



DFID Department for
International
Development

UK Assessment and Proposed Support in the Rule of Law Sector in Kosovo

JSSR

Justice and Security
Sector Reform (UK)

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Preface and Acknowledgements

This report is a summary of an assessment the UK government undertook in July 2008 to identify ways to use UK funding to assist the Government of Kosovo in developing its Rule of Law sector. In the course of the work, we realised that a summary of the assessment might assist both the Government and international partners in identifying ways to provide assistance. In view of efforts to improve donor coordination, we also recognised that it would be useful to set the UK's plans for assistance in the sector.

The initial assessment was undertaken by *Justice and Security Sector Reform* (JSSR) consultants in conjunction with the DFID office Pristina. This summary report is based on that report, and thanks go to Sean Lovatt and Bersant Disha of JSSR for the initial assessment and subsequent drafting of the summary report.

We recognise that developments in the rule of law sector in Kosovo are fast moving, and at any time, there is a danger that information provided here will soon be dated. However, we believe that much of the analysis can provide a useful basis to help those working in the rule of law sector.

We are enormously grateful to staff at the Ministries of Interior, Justice, Office of the Prime Minister, and Ministry of Finance, the Kosovo Police, EULEX, ICO, Ombudsperson, the EC and other donors for giving their time in producing this study.

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Introduction

This report details the current situation, the major challenges and the main donor engagements in Kosovo's Rule of Law (RoL) sector. It also sets out prospective areas for UK support to help its development. In doing so, it aims to help both the Government of Kosovo and its external partners better identify how to develop rule of law competence in Kosovo.

Following its declaration of independence on 17 February 2008, Kosovo is emerging from a period of full international supervision towards self-governance. The United Nations Interim Administration in Kosovo (UNMiK) has created most of the required structures. However, RoL agencies and line ministries now face the challenge of taking over full responsibility, while at the same time ensuring that new legislation for self-governance is also passed. Implementing and enforcing these new and existing laws is a demanding task. The large volumes of external assistance, including from the deployment of the EULEX mission, can help, but only if it is delivered in such a way that leaves political leadership with the Government of Kosovo.

RoL Ministries

Government Ministries created by UNMiK (the Ministries of Justice and Internal Affairs were created in 2005) as Provisional Institutions of Self-Government (PISG) now carry executive authority. The Customs Service, which in Kosovo is an executive law enforcement agency, remains a reserved competency of UNMiK under UNSCR 1244. Eventually it will come under the authority of the Ministry of Finance and Economy.

The new government, which took office at the start of 2008, is developing experience in the RoL sector. Ministries show a high level of commitment to improvement and a good understanding of the challenges that lie ahead. Technical assistance is available from major donors including USAID, DFID, UNDP and the European Commission. The EU RoL Mission (EULEX) will deploy advisors at the MoIA, MoJ and MFE and will have a significant role to play. Further technical assistance is welcomed by line ministries. It needs to be driven by needs identified locally if changes are to be sustainable. Areas of need that have been identified include policy development and coordination, legal drafting and the creation of legislation.

Intra-Governmental and Agency Coordination

The government and its agencies face the challenge of coordinating their activities, a task made more complex by the fact that Kosovo is a new country without previous experience of this work. Coordination of policy development and its implementation is required for effective and efficient law enforcement, as well as to promote the overall development of the entire RoL system. Many agencies share competencies,

making collaboration essential. For example, collaboration is needed between customs and police in the fight against cross border crime. Government ministries need to develop joined up policies that are both well targeted and operationally feasible. The government has created the Rule of Law Coordinating Council (RoLCC) to do this. The Council brings together key ministries and agencies under the co-chairs (MoIA & MoJ). The Council has already produced an impressive and realistic analysis of RoL challenges and has started to develop a well prioritised strategic plan to address them. The Council provides a forum not just for policy development, but also importantly for the monitoring of its implementation.

In partnership with EULEX the government has also formed a Joint Rule of Law Coordination Board (JRCLB). The board will coordinate EULEX's reform programme with the government. The Deputy Prime Minister and the Head of EULEX co-chair.

Judicial Competencies

The Courts and prosecutorial services are independent of the Ministry of Justice, but the Ministry has a lead role in budgeting, planning and capacity development. The Kosovo Judicial Council (KJC) is responsible for Judges. Recruiting and retaining judges is proving difficult. It is also noted that private practice for qualified lawyers is often a more financially attractive option than the less well remunerated work as a judge.

Courts

There are five judicial districts, each with a main district court that deals with serious criminal offences. Lower level municipal courts deal with lesser offences and traffic issues. Including the Supreme Court, there are 59 courts in total. 322 judges serve these courts, with 92 prosecutors. The total annual budget for courts and prosecutors is 11 million Euros. According to the KJC, an additional 70 judges are needed.

Criminal courts in Kosovo are over-stretched. There are approximately 80 – 88,000 outstanding criminal cases¹. Court buildings, particularly in Prizren and Prishtina, require improvement. Office space is tight, and the number of support staff (including legal clerks) is below that necessary to ensure efficiency. The sophisticated case management system installed in courts is not used by all judges; computers in some courts are not powerful enough to run the software. As a consequence collection of statistical data and sharing jurisprudence is severely hampered. Public outreach to inform the public about the role and functions of the legal system is overstretched. Training to enhance the ability of support staff to work with witnesses and victims is required. The EC plans a €25m programme to finance a Palace of Justice.

¹ Additionally there are up to 37,000 outstanding property related civil cases pending, most relating to the conflict in 1999 and the civil disturbances in March 2004. The total number of outstanding cases including minor offences and other pending civil cases is approximately 240,000.

Enforcement of Court Orders

The Police are responsible for enforcing court orders including evictions and repossessions; but Kosovo lacks a court bailiff system. Inconsistent enforcement undermines public trust in the legal system. The task is demanding and for the police not always consistent with community policing objectives. The long term development of a judicial body to enforce court orders would be valuable. The EC has plans for twinning support in this area under their 2008 programme.

Prosecutors

A council is being created to run the prosecutorial services with a view to improving standards and efficiency (supported by USAID). The Chief Prosecutor assesses that 30 to 40 additional prosecutors are needed as a matter of urgency.

Vetting of Judges and Prosecutors

It is widely understood that judges and prosecutors should be re-appointed through a vetting process. Ensuring that all judges and prosecutors have the requisite skills and impartiality is vital for the system. At the same time, there is a shortage, especially of prosecutors. So the re-appointments process will be further complicated. The United Nations Office for Project Services is implementing a US EC co-financed project to support the vetting process.

Legal Aid

Legal aid is run by the independent Legal Aid Commission (LAC). In the last 12 months the LAC has set up 5 District Legal Aid Bureaus and has recruited 21 staff. Its annual budget of €275,000 is drawn entirely from Kosovo Government funds. The LAC is underfunded and could benefit from further capacity building support. Estimates suggest an additional €300,000 is needed for the full transfer of competencies to the LAC. The Commission also needs investment in infrastructure and vehicles. An EAR managed programme offers short-term expertise dealing with specific issues such databases, websites as well as budgeting and financing.

Correctional Services

The Kosovo Correctional Service (KCS) has been transitioned to the Ministry of Justice. KCS currently has 1,600 staff – double that of 2002 – with a good level of ethnic diversity and gender balance.

The prison population has steadily increased over the last five years and a further rises are expected (the result of more extensive and efficient policing and greater court activity). Additional prison space will be required. Long term, correctional services will need improved capacities in areas such as crisis management; however, in the shorter term, EULEX will retain executive powers in these areas. The EC has plans to provide €3m in support for a high security prison through their 2008 programme.

Probation Service

The Probation Service, now under the Ministry of Justice, was originally created as an UNMIK body in 2002. Kosovo is the first country in the region to have a probation service dealing with non-custodial sentencing and special programs for juvenile offenders. It has 5 regional centres, mirroring the structure of district courts, with a total of 65 employees.

The service needs widespread development including core funding, training and equipment. It needs logistical capability, office facilities, a central database for case management and the collation of analysis and reports. Specialist training dealing with offenders with special needs (educational and behaviour problems, drug misuse) is required. The EC intends to provide support in this area through their IPA 2008 programme

Police

The Kosovo Police Service, created in 1999, is now renamed Kosovo Police (KP). It comes under the political responsibility of the MoIA, and is structured around 5 key pillars: (i) Operations, (ii) Borders, (iii) Crime, (iv) Personnel/Training and (v) Support Services. All pillars are under the Command of the Commissioner, who is supported by six bodies including the Appeals Board and Professional Standards Unit. The service is staffed by approximately 7200 police officers, 1200 civilian staff and 600 uniformed but unarmed security guards. The ethnic composition of the force fairly represents the ethnic composition of Kosovo as a whole² and reflects regional demographics reasonably. This has not been tested, however, as many Kosovo-Serb officers left the KP after independence. Some have since returned. There are proposals to restructure the KP; however this should only be undertaken following an in-depth review of current structures.

The KP is well advanced. But, it does still lack capacity to fully implement a credible intelligence led-policing policy. It also needs the further develop capacity for strategic and long term planning. Co-operation with prosecutors, especially at the regional level needs improvement. Some intermediary problems, such as logistical gaps in detention, interrogation/interview and evidence preservation facilities at a regional level are important issues.

Operations Pillar

The Operations Pillar holds command over the 6 regional areas, plus Traffic, Public Order, Specialised Units and Community Affairs.

² Approximately 10% of KP officers are from non-majority communities and in non-majority areas they more strongly represented.

Public Order & Specialised Units

The Regional Operational Support Units (ROSUs) are the KP's civil disturbance capability. Limits to their strength in numbers and their partial equipment means they would not be able to manage a major civil disturbance. EULEX will provide a substantial substitution capability.

Directorate of Community Affairs

The Directorate of Community Affairs (DCA) shapes the community policing approach of the service as a whole. It is challenged by a lack of adequate office space in the regions, IT equipment, and vehicles. Further work is needed to sensitise the KP rank and file and Kosovars in general to Community Affairs policing.

Crime Pillar

The Crime Pillar consists of Directorates for Organised Crime, Major Crime, Forensics and Criminal Analysis. A planning analysis of current and future needs for all these Directorates is underway (see *Training & KCPSSED below*).

Border Police

The Border Pillar is the largest single unit of the KP, with just under 1,200 officers based in 3 regional centres and at Prishtina Airport. Border police operate official crossing points and along the Green & Blue Border (countryside, lakes). Border policing will always be a challenge due to Kosovo's (mountainous) geography; the long term solution can only be achieved through political agreement and inter-regional cooperation.

Managing Kosovo's borders also involves other agencies engaged in Integrated Border Management (IBM) including, *inter alia*: customs, phyto-sanitary, and asylum/migration agencies. IBM sector needs to be strengthened but requires regional political co-operation to achieve it. Ongoing capacity building activities (funded by the European Commission) will be needed for some time for the European Union Integrated Border Management Strategy for the Western Balkans to be implemented.

Training & KCPSSED

The Assistant Commissioner of Personnel and Training is responsible for KP training and personnel issues. Training itself is carried out at the Kosovo Centre for Public Safety Education and Development (KCPSSED). The general level of training is good though more sophisticated approaches such as Community Affairs policing or training for complex tasks such as the handling of sexual assaults, trafficking and kidnapping require further development. Key areas where further development of training is needed include criminal investigations, scene of crime, intelligence led policing, criminal analysis, inter-agency co-operation (including with prosecutors) and counter terrorism. The EC has provision plans for support in this area.

Prosecutor Police Co-operation

If combined with intelligence led-policing, greater co-operation with prosecutors would allow for better targeting of specific criminal groups and activities. This joined up approach, in particular in the regions, does not happen effectively. To achieve this greater trust and understanding about the respective roles of police and prosecutors is needed, as is greater comprehension of methods of co-operation to target criminal activity.

Outstanding Investigations

There are an undisclosed number of ongoing investigations into serious crime that will be passed on from UNMiK Police to either the KP or EULEX. Crimes of a nature deemed too sensitive or difficult for the KP will be taken over by EULEX. The majority of cases, however, will be passed onto the KP. The need to bring these investigations to a conclusion, some of which are many years old, will be a major task for the KP.

Customs

The Customs Service, a reserved competency of UNMiK, has received a great deal of support. Approximately 70% of government income comes from excise revenue; the stability and security of Kosovo depends on a functional customs service. The Service is well equipped and well trained for its revenue collection role, as well as its presence at borders and for the investigation of contraband and smuggling. It could be more effective at working with other agencies particularly in the fight against cross border crime. Operation in the North of Kosovo remains a problem. Despite its relative strengths, the Service has faced allegations of corruption and malpractice – demonstrating the Service's transparency and freedom from political interference through strong public relations is an area where the Service could improve.

Cross cutting issues

Corruption

The belief that corruption permeates Kosovo society is widely held. The large number of media allegations of corruption and small number of legal proceedings helps create this impression. Although the UNDP early warning report³ shows only 3% of Kosovans rated corruption as a paramount problem, public institutions are perceived as corrupt (over 70% view the state owned electricity monopoly as corrupt, more than 40% and 50% rated the Custom Service and Kosovo Trust Agency as corrupt). Notably, the public have greater faith in the KP with only 11% rating them as suffering from large scale corruption than UNMiK Police at 21%. The EC is providing support to the Anti-Corruption agency through its IPA 2007 programme.

³ UNDP Early Warning Report #18. October 2007

Direct experience of corruption is rare, only 11% report the experience of needing to bribe public officials for services. However, regardless of the actual levels of corruption the belief that it permeates Kosovo society damages the concept of the rule of law. To overcome this perception, Kosovo's institutions need particularly effective enforcement, moving towards a zero tolerance approach. The Anti-Corruption Agency, which works closely with a EULEX counterpart, has a major role to play. Success in securing some high level prosecutions would help send a clear signal to society.

Organised Crime

The perception that Kosovo suffers high levels of organised crime is widespread in both the local and international community. Although there is a lack of hard statistical evidence proving Kosovo suffers more than its neighbours, many believe the influence of major crime syndicates extends to government and institutions. Combating organised crime cannot be achieved until there is greater capacity and coordination within and between ministries and agencies, especially between the police and prosecutors.

Witness Protection

Kosovo lacks a witness protection programme and there is no doubt that this negatively impacts on enforcement activities. However, any effective programme would be highly expensive and carry inherent risks. Doubts exist as to Kosovo's ability at the present stage to sustain a viable Witness Protection Programme. The lack of such a programme inhibits in particular the fight against organised crime.

Accountability Mechanisms

Kosovo is developing a new rule of law culture where the principle of the separation of political and operational responsibilities is being tested; oversight mechanisms will need to monitor this carefully. Accountability mechanisms have an important role to play in helping demonstrate that all individuals, companies and institutions are subject equally to the rule of law.

Ombudsperson

The Office of the Ombudsperson is an independent body and is mandated to address alleged human rights violations and abuses of authority by public institutions. Nearly 4000 people contacted the Office in the period July '07 to June '08. The Office investigates procedural issues (such as the length of proceedings in civil courts), unresponsive administration, property issues, complaints about abuses of authority, fair hearing issues, pensions and social assistance and employment-related complaints. After three attempts a permanent Kosovan Ombudsperson is yet to be selected, and an acting Ombudsperson remains in place. The Office's role and its efficacy is not widely understood by the public, and as such it is not used as

widely as it might be; however, the office has great potential. The appointment of a permanent Ombudsperson is required.

Assembly Oversight Committee on Security

The original Assembly Oversight Committee on Security was developed in partnership with the OSCE and the Kosovo Institute for Public Research and Development (KIPRED). The mandate is to oversee issues relating to security, including the rule of law sector. This Committee is untried in its ability to bring the government to account.

Police Mechanisms

The Professional Standards Unit (PSU) within the KP, under the General Director's office, exists to ensure high standard of policing and to handle complaints of a minor nature against the police. It performs investigations regarding disciplinary offences relating to policing. The unit is staffed by 38 Police Officers (Director, Deputy Director, Regional commanders and investigators) and is supported by 16 civilian staff. The PSU will be monitored, mentored and advised by the EULEX mission.

The Police Inspectorate of Kosovo (PIK) was developed under the direction of the OSCE. It is an executive agency under the Ministry of Internal Affairs. Consisting of nearly 40 investigators PIK's role is to investigate and report on serious malpractice within the KPS. PIK's role may widen into looking at wider strategic issues. Assessments suggest that the PIK is a capable and responsible agency and recent PIK reports seem to confirm this.

Civil Society

In Kosovo, civil society's role in the Rule of Law sector is developing. At the national level three organizations focus on the rule of law. The Kosovo Institute for Policy Research and Development focuses on policy issues, and two other NGOs promote oversight and accountability, Cohu and Vetevendosja. At the local level a network of small NGOs, the Forum for Civic Initiatives, deals with security issues.

Municipal Community Safety Councils and Local Public Safety Committees

The Municipal Community Safety Councils and Local Public Safety Committees, created with the support of the OSCE are designed to facilitate interaction between security and public safety institutions and local populations, in particular minority communities. They have the potential to bring local government and the police closer to the community. Currently there is great regional variation in effectiveness; continued support from ICITAP and UNDP aims to address this.

Accountability of International Missions

Kosovo has long faced the challenge of ensuring the accountability of international missions. Now this is more critical. With its new status and with the transition of most (but not all) rule of law responsibilities to the Government the task is to ensure that the mandates of EULEX, the ICO and KFOR do not undermine accountability in the rule of law sector. Moreover, the immunities these agencies enjoy must not undermine their own accountability to government. The Assembly Oversight Committee on Security, the Ombudsperson and civil society will need to engage with this issue. The PIK has reported on international police in past and will continue to do so but being an agency under the MoA limits its scope.

International Bodies

UNMIK

The United Nations Interim Administration in Kosovo (UNMIK) is mandated under UNSCR 1244. Most of its powers and responsibilities are now transitioned to local competencies.

EULEX

The European Union will soon deploy a rule of law mission of 1,900 internationals, EULEX, as part of the European Union Security & Defence Policy (ESDP). The mission will support the rule of law albeit without explicitly aiming to build the capacity of institutions. It will, however, work closely with the capacity building efforts of the European Commission.

The Mission does not presently plan direct engagements throughout the whole rule of law system; for instance it is not expected that EULEX will work directly with the Probation Service and Legal Aid Commission. The focus will be on police, judges and prosecutors as well as customs. The Mission can be best understood in terms of 3 principle areas:

Monitoring, Mentoring & Advising (MMA)

EULEX will mirror the KP structure with approximately 700 police officers co-located with their local counter parts. They will offer advice as well as monitoring policing activities (Monitoring, Mentoring & Advising). Similar provision with local counterparts has also been made for advising the Customs Service, Correctional Service and line Ministries. The mission will also have a small mobile Customs monitoring capability. A EULEX Anti-Corruption Coordinator will work with local counter parts including the local Anti-Corruption Agency.

Investigative and Legal executive roles

EULEX plans a substitution role in the areas of serious crime, organised crime, inter-ethnic crime, major corruption and war crimes. Executive investigations with EU

police and prosecutors could lead to trials presided over by international judges. EULEX will work closely with the Kosovo Special Prosecutors Office. Other executive roles are foreseen in providing for witness security⁴ in matters related to international police cooperation and intelligence. The mission's judicial pillar will tackle some of the outstanding property claims cases resulting from the conflict in 1999 and civil disturbances in 2004.

Intervention Executive Roles

EULEX plan to have a robust crowd and riot control capability (approx. 500) as well as bomb disposal and armed special intervention capabilities as well as armed personnel to deal with prison related security issues.

ICO

The International Civilian Office (ICO) headed by the International Civilian Representative/EU Special Representative (ICR/EUSR) oversees the implementation of the Ahtisaari Proposal. The ICR retains some executive powers for use if Kosovo institutions diverge from the Ahtisaari Proposal, including in areas relating to the RoL. Although operational matters relating international engagement in the RoL sector come under the auspices of EULEX, the ICO are actively involved in the RoL sector in a number of key areas. These include developing of RoL specific legislation within the Informal Working Group on Security and working with the Assembly Oversight on Security. Uncertainty surrounding the political status of Kosovo and in particular the long term validity of UNSCR 1244 has generated debate about the exact nature of the ICO's role in the long term.

OSCE

The OSCE have provided capacity building support in the rule of law sector, including developing the Kosovo Centre for Public Safety Education and Development (KCPSED), the Police Inspectorate of Kosovo and the Assembly Oversight Committee on Security. The OSCE also monitor human rights compliance. The OSCE funding to the sector is reduced and its longer term role is now in question.

KFOR

The Kosovo Protection Force (KFOR) is responsible for maintaining a safe and secure environment (SASE) and the territorial integrity of Kosovo's borders. KFOR's role in the rule of law sector depends on their interpretation of their mandate. Generally the use of long barrelled weapons is a trigger for KFOR to engage but they also carry out, *inter alia*, border surveillance, checks for Small Arms and Light Weapons and conduct road blocks, stopping, searching and questioning.

⁴ This is not planned to be a witness protection programme, but to provide short term security for witnesses at risk, following a similar engagement to that of UNMiK.

Donors

In the past Kosovo has received donor support in the RoL sector from many states from both within and outside the EU. For instance, Switzerland supported the notary service, Sweden KCPSED and Austria has been involved developing the institution of the Ombudsperson. Donations of equipment from for example, Japan and Poland, have included items such as x-ray machines and a bomb disposal robot. Over the last nine years training and capacity building efforts has been provided a large number of donors. Future substantial donor engagement in the RoL sector will be provided by the EC, USAID, ICITAP, UNDP and the UK.

European Commission

The European Commission is currently managing €62.4m of aid to the Rule of law sector in Kosovo. This is financed from IPA 2008, IPA 2007, the Instrument for Stability (IfS) and CARDS 2006 programmes. Brief descriptions are presented here – further information is available from the EC:

Under CARDS 2006

- **Further Support to the Ministry of Internal Affairs:** supports the functioning of the MIA specifically the development and strengthening of internal security and public order structures (€1.m May 08 – Aug 09).
- **Further support to Justice Institutions:** supporting the transfer of competencies from the Justice Pillar of UNMIK to MoJ focusing on (i) policy formulation/implementation in line with EU standards and (ii) organisational structure in line with EU Planning Team (EUPT)/EULEX recommendations (€1.2m March 2008 - June 2009).
- **Case Management Information System:** Supporting the roll out of a case management system to all minor offence, district and municipal courts, the Supreme Court and the Public Prosecutors Offices. € 3m now completed but only partially functioning hence a further € 400.000 has been approved..
- **High security detention centre in Dubrava:** financing infrastructure at a total cost of €5.6 million
- **Kosovo Special Prosecutor's Office:** support to build capacity to tackle corruption, terrorism, organised crime and human trafficking cases (€1 million 2005 extended to 2009 owing to starting delays).
- **Juvenile justice system:** Supporting schemes for alternatives to detention and promoting a prevention programme and of social rehabilitation of juveniles in conflict with the law (€1 million grant to UNICEF)

Under the Instrument for Stability (IfS)

- **Vetting of judges:** Financing the vetting of judges and prosecutors in Kosovo (€5m, co-financed by the US Office).

Under IPA 2007

- **Kosovo Border and Boundary Police** (twinning): € 2.6m, activities starting in Q1 2009.
- **Anti-Corruption Agency**: € 1m expected to start in December 2008.
- **Housing/holding facility for asylum seekers**: funding a centre to house up to 50 persons who have been involuntarily returned to Kosovo (€1.6m).
- **Feasibility Study for High Security Prison**: exploring options and preparing detailed plans for a high security prison

Under IPA 2008

- **Legal Education Reform**: supporting the reform of legal education, at University KJI/Magistrates School and the Chamber of Advocates, including vetting of teaching staff at Pristina University.
- **Ministry of Justice** (twinning): building on activities from the CARDS project, and developing mechanisms for arbitration, juvenile justice and the setting up a bailiff system (€2.4m)
- **Asylum/Migration/Readmission** (twinning): supporting policy making MoI and the practical handling of readmission/asylum cases. (€ 1m)
- **Supply for the Border and Boundary Police**: Support for an EU compliant computer system to replace the existing non-compliant system for all border posts (€ 4m)
- **High security prison**: An EC contribution to the costs of constructing the new high security prison (€3m of the estimated total cost of €9-10m)
- **Palace of Justice Building**: building of a palace of justice building in or near Pristina to house , the Kosovo Judicial Institute, the Kosovo Special Prosecutors Office, the Legal Aid office and the Chamber of Advocates (€25m)

UN Agencies

UNDP has taken a lead role among UN agencies in the RoL sector supporting institutional development. Current involvement is focused on four areas:

- Support to the Security Sector Development (3SD) supporting the MoIA and municipal and local (village) level and is aimed at functionalizing the Public Safety Councils (Municipal and Public Safety Councils and Local Safety Councils).
- Transitional Justice Project provides awareness raising and University level teaching programmes in relationship to the law.
- Capacity Building support to the Chamber of Advocates and support to the Kosovo Judicial Institute for training and developing logistical capacities and the

development of an Official Court Gazette to allow for court rulings to be shared with a view to promoting the development of jurisprudence.

- The Women's Safety and Security Initiative (WSSI) focuses on issues of Trafficking and Domestic Violence.

USAID

USAID support to the RoL sector is long term and wide ranging. It has supported the court system of Kosovo by working with both the Kosovo Judicial Council and the Kosovo Judicial Institute and has provided support to improving the access to justice of minority (non-Albanian) population.

- Support to the Ministry of Justice in the legal drafting procedures.
- Capacity building support to the Chamber of Advocates and the University of Prishtina.
- An anti-trafficking programme focuses on supporting shelters, dealing with victims of domestic violence and trafficking and on the reintegration of victims by providing vocational training.
- A pilot project to improve the court-prosecution cooperation is being tested in the Gjilan municipality.
- Significant support is being offered in helping with the establishment of the Prosecutorial Council of Kosovo as well as supporting the prosecution service in terms of IT.

International Criminal Investigative Training Assistance Program (ICITAP)

ICITAP under the USA Department of Justice are a long term supporter of the RoL in Kosovo. Plans for continuing support through 2008 and beyond include

- Providing a Law Enforcement Advisor to the MoIA and additional consultants to help the MoIA restructure itself.
- Technical assistance will also be offered in Integrated Border Management, an Anti-trafficking in Human Beings Program, Financial Crime Investigations, advisors on Policing across Ethnic Lines and support to KCPSD.
- A major program aimed at providing an IT system across the RoL sector supportive of intelligence led-policing.
- A short program to develop a Police and Prosecutor Training programme properly tailored to Kosovo.

Challenges

Kosovo faces a number of challenges in the RoL sector but they are not fundamentally structural. Nearly all the mechanisms required to foster the RoL are in place (witness protection is a significant exception). There is a substantial police service, a judicial system (presently undergoing major reform and restructuring) and an adequate body of laws (also undergoing changes). The correctional and probation service are in existence and oversight mechanisms are in place. Oversight and accountability mechanisms are also in place (though as yet not widely used). RoL structures in Kosovo are not radically incomplete; the main challenge is more to do with capacities within the system, expertise and experience.

Government

The new government is coming to grips with the RoL challenges but has limited direct experience in delivering rule of law services. Furthermore, the development of the sector requires attention to policy making, budgeting and setting up systems for policy monitoring. Cross-ministerial and cross-agency coordination is vital if this is to be effective.

Interagency cooperation

Interagency cooperation needs further improvement. An example of this is in the area of Integrated Border Management. This area requires cooperation among police, customs, immigration services, agricultural services and the Department of Emergency Management. Sharing responsibility between agencies is new to government departments, the culture of cooperation needs improving. This extends to police – prosecutor cooperation, which functions inconsistently.

Police

Following the departure of UNMIK Police, the Kosovo Police will for the first time take over not only operational responsibility but also strategic, budget and policy planning. They will need to assess their own requirements and capacities. They will need to appraise and possibly revise their structures. They will need to identify how best to ensure their continued improvement. It is of particular importance that the momentum of continued development in policing is maintained. It is especially important that the KP learn to be less reactive and more proactive by, for instance, implementing community policing and intelligence led policing strategies. The deployment of EULEX police will help support the KP's efforts here.

Judicial Sector

The very high level of un-adjudicated cases needs to be tackled both in terms of raising physical capacities, such as improving court facilities, and in increasing the throughput of cases through the courts. The vetting of judges and prosecutors may prove to be a difficult task, but will be essential in increasing trust in, and the

efficiency of, the legal system. The enforcement of court orders is inadequate and also needs to be improved. Access to justice both in terms of legal aid and public awareness needs to become a priority if the RoL system is to become more responsive. The role of the Probation Service is poorly understood, awareness of its role should be raised; both in the judiciary and amongst the public. The concept that offenders need to be penalised is widely understood, the role of rehabilitation is not.

Requirements for Donor Support and the UK response

Donor engagement in the RoL sector in Kosovo covers many areas from policy development and capacity building within line ministries to operational training in executive agencies and judicial institutions. However, there are areas both at a governmental level and within the police and judiciary which are not being targeted effectively. There are significant parts of the sector that could benefit from additional help. The UK is developing programmes for bilateral support in some of these areas.

- The Rule of Law Coordination Council for government policy and the Joint Rule of Law Coordination Board for co-ordination of government and EULEX's reform programmes have a valuable role to play in helping the Government and international partners achieve co-ordinated and well sequenced improvements in the RoL sector. It needs an effective Secretariat. The Deputy Prime Minister with the support of the MoJ, MFE and MoIA, has requested assistance for this from the UK. A project is being prepared for a start at the beginning of 2009.
- There has been no assessment of policing needs and requirements carried out in Kosovo. An analysis of future needs taking into account demographic changes, budgetary constraints, industrial development, crime trends and government expectations is a matter of urgency. The KP Human Resource Pillar has initiated process of establishing 5 year training and budget plan for the KP as a whole, outlining the longer term strategy for institutional development, and capacity building. The KP has the capacities to lead these processes but recognise the need for support. The UK will support this through the government's wider functional review exercise.
- Without support, the KP will face real difficulties implementing Intelligence Led Policing. This is an important element not just in, for instance, the fight against organised crime but also in developing a strategic, responsive and proactive approach to policing in general. The UK has developed a concept note for support in this area and is in consultation on whether or how to take it forward.

Areas of need, not currently considered for UK support.

- Co-operation between police and prosecutors is poor, significant resources may be required to ensure both sustainability and effect change.

- Court buildings need refurbishment and the necessity of building two new District Court houses (Prizren & Prishtina) can be fully justified.
- Broad efforts are needed to promote access to justice and could include support to the Legal Aid Commission and increasing victim/witness support capacities.
- A more functional probation service would help address the demands made on other areas of the RoL system, in particular the Correctional Services as well as the community at large. There is a great deal of scope for development of the Probation Service. Non-custodial sentencing and community programs, especially for juvenile and first time offenders, can have a direct impact on improving the RoL, preventing and reducing reoffending. Donor support could play a cost effective and important role in helping the development of the service.

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