



# SPECIAL REPORT

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## ABOUT THE REPORT

This report stems from an informal task force convened over several months under the chairmanship of Daniel Serwer, director of the Balkans Initiative at the United States Institute of Peace, to consider the full range of options for Kosovo's final status. Serwer prepared the introduction, Part I. The report of the task force itself is Part II (members are listed on page 18). There emerged from the task force's work a consensus that cross-border issues, whatever the status of Kosovo, would be important and need better definition. University of Maine professor Louis Sell, who catalyzed the consensus, prepared Part III of this report.

**The views expressed in this report do not necessarily reflect those of the United States Institute of Peace, which does not advocate specific policies.**

## Kosovo Final Status Options and Cross-Border Requirements

### Briefly . . .

- Kosovo's final status, left undecided at the end of the Yugoslavia-NATO war in June 1999, will need to be discussed sooner than the international community anticipates; a roadmap will need to be drawn and the issue decided within the next three to five years.
- This discussion should begin with an examination of a wide range of options, including those described and evaluated in Part II of this report.
- Two options can be ruled out as unrealistic: immediate independence, and return of Kosovo to Belgrade's rule.
- A third option should be ruled out as inimical to international peace and security: a regional rearrangement of borders in an attempt to accommodate ethnic differences.
- There remain a range of outcomes and procedures, none of which stands out as obviously preferable to others.
- Negotiations over final status should include direct discussions between governing authorities in Belgrade and Pristina with international facilitation.
- U.S. leadership is essential if negotiations are to succeed.
- Improved security and economic development are required in the interim, as provided for in UNMIK's benchmarks.
- Whatever the decision, cross-border arrangements will be required to ensure Kosovo's interests as well as those of its neighbors and other international partners.

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## PART I: INTRODUCTION

Officials in Europe and the United States are today agreed on putting off the question of Kosovo final status indefinitely. It is generally asserted that there is no solution in sight, that nothing can be gained from discussing it, and that there is a great deal else that needs to be done in the meanwhile to advance reform in Serbia and autonomous governance in Kosovo. Premature discussions of the issue, it is believed, can only cause frictions and exacerbate still-sensitive wounds stemming from Milosevic's crackdowns in Kosovo and the NATO-Yugoslavia war. The parties most directly involved, both in

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Belgrade and Pristina, are also not pressing the issue urgently, the former because it is hard to picture much to be gained and the latter because the Kosovo Albanians have largely accepted the notion that it is a good idea to use the interim period to build a viable governing structure, which they believe will lead eventually to independence.

Underlying the reluctance to deal with Kosovo final status in the international community is a conviction that the task is too difficult, the international community too divided, and the situation not ripe. Sympathy for Kosovo independence is significantly higher in Washington outside the U.S. government than in most European capitals, a number of which have domestic political reasons for not wanting to approve any moves towards independence by an ethnically distinct province. Many Europeans and some Americans would like to avoid further disintegration of Yugoslavia now that Milosevic is gone. The absence of major violence has given the international community a breathing space, allowing it to return to ignoring Kosovo's status, as it has in the past.

## Final Status Cannot Be Put Off for Long

Neither Serbs nor Albanians are likely to stick for long to their reluctance to engage on the issue of final status. In Belgrade, many have already come to believe that Serbia would be relieved of a burden if it could get rid of Kosovo, or at least the part that is majority Albanian. The issue will be forced higher on the agenda because Yugoslavia wants to apply for European Union membership by 2004. The European Union will need to know whether Yugoslavia will enter with or without Kosovo. While a comparable issue was fudged with respect to Cyprus when it applied, it is unlikely that the European Union will make that mistake again. If Yugoslavia's application entails free movement within the European Union, that will make an enormous difference to how and when the application is taken up. Western Europe will not welcome free circulation of more than 1.5 million Albanians. In Kosovo, the more successful the building of democratic institutions of self-governance, the more quickly the issue of status will arise among the Albanians.

Already in Pristina, final status lies just beneath the surface and emerges through surrogates. The Kosovo Assembly's recent vote against the Yugoslav-Macedonian border demarcation agreement is best understood as an indicator of pro-independence sentiment among the Albanians. Discouraged by the United Nations Mission in Kosovo (UNMIK) from addressing the status issue directly, the assembly found another way to signal Albanian determination to achieve independence. The Kosovo prime minister has warned, with good reason, that ignoring the status issue will strengthen extremists willing to resort to violence. Conversely, if Albanian politicians are expected to cooperate in combating extremists who advocate immediate independence and in jailing "spoilers," they will have to be able to argue that doing so will accelerate progress toward a decision on final status.

Status issues are already constraining the privatization process and hindering economic development. How will Kosovo be able to deal with borders and border controls, citizenship, drug and other trafficking, regional cooperation on organized crime, and a host of other issues without status being resolved? The lack of clarity about Kosovo's status poisons relations between Serbs and Albanians and complicates international and local efforts at political and economic reform.

This report was prepared in the conviction that not much time is left before officials will have to begin confronting final status issues in one form or another. We thought it best to use the time available to clarify the options and the procedures by which a decision could be made. We hope the report will help to encourage rational discussion and dialogue on final status issues within the region, between the United States and the European Union, and among UN Security Council members, especially Russia and China.

It should be noted, with regret, that this report treats the issue of final status without considering ethnic groups other than Serbs and Albanians. This over-simplification does not affect the main lines of the analysis, but it should be clear that no outcome that fails to protect the rights of all minorities is a good one.

## Belgrade and Pristina Will Have to Agree

Russia and China are important because of their veto power in the UN Security Council. Kosovo today is an international protectorate under Security Council Resolution 1244. Any legal change in Kosovo's status will entail a new Security Council resolution. Russia and China each have their own reasons for not wanting to see Kosovo gain independence—namely the precedent that could be set for Chechnya or Tibet. Serbia's concurrence to a new status for Kosovo will convince the Russians and Chinese to allow a new resolution to pass.

This leads quickly to the conclusion that Belgrade and Pristina will have to come to an agreement on Kosovo's final status. If they do, and Belgrade requests Russian and Chinese support, a new Security Council resolution can pass. A negotiated solution seems necessary in any event, since the stability of the outcome will depend on both Belgrade and Pristina agreeing. Kosovo will not be able to defend itself from a hostile Serbia, and Serbia will not be able to achieve a role in Kosovo that the vast majority of the population opposes. Stability after withdrawal of the international protectorate therefore requires that Belgrade and Pristina come to a mutually acceptable accommodation.

Belgrade and Pristina cannot come to such an accommodation on their own. It is crucial for a stable outcome that the interests of regional parties—Kosovo's nearest neighbors (Albania, Montenegro, Macedonia) as well as Bosnia-Herzegovina—be taken into account. The United Nations, European Union, and NATO must also be involved: they already play important roles in Kosovo, and all Balkan countries see the European Union and Partnership for Peace as their desired destination. Nor can the United States walk away from the Kosovo final status issue. Its recent interventions in the region and its political and diplomatic weight with both Belgrade and Pristina make it an essential, central player. A stable outcome—one that would allow withdrawal of U.S. troops—requires that the United States be prepared to take the lead in finding a solution.

## Narrowing the Range of Options

Much of the discussion of Kosovo final status in the Balkans revolves around two options that in fact need not be on the table because they are unrealistic. On the one hand, Kosovo will not be able to gain immediate independence, as many Albanians might like. Even in the United States, where sympathy for the aspirations of the Albanians is strong outside the administration, it is recognized that immediate independence is not in the cards. On the other hand, the notion of returning Kosovo to governance by even a democratic regime in Belgrade is equally unrealistic, much as some in Serbia and in Europe would like it. As a first step toward a reasonable discussion of viable options, the United States and the European Union would do well to narrow the range of options by explicitly ruling out these two extremes and thereby encourage Belgrade and Pristina to focus on a more realistic range of options.

This range is still quite broad. On one extreme, there is independence guaranteed after a fixed time period, or at some unspecified time in the future if Kosovo meets specific standards of governance. On the other extreme, there is continuation of the existing protectorate, or perhaps handing it off to the European Union, thus denying Kosovo any prospect of achieving independence in the foreseeable future. In between, there are options that would allow for continuation of some sort of association between a more

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or less independent Kosovo and Serbia, or that allow for a softer or harder partition of Kosovo and southern Serbia, as well as options that preserve nominal Yugoslav or Serbian sovereignty. It is also possible to consider procedural options whose outcome is not defined. This is what the Dayton peace conference did with the intractable issue of Brcko, a town in northeastern Bosnia whose status was decided by arbitration.

These options need to be defined with precision and examined in a dispassionate way. This is what we have tried to do, looking at each with the following criteria in mind: consequences for regional stability; legitimacy with the local populations; viability with the major international parties; implications for democracy, refugee returns, and human rights; and the need for international military and civil missions. We have also tried to examine the process for adoption and implementation of each option, as well as the implications for U.S. policy. None of the options stands out as a clear winner overall, though several members of the task force had clear preferences; the analysis is useful in weighing the alternatives and thinking about the issues involved.

## Cross-Border Arrangements Are Crucial

*Thinking through the options, it becomes clear that cross-border arrangements might remove some of their downsides, and that in any event such arrangements would be needed to make any of the options a stable outcome.*

Thinking through the options, it becomes clear that cross-border arrangements might remove some of their downsides, and that in any event such arrangements would be needed to make any of the options a stable outcome. Louis Sell in Part III discusses the cross-border issues that will necessarily arise: security and status of the Serbs who live in Kosovo or want to visit; status and protection of Serb property, historic sites, and monuments; definition and guarantees of Kosovo's borders with its neighbors; trade and customs regimes; cross-border travel of Albanians; citizenship of Kosovo's residents and former residents; and Kosovo security and security cooperation with its neighbors. These are all issues that will arise no matter what Kosovo's juridical status, and some of the issues can be discussed even without a definition of final status. If Belgrade and Pristina can define mutually acceptable solutions, they will ease the process of finding an outcome acceptable to both.

The process by which that outcome is reached needs further definition. Belgrade—*anxious to create new facts on the ground and avoid an explicit discussion of status—seems ready to begin discussion of practical issues, but Pristina—concerned that interim solutions may postpone a resolution of status—does not.* Belgrade's influence over the Kosovo Serbs and the continued presence of paramilitary elements in Mitrovica make the Albanians hesitant to engage. It will be an important part of UNMIK's responsibilities to ensure that the Albanians are prepared for discussions with Belgrade. The UNMIK "benchmarks," which are concrete milestones by which the United Nations will assess progress toward its ultimate goals, are an important first step in the right direction. There will also need to be an international mediator—whether this is the United Nations, the European Union, the United States, or some combination thereof is still uncertain. And there will need to be a forum in which regional parties can ensure that their vital interests are taken into account even if they cannot determine the outcome. Belgrade will welcome such a forum, hoping that it will rule out eventual independence, because of the concerns of Macedonia in particular and the possible implications for Bosnia-Herzegovina. The international mediator or mediators will need to ensure that Macedonia's and Bosnia's interests are protected, but without giving them a veto over the outcome.

The time has come to begin, outside official circles, a discussion of final status issues. We hope with this paper to stimulate that discussion and to begin a broad-ranging examination of the issues. Then, when the time comes for a more official discussion, a wealth of analysis will be available and many issues will have been clarified.



*The international community should undertake some specific, immediate tasks regardless of the decision on final status, including encouraging Belgrade-Pristina dialogue and a start at constructing regional arrangements.*

## **PART II: FINAL STATUS OPTIONS AND IMPLICATIONS**

An Institute task force (members listed at the end of the report) examined options for Kosovo's final status and their implications for U.S. policy after September 11. While no clear preference emerged, the participants agreed that: (1) neither immediate independence nor renewed exercise of sovereignty from Belgrade are viable options; (2) cross-border and regional arrangements will be necessary features of any final status; and (3) regional rearrangement of borders should be ruled out. Participants suggested that the international community should undertake some specific, immediate tasks regardless of the decision on final status, including encouraging Belgrade-Pristina dialogue and a start at constructing regional arrangements.

### *Why Kosovo Still Matters*

- Balkans regional stability, including prevention of terrorism and organized crime
- potential for democratic governance in a largely Muslim context
- U.S. leadership, NATO viability and cohesion, and credibility of the United Nations and the Organization for Security and Cooperation in Europe (OSCE)
- U.S. military readiness and availability for other missions
- impact on relations with Europe and Russia
- avoiding and alleviating humanitarian disasters

### *Salient Features of the Strategic Environment*

- post-September 11 commitment to the war against global terrorism
- need to hasten the day when troop drawdown will not destabilize the region
- Europe willing to assume leadership in the Balkans, with U.S. seeking a supporting role
- self-governance developing, but process incomplete, especially rule of law
- Albanian independence aspirations and refusal to participate in Serbian institutions
- Serbian aspirations for sovereignty and EU candidacy in 2004
- continuing potential for violence in Kosovo and on its periphery
- incomplete democratic transitions in both Belgrade and Pristina
- Albanian and Serbian perception that U.S. military presence is essential for stability

### *Criteria for Evaluating Final Status Options*

- consequences for regional stability
- legitimacy with the local population
- viability with the major interested international parties
- implications for democracy, refugee returns, and human rights
- continuing requirement for international military and civil missions

Options that resolve final status soon reassure investors and improve economic prospects. Independence options free Yugoslavia/Serbia of a burdensome obstacle to EU membership. Non-independence options avoid disintegration of Yugoslavia.

### *Basic Choices Faced by International Community*

- maintain existing borders and protect minorities (Options 1–7)
- move borders to create more ethnic homogeneity (Option 8)

## Option 1: Kosovo Remains a Protectorate Indefinitely

UNMIK or the European Union would continue to oversee increasing Kosovo autonomy in the absence of any process to determine final status. No decision point or process would be specified for deciding on sovereignty, independence, or UN membership.

### *Criteria*

*Regional stability:* Problems exist, but the risks so far have proven manageable so long as Kosovo Force (KFOR) is in place. Requires KFOR vigilance in southern Serbia and Macedonia.

*Legitimacy:* Serbs will want UN role; Albanian extremists may resist violently if final status is delayed indefinitely, UNMIK maintains authority, or European Union becomes the protector.

*Viability:* International community prepared to stay, with the possible exception of the United States, but postponement of final status will inhibit investment and economic development.

*Democratization/Refugees:* Current slow progress in the right direction might be halted if Albanians see indefinite postponement of final status decision.

*International missions:* International military presence would have to be open-ended.

### *Process for Adoption and Implementation*

- Current protectorate will continue unless modified.
- Switching to a formal EU protectorate would require a new Security Council resolution.
- Albanians, viewing the European Union as anti-independence, would ask for assurances concerning final status, perhaps conditional independence or by a date certain (Option 6 or 7).
- Serbs, fearing loss of Russian veto, would want continuation of Security Council authority.
- Shift of protectorate from the United Nations to the European Union would therefore open up final status issues.

### *Implications for U.S. Policy*

- Continuation of UN protectorate requires U.S. engagement indefinitely, but possibly lower troop levels if the situation calms further.
- The United States would have to deliver both Albanian and Serbian agreement to EU protectorate.
- Difficult negotiations with European Union might lead to continuing U.S. commitments.
- The United States would have to accept end of EU protectorate on terms decided by the Europeans.

## Option 2: Cantonization/Decentralization

Serb enclaves govern themselves under de facto (not necessarily de jure) Yugoslav sovereignty, regardless of Kosovo's status; this is a "soft" partition scenario.

### ***Criteria***

*Regional stability:* Albanians might ask similar autonomy in Macedonia/southern Serbia.

*Legitimacy:* Many Kosovo and Belgrade Serbs would accept; Albanians would resist.

*Viability:* Might prove acceptable as a compromise in the international community.

*Democratization/Refugees:* Encourages Serb returns, though not all to their original homes. Allows separate democratic institutions, but complicated to administer.

*International missions:* Indefinite military requirements around enclaves; continuing Albanian resistance likely.

### ***Process for Adoption and Implementation***

- Kosovo is already evolving in this direction.
- Serb-Albanian negotiations under UNMIK; U.S. pressure on Albanians.
- Peacekeepers would be required to protect Serb areas and guard Kosovo borders.

### ***Implications for U.S. Policy***

- Efforts to consolidate Bosnian and Macedonian states should be redoubled.
- The United States should not press for reunification of Mitrovica or UN authority in the north.
- Establishment of multi-ethnic Kosovo administration not important.
- Belgrade efforts to maintain authority in the north should not be resisted.
- Return of Serb internally displaced persons (IDPs) and refugees to Albanian-majority areas should no longer be encouraged.

## **Option 3: Loose Federation**

Belgrade retains nominal sovereignty, but Kosovo functions as an independent state within current borders although without separate UN membership (like Montenegro).

### ***Criteria***

*Regional stability:* Avoids a formal change of sovereignty and borders.

*Legitimacy:* Serbs would accept if cantonization/decentralization (Option 2) is included, but Albanians want UN membership and would resist, perhaps with violence.

*Viability:* International community might accept, but practical problems of property ownership and citizenship would be considerable.

*Democratization/Refugees:* Some Serb returns, but Albanian resistance would continue; Albanians will refuse to participate in any Belgrade governing structure.

*International missions:* Reduced civilian-military requirements possible.

### ***Process for Adoption and Implementation***

- Negotiations between Serbs and Albanians under UNMIK.
- The United States would have to pressure Albanians to accept nominal Serb sovereignty and give up on UN membership.
- Security Council approval not required.
- Peacekeepers would be required to protect Serb areas and to guard Kosovo borders.



### *Implications for U.S. Policy*

- The United States should emphasize that independence and sovereignty can be separate issues.

## **Option 4: Commonwealth**

Belgrade retains nominal sovereignty, but Kosovo functions as an independent state within current borders and with separate UN membership (like Canada or Australia).

### *Criteria*

*Regional stability:* Preservation of a tie between Kosovo and Serbia would reduce regional concerns.

*Legitimacy:* Serbs would resist UN membership and equality between Serbia and Kosovo, and Albanians would resist nominal sovereignty.

*Viability:* International community would like to see some tie between Kosovo and Serbia maintained, even a nominal one.

*Democratization/Refugees:* Serb returns unlikely, unless combined with cantonization/decentralization (Option 2).

*International missions:* Reduced civilian-military requirements possible.

### *Process for Adoption and Implementation*

- Negotiations between Serbs and Albanians under UNMIK, but the United States would have to pressure Albanians to accept continuing tie to Serbia.
- Security Council approval required.
- Peacekeepers would be required to protect Serb areas and to guard Kosovo borders.

### *Implications for U.S. Policy*

- The United States would have to convince Russians and Chinese to allow UN flag for Kosovo.
- The United States should emphasize that independence and sovereignty can be separate.

## **Option 5: Decision by an International Panel by a Date Certain**

An international panel would determine final status within a fixed period (for example, three years); there would be no guarantee of eventual independence. The outcome would be conditional on the performance of Serbs and Albanians with respect to specific criteria. These could include democratic self-governance, participation in Kosovo institutions, respect for human rights, return of refugees and displaced persons, and responsible regional behavior.

### *Criteria*

*Regional stability:* Gives Serbs and Albanians stakes in promoting regional stability.

*Legitimacy:* Both Serbs and Albanians would object, and one or the other would likely be unhappy with the decision.

*Viability:* International community leverage increased; removing decision from Security Council avoids direct friction with Russia and China.

*Democratization/Refugees:* Increases incentives for co-existence, refugee returns, and respect for minority rights, but extremists unlikely to moderate their behavior.

*International missions:* Residual international military presence needed at least until the decision and probably thereafter, but drawdowns might be possible.

### ***Process for Adoption and Implementation***

- The Security Council would have to establish the panel and commit to accepting its decision.
- Composition of the panel would have to be negotiated with the European Union and Russia but could include both a Serb and an Albanian (without giving either a veto).
- The panel would be given direction on the criteria to be considered and leeway to decide on special arrangements, as was the case for the Brcko arbitration.

### ***Implications for U.S. Policy***

- Rather than focusing on the final status outcome, the United States would participate in a process that will allow a reasonable decision to be made.
- If the United States wants more control over the outcome, it could seek to name the chair of the panel, as it did with the Brcko arbitration.
- Incentive for both Serbs and Albanians to behave well would reduce burdens on the United States and international community generally.

## **Option 6: Conditional Independence**

With unchanged borders, Kosovo would progress toward independence, contingent on demonstrated democratic self-governance, respect for minority rights, and responsible behavior in the region. The guarantee that Kosovo will not return to Belgrade rule would match a commitment that Kosovo will not seek to expand its boundaries or de-stabilize neighbors. The international community would provide security guarantees for minorities and refugee return. Independence would be the ultimate endpoint, including Kosovo control of foreign policy, budget, public security, and the judicial system. The UN special representative would retain veto power over issues relating to protection of minority rights and external borders during the transition period. An international force would still be needed indefinitely for external security. A small, local armed civil defense force would back up the Kosovo Police Service.

### ***Criteria***

*Regional stability:* Gives Albanians a stake in regional stability but gives nationalist Serbs an incentive to slow progress and seek similar arrangement for Republika Srpska.

*Legitimacy:* Assurance of independence provides legitimacy with some Albanians, but it is not clear that extremists would accept conditionality.

*Viability:* International community leverage lessened by ensuring independence up front.

*Democratization/Refugees:* Increases incentives for co-existence, refugee returns, and respect for minority rights through linkage with Albanian desire for independence.

*International missions:* Residual international military presence could be open-ended.

## *Process for Adoption and Implementation*

- The United States, Britain, and the European Union announce that conditional independence is the preferred option after encouraging the Kosovo and Belgrade leaderships to accept it as a way to put the issue in the past.
- The Kosovo Status Council—including the United States, European Union, Russia, other major donors, and elected officials from Belgrade and Pristina—is established in 2002 and is responsible for setting and evaluating progress on conditions.
- The council initially addresses practical issues to be resolved in any future relationship, then moves to consultations on final status, preferably in an international meeting.
- Eventual independence would require a Security Council resolution changing resolution 1244.

## *Implications for U.S. Policy*

- The United States must remain engaged, both to ensure proper fulfillment of conditions and to back continuing international presence.
- The United States will also have to convince China and Russia to go along.
- Consultations on this approach should begin with the Europeans as soon as possible.
- The United States would have to insist on this approach with Belgrade, which will resist.
- UNMIK efforts to establish authority throughout Kosovo, establish Kosovo-wide administration, and return IDPs and refugees home should be redoubled.
- Efforts to consolidate Bosnian and Macedonian states should be redoubled.

## **Option 7: Independence Within Existing Borders at a Date Certain**

After an agreed period (perhaps three years) of increasing self-rule under international supervision, Kosovo would become an independent state within its current borders. Kosovo Serbs would get internationally guaranteed rights and broad local autonomy. Before independence, Kosovo would establish cooperative trans-border political, economic, and security relationships with neighboring states. International monitoring would continue for a limited period after independence.

### *Criteria*

*Regional stability:* Some Albanian extremists might continue efforts for Greater Albania; Serb resistance to Pristina authority in the north and the push for partition would increase.

*Legitimacy:* Albanians would fulfill their major goal; Serbs would view this option as illegitimate, creating conditions for a new conflict, though some in Belgrade will feel relieved of a burden.

*Viability:* Many in the international community would resist “unearned” independence, especially if Albanian treatment of Serbs does not improve sharply.

*Democracy/Refugees:* This option would increase Kosovo Serb departures, especially outside of northern Serb strongholds, although local autonomy or cantonization/decentralization (Option 2) could induce some Serbs to remain.

*International missions:* Strong international effort would be required; regional arrangements could allow eventual reduction of foreign military presence; civilian monitoring would need to remain longer.

### *Process for Implementation*

- U.S.-European agreement to pursue independence by a date certain and provide incentives to Belgrade and Kosovo Serbs.
- Negotiations, under international lead, between Belgrade and Kosovo Albanians, with participation of neighboring states.
- Continued strong international military and civilian presence for a transition period.

### *Implications for U.S. Policy*

- U.S. leadership required to sell the idea to Russia, China, and some Europeans.
- Active U.S. engagement in negotiation and implementation.
- Need to counter possible anti-reform backlash in Belgrade and possible regional spillover to neighboring hotspots, such as Macedonia and Republika Srpska.
- Successful accord vindicates U.S.-led intervention and allows reduced U.S. presence.

## **Option 8: Independence with Partition**

Three northern municipalities—Zvečan, Zubin Potok, and Leposavic—as well as Mitrovica north of the Ibar River would go to Serbia. The other 26.5 municipalities would constitute an independent Kosovo state. Albanian-dominated areas of southern Serbia would become part of Kosovo. Willing Serbs and other minorities would be assisted in moving. Kosovo Serbs who stay (and others who want it) would be granted dual citizenship. The KFOR mission would support this movement, then redeploy along new Kosovo borders. Key Trepca mining components would go to Serbia, but parts would remain under Albanian control. UNMIK would become a smaller advisory mission.

### *Criteria*

*Regional stability:* Destabilizing precedent for Bosnia, Macedonia, and Serbia. Albanians would still want Trepca. Serbs would want Serb sites south of the Ibar and Presevo.

*Legitimacy:* Partition would be compensation for Serbia to accept Kosovo's independence; independence would be necessary for Albanians to accept partition. Future of 50,000 Serbs in southern Kosovo jeopardized.

*Viability:* International community would resist opening "Pandora's box" of partition, which it avoided in the past; support for resettlement uncertain.

*Democratization/Refugees:* About 200,000 Serbs and others would lose their homes. Serbia and Kosovo could proceed with democratization but on a more mono-ethnic basis.

*International missions:* Short-term increase in demands on KFOR and UNMIK to manage ethnic separation; if successful, accelerated reduction in international role possible.

### *Process for Adoption and Implementation*

- Once interim administration is functioning, the Security Council would signal willingness to accept partition provided it does not affect territorial integrity of Macedonia and Bosnia.
- Albanians and Serbs would meet with international mediators to decide precise terms.
- Arrangements for Trepca and Serb sites in the south would be negotiated.
- The Security Council and a conference with neighboring states would ratify final settlement.

### *Implications for U.S. Policy*

- Efforts to consolidate Bosnian and Macedonian states should be redoubled.
- The United States should not press for reunification of Mitrovica or UN authority in the north.
- Implementation of southern Serbia agreement not a priority.
- Establishment of multi-ethnic Kosovo administration not a priority.
- Belgrade efforts to maintain authority in the north should not be resisted.
- Return of IDPs and refugees to their homes in Albanian areas should not be encouraged.

### **Required International Actions Regardless of Final Status**

It will take some time to sort through the options outlined above and come to an international consensus on what is best. Any decision on final status is some time in the future, though likely not more than five years. In the meanwhile, the international community needs to undertake the following actions.

#### *Dialogue between Pristina and Belgrade*

- Start with immediate issues (cooperation on missing persons, returns, property).
- Develop mechanism for conflict management and advancing common interests (for example, exploitation of Trepca complex).
- Then address problems created by uncertain final status (extradition, mutual legal assistance, visas, privatization).
- Build momentum and confidence in the process before tackling final status.

#### *Security*

- Safeguard Serbs and other minorities.
- Provide sanctions for failure to act against perpetrators of inter-ethnic violence, and reward protection of minority rights.
- Prepare for follow-on force for KFOR by determining requirements (counter-terror, criminal investigation, surveillance, high-risk arrest, close protection, rapid reaction).
- Develop EU capability (for example, Italian Carabinieri, Spanish Guardia Civil, French Gendarmes) to meet these requirements.
- Create constructive missions for KPC or its successor, including international disaster relief, and build capacity of Kosovar government for democratic oversight.
- Improve recruiting of Serb and international judges, prosecutors, and police/penal supervisors.
- Use international judges to try war criminals, spoilers, and others responsible for inter-ethnic violence.

#### *Economic Development*

- Commercialize/privatize former socially owned enterprises.
- Develop reliable power generation and payment collection capability.
- Ensure Kosovo government can generate revenue, collect taxes, and control borders.

## *Political*

- Focus assistance to elected leaders on building capacity for democratic self-governance and coping with inter-ethnic violence and organized crime.
- Assist non-elected elites as well, especially journalists, women, academics, human rights and democratization NGOs, and others in civil society.

*None of the options listed above can be successful without attention to the regional context, and cross-border arrangements could well be decisive in determining success or failure.*

## **PART III: CROSS-BORDER REGIONAL ISSUES**

None of the options listed above can be successful without attention to the regional context, and cross-border arrangements could well be decisive in determining success or failure.

This part of the report looks at some of the underlying issues, including trade, travel, and other forms of human contact; Kosovo's external security and the security of its neighbors; and the Serb community and monuments in Kosovo. It highlights cross-border regional issues that will have to be addressed together with final status, and it concludes with a specific proposal for a comprehensive regional accord.

### **Open Borders**

An important element of Kosovo's future status will be rules governing trade, travel, communications, and all other forms of human contact among the countries of the region. The mutual understanding, reconciliation, and prosperity that must be the foundation of any lasting settlement will require the maximum possible openness in the flows of people, goods, and information.

There is already a considerable amount of trade between Kosovo and its neighbors, including Serbia. Some is open and above board. Much, however, is either openly criminal or involves the avoidance of customs or taxes. The challenge will be to draw trade and other forms of contact into open, legal, and taxable channels while fostering cooperation among the authorities of the region in combating illegal flows of goods, money, and people.

Persisting distrust, the legacy of war, and continued economic backwardness will make these issues difficult for all parties. Serbs, for example, will seek the maximum freedom of movement between Serbia and Serb settlements and monuments in Kosovo but they may be leery of allowing large numbers of Albanians to enter Serbia. Kosovo will be torn between pressures to encourage economic cooperation with its neighbors and pressures to protect its fledgling industries, still recovering from the effects of Serb occupation, war, and delayed implementation of reforms.

Regardless of the final status option chosen, Kosovo and its neighbors will have to work out rules governing a wide range of matters affecting cross-border trade and economic cooperation:

- tariffs and other matters affecting trade and commerce
- currency rules
- transportation, communication, and tax rules

Human contacts between the people of Kosovo and their neighbors will also have to be addressed. Ideally, resolution of Kosovo's final status should be accompanied by agreements making the region as open as possible to the free flow of people, information, and travel. The agreements should include:

- maximum freedom of movement between Kosovo and its neighbors
- rules governing the mutual recognition of passports, visas, and internal documents
- measures to encourage the flow of information, especially in the media

Kosovo and its neighbors need an institutional framework that will allow economic cooperation and the free and transparent flow of goods, capital, and labor across regional boundaries. A necessary precondition is internal economic and legal reform in all of the countries of the region. Equally important will be establishing a common approach toward relations with the European Union.

All countries of the region say that “joining Europe” is one of their highest priorities, although it may not be clear what is really involved. Kosovo already has something of a special relationship with the European Union by virtue of using the Euro as its legal currency. Serbia has stated its intention to apply for EU membership in 2004. Nevertheless, membership in the European Union or even full associate status for Kosovo, Serbia, and other neighboring countries seems highly unlikely in the foreseeable future.

At present each country in the region looks directly to Brussels to work out its own relationship with the European Union. This is unlikely to change. The Kosovo Albanians are particularly allergic to anything that seems to imply that their path toward Europe lies through Belgrade. Nevertheless, Kosovo should be given to understand that its future relationships with the European Union depend not just on its own political and economic reform but also on cooperation with its neighbors. It is important that regional cooperation not be seen as an alternative to Europe, as condemning the countries of the region to a second-class ghetto. Rather, the international community should encourage the notion of regional cooperation as a way for all countries of the region to move together toward Europe.

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## Security for Kosovo and Its Neighbors

Any discussion of Kosovo's future security needs to take account of several realities:

- Kosovo is too small to provide for its own security in its tough neighborhood.
- Kosovo Albanians will not want Belgrade to play an active role in Kosovo's security.
- Kosovo can never be truly secure unless its status is accepted by Belgrade.
- Security for Kosovo can only be assured on a regional basis.
- There can be no lasting security for the region until Kosovo is stable and secure and presents no security threat to its neighbors, in particular Macedonia but also Serbia.

Provided that Kosovo is not returned to rule by Belgrade and does not remain indefinitely as an international protectorate, any final status deal will need to provide for Kosovo's external security, and that will require some form of international commitment. This commitment could include a range of options, from a continued—but smaller—international military presence, an over-the-horizon international military force having as one of its missions protection of Kosovo's security, to an international security guarantee for Kosovo that did not have a dedicated military component.

Kosovo Albanians understand that they alone cannot provide for Kosovo's security. They believe that NATO—and especially the United States—should play a permanent role in Kosovo's security, which they view primarily in terms of the threat from Belgrade and, to a lesser extent, the threat from potential instability in neighboring areas. Kosovo Albanians look at the impressive U.S. military facility at Camp Bondsteel and persuade themselves that the United States intends to retain a military presence there indefinitely. As Kosovo Albanians gain increasing control over their own self-governance, they would be willing to offer the United States—and other NATO members—virtually anything they wish in terms of permanent basing rights in order to assure continued NATO presence.

At the same time, as Kosovo assumes growing authority over its own affairs, Kosovo Albanians will want a role in their own security, including through the creation of a small Kosovo armed force responsible at least for border security. Kosovo Albanians see the Kosovo Protection Corps (KPC) as the nucleus of a future Kosovo military, but if international skepticism about the KPC proves too strong Albanians would be willing to see

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an entirely new force created. In either case, given recent history, a Kosovo military force is likely to be dominated by former Kosovo Liberation Army (KLA) fighters.

Some Kosovo Albanians have been thinking about the future shape of a Kosovo military, which they see as a small, professional force modeled on NATO lines. Kosovo Albanians will seek the closest possible ties between their own military and NATO. To the extent that the European Union develops its own military capabilities, Kosovo Albanians will also seek some military links with it but their preference will be to concentrate on NATO because of the U.S. lead role there and because of Albanian skepticism about France and other nations pushing the EU military wagon.

Serbs, on the other hand, are strongly opposed to any separate Kosovo military force. Belgrade opposes anything that goes beyond the “substantial autonomy” allowed in UN Security Council resolution 1244. But Belgrade understands that Kosovo could not provide any serious military threat to Serbia. In the context of an otherwise acceptable political deal, Belgrade could probably be brought to accept a modest Kosovo military force, provided it was tightly associated with NATO.

Kosovo Serbs, on the other hand, have real reasons to fear any Kosovo military, which would inevitably be dominated by Albanians and probably be led by men associated with the KLA. It is hard to imagine any substantial numbers of Serbs remaining in a Kosovo that had its own military unless a substantial and active foreign military force also remained in Kosovo. It would also be necessary to establish special provisions for any Kosovo military force regarding its access to Serb areas and the role of Kosovo Serbs in it. These provisions would only be taken seriously by both sides if they were monitored and enforced by a robust foreign military presence.

Kosovo could also present a security threat to its neighbors, as it did in 1999–2001, first by exporting guerrillas to southern Serbia and later by exporting them to Macedonia.

In sum, negotiations about Kosovo's future status must consider the following issues:

- the size, mandate, duration, and sponsorship of foreign military presence in Kosovo
- the type of military force the new Kosovo will be allowed and the rules governing its relationship to the Kosovo Serb community
- the relationship any Kosovo military security forces would have with NATO and other international bodies, including the European Union
- guarantees for the security of Kosovo's neighbors, in particular Macedonia and Serbia

## Serbs and Serb Monuments in Kosovo

The position of Serbs in Kosovo will be a major issue in the negotiations over Kosovo's future status. All options will feature full guarantees for Serb political, economic, cultural, and other rights. Nevertheless, a coldly realistic view of the future would judge it unlikely that significant numbers of Serbs will remain in Kosovo under any option that would put them under rule by Albanians. Most Serbs say they would flee Kosovo under any such option and there is no reason not to take them at their word; just as there is no reason not to take Albanians at their word that they would fight or flee any option that returned them to Belgrade's rule. The Serb community in Kosovo, moreover, has been declining for centuries and this process of ethnic homogenization (paralleled by the decline in the numbers of Albanians living compactly in Serbia proper) is unlikely to be reversed in the future, if only because few Serbs see much economic prospect for them in Kosovo.

Options such as partition or cantonization/decentralization (Option 2) would explicitly remove Serbs in the separated or cantonized areas from the de facto jurisdiction of Pristina. Most Serbs living outside these areas would probably flee, either voluntarily or under pressure by resentful Albanians, as would any Albanians remaining in the Serb areas.

Nevertheless, a few Serbs are likely to remain in Kosovo under any final status out-



come. Any agreement, therefore, even one based on ethnic separation, must include full guarantees for the security and rights of Serbs that remain. It will also be important to include provisions guaranteeing Serbs in Kosovo special rights of contact with Serbia, such as visa-free travel, mutual recognition of travel documents, and access to Serb media and cultural matters. A mechanism to resolve residential property claims will also be an important part of any settlement, especially the ethnic separation options. A way to document and provide prompt compensation for residential property transfers would be an important element in allowing people in both ethnic groups to put the past behind them and get on with their lives. Resolving business property claims is also extremely important but this is best handled under economic aspects of an overall agreement.

No matter how many Serbs stay in Kosovo, Serb religious and historical monuments will remain. A certain number of Orthodox religious figures will also remain, at least at the key shrines of Pec, Decani, and Gracanica. The fate of the Serb sites is a legitimate object of interest to Belgrade and—in view of their artistic and historical importance—to the entire world. Any option on Kosovo's future political status must ensure that these sites are protected, that the religious figures and other individuals associated with them can live and work in safety, and that Serbs and other non-Albanians can visit them freely and safely.

The most reliable way to protect Serb sites—perhaps the only reliable way over the long term—is for the Kosovo Albanian people and government to accept the responsibility of doing so. Given time—and a solution to Kosovo's final status that Kosovo Albanians regard as equitable—this is not an unobtainable goal. For the foreseeable future, however, it is unlikely that Serbs or internationals would feel comfortable entrusting security over Serb shrines to Kosovo Albanians.

There are, then, two options (not necessarily exclusive) for providing security to Serb sites in Kosovo: continued international engagement, and a limited Serb security presence. Although there have recently been some modestly hopeful signs that the security climate for Serbs in Kosovo could be improving, for now some kind of international security presence will be necessary to safeguard Serb sites. Over time, and provided Kosovo appears to be moving toward a resolution of the final status issue that would be broadly acceptable to most Albanians, it should be possible to reduce the size of KFOR contingents guarding Serb sites, to protect more sites through mobile patrols, and to give increasing responsibility to non-military units, such as police and neighborhood watch groups.

It is also possible that some form of Serb security presence—something between symbolic and modest—could be introduced to provide greater security confidence for Serb sites in Kosovo. As with all other aspects of Kosovo's future status there is a balance here. The more secure Albanians themselves feel about Belgrade and the more comfortable they are with the final political settlement, the more willing Albanians will be to grant legitimate Serb security requests in Kosovo.

It is possible, therefore, that in the context of an otherwise acceptable political settlement, Albanians would accept some kind of limited extraterritorial rights for a few of the most important Serb shrines—the monasteries of Pec, Decani, and Gracanica and the Kosovo Polje battlefield site, for example. It is also possible that a small, non-military Serb security presence would be accepted at these sites, provided its size and mission were strictly limited and it was not seen as the thin end of a wedge to introduce more Serb forces into Kosovo. This would be more acceptable to Albanians if the settlement included some form of international security guarantees and, still better, an international security presence in Kosovo.

## **A Comprehensive Regional Approach**

As negotiations over Kosovo's future status begin, it will become increasingly evident that all the issues affecting the future of Kosovo and its neighbors can best be addressed

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in a comprehensive regional framework. Kosovo and its neighbors can only be truly secure in the context of a secure region, and resolution of Kosovo's future status will inevitably touch on other issues affecting regional security, including downsizing and bringing under civilian control the Serb military, determining the degree of integration of Presevo into Serbian political life, and preserving Macedonia as a single state.

Regional cooperation would reflect common elements that international involvement has brought to the region. These include efforts to introduce political values associated with a civil society; the encouragement of civil, criminal, and commercial codes based on these values across the region; encouragement of economic reform and a market economy; and common training in a variety of important fields such as police. The desire of all entities in the region for a closer relationship with the European Union will also be a powerful factor favoring regional cooperation, in view of the need to adopt EU rules, standards, and principles.

Regional cooperation can also help smooth out political problems beyond Kosovo. Serbs in Bosnia or Albanians in Macedonia, for example, might be less insistent on using the creation of an independent Kosovo as an excuse for separation from their respective states if Kosovo were embedded in a broad framework of regional cooperation.

Specific elements of a comprehensive regional approach would include the following:

- A single economic zone among participating states, in which people, goods, labor, capital, and information moved freely across borders. It would include agreements on phasing out tariff and non-tariff barriers to trade; harmonization of currency, customs, tax, labor, and transportation regimes; a single approach toward economic reform and privatization; and implementation of EU standards for investment, intellectual property, and dispute settlement.
- Political agreements guaranteeing inviolability of borders, minority rights, protection and access to religious and cultural monuments; contacts between minority groups and "home" states; and free flow of cultural information and contacts.
- A security pact using the Treaty on Conventional Armed Forces in Europe (CFE) and the Vienna Document (Negotiations on Confidence- and Security-Building Measures) as models that would provide for limits on troops and certain categories of weapons, pledges of the non-use of force, and confidence-building measures.

A regional approach would have concentric circles of possible members. At its narrowest it could include Serbia, Montenegro, and Kosovo, each as an independent state but closely linked through regional ties. The regional approach could also usefully include the former Yugoslav states of Bosnia and Macedonia. (It is virtually certain that the other former Yugoslav states, Slovenia and Croatia, would not wish to join.) Albania could also be included but this might raise objections from Serbia, Montenegro, and Macedonia.

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For more information on this topic, see our web site ([www.usip.org](http://www.usip.org)), which has an online edition of this report containing links to related web sites, as well as additional information on the subject.

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*Serbia Still at the Crossroads* (Special Report 84, March 2002)

*Taking Stock and Moving Forward: Intervention in the Balkans and Beyond* (Special Report 83, February 2002)

*Albanians in the Balkans* (Special Report 77, November 2001)

*Whither the Bulldozer? Nonviolent Revolution and the Transition to Democracy in Serbia* (Special Report, August 2001)

*American Civilian Police in Peace Operations* (Special Report, July 2001)

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