



CRS Report for Congress

Kosovo's Future Status and U.S. Policy

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Summary

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. The future status of Kosovo is the most sensitive and potentially destabilizing political question in the Balkans. The United States and its main European allies favor independence for Kosovo. They have been working on the draft of a UN Security Council resolution on Kosovo's status for several months. However, a resolution has not yet been put to a vote due to Russian objections to any provision that would open the way to Kosovo's independence. The first session of the 110th 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. U.N. Security Council 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. Ethnic Albanian mobs 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. In November 2005, U.N. Secretary General Kofi Annan appointed Martti Ahtisaari of Finland to lead status talks. In December 2005, the Administration announced that diplomat Frank Wisner would represent the United States at the status negotiations.

Negotiations on Kosovo’s Status

The main issue in the status talks, according to U.S. officials, has been whether Kosovo should be independent or continue as a part of Serbia with a great measure of autonomy.¹ 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 (over 90% of Kosovo’s population is ethnic Albanian) 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 remain part of Serbia. This view is written into Serbia’s constitution. Serbian leaders have encapsulated their position on status with the phrase “more than autonomy, but less than independence.”

The talks began in Vienna in February 2006. They at first dealt with so-called “technical issues” that were 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 to conform to Serb-majority areas, and the decentralization of Kosovo’s government to provide more autonomy for Serb-controlled municipalities. The positions of the two sides were far apart on most issues, and little movement toward compromise solutions occurred. Ahtisaari presented a draft of his proposed settlement of the status question to the Serbian and Kosovo governments on February 2, 2007. U.N. Secretary General Ban Ki-Moon submitted Ahtisaari’s final proposal to the Security Council on March 26, 2007.

¹ Statement of Undersecretary Nicholas Burns before the Senate Foreign Relations Committee, November 8, 2005, [<http://www.state.gov/p/us/rm/2005/56602.htm>].

U.N. Envoy Ahtisaari's "Comprehensive Proposal for the Kosovo Status Settlement"

Ahtisaari's proposed status settlement calls for Kosovo to become an independent country, supervised by the international community.² Kosovo would have the right to conclude international agreements and join international organizations. It would have the right to set up its own "security force" and intelligence agency. However, Kosovo would not be permitted to merge with another country or part of another country.

The document contains provisions aimed at safeguarding the rights of ethnic Serbs and other minorities in Kosovo. Six Serbian-majority municipalities, some new or with altered borders, would be given expanded powers over their own affairs. They would have the right to form associations with each other and receive transparent funding from Belgrade. Local police would still be part of the centralized Kosovo Police Service, but the composition of the police in a municipality would have to correspond to the local ethnic mix and the local police commander would be chosen by the municipality. Government bodies and the judiciary would also have to reflect Kosovo's ethnic composition. Kosovo would have a new constitution that would guarantee minority rights. Laws of special interest to ethnic minorities could only be approved if a majority of the minority representatives in the parliament votes for them. The plan includes measures for the protection of Serbian religious and cultural sites and communities in Kosovo.

If Ahtisaari's proposal goes into effect, UNMIK's powers would be transferred to the Kosovo government after a four-month transition period. During this time, Kosovo would approve a new constitution and laws to implement the settlement. After UNMIK's powers were terminated, a new International Civilian Representative (ICR) would oversee Kosovo's implementation of the plan. The role and powers of the ICR appear to be modeled on those of the international High Representative in Bosnia. The ICR would be chosen by an international steering group of key countries. The ICR would have to be from an EU country, as he or she would also serve as EU Representative in Kosovo. An American would serve as his or her deputy. The ICR would be the final authority on the implementation of the settlement, and would have the power to void any decisions or laws he or she deemed to be in violation of the settlement, as well as the power to remove Kosovo government officials who act in a way that is inconsistent with the settlement. The ICR's mandate would last until the international steering group determines that Kosovo has implemented the settlement. The first review of settlement implementation would take place after two years.

A EU mission would monitor and advise the Kosovo government on all issues related to the rule of law, specifically the police, courts, customs officials, and prisons. It would also have the ability to assume "limited executive powers" to ensure that these institutions work effectively, as well as to intervene in specific criminal cases, including by referring them to international judges and prosecutors. The proposal envisions that

² Ahtisaari's report to Secretary General Ban Ki-Moon on the plan can be found at [http://www.un.org/Docs/sc/unsc_presandsg_letters07.htm]. It provides Ahtisaari's reasoning on why Kosovo should become independent, as well as a summary of the Comprehensive Settlement. An addendum provides the full text of the plan.

KFOR would continue to provide security in Kosovo after a status settlement takes effect. It would also have authority over the new Kosovo Security Force.

Almost all Serbian leaders from across the political spectrum have sharply rejected the Ahtisaari proposal because it endorses independence for Kosovo. In contrast, ethnic Albanian leaders in Kosovo, while not pleased about continued international supervision and other aspects of the plan, have supported it because of its endorsement of their long-cherished goal of independence.

The Administration strongly supports Ahtisaari's proposal and Kosovo's independence, which it views as inevitable. In testimony before the House Foreign Affairs Committee on April 17, 2007, Undersecretary of State Nicholas Burns said that the United States and its allies would submit a draft Security Council resolution that would replace Resolution 1244 and endorse the Ahtisaari plan.³ In contrast, Russia has been sharply critical of Ahtisaari's proposal. Russian officials have objected to what they see as an effort to rush a settlement and have insisted that any proposal have the support of Serbia as well as the Kosovar Albanians.

In the past few months, the United States and its allies in the Security Council have reportedly drafted many versions of a Security Council resolution that would clear the way for Kosovo's independence. However, none of them have been put to a vote, due to Russian objections. The most recent version reportedly calls for a 120-day period of further negotiations between the Kosovo government and Serbia. It also calls for the implementation of the parts of the Ahtisaari plan that do not touch on the issue of independence, such as the replacement of UNMIK by the EU-led international presence.⁴

Possible Outcomes

Serbia is urging Russia to veto any Security Council resolution endorsing the Ahtisaari plan, or any resolution that could be interpreted as opening the way to Kosovo's independence, even if independence is not explicitly mentioned. If the Security Council remains deadlocked on the status issue, the United States could be faced with a dilemma. One option would be to accept a politically embarrassing deadlock that would leave the status issue in limbo. Another would be for Kosovo to declare independence, and for the United States, the EU, and other countries to recognize it without the support of a new Security Council resolution. However, a few EU countries are reportedly opposed to independence for Kosovo. Many others, even those in favor of the Ahtisaari plan and Kosovo's independence, are reportedly very reluctant to recognize Kosovo without a prior resolution. A unilateral move by the United States to recognize Kosovo might therefore create tensions in U.S.-EU relations. In addition, the EU itself could be split between those countries recognizing Kosovo and those opposed, an outcome EU leaders are keen to avoid.

³ For a text of Burns's remarks, see the State Department website at [<http://www.state.gov/p/us/rm/2007/83120.htm>].

⁴ "New U.N. Resolution Sidesteps Kosovo Independence," Reuters news agency dispatch, July 11, 2007.

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.⁵ 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. Serbian leaders have echoed this theme, playing on the concerns of some countries in Europe and elsewhere about the precedent Kosovo's independence could set for possible secessionist forces on their own territories. U.S. officials have rejected these views, saying that the outcome in Kosovo would not have any relevance to other parts of the world.

Serbia could attempt to destabilize the situation on the ground in Kosovo if Kosovo's independence is recognized. Some analysts fear that Serbia could encourage efforts to formally separate Serb-majority parts of northern Kosovo from the rest of the province. This could trigger conflict with ethnic Albanians in Mitrovica and elsewhere in Kosovo. Serbia could also urge Kosovo Serbs to leave the province in large numbers. Even if Serbia does not try to destabilize Kosovo, possible Western recognition of the province's independence could lead Serbia to sharply condemn the United States and EU countries, even break off or freeze diplomatic ties, leading to delays in Serbia's integration into Euro-Atlantic institutions.

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 given autonomy within Serbia or even annexed to Kosovo, in the event of Kosovo's independence. Some analysts express concern that Serbia could encourage Bosnian Serbs to attempt to break away from Bosnia and Herzegovina.

The international community's leverage over the Kosovar Albanian side to accept a lengthy postponement of independence may be limited. Kosovar Albanian leaders know that the U.N. has little desire to administer the province indefinitely, particularly given the possibility that the ethnic Albanian majority in Kosovo could become hostile or even violent toward the international presence if their demands for independence continue to be rejected. Kosovo Liberation Army veterans groups in Kosovo and Macedonia have warned that they are ready to resume the fight for Kosovo's independence if peaceful means for achieving this goal remain blocked.

Kosovar leaders have been dismayed by the failure of the Security Council to adopt a resolution clearing the way for Kosovo's independence, due to Russia's rejection of any solution that does not have Serbia's approval. They have criticized U.S. and European proposals to hold another four months of status talks with Serbia as pointless, since they view Kosovo's independence as non-negotiable. They have called on the United States and the European Union to agree to set a firm deadline by which the Security Council would adopt such a resolution. If the deadline passes without a resolution, Kosovo would declare independence unilaterally, with the support of the United States and EU countries.

⁵ Mayak Radio interview with Russian Deputy Foreign Minister Grigory Karasin, June 24, 2006, as translated by *BBC Monitoring*.

However, Kosovo's need for diplomatic recognition, aid, and security guarantees may be important levers for the international community. So far, Kosovar leaders have stopped short of saying that they would declare independence unilaterally, without support from the United States and European Union countries. U.S. and other Western experts note that, whatever the outcome of the status issue, Kosovo will continue to be faced with challenges that threaten its stability, including high unemployment, poverty, and organized crime and corruption.

Some observers have called for Kosovo to be partitioned, part of it joining Serbia and the rest an independent Kosovo. Despite their previous opposition to partition, some EU governments have refused to rule it out, but would accept it only if it is proposed by and agreed to by both Serbia and Kosovo. However, this appears unlikely to occur, as the Kosovars strongly oppose any partition. Serbia would likely only accept a partition that would give it much more territory in Kosovo than the small region in the north of the province already in its de facto control. This would be completely unacceptable to the Kosovars.

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. They are concerned about the Kosovo government's shortcomings on minority rights and other issues and about the impact Kosovo's independence could have on Serbia's democracy and regional stability.

The 109th Congress took 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).

Legislation on Kosovo's status has been introduced in the 110th Congress. On January 5, 2007, Representative Lantos introduced H.Res. 36, which calls on the United States to express its support for Kosovo's independence. On March 29, 2007, Senator Lieberman introduced S.Res. 135, which expresses the sense of the Senate that the United States should support Kosovo's independence. It says that if the U.N. Security Council does not pass a resolution supporting the Ahtisaari proposal in a timely fashion, the United States and like-minded countries should recognize Kosovo's independence on their own. A companion House measure, H.Res. 309, was introduced by Representative Engel on April 17. On May 24, Representative Bean introduced H.Res. 445, which expresses the sense of the House that the United States should reject an imposed solution on Kosovo's status and not take any unilateral steps to recognize Kosovo's independence.