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# Comparing peer-based anti-corruption missions in Kosovo and Guatemala

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International missions brought foreign experts to help local partners tackle corruption and organised crime in Kosovo and Guatemala. With unprecedented investigative powers, those efforts sought to disrupt criminal networks and use peer-based learning to build local capacity. While the UN effort in Guatemala won major convictions and public acclaim, the EU effort in Kosovo fell short. Divergences in their context, structure, strategy, and focus hold lessons for peer-to-peer interventions worldwide.

## Main points

- Kosovo and Guatemala are hindered by hidden corruption networks tied to transnational crime that grew powerful during their respective civil wars.
- To address those corruption issues, the international community created the International Commission against Impunity in Guatemala (CICIG) and the European Union Rule of Law Mission in Kosovo (EULEX), empowering foreign legal experts to augment and assist local authorities.
- Both missions had dual roles of directly investigating and addressing corruption and organised crime, as well as building local capacity through peer-based learning.
- CICIG had fewer powers and resources than EULEX, yet faced greater challenges.
- However, CICIG generally surpassed expectations while EULEX fell short, as indicated by outcomes like high-level convictions, polled public trust, and assessments by scholars and international organisations.
- This divergence in outcomes can be partly attributed to political, cultural, and legal factors.
- Strategy and focus mattered. CICIG leaders succeeded when they doggedly pursued the mission of disrupting corruption networks, while EULEX leaders did not when they diverted attention to competing objectives and indefinite projects of state-building.
- CICIG fostered more peer learning than EULEX because it was structured to encourage collaboration between foreign and local partners on joint investigations and reform efforts. Working with a specialised counterpart office over a dozen years, CICIG built a legacy of institutional knowledge and relationships of trust.

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## Introduction

The republics of Kosovo and Guatemala, more than 10,000 kilometres apart, face similar governance challenges. After centuries of rule on the outskirts of over-extended empires, both inherited weak institutions, outdated laws, and ethnically divided populations. Both suffered civil wars in the late 20th century, in which paramilitary forces committed mass atrocities with impunity. And both became transcontinental transit points<sup>1</sup> for trafficked contraband that brought illicit revenue, arms, and power. In both countries, clandestine networks of traffickers, former combatants, and economic and political elites<sup>2</sup> frustrated post-war efforts to establish security and the rule of law. In the early 21st century, the international community worked with the governments of Kosovo and Guatemala to establish contemporaneous but unrelated international justice efforts to promote peace and accountability and curtail transnational crime and migration.

The International Commission against Impunity in Guatemala<sup>3</sup> (*Comisión Internacional contra la Impunidad en Guatemala*, or CICIG) began in late 2006. Its mandate ends in September 2019, although Guatemala's president moved to expel the commission<sup>4</sup> eight months early. The European Union Rule of Law Mission in Kosovo<sup>5</sup> (EULEX) became operational in late 2008, shortly after Kosovo's unilateral declaration of independence. Its mandate runs through to 2020, but the EU and Kosovo agreed to diminish its mission, powers, and resources in 2016 and 2018.

CICIG and EULEX both aimed to promote justice and accountability through partnerships between intergovernmental organisations and national governments. As in similar efforts worldwide, foreign judges, prosecutors, investigators, security officials, and other relevant experts assisted local counterparts. Unlike typical international justice assistance missions, CICIG and EULEX provided international personnel with extraordinary leeway to conduct their own investigations. In the case of EULEX, foreign staff could

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1. [https://www.unodc.org/wdr2018/prelaunch/WDR18\\_Booklet\\_3\\_DRUG\\_MARKETS.pdf](https://www.unodc.org/wdr2018/prelaunch/WDR18_Booklet_3_DRUG_MARKETS.pdf)

2. <https://www.justice.gov/eoir/file/889611/download>

3. <https://www.cicig.org/?lang=en>

4. <https://www.nytimes.com/2019/05/18/world/americas/guatemala-cicig-aldana-corruption.html>

5. <https://www.eulex-kosovo.eu/?page=2,15>

even prosecute and adjudicate their own cases, and nullify decisions made by Kosovan prosecutors and judges – powers that sovereign states have rarely given to foreign institutions.

*CICIG and EULEX were the ‘Mary Poppins’ of international justice missions: outside experts tasked to bring order – and then fly home once their hosts could take care of their own affairs.*

Within CICIG and EULEX, foreign personnel mostly operated within domestic law and systems, and in close cooperation with local counterparts. In theory, they also brought the independence and resources needed to surmount domestic obstacles and expose hidden corruption networks. Ideally, local counterparts would gain the expertise, credibility, resources, and head start they needed to uproot systemic corruption and emplace laws, norms, and expectations of accountability. CICIG and EULEX were essentially the 'Mary Poppins'<sup>6</sup> of international justice missions: forceful and impeccable outside experts tasked to bring order with a light touch, firm hand, and instructive voice – and then fly home once their hosts could capably take care of their own affairs.

EULEX and CICIG did not magically sweep up corruption or transform their host countries, but they should not be dismissed as fairy tales. Indeed, the two efforts diverged in unexpected and revealing ways. CICIG had weaker powers and a smaller staff and budget than EULEX, even though Guatemala is roughly ten times Kosovo’s size in population<sup>7</sup> and area,<sup>8</sup> with a quarter less income per capita<sup>9</sup> and far higher crime rates.<sup>10</sup> Yet CICIG achieved more meaningful gains against corruption than EULEX, measured by case statistics, societal impact, public polling, scholarly opinion, or international acclaim.<sup>11</sup>

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6. [https://en.wikipedia.org/wiki/Mary\\_Poppins\\_\(character\)](https://en.wikipedia.org/wiki/Mary_Poppins_(character))

7. <https://data.worldbank.org/indicator/SP.POP.TOTL>

8. <https://data.worldbank.org/indicator/AG.LND.TOTL.K2>

9. <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>

10. <https://data.worldbank.org/indicator/vc.ihr.psrc.p5>

11. <https://www.cicig.org/press-release-2018/commissioner-ivan-velasquez-received-the-2018-alternative-nobel-prize/?lang=en>

EULEX promoted the professionalisation of police and customs, as well as the broader political goals of peace, stability, and regional integration. However, the effort made little headway against organised crime or corruption, which frustrated Kosovans and foreign supporters. CICIG promoted key reforms, exposed prime corruption networks,<sup>12</sup> secured convictions of national figures,<sup>13</sup> won public trust,<sup>14</sup> and helped lay groundwork for non-violent mass protests<sup>15</sup> that forced a presidential resignation and upended Guatemalan politics. While CICIG's early ouster<sup>16</sup> showed the limits of its power and long-term sustainability, it posed an unprecedented challenge to institutional corruption.<sup>17</sup>

Over time, CICIG and EULEX changed in their focus and strategy. Neither could be called a monolithic success or failure. This comparative study, based on primary and secondary documentary sources, analyses the conditions, challenges, structure, and strategic decisions of both missions to draw lessons from their achievements and shortfalls. After reviewing the historical context of both interventions, EULEX and CICIG are compared through the lenses of six performance factors: structure, legal and cultural context, political context, strategic priorities, inter-institutional relations, and public support. Although EULEX faced harder cultural and political challenges than CICIG, CICIG surpassed expectations when it single-mindedly pursued its mission of disrupting corruption networks, rather than diffusing focus among competing and indefinite objectives like EULEX. CICIG also left a stronger legacy of peer-based learning than EULEX because it was structured to encourage long-term collaboration with a specialised team of local partners through joint investigations and reform efforts.

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12. <https://www.cicig.org/press-release-2018/11th-annual-work-report-of-cicig/?lang=en>

13. <https://www.wsj.com/articles/guatemala-outsources-a-corruption-crackdown-1442001944>

14. <https://www.vanderbilt.edu/lapop/insights/ITBO29en.pdf>

15. <https://www.americasquarterly.org/content/guatemalans-ousted-their-president-2015-now-theyre-after-his-replacement>

16. <https://foreignpolicy.com/2019/01/26/guatemalas-slow-motion-coup-rolls-onward/>

17. <https://www.foreignaffairs.com/articles/guatemala/2018-06-06/guatemalas-fight-against-corruption-under-threat>



## Historical background

EULEX and CICIG differed in the circumstances and motivations from which they arose, which shaped the challenges they faced and the strategies they pursued. EULEX was a creature of compromise, a broad multi-sectoral project to support a nascent state. CICIG was a more targeted and straightforward intervention made possible by political consensus. EULEX aimed to promote peace and strengthen the rule of law in Kosovo but raised local hopes of bringing foreign muscle to tackle serious crimes like corruption. CICIG targeted a specific problem of corruption and impunity within Guatemala and promoted reforms instrumental to its mission.

## International justice efforts and peer-to-peer learning

*EULEX and CICIG had a blend of domestic and international personnel to avoid the shortcomings of previous justice assistance missions.*

EULEX and CICIG were both designed as hybrid institutions, operating with a blend of domestic and international personnel, within both domestic and international legal systems, to avoid the shortcomings of previous justice assistance missions.

During and after the Cold War, donor countries and international agencies provided expertise and aid targeted to reform or build the capacity of recipient countries' justice systems. Critics charged<sup>18</sup> that such efforts often lacked the independent powers and safeguards they needed to make lasting changes. The beneficiaries of impunity and corruption under the old systems found ways to subvert, circumvent, or reverse<sup>19</sup> any changes that threatened their interests.

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18. [https://carnegieendowment.org/files/Rule\\_of\\_Law\\_Temptations.pdf](https://carnegieendowment.org/files/Rule_of_Law_Temptations.pdf)

19. <https://www.u4.no/publications/understanding-success-and-failure-of-anti-corruption-initiatives>

Occasionally, nations agreed to empower international commissions or tribunals to enforce international law, with primacy over domestic institutions in countries deemed unwilling or unable to enforce such laws themselves. Such efforts sometimes indirectly targeted corruption and organised crime, as in the International Criminal Tribunal for the Former Yugoslavia.<sup>20</sup> In other cases, foreign powers intervened unilaterally to disrupt corruption networks, by enforcing anti-bribery laws overseas or helping to capture and extradite criminal kingpins. Such efforts were resource-intensive<sup>21</sup> and risky, arguably illegitimate, heavy-handed, and unresponsive<sup>22</sup> to local interests. Inevitably ad hoc and short-lived, international efforts were also limited in impact. Unless local authorities gained the capacity to take on corruption and organised crime,<sup>23</sup> corruption networks eventually regained strength.

The framers of CICIG and EULEX intended to address the downsides of both approaches by blending together international and local personnel, institutions, and laws. A few international tribunals had pioneered such hybrid models, as in Sierra Leone<sup>24</sup> and Cambodia<sup>25</sup> (and later Kosovo).<sup>26</sup> But those courts dealt with the ‘core’ international crimes<sup>27</sup> of atrocity. In contrast, CICIG and EULEX targeted recent and ongoing domestic crimes, including corruption and organised crime. Moreover, CICIG and EULEX sought to reform and build the capacity of the domestic justice systems they assisted, not just bring individual criminals to justice.

By emphasising collaboration between international and domestic personnel as an end in itself, EULEX and CICIG exemplified peer-to-peer learning initiatives,<sup>28</sup> like the EU’s twinning projects<sup>29</sup> or the Office of Overseas Prosecutorial Development Assistance and Training<sup>30</sup> of the U.S.

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20. <https://academic.oup.com/jicj/article/4/3/539/814269>

21. <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1028&context=hrbrief>

22. <https://brill.com/view/journals/icla/aop/article-10.1163-15718123-01806003.xml>

23. <https://www.usnews.com/opinion/articles/2014/04/30/dont-add-corruption-to-the-international-criminal-courts-mandate>

24. <http://www.rscsl.org/>

25. <https://www.eccc.gov.kh/en/node/39457>

26. <https://www.scp-ks.org/en>

27. [https://www.opensocietyfoundations.org/sites/default/files/mx-factsheet-icl-20160603\\_o.pdf](https://www.opensocietyfoundations.org/sites/default/files/mx-factsheet-icl-20160603_o.pdf)

28. [https://bsc.cid.harvard.edu/files/bsc/files/andrews\\_peer\\_learning\\_298\\_o.pdf](https://bsc.cid.harvard.edu/files/bsc/files/andrews_peer_learning_298_o.pdf)

29. [https://ec.europa.eu/neighbourhood-enlargement/tenders/twinning\\_en](https://ec.europa.eu/neighbourhood-enlargement/tenders/twinning_en)

30. <https://www.justice.gov/criminal-opdat>

Department of Justice. Through peer learning, individuals not only share knowledge but also collaborate on common projects, to learn from each other's experience and perspectives in the real-life practice settings, and ultimately forge new connections and useful takeaways to disseminate among non-participating colleagues.

### Country Context

	Guatemala	Kosovo
Population	16.5 million	1.9 million
Size (square kilometres)	109,000	10,900
Predecessor states	Spanish Empire, Central American Federation	Ottoman Empire, Yugoslavia
Civil war	1960–1996	1998–99
Ethnic breakdown	Spanish and Spanish-Indigenous 60%, Indigenous 39%, 1% other	93% Albanian, 7% other

Source: CIA World Factbook

### Interventions

	CICIG	EULEX
Administrative institution	United Nations	European Union
Start date	December 2006	February 2008
Expected end date	September 2019	June 2020
Rough annual budget	\$12–15M	\$100–120M
Rough staff count	175	Initially 3,000, now 500
Participating countries	UN member states, particularly Spanish-speaking nations	Most of EU, plus Turkey, Canada, Switzerland, and the U.S.
Mandates	Support the identification, exposure, investigation, and prosecution of clandestine security groups and recommend policies and reforms for their eradication	Executive (investigate, prosecute, adjudicate) and strengthening (knowledge sharing, advice for justice sector and customs)

	CICIG	EULEX
Related institutions	Special Prosecutor's Bureau	Kosovo Specialist Chambers, KFOR, UNMIK
Cases	> 100,680 individuals prosecuted	64,261 cases; 400 indictments related to war crimes and serious and organised crimes
Results	310 convictions	479 judgments for criminal cases, including corruption, organised crime, money laundering, war crimes and human trafficking
Polled local public approval/trust?	95% (2015), 70% (2017), 83% (2017)	31% (2013), 24% (2018)

Sources: CICIG.org, EULEX-kosovo.eu, van der Borgh 2017.

## EULEX: The EU's flagship state-building project

Kosovo's 1.9 million inhabitants are spread across 10,000 square kilometres in the Western Balkans, landlocked between Serbia, North Macedonia, Albania, and Montenegro. The population is predominantly Albanian in ethnicity, with a Serbian minority concentrated among the four municipalities of northern Kosovo, as well as more dispersed minority groups like Bosniaks and Romani.

Serbia governed Kosovo within Yugoslavia, until a NATO bombing campaign in 1999, triggered by atrocities against ethnic Albanians, forced Serbian forces to withdraw amidst mass displacements of ethnic Serbs and Albanians. Kosovo was then a protectorate of the United Nations (UN) until it unilaterally declared independence in 2008, with the UN Mission in Kosovo (UNMIK)<sup>31</sup> responsible for security and justice. Over the next

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31. <https://unmik.unmissions.org/>

decade, a slim majority of UN member states came to recognise its independence, but Kosovo still relies heavily on international support and security provided through NATO's Kosovo Force<sup>32</sup> (KFOR), EULEX, and related international institutions.

EULEX was intended to contain and address Kosovo's governance challenges and support the EU's strategy of enlargement. Through its accession process,<sup>33</sup> the EU has encouraged and pressured countries like Serbia and Kosovo to pass reforms, resolve conflicts, and meet its standards and qualifications to ultimately attain membership and its benefits.

EULEX began in 2008 as a UN-sanctioned mission to provide security and assistance to newly independent Kosovo, as UNMIK phased out its involvement with Kosovo's justice sector. By far the most expansive and expensive mission in EU history, EULEX served as a test case<sup>34</sup> and a showcase for the EU's capacity to strengthen the rule of law and fight impunity and organised crime (Proksik 2017). At its maximum size in 2009, EULEX included a staff of 3,000, of whom roughly 40% were Kosovan. Approximately 30 were judges and 20 were prosecutors (Qosaj-Mustafa 2010, Kursani 2013).

Kosovo's precarious geopolitical position and security environment complicated EULEX efforts from the start. The EU member states varied in the weight they placed on state-building, organised crime and corruption, counter-terrorism efforts, protecting minority rights, and investigating past human rights violations. Five EU nations declined to recognise Kosovo and to submit personnel, forcing EULEX to awkwardly try to strengthen the Kosovan state without explicitly endorsing its statehood (Radin 2014) and delaying initial deployment for months (International Civilian Office 2012). Other powerful countries took part in EULEX, like the U.S. and Turkey, or tacitly opposed it, like Russia and China. Kosovo's allies worried that state failure would destabilise the region and discredit NATO's intervention, while others contended that Kosovo's independence emboldened breakaway regions and violated the principle of state sovereignty that upheld the global order.

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32. <https://jfcnaples.nato.int/kfor>

33. [https://ec.europa.eu/neighbourhood-enlargement/policy/steps-towards-joining\\_en](https://ec.europa.eu/neighbourhood-enlargement/policy/steps-towards-joining_en)

34. <http://mobil.zif-berlin.org/fileadmin/uploads/analyse/dokumente/veroeffentlichungen/>

ZIF\_Policy\_Briefing\_Andreas\_Wittkowsky\_Holger\_Kasch\_May\_2012\_ENG.pdf

Often, EULEX faced the dilemma of serving as both a dispassionate partner to the Kosovan justice system and an instrument of EU foreign policy (Chivvis 2010). The International Civilian Office, established by the EU for institutional coordination and management of the Comprehensive Proposal for the Kosovo Status Settlement<sup>35</sup> to transition Kosovo towards EU accession, was supposed to provide political guidance and cover to EULEX, but merely contributed to the conflicting political pressures EULEX faced (ICO 2012).

EULEX encountered a mixed reaction within Kosovo as well. Political powerbrokers, with a web of shifting alliances and financial interests, hoped to co-opt the effort and its resources. Many local civil society groups felt estranged and excluded from the massive project and local media resented European rhetoric that framed EULEX as an implicit effort to ‘Europeanize’ Kosovo.<sup>36</sup> Serbian nationalists in the north protested violently, particularly in 2004 and 2011, curtailing EULEX’s freedom to operate. One Albanian wryly opined that Kosovo had Balkanized EULEX.<sup>37</sup>

EULEX had strong powers and authority. Its scope reached beyond corruption and organised crime to include support of the police and judiciary, management of customs and border security, and specialised functions such as forensics and witness security. Notably, EULEX both supported the strengthening of institutions essential to the rule of law and directly provided law enforcement. Those functions were meant to be complementary: EULEX staff would initially handle law enforcement in complex or challenging cases while raising local capacity through the ‘monitoring, mentoring, and advising’<sup>38</sup> of senior-level counterparts at an individual, peer-to-peer level. Once appropriate laws and systems and trained and battle-tested personnel were in place, EULEX would step back into a merely advisory role.

EULEX was the first EU mission with a joint executive function. In areas where there is ‘reasonable cause’ to suspect that local authorities could not or would not act ‘impartially and in conformity with the law,’ EULEX could take direct responsibility and even over-rule or reverse decisions by local

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35. <https://2001-2009.state.gov/p/eur/rls/fs/101244.htm>

36. <http://oxfordindex.oup.com/view/10.7228/manchester/9780719083396.003.0006>

37. <https://exit.al/en/2017/11/17/instead-of-europeanizing-kosovo-we-have-balkanized-eulex/>

38. <http://www.eulex-kosovo.eu/?page=2,44>

courts or authorities. Those powers would enable the mission to 'ensure that cases of war crimes, terrorism, organised crime, corruption, inter-ethnic crimes, financial/economic crimes and other serious crimes are properly investigated, prosecuted, adjudicated and enforced.'<sup>39</sup>

The mission's mandate renewed biennially,<sup>40</sup> adapting to shifting needs on the ground (like tensions in northern Kosovo) as well as local concerns. From 2014 onward, the mission's mandate and resources shrank as EU member states lost enthusiasm and tempered expectations. EULEX mostly stopped taking on new legal cases, cut its staff to 1,600, and shifted its composition to a local majority, including on court panels. By 2018, EULEX had 500 staff but had handed over all legal cases to the Kosovan judiciary.

The mission achieved some results on core priorities like border security, police professionalisation, and war crimes investigations. Measures against corruption and organised crime lagged, despite their importance to both the international community and everyday Kosovans. With its sprawling galaxy of functions, partners and work products, EULEX lost focus.

A scathing review by the European Court of Auditors<sup>41</sup> in 2012 found that EULEX did its work without 'engendering a sense of local ownership.' The report evaluated a sample of monitoring, mentoring, and assessment programmes and found little positive impact except in customs and the police. Moreover, the audit report found few efforts to even monitor the mission's effectiveness. Scholars,<sup>42</sup> policy researchers,<sup>43</sup> and former EULEX personnel<sup>44</sup> themselves critiqued EULEX as inept and wasteful. As its ambitions shrank after its first few years, EULEX course-corrected by deferring more to local input and knowledge, but internal scandals over

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39. [http://www.eulex-kosovo.eu/eul/repository/docs/WEJointActionEULEX\\_EN.pdf](http://www.eulex-kosovo.eu/eul/repository/docs/WEJointActionEULEX_EN.pdf)

40. <https://www.eulex-kosovo.eu/eul/repository/docs/EULEX-New-Mandate-02.pdf>

41. [https://www.eca.europa.eu/Lists/ECADocuments/SR12\\_18/SR12\\_18\\_EN.PDF](https://www.eca.europa.eu/Lists/ECADocuments/SR12_18/SR12_18_EN.PDF)

42. <http://www.realinstitutoelcano.org/wps/wcm/connect/5206e2804941a9b899b3bf253802dbc3/ARI41-2015-Llaudes-SanchezAndrada-EULEX-mission-need-reform-no-end-in-sight.pdf?MOD=AJPERES&CACHEID=5206e2804941a9b899b3bf253802dbc3>

43. <http://www.kipred.org/en/news/A-COMPREHENSIVEANALYSIS-OF-EULEX-WHAT-NEXT-135>

44. <http://www.spiegel.de/international/europe/veteran-insider-provides-grim-account-of-eulex-efforts-in-kosovo-a-865650.html>

judicial corruption<sup>45</sup> and whistleblower retaliation<sup>46</sup> undercut public trust. A later investigative report<sup>47</sup> commissioned by the EU found no evidence of corruption or cover-up, although it criticised EULEX's handling of the case.

The Kosovar Institute for Policy Research and Development reported that by 2013, when EULEX had completed the bulk of its executive work, EULEX had handed down 306 criminal verdicts, including 51 verdicts in organised crime and corruption cases (Kursani 2013). Judicial decisions posted on the EULEX website<sup>48</sup> between 2014 and 2018, when EULEX's executive mandate ended, show another eight cases involving corruption or organised crime that resulted in convictions. Only a handful of EULEX cases involved systemic or high-profile crimes, such as: corruption among members of the ruling party,<sup>49</sup> an international organ-trafficking ring tied to organised crime,<sup>50</sup> judicial corruption,<sup>51</sup> and a case against the mayor of Prizren<sup>52</sup> for abuse of authority.

Looking at corruption investigations more broadly, a 2017 study found that only 3% of those implicated in corruption cases were convicted and the bulk of corruption cases went unsolved (Skara 2017). An analysis<sup>53</sup> of EULEX's cases by a former lawyer at the mission found 20 major cases involving corruption and organised crime by 2014, only four of which resulted in convictions, five in acquittals, and nine without indictment.

EULEX conceded shortcomings in its progress reports,<sup>54</sup> blaming obstacles like delays in legal proceedings, poor court records, lack of institutional coordination, and inconsistencies in judicial decisions. Kosovan

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45. [https://www.politico.eu/article/malcolm-simmons-eulex-eu-courts-chaos-with-kosovo-scandal/?utm\\_content=buffer47a75&utm\\_medium=social&utm\\_source=twitter.com&utm\\_campaign=buffer](https://www.politico.eu/article/malcolm-simmons-eulex-eu-courts-chaos-with-kosovo-scandal/?utm_content=buffer47a75&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer)

46. <https://www.theguardian.com/politics/2017/nov/02/lawyer-says-foreign-office-told-her-to-ignore-eu-corruption-evidence>

47. <https://www.eureporter.co/world/2015/04/16/report-on-corruption-claims-within-eu-mission-in-kosovo/>

48. <http://www.eulex-kosovo.eu/?page=2,8>

49. <https://www.rferl.org/a/eu-prosecutors-indict-11-kosovo-ruling-party-pdk-members-corruption-charges-thaci-pronto-affairs/29151057.html>

50. <https://www.reuters.com/article/us-kosovo-organ-trafficking/kosovo-doctors-organ-trafficking-convictions-confirmed-idUSKCN1IP2JV>

51. <https://balkaninsight.com/2012/08/01/eulex-charges-eight-former-judges-suspected-of-having-gained-millions/>

52. <https://www.eulex-kosovo.eu/en/pressreleases/0412.php>

53. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2561856](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2561856)

54. <https://www.eulex-kosovo.eu/eul/repository/docs/106075-CPR-2018-En.PDF>



prosecutors' and judges' reluctance to work on high-profile corruption and organised crime cases also impeded joint efforts (OSCE 2012). Foreign staff tended to have more interest in war crimes cases, for personal and professional reasons and for their role in shaping humanitarian law (Proksik 2017). Indeed, EULEX more robustly pursued violent crimes like murder and war crimes, including wartime cases inherited from UNMIK. EULEX started a Special Investigative Task Force in 2011 to handle war crimes cases, before passing them on to the Kosovo Specialist Chambers and Specialist Prosecutor's Office,<sup>55</sup> established in 2017 in The Hague.

Overall, Kosovo moved little in global rankings, such as the World Bank's Worldwide Governance Indicators<sup>56</sup> or the Freedom House survey of Freedom in the World.<sup>57</sup> Opinion polls showed little progress. One EULEX legal officer suggested that 'The only thing that has changed is that organized crime has become much more sophisticated vis-à-vis law enforcement' (Proksik 2017).

A retrospective by the International Civilian Office<sup>58</sup> exemplified the high-handedness that frustrated so many Kosovans, claiming disappointment as the regrettable by-product of a fair process: 'EULEX's failure to imprison any top-level figures may have frustrated popular emotion, but it reinforces the lesson that justice should follow evidence.' Observers saw this absence of evidence as evidence of EULEX's negligence – or even complicity (Capussela 2015).

*Kosovans gave lower approval ratings to EULEX than to their own justice system.*

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55. <https://www.scp-ks.org/en>

56. <http://documents.worldbank.org/curated/en/405601468195573638/Country-data-report-for-Kosovo-1996-2014>

57. <https://freedomhouse.org/report/freedom-world/2018/kosovo>

58. [https://dgap.org/sites/default/files/article\\_downloads/state\\_building\\_and\\_exit\\_-\\_reducedfile.pdf](https://dgap.org/sites/default/files/article_downloads/state_building_and_exit_-_reducedfile.pdf)

Even though polls still showed Kosovan support for EU membership at 87% by 2017,<sup>59</sup> support for EULEX was only 24% in 2018.<sup>60</sup> A 2016 study<sup>61</sup> found that Kosovans gave lower approval ratings to EULEX than to Kosovo's own justice system and that 44% of respondents wished EULEX had already been terminated. EULEX faced counter-protests in 2009 and 2011<sup>62</sup> that drew thousands of protestors and damaged EULEX vehicles. By 2019, Jeta Krasniqi of the Kosovo Democratic Institute said:<sup>63</sup> 'EULEX will be remembered as a mission that wasn't able to finalize a single case against grand corruption in Kosovo and was constantly accused of corruption affairs within the mission itself.' However fairly, Kosovans perceived EULEX as a disappointment and a missed opportunity.

## **CICIG: A targeted strike to disrupt corruption networks**

Guatemala's 16.5 million people occupy a rugged bicoastal stretch of Central America between Mexico, Belize, Honduras, and El Salvador. The population is roughly three-fifths Spanish and mixed Spanish-Indigenous in origin and two-fifths Indigenous (Mayan). The Western cities historically dominated the country's economy and politics, leaving rural and remote Indigenous villages underserved by government services.

A brutal civil conflict divided the country from 1960 until 1996, during which American-armed paramilitary forces clashed with left-wing guerrillas based in the thinly settled northern rainforests. While both sides deployed brutal tactics and profited from extortion and the narcotics trade, the government-backed forces committed mass atrocities, including genocide<sup>64</sup> against Indigenous communities they accused of harbouring rebels.

A 1996 UN-brokered peace treaty formally ended the conflict, but combatants kept their arms, political influence, and illicit revenue sources. Many merged into networks of organised crime and corruption, following a

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59. <https://news.gallup.com/poll/213899/western-balkans-benefit-joining.aspx>

60. [http://www.qkss.org/repository/docs/barometri2018-eng2\\_477654.pdf](http://www.qkss.org/repository/docs/barometri2018-eng2_477654.pdf)

61. [http://www.qkss.org/repository/docs/KSB-Sixth-Edition\\_327922.pdf](http://www.qkss.org/repository/docs/KSB-Sixth-Edition_327922.pdf)

62. <https://www.tandfonline.com/doi/full/10.1080/13523260.2017.1407060>

63. <https://europeanwesternbalkans.com/2019/04/26/unsuccesful-mentor-eulex-eleven-years-later/>

64. <https://www.aljazeera.com/news/2018/09/guatemala-military-carried-genocide-court-rules-180927145730845.html>

pattern common to other war-torn Latin American countries<sup>65</sup> like El Salvador and Colombia. Amnesty International<sup>66</sup> described the situation in Guatemala as a ‘corporate mafia state’ ruled by networks enmeshed with politics, traditional businesses, the security sector, and organised crime. While Guatemala demilitarised and democratised under a UN process that ended in 2004, crime rose to endemic levels. The murder rate<sup>67</sup> nearly doubled from 1999 to 2006, with 93% of murders unsolved. A UN Special Rapporteur conceded<sup>68</sup> Guatemala was a ‘good place to commit a murder.’

In 2004, UN leaders and the Guatemalan president agreed upon an initiative<sup>69</sup> to break the stranglehold of existing corruption networks, based on ideas from local and international human rights organisations. Called the ‘Commission for the Investigation of Illegal Groups and Clandestine Security Organizations’ (*Comisión de Investigación de Cuerpos Ilegales y Aparatos Clandestinos de Seguridad en Guatemala*), the original proposal asked for foreign prosecutors to have strong independent powers, like those that EULEX’s foreign prosecutors later received. However, Guatemala’s top court quashed this arrangement, so negotiators reconstituted the commission fully under Guatemalan law, as CICIG.

*CICIG directly focused on organised crime and corruption. State capacity building and supporting rule of law were indirect goals.*

After years of negotiations with strong support and input from local civil society and foreign experts from both the Americas and Europe, Guatemala ratified the agreement to create CICIG shortly before elections in 2007. Public outcry over a wave of homicides, including those of three Salvadoran congressmen<sup>70</sup> from the Central American Parliament, consolidated the political will necessary to pass the unprecedented arrangement (WOLA

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65. <https://www.cfr.org/backgrounder/central-americas-violent-northern-triangle>

66. <https://www.amnesty.org/en/documents/AMR34/001/2002/en/>

67. <https://www.crisisgroup.org/latin-america-caribbean/central-america/guatemala/70-saving-guatemalas-fight-against-crime-and-impunity>

68. <http://news.bbc.co.uk/2/hi/americas/6643935.stm>

69. <https://news.un.org/en/story/2004/01/90552-un-and-guatemala-sign-landmark-agreement-bid-curb-illegal-and-secret-groups>

70. <https://www.reuters.com/article/idUSN20458461>

2015, Carrera 2017). The effort faced no vocal international opposition. CICIG was the first UN-related entity directly focused on an issue of organised crime and corruption, with building state capacity and promoting the rule of law as more indirect goals.

CICIG could collect evidence, present criminal charges to the prosecutor's office, and join as a complementary prosecutor in court proceedings. Specifically, it could investigate any individual or entity associated with its mandate, initiate disciplinary processes against any uncooperative public official, guarantee confidentiality to witnesses, subpoena statements and documents, and propose reforms of policies, laws, and institutions. In sum, CICIG could function independently in its investigations and reform efforts, but only alongside – not in place of – Guatemala's attorney general's office. Unlike EULEX, CICIG did not deal with investigations unrelated to corruption and organised crime, such as wartime abuses, although CICIG did build local capacity to take on such cases.

By 2019, the commission achieved several important results. Studies by the International Crisis Group<sup>71</sup> and political scientists at Notre Dame<sup>72</sup> found that CICIG contributed to declines in Guatemala's murder rate and the number of unsolved murders. Murders in Guatemala declined roughly 5% annually, even as it rose 1% annually among regional peers, theoretically saving thousands of lives.

Polls revealed<sup>73</sup> that CICIG became the most highly regarded institution<sup>74</sup> in Guatemala, above even religious and academic institutions, with more than 70% of the public trusting it versus 18% who did not. A Gallup survey in 2018 found that 71% of Guatemalans<sup>75</sup> opposed CICIG's termination.

CICIG helped strengthen domestic institutions, particularly the Office of the Attorney General, and helped Guatemala implement essential legal reforms, including investigative capabilities for wiretapping, undercover operations,

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71. <https://www.crisisgroup.org/latin-america-caribbean/central-america/guatemala/70-saving-guatemalas-fight-against-crime-and-impunity>

72. [https://kroc.nd.edu/assets/290707/trejo\\_nietomatiz\\_dismantling\\_criminal\\_networks\\_through\\_cicig\\_nd\\_workshop.pdf](https://kroc.nd.edu/assets/290707/trejo_nietomatiz_dismantling_criminal_networks_through_cicig_nd_workshop.pdf)

73. <https://brage.bibsys.no/xmlui/handle/11250/2436959>

74. <https://www.insightcrime.org/news/brief/scandals-confidence-in-guatemala-military-elites-poll/>

75. <http://concritorio.gt/cid-gallup-mayoria-de-guatemaltecos-encuestados-ven-positiva-la-continuidad-de-cicig/>

confidential informants, and specialised courts for high-risk crimes. CICIG also helped Guatemala improve its processes for criminal sentencing and judicial training and appointments.

CICIG helped domestic prosecutors secure convictions in a string of high-profile cases,<sup>76</sup> implicating four presidents as well as legislators, business leaders, high-level officials, and military officers (although many high-profile cases remain unresolved). According to CICIG's 2018 annual report,<sup>77</sup> the commission had cumulatively presented more than 100 cases that led to the prosecutions of 680 people and 310 convictions, identified more than 60 criminal structures, and filed 34 legal reforms. A major case<sup>78</sup> cracked open a fraud ring in the tax office, exposing the operations of corruption networks at the heart of the country's finances.

CICIG contributed to Guatemala's gains over the last decade in international assessments like Freedom House's 'Freedom in the World' survey<sup>79</sup> and the World Bank World Governance Indicators.<sup>80</sup> CICIG became a global model, with similar institutions implemented in Honduras<sup>81</sup> and being considered in El Salvador,<sup>82</sup> under international pressure.

## Performance factors

Differences in operating conditions, institutional design, and strategic decisions contributed to the divergent outcomes of CICIG and EULEX. Each institution faced challenges shaped by their respective structural, cultural, legal, and political contexts. In response, their leadership pursued strategies to achieve goals in partnership with local counterparts. The results of those strategies determined a divergence in public support.

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76. <https://www.theguardian.com/world/2018/sep/13/guatemala-jimmy-morales-corruption-cicig>

77. <https://www.cicig.org/press-release-2018/11th-annual-work-report-of-cicig/?lang=en>

78. <https://www.insightcrime.org/news/analysis/guatemala-la-linea-customs-scandal-explained/>

79. <https://freedomhouse.org/report/freedom-world/2018/guatemala>

80. <https://info.worldbank.org/governance/wgi/#home>

81. <http://www.oas.org/en/spa/dsdsm/maccih/new/default.asp>

82. <https://www.insightcrime.org/news/brief/el-salvador-anti-corruption-body/>

## Mandate, powers, and controls

CICIG and EULEX differed most consequentially in their design. EULEX had a broad mandate, to 'assist Kosovo authorities in establishing sustainable and independent rule of law institutions.'<sup>83</sup> CICIG had a more specific and definite goal,<sup>84</sup> helping Guatemalan authorities to bring clandestine security organisations and their accomplices to justice and illuminating and disrupting their operations.

EULEX's dual missions of support and execution proved hard to reconcile in practice. EULEX could prosecute and even adjudicate its own cases, bypassing the need for the cooperation of local counterparts. Unsurprisingly, peer interaction and learning occurred most often in the few settings structured to ensure collaboration, like mixed judicial panels.

EULEX's executive functions empowered staff to pursue cases but also raised expectations to bring them, subject to competing demands over which cases to prioritise. Their focus on bringing and resolving cases distracted from the long-term projects of supporting and advising Kosovan counterparts. Judges reported they were expected to prioritise their own caseload and they suffered little consequences for neglecting the monitoring, mentoring, and advising responsibilities that were supposed to occupy 30% of their work according to EULEX guidelines they received (Proksik 2017).

Lacking independent executive power, CICIG's foreign staff were forced to cooperate tightly with local counterparts. CICIG had to refer its cases to Guatemalan prosecutors and participated in court only in a supplementary capacity, *querellante adhesivo*, which meant that they could merely provide evidence and briefs and request court decisions. To manage those limitations, CICIG negotiated the establishment of a specialised counterpart office within the attorney general's office, the Special Prosecutor's Office Against Impunity,<sup>85</sup> with safeguards against political interference.

CICIG's jurisdiction was limited to present-day crimes, although the commission provided support to public prosecutors for past human rights investigations in areas like forensics and witness protection. EULEX had a

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83. <https://www.eulex-kosovo.eu/?page=2,16>

84. [http://www.cicig.org/uploads/documents/mandato/cicig\\_acuerdo\\_en.pdf](http://www.cicig.org/uploads/documents/mandato/cicig_acuerdo_en.pdf)

85. <https://www.mp.gob.gt/noticias/tag/fiscalia-especial-contra-la-impunidad/>

broader mandate, with no limits to its temporal jurisdiction, and became involved in investigating cases dating back to the Kosovo war.

CICIG was an independent body funded by voluntary contributions from various countries and not a formal UN body, although its budget was UN-administered. Thus, it had its own administrative rules, with flexibility over human resources and internal controls, as well as operational autonomy (WOLA 2015). Those freedoms made it easier for CICIG to hire short- and long-term staff with relevant expertise and culture experience.

In contrast, EULEX, besides its unwieldy size and diverse staff, faced bureaucratic challenges as an EU body. EULEX had to comply with EU rules and protocols in an environment of uncertainty for which they were not designed. Such challenges slowed down procurement and recruitment.<sup>86</sup>

EULEX's struggles with inappropriate or redundant bureaucracy contributed to the apparent deficiencies of its internal controls. EULEX personnel became involved in high-profile scandals involving misconduct,<sup>87</sup> allegations of bribery,<sup>88</sup> whistleblower retaliation,<sup>89</sup> and racism.<sup>90</sup> No prominent personnel were convicted of any offences and media portrayals may have been unduly salacious, yet damaging controversies were anticipatable in a mission of such scope and sensitivity. Indeed, CICIG's early leadership also made controversial and publicly criticised decisions in the handling of conflicts of interest and confidentiality of evidence (Maihold 2016).

If followed, strong internal rules and processes can shield personnel from legal jeopardy and festering public controversy by providing clear standards and affirmative defences against accusations of non-compliance. Robust transparency measures can also help avoid damage to credibility and staff morale, as they have for domestic anti-corruption agencies.<sup>91</sup>

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86. [https://www.jstor.org/stable/10.7249/mg945osd.11?seq=1#metadata\\_info\\_tab\\_contents](https://www.jstor.org/stable/10.7249/mg945osd.11?seq=1#metadata_info_tab_contents)

87. <http://www.eulex-kosovo.eu/en/pressreleases/0132.php>

88. <https://balkaninsight.com/2016/11/07/no-evidences-found-on-eulex-corruption-scandal-11-07-2016/>

89. [https://www.transparency.org/news/pressrelease/eulex\\_needs\\_to\\_support\\_not\\_intimidate\\_whistleblowers](https://www.transparency.org/news/pressrelease/eulex_needs_to_support_not_intimidate_whistleblowers)

90. [https://www.rferl.org/a/kosovo\\_eulex\\_/9505371.html](https://www.rferl.org/a/kosovo_eulex_/9505371.html)

91. <https://successfulsocieties.princeton.edu/publications/underdogs-watchdogs-how-anti-corruption-agencies-can-hold-potent-adversaries>

## Ease of international coordination

EULEX seconded its staff from roles in their home countries within the EU like France, the United Kingdom, Italy, and Romania, as well as NATO allies like Turkey, Canada, and the U.S. EULEX staff came from a wide variety of backgrounds and legal systems and faced cross-cultural challenges collaborating with each other and with Kosovan colleagues. Despite decades of cultural exchange and legal harmonisation, variances among European countries in areas like criminal procedure and corruption controls meant that legal experts accustomed to the common law of England or Canada or the civil law of Germany or Romania disagreed on ‘best practices’<sup>92</sup> and provided inconsistent advice.

Kosovan laws themselves were a mix of continental and common law as well as local sources, drafted by UNMIK advisors and lawmakers and judges whom Serbian nationalists had formerly excluded from power, to replace outdated and discriminatory Yugoslav codes. Frustrating legal gaps and inconsistencies tempted EULEX personnel to make ad hoc decisions rather than work within domestic structures (Capussela 2015).

Critics accused<sup>93</sup> contributing states of sending inexperienced staff, exacerbated by high turnover<sup>94</sup> and recruitment challenges,<sup>95</sup> particularly for judges. Seconded staff often served terms of one year, sometimes shorter, making it hard to build institutional knowledge and relationships of trust with local counterparts (Mahr 2017). Short time frames disincentivised foreign experts to concentrate on relationship-building and longer-term cooperative projects. In line with this short-term focus, EULEX slanted towards specific outputs of peer-to-peer assistance, like formal workshops rather than the joint operations in real-world conditions that best build skills.<sup>96</sup>

Foreign staff from different countries varied in the quantity, quality, and emphasis of pre-deployment training they received. Without a common ‘corporate culture,’ some personnel saw themselves as representing their

92. <https://www.tandfonline.com/doi/full/10.1080/19448953.2017.1407539>

93. <http://kfos.org/wp-content/uploads/2013/06/ROCK-AND-RULE-Dancing-with-EULEX-ENG.pdf>

94. [https://www.woscap.eu/documents/131298403/131299900/Kosovo+report\\_PU+\(5\).pdf/Kosovo%2520report\\_PU%2520\(5\)/index.pdf](https://www.woscap.eu/documents/131298403/131299900/Kosovo+report_PU+(5).pdf/Kosovo%2520report_PU%2520(5)/index.pdf)

95. <https://doi.org/10.1080/19448953.2017.1407539>

96. [https://www.effectiveinstitutions.org/media/The\\_EIP\\_P\\_to\\_P\\_Learning\\_Guide.pdf](https://www.effectiveinstitutions.org/media/The_EIP_P_to_P_Learning_Guide.pdf)



home countries and deferred to the interests of their home countries when perceived in conflict with orders received (Derks and Price 2010). Kosovan government sources reported that ‘EULEX staff has not provided any significant expertise to them’ (Kursani 2013).

Few members of EULEX’s foreign staff spoke Kosovo’s official languages of Albanian and Serbian, requiring the burdens and delays of translation, which impeded investigations, training, and public relations. Kosovo’s small size and culture of tight kinship networks made it difficult to conduct undercover operations and secure the cooperating witnesses necessary for complex investigations of corruption and organised crime (Proksik 2017). EULEX progress reports<sup>97</sup> conceded that witness protection proved difficult in major cases, as witnesses and their relatives had to be relocated outside the close-knit country, but many European countries balked<sup>98</sup> at accepting them.

In contrast, more than 93% of Guatemalans speak Spanish and maintain strong cultural ties with the rest of Central America, Colombia, and Mexico. Those countries resemble Guatemala in their legal systems and challenges. CICIG’s seasoned legal experts from countries like Spain, Colombia, and Costa Rica faced few cultural barriers among themselves or with Spanish-speaking local counterparts. Working within a shared language and legal tradition made it easier for CICIG personnel to collect evidence, collaborate on investigations, navigate political challenges, and win public trust. CICIG’s Latin American and Iberian leadership and UN backing helped counter accusations of neocolonialism based on the political and financial support from the U.S., a common trope used by CICIG’s detractors in Guatemala.

## Political incentives and influences

In Guatemala, the beneficiaries of corruption are powerful and influential and capable of brutal violence, but they lack bargaining power and broad popular support. Foreign governments perceive them as menaces fostering

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97. <http://www.eulex-kosovo.eu/docs/Accountability/EULEX-PROGRAMME-REPORT-July-2009-new.pdf>

98. <https://balkaninsight.com/2016/10/03/new-kosovo-court-confronts-witness-protection-fears-10-02-2016/>

cross-border flows of illegal narcotics<sup>99</sup> and arms,<sup>100</sup> gang violence,<sup>101</sup> and migrants.<sup>102</sup>

While Guatemala's electoral politics are flawed and unrepresentative of the country's diversity, they are competitive. During CICIG's 12-year lifespan, power changed hands three times, from the centre-left presidency of Álvaro Colom to the more right-wing Perez Molina to the populist firebrand Jimmy Morales. Guatemala has strong civil society institutions, including influential Catholic groups, as well as the persistent reformist political tradition that gave rise to CICIG. Some prominent office-holders supported CICIG, like the successive attorneys general Velazquez Zarate, Claudia Paz y Paz, and Thelma Aldana. Other Guatemalan office-holders had ample electoral incentive to at least appear broadly supportive of CICIG and its work, to burnish their reformist credentials, and differentiate themselves in a competitive political environment.

EULEX faced a more complicated political context. Recently emerged from decades of Serbian domination, Kosovo's partisan politics, civic institutions, and civil society were spirited but nascent. Few political or civic leaders saw EULEX as either a saviour or a threat. More than in Guatemala, Kosovan power holders had heavyweight allies and antagonists on the international stage.

While EULEX leaders denied making legal decisions for political reasons, some scholars<sup>103</sup> and critics<sup>104</sup> detected patterns of political favouritism. Reportedly, EULEX leaders felt pressure to avoid political blowback and give weight to broader EU objectives like enlargement, regional stability, and human rights (Radin 2014). Surely EULEX feared destabilising the fragile democracy<sup>105</sup> they aimed to help Kosovo build. EULEX leaders carefully managed relations with influential decision makers with the power to spark or escalate crises, who sometimes showed a canny ability to exploit

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99. <https://latinamericanpost.com/21395-guatemala-from-a-trafficking-bridge-to-a-drug-producing-country>

100. <https://www.insightcrime.org/news/brief/guatemala-arms-trafficking-routes-mirrors-drug-trafficking-hot-spots/>

101. <https://www.cfr.org/background/central-americas-violent-northern-triangle>

102. <https://www.theglobeandmail.com/opinion/article-guatemalas-corruption-crisis-also-the-united-states-migration/>

103. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2561856](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2561856)

104. <https://www.theguardian.com/world/2014/nov/06/eu-accused-over-kosovo-mission-failings>

105. <https://www.tandfonline.com/doi/full/10.1080/19448953.2017.1407539>

the EU's risk aversion. One Kosovan source lamented:<sup>106</sup> 'EULEX does not go after big fish, since it knows they are the ones maintaining the stability in the country.' For example, when clashes in northern Kosovo escalated in the summer of 2011, EULEX feared a repeat of the violent riots and religious desecration campaigns of 2004,<sup>107</sup> one reason the mission proceeded very cautiously in the area.

*CICIG's light footprint and domestic political support allowed it to act boldly without triggering political pushback that threatened international interests.*

CICIG leaders also needed government cooperation and were sensitive to Guatemalan politics, but their investigative targets had less international leverage. Antagonists experimented with many angles of attack on CICIG, from smear campaigns<sup>108</sup> to sophisticated social media manipulations<sup>109</sup> to overseas lobbying efforts<sup>110</sup> to expulsion of CICIG personnel,<sup>111</sup> even aside from the country's savage gang violence<sup>112</sup> and politically motivated killings.<sup>113</sup> In 2018, Guatemala's president even made a curious decision to move its embassy in Israel to Jerusalem, which some perceived as a bid<sup>114</sup> for U.S. acquiescence in CICIG's early ouster. Still, CICIG's light footprint and domestic political support meant that its leaders could act boldly without triggering political pushback that threatened international interests. CICIG could upend local institutions and politics without destabilising the state or the region.

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106. <https://doi.org/10.1080/19448953.2017.1407539>

107. <https://www.hrw.org/report/2004/07/25/failure-protect/anti-minority-violence-kosovo-march-2004>

108. <https://www.insightcrime.org/news/analysis/head-guatemala-cicig-offensive-amid-smear-campaign/>

109. <https://theintercept.com/2018/04/07/guatemala-anti-corruption-trolls-smear-campaign/>

110. <https://www.opensocietyfoundations.org/voices/international-prosecutors-fought-corruption-guatemala-now-they-ve-been-ordered-out>

111. <https://www.nytimes.com/2019/05/18/world/americas/guatemala-cicig-aldana-corruption.html>

112. <http://time.com/4674482/guatemala-boys-murder-school-funeral/>

113. <https://nacla.org/news/2018/06/21/terror-guatemala>

114. <https://newrepublic.com/minutes/151244/pays-move-countrys-embassy-jerusalem>

## Strategic priorities

The conditions they faced and objectives they pursued informed strategic decisions made by both missions' leadership. Initially led by military officers, EULEX directed attention to its security mission. With a freer hand and narrower mandate, the civilian judges and prosecutors who ran CICIG were engaged single-mindedly on accountability, even at the expense of political instability.

*EULEX was process-oriented – aimed at meeting benchmarks on state-building. CICIG was goal-oriented in its pursuit of clandestine networks.*

EULEX was more process-oriented, aimed at meeting benchmarks towards the broad and indefinite project of state-building, while CICIG was more goal-oriented in its pursuit of clandestine networks. EULEX leaders limited their ambitions to keep their processes on track, while CICIG leaders tailored and adapted processes to serve specific aims.

Early on, CICIG erred by diverting attention to high-profile investigations outside its mandate, attracting attention but not making sustained incremental progress. But by 2015, CICIG focused relentlessly on Guatemala's corruption networks (Open Society Foundations 2016). This focus yielded dividends in multi-year investigations that ultimately implicated high-level defendants. CICIG did not ignore capacity building – it helped introduce reforms and knowledge-sharing on investigative techniques<sup>115</sup> like wiretapping, forensics, data collection and analysis, tracing illicit financial flows, and the cultivation and protection of confidential informants. Those intervention points were instrumental to the strategic goal of taking down corruption networks. The commissioners identified the most urgently needed reforms based on input from local counterparts, civil society, and their own experience working on related cases.

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115. [https://www.cicig.org/wp-content/uploads/2018/10/Boletin\\_Fortalecimiento\\_MP\\_Eng\\_.pdf](https://www.cicig.org/wp-content/uploads/2018/10/Boletin_Fortalecimiento_MP_Eng_.pdf)

From the outside, those choices could seem small or technical, like revamping the witness protection programme and wiretapping unit of the attorney general's office. One example of a seemingly minor but consequential change was CICIG's push for Guatemala to revise its 'confidential informant' law, which allowed prosecutors to offer incentives to witnesses for cooperation (WOLA 2015). As passed in 2006, the law did not allow incentives to members of organised crime groups involved in murder, which had ruled out many defendants in Guatemala. Legal reforms passed in 2009 included a revision that enabled Guatemalan prosecutors to secure the cooperation of low-level gang members, even those involved with violent crimes, to build stronger cases against gang leaders.

All those reforms required significant investments of CICIG's time, effort, and political capital. Indeed, CICIG was unable to achieve many of its other desired reforms, particularly those related to the Guatemalan police, banking secrecy laws, and reform of legal immunity. CICIG leaders made the choice to prioritise the reforms most necessary to take on the clandestine groups that perpetuated and profited from Guatemala's corruption and impunity and underperforming legal system. Particularly under director Ivan Velásquez who took office in 2013, CICIG focused on exposing the workings, impact, and reach of local corruption networks even if they could not be toppled directly (Open Society Foundations 2016). Full awareness of such groups might open a window of reform for Guatemala to strengthen the rule of law.

EULEX, on the other hand, started with a window of opportunity to strengthen Kosovo's weak laws and institutions, which had fostered an environment of corruption and impunity. However, this window of opportunity was obstructed by existing corruption networks, who could neutralise or subvert legal reforms and capacity-building efforts and had the time and motivation to wait for EULEX's window to close.

EULEX took a methodical checklist approach, pushing legal and institutional reforms intended to bring Kosovo closer to parity with other European states. First, EULEX began with a six-month evaluation phase to establish a baseline and take stock of Kosovan government performance by sector. The mission then zeroed in on the judicial sector, identifying and filling gaps in structure, laws, and institutions. As in other transitional democracies, EULEX's standardised approach sometimes provided Kosovo with laws, institutions, and other concrete outputs that were pretextual in practice and easily undermined by reform antagonists.

Kosovo's justice system evolved into an overcrowded ecosystem<sup>116</sup> of new and legacy institutions with unclear and overlapping mandates. Conflicting and unclear legal sources potentially gave justice-sector decision makers cover to make questionable decisions based on technicalities and ambiguities. As Joschka Proksik wrote, 'Although in many areas adequate legislation has been put in place, the government of Kosovo has displayed little efforts to enable local institutions to enact the law in practice. Hence, there is a rather stark discrepancy between progress on the formal, legal level and actual, notable achievements in practice, particularly in terms of prosecuting and repressing corruption and organized crime.' Proksik mentioned rules about witness immunity and confidentiality as one area where legal ambiguities impeded prosecutions.

*While EULEX leaders mended garden fences and provided space for institutions to grow – CICIG focused on uprooting weeds.*

Essentially, EULEX leaders approached their mission like gardening: planting and pruning, mending fences, providing sunshine and space for institutions to grow. CICIG leaders focused directly on uprooting weeds. The difference can be seen in the way EULEX leaders talked<sup>117</sup> in a 2010 interview: 'You will never be able to eradicate [corruption], but it should be within a certain acceptable level. ...[Corruption] has invaded the society. It has developed and has gone deep... The aim is get the system running again. This is the best thing that we can do...' In its progress reports, EULEX touted outputs like laws passed and equipment delivered, and showcased the fruits of war crimes investigations rather than any gains against corruption and organised crime. Later leaders promised to take on 'big fish' cases but their lack of results belied their ambitious rhetoric (Zupančič 2017).

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116. <https://www.cmi.no/publications/5968-anti-corruption-justice-and-collaboration-in>  
 117. <http://www.tol.org/client/article/21696-eulex-chief-prosecutor-terrified-at-level-of-kosovo-corruption.html>

## Inter-agency coordination

CICIG, by design, could get little done without cooperation with local prosecutors. And yet, the commission began with poor relations with Guatemala's attorney general's office, which commissioners had reason to believe was entangled with the corruption networks they were trying to target. The commission made a few important decisions early on to build a productive, transformative relationship.

First, backed by international and local allies, CICIG pressured Guatemala's president to appoint an attorney general supportive of CICIG (Open Society Foundations 2016). For most of CICIG's duration, the commission had strong partners in the attorney general's office. While presidential administrations varied in their enthusiasm for the commission, public and international pressure prevented the appointment of an attorney general hostile to CICIG.

Second, rather than try to overhaul the attorney general's office or sideline it and demand the establishment of a new anti-corruption agency with prosecutorial powers, CICIG chose a middle-ground option<sup>118</sup> to support the creation of the Special Prosecutor's Bureau within Guatemala's public prosecutor's office. This choice had trade-offs – a whole new office would have required a high investment of time, energy, and political will but would have benefited from special powers and safeguards of independence and a honeymoon period of public goodwill. Working with a counterpart bureau within the attorney general's office required only non-legislative administrative changes, showed confidence in existing institutions, and helped build trust and information exchange.

Working with this counterpart office, backed by supportive attorneys general, CICIG pursued an incremental strategy to methodically build capacity and knowledge towards deep investigations of corruption networks. The commission generally deferred to its partner and addressed tasks and cases the prosecutor's office was ill-equipped to handle (WOLA 2015). The commission helped the prosecutor's office develop a strategic litigation plan<sup>119</sup> organised thematically around critical areas like administrative and judicial corruption. And the commission helped draft legal reforms and bring trainings and technical assistance to further empower the specialised

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118. <https://www.oecd.org/countries/lithuania/49540917.pdf>

119. <https://www.cicig.org/press-release-2018/11th-annual-work-report-of-cicig/?lang=en>

office with capacities like wiretapping, undercover investigations, and crime analysis. As the specialised bureau demonstrated viability, CICIG shifted strategically to transfer skills through joint investigations rather than training (Open Society Foundations 2016). Thus, Guatemalan investigators and prosecutors pushed their own limits with CICIG as a partner and backstop.

*EULEX judges' short terms and heavy caseloads gave little incentive to cultivate knowledge transfer outside of formal training settings.*

In Kosovo, EULEX-led prosecutions and adjudications became a first resort as a matter of expediency, obviating the need for strong inter-agency coordination. EULEX judges, serving for short terms and burdened by heavy caseloads, had little incentive to build the relationships of familiarity and trust that could lead to knowledge transfer outside of formal training settings. EULEX suffered from instability and politicisation, with judicial vacancies frequently unfilled<sup>120</sup> and low public trust<sup>121</sup> in judicial institutions. An OSCE report in 2012<sup>122</sup> found that EULEX had failed to address the lack of transparency and safeguards of independence in Kosovo's judiciary. Rather than focus efforts in a single bureau, Kosovo diffused anti-corruption responsibilities<sup>123</sup> and resources across several offices, including a specialised anti-corruption agency, which complicated cooperation with EULEX.

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120. <https://www.business-anti-corruption.com/country-profiles/kosovo/>

121. <http://seldi.net/publications/publications/corruption-assessment-report-kosovo-2016/>

122. <https://www.osce.org/kosovo/87138?download=true>

123. <https://www.u4.no/publications/anti-corruption-justice-and-collaboration-in-kosovo-challenges-and-recommendations>



## Winning public trust

*CICIG took steps to earn and maintain public trust, which paid dividends when they came under fierce attack.*

Public support can be a crucial countermeasure<sup>124</sup> against pushback from powerful antagonists of organised crime and corruption investigations. CICIG took several steps to earn and maintain public trust, which paid dividends when commissioners and the commission itself came under fierce attack.

First, CICIG emphasised cooperation with civil society and local institutions, whose assets included local knowledge, credibility, and volunteer assistance. Indeed, CICIG was a local civil society initiative from the start, and attorneys general served as enthusiastic partners. Civil society groups offered CICIG investigative leads, voiced support in the media, pressured governments to appoint CICIG allies to the attorney general's office, and organised multiple<sup>125</sup> street protests<sup>126</sup> against the commission's termination. Young people and indigenous groups often led the charge, but CICIG's cultivation of strong relations with the Guatemalan business community<sup>127</sup> also provided critical support behind the scenes.

*EULEX had a rockier relationship with Kosovan civil society groups, due to its official position of neutrality towards Kosovan statehood and perceived infringement on national sovereignty.*

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124. <https://successfultsocieties.princeton.edu/publications/underdogs-watchdogs-how-anti-corruption-agencies-can-hold-potent-adversaries>

125. <https://www.aljazeera.com/news/2018/09/guatemalans-protest-morales-annulment-cicig-180913172334749.html>

126. <https://www.aljazeera.com/news/2019/01/guatemalans-protest-gov-decision-kick-anti-graft-body-190113011157284.html>

127. <https://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.12518>

EULEX had a rockier relationship with Kosovan civil society groups, handicapped from the start<sup>128</sup> due to its official position of neutrality towards Kosovan statehood and perceived infringement<sup>129</sup> on national sovereignty. EULEX leaders organised civil society workshops<sup>130</sup> in the early years of the project, although some civil society representatives claimed that EULEX did not consult with them directly until years later (van der Borgh 2017). Civil society groups complained<sup>131</sup> of a lack of transparency from EULEX and a lack of formal channels of cooperation, beyond ad hoc consultations. Ultimately, the attitude of Kosovan civil society groups towards EULEX ranged from hostile to ambivalent,<sup>132</sup> and dissatisfaction sometimes erupted into anti-EULEX protests.<sup>133</sup>

EULEX touted a professional, responsive, and multilingual media office<sup>134</sup> with a sophisticated web presence, including a YouTube channel adapted to the growing importance of social media<sup>135</sup> as a news source for Kosovans, particularly the young and politically engaged. However, such public engagement efforts failed to win<sup>136</sup> positive reactions from local viewers.

CICIG's public relations efforts were more modest but also nimbler and more direct, better adapted to the social media era. The commission's initial understated presence evolved into a more combative stance when investigative targets used their media influence to undercut the commissioners' credibility with personal and defamatory attacks (Open Society Foundations 2016). Wary of media corruption, CICIG disseminated information online, including interviews and video. CICIG detractors

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128. <http://kfos.org/wp-content/uploads/2013/06/ROCK-AND-RULE-Dancing-with-EULEX-ENG.pdf>

129. <https://www.tandfonline.com/doi/pdf/10.1080/13523260.2017.1407060>

130. <http://www.eulex-kosovo.eu/en/news/000191.php>

131. [http://eplo.org/wp-content/uploads/2017/04/EPLO\\_CSDP\\_WG\\_Study\\_Accountability\\_and\\_Effectiveness\\_of\\_CSDP\\_Missions.pdf](http://eplo.org/wp-content/uploads/2017/04/EPLO_CSDP_WG_Study_Accountability_and_Effectiveness_of_CSDP_Missions.pdf)

132. <https://books.google.com/books?id=Vj2Bo1w-lAYC&pg=PA131&lpg=PA131&dq=civil+society+eulex+ambivalent&source=bl&ots=1OMsFVswYT&sig=ACfU3U2pUDBrrCoOPPObaEvoZD2MXYFGWg&hl=en&sa=X&ved=2ahUKEwj5yLW4gMfgAhVihuAKHQGADO4Q6AEwBnoECAgQAQ#v=onepage&q=civil%2520society%2520eulex%2520ambivalent&f=false>

133. <https://balkaninsight.com/2009/08/25/protesters-overturn-25-eulex-cars/>

134. <https://www.eulex-kosovo.eu/?page=2,4>

135. [https://www.academia.edu/23722699/POLITICAL\\_POWER\\_OF\\_SOCIAL\\_MEDIA\\_IN\\_KOSOVO](https://www.academia.edu/23722699/POLITICAL_POWER_OF_SOCIAL_MEDIA_IN_KOSOVO)

136. <https://eustudies.org/conference/papers/download/394>

responded<sup>137</sup> by creating dummy social media accounts, fake news, and other modern innovations, which muddied CICIG's messaging and swamped its communication channels.

Ultimately, popular support depends upon the deliverance of results, even as public expectations rise over time. In her study of ethnic-Albanian resistance to EULEX, political scientist Ewa Mahr found:<sup>138</sup> 'Lack of effectiveness on the part of EULEX's, defined mostly as its lack of success in fighting high-level corruption, was the most important reason for Albanian contestation.' Her sources blamed EULEX for being unresponsive to local input and publicly setting high expectations of pursuing 'big fish' cases without follow-through.

CICIG gained public trust by making headway against Guatemala's challenges, after decades of dashed hopes, from early quick wins to headline-grabbing investigations into the highest levels of government. In contrast, as one Kosovan civil society leader put it,<sup>139</sup> EULEX was 'focused on PR [public relations] shows, not results.'

## Lessons learned

Several lessons can be gleaned from the outcomes of EULEX and CICIG, to improve design of international justice interventions to counter corruption and uproot impunity, as well as peer-learning efforts more broadly.

1. Narrowly targeted international interventions against specific issues of corruption and organised crime can focus the power and resources that domestic institutions need to help manage overwhelming crises or clear obstacles to enforcement. The problems that prompt a mission should drive investments of effort and political capital. Rather than taking a checklist approach to strengthening laws and institutions, missions that work strategically towards specific goals can open windows for reform.
2. Corruption is often perpetuated by its beneficiaries, who have the patience, leverage, and motivation to undercut counter-efforts. Peer-to-

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137. <https://theintercept.com/2018/04/07/guatemala-anti-corruption-trolls-smear-campaign/>

138. <https://www.tandfonline.com/doi/full/10.1080/13523260.2017.1407060>

139. <http://www.balkananalysis.com/kosovo/2011/05/02/eulex%25E2%2580%2599s-perceived-timidity-lack-of-results-damaging-image-among-kosovars/>

peer efforts should address such antagonists directly and aim to build capacity, political will, and public support to sustain pressure against them. Media manipulation can easily divide public support, so public engagement must be direct and aggressive.

3. As in any programme design, administrative issues are crucial. Flexibility in hiring and human resources can help mission leadership act nimbly and build the right team. Clear internal processes and standards can help prevent scandals and controversy.
4. Peer-to-peer learning and capacity building work best when foreign experts and local counterparts share common ground. Where cultural or institutional barriers to cooperation are present, smaller but longer-term teams with structural incentives to collaborate can facilitate bonding. Foreign advisors might 'match'<sup>140</sup> with similarly situated counterparts, as judges did in Kosovo and prosecutors in Guatemala.
5. If local personnel are to 'learn by doing,' then they need to take the lead. Counter-intuitively, foreign advisors may do best with limited powers that allow them to back up their local counterparts without supplanting them. The establishment of a specialised office can allay concerns about the capacity or cooperativeness of counterpart institutions, like CICIG helped create within the Office of the Attorney General of Guatemala.
6. Together with local partners, international assistance missions should prioritise the legal and administrative changes instrumental to achieving the specific goals of the intervention, rather than try to fix everything.

Such factors may allow a peer-to-peer mission to achieve results by illuminating corruption networks, bringing their beneficiaries to justice, passing reforms, winning public trust, and ultimately transforming a culture of impunity into one characterised by equality under the law. However, as CICIG's premature dismissal from Guatemala shows, the antagonists of corruption are tireless and adaptive. No intervention lasts forever, which is why peer learning is critical to carry its legacy forward. The emergence of sophisticated political sabotage tactics in Guatemala exposes an area of concern for the international community, which needs to adapt media strategies for social media landscapes rife with manipulation.

Even if windows of reform close in Guatemala and Kosovo, as CICIG and EULEX wind up their mandate, hopefully future international collaborations will learn from their achievements and mistakes. Kosovo might benefit from

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140. [https://www.effectiveinstitutions.org/media/The\\_EIP\\_P\\_to\\_P\\_Learning\\_Guide.pdf](https://www.effectiveinstitutions.org/media/The_EIP_P_to_P_Learning_Guide.pdf)

more targeted international efforts to tackle systemic corruption, with long-term international partnerships to reform specific institutions or take on clandestine networks. Guatemala needs assistance disseminating reforms across the justice sector, particularly across the judiciary and law enforcement.

Both EULEX and CICIG were early experiments in international justice assistance blending international and local elements, and both ultimately point to the promise of such efforts if designed to stimulate peer learning and collaboration. Neither effort may have magically cleaned up systemic corruption and organised crime, but they demonstrated, to quote Mary Poppins, that ‘Well begun is half done.’ With designs that account for targeted mandates and structurally encouraged collaboration, future endeavours might learn from the strategic adaptations of both efforts.

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