



GUIDELINES on MONITORING, MENTORING and ADVISING (MMA) of EULEX JUDGES

FINAL DOCUMENT

On the occasion of the Second Assembly of the EULEX Judges

held in Prizren on 23 October 2008

The Assembly composed of the following Judges: Maria Giuliana Civinini, President of the Assembly of EULEX Judges; Vice-President Guy Van Craen; Olavi Snellman, Andrea Cruciani, Angela Kaptein, Michael Zimmermann, Norbert Koster, Michael Simmons, Gianfranco Gallo, Gerrit-Marc Sprenger, Christine Lindemann-Proetel, Emilio Gatti, Francesco Florit, Klaus Jung, Verginia Micheva-Ruseva, Andreas Schuler, Vladimir Kanev

Unanimously adopts the DECISION

To approve this MMA Guidelines for MMA by EULEX Judges.

Maria Giuliana Civinini

President of the Assembly of the EULEX Kosovo

A large, stylized handwritten signature in black ink, which appears to be 'M. Civinini', is written over the printed name and title of the President of the Assembly of the EULEX Kosovo.

INTRODUCTION

The 10th of July 2008, the Assembly of EULEX judges approved a document on Monitoring, Mentoring and Advising (MMA) by the EULEX judges. The document contained the definitions of monitoring, mentoring and advising by the EULEX judges as well as the logical framework of MMA.

In the same document, it was also envisaged that a Working Group on Monitoring, Mentoring and Advising by EULEX judges (hereinafter WG on MMA) would have been established to gather a collection of the monitoring reports already published by different national and international organizations and institutions (such as OSCE, USAID, Amnesty International, Human Rights Watch, Ombudsperson) and to provide more concrete and practical guidelines related to the MMA activities.

The WG on MMA was then set up by a decision of the Assembly of the EULEX judges of the 10th of July 2008. The appointed members of the WG on MMA were EULEX judges Gerrit-Marc Sprenger, Andrea Cruciani, Gianfranco Gallo and Legal Officer Juhani Paiho. Moreover, the President of Assembly of EULEX judges, Maria Giuliana Civinini, the Programme Manager, Ilknur Ozturk, the Legal Officers, Marcella Hendriks and Beatrice Trenkmann also participated in some sessions of the WG on MMA.

The 23rd of October 2008, the Assembly of EULEX judge has approved the present document, which represents a final integrated document on the MMA activities by the EULEX judges. This document, on the one hand, contains the definitions and the logical framework of the MMA activities and, on the other hand, it proposes guidelines and best practices to be used by EULEX judges to ensure a common and shared approach on the MMA functions.

EULEX judges are encouraged to make full use of these guidelines. Nevertheless, they remain the final and only responsible actors of the MMA, having the right and the responsibility to perform their functions autonomously and independently.

REPORTING SYSTEM

EULEX judges will have to report on the MMA activities, with the following procedure:

- 1) EULEX judges will report whenever it is deemed necessary or useful on each relevant MMA activity to the President of the Assembly of EULEX judges only. A report with a simple and clear structure, such as the one that has been attached to this document shall be used by EULEX judges. The main aim of the internal reports on the monitoring and mentoring activities by EULEX

- judges is to create a common ground for tailoring and shaping the subsequent advising strategies of the Assembly of the EULEX judges;
- 2) Each month, the Office of the President of the Assembly of EULEX judges, on the basis of the individual reports of the EULEX judges, will fill the questionnaire prepared by the Programme Office in order to update it on the progresses and accomplishments of the mission;
 - 3) Every six months, the President of the Assembly of EULEX judges, on the basis of the EULEX judges' reports, will submit a proposal of a comprehensive report on the MMA activity to the Assembly of the EULEX judges for its approval;
 - 4) The approved six-monthly report on the MMA (which will contain no reference to the names of the monitored Kosovan colleagues) will finally be sent by the President of the EULEX judges to the EULEX Programme Office, which is responsible for a six-monthly report to be sent to the Council of the European Union, based on the Programme Implementation Document.

With respect to the described reporting system, it should be emphasized that, contrary to the report activities of different national and international institutions and organizations (such as OSCE, Ombudsperson, USAID, Human Rights Watch, Amnesty International, ICTJ), the MMA reports of EULEX judges will not have any direct public external relevance, but an exclusive internal nature. In this respect, it is of paramount importance that EULEX judges make clear to their local counterparts from the very beginning of the MMA activities that the information provided during these activities will remain absolutely confidential and that neither public reports will be adopted nor the issues will be discussed with or spread out to other local colleagues or even the Presidents of the courts (if not otherwise requested by the monitored local colleague). Nevertheless, monitoring reports shall not be anonymous themselves but they shall contain all information needed to follow up the cases or the judges concerned. This will allow the creation of a detailed and useful data base in each district court on the MMA activities. EULEX judges from a district court will have access to the reports produced by EULEX judges of another district court, so as to have a clear and comprehensive picture of the differences or similarities in the challenges of the judiciary throughout the all Kosovo.

This reporting system will also help, on a long term basis, to implement a clear and fair integrated evaluation system of the Kosovan judiciary based on benchmarks and quality indicators.

LEGAL FOUNDATION OF EULEX JUDGES MMA ACTIVITIES

As stated in sec. 2.4 of the Law on Jurisdiction, Case Selection and Case Allocation of EULEX judges and prosecutors in Kosovo, “besides exercising their judicial functions pursuant to the provision of articles 3, 4 and 5 of this law, EULEX judges will monitor, mentor and advise the Kosovo judges, in the respect of the principle of independence of the judiciary and according to the modalities as established by the present law and by the EULEX KOSOVO.” Moreover, sec. 3.9 and 5.6 of the Law on Jurisdiction provide the EULEX judges in the performance of their monitoring, mentoring and advisory functions with the authority to access to any stage of the proceedings, to receive free copies of documents and request in written form information in regards of any ongoing or closed criminal case falling under jurisdiction or competence of any court in Kosovo, which shall include the request of information related to the execution of final judgments or court decisions. The Arrangement between the President of the Assembly, the President of the Supreme Court and the Presidents of the District Courts, signed the 5th of June 2008, accordingly foresees that: “the EULEX judges will have the authority to have access, together with the assisting EULEX personnel (i.e. legal officers, interpreters, etc.) to any stage of any ongoing or closed civil or criminal proceeding, to receive free copies of documents and of files and to request in writing information concerning any ongoing or closed civil or criminal case falling under the jurisdiction of any court of Kosovo, irrespective of their assignment to the case”.

The Kosovan law represents then the legal source which assigns to EULEX judges, together with the judicial functions, also the monitoring, mentoring and advising (MMA) functions. However, the same law does not provide a legal definition of these supplementary functions of the EULEX judges. By the way, a systematic interpretation of that law leads to the conclusion that monitoring, mentoring and advising represent three successive stages of a unitary process, which aims at assisting and supporting the Kosovan judiciary to perform the judicial functions in the respect of the European standards and best practices.

Indeed, it is not by accident that the Law on jurisdiction starts up with the monitoring function, which is the least intrusive activity, then it continues with the more structured phase of the mentoring, in cases where monitoring has revealed the need for further action, and it ends with the exercise of formal advising powers, whenever the preceding attempts to guarantee the full respect of the European standards have proved to be inadequate. Nevertheless, these three supplementary functions, which from a logical and theoretical perspective may be broken up into three distinct and gradual steps, are very much interrelated and they do reinforce each other as well. Hence, the EULEX judges will apply the three functions simultaneously, together with the exercise of the judicial functions. Indeed, MMA represent a synergic

process. Indeed, the advising function does not represent the definite and final step of the all process, being it a work in progress with the further need to go back once again to the monitoring stage. In the same line of reasoning, MMA functions shall be considered to be strictly linked to the exercise of the judicial functions. The mixed panels, indeed, represent the most convenient arena for an effective monitoring and mentoring activity.

Finally, the results of the MMA process can further be used by the President of the Assembly of the EULEX judges to adopt grounded decisions for the substitution of Kosovan judges with EULEX judges and vice-versa. In this way, without interfering with the nationally owned disciplinary proceedings, the President of the Assembly of the EULEX judges can exercise the substitution power which may reflect the (positive or negative) interaction between the MMA process and the cooperation and efforts demonstrated by the local judges as a result of this process.

MONITORING

Monitoring is understood to mean an objective and transparent observation and assessment of the judicial system to identify areas of potential improvements. In particular, monitoring shall consist in observing and scanning the performance of the duties by the national judges in order to identify areas where a further support is needed to meet the international and European standards, guidelines, best practices and benchmarks.

Monitoring does not imply the exercise of individual control or any other form of supervision of the functioning of Kosovan courts. The monitoring will be carried out in a non-discriminatory manner, with full respect for the independence of the Kosovan judges, based on the principles of reciprocal esteem and equality.

It should also be clear that monitoring is not aimed to investigate misconduct of national judges with disciplinary or criminal relevance. In the unlikely event that such misconduct should be observed during the monitoring, the EULEX judges will take no action but to inform the competent national disciplinary or prosecutorial authorities.

Monitoring does not seek to review or criticize the work of the national judges. This technique aims at developing a fair and objective assessment of the efficiency of the judiciary in Kosovo in the application of the relevant principle of justice and

international Human Rights standards. Moreover, monitoring process should not be seen as being an opportunity for further appeal process for litigants dissatisfied with the outcome of their cases.

In executing this objective EULEX judges will seek to share experience and collaborate with other national and international counterparts which have worked in the field of court monitoring such as the KJC, OSCE, USAID, UN and the Ombudsperson.

It is also important that local colleagues are given an active role in the monitoring process. They should be encouraged to express their opinion on flaws and deficiencies in their court and in the judiciary in general. Their ideas on how the situation could be improved should also be taken into due account.

EULEX judges will conduct the monitoring on the basis of clear and commonly shared applicable international and European standards, guidelines, best practices and benchmarks. In that respect, the 2003 Manual on Human Rights in the Administration of Justice (and amendments), published by OHCHR, could represent a useful tool as it is based on the main sources related to the human rights in the justice sector with the relevant international jurisprudence (for instance, 1950 ECHR; 1966 ICCPR; 1985 Basic Principles on the Independence of the Judiciary).

A first list of the areas of the Kosovan judicial system which will be monitored by the EULEX judges can be found in details in the Program Implementation Document, though we shall consider the difference between the finality of the Program Management Monitor and Report (to check the achievement of the goals of the mission) and the finality of the monitoring (and reporting) of EULEX judges (to detect the areas where there is space for further improving the quality of the judiciary through the mentoring and advising functions).

Some of the areas which may require special attention in the monitoring process could be:

- Case allocation system;
- Backlog reduction system;
- Workload distribution;
- Witness protection program;
- Access to the court;
- Absence of corruption or discrimination;
- Respect of the reasonable time to take decisions;
- Quality of the decision-making process and of the reasoning of the decisions;
- Relationship with the lawyers, prosecutors and the victims;
- Execution/enforcement of judicial decisions, prison-sentences, and fines;

- Recidivism, namely how a judge/panel can find out that a suspect/accused has been previously sentenced to imprisonment or to any another sanction;
- Ongoing investigations and trials against the same suspect/accused in a different district court.
- The mechanism by which the decisions of the Supreme Court are communicated to the Municipal Court or District Court judges.

The monitoring activity will be based on direct observation by EULEX judges and on the reports of other organizations/institutions. A plurality of sources will also be used:

- Statistics on pleas of disqualification;
- Statistics on requests for substitution of a Kosovan judge with a EULEX judge;
- Statistics of complaints;
- Statistics on cancellation of hearings;
- Statistics on number of hearing for each session;
- Statistics on the duration of the proceedings;
- Statistics on appeal rates;
- Statistics of overturn rates;
- Self evaluations by the Kosovan judges;
- Media surveys.

In principle, the monitoring shall be conducted by the EULEX judges in the same district court where they exercise executive judicial functions. In particular circumstances, for grounded reasons, the President of the Assembly of EULEX judges may decide to appoint one or more EULEX judges of a district court to monitor one or more cases in a different district court.

MENTORING

If during the monitoring activity, some recurrent gaps or violations of the international and European standards or areas of possible improvement have been detected, the EULEX judges shall accordingly proceed with the mentoring activity.

Mentoring is an informal support, based on mutual trust and professional respect, through the exchange of experiences, information, opinions and best practices. Monitoring includes coaching, showing how to deal with a specific task, sharing the “know how”, encouraging. In addition, mentoring means to cooperate with the local judges in a trustful and professional atmosphere. In that respect, the day by day work

in mixed panels can realize a form of learning and mentoring based on imitation. In particular, mentoring will be exercised by the EULEX judges through the following activities: coaching (sharing experience regarding the carrying out of a specific task); facilitating (creating opportunities for national judges to apply new techniques); counseling (helping national judges to explore the consequences of potential decisions); offering network (referring national judges to other national or international colleagues with more significant experience in similar cases or issues); exchanging of experiences, information and opinions; providing relevant legal sources or doctrinal essays or international jurisprudence; proposing the organization, with the support of the competent actors (such as OSCE, USAID, UNDP, EU Commission, ICTY, Council of Europe), short and focused training programmes or study visits abroad.

In particular, regarding the training of national judges, it should be mentioned that although monitoring and mentoring are not pure capacity-building activities, they are still strictly linked to the institution building. Perhaps, one of the most important lessons from the field mission experiences is the essential complementarity between human rights monitoring-mentoring and institution-building. In fact, monitoring and mentoring are aimed to investigate and verify whether the national courts are operating properly, as to understand the strengths and weaknesses of the justice system. Based on sound monitoring and mentoring activities, the capacity building projects will be based on a thorough understanding of actual practice, including ongoing weaknesses and problems. Finally, field monitoring and mentoring provides direct feedback on the effectiveness of reform strategies or programmes as they were implemented.

The quality of the justice system in general and of the judicial decisions in particular can only increase thanks to a well furnished “tool box”. The mentoring activity aims at filling up the “tool box” with:

- job techniques and methods;
- self improvement and self learning methods;
- national laws;
- international human rights treaties and international customary law;
- national jurisprudence;
- European and International jurisprudence;
- best practices;
- scientific literature;

The learning model based on submission is never applicable. Indeed, the mentoring activities should be based on a relationship of equality, “between colleagues”. EULEX judges will work side by side with the local counterparts and they are going to be integrated in the local judicial system. In that respect, EULEX judges will have to perform the mentoring functions with professionalism, sensibility, ethic oriented behavior, engagement in a bidirectional learning relationship.

MONITORING and MENTORING TECHNIQUES

As already mentioned, monitoring and mentoring are clearly two different activities with different aims. Nevertheless, from a practical point of view, some techniques can be used by EULEX judges at the same time to perform monitoring and mentoring functions.

MMA activities should always be conducted on a confidential basis. A friendly approach, underlining the fact that EULEX judges and Kosovan judges will work together side by side as colleagues on the same level is highly recommended.

EULEX judges will make use of the following monitoring and mentoring techniques:

INDIVIDUAL MEETINGS BETWEEN EULEX JUDGES AND KOSOVAN JUDGES OF THE SAME DISTRICT COURT

Individual meetings as a monitoring and mentoring activity

Meetings between EULEX judges and Kosovan judges are a typical example of a combined monitoring and mentoring technique. Indeed, these meetings will play two different but strictly linked functions. On the one hand, the meetings with the Kosovan colleagues will enable the EULEX judges to gather information from the national counterparts on the situation of the local administration of the justice, which is the core aim of the monitoring activity. On the other hand, the same meetings will also allow the EULEX judges to move forward, by starting up a mentoring activity. In that respect, once the EULEX judges detect an area of the judicial system which needs further improvement they can start a mentoring activity, by exchanging opinions, providing suggestions and fostering best practices.

The informal approach of the meetings

It should be understood that the meetings should not be conducted by EULEX judges as structured and formal interviews but rather as informal chats and discussions between colleagues. The most casual and informal approach should be followed, privileging the building up of confidence rather than marking the distance between the interviewer and the interviewed.

In this line of reasoning, the meetings should be conducted by EULEX judges on a personal level, that is to say that meetings on a one by one basis (of course with the assistance of the interpreter or local legal officer) should be preferred to the collective meetings with two or more judges involved.

It might be advisable to choose places that encourage a more informal attitude, such as restaurant or cafes or the Kosovan judge's room, rather than the EULEX judge's rooms or the President of the Court's room (the presence of which should obviously be discouraged during the interviews with the other colleagues).

The use of a checking list approach, with the EULEX judge having in front of him or her a model of questionnaire to fill or tick in the relevant spaces should also be discouraged. Maybe only when needed it could be useful to take quick notes on numbers or statistics or names that could be easily forgotten. This once again would remark the different philosophy which drives the MMA activity of EULEX judges with respect to that of other organizations, such as OSCE, USAID, Ombudsperson and so on.

In this respect, at the beginning of the first meeting, it would be advisable to describe the reporting system of EULEX judges, which is of internal and not external nature. Even more important, EULEX judges should make clear from the very beginning to the Kosovan counterparts that the information provided during the interviews would remain absolutely confidential, with no public reports based on the contents of the meetings and with confidentiality (when that is asked or advisable) even with respect to other local colleagues and the President of the Court.

The content of the meetings

The most difficult aspect of the meetings is probably how to conciliate the need for a confident and informal approach with the need to get detailed information on several aspects of the judicial activity. Indeed, informal approach should not be intended in any way as superficial or generic. On the contrary, individual meetings are the most significant and useful monitoring and mentoring technique, which can reveal actual and detailed information and can lead to remarkable improvements.

As for the monitoring, the interviews should try to gather information on a number of issues, such as:

- Case allocation system (CMIS);
- Backlog reduction system;
- Workload distribution;
- Witness protection program;
- Access to the court;
- Absence of corruption or discrimination;
- Intimidation incidents;
- External interference incidents;
- Pre-trial detention and alternative measures;

- Respect of the reasonable time to take decisions;
- Execution/enforcement of judicial decisions, prison-sentences, and fines;
- Recidivism, namely how a judge/panel can find out that a suspect/accused has been previously sentenced to imprisonment or any another sanction;
- Ongoing investigations and trials against the same suspect/accused in a different district court.
- The mechanism by which the decisions of the Supreme Court are communicated to the Municipal Court or District Court judges.
- Ongoing investigations against the same suspect/accused in a different district.

In order to gather information on these specific areas, the kind of questions that could be moved to the Kosovan judges could include:

- How do you consider your overall working conditions?
- In your opinion, which are the major obstacles to the effective and efficient exercise of your judicial functions?
- Which is the average duration of the proceedings?
- How do you think it could be possible to reduce the backlog and the duration of the proceedings?
- Do you have any proceedings at the present moment which you have difficulties to bring to a conclusion or which you would like the EULEX judge to deal with?
- In your court, is there any forum or meeting where you can exchange your experiences and challenges with your colleagues of the same court? And with colleagues of a different court?
- What is your relationship with your colleagues? And with President of the Court? And with KJC? And with the Public Prosecutors? And with the Lawyers?
- Do you think that the distribution of the work load in your court is fair?
- Would you assess the case allocation system in your court to be fair and transparent?
- When you decide and reason a decision, do you make any use of previous jurisprudence?
- If yes, which are the tools that you use to search for the jurisprudence?
- Do you make any use of the international conventions and international jurisprudence?
- Which are the areas of laws or the types of crimes where you could mostly benefit of a focused training?
- Which technical tools and devices (computers, cds, videoconference) do you benefit of in the exercise of your functions?
- Do you make any use of the case management system (CMIS)?
- How do you think the EULEX judges could support the Kosovan judicial system?

By the way, it is crucial to remark that not each meeting should touch on all those issues. Indeed, each meeting should concentrate on one or two of those aspects, whereas another meeting would likely focus on some other topics. In this way, it would be possible for the same (or another) EULEX judge to have different meetings with the same Kosovan judge without having to repeat the same questions all over again. This will of course eventually keep stable the interest and the commitment of the Kosovan counterparts.

As for what the mentoring is concerned, the all meeting is already a mentoring activity, with the EULEX judge exchanging opinions, providing suggestions and fostering best practices. Moreover, the possibility exists to take an active and case-based approach by asking to the Kosovan judge to look into one or more binders or files that he or she refers to be more sensible or complex. This would allow the EULEX judge to bring the discussion on a more practical level with the EULEX judge's possible involvement in the solution of the problems related to specific cases. This could be done on the spot for the easiest cases or by postponing the discussion of those cases which need a further and deeper analysis to another date.

During the meetings, EULEX judges should always keep in mind the risk for disqualification especially in the pre-trial stage. Those files should be handled with extreme care avoiding formal interventions on the case and keeping the level of the mentoring at a very informal level, with the less possible exposure.

COLLECTIVE MEETINGS BETWEEN EULEX JUDGES AND KOSOVAN JUDGES OF THE SAME DISTRICT COURT

This will help to get to know each other, to strengthen the cooperation and also to enable EULEX judges to become more acquainted with the problems and difficulties faced by all local colleagues of the same district court. The issues of these meetings could also be the discussion in general terms of some of the topics that have come up during the individual meetings, to foster shared and common solutions.

MEETINGS WITH THE COURT'S STAFF

EULEX judges, EULEX legal officers and EULEX court recorders should meet all the personnel working in the courts. EULEX legal officers and EULEX court recorders should especially focus their attention on the staff members assigned to the

registry, to get fully acquainted with the rules regarding the general registry, with the view of improving the system.

CHECKING THE FILES

The opportunity for EULEX judges to check single files and binders are an extremely useful monitoring and mentoring tool, which should be performed (as already mentioned) within the framework of the individual meetings with the local judges.

ATTENDANCE OF COURT SESSIONS

EULEX judges and EULEX legal officers should also attend, as simple listeners, to some court sessions both in the municipal and in the district courts. It would be highly advisable to arrange this attendance with the local judge who is in charge of the court session and to avoid unexpected visits, in order not to make the local judge feel somehow inspected or scrutinized by the EULEX presence.

ASSISTANCE IN RESEARCH

EULEX judges and EULEX legal officers should provide the local judges with doctrinal books, articles, essays, studies, researches and international conventions on human rights. This could be done also in close relation with universities, libraries and Kosovo Law Center.

DIFFUSION OF JURISPRUDENCE

National and international jurisprudence should be made available to the Kosovan judges. A particular effort should be made by EULEX judges in order to highlight to the local counterparts the crucial importance of the jurisprudence in any decision making process. Commentaries of the new laws and codes with the relevant jurisprudence (on hard copy and on cd support) should also be created, with the assistance of other national or international actors.

TEMPLATES

EULEX judges could also provide their local colleagues with templates on rulings, court orders and reasoning of the judgments. Discussions should follow on the differences, advantages and disadvantages of the proposed templates and of those still used by the local judges.

MEETINGS WITH KOSOVAN BAR ASSOCIATION

This could allow the EULEX judges to become more acquainted with the problems and difficulties faced by the lawyers. Moreover, it would show possible challenges regarding the relationship between Kosovan judges and lawyers.

MEETINGS WITH OTHER ORGANIZATIONS

Meetings with other organizations linked to Kosovan judiciary may be held, such as victims associations and NGOs, in order to learn about their perspectives on the Kosovan judiciary and to discuss them with the local colleagues.

ASSISTANCE IN TRAINING

Although EULEX judges are not supposed to perform pure capacity building tasks, nevertheless, within their mentoring activity, they could support and organize, with the involvement of the competent national or international actors (such as KJI, OSCE, USAID, UNDP, EU Commission, Council of Europe, ICTY, Ministry of Justice), short and focused training programmes or study visits abroad.

DIFFUSION OF REPORTS ON THE KOSOVAN JUDICIARY

All reports and documents drafted by different national and international institutions and organizations (such as OSCE, Ombudsperson, USAID, Human Rights Watch, Amnesty International, ICTJ) on the Kosovan judiciary should also be shared with the Kosovan colleagues.

ADVISING

If monitoring and mentoring have proved not to be adequate to tackle a certain problem, in the sense that some recurrent violations or structural dysfunctions continue to occur even after those activity have been put in place, the last step to be taken for the EULEX judges is the advising.

Advising consists in formal and official positions taken by the EULEX judges collectively in the Assembly of EULEX judges and directed to the national judicial, legislative or governmental authorities to stimulate their actions in the respective fields of competences. In other words, advising is intended to provide professional counseling to the competent authorities (MoJ, KJC, KJI, President of the Courts, Supreme Court, Parliament, Law Faculties) on each topic raising from the monitoring and mentoring experience.

Advising is directed to the national institutions as such and not to the individual counterparts.

The advising provides the Kosovan stakeholders with the necessary insights to intervene in those areas of the justice system that need general and structural improvements to be implemented for the all judicial system and that cannot be performed by the mentoring activity of single EULEX judges.

To make some examples, if recurrent dysfunctions in the Kosovan judicial system seem to depend on the low level of the salaries of the local judges or on the excessive participation of lay judges in the panels or on the absence of a fair and transparent case allocation system in the courts, the Assembly of the EULEX judges could advice and support, in the respect of the respective constitutional attributions, the Kosovo Parliament or the KJC to adopt laws or bylaws that would contribute to overcome the mentioned dysfunctions.