



# SPECIAL REPORT

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## ABOUT THE REPORT

Kosovo today is an international protectorate created by UN Security Council Resolution 1244, which foresees establishment of substantial autonomy and self-governance under the aegis of the UN Mission in Kosovo (UNMIK) followed by a decision on final status. In the three and a half years since the NATO/Yugoslavia war, officials have generally avoided discussion of Kosovo final status and sought to postpone the decision foreseen in resolution 1244. At the same time, pressures are building and many informed observers believe that a decision will be needed sooner rather than later, but certainly within the next two to five years. Continuing to defer the matter will increase the risk of future conflict.

The U.S. Institute of Peace convened an off-the-record meeting December 5, 2002 to discuss the process of deciding Kosovo's final status. Under the chairmanship of Daniel Serwer, director of the Balkans Initiative, European Union and North American officials and non-official participants assessed the current state of affairs in Kosovo in relation to other ongoing processes in the Balkans, discussed what process could move the issue of Kosovo forward, and considered next steps in the process. Participation in this brainstorming session was personal, not organizational. Nothing was decided—only discussed. This report is a summary of many of the points made. It was prepared by Serwer and research assistant Sloan Mann.

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

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## Kosovo Decision Time

### How and When?

#### Briefly . . .

- Although a decision is still several years off, it is more than time to begin thinking about how a decision on Kosovo final status will be made and to start the process.
- The unresolved status of Kosovo hurts investment, slows Serb returns, and generates Albanian unrest and distrust of the international community.
- Status should be decided by negotiation between Belgrade and Pristina, with strong participation of the United States and European Union, before a crisis forces the issue.
- The UNMIK benchmarks should be linked to a decision on final status.
- The critical unfulfilled benchmarks are democratic self-governance, return of refugees and displaced people, and respect for the rule of law.
- Also important is dialogue between Pristina and Belgrade on issues other than final status. This should begin in 2003, with support from UNMIK.
- Once this dialogue begins, proactive consultations on the next steps should begin among the United States, European Union, United Nations, and Russia, with a view to starting final status negotiations by 2005 at the latest.
- The United States should focus on ensuring regional security and international support for a negotiated agreement, which should be reached before U.S. troops are completely withdrawn.
- The European Union holds key incentives—assistance and eventual membership.
- A way needs to be found to clarify Kosovo's road to Europe, enabling it in effect to participate in the Stabilization and Association Process (the EU approach to preparing Balkan countries for eventual integration).
- Once status is decided, the European Union should take over responsibility for Kosovo.
- Russia's participation in the process will help ensure its support for the outcome.
- Final status will require predetermined guarantees for minorities, for Kosovo's neighbors, and for Bosnia.
- The final status solution should be approved by the UN Security Council.

## Where Are We Today?

The overall situation and prospects in the Balkans are much improved in the three and a half years since the NATO/Yugoslavia war. Positive regional developments that affect the Kosovo final status issue include:

- democratic governments throughout the region, most importantly in Belgrade
- free and fair elections in Kosovo as well as establishment of the Provisional Institutions of Self-Government (set up in accordance with UN Security Council resolution 1244), with some Serb participation
- NATO accession by Romania and Bulgaria and the hope of eventual membership by Western Balkan countries
- intensified practical cooperation across national borders by municipalities as well as by national governments
- the positive example of EU-U.S.-Greek-Turkish cooperation, with UN leadership, aimed at resolving the Cyprus issue
- at least temporary resolution of the Serbia-Montenegro relationship
- acceptance by the European Union that Balkans integration into Europe rather than just stabilization or reconstruction is the eventual goal

At the same time, the situation is not altogether rosy. Serious negative developments that affect the Kosovo final status issue include:

- faltering economic progress and collapsed social welfare systems
- rampant and growing corruption and organized crime networks
- disaffection and disillusionment with the results of democratic reforms
- slow reconciliation processes and resurgent nationalists

The main EU vehicle to prepare the Balkans for integration is the Stabilization and Association Process (SAP). Kosovo today is embedded in a region that is moving in the same direction—towards Europe—at varying speeds through the SAP, or at least preparing to do so. Therein, however, lies a difficulty. The SAP requires functioning sovereign states as contractual partners, so Kosovo as an international protectorate is unable to participate.

Many European observers would prefer that Kosovo be part of a larger, multi-ethnic sovereign entity, but participants in the Institute meeting agreed that the new governing arrangement for Serbia and Montenegro offers no serious possibility of incorporating Kosovo. While European pressure and financial incentives have succeeded in forcing Montenegro into an uneasy and still unsettled trial accommodation with Serbia, Kosovo is a different case. Montenegro's electorate was split on the question of independence, and in the end pro-independence forces welcomed postponement of a referendum for three years. The vast majority in Kosovo (made up of Albanians) is unequivocally in favor of independence and reacted angrily to the mere mention of Kosovo in the preamble to the draft constitution for Serbia and Montenegro. The majority in Kosovo will not want to join Serbia and Montenegro, even on an equal basis (neither Serbs nor Montenegrins would want it to do so in any event). The fate of the Serbia-Montenegro arrangement will not legally determine Kosovo's final status, though it is difficult to imagine how Kosovo will remain in a common governing arrangement with Serbia if Montenegro cannot.

It will therefore be important to find ways other than the SAP, as presently conceived, for Kosovo to proceed in the direction of Europe even before its final status is determined. The SAP is in any case a mechanism that needs to be adapted to the individual circumstances of Balkan states. The EU in this process of differentiation needs to find ways to bring Kosovo along parallel to other Balkan entities. It cannot be left behind without running serious risks of economic stagnation and political resentment. The EU to date has projected a long-term future for Kosovo within Europe, but it needs to develop a roadmap for how Kosovo will get there. Kosovo now has its own presence in

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the Stability Pact mechanism for promoting regional cooperation and should somehow be given a stabilization and association process of its own to bring it closer to the EU. The EU “pillar” within the UN Mission in Kosovo (UNMIK), which works toward regenerating and modernizing the economy, may provide at least part of the answer as it grows in strength and importance.

While Kosovo remains outside the SAP, the United Nations, through UNMIK, is charged with preparing it for substantial autonomy and self-governance. UNMIK’s mantra is “standards before status,” and it has laid out benchmarks to be met before Kosovo can move beyond resolution 1244. The major concerns are return of Serb refugees and displaced people, respect for the rule of law, and fuller Serb participation in the Provisional Institutions of Self-Government. The Kosovo Albanians argue that the transition to self-government is moving too slowly, that the parliament is too weak, and that they have no control over critical functions required to meet the benchmarks, in particular public security. They would like to see an explicit link between benchmarks and final status. There are no negative consequences for failing to meet the benchmarks (except for delay in consideration of final status), which in any event were established by UNMIK in a purely top-down process that precluded a sense of local ownership. Many Serbs argue that none of the benchmarks have been met and that there should be no discussion of final status in the meanwhile.

The situation in the divided northern Kosovo town of Mitrovica is particularly important for both Serbs and Albanians. Albanians regard Serb control of the northern portion of the town (as well as three other northern municipalities) as an effort to partition Kosovo. Serbs regard the northern enclave they control as an effort to preserve a Serbian presence in Kosovo, which otherwise would have disappeared completely, and they emphasize that the population of the enclave is more multi-ethnic than most of the rest of Kosovo, from which many Serbs and other minorities fled at the end of the NATO/Yugoslavia war. UNMIK is attempting to establish its authority in the northern enclave, to reintegrate that part of Kosovo with the rest, to dissolve the illegitimate Serbian power structures there, and to make it safe for Serbs to return home throughout Kosovo. Failure of this UNMIK effort would greatly complicate a decision on final status by making the Ibar River a permanent dividing line and creating the real possibility of renewed conflict in the future. Success at Mitrovica could set a positive example of decentralized governance that would enable this most contentious of cities to become a model for the rest of Kosovo, as Brcko has for Bosnia.

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## How and When to Move the Process Forward

Final status has been at the top of the agenda for Kosovar Albanian political leaders since 1991, when they declared independence on the basis of an unofficial referendum, but several factors make it particularly urgent today. Aid and financial flows from the diaspora are declining sharply, and the United States is interested in drawing down its troops. The Albanians are eager for resolution before the United States disengages. Lack of clarity about Kosovo’s future is discouraging foreign investment and limiting economic recovery. Investors are hesitant to commit large sums to a transitional protectorate governed by the United Nations. Additionally, the unresolved status may be hindering reconciliation and minority returns. Albanians are frustrated with the slow transition to self-governance and a weak parliamentary assembly. UNMIK reluctance to turn over responsibilities to the Provisional Institutions of Self-Governance, in particular in the security area, makes it difficult to hold Albanian officials responsible for the mistreatment of Serb returnees. More generally, Kosovar Albanians complain they do not understand the current benchmarks process and why resolution of final status is taking so long. The uncertainty strengthens extremists, who believe that they can take matters into their own hands by chasing Serbs from Kosovo.

Kosovo is a low priority for many Serbian officials, who would like to see a decision on final status postponed indefinitely. A ferocious political struggle between Yugoslav president Kostunica and Serbian prime minister Djindjic, difficult negotiations with Montenegro, indecisive Serbian presidential elections, continuing economic difficulties, and recent scandals over weapons deals with Iraq leave Kosovo far down the Serbian agenda. Many Serbian officials in private regard Kosovo as "lost" and show no inclination to reassert authority over the Kosovar Albanian population, but they are not prepared to say so in public. More than anything else, the continuing mistreatment of Serbs in Kosovo by former victims of the Milosevic regime arouses interest in Belgrade, where it strengthens hard-right nationalists previously associated with Milosevic. It also encourages serious thinking and writing in Belgrade about partition of Kosovo, or at least decentralization that would offer a wide degree of autonomy to the Serb population. Some argue that now is not a good time to begin a discussion of final status because it will hurt reformers in Belgrade. But it is not clear that there will ever be a good time from this perspective, and Serbian nationalist forces are able to use the lack of clarity on final status as a rallying point just as Albanians do.

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On balance, meeting participants thought the international community should no longer try to put off Kosovo's final status indefinitely. The Greek and Italian presidencies of the EU in 2003 present an opportunity to move ahead in a timely way, perhaps by encouraging cultural exchange and interfaith dialogue between Serbs and Albanians. Further postponement will lead to unrest among Kosovar Albanians and encourage Serb extremists, both in Belgrade and in Kosovo, where an extremist won the majority of the (Serbian) votes in the Serbian presidential elections. The Kosovar Albanians will want to have a clear idea of what process will decide final status by the time of their 2004 elections, which corresponds with the date on which Serbia would like to apply for EU membership. Some participants thought the process should already be well underway by then. Certainly the process for deciding should be clear by the time of a likely referendum on Montenegrin independence in 2005. This would also provide to the United States a reasonable timeframe for the drawdown of its troops in Kosovo, which cannot be accomplished until final status is decided, and takeover of the civilian and military missions there by the EU.

*More serious preparation for final status discussions is required in both Belgrade and Pristina.*

Participants deplored the lack of serious analytical thinking in the Balkans about Kosovo's future status and relations with its neighbors, or even about the issues of identity and borders that have plagued the region for a decade. This has left the intellectual terrain open to ethnically nationalist concepts that are inconsistent with the region's European future and might open a Pandora's box by redrawing borders along ethnic lines. More serious preparation for final status discussions is required in both Belgrade and Pristina.

Participants agreed that the benchmarks process should be connected to a decision on final status. Albanians in Kosovo are not yet convinced of the linkage between meeting the benchmarks and the beginning of final status discussions, which hinders progress in meeting the benchmarks. Therefore the linkage between meeting the benchmarks and final status talks should be made more explicit. Some also thought that final status talks should not await completion of all the benchmarks, which many sovereign states in the region would find it difficult to meet. At the very least, all agreed that, as foreseen in the benchmarks, Pristina and Belgrade should proceed to a dialogue on other issues of mutual interest, with support from UNMIK. This should happen in 2003, with an agenda that includes property rights, trade and investment, energy, transport and communications, and privatization as well as missing people and security for returnees. Building a community of economic interest among Serbs and Albanians will be important in bringing about a resolution of the status issue. Experience in the region suggests that language issues and ethnic hostility evaporate when jobs and infrastructure are main items on a serious agenda.

Beyond the opening of Belgrade-Pristina discussions on issues of mutual interest

other than final status, participants were split on whether final status negotiations should be led by the United States, the United Nations, or the European Union, with most favoring the United Nations, but all believe that those three and Russia will play important roles and that such discussions should begin within the next two years.

The EU holds the main incentives available to induce Pristina and Belgrade to come to agreement: the SAP and eventual EU membership. The EU needs to be prepared to deploy these incentives as “carrots” in the final status process. However, Europe’s foreign and security policies are already facing their most serious challenges in the Balkans, starting with the Serbia-Montenegro relationship and the takeover from NATO of the Macedonia military deployment (and possibly the Bosnian deployment as well). It is unclear whether the EU could handle leading the process of deciding Kosovo’s final status, but it is clear enough that it will need to take over from UNMIK eventually, and some participants thought it might be possible even before final status is decided.

The UN Security Council should endorse any agreement reached on Kosovo final status, so it seems logical to have the United Nations (possibly a special envoy of the secretary general rather than UNMIK) lead the final status process. Russian participation in the process is essential to ensuring Security Council approval.

While some participants thought the United States would be unwilling to lead the process because of other national security priorities, others thought that it should lead. Both Serbs and Albanians view the United States as essential to security and stability in the Balkans, and the key to NATO engagement. The United States has an important role in preventing any final status decision for Kosovo from generating pressures for partition of Macedonia or Bosnia. A decision on final status is a necessary prelude to U.S. troop drawdown, so the U.S. administration should be prepared to take on the burden. This might be done in cooperation with the EU, with the United States leading on political and security issues and the EU leading on economic and integration issues.

Whoever leads, coordination among the United Nations, European Union, United States, and Russia is especially important to enable the international community to play a proactive role. Many U.S. participants argued that the United States should determine what outcome it wants from final status negotiations (a difficult task) and pursue that objective. The majority of U.S. participants thought that the only sustainable outcome would be independence (perhaps with partition or decentralization), albeit with guarantees for Kosovo’s neighbors and its minority populations. While many European participants also thought independence the most likely outcome, they were more prepared to enter an open-ended process. There were also U.S. and European participants who opposed independence, arguing that it will lead to instability throughout the Balkans and disaster for the remaining Serbs in Kosovo, but no one thought that Kosovo as a whole could be governed in the future from Belgrade. The United States will be reluctant to push for any solution that cannot garner Russian support, because of the need for Russian cooperation on other issues. But the key to Russian collaboration is participation in the decision-making process. Russia is not expected to regard the outcome of the Kosovo final status decision as inherently important, apart from fearing that it will set a precedent that might be applied to Chechnya.

NATO remains essential in Kosovo for internal security reasons, but it also has a role in developing Kosovo’s future security posture. Whatever decision is taken on final status, Kosovo cannot be left out of regional security arrangements. Some participants thought that demilitarization might be part of the solution, though it would require a NATO security guarantee. The Kosovo Protection Corps (KPC), the demilitarized version of the Kosovo Liberation Army, may also be part of the eventual solution, but it will need to be substantially transformed if it is to take on a security function. Professionalism within the KPC is lacking; criminals and extremists remain within its ranks; and firm civilian control, eventually by Kosovo’s elected authorities, is needed.

Attempting to reach a decision on Kosovo final status within the next few years will run up against many difficulties. It may lead in the direction of a territorial compromise

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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.

***With democratic regimes in both Belgrade and Pristina, the international community will expect Serbs and Albanians to come to a negotiated solution for Kosovo final status, one that does not endanger the territorial integrity of other Balkan states.***

(partition or a land swap) that the international community, but especially the United States, has resisted throughout the Balkans. In that case, it will be critical to prevent any extension of partition to Macedonia or Bosnia, which the participants thought should be excluded definitively from consideration. Although an early resolution of the issue would enable the United States to draw down its forces faster, it will be exceedingly difficult to get the higher levels of the U.S. government to focus on Kosovo if it still has Iraq, Afghanistan, North Korea, and the war against terrorism on its agenda.

It is nevertheless critical for the United States to remain engaged on the final status issue—especially if it wants to continue the process of shifting the burden of the Balkans to Europe. The United States has credibility with both Belgrade and Pristina that the European Union cannot match. It has decision-making capability, a significant military presence, and an integrated command and control center at Camp Bondsteel. The United States can also assist in closing a final status deal by leveraging its influence in the Security Council.

## Conclusion and Recommendations

With democratic regimes in both Belgrade and Pristina, the international community will expect Serbs and Albanians to come to a negotiated solution for Kosovo final status, one that does not endanger the territorial integrity of other Balkan states. The European Union and United States will play important roles in providing the sticks and carrots required; the United States and Russia are important to the process. A final status outcome decided through a joint process by Belgrade and Pristina will have the support of the international community, leading to easy (and necessary) approval in the Security Council.

- UNMIK should:
  - Continue with the benchmarks process, convening a Belgrade-Pristina dialogue on issues other than final status in 2003.
  - Conduct thereafter consultations among the European Union, United States, and Russia on final status issues.
- The United States should:
  - Determine its own position on final status and related issues, with a view to playing a key role in preventing instability elsewhere in the Balkans that might arise from a final status decision for Kosovo and in obtaining approval for a negotiated solution in the UN Security Council.
  - Engage Russia early in the process.
- The European Union should:
  - Improve its own internal coordination and determine how it will use the carrots it has at its disposal to encourage a negotiated solution of Kosovo final status.
  - Use the occasion of the Greek and Italian presidencies in 2003 to determine how it wants to approach final status.
- Belgrade and Pristina should:
  - Prepare for discussions of issues of mutual interest other than final status and begin to analyze their options for final status negotiations.
  - Prepare their own populations for final status negotiations, encouraging a spirit of moderation and ensuring that the Serb minority in Kosovo and the Albanian minority in Serbia are treated with respect, incorporated into governing structures, and afforded protection by the rule of law.



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