The Case of the United Nations Mission in Kosovo

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With the establishment and deployment of UNMIK in June 1999, the United Nations took on a governing role unlike anything it had ever attempted before. Kosovo's infrastructure and housing were in a shambles in the wake of the conflict. Factories and schools were sequestered for use by KFOR units. What remained of the economy was essentially a post-conflict service-based economy, with a legacy of a centrally planned socialist economy modified in the 1990s by ethnic segregation, the banishment of the majority population from the public sector and questionable transfers of assets undertaken by the Milošević regime. The conflict resulted in widespread damage to housing and infrastructure before Belgrade capitulated and withdrew not only its forces from Kosovo in June 1999 but also Kosovo's cadastral records and archives to locations in Serbia, where they remain to this day.

Security Council Resolution 1244/1999, which established UNMIK, 'authorizes the Secretary-General with the assistance of relevant international organizations to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo, under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure the conditions for a peaceful and normal life for all inhabitants of Kosovo.'[1]

One of the main responsibilities of the international civil presence as set out in §11g of SCR1244/1999 was 'supporting the reconstruction of key infrastructure and other economic reconstruction'. That task fell to UNMIK's Pillar IV.

Following its establishment in 1999, Pillar IV was engaged in four economic departments of the Joint Interim Administrative Structure that

[1] §10 of S/RES/1244 (1999) 10 June 1999.

UNMIK had introduced in Kosovo, the Department of Reconstruction, the Central Fiscal Authority, the Department for Trade and Industry, and the Public Utilities Department. Each department was co-headed by an international and a Kosovar expert.

The adoption of the Constitutional Framework for Provisional Self-Government in Kosovo in May 2001 established a new separation and sharing of power between the Provisional Institutions of Self-Government (PISG) and UNMIK. Kosovo was able to hold parliamentary elections and take on a variety of transferred competencies. However, certain powers were ‘reserved’ and remained with the head of UNMIK, the Special Representative of the Secretary General (SRSG). These special powers in the economic sphere included the administration and regulation of all publicly and socially owned enterprises, monetary policy and the final authority to set the financial and policy parameters for the Kosovo Consolidated Budget and its final approval.[2]

Less than two years later, economic competencies, particularly in the budget sphere, were transferred, thereby granting the PISG substantial responsibilities in formulating and implementing economic policy. However, partial transfer of competencies reinforced the PISG’s unwillingness to take responsibility on the grounds that it limited competencies that hampered its ability to act. While this was more a political issue than an economic one, it stymied progress in the direct dialogue on technical issues between Pristina and Belgrade as the PISG felt it was being railroaded into discussions with Belgrade, for which it had no mandate as long as it lacked sovereignty and could not negotiate with Belgrade as equals; meanwhile, Belgrade spared no effort in politicizing the discussion, for example at one of the rare sessions of the Working Group on Transport and Communications, the Belgrade delegation chided the Pristina delegation for not referring to Kosovo as ‘Kosovo and Metohija’.

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[2] Wittkowsky, Andreas (editor), The European Union Pillar, The 10 Key Achievements. End of Mission Report 1999-2008, p. 4.

Meanwhile, Pillar IV was actively engaged in fostering direct relations between the Kosovo Institutions and the European Union, inter alia, through the establishment with the active engagement of the European Commission of the Stabilization Tracking Mechanism (STM) in 2002 that eventually absorbed UNMIK's Kosovo Standards Implementation Plan of 2004 and educated the PISG in the EU's expectations, while preparing the groundwork for moving in the direction of eventual integration into European institutions by gearing towards EU-compatible practices. STM is a mirror instrument of the *Stabilization and Association Process*.

Pillar IV also attempted to resolve the fate of Kosovo's Socially Owned Enterprises (SOEs), of which there were some 500. However, the EU's intention to privatize many of these SOEs was delayed by concerns at UN Headquarters in New York of the potential legal ramifications of privatizing property with unclear ownership. It was feared that such actions would exceed UNMIK's mandate of interim administration. The ensuing delay only exacerbated an already difficult problem of a dysfunctional post-conflict economy involving disputes over issues ranging from management appointments to labor issues as assets deteriorated or disappeared. To forestall further deterioration, the Kosovo Trust Agency (KTA) took over the SOEs as a trusteeship enabling production to resume while ensuring that the proceeds would be placed in trust for potential owners and creditors.[3] Following a somewhat false start in 2003-04 due to inadequate legislation, privatization finally picked up momentum in 2005. All told, KTA launched 30 waves of privatization involving 551 New Companies deriving from 313 SOEs.

The EU Pillar's policies not only promoted economic development through reconstruction but also supported the sustainable development of a market economy, including promotion of regional integration through bilateral free trade agreements, as well as intensified regional cooperation in the fields of energy, transportation, and customs. Pillar IV's development strategy avoided sophisticated industrial policy

[3] Ibid., p. 8.

unsuitable for a post-conflict economy with weak government and instead focused on macroeconomic fundamentals, contributing to creating a favorable environment for developing the private sector and helping to ensure that basic infrastructure was in place to support business activities.

UNMIK's Pillar IV supervised the establishment of a self-sustaining budget for Kosovo, creating the framework for relations with donors and international financial institutions that enabled the reconstruction of some 50,000 houses that were damaged or destroyed in the conflict, build 57 new schools and renovated an additional 130 schools and 30 health centers, and repaired 500 kilometers of roadway and six bridges. Pillar IV established a Central Fiscal Authority responsible for the management of the Kosovo Consolidated Budget (KCB), which in turn built capacity to collect taxes and administer domestic revenues. Budget revenues grew impressively from €128.5 million in 2000 to €891.4 million in 2007.

The management of public funds remained weak, as was repeatedly confirmed in independent audits of government ministries and municipalities since the start-up of operations in 2004 of the Office of the Auditor General, an organization that continues to develop in the direction of minimal international assistance.[4] The Report of the Auditor General on the KCB for 2007 noted 'significant and encouraging developments in Financial Governance in the Kosovar public sector during 2007, but warned that the internal audit function was still in an early stage and, hence, 'in the majority of budget organizations, the internal audit unit does not provide adequate assurance that internal control systems are operating effectively to prevent fraud and other irregularities, noting in particular that €235.3 million in revenue, which

[4] Wittkowsky, op. cit. pp. 12-13.

had been estimated to be collected, were not collected mainly due to the failure of taxpayers to pay the taxes for which they were liable.[5]

This in turn begs the question whether UNMIK and Pillar IV, not to speak of the Kosovo authorities, could have been more effective in requiring taxpayers to pay their taxes and for that matter their utility bills. Kosovo's legacy of socialist and post-socialist rule from Belgrade, a decade of virtual apartheid, the armed conflict, high exodus of populations during and after the conflict, high unemployment, widespread poverty, cash flows of questionable origin, organized criminal activity are all contributing factors to weak tax and utility paying moral among a sizeable portion of Kosovo's population, further exacerbated by a feeling among some that they are, somehow, owed a debt by the state for all the hardship they have been forced to endure.

Pillar IV further established the UNMIK Customs Service in September 1999, which established a customs regime based on a 10% duty on imports along with an extended list of exemptions for raw materials, production inputs and capital equipment. Incentives for efficient domestic processing and re-exporting were designed to be conducive to private sector development. In recent years, over two thirds of the Kosovo Consolidated Budget have been financed by Customs revenue, up from nine percent in 2000, and consistently exceeded its planned revenue. This was accomplished at a relatively low cost of two cents for every Euro of revenue.[6] UNMIK Customs' international staff was phased out in 2006 and since 2007, the customs service was 'Kosovarized', becoming Kosovo Customs (with the exception of the Customs Compliance Unit, which was tasked with countering corruption and organized criminal activities north of the Ibar River. Kosovo Custom's total revenues for the year totaled €590.6 million (preliminary estimate).[7] The figure slightly exceeds the target but would have been far higher had the customs facilities at Gates 1 and 31 between Kosovo and

[5] Republic of Kosovo/Office of the Auditor General, Audit Report of the Auditor General on the Financial Statements of the Kosovo Consolidated Budget for the year ended 31 December 2007, Pristina, November 2008, pp. 7-8.
[6] UNMIK Customs Service, Strategic Operating Framework 2006-2008.
[7] www.dogana-ks.org/respository/docs/Java%20-%20Week%2052.pdf

Serbia not been destroyed in organized mob violence on 19. February 2008, heralding the unrestricted flow into Kosovo of untaxed goods ranging from fuel to foodstuffs long past their shelf life.

At present, customs fall under the EULEX Customs Component in a monitoring, mentoring, and advisory capacity, facilitating legitimate trade while providing law enforcement to prevent or deter illegal trade.[8] EULEX Customs are staffed by 27 internationals and 18 nationals.

Pillar IV also ensured the establishment of a stable banking and insurance sector through the creation of the Banking and Payments Authority of Kosovo, which in 2006 was transformed into the Central Banking and Payments Authority of Kosovo, an independent authority that supervises all financial and insurance institutions operating in Kosovo and contributes to the restoration of public confidence in the banking sector. As a result of the separate worlds of K-Serbs and K-Albanians in the 1990s, K-Albanians boycotted the Serbian currency, the Dinar. Immediately after the conflict a variety of currencies were in circulation in Kosovo: Deutschmarks, Austrian Schillings, Swiss Francs, U.S. Dollars and among Serbs, the Dinar. A conscious decision was made to make the Deutschmark and, subsequently, the Euro the main currency in circulation in Kosovo. While this move brought some stability to the local economy it also proved inflationary as many consumer prices appear to have been calibrated upwards, frequently rounded off to the next highest Euro.

Other Pillar IV activities included the modernization and incorporation of public utilities, including Kosovo Railways, two district heating enterprises, Pristina International Airport, Post and Telecommunications of Kosovo, and the most difficult utility of all, the Kosovo Energy Corporation (KEK). It was in the area of energy production that Pillar IV and its sponsors in Brussels erred in their decision to invest substantial funds to repair the irreparable coal-fired power plants in Obiliq/Obilić rather than immediately prepare plans for a new power pant to turn Kosovo from a net energy importer to an exporter of electric power

[8] www.eulex-kosovo.eu/?id=5

based on its substantial deposits of lignite. Foreign donors contributed €500 million donors and a similar amount was allocated from the Kosovo Consolidated Budget to improve KEK's performance although only some €50 million a year were invested for rehabilitation of the plants. Yet the power plant breakdowns and load shedding persisted. KEK's ability to import power to meet the shortfall was limited due to the poor payment morale of its consumers. Only about 39% of customers pay their electricity bills, while the overwhelming majority of the Kosovo Serb minority community has refused to this day to pay their electricity bills.

UNMIK's Pillar IV also established a variety of independent market regulators, including the Energy Regulatory Office, the Independent Commission of Mines and Minerals, the Civil Aviation Regulatory Office, and the Water and Waste Regulatory Office to enforce market rules, plan sectoral reforms, issue licenses, monitor compliance, approve tariffs, resolve disputes, allocate resources and assist the investment process.[9]

One other area where progress was negligible was in facilitating the Pristina-Belgrade dialogue on technical issues, specifically the Working Groups on Energy and Transport & Communications, established in 2004. The Kosovo institutions were not convinced that the dialogue could yield tangible results as long as the Kosovo Government did not have all necessary competencies and could negotiate with Belgrade as an equal, hence Pristina's participation in these two working groups was largely pro forma. For its part, Belgrade sought to politicize the dialogue through petty interventions, such as in the WGTC, where it requested that the Pristina delegation insert the words 'and Metohija' after every reference to Kosovo in a paper it had submitted.

The legacy of the K-Albanians' parallel institutions that existed after their wholesale expulsion from the political and economic mainstream in 1990 resurfaced in the aftermath of the conflict in part because of the exodus of K-Serbs from Kosovo in June 1999 as well as because of what

[9] Wittkowsky, op. cit., p. 24.

could be termed reverse discrimination, as many K-Serbs in the public sector, particularly those who had worked in publicly-owned enterprises (POEs), i.e. utilities, before the conflict suddenly found themselves replaced by K-Albanians, most of whom had lost their jobs in 1990. This was further exacerbated by reforms that were intended to ensure a smaller, more effective labor force than the previous near-full employment socialist-era model. For example discussions between Belgrade and Pristina in the Direct Dialog Working Group on Energy that started in 2004 were stymied by lack of progress in overcoming Belgrade's insistence that the Kosovo Electric Energy Corporation (KEK) restore jobs to former K-Serb employees of KEK's predecessor, Elektrokosmet. In a bid to overcome the previously mentioned bill-paying boycott by KEK's K-Serb consumers, KEK together with Pillar IV, sought to change the status quo by insisting that consumers sign contracts to enable deliveries. As a sweetener, KEK offered to higher K-Serbs electric meter readers in K-Serb neighborhoods. Both plans failed. The job ads failed to attract any job-seekers, whether because these were placed in K-Albanian newspapers or because of outside intimidation not to work for Kosovo institutions is unclear. In a revealing example of the Catch-22 nature of the problem, an international employee of UNMIK residing in a Serbian neighborhood in southeastern Kosovo tried to conclude a contract with KEK in Gjilan/Gnjilane to ensure a more stable electricity supply, but was told by KEK that as there were no K-Serb meter readers in his district no electric meter could be installed in his home and hence no contract could be signed.

2009, nine and a half years after the departure of Serbian security forces and the arrival of UNMIK and KFOR, Kosovo has changed significantly for the better, in terms of economic development, and yet its economy remains flawed by a massive trade deficit (imports in 2006 totaled $1,916 million while exports totaled just $333 million, a poverty level estimated by the World Bank at 37 percent of the population, an unemployment level by various estimates of between 40 and 60 percent.[10]

[10] World Bank, Kosovo at a Glance.

Following Kosovo's Declaration of Independence on 17 February 2008, coordinated with Pristina's key international partners in the International Steering Group and as a result of the entry into force of the Kosovo Constitution and accompanying legislation on June 15, Kosovo authorities have taken legal control and responsibility for direct civil administration previously performed by UNMIK, although Resolution 1244 remains in effect. The SRSG neither has any longer the power to promulgate legislation or even to ensure that such legislation is respected and enforced nor is the SRSG in a position to impose solutions to inter-community disputes. There is no space for direct administration at the local level, except to some extent in northern Mitrovica. The ability of the customs service previously under Pillar IV and now under EULEX are only just beginning to function again in the north after a hiatus of nearly one year. Since the shutdown of Pillar IV on 31 October 2008, UNMIK no longer has the capacity to monitor the economic sector.

Secretary General Ban Ki-Moon's report to the Security Council of June 20 and his instructions on June 25 acknowledged that UNMIK can no longer effectively perform its role as an interim administration. He called for UNMIK to reconfigure and to prepare a plan taking into account the changed realities on the ground in Kosovo.

Issues that many in the international community had expected to be resolved in the weeks and months after the Constitution took effect remain open, resulting in adjustments to the roles of the International Community. The best intentions of the European Commission and the International Steering Group to deploy the Ahtisaari Plan's institutional products, EULEX and ICO, throughout Kosovo have been stymied by logistical and financial difficulties as well as by disunity in Brussels and skillful maneuvering by various interested parties.

The lessons of the past decade of the case of post-conflict Kosovo are as much political as they are economic: ongoing, constant and close coordination among international organizations as well as the political unity of their respective member states are vital if declared goals are to be achieved – allowing petty domestic considerations to take precedence will scupper the best laid plans for coordinated multi-lateral action.

Moreover, delaying the imposition of solutions to placate one side in the hope that it will eventually become more amenable is tantamount to appeasement; it does not make the solution any easier or more palatable but rather only dilutes solutions, making them ever more difficult to implement.