

**Security Council**

Provisional

17 July 2007

Original: English

**Belgium, France, Germany, Italy, United Kingdom of Great Britain and Northern Ireland and United States of America:
draft resolution**

The Security Council,

Bearing in mind the purposes and principles of the Charter of the United Nations, and the primary responsibility of the Security Council for the maintenance of international peace and security,

Recalling its resolutions 1160 (1998) of 31 March 1998, 1199 (1998) of 23 September 1998, 1203 (1998) of 24 October 1998, 1239 (1999) of 14 May 1999, and 1244 (1999) of 10 June 1999, and the relevant Statements of its President, in particular its statement of 24 October 2005 (S/PRST/2005/51),

Recalling the Security Council's missions on the Kosovo issue, particularly the mission undertaken from 25 to 28 April 2007, which provided the Security Council with an opportunity to gain first-hand information on the situation in Kosovo, and its report of 4 May 2007 (S/2007/256),

Recognizing the specific circumstances that make Kosovo a case that is sui generis resulting from the disintegration of the former Yugoslavia, including the historical context of Yugoslavia's violent break-up, as well as the massive violence and repression that took place in Kosovo in the period up to and including 1999, the extended period of international administration under resolution 1244, and the UN-led process to determine status, and that this case shall not be taken as a precedent by the Security Council,

Reaffirming its commitment to a multi-ethnic and democratic Kosovo, which will reinforce regional stability,

Recalling the Guiding Principles of the Contact Group,

Recognizing the progress that has been achieved in the implementation of the standards for Kosovo, and calling for their continued implementation in accordance with the European Partnership and the Comprehensive Proposal for the Kosovo Status Settlement (S/2007/168/Add.1),

Reaffirming the urgent necessity for more progress on the return of internally displaced persons and refugees,

Underscoring its determination not to tolerate violence, provocation or intimidation,

Recalling the jurisdiction and mandate of the International Criminal Tribunal for the Former Yugoslavia, and the need for full cooperation with it,

Underlining the importance of the EU-Western Balkans Summit Declaration adopted in Thessaloniki in June 2003, and welcoming the reaffirmation by the European Union of its commitment to providing the countries of the region a concrete, tangible European perspective,

Reaffirming the important role of women in the prevention and resolution of conflicts and peacebuilding, as reflected in its resolution 1325 (2000) of 31 October 2000,

Acknowledging that the status quo in Kosovo is not sustainable,

Determining that the unresolved situation in Kosovo continues to constitute a threat to international peace and security,

Acting under chapter VII of the Charter of the United Nations,

1. *Expresses its appreciation* to the Secretary-General's Special Envoy for his Report on Kosovo's Future Status (S/2007/168) and his Comprehensive Proposal for the Kosovo Status Settlement (S/2007/168/Add.1);

2. *Takes note* of the declaration of the Kosovo Assembly of 5 April 2007, concerning the Special Envoy's proposals, and *recalls* the commitments therein to the rights of communities and their members;

3. *Welcomes* the willingness of participants in the Contact Group, including the European Union, to encourage and facilitate a further 120-day period of negotiations following adoption of this resolution, in support of the Secretary-General and his Special Envoy, to determine whether common ground can be found, *calls upon* the parties to engage constructively, *requests* the Member States referred to above to brief the Council on developments, and *affirms* its readiness to review the situation further in light of those negotiations;

4. *Welcomes* the willingness of interested parties to appoint an International Civilian Representative ("ICR"), who shall be the same person as the Special Representative of the European Union; of the European Union to establish a European Security and Defense Policy Rule of Law mission ("ESDP Mission"); and of NATO to continue leading an International Military Presence ("IMP");

5. *Expresses its appreciation* to the international civil presence in Kosovo for its efforts during the period of interim administration of Kosovo under resolution 1244 (1999), and *decides* that the mandate of the international civil presence shall terminate at the end of a 120-day transition period following adoption of this resolution and that the existing international civil presence shall implement with the ICR and ESDP during this period all appropriate arrangements for the details and modalities of the transition;

6. *Decides* that the powers and authorities of the ICR shall include powers and authorities to advance democratic, effective and inclusive governance and institutions, the rights of Communities and their members, decentralization of local government, justice and the rule of law, protection of religious and cultural heritage, protection of property rights and the general welfare of the people, and to supervise the decisions of the relevant authorities in Kosovo in this regard and ensure full respect for these principles, *calls upon* the ICR to establish appropriate mechanisms

to help coordinate the activities of other international actors, and also *calls upon* other international actors to support the ICR's efforts, particularly by providing information relevant to the exercise of the ICR's functions;

7. *Authorizes* the establishment of a European Union ESDP Mission and decides that the Mission shall have powers and authorities set forth in Annex I of this resolution after the end of the transition period referred to in paragraph 5;

8. *Notes* that the international security presence established under resolution 1244 shall continue to be authorized to carry out its responsibilities for a 120-day transition period following the adoption of this resolution, and *decides* that after completion of this period its powers and authorities shall be those of the IMP and that it shall have the powers and authorities set forth in Annex II to this resolution, and that it shall be authorized to use all necessary means to carry out its responsibilities;

9. *Urges* the ESDP Mission and the IMP to provide mutual support and, together with the ICR, to coordinate closely on security-related issues in Kosovo;

10. *Decides* that the ICR and the ESDP Mission, and their personnel (and their families), premises, archives and other property, shall have the same privileges and immunities as are enjoyed by a diplomatic mission and its personnel (and their families), premises, archives and other property under the Vienna Convention on Diplomatic Relations, and that the IMP shall have the status, privileges and immunities currently provided to the international security presence under UNMIK Regulation 2000/47;

11. *Requests* the ICR to report periodically to the Council, beginning with the first report three months following the adoption of this resolution;

12. *Urges* the Secretary-General to appoint promptly a separate Special Envoy to provide a report to the Secretary-General and the Security Council on the situation concerning refugees and internally displaced persons in the region, and on issues related to missing persons;

13. *Requests* the Organization for Security and Cooperation in Europe to continue to maintain a Mission in Kosovo, including a comprehensive field presence, to support the democratic development of Kosovo and the work of the ICR;

14. *Decides* to remain actively seized of the matter.

Annex I

ESDP Mission

1. The ESDP Mission shall assist Kosovo authorities in their progress towards sustainability and accountability and in further developing and strengthening an independent judiciary and police, ensuring that these institutions are free from political interference and in accordance with internationally recognized standards and European best practices. It shall provide mentoring, monitoring and advice in the area of the rule of law generally, while retaining certain powers, in particular, with respect to the judiciary, police, customs and correctional services, under modalities and for a duration to be determined by the Council of the European Union.

2. The ESDP Mission shall, under the direction of the European Union Special Representative (EUSR), be authorized to:

(a) Ensure that cases of war crimes, terrorism, organized crime, corruption, inter-ethnic crimes, financial/economic crimes, and other serious crimes are properly investigated according to the law, including, where appropriate, by international investigators acting with Kosovo authorities or independently;

(b) Ensure that cases described in paragraph (a) are properly prosecuted including, where appropriate, by international prosecutors acting jointly with Kosovo prosecutors or independently. Case selection for international prosecutors shall be based upon objective criteria and procedural safeguards, as determined by the Head of the ESDP Mission. International prosecutors shall serve in accordance with Kosovo law;

(c) Ensure that cases described in paragraph (a) and property related civil cases are properly adjudicated, including, where appropriate, by international judges sitting independently or on panels with Kosovo judges in the court which has jurisdiction over the case. Case selection for adjudication involving international judges shall be based upon objective criteria and procedural safeguards, as determined by the Head of the ESDP Mission. International judges shall enjoy full independence in the discharge of their judicial duties and shall serve within the Kosovo judicial system in accordance with the law;

(d) Ensure that decisions of cases described in paragraph (a) are properly enforced according to the law by the competent Kosovo authorities;

(e) Assume other responsibilities independently or with the competent Kosovo authorities to ensure the maintenance and promotion of the rule of law, public order and security;

(f) In consultation with the ICR, reverse or annul operational decisions taken by the competent Kosovo authorities, as necessary, to ensure the maintenance and promotion of the rule of law, public order and security;

(g) Monitor, mentor and advise on all areas related to the rule of law, and the Kosovo authorities shall facilitate such efforts and grant immediate and complete access to any site, person, activity, proceeding, document, or other item or event in Kosovo;

(h) Appoint ESDP mission personnel to perform the functions accorded to the ESDP Mission.

3. The Head of the ESDP Mission shall be appointed by the Council of the European Union.

4. The Head of the ESDP Mission may establish whatever presence he or she deems necessary, at a central and/or local level, to ensure full implementation of the tasks set out in section 2 of this Annex.

5. The ESDP Mission shall have a unified chain of command.

6. Kosovo shall facilitate all appropriate assistance to the ESDP Mission necessary for the efficient and effective discharge of its duties, including the provision of logistical and administrative support as necessary.

Annex II

International Military Presence

1. The International Military Presence (IMP) shall be authorized to:
 - (a) Ensure the security of Kosovo from external threats until Kosovo institutions can take responsibility;
 - (b) Provide a safe and secure environment throughout the territory of Kosovo, in conjunction with the ICR and in support of the Kosovo institutions until such time as Kosovo's institutions are capable of assuming responsibility, on a case-by-case basis, for the security tasks performed by the IMP;
 - (c) Supervise and support, with the assistance of others, the establishment and training of the Kosovo Security Force (KSF); this would include vetting potential members to ensure professionalism; striving to achieve appropriate ethnic representation, and, the right of sanction for inappropriate conduct of members of the KSF in coordination with the ICR;
 - (d) Support, and coordinate closely with the work of the ICR, as well as providing military advice to the ICR;
 - (e) Assist and advise with respect to the process of integration in Euro-Atlantic structures;
 - (f) Within means and capabilities, and until tasks can be relinquished to others under programmes to be agreed, assist local authorities and the ICR in:
 - (i) Responding to violent extremists;
 - (ii) Ensuring freedom of movement;
 - (iii) Facilitating refugee return;
 - (iv) Removing, safeguarding and destroying unauthorized weapons;
 - (v) Protecting designated religious and cultural sites;
 - (vi) Conducting border monitoring duties as required; and
 - (vii) Providing support, on a case-by-case basis, to the international community and key civil implementation organizations, in the fulfilment of their respective mandates;
 - (g) Supervise, monitor and have executive authority over the KSF until the Force is judged by the IMP, in coordination with the ICR, to be self-sustaining and capable of fulfilling its assigned tasks in accordance with international standards;
 - (h) In consultation with the ICR and Kosovo, have executive authority over the KPC, and to decide on the timing of the KPC's dissolution;
 - (i) Continue the established practice of the current Joint Implementation Commission with the Republic of Serbia. Over time, the activities of the Joint Implementation Commission will be subsumed by a new Joint Military Commission with authorities from Kosovo and the Republic of Serbia to address military security issues of common concern;

(j) Establish confidence-building measures between the KSF and defence institutions of the Republic of Serbia, in coordination with the ICR;

(k) In the longer term, remain engaged with the KSF to provide advice aimed at Kosovo's further integration into Euro-Atlantic security structures and the involvement of elements from the security force in internationally mandated missions;

(l) Support the development of structures and expertise in Kosovo to ensure the effective civilian control and management over the KSF, in particular in the areas of strategy development, force planning, personnel management, Planning, Programming and Budgeting (PPBS), exercise planning and procurement.

2. The IMP will operate under the authority and be subject to the direction and political control of the North Atlantic Council through the NATO Chain of Command. The IMP shall have a unified chain of command.

3. In fulfilling the IMP's responsibilities, the Head of the IMP shall have the authority, without interference or permission, to do all that he/she judges necessary and proper, including the use of military force, to protect the IMP and other designated personnel and to carry out its responsibilities. The Head of the IMP is the final authority in theatre regarding military tasks of the IMP.

4. The IMP will have the following authorities:

(a) The right to carry out its responsibilities as it deems appropriate, including the use of all necessary force where required and without further sanction, interference or permission;

(b) The right to exercise complete and unimpeded freedom of movement throughout Kosovo, by any means;

(c) The right to re-establish immediate and full military control of the airspace (or parts thereof) should military requirements so dictate. The Head of the IMP will ensure that Civil Aviation Authority of Kosovo is fully informed about any such decision;

(d) The right to conduct inspections of premises and facilities in connection with the fulfilment of its tasks;

(e) The right to approve and supervise, in coordination with the ICR, the establishment of all non-police, security-related forces proposed by Kosovo;

(f) The right to take action as it deems appropriate in support of its mandate.

5. In all cases, the authorities of the IMP will be kept under review and, after consultation with the relevant parties and decision by the NAC, adjusted accordingly, on a case-by-case basis, as Kosovo institutions develop capacity and increase ownership and responsibility.