



**Center for Euro-Atlantic Studies CEAS**  
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CENTER FOR EURO-ATLANTIC STUDIES REPORT

# WEST SIDE STORY

**CEAS proposal for the correction of the administrative line between Serbia and Kosovo, agreed in a format under the auspices of West**

**Belgrade, Serbia | june 2018**

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CEAS proposal for the correction of the administrative line between Serbia and Kosovo, agreed in a format under the auspices of West which would be followed immediately by a comprehensive agreement on Serbia’s border disputes with Bosnia and Herzegovina, with Croatia, and eventually some others, with the presence of Montenegro, Albania and Macedonia as a solution to the current standstill in the process of normalization of the relations between Serbia and Kosovo under the auspices of the EU with the aim of advancing the cooperation between countries of the Western Balkans in the areas of security and defense in the light of the new regional and global challenges from threats of a possible new refugee-migrant wave to the growing malign influence of Russia in the region

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The fastest possibly feasible scenario, compatible with the starting principles of NATO’s air campaign against former Federal Republic of Yugoslavia and the reasons behind the right to implement Kosovo’s new status, which would contribute to bridging of the geopolitical divide between NATO’s eastern and southern flank

There's a time for us  
Someday a time for us  
Time together with time to spare  
Time to learn, time to care  
Someday, somewhere  
We'll find a new way of living  
We'll find a way of forgiving  
Somewhere...

## Somewhere, West Side Story

# Executive Summary

The Center for Euro-Atlantic Studies (CEAS) considers that the current format of negotiations on the normalization of relations between Serbia and Kosovo under the auspices of the EU has fallen to a complete standstill. This impasse is creating a series of political and security challenges for Serbia, Kosovo, the region, but also the EU and NATO. Five and a half years after the adoption of the Brussels agreement on the principles governing the normalization of relations between Serbia and Kosovo, five EU countries, of which are four NATO members, still do not recognize Kosovo's independence.

For this reason we are suggesting that under the auspices of the West negotiations should be organized on the correction of the administrative line between Serbia and Kosovo which would go more or less along the present four municipalities in the north of Kosovo (Northern Mitrovica, Zvecan, Zubin Potok and Leposavici) inhabited mainly by the Serbian population. This correction would immediately be followed by a comprehensive agreement on the normalization of relations. CEAS is proposing that this should be realized in a wider format that would include Albania, Macedonia, Montenegro, Bosnia and Herzegovina, and Croatia, where

Serbia's border disputes with Bosnia and Herzegovina and Croatia would be settled as well as some other disputes, and open issues that emerged as a consequence of the disintegration of former Yugoslavia and the wars of the 1990s, above all the issues of missing people and of the continuation of regional cooperation in implementing mechanisms of transitional justice.

The former fears that the correction of the borders of Serbia and Kosovo would cause a domino effect with potentially violent consequences in 2018 does not stand. Montenegro and Albania are members of NATO, Macedonia is on it's way to become a member of NATO soon, and on Kosovo and Bosnia and Herzegovina are KFOR and EUFOR.

This proposal is not a proposal for the ethnic division of Kosovo because the majority of Serbian population in Kosovo lives south of this part.

With this move the West would, with small risk and possibility for huge gains, in effect put President Vucic and the Serbian Government in a position where they can possibility for huge gains, effectively put President Vucic and the Serbian Government in a position where they

can effectively show, with less excuses, genuine readiness to take Serbia along the path of European integration. This is before all relevant to the strengthening of the rule of law and reducing the space for the malign Russian influence.

Progress in the normalization of relations between Serbia and Kosovo would advance the cooperation among countries of the Western Balkans in the areas of security and defense, which is especially important in the light of new regional and global challenges and threats, from a potential new refugee and migrant wave to the growing malign influence of Russia in the region. Any improvement of the regional cooperation in these areas would lessen the effect of their eventual spillover to EU and NATO.

The presented proposal as the fastest potentially feasible scenario, compatible with the starting principles of NATO's air campaign against former Federal Republic of Yugoslavia as well as the reasons for the right to implement the new status of Kosovo and which would, among other things, contribute to bridging the geopolitical divide between NATO's Eastern and Southern Flank.

It would be very good that the proposal of the new National Defense Appropriation Act (NDAA), which recommends increased engagement and military-military cooperation with the Western Balkans, and emphasizes the need for a proactive US approach in this part of Europe, is adopted with this provision.

In June this year, Assistant Secretary of State for European and Eurasian Affairs

Wess Mitchell correctly stated, during a presentation of the American policy in Europe and Eurasia, that Western Balkans have not recently been in the focus of American foreign policy. An important and encouraging message by Mitchell in that speech was that the U.S. are increasing the support to Western Balkans so that they can deal with Russia's influence and coordinate with the EU in order to strengthen stability, and that a team has been deployed to work with the EU and its key partners on issues related to the relations of Serbia and Kosovo, the situation in Bosnia and Herzegovina, and negotiations on Macedonia's new name.

Current administration of the United States, as a key NATO member state, by the willingness to support the approach we have presented in this study, would demonstrate its standard ability to implement new, advanced circumstances in the field, an uncompromising stand towards the Kremlin, its support to EU, and above all maturity in considering ways to strengthen NATO's cohesion without making major political or financial concessions.

In Shakespeare's sixteenth-century tragedy Romeo and Juliet, both heroes die. In the legendary Broadway musical West Side Story from the late 1950s, Tony dies but at least Maria survives. Can the West – Western Balkans coproduction produce a win-win scenario for both Serbia and Kosovo in 2018?

Belgrade, June 2018

# Standstill in the Normalization of Relations between Serbia and Kosovo - Implications for the Western Balkans, EU and NATO

In 2017 and 2018 there has been a serious worsening of the relationship between Serbia and Kosovo leading to a slowdown in the formal process of normalization of the relationship between official Belgrade and Pristina under the auspices of the European Union.

EU is torn by a large number of other huge external and internal challenges it is facing and it cannot be held accountable as the main factor for the newly created standstill. Let's just mention: BREXIT; Eurozone dilemma; Nord Stream 2 friction; the rise of populism; disregard for the founding principles of the EU by some of the member state governments; possibilities for and the price of sustaining the sanctions against Russia and certainly the war in Ukraine itself; emerging challenges in the trade agreements with the United States of America; terrorist attacks; fear of a new migrant and refugee wave given the lack of common policy on refugee distribution quotas. One should also add increasing difficulty in creating common policy related to eventual expansion in the Western Balkans that was painfully evident at the last EU – Western Balkans Summit.<sup>1</sup>

The afore mentioned tensions between Serbia and Kosovo and the standstill in negotiations have put into question the implementation of previous commitments defined by the First agreement of principles governing the normalization of relations between Belgrade and Pristina, also known as the Brussels Agreement<sup>2</sup>

1 EU-Western Balkans summit in Sofia: Connectivity is the priority). EWB. April 2018. Available at: <https://europeanwesternbalkans.com/2018/04/20/eu-western-balkans-summit-sofia-connectivity-priority/>

2 Brussels agreement. Document available at: <http://www.srbija.gov.rs/vesti/specijal.php?id=283757>

signed in the Belgian capital on April 2013. The implementation of agreements made in the following rounds of talks has also been slowed down.

The format defined by the EU, without a clear time frame and a clear desired outcome, that would be acceptable to all, has been fully exhausted without any indication of the way forward. At the moment on the international scene, but also in Serbia, the trial balloon testing of potential new formats and possible actors could lead to an exit from the current deadlock.<sup>3</sup> The scandalous statement by Russia's ambassador in Serbia Alexander Chepurin, given in an opinion piece published earlier in June 2018 in daily Politika is especially worrying: "Russia and Serbia are consistently supporting each other in international organizations in relation to current political issues. In this, special importance should be given to the issue of Kosovo and Metohija, where Belgrade is facing ultimate pressure from traditional Serb-haters. I will remind you that Moscow was, is, and will be on Belgrade's side. And that is worth a lot. Our position remains unchanged – we will support any decision that Serbia and Serbian people consider acceptable for themselves. Let's start from the notion that the legal basis for the agreement is the UN Security Council Resolution 1244. Of course, opportunities may arise for deeper involvement of Russia in the process of regulating, should any such suggestion appear".<sup>4</sup>

3 A compromise between Belgrade and Pristina is possible only in one case. Sputnik. June 2018. Available at: <https://rs-lat.sputniknews.com/komentari/201806111115930505-beograd-pristina-kompromis-/>

4 It is possible to deepen Russia's involvement in the Kosovo issue. Politika. June 2018. Available at: <http://www.politika.rs/sr/clanak/405367/Moguce-je-dublje-ukljucivanje-Rusije-u-kosovski-problem>

The standstill certainly has its security implications in both Serbia and Kosovo, as well as those spilling over to the whole of Western Balkans region and therefore the EU and NATO.

Even without the impasse in the normalization of relations between Serbia and Kosovo, the region is exposed to a large number of external and internal threats and challenges such as: migratory and refugee routes; the movement of extremists from the Middle East; organized crime and corruption; obstacles from the previous period which are causing difficulties in the current relations between states, such as the name issue between Macedonia and Greece; complex state structure issued from dire need to stop the war in Bosnia and Herzegovina; unreformed state security systems; unfinished process of transitional justice; underdeveloped rule of law; overly politicized ethnicities; weak economic prospects; high levels of youth unemployment; poor infrastructural connections; high energy dependence on Russia; Euroscepticism; increased influence of China<sup>5</sup> and Turkey as well as of some Middle Eastern countries and others.

Kremlin is using all of those in an ever more synchronized pursuit of spreading its malign influence in the region, which was often greeted by an 'open doors'<sup>6</sup>. policy in Serbia mainly, but not only because of unresolved relations with Kosovo and alleged Russian support for Belgrade's current policies. Therefore any new format of a solution leading to the normalization of relations between Serbia and Kosovo would have to take into consideration geopolitical and regional circumstances of the year 2018 and present the urgently needed closing of at least one door

5 CEAS Study. BASIC INSTINCT: The Case for More NATO in The Western Balkans. September 2017. Available at: [https://www.ceas-serbia.org/images/publikacije/CEAS\\_Basic\\_Instinct\\_WEB.pdf](https://www.ceas-serbia.org/images/publikacije/CEAS_Basic_Instinct_WEB.pdf)

6 CEAS Study. EYES WIDE SHUT - STRENGTHENING OF THE RUSSIAN SOFT POWER IN SERBIA – GOALS, INSTRUMENTS AND EFFECTS. May 2016. Available at: [https://www.ceas-serbia.org/images/publikacije/CEAS\\_Studija\\_-\\_%C5%A0irom\\_zatvorenih\\_o%C4%8Diju\\_\\_ENG.pdf](https://www.ceas-serbia.org/images/publikacije/CEAS_Studija_-_%C5%A0irom_zatvorenih_o%C4%8Diju__ENG.pdf)

through which the malign Russian influence is spreading into the region, as elaborated in detail in the report of the US Senate Democrats – *Putin's Asymmetric Assault on Democracy in Russia and Europe: Implications for U.S. National Security*.<sup>7</sup>

The slowdown in the normalization is undoubtedly supported by the fact that five EU member states, four of which are also NATO members (Cyprus, Spain, Slovakia, Romania, and Greece) have not recognized Kosovo's independence for more than five years since the Brussels agreement. One must not forget how this circumstance is an actual factor limiting Belgrade authorities in making steps that the West is expecting – to sign a comprehensive agreement with Kosovo on the normalization of relations with Kosovo in its current administrative borders.

The position of EU and NATO members that don't recognize Kosovo are strengthening the position of all those who claim that Kosovo's new status is not *sui generis* case. This is especially true in the case of the former Spanish government, who only a month ago seriously reduced the significance and achievements of the EU – Western Balkans Summit in Bulgaria, for which the countries of the region and its EU-oriented citizens had high expectations.

A new wave of disappointment and fear was exacerbated by statements of some high European officials that new enlargement will not happen before the Union is consolidated internally.<sup>8,9</sup> Strengthening of Euroscepticism in the region, caused by certain moves by

7 Putin's Asymmetric Assault on Democracy in Russia and Europe: Implications for U.S. National Security. USA Senate. January 2018. Available at: <https://www.foreign.senate.gov/imo/media/doc/FinalRR.pdf>

8 France wants EU expansion freeze amid Balkans war warning April 2018 Available at: <https://www.apnews.com/e08577df579b4f9d939eee0b54418c19>

9 French President opposed to EU enlargement. N1. April 2018. Available at: <http://rs.n1info.com/a380525/English/NEWS/Macron-opposes-EU-enlargement.html>

EU's institutions and member states, is increasingly aggravating the process of stabilization and democratization of the region. At the same time, it is also representing an additional argument for the search for a new solution, adapted to year 2018, providing a format for the agreement between Serbia and Kosovo which would contribute to the improvement of the current situation.

More and more officials from Kosovo are defending Kosovo's new status with a false argument that it had obtained it in the process of the dissolution of former Yugoslavia (SFRY),<sup>10, 11</sup> like its republics did, even though at the time Kosovo was a province within Serbia. By giving up on the essence, which is that NATO intervention came out of necessity to stop the mass crimes by Serbian forces against Kosovo's Albanians, some of Kosovo's officials, in addition to being immoral towards victims and unfair towards NATO, are giving an argument to those who do not recognize and will not recognize Kosovo's independence. And those are not small in numbers in the United Nations either – almost half of its members.<sup>12</sup> Special attention should be paid to the status of the Egyptian recognition of Kosovo, which is highly questionable and which, if changed, could have a domino effect in the rest of the Arab world. Should Kosovo's officials give up on the *sui generis* argument for independence, they would give official Belgrade an argument for a renewed search of a compromise solution. The current situation is not fair towards Belgrade either, which 19 years after Milosevic's regime committing the atrocities is expected to determine

10 Haradinaj: The war with Serbia will officially end with mutual recognition. Blic. June 2018. Available at: <https://www.blic.rs/vesti/politika/haradinaj-medusobnim-priznanjem-zvanicno-cebiti-prekinut-rat-sa-srbijom/1lxnn9d>

11 Vlora Çitaku in UN: Kosovo has never been Serbian. N1. May 2018. Available at: <http://ba.n1info.com/a260364/Svijet/Regija/Flora-Citaku-ambasadorka-u-Vijecu-sigurnosti-UN-Kosovo-nikad-nije-bilo-srpsko.html>

12 Dačić: There will be less than 100 recognitions of Kosovo, Pristina's list is fake. RTS. February 2018. Available at: <http://www.rts.rs/page/stories/sr/story/9/politika/3050116/dacic-cinimo-nadljudske-napore-da-mirimo-nepomirljivo.html>

how severe its own punishment will be, because the jury can't reach a verdict (hundreds of UN countries from 193 member states, of which 4 are NATO members, 5 are EU members).

An aggravating circumstance for the continuation of negotiations in the current format and with current expectations is the fact that two of the EU and NATO members who have not recognized Kosovo – Romania and Greece – are key countries connecting NATO's Eastern and Southern Flank. These two flanks are currently exposed to different threats<sup>13</sup> and challenges which is often causing difficulties in producing more coherent policies and in the allocation of resources.

Keeping in mind all the difficulties which the current Greek government is facing, the urgently needed compromise over Macedonia's name would probably reduce chances of Greece recognizing Kosovo's independence within its current borders any time soon. With Albania and Montenegro already a NATO members, and a hopefully near solution to the name issue speeding up Macedonia's chances of joining NATO and its EU accession process, the argument of an alleged threat of a domino effect which would eventually result in changes to the administrative line between Serbia and Kosovo no longer stands.

Authorities in Belgrade should also keep this in mind while they unnecessarily continue to base their policy towards Kosovo on inciting a false fear of a "Greater Albania", as should other actors who reject beforehand the mere notion of correcting borders as a step towards a comprehensive solution which would undoubtedly contribute to the stabilization of Western Balkans.

13 NATO's Southern Strategy at a Crossroads. Carnegie Europe. December 2017. Available at: <http://carnegieeurope.eu/2017/12/07/nato-s-southern-strategy-at-crossroads-pub-74932>

The stabilization of Western Balkans, first of all through the compromise which would lead to the normalization of the relationship between Serbia and Kosovo, would enable Kosovo's integration into all regional and international security and defense structures. And apart from Serbia who would no longer be able to resist it, it would challenge the main assertion by Milorad Dodik, president of Republika Srpska – entity of Bosnia and Herzegovina that is blocking Bosnian consent to include Kosovo in the mentioned structure. This would allow easier exchange of intelligence data, realization of joint *ad hoc* and institutionalized responses to common threats and challenges.

Equalization of conditions for cooperation in the field of security and defense in Western Balkans would significantly contribute to bridging the divide between NATO's Eastern and Southern Flanks. Russia is exploiting current huge differences in challenges and threats faces by the two flanks to its advantage. It is achieving it by, among other things, continuing the aggression against Ukraine; attempting to strengthen its relationship with Turkey; building up its presence in the Black Sea; its actions in Syria; and bolstering cooperation with Cyprus, Greece, and Bulgaria in energy, banking, and defense industry.

The large number of threats and challenges faced by the Western Balkans, which represent a natural geographical and political connection between NATO's Eastern and Southern Flanks, is certainly used by Russia to articulate its malign intentions towards Western Balkans which can have negative implications on EU and NATO itself. This needs to be taken into account by the authorities in Kosovo before they reject *a priori* any new suggestion as precondition to the comprehensive normalization of its relations with Serbia.

The investigation of the murder of Serbian politician Oliver Ivanovic in January 2018 in the north of Kosovo still has not resulted<sup>14, 15</sup> in any charges and the excessive use of force by Kosovo's forces during their reaction to the actions of Marko Djuric, director of Serbian Government's Office for Kosovo and Metohija, in disrespect of Kosovo's rules for visits of Serbian officials, also a series of ethnically motivated incidents, largely over Kosovo Serbs, both in the first half of this year,<sup>16</sup> have brought significant damage to the indispensable normalization of relations. These events have given a valid argument to Serbia's authorities and to the media that overtly support them, to change their stance towards previously accepted and implemented obligations resulting from the Brussels Agreement, mainly concerning the withdrawal of Serbian parallel structures from the North of Kosovo. The actions of Kosovo's authorities related to the North of Kosovo are now referred to as "intrusions".<sup>17</sup>

Unquestionably up to this period, Serbian authorities led by the President Aleksandar Vucic, who has taken over full political responsibility for the success or failure of the relations normalization attempts, have fulfilled much more obligations from the Brussels Agreement than officials in Pristina, sometimes even at the price of bending Serbia's Constitution.

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14 Dolovac in Pristina on the course of the investigation of Ivanovic's murder. N1. June 2018. Available at: <http://rs.n1info.com/a394655/Vesti/Danas-Dolovac-u-Pristini-o-toku-istrage-ubistva-Ivanovica.html>

15 Kosovo Prosecution: There was no meeting with Dolovac, false. N1. June 2018. Available at: <http://rs.n1info.com/a394953/Vesti/Kosovsko-tuzilastvo-Nije-bilo-sastanka-s-Dolovac-neistina.html>

16 KFOR Commander: We are concerned about the situation in Kosovo, we are working on security. Blic. June 2018. Available at: <https://www.blic.rs/vesti/politika/komandant-kfor-a-zabrinuti-smo-zbog-situacije-na-kosovu-radimo-na-bezbednosti/n3kn540>

17 Vucic appealed to the international public: Prevent the invasion of Albanians in northern Kosovo. Kurir. June 2018. Available at: <https://www.kurir.rs/vesti/politika/3060289/vucic-apelovao-na-medjunarodnu-javnost-sprecite-upad-albanaca-na-sever-kosova>

Since the end of conflict up to now, in Kosovo, a negligible number of trials for war crimes and other related criminal acts have been held. According to the Humanitarian Law Center (HLC), a reputable non-governmental organization from Serbia, during the international conflict between March 24, and June 6, 1999, 189 Serb and other non-Albanian civilians have been killed. Among them are 26 children under the age of 16. A total of 46 Serbs and other non-Albanians were killed in attacks by NATO forces, while for death or disappearance of 143 Serbs is responsible

Kosovo Liberation Army (KLA). After the withdrawal of Yugoslav Army and Serbian Ministry of Interior forces after the Military Technical Agreement between the International Security Force (KFOR) and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia (commonly known as the Military Technical Agreement or Kumanovo Agreement), which preceded UN Security Council's Resolution 1244 and which ended the NATO intervention, between June 11, 1999 and December 31, 2000, in Kosovo 1,108 people were killed or have gone missing: 752 Serbs, 210 Roma, Montenegrins, Bosniaks, and Gorani, as well as 146 Albanians, of which 45 are known to have been killed as collaborators of Serbian authorities. According to HLC, between 400 and 600 Serbs are still counted as missing.<sup>18</sup>

Kosovo's officials have, with large support of the wider public, done everything in their power to prolong the creation of conditions to start the work of the Specialized Chambers and the Specialized Prosecution Office for processing crimes committed by the KLA against ethnic minorities and political rivals since 1998 until the end of 2000, which was a condition by the West posed only a couple of years ago. Their argument to agree to the forming of the court, which came

only after huge pressure from the West, never focused on the need to process the crimes, punish the perpetrators and bring justice to the victims, but rather on the "need to maintain good relations with the West".<sup>19, 20, 21</sup>

According to the Humanitarian Law Center, until the air campaign against the Federal Republic of Yugoslavia (FRY) comprised of Serbia with its two provinces and Montenegro which had the status of a republic in former SFRY, Milosevic's forces in conflicts in Kosovo have killed some 1,400 Albanian civilians.<sup>22</sup> During the campaign, more than 6,200 Albanian civilians have been killed or have forcefully gone missing in the campaign of violence and terror led by the Yugoslav Army/Serbian Interior Ministry. Among the victims are 400 children under the age of 16.<sup>23</sup>

Still, one should not forget that despite the inexcusable standstill in the process of trials for war crimes before local courts, and the fact that the Chief of Staff of the Serbian Army Ljubisa Dikovic<sup>24</sup> is deeply compromised by the fact that in the areas of Kosovo where his units have been active a large number of still unresolved crimes were committed, Serbia has fulfilled all of its obligations towards the International

19 Hoxha: A special court is unfair, but it should be respected. Večernje Novosti. January 2018. Available at: <https://goo.gl/qfEXew>

20 Hashim Thaçi changed his mind: The establishment of a Special Court for KLA crimes is unfair, but we have to do it with the US, EU and NATO. Ekspres. February 2018. Available at: <https://www.ekspres.net/politika/hasim-taci-se-predomislio-osnivanje-specijalnog-suda-za-zlocine-ovk-je-nefer-ali-moramosa-sad-eu-i-nato>

21 'Historical Injustice': Kosovo's President Pledges To Sign Legislation Abolishing War Crimes Court. RFE. December 2017. Available at: <https://www.rferl.org/a/kosovo-thaci-legislation-abolishing-war-crimes-court/28943894.html>

22 CEAS announcement about the nineteen years since the beginning of the NATO air campaign: The impoverished leadership leads to impoverished citizens, not democracy and stability. March 2018. Available at: <https://www.ceas-serbia.org/sr/aktuelno/saopstenja/6972-ceas-saopstenje-povodom-devetnaest-godina-od-pocetka-nato-vazdusne-kampanje-osiromaseno-liderstvo-vodi-u-osiromaseno-gradanstvo-a-ne-u-demokratiju-i-stabilnost>

23 Ibid.

24 Dossier Diković Ljubisa. HLC. January 2012. Available at: <https://www.hlc-rdc.org/wp-content/uploads/2012/01/Januar-23-2012-Dikovic-Ljubisa-Dosije.pdf>

18 LHuman losses during the NATO bombing of the FRY. HLC. Available at: <http://www.hlc-rdc.org/?p=19413>

Criminal Tribunal for former Yugoslavia (ICTY)<sup>25</sup> a long time ago. It is especially important to remember the complex circumstances in which the government of the first reformist Prime Minister Zoran Djindjic has functioned, as did the one that succeeded it. They have *de facto* delivered active police and army generals and the political leaders, accused exactly for crimes committed in Kosovo, immediately after the nonviolent removal from power of the criminal Slobodan Milosevic, which required difficult and dangerous compromises with members of the security system, main perpetrators of crimes and implementers of Milosevic's policies. Djindjic's murder was, unfortunately, the strongest confirmation of this fact. These authorities have, at the enormous political price, liberated all Albanian political prisoners from Milosevic's era.

But even in Serbia, unfortunately, in the period from 2017 to 2018, Serbian pro-government dailies and television channels that simultaneously support Vladimir Putin, with wholehearted support from Sputnik's service in Serbia, a very intensive campaign was led to spread a false narrative about an alleged epidemic of cancer in Serbia as a consequence<sup>26</sup> of the cancerous effects of the depleted uranium used in NATO's ammunition during the air campaign against FRY, and the narrative that NATO has committed an ecocide<sup>27</sup> in Serbia. Apart from physicians holding high posts or lecturing at Belgrade's Faculty of Medicine such as Danica Grujicic an openly anti-western and pro-Putin medical professional with obvious years-long unfulfilled political

25 Vucic receives a visit by Chief Prosecutor of the Tribunal: We will continue to strengthen cooperation. Srbija Danas. May 2018. Available at: <https://www.srbijadanas.com/vesti/info/vucic-primio-posetu-glavnog-tuzioca-tribunala-nastavicemo-i-jacati-saradnju-foto-2018-05-10>

26 CEAS open letter/analysis: Vaccines for Kosovo - CEAS's contribution to internal dialogue on Kosovo. April 2018. Available at: <https://www.ceas-serbia.org/sr/aktuelno/saopstenja/7041-ceas-saopstenje-9-april-2018>

27 Dr Danica Grujicic: Citizens of Serbia must know that NATO has committed ecological genocide. Vostok. June 2017. Available at: [http://www.vostok.rs/index.php?option=btg\\_novosti&idnovost=101854](http://www.vostok.rs/index.php?option=btg_novosti&idnovost=101854)

ambitions, some high officials of the Republic of Serbia have joined this campaign. A worrying fact is that apart from CEAS, almost no one from civil society organizations, opposition, free press and other segments of the society has publicly opposed this, with the exception of almost solely Dr. Zoran Radovanovic.<sup>28</sup> At the same time Dr. Danica Grujicic took part in a parallel anti-measles vaccination campaign with the same rationalization that all relevant international institutions such as UN agencies are discredited and that their data, as well as data provided by official Serbian institutions such as the Public Health Institute, should not be trusted. The World Health Organization (WHO), for example, is "an exponent of the American military industry" which may be "sending flawed vaccines because Serbia is refusing to recognize Kosovo".<sup>29</sup> Unfortunately, this may be the reason behind a measles epidemic that has already taken its toll in loss of tens of lives.<sup>30</sup>

Its consequences will likely further reduce the public support to Serbia's integration into the EU which oscillates around 50 percent<sup>31</sup> as did the support for the continuation of the process of normalization of the relationships with Kosovo that would be acceptable to both Kosovo and the West. This was probably Belgrade's intention in order to strengthen its position at an unacceptable price. If the authorities in Serbia intend to convince western politicians to accept a compromise in the correction of the administrative line between Serbia and

28 Dr Radovanović: There is no epidemic of malignant tumors. Večernje Novosti. May 2017. Available at: <http://www.novosti.rs/vesti/naslovna/drustvo/aktuelno.290.html:664950-Dr-Radovanovic-Nema-epidemije-malignih-tumora>

29 A panel discussion was held at the Faculty of Political Sciences in Belgrade, in which Dr Danica Grujicic and Mirjana Bobic-Mojsilovic took part. April 2017. Available at: [https://www.youtube.com/watch?time\\_continue=2713&v=J0dxd9wO1Jg](https://www.youtube.com/watch?time_continue=2713&v=J0dxd9wO1Jg)

30 The man died from the effects of measles, the 13th victim. N1. March 2018. Available at: <http://rs.n1info.com/a371860/Vesti/Muskarac-preminuo-od-posledica-morbila-13-zrtva.html>

31 49 % citizens absolutely for Serbia in the European Union. Ministry for European Integration. July 2017. Available at: <http://www.mei.gov.rs/srl/vesti/1052/189/335/detaljnije/49-gradjana-apsolutno-za-srbiju-u-evropskoj-uniji/>

Kosovo as a precondition for reaching the comprehensive agreement on the normalization of relations, they would need to quit this shameful and dangerous tactic as soon as possible. Should we even stress how much this campaign is in collision with other current policies of the Serbian government related to incentives for agricultural exports and tourism, for example?

This approach is making last year's rational requests by official Belgrade to NATO and its member states to help Serbia in removing the difficult ecological consequences of NATO's intervention, which the Center for Euro-Atlantic Studies (CEAS) is wholeheartedly supporting and advocating for.<sup>32</sup>

32 Basic Instinct: The Case for More NATO in the Western Balkans. September 2017. Available at: [https://www.ceas-serbia.org/images/publikacije/CEAS\\_Basic\\_Instinct\\_WEB.pdf](https://www.ceas-serbia.org/images/publikacije/CEAS_Basic_Instinct_WEB.pdf)

## Correcting the Administrative Line between Serbia and Kosovo as a small concession to Serbia – Big Potential Benefit for the EU and NATO

Keeping in mind all things stated above, CEAS considers that a stronger political leadership by NATO members from Western Balkans, which the Center has covered extensively in last year's report *Basic Instinct: The Case for More NATO in the Western Balkans*,<sup>33</sup> would be an adequate format for overcoming the current standstill in Serbia and Kosovo negotiations.

CEAS proposes that the first step is taken in the direction of considering the option of adjustment of administrative line between Serbia and Kosovo, in the largest part along the line of current four municipalities (Northern Mitrovica, Zvečan, Zubin Potok and Leposavici) with Serbian population in the north of Kosovo, without any thought of exchanging territories which would include the municipalities with the Albanian population in the south of Serbia. Which would be immediately followed by a comprehensive agreement on the normalization of relations.

The proposal to correct the administrative line has nothing to do with the idea

of ethnic delimitation. It comes as a consequence of the opinion that neither the West itself nor the UN have managed to clearly determine the exact amount of punishment Serbia should sustain for the crimes of Milosevic's regime in Kosovo, but the sentencing has unexpectedly turned into negotiation between those who were supposed to be sentenced and those who were supposed to be protected. The proposal to correct the administrative line is presented in 2018, nineteen years since the end of NATO's intervention, when it is obvious that a series of negotiations under the auspices of the West, which aimed to achieve Kosovo's independence within its current borders, did not yield any results, and the current standstill is a political and a security challenge for both Western Balkans and the West. Serbia under Milosevic, which was very different from Serbia today, has committed crimes against its citizens of Albanian ethnicity in one part of the territory (not including the four municipalities in the north of Kosovo) so there is some logic behind having Serbia's sovereignty over that part of its territory suspended.

33 Ibid.

But Serbian citizens who are *a priori* against any solution that could be achieved with the West and who allegedly want a democratic Serbia must bear in mind that according to social science, democratization is impossible if a homogeneous entity in one part of the country systematically rejects the power of the central government.<sup>34</sup>

The suggested solution does not envisage including Serbia's southern municipalities populated by Albanians in the option of adjustment of administrative line. Including the issue of the south of Serbia would represent a withdrawal from the principle that the new status of Kosovo is a *sui generis* case which CEAS firmly holds onto in its analysis and its suggested solutions for the normalization of relations between Serbia and Kosovo. The government of the late Prime Minister Zoran Djindjic, resolved the rebellion in the south of Serbia which started after NATO's campaign in 2001, almost immediately after he came to power. The rebellion was ended in collaboration with NATO and without any civilian casualties or excessive use of force.<sup>35, 36</sup> The described method was exactly the opposite of the way Milosevic's regime was handling Kosovo, which led to NATO's intervention against FRY and the subsequent adoption of UN Security Council Resolution 1244.<sup>37</sup>

Disputed issues about water system Gazivode that contributes significantly to Kosovo's water supply, mainly situated in Serbia with one smaller part in one of the municipalities in the north of Kosovo, in the case of correction of the administrative line and eventually

34 Joint-Exercise Double Eagle wraps up in Serbia. Ramstein air base. November 2017. Available at: <http://www.ramstein.af.mil/News/Article-Display/Article/1380638/joint-exercise-double-eagle-wraps-up-in-serbia/>

35 Djindjic asked for the urgent resolution of Kosovo's status. B92. 2003. Available at: [https://www.b92.net/info/vesti/pregled\\_stampe.php?yyyy=2006&mm=08&dd=04&nav\\_id=206863](https://www.b92.net/info/vesti/pregled_stampe.php?yyyy=2006&mm=08&dd=04&nav_id=206863)

36 Djindjic: Isolate Albanian extremists. B92. March 2001. Available at: [https://www.b92.net/info/vesti/index.php?yyyy=2001&mm=03&dd=09&nav\\_category=1&nav\\_id=22334](https://www.b92.net/info/vesti/index.php?yyyy=2001&mm=03&dd=09&nav_category=1&nav_id=22334)

37 UN Resolution 1244. Available at: <https://www.nato.int/kosovo/docu/u990610a.htm>

other questions that have strategic importance for West and primarily for NATO, related to some location in the four municipalities could be solved in an international conference or some other format under the political patronage of NATO member states. In addition to the adoption of a comprehensive agreement on the normalization of relations between Serbia and Kosovo, which should follow immediately after the correction of the administrative line, in addition to Bosnia and Herzegovina and Croatia, the conference should include Albania, Macedonia and Montenegro. It could also achieve compromise solutions of Serbia's border disputes with Bosnia and Herzegovina, with Croatia, and possibly with some others, as well as some other unresolved issues of succession and consequences of the 1990's, from property to the issue of the missing and the continuation of regional cooperation in the process of transitional justice.

With NATO's decision to increase its military presence in Bosnia and Herzegovina and the positive signals from Britain which is sending 40 soldiers to join EUFOR in Bosnia,<sup>38</sup> in the same conference NATO member states could dispel legitimate Bosniak fears of Milorad Dodik who, like Milosevic in late 1990s is militarizing the police forces of Republika Srpska, and fears of a possible attempt to undermine, with Kremlin's<sup>39</sup> support, the efforts for reaching an agreement on the inviolability of borders, which could be achieved at the conference.

It would be very good that the proposal of the new National Defense Appropriation Act (NDAA),<sup>40</sup> which recommends increased

38 British troops to protect Bosnia election from Russian meddling. The Times. Available at: <https://www.thetimes.co.uk/article/uk-to-protect-bosnia-poll-s0vfjhzmx>

39 Bosnia on the Russian Chopping Block: The Potential for Violence and Steps to Prevent It. Foreign policy research institute - FPRI. Available at: <https://www.fpri.org/article/2018/03/bosnia-russian-chopping-block-potential-violence-steps-prevent/>

40 NDAA. H.R.2810 - National Defense Authorization Act for Fiscal Year 2018. USA Congress. Available at: <https://www.congress.gov/bill/115th-congress/house-bill/2810/text>

engagement and military-military cooperation with the Western Balkans, and emphasizes the need for a proactive US approach in this part of Europe, is adopted with this provision.

The idea of an enhanced US military presence in the region is presented in a special report by the Atlantic Council, *Balkans Forward: A New US Strategy for the Region*<sup>41</sup> published a few months ago. It is important to remember that in addition to the proposal for the increased American military presence in South East Europe, it also advocates for the 'historic reconciliation' with Serbia and restoring United States' reputation of a true mediator, which CEAS wholeheartedly supports.

The key effect for the success of such an approach would be that the countries of Western Balkans would receive more balanced conditions for the necessary regional cooperation in the domain of security and defense, in response to the growing number of security threats and challenges, from the organized crime to the fight against terrorism, including potentially new migrant/refugee crisis that could spill over to the European Union and NATO.

Serbia should commit not to obstruct Kosovo's inclusion in all political intergovernmental structures from Interpol onwards, which would also annul the arguments of the political leadership of Republika Srpska and of Russia. This approach would not shut all the doorways letting the malign Russian influence into the region, not even in Serbia whose gas and oil industry are in Russia's majority ownership, as consequence of the previous government decisions. It is unclear how many people has Kremlin recruited within Serbia's security system without Belgrade's approval or even knowledge, and who out of fear of being processed for war crimes

41 *Balkans Forward: A New US Strategy for the Region*. Atlantic Council USA. November 2017. Available at: <http://www.atlanticcouncil.org/publications/reports/balkans-forward>

(that Kremlin<sup>42</sup> has absolutely no interest in) want to prevent Serbia's accession to the EU, but it would surely make the articulation of Kremlin's influence more difficult on one side, and the struggle against it easier on the other.

A conference under the auspices of NATO member states or some other format in which the administrative line between Serbia and Kosovo could be corrected, as a prerequisite for reaching a comprehensive agreement on the normalization of relations that would immediately follow, and the remaining open border and other fore mentioned issues in the region could be resolved in the presence of all Western Balkan countries in the process of European integration, would put an end to some of the fears and problems that the region and European Union are facing in implementing the current European policies towards the Western Balkans.<sup>43</sup> It would strengthen the somewhat shaken faith of citizens and governments in the region in their European perspective and could partly consolidate the importance of European integration supported by the West.<sup>44</sup>

Willingness of the West to make small concessions to the authorities in Belgrade, like the ones described in this report which are fully in line with the starting principle of NATO's intervention against FRY, the UN Resolution 1244<sup>45</sup> and Kosovo's new status as a *sui generis* case, could possibly facilitate the process of achieving a comprehensive agreement on the normalization of Serbia's relations with Kosovo against which Kremlin could not formally hold any objections. Fear that

42 The Hague prosecution seeks a life sentence for Mladic. Sputnik. December 2016. Available at: <https://rs-lat.sputniknews.com/evropa/201612071109151993-hag-mladic-tuzilarstvo-1/>

43 Rezolucija 1244. Dostupno na: <https://www.nato.int/kosovo/docu/u990610a.htm>

44 The Transatlantic Bond: Preserving the West - Assistant Secretary of State for European and Eurasian Affairs A. Wess Mitchell outlined the Trump Administration's strategy in Europe. The Heritage Foundation - Tuesday, June 5, 2018. Available at: [https://www.youtube.com/watch?time\\_continue=2&v=Ldpg2q6evKQ](https://www.youtube.com/watch?time_continue=2&v=Ldpg2q6evKQ)

45 Ibid.

Vladimir Putin would misuse possible correction of the administrative line between Serbia and Kosovo to provide an excuse for the new status of the Crimea as part of Russia, which is often referred to as an argument against the idea of changing the administrative line, simply does not stand for many reasons. Let's start with the most bizarre one. By using his reversed logic, Putin can bend the truth and the rules of international relations and interpret any situation to Kremlin's advantage. Using this argument would actually represent a favor to Putin's approach. And here is a valid argument behind why the case of Kosovo can't be compared to Crimea, or to Catalonia.

Serbia's sovereignty was suspended because of the dire humanitarian crisis in Kosovo based on the UN's Security Council Resolution 1244, which is not the situation of Ukraine or of its part, Crimea, nor Spain nor Catalonia as its part. Resolution 1244 envisions that citizens of Kosovo will, after negotiations on its new status, have a chance to express their opinion of the new status, and if these negotiations should fail, the citizens will have the right to determine (without specifying exactly how) the new status. No UN Security Council resolution has given this right to the citizens of Crimea or Catalonia

Correction of the administrative line and normalization of relations with Kosovo would take away some of the arguments that the current government in Serbia conveniently uses, which are in fact bringing down the support for Serbia's European integrations, while at the same time it would not reduce the government's chances to remain in power even if the negotiations fail, because they could adopt a new policy of renouncing European integration. If Serbia achieves the formalization of the normalization of relations with Kosovo, it would enable her to enter into more logical and coherent constitutional changes and adopt new

strategic and doctrinal documents<sup>46, 47</sup> without the current limiting factors around Kosovo and consequently Russia.

With this move the West would run a low risk and have a chance for making a high profit, and in fact it would put President Vucic and the Serbian government in a situation where with fewer excuses, they could show real willingness to lead Serbia through European integration. This primarily concerns the strengthening of the rule of law and the reduction of space for malign Russian influence.

Namely it must not be ignored that the last relevant public opinion survey in Serbia shows that the government has an indisputable majority<sup>48</sup> but does not have support to normalize relations with Kosovo in the way it is expected by the West. Support is not large even in the case where the border disputes would be settled in the way CEAS is proposing.<sup>49</sup> Serbian Orthodox Church,<sup>50, 51</sup> right-wing structures and structures within the security system that glorify war criminals and publicly threaten President Vucic because of the Brussels Agreement. CEAS has already written about this<sup>52</sup>

46 Draft of the National Security Strategy of the Republic of Serbia. April 2018. Available at: [http://www.mod.gov.rs/multimedia/file/staticki\\_sadrzaj/javna%20rasprava/strategije/Nacr%20Strategije%20nacionalne%20bezbednosti.pdf](http://www.mod.gov.rs/multimedia/file/staticki_sadrzaj/javna%20rasprava/strategije/Nacr%20Strategije%20nacionalne%20bezbednosti.pdf)

47 Draft of the Defense Strategy of the Republic of Serbia. April 2018. Available at: [http://www.mod.gov.rs/multimedia/file/staticki\\_sadrzaj/javna%20rasprava/strategije/Nacr%20Strategije%20odbrane.pdf](http://www.mod.gov.rs/multimedia/file/staticki_sadrzaj/javna%20rasprava/strategije/Nacr%20Strategije%20odbrane.pdf)

48 Researching of citizens' attitudes on resolving the Kosovo's status. IPSOS. April 2018. Available at: <http://www.fosserbia.org/assets/uploads/stavovi/stavovi-gradjana-o-resavanju-statusa-kosova.pdf>

49 Dialogue on Kosovo: Citizens' Views of Serbia and on the Status of Kosovo - Presentation of Public Opinion Poll. Media Center. April 2018. Available at: <http://www.mc.rs/dijalog-o-kosovu-stavovi-gradjana-srbije-o-resavanju-statusa-kosova---predstavljanje-istrazivanja-javnog-mnjenja.4.html?eventId=10827>

50 Unity of Bishops: Kosovo's independence must never be recognized at all costs. Večernje Novosti. May 2018. Available at: <http://www.novosti.rs/vesti/naslovna/drustvo/aktuelno.290.html:725478-JEDINSTVO-VLADIKA-SPC-Nezavisnost-Kosovani-kada-ni-po-koju-cenu-ne-treba-priznati>

51 Dacic: Kosovo's division is a good solution for Albanians. N1. May 2018. Available at: <http://rs.n1info.com/a391450/Vesti/Dacic-Podela-Kosova-dobro-resenje-i-za-Albanance.html>

52 CEAS announcement - Dialogue on Kosovo has long been necessary for Serbia. July 2017. Available at: <https://www.ceas-serbia.org/sr/aktuelno/saopstenja/6318-ceas-saopstenje-dijalog-o-kosovu-je-srbiji-odavno-potreban>

significant and dangerous opposition to Serbian authorities' attempts to make any agreement with Kosovo in the current frames that the West is expecting. The so-called democratic opposition is working intensively to reduce the maneuvering space for this government to endorse the present expectations of the West by refusing to propose any functional solution. Instead of acting responsibly in the interest of the state, they threaten to punish the current leadership for "high treason",<sup>53, 54</sup> These structures are distinctively opposed to scenarios similar to the one proposed by CEAS in this report.

To support the argument that the West should make it easier for the current Serbian government to try and normalize relations with Kosovo despite objective remarks (related to the state of the rule of law, transparency in decision-making, undermining of the separation of power etc.),<sup>55</sup> it should be stressed that the government still has not given the diplomatic status to the so-called Serbian-Russian Humanitarian Center in Nis in spite of huge Russian pressure to do so. Even more, after the Center's transfer to Nis airport, the government took over the management of the airport from the city of Nis,<sup>56</sup> which is good news. In addition, the government signed a loan<sup>57</sup> with the European Investment Bank (EIB), which will enhance flight control and radar systems in the existing framework, with the approval of jurisdiction over the flight

control over Montenegro within the joint agency SMATSA (Serbia and Montenegro Air Traffic Services). This is important to stress because Montenegro was able to join NATO's project of air policing this June without any issues.

Additionally, a large military exercise, first of its kind and size, was held in Serbia late last year, dubbed "Double Eagle"<sup>58</sup> and jointly performed by members of the Serbian and the American Army. At the end of this year, the exercise "Serbia 2018"<sup>59</sup> will be jointly organized by NATO's Euro-Atlantic Disaster Response Coordination Centre (EADRCC) and Serbia's Ministry Interior.

President Vucic has also had a series of meetings on highest level within the quadrilateral Council for Cooperation between Serbia, Greece, Bulgaria and Romania,<sup>60</sup> which focuses significantly on strengthening the relations of these countries in the field of security and defense. Bearing in mind that Bulgaria and Romania are members of the 'Bucharest 9'<sup>61</sup> initiative, countries of NATO's Eastern Flank which the other day restored a common platform within the Declaration before the upcoming NATO summit in Brussels, the participation of Serbia and Greece in this quadrilateral initiative<sup>62</sup> also contributes to bridging the divide between NATO's Eastern and Southern Flank, which should be further encouraged with readiness for small concessions in order to strengthen its effects.

In the proposals of the new security and defense strategy, Serbia predicts the continuation of work on expanding the

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53 Kosovo - Opportunity for treason and heroic act. Jutarnji glasnik. July 2017. Available at: <http://www.jutarnjiglasnik.info/politika/kosovo-prilika-za-veleizdaju-za-herojski-cin/>

54 Jeremic: Vucic will give Kosovo a seat in the UN this year. Beta. May 2018. Available at: <https://beta.rs/vesti/politika-vesti-srbija/90557-jeremic-vucic-ce-ove-godine-kosovu-dati-mesto-u-un>

55 Annual progress reports of the European Commission for Serbia 2018. Ministry for European Integration. Available at: [http://www.mei.gov.rs/upload/documents/eu\\_dokumenta/godisnji\\_izvestaji\\_ek\\_o\\_napretku/ec\\_progress\\_report\\_18.pdf](http://www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/ec_progress_report_18.pdf)

56 Why does the Government take over the airport from Niš. N1. April 2018. Available at: <http://rs.n1info.com/a376649/Biznis/Zasto-Vlada-od-grada-Nisa-preuzima-upravljanje-aerodromom.html>

57 In Niš invests the Flight Control, not the Government of Serbia. Danas. April 2018. Available at: <https://www.danas.rs/ekonomija/u-nis-ulaze-kontrola-letenja-a-ne-vlada-srbije/>

58 Ibid.

59 EADRCC consequence management field exercise "SERBIA 2018". NATO. February 2018. Available at: [https://www.nato.int/cps/en/natohq/news\\_152120.htm](https://www.nato.int/cps/en/natohq/news_152120.htm)

60 A meeting in Bucharest. President of the Republic of Serbia. April 2018. Available at: <http://www.predsednik.rs/lat/pres-centar/vesti/sastanak-u-bukurestu>

61 Joint declaration of the Heads of State Bucharest 9 meeting. Presidency of Lithuania. June 2018. Available at: <https://www.lrp.lt/en/activities/speeches/joint-declaration-of-the-heads-of-state-bucharest-9-meeting/30168>

62 Ibid.

capacity for the participation of Serb forces, including civilians, in multinational operations. The Republic of Serbia is currently participating in the following operations EU<sup>63</sup>: EUTM Somalia (from april 25th 2012); EU NAVFOR ATALANTA Somalia (from april 6th 2012); EUTM Mali (form december 15th 2014); EUTM RCA (form december 16 2016). Based on the decision on the adoption of the Annual Plan of the use of Serbian Armed Forces (SAF) and other defense forces in multinational operations in 2016, it was predicted the participation of SAF members in the EU military mission in the Mediterranean - EUNAVFOR MED SOPHIA, but the realization of the participation did not occur, since the participation of third countries in this mission is not yet possible. In addition to the stated participation in EU operations, 309 members of the Serbian Armed Forces are currently participating in 6 UN missions: Congo – MONUSCO (8), Liberia – UNMIL (1), Cyprus – UNFICYP (47), Lebanon – UNIFIL (177), Near East – UNTSO (1) i Central African Republic – MINUSCA (75). Considering the long tradition, quality, competence and capabilities, the Republic of Serbia (RS) devotes special attention to the engagement of military medical capacities in multinational operations. The RS has a Memorandum of Understanding with the UN on the contribution to the United Nations Peacekeeping Capability Readiness System (UN Capacity Building Capacity Readiness System), so that if needed, it can engage the medical evacuation team by air, staff officers and military observers. At the UN UNICEF mission in Cyprus, two representatives of the Ministry of Internal Affairs of the Republic of Serbia are also currently participating (during 2017, 4 representatives of the Ministry of Interior participated in the MINUSTAH - Haiti mission). UNDOF (Golan Heights) - After receiving a call from the UN, the Serbian

63 Review of the engagement of members of the Serbian Armed Forces in multinational operations. Official Website of the Army of the Republic of Serbia. Available at: <http://www.vs.rs/clanak/9F31727105F811E5ABAB00163E135070/pregled-angazovanja-pripadnika-vojske-u-mnop>

Armed Forces predicted engagement in this mission by sending a military observer / liaison officer. The start of engagement is predicted for the first half of 2018. Within the Negotiating Group for Chapter 31 in the process of Serbia's EU accession (Foreign, Security and Defence Policy) in March 2016, a Subgroup of the Ministry of Defence and Serbian Armed Forces was established in order to provide legal framework and institutional capacity for participation of Serbian civilian structures in multinational operations led by the European Union. As a result of this Subgroup's work, the Government of Serbia adopted a Conclusion on adopting the Report on necessity to establish a legal framework and institutional capacity for participation of Serbian civilian structures in multinational operations.<sup>64</sup> The trend of increasing participation already exists and should be emboldened and encouraged.<sup>65</sup>

Normalization of relations between Serbia and Kosovo, which may be achieved with the correction of the administrative line as a small concession to Serbia, would create more favorable conditions for Serbia's cooperation with NATO within the Individual Partnership Action Plan (IPAP).<sup>66</sup> The impression is that in the past year the potentials for cooperation through IPAP have not been adequately used.

An absurd or not, but in the case of a slowdown in the EU integration and failure to achieve an agreement on Kosovo, current Serbian authorities could easily win next elections by campaigning for a stronger turn towards Russia, China,

64 Step forward - soon Serbian civilians in peacekeeping missions under the auspices of the UN, the EU and the OSCE. November 2017. Available at: <http://www.deiup.mod.gov.rs/sr/info/vesti/korak-napred-uskoro-i-srpski-civili-u-mirovnim-misijama-pod-okriljem-un,-eu-i-oebs#.WyD2eu6FOxA>

65 Serb civilians in peacekeeping missions. Politika. November 2017. Available at: <http://www.politika.rs/sr/clanak/392181/Drustvo/I-srpski-civili-u-mirovnim-misijama>

66 IPAP. Available at: [http://www.mfa.gov.rs/en/images/ipap/IPAP\\_eng.pdf](http://www.mfa.gov.rs/en/images/ipap/IPAP_eng.pdf)

and Turkey<sup>67, 68</sup> – countries with whom Serbia has unusually intensive bilateral cooperation, bearing in mind the size of Serbia as a country and its geographical, demographical, and economical importance. Whether some may like it or not, this is the reality which must be taken into account when considering possible options to exit the current deadlock.

Great responsibility lies on Kosovo's leadership but also on its public, which was not very vocal in demanding the transitional justice process to continue nor by respecting the argument that the new status of Kosovo is a *sui generis* case. If they would rather refuse *a priori* any consideration of a compromise solution that would be offered such as an agreement on the administrative line with Serbia, they should consider political and security implications that certain scenarios could have on the West, which they consider to be their friend. Friendship is a two-way street. Regardless of the complex political situation in Kosovo, the United States, the EU and NATO still have enough resources available to encourage Kosovo's leadership and its public, if they want and see it meaningful, to accept the proposed compromise.

In the process of negotiations on the idea of agreement on the correction of administrative line, Serbia could probably offer the establishment of a community of Albanian municipalities in the south of Serbia, with complications which it may cause internally. Serbia would probably demand a privileged position in the process of political decision-making for Serbs who remain to live south of Ibar River, which is essentially something that Kosovo has already agreed upon by adopting the Ahtisaari Plan with the

formation of the Community of Serb Municipalities that would remain in Kosovo within its new borders.

Instead of current inflexibility, the EU would have to reward Kosovo's and Serbia's leadership each time they show willingness to compromise in the new circumstances by providing financial and political assistance to accelerate the EU accession process of both Serbia and Kosovo, which is in the best interest of all.

Assistant Secretary of State for European and Eurasian Affairs Wess Mitchell<sup>69</sup> correctly stated in June this year, at a meeting hosted by the Heritage Foundation, that Western Balkans have not recently been in the focus of American foreign policy. An important and encouraging message by Mitchell in that speech was that the U.S. are increasing the support to Western Balkans so that they can deal with Russia's influence and coordinate with the EU in order to strengthen stability, and that a team has been deployed to work with the EU and its key partners on issues related to the relations of Serbia and Kosovo, the situation in Bosnia and Herzegovina, and negotiations on Macedonia's new name.

CEAS considers that by showing readiness to support the approach presented in this report, the current U.S. administration, as a key NATO member state, would make overcoming the above stated challenges easier and would show its standard capacity to enforce new, advanced circumstances in the field, as well as an uncompromising attitude towards Kremlin, with support for the EU, and above all maturity in considering the strengthening of NATO's cohesion, without major political and financial concessions.

In Shakespeare's sixteenth-century tragedy *Romeo and Juliet*, both heroes die. In the legendary Broadway musical *West Side Story* from the late 1950s, Tony dies but

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67 The political narrative on Kosovo is still mythical. Danas. June 2018. Available at: <https://www.danas.rs/politika/politicki-narativ-o-kosovu-i-dalje-je-mitomanski/>

68 China is entering Serbia through the big door - is Europe's answer. Sputnik. March 2018. Available at: <https://rs-lat.sputniknews.com/analize/201803131114876202-kina-srbija-evropa/>

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69 Ibid.

at least Maria survives. Can the West – Western Balkans coproduction produce a win-win scenario for both Serbia and Kosovo in 2018

Note: views expressed in this Report do not represent the views CEAS' Advisory Board.

In Belgrade, June 2018

## About Center for Euro-Atlantic Studies

The Center for Euro-Atlantic Studies (CEAS) is an independent socio-liberal think-tank organization founded in 2007 in Belgrade, Serbia.

**The motto which the CEAS follows in its work is “Progress, Determination, Influence”.**

We stand for:

- Adoption of the principle of the precedence of individual over collective rights, without disregard for the rights which individuals can only achieve through collective action;
- Strengthening of the secular state principle and promotion of a faithless understanding of the world;
- Development and preservation of a more open, freer, more prosperous and more cooperative international order founded on smart globalization.

Our advocacy and research work is mostly focused on:

- Contemporary Serbian, Regional and Trans-Atlantic Foreign and Security Policies;
- Full Serbian membership in EU and NATO;
- Russian and other non-democratic influences on the stabilization and democratization of Western Balkans;
- Importance of connection between security sector reform and transitional justice in the post-conflict Balkans;

- Promotion of Responsibility to Protect, the international humanitarian and security doctrine;
- Overcoming of the democratic deficits of multiculturalism.

Among CEAS's most popular reports are: “Eyes wide shut – Strengthening of Russian Soft Power in Serbia– goals, instruments and effects” (2016), “The Missing Link: Security sector reform, ‘military neutrality’ and EU-integration in Serbia” (2014), “Guide through information security in the Republic of Serbia” (2016), “Keeping up with the private security sector – II” (2015), “Keeping up with the private security sector” (2013), “X Factor Serbia” (2013), “CEAS analysis - The Law on Classified Information” (2015), “CEAS analysis - Security Vetting in Serbia” (2015), “CEAS analysis - Protection of Whistleblowers in Serbia” (2015), “Extreme Makeover” (2014), “10x in favor NATO” (2014), “CEAS analysis of the Law on Amendments of the Law on the Security Intelligence Agency” (2014), “Putin’s Orchestra” (2014), “Putinization” (2014), etc.

CEAS is the only member from the Region of South-Eastern Europe to have full membership in ICRtoP- the International Coalition for the Responsibility to Protect. The coalition brings together non-governmental organizations from all over the world to collectively strengthen the normative consensus for the doctrine of Responsibility to Protect (RtoP), with the aim of better understanding this principle, pushing for the strengthened capacities of the international community to prevent and halt genocide, war crimes, ethnic

cleansing and crimes against humanity, and to mobilize the non-governmental sector to push for action to save lives in RtoP country-specific situations.

CEAS is a member of the Coalition for RECOM – a coalition comprising more than 1,800 organizations from Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Slovenia, advocating for the founding of the Regional Commission for establishing facts about war crimes and other serious violations of human rights committed on the territory of the former Yugoslavia between 1991 and 2001.

CEAS is among the most visible think-tanks in the Balkans, with a wide media, institutional and social outreach. CEAS has been quoted in leading prominent liberal media such as The New York Times, Washington Post, Politico, etc. In December 2016, CEAS Director Jelena Milic was elected as one of the POLITICO 28 Most influential People in the annual POLITICO

28 list of people who are shaping, shaking and stirring Europe.

In mid-2018 CEAS became one of the 22 leading international organizations, and the only one from the Western Balkans, which are partners of the Atlantic Council (AC USA) on the new strategic project DisinfoPortal. AC USA is considered one of the most influential think tank organizations in the world.

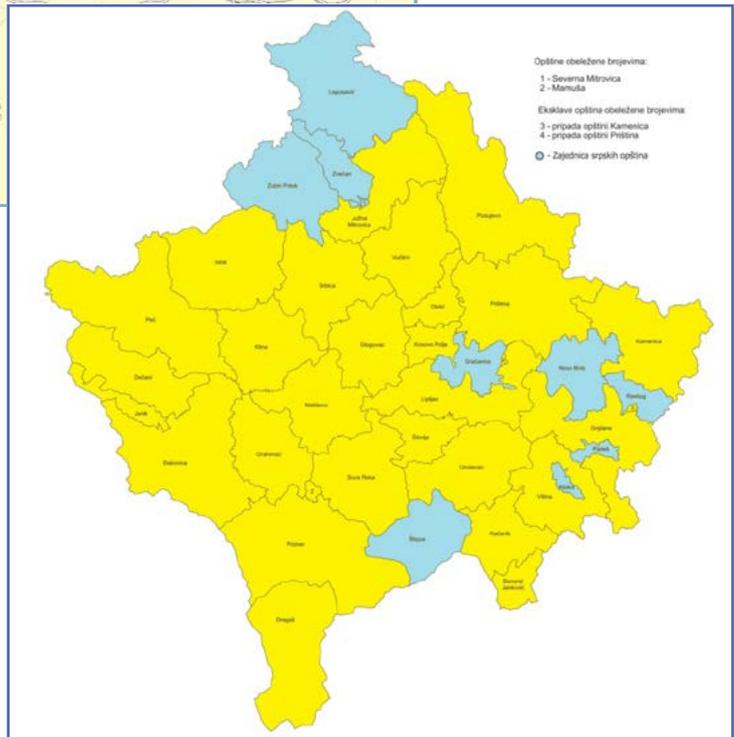
CEAS programs have been so far supported by: Open Society Fund (OSF); Think Tank Fund, Budapest; National Endowment for Democracy, USA; Rockefeller Brothers Fund, USA; European Commission; Balkan Trust for Democracy – GMF, Serbia; NATO Public Diplomacy Division; Organization for Security and Co-operation in Europe (OSCE), Serbia; Royal Norwegian Embassy in Belgrade; Visegrad Fund, Slovakia; Friedrich Nauman Foundation, Serbia; Friedrich Ebert Foundation, Serbia; USA Embassy in Serbia.

# Annexes

## Map of Kosovo



Map of Community of Serb Municipalities



## UN Security Council Resolution 1244 – adopted on June 10, 1999

Adopted by the Security Council at its 4011th meeting,

The Security Council,

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

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

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

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

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

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

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

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

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

in Belgrade on 2 June 1999 (S/1999/649, annex 2 to this resolution), and the Federal Republic of Yugoslavia's agreement to that paper,

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

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

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

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

1. Decides that a political solution to the Kosovo crisis shall be based on the general principles in annex 1 and as further elaborated in the principles and other required elements in annex 2;
2. Welcomes the acceptance by the Federal Republic of Yugoslavia of the principles and other required elements referred to in paragraph 1 above, and demands the full cooperation of the Federal Republic of Yugoslavia in their rapid implementation;
3. Demands in particular that the Federal Republic of Yugoslavia put an immediate and verifiable end to violence and repression in Kosovo, and begin and complete verifiable phased withdrawal from Kosovo of all military, police and paramilitary

forces according to a rapid timetable, with which the deployment of the international security presence in Kosovo will be synchronized;

4. Confirms that after the withdrawal an agreed number of Yugoslav and Serb military and police personnel will be permitted to return to Kosovo to perform the functions in accordance with annex 2;
5. Decides on the deployment in Kosovo, under United Nations auspices, of international civil and security presences, with appropriate equipment and personnel as required, and welcomes the agreement of the Federal Republic of Yugoslavia to such presences;
6. Requests the Secretary-General to appoint, in consultation with the Security Council, a Special Representative to control the implementation of the international civil presence, and further requests the Secretary-General to instruct his Special Representative to coordinate closely with the international security presence to ensure that both presences operate towards the same goals and in a mutually supportive manner;
7. Authorizes Member States and relevant international organizations to establish the international security presence in Kosovo as set out in point 4 of annex 2 with all necessary means to fulfil its responsibilities under paragraph 9 below;
8. Affirms the need for the rapid early deployment of effective international civil and security presences to Kosovo, and demands that the parties cooperate fully in their deployment;
9. Decides that the responsibilities of the international security presence to be deployed and acting in Kosovo will include:
  - a. Deterring renewed hostilities, maintaining and where necessary enforcing a ceasefire, and ensuring the withdrawal and preventing the return into Kosovo of Federal and Republic military, police and paramilitary forces, except as provided in point 6 of annex 2;
  - b. Demilitarizing the Kosovo Liberation Army (KLA) and other armed Kosovo Albanian groups as required in paragraph 15 below;
  - c. Establishing a secure environment in which refugees and displaced persons can return home in safety, the international civil presence can operate, a transitional administration can be established, and humanitarian aid can be delivered;
  - d. Ensuring public safety and order until the international civil presence can take responsibility for this task;
  - e. Supervising demining until the international civil presence can, as appropriate, take over responsibility for this task;
  - f. Supporting, as appropriate, and coordinating closely with the work of the international civil presence;
  - g. Conducting border monitoring duties as required;
  - h. Ensuring the protection and freedom of movement of itself, the international civil presence, and other international organizations;
10. Authorizes the Secretary-General, with the assistance of relevant international organizations, to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, and which will provide transitional administration while establishing

and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo,

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

- a. Promoting the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo, taking full account of annex 2 and of the Rambouillet accords (S/1999/648);
- b. Performing basic civilian administrative functions where and as long as required;
- c. Organizing and overseeing the development of provisional institutions for democratic and autonomous self-government pending a political settlement, including the holding of elections;
- d. Transferring, as these institutions are established, its administrative responsibilities while overseeing and supporting the consolidation of Kosovo's local provisional institutions and other peace-building activities;
- e. Facilitating a political process designed to determine Kosovo's future status, taking into account the Rambouillet accords (S/1999/648);
- f. In a final stage, overseeing the transfer of authority from Kosovo's provisional institutions to institutions established under a political settlement;
- g. Supporting the reconstruction of key infrastructure and other economic reconstruction;
- h. Supporting, in coordination with international humanitarian organizations, humanitarian and disaster relief aid;

i. Maintaining civil law and order, including establishing local police forces and meanwhile through the deployment of international police personnel to serve in Kosovo;

j. Protecting and promoting human rights;

k. Assuring the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo;

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

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

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

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

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

international civil and security presences,

17. Welcomes the work in hand in the European Union and other international organizations to develop a comprehensive approach to the economic development and stabilization of the region affected by the Kosovo crisis, including the implementation of a Stability Pact for South Eastern Europe with broad international participation in order to further the promotion of democracy, economic prosperity, stability and regional cooperation,
18. Demands that all States in the region cooperate fully in the implementation of all aspects of this resolution,
19. Decides that the international civil and security presences are established for an initial period of 12 months, to continue thereafter unless the Security Council decides otherwise,
20. Requests the Secretary-General to report to the Council at regular intervals on the implementation of this resolution, including reports from the leaderships of the international civil and security presences, the first reports to be submitted within 30 days of the adoption of this resolution,
21. Decides to remain actively seized of the matter.

#### Annex 1

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

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

- Immediate and verifiable end of violence and repression in Kosovo;
- Withdrawal from Kosovo of military, police and paramilitary forces;

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

#### Annex 2

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

1. An immediate and verifiable end of violence and repression in Kosovo.
2. Verifiable withdrawal from Kosovo of all military, police and paramilitary forces according to a rapid timetable.
3. Deployment in Kosovo under United Nations auspices of effective international civil and security presences, acting as may be decided under Chapter VII of the Charter, capable of guaranteeing the achievement of common objectives.

4. The international security presence with substantial North Atlantic Treaty Organization participation must be deployed under unified command and control and authorized to establish a safe environment for all people in Kosovo and to facilitate the safe return to their homes of all displaced persons and refugees.
5. Establishment of an interim administration for Kosovo as a part of the international civil presence under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, to be decided by the Security Council of the United Nations. The interim administration to provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo.
6. After withdrawal, an agreed number of Yugoslav and Serbian personnel will be permitted to return to perform the following functions:
  - Liaison with the international civil mission and the international security presence;
  - Marking/clearing minefields;
  - Maintaining a presence at Serb patrimonial sites;
  - Maintaining a presence at key border crossings.
7. Safe and free return of all refugees and displaced persons under the supervision of the Office of the United Nations High Commissioner for Refugees and unimpeded access to Kosovo by humanitarian aid organizations.
8. A political process towards the establishment of an interim political framework agreement providing for substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region, and the demilitarization of UCK. Negotiations between the parties for a settlement should not delay or disrupt the establishment of democratic self-governing institutions.
9. A comprehensive approach to the economic development and stabilization of the crisis region. This will include the implementation of a stability pact for South-Eastern Europe with broad international participation in order to further promotion of democracy, economic prosperity, stability and regional cooperation.
10. Suspension of military activity will require acceptance of the principles set forth above in addition to agreement to other, previously identified, required elements, which are specified in the footnote below.<sup>1</sup> A military-technical agreement will then be rapidly concluded that would, among other things, specify additional modalities, including the roles and functions of Yugoslav/Serb personnel in Kosovo:

Withdrawal

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

Returning personnel

- Equipment associated with returning personnel;
- Terms of reference for their functional responsibilities;
- Timetable for their return;
- Delineation of their geographical areas of operation;

- Rules governing their relationship to the international security presence and the international civil mission.

Other required elements:

- A rapid and precise timetable for withdrawals, meaning, e.g., seven days to complete withdrawal and air defence weapons withdrawn outside a 25 kilometre mutual safety zone within 48 hours;
- Return of personnel for the four functions specified above will be under

the supervision of the international security presence and will be limited to a small agreed number (hundreds, not thousands);

- Suspension of military activity will occur after the beginning of verifiable withdrawals;
- The discussion and achievement of a military-technical agreement shall not extend the previously determined time for completion of withdrawals.

## Kumanovo Agreement - June 9, 1999

### Article I

#### General obligations

1. The Parties to this agreement reaffirm the document presented by President Ahtisaari to President Milosevic and approved by the Serb Parliament and the Federal Government on 3 June 1999, to include deployment in Kosovo under United Nations auspices of effective international civil and security presences. The Parties further note that the United Nations Security Council is prepared to adopt a resolution, which has been introduced, regarding these presences.
2. The State governmental authorities of the Federal Republic of Yugoslavia and the Republic of Serbia understand and agree that the international security force (KFOR) will deploy following the adoption of the Security Council resolution referred to in paragraph 1 and operate without hindrance within Kosovo and with the authority to take all necessary action to establish and maintain a secure environment for all citizens of Kosovo and otherwise carry out its mission. They further agree to comply with all of the obligations of this agreement and to facilitate the

deployment and operation of this force.

3. For purposes of the agreement, the following expressions shall have the meanings as described below
  - a. "The Parties" are those signatories to the agreement;
  - b. "Authorities" means the appropriate responsible individual, agency or organization of the Parties;
  - c. "Federal Republic of Yugoslavia forces" includes all of the Federal Republic of Yugoslavia and Republic of Serbia personnel and organizations with a military capability. This includes regular army and naval forces, armed civilian groups, associated paramilitary groups, air forces, national guards, border police, army reserves, military police, intelligence services, federal and Serbian Ministry of Internal Affairs local, special, riot and anti-terrorist police, and any other groups or individuals so designated by the international security force (KFOR) commander;
  - d. The air safety zone (ASZ) is defined as a 25-kilometre zone that extends beyond the Kosovo province border into the rest of Federal Republic of

Yugoslavia territory. It includes the airspace above the 25-kilometre zone;

- e. The ground safety zone (GSZ) is defined as a 5-kilometre zone that extends beyond the Kosovo province border into the rest of Federal Republic of Yugoslavia territory. It includes the terrain within that 5-kilometre zone;
  - f. Entry-into-force day (EIF) is defined as the day this agreement is signed.
4. The purposes of these obligations are as follows:
- a. To establish a durable cessation of hostilities, under no circumstances shall any forces of the Federal Republic of Yugoslavia and the Republic of Serbia enter into, re-enter, or remain within the territory of Kosovo or the ground safety zone and the air safety zone described in article 1, paragraph 3, without the prior express consent of the international security force (KFOR) commander. Local police will be allowed to remain in the GSZ.

The above paragraph is without prejudice to the agreed return of Federal Republic of Yugoslavia and Serbian personnel, which will be the subject of a subsequent separate agreement as provided for in paragraph 6 of the document mentioned in paragraph 1 of this article;

- b. To provide for the support and authorization of the international security force (KFOR) and in particular to authorize the international security force (KFOR) to take such actions as are required, including the use of necessary force, to ensure compliance with this agreement and protection of the international security force (KFOR), and to contribute to a secure environment for the international civil implementation presence and other international organizations,

agencies and non-governmental organizations (details in appendix B).

## Article II

### Cessation of hostilities

1. The Federal Republic of Yugoslavia forces shall immediately, upon entry into force of this agreement, refrain from committing any hostile or provocative acts of any type against any person in Kosovo and will order armed forces to cease all such activities. They shall not encourage, organize or support hostile or provocative demonstrations.
2. Phased withdrawal of Federal Republic of Yugoslavia forces (ground). The Federal Republic of Yugoslavia agrees to a phased withdrawal of all Federal Republic of Yugoslavia forces from Kosovo to locations in Serbia outside Kosovo. Federal Republic of Yugoslavia forces will mark and clear minefields, booby traps and obstacles. As they withdraw, Federal Republic of Yugoslavia forces will clear all lines of communication by removing all mines, demolitions, booby traps, obstacles and charges. They will also mark all sides of all minefields. The entry and deployment of the international security force (KFOR) into Kosovo will be synchronized. The phased withdrawal of Federal Republic of Yugoslavia forces from Kosovo will be in accordance with the sequence outlined below:
  - a. By EIF + 1 day, the Federal Republic of Yugoslavia forces located in zone 3 will have vacated, via designated routes, that zone to demonstrate compliance (depicted on the map in appendix A to this agreement). Once it is verified that Federal Republic of Yugoslavia forces have complied with this subparagraph and with paragraph 1 of this article, NATO air strikes will be suspended.

- The suspension will continue provided that the obligations of this agreement are fully complied with and provided that the Security Council adopts a resolution concerning the deployment of the international security force (KFOR) so rapidly that a security gap can be avoided;
- b. By EIF + 6 days, all Federal Republic of Yugoslavia forces in Kosovo will have vacated zone 1 (depicted on the map in appendix A to this agreement). Establish liaison teams with the KFOR commander in Pristina;
  - c. By EIF + 9 days, all Federal Republic of Yugoslavia forces in Kosovo will have vacated zone 2 (depicted on the map in appendix A to this agreement);
  - d. By EIF + 11 days, all Federal Republic of Yugoslavia forces in Kosovo will have vacated zone 3 (depicted on the map in appendix A to this agreement);
  - e. By EIF + 11 days, all Federal Republic of Yugoslavia forces in Kosovo will have completed their withdrawal from Kosovo (depicted on the map in appendix A to this agreement) to locations in Serbia outside Kosovo, and not within the 5-kilometre GSZ. At the end of the sequence (EIF+11), the senior Federal Republic of Yugoslavia force commanders responsible for the withdrawing forces shall confirm in writing to the international security force (KFOR) commander that the Federal Republic of Yugoslavia forces have complied and completed the phased withdrawal. The international security force (KFOR) commander may approve specific requests for exceptions to the phased withdrawal. The bombing campaign will terminate on complete withdrawal of Federal Republic of Yugoslavia forces as provided under article II. The international security force (KFOR) shall retain, as necessary, authority to enforce compliance with this agreement;
- f. The authorities of the Federal Republic of Yugoslavia and the Republic of Serbia will cooperate fully with the international security force (KFOR) in its verification of the withdrawal of forces from Kosovo and beyond the ASZ/GSZ;
  - g. Federal Republic of Yugoslavia armed forces withdrawing in accordance with appendix A, i.e., in designated assembly areas or withdrawing on designated routes, will not be subject to air attack;
  - h. The international security force (KFOR) will provide appropriate control of the borders of the Federal Republic of Yugoslavia in Kosovo with Albania and the Former Yugoslav Republic of Macedonia\* until the arrival of the civilian mission of the United Nations.
3. Phased withdrawal of Yugoslav air and air defence forces.
    - a. At EIF + 1 day, no Federal Republic of Yugoslavia aircraft, fixed wing or rotary, will fly in Kosovo airspace or over the ASZ without prior approval by the international security force (KFOR) commander. All air defence systems, radar, surface-to-air missiles and aircraft of the Parties will refrain from acquisition, target-tracking or otherwise illuminating international security force (KFOR) air platforms operating in the Kosovo airspace or over the ASZ;
    - b. By EIF + 3 days, all aircraft, radars, surface-to-air missiles (including man-portable air defence systems) and anti-aircraft artillery in Kosovo will withdraw to other locations in Serbia outside the 25-kilometre ASZ;

c. The international security force (KFOR) commander will control and coordinate use of airspace over Kosovo and the ASZ commencing at EIF. Violation of any of the provisions above, including the international security force (KFOR) commander's rules and procedures governing the airspace over Kosovo, as well as unauthorized flight or activation of Federal Republic of Yugoslavia integrated air defence within the ASZ, are subject to military action by the international security force (KFOR), including the use of necessary force. The international security force (KFOR) commander may delegate control of normal civilian air activities to appropriate Federal Republic of Yugoslavia institutions to monitor operations, deconflict international security force (KFOR) air traffic movements and ensure smooth and safe operations of the air traffic system. It is envisioned that control of civil air traffic will be returned to civilian authorities as soon as practicable.

### Article III

#### Notifications

1. This agreement and written orders requiring compliance will be immediately communicated to all Federal Republic of Yugoslavia forces.
2. By EIF + 2 days, the State governmental authorities of the Federal Republic of Yugoslavia and the Republic of Serbia shall furnish the following specific information regarding the status of all Federal Republic of Yugoslavia forces:
  - a. Detailed records, positions and descriptions of all mines, unexploded ordnance, explosive devices, demolitions, obstacles, booby traps, wire entanglement, or physical or military hazards to the safe movement of any personnel in

Kosovo laid by Federal Republic of Yugoslavia forces;

- b. Any further information of a military or security nature about Federal Republic of Yugoslavia forces in the territory of Kosovo and the GSZ and ASZ requested by the international security force (KFOR) commander.

### Article IV

#### Establishment of a Joint Implementation Commission

A Joint Implementation Commission shall be established with the deployment of the international security force (KFOR) to Kosovo, as directed by the international security force (KFOR) commander.

### Article V

#### Final authority to interpret

The international security force (KFOR) commander is the final authority regarding interpretation of this agreement and the security aspects of the peace settlement it supports. His determinations are binding on all Parties and persons.

### Article VI

#### Entry into force

This agreement shall enter into force upon signature.

9 June 1999

### Appendices:

A. Phased withdrawal of Federal Republic of Yugoslavia forces from Kosovo.

B. International security force (KFOR) operations.

### Appendix A

Phased withdrawal of Federal Republic of Yugoslavia forces, routes and assembly areas

## Appendix B

### International security force (KFOR) operations

1. Consistent with the general obligations of the military-technical agreement the State governmental authorities of the Federal Republic of Yugoslavia and the Republic of Serbia understand and agree that the international security force (KFOR) will deploy and operate without hindrance within Kosovo and with the authority to take all necessary action to establish and maintain a secure environment for all citizens of Kosovo.
2. The international security force (KFOR) commander shall have the authority, without interference or permission, to do all that he judges necessary and proper, including the use of military force, to protect the international security force (KFOR) and the international civil implementation presence, and to carry out the responsibilities inherent in this military-technical agreement and the peace settlement which it supports.
3. Neither the international security force (KFOR) nor any of its personnel shall be liable for any damages to public or private property that they may cause in the course of duties related to the implementation of this agreement. The Parties will agree on a status-of-forces agreement as soon as possible.
4. The international security force (KFOR) shall have the right
  - a. To monitor and ensure compliance with this agreement and to respond promptly to any violations and restore compliance, using military force if required. This includes necessary actions to:
    - (1) Enforce withdrawals of Federal Republic of Yugoslavia forces;
    - (2) Enforce compliance following the return of selected Federal Republic of Yugoslavia personnel to Kosovo;
    - (3) Provide assistance to other international entities involved in the implementation or otherwise authorized by the Security Council.
  - b. To establish liaison arrangements with local Kosovo authorities and with Federal Republic of Yugoslavia/Serbian civil and military authorities;
  - c. To observe, monitor and inspect any and all facilities or activities in Kosovo that the international security force (KFOR) commander believes has or may have military or police capability, or may be associated with the employment of military or police capabilities, or are otherwise relevant to compliance with this agreement.
5. Notwithstanding any other provision of this agreement, the Parties understand and agree that the international security force (KFOR) commander has the right and is authorized to compel the removal, withdrawal or relocation of specific forces and weapons, and to order the cessation of any activities whenever the international security force (KFOR) commander determines a potential threat to either the international security force (KFOR) or its mission, or to another party. Forces failing to redeploy, withdraw, relocate or to cease threatening or potentially threatening activities following such a demand by the international security force (KFOR) shall be subject to military action by the international security force (KFOR), including the use of necessary force, to ensure compliance.

## Brussels Agreement of Principles Governing the Normalization of Relations Between Serbia and Kosovo – April 19, 2013

1. There will be an Association/Community of Serb majority municipalities in Kosovo. Membership will be open to any other municipality provided the members are in agreement
2. The Community/Association will be created by statute. Its dissolution shall only take place by a decision of the participating municipalities. Legal guarantees will be provided by applicable law and constitutional law (including the 2/3 majority rule).
3. The structures of the Association/Community will be established on the same basis as the existing statute of the Association of Kosovo municipalities e.g. President, vice President, Assembly, Council
4. In accordance with the competences given by the European Charter of Local Self Government and Kosovo law the participating municipalities shall be entitled to cooperate in exercising their powers through the Community/Association collectively. The Association/Community will have full overview of the areas of economic development, education, health, urban and rural planning
5. The Association/Community will exercise other additional competences as may be delegated by the central authorities
6. The Community/Association shall have a representative role to the central authorities and will have a seat in the communities consultative council for this purpose. In the pursuit of this role a monitoring function is envisaged
7. There shall be one police force in Kosovo called the Kosovo Police. All police in northern Kosovo shall be integrated in the Kosovo Police Framework. Salaries will be only from KP.
8. Members of other Serbian security structures will be offered a place in equivalent Kosovo structures
9. There shall be a Police Regional Commander for the four northern Serb majority municipalities (Northern Mitrovica, Zvecan, Zubin Potok and Leposavici). The Commander of this region shall be a Kosovo Serb nominated by the Ministry of Internal Affairs from a list provided by the four mayors on behalf of the Community/Association. The composition of the KP in the north will reflect the ethnic composition of the population of the four municipalities. (There will be another Regional Commander for the municipalities of Mitrovica South, Skenderaj and Vushtri). The regional commander of the four northern municipalities will cooperate with other regional commanders.
10. The judicial authorities will be integrated and operate within the Kosovo legal framework. The Appellate Court in Pristina will establish a panel composed of a majority of K/S judges to deal with all Kosovo Serb majority municipalities. A division of this Appellate Court, composed both by administrative staff and judges, will sit permanently in northern Mitrovica (Mitrovica District Court). Each panel of the above division will be composed by a majority of K/S judges. Appropriate judges will sit dependent on the nature of the case involved.
11. Municipal elections shall be organized in the northern municipalities in 2013. with the facilitation of the OSCE in accordance with Kosovo law and international standards.

12. An implementation plan including time frame shall be produced by April 26. In implementing this agreement the principle of transparent funding will be addressed.
13. Discussions on Energy and Telecoms will be intensified by the two sides and completed by June 16
14. It is agreed that neither side will block or encourage others to block the other side's progress in their respective EU paths
15. An implementation committee will be established by the two sides with the facilitation of the EU

## Advisory Opinion of the International Court of Justice: Compliance with International Law of Unilaterally Proclaimed Independence of Kosovo – July 22, 2010

THE HAGUE, 22 July 2010. The International Court of Justice (ICJ), the principal judicial organ of the United Nations, has today given its Advisory Opinion on the question of the Accordance with international law of the unilateral declaration of independence in respect of Kosovo (request for advisory opinion).

In this Opinion, the Court unanimously finds that it has jurisdiction to give the advisory opinion requested by the General Assembly of the United Nations and, by nine votes to five, decides to comply with that request.

The Court then responds to the request as follows:

“(3) By ten votes to four, Is of the opinion that the declaration of independence of Kosovo adopted on 17 February 2008 did not violate international law.”

### Reasoning of the Court

At the end of its reasoning, which is summarized below, the Court concludes “that the adoption of the declaration of independence of 17 February 2008 did not violate general international law, Security Council resolution 1244 (1999) or the Constitutional Framework [adopted on behalf of UNMIK by the Special Representative of the Secretary -General]”, and that “[c]onsequently the adoption

of that declaration did not violate any applicable rule of international law”.

The Advisory Opinion is divided into five parts: (I) jurisdiction and discretion; (II) scope and meaning of the question; (III) factual background; (IV) the question whether the declaration of independence is in accordance with international law; and (V) general conclusion.

### I. JURISDICTION AND DISCRETION

The Court recalls that, when seised of a request for an advisory opinion, it must first consider whether it has jurisdiction to give the opinion requested and whether, should the answer be in the affirmative, there is any reason why the Court, in its discretion, should decline to exercise any such jurisdiction in the case before it.

It thus first addresses the question whether it possesses jurisdiction to give the advisory opinion requested by the General Assembly on 8 October 2008. Referring in particular to Articles 10, 11, paragraph 2, and 12 of the Charter of the United Nations, the Court observes that the General Assembly “may discuss any questions or any matters within the scope of the Charter or relating to the powers and functions of any organs provided for in the . . . Charter”, and that “the Charter has specifically provided the General Assembly with competence

to discuss ‘any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations’ and . . . to make recommendations”. The Court further observes that the request for an advisory opinion does not contravene the provisions of Article 12, paragraph 1, of the Charter which prohibit the General Assembly from making any recommendation with regard to a dispute or situation in respect of which the Security Council is exercising the functions assigned to it by the Charter. The Court then notes that the question put by the General Assembly “certainly appears to be a legal question” within the meaning of Article 96 of the Charter and Article 65 of its Statute, and concludes from the foregoing that it has jurisdiction to give an advisory opinion in response to the request made by the General Assembly. It points out, in so doing, that the fact “that a question has political aspects does not suffice to deprive it of its character as a legal question” and also makes clear that “in determining the jurisdictional issue of whether it is confronted with a legal question, it is not concerned with the political nature of the motives which may have inspired the request or the political implications which its opinion might have”.

The Court then observes that the fact that it has jurisdiction “does not mean, however, that it is obliged to exercise it”, pointing out that the discretion accorded to it under Article 65 of the Statute whether or not to respond to a request for an advisory opinion exists “so as to protect the integrity of [its] judicial function and its nature as the principal judicial organ of the United Nations”.

After recalling that its answer to a request for an advisory opinion “represents its participation in the activities of the Organization, and, in principle, should not be refused”, the Court notes that it “must satisfy itself as to the propriety of the exercise of its judicial function in the

present case” and that it has therefore “given careful consideration as to whether, in the light of its previous jurisprudence, there are compelling reasons for it to refuse to respond to the request from the General Assembly”. First, the Court considers that the motives which lie behind the request for an advisory opinion “are not relevant to the . . . exercise of its discretion whether or not to respond”. Second, it notes that it cannot accept the argument put forward by some of those participating in the proceedings that resolution 63/3 (in which the General Assembly made its request to the Court for an advisory opinion) gave no indication “of the purpose for which the General Assembly needed the Court’s opinion and that there was nothing to indicate that the opinion would have any useful legal effect”. The Court recalls that it “has consistently made clear that it is for the organ which requests the opinion, and not for the Court, to determine whether it needs the opinion for the proper performance of its functions”. Third, it also cannot accept the suggestion of some of those participating in the proceedings that it should refuse to respond on the grounds that its opinion might lead to adverse political consequences.

The Court then considers an issue which it deems “important”, that is, whether it “should decline to answer the question which has been put to it on the ground that the request for the Court’s opinion has been made by the General Assembly rather than the Security Council”. It notes that “[w]hile the request . . . concerns one aspect of a situation which the Security Council has characterized as a threat to international peace and security and which continues to feature on the agenda of the Council in that capacity, that does not mean that the General Assembly has no legitimate interest in the question”. It recalls that “the fact that, hitherto, the declaration of independence has been discussed only in the Security Council and that the Council has been the organ

which has taken action with regard to the situation in Kosovo does not constitute a compelling reason for the Court to refuse to respond to the request from the General Assembly". Further, it adds that "the fact that it will necessarily have to interpret and apply the provisions of Security Council resolution 1244 (1999) in the course of answering the question put by the General Assembly does not constitute a compelling reason not to respond to that question". It observes in this respect that, while the interpretation and application of a decision of one of the political organs of the United Nations is, in the first place, the responsibility of the organ which took that decision, the Court, as the principal judicial organ of the United Nations, "has also frequently been required to consider the interpretation and legal effects of such decisions", and that it has already done so both in the exercise of its advisory jurisdiction and in the exercise of its contentious jurisdiction. The Court therefore finds that there is "nothing incompatible with the integrity of [its] judicial function" in answering the question put by the General Assembly.

It points out that the question is, rather, whether it should decline to respond to the request from the General Assembly unless it is asked to do so by the Security Council, the latter being, as the Court recalls, both the organ which adopted resolution 1244 and the organ which is responsible for interpreting and applying that resolution. The Court observes that "[w]here, as here, the General Assembly has a legitimate interest in the answer to a question, the fact that that answer may turn, in part, on a decision of the Security Council is not sufficient to justify the Court in declining to give its opinion to the General Assembly".

The Court accordingly concludes that "there are no compelling reasons for it to decline to exercise its jurisdiction in respect of the . . . request" which is before it.

## II. SCOPE AND MEANING OF THE QUESTION

The Court notes that the General Assembly has asked it whether the declaration of independence of Kosovo adopted on 17 February 2008 was "in accordance with" international law: the answer to that question therefore turns on whether or not the applicable international law prohibited that declaration of independence. The Court adds that, if it concludes that international law did prohibit the said declaration, then it should answer the question put by saying that the declaration of independence was not in accordance with international law. The Court observes that the task which it is called upon to perform is therefore to determine whether or not the declaration in question was adopted in violation of international law. It points out that it "is not required by the question it has been asked to take a position on whether international law conferred a positive entitlement on Kosovo unilaterally to declare its independence or, a fortiori, on whether international law generally confers an entitlement on entities situated within a State unilaterally to break away from it".

## III. FACTUAL BACKGROUND

The Court continues its reasoning by indicating that the declaration of independence of Kosovo adopted on 17 February 2008 "must be considered within the factual context which led to its adoption". It briefly describes the relevant characteristics of the framework put in place by the Security Council to ensure the interim administration of Kosovo, namely, Security Council resolution 1244 (1999) and the regulations promulgated thereunder by the United Nations Mission in Kosovo (UNMIK). It then gives a succinct account of the developments relating to the so-called "final status process" in the years preceding the adoption of the declaration of independence, before turning to the events of 17 February 2008.

#### IV. THE QUESTION WHETHER THE DECLARATION OF INDEPENDENCE IS IN ACCORDANCE WITH INTERNATIONAL LAW

In this fourth part, the Court examines the substance of the request submitted by the General Assembly. It recalls that it has been asked by the General Assembly to assess the accordancy of the declaration of independence of 17 February 2008 with “international law”.

The Court first turns its attention to certain questions concerning the lawfulness of declarations of independence under general international law, against the background of which the question posed falls to be considered, and Security Council resolution 1244 (1999) is to be understood and applied. In particular, it notes that during the second half of the twentieth century, “the international law of self-determination developed in such a way as to create a right to independence for the peoples of non-self-governing territories and peoples subject to alien subjugation, domination and exploitation” and that a “great many new States have come into existence as a result of the exercise of this right”. The Court observes that there were, however, also instances of declarations of independence outside this context and that “[t]he practice of States in these latter cases does not point to the emergence in international law of a new rule prohibiting the making of a declaration of independence in such cases”.

The Court states that several participants in the proceedings have contended that a prohibition of unilateral declarations of independence is implicit in the principle of territorial integrity. It “recalls that [this] principle . . . is an important part of the international legal order and is enshrined in the Charter of the United Nations, in particular in Article 2, paragraph 4”, under the terms of which “[a]ll Members shall refrain in their international relations from the threat or use of force against

the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations”.

The Court adds that in General Assembly resolution 2625 (XXV), entitled “Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations”, which reflects customary international law (Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986, pp. 101 -103, paras. 191-193), the General Assembly reiterated “[t]he principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State”. This resolution then enumerated various obligations incumbent upon States to refrain from violating the territorial integrity of other sovereign States. The Court points out that, in the same vein, the Final Act of the Helsinki Conference on Security and Co-operation in Europe of 1 August 1975 (the Helsinki Conference) stipulated that “[t]he participating States will respect the territorial integrity of each of the participating States” (Art. IV). Hence the Court considers that “the scope of the principle of territorial integrity is confined to the sphere of relations between States”.

After recalling that several participants have invoked resolutions of the Security Council condemning particular declarations of independence (see, inter alia, Security Council resolutions 216 (1965) and 217 (1965), concerning Southern Rhodesia; Security Council resolution 541 (1983), concerning northern Cyprus; and Security Council resolution 787 (1992), concerning the Republika Srpska), the Court “notes, however, that in all of those instances the Security Council was making a determination as regards the concrete situation existing at the time that those declarations of independence were made;

the illegality attached to the declarations of independence thus stemmed not from the unilateral character of these declarations as such, but from the fact that they were, or would have been, connected with the unlawful use of force or other egregious violations of norms of general international law, in particular those of a peremptory character (*jus cogens*)". "In the context of Kosovo", the Court continues, "the Security Council has never taken this position. The exceptional character of the resolutions enumerated above appears to the Court to confirm that no general prohibition against unilateral declarations of independence may be inferred from the practice of the Security Council."

Turning to the arguments put forward by a number of participants concerning the extent of the right of self-determination and the existence of any right of "remedial secession", the Court considers that the debates on these points "concern the right to separate from a State". The Court recalls that "as almost all participants agreed, that issue is beyond the scope of the question posed by the General Assembly". It notes that, to answer the question posed, it need only "determine whether the declaration of independence violated either general international law or the *lex specialis* created by Security Council resolution 1244 (1999)".

The Court concludes that "general international law contains no applicable prohibition of declarations of independence" and accordingly that the declaration of independence of 17 February 2008 did not violate general international law.

The Court then examines the legal relevance of Security Council resolution 1244, adopted on 10 June 1999, in order to determine whether the resolution creates special rules, and therefore ensuing obligations, under international law applicable to the issues raised by the present request and having a bearing

on the lawfulness of the declaration of independence of 17 February 2008.

The Court first notes that resolution 1244 (1999) was expressly adopted by the Security Council on the basis of Chapter VII of the United Nations Charter, and therefore clearly imposes international legal obligations. The Court observes that "none of the participants has questioned the fact that [this] resolution . . ., which specifically deals with the situation in Kosovo, is part of the law relevant in the . . . situation [under consideration]".

The Court then addresses the UNMIK regulations, including regulation 2001/9, which promulgated the Constitutional Framework for Provisional Self-Government and which defined the responsibilities relating to the administration of Kosovo between the Special Representative of the Secretary-General and the Provisional Institutions of Self-Government of Kosovo. It notes that these regulations are adopted by the Special Representative of the Secretary-General on the basis of the authority derived from Security Council resolution 1244 (1999) and thus ultimately from the United Nations Charter. It goes on to state that "[t]he Constitutional Framework derives its binding force from the binding character of resolution 1244 (1999) and thus from international law" and that "[i]n that sense it therefore possesses an international legal character".

The Court further adds that at the same time, "the Constitutional Framework functions as part of a specific legal order, created pursuant to resolution 1244 (1999), which is applicable only in Kosovo and the purpose of which is to regulate, during the interim phase established by resolution 1244 (1999), matters which would ordinarily be the subject of internal, rather than international, law"; the "Constitutional Framework therefore took effect as part of the body of law adopted for the administration of Kosovo

during the interim phase”. The institutions which it created were empowered by the Constitutional Framework to take decisions which took effect within that body of law, the Court continues, observing “[i]n particular, [that] the Assembly of Kosovo was empowered to adopt legislation which would have the force of law within that legal order, subject always to the overriding authority of the Special Representative of the Secretary-General”.

The Court notes that “neither Security Council resolution 1244 (1999) nor the Constitutional Framework contains a clause providing for its termination and neither has been repealed; they therefore constituted the international law applicable to the situation prevailing in Kosovo on 17 February 2008”. It concludes from the foregoing that “Security Council resolution 1244 (1999) and the Constitutional Framework form part of the international law which is to be considered in replying to the question posed by the General Assembly”.

After considering the interpretation of resolution 1244 (1999) itself, the Court concludes that “the object and purpose of [the] resolution . . . was to establish a temporary, exceptional legal régime which, save to the extent that it expressly preserved it, superseded the Serbian legal order and which aimed at the stabilization of Kosovo, and that it was designed to do so on an interim basis”.

The Court then turns to the question whether resolution 1244 (1999), or the measures adopted thereunder, introduces a specific prohibition on issuing a declaration of independence, applicable to those who adopted the declaration of independence of 17 February 2008. In order to answer this question, it is first necessary for the Court to determine precisely who issued that declaration.

In the part of its Advisory Opinion devoted to the identity of the authors of the

declaration of independence, the Court seeks to establish whether the declaration of independence of 17 February 2008 was an act of the “Assembly of Kosovo”, one of the Provisional Institutions of Self-Government, established under the Constitutional Framework, or whether those who adopted the declaration were acting in a different capacity. On this point, the Court arrives at the conclusion that “the authors of the declaration of independence . . . did not act as one of the Provisional Institutions of Self-Government within the Constitutional Framework, but rather as persons who acted together in their capacity as representatives of the people of Kosovo outside the framework of the interim administration”.

The Court then turns to the question, debated in the proceedings, whether the authors of the declaration of independence acted in violation of Security Council resolution 1244 (1999). After outlining the arguments submitted by the participants in the proceedings on this point, the Court undertakes a careful reading of resolution 1244 (1999) in order to determine whether that text prohibits the authors of the declaration of 17 February 2008 from declaring independence from the Republic of Serbia.

It first points out that the resolution did not contain any provision dealing with the final status of Kosovo or with the conditions for its achievement. In this regard, the Court notes that contemporaneous practice of the Security Council shows that “in situations where the Security Council has decided to establish restrictive conditions for the permanent status of a territory, those conditions are specified in the relevant resolution”. The Court notes that “under the terms of resolution 1244 (1999) the Security Council did not reserve for itself the final determination of the situation in Kosovo and remained silent on the conditions for the final status of Kosovo”. It finds that resolution 1244 (1999) “thus does not

preclude the issuance of the declaration of independence of 17 February 2008 because the two instruments operate on a different level: unlike resolution 1244 (1999), the declaration of independence is an attempt to determine finally the status of Kosovo”.

Turning to the question of the addressees of Security Council resolution 1244 (1999), the Court recalls that, when interpreting Security Council resolutions, it must establish, “on a case-by-case basis, considering all relevant circumstances, for whom the Security Council intended to create binding legal obligations”. It recalls that “it has not been uncommon for the Security Council to make demands on actors other than United Nations Member States and intergovernmental organizations”, more specifically, in this case, on the Kosovo Albanian leadership, but points out that such reference to that leadership or other actors, notwithstanding the somewhat general reference to “all concerned” (para. 14), is missing from the text of Security Council resolution 1244 (1999). The Court therefore considers that it cannot accept the argument that resolution 1244 (1999) contains a prohibition, binding on the authors of the declaration of independence, against declaring independence. It adds that “nor can such a prohibition be derived from the language of the resolution understood in its context and considering its object and purpose”, and that “[t]he language of . . . resolution 1244 (1999) is at best ambiguous” on the question of whether the resolution creates such a prohibition. The Court notes that the object and purpose of the resolution “is the establishment of an interim administration for Kosovo, without making any definitive determination on final status issues”.

While the text of paragraph 11 (c) of resolution 1244 (1999) explains that the “main responsibilities of the international civil presence will include . . . [o]rganizing and overseeing the development of

provisional institutions for democratic and autonomous self- government pending a political settlement” (emphasis added), the Court nevertheless states that the phrase “political settlement”, often cited in the proceedings, “does not modify [its] conclusion” that resolution 1244 (1999) does not contain a prohibition, binding on the authors of the declaration of independence, against declaring independence. The Court explains that this reference is made within the context of enumerating the responsibilities of the international civil presence, i.e., the Special Representative of the Secretary-General in Kosovo and UNMIK, and not of other actors; the Court adds that, as the diverging views presented to it on this matter illustrate, the term “political settlement” is subject to various interpretations. The Court therefore concludes that this part of resolution 1244 (1999) “cannot be construed to include a prohibition, addressed in particular to the authors of the declaration of 17 February 2008, against declaring independence”. The Court accordingly finds that Security Council resolution 1244 (1999) did not bar the authors of the declaration of 17 February 2008 from issuing a declaration of independence from the Republic of Serbia, and that “[h]ence, the declaration of independence did not violate Security Council resolution 1244 (1999)”.

Finally, on the question whether the declaration of independence of 17 February 2008 has violated the Constitutional Framework established under the auspices of UNMIK, as argued by a number of States which participated in the proceedings, the Court recalls that it has already held, earlier in its Advisory Opinion, “that [this] declaration of independence . . . was not issued by the Provisional Institutions of Self-Government, nor was it an act intended to take effect, or actually taking effect, within the legal order in which those Provisional Institutions operated”. Accordingly, the Court states that “the authors of the

declaration of independence were not bound by the framework of powers and responsibilities established to govern the conduct of the Provisional Institutions of Self-Government”, and finds that “the declaration of independence did not violate the Constitutional Framework”.

#### V. GENERAL CONCLUSION

To bring its reasoning to a close, the Court summarizes its conclusions as follows:

“The Court has concluded above that the adoption of the declaration of independence of 17 February 2008 did not violate general international law, Security Council resolution 1244 (1999) or the Constitutional Framework. Consequently the adoption of that declaration did not violate any applicable rule of international law.”

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