



29 November 2011

Open letter

Many people will be aware of the so called Klecka case and Witness X. During the last few weeks, since the tragic death of Agim Zogaj, a lot of attention has been given to witness protection in Kosovo. We have all been painfully reminded about the central role that witnesses play in investigations and the importance of providing adequate protection and security to citizens who want to play their part in building the rule of law, by coming forward and testifying about what they have seen or experienced.

Giving protection to important witnesses during a court case is an essential standard in any modern, democratic country. I think this is something that everybody can agree upon.

And let us be honest about this, there have been many cases where witnesses have been killed and threatened, or their families intimidated, not only in Kosovo or in the Balkans. This also happens in other European countries. Unfortunately, the sad reality is that if criminals are to be jailed, if justice is to be done, then witnesses need to be protected so they can give their evidence free from threat and intimidation.

The situation in Kosovo is not satisfactory. Moves are being taken by the authorities to offer greater protection to witnesses but this will take time. It is recognised by everyone that major improvements are needed for Kosovo to move on and develop in this area as soon as possible.

Whilst Kosovo is in the process of developing its own witness protection programme, EULEX has its own Witness Security Programme which is in operation in Kosovo and beyond. It is staffed by officers who have considerable experience in this highly sensitive and important area.

I cannot go into names or details or numbers, because that is the whole point of it - it must remain secret for the safety and security of those individuals and their families who pass through the Programme. But I can tell you, that the Programme has been repeatedly tested and many people have used, and are using it. EULEX developed this Programme in order to help Kosovo deal with some of its most difficult and challenging court cases.

And, it must be noted, that Witness Protection Programmes are complicated. There are different levels of protection, offered at different times and to different people. There is not one, simple standard. They are tailored to people's needs and the current threat level – and these themselves can change over time. And always the wishes and desires of the individual witness take absolute priority.

I want to make some additional points about Witness Protection Programmes. Individuals are never compelled to be part of the programme. The witnesses are not the ones that should be jailed. They cannot be forced to join, and they can leave the programme when they want. That is their free will, and that is right. Individuals must



make their own decisions and, there is no doubt, that sometimes these decisions can be very difficult to make.

Travelling is made difficult, contact with families and friends is limited for their safety. Some individuals might change their mind. All this is normal. It applies to all such Programmes around the world, including those in places like EU Member States and the United States. There can never be any 100% guarantees.

It is not proper for me to comment on this particular case, as it is currently in trial. But what I can say is that many of the issues mentioned above did play a part in this case. And at the end of the day Mr Agim Zogaj, Witness X, tragically took his own life. Something that no witness protection programme in the world could have prevented.

This, above all else, is a tragedy for his family and his friends. And we should never forget that. And I condemn those who want to turn his death into a political issue or who try to apportion blame or score points. That serves nobody's interests, least of all Mr Zogaj or his family.

It is for a court of law to determine the guilt or innocence of people – and nowhere else. Not in the street, not in the media, not in the coffee bars.

Kosovo is trying to build up its own expertise and resources in this area, and I commend that. But, in the meantime, EULEX will continue to use all its resources, skills and experience of its staff, in this highly specialized area, in order to give Kosovo time before it can take over such crucial and important responsibilities for any developing society.

Yours sincerely,

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