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The OSCE Mission in Kosovo: A Performance Appraisal

Yesterday, Today, and Tomorrow: A Play in Three Acts

Introduction

The Organization for Security and Co-operation in Europe (OSCE) continues to act as both a neutral watchdog and a tireless agent of change in Kosovo. While the OSCE Mission in Kosovo (OMiK) was deployed after the 1999 conflict to build institutions and help ensure adherence to standards of human rights and good governance, the Organization has been engaged in the region since 1992 to promote dialogue and monitor violations of human rights and fundamental freedoms.

At the turn of the decade, however, it is time to ask what has been attained and what direction the OSCE in Kosovo is going in. With both the NATO Kosovo Force (KFOR) and the United Nations Interim Administration Mission in Kosovo (UNMIK) progressively winding down their operations, the OSCE Mission is approaching crunch-time: Its original commitments and key strategies need to be re-examined.

This article therefore begins by reviewing some of the milestones in the fields of human rights standards, democratic institutions, and professional policing that have been reached during the first twelve years of implementation of the Mission's mandate. We find that, although the OSCE has made a remarkable contribution to the establishment of democratic institutions and the organization of democratic elections, a substantial share of its work took place at grassroots level. In the second section, the reader will be introduced to those areas where challenges persist, and on which the Organization is expected to concentrate in the future, namely: community rights, media and civil society, and community safety.

In summary, we wish to ask what tangible changes have been achieved in the last decade and when the OSCE will proclaim "mission accomplished".

Executing an Arduous Plan: From Ideas to Reality

The OSCE Mission in Kosovo was established by OSCE Permanent Council Decision No. 305 of 1 July 1999.¹ Its mandate referred to UN Security Coun-

Note: The views expressed in this article are the authors' own and do not necessarily reflect those of the OSCE.

1 Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 305*, PC.DEC/305, 1 July 1999, at: <http://www.osce.org/pc/28795>. The OSCE's en-

Resolution 1244 (1999)² and entrusted the Mission with the primary responsibility for institution- and democracy-building and human rights as a distinct but constituent component of UNMIK.³ OMiK's mandate focused on human resources and capacity building, including the operation of a police school and the training of judicial personnel; democratization and governance; the organization and supervision of elections; and finally, in cooperation with other relevant organizations, the monitoring, protection, and promotion of human rights.

This set-up allowed for flexibility with regard to an ever-changing environment in Kosovo: Initially OMiK would take the lead in establishing key democratic institutions such as the Kosovo Judicial Institute (KJI), the Central Election Commission (CEC), the Ombudsperson Institution, and the Kosovo Police Service School (KPSS). As part of this first phase of mandate implementation, OMiK successfully took the lead in the organization of several election cycles, improved the Assembly of Kosovo's fulfilment of its legislative and oversight functions, and monitored the provision of local services, particularly to non-Albanian communities. In the second stage, which is still ongoing, the Mission has concentrated on ensuring the sustainability of these democratic processes via capacity building and a series of targeted interventions at central and local level.

The following sections present the activities currently being carried out by OMiK in its three programme areas: human and community rights, democratization, and security and public safety.

Fostering Equity Law: The Human Rights Dimension

Judge Afrim Shala is [...] a first-generation graduate from the Kosovo Judicial Institute, the KJI, established by the OSCE Mission. Since his appointment as a judge in Gjilan/Gnjilane in November 2010, he has had a lot of work to do. Courts in Kosovo are overloaded with a backlog of cases, up to 2000 per judge, and Afrim has already attended to more than 100.

A short film released in 2011 introduces the work of the OSCE Mission in Kosovo with these exact words.⁴ Tasked with fostering institutions to promote democracy and human rights in Kosovo, OMiK established the KJI in

agement in Kosovo has gone through several phases. OMiK is the fourth OSCE field presence to be deployed in Kosovo. Cf. Marcin Czapliński, The OSCE in the New International Environment in Kosovo, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2009*, Baden-Baden 2010, pp. 179-189, here: p. 180.

2 United Nations Security Council, *Resolution S/RES/1244 (1999)*, 10 June 1999.

3 The OSCE Mission is Pillar III of the four-pillar regime established under the UN Interim Administration.

4 Arben Llapashtica, *OSCE Mission in Kosovo through film*, at: <http://www.osce.org/kosovo/76495>.

1999 as the first independent, public, and professional judicial training institution within the Kosovo justice system. Seven years later, responsibility for the KJI was transferred to local institutions. In 2009 the KJI celebrated the graduation of 53 new judges and prosecutors, including Afrim Shala.

The Kosovo Law Centre (KLC, 2000), the Criminal Defence Resource Centre (CDRC, 2001), the Kosovo Chamber of Advocates (2000), the Ombudsperson Institution (2000), and the Kosovo Legal Aid Commission (2006) are all institutions that the OSCE has created, assisted in establishing, or actively supported throughout the twelve years of its mandate in Kosovo. Over the years, OMiK's role in the judiciary has ranged from institution building to capacity building of judicial staff, via training, monitoring, and reporting.

To maintain a vigilant presence, the OSCE has also developed a number of tools: OSCE advisors embedded in the KJI and the KLC, who regularly report on the implementation of their respective mandates; a longstanding engagement in monitoring of court cases (criminal, administrative, and commercial); subsequent issue-specific reporting by specialized units; and regular follow-up activities, including round-table events with relevant local and international stakeholders.

The OSCE has been committed since its conception to the protection and promotion of human and community rights as a founding principle with the ultimate aim of achieving "mutual respect and reconciliation among all ethnic groups in Kosovo".⁵ From human rights monitoring and reporting on the security and freedom of movement of vulnerable communities, to the return of displaced persons, the protection of religious and cultural heritage, and securing housing and property rights, the OSCE has spared no efforts in joining international key players in the shaping of relevant policies.

To achieve this, OMiK has built a network of regional centres throughout Kosovo, as well as over 30 field teams, which have helped the Mission to generate a high level of trust among all communities. The centres' specialized municipal teams advise on good governance principles and transparent decision-making processes, community participation, and increased accountability in municipalities. They maintain daily contact with local officials.

Community teams, on the other hand, check compliance with community-rights standards. As a result of their field outreach work, the enhancing of dialogue among ethnicities and between communities and municipalities has become a routine activity, or better still, a *modus operandi* of OMiK.

Making Democracy Happen

The OSCE faced a serious challenge: to create a democratic culture in Kosovo and lay the foundations of a viable society for all its residents. Its task

5 Permanent Council, *Decision No. 305*, cited above (Note 1), p. 2.

was therefore both massive and multi-faceted: to ensure the conduct of fair and free elections, to establish genuine political parties, to create an effective civil society, and to guarantee freedom of expression and of the media.

OMiK addressed these challenges at various levels. The Mission took the lead in organizing elections – it was the OSCE Head of Mission who originally chaired the CEC of Kosovo – while progressively building electoral-management capacity by providing guidance, training, and technical advice. The newly founded institutions, such as the Assembly of Kosovo, received foundational support from OMiK including material and technical assistance and the training of over 5,000 civil servants, which aimed to create an accountable and professional public sector. This vast capacity-building exercise was anchored by the establishment of the Kosovo Institute for Civil Administration (2000) and the Kosovo Institute of Public Administration (KIPA, 2003).

While its focus gradually shifted towards legislative oversight, the Mission supported the development of political parties and promoted the empowerment of various groups such as women and young people. In addition, civic initiatives were given space to develop to fulfil the potential of civil society in policy making, to contribute to multiethnic dialogue, and to achieve progress towards reconciliation.

The media sector, which had to be built from the ground up, was another area in which OMiK achieved notable milestones. Radio Television of Kosovo (RTK), the public broadcaster, KOSMA, a Kosovo-wide Serbian-language radio network, the Association of Journalists of Kosovo, and the Press Code for Kosovo can be listed among OMiK's major achievements as parts of its effort to guarantee freedom of expression.

The Institution of the Ombudsperson of Kosovo was established in November 2000 by UNMIK as the key guarantor of human rights. Its task is to receive complaints and independently assess alleged cases of human-rights violations. It has enjoyed the full support of the Mission from its inception, and has received assistance in the form of capacity building.

Security and Safety

Twenty-five kilometres north-west of Prishtinë/Priština, in the town of Vushtrri/Vučitrn, the Kosovo Centre for Public-Safety Education and Development (KCPSED) stands as one of the most prominent examples of the progress made by OMiK in its third programme area: security and public safety. A public centre equipped with up-to-date training facilities, technical equipment, and a modern management, it is a groundbreaking institution for the professional education of public-safety agencies. Each year, hundreds of participants receive professional training at KCPSED; the courses on offer range from general policing to specialized training on countering human trafficking, criminal investigation, and arrest and detention procedures.

The origins of the KCPSD as a modern police academy date back to the very beginning of OMiK's operation in 1999. Mandated to undertake "human resources capacity-building, including the training of a new Kosovo police service",⁶ the Mission was charged with the establishment and operation of a modern police-training centre that – in the aftermath of the conflict – was expected to contribute to the rapid deployment of new professional forces.

Shaping a post-conflict concept of police schooling in Kosovo meant combining an array of activities ranging from basic reconstruction and refurbishment of decayed buildings to the concrete designing and development of police-training programmes. Rising to this challenge, OMiK inaugurated the Kosovo Police Service School – the precursor of the KCPSD – on 6 September 1999. The school's initial offering consisted of a single basic police-training course, yet by 2005 it had reached its benchmark of 7,500 graduate police officers, and was serving up over 70 courses.

Following its handover to local institutions in 2006, OMiK continues to assist the KCPSD in tailoring advanced training courses with an emphasis on human rights, democratic policing, and police ethics, as well as supporting training needs analysis and the education of specialized units in tackling complex offenses such as cybercrime and narcotics trafficking.

As well as setting up the police school, OMiK became involved in developing other key components of the public-safety sector. It contributed to the development of a co-ordinated emergency-management system for Kosovo, engaged with fire and rescue services, and assisted specialized corps in combating organized crime and terrorism.

OMiK's contribution to the establishment of a post-conflict public-safety sector in Kosovo can be considered a success, and this seems to be reflected in the professional capacity of policing in Kosovo.

OMiK Quo Vadis? Building upon Achievements and Moving Ahead

This record of success is complicated by the need to ensure the sustainability of these democratic processes. The endeavours undertaken so far need to be translated into durable solutions. The scale of social exclusion across Kosovo society, the low number of voluntary returns, as well as recent reports on the deterioration of freedom of the media⁷ indicate that much remains to be done. OSCE field teams regularly report on property-related incidents, damage to return sites, and criminal assaults in ethnically mixed villages. Relations among local communities still experience setbacks.

6 Ibid., p. 1.

7 Cf. United Nations Security Council, *Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo*, S/2011/281, 3 May 2011, paras 37, 53, and 54.

What role will OMiK play in this? As noted above, over its twelve-year presence, much of OMiK's initial institution-building mandate has been fulfilled,⁸ and the ultimate goal of operations seems to be shifting from direct assistance to ensuring long-term sustainable processes. The best way for the OSCE Mission to accomplish its remaining tasks now is to address lasting human rights deficiencies, sharpen the oversight of institutional mechanisms, and strengthen interethnic safety mechanisms, at both central and local levels.

Despite the existence of modern judicial institutions, the performance of the judiciary continues to suffer from serious shortcomings in terms of compliance with international human rights standards in civil and criminal proceedings. As the European Commission reports, a "growing backlog of cases [...] and the] perception of widespread corruption" are hampering "public confidence in the capacity, professionalism and fairness of the judiciary, thereby limiting effective access to justice".⁹ Court monitoring should therefore remain among OMiK's priority areas.

As signalled by the OSCE on various occasions, the number of voluntary returns of displaced persons to Kosovo is still generally low. Returns continue to be undermined by a widespread lack of funds and political will,¹⁰ as well as by a series of challenges on the ground, such as "real or perceived lack of security, access to public services, housing [...] and socio-economic opportunities".¹¹ The protection and promotion of cultural heritage, education, and participation in public life of all communities have been enhanced to some extent, as in the case of the reconstruction of Serbian Orthodox religious sites, or the translation of official documents into the official languages. Nevertheless, the absence of a list of protected cultural sites, the limited interaction between Kosovo Serb and Kosovo Albanian school pupils, and the failing access of non-majority communities to public services are problems that remain to be overcome. Proactive monitoring for compliance with community rights standards remains a preferred means of addressing these shortcomings. Equitable access to services, freedom of movement, and the sustainable return and reintegration of displaced and repatriated persons should represent a key programmatic focus for the Mission.

With regard to housing, "property cases continue to be the bulk of the civil cases backlog before the courts, including approximately 21,000 compensation claims".¹² Several key issues still remain unsettled. The situation is aggravated by the lack of an effective compensation scheme for unlawful occupancy as well as obstacles to the registration of property titles. The main

8 As noted above, the Kosovo Judicial Institute, the Ombudsperson Institutions, and the Kosovo Police Service School are among the most prominent examples of institutions handed over to local ownership.

9 European Commission, *Kosovo 2010 Progress Report*, SEC(2010)1329, Brussels, 9 November 2010, p. 14.

10 Cf. Organization for Security and Co-operation in Europe, Mission in Kosovo, *Communities Rights Assessment Report, Second Edition*, December 2010, p. 20.

11 *Ibid.*, p. 18.

12 European Commission, *Kosovo 2010 Progress Report*, cited above (Note 9), p. 18.

activity in this regard is likely to remain monitoring and reporting to identify concerns and then advocating for appropriate interventions. In view of the poor progress that has been made in many of these areas, the Mission should continue to expand its efforts to promote the full protection of housing and property rights for all communities, in particular targeting displaced persons and vulnerable groups, as a prerequisite for a sustainable and stable society.

While the media landscape is now composed of a range of outlets providing varied information and programming, the OSCE Mission in Kosovo has repeatedly expressed its concern over various forms of pressure on journalists performing their duties. Particular attention was paid to “alleged attempts to unduly influence the editorial policy of media in general and of the public broadcaster in particular”.¹³ Additionally, the US-based watchdog Freedom House ranks Kosovo 104th of 196 in terms of press freedom, citing the use of threats and political pressure to prevent journalists from investigating high-risk subjects. Much work therefore remains to be done to ensure the sustainability and professionalism of media regulators as well as the equal representation of all communities by the public broadcaster. The OSCE has taken deliberate steps towards strengthening local safeguards and civil society, and is now helping these locally owned mechanisms in advancing the cause of freedom of speech and in developing local non-Albanian media.

Although the Mission has gradually phased down its civil society-development agenda, it should now refocus its efforts to engage civil society actors such as non-Albanian communities, women, young people, and marginalized social groups. Although several actors have started to participate in the process of allocating municipal resources, civil society still needs to enhance its role of governmental oversight and is not yet a fully fledged vehicle of change. To this end, the Mission is likely to continue to devote particular importance to the engagement of young people in decision-making and oversight mechanisms through coaching and capacity building in co-operation with other relevant international partners. Lastly, having started to refocus its parliamentary-support activities, the Mission should place more emphasis on increasing government accountability by improving legislative oversight and involving independent institutions such as the Independent Oversight Board for Civil Service of Kosovo (IOBCSK) and the Ombudsperson Institution.

In the area of security, the development of a fair, ethnically balanced, and reconciled public-safety sector remains uncompleted. There seems to be a need to boost the capacity of non-Albanian community police officers as a tool for interethnic reconciliation. This will require strong support at the grassroots level, as well as an increased number of police-public partnership initiatives.

13 Organization for Security and Co-operation in Europe, Mission in Kosovo, *Statement by OSCE Mission in Kosovo on World Press Freedom Day*, Prishtinë/Priština, 2 May 2001, at: <http://www.osce.org/kosovo/77283>.

To this end, the establishment of Municipal Community Safety Councils (MCSCs) and Local Public Safety Committees (LPSCs) in Kosovo since 2005 has aimed at increasing community involvement in joint police-municipality activities at local level. OMiK should therefore expand its outreach activities in the field of community safety by fostering the establishment and capacity building of new MCSCs and LPSCs in areas throughout Kosovo, regardless of their ethnic compositions. At the same time, it should continue to provide professional training, as its contribution to building local training capacities and its role in ensuring the quality of police education remain vital.

Conclusions

As the twelfth year of the OSCE's ongoing operations in Kosovo comes to a close, the OSCE Mission can look back on a number of successes. As illustrated above, OMiK has been effective in building core democratic and human rights-based institutions in Kosovo, as well as in successfully organizing several democratic election cycles. In a progressively changing environment, OMiK has adapted its focus as necessary to carry out its extensive mandate. Moreover, because of its substantial experience, the Mission has become a highly trusted international actor among all the local communities, who recognize the OSCE as a neutral, impartial, and reliable partner.

Nevertheless, the handover to local institutions has left considerable gaps. Challenges remain with reference to equitable access to services, participation, and ethnic representation in community policing. To fill these gaps, the OSCE should concentrate on monitoring and advocating non-majority rights, property rights, and community safety. The media sector, whose performance remains inadequate, should be further assisted to meet international standards.

But when will the job finally be done? And how can we make sure that it has been properly completed? As argued in this contribution, OMiK should now promote a long-term and sustainable multi-ethnic society, the further development of a viable and accountable democracy, as well as the full realization of human rights, community rights, and the rule of law. Based on its mandate, OMiK will continue to strive for the full respect of community rights and democratic principles, and for reconciliation and tolerance, to the benefit of all ethnic groups.

The OSCE's knowledge and experience can certainly play a role in achieving the desired results. The Organization's longstanding expertise may be transferred to local interlocutors and supporting partners in areas such as advocacy and strategic planning. Research and experience – including in project implementation – can be used to advocate within institutions in Kosovo for better policies, practices, and implementation.

This set of defined goals, coupled with the adoption of a clear implementation timeline, will help to ensure progress in the long term. Failure to meet international standards would not be only bad news for the development of Kosovo, but a failure of international engagement as a whole.