military agents appear to be a significant barrier, but one that the agencies have proven they can overcome if and when they want to. National agendas are a more difficult problem, which primarily lie in the capitals. It is hard for field commanders and officers to overcome national agendas to obtain more compatibility in the field without ignoring direct instructions from home.

In a time when the threshold for launching peace operations is ever lower, and joint international efforts to curb terrorism and organized crime is perceived ever more urgent, it is worth exploring new and various ways to meet these challenges in a cost-efficient manner. This review is an argument for continued research and mapping of how enhanced cooperation between civil and military agencies can be established as a valuable, institutionalised contribution to these ends.

List of abbreviations:

AD	Administrative Department
AOR	Area of Responsibility
CCIU	Central Criminal Investigations Unit
CIMIC	Civil-Military Cooperation
CINCSOUTH	Commander-in-Chief Allied Forces Southern Europe
CivPol	Civilian Police
COMKFOR	Commander of KFOR
DSRSG	Deputy Special Representative of the Secretary General
EOD	Explosives Ordnance Division
FFI	Forsvarets forskningsinstitutt
FRY	Federal Republic of Yugoslavia
FYROM	Former Yugoslav Republic of Macedonia
GO	Governmental Organizations
GSZ	Ground Safety Zone
HQ	Headquarters
IIU	Internal Investigation Unit
IOM	International Organization of Migration
JOC	Joint Operation Center
KFOR	Kosovo Force
KLA	Kosovo Liberation Army
KPC	Kosovo Protection Corps
KPS	Kosovo Police Service
MNB	Multi National Brigade
MPU	Missing Persons Unit
MTA	Military Technical Agreement
NATO	North Atlantic Treaty Organization
NGO	Non-governmental Organization
OJG	Operation Joint Guardian
OSCE	Organization for Security and Cooperation in Europe
PDSRSG	Principal Deputy Special Representative of the Secretary General
PSO	Peace Support Operation
ROE	Rules of Engagement
SACEUR	Supreme Allied Commander Europe
SOP	Standard Operating Procedures
SPU	Special Police Unit
SRSG	Special Representative of the Secretary General
TPIU	Trafficking and Prostitution Investigation Unit
UCK	(Albanian for KLA)
UCPMB	(Albanian for) Liberation Army of Presevo, Medvedja and Bujanovac
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Mission in Kosovo
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
UNSG	United Nations Secretary General

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APPENDIX 1 UN SECURITY COUNCIL RESOLUTION 1244

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.

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