

The Rule of Lawlessness: The EU's Mission to Kosovo

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Foreign missions are ostensibly sent to monitor and correct perceived problems on the ground. They are equipped with the language of appropriate righteousness, and the clothing of good will. That, at least, is what the operation brief is meant to state. Often, the language fades.

The mission suffers metamorphosis. Deals are done on the ground. Money changes hands. Favours are done. It is not so much building Rome as becoming Rome that becomes important. Join what one cannot change – many local conditions simply resist transformation from the outside.

The EU's rule of law mission in Kosovo, Eulex, was one such creation. It remains the EU's biggest foreign crisis mission, despite a slimming operation that cut staff from 2,200 to 1,600. *The Economist* suggested, rather freely, that the deployment of Eulex in 2008 "delighted" Kosovars. "Many hoped it would stamp out organised crime and corruption." [1] Certainly, the legal infrastructure on the ground proved sparse and susceptible to manipulation. But the big fish were never going to enter Eulex's nets. They were the political untouchables, at least without sufficient evidence for conviction. The reputation of the group, as a result, waned.

Critics started gathering ammunition. Andrea Capussela, formerly involved in the economic side of things in the EU's policy in Kosovo, found Eulex indifferent, even timid, in getting the cores of corruption. At worst, it proved craven. The errors in the prosecution side of things started mounting. Prominent local Kosovars, instead of facing a legal brief, found themselves in clover.

The prosecution process has also proven erratic. Oliver Ivanovic, a Kosovo Serb noted for efforts of reconciliation in the north of the province, has been indicted for war crimes allegedly committed against Albanians whilst being a "Bridge Watcher". [2] In contrast Azem Syla, close to Kosovo's prime minister, had the whistle blown on him in 2009 as being the hand behind several killings. The case is still being investigated by Eulex staff (*The Economist*, Nov 15).

Gabriele Meucci, the head of the mission, stuck to the high ground at a press conference in Pristina on October 30. His staff were trying to "make Kosovo a better place for its people and their children... they deserve to do their work and go home at night to their families free from the suspicion of corruption." [3] He makes the point that Eulex cannot abide corruption, having a "zero tolerance" policy towards it. It conducts 100 internal investigations a year, which one would think suggests that both the fruits and barrel are

rotten.

The British investigator, Maria Bamieh, is convinced by it. She has come out with some material on the mission, and it is not pretty. Bamieh herself has done a stint of whistleblowing that has gotten her former superiors riled up, notably those happy to go home and night, spending time with their families free from the suspicion of corruption. She claims that she “suffered victimisation” from that most unfortunate of bureaucratic creations: the second line manager. (To deal with one is a terror; two, a monstrosity.)

The lid was blown off with the obtaining of internal Eulex files by Kosovo’s leading daily, *Koha Ditore*, though the paper denies that Bamieh was the direct source of the leaked material. The files made truly dirty reading. Close links between suspects in criminal cases and Eulex officials were noted. Bamieh herself alleged that the former chairman of Eulex’s Assembly of Judges, Francesco Florit, and chief prosecutor Jaroslava Novotna, had endeavoured to shut down cases in return for cash in 2012 and 2013. The money offered was far from paltry – Florit is alleged to have received 350,000 Euros for dropping the murder case in question.[4] He denies doing so.

A rather dark turn for the worst were efforts on the part of Eulex to issue *Koha Ditore* reporter, Vehbi Kajtazi, with veiled threats when he went to speak to officials prior to publishing the expose. According to the paper’s editor-in-chief, “when he [Kajtazi] went to meet them all they wanted to talk about was how difficult life could become for him... to give him the message that if he published the story, he might face criminal prosecution” (*EU Observer*, Oct 30).

During the course of her employment, Bamieh faced an assortment of practices in Eulex, some of which she duly noted. Bureaucracy, paradoxically, doesn’t necessarily become impersonal and cold over time. It can become intimate, almost incestuously so, provided it exudes a certain public morality, keeping up appearances, doing the right paperwork. Friends appoint friends, and the familiar face becomes the reliable face. The dangerous face is one who doesn’t play along, who decides, rather, to remind the organisation about its operating script.

It was obvious that Bamieh had to go. She had done a bit too much pissing in an already polluted pool. The cleaners were coming in – for her. In being interviewed for her own position, Bamieh claimed that the officious line manager was on the panel. There was no batting of eyelids – this had become the unquestioned pro-forma, but Bamieh objected. She then faced two senior colleagues who worked closely with the line manager. Other candidates of considerable quality were ignored in selection. Such refuse is hard to shake.

Bamieh also fears good, old fashioned retribution. She is on record to the *Gazeta Express* that a certain “N.C.” may be on to her “because I am exposing some data. He is a cold-blooded killer.” While such fears might be far fetched, it is certainly not a stretch to presume that a mission undertaken in the name of law becomes indignant when its failure to achieve it becomes public. A rule of law mission, when it becomes indifferent to its own code, is hardly a body worth taking seriously by the locals. This is the rule of money in envelopes, protection, and sweet deals.

As for Eulex, an investigation has commenced under the auspices of Federica Mogherini, the EU foreign-policy chief. It is not set to be wide reaching, and will have to face the likes of

senior Eulex official, Jonathan Ratel, who is also said to be a master disruptor of internal reviews. Whatever is found will not detract from the harm already done. Trials of such figures as Ivanovic may well be shrouded in doubt, though the President of the Board of Banja Luka assisting Serbs in Kosovo, Milorad Arlov is confident of an acquittal.[5] As the rule of law withers, the question being asked now is who is being left out of the dock?

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Notes

[1] <http://www.economist.com/news/europe/21632598-eus-mission-kosovo-ensnared-corruption--claims-small-balkan-scandal>

[2] <http://www.balkaninsight.com/en/article/kosovo-indicts-serb-politician>

[3] <http://euobserver.com/justice/126319>

[4] <http://euobserver.com/justice/126319>

[5] <http://www.blic.rs/Vesti/Politika/510446/Bozovic-Nadam-se-da-dogadjaji-u-Euleksu--nece-uticati-na-proces-Ivanovicu>

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