



# The Kosovo Specialist Chambers

The Politics of Justice and the Long-Term Consequences

**A DISCUSSION PAPER | 30 April 2026**

*This discussion paper is a synthesis of the discussions on the webinar organised by the Kosovar Centre for Security Studies (KCSS), on April 29, 2026 featuring contributions from Dr Gëzim Visoka (Dublin City University), Dr Robert Muharremi (RIT Kosovo), Afërdita Sylaj Shehu (Community Building Mitrovica), Dr Armend Bekaj (Uppsala University), and Dr Ramadan Ilazi (KCSS).*

## I OVERVIEW

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In the context where the Kosovo Specialist Chambers (KSC) are expected to deliver their main verdict in Hashim Thaçi et al. case, which is likely in May 2026 if no extension is requested by judges, KCSS organized a webinar with scholars, legal experts, and civil society to take stock of what the court has actually delivered over its years of operation. The conversation included topics around the process of establishment of the KSC, legislation, community impact, and the deeply concerning precedents this court may set not only for Kosovo but for the international justice more broadly.

This brief discussion paper, draws together the main arguments from that discussion in the webinar, and it is organized around five main themes that emerged during the conversation, and they include: the political origins of the court, its legal and constitutional challenges, the question of collective versus individual guilt, community trust and transitional justice norms; and what the verdicts — whatever they turn out to be — will likely mean.

## 2 A COURT BORN OUT OF GEOPOLITICS

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A major argument that emerged during the discussions is that the KSC was set in motion by a geopolitical initiative which was designed, at least in part, to discredit Kosovo's statehood and independence as well to undermine the Western support for the country.

The chain of events that led to the establishment of the KSC can be traced to 2008, when barely two months after Kosovo declared independence, Konstantin Kosachev, a senior Russian delegate to the Council of Europe and member of the Russian Duma, filed a motion to investigate allegations of organ “trafficking by the KLA”.<sup>1</sup> Those allegations had originally appeared in former ICTY prosecutor Carla del Ponte's memoir. Kosachev has since been placed on the US sanctions list for his involvement in the Ukraine war, and has been linked to similar organ trafficking conspiracy narratives about Ukrainian soldiers. He is, in short, a known disinformation operator.

The motion led to the Dick Marty report of 2011, which painted Kosovo as a lawless, mafia-like territory dominated by criminal clans, which is a framing that, as participants pointed out, reads less like a fact-finding report and more like a reflection of prejudices and strategic narratives designed to shape opinion against Kosovo and its process of liberation and statehood. The report's core allegation, which was organ trafficking, was essentially discredited by the EU's own Special Investigative Task Force (SITF) in 2014, which found little to no evidentiary basis for it. Yet by that point the process of establishing the KSC was already underway and no one pulled the brakes.

*"Are we really perpetuating a narrative that goes back to a Russian initiative, which was really meant to discredit Kosovo's independence?" —*

Robert Muharremi

Crucially, however, the court would not exist without Western buy-in. As Aidan Hehir noted during the webinar discussion, Hashim Thaçi himself said he would not have agreed to the court's establishment were it not for pressure from the European Union and the United States. This means the KSC is, in a real sense, a joint product of Russian-Serbian pressure and Western appeasement, a combination that raises serious questions about whose interests the court has actually been serving.

For many observers in Kosovo, this explains why the court's mandate looks so different from the ICTY's findings. The ICTY, having tried KLA commanders Ramush Haradinaj and Fatmir Limaj, concluded that while individual rogue crimes may have occurred, there was no systematic institutional policy of war crimes within the KLA and broadly legitimized the KLA as a guerrilla liberation movement. The KSC, by contrast, has affirmed the existence of a joint criminal enterprise in both the Mustafa and Shala cases,

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<sup>1</sup> See more at the Council of Europe website: <https://pace.coe.int/en/files/11868/html>

portraying the KLA as fundamentally a vehicle for organized criminality. These two pictures of the same organization are, as one speaker put it, diametrically opposed. The narrative portraying KLA as a JCE is also deeply offensive to the vast majority of Kosovo's people, who regard the KLA as central to their liberation and statehood — and all the more so coming from a court that is meant to be Kosovo's own

### 3 CONSTITUTIONAL AND LEGAL PROBLEMS NOBODY IS TALKING ABOUT

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A major point of analysis during the webinar was, if KSC has genuinely prosecuted four individuals for specific crimes, or whether it has effectively put the entire Kosovo Liberation Army (KLA), and by extension the liberation struggle itself, on the court for judgement.

Discussions pointed that the prosecution's theory rests on the concept of a joint criminal enterprise (JCE), or a secret, coordinated network of violence allegedly used by Taçi, Veseli, Krasniqi, and Selimi to gain political dominance over Kosovo. On paper, this is a prosecution of individuals. In practice, however, the indictment names general staff members, zone commanders, brigade commanders, KLA soldiers, ministers, and anyone else who "aided and abetted" or was used by the JCE, a category so broad it encompasses virtually the entire wartime KLA structure.

This creates an obvious issue of collective culpability. International criminal law requires a clear distinction between individual criminal responsibility and the collective actions of an organization. The prosecution has maintained it is not putting the KLA on trial. But, as Armend Bekaj argued in detail, the line between the JCE and the KLA has been blurred from the outset and has never convincingly been drawn.

A second problem concerns the nature of the KLA itself. The prosecution's chain-of-command theory requires the KLA to have functioned like a formal state army with clear top-down authority. But by any credible accounts, including testimony from James Rubin, the US State Department spokesperson during the war, the KLA was an amorphous organization with patchy decision-making, consultative rather than hierarchical command structures, and at times no chain of command at all. Holding individuals at the top criminally responsible for everything that happened in the field assumes a level of organizational coherence that did not exist.

*"Raising an informal liberation movement to the threshold of a formal state army in order to seek criminal responsibility risks producing another kind of injustice." — Armend Bekaj*

There is also a timeline issue. The KSC's jurisdiction extends to September 1999 — months after Kosovo's liberation and the deployment of KFOR and UNMIK. Crimes

allegedly committed during that period occurred under international administration, which had its own responsibility to provide a safe environment. Holding KLA leaders responsible for events occurring under international supervision, while leaving the international actors entirely unaccountable, is a selective framing that distorts the historical reality.

Gëzim Visoka pushed the argument further. The prosecution's case seem to imply that Kosovo Albanians should not have resisted the Milošević regime, should not have taken up arms, and should not have used any means in pursuing liberation. The moral standard applied would, in effect, disqualify virtually any real-world liberation struggle from passing legal muster.

*“The message the court sends, beyond Kosovo, is clear: don't resist oppression, don't seek self-determination, don't fight for your rights — and if you do fight, you should not harm anyone. That is a great model for authoritarian regimes.” — Gëzim Visoka*

This is not just some kind of an abstract concern. The precedent being set here could be cited in future cases involving armed movements fighting against authoritarian or colonial regimes, and authoritarian governments know it.

## **4 COMMUNITIES: TRUST, DIVISION, AND THE ABSENCE OF RECONCILIATION**

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Another important dimension that the webinar examined, was the issue of community impact of the KSC, or what has the court actually meant for the people of Kosovo?

The short answer is, not that much good, and considerable harm. Research conducted as far back as 2017 found that very limited percentage of Kosovo citizens had a good understanding of the KCS work, and even smaller group often misunderstood it, believing the defendants were being tried for post-war corruption rather than war crimes. This is for sure a public information failure, but it also reflects an institution, that is KSC, that has been deliberately opaque, and has offered citizens little reason to engage.

Trust in the process is low across all communities, but for different and incompatible reasons. Within the Albanian community, the dominant perception is that the court is unfair, and in that sense, it targets one side while leaving crimes against Kosovo Albanians unaddressed. This does not mean people support crimes, but it means they do not experience the work that KSC has done as a neutral arbiter of justice. Within the Kosovo Serbian community, the KSC is seen as a rare acknowledgment of crimes committed against Serbs.

These two readings reflect, perhaps a deeper challenge, and that is, the court has not created any shared framework for understanding the Kosovo war. Reconciliation

requires at minimum a degree of shared acknowledgment, that something happened, that it was wrong, and that its victims matter. The KSC has not produced that. Instead, it has deepened intra-Albanian divisions, sharpened interethnic narratives, and left victims from all sides feeling that their experience has not been properly seen.

*"The same court, but two very different interpretations. When people do not share the same understanding of justice, it becomes very difficult to build trust."* —Afërdita Sylaj Shehu

Syla also made an important point about the collective versus individual nature of the proceedings, as experienced socially rather than legally. In law, individuals are on trial. But the KLA is not simply an organization for many Kosovo Albanians, but a central part of their identity, their memory of survival, and their understanding of what the war was about. When KLA figures are convicted, many people do not experience this as justice for specific crimes but as an attack on the war for liberation itself. This dimension is not a legal argument, but it is politically real and cannot be wished away.

Looking ahead, discussions noted the likely consequences of the verdict, in either direction. A conviction will deepen frustration and alienation among Kosovo Albanians. An acquittal will leave many Kosovo Serbs feeling that the court delivered nothing. Neither outcome is likely to reduce tensions. The court has not built the foundation that would allow either verdict to be received as legitimate justice.

## **5 THE LEGACY: WHAT HAS THE COURT DELIVERED?**

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The arguments made during the discussions point to a challenging development. This is not to say that the crimes for which the KSC was created — if they occurred — were not serious. Killings, abductions, and mistreatment of civilians are serious by any standard, and the families of victims deserve accountability. The problem is that the court has not reliably delivered accountability for those specific acts.

On the narrow question of justice for victims, the extreme witness protection measures and the opacity surrounding victim identities have made it almost impossible for Kosovar society to connect with or care about the victims the court claims to represent. Rather than building sympathy and recognition for those who suffered, the court's handling of victims has left them more invisible than before.

On the broader question of institutional impact, Kosovo's domestic war crimes trials — which have been proceeding in parallel — have been almost entirely overshadowed by the KSC, reducing them to an afterthought. The promise made when the court was established was that it would accelerate Kosovo's path toward European integration and this never materialized. Kosovo is no closer to the EU, NATO, or the Council of Europe than it was when the court was created.

Kosovo's current resistance to establishing the Association of Serbian Municipalities reflects, at least in part, the experience of the KSC, which is to say a cautionary tale about agreeing to an institution that subsequently took on a very different character from what was originally promised. The court has become a reference point for why external commitments cannot always be trusted.

As for the precedent the KSC sets for international law, the concern is real. A court that requires liberation movements to meet the standards of formal state armies, that disqualifies virtually any armed resistance from legal legitimacy, and that frames self-determination struggles as joint criminal enterprises is a court that authoritarian regimes can point to with satisfaction. The message it sends, at least to our discussion, implicitly, is: do not resist.

## **6 WHERE DOES THIS LEAVE US?**

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The KSC is a case study in how a justice institution can be simultaneously legitimate in form and deeply compromised in substance. Its origins lie in a politically motivated process. Its legal architecture has significant constitutional flaws that have never been seriously examined. Its prosecutorial approach has treated a guerrilla liberation movement as if it were a formal army. Its community impact has been mostly divisive. And its institutional promise, which was support for consolidation of Kosovo's statehood through European integration was not really fulfilled. In other words, Kosovo agreed to the establishment of the KSC without ever receiving anything meaningful in return, and today cannot even secure Council of Europe membership — despite having gone further than virtually any other country in the region in accommodating international demands for wartime accountability.

What this means is that the verdict will land in a society that does not trust the process that produced it, and in a region where it will almost certainly be weaponized, especially by Russia and Serbia to delegitimize Kosovo's liberation narrative and its case for statehood

The harder questions, which is about selective justice, about constitutional accountability, about what happens to victims who were never represented in these proceedings, will outlast the verdict. They deserve a serious response from Kosovo's political class, its legal community, and its international partners. So far, that response has not come.

## **7 PANEL CONTRIBUTORS**

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- Gëzim Visoka — Associate Professor of Peace and Conflict Studies, Dublin City University
- Robert Muharremi — Assistant Professor, RIT Kosovo; legal expert
- Afërdita Sylaj Shehu — Executive Director, Community Building Mitrovica
- Armend Bekaj — Researcher, Department of Peace and Conflict Research, Uppsala University
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