



COMPACT PROGRESS **REPORT**

ASSESSING PROGRESS BETWEEN JULY 2017 – JUNE 2018

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FOREWORD

Kosovo's rule-of-law institutions reached an important threshold as EULEX disengaged from a number of institutions on 14 June 2018. In the period covered by this report, EULEX laid the ground for the withdrawal of its executive judges and prosecutors from the judicial system, while also starting the handover of the remaining case files in its care. This process has required an increased engagement by the government and its institutions. As a result, amendments to the legal framework in specific areas

The Joint Rule of Law Coordination Board (JRCB) is a rule of law coordination mechanism made up of Kosovo institutions, the European Union Special Representative/European Union Office and EULEX. It pursues joint objectives related to the EU's reform efforts in key rule of law areas. The JRCB sets specific joint objectives in the form of a COMPACT Agreement and JRCB Roadmaps, while meeting regularly to review progress made and to agree on follow-up actions to overcome obstacles.

have been initiated, planning has started for the replacement of EULEX judges and prosecutors, while the takeover of a significant number of case files has been ongoing. Furthermore, in recognising the increased performance and capacities of certain rule-of-law institutions, EULEX began phasing out its monitoring, mentoring and advising support to the Kosovo Police, the Kosovo Judicial Council, the Kosovo Prosecutorial Council and the Civil Registration Agency. While certain institutional gaps and structural weaknesses remain, the European Union will continue its support to these institutions in a more limited advisory role through alternative assistance tools, including a number of Instrument for Pre-Accession (IPA) projects.

This report provides an overview of the progress made over the last year in priority areas agreed upon between the members of the Joint Rule of Law Coordination Board, while outlining the way forward in areas where EULEX's engagement has changed. At a time in which the EU's support to Kosovo's rule-of-law institutions is changing, we all reconfirm our commitment to tackling the remaining challenges.

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Nehat Idrizi

Chair of the Kosovo
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EXECUTIVE SUMMARY

In the period covered by the report – between July 2017 and June 2018 – Kosovo’s rule-of-law institutions have made important advancements in developing the rule-of-law sector. The report provides an overview of progress made in certain rule-of-law institutions and thematic areas, while taking note of the remaining gaps that require further attention. The significant reduction of EULEX’s role in its new mandate starting in June 2018 is a testament to the joint efforts towards establishing effective, sustainable, and accountable rule-of-law institutions.

The Kosovo Police (KP) has maintained an acceptable level of sustainability and accountability in the provision of policing services. Certain gaps and weaknesses still exist, particularly in maintaining a sufficient number of trained staff in thematic areas, and providing a standardised level of equipment across a number of areas of operation. Specific contextual issues for the KP operating in northern Kosovo have remained. The Police Inspectorate of Kosovo (PIK), meanwhile, has faced a number of serious internal challenges as well as mismanagement: these issues have seriously affected its functionality. Kosovo Customs achieved another notable success in the collection of revenue for 2017, and has achieved positive results in terms of enforcement.

EULEX continued monitoring selected cases and identified a number of shortcomings that affect the provision of justice in Kosovo’s courts, the most frequent among which are “unproductive hearings”: instances when court sessions are held but then immediately adjourned. The courts remain affected by a series of problems, such as, delays in legal proceedings, poorly maintained court registries, and inadequate court infrastructure, which need further

attention by the local authorities in order to strengthen the rule-of-law system.

The performance of the Kosovo Judicial Council (KJC) improved in comparison to the previous year. However, further efforts are needed to enhance its institutional sustainability. The work of the Kosovo Prosecutorial Council (KPC) also continued to improve. Both Councils administered all selection and recruitments processes in line with their secondary legislation. To increase its accountability and transparency, the KPC also prepared a communication strategy for its prosecutorial system.

The Special Chamber of the Supreme Court (SCSC) and the Kosovo Property Agency (KPA) Appeals Panel continued adjudicating cases at their usual rate. Following the end of its executive judicial mandate, EULEX judges completed their assignments in these courts on 14 June 2018, handing over responsibilities to their local counterparts. The amendment of the SCSC Law foreseen to replace EULEX judges with local ones still needs to be adopted by the Assembly, while the legal framework for the KPA Appeals Panel also requires changes. In the meantime, the SCSC and the KPA Appeals Panel stopped adjudicating cases. Through EULEX facilitation, a breakthrough has been achieved in establishing a delivery mechanism for the KPA Appeals Panel to deliver judgements to parties who have moved away from Kosovo.

The Kosovo Correctional Service (KCS) has shown modest signs in its development towards EU standards. Although improvements have been noted, the KCS has been subjected to political interference, which manifested in a few cases of treating high-profile inmates in a preferential manner. Meanwhile, the

recruitment of KCS staff has to a certain extent remained a challenge.

The Institute of Forensic Medicine (IFM) continued its work identifying and locating missing persons stemming from the 1999 conflict, which is a critical part of the post-conflict reconciliation process. But additional steps are needed to establish a functional institutional framework. At the operational level, the IFM has struggled to reach a sufficient level of productivity as staff members continue to require further assistance and training.

In the EU-facilitated Dialogue, a significant breakthrough took place in October 2017, when 40 Kosovo Serb judges and 13 Kosovo Serb prosecutors joined the Kosovo judiciary as foreseen by the Justice Agreement. While this agreement has now formally been implemented, much work remains before the

judicial institutions in northern Kosovo become fully functional. Progress has been slow and inconsistent in the other Dialogue-related areas of civil registration, IBM and Freedom of Movement.

While taking note of the progress made, the JRCB members reconfirm their commitment to further developing Kosovo's rule-of-law sector in line with European standards. As EULEX began to withdraw and refocus its support in a number of areas in the first half of 2018, the responsibility has increasingly shifted to Kosovo's rule-of-law institutions. The time has now come for them to demonstrate their capacities and capabilities as fully independent institutions. In the meantime, the EU remains available to continue its support through a number of available instruments.





JOINT RULE OF LAW COORDINATION BOARD

COMPACT 3

on Joint Objectives in the Rule of Law area for the period until June 2018

The Kosovo Rule of Law Institutions, the Head of the EU Office in Kosovo/EU Special Representative and EULEX Kosovo,

Acknowledging the achievements reached in the implementation of the Compact 2 signed on 14 May 2015 as overseen by the Joint Rule of Law Coordination Board (JRCB);

Recognising the need for the Kosovo authorities to effectively cooperate with EULEX Kosovo and the EUSR/EU Office so that further progress is made in the rule of law sector to reach the goals of the Compact and to satisfy the Kosovo EU accession aspirations;

Acknowledging the commitment of the Kosovo rule of law institutions to implement their existing strategies and plans for further strengthening the rule of law and to work with the EUSR/EU Office and EULEX Kosovo to advance the joint agenda;

Acknowledging the commitment of the Kosovo rule of law institutions to make further progress towards sustainability and accountability, and to further develop and strengthen an independent multi-ethnic justice system and a multi-ethnic police and customs service that are free from

political interference, corruption, respect human rights and adhere to internationally recognized standards and European best practices;

Reaffirming their joint commitment to work within the overall EU policy framework as defined in the Stabilisation and Association Process with Kosovo;

Reaffirming the willingness to contribute to a normalisation of relations between Pristina and Belgrade and move forward with the implementation of agreements reached so far in the EU facilitated dialogue as well as any other future rule of law agreements;

Taking due note of the full complementarity of the European Union assistance programmes for Kosovo with the overall objectives, concrete goals and specific activities foreseen under this *Compact*;

have agreed as follows:

1. The Kosovo institutions, assisted by the European Union through *inter alia*, EULEX Kosovo and the EUSR Instrument for Pre-Accession (IPA) projects and associated programmes of support, re-commit themselves to the following overall

Joint Rule of Law Objectives:

- 1.) To strengthen police, customs, correctional and judicial institutions across the entire territory of Kosovo, for the benefit of all communities; and ensure the sustainability of these institutions to handle their responsibilities;
- 2.) To increase the ability of Kosovo's rule of law institutions to deal with inter-ethnic crime, serious and organized crime and corruption; particularly through the criminal justice system;
- 3.) To enhance the accountability of all rule of law institutions by further developing the capacity and competence of the Kosovo Judicial Council, the Kosovo Prosecutorial Council and the Police Inspectorate of Kosovo as well as relevant internal structures to fully assume their roles in accordance with the law;

- 4.) To consolidate the strategic, operational and organisational management capacity of Kosovo's rule of law institutions to advance the implementation of relevant legislation, strategies and action plans, and further improve the legislation pertinent to rule of law in Kosovo;
- 5.) To foster a higher degree of ethnic inclusion and gender balance in the Kosovo rule of law institutions;
- 6.) To improve the responsiveness of Kosovo's rule of law institutions to concerns frequently raised by minorities in relation to public safety, accessibility and openness;
- 7.) To strengthen the inter-institutional cooperation between prosecutorial bodies and law enforcement agencies by facilitating a higher degree of communication between these institutions;
- 8.) To enhance the ability of the relevant institutions in addressing outstanding property-related claims;
- 9.) To further the Kosovo witness protection system; beyond the implemented Roadmap;
- 10.) To strengthen the ability of the Special Prosecution of Kosovo (SPRK) to prosecute war crimes;
- 11.) To enhance forensic services in Kosovo and strengthen the capacities of the Institute of Forensic Medicine as an independent agency;
- 12.) To implement agreements reached in the framework of the EU facilitated dialogue, including the use of the EUSR' facilitation for requests of mutual legal assistance.

2. The undersigned will work based on Compact Actions and Roadmaps focusing on identified priority areas, which set specific activities and concrete goals with measurable benchmarks in line with the stated overall Joint Rule of Law Objectives.

3. In pursuit of these overall Joint Rule of Law objectives, the Head of the EU Office in Kosovo/EUSR, the Head of Mission of EULEX Kosovo, the Minister of Justice, the Chair of the Kosovo Judicial Council and the Chair of Kosovo Prosecutorial Council hereby pledge to meet regularly in the Joint Rule of Law Coordination Board to examine progress made and agree upon constructive, practical and coordinated actions with a view to resolving obstacles and advancing technical issues, including in the following priority areas:

- i) Compact Actions/Roadmap implementation;
- ii) The remaining requirements concerning visa liberalisation highlighted in the Fourth report on progress by Kosovo in fulfilling the requirements of the visa liberalisation roadmap of the European Commission from 04 May 2016;
- iii) Legislation related to the implementation of rule of law;
- iv) Continuity in rule of law service delivery beyond the current EULEX mandate;
- v) Reform priorities enumerated in Kosovo's rule of law sector review.

4. The Kosovo institutions, the EUSR/EU Office and EULEX Kosovo reiterate their strong commitment to overcoming identified gaps and to allocating the necessary resources and focusing their work so as to reach the overall Joint Rule of Law Objectives as set out in this Compact.

Pristina, 07 December 2016

POLICE & CUSTOMS



KOSOVO POLICE

The KP has overall maintained an acceptable level of sustainability and accountability in the provision of policing services. It has established internal systems, processes and standard operating procedures that allow for a framework of operations to deliver the minimum standards expected of a policing service. Meanwhile, structural weaknesses still exist, particularly in maintaining a sufficient number of trained staff in thematic areas, and providing a standardised level of equipment in certain areas of operation. The KP in northern Kosovo has faced a number of issues, in particular in the strategic management and direction of the policing region. In the 2016-2018 mandate, EULEX police advisors continued to support the KP top managers in developing its capacities, as well as identifying and addressing structural and systemic weaknesses.

COMMUNITY POLICING

Community policing receives adequate support and commitment throughout the ranks of the KP. The implementation of the main steering document in this area, the *2017-2021 KP Community Policing Strategy and Action Plan*, has led to the KP becoming more engaged with the communities they serve. In July 2017, the KP reviewed the first six-month period of this document, which revealed that progress had been made in implementing the Action Plan.

Community policing is a policing strategy that focuses on the police building ties with their communities, and by working proactively and closely with them to address public-safety concerns. It involves the core police functions of crime prevention, investigations, public order and security operations.

Two notable achievements in this regard were the organisation of 180 security forums across Kosovo, and the revision and amendment of the Standard Operating Procedures related to the strategy. In the second review in December 2017, the participants assessed that 18 of the 20 KP-owned activities had been completed, showing a strong commitment and good progress in the implementation of the strategy. The appointment of a new head of community policing has also helped improve community policing at the KP Central Directorate.

While recognising the progress made by the KP in adopting and implementing a community policing approach, some challenges still remain. The KP Central Directorate responsible for delivering the community policing strategy can only manage and task regional community policing coordinators through the chain of command within the regions; therefore, the link from the central level to the local-level KP stations remains weak. Furthermore, aside from the six-monthly meetings to review progress, there are no senior management coordination meetings to oversee the implementation of the community policing strategy, and no attempts to assess the institutional development of community policing.

The full and effective implementation of the community policing Action Plan requires additional funds for equipment and vehicles, as well as an increase in staff working at the station level. Further efforts should also be made to reach a better gender and ethnic representation among KP officers, as a community-based police service should reflect the community it serves. The number of female KP officers is below the EU average, while Kosovo's minorities are not adequately represented in the KP.

INTELLIGENCE-LED POLICING

The KP's intelligence-led policing (ILP) methodology is still in its early stages and is not yet offering a structure for informed and auditable decision-making. The KP as an institution has not yet understood the potential benefits of ILP. This is seen throughout the organisation as regional and station commanders have regularly directed ILP officers to other operational duties. As a result of this resource reallocation, the effectiveness of ILP in the KP has significantly decreased. In October 2017, EULEX gave a set of recommendation to the KP, highlighting issues of resource allocation, low number of information submissions, and the need for a more structured tasking and coordination process. The KP accepted the recommendations and committed to implement them as a pilot initiative in two police regions.

The tasking and coordination process is an important part of an ILP methodology to identify issues such as crime patterns, crime hot-spots, and other demands on police services. This includes requests for the review of resources to ensure appropriate and effective resource allocation at the operational level. Starting in November 2017, EULEX monitored the Tasking and Coordination Group meetings in the Mitrovica South and Ferizaj/Uroševač police regions, where the KP has been consistent in holding these meetings, and has also been receptive to improving their quality. As an outcome of this monitoring, EULEX shared suggestions on ways to improve efficiency. Meanwhile, the KP Directorate of Intelligence and Analysis has engaged with other regions to initiate similar Tasking and Coordination Group processes.

The Kosovo Police Information System – an advanced multifunctional police software package – is an integral tool for successful ILP implementation as it is central to the collection, recording and analysis of information that produces actionable and effective intelligence. The system was set up in 2010 and has mainly been used to provide incident reporting, statistical data, and criminal activity within any given region. Operationally, only certain functions within the system have been used although the KP has been slowly developing and enhancing its use of the system to include the integration of intelligence systems and court systems. Since the majority of KP intelligence reporting is entered into a database that is not connected with the Kosovo Police Information System, the opportunity for information sharing and the potential for harmonising critical intelligence-gathering for decision making is limited. The interoperability of information systems throughout the criminal-justice institutions of Kosovo, including in the KP, remains a significant challenge.

ILP is an approach to solving crime where crime data is analytically deciphered to determine the best resources to be used for deterring and eliminating crime.

SEXUAL AND GENDER-BASED VIOLENCE

The Kosovo institutions have built a legal and policy framework over a number of years that has the potential to offer protection to those most vulnerable to sexual- and gender-based violence. The government has made limited progress in improving its institutional mechanisms to assist victims of such offences, particularly in strengthening the partnership approach between the police and the prosecution. A key document in combatting domestic violence is the *National Strategy on Protection from Domestic Violence and Action Plan 2016-2018*. It outlines detailed actions to be undertaken to improve the capacities and capabilities of the institutions responsible for the prevention, detection and prosecution of domestic violence cases, as well as the support of victims. In February 2018, the government appointed the Deputy Minister of Justice as the National Coordinator against Domestic Violence to oversee the implementation of the policies, activities and actions set by the *National Strategy and Action Plan*.

During the course of the year, the KP has improved its investigation capacity. Various training programs were organised with external actors which focused on strengthening the KP's interview techniques when dealing with victims. A UK expert delivered a 'train the trainer' course on cognitive interviewing models to the KP in April 2018, which supports the acquisition of better quality evidence, and promotes a victim-centred investigative approach. Furthermore, in February 2018, the US Federal Bureau of Investigation (FBI) conducted a workshop on forensic interviewing of children of sexual and gender-based violence crimes. Both courses were integrated into the curriculum of the Kosovo Academy of Public Safety for future instructions – a positive step forward for the KP in acquiring sustainable capacities in investigating gender-sensitive offences. Another positive step was the

establishment of a forensic police-prosecutor working group in March 2018; its aim was to develop a cross-institutional procedural document that would encourage forensic evidence to be collected more effectively, thus aiding the potential prosecution of sexual and gender-based violence incidents.

Despite efforts made to streamline cooperation between agencies and strengthen staff skillsets, significant challenges still remain. Against EULEX's advice, the KP's Domestic Violence Policy Unit remains under the Department of Community Policing instead of under the Department of Investigations, while the Domestic Violence Units foreseen to be staffed with investigators exclusively dealing with such cases has not yet been established. There is still a shortage of officers with the skills, experience and capacity to effectively engage in a victim-centred investigative approach, which is a basic requirement when dealing with these types of offences. Response officers also still need to be provided with the necessary skills to ensure that first complaint processes are dealt with in a sympathetic but professional way, adhering to the *principle of best evidence*.

SPECIALISED UNITS AND QUICK RESPONSE TEAMS

Most of the KP Specialised Units are approaching a standard of operations at the level of similar units in European Union countries. They have continued to demonstrate good performance in a vast majority of operations, such as crowd and riot control, public order operations, VIP security and special police operations. However, the performance of the Special Intervention Unit, a sub-unit often engaging in high risk operations, has not shown the required level of competency in their area of operations, which was evidenced during the arrest of the Director of

Serbia's Office for Kosovo and Metohija in March 2018. This arrest highlighted deficiencies in the work of the unit, including a lack of professionalism and a poor understanding of the *use of force doctrine*, demonstrating the need to improve their performance in the conduct of operations.

Despite its overall strong performance, the KP Specialised Units Division has continued to take further steps to strengthen its capacities. In December 2017, the Division established a working group to carry out a thorough revision of its Crowd and Riot Control Manual. Given that Kosovo has in recent years been accepted as a member of several international sporting organisations, EULEX has focused its support on the Manual's section on the policing of major events. Meanwhile, on an operational level, the KP still needs to close gaps in providing support to international football events since it lacks experience and knowledge in carrying out contingency planning for these types of events.

In April 2018, EULEX organised a training for senior KP officers to provide the KP command with an opportunity to improve their current skills and expertise in dealing with spontaneous and pre-planned events that require public order and public safety contingencies. While the KP have developed the skills and expertise to deal with spontaneous and pre-planned events that require a crowd-and-riot-control response, the institution needs to further develop its ability to deal with public safety threats such as body-worn improvised explosive devices, active shooters, and the use of vehicles in crowded places.

A key issue that has remained unresolved in the past year has been the pending relocation of the Specialised Units to the camp formerly used by the Portuguese Kosovo Force (KFOR). Although KFOR vacated the camp in 2016, the relocation of the Specialist Units from their current camp

near Pristina International Airport to the military camp located in the centre of Pristina has still not been completed. This will slow down response times of the Specialised Units, especially in cases of critical incidents.

In the past year, the KP has made no progress in addressing gaps in the management and equipment of the Quick Response Teams. The Quick Response Teams are a second echelon of intervention units located in Regional Police Directorates across Kosovo. An assessment carried out by EULEX in 2017 found serious shortcomings in the management and equipment of these units. The assessment revealed that these teams are often assigned tasks outside their intended scope of work, while they are lacking even basic equipment in some regions. Meanwhile, some commanders assigned to these units lack the necessary management and technical skills for the post.

KOSOVO POLICE IN NORTHERN KOSOVO

The chain of justice in northern Kosovo was formally completed in October 2017, when 40 Kosovo Serb judges and 13 Kosovo Serb prosecutors joined the Kosovo justice system. Since the United Nations Mission in Kosovo-administered court closed down in 2008, the population in northern Kosovo has had limited access to justice, which, in consequence, has also left the KP severely limited in their ability to enforce the law. The implementation of the EU-facilitated Justice Agreement has therefore been crucial in providing the KP in northern Kosovo with the necessary conditions for developing into a functional police service. As the court has been taking steps to become fully operational, demands have also increased on the KP's performance in northern Kosovo.

The lack of a functioning judiciary in northern Kosovo in the past decade has created a backlog of thousands of cases, awaiting referral from the KP to the Regional Prosecutor's Office (the exact number is not known as the police have not kept reliable statistics). As a first step, the KP contacted the Chief Regional Prosecutor in November 2017 to begin the process of handing over cases. EULEX advised the KP to prioritise the handing-over of potentially ethnically motivated cases which have occurred on a frequent basis in Mitrovica North since February 2017. However, the handover started slowly as the Chief Regional Prosecutor was only willing to accept 10 cases each week – and only cases with known perpetrators.

The investigation of the high-profile murder of Oliver Ivanović, a Kosovo Serb politician killed in Mitrovica North in January 2018, became another significant challenge to the KP in northern Kosovo. The conduct of the KP in responding to and investigating the murder revealed a number of institutional deficiencies of the KP in the north. The KP Regional Investigation Unit appeared to lack established

systems and processes for investigating serious crime, as evidenced by the lack of a clear investigation strategy or the prioritisation of inquiries.

Meanwhile, in the course of the investigation, KP officers also displayed an overall reluctance to follow certain lines of inquiry. The case was transferred to the KP Department of Investigations in Pristina in March 2018. Since then, investigators from Mitrovica North have had a limited role in the investigation, which has been only to respond to specific requests. The performance of the KP in this investigation indicates that the police service in the north still has significant problems that need to be addressed.

As an outcome of the 2013 Brussels Agreement, a separate Regional Police Directorate was established for northern Kosovo, placing the local police stations in the four northern Kosovo Serb-majority municipalities under its direct command. Meanwhile, an additional 286 former-MUP (Serbian Ministry of Interior) officers were integrated into the KP force operating in these municipalities. The Regional Police Directorate Mitrovica North became operational in March 2014 and has since received continuous structured monitoring, mentoring and advising support from EULEX police advisors.

In November 2017, EULEX carried out an analysis of the KP static patrol points in the north to determine whether police resources were being appropriately allocated. The Mitrovica North station proved to be the most problematic in this regard, with 68 out of 78 KP officers assigned to static points, resulting in only one team being available per shift for all regular patrolling. In March 2018, in line with EULEX's recommendations, the KP Regional Command issued a formal request to the KP Central Directorate for new risk assessments to be carried out at all static patrol locations. In response, only one static point was removed

while the KP General Directorate did not carry out any new risk assessments.

Overall, the management team of the KP Region North still lacks a systematic approach to evidenced-based decision making, with little to no use of risk analysis and assessment that

informs and defends decision making - allowing for the effective use of resources. There is little evidence of the ability of the KP to consider the strategic issues of the region, or to develop strategies with a problem-solving policing approach.

WAY FORWARD: Considering that the KP has reached an acceptable level of performance in the provision of policing services that is comparable to that of its counterparts across the region, EULEX withdrew its police advisory support to the KP at the end of its previous mandate on 14 June 2018. However, the organisation still faces a number of strategic challenges as outlined in this report. The EU Office will therefore continue to support the KP's senior management in a more limited advisory role. Furthermore, a 40-month IPA project aiming to support the KP in reforming its organisational and functional structure is foreseen to start in the fall of 2018.



POLICE INSPECTORATE OF KOSOVO

In the period covered by this report, PIK faced a number of serious internal challenges as well as mismanagement: these have seriously affected

PIK is an executive agency established under the Ministry of Internal Affairs. It is independent from the KP, tasked with ensuring a responsible, democratic and transparent police service. PIK investigates KP officers who have allegedly been involved in criminal offences or high-profile disciplinary incidents. A functioning police inspectorate is crucial for police accountability in Kosovo.

its functionality. Despite an increase to its 2017 budget, PIK failed to recruit additional staff to fill its 20% staffing gap. After the recruitment process was completed, a group of plaintiffs filed a lawsuit against the Ministry of Internal Affairs and PIK, claiming wrongdoing in the process. Upon investigation, a number of irregularities were detected and the contracts of 16 newly recruited staff were cancelled in January 2018.

The PIK Chief Executive Officer was suspended the following month, as he was suspected of attempting to influence the head of the selection panel for the 16 positions – for this the Minister of Internal Affairs ultimately dismissed him in June. The performance of other PIK senior staff was also brought into question in their investigation of a corruption case against the KP Director of Economic Crimes. Therefore, in

February 2018, the acting PIK Chief Executive Officer suspended two PIK Directors of Investigations who were suspected of distorting evidence in the investigation. Due to these and other developments within PIK, the Minister of Interior was called to the Assembly Committee for Internal Affairs and Security to report on alleged mismanagement within the institution. The Committee decided to establish an Investigation Committee to monitor the implementation of the *Law on Police Inspectorate of Kosovo*.

The functionality of PIK has also been affected by poor inter-institutional cooperation with the police, prosecution and judiciary. Cooperation between PIK and the prosecution still requires further improvement as cases investigated by PIK have not been sufficiently prioritised, investigations have remained too lengthy, while PIK has also not been informed about final decisions issued by courts. The institutional links between PIK and the KP have also remained weak and challenging. Better cooperation between PIK and the KP Department for Professional Standards is still needed to initiate a practice of exchanging case numbers and establishing a tracking mechanism for police officers subject to disciplinary measures.

WAY FORWARD: Along with its advisors to the KP, EULEX also withdrew its advisor to PIK at the end of its previous mandate on 14 June 2018. Considering the significant institutional weaknesses that remain in PIK, other international actors will stay engaged in supporting further development of this institution.

KOSOVO CUSTOMS & KOSOVO BORDER POLICE

Kosovo Customs achieved another notable success in collecting revenue in 2017, by exceeding its ambitious annual collection goal by €13 million or 1.2%. Revenue collection in 2017 increased by 7% or €70 million compared to 2016 while the trend has remained positive also in the first half of 2018. This is a particularly notable result when considering the negative impact that the implementation of the Stabilisation and Association Agreement has had on the level of revenue collection, amounting to an overall loss of €30 million in 2017, with another €25 million from the government's fiscal package involving duty and tax exemptions. One of the most positive aspects of Kosovo Customs' revenue collection for 2017 was that compliance by companies reached an all-time high of 97-98%, while the number of complaints seriously decreased. In addition, Kosovo Customs has reported positive results in enforcement during the course of 2017, in particular on violations of intellectual property rights, illegal gambling, anti-smuggling controls and in fighting the informal economy. With regard to the violation of intellectual property rights, results were up by over 100% compared to 2016 in ceasing counterfeit goods, while actions against illegal gambling were up by 67%, and anti-smuggling by 65%, including 38 cases of seizing arms and ammunition, 54 cases of seizing narcotics, and seizures of counterfeit currency worth more than €2 million. Throughout the year, EULEX continued to work closely with the senior management of Kosovo Customs, providing advice on the administration's ongoing reform process, including improving compliance and enforcement, and enhancing procedures for the effective collection of revenue – in line with the EU Acquis.

In the area of border control and management, the implementation of the National Integrated Border Management (IBM) Strategy and Action Plan has not progressed as quickly as desired. With the delayed formation of a new government in September 2017 and a subsequent change of Minister of Internal Affairs, the position of National IBM Coordinator normally filled by a Deputy Minister of Internal Affairs was vacant for a long time. This created a gap in the implementation of the IBM Strategy and Action Plan and therefore also negatively affected the ongoing development of the National Centre for Border Management. However, in June 2018, the incoming Minister of Internal Affairs appointed a new National IBM Coordinator. The Minister also expressed commitment to the implementation of IBM with the drafting of the *2018-2023 National IBM Strategy and Action Plan*, and to making the National Centre for Border Management fully functional.

Operational cooperation between the Kosovo Border Police and the European Border and Coast Guard Agency (FRONTEX) started in 2017, enabling the Kosovo Border Police to participate in FRONTEX trainings, regular information sharing, and analytical products in the areas of threat assessments, risk analyses and situation reports. This cooperation has continued in 2018, with officers of Kosovo Border Police being deployed abroad as observers at various FRONTEX operations, both at the EU external land border and at EU International Airports. Since February 2018, two FRONTEX officers have also been deployed at the Kosovo-Albania border to support the local authorities.



WAY FORWARD: Considering the continued strong performance of Kosovo Customs and the Kosovo Border Police, EULEX will narrow down its monitoring, mentoring, and advising support to these institutions to Dialogue-related matters. In its new mandate, EULEX will advise Kosovo Customs and the Kosovo Border Police in furthering the implementation of the IBM Dialogue Agreement and related documents until such time that these responsibilities are transferred to an alternative EU mechanism, possibly the EUSR.

JUSTICE



MONITORING OF SELECTED KOSOVO CASES

During the period covered in this report, EULEX monitored over 200 transferred EULEX cases, while it monitored another 10 *ad hoc* cases in which an external complaint had been filed with EULEX. The cases were monitored in the seven Basic Courts of Pristina, Prizren, Mitrovica, Ferizaj/Uroševac, Pejë/Peć, Gjilan/Gnjilane, Gjakovë/Đakovica, in some branch courts, and in the Courts of Appeals.

The situation in the courts did not change significantly in the past year and justice is still affected by a number of challenges and irregularities, such as:

- Delays in legal proceedings which violate procedural deadlines and fair trial standards in terms of reasonable length of proceedings;
- Poorly maintained court registries where case files are difficult to locate which violates the *Regulation on Internal Organisation of Courts*;
- Inadequate court infrastructure and equipment, particularly in the Mitrovica Basic Court (MBC);
- Poor coordination among the main rule-of-law institutions;
- Continued practice of judges not giving warnings or fines to parties, or using other measures provided in the *Criminal Procedure Code* when court procedures are not respected by the parties;
- Failure to identify and prosecute potential hate crimes;

- A lack of knowledge and training on war crimes adjudication;
- Negligence in the enforcement of the *Law on the use of languages*, which affects the rights of non-Albanian speaking parties.

Through its monitoring, EULEX continued to identify shortcomings in legal proceedings and raise them with local institutions, the KJC, and the KPC in a structured manner. The most significant monitored shortcoming concerns delays in criminal proceedings. One of the main causes for such delays were that, on average, half of the monitored hearings were immediately adjourned by judges after their commencement. This practice is an inefficient use of judicial resources while adding nothing of substance to the trial. On average, about half of all monitored hearings were adjourned immediately.

However, in the last months of the reporting period, the percentage of delayed hearings slightly decreased. EULEX also noted some progress in scheduling delayed high-profile cases such as the “Olympus I”, “KEK” and “Tolaj” cases.

Certain cases which have no longer been under EULEX's competence since 2014, or which were considered of limited sensitivity, were passed from EULEX judges and prosecutors to the Kosovo authorities. In order to support the Kosovo authorities in maintaining the quality of proceedings and the independent nature of justice, EULEX was tasked to monitor selected cases across Kosovo.

WAY FORWARD: In the new mandate, EULEX will continue to monitor cases with a focus on high-profile cases that the Mission handed over to local counterparts. The monitoring activities in the new mandate will also cover the investigation of cases on the police level, in addition to the prosecutorial and judicial levels.

KOSOVO JUDICIAL COUNCIL

The KJC showed steady improvements in its performance in comparison to the previous year. The new Secretariat Director of the KJC finally started working in September 2017, under whose guidance the KJC actively contributed to the implementation of two JRCB

The KJC is in charge of ensuring an independent, professional and impartial judicial system. The KJC acts independently from the executive – a measure taken to ensure the independence of the judiciary. Although there has been a partial decentralization where courts acquired new management competencies, the KJC is responsible for the management of the entire judicial system, covering all civil and criminal justice in Kosovo.

Roadmaps. These Roadmaps (on the SCSC and the KPA Appeals Panel) contain a number of actions foreseen to be taken by Kosovo institutions to prepare for the phasing out of EULEX. In this respect, the KJC took necessary steps to allow a smooth exit of

EULEX staff and their replacement in courts, although it still needs to achieve full institutional sustainability.

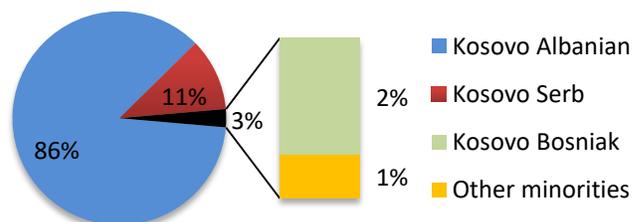
The KJC has drafted the last two remaining regulations foreseen by the 2015 Justice Package. These regulations (on lay judges and on professional associates) have since been ready for adoption but the KJC decided to wait for the amendments to the *Law on courts* and the *Law on Kosovo Judicial Council* to be adopted first in order not to have to amend the regulations twice. While this is a practical decision, it does not take away from the fact that these regulations were required to be adopted within six months back in 2015. The KJC has also drafted a regulation aiming to improve the sub-legal framework for the digitization of Kosovo's entire criminal-record system from the post-war period and onwards. Meanwhile, the Secretariat still needs to enhance the capacity of its legal support staff to

be able to draft secondary legislation independently and with sufficient quality.

The KJC administered the following recruitments: 54 basic court judges (of which 19 were allocated to the most overloaded court: the Basic Court of Pristina), 40 Kosovo Serb judges as part of the Justice Agreement, five judges for the Court of Appeals, two judges for the Supreme Court and one judge for the KPA Appeals Panel. As of June 2018, the KJC was in the midst of recruiting 37 judges for the basic court level, with seven positions foreseen to be filled by minorities. Once this recruitment cycle is completed, it will bring the total number of judges in Kosovo to 435 out of 452 approved positions. Furthermore, following the withdrawal of EULEX judges from the SCSC, the KJC recruited seven judges whose appointments had been placed on hold until the SCSC law is amended. The KJC generally adhered to the applicable regulations when recruiting and promoting judges to a higher level of courts.

Based on data from June 2018, over two thirds of judges are male while female judges amount to only 32%. As for ethnic composition, the overwhelming majority of judges (86%) are Kosovo Albanian, 11% are Kosovo Serb, while the remaining 3% are from the Kosovo Bosniak, Kosovo Roma, Kosovo Ashkali, Kosovo Egyptian and Kosovo Gorani communities.

Ethnic balance - judges



Following decisions by the Constitutional Court in June 2017, the KJC amended its selection procedures for court presidents and supervisory judges, and repeated the voting processes for the President of the Supreme Court and for the President of the Court of Appeals. The amended procedures have improved the selection process by creating one ballot per voting process rather than using separate votes for each candidate. In the reporting period, the KJC also appointed Presidents of the Supreme Court, the Court of Appeals, the Basic Court of Gjilan/Gnjilane, and, in line with the Brussels Agreement, two Kosovo Serb judges were appointed respectively as the MBC President and the Deputy President of the Court of Appeals. The KJC also appointed supervisory judges to the MBC branches of Leposavić/Leposaviq and Zubin Potok.

The Council provided comments on a number of laws prepared by the Ministry of Justice, namely to the amendment of the *Law on the Kosovo Judicial Council* and the *Law on Courts*, as well as to the draft *Law on Disciplinary Liability of Judges and Prosecutors*. In the meantime, the Office for Disciplinary Liabilities continued to perform poorly under the new acting Director in part because of the legacy of the previous management, as, for example, no cases were archived between 2011 and 2017, and due to awaiting the above-mentioned law to be adopted.

The Performance Evaluation Commission successfully completed the 2017 performance evaluations of judges based on random selection. A total of 66 judges were evaluated, two with initial mandates and 54 with a permanent mandate, while 10 candidates were in the process of being promoted.

Achievements have been noted in case-flow management. With the help of donors, courts designed individual case-flow management plans to shorten waiting times and eliminate unreasonable delays. This showed encouraging results: the clearance rate increased by 145% by the end of 2017, while the backlog percentage of old cases decreased to 38.79% in the first half of 2018, compared to 62.26% in 2017. The KJC also improved the transparency of the judiciary by establishing a working group in cooperation with donors. The working group is tasked with designing a new online judicial platform to provide easy access for users.

The Case Management Information System (CMIS) was foreseen to become operational by June 2018 but has experienced at least a 10-month delay due to a number of reasons, including staff turnover and a lack of funds. On top of the €6.6 million already spent, the government of Norway is expected to finance an additional three years to complete the project. A pilot of the CMIS project has started at the Basic Courts of Ferizaj/Uroševac, Gjilan/Gnjilane, Prizren, Gjakovë/Đakovica and Pejë/Peć for criminal cases only, revealing various translation problems with the Serbian version of the system.

WAY FORWARD: In marking the progress made in Kosovo's rule-of-law institutions, EULEX – in its new mandate starting on 15 June 2018 – will no longer be advising the KJC. The EU Office, however, will continue to support the KJC in a more limited advisory role at the strategic level.

KOSOVO PROSECUTORIAL COUNCIL

The KPC is responsible for ensuring an independent, professional and impartial prosecutorial system. The KPC acts independently from the executive – a measure taken to ensure the independence of the judiciary. The Council is led by the KPC Chair who works closely with the Chief State Prosecutor, jointly ensuring that the prosecutorial system functions efficiently and in line with the law.

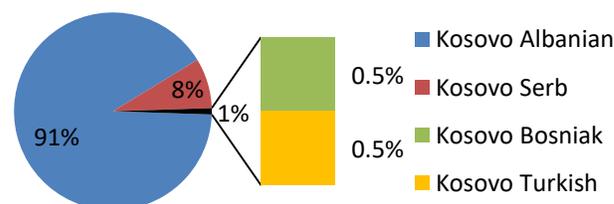
The KPC made significant steps towards institutional sustainability in the period covered by this report. The prosecutorial system kept increasing the numbers of solved cases and indictments ending with convictions across Kosovo. The KPC Secretariat has become more organized, transparent and sustainable following the adoption and implementation of relevant regulations. The KPC continued its recently established practice of creating and following work plans that reflect the mandate and vision of the Council that contain specific activities, indicators, and timeframes for their implementation.

After having received an increase to its budget for 2018, the Council allocated some of these funds for the recruitment of an additional 148 positions in order to cover the gaps in the system, especially with legal support staff. Between July 2017 and June 2018, the KPC recruited 21 state prosecutors for the Basic Prosecution Offices (BPOs), 13 Kosovo Serb prosecutors in line with the Brussels Agreement, 39 legal officers, and initiated the recruitment of an additional 55 professional associates for prosecutors. As part of its communications strategy, the KPC also recruited nine information and media monitor officers assigned to each BPO. The recruitment processes were assessed by EULEX as having been carried out in line with regulations. Furthermore, following the adoption of the amended *Law on State Prosecutor*, which

lowered the requirements for positions within the Special Prosecution of Kosovo (SPRK), the KPC plans to recruit additional prosecutors to this office which has been understaffed over the years - aiming to decrease the backlog of war crimes, organised crime and other serious crime cases.

Based on data from June 2018, 61% of prosecutors in Kosovo are male while 39% are female. As for ethnic composition, the overwhelming majority (91%) of prosecutors are Kosovo Albanians, 8% are Kosovo Serbs, while the remaining 1% are divided between Kosovo Turkish and Kosovo Bosniaks.

Ethnic balance - prosecutors



The Council has taken steps to improve its internal framework in dealing with the media. The *Regulation on Communication with the Public* requests that each BPO assigns a prosecutor as focal point for media relations. In December 2017, the KPC also approved a communication strategy for the prosecutorial system to improve the quality of communication as well as to increase accountability and transparency of the system.

With the aim of having more cases solved through mediation rather than in courts, a referral mechanism for mediation has been established. As a result, the State Prosecutor has solved 7.92% of cases through mediation in

2017, comparing to 5.29% in 2016, while in the first half of 2018, the State Prosecutor solved up to 11.18% of cases through mediation.

The KPC was not able to complete the recruitment of the non-prosecutorial civil society member to the Council due to a lack of applications, while the Kosovo Assembly failed to provide the other two non-prosecutorial members foreseen from the University and the Bar Association. With 10 out of 13 foreseen members in place, the Council has continued to operate on a tight quorum (nine members).

The prosecutorial system has not been significantly affected by the delays in the implementation of the Case Management Information System (CMIS) project. The first pilot started in Ferizaj/Uroševac in June 2018 while trainings were prepared for the other BPOs.

The KPC has continued to face challenges in drafting and translating regulations. The legal staff need to improve their legal drafting skills,

while the Council still needs to address inconsistencies in Serbian versions of some regulations. Meanwhile, the drafting of regulations somewhat slowed down, in part due to the pending adoption of the amendment to the *Law on the Kosovo Prosecutorial Council* as it may affect the content of the regulations.

From January 2018 onwards, the KPC, together with the Chief State Prosecutor and the SPRK, began implementing the JRCB Roadmap on War Crimes. This Roadmap contains a number of actions that are foreseen to be taken by the Kosovo institutions to ensure the full functionality of selected institutions as EULEX prosecutors are phased out. The War Crimes Roadmap is focused on drafting and adopting the *National Strategy on War Crimes* together with EULEX staff before the end of their assignment on 14 June 2018. While the final draft was prepared by May, its final adoption was stalled, leaving Kosovo the last amongst its neighbours in former Yugoslavia to adopt a war-crimes strategy.

WAY FORWARD: In marking the progress made in Kosovo's rule-of-law institutions, EULEX will no longer advise the KPC in its new mandate starting on 15 June 2018. The EU Office, however, will continue to support the KPC in a more limited advisory role at the strategic level.

SPECIAL CHAMBER OF SUPREME COURT

The SCSC continued adjudicating cases on privatisation matters in mixed panels with a local majority. In the period covered by this report, the SCSC resolved 2,070 cases. Since the Chamber continued to accept new claims (for this period, 1,976 new cases were registered), its backlog remained high with 21,043 cases as of June 2018. Following the end of EULEX's executive mandate in the judiciary, seven EULEX judges completed their work in the SCSC on 14 June 2018.

EULEX and local judges participated in a working group that drafted amendments to the *Law on the Special Chamber of the Supreme Court of Kosovo on Privatization Agency of Kosovo related matters*, under the auspices of

the Ministry of Justice. The impetus for the change was the need to replace all references to EULEX judges in the text of the law. This opportunity was further used to change the way in which the SCSC functions to make it more efficient and ultimately integrate it into the Supreme Court, hence, potentially decreasing the standing backlog. The proposed amendments made in the administration of the SCSC have aligned the SCSC with the overall Kosovo court system, by introducing a number of changes, such as:

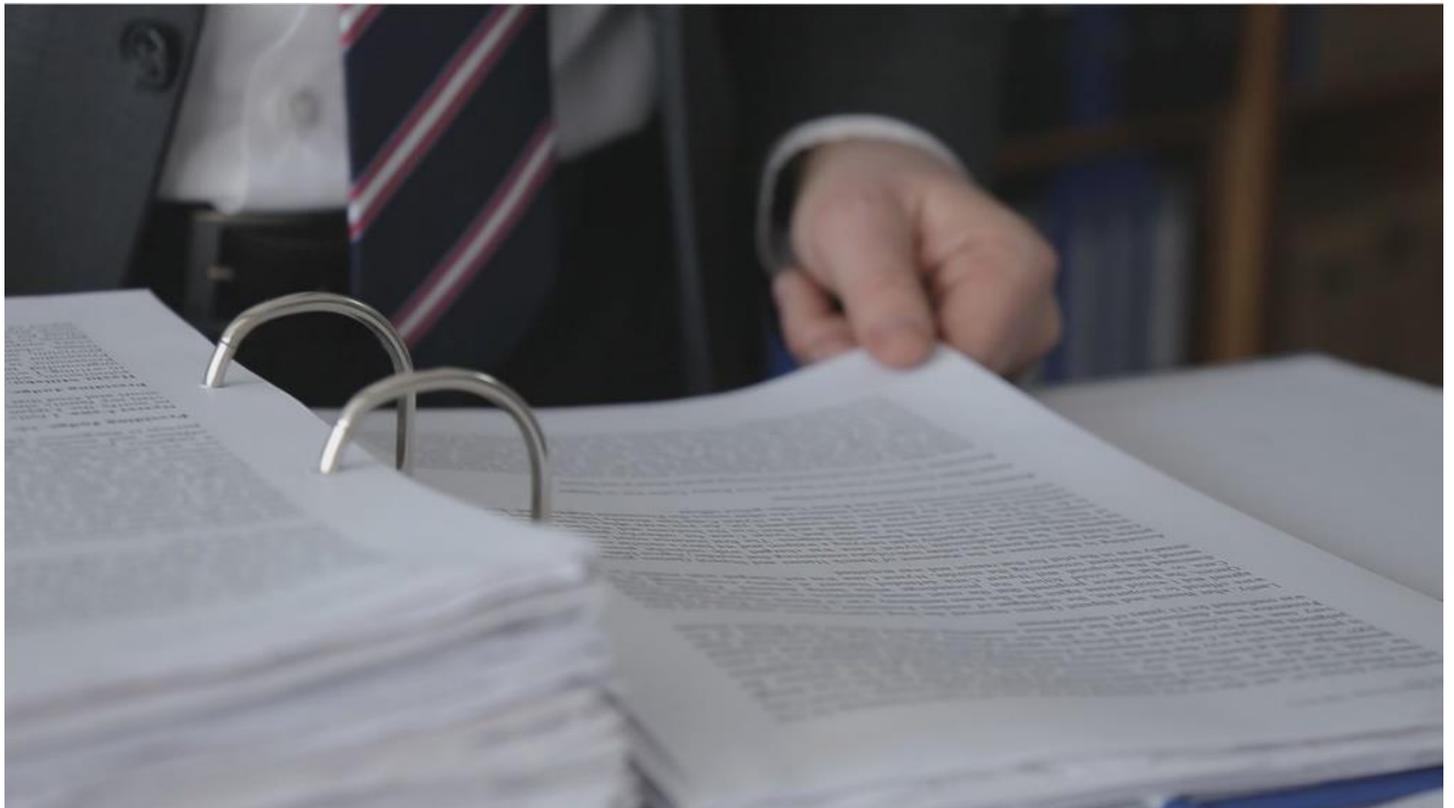
The SCSC deals with privatisation-related matters, including claims related to privatisation carried out by the Privatisation Agency of Kosovo (PAK) of socially-owned enterprises. Some of the claims involve multi-million Euro assets.

- The introduction of “single judges” for the first instance (where one single judge can decide on a case instead of a panel of three, with the exception of complex ownership and privatization cases);
- New compositions of appellate panels, where, instead of one panel made up of five judges, there would be at least two panels made up of three judges each. A special mechanism is introduced to unify the adjudication of these two panels;
- The cancellation of the SCSC Presidium and its replacement by an existing body, the Collegium of Supreme Court Judges, which would include the Special Chamber judges;
- The President of the Supreme Court becomes the President of the SCSC (double-hatted) in order to integrate the SCSC into the Supreme Court structure;
- The establishment of a supervisory judge: the supervisory judge – appointed by the KJC from the pool of presiding judges of the appellate panels – foreseen to be in charge of the daily management of the SCSC would report to the President of the Supreme Court, while being supported by the Court Administrator and the Chief Registrar.

Due to the complexities of the legislative and political processes, the Prime Minister's proposal – as per the request of the Minister of Justice – to hold an extraordinary session for the review of the draft law was not permitted by the Kosovo Assembly. As a result, the draft law was not approved by the Assembly before the end of EULEX's mandate in the SCSC, therefore the SCSC temporarily stopped adjudicating

cases. On a positive note, in May 2018, EULEX organized a one-day training where its judges presented various methods to the local SCSC judges, which, if applied, will help reduce the backlog of mass claims in the SCSC. During the period covered in this report, no improvements were made to the SCSC Registry which still needs to implement a proper and sustainable case-management system.

WAY FORWARD: Recognizing the overall readiness of Kosovo’s courts to function without embedded international engagement, EULEX withdrew its judges from the SCSC at the end of its previous mandate on 14 June 2018. In its new mandate, EULEX will monitor the work of the SCSC, with a focus on both justice and court administration, as well as on the implementation of the amended SCSC Law once it has been approved.



KOSOVO PROPERTY AGENCY APPEALS PANEL

The KPA Appeals Panel continued adjudicating appeals, closing a total of 111 cases for the period covered by this report. The Panel adjudicated cases with local majority of two local judges and one EULEX judge, with a presiding local judge. Due to its change in mandate, EULEX judges terminated their work

The KPA Appeals Panel is a part of the Supreme Court and deals with appeals against decisions taken by KPA on private property disputes. The KPA Appeals Panel deals only with private and immovable property which was lost during and because of the 1999 conflict. The majority of the claims are contested cases between different ethnic groups (mainly Kosovo Albanians/Kosovo Serbs).

on 14 June 2018 and handed over the Panel database to a newly appointed local registrar. At the time when EULEX withdrew its judges from the Panel in June, it still had a backlog of 160 cases. Further to this, the Supreme Court took over the translation services for the KPA Appeals Panel. The KJC approved one position for an Albanian-Serbian translator.

The presiding local judge of the KPA Appeals Panel retired in July 2017. Due to delays in recruitment, his position was temporarily filled by three Supreme Court judges rotating on a monthly basis until a judge was permanently appointed in January 2018. While the Panel technically continued working, it was a less than ideal solution as the temporarily assigned judges could not carry out any drafting necessary for adjudication, hence, relying on drafts prepared by the KPA Appeals Panel judges.

Given that EULEX's executive judicial mandate came to an end on 14 June 2018, the termination of the work of EULEX judges in the KPA Appeals Panel needs to be addressed through amendments to the *Law on Kosovo*

Property Comparison and Verification Agency (KPCVA). The law was in the process of being amended by the Office of the Prime Minister, while the Panel was not able to adjudicate cases until this issue had been resolved. EULEX has recommended using the amendment of the KPCVA law to review the composition of the panel of judges in the KPA Appeals Panel, in particular to ensure that that the third judge represents a minority community. This would be in line with the amended *Law on Courts* which requires that the composition of the Supreme Court and its panels to reflect the ethnic composition of Kosovo's population.

In line with the law, the KPCVA was delivering the appeals case-files directly to the KPA Appeals Panel where they were logged in the EULEX-administered database. Upon the departure of its judges, EULEX handed over this database to the KPA Appeals Panel Registrar. To ensure a proper case administration, EULEX advised them to start registering the cases into the Supreme Court Registry as well.

An important breakthrough was achieved in establishing a method for the delivery of the first instance Kosovo Property Claims Commission (now defunct) decisions and second-instance KPA Appeals Panel judgements to displaced persons who have moved away from Kosovo. Since 2015, there has been no mechanism that would allow this. Due to the close cooperation between the KPA Appeals Panel, EULEX, the EUSR, the Kosovo Ministry of Justice and the KPCVA, the first 15 judgements were sent to the Serbian Ministry of Justice via the Mutual Legal Assistance mechanism in April 2018. The Serbian Ministry of Justice has since started processing these, and has started to make attempts to contact the parties and deliver the judgments. The goal of this process is to deliver all pending decisions (that can be

appealed) and all pending judgements (that in some cases require implementation). Once all decisions have been delivered and all stemming

appeals have been processed, the Panel will have fulfilled its role.

WAY FORWARD: Recognising the readiness of Kosovo's judiciary to function without embedded international engagement, EULEX withdrew its judges from the KPA Appeals Panel at the end of its previous mandate on 14 June 2018. As a result, the Panel began functioning as an institution composed entirely of local judges. In its new mandate, EULEX will monitor the KPA Appeals Panel with a focus on both justice and court administration, as well as on the delivery of decisions and judgements.

KOSOVO CORRECTIONAL SERVICE

The Kosovo Correctional Service (KCS) has shown modest development towards EU standards in the period covered by this report. The preferential treatment of high-profile inmates has somewhat decreased given that some of them have been released while others have reached a stage in which they have become eligible for regular leave. However, the remaining high-profile prisoners continued to receive favourable treatment, such as by being granted a high number of extraordinary leave days as well as easier access to outside medical service in comparison to other prisoners. A notable example of this took place in February 2018, when a high-profile prisoner was granted unscheduled leave to be able to attend his brother's wedding. Another high-profile prisoner has been hospitalised since March 2018 – which happened immediately upon his return from a suspension of sentence, and with relaxed security measures in place. Meanwhile, in September 2017, the KCS failed to provide correct information to a Conditional Release Panel, resulting in the panel releasing two male Kosovo Albanian semi-high-profile prisoners with records of disciplinary violations and an ongoing court case for disobeying prison rules.

The recruitment of KCS staff has remained challenging. Starting on a positive note, after the cancellation of a disputable recruitment process due to a series of irregularities raised by EULEX, the recruitment of the KCS General Director was finally completed and the new director was appointed to the position in April 2018. Meanwhile, several attempts to recruit staff to KCS were cancelled in the past year. The recruitment of 70 new correctional officers, a director and deputy director for the Prizren Detention Centre and a director for the Gjilan/Gnjilanë Detention Centre, were cancelled in July 2017, after written exams, physical tests and interviews had already been

carried out in many of the cases, while there was no justification given for the cancellation. Another process was cancelled in April 2018 after the Ombudsperson in Kosovo publicly criticised the setting of age limits for the positions, labelling it as age discrimination. The Ministry of Justice cancelled the latter recruitment process to ensure the respect of human rights in line with Kosovo's Constitution and international conventions for the protection of human rights. The positions for the 70 new correctional officers are planned to be re-advertised in the second half of 2018. The previous legislative difficulties in carrying out recruitments, in particular for senior positions, has led to a situation in which the senior management positions of KCS have been overwhelmingly filled by acting staff members temporarily appointed to these positions. This has, in consequence, translated into weak management and opportunities for outside interference. However, since assuming his position, the new KCS General Director has permanently filled all middle-management positions that have been carried out for extended periods by acting staff, while he has opened vacancy notices for the remaining unfilled middle-management positions. Meanwhile, plans for the recruitment and appointment of senior managers are pending the adoption of draft laws that have been supported by EULEX.

Some progress has been achieved in the reorganisation of KCS facilities. An educational-correctional centre for juveniles was officially inaugurated in Lipjan/Lipljan in September 2017 – a step forward in providing the KCS with a facility to help reduce re-offence among young offenders. However, since the centre was opened, it has experienced problems in providing juvenile inmates with foreseen rehabilitation activities and educational

programmes. While there have been some successes in preventing the smuggling of narcotics into the facility, some inmates have still been found in possession of illegal substances. The KCS has developed a plan to enhance security measures to fight this phenomenon, which is common in prisons worldwide.

After repeated delays, outside of the control of the KCS, the Ministry of Public Administration handed over the new Pristina Detention Centre to the Ministry of Justice and the KCS in January 2018. The facility – able to house 300 inmates – is not yet ready to open due to a lack of basic equipment as well as some pending construction works to make the building operationally sound and secure. Plans are in place to redeploy resources to open the facility in September 2018.

Lastly, no attempts have been made to start using the secure rooms at the former Psychiatric Ward of the University Clinical Centre of Kosovo despite their refurbishment at the end of 2016. Although conditions are now in place to treat inmates in a facility specifically equipped for the purpose, the KCS has continued to secure regular wards in the same hospital for the treatment of inmates, requiring heavy KCS presence to prevent them from escaping. This option places other patients and the public at risk as it increases the possibilities for prisoners to escape. This was evidenced by the escape of a prisoner convicted for aggravated murder who was undergoing medical treatment in a non-secured area in September 2017. Meanwhile, the Ministry of Justice and the Ministry of Health have prepared a cooperation memorandum to ensure the future use of the facilities.

WAY FORWARD: In its new mandate, EULEX will continue to monitor, mentor and advise the senior management of the KCS. More specifically, EULEX will continue to work in partnership with the new KCS Director General and his senior staff to ensure that conditions are in place by which EULEX support is no longer needed, by addressing remaining weaknesses and helping to prevent outside interference.



INSTITUTE OF FORENSIC MEDICINE

The IFM continued its work identifying and locating missing persons stemming from the

Excavations took place in: Gjakovë/Đakovica, Klinë/Klina, Prizren, Fushë Kosovë/Kosovo Polje, Mitrovica North and Kukës, Albania.

EULEX staff at the IFM has in total:

- *Facilitated the return of 506 bodily remains of missing persons in Kosovo to families;*
- *Carried out 595 field operations and 430 identifications – 300 of which were of missing persons;*
- *Facilitated the analysis of 2,261 DNA samples.*

The total number of Missing Persons is 1,651, of which 265 are female and 1386 are male.

1999 conflict, which is a critical part of the post-conflict reconciliation process. The number of persons missing as a consequence of the conflict has decreased to 1,649. In the period covered by this report, the Institute conducted eight exhumations in Kosovo and one exhumation in Albania. It successfully identified 10 individuals and handed over the remains of nine missing persons to their families. The important work in identifying missing persons requires continued

political and institutional support to finish the remaining cases.

More work is needed to improve the way the IFM works as an institution. Although the Prime Minister and the Minister of Justice have publically committed to strengthen the IFM, this political support has not yet resulted in any institutional progress. Following the adoption of

the *Law on Forensic Medicine* in March 2016, the secondary legislation foreseen for the establishment of an organisational framework for the IFM is still pending, leaving the institution weak and politically vulnerable. The IFM has instead been subject to a certain amount of political pressure, having been instructed to inform the Prime Minister's Office of new cases prior to initiating any steps to investigate them. Some developments have taken place with regards to the recruitment of the IFM Director. While the position was advertised three times between July 2017 and June 2018 due to a lack of qualified candidates, the process finally proceeded to the interview stage in June 2018. Furthermore, the IFM received an increase to its budget as the Ministry of Justice earmarked an additional €300,000 to the IFM (€100,000 annually for a three-year period) as part of a co-financing requirement for an EU-funded IPA project.

On the operational level, the institution has struggled to reach a sufficient level of productivity as staff members require further assistance and training to reach full operational capability. EULEX continued its on-the-job training to two prospective forensic anthropologists, who also completed an online forensic anthropology course in February 2018 - resulting in some improvements of staff capacities. Meanwhile, the autopsy backlog has continued to decrease at a slow pace.

WAY FORWARD: In its new mandate, EULEX's forensic experts will remain available to support the institute upon the request of local authorities. Additionally, an IPA project launched in February 2018 aims to strengthen the IFM and its work on missing persons by enhancing the Institute's technical and administrative capacity over a period of 36 months.

DIALOGUE IMPLEMENTATION



CIVIL REGISTRY

Progress has stalled in extending a fully reliable and sustainable civil registry system into northern Kosovo. The most significant development took place in July 2017, when the Ministry of Internal Affairs approved an administrative instruction amending the prerequisites for obtaining Kosovo citizenship. The adoption of *Administrative Instruction on*

Criteria that contain evidence about the citizenship of FRY and permanent residence in territory of Kosovo on 1 January 1998, was necessary to provide detailed instructions on the types of documents needed to apply for

Kosovo citizenship and thereby enable residents from northern Kosovo to apply for Kosovo identification documents. However, the instruction only addressed some of the issues that residents face when applying for Kosovo documents, in particular for those who have overwhelmingly relied on Serbia-issued documents in the past. The implementation of the administrative instruction has also been carried out in uneven ways by civil status office staff under the administration of municipalities. In response, EULEX organised a workshop for Municipal Civil Status Office staff, the Civil Registration Agency and the Ministry of Internal Affairs in April 2018, to provide a forum to

The 2011 agreement on Civil Registry Books reached in Brussels between Pristina and Belgrade foresees the establishment of a fully reliable civil registry in Kosovo. A civil registry contains all relevant information on the different stages of a person's life, such as birth, marriage, or death. In the 2016-2018 mandate, EULEX has concentrated its efforts to improve civil status and civil registry services in northern Kosovo.

discuss and provide guidance for the implementation of this instruction. As an outcome, EULEX shared its recommendation for the harmonisation of the implementation of the instruction with the Civil Registration Agency. Further steps are needed to ensure the uniform implementation of the administrative instruction by all staff, as well as to resolve

remaining issues that residents in northern Kosovo face when applying for Kosovo documents.

After extensive delays, the process of integrating 39 ex-MUP (Serbian Ministry of Interior) administrative

staff into the four northern Civil Status Offices has been completed on the central level. However, a meeting scheduled to launch the formal recruitment process in April 2018 was cancelled, thereby further delaying the integration of staff. Since then, representatives of municipalities in northern Kosovo have requested for a systematisation of staff to be carried out in their Civil Status Offices by the Ministry of Public Administration prior to the integration of staff taking place. Once integrated, the 39 ex-MUP staff are foreseen to start working in Civil Status Offices where they will register the population in northern Kosovo into the Kosovo framework.

WAY FORWARD: Upon the completion of its previous mandate on 14 June 2018, EULEX withdrew its advisory role on civil status registry issues. In the new mandate, EULEX has narrowed down its support to the Civil Registration Agency to the technical implementation of the Dialogue-related Freedom of Movement Agreement. In parallel, the EU Office will continue to support the development of civil status registry issues in Kosovo in a more limited advisory role. Furthermore, since September 2017 the EU Office has been supporting the Civil Registration Agency through a 30-month Twinning Project, with the aim to improve the standards and document security within Kosovo's civil registration system.

FREEDOM OF MOVEMENT

There has been little progress in establishing free movement of people and vehicles between Kosovo and Serbia, especially as the re-registration of vehicles in northern Kosovo has yet to begin. In July 2017, the Ministry of Internal Affairs received a first batch of 300,000 stickers foreseen to cover acronyms and coats of arms of the license plates of Serbian-registered vehicles when traveling into Kosovo. However, an implementation date for the reciprocal use of the stickers by both Kosovo and Serbian authorities has not been agreed upon, therefore, the stickers have not been used. As a consequence, owners of RKS-plated vehicles still have to pay for and use Serbian probationary license plates when travelling through Serbia.

After continued advocacy by EULEX advisors, important steps have been made in furthering the 2011 Freedom of Movement Agreement. Namely, in December 2017, the Minister of Internal Affairs issued a decision to allow the replacement of Serbian driver's licenses administered between 10 June 1999 and 14 September 2016, as per agreements reached by Pristina and Belgrade in Brussels. Consequently, between 15 December 2017 and 31 May, 3,668 applications were processed, out of which 1,949 were from northern Kosovo – a significant number for this period of time. This was followed by further progress in March 2018, when the Minister signed an Administrative Instruction enabling the re-registration of vehicles with Serbian license plates registered between 1999 and 2016 to Kosovo plates. The Minister also signed a decision exempting certain fees for the re-registration of the same vehicles, and accepting any technical control certificates that an applicant presents.

While the Freedom of Movement Agreement has been fully implemented in the south of Kosovo, the majority of vehicles in northern Kosovo carry Serbia-issued license plates or don't have registration plates altogether. A number of elements necessary for offering vehicle registration services in northern Kosovo are still missing. Many Kosovo Serbs, particularly from northern Kosovo, have reported difficulties in being granted Kosovo citizenship due to a widespread practice of relying solely on Serbian-issued documents in the northern municipalities in previous years. Kosovo citizenship, in turn, is needed to apply for Kosovo driver's licenses and vehicle registration plates. Furthermore, the necessary facilities and infrastructure, technical inspection services, insurance branches and driving schools operating within the Kosovo framework are either not in place in the four northern municipalities, or not yet fully functional. While establishing some of these services is contingent upon further negotiations in Brussels, stronger ministerial commitment is required by the Ministry of Internal Affairs, the Ministry of Local Government Administration and the Ministry of Finance to move forward the implementation of the agreed arrangements between Pristina and Belgrade.

The 2011 Agreement on Freedom of Movement derived from the EU-facilitated Dialogue between Pristina and Belgrade. The Agreement foresees free movement of people and of vehicles and is based on the principle of full reciprocity between Kosovo and Serbia. Practically, it enables the population living in Kosovo to move into Serbia with Kosovo travel documents and vice versa.

WAY FORWARD: In the course of its new mandate, EULEX will continue to monitor, mentor, and advise the parties on the technical implementation of the Dialogue-related Freedom of Movement Agreement until such time that the responsibilities are transferred to an alternative EU mechanism, possibly the EUSR.

IBM AGREEMENT

The construction of Common Crossing Points (CCPs) between Kosovo and Serbia – as foreseen by the EU-facilitated Dialogue – continued to progress slowly. The construction of two of the three CCPs hosted by Pristina advanced despite some technical difficulties arising in the process of construction, whereas progress on the third has been blocked due to political problems. During this process, EULEX was called upon to mediate between the two parties, and was able to resolve many issues, which allowed the works to continue in most cases. On the Kosovo side, the new Mutivodë/Mutivode and Merdarë/Merdare CCPs are expected to open in 2018 while the construction of the Bërnjak/Tabalije CCP has not progressed throughout the reporting period due to the inaction of local authorities in northern Kosovo to find a solution for relocating electric power cables running through the site. Meanwhile, as Belgrade has taken no steps to start the construction of the three CCPs it has agreed to host, the EU Delegation to Serbia cancelled the contract for this purpose.

An IBM Implementation Group, consisting of representatives of Pristina, Belgrade and the EU (EULEX), was formed to ensure the implementation of the IBM Technical Protocol, and to propose measures for the resolution of

disputes and/or conflicts. Foreseen to meet on a quarterly basis, after a 16-month lapse, this group convened again in Brussels in March 2018. The parties shared information and raised pending issues related to the ongoing construction of CCPs, and discussed problems related to the movement of goods through the crossing points.

With regard to the implementation of the IBM Technical Protocol, EULEX also continued to

IBM within the context of the Belgrade-Pristina Dialogue refers to the Technical Protocol for the implementation of the IBM Agreed Conclusions from 2011 and Action Plan from 2012 – it is dedicated to the establishment of six Common Crossing Points between Kosovo and Serbia.

attend IBM meetings between Kosovo and Serbian officials at regional and local levels, while a central level meeting scheduled to take place in September 2017 was indefinitely postponed. The regional and local level meetings regularly took place in good spirit, allowing relevant representatives from both parties to meet and

resolve issues related to the crossing of people and goods through the CCPs. As a result, the CCPs between Kosovo and Serbia experienced the shortest waiting times ever recorded in the summer of 2017, despite increases in the number of passengers and vehicles compared to previous years. The fact that waiting times were drastically reduced and that there were limited complaints from travellers can be entirely attributed to the ever improving levels of cooperation between the two sets of authorities working at the CCPs. However, as a response to the arrest of the Director of Serbia's Office for Kosovo and Metohija in March 2018, Serbia cancelled the IBM meetings on all levels.

WAY FORWARD: In the course of its new mandate, EULEX will continue to monitor, mentor, and advise the parties on the technical implementation of the Dialogue-related IBM Technical Protocol until such time that the responsibilities are transferred to an alternative EU mechanism, possibly the EUSR.

JUSTICE INTEGRATION

On 24 October 2017, 40 Kosovo Serb judges and 13 Kosovo Serb prosecutors officially joined the Kosovo judicial system as they were decreed by the President of Kosovo, marking a breakthrough achievement for rule of law. In

Integration of the justice system in northern Kosovo is one of the many processes related to the ongoing Dialogue between Kosovo and Serbia. Residents in the four northern municipalities have had limited access to justice since the UNMIK-administered court closed in 2008, which has seriously impacted the daily lives of ordinary people in northern Kosovo. A series of political decisions have been made in 2013 and 2015 in order to establish a unified judicial framework throughout Kosovo, culminating in formal integration of Kosovo Serb judges and prosecutors in October 2017.

line with the Brussels Agreement, in October 2017 a Kosovo Serb President was appointed to the MBC and in December 2017 a Kosovo Serb Deputy President was appointed to the Court of Appeals in Pristina. Meanwhile, the process of integration also included 140 support staff in judicial institutions throughout Kosovo.

While formally all 15 points of the Justice Agreement have been implemented, a lot still needs to be done in order to make the judicial institutions in northern Kosovo fully functional. Namely, since

the Kosovo Albanian and Kosovo Serb staff assigned to the MBC and the division of the Court of Appeals in Mitrovica initiated professional contacts to begin restoring full judicial functions in northern Kosovo, a number of issues emerged in the work of these newly integrated institutions.

The process of setting up the court in Mitrovica began by first securing minimum working conditions due to the state of disrepair of the buildings. Thereafter, the cases from the Vushtrri/Vučitrn branch (where the MBC was

temporarily located until October 2017) and the cases from the court previously administered in line with the Serbian legal system in the northern part of Mitrovica, were transferred to the premises of the MBC. Logistically, some issues have remained as no intranet or telephone line has been established between the main court building in Mitrovica North and its premises across the river in Mitrovica South, affecting the daily communication between staff seated in the two buildings. This is despite the fact that the Justice Agreement foresees the establishment of telephone services, a full range of internet services and an efficient postal service to enable the MBC to communicate with the parties.

The language barrier immediately became a pressing issue due to the lack of translation services needed for the daily interactions between Kosovo Serb and Kosovo Albanian judges and prosecutors. By June 2018, the MBC had four translators for 29 judges and the BPO had five translators for 10 prosecutors: an insufficient amount considering the number of staff and the workload of the court and prosecution. Translation has also been an issue when processing incoming written communication to the MBC. Although Kosovo institutions are obliged by law to produce all documents in both official languages, i.e. Albanian and Serbian, the KJC has been facing internal difficulties due to the shortage of Serbian-language translators, and has continued to communicate with the MBC in Albanian. Meanwhile, the KPC has been complying with the rules. Both Councils still need to ensure that all relevant regulations are translated into Serbian and uploaded to their respective websites so that Kosovo Serb judges and prosecutors can access them. In addition, all case files from the former MBC and BPO in Vushtrri/Vučitrn need to be translated into

Serbian, while the case files from the court and prosecution previously administered in line with the Serbian legal system are still to be translated in Albanian, hence, creating an enormous translation backlog.

The language barrier has also affected the case allocation system foreseen by law to be carried out by a “draw”. Since the court became operational, cases have first been divided by language, after which the draw has been carried out in each of the respective groups. While this constitutes a working solution, it is not preferable from a legal point of view and might not guarantee a balanced distribution of the workload.

Another challenge – relevant for both institutions – is the problem of diploma recognition. Candidates with Serbian diplomas do not qualify for any jobs in Kosovo institutions prior to their diplomas being recognised by Kosovo, hence depriving the latter of recruits with native or advanced Serbian language skills. The KPC has encouraged the Ministry of Administration to amend the regulation on the *Recruitment Procedures in Civil Service* so that it would allow candidates with Serbian diplomas to start working while their diplomas are in the process of being recognised.

The MBC has also been facing problems due to the size of its backlog of cases. According to an assessment prepared by EULEX, each criminal judge in the MBC’s General Crimes Department has approximately 700 cases, each criminal judge in the MBC’s Serious Crimes Department has approximately 250 cases, while each civil judge has more than a thousand cases to adjudicate. Moreover, there are around 800 criminal and 2,000 civil cases that are still to be allocated to judges. Taking into account that EULEX’s executive judicial mandate ended in June 2018, followed by the handing over remaining case files, the backlog of cases of the MBC will increase further once the process has been finished. Until June, only a few dozen cases had been dealt with, indicating a very slow adjudication pace for a court that has thousands of pending cases. The current workload of the BPO stands at 6,558 cases in Albanian and 400 cases in Serbian

Facing these and other challenges, the president of the MBC made an attempt to resign in February 2018 but was later persuaded by the KJC to reverse his decision. While the situation is slightly better with the BPO, both institutions need additional attention, efforts and resources to become fully functional.

WAY FORWARD: Recognising the overall readiness of the Kosovo courts to function without embedded international engagement – and as a result of the implementation of the Dialogue-related Justice Agreement – EULEX withdrew its judges from the MBC at the end of its previous mandate on 14 June 2018, handing over all pending cases to local counterparts. With the aim to further support the justice integration process in northern Kosovo, in the new mandate EULEX will advise the President of the MBC and the Head of the Mitrovica Court of Appeals Division.

LIST OF ACRONYMS

BPO - Basic Prosecution Office

CCP - Common Crossing Point

CMIS - Case Management Information System

EU – European Union

EULEX – European Union Rule of Law Mission

EUSR - European Union Special Representative

FRONTEX - European Border and Coast Guard Agency

IBM – Integrated Border Management

IFM - Institute of Forensic Medicine

ILP - Intelligence-led policing

IPA - Instrument for Pre-Accession

JRCB - Joint Rule of Law Coordination Board

KFOR –Kosovo Force

KCS - Kosovo Correctional Service

KJC - Kosovo Judicial Council

KP - Kosovo Police

KPA – Kosovo Property Agency

KPC- Kosovo Prosecutorial Council

KPCVA – Kosovo Property Comparison and Verification Agency

MBC – Mitrovica Basic Court

MUP – Ministarstvo unutrašnjih poslova/ Ministry of the Interior (Serbia)

PIK - Police Inspectorate of Kosovo

SCSC - Special Chamber of the Supreme Court

SPRK – Special Prosecution of Kosovo

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