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Risk to Witnesses Stalls Kosovo's Organ-Trafficking Probe

By Joost Van Egmond

For the longest time, Kosovo Prime Minister Hashim Thaci and other top Kosovar politicians enjoyed an unchallenged reputation as war heroes, thanks to their roles in an armed uprising by the Kosovo Liberation Army (KLA) that helped end violent Serb rule in 1999 and paved the way for independence nine years later. Now that image is shattered, as Thaci and other leading authorities find themselves accused of grave crimes that include the harvesting and trafficking of the organs of murdered prisoners. An official investigation into the allegations has just been launched. But in Kosovo's climate of witness intimidation, the investigation seems to have stalled before it's even started.

It was Dick Marty, a special rapporteur for the Council of Europe, a human-rights club of countries on the continent, who dropped the bombshell six weeks ago. He claims that after the 1998-1999 conflict, senior KLA officers abducted Serbs, Roma and Kosovo Albanians who were suspected of collaborating with Serbia and sent them to secret prisons in neighboring Albania. There, Marty alleges, prisoners were tortured and killed — and, in some cases, had their organs removed to be sold to clients abroad. Thaci, who was a KLA leader at the time, has denied the accusations, adding that: "The KLA led a pure war. It has followed international standards." ([See pictures of Serbia's anger over Kosovo's declaration of independence.](#))

Marty's report has raised a fury in Kosovo, where people saw it as a direct attack on the honorable

legacy of the KLA. Finally, after weeks of calls from the international community for full disclosure, Eulex, the European Union's rule of law mission in Kosovo, has taken up the case. Its personnel within Kosovo's special prosecutor's office have opened a preliminary investigation — but as of yet, neither Marty nor anybody else has come forward with any evidence. Meaning the investigation has stalled before it's even begun. "Without witnesses, we really can't do anything," a Eulex spokeswoman told TIME.

Marty claims that his charges are based on conversations he had with dozens of credible sources. But in his report, he has disguised their identities "so as not to place them in any danger," he wrote, and has so far refused to reveal their names to Eulex investigators. And according to many observers, witnesses would be right to be scared. "Kosovo is a small place where everyone knows everyone," says retired Kosovo Supreme Court judge Zait Xhemajli. "It doesn't have the necessary institutions required to secure the protection of witnesses. In many cases, witnesses choose not to testify because of the risk of seriously threatening their life and that of their families." ([See pictures of why voters want change in Kosovo's landmark election.](#))

A recent report on witness protection in the Balkans by Council of Europe rapporteur Jean-Charles Gardetto does little to quell those fears. It finds that there is "a real threat of retaliation" against witnesses in Kosovo. Using one high-profile example the report mentions the trial of Thaci's predecessor, former prime minister Ramush Haradinaj, who was charged with war crimes by the International Criminal Tribunal for the former Yugoslavia (ICTY) in 2005. Haradinaj was acquitted in 2008, but the appeals chamber has since ordered a partial retrial after the prosecution complained of witness intimidation. Marty notes in his report the "genuine terror" he observed in some of his informants.

While some legal experts stress that the situation has improved over the past few years, they concede that fear of retaliation is a strong deterrent to potential witnesses. "Past experiences with [other] witnesses might lead to a witness today refusing to give their testimony," says prominent lawyer Rame Gashi. Any witness would hardly have been reassured when, referring to Marty's sources in a televised interview in December, Thaci said, "These names are known, and they will be made public very quickly." This was no empty threat. In past instances, newspapers have deliberately published the names of witnesses promised anonymity — during Haradinaj's original trial, a Kosovo journalist revealed the identity of a protected witness, thereby "dissuading [other] witnesses from cooperating," the ICTY found.

Natasa Kandic, the leading human-rights campaigner in the region, is blunt in her dismissal of the idea that Eulex could keep the witnesses in its investigation safe. "Nobody will talk to them, it would put people in danger," she says. Kandic is calling instead for a body such as the UN Security Council to assign a special prosecutor who can relocate witnesses and their families immediately.

Eulex says it "understands" the concerns, but expresses "full confidence" in its own witness-protection unit. The pressure on Marty increased on Tuesday, when the International Steering Group, a powerful club of Western countries monitoring Kosovo, called for a response "without delay" to Eulex's request for cooperation. At the same time, it called for appropriate measures to protect witnesses.

Marty however, remains unconvinced. He was previously quoted in regional media calling for an ad-hoc judiciary outside of Kosovo, saying existing structures "have not been able to protect witnesses." Despite repeated efforts by TIME, Marty did not return requests for comment. ([See how Kosovo has started to find its independent identity.](#))

If the investigation stays stalled, that would further poison relations with Serbia, which has been the most vocal supporter of a probe into the accusations against Kosovo's leaders. The two countries are due to hold bilateral meetings soon, for the first time since Kosovo's declaration of independence, but an unresolved spat over such a delicate issue would make it even harder to find common ground. The delay of crucial talks would be bad enough. But worse still, the collapse of the investigation would mean yet another wasted opportunity to discover the fates of some of the almost 2,000 people still missing from the Kosovo conflict.

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