Soldiers and civil power: supporting or substituting civil authorities in peace operation during the 1990s
Brocades Zaalberg, T.

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After Serb security forces left Kosovo in relative good order following NATO’s entry, renewed hostilities between the warring parties were unlikely. KFOR appeared to be an immediate success as far as performing its primary military task was concerned. By intervening with force on humanitarian grounds, NATO had secured the well being of the Albanian majority of Kosovo. However, it was now up to KFOR to show the world that on its watch, it would not allow reverse ethnic cleansing. Controlling the UÇK became the key to creating a secure environment for all Kosovars, Albanian and Serb. Not only was the UÇK to be disarmed, it had to be kept from becoming an internal security force in a civilian guise beyond NATO or UN control. The only way of doing so was for KFOR to assume the policing task that soldiers were officially not qualified to perform. In the previous two years NATO operations in Bosnia had finally triggered debate about the fundamental problem of the “public security gap” between UN Civilian Police and military peacekeepers and the dilemmas involved in cooperating with local police forces. The term “public security gap” was first coined in a conference co-organised by Robert Oakley at the U.S. National Defence University in 1998. The former U.S. Envoy to Somalia was one of those recognising the gap to be a chronic problem in peace operations, while political and military leaders generally preferred to regard it as an aberration in their desire to segregate the two trades. Military involvement in the public security sphere was still mostly ignored within NATO and its member states. Even those analysts who seriously addressed the public security gap hardly contemplated soldiers operating in a complete law and order vacuum similar to that facing UNITAF soldiers in Somalia six years earlier. During the conference held at the National Defence University, Michael Kelly, who had started publishing on the Australian experience in Somalia, was alone in arguing with foresight that the laws of occupation or at least a temporary military takeover of certain law and order functions was likely to be inevitable during peace operations. However, this was an unwelcome idea at the time when civil and military powers were assumed to be segregated. The lack of prior consideration and military planning for public security left KFOR woefully unprepared for a task it was eager to avoid as much as possible and hoping to transfer to the UN Civilian Police force at the earliest possible date.
“Anarchy, or something not far from it”

Around the time Serb security forces left Orahovac on 15 June, the Dutch reported on a quiet but tense situation in and around the town. Tension rapidly rose, however, after the UÇK entered Orahovac and posted armed fighters around the town. Meanwhile, Albanian refugees started to return from Albania and Macedonia in massive numbers, spilling back into Kosovo at a rate of close to 50,000 a day, mostly on their own initiative. A spokesperson for the UNHCR called the influx of refugees one of the largest spontaneous returns in the organisation’s existence. Some 300,000 persons had returned by June 25, still leaving more than half a million outside Kosovo. When these returning refugees were confronted with evidence of war crimes and the destruction of their property, a wave of vengeance and score-settling erupted throughout the province. In other cases, common criminals seized the opportunity provided by the law and order vacuum. In both Orahovac and Prizren, Serb and other minorities looked towards NATO to live up to its promise to protect all Kosovars. In all, approximately 20,000 Kosovar Serbs—some 350 from Orahovac—had already left with the retreating Yugoslav security forces. The majority awaited what Kosovo under KFOR and the UN interim rule would bring them, but with their most essential possessions packed they were ready to leave the province.

Dutch and German troops were posted around the Serb areas, but just as the Dutch battalion reached full strength houses started to go up in flames all over Orahovac and Zociste, a small neighbouring village with a mixed Albanian and Serb population. The houses burning in the city were those the Serbs had left behind in the predominantly Albanian lower part of town after leaving for Serbia or after taking refuge in the upper Serbian-dominated part. In the now deserted Serb village of Zociste, not only houses, but also an age-old Christian Orthodox monastery burned down to the ground.

Catching the arsonist proved almost impossible for KFOR troops, particularly at night when they were most active. The mostly young local males were swift and clear at home in the streets and alleyways that felt so alien to the Dutch and German soldiers who, still in kevlar vests and helmets at this point, were pursuing them. In the rare cases when they were spotted they would just as easily disappear, most likely in houses of family and friends where KFOR would commonly not follow them. The Dutch had been issued no night-vision-goggles by the Dutch Army, since these were not among the basic equipment of an artillery unit. However, even the night-vision equipment used by American soldiers under similar circumstances in their area of operations around the eastern city Gnjilane did not help the GI’s much in preventing large scale arson. Their Apache attack helicopters proved of little value when hovering over the urban areas. Using what they had, the Dutch gunners shot illumination rounds from their howitzers “in order to show that, if necessary, those pieces of metal could actually fire.” In addition, one of the German tanks fired warning shots for sheer intimidation purposes. But for the moment, neither high-tech infantry equipment nor muscle flexing proved a match for a group of frustrated Albanians determined to intimidate and expel a minority population from among their midst.
The failure to protect Kosovo’s minorities and their property has often been ascribed to KFOR’s reluctance to step into the void. KFOR’s poor preparations and some national contingents’ hesitance in reacting to public disorder can be partly blamed, but a closer look at the difficulties faced by those contingents that reacted to the best of their abilities showed the limits of what soldiers could do in those early weeks. It was frustrating for KFOR to have such a powerful military force at its disposal while unable to do much about the anarchy that unfolded. In Orahovac only four persons were arrested and detained for arson during those first weeks. Several other local Albanians were caught in the act, but they mostly had to be released because there was no place to lock them up. As well, the troops often lacked concrete evidence to justify an arrest. The Dutch hastily called a local fire brigade into being, but operating just one old fire truck it hardly proved effective in those crucial first few weeks. When Serbian owned houses burned, the Albanian firemen were either drunk, coincidentally in the process of repairing their truck, or supposedly incapable of finding the fire. When an Albanian’s house burned there was to no such delay.6

In Prizren houses went up in flames at an even higher rate. By 7 July arson had become so common that the Germans reported: “Today was a very quiet day. Lootings and burning of houses are still going on, especially in northern part of Prizren.”7 Two days later, just five minutes after one of the frequent electrical power failures, several more houses belonging to Serbs and other minorities started to burn. The Prizren fire brigade also proved quite ineffective and the German brigade’s own fire fighters constantly had to roll out to extinguish the fires. A few hours later another seven houses in the city’s historic heart were reduced to ashes. Altogether some twenty houses burned that day despite the fact that all available forces were sent into Prizren to prevent arson and to fight the fires. The next day looting and burning continued during what was reported to be another “rather calm day” in Prizren.8 Looting went hand in hand with arson, and more dramatically, reports of murder and kidnappings started to pour in from all corners of Kosovo.

Starting on 28 June, Von Korff imposed a 10 p.m. to 6 a.m. curfew in order to curb the burning and lawlessness. No such measures had been planned beforehand. German troops were on the streets to enforce the curfew and most civilians appeared to be abiding by it. It would remain in force in the months to come and in October Military Police still arrested fifteen persons for violating the curfew.9 The American brigade also introduced a curfew starting at 8 p.m. in Gnjilane and Vitina, the main cities in their eastern sector, in order to control the burning and looting of property owned by Serbs and Roma and the frequent exchanges of gunfire in this area. As late as 2002, selective curfews were still in force in the American sector.10 KFOR did not introduce the curfew Kosovo-wide. A Roma living in Djakovica, in the Italian-controlled sector, called for a curfew like that in Prizren since he was frequently intimidated by Albanians in July: “I would like to report my case to KFOR. I am terrified of what might happen to us here. But I can’t speak Italian. If there were Turkish troops here we could report it to them—my wife speaks Turkish. As it is, we are the people with no mouths. There is no curfew here in Djakovica. I think this makes the situation much
worse here than in Prizren.”¹¹ To reduce arson and murder rates in Prizren the Germans also came up with a rather original crime-fighting measure. On the city's central square, they raised an open-air cinema to provide some distraction for the local population. At least during these nights some houses and maybe some lives were saved by what became know as “film-aid.”¹²

The Dutch battalion in Orahovac found no proof of an organised effort by the UÇK to burn houses or evict Serb inhabitants. Human Rights Watch also reported in 2001 that while the vast majority of the violence was politically motivated, “namely, the removal from Kosovo of non-ethnic Albanians in order to better justify an independent state”, there was no evidence of a coordinated policy of terror and violence against minorities by the UÇK’s political or military leadership.¹³ There proved to be little need for incitement of Albanian civilians and organisation by politicians and military leaders. Ismet Tara, the local UÇK commander in Orahovac, claimed he had his troops under control and even said that they were advising Dutch officers where best to position themselves to seal the Serb quarter from the vengeful population. Nevertheless, as in the rest of Kosovo, there were clear indications some UÇK individual and units were responsible for violence against minorities. On the night of 30 June a group of UÇK fighters led by a battalion commander was arrested in Orahovac for carrying arms. At two o’clock at night they had been seen driving a car from the direction of one of the burning house. Tara was summoned to the KFOR base and given a lecture on responsibility by the Dutch commander. As a result of lack of definite evidence the men were released the next evening by the two German Feldjäger, Military Police officers that had been attached to the Dutch-led Task Force.¹⁴

Powerlessness to stop the violence either caused apathy or triggered frustrated behaviour amongst the KFOR troops on the ground. The Dutch gunners that arrested the UÇK members at a checkpoint the night of 30 June had been told over their radio that the men coming towards them had been seen carrying a jerrycan. This was the sort of evidence that could make a case for official arrest and transfer to the prison in Prizren. However, their search of the car soon proved fruitless. In their anger they nevertheless persisted in their heavy-handed quest, ripping the interior of the car beyond all recognition in the process.¹⁵ In Gnjilane U.S. Army Major Glenn Tolle displayed similar behaviour when a house was set on fire under his very own eyes. He had not been able to spot the arsonist in the large crowd. While the house burned the Major ran into the courtyard where he found an elderly Serb couple that he tried to help in the battle against the fire. They had already lost and soon the roof of the house collapsed with a roar. Tolle was pushed over the brink by laughter and cheering from the Albanian crowd outside. He dashed out in the street and pushed his M-16 assault rifle up to the first Albanian man he caught smiling from ear to ear, shouting: “You think this is funny? What if this was your house.” He momentarily forgot that this was in fact the condition in which many Albanians had recently found their houses.¹⁶
**Policing Without Instructions**

Other than three and a half years earlier, when IFOR soldiers watched as Sarajevo’s suburbs burned, most of KFOR’s contingents at least made an effort to stop the anarchy. Running after elusive arsonist may not have produced desired results, and KFOR’s fire-fighters were hardly able to save most burning houses, but their effort was an important signal to the Serbs, the returning Albanians, and the world outside. Jackson’s troops were certainly not equipped and prepared to conduct wide scale policing with a force package and orders similar to the mission in Bosnia. It lacked sufficient military personnel with specialized skills such as Military Police forces, military lawyers and Civil Affairs units. Lieutenant General John Sanderson, who had led his peacekeepers into Cambodia seven years earlier, watched fascinated when Australian television showed two young British soldiers patrolling the streets of Pristina explaining how they were attempting to come to terms with their new role in Kosovo. Sanderson had retired from the Army and was now governor of the province of Western Australia. “We’re supposed to be responsible for law and order”, one of the British soldiers said, “but we don’t know which law we are supposed to be following, so we are applying British law.” Seven years earlier Sanderson had tried to keep his thinly spread UN troops from being sucked into the public security gap in Cambodia. However, after thirty years of continuous internal security operations in Northern Ireland, the General considered professional soldiers of the British Army to be familiar with the issues involved in applying force under emergency legislation. He was worried about soldiers from other nations lacking that sort of experience when confronted with the complex task of law enforcement.

Van Loon recalled that when he entered Orahovac he had only one clear reference to civil law and order. The Security Council assigned to him “ensuring public safety and order until the international civil presence can take responsibility for this task.” The explicit reference to public safety in conjunction with the more common and broader but military-style mission “the establishment of a secure environment” was unique. While soldiers had become more or less involved in public security tasks by default in previous peace operation such as Somalia, Haiti and to a lesser extent Cambodia and Bosnia, no earlier UN Resolution had directly assigned executive responsibility for law and order to a military force. Other than that, however, KFOR troops awaiting deployment in Kosovo were largely left in the dark as to how the problem of law enforcement was to be addressed.

KFOR’s poor preparations for the law and order vacuum resulted from a number of factors. Given that any plan is only as good as the assumptions that underlie it, KFOR’s planning effort had the wrong point of departure. Most of the early planning effort within NATO for a peacekeeping scenario was based on the Rambouillet Agreement that never was. This document was the only political guidance for planners, but was based on the assumption that Serb civil authorities would stay in place until relieved or reformed, while the army and the special police would be gradually reduced and withdrawn. This would have created a situation more similar to that faced in Bosnia in 1996. The Bosnia scenario already prevailed in the minds of policymakers, military leaders, tactical commanders and troops as they
prepared for deployment in Kosovo. The post-war environment in Kosovo was therefore seriously underestimated and as a result, SHAPE had defined its plan for Operation Joint Guardian in almost exclusive military terms in months before NATO troops crossed into Kosovo. Maybe the Bosnia scenario prevailed because the alternative—military involvement in filling the law and order vacuum—was considered undesirable. If the assumption that the Serb civil police would stay after Serb military forces had withdrawn was really underlying NATO planning, the post-war environment and the civilian dimension of the mission were dramatically underestimated. Focussed on the primarily military mission with its many uncertainties, Jackson’s ARRC completed military planning and preparations in considerable isolation from the civilian aspects the mission was likely to entail and from the civilian organisations with whom soldiers would have to cooperate.

Nevertheless, there are some indications that NATO considered a breakdown of law and order. One of KFOR’s legal advisors remembered how NATO’s planning orders prior to the bombing campaign in March “already mentioned law and order as a possible responsibility for KFOR.” His and his colleague legal advisors’ first reaction was: “Sure, give us a thousand extra lawyers. But we had no idea what this would imply. We had to fill a vacuum, but we had no idea how.” Toward the second half of May 1999 especially, the looming power vacuum started to be considered. It became more unlikely that Serb authorities would be able to remain temporarily in place after the expulsion of hundreds of thousands of Albanians during the war with NATO. By May NATO spokesman Jamie Shae mentioned the “law and order vacuum” KFOR was going to face and the need for a “heavy force to deter any further breakdown in law and order.” Wesley Clark was clearly no novice in the field of peace operations.
and he predicted before entry that with any form of government lacking in Kosovo, the mission was going to be very challenging. Nevertheless, the vacuum was primarily approached as a matter of troop deployment, not as a question of authority. KFOR’s preoccupations with separating the retreating Serbs and vengeful irregular UÇK fighters left little time for KFOR staff to contemplate what would soon become the most critical part of the mission.

The gap between the UN public security mandate on the one hand, and the military plans and orders on the other, was partly the result of the myopic assumption that the civilian “others” would soon pick up these tasks. This assumption went hand in hand with the prevailing notion in the NATO planning circles that taking on civilian responsibilities would only lead to civilian dependency on the military component, the so-called “dependency reflex.” In an interview, General Jackson predicted that the key to success in Kosovo would be the UN police force. During his first conference with De Mello’s UN military liaison officer in Pristina the General immediately asked when the UN civilian police force would arrive. As a former divisional commander in the first British IFOR contingent, an experienced soldier and peacekeeper such as Mike Jackson was well aware that such police forces always deployed at a snail’s pace. As a British paratrooper with experience in dealing with emergency law and military support to the local police in Northern Ireland, Jackson was not the man to shun support to civilian tasks or picking up public security himself on the dogmatic grounds that prevailed in the U.S. military. Nevertheless, it would be only after entry that he had his legal staff prepared a directive on law and order tasks. Although “preventing a power vacuum to emerge” was frequently heard within KFOR in May, emergency legislation or martial law were never considered, or even mentioned prior to entry. It is important to bear in mind that openly mentioning law and order tasks for NATO soldiers during the force generation process may have almost certainly had a stifling effect on the offers of troops for KFOR during the force generation process.

The underestimation of, or the blind eye turned to the law and order vacuum at the strategic level, caused commanders such as Van Loon and Von Korff to believe that the UN would take over “soon”. The Dutch commander recalled how he and the Brigadier “had the simplistic notion that after our physical presence had been established everything would be tip-top. Then those guys from the UN would show up.” A time-schedule was never articulated, but he and his fellow field commanders interpreted “soon” as two or three weeks rather than months. In his memoirs of the Kosovo war Clark says he established as one of the “measures of merit” for KFOR troops prior to entry to prevent anarchy: “get all Serb forces out, stop any crimes of revenge or Serb ethnic cleansing.” If this was the case, such concerns for the law and order vacuum were hardly translated into military instructions.

The operational plan for Kosovo failed to address public security in any detail, and the Rules of Engagement for Operation Joint Guardian addressed the issue of detention in very broad terms, similar to those provided to UNITAF troops in Somalia. Although the formal power of “arrest”, with its legal implications, was not mentioned as a formal course of action, detention was allowed in several cases. KFOR could detain members of the warring parties as
well as civilians for self-protection and for the protection of those explicitly defined in its mission: UNMIK officials and other international workers in for instance NGOs. As in Somalia, and in Bosnia after the Rules of Engagement were broadened in September 1996, the only direct and practical directive referring to the protection of the local population concerned the possibility that peacekeepers caught someone in the act of committing a “serious crime.” If they did, or if they could prevent murder, rape and serious assault. They could even use “deadly force” to prevent such a serious crime, as long as the provisions for “minimum use of force” were taken into consideration. According to the Rules of Engagement peacekeepers had the right to detain murderers, rapists or assailants, whether they were member of one of the warring parties or a local civilian, but officially they had to be caught in the act before KFOR soldiers could act. Property related crimes, such as theft and arson were not included in the rules prior to entry. Detention as a military measure did not appear on KFOR’s pocket sized Rules of Engagement cards issued to the troops on the ground.

Follow up procedures for detainees were hardly considered. Those apprehended for committing a serious crime in the presence of the force were to be transferred to “an appropriate civilian agency.” This would have to be UNMIK, since there was no other administration present. If such interim authorities were not present—which it was not throughout most of the summer of 1999—the nearest KFOR Military Police unit would somehow have to deal with the problem of handling a detainee, which would most likely result in treatment along the lines of prisoners of war. Despite a much broader mandate than that of the military forces entering the power vacuum in Somalia, NATO troops had come almost as poorly prepared as far as guidelines and procedures were concerned.

The operational directive and Rules of Engagement provided on 11 June to the Dutch troops by the Chief of the Defence Staff in The Hague were even more meagre and confusing on the issue of public security. While using the Supreme Commander’s operational plan and Rules of Engagement as its primary reference, the Dutch Ministry of Defence omitted in its national adaptation of these documents any reference to arrest, detention or serious crime. When the directive was updated one week later—after deployment in Kosovo—it addressed, apart from enforcing the Military Technical Agreement, several forms of support to civilian organisations, such as initial support to the humanitarian effort and civil reconstruction of Kosovo. It also tasked Dutch KFOR forces to support the efforts of the International Criminal Tribunal for the Former Yugoslavia (ICTY). However, the updated version of the operational directive and Rules of Engagement again left out detention in relation to the safety of the local population. Nevertheless, “aimed fire” was allowed “against any person involved in an unlawful act, or about to commit an act that threatens life or causes serious bodily harm, and if there is no other way of preventing this from taking place.” But this provision was part of a summary of rules related to self-defence, the defence of friendly forces, and persons explicitly under KFOR protection, such as international civilian workers.

As the operation unfolded, basic public security policy guidelines and instructions gradually emerged on the tactical level and found their way through the operational level to
the strategic decision-makers. Interestingly, the German brigade beat the Force Commander to it by issuing a law and order directive several days ahead of KFOR headquarters. Von Korff had been irritated by the lack of instructions on how to deal with the UÇK. Ten days after encountering Prizren in anarchy the Germans, known within NATO for their preference for operating by the book, came forward with concise instructions on basic police work. Aside from some well-known clichés on Germans' national characteristics, the most likely reason for the German's timely reaction was a visit of the German Minister of Defence, Rudolf Sharping, and his Army Chief of Staff to the troops in the field. Obviously, their swift appearance in theatre was aimed at bringing home the message that the war had been fought for a just cause. Already, the picture of Kosovo-Albanians cheering on German forces like liberators had done more for the image of the Bundeswehr than fifty years of emphasis on the army's purely defensive character. The left-wing coalition's interventionist role had nevertheless been controversial amongst the German population. The Minister's visit to a recently uncovered mass-grave in the village Velika Krusa near Orahovac was an attempt to accentuate the humanitarian motives of the intervention.

For German and Dutch troops in southern Kosovo the most immediate result of the Minister's visit was a swift approval and introduction of "Directive no. 8" on law and orders. What set this directive apart from previous instructions was that it first mentioned and put emphasis on the need to arrest and detain a person suspected of criminal activity. Apart from moving beyond merely catching offenders in the act, the directive allowed soldiers to act in more than just the cases of "serious crime" mentioned in the KFOR Rules of Engagement. The directive allowed soldiers to act on genocide, murder, manslaughter, rape and deportation, but also on cases of arson and intimidation, looting, assault and armed robbery. Directive no. 8 also set forward procedures for handling detainees. Although the German directive was quickly followed by instructions from Jackson's headquarters, it remained the primary reference for German and Dutch troops.

Even though there was little enthusiasm about soldiers arresting civilians in The Hague, the German directive on public security, while relatively broad in scope, was accepted without reservations by the Dutch Ministry of Defence. Two Dutch officers at key positions had put their weight behind acceptance of the directive. The highest ranking Dutch officer in Kosovo was Brigadier Herman Bokhoven. As the national commander of all Dutch forces in Kosovo, which soon included a reinforced engineer battalion, he was outside the KFOR chain of command. He reported instead to the Dutch Chief of the Defence Staff and the Minister of Defence. His role, like that of contingent commanders in IFOR and SFOR, was primarily that of the Defence Ministry's watchdog. He was to see that Dutch tactical commanders acted in line with national instructions—and not just as part of the KFOR chain of command. The Contingent Commander's interference in daily affairs in Kosovo was reduced by his stationing on KFOR's primary support base in distant Macedonia. Nevertheless, he had substantial influence over the daily affairs of the battalion—not always to the liking of the troops who usually felt their primary allegiance was to the Force Commander. In this sense much had
changed since the days when Dutch marines operated in Cambodia. While the Marines in 1992-1993 could operate virtually unimpeded by the Ministry of Defence, the disastrous situation in which Dutch troops found themselves in Srebrenica in 1995 had made the Ministry tighten its grip over soldiers in the field. This development in the relationship between governments and their military contingents in peace operations occurred in most NATO member states during the 1990s.

In recommending that the Minister accept the German directive, Bokhoven followed the advice of Colonel Peter van den Aker, the senior Dutch officer and Deputy Brigade Commander at Multinational Brigade South. Van den Aker knew the instructions on public security were important to the Germans and seemed to anticipate resistance in The Hague to the broad German interpretation of the public security clause of UN Resolution 1244. Bokhoven therefore cast his argument in a larger context. Along with Van den Aker he argued that the Dutch troops might lose their area of responsibility—and with it their influence in the brigade and thus in KFOR—if they would put national restraints on the use of their troops in enforcing law and order in Orahovac. This was the sort of incentive to which policymakers reacted.

About a week after entry Jackson had his legal advisors’ work on an amendment to his original operational order, which was finally issued on 25 June. His directive was more detailed and broader in scope than its German equivalent since it tried to address the fundamental, but thorny issue of what law KFOR was actually to apply. Since Kosovo officially still remained part of the Former Republic of Yugoslavia, its laws formally applied in Kosovo. He therefore advised to follow this law so far as practically possible. However, since there were obviously no lawyers within KFOR with any knowledge of Yugoslav penal codes, Jackson advised the different contingents to broadly follow the procedures of their own national legal codes. Clearly, this did not solve the problem of what law actually applied. Nevertheless, the new orders firmly established the right to perform basic police functions, such as stop and search, and arrest and detention of suspected criminals. Details on detention, criminal investigations and the role of KFOR Military Police were also addressed more extensively. The emphasis remained on catching a perpetrator in the act, but arresting civilians on the basis of mere suspicion was allowed. Dutch Major Bart Haverman, who was involved in drafting the directive recalled: “we intended not to become entangled in too complicated police work, since we were not equipped and prepared for that task. Arresting someone merely on the basis of suspicion was allowed, but only if witness accounts or other evidence were overwhelming and we could not get around arresting someone.”

To complete the reverse chain of command, the political leadership of NATO, the North Atlantic Council (NAC) deemed the time ripe to address the public security vacuum. They did so several days after the Force Commander had issued his orders. In Brussels, after a short discussion the national representatives reaffirmed that under the three week old UN resolution KFOR troops had full authority to perform police tasks. During lunch on 29 June the NATO ambassadors agreed that Secretary General Javier Solana had to give Wesley Clark
instructions on this issue. The Supreme Commander was to order general Jackson to issue orders to his brigade commanders to arrest “looters and arsonists.” Emphasis was to be put on consistency in the implementation of the public security task across all five brigade-sectors.\textsuperscript{37} Luckily, Jackson had already done so. However, harmonizing KFOR policy toward law enforcement proved difficult.

The international press castigated NATO for its inability to stop the anarchy. When asked in early July why KFOR troops could not do more to stop the violence, Wesley Clark defended his forces on the ground by explaining:

There are hundreds of thousands of people coming back. There have been some terrible things done in that country. There are all kinds of emotions running rampant. And there are Serbs still there, some of whom may have participated in that, others who are just afraid they're going to be taken for guilty because of their ethnicity. There are gypsies who are also being discriminated against. And so there's some legitimate efforts to get property back, there's some revenge-taking, there's some score-settling. One doesn't really know, but it's a very difficult time. Our troops are there. We're doing everything we can, but of course we're not police [...] no matter how well-trained, organized, equipped and led our troops are, there's simply not a substitute for local police in terms of knowing the neighbourhoods, knowing the patterns of activity, knowing the people, knowing how to stop individual events. And so they're doing the best they can, going to where the intelligence-tippers indicate there might be trouble. We've put curfews in place in some cities. We're stopping people that are armed, we're enforcing the demilitarization of the KLA, for example, and this afternoon we picked up some Serb soldiers who had wandered into the area without an invitation to do so. And so we're out there. There's probably an awful lot that we're preventing from happening that you'll never know about, but it's a big place, despite the fact that it's only the size of Connecticut. And you're dealing with a million and a half people.\textsuperscript{38}

Clark again pointed to the extremely rapid pace of political events in late May and early June, which he admitted had somewhat surprised NATO at the time. However, the Supreme Commander was asked no further questions as to why KFOR was so ill-prepared for its role as vacuum filler. If he had answered truthfully, the General would have had to admit that NATO had underestimated the situation and was simply caught off-guard.

**Controlling the Streets of Orahovac**

By the end of June the violence had forced the entire Serb minority of Orahovac and refugees from the nearby village Zociste, about 2,500 in total, to concentrate in the Serb quarter in the upper part of town. An additional one thousand Serbs in the village of Velika Hoca would stay put. Both communities were guarded around the clock by KFOR. Moreover, the Serb communities were still heavily armed. In the past the mixed population in Orahovac had probably lived a more integrated life than in any other part of Kosovo, but was now entirely segregated. The German reports from Prizren on the “quiet days” in late June with looting and burning houses all over town seemed awkward, but can be explained by similar Dutch experiences in
Orahovac. While the nights in and around the concentrations of Serbs and Roma were extremely tense, with KFOR soldiers chasing after arsonists in the narrow streets, for most Albanians a semblance of normal life and safety was returning that they had not experienced it in previous years. Shops were restocking, cafés were opening and there seemed to be a positive determination to regenerate the country and “enjoy the freedom presented by NATO”, as KFOR headquarters reported. Local companies such as the wine and plastic factories were already seeking help from Dutch KFOR to restart production.

While a substantial part of the local UÇK brigade was looking forward to returning to civilian life, the group of predominantly young fighters from other parts of Kosovo had little to which to return. Clinging to their position of power and prestige was obviously more appealing to them than an almost certain return to unemployment. It was particularly this group of “hot-heads” within the local UÇK that started to appear all over Kosovo as Policia Ushtarake (PU). During the war this UÇK Military Police force had been created for internal UÇK policing, but in the course of July the PU transformed itself into a self styled police force under the direction of the UÇK Ministry of the Interior in Pristina. Its personnel were dressed in black uniforms with “PU” on their armbands and displayed a passion for chromium-plated pistols. The swelling of its ranks was hard to monitor for KFOR. While in mid-June all UÇK fighters had been dressed in the hodgepodge of uniforms generally associated with an irregular force, it now emerged in more regular fatigues with the Military Police recognisable in black. The Dutch were under the impression that the number of those posing as UÇK was actually swelling as the refugees returned. It new members were often teenagers, “snot-nosed little bastards” as Van Loon called them, who had never seen combat, but were determined to put on a uniform and hoping to carry a Kalashnikov.39

Ismet Tara argued that he and his men were forced to fill the void as long as the promised UN police force was unable to assume responsibility for policing on the streets of Kosovo. The argument that the UÇK was the only credible police force, was heard throughout Kosovo. Tara was frustrated that KFOR tried to prevent his men from patrolling the streets and conducting criminal investigations. While he generally respected NATO’s “liberation forces” and Van Loon and his men in particular, he considered his Military Police to have far more local knowledge than the Dutch and German soldiers. To no avail, he even offered to cooperate with the Task Force in public security and complained to the Dutch commander that in other Kosovar municipalities KFOR was far more lenient towards UÇK involvement in policing.40 However, it was fear of exactly this UÇK attitude and the need to curtail its initiatives that drove Dutch and German KFOR troops in Orahovac to extend their policing effort. Having the responsibility for the beleaguered Serb and Roma minorities made it impossible to take on the more passive attitude adopted by some KFOR contingents.41 As long as there was no functioning UN police in Orahovac Van Loon tried to assert KFOR’s monopoly on the use of force in Orahovac—traditionally considered the prerogative of the state in modern societies.
The Task Force's main effort was concentrated on preventing and combating serious crime such as murder, rape, assault, arson and looting. However, the Dutch also had to act on lesser offensives. For instance, Tara was eager to solve reported cases of theft, especially when it concerned cars and tractors stolen from Albanians by Serbs. Obviously, this had the potential of escalating into inter-ethnic conflict, so the UÇK was blocked from assuming this function to Tara's dismay. Consequently, the Dutch ended up returning stolen cars to their former owners. Another, less serious problem was illegal logging when the winter approached. In an area that was economically dependent on its vineyards, logging had always been strictly regulated to prevent erosion of the steep slopes. The UÇK was quick to spot this opportunity to execute authority by planning for the supervision of logging and the imposition of sanctions. To thwart their efforts at asserting their authority, KFOR was therefore forced to temporarily supervise woodcutting. Little energy could be devoted to such menial police work, but it was clear that the boundaries of KFOR-policing in Orahovac were primarily determined by the need to curtail these UÇK policing initiatives.

During July and August the Task Force's resolve in preventing the UÇK from dominating the streets was severely tested. On July 15, four uniformed UÇK in uniform with PU armbands were seen patrolling the streets of the Serb quarter. They were told to remove their armbands, but the Dutch patrol commander refrained from apprehending them. Instead they were merely threatened with arrest for non-compliance if caught policing again. Tara was summoned to the base and told that this was seen as a direct provocation. He was told that any more such actions would be treated as non-compliance with the Undertaking, followed by his detention at the German brigade's prison facility in Prizren. Van Loon considered punishment by detention counter-productive at this point. It would undoubtedly lead to a serious disruption of relations with the local UÇK and while the Task Force's relations with the Albanian majority were excellent at this point, it would have seriously stressed community relations. Tara was from Orahovac and a more reasonable commander than many of his colleagues, so his replacement was likely to be of a worse kind. This turned out to be a valid judgement, for the UÇK was not caught policing in the Serb quarter again. Nonetheless, this did not mean that the PU activity in the Albanian areas of Orahovac ceased. Initially, UÇK patrols in their own communities in the city and surrounding villages were warned and registered rather than directly arrested. For the most part they were unarmed when in sight of KFOR patrols. Altogether, the Task Force made eighteen arrests on charges of unauthorized policing during those crucial early months. Before the UNMIK police force officially took the over the lead in policing in November, twenty persons were formally arrested and detained for illegally carrying weapons.

Relations between the Task Force and the UÇK deteriorated in the course of the summer as the former insurgents continued to try to see how far they could go. Meanwhile Van Loon was organising his troops for more vigorous policing. In order to settle scores from the war, the local UÇK started its own investigations into war crimes and looked for easy prey. The Roma population was accused of collaborating with the Serbs during the war and several
men were rounded up or summoned to the UÇK headquarters for questioning—allegedly about their participation in atrocities during the war or their knowledge thereof. Roma were an easy target for intimidation and retaliation since their numbers were small. Moreover they had no access to firearms, which the Serbs still owned in large quantities. On several occasions the Dutch reacted to reports and found men held for questioning, or what the UÇK called “informative talks.” At one point, a Dutch major walked straight into the UÇK headquarters after being tipped by a family member. He found several Roma men, one of whom had clearly been beaten, and immediately sent them home under KFOR escort. Subsequently the Albanian officer present was informed that these actions would be interpreted as non-compliance. Again, Tara was summoned to the base and given a lecture, but no formal action was taken.49

Despite the fact that the Dutch had posted guards around the Serb quarter around the clock, there were constant reports of Serbs disappearing, allegedly after being abducted by Albanians from what publicly became known as “the Serb ghetto.” According an OSCE report on human rights in Kosovo an estimated fifteen kidnappings occurred in Orahovac in mid-June and possibly thereafter. From early July, however, these reported kidnapping proved impossible to verify despite the fact that the Task Force acted dozens of times on such allegations by searching Albanian owned premises.

The Dutch started to look for motives behind the recent conduct of the UÇK. During talks with Albanian officers it became clear they felt they had the right to police the Kosovar population for whose liberty they had fought. Their decreasing physical presence on the streets and disarmament as a result of the demilitarisation agreement with KFOR prompted them to assert their authority by other means, in the civilian sphere. Investigating atrocities committed during the war was important for the local UÇK commanders’ prestige amongst the local Albanians.50 Although he was more cooperative than many of his colleagues, Tara was not without his own needs and goals. In the coming months the UÇK would try to assert authority in various ways, as his position in a future Kosovo was becoming increasingly uncertain. Again, the only effective way for Task Force Orahovac to counter these initiatives was for the intervention force to assume them, but this would prove problematic as it stretched the mandate beyond its vaguely defined parameters. Moreover, an artillery battalion organised and trained primarily to put 155 milimeter shells on target, was hardly organised for policing.

**Makeshift Police**

Obviously, putting soldiers on the streets was not enough to fill the public security gap. Numbers alone were a serious problem for KFOR with only half the force, 23,000 troops in all, deployed in early July. Only by mid-August the force reached the 40,000 soldiers. However, what the makeshift police force lacked even more than sheer numbers was the adequate organisation and specialist support to fill the law and order vacuum since there was nothing in Kosovo with which to work. The vacuum encountered by NATO forces in Kosovo in 1999 was very different from the situation faced by Allied troops in Western Europe in 1944-1945. Even in most of Germany, a more or less functioning police, court system and local administrations were found in the wake of the military advance. With the passing of the front the
existing institutions were often temporarily disrupted, but the institutional infrastructure was mostly still there. In post-war Japan the government and its institutions were found completely intact and largely left to function by the Americans. In Kosovo, there was nothing. As Serb authorities, police, administration and judges withdrew, they took anything they could carry with them and destroyed much of the rest. “Court buildings looked like a plague of heavily armed locusts had swept through”, one commentator wrote, “scouring the ground for anything valuable and leaving broken windows and ripped out electric sockets in their wake.” To replace the collapsed institutions there was nothing resembling the Allied Civil Affairs organisation of an earlier time.

What KFOR missed most in those first days—apart from a plan and clear instructions—were Public Safety Officers. These Civil Affairs officers, often former police in military uniform, had played a crucial role within the British and American Civil Affairs Detachments in occupied Germany either as overseers of the selectively cleansed German police, or as vacuum fillers in cooperation with the Military Police and tactical troops in direct post-combat situations. Although the challenges faced in post-war Germany were of course colossal, the German population was homogenous and almost quiescent after five years of war. The Kosovars were fired up by a short civil-war, ethnically and culturally divided while NATO had propagated a multiethnic society as its strategic goal in Kosovo. However, half of Kosovo’s Serbs already appeared to have fled the province, some not even awaiting the return of the Albanians and some fleeing the violence after KFOR failed to protect them.

Military police units were the best NATO had to offer to fill the void, even though they were for the most part not trained to do community policing in their different countries of origin. MPs were also in short supply, while insufficient planning caused them not to be activated until rather late. Task Force Orahovac dramatically lacked expertise on police matters. During the first six weeks in Orahovac no more than two German Military Police officers were available to provide some form of professional police support. Although a maximum of forty-two Dutch Military Police personnel were deployed in Kosovo and Macedonia in the second half of 1999, the Dutch Ministry of Defence had not envisaged the Koninklijke Marechaussee in a public security role. Twenty of the MPs were “blue” Marechaussee, trained for the traditional MP role of policing the national military force. These were not controlled by the tactical commander, but under the Contingent Commander. The remaining twenty-three MP’s “green” Marechaussee were part of KFOR, but were to be employed primarily for traffic tasks, such as convoy escort, and for static guard tasks around military objects. The MP contingent was supposed to perform these two roles in support of all two thousand Dutch troops in theatre, and not just the approximately six hundred Dutch troops in Task Force Orahovac. No more than twelve “blue” MP’s, trained in criminal investigations, were at any time deployed in Orahovac.

The Task Force had nevertheless already established what started to resemble a police station in a centrally located building used by the OSCE mission in 1998. This had clearly not been a predetermined plan. Several days after entry two experienced non-commissioned
officers were put in charge of what was initially known as the “complaints bureau”, but became widely known as “NATO building” to the locals. The idea was to divert the locals who frequently came up to KFOR patrols to a central point, where the scarce interpreter capacity could be used efficiently. The Dutch had arrived in Kosovo without translators and would have to work with locally recruited personnel throughout the mission. At this improvised police desk the angry and frustrated returning population could sit down and file their complaints. Hundreds of testimonies were taken in those first weeks. The issues discussed varied from theft and arson from that very day, to rape, assault and mass murder committed during the war. All information was typed into laptop computers. Information also started to pour in from patrols commanders, during other regular contacts with the local population, and from the locally recruited interpreters. Initially the Dutch had to rely predominantly on oral sources, but an increasing amount of documentation was found, confiscated or delivered to KFOR by locals.

The “complaints bureau” turned out to be one of the most fruitful initiatives of the operation. Not only did it provide acknowledgement of the serious need for recognition of the harm that had been done in the previous months, it also resulted in an enormous information database, which proved to be one of the most vital sources, if not the most vital source of intelligence during the remainder of the operation. The database contained information on local leaders, their political affiliation, their position in, for instance, the UÇK or the MUP, or their ties to those organisations. It would prove useful for combating common crime, ethnic violence, and also proved to be important in the pursuit of war criminals. The database was shared with the UN police and the ICTY once they became operational in the area. However, while important to a population that desperately needed to blow off steam, by providing that outlet, the Dutch would also raise expectations for future action.

Local Dutch initiatives soon needed a more structured approach in line with the brigade. In order to find out how the Germans were addressing the public security gap in Prizren, the Dutch Military Police commander and the Dutch contingent’s legal advisor, also attached to the national Contingent Commander, visited the German Military Police in Prizren two weeks into the operation. They were particularly interested in how the German Directive no. 8 was executed and how the German Military Police was deployed. The key to public security in Prizren in the early days was a Feldjäger company. Dressed in army fatigues but distinguishable by their bright-red berets, the German MPs were extensively used for street patrolling and criminal investigations. German brigade headquarters was located in a factory complex just outside the city centre. Large groups of people initially flocked to its main gate and formed long queues in order to file their complaints. This had prompted the Germans to establish in the city centre what was first called “KFOR-office”, but soon became a makeshift police station or “Feldjäger station.” As in Orahovac, this became a busy place in those chaotic first weeks and also here reports on war crimes poured in. The German and Dutch initiatives to form makeshift police stations, however similar, were not part of a coordinated,
In support of the Dutch battalion in Orahovac, German Military Police (Feldjäger) takes testimonies among Kosovar residents. Military Police proved crucial in filling the public security vacuum.

planned effort or as a result of instructions from KFOR headquarters. In both cities the police stations grew out of necessity and susceptibility to pragmatic solutions in post-war chaos.

Whereas the Dutch only used their police station to collect information, the Germans directed police operations from their Feldjäger station. It was from here that the decision was made on the size and composition of the unit that was to perform an arrest. A force could be dispatched depending on the seriousness of an offence, the possible risks involved, and of course, the availability of troops. When arrested, suspects were detained in the local prison, registered and medically examined if the necessary staff was available. The MP major in command of the Military Police unit was also in charge of the local detention facility. On top of that he acted as a delegated judge and decided—broadly in line with German law—whether a suspect was to be held in custody or not. He would judge a case and the need for further detention by the seriousness of the crime or offence, the accumulated proof and the danger of the suspect fleeing the Prizren area. In case of doubt, he would turn to the brigade’s legal advisors. Van Loon also had access to the German legal advisors, who he used at times but who he found to be very cautious in providing legal guidance and not always practical in their approach. His request to The Hague for his own legal expert was turned down.

In late June there were still only twelve Feldjäger available for the public security task in Prizren. They played a central role in helping to establish some form of public order and
their number would steadily increase during in the course of summer. Tasks such as taking testimonies from the local population were extremely time consuming. Not surprisingly, problems occurred as regular soldiers, lacking any form of training in the maintenance of law and order, performed the vast majority of the arrests. While reporting an apprehension, they tended to be inaccurate in describing the circumstances and often handled evidence clumsily, making it hard to draw up a legal record. Another problem facing KFOR troops—a problem similar to every peace operation in the previous ten years that involved a high degree of interaction with local civilians—was the lack of translators, and in some cases their reliability. The local translators used by the Dutch were young Kosovars who had learned English or German in their unofficial Albanian schools in the previous years, or as immigrant workers, but most of all from satellite TV.

Overwhelmed by crime of all sorts, KFOR was accused by various sides of not living up to its promise to create a secure environment for all ethnic groups. Most harmful to NATO were the accusations coming from Belgrade. German troops certainly lacked no dedication when it came to making arrests. Their efforts caused the MPs at the police station to be overwhelmed by relatively light offences such as theft. This left little time for the more serious cases of murder, rape, arson and large scale plunder. Kosovars praised German KFOR for quickly establishing some semblance of order in and around Prizren. The Germans even became renowned throughout Kosovo for installing one-way traffic in the anarchic and congested old city streets of downtown Prizren. But while they were doing pretty much all they could to stop the violence, even the “hands-on” approach of the Germans did not help to protect the Serbs and large Turkish minority or stop the intimidation, extortion, and protection rackets often run by ex-UÇK officials. Virtually all Serbs left the Prizren area between June and October, leaving Orahovac as the only place in the south with a substantial Serb minority.

Close German-Dutch cooperation resulted in an overall consistent operational approach to the public security vacuum in those early weeks, when they were the only two national contingents making up Multinational Brigade South. Von Korff and Van Loon continued to cooperate smoothly as they had done while preparing for deployment in Macedonia and during the entry phase. The Brigadier gave the Dutch battalion commander much leeway and without too much formal coordination the commanders seemed to come up with similar measures and agreed on solutions. Few units could have been operating in a more integrated fashion, or “combined” in military jargon. Operating within the German brigade, the Dutch artillery battalion was the core of one of its initial three Task Forces and in turn incorporated a German armoured company and German Military Police. Von Korff assigned part of his armour to Orahovac since its heavy tanks proved easier to use in this rural area than in urban Prizren, where light infantry was most valuable. Besides his tracked howitzers, Van Loon thus had an abundance of tanks at his disposal that were widely used for mundane tasks such as running road-blocks. From July a one thousand strong Dutch Army Engineer battalion-group was further attached to the German-led brigade and deployed close to Prizren in order provide engineering support to all its units, but most of all to help reconstruct the
southern sector of Kosovo. Task Force Orahovac would take on a more truly multinational character when a Turkish company joined it to assume control of Mamusa, a town inhabited by close to five thousand members of the Turkish minority in Kosovo. While almost all Albanian villages had been gutted and burned during the civil war the Turkish village was left unscathed. Unlike the German company under his command, Van Loon could not as freely utilise the Turkish troops, who were bound by national instruction not to operate outside Mamusa.

Even within the close knit German-Dutch operation in southern Kosovo, there obviously remained differences in the measures taken, their overall bearing, and the way troops were employed. One difference was caused by the arbitrary nature of some of the orders from KFOR headquarters in Pristina. The Germans, like the British, had started to remove the UÇK from the police stations they often selected as local headquarters. Oddly, in the Undertaking KFOR had designated the former MUP station in Orahovac as a local UÇK assembly area. The most notable difference between Dutch and German troops for the local population was their overall posture towards the local population. The Dutch soldiers had an overall good-natured and relaxed attitude and were often seen joking with most of the population as they patrolled the streets, which tended to charm the Albanians majority. While highly regarding the Germans, the Albanians had difficulty understanding their serious and sometimes surly demeanor. Although the Dutch started off on a good footing with the Serbs, their relations with this besieged and increasingly desperate community became strained in the course of the operations. It has to be taken into consideration that on the whole, the Serbs were torn between the images of KFOR as the enemy in the wake of the NATO bombing campaign and KFOR as their protector against the vengeful Albanians. In retrospect, the Serbs in Orahovac tended to regard the Germans as more even-handed—probably because of their overall rigid posture. They had an easier time winning over the Serbs when they took over from the Dutch in the mid-2000. However, Serb appreciation for the Germans and negative memories of the Dutch were also related to the changing circumstances. Whereas the Dutch were associated with the times when their houses were burning and war crimes suspect were being arrested by KFOR from within their midst, the Germans took over in the relatively tranquil times. The fact that the Dutch were heavily leaning on German troops and operating under German command had by then faded from public memory.

Another difference between the Dutch and Germans was their use of, and accessibility to Military Police support. Whereas the Germans—like most major troop contributors—allowed their commander to employ national Military Police personnel in a law and order role by actively patrolling the streets, arresting, investigating crime, the Dutch Ministry of Defence restrained the use its small Marechaussee, which only gradually grew to twelve MPs. Task Force Orahovac had quickly started using the two Dutch MPs that were initially available for collecting and processing data on crime in support of the two non-commissioned officers who were diligently taking testimonies in the “NATO building.” While they continued to aid in criminal investigations, taking testimonies from the public and advising the regular troops
while arresting and detaining, the Dutch MPs role would officially be limited to “advising and assisting” the tactical units. The operational staff of the Royal Dutch Military Police in the Hague—a separate military service in the Netherlands—recommended the Ministry of Defence not give the Dutch MPs in Orahovac clearance to use their investigative authority and power of arrest. Officially they were only to act on German requests for support. The lack of flexibility in The Hague angered Boikhoven who considered it “too mad for words” that while the highest political authority in NATO, the North Atlantic Council, had reconfirmed that KFOR would assume police tasks, gunners were allowed to do the arrest while the Ministry was restraining the use of its Military Police. While KFOR seemed to be faltering in its assigned mission to ensure public safety and order under the watchful eye of the world media, the Ministry emphasized that policing the Dutch contingent would remain their absolute priority for its MPs in theatre.

Consequently, other than in Prizren, where the German Military Police major had been put in charge of specific public security functions in Prizren, Van Loon assigned his intelligence staff officer, Captain Chris Brouns, to coordinate the Dutch and German policing effort in Orahovac. Together, the commander and Brouns decided whether a case was serious enough to be transferred to the Germans in Prizren. Otherwise the suspect was to be released after filing a report and a brief detention in the improvised prison at the Dutch base—a sea container with a window and bars cut out. Apart from formal detainees that were sent to Prizren, some offenders were locked up overnight to “cool down” after having committed misdemeanours. Other people were only taken in for questioning. The Dutch made it a habit to give all these persons a ride home who were taken in only for questioning or those who proved clearly innocent after further investigations. The odd drunk taken in for beating up his wife would have to walk home the next morning after spending the night in jail. UÇK commander Tara said he expected nothing less from KFOR. According to Van Loon the population agreed with these measures and accepted them as completely normal. Even a drunk who had gotten into a brawl would regard this “an appropriate punishment.”

In addition to the police organisation the battalion’s only two CIMIC officers played an important role in overall relations with the local community. Captain Wim Speth was the eyes and ears of the battalion on the streets of Orahovac and felt like a beat-cop. He was the most frequently seen Dutch officer in town, visiting people in their homes and monitoring the general mood amongst the Albanian population. Major Arno Schouwenaars, the other CIMIC officer, had the less rewarding task of liaising with the Serb community in Orahovac and Velika Hoca. Since his name was unpronounceable for the local population, he soon became know as Schevernadze, while Speth was called Spethi, “fast” in Albanian, for to them he seemed to be everywhere at the same time. Their names, together with that of “Colonel Valion” were well remembered in Orahovac several years later.

During the second half of July and early August, as the offensive to manoeuvre the UÇK out of policing reached its climax, the need for more Military Police became critical. Although the “blue” MPs could be employed as criminal intelligence gatherers, the Ministry
of Defence continued to curtail the use of its MPs. Van Loon therefore turned to the Germans for more police support, since the Germans MP’s could be used more freely for executive civil policing. Von Korff was very much aware that the situation in Orahovac was potentially explosive and promised to send a platoon of German Feldjäger. However, the twenty promised Germans MPs were unlikely to arrive soon since the Germans themselves were short of police specialists in Prizren, where organized crime and intimidation was on the rise. The situation irritated Captain Brouns since, paradoxically, the approximately thirty “green” MPs attached to the Dutch engineer battalion, were supporting the German Feldjäger on the streets of Prizren. Initially, their task was to be limited to taking testimonies, but soon they were also actively patrolling, where they ended up dealing with serious crime. “I expected to go to Kosovo to direct traffic”, one MP said, “but our task is much broader. We are doing real police work, from kidnapping to rape, from theft to shootings.”

To match the armament of their German MP-colleagues, they were equipped with assault rifles, not just the sidearm they would normally carry. This made them “feel better” on the violent streets of Prizren. After all, for the Kosovar population the size of a gun still often determined who was to be taken seriously and who could be ignored. When reported by a newspaper in the Netherlands, the use of these “green” MPs to act as beat cops on the streets of Prizren with the Germans caused a row since they were not fully trained for such civil policing responsibilities. Again, regular KFOR soldiers were still performing most of the “police patrols” and arrests, but this seemed to escape most of the Dutch media.

The policing effort in Orahovac was substantially professionalized when the German police platoon finally arrived on 30 July. Led by a Military Police captain, the platoon soon reached its full strength of approximately 25 men. It worked from the NATO Building, taking over and formalising the unofficial police station. The German MPs reached a good working relationship with their Dutch MP colleagues who were officially still only allowed to “advice and assist” in police work and concentrated on criminal investigations in Orahovac.

There was a scramble for extra Military Police support throughout the brigades. Some had come better prepared than others. The British quickly deployed a contingent of 140 Royal Military Police, including thirteen detectives from its Special Investigation Branch. The International Crisis Group reported in August on the excellent work done by these specialist crime-detection units in KFOR, but regarded their numbers as too few to handle the scale of the law and order problem. The French deployed 150 Gendarmes and the Americans eventually deployed a battalion of their heavily armed MPs. In July KFOR planned to have some nine hundred Military Police personnel deployed in Kosovo over the following two months. Overall, the heavy units that made up most of KFOR were far from ideal for the main task NATO faced in Kosovo. KFOR needed light infantry and far more Military Police units. However, the number of Military Police was not the primary indicator of how the public security gap was addressed by each contingent. Tactical commanders had relative autonomy in their approach to the problems they faced and their national governments had much influence in determining how their forces were to be employed.
Different approaches to the public security gap resulted from injecting a large number of national contingents with very different institutional attitudes and cultures in a law and order vacuum with a mission that was full of ambiguity. A British brigadier serving at KFOR headquarters noticed how the line between policing and military activity in peace operations was seen very differently by different nations. While some units undertook public security as an ongoing part of their own mission, others shunned it as an unwelcome civilian task. Forty years of combined operations within NATO had produced standardised procedures and warfighting equipment for its traditional defensive task, but confronted with the public security gap, national differences became highlighted by a mixture of military cultures and political directives from each of the contingents’ national authorities. While unity of command had always been considered a problem particularly relevant to UN peace operations, in NATO the Force Commander had no more command authority over his units. “One of the most important things I learned in Kosovo”, Jackson’s successor German General Klaus Reinhardt complained bitterly, “is that the man who is KFOR commander, in fact doesn’t have anything to command.” Jackson would have agreed. The Force Commander’s directives to the various national contingents were constantly referred back to their governments for approval. The Independent Kosovo Commission chaired by Nelson Mandela even concluded that differing national interests and practices caused friction and on several occasions endangered the unity of action. It advised a “long overdue” tightening of KFOR procedures in early 2000.

Accepting the limits of his command and the inability to prescribe methods, Jackson put little weight behind the formal standardisation of policing practise. Instead, on 20 July he laid down his “commander’s intent” in broad brush strokes for his subordinates down to company commanders. He told them he was not looking for centralized command, but for unity of effort by sticking to his intent. Jackson prioritized the public security mission and emphasized the need to arrest and detain those suspected of crimes. Support to UNMIK, “including core civil functions”, was of the utmost importance, even if this put an extra strain on resources on short-term requirements for a secure environment. For this “subtle and complex” mission he called on his subordinates to move among the people and be highly visible by engaging in footpatrols rather than mounted patrols in order to counter fear and insecurity and diffuse incidents before they occurred. “I seek a ‘hearts and minds’ campaign at low level, creating trust and mutual understanding. As relationships build, so will the flow of information allowing KFOR to pre-empt conflict. [...] It is an operation amongst the people, whose perception is the Centre of Gravity: that all inhabitants of Kosovo are better off with UNMIK / KFOR than without, that we jointly offer a better future.”

Although he may not have had much choice in the matter, the Force Commander apparently decided that giving the necessary latitude to his subordinate national commanders would produce the best results in vacuum filling. His ideas and assumptions of how the brigades would fill in their broad mission seem to have been shaped by what he knew would be the British brigade’s approach to the gap—which was to adapt flexibly to the challenges as they emerged in the field and accept emergency law enforcement as part of their ongoing
mission. "This is what we do well," said the commander of Multinational Brigade Central in January 2001. "What Americans do well is provide a guarantee of overwhelming force. This [situation] plays to our strengths in ways that does not necessarily play to American strengths." They were widely lauded for their robust, but overall restrained approach that was, as always, explained by referring to their operational experience in Northern Ireland.

However, Alice Hills of the UK Joint Services Command and Staff College argued that, while British soldiers may have been familiar with supporting the Royal Ulster Police and local administration, police primacy remained a fundamental tenet for the British Army. British soldiers had no experience or training as an executive policing force. Arresting and detaining offenders, let alone investigating crime, were never amongst their powers in Northern Ireland. In Kosovo there was no set of emergency legislation in place as in British counterinsurgency operations and there was no civil authority to support.

Nevertheless, a U.S. Civil Affairs Lieutenant Colonel attached to KFOR headquarters in 2000, was amazed about the way the British went about their business. "Presence patrolling is conducted almost entirely dismounted, especially in build-up areas, and through the same villages and neighbourhoods by the same soldiers, much like beat cops, with an emphasis on direct contact with local civilians." When Jackson defended KFOR for doing as much as it could, he referred to the example of British soldiers living in Serb apartments where they were isolated—something no other KFOR would ever do. "We even escort little old ladies to the bread shop to buy their bread", the General recalled. He added, however, that such intense efforts to convince the Serbs to stay would just as easily be off-set when on the way to the shop a Kosovar Albanian teenager would give the sign of throat-slitting to her face.

The British were renowned for operating close to the population, regarding good relations and the resulting flow of information as the best form of force protection. This is not to say that they were always subtle in their methods. In Pristina a Serb family was repeatedly threatened by Albanian men over a property related dispute. The British went on a stakeout and when they caught them "they really beat the shit out of them", an American NGO worker recalled. Their argument was that with the lack of a functioning justice system, the Albanians would be out on the streets in no-time to terrorize the Serbs. They needed to be taught a lesson.

On the other end of the spectrum were the Italians who were widely seen as passive, especially in the early months of the operation. While the soldiers in different brigades were generally too busy to pay much attention to their neighbours, the overall impression the Italians left on the Dutch forces in the adjoining sector was that of a force unprepared to leave its armoured vehicles. Initially they did not consider detaining people part of their job. When Ismet Tara was complaining to Van Loon that other KFOR units took a far more lenient approach towards UÇK-policing, he was clearly referring to the Italians. The main challenge in the Italian sector was the UÇK, which had traditionally been strong in the area and were granted the opportunity to rapidly entrench themselves in the summer of 1999. Humanitarian workers and administrators wanted to see the Italian troops on the streets to give the people a
sense of security and thus provide a viable alternative to the UÇK police. One UNHCR worker who worked in both the Italian and German sectors, recalls:

In Djakovica we [the UNHCR] were the ones to inform Italian KFOR that the Roma quarter was on fire, or that a Roma was beaten up, kidnapped or killed. We had to push and beg them to come out and if they decided to come—often only after an official written request—they came in armoured personnel carriers and just stood by, doing nothing but sticking their heads out of their vehicles showing off their sunglasses. We found ourselves on several occasions driving past their military vehicles into a burning area of town, trying to prevent further arson, looting or attacks from happening. The Italians would simply refuse to come out, claiming that it was too dangerous, and stand by like wax dolls. The perpetrators could have just passed behind them. The Italians never did foot patrols and apart from two CIMIC officers, one of whom hardly spoke English, had no contact with the local population. 

Although “some good old Italian flirting by the troops went on from behind car windows”, the female UNHCR field officer found their higher-ranking officers hard to approach, their pride closing them off from any suggestions or criticism from the civilian organisations with whom they were to cooperate.

Like the Italians, the French were relatively passive and hesitant in arresting civilians in the initial weeks. Even after Jackson had given his instructions on public safety, they refused to actively engage in apprehending offenders. The French Brigade Commander claimed arrests in foreign territory by French soldiers were only possible under French law in the presence of a certain national official. Jackson flew into a tantrum, ordered his French subordinates to put this official on a plane that very same day and start arresting. The French were not as aggressive as some other contingents in disarming the Albanian and the Serbs and were blamed for ignoring and denying the fact that Serbs, including paramilitaries, were vigorously policing northern Mitrovica. They lost the momentum early in the mission when armed Serbs blocked the only remaining bridge across the Iber River and effectively cut off the northern part of Mitrovica from the Albanian dominated south. Their reluctance “to exert authority in the remaining Serb-controlled areas led to the entrenchment of informal systems of law enforcement, such as the ‘bridge-watchers’ in northern Mitrovica.”

KFOR’s failure to effectively control northern Mitrovica was a severe blow to the Albanian population and to UNMIK, since the North held the city’s main facilities, such as the hospital, food warehouses and the university. The separation of the city and lack of control over its northern part would remain NATO’s and the UN’s most serious operational failure and a source of serious embarrassment in the years to come. Already on 24 June 1999, General Wesley Clark expressed the fear that Mitrovica would become a divided city like Berlin during the Cold War. The analogy with another, more nearby and recent trouble spot in NATO’s history would have been more appropriate. In NATO’s presence the Bosnian city of Mostar had effectively become divided between Croats and Muslims. Its beautiful, delicately built centuries old bridge that united both sides had been deliberately destroyed by artillery
shells and had become a symbol of the civil war in Bosnia. Mitrovica’s was nothing like its equivalent in Mostar. What the large bridge lacked in aesthetics, it more than made up in concrete. However, with continued ethnic strife in Kosovo it would gain the same symbolic value. While all NATO troops were aware that the French had probably ended up with the toughest assignment in one of Kosovo’s most explosive regions, the French were severely criticized for letting the situation get out of hand by losing control over the population.97

The U.S. contingent displayed much of the same behavioural patterns from earlier missions, partly as a reflex, and partly in reaction to policy guidance from Washington with its usual emphasis on force protection. The Americans were criticised by Kosovars of all ethnicities for hardly venturing beyond the gate of their vast, 775-acre, $32 million new Camp Bondsteel, thereby failing to establish the visible presence necessary to make people feel more secure. Within this virtually impregnable fortress the U.S. military was creating “a little piece of home”, with two gymnasiums, two dining halls, a library, a chapel and complete with Burger King and pizza parlour. The camp housed roughly five thousand soldiers, three-quarters the American troops in Kosovo.98 The Washington Post reported:

The base, about a mile east of Urosevac, seems to do justice to the American military’s reputation for going in heavy and making a large footprint. It is already attracting gibes from officers in European brigades also deployed here as part of the NATO-led peacekeeping force. They have dubbed the base ‘Disneyland’ and suggest the concentration of so many soldiers in a single, isolated location will hinder their ability to perform peacekeeping tasks.

One senior British officer was reported saying that although it was “an obvious sign that the Americans are making a major commitment to the Balkan region and plan to stay, their desire to drive the risk of casualties to an absolute zero can be a major distraction.”99 There was the usual emphasis within American units on mounted patrols in relatively large convoys, and lack of flexibility in always wearing kevlar vests and helmets. In Kosovo, as in earlier operations, the constant display of weapons put a substantial distance between American troops and the population, which they intentionally seemed to keep at arms length. According to one American legal officer “their appearance as such often intimidated as much as reassured the local populace.”100 Nevertheless, the American’s took an overall robust stance on disarmament and showed more flexibility to the public security gap than during previous operation in the 1990s. Like most contingents their MPs and combat soldiers would become essentially the police force in Kosovo.101

In the course of summer there was more coherence in the detention policy, but there would remain substantial differences in the amount of arrests between the contingents, which can be partly explained by the different levels of chaos in the five sectors. With the extremely high number of prisoners released without any form of process and with reliable statistics hard to come by, structurally comparing the numbers of arrest in different sectors is difficult. NATO was not exactly boasting about the numbers of arrests its soldiers made, probably because this would raise many questions in the different parliaments of its member states.
However, some there are some figures that give an indication of the different approaches. During the first three weeks the different interpretations of the mission by each multi-national brigade were clearly revealed in the number of arrests made. By 7 July the German-led brigade topped the chart with ninety-six arrests. The British had taken a similar active approach to law and order, which had resulted in fifty arrests. American troops brought in fifteen looters and arsonist, while the Italians and the French closed the chart with five arrests and one official arrest respectively. 102 By the end of that month KFOR was holding some two hundred Albanian detainees, which was about all its improvised prison facilities could hold at the time. 103 In total, KFOR Military Police handled 1400 criminal cases in the months of July. 104 The Prizren detention facility processed 1487 “guest” for the entire Multinational Brigade South between June and early November, when UNMIKPOL took over the primary responsibility for policing from the Germans with 325 police officers. 105 In the course of the first year in Kosovo the Americans handled 1,800 detainees at their detention facility at Camp Bondsteel. 106 The total amount of official arrests made by Task Force Orahovac until late October was 75. Additionally, an estimated two dozen detainees were released after one night at the base-prison instead of sent to Prizren. Around that time, Klaus Reinhardt had taken over as Force Commander from Jackson. The German General was shocked when the UNMIK police director, his compatriot Uwe Schweifer, informed him that from the four hundred Kosovars arrested by the UN police until then, ninety percent had been released without a court procedure. Until then not a single case had appeared before a court. 107

The Justice Triangle

Soldiers arresting people was clearly not enough to restore basic order to Kosovo. The lack of a judicial system and civil police in the streets had enabled lawlessness to thrive and organised crime to flourish. The complete justice triangle of police, a judiciary and prisons had to be restored and—last but not least—agreement had to be reached on what legal code applied in Kosovo. There was still no agreement between UNMIK and UN lawyers in New York on what legislation to apply. Jackson had instructed his troops to stick to Yugoslav law “as far as practically possible”, but the Albanians were vehemently opposed to having the law of their former oppressor imposed on them once again. To them, it was like asking Nelson Mandela to reintroduce Apartheid-laws in the new South Africa. Their alternative was the old Kosovar law that had been in place before 1989. However, since this would seriously infringe on Yugoslav sovereignty in Kosovo, and since Yugoslav law was far more modern and practical, NATO and the UN were initially not willing to yield on this point. 108

In the early months of KFOR operations, the whole discussion on what law to apply was rather academic, since there was hardly any appropriate legal expertise within KFOR and there were insufficient English-language versions of the Yugoslav Code. In order to approach the Yugoslav law, Jackson ordered his troops to stick to their own national criminal legislation as a basic guideline for arrest and detention. This seemed the most pragmatic solution at the time as it appealed to the basic feeling of justice harboured by officers and men and gave military legal advisors something familiar with which to work. However, different national
interpretations of law enforcement in different military sectors did not enhance consistency in the implementation of the public security task, which had been set as a goal by the North Atlantic Council.

In the course of summer KFOR started to provide haphazard support to all aspects of public order and the judicial process. The public security directive issued by KFOR headquarters underlined that a detainee was to be handed over to a civilian agency as soon as practicable, but in the absence of indigenous institutions and the UN interim administration, KFOR had to temporarily execute some of these functions. No military courts had been envisaged, but with no functioning local courts and no international judges in place, KFOR legal staff would at least have to review whether there was sufficient basis for holding civilians in detention. During these first months Jackson’s legal advisors were fully consumed with these probable cause hearings and other matters related to emergency law and order, such as Rules of Engagement, coordination with UNMIK legal staff and the brigades. There were two British legal officers and one Dutch legal officer attached to KFOR headquarters, while one U.S. Marine Corps Judge Advocate from the American brigade unofficially supported them. They were of course too few and they delegated as much responsibility as possible to the legal advisors in each of the five brigades. These would, to the best of their ability, review each case and wait for courts and lawyers to emerge in order to put them on trial. Initially detainees could be held only up to twelve hours without a hearing, but in late summer legal procedures were put in place to allowed suspects to be held up to forty-eight hours and later even seventy-two hours before a military lawyer reviewed their case.

In July the UN Special Representative appointed what became know as “the travelling circus of judges”, consisting of Albanian judges and prosecutors, most of whom had been active prior to 1989. The problem was that by the late 1990s, of a total of 756 judges and prosecutors in Kosovo only thirty Albanians were left. Kosovo’s Serb judges had all fled the province. Judicial structures under UNMIK supervision would only slowly emerge in the course of 1999 and 2000. One of the newly created teams of judges and prosecutors was based in Prizren and another two, consisting of several judges, prosecutors and the accompanying defence council, started to make their five-day rounds through Kosovo, visiting the different temporary KFOR detention centres to provide follow up detention hearings. Jackson ordered his brigades to provide full logistical support to these teams. From 6 August 1999 UNMIK finally had access to sufficient funds to pay the Kosovar legal personnel, as well as hospital staff and custom officials.

Of all the tasks KFOR performed in order to substitute for and support the justice triangle, it was least willing to run prisons. Both Jackson and Reinhardt made this very clear to UNMIK. While most KFOR contingents eventually accepted basic police tasks, the job of prison warden often was regarded as beneath them. Nevertheless, each brigade ended up running a prison facility and KFOR’s regular soldiers and MPs performed the job of wardens. In Prizren’s jail, dozens of prisoners were held at any one time and Dutch airmobile infantry from a company attached to the Dutch engineers temporarily supported the Germans while
performing this task. The American contingent initially had its engineers build a small temporary detention facility with a capacity to hold forty-eight detainees, as they believed that the UN would take over quickly. When this miscalculation was realized, a larger facility for 130 detainees was built. In spite of these improvised measures, the combined capacity of the detention facilities operated by KFOR of some 250 detainees proved woefully inadequate. Lack of detention space thus continued to force KFOR to refrain from arresting offenders—even if they were caught red-handed—or let known criminals walk free after their arrest. Releasing suspects had a disastrous effect on KFOR and UN credibility, especially amongst the Serbs, who saw it as a confirmation that NATO or the UN were hardly interested in protecting them. The International Crisis Group in its many critiques of the handing of the situation wondered why those suspected of arson and violent attacks against Serbs and other minorities could not be held in even more basic temporary facilities. If refugees could live in tents, one UN official later reasoned, so could criminals.

Once the situation got out of hand in the summer of 1999, martial-law as a possible solution for the security vacuum was brought up in meetings between UNMIK leaders and KFOR headquarters “on a number of occasions.” It was eventually dropped since neither leadership liked it. For UNMIK handing all civil powers to the military would be an admission of its failure at time when the UN was trying to regain some of the ground it had lost ground in the international arena. Meanwhile NATO was not willing to assume the formal responsibility for exercising the civil powers it entailed. This would after all have amounted to military government over Kosovo.

In retrospect, Bernard Kouchner much regretted the approach taken in the early days. “We were arrogant to apply a modern judiciary system, with detailed consideration of human rights and so on”, he said. “We should have kept it simple by rapidly created a very basic interim justice system.” In his pre-departure press conference on December 17, 2000, Bernard Kouchner said the primary lesson of Kosovo was that “peacekeeping missions need to arrive with a law-and-order kit composed of trained police, judges and prosecutors and a set of security laws. This is the only way to stop criminal behaviour from flourishing in the post-war vacuum of authority.” From the year 2000, calls became more frequent for readily deployable “law and order packages” comprised of civilian police and mobile courts with a skeleton staff of lawyers and judges. This was basically what the Australian lawyer Mark Plunkett had called for after his pioneering, but ill-fated, assignment as the UNTAC prosecutor in charge of addressing major human rights violations in Cambodia in 1993. Even after 1999, little progress was made in this field in term of rapidly deployable civilian capacity.

During the preparatory phase leading up to KFOR’s entry into Kosovo in June, exaggerated hopes had been vested in a UN police force. Both NATO and the UN were responsible for raising expectations that three thousand international police officers could rapidly fill the void. The military alliance was seeking to avoid as much responsibility for law and order as possible, while the UN had its own motives. It has been argued that the problems encountered in the early phase of the police mission resulted from the over-ambitious attempt by the UN to
relaunch itself after the marginal role it played during the Kosovo war. The UN’s aspirations also resulted from a more general marginalisation of its role in military peacekeeping in the latter half of the 1990’s, when the bigger missions—inevitably those where Western interests were at stake—were increasingly taken over by “coalitions of the willing”, rather than UN forces.

The UN civilian police branch, which had accompanied peace-building missions in the last decade, reinvented itself in Kosovo. From its ill-fated monitoring role in Cambodia, after a somewhat better equipped but still unarmed monitoring task in Haiti, Bosnia and Eastern Slavonia, the international police force took on executive policing for the first time in history. Although international police missions had made excursions into executive policing before, traditional UN civilian police missions had officially been limited to supporting, monitoring, reconstructing and training of local police forces. The fundamental change of concept took place rather haphazardly. Another factor raising the demands on the UN civilian police was that the shortcomings of the IFOR and SFOR, with their narrow interpretation of the military mandate had exposed the “public security gap”, a topic that rose to some prominence from 1998 in think-tanks and academic institutes with an interest in peacekeeping. With “mission creep” still considered a soldier’s worst enemy in peace operations, and with this influential, but ill-defined term regarded as synonymous for military involvement in public security, the common wisdom had been to strengthen UN Civilian Police, thus allowing the military to ignore the problem of the security gap.

Jackson briefed NATO diplomats in early July and painted a gloomy picture of the possibility of transfer of police responsibility. He expected that it would take a full six months before the UN would be able to take over the police task completely. Meanwhile in August, UN as well as NATO officials in New York and Brussels were publicly exaggerating the figures of police officers already deployed. They pledged that the envisioned complete strength of 3,000 police would be reached by late October and that, with some continued KFOR support, the UN would be able to take over responsibility for maintaining law and order in two months. In reality, even Jackson’s gloomy estimate proved overly optimistic. Not just its lack of personnel and resources hampered the UN civilian police mission. As in previous missions, the UN Civilian Police would have a serious image problem. Driving around in their shiny red-and-white Toyota police jeeps, the Kosovar population soon dubbed them “Coca Cola Cops” or simply “Coca Colas.” As always it was a colourful display of the world’s police forces in a wide array of national uniforms. The national contributions varied from tough, but retired and sometimes cynical cops who had been fighting crime in the streets of America’s cities to Indian Police Chiefs who lacked any experience walking the beat. All were lured by the exuberant UN wages. Particularly in the central streets of Pristina, around UN police headquarters, the red-and-white jeeps started to make a large contribution to the already severe traffic congestion. By November the centre of the capital was buzzing with many friendly international policemen at any time of the day. However, many of the police officers initially failed to gain respect for their performance. A Pristina resident wondered
why Kosovars were not employed directing traffic. She figured that they had to be the most expensive traffic cops in the world. Especially beyond the capital the build-up of international police remained slow.122

After the UN police had assumed formal police primacy from KFOR in Pristina in August the Prizren region was UNMIK’s second priority for the deployment. By November Task Force Orahovac was therefore in the lucky position to be formally relieved of its official responsibility for policing by a contingent of UN civilian police officers, initially all from the United States. It had taken until early September for the first “Coca Cola’s” to reach Orahovac, but they were well led by Albert League, a burly retired police chief from New York City, who praised cooperation with Dutch and German KFOR troops in the sector.123 Also the OSCE called the work of the police in Orahovac effective and lauded the cooperation between the police and Dutch and German troops.124 By late August, Van Loon reported that regular crime was a relatively small problem in Orahovac.125 By autumn 1999, the Task Force had successfully blocked the UCK from overtly policing and the former guerrillas seemed to be losing their grip on the local Albanian population. This had been accomplished most of all by providing the Kosovar Albanian population of Orahovac with a sense of security, thereby enabling them to put their trust in the KFOR with the international police in its wake.

In most of Kosovo the military was still substituting for rather than supporting UN police in law enforcement during the winter. Both Jackson and Reinhardt regularly emphasized that it was time for the UN police to take over from soldiers untrained for the job, and both Generals called on the member states to contribute more personnel to the police force. However, in December 1999, with a combination of a increased ethnic violence and a surge in organised crime, General Reinhardt was compelled to send his troops out in force to back up the 1,800-member UN police force that was simply not able to cope.126 In most areas it was only after a year that the emphasis of KFOR’s work shifted from executive policing to supporting the UNMIK police.127 As the international community failed to provide the number of police personnel, the UN police by then had no more that 3,626 officers out of its authorized strength, which had been raised to 4,718 police officers.128

Just as it was hard to generalise about any aspect of KFOR operations as a result of the differing political and tactical situations in each area, cooperation between soldiers and police was uneven, depending on the resources, capabilities, but also very much on personalities and cultural background of the troops and police officers involved. Joint Operations Rooms for KFOR and police were starting to be created in the summer of 2000 in order to direct and coordinate public security tasks from one place, but the process of integrating military and police responses to incidents was only slowly spreading throughout the province.129 In addition, transfer of responsibility over Kosovo’s prison facilities to UNMIK was a lengthy process. In Pristina the British were able to handover in August 1999, and by the end of the year two other detention facilities were run by the UN, but the remaining two other prison were still operated by KFOR in 2001.130
After the UN police gradually assumed police primacy, the next step on the way towards the end goal in the field in public security was the build-up of a local Kosovar police force. The Kosovo Police Service (KPS) was recruited and trained under the auspices of the OSCE. With initial KFOR support UNMIK took a patient and thorough approach compared to the hastier job done during operations in Somalia and Haiti in the early 1990s. The process was slow and suffered from insufficient resources, but in the late summer of 2000 some 1,400 Kosovar police officers were patrolling the streets. By September 2002 their number passed the projected 4,000 with another 1,500 police cadet graduates ready to graduate by the end of that year. The thorough approach seemed to pay off as the KPS had a good reputation, even though much of the patrolling by the KPS in 2002 was still done jointly with UN police. The whole security structure was likely to collapse without KFOR keeping the former insurgents at bay, since the TMK undermined the position of the KPS as the only legitimate law enforcement agency in Kosovo. Nevertheless, the effort to construct an indigenous police force was a major accomplishment, mostly because the Kosovar Police Service was the only multi-ethnic success. It was the only institution in Kosovo that was truly ethnically diverse with seventeen percent of the police academy graduates being from minority groups. Nineteen percent of the police officers were women. General Joseph Ralston, Clark’s successor at SHAPE in April 2000, said that the newly formed police force in Kosovo operated so professionally by late 2001 that he would like to see it replicated in Bosnia, where the local police force was troubled by inefficiency and corruption. Starting from scratch in a complete vacuum had its few advantages, but KFOR and the UN had come close to losing their credibility amongst the Kosovar population. Most Serbs in Kosovo had lost their faith in the international civil-military presence in the summer of 1999 and showed this by leaving the province. Since Orahovac still harboured a substantial Serb minority, the Dutch found themselves at the forefront of the struggle to avoid reverse ethnic cleansing.


3 General Jackson called the situation in Kosovo “anarchy or something not far from it.” Jackson, “KFOR: The Inside Story”, 16.


7 CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 2, folder 3.2, Situation and Mission van MNB(S) – G-3, 7 July 1999.


10 United Nations Press Briefing, 29 June 1999; KFOR Press Release Pristina, 17 April 2002 (UNMIK press briefings and releases are available online at http://www.unmikonline.org/)

11 From: European Roma Rights Centre Website (Available online at http://www.errc.org/)


15 Interview with Colonel Anton van Loo n (Second Interview, The Hague, 13 February 2003).

16 Campbell, *The Road to Kosovo*, 233-234.


19 Interview with Lieutenant Colonel Bart Haverman (Breda, 10 April 2003).


23 Interview with Colonel (retd.) William Phillips (New York, 16 October 2003).
24 On 20 July 1999, more than a month into the operation, Jackson broke with the peacekeeping tradition of putting purely military tasks first when he addressed establishing and maintaining a secure environment “including public safety and order” before separating the warring parties. CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 7 (Diversen), Map: MNB-S, nr. 7020, COMKFOR Directive, 20 July 1999.


26 Interview with Colonel Anton van Loon (First interview, The Hague, 29 January 2003).

27 Clark, Waging Modern War, 371.


29 The “KFOR Rules of Engagement for Use in Kosovo: Soldier’s Card” does not mention detention as a possible measure. However, the U.S. Marine Expeditionary Unit’s version “MEU Supplemental Kosovo ROE card” did mention detention and categorised it under “other measures.” These ROE soldier’s cards and various examples of ROE annexes used by the U.S. military are published in: Center for Law and Military Operations (CLAMO), Rules of Engagement Handbook for Judge Advocates (Charlottesville 1 May 2000).


32 CAD, 1 (NL) Contco KFOR I&II, Werkarchief, box 7, “Aanwijzing Nr. 8 Voor de behandeling van vermoedelijke daders van misdrijven/strafbare feiten, die door de Nederlandse Krijgsmacht in Kosovo in verzekerde bewaring zijn gesteld resp. dienen te worden genomen. (23 Juni 1999).”

33 Interview with Major Roy Abels (’t Harde, 3 September 2002).

34 CAD, 1 (NL) Contco KFOR I&II, Werkarchief, box 1, Kol v.d. Aker MNB(S) aan C-Contco, 23 juni 1999; CAD, 1 (NL) Contingentscommando KFOR I+II, Structurele rapportages, box 1, Cotingentscommando Sitrep A, KFOR (Hereafter referred to as: Sitrep), 22 June 1999.

35 CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, doos 7 (Diversen), Map: HQ KFOR, no. 6012, Amendment to Annex R (Opgorder 004), Law and Order (25 June 1999).

36 Interview with Lieutenant Colonel Bart Haverman (10 April 2003). Although apprehension of suspects without catching an offender in the act was not stimulated, a KFOR directive dated 20 July 1999 reconfirmed the possibility of arresting on the bases of suspicion, and not merely when caught red handed. CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, doos 7 (Diversen), Map: MNB-S, no. 7020, COMKFOR Directive, 20-7-1999.


38 Interview with General Wesley Clark on PBS NewsHour (1 July 1999, available online at http://www.pbs.org/newshour/bb/europe/july-dec99/clark_7-l.html)

39 Interview with Colonel Anton van Loon (The Hague, 13 February 2003).

40 Interview with Ismet Tara, commander 124th Brigade UÇK in 1999 (Rahovec/Orahovac, 12 September 2002).

Interview with Agim Hasku (Rahovec/Orahovac, 10 September 2002).

Van Loon, "CIMIC in the Early Phase of the KFOR Mission in Kosovo", 120.


Interview with Colonel Anton van Loon (The Hague, 13 February 2003).


Statistics on arrests made by Task Force Orahovac printed in Abels, Licht boven Orahovac, 33.

Van Loon, "CIMIC in the Early Phase of the KFOR Mission in Kosovo", 120.


Abels, Licht Boven Orahovac, 93. In this official account, the “complaints bureau” was said to be opened on 20 June 1999. Other primary sources already mention the bureau to be open on 16 June 1999.

Interview with Major Roy Abels (‘t Harde, 3 September 2002).

CAD, 1 (NL) Contco KFOR I&II, Werkarchief, box 1, Memorandum Majoor mr J.C. Groenheijde to C-CONTCO, Aanwijzing nr.8 (aanhouden verdachten), 27 June 1999.

CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 1, folder 1.5, MNB(S) Situations and Missions, 24 June 1999; Interview with Colonel Anton van Loon (The Hague, 13 February 2003).

CAD, 1 (NL) Contco KFOR I&II, Werkarchief, box 1, Memorandum Majoor mr J.C. Groenheijde to C-Contco, Aanwijzing nr.8 (aanhouden verdachten), 27 June 1999.

Interview with Colonel Anton van Loon (The Hague, 13 February 2003).

CAD, 1 (NL) Contco KFOR I&II, Werkarchief, box 1, Maj mr J.C. Groenheijde to C-CONTCO, Aanwijzing nr.8 (aanhouden verdachten), 27 June 1999.


Interview with Colonel Anton van Loon (The Hague, 29 January 2003).

CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 1, folder 1.5, MNB(S) Situation and Missions, 17 June 1999. Within MNB(S) the order given not to allow the UÇK to occupy police stations and in Pristina British troops evicted the UÇK from a former police station.

Correspondence between author and Astrid van Genderen-Stort, the local UNHCR field officer in Rahovac/Orahovac in 1999-2000 (Letter received 3 August 2004).

Based on conversations with the population of Rahovec/Orahovac held by the author in September 2002. The positive image of the German military amongst the Serbian population at that time was enhanced by the period of relative tranquility that followed in the area from 2000, when the Germans fully took over the sector. The Dutch are associated with the period in which houses went up in flames and suspected war criminals were arrested from within their midst.

“Too mad for words” was a handwritten comment in sideline by General Bokhoven. In an interview with the author Van Loo confirmed he knew this discussion was going on, but he said that he “left this matter to [Bokhoven].” Interview with Colonel Anton van Loon (13 February 2003).

Based on conversations between the author and several inhabitants of Orahovac.

The German MP platoon was led by Hauptman Zylicke. The unit was 12 strong in late July and according to Van Loon grew to between 20 and 25 persons. Interview with Colonel Anton van Loon (13 February 2003). There are some indications that the number of German MPs in Orahovac temporarily grew explosively when there were plans to use them to control the town Orahovac while the Russians took over the countryside. One hundred German MPs are said to have been stationed on one of the Dutch bases in: Abels, Licht Boven Orahovac, 52. Seventy-five MPs are mentioned in: CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 2, folder 5.1, Daily Sitrep, 22 August 1999.

It can even be argued that a Force Commander in UN operations had more authority, since the bulk of the contingents available to him came from developing countries, who tended to put far less restraints on the use of their troops than Western contributing governments.


Alice Hills, “The Inherent Limits of Military Forces in Policing Peace Operations”, International Peacekeeping, Vol. 8, No. 3 (Autumn 2001) 79-98. Hills argued that the British are proficient in supporting police and civil administration, but that in Kosovo there was no civil power to support. In Pristina, even the Royal Ulster police was amazed by the breakdown of law and order and other than during previous British low intensity operations there was no clear emergency legislation to enforce in Kosovo.


Based on conversation between author and an American NGO-worker who was stationed in Pristina in the second half of 1999 and interacted much with British KFOR.


Correspondence between Astrid van Genderen-Stort and the author (Letter received 3 August 2004). Conversations with Kosovars in September 2003 confirmed that the Italian and French troops had gained little respect amongst the Albanian population, while the British, Germans and Americans were still held in high regard.

Interview with Lieutenant Colonel Bart Haverman (10 April 2003).


Priest, The Mission, 405. In her analysis of KFOR operations in the U.S. sector, Priest extensively uses the official inquiry following the rape and murder of an Albanian girl by a U.S. Army sergeant in Vitina in 2000. She also extensively and vividly describes how during the winter of 1999-2000, elements of one unit of the 82nd Airborne became increasingly offensive towards the local Albanian population, and took drastic measures in their effort to investigate and break the criminal elements of the former UÇK. In siding with the minority Serb population they lost their impartiality and at times their discipline. For this story Priest refers primarily to: U.S. Army Europe, “Unit Climate and State of Discipline Within the 3rd Battalion, 504th Parachute Infantry Regiment, Task Force Falcon, Kosovo Force,” Army Regulation 15-6 Report of Investigation, 18 September 2000.

These exact figures were given in the small Dutch newspaper Reformatoirisch Dagblad, which gave extensive coverage of the Kosovo crisis and the Dutch military role on the ground. The numbers


104 Ibid., box 4, DCBC Sitrep no. 146/99, 3 August 1999.


106 Gwaltney, "Law and Order in Kosovo", 259.


108 ICG, "Starting from Scratch in Kosovo", 11.

109 Interview with Lieutenant Colonel Bart Haverman (10 April 2003).


111 Gwaltney, "Law and Order in Kosovo", 236.


115 Ibid.

116 Lecture by Bernard Kouchner (Harvard University, 16 May 2001, notes taken by author).


121 On 12 August 1999 Kofi Annan reported to the assembled G-8 ambassadors that close to 600 CIVPOL were in Kosovo and 200 were deployed each week. The International Crisis Group placed the number of those police officers deployment in late 1999 at somewhere between 80-100 per week. ICG, "Starting from Scratch in Kosovo", 4. NATO estimates in July were also far too optimistic: "Deployment of all the civil administration staff will take 2 months with the civil police element estimated at 10 weeks." CAD, 1 (NL) Contco KFOR I&II, Werkarchief, box 5, Vraagpunten en regelingen Op Joint Guarantor, 12 August 1999.

122 ICG, "Starting from Scratch in Kosovo", 4; Andrew Roche, "Law and Order is Kosovo's Achilles Heel", *Reuters* (27 December 1999).
Reinhardt described the American UNMIK Police, who “praised the good cooperation with KFOR troops”, as a “very robust, experienced cop from New York, who was determined to arrest and detain the criminals.” Reinhardt, KFOR, 271.

OSCE/UNMIK, Municipal Profile: Orahovac/Rahovec (1 April 2000); CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 2, folder 5.2 Daily Sitrep 8 Sep 1999. Taks Force Orahovac reported that support to UNMIKPOL deployment was a top priority; CAD, 1 (NL) Arty Bn KFOR I, Correspondentiearchief, box 3, folder “Sectie 2/3”, UNMIK rapportage Rahovec 52, 10 November 1999.


United Nations Document. S/2000/538, 6 June 2000, paras. 28 and 31; ICG, “Kosovo Report Card”, 4. Like in Bosnia, NATO also deployed the MSU which, like in Bosnia, the paramilitary unit had its successes and failures. The Royal Ulster Constabulary in cooperation with British troops proved most useful, showing that a competent military force in close coop with police was the best solution to bridging the public security gap as long as there was mutual trust and information sharing. See: Annika S. Hansen, From Congo to Kosovo: Civilian Police in Peace Operations (IISS Adelphi Paper 343, 2002) 73.


Personal observations by author in Kosovo (September 2002).

Hansen, From Congo to Kosovo, 93.

ibid.

Tully, “Kosova and Bosnia: A Tale of Two Police Forces.”