

EUJUST LEX – INTEGROVANÁ MISE EU NA PODPORU PRÁVNÍHO STÁTU V IRÁKU

EUJUST LEX – THE EU INTEGRATED RULE OF LAW MISSION FOR IRAQ

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Abstrakt

Stephen White (jako velitel mise) ve svém článku umožňuje nahlédnout do úspěchů Integrované mise na podporu právního státu v Iráku EUJUST LEX. Představuje komplexní politický a bezpečnostní kontext, ve kterém mise působí, a popisuje potíže, jimž mise čelila od svého zahájení v červenci 2005. Uvádí přehled zásad a cílů, které pro sebe a svůj tým stanovil, a také některé klíčové faktory úspěchu (CSF), které k dosažení cílů mise přispěly.

Abstract

In his article Mr White provides (as a head of the mission) an insight into the success story of the ESDP Integrated Rule of Law Mission for Iraq, "EUJUST LEX". He sets the complex political and security context in which his Mission operates and describes the challenges the Mission has been facing since its inception in July 2005. He outlines the principles and objectives he has set for himself and his team as well as some of the Critical Success Factors (CSF) which have contributed to the Mission's achievements.

Klíčová slova

Mise ESDP, právní stát, irácký systém trestní spravedlnosti, příprava a profesionální rozvoj kvalifikovaných odborníků, klíčové faktory úspěchu (CSF).

Keywords

ESDP Mission, Rule of Law, Iraqi Criminal Justice System, training and professional development for senior professionals, Critical Success Factors (CSF).

INTRODUCTION

EUJUST LEX, the EU Integrated Rule of Law Mission for Iraq is a unique Crisis Management Operation in that it adopts a strategic and comprehensive approach to criminal justice reforms in Iraq. The Mission has been continuously recognised for its performance against challenging circumstances. One of the main reasons for the Mission's achievements has been the attention which has been paid from the planning stage up until present to identifying and addressing the "Mission-critical" factors which inhibit or facilitate success. As Head of Mission (HoM) I identified a series of Critical Success Factors (CSF) for the EUJUST LEX Mission. They are: a clear vision of success, a strategic plan with unambiguous priorities and guiding principles, political will, leadership, local involvement and ownership, resources (physical, human and financial) and, last but not least, security.

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VISION OF SUCCESS

After the regime change in Iraq in 2003, the international community was looking for an appropriate way to address the newly emerged situation. The EU was determined to support Iraq in its transition from a dictatorship to a modern democracy where Rule of Law (RoL) and respect for Human Rights have primacy. The challenges were to identify the many problems and priorities which existed; to select appropriate interventions; and to do so with a clear idea of what would be deemed a success or required end-state.

In order to reach agreement on a vision of success for a future mission, the Council of the EU deployed an "Iraq Expert Team" (IET) to address these challenges. The IET's mandate was to assess the exact needs of the Iraqi Criminal Justice System (CJS), make recommendations for a possible ESDP mission and to set out clear objectives and a required end-state. The IET research established that many serious problems existed in all the three fields of the CJS and they impacted on each other. Mutual respect was lacking between the various disciplines and they were not collaborating and cooperating effectively. In addition international support often focussed on only one singular aspect not joined up to other interventions. The IET recognised many of the challenges facing the fledgling Iraqi Police Service (IPS), the overwhelmed judiciary and the penitentiary service in need of wide scale reforms, but was determined to recommend interventions which addressed the problems in a strategic, holistic and comprehensive matter which addressed a critical mass of change agents - those at the leadership levels in all three areas. The police required major reforms and force generation at a massive scale. It suffered from corruption and inefficiency, poor infrastructure and lacked the trust and respect of the general public. In a major recruiting and reconstruction exercise, little attention was being paid to strategic leadership development. The penitentiary system was broken - prisons were destroyed, others were overcrowded and in breach of international standards and the culture was solely based on punishment, with no enlightened management motivated to rehabilitate offenders. The judiciary were educated but were too small in number to cope with current challenges and they lacked knowledge and experience of modern technologies and methodologies dealing with crime investigation and trial procedures. By consulting widely the IET concluded what a long-term vision of success would look like and what some of the priority interventions should be for an ESDP mission. The required end state involved the IPS being transformed into an accountable, efficient, open and transparent, representative, community-based service, respecting and protecting Human Rights. The penitentiary service must aim for and achieve a humane and professional prison regime which addresses rehabilitation and reintegration of offenders into society. Judiciary, prosecution and court services in the long-term must provide adequate and reliable protection of individual rights and freedoms and conduct themselves in accordance with universal principles, international instruments and modern best practices. Success would be when primacy of RoL and respect for Human Rights in all sectors of the CJS. Agreeing this vision of what success would look like led IET to identify some fundamental priorities and objectives for the upcoming EU Mission - and collaboration and leadership were two of its core themes.

STRATEGIC PLAN AND PRIORITIES

The Mission has a clear and unambiguous mandate, a set of priorities, clearly stated objectives, a series of targets and plans to achieve them.

Having considered the recommendations of the IET, the EU Council decided on 21 February 2005 to launch "EUJUST LEX - The EU Integrated Rule of Law Mission for Iraq". It was the first EU integrated RoL mission, in that it addresses the CJS in Iraq in a cross-sector, comprehensive fashion focussing on senior police, prosecutors, judges and prison managers. The Mission's

mandate was to address the lack of leadership capabilities and professional competencies as well as to promote collaboration among the three sectors of the Iraqi CJS by providing training and professional development opportunities for senior CJS actors. Radically, judges and senior police officers were to be trained together not least because they work together in an inquisitorial judicial system. The aim was to provide practical training and demonstrations of best practice in response to the particular needs of Iraqi CJS while promoting international instruments and laws.

It is essential that HoMs understand and articulate most clearly the vision and strategic objectives for their missions. In respect of EUJUST LEX the strategic objectives are the following:

- To promote collaboration within the Iraqi CJS
- To provide professional development opportunities for Iraqi participants
- To create strategic and technical partnerships between the Mission and Iraq
- To complement other international efforts which support rule of law reforms in Iraq

By doing so the Mission aims to strengthen the RoL and promote a culture of respect for Human Rights - contributing to the achievement of the overall vision of success for Iraq's CJS.

EUJUST LEX's planned interventions are, for the most part, the provision of training and leadership development opportunities. It has designed a series of cross-sector training courses and learning opportunities, which take place in the EU Member States (MS). These events provide Iraqi judges, senior police and penitentiary officers with practical opportunities to see and discuss best practice in Europe focussing on their respective professions, working with others and Human Rights.

Initially the Mission was to run for one year only and provided two types of courses for a critical mass of personnel at the strategic levels of the CJS - a "Senior Management Course" to strengthen leadership capacity and a "Management of Investigation Course" to address the gap in investigative capabilities.

The Iraqi Government (IG) and specific ministries involved in overseeing the CJS support the Mission's objectives and agree with the approach taken. As a result, the IG has twice requested the extension of its mandate as well as broadening of the menu of EUJUST LEX training interventions. MS and the Council of the EU willingly approved these requests and the Mission is now approaching its fourth year of operations. It has designed and developed sixteen specific courses whose delivery the Mission coordinates with MS. To respond to requests from the Iraqi CJS professionals for even more practical learning experiences, the Mission has designed, again with full cooperation of MS, a series of "Work Experience Secondments" (WES) where Iraqi senior CJS professionals work alongside European counterparts for short periods. The WES programmes have proved very successful as they are a natural progression from the institution-based training to a more practical service-based training.

To date, EUJUST LEX courses designed and developed by the Mission and provided by MS and their learning institutions address the following topics:

Police sector:

- Senior Police Leadership
- Managing Murder Investigations
- Public Order Management and Human Rights
- Management of Training
- Major and Critical Incident Management
- Train the Trainer

Judicial sector:

- Fair Trial and Human Rights (Juvenile Justice)
- Financial Crime (Money Laundering)
- Forensic Science (Serious Crime & Modern Techniques of Investigation)

Penitentiary sector:

- Senior Prison Leadership
- Developing Prison Standards in a Human Rights Framework
- Strategies for Managing Vulnerable Prisoners; Females, Juveniles and Ethnic Minorities
- Contingency Planning and Crisis Management
- Train the Trainer

All the courses and especially the WES, aim to meet specific needs of the different criminal justice sectors in Iraq by providing practical, hands-on experience focused on specific areas of expertise relevant and applicable in the Iraqi context, while maintaining a focus on Human Rights issues. Other key themes emphasised on EUJUST LEX courses include gender mainstreaming and representativeness within the CJS.

By the end of 2008, the numbers of courses and WES successfully facilitated by the Mission are expected to reach 87 and 16 respectively. The total number of Iraqi CJS professionals trained is expected to reach 1,928 (1,082 from the police, 546 from the judiciary and 300 from the penitentiary sector). By the end of the current phase of the Mission's mandate (January 2008 - June 2009), it is anticipated that the total number of participants will exceed 2,000.

Behind these numbers are living stories of Iraqi officials who have made efforts to implement the newly acquired learning and techniques in their daily work in Iraq following personal action plans. Some encouraging results have been recorded and significant changes in the CJS observed. For example, participants in EUJUST LEX courses are required to share their knowledge about new investigative techniques with colleagues in Iraq. There are several important examples of new measures having been introduced in Iraqi prisons by EUJUST LEX alumni on their return.

POLITICAL WILL

Due to the volatile political and security situation in Iraq there were, in the EU, understandable concerns about the appropriateness, timing and type of any ESDP intervention. There was divided opinion in respect of some issues (particularly where the interventions should occur) but there was an absolute desire and clear political will to support RoL in Iraq. To date the agreement has been to provide responses to Iraq's CJS problems through the provision of courses outside the country.

The Mission's first operational phase started on 1 July 2005. From then on, MS have been increasingly supporting the Mission by providing courses and WES, expert lecturers, seconded staff, evaluation expertise or additional financial support. Up to now, 25 out of the 27 MS have contributed to the Mission's operations. The Czech Republic belongs among the important contributors. It has provided four members of staff and, through the Judicial Academy in Kroměříž, expertise in the evaluation of our judicial training interventions. The Mission supports and works alongside MS and their participating professional learning institutions through its small team of Mission "Course Coordinators".

There is clear evidence of political will within the IG in respect to supporting and valuing this EU Mission. HoM and Deputy HoM hold frequent meetings with the Iraqi Ministers of Interior, Justice, and Foreign Affairs and the Chief of Justice in Iraq to create and maintain strategic and technical partnerships. The Mission has succeeded in building and maintaining strong partnerships with IG and continues to receive their support and appreciation - and frequent requests for more assistance. This close cooperation and involvement of the Iraqi partners are in line with a key Mission principle - Iraqi involvement at every stage of Mission's operations.

In addition, the Mission maintains contact, shares information and coordinates its activities with other international donors to ensure complementarity of efforts. Views of other key actors in Iraq and in the region involved in training activities are also taken into account during the regular analysis and re-evaluation process.

Frequently, the Mission arranges joint planning events especially at the beginning of each new phase of the Mission's mandate - the aim is to involve MS and Iraqis when new and revised course curricula and interventions are being developed based on the needs and recommendations of all parties involved.

LEADERSHIP

Having served as the senior police expert on the IET and proposed the original interventions, I was in a very beneficial position when appointed as Head of the EUJUST LEX Mission in March 2005. It was also fortunate that I had previously worked in Iraq and had some experience with its CJS. Having been a senior member of the IET, I was very familiar with its research and recommendations and therefore the priorities and overall direction, which the Mission must take. In hindsight one of the most important actions I took at the start of the Mission was to set the three guiding principles which have steered us ever since day one:

- Security is paramount
- Iraqi involvement at every stage
- Flexibility and responsiveness to Iraqi needs

I also made it clear that we must lead by example in terms of gender mainstreaming and representativeness and this is reflected in all aspects of the Mission.

ESDP Missions and Heads of those Missions are often required to invent and develop new procedures and methodologies. This is often because Missions are breaking new ground and are unique in terms of the context and challenges they face. For that reason and for all the complexities, which exist around Iraq, I believe that leadership qualities are essential within Missions - and also Missions much engage with, mobilise and support the host nation's senior CJS personnel. EUJUST LEX has focussed on, and successfully worked with, some of Iraq's most senior leaders in its police, penitentiary and judiciary. We have invested in their future and Iraq's future success. Some of the seeds we have planted will take time to grow but there will be, I am certain, strong leaders to drive forward change.

LOCAL INVOLVEMENT AND OWNERSHIP

EUJUST LEX aims for a long-term, qualitative change of the Iraqi CJS. To ensure lasting impact of our training interventions Iraqi partners must be fully involved at all stages of our action at all phases of the training cycle. From the training needs analysis, curriculum design, delivery of learning opportunities and right up to the evaluation of our past training interventions, we closely

liaise with and actively involve key figures in the Iraqi CJS. The Mission's Baghdad liaison office maintains daily contact, while HoM and other senior Mission members regularly visit Iraq to ensure that the Mission's interventions continue to respond to the fast evolving needs of the Iraqi CJS. The dynamics of development in Iraq, the fast changing political and security situation as well as the CJS training needs require all international interventions to maintain a high degree of flexibility and responsiveness.

SECURITY

Security of our Iraqi partners, the EUJUST LEX team and all those involved with the Mission are my first priority. Given the volatile situation in Iraq, the importance of timely and appropriate assessments of threats and risks and adequate security measures and responses for all Mission's operations cannot be overestimated. For obvious reasons I will not reveal details of our security plan, but this is an area which is kept under constant review. For any ESDP Mission to succeed there must be a level of security in the host nation which enables reforms to take place – and for EU experts to operate to their maximum efficiency. Suffice it to say that an improved security situation in Iraq could radically alter and enhance potential RoL interventions.

PHYSICAL, HUMAN AND FINANCIAL RESOURCES

Another CSF is the availability of timely and appropriate resources. The financial budget allocated to the Mission has proved to be adequate. However, the main resource critical to the Mission's success has been the quality and quantity of its human resources. Most of the EUJUST LEX team are based in the coordination office in Brussels, but the Mission also has a small but vitally important liaison team in Baghdad which maintains daily contact with the Iraqi CJS authorities and MS' Delegations. Throughout the life of the Mission the Czech Republic has provided police officers to this extremely important office.

My team consists of 29 seconded and contracted personnel from 15 EU MS, with diverse backgrounds, genders, ages and professional careers. It contains experts from the three fields of judicial, policing and penitentiary services. Other team members specialise in Human Rights, training, security, administration, logistics, and other areas of support. International experience and cross-sector cooperation dominate the profiles of Mission team members and the Mission's achievements to date demonstrate professional competence, efficiency and commitment. I am pleased to record that due to proactive approaches, taken by the Mission, females account for almost 40% of my personnel.

Mission team members often bring specific experience and qualifications in their particular field of expertise. However additional, mission-critical, skills and competences in certain areas must be developed. For a training and development Mission in the challenging Iraqi context these include areas such as: training needs analysis; curricula design; evaluation; cultural and security awareness; and, many others. This is why I organise and encourage in-mission learning for my staff by organising staff development days, mutual briefings and trainings, inviting speakers and experts in the areas relevant to Mission's interventions as well as participation of my team members in external educational activities, language courses, security trainings, seminars and conferences. ESDP Missions will stand or fall depending on the quality of staff – the role of the leader in selecting, supporting and developing them cannot, and should not be underestimated.

CONCLUSION

I am very proud of what my small team of dedicated and courageous Mission staff has achieved. Despite being under strength at all stages of the Mission and operating in difficult and demanding circumstances we have continually achieved our targets. Of course, without the MS, we could not have achieved anything so I wish to acknowledge, not for the first time, their contributions to the Mission. I believe, through a series of very effective working partnerships, a unique ESDP Mission has been successfully designed and delivered. By identifying, recognising the importance of, and addressing Critical Success Factors at all stages of the Mission, the objectives have been met. However, my words are not important - it is what the Iraqis say and do that really counts. Thankfully, from the Prime Minister down, the consensus is that we are making a meaningful and necessary contribution to the promotion of Rule of Law and Human Rights in Iraq at this troubled time in its history.

Future success and CJS reform will be more and more in the hands of Iraqi leaders. This Mission has succeeded in bringing a critical mass of Iraq's CJS leaders together to examine and debate international best practice. It has facilitated Iraqi men and women; from Sunni, Shiite, Kurd and other ethnic backgrounds; judges, police officers and penitentiary managers, to come together and discuss in a safe, neutral and supportive environment, important RoL matters which they believe are relevant to their country's future. We are planting seeds for long-term change. Strategic change takes time. However, by enlightening future policy makers and strategists and allowing them to decide how modern methods employed in Europe can best apply back in Iraq, we are complementing the more immediate efforts of others who are providing equipment and resources in country. The Iraqis understand and appreciate this effort and investment for the future. Clearly some lessons learned in this Mission are, and will be, transferrable elsewhere – not least the importance of addressing those generic factors which are critical to the success of any international intervention or strategic change process.