

NEIGHBOURHOOD POLICY Kosovo



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Cold case: EU spending in Kosovo

Despite allegations of UN mismanagement of EU funds in Kosovo, investigations into fraud are barely making progress. Stefano Valentino reports

For Kosovo, there is no more important financial supporter than the European Union. Since Kosovo's 1998-99 war with Serbia, the EU has provided more than €2 billion in aid to Kosovo, roughly two-thirds of the sum provided by the international community. Most of that money was spent between 1999 and the end of 2007, when the United Nations ran Kosovo.

But how well did the UN manage the EU's money? And how much has the EU pursued allegations of mismanagement? Both are questions being asked by the European Parliament and by the European Court of Auditors (ECA), which in the coming weeks will start an audit of projects funded by the EU since 2007.

What is clear is that many investigations of alleged fraud of funds overseen by the UN have gone cold since the EU's rule-of-law mission, Eulex, replaced the UN's mission, Unmik, as the leading international organisation in Kosovo.

During the Unmik era, the EU did supply some funds to projects in Kosovo directly and there were several cases of fraud associated with these funds: in 2003, one investigation led to a conviction, in Germany, of an Unmik appointee who stole €4.5 million. A source in OLAF, the EU's anti-fraud unit, says that four investigations between 2005 and 2008 resulted in punishments.

But most EU money was channelled through the UN, and the lion's share of suspected misspending was of funds managed by the UN. The EU sent its aid through the EU's European Reconstruction Agency (EAR), which

disbursed a large part of the money to help publicly owned enterprises run by the Kosovo Trust Agency (KTA), a body managed by the UN, staffed by foreigners and funded by the European Commission. And it is this group of enterprises that became the main focus of investigation, in particular two organisations: Kosovo Electric Corporation (KEK) and Pristina International Airport.

OLAF was unable to investigate by itself cases where money was spent by the UN, in part because, in 2005, the European Court of Justice (ECJ) ruled that EU-paid KTA employees could not be classed as EU employees. It was, though, allowed to play a role in an investigation task force (ITF); the other investigators were from the UN and from Italy's financial crimes unit, the Guardia di Finanza. To the chagrin of the European Commission, the ITF reported solely to the head of Unmik, who alone had power to initiate action.

No investigation mandate

According to the ITF's final confidential report, a copy of which *European Voice* has seen, 13 cases were opened involving KEK and 37 related to the airport. But the ITF struggled. According to a former high-ranking Unmik official, "the ITF did not have sufficient personnel and technical know-how to gather the evidence that allowed for indictments or court convictions". There were also other problems: Philippe Ullmann, an OLAF official, says that many of the international officials wanted for questioning were on short-term contracts, and the ITF had no mandate

to open up cross-border investigations.

Nonetheless, the ITF was still pursuing 11 cases involving €60 million when Unmik's mandate ended in 2008. The end of Unmik's time in Kosovo was messy – its prosecutors left hurriedly after Kosovo declared independence in February 2008 and before Eulex took over Unmik's judicial and institutional responsibilities that summer – and Unmik prosecutors dismissed most ITF-related, owing to a lack of time to check evidence. It transferred these cases to Kosovar courts. But "Eulex prosecutors have the power to reopen dismissed cases if local prosecutors do not do so", Eulex's public-information office says.

According to Annunziata Ciaravolo, Unmik's former chief prosecutor, "we transferred...all pending cases to the Kosovo Special Prosecution Office", run by Eulex.

Since then, Eulex has pursued three cases related to Kosovo's postal and telecoms operator PTK; it has closed one of these, after the conviction of a former Unmik official for embezzlement. But on Eulex's watch, the far more serious cases, the 11 related to KEK and the airport, seem to have been on ice.

In recent weeks, Eulex confirmed to *European Voice* that it had no investigations open on KEK; one was open on the airport. On the eve of publication, though, it said "a few" cases related to KEK are now pending. It has not provided further details and clarification.

The lack of dynamic in Eulex's pursuit of these cases appears surprising given the level of concern expressed by EU bodies about UN management.

During the UN's tenure, the European Court of Auditors (ECA) highlighted problems on a number of occasions (Kosovo's auditor general, and the UN's Office of Internal

Oversight Services also produced critical reports). For example, in reports from 2002 onwards, the ECA stated that Unmik had failed to provide the EAR with "sufficient justification" for its spending, that funds needed "to be recovered" from a number of projects and concluded that "owing to the lack of requisite information on the final use of funds, the court is unable to express an opinion on the regularity of the underlying payments".

Critical MEPs

The European Parliament has also been critical. After a 2008 field mission, it lamented what it described as the UN's "unwillingness to co-operate on questions of transparency and financial control with EU representatives".

Eulex is now being criticised by the Parliament. Bart Staes, a Belgian Green MEP who led a delegation from the budget oversight committee to Kosovo in mid-June, says that it needs "to make efforts to settle all discontinued cases related to misuse of taxpayers' money".

As things stand, a paradoxical position has been created. In May, the ECA was highly critical of UN's management of EU funds worldwide, concluding that there were "frequent weaknesses" in the design of EU-funded UN projects and inadequate reporting by the UN. Yet, in one part of the world where the EU has the power to investigate cases of mismanagement, Kosovo, its commitment is in question.

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