



**Organization for Security and Co-operation in Europe  
MISSION IN KOSOVO**

**REPORT OF THE HEAD OF THE OSCE MISSION IN KOSOVO, AMBASSADOR WERNER  
WNENDT, TO THE PERMANENT COUNCIL**

**VIENNA, 19 JANUARY 2006**

**A) POLITICAL OVERVIEW**

**1) Negotiations on the future status:** Following the decision of the United Nations Security Council (UNSC) on 24 October 2005 to initiate talks on Kosovo's future status, the UN SC ratified the appointment of former Finnish President Martti Ahtisaari as the UN Secretary-General's Special Envoy on Kosovo's status talks. Albert Rohan, the former Secretary General of the Austrian Ministry of Foreign Affairs, was nominated as Deputy Envoy. Special Envoy (SE) Ahtisaari arrived in Prishtinë/Priština on 21 November for the start of a two-week fact finding mission to the region. After visiting representatives of the Kosovo Provisional Institutions of Self Government (PISG) and minority communities in Prishtinë/Priština, Mr Ahtisaari met with government and political figures in Belgrade, Tirana, Podgorica and Skopje. The EU, NATO and USA have appointed their own Envoys to the status talks, who will be working in close co-operation with the SE.

In November, the Contact Group adopted ten guiding principles for future status negotiations encompassing the three oft-stated principles (that there be no partition of Kosovo, no union of Kosovo with any neighboring country or part of it, and no return to status quo prior to March 1999), as well as principles that would require any settlement to ensure the rights of minorities, the protection of religious and cultural heritage, and contribute to regional stability. Similar principles were endorsed by the EU Council in its November conclusions on the Western Balkans.

Mr Ahtisaari and Deputy Envoy Rohan confirmed that there would be no predetermined timeline for the duration of the status talks which will depend on "the parties involved in the process and the cooperation between them." In press conferences, Mr Ahtisaari has expressed hope though that the status determination would be "the final one" and reiterated that the Contact Group Guidelines explicitly reject partition as a status outcome.

A key theme constantly referred to by the SE and his Deputy is that Standards progress and a stable security situation are the essential preconditions for status negotiations. Mr Ahtisaari has emphasised that particular attention must be paid by the Kosovo Albanian majority to the protection, and integration, of minority communities. The SRSG has also continued to press this message. In his New Year statement he warned that “Kosovo institutions have to wake up... they know what they should do, and they should do their work.” He noted that “Minority groups often feel, and often with reason, that they and their cultures are under threat. I would like to look forward to a year when everyone in Kosovo can live freely and at ease with their and each other’s culture – and have no reason to fear the future.” In response to the joint pressure from the SE and the SRSG, the Provisional Institutions of Self-Government (PISG) have prepared a three-month action plan on fulfilling Standards, with a view to continuing with further such short-term, results-orientated action plans in the future.

The Prishtinë/Priština status Negotiation Team, dubbed the “Team of Unity,” held its first meeting on 6 October<sup>1</sup>. Progress on adopting a clear negotiating platform has been slow, although the formation of a “Political Group” below the main negotiating team has resulted in increased momentum and greater cohesion. The Negotiation Team has recently appointed a number of experts and political leaders to participate in Working Groups covering security affairs, constitutional issues and economy and finance as part of status discussions, but overall a lack of clarity on the Working Groups’ structure, responsibilities and output has abounded.

One factor contributing to early delay in the work of the Negotiations Team was the uncertainty over the adoption of a PDK–proposed resolution by the PISG Assembly of Kosovo providing a framework to the status talks. An original draft was proposed by Hashim Thaçi, president of PDK, in September, but political differences between and within LDK and PDK resulted in the generation of several competing texts and repeated delays in the adoption of a final version. After intensive consultations, the Assembly adopted a resolution on 17 November, explicitly providing guidance to the negotiating team and reconfirming "the political will of the people of Kosovo for an independent and sovereign state of Kosovo".

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<sup>1</sup> The team is composed of PISG President Ibrahim Rugova, PISG President of the Assembly of Kosovo Nexhat Daci, PISG Prime Minister Kosumi and opposition leaders Hashim Thaçi (PDK) and Veton Surroi (ORA).

**2) Standards Implementation:** While public attention in Kosovo has quite understandably focused on the future status process in recent months, the international community has continued to press for a renewed focus on Standards Implementation. The SE often emphasized that the PISG must accelerate Standards implementation during this period, and explicitly stated that the pace and the degree of Standards implementation will have an effect on the length of the status talks. Along with the SRSG, the OSCE Mission in Kosovo (OMiK) has consistently underlined the importance of the standard process to the PISG.

The latest Technical Assessment of Standards Implementation indicates that progress has slowed in recent months, though it has not stopped in any area. The most notable problems were recorded in the fields of Sustainable Returns, the Rights of Communities and their members and Technical Dialogue, while progress was noted in the areas of Property Rights and Economy. The return of minority IDPs and refugees remains negligible. Despite an overall decline in recorded violent crime some recent attacks on members of minority communities are likely to have at least a short term negative impact on freedom of movement – though there has been no proof that the criminal motivation in these cases has been ethnic in nature.

As noted earlier, the PISG have recently displayed a determination to reinvigorate the Standards process with action plans for focused implementation. While the lack of progress in certain areas can not always be attributed to a lack of effort on the part of the PISG, more could be done. OMiK will continue to do all that it can to encourage and assist the PISG in the standard implementation process, as it plays a leading role in it, most notably as co-chair of the Working Groups on Standard 1 (Functioning Democratic Institutions), and Standard 6 (Property Rights).

The recent agreement between the PISG and the European Commission on a new European Partnership is particularly welcome. The European Partnership outlines short and medium-term priorities in particular in the political, economic and judicial fields. It includes the EU “acquis” and incorporates in the EU standards the essence of the Standards established for Kosovo by the UN in December 2003. The EU Council Decision on the EU partnership with Kosovo was approved by the General Affairs and External Relations Council on 12 December. It was subsequently presented at the Eighth Meeting of the Stabilization and Association Tracking Mechanism (STM) on 14 December. This agreement foresees the merging of the Standards process with the EU's Stability Tracking Mechanism during 2006, ensuring Standards implementation continues over coming years, after the achievement of a status settlement.

**3) Decentralization:** Decentralization has remained high on the political agenda throughout the last months of 2005, and has also become a priority topic of status talks. During the first round of his meetings in Prishtinë/Priština and Belgrade, the SE indicated his intention to give particular attention to it and has requested the Parties to the negotiations to prepare concrete decentralization proposals. In December, an Austrian proposal for the organisation of a follow-up to a meeting between the two sides brokered by the Review Envoy Kai Eide in September did not take off. The meeting was postponed for an as yet unconfirmed date end of January 2006, but in Prishtinë/Priština, a decision for participation is still pending.

Decentralization remains an area of contention. Amongst confusing statements by some members of the Negotiating Team and their political parties that decentralization is not an issue to be negotiated with Belgrade, the Team's Political Group held a series of meetings in December to review and finalise PISG Minister of Local Government Lutfi Haziri's draft "platform" on decentralization; formal approval is expected soon. Minister Haziri told media that the reform of local government would be made via "a constitutional law that will be implemented after status" and asked for more financial and capacity-building support by the international community to avoid the failure of the decentralization process.

For their part, Kosovo Serb community leaders continued to request the creation of municipalities with a clear Kosovo Serb majority throughout Kosovo, with competencies mainly in the fields of health, education, the police and the judiciary, culture, economy and privatization, and with "links" to Belgrade. However, the main influence on this issue is in Belgrade, and not with the Serb community in Kosovo itself. The Negotiating Team in Belgrade, which includes two Kosovo Serb representatives, has recently managed to achieve a compromise between the proposals advocated by the Prime Minister and the President of Serbia. Excerpts of the joint Belgrade "platform" have been released to the press, causing a negative reaction in Prishtinë/Priština, where they were interpreted as promoting a form of division of Kosovo.

On the ground, the implementation of the decentralization process driven by the PISG in the form of the Pilot Municipal Units (PMUs) has shown limited progress. On 13 September, the SRSG signed three Executive Decisions establishing the Provisional Assemblies for the PMUs in Junik/Junik,

Mamushë/Mamuša and Hani i Elezit/Đeneral Jankovič, appointing the respective Assembly members previously approved in a vetting process conducted by UNMIK and the PISG Ministry of Local Government Administration (MLGA). The inaugural sessions of the Provisional Assemblies of the three non-Serb PMUs took place shortly thereafter. However, the Kosovo Serb majority PMUs, Gracanicë/Gracanica and Partesh/Parteš, were never established as the disagreements between the PISG and the interested community over their territorial delimitation remained unresolved. Discussions in the context of the joint PISG/UNMIK Working Groups have continued at a slow pace, partly due to the uncertainty over the relation between this “indigenous” process and the discussions on decentralization to be conducted in the context of the status talks process. On a positive note, the Working Groups were somewhat revived just before the end of 2005, when they held information-sharing meetings with the participation of the designated Kosovo Serb (SLKM) representatives after a long period of absence.

**4) Inter-ethnic Relations:** There have been no obvious improvements in the area of inter-ethnic relations, and the slight increase in (mainly low level) security incidents affecting non-Albanian communities has served to keep the feelings of mistrust between communities alive. The leaders of the Kosovo Serb community have continued to publicly present a bleak view of their life in the wake of a number of incidents in December and January on Kosovo Serbs, which they believe have been carried out by Kosovo Albanians in an attempt to frighten them into leaving. For its part, Kosovo Albanian public opinion views the Kosovo Serbian reactions to the incidents as a calculated attempt to influence the status talks.

However, some notable PISG efforts to reach out to the communities during this period have taken place, especially during December. The Kosovo Prime Minister Bajram Kosumi and members of his cabinet participated in a “Christmas Outreach” programme, including visits to multi-ethnic municipalities, meetings with Kosovo Serb families, and debates with media representatives from all communities. Veton Surroi, President of ORA, and his Deputy, Ylber Hysa, launched consultations with minority community representatives, creating a Consultative Communities Council to advise the Kosovo Negotiations Team on minority issues. The Council met representatives of the Kosovo Egyptian, Roma, Bosniak, Turkish and Serb communities, including representative of

the Serbian Orthodox Church. Outcomes of this first round of ongoing consultations have yet to be publicly announced.<sup>2</sup>

**5) Dialogue with Belgrade:** The Prishtinë/Priština-Belgrade technical dialogue continued, with a relatively constructive meeting of the Working Group on Cooperation in the Field of Energy; a meeting of the Working Group on Transport was cancelled for logistical reasons and has not been rescheduled. Meetings of the Working Group on Missing Persons (in plenary and closed sessions) did go ahead, although without significant progress. The PISG are being pressed to engage constructively on this subject and there remains scope for substantive progress to be made on this key humanitarian issue. This period also saw the long-awaited start of dialogue at a higher political level; the Ministers of Culture of the sides met twice to discuss technical issues in the area of culture, and the Ministers of Local Government Administration discussed decentralization and property issues at a meeting brokered by Kai Eide in September (as mentioned earlier).

**6) Comprehensive Security Agenda:** UNMIK promulgated the Regulation on the creation of two new PISG Ministries on 20 December 2005: the Ministry of Internal Affairs and the Ministry of Justice. At present these Ministries will have no direct control over the Police or the Judiciary, nevertheless there has been continuous controversy over who will head them. At the time of writing the PISG has made no announcement on the allocation of the Ministerial portfolios. Opposition parties have called for a non-political allotment of these posts, appointments to which will be ratified in the Assembly. UNMIK is focusing its attention on ensuring the set-up of the Ministries and the recruitment of civil servants is conducted in an orderly and non-politicized manner; OMIK is planning to provide substantial support and good governance advice to this recruitment process.

The establishment of these Ministries runs parallel to the Internal Security Sector Review (ISSR) Process, which started under the lead of UNMIK and the Office of the PISG Prime Minister in October 2005. Consulting a large section of Kosovo's society on a broad number of security related issues (encompassing physical, environmental, economic security), the ISSR process will over the course of

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<sup>2</sup> This is in response to the request made in mid-October for the inclusion of representatives of non-Kosovo Albanian communities in Kosovo's future status talks. ORA announced that it would recommend the creation of a Consultative Communities Council to the Kosovo Delegation. The Kosovo Delegation officially supported this proposal during its meeting of 18 November and also included it in a document presented to SE Martii Ahtisaari on the occasion of his first visit to Kosovo on 22 November. SLKM representatives refused to meet with Veton Surroi, who met with SDPKiM – Minister Petkovic's party- in this context.

2006 seek to establish the basis for an efficient, inclusive, democratically accountable and transparent security sector in Kosovo. The ISSR comes at a moment when the security situation in Kosovo is stable, but somewhat unpredictable, with tensions remaining at heightened levels. Particularly in the context of status talks, it is in the interest of the political establishment, the international community and all communities in Kosovo to ensure that there is no widespread outbreak of violence.

OMiK is taking part in this process in the ISSR in several ways. The Head of Mission is part of the Steering Committee which oversees the process. In addition, in accordance with its mandate and with the advantage of its extensive field presence, the Mission has agreed to organize and facilitate the outreach to all the municipalities. Finally, the Mission conducted an outreach to the Assembly of Kosovo at the central level.

## **B) MISSION ACTIVITIES:**

**1) Minority and Human Rights:** The Legal System Monitoring Section focused its attention on those judicial proceedings which involved members of minority communities. In this regard, cases concerning crimes committed against minorities during March 2004 riots were systematically monitored. A public report was launched in fall 2005 highlighting problems and concerns regarding compliance with human rights standards and rule of law in these cases. In addition, a report outlining the problems and concerns identified through the monitoring of selected civil and administrative proceedings, including those involving members of minority communities, was also published.

Similarly, the rights of minorities are of particular concern when it comes to property issues. OMiK continued to facilitate the activities of the “Stakeholders Group on Informal Settlements”, assisting in the development of a situational analysis and action plan on informal settlements, while the Human Rights Experts program continued to build capacity at a municipal level on these issues.

Related to the issue of property rights is the topic of non-discrimination, an additional focus of OMiK’s work. The Mission continued to support the Advisory Office on Good Government, Human Rights, Equal Opportunities and Gender (AOGG) in the Office of the PISG Prime Minister (OPM) towards an effective and comprehensive implementation and promotion of the Anti-Discrimination Law (ADL); the AOGG was supported in conducting the ADL public awareness campaign. Although the ADL was

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designed to protect all people from discrimination, minority communities are of special focus in the light of daily discriminatory practices. Since autumn 2005, OMiK participates in the PISG-led working group on the employment of staff from vulnerable ethnic communities.

In order to ensure that human rights continue to be a central aspect of Kosovo's policy development and implementation, OMiK has made plans to deploy Human Rights Advisory Teams to the Office of the PISG Prime Minister of Kosovo and six of the PISG Ministries (two of which will be the newly created Ministries of Justice and Interior). The teams will work with various ministry officials to assist in the development of human rights compliance and of protection mechanisms through policy, procedures and legislation, while at the same time building the capacity of new Human Rights Units, made up of ministerial staff, in fulfilling this function in the future.

**2) Transition of the Ombudsperson:** To ensure a seamless transfer of responsibility, the SRSG appointed the Kosovo Albanian Deputy Ombudsperson as Acting Ombudsperson of Kosovo to replace the International Ombudsperson upon his departure in December. The draft Regulation handing over the Ombudsperson Institution (OI) was initially prepared by OMiK and is currently under review by UN HQ; its promulgation by the SRSG is expected soon. OMiK will continue to liaise with other institutions on an *ad hoc* basis to ensure the proper handover of the OI. Three international OMiK advisers are supporting and monitoring the work of the OI in 2006.

**3) Rule of Law:** OMiK seeks to assure that the exercise of public executive and legislative authority becomes more human rights and rule of law compliant, at local and central level. Monitoring these developments, the Rule of Law Section released the "Report on the implementation of Kosovo Assembly Laws – Part II" containing recommendations as to the legislation, policy, and procedures as well as their implementation and application by PISG bodies. The detailed reports highlighted concerns and problems with the completeness, coherence, and compliance with rule of law principles of selected primary and secondary legislation and other selected aspects of the effective implementation of the rule of law.

**4) Assembly of Kosovo:** OMiK provided a Senior Advisor to the PISG Assembly President. His mission has been to actively support the internal functioning of the Assembly President's Office,



monitor its adherence to the Rules of Procedure and facilitate legislative interaction of the Assembly with the executive branch and with UNMIK's Office of Legal Affairs.

OMiK also continued the independent monitoring of the functioning of the Assembly, as well as the coordination of international support to it under the umbrella of the "Assembly Support Initiative". Notably, it provided support to the establishment of the provisional Legal Standardization Revision Unit within the PISG Assembly, which is responsible for drafting legislation, reviewing the compatibility of Kosovo's legislation with European standards, enhancing the capacity of the Legal Department to format and revise legislation, and ensuring multilingual consistency in the three languages.

**5) Decentralization:** Following the establishment in August 2005 of the Pilot Municipal Units, as core components of the decentralization agenda, the Mission has been heavily involved in supporting the new administrative units. OMiK field teams have provided training and guidance throughout the processes of establishing the Provisional Assemblies, electing the Presidents and creating the mandatory committees. From 17 to 21 November OMiK, together with the PISG Ministry of Local Government Administration, organised a workshop in the former Yugoslav Republic of Macedonia for members of the Provisional Municipal Assemblies, which was funded by the German government. OMiK will continue to offer assistance to the Ministry and the Pilot Municipal Units in 2006.

**6) Elections:** The Mission has continued to work towards the strengthening of the Central Elections Commission (CEC), as the main body responsible for the conduct of elections in Kosovo. In order to ensure the sustainability of the CEC and diminish the Mission's direct involvement in its operations, a number of CEC Committees have been established to provide oversight and guidance to the CEC Secretariat, the administrative and operational arm of the CEC.

The Election Forum (EF), the CEC Advisory Committee responsible for the development of recommendations on the legal framework for elections, has continued its work throughout the reporting period with advice and support by the Mission. A draft proposal for an UNMIK Regulation for the Municipal elections to be held in November 2006 has been developed and will soon be tabled for approval by the CEC. The EF will continue discussion and make proposals for the more technical CEC rules governing future elections.

The Mission has also been involved in assisting the conduct of elections for University bodies at the University of Prishtinë/Priština (UP). Seventeen student organisations will elect representatives for a university-wide student parliament and student councils for each faculty on January 25; elections were postponed twice due to incomplete student lists from most faculties. The Mission is chairing the UP election commission, and is responsible for advising on procedural and logistical rules and verifying compliance through observation of the process.

**7) Negotiations Seminar:** The Mission, while thus far not directly involved in the Future Status process, is determined to help facilitate preparations for talks. In November 2005, OMiK offered a comprehensive negotiation skills support program to Kosovo Albanian and Kosovo Serbs leaders, experts, representatives from the Serbian Orthodox Church and civil society. The program was aimed at improving the participants' understanding of negotiation processes while also enhancing their negotiation skills through practical exercises and discussions. A total of 55 individuals from both communities attended the various modules of the program. Separate modules were offered to Kosovo Albanians and Kosovo Serbs in order to foster free discussion among participants and enable them to benefit fully from the facilitators' expertise. During the program, which was developed by OMiK in cooperation with the US based Public International Law and Policy Group (PILPG) and the Fletcher School of Law and Diplomacy (FSLD), participants were also addressed by a number of prominent guest speakers who have been directly involved in difficult negotiation processes in the Balkans and South Africa.

**8) Media:** The process of handing over responsibility for regulation of the media sector to local, self-sustainable institutions continued successfully. Following the Mission-facilitated establishment of the Kosovo Press Council, a self-regulatory body for the print media, its governing body held its first meeting in December. The Temporary Media Commissioner has begun its transition to the Independent Media Commission, a local body that will be charged with monitoring and licensing the electronic media in Kosovo. The Mission has provided advice and guidance to the PISG in the development of media-related legislation, most notably in the drafting of legislation designed to decriminalise libel and defamation. A draft law on defamation is now expected to be discussed at first reading in the PISG Assembly of Kosovo during the January plenary session. OMiK has also provided extensive training to both law enforcement officers and members of the media on the Police and Media Handbook, a quick

reference tool developed by the Mission which informs police officers about the rights and proper treatment of journalists and outlines the responsibilities of journalists in dealing with the police.

## **C) THE MISSION AND FUTURE PLANS**

**1) UNMIK Restructuring:** The last few months have seen the initiation of the second phase of UNMIK restructuring, including OMiK as its integral part. The objective for this second timeframe is to maintain a stable environment during status talks, whilst ensuring continued progress in the normal work of the Mission and preparing for the post-status period. The key outcomes to achieve during this timeframe include maintaining the momentum in the processes of Standards implementation, European Partnership, and decentralization. In addition, there is across UNMIK a focus on the transformation from administering to monitoring (including assistance and oversight) and putting in place safeguards for minority communities in all fields.

In working towards these goals and towards implementing a robust Monitoring and Accountability Policy, OMiK has determined specific areas within its mandate where the Mission will proactively monitor compliance by PISG officials. Specific areas and standards of performance (referring to categories, applicable law, KSIP and EUSTM and standards in good governance and human rights) have been identified and Monitoring and Accountability Matrices have been developed as an efficient and uniform tool throughout the Mission for reporting PISG (non-) compliance with the standards monitored.

**2) OMiK Restructuring and Field Presence:** As a consequence of decisions taken in conjunction with the restructuring of the Interim Administration, Pillar II (Civil Administration) was reconstituted as the Department of Civil Administration (DCA) within the Office of the SRSG. As OMiK expands out to the field with the creation of Municipal Teams in each municipality, the Civil Administration components within DCA's Regional Offices and DCA's monitoring presence at the field level are being clustered and co-located in central municipalities, while presence on the ground in adjacent communities is withdrawn.

As a result of the need to strengthen their co-operation at the municipal level during the transition to future arrangements, DCA and OMiK have worked on the signature of a Memorandum on Co-

operation and Teamwork on Local Government between the two parts of UNMIK, which is currently being finalized. In the draft Memorandum, DCA and OMiK resolved to work together closely to manage the handover of functions and responsibilities from the former to the latter. Enhanced co-operation will take place in monitoring, reporting and analysis, and making recommendations on executive intervention. The shared objective of the Memorandum is to ensure seamless delivery of all functions, for maximum efficiency and effectiveness in supporting good governance at the municipalities level throughout Kosovo. The Memorandum and its Technical Annex incorporate the lessons learned from the implementation of four joint OMiK/DCA pilots of this co-operation model, implemented between 15 November and 31 December in four municipalities, and will be reviewed on a quarterly basis by the partners in order to ensure the effective implementation of the principles of co-operation and teamwork.

**3) Future Role/ Future Arrangements:** One predictable outcome of the status process will be a role for the international community continuing well into the future. The Contact Group’s guiding principles state that for some time Kosovo will continue to need an international civilian and military presence to exercise appropriate supervision of compliance with the provisions of the status settlement, to ensure security and, in particular, protection for minorities, as well as to monitor and support the authorities in the continued implementation of Standards.

The need to ensure timely and adequate planning for this eventuality instigated the formulation of a well-coordinated process of proactive dialogue among international organizations, in order to avoid duplication of efforts or gaps, and to ensure that tasks and responsibilities will be shared according to comparative advantages and experiences obtained in the region. Discussions on the nature of a post-status international presence have already started. This work, on future international engagement, also aims at providing information to the SE, given that his Terms of Reference state that the outcome of the status process should be a political settlement that, among other things, “addresses practical questions related to the implementation of an eventual agreement, including arrangements for a possible international presence following such determination.”

An informal Steering Group on Future Arrangements, chaired by UNMIK at senior management level, was established in October, with the participation of UN DPKO representatives, the EU (Commission

and the Council) and the OSCE (Secretary General, Chairman-in-Office and Mission level). The Group has met twice to steer the work of four technical/informal Working Groups (WG) established on the ground in Kosovo, examining issues in greater detail and reporting back with findings and recommendations: WG on Rule of Law, WG on Democratisation, Minority issues and Human Rights – chaired by OMIK- WG on Good Governance and WG on Economic and Fiscal Issues.

The informal Steering Group, in its latest meeting held in December, was appreciative of the work of the four WGs and their Executive Report, outlining UNMIK's priorities and recommendations for the future. It also took note of the OSCE commitment to maintain an extensive field presence in Kosovo and to engage in robust monitoring of the local institutions throughout 2006, and possibly even beyond. The Steering Group will continue to lead the process of defining future arrangements, without prejudging Kosovo's future status and in close coordination with the work of the SE. The OSCE, including the Mission, is committed to playing an active role in this process.