

Kosovo

In December 2007, international talks on Kosovo's future ended in failure. On 17 February 2008, the province's government declared independence from Serbia, of which it had been nominally part while under UN administration since 1999. A number of states—including France, Germany, Great Britain, and the United States—have recognized Kosovo, but the majority of the international community have not. In October, Serbia persuaded the UN General Assembly to refer the issue to the International Court of Justice. Staunch Russian opposition to independence precluded any decisions in the UN Security Council.

This meant a year of confusion and conflicting signals for the international presence in Kosovo. The UN and NATO were faced by significant challenges in ethnically Serb north Kosovo after the declaration of independence. But the major dilemma has been the existence of competing legal and political bases for operations emerging from international and local dynamics.

The UN has had to manage its role in Kosovo in the face of these contradictions, and Kosovo has been one of Secretary-General Ban Ki-moon's priorities through 2008. In June 2008, he declared that he no longer believed the UN's role viable in its current form, and acted in his role as the UN's Chief Administrative Officer to "reconfigure" the UN Mission in Kosovo (UNMIK). In reality, this has translated into substantial downsizing of staff and trying to find a modus vivendi with the other international organizations involved. By late 2008, there had been more progress toward this than might have been predicted, with an EU peace operation being accepted by both Kosovar

and Serbian authorities but the process remains incomplete.

Background

In Resolution 1244 of 1999, the Security Council mandated UNMIK and NATO's Kosovo Force (KFOR) to prepare the ground for a "political settlement." It did not define parameters for this settlement. Nor (unusually but not uniquely) did it require a periodic renewal of the mandate. Neither the supporters nor opponents of Kosovo's independence have reopened discussions of Resolution 1244. Both sides know



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3.6.1 Cost-Benefit Analysis of United Nations Peacekeeping

In 2008, a team of researchers led by Paul Collier, working under the Copenhagen Consensus project, published a report providing a comprehensive cost-benefit analysis of international military interventions in postconflict societies and the abilities of these interventions to reduce the risk of conflict recurrence. The report found that UN peacekeeping operations are highly cost-effective, as they reduce the possibilities of relapse to conflict and coup attempts and all their negative consequences.

While interstate war has declined since the end of the Cold War, the incidence of conflict—particularly civil wars in low-income countries—has remained relatively constant. Further, the threat posed by the recurrence of conflict or coup attempts in postconflict societies remains high. The average direct cost of a civil war can be upward of \$250 billion. This does not include the humanitarian costs, which

impact negatively on broader developmental interventions by the international community.

The report explored a range of military intervention mechanisms used by the international community, with a primary focus on the curtailment of domestic military spending, the use of peacekeeping forces, and the provision of over-the-horizon security guarantees. The authors concluded that these methods have had positive impacts on the security situation where they were employed, but are not a panacea and need to be applied on a case-by-case basis.

The authors found that UN peacekeeping has proven to be extremely cost-effective, especially when the investment in a mission is weighed against the alternative impacts of relapse to conflict and its consequences. The study concluded that spending \$850 million on a peacekeeping operation annually over the course of ten years

reduces the risk of violence from nearly 40 percent to 7 percent.

An even more cost-efficient method of intervention is the use of over-the-horizon security guarantees, which are characterized by maintenance of only small contingents of personnel in-theater, with more robust forces available to be rapidly deployed. Interventions modeled on Britain's ten-year security safeguard for Sierra Leone, provide for diminished operational costs with positive impacts on the security situation.

The report concluded that the benefits of postconflict aid are maximized when packaged with the instruments described above. To ensure optimal effect, these efforts require significant coordination among institutional actors, a role that the authors see as a perfect fit for the UN's Peacebuilding Commission.

Source: Paul Collier, Lisa Chauvet, and Haavard Hegre, "The Security Challenge in Conflict-Prone Countries," Copenhagen Consensus 2008 Challenge Paper, http://www.copenhagenconsensus.com/files/filer/cc08/papers/0%20challenge%20papers/cp_conflicts_-_collier.pdf.

UN Interim Administration in Kosovo (UNMIK)

• Authorization and Start Date	10 June 1999 (UNSC Res. 1244) (note: paragraph 19 of the resolution states that international civil and security presences are established for an initial period of twelve months, to continue thereafter unless the Security Council decides otherwise)
• SRSG	Lamberto Zannier (Italy)
• Chief Military Liaison Officer	Major-General Raul Cunha (Portugal)
• Police Commissioner	Richard Monk (United Kingdom)
• Budget	\$198.0 million (1 July 2008–30 June 2009)
• Strength as of 31 October 2008	Military Observers: 26 Police: 1,871 International Civilian Staff: 381 Local Civilian Staff: 1,719 UN Volunteers: 108

For detailed mission information see p. 305

that the other could muster at least one Security Council veto on alterations to the mandate.

The resolution has thus remained in force, and UNMIK and KFOR continued to operate throughout the year, as they had previously. Their role has been complicated by early elements of an alternative international presence under the political auspices of the European Union. The EU sent planners to Kosovo in 2006, on the assumption that it would receive full international recognition and so achieve a smooth transfer from UN administration. In early 2007, UN envoy Martti Ahtisaari published a plan envisaging an EU rule of law and police mission and a (European) International Civilian Representative (ICR) to provide political advice in an independent Kosovo.

The Ahtisaari plan foresaw the redefinition of KFOR as an "international military presence"

(IMP), still under NATO command and providing direct security, but also training a new Kosovo Security Force. It also proposed an autonomous mission under the Organization for Security and Cooperation in Europe (OSCE)—the OSCE Mission in Kosovo (OMIK)—to monitor legal and rights issues, most obviously to safeguard Kosovo’s Serb minority (about 5 percent of the population). The EU and OSCE had previously operated in Kosovo under the authority of UNMIK, the former dealing with economic issues and the latter dealing with human rights and institution building. While the Ahtisaari plan called for UNMIK’s dissolution, it nonetheless allowed for a degree of continuity in the international presence.

Key Developments

Legal

In the context of Kosovo’s unilateral declaration of independence in February 2008, however, the Ahtisaari proposals have effectively offered an alternative basis for peace operations to Resolution 1244. The Ahtisaari plan had no status in international law, but the bulk of its provisions were included in Kosovo’s constitution, ratified on 9 April. Following earlier EU planning assumptions, endorsed by Ahtisaari, that a transition from the UN would take four months, the Kosovar authorities declared the constitution in force on 15 June.

All elements of the international community have had to navigate between what some officials call the “two legal universes” of Resolution 1244 and the new constitution. The one exception to this was the EU pillar within UNMIK, which had dealt with economic matters, whose work was already believed done in 2007. The European Commission closed its economic operations within UNMIK after the independence declaration, with only limited consultation from the UN.

The UN and OSCE, both requiring Russian (and in the OSCE’s case, Serbian) approval for their continued activities, continue to act on the basis of Resolution 1244. Both declared

NATO Kosovo Force (KFOR)

• Authorization and Start Date	10 June 1999 (UNSC Res. 1244)
• Force Commander	Lieutenant-General Giuseppe Emilio Gay (Italy)
• Budget	\$44.1 million (October 2007–September 2008)
• Strength as of 30 September 2008	Troops: 14,759

OSCE Mission in Kosovo (OMIK)

• Authorization and Start Date	1 July 1999 (PC.DEC/305)
• Head of Mission	Ambassador Tim Guldemann (Switzerland)
• Budget	\$46.0 million (October 2007–September 2008)
• Strength as of 30 September 2008	Civilian Staff: 177

themselves “status neutral,” implying that they could fulfill their duties without reference to the political claims of domestic actors. The OSCE adopted this term in late 2007, prior to the annual meeting of the OSCE Ministerial Council, while the UN did so in the days immediately prior to independence.

By contrast, the International Civilian Representative, Pieter Fieth, and his staff operate solely on the consent of the Kosovar government. Fieth had been chosen for the post in 2007, but did not arrive until after Kosovo’s independence declaration. There was considerable public speculation about the relationship between the ICR and the UN’s Special Representative of the Secretary-General (SRSG), then Joachim Rucker. While Fieth was initially thought to be taking a highly assertive stance, he adopted a more measured approach as the year progressed.

The existence of “two legal universes” posed particular problems for NATO and the

EU Rule of Law Mission in Kosovo (EULEX Kosovo)

• Authorization and Start Date	4 February 2008 (EU Council Joint Action 2008/124/CSFP)
• Head of Mission	Yves de Kermabon (France)
• Budget	\$133.6 million (February 2008–January 2009)
• Strength as of 30 September 2008	Police: 118 International Civilian Staff: 95

EU Rule of Law Mission in Kosovo (EULEX Kosovo). The overlapping membership of both organizations split over whether to recognize Kosovo. While only a few European states have not recognized Kosovo's independence, dissenters including Spain (the fifth biggest troop contributor to KFOR in early 2008) and Slovakia have complicated consensus-based decisionmaking in Brussels. Even among recognizing states, there have been divisions over how boldly to proceed.

For NATO, the question was whether its presence should continue as KFOR, recognized in Resolution 1244, or take on the expanded remit envisaged by Ahtisaari for the IMP. While NATO's immediate concern in the first quarter of 2008 was security in north Kosovo, its French field commanders insisted that they continue to act as KFOR. But the North Atlantic Council decided in June to mandate KFOR to train a Kosovo Security Force, apparently to some surprise within the mission. While nonrecognizing states indicated that they would not participate, planning was under way by fall 2008.

The role of EULEX was even more problematic because the mission was designed to operate closely with Kosovo's new constitutional order, including not only police but also judges and prosecutors, as well as a border security element. While it began to deploy in late February 2008, originally aiming to be operational by the time Kosovo's constitution came into force, its lack of a clear legal basis and operational challenges led to speculation in Brussels that it might be dissolved. With the mission

still far from operational by the middle of the year, the EU and UN explored whether EULEX could be a "status neutral" actor, fulfilling the law and order aspects of Resolution 1244.

There were serious complications as EULEX's claim to status neutrality sat uneasily with its earlier purpose: fostering a Kosovar state. Resolution 1244 explicitly states that the SRSG is the ultimate authority in Kosovo, but EU members did not want their personnel under a UN line of command answering directly to New York. Nonrecognizing states, concerned by the status of their personnel, wanted EULEX staff to enjoy the rights and immunities granted to UN staff—as they could not accept any such rights offered by the Kosovar government. But they did not want the UN to be able to revoke these immunities.

Discussions of these problems progressed slowly in the third quarter of 2008. By September, a working group of UNMIK and EULEX officials had been formed to address them. However, officials doubted that a resolution could be found unless the Serbian government were to drop objections to EULEX taking responsibilities from the UN.

This reflected the extent to which maintaining a presence in Serb areas of Kosovo was essential to the international community's credibility. In late November 2008, authorities from both Kosovo and Serbia reluctantly agreed to a plan that would let EULEX officially begin its operation. The compromise stipulated that the EU will take over the day-to-day administrative activities, but UNMIK would retain overall authority. That they did so resulted from both an improving security situation and compromises by international officials.

Security

Kosovo was calm in the run-up to the February declaration of independence. There were fewer incidents of political violence in the fall and early winter of 2007 than in comparable seasons in earlier years. Nonetheless, almost all international officials assumed that the independence announcement would stimulate interethnic clashes.

These had two possible centers of gravity. One was the enclaves scattered throughout Kosovo that are home to about half its Serb populations. The other was north Kosovo, which houses the other half and is contiguous with Serbia proper. The most likely flashpoint was Mitrovica, a town on the border of the north and site of many past skirmishes.

KFOR made a number of well-publicized troop rotations into north Kosovo while sponsoring an advertising campaign throughout the province, underlining its friendly role. Its commanders stated that it would be ready for any eventuality, after NATO held an exercise in the Adriatic in 2007 to show its will.

In the event, Albanian violence against Serb enclaves failed to materialize. This almost certainly reflected efforts by the Kosovar authorities to urge restraint, but opinion polls suggested that there was little desire for violence in the Albanian community. UNMIK officials found that the Serb enclaves exhibited a high sense of personal security.

By contrast, the situation in north Kosovo deteriorated rapidly after independence was declared. Mobs destroyed customs checkpoints between Kosovo and Serbia proper, and demonstrations in Kosovo won global press attention. It is probable that this violence was coordinated by Serbian security services, also implicated in an attack on the US embassy in Belgrade.

By mid-March 2008, however, UNMIK and KFOR appeared close to losing control of the north completely. The Serbs made symbolic moves to affirm their authority there, such as reclaiming control of the railway in that region. The international community's response was complicated by long-standing disagreements over how to treat the Serbs inhabiting the region between UNMIK's headquarters in Pristina and its Mitrovica office.

The situation escalated on 13 March when Mitrovica's courthouse was occupied by about fifty Serbs, apparently court staff from Yugoslav times. What followed is still open to dispute; a detailed UN report has not been circulated even to the Security Council. It appears that over the weekend of 15–16 March, senior

UNMIK and KFOR officials agreed that UNMIK police should retake the courthouse, with KFOR in reserve. They seem not to have consulted closely with French KFOR officers in the area or with the UNMIK office in Mitrovica, possibly for fear of leaks. The decision may have been motivated by reports of further Serb provocations looming the following week.

The initial operation took place on 17 March 2008, and the courthouse was soon secured—the Serb occupiers were briefly taken to Pristina, although later released without charge. This was a particularly inflammatory gesture given that on 17 March 2004, KFOR and UNMIK had failed to handle large-scale anti-Serb rioting throughout Kosovo. A mob soon formed in Mitrovica, although it was well armed enough to suggest premeditation.

In the violence that followed, a Ukrainian UNMIK policeman was mortally wounded and the French KFOR troops sent to relieve the courthouse sustained eighty casualties. The ad hoc nature of the operation was highlighted by the fact that UNMIK and KFOR did not have a joint medical evacuation plan, and staff at a KFOR field hospital initially refused to admit police casualties, including Ukrainian policemen, while treating the French.

The head of UNMIK's Mitrovica office offered to resign in an e-mail on the “defeat,” which was soon reproduced in the Serbian press. His resignation was not accepted. SRSG Joachim Rücker (who was away during the operation) and his deputy Larry Rosin (who had been in charge) also tendered their resignations. Their resignations were accepted. Nonetheless, there were no major acts of violence in north Kosovo thereafter, and there was a cooling of rhetoric from Belgrade. The episode may have deterred all involved from further use of force.

The closure of the courthouse impacted heavily on the Kosovo Serbs, as it was not reopened and the day-to-day administration of justice in the north effectively halted. Many Serb-ethnicity Kosovo police had stopped work upon the declaration of independence (also a problem in the enclaves), and while some patrols continued in the region, cases could not be



REUTERS/Marko Djurica

UN and NATO peacekeeping vehicles burn during clashes with Serb protesters in Mitrovica, Kosovo, 17 March 2008.

taken for trial. While KFOR mounted a number of exercises there, the Kosovar authorities opened customs posts between the north and Kosovo proper.

This legal limbo did not lead to chaos, perhaps because of the influence of plainclothes Serbian police and security officers, but organized criminals such as fuel racketeers benefited. UNMIK worked quietly to ensure that funds earmarked for the north were transferred. By the end of 2008, the estimated 6,000 Albanians who live in the north had gone unmolested, and had even enjoyed increased freedom of movement—suggesting a gradual acceptance of the new reality by the Serbs.

The decisive factor in shaping events in north Kosovo, however, was probably the elections held in Serbia proper in May 2008. Initially, these caused UNMIK embarrassment, as it decided to permit polling in Serb areas, contravening Resolution 1244. But the elections resulted, after prolonged coalition negotiations, in the formation of a liberal government more deeply committed to working with the European Union and the United States than had been its predecessor. The new government appointed a moderate from Mitrovica as its minister for

Kosovo. Belgrade appears to have reined in the security services in north Kosovo, and moved to strip more radical figures in the area of various vested interests. Growing rumors that it might even agree to allow EU personnel to patrol Serb areas led to a wave of protests in the enclaves in October.

October also saw a success for UNMIK, which was finally able to reopen the Mitrovica courthouse for urgent cases after extensive negotiations with Belgrade on the issue. These were part of a wider program of talks designed by UNMIK to engage Serbia on practical matters in the area, circumventing political difficulties. The talks took place in parallel with much broader negotiations between the EU and Serbia (also relatively detached from the EU presence in Kosovo), and might have had less chance in isolation.

Nonetheless, many UN officials assumed through much of 2008 that they would have to continue to lead in relations with the Serbs inside Kosovo. Plans were drawn up for a residual police presence of about 500 UN officers in the north after EULEX deployed. But these were complicated by continuing questions over EULEX's deployment, arising not only from high-level tensions in the Security Council but also from administrative hiccups.

The Long Transition

The questions about EULEX's base in international law overshadowed many planning assumptions about its arrival. Although the EU wished to distinguish itself from UNMIK—choosing to reemploy only a small number of UN international staff—it wanted to take over the mission's headquarters, vehicles, and items such as computers. In taking on rule of law duties, it also needed to learn about existing cases and challenges from the UN.

With no Security Council mandate for the EU, however, the extent to which the UN could cooperate was unclear. In line with Ban Ki-moon's decision to reconfigure the mission, UNMIK found ways to work with the EU, but personal relations were frequently poor. There was a feeling that EU staff saw their predecessors

as jaded, while UNMIK saw their successors as naive.

Particular problems emerged around the transfer of property and vehicles and over Kosovo's courts. In the legal sector, tensions arose around the transfer of cases—including war crimes cases—from UN to EU supervision. While UN judges and prosecutors had played executive roles in the Kosovar system since 1999, their EU successors were meant to be advisers only. While waiting to take on this more limited role, the European lawyers requested to see active files, leading to concerns on the UN side about breaching client confidentiality.

Issues such as this soured some UNMIK staff against its political leadership, which they saw as too ready to compromise with EULEX. Consultation in the mission seems to have suffered. But all involved understood that the mission leadership was ultimately responsible for redefining the mission in a way that would satisfy Resolution 1244 while having little or no operational identity (with the possible exception of the north). In September 2008, an 80 percent staff cut was announced, and senior officials envisaged the emergence of an essentially political mission, rather than a peace-keeping one, in the medium term.

The responsibilities of this mission are likely to include activities far removed from blue helmets. One area in which UNMIK has already played a facilitating role is in regional and international forums in which Kosovo cannot win recognition due to Serbian opposition (this includes regional stability and development initiatives). UNMIK officials now attend to “represent” Kosovo, but bring Kosovar representatives in their team—allowing Kosovo to act more like a state despite its recognition difficulties.

In the meantime, EULEX and the ICR's staff continued putting their missions together. While EULEX still had fewer than 300 personnel by the fourth quarter of 2008, it appeared to be suffering internal tensions resulting from differences between the operational cultures of its police, judicial, and border security elements. While the compromise agreement to allow EULEX to

operate under UNMIK authority provided some clarity as to the EU's role, the operation will only reach full strength by spring 2009. The ICR's role remained troubled by the continued existence of the UN SRSG, although Joachim Rucker's replacement, Lamberto Zannieri, appears to have reduced tensions.

The OSCE's role also remains uncertain. In early 2008, Serbia was positive about the OSCE's presence, presumably seeing it as an advocate in Kosovo. But Belgrade has grown more critical, perhaps because the organization has done little to slow the gradual emergence of a functioning Kosovar state. The OSCE also managed to irritate the Kosovar government by releasing a detailed and highly critical report on governance and rule of law in the six months after the independence declaration. Nonetheless, its officials have also been quietly helpful, carrying messages between the Kosovo Serbs and other elements of the international system where direct contact has not been possible.

KFOR perhaps has the most straightforward future in the province, although it remains to be seen whether it will transform into an IMP. After the peak of violence in March 2008, the mission appears more confident in the security situation: as of November 2008, it had 14,579 troops in place, down from 16,000 the previous year. But the current lull in north Serbia is not guaranteed to last, especially if radical Serbs choose to defy the Belgrade moderates.

Conclusion

While not as envisioned in the Ahtisaari plan, the transition from UN to EU day-to-day administration has taken place, and the main challenge in the coming year will be bringing the EU operations up to their full capacity. But many in Kosovo believe that the imperfections of this transition had one lasting political effect in 2008: the Kosovar government enjoyed a great deal of freedom. Kosovo has moved more rapidly to real statehood than it might have in the case of a smoother transition.