

## Table of Contents

Foreword <i>Ernst M Felberbauer and Predrag Jureković</i>	5
Welcome Speech <i>Johann Pucher</i>	9
PART I: LESSONS LEARNT FROM SUPPORTING STATE-(RE) BUILDING AND DEMOCRATIC DEVELOPMENT	15
15 Years of Peace-, State- and Nation-Building: Basic Lessons from the Balkan Lab <i>Michael Schmunk</i>	17
Hindsight is Easier than Foresight: Taking Stock of International Engagement in Kosovo <i>Michael Daxner</i>	42
PART II: LESSONS LEARNT FROM ESTABLISHING A PEACEFUL AND COOPERATIVE SECURITY ENVIRONMENT	59
The Military and the Fight Against Serious Crime: Lessons from the Balkans <i>Cornelius Friesendorf</i>	61
Lessons from Different Military Missions in the Western Balkans <i>Dennis H. Blease</i>	87
EU and NATO Integration: Their Impact on Regional Security and Cooperation <i>Mladen Nakić</i>	111
A Montenegrin View on Regional Police Cooperation <i>Ivan Milić</i>	123

PART III: LESSONS LEARNT FROM FOSTERING TRANSITIONAL JUSTICE AND RECONCILIATION	129
Challenges in Reconciliation Processes – A View from Serbia <i>Sonja Biserko</i>	131
War Crimes Tribunals and the International Criminal Tribunal for the Former Yugoslavia <i>Nena Tromp</i>	151
PART IV: CURRENT CHALLENGES	165
Reflecting State- and Peace-Building in BiH <i>Senad Pečanin</i>	167
A Kosovar View on State- and Peace-Building in Kosovo o <i>Ilir Deda</i>	171
An International View on State- and Peace-Building in Kosovo <i>Karin Marmsoler</i>	181
Internal and External Challenges for Macedonia <i>Dane Taleski</i>	189
PART V: EXECUTIVE SUMMARY AND CONCLUSIONS	211
Summary <i>Gertraud Illmeier</i>	213
Conclusions and Recommendations <i>Predrag Jureković</i>	219
List of Authors and Editors	229

## Foreword

Since the signing of the Dayton Peace Accord in November 1995 and the end of the Kosovo war in June 1999, the Western Balkans have become an important region for international actors engaged in peace support activities to put their tools and concepts for building peace in war-torn societies to the test. Enormous financial and personnel resources have been invested from the international side since 1995. The main goal was to help regional actors to overcome ethno-territorial conflicts, to build - respectively rebuild - well-functioning state institutions, to foster the creation of a democratic political system and to initiate cooperative processes between the former conflict parties.

Accordingly, the range of international activities in the process of peace-building have encompassed tools as widely diverse as the launching of various military and police missions (by the UN, NATO and the EU respectively) with changing mandates and tasks, the setting up of protectorate powers in Bosnia-Herzegovina and Kosovo in order to “facilitate” and “accelerate” state-building, the creation of permanent structures for regional cooperation as well as of the International Criminal Tribunal for the Former Yugoslavia (ICTY). The latter has played a significant, but politically controversial role regarding reconciliation. Starting in the year 2000, the perspective of integration into NATO and the EU has become a central factor of influence in internal reforms and their contribution to regional peace-building are concerned for the majority of states and entities in the Western Balkans.

However, the results achieved after 15 years of peace-building engagement in the Western Balkans should evoke neither too euphoric nor too pessimistic attitudes. In terms of military security, the Balkan peace processes can be regarded as mostly successful. On the other hand, a multitude of factors hamper progress: lasting tensions caused by ethno-political and/or territorial issues; differently perceived “truths” regarding the previous wars by regional actors; half-assed reforms conducted in political environments with partly continuing criminal networks still represent huge challenges in the process of conflict transformation.

This book comprises contributions from the 20<sup>th</sup> workshop of the Study Group “Regional Stability in South East Europe” of the PfP Consortium of Defence Academies and Security Studies Institutes, which was convened in Reichenau/Austria, from 23-25 April 2010.

Experts from within and beyond the region dealt with the following questions:

Firstly, which lessons in conflict management can be drawn from the international experience in the Western Balkans regarding the attempts

- to reduce political insecurity by supporting state- and democracy-building;
- to establish a peaceful and cooperative security environment and
- to overcome hate perceptions and to approach a climate of positive peace?

Secondly, what is unique with regards to Balkan peace-building activities? Which elements and lessons learned could be useful for other post-war regions?

Thirdly, what has to be done in terms of security, political and economic means to improve the current overall situation in Bosnia-Herzegovina, Kosovo and in other parts of the region, passing through similar complex peace processes?

The Study Group “Regional Stability in South East Europe” has been assessing the post-war development in the Western Balkan countries and its implications for the region and beyond since 1999. Embedded in the wider academic framework of both the PfP Consortium of Defence Academies and Security Studies Institutes as well as the security-political research in the Austrian Ministry of Defence and Sports, its main focus is to elaborate major conflict areas and propose possible solutions to local authorities and international actors alike.

The editors are pleased to present the valued readers the analyses and recommendations from the Reichenau meeting and would appreciate if

this study group information could contribute to generate further positive ideas for supporting the still challenging processes of peace-building in the Western Balkans.

*Ernst M. Felberbauer*  
*Predrag Jureković*



## Welcome Speech

Johann Pucher

Excellencies,  
Ladies and Gentlemen,  
Dear Friends and Partners within the PfP Consortium,

One year has passed very quickly. It is good to see several familiar faces among the participants present here again at this workshop. This year, the Study Group „Regional Stability in South East Europe” is celebrating its 10<sup>th</sup> anniversary and organising the 20<sup>th</sup> workshop! I commend the Study Group for its dedication, invaluable work on the academic, political and operational field during the past 10 years. Your work undoubtedly has contributed to better understanding and has helped to establish contacts. You have done superb confidence - building work and also put forward concrete proposal for policy framing.

According to the agenda the Study Group will analyze the current challenges in the region, like it has done in the previous years. Reflecting and analyzing the current stabilisation processes has become a trademark of this Study Group under the able leadership of Predrag Jureković with his close collaborators. Being concentrated on details of specific cases you always had an eye on the big picture too. Therefore I congratulate you for having put this workshop under the theme „15 Years of Peace Building Activities in the Western Balkans - Lessons Learnt and Current Challenges”.

This is an absolutely relevant issue. It is the right time, after 15 years, to reflect and deal with the lessons that can be drawn from the mechanisms and concepts used and the missions implemented in the Western Balkans. In particular this endeavour is important for the region itself. Only an analytical stock-taking can prove whether our approach has met the

challenges of the stabilisation and peace processes and whether bigger changes are necessary or not.

I consider a second aspect connected to lessons learnt as relevant: it is the question what can be used and learnt from the Balkan peace-building experiences for other conflict regions or post-war regions in the world, in areas, in which international actors are already engaged in conflict management or could be engaged in the future. Especially the lessons which can be taken from regional peace-building in the Western Balkans for hot spots in the Middle East, the Caucasus region and in Africa are of specific interest for the Austrian Ministry for European and International Affairs and the Ministry for Defence and Sports.

The Western Balkans has moved forward – with different speed in different countries. There are encouraging signals and decisions, however – the region still faces some unresolved problems. The process of conflict transformation in South East Europe is still far from being regarded as closed. It is a pertinent question, which lessons for international efforts in conflict management can be drawn from the experience in the Western Balkans. What is unique in regard to Balkan peace-building activities? Which elements could be useful for other post-war regions being aware that every conflict has its specific history and roots causes which demand a specific approach to conflict resolution?

The Western Balkans has been an experimental field for different approaches and methods of crisis management during the past 20 years. Unfortunately it has often been a learning-by-doing test case.

Let me mention some examples:

We may rightly consider UNPREDEP as a successful example of preventive deployment.

UNPROFOR, however, has become the symbol for an unattainable mandate, inappropriate resources and not sufficient political cohesion in the UN Security Council. UNPREDEP stands as a symbol for discrediting and shameful weakness of the UN system in the 90ies.

IFOR/SFOR were the first robust NATO crisis management operations with participation of Partnership for Peace nations in an internal conflict, also Austrian forces have participated for the first time in such a framework.

We saw a NATO intervention without UN Mandate and the bombing of Belgrade, accompanied by massive deployments in Kosovo, with KFOR comprising more than 60 000 soldiers at the beginning, a still ongoing operation after more than 10 years.

The Western Balkans has been a playground for the Partnership for Peace, followed by NATO enlargement as an essential instrument for fostering stability.

This region has been the area of operation for different international organisations (UN, NATO, EU, and OSCE) in the same area at the same time, stimulating comprehensive processes that are considered indispensable for modern conflict resolution and peace building nowadays. Transfers of authority between different organisations took place as future role models.

Also, the Western Balkans has been the region with first joint international peace building efforts at the turn of the millennium after proceeding periods of purely military containment. SSR/DDR activities have started there, and in that period the Study Group has stepped in quite successfully.

Let me remind you of the conception of the European Security and Defence Policy, which was substantially triggered off by the tragic events on the Western Balkans.

The Stability Pact for SEE, a complementary mechanism with invaluable positive regional effects, was established also then.

After the turn of the millennium we saw the start of regional co-operation schemes and instruments. Let me mention only some like RACVIAC, SECI, MARI, SEDEM, SEEBRIG etc. They all have been

surely important efforts, now perhaps outlived or superseded by other international mechanisms.

In this respect the EU Thessaloniki Summit 2003 with the perspective of EU membership for all Western Balkan states as the overarching stabilising concept still has the biggest potential.

The output that you will put forward after this workshop will be the basis for deepened research regarding Austrian lessons learnt regarding SSR and DDR in South East Europe. In my capacity as head of the Directorate for Security Policy in the Austrian MODS I will trigger off follow-on research. In that context I may inform you about an ambitious project, together with institutions from the EU and the African Union (AU): it is about bringing representatives from the AU and sub-regional organisations via Vienna to the Western Balkans Region to share best practices regarding successful and perhaps not so productive mechanisms after the collapse of former Yugoslavia.

This year Austria is celebrating an important jubilee: 50 years of engagement in international peace missions.

Out of these 50 years, for more than 15 years Austria has been very actively engaged as contributor of missions deployed within the NATO/PfP in Bosnia and Herzegovina and in Kosovo, with the OSCE in Albania and recently also within the EU context in Bosnia and Herzegovina. The Western Balkans has been of an overarching importance for Austria and the Austrian Armed Forces.

As a direct neighbour of the Western Balkan countries, with strong cultural, personal and economic ties to the region we have a strategic interest. Austria therefore contributes substantially to the peace-building process and regional cooperation and will continue to do so.

Our engagement has been underlined by significant troop contributions, in KFOR for a certain period we were the biggest non NATO contributor, we will increase our engagement in Bosnia at least over the election period in the second half of 2010.

Personalities like Petritsch, Inzko, Busek, Almhöfer, or recently MG Bair stand for strong political Austrian involvement. I personally had the privilege to be the Director of RACVIAC in Zagreb for two years. Let me mention only some issues from a Defence Policy Director's point of view:

Although Austria itself is not planning to become a member of the NATO alliance, we want to suggest to our friends in the region to use membership in PfP to develop their co-operation in the military field. We welcome Croatia's and Albania's accession to NATO. We hope that Macedonia and Greece can find a resolution for their name dispute, so that also Macedonia can join NATO very soon.

We follow with big interest the NATO decisions regarding a possible MAP status for Bosnia and Herzegovina.

As far as the political processes in the region and EU's CFSP are concerned, Austria sticks to her policy of strongly supporting fast integration of all Western Balkan countries into the EU, based on individual merits. This process must go hand in hand with the strengthening of regional cooperation and internal democratic, judicial and economic reforms.

The political agreement achieved between the Slovenian and Croatian government in respect to their border dispute is considered as a very positive step. We see Croatia's accession to EU as a positive signal for the other Western Balkan countries in terms that the EU perspective is a credible one.

Although no common position inside the EU exists regarding Kosovo's political status it is obvious that a modus vivendi between Belgrade, Priština and Brussels must be found very soon. The region will not be fully stabilised without having all states as members in the EU.

I am – as in the previous years – personally looking forward to the results of your deliberations here in Reichenau. Over the years, this Study

Group has become a cornerstone of security-political research in the European and PfP dimension for the Western Balkans.

As Defence Policy Director in the Austrian Ministry of Defence and Sports with direct responsibilities for all programmes undertaken by our Ministry in the Western Balkans, I am personally very happy that this year, again, so many experts representing various institutions in the region have convened in Reichenau.

In closing, I would like to wish you days full of mutual exchange, interesting debate and dialogue.

**PART I:**

**LESSONS LEARNT FROM SUPPORTING  
STATE-(RE)BUILDING AND DEMOCRATIC  
DEVELOPMENT**



# 15 Years of Peace-, State- and Nation-Building: Basic Lessons from the Balkan Lab

Michael Schmunk

## 1. What happened: Why peace-, state- and nation-building became necessary

During the last 15 to 20 years we have been witnesses of and participants in an unprecedented foreign and security policy revolution. A new chapter of peace making and peace keeping has been written—the end of a civil war was no longer synonymous with “the winner takes all” and the loser suffering total defeat if not complete destruction. The community of nations (or at least part of it) decided to intervene in such cases and to provide the failed or war-torn society with a sound perspective for a new, peaceful future.

It all began with the end of the Cold War. In particular multiethnic states all over the world, most notably in Eastern Europa, the Soviet Union and Yugoslavia, partitioned<sup>1</sup>, collapsed or became deadlocked.<sup>2</sup> Long hidden intra-state conflicts rose to the surface, many, if not most of them ethno-nationalistic, but also some which were religiously motivated. With the East-West confrontation vanquished, such violent regional conflicts began to demand our attention, even though we were not directly involved. Realizing that indifference and inattention could be more harmful to our safety and interests than active involvement, we became engaged, both militarily and reconstruction wise, in the widest sense. These conflicts have claimed countless victims, most of them innocent civilians. Finally, the genocides in Bosnia and Rwanda, above all, convinced us that we

---

<sup>1</sup> ČSSR 1992; Serbia-Montenegro 2006.

<sup>2</sup> See, among many, Cordell, Karl/Wolff, Stefan: Ethnic conflict. Causes, consequences, responses. Cambridge 2010.

have a responsibility to protect. The newly identified phenomenon of weak, failing or failed states led us to the conclusion that it is in our best interest to stabilize, to help install good governance, the rule of law, and, eventually democracy.

*Sudden rise and fall of external state-building?*

Taken together this resulted in a massive paradigm shift in the international security agenda. External peace-, state- and nation-building assistance<sup>3</sup> to failed states and post-conflict societies<sup>4</sup> has become a major, if

---

<sup>3</sup> This Anglo-American terminology has dominated the international debate – translations into other languages are rare. In Germany, e.g., “State-Building” and “Nation-Building” have not found convincing translations. Additionally, the terms “Friedenseinsätze” and “Auslandseinsätze”, though imprecise, have been used frequently in particular in the German speaking political arena; see: Chiari, Bernhard/Pahl, Magnus (Ed.): *Auslandseinsätze der Bundeswehr*. Paderborn 2010; Mair, Stefan (Ed.): *Auslandseinsätze der Bundeswehr. Leitfragen, Entscheidungsspielräume und Lehren*. Stiftung Wissenschaft und Politik, SWP-Studie S 27. Berlin, September 2007 ([www.swp-berlin.org](http://www.swp-berlin.org)).

<sup>4</sup> The literature on these concepts and strategies has been excessive. Therefore, find just an individual selection of books, studies and articles: Soifer, Hillel: *What to read on state building?* In: *Foreign Affairs online*, 18.02.2010 ([www.foreignaffairs.org](http://www.foreignaffairs.org)); Crocker, Chester A./Hampson, Fen Osler/Aall, Pamela (Ed.): *Leashing the dogs of war. Conflict management in a divided world*. USIP Study. Washington, D.C. 2007; Paris, Roland/Sisk, Timothy D (Ed.): *The dilemmas of statebuilding. Confronting the contradictions of postwar peace operations*. London 2009; Darby, John/Mac Ginty, Roger: *Contemporary peacemaking. Conflict, peace processes and post-war reconstruction*. Second edition, New York, NY 2008; Call, Charles T. (Ed.): *Building states to build peace*. International Peace Institute Study. London 2008; Dobbins, James, et. al. (Ed.): *America’s role in nation-building: From Germany to Iraq*. Santa Monica, CA 2003; Dobbins, James, et al. (Ed.): *The beginner’s guide to nation-building*. RAND Study. Santa Monica 2007; Jones, Seth G./Wilson, Jeremy M./Rathmell, Andrew/Riley, K. Jack: *Establishing law and order after conflict*. Rand Study. Santa Monica, CA 2010; Fücks, Ralf (Ed.): *Ethnonationalism and State Building*. Heinrich Böll Stiftung, Publication Series on Democracy, Volume 9. Berlin 2008; Collier, Paul: *Wars, guns and votes. Democracy in dangerous places*. London 2009; Benedek, Wolfgang (Ed.): *Lessons (not) learned. A Comparison of Bosnia and Herzegovina, Kosovo and Macedonia*. Vienna 2009; Matthew Parish: *A free city in the Balkans. Reconstructing a divided society in Bosnia*. International Library of War Studies, volume 14. London 2010; Ghani,

not a top priority for Western foreign and security policy – where there is a concentration of societies with the political will and the resources to do the job. How important peace-, state- and nation-building as a global strategy have become to us, has been demonstrated in Afghanistan. Ironically enough, it probably will be Afghanistan again, where eventually a political verdict will be delivered over whether our new concepts, strategies and toolboxes have succeeded or failed. Currently, the dramatic lack of externally driven success of the Hindukush operation has triggered fundamental criticism—both by scholars and by practitioners—when it comes to the question of the usefulness of external peace-, state- and nation-building strategies. Some have already been conjuring up a “state-building legitimacy crisis”—probably a premature evaluation of an overall useful approach without a real alternative.<sup>5</sup>

It was primarily in Bosnia, in the so-called Western Balkans, however, where we began more than 15 years ago to learn what to do, and how. This war-torn Balkan society became our first and basic lab to test what is needed, who can provide it most effectively, and what are the appropriate tools and projects. Today, in this function, the Balkans lab has been replaced by the Afghan training ground, of course. But in the intervening years, libraries have been filled with Western Balkans books and studies, containing an enormous amount of insights of researchers and practitioners.

Thus, the last 15 to 20 years have not only brought dramatic changes to the Western Balkans, and in particular to Yugoslavia, but also to Western strategies of how to deal with violent intra-state-conflicts or insurgencies, and, thereafter, with the stabilization and reconstruction of post-conflict societies. We can say today that, both in the military and in the

---

Ashraf/Lockhart, Clare: Fixing failed states. A framework for rebuilding a fractured world. New York, NY 2008; Brzoska, Michael/Ehrhart, Hans-Georg: Zivil-militärische Kooperation in Konfliktnachsorge und Wiederaufbau. Empfehlungen zur praktischen Umsetzung. Stiftung Entwicklung und Frieden, Policy Paper 30. Bonn, November 2008 ([www.sef-bonn.org](http://www.sef-bonn.org)).

<sup>5</sup> See, among others, Brozus, Lars: Statebuilding in der Legitimitätskrise: Alternativen sind gefragt. Stiftung Wissenschaft und Politik, SWP-Aktuell 52. Berlin, June 2010 ([www.swp-berlin.org](http://www.swp-berlin.org)).

civilian field, concepts and approaches have been revolutionized. When it comes to external conflict management, conflict resolution and post-conflict assistance, the world has really changed fundamentally. We will see, however, that this is not yet necessarily synonymous with success.

Germany's Bundeswehr started in the same year as Austria's Bundesheer (1960) with its first missions abroad, then purely humanitarian, providing earthquake, flood, drought, famine, medical and other humanitarian relief to the needy.<sup>6</sup> German pioneer and medical corps were welcomed with open arms. Constitutionally, legally and in global opinion the participation of the post-war German army in international foreign engagements did not run into any trouble. In 1990 German units participated for the first time in an ABC combat engagement in the Middle East, and in 1991 at a first mine clearing operation in the Persian Gulf. With Germany's UNSCOM participation in Iraq, a new chapter of "Auslandseinsätze" (missions abroad) was opened, introducing German foreign and security policy to peacekeeping missions. Similar engagements followed, before the Yugoslavia crisis in June and the Bosnia crisis in July 1992 forced Germany to rethink its reservations against both (multilateral) armed interventions and stabilization and reconstruction operations. From then on, Germany's attitude regarding the deployment of German troops abroad for the purpose of collective peacemaking and peacekeeping began to change, supported by a decision of Germany's constitutional court in 1994. Nevertheless, Germany's participation in the multilateral peace missions in Bosnia and Kosovo (and later in Afghanistan) caused fierce domestic political debates, which continue today. The German parliament, however, which has the final say, when it comes to the sending of troops abroad, has from the very beginning supported these peace missions, including the large Afghanistan engagement, which has involved the heaviest losses of the Bundeswehr since its formation. In July 2010, Germany had altogether deployed 6.765 troops worldwide, with the largest contingents in Kosovo (1.430) and Afghanistan (4.540).

---

<sup>6</sup> See, above all, Chiari, Bernhard/Pahl, Magnus (Ed.): *Auslandseinsätze der Bundeswehr. Wegweiser zur Geschichte*. Paderborn 2010.

What are these more general changes and developments, the basic achievements that are associated with the new peace-, state- and nation-building approach for the Western Balkans? Which scientific discourses and political debates have been started? Which substantial decisions have been taken, and have new principles and guidelines been adopted? Both nationally and multilaterally?

- At the end of the nineties, a still ongoing debate (in particular in the U.S.) was started regarding the settling of civil wars and the ending of insurgencies.<sup>7</sup> Should policymakers give preference to internationally brokered settlements (peace agreements), or should they “give war a chance” – allowing the belligerent parties to continue fighting until one side achieves a military victory.<sup>8</sup> Right now, it seems that the advocates of negotiated peace agreements are in a majority, though the advocates of leaving the conflict “bleed dry” have convincing “technical” arguments and statistics on their side as well, given the fact that numerous diplomatic peace settlements did not survive the first five years or so. From a humanitarian and political perspective, of course, this option remains unacceptable to Western societies.
- Another debate has centred on the question of whether the solution of ethnic conflicts through territorial partition, territorial swaps or border changes is the best option for ethnically deeply divided societies (as, for instance, in Bosnia or Iraq—and now again in Kosovo or Serbia, depending from which side you look at it).<sup>9</sup> As it

---

<sup>7</sup> See, among many: Connable, Ben/Libicki, Martin C.: How insurgencies end. RAND Study. Santa Monica, CA 2010; Arreguín-Toft, Ivan: How the weak win wars: A theory of asymmetric conflict. New York, NY 2007;

<sup>8</sup> See e.g. Toft, Monica Duffy: Ending civil wars. A case for rebel victory? In: *International Security* 34 (2010) 4, pp. 7-36.

<sup>9</sup> See e.g. Sambanis, Nicholas/Schulhofer-Wohl, Jonah: What’s in a line? Is partition a solution to civil war? In: *International Security* 34 (2009) 2, pp. 82-118 (116); Nikolas K. Gvosdev: Unfreezing Kosovo. Reconsidering boundaries in the Balkans. In: *Foreign Affairs* online 26 April 2010 ([www.foreignaffairs.org](http://www.foreignaffairs.org)); Parish: A free city in the Balkans, pp. 14-12; Kaufmann, Chaim: Possible and impossible solutions to ethnic civil wars. In: *International Security* 20 (1996) 4, pp. 136-175; Kaufmann, Chaim: When all

stands today, no significant association between partition and post-conflict stability could be established empirically; those in favour of keeping the societies concerned together have been mostly politicians and diplomats; those arguing in favour of partition come mostly from the think tank world, in particular in the U.S.;

- Today, we acknowledge a responsibility to protect, which means to intervene to both save human lives and to restore human rights, even militarily, if necessary. This humanitarian-political principle has meanwhile gained the quality of a UN standard. A whole new international law debate has taken place since then. The UN, following the creation of peace-, state- and nation-building task forces in key Western countries, has correspondingly established a peace-building commission and secretariat;
- A new phenomenon gained currency in the nineties: Weak, precarious, failing and failed states started to be identified as new foreign and security policy issues of the highest priority. Weak and failing states, (that has been the main argument), can present direct threats to Western peace, stability and our way of life. Failing states have become the beloved topic of a new branch of research and cluster building. Indices such as The Fund for Peace's "Failed States Index"<sup>10</sup> and the "Bertelsmann Transformation Index"<sup>11</sup> have established ranking orders of the least stable and most threatening states, thus helping to prioritise foreign and development policies and funds;
- In particular militarily, but also in the reconstruction field the UN have proven not to be the most suitable organisation, when it comes to providing effective intervention and peace-, state- and nation-building. Already politically, as developments since the beginning of the nineties have shown, UN support is hard, if not impossible, to mobilize, given the political composition of the Security Council. Accordingly, the concept and institution of so-called coalitions of the willing and capable has been established – ad hoc

---

else fails: Ethnic population transfers and partitions in the twentieth century. In: *International Security* 23 (1998) 2, pp. 120-156.

<sup>10</sup> [www.fundforpeace.org/failed-states-index](http://www.fundforpeace.org/failed-states-index) 2009.

<sup>11</sup> [www.bertelsmann-transformation-index.de](http://www.bertelsmann-transformation-index.de)

groups or alliances put together to perform a specific intervention, stabilization- and state-building engagement;

- The new challenges have required the military, (who up until then were mostly prepared to fight a classic type of war somewhere in central Europe), to adapt its strategies, tactics and equipment. The concept of civil-military cooperation was born; rapid deployment forces were established, field manuals rewritten, the instrument of quick-impact projects invented and liaison bodies with the population established;
- Recognizing the key role of “human security”<sup>12</sup>, also a new concept born in the Balkan days, Security Sector Reform (SSR), became a key element of all stabilization and reconstruction efforts in Balkans and beyond, beginning with Demobilization, Demilitarization and Reintegration (DDR) of the former liberalization forces, and ending with the training and establishment of new rule of law based security forces (such as the military, police and border police);
- Beginning with Bosnia and Herzegovina, numerous states and international organizations decided to shoulder responsibility and participate in the stabilization and reconstruction period of post-conflict societies of the nineties and beyond. This has involved both the coordination of foreign peacekeepers, police and development experts, and the harmonizing of the use of donor funds. Aside from well functioning and experienced NATO, the cooperation and integration of the external stabilization and reconstruction forces had still to be explored and invented. The societies concerned have increasingly criticized the fact that the best use has not always been made of the donated euros or dollars, from which the

---

<sup>12</sup> This concept, which has been well received worldwide, also in foreign and defence ministries (with Canada and Japan as the frontrunners), has been introduced with the 1994 UNDP Human Development Report – “New dimensions of human security” ([www.hdr.undp.org/reports/1994](http://www.hdr.undp.org/reports/1994)). See, among many, Stein-Kaempfe, Jaqueline: Human Security – völkerrechtliche Aspekte eines internationalen Sicherheitskonzepts zu Beginn des 21. Jahrhunderts. Berlin 2008.

donors appear to profit as well.<sup>13</sup> Multinational peace-, state- and nation-building efforts are still far from perfect—duplicated efforts, beauty contests and even open rivalries have still not been eradicated. Besides the optimization demand regarding the scarce resources available, two general responsibility and job sharing models for the distribution of foreign stabilization and reconstruction work have been developed: Regional sectors of foreign responsibility (e.g. in Kosovo and partly in Bosnia), and foreign lead functions for key political reforms (e.g. in Afghanistan). To improve their assistance to post-conflict societies, some major donors, as, for example the U.S., the UK, Canada, the EU and Germany, have established special task forces. In addition, I have frequently made the proposal to also optimize the cooperation of those (Western) taskforces beyond the national level by establishing a “Joint Transatlantic Nation-Building Task Force”.<sup>14</sup>

- The civilian side of peace-, state- and nation-building had to be completely invented and designed as well; classic foreign aid programmes could not do an appropriate job in post-conflict areas. Improving governance, establishing an independent justice system, fighting organized crime and corruption, democracy building, capacity building, initiating the creation of a civil society, dealing with traumatized war victims, promoting truth and reconciliation, transforming a formerly communist society, etc. had become tasks reaching far beyond traditional development aid. In this context, it has been Bosnia, again, where the establishment of multipurpose help organizations originated, trading under the new name “NGOs”, which later on led to the development of an ever larger NGO industry—consisting of non-state and informal actors, both international and now increasingly national—and culminating in the NGO chaos today in Afghanistan.

---

<sup>13</sup> See the critical position of Ghani/Lockhart, as above in Fn. 4, when it comes to the best form of the distribution of donors’ funds.

<sup>14</sup> See Schmunk, Michael: A Joint Transatlantic Nation-Building Task Force. In: Schmidt, Peter (Ed.): A hybrid relationship. Transatlantic security cooperation beyond NATO. Frankfurt am Main 2008, pp. 265-274.

## **2. Concepts, strategies, and tools**

The concepts and approaches of what to provide to the failed state, to the post-conflict society have changed since our first reconstruction experiences and defeats in Bosnia. Mostly in deference to wary audiences at home, when it came to the decision to stop an ongoing violent conflict by military intervention, we have tended to calm down voters by promising the establishment of societies in the post-conflict era somewhat in between Sweden and Switzerland. At the same time, we raised similarly unrealistic expectations among the populations in the failed states. Already during our engagements in Bosnia, Kosovo and Macedonia, we had to face the bitter reality that our anyway overstretched capacities would not enable us to help create the promised lands. To the disappointment of the locals, their respectively high expectations could not be satisfied; the promised so-called peace dividend materialized only partly.

The other main issue is about priorities (of external assistance). What to do first, what next, and what not at all? Again, respective concepts and strategies, all originating from Bosnia and Kosovo, have differed. There has been no disagreement when it comes to the immediate (re-) establishment of security in the sense of the absence of violence and massive human rights abuses. However, thereafter concepts diverge. Though there has been agreement that the major deficits of the failed society have to be tackled parallelly, not consecutively, there has been an American priority for democratization first; others have argued in favour of first establishing good governance and functional administrative and government structures; still others, me included, have favoured the immediate and thorough establishment of the rule of law and independent judicial bodies. Without the anchoring in the rule of law, (something that has to start with the family at home and to be included in the curricula of schools), human security and a sound democracy, including free media and a forceful civil society, do not stand a chance! This is also because the winners of the conflict, the liberators, and the surviving or newly established political and organized crime bosses will otherwise tend to co-opt the new democratic structures and dominate them. We have seen this in Bosnia, Kosovo, and elsewhere. Up until now, there has been no rule of law in Bosnia and Kosovo worthy of this name; no

functioning democracy, and no real civil-society capable of acting as a counterbalance to and initiator of innovative reforms. Surprisingly, the concepts and strategies designed to provide inner-societal healing as part of a truth and reconciliation process have not only been given low priority, but have also proven to be relatively ineffective. In particular in Bosnia, ethno nationalism, favoured by the Dayton structure, has not only survived, but been strengthened systematically and sustainably, thus endangering the overall peace project and Bosnia's EU capacity. Economic transformation of post-war societies, mostly coming out of communist regimes, has traditionally led a miserable existence in the priority world of post-conflict reconstruction<sup>15</sup>, although it has become a state-building truism that economic development, including the creation of jobs, remains the inseparable brother of security and sustainable reconstruction. Bosnia's and Kosovo's high unemployment rates, in particular when it comes to the young generations, and the negative influence of corruption in both countries on the economies have been undermining this drastically.

Specific peace-, state- and nation-building concepts that have been developed against the background of Western engagement in Bosnia and Kosovo are, among others, the before mentioned "human security"<sup>16</sup> concept; the "Comprehensive Approach"<sup>17</sup>, the "de-securitization/re-securitization" concept<sup>18</sup>, the "Whole of Government" approach<sup>19</sup> and

---

<sup>15</sup> See Schmunk, Michael: The neglected role of economic reconstruction in post-conflict societies and failed states: Strategies, actors and instruments. In: Feichtinger, Walter/Gauster, Markus/Tanner, Fred (Ed.): Economic Impacts of crisis response operations. An underestimated factor in external engagement. Vienna, April 2010, pp. 135-156.

<sup>16</sup> See UNDP: Human Development Report 1994, New York, NY 1994.

<sup>17</sup> Applied today by NATO, the EU, the UK, the German government, and others as a comprehensive civil-military stabilization and reconstruction strategy, in particular in Afghanistan.

<sup>18</sup> See Schmunk, Michael: Security, stability and transformation in the Western Balkans: Challenges and opportunities. Paper for the conference "De-securitization and re-securitization of the Western Balkans' inter-/intra-state relations, Tirana, February 2009 (to be published by the Albanian Institute for International Studies, AIIS).

the “Do no harm” concept.<sup>20</sup> They all have had considerable influence on the development of foreign governments’ and international organizations’ stabilization and reconstruction strategies, and can be observed at work especially in Afghanistan.

The toolboxes of today’s peace-, state- and nation-builders have been full of good instruments, many of them tested time and again, hardened by multiple experience, and improved whenever needed. However, there have been quality differences—for example the mechanisms to establish the rule of law are still unsatisfactory. Likewise, for some crucial reconstruction fields such as civil society building, coping with ethno-nationalism, and the truth and reconciliation task, we haven’t found appropriate instruments yet if at all. We seem to be stuck with only a few explorative and isolated projects, lacking universal validity. Exactly in these areas though, the success or failure of the transformation processes will be decided in the very end. We have seen this in Bosnia, Kosovo, Macedonia, Iraq and Afghanistan, where conflicting ethnic-nationalistic actors have been part of the outbreak of violence, and will be the decisive part of an eventual, sustainable solution. Again, there are libraries full of manuals on this subject—thus I will refrain from going into any further details. For a quick orientation, one may find useful the United States Institute for Peace’s small handbook “Guiding Principles for Stabilization and Reconstruction”.<sup>21</sup>

Talking mainly about the Balkans as our cradle of peace-, state- and nation-building tools, one group of instruments should be mentioned specifically: The “Liaison and Observations Teams (LOT)” in Bosnia and the “Liaison and Monitoring Teams (LMT)” in Kosovo.<sup>22</sup> Designed for

---

<sup>19</sup> See OECD: The whole of government approaches to fragile states. OECD DAC guidelines and reference series, Paris 2006.

<sup>20</sup> See Anderson, Mary. B.: Do no harm: How aid can support peace – or war. London 1999; OECD: Conflict and fragility. Do no harm. International support for statebuilding, Paris 2010.

<sup>21</sup> USIP: Guiding principles for stabilization and reconstruction. Washington, D.C.: 2009.

<sup>22</sup> See Schmunk, Michael: Provincial Reconstruction Teams (PRTs)—Deus ex Machina der internationalen Nation-BUILDER? In: Feichtinger, Walter/Gauster,

post-conflict societies characterized by the complete absence of armed conflict—and in this way very different from the “Provincial Reconstruction Teams (PRT)” in Afghanistan and Iraq—LOTs and LMTs have added considerable value to the success and sustainability of Western security building in the Western Balkans. Again, there is sufficient material out there when it comes to dealing with the capacities and possibilities of LOTs, LMTs and PRTs.

### **3. The actors of peace-, state- and nation-building**

#### **3.1 The role of the international state-builders**

All post-conflict societies that the West has been engaged in since the beginning of the nineties were not in a position to sufficiently help themselves, neither to overcome the original causes of war and conflict, nor to provide security, to stabilize, to reconstruct and eventually transform the country sustainably. The negative status of failing and coming out of violent conflict can only be overcome with the assistance if not temporary interference of external actors, be they nation states, alliances of states or international organizations, be they members of international, of government or non-government organizations. Today, the variety and number of external actors are hard to characterize: not all of them are experts; not all of them are decent. The boom of the helpers' industry happened 2001/2002, when in particular many NGOs shifted their personnel from the Balkans to Afghanistan.

But what does that mean “external actor”? How much ownership is desirable and possible, how much intervention and in which fields is it indispensable? Here, the positions of foreign states and international organizations involved differ tremendously, in particular in the first decade or so of Western engagement in Bosnia, and later on in Kosovo. I personally, having been involved in five post-conflict and transitional processes, have been part of those warning time and again about a too wide and too deep of an interference, both dangerously ignoring our lim-

---

Markus (Ed.): *Zivil-Militärische Zusammenarbeit am Beispiel Afghanistan. Civil-military interaction—challenges and chances.* Wien 2008, pp. 113-120.

ited resources (military; diplomats; security trainers; reconstruction experts; financial funds; political legitimization), and the psychological-political impact of such an over-engagement on the respective society. It took politicians until recently in Afghanistan to recognize that too much engagement is more likely to hinder sustainable recovery and reconstruction. It took the West more than a decade of engagement in the Balkans to recognize that certain “red lines” should not be crossed when it comes to external peace-, state- and nation-building engagement. The external state-builder should particularly refrain from tasks that can better or only be performed by the society concerned. Afghanistan during the last years has demonstrated this point very dramatically: External interference has to exercise self-restraint time wise and aid wise. This should have long become the mantra of multilateral state-building in failed states and post-conflict societies.

In failed states or post-conflict societies, where most of the state structures have collapsed, key infrastructure is destroyed, and the society remains deeply divided and traumatized, the international community, be it the UN or a coalition of the willing and capable, regularly decide to oversee the implementation of the peace-, stabilization and reconstruction process with the help of a multinational body located on the spot, based on a UN mandate or an internationally brokered peace agreement to which the conflicting groups have become party. We have seen such bodies in Bosnia-Herzegovina with the Office of the High Representative (OHR)<sup>23</sup>, in Pristina with the “United Nations Mission in Kosovo (UNMIK)<sup>24</sup>, the EU Rule of Law Mission in Kosovo (EULEX)<sup>25</sup>, the International Civilian Office (ICO)<sup>26</sup>, and in Kabul with the United Na-

---

<sup>23</sup> See [www.ohr.int](http://www.ohr.int); Laudes, Walter: Der Hohe Repräsentant für Bosnien und Herzegowina. Der Vertreter der Internationalen Gemeinschaft – eine Bilanz des Amtes. Würzburg 2009.

<sup>24</sup> See [www.unmik.org](http://www.unmik.org).

<sup>25</sup> See [www.eulex-kosovo.eu](http://www.eulex-kosovo.eu); Džihic, Vedran/Kramer, Helmut: Kosovo after independence. Is the EU’s EULEX mission delivering on its promises? Friedrich-Ebert-Stiftung, International Policy Analysis, Berlin, July 2009; International Crisis Group (Ed.): The rule of law in independent Kosovo. ICG Europe Report No.204, Brussels, May 2010 ([www.crisisgroup.org](http://www.crisisgroup.org)).

<sup>26</sup> See [www.ico-kos.org](http://www.ico-kos.org).

tions Assistance Mission in Afghanistan (UNAMA)<sup>27</sup>, just to mention the more important ones. In principle, the mandates of these bodies enable them to supervise or even interfere for the time of the mandate and within defined areas into the political, economic and legal processes of the host countries. In the Bosnia and Kosovo cases, the powers of these international implementation and assistance bodies have been considerable. In some cases, both local and international critics have characterized these missions as trusteeships, viceroy-ships or neo-colonial, indicating that they have helped to hinder or even destroy local ownership and responsibility. On the other hand, even critics had to admit, that without these bodies, peace, stability and progress in the transformation of these post-conflict societies would not have been possible. The short history of these organizations during the last 15 years has shown that these bodies had times of remarkable success. They started to become more a part of the problem than of its solution however, when they began exceeding their political, not necessarily their legal expiry dates—violating the mantra of external state-building. This can be observed most drastically in Bosnia, where the leaders of the Republika Srpska loudly and repeatedly have demanded that the OHR leave; and in Kosovo, where the Albanian side has been denying UNMIK its further legitimation to interfere. Also ICO and even EULEX, EU's largest CSDP<sup>28</sup> mission ever, has been confronted by some actors in the region with the legitimacy question. In all cases, these international civilian bodies have been joined by corresponding military presences, mostly, but not only NATO led, as with KFOR in Kosovo, IFOR/SFOR/EUFOR in Bosnia, and ISAF in Afghanistan. These military bodies have been based on political, and if possible, UN mandates, with respective sub-mandates or agreements for their operations and rules of engagement—not always free of national caveats undermining to a certain degree their unity of action.

---

<sup>27</sup> See [www.unama.unmissions.org](http://www.unama.unmissions.org); International Crisis Group (Ed.): Afghanistan: Elections and the crisis of governance. ICG Asia Briefing No.96. Brussels, November 2009.

<sup>28</sup> Common Security and Defence Policy (formerly European Security and Defence Policy, ESDP).

### 3.2 The role of the societies concerned

The ultimate responsibility for the stabilization, reconstruction, reform and transformation process belongs to the host nation, or, more importantly, has to belong to the respective recipient society—no one can and should try to relieve the failed state of it. However, this has unfortunately happened time and again, also in part in the Western Balkans, namely in Bosnia and Kosovo. In the years right after the end of violent conflict, the international presence is the strongest, and the host country's governing power the weakest. Mostly orders and instructions are given, rather than mere assistance or help to self-help. Surprisingly, some factions of the local population have welcomed the permanent supervision, while others have been trying to shake it off. Some have discovered that living and doing business, in particular shady deals under this international umbrella can be advantageous. Some politicians have discovered how comfortable it can be both psychologically and politically to blame their own inactivity or failures on the internationals, so these international bodies often find themselves at the mercy of domestic players. History has demonstrated that the international supervising and implementation bodies that leave as much elbowroom and ownership to the host country do the better job. This helps to avoid the classic dependence syndrome which grows with each passing year of international tutelage. It is more than natural that a decent, democratically legitimated post-conflict government wants to have a say when it comes to the selection of priorities, instruments and projects. That is why some international experts and local politicians have increasingly demanded that international donor funds be channelled through their national budgets<sup>29</sup>, although sometimes it has proven to be not wise to comply with such requests, given the illegitimate and corrupt nature of the partner administration concerned. The short history of Western peace-, state- and nation-building has also shown that all in all governments and other political domestic bodies, lacking political strategies, political will, and expertise, have not been overly creative, productive or assertive when it comes to reconstructing and reforming their country.

---

<sup>29</sup> See the respective recommendations of Ghani/Lockhart, as in Fn. 16.

#### **4. Where and why did we succeed, where and why did we fail?**

Although peace-, state- and nation-building have been going on in the Balkans and elsewhere for more than 15 years, evaluations of what has been done on the practitioners' side have been extremely rare. While on the military side success and failure are more visible and can be experienced every day—the absence of armed events; disarmament and demobilization of rebel and liberation forces; the destruction of weapons and ammunition; the human security experience of the population; the training and growth of new security forces, etc.—it used to be much more complicated if not impossible to identify progress or deficiencies in the civilian, in the political, in the reconstruction field. The key question has been: How to measure success or failure when it comes to political or humanitarian projects that are not mere technical reconstruction projects, as for example the drilling of a well, the repair of a road, the building of a school or agricultural initiatives. What happened to state-building, to governance oriented projects, let's say, in Bosnia or Kosovo? What impact did our democratization and our rule of law oriented projects have? Why did our civil society building projects mostly fail in the Balkans? What effect did the international trusteeships—the OHR and UNMIK—have on domestic policy making, on the population's engagement in the reconstruction and reform processes? What did the external state-builders do to ownership; did they harm with their strategies and projects? It would seem that in particular politicians and donors from the external side would need information about the effectiveness of their funded and supported stabilization and reconstruction measures. After all, they have to answer to their publics and parliaments respectively. They have to answer questions such as “Why are governments and bureaucracies in the Western Balkans still corrupt? Why did we not manage to install the rule of law? Why did we not ensure that more citizens than we have today actively participate in the democratic processes? Why is civil society in the Western Balkans still so weak? Why did we not succeed in promoting more, or perhaps any reconciliation, let's say, in Bosnia or Kosovo?”

There has been far too little research and evaluation based material when it comes to answering the failure and success questions. Civil reconstruction and transformation in the post-conflict societies where the West has been engaged in, has remained largely a grey, intransparent area. There have been some studies, but only occasionally. It has been the apparent threat of the stabilization and reconstruction failure in Afghanistan that started a more systematic approach regarding concept and project evaluations. A good example has been, for instance, the German government's research cooperation with the Free University of Berlin's Research Center SFB 700<sup>30</sup> project "Assessing the impact of development cooperation in North East Afghanistan", which published its final report in spring 2010.<sup>31</sup> Also, some of the Nordic governments and their NGOs and think tanks have published studies on the reconstruction work in post-conflict societies.

Looking backwards at what the Western peace-, state- and nation-building engagement has achieved over the last more than 15 years in the Balkans (and beyond), where we have succeeded and where we have failed, stocktaking will be mixed:

The absence of violent conflict, of bloodshed, with very few exceptions (as, for example, the March events in Kosovo of 2004), has been the external peace-builders biggest success. In particular in Bosnia and Kosovo, most of their people have been enjoying that which the concept of "human security" defines. However, the example of the failed police reform in Bosnia has shown that SRR has not been successful in each and every case (as we have also seen with police reform in Afghanistan). The international interventions and the reconstruction assistance thereafter have at least brought basic democratic structures and processes, some more or less functioning administrative bodies, an everyday life without starvation and key infrastructure (with the exception of a reliable electric power supply, e.g. in Kosovo). On the other hand, the establishment of

---

<sup>30</sup> [www.sfb-governance.de](http://www.sfb-governance.de).

<sup>31</sup> Böhnke, Jan/Köhler, Jan/Zürcher, Christoph: Assessing the impact of development cooperation in North East Afghanistan 2005-2009: Final report. Federal Ministry for Economic Cooperation and Development, Evaluation Reports 049, Bonn 2010 ([www.bmz.de/Publikationen](http://www.bmz.de/Publikationen)).

the rule of law, in particular in former communist post-conflict societies, has proven relatively resistant to sustainable reform. Also, the educational sectors remain far behind European standards as does to a certain degree a functioning truly independent public electronic media.

Minorities have been protected successfully, again, with the exception of an ugly incident here and there, including religious monuments and sites. If, however, (ethnic) minorities have already been sustainably respected, accepted and even integrated, remains to be seen.

Refugee and internally displaced peoples' returns have remained problematic, be it in Bosnia or in Kosovo; this is also true regarding the return of houses, other property and official files. In particular Serbia and the Republika Srpska, but also others have not been too cooperative and accommodating in this respect; and the international community has shown neither sufficient determination nor provided the necessary funds and legal conditions for those returns agreed upon in the respective peace agreement (as e.g. in Annex VII of the DPA);

Ethnic divisions have tended to increase (e.g. in Bosnia) or remain problematic (e.g. in Northern Kosovo and Macedonia)—an ongoing headache for the helpless international community and a key obstacle to unity, reform and transformation in the direction of the Euro-Atlantic structures;

Also, in this context, both internationals and locals have mostly failed when it comes to introducing truth finding, truth accepting and the initiation of a reconciliation process;

The dramatically high unemployment in particular among young people threatens a peaceful, democratic and prosperous future of the post-conflict societies of the Western Balkans—neither locals nor international assistance have done their job satisfactorily; here lies a dangerous potential for renewed failures.

We have not found the appropriate approach yet to when and how to design the “exit strategy” for the external peace-, state- and nation-

builders.<sup>32</sup> In nearly every case, including in the Western Balkans, respective considerations were started only at the point of a threatening mission failure or mission creep. This has been mainly due to foreign governments and multilateral organizations shying away from defining mission goals and mission time frameworks at the start of a state-building engagement. Thus, both precise political and substantial criteria have been missing to eventually assess if such goals have been reached or not—the primary precondition to decide about when to exit. Afghanistan has been the first major case after Iraq, where on the side of the external peace-builders exit scenarios, exit timeframes and exit decisions were demanded by experts and the public. In Bosnia; the June 2006 decision to close the OHR so that the international engagement could be ended, has not been implemented yet; rather seven new goals and conditions (“five plus two”) as an exit precondition have been formulated; in Kosovo, the external state-builders are still far from setting up a respective exit scenario.

## 5. Lessons to be learned

External peace-, state- and nation-builders should apply the following lessons drawn from Western engagement in particular in Kosovo, Bosnia and Herzegovina, Macedonia, but also from Afghanistan:

*Institutionally and organizationally:*

- Be aware of our role as outsiders, with limited mandates and legitimating to interfere; leave room for ownership; keep the partners in the post-conflict society primarily responsible from the onset; avoid any perception of an occupation syndrome on the side of the host country population; do no harm to any of the societal groups involved, in particular by keeping strict impartiality;

---

<sup>32</sup> See Kupferschmidt, Frank/Thränert, Oliver: Bring the boys home!? Reflexionen über die Bedingungen von Auslandseinsätzen der Bundeswehr. In: Mair (Ed.), as in Fn. 4, pp. 20-31; Isobelle Jaques: Exit-strategies and peace consolidation in state-building operations. Report on Wilton Park Conference 965, Wilton Park 2009 ([www.wiltonpark.org.uk](http://www.wiltonpark.org.uk));

- Do not raise expectations too high, both within the failed society and at home; set up a “red line” of what must be done by the external state-builders, and what should be done by the society concerned; apply an interference and reconstruction self-restraint—in close coordination with the other external partners of the coalition of the willing and capable, but also with the local government;
- Set up an exit strategy (goals; time frame) at the start of the external engagement;
- Make best use of the comparative advantages of possible components (states; international organizations) of external state-building coalitions in order to create the best added value possible;
- Assure a joint planning and implementation concept among agencies at home, meaning on the donor side; set up an intervention, stabilization and reconstruction task force at home;
- Assure the establishment of a joint planning and implementation strategy among coalition partners; set up a joint Western/Transatlantic state-building task force for the engagement in the respective post-conflict society; agree on a division of labour among at least key external interveners and donors; make sure that there will be no double or even competing external actions and projects; beauty contests among foreign donors should be avoided;
- Make sure that non-governmental and informal actors, who are tasked to design and implement reconstruction and reform projects, are regularly informed and coordinated; accountability and transparency of these actors and their project work has to be taken seriously by external donors;
- Set up a mechanism to receive feedback on their project work and that of donor governments and multilateral donors; establish the requirement of midway and final project evaluations which should be compared to the exit goals;
- Establish national and possibly multilateral databanks into which all relevant stabilization, reconstruction and reform data are regularly fed—under the guidance of and with the assistance of research agencies;
- Establish on the ground an effective, possibly symbiotic cooperation between foreign military, diplomats and reconstruction experts, both governmental and non-governmental; the mechanisms

of the so-called civil-military cooperation may not be sufficient or widely enough accepted;

- Establish, on various policy, decision making and implementation levels, mechanisms for the coordination of foreign engagements and domestic structures; be aware of the fact that the involvement of domestic government structures may not be sufficient (lack of political will; conflicting domestic factions or parties to the former conflict; lack of capacity; corruption, etc.)—involve if necessary other societal groups or actors from civil society if existent; make sure that you meet with the domestic political structures in the legitimate fora foreseen by the constitution (avoid joint political decisions between the external and the domestic side only taken by ethno-nationalistic leaders, warlords, former rebel and liberation leaders);

*Policywise:*

- Take the host country's specific cultural, and societal framework into account, above all when it comes to the degree and shape of democracy and the concept of civil society; do not turn the country's value system upside down (constitution drafting!) where not needed to gradually stabilize, democratize and reform it;
- Parallel to SSR/DDR (with which to begin immediately): Start with the establishment of the rule of law; make sure to anchor this project within the post-conflict society, meaning families, school education, etc.; help create an independent, qualified justice system; establish an anti-corruption program, including public educational work;
- Help to establish effective government structures; do not forget the local level governments; launch a governance programme for all administration areas;
- Help in establishing democratic structures; start programmes to explain what democracy means, how it functions, and what the contribution of citizens should be; make sure that politics happen in democratic structures foreseen by the constitution and not only in backrooms where the old, non-democratic structures have survived;

- Assist in establishing a civil society as a self-confident counterweight network to the governing structures;
- Assist in establishing instruments and processes to overcome ethno-nationalism, ethnic, ethnic-religious or tribal division; assist in convincing the host country's societal factions to end de-mixing the population and to cautiously start ethnic re-mixing, facilitating refugee returns and working jointly on the creation of something like a minimum of "national" consensus and patriotism, without which the country will otherwise continue to lack the necessary engine to drive it politically and economically forward;
- Help to provide both a legal and economic framework for a free, independent, non-censored media; assist in organizing and protecting a public electronic media system;
- Capacity-building and education are key for the modernization of the post-conflict society, in order to reach the necessary level of competitiveness, for true democratization, the transformation of ethnic divisions and as a basis for reconciliation. This should include vast exchange programmes, especially for young people and promising elites, financed and hosted by the donor countries;
- A crucial part of capacity building concerns the training of administrative and juridical elites and functioneers. As long as national academies, for example for the training of civil servants, diplomats and legal personnel, have not yet been established, foreign assistance to provide this specific kind of capacity building should be offered.<sup>33</sup>
- Be cautious and restrictive, when it comes to temptations or demands to simply transplant so-called "Western" or "European" models—for instance in the fields of democratization (constitution drafting!), the establishment of political-administrative systems or the rule of law. Instead offer elements and advice from the state-building Acquis in these areas, and try to assist in developing a tai-

---

<sup>33</sup> Since 1992, for example, the German government has been offering executive seminars for the training of young diplomats to 130 countries, focussing on newly emerged states and post-conflict societies, among them Afghanistan, Bosnia and Kosovo; see [www.auswaertiges-amt.de/InternationaleDiplomatenausbildung](http://www.auswaertiges-amt.de/InternationaleDiplomatenausbildung).

lor-made model that fits to the society concerned, its history, traditions and culture.



# Hindsight is Easier than Foresight: Taking Stock of International Engagement in Kosovo

**Kommentar [B1]:** Nummerierung  
Fussnoten bitte auf 1 retourstellen -  
danke

Michael Daxner

The wide horizon of this session demands some concentration on a few key issues. I do agree with most of Michael Schmunk's observations<sup>34</sup> and thus refrain from repeating them, though they read like a check list of essentials in the debate. I will use the case of the Kosovo intervention as an example for my view on the region, and I shall try to generalize some of my experiences in the light of other, more recent interventions. A partially subjective approach is chosen as to demonstrate the problems of social scientists bearing on both shoulders the political and the scientific, while recognizing that they belong to two different systems.

Let me start with a few general statements that just give a frame for the considerations presented:

1. After 9/11 it was to be expected that the international interest would be shifted away from the Balkans to other regions of the world. However, it seems that recently, the halftime relevance of 9/11 has expired; this gives some hope that the ongoing conflicts on the Balkans regain more attention.
2. Within the field of intervention analysis, Kosovo (and perhaps Liberia) can be seen as blueprints for more massive recent intervention. Despite all differences, Afghanistan can be better understood with lessons taken from the Kosovo intervention.
3. Most conflicts on the Balkans, certainly those after 1989, are so difficult to be finally resolved because of their unembedded char-

---

<sup>34</sup> Schmunk has rightly referred to Jan Koehler's and Christoph Zürcher's accounts to the situation in Afghanistan in the context of research on security governance: the Research Center (SFB) 700 at the Free University Berlin deals with „Governance in Areas of Limited Statehood). Cf. Koehler and Zürcher 2007; Koehler 2008.

acter<sup>35</sup>. This explains both, the violent excesses during the wars in the 1900s and the difficulties in breaking common ground for durable peace.

4. Interveners – the „internationals” – should consider their legitimacy and capability to society building beyond their contribution to state building. The intrusiveness of the intervention is a crucial factor to peace building<sup>36</sup>.
5. Corruption is often mentioned as a detrimental element in the normalisation process. Partially, it is a problem of the „intervened” society and culture, quasi „indigenous”. But partially it is an imported phenomenon under the responsibility of the interveners.
6. Ethnic and religious divisions have increased after the intervention due to the interveners’ policies and misperceptions.
7. Which is more of a personal reflexion with no immediate foundation in the debate: The implementation of Gen. Stanley Chrystal’s assessment of the Afghan intervention teaches a lesson on how even grand strategies can be reverted and corrected albeit under hardship. Much of his fundamentals can well be applied to the ongoing problems on the Balkans, however, on a less explosive level.

The debate must produce some disillusioning uncertainties. If we assume that the intervention of 1999 was more or less justified if not mandated by the UN; if we further hold that the UN mandate under SecC Res. 1244 was viable though dangerously incomplete; if we also consider that 1244 does not even attempt to create a *regional* solution of problems, but remains fixated on Kosovo<sup>37</sup>, - then UNMIK and the main actors in the theatre did a fairly mediocre job; meaning that we could have done much better, and that we could have failed totally, which is neither the case.

The *accomplishments* are not little, if we speak of durable de-escalation of violence among states and large ethnic groups, and if we consider the

---

<sup>35</sup> The concept of embedded conflicts has been derived from the theories of Georg Elwert. Cf.: Julia Eckert (ed.), 2004

<sup>36</sup> Cf. Werner Distler in Bonacker u.a. 2010, 119-140

<sup>37</sup> The failure of the Dayton Agreement on this aspect remains one of the bleeding wounds of international diplomacy.

options that are still accessible. What Mr Swoboda, from the European Parliament, said<sup>38</sup> has not been satisfactory to those who expect a faster track towards Brussels and into the EU. „Realistic” positions never meet the necessarily „idealistic” visions of marginalized neo-romantic state-builders. However, the option of enlarging the EU and completing membership on the Balks is one of the real foci for aligning policies.

The partial *failure* of the missions (UNMIK, KFOR, EULEX) and the master-plans (UNMIK, Eide, Ahtisaari) is evident, however, it must be further analysed. Internal reasons should not be neglected, though the main problem still is the unclear coordination among the main actors regarding their *interests* and a *realistic* weighing of chances to turn them into reality. Never have I seen so many illusionary *what, if*-options than on behalf of Kosovo. The interesting aspect for the double-bound observer/ex-actor who I am, is now which one of the available option has now a chance, and for what reasons.

This is foremost a research program, an experiment on experiments. Let us just look at a few options not yet decided upon, irrespective of the rhetoric of status-negotiations:

- Is division along the Ibar border still an option? Are partition and the changing of borders still anathema since the UN and EU have decided not to consider them?
- Is an exchange between Presevo (Albanian population majority) and the North of Kosovo<sup>39</sup> (Serbian majority) an option?
- Is any population exchange an option?
- Will China and/or Russia drop their reservations against recognition of the state of Kosova in the Security Council?
- Can Russia/Serbia be compensated? What will be the costs for whom? Will there be a new (type of) broker?

---

<sup>38</sup> Hannes Swoboda described the variety of ways of most Western Balkan States into the European Union at his Dinner Address on 23 April 2010.

<sup>39</sup> I shall use the term Kosovo in the usual English reference, when I speak about the country, but call the state after 2008 Kosova. For characterizing or attributing to the people I have chosen the version Kosovar.

- Can Kosova, Montenegro or even Serbia become a member of NATO prior to any EU affiliation or membership? The question is of imminent interest, since a deployment of Kosovar (and, who knows, Serbian?) troops *out of area* would be realistic.
- Can the international community insist in opening a labour market between Serbia and Kosovo as a condition for negotiations and an incentive for increased support?

The question of partition has been touched at the workshop; the more popular discussion has been, whether cantonization as in BiH or decentralization as proposed for Kosova are preferable options. The argument against partition is that it would repeat, in fact complete, the ethnic cleansing and separation under Milosevic. An argument for partition would be that in Kosovo, different from BiH, the two main ethnic groups had never lived together, but apart from each other in a kind of volatile co-existence. This is true for parts of long common past, but untrue for other periods. Tim Judah (2010) has some more optimistic view on the scene, and he is in fact a most knowledgeable journalist. His comments on a possible population exchange are worthwhile reading.

Such questions are uncomfortable, because they show choices which, by and large, never have become real options for real players. Some answers had short halftime life like LCD displays at a certain moment, others are simmering under the cover of a highly regulated politically correct language, and none is a trump card in the hands of a strong player. Explanations for why that is so can be drawn from very different and incompatible theories and assumptions:

- More than one major actor acts without sufficient information
- Interests in a specific resolution of the conflict are blurred or irrelevant or overarched by other, more important interests
- The complexity of the situation is such that its reduction can lead to severe damage of other systems
- There are too many conflicts of identity, which are considered to be irresolvable, as to be disentangled
- Actors stick to dogmatized good practice from previous operations and do not become aware of the need to change their approaches

- The root conflict is not very violent at the moment, but chances to socially embed it are too little as to leave it to Kosova and Serbia alone; or: the two must solve the main problems and external interference and intrusion might be detrimental

For this workshop, I have chosen an unusually subjective approach. There is a specific reason for that: for me, Kosovo was the initiation into a scientific field that could be called *anthropology of interventions*. Of course, there is a wide and elaborate spectrum on all aspects of peace-keeping, peace making, peace-building in the context of nation-building, state-building and a wide range of interfaces with fields such as R2P, Human Security, governance in areas of fragile statehood<sup>40</sup>, post-conflict governance etc. Ethnology has played an important role in most interventions of longer duration, and embedded anthropology has become a major concern of situations like the counter-insurgency in Afghanistan. Security has gotten dimensions that are much more complex than the re-establishment of a monopoly of force or the establishment of local or national security forces or creating a certain sustainability of delivery of other public goods depending on security. Power, violence and fragmented social structures have changed their appearances, and many interventions saw *unprepared* actors (no *moral* judgment!).

Even if we select only the most reputed and widely accounted analyses and assessments of the intervention in Kosovo 1999 and its long-lasting post-intervention effects, there is no dominant theoretical judgement about the quality and outcome of that intervention. Many of the empirical findings and normative positions in politics are used to bolster certain theories on intervention, peace-building and post-conflict societies, but none of them is compelling as to push politics beyond a certain point of resignation and wait-and-see attitudes. I shall give a subjective and personal report on a few observations rather than a systematic review of the situation, just as to answer the challenge to being summoned under the rubric of „practitioner” at this conference. It is for this reason that I

---

<sup>40</sup> This consideration has brought me to collaborate in the SFB 700 (Research Center on Governance in Areas of Limited Statehood): [www.sfb-governance.de](http://www.sfb-governance.de)  
Cf. Footnote 1.

do not even try to give an overview on the theoretical efforts to get a comprehensive picture of the situation in Kosovo and with regard to the major players in the Balkans game.

Most of what I have to report on Kosovo is ready for discussion and open to critical remarks. Since I worked for UNMIK 2000-2002, I am trying to include my experience and my theoretical considerations into a broader frame of sociological, ethnological and political theories. Looking into the future of Kosovo, much of the recent history and the true stories have to be reconsidered as the material upon which emerging societies base their identities and their concepts. I am neither an optimist nor a pessimist nor only a realistic observer. I had a moderate share in both governance and effects of UNMIK policy and its interplay with all other actors in the post-intervention society.

My professional and personal observation and analyses on the job had influenced me a lot since 2002. It is a long period of time since I was involved in a policy that is now under critical review. Almost 10 years have gone, and after 2003 my commitment to Kosovo had changed into the position of adviser, reviewer and occasional counsellor. I consider Kosovo as a blueprint for some lessons learned, and it has become a long way from soft footprints and robust mandates to the present day disillusioned exercise of state building. Of course, 9/11 had little impact on the Balkans but for the easier recruitment of more willing coalitioners in some countries, however, it had changed some of the terms of intervention in other parts of the world; today, it seems that the *War on Terror* has lost its appeal to politicians and we have returned to more adequate policies and expectations. However, I am still „in” the issue, both through theory and much research of my graduate students and political partners. In the meanwhile, theory and assessment on the events have both changed. Younger scholars have a strong inclination to „objectivation”<sup>41</sup> in their account to the recent history of an intervention, partially by de-contextualizing it from the overly complex situation of some of

---

<sup>41</sup> The term is very important in the context of the theories of Pierre Bourdieu, who claims a strong empirical objectivation of both constructions and theoretical deductions in „real“ social environments.

the main actors, such as Germany or Austria, in their decision to become players in the game and to change their expected post-war roles, on the other side, these younger scholars are certainly much more expert than we, the practitioners, were on site, when it comes to gender, human rights and civil society. All these aspects were not alien to us, but during the emergency period until, say, mid-2000, they could not gain the prominence that their absence finds now in judging the results from UNMIK and KFOR policies. Finally, let me say something personal: as a matter of loyalty and duty, public criticism of UN policies is most difficult if you are a member of the mission. Much of what has been criticized from the beginning of the mission was debated heatedly during our assignment, albeit internally. Criticism *ex post* is always easier, but with the shale taste that if we had acted as we knew we should, things would have developed in a better direction. Maybe this is the case.

But on the other hand, it is not likely that even under best practices UNMIK could have changed the decidedness of the United States to push forward Kosova's independence at almost any price, and it is neither likely that UNMIK could have changed the texture of the Kosovo society beyond ethnic lines without a much stronger meeting the expectations of a very strong mandate, which, however, has never gone robust. I am not sure whether more massive peacekeeping would have supported more effective peace-building, but I am sure that much of the present political quagmire could have been avoided. Thus, I am not altogether happy with the outcome of the UNMIK mission, which, in the beginning, seemed to be a step into new era of global governance. But sociologists should not be happy about what they analyse; they should draw conclusions and try to understand, what they explain.

When I started to work for UNMIK, in January 2002, my knowledge of the society in which and for which I was supposed to work, was preformed by many years of higher education policy – and by my early tourist experience from the 1960s. Higher education in former Yugoslavia (FRY) had become a critical issue for the European higher education community – the Bologna Process in the making focussed on the virtual enlargement of the EU and the confrontation with reality was fuelled by

new states and old systems producing overlapping structures.<sup>42</sup> The tourist reminiscence was important for a certain inscription of the country and its people into the cultural memory of a person whose perspective was peace-building under the auspices of diminished or fragile statehood and society building much more important than state building. Despite the fact that I was relatively well prepared and had some knowledge on the region and its history and social structure, I felt a permanent need to make up for issues that never had occurred to be important for my discipline and my cultural attitudes. One eye-opener was certainly the accurate practical importance of Maria Todorova's „Imagining the Balkans”. The consequences were enormous. The ethno-political approach by the UN (Res. SecC 1244) was crumbling from the beginning, and understanding the Balkans had to start with understanding ourselves, in historical perspective and at present. All at once, my practice became split into the executive office, quasi a minister of education and higher education for a protectorate and a powerful administrator of one of the most demanding sectors of civil reconstruction; and into the function of an intellectual observer, who meticulously studied his own actions under the rigid norms of social science and humanitarian aspirations. What is the purpose of „Lessons Learned” when you meet them in the field? This is true not only for civil administration, diplomats and NGOs, but also for the armed forces, of course. Kosovo has produced a good number of personal reports, diaries, and spontaneous history, - such as General Reinhardt's voluminous account to his mission. Today, blogs are even used to enforce particular mindsets and thus add to the discourses that are part of society building in the intervened countries and to the homeland discourse which becomes an increasingly important source of legitimacy for the wars we are fighting, whether they are wars or not.

A political expert entering a protectorate administration does not have enough time to theoretically consider the structure of the institutional player. My experience so far was either to be a scientist advising politicians, or a political delegate using a very limited range of executive

---

<sup>42</sup> Daxner 2003 (on the adaptation to „European” standards under the pressure of intervening externals), and 2007 (on the persistence of management under changing social circumstances)

power within established institutions, such as European Rectors Conference or the Council of Europe's respective bodies.

I do not want to compare the Kosovo intervention with Algeria in 1960, but the personal experience can well be translated into Pierre Bourdieu's decisive perception of a *society of intervention*. He did not use this term, but I made very early an entry into my diary: we need more *anthropology of intervention*. It was clear that it is not enough to sensitively approach the local people; we must also understand ourselves and our role, in order to make the local people understand why we are here, what we are doing and what will be their perspectives under our regime. Isn't this an almost trivial foundation of most post-colonial and humanitarian interventions? Yes and no.

UNMIK's practice of building a protectorate and starting reconstruction of a society had a sensible rationale: *Peacekeeping through administration*. But to what end? And how?, were questions insufficiently answered for many reasons. One reason was that *society building and nation-building* or *state-building*<sup>43</sup>, let alone the regional peaceful reorganization, had no solid normative base. Neither Res SC 1244 nor the NATO-directives for KFOR gave more than a vague orientation, which was permanently modified by strong actors like the US diplomacy and military and other transnational or local players in an over-complex game.

The learning process of such incoherent situations is not so easy, when it comes to the strong player's executives: their rationale of concrete action – deciding, legitimizing, „doing” – is prefigured and highly determined,

---

<sup>43</sup> During the conference it became clear that „nation-building“ in the US-context and „state-building“ in the European context need permanent translation and re-interpretation of the partners from the two continents work together on the same agenda. The strong contractual notion of „nation” in Europe has furthered the trend to exclude the Balkans from the ability to build nation-states; Balkan nationalism has, indeed, supported the building of new ethnic people states, but this is not due to the western interpretation. I just want to warn of taking over American notions of state and nation too readily without translating them into the European context.

with and without their conscious awareness, - at least, *before* they start to doubt into some of their basics. This learning process is not really supported by the peers of a mission, moreover, the political side of a mission – the political officers, the heads of department, those with big social capital and an area of responsibility towards society, are quite different from those who run a mission, top down from the Director of Administration, and straight into the secure bed of best practice as customary imperative. For quite a few reasons, I felt privileged being allowed to learn fast, one reason was certainly the very close contact with local people who were at the same discursive level – academia had already then a global *habitus* and a set of common interests. Another reason was my relative closeness to both Bernard Kouchner, the SRSG, and to Tom Koenigs, the Deputy SRSG for Civil Administration. They helped to understand that not everything that I learned was based on intentions and strategy.

When I say that we played „statehood”, this is a fundamental insight into a process that is relatively new to the UN (perhaps rivalled only by East-Timor at that time). We behaved like a government, we developed governance as if we were laying ground for a real state, and we had our lessons learned, i.e. we included the local peers from the beginning. But it was an experiment (cf. Rottenburg 2010) under vague conditions. Veton Suroi had stated that statehood for Kosovo Albanians was never better than under the parallel system after 1989 (Suroi 2000), and indeed: UNMIK, assisted by GOs, NGOs, the EC and other institutional and national actors, tried hard to establish a state – without enough legitimacy to do so – and just created fragile statehood and a government that would not really match the expectations in a new fully sovereign nation-state.

Not even today, after the one-sided declaration of independence in February 2008 and the installation of the EULEX mission, Kosovo is what you would call a functioning state; despite the fact that some internal institutions and procedures look like normalcy in normal states, and despite the fact that sovereignty is not the only element of a sound state.

The arguments of *Vetevendosje*, „Self determination”, will connect with this observation<sup>44</sup>.

From my double role what I was doing seemed to be strange, and it does not look much better from today’s distance. The society we had been working in was not what societies ought to be in a strict theoretical sense: it was a society, (and is one) of course, but one with many elements and structures stemming from the intervention. The result of this observation was the theoretical construct of a society of intervention, this is now a standing term in the European debate and within the scientific community.

Societies of Intervention are the grand theme of my research since, and it has become a recognized field, by no means a niche, in research on peacekeeping and nation building<sup>45</sup>

Kosovo as a society of intervention follows the main features of such society.

- Every intervention creates a society of intervention after the cessation of military violence ending the original conflict. It is not necessarily a post-conflict society, because it develops its own follow-up conflicts. These are not necessarily linked with or dependent on the root conflict.
- All societies of intervention are structurally similar; this is true independently from the circumstances of government, indirect rule, strong or less strong pressure on the interveners etc. It does not mean that societies of intervention do not widely differ with regard of cultural and social phenomena.
- The entanglement of interveners and the intervened as a temporarily „new” society is typical for societies of intervention. This „blending” of elements is not necessarily true for all private and contingent encounters and interaction among the two groups. Even if there are clear structures of subordination and dominance, there

---

<sup>44</sup> www.....;

<sup>45</sup> Bonacker et al. 2010

is no clear one-dimensional hierarchy like in colonial structures or under purely military occupation. Quite often, we find a collusive relationship among actors from both groups.

- The close relationship between interveners and the intervened produces new social entities and groupings. This is important for governance, especially on the level of life-world, because traditional qualities, such as values, conflict regulation, rituals etc. do no longer function. Such loss of identity on life-world level is also true for many interveners. The interveners are much more dependent on the homeland discourse than they may think (the homeland discourse is the discourse on the entire intervention in the country of interveners. There are competing discourses whenever more than one intervening nation is involved). Of course, the intervened develop their homeland discourse in the course of the ongoing society of intervention.
- There is a lot of cultural and social re-interpretation of the society needed, if both, interveners and intervened, want to collaborate. If they follow their own intentions or develop diverging perspectives, the society of interventions will not allow embedded conflicts, but create the potential for an escalation of follow up conflicts. This is the field, in which concepts of identity, dignity, honour and informal institutions become relevant to the structure of an entire society, insofar as the acceptance of norms and rules, as dictated from the systems level, is not granted. (cf. Daxner in Bonacker 2010)

The problem in Kosovo was that the orientation of people (= the intervened) towards a symbolic issue (=independence) and, for the Albanian majority, the expectation of getting rid of Serbian domination overarched any strategy to attain statehood. The state was not a realistic goal to achieve, its formal qualities however had been imperative for the politics of the main actors. On the symbolic level, self-determination and liberation were stronger than pragmatic becoming party in a regulated game with clear rules.

It was clear that our status as „liberators” would soon change into the role of „occupiers” and, at least, unwanted foreigners who hinder self-determination. Within the legal and structural framework of new Europe,

it is hard to imagine a full self-determination with state-based governance that grants simultaneously security, the rule of law, welfare and a stable republican society-building. As *liberators*, UNMIK could credibly implement *peacekeeping through administration*. (This was a dominant role, even if participation of the intervened only *simulated* equal status). But the next step, after the period of emergency, did not run so well. *Peace-building through development* needed more than local „partners“; it needs a common interest within the society of intervention. This interest lacking, the partial failure of the entire experiment can be explained.

But it was not a total failure; it would be unfair to say that the regional actors (Albanians, Serbs, other ethnic groups) would be unable to govern their affairs. What we have seen is that governance could not sustainably improve, due to the poorly coordinated impact from the over-mighty big players (US as patron of the new state, Russia and China as antagonists in the Security Council, the EC as an undecided partner of the new state with more interest in stabilizing Serbia and Bosnia, and NATO in search of new role at large). Thus, we observe governance beyond and off the state, which reduces the impact of the question whether the rule of the ruling elite is legitimate and a sustainable structure upon which a sound statehood can be built (cf. Börzel 2010).

We could anticipate some of these developments, but not all of them. Simulating statehood is not that easy, if one attempts to create functioning and operational administration, institutions and trust, and to deliver public goods as no one else would.

In this situation, I found three aspects rather important:

- UNMIK acted, as many of the regular staff freely admitted, according to an established pattern. there was a proven, legitimate practice, and *within* the experiment of statehood by mandate there should not be any more social experiments than this practice indicates as a „doxa“ (but for one exception: the introduction of the Euro by SRSG Kouchner in 2001). In other words, inflexible practices replaced the impact of both theories and adaptations to the

situation as analysed from a wider angle, i.e. the end of the intervention.

- Our administration was forced to hand over the ideological and political powers to the local partners before they were given responsibility over money and instruments. (This happened in the course of implementing the provisional constitution and self-government in 2001-2002, under SRSGs Haekkerup and Steiner). It created a certain sense of irresponsibility and negligence towards the self-determined building of a bureaucracy (Max Weber) and effective institutions by the Kosovars.
- The level of collusive situations between Kosovars and interveners was relatively high. This was detrimental more for the credibility than of the functionality of institutions. But I think that this is how protectorates function.

In retrospect, civil administration had needed either a clear mandate to build a new nation state among other states; these states had been created as consequences from the dismemberment of the FRY – and they are more likely to become medium-stable *ethnic people-states* than *nation states*; or shared trusteeship with an equally clear open-end mandate would have allowed to turn the game of statehood into one of state-building. Of course, the first option was not only blocked by the Security Council and the US determination to take side for the Albanians in Kosovo; it is still a problem of the precedent character of the intervention (Caucasus, Republika Srpska) and subsequent state-building including recognition and embedding into supra-national structures (as a bait and realistic option for both Kosovo and Serbia). The second option would have been more realistic, but had needed more careful design of a protectorate and less of a transition from liberation into independence on unclear terms. Even the debate on models like the UN-brokered accord on South Tyrol were silenced or tabooed. (SRSG Steiner's *Standards before Status* was nice wording, but pragmatically inappropriate, since governance off state was dominant in many sectors that did not need the legitimacy of status – except for ideological and identity reasons).

While some of the formal institutions, especially legislation, on education and higher education, could be seen as a success in my own field of

higher education, I was dissatisfied because of another side of our work. It was impossible to negotiate beyond very insignificant issues that regional features, e.g. the cross-boundary labour markets or accord on recognition of former titles and rights, would be established prior to political agreements on high level. Until today, this is one of the weaknesses of both the Ahtisaari-Plan and the subsequent developments. This may even strengthen the existing strong actors beyond the state and a government that would need internal legitimacy more than internal and international recognition.

All these, and more, questions are „rational” and they are „choices” beyond the interaction of institutions at the present stage. The model seems to be too complex for *rational choice*, but not for systemic conflict analysis. This analysis can be part of the political process, turning our initial position – scholars doing politics – into the opposite – politicians doing science of intervention.

The workshop and, in particular, our panel have been asked for an intermediate assessment. It is not so difficult to display a few scenarios going far into the past and naming (and shaming) many responsible actors and groups. It would not always help us to do so, because the explanation of so many inconsistencies and failures does not always open our eyes for corrections and new options. This is why Michael Schmunk's check-list of failures and recommendations may be helpful for an accurate assessment.

My own point of view may introduce some complementary aspects:

- There is not enough awareness of the social and cultural texture of the societies; their life-world is neglected by the view from system level (and reversely, traditional and customary features have undergone more massive changes than people might be aware of);
- Occupation, intrusiveness and inconsistencies of the external actors have created a certain sense of irrelevance for the local actors, and, at the same time, an attitude of (un)comfortable accommodation with little accountability to their own future;

- Security and Stability are not congruent; both are necessary ingredients for a sustainable new order of the region, but do not replace long-lasting peaceful structures and perspectives.
- The time to accomplish the goals and missions of external intervention had been underestimated in the beginning; now, diachronic developments dominate the windows of opportunity.

## References:

- Börzel, Tanja (2010): The Shadow of Hierarchy. Working Paper Series, (FU Berlin SFB 700)
- Bohnacker, Thorsten; Daxner, Michael; Free, Jan; Zürcher, Christoph (2010): Interventionskultur. Wiesbaden (VS)
- Daxner, Michael (2003): A Coherent Policy on Soft Sectors for South East Europe. Vienna 2003 (BMBWK)
- Daxner, Michael (2004): Academic Freedom and Institutional Responsibility in South East Europe (1989-2003). Bologna University Press (Bologna)
- Daxner, Michael (2007): The Imagery of Enlargement. In: Pausits and Pellert (eds.): Higher Education management and Development. Waxmann (Münster)
- Dzihic, Vedran and Kramer, Helmut (2005): Die Kosovo Bilanz. LIT (Wien)
- Judah, Tim (2010): At Last, Good News from the Balkans. NYRB March 11, 2010
- Eckert, Julia (2004): Anthropologie der Konflikte. Bielefeld
- Koehler, Jan und Zürcher, Christoph (2007): Assessing the Contribution of International Actors in Afghanistan. SFB Working Papers Series, No. 7 (SFB 700, FU Berlin)
- Koehler, Jan (2008) Die internationale Intervention in Afghanistan. SFB Working Papers Series No. 17 (SFB 700, FU Berlin)
- Rottenburg, Richard (2010): States of Emergency, Interventions, Experiments (Workshop on „Global Practices of Security Governance in the Postcolony, FU Berlin SFB 700
- Todorova, Maria (1997): Imagining the Balkans. University Press (Oxford)

Suroi, Veton (2000): Past as Prologue? The International Spectator, Vol. XXXV, 1, 27-33

Further links with research on the society and culture of intervention:  
[www.uni-oldenburg.de/interventionskultur/](http://www.uni-oldenburg.de/interventionskultur/) and  
[www.sfb-governance.de](http://www.sfb-governance.de)



## **PART II:**

# **LESSONS LEARNT FROM ESTABLISHING A PEACEFUL AND COOPERATIVE SECURITY ENVIRONMENT**



# **The Military and the Fight against Serious Crime: Lessons from the Balkans**

Cornelius Friesendorf

## **Abstract**

Serious crime poses major obstacles in peace operations. International actors intervening in war-torn countries face the challenge of putting pressure on suspected war criminals, members of organized crime groups, those who instigate interethnic violence, and corrupt officials. While it is widely acknowledged by now that serious crime and public security gaps cause lasting damage to international stabilization efforts, international and domestic policing structures remain weak. This article examines the law enforcement role of international military forces. It shows that in post-war Bosnia-Herzegovina and Kosovo, military support to crime-fighting has been unsystematic, although improving over time. Practical, political, and normative reasons stand in the way of employing the military for law enforcement tasks. However, under conditions of weak policing, preparing the military for law enforcement is necessary for better protecting citizens against serious crime.

## **Introduction**

Using the military for law enforcement is a major dilemma in peace operations.<sup>1</sup> International police forces are generally unable to prevent or punish serious crime such as interethnic violence and organized crime. Domestic security forces are either absent or sources of insecurity. The onus of filling public security gaps and of fighting serious crime therefore falls on international military forces.<sup>2</sup> However, the military is reluctant to fight crime and not good at it. Equally important, principles of

---

<sup>1</sup> For an extended discussion of the views advanced in this paper, see Friesendorf 2010.

<sup>2</sup> On security gaps, see Oakley, Dziedzic and Goldberg 1998.

Security Sector Reform (SSR) prescribe the separation of military from policing functions. Using the military for law enforcement tasks is therefore a tough choice.

This article focuses on post-war Bosnia-Herzegovina (in the following referred to as Bosnia) and Kosovo. It shows that decision-makers and practitioners in these two „international protectorates” have dealt with this dilemma in an *ad hoc*, unsystematic way. This is not only, and not even primarily, the fault of NATO and/or EU military forces. Instead, unsystematic crime-fighting by the military represents a general failure of states and international organizations intervening in war-torn countries to protect people from violence. There was and there is no panacea for stabilizing war-torn countries or for countering rioters, „ethnic cleansers”, war profiteers, and corrupt officials. But if the military had intervened more systematically, lives would have been saved and faster progress would have been made in overcoming the legacies of violence and crime that continue to haunt Bosnia and Kosovo.

*Systematic* military involvement in law enforcement, as called for in this article, often means *more* military involvement in law enforcement, including direct participation. This is particularly the case during the early stages of post-war intervention, when the weakness of police forces is most apparent and when security conditions are detrimental to the application of civilian policing strategies.<sup>3</sup> This article shows that the reluctance of international military forces to engage in what civilian and military officials continue to regard as policing tasks has been very costly. But the military can also do too much and engage in belated activism.

Three caveats are in order. First, the article supports the SSR principles of separating the military from the police, and to give primacy to the police in internal security. But calls for the deployment of more international civilian police (CIVPOL), though ever-louder, are still not being heeded. Rethinking the role of the military in peace operations is therefore crucial. Second, coercive strategies against „spoilers” of post-conflict stabilization are necessary for stabilization efforts to succeed,

---

<sup>3</sup> See Bayley and Perito 2010.

but not sufficient. Economic reconstruction and social reconciliation are equally important for building sustainable peace. Even better, conflict prevention should be prioritized. Third, terms such as law enforcement, serious crime, and organized crime oversimplify a complex reality. The assumptions inherent in these concepts are culturally and temporarily contingent, reflecting the interests and prejudices of influential actors.<sup>4</sup> This paper defines serious crime as criminalized acts that destabilize reconstruction and peace building efforts.<sup>5</sup>

The first section of this article examines the need to close post-war public security gaps, and the dilemma of using military forces to this end. The second section analyses the performance of NATO and EU military forces in the fight against serious crime in Bosnia. The third section focuses on the role of NATO in post-war Kosovo. In a last step, drawing on the results from the two empirical illustrations, the article suggests steps for improving military support to law enforcement in war-torn countries.

## **Security Gaps and the Military**

The distinction between military and policing functions is an important feature of the modern democratic state. It reflects another distinction: the one between internal and external security. The military is to protect the state and society from external security threats, whereas the police should hold primary responsibility over internal security.

There are good reasons for why the military should not become embroiled in policing tasks.<sup>6</sup> Soldiers tend to think in terms of friend and foe. They are trained and equipped to use overwhelming force to secure victory. Secrecy is highly valued. Also, soldiers tend to be remote from normal society. Police, by contrast, especially regular police forces, interact with citizens on a day-to day basis, are trained to use minimum

---

<sup>4</sup> See Andreas and Nadelmann 2006.

<sup>5</sup> See also Rausch 2006.

<sup>6</sup> See Haltiner 2001.

violence, and can therefore inspire public trust.<sup>7</sup> Evidence collection and handling is a central police task aimed at the successful prosecution of alleged criminals. Employing the military domestically is therefore not only problematic because democratic criminal justice norms are likely to be violated, but also because the military lacks the technical policing skills needed.

Divisions of labour between the military, the police, and also intelligence agencies are increasingly breaking down, however. Even during the Cold War, the state model stressing the distinction between military and policing tasks was an ideal-type. For example, as part of the „war on drugs”, the United States employed military force to fight the illicit drug industry abroad. At home, counter-drug operations of the National Guard became more frequent, while the police was paramilitarized.<sup>8</sup> In Northern Ireland, the British armed forces were deeply involved in the fight against the Irish Republican Army. Other countries, such as Italy, France, and Spain, have had gendarmerie forces for a long time.<sup>9</sup> Even countries such as Germany, where the division of labour between the military and the police as well as strict provisions against the creation of a political policing apparatus reflect historical experiences, saw a need to strengthen their police forces to cope with terrorism in the 1970s.

The end of the Cold War served as a catalyst for efforts to establish democratic control over security forces in former Communist countries. Promoting a division of labour between the military and the police became a central tenet of SSR, a concept developed in the late 1990s that built upon earlier strategies of democratization and that has evolved into a crucial element of post-conflict stabilization efforts.<sup>10</sup> One SSR expert writes that „in principle it is undesirable that the military should be involved in civilian law enforcement”.<sup>11</sup> Similarly, the SSR handbook of the Organization for Economic Cooperation in Europe (OECD) stresses that the military „should only be used in highly exceptional and well

---

<sup>7</sup> Mobekk 2005: 5-6.

<sup>8</sup> Kraska 2007.

<sup>9</sup> Lutterbeck 2004; Zimmermann 2005.

<sup>10</sup> Hänggi 2009.

<sup>11</sup> Born 2003: 54.

defined circumstances (for example, during a state of emergency); either under the direction of the police or in joint command of operation“.<sup>12</sup>

But paradoxically, the end of the Cold War also spurred a countervailing trend, whereby military-police relations were blurring, reflecting a conceptual and empirical collapse of the distinction between internal and external security. As the Iron Curtain was opened, and as globalization redefined time and space, diffuse security risks partially replaced the military threat spectrum that had hitherto defined international security. Terrorism and organized crime became increasingly transnational and networked.<sup>13</sup> Problems whose cause was partially abroad therefore had an impact at home. Also, internal warfare became the predominant type of war. Such wars are characterized by the victimization of civilians, a breakdown of law and order, the collapse of state institutions, and pervasive criminality. Effects such as the migration of refugees to safer places are felt beyond the borders of collapsing states.

These and other dynamics accelerated the broadening of military tasks, the constabularization of the military, the internationalization and paramilitarization of the police, and the reorientation of intelligence agencies.<sup>14</sup> States have increasingly been trying to integrate their internal and external security instruments. With regard to armed forces, European militaries are now being used for a variety of purposes, including disaster relief, the delivery of humanitarian aid, and also law enforcement support. As Ehrhart and Schnabel write,

Traditional functions of national defence and deterrence give way to, or are complemented with, capacities to engage in conflict prevention, peace enforcement, peacekeeping and the restoration of security and order. In this context, the main goal of military activities is not the defeat and elimination of an adversary, but the creation of a safe environment for a

---

<sup>12</sup> OECD 2007: 164.

<sup>13</sup> Arquilla and Ronfeldt 2001.

<sup>14</sup> Andreas and Nadelmann 2006.

comprehensive and inclusive post-conflict political and social order.<sup>15</sup>

Generally, troops are not allowed to arrest citizens. Their role is mainly confined to supporting the police, by deterring violence, providing logistical support and intelligence,<sup>16</sup> and training specialized police forces in skills such as sharp-shooting. But the line between support and direct involvement in law enforcement is often thin, and may not exist at all, as is most dramatically the case in peace operations.

In internal wars, serious crime is rampant.<sup>17</sup> Also, problems linger on as war-torn countries transit to volatile peace. The resources of international military forces usually dwarf the resources of civilian actors, especially in terms of personnel and equipment such as surveillance equipment, military weaponry, and transport capabilities that may be needed to apprehend sophisticated, well-armed individuals and groups committing serious crime. Also, the military may be the first international actor to move into a post-war country in large numbers, and be the only security actor for some time.<sup>18</sup> Moreover, it is often difficult to distinguish between „normal criminals” who are best dealt with by the police, and suspects who undermine a safe and secure environment, and are therefore of interest to the military. For instance, those who have committed war crimes may continue to be involved in organized illegal activities (such as weapons smuggling) after cessation of hostilities, and may also perpetuate inter-ethnic violence. The main task of the military is to establish a safe and secure environment so that civilian agencies can proceed with reconstruction, the rebuilding of the economy, the strengthening or creation of indigenous state institutions, peace building, and the arrest and prosecution of suspected criminals. In practice, however, the onus of fighting crime tends to fall on the military.

---

<sup>15</sup> Ehrhart and Schnabel 2004: 10.

<sup>16</sup> See Zentrum für Internationale Friedenseinsätze 2003: 96.

<sup>17</sup> Mueller 2004.

<sup>18</sup> Bronson 2002.

Military involvement in law enforcement is problematic because, as mentioned above, the military is generally ill-equipped and ill-trained for this task. There is no lack of calls for a more proactive military stance.<sup>19</sup> Yet, the military does not relish policing,<sup>20</sup> regarding it as „mission creep” that confuses military functions and undermines morale. As Robert Perito writes, „military forces are unwilling to tackle situations that involve controlling civil disturbances and law enforcement.”<sup>21</sup> In the US military, fear of mission creep results from experiences in Vietnam and Somalia, as well as the fact that while wars can be won, crime-fighting is a continuous task.<sup>22</sup> This stance has permeated peace operations in general, given the preponderant role of the US in international security.

Direct military participation in law enforcement is problematic for another reason: it runs counter to the SSR objective of separating military from policing work. Such a separation is a precondition for democratic governance, as blurred responsibilities make it difficult to hold security actors accountable. A separation is particularly vital in countries emerging from internal warfare. In the Balkans and elsewhere, paramilitarized police, sometimes in cooperation with military forces and non-statutory paramilitary groups, committed numerous human rights abuses. Fostering public trust in the police therefore requires de-militarizing the police, as well as curtailing the remit of the military. From this perspective, undue involvement of foreign military forces risks undermining the credibility of SSR efforts; international actors cannot preach one thing and do the opposite.

Drawing the military into the law enforcement realm therefore bears considerable risks and costs. But international intervention in the Balkans shows that the costs of failing to fight crime exceed those of expanding the military task spectrum. Without law enforcement, stabilization, development, and peace building will fail. Bosnia and Kosovo

---

<sup>19</sup> See, among others, Jones et al. 2005: 225; Marten 2007.

<sup>20</sup> For an early treatment of this issue, see Janowitz 1960: 419.

<sup>21</sup> Perito 2004: 5.

<sup>22</sup> Hills 2001: 81; Mueller 2004: 22.

show that unsystematic military involvement in law enforcement stands in the way of protecting citizens of war-torn countries from serious crime.

## **NATO and the EU in Bosnia**

The military presence in post-war Bosnia was massive. NATO deployed tens of thousands of soldiers as part of the Implementation Force (IFOR), followed by the Stabilization Force (SFOR). The aim of these missions was to create a safe and secure environment and to implement the military provisions of the Dayton Peace Accord. NATO made quick progress with regard to these provisions. But troop-contributing states neglected law enforcement, clinging to an overly restrictive interpretation of the IFOR/SFOR mandate. Consequently, especially during the early period after Dayton, they failed to devise Rules of Engagement (RoE) that would have allowed soldiers to put pressure on those committing serious crime.

Bosnia in the 1990s was a devastated country. Many of those who had benefited from the war remained in powerful positions after the war, and new entrepreneurs came to the fore as well. A public security gap quickly opened up, resulting from a confluence of factors. First, NATO was reluctant to become engaged in law enforcement.<sup>23</sup> Second, civilian policing (CIVPOL) was weak; the United Nation's International Police Task Force (IPTF) deployed late and suffered from a lack of capacities (for instance, IPTF officers were unarmed).<sup>24</sup> Third, indigenous security forces represented the main sources of insecurity.

The reluctance of IFOR and the first rotations of SFOR in fighting crime manifested itself in various ways. NATO failed to arrest suspected war criminals indicted by the International Tribunal for the Former Yugoslavia (ICTY). This stance was motivated by the fear that such operations would trigger public unrest and complicate force protection.

---

<sup>23</sup> Sharp 1997/1998.

<sup>24</sup> For scathing criticism of the UN in Bosnia, see European Stability Initiative 2007.

NATO was also reluctant to put pressure on paramilitary police, which continued to harass citizens and which impeded freedom of movement, as well as illicit intelligence agencies affiliated to nationalist parties. Organized crime was even lower on NATO's priority list. The difficulty of the military to fill security gaps was most evident with regard to Crowd and Riot Control (CRC). Numerous times, mobs attacked members of other ethnic groups (especially returning refugees), as well as international actors, including NATO soldiers. The evacuation of Serbian neighbourhoods in Sarajevo in early 1996 was an early indicator of NATO's unwillingness to intervene in violence that remained below the threshold of war.

Slowly NATO member states came to realize that a withdrawal from Bosnia was not feasible in the absence of progress made in the civilian realm. Troops thus began to arrest suspected war criminals, and to improvise against rioters and „ethnic cleansers”. But their performance varied across and even within the various national contingents. Generally, troops were not trained and equipped to engage in CRC, least of all in securing evidence on crime. Gendarmerie forces, deployed in 1998 as Multinational Stabilization Units (MSU), sometimes were able to defuse tension or to intervene by way of well-calibrated use of force. But the MSU were under-utilized in areas over which they had a competitive advantage (such as CRC and operations against organized crime), since commanders of regular military forces did not quite understand the role and structure of gendarmerie forces.<sup>25</sup> Equally problematic were the national caveats imposed by troop-contributing countries that limited the military's ability to support law enforcement. In some cases, the military as well as civilian institutions even exacerbated crime, as was the case with the human trafficking industry that thrived not least due to demand for commercial sex from foreigners.<sup>26</sup>

Crime-fighting was further hampered by insufficient cooperation and coordination between military and civilian actors, reflecting different

---

<sup>25</sup> Perito 2004.

<sup>26</sup> Human Rights Watch 2002.

mandates, standard operating procedures, and identities. The Green Box/Blue Box concept was conceptually innovative. But in practice, it proved difficult to ensure that the military (safeguarding the Green Box) and the police (having command over the Blue Box) complemented one another. Furthermore, NATO collected impressive amounts of information and intelligence. But the sharing of material was haphazard, and the military made too few efforts to collect it in a way that made it useful as evidence in criminal cases. International and Bosnian judges and prosecutors therefore lacked vital clues. The feeble, ad hoc nature of civil-military relations was indicated by the importance of personal relationships, reflecting a lack of institutionalized cooperation and institutional learning. When military and civilian officials were proactive, shared the same views, and received proper guidance from headquarters, efforts against serious crime were stepped up; if not, the opposite was the case.

One paradox of international intervention in Bosnia was that the military became more proactive as a crime-fighter at a time when doing so had become less pressing. Crucial opportunities were lost in the immediate years after Dayton. Yet by the beginning of the new millennium, as inter-ethnic crime had become less pervasive and as organized crime groups had begun to substitute violent crime with business crime, the military was taking a more proactive stance. In other words, there was no linear decrease in military activity, on the contrary. Many Bosnians criticized international actors for trying to tackle crime too late.<sup>27</sup>

Belated activism became most obvious when, in late 2004, the European Union Force (EUFOR) replaced SFOR (in late 2003, the European Union Police Mission [EUPM] had replaced the IPTF). EUFOR, under its British Commander David Leakey, stressed that suspected war criminals benefited from organized crime. Also, Leakey perceived a need to bolster Bosnian security forces, and to reassure the population that crime would not go unpunished. EUFOR, during its first mandate, therefore staged numerous operations against crimes such as illegal

---

<sup>27</sup> See, for example, an op-ed by Zija Dizdarević in *Oslobodenje*, 25 November 2007.

logging.<sup>28</sup> Some operations were arguably questionable with regard to the principles of proportionality (the appropriate use of security instruments in relation to a risk) and subsidiarity (the primacy of the police in internal security matters). It must be noted, however, that EUFOR's activism came at a time when EUPM was still largely ineffective (not least because its initial mandate did not cover organized crime) and when the Bosnian police was much too dependent on international support. Yet, greater military activism found some domestic support. Thus, the gendarmerie forces of EUFOR, the Integrated Police Units (IPU), staged numerous raids on the homes of suspected war criminals, and arrested several of them.

By 2006, EUFOR, EUPM, and Bosnian institutions complemented one another better than before. EUFOR insisted on the primacy of the police in most security areas. Still, its role remained important. For instance, EUFOR provided training and equipment to Bosnian institutions, such as the State Investigation and Protection Agency (SIPA). Close relations are problematic from an SSR point of view, due to the risk of transferring military (or, in the case of the IPU, paramilitary) thinking and behaviour to those receiving support. However, EUFOR's more restrained role now prevented the shaping of police doctrine;<sup>29</sup> EUPM, despite the absence of executive competencies, was now clearly the most dominant international law enforcement actor.

This brief overview of international intervention in post-Dayton Bosnia underlines ambiguities. It took NATO too long to acknowledge the need to counter the nefarious activities of those committing or enabling serious crime. EUFOR tried to fill the civilian law enforcement vacuum, directly and on the operational level. On the positive side, both SFOR and EUFOR became more systematic in their crime-fighting efforts over time, revealing individual learning and, to some extent, institutional learning. One sign was that regular military forces came to employ gendarmerie forces more systematically.<sup>30</sup> To be sure, as the more

---

<sup>28</sup> Friesendorf and Penksa 2008.

<sup>29</sup> Author interviews with international and Bosnian officials, Sarajevo, 2007-2009.

<sup>30</sup> Interview with a EUFOR officer, Sarajevo, July 2008.

violent forms of serious crime were partially replaced by business crime against which military instruments (with exceptions such as surveillance tools used by the IPU) were blunt, military support to law enforcement became less pressing and less useful.

## **NATO in Kosovo**

As in Bosnia, the fight against serious crime challenged the stabilization of Kosovo. In some ways, fighting crime in Kosovo was trickier than in Bosnia. Following the Kumanovo agreement stipulating the withdrawal of Yugoslav/Serbian forces from the disputed province (and later state), NATO's Kosovo Force (KFOR) moved into a wasteland that had neither functional infrastructure nor statutory indigenous security forces. KFOR was a formidable force, yet one prepared for warfare against Serbia, in case the latter would not withdraw or would attack after withdrawing across the demarcation line. Yet it quickly became clear that the main problem in Kosovo was public insecurity.

The public security gap resulted, first, from local conditions. Post-war Kosovo, especially in 1999, was a very violent place. There was much factional fighting among Kosovo Albanians; also, Serbs and members of other minority groups came under attack, from juvenile arsonists as well as members of the officially disbanded Kosovo Liberation Army (KLA). In response, Serbs created non-statutory armed groups, the most famous of which were the „bridge watchers” in the divided city of Mitrovica. The continuation of ethnic violence was fanned by the presence of numerous suspected war criminals. Most pressing, however, was the need to check organized crime. The war in Kosovo had been a criminalized war. Serbian paramilitaries were partially economically motivated, while the KLA profited from the drug trade. After the war, the smuggling and trafficking of drugs, weapons, and other goods continued unabated, and to some degree increased, as was the case with human trafficking.<sup>31</sup>

---

<sup>31</sup> See Traynor 2004.

Second, a security gap arose since the CIVPOL deployed, once again, too late and too light. The United Nations Interim Administration in Kosovo Police (UNMIK Police) had executive powers, and included gendarmerie forces. But during the crucial immediate post-war period, only KFOR was present in most parts of Kosovo. An equally grave problem was the lack of a functional criminal justice system, as well as confusion over what laws were to be enforced.

Third, KFOR was a mighty force, but its equipment, training, and command structures were ill-suited for coping with smugglers or arsonists. Also, as in Bosnia, national caveats and the micromanagement of troops by capitals and military headquarters hamstrung the ability of contingents to quickly respond to crime problems on the ground. Despite these obstacles, many soldiers improvised in admirable ways, quickly acquiring and applying basic policing skills.<sup>32</sup> KFOR was thus able to somewhat check the continuation of inter-ethnic crime. Also, specialized forces arrested several suspected war criminals. Yet, the willingness to risk military mission creep varied across sectors. Also, in several cases the military was accused of violating human rights. Most notoriously, the United States detained suspects in a prison facility inside the US Army's Camp Bondsteel. KFOR response to accusations of human rights violations was that it had no choice but to use extraordinary measures, given the lack of a functioning policing and criminal justice system.<sup>33</sup>

KFOR'S problems in coping with serious crime came to the fore during the March 2004 riots, which led to the death of 19 civilians.<sup>34</sup> When large crowds attacked members of rival ethnic groups, as well as their homes and religious sites, during two days of partially orchestrated violence, NATO was taken by surprise, as were other international actors. The riots revealed insufficient information and intelligence gathering, a lack of CRC training and equipment, bad coordination within and across military sectors, and deficient military-police

---

<sup>32</sup> Zaalberg 2006: Part IV.

<sup>33</sup> Lorenz 2000: 132. See also Baldwin 2006: 497.

<sup>34</sup> International Crisis Group 2004.

cooperation. They also underlined the risks of transferring authority to indigenous security forces too quickly: some officers of the Kosovo Police Force (KPS) had reportedly participated in the violence.

KFOR, which had handed over some powers to the KPS before the riots, subsequently became more circumspect in its dealings with the KPS.<sup>35</sup> Moreover, CRC now became a central preoccupation of KFOR, and the authority of Commander KFOR in Prishtina was strengthened, to allow him to quickly respond to violence across Kosovo. KFOR also continued to support the police by establishing checkpoints and security perimeters, and also by providing tip-offs to UNMIK Police and the Kosovo Police Force (KPS). Indeed, direct cooperation between KFOR and the KPS increased again, following the lull after March 2004. The extent and type of cooperation varied across KFOR's Multinational Task Forces (MTF), with commanders at times reluctant to become mired in policing tasks. But overall, KFOR played a prominent law enforcement role. For instance, as security forces stepped up controls of the main roads into and out of Kosovo, smugglers used animal caravans to cross the rugged frontiers. By early 2007, KFOR was therefore *beginning* to increase off-road joint patrols with customs agencies<sup>36</sup> – eight years after moving into the province.

One of the most active crime-fighting elements of KFOR were the Multinational Specialized Units (MSU). As in Bosnia, these were primarily Italian Carabinieri. The MSU raided houses to collect weapons, put up checkpoints to search for smuggled goods as well as to intercept wanted individuals, and provided surveillance support to the KPS. But generally, KFOR did not relish its law enforcement role, with officers deploring the lack of effective civilian policing structures.<sup>37</sup> There were also specialized elements such as J2 and members of an Intelligence, Surveillance, and Reconnaissance (ISR) unit that helped put pressure on serious crime suspects. Even regular military units had little

---

<sup>35</sup> Interview with former KFOR officer, October 2008.

<sup>36</sup> Confidential international intelligence report, January 2007.

<sup>37</sup> Interviews with soldiers in four out of the five MTF and at KFOR headquarters, 2007-2009.

choice but to engage in law enforcement. As in Bosnia, the military as well as donor governments understood that the stabilization of Kosovo and the withdrawal of military forces depended on progress being made against serious crime. UNMIK was spread too thin to systematically position itself between NATO and the KPS – in contrast to Bosnia where, starting in 2006, EUPM coordinated EUFOR support to Bosnian law enforcement institutions. While the KPS grew in size and competence over time, it still lacked the capacities to replace international actors (plus, the remit of the KPS was limited by the reserve powers of UNMIK).

Another reason for KFOR involvement in law enforcement was the undefined nature of serious crime in post-war Kosovo. KFOR was responsible for opposing those threatening a safe and secure environment. Yet where this military task ended and where normal policing began was open to debate, and depended much on local security conditions. For instance, one person could be accused of inter-ethnic crime as well as organized crime and corruption. The most prominent suspects were included in a target list, to which both selected military and civilian international actors had access; KFOR assets such as the ISR unit were tasked with observing some of these suspects. KFOR also had a role to play in CRC. Riots could easily transform into quasi-military confrontations, whereby some demonstrators would use weapons such as automatic rifles and hand grenades. Regular KFOR troops therefore had to constitute the last line of defence, backing up the KPS, CIVPOL, and the MSU. Thus, ten years after the end of the war, a foreign military force was still being employed for CRC.<sup>38</sup>

A lack of conclusive data makes it difficult to assess the effectiveness of international crime-fighting in post-war Kosovo. Yet it seems that the overall balance sheet is negative. Numerous sources underline the role of Kosovo e.g. as a hub of transnational drug trafficking around the time of

---

<sup>38</sup> EULEX/KFOR Fire Shock Bombs, Rubber Bullets and Tear Gas to Disperse Serbs, in: Kosovo Compromise, 30 April 2009, at [www.kosovocompromise.com/cms/item/latestnews/en.html?view=story&id=1945&sectionId=1](http://www.kosovocompromise.com/cms/item/latestnews/en.html?view=story&id=1945&sectionId=1) (download 30 April 2009).

independence.<sup>39</sup> UNMIK largely failed to successfully prosecute suspects, reinforcing cynicism among the population in Kosovo regarding the political will of „internationals” to put pressure on local strongmen and corrupt officials.

KFOR was partly responsible for unsystematic crime-fighting. For instance, relations were often tense between the MSU and MTF officers, with the latter fearing that MSU operations such as raids on houses would upset stability in their respective area of responsibility.<sup>40</sup> Yet these problems paled in comparison to the troubled relations between KFOR and civilian actors. For instance, after the declaration of independence, the North of Kosovo remained largely un-policed for several months. KFOR was reluctant to engage smugglers and traffickers; UNMIK Police was transferring responsibilities to the European Union Rule of Law Mission (EULEX); yet EULEX, not being accepted by Serbia and many Serbs in Kosovo, was unable to operate in the Serb-dominated North; and the KPS was split along ethnic lines, with Serbian KPS officers boycotting the institution. Cooperation problems also hampered efforts to prevent and quell inter-ethnic violence. The riots in spring 2008 in Mitrovica, during which one UNMIK police officer was killed, raised question marks as to the ability of international actors to apply the lessons learned during the March 2004 riots.

Crime-fighting in Kosovo was thus fraught with problems. One reason was that law enforcement depended too much on military assets and the preparedness of civilian and military decision-makers to use them. KFOR fared better in this regard than IFOR and SFOR. Also, NATO made efforts to learn from failures in Kosovo. However, this learning process was hampered by the rotation of military personnel, divergent national military cultures and procedures, secrecy provisions, and fear of military mission creep.

---

<sup>39</sup> See, among others, European Commission 2008: 52-53.

<sup>40</sup> Interviews with MTF officers, 2008.

Problems in fighting crime were not only, and not even primarily, related to NATO. A lack of accountable law enforcement, for instance, reflected the complexity of security sector governance in post-war Kosovo: the presence and interaction of numerous international and domestic actors, both military and civilian, created, in the words of a EULEX intelligence official, a „massive grey area”,<sup>41</sup> where overlapping competencies hampered any effort to assign responsibility for ineffective law enforcement. Also, crime-fighting failures resulted from weak civilian planning and policy implementation. Most notably, UN member states and UNMIK largely failed to effectively prevent a security gap from opening up, and to fill it by way of effective and efficient policing that was in line with democratic standards. The list of complaints against the international presence in Kosovo is long indeed. UN member states and UNMIK were accused of politically-motivated interference in law enforcement, corruption and collusion, incompetence, and a lack of accountability.<sup>42</sup> Over the years, UNMIK's reputation increasingly suffered. KFOR, on the other hand, was held in relatively high esteem by the population of Kosovo. This is an important caveat when criticizing NATO's performance in Kosovo.

### **Conclusion: Improving Efforts against Serious Crime**

Since the end of the Cold War, armed forces have been transformed. A new risk environment, as well as technological innovation, has led countries to restructure, professionalize, and, in many cases, downsize their militaries. The task spectrum of the „postmodern military”<sup>43</sup> is much broader than had been the case during the Cold War, when the military was preoccupied with defending territories against external military threats. Law enforcement is one of the many non-traditional military activities that the military is increasingly being asked to support or undertake, in addition to counter-insurgency, counter-terrorism, limited intervention, and disaster relief operations.

---

<sup>41</sup> Interview, Priština, November 2008.

<sup>42</sup> See Zaremba 2007.

<sup>43</sup> Moskos, Williams and Segal 2000

The importance of law enforcement and fighting serious crime has by now been acknowledged as a necessary condition for stabilizing war-torn countries.<sup>44</sup> In practice, however, security gaps have opened up, time and again, not least because civilian and military decision-makers have not sufficiently prepared armed forces to support or undertake law enforcement.<sup>45</sup>

The two sections above illustrate how this shortcoming has marked international intervention in the Balkans. The reticence of civilian and military decision-makers to employ the military in the fight against serious crime has enabled spoilers of peace to become entrenched, economically and/or politically. Yet military participation in law enforcement has had its drawbacks, too. To the extent that progress was made, success was tactical, not strategic (although it must be noted that even the police only rarely reaps strategic victories over crime). Normatively, an ambiguous military-police-intelligence nexus ran counter to the SSR objective of clearly defining the roles of security forces, and of putting the police at the forefront in the fight against crime. Not before 2006 did international actors create viable military-police networks in Bosnia. In Kosovo, military and police tasks were still awaiting proper delineation ten years after the end of the war. Such blurring of responsibilities weakens the normative power of international actors vis-à-vis domestic actors. After all, if the former want to be regarded as credible, they must practice what they preach. However, the failure to adhere to SSR principles arguably is an acceptable cost, in comparison to the costs of not employing the military against serious crime.

Unsystematic management of military-police grey zones is not limited to the Balkans; it has undermined stabilization efforts in many other countries as well. The most dramatic recent cases in this regard have been Iraq and Afghanistan. In both countries, the failure of international actors to ensure public order following the toppling of a regime undermined the legitimacy of both international actors and incipient

---

<sup>44</sup> See, for instance, U.S. Army 2007: 360-361.

<sup>45</sup> Perito 2008.

state institutions, and fanned the insurgencies that engulfed the two countries after a brief period of deceptive peace.

The question is thus how to improve the performance of international actors in the fight against serious crime after war. There are neither panacea nor universal approaches, given that conditions and resources vary across peace operations and that militarized law enforcement involves practical and normative trade-offs. Yet it is possible to lay out the fundamentals of a policy framework.<sup>46</sup>

States intervening in war-torn countries should fight serious crime immediately. Losing time holds short-term advantages in terms of stability and force protection, but the long-term costs are greater. This implies that more forces capable of operating in civil-military grey areas, such as gendarmeries or Formed Police Units (FPU), are needed.<sup>47</sup> Yet since these are scarce, regular military forces will continue to be involved in law enforcement. They therefore require training; some skills can be taught within a day, e.g. how to avoid destroying criminal evidence.<sup>48</sup> Also, troop-contributing states should formulate robust military mandates and Rules of Engagement that include law enforcement support as a military task; limit national caveats; ensure good interoperability and command structures;<sup>49</sup> raising troop awareness about post-war problems such as human trafficking; and provide adequate equipment for CRC, among other tasks.

Cooperation between the military and civilian actors, especially the police and justice institutions, is crucial. The military can support the police in many ways, including by gathering information and intelligence and sharing it with relevant partners,<sup>50</sup> or by establishing security perimeters. The trick is to strike a balance between involving the military in law enforcement and respecting SSR principles. The right

---

<sup>46</sup> For a more detailed analysis, see Friesendorf 2010: 150-161.

<sup>47</sup> On FPU, see Agordzo 2009.

<sup>48</sup> Kaldor and Salmon 2006: 31.

<sup>49</sup> See Stephens 2005; on different command structure options, see Dziedzic and Perito 2008: 12; Zentrum für Internationale Friedenseinsätze 2006: 43.

<sup>50</sup> See Mintz 2007.

training and equipment can help ensure respect for the proportional use of force.<sup>51</sup> The right planning is crucial for ensuring subsidiarity, i.e. the primacy of the police in internal security matters. This means that the military should not drive the reform of indigenous security forces, especially the police,<sup>52</sup> to ensure civilian oversight and to prevent an undue militarization of institutional doctrines.

Also, there should be a decrease of military involvement in crime-fighting over time whereby responsibilities are transferred from the military to police. As early as 2000, the UN pushed for „methodologies and standard operating procedures of the transition from the provision of security by international military to international police and finally to local police.”<sup>53</sup> Yet interventions in Kosovo, Afghanistan, and elsewhere demonstrate the continuing challenges of putting lessons about divisions of labour, and crime-fighting more generally, into practice.

This is because conditions enabling systematic law enforcement may be absent. These conditions pertain to post-war conditions, as well as the capacities of local and international actors. Post-war conditions structure the way international actors intervene in a country. When levels of violence are high, when basic infrastructure such as roads or housing are not available, and when it is unclear which laws are to be enforced, civilian police will have trouble operating. Military forces may therefore lead the fight against serious crime.

Domestic actors matter as well. Policing obviously suffers when police and the criminal justice sector lack capacity, or when corruption and criminal collusion are pervasive. These shortcomings often reflect historical and cultural legacies that are difficult to overcome in the aftermath of war. Weak or biased domestic law enforcement puts great strain on international military forces, by depriving the military as well as civilian police of vital domestic counterparts.

---

<sup>51</sup> On proportionality, see Venice Commission 2008: 26; Franken 2006.

<sup>52</sup> United Nations 2003: 88.

<sup>53</sup> United Nations 2000: Paragraph 96f.

Last, the fight against serious crime, and the role of the military, hinges on international actors. These need to have the political will to enforce laws, adapt to environmental change, and learn from mistakes. The degree to which the military becomes involved depends very much on the presence and strength of civilian police and international criminal justice experts and practitioners. Many other factors play a role, too, such as the ability of states to deploy constabulary forces, to provide the right training and equipment, to devise appropriate mandates, and to ensure a commonality of purpose across the entire theatre. Moreover, the quality of law enforcement reflects the ability and willingness of international military and civilian institutions to gather and share information and intelligence, as well as interpersonal relationships, from the tactical to the strategic and diplomatic level.

In Bosnia and Kosovo, conditions conducive to systematic crime-fighting were sometimes absent. This has been detrimental to international stabilization efforts. Yet in the Balkans, international actors have invested significant resources over a long time, and there are signs of institutional learning. Elsewhere, circumstances are less conducive to the fight against serious crime. In Afghanistan, for instance, law enforcement obstacles include high levels of violence, the presence of numerous spoilers, the large size of the country, poverty, corruption, and a lack of institutional capacity. Yet even problems that international actors could more easily mitigate continue to hamper the effectiveness of international intervention. Most importantly, recruiting and deploying more and better-prepared CIVPOL, while being widely recognized as a precondition for more systematic intervention, remains problematic. For example, by 2010 Germany was still struggling with sending more police officers as mentors and trainers to Afghanistan. Candidates wanting to go to Afghanistan leave policing gaps at home, making their superiors reluctant to let them go. Also, while pay has been increased, participating in peace operations still offers few career incentives.<sup>54</sup> Not least due to the shortage of international police, international military forces are deeply embroiled in law enforcement in Afghanistan and in propping up the Afghan National Police.

---

<sup>54</sup> Interviews with German police officers, 2010.

Given these obstacles, international intervention in war-torn countries will remain messy. It is inevitable to rethink the role of the military, and gear it toward a law enforcement role during periods in which policing structures are weak. The fight against serious crime should be part of military transformation, to enable the military to better protect people. Dag Hammarskjöld said that though peacekeeping is not the job of soldiers, only soldiers can do it. While law enforcement is not a military job either, often only soldiers can do it.

## References

- Agordzo, Benjamin Kwasi 2009: Filling the ‘Security Gap’ in Post-conflict Situations: Could Formed Police Units Make a Difference?, in: *International Peacekeeping* 16: 2 (August), 287-294.
- Andreas, Peter and Ethan Nadelmann 2006, *Policing the Globe: Criminalization and Crime Control in International Relations* (Oxford: Oxford University Press).
- Arquilla, John and David Ronfeldt (eds.) 2001: *Networks and Netwars: The Future of Terror, Crime, and Militancy* (Santa Monica, CA.: RAND).
- Baldwin, Clive 2006: Implementation Through Cooperation? Human Rights Officers and the Military in Kosovo, 1999-2002, in: *International Peacekeeping* 13: 4, 489-501.
- Bayley, David H. and Robert M. Perito 2010: *The Police in War: Fighting Insurgency, Terrorism, and Violent Crime* (Boulder and London: Lynne Rienner).
- Born, Hans (ed.) 2003, *IPU-DCAF Handbook on Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices*, Geneva.
- Bronson, Rachel 2002: When Soldiers Become Cops, in: *Foreign Affairs* 81: 6, 122-132.
- Dziedzic, Michael J. and Robert M. Perito 2008: *Haiti: Confronting the Gangs of Port-au-Prince*, Special Report 208, September, Washington D.C.: United States Institute of Peace.

- Ehrhart, Hans-Georg and Albrecht Schnabel 2004: Changing International Relations and the Role of the Military in Post-Conflict Peacebuilding Operations, in: S+ F, Sicherheit und Frieden 22: 1, 7-12.
- European Commission 2008: Kosovo (Under UNSCR 1244/99) 2008 Progress Report, Commission Staff Working Document, COM(2008) 674, 5 November, Brussels.
- European Stability Initiative 2007: On Mount Olympus: How the UN Violated Human Rights in Bosnia and Herzegovina, and Why Nothing Has Been Done to Correct It, 10 February, ESI: Berlin, Brussels, Istanbul.
- Franken, Mark 2006: Welche Polizeiaufgaben kann Militär übernehmen?, Interne Information zur Sicherheitspolitik, Februar, Wien: Büro für Sicherheitspolitik des Bundesministeriums für Landesverteidigung.
- Friesendorf, Cornelius and Susan E. Penksa 2008: Militarized Law Enforcement in Peace Operations: EUFOR in Bosnia & Herzegovina, in: International Peacekeeping 15: 5, 677-694.
- Friesendorf, Cornelius 2010: The Military and Law Enforcement in Peace Operations: Lessons from Bosnia-Herzegovina and Kosovo (Vienna and Geneva: LIT and DCAF).
- Haltiner, Karl W. 2001: Policemen or Soldiers? Organizational Dilemmas of Armed Forces in Peace Support Operations, in: Gerhard Kümmel (ed.): The Challenging Continuity of Change and the Military: Female Soldiers, Conflict Resolution, South Africa (Strausberg: Sozialwissenschaftliches Institut der Bundeswehr), 359-384.
- Hänggi, Heiner 2009: Security Sector Reform, in: Vincent Chetail (ed.): Post-Conflict Peacebuilding: A Lexicon (Oxford: Oxford University Press), 337-349.
- Hills, Alice 2001: The Inherent Limits of Military Forces in Policing Peace Operations, in: International Peacekeeping 8: 3, 79-98.
- Human Rights Watch 2002: Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution, Vol. 14, No. 9.
- International Crisis Group 2004: Collapse in Kosovo, ICG Europe Report No. 155, 22 April.

- Janowitz, Morris 1960: *The Professional Soldier: A Social and Political Portrait* (Glencoe, Ill.: The Free Press).
- Jones, Seth G., Jeremy M. Wilson, Andrew Rathmell and K. Jack Riley 2005: *Establishing Law and Order After Conflict* (Santa Monica, CA: RAND).
- Kaldor, Mary and Andrew Salmon 2006: *Military Force and European Strategy*, in: *Survival* 48: 1, 19-34.
- Lorenz, Roger F. M. 2000: *The Rule of Law in Kosovo: Problems and Prospects*, in: *Criminal Law Forum* 11: 2, 127-142.
- Lutterbeck, Derek 2004: *Between Police and Military: The New Security Agenda and the Rise of Gendarmeries*, in: *Cooperation and Conflict* 39: 1, 45–68.
- Marten, Kimberly 2007, *Statebuilding and Force: The Proper Role of Foreign Militaries*, in: *Journal of Intervention and Statebuilding* 1: 2, 231-247.
- Mintz, Oliver 2007: *Focused Operations against Organized Crime in a Mature Peace Operations Environment*, in: *Infantry Magazine* 96: 1, 38-45.
- Mobekk, Eirin 2005: *Identifying Lessons In United Nations International Policing Missions*, Policy Paper No. 9, Geneva: Geneva Centre for the Democratic Control of Armed Forces, November.
- Moskos, Charles C., John Allen Williams and David R. Segal 2000: *Armed Forces after the Cold War*, in: Charles C. Moskos, John Allan Williams and David R. Segal (eds.): *The Postmodern Military: Armed Forces after the Cold War* (New York: Oxford University Press), 1–13.
- Mueller, John 2004, *The Remnants of War* (Ithaca: Cornell University Press).
- Oakley, Robert B., Michael Dziedzic and Eliot M. Goldberg (eds.) 1998: *Policing the New World Disorder: Peace Operations and Public Security* (Washington DC: National Defense University Press).
- Organisation for Economic Co-Operation and Development (OECD) 2007, *The OECD DAC Handbook on Security System Reform (SSR): Supporting Security and Justice*, Paris.

- Perito, Robert 2004: *Where is the Lone Ranger When We Need Him? America's Role for a Postconflict Stability Force* (Washington DC: United States Institute of Peace Press).
- Perito, Robert 2008: *Police in Peace and Stability Operations*, in: *International Peacekeeping* 15: 1, 51-66.
- Peter B. Kraska 2007: *Militarization and Policing – Its Relevance to 21st Century Police*, in: *Policing* 1: 4, 501-513.
- Rausch, Colette (ed.) 2006: *Combating Serious Crimes in Postconflict Societies: A Handbook for Policymakers and Practitioners* (Washington: United States Institute of Peace Press).
- Sharp, Jane M. O. 1997/1998: *Dayton Report Card*, in: *International Security* 22: 3, 101-137.
- Stephens, Dale 2005: *The Lawful Use of Force by Peacekeeping Forces: the Tactical Imperative*, in: *International Peacekeeping* 12: 2, 157-172.
- Traynor, Ian 2004: *NATO Force 'Feeds Kosovo Sex Trade'*, in: *The Guardian*, 7 May.
- U.S. Army 2007: *The U.S. Army Marine Corps Counterinsurgency Field Manual* (Chicago and London: The University of Chicago Press).
- United Nations 2000: *Report of the Secretary-General on the Implementation of the Report of the Panel on United Nations Peace Operations*, 20 October, available at [http://www.un.org/peace/reports/peace\\_operations/docs/55\\_502e.pdf](http://www.un.org/peace/reports/peace_operations/docs/55_502e.pdf) (download 19 January 2009).
- United Nations 2003: *Handbook on UN Multidimensional Peacekeeping Operations* (New York: United Nations Best Practices Unit).
- Venice Commission 2008: *Report of the Democratic Control of the Armed Forces*, Adopted by the European Commission for Democracy Through Law (Venice Commission) at its 74th Plenary Session, Venice, 14-15 March, Strasbourg: Council of Europe, CDL-AD(2008)004, 27 March.
- Zaalberg, Thijs W. Brocades 2006, *Soldiers and Civil Power: Supporting or Substituting Civil Authorities in Modern Peace Operations* (Amsterdam: Amsterdam University Press).
- Zaremba, Maciej 2007: *Series on Kosovo*, in: *Dagens Nyheter*, 25 June 2007, available at [www.dn.se/kultur-noje/debatt-essa/part-1-report-](http://www.dn.se/kultur-noje/debatt-essa/part-1-report-)

from-unmikistan-land-of-the-future-1.732443 (download 20 April 2010).

Zentrum für Internationale Friedenseinsätze 2003: Organized Crime as an Obstacle to Successful Peacebuilding, Report, 7th International Berlin Workshop, 11-13 December.

Zentrum für Internationale Friedenseinsätze 2006: International and Local Policing in Peace Operations: Lessons Learned and the Way Forward to Integrated Approaches, Report, 8th International Berlin Workshop, 14-16 December 2006.

Zimmermann, Doron 2005: Between Minimum Force and Maximum Violence: Combating Political Violence Movements with Third-Force Options, in: Connections 4: 1, 43-60.

# **Lessons from NATO's Military Missions in the Western Balkans**

Dennis H. Blease

## **Introduction**

The subject of learning lessons is fraught with difficulties, not least because lessons, like beauty, are often in the eye of the beholder. It has been the author's experience that many of those lessons formally identified are not learned. The reasons are varied and could include factors such as: those identifying them may be biased; resources may be lacking; and lessons just may not be embedded. Nonetheless, those that do become embedded in the human and organisational psyche are those that have created new doctrine, reshaped institutions, become an integral part of new training standards, and demonstrably shown an improvement in the conduct of business.

NATO's involvement in the Western Balkans over the past 15 years has provided a rich vein of experience and has fermented considerable change. This paper examines that experience and analyses some of the major lessons that have been identified. Some will have been learned, others not, and in some instances the lessons that were identified will subsequently prove to be flawed. Throughout this analysis the paper will attempt to chart the metamorphosis of NATO from a passive Cold War military alliance to an active political and security actor on the world stage.

## Different Security Challenges Demand Different Approaches and Different Structures

Donnelly<sup>55</sup> suggests that the nature of armed conflict and our response to new threats only changes fundamentally every 50 years. This change may not be attributable to one single cause, but rather a combination, such as changes in weapons technology (for example the introduction of nuclear weapons) or a change in the balance of world power. This latter example was undoubtedly the case at the turn of the twenty-first century with the ending of the bi-polar security system of the Cold War.

Another key change, however, has been our perception of security. During the Cold War “the terms ‘defence’ and ‘security’ were nearly synonymous.”<sup>56</sup> Large standing armies, territorial defence and hard geographical lines of confrontation characterized the situation pre-1989. This is no longer the case for most countries in the Euro-Atlantic Region, where security is primarily “measured in non-military terms and threats to security are non-military in nature.”<sup>57</sup> In addition, there has been a growing recognition that security is also central to effective and sustainable development. In 2004 the UK's Minister for International Development said at the Center for Global Development “development

---

<sup>55</sup> Donnelly, Chris: Security in the 21st Century: New Challenges and New Responses. In: Čehulić, Dr Lidija (Ed.): NATO and New International Relations. Zagreb 2000, pp. 24-26.

<sup>56</sup> Trapans, Dr Jan Arved: The Work of Civilians and the Military. In: Security Sector Reform in Central and Eastern Europe, Centre for European Security Studies, p. 4. See: [http://www.dcaf.ch/legal\\_wg/ev\\_geneva\\_00\\_SSR\\_Trapans.pdf](http://www.dcaf.ch/legal_wg/ev_geneva_00_SSR_Trapans.pdf). (Last accessed 21 April 2010.)

<sup>57</sup> Donnelly, op cit, p27. Also for some empirical data taken from Kosovo on public perceptions of security, see: Cleland Welch, Anthony/Kondi, Sokol/Stinson, Dana/von Tangen Page, Michael (Eds.): Kosovo Internal Security Sector Review. Pristina: United Nations Development Programme 2006, pp. 18-23. Website: [http://www.kosovo.undp.org/repository/docs/ISSR\\_report\\_eng\\_ver2.pdf](http://www.kosovo.undp.org/repository/docs/ISSR_report_eng_ver2.pdf). (Last accessed 21 April 2010.)

without security is not possible; security without development is only temporary.”<sup>58</sup>

It was, however, the disintegration of Yugoslavia, with all its attendant human suffering, that proved to be the catalyst for much change within NATO. It was not only pivotal in re-shaping the Alliance's perceptions of security, but also the way it was delivered. In essence NATO demonstrated the “ability to help countries to transition from security consumers to security providers.”<sup>59</sup> The Cold War NATO would have been unable to perform a useful role in the Western Balkans over the past 15 years or indeed in present day Afghanistan. Thus we have seen the transformation of NATO from an unused military tool in 1989 to a politico-military organization that now has some 112,000 troops deployed on operations. Similarly, the emergence of the EU's own defence and security ambitions and its military deployment into the Western Balkans has mirrored this shift in structure and approach.<sup>60</sup> As the change management business guru, Alan Deutschman, would say: “Change or Die.”<sup>61</sup> One could therefore successfully argue that a key lesson from NATO's military involvement in the Western Balkans has been the need for fundamental adaptation to a changed and unfamiliar security environment and it is a process that continues today.<sup>62</sup> Let us

---

<sup>58</sup> Benn, Hilary: A Shared Challenge: Promoting Development and Human Security in Weak States. Speech for Center for Global Development, Washington, 23 June 2004, p. 4. Website:

[http://www.cgdev.org/doc/weakstates/WeakStates\\_Benn.pdf](http://www.cgdev.org/doc/weakstates/WeakStates_Benn.pdf)

<sup>59</sup> RUSI: NATO's Agenda - Key Issues Facing the Bucharest Summit (An Occasional Paper), dated 1 April 2008. Website:  
[http://www.rusi.org/downloads/assets/Final\\_Report\\_English.pdf](http://www.rusi.org/downloads/assets/Final_Report_English.pdf). (Last accessed 22 April 2010.)

<sup>60</sup> This type of ‘paradigm shift’ was highlighted by: Smith, Rupert: The Utility of Force: The Art of War in the Modern World. Knopf 2007, p. 4.

<sup>61</sup> Deutschman, Alan: Change or Die. Los Angeles 2007.

<sup>62</sup> See: Rasmussen, Anders Fogh (NATO Secretary General): NATO Transformation and Reform Vital to Facing New Challenges. Speech at the Belgian Royal High Institute for Defence on 26 April 2010. Website:  
[http://www.nato.int/cps/en/natolive/opinions\\_62923.htm](http://www.nato.int/cps/en/natolive/opinions_62923.htm). (Last accessed 29 April 2010.)

now turn to those military interventions and attempt to identify relevant lessons.

## **Military Intervention in the Western Balkans**

NATO's military involvement in the Western Balkans during the early 1990s did not augur well for success. Notwithstanding a confused and ambiguous UN mandate, several European Allies decided to support the UN peacekeeping mission with ground troops.<sup>63</sup> But domestic and economic difficulties within a number of NATO countries, plus a genuine concern about potential casualties, meant that this support was less than whole-hearted. Fundamentally, most Allies did not believe that a conflagration in South East Europe had any impact on their national interest. Thus NATO, as an organisation, did little to confront the growing crisis on the borders of its traditional Euro-Atlantic area. Kaufman argues that:

"In retrospect, one of the lessons of Bosnia for NATO is the realization [sic] that as an Alliance of sovereign nations, NATO cannot take action unless or until there is pressure to do so and the member states perceive that it is in their political interest to do so."<sup>64</sup>

It was only after three years of political prevarication that the NATO Allies faced up to the dangers of the Balkan wars. A combination of the genocide at Srebrenica and the mortar bomb attack on shoppers in the Markale Market in Sarajevo in the summer of 1995 prompted them to tackle the unfolding humanitarian and security disaster. The subsequent bombing campaign by NATO against the Serbs in August and September 1995 eventually brought everybody back to the negotiating

---

<sup>63</sup> UNPROFOR took on the task of delivering humanitarian relief to civilians in Bosnia under a limited peacekeeping mandate, although there was no peace agreement. For a full treatment see: Owen, David: *Balkan Odyssey*. London 1995. For a briefer account see: Stremlau, John: *People in Peril - Human Rights, Humanitarian Action and Preventing Deadly Conflict*. Carnegie/New York 1998, pp. 29-31.

<sup>64</sup> Kaufman, Joyce: *NATO and the Former Yugoslavia - Crisis, Conflict, and the Atlantic Alliance*. Lanham (Maryland) 2002, p. 217.

table. As Meyer explains: “It was a classic exercise in diplomacy backed by force.”<sup>65</sup> It was a lesson that the NATO Alliance learned in Bosnia and had to re-learn in Kosovo. The resultant Dayton Peace Accords allowed for a NATO Implementation Force (IFOR) to be deployed in December 1995, but even then several European Allies insisted that they would not maintain ground troops in Bosnia without the participation of the US. It would be overly simplistic to say that NATO's reluctance to become directly involved in ground combat operations throughout the period 1992-95 was due to the uncertainties of US engagement, but it was undoubtedly a factor. As Allin points out:

"Paris, London and other European capitals were determined never again to deploy ground troops in Bosnia while Washington, in their view, indulged a rhetorical idealism, with no American lives at risk, and was careless about working at cross purposes with what the Europeans were trying to establish."<sup>66</sup>

This then became a lesson identified for the European Allies and was in the forefront of their thinking in the run-up to the Kosovo crisis.

This lead-in may not have been as bloody as that in Bosnia, but it was every bit as predictable. In his book on the history of Kosovo, Noel Malcolm refers to the oft-quoted saying that the “Yugoslav crisis started in Kosovo and will end in Kosovo,”<sup>67</sup> as one of the few things that all parties to the Balkans Wars can agree. There were many criticisms of the Dayton Peace Accords, but perhaps the most significant is that it did not tackle the issue of Kosovo. It could be argued that this was because it was too contentious, but, by side-stepping the problem, it was merely shoring up trouble for a future date. History repeated itself in 1999 with the adoption of UN Security Council Resolution 1244, which put off a decision on Kosovo's future status, and effectively left a time-bomb that continues to tick today.<sup>68</sup> It is a lesson that was clearly not learned.

---

<sup>65</sup> Meyer, Christopher: *Getting Our Way*. London 2009, p. 253.

<sup>66</sup> Allin, Dana: *NATO's Balkan Interventions*. London 2002, p. 40.

<sup>67</sup> Malcolm, Noel: *Kosovo - A Short History*. New York 1999, p. 65.

<sup>68</sup> The UN Secretary General's Special Envoy for Kosovo's Future Status, President Martti Ahtisaari, produced a set of 'Comprehensive Proposals' for the province

Others also argue that the lesson of Dayton for the Kosovo-Albanians was that “only the application of force to achieve self-determination could secure the top-level attention of the West.”<sup>69</sup> This view was seriously to weaken those who sought a peaceful solution to the crisis.

Although the Kosovo Liberation Army (KLA) was barely functional in the early Spring of 1996, it had grown weary of Rugova's non-violent approach, and began to ramp up the scale of violent attacks on the Serbian authorities. By the end of 1997, helped by an enormous influx of weapons from neighbouring Albania,<sup>70</sup> the crisis had increased dramatically and the death toll had risen on both the ethnic-Serb and ethnic-Albanian side.<sup>71</sup> It was not until March 1998, when the Serb special police killed over 80 ethnic-Albanians in an attack on the family compound of Adem Jashari that the violence “turned [from] an armed resistance movement into a Province-wide insurrection.”<sup>72</sup> Eventually, the 'scorched earth' policy of Milošević and the resultant flood of refugees, galvanised NATO Allies into a consensus over action. Authority was given to SACEUR in October 1998 to launch air-strikes against Yugoslavia.

The bombing was only averted by a last minute compromise and the creation of the OSCE-led Kosovo Verification Mission (KVM).<sup>73</sup> It is not within the remit of this paper to expand on events in the winter of 1998/99, except to say that after abortive peace talks in Rambouillet, near Paris, in early 1999, and a resumption of ethnic cleansing by Serb forces, some three quarters of a million refugees fled over the border to Macedonia, Albania and Montenegro. It was apparent to NATO that this

---

in March 2007 that would have given Kosovo a form of 'supervised independence'. Unfortunately the proposals have remained blocked in the Security Council ever since, although a well-coordinated declaration of independence was declared by the Kosovo Assembly on 17 February 2008.

<sup>69</sup> Gallagher, Tom: *The Balkans in the New Millennium - In the Shadow of War and Peace*. Abingdon 2005, p. 34.

<sup>70</sup> *Ibid*, pp. 35-7.

<sup>71</sup> For a more detailed treatment of the crisis see: Malcolm, *op cit*, pp. 652-659.

<sup>72</sup> Allin, *op cit*, p. 51.

<sup>73</sup> Some background on the Genesis and role of the KVM and its controversial head, William Walker, can be found at: Gallagher, *op cit*, pp. 42-3.

was ethnic cleansing on a grand scale. As the US envoy, Christopher Hill said: “we did not go to war over Rambouillet. We went to war because [Milošević] started ethnic cleansing. He sent in 40,000 troops to intimidate the Albanians and to intimidate us.”<sup>74</sup>

The result was that NATO began to bomb targets in the former Yugoslavia in the evening of 24 March 1999. The bombing continued for 11 weeks. On 9 June NATO signed a Military Technical Agreement with the Yugoslav military, and on the following day UN Security Council Resolution 1244 was passed in New York, effectively making Kosovo a “ward of the international community.”<sup>75</sup>

The euphoric return of the Kosovar refugees rapidly overtook the more cautious advance by NATO ground troops. The euphoria did not last long as retribution against the minority Serb population of Kosovo began. Allin comments that “the tide of revenge went more or less unchecked in a security vacuum that NATO military forces were unable to fill.”<sup>76</sup> This was in part due to the configuration of the ground forces, which were prepared for war-fighting, not peacekeeping. But it was also an unwillingness on the part of NATO forces, because the mandate of the mission did not explicitly include any responsibility for rule of law or law enforcement. NATO was charged with responsibility for providing a “safe and secure environment” and the international civilian presence (UN Mission in Kosovo - UNMIK) with maintaining civil law and order.<sup>77</sup> It soon became clear that NATO's problems had only just begun with the successful deployment of troops into Kosovo. We shall return to the rule of law issue later in this paper.

The justification for the Kosovo intervention bears some further discussion. Notwithstanding the plethora of UN Security Council

---

<sup>74</sup> Briefing by Christopher Hill in Ohrid, Macedonia, July 1999 and as quoted in: Allin, *op cit*, p. 60.

<sup>75</sup> King, Iain/Mason, Whit: *Peace at any Price: How the World Failed Kosovo*. London 2006, p. 49.

<sup>76</sup> Allin, *op cit*, p. 71.

<sup>77</sup> For UNSCR 1244 see:  
<http://www.unmikonline.org/UNMIKONLINE2009/1244resolution.htm>

Resolutions regarding the Province up until September 1998, this changed with a threat from the Russian Foreign Minister to veto any resolution that sought to authorise the use of force in Kosovo. Paul Heinbecker, Canadian Permanent Representative to the UN during the Kosovo crisis, said that “the most striking and significant feature of Security Council decision-making on Kosovo was its absence, at least in the crucial winter and spring months of 1999.”<sup>78</sup>

The decision by NATO countries effectively to by-pass the Security Council had three significant lessons. First, by removing the UN from the decision-making process it demonstrated that “if the Security Council proves to be an obstacle to action ... [then it]... can and will be bypassed ... Kosovo ... illustrate[d] both the feasibility of protecting the vulnerable and the limits of the veto.”<sup>79</sup> The downside of this lesson might be that the US and its “coalition of the willing” believed that success in operating outside the aegis of the UN in Kosovo in 1999 could translate into similar success in Iraq in 2003. Unfortunately, the former had established credible legitimacy whilst the latter did not. Second, eventually the international community had to turn back to the UN in order to achieve a resolution and for the UN to take responsibility for a civilian presence in Kosovo. The lack of involvement of the UN until the resolution was passed posed significant resource and practical problems on the UNMIK, from which it never really recovered. Third, the humanitarian *casus belli* promoted by the British Prime Minister<sup>80</sup> spawned a wave of literature arguing the simple idea that a state has a “responsibility to protect” its citizens and should be held to account by the international community if it does not.<sup>81</sup>

---

<sup>78</sup> Heinbecker, Paul: Kosovo. In: Malone, David (Ed.): *The UN Security Council: From the Cold War to the 21st Century*. London 2004, p. 537.

<sup>79</sup> *Ibid.*, p. 538.

<sup>80</sup> Blair, Tony: *Doctrine of the International Community*. A speech delivered to the Economic Club of Chicago on 24 April 1999. Website: <http://www.number10.gov.uk/archive/2003/01/doctrine-of-the-international-community-2441999-1297>. (Last Accessed 22 April 2010.)

<sup>81</sup> For example, see: Evans, Gareth: *The Responsibility to Protect*. Washington 2008. The term 'Responsibility to Protect' is often abbreviated to R2P or RTP. See also an R2P website: <http://www.responsibilitytoprotect.org/>

NATO had explicitly stated that Alliance unity was the centre of gravity of the Kosovo operation. In the long-term this was maintained, but there were several close calls. During the bombing campaign several NATO allies, including the US, refused to commit ground forces to a possible land operation. In the case of the US Government, they were subject to legal challenges from both the Senate and the House of Representatives to the potential deployment of US troops.<sup>82</sup> It provided undoubted sustenance to the Milošević regime and the hope “that it might ride out the air campaign until NATO’s consensus, presumed to be wobbly, fell apart.”<sup>83</sup> This was a view that was echoed by Paddy Ashdown in his report to the British Prime Minister after a visit to the Region in April 1999.<sup>84</sup> Ultimately the will of the Allied countries was carefully crafted to support the ground campaign both politically and militarily. An interesting observation is that consensus seemed to have been created more by a fear of NATO failure than agreement on what they were attempting to achieve. This lack of diplomatic and military coherence was recognised as a crucial issue at the time and the intervention two years later in Macedonia was much better orchestrated as a result.

Turning now to the Macedonian crisis of 2001, Macedonians of all ethnic groups maintained an uneasy cooperation throughout the early Balkan wars. There were grievances on both sides but the political elite did little to address them. It should be no surprise that many ethnic-Albanians took succour from “the collapse of Serbian power in Kosovo”<sup>85</sup> and began to advance their claims in a more violent manner. After a desultory and spasmodic couple of months fighting in early

---

<sup>82</sup> For more discussion see: Kaufman, op cit, pp. 194-5. One of the little-known impacts of this debate was that US personnel in NATO’s HQ ACE Rapid Reaction Corps, including the head of operations, were unable to deploy to Macedonia with the remainder of their NATO colleagues. The delay was only for a few days, so whilst this had more of an embarrassing effect than a substantive one, it did demonstrate the internal political hurdles that the US Government had to overcome in order to support the Kosovo intervention.

<sup>83</sup> Allin, op cit, p61.

<sup>84</sup> Ashdown, Paddy: *Swords and Ploughshares*. London 2007, p. 6.

<sup>85</sup> Gallagher, op cit, p. 97.

2001, the fighting flared up in several parts of the country. By early Summer 2001 the ethnic-Albanian National Liberation Army (NLA) had some 2000 members, and fighting around Arachinovo appeared on the verge of spiralling out of control. In the event the international community, but particularly NATO and the EU, attempted to defuse the situation by active engagement. This engagement proved to be highly successful, and, after a series of ceasefires in July and August, “international pressure finally led to the Macedonian and Albanian representatives in government signing what became known as the Ohrid [Framework] Agreement on 13 August 2001.”<sup>86</sup>

NATO's Mark Laity was intimately involved in events both as the Secretary General's Special Advisor and then as his representative in the Cabinet of the Macedonian President. Whilst stressing the importance of local context in Macedonia (as in all such scenarios), Laity felt that the lessons from NATO's intervention in 2001 could serve as a useful model of pre-emptive diplomacy.<sup>87</sup> Perhaps the most important lesson he identified was that of early and high-level engagement.<sup>88</sup> It is something that has been echoed by others, including the NATO Secretary General himself.<sup>89</sup> It was, however, particularly evident that Lord Robertson and Javier Solana, the EU/HR, invested considerable personal and institutional capital both in creating the necessary political space for those stakeholders<sup>90</sup> who would resolve the crisis, as well as the freedom of manoeuvre for those NATO and EU officials, who were acting as facilitators. It was a highly successful combination. Furthermore, it led to fast decision-making on the basis of civil-military coherence and allowed the appropriate and speedy use of force. Perhaps as a codicil,

---

<sup>86</sup> Ibid, p. 107.

<sup>87</sup> Laity, Mark: Preventing War in Macedonia - Pre-Emptive Diplomacy for the 21st Century. Abingdon 2008, pp. 76-91

<sup>88</sup> For example, see: Kaufman, op cit, p. 221; and, Karajkov, Risto: Macedonia's 2001 Ethnic War - Offsetting Conflict - What Should Have Been Done That Was Not? In: Conflict Security and Development, 8:4 December 2008, p. 451.

<sup>89</sup> Robertson, Lord George: The Omaha Milkman Today - NATO's Transformation - An Agenda for a New Century. In: RUSI Journal, Vol 149 No1, February 2004, p. 45.

<sup>90</sup> Such as the Macedonian President, Boris Trajkovski and the leader of the NLA, Ali Ahmeti.

however, is Laity's point that everything was nearly undone by the lack of a NATO information campaign within the country, which allowed a "bad media situation ... [to get]... worse."<sup>91</sup> Part of the problem was under-manning of the NATO Press Information Centre or manning with unqualified individuals (issues to be laid at the feet of the nations), as well as a rather rigid interpretation of a narrow KFOR Rear mandate.

Having analysed all three NATO interventions in the Western Balkans, it would now be helpful to bring some of the over-arching strands together. It should be self-evident that any military intervention must bring with it responsibilities for the aftermath: in effect state-building. King and Mason make the point that "[p]eace deals should be oriented less to ending wars than to establishing a just and sustainable peace."<sup>92</sup> This didn't happen in Bosnia nor did it in Kosovo. One could argue, however, that it did in Macedonia. Ashdown also argues cogently that not only should a state or an organisation intervene as a very last resort, but also it needs to plan more for the subsequent peace than for the intervention.<sup>93</sup> This includes, inter alia, the appropriate sequencing of certain tactical and operational activities:

From the very first moment, the intervening force should dominate the security space. In Kosovo there was a security vacuum in a number of areas, which were filled by the KLA. The resultant grip they then exercised over both the population and the organs of state were never fully prised from their grasp.<sup>94</sup> The key for the NATO forces should always be to hold the ring, whilst a political solution is found.<sup>95</sup>

---

<sup>91</sup> Laity, op cit, p. 87.

<sup>92</sup> King/Mason, op cit, p. 257.

<sup>93</sup> Ashdown, op cit, pp. 67-95.

<sup>94</sup> The subsequent disarmament, demobilisation and reintegration (DDR) of the KLA was mandated in UNSCR 1244 and had the potential for serious difficulties. In the event NATO handled this well, although its successor organisation, the Kosovo Protection Corps (KPC) continued to pose concerns. See Colletta, Nat J et al: Interim Stabilization - Balancing Security and Development in Post-Conflict Peacebuilding. Stockholm 2008, pp. 33-6.

<sup>95</sup> Ashdown, op cit, p. 76.

The concept of security cannot be separated from that of human security.<sup>96</sup> Thus the interveners must focus on applying the rule of law as quickly as possible and as an integral part of dominating the security space. As Friesendorf points out, UN civilian police officers deployed very late in both Bosnia and Kosovo and the burden of maintaining the rule of law had to be shouldered by a reluctant NATO. Even then individual military contingents responded in different ways and with varying degrees of effectiveness and enthusiasm.<sup>97</sup> It is a lesson that NATO and coalition forces continue to struggle with in Iraq and Afghanistan. It is, however, better enshrined in military doctrine than hitherto and use is now made of NATO Gendarmerie-style forces where it is appropriate.<sup>98</sup>

There is always a regional impact to any intervention or any crisis, and this needs to be taken into account from the start. For example, NATO has grouped all the operations and missions in the Western Balkans under one command in order to ensure overall coherence. This allowed a much more integrated and regional response to the Kosovo riots of March 2004.<sup>99</sup>

The role of security sector reform (SSR) and defence institution building has been crucial to both state-building and peace-building in the Western

---

<sup>96</sup> Glasius, Marlies/Kaldor, Mary: A Human Security Vision For Europe and Beyond. In: A Human Security Doctrine For Europe. Abingdon 2007, pp. 6-8.

<sup>97</sup> Friesendorf, Cornelius: The Military and Law Enforcement in Peace Operations. Vienna/Berlin 2010, pp. 90-95.

<sup>98</sup> A short summary of the use of Italian Carabinieri to train Iraqi National Police can be found on the NATO Training Mission Iraq website: [http://www.jfcnaples.nato.int/ntmi/information/other\\_projects.html](http://www.jfcnaples.nato.int/ntmi/information/other_projects.html). There is also a NATO Training Mission Afghanistan, which has a broader remit for both the Afghan Army and Afghan Police. See website: <http://www.ntm-a.com/>. (Both last accessed 22 April 2010.)

<sup>99</sup> During those riots the Commander Joint Force Command (JFC) Naples lobbied politicians and diplomatic staff across the region to help defuse the situation, as well as being able to re-deploy NATO forces from other Balkan missions to Kosovo. Details of the HQs under command JFC Naples can be found at: <http://www.jfcnaples.nato.int/>. (Last accessed 22 April 2010.)

Balkans. This issue is covered more fully in the section on 'SSR and Democratic Development'.

An integral aspect of SSR is striking an appropriate balance between capacity building (which sometimes creates a level of dependency) and local ownership.<sup>100</sup> Ultimately, however, there will need to be a high level of local ownership in order to secure and embed the reform process.<sup>101</sup>

Economic uncertainty and poverty create instability and insecurity and thus economic regeneration should be made an early priority.<sup>102</sup> After some delay NATO has learned this lesson and this activity is included as a matter of routine in their Provincial Reconstruction Teams (PRTs) in Afghanistan, albeit not taking the lead, but merely preparing the ground for the follow-on work of development agencies.<sup>103</sup> Similarly, NATO has recognised “the crucial link between maintaining stability and delivering development aid to Afghanistan...” and has produced a specific procurement policy to assist local actors.<sup>104</sup> Notwithstanding

---

<sup>100</sup> Baxter, BG James: Lessons of NATO Involvement in the Balkans. Speech at: Securing Peace - NATO's Role in Crisis Management and Conflict Resolution, 16 October 2003. Website: [http://www.nato.int/cps/en/natolive/opinions\\_20530.htm?selectedLocale=en](http://www.nato.int/cps/en/natolive/opinions_20530.htm?selectedLocale=en). (Last accessed 22 April 2010.)

<sup>101</sup> There is some excellent literature on this subject, eg: Nathan, Laurie: No Ownership, No Commitment: A Guide To Local Ownership of Security Sector Reform. Birmingham 2007; and Donais, Timothy (Ed.): Local Ownership and Security Sector Reform. Zürich/Berlin 2008.

<sup>102</sup> Cleland Welch, Anthony: Achieving Human Security After Intra-State Conflict - The Lessons of Kosovo. In: Journal of Contemporary European Studies, 14:22, August 2006, pp. 225-6; and Ashdown, op cit, pp. 80-84.

<sup>103</sup> Some guidance in this field for the UK's Stabilisation Unit is contained in their Quick Impact Projects Handbook - copy held by author. Also on password-protected website: [http://www.stabilisationonline.org/edocs/ref\\_docs/qip\\_handbook.pdf](http://www.stabilisationonline.org/edocs/ref_docs/qip_handbook.pdf). (Last accessed 29 April 2010.)

<sup>104</sup> See: NATO: Afghan First Policy - Supporting Afghan Economic Development. Press Release: (2010) 048 dated 23 April 2010. Website: [http://www.nato.int/cps/en/natolive/official\\_texts\\_62851.htm?mode=pressrelease](http://www.nato.int/cps/en/natolive/official_texts_62851.htm?mode=pressrelease). (Last accessed 29 April 2010.)

NATO's progress in this area, they, along with the rest of the international community, still tend to inflate local salaries and can distort the local economy by their spending power. What happens is that well-qualified and educated people, who should be helping the host nation develop its own capacity, are seduced into highly-paid, but low-value jobs for the internationals. Ignatieff described this as “capacity sucking out.”<sup>105</sup> It is a difficult issue for all concerned but all actors, both local and international, need to be mindful of the harm that can be done.

This need to cooperate with other actors on a variety of different issues has been recognised by NATO in its interventions in the Western Balkans and they have developed a “Comprehensive Approach.” They have encountered a number of difficulties in translating the policy into sustainable action, but this is covered in more detail in a later section of the paper.

Perhaps the most telling lesson that NATO is still grappling with, both in the Western Balkans and in Afghanistan is, to use Ashdown's words: “at the end, do not wait until everything is as it would be in your country, but leave when the peace is sustainable.”<sup>106</sup> NATO still has a residual presence in all the countries where it intervened. Closing down some of its missions must now be on the agenda.

Many of the lessons above have not been entirely learned, nor have they been completely ignored. NATO's military structure has changed in order to meet current threats, including the creation of a more streamlined command structure and a Joint Analysis & Lessons Learned Centre (JALLC).<sup>107</sup> The individual nations' training standards have incorporated some of the hard-won experience of the Balkan wars and lessons teased out over the past ten years are now being fed into the

---

<sup>105</sup> Ignatieff, Michael: The Burden. In: New York Times Magazine. New York 5 January 2003, p.162. As quoted in: Fukuyama, Francis: State-Building: Governance and World Order in the Twenty-First Century. London 2004, p. 139

<sup>106</sup> Ashdown, op cit, p. 213.

<sup>107</sup> See: <http://www.act.nato.int/content.asp?pageid=334>. (Last accessed 20 April 2010.)

doctrine of some of the larger Allies<sup>108</sup> as well as NATO's own doctrine.<sup>109</sup> Although there have been setbacks, it could be argued that NATO's three major interventions in the Western Balkans each “came at an earlier stage and was therefore increasingly effective in saving lives and preventing overspill.”<sup>110</sup>

## **Security Sector Reform (SSR) and Democratic Development**

During the past 15 years NATO has used its position as the world's pre-eminent security Alliance to assist numerous countries in Eastern Europe, and in particular the Western Balkans, to transform their security sectors. This process has also been a point of entry to encourage a much broader range of reforms across the whole of government. These have been linked to the Partnership for Peace (PfP) activities, but, more specifically, with enlargement and the Membership Action Plan (MAP). This later programme has used the conditionality of NATO membership as a highly effective lever to drive forward the reform agenda.<sup>111</sup> It has developed a series of thematic programmes, which offer practical handrails to partner countries (eg, Partnership Action Plan – Defence Institution Building [PAP-DIB]). These have evolved over time in response to political demands for tangible evidence of progress in reforms and have built upon lessons identified in the Western Balkans.<sup>112</sup>

Turning now to the detail of NATO's current engagement in the Western Balkans. Currently there are three NATO HQs in the Region

---

<sup>108</sup> For example: US Field Manual 3-07 (Stability Operations); and the UK Joint Doctrine Publication 3-40 (Security and Stabilisation).

<sup>109</sup> NATO Allied Joint Doctrine For Counterinsurgency (COIN) - AJP-3.4.4 (Draft)

<sup>110</sup> Robertson, op cit, p. 45.

<sup>111</sup> Blease, Dennis: NATO and SSR in the Western Balkans. In panel: NATO and Defence Reform - Experiences in the Western Balkans and Beyond. At conference in Den Haag entitled: Towards a Whole of Government Approach to Security System Reform (SSR), 9 April 2008.

<sup>112</sup> For a more detailed treatment within the Western Balkans see: Jazbec, Milan: Security and Diplomacy in the Western Balkans. Ljubljana 2007, pp. 76-78.

(Sarajevo,<sup>113</sup> Skopje and Tirana), which exist to provide advice on defence reform and SSR to their respective host nations. Not only has their work been invaluable in embedding stability, but also it has been a natural progression from NATO's original tactical missions in those countries. A Military Liaison Office was opened in Belgrade at the end of 2006. Whilst its primary role is linked to operational matters, its secondary role is focussed on reform and support to Belgrade's Defence Reform Group.<sup>114</sup> KFOR still has a major tactical role in providing a safe and secure environment in Kosovo but it now also has a role to assist the Kosovar authorities in creating the new Kosovo Security Forces (KSF) and its concomitant Ministry.<sup>115</sup> The creation of these various reform roles throughout the Region demonstrate that NATO has learned some lessons in assisting countries with their democratic development. Unfortunately, their approach remains inconsistent. In 2007 the Allies and the International Staff declined to provide a NATO Advisory Team in Podgorica after Montenegro's secession from Serbia. This was disappointing in that the Montenegrin government had specifically requested such assistance and it could have been provided for little cost but for considerable gain.<sup>116</sup>

Whilst NATO's International Staff can be congratulated on keeping the momentum of reform going over the past 15 years, they would appear to have been less successful in weaving the various strands of reform together in a more holistic manner. In recent years most high-level meetings have publicly endorsed the priority of SSR,<sup>117</sup> but they have

---

<sup>113</sup> For a review of NATO HQ Sarajevo's role in the reform process see: McLane, Bruce: NATO Reform in Bosnia-Herzegovina. In: Felberbauer, Ernst/Jureković, Predrag/Labarre, Frederic (Eds.): Supporting Bosnia and Herzegovina - The Challenge of Reaching Self-Sustainability in a Post-War Environment. Vienna 2009, pp. 67-76.

<sup>114</sup> See: <http://www.jfcnaples.nato.int/mlo/documents/mission.html> (Last accessed 19 April 2010.)

<sup>115</sup> For more detail on these tasks see: [http://www.nato.int/cps/en/natolive/topics\\_48818.htm](http://www.nato.int/cps/en/natolive/topics_48818.htm). (Last accessed 19 April 2010.)

<sup>116</sup> Author's personal notebook.

<sup>117</sup> For example, see: NATO: Riga Summit Declaration - Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council

still not produced a conceptual or policy framework for SSR. This is at variance with other major international actors such as the EU<sup>118</sup> and the UN<sup>119</sup> which have made significant strides in developing their approaches to SSR. Spasmodic attempts have been made by NATO to rectify this anomaly, but there has been no consensus amongst the Allies for such action.<sup>120</sup> So whilst NATO's contributions to SSR and Defence Reform in the Western Balkans have been considerable and widely praised,<sup>121</sup> they continue to evolve in a sub-optimal fashion.

---

in Riga on 29 November 2006, para 9 & 12. Available at: [http://www.nato.int/cps/en/natolive/official\\_texts\\_37920.htm?selectedLocale=en](http://www.nato.int/cps/en/natolive/official_texts_37920.htm?selectedLocale=en) (Last Accessed: 21 April 2010); NATO: Final communiqué - Ministerial meeting of the North Atlantic Council held at NATO headquarters, Brussels on 7 December 2007, para 4 & 16. Available at: [http://www.nato.int/cps/en/natolive/official\\_texts\\_46356.htm?selectedLocale=en](http://www.nato.int/cps/en/natolive/official_texts_46356.htm?selectedLocale=en) . (Last Accessed 21 April 2010.); NATO: Bucharest Summit Declaration - Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Bucharest on 3 April 2008, para 31-32. Available at: [http://www.nato.int/cps/en/natolive/official\\_texts\\_8443.htm?selectedLocale=en](http://www.nato.int/cps/en/natolive/official_texts_8443.htm?selectedLocale=en) [Last Accessed 21 April 2010]; and NATO: Strasbourg / Kehl Summit Declaration Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Strasbourg / Kehl on 4 April 2009, para 30. Available at: [http://www.nato.int/cps/en/natolive/news\\_52837.htm?selectedLocale=en](http://www.nato.int/cps/en/natolive/news_52837.htm?selectedLocale=en). (Last Accessed 21 April 2010.)

<sup>118</sup> The EU has two frameworks: one for the Council (see: Council of the European Union: EU Concept ESDP Support to Security Sector Reform, Doc 12566/4/05 REV 4, 2005 ) and one for the Commission (see: COM(2006) 253 final, SEC(2006) 658, Brussels 24 May 2006).

<sup>119</sup> UN: SG/SM/11564 SC/9328, 2008. For Press Release see: <http://www.un.org/News/Press/docs/2008/sgsm11564.doc.htm>. (Last accessed 21 April 2010.)

<sup>120</sup> Several draft papers on SSR have been produced by the Defence Planning and Policy division of NATO's International Staff. In the event one nation has taken the view that SSR should be under the purview of the EU and that NATO should restrict its activities to defence reform, which runs counter to the conventional wisdom of the need for a holistic approach. It has only served to accentuate the difficulties of managing change where consensus is always needed.

<sup>121</sup> For example see: Caparini, Marina: Security Sector Reconstruction: Western Balkans. In: Bryden, Alan/Hänggi, Heine (Eds.): Reform and Reconstruction of the Security Sector. Zürich 2004, pp. 167-168

## A Comprehensive Approach

Another key theme that has emerged from NATO's involvement in the Western Balkans has been the requirement to deal with a variety of international organisations as well as a number of non-NATO countries.<sup>122</sup> Recent literature is replete with references on the need for cooperation,<sup>123</sup> and much of it stresses specifically the need for NATO-EU cooperation.<sup>124</sup> In describing best-practice for interventions, Ashdown goes a stage further and stresses the need to “[u]nderstand the importance of the international community effort of coordination, cohesion and speaking with a single voice.”<sup>125</sup> The last point is especially important but a Sisyphean challenge in most post-conflict scenarios. Experience on the ground shows that during stabilisation and post-conflict missions there are a plethora of actors, engaged in a variety of elements of conflict resolution, state-building and SSR, all with different mandates, different funding streams and a profusion of approaches. The impact of an actor in one country will often have an impact on a neighbouring country. Some actors therefore take regional approaches, some global. Some focus on governmental oversight, others

---

<sup>122</sup> An interesting account of the UK MOD's perspective from the Bosnia and Kosovo conflict can be found in: MOD, *The Comprehensive Approach: Joint Discussion Note 4/05*, dated 2005, p1-1. Website:

[http://www.mod.uk/NR/rdonlyres/BEE7F0A4-C1DA-45F8-9FDC-7FBD25750EE3/0/dcdc21\\_jdn4\\_05.pdf](http://www.mod.uk/NR/rdonlyres/BEE7F0A4-C1DA-45F8-9FDC-7FBD25750EE3/0/dcdc21_jdn4_05.pdf) (Last accessed 21 April 2010.)

<sup>123</sup> For example, see: Coutts, Sheila, & Ong, Kelvin: *Managing Security Sector Reform*. In: *The UN, The EU, NATO and Other Regional Actors: Partners in Peace?* International Peace Academy, Conference in Paris, 11-12 October 2002, pp. 12-14. Also, Boanas, Edward: *Crossing the Fault Line – Coordinating Multi-lateral Security Sector Reform Engagements in Post-Conflict Countries*. In: *Journal of Security Sector Management*, Volume 3 No 3, June 2005. Website: [http://www.ssronline.org/jofssm/issues/jofssm\\_0303\\_boanas\\_faultlines.pdf?CFID=247093&CFTOKEN=85505669](http://www.ssronline.org/jofssm/issues/jofssm_0303_boanas_faultlines.pdf?CFID=247093&CFTOKEN=85505669)

<sup>124</sup> For example, see: Dowling, Alex: *Executive Summary*. In: Ebnöther, Anja/Felberbauer, Ernst/Staničić, Mladen (Eds.), *Security Sector Reform in South East Europe - From a Necessary Remedy to a Global Concept* (13th Workshop of the Study Group Regional Stability in South East Europe). Vienna 2007, p. 159.

<sup>125</sup> Ashdown, *op cit*, p. 213.

on police reform. Blair<sup>126</sup> uses an interesting analogy of weaving the strands of a rope in her treatise on Kosovo, with its strands (sectoral activities) and threads (actors), all interdependent and interwoven to form a strong rope (and thus a sustainable peace). Her analogy is completely germane to NATO's experience in the post-conflict arena.

Denmark,<sup>127</sup> amongst others, was signally influential in persuading NATO to begin developing its own "Comprehensive Approach" at the Riga Summit in November 2006.<sup>128</sup> The declaration highlighted the need to coordinate with specific organisations, especially "the activities of the UN, EU and the OSCE to build governance and support reform."<sup>129</sup>

The process of delivering on NATO's Comprehensive Approach remains difficult for many reasons, not least in that it cannot demand cooperation from other autonomous actors. Empirical evidence would seem to suggest that cooperation is easier where there are shared interests and values, such as that between NATO and the EU. The Declaration from NATO's Riga Summit contained no less than six separate references to NATO and EU cooperation or shared values.<sup>130</sup> Again, the public utterances of the two leaderships have generally been supportive of this collaboration. Solana stated that "(A)s far as NATO is concerned, we will in the coming years be literally working side by side in the security

---

<sup>126</sup> Blair, Stephanie: *Weaving the Strands of the Rope - A Comprehensive Approach to Building Peace in Kosovo*. Dalhousie University/Halifax 2002, p77. (Blair attributes the analogy to the then Lt Gen Mike Jackson, the first COMKFOR.) For link to paper see: <http://centreforforeignpolicystudies.dal.ca/pdf/weavingthestrands-of-the-rope.pdf>. (Last accessed 21 April 2010.)

<sup>127</sup> Smith-Windsor, Brooke: *Hasten Slowly - NATO's Effects Based and Comprehensive Approach to Operations*. NATO Research Paper, 38. Rome July 2008. Link to paper at: <http://www.ndc.nato.int/research/series.php?icode=1>. (Last accessed 19 April 2010.)

<sup>128</sup> NATO, Riga Summit Declaration, op cit, dated 29 November 2006, Paragraph 10. See: <http://www.nato.int/docu/pr/2006/p06-150e.htm>. (Last accessed 21 April 2010.)

<sup>129</sup> Ibid, end of paragraph 9.

<sup>130</sup> NATO, Riga Summit Declaration, op cit, dated 29 November 2006. References are contained at paragraphs 6, 9 (twice), 23, 23 (twice). See: <http://www.nato.int/docu/pr/2006/p06-150e.htm>. (Last accessed 21 April 2010.)

field.”<sup>131</sup> And as de Hoop Scheffer said: “in the Balkans, NATO and the EU have worked together very effectively, and I am optimistic about our ability to do so again.”<sup>132</sup> Similarly, their respective policy documents are broadly positive about the need for a close partnership.

It must be acknowledged, however, that there can sometimes be a gap between public pronouncements and reality. For example, the organisations' cooperation within “Berlin Plus” has not been exactly flawless, but it has achieved some success. During the first ESDP mission in Macedonia, Operation CONCORDIA in 2003, and in Bosnia Herzegovina, Operation ALTHEA in 2004, NATO handed over tactical missions to the EU. The focus at the tactical level on delivery rather than on theology, particularly during the ALTHEA mission, meant that the practical points of coordination could be worked upon and developed to a stage where they would be relatively seamless in the future. Furthermore, the practical cooperation in the field between NATO and EU political staffs tends to work well.<sup>133</sup> It does therefore seem to indicate that the two organisations are learning the lessons of the Western Balkans and can break down some of the institutional barriers on the ground and deliver mission success. But more success would be better.

---

<sup>131</sup> Solana, Javier: From Dayton Implementation to European Integration. In: Historic Change in the Balkans. In: NATO Review, NATO PDD, 2004, p9. Website: <http://www.nato.int/docu/review/2004/issue4/english/art2.html>. (Last accessed 21 April 2010.)

<sup>132</sup> De Hoop Scheffer, Jaap: NATO and ESDP - Forging New Links. In: Keynote Address, Security and Defence Agenda Conference, Brussels, 8 June 2007, p. 2. Website: <http://www.nato.int/docu/speech/2007/s070608a.html>. (Last accessed 21 April 2010.)

<sup>133</sup> For example, see: Rambke, Karl-Heinz/Keil, Sebastian: EU-NATO Cooperation in Post-Conflict Reconstruction. In: Spence, David/Fluri, Philipp (Eds.): The European Union and Security Sector Reform. London 2007, p. 270; and, Sahlin, Ambassador Michael: Regional Security-Enhancing Organizations. In: Adriatic 3 - Towards NATO Membership, Perspectives and Challenges, Marshall Center Conference for Adriatic Charter Countries, Skopje, 15 March 2005, p. 2.

## **“A Political Agenda for a Political Alliance”<sup>134</sup>**

For a number of years now, there has been a circular argument whether NATO is merely a defence alliance or something more. Jamie Shea wrote “NATO 2000” in 1990 as he sought to chart NATO's path to the turn of the Millennium, complete with its challenges, risks, uncertainties and opportunities. Whilst he did not predict the implosion of Yugoslavia, he did predict the desire of many Eastern European countries to move closer to both NATO and the EU. He also recommended a series of engagements (political, economic and cultural) that still resonate today. The bottom line of his thesis, however, was the need for NATO to adopt an essentially “political” agenda and that by the end of the twentieth century “it will be seen as the primary clearing house of Western policy-making ... [and] ... manage transatlantic relations”.<sup>135</sup>

At the time there were many who doubted this vision of the future, but it was a combination of a programme of cooperation with Eastern European countries as part of the enlargement policy and NATO's military involvement in the Western Balkans that forced that political vision to the fore. Such a transformation was not without its difficulties, as domestic considerations as well as a fractious internal dynamic between the US and the European Allies initially hindered consensus.<sup>136</sup> It is to the eternal credit of the Cold War NATO, however, that it did transmogrify into an Alliance that could take hard and difficult decisions, providing the military might that was required to produce a political outcome, as well as an impressive level of diplomatic and military coherence.

By the 60th Anniversary of NATO at the Bucharest Summit the idea that NATO was a political Alliance was not in question as evinced by the words of the Norwegian Defence Minister: “I therefore believe that the Alliance should be regarded as more than just a 'tool box' only

---

<sup>134</sup> Taken from the title of: Shea, Jamie: NATO 2000 - A Political Agenda for a Political Alliance. London 1990.

<sup>135</sup> Shea, op cit, p. 58.

<sup>136</sup> Kaufmann, op cit, pp. 126-127.

containing military capabilities ... NATO has however illustrated time and again that it also is a political organisation.”<sup>137</sup>

## Conclusion

There are some commentators like Weber and Sperling, who argue that NATO's record is mixed with “a crisis recognised, acted upon in a less than optimum manner, and giving point to a continuing process of change.”<sup>138</sup> This would be only half the picture. The body of evidence would support the assertion that NATO has undergone a fundamental process of transformation over the past 15 years: much of that change having been brought about by learning from its experiences of the military missions in the Western Balkans. In some areas it has not learned very well and in other areas it has only learned slowly. Although the picture is not perfect, the trend is definitely upwards.

Of particular note is the way that NATO has overcome significant political and military hurdles when it has been challenged; the way it has opened its doors to Eastern European countries in the process of enlargement, including from the West Balkans; the way it has used the conditionality of NATO membership (often in concert with the EU and its membership criteria) in order to drive the reform process; and the way it has begun its political and practical engagement with other international actors in the Comprehensive Approach. There is much to commend.

It is worth leaving the last word to Dana Allin, who expressed the view that NATO had learned from their military interventions in the Western

---

<sup>137</sup> Strøm-Erichsen, Anne-Grete: NATO in the 21st Century. Speech at The Leangkollen Seminar, 2 February 2009. Website: <http://www.regjeringen.no/en/dep/fd/whats-new/Speeches-and-articles/minister/forsvarsminister-stroem-erichsen/2009/nato-in-the-21st-century.html?id=544547>. (Last accessed 22 April 2010.)

<sup>138</sup> Sperling, James/Webber, Mark: NATO - From Kosovo to Kabul. In: *International Affairs* 85: 3, 2009, p. 500.

Balkans and that their "...learning curve' is discernible in the record of early failures and later successes."<sup>139</sup>

---

<sup>139</sup> Allin, D, op cit, p91.



# **EU and NATO Integration: Their Impact on Regional Security and Cooperation**

Mladen Nakić

This year should be a turning point for building the new Balkan identity. Today we need a completely new strategic approach to define common policy for the region. It is clear that more than ever, cooperation, mutual understandings and dialogue have no alternatives in the Western Balkans. This is good for beginning, but it is not enough for making a better future. Tragic history in the 1990s has just verified it. The Balkans have chance to change its negative perceptions as a problematic region. It is easier to say than to act, but we need clear diplomatic action now without any additional political delay.

It is practical to compare where the Balkans were fifteen years ago and where the region is today. This is not just to conclude how progress is made, but rather to emphasize what needs to be done to accomplish our common mission.

Today we have a chance to change what some call „balkanization“ to describe something bad and undesirable. Countries in the region bear their share of responsibility, but Europe and the international community must contribute to the idea of creating a zone of peace and security in the Balkans.

Europe has returned to the Balkans. The United States and Russia did the same. Why do I think it is necessary for all international actors to renew their positive contribution in building new political atmosphere in the region? Political legacy of the early 1990s suggests that the business ultimately need to be finished. The process leading towards European reintegration is a great foundation for building a new relationship in the sphere of politics, economy and security.

The truth is that there is no open or visible threat by war or ethnic conflict in the Balkans, but continuous challenges to security are evident. As a matter of fact, the entire area of the Western Balkans entered into a phase of stabilization, but a few elements still exist as seed for a potential crisis.

First, there is unfinished business in Bosnia and Herzegovina that is threatening fragile ethnic stability.

Second, Kosovo is fighting for its full independence promotion as a sovereign state and facing strong Serbian diplomatic action to oppose unilaterally declared Kosovar independence.

Third, Macedonia has a dispute over its name with Greece and still has to wait for NATO membership as well as to begin the negotiation process for EU membership.

Fourth and most challenging is Serbia itself that is recognized as a country involved from many perspectives in regional stability. Serbia is responsible for future the constitutive status of Bosnia and Herzegovina through its relations with Republika Srpska and as a co-signatory of Dayton Peace Accords. Serbian diplomatic offensive worldwide against Kosovar sovereignty has negative impact on regional cooperation and stability. The Serbian president failed to show up at the inauguration ceremony of new elected Croatian president, and also missed participation at the Balkans Summit in Slovenia (March 2010). To be honest, a very good signal is sent from the meeting between the Serbian and the Croatian presidents held in the Croatian seaside jewel Opatija. The dialogue has been continued afterwards in Brussels and recently in Hungary and Serbia.

On the other hand, a promising fact is the openly stressed political willingness of all regional leaders to be part of European integration and to reach European standards and criteria for full EU membership and Trans Atlantic dialogue.

Actually, starting from these days we are entering a phase of challenging next five to ten years that will be either make-or-break time for the Western Balkan. The majority of citizens in the region are convinced that new armed conflicts are unlikely. The problem may lay in a current perception without future perspectives. Pessimism about employment is alarmingly high particularly among young people; corruption and government mismanagement are widespread. The general feeling is that most leaders and local politicians are primarily interested in their own benefits and privileges ignoring public interest and well-being.

Stabilizing the Western Balkans is an important objective and attainable goal. Albania and Croatia as new NATO members signal others in the region that reform can lead to integration.

Relations between the regional countries and EU and NATO should confirm mutual interest. NATO and EU need regional countries as much as they need both these organizations. I would like to point out a few things that ensure positive impact on the integration process.

1. A positive and encouraging fact is the readiness of each country in the region and their relevant political leaders to officially come out for joining NATO and EU as a clear way to continue European integration policy. Obviously, political elites in the region have no doubt on what option they need to choose to build a future for it own people and citizens. Stability and security of entire region are a top priority and key words that prevail among most of politicians and ordinary people. For them, NATO and EU membership is recognized as a strong guarantee to avoid being imperilled as it was case in the past.
2. After the wars we witnessed in the region, it is expected that public opinion opposes any irrational political pamphlets as an alternative for prosperity and safe future based on modern democratic system. This certainly includes respecting individual human rights as well as the rights of ethnic communities and minorities.

3. The lessons learned from the wars in the region provide additional argument that the region is aware of its recent tragic experience and future efforts to manage intractable regional conflict. Historically, the Balkans was a black spot on the European political map. These generations have a historical chance and a responsibility to make the Balkans more positive and desirable place to live. The region has a chance to contribute with its own stability as best possible way to increase the security level of the entire Europe.

Having in mind further NATO/EU enlargement, the „open door” policy needs to be kept on the highest agenda. NATO-28 became stronger than NATO-27 just a year ago. EU-28 will be stronger tomorrow than EU-27 today. From that perspective, the entire region has benefit to continue its own reforms to build better and safe future.

The countries in the region and their leaders have never had a more positive atmosphere than they have today to work together and to help each other.

Croatia, Albania and Macedonia have been mutually supportive in their NATO accession efforts, especially within the framework of the US Adriatic Charter. We are happy to be able to welcome other countries of the region into the Charter, namely Bosnia and Herzegovina, Montenegro and Serbia, where Kosovo will have its own place to join us in the foreseeable future.

As a Croat I am please that my country is being very open and supportive to regional issues and is showing readiness to work with and for the region. Croatia has signed the Protocols on Cooperation in the European Integration Process with Albania, Bosnia and Herzegovina, Montenegro, Macedonia and Serbia. The Euro-Atlantic perspective, as a guarantee of stability and prosperity, has no alternative for the region.

Our strong determination to help the countries of the region on their European path is best reflected in the Government’s recent decision to put Croatian translation of the EU *Acquis communautaire* at our

neighbours' disposal and it was delivered at the Balkan Summit in Slovenia in March 2010.

With regard to Bosnia and Herzegovina, strengthening stability in the country is of vital importance for the prosperity of the entire region. Croatia supports the reforms in Bosnia and Herzegovina aimed at establishing a functional state with the European perspective.

As a co-signatory of the Dayton Agreement, and as a close neighbour, Croatia has a strategic interest for the stability of BiH. Fortunately, after 15 years since the Dayton Peace Accords was signed, we don't need to talk about safety of the citizens on a daily basis, but some fear of possible renewal of the ethnic conflict still exists. It is simply unacceptable. BiH deserves its own future. Politicians in BiH have a chance for a new round of talks and we all believe in a solution soon, but at the same time international actors should be ready to help BiH if the situation does not move into the desired direction. Many support all efforts including the maintenance of international conference (Dayton II), if it is the only way to secure the prosperous future of BiH.

By keeping a strong international focus on BiH, a message is sent to BiH leaders not to stall with European integration because this is destructive for the country's sustainability.

We would like to assist BiH in reaching a political compromise and finding solutions to the remaining issues, so that BiH could continue with its European integration process, without further delay.

Leaders in BiH have serious responsibility to all the citizens of BiH in creating a stable and favourable environment instead of raising dangerous tensions among Serbs, Croats and Bosniaks. This is especially important now, since 2010 is an election year.

Also, the right and careful timing for the decision on the transition from High Representative to EUSR (*EU Special Representative*) is very important. It is not realistic that this year would be suitable for the closing

of the OHR because of election year, high tensions on the referendum issue in Republika Srpska, and still lack visible progress.

Beside the situation in Bosnia and Herzegovina, Kosovo is politically most challenging for the EU common foreign policy because 5 of 27 EU members still haven't recognized Kosovo as an independent state. On the other side, it will be interesting to see how the European External Action Service (EEAS) led by Catherine Ashton will use the functioning of the common diplomatic service to practicing CFSP and ESDP to find a political solution in Bosnia and Herzegovina.

That is why we advocated for granting the Membership Action Plan to BiH and thus clearly demonstrate visible support for the Euro-Atlantic wishes of the vast majority of citizens of BiH. Progress has been made and it should be recognized and rewarded. The Gallup survey shows that 77% of BiH citizens are pessimistic about their future, and 81% believe that there is widespread corruption in the government. At this point I think BiH needs „affirmative support”.

Croatia welcomes Montenegro's application for full EU membership and their submission of answers to the European Commission Questionnaire. We strongly support Montenegro on its demanding path towards the EU and gladly transfer our experience. We welcome NATO's invitation to Montenegro and strongly advocate with our allies.

We truly hope that Macedonia's negotiations with Greece over the name issue will soon result in a solution acceptable to both countries. The name issue should not re-extend the membership of Macedonia into NATO. At the moment, apart from Turkey and Croatia, Macedonia has been granted candidate status for EU membership, however it still has not opened its negotiations due to bilateral issues with Greece.

As I noticed at the very beginning, Serbia is one of the key countries for regional stability. We all support Serbia's European perspective and welcome its application for EU membership candidate status. We all wish Serbia to meet all required Copenhagen criteria in the political and economic field set by the EU to begin the negotiation process soon. I

think it is not key question for Serbia to choose between Kosovo and EU. Kosovo is a painful topic for Serbian politics. The art of politics is certainly not to jeopardize vital national priorities. Choosing between Kosovo and EU, Serbia actually challenges EU to choose Kosovo rather than Serbia. If it continues to block Kosovo and the regional cooperation, Serbia risks to remain isolated. Nobody would be happy to see this scenario.

Speaking of Croatian-Serbian relations, open and frank dialogue is necessary and additional efforts need to be made to overcome the current complex state. We are oriented towards a European future and will continue to advocate the development of good neighbourly relations.

We would appreciate a balanced approach by Serbia to all the countries that recognized Kosovo, whether they are EU members or not. Otherwise, we are witnessing double standards. It is evident that Croatia, Macedonia and Montenegro are treated differently than, for example, Serbia's EU neighbours: Slovenia, Hungary, Bulgaria, or other EU member states. Croatia can not simply accept that its relationship with one country is being dictated and under pressure of another one. Serbia should be aware that regional cooperation is a precondition for its integration process to EU.

Kosovo as the youngest country deserves our special attention and assistance to achieve full functionality as a state. Croatia has accepted the political reality and in coordination with its Euro-Atlantic partners, recognized the Republic of Kosovo in March 2008.

Croatia also participated in the hearing before the International Court of Justice regarding Serbia's request for an advisory opinion on the accordance of the Kosovo declaration of independence with international law. Kosovo's participation at important regional meetings is of crucial relevance for stability and security and further development of the region. Croatia joined the EU's efforts to help building democratic institutions. Four policemen and one judicial officer are operational in the EULEX mission. Croatia is also an active member of the International Steering

Group for Kosovo. Croatia is very active in providing assistance and transfer of know-how to Kosovo experts in a number of fields.

Let me be clear, Serbia and Kosovo should have a clear European future and it is just up to them to work together and engrave their national stars on the EU flag as soon as possible.

The Western Balkans has always been a crossroads of cultures, ethnicities and religions and these differences are our wealth and common heritage.

Croatia and the rest of the region should build comprehensive relations inside the region promoting cooperation in all respective fields which in the end is beneficial not only to each single country in the region, but also to the stability of the Euro-Atlantic Community.

In that sense, we all have to continue to provide strong support to all regional initiatives, particularly to those efforts that aimed implementing regional infrastructure projects in transport, energy and water management.

With regard to Euro Atlantic relations, I would like to share a few thoughts.

For many reasons, the „open door” policy is one of the most successful instruments of promoting Trans Atlantic integrations. I believe that the New Strategic Concept will reflect that as well. We have a very strong view about the need for the Western Balkans to remain high on the Alliance agenda.

In this context, Croatia strongly welcomes the invitation to Montenegro and Bosnia and Herzegovina to enter Membership Action Plan process.

With the beginning of 2010, Croatia has taken over the Chairmanship of the US – Adriatic Charter. In this capacity, we will put every effort, both political and technical, to promote Euro-Atlantic integrations in the

countries aspiring to NATO membership and encourage necessary reforms.

There is no doubt that the stability and prosperity of South East Europe strongly depends on the success of the process of EU and NATO accession. We therefore firmly support all the countries of the region in their reforms and we offer them our assistance and share with them our experience in these processes.

We welcome the EU decision on visa liberalization for Macedonia, Montenegro and Serbia. This proves that EU values the efforts made and that reforms on the European path are worthwhile. The same conditions for travelling to EU should be ensured for citizens of Albania and BiH, we would like the EU to abolish visas for those citizens in the first part of 2010. Kosovo also needs to reach a road map for the visa liberalization process and to provide free mobility for the people of the region.

Croatia's membership in NATO sends a strong positive message to the whole region. An indefinite delay in the Euro-Atlantic integration process would have a negative effect on the countries of the region and might strengthen the counter-European forces in them.

On-going discussion on the NATO's new Strategic Concept is of great importance for regional countries because most of them are intending to be part of the Alliance.

The EU and NATO are building a new strategic partnership that is now well established and deep-rooted. This partnership is mainly about ensuring efficient crisis management and working together in order to identify the best possible response to a crisis. A stronger NATO strengthens EU and vice versa.

The dream of those who founded NATO and the EU was Europe as a whole, free, prosperous and at peace. That dream has been almost achieved and to a great extent thanks to NATO's and the EU's policy of enlargement.

In the world of 1949, there were not a lot of other countries in the world that could have belonged in what Karl Deutsch later called a „*security community*”. The logical result was to create a transatlantic alliance. But conditions have changed. Democracies flourish around the world. NATO Secretary General recognized this when in April 2006 he called for the establishment of global partnerships, and mentioned Australia, New Zealand, Japan and South Korea as likely candidates for enhanced relations. Global partnerships are a good first step, like the Partnership for Peace, which was unveiled at the 1994 NATO summit.

Before the EU became what it is now, it was an idea, a vision. Today, this unique integration project has profoundly transformed the European continent.

Today, the NATO nations are debating how to bring a new strategic guideline and tools to manage its future mission for next ten years. As a matter of fact, to reconsider NATO’s future mission, a couple inevitable questions need to be raised.

First, what kind of organization we really want NATO to be? To answer this question, NATO nations should define its core business with clear mandate in the future. Is it all about security in the Euro-Atlantic area or we want NATO to act as a global organization with various tasks and roles. Basic precondition is to provide comprehensive political and military assets to have full capacity for demanding missions.

Ten years after the Alliance’s last Strategic Concept was approved in Washington, with respect to the often cited „changed world” the next step needs to be followed by a concrete strategic guideline for next the decade. The new strategy will have to deal with the challenges that we are facing today, but particularly with the threats and challenges to come.

Second, what are the geographical limits of NATO, if any? Do we consider NATO as an organization just in geographical and common security terms, having in mind a joint Euro-Atlantic area or do we want to

see NATO as an organization with primarily common democratic and traditional values that NATO nations share?

In any scenario, the Alliance is invited to show more evidence which should make NATO more than just classic defence organization. NATO nations can be seen as „Western values” emphasizing freedom, equality, common heritage, democracy, individual liberty, role of law etc.

My point is - the core of NATO is not just its transatlantic link but the willingness of democratic countries to protect their common security and common heritage.

The Alliance really needs to produce a new strategy for the new time. Not just a piece of paper to show, but a living document that will be verified in the field. This strategy should meet those new threats we mentioned.

The concept would need to combine collective defence as a core purpose of NATO and all necessary requirements for „out-of-area operations”. New strategy should keep in mind a combination of classic security and new threats. It means that the Article 4 is much more than „just talking”.

I agree with those who advocate twofold basic aims: *security in* Europe and North America as the traditional NATO that includes „state sovereignty” under Article 5, and *security for* Europe and North America and wider Western values – this means a „new” NATO promoting common values.

In any scenario, five NATO’s main tasks will continue to remain as a part of the core business as is stated in the North Atlantic Treaty (NAT): Security under Article 3, Consultation under Article 4, Defence under Article 5, Crisis Management under Article 7, and the „Open door” policy under Article 10.

Today, the Western Balkans have a historical chance to change its negative auspice. It is mandatory to build the new Balkans with more tolerance and dialogue. It means building the new Balkan identity. I believe

that the present moment of Euro-integration that all countries in the region strongly emphasize as their own priorities, leading to the final stabilization and new impetus towards prosperity and European future.

This moment should not be missed. If we fail to complete the current process of creating the new Balkans today, it will not be justified by the upcoming generations.

This is a crucial moment of regional truth and it needs to be recognized and supported. We have no credit left to miss our future. Having said „we” I mean regional countries, but also Europeans, Transatlantic partners and allies as well.

A re-united Europe as a historical vision will remain just in theory and simply cannot be realized without a reintegrated part of the Balkans. It is chance to create the Balkans as a zone of peace, stability and prosperity. It is something that never happened before. We have to move this mental step forward.

Today we have a clear mission to push the wheel of history forwards together and to create a new and secured future for our children. This is a time to turn the page of the old Balkans and continue with a new European Balkans. The Balkans has its own historical heritages and values. The year 2010 is set to become the year of the Western Balkans for the European Union. This is a test of our regional maturity that we have to pass. We lost our future at one moment in the past. It is time to re-find our future.

## **A Montenegrin View on Regional Police Cooperation**

Ivan Milić

I was born 33 years ago in the same city I live now, and without moving I have lived in four different states! Montenegro is very beautiful and very special country. During the nineties there was no war in Montenegro, but Montenegrin citizens participated in the conflicts. Montenegro was already a state 1000 years ago and we renewed our statehood four years ago. On the territory of Montenegro, great civilizations and monotheistic religions - Orthodox, Catholic and Islam - have met. Beside natural beauties, Montenegro is special also by the fact that no nationality has more than 50% of the population: Montenegrins have 43%, Serbs 32%, Bosniaks/Muslims 15%, Albanians 7%, Croats 2% etc.

Today, 15 years after Dayton, we do not have wars in Balkans, and I can say that whole region has had significant success in all fields of life, but there are ongoing challenges and unresolved issues. Military tasks in Balkans are successfully completed; many other security issues still remain a challenge. From the Montenegrin perspective, the danger or risk for us is not war or aggression by another country, but terrorism, organized crime and corruption.

Experience teaches us that in spite of being a global phenomenon, terrorism is closely connected to organized crime and all its manifestations. Organized crime, together with corruption, which opens the door for organized crime, represents a threat to the rule of law and to the social prosperity in general. Organized crime ignores boundaries, which makes it a problem of the countries of South East Europe, Western Europe, or any other part of the world.

Countries in transition are undoubtedly more favourable for the expansion of organized crime than the developed countries. Since the prob-

lems are common, the United States of America and the EU have started different initiatives to try solving the problems.

In 1999, the EU launched a process of stabilization and accession, which represented political framework for cooperation with Western Balkan states. The first comprehensive strategy for stabilization of the region, strengthening democracy and improving economic and other reforms offered was the Stability Pact. Within the Pact, we had 2 working tables. Under the Working table 3, issues of improvement of cooperation in the area of defence, justice and internal affairs were discussed. Numerous regional initiatives regarding the fight against corruption and organized crime, police cooperation, security and management of the borders etc were started. With the progress towards Euro-Atlantic integration by every state in the Western Balkans and by decreasing attention from the key players towards the region, it was necessary to change the concept of regional cooperation. In 2006, the Regional Cooperation Council was established, with the main intention to increase the role and responsibility of the Balkan states, and to assume regional ownership.

The Police mission of EU in Bosnia and Herzegovina was launched in 2003, with the main focus of increasing the capacities of the police force(s) in BiH. At that time, BiH had 15 police services and it was clear that a big reform was needed. Only in April 2008 the law on the reform of the police was adopted. The EULEX mission in Kosovo started in December 2008 with the aim of supporting the building of institutions in Kosovo in the area of rule of law.

In order to assist the Western Balkan governments in the creation of a reliable and efficient border security systems, the Geneva Centre for Democratic Control of Armed Forces (DCAF) started in 2005 a programme intended to address the strategic needs and issues involved in this process. The aim of the DCAF's Border Security Programme is to provide assistance that is as comprehensive as possible, ranging from national capacity-building through to the development of regional cooperation mechanisms.

The programme has been established for the governments of Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, and Serbia, with activities aimed in particular at the respective Ministries of the Interior, responsible for border security.

On 5 May 2006 in Vienna, during the Austrian presidency of the EU, the Ministers of Interior from Albania, Bosnia and Herzegovina, Macedonia, Moldova, Montenegro, Romania and Serbia, signed the Police Cooperation Convention for Southeast Europe. After ratification by all seven signatory states, the Convention entered into force on 10 October 2007. In addition, Bulgaria acceded to the Convention on 25 September 2008. The provisions of the Convention provide a legal framework for comprehensive police cooperation among the Contracting Parties.

The Brdo Process began in the city Brdo pri Kranju of Slovenia in the year 2001 and it is a form of regional cooperation developed between the countries of Central and East Europe (Austria, Albania, Bosnia-Herzegovina, Bulgaria, Croatia, FYROM, Greece, Hungary, Romania, Serbia-Montenegro, Slovenia and Turkey) aiming at organizing meetings so as to best deal with illegal immigration, organized crime, corruption and terrorism.

The CARDS regional project was aiming at strengthening police capacities against serious crime in South-Eastern Europe. The project was jointly funded by the European Commission and the Council of Europe. Launched on 1 March 2004, the project ended in June 2007.

There were many others, more or less successful regional initiatives, but I have listed only few most important ones in my opinion.

All above mentioned initiatives have some things in common: All of them were started by some third party: EU, Council of Europe, DCAF or a third country. In the first five years after Dayton, all police cooperation was inducted not to say forced upon the Western Balkans by the third parties. After 2000 and the improvement of political relations between all states in the region, more effective, open and better regional police cooperation started. Now, I can say that relations in the area of internal

affairs between the Western Balkans countries are better than political cooperation in the region. Even today, we have unresolved political issues in our region, but ministries and especially ministers of our respective countries came to the conclusion that it is not possible to fight crime alone, and especially organized crime. The murder of Mr. Ivo Pukanic and the latest Saric case showed how good is cooperation between criminals is going. The modern criminal boss is intelligent, uses modern technologies, and has a lot of financial, human and technological resources. They do not need agreements, contracts and memorandums in order to cooperate. Borders mean nothing to them. At the end, they are using weaknesses of our systems as their advantage.

But, from the point of view of the Ministry of Interior and Public Administration of Montenegro cooperation now is far better than five years ago. In the last five years we have signed agreements on cooperation with all neighbouring countries and many others. We are implementing significant number of international legal instruments. We have joint operational police actions, we have built joint border crossing, we have joint patrols, etc.

Why the cooperation is much better today? What is main catalyzing thing for this?

The answer is simple: people. People do the job or people do not want to do the job. Maybe it is to bold to say, but, you can say that most of the ministers of interior are now friends. They have everyday contacts and this is great encouragement for the region, and positive impulse for overall political relations among the states.

I would like to say that cooperation on the operational level is on the same basis, but I am afraid this is not the case. Why? National legal systems, complicated procedures, complex relations, historical burden, bureaucracy are obstacles to more effective operational regional cooperation. Is it possible and how we can resolve these problems?

Again, I will be very direct: I think yes, and only in one way and that is through Euro-Atlantic integration of the region.

All of the Western Balkans leaders and governments have been democratically elected and have committed their countries to integration into the European Union and NATO (with the exception of Serbia for NATO).

All of the Western Balkans leaders and governments have underscored that whatever outstanding challenges and unresolved issues stand before them they will address them solely by institutional, legal, and diplomatic means.

To summarize in few sentences, the Western Balkans are today far from war, we enjoy a fragile peace, a strong military presence in the region, but every country has made significant steps forward and what we need now is clear and absolute support of EU and NATO to become member of these two big families. With our full membership in these institutions we will not resolve all our problems, but one thing is sure: we will not fight against each other ever again and we will have much more chances to achieve everlasting peace.

In the Balkan case, the glass is half full; please help us to fill it up!



**PART III:**

**LESSONS LEARNT FROM FOSTERING  
TRANSITIONAL JUSTICE AND  
RECONCILIATION**



## **Challenges in Reconciliation Processes – A View from Serbia**

Sonja Biserko

In spite of the fact that mass crimes committed during the 1990s have been sanctioned both by the ICTY and other specialized courts, the Serb elite still does not appear ready to work towards the moral renewal of society. Although nearly two decades have passed since the war and the crimes committed in it, Serbia has not yet taken its share of the responsibility.

Serbia's cooperation with the ICTY shows that Serbia can be made to cooperate under pressure of various kinds. Even so, the anti-ICTY campaign goes on accompanied by skilful use of rationalization and relativization of everything connected with ICTY proceedings. A good many members of the elite who supported the Greater Serbia project are involved in the campaign through their numerous media appearances. They are all taking part in a highly organized effort to minimize the "damage" regarding both the interpretation of what happened and the preservation of the war booty (above all of Bosnia). The effort involves all key figures in the fields of culture, higher learning, journalism, etc.

### **Serb elite and confronting the past**

Proceeding from the standpoint of the Serb elite that the reorganization of the Balkans is not yet over and that Serbia will not accept the new reality in the region, i.e. the new frontiers, an appraisal of the true achievements of the ICTY in relation to Serbian society, as well as of the achievements of transitional justice in Serbia and the region, must be placed above all in the context of the spiritual and intellectual climate of Serbian society.

Even after Milošević was brought down and dispatched to The Hague the Serb elite and most of the Democratic Opposition of Serbia coalition (DOS) continued to pursue the national programme and, with a view to keeping the spoils of war, continued to prosecute the 'war' with other means (through diplomatic channels under a democratic guise). This applies above all to the strategic efforts, which continue since the signing of the Dayton accords, to preserve Republika Srpska in order to integrate it into Serbia's economic and cultural space. The policy towards Republika Srpska reflects the interpretation of the Bosnia war as a "liberation struggle" of the Serbs in Bosnia and Herzegovina, a struggle regarded as their great historic victory. The writer Dobrica Ćosić says that "immense sacrifices were made to create Republika Srpska", i.e. the "first Serb state across the Drina. . . ." Ćosić considers Radovan Karadžić its principal architect: "He is not a war criminal; he is the political leader of the people of Republika Srpska."<sup>1</sup> As well as causing anxiety, the arrest of Radovan Karadžić caused Milorad Dodik to further radicalize his stance with a view to realizing the plans for Republika Srpska's secession at the earliest opportunity.

From the very beginning of the work of the ICTY public opinion in Serbia has looked upon the ICTY as an anti-Serb institution established to accuse the Serb people of destroying Yugoslavia. This should be borne in mind when considering the Serbian Government's cooperation with the ICTY and the interpretation and monitoring of individual trials at home, especially those of Slobodan Milošević, Vojislav Šešelj, and, currently, Radovan Karadžić.

This attitude inevitably influenced the character of the Serbian authorities' strategy for cooperation with the ICTY. This strategy has from the very start been one of subversion and obstruction. It was also "commercialized" with a view to ensuring EU and US financial and economic support for Serbia's economy and society teetering on the brink of collapse. The biggest breakthrough was made by Prime Minister Zoran Đinđić when, on 28 June 2001, he surrendered Slobodan Milošević to

---

<sup>1</sup> Nikola Koljević, *Stvaranje Republike Srpske*, from the foreword by Dobrica Ćosić, *Službeni glasnik*, 2008.

the ICTY. For this, he was later murdered by the anti-ICTY and anti-Europe lobby as part of a drive called "Stop The Hague". The arrest and extradition of Milošević added to the ICTY's credibility because it had hitherto tried only perpetrators but not political architects of crimes. His arrest ushered in a new phase in the ICTY's work characterized by greater stress on cooperation by countries in the region and pressure through conditionality, especially with regard to EU membership. Cooperation with the ICTY intensified in the wake of the principled decision taken by the EU at its summit in Thessaloniki in 2003 to make it possible for all Balkan countries to join the EU.

The Milošević trial also raised a number of issues concerning Serbia's cooperation with the ICTY. For ease of overview, this ongoing process can be broken down into several phases. The first phase was opened by Đinđić, who regarded cooperation with the ICTY as part of his pro-European policy. The second phase, launched by Vojislav Koštunica, was marked by a strategy of "voluntary surrenders; it enabled Serbia to extradite military and police generals and politicians while portraying this as their sacrifice for "higher Serb interests". They were seen off to The Hague with all state honours and obligatory blessings from the Patriarch. Under this strategy, accused persons were extradited to the ICTY while withholding from it incriminating evidence contained in domestic state archives. The Serbian authorities greater "achievement" in their cooperation with the ICTY was the deal reached with Prosecutor Carla del Ponte in May 2003 on protection of evidence.

Since the protection extends to documents and transcripts from meetings of the Supreme Council of Defence, the Council for Coordination of Positions on State Policy and many others, the International Court of Justice was unable to reach an adequate decision on Bosnia and Herzegovina's genocide and aggression lawsuit against the Federal Republic of Yugoslavia. Worse still, the protection of evidence deal is still in force, and this accounts for the fact that the trial of Momčilo Perišić is practically being held behind closed doors. The deal also protects other documents from the Serbian MUP archive pertaining to the Stanišić/Simatović case.

The fact that all the key leaders such as Milošević, Šešelj and Karadžić have conducted their own defence with logistic support from teams from Belgrade, above all from the Faculty of Law<sup>2</sup> and other relevant experts,<sup>3</sup> rather than using the services of defence counsel, is no doubt part of the strategy. They have chosen to ignore the counts in the indictment and to base their defence on political arguments instead. The object has been to prove that the international community is guilty of a crime against peace by assisting the secessionist republics. Their trials – Milošević's in whole and the others' in part – have been broadcast live to convince the domestic public of their superiority vis-a-vis the ICTY.

The impression one gains from their appearances in the courtroom resembling TV duels is that they are outsmarting and outwitting the whole world all the time. Discrediting, ridiculing and disparaging all prosecution witnesses is also part of Belgrade's strategy. In the Šešelj case, many witnesses have changed sides under pressure. Incidents like these suggested lack of professionalism on the part of the court. The assessment that Belgrade has capitalized on the ICTY's omissions and failings has been confirmed by commentators and experts in their statements to Serbian media.

### **ICTY trials and the process of confronting the past**

During the past fifteen years since its establishment the ICTY has in its numerous judgments defined the causes and consequences of the wars in the former Yugoslavia, with Belgrade's primary responsibility clearly implied. After all, the ICTY has indicted the entire political, military, and police leaderships from the Milošević era. Although evidence is being continually disclosed at the ICTY and in the region, including

---

<sup>2</sup> Professor Kosta Čavoški. Professor Oliver Antić. Ratko Marković. The Faculty of Law has a team assisting all the accused at the ICTY. Students are also recruited to take part in its work.

<sup>3</sup> Dr Smilja Avramov, Slavenko Terzić, Kosta Mihajlović (academician), Čeda Popov (academician), Mihajlo Marković (academician) and many others. There was also a special commission at the Ministry of Defence charged exclusively with assisting the accused. It was abolished after the assassination of Zoran Đinđić.

Serbia, the Serb elite continues to practice a conspiracy of silence which is widely supported.

The Serb elite has not only disregarded ICTY judgments but also shown no intention of addressing the breakup of Yugoslavia, war and war crimes in an objective manner. The ICTY has so far dealt with 161 cases and rendered 100 judgments. The judgments have either been inadequately presented to the Serbian public or not at all. The state has ignored them or even declared them anti-Serb. It has also given more publicity to judgments rendered against Bosniaks, Croats or Albanians. Since the media's coverage of the trials is based on a "fair approach" – presuming the defendants' innocence until they are proved guilty and insisting on their right to defend themselves – its emphasis has been on what they have said in their defence rather than on the crimes with which they have been charged.<sup>4</sup>

In the wake of Milošević's fall on 5 October 2000, when the so-called Koštunica "Commission for Truth and Reconciliation" was formed, the Serb elite worked out a strategy for confronting the past. The commission's starting point was to confront the past in a wider historical context: it chose the whole of the 20th century and went on to argue that the Serbs were the main victims during that time and that the Balkan wars fought in the last decade of the century were a natural consequence of events that had preceded them throughout the century.

In order to relativize its responsibility for the wars fought in the last decade of the 20th century as much as possible, the Serb elite argues that the Serbs made more sacrifices for Yugoslavia than the rest, a suggestion that they therefore had the biggest claims on the joint state. The philosopher Svetozar Stojanović asked:

"Why does the world 'overlook' the fact that, without having recovered from their World War One traumas, the Serbs experienced a horrendous

---

<sup>4</sup> This approach figured prominently in a polemic in the weekly *Vreme*. The Helsinki Committee for Human Rights in Serbia later published the polemic in a book entitled *Tačka razlaza*. ([www.helsinki.org.rs](http://www.helsinki.org.rs))

genocide some twenty years later, and that at the hands of members of certain fraternal peoples, in a country they had created at the price of unimaginable human and material losses? How can one understand the terrible intercommunal fighting in Croatia and Bosnia and Herzegovina in 1991-5 without taking into consideration that experience and the anxiety it begot? One can understand no aspect of the Albanian-Serb conflict in Kosovo if one ignores the fact that tens of thousands of Serbs were expelled from there during the Second World War and forbidden to return after the liberation."<sup>5</sup>

The strategy actually boils down to throwing the blame for the disintegration of Yugoslavia on the secessionist republics of Slovenia and Croatia and on the international community (the United States, the Vatican, Germany and Austria) – as though the Greater Serbia project never existed. The main thesis being put across in the media is that both Yugoslavias were a disaster for the Serbs and a historic miscalculation, that historical time was squandered and a chance missed to create a Greater Serbia, an opportunity allegedly offered Nikola Pašić under the London Pact.<sup>6</sup> It is further argued that the struggle against "Greater Serbia hegemony" during the early 1960s turned into a struggle for the transformation of Titoist Yugoslavia from a federation into a confederation through constitutional amendments.<sup>7</sup>

---

<sup>5</sup> Politika, 6 February 2009.

<sup>6</sup> The thesis was put forward at the Milošević trial by Smilja Avramov in her capacity as witness for the defence. She alleged that Serbia had been offered a part of the Adriatic coast as far as Split, the whole of Bosnia, and parts of Slavonia. This offer was actually made by the Allies to Italy in order to win her over to fight on their side. The arrangement fell through and no agreement to that effect ever came into operation. All the same, this argument is often used these days in discussions about the break-up of Yugoslavia.

<sup>7</sup> Ljubomir Tadić, *Kriza i 'Velikosrpski hegemonizam'*, Službeni glasnik, 2008.

## Projections of neighbours

Such revisions of history are inevitably affecting Serbia's relations with neighbours, especially Bosnia and Herzegovina, Montenegro, and Kosovo. Viewed as the chief rival, Croatia is the source of unending Serb frustrations and the focus of attempts to portray the Croatian state as the successor of Ante Pavelić's genocidal Independent State of Croatia (NDH) during the Second World War. For this reason, references to the Jasenovac concentration camp and to the suffering of Serbs during the Second World War are one of the Serb elite's chief subjects.

Even a genocide countersuit was filed in response to Croatia's suit for genocide and aggression during the 1990s. A large segment of the Serb elite considers that legal action should be taken concerning "the crimes of ethnocidal nature committed against the Serb population in the NDH by Croats and their 'flowers' [contemporary Croat reference to Muslims]". It is stressed that "genuine coexistence is impossible within the framework of a new Yugoslavia, i.e. European Union, without first settling historical accounts; since both official Croatia and official Serbia want EU membership, it is necessary that an end be put to the Croat-Serb historical controversy before joining the so-called Euro-club, if only to prevent the European Union from falling apart on the model of Tito's Yugoslavia".<sup>8</sup>

As regards Bosnia, Serbia has instituted proceedings in connection with the incidents during the Yugoslav People's Army's (JNA) withdrawals from Sarajevo (the Ganić wanted notice) and Tuzla (the Jurišić judgment), both dating from the beginning of the war. Both proceedings betray an intention to prove that the war in Bosnia was started by the Bosniak side and thus support Čosić's thesis that that war was a "war of liberation".

---

<sup>8</sup> Vladimir B. Sotirović, 'Prebilovci, prebijanje hrvatsko-srpskih povesnih računa i EU', <http://www.nspm.rs/istina-i-pomirenje-na-ex-yu-prostorima/prebilovci-prebijanje-hrvatsko-srpskih-povesnih-racuna-i-eu.html>, 5 December 2009.

Kosovo is also a special case. The Serb elite does not acknowledge the independence of Kosovo and considers that no criminal conspiracy on the part of the political, military, and police leaderships was proved during the trial of "the Six" on charges of crimes committed in Kosovo. Its argument is that the Serbian security forces intervened because they could not look on as the Kosovo Liberation Army carried out terrorist activities and expanded "free territory". It is pointed out that crimes occurred in Kosovo were directly attributed to the convicted generals and politicians, and indirectly to the Serbian state, on the basis of a speculative construct. By imposing draconian punishment on the accused, says Slobodan Antić, the ICTY turned them into victims rather than men guilty of crimes and omissions. In passing that judgment the ICTY succeeded in doing harm not only to justice but to historical truth.<sup>9</sup>

The Serb elite's racist attitudes to the Kosovo Albanians were especially manifested in connection with the NATO intervention. In its verbal or written references to the intervention, the elite hardly ever mentions the plight of the Albanians that preceded it. The Serb elite experiences this as a humiliation. Dobrica Ćosić has made this position public in his interviews and his *Piščevi zapisi* [The Writer's Notes]. In one of his interviews he said, "That social, political, and moral scum of tribal, barbarian Balkans, takes up for an ally America and the European Union in its struggle against the most democratic, most civilized, most educated Balkan people – the Serb people."<sup>10</sup>

Kosovo's independence caused the conservative circle, which dominates Serbia's public stage, to intensify its effort to extort a reorganization of the Balkans. In addition to the Ćosić circle, politicians and intellectuals from Republika Srpska are actively supporting these efforts. Thus, Milorad Dodik, the Republika Srpska prime minister, said that "a division of Kosovo is the only long-term and lasting solution that is also good for the Albanians. Serbia mustn't allow itself to be held hostage over Kos-

---

<sup>9</sup> Slobodan Antić, "Hag: da li je bilo 'zajedničkog zločinačkog poduhvata'", <http://www.nspm.rs/istina-i-pomirenje-na-ex-yu-prostorima/hag-da-li-je-bilo-qzajednickog-zlocinackog-poduhvataq-q.html>, 5 March 2009.

<sup>10</sup> *Večernje novosti*, 25 November 2008.

ovo for another 50 years. Serbia ought to be given satisfaction so that it may say, 'There, it's a deal'."<sup>11</sup>

The depth of this mainstream attitude was further exposed by the reactions of the bearers of that programme, above all of Dobrica Ćosić. Ćosić went so far as to criticize, for the first time, President Boris Tadić, although until recently he had been advising him on state matters almost daily. Ćosić accused the president, Government, and Parliament of conducting a "risky, schismatic, short-sighted national and state policy" which "politically charted Vojvodina's separatism" by legalizing Vojvodina's autonomy, and of making possible a legitimate Ottomanization of the Balkans, i.e. of Serbia and Bosnia and Herzegovina, by tolerating the internationalization of the "Sandžak question". All this, he says, comes on the heels of the secession of Montenegro, the unresolved Serb question in Montenegro, and the break of diplomatic relations with that "fraternal" state.<sup>12</sup>

Ćosić and his circle dispute Serbia's right to Europeanization, which presupposes characterizing the Srebrenica crime. Ćosić said that this was "advocated by immature politicians, corrupt intellectuals and some media". He accused the ruling democratic coalition of accepting the "jihad-fundamentalist Bosniak propaganda lies about a Serb genocide in Bosnia and Srebrenica"; "unconscientiously and irresponsibly we equate our war crimes with an alleged 'holocaust' against Muslims, we count and multiply our crimes while passing over in silence the Bosniak and Croat ones – thus turning our descendants into members of a genocidal nation on a par with Nazi Germany."<sup>13</sup>

The allegations that the West is responsible for the disintegration of Yugoslavia are supported daily by feuillets, articles, and books by foreign authors, mostly anti-globalists, who promote the thesis about a US-led conspiracy against Yugoslavia and the Serbs. It is argued that the armed attack on Serbia in 1999 cannot be understood if one does not

---

<sup>11</sup> Tanjug, 13 March 2010.

<sup>12</sup> Pečat, 12 February 2010.

<sup>13</sup> Pečat, 12 February 2010.

proceed from the endeavours of the United States and its allies to enlarge NATO's membership and influence at all costs as far as the Russian borders. On the basis of the foregoing, it is concluded that with this object in mind, the United States and its allies supported the separatists in destroying first the SFRY, then the FRY, and finally Serbia.

Another argument is that the West looks upon the Serbs as a "disruptive and Russian factor". In support of this claim, statements by some US and other officials are quoted. One of these is the statement by a senior US official who said that the NATO intervention was carried out with strategic needs in mind, above all against Russia's interests and that "we don't want Russia in our backyard".<sup>14</sup>

Since the role of the ICTY is viewed in the same context, it is claimed that its purview is deliberately restricted to conduct in intercommunal-civil wars in order to avoid trying domestic and foreign actors for provoking such conflicts or, in legal parlance, for "crimes against peace".<sup>15</sup>

Svetozar Stojanović, a philosopher belonging to the Ćosić circle, suggests that it is necessary to prove the "mass-media criminal conspiracy against peace" before some other court for the very reason that the Serbs were systematically projected as the chief and even the only destroyer, oppressor, culprit. Stojanović says that countering that false image by propagandizing the true image of the Serb people and their state should be a priority national strategy task. He says that special attention should be paid to elaborating ideas about imageology and imageology critique.<sup>16</sup>

## **Belgrade outwits the ICTY**

The strategy also implies all kinds of deals including the blacking out of transcripts of the Supreme Defence Council from the 1990s to prevent

---

<sup>14</sup> Svetozar Stojanović, "Velesile i velikomali srpski narod", [www.nspm.org](http://www.nspm.org), 24 Januar 2010.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

their use by the International Court of Justice. However, for all the efforts to depreciate the work of the ICJ, a comprehensive picture of Serbia's guilt is emerging in the final stages. The untimely deaths of Slobodan Milošević, Milan Babić and several other major actors have helped to create the impression in Serbia that the ICTY has missed the mark, especially in Milošević's case. For instance, the ICTY's interlocutory judgement of 16 June 2004 is little known in Serbia. Concerning the motion of the Amici Curie of 3 March 2004 for a judgment of acquittal (for genocide and complicity) in the Milošević case, the Trial Chamber issued its Decision or interlocutory judgement. The Trial Chamber determined that with respect to Milošević there was an intention to commit genocide and the existence of plans to commit genocide in order to destroy the Bosniaks as a group; it concluded that there was "sufficient evidence that genocide was committed in Brčko, Prijedor, Sanski Most, Srebrenica, Bijeljina, Ključ, and Bosanski Novi" (paragraphs 246, 288, 289, and 323) and that Milošević was a "participant in a joint criminal enterprise, which included members of the Bosnian Serb leadership, the aim and intention of which was to destroy a part of the Bosnian Muslims as a group" (paragraphs 289 and 323).<sup>17</sup>

Under the weight of the evidence, even Dobrica Ćosić could not help referring to the matter of Serb guilt: "We cannot recover our health as a nation unless we speak out consciously about our fallacies and about the crimes we have committed during the Second World War, the civil war, Titoism, the Milošević regime, the wars with the Croats, Muslims, and Albanians. If we all keep silent, we are all to blame. The crime then comes to be regarded as something normal. We surrender ourselves to indifference and nihilism."<sup>18</sup> And yet, he also says that the Serb people has been defeated in its "struggle for national and state unification, for a new social system and progress, for its national and democratic rights in the 20th century", adding however that these "defeats are not final". He also points out that "the Serbs have also won some historic victories:

---

<sup>17</sup> The Bosnia genocide charge against Milošević was proved, the ICTY interlocutory judgement of 16 June 2004, Sarajevo, 2007.

<sup>18</sup> Dobrica Ćosić, "Naši porazi nisu konačni", *NIN*, 23 October 2008.

Republika Srpska."<sup>19</sup>Ćosić's references to the Serb guilt, however, are soon drowned in a string of accusations against the "world masters and their Yugoslav protégés" who pinned the blame for the destruction of Yugoslavia on the Serbs.<sup>20</sup>

Ćosić's attitude to the guilt is not sincere because he does not accept the responsibility for the crimes committed during the 1990s unless they are placed in a much wider historical context, a context meant as an excuse for the policy pursued during the 1990s. He blames the West for Serbia's defeat because the West did not approve of the idea of the unification of all Serbs. Ćosić holds the West to blame for the fact that Serbia has been designated as the culprit and says: "And yet the Serbs, the denounced Serbs, have the duty to fight, with the help of sensible and knowing people abroad, for the historical truth about the Bosnian war and to prove to the world and to their offspring that in fighting for their freedom in Bosnia they again also defended Christian Europe against jihad Islam. And for having defended her, Europe punished them by dropping bombs on them from NATO aircraft."<sup>21</sup>

These theses are incorporated in many books written to reinforce the case of Serb nationalists. Prominent among the many titles is Nikola Koljević's two-volume diary *Stvaranje Republike Srpske* (The creation of Republika Srpska, published by Službeni glasnik, 2008), for which the foreword was written by Dobrica Ćosić. Also both the book and the foreword are written in defence of Republika Srpska, the role not only of Karadžić but also of Ćosić himself is clearly outlined. There are many other books which set out to deny Serb hegemony and the Greater Serbia project. Some of them no doubt contain information which can be of use to the ICTY and to discussions, both within Serbia and the region, about the disintegration of Yugoslavia. Most participants in the Greater Serbia project have published books to defend their own roles and the project itself. They include the philosopher Ljuba Tadić, Kriza i "velikosrpski

---

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Dobrica Ćosić, "Demokratske laži o Bosanskom ratu", *Politika*, 14 February 2009.

hegemonizam" (Službeni glasnik, Belgrade, 2008); Mihajlo Marković, Juriš na nebo I-II (Prosveta, 2008); Vladislav Jovanović, Rat koji se mogao izbeći (Nolit, Kiz Altera 2008); Dobrica Ćosić, Vreme zmija (Službeni glasnik, 2008) and Piščevi zapisi (Službeni glasnik, 2008); Milovan Radovanovic, Kosovo i Metohija (Službeni glasnik, 2008), and many others. Most of these books, which are all written to clear Serbia from blame, betray a lack of understanding of the processes that led to the break-up of Yugoslavia.

Karadžić, who is defending himself by drawing entirely on theses contained in the above-mentioned books, made this self-assured statement in the courtroom: "I am here before you not to defend my humble self but the greatness of a small people in Bosnia and Herzegovina which has for 500 years suffered and showed a great deal of stamina and moderation in order to survive in freedom."<sup>22</sup> Karadžić accused the Muslim side of conspiracy. "They had fundamentalist objectives to change the fate and look of the entire region. Their objective was one hundred per cent power, like during the time of the Ottoman Empire."<sup>23</sup> He alleged that the plan for creating a Muslim state was supported by "various actors" including the United States and Germany. Karadžić quoted George Kenny, a former State Department official, as advising Bosnian President Alija Izetbegović to block negotiations and "wait for a unitary Bosnian state".<sup>24</sup>

---

<sup>22</sup> The Times, 3 March 2010.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

## The Srebrenica Genocide

Srebrenica is no doubt the most traumatic spot in the Serb consciousness and the Serb elite. This is so above all because this crime cannot be denied because of the numerous ICTY judgments, the judgment of the International Court of Justice, and the fact that the tragedy symbolizes the world's powerlessness as well as its need to oppose genocides in our time, which occur all too frequently. Furthermore, the European Parliament has adopted a resolution obligating all member countries to commemorate 11 July in memory of the Srebrenica genocide.<sup>25</sup>

It is for this reason that most energy is focused on relativizing Srebrenica and constructing another symbol to serve as Srebrenica's counterpart. The Serb elite has chosen Bratunac as a symbol of Serb suffering during the Bosnian war (with some 3,000 names inscribed on the monument). Commemorations at Bratunac are held on 12 July, a day after Srebrenica. The two toponyms have thus been put on a par in the Serb consciousness.

The fact that the Declaration on Srebrenica was adopted with 127 votes out of 250 shows how deep society is divided over the recent past. Although the Declaration does not contain the word genocide, its reference

---

<sup>25</sup> A public opinion survey showed that an Assembly of Serbia declaration condemning the Srebrenica crime would be supported by 20.6 per cent of Serbian citizens. The January 2010 poll on cooperation with the ICTY, encompassing 1,000 respondents, showed that 46.2 per cent approved of a single declaration condemning all crimes in the former Yugoslavia. A total of 20.3 per cent would support one declaration on Srebrenica and one on crimes committed against Serbs, with as many opposing any declaration in connection with crimes committed in the 1990s. In all, 12.7 per cent were noncommittal or did not know whether such documents were necessary. In answer to the question "What is your opinion about the crimes against Bosniaks in Srebrenica in 1995?", 55.2 per cent said they believed that Srebrenica was only one of a number of crimes "whose proportions our enemies and media have malevolently exaggerated". The Srebrenica crime was denied as a total fabrication by 6.7 per cent and 22.4 per cent were noncommittal. For 15.7 per cent, the Srebrenica crime was one of the most serious crimes committed in the former Yugoslavia in the 1990s. (*Blic*, 2 February 2010).

to the judgment of the International Court of Justice is an implicit recognition of the Srebrenica genocide. In spite of this, the Declaration will not carry any weight if Ratko Mladić is not arrested, if its content and substance is not given wide currency in the media and educational institutions, and if the state does not adopt them as its official position.

The positions set forth by the Democratic Party of Serbia (DSS), Serbian Radical Party (SRS), Serbian Progressive Party (SNS) and New Serbia (NS) gave cause for concern. These parties represent majority opinion in Serbia and are largely backed by the University, media, Serbian Orthodox Church and others. Slobodan Samardžić of the DSS described the Declaration as an "ignominious declaration, which was necessary in order that Serbia should lower its self-respect even further on the road to the EU." This, he said, was "the first objective, and the second is that Serbia should give up on Republika Srpska and recognize the process of its strangulation".<sup>26</sup> The majority of opposition deputies argued for "one declaration which condemns all the crimes". Velimir Ilić of the NS considered that the Declaration would not solve the problem but "only open up old sores".<sup>27</sup> Tomislav Nikolić of the SNS, a nationalist turned advocate of EU integration, also called for condemning all crimes and said that the Declaration "declares one's own people the only culprit".<sup>28</sup> Most of the commentators participating in various forums and blogs agreed that the Declaration was an act of treason:

"This is not treason, this is HIGH TREASON. I am ashamed before my ancestors and the victims of the past wars"; "This is yet another suicidal act of the so-called Assembly of the Republic of Serbia following the adoption of the Vojvodina Statute! Gentlemen, with this you have condemned Republika Srpska to death and burdened the Serb people with a liability from which it will hardly recover! We must never forget the names of the people who did this shameful act! Only God can help us!";

---

<sup>26</sup> Politika, 31 March 2010.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

"This declaration is nothing but cementing injustice in the interests of those who are most responsible for the victims".<sup>29</sup>

### **The Ganić and Jurišić Cases**

In its endeavours to relativize things, Serbia also uses other means. By filing indictments against people who were active in any way during the war in Bosnia, particularly at its very beginning, it is wished to create the impression that the conflict was due to attacks on the JNA during its withdrawal from Bosnia and Herzegovina – BiH (specifically from Sarajevo and Tuzla). This serves to reinforce the thesis being promoted by Serbia that the conflict was a civil war and that all sides were equally responsible.

The cases of Ejup Ganić and Ilija Jurišić are the most indicative in this regard. Ganić was arrested in Britain on the basis of Serbia's indictment and wanted notice. On the occasion of his arrest, Belgrade media published a great many articles and commentaries and recalled the incident which occurred in Dobrovoljačka street in Sarajevo on 3 May 1992. While ignoring the circumstances that gave rise to the incident (the kidnapping of BiH President Alija Izetbegović by the JNA, which at that time was a foreign army in BiH, and the severe bombardment of Sarajevo), the media dwelt solely on the attack on the JNA column. The number of persons killed and wounded in the incident is also subject to manipulation. The media declared Ganić responsible for the attack in advance. From this, it follows that the Bosniaks are responsible for the outbreak of the war.

However, Ganic was acquitted since the court took he would not be given a fair trial in Belgrade and that the motives behind the extradition request were purely political. Proclaiming its decision the court made point that another citizen of Bosnia-Herzegovina, Ilija Jurisic, had been sentenced to 12 years in prison by a Belgrade court on the ground of a nonexistent document (An agreement between YPA and Bosnian government about YPA withdrawal from Bosnia). Acting for the prosecu-

---

<sup>29</sup> Ibid.

tion, Milan Petrovic, deputy war crime prosecutor of the Republic of Serbia, admitted this fact in the course of cross-examination.

The Jurišić was arrested in Belgrade and sentenced to 12 years in prison. After the judgment was rendered, spokesman for the Prosecutor's Office Bruno Vekarić said that as far as the prosecution was concerned the most important thing was that "the Tuzla crime was established judicially" and that "the Prosecutor's Office for War Crimes has promised not to forget a single soldier killed in Tuzla".<sup>30</sup> The judgment was welcomed in Republika Srpska, particularly by the Serb Democratic Party (SDS). Mladen Bosić said: "I applaud the judgment of the Belgrade court and the fact that finally someone responsible for the war crime against the JNA members from the 'Tuzla column' has been called to account."<sup>31</sup>

Juriscic case is being taken up by the Appellate Court on 23 September 2010. It would only be logical for the court to acquit Juriscic given that the crucial evidence against him had actually been nonexistent.

Both cases have raised tensions between Serbia and BiH. The cases are also used to support Belgrade's insistence on reinterpreting the character of the war in spite of all the evidence which points to Serbia's primary responsibility.

## **International community and confronting the past**

In spite of the international community's increasingly clear orientation towards consolidating the recognized borders of the newly-established states in the Balkans, the Serb elite continues to expect consideration for its demands for rearranging the Balkans along ethnic lines, i.e. for partitioning both Kosovo and Bosnia, even if that means giving up EU membership. In common with many others, Ćosić says that "any policy which sees national salvation in the European Union alone is an illusion and a poor man's utopia. As long as NATO remains the condition and

---

<sup>30</sup> www.b92.net, 28 September 2010.

<sup>31</sup> Ibid.

substance of 'Euro-Atlantic integrations', as long as the European Union pursues its ultimatary policy towards Serbia, which is essentially Serbo-phobic, as long as it holds Serbia to ransom and its people suffer on account of two Hague indictees . . . I don't believe in a 'happy future' which starts as soon as one is admitted to European Union membership."<sup>32</sup>

What Ćosić and the rest are well aware of is that membership of the EU will put an end to the question of state borders and thereby to any plans to revise them. This is why the insistence on revising Kosovo's independence borders on the absurd. The initiative put to the International Court of Justice to review the legality of Kosovo's independence has little chance of succeeding especially in the wake of the sentencing of "the Six" for their roles in Kosovo in 1998 and 1999. Ćosić calls for a "diplomatic and political struggle for the revision of the Kosovo independence decision, which is so unjust that it has set up permanent enmities between the Albanian and Serb peoples".<sup>33</sup>

In the light of the recent ICJ opinion on Kosovo independence, Serbia's failed initiative in the General Assembly and Ganic case in the London Court, it is quite obvious that Serbia won't be able to deal with the new reality without strong pressure from outside.

Serbia must build a new identity and legitimacy based on truth. The moral relativism, which has come to express the extreme opportunism of the almost entire elite since 2000, must be replaced with moral credibility. The latter is attainable only by reliance on one's own values based on respect for the rights of every person, on the equality of and respect for all. Only in this way will Serbia be able to break the deadlock of its relations with the world and the region in particular, which it still keeps hostage to its ambitions.

Pacification and reconciliation are voluntary acts for which Serbia, such as it is, lacks the necessary capacity. Such acts require courage, lucidity

---

<sup>32</sup> Včernje novosti, 21 March 2008.

<sup>33</sup> Ibid.

and perseverance. Such acts should also be sustained and imposed on society as a long-term fight which is never completely won. The fight necessitates a mature leadership, an adequate legislation and appropriate institutions. Educational measures constitute an integral part of such a policy. A people or society is known by the leaders who pursue its aims. At one time, the Serb people embraced Milošević and the aims that had been long prepared. At the moment it seems that, as far as some of their fundamental strivings are concerned, the people are a step ahead of their elites. Therefore the present elites should pay heed to this stream of consciousness that is slowly emerging from the depths as an expression of the people's instinct for survival.



# War Crimes Tribunals and the International Criminal Tribunal for the Former Yugoslavia

Nena Tromp

War crimes are committed around the world every day, but the national and international laws designed to punish these acts are invoked only under favourable political circumstances. In international law this has resulted in some well-known, major initiatives: in 1945 at Nuremberg and Tokyo and in 1993 in the former Yugoslavia.<sup>34</sup> Other *ad hoc* tribunals, for Rwanda, Cambodia, Sierra Leone, and Lebanon have followed. Finally, the International Criminal Court (ICC) - the first permanent court for these sorts of crimes - was established in 2003.

In February 1993, the United Nations Security Council adopted Resolution 808, establishing an international tribunal to prosecute persons responsible for serious violations of international humanitarian law in the former Yugoslavia.<sup>35</sup> The Tribunal - hereinafter known also as the ICTY - was established under Chapter VII of the Charter of the UN, meaning that orders for arrest, surrender, and judicial cooperation issued by the Tribunal are binding for all UN member states.<sup>36</sup>

The ICTY is unquestionably an improvement over the Nuremberg Military Tribunal, and certainly where the detailed rules of procedure are considered. Unlike the Nuremberg Tribunal, the ICTY Statute grants a wide range of rights to defendants: the right to represent themselves, the right to counsel, the right to remain silent, the right to provision of exculpatory evidence, the right to a speedy and public trial, the right to

---

<sup>34</sup> Gerry Simpson, „Didactic and Dissident Histories in War Crimes Trials.” *Alabama Law Review* 60, no. 3 (1997): 837.

<sup>35</sup> United Nations Security Council, Resolution 808, S/RES/808 (22 February 1993). Available at: <http://www.un.org/Docs/scres/1993/scres93.htm>.

<sup>36</sup> *Ibid.*

cross-examine witnesses, and the right to appeal the judgment of the Trial Chamber to the Tribunal's Appeal Chamber.<sup>37</sup>

The ICTY, located in The Hague, Netherlands, became operational in 1994. The first indictee at the ICTY was Dušan Tadić, a Bosnian Serb charged with numerous counts for his role at detention camps for non-Serbs in Prijedor municipality, namely Keraterm, Omarska, and Trnopolje. He was arrested in 1994 in Germany, tried in The Hague and, in 1997, sentenced to 20 years in prison, which he serves in Germany. From 1994 to 2004, 161 persons were indicted for serious violations of humanitarian law committed on the territory of former Yugoslavia. Proceedings against 111 were concluded by April 2008. The highest sentence, life imprisonment, was imposed in 2007 by the Appeal Chamber on General Stanislav Galić, the commander of the Sarajevo Corps of the Bosnian Serb Army (BSA).

Almost a half century after the Nuremberg and Tokyo International Military Tribunals, scholars are divided on the fundamental reasons why the ICTY was founded. Eric Stover writes that, according to some, it was created to assuage guilt felt by Western nations for allowing ethnic cleansing to occur in Bosnia-Herzegovina (BiH). Another explanation offered by some is that the Tribunal's foundation was a „fig leaf” for those governments opposed to Serbian aggression which lacked the political will to end it. In general, one could say that two currents dominate the discussion about the foundation of the ICTY: On one hand are the so-called „liberals” who see its foundation as a victory of liberal thinking, concerned with violations of human rights and the crimes committed in BiH. On the other hand are so-called „realists” who attribute the foundation of the ICTY to the *real-politik*, concerned more with international stability than with the humanitarian catastrophe.<sup>38</sup>

---

<sup>37</sup> M. P. Scharf and W. A. Schabas, *Slobodan Milošević on Trial: A Companion*, (New York: Continuum International Publishing, 2002), 54.

<sup>38</sup> Eric Stover, *The Witnesses: War Crimes and the Promise of Justice in The Hague* (Philadelphia: University of Pennsylvania Press, 2007), 33.

Political realities surrounding the foundation of the ICTY have also been explored by Michael Scharf<sup>39</sup> and Chris Stephen.<sup>40</sup> They analyzed the foundation of the Tribunal in the context of both international and local politics. In the international arena they identified the role of the US and France as instrumental in supporting the idea of the creation of a tribunal. On the local level, Stephen has examined the foundation of the ICTY as it related to peace negotiations held for Bosnia-Herzegovina in 1993. Parties to the conflict were presented with a plan, known as the Vance-Owen Peace Plan (VOPP), which would have left BiH a single state divided into ethnically-defined cantons. Negotiations failed in May 1993 because Bosnian Serb leadership rejected the plan.<sup>41</sup> Stephen poses the question: Would the ICTY have eventually been founded or not if the VOPP had been accepted by all parties as early as the spring of 1993?

Less than two weeks after the 5 May rejection of the VOPP by the *Republika Srpska* Assembly, the UN Security Council, acting under Chapter VII of its rules on peace and security, announced the establishment of the ICTY at a public hearing on 25 May 1993,<sup>42</sup> Its creation did not deter the warring sides from committing some of the gravest crimes of the war in Bosnia-Herzegovina, in the summer of 1995, in the areas of Srebrenica and @epa. Nevertheless, the ICTY raised high expectations—locally as well as internationally.

Once established, the ICTY introduced a new dimension in international affairs, putting the emphasis on justice and accountability. Louise Arbour, a Canadian lawyer, scholar, and judge who served as Chief Prosecutor at the ICTY from 1996 to 1999, aptly summarized the mood at the time, stating: „We have moved international criminal justice...to a point

---

<sup>39</sup> Michael Scharf, *Balkan Justice: The Story behind the First International War Crimes Trial Since Nuremberg*. (Durham: University of North Carolina Academic Press, 1997).

<sup>40</sup> Chris Stephen, *Judgement Day: The Trial Of Slobodan Milosevic* (London: Atlantic Monthly Press, 2005).

<sup>41</sup> *Ibid.*, 91-92; and, Scharf, *Balkan Justice*, 32 & 44.

<sup>42</sup> *Ibid.*, 92.

of no return.”<sup>43</sup> In its turbulent 15-year history the ICTY has confronted many challenges, varying from the problems of funding in its early years, to the difficulty of attracting experienced staff, to the apprehension of the indictees. One of its most trying tests has been the struggle for support from the ICTY’s „real constituency” - namely the people of the former Yugoslavia. In 1999 the ICTY released a report indicating that its work was both seriously misunderstood and misinterpreted among the very people it was trying to serve.<sup>44</sup> Another study was published in the same year, based on interviews with thirty-two Bosnian judges and prosecutors involved in prosecuting and trying war crimes. Among those interviewed there was clear consensus in support of the concept of accountability for those who commit war crimes. However, almost all of the interviewees of Bosnian Serb and Croat origin saw the ICTY as a political organization that was biased and incapable of providing fair trials. Most participants said they could not understand the procedures of the Tribunal and its basis in both common law and civil law.<sup>45</sup>

In response to these internal and external critiques, then ICTY President Gabrielle Kirk McDonald launched the Tribunal’s battle for the „hearts and minds” of people. In 2000, Judge Kirk McDonald initiated the establishment of the ICTY Outreach Programme, meant to create a communication link between the court and the citizens of post-Yugoslav states.<sup>46</sup> In a recent study, Lara Nettelfield presented the results of research she had conducted on the impact of ICTY Outreach in Bosnia-Herzegovina in the period between 2000 and 2005. Her study suggests that the ICTY had a relatively positive impact in Bosnian society during that period. Nettelfield stresses, however, that attitudes do and will change. Any study on the subject of public attitudes is valuable only if research continues over time.<sup>47</sup>

---

<sup>43</sup> Stover, *The Witnesses*, 33.

<sup>44</sup> *Ibid.*, 37-38.

<sup>45</sup> *Ibid.*, 38.

<sup>46</sup> *Ibid.*

<sup>47</sup> Lara J. Nettelfield, „*Courting Democracy: The Hague Tribunal's Impact in Bosnia-Herzegovina*” ( PhD dissertation, Columbia University, 2006).

In the scholarly literature dealing with transitional justice, it is clear that a court trying cases of mass atrocities needs the support and acceptance of its „real constituency.” The topic of the legitimacy of the ICTY still has to be researched thoroughly as does the question of whether the people of Croatia, Bosnia-Herzegovina, Serbia, and Kosovo perceive the ICTY as an institution which brings justice and aids in the transformation of their post-conflict societies. Media coverage indicates that the public in these countries has been suspicious and, at times, even antagonistic to the justice system of the ICTY. Instances of recent hostile response in Croatia emerged following the verdicts and sentencing of three JNA officers, indicted and tried for crimes in the Croatian town of Vukovar in 1991.<sup>48</sup> In Serbia - where the ICTY was never accepted by the political and intellectual elite - the acquittal of Ramush Haradinaj, a Kosovo Albanian politician and a former Kosovo Liberation Army (KLA) commander, was used as yet another opportunity to publicly criticize the work of the Tribunal and label it as an anti-Serb institution.<sup>49</sup> Scholarly literature on the impacts of war crimes tribunals has already signalled that the expectations of the public are often unrealistically high. People of the former Yugoslavia, especially bereaved relations of victims and surviving victims themselves, expected criminal accountability to be achieved swiftly by punishing those found guilty and the truth about past events to be unambiguously captured in judgments and related court records. Studies evaluating the expectations and actual successes and failures of the ICTY have yet to be rigorously undertaken. So far, a number of studies have been published in which the achievements and limitations of international criminal tribunals, and the ICTY in particular, have been discussed.<sup>50</sup>

---

<sup>48</sup> On reactions to the sentences for the „Vukovar Three” in Croatia see, for example: Goran Jungvirth, „Croat Anger at „Lenient” Sentences for Vukovar Three,” IWPR Tribunal Update, no. 519 (28 September 2007):

[http://www.iwpr.net/?p=tri&s=f&o=339396&apc\\_state=henitri2007](http://www.iwpr.net/?p=tri&s=f&o=339396&apc_state=henitri2007)

<sup>49</sup> On reactions in Serbia to the acquittal of Ramush Hardinaj see, for example: Meridijana Sadovi } and Aleksandar Roknić, „Serbian Anger at Haradinaj Acquittal” IWPR Tribunal Update, no. 545 (4 April 2008):

[http://www.iwpr.net/?p=tri&s=f&o=343810&apc\\_state=henitri200804](http://www.iwpr.net/?p=tri&s=f&o=343810&apc_state=henitri200804)

<sup>50</sup> See, for example: J. G. Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (Princeton, NJ: Princeton University Press, 2000).

The ICTY was initially funded as an *ad hoc* institution with no fixed time-frame for its mandate. In early 2002 it became apparent that international support had started to fade. Stover sees this turn as a reflection of shifting military and diplomatic priorities in a post-September 11th world, to which he also attributes US opposition to the establishment of the permanent International Criminal Court (ICC).<sup>51</sup> In August 2003, the UN Security Council passed a resolution that gave the ICTY specific deadlines for completion: 2004 for all investigations, 2008 for all first instance trials, and 2010 for appeals.<sup>52</sup> This was a clear signal to ICTY senior management to start preparing a „completion strategy.”<sup>53</sup> That meant that those cases involving middle and lower level suspects would be transferred to the national courts in Croatia, Bosnia-Herzegovina, and Serbia, each of which had established their own national war crimes chambers by 2003.

### *The Purpose of Mass Atrocities Trials*

It will be argued in this chapter that mass atrocities trials have a legal as well as an extralegal purpose, the two of which are not exclusive of each other but inclusive and complementary. Ever since the Nuremberg trial there has been much debate about the purpose of trials that deal with mass atrocities.<sup>54</sup> On the one hand, authors such as Hanna Arendt have stressed the legal role of these trials, writing that „the purpose of a trial is to render justice, and nothing else; even the noblest of ulterior purposes...can only distract from the law’s main business: to weight the charges brought against the accused, to render judgment, and to mete out

---

<sup>51</sup> Stover, *The Witnesses*, 38.

<sup>52</sup> *Ibid.*, 38-39.

<sup>53</sup> *Ibid.*, 38.

<sup>54</sup> See, for discussion: Bilsky, *Transformative Justice*; Douglas, *The Memory of Judgment*; Michael R. Marrus, „History and the Holocaust in the Courtroom” in *Lessons and Legacies*, vol. 5, *The Holocaust and Justice*, ed. Ronald M. Smelser (Evanston, IL : Northwestern University Press, 2002) 215-239; Osiel, *Mass Atrocities*; Gerry Simpson, „Didactic and Dissident Histories in War Crimes Trials,” *Alabama Law Review* 60, no.3 (1997) 801-839; Teitel, *Transitional Justice*.

punishment.”<sup>55</sup> Arendt’s position has been reinforced by others after her. Years later, Ian Buruma, who wrote on how Japan dealt with its past, agreed that, „just as belief belongs in church, surely history belongs in school,” asserting that „when the court of law is used for history lessons, then the risk of show trials cannot be far off.”<sup>56</sup>

On the other hand, there is the position articulated by those who underline the value of mass atrocities trials in establishing truth and documenting history. This position was much associated with the Nuremberg trials. The American Chief Prosecutor at the Nuremberg Tribunal, Robert Jackson, wrote in 1945 to President Harry Truman that the case against the major Nazi war criminals at Nuremberg had to be „factually authentic and constitute a well-documented history of what we are convinced was a grand, concerted pattern to incite and commit the aggressions and barbarities which have shocked the world.”<sup>57</sup> This view was echoed in 1961 by David Ben-Gurion, the Israeli Prime Minister, at the start of the Eichmann trial, when he said: „We want to establish before the nations of the world how millions of peoples, because they happened to be Jews, and one million babies, because they happened to be Jewish babies, were murdered by the Nazis.”<sup>58</sup>

In recent debate on the subject, efforts have been made to bridge the gap between these two ways of thinking. Laurence Douglas, the author of a book on the memory of Holocaust judgments, disagrees with Arendt’s characterization of the Eichmann proceedings as a „show trial.” He sees all Holocaust trials as „orchestrations designed to show the world the facts of astonishing crime, but also to demonstrate the power of law to reintroduce order into the space evacuated of legal and moral sense.”<sup>59</sup> Douglas introduces the term „didactic legality,” arguing that the trials of the Holocaust blurred the very boundary between the legal and extrale-

---

<sup>55</sup> Hanna Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York: Penguin, 1963) 233. It is important to note that Arendt was quoting Nuremberg executive trial counsel Robert Storey here.

<sup>56</sup> Marrus, „History and the Holocaust,” 236.

<sup>57</sup> *Ibid.*, 215-16.

<sup>58</sup> *Ibid.*, 216.

<sup>59</sup> Douglas, *The Memory of Judgement*, 3.

gal upon which Arendt's critique was based.<sup>60</sup> He finds Arendt's outlook „a crabbed and needlessly restrictive vision of the trial as legal form.”<sup>61</sup> Douglas's position in fact integrates the legal and extralegal aspects of mass atrocities trials, while at the same time recognizing that the primary responsibility of a criminal trial is to resolve questions of guilt in a procedurally fair manner. He stresses the fact that for a trial to succeed as a didactic spectacle in a democracy, it must be justly conducted „...to make visible and public the sober authority of the rule of law.”<sup>62</sup>

Mark Osiel, a legal scholar, also finds that criminal trials must be conducted with a pedagogical purpose in mind. He states that, in times of democratic transition, the need for public reckoning with the question of how such horrific events could have happened is more important for democratization than criminal law's more traditional objectives. In his view the mass atrocities trial, when effective as public spectacle, stimulates public discussion in ways that foster the liberal virtues of toleration, moderation, and civil respect.<sup>63</sup> A recent contribution to the debate on legal and extralegal aspects has been offered by Leora Bilsky in her study on „transformative trials.” Bilsky argues that there is no need to compartmentalize the discussion into „legal” and „historical.” In her view this polarization distracts us from the fact that transformative trials should „fulfil an essential function in a democratic society by exposing the hegemonic narrative of identity to critical consideration.”<sup>64</sup> In other words, there is no need to see the legal and the historical in competitive terms, but instead as complementary. Following the positions of Douglas and Osiel on the pedagogic purposes of mass atrocities trials, and Bilsky's definition of the nature and role of transformative trials, it will be argued in this study that Milo{evi}'s trial is a paradigm example of a „transformative trial,” where the legal and extralegal aspects are equally important and interconnected.

---

<sup>60</sup> Ibid.

<sup>61</sup> Ibid., 2.

<sup>62</sup> Ibid., 3.

<sup>63</sup> Osiel, *Mass Atrocities*, 2.

<sup>64</sup> Bilsky, *Transformative Justice* 7.

By the nature of a legal proceeding which deals with individual criminal responsibility, the trial record contains a comprehensive—and possibly the largest—collection of materials pointing to the political and criminal responsibility of Milo{evi} in the disintegration of Yugoslavia and the subsequent wave of violence. In the scholarly literature on the role of history in ascribing guilt to individuals, some argue that the question of guilt or innocence belongs exclusively in the courtroom. Other scholars, however, such as Charles Maier, see mass atrocities trials as dealing with the responsibility of individuals—which is what historians do as well. According to Maier, a historian confronts responsibility precisely because it helps to measure the degree of freedom of choice within a given institutional context. Maier asserts that „doing justice” and „doing history” are related activities. A historian endeavours to „do justice” by voicing the aspirations of the protagonists and exploring their choices.<sup>65</sup> In literature that addresses the collapse of Yugoslavia, as well as in the writings of journalists and policymakers involved in the wars, there is a near consensus on the centrality of the role played by Slobodan Milošević in the violent processes of disintegration.<sup>66</sup> However, the exact nature of Milošević’s role and strategy, as well as the roles and strategies of the other actors involved, remain a matter of dispute.<sup>67</sup> The

---

<sup>65</sup> Charles S. Maier, „Doing History, Doing Justice: The Narrative of the Historian and of the Truth Commission” in Rotberg, R. I., Thompson D., *Truth v. Justice: The Morality of Truth Commissions*, Princeton, Princeton University Press: 2000, pp 261-278: 270.

<sup>66</sup> See, for example: James Gow, *The Serbian Project and its Adversaries: A Strategy of War Crimes* (Montreal: McGill-Queen’s University Press, 2003); Marko Attila Hoare, *How Bosnia Armed* (London: Saki, 2004), Susan L. Woodward, *Balkan Tragedy: Chaos and Dissolution after the Cold War* (Washington, DC: Brookings Institution, 1995); Christopher Bennett, *Yugoslavia’s Bloody Collapse: Causes, Course and Consequences* (London: Hurst, 1995); and Catherine Samary, *Yugoslavia Dismembered* (New York: Monthly Review Press, 1995).

<sup>67</sup> Jasna Dragović-Saso, „Why did Yugoslavia Disintegrate? An Overview of Contending Explanations,” in *State Collapse in South-Eastern Europe: New Perspectives on Yugoslavia’s Disintegration*, ed. Leonard J. Cohen and Jasna Dragović-Saso (West Lafayette, IN: Purdue University Press, 2007), 14.

record left by the Milošević trial will inevitably contribute to a more comprehensive historical record from which historians, legal, and other scholars will be able to explore.

Milošević's political biography has been the subject of a number of books in which Milošević was cast as a central political figure in the former Yugoslavia in the period preceding and during the wars of the 1990s.<sup>68</sup> Historians and political scientists ascribe a leading role to Milošević in the emergence of post-communist ideological movements such as nationalism, which underline the importance of a strong leadership.<sup>69</sup> The critics of his role in these processes, as well as his supporters, all agree that his leadership was an undisputed fact. With this in mind it is clear that Milošević's trial held considerable added historical value as it was centered on evidence proving his *de jure* and *de facto* responsibility. The historical value of the trial is added to by the fact that Milošević took such a prominent role in it, testing the Prosecutor's evidence in cross-examination and selecting and conducting the examination of his own witnesses.<sup>70</sup>

The fact that international criminal law deals with individual criminal responsibility placed, by its nature, an individual at the centre of the criminal investigation and as the focus of accountability, and contributed

---

<sup>68</sup> See, for example: Slavoljub Djukić, Milošević and Marković: A Lust for Power (Montreal: McGill-Queen's University Press, 2001) [note: this is a translation of a work that originally appeared in Serbian]; Lenard Cohen, Serpent in the Bosom: The Rise and Fall of Slobodan Milošević (Boulder, CO: Westview Press, 2001); Louis Sell, Slobodan Milošević and the Destruction of Yugoslavia (Raleigh, NC: Duke University Press, 2002); Adam LaBor, Milošević: A Biography (London: Bloomsbury, 2002); Duško Doder and Louise Branson, Milošević: Portrait of a Tyrant (New York: Free Press, 1999); and Vidosav Stevanović, Milošević: The People's Tyrant (London: IB Tauris, 2002).

<sup>69</sup> See, for example: „The actions of Slobodan Milosevic were...important, not just for developments within Serbia, but also outside of it... The role of political leadership in general, and its instrumental uses of nationalism in particular, were very important.” in Valerie Bunce, Subversive Institutions: The Design and the Destruction of Socialism and the State (New York: Cambridge University Press, 1999), 149.

<sup>70</sup> HRW, Weighing Evidence, 1.

to shifting the attention of historians from their traditional interest in long-term processes. Milošević was aware of the effect this focus on individual criminal responsibility had outside of the court, and in his opening speech he made a very strong statement on that account:

We just agree on one point here, that my conduct was the expression of the will of the people. But the Prosecution is accusing the population of supporting me and let me say that my behaviour here is an expression of the will of the citizens as well, the will of the people. They are accusing the army and the police, the volunteers and the Territorial Defence. And as he (Prosecutor Geoffrey Nice, *op N.T.*) says so himself, he will be referring to these collectively as Serb forces, and that is what the Prosecutor has indeed done. He has accused Serbia and all Serbs who supported me in Serbia and those Serbs who supported me outside Serbia, and all the people who support me in Serbia to this day. And then he is accusing the people, the nation. We have heard all this in the past two days. We have heard everything. And then he says that he is just accusing an individual, and that individual is myself. And he probably thinks that I am superhuman, having these superhuman powers of influencing people and responsibility and accountability outside the territory of my own country.<sup>71</sup>

The precarious dividing line between individual criminal responsibility on the one side and collective and state responsibility on the other remains an issue of importance, as was seen in government and state documents obtained by the Prosecution.<sup>72</sup> Although not all documents

---

<sup>71</sup> ICTY Trial Transcript (14 February 2002) p. 248, lines1-21.

<sup>72</sup> See, for discussion on individual, state, and collective responsibility: G. Nice, „Uska granica između pojedinca i države,” Helsinki Charter, no. 107-108 (May/June 2007): 12-18; Simpson, *Law, War and Crime*, 54-78; Steven R. Ratner and Jason S. Abrams, *Accountability for Human Rights Atrocities in International Law: Beyond the Nuremberg Legacy*, 2nd ed. (New York: Oxford University Press, 2001), especially Chapter 1: „Individual Accountability for Human Rights Abuses: Historical and Legal Underpinnings;” and Norman Cigar and Paul Williams, *Indictment at The Hague: The Milosević Regime and Crimes of the Balkan Wars* (New York: New York University Press, 2002).

requested were obtained, a substantial number which related to the year 1995 held considerable importance, not only for Milošević's case but for related cases held before the ICTY and local war crimes courts, as well. Additionally, the documents produced by the state and used at the trial in open sessions will contribute to establishing historical and public record about both the criminal responsibility of Milošević and the policy of the states involved. Normally, such documents would remain sealed in state archives for thirty to fifty years or longer before being made public and accessible for historical or other research. In Chapter II of this study, when reviewing the evidence from the Milošević trial, these relevant collections of documents will be specifically identified and analyzed.

Although historians and legal scholars such as Douglas (2001), Marrus (2002), Teitel (2000), Osiel (1997), and Simpson (1997 and 2007)—who have addressed the relationship between the legal and extralegal purposes of mass atrocities trials—see no immediate contradiction between a trial's legal function and its didactic and historical effects, they do emphasize that legal judgments and proceedings should never be looked to for definitive historical interpretations of the events concerned. Marrus sees the records produced at trials as yet another historical source, like any other. He underlines the fact that historians must evaluate every source with an eye to its derivation, since all sources are in some sense „tainted,” and war crimes trial records are no exception. That means that a judgment, though the final stage in legal proceedings, does not represent finality of the position in history of the events judged.

Moreover, the material used in the court is limited by the legal standards and requirements excluding evidence that would commonly be used by historians and is vital in shaping historical opinion. Although hearsay is allowed at the ICTY under certain circumstances, other material used by historians—such as third-party accounts, reports about the general political atmosphere, and the tone set by leaders - are a part of the historical account but may not be allowed as evidence in the courtroom.<sup>73</sup> While Marrus sees the records from war crimes-related trials as a historical source similar to any other source used by historians, Teitel

---

<sup>73</sup> Marrus, „History and the Holocaust,” 228.

stresses the fact that all legal responses produce transitional narratives and explicitly or implicitly there is always a historical account.<sup>74</sup> Teitel shares Marrus's view of the impossibility to fix the past, which in her words would „be a futile attempt to stop the state's historical accounting, to exhaust its politics and its potential for progress.”<sup>75</sup>

---

<sup>74</sup> Teitel, *Transitional Justice*, 117.

<sup>75</sup> *Ibid.*



## **PART IV:**

### **CURRENT CHALLENGES**



## **Reflecting State- and Peace-Building in Bosnia and Herzegovina**

Senad Pečanin

*The emperor is naked!*

This contribution might not meet the expectations of those who would like to read something about Euro-Atlantic integrations in Bosnia and Herzegovina and reforms being implemented in the country. Unfortunately, the actual state in Bosnia and Herzegovina is today much closer to a complete paralysis of state institutions and bodies, a paralysis that leads to dissolution of the country.

It has long ago been concluded that the Dayton Peace Agreement stopped the tragic war in Bosnia and Herzegovina. This is true, but it is, at the same time, ignored that this Agreement imposed a constitution which, unless altered, will keep on blocking BiH's functioning as a state without protectorate powers held by the international community's Office of High Representative (known as „Bonn powers“).

The Dayton constitution has defined Bosnia and Herzegovina as a country consisting of two entities (plus the Brčko District), three constitutive nations, ten cantons, 13 constitutions and 14 governments. Besides being an economically unsustainable model, this constitutional system has rewarded planners and executors of genocide, ethnic cleansing and the gravest of war crimes: the state has been ethnically divided, which legitimized Republika Srpska as a practically ethnically cleansed Serbian state within the state of Bosnia and Herzegovina.

According to the Dayton Peace Agreement, constitutional changes can be made only if agreed on by representatives of both entities in the BiH Parliament. As soon as (during the mandate of Christian Schwarz-Schilling as the High Representative) the present Republika Srpska

leader Milorad Dodik realized that his nationalistic politics, crime and corruption can pass unsanctioned by the OHR, he became even more radical: he nowadays does not hide at all that the goal of his politics is the breakup of Bosnia and Herzegovina, i.e. secession of Republika Srpska.

Slobodan Milošević's rule in Serbia was marked by different periods of the international community's attitude towards him. From the commencement of the wars in former Yugoslavia to the signing of the Dayton Peace Agreement, the belief that this was a leader with the biggest responsibility for bloody dissolution of Yugoslavia ripened only very slowly. After Dayton he was promoted as "the key factor of peace in the Balkans". A war had to break out in Kosovo for the international community to finally realize what sort of a leader Milošević was. Still, a joint characteristic of all these phases is a completely useless discussion on Milošević himself, which is still present in academic and political circles in the region and abroad: was Slobodan Milošević a true nationalist or did he just use nationalism to reach his goals?

Making this digression is necessary as the uselessness of discussions on goals of RS leader Milorad Dodik's politics overwhelmingly reminds of discussions on Milošević's character. In Bosnia and Herzegovina, the region and the whole international community, the following is being discussed: is Milorad Dodik's goal to secede Republika Srpska or is what he is doing only a tactical maneuver with which he is trying to strengthen the position of the entity he is ruling in a sovereign capacity? The futility of this dilemma lies in a fact which can hardly be denied: a continuation of these politics, regardless of its final goal, inevitably will lead to the dissolution of Bosnia and Herzegovina.

A few years ago, the former High Representative of the international community in Bosnia and Herzegovina, Wolfgang Petritsch, described the Dayton constitution of Bosnia and Herzegovina as "a strait jacket" put on the country. Unfortunately, Petritsch's very precise diagnosis was not followed by an adequate suggestion for a therapy which would heal "the patient". Of course, isn't it clear that the first necessary remedy is the modification of constitution? But, how can it be altered if constitu-

tional procedure requires that Republika Srpska agrees the entity that has been rewarded by the Dayton constitution? As much as it is impossible to open a can from inside, it is impossible to create a functional state through compromises with those that openly state they do not want it.

This is where we meet the international community's role in Bosnia and Herzegovina. The international community calmed its consciousness after its failure to prevent aggression, genocide and the gravest war crimes in Bosnia and Herzegovina by a belated military intervention and imposition of a peace agreement. Today - and it has been so for years - the international community is trying to transfer its own responsibility for the dysfunctional state created in Dayton onto the BiH leaders, treating in an exactly same way those who are pointing to this dysfunction and those who are publicly stating that their goal is to break up the state.

For years, this incorrect approach has been reflected in an artificial withdrawal and equation of those leaders who are advocating a functional state, such as Haris Silajdžić, and those who have been obstructing this functioning and reforms in state institutions and bodies, such as Milorad Dodik. In 2006, Silajdžić's party, which proposed a repeal mechanism of so-called "entity voting" in BiH Parliament, did not accept and prevented the adoption of the so-called "April package" of constitutional changes. Almost all international representatives in Bosnia and Herzegovina labeled this party a culprit for the failure of constitutional changes.

However, a shock followed: the Council of Europe, the European Parliament, the Senate and the Congress of the USA, the Venetian Commission and the European Commission have all in their resolutions, expert opinions and conclusions explicitly established that Silajdžić was right, that "entity voting" is the key mechanism to obstruction and blockage of state institutions and bodies to be abolished. Because of the mechanism of entity voting, 258 proposals of law reforms have been rejected in the State Parliament in the past four years.

Here are some additional facts testifying to misuse of entity voting: Republika Srpska representatives rejected even those proposals that had

received unanimous support of all members of the Council of Ministers, including the Prime Minister (who is from Republika Srpska) and all ministers from the Republika Srpska; the adoption of laws necessary for visa liberalization regime has been halted for 18 months, on grounds of “protection of vital national interests” and using the tool of “entity voting”, among them the law regulating transfer of chemicals and colors on marks which are to be placed on trucks transporting these chemicals.

If one is to believe that the international community has not again left Bosnia and Herzegovina to the mercy of enraged Great Serbian nationalism only because its victims are primarily Muslims, the key question is: can Bosnia and Herzegovina be divided without a new war which would present a serious threat to regional stability?

The answer to this is negative.



# **A Kosovar View on State- and Peace-Building in Kosovo**

Ilir Deda

Kosovo in its third year of independence faces three sets of challenges: internal, regional and international. The consolidation of the state is affected in these three areas, and the degree of success in these will affect directly the future and the substance of the new state. The international community once focused on peace-building and stability (period 1999-2008) has recently shifted its focus towards the functionality of the institutions and the rule of law. The Kosovar society, on the other hand, is focused on an internal debate on what kind of a state it wants.

## **Internal challenges**

The lack of consensus in the international community about Kosovo's independence has led to proliferation of the international missions in Kosovo. Apart from the United Nations mission in Kosovo (UNMIK) and NATO led Kosovo Force (KFOR), there are the International Civilian Office (ICO)/European Union's Special Representative (EUSR), European Union's rule of law mission EULEX, European Commission's Liaison Office (ECLO), Organization for Security and Cooperation in Europe (OSCE) mission in Kosovo, EU's special representative for the North, EU's special coordinator on religious heritage. On top of these, there is the „Quint” – the embassies of the United States, United Kingdom, France, Germany and Italy, which plays a very important role in Kosovo's political development. The ICO is the only mission which is not status neutral, and oversees the implementation of the Comprehensive Status Proposal (CSP) of Marti Ahtisaari. All other missions are „status neutral”, i.e. neither in support nor against the independence of Kosovo. The overall coordination of the entire international presence is still taking time.

EULEX is the most serious undertaking of the European Union. It has approximately 1,400 police officers, 50 judges and prosecutors and roughly 20 customs officers. The mission has a mandate to monitor, mentor and advise (MMA) the Kosovo rule of law institutions and has an executive authority to combat organized crime, corruption, financial and economic crime, as well as war crimes and inter-ethnic crimes. However, the current staffing does not allow the mission to focus much on the improvement of the performance of Kosovo's rule of law institutions, especially the judiciary. Of 50 EULEX judges and prosecutors, 75% of them are focused on issues within the reserved authority of the mission, while the rest on MMA. Also, the disproportion between the EULEX police officers and the custom officers, judges and prosecutors is high to allow the mission to substantially improve the Kosovo's weakest link – the judiciary and prosecution. Also, due to the divisions in the EU about Kosovo's independence (22 states which have recognized it and 5 which have not), there is no clear policy guidance from Brussels and the mission does not have executive authority in northern Kosovo. Instead, the actions of the mission in the North are a hostage of Belgrade's policies and are developed in a dialogue between Brussels and Serbia.

Kosovo's internal developments post-declaration of independence have gone through three short phases: the honey moon in 2008; disillusion in 2009; and battle for internal democracy; development and accountable institutions in early 2010. Kosovo's society is consumed with finding the answer to the question of what state Kosovo should be. The problem with the political elite in the government may be defined that governance was misunderstood by this elite in two aspects: i) the understanding that as long as the government delivers on the international community's demand, various aspects to governance will not be looked at; and ii) the improper management of the public finances will not be penalized as long as the core demands of the international community will be met.

The prevalent opinion in the Government has been to implement the Ahtisaari's plan and keep the overall political and security stability in the country, including improving the relations with the Kosovo Serb community.

However, the lack of economic development coupled with high corruption at the governmental level has caused a large disillusionment among the population. In January 2010, the government's support stood at 36%. International donors, who were mostly interested to invest during 2008, were discouraged by the corruptive tendencies within the government. Negative trends were noted in the areas of restrictions of freedom of speech and the rise of corruption. The Kosovo government has tightened its grip over the public broadcaster and independent media.

The dominance of the government over the economy has dramatically increased, as has the interference in the appointment of senior public servants. The public investment increased by 194% while the private declined by 10%. At the same time, the use of single source tendering rose to €164 million in 2009 from €50 the previous years. This has led to an unfriendly business environment, further damaged with individuals and groups close to the governmental senior officials establishing ad-hoc companies applying and winning in tenders for public work. This has raised the suspicions for enormous corruption in the government.

The autocratic tendencies of the government have met with a growing criticism from the few remaining independent media and several non-governmental organizations. The civil society is finding its role in the state and continues to uphold and fight for democratic standards and principles. Perhaps one of the most dynamic societies in 2010 is the Kosovar society, which has been deprived of internal democratization. The society is undergoing a transformation of the kind the regional states experienced during the late 1990ies and early 2000-02.

The inter-ethnic relationship has been at the centre of the attention of the international presence until the end of 2009. In reality, post-independence the Kosovo Albanians did not see the Kosovo Serbs as an extended hand of Serbia used to destabilize and threat the country. The Serbs saw an increase of safety, security and freedom of movement immediately, which has tremendously helped in relaxation of the relations between the two communities, excluding northern Kosovo. The Kosovo Serbs, south of the Ibar river, began a process of accommodation within

the new reality. They have participated in Kosovo's local elections of 15 November 2009, and directly became stakeholders in the process of decentralization and creation of new municipalities. In Gracanica and Strpce, two of the largest settlements after northern Mitrovica, in central and southern Kosovo, the Kosovo Serb participation in the local elections was higher than in the ones organized by Serbia in May 2008 and August 2009.

The new municipalities have legitimate leaderships, and the process of transfer of powers to them has begun, albeit slowly. The Kosovo Serbs understood that in order to have a predictable future and a sustainable development, cooperation with the Kosovo institutions is crucial. The accommodation of the Serbs within Kosovo's institutions proves a significant opportunity for the two communities to solve issues of concern within a single institutional and legal framework.

The new municipal Kosovo Serb leaderships face pressure from their community for rapid delivering of the promises they made aiming at quick improvement of their lives. The existence of the parallel structures represents another hindering factor for the functionality of the new municipalities. While the parallel structures deliver only financial benefits to the Serbs, they cannot offer development. High salaries in the parallel municipalities cannot match with Kosovo ones. Meanwhile, Serbia has committed 42 million Euros for parallel structures and is not showing any sign that will change its policy towards participation of Serbian community in political institutions of Kosovo. Moreover, Serbia's path towards EU is widely opened, without being specifically conditioned with a change of policy towards North of Kosovo.

There is a widely spread belief that northern Serb-controlled, municipalities of Leposavic, Zvecan and Zubin Potok, do not cooperate with Kosovo institutions. However, in the budget plan for 2010, Kosovo government has allocated a regular financial amount of €8million for the functioning of these municipalities. In December 2009, the International Civilian Office (ICO) and the Government of Kosovo presented a strategy for integration of northern Kosovo. On 24 February, 2010, the government appointed Ylber Hysa, former MP and former adviser to the mayor

of Mitrovica, to serve as coordinator for implementation of the strategy for northern Kosovo. The biggest problem with the strategy is that the EU does not officially support it. The problem lies in the lack of political support coming from Brussels for the implementation of the strategy and the effective operations of EU's rule of law mission - EULEX to provide the necessary level of rule of law in the area. Instead, the EU has appointed a special envoy for the North, and has opened an „EU House” in northern Mitrovica.

The Strategy for the North, or the comprehensive approach to integration of northern Kosovo outlines specific steps of international presence for restoring rule of law in the area, as well as gradual inclusion of the Serbs in the institutions of Kosovo through the process of decentralization, free elections and economic development. A successful implementation of the strategy entails the neutralization of the actions and presence of Serbia's security apparatus in the area, which is composed of over 350 members of Serbia's police, intelligence officers and gendarmerie. The presence of these structures violates the Kumanovo Agreement between NATO and Federal Republic of Yugoslavia (FRY) of 1999, which ended the NATO's air campaign against the FRY, and UN Security Council's Resolution 1244. But in order to have a successful reintegration of the north, a diplomatic pressure on Belgrade by the European Union and the United States is an essential prerequisite. Up to date, this has not been the case. Furthermore, the international community has silently blessed the organization of Serbia's parallel elections in Mitrovica North, scheduled for 30 May 2010. Brussels and Washington D.C think they will help Serbia's president Boris Tadic win and consolidate the power and responsibility in Mitrovica North, where his opponents in Serbia – the Democratic Party of Serbia (DSS) and Serb Radical Party (SRS) are strong.

### **Regional challenges**

The relationship between Serbia and Kosovo are crucial for region's stability and progress towards the European integration. Kosovo is unable to participate in regional various cooperation forums, due to blockage by Serbia and Bosnia and Herzegovina (Republic of Srpska). Ser-

bia's end goal towards Kosovo is partition of Kosovo along the Ibar River, and the inclusion of the northern part within Serbia's redefined borders. Belgrade believes it will have a diplomatic leverage after the International Court of Justice (ICJ) issues its advisory opinion on the legality of Kosovo's declaration of independence later this year. Belgrade is determined to take the issue to the UN's General Assembly (UN GA), hoping the GA will call for fresh status talks between Priština and Belgrade. Furthermore, the pressure of the international community towards Serbian and Kosovo will grow in a quest to achieve a model of cooperation between the two countries, without an explicit recognition of Kosovo from Serbia.

Belgrade has unofficially started discussing an option of exchange of territories between Kosovo and Serbia – where Serbia would offer the municipality of Presevo in the Presevo Valley in exchange for northern Kosovo. There are EU member states which support the partition as a solution, continuing to uphold „Serbia first policy”. There are states within the EU which would compromise the territorial integrity of Kosovo or would open Ahtisaari's package in order to satisfy Serbia at the expense of Kosovo. However, the prevalent opinion within the „Quint” is against the partition of Kosovo, because this would have a regional domino effect. Hence, even if Serbia and Kosovo agree on partition, the international community will not allow.

Furthermore, northern Kosovo is among the pillars of Kosovo's economic development – the lake of Gazivode is the largest water reserve in the state used for development of energy, irrigation, agriculture and serves as drinking water for almost half a million people. Also, much of the mining industry and minerals are linked with northern Kosovo. Another factor strongly against partition are the Kosovo Serbs living south of Ibar, and which make almost two thirds of the entire Kosovo Serb population. Without the north, they do not see a perspective to remain in Kosovo and would slowly leave. Half of the Serb Orthodox Church (SPC) also does not favours partition of Kosovo. Therefore, in 2011, when the talks between Belgrade and Priština are most likely to take place, there will be an emerging reality in Kosovo of a loose cross-ethnic alliance for and against partition of Kosovo.

The status of the North, however, remains unclear even with the opposition to partition. An emerging possible solution in the diplomatic circles is mentioned to be a status similar to South Tirol. This special status for North Kosovo would enhance the current rights of Kosovo Serbs in the part of the territory with semi-independent police service, judiciary, healthcare and education, and own finances. The institutions would be linked both to Priština and Belgrade beyond the provisions of the CSP. However, another internal rearrangement in Kosovo, with territorial autonomy, will most likely destabilize the country. It is hardly likely that the Kosovo Albanian public opinion will accept such an outcome, after barely accepting the Ahtisaari's plan. Further, it will raise suspicion in the ability of the international community to provide rule of law in an area of 2,000 square kilometres with approximately 50,000 people, which is the territory north of Ibar river.

There are unfounded fears that Kosovo will soon join Albania both in the West and in the region. At this point, this scenario is not likely. There is no desire for unification, especially in Albania, while pro-greater-Albania parties in Kosovo have less than 3% support. This scenario may become a reality in the future if Kosovo's economic stagnation continues, and Kosovars find equal opportunities in Albania. For this scenario to succeed, the basic requirement is a booming economic growth in Albania and a welcoming professional environment for Kosovars, which is not the case at present. Also, Kosovo society is focused at strengthening the statehood and building functional democratic institutions which would enable a friendly developmental environment.

### **International challenges**

In over two years of existence, Kosovo is recognized as an independent country by 67 states. This low number creates an opinion of Kosovo as an „unfinished” story in the Balkans. There are two broad reasons why the recognition of the new state has stagnated: i) the international affairs in early 2008; and ii) Kosovo's case at the ICJ. The most damaging for Kosovo's development is the opposition in the EU by Spain, Slovakia, Greece, Romania and Cyprus. Until these states do not accommodate

with Kosovo's reality, Priština will not have contractual powers with Brussels and will remain the only country in the Western Balkans without a clear European integration perspective.

It is unlikely that there will be a new massive wave of recognitions post ICJ advisory opinion is issued. This opinion will most likely be ambiguous and both parties – Serbia and Kosovo – will interpret it according to their will. Belgrade's determination to ask from the UNGA the restart of new status talk may further complicate the fate of the new state. Therefore, it is of a crucial importance for Kosovo to coordinate its post-ICJ diplomatic actions with the states that have recognized it, especially the countries composing the International Steering Group (ICG) – a body of 27 countries which support the ICO.

However, for Priština it is of an utmost importance to have a clear European path, the same as other Western Balkans countries have it. Gaining full international legitimacy will happen over time, which Kosovo can afford. In a time period of five years it is likely for Kosovo to have normalized relations with Serbia – which is a condition for both countries before further European integration. In that time, most likely Kosovo will be recognized by over 100 countries. However, at present, the new state cannot afford having a blocked Euro-integration process.

## **Conclusion**

On 28 April 2010, EULEX raided the offices of Kosovo's ministry of transport and post-telecommunications and the private houses of the minister himself. The mission has announced that this was a beginning of tough measures against crime and corruption. The mission has announced that actions will be taken in at least four other ministries of the government of Kosovo. Kosovo's society has been waiting for such measures since the deployment of the mission. The independent media and the civil society have called publicly EULEX to use its executive authority and implement its mandate in fighting crime and corruption.

EULEXs' actions have faced no opposition. The suspected government's minister has publicly pledged cooperation with the judiciary.

This is the first time in 11 years that the international community has taken a direct role in combating corruption and crime in Kosovo. It marks the beginning of the decriminalization of Kosovo's politics, and is the first step to ending over a decade long impunity in the new state.

If EULEX continues with its anti-corruption measures, it will open a new phase for development of Kosovo's society and the state overall. These measures mark the beginning of the end of the post-conflict environment, and the focus will fundamentally shift towards building democratic institutions in the state. This shows that the international community has shifted its previous focus and preference on peace and its own interpretation of stability, towards a functional and democratic state, with accountable institutions. Kosovo's society has received an impetus in its internal democratization development, and has gained the necessary internal space to advance its maturity.

# An International View on State- and Peace-Building in Kosovo

Karin Marmsoler

## Post-Independence State-building: A brief Overview

### Introduction

On 17 February 2008, the Assembly of Kosovo declared independence from the Republic of Serbia. While the event had been closely coordinated with the *Quint*, i.e. France, Germany, Italy, the UK and the US, the wider international community was confronted with a *fait-accompli*. On the ground, the proclamation of independence meant terminating the UN Mission in Kosovo's authority and reducing its presence gradually to a *pro-forma* presence. At the same time, the EU stepped up its presence by deploying an EU Special Representative together with the largest ever ESDP Mission, EULEX<sup>260</sup>, mandated to foster the rule of law in Kosovo.

**Kommentar [B2]:** Bitte die Fussnoten auf 1 retourstellen – danke!

Kosovo's Independence Day also marked the beginning of a series of groundbreaking processes aimed at completing what was still needed for a full-fledged and undisputable nation-state. On 9 April 2008, the Constitution of the Republic of Kosovo was approved by the Parliament<sup>261</sup>. It reflects all provisions contained in the Comprehensive Proposal for the Kosovo Status Settlement (CSP), also known as the „Ahtisaari Plan“, designed by the UN Special Envoy President Martti Ahtisaari. Although the UN Security Council was divided over and thus rejected the plan in

---

<sup>260</sup> For more detail on the current set-up of the international presence, also see Karin Marmsoler „The Future International Presences in Kosovo“, Cutting or Tightening the Gordian Knot?, The Future of Kosovo and the Peace Process in the Western Balkans after the Decision on Independence, 16<sup>th</sup> Workshop of the Study Group „Regional Stability in South East Europe“, Vienna, October 2008.

<sup>261</sup> The Constitution of the Republic of Kosovo entered into force on 15 June 2008.

June 2007, the CSP was fully endorsed by the Kosovo authorities in their declaration of independence. Against all odds, the CSP henceforth became the main point of reference for domestic legislative and policy-making. Shortly after the adoption of the Constitution, a set of national symbols including a flag and an anthem, were adopted by the Parliament. Between April and November 2008, the Assembly approved over 50 laws, among others paving the way key state-institutions such as the Ministry of Foreign Affairs, the Kosovo Security Forces, the Kosovo Intelligence Agency or the Constitutional Court.

### **Consolidating State-building**

While important milestones were laid during the first months of independence, the inauguration of the Constitutional Court in June 2009 certainly denoted a peak in Kosovo's strives to consolidate statehood. For the time being, the Court is of mixed composition, comprising three international and six national judges, the latter ones including one Serbian and one Turkish judge. One year into being, a number of judgments have been enacted including the one on the logo of Prizren Municipality, where the Court ruled in favour of the Turkish community that filed the lawsuit based on alleged violations of the principles of multi-ethnicity.<sup>262</sup>

For the first time after 1999, the Central Election Commission organized (local) elections without international supervision. Elections took place in 33 established and three new Serb-majority municipalities<sup>263</sup>, while it was decided that elections in Partes/Partesh and North Mitrovica would take place at a later stage. Although the establishment of the new Serb-majority municipalities had started out slowly, it began picking up in summer 2009 as local elections were approaching. Frustrated over the unfulfilled promises made by Serbia's political leadership, the Serb community south of the river Ibar saw in forthcoming local elections a real and possibly unique opportunity to seize control over its own des-

---

<sup>262</sup> <http://www.gjk-ks.org>

<sup>263</sup> See Annex III on Decentralization of the Comprehensive Proposal for the Kosovo Status Settlement, 26 March 2007, for details on the establishment of five new and one enlarged Kosovo Serb-majority municipalities.

tiny. For the first time since 1999, a total of 22 Serbian political entities registered and competed in 17 out of 36 municipalities. About 10,000 Serbs voted as compared to approximately 1,300 in 2007. Regrettably, the good level of participation remained confined to the Serb-majority municipalities south of the river Ibar whereas the approximately 30,000 Kosovo Serbs living in the three northern municipalities of Leposaviq/Leposavić, Zubinpotok/Zubin-Potok and Zveçan/Zvečan did not turn out to vote.

Participation of the Serb community resulted in the election of four Kosovo Serb Mayors, including in Shtërpçë/Štrpce Municipality, previously tightly held by Belgrade-orchestrated hard-line politicians. First evidences of the desirable spill-over effect have been noticed in preparation to the local elections in Partes/Partesh Municipality on 20 June, for which five Kosovo Serb political entities have signed up to run.

### **Security-Institutions at Work**

Kosovo should initially have a lightly armed, 2500 manned multi-ethnic security force. On 21 January 2009, the Kosovo Security Forces (KSF) were launched and recruitment has been ongoing ever since. Under the auspices of the KFOR command, outreach activities were enhanced to attract minority communities. As of April 2010, a total of 166 representatives from minority communities, making up 3,72% joined the KSF. These include 36 Serbs, 37 Bosniaks, 4 Egyptians, 43 Turkish, 9 Roma, 25 Ashkali and 1 Gorani. The KSF and the Kosovo Intelligence Agency are controlled by the two democratic oversight committees, up and running since last November.

With the agreed border demarcation between Kosovo and the Former Yugoslav Republic of Macedonia last October, Kosovo's borders have been ascertained and potential subsequent border disputes eliminated. At the same time, the border demarcation agreement also paved the way for the formal establishment of diplomatic relations between the two neighboring countries.

## **Kosovo in the International Theatre**

After an initial wave, recognitions have been trickling in slowly and have reached 69 by the time of writing. The Ministry of Foreign Affairs, set up shortly after independence, has started deploying diplomatic representatives to a dozen countries, concentrating mainly on the region, Western Europe and the US. Unfortunately, considerable efforts are still devoted to fencing off punctual attacks by Serbia's Foreign Minister before the UN Security Council which otherwise could be targeting additional recognitions.

Although membership in international organizations has to a large extent been blocked by Serbia's intransigent stance towards its southern neighbour, the World Bank and the International Monetary Fund (IMF) welcomed Kosovo among its members in July 2009. Most importantly, this will allow Kosovo to access loans for infrastructure and other cost-intensive projects and may thus help alleviating the grim economic situation.

Although important strides were made in just over two years, Kosovo continues to face a number of challenges before classifying as a functioning democracy in the eyes of its citizens and a success for the international community's post-conflict engagement.

### **Current Challenges**

#### *The International Court of Justice Opinion*

Serbia's stiff opposition towards Kosovo's declaration of independence culminated in questioning the legality of Kosovo's independence before the International Court of Justice (ICJ). Oral hearings were held in December 2009, and the Court's opinion is expected sometime in the second half of 2010. Some 13 countries lined up in support of Serbia's claim of territorial integrity, while 14 backed Kosovo's arguments for independence. Although the ICJ opinion is of advisory content only and it is widely held that the Court will issue an ambiguous judgment open

to interpretation, the process has consumed considerable energy and has likely produced negative consequences on recognitions. Domestically, it is also being argued that the pending ICJ case may have negatively affected the situation in the northern part of Kosovo, where the security situation remains fragile and opposition strong. In light of the widespread rumors about possible new negotiations leading to a territorial exchange once the ICJ opinion has been issued, the International Steering Group, representing 25 recognizers, has reiterated two key principles, namely that Kosovo's independence is irreversible and its territorial integrity not open to discussion.

#### *Northern Kosovo and Direct Talks*

Rather than trying to turn back the clock, the ICJ opinion may offer an opportunity for „a new phase” in Serbia's relations towards Kosovo<sup>264</sup>. Direct talks with Belgrade are required first and foremost to overcome a long list of controversies that affect especially Kosovo Serbs' lives in the Kosovo on daily basis. Such issues range from water and electricity supply in the municipalities north of the Ibar river to the recognition of school diploma issued by Kosovar institutions or the circulation of Serbian license plates in Kosovo.

The European Union has meanwhile stepped up efforts to penetrate the northern part of Kosovo: the recently established EU House, spearheaded by the EU Facilitator, Ambassador Michael Giffoni, hosts representatives from EULEX and the European Commission. It shall increase EU-visibility and demonstrate enhanced attention directed to the North. Moreover, the Government of Kosovo - in coordination with the International Civilian Office - designed a comprehensive approach to the North. Drawing together already existing elements in an overview, the document outlines measures aimed at strengthening Rule of Law, the creation of Mitrovica North Municipality, governance in the three existing northern municipalities and more generally social and economic development. Real progress in the North, where quick fixes have repeatedly failed in

---

<sup>264</sup> B92 quoting the EUSR „New Phase in Kosovo with ICJ decision”, 26 May 2010.

the past 10 years, will ultimately depend on a concerted approach, consistently pursued and embedded in the EU aspirations shared by both countries.

### *Rule of Law and Good Governance*

Not too different from its neighbours and from other countries in transition, Kosovo is plagued by corruption. Notwithstanding the presence of a large ESDP Rule of Law Mission, the judicial system remains weak. It is currently undergoing a wide-reaching reform, aimed at restructuring the entire court system and making it more effective. All judges have been vetted and salaries will be raised, thus trying to stem corruption in the judiciary.

Meanwhile, the wide-spread corruption also contributes to depriving legitimate economic growth and deters foreign investment. Consequently, unemployment remains high, exports meagre and the overall economic base insufficient to uphold thousands of students pouring every year onto the labour market. In parallel, the lack of state capacity to provide services to its citizens in basic areas such as health care or education undermines people's trust in the institutions. While resources are limited they have increasingly concentrated onto a small elite rather than benefitting the wider population. In other words, the lack of a social contract between the new state and its citizens is possibly the most endangering long-term challenge Kosovo is facing<sup>265</sup>. Unless, the political leadership does not endorse the need of such contract as an absolute priority, Kosovo will never enter the books as a success story for sustainable state-building.

## **Conclusion**

Kosovo has made remarkable strides over the past two years, however, much remains to be done before the country is ready to integrate into

---

<sup>265</sup> The Kosovo State-building Conundrum: Addressing Fragility in a Contested State, Lucia Montanaro, FRIDE, A European Think Tank for Global Action, Working Paper 91, October 2009

European and Euro-Atlantic institutions. Only internal integration can eventually lead to external integration, meaning that continued efforts are required to genuinely integrate non-majority communities in Kosovo's life before Kosovo itself is ready to integrate into the NATO and the European Union. Equally, corruption must be addressed in all spheres of life, with the political leadership finally moving from lip service towards action. In its relations with Serbia, Kosovo is well advised to assume a pragmatic approach and to fully integrate into regional co-operation mechanisms, which may offer new channels for dialogue on practical issues.

While timing depends to a high degree on Kosovo itself, it is undisputable that its future lies within the European Union. The EU is keen to assist Kosovo in completing the last state-building effort in the Western Balkans and must make sure to provide consistent support and advice to make the vision of all aspiring countries in the region a reality.



# Internal and External Challenges for Macedonia

Dane Taleski

## Introduction

The main message of „The Economist” most commented on-line article was that „it is time for the most tedious problem in the Balkans to be settled”.<sup>266</sup> The article was dedicated to the long standing irrational name dispute between Macedonia and Greece. It is hard to believe that what would look, under different circumstance, as a purely metaphysical discussion has turned into a veto point for the Euro-Atlantic future of the Republic of Macedonia. The aim of this paper is mainly to clarify the issue; how the dispute evolved and what implications does it have so far. Further on the paper offers one explanation why it is so difficult to come to a settlement of the dispute. Namely, a quantitative content analysis of media content from newspaper articles reveals that the name dispute internalized in the Macedonian media. The news coverage of the name dispute has been influenced by Macedonian sources and unofficial stories. A discourse analysis of the same material shows that the name dispute is followed with discourses of victimization, fear and distrust. But even though the impediments are great, a compromise is possible if the settlement is reached in the appropriate steps with the right content.

In the first part of the paper I elaborate on the development of the name dispute over the years. I briefly sketch the dynamic of the dispute starting from the early 1990s up to today. In the second part I elaborate the implications that the name dispute has, focusing mainly on the implications that are internal for Macedonia. In the third part I look at the media framing of the issue. I show results of a quantitative content analysis of newspaper articles covering the issue from 1991 to 2004. And in the last

---

<sup>266</sup> What's in a name? In: The Economist, 25.03.2010 [www.economist.com](http://www.economist.com) accessed on 28.03.2010

part I try to provide some recommendation how a settlement can be reached.

### **The development of the name dispute**

One can't think of a more defining attribute for the relations between Macedonia and Greece than the lingering „name dispute” between these two countries. The dispute over the usage of the name „Macedonia” has been the strongest characteristic that defines the relations between these two neighbouring countries. Over the years the bilateral relations have significantly improved. Trade relations were established, cross border cooperation was initiated and sustained, economic cooperation flourished. However the strong political differences over the name dispute remain resilient and not amenable.

The differences surfaced as early as the independent state of Macedonia was declared in the 1990s after the dissolution of Yugoslavia. Republic of Macedonia was able to avoid the bloodshed that engulfed the other constituent republics of Yugoslavia. However the peaceful development of the newly independent state was marked with other impediments. Greece fiercely objected the existence of the new state on the grounds that usage of the term „Macedonia” in the name of the country was a threat for Greece. In that respect Greece claimed that if „Macedonia” is used in the name of its northern neighbour then this would imply that the new neighbour has territorial claims toward Greece; and further on that this act would inspire irredentists and secessionist movements within Greece.

In light of this perceived, but far from credible, threat Greece tried to prevent the international recognition of the Republic of Macedonia. Soon after the Republic of Macedonia declared independence in 1991 Greece closed the border placing its new neighbour under an embargo. Further on in 1992 Greece successfully lobbied the EU, at that time the European Communities, to issue a declaration stating that the country can't be recognized as long as it has „Macedonia” in its name; which was against the expert advice prepared by a special European commission – comprised of leading lawyers led by Robert Badinter – that ana-

lyzed the constitutions of the new countries and offered opinion on the recognition of the post-Yugoslavian countries.<sup>267</sup>

Despite the pressure and impediments from Greece, the Republic of Macedonia was receiving bilateral recognitions and eventually in 1993 applied for a membership in the UN. Due to the objections from Greece the otherwise technical matter was moved to the Security Council (SC). The SC recommended that both Greece and Macedonia work together to overcome the differences, and recommended to the General Assembly (GA) to admit Macedonia under the provisional name „the Former Yugoslav Republic of Macedonia” for all purposes within the UN until settlement of the differences is found.<sup>268</sup> The GA accepted the recommendation from the SC and admitted Macedonia in the UN under the provisional name.<sup>269</sup> Couple of months later the SC placed the settlement of the „name dispute” under the auspices of the UN Secretary General.<sup>270</sup>

The format and process to settle the differences over name dispute was institutionalized within the UN. However it did not yield any immediate success, quite the contrary. From February 1994 until September 1995 Greece again placed embargo on Macedonia. The embargo was lifted after an Interim Accord was signed between Macedonia and Greece. The USA largely mediated the Accord as part of their engagement to stabilize the wider Balkan region at that time. Greece lifted the embargo after the Interim Agreement was signed and Macedonia „agreed to change its flag and parts of its constitution, introducing articles refuting any territorial pretensions toward its neighbours”.<sup>271</sup> The talks under the auspices of the UN Secretary General special envoy were resumed, but with little practical success. Despite the political impasse, once the Interim Accord was signed the economical, trade and cross-border cooperation between Macedonia and Greece substantively improved.

---

<sup>267</sup> Ilievski, Zoran and Taleski, Dane: Was the EU’s Role in Conflict Management in Macedonia a Success? In: *Ethnopolitics*, 8:3, 2009, pp. 355-367

<sup>268</sup> SC-Res 817 (1993), 7.04.1993

<sup>269</sup> GA-Res A/RES/47/225, 27.04.1993

<sup>270</sup> SC-Res 845 (1993), 18.06.1993

<sup>271</sup> Ilievski and Taleski, p. 356

The Interim Accord was a balanced compromise; allowing the settlement of the differences to continue, while providing for Macedonia to continue its international development. Namely article 11 of the Accord stipulates that Macedonia can enter any international, multilateral or regional organization and institution where Greece is a member without the objection of Greece, as long as it is done under the provisional reference „former Yugoslav Republic of Macedonia”. This formula was used when Macedonia joined the Council of Europe and the OSCE; and potentially it could also have been a formula for Macedonia to enter NATO and EU even before the name dispute was resolved.

The name dispute was in a way frozen up 2008. Even though the UN mediated talks were formally in place since 1993 a solution for the name dispute was not at hand. The stalemate situation continued until the NATO summit in Bucharest. At the NATO summit, Greece voiced its objection for Macedonia to enter NATO before the name dispute was resolved. Effectively Greece blocked Macedonia’s entry into NATO, even under the provisional reference. NATO holds that Macedonia’s membership is pending upon final settlement of the name dispute with Greece. Similarly Greece blocked Macedonia’s EU integration process in 2009. The European Commission gave a recommendation to the Council to open accession negotiations. However the Council – requiring unanimity for such a decision – was of the opinion that accession negotiations can’t be started before the name dispute is finally solved.

The positions of both sides have changed over the years, as efforts were made to find a solution for the name dispute. However the differences still remain vast between Macedonia and Greece. At first Greece objected to any use of the term „Macedonia” in the name. However it has changed its position since. Now Greece holds that Macedonia can be used in the name of the country, but it must be accompanied with a geographical determinant to make a necessary distinction with the Greek province bearing the same name. Greece holds that the new name should be used „erga omnes”, meaning both internally and externally including attributes which derive from it (e.g. in terms of collective identity such as language, nationality, geographical terms etc). Macedonia has accepted changes to its flag and constitution to cater to the concern of its

bigger and more powerful neighbor. For long time the Macedonian position was to advocate a 'double formula' (e.g. one name for Greece and another for the rest). Nowadays the Macedonian position seems firm that the settlement must not jeopardize the attributes of the internal collective identity (e.g. Constitutional name, Macedonian national identity, Macedonian language etc).

## **The implications of the name dispute**

The name dispute is among the main foreign policy challenges that the Republic of Macedonia is facing. Running parallel to the establishment and development of the country, the name dispute has had significant implications. Some of these implications are of international and regional character, while the others are internal, endogenous, for the Republic of Macedonia.

### *International and regional implications*

One of the main international implications is that the name dispute is a precedent in international relations. In that respect the name dispute puzzles more academics interested in international law. On the other hand scholars of international politics in the name dispute find another example of the principles of 'real politik'. Scholars of international law have argued that according to the UN treaty no additional criteria, apart from those in the treaty, should be set before new countries wishing to join the UN.<sup>272</sup> In that view the UN resolutions that place a condition of a provisional name and a settlement process for the Macedonian entry in the UN are seen as null and void. On the other hand, scholars of international politics quote Thucydides to make the point that 'the strong do what they have to do and the weak accept what they have to accept'.<sup>273</sup> Notwithstanding the different lenses for analysis between international

---

<sup>272</sup> Janev, Igor: Legal Aspects of the Use of a Provisional Name for Macedonia in the United Nations System, In: American Journal of International Law, 93/1999, No1, pp. 155-160

<sup>273</sup> Maleski, Denko: The borders of our mind, In: Eurozine, 16.01.2009

law and international politics, the fact remains that the name dispute does not have its equivalent in the current UN practice.

The name dispute also creates regional implications for the process of Euro-Atlantic integration. On one hand the objections of Greece create negative precedents for the NATO's open door policy and also decay the EU's principle of conditionality. The processes, both NATO and EU integration, rests on clearly defined criteria and standards. Previous bilateral disputes had the potency to slow down but no to put the integration process of an individual country to a standstill. The name dispute is effectively a veto point for Macedonia. As such it obfuscates the principles on which the NATO open door policy and the EU principle of conditionality are based. Due to the name dispute Greece has effectively stopped the Euro-Atlantic integration of Macedonia. In that respect the reform processes that Macedonia has undertaken, along with the EU and NATO standards and criteria that it has met, become secondary. This situation creates the impression that progress in the Euro-Atlantic integration is dependent primarily on the political will of the member states, and secondary on meeting the criteria for integration.

This precedent can have future negative consequences for the Euro-Atlantic integration of the entire Western Balkan region. The Euro-Atlantic integration of the Western Balkans is seen as the best instrument for stabilizing the once turbulent region. At the same time instability in the Balkans is still regarded as the main threat for the security in Europe.<sup>274</sup> A slow down of the integration processes is not only jeopardizing the strategic considerations of NATO and the EU, but is also detrimental for the security of the region and beyond. Allowing the name dispute to persist as a blockade for Macedonia's entry in NATO and EU is already harmful enough. However across the Balkans there are still plenty of other bilateral issues that have the potential to hamper the regional cooperation.<sup>275</sup> It would be a negative consequence if the name

---

<sup>274</sup> Blair, Denis C: Annual Threat Assessment of the US Intelligence Community for the Senate Select Committee on Intelligence, 2.2.2010

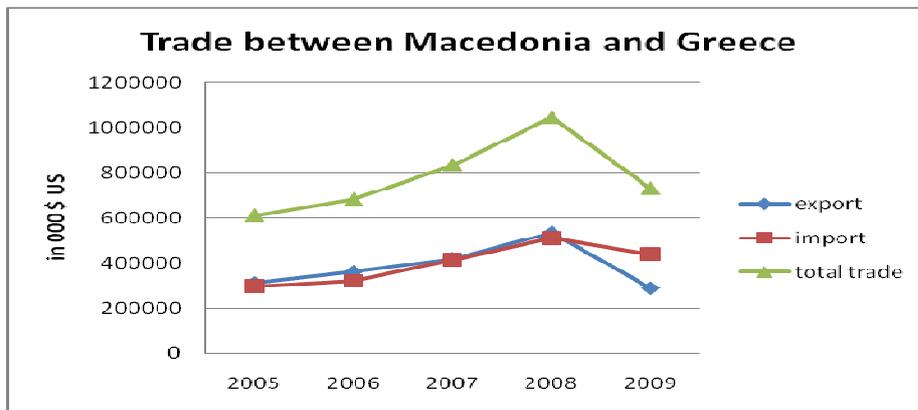
<sup>275</sup> Delevic, Milica: Regional Cooperation in the Western Balkans, Chailot Paper , 104/2007, EU-ISS, Paris

dispute, as a veto for Macedonia's Euro-Atlantic integration, serves as an example for future bilateral disputes. Such a scenario would mean not only additional slowing down of the Euro-Atlantic integration of the Western Balkans, but effectively a standstill of the whole process.

*Internal implications*

The name dispute also has internal implications for Macedonia. On one side one can't overlook the change in trade between Macedonia and Greece in 2008 and 2009. Namely from 2005 the overall trade was steadily increasing between the two neighbors. From a total of 600 million US dollars in 2006 it peaked over 1 billion in 2008. However there was a sharp fall in 2009, when total trade plummeted to about 700 million US dollars. Graph 1 below show the trade patterns between Macedonia and Greece.

Graph 1: Trade patters between Macedonia and Greece, 2005 – 2009



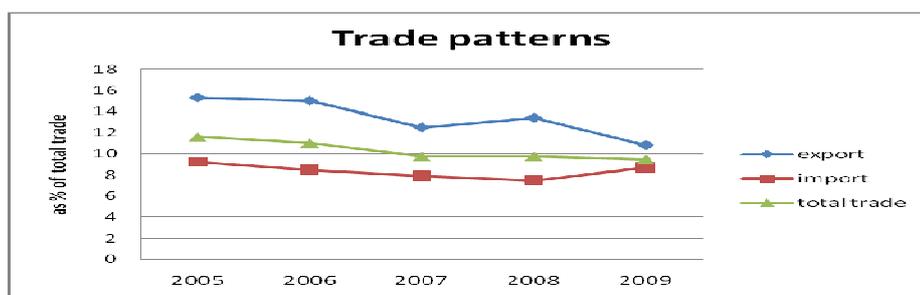
Source: State Statistical Bureau of the Republic of Macedonia, external trade reports

The export in 2009 fell more than the import, however the sharp fall is sizable in both categories. The cause of the rapid decline in trade between Macedonia and Greece is rather unclear. On one side there is probably an effect from the global economic crises. The 2009 recession of the economy in both countries probably accounts for the drop in the total volume of trade. On the other side, there is also the potential expla-

nation that the volume of trade decreased after the name disputed heightened after 2008. In other words as the political problem escalated between Macedonia and Greece, the economical cooperation decreased. It would be difficult to discern the individual effects from the global economic crises and the name dispute. It is quite likely that there is an additive effect from both on the decline of trade between Macedonia and Greece.

However one should not expect a long term impact of the name dispute and it recent 2008 escalation for the future of the economic cooperation between Macedonia and Greece. Notwithstanding that the volume of trade has sharply declined in 2009 between the two countries the Macedonian structure of trade remains largely unchanged in relations with Greece. In other words the percent of trade that Macedonia has with Greece, in comparison to its total trade, shows a stable pattern of development. The results of the trade patterns between Macedonia and Greece are given in graph 2.

Graph 2: Trade patterns between Macedonia and Greece, 2005 – 2009



Source: State Statistical Bureau of the Republic of Macedonia, external trade reports

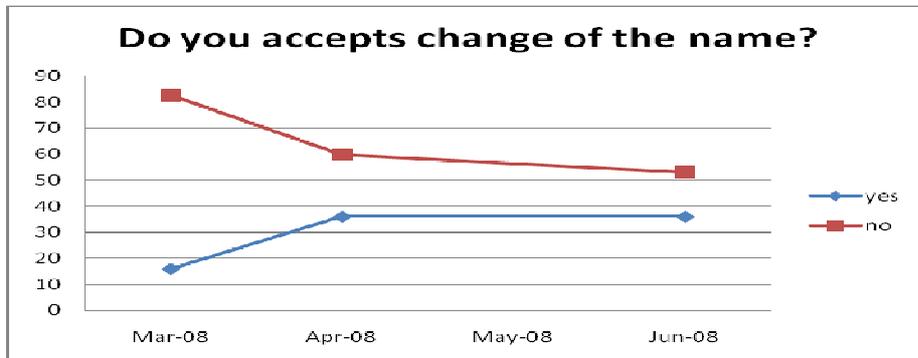
Trade with Greece accounted for close to 12 percent from the total Macedonian trade. In that respect exports were higher than imports. However up to 2009 trade became more balanced, and accounts for around 9 percent of total trade. The patterns show that Macedonia's export in Greece has been steadily declining, while imports since 2008 have risen. Hence Greece as a trading partner of Macedonia remains more or less on

the same level, while Macedonia's exports are less oriented toward Greece.

The name dispute has greater political implications internally in Macedonia. The public opinion is shaped and polarized over the name dispute, and the political landscape is similarly affected. After the 2008 NATO summit it became clear that some sort of compromise with Greece would have to be accepted if Macedonia is to join NATO. It is also apparent that the name dispute needs to be settled for Macedonia to open accession negotiations with the EU. The compromise would mean that the Republic of Macedonia would need to make some changes or modification to its name. The extent of the changes or modifications is quite uncertain. Nevertheless the compromise with Greece concerning the name dispute is translated internally in Macedonia as 'change of the name'. And in that respect there are diverging public opinion positions and various political positions.

The public in Macedonia is predominantly against change of the name. Right after the NATO summit in Bucharest, only 16 percents of the population were willing to accept a compromise with Greece. Latter that percent increased to 36 and is nowadays more or less stable. At the same time over 50 percent of the population are against change of the name. These results are displayed in the graph 3 below.

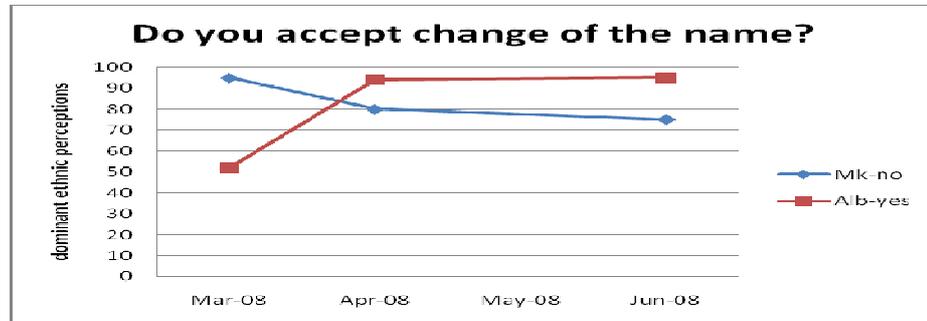
Graph 3. Public support for compromise on the name dispute



Source: Center for Research and Policy Making (CRPM), ([www.crpm.org.mk](http://www.crpm.org.mk))

The public opinion in Macedonia is ethnically divided over this issue. Namely majority of the Macedonians (over 70 percent) are against change of the name, while high majority of the Albanians (over 90 percent) support the change of the name. These results are shown in graph 4.

Graph 4: Ethnic support for compromise on the name dispute



Source: Center for Research and Policy Making (CRPM), ([www.crpm.org.mk](http://www.crpm.org.mk))

The percent of Albanians supporting change of the name dramatically increased after March 2008 and is now stable. The percent of Macedonians that are against a compromise shows a slight decline. The attitudes seem to be firm and stable up to today. Namely in May 2010 the daily „Dnevnik” commissioned and published a public opinion poll on the name dispute.<sup>276</sup> It revealed that even if the Macedonian identity is guaranteed 65 percent of the Macedonians are still against any geographical determinant to be added to the name Republic of Macedonia. Notwithstanding that 32 percent of the Macedonians and 77 percent of the Albanians would favor that solution. The same poll showed that about 70 percent from all respondents believe that Greece does not want only change of the name, but they also want Macedonians to denounce their identity. Even if a solution to the name dispute is found 64 percent of the Macedonians and 54 percent of the Albanians believe that there should be a referendum on that issue.

<sup>276</sup> There is no mood to compromise. In: Dnevnik, 26.05.2010, p.1

Hence the name dispute creates a gap in the Macedonian public and further enhances the ethnic divisions in the country. The different views toward the necessity to compromise are internally translated and shape the dynamics of the inter-ethnic relations. In that view the poll published by „Dnevnik” shows that 56 percent of the Albanians and 30 percent of the Macedonians believe that if a solution is not found soon the existence of the country might be jeopardized. On the other hand 64 percent of the Macedonians and 30 percent of the Albanians disagree with that view, and think that the existence of the country will not be jeopardized even if a solution is not found. What is most puzzling in the poll is that about 60 percent of the respondents believe that Macedonia can become NATO and EU member even if the name dispute is not resolved. These attitudes even though seem quite irrational have been fueled by some opinion and policy makers.

The Government of Macedonia to a large extent seems to be siding with the dominant public views concerning the name dispute. The Government's position has been that not every compromise is acceptable and that the Greeks demands are beyond maximalist. The Prime Minister, Mr Nikola Gruevski, has often voiced concerns that Greece is not interested in compromise, and that they don't only want a change of the name but also to change the Macedonian identity and language. At the same time he has pointed that parties in opposition and journalist that support a compromise with Greece are working against the interest of the country. To a large extent this has aid the formation of a discourse of „patriots” (e.g. ones that do not accept a compromise) versus „traitors” (e.g. ones that request a compromise on the name dispute). While the precise position of the Prime Minister on the name issue still remains somewhat a mystery (e.g. in terms what kind of a compromise is acceptable); he leaves no doubt that if a solution is found it has to be confirmed by the people on a referendum.<sup>277</sup> The newly elected President Mr Gjorge Ivanov had varying positions, from saying that a reasonable compromise is needed, to declaring that the UN resolutions under which Macedonia

---

<sup>277</sup> Interview with Nikola Gruevski, In: FAZ, 17.06.2010, p.5

accepted a provisional name and entered UN are illegal.<sup>278</sup> However the position of the President seems to be firmly in line with the position of the Government. In that respect they are not so eager to accept a compromise, they are very concern and cautious as to what the compromise would entail, and see the referendum as their obligation.

The policies of the Government have been consistent and fairly nationalistic. The Government has used historical and cultural symbols to provide a new narrative for the Macedonian identity. This new narrative claims that the Macedonian identity derives from ancient Macedonia and is practically unchanged up to today. Some policies were pursued to support that narrative even before the NATO summit in Bucharest (e.g. remaining the airport in Skopje as „Alexander the Great”), but these policies have increased after the NATO summit in Bucharest. The section of the international highway E-75 passing through Macedonia was renamed „Alexander the Great”, and the whole process culminated with the announcement of the „Skopje 2014” project. The „Skopje 2014” project is a Government funded architectural endeavour in the centre of Skopje. It is suppose to reinvent the wider centre of the city with new buildings with facades in ancient style. Also many monuments of important figures from different historical periods of Macedonia are to be placed in the Central Square. The most important, by far, should be a monument dedicated to Alexander the Great seated in a large fountain rising over 30 meters in height. These policies came to be known as „policies of antiquization”.

The motives of the Government to pursue such policies are rather uncertain. Similarly it is uncertain why have they, together with the President, ‘hardened’ the position of Macedonia? It is quite obvious that NATO membership and future EU integration rests on the settlement of the name dispute with Greece. From one perspective there are claims that it is all part of the strategy of the Macedonian leadership for solving the name dispute. In that respect the „policies of antiquization” and the hard

---

<sup>278</sup> Ivanov expects reasonable compromise for the name. In: A1, (06.04.2009), and Ivanov: We aren’t negotiating with Greece. In: A1 (24.12.2009) [www.a1.com.mk](http://www.a1.com.mk) accessed on 30.05.2010

positions are to be regarded as bargaining chips in the negotiations talks with Greece. From another perspectives after the NATO summit in Bucharest the Macedonian leadership is experiencing a nationalist outburst. In that respect the policies and positions are motivated by the populists demands. Namely after the NATO summit in Bucharest the public was disappointed and frustrated, hence a hard stand against Greece was not only justified but also popularly demanded. But it remains unclear whether the motivations are populist-nationalism or building bargaining positions? It is unclear whether the political leadership in power in Macedonia is ready to compromise or they are ready to 'seat this one out'.

The political parties in the country are not immune to the name dispute or to the public opinion. Besides the ruling VMRO-DPMNE, the other political parties are more supportive of the compromise with Greece. The Prime Minister, the President, and most of members of the Government come from the right oriented national conservative VMRO-DPMNE. Hence their position is not a surprise. The parties that represent Albanians are most vocal in their demands to find a compromise and settle the name dispute. Even though the junior coalition partner DUI has threatened several times that it will leave the coalition if a compromise is not found; up to June 2010 this threat has not translated in action. However the relations in the governing coalitions have been marked with tensions. Having in mind the strong and stable views of the Albanians it is rather unclear to what extent can DUI withstand the pressure coming from its electorate. The deadlock in the Euro-Atlantic integration has spilled internally and increased the inter-ethnic divisions. An all Albanian protest against the politics of the Government was held on May 10, 2010. Oppositional parties representing Albanians have used the circumstances to demand a revision of the Ohrid Framework Agreement, which provided policies for inclusion and protection of minorities after the conflict in 2001, while others have teased with the idea of introducing a federative or canton based system in Macedonia – ultimately leading to secession.

The parties in opposition, namely SDSM, generally support compromise with Greece over the name dispute. Their position is somewhat more flexible than the one of VMRO-DPMNE. The Social Democrats are

equally concern as VMRO-DPMNE with the preservation of the Macedonian identity, language and constitutional name. However due to their consistent position to support a compromise, they have been blamed by the Government and the ruling VMRO-DPMNE that they are „traitors” working for the interests of Greece. Prime Minister Gruevski equated the leader of SDSM Mr Branko Crvenkovski with the Greek Prime Minister Jorgos Papandreu, saying that „if I tell my intentions to Crvenkovski that is the same as telling them to Papandreu”.<sup>279</sup> The position of SDSM remains firm and constant, however it is also largely unpopular among the electorate which then reflects in their rating.

### **Media framing of the dispute: one explanation for the impasse**

The inability to find a settlement for so long to such an irrational dispute is one of the many puzzling elements of this issue. It is quite surprising to see that the initial settlement efforts were made in 1993 and up to 2010 the name dispute is still unresolved. The positions of Macedonia and Greece have changed over the years, and the Greek veto at the NATO summit served as a catalyst in the dynamic of the dispute. This development had profound internal implications for Macedonia. However to understand the durability of the entrenched positions in this irrational dispute one needs to see beyond the current political positions. In that respect the presentation and interpretation of the dispute are of crucial importance. To understand what does the dispute, and eventual compromise mean today one needs to see how was the issue presented over the years. I claim that for Macedonia the media framing of the issue was of crucial importance for the position of the country and the public in 2010. Further I will show this through a quantitative content analysis. I suspect that it is the same case for Greece, but do not have the necessary data to show that.

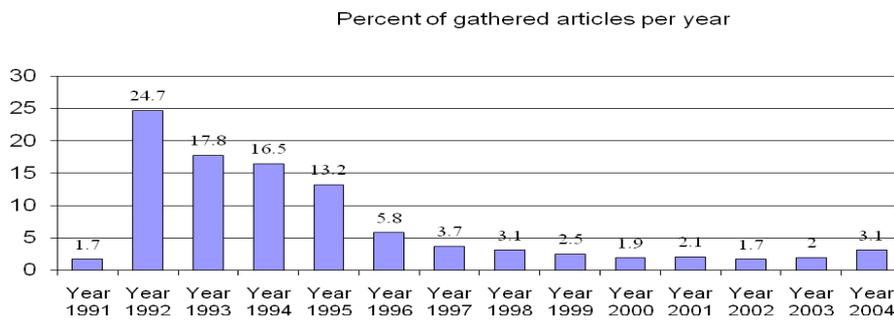
In 2005-2006 professor Heinz-Jürgen Axt, from the University of Duisburg-Essen, lead a research project on „Conflict Settlement through Eu-

---

<sup>279</sup> Interview with Nikola Gruevski. In: „Jadi Burek”, Nasha TV, 11.12.2009

ropeanization”.<sup>280</sup> Among other things the study covered the relations between Macedonia and Greece, focusing on the name dispute. As a research assistant in that project I collected data on the media presentation of the name dispute. For that purposes I gathered data from 4,258 newspaper articles from 1991 to 2004. The articles were gathered from the two newspapers with highest circulation. Most of the articles were published in the first years; over 70 percent are up to 1995. However every month had at least one article dedicated to the name dispute. This is shown in graph 5 below.

Graph 5: Distribution of articles, in Macedonia, covering the name dispute, 1991-2004



The gathered articles were coded in three variables: source, status and placement. According to the source the distribution of the articles showed that 42.1 percent were from Macedonian sources, 32.7 were from Greek sources, 18.1 were from European sources and 7.1 were from other sources. According to the status 27.8 percent were from official sources, 48.3 were from unofficial sources and 23.9 were opinion pieces (editorials and letters to the editor). According to the placement 27.7 percent were placed on the cover page, 49.4 were placed in the „Politics” section, 9.3 were placed in the „Balkan” (regional) section, and 13.6 were placed in other sections. A rough conclusion is that most newspaper articles were based on Macedonian sources, most were unof-

<sup>280</sup> Axt et all, *Konfliktbeilegung durch Europäisierung?* Baden-Baden 2008.

ficial (e.g. speculations, hunches, anonymous sources), and were placed in the section dedicated to the internal politics of Macedonia.

Concerning the influence of the placement of the articles one can see that the issue of the name dispute over the years has been internalized in the political discourse of the country. It is no longer a foreign policy issue, but it is an internal political issue. To see what has a greater effect on the production of articles over the years, whether it is the source or the status, I run a two-way analysis of variance (two-way ANOVA). This is a suitable statistical method since the dependent variable is continuous (e.g. number of articles per year), while the independent variables (e.g. source and status of articles) are categorical. The results of the test are displayed in the table 1 below.

Table 1: Effect of source and status on number of articles per year: two-way ANOVA

**Tests of Between-Subjects Effects**

Dependent Variable:Year

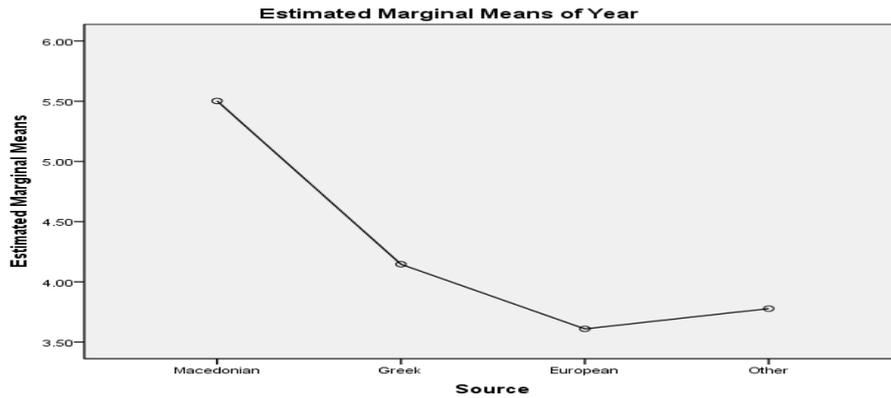
Source	Type III Sum of Squares	df	Mean Square	F	Sig.
Corrected Model	5156.110 <sup>a</sup>	11	468.737	52.321	.000
Intercept	44573.088	1	44573.088	4975.348	.000
source	2470.290	3	823.430	<b>91.913</b>	.000
status	688.675	2	344.337	<b>38.436</b>	.000
source * status	558.497	6	93.083	<b>10.390</b>	.000
Error	38039.016	4246	8.959		
Total	140510.000	4258			
Corrected Total	43195.125	4257			

a. R Squared = .119 (Adjusted R Squared = .117)

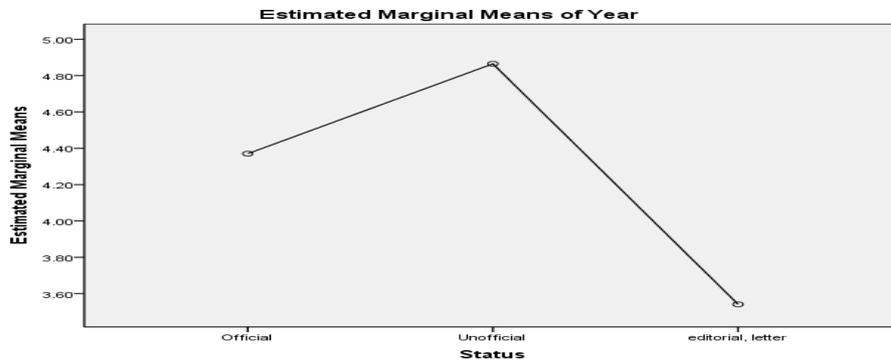
The results are statistically significant and show that the source has had a much higher effect on the production of articles per year than the status. The interaction effect (the combined effect) of the source and status has the least effect on the number of articles per year. The F value of 91.9

for the source, as an independent variable, is almost three times higher than the value of the status. This shows that the variance of articles over the years has mainly been influenced by the source of those articles, and less by the status of those articles. To see which category from the source and the status of the articles had what effect on the number of articles, I draw three plots from the two-way ANOVA. The results are displayed below in the graphs 6 and 7.

Graph 6: Effect of the variance in source on the variance of articles per year



Graph 7: Effect of the variance in status on the variance of articles per year



The results displayed in the graphs show that from the source's category the Macedonian source had greatest effect on the number of articles per year; from the status' category it was the unofficial articles that had greatest effect. In that respect the results from the quantitative content analysis show that the framing of the name dispute was strongly influenced by Macedonian sources, unofficial stories and became highly internalized in the political debate of the country. From that perspective the issue has moved to be one of the most important domestic discussions in the country.

The quantitative content analysis is very indicative and shows how the name dispute preserved its importance and sensitivity. However it does not fully explain the perceptions of the public and the full internalization of the issue. A qualitative content analysis would be needed for that. The high volume of data available and the scarcity of space affordable in this paper do not merit an elaborate discourse analysis. At this point it is sufficient to point to the conclusions of that analysis that was made for the purposes of the research project „Conflict Settlement through Europeanization”. It showed that the discourses about the name dispute over the years mainly were one of victimization, frustration and fear.

From a Macedonian perspective the demands of Greece are not justified, but are an act of violence. The name dispute is seen as being against the acknowledged international standards and a precedent which no other country, or nation for that matter, had to face previously anywhere in the world. This gives a rise to a lot of frustration, coupled with fears from the 'true' intentions of Greece. The discourse of distrust permits for the Greeks to be described as arch enemies that seek to erase Macedonia as a country and the Macedonians as a nation from existence. Over the years the dominant view in Macedonia was to persist in the efforts against the Greek demands. There were only few feeble voices supporting the need for a compromise. The predominant view in Macedonia has been not to yield to the pressures for a compromise, but to defend the right to choose your own name and identity. Hence it is not surprising that predominant part of the public was not supportive of a compromise for settling the name dispute.

Things have changed after the 2008 NATO summit, yet not dramatically. The need for a compromise is more visible, and so are the tangible benefits that it might bring. However the majority of the public is still against compromise. There is a split in the views of the different ethnic groups and a split between the political parties. The effect of the Greek veto in Bucharest for the internal discourse in Macedonia has been to provide for an atmosphere of „patriots” and „traitors”. Even though there are more voices supporting a compromise, the opposition to that idea in the internal discourse in Macedonia became more rigid and more entrenched. The sense of victimization continues, and the discourses of fear and distrust have increased. After the NATO summit it was not only Greece that was seen as the enemy working to erase the country and the people, but so have been described the various actors, domestic and international, that push forward the idea for a compromise to settle the name dispute.

### **Bridging the impasse and moving toward a solution**

In the second half of 2009 the Prime Ministers of Macedonia and Greece, Mr Gruevski and Mr Papandreu, met for the first time. Up to the first half of 2010 they had bilateral meetings practically every month. Such a development is quite encouraging, but remains unclear what does it mean for the settlement of the name dispute. There aren't many public details from the meetings, even though it is beyond any doubt that the main topic of the discussions is the name dispute. Hopefully these efforts will bear fruit and a settlement for the name dispute will be found, to the benefit of both sides.

In any event to come to a solution there are five obstacles that need to be passed. First, the maximalist positions need to be overcome on both sides and the positions need to be brought closer. Second, confidence between Macedonia and Greece needs to be built, which will require signs of good will to be made on both sides. In example, Greece can issue a declaration stating that it does not hold any territorial pretensions toward Macedonia. For its part Macedonia can drop the „policies of antiquization”. Third, a common agreement for the settlement of the name dispute needs to be drafted by both Governments. This would require

setting up teams from both countries to work together. Fourth, a political consensus in both countries needs to be sufficiently high and wide across the political spectrum for the agreement to be accepted. Fifth, the compromise will need to pass the envisaged referendums. The Macedonian Government and in specific the ruling party strongly endorse this idea, which is fairly acceptable for all others in the country. It is unclear whether Greece will also request a referendum on this issue, provided that there is a solution. In any case it is uncertain whether the support from the public will be high enough to support the solution, or the referendum will be a possibility for the public to throw away the solution negotiated between the political elites?

The steps to come to a settlement to the name dispute are more than a few, and each is more slippery than the previous one. If the name dispute is ever resolved it will be a most difficult endeavour. Beside the steps to come to a possible solution, the content of the process is also quite important. It is very important to keep the agenda of the process 'light and focused'. It means that the settlement should solve the differences between Macedonia and Greece over the name. All other issues that are intertwined with it (e.g. identity, language, history, culture) should not be included in the negotiations. It would overburden the agenda, but more importantly some are issues over which any democratically elected government never has competence. In a democracy one can't have an elected political leadership deciding on matters of individual and collective rights such as the identity, language or culture. Therefore it is profoundly undemocratic to keep those issues in the negotiations between Macedonia and Greece.

Further on, there needs to be a stronger international involvement in the settlement efforts and pressure on both sides to compromise. Without such a support it is unlikely that the leadership in Macedonia and Greece would have the capacity to find a compromise on their own. In any case from the early 1990s they have shown that they are not able to find a solution. However if they do arrive to a compromise, it would be better to preserve it as an agreement between the political elites. Alternatively it may pass in the respective Parliaments in Macedonia and Greece.

However if the issue is placed on a referendum the outcome will most likely be a refusal of the solution.

Finally to hammer out the compromise, if Greece insists on a geographical determinant to be added to the name, then Macedonia should decide on the scope of the application. Preserving the constitutional name as is and using the new name only for multilateral purposes seems to be a fair and balanced compromise. Such a compromise would cater for the main concerns of Macedonia and would serve the main request of Greece. And as „The Economist” summarized it if Macedonia is right than not to recognize the name is a shame; however if they are „foolish and provocative” than giving them the name they desire costs less than Greece claims and benefits all through enhanced security.<sup>281</sup>

---

<sup>281</sup> The text about Macedonia most commented in the history of „The Economists”. In Utrinski Vesnik. 17.04.2010, p.3



**PART V:**

**EXECUTIVE SUMMARY AND CONCLUSIONS**



## Summary

Gertraud Illmeier

„15 Years of Peace-Building Activities in the Western Balkans – Lessons Learnt and Current Challenges” Such was the topic of this year’s PFP-Consortium Study Group Regional Stability in South East Europe that meets up every spring in Chateau Rothschild in Reichenau for an in-depth analysis of the situation in South Eastern Europe. The organisers hoped to gain concrete feedback which can be applied for other peace-building operations. „What is unique about the missions in South Eastern Europe and what could be of relevance for other regions?” was the opening question posed by the Director for Security Policy of the Austrian Federal Ministry of Defence and Sports, Johann Pucher.

Finding answers to these questions is harder than one would commonly assume. Given the (partly strong) actors involved – NATO, the UN, OSCE, the EU, individual states, above all the super power USA – one could assume that great powers and minds are at work which are being able to solve the complex problems of failed states and post-conflict societies (if not them, who else could?).

Concurrently it clearly shows that the multitude and diversity of these actors is not only the solution, but that it has also become part of the problem. This is especially relevant in Kosovo where there (still) is a UN mission, the presence of three different EU missions and NATO troops, in addition to the „Powerful 5” (USA, Great Britain, Germany, France, Italy) and all of them are often enough not pulling in the same direction.

International missions – as in Bosnia-Herzegovina, Kosovo, Afghanistan - are relatively young phenomena, which did not previously exist in that form. „Bosnia was the first laboratory, today it is Afghanistan”, said the German Special Envoy for Foreign- and Security Policies, Michael

Schmunk, using a frequently heard cynical undertone which is usual for „the Internationals”. Also, the sociologist and conflict researcher, Michael Daxner, emphasised the „experimental character“ of the UN mission in Kosovo at its onset. Establishing stability was absolute priority at the beginning of all interventions. After bringing the military conflicts to an end, challenges with regards to the set up of civil structures became evident, the complexity of which superseded by far anything experienced before. After all, it was/is about nothing less than the (re)-construction of state structures, a democratic system, a market economy and the setting up of the foundation of a „new” society.

According to Daxner, „one knows now that to stabilise a society is not necessarily compatible with pacifying it and does not automatically imply sustainable peace”. Internationals needed to ask themselves if they possess the legitimacy and the ability to also contribute to „society-building“ aside from „state-building“. The different understanding of Americans (nation-building) and Europeans (state-building) had additionally exacerbated their cooperation.

The „ownership principle“, meaning the transfer of competencies and responsibilities to local actors, plays a key role in interventionist systems. Against the backdrop of numerous years of experience in Bosnia, security expert Heinz Vetschera, holds that „there should be more intervention at the beginning and a slow transition to increased ownership“. „It is about the right mix between intervention and ownership“. According to Vetschera, who currently teaches at the „Peace Support Operations Training Centre“ in Sarajevo, the decisive questions would be „When is the right time? And to whom should responsibilities be transferred?”

The psychological effects of an international presence in a country have been completely underrated, especially if it has lasted longer than initially planned, as Schmunk explained. In the case of Kosovo and from the point of view of its inhabitants, the troops and administrators were initially welcomed as „liberators“ while later became „occupiers“.

Another lesson that should be taken from the experience from the Balkan missions refers to the home countries of the interveners, where they come increasingly under pressure the longer the intervention lasts.

Politicians and parliamentarians often promise to achieve „something between Switzerland and Sweden“ as a result of their intervention. When reality does not quite meet the much too high expectations, then no one dares to speak out publicly.

Daxner reminded that success or failure of a mission also largely depends on the respective current (global) political occurrences and situations: the Balkan conflicts had priority for many years, but that status abruptly changed as a consequence of the terrorist attacks on 9/11. Today it is the financial crisis that causes concern. „How it will affect international missions?“, as Pucher asked.

Military success is much easier measurable than identifying progress in the civil and political sector of societies of intervention, as Schmunk beheld. Alone due to the fact that there is no scientific way of measuring it and a lack of adequate methods to be able to make an in-depth analysis of existing problems such as corruption, weak civil society or missing reconciliation. Daxner caught everyone's attention when he commented that corruption is to some extent a phenomenon „imported“ through the presence of internationals.

Access to data for public or civil research, in particular in the area of security, is quite sparse, as it seems. Cornelius Friesendorf of the Peace Research Institute in Frankfurt complained that military and civil security structures were not very cooperative, even when they were asked for non-sensitive data. A professor in law from University of Graz and Director of the European Training and Research Centre for Human Rights and Democracy, Wolfgang Benedek, criticised the fact that most of the analysis was undertaken by internationals and therefore the local perspective was often neglected. Of course, it was also remarked that more studies would not necessarily mean more clarity since results would be contradicting depending on who is commissioning them. Schmunk linked the reason why the interest in evaluations had increased to such

an extent to the looming or partly already implemented reduction of resources, in particular of troops. It is about finding an exit strategy, about defining parameters to set a timeframe for the mission's exit from the area.

Clearer than the successes are the actual failures. Nobody denied that as a result of international interventions ethnic and religious conflicts in the Balkans had actually augmented, instead of diminished. It was those structures, which were established in Bosnia-Herzegovina through the Dayton Peace Agreement, which have since then impeded the development of internal cohesion. The publisher of the Bosnian magazine „Dani“, Senad Pečanin, claimed that the election respectively the veto system based on ethnicity, as established through the Dayton Accords, is the main cause of the state's current paralysis.

„Truth finding“ and „reconciliation“ are the fields of international efforts which have stayed the furthest behind the expectations and have produced the most disappointment. The UN Criminal Court (ICTY) in The Hague was meant to play a crucial role in this respect. Lawyer Nena Tromp, who works in the Research Team of the Office of the Prosecutor (ICTY), clarified existing misunderstandings: the duty of the tribunal could not be to „find the one truth“ about the occurrences in Ex-Yugoslavia throughout the Nineties. The expectations on the process and jurisdiction of the Tribunal were set unrealistically high. The Serbian Socio-Democratic politician Žarko Korać emphatically confirmed that neither lawyers nor a court were in the position to impress a specific view of the past.

According to Sonja Biserko, for many years President of the Helsinki Committee for Human Rights in Serbia, the reconciliation process between the successor states of Yugoslavia has not gone far enough since Serbia has not yet accepted responsibility for the war. Reconciliation could only start once the process of the dissolution of Yugoslavia is finalised, affirmed Biserko with regards to Kosovo. The once autonomous region of Serbia with major Albanian population unilaterally declared independence in 2008. However Serbia lays claim over the terri-

tory, in particular on the northern part whose majority population is Serb and which is controlled by Belgrade and not by Kosovar institutions.

The question of territorial partition – whether it is better to remain together or to separate – is something no one could or wanted to answer even in Reichenau. However referring to Think Tanks which tend to consider a separation as the more sustainable model could be understood as a hint that this option (still) unofficially gains in popularity.

### **(Some) lessons from the international missions in South Eastern Europe in keywords:**

- International actors should know the country in which they're engaged – not „only from books“, but from „experience“
- International actors should be fully aware of their mission and its mandate
- International actors should be aware to be outsider in the country of their mission
- Substantial ownership should be transferred to local actors
- Neither in the country of the mission, nor at home, should there be excessive expectations raised on the operation
- A „beauty contest“ between the individual international actors should be avoided
- Civil-military cooperation should be strengthened
- Mechanisms should be developed to further involve local civil society
- Initiatives in peace-building and stabilisation should - right from the beginning - go hand in hand with rebuilding civil structures
- Establishing an independent judicial system, as well as capacities in the area of education and media, should be given a central role.



## **Conclusions and Recommendations**

Predrag Jureković

### **General Outline**

In the past 15 years, the complexity of the peace processes in the Western Balkans has shown that achieving stability in terms of preserving a non-fighting situation cannot be automatically equated with peace-building. The latter demands long-term and comprehensive political, security-political, judicial and economic efforts on the side of the affected post-war societies and international intervention forces.

However, in the Balkan „laboratory”, lots of new concepts and instruments have been developed and tested in regard to international interventions in crisis and post-war situations. Among them are the building - respectively the re-building - of states and their institutions, civil-military cooperation, the concept of Security Sector Reform, new forms of military peace-keeping like the Liaison and Observation Teams, the cooperation between EU and NATO in peace support operations, the concept of restoring multiethnic societies in post-war areas as well as integration as a tool for fostering reconciliation and restoring regional co-operation.

This generally comprehensive approach has guaranteed the absence of war on the one hand. On the other hand, the serious problems Bosnia-Herzegovina, Kosovo and, to a smaller degree, Macedonia still face while trying to install functional state institutions and to establish a peaceful multiethnic society point to shortcomings of international strategies and instruments as well as to unrealistic expectations.

In respect to the analytical framework of international interventions in post-war societies it can be stated that stocktaking which is done permanently and substantially is still rare. An important lesson which can be

drawn from the Western Balkan experience is that complicated processes of conflict transformation need a continuous analytical observation by stock-taking task forces.

These task forces, which could be established in the delegating countries, should imply the analytical capacity of researchers in the affected post-war societies. Their task would mainly be to overhaul the strategic approach of the international intervention forces in the peace-building process as well as the appropriate usage of personnel and financial resources.

## **Lessons Learnt from and Recommendations with regard to State- and Institution-Building**

### *The Challenge of Setting Priorities*

A crucial question in the context of state- and institution-building is whether international intervention forces in the first phase of their engagement should be focused more on supporting the process of democratisation or on implementing the rule of law. It is difficult to draw a general lesson due to the fact that the specific situation of the individual cases has to be taken into consideration (e.g. the respective level of democratisation before the war occurred, the respective level of corruption in the post-war elites etc.).

However, guaranteeing minimum standards in regard to rule of law needs to be seen as a precondition for establishing democratic and well functioning state institutions in a post-war society.

In Bosnia-Herzegovina and Kosovo – the main regional target countries for international interventions in the post-war period – serious mistakes were made in the field of rule of law. In both areas, the international intervention forces, in particular in the first period after the war, have been more engaged in organizing elections than in fighting criminal structures which continued to dominate the political scene. This short-

coming has seriously impeded the establishment of functional institutions according to Euro-Atlantic standards.

The latest development in Kosovo where the EU rule of law mission „EULEX” signalised a higher readiness to act against corrupt politicians shows how difficult it still is to establish rule of law *ex post*.

### *Foreign Intervention and Local Ownership*

Most international actors engaged in peace-building would agree that in post-war territories, supportive measures should not lead to long-term protectorates which evoke an „occupation syndrome” in the affected societies. Nevertheless, the experience gained from Bosnia-Herzegovina and Kosovo which have almost passed through 15 and respectively 11 years of externally guided peace- and state-building indicates how difficult it is to find a balance between international support and regional responsibility.

Having in mind that in the first period after the war energetic measures from the international intervention forces are necessary to establish basic standards in the field of rule of law and for fighting criminal elites, it seems reasonable to use protectorate powers primarily at the beginning of the international intervention. When basic standards in the field of rule of law are guaranteed and the political institutions show capable to fulfil their tasks the political responsibility should be stepwise transferred to the local authorities.

Neither in Bosnia-Herzegovina nor in Kosovo the interaction between the international intervention forces and the local authorities has developed as described above. As far as Bosnia and Herzegovina is concerned, the period 1995-1997 was characterized by maximum tolerance of the international side vis-à-vis the war elites. They were enabled to realise their war goals by political means.

From 1997, when the High Representative was provided with de facto protectorate powers, the peace process developed in a better direction. The setbacks in the peace process since 2006, in turn, have derived from

shortcomings in the Dayton peace accord, which does not take into account state functionality. Thus, Bosnia and Herzegovina still has a High Representative, who is backed up by the international stakeholders in the Peace Implementation Council in using his executive powers to a far smaller degree than it was the case before 2006.

Two lessons can be drawn from the Bosnian experience: Firstly, political shortcomings which are accepted in the peace plan in order to end the war can seriously impede priority goals in the peace-building process and should therefore, if possible, be avoided. Secondly, a precondition for continuing using protectorate powers is stout backing up by the main international stakeholders.

The import of „western standards” into a post-war society can be only successful if the international intervention forces practice a positive culture of intervention. This includes exemplifying good governance and avoiding adapting to corruptive behaviour. If international intervention forces become „a part of the problem” their presence in the post-war area has to be put into question (f. ex.: international forces involved in organised crime as clients or middlemen).

Post-war societies, as to be found in the Western Balkans, are burdened with (partly) corrupt and nationalistic political elites. The more important it is for international intervention forces to identify constructive and credible partners in the civil society sector in order to give the necessary reforms an endorsement outside the political sector. This does not mean a random financial support for the „NGO industry”, but a selective approach that is guided by a clear strategy.

#### *Consistent Political Strategy and Division of Labour*

Without a reasonable and consistent strategy of the international stakeholders as well as an efficient division of labour between the intervention forces the foreign influence on state-building will not produce the desired results and can be even counterproductive.

In Bosnia and Herzegovina, the cooperation between the High Representative as the highest political authority and the military missions (SFOR and later EUFOR) has proved to be an efficient model, especially in the phase when the HR was backed by the international stakeholders. As distinguished from the Bosnian situation, the present „division of labour” between the intervention forces UNMIK, OSCE, EULEX and ICO in Kosovo looks rather chaotic. This deplorable circumstance is caused by the disagreement of the international stakeholders regarding the status question.

### *Incentives*

As demonstrated by the example of the Western Balkans, political and economic incentives can play an eminent role in peace-building processes. The integration into the EU and NATO will not be enough to reconcile the Western Balkan peoples, but they are important triggers for regional co-operation through providing the same standards and goals for all. In order to preserve integration tools as important catalysts in the peace processes, all the Western Balkan countries should be included in the integration processes – at present this is not the case with Kosovo.

The Cyprus case demonstrates that long-lasting ethnic and political conflicts will not be automatically resolved through EU membership. This is also valid for the former parties of conflict in the Western Balkans. They will have to normalise their relations before their accession to EU. A strict EU conditionality in regard to good neighbourhood relations would contribute to this goal.

### **Lessons Learnt from and Recommendations with regard to Establishing a Peaceful Security Environment**

NATO and later EU military forces generally have been successful in providing and maintaining a secure environment which is an absolute precondition for any peace-building effort. However, the lack of sufficient numbers of international police, in particular at the beginning of the international peace missions in Bosnia-Herzegovina and Kosovo,

overstrained the military forces which are not trained primarily to enforce the rule of law. This created a security gap in some phases of the deployment.

The respective lesson drawn from this experience is that in the best case the deployment of a military mission should go hand in hand with the deployment of a substantial police mission which is focused on the enforcement of the rule of law. For critical situations like the defence of massive use of violence by civilians (see the Kosovo crisis in 2004) the so-called Gendarmerie forces as the link between police and military should be brought into action.

International interventions for the purpose of peace-building need to include preventive action if clear signals for a new crisis arise. Macedonia is regarded as a successful example for preventing the escalation of violence. The military observer mission of the United Nations Preventive Deployment Force (UNPREDEP 1995-99) in the border area contributed substantially to a minor spill-over of the Kosovo conflict to Macedonia. The lesson drawn is that a successful preventive mission should not be terminated prematurely – in particular if indicators for a violent crisis are increasing.

Once the clashes between Macedonian security forces and Albanian guerrilla fighters were near escalation in spring 2001, a fast political intervention on a high level by NATO and EU, which provided the Ohrid agreement, prevented the outbreak of a war. The lesson which can be drawn is that preventive action should be based on high level involvement and a balanced political proposal.

NATO's and the EU's integration processes have certainly fostered the regional cooperation in the security sector. Here the support of the new NATO members Albania and Croatia for Bosnia and Herzegovina's application to NATO's Membership Action Plan can be mentioned as well as the increased police cooperation in the region stimulated in particular by the previous EU programme CARDS (Community Assistance for Reconstruction, Development and Stabilisation).

Furthermore, the Western Balkan countries while having become aspirants for NATO membership have transformed from security receivers to security contributors.

### **Lessons Learnt from and Recommendations with regard to Fostering Transitional Justice and Reconciliation**

Reconciliation is a long-term process which goes beyond the political context while also touching in depth the social relations between average citizens. Strong political signals from the politicians are a precondition for reconciliation. Although since 2000, Western Balkan politicians have sent more and more reconciling signals in the wake of their Euro-Atlantic aspirations, reconciliation is partly still impeded by hidden political agendas (see f. ex. the policy of Republika Srpska in Bosnia and Herzegovina).

A regional process of reconciliation is difficult to be started while borders are still put into question. Hence, international intervention forces should either contribute to clear status and border arrangements, or – if this is not possible for the time being – reduce the space for regional politicians to continue manipulating with territorial and national issues.

International tribunals for prosecuting war criminals like the ICTY are important to transform the war perception of collective guilt into concrete legal responsibility of individual criminals. On the other hand, the previous experience with ICTY has shown that a legal body that at first should deal with legal tasks can not reconcile former parties of conflict.

However, the judgments of ICTY could be better used to initiate discourses on justice and reconciliation in the affected societies and between them. The Euro-Atlantic community could contribute to this process by supporting relevant outreach activities of civil society groups in the region.

## Recommendations with regard to Current Developments

### *Bosnia and Herzegovina*

After four years of political stagnation, this country needs an awakening after the next parliamentary elections which will take place in October 2010. An absolute necessity in order to increase the state functionality will be to decide and implement substantial changes in regard to the Dayton constitution. The support of the Euro-Atlantic partners will be necessary to push forward this important process, since in particular the Serb side tends to avoid the constitutional changes.

Amongst others it will be necessary to touch the issue of „entity voting” otherwise this mechanism can be further misused by destructive politicians to block the Euro-Atlantic integration of Bosnia and Herzegovina for the purpose of „defending national interests”.

In particular the EU should use its influence on Croatia and Serbia for guaranteeing a constructive policy of these countries vis-à-vis the inevitable reforms in Bosnia and Herzegovina.

### *Kosovo*

Kosovo-Albanian-Serb relations will soon enter into a new sensitive phase due to the upcoming ruling of the ICJ. It will be important that the members of the Kosovo Steering Group stick to their previous position that the status issue will not be re-opened. Instead, the EU and the US should support a political dialogue between Prishtina/Priština and Belgrade which – in the context of European integration – should lead to a *modus vivendi* according to the German-German relationship in the 1980ies.

The international presence in Kosovo is criticized by the Kosovo authorities for providing an uncoordinated performance. Different status positions of the EU-22 and EU-5 weaken the EULEX mission. The EU should strive for a common policy regarding its support for Kosovo oth-

erwise the EU presence will lose its credibility among Kosovo Albanians.

Furthermore, it will be necessary for the EU and US to better coordinate their joint efforts in Kosovo, in particular as initiatives of the Kosovo government are concerned to „reintegrate” the Serb dominated north. Another field in which more harmonization of the policies of the Euro-Atlantic partners is needed will be a stronger support to EULEX in fighting corrupt politicians – one of the basic problems in Kosovo’s transition process.

The Euro-Atlantic partners should change their strategic attitude: instead of following only short-term stability goals, long-term strategic thinking should be established. This includes in particular that instead of communicating primarily with a small group of corrupt politicians, the EU and US should strive to increase support for grass roots level involvement in Kosovo.

Kosovo needs less international police and more international judges to start the prosecution of corrupt politicians. EULEX should be reorganized in compliance with this priority.

Without a clear vision for an economic recovery of Kosovo, this country with more than 50% unemployed and mostly young people will remain a fragile and explosive society.

#### *FYR of Macedonia*

The continuing Greek blocking of Macedonia’s integration into the EU and NATO due to the unresolved name issue could become a serious risk for internal stability in Macedonia. Both NATO and EU accession would be important steps to strengthen the state identity among Albanians in Macedonia. Holding Macedonia in a state of a limbo as far as Euro-Atlantic integration is concerned increases ethnic tensions between ethnic Macedonians and the Albanian population.

The EU-26 and the US need to continue with their efforts to convince Greece to accept a compromise in the name issue, in order to decrease the risk of new ethnic clashes in Macedonia.

## List of Authors and Editors

BISERKO Sonja, Helsinki Committee for Human Rights in Serbia, Belgrade, Serbia

BLEASE Dennis H., Centre for Security Sector Management, Cranfield University, United Kingdom

DAXNER Michael, Berghof Conflict Research, Berlin/Germany

DEDA Ilir, Kosovar Institute for Policy Research and Development, Priština/Kosovo

FELBERBAUER Ernst M., Research Management, National Defence Academy, Vienna/Austria

FRIESENDORF Cornelius, Peace Research Institute Frankfurt, Frankfurt/Main/Germany

ILLMEIER Gertraud, Institute for the Danube Region and Central Europe, Vienna/Austria

JUREKOVIĆ Predrag, Institute for Peace Support and Conflict Management, National Defence Academy, Vienna/Austria

MARMSOLER Karin, International Civilian Office/ICO, Prishtina/Kosovo

MILIĆ Ivan, Ministry of Internal Affairs and Public Administration, Podgorica/Montenegro

NAKIĆ Mladen, Ministry of Foreign Affairs, Zagreb/Croatia

PEČANIN Zenad, News Magazine Dani, Sarajewo/Bosnia-Herzegovina

PUCHER Johann, Directorate for Security Policy, Austrian Ministry of Defence, Vienna/Austria

SCHMUNK Michael, Permanent Mission of the Federal Republic of Germany to the OSCE, Vienna/Austria

TROMP Nena, International Criminal Tribunal for the Former Yugoslavia, The Hague/Netherlands

TALESKI Dane, Central European University, Budapest/Hungary