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# 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 are expected to recognize Kosovo's independence in early 2008. Many reports suggest that Kosovo's declaration of independence could come as early as February 17. The move would spark the heated objections of Serbia and Russia. Several pieces of legislation on Kosovo's status were introduced in the first session of the 110th Congress. The second session of the 110th Congress may also consider legislation on Kosovo's status or Kosovo's post-status development. 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 Julie Kim and Steven Woehrel.

## 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.

The main issue in the status talks, according to U.S. officials, was 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 offered Kosovo broad autonomy, but have insisted on retaining sovereignty over the province.

The talks began in Vienna in February 2006. 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 own 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.

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[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 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 be part of the centralized Kosovo Police Service, but their composition would have to correspond to the local ethnic mix and the local police commander would be chosen by the municipality. Central 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.

After UNMIK is withdrawn, an International Civilian Representative (ICR), heading an International Civilian Office (ICO), 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 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 mission under the EU's European Security and Defense Policy (ESDP) 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 KFOR would continue to provide security in Kosovo after a status settlement takes effect. It would have authority over the new Kosovo Security Force.

Almost all Serbian leaders from across the political spectrum sharply rejected the Ahtisaari proposal because it endorses independence for Kosovo. In contrast, ethnic

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[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].

Albanian leaders in Kosovo, while not pleased about continued international supervision and other aspects of the plan, supported it because of its endorsement of their long-cherished goal of independence.

In the months after Ahtisaari submitted his plan to the U.N. Secretary General, the United States and its allies prepared several versions of a draft Security Council resolution that would replace Resolution 1244 and endorse the Ahtisaari plan. During a June 2007 visit to Albania, President Bush warned against "endless dialogue" on Kosovo's status, saying that "sooner rather than later, you've got to say enough is enough, Kosovo is independent."[3] However, in July 2007, the United States and its allies abandoned these efforts at a new resolution, after Russia made clear that it would veto any resolution that would open the way to Kosovo's independence.

In an effort to break the deadlock, the United States, the European Union, and Russia brokered additional negotiations between the Serbs and Kosovars. The effort, dubbed the "troika," got underway in August 2007. The "troika" reported to the U.N. Secretary General on December 10, 2007 that they were not able to persuade the two sides to reach a settlement. In their December 2007 EU summit declaration, EU leaders said that the "troika" negotiation process had been "exhausted" and that the status quo in Kosovo is "unsustainable." In a statement to a Security Council meeting on Kosovo on December 20, U.S. Ambassador Zalmay Khalilzad echoed these views. He added that the Ahtisaari plan should be implemented with the support of the United States and EU. In January and February 2008, U.S. officials continued to call for a prompt resolution of Kosovo's status and implementation of the Ahtisaari plan.

## Possible Outcomes

In the wake of the failure of the Kosovo status negotiations, one option would be to accept a politically embarrassing deadlock that would leave the status issue in limbo indefinitely. Another would be for Kosovo to declare independence, and for the United States and European Union countries to recognize it without the support of a Security Council resolution.

Kosovar leaders have said that they plan to declare independence in the near future, but only in coordination with the United States and European Union countries. Most observers agree that the United States and most EU countries are moving toward the recognition of an independent Kosovo in early 2008 without a U.N. Security Council resolution. Serbian officials, as well as many press reports quoting unnamed Western diplomats, say that they expect Kosovo's declaration of independence to occur as early as February 17, 2008. Kosovo would then implement the Ahtisaari plan, with the help of the EU and the United States. However, some EU countries – the ones most often cited are Greece, Cyprus, Slovakia, Romania, and Spain – are opposed to recognizing Kosovo's independence. These countries are either traditional allies of Serbia, or have minority populations for whom they fear Kosovo independence could set an unfortunate precedent, or both.

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[3] Transcript of President Bush's press conference with Albanian President Sali Berisha, June 10, 2007, from the State Department website [http://www.state.gov].

The EU has reportedly convinced those EU countries opposing Kosovo's independence to not block the deployment of the ICO and the ESDP rule-of-law mission (dubbed EULEX), which would start soon after Kosovo declares independence. (The United States will also contribute personnel to these organizations.) However, there is the question of how these EU-led missions will relate to UNMIK, which the United States and its allies will want to have withdrawn after a 120-day transition period foreseen in the Ahtisaari plan.

Russian officials have warned that if Kosovo is permitted to become independent, it would set a precedent for breakaway regions in the former Soviet Union, as well as for possible secessionist movements in the EU and elsewhere in the world.[4] Serbian leaders have echoed this theme. U.S. and EU officials have rejected these views, saying that the outcome in Kosovo would not have any relevance to other parts of the world.

Kosovo's independence could lead to ethnic conflicts on the ground. Some analysts fear there could be violence between Serbs and Albanians in divided northern town of Mitrovica and elsewhere in Kosovo, perhaps instigated by extremists on both sides. This could cause large numbers of Serbs to leave the province, particularly those not living in the areas of northern Kosovo controlled by Serbia.

Serbia could attempt to destabilize the situation on the ground in Kosovo if Kosovo's independence is recognized. The Serbian government reportedly plans to cut transportation and communications links with ethnic Albanian-controlled parts of Kosovo, if Kosovo declares independence. Even if Serbia does not try to destabilize Kosovo, possible Western recognition of the province's independence will likely lead Serbia to sharply condemn the United States and EU countries and downgrade 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 sabotage the functioning of Bosnian central government institutions, or even to attempt to break away from Bosnia and Herzegovina, if Kosovo's independence is recognized.

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 are rejected.

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[4] Since the 1990s, 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. Some analysts have expressed concern that Russia would use Kosovo independence as a pretext to recognize them. On February 11, 2008, Russian First Deputy Prime Minister Sergei Ivanov denied that Russia would recognize such regions "the next day" after Kosovo's independence.

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.

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. This appears unlikely to occur, as the Kosovars strongly oppose any partition. Serbia would likely only accept a partition that would give it 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. However, Serbia will likely continue to control areas of northern Kosovo after independence, creating an indefinite, de facto partition.

## 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.