

Attached is an advance copy **of the report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo (UNMIK)** for the information of the members of the Security Council. This report will be issued as a document of the Security Council under the symbol S/2008/354.

12 June 2008

## **Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo (UNMIK)**

### **I. Introduction**

1. The Security Council, by its resolution 1244 (1999) of 10 June 1999, authorized 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 under which the people of Kosovo could enjoy substantial autonomy.

2. This report is submitted to the Security Council following nine years of interim administration led by the United Nations, with the support of its key operational partners, including the European Union (EU), the Organization for Security and Co-operation in Europe (OSCE), as well as the United Nations Agencies, Funds and Programmes. During these nine years, the international civil presence, known as UNMIK, helped Kosovo make significant strides in the establishment and consolidation of democratic and accountable Provisional Institutions of Self-Government and in creating the foundations for a functioning economy. While there has been substantial progress in standards implementation, there remains scope for further improvement in certain areas, in particular in the field of the return of refugees and internally displaced persons. The process of full reconciliation and integration of Kosovo's communities will be a long-term one, and remains an uphill challenge which requires a genuine commitment by members of all of Kosovo's communities.

3. On 3 April 2007, I submitted the Comprehensive Proposal for the Kosovo Status Settlement ("Settlement Proposal") (S/2007/168.Add 1), prepared by my Special Envoy for the Future Status Process for Kosovo, Martti Ahtisaari, to the Security Council. The Security Council did not, however, endorse this proposal. Thereafter, a "Troika" comprised of the European Union, United States, and the Russian Federation facilitated additional intensive negotiations between the parties at the end of 2007. These talks also ended without a consensual resolution of Kosovo's status. On 17 February 2008, the Assembly of Kosovo held a session during which it adopted a "Declaration of Independence", which declared Kosovo an independent and sovereign state. This declaration received the support of 109 of the 120 members of Kosovo's Assembly; the ten Kosovo Serb Assembly Members did not attend.

4. I immediately drew this development to the attention of the Security Council, so that it could consider the matter. In doing so, I reaffirmed that, pending guidance from the Security Council, the United Nations would continue to operate on the understanding that resolution 1244 (1999) remains in force and that UNMIK would continue to implement its mandate in light of the evolving circumstances. The Security Council took no position following the 17 February declaration. To date, 42 Members of the United Nations have recognized Kosovo's independence.

### **II. Developments on the Ground**

5. Following the declaration of independence, the Republic of Serbia adopted a decision stating that this declaration represented a forceful and unilateral secession of a part of the territory of the Republic of Serbia. In addition, most Kosovo Serbs also condemned the declaration of independence, and took measures which pose serious challenges to UNMIK's role in Kosovo. As an expression of their dissatisfaction, Kosovo Serbs expanded their boycott of Kosovo's institutions, to include the police, judiciary, transportation, and municipal administrations. Kosovo Serb police officers in the Kosovo Police Service (KPS) have left their posts in several municipalities in southern Kosovo, while Kosovo Serbs in the KPS in northern Kosovo have continued to report to UNMIK international police.

6. Kosovo Serbs have also expressed their dissatisfaction through protests, which have for the most part been held peacefully, though sporadic violence has occurred in northern Kosovo. On 19 February, small groups of Kosovo Serb protesters destroyed two customs service points on the Administrative Boundary Line, while on 14 March protesters forcefully seized the court house in northern Mitrovica. Subsequently, on 17 March, violent confrontation with UNMIK police and KFOR occurred during a police operation launched to reassert control over the court house. UNMIK is making efforts to restore customs at the Administrative Boundary Line, and to enable the court in Mitrovica to be operational.

7. A new reality and challenges to UNMIK's authority are also emerging on the ground in Kosovo Albanian-majority areas. On 9 April, the Assembly of Kosovo passed a constitution for Kosovo that is scheduled to come into force on 15 June. This constitution is designed in such a way that it seeks to effectively remove from UNMIK its current powers as interim civil administration. In this regard, the government of Kosovo has indicated that it would welcome a continued United Nations presence in Kosovo provided that it only carries out limited, residual tasks.

8. In addition to these developments on the ground, on 18 February I received a letter from the European Union's High Representative for the Common Foreign and Security Policy, informing me of the European Union's willingness to play an enhanced role in the area of rule of law in Kosovo within the framework provided by resolution 1244 (1999). Since then, the European Union has reiterated its readiness to deploy staff to Kosovo in the functional areas of police, justice, and customs.

9. It is also my understanding that the European Commission has informed my Special Representative that it would end funding for operations of the Economic Reconstruction Pillar of UNMIK (Pillar IV) as of 30 June 2008. The Secretariat has informed the European Commission that this decision did not benefit from consultations with United Nations Headquarters and that it leaves UNMIK without the technical capability or budgetary allocation to replace European Commission-funded experts. In the meantime, the Kosovo government has passed legislation that comes into force on 15 June, which effectively seeks to assume tasks and competencies currently carried out by UNMIK Pillar IV with regard to the administrative authority over socially-owned and

publicly-owned enterprises. This legislation, combined with the announced closure of Pillar IV, effectively removes UNMIK's authority and capacity to control these areas.

### **III. Efforts to reach a compromise**

10. Kosovo's declaration of independence and the entry into force of its new constitution on 15 June pose significant challenges to UNMIK's ability to exercise its administrative authority. Moreover, the events in northern Kosovo also indicate the resolve of many Kosovo Serbs to reject participation in Kosovo's institutions. In this context, I believe that the United Nations is confronting a new reality in Kosovo, with operational implications for UNMIK that it must take into account. It is my assessment that not doing so could lead to increased tension within Kosovo, including between Kosovo's communities, and would contribute to an unwelcoming environment for the international civil presence. In light of these considerations, there is a pressing need for a solution that preserves international peace and security and stability in Kosovo.

11. To this end, I employed my good offices with the parties and key stakeholders to ascertain whether there is a basis for a status-neutral solution that would address these challenges in a realistic and practical manner within the framework of resolution 1244 (1999), as well as serve to manage effectively the situation on the ground, reduce tension, and safeguard stability in Kosovo and in the wider region. My discussions with members of the Security Council indicate that there is an interest in adjusting the operational role of the United Nations in Kosovo in light of the evolving circumstances.

12. I also engaged in direct consultations with Pristina and Belgrade on possible future arrangements for the international civil presence in Kosovo. To this end, my Under-Secretary-General for Peacekeeping Operations, Mr. Jean-Marie Guéhenno, traveled to the region to explore a compromise that would create the conditions for a general acceptance of a restructured international civil presence in Kosovo. Serbia and the Kosovo Serbs have expressed that they would find acceptable an enhanced operational role for the European Union in the area of rule of law, provided that such activities would be undertaken under the overall status-neutral authority of the United Nations. Following these discussions, it is my assessment that both Pristina and Belgrade recognize the need to devise a solution that allows for the continuation of the international civil presence in Kosovo. In this regard, Serbia has expressed particular concerns with respect to police, customs, justice, transportation and infrastructure, management of the Administrative Boundary Line, and cultural heritage. On the basis of these consultations, I have written to His Excellency, Mr. Boris Tadić, and His Excellency, Mr. Fatmir Sejdiu, describing practical arrangements that I will instruct my Special Representative to develop with them in each of these areas (attachments A and B).

13. The European Union's offer to play a greater operational role is, likewise, a key development. Such an enhanced role would allow the United Nations to share the responsibilities by drawing upon the expertise and resources of this regional organization and partner. Mindful of the fact that there is a need to devise an operational solution for

UNMIK that preserves the positive legacy of the United Nations in Kosovo and the Balkans and is within the framework of resolution 1244 (1999), and noting the EU's willingness to play an enhanced role in Kosovo, it is my assessment that the objectives of the United Nations would be best obtained through an enhanced operational role for the EU in the field of the rule of law, under a UN 'umbrella' headed by my Special Representative. I expect the OSCE Mission in Kosovo to continue its work as part of the reconfigured UNMIK. The presence of the OSCE Mission throughout Kosovo will be crucial for the promotion of democratic values at grassroot level and the protection of the legitimate interests of all communities in Kosovo.

#### **IV. Structure of UNMIK**

14. The recent and upcoming events in Kosovo will have significant operational implications for UNMIK. In light of the evolving situation in Kosovo, on the basis of extensive consultations with Belgrade, Pristina and key stakeholders, and pending guidance from the Security Council, it is my intention to adjust operational aspects of the international civil presence in Kosovo. I have taken this decision upon careful consideration and analysis that the conditions on the ground require a practical adjustment to the structure and profile of UNMIK. Unless the Security Council decides otherwise, resolution 1244 (1999) will remain the legal framework for the UN's mandate, whose practical implementation will depend on evolving circumstances.

15. I have taken note of the European Union's readiness to play an enhanced role in Kosovo as reflected in the Conclusions of the European Council on 14 December 2007. It is my assessment that the European Union's capacity to deploy a rule of law mission to Kosovo could, as foreseen in Security Council resolution 1631 (2005), usefully complement the work of the United Nations and have a positive impact on the optimal use of limited resources. I have also taken into consideration the general interest of the United Nations and the recognition of the potentially valuable contribution that regional organizations can bring in support of the efforts of the United Nations in the maintenance of international peace and security.

16. The European Union will perform an enhanced operational role in the area of rule of law under the framework of resolution 1244 (1999) and the overall authority of the United Nations. The European Union will, over a period of time, gradually assume increasing operational responsibilities in the areas of international policing, justice, and customs throughout Kosovo. It is understood that the international responsibility of the United Nations will be limited to the extent of its effective operational control. The United Nations presence will carry out, among others to be defined, the following functions: (i) monitoring and reporting; (ii) facilitate, where necessary and possible, arrangements for Kosovo's engagement in international agreements; (iii) facilitate dialogue between Pristina and Belgrade on issues of practical concern; and (iv) functions related to the dialogue concerning the implementation of the provisions specified in my letter to His Excellency, Mr. Boris Tadić and referenced in my letter to His Excellency, Mr. Fatmir Sejdiu.

## **V. Observations**

17. It is my assessment that events in Kosovo have had, and will continue to have, a significant operational impact on the functioning of UNMIK. Since UNMIK's inception in 1999, as UNMIK has made progress in fulfilling and completing tasks set forth in paragraph 11 of resolution 1244 (1999), the scope of activities that it has performed has been reduced significantly. Following the entry into force of Kosovo's constitution, in my assessment UNMIK will no longer be able to perform effectively the vast majority of its tasks as an interim administration.

18. If not carefully managed, recent developments, and future emerging realities on the ground, could lead to increasing tension between Kosovo's communities and could contribute to friction between UNMIK and other actors, local and international, in Kosovo. There is an overriding need to ensure international peace and security and safeguard the legacy of the United Nations and of the international community in Kosovo and the wider region. I am particularly mindful of the need to ensure that the rights of all communities in Kosovo are fully protected and preserved.

19. It is for these reasons, and pending guidance from the Security Council, that I intend to reconfigure the international civil presence in Kosovo. There is a practical need for a recalibrated international presence that is best suited to address current, and emerging, operational requirements in Kosovo. In consideration of Kosovo's and Serbia's European perspective, and in keeping with the European Union's expressed willingness to play an enhanced operational role in Kosovo in the area of the rule of law, I intend to move forward with practical arrangements to enable the European Union to enhance its operational role in this sector.

20. It is my intention to further consult with relevant partners, including the European Union and the OSCE, with a view to determining the functional provisions for the continued international civil presence and move forward with the implementation of these provisions as soon as feasible. In this connection, I am grateful for NATO's continuing commitment to support the international civil presence in accordance with resolution 1244 (1999). I am confident that the authorities in Pristina and Belgrade, as well as the people of Kosovo, will continue to work with the United Nations in safeguarding and consolidating peace and stability, in order to move Kosovo and the rest of the Balkans region forward towards a more stable and prosperous future in Europe.

THE SECRETARY-GENERAL

12 June 2008

Dear Mr. President,

The position of the United Nations on the question of the status of Kosovo has been one of strict status neutrality. Following the unilateral declaration of independence by Kosovo on 17 February 2008, some Member States have recognized Kosovo as a sovereign state, others have not. United Nations Security Council resolution 1244 (1999) continues in force until the Security Council decides otherwise.

In the absence of other guidance from the Security Council, and following consultations with your Government and other relevant stakeholders, I intend to exercise the authority vested in me by resolution 1244 (1999) to reconfigure the international civil presence as set forth in my report to the Security Council (S/2008/354). Furthermore, the following provisions would be temporary arrangements that would apply for a limited duration and without prejudice to the status of Kosovo.

1. Police

Kosovo Police Service operating in relevant Serb-majority areas should report to international police under the overall authority of my Special Representative.

2. Courts

Additional local and district courts serving relevant Serb-majority areas may be created. They will operate within a Kosovo court system under the applicable law within the framework of resolution 1244 (1999).

His Excellency  
Mr. Boris Tadić  
President of the Republic of Serbia  
Belgrade

3. Customs

My Special Representative will determine, in consultation with relevant stakeholders, an organizational structure allowing Kosovo to continue to function as a single customs area, which will include guarantees for the continued presence of international customs officers at relevant customs points.

4. Transportation and infrastructure

A technical coordination committee, including the Republic of Serbia and other relevant stakeholders, will be established by my Special Representative, to address all relevant technical and cross-boundary issues, taking into account the work of the Pristina-Belgrade technical dialogue working group.

5. Boundaries

In accordance with resolution 1244 (1999), NATO, as the international military presence, will continue to fulfil its existing security mandate throughout Kosovo, including the boundaries, in conjunction with other international organizations.

6. Serbian Patrimony

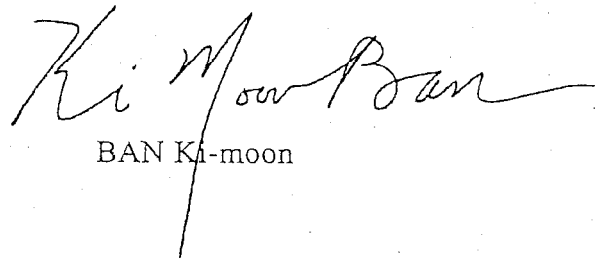
The Serbian Orthodox Church (SOC) in Kosovo shall be afforded international protection. The SOC in Kosovo will remain under the direct authority of its religious seat in Belgrade. The SOC will retain the sole right to preserve and reconstruct its religious, historical, and cultural sites in Kosovo. The Republic of Serbia will continue close cooperation with the United Nations and all relevant bodies in the provision of support to such preservation and reconstruction activities.

Concerning the implementation of the above provisions, my Special Representative will pursue a dialogue with your Government. In this context, my Special Representative will also consult with other relevant stakeholders, including the authorities in Pristina. In accordance with paragraph 6 of resolution 1244 (1999), I intend to appoint a new Special Representative in conjunction with the envisaged reconfiguration.



Mindful of the commitment of the European Union to the region, I intend to consult with the European Union High Representative for the Common Foreign and Security Policy, to determine an operational Role for the European Union in the implementation of the above provisions within the status-neutral framework of the United Nations.

Please accept, Mr. President, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read "Ki-moon Ban". The signature is fluid and cursive, with a long horizontal stroke at the end. Below the signature, the name "BAN Ki-moon" is printed in a simple, sans-serif font.

BAN Ki-moon



THE SECRETARY-GENERAL

12 June 2008

Excellency,

The United Nations Interim Administration Mission in Kosovo (UNMIK) continues to operate within the framework of Security Council resolution 1244 (1999) and to implement its mandate in light of the evolving circumstances. The position of the United Nations is one of strict neutrality with respect to the status of Kosovo.

It is my view that recent events in Kosovo have significant operational implications for UNMIK, which require it to adjust to developments and to changes on the ground. You will recall that I signaled this possibility in my most recent report to the Security Council. The efforts of the United Nations are directed at ensuring that the political and security situation in Kosovo and in the wider region remains stable, and that the population of Kosovo, and in particular the minority communities, are adequately protected.

Following the adoption of a declaration of independence by the Assembly of Kosovo on 17 February 2008, a number of Member States have recognized Kosovo as a sovereign state, while others have not. I also note that a new constitution for Kosovo is expected to come into effect on 15 June 2008. These developments, taken together, are contributing to a substantially changed situation in Kosovo.

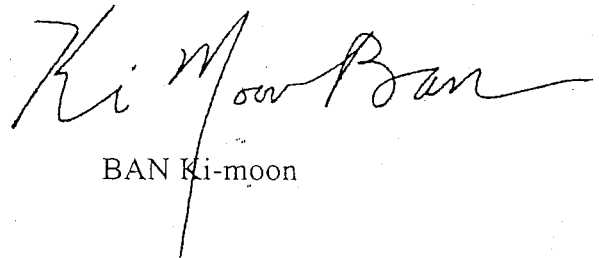
In the absence of other guidance from the Security Council, and following extensive consultations, it is my intention to reconfigure the structure and profile of the international civil presence to one that corresponds to the evolving situation in Kosovo and that enables the European Union to assume an enhanced operational role in Kosovo, in accordance with resolution 1244 (1999).

His Excellency  
Mr. Fatmir Sejdiu  
Pristina

In conjunction with the reconfiguration of UNMIK, and in order to address operational concerns that have arisen since 17 February 2008, certain practical arrangements would be implemented, as set out in the attached letter. These arrangements would apply for a limited duration and without prejudice to the status of Kosovo. In this context, and concerning the implementation of these provisions, my Special Representative will also consult with you, and other relevant stakeholders.

I am confident that the authorities and people of Kosovo will continue to cooperate with the United Nations in safeguarding and consolidating the significant results we have achieved together and the legacy of the United Nations in Kosovo.

Please accept, Excellency, the assurances of my highest consideration.



BAN Ki-moon