

THE FUTURE OF HUMAN RIGHTS IN KOSOVO

HEARING

BEFORE THE

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

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THE FUTURE OF HUMAN RIGHTS IN KOSOVO

May 26, 2005

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

Commissioners present: Hon. Sam Brownback, Chairman, Commission on Security and Cooperation in Europe; Hon. Christopher H. Smith, Co-Chairman, Commission on Security and Cooperation in Europe; and Hon. Benjamin L. Cardin, Ranking Member, Commission on Security and Cooperation in Europe.

Witnesses present: Soren Jessen-Petersen, Special Representative of the U.N. Secretary General, and Head, U.N. Mission in Kosovo; and Charles English, Director, Office for South Central European Affairs, U.S. Department of State.

The hearing was held at 11 a.m. in room 124, Dirksen Senate Office Building, Washington, DC, Hon. Sam Brownback, Chairman, Commission on Security and Cooperation in Europe, presiding.

HON. SAM BROWNBACK, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. BROWNBACK. Good morning. We'll call the hearing to order. And I thank you all for being here today, and apologies for being a bit late from a prior hearing.

In recent weeks, increased attention's been paid to Kosovo, the status of which is probably the single greatest issue yet to be resolved in the Balkans.

Leaving it unresolved, of course, leaves it as a source of instability in the region, given vast differences of positions regarding what the final status might be.

On the other hand, any effort to resolve the issue of Kosovo's status also poses certain risk.

The result is the careful creation of a process by the international community to move forward to the open-ended talks later this year. Dependent on the outcome of a midyear review of progress and implementing standards, this process was outlined to the Congress by Undersecretary of State Nicholas Burns just last week.

Today's hearing on the future of human rights in Kosovo has been scheduled in order to go beyond the broad outline for proceeding with status questions this year, and to examine, instead, the specific impact this process may have on people living in the region.

In particular, many of us believe that there cannot be forward movement or a viable end result regarding Kosovo if human rights do not play a central role in the process.

Whatever status Kosovo achieves, the bottom line is that Kosovo is part of Europe, and all of Europe has committed to respect human rights and fundamental freedom, particularly in the context of the Helsinki Final Act and subsequent OSCE documents.

All too often, unfortunately, human rights problems can get sidelined in international talks. Those responsible for violations are usually unwilling to change their ways, or the actual exercise of individual rights and freedoms is perceived to be the source of friction.

The easiest course often appears to be one in which victims get ignored if not blamed.

In the case of Kosovo, the leading human rights issues relate to minority communities, including not only the Serb community, but the Roma and others as well.

Parts of these communities have struggled, since 1999, to survive in isolated enclaves with little freedom of movement, while other parts remain displaced and unable to return safely, let alone make a living.

In parts of northern Kosovo and other areas under Serb control, displaced Albanians also have been unable to return to their homes.

Fortunately, several of the eight standards outlined by the United Nations seek to address the rights of members of minority communities in Kosovo. By viewing these standards as excuses to delay or condition a determination of status, however, many Kosovar leaders seem not to understand that respecting human rights is not an option but a requirement.

Our witnesses today can hopefully shed some light on how to change the situation on the ground in Kosovo, and how human rights will or will not play a role in what has been dubbed, "The year of decision in Kosovo."

Before I introduce the witnesses, I'd like to turn to my colleagues for any opening statements.

I understand they may be called for a vote at 11:30, so I would like to ask that they put forward their statement.

Congressman Smith?

**HON. CHRISTOPHER H. SMITH, CO-CHAIRMAN,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. SMITH. Thank you so much, Mr. Chairman.

Today's hearing, ladies and gentlemen, is very important because the issues surrounding Kosovo are developing at a rapid pace.

Having cooperated with him on a number of Helsinki Commission issues in the past, including efforts to combat trafficking in persons, I was very pleased that Undersecretary of State Nicholas Burns appeared before the House International Relations Committee on this very important issue.

I am confident that the high level of U.S. engagement on Kosovo his personal involvement represents and that of other very dedicated public servants like Charles English, will indeed have a positive impact on Kosovo.

Similarly, I want to thank our distinguished witnesses here today for their willingness as officials of the United Nations and, of course, the State Department, to discuss the situation in Kosovo.

I enthusiastically welcome your participation in this public hearing despite the sensitivities and emotions that obviously surround the debate on Kosovo's future.

While the question of Kosovo's status is important, we must encourage those most directly concerned to arrive at the answer through democratic processes and dialogue. Whatever determination is made regarding Kosovo's status, respect for internationally agreed upon human rights is a prerequisite.

Unfortunately, 6 years after the conflict, the human rights situation in Kosovo is still not a good one, particularly for minority communities who live in enclaves and for the displaced.

We must condemn the sporadic acts of violence, the refusal to permit people to return or move about freely, and the destruction of homes and places of worship. The violence should not be allowed to happen especially when peacekeeping forces and international police are on the ground.

Regardless of what status is being advocated, independence for Kosovo or autonomy or something else, it is only reasonable to insist on the guarantee of basic human rights and freedoms for all people of Kosovo.

Over the years, Mr. Chairman, the Helsinki Commission has held, as you know, numerous hearings relating to Kosovo. At times the focus was necessarily on the plight of Kosovar Albanians and the repression they endured during the years of the Milosevic regime.

We also brought attention to those Albanians who were held in Serbian prisons after Milosevic was ousted. We pressed for their release and we did so very vigorously.

Later, it was necessary for us to focus on the plight of Serbs, Roma, and others living in Kosovo as minority populations.

We called upon Kosovo's Albanian majority to respect the rights of others just as their rights deserve to be respected. We focused on the situation in Serb-controlled Mitrovica as well as finding out what happened to missing persons regardless of their ethnicity.

We called for the prosecution of those responsible for war crimes also without regard to which side they represented. Last year, we condemned the outbreaks of violence in March 2004 and the targeting of people's homes and their places of worship.

So this hearing indeed is very timely, and I really congratulate you on calling the hearing.

And I yield back the balance of my time.

Mr. BROWNBACK. Congressman Cardin?

**HON. BENJAMIN L. CARDIN, RANKING MEMBER,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. CARDIN. Mr. Chairman, thank you very much. I join with Mr. Smith in thanking you for holding this hearing on the human rights in Kosovo.

The hallmark of the Helsinki Commission's work has been in the human dimension basket, and we think this is an extremely impor-

tant hearing for us to know the current situation in Kosovo, as it relates to respect of human rights.

And what we can do as a Commission in our work with our colleagues in the Parliamentary Assembly as well as with the State Department, to be as aggressive as we can in moving forward the human rights dimension.

So for that reason we're very pleased to have our two witnesses, an expert from the United Nations and from the State Department, to help us in understanding the current situation.

Let me just mention one area which has been of particular interest to our Commission, and of particular interest to me and that's the International Criminal Tribunal for the former Yugoslavia. I'd be very interested as to how that is currently affecting attitudes within Kosovo.

It was a stark contrast when the Prime Minister of Kosovo was indicted and turned himself in at The Hague, given the problems that we've had in other parts of that region in getting those who were indicted before The Hague tribunal.

So I'd be interested to see how that is playing within Kosovo itself and what the future holds for trying to bring justice to this part of the tragedy within the former Yugoslavia. We still have a lot of work to do in this regard.

So, Mr. Chairman, I thank you for this hearing. I look forward to hearing the witnesses and looking forward to developing a strategy for our Commission to play a constructive role in advancing human rights in Kosovo.

Mr. BROWNBACK. Thank you, Congressman Cardin, and it's been noted the gentlemen may be called for a vote over to the House side. They may have to leave for that.

Panel, thank you very much for joining us today.

First, we have Soren Jessen-Petersen of Denmark, special representative of the U.N. Secretary General and head of the U.N. Mission in Kosovo.

This assignment, which he took last year, is a part of a distinguished career that includes years working for the U.N. High Commissioner for Refugees, and with the stability pact on refugees, internally displaced persons and migration issues in the Balkans.

Later this week, Mr. Jessen-Petersen plans to report to the Security Council in New York on the current situation in Kosovo.

Our second witness is Mr. Charles English, director of the Office for South Central European Affairs at the U.S. Department of State. Mr. English also has a distinguished career in the U.S. Foreign Service that includes assignments in South Central Europe.

We're grateful that Mr. English has offered to participate in the hearing today, especially in light of Undersecretary Burns' presentations just last week.

Gentlemen, thank you very much for being here with us.

Mr. Jessen-Petersen, welcome. The floor is yours.

SOREN JESSEN-PETERSEN, SPECIAL REPRESENTATIVE OF THE U.N. SECRETARY GENERAL AND HEAD, U.N. MISSION IN KOSOVO

Mr. JESSEN-PETERSEN. Thank you, Mr. Chairman. Mr. Chairman, honorable members of the Commission, ladies and gentlemen,

as you mentioned, Mr. Chairman, on Friday, I will be addressing the U.N. Security Council to provide a quarterly update on the situation in Kosovo.

The meeting is crucial for confirming the path for the future status of Kosovo. Kosovo remains the last and the most difficult knot in the Balkans.

The present status quo of its undefined status is not sustainable, not desirable and not acceptable.

If we don't address it in the near term, we risk much of what the international community has achieved in the Balkans over the last 10 years.

In this context, the topic of today's meeting is of utmost importance and very timely.

I would like to commend you, Mr. Chairman, and the Commission's membership, for taking this initiative and for inviting me.

Mr. Chairman, the U.N. Interim Administration Mission in Kosovo, UNMIK, incorporates a strong human rights component in its mandate. At the end of UNMIK's mission, success will ultimately depend on the efficiency of the mechanisms we have created for the protection of human rights. It is important that the Kosovo institutions and the people of Kosovo have ownership of the human rights principles and mechanisms and ensure their sustainability.

There have been several positive indications recently. The substantially improved security climate reflected in the absence of major interethnic crimes in the past year is a sign that lessons from the riots of March 2004, have been learned, namely, that human rights violations are undermining the image of Kosovo and are against its interests.

The bulk of the cases following the riots have been handled by the local judiciary and where the several perpetrators have been brought to justice, no cases of miscarriage of justice on account of ethnic bias have been reported.

The OSCE mission in Kosovo, which constitutes a part of the UNMIK-Pillar system, has assisted in creating the ombudsperson institution in Kosovo. In line with the best practice of similar institutions in Western democracies, the ombudsperson of Kosovo works directly with citizens in order to alleviate their human rights concerns and addresses the Provisional Institution of Self-Government, the PISG, and the UNMIK on their behalf.

OSCE has also been crucial in organizing both municipal and general elections in Kosovo, which were found by the Council of Europe to be free and fair. This is no small achievement in terms of ensuring people's right to choose.

Mr. Chairman, the fact that from a postwar, legal, and administrative vacuum only 6 years ago a completely new system has been built in Kosovo has helped to place human rights principles at the core of Kosovo's laws and institutions.

New criminal laws have been framed in tune with international and European standards.

The Kosovo Police Service is multi-ethnic. The Kosovo Protection Corps continues its efforts to attract more recruits from the minority communities and has been reaching out in particular to the Kosovo Serbs. The Kosovo Correctional Service is emerging as another institution with strong human rights credentials.

Codes of conduct that comply with international human rights standards have been adopted for civil servants, judges, prosecutors, lawyers, police, and correctional officers.

Within the Kosovo Government structure, the Office of Good Governance plays an advisory role on human rights policies. OSCE human rights experts are working with municipal officials in order to ensure municipalities' compliance with international human rights standards.

We expect shortly to establish a human rights advisory panel to which people can bring their grievances on human rights violations.

Furthermore, in accordance with our policy to transfer from UNMIK to the PISG, all responsibilities which are not attributes of sovereignty, 27 out of 32 police stations in Kosovo have been transferred now to the Kosovo Police Service, KPS, control as is the first police region in Gnjilane, where the U.S. forces, of course, have their presence and headquarters.

A dignified handling last March of the ICTY indictment against the former Prime Minister Ramush Haradinaj, once again, underlined the new level of maturity of Kosovo society and institutions and also respect for the judicial process and for the international judicial process.

And as such, I could say that the action by Ramush Haradinaj and the mature response by the entire society for this indictment—which evidently came as a shock for the large majority—the way it was handled was not only in my view a credit to Kosovo's respect for the judicial process, but I believe it also sent a very important message to other parts of the Western Balkans.

So in many ways, the signs are encouraging and there are many positive examples that show the commitment of the institutions in Kosovo to human rights. Most importantly, I would say, the road map for the process leading to [inaudible] discussions is the U.N. Security Council-endorsed standards, standards that are designed to ensure the presence of basic values of multiethnicity, democracy and market orientation in Kosovo.

These standards, our road map, also aim at operationalizing the respect for human rights. Kosovo's institutions and citizens understand that must, should and will continue.

Further implementation of standards is essential for all the people of Kosovo to live in the kind of society they deserve and for Kosovo to meet the rigorous criteria for a Euro-Atlantic integration.

Mr. Chairman, on Friday, I will inform the Security Council that despite the difficult context in the month of March with the indictment, resignation and immediate voluntary departure of former Prime Minister Ramush Haradinaj for The Hague, followed by the quick formation of a new government—despite all that, despite the difficult context, the forward momentum in implementing standards was maintained.

At the same time, there are some areas where the PISG has much more to do. For example, when it comes to freedom of movement, as you refer to, there are many Kosovo Serbs who move around freely, but there are also many who cannot move around freely.

This is a problem that must be addressed and resolved. Although UNMIK and KFOR are increasingly convinced that the fear of movement among minorities is very often more perception than actual fact, I regret to say, by negative statements on the actual state of affairs by some forces.

Second, although we are witnessing a somewhat improved trend of return of displaced persons to their homes, there must be much more progress in this area.

Progress on return cannot be measured in numbers. Many displaced have probably already decided not to return. Others may be awaiting the outcome of status talks.

Progress on return and measuring progress must be based on the existence of conditions for return that will allow the displaced persons to exercise a free choice whether to return or not.

Action to establish such conditions depends on the provision of institutions in Kosovo, but it depends also on genuine cooperation promoting return by the authorities in Belgrade.

The issue of missing persons that you also refer to, which continues to plague the reestablishment of more normal relations between PISG and the government in Belgrade, has recently seen progress.

After almost a year since its first meeting in March 2004, Pristina-Belgrade dialogue on missing persons has recently resumed. And the working group met on the 16th of March.

Parties agreed, at the first meeting, on the consolidated list of missing persons, persons who have been missing.

And I do expect more progress during next meetings of the working group. The working group will meet in Pristina—next meeting on the 9th of June.

Human rights cannot be enjoyed in isolation. As long as the Kosovo Serbs continue to exist on the fringes of Kosovo society, as do other minorities, uncertain as to where they belong, they will not actually see their rights within Kosovo, and the institutions will likewise not feel bound to deliver on those rights.

Also for this reason, I'm glad to know that as we move toward status negotiations, partition of Kosovo has been excluded as an option.

Mr. Chairman, so there are indeed many problems still that need to be addressed. But overall, after a period of some inertia, Kosovo is now gathering a positive momentum that needs to be accelerated by the international community.

After 1 year, direct dialogue between Pristina and Belgrade has resumed on several technical dimensions. Now we are working hard on taking this dialogue to the highest political level.

Within Kosovo we need to buildup a stronger support for the process of decentralization that will bring municipal authorities closer to the people and that would promote integration.

There is a growing realization among many Kosovo Serbs that participation in the democratic processes would be more beneficial to their common future in Kosovo.

What we need now is a clear signal from Belgrade that will make it possible for the Kosovo Serbs to engage in the processes under way in Kosovo.

Within the international community, there now seems a broad agreement on a clear way forward. There seems to be broad agreement on the timetable that will lead us to a comprehensive view of standards beginning next month, and if that review is positive, to negotiations on Kosovo's future status, in the autumn.

This is essential as much for the stabilization in Kosovo and for the wider region as for ensuring a sustainable guarantee for the fundamental rights and freedoms of all people of Kosovo.

In concluding let me say how much I welcomed the statement last week to the House Committee on International Relations by Undersecretary of State for Political Affairs, Nicholas Burns.

The full engagement of the United States and a proactive leadership and vision of the Contact Group members, of course, including the United States, in the process of steering Kosovo toward the future is of paramount importance.

I expect the Security Council to confirm the way ahead on Friday, bringing us one step closer to settling the status of Kosovo as the last piece of the puzzle in the Western Balkans.

Thank you, Mr. Chairman.

Mr. BROWNBACK. Thank you. [Off-mike.]

CHARLES ENGLISH, DIRECTOR, OFFICE FOR SOUTH CENTRAL EUROPEAN AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. ENGLISH. Thank you very much, Mr. Chairman.

Thank very much for inviting me to testify today before the Helsinki Commission. It is an honor and a pleasure for me to be here to discuss the future of human rights in Kosovo.

But if I may, let me add that it is also a pleasure for me to appear before this Commission alongside Soren Jessen-Petersen. Under Soren's leadership, UNMIK and the international community have made great progress in preparing Kosovo to move forward.

I would like to commend Soren for his vision, his energy and his commitment to all the people of Kosovo, which have really been a key to so much of our success in the past 9 months.

Thank you, sir.

Mr. Chairman, you and the other members of the Commission, and Soren as well, have talked about Undersecretary Burns' testimony last week before the House Committee on International Relations. Let me just underscore how serious a beginning we are now engaged in.

In the next few months we expect, as Soren said, the United Nations to launch this comprehensive review of Kosovo's progress toward standard implementation. And if that review is positive, as we hope it will be, we will launch a process to determine Kosovo's future status.

And I want to note that in 2005 this is timely. It's now been a decade since the Dayton accords brought peace to Bosnia and Herzegovina. It's also a decade now since the terrible incidents of Srebrenica. July 11th will be the anniversary of that event.

And it only goes to underscore how important it is for the international community to work in harmony now to resolve this last great problem of the Balkans that Kosovo represents.

And in Kosovo, as we work to enter this new phase, Mr. Chairman, the promotion of human rights and fundamental freedoms will remain at the forefront of our policy, as it has been under our policy of standards before status.

We couldn't agree with you more, Mr. Chairman, with your opening statement that human rights must play a central role in the process. We assure you that the administration, with our Contact Group colleagues, will focus on this issue to make sure that it is absolutely central to all deliberations that go forward now.

We know that we cannot achieve a lasting settlement in Kosovo until structures, institutions and habits that protect the rights and liberties of all the people in Kosovo are in place. Principles of democracy and multiethnicity, the cornerstones of our overall Balkan policy for over a decade, will continue to guide us.

Mr. Chairman, you and others on the Commission, and Mr. Jessen-Petersen as well, have noted that the human rights challenges in Kosovo remain very significant.

The people of Kosovo have suffered a legacy of dictatorship and conflict which culminated in mass murders, rapes, political oppression, and forced displacement of hundreds of thousands of people.

About 3,000 people from all sides of the Kosovo conflict remain missing. We are still learning of atrocities that were committed 6 years ago.

Just this month, another mass grave was discovered in Kosovo that contained the remains of 13 people.

To bring hope for the future to people who have suffered under a climate of fear and hatred for so long will not be easy. But I have to note, in underlining a number of things that Mr. Jessen-Petersen has already said, tangible process has been seen in respect to the human rights situation since the United States led efforts in 1999 to halt egregious abuses of human rights.

And under the stewardship and guidance of the U.N. Interim Administration in Kosovo, UNMIK, Kosovo has now held four successive and democratic elections, established a constitutional framework, developed provisional governing institutions and built a professional and multiethnic police force.

We also continue to see improvements in Kosovo's ability to ensure that its citizens have equal access to the rule of law and that justice is administered equally, transparently and credibly.

All of these developments have resulted in major improvements for the protection of human rights in Kosovo.

But in spite of these significant accomplishments, there remains a major challenge in the protection of human rights in Kosovo, and that is the precarious situation of Kosovo's minority communities.

The minority communities, especially ethnic Serbs and Roma, which includes their derivative communities of Ashkali and Egyptians, continue to face extraordinary obstacles to creating a sustainable life for themselves in Kosovo.

Discrimination remains a serious problem. Access to public services is uneven. Incidents of harassment still occur. Freedom of movement is limited. And too many minorities still feel unsafe in Kosovo. Mr. Chairman, I know that you're well aware of the violence that disrupted lives and led to the deaths of 19 people last year in March, 2004.

Well over 900 homes were destroyed; 29 Serbian Orthodox churches. All of this underlines how much farther we have to go.

Primary responsibility for this lies with Kosovo's majority Albanian community. Until that community adequately protects and guarantees the rights of its minority communities, the pace of Kosovo's Euro-Atlantic integration will suffer.

This is why the United States and the international community, together with UNMIK, have highlighted the achievements of standards related to multiethnicity and the protection of minority rights as our priority.

I wanted to make just one reference, though, if I may, Mr. Chairman, to the fact that, though we often speak of the Serb minority, there are other non-Albanian ethnic groups that live in disadvantaged circumstances in Kosovo.

I've mentioned the Roma, the Ashkali, and the Egyptians. They face discrimination and, like the Serbs, many of them have been forced from their homes, and they remain, also, a constant source of preoccupation for the international community.

If I may shift for just 1 minute, Mr. Chairman, to discuss the issue of trafficking in persons. I know that that's an important issue for this Commission.

I want to note that the fight against trafficking in persons is another focus of our human rights efforts in Kosovo. I note that the police in Kosovo, both local and U.N. civilian police, are becoming more effective at identifying trafficking victims and at infiltrating trafficking rings.

Our priority is to continue to buildup local law enforcement and investigative capacity to fight this problem.

The Kosovo Government has recently approved an action plan for the fight against trafficking in persons, and we hope and expect that this will spur additional progress on the issue.

Soren Jessen-Petersen mentioned continued work with Kosovo authorities to assure freedom of movement. We are also concerned with assuring freedom of assembly, speech and association, and with assuring that elections, when held, continue to meet the standards of free and fair. Thus far, we've been lucky and they have. I offer that as a credit, though, to UNMIK and to actually the will of the people in assuring that their voices are heard.

But I assure you that our focus on this will continue to guide us as Kosovo advances on the path to Europe.

To conclude, Mr. Chairman, 10 years ago, the Balkan region saw massive violations of the ultimate human right. As the horrors of the 1990s recede from memory, the region must now take steps to move beyond that dark era. By solving the Kosovo status question, we can fix the most serious issue still outstanding from the Balkans war.

But I want to note that solving Kosovo's status, however, does not mean that the work to defend human rights and democracy will end. On the contrary, this work must continue and accelerate, particularly if Kosovo is to meet the European Union's high standards for membership.

In a larger sense, this work is never finished in a free and democratic society. The people of Kosovo, minority and majority alike, must never stop working to assure that institutions are trans-

parent, that the political culture is inclusive and that the laws are just. This ongoing commitment to democracy based on the rule of law is the most basic criterion for joining the Euro-Atlantic community and calling oneself a free and just society.

The United States pledges that we will continue to support Kosovo's efforts to achieve this objective.

Thank you, Mr. Chairman.

Mr. BROWNBACK. Thank you both, gentlemen, for being here. I've got a few questions.

I may be called for a vote. And if that does occur, if there's a chance that you could stay and still respond to some questions that would be put forward by senior staff, I would appreciate that. But hopefully we can get through most of these.

I met with a delegation from the Serbian Orthodox Church, both this year and in 2004, after the rioting took place.

Mr. English, thank you for mentioning some of what occurred.

But when this delegation came here in mid-April, they had several practical recommendations and requests for what could be done to help the minority community.

They note, in that 2004 riot, that while there were people killed, there was property destroyed, a lot of it then permeated people's attitudes, that they just did not feel safe and left or went to other places, and that they felt that—what people had to do was feel safe again—safe to be able to reside in the area, safe to be able to go to their churches.

And one of the ideas was to be able to have the church property that was seized by the communists previously returned to the church in Kosovo and then to allow those displaced persons who cannot return to their own villages to resettle near the churches or the monasteries.

Have you thought about this approach as a way of stemming the outflow of people belonging to this minority community so that they could establish a base where people could feel safe in returning to Kosovo?

Have you considered that? Either gentleman.

Mr. Jessen-Petersen, that might be best placed with you first.

Mr. JESSEN-PETERSEN. Mr. Chairman, thank you.

First of all, I certainly also want to express my deep regret on what happened in 2004. I was not in Kosovo yet, but I lived it very closely because, at the time, I was the European Union special representative in Macedonia, and was able then to be following it closely from there—also with the risks of spillover, which is always a very real one in that part of the world.

I also want to say I agree with you that it was a setback in many, many ways, but it was certainly also a setback in efforts to promote conditions for return.

Many who are still reflecting at that time on whether to return or not certainly, in March, decided that the time was not yet ripe for that.

In addition to that, most regrettably, we saw further outflow and, in fact, 2004, there was more people leaving Kosovo than returning. And that was most regrettable 5 years after the end of the war.

And many are still traumatized. When I talked about the problem of freedom of movement, it is still because of the trauma of March 2004.

We are not seeing departures at a level that we should worry about.

Those Kosovo Serbs who are in Kosovo do seem to remain but we should—and I didn't mention that in my opening remarks—we should be very careful. On one hand, we should work on promoting the return of the displaced, the structures and the conditions that would allow them to make a choice.

But our efforts should equally be focused on consolidating the presence of those who didn't leave, make sure that they feel safe, that they feel they have a future in Kosovo.

And I will just mention here, two-thirds of all Kosovo Serbs live rather scattered in small villages in the southern part of Kosovo and not up in the north near Mitrovica where we seem to have most of our attention.

As to what the Serbian Orthodox Church mentioned over here—on one hand, there is no doubt that when we move into status discussions, there are two issues that must be addressed, they're absolutely crucial. In any status settlement, there must be a particular attention to the protection of the minorities and the continued monitoring for some times also after status, continuing international monitoring probably of the minorities. That is key.

And linked to that, there must also be special provisions for the protection of religious sites, Serbian Orthodox churches, in particular.

I do not personally feel that it would be the right thing to try to establish security, let's say, around the churches, security for individuals. I think that our challenge must be and remains to establish security throughout Kosovo so that the minorities, wherever they are, whether they're freely as a lot of them with the Kosovo Albanian and others, but also if they're living in enclaves, that they are safe and protected there.

I would be personally very hesitant to entertain ideas on kinds of safe areas or whatever around churches. I think that our experience in that part of the world and also other parts of the world have taught us that you have to provide security, you have to provide real security in general rather than trying to secure an area.

On the other hand—

Mr. BROWNBACK. What about the—if I could, just to draw a point on that—what about the return of the property to the church? What do you think about that?

Mr. JESSEN-PETERSEN. That is certainly an issue that I do understand.

On the other hand, we have to be careful now. Return land that did belong to the church, yes. But inside Kosovo, not as a kind of extraterritoriality. I know that there are those thinking about that. Again, I think one should be very careful.

But we need to ensure and reassure the Serbs, the church, that their sites, their churches will receive particular attention and also particular protection in a future status of Kosovo, but not in terms of extraterritoriality or whatever.

Mr. BROWNBACK. No, I don't know of anybody advocating that this would be a separate state or a separate entity if you're talking about extraterritoriality of the church facilities.

Mr. JESSEN-PETERSEN. No. I don't think—I have seen it in various reports. I think one should be very careful with that.

Let me just maybe very briefly mention, we have, just three, 4 weeks ago, taken an initiative. I signed an executive decision introducing what we called a need for some spatial planning around one of the most important Serbian orthodox churches, Vesoki, in the western part of Kosovo near Decani.

There have recently been a lot of illegal settlements around that church impacting eventually on the integrity of the church. And we felt there was a need to put that under our management for a temporary period to allow for regulation of all activities, all constructions, et cetera, around the church with the view, frankly, for protecting the church, protecting the integrity of the church.

These are measures that we might have to take in other situations. But that is in order to appeal to the institutions in Kosovo to take their responsibility seriously and make sure that nothing happens to the Serbian orthodox churches as we regrettably saw in March 2004.

Mr. BROWNBACK. Mr. English?

Mr. ENGLISH. If I may just clarify one thought, Mr. Chairman, and just elaborate on one other.

Sir, I mentioned this idea of extraterritoriality that's been kicking around—just to clarify it for you. One of the suggestions, one of many suggestions that is now floating around in kind of the pre-status discussions is that perhaps Serbian Orthodox Church sites might be linked together in some sort of autonomous arrangement.

Now, the precedent to this is the Mount Athos region in Greece. It's a peninsula in northern Greece in which the Greek Orthodox Church basically enjoys autonomy. It's some 30 or so monasteries that exist on a peninsula. And there have been some who have suggested that perhaps some sort of Mount Athos-type solution be introduced for the Kosovo solution. That's just, as I say, one of a number of ideas that we expect people to advance as we begin the status negotiations.

I just want to say with regard to the return of people to Kosovo, as I mentioned in my statement, Mr. Chairman, this is a critical issue. This is one in which we will focus very strongly. We have been focused on it for the past 6 years, but there'll be a very renewed focus on it as part of the status discussions.

And we do believe that the status discussions, should they begin in the fall, will offer exactly this sort of opportunity to study and to advance this issue that really has been lacking in the past 6 years.

First, it will offer the Albanian community some kind of a certainty as to their own status. And so they'll be, we hope and expect, less reluctant in welcoming the return of their former neighbors.

The second thing is the displaced Serbs, Roma, and other minorities and also the Albanians displaced within Kosovo will know what kind of Kosovo that they'll be returning to and living in. They'll know the kind of guarantees that will be on the table. Those guarantees will, by design, be strong guarantees.

And so I think that by advancing into the status talks, we can begin to create a kind of climate, and we will begin to create a kind of climate that will be more welcoming for the return of people, whether to their homes as is the traditional way of dealing with the return of refugees, or in some other kind of solution. We're certainly not in a position to say that any sensible solution can't be on the table. All solutions need to be looked at. Thank you.

Mr. BROWNBACK. It looks like that number last year of more people leaving than coming back is a clear indicator people are voting with their feet and they're heading out, that the security situation still isn't resolved, that the opportunities are not developing and this is one we need to put a lot of emphasis and focus on.

In the meetings that I've had, a number of people expressed a great deal of fear that they're just not secure. And they're not only not secure, they don't have any opportunities, really, economically to provide for their families in a legitimate, meaningful fashion so they don't return.

And I read in the New York Times, recently, there was an article about Roma returning to Kosovo. Before the conflict, there were an estimated 130,000 Roma in Kosovo. As I understand it, there are only about 30,000 left today; 100,000 are still displaced in various countries throughout Europe. Some 34,000 Kosovar Roma were given temporary protection in Germany, but Germany's preparing to send them back. The return of the Roma to Kosovo, therefore, potentially constitutes one of the largest returns of a group in the foreseeable future.

Is Kosovo ready to absorb this group of people, particularly if Germany is moving to send them back?

Mr. JESSEN-PETERSEN. Well, the answer to that is that Kosovo is not in a position today to absorb the kind of numbers that you refer to, Mr. Chairman. And this is part of an ongoing dialogue that UNMIK has not only with Germany, but with a number of European countries that have received, over the years, since 1999, displaced persons from Kosovo.

We have, on the basis of guidance from the U.N. High Commission for Refugees, on the continuing protection needs of some of these groups including the Romas—we have urged European countries to be careful, to be careful in returning forcibly—we're talking about forced return of various groups, and the Roma is one of the groups.

On the other hand, the situation is such that we can and do have the capacity to receive small numbers of the various groups. And we have agreed—just to refer to that press article which was not entirely correct—with the Germans that based on very close coordination, where we get the list of people that they intend to return back, we are then given some 40 days to check on the whereabouts and whether it is responsible, whether it is possible for the persons to return. We either agree or we then signal back to, say, for example, Germany, that we would advise against it.

There is a lot of pressure—it is no secret—from countries such as Germany, to return or to return forcibly because of the high cost, et cetera, but we are constantly pointing out the need for the capacity to receive, in particular, medical cases, people with serious

medical or mental post-trauma problems. We don't have the institutions to take care of it.

So there is an ongoing dialogue there. On the other hand, we have Romas returning, returning from the neighboring countries. We are working on some interim returns of a group of Roma Mahalas who were displaced in 1999, who have been living in northern part of Mitrovica. We are working on the return plans for the southern part of Mitrovica.

So the situation is not black and white. The security situation in some parts of Kosovo is still difficult, in other parts, there are no problems whatsoever. And therefore, there are parts where they can return. It requires an individual case-by-case attention. That's what we're trying to appeal to.

May I just say one word of the economic opportunities, coming back to what Chuck English said earlier?

Mr. BROWNBACK. If you could—I've been buzzed for a vote, so it will have to be a fairly short response.

Mr. JESSEN-PETERSEN. It will be very short. Just to say the economy is in very bad shape; there has been very little progress over 6 years. The main problem is uncertainty over status.

As long as we can not move on investment, and we can't do because of the uncertainty over status, we will not be able to create the economic opportunities which would prompt a lot of displaced to return.

For the displaced today, it is security, it is property and it is economic opportunities. Without status, we will never be able to create the economic opportunities that might promote larger numbers of returns.

Mr. BROWNBACK. Do you agree with that, Mr. English?

Mr. ENGLISH. I very much agree with that, Mr. Chairman.

I might also add that capital inflows to Kosovo have been greatly hindered by the lack of status.

Kosovo's infrastructure is in disastrous shape. The electricity, water, all of the basic utilities are limping along—50-year-old plants in some cases.

The levels of capital inflow that are needed are the sorts of investments that—in an economy as poor as Kosovo's—one might turn to the International Development Agency or the World Bank, you know, the soft loan window of the World Bank. Unfortunately, because Kosovo has no status, it has no access to the kinds of money, to the multi-hundreds of millions of dollars that are necessary for these big kinds of projects. That's just one example.

If we resolve Kosovo's status, one of the things we have to make sure we do is resolve it in such a way as to assure Kosovo's access to that. And for that and for many other reasons, status is an issue whose time has come.

Thank you, sir.

Mr. BROWNBACK. Thank you.

And gentlemen, I apologize for this. If you could stay around for just a few more minutes, I'd like to ask Elizabeth Pryor, Senior Advisor to the Commission and Bob Hand, Staff Advisor for the Balkans, to ask a few questions so that we will have them on the record for this hearing.

And I apologize. I've been called for a vote. I do appreciate both your attendance and your attention to this.

It does seem like that it's one of those situations that has been in the spotlight previously and starting to get back into it some, but we do need to get some of these issues resolved so we can move forward and the country can heal. It's like being left with an open wound that's not yet able to heal.

And you've got a few issues—security, property, status, economic opportunity. Without those, it's just not going to move much further forward.

Thank you very much for your hearts and your work. God speed to you.

And, Elizabeth and Bob, if you want to step up for a few minutes.

Mr. ENGLISH. Thank you, Mr. Chairman.

Mr. JESSEN-PETERSEN. Thank you, Mr. Chair.

Ms. PRYOR. Again, thank you very much for being here today and for staying for a few minutes so that we can get some responses from you on a number of important issues and that they'll be included in the transcript of this hearing.

I thought I'd start by asking about what you think the contributions of the OSCE mission have been in Kosovo and a little bit about where you think it's heading. As hopefully things stabilize in Kosovo and human rights improve, do you see that there's a long-term role for the mission there? Or do you see that it would be drawing down as the United Nations, KFOR, and other international institutions might be leaving?

And I'd be interested in responses from both of you.

Mr. JESSEN-PETERSEN. Well, first of all, I mean, very briefly, very clearly, the OSCE has played an absolutely crucial role over the last 6 years with the main areas as you've all referred to, human rights—and I referred several times to OSCE in my opening remarks—ongoing democratization, organizing very, very professionally, efficiently, four elections over the last 6 years, and in the various areas of institution building.

That has been a key contribution for building up institutions, capacities, democratic principles institutions, et cetera.

Right now, in UNMIK, we have embarked on an exercise to look at UNMIK's role during what I would call the next three phases, that is the phase leading up to the beginning of status discussions, then the phase during status discussions, and then the phase after status discussions.

We have embarked on that exercise not only to identify the role and the contribution UNMIK needs to be positioned and equipped to make, but also in particular in relation to the third phase, post-status, which also requires beginning to reflect on various successor arrangements.

I will not prejudge the outcome of status, but I don't think it is a secret that irrespective of the outcome, there will be a need for and continued international presence in the area of security but also in many other areas.

And I see in particular, as I mentioned earlier, a continued need for monitoring the rights and conditions of the minorities—I expect

it to be part of the status settlement—and the need for an international presence to do that.

No doubt, as Chuck English said earlier, status is a long-term exercise, democratization is an ongoing exercise, building up the institutions will have to continue or consolidating the institutions after status. And I see a strong role of the OSCE there.

It's not for me to speculate on whether the OSCE will be prepared, but I think we will clearly need European Union involvement, much stronger involvement, in the post-status, in the area of justice, in the area of security, police, et cetera, in the area of the economy, but also, as I say, important responsibilities, continuing democratization, human rights monitoring, institution building, also out in the municipalities and I would very much look to the E.U. and to the OSCE to be key players in a post-status Kosovo.

Ms. PRYOR. Mr. English?

Mr. ENGLISH. May I just add to what Mr. Jessen-Petersen has just said? We assume that at some stage, when Kosovo's status is finally determined, whatever form that status will take, as Soren said, we assume that there will be the need for continued international presence.

The form of that continued international presence is really not yet determined. Whether the United Nations would continue to play an administrative role of some sort, not necessarily at the level at which the United Nations has played for the past 6 years; whether or not some other form would be found—there are thoughts given to perhaps a European Union mission. The European Union, I must say however, is not enthusiastic about the idea of assuming such a role, because of their self-admitted lack of administrative capacity to do so—whether or not there'll be some kind of coalition of the willing, if you'll allow, of the sort that we see in Bosnia through the Peace Implementation Council; whether the kind of powers that would exist in a post-UNMIK situation might relate to the sort that are exercised by the high representative, I kind of doubt that. I don't think they'd be that intrusive.

But I don't exclude anything. There are lots of possibilities. But I'm confident, though, that given the fact that the OSCE has played so critical a role in the region, in Bosnia, Herzegovina, in Croatia, in Serbian Montenegro, and in Kosovo, that with the wealth of experience that the OSCE has, that there will be a role for the OSCE yet to be defined.

Ms. PRYOR. Thank you very much. Just playing on that and playing on the comment that you made, Mr. Jessen-Petersen, about needing an orderly transition as we go through the next months and possibly years, do you think the international presence right now is adequate for that? How would you see that building up or being cut down as we go through the transition period?

Mr. JESSEN-PETERSEN. Well, I'd like to divide the answer in two parts.

I have had an opportunity on several occasions, addressing, for example, on two occasions, the North Atlantic Council to appeal to NATO to stay the course, and that's the expression I've used. Right now, the KFOR forces are, I believe, approximately 17,500, 18,000, and as we move into the next phases of getting closer to status

talks and probably, this autumn, into status talks, there is no doubt that tensions will mount in Kosovo and in the region.

So much is at stake now and we're already beginning to see increasing tensions. And we need to have throughout that presence, an international security presence that is mobile, that is visible, that is flexible and in terms of capabilities, at the level that they have right now.

I have been assured and reassured that there are intentions at this stage to decrease the capabilities and therefore, more or less, the numbers of the international security force.

That's key. For us to move forward on a political agenda, we need to maintain what is today a relatively safe and secure environment. And for that, we need KFOR more or less at the level that they have right now.

As to the international civilian presence, I refer to the restructuring that we are embarking on.

One of the goals there—I mean, first of all, we are trying to look at the kind of responsibilities UNMIK would have in these various three phases that I refer to and then, of course, adjusting our structures and numbers to that.

But it is no secret that we will be expected to scale down considerably. We are under a lot of pressure from the U.N. auditor institutions and others to downsize.

The U.N. is involved in many operations and right now taking on a major new operation in the Sudan. And there will be expectations that we try to downsize, but we will do it in a responsible way.

As to the orderly transition, I cannot go much further than what I said and what Chuck right now said. I would expect the E.U. to go in and play a much, much bigger role than they're doing today.

Because it was Europe, it must be a European responsibility, and I would certainly see the E.U. out in front rather than the United Nations post-status.

So whether it will overall lead to a reduction in the international presence, I would believe so once we settle status—and with the certainty of all that. That must evidently be the goal.

And at that time, I also believe that there will be a basis for a considerable downsizing on the international security presence. I'm looking at the next 12 months where one should be very careful not to trust those numbers.

But in the long run, the whole idea is, of course, handing over ownership, leadership responsibilities to the local institutions, getting them out in front, as we are trying to do already now. We're transferring responsibilities on an ongoing basis.

And with that, of course, an orderly transition also means you don't transit just from one international set up to another. You transit more importantly from the international presence to the local presence, and that process we have already embarked upon.

So I would believe that in about 8 to 24 months one would certainly start seeing an international downsizing, maybe even a considerable one.

Ms. PRYOR. Mr. English, did you want to add to that comment?
Mr. ENGLISH. Yes.

I just wanted to, if I may, pick up on the theme that Soren mentioned about KFOR.

We have a slightly different approach that—we certainly agree, as Undersecretary Burns noted last week, that the maintenance of KFOR capabilities, as they currently exist, is a bottom line—that, that has to be the case.

I agree entirely with Soren that we need a mobile, visible and flexible presence. But there is an issue in KFOR that the supreme allied commander in Europe has raised with KFOR's tooth-to-tail ratio.

And the issue here is far more tail than seems to be necessary to support the tooth involved. Of the 17,500 troop strength level that Soren mentioned, I don't know the exact number but I know far fewer than half are the kinds of troops who would be deployed for this kind of mobile, visible, flexible presence.

The SACEUR has introduced in NATO councils the idea of a reorganization that would bring KFOR along the lines of what is called the task force.

Now, I'm not a military expert so I'm not exactly sure how that reorganization would take place. But the idea of that reorganization is to reduce the number of support troops, to streamline supply and support in such a way as to reduce the footprint but not reduce the capabilities.

So we certainly absolutely endorse Soren's call for a maintenance of capabilities. That is critical and will remain critical during what we expect to be a sensitive period during the status negotiations should they begin, as they expect they will in the fall and beyond.

So we are asking allies and asking in NATO but also asking colleagues in UNMIK and in the U.N. councils in New York to be flexible on this issue, to listen to what the supreme allied commander has in mind, and to keep an open mind.

Thank you.

Ms. PRYOR. Thank you.

Let me see if my colleague, Bob Hand, who is the expert on Balkan issues for the Commission, has any questions.

Mr. HAND. I'm not an expert, and that's why I have so many questions. I only know what to ask. Thank you.

If I could followup just briefly on Mr. Cardin's expressed interest on the war crimes issue.

It's been noted how Ramush Haradinaj did the right thing. Irrespective of whether he'll be proven guilty or found innocent, he was indicted and so he resigned, traveled to The Hague and submitted himself to detention.

But I was wondering if you could comment on what the more popular reaction has been to his indictment or the indictment of other Kosovar Albanians by The Hague, as well as any reaction that you see on the ground to the ongoing trials of Slobodan Milosevic and some of the Serbian leaders who were indicted for crimes committed in Kosovo.

Mr. JESSEN-PETERSEN. Thank you.

Well, on the popular response and the reactions, I don't think it is a secret that the citizens of Kosovo do find it very difficult to accept. They still believe that they were and are the victims of Milosevic's policies that then prompted the international commu-

nity to start the military operations. They find it very difficult to accept that the victims are summoned to The Hague. That is the overall perception.

And I think that the response to the indictment of Ramush Haradinaj, who after more than 100 days as Prime Minister had really established himself as a very respected and popular figure.

I think that the response could have been a very violent one if Mr. Haradinaj himself had not responded the way he did, by immediately resigning and immediately making a public announcement calling for calm, making it clear that he would go up and cooperate because that was his way of making sure that justice would be done.

So I think his own leadership and the kind of appeal he made managed the situation in the commendable way it was done.

But there is still this sense—and there has been a lot of attention recently to efforts under way by the defense team of Ramush Haradinaj of securing his conditional release.

Again, I think that citizens—they are following that very closely. And a decision would be taken here—there was a hearing on it yesterday—decision would be taken very shortly.

Again, it will be the kind of decision that would either, if I can put it very bluntly, confirm some of the perceptions they have down there or be another step forward in the overall general respect for the judicial process. I think this is important, again.

As to the ongoing trial of Slobodan Milosevic and others, I would describe the response of Kosovo as almost benign indifference. I have not seen anything there that would suggest anything different.

Mr. ENGLISH. May I just add for just a moment—just one further fact in terms of the effort or the petition by Mr. Haradinaj and his defense team for his provisional release.

I believe that is being opposed by the Office of the Prosecutor—that the Office of the Prosecutor routinely, I think, has opposed the question of provisional release. This is likely to resolve itself in the coming weeks.

One other point that I'd like to add in terms of reaction to Milosevic—to add the fact that Belgrade has been playing a bit of catch-up in terms of the quote/unquote “voluntary” surrender of persons indicted for war crimes at The Hague, as well. Many of those surrenders have been facilitated by Belgrade.

And a number of individuals who were indicted for crimes committed in Kosovo in 1998 and 1999—Generals Lukic, Pavkovic, and Lazarevic—have made their way to The Hague in more or less a voluntary way.

There was a no-confidence vote against the Government of Serbia in the Serbian Parliament yesterday, I believe, brought by the Radical Party on the grounds that the surrender of General Lukic, in particular, who was shown on television as surrendering from his hospital bed in his pajamas, was not fully voluntary—was the allegation brought by the Radical Party.

The no-confidence vote lost in Parliament. But I think it shows the reaction certainly in Serbia to the kinds of cooperation that Serbia is now bringing to the table in this event.

I am not aware of any particular reaction in Kosovo to the surrender of these three figures, three of the four generals indicted for the Kosovo crimes.

Just to emphasize what Soren was saying about the kind of benign indifference—although these individuals indicted for crimes against the Kosovar Albanian people are finally making their way to The Hague some 16 or 17 months after their indictment, it really is not getting the kind of attention that one might expect.

There is a fourth general, General Djordjevic, who is believed, certainly by the office of the prosecutor, to be residing in Moscow, and thus far beyond the reach of the long arm of the law.

Thank you.

Mr. HAND. A second question that I have relates to freedom of religion, which is an issue that several of the members of this Commission have as a priority for their work.

And we've continually heard reports of a draft law on religion in Kosovo and have seen some versions of it that have thresholds of 500 members before they can be registered, possible limitations on speech and things like that.

We have heard of these drafts. We have also heard that the U.N. has been critical of them.

I was wondering if you could comment on the current status of any of these drafts—what the status is at the moment and whether those that are doing the drafting in the Kosovo parliament or wherever are open to OSCE, United Nations, outside critiques to make sure that whatever law would ever apply in Kosovo and religious freedom conforms to OSCE standards regarding that freedom.

Mr. JESSEN-PETERSEN. Well, not only does the freedom have to comply with OSCE standards, it also has to be in compliance with the constitutional framework for Kosovo, which call on full freedom of religion.

That is also why we have and have been having several serious difficulties with the text as it stands. The OSCE is involved, our Office of Legal Adviser is involved, and the discussions are ongoing.

It is in the shape right now that will not be signed by the UNMIK administrator, which is myself.

So the discussions are continuing. I cannot here say what is the time factor and all that. But as I say, it is in a shape that it will certainly not be signed because that would be a step back.

Mr. ENGLISH. I understand that in recent days, the draft being considered by the assembly has changed very significantly to remove the kinds of objectionable provisions that you've made reference to, Mr. Hand, that have been in the text in the past that favor more established religions—Roman Catholicism, Serbian Orthodox Church, and Islam—to the disadvantage of smaller Protestant sects which have come recently into Kosovo.

It's our understanding that the discriminatory provisions within the law have been removed within the last few days in the assembly process, which is a development we welcome.

I certainly agree with Soren that the law as it was written was unacceptable, and of course we bilaterally have been working this issue as well to assure that the leadership of the Kosovo assembly understands that this would not be an acceptable way forward.

Mr. HAND. Thank you.

And then just one small question as a followup to Chairman Brownback's questions on the return of Roma. For the camps that are up in northern Kosovo, where there has been found to be high contamination of lead, we've had some discussion of it but just to clarify—has the site been identified for these people to be moved to? Will they be given the option to move, or will the camps there be closed?

And is this site going to be decontaminated, and will it ever be used again for housing displaced persons, especially if indeed it is a dangerous place where nobody else would want to live?

If you could just clarify this.

Mr. JESSEN-PETERSEN. Yes. First of all, I certainly would hope in very general terms that none of these sites or camps or whatever would be used in the future, because I hope that displacement will sort of be history as we move forward.

However, I can say second that, yes, there are now efforts under way to deal with the health hazard on the ground, both dealing with individuals, but also dealing with the site.

But this can only be a short-term measure. It is absolutely essential because the health situation is critical, and we have been very slow in responding to that. Right now, we are responding with full force at various levels to that. At the same time, the solution, in the mid-and long-term, is for the displaced to return either to their place of origin or to another place.

In this case here—and that is my third comment—we have identified a site—in fact, the site of origin where they came from—in the southern part of Mitrovica.

The local authorities have been very helpful and agreement was reached mid-April that would allow for a rebuilding/reconstructing and getting that place ready for return.

I goes without saying that the return must be voluntary. We will evidently, in view of the health situation, but also in view of the fact that the return ought to be desirable, counsel the individuals, counsel them in favor of return.

Many of the individuals are prepared to move back, but there are some who are still resisting. They are resisting because there are still some property issues that have not been addressed, but they're also resisting—and I'm coming back to an earlier question from Chairman Brownback where he referred to Germany.

It is no secret there is a lot of pressure on the Roma in the north not to move because there is concern among some among the Roma community in Europe that if we succeed in a fairly major voluntary return of the Roma, it could send the signals that the conditions are now right for return.

So there's a lot of influence from outside advising the Roma originally from the Roma Mahalla against returning.

And I also must say that there are also those among the Serb National Council, the SNC, in the north, who will very often take some very hardline positions, if I can be frank. They are also working against the return because they believe that any return would be seen as an indication that we are making progress in Kosovo, and at this stage they do not seem to be interested in cooperating in anything that could suggest return.

So we do hope that returns will begin. I was there personally looking at the site with the prime minister 3 weeks ago. We convened a donor conference in Mitrovica. Donors had mainly legitimate questions that we are working on, but we still hope that we can start rebuilding.

We are looking for 8 million Euro for this project. That will be single largest urban return in Kosovo since 1999.

And I hope once we have answered the questions that donors had that we will get some of the kind of funding that would allow for the return of Roma Mahalas and also that we can overcome the objections of some of those outside Kosovo but also could get this SNC to stop playing a very unhelpful role.

Mr. HAND. Thank you.

Mr. ENGLISH. I think Soren has covered the question in its entirety.

Mr. HAND. Just in closing, Mr. English, if I could just let you know—you probably know already—that the Commission staff is constantly e-mailing your staff, particularly Jennifer Mitchell, the human rights officer, but then also the desk officers in your office with many questions regarding Roma, freedom of religion, that come up throughout South and Central Europe.

And I want to express appreciation for the responses that we get from your office, as well as the embassies and offices out there, to these human rights questions that we have.

Thank you very much.

Ms. PRYOR. And I had just one final question.

I'm wondering if you could comment on the role that Belgrade has played in addressing human rights issues.

Some critics argue that they have not emphasized returns, for instance, because they are much more focused on the status issue. And then others have said that because of the inclination of local Serbs to support extreme nationalist figures, that, in fact, the government in Belgrade has a moderating influence on that.

So what is your view? And also, a related question, what is your sense of how able Kosovo Serbs are to represent their own interests?

Mr. JESSEN-PETERSEN. Well, let me start with the last one.

My sense is that they are fully able to represent their own interests. And second, evidently they should be allowed to represent their own interests.

We are talking about shaping the future of the society in Kosovo. We are very much focused on a number of minority issues, and it is absolutely key that those minorities, who are very much the focus of most of our efforts, they should be part of dialogue because they know better what their interests are, what their concerns are, and how they would like to see those concerns being addressed.

So I do believe that it is regrettable that Belgrade has not until now been encouraging the Kosovo Serbs to participate in the democratic institutions. There are reserved seats for the Kosovo Serbs in the assembly. There are ministerial portfolios held vacant for them. And also we have just embarked on working groups on decentralization again, where it is key that they participate.

On the latter, the good news is we had the first working group on decentralization yesterday, and the Kosovo Serbs did take place.

We will have another meeting tomorrow on pilot projects. Again, we expect the Kosovo Serbs to be there. Other minorities are there. They have been involved.

So that is my first point. They are fully able. They should be empowered to do so. It is their future that is at stake.

I must be very frank here and say that the lack of positive statements from Belgrade allowing them or encouraging them to participate could suggest that there is a concern in Belgrade, at this stage as we move closer to status talks, that an able and constructive participation of the Kosovo Serbs might somehow suggest that we can move forward without Belgrade.

First of all, when it comes to status, it is absolutely clear Belgrade has a key role in status discussions. There is no doubt about it.

Second, there is no doubt that the dialogue of Pristina-Belgrade is crucial. It is crucial in order to buildup confidence before we start on status. And there are a lot of things, issues they have to talk about.

But dialogue between Pristina and Belgrade cannot be a substitute for an internal dialogue between the Kosovo Albanians and all the minorities, and Kosovo Serbs in particular.

And whereas I welcome recent statements from Belgrade calling for meetings between President Tadic and President Rugova, now Prime Minister Kostunica, Prime Minister Kozumi, I welcome that we are working close. We have been pushing in UNMIK a lot on that and they have now responded.

At the same time, I do regret that until now they have not sent a clear signal so that the Kosovo Serbs can participate in institutions.

So in order to be convinced about the sincerity about the calls for dialogue, I think we need to see a clear signal also encouraging the Kosovo Serbs.

It's good that they are now participating in the decentralization working groups.

We have made it clear to Belgrade. We have invited them to send a participant from Belgrade who can be part of the Kosovo Serb delegations in the decentralization process. And again, I hope that we will see some positive signals.

Mr. ENGLISH. Just to amplify on one or two things that Soren has said—we have been working very closely through the Contact Group and bilaterally with Belgrade in an effort to involve Belgrade in all aspects of the dialogue.

We have been doing this in a very intensive way certainly since the post-March 2004 situation of last year.

It is unfortunate that Belgrade hasn't chosen at this point to send a clear positive signal to the Kosovo Serb community to participate actively across the board in all aspects of internal political life within Kosovo.

We still suffer from the fact that—or Kosovo still suffers, I should say, from the fact that its Serb community largely boycotted the elections, parliamentary elections, that were held in October.

They did so at the explicit request of the Serbian Government, at the explicit request of Prime Minister Kostunica, against the explicit call of President Tadic to participate in the election.

The fact that the Serbs did not participate in the elections—or so few participated in the elections, I should say—takes away from their ability to participate actively in the parliament to take up seats. They won only two or three seats in the assembly.

A full participation of the Serb community would have gotten them 10 seats in addition to the reserved seats.

So their profile is much diminished because Belgrade thought it more in the interest of the Serb community not to move forward than to move forward. We disagreed then. We disagree now.

The participation of the Kosovo Serbs is essential to the building of the kind of Kosovo that we need to see, a multiethnic Kosovo.

The encouragement of Belgrade in this process would be most welcome, and we continue to seek Belgrade's positive and active spirit in helping us move this forward.

Ms. PRYOR. Thank you very much. I think that's an excellent note to end on.

On behalf of the Commission I'd like to thank you again, Mr. Jessen-Petersen, Mr. English, for being with us today. We appreciate very much your time, the full information that you gave us, and your insights.

I'd like to thank everybody else who attended today also, and to let you know that a transcript, full transcript of this hearing will be available on our Web site, in about 24 hours, and that's www.csce.gov.

Thank you very much. This hearing is closed.

Mr. ENGLISH. Thank you very much.

And, Mr. Hand, thank you very much for your comments on the kind of cooperation that you've been getting from the State Department and from the office of South Central Europe in particular and from our missions.

I know that we have a very talented staff and I'm very grateful to hear it from others as well.

Thank you very much.

Mr. HAND. Thank you.

[Whereupon, at 12:43 p.m., the hearing was adjourned.]

APPENDICES

PREPARED STATEMENT OF HON. CHRISTOPHER H. SMITH, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Today's hearing is very important, because the issues surrounding Kosovo are developing at a rapid pace. Having cooperated with him on a number of Helsinki Commission initiatives in the past, including efforts to combat trafficking in persons, I was pleased that Under Secretary of State Nicholas Burns appeared before the House International Relations Committee last week. I am confident that the high-level U.S. engagement on Kosovo his personal involvement represents will have positive effect.

Similarly, I want to thank our distinguished witnesses here today for their willingness as officials of the United Nations and the Department of State to discuss the situation in Kosovo. I enthusiastically welcome your participation at this public hearing, despite the sensitivities and emotions that obviously surround the debate on Kosovo's future.

While the question of Kosovo's status is important, we must encourage those most directly concerned to arrive at the answer through democratic processes and dialogue. Whatever determination is made regarding Kosovo's status, respect for internationally-agreed human rights is a prerequisite. Unfortunately, six years after the conflict, the human rights situation in Kosovo is still not a good one, particularly for minority communities who live in enclaves and for the displaced. We must condemn the sporadic acts of violence, the refusal to permit people to return or move about freely, and the destruction of homes and places of worship. The violence should not be allowed to happen, especially when a peacekeeping force and international police are on the ground.

Regardless of what status is being advocated—independence for Kosovo, autonomy, or something else—it is only reasonable to insist on the guarantee of basic rights and freedoms for all people of Kosovo.

Mr. Chairman, I am hopeful that the mid-year review of the implementation of standards will look closely at what is actually happening on the ground. The review should show the way toward improving the respect shown for human rights.

Over the years, the Helsinki Commission has held numerous hearings relating to Kosovo. At times, the focus was necessarily on the plight of Kosovar Albanians and the repression they endured during the years of the Milosevic regime. We also brought attention to those Albanians who were held in Serbian prisons after Milosevic was ousted. We pressed for their release! Later, it was necessary for us to focus on the plight of Serbs, Roma and others living in Kosovo as minority populations. We called upon Kosovo's Albanian majority to respect the rights of others—just as they themselves deserved. We've focused on the situation in Serb-controlled Mitrovica, as well as on finding out what happened to missing persons, regardless of their ethnicity. We've called for the prosecution of those responsible for war crimes, also without regard to which side they represent. Last year, we condemned the outbreak

of violence in March 2004 and the targeting of people's homes and their places of worship.

In examining these issues at hearings and in meetings, Members of the Helsinki Commission have listened to many different viewpoints and arguments. I believe we have a good idea what the problems are. Today, I hope we can get some sense of what can be concretely done about them, and whether the international community has the will to ensure that something is done, that the right thing is done.

**PREPARED STATEMENT OF CHARLES ENGLISH, DIRECTOR,
OFFICE FOR SOUTH CENTRAL EUROPEAN AFFAIRS,
U.S. DEPARTMENT OF STATE**

Thank you for inviting me to testify before the Helsinki Commission today, Mr. Chairman. I am pleased to be here to discuss the future of human rights in Kosovo.

As Under Secretary Burns shared with your colleagues on the House Committee on International Relations last week, the Administration believes that 2005 is a year of decision for Kosovo. In the next few months, we expect the United Nations to launch a Comprehensive Review of Kosovo's progress towards Standards Implementation; if that review is positive, as we hope it will be, we will launch a process to determine Kosovo's future status. In his remarks, Under Secretary Burns laid out our strategy to move swiftly to the start of that process. In 2005 we will at the same time commemorate the tenth anniversary of the Srebrenica massacre and celebrate the peace brought to Bosnia and Herzegovina by the signing of the Dayton Peace Accords.

In Kosovo, as we work to enter this new phase, the promotion of human rights and fundamental freedoms will remain at the forefront of our policy as it has been under our policy of "Standards before Status." We cannot achieve a lasting settlement in Kosovo until structures, institutions and habits that protect the rights and liberties of all of the people of Kosovo are in place. Principles of democracy and multi-ethnicity—the cornerstones of our overall Balkans policy for over a decade—will continue to guide us. Today I will discuss these issues as they relate to protecting the human rights and freedoms of all people of Kosovo, and present our plans for ensuring that the fundamental principles of human rights remain central during discussions of Kosovo's future status.

The human rights challenges in Kosovo are significant. The people of Kosovo have suffered a legacy of dictatorship and conflict, which culminated in mass murders, rapes, political oppression and the forced displacement of hundreds of thousands of people. Approximately 3,000 people from all sides of the Kosovo conflict remain missing. We are still learning of atrocities that were committed six years ago; just this month another mass grave was discovered in Kosovo that contained the remains of 13 people. To bring hope for the future to people who have suffered under a climate of fear and hatred for so long will not be easy.

Yet Kosovo has already made tangible progress since the United States led efforts in 1999 to halt egregious human rights abuses. Under the stewardship and guidance of the United Nations Interim Administration Mission in Kosovo (UNMIK), Kosovo has now held four successful and democratic elections, established a constitutional framework, developed provisional governing institutions, and built a professional and multi-ethnic police force. We also continue to see improvements in Kosovo's ability to ensure its citizens have equal access to the rule of law and that justice is administered equally, transparently and credibly. All of these developments have resulted in major improvements for the protection of human rights in Kosovo. We also support ongoing efforts, such as an initiative from the Kosovo Prime Minister's Office of Good Governance to draft a comprehensive human rights strategy.

But in spite of these significant accomplishments, there remains a major challenge in the protection of human rights in Kosovo: the precarious situation of Kosovo's minority communities. These minorities, especially ethnic Serbs and Roma, along with Ashkalia and Egyptian communities, continue to face extraordinary obstacles to creating a sustainable life for themselves in Kosovo. Discrimination is a serious problem. Access to public services is uneven. Incidents of harassment occur. Freedom of movement is limited. Most minorities feel unsafe in Kosovo.

The violence that erupted in March of last year, when groups of Kosovo Albanians destroyed or damaged some 986 homes and some 29 churches, demonstrated that more remains to be done to solidify a meaningful multi-ethnic and pluralistic society. Recovering from this violence has been difficult, although we are pleased that over 90% of homes that were damaged have been reconstructed. We are also heartened to note that Kosovo courts have secured prison sentences against some of the perpetrators of the violence, including six Kosovo Albanians convicted last week of the murder of two Kosovo Serbs during the March rioting.

The March riots showed how much work Kosovo has to do to develop into a free and pluralistic society. The primary responsibility for this lies with Kosovo's majority Albanian community. Until that community adequately protects and guarantees the rights of its minority communities, the pace of Kosovo's Euro-Atlantic integration will suffer. This is why the United States and the international community, together with UNMIK, have highlighted the achievement of Standards relating to multi-ethnicity and the protection of minority rights as a priority.

In particular, we have placed greater emphasis on the development of a plan to reform local governance. We believe that by giving more authority to local government, we can help bring government closer to all citizens, give minority communities greater say in issues that affect their lives, and generally facilitate the coexistence of different communities. Kosovo Albanian political leaders have agreed that this step is necessary and are planning to launch pilot projects that will involve local communities in health care, education, and eventually, we hope in law enforcement and justice as well.

We also are working to address the large number of people who fled in 1999 and who remain displaced and unable or unwilling to return to their homes. Estimates on the number of those who remain displaced from Kosovo vary widely—from just 65,000 to 225,000 (UNHCR uses this latter number)—but all agree any number is too many. Approximately 85% of these internally displaced persons (IDPs) are ethnic Serb. Since 2000, only 12,500 minority IDPs (some 5% using UNHCR estimates) have returned, but many continue to express an interest in doing so. While 2003 saw a 30% increase in returns, the March 2004 violence negatively affected this trend, and an additional 1,573 (out of 4,200 who fled their homes at that time) remain displaced as a result of that violence.

We believe the right of people to be able to return to their homes is a basic human right and a necessary element to ensure regional stability. Therefore, we continue to focus assistance on facilitating returns for those who wish to do so. Our Bureau for Population,

Refugees and Migration plans to provide over \$15 million for protection, return and local integration of displaced persons in the region in FY05, including approximately \$3.5 million for Kosovo and Serbia and Montenegro. Through Support for East European Democracy (SEED) funding, we also support economic and democratic development necessary for sustainable returns, and assist municipalities where local government and minority communities work together to foster returns and build a multiethnic society.

Although much attention is focused on Kosovo's Serb minority, there are other non-Albanian ethnic groups that live in disadvantaged circumstances in Kosovo. The Roma population, including derivative groups like the Ashkali and Egyptian communities, is especially vulnerable. As in other parts of Europe, Roma face discrimination. Like Serbs, many have been forced from their homes.

We are focused now on a particularly severe humanitarian situation involving Roma who have lived in temporary camps in northern Kosovo since they were displaced in 1999. Due to their proximity to a local mine and the Roma's own lead smelting activities, four of these camps have soil lead levels that are dangerously high: up to 360 times that which the World Health Organization considers acceptable. We are working with UNMIK, municipal and Roma leaders to find an immediate, sustainable solution to this problem.

The fight against trafficking in persons is yet another focus of our human rights efforts in Kosovo. The police in Kosovo, both local and UN Civilian Police, are becoming more effective at identifying trafficking victims and infiltrating trafficking rings. Our priority is to continue to build up local law enforcement and investigative capacity to fight this problem. We are also concerned, however, that the local media—despite training—continues to report on trafficking issues irresponsibly. The Kosovo Government has recently approved an action plan for the fight against trafficking in persons, and we hope this will spur additional progress on this issue.

As Under Secretary Burns said last week to the House International Relations Committee, we are now entering a new, more dynamic phase of our Balkans engagement. By the end of this year, the Administration hopes that a process to determine Kosovo's future political status will be underway, assuming a positive review of the Standards. The United States will be a central participant in that process. Although many details about that process remain to be elaborated, we have already said that the protection of human rights must be at the core of any status settlement. We have said that this settlement must be based on multi-ethnicity and respect the rights of all citizens. We also envision effective constitutional guarantees to ensure the protection of minorities, as well as safeguards for the protection of cultural and religious heritage.

We will continue to work with Kosovo authorities to ensure freedom of movement, assembly, speech and association, and continued democratic elections. We continually urge Kosovo authorities to take steps to condemn violence, discrimination and abuse whenever it occurs, and to work to head off such abuses before they take place. These principles of democracy and multi-ethnicity—already

enshrined in the Standards for Kosovo—will guide us as Kosovo advances on the path to Europe.

Kosovo's cultural monuments have also suffered from deliberately targeted destruction during the oppression, wars and retribution of the past ten years. Kosovo has a rich culture whose heritage and monuments deserve preservation so that the diverse heritage of that region can survive for its people and be passed on to their descendants. To further that goal, the United States, at a UNESCO and UN-sponsored conference May 13, pledged one million dollars for the reconstruction and preservation of cultural monuments of all Kosovo's communities.

Ten years ago the Balkans region saw massive violations of the ultimate human right. As the horrors of the 1990s recede from memory, the region must now take steps to move beyond that dark era. By solving the Kosovo status question, we can fix the most serious issue still outstanding from the Balkan wars.

Solving Kosovo's status, however, does not mean that the work to defend human rights and democracy will end. To the contrary, this work must continue and accelerate, particularly if Kosovo is to meet the European Union's high standards for membership. In a larger sense, this work is never finished in a free, democratic society. The people of Kosovo—minority and majority alike—must never stop working to ensure that institutions are transparent, that the political culture is inclusive and that laws are just. This ongoing commitment to democracy, based on the rule of law, is the most basic criterion for joining the Euro-Atlantic community and calling oneself a free, just society. The United States will continue to support Kosovo's efforts to achieve this objective.



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