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Seven Years of EUJUST LEX: The Challenge of Rule of Law in Iraq

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Abstract

In July 2005, two years after the US-led invasion of Iraq, the European Union launched EUJUST LEX (the EU Integrated Rule of Law Mission for Iraq), tasked to address the urgent needs of the Iraqi Criminal Justice System by providing training for high and mid-level officials in senior management and criminal investigation. This mission is an important example of the practical implementation of collective action within the concept of security governance or the projection of EU rule of law standards beyond EU borders as a guarantor for stability. After seven years of operation, EUJUST LEX has trained more than 4,800 Iraqi senior level criminal justice officials in different EU member states. In order to provide a better understanding of the complex rule of law environment in which the mission operates, the article delivers an extensive overview of the institutional set up and functioning of the Iraqi Criminal Justice System as an integral part of the rule of law system in the country, as well as the multiple related challenges Iraq faces. Rule of law reform is a challenging, complex long-term undertaking. Therefore, the article discusses the impact of the seven year contribution of EUJUST LEX on the development of the rule of law sector in the country. Moreover, the article raises some questions with regard to the follow-up of Common Security and Defence Policy mission activities and the evaluation of their effectiveness.

Keywords

Rule of Law; European Union; CSDP; EU external action; EUJUST LEX; Iraq

Ten years after the US-led invasion in Iraq, the country is still experiencing insurgency, a high level of violence, instability and a challenging security situation. This article addresses the question of how a country which has not achieved peace can set up the structures for a well-functioning criminal justice system that can guarantee stability, fairness and the rule of law. It asks whether this was an endeavour that was doomed from the very outset and considers the nature of the goals and expectations for success. Further, it asks what can realistically be achieved in such situations. Any state's criminal justice system should be one of the major pillars for stability and security; at the same time it is a very complex and intricate system which can function properly only if numerous interdependent parameters are fulfilled and complement each other.

For the Iraqi case, therefore, it is first necessary to look at the legal basis for the criminal justice system, then to explore the different components of the system, how they function in praxis today and the challenges they face, and, finally, to examine the contribution of the European Union (EU) to the development of the rule of law in Iraq and the criminal justice sector.¹ The concept of security governance is crucial in this respect because it deals with the capacity of collective action to achieve and sustain security and explores those forms and mechanisms which facilitate effective management of transnational security risks and complex security challenges.²

This article addresses one of the challenges of security governance discussed by Ehrhart, namely the implementation of collective action and the specific actions on the ground to deal with security problems.³ It examines EU involvement in Iraq in the framework of the Common Security and Defence Policy (CSDP) and the specific measures undertaken by the EUJUST LEX Mission for Iraq to contribute to the reform of the rule of law/criminal justice sector. It is argued that such measures help the EU to project its common rule of law standards beyond the borders of the EU itself in order to address specific complex security challenges and transnational security risks. The main argument is that any type of EU involvement should be seen as a long-term undertaking that requires a long-term perspective. The complexity of the system as such, its interdependence with multiple factors, as well as the intricacy of the problems that can currently be found in the criminal justice sector mean that tangible and sustainable results will only be visible

after several years of the mission's operation. In other words, criminal justice reform in a destabilised post-dictatorial country facing grave internal stability and security challenges is not something which can be accomplished in a year or two and by a single actor alone.

The next section outlines the legal basis for the Iraqi Criminal Justice System and its fundamental set-up. It provides information on the separate components of this system, the police, judiciary and penitentiary, as the main building blocks of the rule of law sector in Iraq, considering as well the challenges they face today. This provides the necessary framework for analysing the specific aspect of security governance, namely collective action on the ground, in this case, focusing on the activities and role of the EU Integrated Rule of Law Mission for Iraq.

THE IRAQI CRIMINAL JUSTICE SYSTEM

The legal basis or legal provisions of the current Iraqi criminal justice system can be found in numerous legal documents including, amongst others, the Iraqi Constitution adopted on 15 October 2005 by national referendum,⁴ the Criminal Procedure Code adopted in 1971, the Criminal Code adopted in 1969, the Judicature Act adopted in 1977 and the Public Prosecutor Law adopted in 1979.⁵ The Iraqi Constitution contains a range of principles, guarantees, rights and procedures which are considered basic standards in terms of international law requirements for a criminal justice system. Principal guarantees for the protection of criminal defendants include the principle of equality before the law,⁶ forbidding arbitrary detention and guaranteeing the right to a fair trial,⁷ the right to remain silent, the right to be deprived of liberty only by decision of a competent judicial authority⁸ and the right to have preliminary investigative documents submitted to a competent judge within 24 hours from the time of arrest.⁹ Furthermore, the Iraqi basic law proclaims the inviolability of private residences, which may be searched only on the basis of a judicial decision and according to the law.¹⁰ It prohibits all forms of psychological and physical torture as well as inhumane treatment and interdicts the use of any confession made under force, threat or torture.¹¹ In addition, the Constitution forbids the retroactivity of the law and contains protections against double jeopardy.¹² It also contains a guarantee for the presumption of innocence until guilt is proved,¹³ sets out the right of those accused of a crime to a defence in all phases of the investigation and the trial as well as the right to a defence lawyer at the expense of the state.¹⁴

As far as international legal instruments are concerned,¹⁵ in January 1971, during Saddam Hussein's regime, Iraq ratified the International Covenant on Civil and Political Rights (ICCPR), which contains important safeguards regarding the operation of a criminal justice system such as the right not to be subjected to torture or ill treatment and the right not to be subjected to arbitrary detention. Needless to say, during this time, the ICCPR safeguards constituted nothing more than simple declarations on paper with little relevance for the daily operation of the criminal justice institutions. This highlights one of the general problems of international legal instruments, which in many cases have insufficient enforcement mechanisms.¹⁶ Other legal instruments that Iraq has ratified include the International Covenant on Economic, Social and Cultural Rights in 1971, the International Convention on the Elimination of All Forms of Racial Discrimination in 1970 and the Convention on the Elimination of All Forms of Discrimination against Women in 1986 with a reservation. In July 2011, the country finally acceded to the UN Convention against Torture. The ratification of international legal instruments is certainly an important step for Iraq; however, it is crucial that the standards set out in these international legal documents do not remain simple proclamations on paper, but are actually integrated into the national legal system and accompanied by safeguards ensuring adherence to these standards and attaching a negative consequence to their violation, for example a prohibition of use of evidence

obtained by torture in court proceedings. That way, the norms of international law can actually get implemented in the daily functioning of national criminal justice systems.

In the following paragraphs, the main components of the criminal justice system in Iraq are explored, namely the police, the judiciary and the penitentiary system.¹⁷

The Iraqi police

During Saddam Hussein's regime, the Iraqi police were at the bottom of the hierarchy of security forces; they were poorly trained and equipped, often brutal and corrupt and as a result were feared by the Iraqi public.¹⁸ For the Iraqi people, the police represented a ruthless repressive regime and could not be trusted.¹⁹ In 2003, the police force was entirely dissolved and replaced by the Iraqi Police Service, which assumed the role of a municipal law enforcement agency. The supervisory organ of the police is the Ministry of Interior. The Minister of the Interior in Iraq has seven deputies, two of whom are responsible for the Iraqi Police Service and the Iraqi Federal Police (formerly Iraqi National Police). The police force consists of provincial police departments with district chiefs and police departments in the major cities; the provincial directors of the police report to the provincial governors and are appointed at the provincial government level.²⁰ Most provincial, district and city police forces include patrol police, station police, traffic police and highway patrol police. Originally, the Iraqi National Police were created to strengthen the Iraqi Police Service and to serve as a bridge between the Iraqi National Police Service and the Iraqi army. In 2009, the Iraqi National Police were renamed Iraqi Federal Police to take into account government plans to create brigade headquarters in every province, including the Kurdish region.²¹ It is a rapid response police force in charge of counterterrorism and counterinsurgency operations entrusted with handling extensive civil disturbances, the protection of the Central Bank, high-ranking officials and embassies, as well as providing security services for antiquities and ruins. The Iraqi Federal Police encompasses around 44,000 officers organised in four divisions of seventeen brigades.²² According to the Iraq Status Report, the Iraqi Police Service and the Iraqi National Police encompass more than 400,000 officers, out of whom over 330,000 officers belong to the Iraqi Police Service.²³ Repeatedly, there have been allegations against the Iraqi police force regarding sectarianism, corruption, infiltration by militias and connections to death squads.²⁴

The Iraqi judiciary

Under Saddam Hussein, the Iraqi judiciary was under the full supervision of the Executive, namely the Ministry of Justice. Nevertheless, the Judicature Act adopted in 1977 set out on paper the independence of the judiciary. Since 2003, there have been efforts to restore the independence of judges as one of the essential elements in the criminal justice system. The independence of the judiciary and of individual judges has been regulated in the Iraqi constitution²⁵ and further substantiated in statutory law whereby respective infringements of this principle are banned and subjected to legal sanctions. In 2004, the Coalition Provisional Authority (CPA) issued Order Nr. 35 on the Reestablishment of the Council of Judges, which transferred all court employees from the Ministry of Justice to the Higher Judicial Council.²⁶ Thus, currently the Higher Judicial Council has responsibility for judicial affairs so that all matters concerning the judiciary are managed and overseen by the judges themselves.²⁷ The Higher Judicial Council also nominates the Chief Justice as well as the heads of lower judicial bodies and the Chief Prosecutor. Today, as set out in CPA Order Nr. 35, the Chief Justice at the same time occupies the post of President of the Supreme Court,²⁸ the highest appellate court in the country, acting also as a constitutional court and having exclusive jurisdiction to interpret the Iraqi constitution. This raises serious questions regarding the concentration

of power.²⁹ A possible solution to this problem could be to suspend the other position in the judicial system occupied by the Chief Justice for the time the duties of a Chief Justice are carried out.

The Constitution of Iraq does not contain any detailed provisions regarding the establishment of a court structure, but refers this issue explicitly to statutory law.³⁰ Only the role of the Federal Supreme Court is outlined at constitutional level.³¹ Moreover, the Constitution explicitly prohibits the creation of special or exceptional courts in Iraq.³² The Judicature Act of 1977 regulates the current organisation of courts in the country. Generally, the Iraqi judicial system comprises civil courts, criminal courts and courts of personal status regarding matters falling under Islamic law. As far as criminal jurisdiction is concerned, the first level of enquiry in criminal cases is carried out by an investigation court; this court can either have general jurisdiction or special jurisdiction for specific types of crimes. Investigation courts take decisions as a single judge (investigative judge or examining magistrate) and prepare cases for the criminal courts of first instance. Hereby, the investigation courts are responsible for gathering both incriminating and exculpatory evidence. An investigative judge is in charge of the criminal investigation; he can issue arrest warrants and determines whether the suspect should be remanded in custody. However, the actual work regarding the investigation is carried out by judicial investigators in the name of and under the supervision of the investigative judge. The judicial investigators supervise the work of police investigators and, thus, closely collaborate with the police regarding the examination of the crime scene, the collection of evidence, questioning witnesses and so forth. After closing the investigation, the judicial investigators prepare a report for the investigative judge, who takes the decision on the further steps to be followed regarding the case at hand. The criminal procedure in Iraq is based on the inquisitorial system so that judges play the central role in the court proceedings. Currently, the Iraqi criminal law system encompasses 132 investigative courts.³³

Legal provisions on the public prosecution in Iraq can be found in the Public Prosecutor Law Nr. 159 of 1979³⁴ with its respective subsequent amendments. The role of public prosecutors in Iraq is to monitor the criminal investigation and supervise the work of police detectives and judicial investigators; the public prosecutors are not in charge of the investigation, but they are present during the latter and have the power to challenge the decisions taken by the judicial investigators and subject them to judicial review. Moreover, criminal court hearings can only take place under the presence of a public prosecutor; in addition, the public prosecutors fulfil numerous other tasks like the supervision of the legality of the proceedings, filing means of redress, inspecting detention centres and submitting related reports, etc.

The courts of first instance take decisions in different configurations depending on the seriousness of the punishment determined by law. A single judge hears cases concerning misdemeanours, for which imprisonment of up to five years is legally determined, and a panel of three judges decides on felony cases, for which imprisonment for over five years is foreseen as a sanction. First instance courts on misdemeanours can specialise in a certain type of crime, traffic crimes, for example. At the moment, there are 105 courts on misdemeanours in Iraq.³⁵ Decisions of the courts of first instance can be appealed in regional appellate courts for misdemeanours and in the Federal Court of Cassation in Baghdad for felonies.

The Iraqi Criminal Justice System also encompasses juvenile courts,³⁶ a juvenile being defined in the Juvenile Welfare Law Nr. 76 of 1983³⁷ as a person between the ages of nine and 17.³⁸ There are specialised juvenile investigation courts in which a single judge (the juvenile investigation judge) takes all decisions regarding the investigation. These decisions can be challenged in front of the juvenile court. After completing its work, the juvenile investigation court transfers the matter to the juvenile court. The juvenile court takes decisions in two configurations depending on the gravity of the sanction determined by law: either as a single judge for misdemeanours or as a panel of three

judges for felonies. The decisions of juvenile courts undergo a review by the Federal Court of Cassation. All decisions of the juvenile court on felonies are subject to a mandatory cassation by the Federal Court of Cassation regardless of whether they have been challenged by the persons concerned or not.³⁹ Currently, there are 17 juvenile courts in Iraq.⁴⁰

The Iraqi penitentiary service

Throughout the regime of Saddam Hussein, the Iraqi penitentiary service was under the supervision of the Ministry of Labour and Social Affairs and the Ministry of the Interior. The Ministry of Labour and Social Affairs was responsible for post-conviction facilities, and the Ministry of the Interior was in charge of pre-trial detention centres. After the fall of the regime of Saddam Hussein, the CPA took over the governance in Iraq, and transferred all detention and prison facilities from the above-mentioned ministries to the Ministry of Justice in order to guarantee the separation of powers between the police, judiciary and the penitentiary as distinct parts of the criminal justice system. After the transfer of sovereignty to the Iraqi Government in June 2004, the legal acts enacted by the CPA remained in force.

However, in practice, the aforementioned transfer to the Ministry of Justice seems to be problematic and has not been completed yet with the consequence that currently four ministries in Iraq operate prison facilities: the Ministry of Justice, the Ministry of the Interior, the Ministry of Labour and Social Affairs as well as the Ministry of Defence.⁴¹ The Ministry of the Interior has continued responsibility for most detention centres in Iraq while the Ministry of Labour and Social Affairs continues to be responsible for male and female juvenile facilities. In addition, there are pre-trial prison facilities under the supervision of the Ministry of Defence for persons arrested during military raids and operations. Reportedly, there are 12 post-conviction facilities and 11 pre-trial detention facilities operated by the Ministry of Justice, six detention facilities of the Iraqi Federal Police, 294 pre-trial detention facilities of the Iraqi Police, around 1,200 smaller police holding stations throughout the country and 27 pre-trial detention centres operated by the Ministry of Defence.⁴²

The Iraqi Penitentiary Service is organised on the basis of the following five administrative regions into which Iraq is divided: the Baghdad, Central, Southern, Northern and Kurdish Regions. The Kurdish Region has a special status as it operates an autonomous prison system, independent from the central government in Baghdad. Most prison facilities are under the authority of the Ministry of Labour and Social Affairs, and a transfer is envisaged of the few facilities currently under the authority of the Ministry of the Interior. In addition, the internal security forces and intelligence services of the Kurdish Region operate separate detention centres.

CHALLENGES FOR THE CRIMINAL JUSTICE SYSTEM IN IRAQ

The Iraqi criminal justice system faces numerous challenges. The following section is far from exhaustive, serving only to provide an overview and highlight some of the most pressing issues the criminal justice system in Iraq is confronted with today. One of the most obvious challenges at the moment is the security situation, which has a hazardous effect on the functioning of the entire system.⁴³ After the collapse of a dictatorial regime, it is necessary to establish an effective criminal justice system complying with international standards fixed in international legal documents, such as the separation of powers, independence of the judiciary, respect for international human rights, etc. This is not an easy task, and it can take many years to guarantee a new democratic way of functioning. Iraq's fragile system, which is in the midst of this reform process, finds itself

confronted with one of the biggest challenges for any criminal justice system operating on the basis of human rights and the rule of law, namely the pressing need to counter a high level of terrorism and insurgency.

Policemen, judges, penitentiary officials and those working for the criminal justice system generally are often targets of insurgency and terrorist attacks and experience intimidation. According to Iraq Body Count reports, police are represented in the database of civilian deaths in Iraq more often than any other occupation, including politicians and legal professionals; for the period 2003-2011 8,986 deaths of police officials were reported, which constitutes the largest toll of any professional group in the country.⁴⁴ By contrast, in 2006, the Iraqi Ministry of the Interior issued a statement that 12,000 police officers have been killed since 2003, which only illustrates how difficult the assessment of the actual deaths in a challenging security situation is.⁴⁵ The numbers of police killed in 2012 highlight the fact that the situation is far away from being under control: there was both an increase in the absolute numbers in comparison with 2011 (724 vs. 939) and an increase in the proportion of police deaths in comparison with all deaths (17.5 per cent vs. 20.5 per cent).⁴⁶

Security is also a serious and primary concern for Iraqi members of the judiciary and their families.⁴⁷ In 2011, the Higher Judicial Council published information that since April 2003, 47 judges have been killed and numerous assaults against judges have been registered in Iraq including assassination attempts and abduction operations.⁴⁸ Repeatedly, orchestrated campaigns for the assassination of judges have been conducted. For example, in July 2008, the President of the Court of Appeals of the al-Rusafa court in Baghdad was killed leaving work in his unarmoured car. A few days later, five judges from the same court were targeted by bombings near their homes on the same day.⁴⁹ In 2010, eight judges were attacked with bombs and silenced weapons, killing two of them.⁵⁰ Despite declining overall numbers, the security of judges is still an issue today. According to the Chief Justice, the personnel of the Higher Judicial Council are left isolated in judicial security operations with the Ministry of the Interior obstructing the receipt of weapon permits and employment of additional security guards. Furthermore, the priority for the Chief Justice are plans to build secure judicial residencies outside Baghdad, which emphasises the absence of support for provincial judges.⁵¹

It is crucially important to create legal bases/adopt respective laws for fundamental guarantees regarding the rule of law and human rights in the criminal justice system including the implementation of international legal standards. The Iraqi Criminal Justice System still partly operates on the basis of laws that were adopted in the 1960s and the 1970s under a totally different political regime and legal acts of the foreign CPA. In this regard, it is essential as a first step to review all existing legislation, identify shortcomings, gaps and inconsistencies and adapt it to the current situation in the country, thereby creating a sound legal basis for the rule of law. However, it is important to stress that legislative reform is a long-term endeavour, which requires a lot of resources, the creation of an intricate, balanced system that includes different organs of state power and special attention to legislative procedure as such. In addition, it is obvious that simple codification is not enough, but that the legislation needs to be implemented appropriately in the day-to-day functioning of the institutions. Moreover, there should be a realistic check of whether the legal provisions in place achieve the desired objective or cause implementation problems and of where required amendments should accordingly be made to the legislation.

The discussion below illustrates the specific problems the police, judiciary and penitentiary face in their daily operations. The Iraqi police still have problems regarding equipment: many police stations do not have enough uniforms, weapons, vehicles and ammunition.⁵² There are many police officers without adequate training and adequate salaries. Moreover, the Ministry of the Interior had the problem of being a sectarian arena in which different political groups and rival militias fought each other; at certain

times officials moved around inside the ministry with heavily armed escorts, fearing assassination.⁵³ In addition, 'death squads' of Iraqi police have been responsible for sectarian violence.⁵⁴

The judiciary formally gained its independence from the other branches of state power after 2003, but the judicial system is still subjected to undue political interference. International Crisis Group reports different types of cases in this regard: threats of physical violence against judges and their friends and family, judges not conducting a fair hearing in cases of high-level corruption, dismissing the case for procedural reasons or issuing reduced sentences, the Federal Supreme Court providing interpretations of the Iraqi constitution which immutably follow the Government's point of view, etc.⁵⁵ There are on-going reports that legal provisions regarding the criminal justice system in Iraq are not being adhered to in practice: lack of due process and fair trials, long periods of pre-trial detention without judicial review, lack of ability to pursue a meaningful defence or to challenge evidence, abuse in detention, torture, etc.⁵⁶ Moreover, there is insufficient cooperation and collaboration between the different actors in the criminal justice system and a lack of understanding for each other's role. This applies especially to the relationship between the police and the judiciary. There have been repeated reports of cases in which the Ministry of the Interior detained persons without judicial authorisation in non-urgent situations and the police did not enforce court decisions, despite being legally entrusted with this task.⁵⁷ Another challenge for the Iraqi criminal justice system is the shortage of judges, judicial investigators and public prosecutors, which causes increasing delays in the investigation and adjudication of cases. Efforts have been made to face this challenge and recruit new staff, but the numbers still remain insufficient.

Some of the multitude of problems the Iraqi penitentiary service is facing are overcrowding, abuse of prisoners, the need for refurbishment of prison facilities in order to bring them into compliance with international standards, lack of adequate fiscal resources and equipment and a lack of re-socialisation programmes. The concept of re-socialisation, namely the focus of the detention regime on the return of the detainee to society, seems to be largely unknown in the Iraqi penitentiary system. Conditions in the detention facilities of the Ministry of the Interior and the Ministry of Defence and the treatment of prisoners are poor with inadequate sanitation, limited access to water and electricity, no facilities for family visits, extensive overcrowding, a deficiency of satisfactory food and medical care; in comparison, the prison facilities operated by the Ministry of Justice are reported as providing better living conditions and a better treatment of detainees.⁵⁸ Moreover, mistreatment, abuse and torture of prisoners in Iraq remain widespread.⁵⁹

There have been repeated reports about secret detention centres operated by the elite counterterrorism forces under the direct authority of Prime Minister Nouri Al-Maliki, outside the control mechanisms of the criminal justice system.⁶⁰ Predominantly, Sunni detainees have been held in these secret detention centres incommunicado, without formal charges, in inhumane conditions and subjected to torture.⁶¹ Initially, Prime Minister Nouri Al-Maliki denied the existence of the secret detention centres despite earlier allegations.⁶² At a later stage it was announced that the facilities had been shut down despite allegations to the contrary.⁶³

Last but not least, corruption is widespread throughout the entire criminal justice system. According to the Corruption Perception Index for 2012 of Transparency International, Iraq ranks 169 out of 174 and is among the bottom eight countries. Corruption takes different forms: procurement fraud, theft, the phenomenon of 'ghost employees', bribery and extortion.⁶⁴

In summary, the challenges the Iraqi criminal justice system is facing are multifaceted and characterised by a high degree of destabilisation, urgency and gravity; they encompass amongst others a very unstable security situation and violence towards

members of this system, shortage of personnel and resources, lack of training and repeated violation of legal norms. This is the background against which the EU decided to take action in order to make a contribution to the development of the rule of law sector in Iraq.

THE ROLE OF THE EU INTEGRATED RULE OF LAW MISSION FOR IRAQ

EUJUST LEX, the EU Integrated Rule of Law Mission for Iraq, is a civilian crisis management operation which was established in March 2005 under the CSDP to address the urgent needs of the Iraqi criminal justice system. It aims to do this by providing training in senior management and criminal investigation to high- and mid-level officials from the police, judiciary and penitentiary in order to improve the capacity, coordination and collaboration of the different components of the Iraqi criminal justice system with full respect for the rule of law and human rights.⁶⁵ The mission became operational in July 2005 and was established for an initial period of one year. Subsequently, the mandate was extended six times,⁶⁶ and currently EUJUST LEX will run until 31 December 2013, the sixth extension having been decided in 2012, taking into account further developments in the security conditions in Iraq and the outcome of the in-country mission activities. The initial budget for the mission was 10 million EUR, and it has been progressively increased to an amount of 27 million EUR in correlation with the growth of the mission (which currently encompasses 66 staff in Baghdad) and the recent inclusion of in-country activities in the portfolio of EUJUST LEX.

This is the first EU Integrated Rule of Law Mission simultaneously addressing several components of the criminal justice system by offering professional development opportunities to senior Iraqi police, judiciary and penitentiary officials.⁶⁷ The aim is to target the highest level of responsible officers, who would be in charge of the further development of the different sectors of the criminal justice system, and to expose them to best practices from EU member states. In this way, high-ranking officials will gain important knowledge and experience of the different ways in which the problems affecting the criminal justice system are handled in Europe so that they can transpose the newly learned methods, approaches and ideas upon their return to Iraq. The purpose is not to indoctrinate and to impose pre-made solutions to Iraqi counterparts, but to provide high-ranking decision-makers with a range of different options for dealing with the same problems in various EU member states so that they can take a decision on what and how alternatives can best be implemented in the Iraqi context. The added value of this approach is also that Iraqi officials have an opportunity to explore well-functioning criminal justice systems operating in peaceful times, outside the harsh reality of daily life in Iraq.

Initially, the course menu of EUJUST LEX activities encompassed two integrated courses on Senior Management and Management of Investigation. The aim of the course on Management of Investigation is to bring together Iraqi police and judiciary, to enhance knowledge and skills in the respective areas of responsibility, and through this to improve the understanding for and the application of joint working procedures in the field of criminal investigation. Over time, the mission developed a number of specialised courses for police, judiciary and penitentiary to meet the specific needs of the Iraqi criminal justice system while maintaining a focus on the rule of law and human rights. The course topics were determined and developed in close cooperation and coordination with Iraqi counterparts. A crucial part of the training intervention programme of EUJUST LEX is to demonstrate in very practical ways how rule of law principles and human rights protection form an integral part of professional best practices in criminal justice affairs.

Subsequently, the mission developed a course menu comprising the following courses for police, judiciary and penitentiary. The courses for police include senior police leadership, managing murder investigations, public order management and human rights,

management of training, major and critical incident management and train the trainer.⁶⁸ The judicial courses include fair trial and human rights, financial crime and forensic science (serious crime and modern techniques of investigation). The courses for the penitentiary sector deal with issues like senior prison leadership, developing prison standards within a human rights framework, strategies for managing vulnerable prisoners (females, juveniles and ethnic minorities), contingency planning and crisis management and train the trainer. It is important to emphasise that the courses take place in the different EU member states and provide examples of best practices from the country organising the course. That way, Iraqi participants can gain familiarity with different forms of organisation and different approaches to solving problems within the criminal justice system. The significant focus on practical aspects of the training interventions in the EU, whereby students visit police stations, courts and prison facilities, are a further important element of these courses.

In addition to the courses, EUJUST LEX conducts another type of training intervention in the form of a practical programme of work experience secondments, which give Iraqi police and penitentiary officers as well as judges the chance to work alongside their counterparts in the EU. That way, the Iraqi criminal justice officials have the opportunity to immerse themselves in the daily work experience of their colleagues from different EU member states, to interface with the practical day-to-day running of criminal justice institutions within the EU and to acquire modern European knowledge, skills and practical working procedures based upon the Rule of Law. In 2010, the first work experience secondments for judges from the Kurdish region in Iraq was held in London for six participants from the Kurdish Region Cassation Court, the Criminal Court of Sulaymanyia and different investigation courts; it was followed by another judicial work experience secondment in Germany later that year.⁶⁹

After more than seven years in existence, EUJUST LEX has trained over 4,800 Iraqi senior criminal justice officials (around 1,466 from the police, 684 from the judiciary and 826 from the penitentiary) with contributions made by almost all EU member states to the training sessions of the mission and recently including a contribution from Norway.⁷⁰ More than 171 activities took place in EU member states including courses and work experience secondments, and more than 72 activities have been carried out in Iraq so far. In addition, the mission organised three thematic seminars in the Middle East region at the end of 2008 and beginning of 2009: a judicial seminar on juvenile justice in Jordan,⁷¹ a penitentiary seminar in Jordan on the rehabilitation of prisoners and a police seminar on community policing in Egypt,⁷² as a preparation for the start of in-country activities. Currently, the mission fully operates in Iraq and carries out activities there.

Initially, the training interventions took place in the EU or in the Middle East region due to the challenging security situation in Iraq. However, the Joint Action establishing the mission determined that 'depending on development in the security conditions in Iraq and on the availability of appropriate infrastructure, the Council shall examine the possibility of training within Iraq'.⁷³ In July 2009, the Council of the EU extended the mandate of EUJUST LEX for the third time and authorised a pilot phase of activities in Iraq including the provision of strategic advice, follow-up mentoring and training activities 'as and where security conditions and resources allow'.⁷⁴ This decision can be described as a breakthrough in EU policy towards Iraq as the Council finally managed to achieve a unanimous decision on in-country involvement of the EU with regard to activities strengthening the rule of law. In 2003, when the military intervention in Iraq started, the Council was not able to find a common stance on Iraq because of strong Franco-German opposition.⁷⁵ Already by June 2009, the mission had conducted three preliminary pilot activities regarding the judiciary and the penitentiary in various locations in Iraq as a preparation for the start of in-country training interventions. Since the start of the fourth phase of the mission in June 2009, more than 72 training interventions in Iraq were successfully conducted including three pilot policing seminars on crime scene management and domestic violence in Baghdad and in the Kurdish

region, a high level summit on the Iraqi Judicial Development Strategy Five Year Plan 2009-2013, and a seminar for female prison officers.⁷⁶

It is important to provide training activities on the ground. However, it is also of crucial importance to provide opportunities for senior criminal justice officials to gather experiences from abroad in order to be able to reform their own system successfully.⁷⁷ Needless to say, to be able to evaluate critically the shortcomings of one's own system, it is necessary to take a look at it from the outside and compare it to other established and comparatively well-functioning systems, being aware of best practices regarding the problems and challenges a criminal justice system faces. This is of particular importance for post-dictatorial countries, which for many years formed closed societies, where international standards for the functioning of the criminal justice system were not applied, and it was difficult to travel abroad and participate in professional exchange programmes during the regime. Furthermore, the training interventions for senior officials provide expertise on single topics regarding criminal justice, which represent only a tiny fraction of the whole complex system; this makes continuous training and professional development a necessary prerequisite for a successful reform process. Another issue relates to whether and how change can be effected by single individuals, who, even at the top of the hierarchy, return to an environment that has not gone through similar experiences and might not be convinced that the solution proposed is the right one. A further issue is the coordination of international contributions to the development of the Rule of Law sector, which are numerous in the case of Iraq and can lead to a duplication of efforts or even counter-effects.

With the fourth extension of the mission in June 2010, the Council of the EU authorised training activities in Iraq as well as setting up mission offices in Basra and Erbil, and determined that the Head of Mission and the majority of its staff would move from Brussels to Iraq as soon as the security situation permits. The mission was almost completely transferred to Iraq in 2011, leaving only a very limited number of staff in Brussels, with the full transfer of staff to Iraq being completed in 2012.

FOLLOW-UP OF CSDP MISSION ACTIVITIES AND EVALUATION OF CONTRIBUTIONS TO THE DEVELOPMENT OF THE RULE OF LAW SECTOR

Generally, follow-up and evaluation of CSDP mission activities form a crucial part of the implementation of collective action in the realm of security governance, aiming to ensure the effectiveness and success of the undertakings on the ground. Follow-up of EUJUST LEX activities is a challenging task. The mission has put in place a system facilitating the follow-up of courses and work experience secondments. At the end of each training intervention, the participants present an action plan on those parts of the course content they consider could be implemented in Iraq. Mission staff put efforts into keeping up contact with course participants although these efforts have been jeopardised by a range of factors, mostly related to the challenging security situation in the country which poses difficulties regarding follow-up meetings in general and especially regarding meetings in the working place of the persons concerned, irregular internet access of former participants, etc. Nevertheless, some meetings with former participants did take place with encouraging results. For example, penitentiary officials from the Kurdish region saw the creation of prisoner employment opportunities they observed during their course in the EU as a significant innovation and contribution to the re-socialisation process in their prison facilities after their return to Iraq. Prisoner employment opportunities did not previously exist in the Iraqi penitentiary service. Similarly, one participant from the Kurdish region introduced visiting facilities for family members into the prison facility he is running, based on the model he became acquainted with during one of the courses in the EU.⁷⁸

Currently, there is no system in place for external evaluation regarding EU missions in the realm of the CSDP. Moreover, this topic remains largely un-discussed in the academic literature. As far as EUJUST LEX activities are concerned, the mission conducted an internal evaluation process in 2007 to assess the achievements of the mission during the first two phases of its operation (July 2005 – June 2006, June 2006 – December 2007). Together with independent experts from EU countries, the mission developed detailed questionnaires and other instruments for former participants of EUJUST LEX training interventions and their superiors and held a number of evaluation seminars. Some questionnaires sent to former participants from the police were not returned due to the fact that they were killed on duty. Nevertheless, overall the mission received a high response rate and witnessed a high degree of positive feedback regarding the training delivered. Former participants and their supervisors attested an improvement in learning and competence performance as well as a high degree of impact of the training on the everyday duties of the attendees.⁷⁹

With the start of the fourth phase of operations of EUJUST LEX, the mission received the mandate to commence follow-up mentoring of former participants in Iraq. At the end of 2009, two evaluation penitentiary workshops were held in the Kurdish region with former EUJUST LEX course participants to assess the outcome of the implementation of the individual action plans and to identify opportunities for in-country mentoring and further training needs.⁸⁰ With the new mandate on follow-up mentoring, the mission was specifically tasked by the Council to commit resources to follow-up activities, which is a welcome development. In 2010, EUJUST LEX held an annual evaluation conference for the penitentiary and organised a workshop in Brussels on the evaluation of mission courses and activities with the participation of course organisers from EU member states and EUJUST LEX Mission staff.⁸¹ The purpose of the seminar was to exchange lessons learned and best practices as well as ideas on the evaluation of the performance of course participants, improving feedback on the courses and alumni follow-up. In 2011, six evaluation workshops were held in Baghdad, Erbil, Soran and Brussels.⁸² However, this does not replace the need to conduct an independent and objective evaluation of mission activities in the area of the CSDP, preferably before every extension of the operational phase of a mission in order to assess the impact made and correct the course taken if needed. An evaluation of activities in the rule of law sector is a challenging task in itself because of the complexity of the system, the need for legislative action to conduct a reform, the different actors involved and their interdependencies as well as the long years needed to conduct a successful reform of the entire system. However, evaluation activities are not new for the EU institutions. In evaluation, an assessment is made as to the relevance, impact/utility, coherence, effectiveness, efficiency and economy of the specific activities.⁸³ Any evaluation must take into account the specific nature of the contribution made to the strengthening of the rule of law sector and its small-scale impact on the complex system as a whole.

CONCLUSION

EUJUST LEX has provided training for around 5,000 police, judiciary and penitentiary officials so far, emphasising not quantity but quality by taking the decision to offer professional development opportunities to senior criminal justice officials only. It is clear that this contribution will not be able to transform the entire rule of law system in Iraq immediately bearing in mind the dictatorial past of the country and the numerous challenges the system faces at the moment including the security situation. Rule of law reform is a long-term endeavour, which can only be successful in the long run if each component of the system is successfully transformed and proper collaboration is ensured.

The question of how to measure the effectiveness and sustainability of such undertakings is worth further research and exploration. It is difficult to change the mentality of a whole system that has been isolated in a dictatorship for many years. As a

start, the right anchor points in this regard are individuals in high-ranking positions, who can have an impact on restructuring the system and the professional development of their staff in line with international standards; they are the people who can provide a new vision and incentives for a change in terms of mentality and culture. However, a sustainable change can ultimately only be achieved if it is taken up and applied in the day-to-day operations by the grass roots level of any organisation. Small changes like the introduction of employment opportunities in one prison facility or visiting facilities for family members might seem insignificant, but many small changes of such a nature can contribute to the ultimate achievement of a big change.

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¹ For further information on the importance of the rule of law principle for the external action of the European Union see L. Pech, 'A Union Founded on the Rule of Law: Meaning and Reality of the Rule of law as a Constitutional Principle of EU Law', 6 *European Constitutional Law Review* 2010, pp. 359-396 and L. Pech, *Rule of law as a guiding principle of the European Union's external action*, CLEER Working papers 2012/3, (2012), The Hague: Asser Institute.

² H.-G. Ehrhart, 'Security Governance as a Framework and Basis for Multi-stakeholder Partnerships', in: M. Brozka, H.-G. Ehrhart, and J. Narten, *Multi-stakeholder Security Partnerships: A critical assessment with case studies from Afghanistan, DR Congo and Kosovo* (2011), pp. 37-60

³ *ibid.*

⁴ The new Iraqi Constitution was drafted by a Constitution Drafting Committee, which has been appointed by the Coalition Provisional Authority (CPA) and consisted of 55 members of the National Assembly (see S. Ottermann, 'Q&A: Drafting Iraq's Constitution', *New York Times*, (2005, May 12), Online: http://www.nytimes.com/cfr/international/slot2_051205.html?_r=0 [Accessed 16 June 2013]); the Constitution replaced the Law of Administration for the State of Iraq for the Transitional Period. For a comprehensive analysis of the text of the Constitution see N. Brown, *The Final Draft of the Iraqi Constitution: Analysis and Commentary*, (Carnegie Endowment for International Peace, 2005), Online: <http://carnegieendowment.org/files/FinalDraftSept16.pdf> [Accessed 16 June 2013].

⁵ The author has used the official English translation of these laws and all other laws cited for the purposes of this article.

⁶ Art.14 of the Iraqi Constitution.

⁷ Art.19 Nr.5 of the Iraqi Constitution.

⁸ Art.15 of the Iraqi Constitution.

⁹ Art.19 Nr.13 of the Iraqi Constitution.

¹⁰ Art.17 of the Iraqi Constitution.

¹¹ Art.35 of the Iraqi Constitution.

¹² Art.19 Nr.2, 5, 9, 10 of the Iraqi Constitution.

¹³ Art.19 Nr.5 of the Iraqi Constitution.

¹⁴ Art.19 Nr.11 of the Iraqi Constitution.

¹⁵ The following paragraph does not contain an exhaustive list of all international conventions to which Iraq is a party, but serves the purpose of providing background information and context on some conventions having relevance for the criminal justice system.

¹⁶ For further information on this topic see amongst others J. Kleinfeld, 'Enforcement and the Concept of Law', 121 *Yale Law Journal Online* 293 (2011), Online: <http://yalelawjournal.org/2011/11/22/kleinfeld.html> [Accessed 10 June 2013] and F. Cross, 'The Relevance of Law in Human Rights Protection', *International Review of Law and Economics* 19 (1), pp. 87-98.

¹⁷ This article concentrates on the components of the system representing the state and does not take into account the role of lawyers/defenders in criminal proceedings.

¹⁸ J. Jones, *Report of the Independent Commission on the Security Forces of Iraq* (2007), p. 95.

¹⁹ R. Perito, *The Iraqi Federal Police: US Police Building Under Fire*, (Washington: United States Institute of Peace, 2011).

²⁰ J. Jones, *op. cit.* n18.

²¹ R. Perito, p. 6, *op. cit.* n19.

²² R. Perito, p. 12, *op. cit.* n19.

²³ US Department of State, *Iraq Status Report* (2009, February 4).

²⁴ R. Perito, *op. cit.* n19.

²⁵ Art.84 and 85 of the Iraqi Constitution.

²⁶ See also CPA Memorandum Nr. 12 on the Administration of an Independent Judiciary (2004, August 5). Online: <http://gjpi.org/wp-content/uploads/cpa-memo-12.pdf> [Accessed 16 June 2013], which

implements CPA Order Nr. 35 Reestablishment of the Council of Judges (2003, September 13), Online: <http://gjpi.org/wp-content/uploads/cpa-order-35.pdf> [Accessed 16 June 2013].

²⁷ Art.88 of the Iraqi Constitution.

²⁸ Section 2, Membership, Paragraph 1 of CPA Order Nr. 35, op. cit. n26.

²⁹ For further information see International Crisis Group *Failing Oversight: Iraq's Unchecked Government*, Middle East Report Nr 113 (2011), Online:

<http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Iraq/113%20-%20Failing%20Oversight%20-%20Iraqs%20Unchecked%20Government.pdf>

[Accessed 16 June 2013]; an overview of different models for Judicial Councils can be found in W. Voermans & P. Albers, *Councils for the Judiciary in EU Countries*, (Leiden/The Hague, 2003).

³⁰ Art.93 of the Iraqi Constitution.

³¹ Art.89-91 of the Iraqi Constitution.

³² Art.92 of the Iraqi Constitution.

³³ M. Mahmoud, *The Judicial System in Iraq: A Review of the Legislation Regulating Judicial Affairs in IRAQ*, (Baghdad, 2004).

³⁴ Public Prosecutor Law No. 159 of 1979, Online: http://gjpi.org/wp-content/uploads/2009/02/prosecution_law.pdf [Accessed 16 June 2013].

³⁵ M. Mahmoud, op. cit. n33.

³⁶ For further information on juvenile justice in Iraq see I. Catlett, *Juvenile Justice in Transition: Past Challenges and New Opportunities in Post-Conflict Iraq* (2010), Online:

<http://sites.tufts.edu/jha/archives/787> [Accessed 16 June 2013].

³⁷ Juvenile Welfare Law Nr. 76 of 1983, Online: <http://gjpi.org/wp-content/uploads/juvenile-welfare-law-76-of-1983.pdf> [Accessed 16 June 2013].

³⁸ Art.3 of the Juvenile Welfare Law Nr. 76 of 1983.

³⁹ Art.16 of the Public Prosecution Act Nr. 159 of 1979.

⁴⁰ M. Mahmoud, op. cit. n33.

⁴¹ http://www.prisonstudies.org/info/worldbrief/wpb_country.php?country=176 [Accessed 16 June 2013].

⁴² Bureau of Democracy, Human Rights and Labour, *2010 Human Rights Report Iraq*, Online:

<http://www.state.gov/j/drl/rls/hrrpt/2010/nea/154462.html> [Accessed 16 June 2013].

⁴³ For key security/violence indicators see K. Katzman, *Iraq: Post-Saddam Governance and Security*, Congressional Research Service (2009), p. 28.

⁴⁴ Iraqi Body Count Report, *Iraqi Deaths from violence 2003-2011*, Online:

<http://www.iraqbodycount.org/analysis/numbers/2011/> [Accessed 16 June 2013].

⁴⁵ 'Iraqi Police Deaths Hit 12,000' (2006, December 24) *BBC*, Online:

http://news.bbc.co.uk/2/hi/middle_east/6208331.stm [Accessed 10 June 2013].

⁴⁶ Iraqi Body Count Report, *Iraqi Deaths from violence in 2012*, Online:

<http://www.iraqbodycount.org/analysis/numbers/2012/> [Accessed 16 June 2013].

⁴⁷ American Bar Association, *Iraq Legal Development Project: Judicial Reform Index for Iraq*, (Washington, 2006).

⁴⁸ Special Inspector General for Iraq Reconstruction (SIGIR), *Quarterly Report and Semi-annual Report to the United States Congress*, July 2011, Online:

http://www.sigir.mil/files/quarterlyreports/July2011/Report_-_July_2011.pdf [Accessed 16 June 2013];

see also United Nations Assistance Mission for Iraq (UNAMI), *2010 Report on Human Rights in Iraq*, Online:

<http://unami.unmissions.org/LinkClick.aspx?fileticket=9hA1KMfch4l%3D&tabid=3174&language=en-US> [Accessed 16 June 2013].

⁴⁹ Bureau of Democracy, Human Rights and Labour, *2008 Human Rights Report Iraq*, Online:

<http://www.state.gov/j/drl/rls/hrrpt/2008/nea/119116.htm> [Accessed 16 June 2013].

⁵⁰ I. Waleed & A. Rasheed, 'Judges Targeted as Bomber Kills 57 Iraq Army Recruits', Reuters (2010, August 17), Online: <http://www.reuters.com/article/2010/08/17/us-iraq-violence-idUSTRE67G0U520100817> [Accessed 16 June 2013].

⁵¹ SIGIR, op. cit. n48.

⁵² J. Jones, op. cit. n18.

⁵³ See N. Parker, 'Interior Ministry Mirrors Chaos of a Fractured Iraq', *Los Angeles Times* (2007, July 30), Online: <http://articles.latimes.com/2007/jul/30/world/fg-interior30> [Accessed 16 June 2013]; M. Deflem and S. Sutphin, 'Policing Post-war Iraq: Insurgency, Civilian Police, and the Reconstruction of Society',

Sociological Focus, Vol. 39, Nr. 4, 265-283 and International Crisis Group, *Loose Ends: Iraq's Security Forces between US Drawdown and Withdrawal*, Middle East Report Nr 99 (2010). On the difficulties in reforming the Ministry of Interior see A. Rathmell, *Fixing Iraq's Internal Security Forces: Why is Reform of the Ministry of Interior so Hard*, (CSIS, 2007), Online:

http://csis.org/files/media/csis/pubs/071113_fixingiraq.pdf [Accessed 16 June 2013].

⁵⁴ R. Perito, op. cit. n19.

⁵⁵ International Crisis Group 2011, op. cit. n29.

⁵⁶ Bureau of Democracy, Human Rights and Labour 2010, op. cit. n42; Amnesty International, *Carnage and Despair: Iraq Five Years On*, (London, 2009); Human Rights Watch, *The Quality of Justice: Failings*

of Iraq's Central Criminal Court (2008), Online:

<http://www.hrw.org/sites/default/files/reports/iraq1208web.pdf> [Accessed 16 June 2013]; United Nations Assistance Mission for Iraq (UNAMI), *Human Rights Report 1 January – 30 June 2008* (2008), pp. 22ff.

⁵⁷ American Bar Association, op. cit. n47.

⁵⁸ Bureau of Democracy, Human Rights and Labour 2010, op. cit n42.

⁵⁹ UNAMI 2010, op. cit n48.

⁶⁰ K.-C. Redmon, 'In Iraq, Torture and Secret Prisons Continue', *The Atlantic*, (2011, February 15), Online: www.theatlantic.com/international/archive/2011/02/in-iraq-torture-and-secret-prisons-continue/71266 [Accessed 16 June 2013]; N. Parker, 'Elite units under an office of Maliki's linked to secret jail where detainees face torture, Iraq officials say', *Los Angeles Times*, (2011, July 14), Online: <http://articles.latimes.com/2011/jul/14/world/la-fg-iraq-prison-20110715> [Accessed 16 June 2013]; N. Parker, 'Secret Prison Revealed in Baghdad', *Los Angeles Times*, (2010, April 19), Online: <http://articles.latimes.com/2010/apr/19/world/la-fg-iraq-prison19-2010apr19> [Accessed 16 June 2013]; Amnesty International, *New Order, Same Abuses: Unlawful Detentions and Torture in Iraq*, (London, 2010); Human Rights Watch, *Iraq: Detainees Describe Torture in Secret Jail* (2010), Online: <http://www.hrw.org/news/2010/04/27/iraq-detainees-describe-torture-secret-jail> [Accessed 16 June 2013]; Human Rights Watch, *At a Crossroads: Human Rights in Iraq Eight Years After the US-led Invasion*, (New York, 2011); Human Rights Watch, *Iraq: Secret Jail Uncovered in Baghdad*, (New York, 2011), Online: <http://www.hrw.org/news/2011/02/01/iraq-secret-jail-uncovered-baghdad> [Accessed 16 June 2013].

⁶¹ For detailed information see Human Rights Watch 2011, op. cit n60.

⁶² 'Iraq's Maliki Denies Reports of Secret Prisons', Al Arabiya News, (2011, February 6), Online: <http://www.alarabiya.net/articles/2011/02/06/136493.html> [Accessed 16 June 2013].

⁶³ N. Parker, op. cit n60.

⁶⁴ See International Crisis Group 2010, op. cit n53, for further information.

⁶⁵ Council of the European Union, Joint Action 2005/190/CFSP on the European Union Integrated Rule of Law Mission for Iraq EUJUST LEX.

⁶⁶ Council of the European Union, Joint Action 2006/413/CFSP on the European Union Integrated Rule of Law Mission for Iraq EUJUST LEX; Council of the European Union, Joint Action 2007/760/CFSP on the European Union Integrated Rule of Law Mission for Iraq EUJUST LEX; Council of the European Union, Joint Action 2009/475/CFSP on the European Union Integrated Rule of Law Mission for Iraq EUJUST LEX; Council of the European Union, Decision 2010/330/CFSP on the European Union Integrated Rule of Law Mission for Iraq EUJUST LEX; Council of the European Union, Decision 2011/380/CFSP amending Decision 2010/330/CFSP on the European Union Integrated Rule of Law Mission for Iraq, EUJUST LEX-IRAQ; Council of the European Union, Decision 2012/372/CFSP amending Decision 2010/330/CFSP on the European Union Integrated Rule of Law Mission for Iraq, EUJUST LEX-IRAQ.

⁶⁷ G. Steinberg, 'The European Union Integrated Rule of Law Mission for Iraq (EUJUST LEX): A Policy Surrogate with Potential.', in: Asseburg, M. & Kempin, R. (ed.), *The EU as a Strategic Actor in the Realm of Security and Defence?*, SWP Berlin, pp. 125-134. On individual contributions of EU MS in Iraq see E. Burke, *The Case for a New European Engagement in Iraq*, Fridtjof Working Paper, (Madrid, 2009), Online: <http://www.fride.org/publication/555/the-case-for-a-new-european-engagement-in-iraq> [Accessed 16 June 2013].

⁶⁸ S. White, 'EUJUST LEX – The EU Integrated Rule of Law Mission for Iraq', *Journal of Defense and Strategy*, Vol.8 (2), December 2008, pp. 97-103.

⁶⁹ EUJUST LEX, *News in brief 2010*, Online: http://eeas.europa.eu/csdp/missions-and-operations/eujust-lex-iraq/news/archives/index_en.htm [Accessed 16 June 2013].

⁷⁰ EUJUST LEX factsheet 2013, Online:

http://www.consilium.europa.eu/uedocs/cms_data/docs/missionPress/files/20130314%20FACTSHEET%20EUJUST%20LEX%20-%20EN%20Mar%202013.pdf [Accessed 16 June 2013].

⁷¹ EUJUST LEX, *News in brief 2008*, Online: http://eeas.europa.eu/csdp/missions-and-operations/eujust-lex-iraq/news/archives/index_en.htm [Accessed 16 June 2013].

⁷² EUJUST LEX, *News in brief 2009*, Online: http://eeas.europa.eu/csdp/missions-and-operations/eujust-lex-iraq/news/archives/index_en.htm [Accessed 16 June 2013].

⁷³ Art.2 Nr.3 Council Joint Action 2005/190/CFSP of 7.3.2005 on the European Union Integrated Rule of Law Mission for Iraq EUJUST LEX.

⁷⁴ Art.2 Nr.3 Council Joint Action 2009/475/CFSP of 11.6.2009 on the European Union Integrated Rule of Law Mission for Iraq EUJUST LEX.

⁷⁵ Comprehensive information on this issue can be found in J. Spyer, 'Europe and Iraq: Test Case for the Common Foreign and Security Policy', *Middle East Review of International Affairs*, Vol. 11 (2), Article 7/8; J. Lewis, 'EU Policy on Iraq: The collapse and reconstruction of consensus-based foreign policy', *International Politics*, Vol.46 (4), pp. 432-450 and G. Steinberg (op. cit n67). On coordination issues during the Iraq crisis see also U. Puetter & A. Wiener, 'Accommodating Normative Divergence in European Foreign Policy Coordination: The Example of the Iraq Crisis', *JCMS*, Vol. 45 (5), pp. 1065-1088.

⁷⁶ For further information see footnote 72.

⁷⁷ For a critical evaluation of out-of-country training see D. Korski, 'The Integrated Rule of Law Mission for Iraq (EUJUST LEX)', in: G. Grevi et al. (eds), *European Security and Defence Policy: The first ten years (1999-2009)*, Institute for Security Studies, (Paris, 2009); R. Gowan & D. Korski, 'The EU, So Far', in: Heinrich Boell Stiftung (ed.), *What Can Europe Do in Iraq. Recommendations for a New European-U.S. Collaboration*, (2009), pp. 73-85; C. Gourlay & A. Monaco, 'Training civilians and soldiers to improve security in Iraq: An update of EU and NATO efforts', *European Security Review* 25, pp. 1-3, Online: www.isis-europe.org/pdf/esr_26.pdf [Accessed 16 June 2013].

⁷⁸ Visit and interview in August 2008.

⁷⁹ Interviews with former participants in Iraq.

⁸⁰ EUJUST LEX 2009, op. cit n72.

⁸¹ EUJUST LEX 2010, op. cit n69.

⁸² EUJUST LEX 2011, *News in brief*, Online: http://eeas.europa.eu/csdp/missions-and-operations/eujust-lex-iraq/news/archives/index_en.htm [Accessed 16 June 2013].

⁸³ For more comprehensive information see http://ec.europa.eu/dgs/secretariat_general/evaluation/index_en.htm [Accessed 16 June 2013].