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Kosovo's Future Status and U.S. Policy

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Summary

The future status of Kosovo is the most sensitive and potentially destabilizing political question in the Balkans. The Administration views “getting Kosovo right” as key to integrating the Balkans into Euro-Atlantic institutions. This report discusses the issue of Kosovo’s future status; that is, whether it should become an independent country or continue to be part of Serbia, but with a large degree of autonomy. Talks on Kosovo’s status began in February 2006 and are expected to be concluded by the end of the year. The second session of the 109th Congress may consider legislation on Kosovo’s status. This report will be updated as events warrant. For more on the current situation in Kosovo, see CRS Report RL31053, *Kosovo and U.S. Policy*, by Steven J. Woehrel and Julie Kim.

Background

The current status of Kosovo is governed by U.N. Security Council Resolution 1244, passed in June 1999 at the end of the Kosovo conflict. The resolution authorizes an international military and civilian presence in Kosovo, the duration of which is at the discretion of the Security Council. The NATO-led peacekeeping force KFOR is charged with maintaining a secure environment, while the U.N. Mission in Kosovo (UNMIK) is given the chief role in administering Kosovo on a provisional basis. The resolution provides for an interim period of autonomy for Kosovo of undefined length, until negotiations on the future status of the province take place. UNMIK is tasked with gradually transferring its administrative responsibilities to elected, interim autonomous government institutions, while retaining an oversight role.

UNMIK will oversee the transfer of authority from the interim autonomous institutions to permanent ones, after Kosovo’s future status is determined. UNSC Resolution 1244 provides little insight into how the status issue should be resolved, saying only that it should be determined by an unspecified “political process.” However, the resolution explicitly confirms the territorial integrity of the Federal Republic of Yugoslavia (consisting of Serbia and neighboring Montenegro) and calls for “substantial autonomy” for Kosovo “within the Federal Republic of Yugoslavia.” (The FRY has since dissolved, and Serbia and Montenegro are now independent countries.)

For almost five years, the international community administered Kosovo while pressing the Kosovo government to implement a number of “standards,” many dealing with minority rights, before future status could be determined. However, this approach suffered a serious blow in March 2004. After the death of two ethnic Albanian boys blamed on Serbs near the divided city of Mitrovica, ethnic Albanian crowds attacked several ethnic Serb enclaves as well as international security forces trying to control the rioters. In the course of two days, 19 civilians were killed, more than 900 persons were injured, and over 4,000 forced from their homes by the violence. The riots called into question the performance of UNMIK and KFOR, as well as Kosovo’s government institutions and media. According to U.N. officials and independent observers, one impact of the riots was to accelerate consideration of Kosovo’s status. In 2005, the United States began to push strongly for the opening of talks on Kosovo’s status and for final status to be determined by the end of 2006.

U.N. envoy Kai Eide submitted a report to U.N. Secretary General Kofi Annan in October 2005 on whether Kosovo had made “sufficient progress” in implementing the standards for status talks to begin.¹ According to both Serbian and ethnic Albanian officials, the Eide report provided a relatively accurate and balanced assessment of the situation in Kosovo. The report praised Kosovo’s achievements in setting up political and economic institutions. On the other hand, it noted that the economic situation in the province is “bleak;” that Kosovo’s police and judicial system suffer from serious weaknesses; and that the prospects for a multi-ethnic society are “grim.” Nevertheless, Eide recommended that status talks should begin, noting growing impatience with the status quo among ethnic Albanians and “Kosovo fatigue” within the international community. UNMIK has been turning over powers to the Kosovo government and is cutting staff in anticipation of a status agreement.

Negotiations on Kosovo’s Status

The main issue in the status talks, according to U.S. officials, is whether Kosovo should be independent or continue as a part of Serbia with a great measure of autonomy.² Kosovar leaders have said that they view their region’s independence as non-negotiable. They say independence for Kosovo would respond to the political preferences of the overwhelming majority of the province’s inhabitants and all of the ethnic Albanian parties in Kosovo’s parliament. They insist that the only issues to be discussed are the terms under which the international community will recognize that independence. The Serbian government position and that of Kosovo Serb leaders is that Kosovo must never become independent. This view is backed by an all-party consensus in the Serbian parliament. Serbian leaders have encapsulated their current position on status with the phrase “more than autonomy, but less than independence.”

¹ For a text of the October 7, 2005, Eide report, see the U.N. website at [http://www.un.org/Docs/sc/unsc_presandsg_letters05.htm].

² Statement of Undersecretary Nicholas Burns before the Senate Foreign Relations Committee, November 8, 2005, [<http://www.state.gov/p/us/rm/2005/56602.htm>].

In November 2005, U.N. Secretary General Kofi Annan appointed Martti Ahtisaari of Finland to lead the status talks. In December 2005, the Administration announced that diplomat Frank Wisner would represent the United States at the status negotiations.

In January 2006, the international Contact Group (composed of the United States, Britain, France, Germany, Italy, and Russia) released a statement on the future of Kosovo. It ruled out a return of Kosovo to full Serbian control as well as any partition of Kosovo or any union of Kosovo with any country or part of another country. The statement stressed that “effective provisions for the decentralization of the Kosovo government will be crucial to the status settlement.” The Contact Group also said the settlement needs to address such issues as “freedom of movement, transparent and constructive links between local communities in Serbia and Kosovo, mechanisms for resolving the fate of missing persons and a specific package of measures for protection of religious communities and sites.” The Contact Group added that arrangements for good relations between Serbia and Kosovo, and within the region, had to be a part of a status settlement. The Contact Group stressed that “all possible efforts should be made to achieve a negotiated settlement in the course of 2006.”³

The talks began in Vienna in February 2006. The talks have thus far dealt with so-called “technical issues” that are meant to prepare the way for tackling the determination of future status. These include protecting cultural and religious sites, financial issues such as deciding Kosovo’s share of Serbia’s debts, the redrawing of the borders of Kosovo’s municipalities, and the decentralization of Kosovo’s government. Ahtisaari and his deputies have refrained from making specific proposals, instead permitting the Serbian and Kosovar delegations to put forth and discuss their own views. The positions of the two sides are far apart on most issues, and little movement toward compromise solutions has been seen thus far.

Perhaps the most important issue dealt with so far in the talks has been the decentralization of Kosovo’s government. The Serbs have proposed the creation of a large number of Serb-majority municipalities within Kosovo, based on the Serb population of Kosovo before most Serbs fled the province in 1999 and on the location of Serbian cultural and religious monuments. The Serbs also sought the division of the northern city of Mitrovica, separating its Serb-majority part north of the Ibar River from the ethnic Albanian-dominated southern part. These municipalities would be controlled by local Serb authorities, with their own police, and would be closely linked with each other and with Serbia. In contrast, the Kosovar Albanians have offered to permit the creation of only a handful of Serb municipalities, based on Kosovo’s current Serbian population, and have demanded that Mitrovica be at least nominally united.⁴

On July 13, 2006, Ahtisaari reported to a closed session of the Security Council on the progress of the negotiations. The leaders of Kosovo and Serbia may meet to start

³ “Statement by the Contact Group on the Future of Kosovo,” January 31, 2006, website of the U.S. Office in Kosovo, [<http://pristina.usmission.gov>].

⁴ *Reuters* news agency dispatch, May 4, 2006.

talks on the status issue during the last week in July. Some sources say that Ahtisaari intends to present a draft status settlement to the Security Council by November 2006.⁵

Possible Outcomes

U.S. officials, while declining to publicly support any particular outcome on the status issue, have insisted strongly that the talks be concluded by the end of 2006. In contrast, Russian officials have objected to setting deadlines for a settlement. China, although less vocal, has expressed similar concerns. Ahtisaari has conceded that if the talks “go a bit over to the next year, then we have to live with that.”⁶ Russian officials have also warned that if Kosovo is permitted to become independent, it would set a precedent for breakaway regions in the former Soviet Union.⁷ Moscow has supported the de facto autonomy of statelets within Georgia, Moldova, and Azerbaijan, but has refrained from granting them diplomatic recognition as independent states. U.S. officials have rejected the Russian view, saying that the outcome in Kosovo would not have any relevance to other parts of the world.

Given the strongly opposed views of the Serbian and Kosovar sides, the United States and its allies may be faced with an politically embarrassing deadlock in late 2006, such as occurred at the failed Rambouillet negotiations that preceded the NATO bombing campaign against Serbia in 1999. A move by the United States or other countries to endorse independence without the support of Russia or the Security Council could provoke recriminations such as those that bedeviled international policy in the Balkans in the 1990s. If the Serbian side rejected a proposed settlement based on independence, it might prevail upon Russia to threaten to veto a Security Council resolution endorsing it.

On the other hand, Russia could be reluctant to isolate itself on the issue, particularly since the presence of U.S. and European troops and administrators means that the EU and the United States have more influence on the situation on the ground in Kosovo than Russia has. Some observers have asserted that Western countries are working on a draft U.N. Security Council resolution that would not explicitly mention independence but would leave each country free to decide to recognize Kosovo’s independence on its own. Others say that the resolution is being crafted to apply to Kosovo only and to avoid establishing principles that could be applied in other parts of the world.⁸

Some observers have speculated that Serbia’s hard-line stance against independence may be a negotiating tactic, with a possible fall-back position that would try to secure a partition of Kosovo, with northern Kosovo formally becoming part of Serbia and the rest becoming independent. However, the United States and other members of the Contact Group have ruled out a partition of Kosovo. Serbian leaders may also seek or be offered

⁵ *Reuters* news service dispatch, July 17, 2006.

⁶ *Agence France Presse* news service dispatch, May 17, 2006.

⁷ Mayak Radio interview with Russian Deputy Foreign Minister Grigory Karasin, June 24, 2006, as translated by *BBC Monitoring*.

⁸ “Elections, Then Kosovo,” Serbian newspaper *Politika*, April 27, 2006, as translated by *BBC Monitoring*.

other forms of compensation, such as easier terms for NATO and EU membership, or at least increased aid from these institutions and their member countries. Serbian experts realize that such concessions, even if offered by the international community, may lack credibility due to “enlargement fatigue” in many European countries, among other factors.⁹

Moreover, Serbian experts warn that the current political situation in Serbia may make any concessions on its part difficult. The Serbian government holds a narrow and unstable majority in parliament, and new elections are possible in 2006. (The term of the current Serbian parliament does not expire until late 2007.) If there is a backlash against a Kosovo settlement, the ultranationalist Radical Party is expected to benefit, perhaps even take power. Some Western diplomats reportedly have expressed interest in delaying a final status settlement a few months so that Serbia can have more time to hold elections before possible Kosovo independence.¹⁰ Some European countries may also want additional time to enhance the chances of the EU and Serbia concluding a Stabilization and Association agreement (a key stepping-stone to eventual EU membership), feeling that an SAA could soften the blow of losing Kosovo for the Serbs.

Serbia could attempt to destabilize the situation on the ground in Kosovo if independence is imposed. Belgrade has already discouraged the participation of Kosovo Serbs in the Kosovo central government and UNMIK. In June 2006, local Serb authorities in northern Kosovo announced they were cutting ties to UNMIK and the Kosovo government, due to violence against Serbs, and called for the deployment of police from Serbia to their region. Some analysts fear that Serbia could unilaterally attempt to partition northern Kosovo or encourage Serbs to leave Kosovo in large numbers. KFOR has reopened a base in northern Kosovo, perhaps to prepare for such contingencies.

Some experts fear that an independent Kosovo could encourage separatism among ethnic Albanians in Macedonia, as well as areas in southern Serbia bordering Kosovo, where many ethnic Albanians live. Some ethnic Albanian leaders in southern Serbia have called for their regions to be annexed to Kosovo, in the event of Kosovo’s independence. In addition, Bosnian Serbs, perhaps encouraged by Serbia, could attempt to break away from Bosnia and Herzegovina.

The Contact Group’s leverage over the Kosovar Albanian side to accept an indefinite postponement of a status settlement or any solution other than independence may also be limited. Kosovar leaders know that the international community has little desire to administer Kosovo indefinitely, particularly given the possibility that the ethnic Albanian majority in Kosovo could become hostile to the international presence if their demands for independence continue to be rejected. However, Kosovo’s continued need for diplomatic recognition, aid, and security guarantees may be important levers for the international community. The United States and other Contact Group countries are pressing the Kosovo government to make more progress on minority rights and other standards while status talks are ongoing.

⁹ Discussions with experts on Serbia.

¹⁰ “Negotiations May Not End This Year,” Kosovar Albanian newspaper *Koha Ditore*, June 30, 2006, as translated by *BBC Monitoring*.

In addition to brokering the status settlement, the international community will need to determine the areas of responsibility and the powers of a follow-on mission to UNMIK. The European Union is widely expected to lead the civilian effort. Although it is clear that such an international mission will not have the sweeping administrative powers of UNMIK, it is uncertain whether it will have a purely advisory function or whether it will have some enforcement or disciplinary powers, such as those currently possessed by the international High Representative in Bosnia. The EU mission will likely focus primarily on police and justice issues. NATO is expected to continue to perform the role of providing security in Kosovo for some time after a status settlement. U.S. and other Western experts note that, whatever the outcome of the status talks, Kosovo will continue to be faced with challenges that threaten its stability, including high unemployment, poverty, and organized crime and corruption.

Congressional Concerns

The issue of Kosovo's future status has been of significant interest to Members of Congress. Some Members favor independence for Kosovo as soon as possible. They say Kosovars should enjoy the same right of self-determination enjoyed by other peoples in the region and throughout the world. On the other hand, other Members are more skeptical about pushing strongly for Kosovo independence in the near future. They say that moving too quickly could destabilize the situation in the Balkans. They favor continuing to press the people of Kosovo to implement the standards.

The 109th Congress has taken up the issue of Kosovo's status. On January 4, 2005, Representative Tom Lantos introduced H.Res. 24, which expresses the sense of the House that the United States should support Kosovo's independence. On October 7, 2005, the Senate passed S.Res. 237, a resolution supporting efforts to "work toward an agreement on the future status of Kosovo." The resolution said that the unresolved status of Kosovo is not sustainable. It did not express support for any particular status option but said that it should "satisfy the key concerns" of the people of Kosovo and Serbia and Montenegro. An identical House resolution was introduced on December 17, 2005 (H.Res. 634). The second session of the 109th Congress may also consider legislation on Kosovo's status.