

**Security Council**

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**Letter dated 26 March 2007 from the Secretary-General
addressed to the President of the Security Council**

Pursuant to the statement of the President of the Security Council dated 24 October 2005 (S/PRST/2005/51), by which the Security Council requested that the Secretary-General provide regular updates on progress in determining Kosovo's future status, and in accordance with resolution 1244 (1999), I have the honour to convey herewith the report of the Special Envoy of the Secretary-General on Kosovo's future status and, in an addendum, the Comprehensive Proposal for the Kosovo Status Settlement (S/2007/168/Add.1) prepared by my Special Envoy for the future status process for Kosovo, Martti Ahtisaari.

Having taken into account the developments in the process designed to determine Kosovo's future status, I fully support both the recommendation made by my Special Envoy in his report on Kosovo's future status and the Comprehensive Proposal for the Kosovo Status Settlement.

I should be grateful if you would bring these documents to the attention of the members of the Security Council.

(Signed) **Ban Ki-moon**



Report of the Special Envoy of the Secretary-General on Kosovo's future status

Recommendation: Kosovo's status should be independence, supervised by the international community

1. In November 2005, the Secretary-General appointed me as his Special Envoy for the future status process for Kosovo. According to my terms of reference, this process should culminate in a political settlement that determines the future status of Kosovo. To achieve such a political settlement, I have held intensive negotiations with the leadership of Serbia and Kosovo over the course of the past year. My team and I have made every effort to facilitate an outcome that would be acceptable to both sides. But after more than one year of direct talks, bilateral negotiations and expert consultations, it has become clear to me that the parties are not able to reach an agreement on Kosovo's future status.

2. Throughout the process and on numerous occasions, both parties have reaffirmed their categorical, diametrically opposed positions: Belgrade demands Kosovo's autonomy within Serbia, while Pristina will accept nothing short of independence. Even on practical issues such as decentralization, community rights, the protection of cultural and religious heritage and economic matters, conceptual differences — almost always related to the question of status — persist, and only modest progress could be achieved.

3. My mandate explicitly provides that I determine the pace and duration of the future status process on the basis of consultations with the Secretary-General, taking into account the cooperation of the parties and the situation on the ground. It is my firm view that the negotiations' potential to produce any mutually agreeable outcome on Kosovo's status is exhausted. No amount of additional talks, whatever the format, will overcome this impasse.

4. Nevertheless, resolution of this fundamental issue is urgently needed. Almost eight years have passed since the Security Council adopted resolution 1244 (1999) and Kosovo's current state of limbo cannot continue. Uncertainty over its future status has become a major obstacle to Kosovo's democratic development, accountability, economic recovery and inter-ethnic reconciliation. Such uncertainty only leads to further stagnation, polarizing its communities and resulting in social and political unrest. Pretending otherwise and denying or delaying resolution of Kosovo's status risks challenging not only its own stability but the peace and stability of the region as a whole.

5. The time has come to resolve Kosovo's status. Upon careful consideration of Kosovo's recent history, the realities of Kosovo today and taking into account the negotiations with the parties, I have come to the conclusion that the only viable option for Kosovo is independence, to be supervised for an initial period by the international community. My Comprehensive Proposal for the Kosovo Status Settlement, which sets forth these international supervisory structures, provides the foundations for a future independent Kosovo that is viable, sustainable and stable, and in which all communities and their members can live a peaceful and dignified existence.

Reintegration into Serbia is not a viable option

6. A history of enmity and mistrust has long antagonized the relationship between Kosovo Albanians and Serbs. This difficult relationship was exacerbated by the actions of the Milosevic regime in the 1990s. After years of peaceful resistance to Milosevic's policies of oppression — the revocation of Kosovo's autonomy, the systematic discrimination against the vast Albanian majority in Kosovo and their effective elimination from public life — Kosovo Albanians eventually responded with armed resistance. Belgrade's reinforced and brutal repression followed, involving the tragic loss of civilian lives and the displacement and expulsion on a massive scale of Kosovo Albanians from their homes, and from Kosovo. The dramatic deterioration of the situation on the ground prompted the intervention of the North Atlantic Treaty Organization (NATO), culminating in the adoption of resolution 1244 (1999) on 10 June 1999.

7. For the past eight years, Kosovo and Serbia have been governed in complete separation. The establishment of the United Nations Mission in Kosovo (UNMIK) pursuant to resolution 1244 (1999), and its assumption of all legislative, executive and judicial authority throughout Kosovo, has created a situation in which Serbia has not exercised any governing authority over Kosovo. This is a reality one cannot deny; it is irreversible. A return of Serbian rule over Kosovo would not be acceptable to the overwhelming majority of the people of Kosovo. Belgrade could not regain its authority without provoking violent opposition. Autonomy of Kosovo within the borders of Serbia — however notional such autonomy may be — is simply not tenable.

Continued international administration is not sustainable

8. While UNMIK has made considerable achievements in Kosovo, international administration of Kosovo cannot continue. Under UNMIK authority, Kosovo institutions have been created and developed and have increasingly taken on the responsibility of managing Kosovo's affairs. This has set into motion a dynamic political process, which has reinforced the legitimate expectations of the Kosovo people for more ownership in, and responsibility for, their own affairs. These expectations cannot be realized within the framework of continued international administration.

9. Further, while UNMIK has facilitated local institutions of self-government, it has not been able to develop a viable economy. Kosovo's uncertain political status has left it unable to access international financial institutions, fully integrate into the regional economy or attract the foreign capital it needs to invest in basic infrastructure and redress widespread poverty and unemployment. Unlike many of its western Balkans neighbours, Kosovo is also unable to participate effectively in any meaningful process towards the European Union — an otherwise powerful motor for reform and economic development in the region and the most effective way to continue the vital standards implementation process. Kosovo's weak economy is, in short, a source of social and political instability, and its recovery cannot be achieved under the status quo of international administration. Economic development in Kosovo requires the clarity and stability that only independence can provide.

Independence with international supervision is the only viable option

10. Independence is the only option for a politically stable and economically viable Kosovo. Only in an independent Kosovo will its democratic institutions be fully responsible and accountable for their actions. This will be crucial to ensure respect for the rule of law and the effective protection of minorities. With continued political ambiguity, the peace and stability of Kosovo and the region remains at risk. Independence is the best safeguard against this risk. It is also the best chance for a sustainable long-term partnership between Kosovo and Serbia.

11. While independence for Kosovo is the only realistic option, Kosovo's capacity to tackle the challenges of minority protection, democratic development, economic recovery and social reconciliation on its own is still limited. Kosovo's political and legal institutions must be further developed, with international assistance and under international supervision. This is especially important to improve the protection of Kosovo's most vulnerable populations and their participation in public life.

12. Kosovo's minority communities — in particular the Kosovo Serbs — continue to face difficult living conditions. The violence perpetrated against them in summer 1999 and in March 2004 has left a profound legacy. While Kosovo's leaders have increased their efforts to reach out to Kosovo Serbs and to improve implementation of standards, protecting the rights of minority communities requires their even greater commitment. At the same time, Kosovo Serbs need to engage actively in Kosovo's institutions. They must reverse their fundamental position of non-cooperation; only with an end to their boycott of Kosovo's institutions will they be able to protect effectively their rights and interests.

13. I therefore propose that the exercise of Kosovo's independence, and its fulfilment of the obligations set forth in my Settlement proposal, be supervised and supported for an initial period by international civilian and military presences. Their powers should be strong — but focused — in critical areas such as community rights, decentralization, the protection of the Serbian Orthodox Church and the rule of law. These powers should be exercised to correct actions that would contravene the provisions of the Settlement proposal and the spirit in which they were crafted. Recognizing Kosovo's current weaknesses, the international community's intensive engagement should extend also to institutional capacity-building. I envisage that the supervisory role of the international community would come to an end only when Kosovo has implemented the measures set forth in the Settlement proposal.

14. Notwithstanding this strong international involvement, Kosovo's authorities are ultimately responsible and accountable for the implementation of the Settlement proposal. They will succeed in this endeavour only with the commitment and active participation of all communities, including, in particular, the Kosovo Serbs.

Conclusion

15. Kosovo is a unique case that demands a unique solution. It does not create a precedent for other unresolved conflicts. In unanimously adopting resolution 1244 (1999), the Security Council responded to Milosevic's actions in Kosovo by denying Serbia a role in its governance, placing Kosovo under temporary United Nations administration and envisaging a political process designed to determine Kosovo's future. The combination of these factors makes Kosovo's circumstances extraordinary.

16. For over a year, I have led the political process envisaged in resolution 1244 (1999), exhausting every possible avenue to achieve a negotiated settlement. The irreconcilable positions of the parties have made that goal unattainable. Nevertheless, after almost eight years of United Nations administration, Kosovo's status must be urgently resolved. My recommendation of independence, supervised initially by the international community, takes into account Kosovo's recent history, the realities of Kosovo today and the need for political and economic stability in Kosovo. My Settlement proposal, upon which such independence will be based, builds upon the positions of the parties in the negotiating process and offers compromises on many issues to achieve a durable solution. I urge the Security Council to endorse my Settlement proposal. Concluding this last episode in the dissolution of the former Yugoslavia will allow the region to begin a new chapter in its history — one that is based upon peace, stability and prosperity for all.

Annex

Main provisions of the Comprehensive Proposal for the Kosovo Status Settlement

I. General

1. The aim of the Comprehensive Proposal for the Kosovo Status Settlement is to define the provisions necessary for a future Kosovo that is viable, sustainable and stable. It includes detailed measures to ensure the promotion and protection of the rights of communities and their members, the effective decentralization of government, and the preservation and protection of cultural and religious heritage in Kosovo. In addition, the Settlement prescribes constitutional, economic and security provisions, all of which are aimed at contributing to the development of a multi-ethnic, democratic and prosperous Kosovo. An important element of the Settlement is the mandate provided for a future international civilian and military presence in Kosovo, to supervise implementation of the Settlement and assist the competent Kosovo authorities in ensuring peace and stability throughout Kosovo. The provisions of the Settlement will take precedence over all other legal provisions in Kosovo.

II. Provisions of the Settlement

2. **Kosovo's governance.** The Settlement defines the basic framework for Kosovo's future governance. Kosovo shall be a multi-ethnic society, governing itself democratically and with full respect for the rule of law and the highest level of internationally recognized human rights and fundamental freedoms. Kosovo shall adopt a constitution to enshrine such principles. While the Settlement does not prescribe a complete constitution, it defines key elements that must form part of that constitution. Kosovo shall have the right to negotiate and conclude international agreements, including the right to seek membership in international organizations.

3. **Rights of communities.** With respect to the protection and promotion of community rights, the Settlement addresses key aspects to be protected, including culture, language, educations and symbols. Albanian and Serbian shall be the two official languages of Kosovo, while other community languages — such as Turkish, Bosnian and Roma — shall have the status of languages in official use. To ensure adequate representation of communities in public life, the Settlement defines specific representation mechanisms for key institutions. Communities that are not in the majority in Kosovo shall continue to be guaranteed representation in the Kosovo Assembly. To protect their rights in the legislative process, the Settlement also provides that key laws of particular interest to communities may only be enacted if a majority of their representatives present and voting in the Kosovo Assembly agree to their adoption.

4. **Decentralization.** The extensive decentralization provisions are intended to promote good governance, transparency, effectiveness and fiscal sustainability in public service. The proposal focuses in particular on the specific needs and concerns of the Kosovo Serb community, which shall have a high degree of control over its own affairs. The decentralization elements include, among other things: enhanced municipal competencies for Kosovo Serb majority municipalities (such as in the

areas of secondary health care and higher education); extensive municipal autonomy in financial matters, including the ability to receive transparent funding from Serbia; provisions on inter-municipal partnerships and cross-border cooperation with Serbian institutions; and the establishment of six new or significantly expanded Kosovo Serb majority municipalities.

5. **Justice system.** The Settlement includes specific provisions to ensure that the justice system is integrated, independent, professional and impartial. It provides for mechanisms to achieve a justice system that is inclusive of all communities, and in which the judiciary and prosecution service reflect the multi-ethnic character of Kosovo. Moreover, the Settlement provides for, and is premised upon, the access to justice of all persons in Kosovo.

6. **Protection and promotion of religious and cultural heritage.** The Settlement places great emphasis upon ensuring the unfettered and undisturbed existence and operation of the Serbian Orthodox Church in Kosovo. The Church and its internal organization shall be recognized explicitly by the Kosovo authorities, its property shall be inviolable, and it shall enjoy tax and customs duty privileges. Protective zones shall be created around more than 40 key religious and cultural sites. Without prejudice to ownership of the property in protective zones, specific restrictions shall apply to activities within those zones to guarantee the peaceful existence and functioning of major religious and cultural sites. NATO shall also provide additional physical security for selected sites, until such time as the military presence decides the conditions have been met for a transfer of their protection responsibilities to the Kosovo Police Force.

7. **Returns/protection of property.** All refugees and internally displaced persons from Kosovo shall have the right to return and reclaim their property and personal possessions based upon a voluntary and informed decision. The Settlement reaffirms the principle that displaced persons shall be able to return to a place of their choice in Kosovo, and not only to their original place of residence. The Settlement also calls upon Kosovo and Serbia to cooperate fully with each other and the International Committee of the Red Cross to resolve the fate of missing persons.

8. **Economy.** The Settlement includes specific provisions designed to promote and safeguard sustainable economic development in Kosovo. The Settlement prescribes transparent procedures to settle disputed property claims and for a continued privatization process, both with substantial international involvement. In addition, the Settlement defines mechanisms to determine Kosovo's share of Serbia's external debt, and to address the issue of property restitution.

9. **Security.** The Settlement provides for a professional, multi-ethnic and democratic Kosovo security sector, encouraging significant local ownership in its development, while retaining a level of international oversight necessary for ultimate success in this sensitive area. The Kosovo Police Force shall have a unified chain of command throughout Kosovo, with local police officers reflecting the ethnic composition of the municipality in which they serve. In Kosovo Serb majority municipalities, the Municipal Assembly shall have enhanced competencies in the selection of the police station commander. A new professional and multi-ethnic Kosovo Security Force shall be established within one year after the end of the 120-day transition period envisaged in the Settlement. It shall have a maximum of 2,500 active members and 800 reserve members. The Settlement stipulates that

the current Kosovo Protection Corps shall be dissolved within one year after the end of the transition period.

10. **Future international presence.** In general, Kosovo shall be responsible for the implementation of the Settlement. To safeguard and support such implementation, the Settlement defines the role and powers of the future international civilian and military presences.

11. **International Civilian Representative.** The International Civilian Representative, who shall be double-hatted as the European Union Special Representative and who shall be appointed by an International Steering Group, shall be the ultimate supervisory authority over implementation of the Settlement. The International Civilian Representative shall have no direct role in the administration of Kosovo, but shall have strong corrective powers to ensure successful implementation of the Settlement. Among his/her powers is the ability to annul decisions or laws adopted by Kosovo authorities and sanction and remove public officials whose actions he/she determines to be inconsistent with the Settlement. The mandate of the International Civilian Representative shall continue until the International Steering Group determines that Kosovo has implemented the terms of the Settlement.

12. **European Security and Defence Policy Mission.** The European Security and Defence Policy Mission shall monitor, mentor and advise on all areas related to the rule of law in Kosovo. It shall have the right to investigate and prosecute independently sensitive crimes, such as organized crime, inter-ethnic crime, financial crime, and war crimes. In addition, it shall have limited executive authority to ensure Kosovo's rule of law institutions are effective and functional, such as in the areas of border control and crowd and riot control.

13. **International Military Presence.** The International Military Presence shall be a NATO-led military mission. It shall continue the current task of the Kosovo Force (KFOR) to provide a safe and secure environment throughout Kosovo, in conjunction with the International Civilian Representative and in support of Kosovo's institutions until such time as Kosovo's institutions are capable of assuming the full range of security responsibilities.

14. **Organization for Security and Cooperation in Europe mission in Kosovo.** The Organization for Security and Cooperation in Europe, with an extensive field presence in Kosovo, is requested to assist in the monitoring necessary for a successful implementation of the Settlement.

III. Implementation

15. Upon the entry into force of the Settlement, there shall be a 120-day transition period during which the existing mandate of UNMIK remains unchanged.

16. During the transition period, the Kosovo Assembly, in consultation with the International Civilian Representative, shall be responsible for approving a new constitution and the legislation necessary for the implementation of the Settlement and the establishment of the new Kosovo institutions it calls for. The constitution and legislation shall become effective immediately upon the conclusion of the transition period.

17. At the end of the transition period the UNMIK mandate shall expire and all legislative and executive authority vested in UNMIK shall be transferred en bloc to the authorities of Kosovo, in accordance with the Settlement.

18. Finally, general and local elections are to be held within nine months of the entry into force of the Settlement.
