CHAPTER 3

MILITARY AND LEGAL ASPECTS OF PSOS-THE EXAMPLE OF AUSTRIA’S DEPLOYMENT WITH KFOR

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The decisive requirements for the success of a peace support operation (PSO) are the legal basis and the political will to enforce it. Somalia, the UN Missions in Bosnia and Herzegovina (BiH) and the March riots in 2004 in Kosovo are examples of cases in which UN missions almost failed, particularly due to the lack of will of the political authorities or the impossibility for the peacekeeping troops—dictated by the lacking legal authority—to resort to the use of force. Contingents deployed abroad need to be entrusted with sufficient powers, adapted to the circumstances, in order to guarantee reliability and solidarity for their international partners. The aim of this chapter is to illustrate the relationship between the military-political goals and the legal framework of PSOs.

I. INTRODUCTION: THE RELATIONSHIP BETWEEN THE POLITICO-MILITARY AND LEGAL FRAMEWORK

The Austrian Armed Forces’ (AAF) participation in international missions has general international politico-military reasons. An important objective in foreign politics, of both a military and political nature, for instance, is the showing of solidarity within the international community in keeping international peace and security.’ By increasing its participation in PSOs, Austria will be

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1 Particular thanks go to Col (GS) Christian Platzer, who, in 2004, was deployed with the author to Kosovo (KFOR).
2 "Bundesverfassungsgesetz tiber Kooperation und Solidaritat bei der Entsendung von Einheiten und Einzelpersonen in das Ausland (KSE-BVG)," oBGBI. I No. 3811997 in the version oBGBI. I No. 3011998, 3511998 (original version): § 1. Einheiten und einzelne Personen konnen in das Ausland entsandt werden I. zur solidarischen Teilnahme an Maßnahmen der Friedenssicherung einschließlich der Forderung der Demokratie, Rechtsstaatlichkeit und Schutz der Menschenrechte im Rahmen einer internationalen
increasingly accepted and well-reputed by its international partners, particularly other troop contributing nations (TCN). The more “caveats” (reservations) Austria places on its participation in these missions, be these of a political or legal character, the less it will be credited. The political profit Austria and its armed forces are going to gain depends on the scope and amount of these reservations. From the international community’s perspective, in particular that of the multinational command, these kinds of reservations are particularly cumbersome because they limit the options to use the contingent, thereby reducing its value to the mission. On the other hand, purely administrative reservations, such as financial restrictions, are less important. A loss of profitability of the contingent is perceived in particular when the TCN does not provide its own troops with the rules of engagement (ROE) of the mission-leading organization, which are based on international law. This aspect becomes particularly relevant in relation to the possibility to resort to force (e.g., use of lethal weapons).

The deployment of the Kosovo Force (KFOR) was based on a Security Council resolution based on Chapter VII of the UN Charter, \( \text{namely Resolution 1244 (1999), authorizing NATO to organize and lead the Force.} \) It was then necessary to frame KFOR’s powers and rights accordingly,- Reference was made


Unofficial translation:

§ 1. Units as well as single persons can be sent
1. to jointly participation on
a) measures ensuring peace including the promotion of Democracy, Rule of Law, Protection of Human Rights within the frame of an International Organization or the OSCE or in execution of resolutions of the EU within the ESDP or . . .
Within that there have to be considered the international obligations of Austria, the principles of the Charta of the UN, the Final Acts of Helsinki, and the ESDP as given in art. V of Treaty on European Union.


SC Res. 1244 (1999), para. 9 decides that the responsibilities of the international security presence to be deployed and acting in Kosovo (KFOR) will include, \( \text{inter alia}, \) the deterring of renewed hostilities, maintaining and where necessary enforcing a ceasefire and ensuring the withdrawal and preventing the return into Kosovo of Federal and Republic military, police and paramilitary forces (of the Former Federal Republic of Yugoslavia and now Federation of Serbia and Montenegro), the demilitarizing of the Kosovo Liberation Army (KLA) and other armed Kosovo Albanian groups and the ensuring of public safety and order until the international civil presence can take responsibility for this task.