

Kosovo's Airspace: "No Trespassing!"

Summary

If you have ever taken a flight from Vienna, Austria to Prishtina, Kosovo or vice versa, you may have noticed from the flight screen that instead of taking a direct route through ex-Yugoslavia, the flight actually goes around through Hungary, Romania, Bulgaria, Macedonia and it then enters Kosovo from the South. The flight is 30 minutes longer, more expensive and more polluting. As a matter of fact, this is not the case only with flights from and to Kosovo, but also with flights that used to pass over Kosovo. This is because Kosovo's airspace is closed, and NATO has been in charge of the airspace since 1999. Following Kosovo's Declaration of Independence on February 17th 2008 and the responsibilities that are derived from the Constitution, the issue of the airspace needs to be opened. More importantly, the benefits to the Kosovo economy would be significant if the situation changes from the current impasse.

Institute for advanced Studies GAP undertook research on the topic of Kosovo's Airspace. The research identified many issues that need to be addressed in a near or longer future. Overall, the whole process of defining the role of main actors on the issue of airspace was dynamic. It included many international institutions and lately, the newly established local institutions, as well as operating air companies within Kosovo. Institute GAP is interested to incite public opinion by publishing main facts, figures, concerns and recommendations, especially since the analysis shows an asymmetry of information between the actors and the public opinion on airspace affairs. There was no recorded public discussion up to date that included a respected number of representatives from all spheres of life other than between a concentrated number of institutions that deal with aviation. Institute GAP reaffirms its goal to bridge the gap between government and people, and to bridge the gap between problems and solutions.

Historical and Legal Background

Prior to the 90's, Kosovo was part of two major important flight corridors UL680 and UM867, with approximate daily density of over 400 flights per day¹. The International Civil Aviation Organization (ICAO), an agency of the United Nations, is the body that codifies the principles and techniques of international aviation including international corridors. Before being used by airlines, corridors have to be approved and codified by this organization. Both of the corridors mentioned above were suspended in the early 90's when Yugoslavia started to break-up and was expelled from ICAO. In June 1999, following the bombing of Federal Republic of Yugoslavia

¹UL680 is the more important of the two and was and could be used by many flights

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by the NATO forces, FRY and NATO signed an agreement near the town of Kumanovo in Macedonia ending the hostilities. The Military Technical Agreement (MTA), better known as the Kumanovo agreement transferred the responsibilities over the Kosovo airspace from Yugoslav authorities to NATO in land and area, and, also up to some proximity, the so-called buffer zone outside of Kosovo.

Point C3 in Article II of the MTA clearly defines the role of KFOR in the aftermath of Kosovo war:

“The international security force (“KFOR”) commander will control and coordinate use of airspace and Air Safety Zone commencing at Entry into Force Day (EIF Day is defined as the day when agreement was signed)”². Due to security reasons, NATO closed the airspace of Kosovo, thus suspending all corridors above Kosovo.

At the same time, the UN Security Council Resolution 1244 established United Nations Interim Mission in Kosovo (UNMIK) with clear responsibilities of organizing and establishing local and central institutions. Later, UNMIK was also involved in managing and controlling Kosovo’s airspace for civilian flights, after KFOR delegated its responsibilities to UNMIK when both sides decided to “sign a statement of intent dated September 12, 2002, whereby they agreed to the handover of civil aviation operations at Prishtina from KFOR to civilian authorities and stating that UNMIK is in process of establishing a Civil Aviation Regulatory Office in Kosovo (CARO)”³.

What followed was the creation of CARO through UNMIK Regulation no. 2003/18 effective on June 13, 2003. CARO gained all necessary mandates from the Regulation to manage, control and develop civil aviation CARO had the following responsibilities:

- (i) Supervising and regulating air transport systems, including air traffic and air transport facility construction and maintenance;*
- (ii) Producing and disseminating general information, technical documentation and statistics on air transport systems and air transport facility construction;*
- (iii) Authorizing qualified personnel to perform aeronautical related services; and*
- (iv) Inspecting air carriers, air transport service facility providers, airport facilities, navigational equipment and facilities and any other matters CARO considers it necessary or desirable to inspect.*
- (b) Oversee the implementation of the overall strategy and policies for the development of civil aviation in Kosovo;*
- (c) Coordinate with KFOR and consult, as appropriate, with the Provisional Institutions of Self-Government on matters pertaining to civil aviation;*

² <http://www.nato.int/kosovo/docu/a990609a.htm>, last accessed on December 17, 2008

³ Interview with Dritan Gjonbalaj, CAA Director

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- (d) Coordinate with appropriate international organisations, including the International Civil Aviation Organisation and the International Air Transport Association, in order to promote the development and effective implementation of civil aviation policies and standards in Kosovo;*
- (e) Develop and implement policies and procedures for addressing complaints from, or disputes with, air carriers, air transport service providers and airport facilities operating in Kosovo, in a fair and efficient manner; and*
- (f) Perform such functions as are ancillary to those set out above and assigned to CARO by the Deputy SRSG for Economic Reconstruction.⁴*

After the Kosovo's declaration of independence, with the proposition of the Kosovo Government, the parliament approved Kosovo's Law no. 03/L-051 on Civil Aviation in accordance with the Ahtisaari Plan, which recognizes the Kosovar Authorities as the sole authority of the air space of Kosovo. Paragraph 2.1 in Article 2 describes the new legal environment by stating that:

"Kosovo shall have complete, exclusive and inviolable sovereignty over the airspace above its territory and shall have the exclusive authority to organize and regulate civil aviation activities in its territory and air space⁵.

Furthermore, the Law paves the way for the creation of Civil Aviation Authority of Republic of Kosovo, as described under Chapter 3 of the Law. The agency should take all the responsibilities previously held by CARO, but also taking over the authority in regulating and managing Kosovo's airspace.

Last but not the least, the issues that will need to be addressed in the future are the relationship with International Civil Aviation Organization and the participation in the European Common Aviation Area (ECAA), an agreement that was signed by UNMIK on June 6th, 2006.⁶ In both cases, Kosovo's interest is to become a full member with full rights and responsibilities. Despite the difficulties, better coordination between NATO, Kosovo Government and CAA and EU could enable Kosovo build a more credible and sustainable position in these two legal entities.

Current Situation of Kosovo's Airspace

Kosovo is currently using two corridors that on the border with Macedonia; one is exiting (SARAX) and the other entering (XAXAN) route respectively (see attached map #1). These

⁴ UNMIK regulation 2003/18

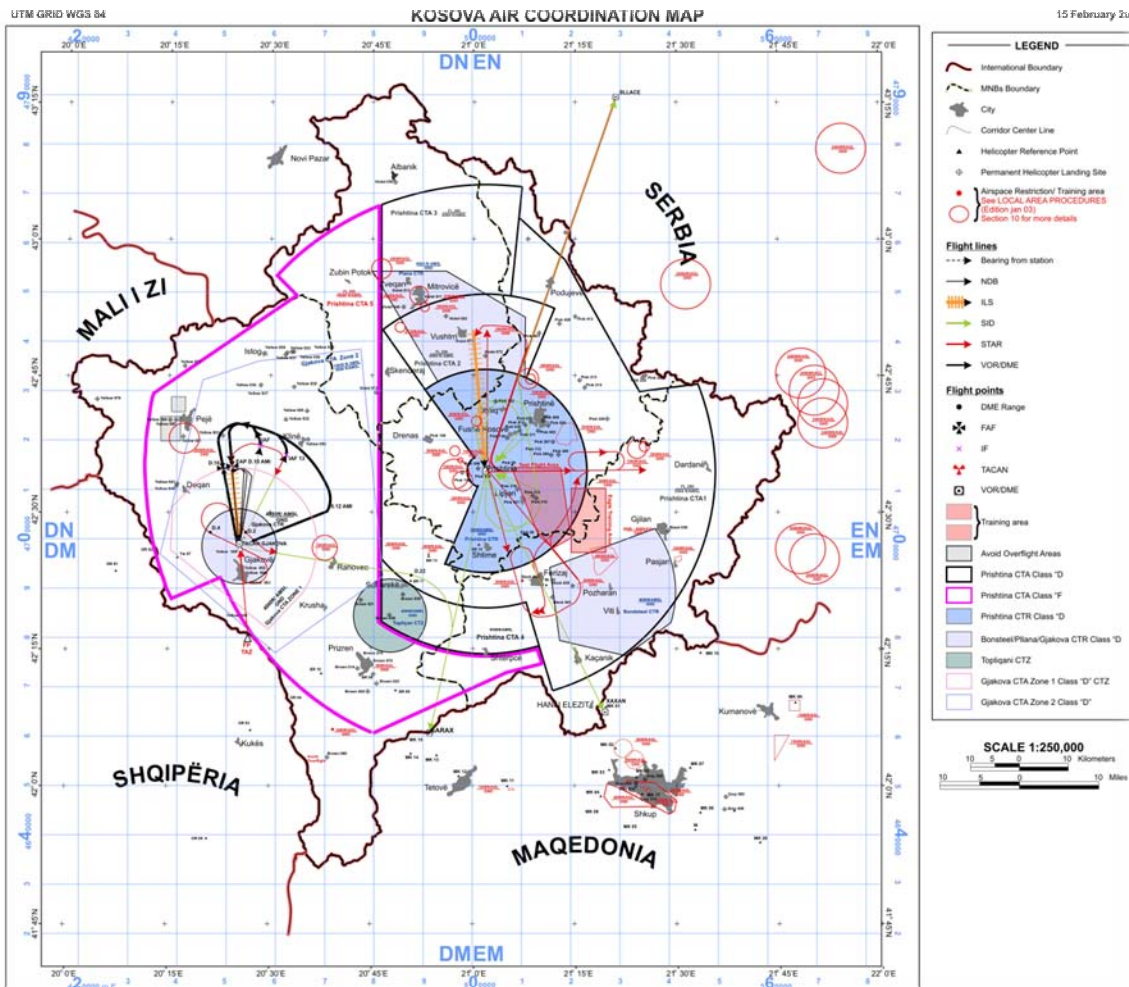
⁵ Law on Civil Aviation 03//L-051

⁶ UNMIK press release after signing the European Common Aviation Agreement for Kosovo

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corridors are used for flights coming to and leaving Prishtina. They are both low entry corridors.

As mentioned before, there are two other major corridors over-passing Kosovo, currently suspended UL608 and UM867 (see attached map #2). The corridors have not reopened since the early 90's and the only reason preventing that now is the closed airspace over Kosovo due to the political status of Kosovo. According to Mr. Ramphul, the Director of CARO, "airlines are keen to reopen old corridor" adding also that "other countries would also benefit from the old corridor (UL608), specifically Macedonia and Bosnia and Herzegovina"⁷

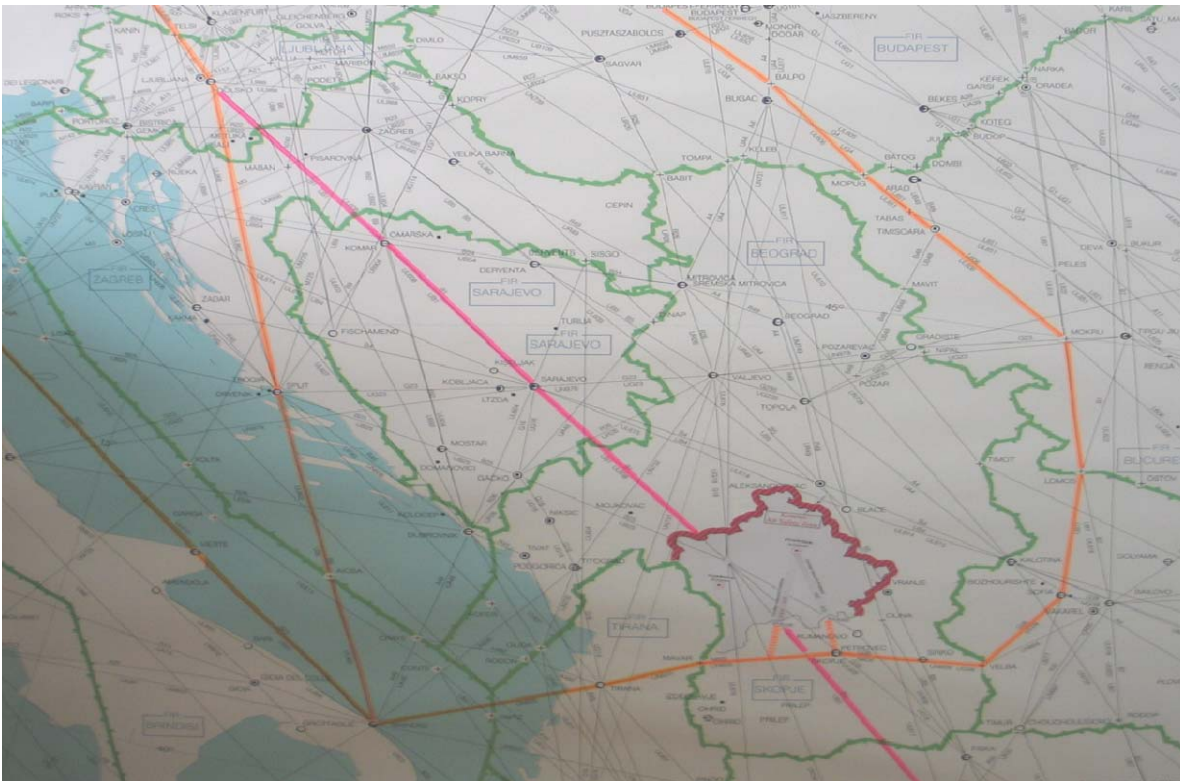


(Map provided by CARO)

⁷ Interview with Chabeenan Ramphul, CARO Director

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The relevance of the corridors passing through Kosovo and continue to Macedonia was emphasized in a document prepared by the Civil Aviation Administration of Macedonia in 2002 called “Project opportunities in Air Transport”⁸. The document states that “Unfortunately, the airspace over Kosovo, in which there are four very important routes connecting the airspace (i.e. Xaran.Xaxas, UL608 and UM867) of the Republic of Macedonia with Europe, is still closed for over-flights. In the case of opening the airspace in this moment it is expected that the Republic of Macedonia will be over-flown by 120,000-140,000 aircrafts and air traffic density at two airports to be increased up to 30,000 aircraft annually.”⁹



Map provided by CARO, note: the passes through Croatia, Bosnia and Herzegovina, Serbia and Kosovo is UL608 the most active corridor before the fall of Yugoslavia started)

Furthermore, there is also a corridor called TAZ that goes from the Gjakova Military Airport in Kosovo to Tirana, Albania and was never used for civilian purposes. Dritan Gjonbalaj, the

⁸ Presentation by Jovica Lazarevski, the ex-Director of Civil Aviation Administration (Macedonia), given in November 13th, 2002.

⁹ Approximately flights per day



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Director of CAA stated that the Prishtina Airport already has drafted initial cost analysis of TAZ, but the same ones may be out of date and need reassessing.¹⁰

NATO currently oversees the airspace above and below 3,000 m, while Kosovo authorities now are able to manage landings and departures to and from the Prishtina International Airport. NATO, however, is quite keen to pass this responsibility to local and international civil aviation institutions, but can only do so if they are satisfied that the airspace will be managed in a safe and a professional manner.¹¹

After the declaration of independence by Kosovo, the Government is in the process of establishing the Kosovo Civil Aviation Authority. Its director was just appointed and is in the process of developing and enlarging the capacities so it can match them with the standards required by International Civil Aviation Authority (Law No.03/L-051 on Civil Aviation) and operates independently from NATO and CARO. Currently, Kosovo does have a modest number of personnel or technical capacity to manage upper airspace, but is making headway on lower airspace – encouraged by the possible Prishtina-Tirana link via the TAZ corridor.

Discussion of Kosovo's potential domestic management of upper airspace should also take into account the capacity to do so. The development of such capacities would take time and investments. However, we should also note that the airspace is so small and the likelihood of the European Single Sky initiative extending to the Balkans is quite high, which means that there would be one upper airspace control centre for the whole region, including Kosovo.

Economic Figures

Current entry/exit corridors through Macedonia are adding approximately 200 nautical miles (NM) and 30 minutes to most flights originating from Central and Northern Europe that land in Prishtina, and slightly less to flights to other Southeastern destinations that are forced to detour. This is costing airlines more in fuel; it is costing the environment due to increased carbon emissions, and the cost of fuel is being passed on to the consumers. In addition, Kosovo is losing out on potential revenues that can be generated from over-flights that would be using the corridor over Kosovo that used to be very busy (at least 400 flights per day before 1999, most likely more now, according to CARO).

¹⁰ Interview with Dritan Gjonbalaj, CAA Director

¹¹ Interview with Lt.Col. Huntsman, J3 Deputy Air Chief KFOR

Furthermore, calculations were made on actual numbers in terms of nautical miles and time that some companies could count on if using more direct routes to and from Kosovo, and the estimated saved nautical miles and time are shown in the table below.

Table 1 Estimated difference in distance and time between normal and current distance*

| Airline company | Normal distance | Current distance | Difference in NM | Different in time |
|-------------------|-----------------|------------------|------------------|-------------------|
| Austrian Airlines | 415 NM | 618 NM | + 203 NM | + 30 minutes |
| British Airways | N/A | N/A | N/A | + 33 minutes |
| Malev Airlines | 390 NM | 584 NM | + 194 NM | + 25 minutes |
| Adria Airways | 400 NM | 606 NM | + 206 NM | N/A |

*(Figures by CARO)

Conclusions and Recommendation

Conclusion 1

Any new Corridor or approach/depart route will promote healthier and richer market competition. Local and international airlines are limited in possibilities to offer more attractive prices since there is a clear “monopoly” in corridors ruled by SARAX and XAXAN corridors that pass through Macedonia. Reopening of the Kosovo Airspace, if only for the two major corridors would significantly decrease fuel costs, the costs to passengers, reduce pollution by reducing fuel emissions, and would increase the revenues to Kosovo by about 3 million Euros.

Conclusion 2

In the short-term, the reopening of these corridors requires NATO’s approval in terms assurances of safety and professionalism. The Kosovo Constitution and the Kosovo Law on Civil Aviation give the responsibility to the Kosovo Civil Aviation Authority to manage and oversee the Kosovo Airspace. The capacity of the Kosovo Civil Aviation Authority to manage and oversee the airspace is limited.

Conclusion 3

It should be also strongly emphasized the effect of CO2 emissions with regard to shortening the distance of flights to Kosovo. Government, local and international airlines must address this question two since it allow them in joining the global initiative to cut carbon emission.



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Recommendation 1

The Kosovo authorities should start the discussion with NATO, international bodies in charge of civil aviation and other domestic and international stakeholders to reopen Kosovo's airspace for over flights. The benefits to Kosovo in general are significant and as such the initiative should come from the Kosovo authorities. NATO's role in the short term is crucial and the main actors in Kosovo's Airspace must plan a smooth de-engagement of NATO since it will project a more secure environment to fly over Kosovo.

Recommendation 2

In agreement and cooperation with NATO, Kosovo should initiate discussions with ICAO over the corridors and other matters that relate to civil aviation in Kosovo. Being a UN organization, ICAO does not accept any new member if they are not previously UN members

Recommendation 3

Because of the short term difficulties with ICAO, Kosovo can and should proceed with bilateral agreements with neighboring and regional countries so that it surpasses the difficulties with the ICAO legal procedures. This will continue after status issues with ICAO will be clarified, because Kosovo can then register and publish the corridors with ICAO.

Note:

Institute for Advanced Studies GAP is interested to get the views of all major players in the aviation sector in order to clarify the current and future status of the Kosovo airspace. The goal is to enable cheaper, CO2 efficient, safer, and faster routes to be (re)opened for flights going in and out of Kosovo.