

B. Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)

Overview

During the period under review, the Security Council held 11 meetings, including one closed meeting, in connection with the item entitled “Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)”. At the meetings, the Council discussed the developments relating to resolution 1244 (1999), including an outbreak of ethnic violence in the northern region of Mitrovica and the ruling of the International Court of Justice on the legality of Kosovo’s unilateral declaration of independence in 2008. Discussions also focused on the work of the United Nations Interim Administration Mission in Kosovo (UNMIK), as well as on other topics, including the role of the European Union Rule of Law Mission in Kosovo (EULEX) and the Kosovo Force (KFOR).⁴⁸⁶

22 January and 17 May 2010: briefings by the Special Representative of the Secretary-General

On 22 January and 17 May 2010, the Council was briefed by the Special Representative of the Secretary-General and Head of UNMIK. In his briefings, the Special Representative outlined developments in the region and noted that the overall situation in Kosovo was currently stable. At the same time he drew attention to the potential for volatility and instability, especially in northern Kosovo. He stated that among other activities, UNMIK continued to offer its good offices for the resolution of practical inter-ethnic issues and was engaged with all interested parties on issues relating to cultural and religious heritage. He noted that while there had been some encouraging movement in the cultural and religious heritage sphere, progress in other areas was still heavily conditioned by the pre-positioning of the sides in relation to the upcoming advisory opinion of the International Court of Justice on the legality of Kosovo’s unilateral declaration of independence. The problem of missing persons remained a major challenge to the process of reconciliation between the communities. The issue of returns to the villages continued to be a source of

tension in other parts of Kosovo owing to the humanitarian and economic challenges, as well as security and property issues. He regretted that efforts made by EULEX to re-establish a fully functioning multi-ethnic court in the northern part of Mitrovica had produced mixed results and the establishment of full-fledged customs facilities had proved difficult. He highlighted the progress made with regard to the integrated mission planning process mandated by the Secretary-General, and stated that UNMIK and the United Nations Kosovo team were in the process of developing a United Nations strategic framework with the objective of ensuring lasting security and stability in Kosovo.⁴⁸⁷

The President of Serbia and the Minister for Foreign Affairs of Serbia, at the 6264th and 6314th meetings, respectively, reiterated their consistent rejection of Kosovo’s unilateral declaration of independence, and stated that the principled position of Serbia’s democracy remained set in stone. They commended the role of UNMIK and EULEX in setting the stage for responsible stakeholders to work together on improving the lives of ordinary people irrespective of their ethnicity. They, however, pointed out that Kosovo’s ethnic Albanians had failed to embrace pragmatic status-neutral engagement, notably in the rule of law area.⁴⁸⁸

In contrast, Mr. Skender Hyseni maintained that the independence of Kosovo was irreversible and expressed the view that it had contributed to sustainable regional peace and security. He highlighted the positive developments and stressed that the continued destabilizing interference of Serbia in Kosovo was unacceptable.⁴⁸⁹

Several Council members expressed their appreciation for the cooperation between UNMIK and EULEX, and commended their continued efforts in the promotion of security and stability in Kosovo and the region. Many representatives commended the Kosovo electoral authorities for the successful organization of municipal and mayoral elections. In his report, the Secretary-General highlighted the importance of protecting cultural heritage,⁴⁹⁰ and delegates similarly expressed their concern regarding the protection of

⁴⁸⁶ For more information on the mandate of UNMIK, see part X, sect. I, “Peacekeeping operations”.

⁴⁸⁷ S/PV.6264, pp. 2-4 and S/PV.6314, pp. 2-5.

⁴⁸⁸ S/PV.6264, pp. 5-9 and S/PV.6314, pp. 5-9.

⁴⁸⁹ S/PV.6264, pp. 9-12 and S/PV.6314, pp. 9-11.

⁴⁹⁰ See S/2010/5.

religious and cultural heritage. They also called on both parties to cooperate with each other and UNMIK. Most speakers expressed concern about facilitation of the return of all refugees and displaced persons. In particular, the representative of the Russian Federation reiterated its willingness to pursue political efforts to address the issue of Kosovo in accordance with resolution 1244 (1999).⁴⁹¹ The representative of Gabon stated that it valued respect for international rules in any process leading to self-determination and therefore rejected any unilateral declaration of independence.⁴⁹²

6 July 2010: explosion in Mitrovica, northern Kosovo

On 6 July 2012, an urgent meeting of the Council was held at the request of the representative of Serbia to discuss an explosion that occurred in northern Kosovo. The explosion resulted in the loss of one life and threatened to provoke further violence. The President of Serbia described the incident, which happened on 2 July 2010, and urged the international community to ensure that nothing like what happened would ever be repeated. He expressed the view that implementation of the six-point plan of the Secretary-General was the only way to establish stability in Kosovo.⁴⁹³

At the meeting, the Special Representative affirmed that the United Nations would remain engaged with all sides, and reiterated the Secretary-General's call for the parties to commit to dialogue on the matter of northern Kosovo.⁴⁹⁴

The Head of EULEX condemned the act of violence. He emphasized that there was no risk of a general deterioration in the security situation and added that EULEX had acted in strict compliance with its mandate at all times.⁴⁹⁵

Mr. Hyseni stated that his Government was doing everything it could to investigate the incident and bring the perpetrators to justice.⁴⁹⁶

Members of the Council condemned the incident and called on all sides to refrain from provocative statements and actions. They also called for an

investigation into the matter, with a view to bringing the perpetrators to justice. Council members further urged all parties to seek a peaceful resolution of the issue through constructive dialogue. Many members reaffirmed their support for the role played by UNMIK in that regard.

3 August and 12 November 2010: advisory opinion of the International Court of Justice on Kosovo's unilateral declaration of independence

On 3 August 2010, following the advisory opinion of the International Court of Justice on 22 July 2010 regarding Kosovo's unilateral declaration of independence, the Council held a debate. The Special Representative of the Secretary-General briefed the Council, stating that the situation in Kosovo had been relatively stable. He noted that insufficient progress towards reconciliation between the communities and the unresolved issues that hampered such reconciliation, coupled with slow economic development, continued to present the risk of social unrest. Touching upon the advisory opinion of the Court, the Special Representative stressed that the preliminary legal assessment by the United Nations was that the opinion did not affect the status of UNMIK or a status-neutral policy. He added that the judgment confirmed the applicability of resolution 1244 (1999).⁴⁹⁷

The Minister for Foreign Affairs of Serbia commented that the technical approach of the Court in narrowly examining the language of the unilateral declaration of independence enabled a conclusion that the declaration itself did not violate international law. That approach had unfortunately left room for misinterpretation and could produce deeply problematic consequences for the international community, including becoming a decisive step in legitimizing unilateralism on the global stage.⁴⁹⁸

Welcoming the advisory opinion of the International Court of Justice, Mr. Hyseni expressed the view that resolution 1244 (1999) should be replaced with a new resolution reflecting the realities created by the independence of Kosovo and the ruling of the Court. In his opinion, the replacement of the

⁴⁹¹ S/PV.6264, p. 22; and S/PV.6314, p. 21.

⁴⁹² S/PV.6264, p. 15.

⁴⁹³ S/PV.6353, pp. 2-5.

⁴⁹⁴ Ibid., pp. 5-6.

⁴⁹⁵ Ibid., p. 7.

⁴⁹⁶ Ibid., pp. 7-9.

⁴⁹⁷ S/PV.6367, pp. 2-5.

⁴⁹⁸ Ibid., pp. 5-8.

resolution was in line with their ultimate objective of becoming a Member of the United Nations.⁴⁹⁹

Most members took note of the advisory opinion of the International Court of Justice rendered on 22 July 2010 and stressed the importance of a peaceful settlement of the issue. Some members, however, pointed out the limitations of the advisory opinion and maintained that resolution 1244 (1999) was the legal framework for resolving the situation in Kosovo.⁵⁰⁰

On 12 November 2010, the Special Representative of the Secretary-General for Kosovo briefed the Council on the implementation of resolution 1244 (1999). He stated that since the publication of the report of the Secretary-General,⁵⁰¹ the Assembly of Kosovo had supported a no-confidence motion against the Government, and the Acting President had issued a decree for early elections to be held on 12 December 2010. He also noted that since the issuance of the advisory opinion of the International Court of Justice, there had been growing unease on the part of the Kosovo authorities in cooperating with UNMIK on the facilitation of regional cooperation and the administration of northern Mitrovica.⁵⁰²

The Minister for Foreign Affairs of the Republic of Serbia and Mrs. Vlora Çitaku reiterated their principled positions, but at the same time signalled their readiness to engage in a dialogue facilitated by the European Union.⁵⁰³

Council members welcomed the continued role of UNMIK and reiterated the importance of its cooperation with EULEX. Many representatives welcomed the unanimous adoption by the General Assembly of resolution 64/298 on 9 September 2010, which pointed to a new era of pragmatic, neighbourly relations between Serbia and Kosovo.

⁴⁹⁹ Ibid., pp. 8-10.

⁵⁰⁰ Ibid., p. 21 (Gabon); p. 22 (Mexico); and p. 23 (Russian Federation).

⁵⁰¹ S/2010/562.

⁵⁰² S/PV.6422, pp. 2-4.

⁵⁰³ Ibid., pp. 4-6 (Republic of Serbia); and pp. 6-8 (Mrs. Vlora Çitaku).

16 February and 12 May 2011: Kosovo Assembly elections and allegations of illegal human organ trafficking

On 16 February 2011 the Special Representative briefed the Council on the report of the Secretary-General.⁵⁰⁴ He drew the attention of the Council to the first Assembly elections organized by the Kosovo authorities not held within the framework of resolution 1244 (1999) and in which UNMIK had played no role. There were reports of widespread irregularities and manipulation of votes, problems which were later addressed by the Kosovo Supreme Court. In reference to a report by Dick Marty, the Special Rapporteur of the Council of Europe's Parliamentary Assembly, concerning allegations of organized criminal activities, including illegal human organ trafficking involving members of the Kosovo Liberation Army, the Special Representative stated that UNMIK would give its full support to the investigating authority. He noted that unresolved political issues continued to challenge Kosovo's long-term stability.⁵⁰⁵

The Minister for Foreign Affairs of Serbia called for a full and independent criminal investigation of the reported allegations, stating that the investigating mechanism should be created by, and accountable to, the Security Council.⁵⁰⁶

Mrs. Vlora Çitaku informed the Council that that the Government of Kosovo had firmly rejected the allegations in Mr. Marty's report, but in the light of their severity, it would insist on a prompt launch of a thorough investigation by EULEX prosecutors on the ground.⁵⁰⁷

Many Council members commented on the irregularities that occurred during the Kosovo elections, as well as the increased participation of the Kosovo Serbian population. At the same time, they expressed concern regarding the allegations of human organ trafficking. They welcomed the decision of EULEX to open preliminary investigations into the allegations and the public commitment by Albania and the Kosovo authorities to cooperate fully with the investigation. The representative of the Russian Federation, reaffirming its position on the status of

⁵⁰⁴ S/2011/43.

⁵⁰⁵ S/PV.6483, pp. 2-4.

⁵⁰⁶ Ibid., p. 7.

⁵⁰⁷ Ibid., p. 9.

Kosovo, disputed the legitimacy of the Kosovo Assembly elections.⁵⁰⁸

On 12 May 2011, the Council held a debate during which the Special Representative presented the report of the Secretary-General on UNMIK.⁵⁰⁹ In his briefing the Special Representative stated that with the election by the Kosovo Assembly of Atifete Jahjaga as President, Kosovo appeared to be heading towards a period of increased political stability. He informed the Council that there had been three face-to-face meetings between the Serbian and the Kosovo representatives. He noted that the lack of economic prospects was one of the main obstacles to the returns process. He also supported a call by the Parliamentary Assembly of the Council of Europe for an independent investigation into the organ trafficking allegations.⁵¹⁰

Referring to the European Union-facilitated dialogue between Serbia and Kosovo, the Minister for Foreign Affairs of Serbia expressed the belief that the United Nations should be present during the negotiating sessions. Regarding the alleged organ trafficking, he disputed the capability of EULEX to conduct the investigation and maintained that it should be done by a mechanism created by the Security Council.⁵¹¹

In contrast, Mr. Enver Hoxhaj of Kosovo expressed support for EULEX and stated that it had the capacity to make a difference in Kosovo, as well as to investigate allegations of war crimes that took place during the conflict.⁵¹² Council members welcomed the pragmatic approach taken by both Belgrade and Pristina during their first three meetings of the dialogue and hoped that this would pave the way for peace, security and stability in the region. The representatives of the United Kingdom, the United States and Portugal commended Kosovo on the election of a new President and formation of a new Government.⁵¹³

⁵⁰⁸ Ibid., p. 20.

⁵⁰⁹ S/2011/281.

⁵¹⁰ S/PV.6534, pp. 2-4.

⁵¹¹ Ibid., pp. 4-8.

⁵¹² Ibid., pp. 8-11.

⁵¹³ Ibid., p. 12 (United Kingdom); p. 15 (United States); and p. 20 (Portugal).

30 August 2011: situation in Kosovo following postponement of Pristina-Belgrade dialogue

On 30 August 2011, the Acting Special Representative and Head of UNMIK reported that in July violence had erupted at the boundary crossing points in northern Kosovo, after Pristina had effectively placed Serbian goods under embargo and attempted unilaterally to deploy a special police unit. He informed the Council that the situation had changed following the postponement of the Pristina-Belgrade dialogue owing to, inter alia, disagreements on the issue of Kosovo customs stamps. He added that progress through dialogue between Pristina and Belgrade, as opposed to unilateral action, was imperative to reducing chances for further destabilization. In addition, he reported that the members of the EULEX task force to investigate organ trafficking allegations had been recruited.⁵¹⁴

Reaffirming its position, the Minister for Foreign Affairs of Serbia condemned the incident and the actions of the Kosovo authorities, and emphasized that the status quo ante must be reinstated. He also stated that Serbia remained committed to the dialogue.⁵¹⁵

Mr. Hoxhaj brought attention to the economic hardship caused by the Serbian blockade against Kosovo's exports and, in explaining the rationale behind Kosovo's actions, stated that Kosovo was forced to take measures of reciprocity against Serbian goods. He also called on the Council to support both sides engaging in a dialogue.⁵¹⁶

Regarding the incident in July, many Council members expressed concern about the deteriorating situation in northern Kosovo, and called on all sides to exercise restraint and prevent any future occurrence. Some delegates welcomed the progress made by EULEX and noted the creation of the EULEX task force.⁵¹⁷ The representatives of Colombia and the Russian Federation expressed regret that the Council was unable to agree on a draft presidential statement proposed by the delegation of the Russian Federation concerning the situation in Kosovo.⁵¹⁸

⁵¹⁴ S/PV.6604, pp. 2-4.

⁵¹⁵ Ibid., pp. 4-9.

⁵¹⁶ Ibid., pp. 9-12.

⁵¹⁷ Ibid., p. 15 (Germany); p. 19 (Portugal); p. 23 (United States); and p. 25 (South Africa).

⁵¹⁸ Ibid., p. 13 (Colombia); and p. 18 (Russian Federation).

15 September 2011: urgent meeting in response to requests by the representatives of Serbia and the Russian Federation

On 15 September 2011, the Council convened an urgent meeting in response to requests made by the representatives of Serbia and the Russian Federation regarding the intention of the Kosovo authorities to unilaterally impose, on 16 September 2011, customs and border police control over the administrative boundary crossings (known as Gates 1 and 31) between North Kosovo and Serbia, with facilitation by KFOR and EULEX.⁵¹⁹

The Assistant Secretary-General for Peacekeeping Operations briefed the Council on the persisting tensions in Northern Kosovo, and highlighted initiatives of UNMIK and its international partners to contain the current situation and discourage unilateral action or the use of force and violence. He expressed concern that the implementation of the announced plan by the Kosovo authorities could threaten stability and cause another outbreak of violence. He therefore appealed to both sides to take responsibility for preventing the recurrence of violence in northern Kosovo.⁵²⁰

Following the briefing by the Assistant Secretary-General, Council members met in private to continue their discussion of the situation in Kosovo.⁵²¹

29 November 2011: formation of the EULEX Special Investigative Task Force

On 29 November 2011, the new Special Representative reported that incidents involving roadblocks mounted by northern Kosovo residents to keep boundary crossings into Serbia closed had resulted in violent confrontations with KFOR. He maintained that the precarious situation in the north of Kosovo warranted the attention and leadership of the Council. He stated that the resumption of the European Union-facilitated dialogue between Pristina and Belgrade should be welcomed by all. He updated the Council on the EULEX investigation, stating that the lead prosecutor of the Special Investigative Task Force had met with leaders from Kosovo, Albania and Serbia. He also pointed out Belgrade's position that an

independent body should be established by the Security Council to lead the investigation.⁵²²

The representative of Serbia welcomed the appointment of the lead prosecutor for the EULEX Special Investigative Task Force. He stated, however, that the mandate of EULEX was not adequate to carry out a comprehensive investigation and expressed the view that the EULEX investigation should be empowered by, and accountable to, the Council. He pointed out that Serbia's repeated warnings that unilateral forceful action would adversely affect stability had continued to be ignored by some key actors. Turning to the overall situation in Kosovo, he pointed out that in addition to the events taking place in the North, the South had also witnessed a number of violent incidents affecting the Serb population. He stated that the worsening situation in Kosovo needed more active engagement by the Council, calling on the Council to make sure that no more forceful unilateral acts took place.⁵²³

Mr. Hoxhaj noted the progress that had been made in relation to recognition of Kosovo, the consolidation of its statehood and the process of European integration. With regard to the situation in the north of Kosovo, he cautioned that it was a serious threat to regional peace and stability. He said that the Government of Serbia had done everything in its power to prevent the implementation of resolution 1244 (1999), as well as the Ahtisaari Plan, which aimed at ensuring the best mechanisms and rights for the Kosovo Serbs in the north.⁵²⁴

Council members welcomed the resumption of the European Union-facilitated dialogue and the progress made so far, while noting that other critical issues remained unresolved. Many delegations shared the concern expressed by the Secretary-General in his report⁵²⁵ over the deterioration of the security situation in the north of Kosovo and condemned the violence perpetrated against KFOR. A number of speakers welcomed the appointment of the lead prosecutor for the Special Investigative Task Force,⁵²⁶ while others expressed the view that such an investigation should proceed under the auspices of the United Nations and

⁵¹⁹ S/2011/574 and S/2011/575.

⁵²⁰ S/PV.6616, pp. 2-4.

⁵²¹ 6617th meeting.

⁵²² S/PV.6670, pp. 2-5.

⁵²³ Ibid., pp. 5-8.

⁵²⁴ Ibid., pp. 8-12.

⁵²⁵ See S/2011/675.

⁵²⁶ Ibid., p. 14 (United States); p. 15 (United Kingdom); p. 18 (France); and p. 20 (Germany).

report to the Security Council.⁵²⁷ The representatives of the Russian Federation and South Africa called for the implementation of a witness- and victim-protection system.⁵²⁸

⁵²⁷ Ibid., p. 12 (India); and p. 19 (Russian Federation).

⁵²⁸ Ibid., p. 19 (Russian Federation); and p. 22 (South Africa).

Meetings: Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)

<i>Meeting and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Rule 37 invitations</i>	<i>Rule 39 and other invitations</i>	<i>Speakers</i>
6264 22 January 2010	Report of the Secretary-General on UNMIK (S/2010/5)		Serbia (President)	Special Representative of the Secretary-General for Kosovo and Head of UNMIK, Mr. Skender Hyseni	All Council members and invitees
6314 17 May 2010	Report of the Secretary-General on UNMIK (S/2010/169)		Serbia (Minister for Foreign Affairs)	Special Representative of the Secretary-General, Mr. Skender Hyseni	All Council members and invitees
6353 6 July 2010	Letter dated 2 July 2010 from the Permanent Representative of Serbia to the United Nations addressed to the President of the Security Council (S/2010/355)		Serbia (President)	Special Representative of the Secretary-General, Head of EULEX, Mr. Skender Hyseni	All Council members and invitees
6367 3 August 2010	Report of the Secretary-General on UNMIK (S/2010/401)		Serbia (Minister for Foreign Affairs)	Special Representative of the Secretary-General, Mr. Skender Hyseni	All Council members and invitees
6422 12 November 2010	Report of the Secretary-General on UNMIK (S/2010/562)		Serbia (Minister for Foreign Affairs)	Special Representative of the Secretary-General, Mrs. Vlora Çitaku	All Council members and invitees
6483 16 February 2011	Report of the Secretary-General on UNMIK (S/2011/43)		Serbia (Minister for Foreign Affairs)	Special Representative of the Secretary-General, Mrs. Vlora Çitaku	All Council members and invitees
6534 12 May 2011	Report of the Secretary-General on UNMIK (S/2011/281)		Serbia (Minister for Foreign Affairs)	Special Representative of the Secretary-General, Mr. Enver Hoxhaj	14 Council members, ^a invitees
6604 30 August 2011	Report of the Secretary-General on UNMIK (S/2011/514)		Serbia (Minister for Foreign Affairs)	Acting Special Representative of the Secretary-General, Mr. Enver Hoxhaj	All Council members and all invitees
6616 15 September 2011	Letter dated 13 September 2011 from the Permanent Representative of Serbia to the United Nations addressed to the President of the Security Council (S/2011/574)		Serbia (Minister for Foreign Affairs)	Assistant Secretary-General for Peacekeeping Operations, Mr. Enver Hoxhaj	Assistant Secretary-General for Peacekeeping Operations

<i>Meeting and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Rule 37 invitations</i>	<i>Rule 39 and other invitations</i>	<i>Speakers</i>
	Letter dated 14 September 2011 from the Permanent Representative of the Russian Federation to the United Nations addressed to the President of the Security Council (S/2011/575)				
6617 (closed) 15 September 2011			26 Member States ^b	Assistant Secretary- General for Peacekeeping Operations, Mr. Enver Hoxhaj	
6670 29 November 2011	Report of the Secretary- General on UNMIK (S/2011/675)		Serbia (Minister for Foreign Affairs)	Special Representative of the Secretary-General, Mr. Enver Hoxhaj	All Council members and all invitees

^a The representative of Bosnia and Herzegovina did not make a statement.

^b Albania, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, Greece, Hungary, Ireland, Italy, Montenegro, Poland, Romania, Serbia (Minister for Foreign Affairs), Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia and Netherlands.

Middle East

26. The situation in the Middle East, including the Palestinian question

Overview

During the period under review, the Security Council held 27 meetings in connection with the item entitled “The situation in the Middle East, including the Palestinian question” and adopted one presidential statement. Briefings in 2010 focused mainly on the deteriorating humanitarian situation in Gaza. Following the Gaza flotilla incident on 31 May 2010, many Member States renewed their calls for an end to Israeli settlement activity in the occupied Palestinian territories. In 2011, discussions focused mainly on the resumption and suspension of direct negotiations between Israel and Palestine, the Palestinian bid for membership of the United Nations, and the overall political situation in the Middle East. Developments in Lebanon, the Syrian Arab Republic and the West Bank were also discussed during the period.

In 2011, the Council considered a draft resolution which, inter alia, condemned the continuation of

settlement activities by Israel in the occupied Palestinian territories.⁵²⁹ The draft resolution was not adopted owing to the negative vote of a permanent member of the Council.

27 January to 18 May 2010: Israel-Palestine peace process and situation in the occupied Palestinian territories

On 27 January 2010, the Assistant Secretary-General for Political Affairs reported that despite the impasse in negotiations between Israel and Palestine, the Palestinian Authority continued its efforts to advance its State-building agenda and had continued to make progress in the areas of law and order and combating terrorism, in accordance with the road map. He reported that the partial temporary restraint of settlements in the West Bank continued, but there had been announcements of construction in East Jerusalem.

⁵²⁹ S/2011/24.