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Report of the Secretary-General
on the United Nations Interim Administration Mission in Kosovo
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STATEMENT

by

H.E. MR. IVICA DAČIĆ
PRIME MINISTER OF THE REPUBLIC OF SERBIA

New York, 10 February 2014

Mme President,
Excellencies,
Ladies and Gentlemen,

At the outset, let me welcome the new members of the Security Council and wish them success in their work.

Mme President,

It is a great honour and satisfaction for me to be given yet another opportunity to address you at the meeting dedicated to the work of the United Nations Interim Administration Mission in Kosovo (UNMIK), a rare opportunity indeed to consider, in this forum, the way to go to overcome the problems in Kosovo and Metohija. Let me express, once again, my gratitude for the contribution made by the United Nations to the solution of outstanding issues for almost 15 years now; in that, a significant contribution has, no doubt, been made by these quarterly meetings convened under Resolution 1244, the only valid legal framework of the international presence in Kosovo and Metohija.

At the forthcoming Security Council meeting, we shall mark the first anniversary of the signing of the Brussels Agreement on Principles Governing the Normalization of Relations, reached between Belgrade and Priština in April 2013. In order to achieve ever better results in the implementation of the Brussels Agreement in the period to come and to be able to look back at the results in that period with satisfaction, we must establish much clearer rules and build much greater confidence.

We appreciate very much the constructive approach taken by the United Nations and Mr. Farid Zarif, Special Representative of the United Nations Secretary-General, as well as by the organizations working under the United Nations umbrella, such as EULEX. They have created conditions for all sides to work together on improving the living conditions of all people in Kosovo and Metohija, irrespective of their ethnic belonging. I believe that you will agree that disagreements in respect of the question of the status of Kosovo and Metohija must not impede our efforts to act jointly to bring about solutions to practical questions, pushed to the backburner by Priština for many years.

Thanks to the unstinting efforts of all actors in the negotiations, great breakthroughs have been made. They are noted in the Report of the Secretary-General. Let me take this opportunity to thank, once again, Baroness Ashton for her patient and wise mediation, on behalf of the European Union, of the negotiations between Belgrade and Priština.

The patience and wisdom that helped us overcome the decades-long vacuum are of key importance for the process of normalization of relations, which is a precondition for the normalization of life in Kosovo and Metohija. Should our patience and wisdom wear now thin, not only shall we not progress towards results, but shall squander people's trust and have to wait very long for another opportunity to rehabilitate the idea of cohabitation.

Distinguished members of the Security Council,

I call on you to join efforts to create additional conditions in the field for consistent implementation of the agreements we have reached so far, because I deeply believe that this is the only way to establish mutual trust in Kosovo and Metohija. Short of the trust, we may not, I am afraid, have sound foundations for any future agreements.

I am sure that, in solidifying the foundations, the European Union will continue to lend us a helping hand, primarily during further negotiations in Brussels, as well as within the negotiations on European

integration that we have begun. On 21 January, the Republic of Serbia started, officially, the process of accession to the Union, of which we are very proud, since we consider the decision of the European Union to open the negotiations to be a recognition of the efforts what we have invested in modernizing the country. We consider that the beginning of the accession process is also a great impetus to further work on improving the living conditions of the Serbian people in Kosovo and Metohija, convinced now that our constructive approach to the promotion of European values in Serbian society will be properly appreciated. The fact that the accession negotiations began on 21 January and that the screening on Chapter 35 was held is telling evidence that the Republic of Serbia had fulfilled its obligations under the Brussels Agreement in time and approached the dialogue in a constructive spirit.

In addition to the need for implementing all basic human rights provisions, including the amendment of the legal framework with respect to religious freedoms, the Kosovo* 2013 Progress Report of the European Commission points also to the need for addressing other very important problems confronting Serbs and other non-Albanians in Kosovo and Metohija. The Report calls for the improvement of implementation of the existing legal framework and enforcement of decisions remedying human rights infringements and highlights the need for simplifying and streamlining the complex and overlapping institutional setup for reporting on these rights, as well as for their promotion, both at central and local levels. It points to the continued attacks on religious heritage sites, in particular the widespread desecration of Serbian Orthodox churches and cemeteries, and the need for improving the mechanisms reporting and following up such activities. The Report points to the weak implementation of anti-discrimination policies and goes on to say that many unresolved property compensation claims are still before the courts and that inter-ethnic disputes are unduly prolonged. The so-called Kosovo authorities, it is also said in the Report, need to do more to reach out to displaced persons regarding expropriation of their real estate. The sustainability of the returns and re-integration processes continues to be further exacerbated by ongoing incidents affecting returnees and their property and religious and cultural heritage sites, as well as by limited access to property and public services, blocked or delayed property restitution and a lack of economic opportunities.

Mme President,

We called upon Serbs to participate in the local elections in Kosovo and Metohija. In order to encourage them and make their participation in the forthcoming parliamentary elections in Kosovo and Metohija a desirable step for them as well - which is, I believe, in our common interest - we must focus on eliminating the shortcomings that marred the recent local elections. The Report fails to address any of the numerous obstacles that the Serbs encountered in the processes and that prevented many of them from participating in the elections and exercising freely their civil rights.

We shall continue to insist on the implementation of the letter and spirit of the agreements reached in Brussels, which was not the case at the local elections. Notwithstanding the agreements, the election materials were only partially status-neutral; mail registration of IDPs began after almost a 2-month delay and lasted only 5 days; despite the agreement that Serbian documents were also valid, verification of the inclusion of a person in voters' lists with the Central Election Commission of Kosovo was possible only on the basis of the Kosovo personal number; and the possibility for e-mail registration was unavailable to this category of voters.

Let me point out that the IDP identity card was considered as proof of displacement and identity at elections so far, while at the local elections in Kosovo and Metohija the IDP identity card or the certificate issued by the Refugee and Migrations Commissariat of the Republic of Serbia were being considered only as proof of identity. Considering that there is no other way to prove internal displacement, the Central Election Commission refused to recognize in this way the IDP registration carried out and verified by the UNHCR and the Voters' List established by the OSCE.

The situation with voters' lists is very complex and it is imperative that they be updated for the next elections. The IDPs who were not entered into the Voters' List of the Central Election Commission of Kosovo are many even though they fulfilled all the conditions. It so happened that even the election candidates had no right to vote even though the Commission itself confirmed the validity of their candidatures, the practice unprecedented in the world.

Mme President,

I considered that it was necessary to highlight the problems that Serbs encountered in the pre-election and election processes lest an impression be created that, except in northern Kosovo and Metohija, things ran smoothly everywhere else. Also, it is necessary to eliminate the shortcomings before the next elections. We must not disregard the fact, presented in the Report of the Secretary-General, that there were incidents at polling stations in the North that did not occur in the second round due to the intervention of political leaders and, let me add, proper elections organization by the authorities. I regret that these, obviously effective, measures were not taken before the first round of elections.

The recent assassination of Dimitrije Janičijević, a mayoral candidate in northern Kosovska Mitrovica, helped create the atmosphere of fear and insecurity, which will surely dent the prospects of Serbs' participation in the elections. We are witness to exactly what I have persistently warned about from this place: failure to punish perpetrators of crimes against Serbs is instrumental in creating the climate amenable to new crimes that must not go unpunished and the perpetrators of which we expect to see brought to justice soon.

Stability is not helped by the arrest of Oliver Ivanović, another mayoral candidate in northern Kosovska Mitrovica and one of the most prominent Serbian politicians in Kosovo and Metohija, either. It is indicative of another problem that we have warned about for years and expect to be solved: secret indictments may not exist in Kosovo and Metohija, but witnesses, off to testify 15 years after crimes were allegedly committed, do. Ivanović, in detention in a prison in Priština, was arrested precisely on the basis of such testimonies. Also, the Appellate Court failed to provide an explanation why the legal deadline to act upon his arrest appeal was allowed to lapse. The Republic of Serbia protests most strongly to the Security Council the arrest of Oliver Ivanović and requests his release from detention, as well as an explanation as to why he has been arrested at the very moment before the holding of the mayoral elections in northern Kosovska Mitrovica at which he is one of the candidates. Such unwarranted actions may destabilize the already fragile peace and stability in Kosovo and Metohija.

Elections in northern Mitrovica will be held and its mayor elected; steps will be taken thereafter to establish the Community of Serbian Municipalities, the Statute of which is being drafted. Mention must be made, however, of the failure of Priština to prepare a legal framework for an effective exercise of the competencies of the future Community provided for by the Brussels Agreement and its lack of political will to implement that part of the Agreement. It is necessary to achieve fundamental agreement on the long-term representation of the Serbian community in Priština central institutions, with a clear picture of its participation in government agencies, and regulate, among other things, financing methods, communication with Priština and modalities for holding central elections.

Mme President,

Even if accurate for this reporting period, the assessment of the Secretary-General that the number of inter-ethnic incidents has been reduced provides no exculpation for over 7 000 physical attacks carried out since 1999. Regrettably, despite numerous protestations by our side, no records on ethnically motivated crimes have been compiled yet and the competent agencies of the Provisional Institutions of Self-Government in Kosovo and Metohija continue to fall short in trying these crimes.

Although the number of attacks is smaller compared to previous reporting periods, the fact remains that these attacks have never come to an end, just as it is the fact that Serbs in Kosovo and Metohija are fewer and further between. Therefore, the number of these attacks must never be reduced to a statistic that may lead astray; what is quite clear, though, is the message sent through attacks on members of a community.

An ethnic crime of 'low intensity' may suffice to cause serious limitations of the freedom of movement of Serbs and other non-Albanians who find their life confined by a complex range of minor limitations, such as avoidance to travel alone or by night, choice of place and time for small purchases of everyday necessities, limited use of the Serbian language in public places, safe trips to school etc. Public condemnation of ethnically motivated incidents would go a long way in improving inter-ethnic dialogue and tolerance and would help create the awareness that the future lies in multi-ethnicity and the acceptance of returnees from other ethnic groups.

The current treatment of minority communities makes it impossible for them to lead normal life and is discriminatory vis-à-vis the approach to, and enjoyment of, any right regulated by legal provisions in force in Kosovo and Metohija. The Law on Discrimination, promulgated by the Special Representative himself, provides special protection to minority communities, bans all forms of discrimination and protects the individual not only against discriminatory acts of public agencies, but also against discriminatory behaviour of legal and natural persons. Regrettably, the high quality of the legal text has not been followed up by concrete and relevant measures by UNMIK and the Priština institutions in its implementation, so that there is a huge discrepancy and outright contrast between them and everyday instances of direct discrimination.

Mme President,

Surely, the question of the restitution of property to members of non-Albanian communities in Kosovo and Metohija, among which Serbs are the majority, is embedded in the question of minority rights. Besides, there is also the open question of the property of the State of Serbia and the Serbian Orthodox Church.

The legal mechanisms inaugurated by UNMIK and EULEX to address property issues, assist courts to reduce the number of unresolved claims and provide protection to individuals in cases of human rights violations yielded, regrettably, less than adequate results and this type of litigation accounts for 40 per cent of the overall number of unresolved cases before the courts of Kosovo and Metohija. Besides, the problem of a large number of forged ownership documents creates another impediment to the realization of the right to property. About 40 000 land restitution claims have been filed to the Kosovo Property Agency while, according to the unofficial data, almost 700 000 parcels are usurped. Another problem affecting property restitution is the lack of appropriate protection against repeated unlawful re-possession after eviction.

An interesting observation concerns the expropriation of the property of Serbs in Kosovo and Metohija, carried out on the basis of the decision of the so-called Kosovo authorities for the purpose of highway construction: in the Gračanica Municipality, for example, about 170 out of 213 expropriated properties belong to Serbs.

Distinguished members of the Security Council,

We have been advised recently that the Provisional Institutions of Self-Government intend to alter the legal status of the *Trepča* Combine, the majority owner of which is the Republic of Serbia. The Combine employs a large number of the members of the Serbian community in Kosovo and Metohija.

The adoption of a new Law that would alter the ownership structure and the legal status of the Combine would be, no doubt, yet another unilateral act that could have, as a result, the alteration of the rights and the status of the *Trepča* employees, members of the Serbian and other non-Albanian communities in Kosovo and Metohija. This would be tantamount to an attempt at confiscating the property of the Republic of Serbia and a violation of the basic principles of the property rights.

The alteration of the legal regulation would rescind the creditors' rights and it is far from clear at this moment how the question of their claims would be solved considering that only the creditors that registered their claims against the *Trepča* Combine through the Management Team for the Establishment of the Community of Serbian Municipalities request payment of more than € 268 million.

Mention is made in this context of laws being changed in the areas that are still going to be the subject-matter of dialogue. By acts like these, Priština has been demonstrating inconsistency and refusal to honour agreements. This is not the only area in which laws are being changed before negotiated in Brussels. On the other hand, as regards the areas in respect of which agreement has been reached, Priština has failed to demonstrate political will to start, as the first step in the realization of the agreement, the political process of changing the legal framework which would make it possible to continue the formation of the Community of Serbian Municipalities and to which Priština has made a commitment.

Mme President,

The Serbs and the members of other minority communities in Kosovo and Metohija continue to encounter problems: their freedom of movement is still limited or prevented; their security and free use of language, access to institutions, exercise of the right to participate in elections and vote are threatened; no mechanisms exist either for restitution of usurped property or for protection of the property against re-possession after eviction; entry into possession is being prevented; and there is no free choice of the place of return and no conditions for sustainable survival of returnees. Even if the returnees do decide to return, local communities bend over backwards to make them feel neither accepted nor acceptable. In the Municipality of Klina, already two returnee houses have been burned in the last 10 days. Last but not least, attempts are continually being made to rename or stamp out the Serbian cultural and religious heritage and confiscate the property belonging to the Republic of Serbia.

As pointed out by the Secretary-General in his Report, one of the priorities of the United Nations Mission is to ensure respect for human rights. We consider that it is still necessary that all international mission be a function of the priority irrespective of which right is involved; they should be even more mindful with regard to the human rights and fundamental freedoms of minority communities in Kosovo and Metohija. We perceive UNMIK as the main guarantor all the more so as the EU Mission will be reconfigured during the year.

I would like to point out in particular that any discussion of a possible change of the scope and mandate of EULEX must not take place outside the Security Council bearing in mind that the United Nations is the roof organization of the international presence in Kosovo and Metohija. I believe that today's meeting is the right opportunity to initiate a discussion on the reconfiguration of EULEX because the Security Council is the only appropriate forum to agree on changes in Kosovo and Metohija that would lead to lasting and stable progress in the field. If it was necessary for the Security Council to adopt a Presidential Statement, the so-called 6-Point Plan of Secretary-General Ban Ki-moon, to deploy EULEX under the UNMIK umbrella, isn't the approval of this body also needed for a substantial change of the mandate and scope of the EU mission? The point of departure for determining measures to be taken to improve the contribution of the European Union to Kosovo and Metohija should be a Report of the Secretary-General on the progress that

EULEX has achieved so far. The Republic of Serbia expects the beginning of a discussion of this topic attentively and will render its constructive contribution.

In a nutshell, Mme President, I consider that, for the implementation of all agreements, international presence in Kosovo and Metohija is necessary due to the lack of mutual trust. This is equally true of UNMIK, KFOR, EULEX and the missions of other international organizations. Each and every proposal for their termination and the reduction of their scope and the change of their mandate must be the subject-matter of a serious discussion and agreement lest it affect the peace and stability in Kosovo and Metohija and, by the same token, in the entire region.

Mme President,

Serbian officials continue to follow meticulously the investigation launched by the EULEX Special Investigative Task Force into allegations made in the December 2010 Report written by the Swiss Senator, Mr. Dick Marty, and almost unanimously approved by the Parliamentary Assembly of the Council of Europe.

According to the Report, entitled "*Inhuman Treatment of People and Illicit Trafficking in Human Organs in Kosovo*," hundreds of Serbs were abducted in Kosovo before, during and immediately after the 1999 conflict and sent to secret detention camps in the Republic of Albania. Many of them were subsequently selected for forced surgery, before being murdered. Their internal body organs were extracted and sold on the international black market.

Just as Serbia has done everything to uncover and prosecute all those who committed atrocities against the Albanian population in Kosovo, it expects that the full truth will be established on the war crimes committed against Serbs in Kosovo and Metohija and that all who are responsible for them will be punished.

The families of the Serbian victims must not be seen as less deserving of justice than the victims of other war crimes committed in the former Yugoslavia during the 1990s.

Mme President,

In participating in the meeting of the Security Council on 21 August 2012 for the first time in my capacity as Prime Minister of the Republic of Serbia, I said that the solution of the problems in Kosovo and Metohija would be one of the most important priorities of the new Government and that we were ready to achieve, through negotiations and dialogue, a peaceful and sustainable solution, fully respecting the legitimate interests of both Albanians and Serbs, as well as of all other peoples living in Kosovo and Metohija.

We want lasting peace. In order to make that peace last, it must be just. I say this as a man born in Prizren in Kosovo and Metohija, the town that was the capital of Serbia in the Middle Ages; only 20-odd Serbs live in it today. As a consequence of the 5-century-long occupation by the Ottoman Empire and the ethnic cleansing of Serbs by Albanians in the last 2 centuries, Albanians are the majority population of Kosovo and Metohija today.

This fact does not give the right to the Albanians to take unilateral decisions of independence without agreement with the country from which they secede.

Let me be quite clear: Serbia is ready for normalization and reconciliation in the region, primarily in the interest of ordinary people.

Also, Serbia is ready for dialogue, aimed at finding a comprehensive solution, but it is not ready, nor will it ever be, to accept the unilateral declaration of independence of Kosovo and Metohija.

We warn Priština not to misinterpret the readiness of Serbia for dialogue and compromise as its weakness and not to use it for the affirmation of the self-declared independence.

In order to bring about an historical reconciliation of the two peoples and a comprehensive solution for the problem of Kosovo and Metohija, it is necessary that the two sides take difficult and courageous decisions. We did our bit and we shall continue the dialogue with undiminished intensity and maximum constructiveness. Priština, however, must be aware that there is no lasting comprehensive solution without agreement with Serbia and the decision of this body that I am addressing, the Security Council of the United Nations. 15 years have elapsed from the armed conflict in Kosovo and Metohija. Instead of continuing to live in the past and condemning each other, it is time we found a sustainable solution for the future.

Mme President,

I call on all Security Council member States to use the level reached in the solution of the problems in Kosovo and Metohija, which – I am sure – nobody of you expected when I spoke of it to you 18 months ago, as an opportunity to build lasting stability and long-lasting peace in Kosovo and Metohija and in the entire region.

Thank you for the attention and the understanding of the challenges that we are faced with.