KOSOVO SPECIALIST CHAMBERS
FROM INVESTIGATIONS TO INDICTMENTS
KOSOVO SPECIALIST CHAMBERS: FROM INVESTIGATIONS TO INDICTMENTS

A unique collection of expert analyses, interviews and archive reports that traces the history of the Kosovo Specialist Chambers from the initial Council of Europe investigation into wartime and post-war crimes by Kosovo Liberation Army fighters to the establishment of the new court to try them in The Hague.

Produced by the Balkan Investigative Reporting Network
INTRODUCTION

Six years after Council of Europe made grave allegations that serious crimes were committed by Kosovo Liberation Army fighters during and after the 1990s war, the specialist court tasked with prosecuting people for those crimes has started work.

The establishment of the Specialist Chambers sparked protests in Kosovo itself, where the Kosovo Liberation Army is seen as a liberating force that fought a just war, and its cases could prove to be highly politically sensitive.

Ahead of the first indictments, the Balkan Investigative Reporting Network has compiled its extensive archive on the subject into this comprehensive guide to how the court will work, what are its main challenges and what the key players have to say about the allegations and the forthcoming prosecutions.

BIRN has been following the issue since the beginning - in the early 2000s, our journalists were among the first to report on KLA-run detention camps in Albania.

After that, BIRN continued to report on the Council of Europe investigation into the alleged crimes, then the EU task force set up to probe the CoE report, and finally the establishment of the Kosovo Specialist Chambers in The Hague.

As a result, we have compiled more than 100 reports related to the topic in this e-book.

The establishment of the Kosovo Specialist Chambers has been marked by controversy – the court is seen as biased in Kosovo because it targets one ethnic group, while in Serbia it has been greeted as the last hope for justice for Kosovo’s Serbs.

In this heated environment, we believe that this e-book can be a valuable tool for everyone who has been following this tortuous road towards justice.

We also hope that it will contribute an objective understanding of the complex issues involved in bringing people to justice for the crimes of the wartime past – one of the core values of BIRN’s work in the area of transitional justice.

Marija Ristic
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KOSOVO SPECIALIST CHAMBERS: IN BRIEF
Six years after a Council of Europe report accused Kosovo Liberation Army fighters of brutal crimes, the special court set up to prosecute these allegations is ready to issue its first indictments.

Marija RISTIC

Former members of the Kosovo Liberation Army guerrilla group who are allegedly responsible for killings, abductions, torture and other human rights violations during and after the Kosovo war may soon be standing in the dock because the new court’s rules of procedure will enter into force in seven days’ time after they were finally approved on June 28.

Although based in The Hague, the Specialist Chambers is legally part of Kosovo’s judicial system, but independent from the Kosovo judiciary and staffed by internationals, while all decisions and appointments related to the court will be made by the European Union.
The chambers had their rules of procedure and evidence ready in March. But a month later, the chambers’ Constitutional Court decided that out of 208 rules of procedure and evidence, ten provisions were not in line with Kosovo’s constitution.

They were found not to be consistent with Chapter 2 of the Kosovo constitution dealing with fundamental rights and freedoms and were related to people’s rights during investigations and administration issues in the Specialist Chambers.

So the chambers took another month and a half to correct these issues in order to assure that the “highest human rights standards are applied”, said the new court’s president Ekaterina Trendafilova.

The revised rules of procedure were finally adopted on June 28, paving the way for the prosecution to officially launch indictments and to start trials.

WHAT NEXT FOR THE PROSECUTION?

When the rules of procedure enter into force, on July 3, the Specialist Prosecutor’s Office can issue indictments against former members of the Kosovo Liberation Army.

In the last couple of years, there have been speculations about who will be charged, particularly as the initial Council of Europe report looking at the
alleged crimes mentioned the names of those who were claimed to have been responsible, including the current Kosovo President Hashim Thaci.

However prosecutor David Schwendiman has so far managed to keep the names confidential.

In an interview with BIRN in November 2016, Schwendiman also stressed that suspected criminals are his target, not the Kosovo Liberation Army itself.

“I am not after organisations, I am not after ethnicities, I am looking at individual responsibility for what was done,” he argued.

It also remains to be seen if the prosecutor will produce sealed or public indictments.

During any arrests, he can count on EU rule-of-law police in Kosovo, but also on the Kosovo police force, as well as seeking cooperation from any other state.

Kosovo’s law on the Specialist Chambers also allows the prosecution to have its own police, but how this will work in practice remains a secret due to the sensitivity of the task. Many in Kosovo however believe that those ex-guerrillas who are indicted will voluntarily surrender to the court.

When it comes to detention, police will have 48 hours from the arrest to bring the suspect to the judge, who will decide on custody measures. The chambers’ detention facilities will be in the Netherlands.
WHAT IS THE COURT’S MANDATE?

The Specialist Chambers will have jurisdiction over crimes that occurred between January 1, 1998 until December 31, 2000, and that either were committed or commenced in Kosovo, meaning it can also prosecute crimes committed in Albania, as many of the prisoners who were taken away by the Kosovo Liberation Army were detained in camps in northern Albania.

The chambers will be able to prosecute crimes against humanity, including murder, extermination, enslavement, deportation, imprisonment, torture, rape, enforced disappearance and other persecution on political, racial, ethnic or religious grounds. It will also prosecute war crimes and other violations – including the destruction of civilians’ property, towns, villages and religious buildings.

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WHAT CRIMES ARE LIKELY TO BE PROSECUTED?

The last person who spoke in detail about alleged violations committed by Kosovo Liberation Army members was Clint Williamson, the head of the EU Special Task Force which investigated the claims of violent abuses made in the initial Council of Europe report.

In a statement in 2014, Williamson said that enough evidence had been gathered to file indictments against senior Kosovo Liberation Army officials who “bear responsibility for campaign of persecution that was directed against ethnic Serbs, Roma and other minority population of Kosovo and toward fellow Kosovo Albanians whom they labeled as collaborators of Serbs or more commonly to have simply been political opponents of the KLA leadership”.

According to Williamson, ethnic cleansing of large numbers of Serbs and Roma also took place in Kosovo.

Williamson also said that the evidence was compelling that these were not the acts of rogue individuals but conducted in an organised fashion, adding that the abuses that took place after June 1999 amounted to crimes against humanity.
WHY WAS THE NEW COURT NECESSARY?

There have previously been attempts to prosecute these allegations by three international institutions.

The crimes committed by the Kosovo Liberation Army in camps in northern Albania were first discovered by US journalist Michael Montgomery, who passed the evidence he got to the UN Mission in Kosovo, UNMIK, which was the administrative authority in Kosovo after the war ended in June 1999.

The memo sent to UNMIK went to the UN-backed International Criminal Tribunal for the Former Yugoslavia, ICTY, which was then investigating crimes committed during the Kosovo war.

The ICTY progressed slowly on the case and encountered numerous obstacles in investigating these claims, as former ICTY chief prosecutor Carla del Ponte detailed in her book in 2008.

Del Ponte’s book revealed to the public for the first time the allegations of organ trafficking which led to the Council of Europe inquiry.

UNMIK in Kosovo also initiated investigations, but they never reached trial. The same happened with the EU rule-of-law mission in Kosovo, EU-LEX, which took over war crimes prosecution in 2008.
After 2012, international powers, mainly the US and EU, advocated that the special tribunal be established. They believed the court was needed because the Kosovo judiciary would be unable or unwilling to properly prosecute high-ranking former KLA figures, and because EULEX did not have the capacity to do so.

Central Pristina ahead of June’s elections. Photo: BETA/AP.

WHAT ARE THE COURT’S MAIN CHALLENGES?

The court will face serious challenges in securing the safety of its witnesses – as well as establishing its legitimacy in the minds of Kosovo Albanians.

At the same time it will be the first court in Kosovo that will try to secure victims’ participation and employ a reparation mechanism.

The failure of international courts and missions to keep witnesses safe and prosecute war crimes without political interference was one of the key reasons to establish the Specialist Chambers.

The witness intimidation problem was first raised by ICTY, then by UNMIK and EULEX.

Witnesses changed their testimony during trials, recanting what they said during the investigation phase. Witnesses also faced the risk of being ostracised by society mostly due to the fact that KLA members are perceived as heroes and testifying against them is seen by many Kosovo Albanians as an act of treachery.

The new court has pledged that witness protection will be its highest priority and insists that it has prepared a robust witness protection programme.
Other key issues are legitimacy and outreach. The court is seen in Kosovo as biased because it only focuses on one side of the conflict - the KLA’s activities, not the actions of Belgrade’s forces.

It is also perceived as an insult to Kosovo Albanians, most of whom believe that their fight against Serbian oppression was just. Many have pledged to take the streets to protest once indictments are issued.

The court is expected to cause serious turmoil on the political scene, as many leading ex-KLA figures hold official positions and exercise major influence in many areas, including government and business.

At elections in Kosovo earlier this month, three former KLA leaders united to form a political bloc which some observers dubbed the ‘war wing’ or the ‘Hague coalition’ - and won the largest proportion of the vote.

In an atmosphere like this, the Specialist Chambers' outreach team will probably have one of the hardest jobs that any international tribunal has faced so far.

The fact that the chambers is located in The Hague, far away from the communities in which the crimes took place, is likely to make the job of communicating the righteousness of its mission to Kosovo Albanians harder still.
HOW WILL THE COURT WORK?

The Specialist Chambers represent a new type of ‘hybrid’ judicial institution; it is a mix of international and domestic judicial elements; they will mirror Kosovo’s courts, but will have some features usually attributed to international tribunals.

The Specialist Chambers consist of two main institutions - the chamber and the registry. The chamber includes a basic court chamber, a court of appeals chamber, supreme court chamber and constitutional court chamber, mirroring the Kosovo judicial system. All judging panels at all court levels will be composed of three international judges.

The registry includes a defence office, victims’ participation office, witness protection and support office, detention management unit and ombudsman’s office. The official languages of the court will be Albanian, Serbian and English.

The specialist prosecution office will be independent, it has repeatedly stressed.

All court and prosecution staff are international, and the funding is also supplied by foreign donors, mainly the EU and US.

Defendants who are found guilty will serve their sentence in prisons outside Kosovo.

This article was initially published by BIRN on June 28, 2017 and has been updated for the purposes of this e-book.
INTERVIEWS
The president of the Kosovo Specialist Chambers, Ekaterina Trendafilova, told BIRN the new court has no ethnic bias, will protect its witnesses from intimidation and deliver justice impartially and independently.

Marija RISTIC

In her first interview as president of the Kosovo Specialist Chambers, judge Ekaterina Trendafilova told BIRN that the newly-established Hague-based institution that will try former Kosovo Liberation Army members for wartime and post-war human rights abuses will not be ethnically biased as it will only prosecute suspected criminals, not the guerrilla organisation itself.

Trendafilova also promised that the court would protect its witnesses properly – a failing in previous attempts to prosecute Kosovo Liberation
Army fighters. and expressed hope that its work will help to enhance the rule of law in Kosovo.

This is not the first time that Trendafilova has ruled in cases of international criminal justice; prior to joining the Kosovo Specialist Chambers, she was a judge at the International Criminal Court, an experience that she believes will benefit her in her new role.

**Other hybrid courts, administered by the UN and the EU, have operated in Kosovo before. How is this court different and how will you, as a judge, make sure that it fulfils its mandate?**

The Specialist Chambers are different in many respects. I will mention some of them and I will not use these labels, such as ‘hybrid’, ‘international’ or ‘internationalised’.

The Specialist Chambers are created by a constitutional amendment that was enacted by the Kosovo parliament with a two-thirds majority. This is a strength for us. It means that the people of Kosovo expressed through their representatives in parliament that such an institution is necessary and desirable.

Next, the Specialist Chambers can rely on Kosovo authorities, including the police, to execute orders, searches, and seizures and to arrest suspects. Kosovo authorities, by virtue of the [Kosovo] Law [on the Specialist Chambers and Specialist Prosecutor’s Office], are required to cooperate with the Specialist Chambers to achieve the ultimate goal to bring to account those responsible for the alleged grave crimes committed.

At the same time, however, we are an institution relocated to the Netherlands, our host country, which means that we can ensure the highest degree of safety and security for all those interacting with the Specialist Chambers, in particular victims and witnesses.

Further, only international judges may adjudicate at the Specialist Chambers. This choice shows that the Kosovo parliament had the utmost regard for the independence and integrity of this institution, future prosecutions before it and the safety of witnesses and victims.

As a judge and president of the Specialist Chambers, I will ensure that the Specialist Chambers fulfil their mandate through the application of the law, as enacted by the Kosovo parliament, and the rules adopted by the judges. Most importantly, I trust that the highly experienced judges, appointed to the roster of international judges, will conduct exemplary court proceedings and deliver best quality judgments.
How will you better deal with outreach and explaining the Specialist Chambers’ mission in light of the poor reputation of the International Criminal for the Former Yugoslavia, ICTY in ex-Yugoslav countries, but also taking into account the antipathy towards this new institution in Kosovo?

It may be the case that not everyone in Kosovo is in support of or may be suspicious of the Specialist Chambers. However, as I said in an earlier response to your question, the decision to establish the Specialist Chambers has been made by the representatives of the people of Kosovo, the parliament.

We are a reality, we are already operational, ready to receive any filings. Our mandate is different from that of the ICTY and we should be judged pursuant to our performance.

Now, besides the establishment of the institution and our readiness for judicial proceedings, it is equally important to continue providing information to the public about our mandate, the procedures and what can be expected from the work of our institution. This is important to prevent any misinformation or misunderstanding.

I strongly stand for the highest level of transparency of our activities, subject of course to sensitive and confidential information, which is necessary to protect witnesses that will come forward to testify.

Since last year and the launch of our trilingual website where all information can be found in English, Albanian and Serbian, all relevant information and public filings by the parties and the judges are, and will continue to be, accurately shared with the public.

The communication with the media is an ongoing process. Furthermore, the principals of the court as well as the public information team of the Specialist Chambers have been regularly engaged with various relevant actors from civil society, academia and media in Kosovo but also on a wider scale, in the region and internationally.

For example, the registrar, Dr Fidelma Donlon, met numerous media and civil society representatives at the Justice Transparency Forum in Pristina this spring. I expect that similar events are to continue to be organized in the future.

Also, at our premises I have recently held a press conference. We also receive numerous visitors as well as hold lectures for interested student groups. This is all part of the ongoing implementation of our outreach
programme that will be intensified. We are to organise the live-streaming of our future court proceedings.

I would like to emphasise that I rely in the utmost on outreach to convince the people in the region that the Specialist Chambers will deliver justice impartially and independently to all concerned.

Trendafilova promised that the court would protect its witnesses properly. Photo: KSC.

How difficult is to do outreach if you are based miles away from where the crimes were committed?

The distance in terms of communication and effective outreach is a challenge I am keenly aware of. However, we luckily live in the age of modern technology and I hope that this will assist us in establishing direct communication with all the interested audience, not only with the media.

One of the forthcoming priorities is also to address victims and to fully explain their rights, the relevant process of application and eligibility. Witnesses will also be reassured of robust witness protective measures undertaken by the Specialist Chambers.

Moreover, once proceedings in the courtroom start, we will broadcast them via our website in all official languages, which will allow the media and the general public to follow court proceedings.
Of course, in light of the necessity to protect witnesses, some of this coverage may only be transmitted in part or with protective measures such as face and voice distortions.

**How do the Specialist Chambers cooperate with Kosovo authorities? When it comes to detention and arrests, will you use special court police or Dutch or Kosovo police?**

As provided in the Law [on the Specialist Chambers and Specialist Prosecutor’s Office], we can avail ourselves of the Kosovo police as any other court in the country. Likewise, the Specialist Prosecutor can enforce his orders through a police force within his Office. Any orders and decisions of the Specialist Chambers, including search and seizure and the arrest of suspects on the territory of Kosovo, have to be executed. This is what the law dictates. In addition, we can request international cooperation where necessary.

**How sensitive do you need to be in respect of the current political conditions in Kosovo?**

It is not really a question of being sensitive. The Specialist Chambers are a judicial institution, independent in the exercise of their functions and the fulfilment of their mandate, in compliance with the Law [on the Specialist Chambers and Specialist Prosecutor’s Office] as agreed upon and enacted by an absolute majority of the parliament of Kosovo.

We carry on with our mission, as enshrined in the law, regardless of the political processes in Kosovo. We only abide by the constitution and the law.

Nevertheless, we are following closely the developments in Kosovo and are aware of any sensitive issues, without being influenced by them.

**How do you respond to the criticism that the Specialist Chambers are biased because they only deal with one ethnic group, Kosovo Albanians?**

The Specialist Chambers will not prosecute any ethnic group. They will not prosecute any organisation. The Specialist Chambers will only prosecute and hold accountable individual persons. The Law [on the Specialist Chambers and Specialist Prosecutor’s Office] clearly provides for individual criminal responsibility, which means that persons may only be held accountable for crimes they committed as individuals, not as representatives of an ethnic group, of communities, or any other groups.

**The court also has a victims’ support unit, and the law envisages reparation programmes. How will these work in practice?**
First of all, let me say that I am quite pleased that the Specialist Chambers, unlike the ICTY, gives victims the opportunity to participate in the proceedings.

Victims of crimes alleged in an indictment may apply to the Victims Participation Office within the Registry if they wish to participate. The Law [on the Specialist Chambers and Specialist Prosecutor’s Office] provides that victims have a right to notification, acknowledgement and reparations. In practical terms, this means that victims will be able to participate meaningfully in the proceedings before the Specialist Chambers and seek reparations.

Once an accused has been found guilty of a crime, the judges may order an accused to pay appropriate reparations to victims collectively or individually. The Victims’ Participation Office will also administer a list of victims counsel in order to ensure efficient legal representation of and assistance to victims.

**Can you also explain the role of the Ombudsperson?**

The inclusion of an Ombudsperson, which is already foreseen in the Kosovo constitution, is an important constitutional guarantee also within the Specialist Chambers’ legal framework. It is envisaged to enhance our transparency and openness to the public and serve as an independent oversight of the Specialist Chambers and the Specialist Prosecutor’s Office.

At the same time, it will have due regard for the independence of the judiciary and judicial proceedings, meaning that the Ombudsperson cannot interfere therein subject to cases of undue delay.

Finally, it is supposed to strengthen the checks and balances, which are in place to guarantee the protection of fundamental rights and freedoms, as enshrined in the constitution of Kosovo.

I look forward to the operationalisation of this mechanism as it can only contribute to the credibility of the two institutions.

**Witness protection has so far been one of the key issues in war crime trials in Kosovo, and the Specialist Chambers claims to have prepared a robust witness protection system. How do you think international and national courts have protected witnesses testifying about international crimes so far? Is this one of the reasons why courts are often a long way away from the places where the crimes were committed?**

By virtue of my past experience but also being conscious of some previous examples, I am very much aware of the importance of witness protection.
This is a key factor for the mandate of the Specialist Chambers, reflected by the relocation of the proceedings to the Netherlands.

For that reason, a robust system of witness protection has been devised in our Rules of Procedure and Evidence. In addition, any interference with the security and well-being of witnesses will not be tolerated and will be prosecuted by the Specialist Chambers.

Being relocated is certainly a potent instrument to provide better protection to witnesses, victims and other persons interacting with the Specialist Chambers.

My firm understanding and that of all judges is, as expressed in the rules, that justice will not be done at the expense of the safety and well-being of anyone cooperating with the Specialist Chambers. Hence, protection is pivotal for us.

**What do you see as the potential obstacles to the Specialist Chambers’ success?**

I will tackle this question from a different point of view, namely what are the factors to measure the success of the Specialist Chambers in fulfilling their mandate.

First, the persons who will be charged with serious crimes by the Specialist Prosecutor will have to be apprehended or will voluntarily surrender in order to face the allegations against them. It is my hope that the Specialist Prosecutor will expeditiously discharge his investigation duties and will file indictments as soon as he is ready.

Second, accused persons are to be afforded a fair and expeditious trial, in conformity with the Kosovo constitution and the highest standards of human rights.

Third, victims’ rights are to be effectively protected.

Fourth, the Specialist Chambers and the trials that will be conducted will be an opportunity for the people of Kosovo to face the past.

Lastly, through their mandate, the Kosovo Specialist Chambers will enhance and foster the rule of law in Kosovo.
You are an experienced judge, having worked previously for international courts. How much do you believe your experience with the International Criminal Court will help you in your work at the Kosovo Specialist Chambers?

At the International Criminal Court, I worked on a number of cases, where I faced different legal and factual issues, complex challenges which required immediate action and appropriate and timely solutions.

The nine years spent on the bench of the International Criminal Court coupled with my previous experience is a sound basis for the tasks I am entrusted to perform with the Kosovo Specialist Chambers.

It is important to draw from the lessons learned and benefit from the achievements, which should not only be followed but further developed and improved in the daily operation of the Kosovo Specialist Chambers.

This is equally true for all judges appointed to the roster of international judges, who have solid experience from national and international settings, including international criminal courts and tribunals.

As the newest institution dealing with international crimes, we have the unique chance to avoid flaws that other judicial institutions may have encountered within the domain of their respective jurisdictions.
In which ways do you believe this court can help the criminal justice field advance? Is there something that this court has that some other courts could use as a new innovation?

The design of the Kosovo Specialist Chambers and the legal framework for its operation provide for a number of innovations, which could advance the criminal justice field and could equally serve as good models for future institutional improvements.

In this regard, I will refer to the Specialist Chamber of the Constitutional Court. This chamber falls within the structure of our institution, being tasked to review whether the Rules of Procedure and Evidence comply with the Kosovo constitution and also embrace the highest standards of human rights.

Another responsibility of the chamber is to ensure that the rights of individuals, as enshrined in the constitution, are protected before the Specialist Chambers and by any action of the Specialist Prosecutor’s Office.

Other criminal justice institutions dealing with the same or similar crimes, do not have this core human rights safeguard mechanism.

Next, an Ombudsperson is another novelty of our institution when compared to international criminal tribunals. His or her task is to monitor and protect the fundamental rights and freedoms, enshrined in Chapter II of the constitution, of persons interacting with the Specialist Chambers and Specialist Prosecutor’s Office in accordance with the law and the rules.

Third, the Kosovo Specialist Chambers venture for efficiency and effectiveness in its functioning. For example, the Law [on the Specialist Chambers and Specialist Prosecutor’s Office] does not provide for permanently present judges at the seat of the Specialist Chambers but only when the specific nature of the work so requires.

The law has also established a roster of international judges and such a system of operation whereby the president holds the authority to assign judges to different panels whenever necessary.

We have also catered for meticulous management of the cases and have established strict deadlines for judicial performance. These and many other approaches agreed upon and adopted by the judges will render the overall institution very efficient.

Some of these features derive from the Kosovo judicial system, while others were introduced by the Plenary of Judges. These innovations may be looked at and seriously considered for future models of international criminal justice.
Bearing in mind the current crisis with the International Criminal Court and the emergence of the hybrid courts like this one for Kosovo or the one for the Central African Republic, do you think this is the future of international justice? Or just a temporary compromise?

To start with, I do not agree that the International Criminal Court is in crisis. On the contrary, the first permanent international criminal court is operational for already 15 good years and is establishing itself firmly on the international arena.

The problems which the International Criminal Court faces with some member states could be perceived as another proof that it is on the right track combatting heinous crimes affecting the consciousness of humanity.

The harshest opposition against the International Criminal Court comes from those who fear the time they will be brought to account before it.

The existence of the International Criminal Court, however, does not prevent emergence of other type of institutions like the Specialist Chambers and the hybrid court for the Central African Republic where the specificity of the crimes, of the issues to be resolved weighs in favour of taking a different avenue.

This article was initially published by BIRN on July 20, 2017 and has been updated for the purposes of this e-book.
In his first interview since being appointed chief prosecutor of the new Kosovo special court, David Schwendiman told BIRN that suspected criminals are his target, not the Kosovo Liberation Army itself.

Marija RISTIC

“I am not after organisations, I am not after ethnicities, I am looking at individual responsibility for what was done,” David Schwendiman told BIRN in an interview.

“If that message gets out clearly to the people that are affected by this, then maybe they will understand that the court is not pro-Albanian or anti-Albanian, pro-Serb or anti-Serb, but that we are just doing our job,” he said.
Schwendiman is the chief prosecutor at the new Kosovo Specialist Prosecutor’s Office, set up in The Hague with the mandate to prosecute crimes by former Kosovo Liberation Army fighters from 1998 until 2000.

Senior KLA figures are expected to be indicted for alleged crimes committed during and after the war with Serbian forces, although the first indictments are still pending.

In Kosovo, the court is seen as biased as it will only try former KLA fighters – people perceived as liberators by the majority of the country’s ethnic Albanian population – while in Serbia, the court has wide support due to hopes that it will prosecute crimes against Serbs.

But Schwendiman said that the main message he wanted to convey during his first visit to Serbia and Kosovo in November 2016 is that he will be independent and free of any political influence.

“Our role is to look at individuals, not to look at ethnicities; I know there is a perception out there - not a lot I can do about that, other than do my job and to do it right,” he explained.

The new court will hear cases arising from the 2014 EU Special Investigative Task Force, SITF report which said that unnamed KLA officials would face indictments for a “campaign of persecution” against Serbs, Roma and Kosovo Albanians believed to be collaborators with the Belgrade regime.

The alleged crimes include killings, abductions, illegal detentions and sexual violence.

Kosovo and Serbian media have speculated widely about who will be prosecuted by the court.

A Council of Europe report from 2011, which laid the grounds for the SITF investigation, alleged that Kosovo President Hashim Thaci was key figure in an organised crime ring that was responsible for human rights abuses in post-war Kosovo. Thaci has denied the allegations.

However, Schwendiman declined to identify who was under investigation, and said that one of the reasons for his visit to Belgrade and Pristina last week was to quell such rumours.

“I wanted to raise the issue of speculation, assumptions and rumours and make sure that people understood that unless it comes from me, it is not something you should believe,” he underlined.
ENSURING ASSISTANCE AND INDEPENDENCE

November’s visit was Schwendiman’s first to Kosovo and Serbia, although he has experience working in the Balkans. From 2006 to 2009, he served as an international prosecutor in the Special Department for War Crimes at the state prosecutor’s office in Bosnia and Herzegovina.

“I have never been to Pristina and I have never been to Belgrade, although I have been in the region. I wanted to meet the people that we need to be working with as we go into this next phase. I wanted to ensure that they understood we appreciate their continuous support and effort and I also wanted to ensure they understood from me key things about my job and my responsibility,” Schwendiman told BIRN.
In both capitals, he met senior officials whose continued support he will need.

“I also talked about my mandate, which is not miles wide, it is a focus mandate, I am a special prosecutor, not that there is anything special about me, but because the task has been focused, it is not like general plenary jurisdiction of tribunals, it is a very focused mandate,” he explained.

The Specialist Chambers and Specialist Prosecutor’s Office will deal with crimes committed between January 1, 1998 and December 31, 2000, but will only prosecute those involved on the Kosovo Albanian one side of the

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**Primacy of the Specialist Chambers and Specialist Prosecutor’s Office**

According to Kosovo’s Law on the Specialist Chambers, the new court has primacy over all other courts in Kosovo.

“Article 10 and 11 of the law give primacy to the prosecutors in all matters within the mandate,” Schwendiman said.

According to article 10 of the law, he can decide at any point whether a case being investigated by the Kosovo prosecution – and all documents relating to the case – should be transferred to the Specialist Chambers.

However, it is still not known what would happen if someone wanted by the special court was on trial in Kosovo for other crimes.

When the ICTY was issuing indictments, cases against suspects in domestic courts were paused until the Hague court delivered its final verdict.

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war, which is considered a novel approach as it focuses on the accounta-

ibility of the ‘victors’ of the conflict.

But again, Schwendiman stressed that this does not mean that the pros-
ections are biased.

“I wanted to stress my independence that the key thing about what I am
doing is independent, that anything I am supposed to be doing will be
based solely on my understanding of the facts as we collected them and
as we will continue to do and the law as I read it. And the law, as you
know, absorbs and integrates international standards that already exist,
so I wanted people to understand that,” he said.

He and his team also wanted to ensure they will get the continued assis-
tance they need from both Serbia and Kosovo, meaning access to docu-
ments, witnesses and any other material deemed important for their in-
vestigations.

“The Kosovo government assisted in various ways during the investiga-
tion, [the EU rule–of–law mission] EULEX as well. I received assurances
from everybody we spoke to on this trip that we would have whatever as-
sistance we needed and I am absolutely confident we will get it,” Schwen-
diman said.

“And one of the purposes of this trip was to meet the people that are going
to be responsible for doing that and looked them in the eye and tell them
what I want and ask them to reconfirm their support,” he added.

SOLID BASE OF EVIDENCE

Who will make any arrests and how the extradition process will work re-
mains unknown, however.

It is also yet to be determined what evidence the special prosecutor’s office
will be able to use.

During the 17-year presence of international missions in Kosovo, infor-
mation has been gathered in almost 1,000 cases, although many of these
never reached the trial stage. The International Criminal Tribunal for the
Former Yugoslavia, ICTY also worked on a lot of cases related to the Kosovo war.

According to Kosovo’s Law on the Specialist Chambers, which enabled the court to be set up, “evidence collected in criminal proceedings or investigations within the subject matter jurisdiction of the Specialist Chambers prior to its establishment by any national or international law enforcement or criminal investigation authority or agency including the Kosovo State Prosecutor, any police authority in Kosovo, the ICTY, EULEX Kosovo or by the SITF, may be admissible before the Specialist Chambers”.

### The Albanian connection

Both the 2014 SITF report and the 2011 Council of Europe report say that some of the criminal activities were carried out in neighbouring Albania.

Kosovo courts have convicted several former KLA fighters of involvement in torturing detainees in camps in Albania in April, May and June 1999, during the conflict in Kosovo.

The KLA had a base in the Albanian town of Kukes, from where they launched guerrilla operations across the border.

The KLA also maintained a network of prisons in their bases in Albania and Kosovo during and after the conflict.

The SITF made several visits to Albania, despite the fact that Albanian authorities initially refused to allow it to investigate there.

“I inherited the good relationship that [SITF chief investigator] Clint [Williamson] had formed with the Albanian government and I fully expect we get assistance from them to do what we need to do. I will go wherever I need to go and I am not closing the door on anybody,” Schwendiman said.
All these institutions have thousands of pages of testimonies, reports, orders and other documents that could be used by the specialist prosecutor, but what can be used in court will only be made clear once its rules on procedure and evidence are adopted after adopted after its judges and president are elected.

“I am sure there will be a mixture of what we can and we cannot use; in Bosnia for example, we had to put live witnesses on the stand, but established facts, courts could accept,” Schwendiman said.

Although many have questioned whether it is actually possible to prove the crimes committed by a guerrilla force like the KLA, due to the lack of written orders, Schwendiman expressed confidence, saying that the SITF’s chief investigator Clint Williamson left him a solid base of evidence to build upon.

“I wouldn’t take the job if Clint and I hadn’t talked what Clint thought was accomplished by July 2014 [when the SITF published its report]. I have been working on this for a year and half as the lead investigator and I wouldn’t have taken the job as the chief prosecutor that I didn’t believe there is something to take on the next step, which is prosecution,” he said.

But Schwendiman is aware he will have to heavily rely on witnesses and their statements. Ensuring safety for protected witnesses testifying about the crimes committed during the Kosovo war has been a problem for all the institutions that have been involved in such prosecutions in the past – the ICTY, the UN Mission in Kosovo, UNMIK, EULEX and domestic courts in Serbia and Kosovo.

“Protecting those who we estimate are vulnerable or who become vulnerable because of participation in this process is absolutely vital. I have the authority to do that, I got assurances of the assistance to help me do that, and I can’t and I won’t talk about specific teams or methods that we are now employing or will employ to get that done,” he explained.

Numerous witnesses have changed their testimonies during previous trials of KLA members in Kosovo and The Hague.

“It is a big concern to us, it is a big challenge for us, and it something we take very very seriously and that we dedicated a lot of time and effort to do it. We have to maintain the trust and confidence that people have in us and we have to protect those vulnerable to the extent that we don’t lose that trust,” Schwendiman responded.
Schwendiman first encountered witness intimidation while investigating crimes committed during the Bosnian war.

“In Bosnia and Herzegovina it was not common but it did happen, people lost families and support, and there were perpetrators that lived in their neighbourhoods and I am asking them to come to testify; even though their names have been redacted in the indictment, I perfectly understood when they came and said no,” Schwendiman recalls.

He recalled a situation when a woman refused to go into the courtroom because of social pressure to remain silent and not cause any potential problems.

“She was not discouraged by the community of the perpetrator, but her own community, who told her, ‘You don’t need to that, you know it just brings tensions to us, why do you want to talk?’” he explained.

“But we managed to convince her by frequent visits, by talking with her through the issues, by being sensitive to things, talking to her son who could reason with her that there was support for her. The most important thing is making sure that people have trust in us,” he added.

He said that his experience in Bosnia had enabled him to deal with such situations with a deeper level of understanding.
“The importance is to be sensitive with things you have no experience with and not pretending that you do. I cannot say someone I understand what you went through – I don’t understand, I have no idea,” he explained.

“You are talking with people who have lived with the most horrible things you can imagine, that cry themselves dry, there is no real hope left, they don’t live where they lived forever, they have been displaced... You’ve got all this disappointment, hatred inside of them, that makes it hard to establish a relationship, and that comes with experience,” he added.

As in Bosnia, he hopes that his investigations will help the search for the remains of around 1,660 people still missing from the Kosovo conflict.

“I know how to do it and I have done it and I am absolutely committed to do it as much as I can to locate, recover and get people back to their families,” he said.

He is however aware of the big expectations that some people have of him, especially in Serbia, where the new court is seen as a unique chance to get justice for Serb victims.

“I have great empathy for that, I can only do what I can do and be realistic and truthful and transparent as possible,” he said.

“Managing expectations is terribly important because that will affect whether or not the outcomes are perceived as legitimate and that is a big goal for me, so I will do everything I can to help people understand what the expectations should be and then they can hold me to account if I meet or don’t meet those expectations,” he added.

However, as with other international courts, some level of disappointment is inevitable, he admitted.

“There will always be people who are disappointed, I don’t have any doubt about that,” he said.

Although 17 years have passed since the end of Kosovo war, Schwendiman believes that bringing the perpetrators of the crimes committed there to justice remains important for the future of the country.

“No matter what was going on before, there is still a lingering question about things that happened during the war and these things are affecting the environment, affecting people personally,” he argued.

Holding the perpetrators of such abuses accountable, he concluded, will “help people living with the past, not in the past”.

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A GLOBAL TRADE IN HOPE AND DESPERATION

The director of a new film that explores international organ-trafficking says that prosecutions like the recent kidney-trading trial in Kosovo will not stop the black market in body parts.

Edona PECI

Ric Esther Bienstock was at Prizren’s DokuFest festival recently for the screening of her film ‘Tales From the Organ Trade’, but Kosovo, the scene of a recent high-profile kidney-trafficking trial, is not unknown territory for the Canadian director.

While filming, Bienstock visited Kosovo several times, and the case of illicit kidney-trafficking from the Medicus clinic near Pristina, which saw five local Albanians jailed in 2013, became an important part of her investigative documentary.

“What I tried to do is to really tell the human stories behind the headlines we see in Kosovo and all around the world about the organ trade,” the Toronto-based director, who interviewed donors, patients and doctors in an attempt to understand the illicit business, told BIRN.

The idea for the project developed out of ‘Sex Slaves’, Bienstock’s investigation into the trafficking of women from former Soviet countries into the global sex industry which won an Emmy award for outstanding investigative journalism in 2007.

“I filmed actually in Moldova and Ukraine and there was talk about people having sold their kidney to the black market trade. I was looking into the body part business but the truth is that the black market is dominated by kidneys, because we have two kidneys and you can give one, or in the case of the black market, sell one,” she explained.

Opening with Janis Joplin’s song ‘Piece of My Heart’ and footage of people who sold one of their kidneys, the 82-minute documentary takes viewers to Manila, Istanbul, Colorado, Toronto, Tel Aviv — and to Pristina.

“There is a real shortage of kidneys around the world and it’s what’s driving desperate people to go to the black market. I thought it was very in-
teresting [to analyse] the idea of people who generally are law-obeying citizens, who don’t break the law, who aren’t criminals,” Bienstock said.

“The other side of the equation is people who live in abject poverty, who are so desperate that they think the only thing they can do is sell a body part. And then the people who do these operations are often medical professionals – they are surgeons, they are nephrologists, doctors, anesthesiologists,” she continued.

**THE KOSOVO CONNECTION**

During investigations she launched in America, Bienstock met a Canadian man who sold his kidney and ended up in a clinic in Kosovo. It was then, she said, that she became interested in the Medicus case.

“One of the characteristics of the Medicus case is that almost everybody – apart from some local doctors – were brought in from foreign countries. So both the recipients and the donors were not from Kosovo, they were from Turkey, Moldova and Belorussia [Belarus], and the doctor was Turkish,” she explained.

She said that in many organ-trade hot-spots, such as the Philippines, both donors and doctors are usually locals.

“The person who is getting the kidney might be a foreigner but everybody else involved is local. This was not the case at Medicus,” she said.
Another difference between Kosovo and the Philippines lay in the procedures employed for the buying and selling of kidneys.

In Manila, Bienstock explained, poor people often approached brokers, but in the case of Medicus, “it was much more international”, with one main broker, alleged to be Israeli citizen Moshe Harel, suspected of running the entire process.

“He didn’t go from country to country to find the donors. The donors were found by other brokers. So, it’s a little bit of an organised chain of people,” she said.

Harel is still wanted by the Kosovo authorities but in April, a court in Pristina convicted the Medicus clinic’s owner and four other locals of participating in the illegal organ-trading ring.

The indictment said that around 30 illegal kidney transplants took place at Medicus in 2008.

Police initially raided the clinic that after a Turkish man whose kidney had been removed was found seriously ill at Pristina airport.

Investigators then established that poor donors from Turkey, Russia, Moldova and Kazakhstan were lured with promises that they would receive up to 15,000 euro for their kidneys, which were then sold to rich transplant patients, mainly Israelis, who paid more than 70,000 euro.

After the verdict was handed down in April, the EU rule-of-law mission prosecutor in Kosovo said that eight more people were also being investigated, although no further details have yet been made public.

**A MORAL DILEMMA**

Bienstock said that although organ-trafficking is illegal, “the moral story is a completely different story”.

The Canadian director interviewed one Israeli patient, Raul Fein, who bought a kidney and underwent the transplant operation at the Medicus clinic, and also tracked down the donor, a Moldovan woman called Ana Rusalenko.

“I don’t regret I sold my kidney,” Rusalenko told Bienstock in the interview, explaining that she had not suffered any health problems as a result of the operation in Kosovo and didn’t feel short-changed by the financial transaction.
The documentary ends with an on-screen message: “While you watched this movie, 118 people died of kidney disease.”

Bienstock believes that despite efforts to crack down on the trade, and prosecutions like the ones in Kosovo, the demand for transplants is increasing and there are plenty of people who are so poor they are willing to sell.

“No matter what you do to crack down, desperate people do desperate things, and there’s nothing more desperate than someone who wants to live,” she said.

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MEDICUS CLINIC WAS ‘PART OF WIDER CRIME SYNDICATE’

The clinic at the centre of organ-trafficking claims in Kosovo was just part of a wider international racket dealing in transplanted organs, says Nancy Scheper-Hughes, director of Organs Watch.

Fatmir ALIU

The director and co-founder of Organs Watch, an organization dedicated to research on the global traffic in human organs, told BIRN that two former clients of the Medicus clinic near Pristina had identified Yusuf Sonmez as the key figure in what she describes as a major organization based in Israel and Turkey, with many additional outlets across the world.

“The organized criminal syndicate begins with Sonmez and his Israeli partner in the 1990s,” she says.

The Medicus case centres on allegations that poor donors were induced to sell their kidneys to the clinic, which then sold them on to rich clients.

The EU rule of law mission, EULEX, in 2010 indicted seven Kosovo Albanians and two foreigners, one of whom is Sonmez, who is Turkish, with human trafficking, organised crime and unlawful medical activities.

The accused include the alleged ringleader in Kosovo, the clinic’s owner, Professor Lutfi Dervishi.

The Kosovars named in the indictment were allegedly aided by Sonmez, who is wanted on organ trafficking charges in several countries.

While the Turkish authorities are prosecuting him for the alleged offences in Kosovo, Sonmez remains at liberty in his native Turkey.

The prosecution says that Moshe Harel, an Israeli of Turkish origin, acted as one of the cartel’s fixers, finding both donors and recipients and handling funds.
The Medicus clinic allegedly lured poor people from Istanbul, Moscow, Moldova and Kazakhstan, falsely promising to pay them up to €15,000 for their organs. Some received no payment at all.

The indictment says that 30 operations involving illegal kidney transplants took place at the clinic in 2008.

Schepers-Hughes says that the first man she interviewed, who she calls David, a wealthy client from California in the US, paid roughly $200,000 for the kidney transplant.

“David” travelled from the US to Israel and then Turkey with the plan to go on to Kosovo, she says.

But she says the broker then informed him that police had raided the clinic. The broker offered David another option.

“He had to pay, a second time, another $120,000, to go to Baku in Azerbaijan; he didn’t even know where this place was,” she recalls.

“This man was a businessman with little international experience; he didn’t know where he was. He had no idea who he was getting a kidney from. He is lucky he survived.”

Sonmez was arrested in Istanbul in January 2011 but was later released on bail.

His alleged Israeli fixer, Moshe Harel, was arrested on May 25 in Israel. But the director of Organs Watch says he, too, has since been released.

The Medicus clinic was also named in a December 2010 Council of Europe report, which alleges that senior members of the Kosovo Liberation Army, KLA, several of whom are now in the Kosovo government, traded the organs of people taken prisoner during the 1999 Kosovo conflict.

Schepers-Hughes believes that such organ harvesting could have taken place in 1999, but says the case still lacks sufficient evidence.

She says that the building in Albania named in the report as a key site, known as the “Yellow House”, may have been a prisoner of war transit centre.

The victims, she says were “a small number of Serbian former fighters, or perhaps just civilians and minorities at the end of the war, leftovers as you might say.”
“It is wrong, however, to speak about Serbs being murdered for their organs. It was really a question of killing Serbs [in retaliation for the war] and then allegedly taking advantage of their bodies with the assistance of trained medical staff harvesting their organs,” she says.

“According to my sources, the kidneys were taken to airport in Albania and shipped to Turkey,” she adds.

She says that there is no evidence that Somnez was present at the Yellow House or any of the other KLA’s alleged detention centres but he may have received the removed kidneys.

“Through his contacts and intermediaries, he might have been aware of the situation and was perhaps, therefore, in contact with people in the KLA who might have suggested that, as a surgeon, he could help out, or the more likely scenario, that he was the recipient of organs that were taken as plunder,” she suggested.

Former KLA leaders have denied having had any knowledge of, or having played any role in, organ trafficking operations during the war.

Previously, Serbia’s state television station, RTS, broadcast an interview with a man who claimed he had been a KLA fighter during the war.

He told RTS he had personally removed a prisoner’s heart for the black market in organs during the 1990s Kosovo conflict.

Serbian prosecutors say the victim was a Serbian prisoner, and the operation was carried out near the northern Albanian town of Kukes.

An EU-led team investigating the claims about organ trafficking said it would consult Serbian prosecutors on the witness at their next meeting.

Scheper-Hughes first heard about Yusef Sonmez through his Israeli partner at meetings of the Bellagio International Task Force on organ trafficking in 1996.

In 1999, Scheper-Hughes sent a Turkish Organs Watch assistant to interview Sonmez. In that interview Sonmez spoke of being accused of stealing organs from dead and dying persons brought into emergency rooms in Istanbul following the 1999 earthquake there.

Although he denied that he was responsible he asserted that natural and other disasters create possibilities for organs to be stolen.
In 2008, Sonmez boasted at a transplant meeting in Kiev of having performed more than 2,000 illicit transplant operations, involving what he called unrelated “commercial donors” whose wellbeing, he said, was no concern of his.

When questioned by a Moldovan doctor in the audience about the health outcome of the trafficked kidney sellers, Sonmez replied that they were not his patients; they were contract workers.

Last year a Turkish prosecutor asked for Sonmez to be sentenced to 171 years in prison for illegal transplants carried out in the Medicus clinic.

His lawyer told BIRN that his client continues working in Istanbul where he lives.

EULEX prosecutors last week called for Sonmez to be questioned via video link.

The case against the Kosovar suspects, all of whom deny wrongdoing is ongoing.

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COUNCIL OF EUROPE REPORTER, Dick Marty, tells BIRN that the emphasis placed on organ trafficking is obscuring the fact that “hundreds of people disappeared and were killed”. His report is not anti-Kosovo but merely a search for the truth, Marty says.

Michael MONTGOMERY

It may come as little surprise that in the history of the Council of Europe no committee report has garnered as many media hits as Dick Marty’s inquiry titled “Inhuman treatment of people and illicit trafficking in human organs in Kosovo.”

In recent weeks, Marty has been likened to a Nazi propagandist, a bomb-throwing nihilist, a primitive ape and a terrorist. On the plus side he’s been hailed as a dogged, courageous investigator who puts truth to power, a man who’s unafraid to challenge the misdeeds of Washington, Moscow or any lesser power.

In person, Marty is soft-spoken, almost professorial in his demeanor. But behind this veneer is a determined former prosecutor and senator who occupies the curious position of human rights rapporteur.

Dick Marty spoke with reporter Michael Montgomery exclusively for Balkan Insight and the US-based Center for Investigative Reporting.

Q: In your report for the Council of Europe’s Parliamentary Assembly, you liken Kosovo’s outgoing Prime Minister, Hashim Thaci, to a mafia boss. Based on your information, is it fair to compare Mr. Thaci to a mafia boss?

A: Some will take issue with the term, I’m sure. What is new in this report, in relation to what has been said in the past, is that we were able to obtain specific details, thanks to people who were eyewitnesses to what occurred and that we describe this group, Drenica, of which Mr. Thaci was no doubt one of the leaders. In this regard, you can say “boss” or you can say “lead-
er,” but either way he played an important role, in crime and in politics. And that is one of the details that was uncovered quite some time ago by very serious crime studies in the region.

Q: You found evidence of a network of makeshift detention facilities in Albania that was used by the KLA or operatives linked to the KLA.

A: Yes, from several testimonies, not just one, we learned that there was an entire network of small detention centres and that the detainees were moved from one centre to another. And it is through these eyewitness testimonies that we were also able to gather statements about organ trafficking. I would also like to say, in relation to organ trafficking, that the emphasis being placed on this in the media is exaggerated in relation to the rest of the criminal activity. We state that, certainly, not all of those who disappeared had their organs removed, only a small portion. But that should not obscure the basic fact that these people disappeared and that it is certain they were killed.

Q: You write how some of the abductees who were subjected to a filtering process, including medical tests, and ended up at a location in Fushe Kruje near the airport. You have very specific information about how these victims were killed, and where their bodies were taken and what happened to the bodies.

A: Based on testimony we have gathered, there was a sort of selection among the prisoners. Certain prisoners - following, in addition, the collection of blood samples - were selected and taken to a centre where they were killed with a bullet to the head, after which their organs were extracted for transport abroad. I must emphasise that this did not occur systematically with everyone who disappeared. And so I think we must stress that this organ traffic, while of the utmost gravity, is not the key point. The key point is that hundreds of people disappeared and were killed.

Q: In your report you write about the relationship between events that happened in Albania in 1999 and 2000 and the more recent Medicus case in Pristina. Is there a direct connection between the two cases?

A: Several elements lead us to believe that there is a connection between the two cases: That, ultimately, it is the same international channels at work. It is even of interest to note that the later case involves organ trafficking that occurred in 2006, while international forces were present in Kosovo. We did not provide further details because we do not wish to interfere with the ongoing investigation by EULEX of the Medicus case. But we believe – and there are several elements that point to this – that the two cases are related, in particular that the same people were carry-
ing out the surgical operations, and the same international channels were involved.

**Q:** In terms of the information you cite in these reports, this is not hearsay, this is serious information that could be used to build an indictment?

**A:** Our work is not the work of an examining magistrate or an attorney general; my work is the political work of an institution that defends human rights. So our work is not an indictment, but more a set of findings, and on the basis of those findings the proper authorities would have to open an investigation. Now, if you ask me personally as a former magistrate and prosecutor, based on the documents and on the testimony we have gathered, certainly an investigation should be opened and it should have been opened a long time ago.

**Q:** In 2004, a team of officials from UNMIK and the ICTY traveled to Rripe, near Burrell, Albania, where they searched a house and spoke with the people who lived there. They also found indications of bloodstains throughout the first floor living area and collected evidence such as used medicines and I.V. drip bags. Later, the ICTY’s prosecutor’s office destroyed this evidence without ever having it analysed and without informing any other authorities including UNMIK. A spokesperson for the tribunal said this was done in accordance with normal procedure. What is your comment?

**A:** This is certainly not a normal procedure for any tribunal in the world. When you gather evidence and you believe that you don’t have the necessary proof or you are not the competent authority to continue the investigation, you never destroy the evidence, especially when no statute of limitation has expired. You keep the evidence, because at some later point in time, perhaps, there will be new evidence that will make the old evidence newly significant. So, I do not accuse the ICTY of a conspiracy; I think they made a mistake.

**Q:** What do you think the main factors were for the West and the UN not to conduct serious investigations in Kosovo?

**A:** I think that the philosophy in the beginning was - and this is the expression used by American diplomats - the past is past; we need to look toward the future. As they saw it at the time, they had chosen the team that seemed most up to the task of controlling the local authorities. Political stability and political expediency outweighed the sense of justice, to put it simply.

**Q:** A close reading of your report suggests you penetrated the inner circle of this criminal network. Is that a fair statement?
A: Those are your words. I think that you are not completely wrong, but you must understand that I cannot be more precise because I do not want to endanger those sources that trusted and spoke with me.

Q: Your report has been criticised for being long on commentary, some of it libellous, and short on verifiable facts. Why don’t you cite many of your sources?

A: First, I would like to remind you that there is a whole series of reports by intelligence agencies from a variety of countries: The [American] FBI, the [British] MI6, the Italian SISMI, the German BND, and other reports. There are crime studies. If we have been able to be more precise, it is thanks to our witnesses. And these witnesses risked their lives. I would remind you that there is currently no witness protection law in Kosovo, and that during the trial of the Haradinaj brothers, of the forty witnesses who spoke up during the investigation, none testified at the trial and several were killed.

So these witnesses will speak when they have an absolute guarantee that they will be protected, not only during, but also after the trial.

Q: You’ve conducted some very difficult and disturbing investigations in your career, both as a criminal prosecutor but also as a human rights special rapporteur. How does this investigation compare?

A: The greatest difficulty that I have encountered is finding witnesses and, even more, developing trust. Trust had to be built slowly, in order to make it understood that I was fully committed to protecting the witnesses’ anonymity and their lives, and that I would never give out any indications regarding witnesses without their consent. It was very difficult, to develop this trust. Perhaps the fact that I represent an institution such as the Council of Europe, that I work alone with a very small team, and that I am known for my earlier reports, contributed to establishing this trust.

Q: There’s been talk in recent days about the need for clean hands. That is, that people who want to be in the new government in Kosovo need to have clean hands and not be under a cloud of suspicion. Do you have an opinion on whether or not someone facing an investigation should be able to serve in the government in Kosovo?

A: I am of the opinion that anyone who assumes political responsibilities should be above suspicion. That is, not only should they be free of a criminal record, not only should they not be the object of an open investigation, but there should also not be all sorts of information casting doubt on their honesty. There is a well-known French expression: “even Caesar’s wife should be above suspicion.”
Q: Is the concept of ‘omerta’ still important in terms of organised crime in Kosovo?

A: There are aspects that are somewhat similar to the Sicilian mafia of twenty or thirty years ago, and I think that the police or judicial authorities of Kosovo should draw inspiration from methods used by the Italian police, for example, working with high level informants, people who admit their crimes and help bring down the whole network. The financial aspects must also be taken on. There are Kosovo politicians who have enormous financial fortunes, yet declare absolutely insignificant incomes. And so we must also investigate finances. What is the origin of this money?

Q: It’s been said about the allegations you make in the report, especially the organ trafficking case - they’ve been investigated many times without any success. Some people say Dick Marty is just re-hashing old allegations. What’s your response?

A: I would respond that, probably, if I myself were a witness, I would talk to someone I trusted but not to international institutions that are not in a position to offer sufficient guarantees of protection. I think everyone knows that UNMIK had great difficulties in its work and that EULEX - and it is senior officials and judges in EULEX who tell me this - has major problems with interpreters, with local collaborators, with searching the information system. It is extremely difficult to keep records strictly confidential. If, as a witness, you do not have complete assurance that your statements will be kept confidential, and that you as a witness are truly protected, clearly you won’t talk to these institutions.

Q: The so-called yellow house. What was its function in this whole network? What happened there?

A: The infamous yellow house was one of the centres in the private detention network. It was a transition centre where blood samples were also taken, in all likelihood to establish whether or not the person was compatible with recipients. So it was part of a network, but we know that it was not where organs were extracted.

Q: Do you think people didn’t pay enough attention to what happened to Serbs in Kosovo because of the devastation created by Serbian forces - the ethnic-cleansing, rape and murder. That is, when international institutions arrived in Kosovo, they treated the Serbs as the aggressors and the Albanians as the primary victims?

A: Yes, I think there was a perception that the Serbs were all guilty and the Albanians were all victims. It is true that Milosevic committed horrible crimes. What we refused to see is that there were also Albanian Kosovars
who committed crimes. These crimes in no way diminish the gravity of the crimes committed by Milosevic. But I think that you can’t have a justice system for only the vanquished and not the victors. And I would like to stress that this report – and for me it is important to underscore this – is not a report against Kosovo. It is not a report against Kosovars.

I met mothers who had lost their sons in Serbia and mothers who had lost their sons in Kosovo, and between a Serbian mother and an Albanian mother who have both lost their children, there is no difference. And both have the right to know what happened to their children. So this is fundamentally a report for the men and women of Kosovo, because I am certain that there can be no real future for this people without the truth, and this people, I know them well because there are many Kosovars in Switzerland. One tenth of the population of Kosovo is living in Switzerland and I know many. I believe they deserve a political class that is above corruption and that does not think solely of its own interests, but of the interests of the population as a whole.

Q: Are you ready to immediately hand your information, your witness list, your testimony, to EULEX so they can conduct an investigation?

A: I am certainly in favour of a judicial process, but justice must provide guarantees. And when it does, I will ask the witnesses to agree to testify.

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ALBANIA: WE BACK PROBE INTO ‘BIASED’ MARTY REPORT

Ex-foreign minister and member of Albania’s delegation in the Council of Europe, Kastriot Islami says Albania will back a probe into organ trafficking claims, though it considers them baseless and the Dick Marty report as biased.

Besar LIKMETA

Q: What is the goal of Albania’s delegation through its amendments to the Council of Europe resolution on the Marty report?

A: The delegation has analyzed the report in partnership with the foreign ministry, and specifically the attached resolution that will be debated and approved in the plenary session of the [CoE] assembly...

Regarding the resolution, apart from article 19, where the parliamentary assembly, PACE, requests EULEX and other organizations as well as Albania to engage in investigating the ‘accusations/allegations’ of organ trafficking, the Albanian delegate in the legal affairs committee will propose amendments that will essentially change the content of the resolution to make it more realistic.

Q: Have the attacks on Dick Marty’s credibility and objectivity aided Albania’s and Kosovo’s position?

A: There were some irrational reactions in the beginning but I have to conclude now that my impression is completely different. By feeding the smokescreen created by his compatriot [the former Hague tribunal chief prosecutor], Carla Del Ponte, Marty has created the perception of a frontal assault on the reputation of the Albanian people and of a collective ‘offensive’ against the image of the Kosovo Liberation Army and its leadership and of part of the current political leadership of Kosovo with unproven accusations. This has been carried out rationally and in a cold-blooded manner. The damage caused to the reputation of Albanians by Marty will need time to be repaired.
It is true that some reactions at first were emotional but they were to a degree understandable because the accusations, as Dick Marty calls them, were [published] without any proof or new facts and are totally speculative and damaging to the Albanian community and many individuals.

His report, and follow-up interviews, where a sort of tactical and formal retreat can be seen, though in substance he does not change anything, show the accusations draw on his three main ingrained beliefs. First, Marty is perceived not only by Albanians but also by others as anti-American and against NATO. He has been outspoken not only against the [NATO] bombing of the Milosevic regime [in 1999] but also over CIA rendition cases in Europe.

Second, Marty is perceived as an opponent of Kosovo’s independence. He has been one of the few people in Switzerland against Kosovo’s independence, giving legal arguments against it, which have been overthrown by the International Court of Human Rights. Marty continues to be an opponent, using poor and prejudicial arguments against Kosovo’s membership of the Council of Europe. With these ingrained beliefs and his subsequent positions, Marty, in a sophisticated way, has tried to put on the same plane “the butcher and the victims of the Milosevic regime,” which it seems is something he really believes.

Marty has tried to be a Rapporteur by writing a report through which he tries to prove his theses against NATO, Kosovo’s independence and the people of Kosovo, naturally with sophisticated language. It’s not true that he was selected against his will as a Rapporteur. The Council of Europe has a number of MPs that are out of the political game in their own countries and seek desperately to rebuild their missing reputations by being ever-present in reports of PACE.

In attacking the reputation of the Kosovo Liberation Army and its leadership Marty is recycling the old Serbian and Russian theses, which have been the source of Marty’s judgmental accusations.

However, this arsenal of accusations has a weak point; it’s not based in any proof or facts, old or new. It refers to the memoirs of Carla Del Ponte, who was and is responsible for proving the validity of these accusations. Del Ponte tried to skirt this responsibility in publishing these irresponsible accusations...

However this mountain of accusations, without proof or facts, uncommon for a prosecutor of a serious country like Switzerland, will be torn down in time.
To rebuild our damaged reputation will require even more time, especially in regards to the process of Kosovo’s recognition and its negotiations with Serbia. The Albanian delegation to the CoE will have a rational and professional reaction to Dick Marty’s allegations by openly backing their investigation by EULEX, although it is totally convinced that they are baseless speculations.

Q: Is Albania cooperating with other countries in its response to them?

A: We are in contact with the majority of the delegations of PACE member countries and the Albanian Foreign Ministry is in intensive communications with its counterparts. The final action will follow intensive direct contact in the coming days.

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TALAT XHAFERI: MARTY REPORT VILIFIES ALL ALBANIANS

Key member of Macedonia’s governing ethnic Albanian Democratic Union for Integration says Marty report besmirches all Albanians but this should not stop a competent investigation.

Sinisa Jakov MARUSIC

Q: Why did the DUI join the initiative to collect signatures for a petition against the Marty report?

A: For all Albanians, Dick Marty’s report came as a surprise. The claims in it go against the philosophy of the Albanian people and go against the concept of war of Albanians. In all wars in which Albanians took part, no such violations of the rules of war occurred. Having in mind that the intent of this report is to generalize one possible case of organ harvesting with the general conduct of all Albanians, we felt a need to support an initiative to collectively rebuff this.

We disagree with the intent to generalize some individuals’ conduct and portray it as the general practice of all Albanians. We are also convinced that under the circumstances [of the war in Kosovo] trading in human organs could not have happened.

Q: Where do you see this generalization in the report?

A: If you read the report you get an impression that Albanians throughout the region are genetically inclined towards these criminal acts. It is portrayed as if this is standard practice among people in Kosovo, Albania and Macedonia and Albanians from other parts. This contradicts reality. There were no doctors or medical experts who said that transplants of this size could be carried out in such conditions, in a small and ruined house. This is an attempt to generalize things and portray Albanians as collectively predetermined to commit such crimes.

Q: If you reject the report, why do support an investigation?

A: The problem is that the report emerged prior to any EULEX investigation. The report should have followed afterwards; after, the institutions in
Kosovo would have conducted their investigation. This way, we feel like someone has already reached a verdict in this case, based on speculation and unproved allegations in the report. Why should the investigation follow after the verdict has been reached, and to what purpose? Who should we trust now and how are we going to amend the damage done if the report passes in the PACE next week without prior proper investigation?

Otherwise, as a political party from Macedonia, we have accepted the engagement of EULEX in Kosovo with all its jurisdiction regarding the rule of law and fight against crime and corruption. We hope an investigation will portray a different picture to the one contained in the Marty report.

**Q:** Of three Macedonian MPs in the Council of Europe assembly, only one is from the DUI. Do you expect support from the other Macedonians?

**A:** We appeal to the sense of compassion among the ethnic Macedonian members of our delegation. If they keep in mind the wider regional implications of this report, they should reject it as well. Macedonia should be concerned in this context because journalist texts have pinpointed that some Macedonian clinics took part in the alleged organ trafficking. The [Macedonian] health ministry rebuffed these allegations but our institutions should seriously investigate these claims.

If they [the Macedonian PACE members] accept a report that connects certain individuals from Macedonia with this hypothetical organ trafficking, they accept the implication that Macedonian institutions that were responsible for controlling the situation were also accomplices and should be held responsible.

**Q:** Relatives of the 12 Macedonians kidnapped in the 2001 conflict have said they suspect their loved ones may also have ended up as victims of the organ harvesting in Kosovo.

**A:** People are missing from both ethnicities [from the 2001 conflict]. The DUI supports the process of determining the truth of this and institutions should have the final word on this. However, this case should not be connected with the alleged organ harvesting in Kosovo. Marty’s report cannot be linked to the Macedonian conflict.

**Q:** Are your close ties to the Kosovo premier Hashim Thaci influencing your position?

**A:** Our close relations have nothing to do with it. The report contains political implications against all Albanians in the region regardless of who leads the Kosovo government. The content and motives of the report are collective. They portray all Albanians in a negative light.
We remain behind our standpoint that the US and the EU are our partners and friends, together with NATO and EULEX as institutions governed by them. We simply seek justice and truth. During Slobodan Milosevic’s rule in Kosovo, we had 15,000 victims and while some people accused of hideous crimes against humanity are still walking free despite the international warrants against them, we won’t accept to be portrayed as the bad guys.

Q: Do you see a connection between the allegations against Thaci and the alleged secret service files portraying your party leadership as former Yugoslav spies? Is someone trying to discredit Albanian leaders throughout the region?

A: Some circles in Macedonia, in the region and in Europe are indeed interested in discrediting Albanian leaders. The appearance of those alleged police files is not a coincidence. They link the DUI leadership, some political parties in Kosovo and persons from Albania with the Serbia’s secret services. This is a fine movie scenario. But the very fact that the DUI since its formation in 2002 has unmatched support among the Albanians speaks differently. The people are not buying these scenarios.

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The former ICTY prosecutor says the International Criminal Court or a special tribunal should investigate allegations of murder and organ trafficking by Kosovo politicians.

Michael MONTGOMERY

Former United Nations war crimes prosecutor Carla Del Ponte has called for an international criminal inquiry into allegations of murder and human organ trafficking by senior Kosovo politicians.

The allegations were made in a report released earlier this week by European human rights investigator Dick Marty. A parliamentary committee of the Council of Europe has approved the report, sending it to a full assembly meeting in January.

“You cannot read this report and simply look away,” Del Ponte said in an interview from Argentina where she is the Swiss ambassador. “It must be followed up by an international institution capable of conducting a thorough investigation.”

Del Ponte told Balkan Insight and the US based Center for Investigative Reporting that the complexity of the case made it unlikely that any national court could investigate the allegations, which span multiple Balkan countries and implicate Kosovo’s current prime minister, Hashim Thaci.

“What my experience shows me is that it is impossible for any national authority to take this kind of an investigation to its end,” said Del Ponte, who was the chief prosecutor for the International Criminal Tribunal for the former Yugoslavia from 1999 to 2007.

Del Ponte also questioned whether the EU mission in Kosovo, known as Eulex, has the resources and political support to handle the case.

“I fear that Eulex will not be able to do this investigation, because you can imagine the obstacles they would face with personnel based in Kosovo,”
she said. Del Ponte said investigators and witnesses face serious threats from the Albanian mafia and former Kosovo Liberation Army operatives.

If Eulex is unable to take on the investigation, Del Ponte said there were two other options – the International Criminal Court in The Hague, if it receives a special mandate from the UN Security Council, or a stand-alone court modelled on the Special Tribunal for Lebanon.

The allegations of murder and organ harvesting by members of the Kosovo Liberation Army were raised in Del Ponte’s 2008 memoir, “Madam Prosecutor.” Those revelations spurred the Council of Europe to authorise Marty’s investigation.

Del Ponte praised Marty and his final report.

“Dick Marty is a courageous man, and he’s not under political pressure or looking to score political points.”

The two both served as state prosecutors in Switzerland.

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EULEX: NO EVIDENCE KLA TRAFFICKED ORGANS

Matti Raatikainen, chief war crimes investigator for the EU mission, tells Balkan Insight that investigations into alleged KLA organ trafficking have uncovered nothing so far.

Lawrence MARZOUK and Jeta XHARRA

Accusations that the Kosovo Liberation Army, KLA, was involved in organ trafficking from the so-called “Yellow House” in Albania are not supported by evidence, Matti Raatikainen, chief of war crimes investigations at EULEX, said.

The allegations, which first surfaced in the book Madame Prosecutor, by Carla del Ponte, former chief prosecutor for the International Criminal Tribunal for former Yugoslavia, ICTY, are arguably the most shocking ever levelled at the KLA.

Del Ponte’s book says that that the KLA might have kidnapped several hundred civilians in Kosovo in 1999 and taken them to northern Albania, some of whom were sent to Burrel and had their organs harvested.

Last year EULEX revealed it was looking into the claims, but speaking to Balkan Insight, Raatikainen said enquiries by the EU rule-of-law mission had uncovered no evidence to back them up.

“We have investigated the Yellow House case but to date our prosecutors have found absolutely no evidence or intelligence that would lead us to believe this happened,” he said. “We followed the clues but no evidence or intelligence about this case ever materialised.”

He added that while the case was not closed, it was no longer a priority: “Of about 900 cases we inherited from UNMIK, we are working on about 60, as this is what we have capacities for.

“We have prioritised them mainly on the seriousness of the case. Out of these are 50 cases in which there are more than 10 victims.”
He said that looking at all the war crimes cases in Kosovo, 70 per cent of the victims were Albanians, 25 per cent Serbs and the remaining 5 per cent involved Roma and other ethnic groups.

The case has gained further traction internationally over the past year following claims by the Serbian war crime prosecutor’s office that it has evidence of organ trafficking, and the launch of an investigation into the matter by Dick Marty, a Swiss senator representing the Council of Europe.

Balkan Insight understands that EULEX’s war crime unit has asked to see the evidence held by the Serbian prosecutor but has received no positive answer. This is in contrast to other investigations by EULEX in which Belgrade officials have helped with witnesses and evidence.

According to a EULEX source an organ harvesting operation would have required sophisticated logistics beyond what a small farmhouse in remote northern Albania could have provided.

In 2003, an UNMIK and ICTY mission visited a house 40 minutes from the village of Rribe to investigate the allegations that organs from Serbs abducted from Kosovo had been “harvested” there.

The inquiry did not proceed further, in spite of which it remains a hot political issue between Albania, Kosovo and Serbia.

Kosovo and Albanian authorities argue that the investigation never got anywhere because the allegations were unfounded, “cooked up by Belgrade” to undermine the legitimacy of Kosovo’s war for independence.

In Belgrade, officials have continued to highlight the claims, portraying them as proof that the Albanian guerrilla war waged against Serbia was a criminal enterprise.

This article was initially published by BIRN on May 7, 2010 and has been updated for the purpose of this e-book.
UNLOCKING THE DARK SECRETS OF THE KLA’S CAMPS

Michael Montgomery retraces the journey that led him to discover KLA detention camps in Albania and discusses the ICTY’s destruction of crucial evidence of possible organ trafficking in Burrel.

Gordana IGRIC

Michael Montgomery is a special correspondent for the Center for Investigative Reporting. Over a 20-year career he’s worked in television, radio and newspapers. As Balkans correspondent for the London Daily Telegraph, he covered the conflicts in Kosovo, Bosnia and Croatia, returning to Kosovo in 1999 to co-produce a major radio documentary, Massacre at Cuska/Qyshk, which documented the mass killings of Kosovo Albanian villagers by Serbian paramilitaries and won a Dupont-Columbia gold baton the top award in US broadcast journalism. He recently produced a documentary for the BBC Radio 4, Crossing Continents programme, and contributed to BIRN’s investigation into the network of KLA run camps in Albania and Kosovo.

Q: Why did you take up this current project?

It happened in a roundabout way. I spent a lot of time after the war in 1999 in western Kosovo with my colleague Stephen Smith. While conducting interviews for our documentary about Qyshk, we began picking up information that the bodies of some Kosovo Albanians had disappeared. Most people believed they were taken away by Serbian police to hide evidence of atrocities. Those clues led Stephen and I on a new investigation. Eventually, we produced stories on how Serbian forces destroyed or hid in mass graves hundreds of Albanian victims. That information was later confirmed with the discovery of mass graves in Batajnica and other locations in Serbia.

During this period we spoke with a lot of men who had served in the KLA and other Albanian sources. Those people began telling us about some of the things they had seen, or heard, about killings and abductions carried out by KLA operatives or people they associated with the KLA.
Q: Who were these sources?

Obviously we’re being very careful to protect these people’s identities for their own safety. But these were all men who consider themselves Kosovo patriots... and who are still proud about what they fought for. Some were drivers and logistics officers. But they were uncomfortable with some of the things that were done to people – Serbs but also fellow Albanians – under the cover of the war and under the banner of the KLA. Some sources also saw a connection between those crimes and ongoing corruption in Kosovo today. They believe that some of the people who were involved in these abuses... are continuing to abuse the system, though perhaps in different ways.

Q: One of the major allegations is that the KLA, or elements of the KLA, ran secret jails or camps.

This is the heart of our findings. There’s strong evidence that the KLA, or elements of the KLA, detained and abused people at their bases and in makeshift jails in private homes. This was during and after the war. This occurred in the locations we mentioned in the documentary, in and around Prizren, near Junik and elsewhere in Kosovo, in Tropoje, in Kukes, in Burrel and even in Durres. It seems that different people were held in these places for different reasons. One of the major mistakes in the way this story has been reported in the Belgrade media is the claim that only Serbs were held in these places. In the KLA camp in Kukes, it seems that most civilians held there, at least for a time, were Kosovo Albanians. That was a really important point for many of our sources, the fact that fellow Albanians were abused by KLA soldiers and officers.

Q: So, these sources started telling you about a network of camps, human rights abuses and organ trafficking?

Initially, we only heard stories of civilian killings in Kosovo, mainly Serbs murdered after the war. But as we developed more sources, we started to get more information on people who disappeared without trace. That’s when we started hearing about people secretly taken over the border with Albania. The thing that confused us was this: If these acts were simply revenge killings, why bother taking people over the mountains into Albania? Why not just kill them in Kosovo, as had been done with others? What was even more confusing were stories we heard in which the men transporting these people were ordered not to mistreat the captives. And, according to the stories, the captives were checked by doctors after they were delivered to various locations in Albania.
Q: The most sensational allegations coming from your research was that prisoners were killed and their organs harvested. When did you first hear this?

In 2003, we starting building up more details about camps where people were held during and after the war. Most of our sources didn’t know why people were taken to Albania, especially after the war. They knew that some were killed in the border areas and their bodies dumped in hidden graves. But several sources said they believed some of the captives, probably a small number, were kept alive for many months after the war. This would only make sense if they were being held for ransom. But I am not aware of many cases of abductees being exchanged for ransom, especially Serbs.

We had heard mention of Burrel and of people being taken and held there. We also heard that the International Committee of the Red Cross had investigated Kosovo citizens being held in Burrel after the war. Eventually, we met two reliable sources who told us about driving a small number of captives to a house near Burrel and possibly some other locations. They said it was very strange because doctors were present and one source said the inside of the house smelled like a hospital. They were later told that the captives, or their organs, were shipped abroad for transplant operations. They didn’t see any of this, but they heard it and it seemed to conform with what they had seen at the house.

Q: So what did you make of these stories?

Initially they seemed preposterous. It was hard to imagine anyone doing such a thing. But the sources we spoke to gave a lot of specific details that matched with information we developed in the field. We went back to our original question – Why bother bringing dozens, maybe hundreds, of people across an international frontier and then holding them in camps or makeshift jails for months? It didn’t seem to make sense unless there was some kind of financial or political benefit. One other possibility we imagined was that the civilians were being held to exchange for the hundreds of Kosovo Albanians being held at the time in Milosevic’s jails. But, again, these exchanges never happened. Eventually, I went to the house to confirm it’s location.

Q: So, what did you do with your information?

We took our information to UNMIK’s office of missing persons in 2003. We figured it was their job to find the missing and we had information about where some of these missing might be. Although we didn’t have reliable information about where the bodies of the victims might be buried, the UN decided to send a team to the house to investigate.
Q: Did you go back to Burrel to the now famous “Yellow House” with a UN team?

Yes. And, the UN team did make some unusual discoveries – used medical supplies in a trash dump and evidence of blood stains on the living room floor. The family had explanations for these things, but these tended to shift over time. I think that when the team left the house, they believed the family wasn’t telling the whole story. But they didn’t know what was being left out.

Q: So what happened next?

The evidence collected by the UNMIK team was sent to the ICTY in The Hague for analysis. The story was intriguing but we felt we didn’t have enough information especially about the camps. We waited for the UN to analyse the evidence from the house and, possibly, investigate new leads. But, again, that never happened.

Q: The next time you heard about this was in Carla Del Ponte’s book?

Right.

Q: What did you think about the fact that no investigation was launched while she was ICTY chief prosecutor but after leaving office, she raised the issue in her book?

My assumption is that she published the information out of frustration and hoping to generate interest in the case. I don’t know for sure.

Q: So, what happened to the evidence collected on the scene?

I’m quite sure the evidence was destroyed at the Tribunal. Not only has the Serbian war crimes prosecutor, Mr. Vladimir Vukcevic, stated this, but it’s also been confirmed by Jose Pablo Baraybar, the former head of UNMIK’s missing persons office.

Del Ponte is now an ambassador and the Swiss Foreign Ministry has forbidden her to speak with the media. However, her co-author, Chuck Sudetic, told me this about the reports of the destruction of the Burrel evidence: “Carla Del Ponte did not know that these physical artefacts, which included spent medicine vials, and other medical materials, were destroyed by the ICTY. The decision-making on their destruction was made below Madame Del Ponte’s level, and she was not consulted about it. If Madame Del Ponte had been consulted, she would have refused to approve the destruction of this and any other evidence.”
I’m not aware of any follow-up investigation by UNMIK or the ICTY on this matter.

Q: But you launched a new investigation recently. What did you discover this time?

Our new investigation has provided powerful evidence of a loose network of camps in Kosovo and Albania where people were abused and in some cases killed. Our new research has also revealed that some of the victims were ethnic Albanians.

Q: How many sources did you find to confirm this?

I would say overall about six.

Q: And they all had to be anonymous sources?

Yes, they all had to have their identity concealed which is frankly what we did when we did the story about the massacres in Qqshk. We interviewed men who were involved in the massacre but for them to tell the story they needed to do it anonymously. Not all of our sources were anonymous, we obviously interviewed people from the UN. But the men who we spoke to, who were operatives of the KLA, were very much worried about their security and safety of their families.

Q: If it was a security risk to name the witnesses, why could you not name the perpetrators in your story? You clearly know who they are as you mention their positions.

I believe some of those names will come out. A lot of these names are actually known, it is just people don’t want to talk about it.

Q: If people don’t want to talk about it, and you wrote the story to open up the conversation about this issue, then why didn’t you take the evidence to the perpetrators accused by your sources?

I would say that is something that still can be done. I would say that that is the job of others. I am not a prosecutor here. One has to say that in the United States and Britain one has to be careful about making allegations against specific individuals. I mean you do have libel laws and things like that so one has to be very careful when approaching this kind of issue.

Q: What do you say to those critics in Kosovo who say that because you did not name anyone in particular within the KLA responsible for these crimes, you are casting a shadow over the entire KLA?
These are not allegations against any top people in the KLA. What we are reporting is the situation that our sources saw on the ground in these camps. I suppose it is possible that the leadership of the KLA did not know about this. I understand that is what they are saying. But what is interesting about this is that everybody we interviewed thinks these things should be investigated.

**Q: Why did you choose to publish the story ten days before Kosovo and Serbia start arguing the case for and against Kosovo’s independence in the International Court of Justice?**

Frankly I wasn’t even aware that that case was going on. We wanted to broadcast the story ten years after the war because that was a good peg for us. That was our primary focus. This case in the Hague had no bearing on our decision.

**Q: How would you characterize the UN’s handling of these allegations?**

The UN encompasses such a broad range of organisations and people. I’ve spoken to many former UNMIK officials who described all the challenges of working in the Kosovo justice system – from witness intimidation to simple lack of resources. So I think there were many factors that hampered UNMIK’s ability to investigate and prosecute war and ethnic crimes. Another factor was certainly political. Several former UNMIK officials told me there was no political support for major war-crimes prosecutions, especially after the March 2004 riots targeting the Serbian minority. That doesn’t mean individual prosecutors weren’t able to pursue some cases. They were. But overall, these former UNMIK officials say they’re very disappointed with the number of cases, especially for crimes committed against minority groups.

**Q: What are the chances that EULEX will take on some of these cases?**

My understanding is that EULEX has already stated publicly that it is looking into the allegations. The question will be whether they give prosecutors strong political backing to take the investigation wherever it leads and whether there are adequate sources to make effective cases. I think the jury is out on whether EULEX has allocated sufficient resources for its war crimes team.

**Q: Still, why was it not a good time to publish the story then and it is a good time to publish the story now when you still do not have a confirmation from the UN or EULEX investigators of what happened there?**
What I decided to do is go back and do a new investigation and that is what I’ve been doing in the last nine months or so. So the result of what I published in the BBC is the result of a new investigation with the new sources.

Q: Are you sorry that you didn’t publish a story back then?

This story has been distorted over time. I have always seen the central frame being the people who were kidnapped and taken to northern Albania. I strongly believe that dozens if not hundreds of people were forcibly moved from Kosovo to Albania and killed there. There is a continuing mystery over the small fraction of those captives who were not immediately killed. And I believe that some of those victims were taken to Burrel. But we simply don’t have enough information to know with certainty what happened to those people.

There are many things we know today that we didn’t know five years ago. So I think we made the right decision not to go with the story back then.

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The protection of witnesses testifying about the Kosovo war has long been a major challenge, but the new Hague-based Kosovo specialist court believes it can succeed where others failed.

Marija RISTIC

“I am obligated to protect witnesses and to keep confidential and secure all information that should be protected to ensure that witnesses who give evidence are not intimidated or harmed or threatened,” US lawyer David Schwendiman told his first press conference last month as the chief prosecutor at the Specialist Chambers.

This new court, based in The Hague, aims to prosecute crimes committed by Kosovo Liberation Army members from 1998 until 2000, and witness
protection will be one of its key challenges, as Schwendiman acknowledged.

“I will not discuss nor disclose information about our witnesses. Neither will I discuss our means and methods for protecting those who are vulnerable because of their role in our investigations or any prosecution,” he insisted after being asked how the new court will ensure that witnesses are not intimidated.

The failure by the domestic institutions and international missions in Kosovo to keep witnesses safe and prosecute war crimes without political interference was one of the key reasons why the European Union, backed by the US and Russia, decided to establish the new hybrid court, which is officially called the Kosovo Specialist Chambers and Specialist Prosecutors Office.

The court will have international judges and prosecutors, but it will work under Kosovo law and is expected to start its first judicial activities at the beginning of next year. It is only waiting for the approval of the Dutch parliament before it issues its first indictments.

**FOURTH TIME LUCKY FOR PROSECUTORS?**

The new court will be the fourth attempt by the international community to ensure that the crimes allegedly committed by senior officials from the Kosovo Liberation Army, the guerrilla group that fought for independence from Serbia in the late 1990s, are prosecuted.

For the past 17 years since the war ended, the international community has been administering justice in Kosovo, but its results have been poor – fewer than 20 final verdicts in war crimes cases.

The conflict in Kosovo broke out in 1998 when the KLA fought Serbian police in an attempt to win independence for the province from Yugoslavia. It escalated in 1999 when NATO launched an offensive against Slobodan Milosevic’s Yugoslav forces, and around 10,000 Kosovo Albanians were killed and 700,000 more were expelled.

Although the war officially ended in June 1999, the violence continued, as retaliation was sought against Kosovo Serbs for the crimes committed by Belgrade’s forces. Some 200,000 Serbs fled Kosovo, and 1,666 people, both Albanians and Serbs, still remain missing.

Since then, several mostly internationally-administered bodies have been in charge of prosecuting the crimes committed from 1998 until 2000.
Initially it was the UN-backed International Criminal Tribunal for the Former Yugoslavia, ICTY, which had five cases related to the Kosovo war.

In Kosovo itself, the UN set up its own mission, UNMIK, which was supposed to deal with crimes committed by lower-level perpetrators. From 2008 onwards, the EU rule-of-law mission, EULEX, continued the work of UNMIK and trained local prosecutors to deal with war crimes for when the EU mission ends.

**FIRST WARNINGS ABOUT WITNESS INTIMIDATION**

The first prosecutor to speak openly about witness intimidation in Kosovo cases and the problems her team was facing was Carla Del Ponte, who was the ICTY’s chief prosecutor from 1999 to 2007.

Del Ponte said that “the investigation of the Kosovo Liberation Army fighters appeared to be the most frustrating of all the investigations done by the ICTY”.

In her book Madame Prosecutor, published in 2009, she wrote that “witnesses were so afraid and intimidated that they even feared to talk about the KLA presence in some areas, not to mention actual crimes”.

“Those willing to testify had to be transferred to other countries with their entire families and many states were not willing to accept them,” she added.

After the war in 1999, Kosovo didn’t have a police force and the NATO Kosovo Force (KFOR) and UNMIK missions couldn’t manage to ensure security.

“I am convinced that UNMIK and even KFOR officers were afraid for their lives and the lives of their missions’ members. I think some of the ICTY judges were afraid that they would become a target for the Albanians,” Del Ponte wrote.

In her memoirs, as well as in her many reports to the UN Security Council, Del Ponte said that she believes the intimidation of witnesses seriously affected the verdicts in the cases in The Hague against two senior KLA officials, Fatmir Limaj and Ramush Haradinaj – both of whom were acquitted.

Numerous witnesses changed testimonies during the trials, while others died in mysterious circumstances.
During the case against Ramush Haradinaj, one witness was found dead, which according to the official investigation was the result of a car accident.

**New court plans 'robust' protection**

The way that witness protection will work at the new Kosovo specialist court has not been fully revealed due to security concerns, but court officials told BIRN that they believe the system will work.

According to the Law on Specialist Chambers that the Kosovo parliament adopted in August last year, the court will have a Witness Protection and Support Office, which will deal with security arrangements and protective measures for witnesses, as ordered by the judges.

As at the ICTY, any threats, intimidations and breaches to protective measure orders can be prosecuted.

“The law creates the framework for a robust witness protection measures, with full respect for the rights of the defence. We intend to implement the highest standards of protection for individuals who may be at risk on account of their participation in the judicial process. This is something we take very seriously,” said Fidelma Donlon, the registrar of the Specialist Chambers.

According to Joao Sousa, spokesperson for the Kosovo Specialist Prosecutor’s Office, SPO, witness protection has been a central concern since the start of its investigations.

“We have always taken appropriate steps to protect the vulnerable. The SPO is likewise committed to protect our information and our sources. Witness protection remains one of the SPO’s highest priorities,” he said.
The ICTY in 2005 sentenced Beqa Beqaj, a relative of one of the accused KLA men, to four months in prison because he interfered with two witnesses, demanding that they withdraw testimonies in the case against Li-
maj.

In 2008, the ICTY then convicted Bajrush Morina, a deputy culture min-
ister in Kosovo, of interfering with the administration of justice by pres-
surising a protected witness not to testify for the prosecution in the trial of Haradinaj.

Baton Haxhiu, a former editor in Kosovo, was also convicted by the ICTY of revealing the name of a protected witness and fined 7,000 euros.

At the same time, according to Del Ponte, serious abuses of witnesses in local cases in Kosovo also took place.

In 2002, a bomb was placed under a protected witness’s car; a year later, witness Tahir Zemaj was murdered in the town of Pec/Peja after testifying at the trial of a senior KLA official, while two other witnesses at the same trial, Sadik Musaj and Ilir Selamaj, were also killed.

Some UNMIK personnel considered former KLA officials as keys to sta-
bility in Kosovo, such Soren Jessen Petersen, the former head of the UN mission.

During Petersen’s years as head of UNMIK from 2004 until 2006, ICTY prosecutors even accused his mission of not providing sufficient docu-
ments and cooperation for prosecutions.

Del Ponte further alleged that UNMIK even leaked sensitive information about witnesses to war crimes defendants.

UNMIK denied the allegations, but its chiefs later admitted that some of the investigations into high-level perpetrators were stopped for political reasons.

The UNMIK mission came under harsh criticism for years, especially after failing to maintain the peace amid several outbreaks of violent unrest that left many dead. The ICTY finally finished its investigations in Kosovo, but many cases of war crimes remained to be prosecuted.

In 2008, the international community decided to give this troubling task to a new mission, this time run by the EU.

The EU rule-of-law mission in Kosovo, EULEX, had a difficult task – on one hand, it had to gain trust from the locals, and on the other to be in-
dependent from the powerful elite which had run Kosovo since the war,
under the shadow of the alleged crimes that they committed in 1999 and afterwards.

Although many question the achievements of the EU mission, whose mandate expires in 2018, it had a better record when it comes to war crimes prosecutions than its predecessors.

But its witness protection programme received a blow after one of its key witnesses in the trial against KLA leader Fatmir Limaj died in a park in Germany. An investigation found that witness Agim Zogaj killed himself, but the incident didn’t encourage other potential witnesses to testify in EULEX-run proceedings.

**WITNESSES OSTRACISED BY LOCAL COMMUNITIES**

The most challenging issue for EULEX was to ensure that the witnesses didn’t change their testimonies during the investigation and at the trial.

Charles Hardaway, one of the leading EULEX prosecutors in the case against members of the KLA’s so-called Drenica Group, who were convicted of war crimes last year, told BIRN that intimidation remained a serious problem.

“The fundamental challenge in this case dealt with possible witness intimidation and dealing with whom we were dealing with, intimidation is the real issue, not just in this case, but in the other high-profile cases,” Hardaway said.

According to Anka Kurteshi Hajdari, who leads the court monitoring project at the Kosovo-based Humanitarian Law Centre, most witnesses change their testimony during trials, recanting what they said during the investigation phase.

“This is the result of the effects of the community in which they or their families live. Kosovo is a small territory, everyone knows each other and in these conditions it is hard to hide the identity of the witnesses. That means in most of the cases, either people refuse to testify or change their testimonies,” Kurteshi Hajdari said.

According to Kurteshi Hajdari, witnesses are strongly criticised by the communities in which they live, especially if they testify in high-profile trials.

A study published in 2015 by the Pristina-based Centre for Research, Documentation and Publication NGO also showed that the witnesses face the risk of being ostracised by society.
Nora Ahmetaj, a Pristina–based transitional justice expert who reported on human rights abuses during and after the war, agreed that witnesses in Kosovo have so far been “unreliable and often change their testimony”.

“There are two reasons why Kosovars are reluctant to testify against former KLA members: Kosovar Albanians respect and to a certain extent, glorify former KLA veterans. The high social standing of KLA commanders makes testifying against them an act of ‘treachery’,” Ahmetaj explained.

The other reason is that “the safety of individuals who agree to testify in cases of wrongdoing during the time of armed conflict is shaky, to say the least”, she said.

“Kosovo’s witness protection programme has failed on multiple occasions to provide adequate security and anonymity for witnesses in sensitive cases. Until the security of witnesses can be guaranteed, it is no surprise that Kosovars are hesitant to come forward, particularly in a society as small and close-knit as Kosovo’s,” she added.

NEW COURT FACES OLD PROBLEMS

The new Specialist Chambers is different from previous efforts to bring perpetrators to justice for crimes committed during the conflicts in the former Yugoslavia because it essentially focuses on one side in the war, the KLA.

According to Aidan Hehir, a reader at the University of Westminster and author of the book Kosovo, Intervention and Statebuilding, because the West backed Kosovo’s independence, previous attempts to prosecute were “hampered by the need to preserve a particular narrative, namely that the ‘bad guys’ were the Serbs alone”.

Hehir said that to have acknowledged in the aftermath of the NATO bombing that the KLA committed war crimes “would have potentially cast doubt on the legitimacy of NATO’s intervention and the subsequent determination to make Kosovo independent”.

It could also have caused tensions between the ‘internationals’ and former guerrilla officials who became political leaders in post-war Kosovo, like Hashim Thaci, who has held power in various forms since 1999 and is now president.

A 2011 Council of Europe report named Thaci as one of the key people in an alleged criminal network responsible for crimes against Serbs, Roma and Albanians who were marked as collaborators or political opponents of the KLA.
On the basis of the report, the EU set up a task force to investigate and decided in 2014 that there was enough material to have some former KLA officials indicted by the new Specialist Chambers.

Thaci has always strongly denied the claims and he has publicly supported the work of the investigative task force and the establishment of the new court.

But with indictments of former senior KLA figures who could also be high-ranking politicians in Kosovo expected in the coming months, it’s clear that witness protection must remain at the centre of the court’s attention if it is to be successful.

According to BIRN’s sources, several witnesses who are expected to testify have already been moved out of Kosovo to other countries to ensure their security.

This article was produced in partnership with Justice Hub as part of a series looking at the issue of witness interference at Hague-based international courts.
If the new Hague-based Special Court indicts senior politicians for war crimes and political killings, it could bring down Kosovo’s governing coalition and undermine the major parties, experts suggest.

Arben QIREZI

The first indictments from the new Specialist Prosecutor’s Office in The Hague for crimes committed during and after the war in Kosovo, which are expected at the end of this year or early 2017, might not only spark calls for snap elections but could have a profound effect on the overall political scene in the country.

The primary targets of these indictments are expected to include a number of top officials from the ruling Democratic Party of Kosovo, PDK, who were
part of the senior leadership of the Kosovo Liberation Army, KLA, during the war.

In spite of scepticism regarding the efficiency of the Specialist Prosecutor’s Office and the Specialist Chambers – commonly known as the Special Court – local commentators believe that there is a possibility that Kosovo’s political scene will change, provided that justice is pursued independently and without political interference.

The indictments are likely to bring the governing coalition between the PDK and the Democratic League of Kosovo, LDK, to an end, since a number of cases may relate to political violence allegedly perpetrated during and after the war by the KLA against people who are now LDK officials.

“Indictments would destabilise the PDK,” Halil Matoshi, a political commentator from Pristina, told BIRN.

Widespread discontent within the LDK regarding its current marriage with PDK could also bring down the current LDK leadership in favour of those who opposed the coalition.

‘CAMPAIGN OF PERSECUTION’

According to a 2011 Council of Europe report, largely endorsed in 2014 by an investigation by the European Union Special Investigative Task Force, a number of unnamed KLA members were allegedly involved in a “campaign of persecution” against Serbs, Roma and Kosovo Albanians believed to be collaborators with the Belgrade regime.

The alleged crimes include killings, abductions, organ harvesting, illegal detentions, drug trafficking and sexual violence during and after the 1998-99 war between the KLA and Serbian forces.

The Council of Europe Report was mainly focused on the activities of the so-called ‘Drenica Group’, which allegedly consisted of the top KLA officials, including former prime minister and PDK leader and current president of Kosovo, Hashim Thaci, Kosovo Assembly chairman and current PDK leader, Kadri Veseli, and other senior PDK figures.

Both Thaci and Veseli have strongly denied the allegations.

Thaci has repeatedly said that both he and Kosovo have “nothing to hide”, while at the last Kosovo Assembly plenary session, Veseli called on “all witnesses to come forward”, saying that he and his party colleagues supported the establishment of the Specialist Chambers because it was in Kosovo’s interest.
The Law on the Specialist Chambers and the Specialist Prosecutor’s Office, mandated with the authority to prosecute and try cases “which relate to the [2011] Council of Europe Assembly Report”, was enacted by the Kosovo Assembly in August 2015.

In addition, the law mandated the court to try cases of political violence targeting political opponents of the KLA leadership.

Various reports have claimed that there was an organized campaign of murders, abduction, illegal detention and torture targeting close associates of the former leader of the LDK and former president of Kosovo, Ibragim Rugova, and KLA members loyal to him.

**IMPLICATIONS FOR THE PDK**

A recent statement by Assembly chairman Veseli that early elections could be held if there is a consensus between Kosovo’s political parties was widely interpreted as a move linked to the expected indictments.

It is widely believed that a snap parliamentary vote before the first indictments are filed could serve as an insurance policy for the PDK, which according to opinion polls continues to hold the leading position on Kosovo’s political scene.

Local political commentators believe that the indictments would affect the PDK’s standing.
“[Indictments] would weaken the PDK, but would not eliminate it from the political scene,” Nexhmedin Spahiu, political commentator and director of Radio Mitrovica, told BIRN.

But if its officials are judged guilty by the new special court, it could threaten the party’s entire future.

“If the indictments are proven in the Specialist Chambers’ rulings, the PDK’s survival will be difficult, because no one will want to continue to identify with it,” Matoshi said.

Many in Kosovo believe that the recent plenary session of the Kosovo Assembly, which was called by the PDK to object to last week’s appeals court decision to upheld the verdict convicting ten former KLA fighters from Drenica of war crimes, showed cracks in the party ranks over the new special court.

“There will be huge disruption within the PDK, because an internal fight will begin, which was already seen in the recent debate... A fight about who belonged to who and who supported who will break out,” Matoshi argued.

“Ultimately, if the PDK leadership goes to The Hague, people will begin to abandon it, because it is in people’s nature to abandon what is being judged, especially if allegations against those indicted are upheld,” he added.
**The Legacy of Political Violence**

Apart from allegations about crimes against Serbs, Roma and Albanians alleged to be collaborators with Slobodan Milosevic’s regime, part of the scope of the special court’s jurisdiction is also politically-motivated murders committed from 1998 to 2001.

A number of LDK leader Ibrahim Rugova’s close associates were murdered or wounded in attacks during that period.

These included the attempted murder of LDK presidency member Sabri Hamiti in 1998 and the killing of Rugova’s close friend and ally, the LDK’s head of public information Enver Maloku, in 1999.

A number of senior LDK officials who were members of Kosovo’s parallel parliament under Serbian rule, including former president Fatmir Sejdiu, were held in detention in the KLA-controlled Drenica valley for a few days when they visited in spring 1998.

One of them, Gjergj Dedaj, head of the miniscule Liberal Party of Kosovo, said in a TV interview in 2011 that the detainees were personally interrogated by Hashim Thaci and that they were tortured while being questioned.

His allegations were made after being fired by Thaci from the post of deputy transport minister in 2010 two days after being appointed because of an alleged abuse of funds while he was minister of labour and social welfare.

Ahmet Krasniqi, defence minister in Rugova’s government in exile, was also shot dead in Tirana in 1998.

After the war, several senior KLA members loyal to Rugova and some of his closest allies were then killed or attempts were made on their lives.

They included Ekrem Rexha, alias Commander Drini, Tahir Zemaj, former MP Smail Hajdaraj, Shaban Manaj, and Rugova’s closest friend and adviser, Xhemajl Mustafa.

Fetah Rudi, the former head of the LDK’s branch in Malisheva/Malisevo, was also shot immediately after the 2000 local elections and has remained paralysed as a consequence of his injury since then.

According to allegations made in a televised documentary called ‘Target LDK’, broadcast this week on Zona Express, around 100 LDK activists, of-
Officials and prominent supporters were abducted, murdered or wounded between 1998 and 2001.

Survivors and relatives of some of the victims said they believe the murders were carried out by KLA members.

Although none of these cases has seen indictments or trials so far, the LDK has continuously accused KLA political structures of being behind the murders – but in spite of this, its leadership has been in coalition with the PDK three times, mainly owing to Kosovo’s electoral system which does not allow any party to come close to a majority in the assembly.

In the case of an indictment related to politically-motivated murders, the LDK could also find itself in a similar position to the PDK, leading to internal conflict and the eventual break-up of the party.

“The leadership of the LDK and [opposition party] Vetevendosje will be affected by the Special Court even if none of its activists is indicted, because the position of a number of people in these parties depends on the power of the PDK,” Spahiu claimed.

“The PDK’s long standing in a position of power has given the PDK leverage and it has managed to create clientele-style relations with the leaders of rival parties,” he added.

Matoshi said that he believes that the ruling coalition could be threatened by any indictment, which would be followed by an internal squabble in the LDK.

“The ruling coalition will fall apart with the first indictments. Questions will be raised within the LDK, with the membership asking their leaders, ‘who got into bed with another party, whose main officials are accused of war crimes?’” he said.
IMPLICATIONS FOR THE POLITICAL SCENE

Changes in Kosovo’s political scene are not easily achieved because the ruling parties have managed to establish strong clientele-style control over almost every sector in the country.

Corruption, nepotism and lack of proper governance have also stalled Kosovo’s economic and social development, while the lack of impact made by external justice missions, including those of the UN and the EU, have made many sceptical that the latest legal efforts can make much difference.

Many also believe that the ‘internationals’ in Kosovo have exploited the wrongdoings of top politicians to achieve their own ends, such as extracting concessions to Serbia.

On the other hand, the current political leaders are believed to have learned to use the language of democracy and human rights spoken by the internationals, making it seem to both that they are having their wishes accomplished.

“The extent to which the Special Court will influence Kosovo’s political scene depends on the scope of its activities. The wider the scope, the larger its influence will be,” argued Spahiu.
“If this court truly becomes functional and if it is guided by evidence and not by politics, and if it has sympathy for the victims and the will to do justice, then it would profoundly influence in Kosovo’s political scene, emphasising new values instead of the old ones – arrogance, aggression, ethnic cleansing and other people’s suffering as patriotic and heroic aims,” Matoshi said.

However, some still hold out hope that if some of Kosovo’s leaders are now indicted and tried, it will transform the political spectrum.

Berianë Mustafa, the daughter of former President Rugova’s murdered friend, Xhemajl Mustafa, said in the ‘Target LDK’ documentary that it could be the last chance for justice.

“The Special Court is our last hope,” she said. “Our only hope.”
AN END TO SUSPICIONS ABOUT KOSOVO’S ‘JUST WAR’?

13 AUGUST 2014

Human rights campaigners hope that a new special court to prosecute suspected post-war crimes against humanity by Kosovo Liberation Army fighters will finally deal with allegations about abductions and organ trafficking.

The new court, which is likely to indict former senior KLA officials for crimes allegedly committed after the conflict ended, could remove the cloud of suspicion that has hung over Kosovo since the end of 1990s, rights campaigners have suggested.

“If these cases are resolved, Kosovo will be cleared of its responsibilities and Kosovo society will finally be released from the tensions which have been holding it hostage,” Rron Gjinovci from the Center for Research, Development and Publication told BIRN.

“Internationally, this court won’t be anything good for Kosovo in the short term. But in the long term, this court and this process release the country form a burden over alleged war crimes committed in the name of liberty,” he said.

Clint Williamson, the lead prosecutor with the EU’s Special Investigative Task Force, which probed the allegations of post-war abuses, announced last week that KLA officials would be indicted over “unlawful killings, abductions, enforced disappearances, illegal detentions in camps in Kosovo and Albania, sexual violence” and other crimes.

Williamson said that the task force’s report showed that “these individuals bear responsibility for a campaign of persecution that was directed against the ethnic Serb, Roma, and other minority populations of Kosovo and toward fellow Kosovo Albanians who they labeled either to be col-
laborators with Serbs or, more commonly, simply to have been political opponents of the KLA leadership”.

Rights group Amnesty International expressed satisfaction that the report confirmed the “widespread and systematic nature of the abductions and murders”.

“This is hopefully a step towards justice,” Amnesty International said.

Kosovo’s parliament approved the establishment of the new special court in April, under pressure from Brussels, with most lawmakers reluctantly accepting it as necessary if the country is to make progress towards fulfilling its dream of EU membership.

But MPs voted 89–22 to back the court only after a heated debate in parliament, during which outgoing Prime Minister Hashim Thaci called it “the biggest injustice and insult which could be done to Kosovo and its people”.

“Our war was just and in line with the international norms of war,” insisted Thaci, who was the political leader of the Kosovo Liberation Army during the conflict, and whose name has been linked to some of the allegations of post-war crimes, although he has strongly denied any wrongdoing.

The Kosovo government has cautiously welcomed the EU task force report, saying that it was “an important step in determining the potential responsibilities of individuals and putting an end to unfounded allegations and accusations”.

But in a sign of continuing unease in Kosovo about potential future prosecutions of former KLA commanders, the War Veterans Association described the report as “illogical, ridiculous and tendentious”, condemning it as part of a campaign to denigrate the “freedom fighters” of the KLA and their struggle for liberation from Serbian rule.

Previous prosecutions of former KLA guerrillas by the EU rule-of-law mission inside Kosovo have often sparked angry protests by war veterans who see the indicted fighters as heroes rather than criminals.

Behxhet Shala, executive director of the Council for the Defence of Human Rights and Freedoms, said meanwhile that the allegations in the report were “nothing new” and the suspects should have been brought to justice “much earlier than now, some 15 years after the war”.

Shala also criticised the fact that although the Netherlands-based special court will operate according to Kosovo law, its judges and prosecutors will be internationals.
“The EU has allocated some 300 million [euro] to this court for the up-
coming three years. It seems like it will be a good job opportunity for
internationals, while local judges and prosecutors will be totally excluded
from the court. This won’t do Kosovo good,” he said.

Nevertheless, Shala also admitted that the establishment of the new court
was necessary even though it could be traumatic for society.

“Although this [the establishment of the court] is not good news for Koso-
vo, it is a fact Kosovo has to go through. Kosovo has to clarify its past,
although it may be bad and painful for someone,” he said.

Although parliament has voted for the new court to be established, addi-
tional legal changes need to be made to put it in line with Kosovo’s con-
stitution so it can actually start work.

Amnesty International said this must be done quickly so that prosecutions
can go ahead.

“Any further delay may well lead to impunity and the further intimidat-
of potential witnesses,” it said.

The EU task force report said that is believed that in the aftermath of the
1998–99 conflict, up to 400 Kosovo Serbs were abducted by the KLA and
subsequently taken to Albania, where they were allegedly killed.

The news that the special court will look into these cases has raised hopes
amongst Serbs whose relatives disappeared during and after the war.

One of them, Milorad Trifunovic, whose brother Miroslav went missing
in the divided northern town of Mitrovica during the conflict, said that he
was not yet convinced that the court would make a real difference to many
families whose loved ones disappeared.

“There is no political will from both sides, Kosovo and Serbia, to address
this issue and disclose the truth about missing persons,” Trifunovic ex-
plained.

“We still believe in justice, but it is taking too long,” he said.

An EU prosecutor’s accusations of ethnic cleansing by Kosovo Liberation Army commanders after the war in 1999 offers uncomfortable truths for the West as well as Kosovo itself.

Andrew GRAY

An image has stayed with me from a hot summer day in Kosovo in 1999. The burned-out ruins of a house are smouldering beneath a blue sky. A British soldier is trying to douse them with a trickle of water from a garden hose.
It was taken as read that the house in Pristina, like countless others across Kosovo set ablaze that summer, belonged to a Serb or someone from another ethnic minority. The scene seemed to sum up the inadequacy of NATO peacekeepers’ response to the ruthless violence of those hell-bent on forcing Serbs and others to flee or die.

As a journalist based in Kosovo for about a year from mid-1999, I wrote many stories about killings and kidnappings of Serbs, about rocket and grenade attacks and shootings that targeted them or other minorities. It was a depressing drip-drip of hatred. We reporters initially wrote of “revenge attacks” – a neat way to convey that members of Kosovo’s ethnic Albanian majority were hitting back after suffering atrocities at the hands of Serb forces. It later seemed clear that much of this violence was organised, but to what extent and by whom remained murky.

Now, 15 years later, a European Union prosecutor has declared that he has evidence to prove that such attacks were not just individual acts of fury but something far more sinister – a campaign of ethnic cleansing organised by several top commanders of the Kosovo Liberation Army, the guerrilla group that fought Serb forces in the late 1990s and helped draw NATO into the conflict. The prosecutor, Clint Williamson, expects his office to file an indictment charging KLA leaders with crimes against humanity and war crimes. They will stand accused of unlawful killings, abductions, illegal detentions and sexual violence.

Williamson’s statement should prompt soul-searching not just in Kosovo but also at NATO, the United Nations and in Western capitals. If he is correct, an orchestrated campaign to wipe out minority communities took place when the UN was in charge of Kosovo and thousands of NATO troops were responsible for security. In bombing Yugoslavia in 1999 to drive out Serb forces, NATO also acted as the KLA’s de facto air force. Yet Williamson concludes that in both 1998 and 1999, elements of the KLA were also conducting a campaign of violence and intimidation against Kosovo Albanian political opponents that included executions and abductions.

It will not be easy to dismiss Williamson’s conclusions. He has spent almost three years examining the case. He and his team have conducted hundreds of interviews and reviewed thousands of pages of documents. Accusations that the prosecutor is biased against Kosovo Albanians are hard to believe. As he said last Tuesday, he supervised investigations into Serb war crimes in Kosovo, including the exhumation of mass graves where thousands of ethnic Albanians were buried. He co-wrote the indictment against Slobodan Milosevic for those crimes.

Williamson knows very well what Serb forces did to Kosovo Albanians. But he is also in no doubt about what happened afterwards – “a brutal attack
on significant portions of the civilian population... directed against almost all of the Serbs who wanted to stay in Kosovo, many of whom were elderly and infirm”. The campaign extended to other minorities such as Roma, branded collaborators with the Serbs.

For Kosovo, which declared independence in 2008, this will have major political repercussions. Williamson has not named those who will be indicted but he said they were at the “senior-most levels” of the KLA. Several prominent Kosovo politicians fit that description. The possibility of an indictment and trial will hang over them for a considerable time. The special court needed to try the case has not even been set up yet – and won’t be until early next year at the very earliest.

But the implications for NATO, the UN and Western leaders past and present are also significant. The conditions they established in post-war Kosovo allowed too much “tolerance for intolerance”, in the memorable phrase of Dennis McNamara, the head of the UN refugee agency’s operations there at the time. Western governments did not apply enough pressure on KLA leaders to end the violence. Peacekeepers were not tough enough in enforcing law and order. A credible justice system was not established. Just before ending his year in Kosovo, McNamara described the environment there as “pretty much a free-for-all for a long period”.

There was not much tolerance in official circles for McNamara’s views. Western governments and NATO leaders were keen to portray the Kosovo war as a great success – which it was, in one very important sense. Hundreds of thousands of ethnic Albanians were able to return to Kosovo, rebuild their homes and live free of Serb repression. But the failure to establish post-war order was hugely costly. Not learning from this mess was costlier still. Kosovo should have taught Western governments that any country or coalition taking military action must fill the subsequent vacuum swiftly and firmly. Otherwise it will be filled by violence. The failure to learn that lesson reverberates today, in Afghanistan, in Libya and most catastrophically in Iraq.
WAR CRIMES AND EULEX’S BROKEN KETTLE

21 MARCH 2014

Kosovo already has an EU rule of law Mission, EULEX; the idea to establish another international criminal tribunal for Kosovo to deal with war crimes is both superfluous and absurd.

Donikë QERIMI and Krenar GASHI

There’s an old joke that Sigmund Freud used in The Interpretation of Dreams: A man, accused by his neighbour of having returned a borrowed kettle damaged, makes three inconsistent arguments in his defence: first, he says he returned the kettle undamaged; then, he argues the kettle was damaged when he borrowed it; finally, he says he never borrowed a kettle from the neighbour in the first place.

This forms the “Kettle Logic” – a fallacy that occurs when one uses multiple arguments to defend a point. We are using it to illustrate the logic of the EU rule-of-law mission in Kosovo, EULEX, which, in its rhetorical fight against war crimes is producing similar inconsistent arguments to justify own shortcomings.

When EULEX was launched in 2008, the mission’s rhetoric ran along the lines of, “We can do it because we are not you,” meaning only international prosecutors and judges would be zealous enough to hunt “the big fish” standing behind atrocities committed in Kosovo. In their words, the evidence of war crimes was there, and it was only due to the inability and unwillingness of the Kosovo authorities to investigate it that EULEX was needed. In kettle logic, the kettle was unbroken when they returned it.

A few years and several billion euros later, war crimes, as well as other major crime verdicts, have been disappointing. The vast majority of the mission’s investigations have ended without indictments, while some cases that made it to court were mainly dismissed. In all these cases, the investigators, prosecutors and judges were from EULEX: impartial, independent and international. At this stage, the mission used its second argument: the kettle was broken when they borrowed it, or, “We are doing
our job, but the witnesses are being intimidated as there is no witness protection programme.”

In a small society, it is difficult to run an effective witness protection programme. EULEX, however, with the backing of the EU, could run such a programme. The first and crucial witness about to testify in a war crimes case against the Kosovo Liberation Army, KLA, was placed under protection. A few months later, the witness died in Germany in unknown circumstances, under EULEX’s protection.

Witnesses who testified against Albanians were not the only ones mishandled; EULEX voluntarily published the name of a protected witness in a major war crimes case against a group of Serbian paramilitaries. That was strongly condemned by the mission’s own human rights review panel.

The idea of an international tribunal for Kosovo war crimes is the equivalent of EULEX saying, “We never borrowed a kettle,” the third argument of the kettle logic. Such an idea not only contradicts everything the mission stands for, but is also being used to externalise responsibility for the lack of results in hunting down war criminals.

This critique of EULEX’s performance does not mean we are denying that war crimes were committed in Kosovo. The number of victims does not match the number of perpetrators behind bars, from either side. We are merely pointing out EULEX’s behaviour, which is characterised by two elements: an attempt to place responsibility for the lack of results on elements beyond their reach; an insistence that it would be easy to do so if it were not for the lack of resources.

The logical question springing from this logical fallacy is whether a new criminal tribunal would actually be any more capable than EULEX.

Over the last decades, international tribunals have been successful in prosecuting war crimes, although their effectiveness in bringing justice is disputed. Such tribunals were established for Rwanda, Sierra Leone and the former Yugoslavia, ICTY, which also covered atrocities committed in Kosovo. As international bodies, established by the UN, these tribunals were the only way to prosecute war crimes in a timely, safe and independent fashion, allowing the international community to bypass any legal obstacles set by international law and state sovereignty.

In Kosovo’s case, however, none of these circumstances exist. First, the tribunals that are to be used as a model were established in times of war, when it was impossible for the international community to ensure, physically or legally, trials in those countries. However, the conflict in Kosovo ended 15 years ago. The country now has functional institutions, including
those for the rule of law, and, despite efficiency challenges, one cannot argue on the basis of the risk of conflict repetition, or fragility of peace. Furthermore, war crimes within Kosovo are exclusively run and tried by EULEX, leaving local efficiency challenges out of this equation.

Second, due to the unstable security and political situation at the time of these conflicts, it was impossible for the international community to arrange for international judges and prosecutors to be embedded to adjudicate these crimes within the local frameworks. Hence, a strategy for geographically and legally bypassing sovereignty issues was brought up, by establishing international tribunals under the auspices of the UN. This setup is completely unnecessary in Kosovo. International judges and prosecutors, already embedded into the Kosovo Constitution, function completely independently of the local authorities. No physical or institutional risk has ever been claimed by any EU official in Kosovo, therefore distinguishing the case of Kosovo even further from the others.

Finally, in all other international criminal tribunals, the number of atrocities and the perpetrators was substantial, while the nature of the crimes and potential perpetrators was unknown. In the case of Kosovo, the idea is to establish a tribunal that would deal with only a few cases, deriving from a single report of the Council of Europe, CoE, drafted by Dick Marty. The report raised specific, narrow and focused allegations, limited in terms of the subject matter and atrocities that they would investigate.

EULEX has already established a Special Investigative Task Force, SITF, to deal with the Marty allegations. This Task Force enjoys independence within EULEX, and EULEX is independent from the Kosovo authorities. Thus, despite the supposed inability of Kosovo authorities to prosecute war crimes, the same authorities have agreed to step back, by allowing EULEX to bypass their channels of exchange of information and evidence, guaranteeing in this way independent and confidential investigations.

The Kosovo government even agreed to exclude the operations of SITF from the on-going negotiations on the mandate of EULEX.

We do not believe that an international tribunal would have more power, competence or security to carry on these investigations than the power already vested in SITF. Changing the nature of SITF investigations that have already begun would be a major legal hurdle for Kosovo, requiring substantial legal and constitutional changes. Furthermore, such a step back from the investigation might also prolong the reconciliation process between Kosovo and Serbia, a process entering its last phase with the EU-mediated dialogue on normalisation of relations.
To conclude, the idea of a new tribunal is both superfluous and absurd. It can be viewed only as an attempt by EULEX to endlessly externalise responsibility for war crimes prosecution.
Kosovo is paying a price for its unhealthy cult of the KLA’s armed struggle, which leaves it looking vulnerable when the myth of the KLA’s moral purity is scrutinised.

**Florian BIEBER**

Dick Marty’s report is a peculiar document. It lacks the dry and sober style that one would expect from a Council of Europe report, and instead includes frequent expression of indignation and moral outrage, which won’t help it being perceived as neutral.

Furthermore, Marty’s well-publicized opposition to Kosovo’s independence inevitably fuels suspicions that his report is shaped by his personal views on Kosovo’s independence.

Whether this is true or not may be secondary, but problematic references in the report about Kosovo Albanian society as “still very much clan-orientated” and about “the absence of a true civil society” lend it a stereotypical and simplistic flavour.

Finally, the report seems obsessed with trying to challenge what the author perceives to be an imbalance in the perception of the Kosovo conflict as featuring “on one side, the Serbs, who were seen as the evil oppressors, and on the other side the Kosovar Albanians, who were seen as the innocent victims.”

This is distorted interpretation of how the conflict is actually viewed and few scholars or careful observers would subscribe to such a picture. This again undermines the report. A report should be less concerned with overturning alleged perceptions than contributing to our understanding of what happened. The interpretation of how this may impact on perceptions of the conflict is best left to others.
As Marty notes himself, the evidence for the allegations is thin or at least cannot be publicly scrutinized, because the report draws on unpublished and secret documents.

While these factors all weaken the report and diminish its weight, this does not mean that the report is irrelevant. Prime Minister Hashim Thaci’s response, in which he said he was insulted as “Prime Minister of the Republic of Kosovo, but first and foremost, as a citizen and as a parent”, indicates that the report hit a nerve.

Thaci particularly rejects the idea that the KLA could have committed crimes, stating that “the whole world knows who was the aggressor and who was the victim in Kosovo.”

This statement is of course bogus, as there is almost never such a thing as absolute victims and absolute aggressors. This argument has been made in every country of former Yugoslavia. But the claim that if you are on the side of the victims, no crimes could have occurred, is absurd.

This line of absolute victimhood has been a key founding myths in all countries of the region. In Kosovo in particular, this myth has not been sufficiently challenged. As the recent renaming of Pristina airport after ex-KLA fighter Adem Jashari suggests, the uncritical cult of the KLA is leading Kosovo into a trap.

Instead of having a more diverse “founding myth”, drawing also more on the peaceful resistance tactics of the 1990s, the state and its leadership has linked itself too strongly to the KLA, which then leaves it vulnerable if the KLA is implicated in the kind of crimes that the Marty report alleges.

Building nation states is often a joint criminal enterprise, involving the expulsion of minorities, war against neighbours and acts of violence. This does not set Kosovo apart from many other countries.

Kosovo’s problem is its reputation. Unfairly or not, Kosovo is often associated with organized crime and witness intimidation and flat denial are not good strategies when it comes to changing this perception.

Instead of denying that crimes were committed, the way to ensure Kosovo’s acceptance as a legitimate state is to take a hard and critical view of the legacy of the KLA and not to allow “patriotism” to become an excuse for failure to investigate crimes.

Prime Minister Thaci might have overseen the independence of Kosovo, but his response to the report and his vague suggestions about a Serbian conspiracy will certainly not help improve Kosovo’s reputation and thus its international legitimacy.
CHAPTER 4

REPORTS FROM BIRN’S NEWS ARCHIVE
The Specialist Chamber of Kosovo’s Constitutional Court approved the revised rules of procedure and evidence for the new special court that will try Kosovo wartime fighters.

Die MORINA

After several months’ delay, the Specialist Chamber of Kosovo’s Constitutional Court delivered a ruling on Wednesday approving the revised rules of procedure and evidence for the new Specialist Court, allowing it to issue its first indictments of former Kosovo Liberation Army fighters soon.

“The Court has held, unanimously, that the Revised Rules are in compliance with Chapter II of the Constitution of the Republic of Kosovo,” it said in a statement.
In April, the Kosovo Constitutional Court ruled that out of a total of 208 rules, ten provisions in the new Hague-based Specialist Court’s rules of procedure and evidence needed amendment as they were not in line with Kosovo’s constitution.

Following Wednesday’s judgment, Specialist Court president Ekaterina Trendafilova said it would be fully judicially operational and ready to start proceedings in a week’s time.

“After the entry into force of the rules within seven days as of today, there will be no legal impediment to receive any filing or indictment from the Specialist Prosecutor’s Office,” Trendafilova was quoted as saying in the statement issued by the Specialist Chambers.

Senior Kosovo Liberation Army figures are expected to be indicted and stand trial at the new court for alleged crimes committed during and after the war with Serbian forces.

The alleged crimes include killings, abductions, illegal detentions and sexual violence.

International judges and prosecutors will staff the court, although it will operate under Kosovo’s laws.

In Kosovo itself, the court is seen as biased as it will only try former KLA fighters, who are perceived as liberators by the majority of the country’s Albanian population, while in Serbia, the court has wide support due to hopes that it will prosecute crimes against Serbs.
Former guerrilla leaders of the Kosovo Liberation Army are playing major roles in the current election campaign in the country, despite the looming possibility of prosecutions by a new war crimes court.

Die MORINA

The political coalition tipped to come out on top in Sunday’s parliamentary election is helmed by three former leaders of the Kosovo Liberation Army, meaning that ex-KLA fighters are likely to maintain a hold on the country’s politics in the future, analysts said.

The coalition is made up of the Democratic Party of Kosovo, PDK, led by Kadri Veseli, the Alliance for the Future of Kosovo, AAK, led by Ramush Haradinaj himself and the Initiative for Kosovo, NISMA, led by Fatmir Limaj – all major wartime figures.
“The main figures of the KLA have now been in politics for years and have almost become election campaign professionals,” Nezir Kraki, a Kosovo Albanian professor of political sciences at the University of Paris-Est, told BIRN.

Veseli, Hardinaj and Limaj’s alliance is running as a united force for the first time in an election.

Kraki said however that wartime figures are also present in other parties and coalitions.

“War figures have remained the most secure connection to the political continuity that they have created in peacetime – some contributing directly, some unable to run and giving indirect input to the campaign and the electoral process by agitating and lobbying for the ‘war wing’,” Pristina-based political analyst Behlul Beqaj told BIRN.

Beqaj also noted that “some ex-figures who after the war achieved their pre-war goals have also been transformed into party sponsors”.

However, Kraki stressed that when wartime issues were raised during the campaign, it was only for electoral consumption.

“Nowadays war rhetoric is common, especially in the Balkans, and in neighbouring states as well as in Kosovo, they bring up symbols and things that are supposed to inspire national sentiments,” he said.

During the campaign however, candidates have not commented much on the new Hague-based Special Court that is soon to start filing indictments against KLA ex-fighters for crimes committed during and just after the war.

Rumours have suggested that some leading Kosovo politicians could be indicted.

Limaj said during the campaign that the Kosovo parliament had been wrong to vote in favour of the court, which it did after many delays, heated debates and protests, as well as strong pressure from the EU and US.

“The Special Court will only cause difficulties in building and promoting Kosovo. Parliament acted wrongly when it voted for this court,” Fatmir Limaj told Klan Kosova TV.

Limaj has been tried and found not guilty of war crimes several times in the past.
In May this year, the Kosovo’s Supreme Court acquitted him of war crimes against civilians and prisoners of war at an improvised jail in Klecka during the late 1990s conflict.

After a previous trial at the UN-backed tribunal in The Hague, Limaj was also acquitted in 2005 of war crimes against Serbs and Albanians suspected of collaborating with Serbia.

In January this year, he went on trial again, pleading not guilty to accusations that he was responsible for the murder of two Kosovo Albanian civilians in October 1998.

His coalition partner Haradinaj, who the alliance wants to become prime minister if it wins the election, has twice been acquitted by the Hague-based court for the former Yugoslavia of committing war crimes during the Kosovo conflict.

However Serbia still wants to put Haradinaj on trial for alleged war crimes. He was detained in France in January on a Serbian warrant but ultimately released.

Meanwhile Albin Kurti, a senior figure in the Vetevendosje (Self-Determination) party, expressed doubts during the election campaign about whether the new war crimes court will start issuing indictments any time soon.

“I am sceptical about the Special Court… soon it will be two years since this issue arose and maybe there will be many other [issues] before it starts its job,” Kurti said.

The new court, which will operate as part of Kosovo’s justice system but is based in The Hague, is highly unpopular in Kosovo because it is seen as tarnishing the KLA’s liberation struggle against Serbian forces.
After Kosovo’s Constitutional Court said some of its procedural rules are not in line with the constitution, the new specialist court to try Kosovo wartime fighters must make changes, again delaying prosecutions.

Marija RISTIC

The Kosovo Constitutional Court ruled on Wednesday that out of a total of 208 rules, ten provisions in the new Hague-based specialist court’s Rules of Procedure and Evidence need further consideration as they are not in line with Kosovo constitution – meaning another delay to the start of its judicial work.
The president of the Hague-based court, Ekaterina Trendafilova, said that a new plenary session will be scheduled where the set of rules will be revised in line with the decision.

“The review by the Specialist Chamber of the Constitutional Court of the adopted Rules of Procedure and Evidence is an indispensable corollary to ensure that, as required by the Constitution of Kosovo, the highest human rights standards are applied by the Kosovo Specialist Chambers,” Trendafilova said in a statement.

“Compared to other institutions dealing with similar crimes, this represents an innovative step forward,” she added.

The rules will only enter into force once the Constitutional Court has finally determined that all them conform to Kosovo’s constitution.

Once the rules are revised, the Constitutional Court will make another legal assessment, after which, if they are approved, they will enter into force in seven days.

According to the court the procedure and evidence rules are aimed at “enhancing the fairness, expeditiousness, efficiency, integrity and security of the proceedings before the Specialist Chambers, while complying with the Constitution [of Kosovo] and the highest human rights standards”.

They also deal with the protection of witnesses, victims and other people at risk because of their testimony or cooperation with the new court.

Senior Kosovo Liberation Army figures are expected to be indicted and stand trial at the new court for alleged crimes committed during and after the war with Serbian forces.

It will hear cases arising from the 2014 EU Special Investigative Task Force report which said that unnamed KLA officials would face indictments for a “campaign of persecution” against Serbs, Roma and Kosovo Albanians believed to be collaborators with the Belgrade regime.

The alleged crimes include killings, abductions, illegal detentions and sexual violence.

International judges and prosecutors will staff the court, although it will operate under Kosovo’s laws.

The SITF report was commissioned after the Council of Europe published an inquiry in 2011 which alleged that some senior Kosovo officials, including current President Hashim Thaci, were responsible for various human rights abuses.
Thaci strongly denied the allegations, and since he became president, he has publicly supported the establishment of the new court.

For the past 18 years since the war ended, the international community has been administering justice in Kosovo, but its results have been poor – fewer than 20 final verdicts in war crimes cases. Serbia has prosecuted seven cases related to the Kosovo war.

However, it was believed that the Kosovo prosecution couldn't handle sensitive cases against high officials, which was one of the reasons why the international community decided to establish the new court.

In Kosovo itself, the court is seen as biased as it will only try former KLA fighters – people perceived as liberators by the majority of the country’s Albanian population – while in Serbia, the court has wide support due to hopes that it will prosecute crimes against Serbs.

The Kosovo war saw some 13,000 people killed, mostly Kosovo Albanians, and a million expelled, while 1,666 people are still listed as missing.
The Hague-based Kosovo Specialist Chambers, set up to try former Kosovo Liberation Army members for wartime and post-war crimes, could now be judicially operational in May.

Marija RISTIC

Two months after its judges were appointed, the Kosovo Specialist Chambers adopted its Rules of Procedure and Evidence, it said in a statement on Tuesday - a move that could mean that the new court is judicially operational in fewer than two months.

The procedure and evidence rules are aimed at “enhancing the fairness, expeditiousness, efficiency, integrity and security of the proceedings before the Specialist Chambers, while complying with the Constitution [of Kosovo] and the highest human rights standards”, the statement said.

They also deal with the protection of witnesses, victims and other people at risk because of their testimony or cooperation with the new court.

“By adopting the Rules of Procedure and Evidence in less than two months after their appointment, the Judges have demonstrated their outstanding knowledge, professionalism and a categorical commitment towards a robust, efficient and fair procedure before the Specialist Chambers,” said the president of the court, Ekaterina Trendafilova.

Trendafilova referred the rules to Kosovo’s Constitutional Court, which now has 30 days to give them its final approval.

If this happens, they will then come into force after a further seven days, at which point the Specialist Chambers becomes fully judicially operational.
The judges also adopted two other documents that are important for the functioning of the court – the Code of Judicial Ethics and the Rules on the Assignment of Specialist Chambers Judges.

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Kosovo President Hashim Thaci said his proposed Truth and Reconciliation Commission could help to stop ethnic hatred, although some experts have questioned his motives for establishing the body.

Kaltrina Rexhepi

Hashim Thaci told the second planning meeting for his proposed Truth and Reconciliation Commission in Pristina on Wednesday that the truth about what happened during the war must be confronted so people in Kosovo do not remain trapped by the past.

“Kosovo society and the Balkans in general is still a hostage of these old narratives and the generations that were born after the war still see their peers from the other community as enemies and as a threat, not as a society for cooperation and coexistence,” Thaci told the meeting.
He insisted that wartime crimes could not remain hidden.

“The aim of this commission will be the truth. The truth heals society from revenge and hatred,” he said.

“New generations must know what previous generations have done; children must know what their parents have done,” he added.

Analysts have questioned what the proposed Truth and Reconciliation Commission can achieve in practical terms in Kosovo’s deeply divided society.

Some have also questioned the timing of Thaci’s announcement, which came as preparations continued for the first indictments to be issued by the new Hague-based special court which is being set up to try former Kosovo Liberation Army guerrillas for crimes during and after the war.

Rumours have suggested that Thaci, who was the political leader of the Kosovo Liberation Army during the 1998-99 war, could be indicted. He denies any wrongdoing.

Nora Ahmetaj of the Pristina-based Centre for Research, Documentation and Publication said that the timing could be seen “as a political calculation, rather than something aimed at meaningful social change”.

“If the president wants to establish a [Truth and Reconciliation Commission] as part of some political bargaining between him and the international community under the pretext of stability and peace, then I confidently say it is doomed to fail,” Ahmetaj wrote in an article for the Kosovo 2.0 website on Tuesday.

She said however that she did not object to Thaci’s efforts to set up the committee, as long as it is a truly independent body.

“This could well be a step forward, especially if the president is serious and willing to place his political weight behind it,” she said.

The new special court will hear cases arising from the 2014 EU Special Investigative Task Force report which said that unnamed KLA officials would face indictments for a “campaign of persecution” against Serbs, Roma and Kosovo Albanians believed to be collaborators with the Belgrade regime.

The alleged crimes include killings, abductions, illegal detentions and sexual violence.

The Special Investigative Task Force report was commissioned after the Council of Europe published an inquiry in 2011 which alleged that some senior Kosovo officials, including Thaci, were responsible for various human rights abuses, which he has denied.
Kosovo Prime Minister Isa Mustafa said that the new Hague-based court being set up to try former Kosovo Liberation Army fighters will not damage the legacy of the 1998-99 conflict.

Isa Mustafa told BIRN in an interview that indictments and prosecutions of former KLA fighters by the new Specialist Chambers in The Hague will not undermine the integrity of the Kosovo Albanian rebels’ war against Serbian forces.

“I am convinced that Kosovo has fulfilled its obligations [to establish the new court] and will successfully come through this process, during which I expect that our liberation war will be confirmed as just,” Mustafa said.
“The court will address individual cases and will in no way tarnish the war of a population who defended their homes in their fight for freedom and independence,” he added.

The court was set up under pressure from the EU and the US because Kosovo courts were perceived to be unable or unwilling to prosecute the most sensitive and high-level cases.

Senior Kosovo Liberation Army figures are expected to be charged with alleged crimes committed during and after the war with Serbian forces, although the first indictments are still pending.

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The Special Investigative Task Force report was commissioned after the Council of Europe published an inquiry in 2011 which alleged that some senior Kosovo officials, including current President Hashim Thaci, were responsible for various human rights abuses.
The European Union approved 19 judges who will serve at the new Hague-based Kosovo Specialist Chambers, set up to try former Kosovo Liberation Army members for 1990s wartime crimes.

Marija RISTIC

The EU on Tuesday announced the roster of judges – most of them from European countries, with two from the United States and Canada – as the new Kosovo court came one step closer to becoming fully operational.

“I welcome the appointment of such highly qualified lawyers, each of whom – without any doubt – will greatly contribute to our mandate of
ensuring fair and efficient justice,” Ekaterina Trendafilova, the President of the Specialist Chambers, said in a press statement.

“As a next step, I will convene the first plenary of judges in the near future, during which the Rules of Procedure and Evidence of the Specialist Chambers, regulating the conduct of the judicial proceedings before them, will be adopted,” she added.

Trendafilova is the only permanent judge in the Specialist Chambers and Specialist Prosecution Office, which are officially part of Kosovo’s judicial system but will act independently, have international staff and be based in The Hague.

All the other appointed judges will only be present when asked by Trendafilova.

The newly-appointed judges

1. Keith Raynor (Vice-President), United Kingdom
2. Roland Dekkers (Specialist Chamber of the Constitutional Court), Netherlands
3. Anne Power-Forde (Specialist Chamber of the Constitutional Court), Ireland
4. Vidar Stensland (Specialist Chamber of the Constitutional Court), Norway
5. Antonio Balsamo (Specialist Chamber of the Constitutional Court, Reserve Judge), Italy
6. Kai Ambos, Germany
7. Christoph Barthe, Germany
8. Michael Bohlander, Germany
9. Emilio Gatti, Italy
10. Nicolas Guillou, France
11. Thomas Laker, Germany
12. Guénaël Mettraux, Switzerland
The ‘host state agreement’ between the Netherlands and Kosovo, which provides the legal basis for the Specialist Chambers to conduct proceedings in the Netherlands, also entered into force at the start of this month.

Senior Kosovo Liberation Army figures are expected to be charged with alleged crimes committed during and after the war with Serbian forces, although the first indictments are still pending.

The new court will hear cases arising from the 2014 EU Special Investigative Task Force report which said that unnamed KLA officials would face indictments for a “campaign of persecution” against Serbs, Roma and Kosovo Albanians believed to be collaborators with the Belgrade regime.

The alleged crimes include killings, abductions, illegal detentions and sexual violence.

The Special Investigative Task Force report was commissioned after the Council of Europe published an inquiry in 2011 which alleged that some senior Kosovo officials, including current President Hashim Thaci, were responsible for various human rights abuses.

Thaci strongly denied the allegations, and since he become president in February 2016, he has publicly supported the establishment of the new court.

For the past 17 years since the war ended, the international community has been administering justice in Kosovo, but its results have been poor – fewer than 20 final verdicts in war crimes cases. Serbia has prosecuted seven cases related to the Kosovo war.
However, it was believed that the Kosovo prosecution couldn't handle sensitive cases against high officials, which was one of the reasons why the international community decided to establish the new court.

In Kosovo itself, the court is seen as biased as it will only try former KLA fighters – people perceived as liberators by the majority of the country’s Albanian population – while in Serbia, the court has wide support due to hopes that it will prosecute crimes against Serbs.

The Kosovo war saw some 13,000 people killed, mostly Kosovo Albanians, and a million expelled, while 1,666 people are still listed as missing.
Former International Criminal Court judge Ekaterina Trendafilova has been appointed as the president of the new Hague-based special court set up to try former Kosovo Liberation Army fighters.

Ekaterina Trendafilova, a Bulgarian lawyer and academic who served as a judge at the International Criminal Court from 2009 until 2015, was appointed on Wednesday as president of the Kosovo Specialist Chambers, the new Hague-based court that will try former Kosovo Liberation Army fighters for crimes committed during and after the 1990s war.

Trendafilova said in a statement that she felt “privileged” to have been appointed.

“I recognise the immense responsibility to ensure that the Specialist Chambers apply the best judicial practices and deliver fair and impartial
justice for those brought to account, as well as the victims of the crimes allegedly committed,” she said.

“I intend to accomplish this mission independently, with determination, vigour and to the very best of my abilities. It is vital that we implement our mandate in an efficient, professional and secure manner,” she added.

Trendafilova, who has been given a four-year term in office starting in January, will be responsible for the judicial administration of the Specialist Chambers and also serve as the presiding judge on its supreme court panel. She is also the only full-time judge while others will be part of roster of judges and invited when needed.

At the International Criminal Court, Trendafilova was presiding judge in the pre-trial division in the cases from Uganda, the Central African Republic, Kenya, the Democratic Republic of the Congo, Sudan, Ivory Coast and Mali. She was also a member of the Appeals Chamber in two cases.

From January, the ‘host state agreement’ between the Netherlands and Kosovo, which provides the legal basis for the Specialist Chambers to conduct proceedings in the Netherlands, will also enter into force.

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The new court will hear cases arising from the 2014 EU Special Investigative Task Force report which said that unnamed KLA officials would face indictments for a “campaign of persecution” against Serbs, Roma and Kosovo Albanians believed to be collaborators with the Belgrade regime.

The alleged crimes include killings, abductions, illegal detentions and sexual violence.

The court will have international staff, but will operate under Kosovo law.

Its first judicial activities are expected to start next year.
SERBIA HOPES KOSOVO WAR COURT WILL SECURE CONVICTIONS

11 NOVEMBER 2016

The Serbian prime minister said he hopes the new specialist prosecutor who will tackle alleged crimes committed by Kosovo Liberation Army fighters will be able to secure convictions.

Marija RISTIC

Serbian Prime Minister Aleksandar Vucic said on Friday after meeting David Schwendiman, the chief prosecutor at the new Hague-based court, that he hopes there will be independent and impartial investigations into crimes committed Serbs in Kosovo during the war.

Vucic “expressed the support of the government of Serbia to the work of the Special Court and office of the Special Prosecutor, with the expectations that he will prosecute those responsible for war crimes in Kosovo.
and Metohija, committed against Serbs, but also against other nationals”, according to a statement issued by the government.

Schwendiman, the chief prosecutor at the newly-established Specialist Prosecutor’s Office, set up in The Hague with the mandate to prosecute crimes by Kosovo Liberation Army fighters from 1998 until 2000, ended his first official visit to Kosovo and Serbia on Friday.

In Belgrade, Schwendiman also met Serbia’s Foreign Minister Ivica Dacic, Interior Minister Nebojsa Stefanovic, Justice Minister Nela Kuburovic, Defence Minister Zoran Djordjevic, representatives of the Serbian War Crimes Prosecutor’s Office and members of the diplomatic community.

At the meetings, according to a statement from Schwendiman’s office, the prosecutor “underlined his independence, and stressed that he will be guided in the discharge of his mandate only by the facts and the law and will do his work without fear or favour”.

“He committed to lead a process that is legitimate and perceived as legitimate by all those affected by the work of the prosecutor’s office,” the statement added.

Foreign Minister Dacic expressed satisfaction that the alleged crimes would finally be probed.

Dacic said the establishment of the new court was “a fulfilment of the Republic of Serbia’s demands to prosecute crimes committed against Serbs during conflict in the former Yugoslavia”.

The Serbian government pledged to provide logistical and legal support to the special prosecution, including the establishment of a liaison office in Belgrade.

Before arriving in Belgrade, Schwendiman also visited Pristina, where he met Kosovo Prime Minister Isa Mustafa, Justice Minister Dhurata Hoxha, Chief State Prosecutor Aleksander Lumezi and representatives of the international community.

Schwendiman, who was appointed in September as Specialist Prosecutor (chief prosecutor) of the new Kosovo Specialist Prosecutor’s Office (SPO), previously led the EU Special Investigative Task Force (SITF), which probed alleged crimes by KLA fighters.

This is not the first appointment in the Balkans for Schwendiman, who worked as an international prosecutor in Bosnia and Herzegovina from 2006 to 2009, and headed the Bosnian prosecution’s special department for war crimes during the last two years he was in the country.
The new special court is based in the Netherlands and some senior Kosovo Liberation Army figures are expected to be indicted for alleged crimes committed during and after the war with Serbian forces.

It will hear cases arising from the 2014 SITF report which said that unnamed KLA officials would face indictments for a “campaign of persecution” against Serbs, Roma and Kosovo Albanians believed to be collaborators with the Belgrade regime.

The alleged crimes include killings, abductions, illegal detentions and sexual violence.

Sources close to the court told BIRN that the first indictments could be expected at the end of 2016, or the beginning of 2017.

International judges and prosecutors will staff the court, although it will operate under Kosovo’s laws.

The negotiations to establish the court lasted from 2011 until 2015.

The SITF report was commissioned after the Council of Europe published an inquiry in 2011 which alleged that some senior Kosovo officials, including current President Hashim Thaci, were responsible for various human rights abuses.

Thaci strongly denied the allegations, and since he become president in February this year, he has publicly supported the establishment of the new court.

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David Schwendiman, chief prosecutor of the newly-established Specialist Prosecutor’s Office, set up in The Hague with the mandate to prosecute crimes by Kosovo Liberation Army fighters from 1998 until 2000, will make his first official visit to Pristina and Belgrade from Monday to Friday.

Schwendiman will “underline his determination to fulfil his mandate vigorously and independently, and reconfirm his and his interlocutors’ commitment to this process”, according to a statement from his office.

“He will not discuss any specific details related to the substance of the investigation,” the statement added.

In both countries, Schwendiman will meet representatives of the government, the prosecutor’s office and the international community.

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At his first-ever meeting with families of Kosovo Serbs who went missing as a result of the war, Kosovo President Hashim Thaci pledged to address the missing persons issue during talks with Belgrade in Brussels.

Marija RISTIC

Hashim Thaci said on Thursday that the issue of missing persons – both Kosovo Albanian and Serbs – should become one of the main topics in Pristina’s ongoing EU-mediated dialogue to normalise relations with Belgrade.

Thaci made his comments at his first-ever meeting with representatives of families of missing Kosovo Serbs.
“The fate of all the missing persons, regardless of their ethnicity, must be clarified as soon as possible. This is also a prerequisite for justice and sincere reconciliation between the people,” he said.

“This issue must be opened in Brussels as well, in the dialogue between Kosovo and Serbia, that all instances, all institutions, must work in order to solve and to close this pain and this suffering as soon as possible,” he added.

Currently, 1,666 people are listed as missing - both Serbs are Albanians - but the issue has not yet been on the table during the dialogue in Brussels that aims to resolve the disputes between two countries.

Since he took the presidency in February this year, Thaci has made a number of moves seen as attempts at reconciliation with the Serb community in Kosovo, which still perceives him as the main culprit behind the expulsions and murders of Serbs after the war ended in 1999.

Among Kosovo Liberation Army veterans, he is still considered as one of key political leaders who secured Kosovo’s independence after the war.

Thaci has made several pledges to find and prosecute those who killed Kosovo Serbs.

He has also visited several memorials to those who were killed, a move which was seen by some analysts in Pristina as an attempt to improve his image ahead of the impending establishment of the new Hague-based Special Court that is to try former Kosovo Liberation Army officials for alleged crimes committed during and after the 1998–99 conflict.

A 2011 Council of Europe report alleged that Thaci, a former KLA leader, was one of the main organisers of criminal activities in the Kosovo Liberation Army during and after the war.

The allegations made in the report eventually led to the setting up of the new Special Court, but Thaci has always denied any links to crimes and publicly supported attempts to prosecute those responsible.

The new court is expected to be operational by the end of the year, while BIRN has learned that the first indictments can be expected at the end of 2016 or the beginning of 2017.

The court will be staffed by international judges and prosecutors, although it will operate under Kosovo’s laws.

Many believe that top Kosovo politicians will end up in the dock, including Thaci.
President Hashim Thaci sent letters to Kosovo prosecutors urging them to take action to resolve a series of crimes against both ethnic Albanians and Serbs during and after the war in 1999.

Thaci told a press conference on Monday that he had sent four letters about the unresolved crimes against Kosovo Albanians and Serbs to the head of the state prosecution and the Kosovo Prosecutor’s Council, and said that he expects them to take action.

In the first letter, Thaci said he asked the prosecutors to investigate crimes committed by Serbian forces in Prekaz, Recak, Izbice, Likoshan, Lubeniq, Grashtince, as well as other cases of murders of ethnic Albanians in Kosovo by Serbs.
In the second letter, he said he asked for murders and other crimes committed after the war to be investigated, such as the cases of the Bytyçi brothers, three Albanian-Americans who were killed in Serbia, the attempted assassination of former Kosovo President Ibrahim Rugova in 2005, and the murders of Serbs in Gracke/Staro Gracko, Gorazdvec/Gorazdevac, and on a bus that was attacked near Podujevo while travelling to Nis in Serbia in 2001, when 12 people were killed and over 40 injured.

In the third letter, Thaci called for investigations into rapes of women in Kosovo by Serbian forces.

“This war wound was kept unjustly silent for so long, and thanks to the braveness of the victims, now we have facts about these crimes. Kosovo citizens, victims and society need justice,” Thaci said.

In the fourth letter, he asked for investigations into the destruction of cultural monuments during and after the war.

“Solving these criminal cases would strengthen the trust of citizens and international partners in Kosovo’s justice institutions,” he said.

He explained that he sent the letters now because domestic judicial institutions have taken over the prosecution of such crimes from the EU’s rule-of-law mission in Kosovo, EULEX.

“The reason is that since June 2016, almost all the executive competencies have been transferred from EULEX to local institutions. I am the president of the country and I am directly addressing the institutions,” he said.

Thaci’s move also comes ahead of the establishment of a new Hague-based special court which will try former Kosovo Liberation Army fighters for crimes committed during and after the war.
D
avid Schwendiman, the chief prosecutor at the new Hague-based special court set up to try former Kosovo Liberation Army fighters for crimes committed during and after the 1998–99 war said on Thursday that he will pursue the facts vigorously and not be influenced by outside pressures.

“I intend to do this job the way I have always done things in the past; fairly, vigorously, and without fear or favour,” US lawyer Schwendiman told the first press conference of the new Kosovo Specialist Chambers and Specialist Prosecutor’s Office in The Hague.

Schwendiman also insisted that he is completely independent.

“I don’t take instruction from anyone,” he said.

He said that he would conduct his investigations “based solely on the facts that we have and will continue to collect, and our best reading of the law” and would not be swayed by political or diplomatic considerations.

There has been speculation that those under investigation could include some senior Kosovo Liberation Army figures who are now top politicians, but Schwendiman said he would not comment on indictments, potential suspects and specific charges.

He said that such speculation does not serve “any legitimate purpose”.

The new court will hear cases arising from an EU Special Investigative Task Force report which said that unnamed KLA officials would face in-
dictments for a “campaign of persecution” against Serbs, Roma and Kosovo Albanians believed to be collaborators with the Belgrade regime.

The alleged crimes include killings, abductions, illegal detentions and sexual violence committed between January 1998 and the end of 2000.

‘Judicial activity’ at the new court is expected to begin in the first half of 2017, the press conference was told.

However, for the court to become fully operational, it still needs final approval from parliament in The Netherlands.

Witness protection was one of the key subjects addressed at the press conference, in light of the challenges faced by prosecutors in KLA-related cases at the International Criminal Tribunal for the Former Yugoslavia, when witness intimidation was cited as a major obstacle.

Schwendiman said he could not give any information about witnesses at the new court for their own safety.

“I will not discuss nor disclose information about our witnesses. Neither will I discuss our means and methods for protecting those who are vulnerable because of their role in our investigations,” he said.
US lawyer David Schwendiman has been appointed as the chief prosecutor of the new Hague-based Special Court which is expected to try former Kosovo Liberation Army fighters.

David Schwendiman, who until now served as the lead prosecutor of the EU Special Investigative Task Force (SITF), which probed alleged crimes by KLA fighters, was appointed on Monday as Specialist Prosecutor (Chief Prosecutor) of the new Kosovo Specialist Prosecutor’s Office (SPO).

His appointment marks the formal transition of the SITF into the SPO, and Schwendiman said it was another step towards getting the new institution up and running.
“The Specialist Prosecutor and the SPO will continue to carry on the investigation started by the SITF and we will continue our preparations for the next phase of our work,” he said in a statement.

“I look forward to meeting people in the region and meeting with the media when it is appropriate in the coming weeks and months,” he added.

This is not the first appointment in the Balkans for Schwendiman, who worked as an international prosecutor in Bosnia and Herzegovina from 2006 to 2009, and headed the Bosnian prosecution’s special department for war crimes during the last two years he was in the country.

The new special court is to be set up in the Netherlands and some senior Kosovo Liberation Army figures are expected to be indicted for alleged crimes committed during and after the 1998-99 war with Serbian forces.

It will hear cases arising from the recent SITF report which said that unnamed KLA officials would face indictments for a “campaign of persecution” against Serbs, Roma and Kosovo Albanians believed to be collaborators with the Belgrade regime.

The alleged crimes include killings, abductions, illegal detentions and sexual violence.

The Specialist Chambers and Specialist Prosecutor’s Office, as the new Kosovo war crimes court will be called, are one step closer to being fully formed after the European Council approved a one-year budget for the chambers this June.

The EU Council set aside 29.1 million euros to support the specialist chambers and the specialist prosecutor office, lasting until June 14, 2017.

However, for the court to be fully functional, it still needs final approval from parliament in The Netherlands, where it will be based.

The Kosovo and Dutch governments signed an agreement in January on locating the chambers and prosecutor’s office in The Hague.

Before it can start work, however, Dutch MPs must ratify the decision and it is still not clear when the issue will come onto the Dutch parliament’s agenda.

The EU expects it to be approved by the end of 2016. The Dutch parliament has yet to clarify the timetable.
The court will try former Kosovo independence fighters of the Kosovo Liberation Army, KLA fighters for war crimes allegedly committed from 1998 to 2000.

Sources close to the court told BIRN that the first indictments could be expected at the end of 2016, or the beginning of 2017.

International judges and prosecutors will staff the court, although it will operate under Kosovo’s laws.

It will be based in the former Europol building in The Hague.
EU CASH BRINGS KOSOVO WAR CRIMES COURT CLOSER

15 JUNE 2016

The court will be housed in the former Europol building. Photo: Europol

The approval of a one-year budget for the specialist chambers brings the Hague-based war-crimes court one step closer to operation.

Marija RISTIC

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It will be based in the former Europol building in The Hague, which BIRN sources say is being modified to hold court hearings.

It is widely expected that top Kosovo politicians could end up in the dock, including President Hashim Thaci, the former political chief of the KLA.

A 2011 report from the Council of Europe levelled serious allegations of criminality against Thaci, which he strongly denied.

The court was established after the EU’s Special Investigative Task Force conducted a three-year investigation into allegations contained in a Council of Europe report that KLA members committed grave crimes between 1998 and 2000.

The report by Council of Europe rapporteur Dick Marty claimed that these crimes included kidnapping, torture and organ-harvesting.

As a result of the investigation, the EU task force said it was in a position to indict high-level perpetrators as soon as the new court starts operating.

Since then, the EU and the US have been pushing Kosovo to adopt the necessary constitutional amendments and laws.

They say the court is needed because the Kosovo judiciary is unable or unwilling to properly prosecute high-ranking former KLA figures, and the EU’s existing rule-of-law mission, EULEX, does not have the capacity to do so.
However the new court is unpopular in Kosovo where it is widely seen as an insult to the KLA and its war against Serbian rule.

The court will address allegations that KLA fighters were involved in the killings, abductions, illegal detentions and persecution of Serbs, Roma and Kosovo Albanians believed to be collaborators with the Serbian regime, or political opponents of the KLA leadership, during and after the 1998-99 conflict.

It will consist of the two main institutions – the chamber and the registry.

The chamber will include a basic court, a court of appeals, a supreme court chamber and constitutional court chamber. All judging panels at court levels will be composed of three international judges.

The registry will include a defence office, a victims' participation office to represent victims' interests, a witness protection and support office, a detention management unit and an ombudsman's office. The official languages of the court will be Albanian, Serbian and English.

The specialist prosecution office will be independent. It is expected that the lead prosecutor of the EU’s Special Investigative Task Force, David Schwendiman, will take over once it is established.

The prosecution will also have its own police officers with authority to exercise any of the powers that Kosovo’s police have.

The European Council on Tuesday also approved the budget for its ongoing EU rule-of-law mission, EULEX, and extended its mandate until June 14, 2018.

“"The budget approved will cover the expenditure of EULEX KOSOVO for the implementation of its mandate in Kosovo at a level of EUR 34.5 million," the statement read.

However, although the EU has approved the extension of the mandate and a budget for the mission, its fate is still uncertain.

The mission is currently in legal limbo as Kosovo and EU have yet to exchange the letters that will regulate the mandate and scope of EULEX in the next two years.

President Thaci has sent a letter to Federica Mogherini, the EU’s foreign affair chief, but so far did not get a reply, although the EU office told BIRN the exchange of letters will take place.
The Kosovo letter welcomes the EU’s continued support for the justice sector, “in particular through trial monitoring and advising provided to our institutions”.

However, it also says that, “as a matter of principle, all criminal investigations and new criminal trials will be conducted by Kosovo authorities, with judicial panels composed of Kosovo judges”.

The Kosovo President also says that EULEX judges should only be assigned sensitive cases in extraordinary circumstances and on the special request and agreements of the country’s judicial hierarchy.

According to BIRN sources, EU officials in Brussels were unhappy with the wording of the letter from Kosovo as it suggests effectively abolishing EULEX’s executive functions and leaves it only a monitoring and advisory role.

The Kosovo government and parliament will approve the scope of the EU mission in the coming days.

Meanwhile, the justice system in Kosovo has been left in limbo, as EULEX cannot continue to exercise any of its old powers until their renewal is formally approved.

EULEX officials told BIRN that all executive functions of prosecutors, police and judges stopped at midnight on Tuesday.

There are also no detention hearings. As a result, the Wednesday hearing of the high-profile case of Azem Syla has been postponed.

Syla faces trial in relation to this investigation, accused of running a crime syndicate involved in the fraudulent use of socially-owned property.

Syla is himself a former KLA commander and a prominent legislator from the ruling Democratic Party of Kosovo, PDK – the same party that Thaci led from its creation in 1999 until he was elected President.
NEW KOSOVO WAR COURT AWAITS DUTCH MPS’ APPROVAL

17 MAY 2016

The new court in The Hague which will try former Kosovo Liberation Army fighters is still waiting for the Dutch parliament’s ratification and for the EU to supply its budget.

Marija Ristic

The Specialist Chambers and Specialist Prosecutor’s Office, as the new Kosovo war crimes court will be called, is still awaiting final approval from MPs in the Netherlands, where it will be based, and for its funding from the EU to arrive before it can start work, BIRN has learned.

The Kosovo and Netherlands governments signed an agreement in January which enabled the court’s chambers and prosecutor’s office to be located in The Hague.

But before it starts work, the court needs to be ratified by Dutch MPs and it is still not clear when the issue will be on the Dutch parliament’s agenda, although the EU expects it to be approved by the end of 2016. The Dutch parliament did not respond to requests for clarification.

The court will try Kosovo Liberation Army, KLA fighters for crimes allegedly committed from 1998 to 2000.

Sources close to the court told BIRN that the first indictments can be expected at the end of 2016 or the beginning of 2017.

The court will be staffed by international judges and prosecutors, although it will operate under Kosovo’s laws.

It will be based in the former Europol building in The Hague, which according to BIRN’s sources is currently being modified so that it can hold court hearings.
The EU office in Kosovo told BIRN that “intensive preparations are ongoing” for the adoption of a budget for the court.

“It is expected that this will be completed in the first half of 2016,” the EU office said.

The budget is to be funded by the EU and countries including the US, but the overall amount has not been confirmed so far.

Many believe that top Kosovo politicians will end up in the dock, including President Hashim Thaci, the former political chief of the KLA. A 2011 report from the Council of Europe levelled serious allegations of criminality against Thaci, which he strongly denied.

But Kosovo’s law which enabled the establishment of the new court makes it clear that no official is out of bounds for prosecution.

“The official position of any accused person, including the head of state or government or a responsible government official, shall not relieve such person of criminal responsibility nor mitigate punishment,” it says.

The court was established after the EU’s Special Investigative Task Force conducted a three-year investigation into the allegations in the Council of Europe report that KLA members committed a series of crimes between 1998 and 2000.

The report by Council of Europe rapporteur Dick Marty claimed that these crimes included kidnapping, torture and organ-harvesting.

As a result of the investigation, the EU task force said it was in a position to indict high-level perpetrators as soon as the new court starts operating.

Since then the EU and the US have been pushing the Kosovo government to adopt the necessary constitutional amendments and laws.

They believe the court is needed because the Kosovo judiciary would be unable or unwilling to properly prosecute high-ranking former KLA figures, and the EU’s rule-of-law mission, EULEX, does not have the capacity to do so.

However the new court is widely seen in Kosovo as an insult to the Kosovo Liberation Army and its war for freedom from Serbian rule.

The court will address allegations that KLA fighters were involved in the killings, abductions, illegal detentions and persecution of Serbs, Roma and Kosovo Albanians believed to be collaborators with the Serbian regime or
political opponents of the KLA leadership during and after the 1998-99 conflict.

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The specialist prosecution office will be independent and it is expected that the lead prosecutor of the EU’s Special Investigative Task Force, David Schwendiman, will take over once it is established.

The prosecution will also have its own police officers with the authority to exercise any of the powers that Kosovo’s police have.
David Schwendiman, the chief prosecutor of the new Kosovo special war crimes court, said that the election of Hashim Thaci as the country’s president does not give him immunity from prosecution.

Schwendiman was the lead prosecutor of the EU’s Special Investigative Task Force, SITF, which has been probing claims in a Council of Europe report about alleged crimes by KLA fighters.

The 2011 Council of Europe which claimed that KLA guerrillas committed crimes against civilians such as kidnapping, torture and organ-harvesting.

The report also implicated Thaci, who was the political head of the KLA during its armed conflict with Serbian forces.

Thaci, who was elected president by the Kosovo parliament at the weekend, has strongly denied any wrongdoing.
Schwendiman said that the SITF’s investigations were still continuing but declined to comment on any specific details.

The new court, which is officially called the Kosovo Specialist Chambers, will be located in the former Europol building in The Hague.

The court, which is made up of international judges, will operate under Kosovo law. This means it will not be an international tribunal, but a Kosovo court that administers justice outside the country.

It is expected to start operating later this year.
Legal experts argued that an agreement signed by President Atifete Jahjaga with the Netherlands to host a new court to try Kosovo Liberation Army members should have been approved by parliament.

Petrit Collaku

Legal experts in Kosovo claimed on Tuesday that Jahjaga had no right to sign the final agreement to set up the so-called ‘special court’ in the Netherlands and argued that it should have been ratified by parliament.

According to the constitution, international agreements require a parliamentary vote if they involve a range of issues.
These include: territory, peace, alliances, political and military issues; fundamental rights and freedoms; Kosovo’s membership of international organisations; or Kosovo undertaking financial obligations.

The same article of the constitution gives the president the right to ratify an international agreement only if does not fall under one of these headings.

Dren Doli from the Group for Legal and Political Studies told BIRN that the agreement between Kosovo and the Netherlands falls under the fundamental rights and freedoms article “because we are dealing with the human rights and freedoms of the indicted and of the victims that might arise from trials at the special court”.

“The president has overreached her competencies. It was Kosovo’s parliament that had the constitutional authorisation to ratify such international agreements,” he argued.

Doli said that such a move by the president set a risky precedent for future international agreements.

“I don’t know the reasons why the parliament was bypassed but I hope that the country’s legal teams have presented the reasoning behind this,” he said.

University law professor Riza Smaka also told BIRN that the agreement should have been ratified by parliament.

“If we look at the title of the agreement, it seems the president had the right to sign it. But it is important to see what the content of the agreement is... it has to do with basic human rights and parliament was the right authority for the ratification,” said Smaka, who is also a member of one of the country's opposition parties, the Alliance for the Future of Kosovo, AAK.

Jahjaga’s office said on Monday that she was constitutionally empowered to sign the agreement with the Netherlands to establish the new court, which is officially called the Kosovo Specialist Chambers.

It was first signed by Kosovo’s Foreign Minister Hashim Thaci and the Dutch ambassador in Pristina, Gerrie Willems.

The Dutch parliament said there was no need for it to ratify the agreement.

“The minister of foreign affairs has sent a letter to the parliament about the agreement and that there is no need for ratification from the par-
liament,” Leon van Schie from the Dutch parliament’s communications office told BIRN.

The new court is to try senior Kosovo Liberation Army fighters for war crimes and post-war offences from 1999-2000 and will be located in the former Europol building in The Hague.

The court, which is made up of international judges, will operate under Kosovo law. This means it will not be an international tribunal, but a Kosovo court that administers justice outside the country.

It is being set up after the EU’s Special Investigative Task Force conducted a three-year investigation into allegations initially made by Council of Europe, whose rapporteur claimed in a report in 2011 that crimes against civilians such as kidnapping, torture and organ-harvesting were committed by KLA members during the Kosovo conflict.
Kosovo’s President Atifete Jahjaga has signed an agreement with the Netherlands allowing a new court to start trials of former Kosovo Liberation Army members for alleged crimes committed from 1999-2000.

Petrit COLLAKU

Jahjaga’s office announced on Monday that she has signed the agreement between Kosovo and the Netherlands to establish the new court, which is officially called the Kosovo Specialist Chambers.

It said Jahjaga received the document on February 23 after it was first signed by Kosovo’s Foreign Minister Hashim Thaci and the Dutch ambassador in Pristina, Gerrie Willems, on February 15.

“With the ratification of this agreement... the Republic of Kosovo has fulfilled all its international obligations connected to the establishment of the Special Court,” the statement from Jahjaga’s office said.

The new court is to try senior Kosovo Liberation Army fighters for war crimes and post-war offences from 1999-2000 and will be located in the former Europol building in The Hague.

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It is being set up after the EU’s Special Investigative Task Force conducted a three-year investigation into allegations initially made by Council of Europe, whose rapporteur claimed in a report in 2011 that crimes against civilians such as kidnapping, torture and organ-harvesting were committed by KLA members during the Kosovo conflict.
The task force’s findings will provide the basis for prosecutions at the new court.

Its establishment has proved deeply controversial in Kosovo, with critics arguing that it is an insult to the KLA’s war for liberation from oppressive Serbian rule.
THE HAGUE TO HOST NEW KOSOVO WAR COURT

15 JANUARY 2016

The long-anticipated special court to try senior Kosovo Liberation Army fighters for war crimes and post-war offences will be set up in The Hague this year, it has been announced.

Marija RISTIC

The Dutch government announced on Friday that it “has consented to the European Union’s request to the Netherlands to host this Kosovo court”, the country’s foreign ministry said in a statement.

The court, which is officially called the Kosovo Relocated Specialist Judicial Institution, is expected to begin operating sometime this year.

It will try serious crimes allegedly committed in 1999–2000 by members of the Kosovo Liberation Army against ethnic minorities and political opponents.

“It is important for justice to be done. So we are pleased to be able to offer the court a home,” said Dutch foreign minister Bert Koenders.

Koenders and the Dutch minister of security and justice, Ard van der Steur, said they believed that the Netherlands has a special responsibility as the host country of a number of international and other special criminal courts and tribunals, such as the International Criminal Tribunal for the Former Yugoslavia.

“This is a good opportunity to ensure justice is finally done and to hold people accountable for the wrongs they have committed,” said van der Steur.

The court will be housed in the former Europol building once an extension has been built for a courtroom.

“In the meantime the court will be accommodated elsewhere in The Hague,” the Dutch foreign ministry said.

In March 2014, the European Union asked the Netherlands to assist its Special Investigative Task Force in possible criminal proceedings after its investigation into alleged crimes by Kosovo Liberation Army members was complete.
The 2014 ministerial letter, obtained by BIRN, says that the EU picked the Netherlands because of “the unique Dutch experience in the field of international jurisprudence”.

The Special Investigative Task Force conducted a three-year investigation into allegations initially made by Council of Europe, whose rapporteur claimed in a report in 2011 that crimes against civilians such as kidnapping, torture and organ-harvesting were committed by KLA members during the Kosovo conflict.

The task force's findings will provide the basis for prosecutions at the new court.

The court, which is made up of international judges, is to be established under Kosovo law. This means it will not be an international tribunal, but a Kosovan national court that administers justice outside Kosovo.

Read more:

Kosovo’s New War Court: Major Challenges Ahead
Kosovo’s New War Court: How Will it Work?
Kosovo Praised for Approving New War Crimes Court
The Criminal Consequences of Kosovo’s Post-War Disorder
Kosovo Organ-Trafficking: How the Claims were Exposed

However it remains highly controversial in Kosovo, where some critics say it is an insult to the KLA’s struggle against Slobodan Milosevic's forces.

The Hague’s mayor Joziës van Aartsen said he welcomed the new court to the city.

“As long as there is no justice, there can be no truly lasting peace. That’s why it’s of the utmost importance that this court can do its work here in our city,” he said.

The governments of the Netherlands and Kosovo have concluded an agreement which sets out the arrangements that apply to the court. The agreement still has to be approved by the parliaments of each country.

The court’s costs will be paid from EU funds.
EX-KLA FIGHTER DETAINED OVER CRIMES IN ALBANIA

08 OCTOBER 2015

Kosovo court ordered a month’s detention for former Kosovo Liberation Army leader Xhemshit Krasniqi, suspected of carrying out war crimes in Albania.

Behar MUSTAFA, Marija RISTIC

A judge in the Basic Court of Mitrovica on Wednesday ordered 30 days of detention for former senior Kosovo Liberation Army fighter Xhemshit Krasniqi.

His lawyer Haji Millaku said the court acted on the request of EU rule-of-law mission, EULEX, citing fears that he could endanger investigations if he was free.

“He is held on suspicion that he committed war crimes in the spring of 1999 on the territory of Albania,” Millaku told BIRN.

Krasniqi was arrested on Sunday in his hometown of Prizren in southern Kosovo during a police operation conducted by EULEX.

EULEX prosecutors suspect he committed war crimes against civilians detained in camps run by the KLA in northern Albania.

He was allegedly involved in torturing detainees in camps in Kukes and Cahan during April, May and June 1999, during the conflict in neighbouring Kosovo.

During the NATO bombing of former Yugoslavia, from March to June 1999, the KLA, then fighting Serbian police and military, had a base in the Albanian town of Kukes from where they conducted guerrilla operations across the border in Kosovo.

The KLA also maintained a network of prisons in their bases in Albania and Kosovo during and after the conflict of 1999.

These held Kosovo Albanians suspected of collaboration, Serbs and Roma. Some detainees were torturd and it also believed that some were killed.
Serbian association of missing persons says some 500 Kosovo Serbs are still listed as missing.

A Council of Europe report from 2011 said KLA fighters used a former metal factory in Kukes and converted it into a multi-purpose facility, including at least two “cellblocks” to house detainees.

The same report said the prisoners “were thrown into makeshift cellblocks, left in insanitary conditions without food and water, and were visited periodically by KLA soldiers to be questioned under harsh treatment, or indiscriminately beaten”.

In statements given to UN prosecutors in 2009 and 2010, more than ten individuals – almost all of them ethnic Albanians – described having been detained indefinitely, struck with sticks and other objects, and subjected to various forms of inhuman treatment at the Kukes site.

Several witnesses stated that screams of agony from persons held in separate sets of cellblocks could be heard filtering through the corridors.

Kosovo is currently in the process of forming a new internationally backed court, which is expected to be based both in Pristina and The Hague.

The establishment of the so-called “specialist chambers” comes after the EU's Special Investigative Task Force last July published the findings of its three-year investigation into allegations initially made by Council of Europe rapporteur Dick Marty.

Marty claimed that KLA members committed grave crimes against civilians such as kidnapping, torture and even organ-harvesting.

The EU and US have been pushing Kosovo to pass the necessary constitutional amendments and laws to enable the court to operate.

They say the court is needed because the Kosovo judiciary are unable or unwilling to properly prosecute former KLA figures, and EULEX, does not have the capacity to do so.
Kosovo postpones vote on wartime crime court

29 May 2015

The Kosovo parliament postponed a vote on amendments to the constitution whose aim was to enable the formation of a special court on the wartime crimes of the Kosovo Liberation Army.

Marija RISTIC, Petrit COLLAKU

After being scheduled for Friday, a vote in the Kosovo parliament on amendments to the constitution to allow the establishment of the special court on crimes committed during 1990s war was postponed for “technical reasons”.

With 78 votes for, 2 against and 1 abstention, the assembly postponed the vote and did not schedule a new session.

The head of the parliamentary group of the ruling Democratic Party of Kosovo, Adem Grabovci, said technical obstacles prevented the vote.
“Owing to the lack of opportunity to see the materials that what we have to vote on, we propose that this session be postponed,” Grabovci said.

The Prime Minister, Isa Mustafa, and his deputy coalition partner, Hashim Thaci, were not present at the session.

Albin Kurti, from the opposition Self-determination party, which opposed the creation of the Special Court, said the session was put on hold because there were not enough MPs to approve the amendments.

“These amendments were always notorious. And this time it’s no different,” Kurti said.

However, Slavko Simic, MP from the Serbian List, said formation of the court was an international obligation for Kosovo and was being postponed for political reasons.

The adoption of the amendments were a first step to enable the formation of the chamber, which would function under Kosovo law, but most of whose proceedings would be conducted abroad and all of whose judicial structures would be composed of international staff.

Following adoption of the amendments, parliament needs to adopt a special law that will regulate the functioning of the court.

The draft law is currently still being negotiated between the Kosovo government and the European Union.

The date of the vote has already been postponed several times, but under pressure from the international community was due to take place on Friday.

During the session on Friday, hundreds of war veterans took to the streets of Pristina, protesting against the planned vote and the recent ruling of a Mitrovica court which jailed 11 ex-KLA fighters, including top politicians Sylejman Selimi and Sami Lushtaku, for war crimes in 1998 and 1999.

Hundreds of war veterans chanting “KLA, KLA” gathered in front of parliament calling on MPs not to back amendments which would lead to creation of the Special Court.

The head of the war veterans associations, Smajl Elezaj, said the court would be damaging to the sovereignty of Kosovo.

“MPs should leave the parliament, which would make it impossible to vote on the amendments that would bring about the Special Court,” Elezaj said.
The new court is to be sited in The Netherlands and a number of senior KLA figures are expected to be indicted for crimes committed during and after the 1998–99 war with Serbian forces.

It will hear cases arising from the recent European Union Special Investigative Task Force report, which said that unnamed KLA officials carried out a “campaign of persecution” against Serbs, Roma and Kosovo Albanians believed to be collaborators with the Belgrade regime.

The alleged crimes include killings, abductions, illegal detentions and sexual violence.
NEW KOSOVO WAR COURT REMAINS UNDER WRAPS

09 JANUARY 2015

Kosovo’s parliament is due to pass legislation setting up a new EU-backed special court to try war crimes, but exact details about the nature of the court are still unknown.

Una HAJDARI

Prime Minister Isa Mustafa’s recently-formed government has vowed to expedite a vote in parliament on new legislation that would set in motion the creation of the special court which is expected to try former Kosovo Liberation Army officials for war crimes.

The voting is expected to take place in February, but although three opposition parties in parliament have already made clear they will vote against it, no draft of the actual legislation has been made public yet.

Although the proposed establishment of the court, which deal with allegations raised in last year’s report by the EU’s Special Investigative Task Force, has caused controversy, the public and politicians in Kosovo remain in the dark about how it will operate.

Kosovo’s Justice Ministry has kept silent about the issue, repeating that “nothing is clear yet”.

What is known for now – according to local media reports – is that the most sensitive parts of the proceedings will be held in the Netherlands.

This means that witness hearings and any trials of high-profile politicians will take place away from those in Kosovo who might want to influence proceedings – a problem which has been considered a weakness in cases run by the EU’s rule-of-law mission (EULEX), which has been operating in Kosovo since 2008.

Whether the court will follow international law, or a mixture of Kosovo and Dutch legislation, is not clear.
The only official piece of documentation publicly available is an exchange of letters in April 2014 between President Atifete Jahjaga and former EU foreign policy chief Catherine Ashton, intended to show the willingness of both sides to create the new court.

Kosovo’s parliament, before going into snap elections in June last year, gave its approval for the creation of the court, under strong pressure from the EU and US diplomats in Kosovo, but since then, no further clarification has been offered.

Edita Tahiri, Kosovo’s Minister for the Dialogue with Serbia, who oversees working groups involved in implementing the deal to normalise relations with Belgrade, said the public has to wait for details to emerge.

“We did what was necessary in agreeing to the formation of the court. Now we need to wait for the relevant authorities to draft the necessary laws, both the Kosovo justice institutions and the international ones,” Tahiri said.

It was initially predicted that court could start work in January 2015, but a six-month-long political deadlock following the snap elections in Kosovo seriously delayed this.

The main fear of those who oppose the court is that it bears too close a resemblance to the International Criminal Tribunal for the Former Yugoslavia – except that it would focus only on crimes perpetrated in Kosovo, including those committed by the Kosovo Liberation Army, who are widely seen as the country’s liberators from Belgrade’s rule.

“We think the special court is bad news for Kosovo,” said Donika Kadaj-Bujupi, an opposition MP from the Alliance for the Future of Kosovo party.

“The country has shown willingness for international justice, and this will only damage the image of the country,” Kadaj-Bujupi added.

The first order of business for the court will be to deal with the findings of the Special Investigative Task Force investigation into war crimes and organised crime during the 1998-2000 period in Kosovo.

The former chief prosecutor for the Special Investigative Task Force, Clint Williamson, said in its August 2014 report that there were clear indications that kidnappings and murders were committed by members of the KLA.

Williamson said that “senior officials of the former Kosovo Liberation Army” would face indictments for crimes against humanity and other abuses.

He also said that there was “compelling evidence” of organ harvesting by KLA fighters, although not enough to raise indictments yet.
EU NAMES NEW KOSOVO TRIBUNAL CHIEF PROSECUTOR

11 DECEMBER 2014

US lawyer David Schwendiman will be the chief prosecutor of the new special war crimes court that is expected to prosecute senior Kosovo Liberation Army figures, BIRN has learned.

Marija RISTIC, Denis DZIDIC

Schwendiman, whose last job was investigating fraud and corruption in Afghanistan, will succeed Clint Williamson as the chief prosecutor of the European Union’s Special Investigative Task Force on Kosovo this week, EU sources told BIRN.

This is not the first appointment in the Balkans for Schwendiman, who worked as an international prosecutor in Bosnia and Herzegovina from 2006 to 2009, and headed the Bosnian prosecution’s special department for war crimes during the last two years he was in the country.

The new special court is to be set up in the Netherlands and some senior Kosovo Liberation Army figures are expected to be indicted for alleged crimes committed during and after the 1998-99 war with Serbian forces.

It will hear cases arising from the recent European Union Special Investigative Task Force report which said that unnamed KLA officials would face indictments for “campaign of persecution” against Serbs, Roma and Kosovo Albanians believed to be collaborators with the Belgrade regime.

The alleged crimes include killings, abductions, illegal detentions and sexual violence.

The new court was supposed to begin work in January 2015 but has been delayed because of the political dispute that left Kosovo without a government for six month after national elections in June.

While working in Bosnia, Schwendiman ran into controversy when he halted two investigations for war crimes against Bosnian Serbs.
He insisted however that he had to act in the interests of justice “even if the public response might make things uncomfortable for me”, he told BIRN after he completed his term in office.

“It was simply the right thing to do at the right time and I did it,” he said.

Schwendiman’s work with the US Department of Justice has included numerous overseas assignments in Bangladesh, Thailand and Vietnam.

After Bosnia, he resumed his post as Assistant Federal Attorney in his home state of Utah in the US and taught law at the University of Utah before going to Afghanistan.
Kosovo’s War Veterans Association said that a new EU report stating that senior Kosova Liberation Army officials will be prosecuted for crimes against humanity was “ridiculous”.

Edona PECI

The War Veterans Association on Wednesday condemned the EU Special Investigative Task Force report into alleged crimes committed after the 1999 conflict, calling it “illogical, ridiculous and tendentious”.

The association said that the report represented “the continuation of a special war against freedom fighters and against the Kosovo Liberation Army due to the interests of Serbia and the enemies of the Albanian nation”.

The report published on Tuesday said that unnamed senior KLA officials will face indictments for crimes against humanity.

The task force’s lead prosecutor Clint Williamson has urged the authorities in Pristina to help establish a new Netherlands-based special court with international judges which will prosecute crimes related to the Kosovo war “as soon as possible”. The court is expected to start work next year.

But the War Veterans Association said it “will protect anyone who might be accused by this political court”.

The non-governmental Humanitarian Law Centre in Pristina said however that it supported the EU Special Investigative Task Force report.

It said that the task force and the new court had the potential to remove obstacles faced by previous UN and EU mission in Kosovo and convince the public “of the need to prosecute KLA members who killed Serbs and Roma”.

KOSOVO SPECIALIST CHAMBERS
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The European rights body welcomed an EU report accusing senior Kosovo Liberation Army figures of post-war crimes and saying there were compelling indications of organ-trafficking by fighters.

Marija RISTIC

The Council of Europe on Wednesday praised the EU Special Investigative Task Force report which said there was evidence to prosecute unnamed senior Kosovo Liberation Army officials for crimes against humanity including abductions and murders committed after the 1999 conflict.

The head of the Council of Europe’s Parliamentary Assembly, Anne Brasseur, also praised the report, issued on Tuesday, which said that there
were “compelling” indications that KLA fighters had been involved in organ-trafficking, although only on a very limited scale with a few individuals involved.

“Today I welcome that in the case of trafficking in human organs in Kosovo, truth’s onward march also continues,” Brasseur said.

The organ-trafficking allegations first emerged in a 2010 report by Council of Europe rapporteur Dick Marty, which claimed that groups including senior Kosovo Albanian guerrillas had been involved in killing several Serb and Albanian prisoners and removing their kidneys to sell them.

The 2010 report also detailed other human rights abuses by elements connected to the former KLA, as well as “a nexus” between KLA elements and organised crime.

The EU then set up its Special Investigative Task Force (SITF) in 2011 to further probe Marty’s findings.

“Although no final conclusions have as yet been presented, SITF has found compelling evidence to file indictments against certain former senior officials of the Kosovo Liberation Army with respect to major human rights violations, findings that are largely based on and consistent with Dick Marty’s report,” Brasseur said.

“Whenever a conflict has occurred, all criminals must be prosecuted and held responsible for their illegal acts, whichever side they belonged to and irrespective of their political role,” she added.

Brasseur echoed concerns in the EU report about the intimidation of witnesses. SITF said that there had been “active efforts to undermine” its investigation.

“I note with regret the existence, in certain quarters, of a climate of witness intimidation and I call on the authorities of Serbia, Albania and the Kosovo administration to cooperate unreservedly with ongoing investigations,” she said.
The Serbian government welcomed an EU task force announcement about indictments for alleged Kosovo Liberation Army crimes against Serbs, but said justice will only be done when perpetrators are convicted.

Marija RISTIC

“We can only be happy at the moment when we have final verdicts which will bring the perpetrators responsible for the crimes to justice,” Marko Djuric, the head of the Serbian government office for Kosovo, said on Tuesday.

Djuric hailed the report issued earlier in the day by Clint Williamson, the chief prosecutor of the EU’s Special Investigative Task Force, which said that unnamed “senior officials of the former Kosovo Liberation Army” will face indictments for crimes against humanity including abductions and murders committed after the 1999 conflict.
Serbia welcomes “every activity that leads to the revelation of monstrous crimes which, according to Williamson, lead to senior KLA officials”, Djuric said.

“Too much time has passed, and there is still no justice for victims... However, there is no statute of limitation on war crimes and we think only the prosecution of all perpetrators can bring reconciliation,” he added.

Serbian war crimes prosecutor Vladimir Vukcevic said meanwhile that the EU task force report was “bringing satisfaction to victims” and “greatly contributing to international justice”.

The Kosovo government has reacted to the report by saying that it was “an important step in determining the potential responsibilities of individuals and putting an end to unfounded allegations and accusations”.

NEW KOSOVO PROSECUTIONS ‘OFFER JUSTICE FOR ABDUCTED SERBS’

29 JULY 2014

An EU task force report announcing prosecutions of senior Kosovo Liberation Army members for crimes against humanity after the 1999 war could end impunity, said human rights group Amnesty International.

Marija RISTIC

“This is hopefully a step towards justice for the families of up to 400 Kosovo Serbs believed to have been abducted by the KLA, and subsequently transferred to Albania, where they are alleged to have been killed,” said Sian Jones, Amnesty International’s researcher on Kosovo on Tuesday.
The report published by the EU’s Special Investigative Task Force earlier on Tuesday said that unnamed “senior officials of the former Kosovo Liberation Army” will face indictments for crimes against humanity and other abuses committed after the 1999 conflict.

“These individuals bear responsibility for a campaign of persecution that was directed against the ethnic Serb, Roma, and other minority populations of Kosovo and toward fellow Kosovo Albanians who they labelled either to be collaborators with Serbs or, more commonly, simply to have been political opponents of the KLA leadership,” Clint Williamson, the lead prosecutor with the task force, told a press conference in Brussels.

According to the Amnesty International, the report “recognised the widespread and systematic nature of the abductions and murders, and assured that former senior KLA officials will be indicted for crimes against humanity”.

However, the rights group noted that the EU task force “has been unable to issue indictments against the as-yet unnamed suspects, as the specialised court being established to try the suspects, outside of Kosovo, will not open until 2015”.

The court will work under Kosovo law, but will be based in the Netherlands and have international judges.

Although the Kosovo Assembly voted in April for the new court to be established, additional legal changes need to be made to put it in line with the constitution.

Amnesty said this should be done quickly so prosecutions can go ahead.

“Any further delay may well lead to impunity and the further intimidation of potential witnesses,” Jones said.
An EU report said top Kosovo Liberation Army officials will be prosecuted for crimes against humanity including murders and abductions but there was not enough evidence yet for organ-trafficking indictments.

Edona PECI

The report published on Tuesday by the EU’s Special Investigative Task Force said that unnamed “senior officials of the former Kosovo Liberation Army” will face indictments for crimes against humanity and other abuses committed after the 1999 conflict.

“These individuals bear responsibility for a campaign of persecution that was directed against the ethnic Serb, Roma, and other minority populations of Kosovo and toward fellow Kosovo Albanians who they labeled either to be collaborators with Serbs or, more commonly, simply to have
been political opponents of the KLA leadership,” Clint Williamson, the lead prosecutor with the task force, told a press conference in Brussels.

Their crimes include “unlawful killings, abductions, enforced disappearances, illegal detentions in camps in Kosovo and Albania, sexual violence, other forms of inhumane treatment, forced displacements of individuals from their homes and communities, and desecration and destruction of churches and other religious sites”, Williamson said.

“We believe that the evidence is compelling that these crimes were not the acts of rogue individuals acting on their own accord, but rather that they were conducted in an organised fashion and were sanctioned by certain individuals in the top levels of the KLA leadership,” he added.

He said there were “compelling indications” that “a few individuals were killed with the intention of extracting their organs” by KLA fighters.

But the allegations that hundreds of prisoners were killed and their organs sold was “totally unsupported”.

“There are no indications that this was widespread,” he said.

He explained that there was not enough evidence for any organ-trafficking indictments yet, but prosecutions could not be ruled out in the future.

The report meanwhile expressed concern about what it called a “climate of witness intimidation” in Kosovo, saying that there had been attempts to interfere with witnesses during the task force's investigation.

“As long as a few powerful people continue to thwart investigations into their own criminality, the people of Kosovo as a whole pay the price as this leaves a dark cloud over the country,” it said.

Reacting to the report, the Kosovo government said that it was “an important step in determining the potential responsibilities of individuals and putting an end to unfounded allegations and accusations”.

The EU task force was established in 2011 to look into allegations presented in a controversial report by the Council of Europe rapporteur Dick Marty.

Marty’s report linked senior former Kosovo Liberation Army fighters, including outgoing Prime Minister Hashim Thaci, to organised crime, and accused them of harvesting the organs of Serbian prisoners and others in Albania during the 1998–99 war.

It suggested that an organ harvesting and trafficking network could have operated out of a villa in the town of Fushe Kruje in Albania, where
some ethnic Serbs and Albanians were killed and their kidneys removed for sale, and detailed other human rights abuses by people connected to the former KLA.

The allegations have been strongly rejected by those accused.

A new Netherlands-based special tribunal with international judges to prosecute alleged wartime crimes committed by former KLA fighters is due to start work next year.
NEW TRIBUNAL TO PROSECUTE KOSOVO GUERRILLAS IN 2015

23 JULY 2014

The new Netherlands-based special court will launch its first cases against former Kosovo Liberation Army fighters for the wartime killings, deportations and abductions of Serbs next year.

Marija RISTIC

“We expect the court to be fully functional at the beginning of next year... There will be several former Kosovo Liberation Army members on the trial bench,” a senior EU diplomat told BIRN.

Indictments will be issued for the killings, abduction and deportation of Kosovo Serbs who were imprisoned in many KLA detention camps in Kosovo during the conflict in 1999 and later transferred to Albania, the diplomat said on condition of anonymity.

The news emerged as Clint Williamson, the chief investigator from the EU-backed Special Investigative Task Force which has been probing allegations of organ trafficking by KLA guerrillas, visited Pristina and Belgrade this week.

Williamson is due to present his report next week about claims that KLA fighters harvested organs from Serb prisoners and others during the conflict – allegations that first emerged in a controversial report by Council of Europe rapporteur Dick Marty in 2010.

The report linked senior former KLA fighters, including outgoing Kosovo Prime Minister Hashim Thaci, to organised crime and organ-trafficking.

The EU diplomat told BIRN however that the task force had run into difficulties indicting high-ranking former KLA officials for having command responsibility for the crimes because the guerrilla force didn’t have written orders like an ordinary army and there were no documents to prove that the crimes were committed.
Local media have speculated that this means that Thaci will probably not be indicted, although this could not be independently confirmed.

The majority of the new court’s indictments will be based on material from the previous investigations carried out by UN and EU missions in Kosovo, but also on testimonies from victims and their relatives.

During his visit to Kosovo and Serbia, Williamson declined to reveal any of his findings before the presentation of task force report next week.

“Ambassador Williamson noted that he is aware of the mounting speculation about the findings of the SITF [task force], but he underlined that no information related to the findings of the investigation will be released until an announcement is made, and no specific outcomes should be pre-judged,” his office said in a statement issued on Tuesday.

In April, Kosovo’s parliament approved the establishment of the new special court to probe allegations which will be published in Williamson’s report.

The European Union already asked the Dutch government to assist the EU’s task force in criminal proceedings once the investigation into organ-trafficking allegations is complete.

Although the new special court will be based in the Netherlands, and prosecutors and judges will be international, it will operate under Kosovo’s laws.
KOSOVO WARTIME ORGAN-TRAFFICKING REPORT DUE NEXT WEEK

21 JULY 2014

An international task-force investigating alleged organ trafficking by Kosovo Liberation Army guerrillas during the 1990s conflict will publish its long-awaited report next week.

Edona PECI

Clinton Williamson, the lead prosecutor with the task force set up by the EU rule-of-law mission in Kosovo to probe the alleged illicit organ trade, has promised “to complete his three-year mandate with the publication of a report on his findings next week”, Kosovo's justice ministry said on Monday.

The Special Investigative Task Force, SITF, was established in 2011 amid to look into organ-trafficking allegations presented in a controversial report by the Council of Europe rapporteur Dick Marty.

The report linked senior former Kosovo Liberation Army fighters, including current Prime Minister Hashim Thaci, to organised crime, and accused them of harvesting the organs of Serbian prisoners and others in Albania during the 1998–99 war.

Williamson gave no details about his meetings with Kosovo officials during his visit to Pristina on Monday.

But the SITF said in a statement that he was “aware of the mounting speculation about the findings of the SITF, but he underlined that no information related to the findings of the investigation will be released until an announcement is made, and no specific outcomes should be prejudged”.

After meeting Williamson, Kosovo President Atifete Jahjaga said that she was “determined that Kosovo’s approach to justice will be inclusive and that the investigation stemming out of the Council of Europe report is not an attempt to put on trial our struggle for liberty but a way to investigate the alleged individual crimes”.

KOSOVO SPECIALIST CHAMBERS
FROM INVESTIGATIONS TO INDICTMENTS
In April, Kosovo’s parliament approved the establishment of a new Brussels-backed war crimes court to probe allegations such as the alleged organ-trafficking by Kosovo Liberation Army guerrillas.

Jahjaga said once Kosovo has a new government after the recent elections, the incoming authorities “will implement the ratified agreement by taking up their obligations to make the necessary legal and constitutional changes to accommodate the creation of the new court”.

The new tribunal will operate under Kosovo’s laws, but prosecutors and judges will be international, the government has said.

It is expected to have an office in Kosovo and one outside the country, but it remains unclear exactly when it is going to be established.
KOSOVO TO FUND WAR CRIMES SUSPECTS’ DEFENCE

30 APRIL 2014

Controversy has erupted over a state fund that will be set up to support former Kosovo Liberation Army guerrillas on trial at a new internationally-backed war crimes tribunal.

Edona PECI, Arben SYLEJMANI

“Here is no doubt this fund must be established,” said Adem Grabovci from the ruling Kosovo Democratic Party on Wednesday, after the government approved a draft law last week to legally and financially support people prosecuted by the new tribunal.

“A way to establish it must be found – either through parliament or the government,” Grabovci said.

The tribunal, which will have international judges, is designed to shed light on war crimes allegedly committed by former Kosovo Liberation Army members during 1998–1999. It is believed that Kosovo has been pressurised by the EU to support its establishment.

The government said last week that “every person who is accused of alleged crimes by the special court” will get “legal and financial protection” and monetary support for their families.

But some critics have condemned the decision.

Rexhep Selimi from the opposition “Vetevendosje” Movement, which opposes the establishment of the new court, told BIRN that “by setting up this fund, the government is trying to balance the damage it has done to the country by establishing the new war crimes tribunal”.

The decision to set up the tribunal was approved by Kosovo MPs last week. It will operate under Kosovo’s laws, but its prosecutors and judges will be international.
It is expected to have an office in Kosovo and one outside the country, but it remains unclear exactly when it is going to be established.

It is also unclear whether the new court will address allegations of organ trafficking by Kosovo Liberation Army fighters during wartime, but it is known that it will deal with the abduction and deportation of about 500 people, mostly Serbs, who went missing after the conflict in Kosovo ended in July 1999.

An investigation into organ-trafficking allegations contained in a 2010 report by the Council of Europe rapporteur Dick Marty report is still ongoing.

Since the end of the 1990s war, the Kosovo government has approved several decisions to financially support people on trial at the ICTY. But only around 16,750 euro was ultimately spent, on a welcome-home party for suspects who were acquitted.

A BIRN investigation into public money spent on suspects standing trial for war crimes in The Hague revealed that the two countries in the former Yugoslavia that have lavished the most funds are Croatia, which has spent over 28 million euro on three defendants, and Macedonia, which spent an estimated 9.5 million euro on just two men.

Nora Ahmetaj, executive director of the Centre for Research, Documentation and Publication, said Kosovo should not follow the example of other countries in the region that have supported Hague indictees.

“Kosovo doesn’t have the luxury to spend its budget on war crime suspects. Those who have committed crimes have to be brought to justice. It would be better to give the payments foreseen for their families to war rape victims or relatives of missing persons,” Ahmetaj told BIRN.

But the Council for the Defence of Human Rights and Freedoms, a Pristina-based NGO which opposes the tribunal, said that “all the accused have the right to ask for legal support from their state and this cannot be rejected”.

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KOSOVO SPECIALIST CHAMBERS
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KOSOVO MPS APPROVE NEW WAR CRIMES COURT

23 APRIL 2014

After a heated debate, Kosovo lawmakers voted for the establishment of a new special court to probe war crimes and organ-trafficking allegedly committed by Kosovo Liberation Army guerrillas.

Edona PECI

The proposal to establish the new tribunal was passed by 89 votes to 22 in parliament on Wednesday, although Prime Minister Hashim Thaci called it “the biggest injustice and insult which could be done to Kosovo and its people”.

“Our war was just and in line with the international norms of war,” insisted Thaci, who was the political leader of the Kosovo Liberation Army during its 1998–99 conflict with Serbian forces.

But he also said that Kosovo needed the new court in order to “cleanse” itself of allegations made in a 2010 report by Council of Europe rapporteur Dick Marty which claimed that former KLA commanders including Thaci ran organised criminal enterprises including an ad-hoc network of detention facilities in Albania and suggested that guerrillas harvested prisoners’ organs.

Kosovo “has to overcome this challenge united”, Thaci said, urging MPs to vote in favour.

During the debate, other MPs also strongly rejected allegations of war crimes and organ-trafficking by the KLA.

Fatmir Limaj, a former KLA commander who was acquitted of war crimes by the International Criminal Tribunal for the Former Yugoslavia (ICTY), questioned why Kosovo should have a special court when other countries like Bosnia were allowed by the international community to try their own cases.
“The ICTY dealt with war crimes in the former Yugoslavia. It tried all the cases it could, and those it was not able to deal with were transferred to local courts. Why does Kosovo have to be treated differently?” he asked.

But Serb MP Vesna Mikic, from the United Serb List (Jedinstvena Srpska Lista) party, said she hoped that the new court would ensure that “all criminals who were members of the KLA will face justice”.

“They have to be convicted for every single Serb victim, every raped Serb, every removed Serb organ, every burned Serb holy monument, every forcibly taken piece of Serb land and for every expelled Serb,” she said.

The US embassy in Pristina praised MPs for approving the new tribunal, saying that they “affirmed their commitment to establishing a court under Kosovo law that will strictly focus on individuals and individual acts”.

“Today’s vote paves the way for a process that the international community will view as credible, and that will help close this difficult chapter in Kosovo’s history,” the embassy said in a statement.

The tribunal will operate under Kosovo’s laws, but prosecutors and judges will be international, Thaci explained in parliament.

It is expected to have an office in Kosovo and one outside the country, but it remains unclear exactly when it is going to be established.

Wednesday’s vote also endorsed an extension of the mandate of the EU rule-of-law mission in Kosovo, EULEX, until June 2016.
KOSovo asks EU to set up new tribunal

14 April 2014

President Atifete Jahjaga said she would ask the EU to set up a special court outside Kosovo to deal with war crimes committed in the 1990s, having secured all-party consent.

Edona Peci

Jahjaga said she would ask Catherine Ashton, the EU foreign policy chief, “to establish a Kosovo court located outside the country in order to address allegations [against former Kosovo Liberation Army fighters] raised in the Council of Europe report of 2010”.

In a press release issued on Friday, Jahjaga said: “The establishment of a special court reflects the engagement of Kosovo for an independent and unbiased process in dealing with these accusations in a credible manner.

“This court will be focused on individuals and individual acts and is not a judgment of the collective efforts of our people for liberty and freedom,” she added.

Her comments followed a joint meeting held with heads of political parties, which she said had reached agreement “on our achievements in the rule of law field and in the transfer of competencies to Kosovo institutions.

“We also discussed the importance for the extend of EULEX’s mandate until 2016,” Jahjaga said, referring to the EU rule-of-law mission whose mandate expires in June.

Although all main parties in Kosovo have now agreed to set up the new war crimes tribunal, some opposition leaders still said the decision was damaging.

Isa Mustafa, head of the opposition Democratic League of Kosovo, said the establishment of the tribunal was “a heavy burden for Kosovo.
“We do not consider that Kosovo deserves such a court,” he said, adding that parliament has to approve the establishment of the court in the coming weeks.

Albin Kurti, head of the nationalist Vetevendosje Movement, described the establishment of the tribunal as “a step back for Kosovo.

“Linking Kosovo to terms like crime and crimes against humanity will damage Kosovo’s reputation in the world,” he said.

The tribunal is designed to shed light on war crimes allegedly committed by former Kosovo Liberation Army members during 1998-1999.

It is still unclear whether the tribunal will deal with organ trafficking allegations, but it is known that it will deal with the abduction and deportation of about 500 people, mostly Serbs, who went missing after conflict in Kosovo ended in July 1999.

An investigation into organ trafficking allegations contained in the report by the Council of Europe rapporteur Dick Marty report is still ongoing.

The report, published in 2010, alleged that former commanders of the Kosovo Liberation Army, from the so-called Drenica group - including the current Prime Minister, Hashim Thaci, and other Democratic Party of Kosovo MPs, including Shaip Muja, Azem Syla and Xhavit Haliti, ran organised criminal enterprises, including an ad-hoc network of detention facilities on the territory of Albania.

Haliti told BIRN that he was “ready to face justice.

“If the tribunal calls me, of course I will go,” he said.

“If the tribunal is established in line with European procedures, then it will help people who were mentioned in the [Marty] report,” he added.

However, he described the Marty accusations as “pure fabrications” and urged the need for more clarity concerning how the tribunal would deal with the allegations.

The proposed establishment of the tribunal and EULEX’s new mandate have to be approved by the Kosovo parliament, but it remains unclear when a vote will be held.

Parliamentary speaker Jakup Krasniqi said on Monday that he had informed the heads of all parliamentary factions that once the EU’s response to Jahjaga’s letter is received, “they have to be prepared to vote on it”.

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“Once the exchange of letters is done, we will send it to the responsible institutions,” Jahjaga’s media adviser Arber Vlahiu told BIRN.

International campaign group Human Rights Watch has backed the establishment of the tribunal, urging Kosovo’s parliament to support the initiative “to show that it takes the rule of law seriously and is committed to justice for serious abuses”.

“The proposal to establish a special court and extend the EU law mission is Kosovo’s chance to advance justice and individual accountability for very serious crimes,” Lotte Leicht, EU director at Human Rights Watch, said on Friday.
HRW BACKS NEW KOSOVO WAR CRIMES TRIBUNAL

11 APRIL 2014

Kosovo’s parliament should approve the establishment of a special court, located abroad, to try alleged war crimes and other grave crimes left over from the Kosovo conflict, Human Rights Watch has urged.

Marija RISTIC

“The proposal to establish a special court and extend the EU law mission is Kosovo’s chance to advance justice and individual accountability for very serious crimes,” Lotte Leicht, EU director at Human Rights Watch said in a press release issued on Friday.

According to Leicht, parliament should agree to extend the mandate of the European Union Rule of Law Mission, EULEX, as it needed to continue investigating and prosecuting sensitive crimes in Kosovo.

“Parliament should vote yes, to show that it takes the rule of law seriously and is committed to justice for serious abuses,” she added.

BIRN reported earlier this week that the Dutch Foreign Minister, Frans Timmermans, had informed the Dutch parliament last week about the request for Dutch assistance that will be required once the EU’s Special Investigative Task Force, SITF, finishes its investigation into alleged war crimes and other allegations. These are contained in the December 2010 Council of Europe report compiled by Dick Marty.

The European Union and the United States are currently negotiating with Kosovo on the mandate of the new court, which BIRN sources within the EU said would be integrated into Kosovo’s own legal system, with special status.

However, tribunal sessions would be held abroad, and the judges, prosecutors and other staff would be international.
If the Kosovo parliament approves the court, it will still need to adopt new legislation and perhaps amend the constitution to allow for the establishment and operation of the special judicial chambers.

According to Human Rights Watch, despite progress, the justice system in Kosovo remains weak, with inadequate security for judges, court staff, prosecutors, and plaintiffs.

The lack of adequate measures to protect witnesses is of particular concern and makes the need for an EU-based chamber pivotal, it said.

“The establishment of this special court outside Kosovo is critical for the integrity and credibility of the process,” Leicht said.

“Given the known record of witness intimidation and deaths, it’s likely anyone with information would feel unsafe to testify in Kosovo,” Leicht added.

Human Rights Watch also referred to a letter of 17 EU judges, which BIRN has obtained, who said international lawyers should retain the lead role in war crimes, organised crime and corruption cases in Kosovo, rather than handing over powers to local judges this summer, as had been proposed.

“Kosovo has come a long way in the 15 years since the war. But when international judges there say the justice system is not ready to handle sensitive cases, Kosovo’s parliament needs to listen and to act on behalf of Kosovo’s people to advance protection and justice,” she continued.

The head of EU delegation in Pristina, Samuel Zbogar, on Thursday, described the proposed special court as the fastest way for Kosovo to move beyond the Marty report.

“I am aware that many fear for the image of Kosovo with such a court. I would argue, however, that clarifying these accusations will remove a dark cloud that has engulfed Kosovo. It would take away the argument that continues to feed prejudice about Kosovo,” he said.

“We understand that this is a difficult decision for Kosovo, and for the Kosovo Assembly. It requires a lot of honesty, courage and trust in the rule of law and justice,” he added.
Kosovo's president said she was willing to cooperate with a proposed new international tribunal to deal with war crimes and alleged organ-trafficking during the late 1990s conflict.

Edona Peci

Although it remains unclear where the proposed new special court or tribunal will be located and what its mandate will be, Kosovo President Atifete Jahjaga said that she was ready to work with international institutions to set it up.

Jahjaga said that “Kosovo’s institutions have demonstrated their readiness to cooperate with international partners”.

“This process is focused on individuals, and is not a judgment of the country's collective efforts for liberation,” she said, referring to the court
which is expected to deal mainly with war crimes committed during the 1998-99 Kosovo conflict.

However it is not clear whether the initiative can command full political support in Kosovo.

Jahjaga’s comments came several weeks after local media leaked what was reported as being a draft statute for a new international tribunal to prosecute people for “serious crimes” committed from 1998 to 2000 which are linked to a Council of Europe report on alleged organ trafficking by Kosovo Liberation Army guerrillas during the conflict.

The alleged draft, which was written by international experts, said that “the tribunal will be an independent ad hoc international court but will not be part of the Kosovo judiciary or judicial system”.

Local media have reported that is expected to have jurisdiction over genocide, crimes against humanity and war crimes cases, amongst others.

However neither Pristina nor the European Union has confirmed that the alleged draft is genuine or offered any information about the proposed tribunal.

Jahjaga’s comments which appeared to express willingness to cooperate with the new tribunal were made during a telephone conversation with Jonathan Moore, the director of the US State Department’s Office for South Central European Affairs.

Jahjaga told Moore that “Kosovo has shown courage and leadership in dealing with its past”, adding that “Kosovo will continue to engage in efforts that uphold the rule of law”.

Last month, Clint Williamson, lead prosecutor with the task force set up by the EU rule-of-law mission in Kosovo (EULEX) to probe the alleged illicit organ trade, urged the authorities in Pristina to cooperate to find the truth about the allegations “to resolve this matter once and for all”.

EULEX is currently the only authority which has executive powers over war crimes cases in Kosovo, and the Pristina government has so far insisted that any new institution must be located in Kosovo and operate according to its laws.

Referring to the review of EULEX’s mandate, which expires this summer, Prime Minister Hashim Thaci said on Friday that he would exchange letters with Brussels with a view to asserting Pristina’s full control over the Kosovo justice system.
“These letters will clearly determine that Kosovo has its own full capaci-
ties to lead the system of justice and have executive powers. The EU mis-
sion’s role will be more supportive and consultative,” he said.

Addressing the issue of the proposed new tribunal, Thaci said that “Koso-
vo is ready to deal with its own system of justice on any kind of challenge
and with full international support”.

KOSOVO SPECIALIST CHAMBERS
FROM INVESTIGATIONS TO INDICTMENTS

- 180 -
KOSOVO TOLD TO COOPERATE WITH ORGAN TRAFFICKING PROBE

11 MARCH 2014

The head of an international task-force investigating alleged organ trafficking by Kosovo guerrillas in the 1990s conflict said he was determined to uncover the truth and prosecute suspects.

Edona PECI

C lint Williamson, lead prosecutor with the task force set up by the EU rule-of-law mission in Kosovo to probe the alleged illicit organ trade, told the authorities in Pristina on Tuesday that they should cooperate to find the truth about the allegations “to resolve this matter once and for all”.

During meetings with Kosovo officials, Williamson “reiterated his determination to conduct an impartial and independent investigation that uncovers the whole truth behind the serious allegations contained in the Council of Europe report”, according to a statement from the Special Investigative Task Force, SITF.

The Council of Europe report by rapporteur Dick Marty in December 2010 linked senior former Kosovo Liberation Army fighters, including current Prime Minister Hashim Thaci, to organised crime, and accused them of harvesting the organs of Serbian prisoners and others in Albania during the 1998–99 war.

“Mr. Williamson stressed that the mandate of the SITF is to investigate and, if warranted, prosecute individuals who were personally responsible for crimes alleged in the Marty report,” the STIF statement said.

“He noted that he is aware of the mounting speculation about the future of the SITF and its inquiry. However he underlined that the investigative work is ongoing and that it is premature to prejudge any outcome,” it added.

The organ-trafficking allegations have been strongly denied.
Williamson’s visit to Kosovo came several weeks after local media leaked what it said was a draft statute for a new international tribunal to prosecute people for “serious crimes” committed from 1998 to 2000 which are linked to the Council of Europe report on organ trafficking.

The apparent leak of the draft, which was written by international experts, says that “the tribunal will be an independent ad hoc international court but will not be part of the Kosovo judiciary or judicial system”.

Local media reported that is expected to have jurisdiction over genocide, crimes against humanity and war crimes cases, amongst others.

Kosovo officials have so far declined to confirm or deny that such a new tribunal is planned.

After his meeting with Williamson, Kosovo’s justice minister Hajredin Kuci said that “any eventual case should be held in the territory of the Republic of Kosovo in line with Kosovo laws and its jurisdiction”.

“We want the sovereignty of our country to be respected; we want our achievements in the justice sector and related to the cooperation with [the EU rule-of-law mission] EULEX to be recognised. [We also want] the human rights of each citizen to be respected in line with international standards [and we want] the image of our country to be preserved,” Kuci said.
The EU said its investigation into allegations that Kosovo Liberation Army fighters harvested and sold prisoners’ organs during the late 1990s conflict will be completed next year.

Marija RISTIC

Serbian Prime Minister Ivica Dacic said he received confirmation that the investigation will be finished in 2014, during a meeting on Thursday with the chief prosecutor of the EU task force investigating the organ trafficking claims.

“We are committed to the continuation of cooperation and to intensify our activities in order to bring to justice all those who participated in these monstrous crimes,” Dacic said.
The EU’s Special Investigative Task Force is in charge of further probing allegations contained in a 2010 report by the Council of Europe’s then human rights rapporteur, Dick Marty.

The report alleged that some elements within the Kosovo Liberation Army, including Kosovo’s current Prime Minister Hashim Thaci, had harvested and sold the organs of prisoners during the 1999 conflict with Serbian forces.

EU prosecutor Clint Williamson didn’t give any comment to media after the meeting with Dacic, but the Serbian government issued a statement saying that scores of people had already been quizzed by the task force.

“So far, the EU team has examined around 100 potential witnesses,” the government statement said.

The organ trafficking investigation generated more controversy last year when a Serbian TV station broadcast an interview with an alleged ex-Kosovo Liberation Army member who claimed to have harvested the organs of Serbian prisoners in the Albanian town of Kukes in 1999.

The TV interview was criticised by both international and local experts, saying it could harm the investigation.
Russia has refused to provide evidence for the EU rule-of-law mission in Kosovo’s prosecution of Albanians in Pristina over illegal organ transplants.

Marija RISTIC

Moscow is refusing on political grounds to provide evidence about Russian citizens whose kidneys may have been removed and sold illegally at the Medicus clinic in Kosovo, the Serbian war crimes prosecutor said on Wednesday.

Russia is an ally of Serbia and, like Belgrade, does not recognise Kosovo as an independent state.

Seven Albanian defendants are currently being prosecuted in Pristina by the EU rule-of-law mission, EULEX, including Lutfi Dervishi, the owner of the Medicus clinic.

“We are working on a solution. Russia is open to forwarding evidence to us, and allowing only the Serbian prosecution to use it. We will see how we can handle this and allow EULEX to use it,” the Serbian prosecutor told BIRN.

The Medicus case focuses on allegations that poor donors from various countries including Russia were allegedly lured to the clinic with the false promise that they would receive up to 15,000 euro for their kidneys.

The Serbian prosecutor believes that the Medicus case can also be linked to alleged organ trafficking by members of the Kosovo Liberation Army, KLA, which fought against Belgrade’s forces during the late 1990s war.

The allegations, which first surfaced in the book ‘Madame Prosecutor’ by former Hague Tribunal prosecutor Carla del Ponte, suggest that the KLA might have kidnapped several hundred civilians in Kosovo in 1999,
some of whom were sent to the northern Albanian village of Burrel, where their organs were harvested.

Similar accusations were made in a December 2010 report to the Council of Europe by rapporteur Dick Marty, who alleged that some KLA fighters, including Kosovo’s Prime Minister Hashim Thaci, had traded prisoners’ organs during the 1999 conflict.

The row between EULEX and Russia deepened after Medicus case prosecutor Jonathan Ratel, in an interview for French newspaper Le Monde on Saturday, claimed that Moscow was blocking the largest international investigation into organ trafficking.

According to Ratel, Russia has evidence concerning three potential witnesses who sold their organs in Kosovo.

Russia last month accused the EU of failing to push forward its investigation into alleged organ trafficking by KLA fighters.
RUSSIA SLAMS EU OVER KOSOVO ORGAN TRAFFICKING CASE

24 JANUARY 2013

Belgrade’s ally Moscow said the EU had failed to push forward its investigation into alleged organ trafficking by Kosovo fighters during the late 1990s conflict.

Marija RISTIC

“We have been hindered by the EU’s unconstructive stand, it has ‘usurped’ the case and it’s been dragging its feet ever since,” said Russian Foreign Minister Sergei Lavrov, claiming that the EU was gradually wrapping up the investigation.

Lavrov was referring to the EU Special Investigative Task Force, SITF, which is in charge of further investigating allegations of organ trafficking contained in a 2010 report by the Council of Europe’s then human rights rapporteur, Dick Marty.

The report alleged that some elements within the Kosovo Liberation Army, including Kosovo’s current Prime Minister Hashim Thaci, had harvested and sold the organs of prisoners during its 1999 conflict with Serbian forces.

SITF spokesperson Juri Las rejected Russia’s claim, saying that “the EU is not closing its investigation”.

“We are making progress in the investigation and I can assure you that our work is ongoing. We are making progress in getting relevant information from the field and cooperating with other stakeholders,” Las told Tanjug news agency.

“This is still not visible, because we are taking care of witness protection and therefore we are not making our findings public,” Las added.

The organ trafficking investigation generated more controversy last year when a Serbian TV station broadcast an interview with an alleged...
ex-Kosovo Liberation Army member who claimed to have harvested the organs of Serbian prisoners in the Albanian town of Kukes in 1999.

The TV interview was criticised by both international and local experts, saying it could harm the investigation into organ trafficking claims.

Both Kosovo and Albania have denied the allegations, while Serbia insists that the investigation should be led by a UN team, in accordance with UN Resolution 1244 on Kosovo, dating from 1999.

Lavrov said that Russia supported “the legitimate demand of Serbia to pass the investigation on to the United Nations, rather than to the EU”.

Russia is an ally of Serbia and regularly takes Belgrade’s side in the dispute over Kosovo’s independence.
EU KOSOVO ORGAN TRADE TEAM TO INTERVIEW IN SERBIA

19 OCTOBER 2012

The EU Special Task Force charged with investigating the organ trafficking that allegedly took place in Kosovo and Albania in the 1990s will start to interview witnesses in Serbia.

Marija RISTIC

Following a two-day visit to Serbia by Clint Williamson, the Chief Prosecutor of the EU Special Investigative Task Force, SITF, his team announced that the next step is to find out more about the people who disappeared during the Kosovo conflict.

“We will continue our investigative work and this will obviously involve interviews with witnesses in Serbia, including those who have information relevant to the disappearance of individuals during the Kosovo conflict and its aftermath,” Juri Las, a spokesperson for the SITF, told local media.
The investigation into organ harvesting follows the release of a report by Dick Marty, the human rights rapporteur at the Council of Europe, in December 2010.

The 2010 report alleges that some elements of the KLA, including Kosovo’s Prime Minister Hasim Tachi, trafficked the organs of prisoners during the 1999 conflict.

Williamson met Serbia’s President Tomislav Nikolic and Prime Minister Ivica Dacic, who expressed their support and pledged that Serbian government institutions would continue to fully cooperate with the investigation, the SITF announced after the meetings.

Williamson declined to comment further on the meetings, saying that the investigation is ongoing.

According to the statement issued by the President’s office after the meeting with Williamson, the EU team’s investigations will extend to other alleged war crimes that took place during the Kosovo conflict, as well as the organ trafficking allegations.

Vladimir Vukcevic, the Serbian Chief Prosecutor for War Crimes, who also met Williamson, said that the Serbian prosecution had presented new evidence to their EU colleagues regarding organ harvesting in Kosovo and Albania.

This was the first meeting between Williamson and Vukcevic, since a Serbian TV station broadcast an interview with an alleged ex Kosovo Liberation Army member who claimed to have harvested the organs of Serbian prisoners in the Albanian village of Kukes in 1999.

The TV interview was criticized by both international and local experts, as it could harm the investigation into organ trafficking claims.
Kacin criticises decision to air Kosovo organ testimony

28 SEPTEMBER 2012

The European Parliament’s rapporteur for Serbia, Jelko Kacin, has criticised Serbia’s War Crimes Prosecution over a TV interview with a KLA fighter who allegedly took part in harvesting an organ from a Serb prisoner.

Kacin criticized Serbia’s War Crimes Prosecutor Vladimir Vukcevic and his deputy Bruno Vekaric over the decision to air the interview on Serbia’s public broadcaster, RTS, a fortnight ago.

“I hope that Vukcevic and Vekaric are aware of the consequences of this decision, not only in terms of the emotional impact for those still searching for their loved ones, but also for Serbia’s credibility,” said Kacin.

In the interview, an unnamed witness, allegedly a former fighter in the Kosovo Liberation Army, KLA, told RTS that he had removed a prisoner’s heart, with the intention of selling it on the black market for human organs, during the 1990s Kosovo conflict.

“I do not want anybody to think that we are not paying any attention to this subject. We are dealing seriously with this issue,” Kacin added.

Serbia’s war crimes prosecutor, Vladimir Vukcevic, responded that the Prosecutor’s Office respects Kacin’s opinion and sees it as a well-meaning statement, but that the families of victims gave their consent for the sensitive information to be made public, just like the witness himself.

Vukcevic added that the Prosecutor’s Office made sure “the investigation was not threatened in any way,” and that the TV testimony did not specify time, location or other details of the crime.

Nikola Lazic, a Belgrade criminal lawyer, has stated that Serbia’s Prosecution Office for War Crimes had broken Serbian law by permitting a pro-
tected witness in an ongoing investigation phase to speak out publicly about the case in question.

On Wednesday, President Tomislav Nikolić told the UN General Assembly that Serbia wanted an investigation into the allegations concerning organ trafficking in Kosovo. The allegations were made in a report by Dick Marty, rapporteur of the Council of Europe’s Parliamentary Assembly.

The 2010 report alleges that some elements of the KLA, including Kosovo’s Prime Minister Hashim Thaci, trafficked the organs of prisoners during the 1999 conflict.
ALBANIA OPENS ITS DOORS FOR ORGAN TRAFFICKING PROBE

03 MAY 2012

The Tirana government approved a bill giving unprecedented access to its territory to a EULEX team of prosecutors, investigating allegations that the KLA harvested the organs of Serb war prisoners.

Besar LIKMETA

Prime Minister Sali Berisha said that the law that will soon be sent to parliament gives the EULEX special task force on organ trafficking, all the means for a full investigation on the territory of Albania.

“We bestow our full trust on the team and with this law we create the necessary legal framework to ensure our full backing,” Berisha said, adding that the EULEX special prosecutor will have the power to search even alleged mass grave sites.

“We are interested that these allegations are investigated with absolute seriousness,” he added.

Dick Marty, the human rights rapporteur at the Council of Europe, released a report in December 2010 linking former Kosovo Liberation Army, KLA, fighters, including Kosovo Prime Minister Hashim Thaci, to organised crime and accused them of harvesting the organs of Serb prisoners and others in Albania.

Kosovo and Albanian authorities have denied the allegations and have agreed to participate in the international investigation into the claims.

The bill, drafted jointly by Albania’s Ministry of Justice and EULEX, follows a visit in January in Tirana by Clint Williamson, the US prosecutor leading the investigative task-force into the allegations presented in Marty’s report.
If passed, the law will give sweeping powers to the EULEX task-force to call witness and search premises on Albanian territory, through mutual legal assistance requests.

The task-force will have the right to “hear witnesses, experts and persons charged in Albania; inspect premises, take evidence and get a hold of any materials that it deems important to investigate and prosecute,” the bill reads.

The task-force will cooperate in the investigation directly with Albania’s general prosecutor, while all the authorities involved will be mandated by law to safeguard the confidentiality of the probe.

The law spells out that local authorities cannot refuse to cooperate with the task-force with the excuse that the crimes under investigation “are political in nature.”

All the members of the EULEX task-force in Albania will enjoy diplomatic immunity as well as their premises and vehicles.

Even witnesses or people of interest called by EULEX to give evidence will enjoy immunity from prosecution during the investigation period.
SERBIA SUSPECTS LIMAJ OF ORGAN TRAFFICKING

02 APRIL 2012

The Serbian prosecution said it is investigating Fatmir Limaj and other 28 ex-Kosovo Liberation Army, KLA fighters for alleged organ trafficking and other war crimes against civilians in Kosovo.

Marija RISTIC

According to Serbia’s Prosecutor’s Office for War Crimes, Fatmir Limaj, an ex-KLA commander, is suspected of deporting several Serbs and non-Albanians from the Lapusnik camp in Kosovo to camps in north Albania, where the illegal organ transplants allegedly took place.

The Serbian authorities issued an international arrest warrant in 2009 for Limaj and they expect that he will be arrested if he tries to leave Kosovo.

Serbia and Kosovo do not have an extradition treaty, since Serbia does not recognise Kosovo’s independence, and there is no cooperation between Serbia and UNMIK or EULEX either, regarding the extradition of suspected criminals.

Limaj had previously been identified as one of the organizers of organ trafficking in Kosovo in a report by Dick Marty, the Council of Europe rapporteur, in December 2010.

According to the report, KLA members kidnapped Serbs and members of other minorities in Kosovo in 1999 and 2000, killed them in northern Albania and then harvested their body parts for sale on the black market.

The Kosovo organ trafficking investigation is currently being run by the EU rule-of-law mission in Kosovo, EULEX, and its chief prosecutor Clint Williamson, who visited Belgrade last week in order to exchange evidence with the Serbian Prosecutor’s Office for War Crimes.

Bruno Vekaric, the Deputy Prosecutor for War Crimes, said on Friday that Serbia has significant evidence that confirms the existence of the organ
trafficking scheme in Kosovo and that it has discussed the technical details of cooperation between the two prosecutions with Williamson.

Currently five people are on trial at the District Court in Pristina for conducting 30 operations that allegedly involved illegally acquired transplant organs at the Medicus medical clinic in Pristina.

During the Medicus trial hearing on March 23, prosecutor Jonathan Ratel requested that Dick Marty appear as a witness, claiming that he had evidence that can clear up the case.

Beside the crimes in the Lapusnik camp, the Serbian prosecution also suspects Limaj of war crimes at five other places in Kosovo, including a camp at Klecka, in the Drenica region of Kosovo.

On Friday, the Pristina Court decided to continue the trial against Limaj and three other former KLA fighters, while six other defendants in the Klecka case were cleared of all charges.

Limaj, a Kosovo MP and the Vice President of the ruling Democratic Party of Kosovo, has already faced a war crimes trial before the International Criminal Tribunal for the former Yugoslavia, ICTY.

In November 2005, the Hague Tribunal acquitted him of all the charges regarding his alleged involvement in crimes committed in the Lapusnik prison camp in 1998.
Serbian authorities have asked the Hague Tribunal to clarify reports about the destruction of evidence linked to allegations of organ trafficking in Kosovo.

Marija RISTIC

Rasim Ljajic, the head of Serbia’s council for cooperation with the tribunal, has written to UN Secretary General Ban Ki-moon and to the tribunal’s chief prosecutor Serge Brammertz and president Theodor Meron to ask for an investigation into the reports.

“We have been informed that these pieces of evidence were destroyed in 2005, and now the blame is being shifted from one to another at the tribunal, and we want to know what exactly happened,” Ljajic told news agency Tanjug on Monday.

Ljajic sent his official letters last Friday and has not yet received any response, according to his office.

The prosecutor’s office at the tribunal was not available for comment on Tuesday.

Former chief prosecutor Carla Del Ponte was quoted in a recent interview with Belgrade-based daily Press as saying that the current prosecutor knows who destroyed the evidence and that a lot of obstacles were placed in the way of her investigation into the case.

“NATO and UNMIK didn’t allow us to access to important documents on Kosovo, while Albania didn’t let us enter its territory,” said Del Ponte.

However, Brammertz has been quoted as saying that he has no information about the destruction of evidence and that only Del Ponte could shed light on the matter, as it allegedly happened during her time in office.
The case of organ trafficking in Kosovo is currently being investigated by the European Union rule-of-law mission in Kosovo, EULEX.

A report by the Council of Europe issued in December 2010 contained allegations that in 1999 and 2000 members of the Kosovo Liberation Army kidnapped Serbs and others, imprisoned and killed them in northern Albania and harvested their body parts for sale on the black market.

Serbia tried to place the investigation once again under the auspices of the United Nations at a UN Security Council meeting on February 8 but member states did not reach consensus on the issue.
EU PROSECUTOR: KOSOVO ORGAN PROBE ‘WILL TAKE TIME’

21 OCTOBER 2011

The EU mission, EULEX’s Special Investigative Task Force, tasked with investigating the allegations contained in Dick Marty’s report on KLA organ trafficking, has started securing information on the case.

Fatmir Aliu

The EULEX lead prosecutor in the case concerning the alleged trafficking of Serb prisoners’ organs by KLA during the 1999 Kosovo war, Clint Williamson, said the investigation will take time to complete.

The American prosecutor was appointed in August by the EU rule of law mission to manage the Kosovo–EULEX Special Investigative Task Force.

In January, the Council of Europe adopted Marty’s report, which implicates high ranking members of the KLA, as well as the Prime Minister of Kosovo, Hashim Thaci, as being part of a group that committed grave crimes, including the inhuman treatment and killing of prisoners with the purpose of removing and trafficking in human organs.

EULEX launched a preliminary investigation into the allegations immediately after Marty’s report was adopted by the Council of Europe.

In his first visit to Kosovo, Williamson, according to a press release, said that during the initial phase the Task Force had already taken steps to secure information from a number of institutional sources, analyse information, and initiate its own investigative activities.

Referring to the allegations of organised crime and war crimes contained in the Council of Europe report, Williamson said that “this will be a complex investigation and will take time to complete”.
During his visit to Kosovo, the EU lead prosecutor met Kosovo’s President, Deputy Prime Minister and Chief Prosecutor.

According to the press release issued by his team, Williamson saw the discussions as productive, and felt “encouraged by the commitment of Kosovo authorities to cooperate fully with the investigation”.

The Marty report claims that various members of KLA from 1998 to 2000 were involved in organ trading and organized crime, mainly the so-called “Drenica Group”, then led by Thaci. The accusations also implicate four other former senior KLA officials, currently all members of parliament for Thaci’s ruling Democratic Party of Kosovo.

Most of the politicians mentioned in report have condemned the report as essentially a political act, designed to discredit the KLA’s record and damage the image of Kosovo.

Williamson will soon visit Serbia and Albania in order to establish working relationships with the authorities there.
DEL PONTE ‘READY TO TAKE ON’ ORGAN TRADE PROBE

17 MAY 2011

Carla Del Ponte, former chief prosecutor at the Hague Tribunal, says she is ready to take on an independent investigation into allegations of organ trafficking in Kosovo.

Bojana BARLOVAC

“I publicly express my willingness to undertake this investigation because I know the facts of the case, because I know people who are involved in it because I have a great experience,” Del Ponte said in an interview with Serbian daily newspaper Blic on Tuesday.

The most recent allegations of organ trafficking in Kosovo and Albania stem from a December report by Council of Europe rapporteur Dick Marty.

Marty, Europe’s top human rights investigator, released a damning report in December alleging that a criminal network linked to Kosovo’s Prime Minister Hashim Thaci summarily executed prisoners and harvested their kidneys to sell for illicit organ transplants after the conflict in Kosovo.

Officials in Kosovo and Albania have firmly denied the allegations, but have agreed to cooperate with a probe into the claim.

Del Ponte said that the investigation would be headed by a special team under the auspices of the United Nations Security Council, if such a body is approved.

While all parties in the case agree that a probe should be launched, it is not yet clear if the investigation will be held under the auspices of the UN, or under the umbrella of the EU mission in Kosovo, EULEX.

Del Ponte, who recently retired as Swiss ambassador to Argentina, said that this decision is not connected to her ambassador’s position.
She added that she was surprised to hear in the media last year that the International Criminal Tribunal for the former Yugoslavia, ICTY, where she served as prosecutor from 1999 to 2007, had destroyed 400 pieces of evidence related to the case that were collected in 2004.

She has also expressed confidence that Serbia’s initiative before the UN Security Council to launch an independent UN-mandated investigation into the allegations of organ trafficking in Kosovo and Albania would be accepted unanimously.

Del Ponte published allegations of murder and organ harvesting by members of the Kosovo Liberation Army in her 2008 memoir, “Madam Prosecutor”, revelations which prompted the Council of Europe to authorise Marty’s investigation.

The former chief prosecutor, who reiterated her interest in participating in a probe into the claims, said earlier she had no regrets in connection with her own investigations into organ trafficking while she served as chief prosecutor in The Hague.

The investigation could not continue because some witnesses could not be brought to the hearings, and some refused to be interviewed, Del Ponte explained, maintaining that Albania has refused to cooperate with the Hague Tribunal and that the court officials also met with difficulties in Kosovo.

Dick Marty, for his part, has refused to hand over evidence in his possession until he receives guarantees of witness safety,
DEBATE ON KOSOVO ORGAN TRAFFICKING BEGINS

25 JANUARY 2011

The Council of Europe has begun to debate allegations of organ trafficking in Kosovo, and officials in Pristina, Belgrade and Tirana are anxiously awaiting the outcome.

Members of the Council of Europe’s Parliamentary Assembly, PACE, are discussing reports that a criminal network linked to Kosovo’s Prime Minister Hashim Thaci summarily executed prisoners and harvested their kidneys to sell for illicit organ transplants.

The killings and organ extractions allegedly took place at two locations near the town of Fushe Kruje, 20 kilometres north of the Albanian capital, Tirana.

The allegations were made in a report by Swiss MP Dick Marty which was released in December, and have been rejected by officials in Pristina and Tirana. Delegations from Council of Europe member states began debate on a resolution based on the report on Tuesday morning, and will vote on the document, which calls for an immediate investigation into the claims, in the afternoon.

Marty presented his report to the Assembly on Tuesday morning, and again called for impartiality and the search for the truth instead of political expediency. He reiterated that the document is not a report against the Albanian or Kosovo people. Marty’s address was met with applause from the Assembly.

In the controversial report for the Council of Europe, Marty cites Western intelligence sources and eyewitness testimony linking Thaci and close associates to a network of “criminal entrepreneurs” drawn from the ranks of the Kosovo Liberation Army, KLA.

Serbia’s parliamentary delegation to PACE will be among those pressing hard for the resolution to be passed. Dragoljub Micunovic, the head of the delegation, said speeches from the Serbian MPs will call for Albania, the
authorities in Kosovo, EULEX, UNMIK and others to fully cooperate with any enquiry.

“All the countries will be obliged to cooperate in a future investigation,” said Micunovic, adding that the fact that the allegations came from Marty was a good thing. “When a foreigner who has so much credibility raises this issue, it is our task to support it with all our strength,” he said.

Kosovo and Albania have both agreed that a probe should be launched, but the Albanian delegation to PACE will try to water down the other elements of the resolution through a series of amendments. Kosovo is not a member of the Council of Europe.

A copy of the amendments that the Albanian delegation will present in the Council of Europe, obtained by Balkan Insight, shows that Albanian amendments target almost all of the resolution’s 20 articles, leaving unscathed only article 19, calling on the EU Law and Order Mission in Kosovo, EULEX, Albania and other member states to back an investigation.

In addition to playing down evidence Marty claims was credible, Albania will also try to introduce language that rejects the rapporteur’s accusation that Tirana was not cooperative with the ICTY and an ongoing EULEX investigation of inhuman treatment of KLA prisoners in northern Albania.
KLA ORGAN TRAFFICKING: FACT OR FICTION?

21 JANUARY 2011

Shocking claims have been aired for years but have yet to be cleared up one way or the other.

BIRN

The allegations of organ harvesting, which first surfaced in the book Madame Prosecutor, by Carla del Ponte, former chief prosecutor for the International Criminal Tribunal for former Yugoslavia, ICTY, are arguably the most shocking ever leveled at the KLA.

Del Ponte said the KLA might have kidnapped several hundred civilians in Kosovo in 1999 and taken them to northern Albania, some of whom were sent to Burrel where their organs were harvested in the so-called “Yellow House”.

In 2003, a joint mission by the UN force in Kosovo, UNMIK, and the ICTY visited the house 40 minutes from the village of Rribe to investigate the allegations that organs from Serbs and others, abducted from Kosovo, had been “harvested” there.

The inquiry did not proceed further and there are claims that evidence was later destroyed.

The EU rule-of-law mission in Kosovo, EULEX, took over the file from UNMIK in 2008. It again failed to uncover any hard evidence to back up organ-harvesting claims, although, following an investigation by BIRN, it has begun proceedings against KLA figures for murder and torture in wartime camps in northern Albanian.

But a series of events in 2010 kept the still unsubstantiated allegations close to the limelight. First, Serbia’s war-crime prosecutor’s office claimed it had evidence of KLA organ-trafficking.

Later that year, EULEX lodged indictments for organ trafficking in connection to a clinic based on the outskirts of Pristina, called Medicus.
The incendiary report for the Council of Europe by Swiss senator Dick Marty, released in December 2010, sharply raised the temperature.

Marty claimed to have obtained evidence that proved senior members of the KLA used a warehouse near Tirana airport in 1999 to harvest the organs of prisoners.

EULEX now awaits evidence from Marty to further inspect the case, the KLA continue to dismiss the allegations and Kosovo’s detractors persist in using the claims to attack the country’s independence.
MACEDONIAN ALBANIANS OPPOSE KOSOVO ORGAN TRAFFICKING REPORT

MACEDONIAN ALBANIANS OPPOSE KOSOVO ORGAN TRAFFICKING REPORT

20 JANUARY 2011

Macedonia’s junior ruling party is lobbying against a Council of Europe report that alleges that a criminal network linked to Kosovo premier Hashim Thaci executed prisoners and harvested their kidneys.

Sinisa Jakov MARUSIC

The Democratic Union for Integration, DUI, an ethnic Albanian party, is trying to persuade its Macedonian counterparts to vote against the report at the forthcoming session of the Parliamentary Assembly of the Council of Europe, PACE, slated for January 25.

“The position of Albanians throughout the region is clearly against the claims in the report. We hope to garner support from our Macedonian colleagues in the parliament as well,” DUI lawmaker and member of the party’s general council, Talat Xhaferi, told Balkan Insight.

The report claims that the organ trafficking carried out by members of the Kosovo Liberation Army, KLA, and others was part of a broader web of organised crime activities including assassinations and drug dealing, and describes Thaci’s role in the criminal network as akin to that of a mafia boss. It was adopted by the Council of Europe’s Legal Affairs Committee in December.

Out of three Macedonian lawmakers with seats in the Council of Europe’s assembly only one, Ermira Mehmeti from the DUI, is certain to vote against the report.

“The legislators in the PACE vote individually but as coordinator of the Macedonian delegation I will try to build consensus on this issue,” Aleksandar Nikolovski a lawmaker from the main ruling VMRO DPMNE party, told media this week.

The other legislator, Igor Ivanovski from the opposition Social Democrats, has been silent regarding this issue.
Ethnic Albanian politicians in Albania and Macedonia are preparing to jointly dispute the report at the PACE session.

Top Kosovo and Albanian politicians have already rebuffed Marty’s claims. The DUI, which is the biggest Albanian party in Macedonia, last week launched a campaign to gather signatures for a petition against the report, following similar moves made by other Albanians in the region.

Ethnic Albanians make up one quarter of Macedonia’s population.
KOSOVO: XHAVIT HALITI SLATES MARTY’S ‘POLITICAL’ REPORT

20 JANUARY 2011

Ruling party official Xhavit Haliti says the Council of Europe report on KLA crimes relies on biased sources and investigations will draw a blank.

Petrit COLLAKU

A senior Kosovo official mentioned in the Marty report said the report was in essence a “political” document, which had relied on sources that had an agenda to discredit the Kosovo Liberation Army, KLA.

Xhavit Haliti, senior official of the ruling Democratic Party of Kosovo, PDK, is mentioned in the report of the Council of Europe rapporteur, Dick Marty, as a member of the so-called Drenica group.

The report says the group, led by Kosovo’s Prime Minister, Hashim Thaci, committed grave crimes during the 1999 conflict, including trafficking in the organs of prisoners captured in Kosovo and taken over the border to Albania.

“I was not surprised by the report. I have followed this issue for years and the content of the report is political,” Haliti told Balkan Insight.

He said data in the report had not been verified and its content was based on unreliable sources and media reports.

“When I say ‘media’, I have in mind the media in Kosovo and Albania and particular people who for political reasons have tried to discredit the KLA,” he said.

Haliti said the report would probably be approved on January 25 at the next session of the Council of Europe and Kosovo and Albania needed to ready themselves for probes by European investigators.
“I believe the result will be similar to the results of previous investigations by [the UN body in Kosovo] UNMIK and [the EU rule-of-law mission] EULEX into the KLA,” Haliti said.

He said Marty and all other factors that helped him to compile the report should deliver the facts to the EULEX investigators.

“I think it’s a competent investigating body. It’s a European investigation body. I think that there is no possibility that EULEX investigation unit to be affected by Kosovo or Albanian politics,” said Haliti.

He admitted that the report has caused heavy damage for Kosovo but this would be fixed when the investigations will prove that none of the allegations in the report are true.
CALL FOR INDEPENDENT PROSECUTOR TO PROBE ORGAN HARVESTING CLAIMS

19 JANUARY 2011

Human Rights Watch has called for the appointment of an independent, senior prosecutor to investigate allegations that top Kosovo officials were part of a criminal network that sold body parts, carried out assassinations and dealt drugs.

Council of Europe human rights rapporteur Dick Marty, in a report released in December last year, alleged that abductions, disappearances, executions, organ trafficking, and other serious crimes were coordinated by leading members of the Kosovo Liberation Army, including current Prime Minister Hashim Thaci.

“The EU mission in Kosovo, EULEX, will face great obstacles to conducting a credible investigation into these serious allegations,” said Lotte Leicht, European Union director at Human Rights Watch, in a press release.

“It is crucial to have an independent senior prosecutor, an effective witness protection program – including the ability to relocate witnesses outside the Balkans – and the security required for such a delicate investigation.”

While the allegations have been denied by Thaci and his government, Serbia has called for an investigation into the claims made in the report, and Kosovo, Albania and the US have agreed that a probe should be launched. Both the EU and the US have asked Marty to present his evidence to EULEX.

Since its release, the report has been adopted by the Council of Europe’s Legal Affairs Committee, and it will go before the Council’s parliamentary assembly on January 25.
Human Rights Watch said that a credible investigation by EULEX, run by an independent special prosecutor, should receive high-level political backing from the US and EU governments.

It also pointed to concern that witness intimidation and difficulties collecting evidence could hamper the investigation, and called on the prosecutor’s headquarters to be located outside of Kosovo and Albania and for foreign governments to help provide adequate witness protection.

The watchdog group also called on governments in the region and international organisations, including EULEX, the UN mission in Kosovo, and the International Criminal Tribunal for the former Yugoslavia, to fully cooperate with the investigation.

In the document, Marty points a finger at the UN mission in Kosovo, and its successor the EU rule of law mission EULEX, for not adequately investigating the allegations that such activities took place.

The report also highlights the plight of roughly 1,900 people who remain missing from the Kosovo war, about two-thirds of them ethnic Albanians.

“While supporting a proper EULEX investigation into alleged KLA crimes, the US and European governments should pressure Serbia to come clean on the fate of the missing, including bodies that were moved, destroyed, or reburied in Serbia,” Leicht said.
Serbia’s deputy prime minister told the Council of Europe’s secretary general in Strasbourg that Belgrade did not want to politicise a recent report containing allegations of organ trafficking in Kosovo.

Serbia’s goal is to ensure justice for the innocent victims, Deputy PM Bozidar Djelic explained.

“We want the truth to be known and the culprits to be punished. Because of this, we expect an international, unbiased investigation to be launched that will bring the perpetrators of these extremely serious crimes to justice and lead to their punishment,” Djelic told Beta news agency.

The report, drafted by Council of Europe human rights rapporteur Dick Marty and published in December last year, alleges that a criminal network linked to Kosovo Prime Minister Hashim Thaci summarily executed prisoners and harvested their kidneys to sell for illicit organ transplants, mainly during the conflict in Kosovo in 1999.

It claims that the organ trafficking carried out by members of the Kosovo Liberation Army, KLA, and others was part of a broader web of organised crime activities including assassinations and drug dealing.

The allegations have threatened to stall negotiations between Pristina and Belgrade.

Djelic was in Strasbourg on Tuesday to hear the European Parliament’s debate on Serbia’s progress towards the EU. European lawmakers in Brussels are expected to vote on Serbia’s Stabilisation and Association Agreement today.

The minister stressed that Serbia’s delegation “spent the greater half of [Tuesday] struggling so that a number of amendments proposed by the Greens in the European Parliament do not win a majority [on Wednesday].”
“We tried to stop the EP from taking the stance that the upcoming dialogue between Belgrade and Pristina must exclude the status question,” Djelic said.

He said that while the debate has been favourable for Serbia over the last ten years, voices of criticism were heard in the European Parliament this week, especially with regard to Belgrade’s cooperation with the International Criminal Tribunal for the former Yugoslavia.
Council of Europe rapporteur Dick Marty, who alleged in a recent report that Kosovo officials were involved in organ trafficking, says he did not claim that Prime Minister Hashim Thaci himself was directly involved.

Petrit COLLAKU

In an interview for albinfo.ch, an Albanian news portal in Switzerland, Marty said that ‘if you read my report carefully, I don’t say that Mr. Thaci is implicated directly in the organ trafficking but I say that his close associates are implicated’.

“It’s hard to believe that he [Thaci] never heard about that,” said Marty, who is a Council of Europe rapporteur for human rights.

Marty’s report, published in December last year, alleges that a criminal network linked to Thaci summarily executed prisoners and harvested their kidneys to sell for illicit organ transplants, mainly during the conflict in Kosovo in 1999.

It claims that the organ trafficking carried out by members of the Kosovo Liberation Army, KLA, and others was part of a broader web of organised crime activities including assassinations and drug dealing, and describes Thaci’s role in the criminal network as akin to that of a mafia boss.

Marty said in the interview that the report does not smear the Kosovo Liberation Army, but that abuse and crimes were committed by certain groups, which should be the target of an investigation.

“In the end, what I wrote in my report is not anything particularly new,” he said.

He said that his report should not be understood as a campaign against Kosovo or Albanian society.
“I know that the search for the truth can cause pain but I never intended to criticise or criminalise a community,” the Swiss MP told Albinfo.ch.

He went on to address criticism from Kosovo that his report is biased and that he publicly spoke out against the NATO intervention in Kosovo and against Kosovo’s declaration of independence.

Marty said that he was against the Swiss rush to recognise Kosovo because his country objected to the manner in which Kosovo declared its independence.

“I don’t question its independence anymore. It is no longer a subject for me. Independent Kosovo, I hope that it becomes truly independent and that it can walk on its own two feet,” Marty said.
EULEX, ALBANIA TO COOPERATE IN ORGAN TRADE PROBE

18 JANUARY 2011

Kosovo and Albania’s top prosecutors have agreed to create a joint strategy for a possible investigation into allegations that top Kosovo officials were part of an organised crime network that trafficked organs.

Besar LIKMETA

EULEX prosecutor Isabell Arnal and Albanian General Prosecutor Ina Rama met on Monday in Tirana to discuss the claims of organ trafficking made in Council of Europe rapporteur Dick Marty’s report and the accusation that the practice stretched into Albania’s territory.

“The general prosecutor’s office offered its cooperation to investigate the [accusations] based on the requests from Kosovo’s Special Prosecutor’s office, in accordance with Albania’s legal framework,” read a statement from Rama’s office after the meeting.

The creation of joint strategy to investigate the allegations was also discussed in the meeting between Arnal and Rama.

Dick Marty, a Swiss MP, released a report in December that linked former Kosovo Liberation Army fighters, including Kosovo Prime Minister Hashim Thaci, to organised crime and accused them of harvesting the organs of Serb prisoners and others in Albania.

The Council of Europe rapporteur criticised Albania for allegedly failing to cooperate with probes into the alleged abuses mentioned in the report. Kosovo and Albanian authorities have slammed the claims as slanderous and pledged to cooperate with an EULEX investigation.

A resolution based on the report, approved by the Council of Europe Legal Affairs Committee on December 16, is expected to go before the full assembly for a vote on January 25.
EULEX, ALBANIA TO DISCUSS ORGAN TRADE REPORT

17 JANUARY 2011

A delegation from the Special Prosecutor’s Office of Kosovo is due to meet with Albania’s general prosecutor over allegations made by a Council of Europe rapporteur that top Kosovo officials were part of an organised crime network that trafficked organs.

Besar LIKMETA

The delegation composed of EULEX and Kosovo prosecutors is meeting the general prosecutor of Albania in order to discuss possible investigative steps in the context of the draft report by Mr. Marty,” EULEX spokesperson Karin Limdal told Balkan Insight on Monday.

Dick Marty, a Swiss MP, released a report in December that linked former Kosovo Liberation Army fighters, including Kosovo Prime Minister Hashim Thaci, to organised crime and accused them of harvesting the organs of Serb prisoners and others in Albania.

The Council of Europe rapporteur criticised Albania for allegedly not cooperating in investigating the alleged abuses mentioned in the report. Kosovo and Albanian authorities have slammed the allegations as slanderous and said they will cooperate in a EULEX investigation.

A resolution based on the report, approved by the Council of Europe Legal Affairs Committee on December 16, is expected to go before the full assembly for a vote on January 25.

Both EULEX and the Albanian general prosecutor’s office have previously said that they have found no evidence in their probes that would prove Marty’s allegations.

Following the release of the report, EULEX has sent an official request to Marty to come forward with evidence of the alleged crimes, with which they could launch an investigation, but so far have not received anything.

“We still await a reply from him,” said Limdal. “His office has confirmed that they have received our letter, but no reply yet,” she added.
UNMIK chiefs should be charged with contempt of court for concealing evidence in the Kosovo organ trafficking case, said Rasim Ljajic, head of Serbia’s National Council for Co-operation with the Hague Tribunal.

“Back in 2008, we requested that the tribunal prosecutor examine the allegations made by Carla Del Ponte in her book, and we pointed to obstructions from UNMIK, whose leaders prevented any kind of an investigation against criminals in the territory of Kosovo,” Ljajic told Belgrade daily Blic.

The statement follows the publication of a Council of Europe draft report, which was written by Swiss MP Dick Marty and was approved by the Council of Europe’s Legal and Political Affairs Committee.

The report links a group of former Kosovo Liberation Army fighters, including Kosovo’s current Prime Minister Hashim Thaci, to organised crime and accuses them of harvesting the organs of ethnic Albanian, Roma and Serb prisoners.

The document echoes allegations published in a book by former UN chief prosecutor Carla Del Ponte, over a house in the village of Gurre, in northern Albania, where Serb prisoners were allegedly killed for their organs.

According to Ljajic, Marty’s report also testified of the obstruction from UNMIK, as did the reports by the UNMIK forensic team and Carla Del Ponte, and the Serbian War Crimes Prosecution.

Someone needed to be held responsible for such obstructions, he added.
Ljajic also said that Marty provided enough evidence to launch an investigation and that Serbian war crimes prosecutors had also come up with abundant evidence.

“Still, EULEX is the most likely candidate to be behind such actions, and we are working hard to get the international community to insist on this [investigation] as well,” he added.

According to Ljajic, UNMIK claimed that they had no reports whatsoever regarding human trafficking and that there was no evidence, something the organisation assured the Hague Tribunal of.
MARTY: SERBIA SHOULD INVESTIGATE ORGAN CLAIMS

23 DECEMBER 2010

The Serbian judiciary should get involved in probing organ trafficking charges, said Council of Europe rapporteur Dick Marty.

A variety of judicial authorities “should investigate everything now”. Marty told the Serbian daily Vecernje Novosti.

Marty clarified that he meant “the judiciary in Kosovo, the international judicial authorities but also the Serbian judiciary, which is also competent since there were certainly Serbian victims.

“The problem is that witnesses are not protected, something we unfortunately had an opportunity to see so far. There were witnesses who were killed,” he was quoted as saying.

“One should not be surprised that there are people who know but do not want to speak to the state authorities,” he continued.

“Witnesses are never going to talk under these conditions because there have been many murders,” the Council of Europe investigator stressed.

He said that he was “not sure” the EU rule-of-law mission in Kosovo, EULEX, is competent to handle this case.

“Jurisdiction in the investigation is one of the problems that remains to be solved. My report presented some facts and it’s up to competent authorities now to find a solution to this problem,” Marty said.

“The people of Kosovo, regardless of which community they belong to, have the right to know the truth. I do not think that a future of a community can be built on unspoken truths,” he continued.

Asked whether he was concerned about Kosovo Prime Minister Hashim Thaci’s threatened lawsuit, the Rapporteur said that Thaci “knows very
well that CoE rapporteurs have immunity and that filing a lawsuit in these cases does not mean anything”.

Asked whether the first chief of the UN Kosovo Mission, UNMIK, Bernard Kouchner, could have known of the human organ trade, the Rapporteur said that: “I don’t dare imagine that he was aware! I think he has already answered that question.

“Many people knew there were criminal activities. Now, what level of knowledge he had, I really don’t know,” he was quoted as saying.

“I only know that intelligence agencies were sending reports that I have personally seen. These agencies naturally inform their countries’ political authorities of what they have found out,” Marty said.

“There are countries whose authorities were very uncomfortable reading these reports.” he added.

Serbia has said it will lobby for a wide-ranging investigation into the organ trafficking claims ahead of the parliamentary assembly of the Council of Europe on January 25, 2011, where the Marty report will be considered.

“UNMIK is no longer included in investigations of war crimes in Kosovo and all UNMIK’s information about the cases were submitted to EULEX,” UNMIK Spokesman Olivier Salgado said on Wednesday.

Salgado did not comment on the statement of former head of UNMIK’s Regional Serious Crime Unit, Stu Kellock, that Kouchner must have known about the extent of organized crime in Kosovo.

“The EU takes... Dick Marty’s allegations on organ trafficking in Kosovo very seriously,” the head of the EU delegation to Serbia, Vincent Degert, said, adding that it was now up to EULEX to investigate the issue.

Degert stressed that no one was above the law.

“It is not up to us to judge whether someone will have a political future after the accusations that were made, but rather up to the prosecution to react,” he said, responding to questions about whether the Kosovo leader could remain in politics after being accused of organ trafficking.
ALBANIA PM CALLS FOR ORGAN HARVESTING PROBE

23 DECEMBER 2010

Sali Berisha said Tirana would welcome an investigation into allegations that Kosovo Serb prisoners were killed in Albania and their organs removed and sold.

Besar LIKMETA

Albania’s Prime Minister said it was time for the EU rule-of-law mission in Kosovo to probe the claims made in the recent Council of Europe report, extending its probe to Albania if need be.

“Although EULEX has a mandate in the independent state of Kosovo we would welcome its investigation [here],” Berisha told a cabinet meeting. “We guarantee that they will have all the cooperation of Albania’s authorities,” he added.

Berisha also asked the Minister of Justice to write to the International Criminal Tribunal for the Former Yugoslavia, ICTY, informing it that despite the limitations to their mandate, they were welcome to investigate in Albania.

The premier’s statement follows publication of a Council of Europe draft report, written by Swiss senator Dick Marty, which was approved by the Council of Europe’s Legal and Political Affairs Committee in Paris last Thursday.

The report links a group of former Kosovo Liberation Army fighters, including Kosovo’s Prime Minister, Hashim Thaci, to organised crime and accuses them of harvesting the organs of Serbian prisoners and others.

It also criticised Albania for not cooperating in investigating the alleged abuses mentioned in the report.

On Monday, Albania’s General Prosecutor, Ina Rama, rejected claims that Albania hampered investigations into organ harvesting claims.
“The prosecutor’s office, which enjoys the trust of international investigative bodies, a trust strengthened by its professionalism and the level of cooperation, decries as baseless any insinuation that Albania’s institutions have blocked the investigation of this case,” Rama’s statement said.
Hashim Thaci blamed an “anti-independence network” for the allegations of organised crime and organ trafficking levelled against him and other top Kosovo officials.

Thaci, the Kosovo prime minister and former member of the KLA has been named in the Council of Europe (CoE) rapporteur Dick Marty’s report as responsible for allegedly kidnapping and killing Serb civilians in Kosovo in order to remove their organs and sell them on the black market.

Thaci says Marty’s charges against him “will not hold him back”, and that the accusations had been launched by a “network which opposes Kosovo’s independence”.

In an interview with the Pristina-based daily Express – his first since the shocking revelations emerged last week – Thaci said he was “acustomed to such accusations”.

Thaci believes that “Marty was not alone in this process, but rather that there was an ‘anti-independence club’ behind him”.

Asked if there was an “international plan for his elimination”, Thaci only said he enjoys “fantastic cooperation with the international community”.

According to Thaci, Dick Marty’s accusations had therefore “also been addressed against the United States and other Western friends”.

The outgoing Kosovo Albanian PM said “everything had been planned to deal a blow to the Kosovo state and its war for freedom”

“I’m ready to go to the end, not only politically but also legally,” Thaci said.
Serbia plans ‘diplomatic offensive’ in organ trade case

Labour Minister Rasim Ljajic, in an interview with Serbian broadcaster B92 on Sunday, said that the country will launch “a diplomatic offensive in all international forums in order to bring this case to its conclusion”.

Ljajic will travel to Strasbourg today to meet with top officials from the Council of Europe, CoE, a week after Swiss MP Dick Marty published a CoE draft report alleging that top members of the Kosovo Liberation Army, including current Kosovo Prime Minister Hashim Thaci, were involved in organised crime and organ trafficking both during and after the conflict in Kosovo.

Ljajic and the CoE officials will discuss “further steps” in light of allegations, which have captured headlines across the globe.

The Serbian minister said he will tell his interlocutors that Serbia expects the CoE draft resolution, which is based on the report and has been sent to the Council of Europe’s Parliamentory Assembly, to be adopted – without any amendments.

“We believe it is important... for the EU rule of law mission in Kosovo, EULEX, to take over responsibility for the entire investigation.

“Serbia is asking for nothing else than for the truth to be established about all accusations, and naturally, for justice to be done, because that is a condition for reconciliation in the region,” Ljajic concluded.

Meanwhile, Dick Marty is travelling to Moscow today, where he will present his report to Russian officials. The Russian delegation at the CoE said...
it would announce its position on the document after it had consulted with the Swiss MP.

Last week, Russian Foreign Minister Sergei Lavrov said that his country was “very seriously worried” about the claims made in the document, and that, if proven true, the accusations in the report amounted to crimes against humanity.
Albania’s Interior Minister Lulzim Basha has denied assisting a Hague Tribunal expert who travelled to the country in 2003 to investigate claims that the Kosovo Liberation Army harvested organs of Serb prisoners.

Besar LIKMETA

“This is a dumb declaration, I have never been in any yellow house,” Basha told reporters in the city of Shkodra on Sunday, referring to an ICTY investigation of a house in the Mat region in northern Albania where Carla Del Ponte, the former chief prosecutor at the International Criminal Tribunal for the former Yugoslavia, ICTY, has alleged that Serb prisoners were killed for their organs.

The allegations that Basha assisted the ICTY as a translator were made by former forensics expert Pablo Baraybar.

In an interview for Swiss newspaper Le Temps, Baraybar said that had visited northern Albania incognito to investigate the claims in 2003, and had been assisted by Basha, who worked as a legal expert for UNMIK in Kosovo at the time.

“My translator was Lulzim Basha, he became interior minister in Albania later and I have heard him say that the allegations were nonexistent, while he was with me,” said Baraybar.

“I know that he knows, we were together and he has seen the dossier,” Baraybar added.

Basha’s alleged presence at the investigation in 2003 surfaced after the contents of a draft Council of Europe report hit headlines around the world last week.
The document, drafted by Dick Marty, a Swiss MP in the Council of Europe, links a group of former Kosovo Liberation Army fighters, including Kosovo’s current Prime Minister Hashim Thaci, to organised crime and organ harvesting.

Basha said the claims made in the report, which was approved by the CoE’s Legal and Political Affairs Committee in Paris on Thursday, were only recycled allegations.

The report also criticises Albania for not cooperating in investigating the alleged abuses.

Thaci, whose party won the recent elections in Kosovo, called the report “scandalous” and said it is filled with defamation and lies, in a press conference last Thursday.
Albania's President Bamir Topi condemned the Council of Europe report linking top Kosovo politicians to organised crime and organ-trafficking, as baseless and hearsay.

Besar LIKMETA

"The president condemns forcefully all accusations not based on concrete proof and allegations spun in a web of hearsay, which seem to have been cooked up in a démodé kitchen of ultra-nationalistic circles, which unfortunately continue to exist in the Balkans – a territory where time after time the mass graves of the genocide of Milosevic’s forces are discovered and war criminals wanted by the Hague tribunal find sanctuary," Topi said in a statement.

“These phantasmagorical accusations, brought up many times, formerly investigated and never proven, do nothing less than slander Albania, the Albanian nation and its identity,” the statement added.

The draft report, which was compiled by Swiss MP Dick Marty, was approved by the Council of Europe’s Legal and Political Affairs Committee in Paris on Thursday. It links a group of former Kosovo Liberation Army fighters, including Kosovo’s current Prime Minister, Hashim Thaci, to organised crime.

It also criticizes Albania for not cooperating in investigating the alleged abuses mentioned in the report.

Thaci, whose party won the recent elections in Kosovo, called the report “scandalous” and said it is filled with defamation and lies, in a press conference on Thursday.

In his statement Topi said that the dangerous smokescreen created by the report not only undermined Albania’s image but also risked peace and stability in the region.
He suggested that the best way to put an end to the allegations would be through renewed cooperation between national and international investigative bodies, like EULEX, the Hague tribunal and national prosecutor’s offices, which, he said, despite thorough investigations have found no proof to bring anyone before the courts.

“Albania’s institutions have always cooperated with international specialized institutions regarding the investigations made in the project-resolution compiled by Dick Marty, who has made his stance against Kosovo known worldwide,” Topi said.
MARTY CALLS FOR INVESTIGATION INTO KOSOVO ORGAN HARVESTING ALLEGATIONS

16 DECEMBER 2010

Top human rights investigator Dick Marty blamed Kosovo’s climate of fear and political opportunity for years of cover-up.

Altin RAXHIMI

Europe’s top human rights investigator has called for criminal investigations into allegations that a criminal network linked to Kosovo’s Prime Minister Hashim Thaci summarily executed prisoners and harvested their kidneys to sell for illicit organ transplants.

“It is up to the authorities now to pursue that work of truth,” Swiss senator Dick Marty told journalists at a press conference in Paris.

He was speaking after a committee of the Council of Europe, the continent’s human rights body, approved his report alleging that a Kosovo Liberation Army group controlled by Thaci was responsible for the murder, torture and organ harvesting of ethnic Serbs and Albanians brought to Albania after NATO moved into Kosovo in June 1999.

Kosovo’s government has denied the allegations, denouncing them as a smear campaign against the Kosovo Liberation Army and the Kosovo state.

Outgoing Kosovo Prime Minister Hashim Thaci said in a press conference on Thursday evening that he and the government will initiate legal procedures against allegations in Dick Marty’s report.

Marty, a former Swiss prosecutor, who spent more than two years conducting the investigation responded to reports that Thaci will sue him: “Thaci should sue the German police, the Italian secret services, the FBI, because his name appears in all of their reports”.

He lashed out at what he called a climate of fear and political opportunity in Kosovo that allowed the alleged crimes to go uncovered and called for
an end to what he described as a double standard – applying one set of justice for winners and another for losers.

“Most of the facts mentioned were known ... and there is a silencing of facts,” Marty told the press conference. “Those things were known to intelligence services of several countries. They were known to police services, to many people who told us in private, ‘Oh yes, we know this,’ but chose to remain silent for reasons of political opportunity.”

Marty said such investigations were not possible earlier because of the tightly-knit clan structures of Albanians, and because potential witnesses were scared to testify. He said his team had to convince witnesses that their security and confidentiality would be preserved in order to get them to talk.

Marty accused the Albanian authorities of shying away from the investigations, leaving the alleged crimes undiscovered as the International Criminal Tribunal for the former Yugoslavia and the EU mission in Kosovo had no jurisdiction to investigate in Albania.

“The Albanian authorities told us, ‘we have no reason to investigate, because we were not party to the war, so our territory has nothing to do in this story,’” Marty said.

“It is now sufficiently proven that during this chaotic period between 1999 and 2000, from the end of the bombing and the establishment of the control of UNMIK, the KLA exercised the power in all the region and in this period the criminal actions took place,” he said. “EULEX has now a court case on a camp where people were held secretly and there were deaths, in Kukes, in north Albania. There are several sources that prove that the territory of Albania is involved.

“One of the taboo aspects Kosovars knew but never spoke about was that the KLA killed also Albanians, not only Serbs,” he said. “Kosovars who were considered collaborators because they had worked in the previous Serb administration, who were rivals. That is what constitutes a taboo and which hurts the KLA leaders more. This takes away the vainglory attributed to them.”
THACI: MARTY’S REPORT IS SCANDALOUS AND FILLED WITH LIES

16 DECEMBER 2010

Outgoing Kosovo Prime Minister Hashim Thaci told a press conference that he and the government will initiate legal procedures against allegations in Dick Marty’s report.

Petrit COLLAKU

Thaci was responding to a Council of Europe report which alleges he was the head of an organised crime ring which was involved in organ trafficking towards the end of the Kosovo conflict.

He called on the author, Dick Marty, to present all evidence regarding his allegations to the competent authorities for further investigations.

“I, as Prime Minister of Republic of Kosovo, and, above all, as a citizen and as a parent, feel heavily insulted by the baseless charges that Dick Marty has made against me, and above all against my country and my people,” Thaci told journalists.

He added that the “scandalous” report is filled with defamation and lies and is recycling propaganda from certain people that do not want the best for Kosovo.

“The monstrous accusations that Dick Marty’s report contains will not do any good to any individual that is engaged for the truth and justice,” said Thaci.

He added that the allegations had already been investigated so far by The Hague tribunal, UNMIK and lastly EU rule-of-law mission, EULEX.

“In all cases it has been proved that there are no bases for the accusations,” Thaci said.

He added that the whole world knew who committed the crimes in Kosovo.
“The crimes were carried out by the Serbian state machinery and for this the then Serbian state leaders deserved punishment from the Hague Tribunal,” Thaci said.

He appealed to all Kosovo people to be calm and mature and also to cooperate in any investigation.
Committee adopts Kosovo organ trade report

16 December 2010

The Council of Europe’s Legal Affairs Committee adopted a draft resolution calling for investigations into allegations that top Kosovo officials were part of an organised crime network that trafficked organs.

The Committee met today in Paris and adopted a draft resolution, based on the report drafted by Dick Marty, a Council of Europe Special Rapporteur, calling for “investigations into evidence of disappearances, organ trafficking, corruption and collusion between organised criminal groups and political circles in Kosovo”.

In the resolution, approved unanimously, the committee said there were “numerous concrete and convergent indications” confirming that Serbian and Albanian Kosovars were held prisoner in secret places of detention under Kosovo Liberation Army, KLA, and subjected to inhuman and degrading treatment, before ultimately disappearing. Click here to see the full report.

In the report, Marty alleged that a number of senior figures in Kosovo politics, including Prime Minister Hashim Thaci, played a major role in a range of organised crime activities, including harvesting organs from prisoners transported into Albania towards the end of the conflict with Serbia, and drug trafficking. Thaci has strongly denied the allegations.

The Committee said the report will be debated at the Council of Europe’s parliamentary assembly, PACE, on January 25, 2011.

Serbian broadcaster B92 reported that the document was adopted today despite “attempts” to postpone it.

The Albanian member of the Council of Europe committee, Shpetim Idrizi, did not attend the Paris meeting, and denounced it in an Albanian parliamentary session.
“It is politically inspired, with a sensationalist approach, unfounded and anti-Albanian,” Idrizi said. “This report... is an expression of a continuous conspiracy of Mr. Marty against the Albanians of Kosovo and the Albanian nation.”

Andreas Gross, a Swiss MP and chairman of the Social-Democratic group of the Council of Europe’s Parliamentary Assembly, took part in today’s vote. He noted that outgoing Kosovo MP Xhavit Haliti, who is mentioned in the report, attended the meeting as well and denied the allegations put forward by Marty.

“Haliti was very careful when he spoke, which shows that they are taking it seriously,” Gross told Balkan Insight.

He added that there were two abstentions, including one Dutch deputy who said he needed more time to decide, while all other MPs voted in favour.

The Swiss MP said that the US government feels uneasy about the report and has pressured European governments to downplay the findings, explaining that he heard this from European diplomats commenting on the situation.

Dick Marty’s good relations with Italian prosecutors, formed while he served as a magistrate in Ticino, proved very helpful in providing information for the report, Gross noted.

“The Italian prosecutor general would tell him things that he would not tell us... Italians have a close relationship with the Albanians and know that community, and they also have experience in fighting the Mafia, so they have proven to be valuable source,” Gross said.

Gross is “confident” that three-quarters of the assembly will vote to adopt the report in January.
ACCUSED MP TO ATTEND KOSOVO ORGAN TRAFFICKING MEETING

16 DECEMBER 2010

A politician accused of being a senior figure in Kosovo’s organised crime scene will attend the presentation in Paris of the report which make the allegation.

Petrit COLLAKU

Outgoing MP Xhatir Haliti will be at the Council of Europe’s Committee on Legal Affairs and Human Rights on Thursday when Dick Marty will present his report on alleged organ trafficking carried out by the Kosovo Liberation Army in 1999.

Haliti, who was in Paris for another CoE event, will be at the meeting, according to his Kosovar colleague Ibrahim Gashi, outgoing MP for the opposition New Kosovo Alliance.

According to Marty’s report a number of senior figures in Kosovo politics, including Prime Minister Hashim Thaci, played a major role in a range of organised crime activities, including harvesting organs from prisoners transported into Albania towards the end of the conflict with Serbia. Thaci has strongly denied the allegations.

Marty wrote: “Several further known members of Thaci’s “Drenica Group” have been indicated to us in the course of our research to have played vital roles as co conspirators in various categories of criminal activity. They include Xhatir Haliti, Kadri Veseli, Azem Syla, and Fatmir Limaj.

“All of these men have been investigated repeatedly in the last decade as suspects in war crimes or organised criminal enterprises, including in major cases led by prosecutors under UNMIK, the ICTY, and EULEX. To the present day, however, all of them have evaded effective justice.”

Gashi said that Haliti’s presence at the time of the report’s release is a coincidence.
“We haven’t had too much time to read the report since it was released last night and we came here straight after the elections in Kosovo,” Gashi told Balkan Insight on Wednesday night, adding that they would have more information once the report has been translated into Albanian.

“The report to be presented tomorrow,” he said, “is based on suspicions and not grounded in facts.”

He called on the accusations to be looked at closely. “The report does not implicate Kosovo’s state, but rather the responsibility should be addressed individually,” he said.

The accusations were addressed on Wednesday by Haliti in an interview with Radio Free Europe.

The former KLA member said the KLA had conducted a clean war. “I believe that it is impossible to imagine that the KLA had a mechanism [to carry this out],” he said regarding the accusations of organ trafficking.

The report was also condemned by Acting President Jakup Krasniqi, who hails from the same party as Haliti.

“This draft report is clearly biased and contains racist statements when speaking about the “clan structure” of Albanian society in Kosovo and “the lack of a truly civil society.”

“This draft report represents the efforts of certain circles to equate the just and heroic struggle of the people of Kosovo Liberation Army with the massacres of the Serbian regime of Milosevic.

“Attempts to confuse victims cast a shadow of doubt over all activity and impartiality of the rapporteurs of the Council of Europe.”
EU foreign policy chief Catherine Ashton is ‘taking seriously’ a report that alleges Kosovo Premier Hashim Thaci was at the head of a criminal gang involved in the trafficking of organs, arms and drugs.

**BIRN**

“We take the allegations seriously but we invite Mr Marty to put forward the evidence,” Maja Kocijancic, spokeswoman for EU foreign policy chief Catherine Ashton, was quoted by the Germany Press Agency as saying.

Kocijancic was referring to a report written by Dick Marty, a former Swiss prosecutor, for the Council of Europe.

In the document, which cites FBI and intelligence from other western countries, Marty alleges that a criminal network linked to Prime Minister Thaci summarily executed prisoners and harvested their kidneys to sell for illicit organ transplants as part of a broader web of organised crime activities including assassinations and drug trafficking.

Kosovo’s government, in a statement released on Tuesday, denied the allegations and denounced them as a smear campaign against the Kosovo Liberation Army and the Kosovo state.

Significantly for the EU, Marty points a finger at the UN mission in Kosovo, and its successor the EU rule of law mission EULEX, for not adequately investigating the allegations that such activities took place.

While recognising that the task is a difficult one, Marty calls on the EU mission to “persevere with its investigative work, without taking any account of the offices held by possible suspects or of the origin of the victims, doing everything to cast light on the criminal disappearances, the indications of organ trafficking, corruption and the collusion so often complained of between organised criminal groups and political circles…”

The 27-page draft report, the product of an investigation that has lasted more than two years, will be submitted on Thursday to the Council of Europe’s legal affairs committee for adoption.
Tirana has roundly condemned a draft Council of Europe report linking former Kosovo Liberation Army commanders to organised crime and organ-trafficking.

Altin RAXHIMI

Tirana has denounced the report by Swiss senator Dick Marty, which claims Kosovo fighters in the 1990s committed grave human rights abuses on Albanian soil.

“The report... is totally unfounded in terms of facts, evidence or reality, which speaks of clear political bias by the author, constituting a flagrant abuse of the authority of the Council of Europe,” Prime Minister Sali Berisha’s office said.

Berisha made the statement in a meeting in Tirana with Jean Louis Laurens, the Council of Europe’s director general for democracy and political affairs, his office said.

Parliament Speaker Jozefina Topalli said the report constituted an unprecedented abuse of office on the part of Marty, a senator in Switzerland.

“If he does not prove the facts he has written about and does not present them to the courts, the Council of Europe should demand... a full investigation into the circumstances that made him produce such a report,” she said.

The draft report, which will be presented to the Council of Europe’s Legal and Political Affairs Committee in Paris on Thursday, links a group of former Kosovo Liberation Army fighters, including Kosovo’s current Prime Minister, Hashim Thaci, to organized crime. It also criticizes Albania for not cooperating in investigating the alleged abuses mentioned in the report.

Thaci, the winner of recent elections in Kosovo, called the report a smear campaign in a press release released on Tuesday.
Amnesty International has called on the EU rule-of-law mission in Kosovo, EULEX, to open an investigation into the alleged involvement of Kosovo’s premier Hashim Thaci in the post-war abduction of Albanians and Serbs.

The human rights watchdog called for a probe in a press release issued a day after a damning report was released by the Council of Europe which names the Kosovo premier as the boss of a crime gang that sold body parts, carried out assassinations and dealt drugs both during the conflict in Kosovo and after.

Europe’s top human rights investigator, Dick Marty, alleges in his report that a criminal network linked to Kosovo’s Prime Minister Hashim Thaci summarily executed prisoners, including Serbs, Roma and Albanians deemed to be collaborating with Serb authorities, and harvested their kidneys to sell for illicit organ transplants.

“Amnesty International endorses Dick Marty’s call for the EU to give EULEX all the resources it needs to carry out a full and impartial investigation into these allegations, and all other post-conflict abductions. This includes the resources to set up an effective witness protection programme,” said Nicolas Beger, director of Amnesty International’s European Institutions Office.

“The families of the Serbs, Roma and Albanians abducted after the war have waited too long for justice. They deserve to know their relatives’ fate,” he adds.

Human Rights Watch echoed Amnesty’s call for investigations.

“The international community can no longer ignore credible allegations of serious crimes in Kosovo and Albania,” said Kenneth Roth, executive director of Human Rights Watch, in a press release.
“The US and European governments must demand prompt, thorough, and impartial investigations, with prosecutions of those responsible,” he added.

In the 27-page document, which is the result of a two-year investigation, Marty writes that victims were taken to camps in Albania, where some were murdered and their organs removed for trafficking.

The report alleges that the organ trafficking was part of a broader web of organised crime activities including assassinations and drug trafficking.

The Kosovo government has denounced the allegations as a smear campaign against the Kosovo Liberation Army and the Kosovo state.

Amnesty noted that it has called for investigations into the fate of Serbs, Roma and others abducted after the end of the armed conflict, but said that this had not happened.

The human rights watchdog also expressed concern that the draft report remarks that the international community “sacrifice[d] some important principles of justice” and chose not to investigate post-war abductions, political killings and other allegations against Hashim Thaci and the KLA in order to promote “short-term stability”.
ORGAN HARVESTING REPORT
‘GREAT VICTORY FOR SERBIA’

15 DECEMBER 2010

A Council of Europe report linking the Kosovo premier to a crime gang that sold body parts and carried out assassinations is a great victory for Serbia in the fight for truth and justice, said Serbia’s deputy war crimes prosecutor.

Tanjug, B92

“Thanks to the help and the authority of Serbian President Boris Tadic and the continuous efforts exerted by judicial bodies, we have achieved the victory and returned hope to the families of kidnapped or missing victims,” Bruno Vekaric told Serbian news agency Tanjug.

He made the comments late on Tuesday, after several news outlets published parts of the report.

Council of Europe Special Rapporteur Dick Marty, who drafted the document after a two-year investigation, wrote that leaders of the Kosovo Liberation Army organised the kidnappings of Serbs and others in order to harvest their vital organs.

The report alleges that the organ trafficking was part of a broader web of organised crime activities including assassinations and drug dealing. The report describes Kosovo Prime Minister Hashim Thaci’s role in the criminal network as akin to that of a mafia boss.

Kosovo’s government denied the allegations in a statement released on Tuesday evening. The statement denounced the allegations as a smear campaign against the Kosovo Liberation Army and the Kosovo state.

Vekaric expressed his expectation that the “exceptionally positive” report will launch many investigations into human organ trafficking in Kosovo, and also in Albania, where courts have been “ignoring calls to solve the problem for years”.

Tanjug, B92
The findings of the Marty report substantiate allegations aired in a 2008 memoir by Carla del Ponte, the former prosecutor of the Hague war crimes tribunal, ICTY, as well as the findings from a 2009 investigation by the Center for Investigative Reporting, the Balkan Investigative Reporting Network and the BBC.

The document is due to be reviewed at the Thursday session of the CoE Human Rights and Legal Affairs Committee.

If the committee adopts the report, the Council of Europe Parliamentary Assembly will discuss the document in late January.
Dick Marty, the Swiss senator representing the Council of Europe, arrived in Kosovo to continue his investigation into allegations that ethnic Albanian members of the Kosovo Liberation Army, KLA, trafficked organs during the conflict with Serbia.

Petrit COLLAKU

Dick Marty visited Serbia and Albania last year on a fact finding mission during which he met government officials. Allegations of organ trafficking have been strenuously denied by Kosovo’s government, which claims that the KLA conducted a ‘clean war’.

The Council of Europe, CE, office in Kosovo said that they were not aware of the agenda of the Swiss senator. “The visit is organised by Marty and his team. We haven’t seen him and we will not see him,” Luljeta Plakolli, official from the CE, told Balkan Insight.

EU rule-of-law mission, EULEX, spokesperson Christophe Lamfalussy said: “All I can tell you is that he is in Pristina and he will meet a number of people in EULEX.”

Marty’s visit to Kosovo follows claims in December 2009 by Serbia that it had uncovered new evidence of the alleged trafficking of organs. “We have new proof that will first be presented to the Council of Europe’s envoy, Dick Marty, before being made public,” Vladimir Vukcevic, Serb prosecutor for war crimes, told Serb media.

He did not provide any details except that his office has four new witnesses related to this case.

The allegations were first made public in a book written by the former chief UN war crimes prosecutor Carla Del Ponte, called ‘The Hunt: I and the war criminals’.

In 2005, Marty led an investigation by the Council of Europe into the CIA’s alleged use of secret prisons in Europe, and use of “extraordinary rendition”, the illegal transfer of prisoners from one state to another.
One of Europe's top human rights investigators is gathering evidence in Serbia and Albania on allegations of organ trafficking during the 1999 Kosovo conflict.

**BIRN**

Dick Marty, rapporteur for the European Council, is leading an investigation into claims that members of the Kosovo Liberation Army were involved in organ trafficking. The allegations have been strenuously denied.

The Swiss senator is visiting Serbia from August 3 to 5 and will be in Albania from August 5 to 6, the European Council said in a statement.

In both countries he will meet high government officials, prosecutors, and NGOs representing families of missing persons from the Kosovo conflict.

After the visits, Dick Marty will issue a report.

Claims of human organ trafficking in Kosovo were first revealed by former Hague Tribunal prosecutor Carla Del Ponte in her book 'The Hunt: Me and the War Criminals'.

In 2005, Marty led an investigation by the Council of Europe into the CIA’s alleged use of secret prisons in Europe, and use of “extraordinary renditions”, the illegal transfer of prisoners from one state to another.
INHUMAN TREATMENT OF PEOPLE AND ILLICIT TRAFFICKING IN HUMAN ORGANS IN KOSOVO


STATEMENT OF THE CHIEF PROSECUTOR OF THE SPECIAL INVESTIGATIVE TASK FORCE 29. JUL 2014


LAW ON SPECIALIST CHAMBERS AND SPECIALIST PROSECUTOR’S OFFICE