

EULEX PROGRAMME REPORT 2012

EULEX

RULE OF LAW BEYOND THE HEADLINES



European Union Rule of Law Mission

Kosovo



EULEX PROGRAMME
REPORT 2012

EULEX

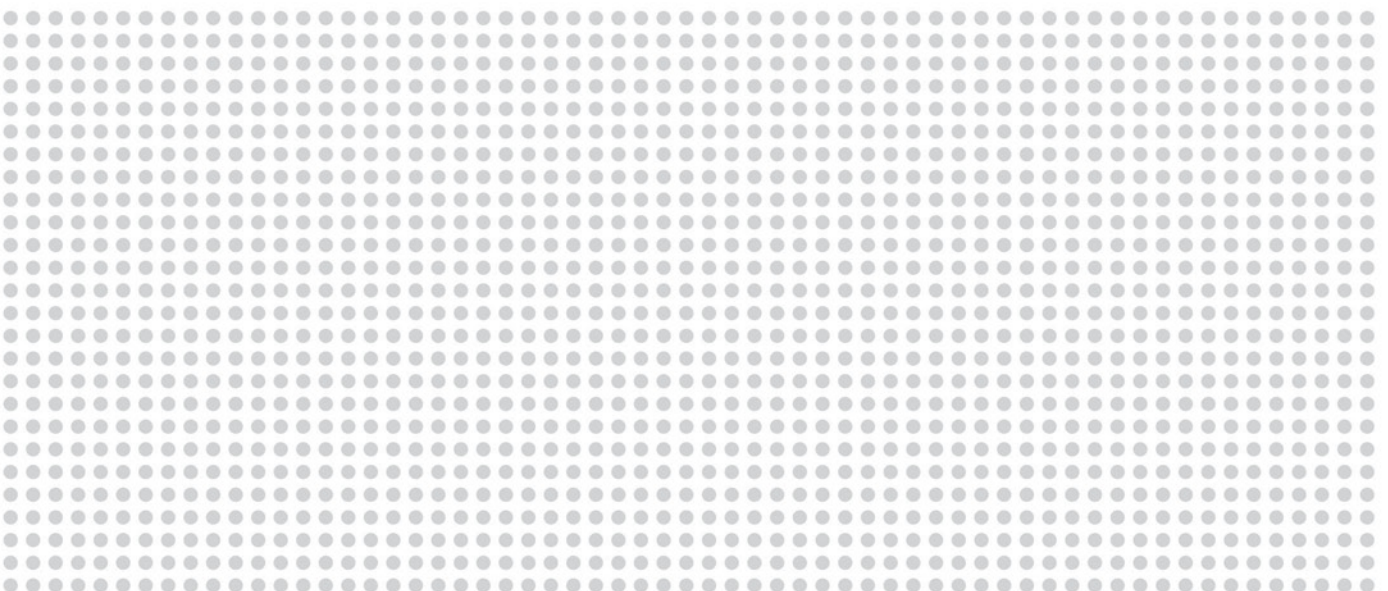
RULE OF LAW BEYOND THE HEADLINES

LIST OF ABBREVIATIONS

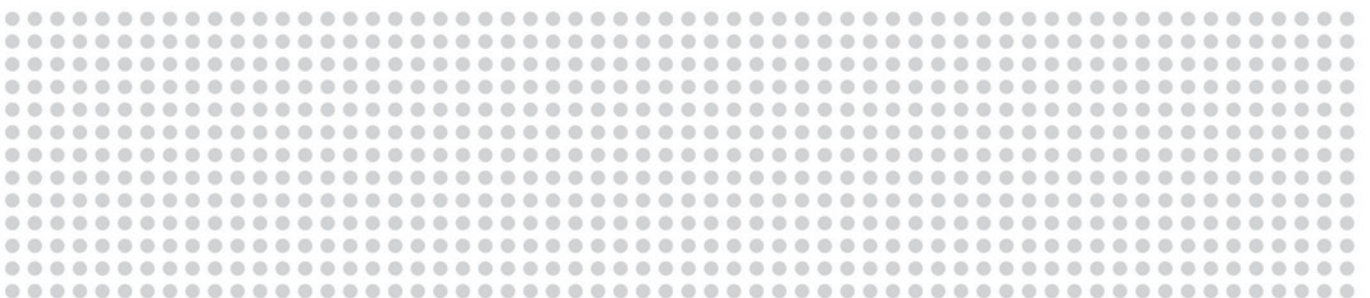
ASYCUDA	Automated System for Customs Data software	KDI	Kosovo Democratic Institute
BCP	Border Crossing Point	KIPRED	Kosovo Institute for Policy Research and Development
BIRN	Balkan Investigative Reporting Network	KJC	Kosovo Judicial Council
BP	Border Police	KLI	Kosovo Law Institute
CAS	Case Allocation System	KP	Kosovo Police
CCTV	Closed Circuit Television	KPAN	Kosovo Policy Action Network
CLARD	Center for Legal Aid and Regional Development	KPC	Kosovo Prosecutorial Council
CMIS	Case Management Information System	KPIS	Kosovo Police Information System
CPU	Community Policing Units	KRCT	Kosovo Rehabilitation Center for Victims of Torture
CSDP	Common Security Defence Policy	KTA	Kosovo Tax Administration
DC	District Courts	MC	Municipal Court
DCA	Directorate of Crime Analyses	MCSC	Municipal Community Safety Councils
DIA	Directorate of Intelligence Analyses	MMA	Mentoring Monitoring Advising
DMF	Department of Forensic Medicine	MoIA	Ministry of Internal Affairs
DOC	Directorate of Organized Crime	MoJ	Ministry of Justice
DPPO	District Public Prosecutor Offices	MoU	Memorandum of Understanding
ECLO	European Commission Liaison Office	MPPO	Municipal Public Prosecutor Offices
ECMI	European Center for Minority Issues	MTI	Ministry of Trade of Industry
EPLO	European Peace building Liaison Office	NCBM	National Centre for Border Management
EU	European Union	NGO	Non-Governmental Organization
EULEX	European Union Rule of Law Mission	OMPF	Office of Missing Persons and Forensics
EUSR	European Union Special Representative	OSU	Operational Support Unit
FIQ	Forum for Civic Initiatives	PEG	Prisoner Escort Group
IBM	Integrated Border Management	PEU	Prisoner Escort Unit
I/EO	Improvised Explosives Ordinance	PMIS	Prosecutorial Management Information System
I/EO	Improvised/Explosive Ordnance Disposal	SALW	Small Arms and Light Weapons
ICTSSP	Information and Communication Technologies Systems Strategic Plan	SEED	Electronic Exchange on Data
ICO	International Civilian Office	SIR	Security Information System
ICR	International Civilian Representative	SIU	Special Intervention Unit
IIS	Integrated Intelligence System	SOF	Strategic Operations Framework
ILP	Intelligence led- policing	SOP	Standard Operational Procedures
IPR	Intellectual Property Rights	SOS	Standard Operating System
IRB	Independent Review Board	SPRK	Special Prosecution Office of Kosovo
ISAP	International Standards Audit Programme	TAIEX	Technical Assistance and Information Exchange
KC	Kosovo Customs	TIMS	Trade Information Management System
KCS	Kosovo Correction Services	UNMIK	United Nations Mission in Kosovo
KCSF	Kosovo Civil Society Foundation		
KCSS	Kosovo Center for Security Studies		

TABLE OF CONTENTS

FOREWORD BY EULEX HEAD OF MISSION	04
PART 1- DEVELOPMENTS	06
KOSOVO POLICE DEVELOPMENT	10
DEVELOPMENT OF THE KOSOVO JUDICIARY	20
CUSTOMS	30
CIVIL SOCIETY AND EULEX MMA	38
PART 2 - EULEX 2.0	42
ENDNOTES	48
BIBLIOGRAPHY	50
ACKNOWLEDGMENTS	53



FOREWORD BY HEAD OF MISSION



of mission

Dear Reader,

It is my pleasure to present to you the fourth – and brand new – version of the EULEX Programme report.

The past year has been a challenging one for the Mission, and the report you have in your hands carefully reflects that. For us, and for you, we have strived to do a detailed stock take of the developments in Kosovo's Rule of Law field during the last three years. Throughout its mandate the Mission has been monitoring, mentoring, and advising (MMA) our counterparts in the area of justice, police and customs, and great deal of progress has indeed been achieved.

However, as we often say, more work remains to be done. Hence, the EULEX mandate has been extended by two years from 15 June 2012 onwards. Based on the findings in this report, we are focusing our efforts systematically into those areas that still need our support.

As EULEX does careful stock take of the work we and our interlocutors have done, we are presented with the perfect opportunity to realign and redirect the Mission to those areas that benefit from further development - and 'right-size' where significant progress has been accomplished. For this reason the next programme report you will have a chance to read will look somewhat different to the ones up until now.

I for one am motivated by these changes, and would like to take this opportunity to highlight something that is often overlooked. Rule of Law is not the sole responsibility of those, who work in police, justice or customs. Rule of Law is something that all of us can have a positive impact on. Collectively we can take up this momentum

and strive towards bringing Kosovo closer to the internationally recognised standards and European best practices. I and my staff at EULEX are here to help.

Overall, the EU has decided to engage with Kosovo in a number of ways that relate to the Rule of Law: the Structured Dialogue on the Rule of Law, the Visa Liberalisation Dialogue, and the Feasibility Study. These crucial processes firmly anchor Kosovo in the EU's policy framework for the Western Balkans and, at the same time, lay the groundwork for a more strategic contribution of the Mission.

So, EULEX will build on the solid expertise and the important work carried out until now by our staff. But moreover, in line with the mandate entrusted to it by the Member States, the Mission vows to offer more adaptability, therefore complementing the overall EU agenda in Kosovo. We continue to operate in strong partnership with the Kosovo Rule of Law institutions throughout.

As the implementation of the structural changes remains the responsibility of Kosovo's Rule of Law professionals, I would like to extend my warm words of gratitude to those who work side-by-side with our EULEX colleagues every day. It is only in partnership that we can achieve sustainable results for the benefit of all the people in Kosovo.

With best wishes,

Xavier Bout de Marnhac

PART 1

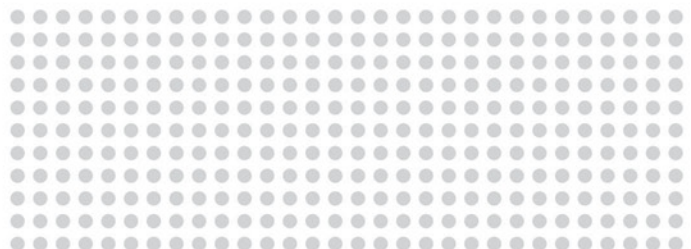
DECEMBER 2008 / JUNE 2012

DEVELOPMENTS

The table below gives an overview of the progress of Kosovo's rule of law institutions in the areas where EULEX is fostering organizational change.

RULE OF LAW AREA	SECTORS	2012vs2011	2011vs2010	2010vs2009
POLICE	Tackling Crime effectively	A	A	B
	Tackling Patrol issues and ensuring public order	A	A	B
	Providing Secure Borders	A	A	A
	Providing a sustainable organization	B	A	B
JUSTICE	Kosovo judicial Council	B	A	B
	Judges	B	B	B/C
	Kosovo Prosecutorial Council	B	B	B/C
	Prosecutors	B	B	B
	Ministry of Justice	B	B	B/C
	Department of Forensic Medicine	C	C	B/C
	Correctional Service	A	A	A/C
CUSTOMS	Integrating Government Strategies into operational plans	B	B	B
	Improving Internal Communication	B	B	B/C
	Co-operation with other law enforcement agencies	B	B	B
	Integrated Border Management Strategy	B	B	B/C

- A Progress
- B Slow Progress/ need more impetus
- C Problematic/ very limited or no progress
- D Serious concern/ regression





KOSOVO POLICE DEV



Police
DEVELOPMENT

KOSOVO POLICE DEVELOPMENT

1. Introduction

Since the inception of the EULEX activities¹ in September 2009 a great deal of progress has been made by Kosovo Police (KP) toward the EULEX Mission aims: greater sustainability and accountability, freedom from political interference and multi-ethnicity, and compliance with European best practice and internationally recognized standards. That progress is seen graphically in Figure KP1. In May 2012 KP had achieved the full completion of 18 MMA projects, or 58% of the total number of active areas of development.²

In addition, a further 7 MMA projects (22%) had achieved some of the Key Outputs. Five Actions were closed due to a lack of suitable resources³ and one was removed⁴ as obsolete, following the Kosovo Police restructuring in year 2010. All this represents a tangible achievement for a police organization that only obtained full executive management authority in December 2008, at the same time that the EULEX Mission was launched.

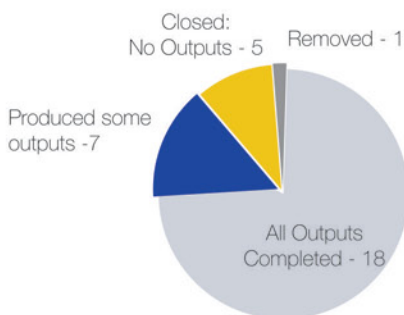


Figure KP1: 2009 – 2012 Performance

Before examining the detail of what Kosovo Police has achieved through the MMA Programme it is helpful to review the process whereby EULEX facilitated police development.

Since December 2008 EULEX has been working with its counterparts in Kosovo's Rule of Law to develop competencies and performance in a structured and transparent manner.⁵ As dictated in Figure KP2, a two-phased strategy was developed and agreed, in which EULEX would first assess the 'current status' of KP, then agree on MMA Actions designed to improve areas of performance weakness.

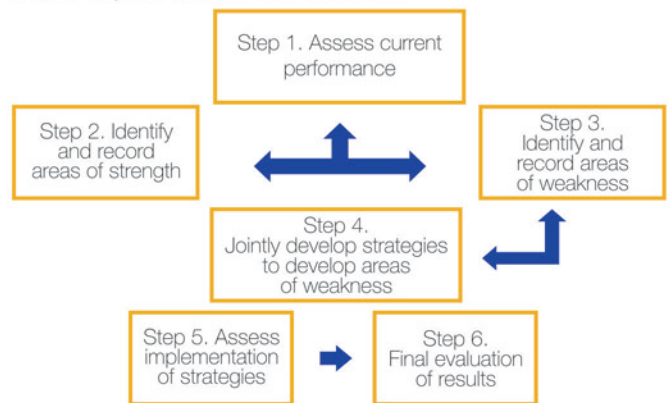


Figure KP2: Development Strategy

In Phase One (December 2008 to June 2009) EULEX staff conducted a comprehensive assessment of KP performance (Step 1) and identified areas of organizational strengths (Step 2) and organizational weaknesses (Step 3). This resulted in the Programme Report (July 2009) and great number of recommendations about things that needed to change in the KP organization. As a result, EULEX commenced Phase Two with the close cooperation of KP. Strategies were developed to convert the recommendations into actual changes on the ground (Step 4). Each strategy targeted a particular area of development and became known as an 'MMA Action' – a cluster of activities conducted by Kosovo Police staff under the active advice and mentoring of EULEX staff. As the MMA Action progressed beyond the planning stage and into implementation by KP, it was closely monitored by EULEX staff (Step 5). Once an MMA Action is successfully completed, the EULEX staff prepare a Final Report that summarizes what has

been achieved and the extent to which the outputs have been produced (Step 6).⁶This provides auditors with a record of how the investment of staff resources and time have been used to effect positive change.

Tackling Crime Effectively

Over the course of Phase II (2009–12) KP Crime has worked hard to develop in key organizational areas, thereby strengthening the ability to tackle crime proactively. Chart KP1 provides a summary of the first four Baseline indicators that triggered MMA Actions in KP Crime as a result of the 2009 assessment by EULEX.

The management of crime demands that the police have a carefully thought-through strategy that targets limited police resources in an intelligent manner, prioritizing the most serious forms of crime. Such a strategy must be based on sound and reliable information about crimes and criminals. It demands a robust and reliable system of recording, collating and analysing reported crimes across Kosovo. This is more than just a matter of having access to Information Technology, in terms of software and hardware. It involves the development of methods of categorizing crimes that match European best practice, uses appropriate operating procedures, and provides staff with the necessary knowledge and skills to make it all work.

CHART KP1: BASELINE

2009 Performance Deficit	Action
At the time of the 2009 assessment KP lacked a detailed and comprehensive strategy to tackle crime across Kosovo.	PSD1/2009
The 2009 evaluation revealed that the method of categorizing crime statistics did not accord with European best practice.	PSD2/2009
KP crime managers in 2009 could not indicate the number or types of crime that involved ethnic minority victims.	PSD3/2009
KP had several competing systems of collecting, collating and analyzing crime in 2009.	PSD9/2009

Many of the core ingredients of managing crime – as described above – were found to be inadequate or absent in KP Crime at the time of the 2009 EULEX

Baseline assessment. This resulted in agreements with the KP Director General to launch four MMA Actions that would specifically target those areas of performance weakness. This work has proved largely successful, as indicated in Chart KP2. The KP has a **Crime Reduction Strategy** in place and, perhaps more importantly, has senior managers who understand the role and importance of developing and amending such a strategy as a way of directing limited resources in a way that targets the priority areas of the changing crime landscape of Kosovo.

Chart KP2: Performance in Tackling Crime Effectively

Reference	Title	Level (%)
PSD1/2009	Crime reduction strategy	100
PSD2/2009	Revised crime statistics	66
PSD3/2009	Victim ethnicity statistics	100
PSD9/2009	Enhanced role of DCA as intelligence hub	100
PSD10/2009	Intelligence-led policing	50
PSD11/2009	KP Information System	CLOSED
PSD12/2009	Enhanced DOC capability	100
PSD32/2009	Enhanced forensic techniques	100
PSD36/2009	Proactive drug strategy	100

The KP effort to develop **Revised Crime Statistics** has helped the organization to adopt European best practice in this area of crime management. By increasing the knowledge and skill of its specialist employees in this area, KP has introduced new systems of categorizing and recording crime statistics and creates the basis for benchmark comparisons with other criminal justice systems in the region and further afield. Linked to this effort has been the achievement in **Victim Ethnicity Statistics**: this allows KP senior investigators to map crime trends that relate to ethnic minority citizens. It is vital in a multi-ethnic society that the KP is able to identify crime and safety concerns of minority citizens, identifying and reacting to specific problems that endanger their sense of security and safety.

CHART KP3: BASELINE

2009 Performance Deficit	Action
KP lacked an Intelligence-led policing culture in 2009, a handicap in its ambition to be proactive in tackling serious crime.	PSD10/2009
KP lacked database system that employed the latest technology in recording, categorizing and retrieving data about police-related incidents.	PSD11/2009
The DOC had not achieved its full potential as the lead entity in targeting organized criminals and crime groups.	PSD12/2009
Once the decision was made to transfer the Forensic Laboratory out of the KP organization in 2010, there was a need to review and reform the forensic functions within KP.	PSD32/2009
The KP operated a largely reactive response to the growing narcotic crime scene, lacking a more proactive strategy.	PSD36/2009

Statistics and other sources of crime intelligence are of little value unless KP Crime has a single hub that is responsible for collecting, collating, analysing and disseminating the information. As a result of a concerted effort in restructuring and reorganization, KP has greatly **enhanced the role of the Directorate of Crime Analysis** as the central intelligence hub. The Directorate of Crime Analysis (now known as the Directorate of Intelligence and Analysis) has increased its competencies and established its authority as the primary intelligence hub for KP. This achievement is helping to improve the KP's effort to become an organization with an 'intelligence-led policing' (ILP) culture.

With the core ingredients of strategic management of crime in place, KP has been able to support development in other key areas of deficit. Chart KP3 summarizes the other four performance deficits that were identified by EULEX in 2009. In order for a police organization to move beyond a purely reactive response to reported crimes to a more proactive capacity to target criminal activities, it needs evolve an ILP culture. Acting under EULEX guidance KP has made good progress in an ambitious programme of **Intelligence-Led Policing**. Although the Key Outputs of this MMA Action are 50% complete, much has been done to introduce intelligence-led policing throughout the KP organization. Moreover, these efforts continue to reap significant results for Kosovo's Criminal Justice System (CJS), as indicated by the number of drug seizures and intelligence-led crime investigations. Statistics show that the number/volumes of seized narcotics continue to rise and are linked to the improving capabilities of the KP ILP approach.

Due to problems with technical support and capital investment KP's progress with the evolution of the **KP Information System** (KPIS) has not been what the organization had hoped. Modifications have been made to the extant (UNMIK designed) KPIS, improving certain recording and retrieval features. It is hoped that future development will continue – with sufficient capital investment - under the guidance of the Ministry of Internal Affairs' 'Information and Communication Technologies Systems Strategic Plan (ICTSSP) – 2011 to 2015'.



Just as the KP need a single, authoritative intelligence hub, so the organization also needs a lead entity to orchestrate the response to organized crime throughout Kosovo. As part of the restructuring and reorganization effort KP has greatly **Enhanced Directorate of Organized Crime (DOC) Capability**, creating the basis for planning and implementation of targeted operations that are based on the DIA intelligence. Perhaps one of the most successful aspects of KP Crime's development over the last three years has been the organization's growing prowess in tackling the menace of narcotics crime in Kosovo. KP has developed a **Proactive Drug Strategy** that has yielded significant results in terms of drug seizures. Seizures of heroin, for example, have risen from 36Kg in 2009 to 60kg in 2011; and marihuana seizures increased from 43Kg to 216kg in the same period.

After the decision to remove the Forensic Laboratory from the KP organization there was an obvious need to review and change, where necessary, the KP's specialist forensic capabilities. The project on **Enhanced Forensic Techniques**, successfully developed a quality control function to measure performance in KP Forensic Services, and oversee the provision of specialist equipment and related training.

Providing Secure Borders

KP Border has faced significant challenges since the start of the EULEX mandate. As can be seen in Figure KP5, overall performance in developing the agreed areas of weakness has been poor. Only two MMA Actions out of a total of six were fully completed, and much remains to be done in the effort to ensure proper border management in Kosovo.

In terms of the limited success in KP Border, only the MMA Action that relates to **Enhanced Planning Capability** was completed over the period of three years. Minimum standards in planning were identified and incorporated into a Standard Operating System, which was implemented by KP Border and verified by EULEX staff through an evaluation process. Although the work of developing an **Enhanced Border Infrastructure** was developed through design and implementation, the final Output was not completed at the time of this report.

Figure KP5: Providing Secure Borders

Reference	Title	Level (%)
PSD19/2009	Border police – enhanced planning	100
PSD20/2009	Enhanced border infrastructure	75
PSD21/2009	Integrated intelligence system	50
PSD22/2009	Enhanced border communication	CLOSED
PSD10/2009	Laws related to migration	CLOSED
PSD33/2009	'Green Border' Transfer	100

The effort to develop an **Integrated Intelligence System** is closely linked to the Intelligence led policing activities and has seen positive developments, with 50% of the Key Outputs completed. The single system of collecting, collating and analyzing intelligence data under the KP ILP model embraces KP Border. In other words, intelligence data flows to/from Border to all other parts of the KP organization via the DIA hub.

Chart KP4: BASELINE

2009 Performance Deficit	Action
In 2009 the management of KP Border Police lacked an ability to formulate medium- to long-term plans to improve performance.	PSD19/2009
Much of the KP Border infrastructure was found to be inadequate or of poor standard in 2009.	PSD20/2009
It was discovered that KP Border operated an intelligence system that was distinct and isolated from the rest of the KP.	PSD21/2009

Chart KP6: BASELINE

2009 Performance Deficit	Action
In terms of both hardware and 'soft communication skills' KP Border performed badly in 2009.	PSD22/2009
KP Border was not able to demonstrate an ability to fully implement the laws relating to migrants crossing Kosovo's borders.	PSD23/2009
Following the decision made by KFOR to transfer 'Green Border' security to KP, there was a need to formulate a comprehensive plan for transition.	PSD33/2009

achieving the objective of **Enhanced Border Communications**: namely, creation of a strategy to improve communications and information flow throughout the Border/Boundary structure. Although some work was done to improve 'soft communications skills', it was not possible to verify the level of compliance with the designed standards. In terms of hardware development much remains to be done. Since the objective had been overtaken or displaced by the 'Information and Communication Technologies Systems Strategic Plan (ICTSSP) – 2011 to 2015', a joint EULEX/KP decision was made to close this MMA Action in March 2012.

Virtually no progress was made in terms of verifying KP Border compliance with the **Laws related to Migration**. Soon after the MMA Action was launched the Ministry of Internal Affairs began a lengthy process of amending the laws concerning to foreigners and related matters. In late January 2012 the new laws were ratified by the assembly of Kosovo, and the process of designing and ratifying the necessary secondary legislation began in February 2012 and lasted for several months. This effectively excluded the MMA Action to verify implementation before the changing of EULEX mandate in June 2012.

The effort to design and implement a strategy for '**Green Border Transfer**' from KFOR to KP Border is an area of success for KP. This proved to be a significant challenge for the entire KP organization and much has been achieved. The project was assisted by the related work under the KP Restructuring process allowing for large numbers of officers to migrate to border functions.

Tackling Patrol Effectively and Ensuring Public Order

In global terms the KP Operations Pillar has demonstrated great creativity and industry in its development across a number of areas. Of the eight MMA Actions that were pursued by this part of the organization, a total of 6 (75%) were fully completed before June 2012. As a result, Station Commanders across Kosovo have improved the way they react to local community concerns about security and safety, and use their resources to better effect than in 2009.

The KP's work on **Enhanced patrol management**

Chart KP7: BASELINE

2009 Performance Deficit	Action
While assessed in 2009 many KP stations were found to lack a coherent and effective system of managing police patrols.	PSD13/2009
KP station commanders had no system of converting community concerns about security and safety into policing objectives.	PSD14/2009
EULEX found an absence of any system of managing operational resources, mapping the location of patrols and their deployment to incidents.	PSD15/2009
EULEX discovered that there was no system of tracking the deployment and level of use of expensive SIU and I/EOD resources.	PSD16/2009



has transformed the way first line supervisors actively structure the activities of their patrol officers. Supervisors now use shift briefings, proactive use of local and Kosovo-wide intelligence, targeting policing issues of local concern, directed patrols, monitoring patrols, etc. to ensure a more effecting policing presence. This work has been complemented by the **Annual Patrol Plans**. EULEX helped KP to guide stations commanders/line managers toward enhanced patrol management: learning to direct police patrols towards community problems, preventing crimes and solving problems, through the use of daily patrol working plans given by line managers and

reporting forms signed by patrolling officers. This has resulted in a much more visible police presence across Kosovo, targeting matters of concern to the public. There remains a gap in KP capabilities in terms of using technology to plan and track the use of operational police resources. Although some preliminary plans were set in place for the **Resource Deployment System** it has, sadly, failed to achieve its Outputs. This project will now form part of the greater enterprise of KP IT/Comms development under the Ministry of Internal Affairs' 'Information and Communication Technologies Systems Strategic Plan (ICTSSP) – 2011 to 2015'. As with other parts of the Ministry's Plan, there will be a need to assist KP in locating donor funding to support capital investment in equipment and expert consultants.

Chart KP8: Tackling Patrol Effectively

Reference	Title	Level (%)
PSD13/2009	Enhanced patrol management	100
PSD14/2009	Annual patrol plans	100
PSD15/2009	Resource deployment system	CLOSED
PSD16/2009	Tracking SIU and I/EOD deployment	100
PSD17/2009	Community Policing – TOR	REMOVED
PSD18/2009	Improve OSU operational capability	100
PSD35/2009	Enhanced Traffic Directorate	50
PSD1/2010	Transforming KP I/EOD	100

One of the earliest successes for KP was its development of a system of **Tracking SIU⁷ and I/EOD⁸ deployment**. The Special Intervention Unit (SIU) and Improvised/Explosive Ordnance Disposal (I/EOD) Unit are highly specialized teams that rely upon robust procedures, training to high standards and expensive equipment.



Chart KP9: BASELINE

2009 Performance Deficit	Action
When assessed the Community Policing Units (CPU) lacked a central or regional strategy that directed their activities.	PSD17/2009
KP lacked a Standard Operating Procedure and related training regime that applied to all OSU officers and met European best practice.	PSD18/2009
There was no organizational linkage between the policy and strategy role of the Traffic Directorate and regional traffic officers.	PSD35/2009
KP I/EOD had failed to realize its full potential as a specialist policing resource.	PSD1/2010

The MMA Action set in place a manual system to categorize and record all incidents that require the attendance of SIU and I/EOD resources, thereby allowing KP managers to plan resources and evaluate performance of the SIU and I/EOD resources. This work was subsequently complimented by a new MMA Action entitled **Transforming KP I/EOD**. EULEX advisors have assisted KP in increasing the capacity of the Unit and ensuring that it offers a safe and professional response to I/EO-related incidents. The role of the Unit has become increasingly important as KFOR reduces its resources.

As part of his review and restructuring of the KP organization in 2010, the Acting Director General Behar Selimi, decided to disband the Community Policing Units (CPUs) across Kosovo. This decision, made on the basis of a concept that all officers are responsible for community policing objectives, had the effect of nullifying the MMA Action on **Community Policing Terms of Reference**. Since the CPUs had been disbanded there was no longer a need to design and implement a 'terms of reference' that would guide their work. As a result, KP and EULEX agreed to formally 'remove' this project (PSD 17/2009).

With the gradual transition of authority of first UNMIK, then KFOR, it was crucial that the KP could demonstrate a sustainable and highly professional 'public order policing' capability. Over the last year the KP has doubled its effort to finalize the Key Outputs in the framework of the project to - **Improve Operational Support Unit (OSU) Capability**.

This has involved developing systems of tackling large-

scale public disorder that fit with KP needs and resources, then defining their use in a Standard Operating Procedure and ensuring that all OSU officers are trained in the use of the systems.

As part of its broader programme of restructuring the police organization, KP has reviewed and reconfigured the role of the Traffic Directorate. Unfortunately, however, the effort to create an **Enhanced Traffic Directorate** has stalled, due to internal conflicts. EULEX urges the KP DG to invest more effort in this matter and provide the Directorate with clearer lines of authority and control in its work of devising a central road traffic safety strategy, and promoting schemes and projects aimed at increasing road safety awareness.

Providing a Sustainable Organization

In general terms KP Administration Pillar (now divided into Personnel and Training, and Support Services) has struggled to achieve results across all the agreed areas under the MMA Actions. It has encountered problems in retaining and training civilian specialists, as well as locating suitable experts from EULEX and other sources to support its efforts. Much remains to be done in some critical areas, such as promotions, IT/Comms development and procurement.

Chart KP10: BASELINE

2009 Performance Deficit	Action
In 2009 it was judged necessary to restructure KP, thereby eliminating overlapping functions and unnecessary duplication.	PSD24/2009
The KP promotion system required better procedures to ensure it is objective, transparent and capable of ensuring that only the best candidates are selected.	PSD26/2009
The 2009 assessment found a number of problems with the KP budget administration which fell short of European best practice.	PSD27/2009
KP capital expenditure performance was poor and consistently failed to ensure that allocated funds were disbursed in a timely manner.	PSD28/2009

The process of organizational change, (**Rationalize KP Structure**), proved to be prolonged and difficult. It fell into two main phases: (a) the period of design under Director General (DG) Sheremet Ahmeti and Acting DG Behar Selimi; and (b) the period of design and

implementation of DG Reshat Maliqi. As a result of the first phase the KP implemented a new organizational structure in May 2010.

The implementation of the new KP structure, replacing the former UNMIK organizational arrangements, marked an important milestone in the organization's development: for the first time it could claim a structure that had been designed and implemented solely by KP and Ministry staff.

Kp6: Providing a sustainable organization

Reference	Title	Level (%)
PSD24/2009	Rationalize KP structure	100
PSD26/2009	Reformed promotion system	66
PSD27/2009	Enhanced budget administration	100
PSD28/2009	Reformed capital expenditure performance	33
PSD29/2009	Enhanced procurement performance	CLOSED
PSD30/2009	Rationalize register databases	100
PSD31/2009	Sustainable IT staffing	100
PSD34/2009	Enhanced fleet management	100

Over the last three years KP has worked closely with EULEX experts in the complex process of reviewing and amending the procedures used in its selection and promotions mechanism (see **Reformed Promotion System**). A concerted effort has been made to ensure that the principles of objectivity and transparency are firmly established, and that the promotion system allows the best candidates to find their way to the top. Sadly the new procedures have not been implemented, and EULEX has voiced its concern about the increasing number of middle- to senior-ranked officers in 'Acting positions'.⁹

As an example of the scale of the problem, in April 2012 55% of Station Commanders and 44% of Deputy Station Commanders in the largest police region, Prishtinë/Priština, are in an acting rather than substantive rank. In addition, the Regional Director and Chief of Operations are also in acting ranks. Sadly, this pattern is repeated across all regions and represents

the gravest organizational failure of the Kosovo Police. EULEX has pointed out that a police organization that operates a policy of not promoting officers for over 3 years falls far below internationally recognized standards and European best practice.

Since 2009 the KP has pursued a policy of recruiting and training specialist Civil Servants to manage all aspects of the new Support Services Pillar. With an annual budget of over EURO 30.5 million,¹⁰ KP requires finance managers with a high level of professionalism and expertise. To that end EULEX has provided MMA in pursuit of **Enhanced Budget Administration and Reformed Capital Expenditure Performance**. Whilst the former was fully completed, the work on Capital Expenditure Performance remains ongoing.

Chart KP7: BASELINE

2009 Performance Deficit	Action
A review revealed a perennial problem with KP procurement performance: contracts were not prepared in a timely manner, ensuring that allocated funds were spent.	PSD29/2009
KP inherited a fragmented and heterogeneous collection of databases that could not readily transfer data to each other or rely upon a common maintenance provider.	PSD30/2009
AS with other Ministries, KP was unable to retain specialist IT staffing, due to private sector competition.	PSD31/2009
KP had evolved the most dysfunctional, badly organized and expensive police vehicle fleets in the entire region.	PSD34/2009

Sadly, **Enhanced Procurement Performance** was a critical area in which KP failed to achieve the desired results. At a meeting in March 2012 it was jointly agreed by EULEX and the KP Director General that this project should be formally 'closed': none of the Key Outputs had been achieved and this MMA Action was terminated since the launch of a criminal investigation into the activities of the Director of KP Procurement. Clearly, however, there is a need for KP to demonstrate greater professionalism in this area of management responsibility, in compliance with European best practice.

KP has made great progress in the overall development of its IT/Comms management capability over the last three years. An important aspect of this work has been the successful completion of the MMA

Action to **Rationalize KP Register Databases**. This included the completion of the Kosovo Police Information and Communication Technologies System Plan; a detailed assessment of the KP requirement for different segments of the integrated information system, and an assessment of requirements for integrated databases of all existing KP databases. KP now has a detailed roadmap for IT/Comms development on which it can base its future IT projects, where capital investment is found from government or donor sources.

KP was able to remedy the perennial problem across Kosovo's public sector of achieving **Sustainable IT staffing**. In order to recruit, train and – most importantly – retain specialist IT staff a number of measures were put in place. KP main HQ was released from its responsibility for dealing with non-emergency matters; supervision and management was improved to achieve greater control of the IT system; compliance with IT procedures was increased, and many services were decentralised.

KP has worked hard to achieve an **Enhanced Fleet Management system**. Although the MMA Action has achieved good results in terms of budget management and procurement, life-cycle management, maintenance and repair, much remains to be done. The KP DG has announced his intention to continue the project work over the coming two years, seeking to design and implement new strategies to reduce fuel and maintenance costs.





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DEVELOPMENT OF THE KOSOVO JUDICIARY

Introduction

Since the start of the EULEX MMA activities in September 2009 progress has been made by the Kosovo Judiciary toward the EULEX Mission aims.¹¹

BASELINE BOX

Since 2009, EULEX has stressed the importance of setting formal conditions for the independence of the judiciary and the autonomy of the prosecution. De jure independence anchored in Kosovo's legislation was to be translated to the day-to-day operations of the judiciary and prosecution.

In Phase One (December 2008 to June 2009) EULEX staff conducted an assessment of the performance of the Kosovo justice system, and identified areas of organisational strengths and weaknesses. Strategies were jointly developed to convert the recommendations into actual changes on the ground with the commitment of the host institutions. Each strategy targeted a particular area such as: judiciary (Kosovo Judicial Council (KJC)), prosecution (Kosovo Prosecutorial Council (KPC)), Ministry of Justice (MoJ), and Kosovo Correctional Services (KCS).

Kosovo Judicial Council

The KJC took the responsibility and ownership of the appointment and vetting process of judges during the past year. The first phase of interviews for the selection of judges for the Supreme Court was finalized in June 2011. On 28 July 2011 the KJC published the names of the appointees for the Kosovo Supreme Court on its website and on 11 August 2011 the President of Kosovo appointed five Supreme Court judges. Two of the judges are from non-majority communities. These are the first appointments made since KJC took over the responsibility and ownership of the appointment process.

In September 2011 the KJC finalised the interviews and on 31 October passed a decision on the proposal for the appointment (by the President of Kosovo) of four

judges to the Special Chamber of the Supreme Court and two judges to the Commercial Court in Pristina.

Interviews for the selection of judges to the second instance courts on Kosovo District Court level commenced in October 2011 and were finalised in February 2012. The proposals have been sent to the President of Kosovo for appointment.

The appointment and vetting process of judges for the Municipal Courts is in its last phase and interviews were finalised on 10 February 2012.

BASELINE BOX

In 2009 EULEX recommended to make the Office of Disciplinary Council within the KJC operational.

The Disciplinary Committee of the KJC reviewed and finalised 39 disciplinary cases during the past year. KJC has now dealt with the backlog of appeals that have been waiting since the beginning of 2011, and normalised the work on disciplinary cases. Only two appeals remained pending on 9 March 2012.

BASELINE BOX

Since 2009 EULEX has highlighted the lack of a performance evaluation system within the Kosovo judiciary. Assessments revealed that recruitment and promotion procedures were not objective and transparent, and urged KJC to develop detailed provisions for recruitment and promotion.¹²

During the past year the KJC has adopted a number of regulations in relation to the judiciary.

The KJC adopted the Regulation on the Evaluation of Performance of Judges on 24 February 2012. The regulation will be implemented for the regular assessment of the performance of judges and for the purposes of the final re-appointment of judges. The regulation is important for the transparent and fair assessment of the judges' performance.

BASELINE BOX

EULEX assessed in 2009¹³ that the number of judges per 100,000 inhabitants in Kosovo is lower than in any of the neighbouring or European countries, which led to the recommendation for KJC to monitor working conditions of Kosovo judges and prosecutors and closely follow their recruitment process.¹⁴

The Regulation on Defining the Norms of the Work of Judges went into force 1 January 2012.

The Director of KJC Secretariat has drafted a new organisational chart of the Secretariat, which foresees a rationalization of the structure and a reduction of the reporting lines.

BASELINE BOX

EULEX noted that Judicial Audit Unit reports have neither been reviewed nor approved by the KJC leading up to 2009, thus failing to include recommendations from audit reports in the daily management of the judiciary.

In September 2011 KJC and MoJ signed a MoU for the transfer of the competence related to the Court Liaison Offices from the MoJ to the KJC. The Court Liaison Offices' mandate is to facilitate access to justice for vulnerable minority communities. At the time of drafting this report the KJC has not yet taken over the responsibilities of the Court Liaison Offices.

The plan for the implementation of the Law on Courts has been published on the KJC website. As part of the implementation plan, the KJC set up a steering committee to coordinate the planned steps and ensure compliance with the timeline. The implementation plan on the new Law on Courts provides for special rules for the transfer of judges from the current District Courts (DC) to the future Court of Appeal, and provides for appointment of Municipal Court (MC) judges, in case vacant positions remain. The new Court of Appeal that is planned to be established in January 2013 has seen 56 applications from judges throughout Kosovo.

The additional budget requested for KJC was rejected by the Budgetary Committee of the Assembly on 5 December 2011. The additional budget is necessary for the implementation of the new laws. The KJC needs to increase the staffing levels in the courts and ensure the set-up of public information offices as stipulated in

the Manual of Court Management. Due to the rejection of the additional budget the KJC will not have the financial means to implement all planned activities. Since 2012 the Kosovo Assembly has not managed to secure funds for the full realisation of a number of key legislative acts regulating and reforming the justice system in Kosovo.

Despite the on-going efforts by the KJC to manage the organisation of courts and staff with the current resources, KJC might encounter serious difficulties in carrying out the future judicial reforms.

The KJC Statistical Department issued data showing that the overall number of cases pending in Kosovo Courts decreased with 9.6% between 2010¹⁵ and 2011. Due to the fact that the KJC has changed the methodology of its statistical reporting, the data from 2011 is not comparable to 2009 and 2010. However, the figures show that the number of cases pending in Kosovo Courts increased throughout 2011. The number of cases admitted to the courts during the year was higher (86 394 cases) than the number of cases completed that year (82 805 cases). This is partially due to the number of vacancies¹⁶ for judges, and the prolonged underfunding of the court-system in Kosovo.

Court	Admitted in 2011	Completed in 2011
Supreme Court	4095	3611
District Courts	11785	11262
Commercial Court	1228	704
Municipal Courts	69286	67228
Total:	86394	82805

KJC also published figures on the implementation of the three-year National Backlog Reduction Strategy. The overall reduction of the backlog of cases is reported to have been 42.2% in 2011.

The most notable progress was made by the Supreme Court and the Municipal Minor Offence Courts. The most problematic Court is still the Pristina MC, which achieved only 11.3% reduction of the backlog.

BASELINE BOX

In 2009 the Case Management Information System was not integrated into the daily operations of Kosovo Courts and Prosecution Offices. CMIS was not in use also because computers were incompatible with the software.

The Case Management Information System (CMIS) was assessed¹⁷ in 2011 by a project-team funded by the EC TAIEX program and the Government of Norway. The project-team came to the conclusion that the current version of the CMIS was outdated and either needed an upgrade or complete replacement. The KJC will strive to take this decision during 2012. As a step towards designing and implementing an all-covering IT solution for the Kosovo judiciary, the KJC approved the five-year Information and Communication Technology Strategy on 9 March 2012.

Judges in the Criminal and Civil Field

BASELINE BOX

In 2009 EULEX noted serious weaknesses by District Courts and District Prosecution Offices in applying a transparent and objective case allocation system.

During the past year a Case Allocation System (CAS) has been adopted in the district courts of Pristina, Gjilan/Gnjilane, Pejë/Peć, Mitrovicë/a and Prizren. CAS has also been adopted in 19 municipal courts in the districts named above. In addition, the Supreme Court has recently adopted the CAS. However, EULEX monitoring has revealed that the system is not fully transparent. Cases are still being allocated based on subjective criteria.

In an effort to implement part of the Manual on Court Management and Standard Operating Procedure,¹⁸ the Kosovo Judiciary with EULEX support established public Information Offices (PIO) in the municipal courts of MC Viti/Vitina and Skenderaj/Srbica. The establishment of a PIO is mandatory for all courts in Kosovo. The purpose of the PIO is to ensure the independence of the Kosovo Judiciary and to guarantee the public an access to the courts.

EULEX has continued monitoring the court registries and observed several shortcomings in court processing: trials are often postponed/adjourned because the parties are not properly summoned leading to them not appearing for trial sessions; lack of acknowledgement of delivery of summonses; the date and time of the session missing in the summonses addressed to the parties; official court stamp missing;

files not arranged in chronological order; long delays both in the setting of trial dates as well as in issuing judgments; and incorrectly drafted scheduling-orders. EULEX found that the registry in Mitrovicë/a (MC Vushtrri/Vučitrn) and DC Pristina works well, and so does the Supreme Court.

BASELINE BOX

EULEX assessed the infrastructure available for judges at district court level as insufficient and raised concerns with respect to access to justice, with reference to trials conducted in offices, making the participation of the public impossible.

During the monitoring of serious crime cases the most alarming issues discovered were:

- Confiscation; currently the courts in Kosovo are rarely ruling on confiscation of objects used in the commission of a criminal offence or objects derived from the commission of a criminal offence as foreseen in the Criminal Code of Kosovo.
- Unjustified delays up to five years to commence trials;
- In many cases the enacting clause of verdicts lack the legal basis for the decision; and
- The reasoning of the verdict in many cases does not contain a clear and detailed evaluation of the defendant's criminal action and all collected evidence

While monitoring cases involving juveniles it was found that there are undue delays with the court procedures and that in some cases the names of juveniles are posted on court information boards. The latter is in direct violation of the law.

BASELINE BOX

EULEX Programme report 2009 assessed too few requests of trial witness protection measures by Kosovo Judges and Prosecutors in serious crime cases. Witness protection measures were not considered as effective in Kosovo's close-knit society, and the limited technical knowledge by local judiciary was another obstacle to exercising protective measures and conditions for anonymity.

Regarding the protection of witnesses EULEX noted only a few improvements in two courts in the past year. Equipment for witness protection is now available and functioning in the DC of Gjilan/Gnjilane.¹⁹ In District and

Municipal courts of Prizren there is a new camera-surveillance system working thus improving the facilities for witness protection.

Kosovo Prosecutorial Council

Based on the Law on Kosovo Prosecutorial Council (KPC) and KPC Regulation on the appointment process, in March 2011 the KPC launched a vacancy announcement for 45 prosecutors to the Office of the State Prosecutor, and to the district and municipal prosecutorial offices. Of these a total of 14 positions are reserved for minorities. The Office of the State Prosecutor had only one post to fill but has been unable to do so by the time of drafting this report. At the district level eight prosecutors were appointed to the District Prosecution Office (DPO) of Pristina; of them one is from a minority community. Furthermore two prosecutors were appointed to the DPO in Prizren and finally one prosecutor was appointed to the DPO in Gjilan/Gnjilane. The appointment process for the district level ended with a total of 11 prosecutors appointed. The appointment-process for the municipal level is on-going at the time of the drafting of this report.

The Disciplinary Committee of the Kosovo Prosecutorial Council was established on 27 April 2011. In the beginning a number of constraints were identified, such as:

- Delays in transferring the disciplinary cases from KJC Disciplinary Committee to the KPC Disciplinary Committee;
- Delay of administrative support by the Office of Chief State Prosecutor;
- No data base on registering cases;
- No office for disciplinary hearings;

After three months the Disciplinary Committee, with EULEX assistance, managed to overcome these constraints. All cases from KJC Disciplinary Committee were received and the committee started to schedule hearings. Towards the end of 2011 EULEX was able to note that the administration of the Disciplinary Committee was fully organised.

BASELINE BOX

The main issues addressed by EULEX since 2009 in regards to the Kosovo Prosecution service were the strengthening of the autonomy of Kosovo Prosecutors, effective case management, enhanced investigation and prosecution of serious crimes, and alternative measures to detention on remand.

Since 21 June 2011 and up until 1 February 2012 the Disciplinary Committee has received 18 disciplinary complaints against prosecutors. 12 of these complaints have now been decided upon. The outcomes were:

- eight suspensions;
- two dismissals;
- one reprimand; and
- the salary of one prosecutor was reduced by 50 per cent for a period of six months.

The Prosecutorial Management Information System (PMIS) was monitored by EULEX and it was concluded that the PMIS is not in operation in a majority of the prosecution offices in Kosovo. EULEX noted that in 80% of all offices the PMIS software had not been installed or was not functioning. 60% of the staff had not completed the PMIS training and a total of 95% of the staff stated they did not feel comfortable using the software without further training. The KPC has confirmed that PMIS is not a priority and that they have developed another internal computer registration



system for prosecutor performance evaluations. The new system is dedicated for the District Public Prosecutor Offices (DPPO) as well as for the Municipal Public Prosecutor Offices (MPPO) and is dedicated only to court administrators for registration purposes. It should be noted that compared with previous PMIS it is impossible to track changes made in the files of the new system.

BASELINE BOX

In 2009 EULEX assessed a lack of common rules for the evidential test procedures, which guide Kosovo Prosecutors in evaluating evidence. EULEX also noticed the need for KP and KPC to adopt and implement pre-trial evidential test procedures. Progress was noted in 2010 with the evidential test procedures adopted throughout Kosovo.

Prosecutors

Throughout the year all EULEX prosecution offices have conducted regular one-to-one mentoring meetings, case seminars, workshops and mixed team sessions with their local counterparts on various topics.

BASELINE BOX

In 2009 Kosovo Prosecutors and Kosovo Police met on an ad hoc basis and the level of cooperation was not institutionalized.²⁰

In the area of police and prosecutor cooperation EULEX has conducted a variety of different mentoring activities in different regions to try to encourage cooperation. However, no institutionalised organisational structures to ensure continuity and uniformity across Kosovo have been put into place during the year.



During monitoring EULEX noticed that in several cases the failure of defendants to appear before the court resulted in postponements and delays. EULEX will continue to monitor this situation and discuss the issue with local prosecutors.

BASELINE BOX

The 2009 EULEX assessment identified a number of deficiencies within the Ministry of Justice (MoJ) and the Office of Missing Persons and Forensics (OMPF). These included poor policy formulation and lack of legal drafting skills, weak capacities in the area of international legal cooperation within the MoJ, and gaps in the work of OMPF, particularly in the Department of Forensic Medicine.

Ministry of Justice

Within the MoJ EULEX has noticed a very ambitious legislative agenda. Over the past year the number and technical complexity of the legislation to be drafted did not match the staffing levels of the Ministry, nor the time provided for the drafting. Furthermore EULEX noted a systematic lack of, and subsequent use of, concept notes to guide the legislative drafting process within the Ministry. The Director of the Legal Department of the MoJ has informed EULEX that no concept notes will be used before the approval of the Legislative Strategy by the Government. The reason for postponing the development of concept documents this year is the adoption of a new 'Regulation of Rules and Procedure of the Government of the Republic of Kosovo' (No. 09/2011) that establishes new rules regarding policy development, a new policy analysis process and new rules and procedure for drafting and reviewing primary and secondary legislation. The policy also requires new templates to be developed. After EULEX advice MoJ has stated that it will issue a document outlining the main policy aims relating to the laws included in the Legislative Strategy for 2012.

BASELINE BOX

Deficiencies in the pool of translators and lack of alternative options were among one of the main concerns highlighted by EULEX in 2010, posing a real obstacle for Kosovo to comply with international standards and to send requests in the official language of the receiving country.²¹

On 05 January 2012, the Government of Kosovo approved the Legislative Strategy for 2012. The MoJ part of the Legislative Strategy contains ten draft laws including:

1. Draft Law on amendment and supplementation of the Criminal Procedure Code;
2. Draft Law on Executive Procedure;
3. Draft Law on Contested Procedure;
4. Draft Law on Confiscation of Property Acquired Illegally;
5. Amendment to the Law on Execution of Penal Sanctions;
6. Draft Law on Institute for Research of War Crimes;
7. Draft Law on Justice Academy;
8. Draft Law on State Advocacy;
9. Amendment of the Law on Notary; and
10. Draft Law on Minor offences.

At a later stage the Legislative Programme of the Government was updated and the part related to MoJ was expanded with six new draft laws including:

1. Law on courts;
2. Law on the KJC;
3. Law on Administration and Civil Staff of Judicial and Prosecutorial system;
4. Law on the State Prosecutor;
5. Law on the KPC; and
6. Law on the SPRK.

The Strategic Development Plan 2012-2016 of the MoJ was approved by the Government in the beginning of January 2012.

Department of Forensic Medicine

Some progress has been noted in the development of several organograms and drafting of secondary legislation to the Law on the Establishment of the Department of Forensic Medicine (DMF). There has also been progress with the communication skills of the outreach unit of Missing Persons.

While helping to enhance the DFM capacity to deliver timely high-quality forensic services, EULEX has in consultation with DFM middle-management identified training-needs, methodology and experts.

With regards to supporting DFM with implementation of professional development programme, EULEX has held several trainings.

EULEX continued mentoring DFM staff and handing over executive functions in the local Exhumations Team, the Outreach Unit, and the Medical Examiner's Office.

In the development of a modern human resources management system, no progress has been made. Administration Unit has also struggled with putting in place standard financial administrative procedures, and developing budgeting and financial planning functions.



Kosovo Correctional Services

In the area of security and operations the KCS Prisoner Escort Unit (PEU) increased its capacity throughout 2011 and the number of requests for EULEX Prisoner Escort Group (PEG) support continually decreased. The PEG also established joint working groups (WG) to update the KCS PEU staffing overview, armouries, weapons, ammunition and vehicles.

EULEX completed a review of the MMA work in the field of top and high risk prisoner escorts. The review covers MMA activities in the prison, the courts, and the static security at hospitals. The review resulted in a new planning form for top- and high-risk escort transports being agreed upon and implemented in January 2012. In addition, EULEX completed recommendations on top and high risk escorts. These recommendations were implemented in April 2012.

The KCS Commissioner approved the KCS PEU updated SOPs in January 2012. Subsequently the PEU staff attended training sessions to get familiarised with the new SOPs.

Searching and disruption of contraband in Dubravë/Dubrava Prison has improved greatly and the KCS has been deemed by EULEX as capable of meeting the required operational standard. Searching has also improved at the main gate of Dubravë/Dubrava Prison. However, searches of staff and vehicles are still not up to the required operational standard.

The KCS have introduced many of the EULEX recommendations from June 2011 to improve security and the detection of contraband. The suggested night and key management procedures have been partially implemented. Due to budgetary constraints, the security seals recommended by EULEX have not yet been installed.

The implementation phase of the reinforcement of the KCS Security Information System (SIR) was finalised. As a result Dubravë/Dubrava Prison has seen an increase in the number of SIR reports submitted. However, the staff is showing reluctance in using the SIR written reports and instead prefer to provide verbal reports.

The CCTV system in Dubravë/Dubrava Prison was

installed and is now available throughout the prison facilities.

In the field of prisoner population management the publication of conditional release decisions on the MoJ web page correspond to the EULEX recommendations. Moreover the KCS commissioner has decided that a social worker from the KCS HQ will proceed with sentence planning procedures.

With EULEX assistance the KCS has finalised sentence planning, inmate need and risks policies, and related forms. These documents have been distributed to all KCS institutions.

A KCS and EULEX joint WG completed an Internal Working Regulations Regime for sentenced prisoners, and continues with the preparation of the draft documents on the Regimes for Juveniles, and the Risk Assessment. Moreover, a joint WG examined and completed procedures associated with prisoners who are suicidal and could harm themselves.

Strategic Management

KCS adopted a strategic plan for 2011-2015 but its implementation is hindered by uncertainty whether the MoJ will change its priorities.

KCS is working on finalising sentence planning, and inmate needs and risks policy formulation following the EULEX recommendation on providing individual prisoners with plans for their term of sentence.

KCS, in cooperation with Kosovo Probation Service (KPS), has started looking into and analysing prisoner daily costs for KCS and KPS. Moreover, EULEX, in cooperation with EU Office in Pristina, contributed to the Instrument for Pre-accession Assistance (IPA) 2012 Prisoner Database Proposal that was submitted by KCS.

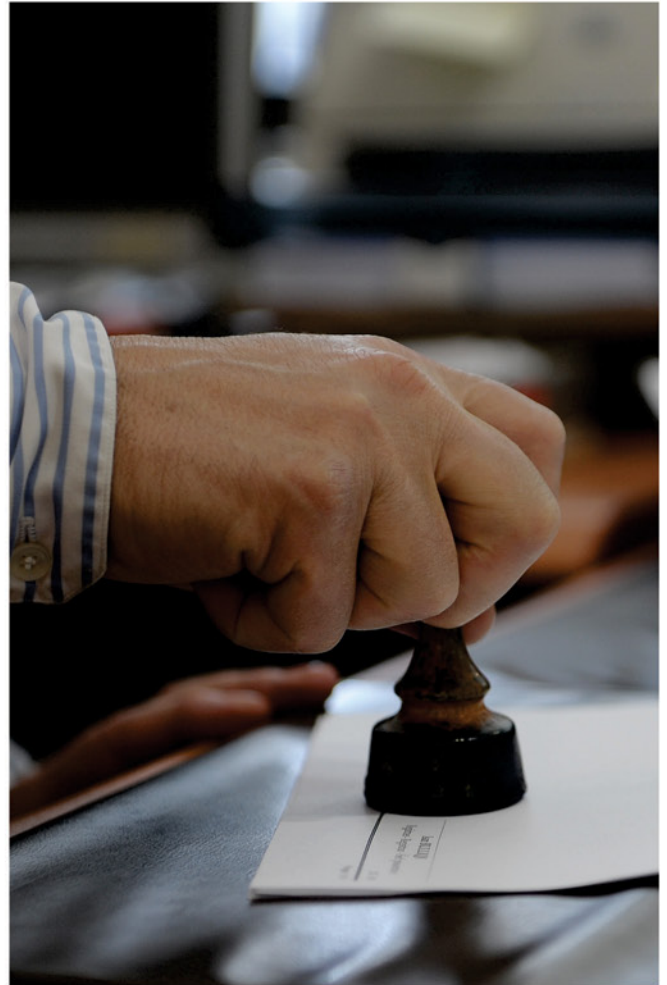
The Internal Inspectorate of the MoJ has agreed on a strategy to carry out an Internal Standards Audit Programme, which will enable inspectors to carry out external audits of KCS facilities. This inspectorate is supported by EULEX who developed a tool kit comprised of a combination of current practices and sub-legal acts, and the application of the International Standards Audit Programme (ISAP) through agreed prison standards.

EULEX continued with its support to KCS on assessment of prison facilities to be developed. These include prison management, and the rehabilitation and healthcare of prisoners. This resulted in 38 recommendations for the Mitrovicë/a Correction Centre alone.

Administration

Concerns have been raised on the KCS service provision regarding the lack of heating oil, food items, and hygiene materials. The MoJ has begun a decentralisation process, which includes human resources, budget and procurement management. So far the administration and human resources authority has been transferred from the MoJ department of administration to KCS. This is an important step towards a well-functioning administration system where KCS is in charge of employing experts. However, KCS has struggled to find suitable candidates. EULEX has been involved in the selection process to help ensure transparency.

A KCS and EULEX WG that was established in October 2010 to develop administrative instructions has completed its work and the administrative instructions have been forwarded to the MoJ for final approval.





GUSTAV

DOGANA

**DOUANE
CARINA**

STOP

STOMMS

CUSTOMS

Kosovo Customs Developments

Although the overall achievements of KC since the inception of EULEX MMA activities in September 2009 with regard to the six EULEX mission aims have been substantial, the progress tempo has somewhat slowed-down in certain areas since July 2011. Since the publishing of the last EULEX Programme Report in 2011 attention was given to four MMA activities²² which mainly saw fair progress.

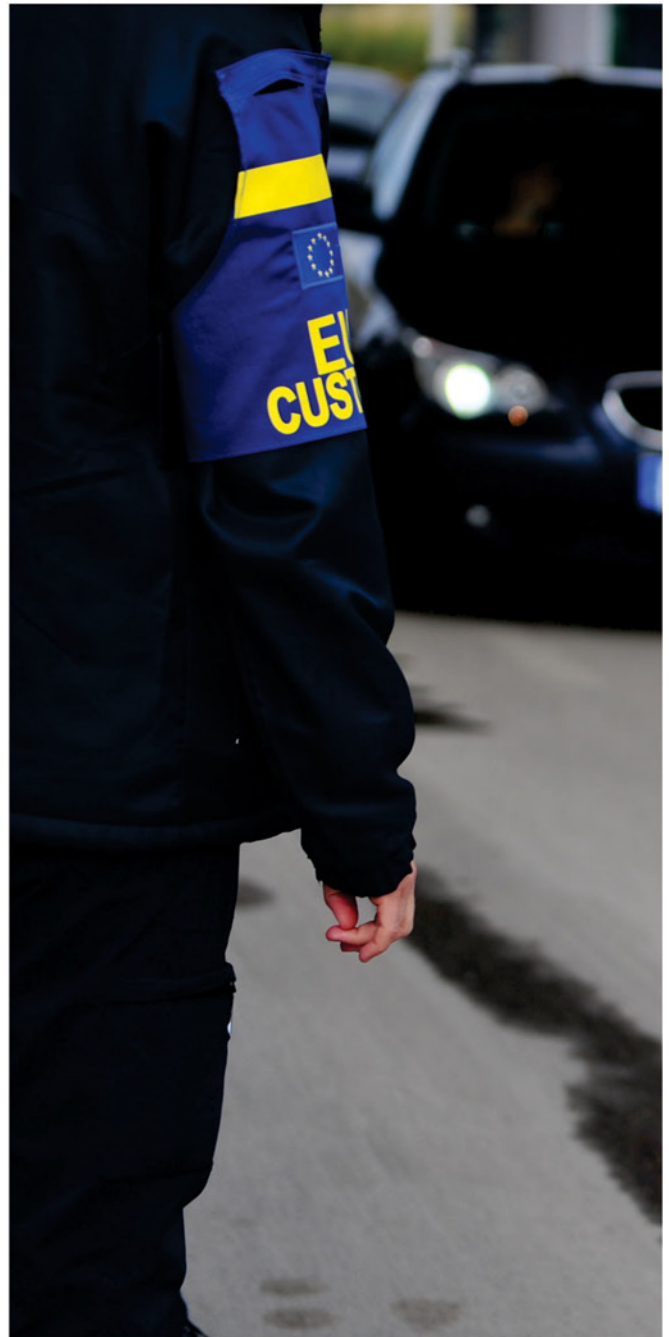
EULEX has facilitated KC in its development and progress, and has managed to serve as a worthy mentor and advisor in a great number of issues. KC has come a long way forward from initial assessments in 2008 when problems such as legislation, big gaps in Integrated Border Management (IBM), cooperation with other law enforcement agencies, etc. were identified as areas that needed intervention.

EULEX recommendations from the 2009 seem to have guided KC efforts to improve its performance in a number of areas. Only a year on progress was noted in co-operation with other law enforcement agencies, and progress was also visible on IBM strategy in implementing the intra agency actions in KC. The situation two years on also saw a leap forward in a number of areas such as legislation update and internal communication, where the adoption of a more oriented intelligence-led modus operandi resulted in the conduct of several internal joint operations.

Legislation

As previously reported Customs legislation is mostly aligned to the EU Customs Code. The legal provisions on powers of customs, customs offences and crimes, as well as implementing provisions on the code during the last reporting period were not fully in line with EU standards/best practice hence a new legislation was being considered as necessary. Kosovo Customs

initiated the drafting of the new Customs Code. In the meantime the KC saw the Amendments and Supplements of the Customs Code on powers of customs, customs offences,²³ and crimes approved by the Kosovo Assembly in May 2012.



Independent Review Board (IRB)

Moderate progress can also be reported with regard to the Independent Review Board (IRB). As a result of the assessment carried out by a European Commission Technical Assistance and Information Exchange (TAIEX) expert in 2011 the decision to eliminate the IRB and set up a Fiscal Division with the Administrative Department of the Basic Court of Prishtina was taken.

The decision to eliminate the IRB and set up a Fiscal Division with the Administrative Department of the future Basic Court of Prishtina would entail fiscal disputes being dealt in an alternative manner whenever possible by an independent body – the Mediators, institutionally under the monitoring control of the Judicial Council, bringing on more guaranties for fair, independent, and impartial decisions. The fiscal court on the other hand will process all new appeals to tax and Customs decisions from December 2012 whereas the IRB will be responsible for all appeals lodged until the end of November 2012.

The backlog of pending cases remains a matter of concern, which is why external help was necessary, and thus three TAIEX experts have been appointed to monitor the work of the IRB who will start their work in the near future.

Moreover, KC continues to amend the regulations which were not in line with the EU code.²⁴

Intellectual Property Rights (IPR)

Since June 2011 progress was noted in the field of protection of IPR. Since the IPR sector has been established within the KC in January 2011 25 applications on protection of property rights (requesting KC actions when counterfeit goods are discovered) from international companies have been approved by the KC with a total of 127 brands/trademarks.

During this time KC has made a number of important seizures of commodities that violate IPR.²⁵ Since the adoption of the Law on Customs Measures for Protection of IPR the number of seizures of goods suspected infringing intellectual property rights remained stable.

Albeit the number of seizures would have been much higher should there not be delays caused by the Office of Industrial Property within the Ministry of Trade of Industry which is not processing applications for registration of trademarks fast enough, although there are many more companies awaiting to do so. Consequently, although KC can seize goods believed to be counterfeit and which are infringing intellectual property rights, they must be released to the importer due to fact that the rightful holders of the commodities do not have valid registration in MTE.

Cooperation with other Law Enforcement Agencies

Moderate results have been recorded with regard to the continuation of good and collegial cooperation with other law enforcement agencies. Collaboration with Public Prosecutors Office (PPO) has been proceeding as planned and has seen good development since the signing and the implementation of the MoU between the PPO and KC in January 2011. Additionally, the guidelines regulating respective tasks and responsibilities were signed by the KC DG in August 2011 and consequently adopted a week later.

Cooperation varies from one Border Crossing Point (BCP) to another. An issue of concern remains non-uniformity of the use of policies at BCP where one can notice different approaches at different BCP's. There is visible lack of coordination between the three main agencies at the BCP's which in turn causes delays in processing freights and passenger traffic.²⁶

BASELINE BOX

The assessment of draft directorate's operational plans for 2009 found un-equal standards of equality and broadly defined activities without clear outcomes and clear objectives for all of KC.

Nevertheless, in general when there is proper coordination and prior planning the agencies carry out quality smuggling interventions. Such cooperation is expected to further improve after meetings have taken place between the heads of the agencies in question on fully mapping the gaps of deficiencies identified and taking the necessary steps for short term and long term solutions.

KC have compiled a programme of intelligence led exercises for 2012 scheduled out on a monthly basis, concentrated on identification of illicit cash movements, joint narcotics operations with KP, identification of IPR infringements and tackling of other criminal activities. Cooperation's of that nature led to an adoption of a Task Force approach and signing of a MoU on relates matters. On a similar note, cooperation with the Kosovo Tax Administration (KTA) on fighting revenue loss continues to be good since the signing of the MoU between the two bodies in October 2009. Likewise, the exchange of electronic information with KTA since the signing of the MoU on this matter in September 2009 have improved to a high level into filling the identified gaps on fighting revenue loss. Nonetheless, the culture of cooperation and coordination with each operation taken jointly with other law enforcement agencies is gradually being implemented, although this process is highly dependant on officers' personal engagement and will as well as their motivation.

Internal Communication

Internal communication and data intelligence sharing have seen some improvements, although there is room for further progress, especially in the information flow between BCP's and KC HQ. Key principles and practices of the EU standard National Intelligence Model have been adopted by the KC Law Enforcement Directorate which are enshrined in the KC Intelligence Sector Guidelines.

Although KC operates a well equipped National Center for Border Management (NCBM), there is however a some way to go in relation to information exchange between the field offices and the centre which is mainly due to lack of proper equipment. The information exchange is mainly done through mobile phones and emails thus at times adding to communication complications.

Therefore, EULEX has recommended as a priority that the NCBM be further developed into an effective operational centre, which allows for 'real-time' sharing of relevant information between all border agencies, and acquisition of equipment that would allow easier communication such as proper radio system frequency and quality radio handsets. Although a radio frequency for the Northern Kosovo does exist where there is no mobile phone coverage, nevertheless the rest of Kosovo is not covered with radio frequency, and

although the communication with mobile phones is done at a very low cost, still EULEX experts recommended that a radio frequency covering the whole of Kosovo will benefit KC. With regard to that the KC received a donation from the US Embassy in Kosovo at the end of 2011, which is in its testing phase and it is expected that in a very near future it is operational throughout Kosovo.

Integrated Border Management (IBM)

BASELINE BOX

The National Strategy on IBM which was approved in 2009 and envisages to cover national and international cooperation in view of tackling organized and cross-border crime. It further aims to coordinate the activities of agencies involved in border control and management.

Two-fold results have been visible with regard the Implementation of the IBM Action Plan, including upgrading of infrastructure and equipment at stations. An SOP on joint use of the existing infrastructure with other IBM agencies was signed, where the KC had the leading role.²⁷ Moreover, a new SOP on fighting smuggling of animals has entered into force in January 2012. At the end of March 2012 the IBM strategy 2012 - 2017 has been drafted which is envisaged to be implemented from June 2012 once the



implementation action plan is endorsed.

However, the quality of the infrastructure and working facilities still varies considerably throughout the territory of Kosovo with an obvious negative impact on developing effective coordination between the border Agencies. KC staff have continually faced poor infrastructure and poor working conditions, an issue which they have been raising their voice to the senior management about for a number of years.²⁸

On the other hand no progress was registered since the last report on Updating of Operational Plans including Border Management and Organized Crime Strategy. This action has stalled and requires more efforts by KC in order to foster interaction between KC and EULEX on the achievement of foreseen results.

BASELINE BOX

In 2008 EC reported on the lack of formal IBM agreements with neighboring countries and lack of formal agreements concerning operational cooperation with various actors

The IBM Risk Assessment Working Group was established at HQ level with the responsibility of identifying the current gaps and weaknesses and to produce and analysis of needs for operational and strategy planning.

As per the KC Strategic Operations Framework (SOF), the strategy for 2010-2012 which was hoped to be developed by a TAIEX expert has failed due to technical issues hence a new SOF was drafted in late March 2012. After its approval an action plan is also envisaged to be drafted which will ensure the implementation of the strategy in question.

Additionally, the exchange of information on cross-border crimes, with regard to IBM, is supported by existing Technical Agreement and MoU's which envisage which information is to be exchanged. Negotiations on signing cooperation agreements with other countries is on-going and to date seven bilateral agreements²⁹ on mutual cooperation in customs matters have been signed with additional 17 ongoing and expected to be signed.



EULEX Head of Mission (left) and the Chief of Staff of the Civilian Planning and Conduct Capability in Brussels, Mr. Gilles Janvier



Information exchange

Implementation of the EU funded System for the Electronic Exchange on Data (SEED) is proceeding as planned, whilst agreements for the initial implementation phase have been signed with Albania and FYRoM, whereas the agreement on the implementation of the second phase of SEED with Montenegro Customs have started after an MoU between KC and Montenegro Customs has been signed in April 2012. Moreover, the recently signed Technical Protocol for Implementation of IBM between Kosovo and Serbia also includes the use of SEED. Once fully implemented the system is envisaged to allow the KC immediate access to pre-arrival information on shipments designated for Kosovo, as well as supporting the implementation of the IBM.

BASELINE BOX

EULEX assessed that a thorough review was necessary to check existing records and methods for risk analysis process within the KC

The replacement of the TIMS with the Automated System for Customs Data software (ASYCUDA) shows good progress.

The first phase of the project was completed in November 2011 which consisted of the training of the KC Project Team on the design of the prototype of the system and its modification to meet Kosovo's needs such as duty rates and configuration of security at the operating venues. The new System was tested and accepted in January 2012 and the transfer of the old data from the previous trade management system was accomplished and trainings on the use of the system were delivered to the KC staff members. ASYCUDA pilot system in conjunction with Trade Information Management System (TIMS) is foreseen to be launched in June 2012 and last until end of August 2012 when it is envisaged to operate on its own as the sole information system.







CIVIL SOCIETY AND EULEX



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CIVIL SOCIETY AND EULEX MMA

1. Introduction: civil society in context

EULEX monitoring, mentoring and advising efforts have not been limited to close relations with institutional counterparts, but have also tried to acknowledge local civil society's perspectives and, wherever possible, to cooperate with Kosovo NGOs.

The consolidation of rule of law institutions in Kosovo brought relevant changes to the local civil society scene. As expectations from Kosovo authorities have been rising since the 2008 unilateral independence, many NGOs moved from a subsidiary delivering of public services to a closer monitoring of governmental performances. This explains the increasing commitment of several anticorruption monitors, which have been raising awareness on financial mismanagement through numerous reports, researches and roundtables carried out in the last four years.

Associational life seems to be rather vibrant in Kosovo: with roughly 6500 non governmental organizations registered in 2011 at the Ministry of Public Administration, Kosovo showed steadily increasing trends in the number of established civil society organizations, with the MPA registry counting roughly 5000 entries in January 2009 (EULEX Programme Report, 2009). The number on active NGOs is however believed to be sensibly lower, and organizations involved in the scrutiny of rule of law authorities represent only a small portion of operational NGOs.

Although civil society in Kosovo grounds on a loosely membership (the Kosovo Civil Society Foundation estimated the number of active members of non profit organizations to be 15.5 percent of the population in 2010) and still suffers from a chronic dependency by foreign donations (international donors account for 70.17% of the total financial resources available to Kosovo NGOs - KCSF data), non governmental organizations represent an important interlocutor for local authorities and international structures operating in Kosovo.

Relations between local activists and EULEX have not always been easy. Thirst for results on the fight against corruption moved the focus of many NGOs on EULEX executive functions rather than on its monitoring, mentoring and advising activities.

Nonetheless, the Mission maintained regular contacts with interested civil society organizations, and developed initiatives that will be outlined in the following sections.

2. Civil society and the rule of law

Rule of law attracted consistent interest by Kosovo civil society since the start of EULEX deployment. Non governmental organizations focused on the analysis of local institutional performance, but the CSDP Mission has also been a frequent object of debate among whistleblowers.

Highly qualified staff employed by NGOs dealing with the rule of law consented detailed researches on specific matters, usually with the double aim of raising public awareness on shortcomings of relevant authorities, and prompting proposals for policy reforms.

The fight against corruption and organized crime

was undoubtedly the first priority for the vast majority of Kosovo watchdogs, confirming the findings of the 2009 EULEX Programme Report. A short recap of non governmental initiatives in this field shall include the 2010 report on the fight against corruption and organized crime by the Kosovo Institute for Policy Research and Development (KIPRED), which outlined a gloomy picture of rule of law in Kosovo, evaluating nearly all institutions operating on legality – including EULEX – as underperforming.

Movement FOL – a Pristina-based organization pursuing the promotion of citizen activism while fostering transparent and accountable government – offered numerous inputs to the public debate, starting in January 2010 with a public call for concrete results in

the fight against corruption, and urging for reforms in the judiciary. The initiative paved the way to a regular monitoring of the fight against corruption, which brought FOL to release quarterly issues on achievements (and the lack of) of relevant authorities up to current days.³⁰

The Kosovo Democratic Institute (KDI, the Kosovo antenna of Transparency International) stands among the most active NGOs in Kosovo in researches on corruption, organized crime and transparency.³¹ The National Integrity System Assessment for Kosovo, the Analysis on Legislation and Practices in the Financing of Political Parties and the Indicator-based Monitoring of Anticorruption Progress are only a few samples of the comprehensive review lavished by KDI on dynamics of corruption in Kosovo. KDI did not limit itself to informative campaigns on financial misdemeanours in the public sector, but also tried to involve citizens in a proactive approach against corruption: this was the case of its Advocacy and Legal Advice Center, which included a free hotline where victims of corruption could receive initial advice about their rights and referrals for further legal counselling.

Expanding tools for reporting on corruption appears to become an attractive option for civil society, as proved by the recently set up website kallxo.com (in English: 'tell'). The webpage anti corruption platform – managed

by the Balkan Investigative Reporting Network (BIRN) in cooperation with various rule of law institutions, encourages the public to signal alleged offences and aims at fostering trust in authorities in charge of fighting corruption.

Courts have also entered in the range of action of several NGOs: BIRN has for instance been releasing annual (and monthly - in partnership with Internews Kosova) reports on court monitoring since 2009;³² grounding on data collected by monitors during hearings in most of Kosovo district and municipal courts, and being therefore one of the most accurate sources of information on legal practices in Kosovo. Civil society does also provide for rule of law services, such as free legal assistance. The Center for Legal Aid and Regional Development (CLARD) and the European Center for Minority Issues (ECMI) are carrying out a project funded by the European Commission Liaison Office for the provision of free legal assistance to vulnerable and marginalized groups in Kosovo; mobile teams covering several municipalities assist disadvantage citizens in municipal and district courts.

Judiciary was not the only issue of interest for local NGOs involved in the rule of law: the Forum for Civic Initiatives (FIQ) and Saferworld organized several



workshops on **police reforms**, liaising with stakeholders from Western Balkans countries in order to tackle Kosovo Police challenges from a regional perspective. Much attention has been given to community policing: the aforementioned NGOs – but also the Kosovo Center for Security Studies (KCSS) and the East West Management Institute – supported the empowerment of Municipal Committees for Safety in Communities (MCSC). MCSC are consultative bodies to Kosovo municipalities (although yet to be established and further empowered in a number of municipalities), and tasked to foster dialogue between police, municipal authorities and civil society on security issues.

Civil society organizations also dealt with **other rule of law issues**: The Kosovo Rehabilitation Center for Victims of Torture (KRCT) regularly screened Kosovo correctional services, by conducting frequent visits to detention centers and police holding cells and issuing annual reports on human right standards in prisons.³³ Integrated Border Management strategies have been at the focus of a joint research by KCSS and FIQ, with the goal of verifying local capacities to implement new standard operational procedures. The Forum for Security (a network of five local think tanks dealing with security issues in Kosovo) presented in March 2012 a report on SALW (Small Arms and Light Weapons) control by Kosovo authorities.³⁴ The paper argues that the large number of weapons circulating in Kosovo constitutes a general public security problem more than an inter-ethnic issue, and that the weak enforcement of legal provisions in cases related to illegal weapons may be at the root of the problem.

NGOs followed closely **EULEX activities**, expressing mixed views over the Mission performance. A public statement by 18 local non governmental organizations praised EULEX raids to the Ministry of Transport in May 2010, while other civil society stakeholders were contemporaneously criticizing an alleged lack of a formal monitoring mechanism and clear benchmarks to measure progress and success, hence implicitly dismissing the value of EULEX programmatic approach. Interest in EULEX was not limited to local activists: the European Peacebuilding Liaison Office (EPLO, a Brussels-based platform of European NGOs) released in August 2010 a report on the accountability of two CSDP Missions – EULEX being one of them – towards local civil society. The survey acknowledged several positive results achieved by the Mission in its

initial phase, such as the NGO database developed by the Programme Office and available to all Mission members, as well as efforts in including civil society organizations in the EULEX programmatic framework.

BASELINE BOX

Encouraging dialogue and information exchange with civil society to identify and strengthen shared purposes and goals was among the recommendation listed by EULEX in 2009.

Such findings were in contrast with a paper issued by the Dutch-based NGO IKV-Pax Christi, deploring EULEX lack of accountability towards civil society and public opinion in Kosovo, and claiming alleged political interferences undermining the work of the Mission. Saferworld has also outlined contradictory findings on EULEX in a report launched in May 2011: respondents to an opinion poll conducted in Kosovo by the British-based NGO thought EULEX to be poorly scoring in terms of trust. On the other hand, consulted citizens felt the effects of MMA activities, with 57.1% of them positively evaluating EULEX's contribution to improve KP operational standards; percentages on the same question for judiciary and customs being slightly lower.

3. Synergies with EULEX MMA Programme

The EULEX Programme Office did not limit itself to take stock of civil society commitments in the rule of law, but also pursued a more systematic cooperation between the Mission and local civil society organizations.

Contacts with NGOs developed along various topics. **Information sharing** with civil society stands as a primary task fulfilled by the Programme Office since the start of EULEX operations; frequent requests by local NGOs on several Mission activities have been directly answered or addressed to relevant offices within EULEX. MMA team leaders interacted with local activists in numerous occasions, in meetings facilitated by the Programme office and often attended by institutional counterparts. With the fight against corruption being a priority for most Kosovo watchdogs, it is not surprising to register a consistent flow of information on the topic provided by the Mission to NGOs such as Movement FOL, KIPRED, KDI and many others. EULEX made itself available to share data



on its endeavours and on the measurement of local institutional progress on other topics as well, including integrated border management, the fight against organized crime, and judicial performance.

Regular info sharing was complemented by specific **workshops**, gathering interested NGOs and officers from EULEX three components. Usually held to introduce findings from EULEX annual programme reports, workshops offered a direct contact with the Mission to any civil society organization willing to attend. Such initiatives helped to fine-tune MMA Actions with demands from non governmental organizations, which have been included in the Programmatic Approach wherever appropriate, and provided a chance to familiarize with all levels of the Mission.

BASELINE BOX

In 2009 EULEX stressed the need to enhance communication to address concerns and improve accountability towards Kosovo Serb communities.

The Mission placed a premium on building up relations with **non-majority NGOs**, and particularly with Kosovo Serb organizations. In 2009 EULEX took part in a program run by the Youth Dialogue Program and aiming at conveying information on the Programmatic Approach through a series of presentations in areas dwelled by non-majority communities. Frequent visits to the North of Kosovo prompted initial links with Kosovo Serb civil society, which consolidated into a regular communication with the Kosovo Policy Action Network (KPAN), an alliance of 95 Kosovo Serb and other non-majority NGOs.

The need to strengthen the accountability of rule of law authorities towards local communities brought EULEX to assess available tools for enhancing institutional relations with citizens. With reference to police matters, the **Municipal Community Safety Councils**

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(MCSC) attracted various efforts by the Mission, mainly addressed at verifying KP feedbacks to concerns raised during MCSC sessions. In 2010 EULEX supported the rollout of an East West Management Institute capacity building program for MCSC, providing an outline of MMA Actions of relevance to the Councils.

BASELINE BOX

In 2009 EULEX stressed the need to enhance communication to address concerns and improve accountability towards Kosovo Serb communities.

Efforts continued with an assessment of KP performance in three MCSC between October 2010 and May 2011. The research revealed interesting features on the interaction between KP and civil society at the local level, and suggested recommendations for further commitments by the EULEX Police Strengthening Department and its Kosovo counterparts.

EULEX, its institutional counterparts and local civil identified and agreed on **seizure of assets** to constitute a concrete measure against corruption and organized crime. Partnerships and initiatives on the topic have been growing steadily over the past years, starting with meetings between EULEX experts and watchdogs such as KIPRED, Movement FOL, KDI, Qohu, and the Kosovo Law Institute (KLI). While a better enforcement of legal provisions on confiscation remained a EULEX programmatic goal, NGOs began to enquire the state of affairs on seizure of assets across Kosovo courts. Monitoring trends in confiscation and increasing awareness on available legal tools for seizing illegally acquired assets are common goals for the Mission and Kosovo civil society, and will mark the cooperation between the two stakeholders even beyond the current EULEX mandate.

PART 2

EULEX 2.0

2012 will definitely mark a major shift in EULEX's operations, bearing in mind what was the theatre of operations when EULEX was launched, in December 2008.

Kosovo declared its independence from Serbia on 17th of February that year.

The International Steering Group (ISG) established the International Civilian Office, appointing an International Civilian Representative (ICR), in charge of the operational structure (ICO), designed to support and oversight the implementation of the Ahtisaari Plan. The EU also appointed the Dutch Diplomat Pieter Feith, already ICR, as EUSR. The Kosovo Constitution was approved in April 2008, fulfilling Kosovo's commitments under the Ahtisaari plan. The Constitution entered into force on June, 15th. In the same month the UNSG in his report to the Security Council on Kosovo stated that "UNMIK will no longer be able to perform effectively the vast majority of its tasks as an international interim administration".

The change was remarkable: the Kosovo rule of law system, and in particular the criminal-justice sector, started undergoing through intense reforms, from the Supreme Court to Municipal Court level.

June 2008 also marked the EU declared readiness to assume specific and residual responsibilities in the broader rule of law area (justice, police, and customs) by deploying The European Rule of Law Mission to Kosovo – EULEX. Consistent efforts were then needed to bring the Mission to its full operational capability, and carry out the activities outlined in the first part of this report.

Time warping until June 2012, the picture looks consistently changed: to begin with, the Mission score in public opinion polls clearly shows a decrease of confidence in its effectiveness when comparing trends over time. Moreover, the demand for a fundamental change in the rule of law governance exercised by domestic and international actors in Kosovo remains a priority for many citizens.

The distress call for fighting corruption and organised crime clearly emerges from the public. Reconciliation, respect of fundamental rights, and adherence to good governance standards are also widely perceived as unfulfilled pledges.

Domestic expectations, being these at political or public opinion level, have moved forward together with this fast changing environment.

While Kosovo authorities are increasingly vocal in requesting the end of all international powers, eager to take the future in their own hands, this will not exhaust www.eulex-kosovo.eu

the call for fighting corruption and organised crime. Neither will it necessarily mark progress on the above mentioned concerns of the people of Kosovo.

Another important change is surfacing in our scenario. The EU has decided to engage with Kosovo in a number of core processes that relate to the rule of law: the Structured Dialogue on the Rule of Law, the Visa Liberalization Roadmap and the Feasibility Study. These crucial processes firmly anchor Kosovo to the EU's policy framework for the Western Balkans and, at the same time, lay the groundwork for a more strategic and tailored contribution of the EULEX Mission.

Differences in the two scenarios - the 2008 and the current one - point to another enormous change brought in by all actors involved, both domestic and international. The theatre of operations for EULEX is therefore completely different.

The reconfiguration of EULEX is, in fact, an additional tangible evidence of this new momentum for Kosovo. As a result of progress made, especially in the areas of police and customs, EULEX is focusing its operational "centre of gravity" to Pristina and the north of Kosovo, while maintaining mobile capacities across the rest of Kosovo. This major shift in operations was primarily possible thanks to the achievements of local rule of law counterparts, enabling a reduction of about one third of EULEX overall staffing figures.

Chart EULEX 2.0-1: staff records

	2009-2012	2012-2014
Internationals	1950	1250
Locals	1250	1000

A reconfigured EULEX also aims at better complementing other EU instruments for Kosovo, maximizing resources, avoiding overlapping and ensuring a consistent and coherent approach to the EU perspective for Kosovo.

EULEX will remain based on the solid expertise and the important work carried out until now by its members. Yet, in line with the mandate entrusted by Member States, the Mission vows to offer an higher adherence to the overall EU agenda for Kosovo, while continuing to operate in strong partnership with rule of law institutions.

EU Member States have endowed the Mission with a

renewed 2-year mandate, but have also required the establishment of an internal benchmarking mechanism to track progress against mandate implementation. This internal benchmarking activity will encompass all EULEX goals, and will highlight those that support specific initiatives, being these in the sphere of EU Home Affairs, Justice Affairs, or Enlargement policies. This is particularly relevant when assessing progress on three issues: the judiciary, the fight against organised crime and the fight against corruption.

Reforms in the judiciary shall build on progress achieved by adopting key legislation: Kosovo is encouraged to further strengthen independence, impartiality and transparency. Challenges also remain in further reducing the backlog of cases, ensuring a sufficient budget for the proper functioning of the courts, the restructuring of prosecutorial offices, as well as filling in vacant positions for minorities.

As regards the fight against organised crime, the importance of improving Kosovo's capacity to effectively investigate and prosecute cases of cross-border organised crime, notably drug trafficking and trafficking in human beings, is a priority. The creation of a domestic witness protection scheme is also an important item in the reform agenda.

The need for stepping up efforts to prevent, investigate and prosecute corruption is undeniable, as it is the urgency to enforce measures for asset confiscation and seizure in order to disrupt the economic foundations of these serious crimes.

EULEX WORK FOR THE NEXT TWO YEARS WILL BE FOCUSED ON FOUR KEY OPERATIONAL OBJECTIVES:

- **Monitoring, mentoring and advising host rule of law institutions;**
- **Executive functions;**
- **Re-establishment of the rule of law in the north;**
- **Support to the Belgrade-Pristina dialogue.**

EULEX can well exercise a catalyzing factor in many of the core processes mentioned earlier, operating as a driver for change. The Mission can, and certainly will, capitalize on the experience gained in the past, but most of the responsibilities will remain with Kosovo institutions.

The context where the Mission operates is a constantly evolving one. This provides space and opportunity for a further integration of plans and alignment of priorities.

MMA

EULEX Kosovo will refocus its MMA activities on mid- and senior management level in the Kosovo Police, Kosovo judicial institutions and Kosovo Customs, while retaining mobile inspection capabilities at lower level.

The MMA will be performed by a dedicated "Strengthening Division", which shall bring together all MMA activities and also serve as the main Mission provider of benchmark-structured and result-driven support to the senior management of rule of law institutions. It will also liaise with multilateral and bilateral donors and adequately support their initiatives. Special attention and primacy will be guarantee to the EU Office-managed Instrument of Pre-Accession scheme (IPA) and EU Member States twinning programs: the Mission will strive for assuming a complementary rule of law capacity-builder role.

Several weaknesses affect the rule of law system, among which the still fragile link between prosecution and police on investigations, the insufficient coordination between relevant ministries on rule of law cross-cutting matters and between police and customs on border management issues, the need to develop an adequate witness protection system, and

Chart EULEX 2.0-2: operational objectives 2012-2014

	MMA	Executive
Corruption	An evaluation system for all anti-corruption and oversight agencies, a CJS strategy to target corrupt officials for investigation and prosecution	A case allocation policy that ensures that EULEX executive staff only engage in SPRK, organized crime and corruption cases that meet defined criteria of: (a) strict necessity, and (b) have a good chance of re-aching trial
Organized crime	Further enhancement of the cooperation between KP and PPO, ensuring more efficient procedures against serious and organised crime	

the persisting difficulty in generating reliable data for cross-analysis. The so-called “absorption capacities” of the host partners should be tested and “certified”. In order to respond to these needs a number of specific plans are being designed, pending consultations and ultimate approval by the host institutions.

This is consistent with the fact that the Mission will further increase its reliance on locally owned plans, both at strategic and annual level. It also explains why EULEX intends to step up joint and cross-sectoral activities, not aiming at monitoring, mentoring and advising a specific institution but rather at mainstreaming internationally recognized standards and European best practices into the overall Kosovo rule of law institutional framework.

Standards and best practices include minority representation, fair recruitment policies, transparent promotion procedures, inclusiveness in the decision-making process, but also appropriate strategies and implementation plans to better tackle cases of inter-ethnic, serious and organized crime and corruption.

The Mission strengthening activity will aim to defined end-results, such as:

- Progress on issues related to fair, transparent and sustainable staff recruitment, management, and policy making in the RoL area;
- An increase of analytical products produced by the domestic Financial Intelligence Unit;
- A solid working relations between Kosovo Police units in charge of fight against organised/serious crime and Public Prosecutors;
- An enhanced Kosovo Police performance on organized crime, war crimes and corruption and capacity/ willingness to take additional tasks;
- An enhanced legal framework, properly implemented, effectively curbing political interference in judicial authorities and focusing on capacity/skills at managerial level;
- Tangible progress in strengthening the anti-corruption legal, institutional and policy framework, and in reducing crimes of corruption and its related perception;
- Progress of Kosovo authorities in meeting the conditionalities under the Visa Liberalization Roadmap

Chart EULEX 2.0-3: EULEX MMA Programme and the Visa Liberalization Roadmap

MMA Tasks	Visa Liberalization Requirements
Support local institutions to tackle inter-ethnic crime	Fundamental Rights related to Freedom of Movement
Support to the newly formed Financial Intelligence Unit	Strengthen police capacity in financial intelligence and tackling financial crime
Ensure the full functionality of the Police Inspectorate of Kosovo	Preventing and combating organized crime, corruption & terrorism
Support KP Operations and Admin at central and regional levels	Strengthen capacity of police
Developing KP/PPO capacity to deal with serious crime categories	Law enforcement co-operation
Structured support to help develop a Kosovo witness protection scheme	Strengthen capacity of the police to operate witness protection
Develop KJC and KPC judiciary capacities and competence	Law enforcement cooperation; Judicial cooperation in criminal matters
Enhance and increase international judicial cooperation	Preventing and combating organized crime, corruption & terrorism;
support to the Kosovo Customs Senior Management	Border/boundary management

EXECUTIVE

The overarching philosophy for the executive operations is a rather simple one: the Mission will carry on its tasks while domestic rule of law institutions strive towards a full capacity to tackle corruption, war and organised crime cases in an unbiased manner, and without international intervention. Meanwhile, EULEX Kosovo will continue to exercise its executive functions in investigating, prosecuting and adjudicating sensitive cases related to organised crime, corruption, war crimes, and property and privatization issues. While the Mission will continue dealing independently on the most sensitive cases, prosecutorial and adjudication work will be increasingly structured through mixed investigation teams and joint panels including local prosecutors and judges, to strengthen ownership and further build capacities at local level.



To this end, two mutually reinforcing projects will aim respectively at maintaining a strong focus on the work of the Kosovo Special Prosecution Office and in progressively increasing the inclusion of local counterparts in dealing with sensitive cases. This is consistent with EULEX plans for a gradual phasing out. The independence of EULEX Kosovo judges in adjudicating cases and the autonomy of EULEX Kosovo prosecutors in prosecuting cases will continue to be fully respected also in the context of the implementation of the new mandate.

The Mission executive activity will aim to defined end-results, such as substantially increasing the trend of:

- Relevant criminal cases jointly handled with local authorities, both at prosecutorial and police investigations level;
- Domestic judges sitting in “mixed-panels” with EULEX judges will be representing the majority.

NORTH

EULEX wants to facilitate the gradual restoration of the rule of law in the north of Kosovo, building upon the approach adopted and the efforts made thus far. EULEX staff will continue on working towards attaining a balanced multi-ethnic representation and strengthening several rule of law institutions in the four northern Kosovo municipalities: courts and prosecution offices, particularly in Mitrovicë/a, Kosovo Police (KP) stations, Mitrovicë/a Detention Centre and KP regional Operational Support Unit.

In parallel, EULEX Kosovo will strive to continue and complete investigations on organized and serious crime cases through the Mitrovicë/a Taskforce (TFM).

DIALOGUE

Wherever relevant to its mandate, the Mission will also support the enforcement of agreements reached within the Belgrade-Pristina dialogue facilitated by the EU, thus playing an important role on the ground vis-à-vis this process. This will mainly encompass working on:

- The certification of Civil Registry books;
- The Freedom of Movement agreement;
- The Integrated Border Management agreement.



EU Commissioner for Home Affairs Cecilia Malmstrom and EULEX Head of Mission

EULEX will consult closely and regularly with the host institutions and partners to ensure unity of views and synchronization of efforts in bringing forward the EU perspective of Kosovo. This may include a new “compact” between the Mission and Kosovo authorities on a plan to tackle the challenges in the rule of law area to a next level.

The Joint Rule of Law Coordination Board will be in this sense a fundamental cooperation and coordination platform between Kosovo and EU actors on the ground as a whole.

Only a result-based approach will enable the Mission to genuinely inform on the overall benchmarking and evaluation of Kosovo's activities vis-a-vis the EU criteria set for the Rule of Law area.



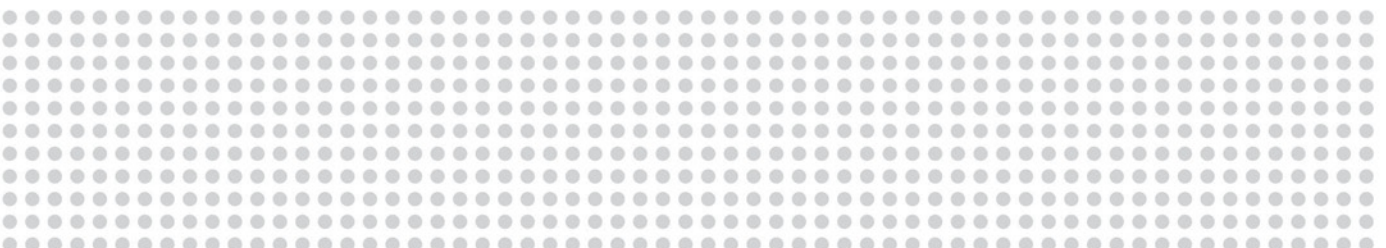
Kosovo Prime Minister Hashim Thaci (left), the EUSR/EU Head of Office Samuel Zbogar (center), EULEX Head of Mission (right)

The Mission will continue to provide inputs and expertise under the Stabilization and Association Process Dialogue for Kosovo, the visa liberalization dialogue and the feasibility study.

Local justice and home affairs institutions will then assess how and to what extent European Union operations in Kosovo may support them. It is nevertheless worth stressing that emphasis should stay on the domestic criminal justice system and related local authorities.

In this regard the support to domestic plans will need to upgrade its capacity and adopt a comprehensive approach. EU support and assistance proved, for instance, quite efficient in providing border control equipment, or the building of a palace of justice. But the EU potential to influence in areas where change results more difficult – thus more painful - still have to be fully explored, this being the main challenge for the rule of law reform agenda.

EULEX is there to ensure a solid interface between local professionals and the fast changes ongoing in the rule of law system. By working alongside to Kosovo judges, prosecutors, police officers, customs officers, correctional officers, forensic experts, staff in the ministries, the Mission will assist and support, on a daily basis, Kosovo's path toward the European Union.



ENDNOTES

- ¹ The MMA Action activities involved a specific set of activities that were designed to produce tangible outcomes for the benefit of the KP. The activities were designated jointly by the KP and EULEX staff whilst implemented solely by the KP managers. See for reference the MMA Tracking Mechanism available at: <http://www.eulex-kosovo.eu/en/tracking/>.
- ² Note that the group of 31 MMA Actions referred to here does not include six MMA Actions that were designated as 'joint' KP/Public Prosecutor MMA Actions. The Head of PSD has sent a recommendation (in February 2012) that those MMA Actions that relate to cooperation between Kosovo Police (KP) Crime Pillar and the Public Prosecutors' Office (PPO) should be managed directly by EULEX Justice. At the time of writing these MMA Actions remain 'deferred' and include: PSD 4/2009 (Improved Public Information regarding the CJS); PSD 5/2009 (Team Approach of KP/PPO); PSD 6/2009 (Joint Strategic Management of the CJS); PSD 7/2009 (Common CJS Crime Statistics Database); and PSD 8/2009 (Publication of a CJS Annual Report) and PSD 25/2009 (Cross-Border Crime Strategy).
- ³ PSD11/2009 (KP Information System); PSD15/2009 (Resource deployment system); PSD22 (Enhanced Border Communication); PSD23/2009 (implementing laws and strategies related to Migration) and PSD29/2009 (Enhanced procurement performance).
- ⁴ See PSD17/2009: Community Policing TOR
- ⁵ The Mission has been producing annual Programme Reports since 2009 which provide analyses of the progress and challenges of the Kosovo's Rule of law institutions. In addition, other related documents, such as the catalogue of all MMA Actions and the 'living' MMA Tracking Mechanism file have all been available online for the wider public. See for reference: <http://www.eulex-kosovo.eu/en/tracking/>
- ⁶ The Final Report is co-signed officially by the respective managers of the MMA Action (KP and EULEX), including the KP Director General and the Head of EULEX Police Component (or the Head of Police Strengthening Department).
- ⁷ Special Intervention Group
- ⁸ Improvised/Explosive Ordnance Disposal
- ⁹ The term 'Acting' is used to describe the policy of nominating an officer of one (lower) rank to fulfil the functions of another (higher) rank for a prolonged period of time.
- ¹⁰ It should be noted that according to the official data produced by the KP Press and Public Information Office on 30 March 2012, it was recognized that the KP had a 50% reduction of last year's total budget allocation.
- ¹¹ EULEX's Mission Statement refers to six principal aims: namely, that EULEX will assist Kosovo authorities, judicial authorities and law enforcement agencies in their progress toward: 1 sustainability; 2 accountability; 3 multi-ethnicity; 4 freedom from political interference; 5 compliance with internationally recognized standards; and 6 European best practices.
- ¹² EULEX Programme report 2009, page 91.
- ¹³ EULEX Programme Report 2009, page 88.
- ¹⁴ <http://www.eulex-kosovo.eu/docs/tracking/EULEX%20MMA%20ACTIONS%2020102904.pdf>
- ¹⁵ Less important cases, e.g. cases involving execution procedures and cases concerning court fees, are no longer included in the figures for 2011. For instance, this brings down the total number of cases admitted to the courts in 2011 to 86 394 (compared with 322 324 during 2010).
- ¹⁶ When the Independent Judicial and Prosecutorial Commission reappointment procedure closed in October 2010, 120 judges' positions remained vacant. None of these posts has been filled at the time of drafting this report.
- ¹⁷ Assessment described in the report titled: Building capacity of the Kosovo Judicial Council on Information Communication Technology, published on 30 September

2011. This assessment and subsequent report is a part of a project funded by EC TAIEX and the Government of Norway.
- 18 Manual on Court Management and Standard Operating Procedures, page 119-122.
- 19 This includes special rooms, integrated service digital network connection (ISDN) for video conference, and technicians for the ISDN and video conferences services.
- 20 "States where the police is independent of the public prosecution should take effective measures to guarantee that there is appropriate and functional co-operation between the Public Prosecution and the police." Paragraph 23 – Recommendation Rec(2000)19 of the Committee of Ministers to Member States on the role of public prosecution in the criminal justice system (Adopted by the Committee of Ministers on 6 October 2000 at the 724th meeting of the Ministers' Deputies)
- 21 Programme Report 2010 page 47.
- 22 a) Updating of operational plans incl. Integrated Border Management & organized crime strategy;
b) Enhanced internal communications and data & intelligence sharing;
c) Intensified cooperation with law enforcement agencies, especially Public Prosecutors, and coordination of Integrated Border Management;
d) Implementation of the Integrated Border Management Action Plan, including upgrading of infrastructure and equipment at stations
- 23 Number of customs offenses during this reporting period has seen a big drop (from 5000 to 500)
- 24 For example UNMIK Regulation 2003/23 regulating the excise on tobacco products which foresaw that importers and manufacturers of tobacco and cigarettes pay excise in advance before the actual import, has been annulled and replaced with a regulation (No. 04/L-021 on Tobacco Products Tax), pursuant to the guideline of the EU Council 2008/118/EC according to which payment of excise tax will be made once the goods have been released into the free market
- 25 Between January and March 2012 53.000 pieces of suspected counterfeit goods were detained by KC for value of 140.000 EUR, and during the same period destroyed 34.000 pieces of goods worth around 84.000 EUR
- 26 For example, at some BCP's instead of one body doing one test on commodities, the Kosovo Veterinary and Food Agency does its own test and the KC its own tests, hence causing unnecessary delays in processing cases. Similar cases of lack of coordination were also noted between KC and KP with each doing separate controls and one not informing of providing information to the other.
- 27 As a result of this KC officers have been sharing with and demonstrating the use of equipment to their border agency counterparts and, where their special skills are needed, they have conducted the searches/examinations, as per request of the other agencies.
- 28 Issues include lack of and faulty equipment, lack of examination facilities, poor office conditions, no adequate covered areas for basic questioning of travelers, low number of staff contrary to needs and requirements
- 29 Bilateral agreements on mutual cooperation have been signed with Albania, Finland, Turkey, Slovenia, Macedonia, Montenegro, and France.
- 30 Available at: <http://levizjafol.org/en/publikimet/>
- 31 Available at: <http://www.kdi-kosova.org/en/ta.php>
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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of June 2012. Nevertheless, EULEX cannot accept responsibility for the consequences of its use for other purposes or in other contexts.



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