

BALKAN TRANSITIONAL JUSTICE

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EU Shrinks Kosovo Rule-of-Law Mission

The EU's rule-of-law mission, EULEX, is cutting personnel and reducing its role in war crimes and corruption cases, but some are not sure if Kosovo can deal with sensitive prosecutions itself.

Valerie Hopkins, Edona Peci | BIRN | Pristina

EULEX is not going away just yet, but it's getting smaller – and less potent.

The EU Rule-of-Law Mission, in place since one day before Kosovo's 2008 declaration of independence, will shed nearly 30 per cent of its 2,070-strong staff and 20 per cent of its 111-million-euro budget as it transfers more of its duties to local authorities under a new mandate that begins in October.

"EULEX will be working more with Kosovo and less for Kosovo," a spokeswoman for EULEX said in an e-mail.

During its six-and-a-half years in place, EULEX has had a broad, sometimes decisive role in overseeing and shaping Kosovo's justice and law and enforcement systems with a complement of international judges, prosecutors and police at its core. Its most prominent role has been handling cases – particularly corruption and war crimes – deemed too sensitive for the local authorities.

While the mission intends to see through existing investigations, its prosecutors will no longer initiate new cases in line with a law passed just before parliament dissolved in April and an agreement between Kosovo's president and EU foreign policy chief Catherine Ashton. Meanwhile EULEX judges will be outnumbered by local counterparts on judicial panels. EULEX personnel will be available to "monitor, mentor and advise" their local colleagues in their new duties.

These changes however, are not set in stone. The EU mission says it may "request new cases to be assigned to EULEX prosecutors and request a EULEX majority on court benches in extraordinary circumstances."

It is the first major step towards a stated goal of transferring all so-called "executive powers" to local authorities by 2016, when the new EULEX mandate expires.

"We consistently encourage and support local actors in stepping up to the plate and taking responsibility," Maja Kocijancic, a spokesperson for Ashton, told BIRN in an e-mail.

To date, EULEX has dealt with around 2,500 criminal cases, 350 of which are considered high-profile corruption, war crimes, or organized crime cases, including [the Medicus organ-trafficking case](#). The mission has also dealt with a further 40,000 civil cases, mostly property-related, according to a EULEX spokesperson.

While some of the most sensitive cases - those involving former members of the Kosovo Liberation Army - will be handled by a new international tribunal in Brussels, most of the onus is being placed on Kosovo's institutions to pick up the slack.

While there are few enthusiastic supporters of EULEX in Kosovo — its mere presence is perceived as an affront to the young country's sovereignty — there is little indication that the country's own institutions are ready to pick up the slack, which is itself a sign of the mission's own shortcomings.

"There is no good time ever for EULEX to leave, but every second should be used to make local rule-of-law institutions more independent," said



EULEX police officers. Photo: Atdhe Mulla.

Shpend Kursani, a Pristina analyst who has studied the mission extensively. "The presence of EULEX, with the powers it had so far, did not contribute to that, because EULEX has been a parallel mission above the local institutions and not one that has improved their work," he said.

Nevertheless, there are signs that the process may not be a smooth one.

Some EULEX staff have privately expressed unhappiness about how the mission is cutting 600 positions – 400 international and 200 local – in part through an open competition process.

Kosovo's acting chief prosecutor, Sevdije Morina, also complained that she has been left in the dark about EULEX investigations.

"So far, EULEX prosecutors did not share the information they received during their investigations," said Morina, who will be overseeing EULEX prosecutors in the Office of the Special Prosecutor, which to date has handled some of the country's most sensitive cases.

Few local prosecutors have actually worked on war crimes cases, which are particularly challenging in Kosovo when the defendants are former members of the Kosovo Liberation Army.

The 2013 EU progress report on Kosovo noted that positions for prosecutors in the special prosecution chamber were unfilled and momentum to prosecute high-level crimes was lacking: "At the moment, there is a lack of capacity and commitment to investigate crimes that fall under the jurisdiction of the special prosecution," the report stated.

Morina, however, expressed a commitment to taking on tough cases, including war crimes.

"Although the war was a just fight for liberty, as anywhere else, there have been some violations [of the laws of war]," she said. "Any violation has to be investigated and the cases must be resolved."

Morina acknowledged that sensitive cases are difficult in Kosovo, but expressed hope that her prosecutors are up to the challenge.

"There are no reasons for prosecutors in Kosovo to be scared," she said.

In January, after a strategic review of EULEX's mandate was completed and plans for downsizing were taking shape, a group of international judges also raised concern that their local counterparts would be unable to take over the caseload.

"We have not yet reached the stage where the more complex and very sensitive cases, such as war crimes, serious corruption and organized crime, should be completely handed over to the local judiciary," the 17 judges wrote to Mats Mattson, the head of EULEX's executive division, suggesting the transition should happen more slowly.

This will be new terrain for judges, but Enver Peci, head of the Kosovo Judicial Council, says local judges are ready.

"We don't have any problems leading trials with EULEX judges in terms of professionalism," he said.

"However, when it comes to sensitive war crime cases that involve ethnic Serbs, the Kosovo Judicial Council believes EULEX judges should continue to deal with these cases until an agreement of the reintegration of Serb judges is achieved."

Nora Ahmetaj, Executive Director of the Centre for Research, Documentation and Publication in Pristina, said she was concerned about Kosovo judges' ability to handle war crimes, as EULEX "has failed to strengthen the domestic judiciary".

"It is essential to increase the local judges' capacities, so that they get prepared to take the leading role in processing war crime cases," she said.

EULEX, for its part, said that while it is cutting back, it remains committed to the integration of Kosovo's Serb minority and the implementation of the April 2013 agreement that is incorporating Serb institutions in northern Kosovo into Pristina's institutions – including bringing Serb judges into Kosovo courts.

EULEX has already achieved some measure of success in the north: customs collection began at the borders with Serbia early this year, Serbian interior ministry employees were removed from so-called 'parallel institutions' and the police force in north Kosovo, which used to answer to Serbia, was integrated into the Kosovo Police.



Ex-KLA fighters known as the 'Llapi Group' at their EULEX-prosecuted trial. Photo: Atdhe Mulla.

The renewed mandate comes as both Serbia and Kosovo are lagging behind on implementing unrealistic deadlines set in the April 2013 agreement. Serbia held early elections in March and Kosovo's parliament dissolved in April in anticipation of early elections, so Eurocrats and parliamentarians rushed to get a new EULEX mandate on the lawbooks before it was set to expire in June.

Bodo Weber, a German policy analyst, said that the EULEX transition is happening haphazardly "in the rush to the new mandate".

"They created a mess," Weber said. "From a legal point of view, this is all problematic and is making a mockery of the principles of the rule of law."

While EULEX's new mandate expires June 2016, it remains unlikely that it will make a precise end date to mission even as it continues to transfer more responsibility to the local authorities. The EU has invested more than a half-billion euros in the mission thus far, in one its most expensive foreign policy undertaking to date.

A former EULEX employee, who spoke on the condition of anonymity, said there's a sense in the mission that it was just starting to hit its stride with recent prominent corruption cases, including the charges against Uke Rugova, the son of Kosovo's first president, Ibrahim Rugova, a national hero who died in 2006.

"I wish they would stay as long as possible," the former employee said.



EULEX police on guard at a trial. Photo: Atdhe Mulla.

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