

FORUM
for
SECURITY

**“Political”
law enforcement
in Kosovo**

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law enforcement
in Kosovo**

Forum for Security -Assessment Report 'Political' law enforcement in Kosovo

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Forum for Security- Evaluation Report

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The Forum for Security (FS) was established in June 2010, with the initiative of two local organizations, the Forum for Civic Initiatives (FIQ) and the Kosovar Centre for Security Studies (KCSS).

The FS shall represent a platform for civil society organizations, media, academics, students and other institutions, to discuss key matters of security, and to exchange experiences and develop best practice in the field of security in Kosovo.

This is the third publication from FS which has also produced reports on „The Security Sector in Kosovo after Independence “ and „Integrated Border Management in Kosovo “, published in November 2010 and January 2011, respectively.

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List of Abbreviations

EU-European Union

BIA-Security Information Agency

KC-Kosovo Stadiums

EULEX-EU Mission for Rule of Law in Kosovo

FS-Forum for Security

KSF-Kosovo Security Force

ICG-International Crisis Group

ICO-International Civilian Office

KFOR-Kosovo Force

MoJ-Ministry of Justice

MMA-Mentoring Monitoring Advising

MoIA-Ministry of Internal Affairs of Kosovo

KA-Kosovo Assembly

KP-Kosovo Police

BCP-Border Crossing Points

EACC-Emergency Alarming and Coordination Center

KG-Kosovo Government

UNMIK-United Nations Mission in Kosovo

Foreword

Since the end of the war in 1999, and up until the present day, there has been on-going debate in Kosovo over whether firm foundations have been laid for a democratic state. Challenges include the division of powers and the independence in their functioning.

The confusion over the mandate of governance and decision making in Kosovo, has led to a lack of accountability, on the side of both international institutions and Kosovo institutions, thereby enabling the „blame game “ from one side to the other, from internationals to locals and vice versa.

Although the former UNMIK mission and the current EULEX mission have always aimed at providing for division of powers, especially in terms of creating an independent judiciary, effective law enforcement and a transparent and democratic function of institutions, these have remained rather an ambitious objective.

Reports from both international and local organizations create the impression that in Kosovo it is more reasonable to talk about judiciary then about justice, not only because of the fact that there are still over 200,000 pending cases (backlogged since the war), but also due to the lack of security and rule of law in the northern part of the country. Furthermore, the latest developments related to suspicion on crimes of corruption or war crimes, seem to be guided by political motivations, both in Kosovo and beyond its borders. These can be illustrated through frequent (recent) public declarations, specifically by EULEX and its rhetoric of combating corruption, organized crime and bringing „big fish “ before justice, and in the latest report on suspected war crimes, issued by a political body in Brussels.

As a result of the lack of rule of law, many studies have concluded that the confidence of citizens continues to remain low, especially related to central institutions, the judiciary and the EULEX. Such a situation could influence the public, including the international factors that the citizens of Kosovo do not observe and do not subject to law. Furthermore, an impression is created that the

people of Kosovo have failed, rather than their politicians. Nevertheless, one must take into account that in the political and democratic development of the country, responsibilities and credit pertains not only to the political class of Kosovo, but also to the international community, be that by establishing an administration in 1999 and until the declaration of independence, or by continued provision of political and financial support post independence.

Despite the large investment made by international organizations aimed at developing an advanced judicial system, the judiciary does not seem to be in a better condition compared to that of eleven years before, apart from some limited progress recorded. In truth, this may be a result of delayed and politicised reforms in the judiciary, a lack of implementable laws instead of applicable laws, and a strong duality between Kosovo institutions and international institutions in the rule of law. Meanwhile, the Kosovo Assembly has failed to organize parliamentary debates related to security challenges in Kosovo, and thereby also the exercise of democratic control over security institutions of Kosovo. Furthermore, northern Kosovo has never been on the parliamentary sessions agenda.

For eleven years in a row, it has been unclear who makes decisions in Kosovo, how discretionary and subjective powers are enabled in security and justice matters, due to the existence of different applicable laws, and how different international presences with unclear mandates function.

Consequently, such a condition creates the impression that the rule of law in Kosovo is influenced by politics and political developments in Kosovo, the region and wider.

From all this, one may deduce that the sole objective of the political elites and the international factors in Kosovo remains stability. Therefore, a status quo has been established, the consequences of which may rather soon put this „stability “ to question.

Introduction

This is the third report of the Forum for Security, undertaken in the period January-April 2011, with the aim of analysing the policies, approaches and actions of Kosovo institutions and the international presence in Kosovo in terms of the effectiveness of the rule of law in the field of security, specifically focusing on the northern part of Kosovo.

The drafting method of this report is based on qualitative criteria, including analysis of laws, strategies, reports of international and domestic organizations and institutions, media sources, interviews with relevant actors and direct observation by participating in various meetings and conferences.

The report aims to contribute towards the development of adequate policies and the implementation of concrete actions in the rule of law, for all citizens of the territory of Kosovo, without any discrimination. Also, the report aims to encourage Kosovo's institutions and the international presence to change their approaches and undertake actions towards changing the current status quo and lead towards enforcement of the rule of law, one of the most basic preconditions to building sustainable peace and prosperity in Kosovo.

The focus of this report is the provision of security and the rule of law in northern Kosovo, through an elaboration of three matters known to the public: un-plated vehicles, the fragmented chain of command in the police and illegal structures in Kosovo.

These three matters have been elaborated to illustrate practically the condition of security and the rule of law in northern Kosovo. The situation is similar though in other sectors of

governance including customs service operations, the levying of taxes and education. The findings of this report, presented below, are worrying and require concrete, non-politicised actions by domestic and international institutions.

Main findings:

- The existence of applicable laws allows for the use of discretion and subjectivity in implementing the law;
- Continued international presence under UNSCR 1244, and the absence of a reconfiguration of this presence to adjust to the circumstances created after the declaration of independence is creating confusion, discontent and a lack of confidence amongst the citizens of Kosovo;
- A lack of a common agenda for the future of Kosovo, and lack of political will for coordination between Kosovo's institutions and the international presence in combating crime and corruption or in implementing law in Kosovo;
- Failure to transfer competencies (in the north of Kosovo) from the international community to the Kosovo Police has caused fragmentation of the chain of command in the police, which is in direct contradiction with the Constitution and the laws of the Republic of Kosovo;
- The operation of illegal Serbian structures throughout the Kosovo territory, specifically in the north, demonstrates limited progress and a lack of political will and determination both by the Kosovo and international institutions in providing security, safety and the rule of law for all citizens of Kosovo, independent of their settlements and ethnic background;

- The non-existence of courts in northern Kosovo hampers police operations in implementing the law and prevents citizens from accessing justice.

The approach of the international presence and institutions towards challenges in northern Kosovo

Government of Kosovo

Since the end of the war in 1999 the international community present in Kosovo has played a determining role in developing the security and justice sector and therefore the establishment and strengthening of law and order in Kosovo. Nevertheless, the whole period is characterized by a lack of clarity in terms of the responsibilities of Kosovo "s institutions and the international presence. Amongst other examples, this lack of clarity can be illustrated by the signing of a police agreement (protocol) between EULEX and MUP of Serbia, after the declaration of independence of Kosovo. The signing of this agreement took place after the approval of the UNSC 6-point plan for Kosovo, which was severely opposed by institutions, civil society and many citizens of Kosovo. This discontent was also demonstrated by massive protests in Kosovo.

Independently of the circumstances created after the declaration of independence, and recognition thereof by 76 UN member countries, including 22 EU member states, and the decision of the International Court of Justice, which proclaimed that the approval of the declaration of independence of Kosovo was not in contradiction to international law, UNSCR 1244 or the Constitutional Framework¹, the

international presence continues to exercise its mandates under the same framework (UNSC Resolution 1244), as in 1999, the year which marked the end of the war in Kosovo.

This lack of clarity of international mandates, specifically of EULEX and UNMIK, and the lack of a strategy by institutions of Kosovo to tackle the challenges in the north, has created space and a favourable climate for illegal structures, which have used this position to strengthen their influence even more. This situation can be illustrated by the destruction and invalidation of border gates 1 and 31, and the closure of the Court in the north, immediately after the declaration of independence in Kosovo.

With the declaration of independence of Kosovo, the Serbian minority did not recognize the new constitutional order, leading to Serbian police officers abandoning their jobs. Although one year later, they returned to the Kosovo Police, Serbian members have not yet recognized the new reality. Now, EULEX is used as a liaison point with the Kosovo Police. Meanwhile, illegal structures and the UNMIK Administration Mission office based in northern Mitrovica provide other municipal services in the north. This prove the absence of extension of the constitutional order of the Republic of Kosovo, and organized crime groups are the only ones benefitting from this vacuum, thereby realizing large material benefits and political influence in Kosovo.

In response to these conditions, the Government of Kosovo, in cooperation with the International Civilian Office (ICO) drafted the Strategy for Northern Kosovo, a strategy which clarified government policies on this issue. The objective of this strategy is the extension and strengthening of the institutions of the rule of law

¹ International court of justice: <http://www.icj-cij.org/docket/files/141/15987.pdf>

throughout Kosovo, including the north and the creation of governance mechanisms and improvement of the social and economic situation.² This document clearly states the duties and responsibilities for each actor. Hence, the ICO should assist in establishing the Municipality of North Mitrovica, while EULEX should exercise its role in improving the situation of security and operationalize the judiciary and customs. Nevertheless, these institutions have failed in providing security for the citizens and in creating the grounds for local governance. Thus, even EULEX capacities are being put into question in terms of establishing law and order in the north. In its incapacity to create a favourable climate to restore the courts in the north, EULEX is now trying to push this matter towards a process of technical talks, which in itself is a violation of sovereignty and integrity of the state.³

As a result, nothing has been done to remove un-plated vehicles from the roads, the police chain of command only functions through EULEX mediation, while illegal structures (some of them even collect taxes and fees from citizens, such as Elektro-Srbija) continue to operate without any difficulty.

Even after all these years, Kosovo continues to have legislation approved by different authorities, or even colliding legislation pieces. This includes legislation approved in the former Yugoslav era, UN Mission (UNMIK) regulations and resolutions, and the legislation approved by the Assembly of Kosovo. It is worth mentioning that despite approval of the laws of the Republic of Kosovo, not all UNMIK-issued regulations have been repelled.

EULEX

To EULEX, the issue of the north is a high priority, and that is the reason behind the expansion of the Mission.⁴ The strategy of this Mission is based on four components:⁵ 1) restoration of the District Court in the north of Mitrovica, 2) re-establishment of customs checkpoints in border passage points Brnjak and Jarinje (1 and 31,); 3) support to local police officers in police sub-stations in the northern municipalities of Kosovo, including Zvečan, Zubin-Potok, northern Mitrovica Station and Leposavič; and 4) exercise of the rule of law executive competencies „whenever needed “. EULEX has taken a systematic approach to the northern part of the country while addressing the sensitivity of the political situation and the consequences that may arise from different actions related to establishment of law and order in compliance with Kosovo state legislation.⁶ This sensitivity is seen in many cases. Generally, according to the findings of this study, such a “refrained ” approach by EULEX and the absence of concrete results disables implementation of the law in this area. This rhetoric of „exaggerated stability ” does not differ that much from the international presence in pre-independence Kosovo.

Although EULEX refers to the creation of the EULEX Task Force Mitrovica to fight organized crime, this has not produced any practical action worth mentioning. This Task Force is comprised of police investigators, judges and prosecutors of EULEX, created in November 2010, targeting organized crime and establishing law and order in the north.

² Strategy for Northern Kosovo, 15.01.2010, page 1.

³ <http://www.kohaditore.com/index.php?cid=1,22,56011>

⁴ Interview with Iaan Cohn, EULEX Coordinator for the North, 23 February 2011.

⁵ Roy Reeve, Deputy Head of EULEX Mission, "Four steps to security and stability", 16 July 2010, see: <http://www.eulex-kosovo.eu/en/news/000245.php>

⁶ Interview with Alessandro Tedesco, EULEX Program Manager for Civil Society, 23 February 2011

In a visit to the north, the head of EULEX, Xavier de Marnhac, stated that his priority is an increased presence of EULEX, with the aim of fighting organized crime in the north.⁷ Nevertheless, the persisting condition there reflects a failure in undertaking actions in the field.

International civilian office (ICO)

Although President Ahtisaari "s Plan is implemented as part of the Constitution, for which a supervisory role has been invested in the ICO, the official website of the ICO states that the ICO is charged by the International Steering Group (ISG) to ensure the implementation by the Government of Kosovo of the Comprehensive Proposal for the Kosovo Status Settlement.⁸ As one may see, despite the Ahtisaari Plan being applicable in Kosovo, this plan is still called a "proposal" by the ICO.

Although the ICO and the Government of Kosovo were the carriers of the Strategy for Northern Kosovo, while the former also responsible for the establishment of the Municipality of Northern Mitrovica, failure may be concluded in both cases.

Case studies:

Key challenges in the northern part of the country include the lack of Kosovo institutions (courts, municipal administration, customs, health and education institutions), the operation of illegal structures and the functioning of international missions under the mandate given by the UNSCR 1244.

Below, we will present only three of these challenges, in an effort to illustrate, by practical examples, the reality of the situation in the north, although the condition is similar in other sectors.

Un-plated vehicles

Pursuant to the Law on Road Transport Safety, people driving vehicles without registration plates commit a minor offence, thereby being subject to a fine of up to 35 Euros. Also persons failing to register their vehicles may be fined up to 200 Euros.⁹ Previously, there were three types of vehicle plates allowed in circulation: plates from the Yugoslav era (until 1999), plates from the UNMIK period, and more recently, plates issued by the Republic of Kosovo. Now, the only authority responsible for registration and registration plates is the Ministry of Internal Affairs of the Republic of Kosovo.

Despite the fact of the existence of legislation providing on traffic and road safety, and the traffic police, the authority responsible for fining offenders, there are still unregistered and un-plated vehicles circulating in the north. There are cases where the traffic police have fined drivers of un-plated and unregistered vehicles,¹⁰ though, these cases are rare, and have not eliminated the problem. Violations of a minor nature such as un-plated and unregistered vehicles are particularly problematic in the Mitrovica region.¹¹ Such unregistered vehicles render difficult the identification of criminal offenders. Apart from the fact that the Kosovo Police has not tried to remove such vehicles from circulation, the courts are not there to conclude the cases.

⁷ De Marnhac emphasizes the importance of the north of Kosovo, 05 Nov 2010, see: <http://www.eulex-kosovo.eu/en/news/000266.php>

⁸ ICO Website: <http://www.ico-kos.org/ico/?id=9>, accessed on 22 April 2011

⁹ Law no. 02/L-70, on Road Traffic Safety, 11 January 2007. See: <http://www.mtpt.org/data/docs/laws/Ligji.pdf>

¹⁰ Interview with Mr. Besim Hoti, spokesman of the Kosovo Police for the Region of Mitrovica, email correspondence, 4 March 2011.

¹¹ Interview with Iaan Cohn, EULEX Coordinator for the North, 23 February 2011.

Even if the police fines the offenders, these fines will remain only in paper, since the courts do not function.¹²

Un-plated vehicles are a result of the disobedience of Kosovo Serbs towards the authority issuing plates, and the failure of the police, prosecution and courts to do the work. The Serbian citizens of Kosovo did not recognize temporary plates issued by UNMIK, while plates issued by the Ministry of Internal Affairs of the Republic of Kosovo have shared the same fate. Considering Kosovo to be still its territory, Serbia issued at least 186 plates for citizens in Kosovo.¹³ Taking this as a violation of sovereignty, the MIA issued an administrative directive to confiscate these plates. This directive attracted reactions from the Serbian Government and the international community (mainly EULEX), qualifying this as unilateral. Meanwhile, the Minister for Kosovo in the Government of Serbia called the decision "illegal" and stated that "it cannot be implemented without the desire to cause incidents in the north of Kosovo dominated by Serbs".¹⁴

Despite the pressure on Minister Rexhepi for a „silent “ agreement in the form of a moratorium on plates, the MIA did not withdraw from the decision.¹⁵ The KP began executing the directive,, confiscating dozens of plates issued by the Government of Serbia. In response to this, two days later the vehicle of the deputy commander of the Police Station was burned.¹⁶ Still, the positive effect was the halting of issuance of other plates by the Government of Serbia, and their disallowance in the territory of Kosovo.

Despite this, a challenge remains in providing Kosovo plates to Serbian citizens in removing the plates issued during UNMIK Administration. In issuing new plates in December 2010, the Minister of Internal Affairs stated that the issuance of plates to Serbian citizens will take 3 to 6 months.¹⁷

Functioning of t the Kosovo police chain of command

The Kosovo Police was established on September 6, 1999, in due observation of democratic principles and international standards of human rights and the rule of law. The Police inherited an aggravated security situation. The Kosovo Police is an independent body, operating under the authority of the Ministry of Internal Affairs.¹⁸

Pursuant to the Constitution of the Republic of Kosovo, and the Law on Kosovo Police, the KP has a unified chain of command for the whole Republic of Kosovo, with police stations corresponding to municipal boundaries.¹⁹ Chapter III of the KP Law provides on a unified chain of command of the force for the whole territory of the Republic of Kosovo, and organization on two levels, central and local. The Central Level includes the General Directorate of the Police, which holds the full chain of command of the KP. Regional level of KP organization includes Regional Police Directorates, Police Stations and Police Sub-Stations which under the umbrella of the General Directorate.²⁰

¹² Kosovo Police does not have records on the number of cases of fining unregistered or un-plated vehicles.

¹³ Interview with Fisnik Rexhepi, Political Advisor to the MIA, 18 February 2011

¹⁴ Oliver Ivanovic, Koha Ditore, 16 January 2011

¹⁵ To avoid incidents, there were some information pieces on a moratorium, in which case Serbia would terminate issuance of further plates, while the Government of Kosovo would not confiscate 186 plates issued, Koha Ditore,

¹⁶ Bota Sot, Eulex against provocations.

¹⁷ Telegrafi, December 2010.

¹⁸ Kosovo Police Report for 2010, page 3

¹⁹ Constitution of the Republic of Kosovo, Security Sector, Article 128

²⁰ Kosovo Police Report for 2010

The Kosovo Police chain of command does not cover the whole Kosovo, because the police in the north only report to Pristina through EULEX. Communication with the KP members in the north is enabled by EULEX. Therefore, it often happens that orders issued by the higher chain of command remain un-enforced, such as the case with Mr. Milosevic, the former commander of one of the KP Stations in the north, who had committed serious violations of police duties, and had also failed to report a criminal offence.²¹

In other words, the Regional Police Directorate in Mitrovica remained the only region to not have transferred responsibilities from the international presence to the Kosovo Police, which in turn undermines the local ownership in exercising order and security duties.

It is worth mentioning that a large barrier to the functioning of the chain of command of the KP in the north remains a consequence of poor engagement by EULEX and the pressure exerted by Belgrade officials over the KP members in Mitrovica. Illegal structures in the north strive to keep the KP ineffective in fighting organized crime and trafficking, thereby pushing the Serbian KP members to be status-neutral, and threatening them against cooperation with the KP in the south.

There is also suspicion that some Kosovo Police members in the north are simultaneously members of the Serbian MIA, and receive double salaries, and take an active part in various meetings and activities organized by illegal structures operational there.²²

Despite numerous efforts by the Government of Kosovo and the international presence for these members to be fully integrated with the KP structures, suspicion on a dual engagement of these members calls in to doubt the real success of these efforts.²³ Considering the relatively small number of police officers engaged (318 in total, the majority of whom Serbian) compared to the territory they cover, the high rate of illegal activities and organized crime, and the non-operational courts, it is difficult to say that there are serious efforts to establish law and order in the north.

To change this situation, several activities have been launched recently including joint patrols with a multi-ethnic composition in traffic police, and other common activities in the scope of KP duties.

²¹ <http://www.kohaditore.com/index.php?cid=1,7,52266>

²² This fact is confirmed by KP insiders and various other sources.

http://klankosova.tv/index.php?option=com_content&task=view&id=5644&Itemid=99

²³ An interview with a former senior KP officer

Illegal structures

Kosovo rule of law state mechanisms have not been able to extend their presence and activities throughout the Kosovo territory (namely in municipalities in northern Kosovo)²⁴ On the other hand, the Government of Serbia, in its activities in Kosovo, continues to support illegal structures, by offering financial support to judicial bodies, health care, education and other municipal utilities. Apart from the operations of the Serbian MIA, there is suspicion that the Serbian Intelligence Agency (BIA) is also present. Here one must mention the presence of the military counter-surveillance service and a permanent functioning of the reserve component of the military, in the past model of territorial protection, in which these members would be mobilized in "as needed" basis²⁵ Development of these structures has been the main barrier to the rule of law and order in the north, thereby creating uncertainty and lack of safety for a long time.

The operation of the EULEX Mission in the north is different when compared to other parts of the country. EULEX activities, based on the principle of Mentoring, Monitoring and Advice (MMA) for the institutions of Kosovo are not applied in the same way across Kosovo, because in this area EULEX enjoys an executive mandate. Considering the political and security circumstances, the EULEX mission in the north is more a law enforcement agency than an MMA mission.

Furthermore, EULEX actions have often been criticised in domestic circles for actions grounded upon double or selective standards. Although EULEX had officially stated that it does not recognize illegal structures and it does not cooperate with them, the illegal structures

themselves have recently refuted such a statement, by stating that they have terminated their cooperation with EULEX.

Lately, several initiatives have been recorded in terms of the extension of institutions of the rule of law in the north of Kosovo, such as patrols of Kosovo Police Special Units in the north, confiscation of new Serbian vehicle plates, and joint multi-ethnic patrols of Traffic Police. In the north, there is a EULEX Court, where its judges and prosecutors are investigating around 25 criminal cases, of which 7 pertain to a higher criminal profile.²⁶ The establishment of a Municipal Civil Service Office in the north is worth mentioning. It provides all municipal services. The interest of citizens from all communities in obtaining Kosovo documents is rather good, which is another indicator proving the rarity of inter-ethnic problems, and the existence of the challenge of enforcing the law and fighting organized crime.²⁷

²⁴ The North of Kosovo includes the municipalities of Northern Mitrovica, Leposavic and Zubin-Potok. These municipalities have not recognized the new reality created in Kosovo

²⁵ <http://www.botasot.info/def.php?id=102590>

²⁶ Interview with Iaan Cohn, EULEX Coordinator for the North, 23 February 2011.

²⁷ Interview with Mr. Avni Kastrati, Mayor of Mitrovica, 21 February 2011

Analysis

With the entry into force of the Constitution of Kosovo, the new political and constitutional order in Kosovo began implementing state laws, excluding in northern Kosovo.

Due to the lack of domestic institutions, EULEX has executive powers and mandate in the north. Although EULEX has an executive mandate, it still exercises its duties as per the MMA principle, thereby surrendering in its mission of combating organized crime and creating a safer environment for all citizens.

Another aspect is failure in implementing strategies and other initiatives of domestic institutions and international partners. A strategy for the north aiming at creating a safer environment for Serbian citizens and other communities living in this area had been drafted, but this study fails in identifying implementing points of the strategy, and therefore, this document, to an extent is considered to have failed.

In other terms, there have been some limited activities in improving the lives of citizens, such as the construction of houses, but the inhabitants have not returned due to the lack of safety.

The Serbian Government is actively preventing the extension of the activities of the state institutions of Kosovo in the north, by supporting illegal structures active in Kosovo. The Government of Serbia is very capable of using political and diplomatic connections with governments of countries which have not recognized the political status of the country in preventing integrative policies in the north of Kosovo. The Government of Kosovo and the international presence in Kosovo have no strategy of preventing such regressive policy of Belgrade.

Government activities and policies, which had focused on expanding state authority in northern Kosovo, have not been subject to parliamentary debate. These actions have also been associated with a great absence of civil society involvement. The Kosovo Assembly has never held the executive branch to account in terms of implementing the Strategy for Northern Kosovo. This has created a lack of transparency and information for the citizens in terms of government activities and the international presence in integrating the north within the state sovereignty. As a result of the lack of accountability, we have also witnessed the influence of the Government of Kosovo on the activities and the agenda of the Parliament.²⁸ In this manner, the implementation of the Strategy for the Northern Kosovo has not been transparent or open for the public.

Certain groups with economic and political interests in the north are highly motivated to preserve the status quo there. Uncontrolled borders provide a suitable climate for smuggling goods from Serbia to Kosovo and the other way around, thereby creating opportunities for material benefit and political influence for various criminal groups. Various reports have suggested that there is a connection between criminal groups and illegal structures in the north, and also criminal groups in other parts of Kosovo.²⁹ In this sense, fighting crime should not only cover the northern part of the territory, but any investigation should include the whole of Kosovo, and groups connected to the crime in the north should be fought, together with businesses stimulating smuggling, which should be targeted by law enforcement institutions (an example being petrol stations).

²⁸Interview with Mr. Ahmet Isufi, Chair of the Committee for Internal Affairs and Security, Assembly of Kosovo,

²⁹ICG Report, 2011.

The international community considers Serbia to be a mediator in resolving the problems in the north of the country. EULEX views the talks between Kosovo and Serbia as the only way of resolving political problems and implementing the rule of law in the north,³⁰ in which case the responsibilities of each party would be clearly defined. The Government of Kosovo also has its own expectations that Serbia will eventually withdraw from supporting illegal structures operating in the north.³¹ Meanwhile, the problem remains in the fact that Serbia continues to strive to extend its sovereignty in the north, and it can not play the role of a „bona fides “ voluntary, by withdrawing from the north of Kosovo. Such an expectation that Serbia will eventually show its willingness to agree to the rule of law imposed by Kosovar authorities and EULEX has resulted in a lack of substantial initiatives, by EULEX and even less by the Government of Kosovo, for the restoration of law and order in the north of the country.

Cooperation and communication between central and regional police stations with the police stations in the north is enabled by EULEX. In this sense, EULEX retains the right of developing communications with the north and decision making for the north. The Kosovo MIA and Police therefore play a subordinate role, and do not engage in a sincere partnership with EULEX.³²

A priority of EULEX is to preserve a stable security situation and to avoid potential riots due to the sensitive situation in that area, and to act in small steps to normalize the situation.³³

Security as a service is viewed only in terms of preventing riots, and not more. On the other hand, security is a "condition of being protected by planned, intentional and criminal incidents by a wide range of threats, in which those protected are all types of values of organizations/individuals, and incidents occur by a desire to achieve a goal/result desired by the attacker".³⁴

By not providing proper conditions for free expression by citizens, security remains fragile. A recent report by International Crisis Group (ICG) suggests that a part of the Serbian MIA has planned activities for mounting explosive devices, organizing protests and creating riots to preserve an unstable security situation.³⁵

The sequence of actions is always the same: the Government of Kosovo and civil society exert pressure on EULEX to act. The European Mission hesitates on grounds of eventual riots, but also on the fear that the Serbian MIA might react with bombs or riots, and EULEX would have to withdraw. This status quo has been present since 1999.

To take the country out of this condition, initiative and responsibility of action pertains to the institutions of Kosovo and the international presence. The case of confiscation of illegal Serbian plates proves that when institutions show determination, results will be recorded.

³⁰ <http://www.koha.net/index.php?cid=1,22,56200>

³¹ Interview with a former senior officer of the Kosovo Police.

³² Interview with Mr. Behar Selimi, former acting Director General of Police, now member of the Kosovo Assembly, 24 March 2011.

³³ Interview with Alessandro Tedesco, EULEX Program Manager for Civil Society, 23 February 2011

³⁴ Eirik 7

³⁵ Europe Report Nr.211, International Crisis Group, North Kosovo: Dual Sovereignty in Practice, 14 March 2011, page 5.

Recommendations

This document aims to provide several recommendations to relevant institutions, apart from analysing the situation and identifying challenges to law enforcement in Kosovo, specifically focusing on the northern area of the country. However, some recommendations do not necessarily reflect the analytical part, and therefore, the reader may not find analytical elaboration of several recommendations in the content.

For the Government of Kosovo

- Harmful presence and actions of illegal structures constitute one of the most serious threats to security in Kosovo. Domestic and international institutions must cooperate closely and coordinate to disable illegal structures, thereby creating the necessary conditions for the development of a normal life for the citizens in the north;

For the Ministry of Internal Affairs and the Kosovo Police:

- The presence of police members in the north is disproportionate to the geographic area, number of inhabitants and the high prevalence of crime and minor offences. It is necessary to send additional police officers to enable enforcement of law and order in that part of the country. This does not mean creating a "policing" territory, but heightened levels of acting readiness, adapted to circumstances;
- KFOR must not remain the only actor securing borders in that part of the territory, particularly as the military is not prepared to take over duties of border control. There should be joint border control patrols between the Kosovo Border Police and KFOR, to ensure a gradual transfer of responsibilities to the former. Such a presence of

border police in the northern borders, apart from practical reasons, would also demonstrate the exercise of sovereignty of Kosovo institutions in that area;

- Circulation of un-plated vehicles and those registered by the Serbian MIA, even for Kosovo towns plates, is unlawful and seriously violates the territorial integrity of Kosovo. It is demanded that the police continue to confiscate plates, thereby initiating court proceedings as provided by law;
- The Emergency Alarm and Coordination Centre (QAKE) in Mitrovica, although only recently rendered operational, does not obtain information from the northern municipalities on incidents occurring by natural or man-made disasters. The Kosovo MIA must engage in serious efforts to obtain reports from northern municipalities to this Centre;
- The Regional Police Directorate in Mitrovica is one of the few directorates which has not completed competency transfer from internationals to locals. The Kosovo MIA must persist and urgently obtain competencies in this Directorate, in Autumn 2011 at the latest;
- The return of Albanian customs staff to the northern border gates, Brnjak and Jarinje, cannot take place without providing physical safety for them. An urgent demand is for the Kosovo Police, EULEX and KFOR to provide necessary safety for these members;

For the Ministry of Justice

- Operationalization of the District Court in the north must be one of the primary goals. The Ministry of Justice, in cooperation with EULEX, must create conditions, by all means, for this court to begin work, to secure Serbian and Albanian judges and officials, and to provide safety for these people;

For the Kosovo Assembly

There is an urgent need to address the situation in northern Kosovo. The Kosovo Assembly must hold special plenary sessions on the situation of rule of law in Kosovo, specifically in the north, by inviting relevant responsible institutions to interpellations;

- The Kosovo Assembly must hold special sessions holding EULEX accountable for its actions since day 1 of its mission;
- The Parliamentary Committee for Internal Affairs, Security and the Kosovo Security Force must periodically invite relevant authorities, both domestic and international, to report on the situation of the rule of law in the north;

EULEX

- The failure in providing security for the citizens in northern Kosovo has been associated with the international presence since 1999 and until now. It is therefore urgent that EULEX exercises its responsibilities in guaranteeing law and order in the northern area. The presence of specialized EULEX units gives them the advantage in terms of supporting the efforts of the Kosovo Police in arresting smugglers in the north;
- EULEX must exercise its mandate in an independent manner, uninfluenced by political instructions and situations, to avoid perception and assessment of its actions as balanced and selective.

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Interviews with different actors:

1. Interview with Kate Faeron, Projekt Manager at ICO for Northern Kosovo
2. Interview With Mr. Fisnik Regjepi, Adviser at minister of MoIA
3. Interview with Mr Alessandro Tedesco, Program Manager for Civil Society at EULEX
4. Interview with Mr. Ahmet Isufi, Chief of Parliamentary Committee for Security and Internal Affairs and Oversight of KSF
5. Interview with Mr. Besim Hoti, spokesperson of KP in Mitrovica
6. Interview with Mr. Avni Kastrati, Mayer of Mitrovica Municipality
7. Interview with Mr. Behar Selimi, former General Director of KP, currently MP
8. Interview with Mr. Iaan Cohn, coordinator for Northern Kosovo at EULEX
9. Interview Senior Officer from EULEX.
10. Interview former Senior Officer from Kosovo Police



Forum for Civic Initiatives

The Forum for Civic Initiatives (FIQ) is a non-governmental organization with a focus on the rule of law that works to increase citizen participation in decision-making processes for peaceful and developed Balkan region. FIQ was created in 2000 to address a variety of urgent needs in post-conflict Kosovo. Since then, FIQ has evolved into an organization with a focus on Rule of Law and transparency and accountability of the government and strengthening the capacity of the Civil Society through debates, training and grant making support.



Kosovar Center for Security Studies has been established with the aim of studying, researching, organizing conferences and seminars in the field of security in the Republic of Kosovo. Considering the lack of non-governmental institutions covering this domain, KCSS is the strong voice towards studies on the security field. The activities undertaken so far triggered the civil society experts and media in fostering oversight of the security sector.



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