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# THE REVIEW OF INTERNATIONAL AFFAIRS

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### THE RMB INTERNATIONALIZATION, CHINESE FINANCIAL OPENNESS AND REFORM

Haihong GAO<sup>1</sup>

**Abstract:** The RMB internationalization strategy is one of the major financial climate changes for both Chinese domestic and foreign financial transactions in the aftermath of the global financial crisis. The paper examines to what extent the RMB is used internationally and outlines the step-by-step approach to the RMB internationalization from the policy point of view. It emphasizes the important steps of the RMB strategy, including the RMB in trade settlement, bilateral currency swaps, regional coverage and offshore market development. It also focuses on the debate of the sequencing issue and the argument of “committed device”. Most recently, the Chinese government has reaffirmed its decision of financial opening and domestic financial reform and has laid out a timetable committing to make the RMB fully convertible by 2020. The paper considers such forward-looking policy steps, along with the new development of the so-called shadow banking, market-driven interest rate liberalization, and free float of exchange rate, to be the major elements for a great change of the Chinese financial sector in the years to come.

**Key words:** the RMB internationalization, capital account opening, exchange rate flexibility, interest rate liberalization, domestic financial reform.

#### Introduction

China is now the world's second largest economy and the major creditor with a massive trade surplus and accumulated foreign exchange reserves. However, in the

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financial world, the Chinese weight is far less presented. For instance, the US dollar remains the dominating currency used for China's trade and financial transactions. China's \$3.3 trillion foreign exchange reserves, the fallout of the past export-oriented economic strategy and a weak and small domestic financial market, are mainly invested in dollar assets. Such a position makes China's foreign assets highly sensitive to the dollar's yield curve. In fact, the dollar index depreciated by over 43% in the past decade, despite of some upturn episodes in the time of crisis. China has suffered a tremendous capital loss. Apart from that, the global financial crisis reflected that the Triffin Dilemma, the intrinsic flaw of the dollar dominating the international monetary system, has become one of the major sources of the global imbalance and financial instability. China should look for a diversified reserve currency system and get rid of the "dollar trap" described by Krugman (2009). One way to do it is to make its own currency globally attractive and provide the world with a safe asset supplement to the dollar, euro and other well-established international currencies.

The RMB international strategy draws heavy intention by the policy-makers and market participants. It certainly gives China more financial power to match its growing weight in the world economy. The question is how to make it and what comes along with it. The rest of the paper is going to give an answer to those questions.

### **The Literature Review**

The definition of currency internationalization generally falls into three basic roles of a fiat money transacted beyond national borders: store of value, medium of exchange and unit of account. Kenen (1983) put forward some early thoughts on the functions of international currencies. Chinn and Frankel (2005) gave an analytical framework and divided the functions into two categories: private and public purposes. For instance, for private purpose, an international currency can be used as currency substitution, trade settlement and investment denomination. For public purpose, it is used as official reserve, foreign exchange intervention and an anchor for exchange rate pegging. Ito (2011) revisited the functions of international currency and clarified the different functions of invoicing and settlement in trade transactions. Although such framework is far from being complete, it gives a guideline for tracing the process of currency internationalization and estimating the degree of its international use.

What are the factors that make a currency an international one? The general conditions highlighted by the literature include: the issuing country's economic size, stable intrinsic value of the currency, credibility of the central bank, financial strength and openness, degree of financial market development, political and military power, so on and so forth, as pointed by Frankel (1999) and

Michalopoulos (2006). Kenen (2012) focused on the importance of currency convertibility and capital account openness. He argued that a national currency could be regarded as an international currency if most of the following conditions hold. Firstly, the government must remove all restrictions on the freedom of any entity, domestic or foreign, to buy or sell its country's currency. Secondly, domestic and foreign firms are able to use the currency to invoice their trade. Thirdly, foreign firms, financial institutions, official institutions and individuals are able to hold and issue the currency denominated financial assets. Fourthly, the issuing country's own financial institutions and non-financial firms are able to issue instruments denominated in their country's own currency on foreign markets. Fifthly, international financial institutions and regional development banks are able to issue debt instruments in a country's market and to use its currency in their financial operations. Lastly, the currency may be included in the currency baskets of other countries as part of exchange rate policies. Although those conditions are critical for a currency's free accessibility, the argument ignored the fact that the offshore market normally grew within the existence of national capital control.

From the perspective of history, it is generally believed that for decades the network externality gave the US dollar an "exorbitant privilege" as a leading international currency. However, Eichengreen (2010) reviewed the timeline of the US dollar to overtake the sterling for official reserves and argued that the rise of China and other emerging economies would rapidly challenge the dollar's status.

Takagi (2012) reviewed the experience of Japan's attempt to internationalize its currency from 1984 to 2003. The study provided rich documentary evidence with regard to the Japanese policy changes and the yen's role in the domestic and international market. Kawai and Takagi (2011) also drew lessons for the RMB from the experience of the Japanese yen. They concluded that the past experience of the yen suggested that strong economic fundamentals could raise the international role of a currency to some extent, but fundamentals alone could not qualify the currency as a key international currency and the road to the key international currency status would not be easy for the RMB.

The experience of the euro has also provided valuable hints for the RMB. Moss (2012) investigated the role of the euro in the first years after its introduction and confirmed that the international use of currencies tended to be very slow moving, being characterized by considerable inertia. The paper's historical evidence also suggested changes in the use of international currencies which tended to be associated with large structural breaks in societal, political and economic forces. The ECB (2008, 2010) traced the roles of the euro in the global market and evaluated its importance in official foreign reserve holdings, although the euro internationalization has never been a policy objective of the ECB.



The study on the RMB internationalization was initially focused on the estimation of the size of the RMB circulation in China's neighboring countries beginning in the late 1990s. It soon became China's policy concern as the size of the RMB circulation grew very fast. The key issues discussed the following: First, what are the rationales and implication of the RMB internationalization? Gao and Yu (2012) outlined the general benefit and cost of the RMB internationalization. They believed that the global use of the RMB would help to mitigate exchange rates for the Chinese firms, strengthen the competitiveness of the Chinese financial sector, and avoid China's capital loss of foreign reserves invested in the US dollars. However, Gao (2010) also warned of the uncertain impact of the currency's international use on the effectiveness of the domestic monetary policy through the channel of money aggregate, currency substitution and arbitrage. Prasad and Ye (2012) focused on the RMB's potentials and its implication for changing the international monetary order. Secondly, is there any optimal sequence of currency internationalization, and what is the relationship between capital opening and the domestic financial reform? Whilst the People's Bank of China (PBoC) was generally believed to be a supporter of rapid capital opening, some Chinese economists were very skeptical worrying about the risks of careless openness without necessary reform in the domestic sector and the exchange rate policy (Zhang B. 2011; RCIF 2011; Yu 2011; Zhang M. 2011). Thirdly, the rapid development of the RMB offshore market raised the discussions on supervision of cross-border capital flow and the dynamic change of RMB offshore and onshore markets (McCauley2011; Subacchi and Huang 2011; Maziad and Kang 2012). It also raised the question of future labor division of the RMB global centers.

### **The New Comer's Popularity**

The international role of the RMB has expanded rapidly in the past years. The RMB first gained popularity in China's neighboring countries in Asia. For instance, the evidence of co-movements of exchange rate fluctuations and the existence of correlation in monetary policies between China and the rest of Asian economies were reported by the ECB (2010). The ECB referred to it as "RMB dominance hypothesis" in Asia, in comparison with "the Deutsche Mark dominance hypothesis" in Europe in the 1970s.

In the global market, since June 2012 when the RMB trade settlement was opened for corporate worldwide, the RMB customer payments have grown rapidly. According to SWIFT (2013), the RMB payments used by European firms grew 163%, which was faster than 106% in Asia (excluding China and Hong Kong). SWIFT issued a short note entitled "Will Europe overtake Asia in RMB trade settlement", indicating the significant development of RMB payments in Europe. In September 2013, the RMB was ranked #12 payment currency in the

world. In the global foreign exchange market, the BIS statistic shows that the RMB (shown as CNY in Table 1) market turnover ranked #9 in traded currencies, compared with its insignificant share in 1998 (BIS, 2013).

*Table1:* Top 10 currencies of global foreign exchange market turnover (share %; rank #)

Currency	1998		2001		2004		2007		2010		2013	
	%	#	%	#	%	#	%	#	%	#	%	%
USD	86.8	1	89.9	1	88	1	85.6	1	84.9	1	87	1
EUR	-	32	37.9	2	37.4	2	37	2	39.1	2	33.4	2
JPY	21.7	2	23.5	3	20.8	3	17.2	3	19	3	23	3
GBP	11	3	13	4	16.5	4	14.9	4	12.9	4	11.8	4
AUD	3	6	4.3	7	6	6	6.6	6	7.6	5	8.6	5
CHF	7.1	4	6	5	6	5	6.8	5	6.3	6	5.2	6
CAD	3.5	5	4.5	6	4.2	7	4.3	7	5.3	7	4.6	7
MXN	0.5	9	0.8	14	1.1	12	1.3	12	1.3	14	2.5	8
CNY	0	30	0	35	0.1	29	0.5	20	0.9	17	2.2	9
NZD	0.2	17	0.6	16	1.1	13	1.9	11	1.6	10	2	10

Source: Bank of International Settlement, BIS “Triennial Central Bank Survey of Foreign Exchange and Derivatives Market Activity”, April 2013.

An up-to-date summary of the RMB international use is provided in Table 2. It comprises three basic functions of money: store of value, unit of account and media of exchange; it serves two purposes: private and public. For the private purpose, the RMB is used in cross-border trade settlement, bank loans and bond issuance in Hong Kong. It is also used for outward direct investment (RODI). For non-residents, the RMB denominated domestic bond and equity market are open to qualified foreign institutional investors (RQFIIs). China’s domestic interbank bond market is also open for the authorized foreign central banks. For public purpose, the RMB serves as a payment currency in bilateral currency swaps between the People’s Bank of China (PBoC) and other central banks. The RMB is also considered by some central banks an investment currency in their foreign reserve portfolio, and one component of their currency baskets. The RMB, in fact, begins to play a role of currency anchor, and the PBoC, to some extent, becomes the lender of the last resort.

*Table2: Current use of the RMB (as of October2013)*

<b>Private use</b>	<b>Public use</b>
Trade settlement/Trade credit (no limit)	- Currency swaps between central banks (24 contracts, amounted to ¥ 2.4382 trillion)
Bank deposit (Hong Kong)	- Swaps under Chiang Mai Initiative
Bond (“dim sum” in Hong Kong, Singapore, London; QFIIs, RQFIIs)	- Foreign reserve for central banks (e.g. Nigeria’s; Thailand’s; Japan’s)
Equity (QFIIs, RQFIIs)	- Anchor for currency baskets (e.g. India’s)
Direct investment (ODI)	
Money market (few qualified banks)	
Project financing (BRICs)	
Crude oil transaction	

Source: The author’s calculation.

### *Bilateral Swap Lines: More than Liquidity Support*

The purpose of the swap lines was initially to give liquidity support and confidence building in time of crisis. For instance, the first one was signed between the PBoC and Bank of Korea when Korean banks had liquidity shortage in the fall of 2008. Since then, some more bilateral currency swaps have been signed between the PBoC and other central banks. The most recent contract was between the PBoC and ECB, which was the largest of all, excluding the extended ones with Bank of Korea and Hong Kong Monetary Authority, respectively. As of October 2013, the PBoC signed 24 swap contracts with other central banks and monetary authorities, amounting to 2.4382 trillion Yuan in total. The complete list of swaps is shown in Table 3. More importantly, the aims of the swap lines are now not only for liquidity support, but also for some extended purposes such as bilateral trade and investment. It is expected that such a type of officially arranged swaps can be a great push for the market appetite making the RMB step up to the next level of its international use.

### *Trade and Investment Settlement: the Policy Priority*

China gives priority of the RMB strategy to cross-border trade transactions. This is because the fundamental demand for the currency is a tremendous duo for close ties between China and its trade partners. It is especially true for China’s neighboring countries, as the RMB has been accepted for many years and the currency has circulated considerably outside the Mainland. Apart from that, using the local currency to denominate trade transactions is also beneficial for the

*Table 3: Bilateral currency swaps between the People's Bank of China and other central banks*

Date	Partner	Size (Yuan bn)	Date	Partner	Size (Yuan bn)
2008/12/12	Korea*	360	2011/6/23	Russia	20
2009/1/20	HKMA*	400	2011/12/22	Thailand	70
2009/2/8	Malaysia*	180	2011/12/24	Pakistan	10
2009/3/11	Belarus	20	2012/1/17	Saudi Arabia	35
2009/3/23	Indonesia*	100	2012/2/21	Turkey	10
2009/4/2	Argentina	70	2012/3/22	Australia	200
2010/6/10	Iceland*	3.5	2012/6/22	Ukraine	15
2010/7/23	Singapore	150	2013/3/26	Brazil	190
2011/4/18	New Zealand	25	2013/6/22	UK	200
2011/4/19	Uzbekistan	0.7	2013/9/9	Hungary	10
2011/5/6	Mongolia*	10	2013/9/12	Albania	2
2011/6/13	Kazakhstan	7	2013/10/9	ECB	350
Total	24	2,438.2			

Note: \* extended size.

Source: People's Bank of China and the author's calculation.

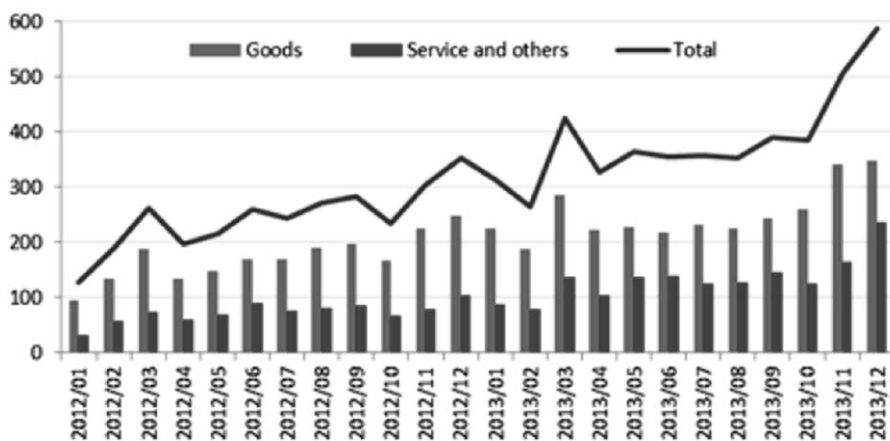
Chinese trade sectors, because it can minimize the exchange rate risk entailed by the involvement of a third currency.

In 2009, China had launched the Pilot Program of RMB Settlement for Cross-Border Trade Transactions to relax the control over the RMB in trade settlement in five cities with Hong Kong, Macao and the ASEAN countries. The decontrolling was soon expanded to 20 provinces with all the countries. In March 2012, China eliminated all the restrictions on the RMB trade settlements in order to meet the objective of its 12th Five-Year Plan (2011-2015). Since 2009, the number of exporters using the RMB has enlarged rapidly and the volume of the RMB settlement has increased from zero to over 5% of China's total trade. The latest statics shows that in December 2013, China's cross-border trade settlement in the RMB under the current account amounted to 588.3 billion yuans, of which 59.3% is used for trade of goods (Chart 1).

In January 2011, China launched the Provisional Rules for the Pilot Program of RMB Settlement for Overseas Direct Investment, opening the gate for the Chinese banks and enterprises using the RMB in their overseas direct investments.

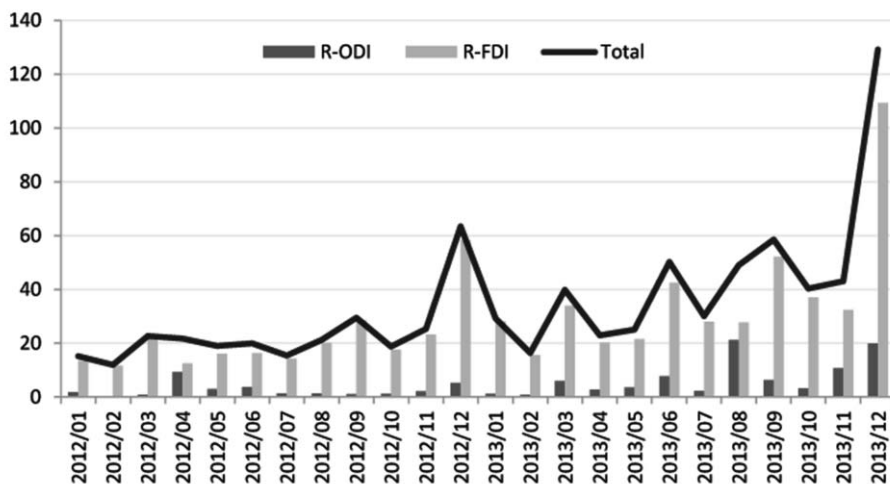
However, as Chart 2 shows, the use of the RMB for inward investment (R-FDI) has been overwhelmingly larger than that for the outward flows (R-ODI) in the past years. That was mainly because of the persistent expectation of the RMB appreciation. The foreign firms preferred to claim the RMB assets under the pressure of currency appreciation in the hope for higher returns in the future.

*Chart 1: The RMB in trade settlement (monthly, in billion yuan)*



Source: Wind database.

*Chart 2: The RMB in foreign direct investment (monthly, in billion yuan)*



Source: Wind database.

*The RMB offshore and onshore markets: from Hong Kong, London to Shanghai*

Why Hong Kong? Before China's opening up, Hong Kong played the role of the "gateway to the Mainland". During the time of handover in 1997, Hong Kong feared to lose its advantage, because foreign financial institutions and firms would possibly bypass doing business directly with their Chinese partners. However, it did not happen. Hong Kong has retained its competitiveness as an international financial center thanks to its free market, sufficient expertise, and well-established financial infrastructure. From the perspective of the Mainland, as the capital control is in place, what is unlikely to be abandoned in a drastic way, the RMB needed to have its debut somewhere out of the range of the domestic capital control. Hong Kong is the perfect place in that sense. In fact, as more and more tourists were coming from the Mainland, the RMB started circulating in Hong Kong long before the official arrangement between the Mainland and Hong Kong. In 2004, the Mainland government permitted the banks in Hong Kong to accept the RMB deposit and loans. That policy gave an initial push for Hong Kong to carry out the RMB business.

Hong Kong RMB offshore has been playing the role of "experimental grand" since 2004, allowing the Mainland government to maintain limited convertibility and at the same time facilitating the RMB liquidity in the overseas market. Now Hong Kong has become the major RMB overseas pool, the largest RMB payment center of the world, and a multi-currency financial platform for investors to raise the RMB funds. Its RMB Real Time Gross Settlement (RTGS) system has facilitated Hong Kong to become the major RMB clearing hub.

The growth of Hong Kong RMB offshore, in fact, has been partially benefited from the RMB appreciation. As Chart 3 shows, the correlation between the size of the RMB loans and the RMB appreciation has been significant since the beginning of 2004, when the RMB deposit in Hong Kong was first permitted. That phenomenon indicated that, with the RMB offshore in place, the RMB appreciation expectation would very likely result in one-way bet of arbitrage. Such arbitrage is often linked to short-term and speculative capital flows, which makes the Chinese authority facing the challenge of dealing with the unwanted and volatile "hot money". However, on the positive side, the arbitrage incentives raise the market appetite for the RMB, which is one of the key variables for the RMB attractiveness.

After Hong Kong, Singapore and London have become the other two RMB offshore markets. Now, the offshore business is extending to Europe. Luxemburg has already recorded the RMB payment business. Paris is expected to be another RMB business hub in the near future.

Parallel to developing the offshore market, the Chinese government has decided to foster Shanghai with the purpose of becoming the RMB onshore center.

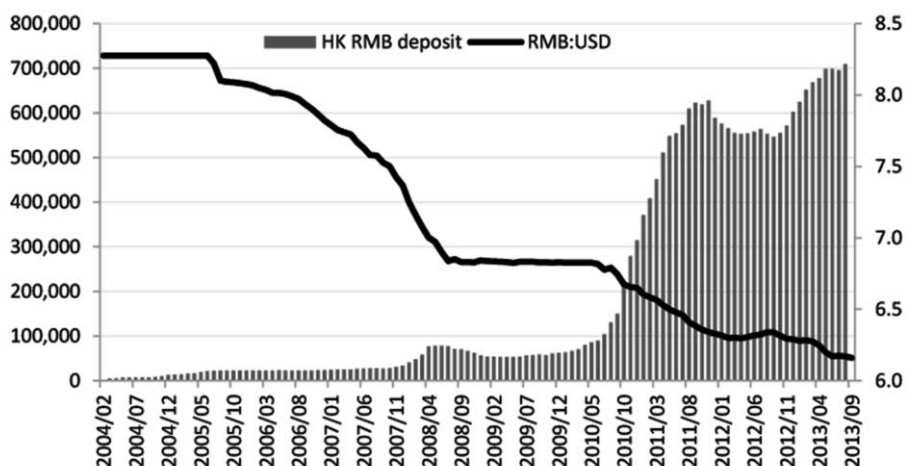
Shanghai has the potentials to become the RMB onshore market with the help of newly creation of the Shanghai Free Trade Zone (SFTZ). It is generally hoped that the SFTZ will be another experimental case for the RMB internationalization. However, since the development of the Shanghai financial center relies on the agenda of domestic financial deregulation and capital account opening, it will take time for Shanghai to develop itself into the one comparable to New York and other established onshore financial centers.

The labor division between the RMB onshore and offshore markets is another factor for the success of Shanghai. Unlike Hong Kong, Singapore, London and other offshore markets, Shanghai, as an onshore market, is sensitive to the domestic policy and regulation. It is reasonable to believe that Hong Kong is likely to be a wholesale market for the time being, as it remains the intermediation of the RMB liquidity from and to the Mainland, China (Subacchi and Huang 2012). However, as the RMB assets are becoming more and more accessible, the competition for the RMB business in different markets is inevitable and that will be a real tick-off for the market-driven internationalization of the RMB.

### *The RMB in Asia: Fundamental Ties*

After the Asian financial crisis in 1997-98, China shifted its external economic policy from its concentration on global multilateral platform towards the one which was regionally oriented to Asia. During the past years, China has integrated

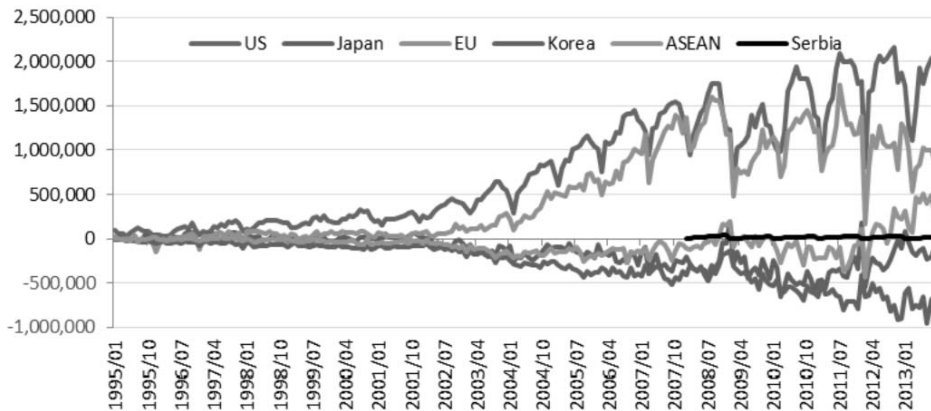
*Chart 3: The RMB deposit in Hong Kong (2004.2~2013.8)*



Note: right vertical axis: million yuan; right vertical axis: exchange rate of the RMB against USD.  
Source: People's Bank of China and Hong Kong Monetary Authority.

itself in trade and investment transactions with its neighboring countries by signing up the multiple Free Trade Areas (FTAs) with trade partners in Asia. China is also the largest fund provider for the Chiang Mai Initiative Multilateralization (CMIM), the most important financial arrangement with fund capacity of \$240 billion available for 13 member countries in Asia. In production chain, China has become a hub, and about 60% of China's FDI comes from Asia. More importantly, as Chart 4 shows, for the past decades, China has run trade deficit with most of Asian economies, including Japan, Korea and ASEAN countries. By running deficit, China is able to provide the RMB liquidity to its partners, and there is a natural demand for it. It is expected that the growing importance of the RMB in Asia will, to some extent, crowd out the US dollar as a major trade settlement currency in the years to come (Gao, 2013).

Chart 3: China's trade balance with selected countries (in million dollars)



Source: Wind database.

### Sequence Matters

China had accepted the IMF's article VIII and lifted foreign exchange restrictions in the current account in 1996. However, concerning its capital account opening, China has followed a gradual pattern. According to the IMF classification of capital account convertibility, China liberalized 35% of its foreign exchange restrictions as of 2012.<sup>2</sup> It also adopted a general principle of "crossing the river by feeling stones" and delivered simple guidelines without timetable

<sup>2</sup> In respect to the IMF specification of capital account transactions, China has 22 items, out of 40 in total, which are subject to relatively less restrictions. A complete framework of China's capital control is summarized in Gao and Yu (2012).



concerning its currency convertibility under capital account transactions. However, the situation changed right after the outbreak of the global financial crisis in 2007-08.

### *The End of Gradual Approach?*

In 2012, a demarcating line was drawn for China's financial openness. Before that, China had retained *status quo* with regard to capital control. However, after deciding to seize the window opportunity for the RMB strategy, the Chinese government began to accelerate the speed of capital account opening. The PBoC, which is generally regarded as the most liberal minded of the Chinese governmental decision-making bodies, took the first step by laying out a timetable. It was published in the newspaper under the author's name of the person who was a member of the PBoC project team. According the PBoC project team (2012), China planned to achieve its full currency convertibility in the next 10 years. As it is shown in Table 5, in the short-term, China will lift the restrictions on direct investments and encourage the Chinese enterprises to "go abroad", which is regarded as a low risk rank. In the medium-term, China will relax its control on commercial credits, as its risk is slightly higher than that of direct investments. In the long-term, China will open its domestic debt securities, equities and real estate markets for non-residents. As those markets are still underdeveloped at the current stage, China may need more time to become ready for foreign participants. For those high risk items, including money market, financial institutional credit, resident capital transactions, collective securities, guarantees and derivative products, China will retain control without deadlines.

In November 2013, the Chinese premier Li Keqiang engaged himself in supporting the project on refurbishing railway lines between the capitals of Hungary and Serbia with the Chinese funds and technology. It is one example of China's fast policy moves and it is likely to be a stepping-stone for the Chinese enterprises for entering other European markets in the next years.

It is noticeable that the schedule presented in 2012 was amended with some more aggressive steps in 2013. Some medium-term steps, including opening domestic bond and equity markets, is going to be implemented ahead of the schedule. Regardless of the fact what changes are made, the message is the same: China has decided to speed up capital account liberalization.

However, the immediate debate on how dangerous it is to open the capital account in such a bold way put the central bank on the front page of the Chinese media. The critics are focused on the following concerns. Firstly, rapid capital opening would trigger massive cross-border short-term capital flow, and the latter is pro-cyclical and volatile. Unless the government is fully equipped with a set of comprehensive prudential regulatory tools, capital control is always the first and

*Table 5: Stages and risks for capital account convertibility*

Capital account	Risk	Stage
Money market	high	4
Financial institutional credit	high	4
Resident capital transactions	high	4
Collective securities	high	4
Guarantees et al facilities	high	4
Derivatives	high	4
Debt securities	medium	3
equities	medium	3
properties	medium	3
Commercial credit	low	2
Direct investments	low	1

Note: Stages 1 to 4 represent short-term (1-3 years), medium-term (3-5 years), long-term (5-10 years), and future arrangements (unspecific), respectively.

Source: People's Bank of China Project Team "The Basic Conditions Are Mature for Accelerating China's Capital Account Opening," *China Securities Journal*, February 23, 2012.

the last defense line for the domestic financial stability. Secondly, it is a bad timing in the uncertainty of worldwide quantitative easing policies. The global investors' risk appetites are extremely sensitive to the policy moves in the US, Europe and other developed economies. China, like many other emerging economies, will be passively dealing with the spillover effects. Thirdly, although capital account opening is generally regarded as the necessity for the RMB internationalization, careless convertibility, as Yu (2011) argues, can only jeopardize the success of the RMB internationalization, because it would invite massive arbitrage and result in domestic financial instability.

It is generally believed that capital account liberalization is necessary if the currency is to be used on the global market, as it provides its accessibility for non-residences. However, the experiences of the key currencies indicate that capital account liberalization is not a pre-condition. It is especially true for the development of the currency's offshore market, because offshore transactions often took place under the circumstances of capital control on domestic transactions. The examples include the development of offshore markets of the US dollar in the 1950s and of the Deutsche mark in the 1970-80s.

If history is any guide to equalize the capital account opening with the RMB internationalization it is indeed misleading, and China now voluntarily places itself

in the ballroom to “dance with wolves”. Will China survive? The only chance lies in a well-sequenced domestic reform agenda.

### *Which Goes First, Capital Account Liberalization or Exchange Rate Flexibility?*

The sequencing issue is always in the focus of the debate on the RMB strategy. One of the key relationships is between capital account liberalization and exchange rate flexibility. Compared with China’s recent flexible attitude toward capital account liberalization, its tone about exchange rate policy remains the same: to develop market-determined exchange rate mechanism and make it fully flexible in the long-term. Here comes the doubt: how to make capital account opening sustainable with no change of the exchange rate policy?

In practice, China changed the exchange rate regime in 2005 from the dollar peg to a managed float one. The PBoC also broadened the fluctuation bands three times in the past years. As Chart 4 shows, since 2005, the RMB has appreciated by 13% against the dollar in the nominal term, and 33% in the real term. This reflected the long-term trend of the RMB appreciation. At the same time, the RMB markets grow rapidly because of the aggressive decontrolling financial transactions. As the result, three RMB markets co-exist: the onshore RMB spot rate (CNY) and two offshore market rates in Hong Kong: non-deliverable forward rate (NDF) and offshore spot rate (CNH). The different pricing of the RMB in different markets entails arbitrage instantly, which in turn has impact on both domestic and offshore markets. Under a relatively fixed exchange rate arrangement, the central bank has to frequently intervene on the foreign exchange market in order to keep the RMB exchange rate within the committed bands. However, the central bank’s intervention turns to be ineffective and costly, especially when the capital transactions become freer and massive.

The current relatively rigid exchange rate policy is unsustainable, if China is to implement its aggressive timetable of capital account opening. The theoretical triangle of impossibility would occur: the autonomy of the central bank’s monetary policy requires flexible exchange rate if capital flow is liberalized. The major lesson from the Asian financial crisis in 1997-98 cannot be forgotten: the combination of liberalized capital account and fixed exchange rate could be a nightmare for a country’s macroeconomic and financial stability.

### **Committed Device**

China’s reform now enters the deep-water zone. It becomes difficult to have domestic incentives while inviting external pressure is considered helpful for the tough reform in the areas of ownership and financial sectors. The argument of utilizing the RMB strategy as a “committed device” is generally accepted,

*Chart 5: RMB exchange rates: onshore and offshore  
(RMB:USD; monthly; 2010.1~2013.9)*



Source: People's Bank of China and Hong Kong Monetary Authority.

especially when mirroring it with the success of China's accession to the WTO. If this is the true intention of the RMB strategy, then it will not be surprising to see more further steps in the domestic financial reform in the next years.

### *To Develop Direct Financing*

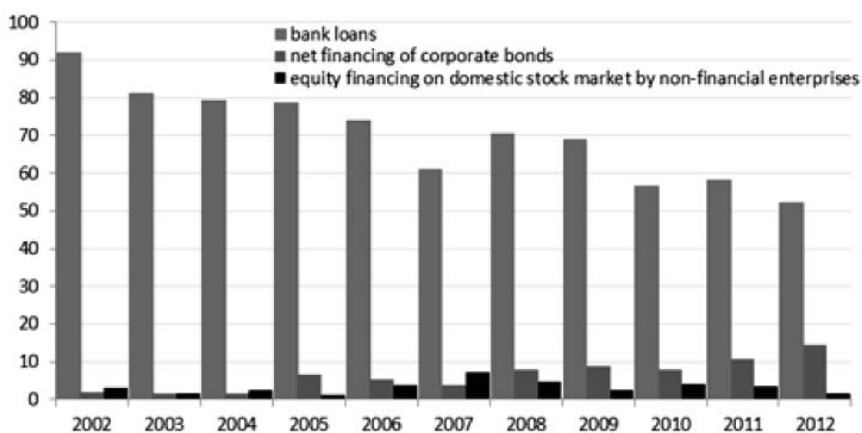
Bond market is the key indicator of a currency's potential to be used internationally. A deep and liquid market can narrow the bid-ask spread, lower transaction costs and hence, increase its attractiveness to international investors.

For a long time, China's financial structure has been typically dominated by banks. However, in the past decade, the banking share in China's overall financial assets declined from 90% to 52%. As Chart 6 shows, the declining banks share was against the rise of corporate bonds. Net corporate bonds financing increased from 1.8% to 14.3% during the time. The share of equity financing was up and down and stood at a relatively low level. Nevertheless, the banking sector is still dominating in China's financial system. Using the indicator of bond market sizes in relation to GDP, China has only 35.3%, which is much lower than that in the most matured markets, such as Japan, US, UK, Korea and Germany.

The new leadership has made the decision to develop domestic directing of financing. To do so, there are a number of obstacles to overcome. Firstly, it is necessary to unify the fragmented domestic markets and simplify the multiple governmental administrations. To lower the transaction cost is the key element of the reform, especially for the medium and small firms having limited access to

bank loans and equity financing. Secondly, a reliable credit rating system should be in place in order to foster a sound bond market. Without independent credit ratings, funds would naturally go to the state owned enterprises which are presumably guaranteed credibility by the government. Thirdly, to carry out a deep reform of state owned enterprises and foster non-state private sectors is the core element of China's domestic reform and it is critical for successful cracking down of monopolies in the economy.

*Chart 6: Aggregate Financing of the Economy (percent of total assets)*



Source: Wind database.

### *To Liberalize Interest Rate*

A fully accessible currency and relatively fixed domestic interest rate can create persistent cross-border arbitrage and volatile short-term capital flows. China's rigid domestic interest rates reflect the existing financial depression and become a bottleneck not only for the RMB internationalization but also for the domestic financial reform.

Due to the interest rate regulation and credit control, the Chinese financial system has been typically repressed for many years. Chart 7 shows that the interest rates have been negative in many years since 1990. The subsequent negative real interest rate discouraged household's consumption and subsidized state-owned enterprises and investments.

The most recent development of the Chinese shadow banking, a format of preliminary securitization and pure market-oriented financial innovation, has become a wake-up call for China's long lasting financial repression. Chart 8 shows

two parallel interest rates: the market rate and the controlled rate. The deposit rate offered by the wealth management fund, the main form of the Chinese shadow banking, was more flexible and generally higher than the deposit rate controlled by the government. Although the shadow banking in China has many downside effects, it has brought pressure to the government to take forward steps to interest rate liberalization. Furthermore, a more liberalized interest rate mechanism will allow the Chinese government to enjoy a quick response of interest rates resulting from the international use of the RMB, which in turn would boost market liquidity and efficiency.

Chart 7: Financial repression: Real interest rates in China (percent)



Source: Wind database.

Chart 8: Chinese shadowing versus traditional banking rates (percent)



Source: Wind database.

### **Conclusion: Beyond the RMB Strategy**

China's accession to the WTO was regarded as a successful "committed device" for the domestic reform by inviting external pressure and foreign competitions. A decade later, China comes to the similar conjunction: as the domestic reform enters the deep-water zone, it is more difficult than before to find inner drives within the system. External pressure may help to break domestic bottlenecks, especially those in domestic financial sectors. China has wanted to repeat the success with WTO and has utilized the RMB strategy as a "committed device" again.

The RMB internationalization is a work in progress. The rise of the RMB will come along with a set of domestic structural reforms, more consumption-driven growth, higher credibility and independence of the central bank, a broad, deep and liquid domestic financial market. All those developments will be a contribution to the global rebalancing.

As the RMB joins the club of global key currencies, it will provide the world with an additional asset, helping overcome the shortage problem of global safe assets. It will also require from China to have more responsibility in global governance and to be more involved in the risk-sharing and rule-making process. The rise of the RMB will certainly change the landscape of the international monetary system. A multi-currency system should be a natural outcome of it, which is a balanced, stable and fair one.

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Haihong GAO

### INTERNACIONALIZACIJA RENMINBIJA, KINESKA FINANSIJSKA OTVORENOST I REFORMA

**Sažetak:** Strategija internacionalizacije renminbija predstavlja jednu od najvećih promena finansijske klime i za kineske domaće i strane finansijske transakcije nakon globalne finansijske krize. U članku se istražuje u kom stepenu se renminbi koristi u međunarodnim okvirima i podvlači se postepeni pristup internacionalizaciji ove valute s gledišta politike. Ističu se važni koraci preduzeti u okviru strategije vezane za renminbi, što uključuje njegovo korišćenje u trgovinskim transakcijama, bilateralnoj trgovini valutama, regionalnu pokrivenost i razvoj offshore tržišta. Takođe je pažnja usmerena na debatu oko utrdivanja redosleda elemenata vezanih za ovo pitanje i argument za „korišćenje tih instrumenata”. U najnovije vreme, kineska vlada je ponovo potvrdila svoju odluku o finansijskom otvaranju i domaćoj finansijskoj reformi i utvrdila raspored poteza kako bi renminbi do 2020. bio u potpunosti konvertibilan. U članku se razmatraju takve dalekovide mere politike, pored novog razvoja takozvanog bankarstva u senci, liberalizacije kamatnih stopa pod uticajem tržišta i slobodno kretanje deviznog kursa, što treba da budu glavni elementi velike promene u kineskom finansijskom sektoru u godinama koje dolaze.

**Ključne reči:** internacionalizacija renminbija, otvaranje kapitalnog računa, fleksibilni devizni kurs, liberalizacija kamatnih stopa, domaća finansijska reforma.

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## THE ROLE OF REAL ESTATE INVESTMENT TRUSTS (REITS) IN THE GLOBAL HOTEL MARKET AND POTENTIAL FOR THEIR DEVELOPMENT IN SERBIA

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**Abstract:** The research conducted for this study has shown that Real Estate Investment Trusts (REITs) own a substantial volume of hotel facilities all over the world. The funds whose shares are traded on the New York Stock Exchange (NYSE) own a total of 1,144 hotels with more than 270,000 rooms. A further portfolio analysis of these funds and the hotel brands under which they operate reveals their strong linkages to world's largest hotel corporations. 84% of hotels owned by these REITs operate under the brand names of ten largest hotel corporations. Considering their contribution to the development of hotel capacity, it is important to assess the conditions for their development in Serbia. The current legislation in Serbia allows the establishment and operation of closed-end investment funds, but it does not allow comparable benefits to those provided in the majority of countries where REITs exist. This is primarily related to taxation. Potential investors also face the problem of inadequate liquidity in the domestic capital market which is registering a significant drop in trade. In the current global economic environment, it is unrealistic to expect the development of the REIT market in Serbia. Provided the potential regional integration of capital markets as well as the required legislative changes, for the long term it would be possible to expect the emergence and development of a regional REIT market. A part of the capital collected through REITs could be invested in hotels, and contribute to the improvement of the hospitality sector in Serbia.

*Key words:* Real estate investment trusts, hotel, hotel corporations, Serbia, cross-border loans.

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## INTRODUCTION

Real estate investment trusts (REITs – Real Estate Investment Trust) are closed-end investment funds specialized in real estate investment which is, under certain conditions, exempt from paying income taxes. They emerged in the U.S. following the legislation passed by the U.S. Congress in the 1960s that allowed income tax privileges, which provided a large incentive for investors. This legislation was a result of intensive lobbying efforts by powerful investment banks that were looking for creating new profitable investment options in order to meet the growing demands of expanding financial markets (Graff, 2001, p. 99).

Property investment requires significant capital. Logically, before the emergence of specialized real estate investment funds, main investors in this sector were large corporations and private equity funds. The intention of lawmakers was to allow a large number of small investors to invest in the real estate sector and allow them a share of the profits. For the purpose of stimulating investment into these funds, lawmakers exempted them from income taxes under certain conditions, of which one of the most important was the requirement of REITs to pay out up to 95% of their income through dividends, allowing a high return on investments and making such funds very attractive to potential investors. What is important to note is that REITs provided real estate investors an opportunity to invest not only through direct purchase of property, but also indirectly through the purchase of their stock.

REITs are closed-ended investment funds (capital is raised through a public offering of shares) with the value of shares being determined on the market and subject to changes in the same way as the stock prices of other corporations. According to Wang et al., the following legislative requirements had to be met for the establishment of specialized real estate investment funds (Wang et al. 2003, p. 16):

- 90% of annual income had to be paid out to stakeholders through dividends (initially 95%);
- a minimum of 100 shareholders, of whom 5 could not own more than 50 % of the total number of shares (5/50 rule);
- at least 75% of total revenues had to originate from real estate property rental and interest on mortgage loans;
- in case that revenue was acquired through sale of real estate, 90 % of income had to originate from real estate property rental, interest on mortgage loans, sale of real property or shares of other funds;
- at least 75% of assets had to be invested in real estate, mortgages, government securities or cash.

At first, specialized real estate investment funds were not immediately accepted by investors as a potentially profitable investment option. The creation of these

funds corresponded with the worsening economic situation in the United States and the funds themselves had several operating limitations. One of the original restrictions was that real estate could not be sold during the initial investment period (four years), which made it impossible to design an optimal portfolio, i.e. unprofitable properties could not be sold. Therefore, statutory provisions regulating the work of the U.S. REIT market required repeated modifications.

The analysis of the initial requirements for establishing REITs shows the intention of the legislator to allow small investors an opportunity to invest in real estate, while preventing a high concentration of capital and the potential abuse of REIT's tax exemption benefits. By requiring that 90% of profits be paid to investors, the legislator allows the taxation of profit, i.e. taxes are paid by investors, while the remaining 10% of the profits are directly taxed (Imperiale, 2006, p. 17). However, it is important to note that the fact that REITs need to pay out as much as 90% of their profit through dividends substantially reduces a potential for internal growth through profit reinvestment. Some studies show that only 7% of the total REIT investments originate from profit reinvestment (Ott et al., 2005, p. 204). If considering only this, it is possible to reach an erroneous conclusion that these funds do not represent a significant form of investment for the hotel development. Yet, it is important to remember that the largest share of REIT equity is raised through the initial public offering of shares on the stock exchange market which, generally speaking, is often an attractive investment option for investors. Attractiveness stems from both high dividends as well as the diversification of risk through investment in REIT shares (experience has shown that there often is no significant correlation between the price fluctuation of REIT and corporate bonds at the stock exchange market). Because the largest share of investment capital is collected through the public sale of stocks and only a small portion through profit reinvestment, business focus of REITs is primarily on shorter-term goals, whose fulfillment allows them to collect fresh capital required for the implementation of new development projects. Such a business strategy makes REITs a more attractive to potential investors. These funds are most active and the most developed in the markets of Canada, Japan, US and Australia.

There is a large number of hotel REITs operating on today's hotel market. In order to analyze their importance, this study has considered only the largest U.S. hotel REITs (their data are available on their sites) whose shares are traded on the New York Stock Exchange (NYSE – available information on their site), and listed in the Real Estate sector under the subsector Hotel & Lodging Real Estate Investment Trusts. Hotels in their ownership have been identified by examining the annual reports of these funds (reported in Form 10-K) as well as the data presented on their web portals. Using the information from the hotel web sites (Hospitality Property Trust, Ashford Hospitality Trust, RLJ Lodging Trust, Felcor Lodging Trust, Diamondrock Hospitality, Sunstone Hotel Investors, Summit

Hotel Properties, LaSalle Hotel Properties, Chatam Lodging Trust, Hersha Hospitality Trust, Strategic Hotels and Resorts, Ryman Hospitality Properties, Pebblebrook Hotel Trust and Chesapeake Lodging Trust), the portals Trip Advisor and Hotels Magazine determined individual hotel capacity with the aim of calculating the total ownership and structure in terms of hotel brands under which they operated. The secondary goal of the analysis has been to determine the correlation between the development of the largest hotel corporations and the analyzed REITs. Finally, the conclusion of research has been confirmed by the analysis of movements on the Belgrade Stock Exchange (information available on their web site). The research was done in March 2013.

### **TYPES OF REITs**

REITs are most often categorized into the following three types:

- Equity REITs,
- Mortgage REITs, and
- Hybrid REITs.

Equity REITs invest by purchasing real estate, i.e. they are owners or operators of real estate. These funds can further be sub-categorized according to the type of property in which they invest. The most often cited classification is the one used by the U.S. National Association of REITs – NAREIT (Brueggeman et al, 2005, p. 584):

- REITs that purchase or finance the construction of offices and industrial buildings;
- REITs that invest in the construction of large shopping centers with a large number of retail stores;
- REITs that invest in residential buildings or housing projects;
- REITs that invest in hotel accommodation;
- REITs that invest in the construction of hospitals, medical institutions;
- REITs that specialize in storage space;
- non-specialized REITs whose portfolio consists of different types of real estate.

In addition to these types, there are highly specialized REITs which invest in only one type of real estate (prisons, golf courses, theatres, etc.) or different types of real estate in a defined geographical area (Lucas et al, 2006, p. 121).

Opposed to property REITs, mortgage REITs do not invest in real estate with intent to develop or manage property, but rather to invest their capital through loans for construction or acquisition of property, backed by mandatory mortgage security. Mortgage REITs also purchase securities that contain lien

against real property. Capital through which activities are financed is obtained through IPOs, subsequent market capitalization, or by borrowing from commercial banks. The profit comes from capital obtained at a lower cost i.e. placement of capital at a higher cost to realize gains on the difference between the deposit and lending rates (Peters, 2007, p. 298).

Hybrid specialized investment funds are a combination of property and mortgage REITs. They invest their capital in order to obtain properties that will be rented as well as the provide mortgage loans and purchase securities that contain lien against real property.

The investment risk is not the same for all REITs. The market has proven that the value of mortgage investment fund stocks shows greater price fluctuations compared to the stock value of REITs (Faerber, 2007, p. 267).

## **REITS IN THE EUROPEAN MARKET**

Specialized real estate investment funds initially emerged and developed in the U.S. and to this day, this has remained the most developed REIT market. The legislation which developed and changed over the decades strongly influenced this market and was, with certain delays, accepted and applied in the European countries, enabling the establishment of REITs or its equivalents through positive legislation.

In Europe, specialized investment funds operate under a variety of names. Conditions under which they are established and under which they operate vary from country to country. Specialized REITs are present in the following European countries (EPRA Global REIT Survey, 2007):

- The Netherlands – introduced in 1969 under the name Fiscale Beleggingsinstelling (FBI);
- Spain – introduced in 1984 under the name RECII; legislation regulating their establishment and operation was changed in 2003;
- Turkey – introduced in 1995 under the name REIT or Gayrimenkul Yatirim Ortakligi AS (GYO);
- Belgium – introduced in 1995 under the name Societe d' Investissement a Capital fixe en immobilier (Sicaf);
- Greece – introduced in 1999 under the name Real Estate Investment Companies (REIC);
- France – introduced in 2003 under the name Sociétés d' Investissement Immobiliers Cotees (SIIC);
- Bulgaria – introduced in 2004 and operate as the Special Purpose Investment Companies (SPIC);
- Germany – introduced in 2007 under the name German Real Estate Investment Trust (G-REIT);

- Italy – introduced in 2007 under the name Società d' Intermediazioni Immobiliari Quote (SIIQ);
- UK – introduced in 2007 under the name UK- REIT;
- Lithuania – introduced in 2007 under the name Lithuanian Investment Company (IC).

Unlike the U.S. where REITs have specialized in different types of real estate investments, such degree of specialization has not been registered in the European markets.

From the previous analysis, looking at the development of specialized REITs operating in the U.S., it is evident that it requires approximately three decades for such funds to differentiate according to the type of investment. On the European market, the legislation for establishing these funds was created usually with delay relative to the U.S. It is certain that legislators in European countries had time to carefully study the U.S. experience and identify, develop and adapt legislative frameworks which were most suitable to the local conditions. Their decisions have not been the result of simply rewriting the American legislation, but rather their unique market circumstances. To illustrate it, it is possible to use the example of specialized REITs in Turkey. REITs in this country are not required to pay dividends, i.e. the legislation does not require setting of a lower limit of income that must be paid out to shareholders as dividends.

For the characteristics of the European finance market bank credit is the most common way of financing the hospitality industry (Barjaktarović, 2008, p. 39). At the same time, this is the region of locally active banks (whose headquarters are located in Austria, Italy, Greece or France) that offer cheap cross-border financing (Pindžo and Barjaktarović, 2013, p.183). For example, Erste group Vienna and their specialized company in real estate business Immorent financed through cross-border financing more than 25% hotels' business chains in Europe (Immorent, 2013). It is important to emphasize that THE types of facilities are predominantly project finance (Barjaktarović D. and Barjaktarović L., 2009, p.867) or structured financing (Barjaktarović and Barjaktarović, 2010, p. 1).

Characteristics of cross-border financing of hotel business are shown in Table 1.

## **THE ROLE OF HOTEL REITS IN THE MODERN HOTEL MARKET**

The first REIT specializing in hotel investments was the Hotel Investors Trust. This fund had been established in 1969 in the form of a hybrid specialized investment fund. In 1994, this trust was acquired by Starwood Capital Group and was renamed Starwood Lodging Trust. At one point, Starwood Lodging became

Table 1: Characteristics of cross-border financing of hotel business

Components	Description
Borrower	<ol style="list-style-type: none"> <li>1. Single Purpose Company (preferably recently incorporated or confirmation of no tax liabilities) or a Property investment Fund (for which portfolio/debt details should be obtained), or a</li> <li>2. Company running the hotel business – same segment (separate accounting)</li> </ol>
Type of facility	DEVELOPMENT: Overdraft or short/middle-term loan INVESTMENT: Mortgage Loan OPERATION: Overdraft or short-term loan
Purpose of the loan	Financing or refinancing of acquisition costs or development costs. This can include: <ul style="list-style-type: none"> <li>• Financing of project development costs</li> <li>• Financing of asset acquisitions</li> <li>• Refinancing shareholder loans</li> <li>• Financing of share acquisitions</li> </ul> General purpose lines will be considered for investment grade corporates (min. BBB grade or similar).
Interest	DEVELOPMENT: <ul style="list-style-type: none"> <li>• Basis + Margin</li> <li>• Basis: IBOR (PRIBOR, EURIBOR...) float</li> </ul> INVESTMENT: <ul style="list-style-type: none"> <li>• Basis + Margin</li> <li>• Basis: -IBOR (PRIBOR, EURIBOR...) float or SWAP fix</li> <li>• Standard requirement is fixed rate or similar effect through hedging. If not achieved there should be specific reference in the Credit Application in the area for ability to repay</li> </ul>
Advance level	DEVELOPMENT: <ul style="list-style-type: none"> <li>• Up to 85% of the total project costs</li> </ul> INVESTMENT: <ul style="list-style-type: none"> <li>• Up to 80% of the valuation appraisal</li> </ul> Higher percentages upon acceptance of the cash flow quality (quality of the operator/ tenant and projected income).
Loan currency	Same as the currency of the repayment source or suitable hedging in place.
Maximum tenor	Up to 25 years (full amortization) Exception: repayments for new builds (no more than 5 years old when loan agreed) in location as agreed by relevant documents. Additional bullet payment equivalent to 5 years debt coverage ability acceptable.
Repayment	Fixed schedule; following the future project cash-flow.



Components	Description
Principal collateral	<ol style="list-style-type: none"> <li>1. First ranking mortgage over land and building</li> <li>2. Assignment/pledge of the operation income to the Bank</li> <li>3. Pledge of movables (min. value to be specified individually)</li> <li>4. Pledge of any collection/reserve account and all other accounts with bank creditor including those for collection of refurbishment fund</li> <li>5. Pledge of Borrower's shares</li> <li>6. Assignment of pledge/pledge of Insurance proceeds over the mortgaged Property</li> <li>7. Third party's loan subordination declaration (full principle subordination &amp; interest subordination)</li> <li>8. If usually provided by the operator: Assignment of hotel operator's guarantee proceeds or subordination of incentive fee or any other hotel operator's commitment</li> <li>9. In case of a small project (loan of up to CZK 20 mil) "family-owned-and-run" personal guarantee required</li> </ol>
Principal Conditions Precedent	<ul style="list-style-type: none"> <li>• Equity: <ul style="list-style-type: none"> <li>– Source to be proved to the Bank before drawdown</li> <li>– To be injected first or availability to be evidenced</li> </ul> </li> <li>• No borrower's outstanding liabilities against Financial Authority and Security Offices</li> <li>• In case of development: All necessary Construction and use permits to be in place as well as key construction risks to be mitigated before draw-down</li> <li>• Building permit to be in place</li> <li>• Detail construction budget and timing to be confirmed by an independent expert before approval or Fixed price / Term construction contract</li> <li>• Drawdown against independent expert's confirmation and/or invoices or other related documents, construction monitoring to be applied</li> <li>• Contractor to be acceptable for the Bank based on satisfactory financial and operating standing.</li> <li>• If it is new build (rather than refurbishment) a soil test report should be submitted for developments where some difficulties can be expected or where the project build costs exceeds CZK 300 Mio. Report may be included within construction permit request but must be: <ul style="list-style-type: none"> <li>• In case of property acquisition /refinance: Evidence of appraisal acceptable for the Bank and technical survey if applicable</li> <li>• Feasibility study (resp. own market assessment)</li> </ul> </li> <li>• Operation: <ul style="list-style-type: none"> <li>– Management &amp; licence contract valid and effective in a form acceptable to the Lender (in case of outsourcing)</li> <li>– Staff contracted (in case of own management), sales and costs contracted in a form acceptable to the Lender</li> <li>Lease contract valid and effective in a form acceptable to the Lender (in case of rental structure)</li> </ul> </li> </ul>

Components	Description
Covenants	<ul style="list-style-type: none"> <li>• Refurbishment fund to be created on a yearly basis in the amount representing 2% of the investment costs</li> <li>• Debt service reserve account at a value of 1 debt-service repayment</li> </ul>
Assumptions for a Standard projection	<ul style="list-style-type: none"> <li>• Interest rate – min. 150% of actual floating Basis + Margin or actual fixed rate, after fixed period as above.</li> <li>• Rate Assumptions – Existing rates to be accepted if supported by local comparables, if not available a discount of 10% to be applied on the existing rate level.</li> <li>• Rate Inflation – 2% or according to concluded/existing contracts or the actual according to the contract with an acceptable hotel operator.</li> <li>• Operational Costs – Minimum 60% of the income or actual confirmed by acceptable hotel advisor or 5% if rented to the acceptable hotel operator.</li> <li>• Occupancy Level – min. 55% (Prague: 65%) of capacity or actual historically verified. Exception: in case of the internationally rated hotel operators: scheduled level to be accepted if supported by local comparables, if not available a discount of 10% to be applied on the proposed level.</li> <li>• Debt Coverage – Minimum 110% for management structures or min. 104% for lease structures.</li> <li>• Refurbishment fund – 2% of the investment cost.</li> <li>• Income tax – actual one (2007 24%, 2008 24%, 2009 24%, afterwards 24%)</li> </ul>

Source: Ceska Sportitelna Bank (2007).

a hotel REIT with the greatest market capitalization (DeFranco et al, 2006, p. 164); in 1998, it changed its legal form and became the Starwood Hotels & Resorts hotel corporation (Kagan, 2007, p. 65).

The hotel chain Starwood Hotels & Resorts Worldwide was formed by Starwood Capital originally under the name of Starwood Lodging. The company went to purchase the Westin, Sheraton, Four Points, The Luxury Collection, St. Regis and Le Meridien hotel chains and brands while at the same time creating its own hotel brands W Hotels, aLoft Hotels and Element. Corporation Starwood Hotels & Resorts Worldwide is today one of the largest hotel corporations with, according to Hotels magazine from July 2012, 1,090 hotels (321,552 hotel rooms) operating under its brand.

The obtained information shows that through market acquisition and the development of new capacities hotel REITs control ownership stakes in a number of hotels. The 15 U.S. REITs listed on NYSE own 1,144 hotels with a total capacity of 269,145 rooms (Table 2).

*Table 2: Hotel capacity in the ownership of REITs listed on the NYSE*

REIT	HOTELS	ROOMS
Host Hotels and Resorts	137	67,748
Hospitality Property Trust	288	42,808
Ashford Hospitality Trust	125	28,841
RLJ Lodging Trust	145	21,580
Felcor Lodging Trust	66	19,152
Diamondrock Hospitality	28	11,160
Sunstone Hotel Investors	25	11,100
Summit Hotel Properties	91	10,616
LaSalle Hotel Properties	40	10,490
Chatam Lodging Trust	74	9,845
Hersha Hospitality Trust	61	8,880
Strategic Hotels and Resorts	18	7,909
Ryman Hospitality Properties	4	7,795
Pebblebrook Hotel Trust	26	6,475
Chesapeake Lodging Trust	16	4,746
TOTAL	1,144	269,145

Source: The author's own research, the methodology is described in the introduction (March 2013)

The analysis also aimed to identify the hotel brands that operate under these REITs. What is apparent in the business portfolio of the largest hotels owned by REITs is that they are through various contractual forms associated with the world's largest hotel corporations. In this way, they benefit from operating under strong hotel brands, and in some cases, their managerial expertise.

Operating under strong hotel brands provides a number of advantages on the hotel market and potentially improves the profitability of hotels owned by hotel REITs. The following are the advantages of operating as a part of established hotel brands (Martorell, 2006, p.156):

- potential to acquire a larger share of the market,
- ability to set higher prices,
- ability to achieve a higher level of return on investments (particularly important to potential investors),
- ability to create a better foundation for further growth and development,
- ability to faster acquire customer loyalty, therefore providing a more stable future income.

The research conducted for this study shows that from the total of 269,145 rooms in 15 hotels that are a property of NYSE listed REITs, 226,871 rooms (84.29 %) are in hotels that operate under some of the following five brand name hotel corporations: Marriott International, Hilton Worldwide, Starwood Hotels & Resorts, Intercontinental Hotels Group and Hyatt Hotels (Table 3).

From the table it is evident that hotel REITs operating in the U.S. market most often cooperate with the Marriott International hotel corporation under whose brand 43.36% of the total hotel capacity operates which is owned by these funds.

*Table 3: Distribution of NYSE listed REITs hotel capacities based on hotel corporations*

Hotel corporation	Rooms	Share
Marriott International Inc.	116,696	43.36%
Hilton Worldwide	41,540	15.43%
Starwood Hotels & Resorts	28,896	10.74%
InterContinental Hotels Group	22,528	8.37%
Hyatt Hotels Corp.	17,211	6.39%
Wyndham Hotel Group	5,834	2.17%
Carlson Rezidor Hotel Group	2,286	0.85%
Accor	1,557	0.58%
Other corporation	32,597	12.11%
TOTAL	269,145 rooms	100%

Source: The author's own research, the methodology is described in the introduction (March 2013)

*Table 4: Share of REIT owned hotels in the total hotel capacity of global hotel corporations*

Hotel corporation	Rooms	REIT owned rooms	Share
Marriott International Inc.	643,196	116,696	18.14%
Hyatt Hotels Corp.	132,727	17,211	12.97%
Starwood Hotels & Resorts	321,552	28,896	8.99%
Hilton Worldwide	633,238	41,540	6.56%
Intercontinental Hotels Group	658,348	22,528	3.42%

Source: The author's own research, the methodology is described in the introduction (March 2013)

It is no coincidence that the mentioned five global hotel corporations are the most preferable hotel brands for REITs. As is the case with any long-term contract, it is clear that long-term profit will be related to how such brands/corporations are positioned in the market. A high degree of interdependence in business operations can also be demonstrated using a reverse analysis, i.e. calculating the share of hotels in REIT ownership in the overall capacity controlled by global hotel corporations.

From the table 4 it can be clearly concluded that there is a high degree of interdependence in the development of global hotel corporations and hotel REITs. Hotel corporations have developed strong and recognizable hotel brands, while hotel REITs are equally successful in the financial market and can efficiently mobilize significant capital for investment into hotel service activities. Hotel corporations and REITs cooperate through various contractual forms, with most of them being prominent management contracts, franchise agreements and lease agreements.

For a number of hotel corporations it can be said that hotel REITs represent one of the main generators of their capacity development. From the data presented in Table 4 it can be seen that as much as 18.14% of the total numbers of rooms operated by Marriott International are in the ownership of NYSE listed hotel REITs. For example, the fund Host Hotels & Resorts owns 38,928 rooms located in the hotels that operate under some of the hotel brands of the Marriott International Corporation. In relative terms, this is 6.05 % of the total number of rooms of one of the world's largest hotel corporations. In addition, the Marriott International hotel corporation is an owner of 2.4% of the total number of shares of the Host Hotel & Resort trust.

Based on the data presented above, it is possible to conclude that the relationships between individual hotel REITs and the largest hotel corporations are well developed and can be considered a form of strategic partnership. It can also be concluded that a number of hotel corporations have recognized the huge potential for growth through the establishment of various forms of partnerships with specialized REITs.

Similar trends in collaboration of global hotel operators and REITs can be observed in the European markets in which REITs operate. Bearing in mind the importance of REITs for the hotel development, it is important to think about the potential for their development in Serbia.

## **CLOSED-END REAL ESTATE INVESTMENT FUNDS IN SERBIA**

The establishment and operation of investment funds in Serbia is regulated by the Investment Funds Act (IFA) and more specifically by the Investment Fund

Regulation (IFR). IFA recognizes open, closed and private investment funds, while IFR further defines the basic types of investment funds in Serbia.

Because specialized real estate investment funds in developed financial markets are always organized in the form of closed-end funds, only these will be discussed. IFA obligates closed-end investment funds to be organized in the form of joint stock companies. Closed-end investment funds must always maintain a minimum of 200,000 Euros (Serbian dinar equivalent) in assets. IFR (article 101) recognizes the following closed-end investment funds according to their investment policy:

- closed-end fund to invest in public companies,
- closed-end fund to invest in non-public companies,
- closed-end fund to invest in real estate.

A closed-end real estate investment fund is a fund which invests more than 60% of its equity in real estate. IFR (Article 122) stipulates that closed-end investment funds may invest in the following real estate in the Republic of Serbia: buildings (commercial, residential, mixed residential-commercial, economic, etc.), building divisions (homes, commercial space, etc.) and land. Real estate purchased through investments must be registered in the national Property Register, be without encumbrance, and be insured against all risks. Not more than 20% of the total fund assets can be invested in one real estate property and closed-end investment funds cannot take part in any form of construction as defined by the legislation on planning and construction of buildings (IFR, Article 123). IFR regulates many other aspects of closed-end real estate investment which are not relevant for this analysis.

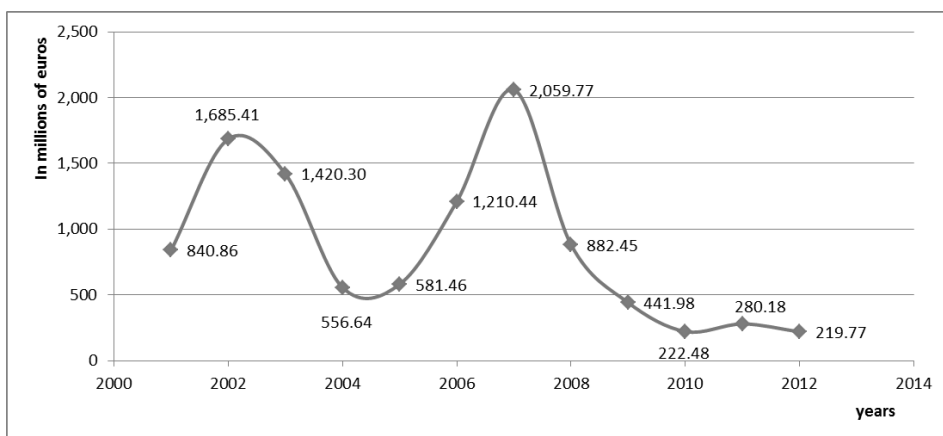
As previously discussed, legal prerequisites that enable the establishment and operation of real estate investment funds exist in Serbia. However, the existing legislation does not provide the competitive advantages which make REITs an attractive investment option in other countries with developed real estate markets. If the Serbian legislation was compared to those regulating REITs in other jurisdictions where such funds operate, one could see significant, even fundamental, differences. For example, according to the U.S. regulation, funds that have gained the status of specialized real estate investment funds are exempt from income tax; however, in Serbia, investment into real estate is no different from any other type of investment. Closed-end investment funds in Serbia have to be organized in the form of joint stock companies, which based on the Serbian Law on Corporate Income Tax means that they are legal taxpayers that must pay income tax in the same way as all other companies (because there is no legislation that says otherwise).

Another notable difference is that the Serbian legislation does not require from this fund to pay a certain proportion of its profit through dividends. Such a requirement certainly provides a higher return to stockholders and represents a major incentive to invest in these funds. These requirements vary between

countries and some jurisdictions may require up to 90% of the achieved profit to be paid through dividends. What the guarantees are that dividends will ultimately be paid to minority shareholders and how much of the profit will be distributed as dividends remains one of the main issues concerning the regulation of REITs. Although the Serbian legislation does not consider the issue of the permitted level of asset concentration, this may be minor since these funds are not exempt from paying income tax (Mašić, 2012, p. 290).

An almost insurmountable problem is securing the liquidity of REIT shares. Shares of closed-end investment funds are traded on stock exchanges. Given that presently only stocks of eight real estate companies are traded on the Belgrade Stock Exchange – BSE (5 on Prime listing and 3 on Standard listing), of which none are closed-end investment funds, raises questions concerning stock liquidity of any future closed-end investment fund that would be traded on BSE. For potential investors, liquidity of investing into REIT shares represents one of the main advantages with respect to real estate investment and provides investors with an ability to easily optimize their investment portfolio through quick purchase and sale of such shares. This, again, is one of the major competitive advantages of investing into REITs which provides investors with a viable exit strategy. As can be seen from Figure 1, BSE has recently registered a significant drop in traffic, with the trade in 2012 was 9.37 times lower than in 2007.

Figure 1: Total turnover on the Belgrade Stock Exchange (BSE) during the 2001-2012 period



Source: Based on the data obtained from the BSE portal

Liquidity is a necessary precondition for investing in REITs.

Although it is unlikely itself to be a sufficient precondition, the creation of REITs in Serbia cannot be expected before the most developed countries come out of recession. It will be also necessary to develop and integrate regional and domestic stock exchange and capital markets, which would increase their overall attractiveness to potential investors. Another prerequisite is the adoption of appropriate legislation that would allow the establishment and operation of REITs in a way that is recognizable to investors from countries where they have existed for a number of years, but taking into consideration local and regional specificities and development interests. All of this could potentially lead to the creation of a sufficiently attractive investment option that could attract the capital required for the development of REITs. Given the size of the Serbian market, it would be unrealistic to expect that these funds would be specialized by the type of real estate investment. However, such aggregated capital would likely be invested in different types of real estate, including hotels, which would be beneficial for a number of different industries.

Given the demonstrated tendency of REITs, often through the use of various contractual forms to provide its hotels with an opportunity to operate under the recognizable hotel brands, their creation would not only provide a quantitative but also a qualitative improvement of the hotel market in Serbia.

## CONCLUSION

Funds specialized in hotel investment have developed in the early stages of REIT development, so in today's markets there are many REITs which invest their capital in hotel facilities. Some of these funds have achieved a very high level of development measured either through assessing the current market capitalization or the volume of hotel capacity in their ownership.

Most of these hotel facilities operate on the hotel market under a variety of major hotel brands or global hotel corporations. This is done by using a number of contractual forms which significantly contribute to strengthening of ties between the capital and services markets, while at the same time leading to further separation of hotel ownership and management – i.e. combining successful aggregation of capital in the capital market for purchase/renovation or building of new hotels and optimal management practices of hotel corporations which possess multiple recognized and well-established hotel brands under which REIT hotels continue or begin to operate.

The analysis of the largest U.S. hotel REITs and global hotel corporations has shown a strong link between REITs and NYSE listed hotel corporations that can be seen at many different levels. Studying their portfolios demonstrates that most of the hotels owned by the U.S. hotel REITs operate under the brand names of global hotel corporations; and conversely, a significant percentage of the total



hotel capacity that is operated by global hotel corporations is in the ownership of REITs. Another dimension of this relationship represents the identified contractual linkages that indicate the existence of strategic partnerships.

The existing legislation in Serbia allows the creation of closed-end real estate investment funds. However, the current legislation does not allow the investment advantages present in other jurisdictions that would make them attractive to foreign REIT investors. This primarily refers to income tax exemption as well as to the requirements to pay out the realized profit to shareholders. Amendments to certain legislation that would allow the establishment and operation of REITs in a way that is recognizable to investors from countries where these funds have existed for a long time, while taking into account local specificities and long-term development interests, could create a potentially attractive investment option. The basic prerequisite for this is to provide the necessary liquidity in trading of securities on the stock exchange. It is unrealistic to expect that this will happen in the current global economic environment, but in the long-term, provided the development of certain forms of regional integration of capital markets, this is likely to be attained. In Serbia, investment in real estate has traditionally been considered a profitable investment and it is likely that investors would become open to investment should other preconditions be met. Although it is unlikely that in the initial period of development such funds would be able to become specialized in investing in certain types of property, such as hotels, the additional aggregated and invested capital is likely to benefit numerous industries. It is expected that a portion of this capital would be invested in the construction, purchase and/or renovation of the existing hotel facilities, which in some cases may become a part of international hotel chains. This would certainly contribute to improving the quality of the hospitality sector in Serbia.

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Lidija BARJAKTAROVIĆ, PhD

### **ZNAČAJ INVESTICIONIH FONDOVA ZA NEKRETNINE (REIT) NA TRŽIŠTU JUGOISTOČNE EVROPE I POTENCIJAL ZA NJIHOV RAZVOJ U SRBIJI**

Sažetak: Istraživanje sprovedeno za potrebe ovog rada je pokazalo da investicioni fondovi za nekretnine (REIT) u svom vlasništvu imaju značajan obim hotelskih kapaciteta. Tako petnaest fondova koji svoje akcije kotiraju na Njujorškoj berzi poseduje ukupno 1.144 hotela sa skoro 270.000 soba. Dalja analiza portfelja ovih fondova sa stanovišta hotelskih brendova pod kojim posluju je pokazala njihovu snažnu povezanost sa najvećim hotelskim korporacijama sveta. Pod brendovima Marriott International, Hilton Worldwide, Starwood Hotels & Resorts, Intecontinental Hotels Group i Hyatt Hotels posluje čak oko 84% hotelskih kapaciteta u vlasništvu ovih fondova. Obzirom na njihov doprinos razvoju hotelijerskih kapaciteta, značajno je sagledati uslove za njihov razvoj na tržištu Srbije. Postojeća zakonska regulativa daje mogućnost za osnivanje i rad investicionih fondova za ulaganje u nekretnine. Ipak ona ne omogućavaju ostvarivanje onih pogodnosti koje ovakvi fondovi uživaju u najvećem broju zemalja u kojima postoje.

Tu se pre svega misli na njihov poreski tretman. Potencijalni investitori bi se suočili i sa problemom nedovoljne likvidnosti na domaćem tržištu kapitala koje registruje značajan pad prometa. Nerealno je u uslovima globalne ekonomske krize očekivati pojavu i razvoj REIT na tržištu Srbije. Na duži rok, uz uslov obezbeđenja određenih oblika integracija regionalnih tržišta kapitala kao i potrebnog prilagođavanja zakonske regulative, bilo bi moguće očekivati pojavu i razvoj REIT na domaćem tržištu. Jedan deo tako agregiranog kapitala bi mogao biti investiran i u hotelijerske kapacitete, što bi imajući u vidu dokazanu poslovnu orijentaciju ovih fondova doprinelo ne samo kvantitativnom, već pre svega kvalitativnom poboljšanju hotelijerske ponude u Srbiji.

*Ključne reči:* investicioni fondovi za nekretnine, REIT, hotelijerstvo, hotelske korporacije, Srbija, prekogranični krediti

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Review Article

### THE DANUBE REGION STRATEGY AS INDICATOR FOR THE EU MACRO-REGIONAL STRATEGY APPROACH

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**Abstract:** In 2011, the European Union adopted the EU Strategy for the Danube Region (EUSDR) (European Commission, 2010) in the hope that this would enable improvements to the economic and social situation in the Danube Region. This article takes as its topic the question why the EU has recourse to the method of macro-regional strategies at all, and what differentiates the Danube Region Strategy from the EU Strategy for the Baltic Sea Region (EUSBSR), which is supposed to be a blueprint for further macro-regional strategy approaches. In addition, the question is addressed as to whether the Danube Region Strategy is able to function, and, if this is the case, whether it does so. In conclusion, there are reflections on whether this strategic approach may be a contribution towards further development of the European Union.

*Key words:* European Union, Danube Region, macro-regional strategies, development, Baltic Sea Region.

#### Why macro-regional strategies?

If you open an atlas, you see cities and rivers, mountains and lakes – what you cannot see are regions. Regions are postulates. They can, therefore, be defined as you wish. This applies equally to macro-regions. A (macro-) region is one which has been described as such.

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“Regions are not somewhere ‘out there’”, waiting to be discovered. No, they are constructed, deconstructed and reconstructed through interactions between various actors in response to changes in their internal and external environment on the basis of what is most appropriate for the pursuit of their commonly held goals.”<sup>2</sup> (United Nations University, 2007, online)

However, this creation *per definitionem* does not yet indicate that the region is viable, i.e. that it perceives itself as such and operates with a regional approach.

In order for this to happen, there need to be commonalities. The European Commission defines a macro-region as “an area including territory from a number of different countries or regions associated with one or more common features or challenges.” (Samecki, 2009, p. 8)

However, if the common element, which forms the basis for the definition criteria – in the sense of preferences, interests or concerns – is in practice not sufficient, then the macro-region will remain a theoretical construction, devoid of any viability and strategic capability. This means, furthermore, that a macro-region cannot be created merely by means of a decision by state or sub-state players, that is, by a government decree, on the contrary, it needs to have a societal basis in objective living conditions, challenges, intercommunication or identity. Macro-regions are not governmental administrative regions, but on the contrary, they are social areas for action. They obviously also consist of a number of regions. Otherwise, the term would make no sense.

- Macro-regions are constructs which arise on the basis of common interests. These interests are constitutive for the region, which is why the boundaries of a macro-region may vary, depending on the task in hand.
- Macro-regions cover more than one country and less than the entire European Union, they may incorporate territories which are not part of the EU; this has been the case with the macro-regions which currently exist. Macro-regions are more than national or sub-national associations, they constitute themselves additionally by means of social interaction. They present an interweaving of economic and societal players who define themselves by means of at least one element in common – even if this consists of a problem which needs to be solved. (Despot and Stratenschulte, 2010, p. 99)

In defining and thus, creating a macro-region, there are a number of reasons which only in part have really something to do with the region concerned. In the first instance, naturally, it is a question of developing the newly defined macro-

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<sup>2</sup> United Nations University: Regions defined, <<http://www.ocw.unu.edu/programme-for-comparative-regional-integration-studies/introducing-regional-integration/regions-defined/view?searchterm=regions>>, last accessed: 05 October 2013.

region. One further objective is, however, to disburse existing EU funds in better and more focussed ways.<sup>3</sup> An important point is also that of making European Added Value more visible. In a period in which the Union has to a quite major extent achieved the goals set at its inception (securing peace, rebuilding, uniting Europe), the idea is to make clear to a young generation - which is no longer one formed by the experience of the war and increasingly has also no first-hand experience of a divided Europe - what benefit European integration can provide. Not the least is another issue in the macro-regional strategies, extending as they do beyond the territory of the Union, despite being internal policy approaches, to provide neighbouring countries with a low-threshold networking opportunity.

### **Comparing the Baltic Sea and the Danube Region Strategy**

The “mother” of all the macro-regional strategies is the Baltic Sea Strategy, which came into being in 2009 (European Commission, 2009). The EU Strategy for the Danube Region (EUSDR) was in its structure modelled on this. Both strategic approaches are based on priority fields in which, subsequently, projects addressing these priorities are subsumed in an action plan within regional responsibility, with regional steering and concurrent coordination by the European Commission, and which are intended to achieve clearly visible successes.<sup>4</sup>

In this context, however, the differences between the two areas should certainly not be ignored. In the first place, integration in the Baltic Sea region is considerably closer. In this area, there are the Nordic and the Baltic Cooperation, the Northern Dimension, which includes Russia, the Baltic Sea Council, which also does so, and HELCOM, the Helsinki Commission, which since 1974 has represented a cooperation association in environmental and marine protection issues for all countries bordering the Baltic Sea. In addition, in the Baltic Sea area, eight of the nine littoral countries are EU member states, the ninth country is Russia, which is not an easy partner, however, it is one which is further included by means of bilateral policy approaches such as German-Russian relations. In an area such as this, in which the basis point of reference, the Baltic Sea, is situated, so to speak, in the middle, and is also closely linked in bilateral and regional ways, it is understandably easier to initiate common elements than in the macro-region of the Danube region which traverses in a diagonal route of 2,850 kilometres

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<sup>3</sup> This is, in addition, an objective of the EU structural policy for 2014–2020: “There will be stronger result-orientation and a new performance reserve in all European Structural and Investment Funds that incentivizes good projects.” (European Commission 2013d, online).

<sup>4</sup> On the question of the strategies, cp. (in German) in specific fields: Stratenschulte (2009); Despot and Stratenschulte (2010, p. 99); Stratenschulte (2011).

across Europe, and as a river, the Danube does not characterise in the same way those countries through which it passes. Thus, the River Danube is for long stretches a frontier river, and the portion of a riverbank located in the Republic of Moldova is precisely 570 metres in length.

The Danube Region strategy is, in common with the Baltic Sea Strategy, an internal strategy, though admittedly one with a rather pronounced external affairs component. It includes 14 countries, nine of which (following the Croatian entry) are EU member states. This is the case with the first domestic European Union strategy oriented towards the East and linking the EU regional policy with enlargement and EU Eastern Partnership.

Admittedly, the EU Strategy for Danube Region came into being along the lines of the Baltic Sea Strategy; however, in its premises it displays significant differences, which presents the strategy with even greater challenges, not the least of which may be located in the fragmented nature of interaction (Bos, 2011). Before the Danube Region becomes a *macro-region*, it first needs to become a region.

### **CAN THE MACRO-REGIONAL STRATEGY FOR THE DANUBE REGION WORK?**

Functioning of a macro-region is – as already mentioned – not guaranteed simply by means of defining it, but is naturally not ruled out. In this process, a number of difficulties need to be surmounted.

The geographic structure does not, as already indicated, help in integration. A mutual feeling does not automatically arise between an inhabitant of the German Federal state of Baden-Württemberg and an inhabitant of the Republic of Moldova by the fact that both of them look out on to the River Danube – if they do so, in fact. Interconnection in the Danube Region exists – apart from a few exceptions such as the Danube Commission<sup>5</sup> – only in some parts of the region.

Giving the two poles of Baden-Württemberg and Moldova has already hinted at a second point. The wealth gap within the macro-region is extremely wide. Whereas Baden-Württemberg is in economic terms one of the wealthiest regions in the EU, the case of Moldova is with the poorhouse of Europe. Thus, this illustrates, in addition, the varying opportunities available to contribute using a country's own money to the development of the region. Understandably, the

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<sup>5</sup> The Danube Commission is an international intergovernmental organization regarding the regime of navigation on the Danube, based in Budapest, founded in 1948 by the Convention regarding the regime of navigation on the Danube, signed in Belgrade in 1948 ([http://danube.commission.org/flipbooks/c\\_en/index.html](http://danube.commission.org/flipbooks/c_en/index.html)). Its origins go back to the European Danube Commission, established as long ago as in 1856. Cp. on this point (The Danube Commission, n.d.).



different countries also have at their disposal varying dimensioned and effective administrative capacities.

Balancing interests along the course of a river is more difficult than around a sea. Whereas in the latter case, pollution rebounds on to the polluter, because it comes back again to one's own shores, a fact which is an incentive for everyone to reduce it, this is not the case with a river. On the contrary- for those at the upriver end, disposal of rubbish in and discharges into the river are inexpensive and bring no consequences, because everything flows away downriver.

If the Danube is a frontier river, and this is true over long stretches, then having an inland harbour on one riverbank it is in one country an economic disadvantage for the opposite bank and another country. Between Bulgaria and Romania, the Danube River forms the border that goes along almost 500 kilometres. Just recently, the second bridge was constructed within this zone and, to be precise, it was between Vidin and Calafat. The fact that the construction was delayed, although to a great extent being funded by European sources, and that to and away from the bridge there is no decent traffic infrastructure, which then would make the bridge really useful, is a component in the varying interests.

If we succeed in overcoming a divergence of interests such as this, or else in reducing them by means of reconciliation, it is perfectly possible that the Danube Region macro-region may produce positive effects and thus strengthen the region in economic and social terms as well as support the intermediate objectives described at the beginning.

However, in order to do so, it is necessary to interconnect the region as a whole. This will not be achieved if German-Ukrainian or Austrian-Moldovan projects are artificially launched; instead, the integration in the sub-regions (upper, middle and lower Danube Region) needs to be strengthened and then the sub-regions can become connected.

If this does not succeed, the Strategy will fail. This would then have greater implications than a continuation of the present situation. In political terms, the situation worse than before would be created, because the confidence of the population in European cooperation would be lost, and disillusionment and disappointment would drive local players into a passive state. In case the Strategy fails, the region will be in a worse position than if the idea had never existed.

### **Does the Danube Region strategy work?**

The European Commission expressed its views on the functioning of the Danube Region Strategy in 2013 in two documents - in a progress report dated April 2013 (European Commission, 2013a) as well as in the report about the

added value of macro-regional strategies in general (European Commission, 2013b), which was issued in June 2013.

In the report on macro-regional strategies, the Commission stated that the macro-regional strategies had helped to develop new projects or had given momentum to the existing transnational projects (European Commission, 2013b, p. 4). For the Danube Region, over 400 projects worth in all 49 billion euros are being considered, of which 150 are already in implementation (European Commission, 2013b, p.4). In fact, however, the list includes several projects which are being carried out in the Region independently of the Strategy for the Danube Region, because when discussing the Strategy itself, the Commission called it: “A good start, now it’s time to move up a gear” (European Commission, 2013c).

In the report concerning the added value of macro-regional strategies (European Commission, 2013b), the European Commission articulates a number of requirements and problems:

- greater efforts are needed in order to produce positive results (p. 5),
- coordination mechanisms need to be improved (p. 7),
- implementation processes need to be improved (p. 8),
- non-EU countries do not have sufficient funding resources available to them (p. 8),
- the Strategy must be embedded in 2014–2020 programming (p. 8),
- the Strategy presents a challenge to the administrations concerned (the frequent meetings are not always well attended) (p. 8) and
- project leadership by the regions concerned is not always effective (p. 9).

In addition, the Commission regrets the absence of the agreed objectives and indicators against which it would measure progress.

“This is a challenging task, as progress against indicators is due to factors not exclusive to the strategies, whose specific contribution is hard to measure. Programme targets and indicators should be consistent with the strategy level work.” (p. 9)

This assertion sounds, however, more like a declaration of bankruptcy, since in so many words it is saying the following: there is something happening, but we do not know exactly what, and neither do we know how come.

The situation regarding implementing of macro-regional strategies is, therefore, not in very good shape. It probably has also something to do with the original concept.

The macro-regional strategies are based on the three “noes”, i.e. that there should be no new institutions, no new legislation and no additional EU funds.

It must be said that the third no, that of financing, is a major obstacle. Admittedly, in the current financial and debt crisis, the signals are not pointing towards extending the EU budget. Nevertheless, this does not mean that it would be impossible to create an individual budget line for the Danube Region Strategy within the existing financial framework, in other words, so that prioritisation could already be established in Brussels and Strasbourg and not in the various national capitals. The procedure to date, in which member states are provided with money from the European Structural Funds and are then requested to use this money primarily for macro-regional strategies, ignores internal competition for these funding means. Precisely, in those countries where the Danube is not central to a particular state, because the river only impinges slightly on the country or the river forms the national boundary and thus is located at the periphery of the country, politically speaking, it will not be possible to uphold a request of this nature. However, this means that the regions located along the banks of the Danube River will be left high and dry with their projects. At this instance it may well be that the Commission's appeals will be ignored:

“Member States and partner countries should consider how to reinforce their ownership of the strategies, and the appropriate response to calls for a more easily recognisable leadership.” (European Commission, 2013b, p. 10)

To sum up, this may be stated: the EU Strategy for the Danube Region provides an opportunity to achieve macro-regional and European objectives and to work towards improving conditions of life in the Danube Region. It is, however, yet very far from producing truly relevant outcomes, over and above the individual instance.

### **A new model for development in the European Union?**

Success in the current macro-regional strategies, in particular that for the Danube Region which is facing quite major challenges, is thus so far by no means certain and this is the fact which, however, in political discussion does not present any hindrance in hailing this planning over the whole of the EU with macro-regional strategies as a new EU development recipe.

The European Parliament

“endorses the macro-regional approach to territorial cooperation policies between territories belonging to a services and working area: maritime area, mountain range or river basin;

believes that macro-regional strategies opened a new chapter in European territorial cooperation by applying a bottom-up approach and spreading cooperation to more and more areas via the better use of available resources;

recommends that, in view of their clear European added value, macro-regional strategies should receive more attention in the framework of European territorial cooperation, to be reinforced as of 2013;

considers that this type of territorial cooperation strategy is useful, particularly when these territories have historically been divided by borders, and can further the integration of new Member States and their regions; ....” (European Parliament, 2012).

Whereas the European Parliament calls for a macro-regional strategy for the Alps (European Parliament, 2013), the Council has already requested from the Commission a Strategy for the Adriatic and Ionian Region (European Council, 2012)

The fundamental idea of the EU macro-regional strategies is that the whole European Union is to be concentrated on creating improvements in a sub-area, and this is why this is a question of EU strategy, not merely a strategy of countries and regions concerned. However, if the entire EU territory is now to be covered with macro-regions and the respective policy approaches, this will not lead to strengthening of the EU, but on the contrary, to the EU sub-regionalisation, which in the final analysis will nullify the desired effect. It is interesting to note that the Commission, which after all, as coordinator of these strategies has and would continue to increase its influence, is sceptic with regard to new macro-regional strategies. New initiatives of this type should, as they state, only be introduced, “if there are particular needs for improved and high-level cooperation”, where “involvement of the EU is appropriate and existing EU horizontal policies reinforced”, where there is “readiness to translate political commitment into administrative support and strategies demonstrate particular added-value at EU level” (European Commission, 2013b, p. 10).

“The current macro-regions may well not have exhausted all possible paradigms. It is easy to envisage regional cooperation inspired by this model, but without involvement of the Commission, or based more exclusively on a transnational programme. Those seeking to intensify cooperation and integration should look for the best fit for their situation.” (European Commission, 2013b, p. 10)

Thus, the European Commission is not keen on the prospects of more macro-regional strategies and would most of all wish to keep aloof from this process. Accordingly, the Commission addresses in a cautious manner the draft for a macro-regional strategy for the Adriatic, which it – in contrast to the Baltic Sea Strategy – wishes to make a purely maritime strategy, without going into questions on the hinterland of the seas.

The cautious attitude taken by the European Commission, which normally is not hesitant about coming forward if it is a question of acquiring new

competences, must give us a pause. EU macro-regionalisation could well lead to macro-regional strategies not being effective. This would, of course, do no good to any of us.

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Eckart D. STRATENSCHULTE

**PODUNAVSKA STRATEGIJA KAO POKAZATELJ  
MAKROREGIONALNOG STRATEŠKOG PRISTUPA EU**

**Sažetak:** Evropska unija je 2011. usvojila Strategiju EU za Podunavlje (Evropska komisija, 2010) u nadi da će to omogućiti poboljšanje stanja u ekonomiji i društvu u podunavskom regionu. Tema ovog članka je pitanje zašto EU uopšte pribegava primeni metoda makroregionalnih strategija i u čemu se razlikuje Strategija Podunavlja od Strategije EU za region Baltičkog mora, koja treba da predstavlja model za buduće makroregionalne strateške pristupe. Pored toga, postavlja se pitanje da li Podunavska strategija može da ispunjava svoj cilj, i ako je to slučaj, da li ona to i čini. U zaključku su data razmišljanja o tome da li ovaj strateški pristup može predstavljati doprinos daljem razvoju Evropske unije.

*Ključne reči:* Evropska unija, podunavski region, makroregionalne strategije, razvoj, region Baltičkog mora.

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## BALANCED BUDGET RULE IN EUROPEAN UNION<sup>3</sup>

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**Abstract:** The paper analyses theoretical grounds, legal framework and the implementation of the balanced budget rule in the European Union. We start from the hypothesis that the present preference for stricter implementation of the theory of budget stabilization is primarily a function of preserving the stability of the European Single Currency. The aim of this paper has been to interrogate the new fiscal governance framework aimed at enabling the European Union to strengthen the surveillance over public finances of the Member States. Two key characteristics of this new framework are as follows: introduction of quantitative indicators for financial position of each Member State and transfer of fiscal sovereignty from national to supra national level. We are also analyzing the fiscal position of Serbia as well as the ratio between its indicators and reference values anticipated by the Maastricht convergence criteria.

*Key words:* balanced budget rule, fiscal discipline, government budget deficit, public debt, euro zone, European Union.

### BALANCED BUDGET RULE IN CONTEMPORARY MACROECONOMIC THEORY

In contemporary macroeconomic theory, there is no unified attitude considering the extent to which States should stick to the balanced budget rule. Proponents of the doctrine of functional finance say that the government budget

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deficit is allowed whenever it is a function of economic growth while neoclassical theorists call for the continuous maintenance of balanced government budget. Between these two extreme views, we can find the theory of budget stabilization which observes the government budget through the business cycle dynamics of a specific country.

*The doctrine of functional finance* was developed by Abba Lerner, the follower of John Maynard Keynes. This doctrine is based on the assumption that the disturbances in the economy occur because of disturbances in aggregate demand and the State is called to make an effort for these disturbances to be overcome with the help of instruments of public finance. For this reason, the State should adhere to an *active, expansionary fiscal policy* and plan government budget deficits because it is the only way to defend the economy from deflationary effect of the long-term phenomenon of insufficient aggregate demand (Lerner, 1943, p. 41). In other words, the doctrine of functional finance assumes that the deficit in the government budget should not be considered a static imbalance between the government revenue and the government expenditure but dynamic function of economic growth.

*The neoclassical theory of balanced budget* was inspired by monetary economics of Milton Friedman and emerged as a critique of the doctrine of functional finance. Until the mid-20<sup>th</sup> century, the public sector in developed market economies had widened largely and had become a threat to the primacy of the private sector. In order to finance large investments, capitalist States continuously run government budget deficits, thus creating large public debts. Neoclassical theorists, being spokespersons of the private sector and liberal economy, expressed a negative attitude towards the effectiveness of the active, expansionary fiscal policy and stockpiling of public debts. So, the rehabilitation of the classical fiscal rule of balanced government budget occurred. Namely, while criticizing the extravagance of the State and deficit financing of the government expenditure, Adam Smith (1958, p. 227) warned that in peaceful times the treasury should always have enough money to finance ordinary government expenses; only in extraordinary situations such as a war or a natural catastrophe the State should reach for government loans.

According to the opinion of Friedman (1967, p. 6), positive effects of the expansionary fiscal policy are exhausted and neutralized very soon by the crowding out effect. *The crowding out effect* assumes the substitution of private investments by public ones. Namely, the additional placement of government bonds on financial market contributes to the growth of demand for finance capital, thus causing the general rise of interest rates. For that reason, many private investors become discouraged to begin new investment projects. The fall in private investment consumption causes the fall in aggregate demand, thus

neutralizing the effect of enlarged aggregate demand created by enlarged public investments.

While criticizing the doctrine of functional finances, neoclassical theorists expressed their negative attitude towards government indebtedness and they called for the financing of the government expenditure exclusively from fiscal revenues. They argued that when saying that the State should finance new investments from government loans relying on the policy of government budget deficit financing, Keynesian theorists describe primarily the effect of temporary deficits. Since in long periods of recessionary economic conditions temporary deficits become permanent, neoclassical theorists blamed Keynesians for neglecting their long run effects on the accumulation of public debts (Feldstein, 1981, p. 96).

*The theory of budget stabilization* emerged in the second half of the 20<sup>th</sup> century at the crossroads between the doctrine of functional finances and the theory of balanced budget. The roots of the theory of stabilization budget were planted by experts of the *Committee for Economic Development* (CED), a prestigious organization of American businessmen. They recommended that the public expenditure should be planned on the long- and not on the short-term basis in line with the possibilities of tax collection determining the tax rate once for a longer period. In that way, it would be possible to achieve minimal departure of public expenditure and public revenues from the government budget balance that would be the result of cyclical movements of the economy. And, when such a departure occurs, the State should rely on the instruments of neutral fiscal policy (CED, 1947, p. 22). *The neutral fiscal policy* assumes the implementation of instruments which were chosen earlier and which are built-in the economic system. Such instruments are called *automatic fiscal stabilizers* because they start to work as soon as macroeconomic imbalances occur and they have stabilizing effects on the economy. For example, in the period of recession, those who have lost their jobs qualify automatically for unemployment compensations. Payments of these compensations provoke a government budget deficit but such a deficit of cyclical nature has a positive effect on the economy because it soothes recessionary trends.

The inclination of CED towards the neutral fiscal policy emerged as a reaction of unsatisfied businessmen who were unable to anticipate the moves of the active fiscal policy makers. This fact gave way to the additional uncertainty in doing business which had been already burdened with risks. Appealing to the application of a neutral fiscal policy, CED experts argued that automatic fiscal stabilizers did not require “impossible speed” in the adoption and implementation of new legislative decisions on taxes and public spending. At the same time, they criticized the blind adherence to the classical balance budget rule. Advocating for budget stabilization, they reminded that reliance on the neutral fiscal policy enabled the State not to depend on “precision impossible” when predicting

economic fluctuations. However, they left the possibility of application of the active, expansive fiscal policy in terms of reducing the tax burden in the event of severe economic crisis (Heller, 1957, p. 639).

## **IMPLEMENTATION OF THEORY OF BUDGET STABILIZATION IN EUROPEAN UNION**

The theory of budget stabilization, effected by the activity of automatic fiscal stabilizers, has found its full implementation in the European Union. Based on the Treaty on European Union signed in Maastricht in 1992, all Member States began to apply the theory of budget stabilization within their preparations for the introduction of the Single European Currency - the Euro. Then, it was concluded that the stability of the Euro would greatly depend on establishing of fiscal discipline in the Member States of the Economic and Monetary Union (EMU). *Fiscal discipline* of the Member States meant that they should balance their government budgets in the medium-term and take an obligation to comply with the reference values established for the budget deficit and public debt (Gnjatović, 2003, p. 40). It was determined that the upper limit for the budget deficit-to-GDP ratio should not exceed 3%, while the public debt-to-GDP ratio should not exceed 60%. Here the budget deficit implied a need for net public credit in accordance with the definition of the European System of National and Regional Accounts (ESA 2010). The debt was been considered, however, as the gross borrowing of the Member States was expressed in nominal terms at the end of the fiscal or calendar year. The public debt of the EU Member States was determined by public sector bodies, thus being composed of the debt of the central authorities, regional and local authorities and social security funds. The reference values to 3% budget deficit-to-GDP and to 60% of the public debt-to-GDP were selected because it was found that these values actually allowed the maintenance of price stability in the long run, assuming an average GDP growth of 3% and an inflation rate of 2% annually (Lipinska, 2008, p. 32). Today, the countries wishing to enter the euro zone are required to adhere to these reference values just as those that are already in the euro zone. In the case of countries that are on track to enter the euro zone, the reference values are known as the *fiscal convergence criteria*, and in the case of countries already in the euro zone, the reference values are defined as *fiscal stabilization criteria*.

In order to supervise the fiscal policies of the EMU *The Stability and Growth Pact* was adopted in 1997 for the European Commission and the EU Council of Ministers (EU Council, 1997). The legal basis of the Stability and Growth Pact were Articles 121 and 126 of the Treaty on the Functioning of the European Union (TFEU) (EU, 2010). These Articles explain the procedure of determining the excessive budget deficit of the Member States on the basis of reference values

for the budget deficit and the public debt. Also, Article 126 of the TFEU provides for the adoption of specific provisions relating to the fiscal discipline of the Member States, which should be applied only in the euro zone.

The Stability and Growth Pact got its legal form by the adoption of the EU regulations that included preventive and corrective measures in the event the Member State aspired to join the euro zone that did not comply with the reference values for budget deficit and public debt (EU Council 1466/97, EU Council, 1467/97). When Euro was put into circulation in 2000, the Stability and Growth Pact became the basis for fiscal governance in the European Union. With the formulation of its preventive arm, a common fiscal control was introduced in European Law with the task to act in the event of excessive budget deficit in any Member State of the euro zone. With the formulation of its corrective arm, in turn, a mechanism was been created that should be automatically triggered if the euro-zone country would not eliminate the excessive budget deficit within the prescribed period.

The blade of mechanism for monitoring fiscal policies of the euro-zone countries was somewhat mitigated in 2005, with the updating of the Stability and Growth Pact at a time when the government budgets of Germany and France recorded persistent deficit in excess of 3% of GDP. Under pressure from the two most powerful countries of the EU that were seeking to avoid at any price the application of the mechanism of corrective measures, the EU Council of Ministers then decided that in determining whether there had appeared *an excessive budget deficit* in a particular Member State of the euro zone, not only the reference values for the budget deficit and public debt should be taken into account, but also indicators of its overall economic performance (EU Council, 2005). In this sense, the category of specific macroeconomic conditions that govern the budgetary policy of each specific Member State has been introduced in the system of fiscal governance of the EU. These specific macroeconomic conditions could serve as a basis for determining the so-called exceptional circumstances that are beyond the reach of decision-making of the fiscal authorities of a given country. It is believed that the exceptional circumstances are resulting from general adverse economic conditions in the European Union and not the decisions of economic policy-makers in a given country. In that sense, a severe economic crisis in the euro zone and the EU as a whole or an unusual event with grave financial consequences comes under exceptional circumstances.

According to the letter of the 2005 revised version of the Stability and Growth Pact, all Member States of the euro zone were required to adhere to the rules of balanced budget in a specific way. Namely, these rules required that their government budget was always close to equilibrium and that the structural deficit did not exceed 1% of GDP. If the recessionary stage of the economic cycle caused growth of the public expenditure in a given Member State, the overall

government budget deficit should still not exceed 3% of GDP. However, in case that the government budget deficit exceeded 3% of GDP, the European Commission would estimate if the particular country was in a situation of excessive budget deficit. Since the cyclical component of budget deficit would be treated as an exogenous variable, the inquiry if the excessive budget deficit which existed in a particular Member State of the euro zone would be essentially reduced to the evaluation of the size of the structural component of its budget deficit.

### **PREVENTIVE MEASURES AGAINST EXCESSIVE BUDGET DEFICIT**

Until the outbreak of the global financial and economic crisis, the members of the euro zone alone had been obliged to adhere to the established budget stabilization criteria. Eventually, until then, government budget deficits of all Member States had been reduced to 3% of GDP. However, when in 2008 the crisis erupted, most EU countries were faced with growing government budget deficits and the problem of maintaining fiscal discipline. The strong effect of automatic stabilizers, the extensive fiscal stimulus programs and assistance to the financial sector resulted in the drastic deterioration of public finances and the emergence of the sovereign debt crisis in many countries of the euro zone (Lane, 2012, p. 60). According to Eurostat data, from 2008 to 2012, the budget deficits above 3% of GDP were identified in 23 out of 27 EU Member States, and in 14 out of 17 euro-zone countries: Austria, Belgium, France, Greece, Holland, Ireland, Italy, Cyprus, Malta, Germany, Portugal, Slovakia, Slovenia and Spain. By the end of this period, only four countries – Belgium, Italy, Malta and Germany – had managed to bring back the budget deficit within the reference value. Looking at the euro zone as a whole, the fiscal discipline has been continually disrupted since 2009. Deficit financing of the government expenditure in the euro-zone countries also contributed to the permanent maintenance of the public debt above 60% of GDP even in case of 11 out of 17 euro-zone countries. These are Austria, Belgium, France, Greece, Holland, Ireland, Italy, Cyprus, Malta, Germany and Portugal. Therefore, in this period, as whole the euro zone continuously recorded the public debt above the reference value (Eurostat, 2013).

To prevent a collapse of the euro, the European Union made new changes in the Stability and Growth Pact in 2011. These changes were enacted in adopting a package of six new EU regulations known as the six-pack (ECB, 2011). The *six-pack* is, in fact, the beginning of large-scale reforms of fiscal governance in the European Union. The main intention of these reforms is to strengthen control over the public finances of the Member States in order to contribute to their fiscal discipline (Eriksson and Hjeds Löfmark, 2013, p. 36). The six-pack came into

force on December 13, 2011. The main elements of the reform of fiscal governance in the EU, sanctioned by the six-pack are as follows: neglecting macroeconomic effects of excessive budget deficits cut, strengthening the surveillance of budget positions of the Member States and introducing more efficient mechanism for financial sanctions against countries with excessive budget deficits that would not stick to the plan of fiscal adjustment.

According to the six-pack, the situation of excessive budget deficit existed in a given country in the euro zone if at the same time the budget deficit-to GDP ratio exceeded 3%; the public debt-to-GDP ratio exceeded 60%; the indicators relevant for its overall economic situation were unfavorable. While in the previous 2005 version of the Stability and Growth Pact only structural component of the government budget deficit was responsible for excessive spending, the six-pack put equal specific weight on cyclical and structural components of the budget deficit. If it was found out that the country in question was in a situation of excessive budget deficit, it would have to adopt and implement the fiscal adjustment plan in a given time and to comply finally with the prescribed fiscal stabilization criteria regardless of the cause of this situation. It means that restrictive fiscal policy measures necessary for attaining those goals are supposed to be implemented regardless of the stage of the business cycle and the consequences such a policy would have on economic growth. Such an approach to government spending represents not only the major departure from the theoretical background of the 2005 Stability and Growth Pact but also a turning point in the European philosophy on the role of the State in the economy. Namely, reforms of fiscal governance in the EU introduced in 2011 suggest that there is an inclination to solve the problems of excessive budget deficits with the help of the tools of neoclassical theory of balanced budget.

In order to strengthen the supervision of budgetary positions of the euro zone countries that have to implement fiscal adjustment plan, the six-pack introduces a number of *preventive measures*.

First, the Member States are given the *ex-ante warning* to be disciplined in following the plan of fiscal adjustment. The Council of Ministers has no longer to wait for the annual reports of the Member States on relevant macroeconomic indicators, but can react to the relevant quarterly data published by Eurostat.

Second, *quantitative criteria for measuring successive annual commitments* for reducing the government budget deficit are to be determined for each Member State. According to the 2005 Stability and Growth Pact, the euro zone country whose budget deficit exceeded 3% of GDP was obliged to reduce it to allowable limits in the medium term. However, as a result of the global financial and economic crisis, the government budget deficits of the euro zone countries far exceeded the allowable limits. Thus, the six-pack obliged the countries with excessive budget

deficits to reduce them to 0.5% of GDP per year successively until reaching the allowable level.

Third, *expenditures rule* has been introduced, according to which in the medium term, public spending should grow more slowly than the potential GDP. Such a requirement figured earlier only as a recommendation made by the European Commission regarding fiscal situation of some countries (Hauptmeier et al. 2010, p. 44). With the adoption of the six-pack, this requirement became a part of the European Legislation. Only if a country of the euro zone achieved targets of fiscal adjustment before the established deadline, it would be allowed to temporarily increase public spending at a rate above the rate of the potential GDP growth.

Fourth, *quantitative criteria for significant deviation from the plan of fiscal adjustment* have been formulated. Significant deviation from the plan of fiscal adjustment is considered to exist if the government budget deficit is by 0.5% of GDP per year higher than the planned one, or with an average of 0.25 % of GDP per year in two consecutive years.

### **CORRECTIVE MEASURES IN CASE OF EXCESSIVE BUDGET DEFICIT**

The Member State that finds itself in a situation of excessive budget deficit ought to implement a plan to reduce its public debt in the three-year transitory period. For the assessment of the public debt reduction in this transitory period, the six-pack has introduced new quantitative measures. Permission is granted for the public debt reduction to deviate by 1/4% of GDP from the yearly maximum established by the plan. If the debt is not reduced in accordance with the established plan, it is considered that the lack of its reduction is a consequence of inappropriate discretionary decisions of economic policy-makers. In this case, the prospects for the reduction of the public debt at the expected rate are poor in the following year of transitory period, thus the introduction of financial sanctions becomes inevitable.

For the purpose of effective implementation of the mechanism of sanctions against the Member States that fail to comply with the plan of fiscal adjustment, the six-pack has provided a series of *corrective measures*. These corrective measures would come into force when the Council of Ministers determines that a particular Member State of the euro zone has failed to comply with the plan of fiscal adjustment. Severity of sanctions depends on the degree of non-compliance with the plan of fiscal adjustment.

According to the six-pack, the application of financial sanctions against the country in the euro zone that does not adhere to the established plan of fiscal

adjustment would, in fact, begin already at the stage of implementation of preventive measures. Namely, only four months after the warning of a significant deviation from the established plan of fiscal adjustment, financial sanctions would be introduced in the form of an interest-bearing deposit in the amount of 0.2% of GDP, which the Member State would be obliged to put on its account in the European Investment Bank (EIB).

If even seven months after the warning that there was no progress in reducing deviations from the established plan of fiscal adjustment new financial sanctions would be introduced. They would be in the form of non-interest bearing deposit in the amount of 0.2% of GDP, which the Member State would have to put on its account in the EIB. Therefore, the six-pack has envisaged the tightening of procedures for imposing sanctions since the 2005 Stability and Growth Pact called for non-interest bearing deposit only if a country in the euro zone did not meet the agreed fiscal adjustment plan in sixteen months.

The innovation introduced by the six-pack is that non-interest bearing deposit can be converted into a fine in case of deviation from the plan of fiscal adjustment if this deviation is significantly longer than seven months. At the same time, the fine would have two components: fixed and variable. The fixed part of the sentence would be 0.2% of GDP, and the variable part would amount to 10% of the absolute value of the difference between the actual size of the budget deficit from the previous year and its reference value determined by the plan of fiscal adjustment. Also, each year in which sanctions in the form of fines are enforced, the EU Council of Ministers would be required to assess whether the sanctioned country of the Euro-zone undertook activities towards implementation of the designed plan of fiscal adjustment. If this were not the case, the Council of Ministers might decide on additional fines. These additional fines would be determined in the same way as the primary fines (ECB, 2011).

## **FISCAL COMPACT**

With the deepening of the global financial and economic crisis, the fiscal indiscipline of the Member States of the EU increased. One after another, the euro zone Member States found themselves in a situation of excessive budget deficits. It was expected that they would adopt and implement plans of fiscal adjustment. However, although the six-pack envisaged a mechanism of corrective measures for those countries that would be activated in the event of non-compliance with such plans, these measures were not in any case applied. As the reason for this, the decision-making process is blamed because it is characterized by “too much discretion and too little automaticity” (Schaeschter, 2012, p. 36). Therefore, on October 26, 2011, the Heads of States or Governments of the EU Member States reached the agreement on further strengthening of the fiscal



governance framework. Pursuant to this agreement, all EU countries except Great Britain and the Czech Republic signed the *Agreement on Stabilization, Coordination and Governance in Economic and Monetary Union* on March 2, 2012 (TSCG, 2012). An integral part of this intergovernmental agreement is the Fiscal agreement on strengthening co-ordination and convergence of economic policies of the Member States as well as the measures related to the management of the euro zone known as *Fiscal Compact* (Craig, 2012, p. 7). Fiscal Compact entered into force on January 1, 2013.

The EU Member States that signed the Fiscal Compact have renounced a portion of their fiscal sovereignty transferring it to the supranational level of the EU. In fact, with the signing of this intergovernmental agreement, these countries have accepted the responsibility to make its contents become part of their Constitution or other national legal acts of similar rank. The intention of the EU is for the Fiscal Compact to grow into the European Law regulation in the next five years.

In *the preventive arm of the Fiscal Compact*, there is a stricter interpretation of the balanced budget rule. While in the six-pack the euro-zone countries were allowed to have a structural deficit that amounted to 1% of GDP, the Fiscal Compact set lower limit for structural deficits to a maximum of 0.5% of GDP. This limit can be moved up to 1% of GDP only if the public debt-to-GDP ratio for the State in question is below 60%. In all other aspects related to preventive measures, Fiscal Compact does not deviate significantly from the six-pack. In particular, it should be noted that relatively much room is still there for the interpretation of the so-called exceptional circumstances which might be declared as the cause of high budget deficits and a sharp increase in the public debt of a Member State.

When it comes to *the corrective arm of Fiscal Compact*, its content did not undergo any important changes, but the use of corrective measures was to become binding this time. Specifically, when the euro-zone country includes the corrective arm of Fiscal Compact in its national legislation, it will no longer be able to avoid its use. In this sense, it can be concluded that the mechanism of corrective measures has been developed in the direction of greater automaticity of its action.

Another reform was carried out on May 27, 2013, with the aim to strengthen the fiscal sovereignty of the EU over the euro-zone Member States. Then, two new EU regulations entered into force allowing the European Commission not only to supervise directly the budgets of the euro zone countries, but also to ask for their correction (EU, 2013). Since these two regulations complement the six-pack legislation that introduced increased surveillance over budgetary positions of the EU Member States, they have become known as the two-pack.

The key novelty introduced in the *two-pack* is the fact that the European Commission has been given the legal right to review, give opinions and suggest

possible changes of the proposed budget of each country in the euro zone. All Member States of the euro zone are required to publish the draft budget for the following fiscal year no later than October 15 of the current year, while the European Commission has to give its opinion until November 30 of that year. If the European Commission finds that a particular euro-zone country has significantly deviated from the obligations formulated by the Stability and Growth Pact, it would be ordered to that country to submit a revised version of the budget. Regardless of the fact whether any Member State of the euro zone is asked to amend its budget, all Member States are required to adopt a budget for the following fiscal year no later than December 31<sup>st</sup> of the current year. Until then, the European Commission, on its part, is obliged to publish a comprehensive assessment of prospects for the realization of government budgets of the euro-zone countries in the coming fiscal year. The two-pack is to be implemented as of January 1, 2014. It is believed that this kind of supranational fiscal sovereignty will contribute to a better convergence of economic policies of the euro-zone countries, and thus strengthen the stability of the Single European Currency (Claessens, 2012, p.

### **BUDGET MOVEMENTS AND STRATEGY OF THE REPUBLIC OF SERBIA**

Given the most important strategic goal set by the Republic of Serbia – its membership in the European Union – and apart from the numerous structural and administrative adaptations, it is important that an eye is kept on the ratio between the basic economic indicators and the values anticipated by the Maastricht criteria.

For the first time in early 2012, the statistical data of the fiscal movements in Serbia openly highlighted the dramatic situation in the sphere of public finance. Although for different methodological scopes and legal regulation the assessment of the public debt differed between the relevant institutions (namely the NBS and the Ministry of Finance in that period, the exceeding of the fiscal limit of 45% of the public debt compared with the GDP was openly spoken about.

At the end of June 2012, the public debt amounted to 15.3 billion Euros, and, compared with the end of the month of March 2012 it was increased by 674 million Euros. Its share in the estimated GDP in the second quarter was increased by 4%, thus reaching 54.7%. During the second quarter, the internal and the external public debts were also increased, partly due to the Euro currency depreciation against the other currencies present in the structure of the debt. Although the repayment of this year's installment of bonds of the old savings in foreign currencies has reduced the state's debt on this basis by 213.2 million Euros, the public internal debt has increased by 291.3 million Euros according to

the net sale of the state securities on the domestic financial market. The public external debt is by 382.8 million Euros bigger at the end of the second quarter than it was in the previous one, not only because of the state's higher direct (by 255.3 million Euros) but indirect liabilities (by 190.5 million Euros), too (NBS, 2012). In order to gain an insight into the absolute values of the public debt in a right way, they need to be compared with the other relevant macroeconomic data so as to make their sustainability precisely stated. The traditional measures of the sustainability of the public debt encompass the share of the balance and repayment of the public debt in GDP, exports and budgetary incomes. Because of the balance of the public debt for the duration of the second quarter, all measures of its sustainability deteriorated: apart from growth of the share of the public debt in GDP, the share of the public debt in goods and services exports also increased by 4.2%, thus reaching 132.4%. The indicator expressing the budgetary incomes increased during the second quarter from 113.7% to 119.9%.

*Table 1: An overview of the measures of the sustainability of the public debt of the Republic of Serbia (in percentage)*

	2010	2011	I 2012	II 2012
Public debt/GDP	44.0	47.7	50.7	54.7
Public debt/Goods & services export	119.4	126.1	128.2	132.4
Public debt/Exports of goods and services, and remittances	91.6	100.7	102.7	106.8
Public debt/ Budgetary incomes	101.3	113.2	113.7	119.9
Public debt repayment/ GDP	10.1	11.0	11.6	11.1
Public debt repayment/Exports of goods and services, and remittances	21.5	23.8	26.6	21.2
Public debt repayment/Exports of goods and services, and remittances	21.5	23.8	26.6	21.2

Source: Ministry of Finance of the Republic of Serbia and the National Bank of Serbia

In the context of the unfavorable macroeconomic indicators and an increasingly more unfavorable position of the current economic policy in Serbia, the Fiscal Strategy, which should introduce order in the sphere of public finance and initiate the economic recovery of this country, has been presented. The Strategy emphasizes the application of a responsible and predictable fiscal policy which is complied with the principles of fiscal liability and legal fiscal rules. In the coming mid-term period, the fiscal policy as a whole will be directed towards the accomplishment of the following objectives:

- Lower shares of public expenditures and a fiscal deficit in the GDP;
- Relative reduction of public consumption to the greatest possible extent through the reduction of current public expenses together with an increase in the level of capital investments;
- Maintenance of a stable tax incidence upon the economy, simultaneously strengthening tax discipline
- Strengthening of financial discipline in public enterprises at the level of the Republic and at the local levels.

The state's common sector's public debt in 2012 grew to 65% of GDP and every failure to apply fiscal consolidation measures would lead to a debt crisis and the repetition of the Greek scenario. The reduction of the debt in the mid-term will be carried out through the reduction of the consolidated deficit and by the measures of tax- and expenditure policies. The application of the largest number of measures of fiscal consolidation started in the last quarter of 2012, what is exactly the reason why the effects estimated in this year are so small. Full effects of the measures will be visible in the 2013, when the deficit should be halved as compared with 2012. It is through fiscal consolidation on the side of incomes that an increase in tax rates of certain categories of income is anticipated, whereas the expenditure policy will be directed towards the reduction of the relative share of the current public consumption.

According to the fiscal strategy, the share of the public debt in GDP in the period between 2013 and 2015 will begin to decline and at the end of the period, it will reach 58.4%, above all, as the result of the measures of fiscal consolidation and reduction of the fiscal deficit, and also the operations on the financial market to a certain extent. On public tenders, the state plans to offer for sale certain state-owned enterprises which do business in competitive conditions as well as a part of the state-owned property that is currently out of use. The funds generated by such a sale will partly be used for the repayment of obligations in a foreign currency and partly for the repayment of the securities issued on the domestic market. Given the fact that the level of the public debt will not reach the target value of 45%, in the period after 2015, too, the program of fiscal consolidation and the reduction of the fiscal deficit should keep on being carried out for a long period in the future.

## CONCLUSION

Over the last few years, the European Union has applied legal norms that introduced the rule for the euro-zone Member States to adhere strictly to the balanced budget norm and to rely exclusively on neutral fiscal policy measures. Reformed fiscal governance in the EU, which was in effect from January 1, 2013,

restricts significantly the autonomy of the euro-zone Member States in their conduct of fiscal policy. Strict principles of fiscal discipline will soon become an integral part of the national legislation of vast majority of the euro-zone countries. Countries with excessive budget deficits are required to comply with established plans of fiscal adjustment and reduce their deficit and public debt to prescribed limits regardless of the effects of such a policy on their economic performance. Otherwise, the European Court of Justice will rule preventive and corrective measures. The implementation of these measures has become binding. It is a matter of pure logic to conclude that the effects of the new EU fiscal management of economic growth of the euro-zone Member States depend primarily on how strictly it will be applied in practice. Thus, the success in the implementation of the reformed system of fiscal governance in the EU will not be measured by the overall economic performance of the euro-zone Member States, but only by the stability of the Single European Currency.

The analysis of the hitherto fiscal movements in Serbia as well as the projection of those movements presents a clear picture of the extent to which we are far away from the fulfillment of the Maastricht criteria. However, the improvement of all the aforementioned fiscal elements should primarily have as its goal the improvement of efficiency of the domestic economy.

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## NAČELO BUDŽETSKE RAVNOTEŽE U EVROPSKOJ UNIJI

**Apstrakt:** Rad analizira teorijske osnove, pravni okvir i primenu načela budžetske ravnoteže u Evropskoj Uniji. Pošli smo od hipoteze da je sadašnje opredeljenje za striktniju primenu teorije budžetske stabilizacije u prvom redu u funkciji očuvanja stabilnosti jedinstvene evropske valute. Cilj rada je bio da se ispita novi okvir fiskalnog upravljanja čija bi primena trebalo da omogući Evropskoj Uniji da ojača nadzor nad javnim finansijama zemalja članica. Dve osnovne karakteristike ovog novog okvira su: uvođenje kvantitativnih indikatora finansijske pozicije svake zemlje članice i prenošenje fiskalnog suvereniteta sa nacionalnog na nadnacionalni nivo. Takođe, analiziramo fiskalnu poziciju Srbije kao I odnos između njenih indikatora i referentnih vrednosti utvrđenih mastrihtskim kriterijumima konvergencije.

*Ključne reči:* načelo budžetske ravnoteže, fiskalna disciplina, budžetski deficit, javni dug, evrozona, EvropskaUnija

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## **'STRATEGIC POTENTIAL' OF MODERN RELIGIOSITY IN SERBIA IN THE CONTEXT OF EUROPEAN INTEGRATION<sup>1</sup>**

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**Abstract:** This paper presents an interdisciplinary (primarily in the context of sociology and political sciences, from a theological perspective) attempt to define the current status and phases of modern religiosity in Serbia in the context of the need to examine its 'strategic' potential in the process of European integration. The authors believe that the 'strategic' potential of religious subjects is primarily reflected in the promotion of ethical (moral) principles and factors, but also in the efforts made towards bridging the gap between the seemingly irreconcilable notions – religiosity and secularism, that is religiosity, nationality and integration. Therefore, religious contents and representatives should, indeed, be included in the processes of strategic and political decision-making in advisory and critical-corrective terms.

*Key words:* 'strategic' potential, 'religious transition', 'transition of religiosity', inter-religious dialogue, EU integration, secularism.

### **INTRODUCTION**

The essence of the major monotheistic religions present in the Balkans implies the existence of a comprehensive, value, theoretical, methodological, and 'practically applied coordinate system'. Gnosologically, from an 'other-worldly' and 'this-worldly' perspective, the important factors of the aforementioned system are seemingly conflicting epistemic logics associated with qualitatively different

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dimensions of existence of individuals, social groups and organizations which represent them. Despite this essential and/or phenomenal ‘dichotomy’, these logics are inevitably interdependent and mutually permeating. From a ‘final outcome’ perspective, this fact makes them *a priori integrative*. In terms of sociology and political sciences, the aforementioned methodological, value context boils down to the matter of relations among religions, society and politics. Empirically, its main dilemma refers to the issue of a desirable role, contribution and ‘strategic positioning’ of religious communities and the state/s when walking hand in hand towards the future. Historical examples and experience from the past testify about the unbreakable connection between the aforementioned terms, their ‘co-existence’, mutual influence and permeation, as well as about their everlasting ‘competitiveness’ and conflicts. In this regard, bearing in mind the example and practice of the former, atheistic (socialist) Yugoslavia, the newly established states created on its ruins mostly opted for the policy and the principle of *separation between Church (religious communities) and state* that is guaranteed by their constitutions even under these new ‘integrative’ circumstances.

### **‘RELIGIOUS TRANSITION’ AND ‘TRANSITION OF RELIGIOSITY’ IN SERBIA**

Under predominantly *secular* conditions, religions and religiosity also ‘acquire’ a rather pragmatic nature, while their essence is mainly viewed through the prism of their use value. Faith in God along with a set of traditions, rituals and ceremonies associated with it, nowadays in particular, find themselves in a proportional cause-effect relation with the ‘depth and quantum’ of solution of obstacles and problems individuals and societies are facing today (Vukomanović, 2001a). Owing to the universal technological progress and development, as well as the ‘hellish’ experience the region of Southeastern Europe went through in recent past, both individual and collective consciousness of the Serbian people started to change and they became increasingly aware of all the limitations and even self-destructive implications of the predominant ideology of ‘absolute individualism’. Spontaneously, religious contents began to fill the ‘conceptual and motivational vacuum and emptiness’ of the traditional Serbian society that was left behind. Loosening ‘constraints’, control and direct ‘interference’ and influence of the atheistic state on the religious life of social groups and individuals was unimportant prerequisite for achieving the aforementioned.<sup>4</sup> Decades of harmful practice of ‘distancing’ from religion gave way to a ‘cry’ for religion and its apparent ‘resurrection’. This process may be referred to as *religious transition*, in terms of revitalization and promotion of religion as compared

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<sup>4</sup> More on the relation between the atheistic Yugoslav state and its religious communities, in particular two largest Christian communities — Orthodox and Roman-Catholic, see: (Nikolić, 2012).

to the former supremacy of ideology ('quasi-religious'). It primarily implies conditioned, but also spontaneous transformation of the predominantly *ideological (secular and atheistic)* worldview into a growingly religious experience and perspective when contemplating on today's existential issues.<sup>5</sup> Nevertheless, even nowadays, in its infancy, this 'spiritual-transitional' process is similarly affected with the expansive influence of the secular-integrative and 'pan-ideological' subjects and factors.<sup>6</sup> It is important to know that, in the context of relations between the religious-theoretical (ontological) matrix as a 'constant' and the 'ever-evolving spirit of the time', religious subjects today also promote the principle implying that the essence of religiosity always remains inextricably linked to matters related to qualitative foundation, driving force, value guidelines of development and criticism of exclusively materialistically-oriented human society. The position and the role of religious factors in general are characterized by an apparent critical-corrective nature in relation to primary values, offering a 'strategic', *qualitative alternative* and new perspective of development of relations within the modern civilization/s. Specifically, it basically boils down to the promotion of *non-violence* and 'healthy integration', this time based on the 'deep and genuine' values, along with respect, permeation and 'synergy' of differences. Such 'strategic' approach applied by the religious concepts has been increasingly recognized by the 'social base' which confers considerable legitimacy on them. It is important to highlight that the anchor point of the aforementioned 'religious transition' is moralistic (*ethical believing in the Good*), in the cause-and-effect, the Old Testament and 'commercial' sense. Simply stated, it implies that 'the Good' is a value and criterion per se, even though it exists in a form of the cause-and-effect reality in everyday practice — 'do good and good will come to you' (Religiosity in Serbia in 2010, p. 209). Given the fact that religion in this case refers to the expansive affirmation and promotion of ethical concepts, there is no need to further explain and elaborate on all positive effects it would bring in social and political life had it been properly implemented and appreciated. The same principle, for example, can, as a prerequisite, be directly linked to the existential need to build peaceful international relations, as well as to the present-day need for common (universal) fight against corruption and organized crime at all levels... Finally, from a purely religious (spiritual) perspective, one should bear in mind that all the efforts made in that respect are actually based on individual and collective *responsibility* and even *obligation before God*. A deeper analysis of the nature of religiosity in today's Serbia with the primary focus on the members of young generation, reveals that it is increasingly

<sup>5</sup> The whole issue is further discussed in the proceedings titled Religiosity in Serbia in 2010 [Religiosity in Serbia in 2010], published in the research project Maksimović Jablanov, J. (ed.). (2011). *Religioznost građana Srbije i njihov odnos prema evropskim integracijama [Religiosity in Serbia and EU integration process]*. Beograd: Christian Cultural Center, Konrad Adenauer Stiftung from Belgrade, and the Center for European Studies from Brussels.

<sup>6</sup> Professor Darko Tanasković often uses the term 'pan-ideological time' in his lectures, trying to identify the trends and the 'religious character' of our time.

associated with ‘the love of God’ (27% of respondents) and ‘the fear of God’s punishment’ (16%) (Religiosity in Serbia in 2010, p. 210). It also reflects the revival of optimism, positive worldview and affirmation of responsibility as the most important psychological and motivational prerequisites for the development of each and every individual and society as a whole. The vast majority of young people in Serbia today believes that social and political potential of the religious have mainly positive connotations and implications, primarily in a value, cohesive and integrative sense.<sup>7</sup> Of course, it is necessary to set clear boundaries and protect young people from all potential attempts of *instrumentalization* or *manipulation* for political purposes. Interference in politics’ is the most common example (22%) of the negative role of religion in society; other examples are religious wars (12%), ‘misuse’ of religion (10%) and some cases of inappropriate behavior of representatives of religious communities (8%) (Religiosity in Serbia in 2010, p. 233).

Moreover, it is very important to keep in mind the fact that the influence and legitimacy of religion and church in Serbia comes from public opinion and trust of electoral body.<sup>8</sup> This also implies that Churches and religious communities, if their position and role are properly understood, accepted and ‘channelled’, possess huge social, inter-disciplinary and ‘strategic’ potential and impact, in the primarily value and integrative-cohesive sense.

Given the aforementioned, and since it exists under the specific circumstances of the present time, religiosity per se is experiencing and undergoing an ‘internal transformation’. This transformation occurs due to ‘external’ influences, its need to survive, preserve and expand the area of its influence under predominantly secular conditions. This ‘adaptation of religion’ may be referred to as the *transition of religiosity per se*, that actually entails ‘adapting to the spirit of time „and to modern lifestyle both believers and other ‘non-believing’ individuals have adopted. Thus, for the sake of missionary work, religion inevitably often finds itself in a situation when it ‘betrays itself’ by insisting on keeping alive its essence within the brand new and different social norms. It is evident today that the process of ‘transition of religiosity’ primarily refers to religious practices (the daily life of believers and

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<sup>7</sup> Sixty percent (60%) of respondents argue that Churches/religious communities should take part in public (social) life (chart 44). Stating the reasons such as that they promote Goodness (23%), have positive impact on human consciousness and behavior (13%), the nature of religious principles is basically positive (9%), they teach people how to live a normal life (6%), play a cohesive role (4%), etc. (Religiosity in Serbia in 2010, p. 232).

<sup>8</sup> For years now, the Orthodox Church has remained the most trusted institution amongst the Serbian population and its electorate, having outscored all other institutions and organizations from all other spheres of public (secular and social) life. The results of research on Serbian religiosity conducted in 2010 indicated that 18% of respondents ‘fully trusted’ the Orthodox Church, 41% ‘trusted a lot’ while 27% of respondents did not trust the Church at all. See in: (Religiosity in Serbia in 2010, p. 232).

ceremonial rituals), at the same time posing a dilemma and a question of how this 'new' practice affects the very 'essence of religion' (doctrinal foundations and the interpretation of 'genuine, religious convictions').<sup>9</sup> As per 'strategic' potential of the aforementioned 'transition of religiosity', above all, it is important to examine the development of 'value premises', in terms of ensuring prerequisites for the presence of religious factors in social and political processes. It is almost impossible to imagine *missionary work* without them. Its purpose boils down to ensuring the presence and expanding the influence of religious values and factors in all social processes with an aim to build society based on authentic religious foundations. It is believed that such a society would possess far more harmonious internal relations and thus consequently eliminate the majority of strongholds of crisis, disintegration and self-destruction.

### RELATIONS AMONG THE RELIGIOUS (CHRISTIAN), 'EURO-INTEGRATIVE' AND NATIONAL

From a religious (especially Christian) perspective,<sup>10</sup> today's term 'integration' by far is nothing but a secularized surrogate of a thousand-year-old, ecclesiastical term 'ecumenism'.<sup>11</sup> This term has much in common with a rather close, but much broader term 'universalism'.<sup>12</sup> In that sense, it is important to keep in mind that 'Christian integration' entails 'unity' of all people *based on the values the Lord Jesus Christ*

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<sup>9</sup> Within the largest religious communities in Serbia today — Orthodox, Islamic, and Roman Catholic, as well as within other religions worldwide, at the highest religious and intellectual level, the issue of relation between the religious 'traditionalism' ('conservatism') and 'modernism' has been discussed with an aim to come up with the 'functional form' of their most 'favorable' relation and 'ratio'. Starting point is the vision and necessity to preserve the 'authentically' religious concepts but also to ensure its 'active presence, life and promotion' under the brand new circumstances that are constantly changing. Such a 'constant turbulence', that is its 'adaptation', *inter alia*, generates internal polarization, and even disputes among the 'members and fractions' that advocate and promote different 'methodological' visions, interpretations and practices. In this regard, non-religious (secular, economic and political) factors, undoubtedly, have the most important influence.

<sup>10</sup> Since almost 90% of the population of Serbia identify themselves as Orthodox believers, the survey is by far based on the Orthodox standpoint, though it remains largely congruent with the Roman Catholic and Islamic standpoint.

<sup>11</sup> *Put it simply, this notion refers to an 'in-depth' and 'vertical' unity as well as to the unity and sameness of the essential (primarily faith), whereas the aforementioned comprehensive uniqueness lives and exists in different forms that do not bring it into question. The term congregation denotes this relation between the essential and the phenomenal according to the Orthodox theology, whereas the expression unity in diversity denotes this same relation especially today in the context of the Roman Catholic theology. It is evident that the later expression, especially under new integrative circumstances, is often used in the academic, social and political life. The phrase 'unity in diversity' is primarily associated with the Roman Catholic theology and has a predominantly post-council (II Vatican Council) and integrative ('ecumenical') character. It certainly does not denote the same concept as the term 'ecumenism'.*

*entrusted to humanity through Church*.<sup>13</sup> On the other hand, today's 'universal and European integration' is exclusively based on economic reasons, with a growing *deficit of religious contents*, aiming at eventually creating political and social prerequisites for further 'horizontal integration', that is, promotion and establishment of 'common values' that are based on the 'unity in diversity' (Nikolić, 2012, p. 12-15). Moreover, even though the today's Europe (and the EU) is by far the legacy and 'product' of the Christian civilization and culture, with the admixtures from Roman-Hellenic, Islamic and Enlightenment heritage, the area of influence of the Christian (Church) and religious ideals is in decline, followed by a subtle and consistent process of its diluting and marginalizing.<sup>14</sup> This seems even more illogical as the present global (and European) crisis is not only of economic character but also entails *identity crisis*, thus calling for re/defining the 'new value system' that is supposed to be a foundation of the new global, European, regional and local processes and relations. It is at this turning and existential point and development phase that the religious subjects can and should provide some concrete suggestions for overcoming the aforementioned 'dead end'. For example, they can do it by affirming and promoting the concepts and values of *Community, preservation of life, understanding, ethics, humanness, help and solidarity (sacrificing for the sake of Others), environmental protection, harmonious and non-violence based international relations* etc. Therefore not only should their contribution be rather seriously considered, but also it is necessary to engage all available resources of 'religious potential' in modern, integrative processes and dialogues at all levels, as they undoubtedly can act as a key

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<sup>12</sup> Common denominator of the terms 'ecumenism' and 'universalism' is the term *integration*, whereas 'ecumenism' primarily refers to the integration of the *essential* and *in the essential*, whereas 'universalism' refers to the integration of *the formal* and *phenomenal*. The aforementioned distinction is the most important basis and premise for understanding and evaluating the current integration process from an Orthodox Church (and SOC) perspective. From a Christian perspective, the essential issue boils down to what *is* and *can be* basis and foundation of 'True integration', viewed primarily from the perspective of trying to identify its longevity, stability and 'final' outcome.

<sup>13</sup> *Love, Faith and Hope* are the basic Christian values according to all great theologians, Orthodox, Catholic and Protestant alike. Their derived, simplified and materialized sub-concepts and 'value frameworks' are *community, sacrifice and service* (to Neighbor and Others). All today's 'horizontal universal values' such as *humanism, equality, solidarity, peace and reconciliation, cohabitation, rule of law, human rights* and even *integration* actually rest on the aforementioned concepts, *in the value sense*. The presented correlation of the mentioned terms perhaps best illustrates the comprehensiveness, 'depth', 'strategic potential' and importance of the presence of religious (Christian) factors in social life.

<sup>14</sup> All serious sociological analysis and research conducted in the EU countries, especially over the past ten years, show the continuous fall in the numbers identifying themselves as Christians (especially Roman Catholic and Protestant), as well as in their influence in public and political life. Contrary to that, it is evident that believers in the EU are increasingly interested in the values of the Orthodox Church.

'value stronghold' and a 'guarantee' of the ultimate success of the aforementioned process.

In this regard, and taking into consideration positive achievements of the historical heritage and the needs imposed by modern time and new circumstances, especially in Southeastern Europe and Serbia, it is necessary to qualitatively redefine relations between the state/s and religious communities (Church). Some 'new' form of *functional relation* between the aforementioned 'vertical' and 'horizontal' subjects, that is, permeation and supplementing of ontological (value) contents that 'live in this world' (Church and religious communities) and 'executive-formal frameworks' (state/s) that generate 'value prerequisites' could represent a possible and logical theoretical model, the framework and proposal (Nikolić, 2012, p. 18). Specifically, Church and religious communities in Serbia, given their 'basic' values, their impact on society and legitimacy, are supposed to assume more significant value-critical and advisory position and role in the process of strategic and political decision-making, thus partially stripping away 'the burden' and responsibility imposed on the state in the area that by its very nature the state is not 'competent' enough. Moreover, Church and religious communities could, in the advisory sense, attend to the existence and survival of certain *civilizational* and *cultural values* and *contents* within the social and political processes, while the state, in the 'neutral and executive' sense could attend to secular frameworks for the aforementioned. For example, religious values could become an 'organic' and integral part of numerous Development Strategies pertaining to different areas of national and foreign policy... In that case, it would be only logical to assume that the contents of all strategic and integrative processes would go through 'genuine spiritual enrichment and deepening' process, whereas their results would be more constructive and inter-disciplinary. Of course, only if this sequence of events is an 'eschatological' objective, interest and plan of the prevailing process of secular, universal and regional integration after all...

As per *relation between the religious and the national* in the integrative sense, the aforementioned survey on the nature of religiosity in Serbia conducted in 2010 reveals that respondents believe that these terms are inter-dependent, congruent and not mutually exclusive, and that they have to be clearly distinguished and delineated. The relation between nation and religion is described as 'reciprocal' by 44% of respondents. Out of which, 56% argues that it is important to belong 'to both'. What is important, 62% of respondents pointed out that national affiliation does not necessarily determine religious adherence (Religiosity in Serbia in 2010, p. 238).

What is particularly important, according to them, the development of religious consciousness has a positive impact on already present tolerance fostered among the nationalities in the macro and microenvironment in Serbia, while the current

political antagonisms have opposite effects.<sup>15</sup> Furthermore, these findings also reflect the attitude of the Serbian public on the substantial contribution of the religious and the national in the process of reconciliation, tolerance, ‘constructive co-existence’ and cohabitation of national subjects and factors in Serbia, directly and clearly pointing at politicking and attempts of manipulation as sources and strongholds of crisis, ‘deconstruction’ and disintegration. Furthermore, the notion of the national, in the practical sense, is neither the cause nor the stronghold of strife or conflict, but rather an ‘organic factor’ of integrative process if properly perceived, understood and positioned.<sup>16</sup> In that sense, Christian and religious concepts provide an essential contribution. This also reflects, *inter alia*, their ‘strategic and integrative’ potential and contribution, in terms of their ‘positive’ impact, ‘channelling’ and directing of certain national premises and aspirations. In this context, it is important to highlight that the European Union (EU) we live in today is actually a *union of the nation states*, that is, states which, in addition to all common values and frameworks, possess and cherish their own national distinctiveness and values as organic factors which enable them to remain ‘competitive’ in the life of their ‘supranational community’.

### INTER-RELIGIOUS COOPERATION IN SERBIA TODAY

The concept of *inter-religious cooperation* refers to the ‘ever-present’ correlation between different religions, in the context of continuous historic presence and admixtures of the state and the political (atheistic). Interreligious cooperation is not just about the passive cohabitation, co-existence or tolerance in the relations between religions, but also entails some distinctive, common, concrete ‘thematic’ frameworks and efforts aiming at resolving common problems. Inter-religious cooperation can have *crisis-preventive* and *conciliatory* character in political sense, *social-charitable* and exclusively *theological character*. Its ‘spirit’ is distinctively *inter-disciplinary*. It seems logical that theological matters and aspects are the very core and the stronghold of inter-religious cooperation, though in practice, it is in theological aspect of ‘cooperation’ and dialogue that religions face the biggest challenges and

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<sup>15</sup> Nationals of the neighboring countries (Montenegrins, Croats, Hungarians, Slovenians, Roma, and Albanians) are by far accepted as Serbian citizens, city residents, tenants, colleagues, bosses etc. The same goes for adherents of other religions or denominations. More in: (Religiosity in Serbia in 2010, p. 241).

<sup>16</sup> A well-known Serbian theologian, educator and missionary of the early 20<sup>th</sup> century, bishop Nikolaj Velimirović, often pointed out that ‘national affiliation is nothing but a frame of the evangelical’, that is ‘a dish in which the evangelical values are kept to some extent’ in this world. Thus, these two terms are not opposing, but, in certain sense, rather in some kind of a *cause-effect* relation. Similarly, though essentially equal, thought Justin Popović in the 20<sup>th</sup> century and Stefan Nemanja (Simeon Mirotočivi) in the 12<sup>th</sup> century.

problems. Theological aspect always exists as a 'necessity per se', and actually defines frameworks (often limits as well) of inter-religious cooperation.

The term inter-religious cooperation should be distinguished from similar terms, such as *ecumenism*, *religious pluralism* and *tolerance*. Ecumenism primarily entails the engagement of Christian churches with an aim to bring them closer and eventually achieve Christian unity, but more and more often their dialogue with other religious as well. Compared to inter-religious cooperation, it has more distinct theological and 'vertical' character and purpose. On the other hand, tolerance entails respect, mutual appreciation and co-existence of different religious denominations and/or religions, that in practice, usually refers to their passive and indifferent relation. Therefore, ecumenism includes interreligious cooperation, while as far as tolerance is concerned, this is not the case. Finally, religious pluralism nowadays mainly favors the concept of 'the American model of religions' free market'; where they even 'compete' with each other (Buchenau, 2001, p. 108).

*Interreligious dialogue* is a central category and tool of interreligious cooperation. It refers to mutual 'enrichment' and joint efforts to grasp the 'truth' (Šušnjić, 2001, p. 251). The premise of 'progress' is the fact that participants in dialogue see themselves through 'others' eyes', thus surpassing the own perspective of confinement and restraints (Šušnjić, 2001, p. 253-254). In that way, interreligious dialogue promotes the concept of *respecting diversity*, their mutual synergy, way of operating and setting targets. This reflects its 'strategic' potential. On the other hand, some authors see it as 'empty speculations', evaluating it solely through the lens of the accomplished objectives and results (Vukomanović, 2001b, p. 27). There are *four levels* of inter-religious dialogue: between adherents of the same religion, different Christian denominations, different faiths, and between believers and non-believers (Šušnjić, 2001b, p. 18).

Given its idealistic standpoints and approaches, from the social and political perspective, the most important subject of inter-religious cooperation are activities carried out by religious communities aiming at prevention of social and political conflicts and post-conflict rehabilitation. The most often-cited example refers to the religious communities in Bosnia and Herzegovina (B&H), and some smaller ones in Croatia. By promoting their religious values, they are truly committed to building harmonious socio-political, inter-state and interpersonal relations that are based on *the rule of law* (Vukomanović, 2001b, p. 28). This concept is further 'deductively' projected through socio-charitable activities and assistance, aiming at primarily vulnerable, feeble, abandoned, asocial, non-integrated social groups and individuals and refugees. Owing to the aforementioned fact, religious communities and their mutual cooperation increasingly position themselves by establishing 'socio-competitive' relations with secular, political and state factors, highlighting the 'strategic' possibility of achieving a 'common religious front' that could put at stake secular-state monopoly in this area. Thus, once again, we become aware of the fact



that *relations between the secular and religious*, not only in ideological but also in value and existential sense, is and shall be considered as one of the *par excellence* issues of the modern and future international and national economic and political relations. Sooner or later, a need will arise for finding the answer to the question what 'value system' possesses 'bigger' and more significant potential and range in terms of resolving an array of today's most burning issues.... More importantly, which of them offers 'better', more productive and concrete ideas and solutions...? It is important to note that the religious and inter-religious, as compared to the secular (economic, materialistic, political, ideological...etc.), in the Balkans and Serbia, largely insists on the actualization, revitalization and strengthening of the influence of *transcendent values* as existential priorities that should serve as a foundation on which a whole new 'coordinate system of the outside world in making' is to be built. Furthermore, *ethical (moral) values* are to be some kind of a connective tissue as 'formal frameworks' that can guarantee the preservation of the 'transcendent essence of religion'.

The current intensity of interreligious and inter-church cooperation in Serbia is 'satisfactory' though insufficient and incomplete. That is what 67% of participants in the poll responded. (Religiosity in Serbia in 2010, p. 243). The fact that the faithful show interest and that there is an increasingly affirmative attitude of church authorities towards the European and global integrative processes, actually confirms that religiosity in Serbia nowadays, along with its distinct integrative character, becomes more and more 'secular'; in other words, religions and their representatives are primarily expected to give positive contribution to the surmounting of many current social problems, primarily those financial ones. For example, 47% of respondents in this survey are of opinion that justified reasons for joining the EU are 'greater prospects and progress' primarily in an economic sense. (Religiosity in Serbia in 2010, p. 245).

Therefore, the results of interreligious cooperation in Serbia nowadays reflect tolerance in great extent, and, what is more, 'sacrifice' for the 'earthly' (that is for secular) with a direct (*though not final*) aim to improve integrations by overcoming different social problems. From the perspective of 'pure' religiosity, a dilemma whether such a 'missionary' and 'strategic-tactical' approach as well as 'flexibility' will give expected and far-fetching results still remains. In terms of this, it is logical to conclude that a positive outcome and the contribution of religious communities will first and foremost depend on preservation of 'sound value hierarchy', that is, on their position related to the precedence of spiritual priorities and their correlation to the 'environment'... Nevertheless, it is the historical experience that can only offer a final answer to this question. 'Strategic potential' of current interreligious dialogue in Serbia is primarily reflected in the endeavors for 'unification', synchronization, and joint management of religious and economic political contents and factors, so as to surmount and solve piled social issues. The 'strategic' promotion of *self-critical approach* is of no less importance, that is, the promotion of a need to primarily

overcome one's own impediments and problems at individual and social level.<sup>17</sup> It is needless to offer further explanation, just as it is not possible to predict, say in Balkan relations, the nature of all prospective positive consequences of the self-critical approach of dominant political subjects in Serbia and in the region.

In that sense, religious adherents in Serbia argue that country's eventual accession to the European Union by no means would have a negative impact on religious and national identity. They accept secular values (democracy, liberalism, capitalism, gender equality, respect of human rights, civil society etc.) as „standards' of the global, modern society. 66% of respondents of the aforementioned survey opted for this (Religiosity in Serbia in 2010, p. 246). With many opposing viewpoints, it is obvious that the aforementioned values enjoy the support and certain 'religious legitimacy' in Serbia. 52% of religious respondents fully accept the abovementioned secular values (Religiosity in Serbia in 2010, p. 247). However, it is important to highlight that according to the Serbian Orthodox Church (SOC), 'true integration' in Europe cannot be based on exclusively economic and political principles, but 'primarily on the spiritual and genuinely Christian principles' and foundations (*Communiqué of the Holy Assembly of Bishops of the Serbian Orthodox Church*, 2002, p. 151). Only then can 'the true Togetherness' be the logical result (Bishop Jevtić, 2003, p. 173-181). In general, rather similar views are held by the high-ranking representatives of the Roman Catholic and Protestant church, as well as by the representatives of Islam, but with slightly more accentuated universalist-integrative appearance, promotion of the concept of improving the common denominators and marginalizing differences, and relativizing the importance and impact of the national factors.<sup>18</sup> For example, all religious leaders in the then State Union of Serbia and Montenegro (SM) called on the European public through their *Message on One Europe* in 2005, pleading for the respect of regional and local differences and Serbia's soonest accession to the EU (Bishop Bulović, 2007a, p. 1). The same was repeated at the interreligious conference 'Serbia on the Way to the European Union', held in Novi Sad, in 2007. In this regard, they highlighted the phenomena

<sup>17</sup> For the sake of further explanation, and from the standpoint of renowned theologians, the authors argue that it is of vital importance for this analysis to emphasize that the purpose of each religion (particularly of the Orthodox Christianity) boils down to individual but also collective aim of 'getting closer to God'. The basic and indispensable preconditions of this are cognition, control and surmounting of *one's own weaknesses and faults*. Only on the basis of this is it possible to think and act towards 'enrichment' and development of new positive achievements. The next, 'third step' implies 'incorporation' of the attained results in 'competitive universal integrative process'. In the case the given 'order' was obeyed, its subject would have 'something to offer' to other subjects and to the very integrative process...

<sup>18</sup> Such attitudes were held by cardinals Joseph Ratzinger (the former Pope Benedict XVI), Jean Daniélou and Karl Lehmann, Archbishop of Belgrade Hočevar, Thomas Bremer, a Catholic theologian from Germany, bishop Anton Stres, as well as Mrs. Heider-Rottwilm, adviser of the Evangelistic Church. More in: collected papers 'Christianity and European Integrations', Christian Cultural Center, Belgrade, 2003, pages 29–141; Reis-ul-ulema of the Islamic community in Serbia,

of further *secularization of Europe* as an essential and most important obstacle to the integration process of the state and the region (Bishop Bulović, 2007, p. 2). Furthermore, from the Serbian point of view, the main issues were ‘threats related to Kosovo’, ‘the myth about the exclusive Serbian guilt’ for the war spread in the Western public opinion, as well as ‘our prejudices from the past about the intentions of the West, sometimes so one-sided that they even cross the line and become pathological’ (Bishop Bulović, 2007b, p. 3). It is important to emphasize that it was agreed at the meeting of the Balkan religious leaders organized under the auspices of the Council of Europe in Strasbourg in 2008, to institutionalize their meetings as an important aspect and prerequisite for regional cooperation and integration, as well as for the integration of the whole European continent (Archpriest Bigović, 2008, p. 47–51). On this occasion it was also concluded that religious communities can achieve their creative mission only if they are not perceived as ‘second-class’ social communities, whereby ‘this is still the case’ (Archpriest Bigović, 2008, p. 48). In that sense there is still an ‘existential need’ to improve cooperation and relations among Churches, states and civil society, primarily aiming at achieving the ideal of peace in the Balkans and Europe.

## CONCLUSION

Modern religiosity in Serbia possesses an ‘in-depth’, existential and ‘strategic’ potential. Its parallel phases and existential processes, ‘religious transition’, ‘transition of religiosity’ and inter-religious dialogue, actually restore and assert the impact of *civilizational, cultural and ethical (moral) values* on the society. By acting crisis-preventive and conciliatory, with the focus on ‘live’ responsibility and even self-criticism, religious representatives and believers (primarily Orthodox, as well as Roman Catholics and Muslims) substantially contribute to building more harmonious social relations, in the value and integrative-cohesive sense. This reflects their principal, ‘strategic’ potential. In the context of European integration, it is particularly important that they keep getting louder and louder when underscoring that terms such as religious, national and interreligious are neither irreconcilable nor contradictory terms, but rather in a complementary and multidimensional relation. Therefore, beyond any doubt, it is necessary to establish relations between religious communities (Church) and state/s on the brand new and healthier foundations, that is, to overcome their inherited and

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Adem ef. Zilkić, *The contribution of the churches and religious communities in anticipation from conflicts*, and H.E. Msgr. Stanislav Hočevar, Archbishop of Belgrade and Metropolitan, ‘Churches and religious communities in building lasting peace in Southeastern Europe’, collected papers *The contribution of churches and religious communities to the sustainable peace-building in Southeast Europe*, Konrad Adenauer Stiftung, Peace and Crisis Management Foundation, Council of Europe, Strasbourg, 19 and 20 June, 2008, pages 31–32.

anxiously irreconcilable antagonism (between religious and secular concepts). Insofar as the universal, secular values of the today's world have a clearly religious source... In addition, religious communities (Church) should assume *advisory* and *critical-corrective* role in the process of strategic and political decision-making, with the state still playing a key role in that process. Actually, the state should enable them to do so. Naturally, the consequences of the aforementioned redefining of relations would entail a certain contribution to the '*identity-related*' needs of the time, but also to the development of *more comprehensive* and *more balanced development strategies* pertaining to nations, states and supranational communities in which they participate.

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Dragana PETROVIĆ–RAĐENović

### 'STRATEŠKI POTENCIJALI' SAVREMENE RELIGIOZNOSTI U SRBIJI U KONTEKSTU EVROPSKIH INTEGRACIJA

**Sažetak:** U radu je načinjen interdisciplinarni (prevashodno sociološko-politikološki, iz teološke perspektive) pokušaj određenja stanja i faza savremene religioznosti u Srbiji, u kontekstu potrebe sagledavanja njenih 'strateških' potencijala u procesu evropskih integracija. Autori su mišljenja da se 'strateški' potencijali religioznih subjekata prevashodno ogledaju u afirmaciji etičkih (moralnih) principa i činilaca, ali i doprinosu prevazilaženja jaza u odnosima naizgled nepomirljivih pojmova — religioznosti i sekularizma, odnosno religioznosti, nacionalnosti i integracije. Zbog toga bi religijske sadržaje i predstavnike svakako trebalo uključiti i u procese strateško-političkog odlučivanja, u savetodavnom i kritičko-korektivnom smislu.

*Ključne reči:* 'strateški' potencijali, 'religiozna tranzicija', 'tranzicija religioznosti', međureligijski dijalog, EU integracija, sekularizam.

## BOOKS REVIEW

### THE GEOPOLITICS OF THE MEDITERRANEAN

Dragan Petrović, *Geopolitika Sredozemlja [The Geopolitics of the Mediterranean]* Institute of International Politics and Economics, december 2012., p. 230.

For many centuries, the Middle Sea between Asia, Africa and Europe had crucial importance for the Euro-African trade. This sea had been a bridge between the shores of the same empire and the same culture, and Roman and Christian afterwards. With the advent of the Caliphate and Islam it became the sea that divided civilizations, and to some measure peoples and religions. A geopolitical study of the Mediterranean countries requires deep knowledge and lot of space to describe the issues which are geopolitically relevant, starting from the Gibraltar, Spain and Tangier to the Suez Canal, the Israeli-Arab conflict, the Cyprus issue, the regional turmoil code named the *Arab Spring*, economic crises and the race over rich energy deposits in the eastern Mediterranean. However, the author has chosen another approach.

Thus, this book represents an attempt to present the rudimentary features of geopolitical characteristics of the countries in the region and some of the actual processes. The length of the text, of which a significant part is devoted to the history of the Mediterranean basin, leaves little room for the analyses of the complex questions pertinent to the classic geopolitical thought. This book by Dragan Petrović is still the first monograph in Serbian that tends to present the geopolitics of the Mediterranean. A lot of space is devoted to geographic characteristics. The same is with history.

The Mediterranean Basin is a big geographic region that in history had been the cradle of the most important classical civilisations. These were Ancient Greece, Hellenistic Epoch and Ancient Rome. After the collapse of the Western Roman Empire in 476, the Eastern Roman empire survived for another millennium during the Middle Ages. Since the early Middle Ages in the western part of the Mediterranean several big and small states were created, while the papal authority was of special spiritual, but also of secular significance for Europe in that period. Crusades are very interesting and they led to large military operations of West European countries in the Middle East, which temporarily took some areas in this region into their possession.

After the big geographical discoveries had been made, the significance of the Mediterranean decreased to some extent, what was also caused by the Turkish

conquests of the whole Middle East and a part of North Africa, this making trade with the East more difficult along the sea and caravan routes. The Italian sea states gradually lost their influence. However, in the 19th century when steamship was invented and especially after building of the Suez Canal, the whole Mediterranean became very significant. Big colonial powers, and above all, Great Britain and France conquered the Mediterranean coastal area in North Africa and took into their possession a number of important sea territories (Gibraltar, Malta, Cyprus, and the Suez Canal). Their hegemony became especially prominent after the end of World War I when the Middle East territories that had been previously possessed by Turkey came under their rule as mandated territories. On the other hand, during its continuous expansion in the new century tsarist Russia strove to get access to “warm seas” too, and its final objective was to take into its possession the straits of Bosphorus and Dardanelles. For this reason, Russia played a very important role in resolving the Eastern issue. When during World War I it was close to achieving its big goal of taking important straits into its possession, the October Revolution took place and the Soviet power was established setting quite different objectives to itself.

During World War II, much severer battles took place in the Mediterranean region than it was the case in World War I. They included both those on the land and on the sea. After World War II, within the bipolar world, the Mediterranean was an important macroregion for measuring of balance of power, this including the two superpowers and their blocks. After 1991, the USA has consolidated its dominance in the Mediterranean. In recent years, with the acceleration of the process of transition to multipolarism some shifts have been noticed in the Mediterranean Basin (riots in Arab countries, etc.), but this region has remained under the decisive influence of the USA and the NATO, while Russia has taken initiative over the Black Sea region. Keeping in mind the fact that the USA and Great Britain are, above all, the countries with naval supremacy, their influence on sea areas is much greater than it is the case with the vast area of Euro-Asia. In Euro-Asia, some other great powers have shifted the balance of power, and these are, above all, BRIC countries, while in Western and Central Europe it is Germany and France.

In the Mediterranean Basin various civilisations and the most common religions make contacts among themselves permeating each other, too (Christianity, Islam, Judaism). In spite of continuous peace efforts, there are still several neuralgic points in the region that threaten the world peace such as the Israeli-Arab conflict, division of Cyprus, the Armenian-Turkish and Greek-Turkish conflicts, the riots in the Arab world in recent years, certain disagreements in the Balkans and some differences in the Black Sea region, which are present to a minor extent. On the other hand, the dialogue between civilisations produces results. The Mediterranean is probably the leading tourist region in the world, while the sea routes going through it are of



exceptional importance. Although after the departure of Montenegro from the common state contemporary Serbia has lost a direct access to the Adriatic Sea, it gravitates to the Mediterranean Basin in the broadest sense of the word and it is interested in the developments in this region.

The analysis of relations of the powers which are active in the region and the presentation of the geopolitically relevant data of the countries within it are mostly presented in small, encyclopaedia like, entries. If we compare the 1300-odd pages of *The Mediterranean and the Mediterranean World in the Age of Philip II* by Fernand Braudel, which describes the geopolitical reality of the Mediterranean in less than 100 years, with less than 300 pages of the book by Petrović who describes the same space in the period of three millennia we realise that latter work must necessarily be a diverse type of study. It is an arduous attempt being probably only the beginning of the research that Petrović will dedicate to this pluriregional space, its history, geography and politics.

*Mr Slobodan JANKOVIĆ*

## MONISM AND DUALISM

Marko Novaković (ed.), *Monism and Dualism – Basic Concepts of Public International Law*, collection of articles, Faculty of Law, University of Belgrade, Institute of International Politics and Economics and Institute of Comparative Law, Belgrade, 2013, 1046 pages.

The compendium under the title “Basic Concepts of Public International Law - Monism & Dualism” is a joint project of the Faculty of Law, University of Belgrade, Institute of International Politics and Economics and Institute of Comparative Law. These three institutions, all based in Belgrade, have managed to produce a collection of papers on one of the most controversial topics of public international law.

Sooner or later, every lawyer interested in public international law or international law in general must come in contact with the dilemma concerning the relation between international and municipal law. Answering this dilemma is not an easy task. Some authors regard international and municipal law as two different legal spheres. This theory is known as the Dualist conception. On the other hand, followers of the Monist conception regard international and national law as a part of a unified legal system. Besides these two major conceptions, there are many other views that are close to one or another conception, which represent a mixture of these theories or that deny this dichotomy entirely.

However, much more important than the conceptions themselves are arguments and views on this dichotomy. The editor has undertaken the task of presenting such views to the public, assembling in the process a respectable group of contributors, geographically widely ranged (over 60 authors from 34 countries), all of them being acknowledged scholars with various fields of interest and points of view on international law.

The editor is proud to include names such as Dr Detlev Vagts, Professor Emeritus at the Harvard University Law School, among the contributors, but the list also features authors from Georgetown, Sorbonne and many other prestigious universities, judges of International Court of Justice, European Court of Human Rights, and many other important institutions as well.

Another interesting notion concerning the authors is their age differentiation, which has been purposefully sought for by the editor in order to offer to the public not only the opinions of those already established scholars, but also articles from the younger and arising ones, with various educational backgrounds. The compendium will be published in six different languages - English, Spanish, French, Serbian, German and Italian, which will enable six different legal schools of thought to present themselves in their genuine form. This is an eclectic approach so characteristic for international law and the decision to represent these legal schools in their original form came naturally.

Language fragmentation and the complexity of the topic have somewhat stretched the compendium, which might look to some readers as an overly ambitious project, not capable enough for practical use and effective scientific exchange of ideas. This was primarily the reason for the limitation of number of languages to six, in contrast with the original intention to allow every scholar to write in his native language.

This book will be of benefit to scholars, professors, international law practitioners and law students alike. It serves as a deeply informative reference book for individual research on the topic, it can offer assistance in construction of an effective legal argument and finally, with its scholarly nature and approach, it can be of help as a study material for anyone interested in international law.

*Mihajlo VUČIĆ*

## ENVIRONMENTAL LAW IN MONTENEGRO

Dragoljub Todić, 'Montenegro'! In *International Encyclopedia of Law: Environmental Law*, edited by Kurt Deketelaere, Alphen aan den Rijn. Kluwer Law International, NL: 2013, pp. 430.

In 2013, one of the most renowned publishers of legal literature, the Dutch Kluwer Law International BV, published the monograph „Montenegro“, which is part of the *Environmental Law in the International Encyclopaedia of Laws*.

The “Montenegro” monograph covers all aspects of environmental protection in Montenegro as well as the review of the most important legislation of this field. Written in simple language, well based and augmented, it is primarily designed for foreign readers who are interested in the role and position of the Montenegrin legal system of environmental protection. This book is not just a set of rules; it is a theoretically designed, argumentative and detailed study on the state of the environmental law in Montenegro at the present time.

The book structure is determined by topics and encyclopaedic character. It contains five parts which directly and indirectly inform the reader of the existing environmental legislation (such as the Law on Spatial Planning, liability issues). Critical considerations are minimal and serve to facilitate understanding of the book.

In the introductory part, the author presents the geographic location, population, legal and political structure, economic, social and cultural characteristics of Montenegro. He points to the most important environmental problems of Montenegro air and water pollution, loss of biological diversity and ecosystem, especially in wooded areas and in the coastal zone.

The first part of the book is devoted to pollution control and legal regulations in this field. The first chapter introduces strategic documents, instruments of environmental protection, national plans and financing of environmental protection. The author has analysed the most important provisions of the Environmental Law as well as the Environmental Impact Assessment Law and the Strategic Environmental Impact Assessment Law. Also, attention is dedicated to the laws which directly regulate environmental protection – the Law on State Administration, the Law on Local Self-Government, the Law on Inspection Control and others. Brief critical evaluation of the effectiveness of the current legal system is given at the end of this Chapter. Other chapters of the first part concern the ecosystem parts of the environment and the specific areas of protection (air pollution, water pollution, waste, soil pollution, noise, vibration, radiation and other sectors).

The second part of the book is dedicated to the nature conservation and management. It deals with the legal provisions relating on the protection of

natural monuments, cultural heritage, landscapes, reserves, national parks, agricultural resources, flora and fauna. This chapter analyses the regulations on forests, fisheries, biotechnology, and underground minerals.

The third part is devoted to zoning and land-use planning. As the previous two chapters, it contains general legal acts analysing the regulations related to the land-use planning. It points to the major problems of Montenegro in this area - illegal construction and improper land use, which are huge barriers to sustainable development.

The fourth part deals with an important, but at the same time a very controversial issue of environmental protection – the issue of liability. It is divided into the questions of criminal and civil liability.

The fifth part of the book analyses legal proceedings of the individuals in Montenegro -administrative, judicial, ordinary and extraordinary. It points to the alternative dispute settlement - mediation, Ombudsman and the Commissioner for Information of Public Importance. Legal proceedings in the field of environmental protection are generally related to the noise emission in the coastal areas during the tourist season.

At the end, it is a conclusion that the “Montenegro” monograph is a coherent and comprehensive work which adequately acquaints domestic and foreign readers with the environmental legislation in Montenegro. Lawyers and scientific researchers from English-speaking countries have the opportunity to learn about this issue in one place without studying of numerous laws. Although the title of the book refers to the legislation of Montenegro, in every important part of the book one can find references to regional and international regulations in the field of environmental protection. In that way, the Montenegrin legal system is shown in a broader context, especially concerning the European Union.

On the basis of its quality, the “Montenegro” monograph will be of great benefit not just to business, scientific and research circles, but also to all individuals who are interested in the environmental legislation in Montenegro.

*Jelica GORDANIĆ*

## DOCUMENTS

United Nations  
Security Council  
S/2013/72  
4 February 2013

### **Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo<sup>1</sup>**

#### **I. Introduction and Mission priorities**

1. The present report is submitted pursuant to Security Council resolution 1244 (1999), by which the Council decided to establish the United Nations Interim Administration Mission in Kosovo (UNMIK) and requested that I report at regular intervals on the implementation of its mandate. It covers the activities of UNMIK, and developments related thereto, from 16 October 2012 to 15 January 2013.

2. The priorities of the Mission, to promote security, stability and respect for human rights in Kosovo and in the region, remain unchanged. In furtherance of its goals, UNMIK continues its constructive engagements with Pristina and Belgrade, the communities in Kosovo, and regional and international actors. The Organization for Security and Cooperation in Europe (OSCE) and the Kosovo Force (KFOR) continue to perform their roles within the framework of Security Council resolution 1244 (1999). The European Union Rule of Law Mission (EULEX) continues its presence in Kosovo in line with the statement by the President of the Security Council of 26 November 2008 (S/PRST/2008/44) and my report of 24 November 2008 (S/2008/692). The United Nations agencies, funds and programmes continue to work closely with the Mission.

#### **II. Political developments, including the European Union-facilitated dialogue**

3. On 19 October, a new phase was launched in the European Union-mediated dialogue between Belgrade and Pristina, with the convening of the first high-level meeting in Brussels between Prime Ministers Iвица Dačić and Hashim Thaçi, under the auspices of Catherine Ashton, High Representative of the European Union for Foreign Affairs and Security Policy. The meeting elevated the process from a primarily technical level to a political one, offering new prospects for resolving

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<sup>1</sup> Source: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2013/72](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2013/72) (20. 01. 2014).

various long-standing issues in the relationship between Belgrade and Pristina. The meeting of 19 October was followed by expanded discussions held on 7 November and 4 December.

4. During the 7 November meeting, the sides made progress in their discussions on the modalities for the implementation of earlier agreements, in particular the agreement on the integrated management of crossing points. They also agreed to a joint feasibility study for a new highway linking Pristina and Niš (Serbia).

5. During the 4 December meeting, agreements were reached on the dates, locations and other practical arrangements for the implementation of the agreement on the integrated management of crossing points. The parties also agreed to appoint liaison officers, who would be based in the respective European Union delegation offices in Belgrade and Pristina. They also opened a discussion on the transparency of the financial support received by the Kosovo Serb communities from Belgrade and agreed to intensify cooperation on missing persons and to continue the work on energy and telecommunications.

6. Following extensive technical preparations, the high-level engagement between Belgrade and Pristina resulted in the start of the implementation of the agreement at four of the six crossing points, including at gates 1 (Jarinjë) and 31 (Bërnjak), in northern Kosovo, by the mutually agreed deadline of 31 December 2012.

7. On 13 January 2013, the National Assembly of Serbia adopted a resolution on basic principles for political talks with interim institutions of self-government in Kosovo-Metohija. The adoption was preceded by several months of discussions within Serbia on the Government “platform” outlining Belgrade’s positions on Kosovo. The resolution, among other things, expresses support for the European Union-led dialogue, with a view to achieving comprehensive and mutually acceptable solutions. In Pristina, the Kosovo authorities conducted broad-based internal consultations that resulted in a public statement, issued on 14 January, outlining Pristina’s positions on the key issues of the European Union-facilitated dialogue.

8. My Special Representative commended both sides for their demonstrated leadership and political courage in the dialogue process. Under his leadership, UNMIK continued to work closely with the communities on the ground and to collaborate with all other mandated international presences to enhance the prospects of success in the political dialogue.

### **III. Northern Kosovo and developments on the ground**

9. The developments in the high-level dialogue were accompanied by a number of incidents and some tensions on the ground. These were related to the temporary re-establishment of road blocks by Kosovo Serbs in the north of Kosovo in protest against some of the terms of the integrated management of crossing points

agreement; the construction of housing for Kosovo Albanian returnees in northern Mitrovica; and problems with regard to the modalities for the travel of Serbian officials to Kosovo, which, among other things, led to the cancellation of the planned visit of Serbia's President, Tomislav Nikolić, to attend an Orthodox Christmas service at the Gračanica monastery.

10. The protestors and local Kosovo Serb political leaders demanded assurances from the Government of Serbia that the new procedures at the crossing point would not affect their ability to use Serbian vehicle registration plates and identification documents and that commercial goods destined for northern Kosovo would not be subject to taxes and customs fees. Following their meeting with the Serbian President and Prime Minister in Belgrade on 6 December, the Kosovo Serb political representatives announced that they had received such assurances and that they would suspend the protests. Nonetheless, on 9 December, on the eve of the start of the implementation of the integrated management of crossing points agreement at gate 1 in the north of Kosovo, some local Kosovo Serbs launched protests, blocking traffic and preventing the construction of the new check post at the gate from being completed.

11. On 10 December, the implementation of the agreement commenced at gate 1 in the north, where the integrated checkpoint is located on the northern side of the boundary line, and at gate 3 (Merdarë/Merdare), where it is located on the southern side. However, subsequent disputes concerning the collection of taxes and customs fees resulted in a resumption of the protest at gate 1. The issue was taken up by the technical working group in Brussels and a temporary arrangement was agreed, which specified that all goods bound for northern Kosovo would be exempt from customs fees and taxes, with the exception of excise goods (including fuel, tobacco and alcohol) in excess of 3.5 tons. However, northern Kosovo Serbs expressed dissatisfaction over the arrangement and continued to hold scheduled protests blocking the main roads three times a week for a period of two hours.

12. On 31 December, the implementation of the agreement also started at gates 5 (Konçulj/Dheu i Bardhë) and 31. In Zubin Potok, the Kosovo Serbs held another protest, from 30 December to 2 January, against the travel by land of Kosovo police and customs officers to gate 31. The officers continue to be transported regularly to the gate by EULEX helicopter.

13. In addition, Kosovo Serbs reacted strongly to returnee housing construction resumed by Kosovo Albanians in the Kroi i Vitakut/Brdjani neighborhood of northern Mitrovica and Zveçan/Zvečan. The Kosovo Serbs alleged that many of the returnees — who were beneficiaries of a government assistance and housing reconstruction programme — were not displaced former residents, as claimed by the Kosovo authorities, and were not in possession of valid construction permits. On 16 November, a group of Kosovo Serbs first blocked a secondary road and then the construction site itself, which led to a stand-off that escalated into stone throwing and resulted in a number of injured. Shots were also fired in the vicinity of the stand-off. The protestors were dispersed following an intervention by the Kosovo police who also provided a security escort for the



construction workers to leave the site. Similar protests continued for a number of days, ending only after an agreement by the southern Mitrovica municipality to slow down the construction activities. Although the construction work has been halted altogether with the onset of winter, further negotiations and mediation will be required to reach a durable solution. UNMIK is working with other international presences to promote a broad consultative process that could lead to an agreement on the return process of internally displaced persons to northern Mitrovica.

14. My Special Representative continued to focus on ensuring coordination and cooperation among international presences with regard to northern Mitrovica. Such coordination has been important during the period after the cessation of salary payments from the Kosovo budget to municipal employees of the UNMIK Administration Mitrovica in July 2012, which followed the establishment by the Kosovo authorities of an administrative office in northern Mitrovica. In the absence of any indication that such payments would resume, UNMIK had no option but to serve notice to the local staff of the UNMIK Administration Mitrovica that their contracts would not be extended beyond their expiry date of 31 December 2012. UNMIK continues to engage with all local and international stakeholders in order to facilitate practical solutions, prevent tensions and allow the UNMIK Administration Mitrovica to continue to perform its conflict prevention, mediation and facilitation role.

#### IV. Security

15. The overall security situation remained generally calm, with the exception of northern Kosovo, especially in northern Mitrovica, where some serious incidents were reported.

16. Between 18 November and 7 December, three incidents affecting the staff of the administrative office in northern Mitrovica, its assets and projects occurred in northern Mitrovica. In other incidents occurring in December, three private vehicles reportedly belonging to Kosovo Serb police officers from the Mitrovica North station were set on fire. On 18 December, the private car of a Kosovo Serb member of the Serbian Parliament was burnt in front of his residence in Mitrovica. On the night of 9-10 January, an unknown perpetrator opened automatic fire on a bakery in northern Mitrovica belonging to a Kosovo Serb member of the Advisory Board of the UNMIK Administration Mitrovica. Each of these incidents is presently under investigation. Kosovo police, EULEX and KFOR forces have increased their visibility and preventive efforts in response to such incidents.

17. The situation in the Kosovo Albanian majority areas south of the Ibër/Ibar River was generally calm. In response to an increase in armed robberies, bomb threats and the use of explosive devices, the Kosovo police conducted several operations to confiscate illegal weaponry.

18. On 7 January, the Kosovo police arrested 10 individuals, mostly northern Kosovo Serbs, during the Orthodox Christmas celebrations in Graçanicë /Gračanica for interfering with the Kosovo police escort of the Director of the

Serbian Office for Kosovo and Metohija, refusing to provide identification, disobeying police orders and resisting arrest. They were released on 8 January, and all charges were subsequently rejected by the court. Nine of them alleged to having been beaten while in police custody. They were admitted to a hospital in northern Mitrovica; two of them, one reportedly with serious injuries, were sent to Belgrade for treatment. The Serbian authorities strongly protested the arrest and the alleged mistreatment of the detainees by the Kosovo police. EULEX and the Kosovo police Inspectorate are investigating the incident and the allegations.

19. The overall number of recorded incidents affecting minority communities has decreased, from 406 (2011) to 361 (2012). As occurred in 2011, the incidents in 2012 mainly concerned minor assaults, burglaries and thefts, arson committed on unoccupied properties and land, the illegal occupation of houses, and thefts and vandalism at religious sites. The most notable changes were a 21 per cent decrease in thefts and burglaries in 2012, compared with the previous year, and a more than 50 per cent increase in incidents of illegal woodcutting.

20. The trend in the Pejë/Pec region in the west of Kosovo has been of particular concern, with an increasing number of incidents affecting the Kosovo Serb community in Klinë/Klina and Istog/Istok municipalities. During 2012, 73 incidents, or 20 per cent of all incidents reported, occurred in those two municipalities. There is a perception among the local Kosovo Serbs that the intention behind the crimes was to force them to leave. There is also a perception that the Kosovo police is reluctant to actively investigate incidents that involve Kosovo Serbs, which led to the decision by Kosovo Serb residents of Istog/Istok to boycott the meetings of the local community safety council.

21. The Kosovo police has undertaken efforts to respond to those concerns, including through increased participation in the municipal community safety councils. It has also adopted a community policing and action plan for 2012-2016, which seeks to place the security of Kosovo citizens at the forefront of police efforts and to increase the effectiveness and accountability of the police service. In Zvečan/Zvečan, the acting Commander of the Kosovo police station, who had been suspended for allegedly failing to obey an order to arrest the Head of the Government of Serbia's Office for Kosovo and Metohija, Aleksandar Vulin, during the latter's visit to northern Kosovo, returned to duty on 21 December.

## **V. Rule of law**

22. UNMIK continued to monitor activities and exercise relevant responsibilities, in close coordination with EULEX, in the area of rule of law, and technical cooperation with the Ministries of Justice and Internal Affairs of Kosovo and the Ministry of Justice of Serbia.

23. UNMIK also continued to receive requests for mutual legal assistance from Serbia and non-recognizing countries. The impasse between the Ministry of Justice of Kosovo and the Ministry of Justice of Serbia on mutual legal assistance persists, with the Kosovo Ministry failing to process Serbian Ministry documents received

via UNMIK and the Serbian Ministry failing to process any documents received directly from the Kosovo Ministry. UNMIK continues to direct all requests for mutual legal assistance from non-recognizing countries to EULEX for transmission to the Kosovo Ministry of Justice. The agreement on mutual legal assistance, signed on 12 August 2011 between EULEX and the Ministry of Justice of Kosovo, whereby the latter agreed to process requests received through EULEX from non-recognizing States, is being implemented with Bosnia and Herzegovina, Slovakia and Greece.

24. UNMIK continued to facilitate the interaction of Kosovo with the International Criminal Police Organization (INTERPOL) and its member States on a daily basis. UNMIK participated in the INTERPOL General Assembly session held in Rome from 5 to 8 November 2012. Following close consultations with EULEX, the UNMIK delegation conducted several meetings with INTERPOL representatives to resolve outstanding issues concerning notices from Serbia and other issues.

25. UNMIK continued to support and encourage progress on the issue of missing persons, an issue discussed during the 7 November high-level meeting held in Brussels. UNMIK participated in the Belgrade-Pristina Working Group on Missing Persons that met in Belgrade on 30 October under the chairmanship of the International Committee of the Red Cross. Both the Belgrade and Pristina delegations noted difficulties in identifying sources of new information, but agreed to intensify their efforts and enhance mutual coordination. During 2012, forensic experts working at the EULEX Department of Forensic Medicine identified the remains of 38 missing persons. A total of 51 such identifications were made during 2011.

26. On 7 and 8 November 2012, UNMIK organized a joint visit to Cyprus by Kosovo Albanian and Kosovo Serb family associations of missing persons in coordination with the Cypriot Committee on Missing Persons. The visit was funded by the Government of Serbia and Kosovo authorities. After the visit, joint recommendations were drafted stressing the importance of local ownership and of involving family associations in all discussions and decisions on the matter.

27. UNMIK continued to provide document-certification services both to Kosovo residents and at the request of non-recognizing States, primarily for the certification of civil status and pension documents. The implementation of an agreement on university diplomas, reached during the technical talks held between Belgrade and Pristina on 21 and 22 November 2011, is ongoing. Meanwhile, UNMIK continues to provide certification of certain types of educational documents.

28. A major reform of the Kosovo courts and judiciary began on 1 January 2013, when a new Law on Courts, Law on the State Prosecutor, Law on the Kosovo Judicial Council, Law on the Kosovo Prosecutorial Council and Law on the Special Prosecutorial Office came into force. It was accompanied by a reform of the Criminal Code and of the Criminal Procedure Code. All minor offences will fall under the jurisdiction of the newly established Basic Courts that replace the

former Municipal and District Courts. The Basic Courts will be the first instance courts for minor and criminal offences, unless otherwise regulated by law. The new Criminal Procedure Code no longer allows for criminal offences to be prosecuted by private or subsidiary prosecution. Beginning on 1 January 2013, such offences are to be prosecuted *ex officio*. Other substantial changes include the removal of the confirmation of the indictment procedure.

29. Allegations of corruption continue to be a serious concern in Kosovo, while efforts to prosecute cases seem to be yielding some results. During the reporting period, a deputy prime minister, two former ministers, two magistrates, two mayors and other civil servants were either under investigation or indicted on allegations of corruption. In one prominent case, in November, EULEX and Kosovo police arrested three suspects on charges of corruption-related offences, including fraud and aggravated theft related to illegally received payments of some €1.4 million from the Ministry of Internal Affairs, intended as payment to the Austrian State Printing Company for production of biometric passports.

30. Public perception surveys, undertaken by the United Nations Development Programme (UNDP) on a regular basis during 2012, showed decreasing public satisfaction with Kosovo's executive, legislative and judicial institutions, and identified corruption as one of the top concerns of the public. A number of laws have been drafted in efforts to strengthen the fight against corruption, including the Law on Declaration and Origin of Wealth of Senior Public Officials and the Law on Confiscation of Property Acquired by Criminal Offense.

31. During the reporting period, there was an increase in complaints concerning the failure by local police and prosecutors to investigate crimes affecting minorities. My Special Representative conducted a number of meetings with relevant authorities and consulted closely with EULEX in an effort to encourage greater responsiveness and cooperation between interested parties in cases affecting minority communities.

32. On 20 November, the Supreme Court of Kosovo, presided over by EULEX judges, reviewed the appeal of a EULEX prosecutor against the acquittal of Democratic Party of Kosovo Vice-President Fatmir Limaj and three others on charges of war crimes in what is known as the "Kleçkë/Klečka case". The Court found the previously excluded evidence to be admissible and ordered a retrial of Limaj, a former high-ranking commander of the Kosovo Liberation Army (KLA) and Government Minister, and his three co-defendants. On 24 November, all the defendants were detained on remand. This provoked strong public reactions, including from Prime Minister Thaçi and other political leaders, who called for a parliamentary review of the EULEX mandate.

33. On 29 November, the International Criminal Tribunal for the former Yugoslavia acquitted Ramush Haradinaj, the former Prime Minister of Kosovo and KLA regional commander, following his retrial on charges of war crimes related to the 1998-1999 conflict in Kosovo. Co-defendants Idriz Balaj and Lahi Brahimaj were also acquitted. Upon his release, Haradinaj returned to Kosovo and resumed his role as the leader of the opposition Alliance for the Future of Kosovo party. He

also began discussions with the ruling Democratic Party of Kosovo concerning a possible future coalition.

## VI. Returns and communities

34. Most municipal community committees in Kosovo continued to function and ensure that essential aid, including transportation, food, hygienic items and firewood, were made available to those in need. Several municipalities also amended their statutes to incorporate the regulation on the establishment of the municipal office for communities and returns.

35. The voluntary returns process continues to be slow. The United Nations High Commissioner for Refugees (UNHCR) registered 239 individual voluntary minority returnees during the last three months of 2012, including 61 Kosovo Serbs, 26 Kosovo Albanians, 103 members of Roma, Ashkali and Egyptian communities, 39 Kosovo Bosniaks, 9 Kosovo Goranis and 1 Montenegrin.

36. During 2012, UNHCR recorded 970 voluntary returns of minorities to Kosovo, compared with the 1,143 recorded during 2011. The comparative breakdown of such returns by minority ethnic group for 2012 and 2011 is as follows, respectively: Serbs (302/464); Roma (125/120); Ashkali and Egyptian (305/395); Bosniak (84/60); Gorani (89/106); Albanian to minority areas (62/27); Turk (none/1); Croat (2/none); and Montenegrin (1/9).

37. The number of internally displaced persons in Kosovo stood at 17,738 as at the end of December 2012, including 921 living in collective centres.

38. UNHCR has organized four “go-and-see” visits for internally displaced persons, mostly Kosovo Serbs and members of the Roma, Ashkali and Egyptian communities, in Serbia and within Kosovo as well as for refugees from Montenegro and the former Yugoslav Republic of Macedonia. The visits highlighted the importance of dialogue between potential returnees and receiving communities in order to resolve issues, mostly related to property, vandalism and theft. Some progress was also made in the provision of municipal support for housing construction and refurbishment, as well as in the implementation of the UNHCR return and reintegration project.

39. As at the end of 2012, Kosovo had received 121 refugees and 45 requests for individual asylum — a relative decrease from 2011. Seventeen asylum seekers are currently awaiting decisions on their claims by the Kosovo authorities.

40. In 2012, UNHCR provided assistance to 2,499 individuals in obtaining personal documentation and resolving civil status issues. The United Nations Population Fund also supported the Kosovo authorities in improving interministerial coordination on that issue.

41. Municipal community safety councils, established to maintain safety in ethnically mixed areas, continued to meet regularly, with the exception of Istog/Istok, where, as mentioned earlier, Kosovo Serb residents suspended their participation in the local council and other municipal bodies, pending progress in

the investigations by the Kosovo police of cases where local Kosovo Serbs and their property had been targeted.

42. During the reporting period, the Serbian authorities announced that the continued payment of salaries to employees of Belgrade-sponsored institutions in Kosovo would be contingent upon discontinuation of their employment by Kosovo institutions. This decision primarily affected the employees of the Belgrade-financed educational institutions. According to the instruction, all such employees had to declare their decision to remain on either the Serbian or the Kosovo payroll. The majority of the Kosovo Serbs concerned preferred to remain on the Government of Serbia payroll, which also provides relatively higher wages.

43. Kosovo Serbs continued to report difficulties in registering their vehicles, often due to missing Kosovo civil documents or lengthy bureaucratic procedures. The Kosovo Ministry of Internal Affairs conducted registration awareness campaigns in Kosovo Serb areas and, as a stop-gap measure, began issuing interim license plates to Kosovo Serbs whose registration documents were still under verification.

44. On 12 December, the lead-contaminated camp Osterode in northern Mitrovica was officially closed. The camp had hosted hundreds of Roma, Ashkali and Egyptian internally displaced persons over the past decade. The majority of them have been resettled into the Roma Mahala neighbourhood in southern Mitrovica or into an ethnically mixed neighbourhood in northern Mitrovica.

45. During 2012, with support from the United Nations Children's Fund, the education centre in the Leposaviq/Leposavić camp for Roma, Ashkali and Egyptian internally displaced persons supported the inclusion of children in the regular education system through preschool education activities. More than 10,000 nutrition supplements were also distributed to children to alleviate the effects of exposure to lead contamination.

46. UNMIK continued its field activities, focused especially on minority communities, in order to facilitate resolution of issues at the community level and to enhance the prospects for reconciliation. UNMIK has donated its surplus equipment — vehicles, computers and other items — to support vulnerable communities. Vehicles were also donated to the Kosovo police operating in the Mitrovica region.

## **VII. Cultural and religious heritage**

47. UNMIK continued to facilitate the activities of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Kosovo. The fresco restoration at the Bogorodica Ljeviška Church in Prizren, funded by donations from Bulgaria, the Czech Republic, Greece, Italy and the Russian Federation, has been completed. Reconstruction work, funded by the Russian Federation, at three UNESCO cultural heritage sites, the Visoki Dečani Monastery, the Gračanica Monastery and the Peć Patriarchate, has also been completed. The

tender for restoration of the Church of Dormition of Theotokos at the Gračanica Monastery has been finalized and work is expected to begin in the spring.

48. KFOR continues to provide on-site protection at the Visoki Dečani Monastery and the Peć Patriarchate. Other Orthodox patrimonial sites are now under the protection of the Kosovo police.

49. Despite the incidents surrounding the Orthodox Christmas celebrations, and growing concerns about the state of religious tolerance, constructive interaction took place between the Serbian Orthodox Church and the local authorities in Pejë/Peć municipality. They engaged in practical dialogue on a range of issues, and the local mayors were regularly invited to attend religious events. The Serbian Orthodox Church has established a study, research and documentation centre in the Peć Patriarchate, which has held several inter-faith academic and educational events, to which the Mayor of Pejë/Peć offered support in order to promote peace and reconciliation among local communities.

50. At the same time, in Deçan/Dečani, the resolution of a long-standing property dispute by a 27 December decision of the Special Chamber of the Supreme Court of Kosovo, which rejected the claims of two socially owned enterprises against Serbia and the Visoki Dečani Monastery, resulted in aggressive reactions by the local municipal leadership and suspension of their relations with the Monastery. This action caused a significant setback in the delicate efforts to build better relations and understanding between the monastic community and the citizenry in Deçan/Dečani.

51. The majority of the traditional annual visits of hundreds of Kosovo Serb pilgrims and displaced persons to churches and cemeteries for Orthodox All Souls' Day and annual patron saint days were well secured by the Kosovo police and conducted without significant incidents.

52. During the Orthodox Christmas, however, the number of pilgrims visiting Kosovo for services was significantly lower than in previous years, following announcements by some Kosovo Albanian activist groups of their intention to organize protests during the Christmas services.

53. On 6 January, the Orthodox Christmas Eve, some 20 activists of the opposition movement Vetëvendosje, along with eight members of the local association of missing persons, Voice of Mothers, attempted to block the entrance to the Church of the Assumption of the Blessed Virgin Mary for some 40 pilgrims, mostly displaced Kosovo Serbs from Gjakovë/Đakovica who currently reside in Serbia. However, the Kosovo police secured the entrance to the Church, which allowed the pilgrims to attend the services. There were almost no visits in 2013 to the Visoki Dečani Monastery during Orthodox Christmas.

54. Incidents of vandalism of religious sites and other forms of religious intolerance continued to be reported, including property damage and theft at Orthodox churches, as well as desecration of graves in Orthodox cemeteries. Twelve religious sites, including 5 churches and 7 graveyards were targets of theft and vandalism. On 15 January, over 50 Serbian Orthodox gravestones were found

damaged in the cemetery in Nakarade village in Fushë Kosovë/Kosovo Polje municipality. While the incident was publicly condemned by the local mayor, and a suspect subsequently arrested by the Kosovo police, both the Kosovo Serb community and the Serbian Orthodox Church expressed concerns that this might mark an increasing trend in such instances. My Special Representative condemned the incident and called for a proactive response by the local authorities.

### **VIII. Human rights**

55. A delegation of the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities visited Kosovo from 2 to 7 December. During a final meeting with the representatives of the international community, the delegation observed that despite the existence of an adequate legal framework, its enforcement remained weak.

56. Under the coordination of UNMIK and the Office of the High Commissioner for Human Rights (OHCHR), the Human Rights International Contact Group and its two subgroups, namely, on security incidents affecting non-majority communities and on property rights, continued to strengthen their coordination in monitoring human rights trends and advocating remedial action.

57. In October, the Advisory Office on Good Governance, Human Rights, Equal Opportunity and Gender Issues of the Office of the Prime Minister of Kosovo launched a midterm review of the 2009-2015 Strategy and Action Plan on Integration of Roma, Ashkali and Egyptian Communities, which has seen little implementation to date. The review is being carried out through a participatory process, involving local and international actors, including UNMIK.

58. On the anniversary of the adoption of Security Council resolution 1325 (2000), on 31 October, Kosovo authorities, UNMIK, international organizations and civil society representatives participated in a meeting funded by the European Union Office in Kosovo and EULEX to assess the progress and challenges in the implementation of the resolution in Kosovo. The drafting of a Kosovo action plan for the implementation of the resolution is advancing, with a special focus on addressing violence against women.

59. The United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) facilitated a dialogue in Istanbul in December among women leaders that involved parliamentarians from Kosovo and Serbia, members from six countries of the Regional Women's Lobby for Peace, Security and Justice in Southeast Europe, and civil society representatives. The participants pledged to continue organizing joint events in Serbia and Kosovo, as well as a regional conference on women in politics.

60. UN-Women also organized a high level round table, with the participation of Kosovo authorities, UNMIK and other international representatives, on the status of survivors of conflict-related sexual violence. Challenges continue to exist to the effective investigation and prosecution of sexual violence-related war crimes



in Kosovo. For example, the applied Law on the Status and the Rights of the Martyrs, Invalids, Veterans and Members of the Kosovo Liberation Army, Civilian Victims of War and their Families does not explicitly include the survivors of conflict-related sexual violence and torture as a category.

61. On 14 December, an organized group violently disrupted the launch of the latest edition of the biannual journal *Kosovo 2.0*, which focuses on sexuality, including homosexuality, in the Western Balkans. The violence was condemned by the Kosovo authorities, UNMIK, representatives of international organizations and diplomatic offices, as well as non-governmental organizations. Four Special Rapporteurs of the Human Rights Council addressed a letter of concern to my Special Representative, which he transmitted to the Prime Minister of Kosovo. On 16 December, four individuals broke into the premises of a non-governmental Organization working on lesbian, gay, bisexual and transgender issues and attacked one of its members. The website of an international non-governmental organization that condemned the attack was hacked and shut down. The Kosovo police have formed a specialized task force to investigate those incidents.

62. In December, a representative of the Advisory Office on Good Governance, Human Rights, Equal Opportunity and Gender Issues informed that the Government had abandoned its action plan for the implementation of the Anti-Discrimination Law in favor of considering amendments to the Law. This constitutes a major success for civil society and international organizations, including OHCHR, which advocated amendments of the Law to ensure its more effective implementation.

## **IX. Observations**

63. An essential step forward was achieved with the elevation of the Belgrade-Pristina dialogue to a high political level under the stewardship of the European Union. I commend the leaders on both sides for embarking upon this challenging yet vital political process, aimed at resolving the most difficult issues hampering progress in their mutual relations. I wish to express my appreciation to the High Representative for Foreign and Security Policy of the European Union for personally facilitating the high-level talks.

64. I am heartened by the practical and constructive atmosphere that has characterized the high-level engagement so far and by the early results, which have already become visible on the ground. While many difficult issues still lie ahead, the resumption of talks is a strong signal of the commitment by both sides to peaceful dialogue and overcoming the burdens of the past conflict. I strongly encourage Belgrade and Pristina to sustain the momentum and commitment in the face of challenges that may emerge in addressing some of the most sensitive unresolved issues.

65. I also commend the international presences for working in concert to seize the opportunities created by this new political initiative, and to address practical problems on the ground in the framework of their respective mandates. Events

during the reporting period demonstrate both the continuing fragility of the situation on the ground and the potential for continued stabilization, provided there is sustained political leadership and good will.

66. With regard to the situation in northern Mitrovica, coordinated action and attention are needed to ensure that the difficult issues are addressed in good faith in order to avert future tensions and that essential municipal services continue to be provided to the local population. In that context, it is regrettable that the expectation to pay the salaries of civil servants employed at UNMIK Administration Mitrovica has not been met. The political dialogue and local mediation efforts should be used to help to avoid any escalation of the situation and to promote consensual and durable solutions.

67. Of equal importance to the high level political process, are sustained and well-grounded efforts to promote reconciliation and to increase trust among the communities in Kosovo. The international presences play a vital role in promoting this objective. However, its achievement also requires commitment and sincere efforts by the political leadership at all levels, local non-governmental organizations and civil society. In difficult economic times, these challenges are yet greater. However, active efforts at both political and community levels are required for progress to be achieved towards a more prosperous and secure future.

68. Acts of intolerance, such as those that occurred during the Orthodox Christmas holiday in 2013, do no justice to the aspirations of Kosovo society and should be met by firm and effective responses by the Kosovo authorities. I renew my call for unity among responsible actors to positively influence the situation on the ground in Kosovo, and for unambiguous support for the path of peaceful progress through dialogue, the only path leading towards lasting stability and prosperity.

69. I express my gratitude to my Special Representative, Farid Zarif, for his leadership of UNMIK and his efforts to promote consensus solutions and to deepen cooperation among the key stakeholders. I commend the staff of UNMIK for their commitment and efforts to fulfill the responsibilities and objectives of the United Nations.

70. I conclude by extending my gratitude to the long-standing partners of the United Nations in Kosovo — KFOR/NATO, the European Union and OSCE, as well as the United Nations agencies, funds and programmes — for their support and close cooperation with UNMIK.

## **Annex I**

### **Report of the European Union High Representative for Foreign Affairs and Security Policy to the Secretary-General on the activities of the European Union Rule of Law Mission In Kosovo**

#### **1. Summary**

The European Union Rule of Law Mission in Kosovo (EULEX) continued to undertake monitoring, mentoring and advising activities in the rule of law sector and to implement its executive functions, in accordance with its mandate. Mixed panels of local and EULEX judges have either ruled or are in the process of adjudication in a number of high-profile war crimes, corruption and organized crime cases. During the reporting period, EULEX remained actively committed to Kosovo legislative processes and to supporting the European Union-facilitated Pristina-Belgrade dialogue. On 10 December, the integrated management of crossing points agreement started to be implemented at gates 1 and 3 (Rudnica/Jarinjë and Merdarë/Merdare crossing points). Implementation at gates 5 and 31 (Konçulj/Dheu i Bardhë and Bërnjak/Tabalije crossing points) commenced on 31 December. The Special Investigative Task Force continued its work, in line with its mandate, in investigating allegations contained in the report of the Council of Europe Special Rapporteur, Dick Marty, on illicit trafficking in human beings and human organs. The discovery of two unexploded hand grenades within the perimeter of gate 31 (Bërnjak/Tabalije) in Zubin Potok municipality represents a serious threat to EULEX staff and assets in the area.

#### **2. EULEX activities, October 2012 to January 2013**

##### **General**

On 9 November, the EULEX Head of Mission, the European Union Special Representative and the Kosovo Deputy Prime Minister/Minister of Justice co-signed the “Compact”, which includes the common rule of law objectives for Kosovo institutions, the European Union Office and EULEX. The document will help guide continued rule of law reform efforts in Kosovo and allow regular review and stocktaking of progress achieved.

On 16 November, the EULEX Head of Mission held a series of meetings with officials in Belgrade, including Serbian Prime Minister Iвица Dačić and the Director of the Serbian Office for Kosovo, Aleksandar Vulin. The key issues discussed included the continued cooperation between Serbian institutions and EULEX in the rule of law area and the implementation of agreements made in the European Union-facilitated dialogue, including the integrated management of crossing points agreement.

On 17 December, Kaçanik/Kaçanik Municipal Court issued an order to detain and arrest the former Mayor, Xhabir Zharku. On the same day, Zharku sent a letter to media outlets saying that he did not intend to comply with the decision. On 21 April 2011, Zharku had been sentenced by Pristina District Court to three years of imprisonment. The ruling issued by Pristina District Court was appealed to the Supreme Court, which confirmed the ruling of the Pristina District Court in May 2012. At the time of reporting, Zharku remains at large, and his whereabouts are unknown. The failure of the authorities to implement the Court's decision represents a notable challenge to rule of law in Kosovo.

On 7 January, Kosovo police detained 10 persons from the north of Kosovo in Graçanicë/Gračanica on the suspicion of being Aleksandar Vulin's unofficial close protection officers. EULEX monitors visited the detainees on the day of their arrest and witnessed part of their appearance in front of a judge the following day. No complaints about their treatment by Kosovo police were made on either occasion. After their release, late on 8 January, serious allegations of maltreatment emerged in the media, some of which were also raised with EULEX monitors, who went to meet them the following morning. In response to the allegations, the Police Inspectorate of Kosovo and EULEX police launched a preliminary investigation. On 15 January, the Chief EULEX Prosecutor issued a ruling to initiate a criminal investigation against at least one suspect police officer believed to have been identified through photographic evidence.

### **War crimes**

On 20 November, based on an appeal filed by the Special Prosecution Office of Kosovo, a panel of two local and three EULEX judges at the Supreme Court annulled the verdict of the first instance court in the so-called Kleçkë/Klečka case. The case is related to war crimes allegedly committed in a Kosovo Liberation Army (KLA) detention facility in Kleçkë/Klečka and involves former KLA commander and current member of Parliament Fatmir Limaj, high-ranking police officer Nexhmi Krasniqi and two more co-defendants. In its ruling of 21 March 2012, the first instance court had ruled all evidence pertaining to the deceased key witness, "Witness X", inadmissible. As a consequence, all had been acquitted owing to lack of evidence. The Supreme Court, however, declared the evidence admissible and sent the case back to the first instance court for retrial. Since it had also declared that it did not have jurisdiction over the prosecutor's application for detention on remand, the Special Prosecution Office of Kosovo submitted the application to the Pristina District Court. On 23 November, the Pristina District Court granted the application and the defendants were taken into custody the same day. On 24 November, a EULEX judge ordered detention on remand for them. On 27 November, a mixed panel of the Supreme Court rejected the appeal by the defence lawyers against the decision.

On 11 December, also based on the appeal filed by the Special Prosecution Office of Kosovo, the mixed panel of the Supreme Court decided against the judgment of acquittal of the further six defendants in the same case and sent their

case back for retrial to the first instance court with the same reasoning. On the same day, the EULEX presiding judge of the retrial panel of the first instance court ordered detention on remand against four defendants and house detention against two accused. Appeals by the defendants against the security measures were rejected by a mixed panel of the Supreme Court on 18 December.

The decision to retry the case and the introduction of the measure of detention on remand sparked harsh criticism from senior Kosovo officials, misguided efforts by the Pristina authorities to meddle with the judicial process and attempts to interfere with the judicial process.

On 23 November, a panel of one local and two EULEX judges at the Pristina District Court acquitted Aleksandar Bulatović due to insufficient evidence. He had been charged with war crimes.

On 19 December, a panel of one local and two EULEX judges at the Supreme Court replaced the measure of house detention with detention on remand for two months against Sabit Geci, Rustem Geci and Hetem Geci charged with war crimes (two of them members of the Kosovo security force). The case is at the indictment stage. The indictment was filed in mid-December. The initial hearing on the confirmation of indictment is scheduled for 17 January.

### **Organized crime and corruption**

On 19 October, a mixed panel of two EULEX judges and one local judge at the Pristina District Court found KolëPuka (a former judge) guilty of issuing unlawful judicial decisions, abusing official position or authority, money-laundering and fraud. He was sentenced to 10 years of imprisonment and was prohibited from holding public office or practising law for three years after having served the sentence. His two co-defendants, Zef Marleku and Lon Palushaj, were acquitted of all charges.

On 4 November, a EULEX judge at Pejë/Pec District Court ordered detention on remand against four individuals who were arrested in a joint operation by EULEX and the Kosovo police. The four suspects were charged with accepting stolen goods and fraud. A large amount of gold was seized during the operation.

On 12 November, three individuals were arrested, including a German citizen, in a joint operation by EULEX police and the Kosovo police, for alleged misuse of €1.4 million in the so-called passports corruption affair. The case is being prosecuted by a team comprising one EULEX prosecutor and one local district prosecutor.

On 16 November, a EULEX prosecutor from the Special Prosecution Office of Kosovo filed an indictment against member of Parliament Fatmir Limaj and six co-suspects for organized crime and other corruption-related offences. Following the leak of wiretapped conversations of senior politicians, part of the indictment material, the government sent a draft law on interception of telecommunications to the Assembly of Kosovo on 14 December. The draft law puts the Kosovo Intelligence Agency in the position to monitor all lawful investigative interceptions

before they are handed to the prosecution. EULEX had been involved in the drafting of the law from the beginning, insisting that there must be a separation of judicial and intelligence interception.

On 6 December, a EULEX judge at Gjilan/Gnjilane District Court confirmed the indictment against Bajram Sabedini and three other persons accused of organized crime and smuggling of migrants.

On 7 December, a panel of one EULEX and two Kosovo judges at Prizren District Court acquitted Resmije Osmani and Gëzim Rexhaj of charges connected to money-laundering, tax evasion, smuggling of goods and the misuse of economic authorization.

On 13 December, eight suspects were arrested and eight locations searched in a joint EULEX-Kosovo police investigation, supervised by a EULEX prosecutor from the Special Prosecution Office of Kosovo. The suspects were charged with organized crime and smuggling of migrants.

On 24 December, the Pristina District Court confirmed the indictment against four defendants, including two former Ministers of Culture, Astrit Haraqija and Valton Beqiri, accused of abuse of official duty or authority. The case is being prosecuted by a local prosecutor.

On 28 December, a EULEX judge at the Pristina District Court rejected the application for termination of detention on remand of Ilir Tolaj (former Permanent Secretary of the Ministry of Health). The defendant is accused of abuse of official position or authority. On 10 January, the trial against the defendants started.

### **Other key cases and issues**

On 16 October, EULEX police arrested three individuals suspected of being members of a terrorist organization that claimed responsibility for three attacks on Serbian police in Dobrosin (crossing point<sup>65</sup>), in Bujanovac municipality in Serbia. Two of the three individuals are suspected of having taken part in the most recent attack, which occurred on 7 October 2012. The case is being prosecuted by a EULEX prosecutor from the Special Prosecution Office of Kosovo. On 17 October, a EULEX pretrial judge at Gjilan/Gnjilane District Court ordered detention on remand for the arrested individuals. On 18 October, in a joint operation, EULEX and Kosovo police arrested a fourth person, in connection with the same case. The EULEX pretrial judge ordered detention on remand for the fourth suspect.

On 6 November, a EULEX judge partially confirmed the indictment against five defendants in the so-called March 2008 riots case. The indictment was fully confirmed against a sixth defendant and dismissed against another. The defendants were charged in relation to the unlawful attack on Mitrovica District Court on 17 March 2008. The events led to the death of one UNMIK International Police Officer and injuries to many others, including KFOR soldiers.

On 7 November, the Supreme Court, in a panel composed of three local judges and two EULEX judges, reduced the sentence of Osman Zyberaj from 25

to 15 years of imprisonment on the grounds that he was in a state of diminished mental capacity at the time he had committed the crimes. The defendant was charged with the murder of Hasan Rrustemi and the attempted murder of his brother Nazim Rrustemi in October 2005. Hasan Rrustemi was known as the chief of the Serbian intelligence service for Kosovo in the 1980s.

On 8 November, the Supreme Court rejected four appeals on behalf of three defendants suspected of terrorism against the ruling of the Gjilan/Gnjilane District Court, extending detention on remand and house detention.

On 9 November, a panel of two local judges and one EULEX judge at the Pristina District Court sentenced Arben Sfishta to six years of imprisonment for kidnapping.

On 14 November, a mixed panel of one local and two EULEX judges at Pejë/Peć District Court sentenced Driton Kelmendi to 23 years of imprisonment for aggravated murder.

On 4 December, a panel of three local and two EULEX judges at the Supreme Court rejected an appeal filed by Amir Sopa, who had been sentenced to 10 years of imprisonment on charges of terrorism.

On 17 December, a mixed panel of two EULEX and one local judge completed the trial against Sadik Abazi et al, also known as the Bllaca 2 murder case. All five defendants were found guilty and sentenced to between 7 and 15 years of imprisonment.

### **Special Investigative Task Force**

The Special Investigative Task Force was set up in 2011 to conduct a full criminal investigation into the allegations contained in the report of the Council of Europe Special Rapporteur, Dick Marty. In his report, he addressed a wide range of alleged crimes, including abduction, detention, mistreatment and murder, in addition to the much-publicized allegations of organ harvesting and trafficking. In the report, the Task Force provided information on its activities over the past quarter, noting, however, its constraints in releasing operational details so as to maintain the confidentiality and integrity of the investigation and to protect potential witnesses.

Over the past three months, the Task Force has continued to collect evidence from institutional sources, enhance cooperation with third States and conduct operational investigative activities. Information collected thus far from institutional sources has provided helpful background material for the more operational phase of the investigation, which includes witness interviews with individuals who may have information relevant to the Task Force inquiry.

As in the previous quarter, the Lead Prosecutor of the Special Investigative Task Force, Clint Williamson, continued his discussions with relevant countries regarding cooperation and witness relocation matters.

On 17 and 18 October, Mr. Williamson travelled to Serbia to meet with officials of the newly formed Government in Belgrade. He held positive and fruitful

discussions with President Tomislav Nikolić and Prime Minister Ivica Dačić, as well as with the State War Crimes Prosecutor, Vladimir Vukčević. In their respective meetings, and in subsequent public statements, President Nikolić and Prime Minister Dačić both voiced their strong support for the work of the Special Investigative Task Force and pledged continued full cooperation by Government of Serbia institutions. Discussions with Vukčević focused on the ongoing operational cooperation between his office and Williamson's team of investigators and prosecutors.

On 13 and 14 November, Williamson met in Vienna with senior officials from the Austrian foreign affairs, justice and interior ministries, who confirmed their willingness to provide tangible support in areas of critical importance to the investigation. Immediately afterwards, on 15 and 16 November, Williamson went on to Skopje where he met with senior officials, including Prime Minister Nikola Gruevski, the Ministers of Justice and the Interior and representatives of the Department of European Affairs and of the Ministry of Foreign Affairs. All noted that they want to actively contribute to stability and reconciliation in the region and cooperate with European Union initiatives. The positive reception, which came from representatives across the political spectrum, serves as another example of the broad support throughout the region for the Special Investigative Task Force, adding to the high-level political commitments received in previous visits to Pristina, Belgrade, Tirana and Podgorica.

During his most recent periodic reporting to European Union member States, the States reconfirmed their full support for the Special Investigative Task Force at the highest levels, including areas such as witness protection, information exchange and staffing. Williamson also met with representatives at various European Union institutions in Brussels.

Williamson also had follow-up meetings with senior officials in the European Commission's Directorate-General for Enlargement, who have been extremely supportive of the Special Investigative Task Force and have continued to play a very constructive role in facilitating cooperation by regional governments. As already expressed in the Commission communication on the enlargement strategy and main challenges 2012-2013, which was issued on 10 October, the European Commission reaffirmed its full support for the ongoing investigation by the Task Force.

Likewise, Williamson had follow-up meetings with key members of the European Parliament. As with the European Commission, the Parliament has expressed a continuing willingness to assist the Task Force through its resolutions and other actions.

The European Union determination to support the Task Force was further underlined on 11 December in the context of the yearly discussion of European Union ministers on the Enlargement and Stabilization and Association Process. The conclusions of the Council of the European Union made explicit reference to the Task Force and underlined "the need to address impunity and ensure accountability, as well as fully cooperate and support the work of [the International Tribunal for the



Former Yugoslavia] and the EULEX Special Investigative Task Force” and called for active cooperation with EULEX, including with the Task Force.

### **Property rights**

During the reporting period the Kosovo Property Claims Commission held two sessions. Between October 2012 and January 2013, it adjudicated 1,351 mainly inter-ethnic property claims. The total number of adjudicated claims stands at 35,109, with 7,261 still to be resolved.

The Kosovo Property Agency Appeal Panel of the Supreme Court decided 64 cases between 1 October and 31 December 2012. The total number of adjudicated claims stands at 229 decisions, with 196 pending.

The backlog of more than 600 unregistered cases in the Special Chamber of the Supreme Court has been reduced to zero. Modalities are being implemented at the Special Chamber of the Supreme Court in order to prevent such a backlog from reoccurring; EULEX has also advised to moving forward expeditiously with the appointment of the Chief Registrar and Deputy Chief Registrar by the Kosovo Judicial Council, whose absence has contributed to undermining the functionality of the Special Chamber, including its Registry. Progress is being made in resolving the translation backlog through better use and management of resources and the likelihood of temporary additional translation resources by the Kosovo counterparts.

On 28 December, a mixed panel of the Special Chamber of the Supreme Court, presided over by a EULEX judge, rejected the claims of two socially owned enterprises against the Visoki Dečani Monastery. The cases relate to donation contracts made between Serbia and the Visoki Dečani Monastery in 1997. The decision has been strongly opposed by the League of Kosovo Historians and by Deçan/Dečani Mayor Rasim Selmanaj. On 10 January, approximately 500 people protested against the decision.

### **Legislation**

Kosovo has undertaken an important judicial reform, with the entry into force on 1 January 2013 of the Law on Courts, a new Criminal Code and a new Criminal Procedural Code. In addition, further changes in the judicial and prosecutorial system may be expected since five key legislations (Law on Courts, the State Prosecutor, the Kosovo Prosecutorial Council, the Kosovo Judicial Council and the Special Prosecution Office of Kosovo) are in the legislative strategy for 2013 and will be possibly further amended.

In the wake of the reform in place since 1 January 2013, the following important developments have taken place, which have all been monitored and supported by EULEX:

(a) The Law on Courts, which became effective on 1 January 2013, envisions a new court structure. The structure now consists of three main levels; seven basic courts, one Court of Appeals and a Supreme Court;

(b) In anticipation of the implementation of the new Law on Courts, the Kosovo Judicial Council conducted reassignments of judges and appointments of court presidents. The process (which started with consultation meetings with the judges at all the courts) was monitored by EULEX. The two EULEX Kosovo Judicial Council members participated in it in their executive capacity. The Kosovo Judicial Council in total appointed eight presidents of courts (seven presidents of basic courts and one president of the Court of Appeals). The ninth appointment, the President of the Basic Court of Pristina was cancelled upon advice from EULEX since the candidate did not fulfill the basic requirements. Subsequently, on 10 December, the Kosovo Judicial Council decided on a new candidate for the President for the Basic Court of Pristina as well as the remaining President of the Basic Court of Mitrovica;

(c) On 26 November, the Kosovo Judicial Council adopted a decision on maintaining the same composition of panels in EULEX cases after the entry into force of the new Law on Courts;

(d) According to the new law on State prosecutors, the 22 prosecutors appointed by the President of Kosovo (among which there are three minority representatives) to different offices throughout Kosovo were reassigned to the new structure, which became operational on 1 January 2013. The Kosovo Prosecutorial Council selected the prosecutors that were transferred to the new appellate prosecution office. EULEX monitored several interviews for prosecutor positions (including one minority community candidate) in the ongoing recruitment process. The new Criminal Procedural Code of Kosovo, together with a new Criminal Code entered into force on 1 January 2013. The Criminal Procedural Code was promulgated by the President of Kosovo on 21 December 2012 and published in the Official Gazette of Kosovo on 27 December 2012, which did not allow sufficient time for training of the local judges and prosecutors before its entry into force. This would have been particularly relevant considering that the new Criminal Procedural Code introduces a number of key changes from the previous one. For instance, the role of the police has significantly increased in the investigative phase, while the role of the injured party is more elaborated as the injured party can now have an increased access to the evidence. The detention regime has been amended and new deadlines are to be implemented. The confirmation stage has been removed. One of the issues currently faced by the judiciary is that the transitional provisions are contradictory to one another and there is a degree of uncertainty as to whether the new code is immediately applicable to all ongoing criminal cases.

The draft Law on Extended Powers of Confiscation of Assets Acquired by Criminal Offence, an European Commission feasibility study benchmark, which had passed the first reading at the Assembly after lengthy discussions at the ministerial level with the participation of EULEX legal experts over the previous months, still awaits adoption.

On 16 November, the Kosovo Prosecutorial Council unanimously approved the draft strategy on inter-institutional cooperation in the fight against organized crime and corruption. The development of the strategy is important for two

reasons. First, it signals that the Kosovo Prosecutorial Council is taking steps towards fulfilling its policymaking role. Second, it serves as a platform for the development of cooperation between law enforcement bodies. The strategy was prepared in cooperation with EULEX.

EULEX continued to facilitate the rendering of international legal assistance with non-recognizing States. For instance, at the request of the Slovak authorities, and in agreement with the Kosovo authorities, EULEX facilitated the appropriate transmission of a request for extradition from the Ministry of Justice of the Slovak Republic to the Ministry of Justice of Kosovo, as well as the subsequent surrender of the individual from the Kosovo police to the Slovak police. Furthermore, EULEX facilitated transmission of another request for extradition from the Greek authorities to the Kosovo Ministry of Justice. The request is still in process at the Ministry of Justice.

During the reporting period the recruitment procedure for the position of Director of the Dubrava Prison was monitored by EULEX. The position has been vacant since 31 August 2012, when the Ministry of Justice decided to suspend the Director of Dubravë/Dubrava Prison and to relocate three of his deputies to other detention facilities as the result of violations of security procedures and the attempted/prevented escape of top-risk prisoners. Nine applicants were interviewed on 15 November, but none of them was found adequately qualified for the position.

Following EULEX advice, the position was re-advertised.

The overcrowding of detention facilities continues to be an issue for the Kosovo Correctional Service. EULEX is currently working with the respective facility directors to prepare possible short-term solutions and long-term options to ease the overcrowding, especially at Dubrava Prison.

EULEX provided advice on three international agreements (on extradition, mutual legal assistance and transfer of sentenced persons) concluded with Albania, as well as on several other agreements of the same type for which negotiations have been initiated with Montenegro and Slovenia.

Due to the refurbishment of the Pristina Basic Court starting in January 2013, court facilities will be closed for the duration of the works. This left EULEX without suitable courtroom facilities for holding court hearings for the Special Prosecution Office of Kosovo and other high-profile sensitive cases. Based on the planning for 2013, the Kosovo Judicial Council found alternate court facilities for a period of at least five months in order to conduct all sessions and court hearings related to those cases. EULEX and the Kosovo Judicial Council will continue to work together on a solution.

EULEX participated in the development of the new crime prevention strategy for the Kosovo police (2012-2017) in a working group. The anticipation is that the strategy will help to prioritize resources and provide for strategic direction in the prevention of crime.

## **Other key cases and issues**

On 14 December, the launch of the latest edition of Kosovo 2.0, entitled “Sex”, was interrupted when a group of approximately 20 to 30 men rushed into the venue intentionally causing material damage and disrupting the function. At the same time, approximately 100 protestors gathered to show their disapproval of the magazine launch, with several resorting to religious chanting. Later that night, two foreign embassy interns randomly passing by the venue were attacked. The incident was condemned by domestic and international organizations alike. EULEX advised the Kosovo police on undertaking dynamic threat assessments and monitored the launch of an investigation surrounding the event.

## **The north**

The reporting period has been marred by a number of security incidents that demonstrate the volatile security environment in which the Mission continues to operate. The Kosovo Serb community’s opposition to the implementation of the integrated management of crossing points agreement, and the arrest of a Kosovo Serb at gate 1, following an arrest warrant issued against him in connection with a vehicle theft case in 2000, have contributed to a period of heightened tension in the north of Kosovo. His arrest on 28 October 2012 led to approximately 400 Kosovo Serbs staging a peaceful protest in northern Mitrovica on 31 October. He was released from custody on 29 October. In addition, the return of ethnic Albanian displaced persons to the Kroi i Vitakut/Brđani neighbourhood of northern Mitrovica and Zvečan/Zveçan continued to generate tension between the local Albanian and Serb communities. On 21 November, a detonation, which is believed to have been caused by a hand grenade, was heard close to a house under construction in the ethnically mixed area. No injuries were reported. Kosovo police requested EULEX support, and formed police units were mobilized and remained within the proximity of the area for a period of approximately one month. The incident occurred following tensions the previous day, when separate groups of Kosovo Serbs and Albanians started throwing stones at each other after UNMIK Administration Mitrovica inspectors ruled that construction had to be halted. Between 5 and 10 shots were fired by an unknown suspect during the incident and Kosovo police intervened to de-escalate the situation, thus preventing further confrontation. On 22 November, Kroi i Vitakut/Brđani was the scene of a further escalation of tensions when around 200 Kosovo Serbs gathered to oppose the reconstruction of Kosovo Albanian houses. The negotiations of Kosovo police north police station officers with representatives of the protesters ended without any success. Tensions in the area remain high, and an escalation of the situation can be expected when construction resumes.

On 24 and 29 November, two unexploded hand grenades were found within the perimeter of gate 31 in Zubin Potok. EULEX dispatched a team of the Task Force Mitrovica for crime scene investigations. The discovery of the hand grenades represents a serious threat to EULEX and other staff and assets in the area.

### **Dialogue implementation**

On 10 December, implementation of the first step of the integrated management of crossing points agreement began. Gates 1 and 3 (Rudnica/Jarinjë and Merdarë/ Merdare crossing points) began functioning in line with the agreement. EULEX is present in the capacity of its mandate and is a part of the process, but the gates are manned by members of the relevant Serbia and Kosovo customs and police authorities, in accordance with their agreement.

The first step was implemented against the background of the Serbian community leaders in north Kosovo rejecting the implementation of the integrated management of crossing points agreement and claiming that it would lead to the creation of an international border with Serbia. In addition, in the aftermath of the opening of the first two crossing points it became evident that customs procedures on goods transported to northern Kosovo from Serbia are a contentious issue. EULEX participated in implementation group meetings held in Brussels in order to resolve pending issues. On 18 December, the Belgrade and Pristina delegations in Brussels reached an understanding on an interim solution on the issue of customs procedures to be applied at gate 1 (Rudnica/Jarinjë crossing point).

Despite the arrangement reached by the parties in Brussels, representatives of the north Kosovo Serb business community decided to protest against the agreement across north Kosovo on a three-day-per-week basis, starting on 24 December, when demonstrations blocking roads for a few hours were held in northern Mitrovica, Zvečan/Zvečan and Leposaviq/Leposavić (in the vicinity of gate 1). The protests subsided on 28 December, although other localized protests in the Zubin Potok area persisted.

On 31 December, gates 5 (Končulj/Dheu i Bardhë) and 31 (Bërnjak/Tabalije) began functioning in line with the integrated management of crossing points agreement.

During the reporting period, the Mission was also actively involved in supporting the Kosovo police in the selection process for a new multi-ethnic police unit that would have the responsibility to protect religious sites. The establishment of the new multi-ethnic unit was discussed at the second meeting of the European Union-facilitated dialogue that was held on 7 November. Prime Minister Taçi confirmed the establishment of the unit at the third meeting, held on 4 December, in the framework of the European Union-facilitated dialogue. The recruitment process is currently taking place; however, the challenge of identifying suitable candidates for the command role needs to be addressed.

As part of a full-scale project undertaken in accordance with the implementation of the Belgrade-Pristina dialogue agreement on civil registry books, the number of certified copies of original civil/religious registry books has reached a total of 1,190, including the total number of copies certified under the small-scale project completed in the Serbian city of Niš in 2012.

Approved by Xavier Bout De Marnhac  
Head of Mission

## Annex II

### Composition and strength of the police and military liaison Components of the United Nations Interim Administration Mission in Kosovo

#### Composition and strength of the police component of the United Nations Interim Administration Mission in Kosovo (as at 11 January 2013)

Country	Number
Belgium	1
Croatia	1
Germany	1
Hungary	1
Italy	1
Turkey	1
Ukraine	1
<b>Total</b>	<b>7</b>

#### Composition and strength of the military liaison component of the United Nations Interim Administration Mission in Kosovo (as at 11 January 2013)

Country	Number
Czech Republic	1
Poland	1
Norway	1
Republic of Moldova	1
Romania	1
Turkey	1
Ukraine	2
<b>Total</b>	<b>8</b>

(Map)

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United Nations  
Security Council  
S/2013/254  
30 April 2013

## **Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo<sup>1</sup>**

### **I. Introduction and Mission priorities**

1. The present report is submitted pursuant to Security Council resolution 1244 (1999), by which the Council decided to establish the United Nations Interim Administration Mission in Kosovo (UNMIK) and requested that I report at regular intervals on the implementation of its mandate. It covers the activities of UNMIK, and developments related thereto, from 16 January to 22 April 2013.

2. The priorities of the Mission — to promote security, stability and respect for human rights in Kosovo and in the region — remain unchanged. In furtherance of its goals, UNMIK continues to intensify its constructive engagements with Pristina and Belgrade, the communities in Kosovo, and regional and international actors. The Organization for Security and Cooperation in Europe (OSCE) and the Kosovo Force (KFOR) continue to perform their roles within the framework of Security Council resolution 1244 (1999). The European Union Rule of Law Mission (EULEX) continues its presence in Kosovo in line with the statement by the President of the Security Council of 26 November 2008 (S/PRST/2008/44) and my report of 24 November 2008 (S/2008/692). The United Nations agencies, funds and programmes continue to work closely with the Mission.

### **II. Political developments, including the European Union-facilitated dialogue**

3. During the reporting period, negotiations continued in the European Union-facilitated dialogue between Belgrade and Pristina. Seven additional rounds of dialogue were held between Prime Ministers Ivica Dačić and Hashim Thaçi under the auspices of the European Union High Representative for Foreign Affairs and Security Policy, Catherine Ashton, in Brussels on 17 January, 4, 14 and 21 March and 2, 17 and 19 April. On 6 February, Presidents Tomislav Nikolić and Atifete Jahjaga also met, for the first time, in the context of the dialogue in Brussels.

4. The discussions in the most recent rounds of the dialogue focused on the proposed “Association/Community” of Serb municipalities in Kosovo. These discussions reached a critical stage in late March and early April, particularly in the

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<sup>1</sup> Source: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2013/254](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2013/254) (20. 01. 2014).

light of the expected progress reports on Serbia and Kosovo of the European Commission. After a series of intensive sessions, on 19 April, the parties initialed an agreement called “First agreement on principles governing the normalization of relations”. The agreement, consisting of 15 points, provides for the establishment of such an association/community with a statute and range of competences. It envisages the holding of local elections in municipalities of northern Kosovo in 2013 with the facilitation of OSCE. The parties also undertook not to block the other side’s progress in their respective European Union integration paths. An implementation committee comprising representatives from both sides is to be established under European Union facilitation. On 22 April, the agreement was approved in full by the Government of Serbia, the Assembly of Kosovo and the Government of Kosovo.

5. Progress was achieved in other areas of the dialogue, notably on exchanging liaison officers, with a Serbian liaison officer to be stationed in the premises of the European Union Special Representative in Pristina and a Kosovo liaison officer at the office of the European Union Delegation to Serbia. The terms of reference for the liaison officers have yet to be fully agreed upon, but the appointment of these officers should help facilitate more normalized communication between the two parties.

6. The parties also reached a provisional understanding on the collection of customs duties, levies and value-added tax at the two crossing points — gates 1 (Jarinjë/Jarinje) and 31 (Bërnjak/Brnjak) in northern Kosovo. It was envisioned that this revenue would be deposited in a development fund for northern Kosovo, managed by a tripartite committee, comprised of a representative of the northern Kosovo Serbs, the Kosovo authorities and the European Union.

7. While the main focus during the period under review was on the political dialogue, some developments were also reported in the implementation of the technical agreements already reached:

**Civil registry books.** On 24 January, EULEX handed over 972 certified copies of civil registry books to the Civil Registration Agency of Kosovo. Another 425 books were handed over on 6 February. It is estimated that there are approximately 12,036 Kosovo registry books in Serbia. The total of all certified copies has reached 2,626, covering the municipalities of Lipjan/

Lipljan (848), Obiliq/Obilić(264), Fushë Kosovë/Kosovo Polje (219), Glogoc/Glogovac (425) and Pristina (870).

**Freedom of movement.** Little progress was achieved on the issue of vehicle insurance. Efforts to find a solution to a costly insurance system currently affecting residents crossing in both directions by private vehicle are the subject of ongoing technical discussions.

**Cadastre records.** No major developments have taken place since the previous reporting period. The draft law on the Kosovo Property Comparison and Verification Agency, which is supposed to oversee the implementation of an



agreement on cadastre records, passed in the first reading at the Assembly of Kosovo and is currently under review by the Legislative Committee.

**Integrated management of crossing points.** The implementation of the agreement began at gates 4 (Mutivodë/Mutivode) and 6 (Muçibabë/Mučibaba) on 28 February. In northern Kosovo, gates 1 (Jarinjë/Jarinje) and 31 (Bërnjak/ Brnjak) continued to operate without major incidents and traffic proceeds without significant delays.

**Regional cooperation.** On 28 February, Kosovo was admitted to the Regional Cooperation Council as a participant. This followed the decision of the Council Board to amend the statute and the list of participants of the Regional Cooperation Council based on the understanding reached between Belgrade and Pristina, in the European Union-facilitated dialogue, on the interpretation of the agreement on regional cooperation (see S/2012/818, para.4).

**Certification of diplomas.** A second session of diploma certification took place in Brussels on 10 and 11 January 2013 under the auspices of the European University Association. A total of 167 applications were submitted: 156 from Kosovo and 4 from Serbia, along with 7 modified applications from the last certification session. Out of the 167 applications, 140 were accepted and 27 were not.

**Free movement of goods (customs stamps).** The agreement has been implemented since September 2011 without any major incidents, with the exception of crossings at gate 1 and gate 31 in northern Kosovo.

8. During the reporting period, Kosovo's major political parties reached informal agreements on general principles for an electoral reform. On 4 February, all political parties, with the exception of Vetëvendosje, agreed that Kosovo should remain a single electoral district. An understanding was also reached to reduce the campaign period from 30 to 15 days. On 29 March, the major political parties also agreed to maintain a proportional ballot with open lists, and to define the respective thresholds to be applied to political parties, pre-election coalitions and independent candidates in order to be represented in the Assembly. It was also agreed that the non-majority communities should continue to hold reserved seats in the Assembly.

9. On 25 and 26 January, the ruling Democratic Party of Kosovo (PDK) held its general convention, which re-elected Prime Minister Hashim Thaçi as the Party President for a further four years. Delegates also elected a new 150-member Steering Council, which in turn has elected a 31-member party presidency and 7 Party Vice-Presidents.

### III. Northern Kosovo and developments on the ground

10. As talks proceeded in the European Union-facilitated dialogue in Brussels, Serbs residing in northern Kosovo continually expressed their anxiety about the substance of the negotiations, and their determination to resist implementation of any agreements that would fail to meet their interests or minimum conditions.

11. On 21 January, a joint session of the Belgrade-sponsored northern municipal assemblies, held in Zvečan/Zvečan, reiterated its opposition to the inclusion of the north in Kosovo's customs system. Participants also called upon Serbia's Constitutional Court to review the constitutionality of the customs arrangements agreed during the dialogue sessions in Brussels. On 30 January, an estimated 2,500 people peacefully protested against the collection of customs fees at crossing points in northern Kosovo.

12. The four Belgrade-sponsored northern municipal assemblies of northern Mitrovica — Leposaviq/Leposavić, Zvečan/Zvečan and Zubin Potok — subsequently held a number of joint sessions in connection with the ongoing dialogue between Belgrade and Pristina, repeatedly reaffirming their rejection of any agreement that would extend the authority of Pristina to northern Kosovo. On 19 March, on the eve of the seventh round of talks in Brussels, municipal representatives warned that if an agreement was to be reached that would not respect the will of Kosovo Serbs, they would establish their own "Parliament of Northern Kosovo". On 3 April, a day after the eighth round of talks, they welcomed the fact that no agreement had been reached. They called on Serbia's Constitutional Court to rule on the constitutionality of the regulations of the Government of Serbia issued in line with the agreements reached in the dialogue. They also called for UNMIK to replace EULEX, negotiations to resume under the oversight of the Security Council, and for Russian troops to return as part of KFOR. On 19 April, the four municipal assemblies met again just hours before the Belgrade and Pristina delegations met to reiterate their position against an agreement. On 22 April, following the initialling of an agreement by the two parties in Brussels on 19 April, more than 10,000 Kosovo Serbs gathered in northern Mitrovica to denounce the agreement and to call for the establishment of an "Assembly of the Autonomous Province of Kosovo and Metohija".

13. Earlier, on 19 February, local employees from the public and private sector institutions held another protest against the operation of central Kosovo institutions in northern Kosovo. On that day, a delegation of northern Kosovo Serb political leaders also travelled to Belgrade to express to Serbian officials their dissatisfaction at the postponement of the Serbian Constitutional Court review of the agreements reached to date in the European Union-led dialogue.

14. Kosovo Serbs also continued to maintain informal check points in Zubin Potok and Zvečan/Zvečan to prevent Kosovo border police and customs personnel from accessing by road gates 1 and 31 in northern Kosovo. As a result, EULEX continued transporting Kosovo personnel by helicopter for their 72-hour shifts at both gates.

15. During the reporting period, the Director of the Serbian Government Office for Kosovo and Metohija, Aleksandar Vulin, continued to visit northern Kosovo and other parts of Kosovo to inform the local population and leaders on the developments in the European Union-facilitated dialogue.

16. In northern Mitrovica, the existence of multiple competing authorities continued to result in tensions, notably in ethnically mixed neighborhoods. The

Mitrovica North Administrative Office, established by Pristina, has provided various important administrative services, but cannot exercise effective jurisdiction in the Serb majority areas of northern Mitrovica. Relations between the Mitrovica North Administrative Office and the southern Mitrovica Municipality, however, improved during the reporting period, although southern Mitrovica persisted in engaging in some activities that the Mitrovica North Administrative Office claims fall within its own jurisdiction. The southern Mitrovica Municipality, in spite of its stated readiness to give greater support to the Mitrovica North Administrative Office, continues to present itself in public as the legitimate legal entity for matters in north Mitrovica. Despite the challenges to its work, the UNMIK Administration Mitrovica continues to perform important functions in conflict prevention, mediation, inter-community reconciliation and facilitation.

17. In mid-March, heavy rains and snowfall caused flooding in many villages throughout northern Kosovo resulting in damage to local bridges, homes and livestock. The prompt response and assistance of KFOR to the population in Zubin Potok were widely welcomed and appreciated by local representatives in northern Kosovo.

#### **IV. Security**

18. The overall security situation in Kosovo remained generally calm during the reporting period, with occasional tensions in ethnically mixed areas and in northern Mitrovica.

19. Incidents involving the use of small explosive devices increased, particularly during February. Between 16 January and 17 April, 19 such explosions were recorded in northern Kosovo, 15 of them caused by hand grenades. Nearly all of the incidents resulted only in material damage. However, on 4 February one such attack injured two children in the ethnically mixed neighborhood of Bosniak Mahalla in northern Mitrovica.

20. Incidents apparently targeting the staff of the Mitrovica North Administrative Office, assets and projects continued to occur in northern Mitrovica. On 27 January, a hand grenade was thrown and exploded in the yard of a Kosovo Serb employee of the Office. On 8 February, an explosion detonated under a vehicle owned by a Kosovo Serb who reportedly was considered for employment with the Office. On 25 February, a hand grenade exploded in an apartment owned by a Kosovo Serb employee of the Office, and again on 28 February a hand grenade was thrown at the house of a Kosovo Bosniak whose son works for the Office. On 13 April, unknown perpetrators tossed an explosive device at the residence of a Kosovo Serb employee of the United States Agency for International Development in Zvečan/Zvečan, which damaged two vehicles belonging to the Kosovo Serb's family.

21. There were five serious incidents of shootings and explosions affecting the Kosovo police in northern Kosovo. On 27 January, a vehicle belonging to the wife of a Kosovo police officer was shot at, and on the following day an officer's private

vehicle was also shot at and damaged. On 19 February, an explosive device detonated in the yard of a Kosovo Bosniak police officer. On 19 March, a hand grenade exploded at the entrance of the Leposaviq/Leposavić police station, causing damage to the building. On 24 March, a Molotov cocktail was thrown at a private vehicle in front of the Zvečan/Zvečan police station, causing a small fire. Each of these incidents is under investigation.

22. In the ethnically mixed neighborhood of Kroi i Vitakut/Brdjani in northern Mitrovica, where violent clashes took place last November, the Kosovo-Albanian owner of a house currently under construction reported to the Kosovo police on 11 April that the house was set on fire, leading to renewed security concerns. UNMIK continues to closely monitor the situation in the area.

23. On 1 April, the office of the Civic Initiative “Serbia, Democracy, Justice” was set on fire by unidentified perpetrators. On 7 April, the northern Mitrovica office of the Serbian Progressive Party was stoned, also by unidentified perpetrators.

24. In response to the rise in security incidents, a number of which seems to reflect a struggle to assert authority over north Mitrovica, the Kosovo police, EULEX and KFOR have increased the visibility of their regular patrols and stepped up other preventive measures in northern Mitrovica.

25. Throughout Kosovo, the most common incidents affecting minority communities continued to be theft, property damage, the illegal occupation of houses, arson of uninhabited houses and minor assaults. These trends continue to be of particular concern in western Kosovo. The Kosovo police continue to undertake efforts to investigate incidents affecting the minority communities. In February, the police arrested a group of alleged perpetrators suspected of committing thefts at religious sites in eastern and southern Kosovo.

26. Between 13 and 22 January, a wave of vandalism and destruction at Serbian Orthodox cemeteries took place across Kosovo. UNMIK and representatives of the international community condemned the acts. Nine suspects were arrested and charged by the Kosovo police. Five Kosovo police officers were also suspended. The Kosovo authorities allocated 97,000 euros for the repair and reconstruction of the damaged sites.

27. On 20 March, four Kosovo Albanians crossed the border/boundary for illegal wood cutting near the Serbian village of Tačevac (Kuršumljia municipality). During a subsequent exchange of fire with the Serbian Gendarmerie, one of them was wounded.

## **V. Rule of law**

28. UNMIK continued to monitor activities and exercise its remaining responsibilities in the rule of law area, to support the EULEX mission and to cooperate at the technical level with the Ministry of Justice and the Ministry of Internal Affairs of Kosovo, as well as with the Ministry of Justice of Serbia.

29. The UNMIK police has continued to facilitate international police cooperation as necessary and processed 58 related requests from various national police authorities. The UNMIK INTERPOL Liaison Unit facilitated the issuance of eight Red Notices of the International Criminal Police Organization (INTERPOL) and three extraditions. On 14 February, UNMIK and EULEX conducted a briefing for the Kosovo Ministry of Justice on the work of the UNMIK INTERPOL Liaison Office, including on the proper procedures for international wanted notices.

30. With direct support and encouragement by UNMIK, some progress continued to be made on the issue of missing persons. The International Committee of the Red Cross reported that as at 3 April, 11 additional cases were resolved and closed during the reporting period. A total of 1,754 individuals remain missing from the conflict. On 9 April, EULEX exhumed the remains of seven presumed missing persons in the Muslim cemetery of northern Mitrovica.

31. UNMIK continued to provide document-certification services to Kosovo residents, at the request of some non-recognizing Member States, primarily for the certification of civil documents. There was a significant increase in the number of requests for certification of pension documents to be used in Serbia following the 2012 ruling by the European Court of Human Rights, which obliged Serbia to ensure the payment of pensions and disability insurance acquired under the Socialist Federative Republic of Yugoslavia. Meanwhile, UNMIK continues to provide certification of certain types of educational documents not covered by the agreement on the “Certification of Diplomas” between Belgrade and Pristina.

32. On 15 March, the Assembly of Kosovo debated a highly controversial proposal by a PDK deputy to establish an ad hoc committee to review the “Kiçina” case, in which four people were sentenced to a combined 101 years for the murder of a family of five in 2001, a decision confirmed by the Supreme Court of Kosovo in 2009. The motion was not put to a vote in the Assembly. Many representatives often international community, including my Special Representative, strongly objected to the attempted political interference in the work of the judiciary, and it has since been abandoned.

33. In Deçan/Deçani, negative reactions continued to the 28 December 2012 decision of the Special Chamber of the Supreme Court rejecting the land property claim by two former socially owned enterprises against Serbia and the Visoki Deçani Serbian Orthodox Monastery. Five peaceful public protests took place in the municipality during the reporting period. During one of the protests, on 8 February, a group of activists approached the gates of the Monastery, prompting its closure to visitors for 48 hours. While official reactions from the Deçan/Deçani municipal leadership were mixed and in some cases appeared to encourage the protests, the Kosovo police, having responded professionally and in close coordination with KFOR, have averted the possibility of security incidents. On 5 April, members of the Kosovo Assembly attempted to hold a debate to challenge the decision of the Supreme Court. However, that move was denounced by Kosovo President Atifete Jahjaga, who publicly called for upholding respect for due process.

34. During the reporting period, the Assembly of Kosovo adopted several laws aimed at improving the rule of law and the fight against organized crime and adopted a strategy and action plan against corruption for the period 2013-2017. The reform of the justice sector is facing a number of administrative challenges, including administrative and procedural issues slowing the processing of cases. In January, the Kosovo Judicial Council, which oversees the implementation of the new Law on Courts, completed the appointment of presidents for most of the Basic Courts.

35. On 11 February, the Ombudsperson Institution published an assessment of the legality of the regulation on licensing of foreign lawyers, which stipulates reciprocity as one of the conditions to be fulfilled in order for foreign lawyers to be able to work in Kosovo. The Ombudsperson assessed that proceedings conducted by EULEX prosecutors and judges can cause “inequality of arms” and work to the detriment of defendants, since Kosovo legislation makes it difficult for them to hire international lawyers who specialize in specific areas of criminal law, including war crimes and genocide, over which EULEX has jurisdiction.

36. The European Commission report on progress achieved by Kosovo in fulfilling the requirements contained in the visa liberalization road map, provided to the Kosovo authorities on 12 February, elaborated on a range of areas for which greater progress is needed generally in the rule of law area.

37. On 26 February, the trial of six defendants accused of taking part in the March 2008 violence in northern Mitrovica commenced at the Mitrovica court. On 28 March, a panel of three EULEX judges convicted three defendants, with sentences ranging between 9 and 22 months of imprisonment. In this trial, the 6 defendants, 5 Kosovo Serbs and 1 Kosovo Roma, faced 22 criminal charges related to the events surrounding the attack on the premises of the Mitrovica court on 17 March 2008, which resulted, *inter alia*, in the death of 1 UNMIK police officer and injuries to 64 UNMIK police officers, 24 KFOR soldiers and around 100 protesters.

38. On 22 March, the EULEX Prosecutor in the “Medicus” case related to allegations of organ trafficking presented an amended indictment. Four new criminal offences were introduced: grievous bodily harm; fraud; and two cases of falsification of documents. One of the defendants pled guilty to two criminal offences (abuse of official position or authority and unlawful exercise of medical activity) in exchange for the dropping of the other charges against him.

## **VI. Returns and communities**

39. A trend towards a decrease in the number of voluntary returns recorded in the last quarter of 2012 continued in the first quarter of 2013. The Office of the United Nations High Commissioner for Refugees (UNHCR) registered 47 individual voluntary minority returnees between January and March 2013, compared to 85 reported for the same period in 2012. According to UNHCR, 18 of these returnees were Kosovo Serbs, 19 were members of the Kosovo Roma, Ashkali and Egyptian communities, 6 were Kosovo Albanians and 4 were Kosovo Bosniaks.

40. UNHCR organized seven “go and see” visits during the first three months of 2013 for some 50 displaced persons currently in Serbia and Montenegro. Three “go-and-inform” visits were organized for 41 displaced Roma, Ashkali and Egyptian persons in the Former Yugoslav Republic of Macedonia.

41. Repatriations continued at a steady pace during the reporting period, with UNHCR reporting 684 readmissions between January and March 2013, including 236 forced returns and 22 induced voluntary returns of persons from non-majority communities. Repatriated persons continue to face obstacles to sustainable reintegration, including their limited access to property and housing, as well as difficulties accessing basic services and economic opportunities. While the number of successful assistance requests increased compared to the same period in 2012, the allocation of reintegration funds remains difficult owing to a protracted approval procedure. Immediate assistance is often limited only to emergency food and non-food items.

42. UNHCR provided assistance to 454 individuals to obtain personal documentation and resolve civil status issues during the first three months of 2013. In response to a UNHCR request, on 14 March the Civil Registration Agency in the Ministry of Internal Affairs decided to waive penalties and fees for civil status services for members of the Roma, Ashkali and Egyptian communities for a period of one year.

43. Security incidents continued to affect the returnee areas. A rocket-propelled grenade attack on the house of a mixed Kosovo-Serb/Kosovo-Albanian household on 11 April in the ethnically mixed neighborhood of Lug in the Istog/Istok town damaged the house. The attack was swiftly condemned by the Kosovo authorities and is being investigated. The Mayor of Istog/Istok issued a statement condemning the attack and has undertaken to provide funds for the repair of the house.

44. During April, Kosovo police undertook several operations against organized crime. On 3 April in Podujevë/Podujevo Municipality, Kosovo police detained six Kosovo Albanian suspects and confiscated 800 rounds of assorted ammunition. On 12 April in Pristina, Prizren, Pejë/Pećand Mitrovica regions Kosovo police apprehended six Kosovo Albanian suspects (two of them police officers) and confiscated various weapons, ammunition and documents. Through a number of anti-drug operations, Kosovo police seized a considerable amount of narcotic substances, including marijuana and heroin.

45. During the reporting period, UNMIK donated equipment, including vehicles, computers and related equipment, containers and stationery to municipalities and institutions across Kosovo on the basis of its comprehensive evaluation of requests and needs. Priority was given to ethnically mixed and minority areas and Municipal Offices for Communities and Returns, civil society organizations and schools and clinics operating in such areas.

## **VII. Cultural and religious heritage**

46. In accordance with the agreement reached on the matter in the European Union-facilitated dialogue, a specialized unit for the protection of cultural heritage

and religious sites was established in the Kosovo police. The unit, dedicated to the protection of Serbian Orthodox sites, became operational in March, and has four sub-units covering Pristina, Prizren, Pejë/Pećand Mitrovica. The recruitment of senior officers is currently ongoing. The multi-ethnic police unit will replace the Kosovo Police Division of Public Security, which has provided static protection for 29 cultural heritage sites across Kosovo since 2009.

47. The implementation of the laws on the Village of Hoçë e Madhe/Velika Hoča and on the Historic Centre of Prizren, after a long delay and some contentious debates, has begun, following intensive advocacy by the central authorities in Kosovo, as well as by the European Union and the diplomatic community. On 30 January, the Municipal Assembly of Rahovec/Orahovac indicated, for the first time, its commitment to fulfill its obligations under the law. However, the Municipal Assembly postponed a decision on the establishment of the Council that represents the interests of the village in the field of promotion and protection of cultural heritage and in the field of rural planning. More progress was observed in Prizren, where the Municipal Assembly approved, in principle, the establishment of the Council for Cultural Heritage of the Historic Centre of Prizren and appointed its members.

48. The Implementation Monitoring Council, which deals with the protection of 44 Protective Zones that were defined around a select number of Serbian Orthodox sites, was established and held its first meeting on 26 February. This new body is co-chaired by the European Union Facilitator for the Protection of the Religious and Cultural Heritage of the Serbian Orthodox Church in Kosovo, the Ministry of Environment and Spatial Planning, the Ministry of Culture, Youth and Sports and OSCE.

### **VIII. Human rights**

49. The Human Rights International Contact Group, co-chaired by UNMIK and the Office of the United Nations High Commissioner for Human Rights (OHCHR) and composed of UNMIK, the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), OHCHR, the European Union, EULEX, the Council of Europe, OSCE and the two subgroups — on security of non-majority communities and on property rights — continued to strengthen Kosovo-wide coordination for monitoring human rights trends and for joint advocacy.

50. Reporting to human rights bodies on Kosovo continued to be a key activity of the Mission. During the reporting period, the Mission submitted a report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women covering the period 1999-2007 to the United Nations Committee on the Elimination of Discrimination against Women in close consultation with the Office of the Prime Minister. UNMIK continued to liaise with international and local actors to ensure the timely submission of the report on



the implementation of the Convention on the Rights of the Child in Kosovo to the Committee.

51. In January, the Kosovo authorities appointed the Language Commissioner. The latter will be responsible for reporting on and facilitating the implementation of legislation on the equal status of official languages in Kosovo.

52. As a response to a series of incidents affecting the lesbian, gay, bisexual and transgender (LGBT) community that took place late last year, four Special Rapporteurs of the Human Rights Council conveyed in January through my Special Representative a joint letter to the Kosovo authorities. The OHCHR Stand-alone Office in Kosovo has closely followed the steps taken by the authorities in order to report back to the Special Rapporteurs. LGBT rights issues were also extensively discussed at the meeting of the Stabilization and Association Process Dialogue Justice, Freedom and Security Sector Committee from 19 to 21 March.

53. On 18 December, the Assembly of Kosovo's Committee on Human Rights, Gender Equality, Missing Persons and Petitions completed its monitoring of the implementation of the anti-discrimination law and issued a report recommending that the law be amended to provide clearer procedures for the protection of victims. The report was endorsed by the Assembly on 12 March. Amending the anti-discrimination law is a priority on the legislative agenda for 2013 and is expected to be finalized by October 2013.

54. The drafting of the Kosovo Strategy and Action Plan for the implementation of Security Council resolution 1325 (2000) on women, peace and security has been conducted through a wide participatory process and has entered the final stages. Progress was recorded in the promotion of gender equality in Kosovo municipal governance. The Municipal Assembly of Ranilug/Ranilug approved its draft regulation on gender equality following a public debate held on 20 February.

55. In March 2013, the first reading of the draft law amending and supplementing the law on the status and rights of martyrs, invalids, veterans, members of the Kosovo Liberation Army, civilian victims of war and their families passed the Kosovo Assembly. The proposed amendments aim at including an important category, namely, the survivors of sexual violence occurred during the conflict. Some of the discussion resulted in heated and emotional debates and in personal threats against a human rights defender and a journalist.

56. In the area of education, UNICEF supported the Ministry of Education, Science and Technology in testing the in-service training programme for preschool teachers based on the Early Learning Development Standards. Tests involving over 200 preschool and kindergarten teachers were conducted in six municipalities. Once finalized, the training programme will be made available to all preschool teachers and principals and will include pre-primary classes in public, private and community-based centres.

57. UNICEF, along with UNMIK, OHCHR, UNHCR and OSCE, also supported and coordinated the midterm review of the Strategy and Action Plan for

2009-2015 on Integration of Roma, Ashkali and Egyptian Communities conducted by the Office of the Kosovo Prime Minister. The process is designed to enhance the responses and optimize the use of resources dedicated to the needs of these communities.

## **IX. Observations**

58. I welcome the “First agreement on principles governing the normalization of relations”, reached in the framework of the European Union-facilitated dialogue on 19 April. This is a historic achievement. As a result, the prospects for overcoming the legacy of the past conflict and achieving reconciliation, stability and prosperity are brighter than ever. I deeply appreciate the key role of the European Union, in particular the active, skilful and sustained involvement of the High Representative for Foreign Affairs and Security Policy of the European Union, who stewarded these sensitive and difficult negotiations towards this landmark agreement.

59. I strongly commend the political leadership in Belgrade and Pristina, who have demonstrated the steadfastness, the political foresight and the leadership needed to make genuine progress possible. Through their committed and unwavering efforts, the prospects for a better future for all the people in the region have been substantially raised.

60. The results achieved in the dialogue pave the way for long-term normalization of relations between Belgrade and Pristina. The same spirit of determination, compromise and good will should guide the implementation of the agreement. The international community should give its active and full support to the parties in this regard.

61. Both sides should maintain open channels of communication as the process moves to its next phase. They should also engage with key respective constituencies to ensure support for the agreement and its practical implementation on both sides of the Ibar/Ibër River.

62. I am encouraged by the close cooperation among the international presences and the diplomatic community in Kosovo. They have continued to work in close concert, both in response to issues on the ground and direct support to the political process.

63. At the same time, challenges in achieving reconciliation among communities still remain significant, as witnessed by the destruction of the Serbian Orthodox cemeteries during this past period. I welcome the unified position of the international community and prompt action taken by the Kosovo authorities, in particular the Kosovo police.

64. The continuing tensions and the pattern of unsolved crimes in Kosovo remain of concern. Local leaders and the public should work closely with the international presences in order to tackle these problems. The surge of violence in northern Mitrovica in recent months underscores the need for such collaborative

approach. The UNMIK Administration Mitrovica will continue to conduct its local community mediation and facilitation functions in close cooperation with all sides.

65. UNMIK, in support of the positive achievements in the dialogue, will further focus its efforts on promoting reconciliation across communities in Kosovo. I am grateful to my Special Representative, Farid Zarif, for his leadership and foresight in stewarding the international resources for the benefit of all communities and to ensure unity of effort with international and local partners on the ground. I thank all UNMIK staff and the United Nations agencies, funds and programmes for their dedication and contributions in Kosovo.

66. I also extend my gratitude to long-standing partners on the ground — KFOR/ North Atlantic Treaty Organization, the European Union and OSCE — for their support and close cooperation with UNMIK.

## **Annex I**

### **Report of the European Union High Representative for Foreign Affairs and Security Policy to the Secretary-General on the activities of the European Union Rule of Law Mission In Kosovo**

#### **1. Summary**

The European Union Rule of Law Mission in Kosovo (EULEX) continued to undertake monitoring, mentoring and advising activities in the rule of law sector and to implement its executive functions, in accordance with its mandate. Mixed panels of local and EULEX judges have either ruled or are in the process of adjudication in a number of high profile war crimes, corruption and organized crime cases. The joint interim common crossing points at Mutivodë/Mutivode (gate 4) and Depece/ Muçibabë (gate 6) became operational on 28 February. This concludes the process of establishing common crossing points that had started with the inauguration of the Rudnica/Jarinjë (gate 1) and Merdarë/Merdare (gate 3) common crossing points on 10 December and Konçulj/Dheu i Bardhë (gate 5) and Bërnjak/Tabaliqe (gate 31) common crossing points on 31 December. The Special Investigative Task Force continued its work, in line with its mandate, investigating allegations contained in the report of the Council of Europe Special Rapporteur, Dick Marty, of January 2011. In January 2013, EULEX and Kosovo police provided essential input into a Europe-wide police operation coordinated by the European Union Police Office (EUROPOL) related to the smuggling of migrants from the Syrian Arab Republic, Libya and Turkey to Western Europe. In northern Kosovo, a joint EULEX, Kosovo police and KFOR operation produced

positive results in stopping a string of hand grenade attacks in northern Mitrovica. However, attacks by explosive devices on the police stations in Zvečan/Zveçan and Leposavić/Leposaviq demonstrated that challenges remain.

## **2. EULEX activities, January to April 2013**

### **General**

The new Head of Mission, Bernd Borchardt, assumed duties on 1 February 2013. The new Deputy Head of Mission, Joëlle Vachter, took office on 4 March.

On 12 February, the second Structured Dialogue on the Rule of Law and the second Visa Liberalization Dialogue meetings in Pristina with EULEX participation took place between the European Union Commission and the Kosovo authorities. The next meeting is scheduled to take place in September. EULEX continues to support Kosovo in implementing the requirements identified in the Commission's visa liberalization road map. EULEX experts will also monitor, through their own indicators, progress in this field.

On 7 March, the Joint Rule of Law Coordination Board was convened. A number of issues were discussed, including the Kosovo Correctional Services and the need to continue working on its staffing, especially recruiting additional Kosovo Serb correctional officers to ensure sufficient staffing for the implementation of the road map for prisoner escort in the north. The increasing efficiency of the Special Prosecution Office of Kosovo was also discussed, as was the Compact Tracking Mechanism, which is used to take stock of the progress achieved so far in implementing the joint Compact Actions.

On 25 and 26 March, Mr. Borchardt made his first official trip to Belgrade, where he met with the President of Serbia, Tomislav Nikolić. The Head of Mission also met Serbian Prime Minister Ivica Dačić, and First Deputy Prime Minister Aleksandar Vučić. During his meetings, he stressed the importance of cooperation in the rule of law area to combat crime with a regional dimension. Among other issues discussed were the situation in northern Kosovo and EULEX support to the implementation of agreements reached in the European Union-facilitated Pristina-Belgrade dialogue. Mr. Borchardt also met the Director of the Serbian Office for Kosovo, Aleksandar Vulin, European Union Ambassadors, representatives of civil society and the media.

KFOR has completed the planning process for transferring guarding responsibilities ("unfixing") of the Peć Patriarchate to the Kosovo police. As in previous handover processes, EULEX will be involved in assessing the readiness of the Kosovo police to take over responsibilities.

### **War crimes**

On 1 February, a mixed panel of one EULEX judge and two local judges at the Prizren Basic Court acquitted seven defendants charged with war crimes because of

lack of evidence. On 4 March, the EULEX presiding judge extended the detention on remand of 4 of the 10 defendants in the so-called Kleçkë/Klečka retrial case until 4 May. On 6 March, upon appeal, a panel of one local and two EULEX judges replaced detention on remand with house detention for four other defendants in the case (including Fatmir Limaj). On 22 March, the panel granted the appeals of the four defendants whose detention was extended and released them into house detention. The retrial is expected to start in the second half of April.

On 25 March, a panel of one local and two EULEX judges began the trial in the war crimes case against Latif Gashi et al. (Llapi group case). Gashi was a Kosovo Liberation Army (KLA) commander who is currently a Member of the Assembly of Kosovo. During the first trial in 2003, the three defendants were sentenced to terms of imprisonment varying from 10 to 17 years. The first verdict was appealed by the defendants and the prosecutor. The Supreme Court of Kosovo, with its decision of 21 July 2005, returned the case for retrial. The retrial was completed on 2 October 2009, sentencing Latif Gashi to six years, Nazif Mehmeti to three years and Rrustem Mustafa to four years of imprisonment. The verdict was appealed by all defendants. On 26 January 2011, the Supreme Court, partially granting the appeals of three defendants, returned the case to the first instance court for a (second) partial retrial. The trial will continue throughout April.

On 17 April, a panel of three EULEX judges at the Mitrovica Basic Court acquitted Jovica Dejanović of the war crime of rape. Đorđe Bojković was acquitted of the charge of war crimes, but was sentenced to one year and six months suspended prison sentence for unauthorized ownership, control, possession or use of weapons.

### **Organized crime and corruption**

On 23 January, a mixed panel of one Kosovo and two EULEX judges at the Pejë/Peć Basic Court convicted nine defendants of smuggling migrants. They were given prison sentences ranging from six months to four years.

On 29 January, EULEX and the Kosovo police took part in a Europe-wide EUROPOL coordinated police operation related to the smuggling of migrants from the Syrian Arab Republic, Libya and Turkey to Western Europe. The operation led to the arrests of 103 persons, with 117 searches conducted. In Kosovo, EULEX and the Kosovo police arrested three persons. Another suspect had already been arrested a week earlier, in addition to 11 others arrested in 2011 and 2012. EULEX had also supported the operation through criminal intelligence. In Kosovo, the case is being investigated by a EULEX prosecutor. An indictment has been filed against three investigated by a EULEX prosecutor. An indictment has been filed against three suspects and the main trial is due to begin later in April. However, investigations are still ongoing and other suspects remain at large.

On 31 January, a panel of three EULEX judges at the Mitrovica Basic Court sentenced two people to one and one-and-a-half years of prison for unauthorized purchase, possession, distribution and sale of narcotics.

On 14 February, a EULEX pretrial judge at Gjilan/Gnjilane Basic Court ordered one month detention on remand for two suspects, who were arrested during a joint EULEX and Kosovo police operation under charges of terrorism and illegal possession of weapons in connection with three attacks, the most recent on 17 October 2012, on a Serbian police post in Dobrosin at common crossing point 65, between gates 5 and 6. The case is still at the pretrial stage.

On 21 February, the Kosovo police Director General, upon the recommendation of the Police Inspectorate, suspended another two Operational Support Unit officers in relation to EULEX-led investigations into allegations of mistreatment while in police custody of Kosovo Serbs temporarily detained on 7 January in Gračanica/ Gračanice on suspicion of being the unofficial close protection to the Kosovo police escort of the Director of the Serbian Office for Kosovo and Metohija. Nine officers had already been suspended in January.

On 27 February, a EULEX prosecutor filed an indictment for corruption at the Prizren Basic Court against the Mayor of Prizren, Ramadan Muja, and five other municipal officials. The case includes allegations of, inter alia, illegal use and benefit from land belonging to the Municipality of Prizren. On 25 March, following the submission of the indictment by the prosecution, the EULEX presiding judge held an initial hearing. The second hearing is scheduled for 25 April.

On 28 February, a panel of one local and two EULEX judges at the Pristina Basic Court sentenced 10 people, including a former Deputy Minister of Health, to an aggregate 17-and-a-half years of prison for corruption-related offences. Former Minister for Communities and Returns Petković was acquitted.

On 11 March, a panel of three EULEX judges at the Mitrovica Basic Court convicted two persons of criminal association with intent to commit murder and three others on drug-related charges. The sentences range from two to four-and-a-half years of imprisonment.

On 18 March, a panel of one local and two EULEX judges in the so-called Fortuna case sentenced two defendants to three and five-and-a-half years of imprisonment, respectively. The three defendants were charged with, inter alia, organized crime. Proceedings against the third defendant were suspended during the first session and the defendant will be tried separately in the future.

On 21 March, a panel of one local and two EULEX judges continued the trial against Blerim Devolli et al. The charges include fraud and entering into harmful contracts and falsifying documents. The trial is scheduled to continue in May.

On 22 March, EULEX filed the amended indictment against Lutfi Dervishi et al. (Medicus case). The trial panel is composed of one local and two EULEX judges. Trial sessions continued throughout the first half of April. The verdict is expected to be announced during the last week of April.

On 22 March, a panel of one local and two EULEX judges continued the trial against Ilir Tolaj (former Permanent Secretary of the Ministry of Health) et al., involving 11 defendants, including former Deputy Prime Minister Bukoshi, charged with, inter alia, abusing official position or authority and tax evasion. The panel rendered two rulings allowing defendant Tolaj to be escorted to a private clinic for

a medical examination and cancelling the bail given by Tolaj in 2010. Trial sessions continue in April.

On 22 March, a EULEX judge at the Mitrovica Basic Court held the initial hearing against Blerim Gecaj and Hashim Ahmeti. The two defendants are charged with organized crime and smuggling of migrants. The defense is still reviewing the evidence material, after which the judge will decide whether the trial will go ahead.

On 26 March, a panel of one local and two EULEX judges continued the trial against Sami Lushtaku et al. (Balkan Investigative Reporting Network (BIRN) case). The case relates to a number of articles published in the newspaper Infopress following the broadcast of a television programme that was deemed to be critical of the town of Skenderaj/Srbica and its Mayor, Sami Lushtaku. The alleged injured party, Jeta Xharra, who was the host of the programme, is an investigative journalist working for BIRN. Another defendant in the case, Rexhep Hoti, is the owner of Infopress. According to the prosecution, articles and opinions/letters published following the programme could be considered as a hate campaign against the journalist. The case has drawn the attention of a number of local and international NGOs and international governmental organizations. Hearings are scheduled throughout April.

On 28 March, the EULEX presiding judge held the initial hearing against Okay Altuntas et al. Okay Altuntas, Bujar Fazliu and Florent Ademaj are charged with organized crime, smuggling of migrants and money-laundering. In March and April, the trial against Nazmi Mustafi (former Head of the Anti-Corruption Task Force within the Special Prosecution Office of Kosovo) et al. accused of trading in influence continued.

On 8 and 10 April, the so-called Ministry of Transport, Post and Telecommunication corruption case against the former Minister, Fatmir Limaj, et al. started with the initial hearing. Charges include giving and receiving bribes and obstructing evidence relating to, inter alia, tenders, while Fatmir Limaj is also charged in relation to failing to disclose the receipt of funds during the mayoral elections of 2007. After the initial hearing, the defence has the opportunity to contest the indictment and admissibility of the evidence, after which the presiding judge will decide if the indictment will proceed to trial before a full trial panel.

On 15 April, the EULEX presiding judge held the second hearing against Valon Jashari et al., a case that involves multiple defendants and charges of, inter alia, terrorism and participation in a terrorist group. The case relates to attacks against Serbian police in 2012 at the Gjilan/Gnjilane crossing point.

On 17 April, EULEX filed an indictment against a Kosovo Albanian charged with unauthorized distribution and sale of dangerous narcotic drugs, organized crime and unauthorized possession of weapons. The defendant had been arrested in October 2012 in Pristina as part of a joint operation between EULEX and the Kosovo police.

### **Other key cases**

On 23 January, a panel of three EULEX judges at the Mitrovica Basic Court convicted one person on charges of aggravated murder and two others of murder. They were given prison sentences of between 7 and 20 years.

On 28 March, a panel of three EULEX judges at the Mitrovica Basic Court convicted three out of the six persons on trial for the unlawful attack on the premises of the court in the northern part of Mitrovica on 17 March 2008. Marijan Ilinčić was sentenced to 1 year and 10 months, Zoran Čavić to 9 months (suspended for 1 year) and Dragan Milojević to 1 year and 6 months of imprisonment. The defendants Miodrag Ralić, Avni Krasniqi and Nebojša Jović were acquitted of all charges.

### **Special Investigative Task Force**

The Special Investigative Task Force continued with its investigation into the allegations contained in the January 2011 report by the Council of Europe Special Rapporteur, Dick Marty, entitled “Inhuman treatment of people and illicit trafficking in human organs in Kosovo”. The criminal investigation conducted by the Special Investigative Task Force into the allegations contained in the report covers a wide range of alleged crimes that include abduction, detention, mistreatment and killings, as well as the much-publicized allegations of organ harvesting and trafficking.

During the reporting period, the Special Investigative Task Force continued to consolidate and analyse information obtained from institutional sources. The Special Investigative Task Force is also undertaking its own investigative and operational activities, which have included stepping up its engagement with injured parties and victims groups in order to gather additional information relevant to the investigation. These ongoing operational activities will facilitate further engagement with individuals who may have information important for the investigation.

Cooperation with counterparts in EULEX and the International Criminal Tribunal for the Former Yugoslavia, as well as with Serbia’s War Crimes Prosecutor Vukčević and judicial and law enforcement authorities of other countries relevant to the investigation, continued apace. During the reporting period, War Crimes Prosecutor Vukčević’s Office proved very responsive to the Special Investigative Task Force’s requests for cooperation. Discussions with Governments on matters of witness relocation and protection also progressed. However, consistent with sound prosecutorial practice, the Special Investigative Task Force does not discuss publicly any of its findings or details of its investigative operations. This is a very intricate investigation that will take time to complete, not least because of the array of allegations being investigated, but also because it has to deal with numerous jurisdictions and includes acts alleged to have occurred 13 to 14 years ago.

The Lead Prosecutor of the Special Investigative Task Force, Clint Williamson, met a number of key European Union Government representatives in Brussels and travelled to London, Berlin, Paris and Madrid to talk about the need to further strengthen the capabilities of the Special Investigative Task Force in the light of the investigation’s development and to discuss how these countries can further support the work of the Special Investigative Task Force. All underlined their support for a full criminal investigation under the auspices of the Special Investigative Task Force



into the allegations contained in the report of the Council of Europe Special Rapporteur, Dick Marty. In the light of the investigation's development, agreement has also been found with European Union member States to add several positions to the Special Investigative Task Force to ensure that it retains the ability to effectively collect, analyse and process information from a wide range of sources.

### **Property rights**

During the reporting period, the Kosovo Property Claims Commission held two sessions. Between 16 January and 15 April, it adjudicated 1,807 mainly inter-ethnic property claims. The total number of adjudicated claims stands at 35,734, with 6,685 still to be resolved.

From 16 January to 15 April, the Kosovo Property Agency Appeals Panel received 58 new appeals and adjudicated 31 appeals. The Special Chamber of the Supreme Court rendered 94 decisions/judgments on regular claims and closed complaints in 675 cases of worker list cases. The Appellate Panel closed 43 cases.

### **Legislation**

On 1 January, a number of important laws and amendments entered into force significantly reforming parts of the judicial framework in Kosovo, notably in relation to courts, criminal procedures and criminal code. Implementation of the new provisions has not been smooth, as best illustrated by problems encountered with the new Criminal Procedure Code. The Code, adopted only on 13 December (entered into force on 1 January 2013), left insufficient time for judges and prosecutors to become acquainted with its many new provisions. A significant number of amendments were brought into the text at the Assembly level, which led to inconsistencies that will need legal interpretation and eventual amendments to the Code. EULEX judges and prosecutors held a series of workshops to analyse the practical consequences of the new Criminal Procedure Code. From a EULEX point of view, the most serious concern related to transitional provisions that could have endangered a number of high-level EULEX cases. On 23 January, EULEX and local Supreme Court judges issued a legal opinion stipulating that the old Code should also apply to ongoing criminal proceedings for which the main trial has already commenced but not completed, and retrials of cases in which judgments entered prior to the new Code had been annulled. While not legally binding, it is expected that most judges will follow this legal opinion of the Supreme Court. Cases that have been prosecuted under the old Code and are now awaiting main trial will need to adjust to, and apply, the new Criminal Procedure Code. The new Code also allows for media being present in courts during trials, thus greatly enhancing the transparency of the judicial process.

On 11 February, and decreed by the President on 26 March 2013, the Assembly of Kosovo adopted the Law on Extended Powers of Confiscation of Assets acquired by Criminal Offence, the Law on Amending and Supplementing the Law on Prevention of Money-laundering and Preventing of Terrorist Financing and the

Strategy and Action Plan against Corruption for 2013-2017. EULEX comments on the draft laws were taken into consideration.

On 24 March, the Amendment to the Law on Preventing Money-laundering and Terrorist Financing entered into force. The amendment introduces a number of provisions that draw their inspiration from the so-called Financial Action Task Force Recommendations. The Financial Action Task Force is an intergovernmental body that sets standards for combating money-laundering and terrorist financing. The Kosovo Financial Intelligence Unit began to implement its updated standard operating procedures, which, *inter alia*, regulate the workflow and on-site compliance inspections of the reporting subjects. A new organizational division of the Financial Intelligence Unit into an analytical and compliance department is awaiting approval. In another positive development, a memorandum of understanding between the Financial Intelligence Unit and the Kosovo police for electronic exchange of information, ratified in February, is being implemented with five Kosovo police units now connected to the system. The Financial Intelligence Unit is fully operational and staffed.

The draft law on interception of telecommunications is still pending in the Assembly. EULEX provided comments on the draft law on amnesty.

EULEX, the European Union Office in Kosovo and the Kosovo police drafted a road map for the creation of a Kosovo police witness security unit, which is being implemented. A European Union-financed project, which is part of a region-wide initiative for the Western Balkans known as WINPRO, began operating in mid-January and will complement EULEX capacity-building. As a first step, EULEX and the project team will work together to develop standard operating procedures and job descriptions.

As part of the dialogue on implementation of the integrated management of crossing points agreement, Kosovo and Serbia endorsed the final procedure on mutual legal assistance. The procedure, which started to be implemented on 20 March, provides an official communication channel on mutual legal assistance between Kosovo and Serbia, which is facilitated by EULEX. Non-recognizing countries are also using EULEX as a facilitator for matters related to mutual legal assistance.

Kosovo continues its efforts to seek the conclusion of bilateral agreements in the sphere of legal cooperation with interested recognizing countries.

### **Other key issues**

Following the removal of the disputed Liberation Army of Preševo, Medveđa and Bujanovac memorial in Preševo, Serbia, by Serbian police in January, a series of acts of vandalism against Serbian-Orthodox sites were reported throughout Kosovo. The attacks were universally condemned by Kosovo institutions and the international community. EULEX police and prosecutors were closely monitoring the situation and coordinating with the Kosovo police and KFOR.

The Kosovo police reacted to reports of cemetery desecrations, which occurred in a number of places throughout Kosovo, by enhancing visibility through patrolling and by setting up static security points. In Viti/Vitina, where a Second World War monument was demolished by protestors, five police officers, including the station commander, were suspended for allegedly not responding in an adequate manner and are now the subjects of an internal investigation. Also in Viti/Vitina, five individuals, four of them minors, were arrested on suspicion of having desecrated a Serb-Orthodox cemetery there. EULEX stepped up its monitoring activity, including of mid-sized demonstrations organized in various towns.

On 19 March, the members of the Assembly of Kosovo withdrew their request to establish an ad hoc committee to examine alleged procedural violations in the “Kiçina” case. The case concerns the killing of an Albanian man who worked as an officer in the Serbian police prior to the 1999 Kosovo war, as well as his family. Three people, including two former members of the Kosovo Liberation Army, received 30-year prison sentences, but a man who was involved in the killing and provided statements of evidence of criminal wrongdoing received an 11-year prison sentence. The case is perceived by some as controversial; owing to rumors of lost evidence and that the case was built on the confession of one participant who reportedly changed his statements several times. The caucus leader of the ruling Kosovo Democratic Party instead proposed that the minutes of the Assembly discussion on the matter be sent to the relevant judicial institutions. His proposal was accepted by the Assembly. The motion to hold a debate in the Assembly of Kosovo on the “Kiçina” case was criticized by both the President of Kosovo and a number of international actors as an attempt to interfere in the independence of the Judiciary.

Protests continued in Deçan/Dečani against the decision of the Special Chamber of the Supreme Court in December 2012 rejecting the land property claim by two former socially owned enterprises against the Visoki Deçani Monastery. On 5 April, members of the Kosovo Assembly tried to challenge the decision of the Special Chamber. However, this further attempt at political interference in the judiciary was criticized by the President of Kosovo, who said that legal procedures had to be respected.

On 9 April, EULEX exhumed the remains of seven presumed missing persons at a Muslim cemetery in northern Mitrovica. The victims were exhumed from unmarked graves spread throughout the cemetery. This was the result of several weeks of analysis of a variety of documents dating from the 1998-1999 conflict. EULEX believes that there could be more unmarked burials at that location.

### **The north**

In northern Kosovo, a number of security incidents were recorded in the background of the dialogue meetings between the Prime Ministers of Serbia and Kosovo. On 20 January, two Molotov cocktails were hurled at the building of the Serbia-run municipality in northern Mitrovica and, on 27 January, an explosive device was thrown into the garden of a house belonging to a Kosovo Serb employee of the Mitrovica North Administration Office. No injuries were reported. The Kosovo

police and KFOR explosive ordnance disposal teams, Kosovo police Regional Forensics and EULEX Task Force Mitrovica investigators attended the scene.

On 24, 25 and 28 January, Kosovo Serbs blocked the main road leading to the common crossing points of Rudnica/Jainjë (gate 1) to prevent the transportation by road of Kosovo customs and police officers to the common crossing points. The other attempts were successful. On the night of 30 January, KFOR removed one of the barriers (concrete blocks) located on the Pristina-Leposavić/Leposaviq road. However, a new barricade was erected within hours.

On 30 January, a protest against the implementation of the integrated management of crossing points agreement took place in northern Mitrovica. Approximately 2,500 Kosovo Serbs attended the protest.

In February, the number of security incidents, including hand grenade explosions increased, causing largely material damage only. In one incident, which took place on 4 February, two children sustained non-life threatening injuries.

EULEX carried out a joint operation with the Kosovo police and KFOR in an effort to stop the string of hand grenade attacks in northern Mitrovica. The operation commenced in earnest on 8 March, following a build-up process of roughly one week. The operation encompassed, among others, increased patrolling in the triangle Bosniak Mahalla-Three Towers-Miner's Hill and the setting up of a number of joint EULEX-Kosovo police vehicle checkpoints in incident prone areas. Additionally, KFOR, in support of the operation, established a number of police vehicle checkpoints in designated areas within the framework of their mandate to support a "safe and secure environment". After a fortnight of sustained operations, concrete results were easily discernible. Crime rates in northern Mitrovica had plummeted by roughly 60 per cent and no serious security incidents had occurred there. The operation, which was underpinned by a EULEX media campaign aimed at canvassing local support, also enjoyed substantial logistic and personnel support from the Kosovo police Regional Command North.

The absence of violent incidents in northern Kosovo was, however, brought to an end on 19 March, when the police station in Leposavić/Leposaviq suffered a hand grenade attack. On 25 March, a Molotov cocktail explosive device was thrown at the yard of the Zvečan/Zveçan police station. No injuries were reported. Though crime rates decreased significantly in northern Mitrovica, the support provided by the northern police stations, Leposavić/Leposaviq, Zubin Potok and Zvečan/Zveçan, translated into strained resources in the respective municipalities and resulted in increased crime rates in those areas.

On 1 April, unknown perpetrator(s) set fire to the premises housing the office of the Civic Initiative "Serbia, Democracy, Justice" in northern Mitrovica, causing material damage. The Chairman of the Civic Initiative and former Serbian Government's Secretary in the Ministry for Kosovo, Oliver Ivanović, stated that the incident was probably politically motivated since he did not have personal disputes with anyone. The Head of the parallel Mitrovica District Radenko Nedeljković condemned the attack.

On 7 April, unknown perpetrator(s) threw stones and broke the windows of the offices of the Serb Progressive Party in northern Mitrovica. The Kosovo police have opened an investigation into the issue. The incident, coming on the eve of the Serbian Government's reply to a proposed solution for northern Kosovo within the framework of the European Union-facilitated Belgrade-Pristina dialogue, prompted a call by the leader of the parallel Mitrovica municipality for unity and harmony among all political actors in northern Kosovo.

### **Dialogue implementation**

The common crossing points at Mutivodë/Mutivode (gate 4) and Depce/Muçibabë (gate 6) became operational on 28 February. That concluded the process of establishing common crossing points that had started with the inauguration of the Rudnica/Jainjë (gate 1) and Merdarë/Merdare (gate 3) common crossing points on 10 December and the Konçulj/Dheu i Bardhë (gate 5) and Bërnjak/Tabalije (gate 31) common crossing points on 31 December. Both sides are beginning to interact, with regular meetings held at local and regional commander levels.

On 24 January, EULEX facilitated a meeting of the parties with the Systematic Electronic Exchange of Data EU project team in Rome. Both agreed to implement the system.

On 27, 28 and 29 March, members of the implementation group on the integrated management of crossing points agreement undertook joint site visits to the common crossing points to identify the exact locations for the permanent common crossing points and to confirm exact coordinates as agreed at the implementation group meeting of 12 December 2012.

EULEX has continued to monitor the Kosovo police progress in setting up a central unit with the specific task of protecting the 23 religious and cultural heritage sites currently under static police protection 24 hours a day, 7 days a week. The unit, which was part of an agreement reached in the dialogue during the first meeting of the two Prime Ministers (on 19 October), became operational on 4 March; however, recruitment is still ongoing. The new unit, which is envisaged to be staffed with 209 police officers, is divided into four regions. The Head and Deputy Head of the unit are located in the Kosovo police General Police Directorate in Pristina within the Specialized Unit. The Head of the Unit and the Chief of Mitrovica Region are both Kosovo Serbs.

During the reporting period, 1,578 civil registry books were certified. The total of all certified copies has reached 2,626. The Project Steering Committee has decided to enhance the number of staff with five people and extend the project until February 2014, in order to complete the scanning of the remaining 1,700,000 pages of text.

Approved by Bernd Borchardt  
Head of Mission

## Annex II

### Composition and strength of the police and military components of the United Nations Interim Administration Mission in Kosovo

#### Composition and strength of the police component of the United Nations Interim Administration Mission in Kosovo

(as at 15 April 2013)

Country	Number
Croatia	1
Germany	1
Hungary	1
Italy	1
Turkey	1
<u>Ukraine</u>	<u>1</u>
<b>Total</b>	<b>6</b>

#### Composition and strength of the military liaison component of the United Nations Interim Administration Mission in Kosovo

(as at 15 April 2013)

Country	Number
Czech Republic	1
Poland	1
Norway	1
Republic of Moldova	1
Romania	2
Turkey	1
Ukraine	<b>1</b>
<b>Total</b>	<b>8</b>

(Map)

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United Nations  
Security Council  
S/2013/444  
26 July 2013

## **Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo<sup>1</sup>**

### **I. Introduction and Mission priorities**

1. The present report is submitted pursuant to Security Council resolution 1244 (1999), by which the Council decided to establish the United Nations Interim Administration Mission in Kosovo (UNMIK) and requested that I report at regular intervals on the implementation of its mandate. It covers the activities of UNMIK, and developments related thereto, from 23 April to 15 July 2013.

2. The priorities of the Mission remain to promote security, stability and respect for human rights in Kosovo and in the region. In furtherance of its goals, UNMIK continues constructive engagements with Pristina and Belgrade, all communities in Kosovo, and regional and international actors. The Organization for Security and Cooperation in Europe (OSCE) and the Kosovo Force (KFOR) continue to perform their roles within the framework of Security Council resolution 1244 (1999). The European Union Rule of Law Mission (EULEX) continues its presence in Kosovo in line with Security Council presidential statement of 26 November 2008 (S/PRST/2008/44) and my report of 24 November 2008 (S/2008/692). The United Nations agencies, funds and programmes continue to work closely with the Mission.

### **II. Political developments**

3. Following the “First agreement on principles governing the normalization of relations” of 19 April 2013, initialled by Pristina and Belgrade (see S/2013/254, para. 4), political developments during the reporting period centered on initial implementation of the agreement.

4. In Brussels, a series of high-level consultations between Belgrade and Pristina, led by Prime Ministers Ivica Dačić and Hashim Thaçi and facilitated by the European Union High Representative for Foreign Affairs and Security Policy, Catherine Ashton, resulted in a further agreement on 22 May on an implementation plan for the 19 April agreement. The plan laid out concrete steps and timelines for implementation, including the necessary adjustments to the existing legal frameworks to accommodate the establishment of the Association/Community of

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<sup>1</sup> Source: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2013/444](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2013/444) (20. 01. 2013).

Kosovo Serb municipalities, integration of the Serbian police and judicial structures, and preparation for local elections.

5. Subsequently, Prime Ministers Dačić and Thaçi met in Brussels on 20 June and 8 July. These meetings helped to advance the implementation work, expediting progress, particularly on provisions related to police, judiciary and elections in northern Kosovo, as well as to move forward in their discussion of energy and telecommunications issues. In parallel, the parties have engaged continuously at the expert level in the framework of thematic working groups. Further high-level discussions on implementation were also held during the visit of High Representative Ashton to Belgrade and Pristina on 9 and 10 July.

6. As a result of these intensive efforts, substantial progress has been made by each of the parties in fulfilling obligations under the 19 April agreement. Accordingly, on 27 and 28 June in Brussels, the European Council discussed the progress in the European Union-facilitated dialogue in the framework of its consideration of the next steps in the European Union integration process with regard to Serbia and Kosovo. The Council agreed to open accession negotiations with Serbia and to hold the first intergovernmental conference by January 2014. It also authorized the opening of negotiations between the European Union and Kosovo on a stabilization and association agreement.

7. In June, the parties agreed on the composition of the management team, comprised of representatives from the four northern Kosovo municipalities that will draft the statute of the Association/Community of the Kosovo Serb municipalities and perform some of its competencies on an ad interim basis. These competencies include economic development, education, health, urban and rural planning and representing the future Association/Community until its formal establishment.

8. The Kosovo authorities announced the holding of municipal elections, including in northern Kosovo, on 3 November 2013. Accordingly, OSCE began preparatory work in consultation with all stakeholders on the modalities for conducting these elections in northern Kosovo.

9. On 26 June, the Assembly of Kosovo ratified the First agreement on principles governing the normalization of relations of 19 April by more than a two-thirds majority of 84 votes, with 3 against and 1 abstaining. The opposition movement Vetëvendosje staged a protest against the ratification of the agreement, during which 17 Kosovo police officers were reportedly injured and more than 60 protesters arrested. In line with the implementation plan, the Kosovo authorities have submitted to the Kosovo Assembly various amendments to laws, respectively on local self-government, rights of communities and the budget.

10. On 11 July, the Assembly of Kosovo approved a revised version of a draft law on amnesty that is intended, inter alia, to facilitate integration of former employees of parallel structures into the Kosovo legal system. A precedent draft of this law had failed to obtain the required two-thirds majority a few days earlier, after concerns arose that it could be open to political misuse.



11. In addition, the Kosovo authorities have approved an amendment to the 2013 Kosovo budget that provides for the funding, through a special Development Trust Fund, for the Association/Community of Kosovo Serb municipalities.

12. On 17 June, in the context of the implementation of the 19 April agreement, the Serbian High Judicial Council issued a decision instructing the three Serbian courts operating in northern Kosovo (Higher Court, Basic Court and Minor Offence Court) to cease receiving new cases and hand over cases received after 15 July. These new cases will be recorded and kept by these Courts until a proper hand-over procedure to the relevant judicial authorities is agreed upon, in cooperation with EULEX. On 25 June, a Kosovo police Regional Commander for the four northern municipalities was appointed. During the month of June, three police offices of the Serbian Ministry of the Interior were officially closed in northern Kosovo: in Leposavić/Leposaviq, Zvečan/Zveçan and Zubin Potok. The fourth Serbian police office, located in northern Mitrovica, was closed on 5 July.

13. In accordance with an agreement on the exchange of liaison officers reached in December 2012, Belgrade and Pristina deployed their liaison officers on 17 June. These officers, located at the respective offices of the European Union, will facilitate further communication on matters related to the European Union-facilitated agreements.

14. On 9 July, following its visit to Kosovo on 3 July, the North Atlantic Council declared that the Kosovo Security Force had reached its full operational capability. According to the North Atlantic Treaty Organization (NATO), the mission of the Kosovo Security Force will remain the same: to conduct civil protection operations and to assist the civil authorities in responding to natural disasters and other emergencies, including search and rescue, the disposal of explosive ordnance and other humanitarian assistance tasks. NATO will continue to provide support to the Kosovo Security Force through the newly established NATO Liaison and Advisory Team. The mandate of KFOR under resolution 1244 (1999) —to work towards providing a safe and secure environment in Kosovo and freedom of movement for all — remains unchanged.

15. On 1 July, the Minister for the Kosovo Security Force and the Minister of Defence of Albania signed an agreement on the status and procedures related to the temporary deployment of Kosovo Security Force and Albanian military personnel on respective territories.

### **III. Northern Kosovo and developments on the ground**

16. While Pristina and Belgrade have continued discussions on the implementation of the 19 April agreement, many northern Kosovo Serbs continued to voice their opposition to the agreement.

17. The Belgrade-sponsored municipal assemblies held a number of joint sessions during the reporting period, stressing that the Belgrade-Pristina agreement lacked sufficient safeguards for the rights and interests of Kosovo Serbs and that

the Constitutional Court of Serbia should pronounce itself on the constitutionality of the agreement.

18. Northern Kosovo Serb political leaders also stressed their commitment to the declaration of the public rally held on 22 April in north Mitrovica protesting the 19 April Brussels agreement. They had then called for the establishment of their own Provisional Assembly of the Autonomous Province of Kosovo and Metohija. Following several postponements, and despite calls from the Belgrade leadership on northern Kosovo Serbs to support the Brussels agreement, this Provisional Assembly was inaugurated on 4 July in Zvečan/Zvečan. Although not recognized by either the Belgrade or the Pristina authorities, it encompasses municipal assembly members from four northern municipalities and a small number of representatives from other parts of Kosovo.

19. The local Kosovo Serbs also expressed criticism with regard to the establishment of the Management Team to guide the preparation for the future Association/Community of Kosovo Serb municipalities. The municipal assemblies in Zvečan/Zvečan and Leposavić/Leposaviq formally denounced the appointment of the management team, while municipal representatives from northern Mitrovica and Zubin Potok protested the appointment publicly.

20. The Serbian leadership continued to engage with northern Kosovo Serb representatives as part of its outreach efforts in support of the implementation of the 19 April agreement. In addition to contacts in Belgrade, senior Serbian officials, such as the First Deputy Prime Minister, the Director of the Government Office for Kosovo and Metohija, and the Ministers for Education, Health, and Justice, visited Kosovo and met with local representatives and employees of Serbian public institutions.

21. During the reporting period, KFOR maintained full freedom of movement in the north. EULEX monitoring, mentoring and advising activities continued to be carried out at all Kosovo police stations in the north, with the exception of Zubin Potok. EULEX patrolling activities in northern Kosovo continued without major difficulties.

22. On 20 June, for the first time in many months, Kosovo customs and police officers were able to reach gate 1 in Leposavić/Leposaviq by road, rather than by helicopter. However, the transportation of Kosovo customs and police to gate 31 near Zubin Potok continued by air. Notwithstanding the foregoing, the implementation of the integrated border management agreement on crossing points continued without major issues. The use of unauthorized crossing points in the north also continued.

23. The roadblock at the Austerlitz Bridge in central Mitrovica remained, alongside informal obstacles and checkpoints that continue to impede traffic. On 26 June, local leaders initiated the removal of road obstacles between northern Mitrovica to Zvečan/Zvečan.

24. The Pristina-sponsored Mitrovica North Administrative Office continued to face challenges in extending and exercising authority in northern Mitrovica.

However, the office was able to complete a number of refurbishment projects and made donations to local schools in northern Mitrovica. It continues to provide a range of Kosovo civil documentation services to the local residents.

25. UNMIK Administration Mitrovica continued its monitoring, mediation and facilitation activities. In this facilitation role, UNMIK Administration Mitrovica has brought together heads of water and electricity companies from northern and southern Mitrovica to explore ways to resolve mutual disputes and practical issues. In cooperation with OSCE, UNMIK Administration Mitrovica also organized meetings of representatives of all local communities to improve coordination among non-governmental organizations (NGOs) working in both northern and southern Mitrovica.

26. UNMIK activities in the Mitrovica region continued to be adapted to the evolving situation in order to provide maximum support for political processes, focusing particularly on issues related to the implementation of the 19 April agreement. In this context, cooperation with key partners on the ground — KFOR, the European Union and OSCE — has been further strengthened to ensure harmony of collective efforts. Planning has been completed for the implementation of small-scale confidence-building and reconciliation projects in support of these mission objectives and the broader political process.

27. During the reporting period, UNMIK continued to play a mediation and facilitation role in northern Kosovo. Given the continued boycott of the Kosovo institutions by northern Kosovo Serbs, UNMIK served as a communication channel between municipal representatives and minority communities to ensure effective provision of public and social services and, in some cases, facilitated direct contact between the communities. UNMIK continued to utilize its capacity and resources to help defuse tensions and incidents. It continued to work in tandem with other mandate-holding partners to ensure a coordinated approach in the north.

#### **IV. Security**

28. The overall security situation in Kosovo remained generally calm during the reporting period, with occasional incidents reported in ethnically mixed areas, but also exhibiting evidence of efforts from all sides to reduce the volatility on the ground as the political dialogue proceeds.

29. In northern Kosovo, the previously reported trend of incidents involving the use of explosive devices has decreased. The number of incidents affecting minority communities throughout Kosovo also decreased compared with the previous reporting period. Familiar categories of incidents of theft, property damage, arson, illegal occupation of houses and other common crimes continued to be reported in minority and ethnically mixed areas. Instances of illegal woodcutting were also reported. On 7 July, a number of woodcutters were injured during an exchange of fire with Serbian security personnel near the administrative boundary. On 30 May, in Podujevë/Podujevo municipality, two Kosovo-Albanians, suspected of involvement in illegal woodcutting operations, were arrested and charged by the Kosovo police. The Kosovo police have responded to crimes

affecting the ethnic minorities, which resulted, in some cases, in the prompt arrest of suspects.

30. During July, tensions were reported in northern Mitrovica around the construction of housing for the Kosovo-Albanian internally displaced population. Kosovo Serbs, varying in numbers, held daily protests in the area of Brdjani/Kroi i Vitakut to prevent the construction workers from accessing the site. No serious incidents have been reported and the Kosovo police, KFOR and EULEX have increased their presence around the area. Last November, similar tensions escalated into violence resulting in injuries to a number of people (see S/2012/72, para. 10).

31. The annual Serb pilgrimage in connection with the commemoration of Saint Vitus day (Vidovdan) took place across Kosovo on 28 June. According to the Kosovo police, in three separate incidents, a number of buses were stoned and several pilgrims were slightly injured. An unidentified suspect threw stones towards two buses near Pristina, causing minor injuries to six Serbs and causing property damage. In the village of Hajvali/Ajvalia in Pristina, stones were allegedly thrown by Serbian pilgrims at another bus carrying Kosovo Albanians, resulting in property damage and minor injuries to the driver. All victims received medical treatment and were released. The Kosovo police immediately responded to these incidents and significantly contributed to a more peaceful conduct of the event as compared to last year.

## **V. Rule of law**

32. UNMIK continued to monitor activities and exercise residual responsibilities in the area of rule of law and cooperate at the technical level with the Ministry of Justice and the Ministry of Internal Affairs of Kosovo and the Ministry of Justice of Serbia.

33. During the reporting period, UNMIK continued to receive requests for mutual legal assistance from countries that have not recognized Kosovo, as well as from the Serbian Ministry of Justice. These requests continue to be transmitted, through EULEX, to the Kosovo Ministry of Justice. UNMIK also continued to facilitate the issuance of the International Criminal Police Organization notices and warrants on a regular basis.

34. UNMIK continued its efforts to support and encourage progress on missing persons. On 31 May, the working group on missing persons held its eleventh public session in Pristina, during which its Chair, the International Committee of the Red Cross, called upon all authorities to come forward with new information. Since the beginning of 2013, EULEX has conducted 30 field operations in the Pejë/Peć, Mitrovica, Suharekë/Suva Reka, Prizren, Gjakovë/Đakovica, Klinë/Klina and Skenderaj/Srbica areas. As a result, the remains of 18 individuals were recovered. There are still 1,726 persons listed as missing from the Kosovo conflict.

35. UNMIK continued to provide document certification services to Kosovo residents and non-recognizing States, such as certification of civil status and

pension documents. During the reporting period, requests for certification services by UNMIK for pension-related matters increased dramatically, despite limited resources of UNMIK for processing such requests. Discussions have been initiated with all stakeholders to determine a possible solution.

36. On 29 April 2013, a mixed panel of EULEX and Kosovo judges convicted five of the seven defendants in the “Medicus” organ trafficking case. On 30 April, EULEX announced an investigation against an additional eight suspects, based on evidence revealed during the trial.

37. In late May, EULEX and Kosovo police arrested several members of the so-called Drenica group, who have been charged with crimes against the civilian population at a former Kosovo Liberation Army (KLA) detention facility in Skenderaj/Srbica municipality. The arrests sparked public protests by KLA veterans and their supporters and calls on the Kosovo authorities to release them and to revoke the executive mandate of EULEX.

## **VI. Returns and communities**

38. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), during April and May, 36 displaced persons returned to Kosovo, compared to 159 reported for the same period in 2012.

39. UNHCR also reported that 557 displaced Kosovo Serb families have expressed willingness to return to Kosovo from Serbia, along with 107 Kosovo Roma, Ashkali and Egyptian families from Montenegro and 47 Kosovo Roma, Ashkali and Egyptian families from the former Yugoslav Republic of Macedonia. UNHCR has assessed that the lack of adequate funds for housing and/or land allocation remains among the major obstacles to voluntary returns. In addition, 1,106 individuals were forcibly repatriated to Kosovo from third countries between January and May 2013, including 406 members of non-Albanian communities.

40. The International Organization for Migration has continued to support both receiving communities and returnees in 29 municipalities throughout Kosovo, under the framework of the European Union Community Stabilization Programme. This support includes the provision of productive business assets and community development projects. During the reporting period, 64 business and community development projects were being completed in Kosovo, benefiting members of the Serb, Roma, Ashkali, Egyptian, Croat, Bosnian, Gorani, Turkish and Albanian communities in Kosovo.

41. UNMIK continued to donate vehicles, containers and information technology equipment to municipalities, religious institutions and civil society groups across Kosovo.

## **VII. Cultural and religious heritage**

42. During the reporting period, UNMIK continued to cooperate and facilitate the activities of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Kosovo. In July 2013, a UNESCO technical

inspection team visited a number of sites currently under reconstruction in Kosovo. With support from Albania, the Russian Federation and Turkey, UNESCO facilitated the restoration of the Church of the Dormition in Graçanicë/Gračanica Monastery, launched the tender for restoration of the Gazi Mehmet Pasha Hammam in Prizren, and signed a contract for restoration of the Roman Catholic cathedral in Prizren. With support from Bulgaria, the restoration of the Ottoman-era fountains in the historic zone of Prizren is also being planned. A contract has been signed with the European Union to renovate the ruins of the medieval fortress in Novobërdë/Novo Brdo.

43. KFOR continued to provide static protection at the Visoki Deçani Monastery and to gradually transfer security responsibility at the Peć Patriarchate to the Kosovo police. UNMIK remains in close contact with KFOR, Kosovo police and UNESCO to ensure a smooth hand-over of protection responsibilities at the Serbian Orthodox sites.

44. The recruitment of police officers to the recently established Kosovo police unit for the protection of cultural heritage was completed in May. This multi-ethnic unit, which is composed of 199 police officers and led by a Kosovo Serb commander, is responsible for ensuring protection at 23 Serbian Orthodox Church sites and regular patrolling at an additional 169 sites. OSCE has provided training for the officers of this unit.

45. The establishment of the cultural heritage councils in Prizren and Hoçë e Madhe/Velika Hoča village, as envisaged by the laws on the historic centre of Prizren and on the village of Hoçë e Madhe/Velika Hoča, were delayed owing to procedural issues. On 18 June, the Assembly of Kosovo Committee on the Rights and Interests of Communities and Returns held a public hearing on the implementation of these laws and urged the municipalities of Prizren and Rahovec/Orahovac to implement the laws without further delay. As a result, a cultural heritage council was established in Prizren on 2 July, while its establishment in Rahovec/Orahovac is still pending.

46. The Implementation Monitoring Council, established in February 2013, to manage the Protective Zones around a select number of Serbian Orthodox sites, held a number of sessions during the reporting period. It reviewed various cases, related mainly to illegal construction and recommended corrective measures in some of the Special Protective Zones. It also mediated between the Serbian Orthodox Church and local officials, as necessary.

47. During the reporting period, the restoration of tombstones, destroyed or damaged in January at Serbian Orthodox cemeteries in eight municipalities across Kosovo, was completed with public funds provided by the Kosovo authorities. The repairs were carried out in coordination with the Serbian Orthodox Church and the families affected.

### **VIII. Human rights**

48. The United Nations High Commissioner for Human Rights, Navanethem Pillay, visited Kosovo on 19 and 20 June. During her visit, she met, together with

my Special Representative, the United Nations Development Coordinator, and the head of the stand-alone office in Kosovo of the United Nations Office of the High Commissioner for Human Rights (OHCHR), with Kosovo officials, the Ombudsperson and representatives of civil society and international community. The High Commissioner positively assessed the legal and institutional framework for human rights protection in Kosovo, while pointing out that its enforcement remains insufficient. She stressed the importance of ensuring an independent judiciary, addressing lengthy pretrial detention, the backlog of cases and the lack of trust in the judiciary, and pointed out some issues of concern, in particular in relation to the adoption of the amnesty law. While encouraging the mainstreaming of human rights into the dialogue between Belgrade and Pristina, the High Commissioner offered the support of OHCHR in Kosovo in ensuring that the Kosovo legislation was in line with international human rights standards.

49. On 10 June, the stand-alone office in Kosovo of OHCHR released a study entitled “Healing the spirit: reparations for survivors of sexual violence related to the armed conflict in Kosovo”. The study revealed that nearly 14 years after the end of the conflict, survivors of sexual violence still suffer from social and psychological problems, which are exacerbated by the lack of income-generating opportunities and affordable medical and mental health care. One of the recommendations of the study is to include the survivors of sexual violence committed during the conflict in the framework of the Law on the Status and Rights of the Martyrs, Invalids, Veterans, Members of Kosovo Liberation Army, Civilian Victims of War and Their Families. UNMIK is working closely with local and international actors to encourage the Kosovo authorities to address the issues raised in the study.

50. UNMIK continued its cooperation with the Council of Europe in monitoring the implementation of the Framework Convention for the Protection of National Minorities in Kosovo. In May, the Council of Europe and the European Union presented the findings of the research project entitled “Main challenges and opportunities in the effective protection and promotion of community rights in Kosovo”. The study identified the lack of institutional clarity and weak intergovernmental coordination and capacity as key challenges. UNMIK and its partners are exploring ways to help address these challenges in the near future.

51. Following its submission in February 2013 of the report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women in Kosovo for the period 1999-2007, UNMIK has been following up on a number of requests from the Committee on the Elimination of Discrimination against Women for additional information. The Kosovo authorities have demonstrated increased willingness to cooperate with UNMIK in preparation of these reports.

## **IX. Observations**

52. During the past months, the positive steps taken by both Belgrade and Pristina in the framework of the European Union-facilitated dialogue have resulted

in historic agreements and fundamental progress towards normalization of relations. I welcome the decision of the European Council during its meeting on 27 and 28 June, which reaffirmed the European perspective for the region in keeping with the important strategic commitments made at the European Union summit at Thessaloniki in June 2003.

53. I commend once again the leadership in both Pristina and Belgrade for demonstrating a serious and steadfast commitment to this dialogue. Despite inevitable challenges, both sides have demonstrated vision and capacity to steward this process and build upon the progress achieved to date. This should contribute to the improvement of lives of the local population in Serbia and Kosovo and to greater stability in the region.

54. As indicated in the report, the implementation of the Belgrade-Pristina agreements in northern Kosovo remains a key challenge. Belgrade's engagement with the Kosovo Serbs in this regard remains important. These efforts should be supplemented by Pristina's outreach and assurances to the local population. In order to avoid tensions and achieve success, it is important that the local Kosovo Serbs see themselves as stakeholders in the process. I am pleased that UNMIK is stepping up its efforts and engagement with all appropriate stakeholders on key issues on the ground.

55. It is also essential that the international presences in Kosovo continue to enhance mutual cooperation in order to help set appropriate conditions for the forthcoming and more challenging stages of implementation of the 19 April agreement. I wish to pay tribute to my Special Representative and leaders of other international missions on the ground for working consistently to ensure unity of purpose.

56. The support of the international community to the parties and its engagement in Kosovo remains essential. Beyond their operational support to the political process and the practical implementation of the European Union-facilitated agreements, it is also important that the international community remain committed to addressing the needs of all communities in Kosovo, advancing reconciliation and helping heal the scars of the past conflict. Unresolved legacies of the conflict, including unsolved cases of missing persons, and bringing to account all those responsible for war crimes and other criminal acts, should remain key priorities. I call on all stakeholders involved in Kosovo to redouble their efforts to accelerate progress in these areas.

57. I thank my Special Representative, Farid Zarif, for his effective and forward-looking leadership of UNMIK during this critical period of engagement between the parties, all UNMIK staff for their dedication in carrying out the tasks of the Mission in support of the broader political process, and all members of the United Nations family for their contribution to consolidating peace and stability in Kosovo.

58. I also extend my gratitude to long-standing partners on the ground, such as the European Union, KFOR, NATO and OSCE, for their contribution and cooperation with UNMIK.



## **Annex I**

### **Report of the European Union High Representative for Foreign Affairs and Security Policy to the Secretary-General on the activities of the European Union Rule of Law Mission in Kosovo**

#### **1. Summary**

The European Union Rule of Law Mission in Kosovo (EULEX) continued its monitoring, mentoring and advising activities in the rule of law sector and to implement its executive functions, according to its mandate. One high-profile war crimes case was adjudicated while two others are ongoing. The arrest of seven war crimes suspects of the so-called Drenica Group triggered strong reactions among war veterans associations and politicians alike. A mixed panel of one local and two EULEX judges at Pristina Basic Court found five persons guilty in the “Medicus” illicit organ-trafficking case. Several severe prison sentences were pronounced in corruption and murder cases. The Special Investigative Task Force has continued working pursuant to its mandate to investigate allegations contained in the report by the Council of Europe Special Rapporteur, Dick Marty, on illicit trafficking in human organs. The Task Force has been strengthened institutionally and operationally during the reporting period. In terms of the agreements within the European Union-facilitated dialogue on the normalization of relations between Pristina and Belgrade, EULEX stands ready to facilitate its implementation in the rule of law sector. Implementation of the integrated border management agreement is progressing; all six crossing points are being run in a spirit of good cooperation.

#### **2. EULEX Activities, April to July 2013**

##### **General**

The regular meeting of the Joint Rule of Law Coordination Board, consisting of the representatives of the Kosovo authorities, the European Union Office in Kosovo/European Union Special Representative and EULEX, was held on 23 May in the European Union Office building in Pristina. The Board continues to be the main forum for assessing progress in the rule of law arena between the European Union and the Kosovo authorities. During the meeting, the Board endorsed a lessons learned document on a first transition from EULEX to Kosovo authorities, of the Financial Intelligence Centre, and discussed the implementation of other road maps, such as the one for the establishment of a prisoner escort in the north of Kosovo and the witness protection unit in Kosovo. The Board tasked the experts on both sides to come up with new road maps, and agreed on a set of indicators designed to measure corruption presented by EULEX.

On 6 and 7 June the Head of Mission visited Belgrade, where he held meetings with Prime Minister Ivica Dačić and other Government officials. During the meetings, the Serbian officials emphasized the importance of the EULEX role and encouraged strengthened cooperation.

## **War crimes**

On 17 April, a panel of three EULEX judges at Mitrovica Basic Court acquitted Jovica Dejanović of the criminal offence of rape as a war crime. Đorđe Bojković, a co-defendant, was acquitted of the charge of war crimes, but was sentenced to a suspended prison sentence of one year and six months for unauthorized ownership, control, possession or use of weapons.

On 18 April, a panel of one local and two EULEX judges started the opening session in the retrial of Fatmir Limaj et al. (“Klečka/Klečka” war crimes case). On 19 April, the EULEX presiding judge issued an order extending house detention for all 10 co-defendants until 19 June. Subsequently, Fatmir Limaj et al. were returned to house detention for another two months. On 4 July, the trial panel at Pristina Basic Court ordered the release from house detention of all 10 defendants, but on 15 July the Court of Appeals once more ordered the defendants to be put under house arrest.

On 24 April, EULEX prosecutors formally initiated the investigation into war crimes committed in and around Mejë/Meja in the municipality of Gjakovë/Djakovica. So far, prosecutors have identified approximately 20 defendants suspected of war crimes against the Kosovo Albanian population, including the killings of 372 victims.

On 23 May, EULEX police, in coordination with the Kosovo police, arrested seven persons (including the Kosovo Ambassador to Albania Sylejman Selimi and the Mayor of Skenderaj/Srbica Sami Lushtaku) on charges of war crimes committed at a Kosovo Liberation Army (KLA) detention centre (“Drenica group” case). On 24 May, a EULEX judge from Pristina Basic Court ordered house detention for the period of one month for all of them. On 1 June, the Court of Appeals in Pristina modified the decision to detention on remand. The main reason for ordering detention on remand is the danger of obstructing the criminal proceedings by influencing witnesses.

On 7 June a verdict was pronounced in the prominent war crimes case of the so-called “Llapi group”. A panel of one local and two EULEX judges sentenced Latif Gashi (current Member of Parliament) to six years of imprisonment, while his co-defendants, Nazif Mehmeti and Rrustem Mustafa, received sentences of three years and four years, respectively.

On 4 June, EULEX police arrested Shefki Hyseni, charged with rape as a war crime. He is in detention on remand.

The war crimes trial against Sabit Geciet al. continues. All three defendants were arrested on 15 November 2012 and are presently in house detention. They are accused of killing two Kosovo Albanians during the conflict in 1999.

## **Organized crime and corruption**

On 17 April, EULEX filed an indictment against a Kosovo Albanian charged with unauthorized distribution and sale of narcotic drugs, organized crime and

unauthorized possession of weapons. The defendant had been arrested in October 2012 as part of a joint operation between EULEX and the Kosovo police.

On 19 April, EULEX filed an indictment at Prizren Basic Court against an individual charged with organized crime and smuggling of migrants. The defendant was arrested in April 2012 as part of a joint operation between EULEX and the Kosovo police. He is also alleged to be a key member and organizer of a transnational criminal group that operates throughout the Balkans and in Turkey, Hungary, Austria, Italy, Slovenia, Croatia, France, Germany, Greece, the Czech Republic and Slovakia. The defendant was arrested during the so-called Fimathu operation, which was conducted on 29 January 2013 under the umbrella of the European Union Police Office (EUROPOL). During that operation, 103 suspects were arrested in 10 countries and 117 searches were conducted. Three persons were also arrested in Kosovo on the same European common action day; 12 others of the same criminal network had already been arrested in Kosovo in 2011 and 2012. Indictments against three other defendants were filed in December 2012 and February 2013.

On 19 April, a EULEX judge ordered house detention for one month against five suspects and ordered five other suspects to report to the police station once a week for a month. The suspects, who were arrested during an operation led by the Kosovo police, are being investigated, *inter alia*, for corruption and organized crime. The allegations against them relate to the making of an unlawful bid for land that was sold off by the Privatization Agency of Kosovo in 2009.

On 29 April, a mixed panel of one local and two EULEX judges at the Pristina Basic Court found five persons guilty in the Medicus case. Lutfi Dervishi was found guilty on charges of organized crime and trafficking in persons. He was sentenced to eight years imprisonment. His son Arban Dervishi was sentenced to seven years and three months. The three other defendants were sentenced to prison terms between one and three years.<sup>1</sup>

On 30 April, the Special Prosecution Office of Kosovo filed an order to conduct investigations against eight suspects for organized crime, trafficking in persons, grievous bodily harm, abusing official position of authority, fraud and trading in influence. The investigations are connected to the Medicus case. There are grounded suspicions that the above-mentioned suspects acted in co-perpetration or were directly or indirectly instrumental to the members of the criminal organized group in the commission of serious offences; that is, trafficking in persons for the purpose of organ removal.

On 5 June, a joint search operation was carried out by EULEX police and Kosovo police in relation to the so-called passport case. The search was ordered as part of the investigation into the theft of 1.4 million euros that occurred in the context of a contract for biometric passports at the Ministry of Internal Affairs. The existing investigation has been expanded to include new charges and seven new defendants. The defendants are now being investigated in relation to, *inter alia*, organized crime and money-laundering.

On 7 May, EULEX police arrested Naser Kelmendi, a fugitive from justice in Bosnia and Herzegovina. He had been previously arrested by the Kosovo police, but had to be released after 48 hours because Kosovo does not have an extradition

agreement with Bosnia and Herzegovina. On 9 May, Kelmendi was placed in detention on remand. On 13 May, his son, Elvis Kelmendi, who was prosecuted by a mixed team of EULEX and local prosecutors, was sentenced to four year imprisonment for attempted murder in Bosnia and Herzegovina by a panel of three Kosovo judges.

On 23 May, a three-judge panel presided over by a EULEX judge sentenced former Head of the Anti-Corruption Task Force of the Special Prosecutor Office of Kosovo, Nazmi Mustafi, to five years imprisonment on corruption charges. His three co-defendants received sentences ranging from six months to four years.

On 14 June, a mixed panel of one local and two EULEX judges sentenced Kolë Puka (a former judge) to 11 years and 6 months and Avdullah Robaj to one-and-a-half years of imprisonment for corruption.

On 18 June, Ilir Tolaj (former Permanent Secretary of the Ministry of Health) was sentenced to 18 months of imprisonment for his involvement in the so-called Ministry of Health case; Bujar Bukoshi (former Deputy Prime Minister) was acquitted.

On 28 June, a panel of EULEX and Kosovo judges acquitted five defendants in the so-called PTK case. The defendants had been charged, *inter alia*, with abusing official position.

On the same day a panel of three local judges from Pristina Basic Court formally accepted three plea agreements in a migrant smuggling case. A fourth defendant pleaded guilty in court. All charges relate to smuggling and attempted smuggling of migrants to the United States of America between 2009 and 2011. One defendant was acquitted, while the other three received sentences ranging from 16 to 22 months of imprisonment. Another perpetrator related to this case was arrested in Albania in 2012 and extradited to the United States, where he also pleaded guilty. The case was prosecuted in a mixed team by a EULEX prosecutor and a local prosecutor from the Pristina Basic Prosecution Office.

### **Other key cases**

On 23 May, Mitrovica Basic Court pronounced a judgment in a murder case. The three EULEX judges sentenced Agron Miftari to 11 years imprisonment for the murder of a 23-year-old man in Mitrovica.

A panel of two EULEX judges and a local judge continued the trial against Valon Jashari et al. The case involves multiple defendants and charges of terrorism related to attacks against Serbs in 2012 at the crossing point near Dobrosin, about 13 km from Gjilan/Gnjilane.

On 5 June, a mixed panel of EULEX and Kosovo judges acquitted all five defendants in the so-called Balkan Investigative Reporting Network case, where threats were made to the life of a journalist. Sami Lushtaku, Rexhep Hoti, Avni Azemi, Rizah Hajdari and Qani Mehmedi had been charged with violating equal status of residents of Kosovo and threats.

On the same day, a panel of three EULEX judges at Mitrovica Basic Court delivered a verdict in the murder case of Goxhuli et al. One defendant was acquitted, while the three others received sentences ranging from 1 to 20 years of imprisonment.

On 27 June, the Kosovo police arrested two suspects in the investigation into the murder of Palush Sokoli in 1999. Sokoli, who was disabled, was allegedly taken from his house and later found dead in the Pejë/Peć region. The autopsy performed at the Department of Forensic Medicine found signs of a gunshot injury. The case is being investigated by a mixed team of EULEX and Kosovo prosecutors.

On 3 July, Nazim Bllaca pleaded guilty to the commission of aggravated murder. The verdict is scheduled to be announced on 19 July.

### **Special Investigative Task Force**

The Special Investigative Task Force continued its active operational work investigating the allegations contained in the January 2011 report by the Council of Europe Special Rapporteur, Dick Marty, entitled “Inhuman treatment of people and illicit trafficking in human organs in Kosovo”. These criminal allegations include abduction, detention, mistreatment and killings, as well as the much-publicized allegations of organ harvesting and trafficking.

During the reporting period, the Special Investigative Task Force continued its strong cooperation with judicial and law-enforcement authorities in the region, which has led to good progress in its investigative and operational activities. As in the last reporting period, activities focused on engagement with injured parties, victims groups and individuals in order to gather information relevant to the investigation.

With respect to staffing, additional staff joined the team, including two additional operational and one additional administrative staff. All are critical to ensuring that necessary logistics are in place for the extensive staff movements currently under way and that the Special Investigative Task Force has the ability to effectively collect, analyse and process the information being gathered through witness interviews.

Over the last quarter, Lead Prosecutor Clint Williamson continued his visits to ensure ongoing political and operational support of Governments, the European Union and international organizations. In late April he travelled to Kosovo and met with Deputy Prime Minister and Minister of Justice Hajredin Kuçi, Head of UNMIK and Special Representative of the Secretary-General Farid Zarif, European Union Special Representative and Head of the European Union Liaison Office in Kosovo Samuel Žbogar, and senior EULEX and NATO officials. Deputy Prime Minister Kuçi reiterated Kosovo’s support for a full criminal investigation under the auspices of the Special Investigative Task Force.

Williamson also travelled to Belgrade in late April, meeting with Prime Minister Ivica Dačić, War Crimes Prosecutor Vladimir Vukčević and the local association for missing persons. The Prime Minister assured his support and that of other Government institutions for the Special Investigative Task Force. Williamson noted that he enjoys a strong cooperative working relationship with the Serbian War Crimes Prosecutor, and reiterated that the Task Force is looking at a range of crimes

committed, which includes but is not limited to organ trafficking. During an emotional, but positive meeting with representatives of the local association for missing persons, Williamson described the mandate of the Task Force and expressed his interest to try to resolve as many cases as possible. Williamson thanked the association for its support and willingness to encourage their members to come forward and cooperate with the Task Force.

### **Property rights**

The Kosovo Property Claims Commission held one session. It adjudicated 667 mainly inter-ethnic property claims. The total number of adjudicated claims stands at 38,089 with 4,355 still to be resolved.

From 16 April until 25 June 2013, the Kosovo Property Agency Appeals Panel received 41 new appeals and adjudicated 37 appeals.

During the reporting period, the Special Chamber of the Supreme Court rendered 306 decisions in trial panel cases. The Special Chamber also closed 32 workers list cases (comprising 819 individual workers' complaints) and finalized 65 cases at the Appellate Panel level.

### **Legislation**

On 6 June, the Assembly voted to withdraw the draft law on interception of telecommunications. EULEX had advised that the law went against best European practices and had advocated for its amendment.

On 27 June, the Assembly, by a two-thirds majority, adopted a law on the ratification of the "First agreement of principles governing the normalization of relations".

On 25 June, the authorities in Pristina approved the draft Law on Amnesty. The law was discussed at the plenary session of the Assembly on 4 July, but failed to receive the necessary number of votes for its adoption and was returned for amendments. A new version of the law was approved by the authorities on 5 July.

On 11 July, the law was finally adopted by the Kosovo Assembly. The law represents a crucial step towards the implementation of the dialogue agreement.

### **Other key issues**

The arrests of seven persons on charges of war crimes on 23 and 24 May, and the subsequent house detention ordered by a EULEX judge on 24 May, triggered a variety of reactions. The arrested persons — the "Drenica Group" — were identified by media as having exerted considerable influence over the Drenicë/Drenica region during the Kosovo conflict and in its aftermath. In a strong response to the arrests, several war veterans associations called for an end to the EULEX mandate. On 27 May, the associations organized a protest that was attended by approximately 5,000 persons; the protest ended peacefully. On the political level, Vetëvendosje fiercely criticized the arrests and reiterated its position against the continuation of international presence in Kosovo, which, in the view of

Vetëven dosje, infringes on Kosovo sovereignty. The Ministry of Foreign Affairs issued a statement expressing belief in the innocence of one of the accused. Also, the President of the Assembly and a number of Assembly members publicly criticized EULEX and stated that the Mission was not neutral.

The Kosovo authorities stated that it believes “in the fair fight of KLA commanders and fighters, the fight of Kosovo for freedom, independence, a democratic state and a close partnership with the international community, with the United States, the European Union and NATO”. The majority of political parties (Democratic Party of Kosovo, Democratic League of Kosovo, Alliance for the Future of Kosovo), echoed the statement expressing their belief that “the KLA war was just and the accused people are innocent”. The Court of Appeal took public statements on the above-mentioned case into account in issuing its ruling on 31 May. More specifically, the Court ruled that “critical public statements” qualified as “unconstitutional interference with the judiciary” and that it constituted “unacceptable attempts to intimidate prosecutors and judges involved in the case”.

The Vidovdan (St. Vitus Day) celebrations on 28 June passed with only minor security incidents. The religious service at Gazimestan was attended by approximately 3,000 people. The two incidents of stones thrown at buses carrying pilgrims and one at a regular service bus carrying Kosovo Albanian passengers were regrettable, but the Kosovo police response was appropriate. EULEX worked with the Kosovo police to ensure that celebrations took place in a safe and secure environment and to safeguard respect for human and fundamental rights.

The unfixing process of the Pejë/Peć Patriarchate is ongoing, and a number of meetings with relevant stakeholders took place throughout June. The Kosovo police, in consultation with the Kosovo Force, is responsible for reviewing the threat assessment upon which the Kosovo police resource levels will be based.

### **The north**

In terms of security incidents, the relative paucity, amid political developments, was interrupted on two occasions. On 16 April, unknown person(s) fired at a building in Zubin Potok that houses the local radio station “Kolašin” and where the station owner lives. On 18 June, an unidentified explosive device was thrown by unknown suspect(s) in a neighborhood of northern Mitrovica damaging three vehicles and windows of buildings nearby. No injuries were reported.

### **Dialogue implementation**

The large-scale project to implement the European Union-facilitated dialogue agreement between Belgrade and Pristina on civil registry books is running at a normal pace without significant difficulties. On 5 April, the second extraordinary Project Steering Committee meeting took place in Niš, southern Serbia, in order for all parties to agree on increasing the project’s capacity and extending its duration. There was an agreement to hire 40 additional staff, and to have a second shift of five additional working hours a day. The project involving EULEX, the European Union Office in Kosovo/European Union Special Representative, the Danish

Refugee Council and the teams from Kosovo and Serbia is expected to be completed in mid-March 2014. During April, the project was focused on the civil registry books for Pristina and Podujevë/Podujevo. In May and June, the project focused on the municipalities of Podujevë/Podejuvo, Gjilan/Gnjilane and Kamenicë/Kamenica. Upon the request of the Serbian delegation, EULEX now provides certification on a weekly basis when there is a sufficient number (approximately 180) of civil registry books ready for certification. During the reporting period, a total of 2,932 civil registry books were certified. This brings the total handover number to 4,770. All preparations to start the hardcover binding of certified copies of civil registry books have been completed.

The implementation of the integrated border management agreement is also progressing. All six crossing points are being run in a spirit of good cooperation. In addition, local (weekly) and regional (monthly) meetings are being held in line with the action plan, and the locations alternate between Kosovo and Serbia. One of the main agenda points is the commitment from both sides to introduce “easing of traffic” procedures for the busy summer season. On 5 June, an agreement was reached to harmonize operational plans. Both sides will ensure facilitation of movement of travelers, and an information campaign will notify travelers that Mutivodë/Mutivode (ex-gate 4) may be used as an alternative crossing point to the long waiting times at Merdarë/Merdare (ex-gate 3).

An implementation group meeting held in Brussels on 25 April discussed a number of issues, including permanent crossing points, the state of play of the interim crossing points, phytosanitary and veterinary procedures, mutual legal assistance and implementation of the freedom of movement agreement.

The freedom of movement agreement is fully implemented at the crossing points in the southern part of Kosovo.

Starting on 20 June, Kosovo customs and police officers have concluded successful daily shift rotations to the Rudnica/Jainjë (ex-gate 1) crossing point by road. However, rotations to Bërnjak/Tabalije (ex-gate 31) are still carried out by helicopter.

EULEX representatives verified the closure of the Serbian Ministry of the Interior premises in Leposavić/Leposaviq on 14 June, Zvečan/Zvečan on 21 June and Zubin Potok on 26 June. The closure of the Serbian Ministry of the Interior premises in northern Mitrovica was verified on 5 July. Also in June, the new regional police commander for Kosovo’s north assumed his post, in accordance with the Belgrade-Pristina agreement on normalization of relations.

With regard to the procedures on mutual legal assistance, Pristina continues to send requests for mutual legal assistance through EULEX to Belgrade. However, since the procedures came into force, Belgrade has sent only one request through EULEX to Pristina. Moreover, Belgrade has not responded to any request from Pristina since the entry into force of the procedures on 20 March.

Approved by Bernd Borchardt  
Head of Mission



## Annex II

### Composition and strength of the police and military components of the United Nations Interim Administration Mission in Kosovo (as at 15 July 2013)

#### Police component

Country	Number
Croatia	1
Germany	1
Hungary	1
Italy	1
Russian Federation	1
Turkey	1
Ukraine*	1
<b>Total</b>	<b>7</b>

\* Senior Police Adviser.

#### Military liaison component

Country	Number
Czech Republic	1
Norway	1
Republic of Moldova	1
Poland	1
Portugal*	1
Romania	1
Turkey	1
Ukraine	2
<b>Total</b>	<b>9</b>

\* Chief Military Liaison Officer.

(Map)

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United Nations  
Security Council  
S/2013/631  
28 October 2013

## **Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo<sup>1</sup>**

### **I. Introduction and Mission priorities**

1. The present report is submitted pursuant to Security Council resolution 1244 (1999), by which the Council decided to establish the United Nations Interim Administration Mission in Kosovo (UNMIK) and requested that I report at regular intervals on the implementation of its mandate. It covers the activities of UNMIK, and developments related thereto, from 16 July to 15 October 2013.

2. The priorities of the Mission remain to promote security, stability and respect for human rights in Kosovo and in the region. In furtherance of its goals, UNMIK continues constructive and intensive engagements with Pristina and Belgrade, the communities in Kosovo, and regional and international actors. The Organization for Security and Cooperation in Europe (OSCE) and the Kosovo Force (KFOR) continue to perform their roles within the framework of Security Council resolution 1244 (1999). The European Union Rule of Law Mission (EULEX) continues its presence in Kosovo in line with the Security Council presidential statement of 26 November 2008 (S/PRST/2008/44) and my report of 24 November 2008 (S/2008/692). The United Nations agencies, funds and programmes continue to work closely with the Mission.

### **II. Key political developments**

3. The implementation of the “First agreement on principles governing the normalization of relations” reached between Belgrade and Pristina on 19 April 2003 continued to move forward, despite occasional differences in interpretation. The European Union-facilitated high-level meetings in Brussels remained the central platform for bridging major differences, while discussions at the technical level continued in bilateral working groups.

4. Four high-level meetings between Serbian Prime Minister Ivica Dačić and Kosovo Prime Minister Hashim Thaçi were held in Brussels during the reporting period, on 31 July, 27 August, 8 September and 7 October. These meetings were dedicated to, inter alia, achieving agreement on the issues relating to the conduct of Kosovo municipal elections scheduled for 3 November. The two sides reached

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<sup>1</sup> Source: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2013/631](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2013/631) (20. 01. 2014).

understanding on the operational role of OSCE in facilitating the elections in northern Kosovo and on issues relating to voting by eligible displaced persons, admissible identification documents, election materials, voter lists and the registration and certification of political entities.

5. The preparation for the elections has faced a number of political and procedural challenges, which have been managed and resolved through continuous negotiations. These concerned, in particular, the design of registration and voting material, the registration of out-of-Kosovo voters, and Kosovo Serb representation in Kosovo's Central Election Commission. The Serbian leadership has committed its strong support for participation by Kosovo Serbs in the upcoming elections and has been playing an active role to that effect.

6. By the end of the registration period on 4 September, a total of 103 political entities, including 19 in northern Kosovo, applied and were certified by the Central Election Commission. The elections campaign period began on 3 October. The day before, the Kosovo authorities issued a decision to cease visits by Serbian officials to Kosovo during the campaign period, which led to protests by the Government of Serbia. The issue was subsequently resolved during the high-level meeting convened by the European Union High Representative for Foreign Affairs and Security Policy, Catherine Ashton, on 7 October in Brussels.

7. During the 8 September round of talks in Brussels, Pristina and Belgrade reached agreements on telecommunications and energy. These agreements covered, *inter alia*, the future establishment of international dialling codes and the authorized registration of telecommunications and energy companies operating in Kosovo. It was also agreed that some longer-term issues relating to cooperation in the energy sphere would be handled at a later stage.

8. Progress, although at times difficult, has also been achieved in other key areas of the 19 April agreement, including the police and the judiciary. On 25 July, one Kosovo Albanian and five Kosovo Serb senior officers were appointed to command positions in the new Kosovo Police Regional Command Team North in northern Kosovo. New traffic and investigation units in northern Kosovo are already operational. Negotiations are ongoing to resolve procedural and practical issues relating to the transfer of Serbian police officers to the Kosovo police, as agreed in the framework of the 19 April agreement.

9. In the area of justice, detailed negotiations on the transfer of judicial personnel and on the future court structure in northern Kosovo have proceeded more slowly, but are continuing. On 1 September, the Serbian Ministry of Justice extended its earlier decision to suspend its activities in northern Kosovo pending agreements on the outstanding issues.

10. Opposition members of the Assembly of Kosovo launched a challenge in Kosovo's Constitutional Court to the passage of draft laws prepared in relation to the 19 April agreement, namely the Law on Ratification of the First International Agreement on Principles Governing the Normalization of Relations, the Law on Amnesty and the Law on the Kosovo Budget for 2013, causing some delays in the

implementation process. On 2 September, the Constitutional Court ruled these laws to be in accordance with the Kosovo Constitution, with the exception of a number of articles in the Law on Amnesty, which were subsequently removed from the draft. All three laws were signed into force by the President of Kosovo. Two additional draft laws foreseen in the 19 April agreement, namely, a draft law on local self-government and a draft law on the rights of communities, are under consideration in the Assembly of Kosovo and expected to be passed before the end of 2013.

11. In early September, a trade dispute broke out between Kosovo and its largest trading partner, the former Yugoslav Republic of Macedonia, leading, inter alia, to a week-long blockade of all cross-border traffic. Following intensive bilateral negotiations and diplomatic outreach to both sides, the blockade was lifted and cross-border movement returned to normal on 14 September.

### **III. Northern Kosovo**

12. In northern Kosovo, political tension and uncertainty continued to prevail in view of the continued skepticism of local Kosovo Serbs regarding the 19 April agreement and their participation in the upcoming municipal elections. Despite efforts by the Government of Serbia to build local confidence in support of the elections, many northern Kosovo Serb political and community leaders continued to express doubt or simply reject the 19 April agreement and the elections. Public campaigns against participation in the Kosovo local elections were also conducted in the northern Kosovo municipalities.

13. On 10 September, the Government of Serbia dissolved all four existing municipal administrations in northern Kosovo and replaced them with five-member interim municipal councils tasked with administering the municipalities until the conclusion of the 3 November elections. This action was widely seen in the context of Belgrade's efforts to build local political support for the elections and ensure implementation of the 19 April agreement. The removed municipal leaders protested, questioning the legal basis of the decision, but peacefully handed authority over to the appointed interim municipal councils.

14. Some northern Kosovo Serb political leaders also continued to express their opposition to the 19 April agreement by supporting the self-styled Provisional Assembly of the Autonomous Province of Kosovo and Metohija, consisting of local representatives of both the Serbian opposition and ruling political parties. During its meeting held on 16 August, the Provisional Assembly reaffirmed its stance against the 19 April agreement, called for a boycott of the upcoming elections, and appealed for support from the Parliament in Serbia. On 25 September, several hundred people attended a peaceful anti-elections rally held in northern Mitrovica. Another rally, attended by a smaller number of people, was held on 10 October, also in northern Mitrovica. On 14 October, in northern Mitrovica, an explosion resulted in minor injuries to a member of the Kosovo Serb party SLS (the Independent Liberal Party, which is part of the ruling coalition in

Pristina) who had withdrawn a few days earlier from the election campaign. The explosion caused material damage to the victim's apartment.

15. The atmosphere of uncertainty in northern Kosovo was further exacerbated by socioeconomic concerns about reports of future reductions in public sector jobs. In July, some of the employees of the Serbian Chamber of Commerce organized several protests and established temporary roadblocks, demanding timely payment of salaries. During August, several hundred labour union activists held protests against cuts in temporary financial compensation provided by Belgrade since 2003 and temporarily blocked traffic at Jarinje/Jarinjë, near the administrative boundary crossing at gate 1. The protest was disbanded following mediation efforts by Serbia's Government Office for Kosovo and Metohija.

16. With the inclusion of southern Mitrovica, a total of 22 political entities, eight Kosovo Serb, eight Kosovo Albanian, two Bosniak, two Ashkali, one Turkish and one Montenegrin, have registered to contest the local elections in the five municipalities in northern Kosovo. A Kosovo Serb "Civic Initiative Srpska", supported by the ruling coalition in Serbia, has fielded candidates in 25 municipalities across Kosovo. The ruling political parties in Serbia have urged strong Kosovo Serb participation in the elections and are actively campaigning throughout Kosovo.

17. The UNMIK Administration Mitrovica continued its monitoring, mediation and facilitation roles, as part of the sustained effort by UNMIK to support institutional and political progress in the region. It focused in particular on facilitating contacts between public utility companies north and south of the Ibër/Ibar River and meetings among civil society groups representing various ethnic groups in northern and southern Mitrovica.

18. Additionally, my Special Representative has continued to invest substantial efforts in northern Kosovo by regularly engaging with all relevant stakeholders, both through meetings and public statements, in order to enhance constructive dialogue. The UNMIK Regional Office in Mitrovica has worked intensively to help to establish positive relations among communities in all the northern municipalities and ensure that the progress in the political dialogue is reinforced by stability on the ground.

#### **IV. Security**

19. The overall security situation in Kosovo remained generally calm, with occasional incidents reported in ethnically mixed areas. All sides appeared to demonstrate an increased commitment to prevent tensions on the ground to enable the high-level dialogue and implementation process to move forward.

20. On 19 September, EULEX suffered its first fatality caused by hostile action when its routine convoy en route to gate 1 in northern Kosovo came under automatic weapon fire near Ballaban/Balaban village in the Zvečan/Zvečan municipality. A EULEX customs officer succumbed to wounds sustained during the attack. The attack was condemned by both Belgrade and Pristina, northern

Kosovo Serb leaders and international actors. A criminal investigation has been launched by EULEX with support from the Kosovo police and the Kosovo Special Prosecution Office. The Government of Serbia has also pledged its full support.

21. On 29 July, following the arrest by EULEX of two Kosovo Serbs at Rudare in the Zvečan/Zvečan municipality, a crowd of some 200 Kosovo Serbs blocked the main road and stoned two EULEX vehicles, causing minor injuries to two EULEX officers and damage to the vehicles. The roadblock was removed on 31 July following the release of one of the individuals arrested. On 20 September, in an ethnically mixed area of northern Mitrovica, a hand grenade exploded inside an uninhabited building, causing minor damage. A similar incident occurred in the predominantly Kosovo Serb municipality of Shtërpçë/Strpce on 29 September, when a Kosovo Serb threw an explosive device in the vicinity of a local police station, causing minor material damage.

22. During the reporting period, a total of 76 incidents affecting the minority communities were reported as at 30 September, compared with 90 during the previous reporting period. Illegal woodcutting continued on a regular basis on both sides of the administrative boundary line. On 6 August, three Serbian citizens were arrested by Kosovo police in the Podujevë/Podujevo municipality, and a total of four Kosovo Albanians were arrested by the Serbian police, on 15 September near Gjilan/Gnjilane and on 26 September in the Podujevë/Podujevo municipality.

## **V. Rule of law**

23. UNMIK continued to monitor activities and exercise some responsibilities in the area of the rule of law, as well as cooperate at the technical level with the Ministry of Justice and the Ministry of Internal Affairs of Kosovo and the Ministry of Justice of Serbia.

24. During the reporting period, UNMIK received six requests for mutual legal assistance from Serbia and other countries that have not recognized Kosovo. These requests were transmitted to the Kosovo Ministry of Justice through EULEX. The agreement on mutual legal assistance, reached between Serbia and Kosovo on 19 March 2013 within the framework of the implementation of the protocol on integrated border/boundary management, continued to be implemented. UNMIK also facilitated the issuance of seven Red Notices of the International Criminal Police Organization (INTERPOL) and regular communication between Kosovo and INTERPOL and its member States.

25. UNMIK continued to encourage and support efforts to resolve the fate of missing persons. On 30 August, the International Day of the Disappeared, Kosovo Albanian and Kosovo Serb representatives of the Association of Families of Missing and Kidnapped Persons held, for the first time, a joint press conference from Pristina and Belgrade. They urged officials on both sides to step up their efforts and cooperation. Since the deployment of EULEX in 2008, 407 field operations to collect data that could lead to exhumations have been carried out and the remains of 355 individuals have been returned to families. Of these, 267 were

missing persons, while the rest relate to criminal cases or requests for confirmation of identity by families. There are an estimated 1,720 persons who are still missing as a result of the 1998-1999 conflict.

26. UNMIK continued to provide document certification services to Kosovo residents and non-recognizing States, primarily for the certification of civil status and pension documents. As in the previous reporting period, the volume of requests for pension-related certification services continued to increase following the issuance of the judgment of the European Court of Human Rights in the case of *Grudić v. Serbia* on 17 April 2012. The judgment requires Serbia to ensure the disbursement of pension and disability insurance payments. UNMIK also continues to provide certification of certain types of educational documents that fall outside the scope of the agreement on university diplomas reached by the parties in November 2011.

27. The Kosovo judiciary continued to face a large backlog of unresolved cases. As at August 2013, the Kosovo Judicial Council reported some 142,000 backlogged cases. According to data released by the relevant Kosovo authorities, similar problems continued to be faced in the prosecutorial system, including in the Department for the Prosecution of Serious Crimes, the General Department and the Department for Minors.

28. On 17 September, a panel of EULEX and Kosovo judges acquitted Fatmir Limaj, former Minister of Transport and Telecommunications, and nine other defendants, all former members of the Kosovo Liberation Army, who were accused of “war crimes against the civilian population and prisoners of war” at a makeshift detention camp in 1999 in the village of Kleçkë/Klečka in the Lipjan/Lipljan municipality. The prosecution stated that it was reviewing the decision and its right to appeal.

29. During the reporting period, the Assembly of Kosovo adopted several laws aimed at improving the rule of law standards. A notable development was the adoption of a new Law on International Legal Cooperation in Criminal Matters, which regulates the procedures for extradition of suspected persons and international legal cooperation.

## **VI. Returns and communities**

30. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), as at September 2013, 569 Kosovo Serb displaced families had expressed a willingness to return to Kosovo from Serbia, along with 112 Kosovo Roma, Ashkali and Egyptian families from Montenegro and 45 Kosovo Roma, Ashkali and Egyptian families from the former Yugoslav Republic of Macedonia.

31. UNHCR also registered 90 individual voluntary minority returnees to Kosovo between July and September, including 25 Kosovo Serbs, 19 Kosovo Roma, Ashkali and Egyptians, 16 Kosovo Bosniaks, 2 Kosovo Gorani and 28

Kosovo Albanians. Between January and September, 313 individuals returned, compared with 693 reported during the same period in 2012.

32. UNHCR continued to monitor the repatriation process in order to identify and report gaps in the protection of the human rights of returnees, with a particular focus on minority communities, and provided assistance to 560 individuals during July, August and September in obtaining personal documentation and solving civil status issues.

33. The International Organization for Migration (IOM) continued to provide support to receiving communities, individual returnees and members of non-majority communities across Kosovo through the provision of business assets. IOM has supported, through the European Union-Community Stabilization Programme II, the implementation of 145 small business and community projects for displaced persons from minority communities through house construction, socioeconomic assistance packages, income generation, infrastructure projects and training.

34. UNMIK continued to liaise with the Ministry of the Interior, local authorities, community leaders and utility companies in order to facilitate the resolution of daily issues affecting communities, such as ensuring water and electricity supply.

35. In September, the OSCE High Commissioner on National Minorities and the Office of the Language Commissioner in Kosovo launched Albanian and Serbian language courses for municipal officials in 10 municipalities with a significant Albanian and Serbian population. The aim is to improve the language skills of local officials and to ensure compliance with the Law on the Use of Languages, under which both Albanian and Serbian are designated as Kosovo's official languages. The extension of such courses to the remaining municipalities is under consideration.

## **VII. Cultural and religious heritage**

36. UNMIK continued to facilitate activities of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Kosovo. The restoration of the exterior of the Church of Dormition of the Theotokos in the Gračanica Monastery, funded by the Russian Federation, and of a Catholic cathedral in Prizren, funded by Albania, were completed during the reporting period. The restoration of four Ottoman-era fountains in the historic zone of Prizren, with financial support from Bulgaria, is still ongoing and the restoration of the Gazi Mehmet Pasha Hammam in Prizren, with financial support from Turkey, began in July. UNESCO, in coordination with UNMIK, will participate in a three-year project to restore the ruins of the medieval fortress in Novobërdë/Novo Brdo, which will be financed by the European Union. In addition, the Ministry of Culture, Youth and Sports continued the excavation works at the archaeological site in the village of Dresnik/Dršnik, where ancient Roman ruins were discovered earlier in 2013.



37. On 19 August, KFOR transferred the responsibility for primary security at the Patriarchate of Peć to the specialized Kosovo police unit for the protection of cultural and religious sites. The Visoki Dečani Monastery is now the only remaining Serbian Orthodox religious site under primary KFOR protection.

38. The formation of the seven-member Cultural Heritage Council in Prizren, stipulated by the Law on the Historic Centre of Prizren, was completed on 24 September. The establishment of the Council in Hoçë e Madhe/Velika Hoča continued to face delays owing to obstruction on the part of the local authorities of the implementation of the relevant decisions. Despite continued efforts by the Kosovo authorities and the international community, the Rahovec/Orahovac municipality has yet to begin implementing the Law on the Village of Hoçë e Madhe/Velika Hoča. On 17 September, as part of efforts to improve interfaith dialogue, representatives of the Islamic, Serbian Orthodox, Catholic, Protestant Evangelical, and Jewish communities took part in a conference, organized by the Ministry of Foreign Affairs of Kosovo and OSCE, to examine the role of religious leaders in fostering greater understanding among communities in Kosovo.

### **VIII. Human rights**

39. UNMIK continued to work closely with the Council of Europe in the area of human rights. The Mission contributed comments to the Third Opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities during the reporting period. The Opinion noted Kosovo's satisfactory legislative framework, while identifying shortfalls in resources, capacity and coordination as factors impeding a more effective implementation of the Framework Convention.

40. The same Opinion acknowledged the adoption by the Kosovo authorities of comprehensive policy documents aimed at promoting fuller social integration of Kosovo's Roma, Ashkali and Egyptian communities, and recommended enhancing coordination among public agencies, particularly in ensuring the language rights. A progress report on the implementation of the Kosovo Strategy and Action Plan for the Integration of Roma, Ashkali and Egyptian Communities (2009-2015), issued by the Office of the Prime Minister, also recommended increasing funding allocations from the central budget for this purpose. The United Nations Children's Fund (UNICEF) continued to support activities in connection with the implementation of the Strategy and Action Plan.

41. During the period under review, a new draft law on gender equality was included in the Kosovo legislative agenda. This followed an international expert review of the draft, which highlighted the need to improve and harmonize the existing legislation with the draft law on the ombudsperson and the draft law on anti-discrimination, which are also on the agenda of the Assembly of Kosovo for 2013.

42. The Kosovo authorities have also finalized an action plan on the implementation of Security Council resolution 1325 (2000), drafted by the Agency for Gender Equality with support from the United Nations Entity for Gender

Equality and the Empowerment of Women (UN-Women) and the stand-alone office in Kosovo of the Office of the United Nations High Commissioner for Human Rights (OHCHR). The action plan recommends, *inter alia*, a commitment by the Kosovo authorities to cover 51 per cent of the cost of the implementation of the plan.

43. On 5 September, UNICEF and the European Union Office in Kosovo launched the third phase of their joint project on supporting juvenile justice reforms in Kosovo, to be conducted from 2013 to 2016. The next phase aims to ensure that children involved in criminal, administrative and civil proceedings are provided with appropriate protection in line with the Convention on the Rights of the Child and relevant international standards.

44. During the reporting period, the Special Rapporteur on the human rights of internally displaced persons visited Kosovo. UNMIK cooperated with UNHCR and OHCHR in arranging the visit, which provided an opportunity to discuss progress made in the implementation of the recommendations resulting from the Special Rapporteur's previous visits to Kosovo in 2005 and 2009 and to examine challenges and opportunities for durable solutions for internally displaced persons.

## **IX. Observations**

45. I commend both Belgrade and Pristina for their continued active engagement in the framework of the European Union-facilitated dialogue. I welcome the tangible progress achieved in the implementation of the "First agreement on principles governing the normalization of relations" of 19 April 2003, reached between Belgrade and Pristina, the subsequent implementation plan of 22 May, and other important areas of the dialogue, such as energy and telecommunications. In spite of many expected challenges, such progress has continued apace.

46. The numerous challenges that emerged in the process have been responded to by political leaders in both Belgrade and Pristina with vision and perseverance, resulting in further compromises and the forging of consensus, thereby sustaining the forward momentum. It will be important for the parties to continue the implementation of the agreements faithfully, without reopening their provisions. The active engagement of the European Union, including the personal role of High Representative Catherine Ashton also continues to be essential. A brutal ambush on EULEX on 19 September, resulting in the tragic death of a EULEX customs officer, was the most serious incident in the reporting period and a disconcerting setback. All parties should closely cooperate with EULEX and Kosovo police in the ongoing investigation to ensure that the perpetrators are identified and brought to justice and make every effort to prevent the recurrence of such an incident.

47. The parties have made considerable progress in preparing for the local elections to be held on 3 November, including in northern Kosovo. OSCE has been playing an important facilitating role in this context. Differences and

disagreements should continue to be resolved constructively to ensure peaceful and successful elections, with the full participation of all eligible voters. I join my Special Representative in calling upon all communities in Kosovo to exercise their democratic right during the elections and help to ensure that their legitimate interests are fully and effectively represented.

48. The success of the elections, especially in northern Kosovo, will be important for future consolidation of peace and stability, the prospects of continued political engagement in the European Union-facilitated dialogue and the implementation of the historic 19 April agreement. In the remaining weeks before the elections, Pristina and Belgrade should step up their positive outreach to the local communities in northern Kosovo, both to encourage their participation in the elections and address their questions and concerns. There has been commendable progress in the agreed transition in the local rule of law structures, especially police, in northern Kosovo, with the new regional police command and staff performing ably since their appointment. The Kosovo police, alongside KFOR and EULEX, will play a key role in ensuring a safe and peaceful environment throughout Kosovo during the elections period, where all will be able to exercise their democratic right freely, without intimidation or pressure.

49. Such outreach and engagement will be equally important in the post-election phase, which is likely to bring new challenges and during which future elected representatives will need to continue to engage in support of the implementation of the Belgrade-Pristina agreements and to effectively represent the interests of their constituencies.

50. Progress on the ground towards peace and stability and in the political dialogue will also remain crucial in the light of the aspirations of Serbia and Kosovo towards European integration. Both have taken impressive steps to move closer to this objective, and further progress towards the normalization of relations, guided by the European Union criteria, will continue to be essential.

51. I wish to thank my Special Representative, Farid Zarif, for his dynamic and effective leadership of UNMIK during this time of political change and all the staff of UNMIK for their dedication in carrying out the tasks of the Mission. I extend my gratitude also to our long-standing partners on the ground, including the European Union, EULEX, KFOR and OSCE, and all the members of the United Nations family in Kosovo, for their contributions to peace and stability and their close cooperation with UNMIK.

## **Annex I**

### **Report of the European Union High Representative for Foreign Affairs and Security Policy to the Secretary-General on the activities of the European Union Rule of Law Mission in Kosovo 15 October 2013 Reporting period: 16 July to 15 October 2013**

#### **1. Summary**

The European Union Rule of Law Mission in Kosovo (EULEX) continued to implement its daily monitoring, mentoring and advising activities and executive functions in the Kosovo rule of law sector according to its mandate. In terms of the agreement reached within the European Union-facilitated dialogue on the normalization of relations between Pristina and Belgrade, EULEX continues to facilitate its implementation in the rule of law sector.

The period was defined by the fatal attack on a EULEX convoy near Zvečan/Zveçan on 19 September, in which Audrius Šenavičius, a EULEX customs officer, lost his life. This attack was a serious challenge to all stakeholders in their joint efforts in establishing the rule of law in northern Kosovo. The murder investigation is being carried out by a mixed team of EULEX and Kosovo police investigators under the supervision of two EULEX prosecutors. The case falls under the exclusive jurisdiction of the Special Prosecution Office in Kosovo. Increased security measures are applied in northern Kosovo, but EULEX continues to provide monitoring, mentoring and advising to the Kosovo police in the north.

A highly anticipated verdict was delivered in the high-profile Kleçkë/Klečka war crimes case. All defendants, including former Kosovo Liberation Army Commander and current Member of Parliament Fatmir Limaj, were acquitted owing to lack of evidence. In another case, EULEX judges at the Mitrovica Basic Court sentenced three defendants to 12 years of imprisonment each for war crimes. Detention on remand was extended against the seven war crimes suspects of the so-called Drenica Group. Several indictments and verdicts were pronounced in organized crime cases. The Special Investigative Task Force continued working

pursuant to its mandate to investigate allegations contained in the report by the Council of Europe Special Rapporteur, Dick Marty, on illicit trafficking in human organs.

#### **2. EULEX activities, July to October 2013**

##### **Murder of Audrius Šenavičius**

On 19 September, a EULEX convoy en route to the Rudnica-Jainjë crossing point was attacked near Zvečan/Zveçan by unknown perpetrator(s). The driver of the convoy's second vehicle, Audrius Šenavičius, a EULEX customs officer of

Lithuanian nationality, sustained gunshot injuries. He succumbed to his wounds and was declared dead in the northern Mitrovica hospital.

EULEX reacted, with the assistance of KFOR and the Kosovo police, by securing the scene of the incident and immediately initiated an investigation, in cooperation with the Kosovo police and led by the Special Prosecution Office. There was an immediate, strong and very welcome reaction from Belgrade and Pristina making clear on both sides that there could be no place for such violence and that those who had perpetrated this murder had acted not just against EULEX but against their own communities. The authorities also pledged full practical support in finding the perpetrators. The support and condolences of UNMIK colleagues were also very gratefully received.

In the aftermath of the shooting incident and in an attempt to restore public safety and demonstrate determination to fight criminal activities, EULEX organized vehicle checkpoints in a number of targeted areas within northern Kosovo, where formed police units and special police units, together with Kosovo police patrol units carried out the checks. International police officers installed similar vehicle checkpoints in southern Mitrovica in conjunction with Kosovo police patrol units from the Kosovo Police Regional Command South. The public was also engaged, partly through door-to-door interviews by the Kosovo police and the EULEX police in order to support the information gathering on this case.

### **General**

The Joint Rule of Law Coordination Board meeting was held on 24 September. At that meeting, the Board endorsed and approved the publication of the first Compact Progress Report, tracking developments in the capacity development of local institutions between November 2012 and August 2013. A number of amended Compact actions based on jointly agreed rule of law objectives were endorsed and are to be worked on during the months to come. They reflect the results already achieved since the signing of the original Compact agreement between EULEX, the Kosovo authorities and the European Union Office in Kosovo almost a year ago. In addition, a number of road maps were approved for the Department of Forensic Medicine, the Special Chamber of the Supreme Court, war crimes, witness protection, prisoner escort in northern Mitrovica and the Kosovo Property Agency Appeals Panel.

### **War crimes**

EULEX continued its work in the investigation, prosecution and adjudication of war crimes with a number of ongoing cases. On 23 August, a EULEX pretrial judge at Mitrovica Basic Court granted the request of the prosecutor to extend detention on remand for seven defendants of the “Drenica Group” for two months, including the Kosovo representative to Albania, Sylejman Selimi, and the Mayor of Skenderaj/Srbica, Sami Lushtaku.

On 13 September, a panel of three EULEX judges at Mitrovica Basic Court found Sabit Geci, Rustem Geci and Hetem Geci guilty of war crimes against the

civilian population for the murder of Gani Berisha on 18 June 1999 at the Skenderaj/Srbica medical centre. They were sentenced to 12 years of imprisonment each.

On 17 September, a panel of one local and two EULEX judges acquitted the defendants Fatmir Limaj (former Minister of Transport and current Member of Parliament), Arben Krasniqi, Naser Krasniqi, Naser Shala, Nexhmi Krasniqi, Behlul Limaj, Shaban Shala, Sabit Shala, Besim Shurdhaj and Refki Mazreku of war crimes and related offences in the high-profile Kleçkë/Klečka case. The trial panel found the evidence, mainly based on the diary of the late cooperative witness Agim Zogaj, inconsistent and contradictory, and therefore unreliable. Awaiting the written verdict, the EULEX prosecutor has reserved the right to appeal the judgement.

On 25 September, EULEX filed an indictment at Pristina Basic Court against Ivan Radivojević. The defendant is accused of belonging to a group that allegedly participated in violating the bodily integrity and health of approximately 40 Albanian male civilians in Fushë Kosovë/Kosovo Polje in 1999.

On 27 September, a EULEX pretrial judge at Mitrovica held a detention hearing following the arrests on 25 September of two Kosovo Albanians suspected of committing war crimes against the civilian population in relation to the rape and mistreatment of two Kosovo Albanian women during the Kosovo conflict. The judge imposed detention on remand for one month against both suspects.

### **Organized crime and corruption**

On 29 July, a EULEX pretrial judge confirmed several of the charges contained in the indictment against Fatmir Limaj and two of his co-defendants related to the so-called Ministry of Transport, Post and Telecommunications case and decided to proceed with the case at the main trial.

On 22 August, a mixed panel of one local and two EULEX judges delivered a verdict in a migrant smuggling case. Okay Altuntaş, a citizen of Turkey, was sentenced to seven years of imprisonment, while Bujar Fazliu from Kosovo was found guilty on one count of smuggling of migrants and sentenced to three years of imprisonment. The third defendant in the case was acquitted of all charges.

On 11 September, five suspects, including two Kosovo police officers were arrested in Ferizaj/Uroševac, based on an order by a EULEX prosecutor. The arrest warrants were issued based on investigations conducted by the Police Inspectorate of Kosovo and the Kosovo police. The suspects are accused of abuse of official position, accepting bribes, trading in influence, providing assistance to perpetrators after the commission of the offence, causing general danger and extortion.

On 16 September, a mixed team of a EULEX and a local prosecutor filed an indictment at Pristina Basic Court, charging Arben Veseli with, inter alia, organized crime. He is alleged to be responsible for masterminding the trafficking of multiple shipments of heroin from Kosovo to Germany during 2012 in co-perpetration with other dealers as part of an international criminal group. The investigation in

Kosovo was conducted by a joint investigation team of EULEX and the Kosovo police in cooperation with the German authorities.

On 27 September, a panel of three EULEX judges at Mitrovica Basic Court announced the verdict against Blerim Gecaj and Hashim Ahmeti. The two defendants were found guilty of smuggling of migrants. Gecaj was sentenced to four years and Ahmeti to two years and three months of imprisonment.

On 7 October, a EULEX pretrial judge at Pristina Basic Court extended detention on remand for Naser Kelmendi until 7 January 2014. Kelmendi was initially arrested by the Kosovo police in May 2013. His arrest was confirmed based on an order issued by a EULEX prosecutor. The defendant is being investigated for organized crime, murder and drug trafficking.

On 9 October, the Kosovo police, acting on the basis of a decision of a EULEX prosecutor, arrested three Kosovo residents in an operation in Pristina. They are suspected of taking part in armed robberies in Bahrain in September 2013, involving the theft of jewellery worth over 1.1 million euros. The suspects were arrested on charges of aggravated coercion and assault causing grievous bodily harm, and direct participation in an organized group that committed an aggravated robbery. Four house searches were conducted simultaneously. On 10 October, a EULEX judge ordered one month of detention on remand for the three suspects.

### **Other cases**

On 16 July, the cooperative witness in a murder and a war crimes case involving former Kosovo Liberation Army members, Nazim Bllaca, was sentenced to four and a half years of imprisonment for aggravated murder. In another case, on 30 July, the Mitrovica Basic Court sentenced Remzi Hasanaj to eight years and three months of imprisonment for murder.

On 4 September, a mixed team of a EULEX and a Kosovo prosecutor filed an indictment against three Kosovo residents for their involvement in the attack during a launch event of the magazine Kosovo 2.0 on 14 December 2012 in the Red Hall of the Youth and Sport Centre in Pristina. The defendants are charged with violating equal status of residents of Kosovo, preventing or hindering a public meeting, inflicting light bodily harm, and damage to movable property.

On 17 September, a EULEX presiding judge at Mitrovica Basic Court found a defendant guilty of unauthorized purchase, possession, distribution and sale of dangerous narcotics and psychotropic substances. The accused pleaded guilty at the initial hearing and was sentenced to one year and three months of imprisonment.

On 27 September, a EULEX judge at Mitrovica Basic Court granted the request of a EULEX prosecutor to extend the detention on remand for Žarko Veselinović for one month. Veselinović is suspected of unauthorized possession of a weapon. Further evidence was presented related to the charge of attempted murder of two police officers. The judge therefore considered that the danger of flight remains at a level that warrants a measure of detention on remand.

On 30 September, a EULEX judge at Mitrovica Basic Court extended detention on remand against Ali Hasani until 3 December. The defendant is charged with aggravated murder and unauthorized ownership, control, possession or use of weapons.

### **Special Investigative Task Force**

During the reporting period, the Special Investigative Task Force continued its criminal investigation into allegations of abduction, detention, mistreatment, killings, and organ harvesting and trafficking in Kosovo. These allegations are contained in the January 2011 report authored by the Council of Europe Special Rapporteur Dick Marty, entitled “Inhuman treatment of people and illicit trafficking in human organs in Kosovo”

Engagement with injured parties, victim advocacy groups and individuals in order to gather information relevant to the investigation has continued apace. Cooperation with judicial and law enforcement authorities in the region and beyond remains strong and has led to good progress in investigative and operational activities.

Lead Prosecutor Clint Williamson continued his engagement with Governments in the region and European Union Member States to ensure that the Task Force continues to receive the support and cooperation it needs to complete its investigation. On 10 September, Mr. Williamson was in Bosnia and Herzegovina to meet Minister of Justice Čolak. Discussion focused on how Bosnia and Herzegovina can support the work of the Task Force and Minister Čolak assured Mr. Williamson of his cooperation. In line with the Task Force’s strategy to seek information from institutional sources, Mr. Williamson held a meeting at OSCE on 11 September during which he discussed with senior OSCE officials ways in which they can support the Task Force’s investigation. On 12 and 13 September, Mr. Williamson was in Rome and held discussions with the Italian authorities on a wide range of issues related to the work of the Task Force. Italian authorities reiterated their full support to the Task Force. Mr. Williamson was also in Slovakia on 30 September, where he met with Deputy Prime Minister and Minister for Foreign and European Affairs Lajčák. Mr. Williamson thanked Minister Lajčák for Slovakia’s strong support to the Task Force, while Minister Lajčák reiterated his willingness to assist the Task Force in any way he can.

### **Property rights**

In the area of civil justice, EULEX commissioners of the Kosovo Property Claims Commission continued their work. In the session held during the reporting period, 1,085 cases, mainly inter-ethnic property claims, were adjudicated. The total number of adjudicated claims stands at 39,061, with 3,486 still to be resolved.

From 16 July to 15 October, the Kosovo Property Agency Appeals Panel received 90 new appeals and adjudicated 17 appeals.



During the reporting period, the Special Chamber of the Supreme Court rendered 230 decisions in trial panel cases. The Special Chamber also closed 74 workers list cases and finalized 29 cases at the Appellate Panel level.<sup>2</sup>

### **Legislation and other legal issues**

On 17 September, the President of Kosovo decreed the Law on Amnesty, which was then published in the Official Gazette on 19 September. The law entered into force 15 days after its publication. It is considered imperative for the implementation of the 19 April Agreement.

With regards to the procedures on mutual legal assistance, both parties (Belgrade and Pristina) continue to send requests through EULEX. Since the entry into force of the procedures on 20 March, 1,107 requests were sent from Kosovo to Serbia (the high number is owing to the Special Chamber cases), while 4 requests have been received from Serbia and 1 request has been answered by Pristina.

### **Other key issues**

On 16 July, EULEX and the Ministry of Internal Affairs signed an intelligence-sharing agreement. The agreement is aimed at facilitating the sharing of information between the Kosovo police and the EULEX police with the purpose of preventing, detecting and reducing crime in Kosovo. It relates in particular to organized crime, trafficking of human beings, weapons and narcotics, financial crime, high-level corruption and civil unrest.

### **The north**

On 18 September, EULEX conducted a house search related to a drug trafficking case, during which a suspect was arrested and detained for 24 hours. Increased security measures for staff were applied in northern Kosovo, but EULEX continued providing monitoring, mentoring and advising to the Kosovo police in the north, which was uninterrupted throughout the whole reporting period, with the exception of a short break at the Zubin Potok police station owing to a protest prompted by Kosovo police actions in the area.

On 27 September, EULEX together with the Kosovo police announced a reward of up to €27,500 for information leading to the arrest of the perpetrator, or perpetrators, of the murder of EULEX staff member Audrius Šenavičius.

### **Dialogue implementation**

The implementation of the Belgrade-Pristina dialogue agreement on civil registry books has progressed well. In September, EULEX certified 896 civil registry books over four certification sessions. A total of 8,267 civil registry books

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<sup>2</sup> Figures are available until August 2013 only.

have been certified, and 7,808 handed over to the Kosovo authorities, which is roughly two thirds of the estimated total number of books in Serbia. EULEX has emphasized the need to develop a strategic approach to ensure that civil registry books are integrated into the civil status registration process and that potential discrepancies can be detected.

EULEX has conducted spot checks to verify that Ministry of Internal Affairs Special Police stations and courts in the north remain closed. EULEX has also deployed three additional police advisers to northern Mitrovica. The additional advisers will supplement the ongoing monitoring, mentoring and advising for the newly created Kosovo Police Regional Command Team in the north, and in particular the Acting Regional Police Director, Djurić. The decision to send additional personnel constitutes recognition of the special challenges that exist for policing in the north.

As usual, August was the peak season for traffic at the Kosovo crossing points. The system of the common crossing points with Serbia — and the regular meetings between Kosovo and Serbian officers, with the facilitation of EULEX — have led to a decrease in waiting times at the interim common crossing points of up to 10 hours compared with 2012. On the recommendation of EULEX and in line with the integrated border management action plan, both parties introduced eased controls and opened all available lanes at the crossing points. Furthermore, EULEX monitored the checks during the eased controls to ensure that minimum standards are being upheld. In some cases, EULEX provided advice to its counterparts on how to improve controls during peak times.

In the context of the agreement on integrated management of crossing points, meetings of the integrated border management agreement implementation group and customs working group took place in Brussels from 4 to 6 September and 23 to 25 September respectively. EULEX continues to provide monitoring, mentoring and advising to support the implementation of the agreement.

Approved by Bernd Borchardt  
Head of Mission

## Annex II

### Composition and strength of the police component of the United Nations Interim Administration Mission in Kosovo (as at 15 October 2013)

Country	Number
Croatia	1
Germany	1
Hungary	1
Italy	1
Pakistan	1
Russian Federation	1
Turkey	1
Ukraine	1
<b>Total</b>	<b>8</b>

### Composition and strength of the military liaison component of the United Nations Interim Administration Mission in Kosovo (as at 15 October 2013)

Country	Number
Czech Republic	1
Norway	1
Poland	1
Republic of Moldova	1
Romania	1
Turkey	1
Ukraine	2
<b>Total</b>	<b>8</b>

### The list of referees of RIA

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*International Experiences* (pp. 229–247). Belgrade: Institute of International Politics and Economics.

### **Conference papers:**

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United Nations. (2006, November 9). *Delivering as one*. Report of the Secretary-General's High-Level Panel on UN System-wide Coherence in the Areas of Development, Humanitarian Assistance and the Environment, New York.

EC. (2002). Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), *Official Journal of the European Communities* L201 37–47, 31 July (European Commission, Brussels).

Zakon o spoljnim poslovima, *Službeni glasnik RS*. Br. 116 (2007).

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Evropski pokret u Srbiji. (2011). *Nacrt spoljnopolitičke strategije Republike Srbije [Strategy on foreign policy of the Republic of Serbia, draft]*. Beograd. [Online] <http://www.emins.org/sr/aktivnosti/projekti/strategija-sp-pol/Strategija-C.pdf>. Accessed 25 June 2012.

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