

Mr. Moderator,
Ladies and Gentlemen,

It is my privilege to address you here and today. I would like to shed some light to often neglected problems that are repeatedly being watered down in official authorities' reports. I am referring to Kosovo and Metohija, the troubled Southern Province of Serbia.

As we have gathered here to explore the observance of Human Dimension, I wish to bring your attention to this small corner in Europe where some people are persistently being deprived of their basic human rights, because they are not members of the majority community.

The history of the Balkans in general has always been a most troubled one. In particular, since the times of World War II, the Serbs in Kosovo and Metohija have been victims of three distinct major waves, and in-between these waves, the victims of the permanent low intensity ethnic cleansing by ethnic Albanians. The first one was facilitated by the Nazi occupying force and perpetuated by the subsequent communist regime law which prohibited the return to the Province of those Serbs who had fled during the times of occupation. The second major wave of ethnic cleansing occurred in June and July 1999, when the population suffered retaliation of the returning Albanians and had to abandon their homes and possessions in order to save lives. This wave swept 230,000 Serbs and 30,000 non-Albanians (in total 31 ethnicities) from Kosovo and Metohija into displacement and exile. The third major wave, executed in the presence of the international civil and military missions, was the outcome of the March 2004 ethnic rampage.

To date, the number of the returnees remains below any acceptable level. Depending on the source, the return of the Serbs and non-Albanians for the past seven years is approximately 2% (our sources) or 5% (UNMIK sources). This information gets its full meaning when compared with the return of ethnic Albanians in 1999: it was 100% within six months.

Through the use of a consistent strategy, the demographic image in the Province was forcibly changed and set to currently some 90% of Muslim Albanians and the remaining 10% for others.

The best illustration of these ethnic cleansings is City of Pristina:

- in 1999, population of 250,000 with some 40,000 Serbs
- in 2006, population of 600,000 with some 80 Serbs.

While the city population boomed into two-and-a-half its previous size, the Serbian element diminished to 0,013%

Since June 1999 to date 5,061 attacks against the Serbs have been committed, and only a few perpetrators have been indicted or even brought before court. There is no rule of law,

and the freedom of movement is very weak. 931 Serbs were killed, and again impunity prevailed as no one has been indicted. 156 churches have been destroyed after June 1999, and in March 2004 violence alone, additional 35 churches were burnt down and destroyed. Not a single one has been reconstructed until this very day. The remaining 140,000 Serbs in Kosovo and Metohija immediately lost their jobs in institutions such as power plants, mines, etc.

Today, the only truly multi-ethnic areas in Kosovo and Metohia are those where Serbs are predominant, namely, the North and the enclaves, as the only diversity-friendly environment.

Reasons for such below-minimum level of the return, including various individual ones are obvious. But here I wish to focus on the institutional failures of the current authorities in Kosovo and Metohija to facilitate any decent level of return.

First of all, there is no political will to implement the return of Serbs and non-Albanians. This is apparent when taking a look at the existing cumbersome procedure which requires that potential returnees obtain all kinds of administrative evidence, conditioning the return by consent and selection criteria of the receiving Albanian community. For instance, in numerous cases local receiving community would simply label persons as war criminals offering no evidence whatsoever. In other cases, the receiving community was requesting prior implementation of a significant project for them as beneficiaries, such as water supply system or road infrastructure, in order to consent to the return of their former neighbours.

But the most detrimental obstacle to the return used to be insistence of both local and international stakeholders, including the UNHCR, to return to the places of origin only. One has to recall that, since 1999, there is no more Serbian urban population south of the Ibar River. In addition, security concerns have not allowed the return to a vast majority of former Serbian homes. In theoretical terms, such approach was severe violation of many human rights, including not only the right to return but also the right to choose one's place of living, the right to peaceful enjoyment of property; in practical terms, it effectively halted the return. Or in other words, the violence and ethnic cleansing were in life legitimized. It took five years of discussions and persuasion to eventually conclude the Protocol on Return between UNMIK, the PISG and the Government of Serbia, in spring 2006, granting to displaced persons the right to return to a place of choice where the living was possible and more or less safe.

Building on such experience, the Belgrade Negotiation Team in its Platform for Substantial Autonomy established that the only way to redress the past, and to prevent any future ethnic cleansing, is an institutional approach, through the means of implementing comprehensive self-government, namely, decentralization. Decentralization is more than just a political instrument. It has been recognized as an international standard and a European value of bringing the governance closer to the people on the ground, making the population a very important segment in electing their local leaders and thus exercising local self-government prerogatives. In Kosovo and

Metohija, decentralization is the only way forward into a multi-ethnic society, since it grants fundamentals for survival and life of non-majority communities. Any other solution leads only to a mono-ethnic society.

For the substantial and efficient decentralization, the following is necessary:

- Increased competencies for municipalities, with precisely enumerated prerogatives in the areas of education, health and social affairs, finance and the economy, and the local policing and the local judiciary;
- Establishment of a high number of municipalities with predominant Serbian population in the specified areas of Kosovo and Metohija;
- Establishment of horizontal links between the Serbian municipalities and of special bodies to coordinate the policies in various areas, and the special links with other parts of the Republic of Serbia.

In addition, I wish to inform you that Serbia is undergoing a process of adopting a new constitution which guarantees a substantial autonomy to ethnic Albanians in Kosovo and Metohija within the Republic of Serbia. At the same time, the new Constitution observes and reaffirms universal international principles, and resoluteness of Serbia to preserve its territorial integrity.

I would also like to emphasize that the proposed democratic solutions received a unanimous support of the Assembly of Serbia and almost undivided backing of the general public in Serbia.

Ladies and Gentlemen,

Serbia, as a signatory of several international human rights instruments, remains committed to respect all of its obligations under international law, including the politically binding commitments related to the Human Dimension. As a part of its obligations Serbia accepts and even welcomes any opportunity to be monitored, in order to adjust its internal policies to the international standards.

However, in the Province of Kosovo and Metohija that has been placed under the United Nations Mission administration, under whose leadership also operate the OSCE and the European Union Missions, the Human Dimension commitments are not only denied in practice but remain fundamentally subject to political negotiations. Let me remind you, in my capacity as a Belgrade Negotiation Team member, that the Vienna Negotiation under the auspices of UNOSEK, treat basic human rights of the Serbs and other non-Albanians as a bargaining tool, so that depending on the ongoing political leverage these human rights are going to be granted, or not, to a smaller or greater degree. Such politicized and conditioned use and abuse of human rights is unacceptable. The Amnesty International stressed in its report of July 2006 that, quote, "The protection of human rights should not be considered as a 'technical issue' but should be considered throughout the process and as the foundations of any agreement for the future of Kosovo". Ladies and gentlemen, I call upon you here and now to reaffirm the sanctity of human rights and to condemn their use for daily politics purposes.

For example, you would be surprised to know that no institution monitors whether international authorities or the Provisional Institutions of Self-Government fulfill their obligations. The former International Ombudsperson has several times pointed out to the lack of independent scrutiny, investigation and oversight of both UNMIK and KFOR. In fact, at present, if an individual wishes to file a complaint against international authorities, he or she does not have access to redress and reparation. As the UNMIK's official reply to the UN Human Rights Committee clarifies: the UNMIK Regulation enlisting all the international human rights instruments "does not imply that these treaties and conventions are in anyway binding on UNMIK".

In other words, those human rights instruments are not necessarily binding on UNMIK. What does this mean? That UNMIK is above the law? Or that UNMIK may choose not to be accountable when it comes to commitments concerning human rights protection, observance and safeguards.

This evaluation has been substantiated, *inter alia*, by the Advisory Committee of the Framework Convention which has stated recently that, quote, "Various advanced norms ... have been introduced to tackle many of the key concerns of minority communities. However, the reality in Kosovo remains disconcertingly far from these laudable norms and plans". I invite all of you to read this important report, which is the result of a monitoring exercise undertaken by the Council of Europe. Likewise, I invite you to read reports prepared by the Amnesty International, Minority Rights Group, Human Rights Watch, and all major international NGOs that are currently engaged in monitoring the human rights situation in Kosovo and Metohija.

Nevertheless, UNMIK reports submitted to the UN Security Council invariably indicate progress, so that it looks like Kosovo is on its way to become a democracy in which, quote, "despite some technical problems", the fundamentals for a multi-ethnic society based on respect of human rights and the rule of law are ensured for all. Such picture could not be farther from the findings of the afore mentioned organizations. Moreover, such picture is a direct result from the lack of an independent and objective institutional monitoring and reporting. Such a picture has a political purpose only, and that is granting status to Kosovo, as soon as possible, and in contravention with the internationally recognized values of respecting democratic states' sovereignty and territorial integrity.

On the bases of such trend, what could we possibly expect in the next few years under the scenario of an imposed independence, no matter what prefix it has? Nothing better, I am afraid. We learn from the High Commissioner for National Minorities that if not properly solved minority issues – such as freedom from discrimination, protection of linguistic, cultural and religious heritage, return and property repossession – will resurface and will be a source of continuous regional conflict and instability.

Closing an eye today to daily systematic human rights violations and pretending the structures thereby established by the international community are fully functioning will surely help closing down the status chapter – but what is the price?

There are certainly few things that OSCE could do to improve gloomy and grim situation for Kosovo Serbs. First of all, since 2003 there is no monitoring of human rights by the OSCE. Revitalizing this monitoring would be more than helpful. In accordance with that, Ombudsperson, an international one that would deal only with human rights of non-Albanians and Serbs would be a great help for those communities and their survival. OSCE could be a helping hand in the process of establishing mechanisms that would prevent outvoting of Serbs during future participation in the Assembly in Pristina.

Ladies and Gentlemen, thank you for your time and let me invite you all to the tomorrow side event, from 1 to 3 p.m., in Opera Room.

Decentralization

Solution and Tool for Preventing Ethnic Cleansing

- Volatile situation in Kosovo and Metohija, and human rights violations require additional safeguards than those envisaged for local self-government concepts in normal European countries. Such safeguards are envisaged in the Meaningful Decentralization Concept of the Serbian Negotiating Team.
- Decentralization in Kosovo and Metohija is a core instrument to ensure survival for members of non-majority communities. It means local people taking care of their local affairs, thus avoiding outvoting and undue and adversary external influences. This requires:
 - Increased number of municipalities with majority Serbian and non-Albanian population.
 - Increased number and enhanced character of competences to make them meaningful.
 - Education, health, social protection, culture and protection of heritage, language, tradition, the Church and religious issues, are inherently Serbian property and must be exclusive competences of the Serbian body. This ought to be acquired through special links with Belgrade.
- Decentralization encompasses law enforcement, so that the Police, the local heads of police, and the municipal judges and prosecutors ought to be locally elected.
- Serbian municipalities will be horizontally linked in order to maximize the benefits and cost-effectiveness of service which by their nature cannot be established in every municipality, such as hospitals, municipal courts, etc.
- All settlements where non-majority communities live, whether organized in Serbian majority municipalities, or being sub-units of Albanian majority municipalities, must have in place adequate road networks.
- This decentralization concept as the supreme safeguard for survival and normal life of non-majority communities must be enshrined as the fundamental constitutional rights of the Serbs as a constitutive people, in such way which can not be subjected to any future reconsideration and/or derogation.
- Such decentralization concept will optimize links to both Belgrade and Pristina and will make best use of respective legislations