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EULEX PROGRAMME OFFICE  
OFFICE OF THE HEAD OF MISSION EULEX KOSOVO  
EUROPEAN UNION RULE OF LAW MISSION

# EULEX

## PROGRAMME REPORT 2010

*"Building Sustainable Change Together"*

2010

# LIST OF ABBREVIATIONS

|               |                                                                    |
|---------------|--------------------------------------------------------------------|
| <b>BBP</b>    | Border and Boundary Police                                         |
| <b>BCP</b>    | Border and boundary crossing point                                 |
| <b>CCTV</b>   | Closed-Circuit Television                                          |
| <b>CJS</b>    | Criminal Justice System                                            |
| <b>CMIS</b>   | Court Management Information System                                |
| <b>CRA</b>    | Civilian Registration Agency                                       |
| <b>CSO</b>    | Civil Society Organization                                         |
| <b>CTA</b>    | Customs and Taxation Administrations                               |
| <b>CU</b>     | Correctional Unit                                                  |
| <b>DC</b>     | District Court                                                     |
| <b>DCA</b>    | Directorate of Crime Analysis                                      |
| <b>DECCI</b>  | Directorate of Economic Crime and Corruption Investigations        |
| <b>DFM</b>    | Department of Forensic Medicine                                    |
| <b>DG</b>     | Director General                                                   |
| <b>DMF</b>    | Department for Migration and Foreigners                            |
| <b>DOC</b>    | Directorate of Organized Crime                                     |
| <b>DSR</b>    | Daily Situation Reports                                            |
| <b>ECLO</b>   | EC Liaison Office                                                  |
| <b>EC</b>     | European Commission                                                |
| <b>EIDHR</b>  | European Instrument for Democracy and Human Rights                 |
| <b>EU</b>     | European Union                                                     |
| <b>EU-CTA</b> | EU Support to Customs and Taxation Administrations                 |
| <b>FYROM</b>  | Former Yugoslav Republic of Macedonia                              |
| <b>HR</b>     | Human Resources                                                    |
| <b>HRGO</b>   | Human Rights and Gender Office                                     |
| <b>IBM</b>    | Integrated Border Management                                       |
| <b>ICIS</b>   | Integrated Customs Information System                              |
| <b>ICITAP</b> | International Criminal Investigative Training Assistance Programme |
| <b>IEDD</b>   | Improvised Explosive Device Disposal                               |
| <b>IEOD</b>   | Improvised Explosive Ordnance Disposal                             |
| <b>IJPC</b>   | International Judicial and Prosecutorial Council                   |
| <b>ILA</b>    | International Legal Assistance                                     |
| <b>ILP</b>    | Intelligence Led Policing ILP                                      |
| <b>IPA</b>    | Instrument for Pre-Accession Assistance                            |
| <b>IPR</b>    | Intellectual Property Rights                                       |
| <b>IRB</b>    | Independent Review Board                                           |
| <b>IT</b>     | Information Technology                                             |
| <b>JAU</b>    | Judicial Audit Unit                                                |
| <b>JDC</b>    | Judicial Disciplinary Committee                                    |
| <b>JRCB</b>   | Joint Rule of Law Coordination Board                               |
| <b>KC</b>     | Kosovo Customs                                                     |
| <b>KCS</b>    | Kosovo Correctional Service                                        |
| <b>KDI</b>    | Kosovo Democratic Institute                                        |
| <b>KEK</b>    | Energy Corporation of Kosovo                                       |

|               |                                                                 |
|---------------|-----------------------------------------------------------------|
| <b>KFOR</b>   | NATO-led Kosovo Force                                           |
| <b>KIPRED</b> | Kosovo Institute for Policy Research and Development            |
| <b>KJC</b>    | Kosovo Judicial Council                                         |
| <b>KP</b>     | Kosovo Police                                                   |
| <b>KPC</b>    | Kosovo Prosecutorial Council                                    |
| <b>KRCT</b>   | Kosovo Rehabilitation Centre for Torture Victims                |
| <b>KTA</b>    | Kosovo Trust Agency                                             |
| <b>MC</b>     | Municipal Court                                                 |
| <b>MCSC</b>   | Municipal Community Safety Councils                             |
| <b>MEF</b>    | Ministry of Economy and Finance                                 |
| <b>MIA</b>    | Ministry of Internal Affairs                                    |
| <b>MMA</b>    | Monitoring, Mentoring and Advising                              |
| <b>MoU</b>    | Memorandum of Understanding                                     |
| <b>MoJ</b>    | Ministry of Justice                                             |
| <b>MT</b>     | Mixed Team                                                      |
| <b>NGO</b>    | Non-Governmental Organization                                   |
| <b>OC</b>     | Organized Crime                                                 |
| <b>OCTHB</b>  | Organized Crime and Trafficking with Human Being Section        |
| <b>ODC</b>    | Office of Disciplinary Counsel                                  |
| <b>OMPF</b>   | Office of Missing Persons and Forensics                         |
| <b>OSCE</b>   | Organization for Security and Cooperation in Europe             |
| <b>OSU</b>    | Operation Support Unit                                          |
| <b>PAK</b>    | Privatization Agency of Kosovo                                  |
| <b>PAM</b>    | Prosecution Administration Manual                               |
| <b>PEG</b>    | Prisoner Escort Group                                           |
| <b>PISCES</b> | Personal Identification Secure Comparison and Evaluation System |
| <b>PMIS</b>   | Prosecution Management Information System                       |
| <b>PPO</b>    | Public Prosecutors' Office.                                     |
| <b>PSD</b>    | Police Strengthening Department                                 |
| <b>RECCIU</b> | Regional Economic and Corruption Crimes Investigation Units     |
| <b>RoL</b>    | Rule of Law                                                     |
| <b>RMIS</b>   | Resource Management Information System                          |
| <b>ROSU</b>   | Regional Operation Support Unit                                 |
| <b>SOE</b>    | Socially Owned Enterprises                                      |
| <b>SOF</b>    | Strategic Operational Framework                                 |
| <b>SOP</b>    | Standard Operating Procedure                                    |
| <b>SOU</b>    | Special Operations Unit                                         |
| <b>SPRK</b>   | Special Prosecution Office of Kosovo                            |
| <b>SMSG</b>   | Special Representative of the Secretary General                 |
| <b>SSU</b>    | Special Support Units                                           |
| <b>TAK</b>    | Tax Administration of Kosovo                                    |
| <b>TAIEX</b>  | Technical Assistance Information Exchange Instrument of the EC  |
| <b>THB</b>    | Trafficking of Human Being                                      |
| <b>TIMS</b>   | Trade Information Management System                             |
| <b>UN SCR</b> | United Nation Security Council Resolution                       |
| <b>USAID</b>  | United States Agency for International Development              |

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## PREFACE

I am pleased to present the latest EULEX Programme report. Its publication marks another important milestone – giving opportunity to people to track monitoring, mentoring, and advising (MMA) progress in assisting Kosovo’s rule of law. This work has sought to build upon the work culminated in the release of the EULEX Programme Report in July 2009 by preparing detailed plans to address areas of weakness in Kosovo’s police, judiciary and customs. Planning the necessary changes has been a joint effort of EULEX staff and their counterparts throughout the Rule of Law components. EULEX staff provides assistance in and actively monitored the process of implementation, which has been the sole responsibility of professionals in Kosovo’s police, judiciary and customs.

As the report indicates, some positive, gradual, realistic and sustainable progress has been achieved. However, we all must be aware that the problems that are being tackled are substantial and there are no quick fixes. The rate of development is dictated largely by the resources and capabilities of the police officers, customs staff, prosecutor, judges and court administrators; they own and control the change process, whilst EULEX assists with monitoring, mentoring and advising. In many areas the process is also complemented by the European Commission, other international organizations and/or donor-funded projects.

I take this opportunity to thank our partners throughout Kosovo’s rule of law for their ongoing cooperation, as well as the many EULEX officers whose hard work and commitment is reflected in these pages.

**Yves de Kermabon**

*Head of Mission*

EULEX Kosovo

European Union Rule of Law Mission

# PROGRAMMATIC APPROACH – PHASE II

EULEX's Mission Statement refers to six principal aims: namely, that it will assist Kosovo authorities, judicial authorities and law enforcement agencies in their progress toward:

- ✓ sustainability,
- ✓ accountability,
- ✓ multi-ethnicity,
- ✓ freedom from political interference,
- ✓ compliance with internationally recognized standards, and
- ✓ compliance with European best practices.

These important aims define a shared vision for the future of Kosovo's rule of law institutions, a vision that EULEX would help to achieve. Moreover, it sets out an agenda for Kosovo's European perspective.

So, what is envisaged by the EULEX Kosovo Mission Statement is a process of reform: moving Kosovo's police, justice and customs from their 'current state' to a more 'desirable state'. As in a journey, it is essential that those who work in Kosovo's rule of law know where they are at the start, as well as where they want to be in the future.

Between December 2008 and June 2009 EULEX conducted Phase I of its *programmatic approach*. This consisted of a detailed assessment of the current performance of Kosovo's Rule of Law: in other words, EULEX evaluated the 'current state' of the police, customs and justice, and identified possible civil society partners for its MMA activities. The findings of the assessment were described in the EULEX Programme report of July 2009 which brought forward a large number of recommendations for future change.

The EULEX Programmatic Approach is based on a rigorous adherence to the principle of 'local ownership'. In practice this has meant that the final responsibility for translating each recommendation into a MMA Action has rested with the relevant institutions of in Kosovo's rule of law. In this way, the EULEX programmatic approach is designed to help Kosovo's rule of law bodies to make the changes themselves, rather than rely upon an international presence to do it for them. Whilst Kosovo's rule of law professionals execute the changes, EULEX staff provide constant assistance and mentoring, thereby aiding the process of organizational change. The EULEX staff also undertake monitoring of the process and prepare detailed and informative reports on progress, or otherwise.

The EULEX Programme Report 2010 collates and presents performance data from the critical period of implementing the MMA Actions, over the last months and more. This is a fundamental part of EULEX's mandate, to be accountable and transparent about the work that it is doing.

A "catalogue" of all MMA Actions can be downloaded in PDF format from the EULEX official website: <http://www.eulex-kosovo.eu/en/tracking/>.

But there is more. By regularly checking the web-link above, one can monitor the MMA work of EULEX and see to what extent Kosovo institutions are progressing in developing rule of law. We will continue to be open and accessible to the public. We have encouraged Non-Governmental Organisations (NGOs) and Civil Society to have open and regular exchanges with us. Letting people know what the expected reforms are and how to stay informed at every stage of the process is part of our core business.

As the MMA Actions are implemented, Kosovo's rule of law is advancing further along. One of the most important requirements for Kosovo to develop its European perspective is to improve the rule of law. That is why allowing Kosovo's people to track progress will contribute to bring them closer to the European Union (EU).

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 through monitoring, mentoring and advising (MMA). The findings and analysis are presented in detail in this Report.

| RULE OF LAW AREA | Sectors                                                  | 2010vs2009 | Reference pages in this report |
|------------------|----------------------------------------------------------|------------|--------------------------------|
| <b>POLICE</b>    | Tackling Crime effectively                               | <b>B</b>   | 16-18                          |
|                  | Tackling patrol issues and ensuring public order         | <b>B</b>   | 18-20                          |
|                  | Providing secure borders                                 | <b>A</b>   | 20-21                          |
|                  | Providing a sustainable organisation                     | <b>B</b>   | 22-23                          |
| <b>JUSTICE</b>   | Kosovo Judicial Council                                  | <b>B</b>   | 26-29                          |
|                  | Judges                                                   | <b>B/C</b> | 29-38                          |
|                  | Public prosecutors                                       | <b>B/C</b> | 38-42                          |
|                  | Special Prosecution Office (SPRK)                        | <b>B</b>   | 42-44                          |
|                  | Ministry of Justice                                      | <b>B/C</b> | 45-49                          |
|                  | Office of Missing Persons and Forensics                  | <b>B/C</b> | 48-49                          |
|                  | Correctional Service                                     | <b>A/B</b> | 49-54                          |
| <b>CUSTOMS</b>   | Integrating Government strategies into operational plans | <b>B</b>   | 56                             |
|                  | Improving Internal Communication.                        | <b>B/C</b> | 57                             |
|                  | Co-operation with other law enforcement agencies.        | <b>B</b>   | 58                             |
|                  | Integrated Border Management Strategy.                   | <b>B/C</b> | 60                             |

**A** = Progress

**B** = Slow progress/Need more impetus

**C** = Problematic/Very limited or no progress

**D** = Serious concern/regression

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# **EXECUTIVE SUMMARY**

**Police.** The progress of the police-related MMA Actions has been dependant on the availability of sufficient Kosovo Police (KP) resources.

The capacity of the KP to convert strategic policies or documents (often devised in accordance with international standards) into implemented actions needs considerable development. Examples are the implementation of the Strategy to fight Organised Crime and the Action plan against narcotics.

Despite these difficulties KP managed to move forward in terms of strategic development of the organisation by drafting a 2011-2015 five-year strategic plan. The strategic plan will be further assessed regarding the emphasis on performance indicators, clarity of main goals and objectives, and police-public relations aspects.

The reorganisation of the structure has proved to be a difficult process: it is still in the making, and the monitored lack of coordination between the institutional actors involved would suggest that a careful analysis of the final 'shape' of KP needs to be carried out. Possible duplication and inconsistencies within the new organisation must be avoided. A comprehensive resource allocation review should ensure, upon completion of the KP restructuring, a proper allocation of staff throughout the KP.

Progress was recorded in the transfer of responsibility for surveillance of the Green Border with Albania: the transfer of responsibility from KFOR to KP took place on 28 April 2010. Joint and synchronized patrols (KFOR, KP Border and Boundary-BBP, EULEX) have been activated and recruitment of 127 new officers took place in early 2010. Limited or no progress was registered on the remaining boundary lines: the border demarcation process with the Former Yugoslav Republic of Macedonia (FYROM) has been finalized but a transition roadmap is still being prepared and the process is expected to start at the end of this summer.

KP assumed new tasks which entailed major operational challenges but which also bear high symbolic relevance - such as the first steps of taking over responsibility for securing religious and cultural heritage sites from KFOR.

The introduction of Intelligence-Led Policing (ILP) was implemented weakly. Since March 2010, more resources and energy have been allocated to it by KP. This is partly due to the request made by the KP to the European Commission (EC) under the "IPA 2010" framework for assistance, mainly in the IT area. EULEX and the European Commission Liaison Office (ECLO) will continue to closely monitor the development of this action.

A positive step in tackling economic crime, financial crime and corruption has been the establishment of the Directorate of Economic Crime and Corruption Investigations (DECCI) by the KP Director General (KP DG) in December 2009. DECCI has jurisdiction Kosovo-wide and coordinates investigations at central level (HQ) and regional level (Regional Economic and Corruption Crimes Investigation Units –RECCIUs). The selection of key staff is ongoing but other bottlenecks, such as logistical means and the allocation of the agreed level of human resources, have already been noted.

Some progress was noted in developing the crowd and riot control capability of the KP. The former Regional Operation Support Units (ROSU) units have been unified under a single chain of command (they are now called Operation Support Unit - OSU); this is expected to have a positive impact on the management of resources, training and operations.

In order to accompany the decentralization process and the subsequent creation of new municipalities, KP has set up a thematic working group to plan the establishment of new police stations in these areas. A new Regional HQ is under construction in Gjilan/Gnjiliane. The regional directorate of Border Police North, the regional directorate of Ferizaj/Urosevac, and other stations and substations are being renovated.

The EULEX Human Rights and Gender Office (HRGO) has been monitoring the (translated) main Daily Situation Reports (DSR) collected and collated by the KP. The statistical data included in the DSRs is categorized essentially according to the offences and crimes foreseen in the applicable law. The EULEX HRGO found that the KP is not maintaining combined statistics that would compare for instance categories of victims, perpetrators, and crimes (according to parameters such as gender, ethnicity or sub-categories of crimes). EULEX is of the firm opinion that a more sophisticated use of the raw data contained in the DSR is needed to produce a comprehensive crime survey. To identify patterns and root causes of crime and in consequence for the designing of targeted remedial programmes, the KP is in need of a reliable tool and indicators to calibrate its responses.

The KP organisation has produced a modest number of outputs, but it has also demonstrated a growing ability to bring about large-scale organisational change. In this sense, EULEX's findings seem to confirm that the KP has started to become a 'learning organisation'. In a very real sense, this emerging ability can be described as the hidden, extra MMA Action.

**Justice.** The design and implementation of MMA Actions within Kosovo's justice system continues to be pursued by EULEX experts who divide their time between core executive functions (i.e. investigating crimes and prosecuting persons suspected of offences, and adjudicating cases in court) and providing assistance through structured monitoring, mentoring and advising. This arrangement has yielded some important changes within certain parts of the justice system.

The Kosovo Judicial Council (KJC) is now operational and its capacity to develop institutional competence will continue to be subject of MMA. Despite the progress achieved during the reporting period, the KJC is still working on challenging aspects and its readiness to play a pivotal role in ensuring the independence and impartiality of the Kosovo judicial system will be tested in the coming months.

The performance of the Kosovo justice system is still showing signs of weakness. Interference at different levels and in a variety of forms was observed. This interference with the work of the justice system, both in criminal and civil proceedings, has often resulted in practical problems (such as the pre-emptive abstention of local judges and prosecutors to deal with sensitive cases).

The massive number of pending issues, particularly of a civil nature, indicates that local judges and prosecutors were unable to progress in tackling this urgent problem.

The Kosovo criminal justice system (CJS) capacity to move forward with the reform agenda remained very fragile and inconsistent. The lack of progress in establishing the basic mechanisms of co-operation and co-ordination between prosecutors and Kosovo Police, as well as between prosecution offices and courts, remain a factor of concern. Furthermore, prosecution efforts are undermined by poor management and lack of support staff.

The establishment of an anti-corruption task force in the Office of the Special Prosecutor of Kosovo (SPRK) is certainly a positive step forward; steady progress in this area would certainly contribute to the overall improvement in the fight against financial crime and corruption.

The completion of the vetting and re-appointment process for Kosovo judges and prosecutors will certainly help to create the right “momentum” to accompany the necessary reforms. This aspect needs to be coupled with the human resources issue: staffing levels are not sufficient and more needs to be done in order to ensure that crucial positions are filled and support staff is properly allocated.

Quality and transparency of the legislative process need to be significantly improved, not only to provide Kosovo with a sound legal framework but also to improve confidence in the legal system.

The practice monitored so far demonstrates that further improvement is needed in the treatment of victims of domestic violence, in cases related to trafficking of Human Beings and in gender-related cases.

The Kosovo Correctional Service is showing a more pro-active approach to the development of the service, actively taking part in all joint initiatives. Progress was recorded in Prison Administration, Operations and Security management, high-risk prisoners, the escort of prisoners and court security.

**Customs.** The recommendations in both the 2009 EULEX Programme Report and the 2009 ECLO/EU Customs Blueprints Analysis Report seem to have guided Kosovo Customs’ efforts to improve its performance.

The Administrative Instruction with implementing provisions of the Customs and Excise Code of Kosovo entered into force in September 2009. Good progress has been made in issuing administrative instructions in line with the new customs legislation. The drafting of amendments to the Code has started in order to include specific clauses regulating data collection and protection. The drafting process of implementing provisions of Law on Customs Measures for Protection of Intellectual Property Rights (IPR) is in its final phase.

No progress has been made in the functioning of the Independent Review Board and reduction of the backlog in customs appeals, notwithstanding reiterated commitments of the Kosovo institutions to remove

the obstacles for a proper functioning appeals body.

With support of the EC funded “EU Support to Customs and Taxation Administrations” programme (EU-CTA), a training needs assessment in Kosovo Customs has been completed, including more specialized law enforcement training.

Customs valuation will continue to be an area of close co-operation between EULEX, EU-CTA and Kosovo Customs, also in the light of the direct impact on revenue collection.

No progress has been made to introduce an integrated human resources system in Kosovo Customs, although possible solutions have been explored.

The Minister of Economy and Finance decided to replace the existing IT system with an EU-compliant Integrated Customs Information System. This should not only represent an advantage of improved digital document processing but also allow the introduction of the single-window concept, an improved selectivity of customs controls, and a more effective detection of illegal trade and serious crime.

Ethnic minority (12%) and gender (24% female) proportions in Kosovo Customs Human Resources remained fairly stable, while total staff numbers slightly increased by 30 officers in 2009.

**Integrating Government Strategies into Operational Plans:** Kosovo Customs drafted a new Strategic Operational Framework (SOF) for the period 2010-2012. The draft SOF needs to be more focused at strategic level, including the elaboration of a specific vision and identification of key areas of performance for the next 3 years. As to the Action Plan 2010, the integrated nature of this corporate plan was beneficial, since it builds on the SOF; it may need to be re-aligned to the final shape of the SOF.

**Improving Internal Communication:** there has been limited progress in developing this MMA Action, also due to the lack of sufficient human resources within the EULEX Customs Component. More resources were allocated by EULEX in spring 2010. Kosovo Customs’ officers have been included in training delivered by the EC “Strengthening the Rule of Law” Twinning Project to the Kosovo Border Police.

Progress has been noted in implementing the MMA Action on co-operation with other law enforcement agencies. This set of activities focuses on the Kosovo Customs Legal and Law Enforcement Directorates in order to intensify the cooperation with other law enforcement agencies, and especially with the Public Prosecutors Office. Kosovo Customs has drawn up a plan for a joint operation with Kosovo Police to detect the illegal import and export of money by travellers at Prishtinë/Priština International Airport. The decision has been taken to set up a new Unit within the Legal Directorate for liaison and co-operation with Public Prosecutors, although it is not yet operational. A Memorandum of Understanding (MoU) was signed between Kosovo Customs, Kosovo Police and the Tax Administration of Kosovo, which lays the foundations for closer co-operation. Some customs co-operation and mutual assistance agreements with neighbouring countries have been signed, while others are being negotiated or under preparation.

**Integrated Border Management (IBM) Strategy:** although interagency IBM co-operation remains limited,

there has been some progress in implementing the “intra” agency actions in KC, e.g. drafting of Administrative Instructions or Standing Operating Procedures (SOPs). Kosovo Customs and Kosovo Police have agreed on sharing of control data, but this depends on inter alia the renewal of the Customs IT system. Hardware IT capacity at Border/Boundary Crossing points (BCPs) has already been improved, while Customs is sharing control premises (Operations Room, CCTV) with KP, and at a few BCPs joint cabins on the lanes have been set up.

**Civil Society and NGOs.** Civil society involvement in EULEX MMA activities is a cross-cutting issue, relevant to all rule of law components. While there are no specific MMA Actions on partnerships with local non-governmental organizations, many programmatic documents indicate that co-operation with Kosovo watchdogs was in place. As a result of consultations with civil society stakeholders, Kosovo institutions and EULEX MMA staff, the programmatic approach incorporated a number of outputs and activities across the various MMA actions with specific reference to civil society.

In terms of judicial matters, the programmatic activities see non-governmental organizations as consultation partners on single MMA issues, thereby attempting to stimulate frequent interactions between civil society and local rule of law institutions. For example, the MMA Action on the KJC schedules regular meetings with civil society, and involves its representatives in relevant justice reform processes.

While non-governmental actors have a limited role in Customs MMA activities – and are not specifically mentioned in this component’s MMA Actions - their role in the Police MMA Programme is more obvious. Several Police MMA Actions encompass activities with a direct public impact, and refer to civil society representatives as players to be involved in the implementation phase.

The functioning of rule of law institutions – and the fight against corruption in particular - remain a high priority for many non-governmental organisations; analyses, reports and policy recommendations on these themes have been numerous over the past twelve months. NGOs have demonstrated a remarkable capacity in identifying strengths and weaknesses in the rule of law mechanisms.

The background of the slide is a gradient of blue with wavy, horizontal lines. On the left side, there is a solid orange square.

**POLICE**

**Overall progress of KP.** The progress of the police-related MMA Actions has been contingent upon the availability of sufficient KP resources.

The capacity of the KP to convert strategic policies or documents (often devised in accordance with international standards) into implemented actions needs considerable development. Examples are the implementation of the Strategy to fight Organised Crime and the Action plan against narcotics.

The reorganisation of the structure has proved to be a difficult process: it is still in the making, and the monitored lack of coordination between the institutional actors involved would suggest that a careful analysis of the final 'shape' of KP needs to be carried out. Possible duplication and inconsistencies within the new organisation must be avoided. A comprehensive resource allocation review should ensure, upon completion of the KP restructuring, a proper allocation of staff throughout the KP.

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KP assumed new tasks which entailed major operational challenges but which also bear high symbolic relevance - such as the first steps of taking over responsibility for securing religious and cultural heritage sites from KFOR.

The introduction of Intelligence Led Policing (ILP) encountered a weak implementation. Since March 2010 more resources and energies have been granted by KP, also in light of the request for assistance (mainly Information Technology -IT) issued by the KP to the European Commission (EC) under the "IPA 2010" framework. EULEX and European Commission Liaison Office (ECLO) will continue to closely monitor the development of this action.

A positive step in tackling economic crimes, financial crimes and corruption has been the establishment of the Directorate of Economic Crime and Corruption Investigations (DECCI) by the KP DG in December 2009. DECCI has jurisdiction Kosovo-wide and coordinates investigations at central level (HQ) and regional level (Regional Economic and Corruption Crimes Investigation Units –RECCIUs). Selection of key staff is ongoing but other bottlenecks, such as logistical means and allocation of the agreed level of human resources, have already been noted.

Some progress was noted in developing the crowd and riot control capability of the KP. The former Regional Operation Support Units (ROSU) units have been unified under a single chain of command (they are now called Operation Support Unit - OSU); this is expected to have a positive impact on the management of resources, training and operations.



In order to accompany the decentralization process and the subsequent creation of new municipalities, KP has set up a thematic working group to plan the establishment of new police stations in these areas. A new Regional HQ is under construction in Gjilan/Gnjiliane. The regional directorate of Border Police North, the regional directorate of Ferizaj/Urosevac, and other stations and substations are being renovated.

The EULEX Human Rights and Gender Office (HRGO) has been monitoring the (translated) main Daily Situation Reports (DSR) collected and collated by the KP. The statistical data included in the DSRs is categorized essentially according to the offences and crimes foreseen in the applicable law. The EULEX HRGO found that the KP is not maintaining combined statistics that would compare for instance categories of victims, perpetrators, and crimes (according to parameters such as gender, ethnicity or sub-categories of crimes). EULEX is of the firm opinion that a more sophisticated use of the raw data contained in the DSR is needed to produce a comprehensive crime survey. To identify patterns and root causes of crime and in consequence for the designing of targeted remedial programmes, the KP is in need of a reliable tool and indicators to calibrate its responses.

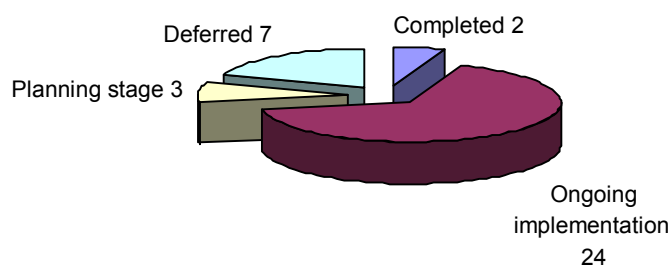
## Police MMA Programme Performance

Figure 1.1 provides a summary of KP progress in respect of the 36 MMA Actions that were agreed after the Programme Report 2009. A total of 7 (19%) of the MMA Actions have been deferred. Of the remaining 29 MMA Actions, two have been successfully completed; 27 are in different stages of implementation or have not completed their planning stage (3). Although modest, this achievement has been obtained against the noted limitations on KP resources. EULEX reports indicate that the weak progress is perhaps a reflection of the limited experience of KP managers in organizational change and the mechanics of reform measures. Certain risks that were known in the planning phase of the MMA activities have figured significantly as causal factors in the difficult progress in a number of areas. These risks include the impact of EULEX staff rotations.

The KP organisation has produced a modest number of outputs, but it has also demonstrated a growing ability to bring about large-scale organisational change. In this sense, EULEX's findings seem to confirm that the KP has started to become a 'learning organisation'. In a very real sense, this emerging ability can be described as the hidden, extra MMA Action.



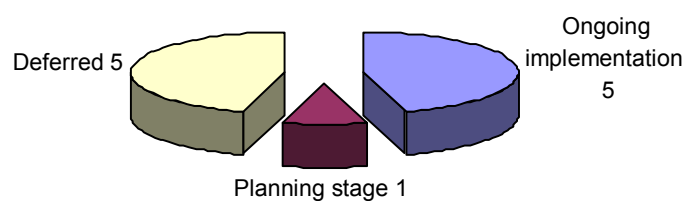
**Figure 1.1 - MMA Action Progress - Kosovo Police**



## **TACKLING CRIME EFFECTIVELY**

A total of 11 (30%) Police MMA Actions are allocated to the KP Crime Pillar. As indicated in Figure 1.2, 5 MMA Actions are being implemented but have yet to yield any of their planned outputs. One MMA Action is at an early planning stage and a further 5 Actions have been deferred.

**Figure 1.2 - MMA Action Progress - KP Crime**



**Toward an effective Criminal Justice System (CJS).** A number of proposals from Phase I related to the organizational capability of the CJS. These MMA Actions arose from data that indicated a lack of harmony and coherence in the working relationship of the KP Crime Pillar and Public Prosecutors' Office (PPO). Specifically, they sought to generate a greater sense that the police investigators and prosecutors formed a single reality – Kosovo's CJS – and shared responsibility for its successes and its failures. EULEX has tried to achieve this general aim through a series of closely interlinked objectives:

- the creation of a joint (KP and PPO) strategic management of the CJS,
- a common system of categorizing crime statistics,
- the development of a team approach to crime investigation,
- the publication of a joint CJS annual report and enhanced public accountability in respect of CJS performance.

Progress in achieving these important 'cross-cutting' MMA Actions proved very slow, in spite of considerable effort on the part of EULEX staff and their KP counterparts. In March 2010 it was decided to defer those MMA Actions that related to cooperation between KP Crime and the PPO. This decision followed from a series of monthly reports from the relevant EULEX monitors that progress had proved extremely difficult, particularly due to the inability of local public prosecutors to give any time and effort to support the programmatic work.

In order to find a way forward it was decided to report these difficulties to the attention of the Joint Rule of Law Coordination Board (JRCB, May 2010): both the Ministers of Justice and Internal Affairs agreed on the necessity to gain more impetus in these areas.

**Crime Strategy.** Reducing crime in Kosovo, particularly in the categories of serious crime and corruption, has been the overarching objective of the KP. EULEX recorded that the KP was making progress in assigning specialised staff for juvenile delinquency, provision of special rooms for interviewing minors, establishing Local Public Safety Committees administrative orders (as required under the Police Law), and arranging specific training on juvenile delinquency.

In terms of revising the KP system of collecting and collating reported crime statistics, EULEX acknowledged that progress had been made in identifying crime categories that were consistent with those used in a number of EU Countries, thereby allowing comparative analysis.

It was recognized that if the overarching goal of crime reduction was to be achieved, an important factor would be the success in repositioning the Directorate of Crime Analysis (DCA) as the primary hub of the KP crime intelligence system. EULEX noted that progress was made in the creation of an 'open sources analysis' cell; the establishment of the Intelligence Liaison Office with other agencies and the integration of the Regional Intelligence Units within the overall DCA structure.

Work to enhance the Directorate of Organized Crime (DOC) was delayed by the larger issues that stemmed from KP restructuring. Nevertheless, in February 2010 EULEX experts indicated that "progress had been made in providing advice on ways of optimizing the actual system of intelligence and improving the cooperation with DCA, as well as discussing and agreeing potential solutions regarding Intelligence-Led

Policing". The new DOC structure should consist of four branches and each would have a small intelligence cell. EULEX experts expressed concerns regarding the proposed structure which would lead to a split of what should be a single intelligence structure.

**Intelligence-Led Policing (ILP).** As noted in the Programme Report 2009, the need to rapidly develop the use of criminal intelligence throughout the KP remains a critical prerequisite to the organisation's success. Specifically, EULEX experts pointed to the need to develop an intelligence gathering culture in order to provide the basis for a proactive strategy in tackling organised and serious crime, government corruption and cross-border crime. To that end, EULEX crime experts strongly supported the proposal that the existing "intelligence-led policing" plan should form the foundations of a broad-based programme to introduce a more effective use of intelligence throughout the KP. This resulted in the attempt to launch two MMA Actions ("Intelligence-led Policing" and "Improved cross-border intelligence"). In spite of requests from EULEX, the KP failed to apply proper and sufficient resources. In March 2010, as a result of a joint EULEX/ECLO initiative in conjunction with the Ministry of Internal Affairs (MIA), a new KP team was formed under the authority of a new KP official.

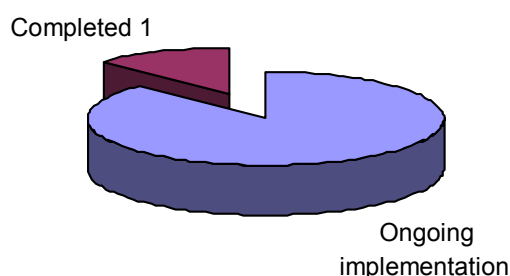
Work began immediately in March on a joint KP/OSCE effort to design and implement specialized and advanced training related to Intelligence-Led Policing. In mid-April 2010 a workshop was organized and facilitated by the OSCE, to agree the new ILP Project Strategy and the ILP Action Plan for the KP. The KP senior management expressed a keen desire to see more rapid implementation of the Intelligence-Led Police project throughout the KP organisation and the recently appointed Acting DG has indicated this as a priority task for him and his staff.

## **TACKLING PATROL AND ENSURING PUBLIC ORDER**

A total of 8 (22%) of Police MMA Actions are allocated to the KP Operations Pillar. As indicated in Figure 1.3 one MMA Action has been finalised and a further 7 are being implemented.

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**Figure 1.3 - MMA Action Progress - KP Operations**



EULEX, the MIA and the KP had recognized the need to have a robust and effective public order policing capability in place, one that would be able to cope with organised and spontaneous outbreaks of public disorder in any area of Kosovo. The former ROSU units have been unified under a single chain of command (they are called now OSU) opening the scenario for a positive impact on management of resources, training and operations. In February 2010 the relevant EULEX experts were able to report that progress had been made in relation to assessing failures to comply with the new KP Standard Operating Procedure (SOP), as well as the work of monitoring KP training of Special Operations Unit members.

In March 2010 the work began to start the introduction of “annual patrol plans” as a pilot project in the Regional Directorates of Gjilan/Gnjilane and Pejë/Peć. KP officers commenced work in April in a number of areas, including: meeting the leaders of the communities; review of projects implemented by the station community units; identifying main security concerns and crime trends; and assessing available resources. EULEX will continue to support the implementation of this action.

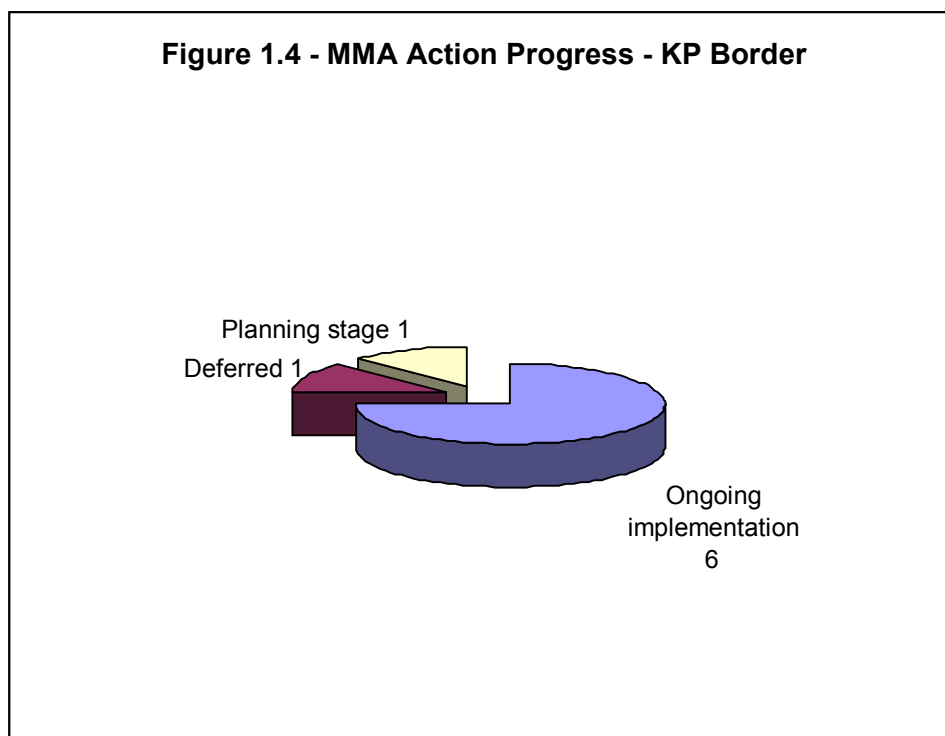
**Special Support Units (SSU).** The KP and their EULEX counterparts successfully concluded (April 2010) the MMA Action on Tracking Special Intervention Unit (SIU) and Improvised Explosive Ordnance Disposal (I/EOD) deployment. EULEX had sought to mentor and advise the relevant senior KP staff in the development of a system of categorizing and recording all incidents that require the attendance of SIU and I/EOD resources, and demonstrating how such data can be used to plan resources and evaluate performance. During the initial period of EULEX assessment of KP performance (January – June 2009), it was found that the relevant KP managers had limited information about the operational use of deployment of SIU and I/EOD. Little thought had been given to the question of the real costs/benefits and actual need for these units, and whether alternative and less expensive options might prove equally effective.

The EULEX Police Strengthening Department decided to focus on three core issues: 1) personnel development; 2) an effective duty roster system, and 3) a system for tracking performance. They sought to create one main system in which these three parts would work in harmony based on common rules. The KP was advised to prepare a technical manual for personnel that included criteria for selection of the best candidates to join the unit. EULEX staff also advised KP to establish personal records containing information about training, courses, experience, certification and other matters. In terms of quality of personnel issues, it was advised that regular re-certification of all IED staff members should take place in order to ensure the refreshment of skills and knowledge on IED matters. PSD staff also provided mentoring and advice on the installation of a new electronic duty roster system that allows a clear picture of planned activities per capita per month in advance

In addition the KP statistical data system was upgraded to include information about types of incident attended, number of staff dispatched, a brief description of the engagement and the results of the operations. A unified call system was adopted by the KP to facilitate a unified flow of information for any single call for engagement. All calls are now recorded and go through the set line to avoid any misinterpretation of information and eliminate unnecessary delays to react to explosives related incidents.

# PROVIDING SECURE BORDERS

A total of 8 (22%) of Police MMA Actions are allocated to the KP Border and Boundary Pillar.



The 2009 Programme Report recommended that KP Border and Boundary improves and enhance the quality of its infrastructure. This included development of permanent structures and new buildings, refurbishment of existing buildings, upgrading utilities and service connections, adding more robust basic communication connections and expanding areas for interviewing suspects, vulnerable persons and temporary holding areas. Work in this area had been ongoing as part of an existing KP project and a donor-funded programme, and EULEX experts were able to provide added value and support through a range of focussed MMA activities, with a strong accent on compliance with European best practice and internationally recognized standards.

By February 2010, the EULEX team was able to report significant progress. Planning for ongoing actions and fixing a timeline for inspection of detention facilities in all regions including Airport; evaluation of the current condition of holding cells and other relevant equipment; and agreeing a list of priority proposals for improvement work had all been finalized. In April 2010 the KP confirmed that it would not require any additional donor support in order to achieve the key outputs of this MMA Action. KP managers confirmed that there were no urgent cost-intensive projects which could not be covered by the KP budget or by one of its existing interlocutors (specific assistance by EU and ICITAP is already framed).

The KP also confirmed that, in order to enhance the border communication infrastructure, there is likely to be a need for considerable capital investment and, therefore, a need for significant donor assistance in order to develop an adequate and modern digital communication system. The latter appears to be beyond the KP capital investment budget in the medium term.

Progress on the design and implementation of a strategy to improve communications and information flow throughout the pillar has been recorded. A draft KP strategy, with the involvement of relevant experts to improve communications and information flow, has been prepared, and includes an attempt to find appropriate solutions to improve KP effectiveness and efficiency in the dissemination of operational information from “top to bottom”. KP is also finding appropriate solutions to improve the effective and efficient use of its existing communication systems (i.e. PISCES, phone, internet etc.). In April 2010 intranet connectivity was installed at border and boundary crossing points (BCP) 1 and 31 and landline extension installed. KP IT experts announced that 90% of BCP’s have been equipped with a hotline. Due to the existence of analogue lines, direct connections between the BCP’s could be installed, but would prove highly impractical and require numerous phone extensions for each BCP. EULEX is of the opinion that a possible option could be to wait for the installation of the planned Kosovo-wide digital network.

The effort to support the KP Border and Boundary Pillar’s long-term strategy for an intelligence system that is both effective and fully integrated into the global KP intelligence system has seen developments in a number of areas. In February 2010 EULEX experts reported that good progress was “being made in respect of a number of tasks, including enlargement of the radio communication system and improved dissemination of information within KP Border and Boundary”.

Another critical area of KP Border and Boundary development was the proper design and delivery of its illegal migrant strategy. To that end EULEX has sought to allow its experts to mentor and advise the relevant senior KP regarding the design and implementation of an illegal migrant strategy.

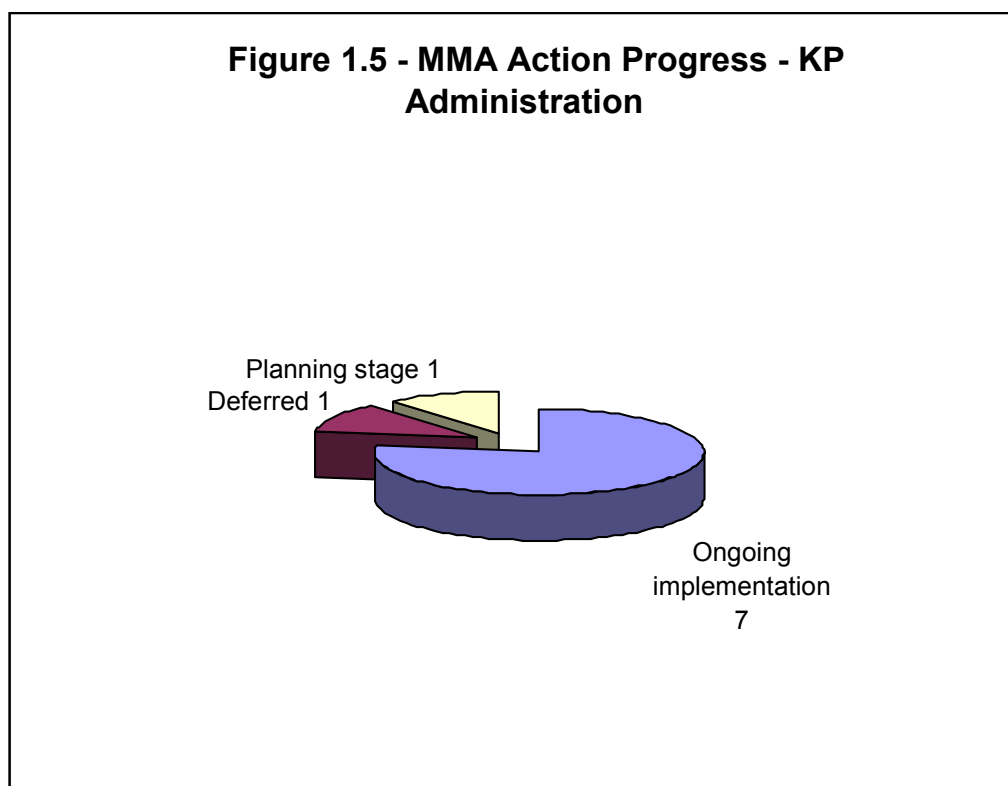
By April 2010 the relevant PSD staff were able to report progress on the part of their KP counterparts. Among other developments, it is worth to highlight that KP:

- developed two Standard Operating Procedures (SOPs) for their Department for Migration and Foreigners (DMF) units;
- transferred certain DMF duties to the Department for Citizenship and Asylum (within the MIA), including the registration of foreigners;
- developed a tailored training programme for KP Border staff, to be conducted at the Kosovo Centre for Public Safety Education and Development (KCPSED), Vushtrri/Vučitrn;
- developed a guidebook on visa policy issues, and
- transferred the Prishtinë/ Priština Airport document database to the central KP database.

As in other areas of KP command responsibility, room for improving planning capability of KP Border and Boundary was noted. EULEX seeks to assist this effort by mentoring and advising the relevant senior KP staff regarding the development of a sufficiently detailed SOP for planning documents and evaluation reports, in accordance with European best practice. EULEX staff will monitor the implementation of the SOP and compliance by supervisors and management staff. KP progress has been slow and the agreed date for completion of the revised SOP has been set back on three occasions. In April 2010 the KP presented their EULEX counterparts with a draft SOP and it is hoped that implementation of the revised planning process can commence during the summer months.

# PROVIDING A SUSTAINABLE ORGANISATION

A total of 9 (25%) Police MMA Actions are allocated to the KP Administration Pillars (i.e. Personnel and Training, and Support Services).



During Phase II of the programmatic approach EULEX police has intensified its direct mentoring support to the most senior KP command staff. Two new positions of Deputy Director General were created in February 2009. EULEX appointed two Chief Advisers to develop the capacity of the Deputy Director posts and build up cooperation and coordination between all Kosovo Police senior managers.

Formal mentoring and advice has focussed on core management and leadership issues, including, inter alia, : improving the job descriptions of the deputies; enhancing the devolution of decision-making within the KP; improving communications and management skills within the KP senior management team; and helping the deputies become more proactive and effective as decision-makers. As a result of their direct intervention, EULEX advisers have also facilitated the decision to involve the deputies in the project to review and revise the structure of the KP organisation and ensure that all briefing materials and key documents were available in both languages.

EULEX advisers have also provided substantial MMA support to the Deputy Director in her special responsibility for developing the new KP five year strategy. The EULEX advisers to the deputies and senior command group will continue to build on the successful MMA partnership, in relation to strategic tasks on the KP structure, the five year strategy, and the new police stations to accompany the decentralization process.

**Sustainable IT services.** A number of MMA Actions relate, directly or indirectly, to the use of databases and information technology (IT). The question of the sustainability of these areas of development links back to the fundamental issue of the KP's IT capacity, particularly in terms of human capacity. As noted in the Programme Report of July 2009, the KP remained dependent upon external support until the beginning of 2009. Like other Kosovo institutions, the KP was unable to retain its own IT and database staff, largely due to the more competitive salaries offered in the private sector.

EULEX has successfully sought to mentor and advise the relevant senior KP staff on the development of a strategy to recruit, train and, most importantly, retain a team of local IT/Comms specialists in order to end the dependency on foreign specialists. The KP and EULEX teams have moved beyond their original objective and are developing the overall competencies of KP IT staff, as well as extending the range of IT services provided.

EULEX has also sought to mentor and advise the relevant senior KP staff on the condition of registers and readiness to integrate them into a single controlling system (i.e. citizen, criminal, weapon, passport, driving license, vehicle and stolen vehicle registers). EULEX has also provided mentoring and advice regarding the structure of the various KP IT/Comms projects: i.e. organisational documents, calculating life cycle costs, personnel requirements and their training needs, spare parts and maintenance. Progress has been good, with two of the total seven outputs completed (28%).

This action complement the decision taken at the beginning of this year by the Minister of Internal Affairs to establish a new executive agency, the "Civilian Registration Agency" (CRA). The establishment of the CRA is based on a Government decision made in May 2009. The CRA will be responsible for civil registration, civil status registration, production of ID-cards, registration of vehicles, and issuing of passports and driving licenses.



The background of the slide features a series of concentric, wavy blue lines that create a sense of depth and movement. A solid yellow square is positioned to the left of the word "JUSTICE".

# JUSTICE

The design and implementation of MMA Actions within Kosovo's judiciary continues to be pursued by EULEX experts who divide their time between core executive functions (i.e. investigating crimes and prosecuting persons suspected of offences, and adjudicating cases in court) and providing assistance through structured monitoring, mentoring and advising. This arrangement has yielded some important change within certain parts of the judiciary.

The Kosovo Judicial Council (KJC) is operational and its capacity to develop institutional competence will continue to be subject of MMA. Despite tangible progress achieved during the reporting period, the KJC is still working on challenging aspects and its readiness to play a pivotal role in ensuring the independence and impartiality of the Kosovo judicial system will be tested in the coming months.

The performance of the Kosovo justice system is still showing signs of weakness. Interference at different levels and in a variety of forms was observed. This interference with the work of the justice system, both in criminal and civil proceedings, has often resulted in practical problems (such as the pre-emptive abstention of local judges and prosecutors to deal with sensitive cases).

The massive number of pending issues, particularly of a civil nature, indicates that local judges and prosecutors were unable to progress in tackling this urgent problem.

The Kosovo criminal justice system capacity to move forward in the reforms agenda remained very fragile and inconsistent. The lack of progress in establishing the basic mechanisms of co-operation and co-ordination between prosecutors and Kosovo Police, as envisaged by the law, remain a factor of concern. Furthermore, prosecution efforts are undermined by poor management and lack of support staff.

The establishment of an anti-corruption task force in the Office of the Special Prosecutor of Kosovo (SPRK) is certainly a positive step forward; steady progress in this area would certainly contribute to the overall improvement in the fight against financial crime and corruption.

The completion of the vetting and re-appointment process for Kosovo judges and prosecutors will certainly help to create the right "momentum" to accompany the necessary reforms. This aspect needs to be coupled with the human resources issue: staffing levels are not sufficient and more needs to be done in order to ensure that crucial positions are filled and support staff is properly allocated.

Quality and transparency of the legislative process need to be majorly improved, not only to provide Kosovo with a sound legal framework but also to improve confidence in the legal system.

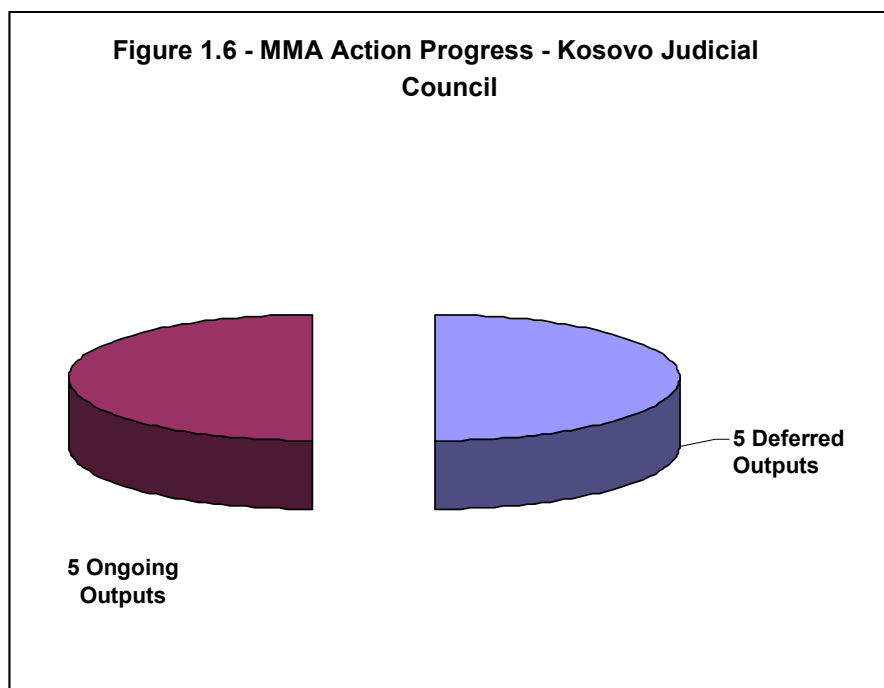
The practice monitored so far demonstrates that further improvement is needed in the treatment of victims of domestic violence, in cases related to trafficking of Human Beings and in gender-related cases.

The Kosovo Correctional Service is showing a more pro-active approach to the development of the service, actively taking part in all joint initiatives. Progress was recorded in Prison Administration, Operations and Security management, high-risk prisoners, the escort of prisoners and court security.

# KOSOVO JUDICIAL COUNCIL

The Kosovo Judicial Council (KJC) has a pivotal role in ensuring the independence and efficiency of the judicial system. It is a fully independent institution that seeks to ensure the independency of the courts , their professional and impartial role, and fully reflect the multi-ethnic nature of Kosovo following the principles of gender equality. This is achieved by recruiting and proposing candidates for appointment and reappointment to judicial office, as well as disciplinary proceedings against judges. In support of the laudable aims of the KJC, an MMA Action with the following overall objective was designed: to help the KJC to become a judicial institution that promotes an independent, transparent and accountable judiciary, as well as an institution that pursues a service-orientated approach.

There are a total of 10 ambitious outputs for the KJC, ranging from a new policy to stop direct access to judges to a new regulatory framework for selection and promotions, or to the establishment of a case management and allocation system.



Due to delays in appointments the KJC (in its temporary composition) became operational in mid-August 2009. In the first phase, the KJC started with 3 non-judge local members and 2 international members (one EULEX judge and one EULEX prosecutor). In this initial period the KJC was fully occupied with managerial and disciplinary backlog issues and with the first phase of the re-appointment process.

KJC has since dealt with 11 disciplinary appeal cases and has made several appointments of acting presidents and prosecutors together with some transfers and resignations of judges and prosecutors. It forwarded recommendations of Supreme Court judges and prosecutors of State Prosecution and Special Prosecution, all vetted by the International Judicial and Prosecutorial Council (IJPC), to the President of

Kosovo. In this period the KJC also belatedly approved first half year reports (2009) of the Secretariat on

- Statistics,
- Finance,
- Logistics,
- IT,
- Human Resources,
- Judicial Audits and
- Office of Disciplinary Counsel.

The impact of the approval on the reports is low, since the KJC was not in charge, nor responsible during the reporting period.

One of the main obstacles for the full performance of the KJC in the first phase of its temporary composition was that it was not yet comprised of Kosovo judges or prosecutors, but only by Kosovo lawyers and international magistrates. This made the Council very hesitant to take decisions with radical/long term consequences; it tended to restrict itself to the ongoing day-to-day issues as a good 'trustee', whilst awaiting the new judicial (Supreme Court) members to join.

Since February 2010, the Council has been further enriched by 3 new judicial members: two judges of the Supreme Court and one prosecutor of the SPRK. The Council voted for a (Supreme Court) judge as the new Chair. Since the Judiciary is now represented in the Council, there will be more opportunities for the Council to focus on the long-term needs of the organization of the Judiciary. Although it is too early for concrete signs of progress, with the approval of a Kosovo-wide *Manual for Court Management* for example, the first steps have been made. The ability to implement this measure, in cooperation with the Court Management, will be a clear indicator of whether real change and progress is to be expected in near future.

## **Judicial Disciplinary Committee (JDC) and Office of Disciplinary Counsel (ODC).**

In the initial phase of the JDC there were over 25 hearings and 4 decisions (two suspensions, one acquittal and one reprimand with warning) in approximately 35 cases. After a period of elaborate discussion on a proposal for a Statute of Limitations on old cases, it was concluded in the KJC that such a proposal would be unlawful and, therefore, it was rejected. Following this decision, the JDC decided in April 2010 on 13 pending cases: including, two resignations, one cancellation of suspension due to acquittal in a criminal case, an ongoing disciplinary case, 5 not-guilty cases, 2 reprimands with warning, 1 acquittal because of physical health, and 3 guilty without sanctions due to time passed.

The Office of Disciplinary Counsel is now fully operational. Most of the vacancies (investigators and translators) have been filled in and the ODC has proved able to handle approximately 60 (first instance and appeal) cases. In the second half of 2009, the ODC was transferred from the Ministry of Justice (MoJ) to the KJC. As the ODC is an independent body of the KJC it is important to ensure independency and confidentiality during the conduction of disciplinary cases. In the last period, there was some friction between the KJC Secretariat and the ODC on administrative matters. This area will remain subject to further monitoring.

**Judicial Audit Unit (JAU).** Although the KJC until the present has neither agreed nor approved any reports of the JAU, the unit did complete 6 audit reports last year (2009) on issues related to the judicial organization. During the first months of 2010, the Unit prepared a 3-Year Audit plan, in consultation with many judicial stakeholders - within and outside the judiciary - including international counterparts such as the OSCE and EULEX. It will be an ongoing challenge for the KJC during the coming year to include the recommendations of the audit reports in its day-to-day management of the Judiciary.

**Secretariat.** The Secretariat of the KJC is a centralized organization, both within the Secretariat and in its relations with the courts and its management. Decisions - even the most minor - are made for the most part only at the highest level, which tends to deter pro-activity and creative initiatives. Issues that are relevant to the administration of Judiciary tend to be allocated to the various departments/offices of the Secretariat, but in a form that is mainly limited to administration. The quality and quantity of the work remain far short of recognized EU best practice.

Since the implementation of those MMA Actions that relate to the KJC, progress has been made in respect of the following issues:

## *Logistics*

- ✓ A new decentralization system of requesting and delivering office supplies.

## *IT and Statistics*

- ✓ Proposal for the Development and Operational IT-plan,
- ✓ cooperation of KJC and EULEX on the CMIS,
- ✓ registration of backlog cases in the CMIS,
- ✓ CMIS training for Court and prosecution staff,
- ✓ nomenclatures for management information,
- ✓ approximately 85 registrars and other staff working effectively in CMIS, and
- ✓ individual CMIS training for all judges and relevant staff at Supreme Court.

## *Strategic*

- ✓ Budget planning (partially budget requests by Court Management),
- ✓ re-entering of Kosovo-Serb professionals into the Kosovo Judicial system,
- ✓ security assessment and improving the level of security in Supreme Court,
- ✓ Court information pilot project, and
- ✓ Implementation of some Model Court Projects - manual for court administration and the renovation of court houses.

Most of these achievements were initiated or otherwise supported by international counterparts.

Among the many challenges that lie ahead, the following are noteworthy:

- to properly organize KJC meetings,
- to allow KJC to operate pro-actively and with vision,
- to develop and implement decentralized systems of planning and control at all levels (especially in budget and procurement management, given that over 20% of the 2008 and 2009 budget remains unspent),
- to decentralize and professionalize decision-making,
- to improve the service-level within the courts,
- to ensure a safe and secure working environment for all judiciary staff,
- to ensure safe and technically sound IT and internet services,
- to develop a modern human resource policy,
- to introduce and maintain management development,
- to professionalize the information content of web pages and other public information,
- to encourage and support the full implementation of the Case Management Information System, not only at an IT-level, but – more importantly - on a management and cultural level, and
- to redesign procedures and reassign personnel

Next to these challenges, the Secretariat will face a number of upcoming issues, including: implementation of the Law on Courts, the Law on KJC, Law on Labour/Civil Servants, the reappointment of hundreds of judges, and the construction of a Palace of Justice in Prishtinë/Priština. The construction of a Palace of Justice aim to increase the functionality, public access and confidence and public perception of the justice sector. The ECLO estimated a direct assistance from the EU worth 25 million EUR, under the IPA Programme 2008.

## JUDGES

The MMA work performed by EULEX Judges, supported by EULEX Legal Officers/Advisers, has focused on the KJC (3 areas of development) and the Courts (4 areas of development).

- Strengthen and protect the independence of the Judiciary (KJC);
- Case allocation system in the courts of Kosovo (KJC);
- Distribution of the Official Gazette throughout the Courts of Kosovo (KJC);
- Handling of execution cases upon appeal (Courts);
- Accessibility to the Courts (Courts);
- Establishment of a registration, evaluation and service system of appeals in criminal cases (Courts); and
- Establishment of a proper case allocation system (Courts).

**Independence.** After almost two years of EULEX participation in the Kosovo Judiciary, a crucial point has been reached which is reflected by a number of cases (criminal and civil) and case-related situations, with the effect of creating obstacles for the proper and strictly law-related conduct of judicial functions:

(1) In the Viti/Vitina Municipality, the Mayor and Municipal Assembly are continuously disrespecting court decisions of all kind, but especially property related ones in as much as former Socially Owned Enterprises (SOEs). The Mayor especially does not seem to respect the functions of the Privatization Agency of Kosovo (PAK), which now – by 15 June 2008 - has taken over the functions of the Kosovo Trust Agency (KTA), pursuant to Art.1 of the Law on Establishment of Privatization Agency of Kosovo, Official Gazette no. 30/2008. Allegedly, the problem is based on the discrepancy between United Nations Security Council Resolution 1244/1999 and the Kosovo Constitution, with the latter recognized as being valid only as much as the Kosovo declaration of independence is seen as valid and in accordance with international law. Whilst the KTA has entered into effect through an UNMIK Regulation, thus promulgated by the Special Representative of the Secretary General of the United Nations (SRSG), PAK was established through the Law on Establishment of Privatization Agency of Kosovo, Official Gazette no. 30/2008, which was issued by the Kosovo Assembly and promulgated by the President of Kosovo, but not by the SRSG. Moreover, the claimed functions of the PAK as being the successor of the KTA is generally not accepted in as much the KTA has not ceased to exist but only stopped working. However, the Mayor of Viti/Vitina seems to be of the opinion that all former SOEs have now automatically become property of the municipalities as far as the privatization process was not finalized by the KTA– and so his actions create obstacles for proper (court) procedures and harm the legal system of Kosovo as well as the trust of the public into the Kosovo Judiciary.

(2) On request of the Municipal Court Viti/Vitina and the District Court Gjilan/Gnjilane, EULEX has taken over as a first case in the region the “Hunting Club Drenusha” case (E. no. 393/08) on possession rights, which was already in an executive stage. Hunting Association “Drenusha” claims against the Municipality Viti/Vitina as a Debtor for return into possession and into use of the property. After a first eviction decision of the Municipal Court (MC) Viti/Vitina against the Municipality of Viti/Vitina and in favor of the local Hunting Association was successfully executed, the Municipality illegally occupied the same building a few days later again and thus caused the need for re-eviction. Due to serious security related efforts by the Municipality, EULEX developed an eviction-plan, which was supposed to make the execution possible in three main steps over duration of about two weeks. KP was supposed to execute the eviction decision. In the night before physical eviction was supposed to happen, masked perpetrators captured the guards of the respective building, planted explosives and blew the building up.

(3) EULEX also took over the case of Municipality of Viti/Vitina as Claimant against Hunting Club Drenusha as Debtor on Property Rights (C. №. 66/2009) as well as the case of Spa/Rehabilitation Centre Klllokot as Claimant against the Municipality of Viti/Vitina as debtor on Verification of Ownership (C. no. 220/08). Both cases have not yet reached a final stage and still can be appealed, but bear similar backgrounds as the previous one.



(4) In the war crimes related criminal case against the “Llapi Group”, which was judged by a mixed panel (two EULEX judges and one Kosovo Judge) of the District Court (DC) Prishtine/Pristina, and where a member of the Kosovo government was amongst the defendants, the Prime Minister of Kosovo intervened personally, stating to media that he expected EULEX to be wiser than UNMIK was and that he was convinced that nothing else ever could be decided by the Court as that the respective member of the government, being a freedom fighter for Kosovo, was not guilty and was to be acquitted. After the DC panel had found the defendants guilty and thus had imposed sentences between two and four years of imprisonment, the local Judge first addressed the Presiding EULEX Judge and asked to get his name deleted from the minutes and – after this was not successful – finally gave a TV interview where he stated that he was forced to participate in the trial and then was overruled by the international Judges. KJC imposed disciplinary measures against him for disrespecting the secret of deliberation.

(5) In the criminal case against Albin Kurti, a network of civil society organizations collected about 150,000 signatures among citizens in Kosovo and Albanian population in neighboring countries, thus supporting a petition to the Kosovo Assembly in order to get the Court trial against Albin Kurti stopped. The Kosovo Assembly discussed the issue on the background of division of powers but refused to go into the merits of the petition. However, at the District Court Prishtine/Pristina a main trial panel was composed of two EULEX Judges and one Kosovo Judge, but a number of obstacles occurred and made it so far impossible to continue with the case. After in the first scheduled session the defendant did not appear in front of the Court and an arrest order was issued by the Presiding EULEX Judge, the Kosovo Judge surprisingly declared to feel sick and went home. In the longer term, it was neither possible to make the judge return to the panel (although he/she did not submit a medical certificate of his/her illness) nor to find another Kosovo Judge willing to substitute/replace him/her. Also, no Kosovo Lawyer was willing to defend Albin Kurti. Therefore, the arrest order was not executed, since no Court panel was in place to conduct the needed hearing. Finally, on motion of the KJC, the Kosovo Judge returned to the panel and also a Defense Counsel was successfully assigned to the case. He showed up in front of the Court one time (although the defendant did not) and then refused to continue defending Albin Kurti. The Presiding Judge did not release the Defense Counsel but appointed as well the President of the Kosovo Chamber of Advocates. Then, the arrest order was to be executed against Albin Kurti. KP failed twice to execute the arrest order. The case is still at stake.

(6) In the criminal case against the alleged perpetrators of the murder of the Hamiz Hajra family [Hamiz Hajra was formerly employed as police officer by the Serbian government], who in 2001 was heading back home from a wedding party and on this occasion was caught in an ambush and executed by AK74 machine gun fire while sitting in their car (Hamiz Hajra and his wife, his adult son and two out of three minor daughters were killed, whilst one daughter survived and stated in front of the Court as witness), 10 alleged perpetrators were accused and tried within the same procedure. In the 1<sup>st</sup> instance most of them were found guilty and sentenced to imprisonment between four and 30 years. In the 2<sup>nd</sup> Instance, especially the long term sentences of 30 years against Burim and Agim Ramadani and Arben Kiqina were affirmed. Also in the 3<sup>rd</sup> Instance, the Supreme Court affirmed those sentences. All three defendants and their Defense Counsels filed requests for Protection of Legality. Before the case was taken by the Supreme Court and assigned to a Judge, Vetevendosje organized a demonstration, within which the three mentioned defendants were styled up to be war heroes and where the President of the Supreme Court personally was attacked because he was sitting as a Judge in one of the aforementioned panels. Also posters were



hanged in Prishtine/Pristina, thus requesting “Justice for Heroes”. Moreover, the Defense Counsel of one of the defendants published a brochure blaming UNMIK and EULEX for imposing injustice on three in terms of criminal law un-guilty “heroes”.

(7) In the war crimes related Ukshini case, which is pending with the DC Gjilan/Gnjilane in the pre-trial phase, a Kosovo Judge was assigned to a three-judge panel and since then receives anonymous threats through the telephone as well as she has to realize that unknown persons in a scary way have followed her son in the streets. The judge therefore has requested protection measures but has not yet shown an intention to withdraw from the case.

(8) Finally, the not satisfying situation in Mitrovicë/Mitrovica. Kosovo-Albanian Judges, for security reasons, are located in the premises of the MC Vushrri/Vučitrn, where they deal with pre-trial issues exclusively, whilst EULEX has composed one full international panel, which has chosen 50 urgent cases to be tried, since defendants are under detention on remand for long time and in some cases already for several years. It so far was not possible to get two Serbian Judges assigned to the DC Mitrovicë/Mitrovica in order to reach ethnical balance amongst the Judges. EULEX envisaged as a solution the appointment of two Serbian Judges, who still are under UNMIK Contract but do not work anymore in Kosovo. However, they meanwhile are also under contract as Judges in Serbia. Although Serbia was willing to discuss granting them special leave and sending them to work in Mitrovicë/Mitrovica, this solution was not accepted, neither by the President of Kosovo nor later by the KJC.

The examples above illustrate the challenges local judges, prosecutors as well as defense counselors in the judiciary are facing in Kosovo’s highly politicized environment. Their readiness to participate or even take the lead in adjudicating cases of corruption or organised crime is often paralyzed by threats against themselves or their families. However, often enough the reluctance to participate in investigations and trials sometimes could also be interpreted as tacit disagreement with EULEX’s course of action in the field of justice (e.g. to convict ‘war heroes’).

Active mentoring will continue to support local counterparts in taking direct actions/reactions to protect the independence of the judiciary and prevent infringements.

**Official gazette.** EULEX judges report that implementation of the MMA on the distribution of the official gazette in Courts is completed. It is now for the KJC to pursue implementation of this activity Kosovo-wide, ensuring a proper distribution of the gazette in both official languages in all Courts .

**Court Management Information System (CMIS).** The training of all relevant EULEX Judges has completed, and they have been connected to the CMIS network. Current connectivity issues, which are hampering the efficient use of the system, are at the time of writing being resolved by the KJC.

**Case Allocation System.** Considerable progress has been achieved in the use of a transparent and objective case allocation system. A proposed set of guidelines on case allocation have now been put in writing. The allocation of cases to judges now happens on a rotational basis, depending on the case reference number. At the beginning of each month an information sheet on the public court board is available with detailed information on the cases (including reference number, date of scheduled hearings, type of cases, court room, etc.) If a judge is related to any of the parties to the proceeding, another judge will be assigned to work on the case.

The Supreme Court of Kosovo has an internal Organizational Chart, renewed every year, which divides the judges according to branches: criminal, civil and administrative, and which indicates the composition of the panels and the distribution of the different affairs among the different panels. Despite the above-mentioned good practices, there is still a little reluctance to enforce the case allocation system in every court since, the KJC hasn't adopted a general regulation yet. Outstanding problems include the following:

- The organizational charts have not been developed in all courts of Kosovo;
- There is still reluctance to embrace written charts on the basis that they are contrary to "traditional rules" or because it is felt that making such things public is absurd;
- In some courts, the distribution of cases remains unequal among judges;
- Some smaller MCs are unable to allocate the cases according to the rules;
- A rotation system of replacement judges has not been established (i.e. in case of unexpected circumstances preventing the assigned judge to preside a session, a registry will notify the parties of the postponement of the hearing);
- In some Courts, despite the existing allocation system, the MC president decides which judge the case is assigned to;
- The case allocation system should also organize the substitution of the reporting judge, the substitution of a disqualified judge and the on-call system for urgent matters during the weekend (i.e. for appeals against rulings about detention on remand or other security measures).

The MMA Action on the case allocation system has been largely accepted and, to a large extent, implemented. Only a few courts still require close mentoring activity on this issue. However, it is worth underlining that there is no relevant KJC strategy on the case allocation system and no administrative directive has been promulgated on the subject. This is an impediment, as some of local judges consider the system unable to perform fully without being centrally governed by a legal act that is generally applicable to the judicial system. In its absence, the implementation of a predefined and objective case allocation system remains unsustainable.

**Improvement of the Kosovo Judiciary in Courts.** There are still some weaknesses in the daily operation of the courts:

- Some District Courts (DCs) or Municipal Courts (MCs) lack a rotation system that ensures that court staff are available at all times at the court reception desk, particularly during lunch hours;
- In one DC, a disturbing practice has developed which interferes with the public nature of a trial: any person wanting to attend a trial must first submit a so-called 'Request for Main Trial Attendance'

several days prior to the hearing, and this must be approved by the presiding judge. The form requires personal information such as family relationship with the parties and an indication as to whether the person is a witness or not.

The implementation of the MMA Action on accessibility to the courts is providing the public with wider access to court files and documents, as well as information on the scheduling courts. However, a close monitoring and mentoring is still necessary to ensure sustainability of the new practices.

**Serious crime cases.** A number of serious crime cases have been monitored during the reporting period, in order to assess the proper adjudication of cases. Checklists were used in the work, and the legal reasoning and weight of evidence assessed. Amongst the more important findings, EULEX Justice staff found that:

- Statistics (available at the KJC) show a sharp increase of the backlog of cases of attempted murder, aggravated murder, negligent murder, and grievous bodily harm;
- On many occasions the trial session started more than 30 minutes late, often with no adequate explanation provided by the presiding judge for the delay;
- In both serious crime cases and other cases, sessions were postponed/adjourned several times for weeks and months; some sessions were adjourned because witnesses, lawyers and prosecutors failed to appear;
- Where defendants pleaded guilty the panel proceeded directly to the closing speeches, and no other evidence would be presented at the main trial;
- When delivering verdict it is common practice to ask the convicted person to include on the delivery slip an announcement that he/she has no intention of lodging an appeal: this unlawful practice was changed after discussions with the court administrator;
- There is a tendency among judges to give preference to prosecutors to the detriment of the defence (e.g. rejection of motions of the defence); a lack of specialist facilities for mentally ill persons who are given custodial sentences; confusion as to covert measures.

Based on these findings MMA will continue to be a matter of priority.

**Vulnerable groups, human rights and gender issues.** Good practice was observed in some juvenile cases, with the judge giving extra attendance to the rights of the defendant. In monitoring domestic violence cases, EULEX judges observed that:

- Timelines are generally respected;
- Respondents are absent in hearings for requests for protection orders;
- Victims are generally given the opportunity to express themselves;
- Judges tend to push for reconciliation between the couple instead of issuing a protection order;
- Measures issued in the protection order tend to be lenient towards the respondent (for instance, a measure to prohibit the defendant from remaining in the house is never issued); and
- Criminal offences by the respondent such as light bodily injury and/or violation of protection orders are rarely prosecuted *ex officio*.

EULEX judges have not monitored trafficking of human being (THB) trials, as there were none between December 2009 and April 2010.

In monitoring gender-related cases, such as sexual abuse/rape, it was observed that local judges tend to expedite the proceedings whenever the defendant pleaded guilty; this practice does not allow for a thorough investigation and establishment of the facts. Also, a mis-designation of the criminal offence (e.g. sexual abuse instead of rape) has been observed on a few occasions. Finally, in divorce proceedings, local judges have denied the victim's right to have a lawyer attending the hearing (thus providing legal support) to a wife who has been victim of domestic violence.

The practice monitored so far demonstrates that further improvement is needed in the treatment of victims and MMA will continue in domestic violence and THB cases as well as in gender-related proceedings. This monitoring phase may be followed by a mentoring phase in all MC/DC between EULEX judges and local judges on treatment of victims by the judiciary and possible improvements.

**Judicial response to false witness statements.** On the basis of EULEX monitoring, it seems that the use of false or ambiguous or incomplete statements is widespread in trials. Since this trend is linked to a number of cultural factors, MMA action was limited to raising awareness among local colleagues about this crucial issue and methods of tackling or at least reducing its impact on trial proceedings (i.e. through cross examination techniques and proper questioning by the Presiding Judge). EULEX will continue to raise awareness on this issue and monitor trials accordingly.

**Witness protection.** It seems that the local judiciary and prosecutors largely ignore the provisions of the Criminal Procedure Code in respect of the protection of witnesses. The judges claim that they are not in a position to protect witnesses, evoking that they are suffering from the same issue: personal security. Nevertheless, when advised on the extent of protective measures and orders for anonymity, they pointed out that they did not have the practical knowledge to implement them and asked EULEX for advice.

In some "high profile cases" it was noted that efforts were made to guarantee witness protection for crucial witnesses during trial. In one case, the Presiding judge assigned two special police officers to contact and escort the witnesses. During the examination their voices were distorted and they were physically accommodated in a separate room, with a separate entrance.

Disregarding the fact that the level of protection for the witnesses remains poor, it seems that the responsibility for taking the initiative in organizing protection for witnesses is perceived as a primarily prosecutorial option within the Kosovo Judiciary.

**Arrest warrants.** The execution of local and international arrest warrants is one of the main difficulties faced by the Kosovo Judiciary. Despite the variety of sources that explain the failure in executing arrest warrant orders, it is worth underlining that of all of them are external to the local judges.

Local arrest warrants are usually issued when a defendant, after being duly summoned, fails to appear before the judge. It is of the opinion of local judges that Kosovo Police generally execute them as required, except on rare occasions when it involves a sensitive case. In these cases there can be very long delays before a defendant is located.

**Detention on remand.** EULEX Judges have conducted MMA on detention on remand in all DCs and some MCs in order to encourage local judges to consider alternative means of ensuring a defendant's appearance in court. There was a tendency in serious cases for local judges to consider detention on remand as the only viable option. The MMA will continue to reduce this tendency, in an attempt to strengthen the timing and reasoning of detention, together with familiarization with alternative measures.

**Execution of civil court decisions.** Findings on execution cases upon appeal result from monitoring and mentoring activities of EULEX Judges, in close consultation with their counterparts. These activities have revealed that first instance courts - in practice – tend to put a halt to proceedings when an execution case is appealed and do not continue the execution until the appellate court has reached a decision.

Therefore, with a view to reducing the backlog of execution cases, EULEX experts recommend that, whenever an appeal is filed on an execution case, a certified copy of the file ought to remain at the first instance court thereby allowing the execution procedure to continue whilst the appeal is decided by the second instance with the original of the file.

The analysis of cases shows that the practice of the courts generally is not in compliance with the law. The main difficulties include:

- The length of the execution (in some cases it takes years, due to the shortage of executive judges and officers);
- In some MCs, the number of execution cases has slightly increased, notably the cases relating to 'communal issues' (e.g. Energy Corporation of Kosovo -KEK);
- In some cases, when there is an appeal on an execution civil case, the original file in entirety is still from the municipal to the district court, and no copy is kept at the first instance court; therefore, execution is stayed until the appeal is decided by the second instance court.

Despite the fact that some courts now send only a copy of the case file to the appellate court and maintain the original case file in order to continue the execution procedure, the advice is not followed Kosovo-wide. Considerable effort through mentoring of local judges will continue, in order to improve the local practice.

**Stayed cases.** An approximate number of 20,000 – 22,000 compensation claims were filed in the period 2004-2005 against KFOR, UNMIK and local Kosovo authorities (Municipalities and the Provisional Institutions of Self Government). According to the claimants, these organizations omitted to protect

the claimants' properties during the events of 1999 and the riots of March 2004, thus indirectly causing damage to property and personal possessions. Kosovo Serbs filed the bulk of these claims. Another set of claims was filed by the Albanian community against the Serbian government, the Republic of Serbia and Montenegro and the Former Republic of Yugoslavia, seeking compensation for damages caused by withdrawing Serbian troops in 1999. Suspension of these cases was done based on a letter of the UNMIK Department of Justice, which in August 2004 was addressed to the courts of Kosovo. Through a second communication in September 2008, UNMIK lifted the suspension and courts were enabled to start dealing with this massive backlog of cases again. The reduction of this backlog is a declared priority for EULEX judges.

Through monitoring work in the Kosovo Courts, EULEX judges have identified a number of problems with the stayed cases, including:

- Overwhelming caseload;
- Insufficient resources, both as regards staff (insufficient judges and support staff to translate claims particularly from Serbian) and technical equipment;
- According to article 68 of the law on Public Financial Management and Accountability, all pending court cases containing claims against a 'Public Authority' shall be notified to the MoJ and the Ministry of Economy and Finance. Since many of the stayed cases are compensation claims directed towards Kosovo Public Authorities (Municipalities or Provisional Institutions of Self Government), the Courts are obligated to notify the Ministries. Any such case is automatically suspended until the expiration of a period of 180 days from the moment that the Ministries receive notification of it.
- Problems with sending copies of all cases, mainly due to insufficient resources;
- Summoning and contacting (often displaced) parties in Serbia;
- Particular problems in the Mitrovicë/Mitrovica region regarding general working conditions, especially in the District Court, that refuses to accept appeals due to their specific situation; and
- The possible reaction from claimants and the public opinion, in the event that their cases are being dismissed and/or rejected *en masse*.

To overcome the many difficulties faced by the Kosovo Judiciary regarding these cases, EULEX Judges have worked out a strategy to monitor, mentor and advise the Kosovo judiciary on every step of the process in accordance with the following:

- ✓ In the pre-trial phase, EULEX judges monitor, mentor and advise Kosovo judges in order to overcome difficulties such as : locating addresses, checking the claims against the requirements of the applicable laws, initiating the completion of open claims, commencing with adjudication of cases which passed the initial procedure, categorizing the claims and sending notifications to the Ministry of Justice and Ministry of Finance, and sending out court orders to correct the claims;
- ✓ In the main trial phase, EULEX judges monitor, mentor and advise Kosovo judges on possibilities of accelerating the conclusion of cases through conducting collective hearings for example;
- ✓ In the post-trial phase, EULEX judges monitor, mentor and advise Kosovo judges by disseminating judgments issued in the stayed cases at the Municipal, District and Supreme Court level to all courts.



To motivate the Courts to intensify their work on the cases, meetings have been held with the judges, where the EULEX judges' strategy has been presented. Furthermore, monthly checklists have been distributed to all judges assigned to stayed cases, and through these, EULEX judges have been able to follow the development of the work in each Court.

EULEX Judges are communicating with the Ministry of Justice, the Ministry of Finance and the Kosovo Judicial Council in order to simplify the notification procedure to the Ministries and to overcome the obstacles of finding addresses of and serving claimants living outside Kosovo.

The work on the cases has started all over Kosovo. In many Courts, the cases had previously not been assigned to judges and no action had been undertaken, since there was an assumption that UNMIK or other international organizations would handle the cases. Following the actions of the EULEX judges described above, the cases are now being assigned to judges at the Courts and procedural steps are being undertaken in Courts all over Kosovo. In some Courts, cases are being concluded at the first instance. The progress on the cases is followed closely in all regions.

The Kosovo Courts are taking action to co-ordinate their work. In some instances meetings have been held between different Courts, enabling judges to share experiences with each other regarding the cases. Judges have also communicated with the Ministry of Justice.

The gap between the proceeded and the not proceeded "stayed cases" in the regions has greatly improved and this is a positive and significant development. The progress of this work in the Courts will be followed continuously all over Kosovo. As the cases proceed to the next procedural stages, EULEX will assist the Kosovo judges in dealing with new issues that arise. Where cases have been concluded at first instance Courts and have been appealed to the second instance, EULEX staff are monitoring developments in the second instance Courts to be able to distribute judgments that may form jurisprudence.

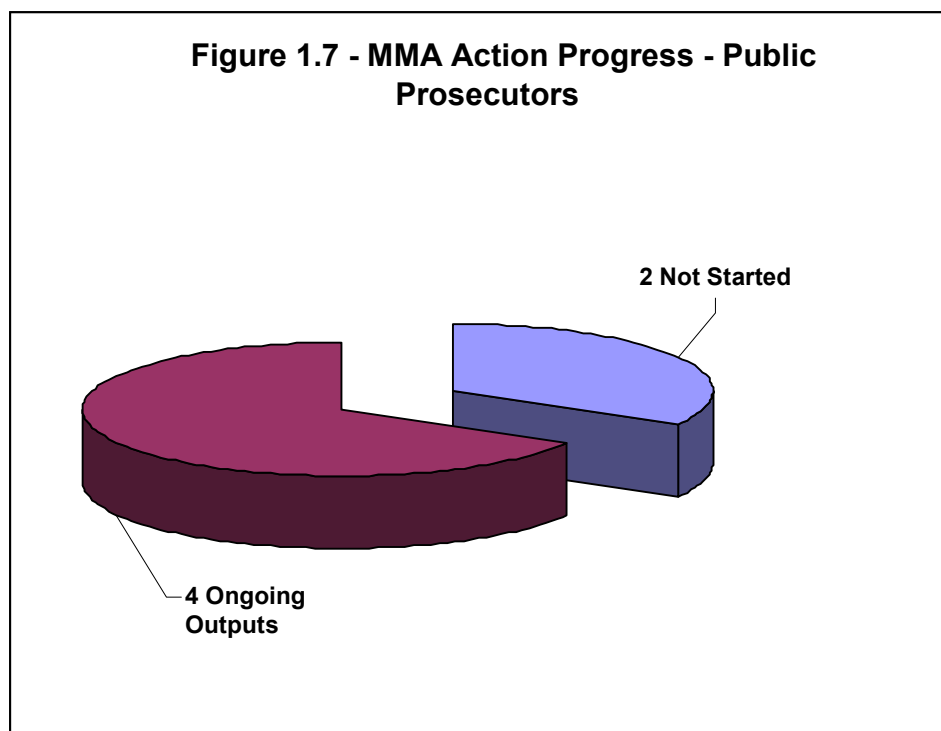
In this regard, the outcomes of these proceedings differ from one judge to the next: some judges dismissed these claims as inadmissible, considering UNMIK and KFOR immune from civil proceedings before Kosovo courts. They also held that Kosovo institutions are not responsible for 1999 events. Some Judges have suspended the cases, either because the claimant had died or due to the fact that the address of the claimant was unknown. Other judges decided that the claims should be rejected as ungrounded, and are applying the outcome of the appeals in similar cases. Efforts are also being undertaken to arrange a Kosovo-wide seminar on the issues relating to the stayed cases, in order for the Judges to learn and share experiences with each other.

## **PUBLIC PROSECUTORS**

In order to remedy the performance weaknesses of the Public Prosecutors' Office (PPO), an MMA Action to *ensure that the Kosovo Judiciary progresses towards an independent, transparent, and accountable judiciary,*



as well as ensuring that serious crimes are effectively investigated and prosecuted was designed. There has been some progress in achieving 4 main outputs of this MMA Action (2 Actions have not reached the implementation stage yet), in spite of the problems in relation to PPO resources.



**Management of prosecution casework.** Many of the identified weaknesses of the Prosecution relate to the case handling processes. Therefore a Prosecution Administration Manual (PAM), designed by the United States Agency for International Development (USAID)/National Centre for State Courts in partnership with EULEX, was launched in May 2010. The PAM has been integrated in the various prosecution offices, and is expected to have a positive impact on daily operations. The PAM provides clear guidelines for the prosecution casework processes and office management. The manual combines all applicable policies and procedures in one place for the first time. PAM should prove to be an essential management tool for the uniformity of processes and procedures throughout the prosecution services in Kosovo.

Furthermore, the Prosecution is working on the implementation of a Prosecution Management Information System (PMIS), along the lines of the Case Management Information System (CMIS) in use by judges.

**Appointments.** The appointment and re-vetting of Judges and Prosecutors is progressing and should be finalized by the end of this year.

Thus far, 8 Supreme Court judges, 4 State prosecutors 10, prosecutors for SPRK, 9 judges in DC Mitrovicë/Mitrovica and 5 prosecutors in Mitrovicë/Mitrovica District Public Prosecutor's Office have been appointed. The completion of a reappointment together with the PAM, the new Laws on Courts, the Law on State Prosecutors Office and the Law on Kosovo Prosecutorial Council are expected to lay the necessary foundation for an effective management of the Prosecution service.

**International relations.** In 2009, the Office of the Chief EULEX Prosecutor has concluded, with the assistance of its local counterparts, the preparation and logistics for the signing of several arrangements, which include:

- ✓ Memorandum of Understanding (MoU) between the Office of the Chief State Prosecutor of Kosovo and the Supreme State Prosecutor's Office of Montenegro
- ✓ MoU between the Office of the State Prosecutor of Kosovo and Anti-mafia National Directorate of Italy
- ✓ MoU between the General Prosecutors Office of Kosovo and the Office of the Attorney General of the Republic of Croatia in combating transnational crime and money laundering
- ✓ Arrangement between the Office of the Chief EULEX Prosecutor and the Anticorruption Agency of Kosovo regarding the Cooperation between the EULEX Prosecutors and the Anticorruption Agency of Kosovo

**Mixed-Team efforts and MMA.** Six implementation outputs were agreed between EU Prosecution and local counterparts:

- Measures to ensure autonomy of Kosovo Prosecutors;
- CMIS integration into daily operations;
- Objective and transparent case allocation;
- Measures to investigate and prosecute serious crimes;
- Measures to investigate and prosecute criminal cases; and
- Measures to strengthen accountability of the Kosovo Judiciary.

Several outputs are pending the establishment of the Kosovo Prosecutorial Council (KPC) - these include measures to ensure the autonomy of Kosovo prosecutors, measures to strengthen the accountability of the Kosovo Judiciary and a transparent case allocation system.

Since December 2008, 436 Mixed Team (MT) cases have been conducted, where EULEX staff has been working together with Kosovo prosecutors on selected cases. This has meant that several prosecutorial techniques and standards have been transferred to local prosecution. Additionally EULEX prosecutors have monitored cases without the need for in depth involvement as is necessary in MT cases - thus allowing weaknesses to be identified and the relevant support and mentoring provided for the effective prosecution of several cases at the same time.

An evidential test procedure has been adopted throughout Kosovo. The test evaluates whether there is sufficient evidence in each case to provide a realistic prospect of conviction. This procedure ensures viability and relevance of evidence used in criminal cases, and reduces the time used to prosecute a case and brings about higher standards of justice for victims, witnesses and the accused and should contribute (over the long run), to ensure confidence of the communities in the prosecution service.

Another issue, identified in the last Programme Report, was the excessive use of detention on remand, which in many cases did not live up the principle of proportionality. The prosecution have requested detention on remand in fewer cases, and instead suggested less intrusive measures, like house arrest,

deposit of passport etc. .

Furthermore a reduction in the backlog of prosecution cases have been noted in many district prosecution offices.

**Challenges.** The vetting and reappointment of prosecutors will have to finish before stability can be brought to the prosecution offices of Kosovo. The future of several prosecutors has been unclear, and this has not been conducive for the reforms the organization is facing.

The introduction of the new laws – Law on Courts, Law on Kosovo Prosecutorial Council, Law on the State Prosecutors' Office - are eagerly awaited as they will introduce measures to address major issues.

The Law on Courts, which has passed its first reading in the Kosovo Assembly, seeks to address the inefficiencies within the Court Service by creating a new structure which merges the courts at district and municipal level.

The Law on State Prosecutors' Office, still in draft form, seeks to harmonise the structure of the prosecution service. The new structure foresees 7 prosecution offices, including the new districts of Gjakovë/Đakovica and Ferizaj/Uroševac, merging municipal and district prosecutors' offices. This new structure is expected to bring new synergies between the prosecution offices -which currently operate at the two levels- and should also progressively increase cooperation with Kosovo Police.

The Law on the Office of State Prosecutors will also bring in another major change, the introduction of only one Appeals Unit situated within the Office of the State Prosecutor. This will increase efficiency and uniformity within the prosecution offices by centralising the appeals process. It is believed that this new law will also contribute to a reduction in the number of appeals and duplication of the process.

A much debated issue is the increase of salaries for prosecutors (as for judges); the new laws foresee substantial increases in the remuneration. This is an essential element in strengthening the autonomy of prosecutors and will hopefully ensure that Kosovo Prosecution can retain current staff and attract new qualified resources.

A law on Kosovo Prosecutorial Council is also under preparation. The Law will bring about the Kosovo Prosecutorial Council which – like the KJC – should give the necessary support and oversight to the Kosovo Prosecution. The Secretariat to support the KPC will be hosted within the Office of the State Prosecutor of Kosovo.

The structural changes in the organisation of the prosecution service with the introduction of the PAM and including those arising directly from the above three laws, will have to be embraced at all levels.

Staffing levels remain a big issue with vacancies reportedly left unfilled for years, at all levels. There is urgent need for prosecutors, legal clerks, administrators, managers and especially Information Technology staff, to ensure the smooth running of the casework process.

## **SPECIAL PROSECUTION OFFICE (SPRK)**

The Law on Special Prosecution Office (Article 1.1) established the Special Prosecution Office (hereinafter SPRK) as a permanent and specialized prosecutorial office operating within the Office of the State Prosecutor.

The SPRK has the exclusive competence to investigate and prosecute the most serious crimes such as war crimes, serious breaches of the Geneva conventions, terrorism, organised crime, trafficking in Human Beings and money laundering.

In addition the SPRK has a subsidiary competence to investigate and prosecute certain crimes if

- a crime is part of a broader trans-national criminal activity that makes international cooperation necessary
- or
- the crime is part of undue attempts made to influence the investigation or prosecution of those crimes;
- or
- the crime is endangering or has endangered the functioning or stability of the of public institutions or of their organs operating in Kosovo
- or
- it is reasonable to believe that the SPRK, due to the particular circumstances, or complexity, or nature of the alleged criminal conduct, is the only office that could achieve a complete investigation or prosecution of the crime.

SPRK celebrated its first anniversary on 9 December 2009. With regard to SPRK personnel and organizational structure, SPRK and EULEX personnel are respectively administered under Kosovo and EULEX rules but run by the Head of SPRK who is currently a EULEX prosecutor. The EULEX Chief Prosecutor supervises the Head of the SPRK during the transitory period. The general budget of the Kosovo SPRK staff for different categories is allocated by the Ministry of Justice. The relations with the Ministry of Justice are on a very satisfactory level.

The EULEX activities in SPRK originally focused on performing executive tasks related to the exclusive and subsidiary competencies. However, with a view to foster a sustainable institution, MMA activities have slowly begun. An assessment period is currently ongoing, which will be finalized later in 2010. This will spark a number of targeted MMA activities, which are scheduled to start in the beginning of 2011.

**Achievements of SPRK.** The reporting period for the SPRK was marked with trials, in particular a high profile war crime trial, and key investigative steps on organised crime and financial cases. Since July last year the SPRK dealt with 165 cases. The UNMIK legacy still accounted for a substantial part of the SPRK portfolio; however, the ratio of new SPRK cases was raised to one third of the caseload, which

is an encouraging sign.

Up until February 2010 the SPRK operated with six Kosovo special prosecutors and an average of six EULEX special prosecutors. This number varied from month to month as a result of new appointments and resignations. The EULEX special prosecutors performed executive functions working in mixed teams with their Kosovo counterparts in accordance with the applicable law of Kosovo and the EULEX mandate.

During the training phase, provisions for the arrangement signed between Chief State Prosecutor of Kosovo and Chief EULEX Prosecutor and Head of SPRK were fully applied. During training Kosovo special prosecutors displayed the capability and willingness to demonstrate positive skills in daily functioning. They have demonstrated a good level of leadership in the investigations in certain cases.

On 16 February 2010, ten (10) prosecutors were appointed to serve as Special Prosecutors of the SPRK. With these appointments the composition of the SPRK is in full compliance with Article 3 of the Law on SPRK which requires that it is composed of ten Kosovo Prosecutors. Out of ten prosecutors, one of them is appointed as Deputy Head of SPRK.

Kosovo special prosecutors have welcomed the presence of EULEX special prosecutors as part of the team. The co-location with EULEX prosecutors in the same building as their counterparts has generated excellent communication and team work. The Kosovo special prosecutors became familiar with their counterparts. Kosovo counterparts have a clear overview regarding the role and mandate of EULEX.

The information exchange with Kosovo special prosecutors is sufficient to enable the EULEX special prosecutors to be acquainted with all actual developments. The Head of the SPRK organises regular management meetings with Kosovo special prosecutors: organisational and legal matters are discussed at weekly meetings, in order to facilitate the SPRK activity and to overcome difficulties.

The development of databases and network security has been completed. The SPRK CMIS will be operational as soon as the position of database administrator is filled. The allocation of cases and the start of investigation can be considered as significant achievements of this office. The special prosecutors have been involved in serious/organised crime and financial investigations and have represented the SPRK in trials. As of 30<sup>th</sup> April 2010, fifty-two (52) cases have been allocated to the Kosovo special prosecutors.

The SPRK coordination with EULEX and Kosovo Police has been clarified step by step, overcoming numerous difficulties. Efforts with external relations have paved the way to strengthen the cooperation with foreign prosecution offices. On 26<sup>th</sup> February 2010 it adopted a Decision which established the Special Anti-Corruption Department known also as Anti Corruption Task Force (Task Force). This Task Force was to fall under the auspices of the Special Prosecution Office of Kosovo (SPRK).

It should be noted that, during the process of establishing this Task Force, EULEX was strongly committed and cooperated closely with the Government to make this new body operational and effective as soon as possible. The Task Force objective is to investigate and fight high profile corruption-related crimes as well as various forms of participation in such crimes, pursuant to Article 9 of the Law on Prosecution. According to Article 10.1 of the aforementioned Law, the SPRK will exercise its subsidiary competence when in the

interest of a proper investigation or prosecution of the crimes.

The SPRK's Anti Corruption Task Force shall comply with articles 1.1, 4.2 and 15.6 of the Law on SPRK and article 8 of the Law on Public Prosecutor Office. The Task Force, itself, will consist of eight prosecutors, five (5) of whom will be local and three (3) prosecutors will be EULEX appointments. At present the SPRK is in the process of recruiting the final International Prosecutor for this section. In addition to the eight Task Force prosecutors, the Government of Kosovo has committed to engage thirty (30) Kosovo Police Investigating Officers who will serve in a support role to the Task Force.

As of 20<sup>th</sup> April 2010, five KP officers were assigned to the SPRK's Task Force on Anti Corruption. KP will define the procedure to be put in place to appoint the 25 remaining police officers, as envisioned in the resources plan.

**Challenges.** EULEX special prosecutors have observed the need for further development of the skills of Kosovo special prosecutors with regard to legal drafting. In particular more quality is needed when providing the reasoning and description of facts, such as indictments. In addition, there is a need to encourage training with regard to developing managerial skills amongst the local prosecutors. Up to this point they have not managed to successfully delegate tasks to their legal officers and administrative assistants, regardless of continued requests to do so by the Head of SPRK. Ability to oversee police investigators needs to be increased.

With regard to the use of information technology (IT) and electronic communication there is a need to undertake training for the Kosovo special prosecutors. The Head of SPRK has organised individual internal IT training sessions for Kosovo special prosecutors, although there remains room for improvement. The security of the SPRK premise is one of the challenges that concern this office. Therefore, the SPRK capital project entitled "*Security of SPRK building*" was approved by the Ministry of Justice and anticipates the need to increase the level of security in this office. It is expected that this project will be operational as soon as the tendering procedure is accomplished.

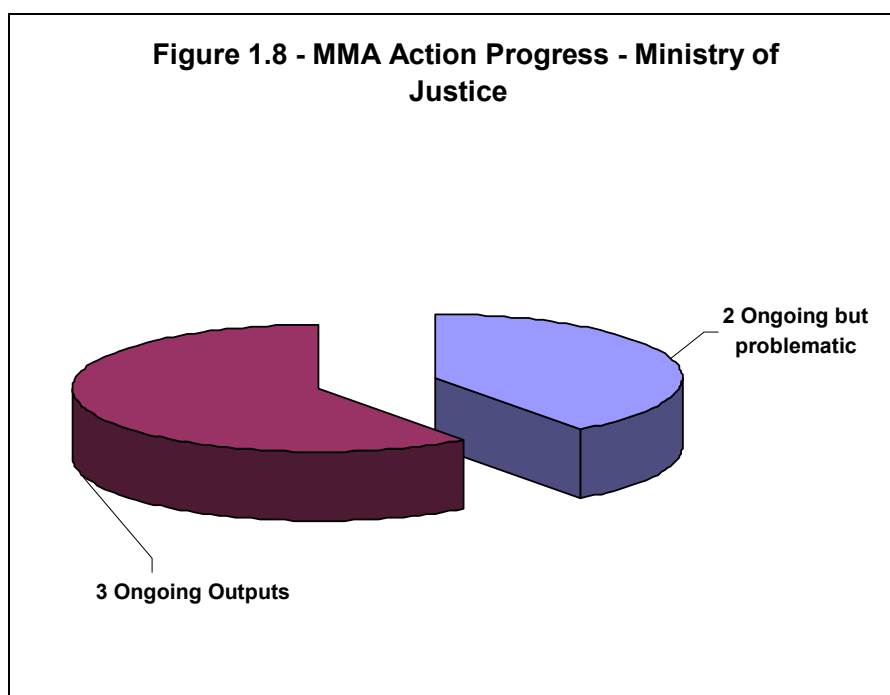
The IT infrastructure requires further analyses and assessment of its current state and usage, the identification of available IT equipment and infrastructure needs, and the identification of software and database integration needs. The lack of an IT officer for the SPRK has been the main obstacle to appropriate representation and assessment of the office in relation to IT matters. The post of database administrator has to be filled in order to enable the implementation of relevant SPRK databases.

## **MINISTRY OF JUSTICE**

The EULEX MMA effort within the Ministry of Justice (MoJ) has been directed toward the twin objectives of legal policy and drafting legislation, with the aim of strengthening the legal policy formulation of the Ministry, as well as its legal drafting capacity. EULEX experts are also concerned to enhance international

legal cooperation. This includes strengthening capacities with regard to international legal assistance at the Ministry of Justice, as well as international legal cooperation, thereby improving those procedures (including primary and secondary legislation of the Ministry of Justice) that will facilitate the development of Kosovo justice as a fully reliable partner in the international legal cooperation network. EULEX experts are also providing mentoring and advice on ways of allowing the Minister of Justice strengthen its overall compliance with the legal instruments applicable in Kosovo.

Finally, EULEX is assisting the Office of Missing Persons and Forensics (OMPF) in its aim of developing an effective and efficient strategy for the Department of Forensic Medicine (DFM), improving the delivery of professional forensic development services to the judiciary and its staff.



A general issue in the MoJ has been the lack of transparency when applying procedures for recruitment, promotions and staffing. A number of recruitments have been centralized at a high level in the Ministry, without consulting the day-to-day-managers.

A new Minister of Justice has been appointed in the beginning of April, and EULEX is therefore consolidating a new working relationship. The new Minister seems very willing to constructively engage with EULEX and has already adopted a few decisions intended to mitigate the most obvious cases of nepotism.

**Legal Policy & Legislative Strategy.** The EULEX Legal Policy and Legislation experts participated in legislative drafting, draft law assessment and providing comments on draft laws. EULEX Legal Policy and Legislation Experts were able to participate effectively in the majority of the Inter-Governmental Working Groups dealing with draft legislation (within the Legislative Strategy of the MoJ).

During the reporting period the EULEX Legal Policy and Legislation experts have been actively involved in



monitoring and mentoring (both in working groups and otherwise) on the following draft Laws:

- ✓ Law on the Department of Forensic Medicine – adopted by the Assembly and entered into force;
- ✓ Law on Forensic Medicine – approved at first reading in the Assembly;
- ✓ Law on Suppression of Corruption – adopted by the Assembly and entered into force;
- ✓ Juvenile Justice Code – approved at first reading at the Assembly;
- ✓ Law on Execution of Penal Sanctions – approved at first reading in the Assembly;
- ✓ Law on Agency for Confiscation and Sequestration of Assets - adopted by the Assembly and entered into force;
- ✓ Law on Courts – approved at first reading at the Assembly;
- ✓ Law on Kosovo Judicial Council;
- ✓ Law on Witness Protection – sent from MOJ to the Government for approval;
- ✓ Law on Obligations (contract, tort law);
- ✓ Criminal Procedure Code;
- ✓ Criminal Code;
- ✓ International Child Abduction;
- ✓ Ombudsperson.

EULEX Legal Policy and Legislation Experts have also been involved in providing comments and recommendations on the following draft laws outside of the Legislative Strategy of the MOJ: Draft Law on Suppression of Money Laundering and Terrorist Financing, Draft Law on Police Inspectorate, Draft Law on Official Gazette and Draft Law on Missing Persons.

**Challenges.** The system of legal policy formulation and the drafting of legislation within the MoJ remain weak. Similar issues arise repeatedly and it is clear that there are underlying challenges.

There is a need for a legal framework for the development of legal policy and legislation. A number of Government Regulations and Administrative Instructions relating to how legal policy is to be developed and legislation to be drafted (including public consultation and legislative drafting techniques) are in place.

These Regulations and Administrative Instructions are frequently not adhered to. This has an impact on both the transparency of the process and the quality of the final product. These problems will be the subject of further monitoring, and will be addressed over the coming months.

Legislation drafted must be capable of use and enforcement. In most Member States this task is undertaken by highly qualified personnel: the Ministry of Justice is still facing challenges in recruiting and retaining qualified staff.

Kosovo legislation is authoritative in both Albanian and Serbian languages. However, it is also translated into English. Methods to reduce costs and improve the quality of translations are needed.

**Capacity of International Legal Assistance.** With the latest Ministerial

Administrative Instruction, dated 30 September 2009, the MoJ assumed the responsibilities for requests to and from foreign countries, including the so-called “non-recognizing countries”. As a result the relevant communication channel with Serbia - comprising of 30% of all requests - is interrupted. Serb authorities refused to execute requests from Kosovo, since they were accompanied by documents showing stamps or symbols referring to the Kosovo institutions. This is a cause of grave concern because of the high volume of International Legal Assistance (ILA) with Serbia: the current situation is effectively denying access to justice and leads to impunity.

The International Legal Cooperation Division continues to lack its own translation pool and access to an alternative option. This has become a factor of concern, since a number of countries (such as Austria, Germany and Switzerland) require Kosovo to comply with international standards and send requests in an official language of that country (i.e. German). The number of staff is small and places the Division in constant difficulty as a result of their capacity. A proposal for more staff was not approved by the Ministry administration. Moreover, the Division lacks appropriate technical equipment for scanning and has insufficient server storage space to save scanned documents. A new project is underway with the aim to improve the situation.

## **Legislative Framework for International Legal Cooperation.**

The existing laws and policies have been reviewed and modified in accordance with European best practices, as part of the ongoing task of developing improved legislation and working tools.

The legislative strategy for 2010 reveals four different laws in the area of ILA. However, it was decided to merge three of the four laws into one - a comprehensive Law on Mutual Legal Assistance, including transfer of sentenced persons and extradition. The other law is a Law against Child Abduction. Ministerial working groups have prepared initial drafts which are now being reviewed and consolidated by inter-ministerial working groups. The Government aims to hand both laws to the Kosovo Assembly by the end of June 2010.

**International Agreements/ Legal capacity.** There has been renewed focus on the legal capacity of the MoJ with regard to international conventions and the EU *aquis*, building upon existing and potential agreements, as well as adding a new emphasis on European best practices through active MMA support.

MoJ has proposed 30 draft-agreements with various EU and regional countries on transfer of sentenced persons. A number of countries have either signalled interest or have already started negotiations with Kosovo on the exact terms of agreement. The first agreements are to be signed soon. Moreover, the MoJ is currently negotiating agreements on mutual legal assistance, and extradition in regard to criminal matters with Albania, FYROM and Turkey.

**Extraditions.** A specific goal has been to create a Kosovo escort unit for extradition. So far, in the absence of a functioning escort unit in MoJ, EULEX has facilitated escort of extradited persons to Kosovo. The creation of the Kosovo Escort unit for extraditions has almost been completed. After the selection

process of ten male and one female police officer was completed, the French Embassy issued them with Schengen Visas in April 2010, thereby allowing them to travel to Schengen Countries for their official duties. EULEX Correctional Unit is currently reviewing the training needs for extradition work, as well as the potential for a specialized training course. Once the officers have been trained the Escort Unit will become fully operational.

**Challenges.** In general terms the work of the Division is on the right track and significant progress has been achieved, in particular with regard to the drafting of international bilateral agreements and the preparation of two draft laws in the field of ILA. However, better technical equipment and more human resources have to be made available to the Division, and further capacity building is needed. Finally, the current political framework hampers the functioning of the Division significantly.

## **OFFICE OF MISSING PERSONS AND FORENSICS**

### **(OMPF)**

EULEX has deployed a number of staff to OMPF, and in the last Programme Report, recommendation JC/27/2009 set out the following goals:

- Drafting a strategic plan that outlines the OMPF mission and vision;
- Creating policies that tackle the high staff turnover at OMPF; and
- Enhancing the leadership skills of senior staff.

**Strategic plan outlining mission and vision.** There are uncertainties on who will get the post of Director for the Department for Forensic Medicine, and the issue has been pending for several months. This has created a situation where the foreseen reforms of the organization have not been carried forward. The local counterpart, whilst supporting the concept, has done very little regarding creating a vision, mission or any sort of strategy for the OMPF or the coming Department of Forensic Medicine (DFM). However, as soon as the director is selected, this recommendation will be pursued.

**Policies to tackle the high staff turn over at OMPF.** Recently, the MoJ approved a 30% salary increase for all staff employed at OMPF. This increase has yet to be approved by the Ministry of Public Administration. If approved it would be the first salary increase that OMPF staff have received since the office was created. There is a need to enable policies in order to encourage staff retention and a more meritocratic-career system.

**Leadership/management skills of senior staff.** There is no evidence suggesting that during the reporting period anything was done by the MoJ to enhance management skills of EULEX senior counterparts.

**On the Establishment and operationalization of the DFM.** The project to introduce the Law on the Establishment of the Department of Forensic Medicine (DFM) was important in order to create a formerly non-existent legal framework from which forensic medicine and associated disciplines could operate. The law on the establishment of the DFM clearly lays out duties, tasks and responsibilities of the various units, divisions and staff. The relevant subsidiary legislation was not shared at all, even after repeated requests, with EULEX. EULEX has therefore no insight into the content or quality of these subsidiary laws.

The ownership of Law on Forensic Medicine Procedures - an obvious complement to the Law mentioned above - was enthusiastically adopted by local doctors who originally intended it as a "law on autopsy". It was necessary to persuade the relevant stakeholders that the scope of the law needed to be expanded to cover all areas of forensic medicine. EULEX legal and forensic experts worked closely with willing counterparts to re-draft the entire document. The resulting draft is by no means perfect but it serves to outline professional competences and responsibilities of forensic staff, and it can be considered (in conjunction with the DFM law) as a significant success, and a significant step forward towards the professionalization of forensic medicine in Kosovo.

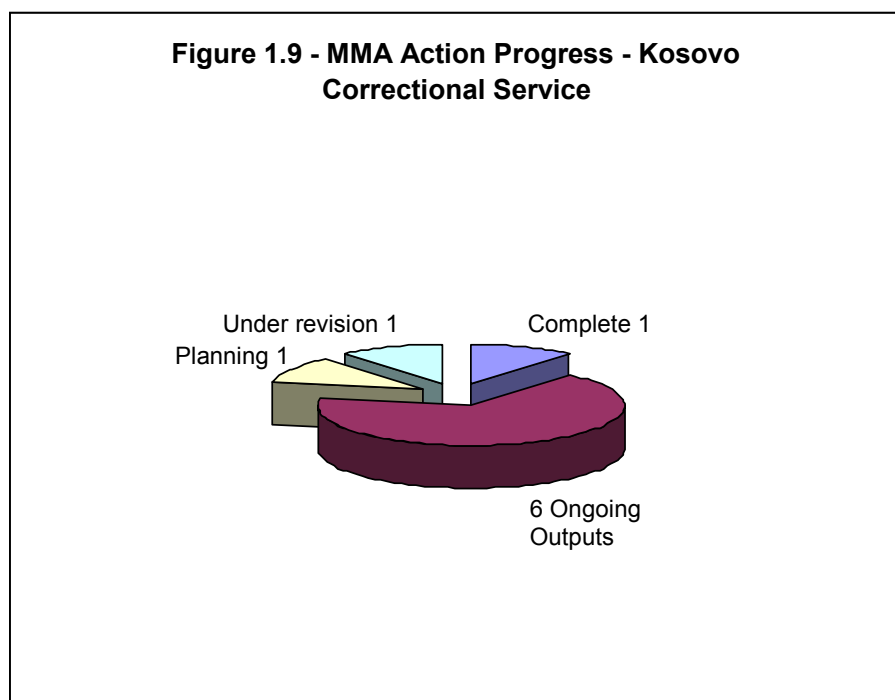
OMPF suffers from poor leadership. There are signs of political interference in the organisation, in terms of decision making and a lack of clear command structures. Furthermore, last year € 60,000 of the budget was not executed. There is a lack of daily management of staff in the Medical Examiner's Office, resulting in numerous instances of unjustified absence of staff (particularly the junior doctors). This practice severely impact on the EULEX possibility to MMA counterparts.

MMA at the Forensic Toxicology Laboratory has been a successful process with the complete handover of the operation to local staff already scheduled to take place before the end of June 2010. The Forensic Histopathology laboratory has been completely handed over to the local staff, although it still needs support from EULEX. MMA in the drafting of the Missing Persons Law was making progress during 2009, until the concept of the law was removed from the MoJ to the Office of the Prime Minister, where the EULEX Forensics and Missing Persons experts were eventually excluded from the process.

## **KOSOVO CORRECTIONAL SERVICE (KCS)**

The overall objective of this MMA Action is achievement of progress towards sustainability and accountability of the performance of the KCS, strengthening and developing towards a safe and secure correctional system, insuring that the KCS is free from political interference, as well as adhering to internationally recognized standards and European best practices. There a total of 9 key outputs that the EULEX justice experts are seeking to achieve. These outputs include managerial oversight over KCS HQ; management of the security unit within Dubravë/Dubrava prison; management of the high risk block of Dubravë/Dubrava prison; management of KCS prisoner escort; development of a dynamic security

approach; development of a “Prisoner Oversight Committee”; introduction of social reintegration; and regional assistance in the Mitrovicë/Mitrovica detention centre.



**EULEX Correctional Unit.** A Joint Action Plan was agreed together with the Kosovo Correctional Service (KCS) in order to establish the common road map in regard to the cooperation between the KCS and EULEX Correctional Unit (CU). The plan outlines all necessary activities in order to overcome assessed weaknesses in the KCS.

The level of cooperation previously established has increased. As a direct result during the reporting year joint communication has improved, the number and frequency of regular strategic and planning meetings have increased and various joint working teams have been created. The KCS are showing a more proactive approach to the development of their service, actively taking part in all joint initiatives; with an increasing confidence in providing ideas and solutions.

Of particular importance is the increasing encouragement and support KCS Headquarters (HQ) has given to the largest facility, Dubravë/Dubrava, which has resulted in improved discipline and better attitude from the staff.

**Prison Administration.** A joint working group (KCS/EULEX) has focused on developing two major areas of administration aimed at enhancing the management of KCS. Formal advice has been put forward in regards to 1) the development of a national database system as well as 2) the decentralization of budget and procurement procedures. The added benefits to giving the KCS and its facilities direct control over funds will enhance their ability to devote efforts to long term planning.

In regard to prisoners’ personal funds, a reconciliation procedure has been established that now enables the KCS to more effectively monitor and control all transactions as well as being provided with accurate

balances. Twelve updated administrative instructions and regulations have been issued by the KCS in several areas including, inter alia: Disciplinary Procedures, Sentence Planning, Visits and Treatment of Prisoners with Correctional Institutions. Additionally, the work of the Conditional Release Panel has been monitored jointly by EULEX CU and EULEX Judges since June 2009. Progress has been recorded regarding the handling of procedures and compliance with the existing directives.

**Operational and Security Management.** EULEX CU are co-located in the security department at Dubravë/Dubrava prison. CU has supported the KCS in reviewing existing policy and procedures and conducting various security assessments within the facility. KCS have made headway and are making efforts to improve the general flow of security information (the introduction of a weekly security meeting for senior management is considered as a good practice).

Joint developments have led to record a more accurate daily cell searching; the upgrading of the prison main entrance and physical security improvements for the new high risk block (8); the upgrading of visits rooms for high risk prisoners in the visits centre (resulting in a reduction of the levels of intimidation of correctional staff by high risk prisoners).

As part of the effort to reduce contraband EULEX has landed to the KCS three x-ray machines, 2 for Dubravë/Dubrava and 1 for Mitrovicë/Mitrovica. KCS now has 4 “train the trainers” officials and other staff have been trained on how to use the machines. This initiative has improved the means to detect contraband activities. This technical update has been accompanied by the establishment of a joint working group to complete a review and update of procedures for visitor’s entry.

**Strategic Security.** The KCS in Dubravë/Dubrava has reviewed and updated all contingency plans and conducted the first table-top exercise with all security agencies to assess the effectiveness of response to critical incidents. The successful joint exercise at Dubravë/Dubrava Prison was staged together with KCS, Kosovo Police (KP), EULEX Special Police, EULEX Intervention Unit and EULEX K9 Unit. Areas of improvement were identified and EULEX CU has now identified 8 senior KCS staff members who need to be further trained in the command of serious incidents.

**High-Risk Prisoners.** In Dubravë/Dubrava, joint reviews were conducted of all policy and procedures related to the secure holding of high risk prisoners in Block 1. This review led the KCS to a decision to open a new high risk block in Dubravë/Dubrava, namely at the Block 8. This decision was taken in order to facilitate a modern and more safe handling of high risk prisoners, with the aim to reduce contraband and increase adherence to prison. Prisoners were relocated to the new block in an attempt to enforce formal rules and procedures to ensure that prohibited items are removed from the prisoners.

The KCS officers have achieved great improvements under difficult circumstances and with limited resources. It should be noted that Dubravë/Dubrava prison is not designed or suitable to house high risk prisoners. KCS and EULEX have been jointly advising the EU Commission on their final plans for a new high risk prison for Kosovo.



**Prisoner Escort and Court Security.** KCS Prisoner Escort Unit (PEG) have overcome many challenges (mainly limited resources) while developing a professional prisoner escort service. The PEG has introduced an effective prisoner risk assessment procedure prior to all escorts. This has reduced operational costs as high and low risk escorts can now be differentiated and has contributed directly to improved security and the safety. KCS PEG can report that no escapes have taken place during the reporting period. KCS PEG have progressively improved communication at all levels and enjoyed a close working partnership with EULEX PEG.

A good indicator of sustainability is the ratio of executive transport performed by EULEX. Executive transport by EULEX PEG has reduced by 25%, as the KCS PEG management has become more efficient with improvement in their planning and coordination skills.

### **Mitrovicë/Mitrovica Detention Centre/EULEX Regional Team.**

The EULEX CU regional team has been deployed to Mitrovicë/Mitrovica and is currently co-located in the detention centre. Since EULEX CU deployment there has been an increased level of support from KCS HQ. This year the prison has been visited by the Minister of Justice, and received several visits by the KCS Commissioner and Deputy, including other senior KCS staff.

General improvements to security have included a complete review of contingency plans, the completion of a security needs assessments, the deployment of an X-ray machine; improvements in intelligence gathering, also thanks to the introduction of Security Information Reports, were recorded.

**Organisational Structure and Human Resources.** The KCS does not appear to have immediate or long term strategy on human resources. KCS has acknowledged that improvements need to be made. It is essential that a full staffing needs analysis is conducted, in order to address the current organizational weaknesses. The narrow organisational structure at HQ level; the overall rank structure; the lack of experts in specific fields of corrections and the need to plan for the expansion of the KCS (as other facilities come into use) are all issues that deserve a careful handling.

**Security.** The areas of physical and “dynamic” security remain the toughest challenge of the service, with all the capacity building aspects involved in it. Security upgrading of facilities and procurement of modern security equipment are also part of the picture. Continuous support and improvement is needed with regards to constructive relationships between staff and prisoners. Officers, due to the sometimes limited managerial support continue to face intimidations. This could lead to a complacency by certain individuals of the service. Reluctance to process security information reports and pressure to traffic illegal items of contraband into prison facilities are direct consequences of such attitude. This problem is most acute in Dubravë/Dubrava.

There is also the need to create a more formal communication and co-operation agreement with the Kosovo Police (KP). Whilst an MOU is in existence it needs to be more structured. This is essential to understand the scope and extent of KP support to the KCS especially in the areas of critical incidents inside facilities, and assistance and communication with KCS PEG. Concerns remain about episodes of nepotism, level



of perception of corruption and allegations of political interference with decisions taken at senior level management.

**Classification of Prisoners.** There is a need to help the prisoner's oversight committee due to the variety of challenges at stake. A full review of the regulatory framework, a methodology to tackle effectively classification procedures, and review of information on all offenders are required.

A review of the full procedures for prisoner categorisation and classification in all facilities would be an essential step forward. This will ensure that prisoners are housed accordingly, thus improving security and conditions for both staff and prisoners. With a positive impact on risk assessment capability.

**Information Technology (IT) Systems.** It is vital for the KCS to implement the various advises on administrative procedures. The development of a centralized KCS database/information system is a project that requires expertise and extensive financial resources. It must be seen as an important factor of success for the modernization of the service. The lack of a national data base and recording system impacts on all areas of KCS prison management, administration and operations.

Investment in modern technology would ensure a linkage between all institutions and KCS HQ. Prisoner records and sentence planning can be streamlined, security information and intelligence systems can be implemented and human resources' and financial services improved.

**Training.** Training is seen as a key and vital tool in order to ensure a sustainable development of the KCS, both short and long term, and in meeting modern challenges in the area of prison security, management and administration. KCS has acknowledged and agrees with the need to make improvements, despite the current lack of skilled experts and the limited capacity of the service to improve training standards. A service-wide training needs assessment is currently being planned as first step to address these issues.

**Prisoner Programmes.** KCS is in need of assistance to develop evidence-based rehabilitative programmes (particularly due to the increasing number of inmates affected by dependency from drugs), and targeted vocational training. Assistance to develop initiatives for vulnerable prisoners and those with special needs is also needed.

**Mitrovicë/Mitrovica.** The reintegration of staff and prisoners in Mitrovicë/Mitrovica remains delicate, with little progress made. Transport of prisoners is still executed by EULEX PEG.

**Kosovo Probation Service.** The Kosovo Probation Service, an independent service under the Ministry of Justice, was separated from UNMIK Penal Management Division in 2006. Whilst the service has cooperated with various member states there is currently no EULEX expert support. EULEX CU considers cooperation with the probation service vital as a link to the reintegration of prisoners into society and as an alternative to prison. The Service has indicated willingness in receiving more support from EULEX.

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# CUSTOMS

Kosovo Customs (KC) remains a well established Service which meets its revenue collection objectives virtually each year. Even in difficult economic circumstances it managed to collect 635 million € or 98,4% of the projected revenues in 2009 (up by 30 million € compared to 2008), or a 5% increase.

Regarding the functioning of Kosovo Customs as a Rule of Law institution, EULEX evaluated the status quo, and formulated recommendations for improving performance.

In summer 2009 the ECLO commissioned a EU Customs Blueprints Gap and Needs Analysis in order to assess compliance of services with European customs criteria and standards, and to provide guidance for planning activities and measures towards further development and modernisation of the Service.

Both EULEX Programme and ECLO/ EU Blueprints Exercise Reports' recommendations seem to have effectively guided Kosovo Customs efforts in the past year.

While the 2009 Programme Report have led to the development of targeted EULEX MMA Actions not all of them have seen EULEX in the lead. In order to avoid overlapping of activities, EULEX closely coordinated with other actors, in particular with the European Commission funded "EU Support to Customs and Taxation Administrations" (EU-CTA) programme which started at the end of 2009. As a result several EULEX recommendations were included in the EU-CTA plan of operations. In some cases action in line with recommendations has been taken by Kosovo Customs itself, and where EULEX Customs Component lacked specific skill sets or expertise, Kosovo Customs could count on short term assistance by the Technical Assistance and Information Exchange Instrument of the European Commission (EC TAIX).

With the Customs and Excise Code of Kosovo already entered into force in November 2008, the Administrative Instruction laying down the implementation of the Code was approved, entering into force in September 2009. Good progress has been made in reviewing former customs rules, regulations, instructions and guidelines, including administrative instructions in line with the new customs legislation. Kosovo Customs is well aware that all regulations need to regularly updated in order to guarantee a uniform application of the customs legislation. In terms of combating piracy and counterfeiting, the Law on Customs Measures for Protection of Intellectual Property Rights (IPR) entered into force in December 2009, and the drafting process of the implementing provisions is in its final phase. Drafting of amendments to the Customs and Excise Code has started in order to include specific clauses regulating data collection and protection in Customs.

Although the Independent Review Board (IRB) was expected to become functional by mid 2009, no progress has been made and the backlog in hearing and processing appeals is still growing. The conclusion of the 2009 EU Customs Blueprints Gap and Needs Analysis commissioned by the European Commission Liaison Office in Prishtinë/Priština of summer 2009 remains therefore valid: "the delays will deter traders from lodging appeals on customs rulings (especially customs valuation), as is their legal right, and so encourage corrupt practices". During a Joint Rule of Law Coordination Board (JRCB) meeting of May 2010, the Government reiterated its commitment to remove the obstacles for a proper functioning appeals

body.

EULEX Advisors closely coordinate with the EU-CTA programme and short term TAIEX experts. EU-CTA recently completed a training needs assessment in operational and management areas, as a follow up on earlier TAIEX assistance. Most of the identified training, including more specialized law enforcement training, could be delivered in house and/or by EU-CTA experts.

Customs valuation is another area of close cooperation between EULEX, EU-CTA and relevant Kosovo Custom's staff, as it is a main legal issue with direct impact on revenue collection. Further assistance might be needed in order to ensure correct and unified application of valuation rules; the same applies for implementation of post clearance audit.

Both EULEX Programme Report 2009 and EU Customs Blueprint Analysis highlight the need for an integrated human resources (HR) system: *"The HR personnel systems are unreliable and poor. They are not connected between HR, Training Section, or other sections that should have access other than manually or by email. The latter does not allow for the secure transfer of confidential data."* Not much progress has been made in this respect, although possible solutions have been explored. A system similar to the Resource Management Information System (RMIS), provided with the assistance of the EC to the Albanian Police, with integration of finance, budgeting, logistics/inventory and warehouse management modules, would fit the needs of Kosovo Customs.

EULEX Customs Component strongly recommended the replacement of the existing Trade Information Management System, as also mentioned by the EU Customs Blueprints Analysis. The decision by the Minister for Economy and Finance, after an internal Kosovo Customs evaluation of functionalities of several systems, to replace it with an EU compliant Integrated Customs Information System (ICIS) developed by UNCTAD (United Nations Conference on Trade and Development) could have a positive impact on the performance of Kosovo Customs. Apart from the operational aspects of improved digital document processing (e.g. pre-arrival information, transit procedures, import and export declaration) it should allow the introduction of the single-window concept; with (multi-agency) risk management capabilities included, it could improve selectivity of customs controls, and thus detection of illegal trade and serious crime.

Ethnic minority (12%) and gender (24% female) representation in Kosovo Customs Human Resources remained fairly stable, while total staff numbers slightly increased up with 30 officers in 2009. A new recruitment process of additional 50 officers is scheduled for this year, and the position of KC Director General (DG) has been advertised; the selection processes will be monitored by EULEX in line with its mandate.

## **Integrating Government Strategies into Operational Plans.**

The EULEX initial assessment of the Directorates' operational plans for 2009 revealed a considerable variety of standards. In some cases the key activities were too broadly defined and lacked reference to clear outcomes. In many respects they were too generic and failed to refer to specific timelines. In general terms, there seemed to be no integration or consolidation of operational plans into a single plan, with clearly set objectives for the whole of Kosovo Customs.

The 2009 EU Customs Blueprints Analysis came to similar conclusions, e.g. lack of an operational (action) plan at DG level which is linked to the strategic plan, except at lower Director's level, and unclear definition of responsibilities.

In response to these perceived weaknesses, it was decided to focus the MMA Action on updating the operational plans, including integration of the Integrated Border management (IBM) strategy and the strategy against Organised Crime (OC). This MMA Action is aimed at mentoring and advising Kosovo Customs on updating the strategic framework and operational plans, including the integration of the different Directorates' plans into a consolidated plan which defines clearly the objectives and responsibilities. Specific attention would be given to incorporate all elements of the approved national IBM Strategy (May 2009) and Strategy against OC (July 2009).

The primary outputs sought under this MMA Action include an updated Kosovo Customs Strategic Framework 2009-2011 (including IBM and OC strategies), Kosovo Customs Directorates (Law Enforcement, Revenue Operations, Legal and Finance) Operational Plans for 2010, and ensuring that the Customs' IBM Strategy and OC Strategy are available and fully integrated into the Customs' Strategic Framework and Operational Plans.

This MMA Action is linked to the KC action in response to the EC Customs Blueprints gaps and needs analysis, especially regarding organisation and management indicators (including planning and reporting areas).

At the beginning of 2010, Kosovo Customs drafted a new Strategic Operational Framework (SOF) for the period 2010-2012. This SOF was evaluated by EULEX advisors in March 2010 and comments were shared with Kosovo Customs. It was felt that the document was largely focused on the current year and hence lacked a specific vision and key areas of performance for the intended period of the coming 3 years. Recommendations include the requirement to structure the contents of the SOF into "Vision, Mission, Values and Strategic Goals" while developing three main strategies: business/client, law enforcement (including customs control) and resource strategy. Action plans or operational plans would then ideally have the same timelines as the SOF. The final version of the SOF has been issued; Kosovo Customs has in the meantime drafted an Action Plan 2010; the integrated nature of this new corporate plan was beneficial, since it builds on the SOF. However, it may need to be further amended according to the approved SOF.

Although IBM and organised crime strategies are mentioned, the impression remains that they have not yet been fully developed in the Action Plan. EULEX suggests that the SOF and Action Plans should be developed earlier in the preceding year and in a more participatory manner (i.e. both within Customs, and, where possible, with external actors). It is suggested, moreover, that the preparatory process is modified and a working group established under the supervision of the Director General, in order to start drafting the next SOF and Action Plan at the end of the summer of 2010.

**Improving Internal Communication.** EULEX Customs reports point toward limited progress in respect of improving internal communication and information flow. EULEX assessments

revealed that the availability and use of intelligence data in Kosovo Customs remains relatively unsophisticated and that there was a need to enhance operational response in the area of serious/organised crime. Kosovo Customs was also found missing a comprehensive database compatible with its intelligence needs. These problems are compounded by the fact that communications, intelligence dissemination and data sharing between the Law Enforcement and the Revenue Operations Directorates seems to be in need of improvement.

In order to fill this gap EULEX launched an MMA Action on “enhanced internal communications and data sharing, specifically intelligence communication and dissemination”. The overall objective is to mentor and advise the Kosovo Customs Directorates of Law Enforcement and Revenue Operations on enhancing their internal communications and data sharing. This objective refers specifically to intelligence communication and dissemination, as well as data sharing in order to proactively tackle organized crime, and to identify target criminal groups. It should also enhance KC capacity in profiling and advance risk assessment, and the selectivity of controls.

In pursuit of the overall objective of the MMA Action five main outputs were identified:

- 1) A user requirement exercise by the KC Law Enforcement Directorate, with a view to adopting the principles and practices of “Intelligence-Led Policing” (ILP), as well as implementing the National Intelligence Model as a standard operating procedure (SOP);
- 2) A progress plan to monitor the implementation of the adopted Intelligence Guidelines;
- 3) An enhanced cooperation with Kosovo Police on data sharing at policy and operational level (through Memoranda of Understanding-MoUs), in order to proactively tackle organised crime and criminal groups.
- 4) The consolidated operational plans (2010) of the Law Enforcement and Revenue Operations Directorates would reflect the requirements and the implementation of specific data sharing mechanisms between the Directorates.
- 5) Action points from the newly created joint Law Enforcement and Rev Ops Directorate monthly meetings should be implemented.

There has been limited progress in developing this Action, also due to lack of sufficient human resources within the EULEX Customs Component. More resources were allocated by EULEX in spring 2010 and the full implementation of the MMA Action will commence during the summer. Kosovo Customs’ officers, moreover, have already been included in training modules being delivered by the EC “Strengthening the Rule of Law” Twinning Project to the Kosovo Border Police. These training inputs include the adoption of intelligence-led policing principles; initial feedback from this training suggests that customs officers are performing positively.

**Co-operation with other law enforcement agencies.** This EULEX MMA Action focuses on the Kosovo Customs Legal and Law Enforcement Directorates in order to intensify the cooperation with other law enforcement agencies, especially the PPO.

In pursuit of this overall objective, it was agreed that Kosovo Customs would seek to achieve seven key outcomes:

- 1) A programme of activity that directs the KC Law Enforcement Directorate in its development and



implementation of agreements and protocols with KP counterparts in order to undertake joint enforcement actions.

2) A joint police and customs training programme on organised crime for the year 2010, to be introduced as part of the Governmental Organised Crime Action Plan.

3) A new and properly functioning Unit in the Legal Directorate, established specifically for liaison and cooperation with the PPO, and for providing legal advice within the KC with regard to pre-investigation procedures.

4) The development of a legal basis which gives the KC the authority to investigate customs-related organised crime (the Customs and Excise Code amended and supplemented accordingly).

5) A review of existing MOUs and operational arrangements, including recommendations for future expansion where appropriate.

6) Creation of agreements and protocols on mutual assistance and cooperation with several EU and other countries' customs services, with the aim to develop sustainable cooperation in combating criminal activities.

7) Cooperation between the KC and other law enforcement agencies (e.g. police, prosecution) at policy level, developed in order to ensure a functioning cooperation on organized crime. To that end, MoU need to be signed with the Police and PPO and these documents need to include provisions with regard to regular meetings and the regular exchange of information.

This MMA Action has direct links to the other MMA Action for Customs "Implementation of the IBM Action Plan", especially regarding cooperation and coordination in the area of combating organised crime.

Although key tasks were agreed rather late due to limited EULEX resources, there has been progress in implementing this Action. Kosovo Customs has drawn up a plan for a joint operation with Kosovo Police to detect the illegal import and export of large amounts of money by travellers at Prishtinë/Priština International Airport. "Operation Cash Watch" started at the end of April 2010 and proved to be effective.

The decision has been taken to set up a new Unit within the Legal Directorate of Kosovo Customs for liaison and co-operation with public prosecutors, and for providing legal assistance with regard to pre-investigation procedures. This Unit is not yet operational due to ongoing discussions on the final job description for the Head of Unit. The Unit should have an advisory role within the organisation, but no executive powers to supervise the Investigation Unit of the Law Enforcement Directorate (as stipulated in the first draft job description). As this Unit is supposed to lead negotiations with Public Prosecutors, the preparations for a MoU on co-operation with Prosecutors Office (PPO) are foreseen.

A working group has been established and has put forward relevant amendments and supplements to the Customs and Excise Code, but the KC Management Board has yet to agree upon these proposals. EULEX has been asked to provide advice and mentoring on this subject in order to consolidate work and facilitate a swift submission of the proposals to the Minister for Finance and Economy.

In October 2009 a Memorandum of Understanding was signed between Kosovo Customs and Kosovo Police and the Tax Administration of Kosovo; it lays the foundations for closer co-operation between the three agencies and, in particular, mutual support in areas such as logistics, human resources, and exchange



of intelligence.

Customs activities on international co-operation and mutual assistance agreements are under preparation since 2009. These agreements are at different stages. A bilateral agreement with Albania was signed in October 2009, and those with Turkey and Montenegro were signed in January and March 2010 respectively. An agreement with Finland is ready for signature, and negotiations are ongoing with the Customs Services of Italy, Croatia and Poland.

**Integrated Border Management (IBM) Strategy.** The National Strategy on IBM – in line with the European Commission Guidelines for Integrated Border Management in the Western Balkans – covers national and international cooperation with a view to tackling cross-border and organised crime. To that end, the Action Plan for Kosovo Customs included several areas of development, such as the legal framework, organisation and management, procedures, human resources and training, communication, information technology, and infrastructure and equipment.

This MMA Action has the overall objective of mentoring and advising Kosovo Custom's staff on the implementation of the Integrated Border Management Action Plan, and especially those actions that fall under the responsibility of Kosovo Customs, with an emphasis on the upgrading of infrastructure and equipment at customs stations.

In pursuit of this MMA Action, EULEX assists Kosovo Customs in the work of achieving four main objectives.

1. The creation a joint plan for infrastructure and equipment development at the BCPs, and in accordance with the IBM.
2. To establish the current extent of cooperation and coordination in operational activities, through the organisation and management at the BCPs.
3. The full implementation of the existing joint training plan at the operational level.
4. To ensure that the level of communication and exchange of operational information are sufficient and adequate.

This MMA Action links directly to the implementation of the National Strategy on Integrated Border Management and its associated Action Plan, including interagency cooperation with the other Kosovo agencies involved (Border and Boundary Police, Veterinary and Food Agency) and international cooperation.

Although interagency IBM co-operation remains limited and bilateral agreements mainly cover co-operation between similar agencies (e.g. Customs Services), there has been some progress in implementing those "intra" agency actions of Kosovo Customs that relate to IBM (e.g. drafting of administrative instructions or standing operating procedures). Kosovo Customs and Kosovo Police have agreed on sharing of control data (pending completion of the update of the KC IT system); hardware IT capacity at BCPs has already been improved. KC is sharing control premises (Operations Room, CCTV) with KP Border and Boundary, and at a few BCPs joint cabins on the lanes have been built up, with a plan to gradually introduce the concept in all BCPs where it is technically feasible.



**CIVIL SOCIETY**

## CIVIL SOCIETY IN MMA ACTIONS

Civil society impacts EULEX MMA activities in a cross-cutting manner, in all components. While there are no specific MMA Actions on partnerships with local non-governmental organizations, many programmatic documents indicate that co-operation with Kosovo watchdogs was satisfactory. As a result of consultations with civil society stakeholders, Kosovo institutions and EULEX MMA staff, the programmatic approach incorporated a number of outputs and activities across the various MMA actions with specific reference to civil society.

In terms of judicial matters, the programmatic activities see non-governmental organizations as consultation partners on single MMA issues, thereby attempting to stimulate frequent interactions between civil society and local rule of law institutions.

While non-governmental actors have a limited role in Customs MMA activities – and are not specifically mentioned in this component’s MMA Actions - their role in the Police MMA Programme is more obvious.

### References to civil society in EULEX MMA Actions

| EULEX JUSTICE COMPONENT              |                                                                                                                                                                             |
|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| MMA Action                           | Reference to civil society                                                                                                                                                  |
| Kosovo Judicial Council              | Co-operation of the KJC with civil society in regular meetings, and inclusion of civil society in the justice reform process.                                               |
| Prosecutors                          | EULEX and Kosovo prosecutors to inform relevant civil society counterparts on a regular basis regarding the general state of affairs of judicial misconduct cases           |
| Kosovo Correctional Service          | Several NGOs are working in the field of correctional services, and their findings will be considered by EULEX.                                                             |
| EULEX POLICE COMPONENT               |                                                                                                                                                                             |
| MMA Action                           | Reference to civil society                                                                                                                                                  |
| Crime Reduction Strategy             | Staged process of consulting internal and external stakeholders for the draft of a written strategy to reduce the overall volume of crime and number of certain key crimes. |
| Enhance patrol management            | Helping the KP to properly manage the deployment of resources in response to community policing needs; and consulting local communities regarding patrol targets.           |
| Annual patrol plans- police stations | Each station commander should develop a list of goals to guide the effective use of uniform patrols, based on the concerns of local community representatives.              |

|                          |                                                                                                                                                                                       |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Community policing       | Developing a community policing strategy and reporting mechanism, linking the KP community policing strategy with the requirement for local community consultation in the Police Law. |
| Resource Deployment Plan | Ensuring the maintenance and promotion of the rule of law, by helping the KP to properly manage the deployment of resources in response to community policing needs.                  |

In addition to the specific references to civil society involvement in MMA Actions, EULEX has sought to promote awareness of the programmatic approach amongst interested non-governmental organizations (NGOs). To this end, a workshop was organized on December 15<sup>th</sup> 2009, with the purpose of outlining the content of MMA Actions and seeking out useful and constructive feedback from civil society stakeholders. A total of 44 NGOs were invited, and received briefings on Justice, Police, and Customs Action Fiches from EULEX staff and Kosovo counterparts. The presentation of the Kosovo Judicial Council MMA Action - delivered by one EULEX advisor to the KJC and 5 KJC members – attracted the interest of most of the participants.

**Programmatic approach in context.** The Mission’s programmatic approach has generally encountered a positive feedback from local NGOs. An assessment conducted by the EULEX Programme and Policy Offices among Kosovo Albanian civil society organizations in the aftermath of the Police Protocol agreement with the Republic of Serbia (September 2009) revealed widespread disappointment with the Mission. The protocol issue can be taken as an example of how relations with local civil society are fickle and influenced by events unrelated to the MMA sphere.

Consequently in the weeks that followed the signing of the Police Protocol, the Programme Office encountered difficulties in getting hold of organizations which had previously expressed their willingness to collaborate with EULEX, thereby causing disruption to the normal co-operation on MMA matters.

A similar situation occurred in February 2010, with the start of the trial of Mr. Albin Kurti, leader of the Vetëvendosje (self-determination) movement. The Mission received a joint statement from 13 local non-governmental organizations, signalling a growing perplexity with the Mission’s perceived priorities. The statement, issued on February 9<sup>th</sup>, was signed by some of the most active Kosovo Albanian watchdogs, which were then invited for an exchange of views with EULEX officials on February 16<sup>th</sup>. Again, a general degree of satisfaction with EULEX programmatic activities was registered among the participants, who nonetheless stressed that the continuing lack of concrete results, interposed by actions such as the Protocol issue or the Kurti trial, would bring about a decrease of civil society support for the EULEX MMA endeavours.

Recent searches in the Kosovo Ministry of Transport and Telecommunication by EULEX Police were met with positive comments by local civil society: many of the NGOs which signed the February joint statement expressed their “full support to the Kosovo Special Prosecutor’s Office and EULEX in their commitment to fight corruption and organized crime in Kosovo” in a new joint statement released on May 13<sup>th</sup>. In addition to their appreciation for the ongoing investigation, NGOs recommended a close cooperation between EULEX and Kosovo investigators in anticorruption activities, thus showing a focused interest on programmatic partnerships between the Mission and Kosovo authorities.

Rule of law institutions – and the fight against corruption in particular – remain a high priority for many non-governmental organizations in Kosovo; analyses, reports and policy recommendations on these themes have been numerous over the last twelve months. NGOs have demonstrated a remarkable capacity in identifying strengths and weaknesses in Kosovo's rule of law mechanisms.

Among the various publications released during the reporting period, it is worth mentioning "The Fragile Triangle: police, judges and prosecutors coordination during criminal proceedings response in Kosovo", issued by the Kosovo Institute for Policy Research and Development (KIPRED) in February 2010. The report dwells on shortcomings detected in the flow of communication between institutions responsible for criminal investigations. A plan detailing human and financial resources to address needs of the Kosovo judiciary system – together with a joint database for storing and co-ordinating all criminal cases in Kosovo – constitute the report's main recommendations, which touches on issues at the core of several EULEX MMA Actions in the Justice and Police Components.

'Movement FOL' a Prishtinë/Priština -based civic initiative initiated a series of reports on anticorruption activities, providing figures on corruption-related cases and an analysis of achievements by institutional stakeholders involved in the fight against corruption. FOL acknowledged EULEX commitment in this area, quoting in its February 2010 bulletin the number of organized crime cases hitherto dealt with by the Mission, as well as other references to EULEX relevant activities. Although maintaining at times a critical stance towards the Mission (FOL was amongst the NGOs which signed the February 2010 joint statement cited above), FOL made itself available for regular exchanges of views and information with the Mission, and reported objectively in its publications.

The 'Kosovo Democratic Institute', established an advisory group, replicating the National Integrity System model implemented by Transparency International in several countries. The Advisory Group gathers institutions and organizations committed to the fight against corruption, and reviews relevant legislation, strategies and practices. Whilst the Mission decided not to take part in the Advisory Group, it will nonetheless support related research and has expressed its readiness to discuss the project's findings.

## THE JULY 2009 RECOMMENDATIONS

If technical recommendations for EULEX institutional counterparts have been directly addressed by the drafting and implementation of specific MMA Actions, the four recommendations listed in the civil society chapter (Programme Report, 2009) became cross-cutting issues, to be tackled wherever appropriate by the Mission and its local partners. The following paragraph elaborates on progress registered towards each of the four recommendations, highlighting actions and involved stakeholders.

## 2009 EULEX RECOMMENDATION

**Encourage dialogue and information exchange to identify and strengthen shared purpose and goals. MoJ and KCS to introduce accountability policies to reassure the public that they are in compliance with procedures.**

This recommendation builds upon the findings indicated in the 2009 EULEX Programme Report, and referred to in studies conducted by non-governmental organizations on the operative standards in Kosovo Correctional Service. The 2008 reports by the Kosovo Rehabilitation Centre for Torture Victims (KRCT) on Human Rights Standards in Correctional and Detention Centres and in Police Holding Cells represented a particularly accurate source of information on the Kosovo Correctional Services, and listed several areas for improvement. The 2008 KRCT reports could not test the EULEX contribution in this field, as the Mission started its operations in December 2009. Research conducted by this NGO in 2009 is therefore a good indicator of EULEX performance, vis-à-vis the management of detention centres. Far from having reached optimal standards, KRCT nonetheless records improvements in its 2009 Report on Human Rights Standards in Correctional and Detention Centres and in Police Holding Cells. Hygienic conditions have been updated in several centres, and some small infrastructure progress were also registered. KRCT welcomed the decrease in cases of alleged ill treatment of inmates by Kosovo Correctional Service staff. Although KRCT monitors still point to claims of excessive use of force by KCS Special Intervention Units, the level of such allegations has been lower than last year. KRCT seems to detect a relationship between EULEX MMA activities and these trends, completing its outline with a positive appraisal of the “European Union Rule of Law Mission in Kosovo (EULEX) which has recently started to mentor these intervention units”.

## 2009 EULEX RECOMMENDATION

**Enhance dialogue and communication to address concerns and improve accountability towards Kosovo Serb communities.**

Over the past twelve months EULEX programme activities also took into account the needs of Kosovo Serb communities, ensuring that access to Kosovo rule of law services and promoting awareness of the Mission MMA strategies. The workshop organized in December 2009 to present to Kosovo civil society the rollout of MMA Actions in the fields of Police, Justice and Customs was also attended by Kosovo Serb non-governmental organizations. Serb participants were mainly interested in plans related to police and judiciary, confirming the nature of this community expectation in terms of rule of law.

Building trust among Kosovo Serb citizens towards the local police and judiciary is one the most difficult challenges for the EULEX programmatic approach. The results of the process tend to be uneven and individual cases can dramatically affect the range of effort in this direction. Whilst, on the one hand, the Mission’s ultimate goal is to work closely with Kosovo institutions and support them in applying consistent

standards and procedures regardless of citizens' ethnicity, on the other hand EULEX is often perceived by Kosovo Serbian communities as a third party charged with arbitration functions, and as an agency to be used for settling disputes over alleged misconducts by the Kosovo rule of law bodies. EULEX has therefore continued to foster relations with Kosovo Serb civil society, in order to clarify the mandate of the Mission and, at the same time, to familiarize citizens with the need to address their concerns to appropriate bodies. For instance, spreading the nature of relations with the Kosovo Policy Action Network - gathering approximately 60 Serb non-governmental organizations across Kosovo and which now regularly updates the Mission with information and reports from Kosovo Serb civil society.

In January the Programme Office started to secure a presence in the EULEX Mission's office in north Mitrovicë/Mitrovica, and made contact with NGOs. Given the limited range of MMA activities in this region – the deployment of Kosovo rule of law institutions has so far only been partial – efforts were mainly focused on mapping the local civil society set-up and detecting suitable partners for future co-operation. As elsewhere in Kosovo, EULEX helped disseminate information regarding the 2010 call for proposals related to the European Instrument for Democracy and Human Rights (EIDHR), a programme managed by the European Commission and aimed at promoting and supporting human rights and democracy. The initiative was forwarded to non-governmental organizations active in the rule of law and familiar with EULEX MMA endeavours; the Programme Office followed up with discussions with interested NGOs, in order to stimulate project proposals with a degree of linkage to relevant MMA Actions or related to rule of law initiatives. Initial feedback indicated a keen interest, and may, in the coming months, bring to developments.

Whilst much remains to be done in order to better integrate Kosovo Serbs in the rule of law system, promising signs have been noted during the reporting period. Kosovo Serb participation in the work of Municipal Community Safety Councils (MCSCs) – a feature of the applicable law - has been noticeably increasing, as indicated by the opening of a MCSC in the Municipality of Klllokot-Vërboc/Klokot-Vrbovac, a majority Kosovo Serb area.

## **2009 EULEX RECOMMENDATION**

**Encourage dialogue and information exchange to identify and strengthen shared purpose and goals.**

The context of interethnic civil society initiatives that relate to the rule of law in Kosovo remains constrained, making it difficult for the Mission to develop its MMA programmes around adequate partnerships. Nevertheless, there are early signs that some co-operation between Kosovo's numerous communities on security issues are proving functional, especially at the local level. The EULEX programmatic approach could find in the Municipal Security and Safety Councils an ideal seedbed for the implementation of several of its Police Strengthening Department MMA Actions.

The establishment of MCSCs in all Kosovo municipalities is required by law; they should host discussions among municipal authorities, Kosovo Police and civil society stakeholders on security issues. MCSCs



explicitly foresee the inclusion of representatives from all ethnic communities living in a municipal territory, and this prescription has been confirmed by the presence of Albanian, Serb and Roma representatives in MCSC sessions attended by EULEX officers. Many non-governmental organizations – including the Kosovo Centre for Security Studies and the East West Management Institute – have been working to foster MCSC capacities, and EULEX contributed to the realization of some of these activities. A presentation of the Mission programmatic approach was delivered at a three-day training for MCSC members organized by the *East West Management Institute* in Vushtrri/ Vučitrn, March 23<sup>rd</sup> – 25<sup>th</sup> 2010. MCSC members from Obiliq/Obilić, Pejë/Peć, Mitrovicë/Mitrovica, and Gjilan/Gnjilane received inputs on relevant PSD strategies. The training was also a chance to plan future networking with MCSCs. PSD MMA Actions, such as the ones on annual patrol plans, enhanced patrol management or community policing, can largely benefit by cooperating with the Councils.

Given the Kosovo Police key role in the establishment of MCSCs, EULEX MMA involvement in these structures is a natural step forward: it will expand the capacity of the Mission to collect inputs from local communities on MMA strategies and will contribute to create awareness of the programmatic side of the Mission among civil society interlocutors.

## **2009 EULEX RECOMMENDATION**

**Initiate formal consultative mechanism to address the concerns of local inhabitants.**

Many civil society organizations confirmed their interest in judicial reform, and reports on the state of affairs of the different branches. Civil society asserts itself as an attentive watchdog on these issues and calls for further improvement of judicial services by the institutions in charge, EULEX included. The steady dialogue between NGOs, local judiciary and EULEX MMA staff is therefore not surprising, taking place at formal and informal levels. A meeting held on February 9<sup>th</sup> 2010 resulted in more specific communications with interested sectors of Kosovo civil society and EULEX Justice Component staff involved in MMA matters.

An informal briefing, attended by the Mission's Acting Chief Prosecutor (and Team Leader for the MMA Action on Prosecutors) and five local non-governmental watchdogs, was organized on March 17<sup>th</sup> 2010. This briefing was followed by contacts established with the Movement "FOL" and aimed at exploring the scope for co-operation in monitoring corruption cases at municipal court level. Several proposals were elaborated, among which was the establishment of a working group on corruption issues co-ordinated by EULEX and joined by two NGO representatives.

The Special Prosecution Office of Kosovo (SPRK) invited local NGOs to a presentation on the achievements listed in its six-month report. The workshop, held on October 7<sup>th</sup> 2009, offered the chance to debate progress and failures in several fields of common interest. On a similar note, the Presidency of the Assembly of EULEX Judges organized a presentation on May 12<sup>th</sup> 2010 regarding the Annual Report on EULEX Judicial Activities.

Such initiatives provide evidence of the Mission efforts to achieve a transparent functioning of rule of law institutions, and establish a practice to be followed and reinforced in the coming months.

## PROGRAMMATIC APPROACH AND CIVIL SOCIETY - THE WAY FORWARD

The co-operation with civil society on MMA activities for the upcoming period will continue to hinge on Police and Justice Components programmes. Co-ordination of effort will occur at two levels:

- a) *continuous updating on progress of MMA Actions.* The majority of MMA Actions are designed with timeframes of more than 12 months, therefore, representing tools of medium-term reform. Sharing information about implementation trends with non-governmental organizations offers the opportunity to verify the compliance of plans with civil society expectations. Moreover, a more detailed insight into the Mission's programmatic activities can stimulate further monitoring initiatives by local NGOs, and improve co-ordination between the relevant stakeholders. Many MMA Actions foresee regular exchanges of information with civil society stakeholders, and the above-mentioned meetings between NGOs and EULEX representatives, particularly on Justice-related issues, represent a pattern to be replicated more intensively over the coming months.
- b) *Joint initiatives.* Operational partnerships with local civil society organizations on monitoring activities have proved to be a challenge for several reasons. The lack of available funds to support NGO work means that partnerships must depend upon NGO resources or external funds. Furthermore, only a few NGOs possess sufficient capacity to support the Mission in fieldwork across Kosovo. However, co-operation on specific issues will be sought with particular reference to Police MMA Actions: civil society organizations active in the above quoted MCSCs will be targeted to better streamline the relevant MMA activities with the needs of specific communities.

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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 2010. Nevertheless, EULEX cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

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