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## **25<sup>th</sup> CONFERENCE OF EUROPEAN MINISTERS OF JUSTICE**

*Sofia (9-10 October 2003)*

- **INTERNATIONAL CO-OPERATION IN THE FIGHT AGAINST INTERNATIONAL TERRORISM AND IMPLEMENTATION OF THE RELEVANT INSTRUMENTS OF THE COUNCIL OF EUROPE**
  
- **THE RESPONSE OF THE JUSTICE SYSTEM  
- CIVIL AND CRIMINAL - TO TERRORISM**

*Report presented by*

**UNMIK (in Kosovo)**



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*Report presented by the Deputy Special  
Representative for the Secretary-General for  
Pillar I (Police and Justice)*

**UNMIK (in Kosovo)**



## **Kosovo and UNMIK – The Fight against Terrorism**

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**Head of Pillar I (Police and Justice) in UNMIK**

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In a post-conflict environment such as Kosovo, one of the great challenges is for internationals and locals to work together towards establishing the rule of law and to set common goals in the process. In Kosovo, where the rule of law is still very vulnerable to extremist activities, the combating terrorism is one such goal. With police and justice as reserved functions of the Special Representative of the Secretary-General, and UNMIK as the highest authority, internationals are leading the fight against terrorism. With a limited mandate, and the final status of Kosovo as yet undetermined, however, UNMIK recognizes that the participation of Kosovans is crucial to the success of any initiatives and that an effective strategy requires creative thinking, particularly during this transitional period.

Since the start of its mandate in June 1999, UNMIK has condemned extremist activities and built up its capacity to address such threats. UNMIK Regulations provide the laws for combating terrorism, which were not previously present Kosovo. Terrorism is a defined offence attracting sentences of up to 40 years imprisonment<sup>1</sup>. And the legal arsenal now includes provisions for the protection of witnesses<sup>2</sup>, incentives for witnesses to cooperate<sup>3</sup>, and alternative means to gather evidence to prosecute accused<sup>4</sup> through covert surveillance techniques. These provisions are enshrined in Kosovo's Provisional Criminal Code and Code of Criminal Procedure, which will enter into force in April 2004.

With the legal tools in place, the challenge of effective implementation looms large. As UNMIK continues to develop operational capacity within its institutions and organizations, it must also build capacity through the training and involvement of Kosovans. There are currently 13 international prosecutors and 17 international judges integrated into the Kosovo justice system<sup>5</sup> who lend their expertise and neutrality. They take up those cases of serious crime, including terrorism cases, which would be difficult for the local judicial and prosecution service to handle impartially due to societal pressures. The Criminal Division in the Department of Justice focuses the efforts of international prosecutors in this area and its Sensitive Information and Operations Unit deals directly with UNMIK Police and KFOR in the development of sensitive prosecutions.

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<sup>1</sup> UNMIK Regulation No. 2001/12 On the Prohibition of Terrorism and Related Offences

<sup>2</sup> UNMIK Regulation No. 2001/20 On the Protection of Injured Parties and Witnesses in Criminal Proceedings

<sup>3</sup> UNMIK Regulation No. 2002/21 On Co-Operative Witnesses

<sup>4</sup> UNMIK Regulation No. 2002/6 On Covert and Technical Measures of Surveillance and Investigation

<sup>5</sup> There are currently 308 local Judges (out of a budgeted number of 361) and 47 local prosecutors (out of a budgeted number of 58) making a total of 355 in the Kosovo judiciary. They deal with over 95% of the criminal cases and 100% of the civil cases.

Two fundamental features are at the foundation for the roles of the international judge and prosecutor (IJP) in Kosovo<sup>6</sup>. International judges function as judges of the regular courts of Kosovo, and they apply the same procedural and substantive laws as their local colleagues. However, unlike their local counterparts who receive assignment of cases from court presidents, the selection of cases for IJPs is under international control. IJPs can themselves select cases which they think an IJP should participate in; and the SRSG can transfer any case to the jurisdiction of a special majority international panel (pursuant to UNMIK Regulation 2000/64) or majority local panel with an international component (pursuant to UNMIK Regulation 2000/6).

Through mixed panels, IJPs are able to work with their local colleagues and to informally mentor them as part of UNMIK's commitment to build capacity and the ability to deal effectively and impartially with cases of terrorism. The judiciary is bound by strict Codes of Ethics which incorporate international standards and reinforce the principles of independence and impartiality. In addition, the Judicial Inspection Unit of the Department of Justice has a mandate, inter alia, to investigate complaints against local judges and prosecutors, and to provide cases on to the independent Kosovo and Judicial Prosecutorial Council for further investigation and sanction, and thereby provides UNMI with the ability to monitor and intervene in instances where pressures on the local justice system prove to be corrupting.

During the period between March to June 2003, panels composed of a majority of international judges heard the first two prosecutions of terrorism charges pursuant to UNMIK Regulation No. 2001/12. As a result, this past Spring, one accused was convicted of a charge of terrorism related to involvement with the Armata Kombetare Shqiptare (AKSH)/ Albanian National Army (ANA)<sup>7</sup>, and a co-accused was convicted of possession of weapons. At present, there are 13 cases of terrorism being handled by international prosecutors.

In UNMIK Police, there are specialized police units, primarily staffed by internationals which, inter alia, target extremist/terrorist activities: the Counter Terrorism Task Force (CTTF), the Criminal Intelligence Unit and the Central Criminal Investigation Unit. With 3727 international police from 47 different countries, and 5569 local Kosovo Police Service (KPS) Officers, effective coordination of the efforts and abilities of different international police officers, and the development of the skills and capacity of the local KPS, who will take on increasing responsibilities, are the dual focus. During the last few months, KPS officers have been integrated into the CTTF. Their knowledge of the culture and society will be crucial to the success of these kinds of policing initiatives. Over the last three months, the CCTF has handled 16 cases and made four arrests as well as conducted reconnaissance, fact-finding and support operations.

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<sup>6</sup> See UNMIK Regulations No. 2000/6 and 2000/64

<sup>7</sup> On 17 April 2003, following the bombing of a railway bridge in the north part of Kosovo, in Administrative Direction No. 2003/9, the SRSG declared that Armata Kombetare Shqiptare (AKSH)/ Albanian National Army (ANA) was a terrorist organization as defined by section 1(f) of UNMIK Regulation No. 2001/12

Within Kosovo, not only is it necessary to have the insight and participation of local police officers, and to nurture the will, competence and impartiality of local judges and prosecutors in order to effectively prosecute cases, but there is a great need to secure the cooperation of witnesses. In this small, close-knit society, it is extremely difficult to protect witnesses who testify against terrorists, and UNMIK is working hard to develop its capacity for witness protection and relocation. Cases cannot proceed to court without witnesses and their evidence; and witnesses will not testify without some guarantee of safety. The Witness Protection Unit in UNMIK Police administers a programme which has the capacity to shelter and relocate a limited number of witnesses and their families per year. Agreements for the relocation of witnesses and their families have thus far been concluded on a case by case basis, however, the Department of Justice has been engaged in a series of bilateral talks with different countries in order to augment the witness protection programme and to facilitate a more sustainable approach.

Recognizing that terrorist networks are often transnational in nature, UNMIK also emphasizes cooperation regionally and internationally. The ability to gather and share information is essential. UNMIK has three police cooperation agreements with Serbia/FRY (signed 31 May 2002), Albania (signed 9 September 2002) and the Former Yugoslav Republic of Macedonia (signed 27 November 2002). Under these agreements, UNMIK has benefited from a good exchange of police intelligence and information with Serbia and Macedonia in particular, setting up sub-committees which focus cooperation on terrorism. At the Pristina airport, a computerized database is in place to track the movements of travelers in and out of Kosovo and to match them against a known database of suspected criminals and terrorists, and this capacity will be expanded to all land borders.

UNMIK is making practical progress towards its fight against terrorism on all fronts. There is no doubt, however, that there is a long way to go and many challenges to come. But Kosovo is rapidly becoming a more secure and safe society, and moving closer to the rule of law.





