



# COMPACT PROGRESS REPORT

ASSESSING PROGRESS BETWEEN JULY 2016 – JUNE 2017

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## FOREWORD

It is with great pleasure that we present to you the fifth Compact Progress Report, marking another milestone in our commitment to strengthening the rule of law in Kosovo. The Report provides an annual overview of the progress made in priority areas agreed upon between the Joint Rule of Law Coordination Board stakeholders. In December 2016, we signed the third COMPACT Agreement with 12 updated joint objectives, thus renewing our pledge towards the ongoing rule-of-law reform in Kosovo.

*The Joint Rule of Law Coordination Board is a coordination mechanism between the Kosovo institutions, the European Union Special Representative/EU Office in Kosovo and EULEX. It pursues joint objectives related to EU's reform efforts in the broader rule of law field in Kosovo. The Board sets specific joint rule of law objectives - in the form of a COMPACT Agreement - meets regularly to examine progress made, and agrees on follow-up actions to resolve obstacles and advance technical issues.*

This Compact Progress Report covers the period from July 2016 to June 2017, marking a critical phase for Kosovo's rule-of-law institutions. As it covers the first year of EULEX's renewed two-year mandate - with the Mission continuing its engagement following a major downsizing - this report takes stock of progress made in a period of time in which Kosovo's rule-of-law institutions assumed increased responsibility in independently carrying out their functions. While progress has certainly been achieved in this period, necessary

developments in certain institutions and thematic areas have unfortunately lagged behind. Most importantly, this report underscores the ability of Kosovo's institutions to build upon their own experiences to bring about further achievements in the upcoming period.

We, the undersigned, trust that our joint effort and continuous support to Kosovo's rule-of-law institutions will give additional impetus to tackle the remaining challenges and bring forward needed improvements to Kosovo's society.

Minister of Justice

**Abelard Tahiri**

Chair of the Kosovo  
Judicial Council

**Nehat Idrizi**

Chair of the Kosovo  
Prosecutorial Council

**Blerim Isufaj**

Head of the European Rule  
of Law Mission to Kosovo

**Alexandra Papadopoulou**

EU Special Representative  
in Kosovo/ Head of the EU  
Office in Kosovo

**Nataliya Apostolova**

## EXECUTIVE SUMMARY

In the period of July 2016 to June 2017, Kosovo's institutions have made progress in the advancement of its rule-of-law sector, demonstrating an increased ability to independently address rule-of-law challenges. However, while remaining committed to the common rule-of-law agenda, institutions have yet to effectively respond to the continuous problems of political interference and corruption – the widespread nature of which leaves a negative mark on the successes achieved in other areas. Kosovo's institutions need to make further commitments to adequately respond to these overarching problems.

The Kosovo Police has overall maintained a high level of sustainability and accountability in the provision of law enforcement services. Certain gaps and weaknesses still remain, particularly in maintaining a sufficient number of trained staff in various thematic areas, and in reaching a standardised level of equipment throughout the organisation. Moreover, the Kosovo Police in northern Kosovo continued to face hindrances in their further development due to political interference, an incomplete judicial system and a mutual lack of trust with the police headquarters in Pristina.

Although it secured an increase in its budget for 2017, the Police Inspectorate of Kosovo faced many challenges in reaching full operational capacity as an independent agency working to ensure police accountability. The level of cooperation with other law enforcement bodies was still not at a desirable level, while necessary legislative changes to regulate the *Law on Police Inspectorate of Kosovo* and to harmonise it with other laws was not placed on the 2017 Government Legislative Program.

The Kosovo Customs maintained its performance in line with, or above, expectations in the collection of revenue. Through regular joint operations with other law-enforcement bodies, it demonstrated a major improvement in its working practices. Kosovo made significant advancements in the area of border management, by gaining membership to the World Customs Organization and in developing cooperation with FRONTEX.

EULEX conducted the monitoring of selected cases handed over from EULEX to the local authorities throughout the entire period. This exercise – carried out at different levels of courts across the whole of Kosovo – revealed a number of problems (outlined in this report) that must be addressed if Kosovo is to have a functioning rule of law in line with EU standards and best practices.

The Kosovo Judicial Council and the Kosovo Prosecutorial Council both had an eventful year in which they administered selection and recruitment processes for judges and prosecutors throughout Kosovo, including in the north. They further continued working on regulations outlined in the "2015 Justice Package" and other regulations necessary for their effective functioning. While progress has been made especially with regard to the Kosovo Prosecutorial Council, further efforts are needed to enhance institutional sustainability of both Councils.

The Special Chamber of the Supreme Court and the Kosovo Property Agency Appeals Panel continued adjudicating cases at their regular speed. Both institutions have backlogs of cases but the Chamber's backlog is substantially bigger (nine times its annual adjudication rate) and, hence, it is not possible to assess when it could be reduced to a manageable level. The Special Chamber of the Supreme Court is in the process of improving its performance internally. The future of the Kosovo Property Agency Appeals Panel will be determined by the capacity of the Agency to deliver its initial decisions to the parties that moved out of Kosovo so that they can decide whether to appeal or not; otherwise the Appeals Panel might have to remain open indefinitely.

Meanwhile, the Kosovo Correctional Service has made little progress in its development towards EU standards. Continuous interference hinders the independent functioning of the institution, particularly concerning the treatment of high-profile inmates under its care. The potential for radicalised inmates in correctional facilities to become increasingly influential remains a concern, requiring a serious response made in close cooperation with other law-enforcement agencies.

The implementation of the agreements on civil registration, freedom of movement, IBM and justice integration, reached in the EU-facilitated Dialogue, has been slow and inconsistent. Implementation has been further delayed due to the extraordinary parliamentary elections held in both Serbia and Kosovo. On a positive note, the Civil Registration Agency opened new offices in all four northern municipalities in December 2016, thereby facilitating the issuance of civil status documents (such as ID cards and passports) to the population in northern Kosovo. However, the establishment of Civil Status Offices and the adoption of Administrative Instructions needed to facilitate the registration of the population and the issuance of civil status documents remained pending. No significant progress was made in advancing the freedom of movement agreement in northern Kosovo as the necessary facilities and infrastructure required for the registration of vehicles in the Kosovo system are yet to be established. In February, construction works finally began on one out of the six permanent Common Crossing Points between Kosovo and Serbia, which is hosted by Pristina. Meanwhile, construction has still not begun for the three permanent Common Crossing Points to be hosted by Belgrade and the additional two, to be hosted by Pristina. The 10 January 2017 starting date for justice integration in northern Kosovo passed without any developments taking place. While both sides showed technical preparedness to initiate the process, the integration itself never took place and has since been postponed.

While taking stock of the work done in the past year, the Joint Rule of Law Coordination Board stakeholders remain committed to further develop the rule-of-law sector in line with European Standards and best practices, following the broader requirements set for Kosovo's EU approximation process. With this in mind, the EU family calls upon Kosovo's institutions to continue to take greater ownership and responsibility for building up a rule-of-law system that is sustainable, accountable and independent. The EU family stands ready to support the Kosovo institutions whenever necessary or desired.



## **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



## COMMUNITY POLICING

The methodology of community policing has been well adopted in Kosovo. Institutional support has been granted from the highest levels in the form of a National Strategy and Action Plan for Community Safety for 2017-2021, prepared by the Ministry of Internal Affairs. The plan aims to improve community

*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.*

safety by strengthening the legal and institutional environment, as well as cooperation between residents, local and international institutions. It foresees the organisation of monthly Community Safety Steering Group meetings to discuss progress and challenges in implementing the plan.

Community policing also has significant support and commitment throughout the ranks in Kosovo Police (KP). The KP produced its third Community Policing Strategy and Action Plan for the period 2017-2021, while the plan for the previous period was well implemented – 18 of the 20 foreseen tasks were successfully

completed. In the first six-monthly review of the 2017-2021 plan, good progress was reported in the implementation of the set tasks, in particular in the organisation of 180 security forums across Kosovo, and in the revision and amendment of Standard Operating Procedures related to the Community Policing Strategy.

A significant element of community policing is creating dialogue between the authorities, police and the community. This dialogue is carried out through various security forums. Municipal Community Safety Councils are chaired by municipal mayors and attended by the police and a range of community actors. These councils have been established in 34 out of 38 municipalities in Kosovo, but are yet to be formed in northern Kosovo (in the municipalities of Leposavić/Leposaviq, Mitrovica North, Zubin Potok and Zvečan/Zveçan). Local Public Safety Committees are attended by the KP and community representatives; they aim to address problems in a particular local community. Sixty-one such committees were operating as of June 2017. Furthermore, 35 Community Action Safety Teams – voluntary mechanisms aimed at improving communication between the community and the police – are in place.

While commitment is high, the full and effective implementation of the community-policing concept requires additional funds for equipment and vehicles, as well as an increase of staff working at the station level.

## POLICE COOPERATION AGREEMENTS

The KP has made good progress in its cooperation with various law-enforcement agencies outside Kosovo. Between October 2016 and June 2017, the total number of technical, bilateral and multilateral agreements on police cooperation increased from 70 to 74, with agreements formed in the following areas:

- 27 cooperation agreements formed in the area of investigations with 17 countries, including some EU member states, the U.S.A. and Switzerland;
- 9 Memorandums of Understanding in the field of operations, out of which 8 are with Albania and 1 with Croatia;
- 28 cooperation agreements in the area of Border Police, 15 of which are with Albania;
- 10 cooperation agreements have been formed with EULEX.

*The KP's cooperation with law-enforcement agencies on an international level is crucial for improving its effectiveness in fighting transnational crime. Since Kosovo is not yet part of any major international law-enforcement organisation, such as EUROPOL or INTERPOL, establishing bilateral and multilateral agreements and cross-border dialogue helps Kosovo to be more engaged in the field of transnational crime.*

The KP is fully capable of engaging with third-party states to negotiate further agreements, and thus no longer requires assistance in facilitating future agreements. Kosovo's main challenge in this area, however, is in gaining membership in EUROPOL and INTERPOL – due to its legal status so far it has been unable to do so. This affects the KP's capacities and effectiveness in fighting transnational organised crime. For this reason, EULEX continues to manage contacts with EUROPOL while the United Nations Mission in Kosovo facilitates police matters with INTERPOL.

## INTELLIGENCE-LED POLICING

The Intelligence-Led Policing (ILP) model as a methodological approach for information analysis by the KP is still in its early stage of usage. The KP has adopted a fairly adequate concept of ILP, although lacking manpower and specific managerial guidance to ensure constant and updated reporting. While training has been provided by EULEX in previous years, the intelligence reports prepared by the KP remain below expectations and need improvement both in terms of quantity and content. The Kosovo Police Information System is fully in place across the organisation, although additional training is necessary for assigned staff to be able to fully utilise the system.

*ILP is a strategic and systematic approach to solving crime. The methodology of ILP is to analytically decipher crime data in order to determine the best resources to be used for deterring and eliminating crime.*

The KP has been developing its ILP methodologies internally and published a revised ILP manual in 2016. As the current ILP processes are not being used as a decision-making tool, the adoption of a revised process would allow the establishment of a fully functional system, as well as to better identify serious offenses such as hate crimes, or sexual and gender-based violence.

There is currently an insufficient number of personnel dedicated to ILP tasks, hence some information is delayed or at times not fully reported.

Analysts are also assigned additional duties or may lack some necessary skills. In some stations, ILP commanders have no officers available to gather information because they have been fully directed to other duties.

The Kosovo Police Information System – an advanced case-management database – is an important tool for successful ILP implementation as it is key in the collection, recording and analysis of intelligence information. Officers dedicated to using the system are in place at the central, regional as well as local police-station level, while IT equipment and necessary software are adequate and up-to-date. However, many officers at station level need additional training on the use of the system and, in many cases, even on basic IT knowledge. Out of 1,800 Kosovo Border Police officers who were provided with a login and password, only 1,100 were assessed as being capable of entering the system. In order to expedite the full implementation of the system, EULEX recommended the inclusion of relevant IT training in the curricula of the Police Academy and the simplification of the authorisation procedure on the use of the Information System.

Intelligence-based reporting remains at a low level despite attempts made by EULEX in 2015 and 2016 to train the KP in five of the eight police regions. Assessments indicate that the project had a temporary and inconsistent impact as the use of ILP reporting across Kosovo has decreased in the past year.

## SPECIALISED UNITS & QUICK RESPONSE TEAMS

The KP Division of Specialised Units maintains a consistently high performance in operations as diverse as providing crowd and riot control, public order operations, VIP security and special police operations. The sub-units (except the Canine Unit) of the Division are generally sufficiently equipped and well trained, performing at the same level as similar units in EU countries. In March 2017, the Division initiated a proposal for reorganising its Special Operations Unit to increase its efficiency and effectiveness in facing terrorist threats and other phenomena affecting public order and security. With EULEX support, the Division is currently developing a doctrine for policing major events, thereby addressing identified gaps.

The Specialised Units are located near Pristina International Airport, which is located 17 kilometres outside the centre of Pristina, leading to long dispatch times when responding to emergencies in Kosovo's largest city. In anticipation of the departure of the Portuguese Kosovo Force (KFOR) Unit from its camp in the centre of Pristina at the end of 2016, the KP made a request for the camp to be allocated to the Specialised Units. Relocating the Unit closer to Pristina would significantly shorten reaction times into the city, as well as enabling the unit to deploy to any larger city within an hour, since the Camp is located next to a hub of major motorways. The ability of the Specialised Units to respond quickly is often of vital importance to their work, particularly in cases of critical and still-unfolding incidents.

In addition to the Special Operations Unit within the Division, a second echelon of intervention units is also located in Regional Police Directorates across Kosovo, called Quick Response Teams. A EULEX-initiated assessment carried out in February 2017 found



serious shortcomings in the management and equipment of these units. The teams are often assigned tasks outside their intended scope of work, while in some regions they lack even basic equipment. Meanwhile, the commanders assigned to these units lack the necessary management skills. The KP has made little progress in addressing these and other identified gaps.

## RELIGIOUS AND CULTURAL HERITAGE UNIT

Reports of cases of theft, arson, and vandalism of property of religious and cultural heritage sites were recorded at a somewhat lower level in comparison to previous years (see graph below). Nevertheless, the number and nature of incidents indicates a continuous need to secure such sites, as well as ensuring

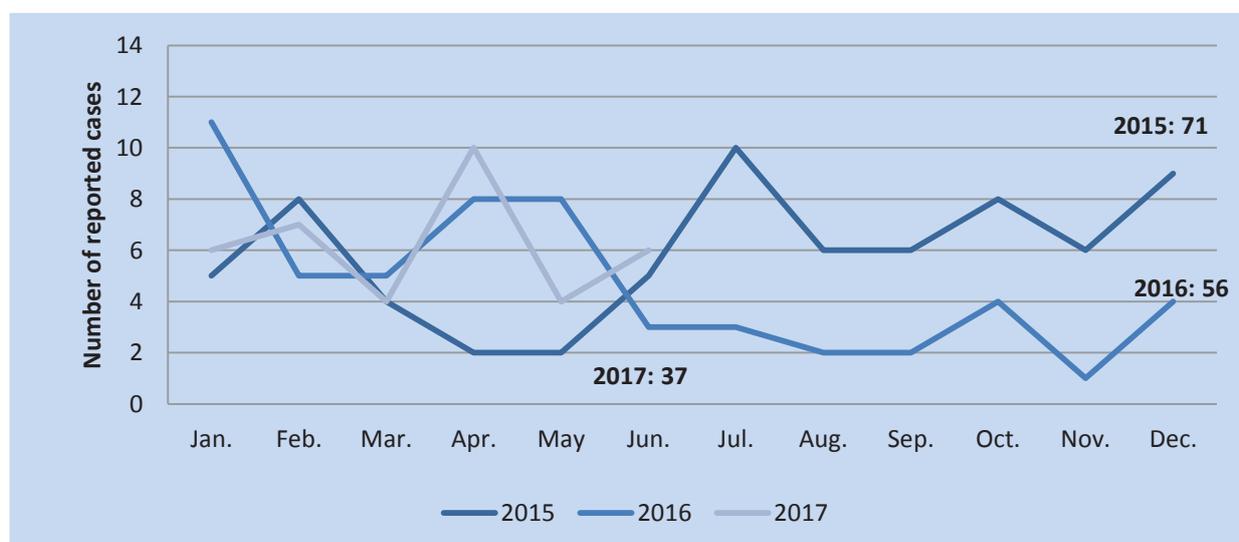
*The KP Religious and Cultural Heritage Unit was established in March 2013 as an outcome of the EU-facilitated Dialogue. The 200-member unit secures 24 religious and cultural heritage sites in Kosovo, mainly belonging to the Serbian Orthodox Church, with a 24/7 presence of police officers at static points. EULEX advisors have supported the establishment and development of the unit through continuous monitoring, mentoring and advising.*

that the Religious and Cultural Heritage Unit effectively patrols graveyards frequently subject to vandalism or theft. At the same time, the level of incidents reported at the 24 sites protected by the Religious and Cultural Heritage Unit has remained low, with a total of only four registered incidents in the reporting period. The unit has continued to perform to a satisfactory level, accomplishing its tasks with professionalism and competence.

Only one complaint against the unit was filed by a Serbian Orthodox Church representative in the reporting period. An investigation was initiated, resulting in the expulsion of one KP officer. This isolated incident did not affect cooperation between the Church and the KP, but has rather illustrated the serious and professional approach of the Religious and Cultural Heritage Unit in dealing with such incidents. The Unit Commander has proactively continued to

enhance the coordination of the unit's activities with all organisational units of the KP, as well as having further developed and improved the unit's cooperation with representatives of all religious communities.

Since its establishment in 2013, the unit has reached full operational capacity, and has seen only sporadic incidents at the sites it has been securing over the past few years. Thus, the unit currently requires only residual monitoring, monitoring and advising input from EULEX.



*Graph: Incidents reported at religious and cultural heritage sites outside the scope of the Religious and Cultural Heritage Unit*

## KOSOVO POLICE IN NORTHERN KOSOVO

The KP in northern Kosovo continues to operate in a complex political environment with many remaining internal and external factors hindering it from further developing its policing practices – continuous political interference and a limited access to judicial mechanisms in northern Kosovo remain as overarching obstacles. Without remedy to these obstacles, the Regional Command North will continue to be limited in its ability to shape its engagement and develop in line with European standards.

The KP has continued to provide mainly reactive policing services to residents in northern Kosovo. While EULEX police advisors have encouraged a more proactive approach of the KP in a number of cases and have seen certain positive steps, the KP needs to engage further in this area. The KP's response to the frequent fights between groups of Kosovo Albanian and Kosovo Serb youngsters in Mitrovica North in the first half of 2017 illustrates this currently rather reactive approach to policing. The incidents began occurring in February and have since continued on a near weekly basis, becoming a source of worry amongst residents in town. The KP responded to the incidents by increasing its presence, deploying multi-ethnic patrols and also plainclothes police officers to areas where the incidents had been occurring most frequently.

A more proactive approach by the KP may have included: forming a specific working group to deal with connected cases; increasing collaboration and contact with the public prosecutor's office; informing residents more effectively through better use of media; and by working more closely with the municipality.

Cooperation between the KP Regional Police Directorates Mitrovica North and Mitrovica South, and their respective stations, as well as between the Regional Directorate North and the General Police Directorate in Pristina needs to improve further. The reporting period saw a significant number of politically sensitive events and incidents, such as the revitalisation works on the main bridge, the removal of the "wall" near the entrance to the bridge in North Mitrovica, and the visit of the EU High Representative/Vice-President Mogherini to the main bridge. The nature and frequency of these developments have required close contact and coordination between the KP stations of Mitrovica North and Mitrovica South – during which their relationship has developed positively over time. However, contact still takes place on an *ad hoc* basis, rather than through established regular meetings, and on a limited number of topics. In contrast, relations between the KP Regional Command North and the General Police Directorate in Pristina have taken a turn for the worse. The central level has in several instances deployed staff to northern Kosovo without informing the KP leadership in the region, while the

*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.*

Regional Police Directorate failed to carry out a direct order from the central level. The apparent lack of trust between the KP Regional Command North and the General Police Directorate in Pristina is an obstacle to further progress.

On a more positive note, in the planning of operations, such as the removal of the “wall” near the entrance to the main bridge in North Mitrovica in January 2017, or in advance of elections in the first half of 2017, the KP in northern Kosovo has consistently prepared adequate operational plans. These plans were prepared in accordance with the overall instructions provided by the central level, with the proper allocation of staff and identified locations for the planned operations. Certain room for improvement remains in the drafting of these plans as they remain too generic and overly emphasise applicable legislation, rather than focusing on describing the planned intervention itself and the tasks to be carried out.



*Photo: Regional Police Directorate Mitrovica North*

## POLICE INSPECTORATE OF KOSOVO

As the Police Inspectorate of Kosovo (PIK) is crucial for police accountability, it has been working on achieving full operational capacity in terms of human and financial resources. After budget cuts in previous years, PIK managed to secure a budget increase for 2017. This allowed PIK to recruit and train four department directors, and 23 additional staff members, thus addressing the 20% staffing gap in PIK. Furthermore, the organisational restructuring undertaken by the PIK Chief Executive Officer, as well as the signing and entering into force of two Administrative Instructions<sup>1</sup>, provided the legal ground to open the abovementioned vacancies and merge two PIK departments into one. While the selection process of four department directors finished in March 2017, the recruitment of 23 staff members has been postponed due to delays in budget allocation. Given that the entire increase of the 2017 budget has been spent on new recruits and training, the second phase of regionalisation in the form of establishing three additional regional offices has also been postponed. Meanwhile, the PIK regional offices that opened in Mitrovica North, Gjilan/Gnjilane and Prizren in 2015 are functioning with only one officer each, limiting their work mainly to the collection of complaints. These offices are also underequipped and lack official vehicles.

*The Police Inspectorate of Kosovo (PIK) is an executive agency established under the Ministry of Internal Affairs. It is independent from the KP and is 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 such as corruption or the violation of human rights. While the agency was supposed to be fully operational as of June 2011, PIK still faces many challenges in reaching its full functionality.*

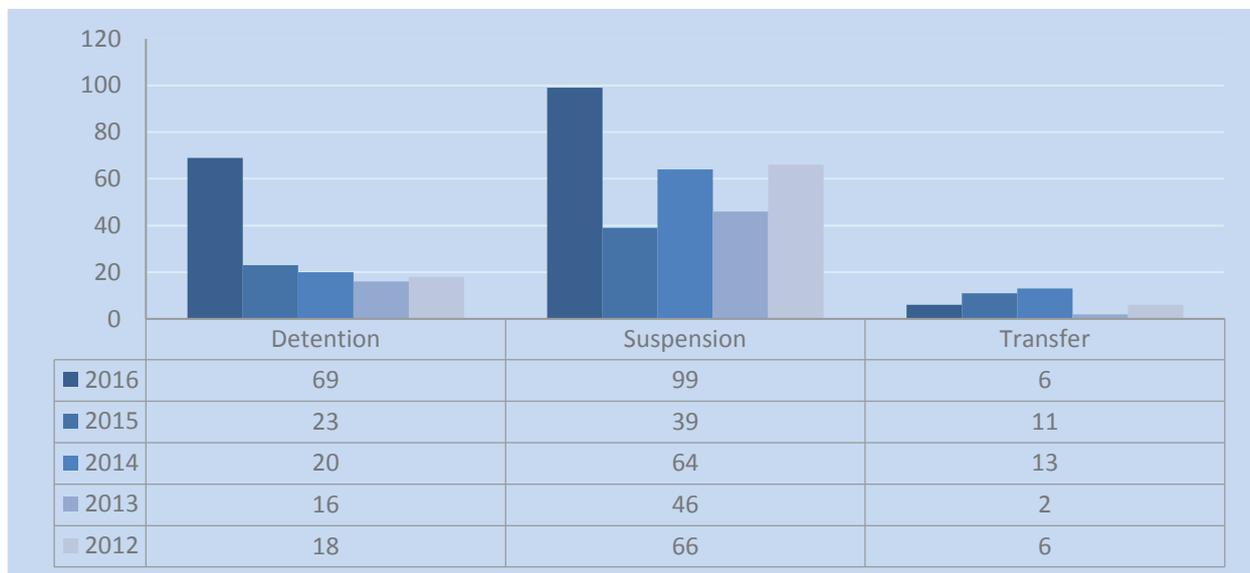
The operational capacity of PIK is very much dependent on its cooperation with the KP, the prosecution and the judiciary. Improving its coordination with these institutions has been a core activity of PIK. Inter-institutional cooperation between PIK and the KP has always been challenging and relatively poor. A recent example of this is their disagreement over a group of 59 police officers arrested in December 2016, suspected of abuse of official duty and bribery. In this case, the KP was reluctant to promptly take disciplinary measures against the commanders of the four involved stations where the police officers were employed. The KP ultimately transferred four senior officers from these stations in March 2017, but only after the international community intervened in the matter. It is also a general concern that the KP is unwilling to share information on reprisals made against KP officers who, as an outcome of PIK investigations, have been found guilty in the court of law. Meanwhile, the cooperation of PIK with the prosecution and the judiciary is still not at a desirable level. Prosecutors are reluctant to pursue cases against especially high-ranking KP officers, while the courts issue verdicts based on PIK investigations at a low rate. Thus, the courts need to give more priority than currently to PIK cases, while a special focus needs to be placed on major crimes committed by police officers, with verdicts meaningfully implemented.

<sup>1</sup> Administrative Instruction (AI) No. 15/2015 (Ministry of Internal Affairs) on Procedures related to PIK employee's work and employment criteria as well as AI No. 02/2011 on the Internal Organizational Structure of PIK.

The procedure for amending the *Law on Police Inspectorate of Kosovo* is still at a stalemate. Proposed changes were initially intended to regulate and change a number of provisions and functions provided in the law, especially on the types of employment within PIK. Although PIK proposed new amendments in line with EULEX recommendations, and were endorsed by the Ministry of Internal Affairs, the draft law was not included in the Government Legislative Program for 2017. This stalemate further complicates the procedure on the draft *Law on pensions for police officials of Kosovo Police and the employees of Kosovo Police Inspectorate with police powers*, as these two pieces of legislation still need to be harmonised.

Having recognised the need to raise public awareness about PIK, the agency held workshops and roundtables in cooperation with universities and non-governmental organisations in the municipalities of northern Kosovo, in Gjilan/Gnjilane and Prizren, explaining the role and tasks of PIK, its complaints mechanisms and the rights of the public. The events aimed to improve the public’s understanding of PIK’s mandate as it is often confused with being part of the KP, rather than an independent structure under the Ministry of Internal Affairs.

According to PIK’s 2016 Annual Report, there were 1,362 complaints on potential police misconduct recorded, a 9.2% increase from 2015. This number is expected to rise in 2017 as result of recent public awareness events held across Kosovo. Of the complaints received, PIK has undertaken the following measures: 69 detentions, 99 recommendations for suspension, and six recommendations for transfer (see graph below). The most frequently investigated types of cases are related to endangering traffic, misuse of official position or authority, and causing light bodily injury.

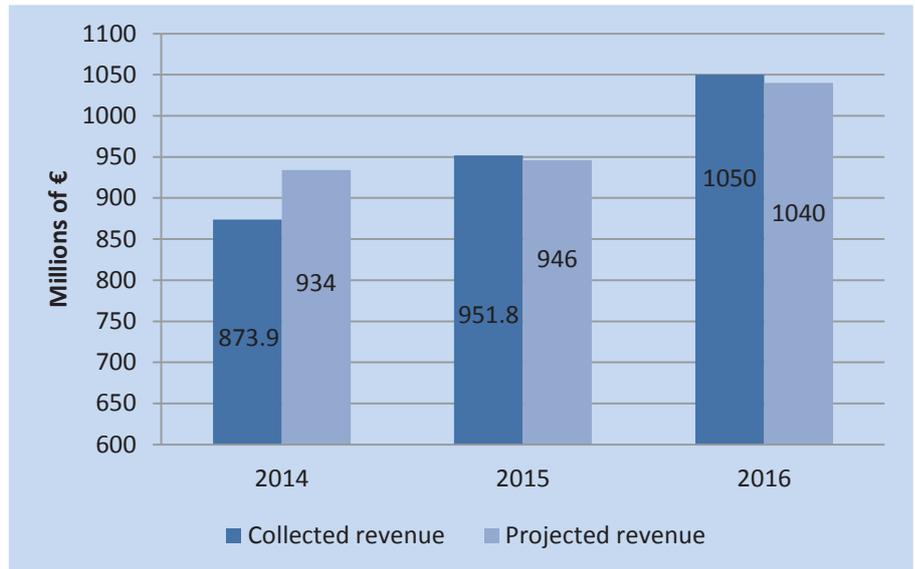


Graph: PIK measures and recommendations, 2012-2016

## KOSOVO CUSTOMS & KOSOVO BORDER POLICE

The Kosovo Customs reached a new record in revenue collection in 2016, which was 8.4% higher compared to 2015 and just over the 2016 target figure set by the Kosovo Government of €1.04 billion.

Revenue collection in the first half of 2017 continued to exceed expectations, with an increase of 3.8% in comparison to the previous year. This achievement is mainly attributed to the Kosovo Customs' introduction of new reforms, improved procedures with enhanced compliance of applicable laws, together with a number of anti-corruption measures. This record in revenue collection is even more



Graph: Revenue collection over a three-year period

remarkable when considering that the Kosovo Customs lost a total of €48 million in 2016 as a result of Kosovo signing the Stabilisation and Association Agreement<sup>2</sup> and other fiscal policy decisions.

The Kosovo Customs Enforcement Department, with its anti-smuggling, intelligence and investigation units, continued to produce positive results. During the course of 2016, Kosovo Customs brought 80 criminal charges against 164 persons for customs offences (evasion of duty totalling €2.5 million) and discovered over 350 kilograms of narcotics. Seizures of goods, such as 7.5 million cigarettes, 200 kilograms of tobacco, 300 illegal gaming machines, 30 vehicles (many with false registration plates), together with a number of firearm detections were also recorded. In addition, the Kosovo Customs has broken up three organised crime groups, involving 70 people. The Kosovo Customs, the KP and the Tax Administration of Kosovo have carried out joint operations, demonstrating a major improvement in the working practices and professionalism of, in particular, the Kosovo Customs Enforcement Department. Furthermore, the joint work undertaken with the KP is a positive indication of inter-agency cooperation in the fight against cross-border and organised crime.

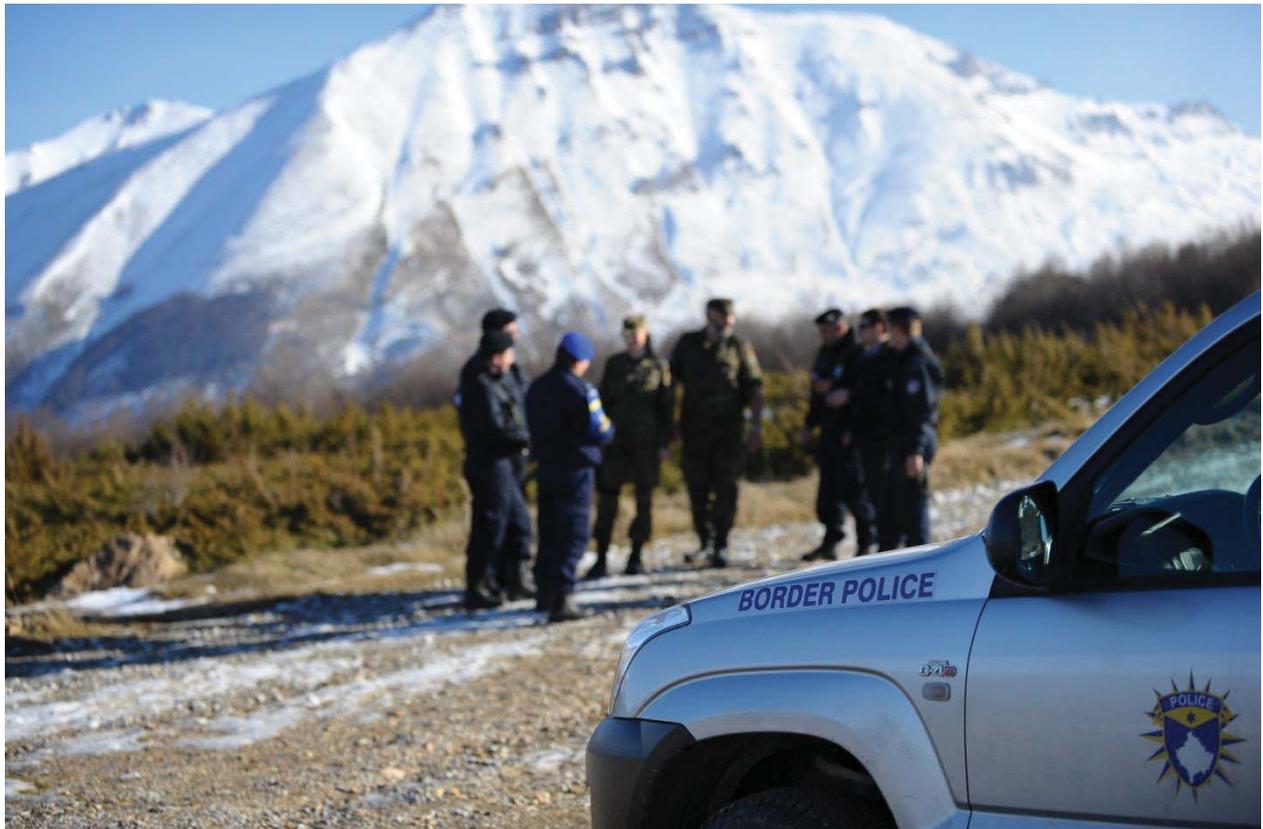
<sup>2</sup> The Stabilisation and Association Agreement is foreseen to successively establish free trade between Kosovo and EU member states. As a direct effect, customs revenue is foreseen to decrease on an annual basis for a five-year period.

Significant accomplishments in the area of Kosovo's border management took place in the context of international relations: Kosovo Customs was included as the newest member of the World Customs

*FRONTEX is the European Border and Coast Guard Agency, mandated to promote, coordinate and develop European border management in line with the EU fundamental rights charter and the concept of Integrated Border Management.*

Organization (181<sup>st</sup> Member) in March 2017. Furthermore, following the signing of a Working Arrangement on establishing operational cooperation between FRONTEX and Kosovo in May 2016, FRONTEX invited representatives of the Kosovo Border Police to participate in joint operations as observers. In March and April 2017, Kosovo Border Police deployed two officers in joint operation as observers with FRONTEX at the EU external border, additionally; two Kosovo Border Police officers from Pristina

International Airport were deployed as observers at two different EU International Airports (Vienna and Ljubljana).



# JUSTICE



## MONITORING OF SELECTED KOSOVO CASES

EULEX monitored cases selected through three different channels: (1) 199 cases that were handed over by EULEX to local counterparts between July 2016 and June 2017; (2) 10 cases where an external complaint has been filed with EULEX; (3) 38 cases selected on the basis of thematic issues (gender, hate

*Certain cases which are no longer under EULEX competence as of 2014, or which are 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 some (not all) cases across Kosovo.*

crimes, PIK). The cases were monitored in seven Basic Courts located in Pristina, Prizren, Mitrovica, Ferizaj/Uroševac, Gjakovë/Đakovica, Gjilan/Gnjilane, Pejë/Peć, in some branch courts, and the Court of Appeals.

During the monitoring, EULEX advisors documented certain challenges and irregularities that affect Kosovo's rule-of-law sector and that keep resurfacing regardless of the type of case, the court level or the region.

The predominant challenge that remains is the delays in legal proceedings. These delays can happen for a number of reasons, including: cases are allocated at slow speeds; courts fail to schedule hearings within 15 days –or postpone scheduling at all; the hearings

are adjourned because of absent lawyers or last-minute replacement of prosecutors; forensic experts delay their reports without explanation; experts do not attend the hearings; judges and prosecutors are rotated (for promotion reasons or other) and cases are repeatedly handed over without any progress; and when cases are postponed for technical reasons. When it comes to criminal cases, on occasions when significant delays occur, this leads to the expiration of the statute of limitations and as a consequence, cases are closed without any rulings. This creates an unfortunate situation best summed up as “justice delayed is justice denied”.

Another persistent problem consists in poorly maintained court registries which result in difficulties in locating cases. For example, on one occasion in the registry of the Basic Prosecution Office Pristina, EULEX advisors were only able to locate three out of 51 cases recently transferred from EULEX Kosovo Special Prosecution Office (SPRK) to their local counterparts. Moreover, inconsistent pagination and structuring of case files create potential room for tampering with documents. An additional challenge comes from the practice that cases receive a new number when they return for re-trial, which leads to the artificial inflation of the number of pending cases and, hence, of the general backlog.

On certain occasions, advisors noticed a lack of space in court facilities for the court itself and for the general public, and the absence of sufficient furniture. Such inadequate space and equipment can impede the efficiency and delivery of justice. It should be noted, however, that the KJC – in cooperation with international partners – made significant efforts in recent years to upgrade and/or replace inadequate facilities, for example, by building new facilities for the Basic Court in Ferizaj/Uroševac and

Gjakovë/Đakovica. The difficult situation with the court facilities in the Mitrovica region remains an outstanding issue.

A long-lasting source of concern has been systematic violations of the *Law on the use of official languages* in judicial proceedings, when courts fail to provide adequate translation services for non-Albanian speaking parties. This leads to situations where a party is presented with documents in a language it does not understand but is still required to sign.

A separate problem is the poor handling of potential hate crimes. The Kosovo Criminal Code includes a special provision for hate crime as an aggravating form of other criminal offences; however prosecutorial and adjudicating authorities appear reluctant to take into consideration the hate motive of crimes and, as a result, potential hate crimes are not registered as such, leading to misleading statistics.

Finally, the rule-of-law sector suffers from poor coordination among its key institutions (for example, police and prosecution) and insufficient administrative and other support staff in courts and prosecution offices.

The EU family has been maintaining close communication with the relevant rule-of-law institutions such as the Ministry of Justice, the Kosovo Judicial Council (KJC) and the Kosovo Prosecutorial Council (KPC) to address these challenges. On a positive note, however, it should be noted that the local authorities processed transferred war-crime cases promptly and according to the highest standards.



## KOSOVO JUDICIAL COUNCIL & KOSOVO PROSECUTORIAL COUNCIL

During the reporting period, both councils faced numerous challenges related to the fulfilment of their constitutional and legal mandates. Both the KJC and the KPC need to enhance their capacities and resources to function fully independently and thus effectively diffuse perceptions of interference. However, progress can be noted. For example, in January 2017 the *Regulation on the Secretariat of the KPC* entered into force, ensuring the separation of the functions of the Office of the Chief State

*KJC and KPC are responsible for ensuring an independent, professional and impartial judicial and prosecutorial system. Both councils act independently from the executive – a measure taken to ensure the independence of the judiciary. KJC and KPC are responsible for the management of the entire judicial system.*

Prosecutor and the KPC. While progress has been made, especially with regard to the KPC, further efforts are needed to enhance the institutional sustainability of both councils.

Throughout the reporting period, the KJC administered the recruitment of judges for the Basic Courts (53 out of 61 vacancies were filled) and finalised the appointment of five Court Presidents, while the KPC completed the recruitment of 25 prosecutors for the Basic Prosecution Offices, the appointment of seven Chief Prosecutors of the Basic Prosecution, the Chief Prosecutor of the SPRK and the Appellate Prosecution Office, and initiated a new selection procedure for an additional 18 prosecutors at the Basic

Prosecution level in June 2017. Moreover, in March 2017 the KPC promoted three prosecutors to the SPRK. During the recruitment of new judges for the Basic Courts, the KJC faced a challenge of having an insufficient number of applicants and applied a measure of retroactively lowering the threshold of the qualifying test for the judges. This measure was later annulled following the advice of the EU family in order not to jeopardize the integrity and transparency of the selection process. The KPC on the other hand, managed its recruitment processes successfully throughout.

The selection procedures for the President of the Supreme Court and of the Court of Appeals were also conducted during the reporting period, the results of which appealed in the Constitutional Court. This was a significant development in the selection processes of managerial judicial positions. In June 2017, the Constitutional Court ruled the procedure used for the selection of the President of the Supreme Court as unconstitutional, requiring the KJC to change the procedure in order to guarantee that the selection process adheres to the principles of equality, merits, transparency and openness. By complying with the judgments, the KJC would improve the public's perception with regard to the selection process. Since the same procedure is used by both councils for the selection of many managerial positions, this decision may affect all selection procedures in the future, further improving the independence and impartiality of the judicial system.

An important step in increasing the accountability of judges and prosecutors was the preparation of the draft *Law on disciplinary liabilities for judges and prosecutors*.

Both councils have been working on the adoption of secondary legislation, i.e. regulations, following the EU requirements set in the “2015 Justice Package”. The KPC managed to draft all regulations required by the package. For the KJC there are still some regulations to be adopted, most of them still being prepared at the time this report was being drafted. Both councils continue to proactively identify areas that need secondary legislation and continue adopting other relevant regulations beyond the “2015 Justice Package”.

The Normative Committees of both councils and their Secretariats (which are in charge of drafting regulations) need to enhance the capacities of their staff to be able to independently draft secondary legislation with sufficient quality and in compliance with international standards. Furthermore, the effective implementation of already adopted regulations by the KJC and the KPC needs serious attention.

The amendments to the “2015 Justice Package” required deep structural reforms which challenged the process of achieving full institutional sustainability for both councils. For example, the almost complete change of the KJC and KPC membership in 2016, as well as the Chairs and the Directors of Secretariats of the two institutions (following the new regulatory framework and the expirations of mandates of KJC members) led to challenges, and as a side effect, the loss of institutional memory of institutional processes, procedures, standards and practices acquired during the previous tenure. Both councils took measures to overcome this challenge. The KPC, by operating with only 10 members, continues to face the risk of not meeting the quorum of nine, due to the fact that it is still awaiting the appointment of three non-prosecutorial members by the Kosovo Assembly. Both the KJC and the KPC suffer from insufficient funding. Consequently, to use the budget in an effective manner, the KPC has amended the administrative directive on representation expenses.

On a positive note it can also be noted that the KPC has improved its planning process by implementing the practice of work plans at every level. This entirely local-driven initiative gave an important impetus to the KPC which by June 2017 had already carried out 30% of the planned activities. Moreover, the KPC established *ad hoc* committees and units to deal with priority crimes (i.e. corruption, economic crimes) and ensured that translation and video-conferencing equipment was installed in almost every Prosecution Office<sup>3</sup>.

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<sup>3</sup> With the exception of the Basic Prosecution Office Gjakovë/Đakovica and Basic Prosecution Office Mitrovica.

## ADOPTED REGULATIONS<sup>4</sup>

### KJC

- on transfer and assignment of judges
- on amendments to the regulation on performance evaluation of judges
- on amending and supplementing of regulation on procedures for selection, appointment, evaluation, suspension and dismissal from office of the president judges and supervisory judges
- on selection, appointment and dismissal from the office of the Director of the KJC Secretariat
- on unification of court fees
- on amending and supplementing of regulation on procedures on role and mandate of Managing Board of CMIS project

### KPC

- on disciplinary procedure for KPC members
- on Chief Prosecutors appointment
- on activities internal organization and systematization of jobs in the KPC Secretariat
- on amending and supplementing regulation on election of Chairperson and deputy Chairperson of the Council
- on amending regulation on the Steering Board of the ICT-CMIS Project
- on the Committee for administration of prosecution offices
- on the classification of information
- on the committee for budget, finance and personnel

## REGULATIONS IN PREPARATION

### KJC

- on lay judges
- on amendments to the regulation on internal organization of courts
- on amending and supplementing of regulation on procedures for selection, appointment, evaluation, suspension and dismissal from office of the president of judges and supervisory judges
- on engagement of officials, technical support and other necessary procedures for the implementation of the mandate of the Commissioner
- on the General Assembly of the Supreme Court
- on the Assembly of the court presidents
- on policies and standards on the training of judges, lay judges and other judicial staff;

### KPC

- on archive
- on the access to public documents
- on transfer, storage and distribution of classified information
- on personal data protection

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<sup>4</sup> Covering the reporting period of July 2016 to June 2017 and not limited to the regulations stemming from the 2015 Justice Package.

## SPECIAL CHAMBER OF SUPREME COURT

The Special Chamber of the Supreme Court (SCSC) continued adjudicating cases in mixed panels with local majorities. From July 2016 to June 2017, the SCSC resolved 2,182 cases, which is a similar result to the adjudication rate in previous years. The SCSC was meanwhile able to find a balance between incoming claims and outgoing judgements or procedural decisions. This has been a challenge since 2013 when its workload increased immensely because of the huge number of incoming liquidation claims. However, since the Chamber is still accepting new claims on a daily basis, its backlog number remains high (21,001 claims as of June 2017).

*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.*

SCSC achieved significant progress in dealing with the translation backlog, which was reduced by 70% during the abovementioned period thanks to structural changes in the EULEX language unit as well as outsourcing the translation of documents from the case backlog. By mid-2017, 5,068 pages were left to be translated (between Albanian, Serbian and English).

The SCSC followed up on the recommendations of the Ombudsperson by answering requests on how to enhance the performance of the Court. In addition, a questionnaire was distributed among the SCSC employees to identify obstacles within the Court and to develop a strategy to increase efficiency in daily case-management and the processing of cases. In this regard, a working group has been established and is expected to become operational soon. EULEX judges continued providing peer-to-peer support to their local counterparts who have been gradually taking over competences since the restructuring of EULEX's engagement in 2014.

The potential phasing out of EULEX from the SCSC requires extensive discussion and a coherent transition strategy which would address both necessary amendments to the law on the SCSC as well as the lack of qualified local candidates. EULEX judges are ready to engage in the relevant working group run by the Ministry of Justice and to provide their expertise.

There is a pressing need to improve the work of the Registry which urgently needs to implement a proper and sustainable case-management system. Files are difficult to locate at the Registry premises, and the available case files – among other issues – continue suffering from inconsistent case administration and a lack of proper pagination. Moreover, the Privatisation Agency of Kosovo (PAK) often interferes with judicial procedures, which raises concerns given that PAK is usually a party to the claim. Hence, there is an ever-persistent need to enforce the separation of powers. Finally, the issue of insufficient legal and professional education in Kosovo continues to be a challenge for the SCSC because many legal professionals lack the legal capacity and requisite skills to, on the one hand, competently represent clients, and, on the other hand, to process and adjudicate cases lawfully.

## KOSOVO PROPERTY AGENCY APPEALS PANEL

The Kosovo Property Agency (KPA) Appeals Panel continued adjudicating appeals, closing a total number of 160 cases for the period covered in this report. Under the new EULEX mandate, the KPA Appeals Panel started adjudicating cases in mixed panels with local majorities (one EULEX judge and two local

*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 appeals are contested cases between different ethnic groups (Kosovo Albanians/Kosovo Serbs).*

judges) with a presiding local judge. The total number of EULEX judges was reduced to two. Since the number of local judges was not increased accordingly, this affected the efficiency of the KPA Appeals Panel which was no longer able to work in two panels at the same time. The Panel is trying to maintain its adjudication speed and is working hard to reduce the backlog of cases, standing at 281 claims as of June 2017.

The presiding local judge was foreseen to retire in early July 2017. While this vacancy has not been filled yet, the Acting President of the Supreme Court appointed three judges to temporarily replace the retired judge on a monthly rotation basis until the vacancy is filled.

One of the dormant challenges of the KPA Appeals Panel is the fact that around 1,236 of the initial KPA decisions (to which the parties can appeal within the KPA Appeals Panel) cannot be served since many Kosovo Serbs have moved out of Kosovo. Although the panel deals with a very particular type of property disputes limited to one conflict (more specifically the period from February 1998 to June 1999), it may have to remain functioning until all initial KPA decisions are served. Hence, in order to close all property disputes related to the 1999 conflict, there is a need to establish a mechanism that tracks the parties to the claims and delivers the decisions.



## KOSOVO CORRECTIONAL SERVICE

The Kosovo Correctional Service (KCS) has achieved little progress in its development towards EU standards as it continues to be hampered by persistent interference. The preferential treatment of high-profile inmates, inadequate assessment and categorisation of inmates, as well as the radicalisation of prisoners remain significant challenges. Meanwhile, certain progress has been made in improving prisoner escorts and the proper placement of inmates in correctional facilities.

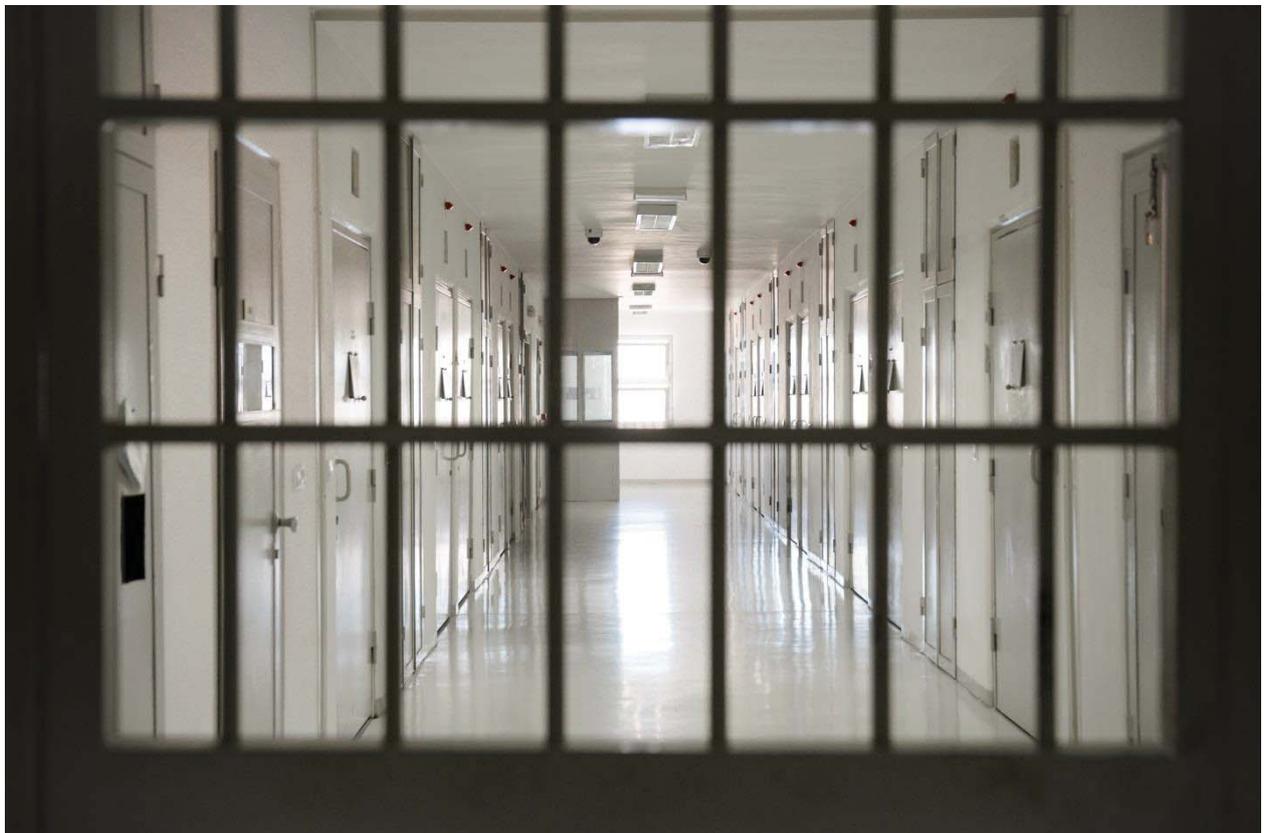
The preferential treatment of high-profile inmates remains a major challenge in corrections. High-profile inmates are subject to relaxed imprisonment conditions, frequent home and extraordinary leaves, extra food parcels in comparison to other inmates, and are categorised in a non-standardised way favourable to them. The processes observed in the repeated granting of long-term hospitalisations as well as in one case of suspension of a sentence for medical reasons – specifically of high-profile inmates – have raised serious concerns. An improvement was noted in this regard after the new Minister of Justice assumed her post in August 2016, as she promptly revoked all eight suspensions of sentences made on medical grounds pending from the previous administration. Furthermore, changes in the *Law on execution of criminal/penal sanctions* came into effect at the end of May 2017, transferring the decision-making on the suspension of sentences on medical grounds from the Ministry of Justice to the judiciary. While the amended law limits the potential for political interference, EULEX will continue to monitor so that the implementation of decisions is fair and shows equity amongst all inmates.

The process of categorisation of inmates remains deficient as it is conducted mainly on the basis of visible behaviour and absence of additional pending charges. The regulation on the categorisation of inmates continues to be violated as insufficient attention is given to the criminal backgrounds of the inmates. As a result, this enables them to continue criminal activities during incarceration, and allows them to politically influence other inmates, correctional staff and external parties. The KCS has also not been able to properly categorise any high-profile inmates without external pressure from the international community. When proper categorisation has been carried out, high-profile inmates have eventually been downgraded again at periodic reviews of their categorisation due to continuous political pressure on the KCS. The downgrading of two high-profile inmates in January and April of 2017 – against EULEX's advice – are recent examples of this.

The radicalisation of inmates is a worrying phenomenon amongst inmates housed in the KCS facilities as convicted terrorists and radicalised inmates have influence over other prisoners. The risk of radicalisation spreading is greatest at the Dubrava Correctional Centre as inmates there have many possibilities of socialising and working together. Given that it is a correctional centre, the level of control over inmates is lower than in detention centres or at the Podujevë/Podujevo High Security Prison. The KCS has responded to the problem by relocating some radicalised inmates into separate wings to reduce contacts and influence on other inmates, and by carrying out raids to confiscate sensitive material. While the KCS has shown a serious approach to countering the problem, further support is needed to sustain de-radicalisation measures within KCS facilities.

The KCS has taken certain positive steps in the area of prisoner escorts, as staff have more consistently complied with the rules and regulations. However, many security gaps and irregularities still remain. There are continuous concerns regarding the inappropriate use of blue lights, dangerous driving, lack of use of seat belts, and the poor technical condition of vehicles used for escorts. Meanwhile, escort officers need refresher training in the use of force and firearms, and first aid. More work has to be done regarding the proper handling of medical records and test samples, making reservations for doctors' appointments in advance, specifying the responsibilities of the medical and correctional staff during hospital escorts, enhancing the preparations and planning of these escorts, and assigning more resources to conduct them. This also concerns the security provided to hospitalised inmates. Given that the newly refurbished secure rooms at the former Psychiatric Ward of the University Clinical Centre of Kosovo have not been put to use due to the reluctance of medical personnel, the KCS is instead obliged to secure regular hospital wards with a heavy KCS presence to prevent inmates from escaping.

With the placement of five inmates (two Kosovo Serb, one Montenegrin, one Bosnian and one Serbian citizen) at the High Security Prison in Podujevë/Podujevo as of November 2016, the KCS has taken a step towards appropriate placement of inmates in facilities in accordance with risk and needs assessments. However, the reintegration of Kosovo Albanian staff and inmates at the Mitrovica Detention Centre remains pending.



## INSTITUTE OF FORENSIC MEDICINE

The Institute of Forensic Medicine (IFM) is responsible for providing forensic medicine and medical death investigation expertise. This includes the search for missing persons stemming from the 1999 conflict,<sup>5</sup> exhuming human remains and returning the remains to their families.

By the end of the period covered in this report, 1,659 persons remained missing as a consequence of the conflict. The IFM works intensively to locate and identify areas where remaining bodies might be found. Between July 2016 and June 2017, 17 sites were excavated in Kosovo. Nine field operations resulted in 16 cases of human remains exhumed in different locations. The latest site assessment in Kiževak, Serbia finished in June 2017. As a result of these processes, eight persons were identified during the reporting period.

The IFM has continued facing challenges in reaching its full functionality on both the strategic and operational level. Some progress was made on the strategic level:

following the adoption of the *Law on Forensic Medicine* in March 2016, the Department of Forensic Medicine (then located under the Ministry of Justice) was transformed into the Institute of Forensic Medicine. This was a step forward in creating an independent agency free from undue interference. It was followed by the drafting of secondary legislation which still needs to be finalised and adopted. Much work remains ahead to strengthen the IFM as an institution, including a transparent and merit-based selection of a new director, acquiring a much needed increase in funding, as well as finalising and executing a new organisational chart in line with the recent legislative changes.

On the operational level, the capacity of staff remains low. Efforts to strengthen the internal capacity of the institute have been made through internal and external training. For example, two prospective forensic anthropologists received on-the-job-training by EULEX on cases connected to field work, while two staff members took part in an online theoretical training on basic forensic anthropology, provided by the University of Leicester. The Institute faces challenges in reducing the severe backlog of unfinished

**Excavations took place** in Prizren, Pristina, Mitrovica North, Leposavić/Leposaviq, Glogovac/Glogovac, Zubin Potok, Kačanik/Kaçanik, Deçan/Dečani, Malishevë/Mališevo, Klinë/Klina and Skenderaj/Srbica.

### **Statistics on Missing Persons**

- Total number of active cases: 1,659
- Number of cases reported missing: 1,395
- Number of cases reported as dead but body missing: 264

**Divided by sex:** Female 266; Male 1,393

Total number of persons for whom a Tracing Request was opened with the International Committee of the Red Cross by the families: 6,055

*\*The information provided in this box is provided by the International Committee of the Red Cross in July 2017.*

<sup>5</sup> The IFM mandate covers the period 1 January 1998 – 31 December 2000.

autopsy reports and clinical examination reports, putting the progress of criminal investigations at risk as necessary evidence is missing. A concerted effort between EULEX and the institute has been made to reduce the autopsy backlog through a clear identification and prioritisation of cases. Furthermore, given that the toxicology laboratory has started to deliver results, the backlog list is expected to significantly decrease by 2018. However, as the institute also still lacks a functional case-management system, it makes it very difficult to follow up on the progress of cases, as well as to establish reliable statistics.

In view of the challenges that the IFM encounters – and considering the tremendous importance of forensic medicine in the search of missing persons – much remains to be done to establish the IFM as a strong and efficient institute.



# DIALOGUE IMPLEMENTATION



## CIVIL REGISTRY

Significant progress has been achieved with the opening of the Civil Registration Offices in the four northern municipalities in December 2016. All four Offices have become operational, issuing IDs, passports, driver's licenses and vehicle registrations to residents. There has been an upward trend in the issuance of ID cards for Kosovo Serbs in particular (see graph below).

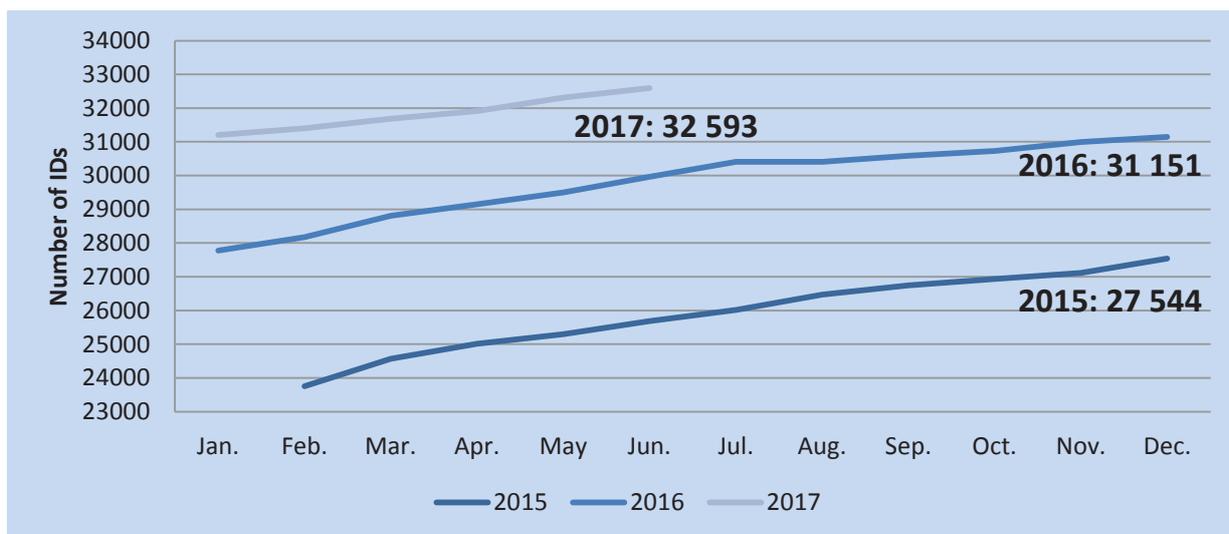


*Photo: Civil Registration Office in Zvečan/Zveçan municipality*

Meanwhile, further commitment is needed to establish fully functional Civil Status Offices in all four municipalities. These offices record personal data of temporary and permanent residents of Kosovo, such as birth, family status, death, and will therefore be essential for the registration of the population

*The agreement on Civil Registry Books between Pristina and Belgrade was reached in Brussels in 2011. EULEX then provided assistance to the Kosovo Civil Registration Agency to establish a fully reliable civil-status system. The Civil Status contains all relevant information on the different stages of a person's life, such as birth, marriage, or death. A reliable Civil Status is of crucial importance as it provides residents legal certainty, serves as a foundation for a reliable electoral system (including voter's lists), and is necessary for handling issues related to security, education, health and commerce.*

in the Kosovo framework. Limited services of this kind are currently available in Mitrovica North, while residents in the three other northern municipalities access civil registration services only through satellite offices at remote Kosovo Albanian-majority villages located in their municipalities. Delays in the adoption of an Administrative Instruction foreseen to amend the current prerequisites for obtaining Kosovo citizenship, as well as delays in the integration of 39 ex-MUP (Serbian Ministry of Interior) administrative staff expected to staff the Civil Status Offices are significant hindrances to establishing fully functional civil status and civil registration services in northern Kosovo.



Graph: Aggregate number of ID requests by Kosovo Serbs in northern Kosovo

The EU has supported the Civil Registration Agency in its efforts to enhance the reliability, sustainability and functionality of civil-status services in Kosovo. In December 2016, an EU-funded project on the digitalisation of certified copies of civil registry books was concluded, which completed the data entry for all 2,883,248 existing records. A follow-up project on data verification began in February 2017 and as of June, 55% of the existing records were verified. While previous and current projects took the process in the right direction, EULEX has continued to emphasise the need for a complete integration of data records in the central civil-status system – a real digitalisation of all data as foreseen during the 2011 EU-facilitated Dialogue.

Furthermore, the effective performance of the Civil Status and the Civil Registry depends on the arrangements and cooperation between numerous public administration and rule-of-law institutions. Although agreements have been signed to facilitate the implementation of common areas, meaningful cooperation is either slow or has not happened at all. Further political will is needed by the Kosovo authorities to advance the technical compatibility with the systems and registers, and improve legislation that covers areas of shared competence. The Kosovo authorities also still needs to address the numerous gaps that exist between current practices and the legal framework regulating the civil-registry area, in order to harmonise legislation and move closer to EU best practises.

## FREEDOM OF MOVEMENT

The 2011 Freedom of Movement agreement has been fully implemented in the south of Kosovo. In a follow-up meeting on the Freedom of Movement agreement in Brussels in September 2016, the two parties agreed that probation plates will no longer be issued at the Common Crossing Points (CCPs). Instead, stickers are foreseen to cover acronyms and coats of arms of vehicle license plates of Kosovo

*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. An important element of the agreement is that both Pristina and Belgrade have made the decision to allow travel through crossing points with the use of ID cards.*

and Serbia when traveling into either territory. The first batch of 300,000 stickers was procured through a fast-track procedure by Kosovo's Ministry of Internal Affairs, which are expected to be delivered in July 2017.

Meanwhile, the implementation of the remaining provisions foreseen in the follow-up agreement reached in September 2016 largely remains pending. In February 2017, the Prime Minister's Office issued a decision which approved all arrangements related to the finalisation of the follow-up agreement on Freedom of Movement. While the Ministry of Internal Affairs and the Minister without Portfolio focusing on the EU-facilitated Dialogue process have since held several meetings to determine the modalities of this decision, strong commitment is

necessary to move the process of implementation forward. As a result of EULEX's recommendations, in June 2017, the Ministry of Internal Affairs finalised the drafting of two Administrative Instructions, one which allows people to continue to register their vehicles with KS plates, and another to amend the current prerequisites for obtaining Kosovo citizenship (which in effect will facilitate the issuance of Kosovo documents). Due to the ongoing political uncertainty and dissolution of the government, no progress was made in adopting these, although the Prime Minister's Office issued a legal opinion stating that there were no legal constraints for the Minister of Internal Affairs to sign the draft Administrative Instructions. Furthermore, with the exception of some existing Kosovo bank branches in Mitrovica North, the facilities and infrastructure necessary to register vehicles in line with the Kosovo framework in the northern municipalities, such as Kosovo bank branches, technical inspection services, insurances branches, and driving schools are still missing and need to be established in order to fully extend the implementation of the Freedom of Movement agreement to the north.

The Ministry of Internal Affairs has made important progress in facilitating the re-registration of the remaining 1,239 vehicles with temporary registration plates, which were initially registered with KS plates after 1999. The validity of the KS plates expired in November 2016, but was extended for another five years, as agreed in Brussels in September 2016. As a result of EULEX's recommendations and based on the latest decision of the Minister of Internal Affairs, vehicle owners are exempt from paying customs fees for re-registering these vehicles. Thus, the process of replacement started in May 2017, with 449 plates replaced by June.

## IBM AGREEMENT

After months of delays, a ground-breaking ceremony for the construction of the first of six permanent IBM Common Crossing Points (CCPs) between Kosovo and Serbia was held at Merdarë/Merdare in February 2017. This marked an important event in terms of the Dialogue between Belgrade and Pristina, as it signified real progress in the process of establishing six permanent CCPs. The construction of CCP Merdarë/Merdare started in earnest at the end of February, while construction permits for the



*Photo: Ground-breaking ceremony of the Merdarë/Merdare CCP construction, ©EU Office in Kosovo/EUSR*

other two CCPs on the territory of Kosovo are still pending. Meanwhile, Belgrade has reported that their three CCPs will take 30 months to be completed from the signing of the Memorandum of Understanding with the United Nations Office for Project Services in Serbia.

The first separate bilateral meetings between Belgrade and Pristina were held with Border Police, Customs, and Phytosanitary and Veterinary Inspectorates. These meetings, promoted and facilitated by EULEX, were held both in Kosovo and Serbia and the spirit of cooperation was positive. The meetings were also very productive, with conclusions for further joint activities and increased cooperation being reached by the two sets of authorities.

With EULEX facilitation, the Systematic Electronic Exchange of Data (SEED) Technical Working Group was established in February 2017, consisting of customs representatives from Belgrade and Pristina, the SEED Maintenance Team and EULEX. The main objective of the Technical Working Group is to quickly resolve any issues in the clearance of commercial freight at the CCPs. The first meeting of the SEED Technical Group took place in March 2017, and can be considered as another significant development in the normalisation of relations between Pristina and Belgrade, as it established the first direct communication between customs representatives of the two parties to the Dialogue.

*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.*

## JUSTICE INTEGRATION

In the spirit of previous decisions, in summer 2016, KJC and KPC advertised positions of 14 judges, five prosecutors and 149 support staff positions for northern Kosovo. The vacancies for the judges and prosecutors were the positions that were not filled in the previous round in 2015. As a result of the selection process, 12 judges, five prosecutors and 148 support staff positions were filled (three vacancies remained).

*Integration of the justice system in northern Kosovo is one of the many processes related to the ongoing Dialogue between Kosovo and Serbia. Kosovo Serb judges and prosecutors in the north continue being formally employed in the Serbian legal system which has huge impact on daily lives of ordinary people. A series of political decisions have been made in 2013 and 2015 in order to establish one unified judicial framework throughout Kosovo.*

At a Dialogue meeting in Brussels, it was agreed that the newly recruited Kosovo Serb judges, prosecutors and support staff (after previously resigning from their positions in Serbia) will sign the declaration of integration and formally join the Kosovo legal system on 10 January 2017. However this event never took place for political reasons related to the Dialogue and the integration date was postponed.

Another important topic for justice integration has been the state of the court buildings that after years of neglect were partly not ready to host the incoming staff. Several attempts have previously been made to bring the buildings to a satisfactory state but since some were not being used, they continued to deteriorate. In 2017, the EU Office signed contracts worth €45,000 to refurbish two court buildings: the former *Jugobanka* building in Mitrovica South and the existing court facility in Mitrovica North, to be completed by the end of summer 2017. A project to refurbish the detention centre in

Mitrovica North will cost €200,000 and is expected to be completed by the end of 2017. The Basic Prosecution Office in the Bosniak Mahalla neighbourhood of Mitrovica North is ready to host the prosecution.

In sum, most technical aspects of justice integration had been addressed as of June 2017. However, no breakthrough has been made because of the ongoing challenges within the Dialogue between Pristina and Belgrade which, in turn, has been slowed down by elections both in Serbia and Kosovo.

## LIST OF ACRONYMS

AI – Administrative Instruction

CCP – Common Crossing Point

IFM - Institute of Forensic Medicine

ILP – Intelligence-Led Policing

KP – Kosovo Police

KCS – Kosovo Correctional Service

KFOR – Kosovo Force

KJC – Kosovo Judicial Council

KPA – Kosovo Property Agency

KPC – Kosovo Prosecutorial Council

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

PAK – Privatization Agency of Kosovo

PIK – Police Inspectorate of Kosovo

SCSC – Special Chamber of the Supreme Court

SPRK – Kosovo Special Prosecution Office

SEED – Systematic Electronic Exchange of Data



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