



# Human Security, Organized Crime and Terrorism Challenges in Kosovo's Perspective

*Selvete Gërxhaliu<sup>1</sup>*

*Human security challenges in the Western Balkans have taken place against the background of a difficult international security environment. The Western Balkan region has gone through difficult local ethnic-driven wars. At the same time, the region was a fertile ground for the growth of organised crime. A functioning juridical system and economic development should provide the backbones for combating criminal activities. The EU expansion will provide opportunities for development and reforms. At the same time, the internal driving forces have to be empowered. Although the use of force, including military means, will always be necessary to deal with crime in general and terrorism in particular<sup>2</sup>, as long as people have a motivation and the root causes of organised crime are not properly addressed in all countries, it is hard to see a solution for these problems.*

## **I. Kosovo's Position and Governance**

---

<sup>1</sup> Selvete Gërxhaliu is PhD candidate in international criminal law and legal advisor in the Office of the Prime Minister (Kosovo), seconded by UN agencies. Previously, she was employed at the Organization for Security and Co-operation in Europe (OSCE) - Mission in Kosovo - as Human Rights Advisor on Counter-Trafficking in Human Beings (2002-2005) and Election Commissioner for the first Parliamentary Elections (2001). This paper was presented at the *First Annual Conference on Human Security, Terrorism and Organized Crime in the Western Balkan Region*, organized by the HUMSEC project in Ljubljana, 23-25 November 2006.

<sup>2</sup> Benedek, Wolfgang, *Human Security and Prevention of Terrorism*, Colloquium on Anti-terrorist Measures and Human Rights, Vienna, 30-31 October 2002, European Training and Research Centre for Human Rights and Democracy, Occasional Paper Series, Issue n.º 2, p. 1. available online at: <http://www.etc-graz.at/typo3/index.php?id=74>.

<sup>6</sup> UN Security Council, *resolution 1244 (1999)*, S/RES/1244 (1999). Available online at: <http://documents.un.org/simple.asp>. All websites used in this paper were last checked in January 2007.



Since 1999, Kosovo is administered under Chapter VII of the United Nations Charter, according to Security Council's Resolution 1244, adopted at its 4011<sup>th</sup> meeting, on 10 June 1999<sup>6</sup>. In this sense, the responsibilities of governance are spilt between international and local institutions<sup>7</sup>. In reality, Kosovo experiences a duality in governance, with shared obligations which inhibits a clear division of responsibilities and creates confusion over lines of accountability. The United Nations Interim Administration Mission in Kosovo (UNMIK) argues that the status issue is more symbolic than substantive and that it does not affect the day by day governance of Kosovo<sup>8</sup>.

The North Atlantic Treaty Organization (NATO) presence in Kosovo had as a consequence that people are convinced that security is equal to men in uniforms. But the perception is now changing and a more complex concept of security is evolving. In societies such as Kosovo, which faces severe economic problems, job insecurity is one of the most important issues that average people face in their life.

The United Nations Development Programme (UNDP) Kosovo's Human Development Report of 2004 defines the security sector as "*basket of institutions including, but not limited to: those authorized and organized by the state to use coercive force, including the police services, defense forces, civil emergency organizations, intelligence services, paramilitary forces, border control, corrections, and the judiciary. The sector also encompasses civilian institutions charged with management and oversight – the executive (including Presidential/Prime Ministerial offices, National Security coordination bodies, and Ministries such as Defence and Justice), the legislature (Parliament, Assemblies and their relevant Defence, Justice Committees), and financial control mechanisms managed, for example, by the Finance Ministry and Parliamentary Finance Committee.*"<sup>9</sup>.

The discrepancy between demographic trends and economic development in Kosovo constitutes a structural threat to long term security. Every year, circa 20.000 young people are ready to enter the labour market, while the unemployment rate is up to 42,2 %. A large disillusioned and not properly educated population of youth can therefore easily turn into criminality or part of social upheaval movement's<sup>10</sup>. Kosovo's health care capacities are far below the European Union (EU) average: in 2006 the Ministry of Health allocated 38 euros per person.<sup>11</sup> The right to adequate health care is therefore a fundamental issue for many people in Kosovo. The high level of unem-

---

<sup>7</sup> Kosovar Institute for Policy Research and Development (KIPRED), *Kosovo's Internal Security Sector Review, Stages I & II (Strategic Environment Review & Security Threats Analysis), Initial Findings*, Pristina, March 2006, at. p. 15. Available online at:

<http://kipred.net/UserFiles/File/KIPRED%20Initial%20Findings%20Final.pdf>

<sup>8</sup> International Crisis Group (ICG), *Kosovo's Ethnic Dilemma: The Need for a Civic Contract*, Balkans Report n. 143, Pristina, May 28 2003, at. p. 2. Available online at:

<http://www.crisisgroup.org/home/index.cfm?id=1625&l=1>.

<sup>9</sup> UNDP, *Human Development Report Kosovo 2004 - The Rise of the Citizen: Challenges and Choices*, New York, Hoechstetter Printing Co, 2004, p. 71. Available online at:

[http://hdr.undp.org/docs/reports/national/KOS\\_Kosovo/Kosovo\\_2004\\_en.pdf](http://hdr.undp.org/docs/reports/national/KOS_Kosovo/Kosovo_2004_en.pdf).

<sup>10</sup> Kosovar Institute for Policy Research and Development (KIPRED), *Kosovo's Internal Security Sector Review, Stages I & II (Strategic Environment Review & Security Threats Analysis), Initial Findings*, at. p. 5.

<sup>11</sup> Ministry of Health's interview to the Kosovo Radio Television, broadcasted on 20 August 2006.

<sup>13</sup> Kosovar Institute for Policy Research and Development (KIPRED), *Kosovo's Internal Security Sector Review, Stages I & II (Strategic Environment Review & Security Threats Analysis), Initial Findings*, at. p.8.



ployment, the constant increase in population and poverty are becoming structural security related problems.<sup>13</sup>

Compared to December 2005, in June 2006 economic and political pessimism increased: 58% of the Kosovo's population is prone to protest because of the economic situation, whereas 40% would protest because of the political situation. Political and economic insecurities are also the major reasons behind Kosovo's emigration.<sup>14</sup>

UNMIK, the Provisional Institution of Self-Government (PISG) and the international community believe that securing peace, re-establishing the rule of law and building an efficient, accountable security sector are the essential preconditions for Kosovo's development. These tasks are however challenging. Security is the product of a complex interplay between national, international, social and economic factors.<sup>16</sup> In Kosovo today, it becomes every day more difficult to separate political, social and economic/development issues. The fear is that every gain in health, education, reconstruction or human rights could be lost, if security across the country and a stable political order cannot be guaranteed and *vice versa*.

The future security architecture of Kosovo should take into account common regional interests and threats, regional security cooperation, and those initiatives designed to promote such cooperation and development.

The position of being a *de facto* protectorate affects Kosovo's regional and international position: a specific problem of cooperation is related to the fact that many countries do not have cooperation agreements with UNMIK<sup>17</sup>. While efforts to bridge this gap are present and will continue, any significant effect may not be achieved before the final status process is concluded. The status package that the international community settles upon Kosovo should prioritize its social and economic development. Crafting it should be an opportunity for the European Union and its member states in particular to expand their commitment, including resources, to the Western Balkans in general.

## II. Organized Crime and Terrorism

The definition of terrorism and organised crime has always been murky given the tendency of these "non-state actors" to resort to similar means: hijacking, ransoming, kidnapping, bank robbery, money laundering and drug smuggling. Usually, the distinction between the two is made by reference to their ends: criminals seek profits while terrorists have political motives and specifi-

---

<sup>14</sup> UNDP Kosovo, *Early Warning Report Kosovo Number 13*, January-June 2006, at p. 2. Available online at: <http://www.kosovo.undp.org/repository/docs/undp-ewr-final15.08.2006.pdf>

<sup>16</sup> UNMIK, Security Sector Development Advisory Team, *Kosovo Internal Security Sector Review Concept: Scoping Study*, May 2005, p.10.

<sup>17</sup> On 22 September 2006, Martti Ahtisaari, the special UN Envoy for Kosovo, told the UN Security Council: "I strongly believe that a status settlement can only be sustainable if we ensure local ownership, responsibility and accountability". Quoted in International Crisis Group, *Kosovo Status: Delay is Risky*, Europe Report No 177, November 2006, p. 3. Kosovo would have treaty-making powers and a small defense force.



cally seek to weaken the state. The problem in many cases is to distinguish the political motives from political power. Nowadays, profit, power and political aims appear to be a final goal.

Organised crime is obviously not a monopoly of the Balkans. But, it is more visible in the Balkans and has strong links with Western Europe. Organised crime finds its expression in the trafficking of illicit goods (such as arms and drugs), the large-scale smuggling of consumer goods (such as cigars), economic crime, fraud, tax crime and money laundering, the organisation of illegal immigration and trafficking in human beings. Corruption, intimidation and violence are used as means to expand illegal businesses and to influence public administrations, criminal justice and political systems. While the situation is not the same and has not reached the same critical proportions in all countries of the region, the perception is still that organised crime in the Balkans threatens democracy, the rule of law, human rights and the stability, the social and economic progress within this region, with an impact beyond the Balkans<sup>18</sup>. Lying between Asia and Europe, the Balkans fall naturally on the narcotics transit line. The most significant criminal activity in the Balkans is the trans-shipment of heroin from Turkey into Western Europe. Heroin shipments move from Turkey through Bulgaria and Macedonia, and then pass over the porous border between Macedonia and Kosovo, before continuing either into Serbia and Hungary or into Albania, to the so-called Italian route. At the same time the Balkan is used as route for trafficking in human beings.

Crime is the alter ego of a society. It can never be fully eradicated, but an analysis of crime patterns tells much about major shifts in social and political life in every society. Even on high level of abstraction, a variety of interesting connections can be mapped. To begin with, there is no organized crime without organized criminals, and these organized criminals are, at least in part, a product of their social environment, characterized, for example, by social and cultural cleavages<sup>19</sup>.

In Kosovo, from 2000 and beyond, there was an interesting shift in crime trends that indicates the kind of social transformation taking place after the war. Since the enforcement of the UN Security Council Resolution, Kosovo can be considered a test case for measuring UN's capacity to enact the rule of law in a difficult post-conflict environment.

For example, if we compare Kosovo's figures with other countries in the Balkans, we can see that its reputation of being a more violent society than its neighbours is probably exaggerated. Referring to 2002 statistics, per 100.000 people, Albania had 12,2 murders, whereas Kosovo had 4,6 murders. Macedonia's rate was 6,5 and Croatia's rate was 5,8. These figures can be compared with Western Europe. Germany for example has a murder rate of 3,2 per 100.000 inhabitants<sup>20</sup>.

---

<sup>18</sup> The analyses are based on the Council of Europe's Annual Organised Crime Situation Report and the replies to the questionnaire received from member states. The report is quoted by European Commission – Europe Aid Co-operation Office, Justice and Home Affairs, *CARDS Regional Programme 2002/2003*, at p. 5.

<sup>19</sup> von Lampe, Klaus, *The Use of Models in the Study of Organized Crime*, Paper presented at the 2003 conference of the European Consortium for Political Research (ECPR), Marburg, 19 September 2003, at pp.6-7. Available online at: <http://freenet-homepage.de/kvllampe/kvIECPRocmodels.pdf>.

<sup>20</sup> UNMIK, *DSRSG Jean Christian Cady delivers a speech to the law faculty students at the University of Pristina*, 9 June 2003. Available online at: <http://www.unmikonline.org/press/2003/pressr/pr984.htm>.



The transnational character of organised crime requires cross-border police co-operation. That co-operation has been hindered by the current status of Kosovo<sup>21</sup>, which has precluded significant formal international co-operation involving the exchange of information on criminal activities. At regional and international level, Kosovo's institutions (UNMIK and PISG) enjoy increasing, although limited, recognition. There is still considerable reluctance in the region and beyond in either approaching Kosovo authorities or responding to their initiatives and foreign relations still remain reserved to UNMIK.

International terrorism has not yet taken roots in the Western Balkans. Nevertheless, this threat cannot be ignored. Based on initial assessments, there are already visible attempts of terrorist groups to slowly infiltrate the region to establish beachheads for future use. This process is strengthened by the existence of a rather strong "community" of criminals which, unlike the law enforcement and intelligence services in the region, are able to maintain a high level of cooperation among themselves<sup>22</sup>.

According to the Kosovar Institute for Policy Research and Development (KIPRED), Kosovo faces a potential security risk regarding political extremism, immediate internal security threats directly related to current political insecurity and concerns over the process and outcome of Kosovo's final status. A lack of clear directions for the future, parallel security structures exercised by both major ethnic groups, political subversion exercised by Serbia<sup>23</sup> and ethnic non-integration cause serious threats. At present, Kosovo cannot be deemed a source of international terrorism, religious fundamentalism or the proliferation of weapons of mass destruction. However, if the economy does not improve and if state institutions do not strengthen, it can turn to a fertile ground for groups with different interests.

#### *A - Tools and institutions*

Key components of new democracies lie in legislation and in the judiciary system. Kosovo's legislation covers most of the transnational criminal acts as defined by the United Nations Convention against Transnational Organized Crime. Terrorism, as well, is penalised in the Criminal Code.

The criminal justice system in Kosovo has come a long way since its re-establishment in 1999. Efforts by local and international actors, including the introduction of the criminal and criminal procedure code, have transformed it into a functioning system. Nevertheless, there is a lot of work to be done.

Kosovo has a hybrid court system composed by international and local judges and prosecutors. Moreover, parallel structures controlled by Serbia, are also present in the territory. Courts are still considerably understaffed with judges and prosecutors. There are 86 judges and prosecutors per

---

<sup>21</sup> The current status of Kosovo is based on the UN Security Council Resolution 1244 (see footnote 5) and the Kosovo Constitutional Framework (UNMIK Regulation n. 2001/9, 15 May, 2001). International affairs remain reserved to UNMIK.

<sup>22</sup> Geneva Centre for Democratic Control of Armed Forces (DCAF), *Kosovo's Internal Security Sector Review*, Strategic Environment Review and Security Threats Analysis, p. 38.

<sup>23</sup> Such as the bomb attack in North Mitrovica, of 27 August 2006, where 9 people were injured and the bomb alarm in North Mitrovica on 1<sup>st</sup> September 2006.



100.000 inhabitants and there is a need of 300<sup>24</sup>. There are also serious inconsistencies in substantive terms, such as delivery of laws, regulations, documents, verdicts, untimely delivery of court orders to release or detain, and lack of security arrangements for local members of the judiciary.

Organised crime cases are mostly dealt by international judges and prosecutors. In the future, it is expected from local judges to deal more with such types of crimes. It is also expected that local members of the judiciary will be treated on an equal basis with their international counterparts, regarding security arrangements. The lack of statutory directions and technological equipment while conducting protective hearings, in particular anonymous witness' hearings, is of concern for the judges. Also witnesses' protection is an issue of grave concern. There are numerous recorded incidents of intimidation or threats involving a range of cases.

The rule of law is a basic precondition for political, social and economic development. A legal system based on the rule of law principle is reliable and predictable. Both qualities are necessary for the creation of an economic system where property is protected and investments are safe. Furthermore, the rule of law makes a society more stable and secure, when criminals are prosecuted and human rights are respected.

Some societies are extremely 'close-knit' and it boasts a relatively small population and land-mass. All Balkan countries have relatively small population. In principle, everyone knows everyone. Witnesses who have been threatened are often too scared to report the case to the police. Furthermore, by its very nature, the impact of public's fear of possible intimidation cannot be measured; it is impossible to know how many potential witnesses choose not to report what they knew to the police as an outset of their fear of reprisal.

The consequences of the protective programme are two folded. Firstly, because a relatively high number of witnesses are 'known' by the alleged perpetrators and/or by the public, they are more likely to suffer intimidation and thus, they require protection. Secondly, it is very difficult to relocate witnesses internally without them being noticed. Thus, the protection services must relocate witnesses - and their families - abroad, which is both costly and requires the co-operation of foreign States.

The availability of adequate procedural safeguards may be a decisive factor for witnesses to testify before the Court. Without guarantees that her/his identity will be protected, a witness can face reprisals, not only from those against who she/he testifies, but also from her/his family and society<sup>25</sup>.

### **III. Improving Regional Existing Policy and Responses**

Tackling organised crime requires the reconstruction of regional cooperation. In the best circumstances (for example among EU member states) cooperation in criminal and policing issues is highly sensitive: it is therefore hardly surprising that progress in this field is not proving easy.

---

<sup>24</sup> Author interview with the local and international head of the Prosecution Office, Pristina, August 2006.

<sup>25</sup> Organization for Security and Cooperation in Europe (OSCE), Mission in Kosovo, Department of Human Rights and Rule of Law, Legal System Monitoring Section, Review of Criminal Justice System, April 2003 –October 2004, at. pp. 74 -79.





Regional cooperation is an ideal whose rationale seems self-evident to the EU, where persistent mutual mistrust and reconciled ethnic tensions continue to generate resistance in being designated as a “region”. As well, the EU integration process should not put in shadow work at the regional level, where there is a need to promote joint activities as an integral part of a modern cooperation. Modern cooperation is needed whether to fight terrorism, transnational organised crime, illegal migration or trafficking in human beings. It means tackling a whole range of complex issues related to human security, organised crime and so on. Further work and discussion in the region on the issue of specific avenues of cooperation would be worthwhile. The main focus of cooperation should lie on strategic implications for human security caused by transnational organised crime, the conditions under which these activities went beyond being ‘merely’ criminal problems and assumed the characteristics of a threat to the interests and security of all states.

The process of transnational co-operation on organized crime can be delineated into three phases. The first is the period in which awareness of the problem of transnational organized crime is peaked; the second phase is seen as the period of entrenchment, during which the agreements established in the first phase broad a normative framework for international co-operation in matters of crime and justice; and the third phase, in which the efforts from the first two phases need to be evaluated, and new efforts build off of the success and lessons learned from past, should be developed and directed toward well defined objectives<sup>26</sup>.

The process of collection and information and analysis of transnational organised crime groups at the regional level is still in its infancy. Diversity of the phenomenon and the lack of any information and data sharing are specifically recognised. This stipulates that states should consider analysing, in consultation with the scientific and academic communities, trends in organised crime in their territory, the circumstances in which organised crime operates, as well as the professional groups, amount of money and technologies involved. Surveys are valuable when they have been completed on a number of occasions, thus allowing not only comparisons across countries but also across time.

A regional strategy would promote harmonised – or at least compatible – approaches in the different countries and thus facilitate regional cooperation. It would also allow experience exchange as well as peer review and peer pressure, in the following issues:

- Is there a need for crime analyses in the region compared to Western Europe?
- Is there a need for more research on transnational organised crime?
- Is a more focused evaluation of existing law enforcement strategies or other components of human security necessary?
- Are sufficient resources devoted to combat organised crime?
- Would the creation of specialist teams be desirable?
- Should international collaboration and information exchange be improved?
- Should more practical objectives be prioritised?

---

<sup>26</sup> Davis, Ian, Chrissie Hirst and Bernardo Mariani, *Organized Crime, Corruption and Illicit Arms Trafficking in an Enlarged EU , Challenges And Perspectives*, London, Saferworld, 2001, at. p. 45.



The HUMSEC project is supported by the European Commission under the Sixth Framework Programme “Integrating and Strengthening the European Research Area”.

