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Veröffentlichungsversion / Published Version

Zeitschriftenartikel / journal article

Empfohlene Zitierung / Suggested Citation:

Caruso, U. (2008). Kosovo declaration of independence and the international community - an assessment by the Kosovo Monitoring Task Force. *JEMIE - Journal on ethnopoltics and minority issues in Europe*, Vol. 7(2), 1-33. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-65059>

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Kosovo declaration of Independence and the International Community - an assessment by the Kosovo Monitoring Task Force

Ugo Caruso¹

Abstract

This paper provides an overview of the roles played by international organisations with relation to Kosovo independence in the months prior to the declaration of independence to March 2008, based on data collected by the Kosovo Monitoring Task Force in the frame of the MIRICO project.

Introduction

Created in the frame of the MIRICO project – Human and Minority Rights in the Life-Cycle of Ethnic Conflicts, the Kosovo Monitoring Task Force is composed of academics and professionals who have decided to monitor the process of independence of Kosovo². This essay therefore would like to be considered exemplificative of the possible researches which can be conducted on the basis of the data collected by the Task Force. Data coming from the monitoring activity are publicly available at the Institute for Minority Rights of the European Academy of Bolzano and accessible to all academics interested in researching on the independence of Kosovo and its implications at international level.

The aim of this paper is to give an overview of the roles played by key-organisations, such as the UN, OSCE, European Union, Council of Europe and NATO (indicated in the paper as the International Community) from the months before the Kosovo declaration of independence until March 2008. In this context, mention to major powers (e.g. Russia and Serbia) is merely functional to the description of the role played by International Organisations, and is not to be included in the term International Community used for this paper.

¹ The author would like to thank Claire Gordon, Emma Lantschner, Annemarie Rodt and Gabriel Toggenburg for the research that they conducted. A special thank to Benedikt Harzl from the European Academy of Bolzano for coordinating the Task Force.

² Funded by the European Commission's Framework Programme 6, MIRICO is developing substantial and procedural concepts for the management of diversity in ethnically and culturally diverse states that can help preventing conflict and overcoming its consequences with a view to mainstreaming conflict prevention into the programming of all aspects of EU foreign policy. For further information about the project, please visit <http://www.eurac.edu/Org/Minorities/MIRICO/index.htm>

Conclusions at the end of the paper are thus based on the results coming from the analysis of this specific period of time, and should not be considered as conclusive.

Short historical overview of the administration and governance in Kosovo

Since June 1999, Kosovo has been governed by an interim administration led by the United Nations Mission in Kosovo (UNMIK) established by the UNSC Resolution 1244 (1999). Headed by a Special Representative of the Secretary-General (SRSG), the operational framework of UNMIK has been divided into four pillars: (i) Police and Justice, under the direct leadership of the UN; (ii) Civil Administration (UN); (iii) Democratization and Institution Building (OSCE); (iv) Reconstruction and Economic Development (EU)³.

The military component has been led by NATO-led Kosovo Force (KFOR) on the basis of UNSC Resolution 1244. KFOR was set up as a separate body from UNMIK and, while the necessities of the work required cooperation with UNMIK, it is not controlled by the civilian authority in Kosovo (unlike the situation under the UN administration in East Timor)⁴.

In 2001 the Constitutional Framework for Provision Self-Government in Kosovo was issued by the SRSG created a system known as the "Provisional Institutions of Self-Government" (PISG)⁵. Furthermore, the Kosovo Standards Implementation Plan, put together by UNMIK in 2004, spelt out how to achieve a democratic society, based on the rule of law and effective equality.

The International Community and the Ahtisaari plan

In November 2005, former Finnish President Martti Ahtisaari was appointed special envoy of the UN Secretary-General to prepare a proposal for the future status of Kosovo. The UN-led process followed a set of "guiding principles" agreed upon by the Contact Group countries⁶. No return to the pre-1999

³ The UNHCR left the pillar structure in 2000, while keeping a mission in Kosovo, and was replaced by a second UNMIK pillar responsible for policing and justice.

⁴ From Clive Baldwin, *Minority Rights in Kosovo under International Rule*, (Minority Rights Group International, London, 2006).

⁵ See UNMIK Regulation 2001/9 of 15 May 2001.

⁶ Namely: France, Germany, Italy, the United Kingdom, the United States, and Russia.

situation, no partition of Kosovo and no redrawing of international borders in the region were among the top priorities to take into account in preparing the comprehensive proposal⁷.

After 15 rounds of talks and a final high-level meeting between Belgrade and Pristina in Vienna on 10 March 2007, Mr. Ahtisaari delivered his plan, comprising a four-page Report and the 63-page Comprehensive Proposal for the Kosovo Status Settlement, to the UN Secretary General on 15 March 2007⁸.

Already on 12 March 2007, however, Mr. Ahtisaari declared talks on the future status of the province to be deadlocked⁹. The negotiations were also disturbed by Montenegro's declaration of independence from Serbia, which occurred in June 2006. To the partition of the Federal Republic of Yugoslavia (FRY) Belgrade reacted with a new Constitution. The document was adopted by referendum on 28-29 October 2006 following a campaign that was dominated by the Kosovo issue; the latter considered in the new document an integral part of Serbia.

On 26 March, the UN Secretary-General forwarded the Ahtisaari proposal to the United Nations Security Council, fully supporting Mr. Ahtisaari's recommendation for a supervised independence¹⁰.

The Ahtisaari plan provides the foundations for the creation of an independent state of Kosovo with its own constitution, state symbols, security forces, and the right to become a member of international organisations. Settlement implementation is to be supervised through international bodies. Transition period is planned for a term of 120-days at the end of which, UNMIK's mandate should expire and all legislative and executive powers transferred to Kosovo's governing authorities. International presence in the field will rest in place. In this context, the Plan foresees the establishment of an International Civilian

⁷ See NATO Parliamentary Assembly, Committee Report No. 163 CDS 07 E rev 2, "Kosovo and the Future of Balkan Security", by Vitalino Canas, Annual Session, Reykjavik 2007, § 46.

⁸ See United Nations Security Council, "Comprehensive proposal for the Kosovo Status Settlement, U.N. Doc. S/2007/168/Add.1, 26 March 2007 ; see also Commission of the European Communities, Commission Staff Working Document, "Kosovo under UNSCR 1244 2007 Progress Report", SEC(2007) 1433 in COM(2007)663, Brussels 6 November 2007, 5.

⁹ See UN News Service (2007), "Ban Ki-Moon receives Contact Group report on Kosovo", 7 December. Available at: <http://www.unmikonline.org/news.htm#0712>. Accessed 7 August, 2008.

¹⁰ See Commission of the European Communities, "Kosovo under UNSCR 1244 2007 Progress Report", SEC(2007)1433, cited in footnote 8, 5.

Office (ICO) to be headed by an International Civilian Representative (ICR) - a post occupied by the EU Special Representative¹¹.

Furthermore, Kosovo Serbs would be free to decide their resource allocation priorities, would have the right to benefit from assistance from the Serbian government, and would exercise enhanced powers in the fields of education and healthcare, as well as a monopoly over cultural policy. The Proposal also provides for the creation of protection zones and privileges for the Serbian Orthodox Church. In addition, six new or significantly expanded Kosovo Serb majority municipalities would be set up¹².

The word "independence," however, is never mentioned in the Ahtisaari proposal¹³. Besides this, measures imposed for the protection of the Serb minority go beyond what is normally required by International and European standards. It is of particular interest that for the part of the plan dealing on minority rights Mr. Ahtisaari enjoyed the collaboration of the OSCE High Commissioner on National Minorities¹⁴.

The presentation of Ahtisaari's report opened an intensive phase of debate in the international arena. Although the official endorsement received by Kosovo Albanians, by the European Union and their member states individually and by NATO, Kosovo Serbs rejected the plan¹⁵. Belgrade backed their stand recalling that the only acceptable agreement would be the one reached at the United Nations Security Council¹⁶.

¹¹ See NATO Parliamentary Assembly, Committee Report No. 163 CDS 07 E rev 2, cited in footnote 7, § 51.

¹² See UN News Service (2007), "Ban Ki-Moon receives Contact Group report on Kosovo", 7 December. Available at <http://www.unmikonline.org/news.htm#0712>. Accessed 10 August 2008.

¹³ Reference is in fact given to the "multi-ethnicity" of the Kosovo society; the proposal in fact envisages in its Article 1 Kosovo "multiethnic society, which shall govern itself democratically, and with full respect for the rule of law, through its legislative, executive and judicial institutions." See Comprehensive Proposal for the Kosovo Status Settlement, UN Doc. S/2007/168 Add. 1.

¹⁴ See Virginie Coulloudon (2007), "Integration and diversity. Applying the same formula across the OSCE area" interview of the OSCE HCNM Rolf Ekeus, *OSCE Magazine* Oct-Nov 2007, 17.

¹⁵ The Kosovo Assembly confirmed their endorsement in a vote on 14 March 2007.

¹⁶ See Commission of the European Communities, "Kosovo under UNSCR 1244 2007 Progress Report", SEC(2007)1433, cited in footnote 8, 5.

From Moscow, Russia made clear that until superseded by a new decision, Security Council Resolution 1244 (1999) remains in force¹⁷. Moscow also insisted that Ahtisaari's proposal should not be seen as a ready-made package to impose but as a starting point for a new round of bilateral negotiations¹⁸. Meanwhile, finding a consensus in the Security Council, where each one of the permanent members has a veto right, proved to be impossible¹⁹.

Meanwhile, the International Community (IC) continued to insist on a UNSC resolution based on the Ahtisaari proposal to be the best possible solution for the Kosovo status²⁰.

In August 2007, the stand-still on a new UNSC resolution led the UN Secretary-General to invest a Troika of negotiators, namely Frank Wisner representing the United States, Wolfgang Ischinger representing the European Union (EU), and Alexander Botsan-Kharchenko representing the Russian Federation, with the task of facilitating a further period of negotiations of 120 days²¹. Thus, a second cycle of negotiations started in August 2007, led by a troika of negotiators who was asked to report back to the United Nations on 10 December 2007. The solution satisfied Belgrade, which argued that previous negotiations had failed in part because they had a pre-conceived outcome but was rejected by Pristina. The latter warned that further postponement would only exacerbate impatience among Kosovo's population²².

Apart from those directly involved in the negotiations, namely Russia, the U.S and the EU, support to the Troika came by NATO and the UN. On 15 October 2007 members of the NATO-Russia Council reiterated their support to the negotiating efforts of the EU-US-Russia Troika and expressed the hope that the new period of engagement between Belgrade and Pristina would lead to an agreement on Kosovo's

¹⁷ See International Crisis Group (ed.) (2006), *Kosovo Status: Difficult Months Ahead* (International Crisis Group, Brussels, 2006).

¹⁸ Since October 2006, Moscow had made increasingly clear that it would not support a settlement imposed on Belgrade, in either the Contact Group or the Security Council.

¹⁹ See NATO Parliamentary Assembly, Committee Report No. 163 CDS 07 E rev 2, cited in footnote 7, § 52.

²⁰ See NATO Parliamentary Assembly and the Centre for the Democratic Control of Armed Forces (DCAF), "Whither Serbia? NATO, the EU and the Future of the Western Balkans?", Seminar Report Doc. 151 Joint 07 E, Annual Meeting 2007, 6.

²¹ In a statement on 1 August 2007, the UN Secretary General welcomed this initiative, as well as the new arrangements agreed to by the Contact Group for pursuing negotiations between the parties.

²² See NATO Parliamentary Assembly, Committee Report No. 163 CDS 07 E rev 2, cited in footnote 7, § 54.

future status²³. Support reiterated by the NATO Secretary General and the NATO Parliamentary Assembly in its Resolution 359. In addition, the final communiqué of the North Atlantic Council (NAC) dated 7 December 2007 further explained KFOR's commitment to remain operative on the basis of UNSC Resolution 1244 (1999), unless the UN Security Council would decide otherwise²⁴.

For the UN, on 15 November 2007, the former SGSR for Kosovo Joachim Rucker remarked his conviction in a positive outcome to the Troika-led negotiations process²⁵.

The Troika's appointment, however, moved the process beyond the UN's framework and away from earlier ideas of reaching an agreement on a new UN Security Council Resolution that would settle Kosovo's status. Although formally not in breach of legal norms, this decision moved the negotiation far from formal UN channels²⁶.

This situation would find its confirmation on 7 December 2007 in the words of Ambassador Marcello Spatafora of Italy, the Security Council President for December. On 7 December 2007 Ambassador Spatafora, asked about upcoming steps replied that "when the time comes we will assess and decide how to go forward on process and on substance." Ambassador Spatafora's words can only add strength to the supposition of a UN confined to play a passive role in the way towards the final settlement of the Kosovo status.

After Ahtisaari and before the Troika process

The NATO 66th Rose Seminar of June 2007 was the occasion for Joachim Rucker, the former UN SRSG in Kosovo to state that UNMIK has achieved all that is possible under the current mandate. Rucker

²³ See NATO-Russia Council (2007), "NATO-Russia Council meets with Kosovo Troika", Press Release, 15 October.

²⁴ See speech by the NATO Secretary General Jaap de Hoop Scheffer at the conference 'Kosovo - Security for All', 30 December 2007. Available at: <http://www.nato.int/docu/speech/2007/s071130a.html>. Accessed 10 August 2008 ; See also NATO Parliament Assembly (2007), Resolution No. 359 on "Encouraging Stability in the Western Balkans", § 13 (f) ; See also NATO Final communiqué Ministerial meeting of the North Atlantic Council held at NATO headquarters", NATO Press Release Doc. PR (2007) 130, Brussels, 7 December 2007, § 2.

²⁵ See UN Daily Press Briefing by the Offices of the Spokesperson for the Secretary-General and the Spokesperson for the General Assembly President, 15 November 2007. Available at: <http://www.org/News/Briefings/docs/2007/db071115.doc.htm>. Accessed 11 August 2008.

²⁶ See Natalie Tocci (2008), "The European Union as a Normative Foreign Policy Actor", Centre for European Policy Studies (CEPS) Working Document No. 281/January, § 6.2.

promptly defined the Ahtisaari plan a proposal with all the right elements for a fair and sustainable solution.

The same June, in the occasion of the 62nd Session of the UN General Assembly, Russia called for a continuation of the negotiating process to find an acceptable solution for both parties. The solution, according to Moscow, should be in fully observance and compliance with the Security Council Resolution 1244. Hasty decisions able to boost separatist feelings were among Russian concerns.

In this scenario, the Parliamentary Assembly of the Council of Europe (PACE) in its Recommendation 1780 (2007) of July 2007 punctually reiterated its availability to play a role in the future Kosovo institutional framework:

At the request of interested partners and international organisations, the Council of Europe's offer of help, in its sphere of competence, will be reiterated, while in due course taking account of the prospects which would be afforded by the adoption of a new legal and institutional framework. The main lines of the assistance on offer correspond on the whole to those mapped out by the Assembly. However, it will not be possible to fill in the details until a final settlement has been approved and in-depth consultations with all parties concerned have taken place, allowing to define the exact nature of the Organisation's contribution. This applies in particular with regard to its involvement in any future international civilian presence.

The same month, the EU in its Multi-Annual Indicative Planning Document for years 2007-2009 for Kosovo made clear its intention to accompany the realisation of requirements in relation to any future status settlement and to support Kosovo to develop into a stable, modern, democratic and multi-ethnic society. *"The authorities of Kosovo will be accompanied by a future international civilian presence that will have corrective, monitoring and mentoring functions,"* were the words used by the EU. In addition, support given to the implementation of the UN Standards for Kosovo was clearly indicated in the planning document.

In this context, a further attempt to strengthen the value of the Ahtisaari plan can be found in the so called "Pocantico Declaration." Held at the Pocantico Conference Centre on 12-14 April 2007, the conference on "Developing a Strategy for Kosovo's First 120 Days" was designed to assist the Kosovo government in developing a sound strategy for governance during the critical first 120 days, as envisaged by the Ahtisaari plan. The conference was chaired by Ambassador Frank Wisner and Ambassador Wolfgang Petritsch. One of the accomplishments of the meeting was the signing of the Pocantico Declaration, in which the Kosovo Unity Team pledged to collaborate and work together in the planning and implementation of significant aspects of the Ahtisaari plan.

Amongst others, the meeting was attended by former US President Bill Clinton, Madeleine Albright, Ben Crampton from the International Civilian Office (ICO) Preparation Team and Ambassador Richard Holbrooke. The meeting saw the participation of Ms. Rosemary Di Carlo, Deputy Assistant Secretary in the Bureau of European and Eurasian Affairs, who will be involved in the scandal raised by the Ljubljana journal *Dnevnik*.

Kosovo Standards implementation and the status process

The time in between the presentation Ahtisaari proposal, March 2007, and the end of the Troika reporting period, December 2008, proved to be very useful to evaluate the implementation of the UN “standard before status” policy.

The importance of such analysis is confirmed by the Recommendation 1822(2008) of the Parliamentary Assembly of the Council of Europe (PACE):

1. [...] Parliamentary Assembly strongly affirms that in no way should the status process shift the attention of the Provisional Institutions of Self-Government (PISG) and the international community from the implementation of the Standards for Kosovo. In fact, putting a renewed and resolute focus on standards is even more necessary to foster trust and facilitate reconciliation in the current climate of political tension, determined by the failure to reach a compromise.

Created as a series of benchmarks to measure the progress achieved by Kosovo's institutions, the “standard before status” policy, though applied since 2001, was formally enounced in December 2003 with the publication of the “Standards for Kosovo”, followed by the “Kosovo Standards Implementation Plan” of March 2004.

However, due to the violence of March 2004 the policy was reviewed and priority was given to those standards reinforcing multi-ethnicity and decentralisation. It became clear that requesting the full implementation of all standards as a prerequisite for talks on the final status of Kosovo would have been unrealistic. The events of March 2004 were also widely interpreted as a failure by the international community to prevent and respond to interethnic violence. Hesitations regarding the issue of standards and how to assess progress towards standards implementation were marks of certain deficiencies in the planning phase and a failure to ensure the continuity of the international effort.

Then in May 2005, UN Special Envoy Kai Eide was assigned to reconsider the implementation of the standards. In his report, dated October 2005, Eide concluded that standards' implementation “...has been uneven.” He characterised organised crime and corruption as “widespread phenomena” and described the Kosovo society as “deeply-divided,” one “which is still recovering from post-conflict trauma.”

A few months later, the European Partnership adopted in January 2006 integrated the content of all eight chapters of the “UN Standards for Kosovo” into its general structure. This resulted in one single legal framework for implementation and monitoring.

In October 2007, Mr. Eide regretted that insufficient emphasis had been put on standards implementation during the status process. As a result, a lot of time had been wasted and the international community was today faced with the consequences of its inaction. Mr. Eide also criticized the international community for not providing “sufficient incentives” for Kosovo Albanians to implement standards that would have made Kosovo politically and economically viable.

In this scenario, what is clear of the “standards before status” is that it has never been accepted by Kosovo leaders as they have never considered the standards their own goals.

Furthermore, it is widely recognised that the uncertainty connected with Kosovo's final status has undermined progresses on the ground. UNMIK introduced the “standards before status” policy, albeit rather late. While such strategy had the potential to add sense of direction to the self-governing institutions and the people, the standards should be perceived as achievable and realistic aims. If too strict and inflexible, they would lack credibility. This has been the case of Kosovo, where the “Kosovo Standards Implementation Plan” outlined the features of a modern and democratic society, a process that could take decades to be completed.

In this situation, it is appropriate to mention what the Slovak political scientist Ms. Katarina Mallok stated about the international negotiations for the solution of the Kosovo status: *“The international community has made a fundamental mistake by allowing a discussion about the status of Kosovo before the country had been stabilised.”*

Status negotiations under the Troika

In reaffirming that the UNSC Resolution 1244 (1999) and the November 2005 guiding principles of the Contact Group would continue to be their operative framework, Troika's negotiators clarified that although the Ahtisaari plan was still on the "table," they would have been prepared to endorse any agreement the parties might be able to reach. In addition the troika had no intention of imposing a solution. The burden was therefore on each party to convince the other side of the merits of its position.

"Our aim in the troika, even if we did not get a solution on Kosovo's status, was to get agreement on the relationship between Serbia and Kosovo, independent of how and when the status questions was resolved," EU Troika negotiator Ischinger clarified on 21 November .

Furthermore, "...any settlement needs to be acceptable to the people of Kosovo, ensure standards implementation with regard to Kosovo's multi-ethnic character and promote the future stability of the region," the Contact Group explained.

The scheduled meeting comprised 10 sessions, six of which consisted to face-to-face dialogue, including a final intensive three-day conference in Baden, Austria, as well as two trips to the region. The Baden Conference marked the end of Troika-sponsored face to face negotiations. As in the opinion of the EU representative Wolfgang Ischinger the session was "*one last opportunity to seek a negotiated settlement.*"

Meanwhile, in the November 2007 communication to the Council and the European Parliament, the European Commission stated that the Provisional Institutions for Self-Government (PISG) have fulfilled their core roles in their areas of competence. Going further in reading the communication, the Commission defined relations between Albanian and Serbs in Kosovo as "strained." In addition, on the Kosovo status the Commission affirmed in the communication that:

However, the status issue has continued to dominate Kosovo's politics. Kosovo's political leaders participated in the process of determining Kosovo's status and co-operated with the international community and the EU planning teams in preparations for status implementation in line with the Special Envoy of the UN Secretary General's package.

In the same Communication the EC described the Kosovo status as "unsustainable" and in urgent need to be settled. The EC also portrayed the situation of minority rights as guaranteed by law, but restricted in practice because of security concerns. The EC went further in assessing the reality of specific minorities,

namely Roma, Ashkali and Egyptian: difficult living conditions, large discrimination and lack of comprehensive integration strategy were among the issues of EC's concern.

At the same time, in its progress report on Kosovo, the EC made clear that in its opinion the Kosovo Assembly was lacking qualified staff, particularly on legal and IT issues. According to the EC's report, the Assembly was still dependant on international experts; particularly in the legislative processes and the monitoring of the implementation of laws. Additionally, as from the report, EU integration matters were rarely discussed.

During the negotiations, Pristina restated its preference for Kosovo's supervised independence and reconfirmed the acceptance of the Ahtisaari proposal. Belgrade rejected the Ahtisaari proposal and restated its preference that Kosovo be autonomous within Serbia. As a result, there was no discussion on the Ahtisaari proposal, nor any debate on its possible modification. Therefore, despite Troika's repeated call for fresh ideas and a spirit of compromise, neither side was able to convince the other to accept its preferred outcome.

The situation was summarised by the US Troika negotiator Frank Wisner. “[...] *The Ahtisaari plan was never taken off the table during the Troika talks. The Serbian side rejected it, and the Kosovo side accepted it – Ahtisaari's plan is still there, alive and well,*” Wisner explained.

In this scenario, it is interesting to see how local population felt increasingly frustrated as they did not feel involved in the international talks which were to determine the province's future. *“Many people feel cut off from high-level international negotiations and powerless to influence decisions made by the US, Russia and the EU about Kosovo. There is an urgent need to include the people of Kosovo in decisions about their own future,”* stated Ferdinand Nikolla, director of the Kosovo's Forum for Civic Initiatives (FIQ) in December 2007.

To cite the Troika report: *“After 120 days of intensive negotiations, however, the parties were unable to reach an agreement on Kosovo's status. Neither side was willing to yield on the basic question of sovereignty.”* Although the adverse outcome, *“under the Troika's auspices the parties engaged in the most sustained and intense high-level direct dialogue since hostilities ended in Kosovo in 1999. The negotiations created an opportunity to engage in dialogue at the highest levels,”* the Troika reported to the UN.

In November, asked if he saw any justification for an extension of talks as suggested by Botsan-Kharchenko, EU envoy Wolfgang Ischinger said: “My answer is ‘No’.” The same conclusion was reached by the US Troika negotiator Frank Wisner: “The conclusion will be pretty self-evident: We did not find a solution.” The US negotiator went further by saying that “The Ahtisaari report deserved to be acted on.”

Meanwhile, in the field, the newspaper “The Sophia Echo” reported NATO and the UN police planning to tighten their control over the predominantly-Serb north of Kosovo: “The action would be aimed at preventing Serb-run areas from joining Serbia, in case Kosovo’s ethnic Albanian-dominated parliament proclaims independence, once the current phase of talks on the UN-administered territory’s status are concluded on December 10.”

Debating the Troika’s report

On December 19, the UN Security Council met to hear from Vojislav Kostunica, the Serbian Prime Minister, and Fatmir Sejdiu, the President of Kosovo. Kostunica insisted that Kosovo should remain part of its territory.

On the contrary, Sejdiu laid out the Kosovars’ demands for quickly gaining independence, a move that would be backed by the US and key European Union members. This attitude was already clear on 4 December when the same Sejdiu said that: “*Any action will take place, in coordination with the EU and the US, and that is going to be very soon.*” A position backed by Prime Minister Thaçi in his interview to the Financial Times: “*The EU is the key. We are for a co-ordinated declaration of independence. For us recognition is as important as the declaration.*” Attitude the latter somehow confirmed by the statement of the EU High Representative Solana who on 11 December 2007 stated that, although Belgrade and Pristina did not reach an agreement during the negotiations under the auspices of the Contact Group, “[...] *this does not mean we cannot continue our search for bilateral agreements between the two sides and the European Union.*”

Coming from the 19 December discussions, British Ambassador John Sauer said that the meeting “underlined just how enormous the gulf is between the two parties, and how the current situation in Kosovo is ‘unsustainable.’”

Reaction from Belgrade arrived soon later, in the resolution voted by the national assembly on 26 December. Raising the stakes in the bid to block independence, the national assembly voted 220 to 14 in

favour of a resolution saying Serbia would not sign any treaty that did not acknowledge its territorial integrity and sovereignty over Kosovo. Focusing on the Stabilisation and Association Agreement (SAA) that Serbia might have signed with the EU, the resolution said “any treaty Serbia signs, including the SAA, must be in keeping with preservation of (its) sovereignty and territorial integrity.” According to the resolution, Serbia would have shelved a decision on NATO membership and would have opposed an EU supervisory mission preparing to take over from the UN in Kosovo unless it won the Security Council approval.

According to the Reuters news agency, the UN did not expect any concrete solutions to come as a result of the meeting on December 19. “The Security Council is divided, it is not capable of deciding, so the message is expected to be that all other actions will transferred to Brussels and the European Union,” an unnamed European diplomat stated.

In this context, the UN Security Council signalled that it would have not been able to resolve the status of Kosovo, the breakaway Serbian province; then the solution would have come from outside the United Nations.

After the UNSC session, European and US representatives announced their intention to assume responsibility for Kosovo’s fate, considering further talks futile. EU members also agreed to send a police mission to the province, though unable to reach agreement over Kosovo’s final status. According to conclusions reached at the Brussels summit of December 2007, the EU agreed on the status quo to be untenable and in need of a solution to be found. EU’s determination to stabilize the Balkans can thus be found in the fact that, despite differences in the matter of recognizing Kosovo independence, all EU members apart from Malta were expected to participate in the EULEX mission.

On the contrary, Moscow was of the opinion that the UN mission can only be replaced via a UN Security Council resolution. On 21 December 2007 Sergei Lavrov officially warned the international community that the Ahtisaari plan should not be perceived as the final decision of the Kosovo status. According to Lavrov, the plan was “initiated as a proposal, which was then submitted for consideration by the sides. They did consider it. One of the sides rejected the plan. And that’s the basis on which to proceed.”

Besides, the permanent mission of the Russian Federation to the United Nations reacted to the end of the Troika process by saying:

[...] By encouraging the separatist aspirations of Pristina, the US and some EU nations openly ignore the useful ideas and suggestions resulting from the talks held between the sides under the aegis of the mediation troika. That in the 120 days of dialogue a final compromise has eluded the parties is being used for absurd claims that the negotiation potential is exhausted.

[...]

But one gets the impression that this is why somebody would like to wreck the dialogue as soon as possible in order to fulfil their promises to the Kosovo separatists.

The Kosovo November Election

While the Troika was still at work, elections in Kosovo took place. Parliamentary elections to the Assembly were held on 17 November 2007 together with the Municipal ones. Results brought to power a coalition of the Democratic Party of Kosovo (PDK) of Hashim Thaçi, and of the Democratic League of Kosovo (LDK) of Kosovo's President Fatmir Sejdiu.

It is important to note the memorandum of understanding signed by the political parties on 5 October 2007 to keep the “Status Question” out of the election. The same point was stressed by Tim Guldemann in his interview dated 14 October 2007 by saying: “Our mission stresses that the upcoming elections have to be considered independent from the status discussions.”

What was particularly demanding was that three elections were held at the same time (Assembly, Municipal and Mayoral) with the introduction of an “open lists” for the Kosovo Assembly and Municipal Assembly elections.

The 2007 elections, as the others held before, were observed by the Council of Europe which in fact opened an election observation mission for the 17 November Assembly and local elections. As from the words of Mr. Giovanni Di Stasi, Head of the Council of Europe Election Observation Mission, aim of the mission was to “send the best possible observers, fully equipped to perform with the highest professional standards their crucial task of observing an election process.”

Furthermore, in his opening address to the short-term observers at a briefing in the ABC Cinema in Pristina on 13 November 2007 Giovanni Di Stasi reminded the group that they were obliged to conduct in seven weeks work that normally would have taken five months. The Mission was defined by the same Di Stasi as “a race against time.”

The overall voter turnout was just above 43%, showing a decrease from past elections. As the Council of Europe Congress of Local and Regional Authorities (CLRAE) stated:

[...] The confirmation of this continuous downward trend, which started in the 2001 elections, reveals dissatisfaction among the population, begetting an appreciable frustration among voters with their regime of governance, due in the main to the lack of improvements expected following the previous four elections. To an extent, this turnout reflects a particular loss of trust due to widespread discontentment with the prevailing socio-economic situation that affects all communities living in Kosovo in their day-to-day life, and the atrophying effect of eight years administration by the United Nations.

In this scenario, Serbia continued to discourage Kosovo Serbs from participating in the provisional institutions of self-government and elections in Kosovo, and exhort them to not to participate in elections to the Kosovo provisional assembly and municipalities.

The low turnout (43%) and the lack of participation by Kosovo Serbs voters were not the only worrying issues. Even if the need for election was known well in advance the call for the elections was very late. In addition, although in theory the electoral system might not be seen complicated, in practice was difficult to handle for an ordinary voter. It resulted in a time-consuming process and in too many cases required that voters with limited abilities asked for assistance to cast their ballot, thus infringing on the secrecy of the ballot. The late call also produced that the OSCE was much more involved than formally envisaged.

Although well organised despite the short notice, in the second round Kosovo Mayoral Elections several shortcoming persisted. In fact the results of the five municipalities with either majorities or significant populations of Kosovo Serbs were annulated due to the low participation of the Kosovo Serbs and the need to ensure fair representation of non-Albanian communities in institutions.

The overall conclusion of the Kosovo elections by the Council of Europe gives the idea of the core problem of the voting system. In stressing the alarming low percentage of the voter turnout, The Council of Europe noted that:

The imposed timeframe for these elections placed an inordinate stress on the logistics of organizing the vote. Adequate and apposite timeframes are a sine qua non in the proper execution of any plausible and democratic electoral contest. In future elections, every effort should be made to ensure that democratic processes are not potentially compromised by truncated preparatory and run-in periods.

“The international community has not met its obligation to contribute to capacity-building in the field of elections,” again the Council of Europe remarked.

The International Community reacted uniformly by welcoming the results of the election and by regretting the boycott of the Kosovo Serbs. In this context, the former UN SGSR for Kosovo Joachim Rucker after having certified election results for the Assembly of Kosovo defined as “unfortunate” the

lack of participation by Kosovo Serbs.” As he pointed out “the focus now must be on finding a way forward for the UN-administered province.”

Meanwhile, the European Union through its Commissioner for Enlargement Olli Rehn recalled the preliminary assessment of the Council of Europe and thus welcomed the peaceful conduct of the election. Besides, Mr. Rehn’s called on Kosovo Serbs to take a more constructive role in Kosovo’s future.

NATO Secretary General welcomed the calm and peaceful conduct of the elections in Kosovo and the assessment of the Council of Europe observers but defined the low turnout of Serbian voters especially disappointed.

Before the Declaration of Independence: Pristina, Belgrade and the IC at the beginning of 2008

January 2008 was ruled by the numerous meeting between Pristina and Brussels. Kosovo Prime Minister Mr. Hashim Thaçi met NATO Secretary General Jaap de Hoop Scheffer and the EU Commissioner for Enlargement Olli Rehn. The latter told Kosovo Primer Hashim Thaçi that the EU would have been resolute to lead the coordination of decision regarding the status of Kosovo.

On 24 January Kosovo Prime Minister, Hashim Thaçi also reiterated that Kosovo would have declared its independence from Serbia soon, but only acting in coordination with the international community. “We are ready for status. We are cooperating very closely with Washington and Brussels, and we will continue this cooperation and our joint efforts,” he said.

In his regular tri-monthly report on the UN mission to Kosovo (UNMIK), the UN Secretary General Ban Ki-moon stated that the status quo was virtually untenable, and that was why “Security Council and the international community’s main priority should be to continue the process of determining Kosovo’s status.” Moreover, Secretary General’s spokeswoman Michele Montas reported that the SG believed that an agreement between Belgrade and Pristina, approved by the UN Security Council, would have constituted the best solution for the future status of the province. “Ban also believes that resolving the Kosovo status outside the UN framework would have serious consequences for the world order,” Montas also added.

For Belgrade, Kosovo's declaration was supplemented by a strong European offer to the Serbs: trade the residual shell of formal sovereignty over Kosovo for the practical chance of a better future in the EU. For instance, at the EU Brussels meeting of December 2007, French President Nicolas Sarkozy came out firmly for independence, saying that a condition for Serbian EU membership was recognition of Kosovo independence. Meanwhile, Dutch media reported that Holland blocking the initiative to accelerate Serbia's EU integration. They quoted the Dutch foreign minister who said that the Stabilization and Association Agreement (SAA) would have not been signed until Ratko Mladic was in The Hague. "I want Mladic in an airplane before I sign the agreement," said Maxim Verhaegen.

At the same meeting, Prime Minister Vojislav Kostunica considered the conclusions of the EU summit in Brussels unacceptable and offensive. What Kostunica found particularly insulting was the idea of a Serbian accelerated EU membership in exchange for the Kosovo province. The Prime Minister also deemed the independence of Kosovo in breach of the UN Charter and UN Security Council Resolution 1244.

In its Resolution 1595 (2008) of January 2008 the Parliamentary Assembly of the Council of Europe (PACE) deeply regretted that a mutually-accepted solution to the status of Kosovo was not found, but said that alternative solutions should have been envisaged to continue talks on the basis of UNSC Resolution 1244 (1999). The same document called the UN Security Council to do everything in its power to reach a compromise able to prevent Kosovo from becoming a "frozen conflict."

Support to a continuation of talks came from SP Senator Tiny Kox, Chair of the United European Left (GUE) in the PACE. "[...] if Kosovo can declare itself independent unilaterally, other regions will want to follow the example, with potentially serious consequences. By committing itself to supporting further negotiations, however difficult these may be, the Council of Europe is demonstrating wisdom at what is an important moment, when a number of European Union member states and the US are determined to proceed with haste, seldom a good idea in international politics" Senator Kox stated.

According to the Council of Europe, the UN Security Council should have overcome existing differences by imposing a solution, but it was incapable of achieving a unanimous position. CoE's attitude, however, was all in the words of Lluís Maria de Puig, President of the Council of Europe Parliamentary Assembly, who stated that:

“Whatever its status, Kosovo should be an area which is safe for all those who live in it regardless of their ethnic origin, and in which the values of democracy, tolerance and multiculturalism are shared by its population and institutions.”

On 16 February, the EU decided to launch the EU Rule of Law mission in Kosovo (EULEX KOSOVO). Objective of EULEX KOSOVO is to support the Kosovo authorities by monitoring, mentoring and advising on all areas related to the rule of law, in particular in the police, judiciary, customs and correctional services. The key priorities of the mission are to address immediate concerns regarding protection of minority communities, corruption and the fight against organised crime. Yves de Kermabon has been appointed Head of Mission of EULEX KOSOVO.

In parallel with this Joint Action, Mr. Pieter Feith was appointed as European Union Special Representative (EUSR). His mandate based on the policy objectives of the EU in Kosovo, included tasks such as to play a leading role in strengthening stability in the region and in implementing a settlement defining Kosovo’s future status. Furthermore, he would provide local political guidance to the Head of the European Union Rule of Law Mission in Kosovo (EULEX KOSOVO). In conclusion, the EU Council anticipated that the powers and authorities of the future International Civilian Representative would be vested in the same person as the EUSR.

However, in his January report, the Secretary-General noting the EU growing commitment and its readiness of the European Union to play an enhanced role in Kosovo anyhow expressed his belief that a negotiated solution, to be endorsed by the Security Council, would have represented the best way forward. He also felt that any failure to resolve Kosovo’s future status within the framework of the UN would have serious repercussion within the UN system.

The Serbian Election of January 2008

In this scenario, the presidential elections, the first since the Montenegro’s declaration of independence, were held in Serbia on 20 January 2008. However, in the first round of elections none of the candidates secured an absolute majority of the votes cast. Therefore, a run-off election took place on 3 February 2008 between Tomislav Nikolic of the SRS and Boris Tadic of the DS. The latter was elected president of Serbia with 51.61 percent of the votes cast.

The Kosovo issues did not dominate the scene during the presidential campaign. Differences between the candidates about the independence of Kosovo were not that great – both of them were in fact against an

independent Kosovo. Therefore, Tadic's victory meant that a majority of Serbia's citizens decided to reduce the costs of losing Kosovo, by not giving up on the European future for Serbia.

The only point where they explicitly and clearly diverged was in their stance towards the EU. It turns out that was the EU's future rather than the Kosovo past which decided the electoral result. Opinion polls in Serbia have consistently recorded a high level of popular support for EU integration. A government-sponsored poll found that 71% of those polled said that if Europe were to recognise Kosovo, the diplomatic fight for Kosovo ought to be carried on without severing relations with the EU. However, the EU insisted on the separation of Serbia's European integration and the Kosovo issue, while using the very integration process as a carrot for Kosovo's independence.

Unfortunately, the attraction of EU membership in Serbia, long seen as the magnet which would facilitate the acceptance of an unpopular decision on Kosovo, was waning.

Even if the SAA were to be signed, parliamentary ratification is very likely to become entangled with the Kosovo issue, in particular with how Serbia should treat the question of the EU's planned mission.

The OSCE Chairman-in-Office, Finnish Foreign Minister Ilkka Kanerva congratulated President Tadic and underscored the OSCE's readiness to continue to support Serbia's reform processes. Congratulations came together with the optimistic prospect for a continuation of the OSCE Mission in Kosovo.”

Kosovo declaration of Independence: reaction of the key-players

The Kosovo Declaration of Independence arrived on Sunday 17 February 2008. Read by its Prime Minister Mr. Hashim Thaçi in an Assembly of Kosovo convened in an extraordinary meeting, the declaration begins presenting Kosovo as an independent and sovereign state in “full accordance with the recommendations of UN Special Envoy Martti Ahtisaari and his comprehensive Proposal.”

In the declaration of independence, authorities in Pristina committed themselves to implementing the Ahtisaari plan, although this document was not approved by the UN Security Council and had therefore no binding value. This is of utmost importance because according to the Ahtisaari plan, at the end of the transition period of 120 days, all responsibilities should be transferred to Kosovo's institutions and the mandate of UNMIK terminated. This is bound to create difficulties, as there is so far no plan to terminate UNMIK's deployment in Kosovo.

International reaction to Pristina's declaration of independence arrived immediately. While Thaçi was reading the declaration, ten ministers from the Serbian government went, with television crews, to Kosovo, both the north and the enclaves. Meanwhile Kostunica stated:

As of today, we must show greater concern and solidarity with our people in Kosovo-Metohija. Ministries have been directed to work and provide considerably better living conditions, help create new jobs and launch investments in the province. The state of Serbia will take greatest possible care about its each and every citizen in Kosovo-Metohija.

Soon after the Kosovo declaration of independence, Serbian Foreign Minister Vuk Jeremic, in his intervention to the Permanent Council of the OSCE, called the UN SRSG to use his reserved powers, as from the CFPS, by proclaiming the illegitimacy of Kosovo declaring the independence not in conformity with resolution 1244. In addition, Serbian Foreign Minister made clear that KFOR's capacity to operate in the field would be conditioned to the neutrality of its status.

The EU did not manage to reach agreement on a joint recognition by all its members, because of the reservations of a number of member states (notably Romania, Slovakia, Spain, and Cyprus). However, the Council welcomed the continued presence of the international community based on UNSC Resolution 1244 and took notes that "its Members States would decide, in accordance with national practice and international law, on their relations with Kosovo." In conclusion, the Council reaffirmed its conviction of Kosovo as a *sui generis* case.

In this context, the President of the European Parliament Mr. Hans-Gert Pöttering opened the February plenary session by saying that Kosovo's declaration of independence reflects the "will of the people." Besides, Mr. Pöttering expressed his firm conviction in considering the case of Kosovo not a precedent: "The situation in Kosovo is unique; it is a special case which cannot be compared with others." In addition, the President welcomed the Council's decision to send a police and administrative mission to Kosovo to help with a smooth transition in the region.

On 20 February 2008, Tiny Kox, President of the Group of the Unified European Left at the Council of Europe and Francis Wurtz, President of the European United Left/Nordic Green Left Group in the European Parliament did not advocate a status quo and called for the continuation of talks "which would allow an honourable exit from the current dramatic impasse."

On the military presence after the declaration, NATO reaffirmed KFOR's intention to remain in Kosovo on the basis of UNSCR 1244. On this point, Lieutenant General Xavier de Marnhac, KFOR Commander,

confirmed:

“In this time of uncertainty following Kosovo's Declaration of Independence, one thing is certain. KFOR's mission remains unchanged. We will continue to provide a safe and secure environment for all the people of Kosovo regardless of ethnicity or location. KFOR will execute this mission with impartiality and in a determined manner. As always, KFOR will not tolerate any acts of provocation or violence. It is of utmost importance that KFOR remain impartial and not interfere with the very delicate political process that is ongoing. We must all take care not to be seen as participating in social events either supporting or renouncing Kosovo's Independence.”

The NATO Secretary General also remarked on the importance of the neutrality of KFOR status in the field:

“All parties should recognize that KFOR will continue to fulfil its responsibility for a safe and secure environment throughout the territory of Kosovo, in accordance with UNSCR 1244, unless the Security Council decides otherwise. KFOR will continue to provide security for all citizens of Kosovo, majority and minority alike, in an impartial manner, just as before.”

On 18 February 2008, the NATO North Atlantic Council (NAC) further reaffirmed the validity of UNSCR 1244 and clarified that “...as agreed by Foreign Ministers in December 2007, unless the UN Security Council decides otherwise NATO's responsibility and capability to ensure a safe and secure environment in Kosovo remain unchanged. KFOR will continue to execute this mandate in an impartial manner in accordance with its Operational Plan.”

For the UN, Secretary General Ban Ki-Moon in bringing the declaration to the attention of the Security Council, ensured that pending the guidance of the Council UNMIK would have continued to consider the UNSC Resolution 1244(1999) the legal framework for its mandate.

Meanwhile, the OSCE guaranteed that the situation in Kosovo was going to be discussed by the 56 OSCE participating States, but each of them would have addressed Kosovo's declaration of independence in their national capacity.”

After the Independence

To confirm the constant danger of instability, after the declaration of independence a number of serious incidents took place. On 17 and 21 February 2008, demonstrators in Belgrade attacked several foreign embassies, drawing harsh international criticism of Belgrade's incapacity or unwillingness to prevent these incidents. Before and after 17 February, grenade and Molotov cocktail attacks were directed at UN and EU facilities and vehicles in northern Kosovo. On 19 February, two customs and border posts at

Brnjak and Jarinje were attacked and burned down. Other attacks followed on 21 and 25 February against border police at the Merdare and Mutivode posts.

On 3 March, Serbian Railways staff attempted to take control of a section of Kosovo's railway network in the municipality of Zeeman in northern Kosovo. Finally, on 17 March, UNMIK police and KFOR had to intervene to break the occupation of the district court in north Mitrovica by former employees demanding that they be returned to their jobs. This intervention provoked a reaction from local groups of Serbs, who mobilized to free some of the detainees. Allegedly using women and children in the front lines, they blocked the street, and attacked police forces and troops with small arms, grenades, and Molotov cocktails. Reports indicated some 100 foreigners and 80 Serbs wounded, and one Ukrainian UNMIK policeman deadly injured.

The 17 March UNMIK/KFOR operation appeared to have been more an ad hoc reaction to provocation than part of a carefully choreographed plan. Legitimate questions have arisen as to whether its timing, tactics and potential consequences were fully considered in advance. In addition, the ICO already faced problems. It abandoned its satellite office in north Mitrovica due to security problems and relocated the personnel to south Mitrovica.

At the International level, EU High Representative Javier Solana, Swedish Foreign Minister Carl Bildt and NATO Secretary General Jaap de Hoop Scheffer were the only senior officials to visit Kosovo in the first month of independence. On 28 February in Vienna, several EU member states and the U.S. took the lead to establish an International Steering Group to supervise Kosovo independence. The International Steering Group, formed by twenty-two countries and not including Russia, is a shadow of the structure called for under the Ahtisaari plan and it is composed entirely of countries that support Kosovo's independence.

Furthermore, the situation was made more complicated by Russia's continued firm support of Serbia and efforts to discourage recognitions and resistance to UNMIK downsizing. While the Serbian strategy was to divide Kosovo, the IC did not have a clearly defined and coordinated response. Moreover, Belgrade instructed Kosovo Serbs to refuse contact with the new EU missions by insisting that the only international presences with which it would cooperate were those mandated under Security Council Resolution 1244 of 1999, namely UNMIK and NATO.

Kosovo's independence has split the international community. The Ahtisaari plan, the ICO and the EULEX mission lack UN Security Council backing due mainly to Russian opposition. Therefore, Secretary-General Ban Ki-moon stated on 18 February that: "It is my intention to act in an effective, realistic and concrete manner. In doing so, pending Security Council guidance, I might have to adjust to developments and changes on the ground". But in the face of strong opposition from Russia, which also held the presidency of the Security Council in March, to any Ahtisaari-like transition, he did not extend a public invitation to the EU missions.

These difficulties were further confirmed by UN Secretary-General Ban Ki-moon's spokesperson, Brendan Varma, reportedly stated to the BBC: "At this point the UN mission has not entered the transition period. We are still on the ground, as we have been since 1999. UNMIK will perform the duties entrusted to it with Resolution 1244, until [the] UN Security Council [has] decided otherwise....We would, of course, welcome agreement on this problem, but the Council is at the moment deeply divided. The Secretary-General's position is that our mission will continue in Kosovo until the Council tells them to stop."

On 11 March, UN and EU officials met in New York to search for a cooperation formula; some concrete ideas were discussed, but no final plan was agreed.

As for the OSCE, the future of the Kosovo mission, which is supposed to provide much of the ICO's field presence, has been put into doubt by Serbia and Russia, which are keeping it on a renewable monthly mandate while pressuring it to be "status neutral."

The EU position so far: an assessment

Following the recommendations made in the Ahtisaari proposal, the EU had started preparations for the deployment of two separate missions: an International Civilian Office, which, according to the Ahtisaari proposal, is meant to take over the leadership of the international presence in Kosovo from UNMIK; and an ESDP rule of law mission. The Council approved the deployment of these two missions on 4 February 2008, and the Council statement of 18 February places these two missions under the aegis of resolution 1244. Supporters of this approach cited paragraph 10 of the resolution 1244, which "authorizes the Secretary-General, with the assistance of relevant international organizations, to establish an international civil presence in Kosovo". Moreover, the EU contends that 1244 did not predetermine the outcome of final status talks.

Confirming the above interpretation of UNSC Resolution 1244, the EU was of the opinion that “*acting to implement the final status outcome in such a situation is more compatible with the intentions of 1244 than continuing to work to block any outcome in a situation where everyone agrees that the status quo is unsustainable.*” In addition, Solana, in an interview to the Belgrade weekly *NIN*, declared that the decision of the EU to send its mission to Kosovo could have not be qualified as a violation of international law, although UN Security Council Resolution 1244 did not mention such a possibility.

Furthermore, the European Union officially endorsed the Ahtisaari plan. However, some of its member states - Slovakia, Greece, Cyprus, Romania and Spain - are known to be cautious, due to traditional ties with Belgrade or fears of potential repercussions of Kosovo's independence in their domestic affairs. Thus, many of these countries found it difficult to recognise the independence of Kosovo in the absence of endorsement by the UNSC.

Co-operation among the International Organisations in Kosovo

The lack of proper co-operation within the IC is evident and can produce unexpected and negative effects in the next future. This is confirmed by the fact that the building of EU's mandate in Kosovo; this has not been paralleled by a progressive withdrawal of UNMIK. The absence of consensus within the UN Security Council has prevented this, and the UN Secretary General has so far refused to take any unilateral decision regarding UNMIK's mandate. Because of this uneasy situation, it remains unclear how the coexistence of these two presences will develop in the future. It is also unclear how these two organizations will interact with the new Kosovo institutions.

Another issue of concern about the future of the UNSC Res. 1244 is whether the resolution, which put an end to the conflict in 1999 and organized the international administration of Kosovo, remains valid and continues to provide a legal basis for the international presence in Kosovo. In his report dated 28 March, the UN Secretary General recognized that "the evolving reality in Kosovo is likely to have significant operational implications for UNMIK. Pending Security Council guidance, there might be a need for UNMIK to adjust its operational deployment to developments and changes on the ground in a manner consistent with the operational framework established under Resolution 1244 (1999)." However, co-operation has been hampered by the Russian influence in the Security Council. Moreover, holding the Security Council presidency in March, Russia is maintaining pressure on the Secretary-General to keep UNMIK well budgeted and staffed, and to resist UNMIK-EULEX transition.

But without consensus on Ahtisaari, there is no consensus on UNMIK's fate. The UN Secretariat is reluctant to allow the mission to start relinquishing powers to the Kosovo government and EU missions. UNMIK will remain for now, and Pristina and Belgrade are each already challenging it. Pristina is in fact determined to prevent UNMIK from assuming any residual post-transition role. "From June it has no job to do here.... We will tolerate them longer only if the EU needs them for a few more weeks" is a common refrain.

The coalition of Kosovo's supporters does not want to force the pace of transition, and the 120-day period looks increasingly empty of content, with no specific benchmarks or agreed-upon timelines. UNMIK will not disappear as assumed under the Ahtisaari plan, and Kosovo may find itself with multiple international presences working towards different goals.

The poor cooperation between the European Union Planning Team (EUPT) and UNMIK is one example of this situation. EUPT has been inwardly focused, on its own mechanisms, and its concern to present a new face and not be tutored has created a legacy of poor communication with UNMIK Police. They have not shared reports, EUPT chose not to co-locate staff, and the two leaderships did not even meet during the weeks just before and after independence.

Concerning the co-operation between the EU and NATO, already in 2006, as explained by the international Crisis Group, the two organisations were working together, agreeing at the staff level on technical arrangements working out details covering four areas: border management, military support to police operations, response to civil disturbances, and information/intelligence exchange. At that time, NATO further insisted that its continued military presence in Kosovo would be independent of the ICR and that there would be no UNTAES-like unification of civil and military commands in a single official.

Two years after, the issue has not gain from talks initiated in 2006. For instance, before the independence communication between NATO and the EU was good in the field but dysfunctional at the political level, according to officials and experts. A top diplomat at NATO said there was "enormous frustration" on both sides that NATO and EU policymakers were not talking to one another even though they shared the same security goals in Kosovo. On the ground, however, co-operation were going smoothly, with a variety of agreements and joint procedures signed and ready to be signed as soon as the EU would receive its mandate for Kosovo.

Today, however, the cooperation between NATO and the EU is problematic. Blockages due to well-known political issues have prevented the EU mission from using NATO assets on the ground.

“Autonomy” is the key-feature for the OSCE too. On this issue, on 14 October 2007 Ambassador Tim Guldemann, Head of the OSCE Mission in Kosovo, stated: “If the EU Mission is deployed and replaces the UN Mission, the OSCE Mission would become an independent mission, if all OSCE participating states agree to maintain the OSCE presence.” However, though its field presence is assumed to continue by the EU planning for Kosovo, the future of the OSCE mission in Kosovo is still uncertain, as its continued presence on the ground is subject to monthly reviews.

In order to solve these problems, the IC should agree on a common, comprehensive strategy for Kosovo. Furthermore, more flexibility is needed to allow cooperation to be improved. An agreement to differ but work together would be suitable.

Conclusions

The analysis conducted reveals an International Community which is still lacking a common strategy. The different levels of involvement in the process of independence of Kosovo fractioned the capability of the IC to equally react to changes coming from the field. The analysis thus reveals an international community divided between political and operative means.

On the Troika, the process contributed in bolstering the position of those who were in support of the independence of Kosovo. Conducted by negotiators far from being defined as “impartial”, the process ended in maintaining the Ahtisaari plan as the only plausible solution for Kosovo. A plan, however, rejected by one of the parties and not supported by the UN.

In this scenario, it is hard to conceive the transition of authority from UNMIK to the EU-led ICO without UN Security Council support. In case of persistent disagreements in the UN Security Council, both legality and legitimacy of the new mission will be seriously questioned.

As for the future of the country, Pristina will surely seek to secure the democratic legitimacy of the new institutions. In this regard, recent events are not very encouraging. The low rate of participation in the November 2007 elections to the Assembly of Kosovo indicates either dissatisfaction or certain apathy among Kosovo voters. None of these are welcome signs for the authorities.

In addition, the prospect of EU and NATO enlargement were indeed clearly the most important and efficient lever. Although EU officials publicly insisted that the issues of Kosovo and EU integration were

separate and there were no conditionality between the resolution of Kosovo's status and the EU integration process, the issue of EU enlargement was undeniably an element of the Kosovo equation. However, whereas some EU and NATO members have made it clear that they would recognise an independent Kosovo with or without UNSC resolution, others are much more reluctant. In the absence of a co-ordinated decision the process of integration of Serbia and Kosovo into Euro-Atlantic institutions would also be put on hold indefinitely.

Bibliography

Natalie Tocci, *The European Union as a Normative Foreign Policy Actor*, Centre for European Policy Studies (CEPS) Working Document No.281/January 2008.

Jürgen Friedrich, "UNMIK in Kosovo: Struggling with Uncertainty," Max Planck Yearbook 2005.

Christopher J. Borgen, "Kosovo's Declaration of Independence: Self-Determination, Secession and Recognition", *The American Society of International Law (ASIL)*, Vol. 12-Issue 2, 29 February 2008.

Cornelius Friesendorf, "Kosovo's Controversial Independence", ISN Publishing House, Zurich, 2008.

International Crisis Group (ed.), "Kosovo Status: Difficult Months Ahead", International Crisis Group, December 2006.

Clive Baldwin, *Minority Rights in Kosovo under International Rule*, Minority Rights Group International, London, 2006.

Prime Minister Kostunica Proclamation, "Phoney state declared on Serbian's territory due to US policy of force", 17 February 2008.

"Developing a Strategy for Kosovo's First 120 Days," Conference Summit Report, Pocantico Conference Centre of the Rockefeller Brothers Fund, Tarrytown, NY, 12-14 April 2007.

The United Nations

UN Security Council, Doc. S/2005/635, 7 October 2005

United Nation Security Council, "Comprehensive proposal for the Kosovo Status Settlement, UN Doc. S/2007/168/Add.1, 26 March 2007.

UN Daily Press Briefing by the Offices of the Spokesperson for the Secretary-General and the Spokesperson for the General Assembly President, 19 November 2007.

UN Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, 5 December 2007.

UN News Service, "Ban Ki-moon receives Contact Group report on Kosovo," 7 December 2007.

UN Daily Press Briefing by the Offices of the Spokesperson for the Secretary-General and the Spokesperson for the General Assembly President, 15 November 2007.

Mission of the Russian Federation to the United Nations (2007), "Statement by Russia's Ministry of Foreign Affairs on Kosovo Settlement," 17 December 2007.

UN Daily Press Briefing by the Office of the Spokesperson for the Secretary General, 3 January 2008.

Permanent Mission of the Russian Federation to the UN, "Position of the Russian Federation at the 62nd Session of the UN General Assembly, 2007.

Contact Group “Statement on Kosovo by Contact Group Ministers”, in UN Security Council Doc. S/2007/723, 2007.

UN Media Division, Secretary-General says, Pending Security Council guidance, Resolution 1244 (1999) will remain legal framework for mandate of UN Kosovo Mission, Secretary-General SG/SM/11424, 17 February 2008.

NATO

NATO Parliamentary Assembly, Committee Report No. 163 CDS 07 E rev 2, “Kosovo and the Future of Balkan Security”, by Vitalino Canas, Annual Session, Reykjavik 2007.

NATO Parliamentary Assembly, Doc. No. 153 SEM 07, 66th Rose-Roth Seminar, “South East Europe: Unfinished Business”, Dubrovnik, Croatia, JUNE 2007.

NATO Parliamentary Assembly 67th Rose-Roth Seminar, “Serbia and Europe: Challenges of Integration,” Seminar Report Doc. 243 SEM 07 E, October 2007.

NATO Parliamentary Assembly and the Centre for the Democratic Control of Armed Forces (DCAF), “Whither Serbia? NATO, the EU and the Future of the Western Balkans?”, Seminar Report Doc. 151 JOINT 07 E, Annual Meeting 2007.

NATO Parliament Assembly, Resolution No. 359 on “Encouraging Stability in the Western Balkans, 2007.

NATO “Final communiqué Ministerial meeting of the North Atlantic Council held at NATO headquarters,” NATO Press Release Doc. PR (2007)130, Brussels, 7 December 2007.

NATO-Russia Council, “NATO-Russia Council meets with Kosovo Troika” Press Release, 15 October 2007.

NATO Secretary General Jaap de Hoop Scheffer at the conference “Kosovo – Security for All”. 30 December 2007.

NATO-Russia Council, “NATO-Russia Council meets with Kosovo Troika”, NATO Press Release, 15 October 2007.

NATO Press Release PR (2007)117, “Statement by the NATO Secretary General on the elections in Kosovo”, 19 November 2007.

NATO Press Release, “Unilateral Action on Kosovo Status would affect Serbia’s European path, Belgrade officials claim at NATO PA Seminar”, 29 October 2007.

NATO Parliamentary Assembly, Committee Report 055 DSC 08 E, “NATO Operations: Current Priorities and Lessons Learned” by Rapporteur Frank Cook, Berlin 2008.

NATO Press Release (2008)21, “Statement by the Secretary General in reaction to the Kosovo declaration of independence”, 17 February 2008.

NATO KFOR Chronicle (ed.3), “COMKFOR letter regarding Kosovo's Independence, 29 February 2008.

NATO Press Release (2008)025, "Statement by the North Council after Kosovo's declaration of independence", 18 February 2008.

NATO Press Release (2008)049, "Bucharest Summit Declaration", 2-4 April 2008.

The Council of Europe

Parliamentary Assembly of the Council of Europe (PACE), "Current situation in Kosovo" – Parliamentary Assembly Recommendation 1780 (2007) Doc. CM/AS(2007)Rec1780, 16 July 2007.

Parliamentary Assembly of the Council of Europe (PACE), Recommendation 1822 (2008), "Developments as regards the future status of Kosovo", 22 January 2008.

The Council of Europe Congress of Local and Regional Authorities (CLRAE), Kosovo Municipal and Assembly elections (Serbia) observed on 17 November and 8 December 2007, Spring Session CG(14)34REP 31 January 2008.

Council of Europe Observation Mission in Kosovo (CEEOM V), "Monitoring over Kosovo Election November 2007", Council of Europe Press Division 657 (2007), 5 October 2007.

Council of Europe Election Observation Mission V in Kosovo (CEEOM V), "The final sprint before the elections", Council of Europe Press Division 762 (2007), 7 November 2007.

CoE Press Release 801(2007), "Council of Europe Election Observation Mission in Kosovo (CEEOM V) Elections in line with international standards but alarmingly low turn-out", 18 November 2007.

Parliamentary Assembly of the Council of Europe (PACE), Resolution 1595 (2008) of 22 January 2008.

Council of Europe Press Division, "Potential for compromise on Kosovo exhausted, says PACE committee", Press Release (903)2007, Strasbourg, 12 December 2007.

Council of Europe Press release - 119(2008) Kosovo: PACE President urges all parties to preserve peace and dialogue.

GU/NGL Joint Statement by Tiny Kox, President of the Group of the Unified European Left at the Council of Europe and by Francis Wurtz, President of the European United Left/Nordic Green Left Group in the European Parliament Kosovo: "Do not open this Pandora's Box!", 20 February 2008.

The European Union

Commission of the European Communities, Commission Staff Working Document, "Kosovo under UNSCR 1244 2007 Progress Report, SEC(2007) 1433 in COM(2007)663, Brussels 6 November 2007.

EC Commission Decision C(2007)2271 of 01/06/2007 on a Multi-annual Indicative Planning Document (MIPD) 2007-2009 for Kosovo under UNSCR 1244.

Commission of the European Communities, Commission Staff Working Document, "Kosovo under UNSCR 1244 2007 Progress Report, SEC(2007) 1433 in COM(2007)663, Brussels 6 November 2007.

EC Commission Decision C(2007)2271 of 01/06/2007 on a Multi-annual Indicative Planning Document (MIPD) 2007-2009 for Kosovo under UNSCR 1244.

EU Council Decision of 30 January 2006 on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999 and repealing Decision 2004/520/EC (2006/56/EC).

EU Council Joint Action 2008/123/CFSP of 4 February 2008 appointing the EU Special Representative in Kosovo.

Council Conclusions on Kosovo, 2851st External relations Council meeting, Brussels, 18 February 2008.

EC Commission Decision C(2007)2271 of 01/06/2007 on a Multi-annual Indicative Planning Document (MIPD) 2007-2009 for Kosovo under UNSCR 1244.

EC Communication from the Commission to the Council and the European Parliament Brussels, Doc. COM(2007) 663, Brussels, 6 November 2007.

EU Commission Communication from the Commission to the Council and the European Parliament Enlargement Strategy and Main Challenges 2007-2008, COM(2007) 663, Brussels, 6 November 2007.

EU Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO.

EU Parliament, “Monday in Plenary: Kosovo, supermarket dominance,” 19 February 2008.

EU at the United Nations, “Kosovo's Future Status: Troika Press Statement”, 5 November 2007.

EU at the United Nations (2007), “Kosovo' Status: Troika Press Communiqué, Baden Conference,” 28 November 2007.

EU at the United Nations (2008), “Kosovo: Statement by EU Commissioner Rehn on elections”, 19 November 2008.

EU at the United Nations, “Speech by EU Commissioner Ferrero-Waldner at the OSCE Ministerial Council in Madrid”, 29 November 2007

Judy Batt, “Serbia’s European Future: Too Close to Call”, European Union Institute for Security Studies, Analysis, 25 January 2008.

Denisa Kostovicova, “Serbian elections: who has actually won and what does this mean for the EU?”, European Union Institute for Security Studies, Opinion, February 2008.

Jelena Obradovic, “How Serbian voters will make their choice on Sunday,” European Union Institute for Security Studies, Opinion, January 2008.

Jovan Teokrarevic, “Tadic has won, but what was it really about?”, European Union Institute for Security Studies, Opinion, February 2008.

The OSCE

Virginie Coulloudon, “Integration and diversity. Applying the same formula across the OSCE area” interview to the OSCE HCNM Rolf Ekeus, *OSCE Magazine* Oct-Nov 2007.

OSCE Press Release, “Chairman-in-Office meets Serbian President to discuss continued OSCE support, field operations”, 5 February 2008.

OSCE Press Release, “OSCE’s continued engagement in Kosovo is needed, says Chairman-in-Office”, 6 February 2008.

OSCE Press Release, “OSCE Chairman issues statement on Kosovo’s independence declaration”, 18 February 2008.

Address to the Permanent Council of the Organization for Security and Co-operation in Europe by H.E. Mr. Vuk Jeremić Minister of Foreign Affairs of the Republic of Serbia Vienna, 19 February 2008.

Newspapers

Associated Press Writer

Balkaninsight

B-92 News Service

RFE/RL Newsline

EUobserver

Kosovo Compromise

The Economist

The Sophia Echo

Reuters, 26 December.

International Herald Tribune

Vremya Novostei

Swissinfo

Dailies

The Guardian

SP International

BBC News

European Voice

Courier International

RTS/Politika

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