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*Latest developments in south-eastern Europe*

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REPORT<sup>1</sup>

*submitted on behalf of the Political Committee<sup>2</sup>  
by Mrs Durrieu and Mr Micheloyiannis, Rapporteurs*

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<sup>1</sup> Adopted unanimously by the Committee.

<sup>2</sup> *Members of the Committee:* Mr Baumel (Chairman); MM Blaauw, N ... (Vice-Chairmen); MM de Assis, Bianchi, Behrendt, Brancati, Sir Sydney Chapman (Alternate: *Hancock*), MM Clerfayt, Cusimano (Alternate: *Amoruso*), Mr Dias, Mrs Dumont, Mrs Durrieu, MM Ehrmann, Evangelisti, Eyskens, Fayot (Alternate: *Glesener*), MM Haack, Hornhues, Lord Kirkhill, MM Lemoine, Liapis, Marshall, *Martínez Casañ*, *Micheloyiannis*, Nagy, Lord Ponsonby, MM *Puche Rodríguez*, Recoder (Alternate: *Arnau Navarro*), MM *Roseta*, Schmitz, Skoularikis, Sterzing, *Timmermans*, Van der Linden, Volcic (Alternate: *Mrs Squarcialupi*), Mr Wray (Alternate: *Vis*), Mr *Yañez-Barnuevo*.

*Associate members:* MM *Gundersen*, *Kosmo*.

N.B. *The names of those taking part in the vote are printed in italics.*

- (b)* Bosnia and Herzegovina
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on the latest developments in south-eastern Europe*

The Assembly,

- (i) Satisfied that international intervention put an end to the intolerable human rights violations which President Milosevic's regime perpetrated on a massive scale against the Albanian population of Kosovo;
- (ii) Welcoming the fact that, initial differences between the countries concerned having been resolved, it was possible to achieve unanimity in the UN Security Council and to adopt Resolution 1244 as the basis for joint international action to restore peace and stability in Kosovo;
- (iii) Noting that UN Security Council Resolution 1244 envisages the establishment of an international civilian presence in Kosovo providing an interim administration under which the people of Kosovo "can enjoy substantial autonomy within the Federal Republic of Yugoslavia... while establishing and overseeing the development of provisional democratic self-governing institutions";
- (iv) Considering the responsibility the international civil presence has to promote "the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo, taking full account of annex 2 and of the Rambouillet Accords"; facilitate "a political process designed to determine Kosovo's future status, taking into account the Rambouillet Accords" and, in a final stage, oversee "the transfer of authority from Kosovo's provisional institutions to institutions established under a political settlement";
- (v) Noting that international support for substantial autonomy and self-government in Kosovo will be called into question if Kosovar Albanians are unable to respect the rights of minorities – including Serbs and Roms – on the territory of Kosovo;
- (vi) Emphasising that under Resolution 1244, Kosovo is not intended to be a protectorate but an entity where citizens have responsibility for self-governing institutions able to provide the conditions necessary for a peaceful and normal life for the entire community;
- (vii) Noting in particular the situation in Mitrovica, where a Serb enclave has been established *de facto*, and Orahovac, where civilian road blocks have prevented a Russian KFOR unit from entering the town since last August;
- (viii) Considering that the highest priority should be given to addressing the issue of the 5 000 or so missing persons whose fate and whereabouts are unknown – among them both Kosovar Albanians and Serbs – for while that matter remains unresolved, reconciliation between ethnic groups seems highly problematic;
- (ix) Noting that, owing to the fact that commitments regarding personnel and funding have not yet been honoured, the human and financial resources urgently needed for full implementation of UN Security Council Resolution 1244 are still not in place;
- (x) Noting that neither the UN Security Council Resolution nor the Rambouillet Accords offer any indication as to what the terms "final settlement" and "Kosovo's future status" in fact mean;
- (xi) Noting that the multinational armed forces and international organisations have failed to deliver the immediate emergency support called for by the situation in Kosovo and the terms of their mission there;
- (xii) Noting that, at present, an overwhelming majority of the countries involved in restoring peace and stability in the region are not in favour of the independent Kosovo advocated by many, if not all, Kosovar Albanian political leaders;

- (xiii) Aware that a Greater Albania plays no part in the aspirations of the Kosovar Albanian leadership or of the present Albanian Government, which regards the idea of such an entity within the region as utopian and unrealistic;
- (xiv) Convinced that full implementation of UN Security Council Resolution 1244, including the establishment of provisional institutions for democratic self-government, will take some considerable time;
- (xv) Noting that the international community responsible for the status of Kosovo, being fully apprised of the fact that an overwhelming majority of Kosovar Albanians aspire to full independence sooner or later, should keep a tight hold on the situation and not allow itself again to be overtaken by events;
- (xvi) Considering that under such circumstances priority should be given to full implementation of UN Security Council Resolution 1244, including making available the financial and human resources and military and police forces that are urgently needed for UNMIK to operate effectively and carry out its tasks to the full;
- (xvii) Taking the view that local elections leading to the establishment of some form of democratically elected authority must be organised in 2000, so as to legitimise administrative power in the lower tiers of local government;
- (xviii) Noting that, while Albania is still grappling with the deleterious effects of recent consecutive crises, it is making an effort to consolidate its democratic institutions and transform and develop its economy;
- (xix) Aware that restoration of public order and security is one of the priorities of the Albanian Government, but noting that continuous technical and financial support from the international community is required to achieve this vital objective;
- (xx) Noting with satisfaction that FYROM provided ample evidence of political maturity throughout the Kosovo conflict, notwithstanding the massive influx of refugees across its borders;
- (xxi) Emphasising, however, that Europe should continue to follow developments in these countries closely and provide the financial and other assistance urgently needed to further transform, consolidate and develop their economies, and, if necessary, should also deploy military force to guarantee internal peace and stability and harness them ever more closely to the European Union;
- (xxii) Emphasising that, notwithstanding the fact that peace has been established, the current situation in Bosnia and Herzegovina still gives rise to concern in view of the fact that corruption is rife, negligible progress is being made with refugee returns and urgently needed reforms to the economy, judiciary and police and also that little headway has been made towards the multi-ethnic society advocated in the Dayton Peace Agreement;
- (xxiii) Welcoming the Government of Montenegro's denunciation of Serbia's policy towards Kosovo and the steps it has taken towards economic development and democracy;
- (xxiv) Concerned, however, at the idea that the negotiations over what Montenegro describes as a more equal relationship within the FRY might fail, notwithstanding reassuring public statements from both President Milosevic and President Djukanovic, since there is no guarantee that Montenegro, having withstood the crisis in Kosovo, can cope with the way the situation is developing;
- (xxv) Noting that a change of government in Belgrade is scarcely imminent and that European countries that aspire to peace and stability in south-eastern Europe should continue to support Serbian opposition parties seeking to end Serbia's isolation in Europe and bring about its integration, as a democratic state, in Euro-Atlantic structures;
- (xxvi) Convinced that integration in the European Union is the ultimate destiny of all the states of south-eastern Europe, whilst being aware that this can only come about if those states fulfil the necessary conditions in terms of, *inter alia*, democratic institutions, human rights compliance and a viable market economy;

(xxvii) Welcoming the adoption of the Stability Pact for South-Eastern Europe and the activities of the different Working Tables, and assuming that the European Union will very soon provide adequate financial and human resources to put the aims of the Pact into effect,

#### RECOMMENDS THAT THE COUNCIL

1. Ask the European Union to make available at short notice its full share of the financial and human resources urgently needed for UNMIK to operate effectively and carry out its tasks to the full;
2. Ask the European Union to make every effort to prevent the outbreak of further violence in south-eastern Europe and finally establish lasting peace and stability in that region:
  - by closely watching developments in Kosovo, where some indigenous political forces are clearly trying to force the creation of a mono-ethnic Kosovar Albanian state;
  - through a continuous dialogue with the Government of Montenegro, which seems to be set on gaining as much independence as possible from Serbia;
  - through intensive discussions with all the countries in south-eastern Europe where the relevant questions are being addressed in order to arrive at appropriate solutions that take account of their differing and at times divergent interests;
  - through continuing support for the long overdue transformation of the economy and urgently needed institutional reform in Bosnia and Herzegovina to turn it into a viable country that is not forced to survive on foreign donations;
  - through continuing support to MAPE's mission for restructuring and strengthening Albania's police forces to enable them to carry out their priority task of fighting crime including smuggling and arms and drugs trafficking;
  - by promoting closer cooperation through bilateral, trilateral or multilateral arrangements between the countries of the region, thus encouraging them to take their destiny into their own hands and preparing them for enhanced cooperation with the European Union, which in due course should lead to their eventual accession to the European Union;
  - by pointing out firmly to relevant authorities that an early solution to the issue of missing persons in both Bosnia and Herzegovina and Kosovo deserves the highest priority, and that it will contribute to easing the tension between the different ethnic groups in those areas;
3. Ask the European Union to provide in the very near future sufficient financial and human resources to achieve the objectives of the Stability Pact for South-Eastern Europe.

*Explanatory Memorandum*

*(submitted by Mrs Durrieu and Mr Micheloyannis, Rapporteurs)*

*I. The state of affairs in Kosovo*

1. Notwithstanding the up-beat assessments of those who have visited Pristina recently, the conflict raging until June 1999 caused widespread destruction in Kosovo. At the moment, there are still some 500 000 displaced persons and, according to the European Commission, around 300 000 people facing the possibility of winter without adequate accommodation. Aid organisations estimate that about 120 000 houses – half of the total number in Kosovo – have been damaged in some way. The UNHCR says that it will be able to repair 50 000 houses this winter. Aid is coming in more slowly than expected.

2. The economy is in very bad shape, with an industrial infrastructure that has become dilapidated after ten years of neglect. The United Nations administration has fallen behind in many respects. Pledged donations are coming in very slowly or not at all, and the UN has problems in meeting the cost of government, including the salaries of public employees.

3. The ambiguity of UN Security Resolution 1244 tasking UNMIK to administer Kosovo while preserving the fiction that the sovereignty and territorial integrity of the FRY are not affected does nothing to ease the situation. Kosovo has no tax system, a provisional legal system is being established because Kosovar Albanians refuse to live under the legal system that prevails in the FRY and Kosovo is acquiring many of the attributes of sovereignty because Serbia is unable to exercise sovereign rights over Kosovo, even if these have not been abolished.

4. After his first visit to Kosovo in October 1999, UN Secretary-General Kofi Annan stated that the United Nations was having difficulty administering Kosovo because of the “built-in tension and considerable ambiguity” of Security Council Resolution 1244. He also maintained that tension between the Kosovar Albanians, who want an independent Kosovo, and the United Nations, which is administering Kosovo as a self-governing autonomous region of Yugoslavia, will mount as time goes by<sup>1</sup>. In his view, more re-

sources were needed for the UN administration in Kosovo.

5. The anomalous position of Kosovo became even more obvious when in September, the United Nations established a customs service – which has already begun to collect customs duties – appointed a Supreme Court and began consultations on drafting a legal framework for Kosovo’s economy and also adopted the German mark as the official currency of the province. Registration of the Kosovar population, essential for the organisation of democratic elections and the introduction of social services and a tax system, started on 1 October.

6. In the following paragraphs, the situation in Kosovo will be dealt with in more detail.

*(a) Activities of UNMIK  
and other international organisations*

*(i) Main tasks*

7. On 10 June 1999, the United Nations Security Council adopted Resolution 1244 putting an end to the NATO air strikes in Kosovo and bringing about an interim settlement. The resolution reaffirmed that Kosovo was part of the Federal Republic of Yugoslavia (FRY) but also set up UNMIK (the United Nations Interim Mission in Kosovo) and the Kosovo Force (KFOR), a security force under NATO authority.

8. KFOR’s role is to supervise the withdrawal of Yugoslav forces and the demilitarisation of Kosovo and to maintain public order until such time as a police force and local civilian administration are in place. KFOR is essentially concerned with security. It is there to prevent a new explosion of hostilities and maintain public order in Kosovo. The role of KFOR is discussed in full in a report of the Defence Committee (Document 1670).

9. UNMIK’s task is to reshape and rebuild Kosovo and prepare the province for elections and possible autonomy. It is to operate in all areas of civilian administration, from the police to the banking system, from re-establishing the postal and telecommunications service to organising elections. Working in partnership with the population of Kosovo, UNMIK is responsible for

<sup>1</sup> *International Herald Tribune*, 21 October 1999.



carrying out basic administrative functions and supervising the setting up of independent democratic institutions on a provisional basis so as to guarantee all Kosovar citizens normal living conditions in a climate of peace.

10. UNMIK comprises four sectors or "pillars", corresponding to its four main tasks: civilian administration, humanitarian support, democratisation and strengthening of institutions and reconstruction. Four international organisations are each responsible for one of these pillars and are working together within UNMIK. The civilian administration is the direct responsibility of the UN which has divided up Kosovo into five sectors and appointed international civilian administrators to each. The administrators have power in the region and supervise the reintegration of staff into public institutions and the latter's smooth-running and modernisation. The United Nations High Commissioner for Refugees (UNHCR) coordinates the whole range of humanitarian aid and emergency housing. The Organisation for Security and Cooperation in Europe is responsible for democratisation and strengthening institutions. Last but not least, the European Union is in charge of reconstruction.

11. UNMIK has considerable authority in Kosovo as it holds the ultimate legislative and executive power in the province. Thus until legitimate local government can be set up following free elections, UNMIK is the embodiment of government and its role is to administer the province and ensure compliance with the rule of law. The Head of the Mission, former French Health Minister Bernard Kouchner, is the Special Representative of the United Nations Secretary-General and the highest-ranking civilian administrator in Kosovo. As Mr Kouchner explained to the French newspaper *Le Monde*, the creation of an administration which is *de facto* an autonomous government in Kosovo, albeit one located within a sovereign state "is an awe-inspiring task, precisely because there are no precedents". Kosovo is now in practice a UN protectorate.

12. Herein lies the major contradiction in the peace agreement. Resolution 1244 which put an end to hostilities confirms Yugoslavia's sovereignty over the whole of its territory and the inviolability of its borders. At the same time it establishes a *de facto* international protectorate in Kosovo giving the UN Special Representative

to all intents and purposes all the prerogatives of sovereignty. This is a contradiction which in practice raises an enormous amount of difficulty. Kosovo is still part of Yugoslavia but that in itself no longer means anything.

(ii) *Establishing a legal system*

13. Kosovo is a legal vacuum where the UN has to rebuild a fair and independent legal system.

14. On 25 July 1999, the UN administrator in Kosovo, Bernard Kouchner, promulgated "Regulation No. 1" or the "Mother of Laws", providing UNMIK with a legal basis for the exercise of the full powers of government envisaged by United Nations Security Council Resolution 1244. The main points are as follows:

- legal and executive powers in Kosovo, including the administration of justice are vested in UNMIK and exercised by the Secretary-General's Special Representative;
- the Secretary-General's Special Representative appoints whomsoever he sees fit, with power over them of subsequent dismissal, to discharge the functions of the civilian administration in Kosovo, including judicial functions. Such duties can be carried out in accordance with the existing law and rules promulgated by UNMIK;
- in carrying out those duties, any person with responsibility for a public function or duties must not be guilty of discrimination and must comply with internationally recognised rules governing human rights, such as the Universal Declaration of Human Rights and Fundamental Liberties, and international pacts on civil and political and economic, social and cultural rights;
- the laws that applied on Kosovar territory prior to 24 March 1999 continue to apply, provided they are not opposed to the rules referred to above, the discharge of UNMIK's mandate or any regulation enacted by it;
- in the exercise of the duties entrusted to it, UNMIK may enact legislation in the form of regulations. These will remain

in force until repealed by UNMIK or until the latter's replacement by institutions emanating from a political settlement in accordance with UN Security Council Resolution 1244;

- UNMIK will administer movable and immovable property, including bank accounts and other property belonging to the Federal Republic of Yugoslavia or the Republic of Serbia, or any one of their agents on the territory of Kosovo.

15. On 4 July, UNMIK released a declaration recognising KFOR's right to stop and detain any individual suspected of having infringed security and public order, including the commission of serious crime (murder, rape, kidnapping, arson or war crimes). The declaration also recognised the right of detainees to due process of law, in other words the right to an early hearing before a court and to access to counsel for the defence and to their family. The present legal vacuum prevents sentence being passed on those in detention.

16. One of UNMIK's first initiatives has therefore been to start assembling an independent, multi-ethnic judiciary. As long ago as 1990, the Belgrade regime replaced all Albanian judges and public prosecutors with Serbs. The head of UNMIK has appointed a Committee for Legal Provisional Appointments whose task it is to make recommendations on provisional magistrates appointments. This "Council of the Wise" comprises four Kosovar lawyers and magistrates (three Albanian and one Serb) and three representatives of the international community. The appointment of judges and prosecutors recruited from Kosovo's main ethnic communities has begun throughout the province. In total, 28 circuit judges and prosecutors have been appointed for a three-month probationary period. Four judges are Serbs, one is a gypsy, another a Turkish speaker, a seventh is a Muslim Slavonic speaker and the remaining 21 are Albanian. The fact that certain Serb magistrates remain in post is a major irritant but the United Nations, armed with its mandate, has started as it means to go on. Other appointments are expected. The first task of the appointees when in place will be to travel around Kosovo holding sessions to investigate individual cases of suspected crime by KFOR detainees.

17. There is much to be done, particularly in re-establishing the Supreme Court of Kosovo (removed in 1990), drawing up training programmes in national and international law and modernising Kosovo's prison system to bring it up to international human rights standards.

18. UNMIK must also deal with other legal problems of the utmost importance to Kosovo's entire population, for example, the issue of identity cards and other personal documents such as passports and driving licences destroyed by the Serbs during the war, in the absence of which travel outside Kosovo other than to Albania is impossible. It also has to set up an office to register applications for restitution of property and a tribunal with responsibility for examining disputes in this area.

19. However, after years of subordination, it is not only necessary to restore an independent judicial system but also to amend Yugoslav law, used as a weapon by Serb nationalists against the Kosovars. To retain the Serb penal code – a symbol of oppression – is consequently entirely unacceptable. Proposals have been advanced to reinstate the Kosovo code withdrawn by Belgrade in 1990 and supplement it with the Yugoslav code revised in line with international standards, as was done by Croatia and Bosnia.

20. Referring to the changed situation, the Secretary-General's Representative said: "This was a new beginning for Kosovo: the law had changed". The intention was to calm unrest arising out of Section 4 of Rule One which stated that the laws that applied in Kosovo prior to 24 March 1999 remained in force. This was interpreted by Kosovars as keeping in place Yugoslav laws which had in practice been an instrument of Serb repression in the province. A working group, attended by international experts, is therefore in the process of drawing up a body of law which is neither Serb nor Yugoslav. The work is being coordinated by the Council of Europe, which is to begin by cleaning up the existing laws – although the more glaring abuses, like the section forbidding Albanians and no one else from entering into property transactions, were done away with on the spot.

21. A human rights agency is to be set up in Kosovo, whose task it will be to deal with complaints concerning any form of abuse of power on the part of the civilian interim administration,

local institutions and any other persons claiming to exercise any form of authority. This "ombudsman" service must be empowered to conduct enquiries following human rights violations on the part of any individual or body in Kosovo and take measures to bring about their redress.

22. The International War Crimes Tribunal for the Former Yugoslavia is empowered to deal with all matters connected with inter-communal violence, be they acts of abuse perpetrated by Serbs or Albanians.

23. Too many of those who have committed war crimes or crimes against humanity are still at large. They will have to be arrested and they will have to account for their crimes before the tribunal in The Hague. If justice is not done, reconciliation will be very difficult and the danger will be that indiscriminate acts of vengeance continue to poison relations between different ethnic groups.

*(iii) A new currency*

24. A provision enacted on 3 September 1999 by the UN administration in Kosovo made the German mark, already in wide circulation, Kosovo's official currency. At the same time it discouraged the use of the Yugoslav dinar, without however making it illegal. UNMIK levies a tax on those who insist on payment in dinars. Any other currencies may be used but the German mark is the official currency of the provisional administration and international organisations for customs payments and public accounts. The legislation on the currency follows and supplements UNMIK's introduction of customs duties at the borders of FYROM and Albania.

*(iv) The creation of a police force*

25. The United Nations, NATO, the European Union and the OSCE all acknowledge that Kosovo's immediate priority has to be security.

26. UNMIK's civilian police force has been given two essential tasks. The first is progressively to take over police functions carried out by KFOR and temporary law enforcement.

27. All in all, UNMIK will deploy 3 100 United Nations civilian police officers in Kosovo for the interim period but at the end of October 1999 only 1 700 were in place. Mr Kouchner had asked for over 5 000. UNMIK's civilian police force includes groups of special officers which fulfil given public order functions, such as crowd con-

trol. In the initial phase, although KFOR is responsible for security and public order, UNMIK's international civilian police force advises KFOR on its civilian policing functions and makes contact with local communities.

28. UNMIK's second civilian policing task, following the example of Bosnia, is to create a competent and impartial Kosovar police force trained to have a democratic outlook. It therefore immediately began setting up the Kosovo police force, whose applicants are drawn from among the people of Kosovo, in consultation with the OSCE, and are representative of all the area's ethnic communities. A first contingent of 176 Kosovar policemen, including 8 Serbs, graduated from the newly created police academy on 16 October 1999.

29. Another problem has been that of how to integrate into the future civilian police force thousands of Kosovo Liberation Army members. In the eyes of some this is an immediate means of bringing them under control and then of getting rid of the less cooperative elements. However, others fear that UNMIK might in this way be training a dedicated KLA armed militia, with the risk of destabilisation that this entails for the future when KFOR is no longer present. There are also different opinions as to the form the police force should take. The KLA, the sole force to do battle with the Serbs prior to the allied bombings, feels it has won the right to independence and the various symbols of state sovereignty of which the army is one. Its leaders would like the force to resemble as closely as possible a fledgling army, while the UN and KFOR are laying maximum emphasis on its civilian character.

30. After three months of negotiations on the status of the Kosovo Corps, the signature of the KLA demilitarisation agreement on 20 September 1999 nevertheless represented a milestone in UN action or the end of one era and the beginning of another – according to General Jackson. The Kosovo Protection Corps (KPC) was born out of the ashes of the KLA. Founded by decree of Bernard Kouchner, the force is intended to become a civilian emergency service whose activity is under the day-to-day supervision of KFOR. Classified as multi-ethnic, the Kosovo Protection Corps must be 10% constituted from Kosovo's ethnic minorities, including Serbs. The Corps consists of a maximum of 5 000 uni-