

The OSCE Mission in Kosovo

On 1 July 1999 the OSCE decided, for the third time since 1992, to set up a long-term mission in Kosovo.

It could be described as an operation involving three lines of approach which, taken together, represent the OSCE's main contribution to the efforts of the international community to settle the Kosovo conflict since the collapse of Yugoslavia.¹

The persistence of the Kosovo conflict and its intensification in the last year and a half² are reflected in the development and the outcome of these approaches. As the political and humanitarian situation in Kosovo worsened, international involvement intensified, leading to the use of military force by NATO.

At the same time it became clear that the OSCE, with its "soft" resources, would not alone be able to put an end to the conflict.

Most recently, the establishment of an international transitional administration, in which the OSCE is one of a number of participants and which is supported by an international security force dominated by NATO, has brought new opportunities for a long-term settlement of the Kosovo conflict.

The First OSCE Mission to Kosovo

The first Kosovo Mission lasted from 8 September 1992 until 29 June 1993 and was the central part of a three-part Mission established for the largest minority areas of the Federal Republic of Yugoslavia (FRY) - Kosovo, Sandjak and Vojvodina. At no time did its staff exceed 20 persons. Due to Serbian-Yugoslav refusal, the use of an international military force could not be considered.

Under relatively non-violent outward circumstances in Kosovo, the Mission's mandate, in accordance with a decision of 14 August 1992 by the Committee of Senior Officials (CSO), provided for:

- promoting dialogue between the public authorities and representatives of the populations and communities,

1 The "Implementation Mission" of the OSCE (IM) provided for in the "Interim Agreement for Peace and Self-Government in Kosovo" (Rambouillet Agreement) of 23 February 1999, which for lack of Serbian-Yugoslav adherence to the agreement never came into being, is not considered here.

2 State of affairs as of July 1999.

- collecting information on violations of human rights and fundamental freedoms as well as promoting solutions for such problems,
- establishing contact points for the solution of problems, and
- providing assistance in obtaining information on relevant legislation in the fields of human rights, protection of minorities, freedom of the media, and democratic elections.

This mandate did not state any goals towards the restoration of autonomy for Kosovo or improving the lot of minorities and it contained no instructions on conducting mediation or negotiations. In this sense it was in line with Serbian-Yugoslav interests.

The first Mission did, however, have a responsibility in dealing with human rights violations which, as a practical matter, opened up the opportunity for coping with the situation of the Albanian ethnic group. For the latter, the establishment of the Mission was an important step towards the internationalization of the Kosovo problem which their leaders had been demanding.

The work of the first OSCE Mission coincided in part with the terms of office of the Yugoslav Prime Minister, Milan Panić, and the Foreign Minister, Ilija Djukić, who were interested in an opening towards the West. It was judged favourably by all sides. Even Slobodan Milošević told international visitors that the OSCE Mission had reported objectively and that its members stayed longer in the country and were more useful than short-term international visitors. Nevertheless, the mandate of the first Mission could not be extended beyond 28 June 1993 because the FRY, following the dismissal of Panić and Djukić, tied the extension of the mandate to Yugoslavia's readmission to the OSCE, which had suspended the FRY's participation beginning in July 1992 because of Belgrade's role in the Bosnia conflict. As a result of this FRY position, it became impossible to continue the OSCE presence in Yugoslavia - and thus in Kosovo - and this remained the case until the Special Envoy, Richard Holbrooke, and President Milošević came to an understanding in October 1998.

At that time, the first OSCE Mission was the only inter-governmental representation of the international community in Kosovo. Its withdrawal in 1993 marked the beginning of a five-year vacancy. As weak as its authority was, its withdrawal, viewed in the light of later developments, must be regarded as a serious loss of a potentially significant instrument for influencing the situation in Kosovo.

The second OSCE Mission to Kosovo - the so-called Kosovo Verification Mission (KVM) - operated from 25 October 1998 until 8 June 1999. Its establishment was preceded by the escalation of the Kosovo conflict in the form of an armed rebellion by the "Kosovo Liberation Army" (KLA, also known as UCK), excesses on the part of Serbian security forces and the expulsion and flight of portions of the population. Growing pressure from the international community in response to these developments forced Milošević, among other things, to agree to an international monitoring mechanism.

This opened the path for a renewed OSCE presence in Kosovo without the issue of the FRY's readmission to the OSCE having to be considered. It meant that the FRY continued to be excluded from OSCE participation. Although Milošević had retracted to some extent, he was nevertheless influential in seeing that only a relatively mild monitoring system was implemented - one which depended on "verification" by unarmed OSCE emissaries while NATO's military surveillance was confined to the air. The establishment of the KVM was a vital part of the agreements for a peaceful solution of the Kosovo conflict which Holbrooke and Milošević announced on 13 October 1998 in Belgrade. Shortly thereafter, on 16 October 1998, the Chairman-in-Office of the OSCE, Bronisław Geremek, and the Yugoslav Foreign Minister, Zivadin Jovanović, signed another agreement in Belgrade which, together with the mandate adopted on 25 October 1998 by the Permanent Council of the OSCE, constituted the basis for the KVM. The KVM's chief responsibilities were verification of the maintenance of the cease-fire, the retreat of Serbian security forces and the cessation of coercive acts against the civilian population as well as the monitoring of the police, conduct and supervision of free elections in Kosovo, supporting the establishment of democratic institutions and assisting humanitarian organizations, particularly those concerned with the return of displaced persons.

The various verification tasks involved no controlling authority in the sense that there was no interference in lines of command, but only the observation of the parties with regard to certain kinds of behaviour. The agreement between the FRY and the OSCE granted complete freedom of movement and access to Mission personnel but the parties' obligations to provide information and to collaborate in other respects were quite restricted. For example, the reporting requirement on the movements of forces was only retrospective, i.e. those that had taken place during the preceding week. The Mission had somewhat more extensive authority in accompanying police units and removing roadblocks. With the procedures as they were it was very difficult to prevent violations of regulations. Nonetheless, the Mission was able in only a few months to establish four regional centres and ten local offices, a network

that essentially covered the entire territory. With a highly visible presence and energetic reactions to human rights violations the Mission was able periodically to make a substantial contribution to relaxing military tensions and ameliorating human rights problems. Kosovo Albanians with whom the author spoke expressed their satisfaction over the Mission's existence as a link between Kosovo and the outer world and as the world's "eye" on Kosovo. In this context, the following processes were crucial: the compilation and review of information in the Mission's headquarters in Priština as well as in the co-ordinating office of OSCE and NATO in Kumanovo/ Macedonia, the reports to OSCE institutions (and hence to the participating States), as well as the press and public relations work of the Mission.

Increasing numbers of Yugoslav troops and special police were brought in at the beginning of 1999 in violation of the obligation to withdraw security forces. The situation with respect to security and humanitarian affairs deteriorated rapidly. Without suitable resources, the OSCE Mission could not prevent this. The developments confirmed the observations of an earlier OSCE technical assessment mission which had concluded in July 1998 in Belgrade and Priština that the cease-fire could not be guaranteed without the tough presence of international military forces.

These developments led on 20 March 1999 to the Mission's withdrawal to Macedonia and, shortly thereafter, the begin of the NATO air offensive.

The Mission set up its headquarters in Skopje. Of the original over 1,300 strong mission for the moment about 350 members remained. Russia and Belarus, in protest against the NATO operation, no longer took part in the Mission. The remaining staff occupied themselves with problems arising from the mass expulsion of Albanians from Kosovo. For example, the KVM assisted the UNHCR in registering refugees and systematically collected eyewitness reports on human rights violations in Kosovo.

In June 1999, as a result of the NATO air offensive and diplomatic mediation with active Russian participation, Serbia-Yugoslavia for the first time agreed to an international military presence in Kosovo under the aegis of the UN and to the assumption of executive responsibility by the international community.

The Third OSCE Mission in Kosovo

Thus the OSCE had the opportunity to concentrate on core areas and specific capabilities within the framework of an operation encompassing all relevant international organizations - one in which there is a tough element of military deterrence to support and relieve the OSCE.

The basis for establishing a new, third OSCE Mission in Kosovo can be found in Resolution No. 1244 of the UN Security Council of 10 June 1999. It

empowers the UN Secretary-General, with the assistance of relevant international organizations, to set up a "civil presence" aimed at providing an interim administration for Kosovo, establishing and overseeing the development of provisional democratic self-governing institutions. According to the UN Secretary-General's report of 12 June 1999 and the agreements reached at that time, the leading roles in these various civilian activities were divided up as follows amongst the most important organizations:

- interim civil administration: United Nations;
- humanitarian matters: UNHCR;
- institution-building: OSCE;
- reconstruction: European Union.

The OSCE got ready for the new situation by first declaring that the KVM had ceased to exist and then establishing a Task Force to make preparations for a new mission.³

Shortly after NATO's arrival the OSCE, too, returned to Kosovo in the form of the Task Force.

On 1 July 1999 the Permanent Council decided on the creation of a new - third - OSCE Mission in Kosovo as "a distinct component within the overall framework of the United Nations Interim Administration Mission in Kosovo (UNMIK)".⁴

The decision of 1 July 1999 describes the Mission's responsibilities in detail as follows:

1. human resources capacity-building, including the training of a new Kosovo police service in a police school to be established and operated by the Mission, training of judicial personnel and of civil administrators at various levels, in co-operation especially with the Council of Europe;
2. democratization and governance, in particular development of a civil society, non-governmental organizations, political parties and local media;
3. organization and supervision of elections;
4. monitoring, protection and promotion of human rights, including the establishment of an ombudsman institution, in co-operation, *inter alia*, with UNHCHR;
5. such tasks which may be requested by the Secretary-General of the United Nations or his Special Representative, which are consistent with Resolution No. 1244 of the UN Security Council and approved by the Permanent Council.

3 Cf. PC.DEC/296 of 8 June 1999.

4 Decision No. 305 of the Permanent Council of the OSCE, PC.DEC/305 of 1 July 1999, p. 1.

The guiding idea behind the activities of the Mission has been bringing about mutual respect and reconciliation among all ethnic groups and establishing a viable multi-ethnic society in which the rights of every citizen are fully and equally respected.

From the mandate of 1 July 1999 it is not possible to tell in detail just how the Mission will actually operate. Whether it will provide chiefly advisory services or itself intervene in an executive capacity remains, in particular, an open question.

Now that the civilian presence as a whole and the OSCE Mission as a part of it have taken over the responsibility of making provisional arrangements for democratic self-government, it is to be assumed that neither the Yugoslav institutions in Kosovo, to the extent that they still exist, nor the "shadow administration" of the Kosovo Albanians (which has come to be controversial even amongst the Albanians themselves) will be able to function as an equal partner of the international civilian presence.

For the OSCE Mission, too, its own executive role is likely to predominate, at least during the initial phases. This executive function is defined in detail in three sections of the mandate: establishment and operation of a police school (as a further development of the authority the OSCE Mission to Croatia has), creation of the institution of an ombudsman for human rights (comparable to the same responsibility at the OSCE Mission to Bosnia and Herzegovina) and, most obviously, in the organization and supervision of elections (a further development of the central task of the OSCE Mission to Bosnia and Herzegovina which, theoretically, was limited to monitoring elections but in fact involved organizing them). The third Kosovo Mission is to have a staff of approximately 700. Thus it will be significantly smaller than the second, whose mandate was broader but, as it turned out, could not be carried out in its entirety.

The Head of Mission is the former Head of the OSCE Presence in Albania, the Dutch diplomat Daan Everts.

The success of the third OSCE Mission - like that of the whole international presence in Kosovo - will in the final analysis be measured by the extent to which it is able to create a viable self-government for Kosovo Albanians and Serbs while strengthening the peace. It is to be hoped that this Mission, unlike its two predecessors, will have sufficient time to complete its task.