

KOSOVO BENCHMARKS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT ON THE PROGRESS MADE IN ACHIEVING THE MILITARILY SIGNIFICANT BENCHMARKS FOR CONDITIONS THAT WOULD ACHIEVE A SUSTAINABLE PEACE IN KOSOVO



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To the Congress of the United States:

Pursuant to section 1212 of the National Defense Authorization Act for Fiscal Year 2001, Public Law 106–398, I hereby submit a report, prepared by my Administration, on the progress made in achieving the militarily significant benchmarks for conditions that would achieve a sustainable peace in Kosovo and ultimately allow for the withdrawal of the United States military presence in Kosovo.

The term “militarily significant” relates to tasks and objectives significant from a military standpoint that once accomplished, would allow for withdrawal of military forces from Kosovo. In the establishment of the Kosovo benchmarks, four critical tasks for NATO forces were identified: military stability; public security; border/boundary issues; and war crimes/support to the International Criminal Tribunal for the Former Yugoslavia. Objectives for these tasks were drawn from United Nations Security Council Resolution 1244, the NATO Operations Plan, the Military Technical Agreement, and the Kosovo Liberation Army Undertaking.

I anticipate that Kosovo Force—and U.S. participation in it—will gradually reduce in size as public security conditions improve and Kosovars assume increasing responsibility for their own self-government.

GEORGE W. BUSH.

THE WHITE HOUSE, *January 31, 2003.*

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INTRODUCTION

Section 1212(a) of Public Law 106-398, The Floyd D. Spence, National Defense Authorization Act for Fiscal Year 2001 (the Act), requires that "The President shall develop militarily significant benchmarks for conditions that would achieve a sustainable peace in Kosovo and ultimately allow for the withdrawal of the U.S. military presence in Kosovo." Pursuant to Section 1212(b) of the Act, I am providing a report, prepared by my Administration, to Congress on progress in Kosovo toward achieving such militarily significant benchmarks. The report details developments from June 15 to December 31, 2002.

The Foreign Ministers and Defense Ministers of NATO took important decisions during their Spring 2002 ministerials regarding a regional approach in the Balkans, including Kosovo. As a result of those decisions, the Kosovo Force (KFOR) was scheduled to be reduced from 36,000 as of June 2002 to 32,000 by December 2002, and 29,400 by June 2003. In fact, KFOR actual troop strength has already dropped below the level of committed troop contributions. More recently, NATO Heads of State noted the Joint Operations Area Implementation Update at the Prague Summit in November 2002, and called for exploration of options for further rationalization and force restructuring.

BACKGROUND

The benchmarks measure progress in achieving a sustainable peace in Kosovo. The objectives and tasks were drawn from several important documents: the NATO Operation Plan for Kosovo (OPLAN 10413); United Nations Security Council Resolution (UNSCR) 1244 (1999); the Military Technical Agreement (MTA) between KFOR and the Governments of the Federal Republic of Yugoslavia (FRY) and the Republic of Serbia; and the Undertaking of Demilitarization and Transformation of the Kosovo Liberation Army (the Undertaking).

Significant progress has been made in Kosovo since the establishment of KFOR and the U.N. Interim Administration Mission in Kosovo (UNMIK). KFOR has completed several military tasks specified in OPLAN 10413 and UNSCR 1244. The remaining tasks are of a continuous or recurring nature and provide for the unimpeded operation of UNMIK, freedom of movement for minorities, and the safe return of displaced persons and refugees. KFOR efforts have helped UNMIK to make substantial progress in implementing UNSCR 1244: reconstruction is well-advanced; free and fair elections held three times; more than 5,200 multi-ethnic Kosovo police trained and deployed; and a new constitutional framework for provisional self-government promulgated.

Security challenges remain in the form of ethnically oriented, politically extreme, and criminally motivated armed groups who threaten to compromise these accomplishments, both through their actions in Kosovo and to a lesser extent in southern Serbia and Macedonia. Rather than Yugoslav and Serbian forces posing a continued risk, these internal factors are now the primary threat to public security within Kosovo. KFOR and UNMIK will have to continue to cooperate over the coming months to deter and disrupt the activities of these groups, and continue to ensure stability in Kosovo and, by extension, the surrounding region. Increased refugee and Internally Displaced Persons returns, problems with the continued ethnic division of North Mitrovica, potential International Criminal Tribunal for the Former Yugoslavia (ICTY) indictments, arrests of high-profile Kosovar political or criminal figures, demarcation of the Kosovo-Macedonia border, and decentralization of political power will present additional challenges. Kosovo's greatest challenge now is the development of governmental, economic, social, and security infrastructures capable of providing a safe, secure, and prosperous environment for all its inhabitants.

PROGRESS REVIEW

The benchmarks depict progress on four overarching tasks and related objectives that will allow for the withdrawal of U.S. military forces from Kosovo. They are: Military Stability; Public Security; Border and Boundary Issues; and War Crimes.

1. Task: Military stability

Objectives:

- Withdrawal of Yugoslav and Serbian Security Forces from Kosovo.
- Demilitarization of the Kosovo Liberation Army (KLA) and other armed Kosovar-Albanian groups.
- Deterrence of renewed hostilities, maintenance and, where necessary, enforcement of the cease-fire.

Progress on these objectives and the benchmarks associated with them has been very good. FRY forces have withdrawn from Kosovo and have adhered to all military agreements, the KLA has been demilitarized and there are no ongoing hostilities in Kosovo.

Benchmarks:

- a. The cease-fire has been maintained and FRY has adhered to the MTA

The rampant ethnic cleansing and the killing of spring 1999 is now history and neither party to the conflict has resumed military action. FRY forces left Kosovo as called for in the MTA. In 2001 and 2002, NATO oversaw reductions in the Air Safety Zone (ASZ); in 2001 FRY forces returned to the Ground Safety Zone (GSZ) in southern Serbia as part of a political agreement to end fighting between government forces and ethnic Albanian groups in southern Serbia. This benchmark is essentially accomplished although both the ASZ and GSZ remain under KFOR authority.

- b. KLA has been demilitarized and transformed in compliance with the undertaking

The KLA ceased to exist on September 20, 1999. Many former KLA members entered the Kosovo Protection Corps (KPC), now a civil emergency response force, or the Kosovo Police Service (KPS). This benchmark is essentially accomplished.

- c. Establishment of the KPC and low incidence of officer non-compliance

The KPC was created in 1999 out of demobilized KLA troops. UNMIK Regulation 1999/8 authorized the KPC to engage in disaster response, search and rescue, and infrastructure rebuilding activities. The KPC is permitted no role in law enforcement, security, or defense. KFOR and UNMIK jointly supervise the KPC. Authorized strength is 5,000 members; by the end of 2002 just under 2,000 had moved from active to reserve status. Ten percent of the KPC positions are reserved for ethnic minorities, although to date only some 100 Serbs and other minorities have joined. In 2002 UNMIK budgeted 11.16 million for KPC salaries, operating expenses, and capital outlays. The United States has funded additional training for first aid, land navigation, fire fighting, and other activities. A goal of the United States and UNMIK for 2003 is to further reform the KPC through functional and structural changes.

One of the primary purposes for the establishment of the KPC was to provide transparency to the process of demilitarizing the KLA. While some individual members of the KPC are involved in supporting extremism and organized crime, since the KPC was established, documented non-compliance has declined from 35 incidents per month to as few as 4 per month, to include such incidents as illegal possession of weapons and ammunition and celebratory gunfire. Though additional work remains to be done to further professionalize the KPC as a civilian organization and broaden its ethnic and gender base, this benchmark is essentially accomplished.

- d. FRY and Kosovars participate in the Joint Implementation Commission

The Joint Implementation Commission (JIC) was established in accordance with the MTA and given two key mandates: ensure compliance with the MTA; and demilitarize the KLA. JICs have been established at two echelons—at KFOR Headquarters and at each of the five Multinational Brigades (MNBs). Meetings between KFOR, Yugoslav Army (VJ), FRY Ministry of Interior Police (MUP), UNMIK CIVPOL, FRY JIC, International Committee for the Red Cross and Border Police occur on a regular basis. Agendas range from administrative issues such as ID cards to security issues such as VJ/MUP manned contact points on/near the administrative boundary. The JICs have facilitated training for the KPC in first aid, fire fighting, land navigation, identification of unexploded ordnance, construction, and humanitarian relief. This benchmark is essentially accomplished.

e. End of offensive activities by armed groups

Large armed groups are no longer active in Kosovo proper, but ethnic Albanian armed groups (EAAGs) in southern Serbia and in Macedonia have used Kosovo as a supply route and base for recruiting and fundraising. KFOR and UNMIK police have been active in apprehending members of these groups and their supporters, and the United States Government has repeatedly reminded Kosovo's political leaders and the KPC that any support for the insurgents' activities is not acceptable. This benchmark is essentially accomplished although it requires continued monitoring.

2. *Task: Public security*

Objectives:

- Establishment and maintenance of a secure environment for the operation of UNMIK, the delivery of humanitarian aid, and the safe return of a considerably increased number of refugees and displaced persons to their homes in 2003.
- Ensure protection and freedom of movement for KFOR, UNMIK, and other International Organizations (IOs).
- Transfer responsibility for public safety and order when either UNMIK or newly elected Kosovar authorities can take responsibility for this function.

Significant progress has been achieved toward the benchmarks related to these objectives, but continued progress in the area of public security will require a strong continued commitment by the international community to provide resources for rule of law and other security programs.

Benchmarks:

a. UNMIK safely conducts its mission

UNMIK has regional administrations in each KFOR MNB, headed by an international administrator and staffed by a mixture of international and local staff. Additionally, there are UNMIK offices in each of Kosovo's 30 municipalities. UNMIK success stories include promulgation of the Constitutional Framework, holding of municipal elections twice and province-wide elections once, registration of and distribution of ID cards to nearly one million Kosovars, and issuance of over 345,000 travel documents recognized in 29 countries. In all UNMIK endeavors (except North Mitrovica)—from travel to governance—UNMIK has been able to safely conduct its mission.

b. IOs travel without disruption of their activities

Travel in Kosovo by IOs is generally unimpeded. Serb residents in northern Kosovo sporadically established roadblocks in Serb majority areas, but alternative routes were available to IOs with little or no disruption of their activities. This benchmark is essentially accomplished.

C. Humanitarian relief delivered

Humanitarian relief was one of the original UNMIK pillars, led by the U.N. High Commissioner for Refugees (UNHCR), but as hu-

manitarian needs abated, the UNMIK humanitarian pillar ceased operations in June 2000. UNMIK has institutionalized the delivery of goods and services to Kosovo's neediest populations through a system of Centers for Social Work. These centers ensure poor, isolated and/or minority communities have the goods and services they require. This benchmark is essentially accomplished.

d. Initial demining efforts accomplished and responsibility transferred to requisite civilian authorities

Since June 1999, over 20,000 mines, 13,000 items of unexploded ordnance (UXO), and 6,700 cluster bomb units (CBU) have been located and destroyed. Over 25 million square meters of land have been cleared and returned to use. There have been 16 different international demining organizations involved in mine awareness activities; and mine awareness has been incorporated into the Kosovo school system curriculum. While KFOR's mandate is concerned only with minefields that impede its mission, KFOR soldiers continue to mark newly discovered minefields for demining by accredited civilian agencies. Also, the KPC has been trained to conduct emergency explosive ordnance disposal services and is primarily responsible for UXO deactivation or destruction. The overall result of this concentrated effort has been a drastic reduction in mine/UXO/CBU-related casualties although lethal incidents sometimes still occur. In light of these operating procedures, this benchmark is essentially accomplished.

e. Elections held in secure environment

Local assemblies and governments have been established in all of Kosovo's 30 municipalities, including most Serb-dominated ones in the north. Kosovo municipal elections in 2000 and again in 2002 were in accordance with international standards as were Kosovo-wide elections in 2001. Overall voter turnout within Kosovo has been high but with a downward trend. The absence of significant election-related violence indicates a general stabilization of the political environment in Kosovo. UNMIK Police, KPS, and KFOR worked together to help ensure these first-ever democratic provincial elections were not marred by any significant violence. In spring 2002, the Assembly elected a President and a Prime Minister to head Kosovo's provisional government which will continue until new elections in 2004. This benchmark is essentially accomplished.

f. Parallel institutions dissolved and pose no threat to KFOR and/or UNMIK authority

The fledging Kosovo provisional government is working to govern the province with less assistance from UNMIK, KFOR, and the international community (IC). Programs to train government leaders and bolster efforts at effective administration have helped the provisional government to assume increased responsibility and demonstrate increasing effectiveness. However, the slow pace of legislation to date and remaining international influence in areas not reserved to UNMIK remain problematic. Considerably more needs to be done to ensure effective self-government at both the Kosovo and municipal levels and to achieve UNMIK benchmarks in the rule of law, returns, the economy, and other areas. Particularly

in North Mitrovica, and elsewhere throughout Kosovo, UNMIK needs to implement its plan for decentralization to ensure effective administration and rights for Serbs and other minorities at the sub-municipal level. At the same time, Serbian parallel institutions primarily in the areas of health, education, and judiciary and law enforcement, need to cease functioning to allow UNMIK to fully establish their authority under UNSCR 1244. While this is occurring, UNMIK acknowledges the continued need for Belgrade to supplement the salaries of health care workers and educators as an incentive for them to remain in Kosovo.

- g. KFOR transfers criminal cases to UNMIK/Kosovo Transitional Government for investigation, prosecution, and detention; and sufficient civilian prisons and detention facilities are established

UNMIK judicial officials and UNMIK CIVPOL and KPS, conduct all criminal investigations in Kosovo. When KFOR apprehends a suspect, he/she can be turned over to UNMIK for action under the Special Representative's "executive detention" authority pending UNMIK (or local) criminal charges being filed. Under his own authority, the KFOR Commander can confine individuals on the basis that they pose a threat to a safe and secure environment. KFOR maintains detention facilities for individuals at Camp Bondsteel. UNMIK maintains eight detention facilities Kosovo-wide and one prison near Ishtok in northwest Kosovo.

- h. Adequate court system for criminal cases transferred to UNMIK

Since June 1999, UNMIK has established a Kosovo supreme court, five district courts, 18 municipal courts, 23 "minor offenses courts," one "high court of minor offenses," one commercial court, and 13 prosecutor's offices. While UNMIK has appointed more than 400 local judges and prosecutors, only 320 are currently working in those positions. Additionally, a total of 28 international judges and prosecutors are assigned to the district courts and the supreme court. Trials are conducted in all five district courts, the supreme court, and lower courts. Thus, there is an embryonic court system in place; however, concerns continue over the ability of the criminal courts to apply the law fairly due to the inexperience of many of the judges and prosecutors, suspected intimidation, and the outdated socialist criminal code still applicable in Kosovo. Judicial training conducted by the Organization for Security and Cooperation in Europe (OSCE)-run Kosovo Judicial Institute is beginning to address this problem. Some cases referred by KFOR to UNMIK are difficult to prosecute due to evidentiary problems. KFOR soldiers are not trained criminal investigators, and often the information gathered by KFOR is classified. As a result, some criminal cases are dismissed by UNMIK due to a lack of prosecutable evidence. UNMIK and KFOR are working together to resolve these issues and UNMIK has made many notable arrests and convictions in 2002. Adequate witness protection is a problem as well.

- i. Core KPS police training is completed and effective

The OSCE administers the Kosovo Police Service School, which has graduated over 5,200 Kosovar police trainees. Graduate train-

ees go on to complete field training and assume independent patrol responsibilities (with UNMIK police oversight). The operational control of two police stations has been turned over to the KPS. Advanced training phases are being conducted at the KPS School to create specialized capacities, including training supervisors, criminal investigators, forensics specialists, traffic officers, and close protection specialists. The United States is initiating further specialized training in areas such as civil disorder management and advanced criminal investigations. Anti-Serb violence has shown an overall downward trend, although serious periodic incidents continue to mar progress and freedom of movement remains problematic without KFOR escort. UNMIK police and KPS have assumed full responsibility in Pristina, Prizren, Gnjilane, and Peja regions and share responsibility with KFOR in Mitrovica. This benchmark is essentially accomplished although the KPS requires further expansion, experience, and training.

- j. UNMIK and KPS assume primacy for tactical police responsibilities; and, UNMIK Special Police Unit and KPS are capable to respond to civil disturbances

UNMIK Police, working with KPS, has assumed full primacy in Pristina, Prizren, Gjilan, and Peja regions; and shares primacy with KFOR in Mitrovica, where they have begun to assert more authority to address the remaining challenge from members of violent “bridge gangs.” UNMIK generally has been able to handle civil disturbances through the use of its Special Police Units (SPUs) that react to any civil disturbances throughout Kosovo. KPS has assumed primary responsibility for patrol functions. As part of two agreements with KFOR, UNMIK police have taken on greater responsibility for border functions and the roving patrols of patrimonial sites, and other infrastructure sites.

- k. Some displaced persons and refugees able to return home safely

Displaced Kosovo Albanians began returning to their homes in June 1999, concomitant with the entry of NATO forces into Kosovo. To date, over one million people have returned and begun rebuilding their lives. By contrast, significant difficulties remain in the area of minority returns. More than 200,000 Serbs, Roma, and other minorities remain displaced outside of Kosovo, most in Serbia. While modest progress has been made to date, and in 2002 returns outpaced departures for the first time, UNMIK anticipates that there will be a significant increase in IC-facilitated returns beginning in spring 2003. Continued KFOR cooperation with UNHCR and UNMIK will play a key part in making these returns safe and sustainable. Freedom of movement remains a problem for many Serbs and Roma who remain in Kosovo, most of whom live in difficult circumstances in isolated enclaves. Most require KFOR escort each time they venture out to ensure their safety; however, for others freedom of movement has improved significantly and KFOR has removed a number of fixed checkpoints, particularly in the MNB-E area.

3. Task: Border and boundary issues

Objectives:

- Monitor international and provincial boundaries.
- Inhibit traffic of persons or materials supporting insurgency and illegal goods.
- Transfer border responsibilities to local authorities.

Benchmarks:

- a. The FRY respects the GSZ and ASZ as stipulated in the MTA and at the discretion of the KFOR commander

The GSZ and ASZ, 5- and 25-kilometer “buffer zones” respectively around Kosovo, were established to prevent boundary incidents or reentry into Kosovo by FRY security forces. The FRY has respected the zones from their inception. Following the change of government in Yugoslavia and a concomitant improvement in the relationship with NATO and KFOR, FRY security forces were allowed to reenter the GSZ in the spring of 2001. Reentry was conducted successfully and in a professional manner. Similarly, the ASZ was reduced to 10-kilometers and in Fall 2002 to 5-kilometers. This benchmark is essentially accomplished.

- b. Illegal border crossings inhibited; and UNMIK or indigenous border service in place to monitor provincial and international border crossings

Kosovo’s boundaries are generally unmarked and in many areas lie in rough, mountainous terrain. Attempts to demarcate the Kosovo-Macedonia border under the 2001 FRY-Macedonia Border Treaty in the near future could be particularly problematic as inhabitants traditionally have crisscrossed the borders freely. UNMIK established five official border crossing points, including the Pristina airport, where UNMIK police control immigration and collect tariffs. KFOR actively supports UNMIK in this role, regularly patrolling borders and employing monitoring technology. Also, a border-crossing section of the KPS has been established. Net assessment of combined efforts is that illegal border crossings have been significantly reduced, although much remains to be done. The installation at the airport and border points of entry of a positive identification and tracking system remains a high priority.

4. Task: War crimes

Objective:

- Full cooperation of the international security presence with the ICTY.

The objective of this benchmark is of an ongoing nature for the IC, continuing until the work of the ICTY is completed. ICTY chief prosecutor Carla Del Ponte has said publicly on several occasions that there will be indictments of senior former KLA figures in Kosovo. UNMIK is investigating possible prosecutions as well, and at the end of 2002 an UNMIK court consisting of three international judges convicted and sentenced five former KLA figures for war crimes against other Kosovar Albanians.

Benchmark:

a. KFOR assists and supports ICTY

KFOR actively supports the collection of evidence by ICTY, and provides area security for exhumations. The United States deployed two FBI forensic investigative teams to Kosovo at a cost of \$5 million, and provided an additional \$8.5 million for ICTY investigative costs associated with Kosovo war crimes. In November 2002, SACEUR noted that NATO remains committed to supporting efforts to bring persons indicted for war crimes to justice and has stated that the physical presence of NATO in the Balkans is continuing to help deter hostilities. Should the ICTY issue indictments for Kosovars, KFOR will be called upon to help manage large and possible violent demonstrations that will almost certainly result, and might need to assist in the apprehension and transfer of indicted individuals.

