

Annex I

Report of the European Union High Representative for Foreign Affairs and Security Policy to the Secretary-General on the activities of the European Union Rule of Law Mission in Kosovo

(covering the period from 16 October 2011 to 15 January 2012)

1. Summary

The European Union Rule of Law Mission in Kosovo (EULEX) continued to assist in long-term institutional reforms through its daily monitoring, mentoring and advising activities in the Kosovo rule of law sector. In its executive capacity, EULEX judges, in a mixed panel with local judges, began the main trial of the so-called Medicus case involving allegations of human organ-trafficking linked to a Pristina clinic. Major trials also began in the cases of a Kosovo Assembly member and nine ex-Kosovo Liberation Army (KLA) members charged with war crimes, and of two high officials indicted for corruption. A mixed panel of EULEX and local judges issued a verdict sentencing an individual to 18 years of imprisonment in a notorious war crimes case relating to the cooperative witness Nazim Bllaca. Meanwhile, roadblocks erected throughout the north of Kosovo since July 2011 (see S/2011/675, annex I) continued to severely restrict EULEX access to the north by road, compromising the Mission's ability to build and enforce rule of law north of the Ibër/Ibar River. Close cooperation with UNMIK and KFOR has continued to be a priority for the Mission in addressing the political, legal and security implications of the current situation in the north, as well as further developments as they occur.

2. EULEX activities October 2011 to January 2012

General

EULEX is currently comprised of 2,531 staff (1,377 international and 1,154 local staff) engaged to support the Mission's executive and monitoring, mentoring and advising tasks as it works to strengthen Kosovo institutions.

In the north of Kosovo, the Mission remained in place at gates 1 and 31 at the crossing points with Serbia. Roadblocks along major thoroughfares in the north, specifically restricting the movement of EULEX, resulted in the postponement of trials and the rescheduling of hearings at Mitrovica District Court, and significantly limited the work of EULEX police. EULEX has continued to state unequivocally, through media and direct contact with Kosovo Serb representatives, the need to remove the roadblocks and restore free, permanent and unconditional access for all, to allow the administration of justice in the north to take place. On 2 December, an agreement on integrated management of crossing points was reached in the European Union-facilitated dialogue process between Belgrade and Pristina, with EULEX to be present at the crossing points in line with its mandate. The Mission continues to facilitate the implementation of other agreements, including on freedom of movement and civil registry books.

On 6 December the Mission received a letter from the Russian Ambassador in Belgrade announcing that a Russian convoy of trucks was headed to the north of Kosovo to deliver aid to Kosovo Serbs and requesting that EULEX escort the

convoy to its destination and back to the crossing point. The trucks arrived at gate 1 on 13 December, but were forced to wait for three days while EULEX escort vehicles were repeatedly blocked by the barricades north of the Ibër/Ibar River. After an agreement was reached at the political level, the EULEX vehicles travelled through Serbia to gate 1 and successfully escorted the convoy to its destination.

The intent of EULEX to reinforce the rule of law in the north of Kosovo was increasingly hampered by the ongoing security situation. The monitoring, mentoring and advising by the Mission of Kosovo police north of the Ibër/Ibar River decreased significantly, as EULEX police were unable to visit their local counterparts owing to movement restrictions. This decrease in interaction between EULEX and Kosovo police officers affected vital professional relationships and made it more difficult for the Mission to structure and organize the implementation of monitoring, mentoring and advising activities in the north. The regional Kosovo police commander, appointed on 13 October, showed signs of improved leadership capable of finding pragmatic solutions for Kosovo Serb police officers working in northern stations. This led to an incremental but positive trend towards integrating Kosovo police in the north into the chain of command and has improved information flow within the Kosovo police generally.

Against the backdrop of encumbered EULEX access to the north, the number of trials held at Mitrovica District Court decreased significantly. The Mission eventually exhausted all possibilities to transport justice staff to the courthouse, leading to the postponement of scheduled trials. Access to justice in the north was brought to a near standstill by these conditions.

On 21 November, a Joint Rule of Law Coordination Board retreat was held following the release of the 2011 European Commission Progress Report. The Board, which includes EULEX, the European Commission Liaison Office and Kosovo rule of law actors, focused on identifying and agreeing a set of priorities to guide the efforts of the Board over the next 10 months. These include the fight against organized crime and corruption, judicial sector reform and customs measures focused on the protection of society. The Board meetings allow for regular interaction between these major actors in order to prioritize legislation and internal reform in line with jointly identified priorities.

On 1 January 2012, the new law on the establishment of the Special Chamber of the Supreme Court on Privatization Agency of Kosovo-Related Matters came into force. Under the new law, the Special Chamber will continue to provide for an independent judicial control mechanism for the privatization process in Kosovo, with special emphasis on working to reduce the large backlog of cases. The court's Appeals Panel continues to be staffed by a majority of EULEX judges, preserving international judicial oversight over the privatization process in respect of safeguards required by it and of the various international conventions referred to in Security Council resolution 1244 (1999).

EULEX also continued its efforts to provide monitoring, mentoring and advising activities within the Kosovo Ministry of Justice, focusing its efforts on ensuring a high standard of legal policy and legislative drafting in compliance with European best practices and international human rights standards.

War crimes

The trial of MP Fatmir Limaj and nine other former KLA members, charged with war crimes against civilians and prisoners of war in 1999, started on 11 November, with the defendants pleading not guilty. The EULEX prosecutor questioned Kosovo Prime Minister Thaçi and other former members of KLA about Limaj's role in the organization.

On 23 November, a mixed panel of EULEX judges and a Kosovo judge rendered a verdict in the so-called Bllaca case against Fahredin Gashi et al., finding the defendant guilty of war crimes and sentencing him to 18 years in prison. Hysri Rama, the other defendant in the case, received a suspended sentence of six months in prison for assisting the perpetrator in a politically motivated murder in 1999. The trial is the first based on statements by the cooperative witness Nazim Bllaca, who made a video confession in November 2009, giving details on more than 20 alleged politically motivated killings taking place from 1999 to 2003, many allegedly taking place under orders from the Kosovo Information Service, which served KLA until the end of the Kosovo conflict but was officially disbanded in 2008. The case was led by a EULEX prosecutor from the Kosovo Special Prosecution Office.

Corruption

EULEX and local judges adjudicated several corruption cases on mixed panels. On 19 October, a mixed panel at Pristina District Court confirmed the indictment of the Head of Kosovo Customs and Head of the Kosovo Customs Legal Directorate, moving to trial a case accusing them of abuse of official position relating to tobacco importation. The main trial began on 10 January 2012. On 12 January, EULEX and the Kosovo police conducted a raid on the Kosovo Ministry of Health as part of a corruption-related investigation, arresting several officials.

Through its monitoring, mentoring and advising activities, EULEX worked closely with local institutions in fighting corruption. The Mission supported the Kosovo government in drafting and implementing legislation and continued a training programme for Kosovo and EULEX judges, prosecutors and investigators on the use of existing confiscation powers as a standard tool in the fight against organized and other serious crime, including corruption.

Organized crime

The so-called Medicus trial regarding allegations of human organ-trafficking linked to the Medicus clinic in Pristina continued, having started on 4 October. EULEX has located and put under protection two key witnesses. The seven defendants are charged with one or more counts of trafficking in persons, organized crime, unlawful exercise of medical activity and abusing official position or authority. The high-profile trial continues to attract significant media attention due to the nature of the charges.

EULEX filed several indictments in other high profile organized crime cases and convicted an individual involved in a pan-European criminal network. On 11 January, a mixed panel of EULEX and local judges at Prizren District Court found eight persons guilty of human trafficking, issuing an aggregated sentence of 12 years of imprisonment for charges related to the trafficking and sexual

exploitation of a minor from Albania. The investigation was led by a mixed team of EULEX and local prosecutors.

On 17 October 2011, Clint Williamson assumed his position as Lead Prosecutor of the Special Investigative Task Force and immediately visited Pristina, Belgrade and Tirana to reconfirm high-level support for the Task Force. In meetings with Williamson, Kosovo's President Jahjaga and other Kosovo authorities all pledged their full support for and cooperation with the investigation. Serbia's President Tadić and Albania's Prime Minister Berisha made the same commitment in their meetings with Williamson. In all his meetings, Williamson emphasized that the investigation is complex, spanning different jurisdictions, and that it will take time to complete. Williamson also noted that, in addition to the allegations of organ trafficking often highlighted by the media, the Task Force is examining possible abductions, detentions, mistreatment and killings during the period in question, as well as any other crimes related to the allegations in the report of the Special Rapporteur of the Council of Europe, Dick Marty.

Williamson held meetings with European Union officials and members of the diplomatic community in Pristina, Belgrade and Tirana. He also met law enforcement and judicial authorities during each visit to discuss ways in which their cooperation with the investigation will be required. The Special Investigative Task Force is currently in the process of analysing information already collected from institutional sources, and is engaging other Governments that might be able to assist the investigation of the Task Force.

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