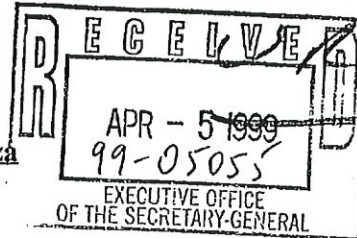


Yugoslavia
DPA

Note to Mr Riza
KOSOVO



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1. Without wishing to usurp your prerogatives, there follows a hurried attempt to suggest some ideas with a view to laying down a policy framework for handling the Kosovo crisis from a political perspective.
2. Early in 1998 DPA suggested that the way out of the looming crisis was to draw up a road map of measures and terms and conditions at the end of which Milosevic could see his reintegration into the international framework including the OSCE, the UN and the IFIs. As we saw it, for historical as well as legal reasons Kosovo was fundamentally different from Bosnia, and hence Milosevic needed to be lured out of his policy of repression essentially by persuasion and incentives. DPA made clear that we did not advocate a role for the Secretary-General in attempting to broker such a road map because he had no control over the keys that needed to be turned to ensure that the international community's side of the deal would be adhered to (admission to OSCE; settlement of the succession question; restoration of membership rights in UN; renewed access to IFIs).
3. As it turned out, the Contact Group and eventually OSCE and NATO took the lead in the management of the crisis, with the acquiescence of the Security Council. This acquiescence does not, by any stretch of interpretation, constitute a *carte blanche* by the Council to CG/OSCE/NATO. No mandate or terms of reference have been given to them. Neither the Council nor certainly the Secretary-General should feel compelled, legally, politically or morally, to go along with, let alone back each and every move they make. Furthermore, these actors followed an approach quite different from that which is outlined in paragraph 2 above. We should not second-guess them either.
4. The handling of the Kosovo crisis is likely to go down as one of the most egregious episodes of diplomatic bungling in modern history. It is not the purpose of this note to dissect this demonstrable affirmation right now; I would, however, use it as a touchstone to make my first policy proposal which is that we should **distance ourselves from the handling of the crisis by the actors who are in charge of it at this time**. I am not suggesting that we take a stance against it; I am merely saying that we should not be associated with it. We do not have a dog in this fight: We are neither involved in policy formulation by CG/OSCE/NATO nor in its execution; the Secretary-General has expressed misgivings about the legality of the NATO decision to bomb the F.R.Y.; the bombing of the F.R.Y. has at the very least provided Milosevic with a pretext for the systematic ethnic cleansing currently under way. Milosevic's behaviour is horrendous, but the West has made a mess of things and as a consequence should be allowed to shoulder its responsibilities.
5. One should never rule out any scenario, particularly in a rapidly evolving scenario. But at this time the likelihood of a revival of the Rambouillet "agreement" would appear to be slim. The same applies to the proposed deployment of NATO in Kosovo to ensure its implementation -- at least on a consensual basis. I would not rate the prospects for a return of the OSCE "verifiers" very high either. These circumstances lead inevitably to consideration of whether there might be a

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return to the UN, and specifically to the Secretary-General. I do not rate the chances for that very high either, but **the Secretary-General cannot rule out this possibility, and his behaviour should be sufficiently circumspect as to not make it more difficult for him to discharge such a responsibility should it come his way.**

6. It follows from this premise that **we should avoid falling into the trap of echoing the policies of CG/OSCE/NATO or their execution**, and, since we are not in a position to independently judge where the truth of the situation on the ground lies, we should restrain our natural tendency to react to reports of episodic events emotionally and, **in public pronouncements, eschew the vocabulary and particularly the epithets used by the actors-in-charge. We should in particular be careful about references to "genocide"**. Facile use of the term is a temptation into which the Secretary-General, who is in a key position given the Organization's role in the development of international law, should not allow himself to fall. It is worth noting that none of three consecutive Special Rapporteurs of the Human Rights have referred to genocide in Bosnia, nor has the Prosecutor invoked it, at least in the open indictments. In Kosovo, the problem at this stage is that the facts have to be established, and then the *intent* which is central to the definition in the genocide convention has to be proven. (It is interesting to note that the US reservations and understandings attached to its ratification of the convention state that the term "intent" means *specific* intent -- i.e. more than merely acts -- acts in response to a specific, explicit *policy*. They have also made it clear that acts in the course of armed conflict without such specific intent are not genocide.)

7. Having removed ourselves from the episodic, and restrained our public stance, we would be in a position to carve out a niche which, I suggest, should not be in the realm of the day-to-day. Rather, the UN (in the UN Secretary-General and Secretariat sense) should, at a time of high irrationality, become an island of rationality and vision.

8. I suggest that we seize the high ground as the architects of the aftermath, by setting ourselves the task of **drawing up a blueprint or road map for a vision, beyond Kosovo, of a lasting solution, i.e. one that goes beyond the slapdash and short-term** -- the kind of thing that was done by successive Special Representatives for the Former Yugoslavia Vance and Stoltenberg. Once we have such a blueprint or road map, the aspiration of our contribution should be essentially **intellectual**. I am not suggesting that we should then become its brokers. If a diplomatic role derives from it (not something necessarily desirable), we would take it from there. But we should avoid giving the impression that we would like to usurp or rival the role being played by others.

9. Policy action for the immediate is difficult to put together, particularly given that, characteristically, the would-be peacemakers are beginning to surface in droves. My purpose in this note is, as I said at the outset, to suggest a long-term policy framework which I hope will serve to guide us in facing the day-to-day challenge of being asked to react to a rapidly evolving and extremely complex situation.



Alvaro de Soto
1 April 1999