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OD AMERIČKOG NARODA

# EFFECTIVE RULE OF LAW PROGRAM

## Year 1 Annual Progress Report (April 2011 – March, 2012)

**Implemented by**

**Cecchi and Company Consulting, Inc.**

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### **DISCLAIMER**

The author's views expressed in this publication do not necessarily reflect the views of United States Agency for International Development or the United States Government.

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## INTRODUCTION

Checchi and Company Consulting, Inc. (Checchi), in accordance with contractual requirements, submits this Annual Progress Report for the first year of the Effective Rule of Law Program (EROL) to the United States Agency for International Development (USAID).

The purpose of the USAID Kosovo Effective Rule of Law Program (EROL) is to contribute to USAID's strategic vision of a "Kosovo as an effective state, with a viable economy and an inclusive democracy on the path to European Integration" through USAID/Kosovo Assistance Objective 3: Empowering Kosovo's Citizens to Consolidate a Functioning Democracy.

EROL seeks to build upon prior USAID projects to strengthen the justice system in accordance with the following Intermediate and Sub-intermediate Results:

IR2: Improved delivery of justice through rule of law		IR3: Mechanisms for citizens to represent their interests and hold government accountable	
Sub-IR 2.1	Increased capacity of justice sector professionals	Sub-IR 3.1	Increased professionalism of citizen groups and journalists to monitor and influence government
Sub-IR 2.2	Increased independence and accountability of judicial system		
Sub-IR 2.3	More effective operation of the justice system		

Specifically, EROL seeks to strengthen the independence, accountability, efficiency, and effectiveness of the justice system; and bolster public confidence in the rule of law by increasing public knowledge of and participation in the justice system through refurbishment of court facilities; technical assistance and training for justice-related institutions; grants to civil society organizations; and targeted public awareness activities. EROL assistance is broken down into four components, each with a unique objective:

- Objective 1: Improve the effectiveness of justice sector institutions
- Objective 2: Increase the efficiency of court operations
- Objective 3: Improve the professionalism of justice system actors
- Objective 4: Increase citizen awareness and role in ensuring the delivery justice

USAID awarded the EROL contract to Checchi in March 2012 (Contract No. AID-167-C-11-00001-00). As part of this contract, Checchi partnered with sub-contractors, Management Systems International (MSI), a part of Coffey International Development, and Synergy International Systems, Inc., and recruited a strong team of U.S. long-term expatriate experts, local advisors and support staff, and short-term technical experts to provide specialized assistance.

This Annual Progress Report describes project progress for the period April 1, 2012 through March 31, 2012 and describes project activities, outputs, and results, as well as successes, challenges, lessons learned, opportunities to improve project implementation, and areas in which original project plans could be adjusted to improve outcomes. The report also identifies select changes in the political, legal, and donor context in Kosovo and recommends ways in which EROL can maximize the benefit of these changes while minimizing any negative impacts. In order to avoid repeating information about day-to-day activities that can be found in EROL weekly and quarterly reports, this document provides a snapshot of project accomplishments and reports on the status of milestones toward life-of-project expected results.

## I. SUMMARY OF YEAR ONE PROGRAM PROGRESS AND PROJECT HIGHLIGHTS

The first year of EROL activities has served to gauge the interest and baseline capabilities our EROL partners, to initiate activities that will continue well into Year 2 and throughout the project, and to create the credibility of the project team to deliver effective assistance in support of established goals and objectives of the Kosovo justice system. By the end of Year 1, EROL was able to accomplish a balance of quantitative and qualitative results across project activities, including the launch of strategic initiatives with most counterparts and improvement of the capacity of our core partners to carry out preparations for the transition to the new court structure.

From the beginning of project launch, project advisors and staff have sought to distinguish USAID EROL assistance through a unique mix of pragmatism in bringing expertise and sweat-equity to time-sensitive initiatives while encouraging partners to consider the importance of long-term justice system and institutional visions and the strategic thinking needed to achieve high standards of institutional capacity, professionalism, and access to justice. EROL's quick-start practical assistance included troubleshooting new laws and practices, drafting core regulations needed to stand up the Kosovo Judicial Council (KJC) and Kosovo Prosecutorial Council (KPC), and assisting the Office of the President (OP) and Constitutional Court to carry out their constitutional responsibilities, including requirements for informing the public of their decisions in a timely and transparent manner. At the same time, EROL spent much of the year assisting the KJC and KPC to develop detailed Implementation Plans to facilitate smooth transitions to the new court structure in January 2013, and brought the OP, KJC, and KPC together to tackle politically charged but critical issues related to the appointment, transfer, and dismissal of judges and prosecutors. EROL also began to encourage all stakeholders to craft a holistic approach to recruitment, selection, education, training, and career advancement of judges and prosecutors, and to think beyond statistical reporting to evaluation and analysis of operational performance and the impact – intended or unintended – of new operational policies and practices. Similarly, EROL worked with the KJC to expand its vision for its web portal from a general information tool to a practical resource for stakeholders, including judges, judiciary staff, and court users, who must navigate the system on a day-to-day basis. A new participatory planning process for judges and court staff in model courts was geared toward ensuring not only local ownership of model court improvements but also adequate incentives to help push through resistance once new practices are introduced in Year 2.

### EROL QUARTER FOUR (Q4) HIGHLIGHTS

- 8 Facilitated Court Refurbishment Planning Sessions and Issuance of the Architect & Engineering and Court Refurbishment Management IQC and First Task Order RFP
- Workshops on Judicial Education Strategic Planning, Web Strategy and Website Development, Applied Research for the Judiciary
- Training Seminars on International Legal Cooperation in Civil Matters for the MOJ
- Training Seminar on Legal Research and Analysis for Legal Advisors and Researchers of the Constitutional Court
- 3<sup>rd</sup> Inter-governmental Roundtable on Judicial Dismissals for the KJC, KPC, and OP
- Preparation of 90-plus summaries of Constitutional Court Decisions for publication and training for Constitutional Court staff on preparation of summaries
- Initial Legal Education Program Assessment
- KJC Judicial Performance Evaluation Regulation approved and introduced into force

## In Year 1, EROL

- Conducted a total of 22 training and capacity building events, attended by 247 participants,<sup>1</sup> including 177 males, 64 females, and 6 minorities. In the fourth quarter (Q4) alone, EROL conducted a total of 15 events 128 participants, including workshops and roundtables for the Ministry of Justice (MOJ), KJC, KPC, Kosovo Judicial Council (KJC), OP and the Constitutional Court (CC), and facilitated participated court refurbishment planning sessions Court Improvement Teams in each of the first eight (8) EROL model courts.<sup>2</sup>
- Supported the KJC to select and nominate 8 courts for refurbishment and court improvement under the Model Courts Program through an inclusive process that brought together key stakeholders, including members of the Model Courts Consortium that was established with prior USAID assistance, and worked with the presiding judge of each court to appoint Court Improvement Teams, who will be responsible for helping to introduce Model Court Standards, set performance targets, and lead colleagues to achieve excellence in court management and administration.
- Facilitated 8 participatory court refurbishment planning sessions with selected model courts to develop detailed requirements and specifications for court refurbishments and identify key incentives to motivate judges and court staff to take advantage of training and technical assistance to generate sustainable improvements in court operations and services.
- Assisted the KJC and KPC to produce detailed Implementation Plans, designed to support leadership in managing successful transitions to the new court structure while complying with and meeting new governance standards set forth in the Constitution, Law on the Courts (LOC), Law on the State Prosecutor (LSP), Law on the Kosovo Judicial Council (LKJC) and Law on the Kosovo Prosecutorial Council (LKPC). By the end of Year 1, each Council had also begun executing portions of their plans, and the KJC had identified key leaders among judges and court staff to inform decision-making and communicate with the courts. For its part, the KPC had taken measured steps to create temporary transfer policies with a view to developing a more comprehensive transfer and promotions policy with EROL support in Year 2.
- Assisted or advised the KJC and KPC on 8 regulations and administrative instructions to support effective governance and administration of council functions, as well as oversight and management of the judiciary and prosecutorial systems. The regulations and instructions covered areas ranging from judicial and prosecutorial appointments to judicial performance evaluation.
- Supported the negotiation and finalization of regulations and instructions to guide both internal and inter-institutional procedures for selection, proposal, and appointment of judges and prosecutors. EROL has followed up initial assistance in drafting a regulation for each of the OP, KJC, and KPC with a series of working dialogs and roundtables to iron out issues identified during the implementation of these procedures and to resolve unforeseen problems with targeted legal analysis and advice, such as the submission of one candidate by both Councils.
- Completed independent assessments of the core education and training programs of the Kosovo Judicial Institute. EROL assessments of the Initial Legal Education Program (ILEP) and Continuing Legal Education Program (CLEP) are informing KJI curriculum development, as well as EROL efforts to promote a national judicial education strategy to meet the real needs of the system for new judges and prosecutors, as well as upgrade knowledge and skills of sitting judges and prosecutors. Additionally, on the basis of the CLEP Assessment, EROL convinced the KJI to begin teaching court administration and training court staff using an EROL-produced

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<sup>1</sup> Some individuals attended several events. Each attendance by the same individual is counted as one participant; therefore, the total number of unique individuals is lower than the total number of participants.

<sup>2</sup> Please see Appendix A for a Summary of Year One Training and Capacity Building.

course module on judicial independence, leadership, ethics, public outreach, budgeting, staff supervision, and case management.

- Launched the establishment of a national working group on judicial and prosecutorial education strategic planning to develop the long-range plans necessary to guide the integration of education and training with performance evaluation and career advancement of judges, as well as reform initiatives and institutional goals and objectives.
- Drafted ninety-plus summaries of 2011 Constitutional Court decisions and trained the Courts legal advisors and researchers to draft summaries as each decision is finalized by judges of the Court in 2012 and beyond. In Year 2, EROL will complete preparation of indexes and a glossary of terms, and the Constitutional Court will issue the summaries in a bound volume and facilitate online publication.
- Trained 8 legal advisors from the Department of International Legal Cooperation and produced a Practice Manual on International Legal Assistance in Civil Matters that was adapted to the current and expected needs of the Department with the trainees and two MOJ co-trainers, who will serve as mentors and update the manual as Kosovo signs bilateral and international legal assistance treaties.
- Laid a strong foundation for public awareness and access to justice activities through
  - identification of potential civil society partners and grantees through assessment of capabilities and readiness to receive funding of eighteen (18) civil society organizations and four (4) educational institutions working in the rule of law sphere and the development of the SAF Grants Manual;
  - interviews with 52 judges, prosecutors, and other justice professions from minority communities, and 5 focus groups with representatives of Serbian, Bosnian, Gorani, Turkish and RAE minority communities in 5 regions: (Shtrpce/Strpce, Mamush/Mamus, Gorazhdevc/Gorazdevac, Dragash/Dragas and Gjilan/Gnjilane) and 1 focus group with law students and early-career legal professionals;
  - a workshop bringing together the KJC and other justice-system counterparts to develop knowledge and capabilities in web strategy and website development, outreach to 32 media outlets and 54 journalists through informal meetings and focus groups, 2 press releases, and 2 television interviews.

## II. CHALLENGES, OPPORTUNITIES, LESSONS LEARNED, AND RECOMMENDATIONS

During the period following issuance of USAID's EROL solicitation, a handful of important developments, including but not limited to the passage and entry into force of the LOC, LKJC, LSP, and LKPC, altered the legal framework and institutional status of justice system actors. As a consequence, by the time EROL began activities in April 2012, the operating environment and needs of individual institutions and the justice system as a whole had changed, and a series of immediate needs such as implementation planning and execution for the new court structure and associated alignment of the prosecutorial system with this new structure emerged. Under the guidance of USAID, EROL was able to address many of these emerging needs and to adjust planned activities accordingly. The new context, in which EROL is being carried out, offers opportunities to increase the extent to which activities complement one another and to enhance project results. Adjustments will also be necessary to meet the three distinct objectives of supporting rational rule of law reforms, building institutional capacity and effectiveness, and ensuring a smooth transition to the new court structure. This section outlines challenges faced during Year 1, emerging opportunities and lessons learned, as well as recommendations for improving project progress and impact in Year 2. Activity- and counterpart-specific challenges, lessons learned, recommendations, and next steps are included under descriptions of activities (See Section III - Activities, Tasks, Deliverables, and Milestones). Additionally, the EROL Year 2 – Year 4 Workplan provides approaches and target interventions based on the recommendations outlined below.

### UNCERTAIN REFORM AND PROJECT IMPLEMENTATION CONTEXTS

In addition to the emergence of new institutional needs, several new challenges became clear during the course of Year 1 that influenced the pace of activities during the first twelve months of the project, and/or should be taken into account in revising overall project strategy, planned activities, expected results, performance targets and milestones, and/or

workplans for Year 2 and beyond. These include preparations for the transition to the new court structure and their burden on the operations of the KJC and the courts; proposed amendments to the Constitution, LOC, LKJC, KSP, and LKPC, Criminal Procedure Code, Law on Notary, and the Law on the Kosovo Judicial Institute; the MOJ's decision to introduce the notary system in two phases (optional and mandatory); the MOJ's interest in transforming the KJI into a Justice Academy serving a much broader community of justice professionals; KPC governance challenges; the potential influx of new project funds through a generous gift to USAID from the Kingdom of Norway; and the expected de-scoping of EROL Strategic Activity Funds in connection with USAID Forward.

The Ministry of Justice intends to carry out an ambitious legislative agenda in 2012 while overseeing the introduction of the notary system, criminal procedure reforms, as well as possible a partial transition to private bailiffs – not to mention non-justice related issues and execution of core operational responsibilities such as international legal cooperation and representation of the Government of Kosovo in litigation.

One of the challenges for the accomplishment of EROL activities with the OP has been the process of constitutional amendments conducted under the aegis of the Assembly of Kosovo. Although the process of constitutional amendments was initially instituted to enable direct election of the President of the Republic, the Assembly of Kosovo in extending the mandate of the AoK Committee for Constitutional Changes empowering the Committee to make constitutional revisions of presidential competencies with the purpose of de-conflicting and clarifying with constitutional powers of other state institutions. It appears that at least presidential competencies with respect to appointment of judges and prosecutors will change if all amendments are passed. EROL has been working closely with the OP, KJC, and KPC to identify and clarify institutional positions and procedures related to appointment of judges and prosecutors, and constitutional amendments will likely result in the need to revisit some of the issues already covered through the dialog process. At the same time, inclusion of amendments to LOC, LKJC, LSP, and KKPC in the MOJ legislative agenda have precipitated interest on the part of civil society and others to codify inter-institutional agreements (currently reflected in regulations and administrative instructions) in the amendments to these laws.

**Lesson Learned:** In the context of the transition from supervised independence, USG and donor priorities require extensive coordination, and EROL has sometimes been unable to move forward with technical assistance until positions have been clarified, and/or donor coordination has been accomplished. Additionally, the understandable need for the substance of donor coordination and USG participation in working groups to remain confidential means that EROL sometimes has limited capacity to plan for upcoming changes in the legal context.

**Recommendation/Year 2 Plans:** EROL will continue to coordinate with and seek guidance from USAID and to provide USAID with assessments of the implications of specific positions, courses of action, and legal reforms through ad hoc reports requested by USAID and regular EROL reporting.

## COUNTERPART ABSORPTION CAPACITY

The court and prosecutorial systems are preparing for a monumental restructuring process that will demand significant staff resources and time to prepare for the transition, substantial time and effort on the part of judicial and prosecutorial leaders to manage the process and balance an array of regional, institutional, and political interests, and an unprecedented investment of time, resources, and manpower to handle the practical steps and logistics involved in the transition. Minimal financial resources have been devoted to the implementation of the LOC and LSP in part because of a failure of the KJC and KPC to recognize the extent of needs early enough to request additional funds through the 2012 budget process. EROL assistance was instrumental in accelerating the planning process, but the process of carrying out plans is only just beginning and the courts will have few options beyond EROL for the kind of assistance they need to accomplish a long list of tasks, including retraining of staff. Model courts will be affected disproportionately because of concurrent refurbishment and improvement of court operations.

The notary system is expected to be introduced beginning in April-May 2012 on a non-mandatory basis. Citizens will have a choice between certification of documents in the courts and through the notarial system. Provisional policies and procedures have not yet been communicated to the KJC – much less to the courts, which will need to develop procedures for advising citizens and handling documents.

Constitutional amendments are likely to result in presidential elections by autumn of next year, and the Office of the President recognizes that little time remains to put into place important protections for citizens and institutional checks and balances.

Graduation from supervised independence and ongoing efforts to prepare Kosovo for eligibility for the EU accession process both depend on accomplishment of certain steps by the Government of Kosovo (GoK) and EROL counterpart institutions. These requirements understandably take precedence over new reform initiatives envisioned in EROL and other donors' and implementers' scopes of work, and EROL is often asked to assist in meeting ad hoc requirements in lieu of planned activities.

**Lesson Learned and Recommended Solutions:** As result of the many demands on counterparts in the context of the transition from supervised independence and constitutional reform, EROL must choose interventions wisely and consciously apply assistance in a way that simultaneously addresses urgent issues and builds partners' capacity to solve similar problems independently in the future. EROL must also build the capacity of counterparts to prioritize objectives and rapidly assess whether issues, identified by others as urgent, actually require immediate attention or demand thorough analysis before new policies can be contemplated.

## THE DONOR COMMUNITY

**Challenge:** In addition to the reform context, EROL counterparts' absorption capacity is further challenged by the demands of managing assistance on any issue or topic from multiple donors. The donor community in Kosovo is crowded, and virtually all of our partners struggle to manage the many donor and implementer agendas and positions. On a day-to-day basis, the KJC, KPC, KJI, MOJ, and others juggle multiple parallel and overlapping donor-funded activities and priorities. The judiciary's national leadership spends at least twenty percent of time outside of Kosovo on official delegations, study tours, and retreats. The KJI collaborates with international organizations and implementers on over seventy continuing legal education courses and seminars per year for fewer than four hundred judges and prosecutors. Some counterparts complain that they spend more time trying to avoid offending foreign assistance providers, coordinating with donors, and mediating disputes among donors than they do carrying out their legislatively-mandated functions.

Several EROL counterparts have expressed concern about sharing information about activities with other donor programs or inviting EROL to participate in activities initiated by other donors. This reluctance is understandable given that much of the donor activity to date has resulted in specific legal reforms and establishment of institutional policies that, for the most part, have been highly sensitive to author and donor perspectives. For example, the Law on Notaries and the approach to inception training for judges and prosecutors both depend greatly on whether continental European or Anglo-American models are chosen. However, competitiveness among donors hampers the effective delivery of assistance to counterparts by forcing donors to take and put forward to counterparts "positions" rather than building the capacity of counterparts to analyze options and make difficult policy decisions. Moreover, competitiveness among donors may deter counterparts from utilizing inclusive processes for policy analysis or suggest that exclusion of inconvenient stakeholders from comment or input in the decision-making process is acceptable.

**Lesson Learned:** The multiplicity of donor-funded rule of law programs also forces USAID and EROL to remain flexible about how best to contribute to common goals and navigate differing positions on important justice sector development issues. Over the course of the summer, EROL was able to capitalize on USAID's substantial influence and information sharing events to initiate coordination with key players such as ECLO, EULEX, Swiss Development Aid, OSCE, and other USG entities. In this regard, the change in COPs served as a platform for a second round of meetings with international donors and programs, and EROL thereby benefited from improved knowledge of non-USAID interventions. For example, a positive outcome of Q2 coordination meetings with EULEX and ECLO resulted in an agreement by which EROL will focus technical assistance and training related to international legal cooperation (ILC) on civil matters *only* while EULEX will provide mentoring and assistance on criminal and family-law related cases.

**Opportunity and Recommendation:** EROL has proposed to extend training to judges in Year 2, but EROL may have to narrow the substance of activities and/or expected results, and based on experience it is important to outline the parameters and duration of any limitations accepted by USAID and EROL to avoid misunderstandings.

**Year 2 Plans:** EROL will endeavor to model transparency and inclusive approaches by actively coordinating with other donors and implementers and by supporting counterparts to reach out to the international community and domestic stakeholders as part of their policy-making processes. Even so, EROL recognizes that such coordination is extremely time-consuming and is often difficult not only due to differing agendas but also to conflicting project planning procedures among donors. EROL will continue to keep USAID informed of coordination issues and time spent on donor coordination.

## BACKSLIDING ON MODEL COURT STANDARDS

**Challenge:** JSP was very successful in supporting counterparts to create and promulgate standards and to improve operations in model courts. But, the introduction of some measures during the final months of JSP, the lag time between the end of JSP and the beginning of EROL, and/or other factors seem to have resulted in a lack of sustainability and depth of understanding of standards among key influencers. Turnover among council members and the fact that no more than sixty percent of former judges and prosecutors passed the vetting process has likely also affected the long-term impact of JSP interventions. There simply isn't a critical mass of council members and/or judges and prosecutors, who have deep familiarity with the standards introduced by JSP. In some cases such as the code of ethics for prosecutorial staff that was developed by JSP but never promulgated, the change process was never completed. In other cases, courts and prosecutor offices developed their own local standards, and efforts to achieve uniformity are now needed. Finally, deficiencies in the implementation of technology improvements (e.g. the Case Management Information System) by other donors have hindered the sustainable progress expected from JSP interventions.

As of the drafting of this progress report, only a handful of former model courts are in compliance with even a portion of the Model Court Standards or Court Management Standards as promulgated by the KJC at the end of JSP. Commitment to the standards among leadership, judges, and staff of model courts is similarly uneven, and ongoing adherence to model court principles is low in most existing model courts. For example, clerks and court staff use a variety of means to overcome the transparency engendered by glass windows that were installed for the express purpose of making central filing offices' activities visible to the public. In some courts, paper is taped to the windows. In others, mini-blinds have been installed.

**Opportunity and Recommendation:** In short, remedial assistance to former model courts is needed in several areas, and building on JSP results would likely mean reintroducing JSP-developed standards and resources through extensive training, technical assistance, and mentoring, and such reintroduction would require careful consideration of incentives and disincentives prior to initiating work in any given court. In order to achieve current EROL targets and expected results, it is imperative that activities be extended to JSP model courts with a view to reintroducing from the beginning several model court standards in each of these courts.

## STANDARDS OF PROFESSIONAL CONDUCT AND RESOURCES TO SUPPORT ETHICAL BEHAVIOR

**Challenge:** Few if any courts enforce prohibitions on public visits to judges' chambers, and the failure to archive disposed cases in most model courts has resulted in a failure to store active case files in central filing offices, which instead end up filed in judges' chambers. Governance and transparency are hampered by limited understanding of situational ethics and standards of conduct. Despite the existence of codes of ethics and conduct, and a widespread view that judges and staff both know and understand the codes, there is a great deal of evidence to suggest that there is little nuanced understanding of how to apply ethics standards to specific circumstances. Confidentiality requirements may be ignored when communicating with foreign donors and implementers; monitoring reports suggest that judges' and court staff members' use of personal connections with government officials to solve problems for relatives and friends continues as a way to influence situations such as routine police stops or processing of documents in government agencies; and judges' continued close relationships with attorneys and prosecutors are rarely scrutinized. Signs of progress do exist. For example, disciplinary proceedings were recently initiated against a presiding judge who attended a formal lunch at the local headquarters of a political party.

**Lesson Learned:** There are few resources available to judges, prosecutors, or court and prosecutor staff to guide behavior. The lack of ethics codes governing members of the KJC and KPC has been interpreted as a lack of enforceability of ethics standards even when the member in question should be bound by the standards of conduct governing his or her profession while serving on the given council. On the flip side, the lack of trust in members of councils and in justice-sector professionals sometimes leads to onerous requirements such as the demand that attorney members of each council not practice law while serving as a member of the council. Such requirements make recruitment of Council members, who are well-respected members of the Bar and are willing to forego their livelihood, extremely difficult.

**Opportunity and Recommendation:** EROL has an opportunity to improve both the understanding and practice of ethics by building the capacity of appropriate committees to interpret and apply codes of conduct in a consistent manner and to communicate to judges, prosecutors, and staff a nuanced explanation of how they should apply the codes to specific sets of facts and circumstance in their work and personal lives. Such an effort would require the development of new kinds of

resources on conduct and ethics, including but not limited to extensive commentaries on codes, summaries of decisions of disciplinary committees, establishment of a reliable hotline or other source of timely advice, advisory opinions in response to inquiries, searchable databases with information about specific ethics or conduct issues, and extensive training and education through in-class and on-the-job activities and mentoring by more experienced and well-respected personnel. In Kosovo, the culture of mutual assistance and loyalty to friends and family is so steeped in tradition that even local employees of foreign donor-funded rule of law projects sometime struggle to operate within internationally accepted parameters of ethical conduct or with codes of conduct promulgated by their places of work. It is therefore understandable, that habitual behavior that might be defined in the law as unethical could go unnoticed by an individual and those surrounding him or her. Moreover, the importance of hospitality and courtesy make it especially difficult for justice-sector professionals openly to state that behavior of a court visitor, litigant, or other participant in justice proceedings is acting unethically. This means that EROL must support counterparts to invest “overwhelming force” of messaging, education, and public education if transparency and accountability in the courts is to be enhanced over the next three years. EROL is launching this process with a study tour on ethics, conduct, and discipline in Year 2 Q1 and upon return of the delegation to Pristina, will begin the process of facilitating the establishment of informational resources that will grow over time as more and more situations and sets of facts are summarized or put to use in educational and training materials.

## GOVERNANCE, MANAGEMENT AND COMMUNICATIONS CAPABILITIES

**Challenge:** While EROL counterparts have all benefited from substantial international donor assistance and have made impressive gains since establishment, justice institutions in Kosovo still struggle to define and protect their roles and responsibilities under the rule of law. To date, the KJC and KPC have primarily focused on the establishment of the legal frameworks under which they operate. The absence of a history of institutional capability coupled with the lack of academic or professional education in public policy or public management and administration leaves each Council and its Secretariat with limited resources to build governance and strategic, operational, or day-to-day management capacity. Most decision-making is rushed and based on a combination of rapid legal analysis and assessment of the political landscape rather than on established long-term goals and objectives. The result is that many laws and sublegal documents are rife with internal inconsistencies and conflicts with other laws to which they refer. The challenge is to provide adequate legal guidance while assisting the Councils, the President’s Office, the MoJ, the KJI, and other partners to become managers and leaders of their systems capable of analyzing institutional requirements without losing reform momentum. EROL will continue to offer a balance between assistance to address immediate problems and to empower each counterpart to make informed decisions based on the best interests of their institutions and the public.

For a substantial portion of Year 1, EROL and the KJC were limited in the abilities to achieve governance goals and objectives because of the lack of appointments to the Council by the Assembly. Until the middle of Q4, the KJC was hamstrung to make decisions or take full advantage of EROL support because of difficulty in completing appointment of new members and thus achieving a quorum. The KPC also suffered growing pains during Year 1 of the EROL project. While the KPC did have a quorum, it faced sharp criticism over several Council decisions. These decisions involved the use of leftover budget funds for salary enhancements through danger pay for prosecutors at all levels; the failure to provide adequate justification for proposed appointments; and a proposed appointment of a candidate with a questionable track record in terms of ethics and conduct. Additionally, the lack of clear delineation of competencies between the KPC and the Office of the State Prosecutor, and between staff of the Office of the State Prosecutor and staff of the KPC Secretariat appear to have hindered good governance. Finally, the leadership and governance responsibilities of the Chief State Prosecutor in his role as Chairman of the KPC would also benefit from rationalization and harmonization with international standards, and it may be worthwhile to codify any clarifications through additional improvements to the LSP and LKPC through the upcoming amendment process.

Both the KJC and KPC struggled to communicate principles and policies, or transmit information on new developments and upcoming reforms to the staff of their institutions. To a great extent, the Councils and institutional leaders did not yet appreciate the need for proactive communications until well into the first year of EROL activities. By the end of the Year 1, leadership of both Councils and Secretariats had recognized that they needed assistance to train spokespersons and develop public outreach positions, but neither Council had internalized the need also to communicate internally or to provide targeted information to the clients of their systems (i.e. court visitors, victims of crime, witnesses). The failure to communicate internally and externally is visible among judges and court staff, who have spent much of the past six months panicking about their job security, and among citizens, who have little if any awareness that court jurisdictions or the way they access justice will change substantially in January 2013.

Finally, it should be noted that as in many developing and transitional justice systems, individual and institutional agendas threaten overall progress on transparency, independence, impartiality, and institutional capacity indicators, and Kosovo is no exception to this rule.

**Lessons Learned and Recommendations:** EROL's participation in the drafting of the Regulation on the Internal Activities of the KJC reveals that there is interest in improving governance of each institution; however, it is imperative that EROL use the opportunity to diminish opportunities for personal or institutional agendas to overtake the establishment of governance rules and regulations. EROL should model open and transparent behavior as well as the attitude that the project's true beneficiaries are the citizens of Kosovo, and therefore, assistance to justice-system actors must be delivered with the goal of improving justice overall. In Year 2 and in coordination with USAID and USAID plans to implement USAID Forward with ROL NGOs in Kosovo, EROL will work with NGOs, volunteers, or innovative consulting firms to educate citizens on ethics and conduct principles and citizens responsibilities vis-à-vis the justice system and the courts.

The failure of a strong communications strategy also offers the judiciary and prosecutorial system a clean slate on which they can create a marketing and information campaign that has the potential to reshape not only public perceptions but also judges' and court staffs' self-image. If handled carefully, internal outreach efforts could contribute to the transformation of the courts' corporate culture and a focus on public service, effectiveness, and integrity. Therefore, in Year 2, EROL plans to provide technical assistance and training to justice-sector leaders on communications, change management and leadership, and to expand their understanding of the kinds of information citizens seek under different circumstances ranging from general interest in the court system to a desire to accomplish their business in the court on a specific day.

## PUBLIC AWARENESS AND PERCEPTION, AND COURT USER SATISFACTION

**Challenge:** From a public relations perspective, the main challenge is to reverse the public's negative perceptions of the justice system, particularly of judicial and prosecutorial bodies, which are based largely on inaccurate information and a lack of understanding about legal issues and processes or the work of justice sector institutions. Equal access to justice for minority communities is still viewed as flawed, thus affecting public confidence in justice.

**Lessons and Recommendations:** Making use of the increased media and NGO interest in the developments of the judiciary, and increased understanding on the part of judges of the importance of communicating with the public provides good grounds for establishing transparent and efficient channels of communication between the justice system actors and the general public by making use of media and civil society. EROL will seek out innovative mechanisms to engage the public in providing constructive feedback to the courts.

Additionally, EROL has found that there is a great deal of confusion about how information provided to court users should differ from information or materials provided to the public at large. A fundamental shift in institutional culture toward a user-focus is needed. Throughout the justice system there is a need to enhance understanding of the needs of users, including visitors to the courts. EROL plans to tackle this issue in Year 2 through extensive training and mentoring of judges and court staff throughout the judicial system.

## ACTIVITIES, TASKS, DELIVERABLES, AND PERFORMANCE MILESTONES



Members of the Law on the Courts Implementation Working Group meet with Jennifer Ober (USAID) and EROL staff to discuss preparation of the Action Plan

This section provides a summary of EROL Year 1 activities and describes adjustments to the EROL Year 1 Workplan during the course of the year, as well as emerging opportunities for consideration in Y2 and beyond.<sup>i</sup>

### OBJECTIVE 1: EFFECTIVE OPERATIONS OF JUSTICE SECTOR INSTITUTIONS

#### 1.1 KOSOVO JUDICIAL COUNCIL

Kosovo has launched a major reform of the judicial system with the adoption of the new LOC and LKJC. When the Law on Courts becomes fully operational in 2013, the Kosovo judiciary will have undergone a complete restructuring involving significant jurisdictional transformations and the elimination of various courts as separate jurisdictions, including the High Minor Offence Court, the District Courts and the Municipal and Minor Offences Courts. All first instance courts will become Basic Courts, or a respective Branch of the Basic Court, and the second instance will be institutionalized in a Court of Appeals, which will serve as the court of final instances for most litigants with the exception of a narrow category of criminal and other cases that will be eligible for appeal to the Supreme Court.

In Year 1 EROL focused technical assistance to the KJC on building a firm foundation for the new court structure by strengthening the capacity of the KJC to govern the court system and the transition process; assisting the KJC Secretariat to execute the planning process; and clarifying the respective roles and responsibilities of the KJC, the KJC Secretariat, and the courts in carrying out the transition process. As part of this process, EROL addressed both the short-term need for planning, policymaking, and regulatory drafting and the long-term institutional capacity needs associated with leadership of the KJC and the KJC Secretariat's management effectiveness. The KJC also requested assistance with several critical areas of long-term institutional health, including governance of the KJC itself, human resources management, public outreach through traditional and electronic means, and ethics and discipline.

As Year 1 progressed, EROL increasingly assisted the KJC to select among imperfect solutions to inevitable geographic and jurisdictional transfers of judges and reductions in available senior judicial and staff leadership positions in the courts. In the context of conflicts, gaps, and ambiguities in the laws governing the reform process and the rights of individuals working in the judicial system, EROL assisted the KJC to assess the policy, legal, institutional, and political implications of various options and to select ways forward that would comply with reasonable interpretations of the laws as written, minimize negative consequences for individuals, and offer the greatest chances of improved effectiveness of justice in the courts. In some instances, achieving all three of these goals through one policy option was simply not possible, but by the end of the second quarter, EROL had begun the process of raising the KJC's expectations of the reform process from getting by without major failures to achieving a smooth transition that would result in tangible improvements for court visitors and litigants. As a result, the KJC now recognizes the need to manage the transition process, empower working groups to tackle policy and process issues, and support in-court preparations.

**Key Life-of-Project Result:** *The KJC will have the capacity and competence to administer and govern an independent judicial system*

**Indicator:** *Progress on the KJC Benchmark Scorecard*

**Year 1 Target:** 22

**Year 1 Actual:** 24

**Lesson Learned and Year 2 Plans:** Both the KJC and EROL were challenged in Year 1 to identify the most appropriate balance between urgent activities, generated by EU requirements and political realities, and the establishment of stable and accountable governance and management, through which the KJC and KJC Secretariat would be able to guide the judiciary in the future. In the end, EROL was able to help the KJC make credible decisions despite difficult circumstances

and subsequently to serve as a source of discipline for timely planning and execution of the Implementation Plan and a flexible source of expertise on operations, information management, and communications strategies and policies. In Year 2, this difficult balancing act will persist. However, EROL hopes to collaborate with other donors more closely and to share the burden of time-sensitive requests and long term development assistance. EROL also hopes to develop the skills of KJC and KJC Secretariat leaders to delegate authority and responsibilities to KJC members and senior members of the KJC Secretariat staff for international travel and at least some representational duties.

## **IMPLEMENTATION PLAN FOR THE LAW ON THE COURTS**

### ***Deliverables:***

- ✓ ***Draft Action Plan for the Development of the Implementation Plan for the New Law on the Courts***
- ✓ ***Implementation Plan for the Law on the Courts and Attendant Subordinate Documents***

As anticipated in the Workplan, EROL played a leading role in organizing, facilitating and providing the analytical and decision-making support necessary to tackle the initial implementation planning process for the LOC. EROL's first step was to assist the KJC to create an ***Action Plan for Development of the Implementation Plan for the Law on the Courts*** (Action Plan), which served as the roadmap for the planning process and provided an outline for the content of the Implementation Plan and a strict timeline for developing the final version of the Implementation Plan process.

The Action Plan also identified issues requiring special attention. For example, the Action Plan highlighted the KJC's need to negotiate with other institutions to clarify the legal framework or tackle obstacles such as, *inter alia*, the procedures, sources, and number of candidates necessary for appointment, transfer, and reassignment of judges to the Court of Appeals. Similarly, the Action Plan made provisions for the possible need to transfer judges among the lower courts and the implications of the LOC on job location and security for civil servants working in the Secretariat and courts. Finally, the Action Plan mandated inclusion of steps related to revision of existing regulations related to records management and the development of new registries.

With EROL staff and STTA support, the KJC finalized and approved the Action Plan at the end of EROL Q2, and the Action Plan became the basis of discussions and decision-making for the Implementation Plan, which would ultimately become the legal framework for carrying out the transition to the new court system under the LOC. EROL's technical assistance was instrumental in the completion, approval, and publication of the Implementation Plan as scheduled, on December 1, 2011 and is an important milestone for the transition to a new court structure. Organized into four sections, the Implementation Plan provides detailed actions and time frames for accomplishment of four critical elements of the transition by the KJC, KJC Secretariat and courts: (1) human resources (judges and court staff); (2) physical resources and materials; (3) court administration (case files and registries); and (4) logistics.

At the urging of EROL, the KJC also agreed to include in the Implementation Plan the appointment of an *ad hoc* committee, comprised of Supreme Court judges, to address judicial personnel issues such as the number of judicial positions in each court; the criteria for selecting and proposing judges for transfer/assignment to the Court of Appeals, and the creation of a Court Administration Working Group of judges, court administrators, and representatives of relevant KJC Secretariat departments to address issues such as case files and registries. EROL agreed to serve as the facilitator for each working group and worked with the KJC to determine the makeup of each committee, define the roles and authorities of each committee, and launch their work. Following publication of the Implementation Plan, EROL provided assistance to prepare a Draft Administrative Instruction on the Transfer/Assignment of Judges to the Court of Appeals. This draft instruction provides the Steering Committee with criteria and a standard application form for the transfer of judges to the new Court of Appeals.

In Year 2, EROL will continue to provide assistance to both the Steering Committee and the Working Group and will hire a team of regional court liaisons to work with basic court regions to ensure smooth implementation of instructions developed by the Court Administration Working Group.

***Lessons Learned and Year 2 Plans:*** The inclusive process that EROL encouraged appears to be working to the KJC's and the judiciary's advantage as the Steering Committee and Working Group have both quickly delved into their responsibilities, used systematic approaches to decision-making. As a result, even in the absence of proactive communication between the KJC and judges and court staff, the selection of judges to the Court of Appeals by the Steering Committee and the revision of registries by the Working Group are both receiving positive feedback from judges and court staff and are consequently raising the credibility of the reform process. In Q4, EROL began capitalizing on participatory processes as a way to begin to shift the culture of the courts from passive recipients of policies to proactive participants in the reform process and also to begin breaking down personal and institutional agendas by bringing

together all justice-system stakeholders to provide input to issues such as judicial education strategy and the KJC's web portal development. Thus far, EROL advisors and legal specialists have found this approach to be effective for all parties. For example, the KJC benefited greatly from the input of the KJI, KPC, Supreme Court, and courts, and the KJI, KPC and Gjilan District Court, which will pilot functionality for Basic Court websites in the coming months, all gained ideas for their own websites and for integration with the KJC web portal. In Year 2 Q1, EROL will extend this approach to Basic Court planning sessions on the execution of the Implementation Plan and the introduction of Model Court Standards in the eight new model courts (See Objective 2 below).

At the same time, the process of developing the Implementation Plan for the Law on the Courts with the KJC highlighted for EROL several areas in need of immediate or medium-term attention, including missing information and data, without which it would be difficult to make urgent decisions regarding judicial and staff transfers; operational deficits in meeting existing standards on which the Implementation Plan is based; weak internal communications and training to prepare Secretariat and court personnel for reform; unfunded logistics requirements; low public awareness of the justice system in general and of the planned court restructuring in particular; and nearly non-existent on-the-ground planning for the execution of the Implementation Plan. As a result, in Year 2, EROL plans to assist the KJC and the courts to address:

<b>Members of the Implementation Plan Steering Committee</b>
Supreme Court Justice Nebojsa Boricic
Supreme Court Justice Valdete Daka
Supreme Court President Fejzullah Hasani
Chairman of the KJC Enver Peci
EULEX Judge Gerrit Marc Sprenger

- The full range of steps that have not been legislatively mandated for inclusion in the Implementation plan but nevertheless must be carried out in order to accomplish a smooth transition – for the courts or citizens. These include issues such as removal of non-compliant archives, and clarification of court staff rights and obligations in connection with their status as civil servants.
- Remedial measures to address the lack of compliance with the Court Management Standards, developed under JSP and officially mandated by the KJC, the incomplete and uneven implementation of these standards even in existing Model Courts, and the widespread lack of training in these standards or in modern court management practices – all in the context of a corporate culture in the courts and the KJC Secretariat characterized by reform fatigue and general apathy.
- Integration of execution of the Implementation Plan with preparations for the impact of other legal reforms on court operations and staff workload, including, *inter alia*, the Law on Notary; Law on Non-contested Procedures; the Criminal Procedure Code and Criminal Code; amendments to the Law on the Courts, Law on the State Prosecutor, Law on the Kosovo Judicial Council; Law on the Kosovo Prosecutorial Council; and the possible introduction of private bailiffs.
- Inadequate communication about reforms within the court system, which is leading to unnecessary anxiety on the part of judges and court staff regarding job security and quality of life issues, not to mention a failure of personnel in the courts to recognize both the challenges and opportunities presented by the reforms.
- The dearth of publicly available information about the transition and lack of branding of the transition to translate the benefits of the new court structure into understandable terms for increased public awareness.
- The needs of court users during and following the transition to the new court structure and operational investments to respond to a large volume of court user inquiries and requests. Improving court user services will require extensive education of all levels of the judiciary, which confuses the interest of the public for general information about the courts and the interests of court users, who need to resolve concrete problems and will be seeking information specific to their case. Quality court user services and the availability in the courts of practical information during the transition may ultimately define court users' and the public's perception of the new court system and will therefore receive special attention from EROL in Year 2.
- Minimal funding for the requirements of the Implementation Plan, including for contract labor to carry out portions of the plan. The Model Courts Program faces a similar challenge, and while it is unlikely that new funds will become available in 2012, EROL will use the current crisis as entry point for improving budgeting procedures in 2013.

- The combined burden of the transition to the new LOC and the Model Courts Program for 2012 model courts. This burden will affect both day-to-day operations and the availability of staff time to manage the transition while also implementing new court management standards. In response to this burden, EROL plans to accelerate the provision of training during the first two quarters of Year 2 so that courts will be able to take advantage of streamlined procedures during the transition period and will be better equipped to handle the inconvenience caused by refurbishment work in the courts.

In Q3, EROL developed a concept paper for strategic support to the KJC to address the most urgent of these concerns and also to lay out a framework for developing sustainable capacity in policy-making, planning and management of operations. EROL's Year 1 Q4 and planned Year 2 assistance to the KJC are designed, in part, based on the concept paper and include training and the establishment of critical resources within the judiciary to manage and evaluate the effectiveness of reform interventions.

## **CAPACITY BUILDING FOR THE KJC AND KJC SECRETARIAT**

### ***Deliverables:***

- ✓ ***Draft Reports, Policies and Procedures for the Effective and Efficient Operation and Administration of the KJC and the KJC Secretariat Office***
- ✓ ***Training Curriculum as Needed for the KJC Secretariat***

### ***Additional Q4 Deliverables:***

- ✓ ***Roundtable and Concept Paper on the Development of a National Judicial Education Strategy***
- ✓ ***Roundtable and Concept Paper on Judicial Research Center***
- ✓ ***Workshop on Web Strategy and KJC Web Portal Development***

In addition to immediate assistance directly associated with the Implementation Plan, EROL advised on and assisted with the crafting of the policies necessary for effective governance by the KJC and efficient functioning of the courts. This assistance included facilitation and drafting of several regulations in total or portions thereof. For example, EROL participated in the review and/or drafting of:

- Draft Regulation on Lay Judges;
- Draft Regulation on the Presidents of Courts; Draft AI on the Compensation on Official Travel Expenses (in and out of country).
- Draft Administrative Instruction on the Use and Payment of Incidental Expenses by Court Presidents;
- Draft Administrative Instruction on the Compensation of Members of the KJC and Other Officials, assigned to participate on committees and working groups ;
- Draft Administrative Instruction on the Appointment, Compensation and Engagement of the KJC Committee on Wrongful Convictions and Arrests;
- Draft Administrative Instruction on Management of Judicial Revenue and Judicial Deposit;
- The Regulation on the Evaluation of the Performance of Judges. This regulation establishes criteria and procedures for President Judges to evaluate the work performance of subordinate judges, as well as criteria that will be used by the KJC Evaluation Committee to evaluate judicial performance. The regulation will go into effect March 1, 2012. EROL staff also participated in working groups preparing the Draft Regulation on the Internal Activities of the KJC and the Draft Regulation on the Internal Operations of the Courts.



**KJC Web Strategy and Web Development Workshop**  
Participants provide feedback on proposed content and functionality for target audiences of the KJC Web Portal

***Lessons Learned and Year 2 Plans:*** As members of working groups, EROL local and international advisors have limited ability to influence the level of policy and comparative analysis employed during the drafting process. There is a

danger that the drafting process can become a purely legal exercise with little strategic planning or policy analysis to guide rulemaking. Instead, beginning with the Implementation Plan working groups, EROL will serve as the group facilitator and thereby provide more targeted support to the chairman of the working group to develop the drafting agenda and analytical framework for the drafting process, as well as provide legal research and comparative policy analysis to members of the group and quality control for the final document.

In addition to assistance with concrete regulations and instructions, EROL identified, planned, and implemented ongoing capacity building assistance on long-term strategic issues such as the KJC ICT strategy and plans for improving or creating a new Case Information Management System (CMIS); and the KJC Spokesperson's 2012 communications and public relations plan and budget.

EROL worked with the KJC and the KJC Secretariat to improve how the judiciary communicates critical information about its work and reform efforts with the media and general public. Internal communication within the court system has been emphasized also so that court employees understand how the massive restructuring of the judiciary next year will impact the staff's ability to serve the public. EROL has also set the stage for the delivery of robust public information and media relations training in the next year. It is expected that the findings and recommendations from EROL's Media Assessment Report will support the KJC's development of a comprehensive communications strategy and various public outreach campaigns. EROL also developed and provided a Media Relations Guidelines manual to the KJCS that contains useful tools to help spokespersons share details of the KJC's work by proactively contacting and cultivating professional relationships with members of the media. By supporting the development of public information staff, EROL made it easier for the KJC to liaise with the media and keep track of media inquiries, as evidenced by the fact that the new KJC spokesperson prepared a 2012 Workplan, and municipal courts in Lipjan and Pristina conducted their first ever press conferences.

**Next Steps:** The previously described concept paper (See Implementation Plan for the Law on the Courts above) laid out a roadmap for fundamental institutional capacity building including establishment of an applied research capability to inform improved policymaking and operational decision-making; public outreach through traditional and digital media; and integrated and holistic approach to recruitment, initial education, selection, appointment, continuing training and professional development, performance evaluation, promotion, leadership development, and human resources management. In Q4, EROL presented workshops for stakeholders to introduce each of these concepts. As a result, stakeholders agreed to establish a National Judicial Education Strategy Working Group, which EROL will facilitate in Year 2. EROL expects that the research study will highlight the need for additional educational resources to respond to performance deficits identified through the new Regulation on the Evaluation of the Performance of Judges, and EROL will work with the KJC to revise the Regulation as necessary and with the National Judicial and Prosecutorial Education Strategy Working Group to identify training programs to address deficits in judges' skills and knowledge.

The KJC plans to establish a judicial research center with help from EROL and a strategic alliance with the United States Federal Judicial Center Research Division, which will provide assistance to set up the research center and design and implement initial research projects. The first research project is expected to be a comparative assessment of the job responsibilities of judges and court staff followed by a time study of court staff activities to help guide staffing and revision of job descriptions in the courts.

Further, EROL will support the development of a Human Resource database to support personnel management, the sharing of information between this database and interactive functionality for judges and court staff on the KJC web portal, and the exchange of data between the KJC and KJI to support an integrated performance management and training system for judges and court staff.

Finally, EROL will work with the Federal Judicial Center and the KJC to plan a study tour to Washington DC and the Minnesota State Judiciary on the topic of judicial ethics, conduct and discipline.

## **REVIEW AND ASSESS APPOINTMENT, DISCIPLINE AND ASSIGNMENT PROCEDURES OF THE KJC**

### ***Deliverables:***

- ✓ ***Draft Reports on the Policies and Procedures for the Appointment, Assignment and Discipline of Judges and Subordinate Documents***

During EROL's initial assessment process and development of the Action Plan for the Development of the Implementation Plan, EROL identified two areas, in which improved procedures and/or new regulations or instructions were necessary to ensure the fair, transparent, and effective appointment, transfer, assignment, and discipline of judges. First, the KJC needed to adopt criteria and procedures to carry out the imperatives of the Implementation Plan, including the

establishment of a Court of Appeals (CoA) and selection of judges to serve on the CoA). Secondly, the KJC would need to work with the Office of the President to improve inter-institutional coordination of the appointment process. In July 2011, the KPC approved an Administrative Instruction on Submission of Proposals for the Appointment of Candidates as Judge, which entered into force on July 26, 2011.

EROL assisted the KJC to conduct empirical, policy, and legal analysis to identify alternative options for recruiting and selecting judges for transfer to the Court of Appeals and for selecting and transferring judges among the lower courts. Recognizing the possibility that important vacancies at the Basic Court level might need to be filled through involuntary transfers in order to meet the requirements of the LOC, EROL conducted legal research into international practices, as well as comparative analysis of the Constitution, LOC and LKJC in order to determine criteria and any applicable time limitations on involuntary transfers. EROL developed a flowchart to demonstrate gaps and conflicts between legal documents and reported findings to the KJC and participants of the Working Roundtable on Transfer of Judges and Prosecutors. Additionally, EROL developed a data collection instrument to gather information about judges' qualifications in order to determine how many judges might be asked to move to another geographic jurisdiction as a result of the LOC. On the basis of EROL's research and analysis, the KJC has recommended an amendment to the LOC to accommodate involuntary transfers of longer duration than originally envisions in the LOC. The substance and language of the proposed amendment could be improved to address several poorly drafted paragraphs on voluntary and involuntary transfers and to harmonize the amendment to the LOC with the LKPC and the Constitution. In Year 2, EROL will work with the KJC and MOJ to as part of planned support for legislative drafting related to the LOC, LKJC, LSP, and LKPC.

Through direct support to the Office of the President, EROL also followed up on the assistance (described above) provided to the KJC. The Chairman of the KJC and the Director of the Secretariat participated in three EROL-facilitated working roundtables on Selection, Appointment, Transfer, and Dismissal of judges and prosecutors. The result has been a clearer picture on the part of all participants of the gaps and/or conflicts in laws governing these procedures, and some negotiated agreements on – albeit less controversial – issues.

## **SUPPORT MINORITY OUTREACH**

### ***Deliverables:***

- ✓ ***Minority Access Assessment***
- ✓ ***Outreach Campaign***

In an effort to assist the KJC meet minority representation requirements for inclusion and access to justice as required by law, EROL conducted an assessment to identify barriers preventing minority participation in the justice system and to develop strategies for their elimination. EROL interviewed over 50 justice sector representatives and conducted 5 focus groups with representatives of minority communities (Serbian, Bosnian, Gorani, Turk and RAE community) as part of the assessment process. Interviewees represented the KJC, KJI, KPC, MOJ, Kosovo Constitutional Court, and legal aid offices. Additionally, EROL spoke to international organizations working in Kosovo (e.g., EULEX, ICO, UNDP, OSCE), and with minorities working in the media, judiciary, NGO's and other fields. Focus groups were held in (Shtërpce/Štrpce, Mamush/Mamuş/Mamuš, Gorazhdevc/Goraždevac, Dragash/Dragaš and Gjilan/Gnjilane. Additionally, one (1) focus group was held with Law students who are coming from minority communities. In total 56 representatives from minority communities participated in focus groups.

EROL also began data collection to support the transfer of judges to the Court of Appeals and among lower courts in order to understand the extent of the problem of minority community representation in the Kosovo Court system. At the end of Q4, EROL staff and interns began to plan and execute this data collection initiative.

By the end of Year 1, EROL had prepared a draft Minority Equal Access to Justice report and begun to develop brochures to assist minority candidates for judicial and prosecutorial positions to apply for vacancies and/or entry into the ILEP program.

**STRATEGIC PLAN AND ANNUAL OPERATIONAL PLANS****Deliverables:**

- ✓ **Approved Strategic Plan (draft Strategic Plan submitted to KPC)**

- ✓

**Additional Deliverables:**

- ✓ **Implementation Plan**
- ✓ **KPC Annual Workplan**

In comparison with support provided to the KJC, EROL assistance to the KPC in Year 1 reflects a more narrowly tailored package of technical assistance aimed at assisting the KPC to develop a 3-5 year strategic plan, an Implementation Plan for the Law on State Prosecutor, and a concrete action plan for 2012 to guide the KPC's internal activities, reform objectives, and collaboration with the donor community.

At the outset of Year 1, EROL initiated an analysis of KPC Regulations and recommended priorities for drafting of regulations and administrative instructions to guide the work of the KPC and activities of the State Prosecutor that fall under the governance of the KPC. However, the KPC's decision-making was often rushed and unilateral, and based on a combination of rapid legal analysis and assessment of the political landscape rather than on established long-term goals and objective. This deficit in institutional capacity, coupled with a lack of internal technical expertise in public policy, management or administration, limited KPC's and KPC Secretariat's resources to establish strategic governance and build operational and management capacities. In response, EROL provided focused support to the KPC for strategic planning and development of an Implementation Plan to ease the transition to the new court structure established in the new Law on Court. And, EROL quickly began to provide direct technical and drafting assistance to the KPC and mentor KPC Secretariat staff to assess institutional development needs and develop optimal strategies for working with donors to build capacity and improve the Councils' governance.

**Key Life-of-Project Result:** *The KPC is built on the foundation of an efficient organizational structure with a concrete strategic plan, cogent internal rules, a well-defined public relations strategy, and a professional, trained administrative staff*

**Indicator:** *Progress on the KPC Benchmark Scorecard*

**Year 1 Target:** 24

**Year 1 Actual:** 7

By half way through the year, EROL had opened a constructive dialog with the Chief State Prosecutor and the Director of the KPC Secretariat, and presented strategic planning processes to help the Council prioritize capacity building goals and define desired results-oriented interventions by donors. EROL supported the development of concrete activities and institutional objectives to improve resource management, administrative effectiveness and prosecutor professionalism. As part of this assistance, EROL advised the KPC Prosecutor Performance Review Unit (PPRU) to draft an Implementation Plan for the Law on the State Prosecutor. With EROL drafting input and guidance, the KPC adopted the Implementation Plan that includes priority objectives, activities, tasks and outputs that align with the timeline contemplated by the KPC's draft Strategic Plan. EROL and the PPRU also led a working group to develop a first year Work Plan, which the Council adopted, as written, at the beginning of Year 2.

**Lessons Learned:** EROL gradually shifted its role from being the primary author of draft regulations and administrative instructions, to that of an advisor in a planned and participatory drafting process. The manner in which the KPC transitioned to the new Law on the State Prosecutor is illustrative of this role change. The KPC Secretariat worked closely with EROL to develop an Implementation Plan that thoroughly mapped all transition details but then took the lead in adapting a less comprehensive version while setting up committees to review resources and manage the system conversion. EROL interventions positively slowed this process down and encouraged the KPC to adopt a more holistic approach with its transition and planning activities. The end result was a more simplified Implementation Plan than EROL had recommended, but this streamlined version clearly identifies goals and objectives as well as a relatively comprehensive list of steps to be taken and timelines to ensure accomplishment of goals and objectives. In the case of the KPC, strategic planning in Year 1 was somewhat premature given the KPC's need to establish itself and its basic organizational infrastructure before moving on to long-term planning. At the same time, EROL's support for the strategic planning process provided the KPC with the basic building blocks for dialog with donors and helped expand the KPC's understanding of its own mission and priorities beyond law enforcement tasks and to integrate administrative effectiveness, public outreach, and institutional capacity building into its goals and objectives for the next 3-5 years.

## **SUPPORT FOR INSTITUTIONAL STRUCTURE AND ADMINISTRATION**

### ***Deliverables:***

- ✓ ***Draft KPC Regulations, Policies and Procedures, and Attendant Documents***

During Year 1, EROL supported the development of KPC secondary legislation, ranging from the Terms of Reference for the Directors of the Secretariat and Prosecutor Performance Review Unit through the development of specific working groups that generated the Methodology for Prosecutor Evaluation, the KPC's 2012 Work Plan, and the Implementation Plan for the transition contemplated under the Law on the State Prosecutor. Additionally, EROL worked with the KPC and the Office of the President to negotiate and draft regulations and instructions for selection, proposal for appointment, appointment, and dismissal of prosecutors. Thanks to EROL support, the Administrative Instruction on Submission of Proposals for Appointment as Prosecutor, entered into force on September 30, 2011.

In Q4, the KPC requested assistance from EROL to analyze and make recommendations for improving a draft Regulation on Transfer and Promotion of Prosecutors that was prepared by KPC Secretariat staff. EROL provided an extensive review of the document but identified gaps in existing language of the draft and provided policy analysis geared toward helping the KPC recognize the importance of integrated long-term norms for transfers and promotions with performance evaluation, professional development opportunities, career enhancement, and institutional goals and objectives. EROL recommended that the KPC draft a regulation to cover the period from March 2012 through December 31, 2012 and that EROL assist the KPC in Year 2 Q3 and Q4 to assess the effectiveness of the recently developed norms and prosecutor performance evaluation criteria and to create a comprehensive performance and professional development mechanism that would both create incentives for prosecutors to take on difficult posts and serve the system's need for flexibility. As a result, the KPC decided to pass a temporary regulation and to work on a more permanent regulation with assistance from EROL in Year 2.

***Lesson Learned and Next Steps:*** The KPC continues to struggle preparation of complete and adequate proposals for appointment of prosecutors. In many instances, the KPC simply has not delved deeply enough into candidates backgrounds. Part of the issue is certainly a lack of nuanced understanding of ethics and conduct, as well as difficulty in assessing personal integrity and other qualitative qualifications and characteristics, with which candidates' character and behavior should be consistent. In Year 2, EROL will work with counterparts to take a step back from the day-to-day burden of preparing for the court restructuring process and will press all counterparts to participate in the assessment of each set of qualitative criteria and unpack the elements of these criteria. Through short-term technical assistance, EROL will continue to facilitate greater technical expertise within the KPC. Primary focus will be given to developing regulatory schemes required by law (e.g., codes of ethics and conduct for the KPC, prosecutors, and prosecutorial staff); creating an effective communication strategy with professional public information capabilities; preparing a cadre of skilled instructors and standards for initial and continuing education; and crafting proficient legislative drafting competencies.

## **SUPPORT FOR DEVELOPMENT OF KPC PUBLIC RELATIONS STRATEGY**

### ***Deliverables:***

- ✓ ***Draft PR Training Program for KPC***
- ✓ ***Draft KPC Public Relations Strategy***

EROL was able to begin effective dialog with the spokesperson of the KPC only as plans for the KJC Web Portal and Web Development workshop progressed. However, following inclusion of the KPC spokesperson and a KPC protocol officer in the website development workshop and negative coverage of the KPC in print and broadcast media, the KPC requested direct assistance to train and mentor staff, who have been designated to assist with policymaking related to public relations and the use of public relations channels to improve the image of the State Prosecutor. In Year 2, EROL will include the KC spokesperson in additional PR and public outreach training and technical assistance. Specifically, EROL plans to assist the KPC to develop a regulation or instruction to guide media relations, public outreach and other public information activities, including release of information about specific trials or release of confidential or identifying information related to victims and/or witnesses of crime. By the end of Year 2, Q3, EROL expects to have assisted the KPC to develop its Public Relations Strategic Plan, as well as any secondary legislation necessary to guide public relations in the future.

## SUPPORT FOR LEGISLATIVE DRAFTING

### Deliverables:

- ✓ *Training Program and Manual (Protocol)*
- ✓ *Redesigned Legislative Development and Enactment Strategies To Include Public Input*

The Ministry of Justice (MOJ) possesses enormous responsibility for advancing the rule of law in Kosovo. It is critical therefore that the MOJ skillfully draft laws, policies and regulations that promote sound public policy objectives and are void of internal contradictions or conflicts with legislation produced by other ministries. This extensive directive demands that MOJ lawyers and advisors be adept at analyzing and advocating public policy proposals and demonstrate exceptional technical drafting skills. EROL took several affirmative steps to uphold the MOJ's central role in the administration of justice.

EROL provided an introductory course for the MOJ's Department for Legal Affairs (DLA) that examined the importance and process of public policy development and legislative drafting. The two-day workshop involved interactive, hands-on exercises intended to improve problem identification and analysis of whether a new law or amendments would be the most effective mechanism for addressing the policy issues identified. EROL developed a "Public Policy Analysis and Development Protocol" that served as the basis for many of the workshop public policy analysis exercises. At the MOJ's invitation, EROL planned to provide similar training for legal advisors in other government ministries. However, following the EROL workshop, the Office of the Prime Minister issued new legislative drafting guidance, and EROL and the DLA decided to postpone additional workshops until the Ministry of Justice's legislative agenda for 2012 was finalized.

At the end of Q4, the Ministry of Justice requested that EROL describe the nature of the support the project would be able to provide to the legislative drafting groups that will be charged with drafting amendments to the four core laws affecting the judicial and prosecutorial systems (LOC, LSP, LKJC, LKPC), as well as the Law on State Advocacy. EROL proposed to support each working group with expertise on problem identification and policy analysis; legal analysis (including comparative analysis); legislative drafting; and harmonization of the four laws with one another and with other relevant legislation. As part of this assistance, EROL would also assist the MOJ to ensure common use of terminology and definitions within and among the four laws, as well as ensure that the translation and definition of each term is consistent in each language. In most cases, terms and definitions are left to the last stage of the drafting process, which is characterized by the compilation of chapters that are drafted by separate teams in isolation. There is rarely time at the end of the process to negotiate the use of terms or to harmonize language. As a result, different terms are used – even within the same law. Inconsistent translation and the lack of standard translation of terms into English and Serbian have resulted in acute confusion about the intent and meaning of the Constitution and the aforementioned laws. In fact, many of the difficulties faced by the KJC in preparing the Implementation Plan for the LOC and encountered by the KJC, KPC and OP were related to drafting errors and inconsistencies between laws and between translations of each law.

**Key Life-of-Project Result:** *The Ministry of Justice has a cadre of lawyers trained and competent to engage in legislative drafting, international legal assistance, and litigation*

**Indicator:** *Progress on the MOJ Benchmark Scorecard*

**Year 1 Target:** 18

**Year 1 Actual:** 15

EROL proposed to support each working group with expertise on problem identification and policy analysis; legal analysis (including comparative analysis); legislative drafting; and harmonization of the four laws with one another and with other relevant legislation. As part of this assistance, EROL would also assist the MOJ to ensure common use of terminology and definitions within and among the four laws, as well as ensure that the translation and definition of each term is consistent in each language. In most cases, terms and definitions are left to the last stage of the drafting process, which is characterized by the compilation of chapters that are drafted by separate teams in isolation. There is rarely time at the end of the process to negotiate the use of terms or to harmonize language. As a result, different terms are used – even within the same law. Inconsistent translation and the lack of standard translation of terms into English and Serbian have resulted in acute confusion about the intent and meaning of the Constitution and the aforementioned laws. In fact, many of the difficulties faced by the KJC in preparing the Implementation Plan for the LOC and encountered by the KJC, KPC and OP were related to drafting errors and inconsistencies between laws and between translations of each law.

**Next Steps:** As of the end of Y1, EROL was awaiting guidance from USAID, which will be coordinating all donor support for the LOC, LSP, LKJC, and LKPC, on EROL's role in supporting the drafting process. The importance of these four laws to EROL expected results, as well as the value of the process of supporting all stakeholders to improve policy analysis, negotiation, and legislative drafting skills makes EROL support to the MOJ working groups of particular importance. If approved, EROL hopes to use the drafting process for each of the laws as a platform for improving the drafting process by demonstrating the value of effective policy analysis and attention to internal and cross-law harmonization of legal content and definitions. The outcome of assistance would be a detailed manual that would complement the official guidance provided by the Office of the Prime Minister.

## TRAINING FOR INTERNATIONAL LEGAL COOPERATION DEPARTMENT (ICLD) LAWYERS

### Deliverables:

- ✓ *Training Needs Assessment*
- ✓ *Training Program and Practice Manual*
- ✓ *Necessary Mutual Assistance Exchange Trips Support*

The Department for International Legal Cooperation (DILC) is now the designated department of the Ministry of Justice charged with international legal cooperation and the provision of assistance requested by foreign governments in criminal and civil cases. The effective execution of international legal assistance requires both adequate processes, as well as an understanding of international standards. While Kosovo is currently party to only a handful of bilateral agreements establishment of policies, procedures, and forms in accordance with European and key international legal standards will both serve to increase the credibility of the Government of Kosovo as a partner in international legal cooperation and to increase the efficiency with which the courts and justice institutions respond to requests. EROL planned to provide training and develop a practice manual guide the work of the DILC in criminal and civil matters; however, EULEX has deployed a team of advisors to DILC, and ECLO plans to initiate a “twinning” project in 2012 to assist Kosovo to meet EU standards. As part of their advisory assistance, EULEX has worked with DILC to develop a formal policy, which is expected to be promulgated as a regulation or instruction for handling requests and cases in criminal matters. After a lengthy negotiation process, ECLO and EULEX agreed to limit their assistance to criminal and family matters, and EROL committed to providing training on civil matters. As a result, in Q4, EROL conducted a training needs assessment and a two-day workshop for 8 of DILC’s 11 legal officers. Of the 8 legal officers, 3 received mentoring and ToT from EROL STTA and attended the workshop as both participants and apprentice trainers. As a result, DILC will be able to conduct similar workshops for new staff and have a team of individuals, who are capable of serving as resources to colleagues.

The workshop consisted of several training modules and two interactive practical exercises. Specifically, the students received training in (a) Kosovo Laws relating to International Legal Assistance in Civil Matters; (b) International Principles relating to International Legal Assistance in Civil Matters, with a focus on the Hague Conference and the European Union; (c) Service; (d) Taking of Evidence; (e) Legalization/Apostille and Recognition and Enforcement of Foreign Judgments; (f) Issues in the Kosovo Legal, Regulatory and Institutional Regime for International Legal Assistance in Civil Matters, and (g) Conclusions/Updating of the Practice Manual.

*“So far, we have had more experience in dealing with criminal cases. Thanks to USAID’s practical training, everyone on our team is now more skilled on drafting cover letters and presentating our day-to-day work in civil cases. The results of the training are already reflected in the significant increased quality of drafting and quality of facts contained in the cover letter. Also, legal officers take less time to draft.”*

*Lindita Ademi, Senior Legal Officer, Ministry of Justice  
International Legal Cooperation Department*

There was a high level of dialogue between the 2 international trainers and the students, with the 3 ToT trainees playing a useful and productive role in ensuring that the training was conducted in an interactive style with input from the DILC participants. The ToT trainees also led the two Practical Exercises on (a) Service; and (b) Apostille/Legalization, Taking of Evidence, and Recognition and Enforcement of Foreign Judgment. Beyond the 7 lecture-based training modules and 2 practical exercises, the students also validated and provided feedback on the Practice Manual, which was used as the basis for the training and was designed to be revised and introduced as a practical, day-to-day resource for DILC staff.

Important outcomes of the training included not only improved professional capacity on the part of participants but also a collective recommendation that standardized forms be prepared for use by the Kosovo courts in international legal assistance in civil matters, and there was general agreement that these forms should be based on the format of existing Hague Conference forms and placed on the MoJ webpage for use by Kosovo court officials. These forms would include: (a) Request, Certificate and Summary of Document to be Served; (b) Recommended Model for Letters of Request; (c) Model of [Service] Certificate; and (d) Form confirming the issuance and content of a judgment given by the court of origin for the purposes of recognition and enforcement. It was also agreed that similar training on international legal assistance in civil matters should also be provided by EROL to relevant judges and legal officers within the Kosovo courts, in coordination with the appropriate Kosovo institutions, including the Kosovo Judicial Institute.

**Next Steps:** On the basis of these recommendations and USAID approval, EROL has incorporated training on international legal cooperation for judges and relevant court staff into the Year 2 Workplan for delivery at the end of Q1 or beginning of Q2. Additionally, in order to elevate the status of standards set forth in the Practical Manual, EROL will work with the DILC to develop standardized forms and procedures for incorporation into a regulation (or instruction) of a similar nature to the document prepared by EULEX. As appropriate, EROL-developed text could also be incorporated into a common regulation or instruction that would cover all areas of international legal cooperation; however, this approach would need to be handled carefully to avoid future tension with EULEX and ECLO. Regardless, by the end of Year 3, EROL would expect to have developed standard practices and procedures of an obligatory nature that would meet European and international standards and thereby contribute to Kosovo’s credibility in negotiating mutual assistance agreements and eventual accession to EU conventions.

## TRAINING FOR LITIGATION UNIT LAWYERS AND FACILITATION OF INTER-AGENCY COORDINATION

### *Deliverables:*

- ✓ ***Training Needs Assessment***
- ✓ ***Training Program and Practice Manual***
- ✓ ***Establishment of Inter-agency Coordination Working Group***

In Q3, EROL facilitated the participation of three of the then six-member team of legal officers from the MoJ's Division for Judicial Litigation in a trial advocacy skills training conducted through the KJI. Since these attorneys of the Division for Judicial Litigation attended training at the KJI, EROL progress with the Ministry of Justice Department of Legal Affairs to develop a tailored training program for staff litigation attorneys has been slowed by staff attrition and a concomitant lack of available participants.

As stated above, in February, EROL proposed to provide technical assistance for the Law on State Advocacy, which will focus exclusively on legal representation of the Government of Kosovo and of its ministries and departments. At the end of Q4, the Ministry of Justice notified EROL that it would like EROL to serve as the lead technical assistance provider to the working group that will be draft the Law.

**Next Steps:** EROL has included assistance to the working group on the Law on State Advocacy in the Year 2 Workplan, has committed to providing assistance to the Department for Legal Affairs expects to provide training to attorneys of the Department for Legal Affairs and technical assistance to improve case management through assistance for database development. EROL plans to conduct an initial needs assessment for the database and information management requirements in Y2 Q1. Additionally, EROL is considering provision of assistance to increase the effectiveness of MOJ recruitment and career development for staff attorneys in order to increase the prestige of these positions and/or to create a specialized 2-3 year program that would lead to more senior positions in the Ministry or be considered valuable for senior government or private-sector positions such that talented young attorneys would be more interested in jobs with the Department.

## 1.4 CHAMBER OF NOTARIES

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**Key Results:** *1) Notarization is taken out of the courts and is in the hands of an efficient notary service; and 2) the law is amended to take into account best practices.*

### *Deliverables:*

- ✓ ***Recommendations for Amendments to Notary Law***

In Q1, EROL commissioned and delivered an extensive analysis of the Law on Notary with recommended improvements. The review was critical of the basic framework and meet with a degree of resistance from counterparts and USAID partner donors. USAID and EROL re-engaged and attended a MOJ Working Group meeting at the end of Q3. At that time, the partners agreed that EROL would participate in the Working Group and support the KJC to identify implications of the introduction of the notary system so that the MOJ, Swiss implementers, and the judiciary would be able to develop plans to address the needs of the courts and citizens emerging from the transition process. The Working Group had not met again as of the end of Y1, but EROL continued to monitor the launch date for the notary system and to incorporate issues associated with the transition into activities with the KJC. For example, EROL highlighted content related to the notary system for the KJC's new web portal and court websites during the KJC Web Strategy and Web Portal Development Workshop in March 2012 and during website development follow up meetings with the KJC.

## ADDITIONAL ACTIVITIES

**Challenges:** As stated above, the transition to the notary system will eventually decrease the foot traffic in and administrative burden on the courts; however, in the short term, the courts face a set of decisions and tasks that will need to be addressed at the same time that the courts are preparing for the transition to the new court system and that the model courts are both undergoing refurbishment and implementing improved procedures and standards. The courts will need to determine how best to comply with the Law on Notary, handle documents being stored in the court, and assist citizens to take advantage of promised benefits of the notary system. Most observers believe that few documents will be in-process in courts when the notary system becomes mandatory. The MOJ currently plans a transitional phase, during which citizens will have a choice between the courts and notaries to carry out procedures that currently can only be handled by the court system. During this transitional period, courts will need procedures to inform court visitors of their

options and to direct them to designated notaries for their regions. Courts will also need to develop policies and procedures for returning and/or issuing copies of documents at the request of court users.

There is currently a deficit of trained notaries. Some municipalities will not have enough notaries to meet estimated needs. A few municipalities will be left without notary offices altogether, and citizens in those municipalities will be expected to travel to specific notaries in other regions. Finally, regardless of public awareness campaigns, it is likely that most citizens, who seek document services previously received in courts, will return to the same courts where they received such assistance. If the courts hope to maintain or continue to improve court user satisfaction they will have to develop strategies and informational resources to assist citizens to identify notaries and required documents, forms, and fees. In the absence of effective and practical assistance, citizens will not only be confused about how to proceed but will also blame the failure of the justice system to meet their needs efficiently on the courts. EROL faces three challenges in this regard: 1) getting the Ministry of Justice, other donors, the KJC, and the courts to focus the intended and unintended consequences of the “soft launch” and eventual mandatory procedures of the notary system on the courts; and 2) ensuring that the courts also recognize the confusion and inconvenience that citizens will experience, the information citizens will need to navigate the new system effectively, and the courts’ responsibility to mitigate the negative aspects of the transition for citizens; and 3) assisting the KJC to secure and devote resources to support the transition and citizen services in time for the launch of the notary system and for an adequate period of time (at least eighteen months), during which a substantial portion of citizens requiring notary services will still first come to the courts seeking these services. Finally, the phased transition will require the courts to update information for court visitors after the notary system becomes mandatory and as new notaries are licensed and begin operations in each municipality.

**Key Life-of-Project Result:** *The Presidential powers related to the justice sector are clear and well-defined. The staff of the Office of the President’s Legal Department is trained and professionally competent to handle matters pertaining to the justice sector.*

**Indicator:** *Progress on the OP Benchmark Scorecard*

**Year 1 Target:** 12

**Year 1 Actual:** 9

**Recommended Next Steps:** At the end of Year 1, USAID and EROL proposed to assess how the Law on Notaries and its amendments will impact the court staff’s ability to perform the specific duties such as verification and validation of documents, and to assist the courts to develop policies, procedures, and court visitor information. In Y2 Q1 and Q2, EROL recommends 1) working with the MOJ and KJC to develop content for informational materials that can be easily distributed in the courts; content and functionality for the KJC web portal or a temporary KJC website devoted to the transition to the new court system to assist court visitors to identify and find notaries; and 2) incorporating the transition to the notary system in planning activities and tasks to be addressed by the courts as part of the process of executing the Implementation Plan for the LOC; and 3) if necessary, assisting the KJC to develop a regulation, administrative instructions, or revisions to Court Management Standards to accommodate changes associated with the introduction of the notary system.

## 1.5 OFFICE OF THE PRESIDENT OF THE REPUBLIC OF KOSOVO

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The Office of the President plays several important roles related to the justice sector, including the constitutional functioning of government institutions; protection of the rights of minority communities; appointment or co-appointment of security and intelligence leadership; declaration and oversight of security and intelligence forces during states of emergency; granting of pardons; and appointment and dismissal of judges and prosecutors, including appointment and dismissals of the President of the Supreme Court and the State Prosecutor upon proposals from the Kosovo Judicial Council and Kosovo Prosecutorial Councils respectively. In Year 1, EROL collaborated with the OP to improve its own understanding of its responsibilities and authorities under the Constitution and relevant legislation. EROL also worked with the OP to develop the policies and procedures to carry out its responsibilities and exercise its authority effectively while also respecting the competencies, policies, and procedures of other institutions – such as the KJC and KPC – that are also accountable to the public for the transparency and effective functioning of the justice system.

The OP, KPC and KJC now share responsibility for ensuring that those individuals, who are invited to the bench and the prosecutorial system have the knowledge, skills, personal qualities, and behavior required to administer justice within the parameters of the Constitution and laws of Kosovo while remaining both independent in their judgment and accountable to the public for the fairness, efficiency, and transparency of their procedures, actions, and decision-making processes. In Year 1, EROL has helped each of these institutions to recognize that “the devil is in the details.” It is the definition of terms (e.g. “appointment,” “reappointment,” “transfer,” “proposal,” approval,” “decree”), and the scope of responsibilities and authorities of each institution for each step of each procedure. EROL assistance helped to identify conflicts and

inconsistencies between the Constitution and the four key laws (LOC, LKJC, LSP, and LKPC) that influence appointment, transfer, and dismissal of judges and prosecutors and helped all three institutions distinguish between issues that could be solved through inter-institutional negotiation and/or sublegal and those issues that would require legislative amendments to be resolved adequately. As a result, the KJC and KPC attempted to address those issues that would benefit from legislative amendments in draft recommendations prepared in March 2012.

## INTRA-GOVERNMENTAL ROUNDTABLES AND JUSTICE-RELATED COMPETENCIES

### Deliverables:

- ✓ *Two Intra-governmental Roundtables (3 roundtables)*
- ✓ *Background Information Materials on Presidential Competencies*

*“As partners, EROL has been very transparent and cooperative from the beginning. We have worked together to bring conclusions from the three round tables. These round-tables have really contributed to analyzing in practical detail the majority of Presidential competencies, which are based on the Constitution and the respective laws. So, the round tables were practical in the sense that we identified through professional discussions the practical application of such issues related to the Presidential competences that usually created challenges. Also, the organization of the round tables was a good initiative as they resulted in the drafting of several internal regulations, like the Regulation on the Procedures for the Proposal of Judges and Prosecutors. The round tables were a very professionally organized forum, where competent people brainstormed and issued joint conclusions for the practical application of these competences. We also have identified future steps of work.” Ariana Qosaj Mustafa, Political Advisor for Legal Affairs, Office of the President of Kosovo*

EROL conducted a series of 3 intra-governmental roundtables to support the Office of the President (OP), the KJC and the KPC in analyzing and drafting provisions governing judicial and prosecutorial appointment and transfers. Participants were diligent in examining the differences between specific and non-specific court appointments, and paid special attention to ethnic composition requirements mandated by the Constitution. Government participants also reviewed the policies to identify areas vulnerable to political influence in the process. At the final workshop, the discussion focused on how to implement transfers within permissible constitutional parameters without undermining the constitutional competencies of the President or reducing the powers of both Councils. A key point of concern dealt with how to resolve situations where a candidate simultaneously applies for appointment as a judge and prosecutor.

In addition to resolving issues among the three institutions and identifying problems that would require legal reform to be solved, the intra-governmental roundtables proved effective in establishing open dialogue between justice sector institutions and building a common interpretative approach for demarcating ambiguities concerning constitutional powers. The roundtables also helped the KJC and KPC to find areas of common interest, for which the councils could develop or advocate for common standards and procedures. The process also helped the KJC and KPC to define a handful of unique constitutionally mandated authorities and distinguishing institutional characteristics that would require different approaches, policies, and procedures.

**Impact:** EROL’s technical assistance and series of roundtables on the appointment, transfer and dismissal of judges and prosecutors produced tangible results, and demonstrably enhanced the coordination among the vital institutions that are tasked with appointing and dismissing judges and prosecutors. By providing direct technical assistance to the OP’s Legal Department, EROL also raised the capacity of its staff to draft and review legislation, including the procedures governing such nomination and appointment processes. EROL’s efforts led to the codification of two administrative instructions that govern how the KJC and KPC propose candidates for appointment as judge or prosecutor, respectively, and two regulations that govern the process the PO must follow to appoint candidates as judges and prosecutors. The clarity and consistency of these protocols will promote confidence that the appointment process is transparent and constitutionally sound.

**Lesson Learned:** As part of the process of supporting the OP, KJC, and KPC to rationalize procedures for the appointment, transfer, and dismissal of judges and prosecutor and assisting the KJC and KPC to develop Implementation Plans for the LOC and the LSP, EROL conducted detailed legal analysis of the Constitution and each relevant law in order to help the institutions synthesize all five documents into comprehensible legal norms. However, after the second roundtable, EROL determined that distribution of elements of each norm across multiple documents made it extremely difficult for participants to zero in on critical legal provisions governing the practical issues they were facing in administering their responsibilities for appointment, transfer, and dismissal. Following the second roundtable, EROL produced flow charts outlining on one page the conditions, criteria, institutional authorities, and processes, outlined in the Constitution and each law. Where there was disagreement among legal documents, each flowchart presented the given

norm as reflected in each document separately and thereby helped the institutions to zero in on problematic language and discuss alternative interpretations and options. In some cases, it remained impossible to find a common interpretation, to which all three institutions could agree. In other cases, EROL was able to assist with recommendations or to conduct further research on the intent of drafters of the specific law in question, or on the interpretation of similar language or norms through comparative analysis of similar norms in Kosovo legislation, in international law, or in comparable country contexts. In the future, EROL will use similar tools to synthesize legal analysis into user-friendly, streamlined documents and will work with each institution to build internal capacity to analyze and present legal concepts in ways that will make it easier for policymakers to clarify legal norms efficiently. More importantly, EROL will provide assistance to legal drafters to reduce the incidence of similar inconsistencies and gaps within and across laws, and to improve harmonization of amendments to existing laws.

## **STRENGTHEN THE LEGAL REVIEW AND DRAFTING CAPACITIES OF THE LEGAL DEPARTMENT**

### ***Deliverables:***

- ✓ ***Draft Legal Assistance***
- ✓ ***Legal Guidelines and Recommendations***

EROL's early efforts to help each Council and the OP to create smooth procedures for appointment of judges and prosecutors led to the codification of two Administrative Instructions that govern how the KJC and KPC propose candidates and two regulations that govern the process the OP currently follows to appoint judges and prosecutors.<sup>3</sup> These regulations also helped to clarify confusion and diffuse tension between the OP and one of the councils when a candidate with a deficient record was presented to the OP for appointment, and the OP requested additional information. Initially, the council in question was offended by the request but after a careful legal review of the regulations by EROL it became clear that both institutions had, for the most part, followed procedures outlined in the applicable regulation but that the regulations themselves need to be further clarified to address similar situations.

Similarly, EROL was asked to evaluate the issue of "simultaneous proposals" to the OP by both Councils for the appointment of the same person. The purpose of this analysis was to determine how the OP should handle situations, in which both the KJC and KPC had received applications from the same individual, and both Councils deemed that the candidate should be proposed for appointment to their respective institutions. EROL assessed issues such as whether the individual applicant, Councils, or the OP should be responsible for determining which proposal should be reviewed by the President and whether it was appropriate for the OP to request that the candidate withdraw one proposal prior to final review of each proposal and/or prior to official appointment of the candidate. Following EROL analysis the candidate in question withdrew both applications. In Year 2, EROL will provide follow up technical assistance to improve the relevant Regulations and/or Administrative Instructions to address this complicated situation which threatened to emerge again only a few weeks after the candidate in question withdrew his applications.

In order to further define presidential powers contemplated by the Constitution, EROL produced a draft report on presidential powers in the justice sector. The report not only represents a theoretical elaboration of the powers of the President entrenched in Art. 84 of the 2008 Kosovo Constitution, but it also highlights constitutional ambiguities that are ripe for further regulation to promote proper exercise of presidential powers. Additionally, EROL provided the OP with legal analysis on the presidential competency to pardon individuals convicted of criminal acts to assist the OP to develop guidelines aimed at standardizing criteria and processes for reviewing pardon applications. EROL conducted a comparative analysis of various models governing constitutional pardon powers, as well as structures and processes in place to support the presidential pardon power, and provided recommendations on criteria and procedures for presidential pardons.

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<sup>3</sup> Regulation on the Procedure for the Appointment/Reappointment of Candidates Proposed as Prosecutors, entered into force on August 22, 2011 and Regulation on the Procedure for the Appointment/Reappointment of Candidates Proposed as Judges, entered into force August 3, 2011."

## OBJECTIVE 2: INCREASE THE EFFICIENCY OF COURT OPERATIONS

### 2.1 ASSESS AND AMEND MODEL COURTS PROGRAM STANDARDS AND PROCEDURES

#### **Deliverables:**

- ✓ **EROL Model Courts Program Plan and Revised Procedures**

#### **ASSESS JSP MODEL COURTS PROGRAM STANDARDS**

The EROL/ MCP team meet with the Model Court Consortium in July 2011 to review lessons learned and assess MCP standards for improvement. Over 17 judges and court administrators from JSP Model Courts attended the meeting. At a second meeting of the Model Courts Consortium held in July 2011, judges and court administrators discussed amending the MCP implementation standards for Model Courts. EROL reviewed the progress of improvements in the ten (10) Model Courts and identified how adjustments of standards and procedures will improve further implementation in all courts in Kosovo.

EROL organized and provided resource materials for the July 2011 meeting of the **Model Courts Consortium** and engaged Consortium members – model court presidents, administrators and engineers – to consider and develop recommendations and procedure amendments based on lessons learned during initial implementation of the JSP Model Courts. EROL was able to provide context based, in part, on interviews staff had conducted with individuals throughout the court system to assess the extent to which model court standards, initially introduced during the predecessor JSP project, were being maintained. Feedback obtained from Model Courts Consortium, and site visits to existing model courts and courts nominated by the KJC for participation in the first phase of the MCP, informed activity adjustments. In October and November 2011, EROL staff visited existing model courts and met with court leadership to gather information about perceived strengths and weaknesses of both refurbishment and technical assistance and training aspects of the JSP MCP. In Q4, EROL conducted additional site visits to JSP model courts, arranged a visit for 5 new model courts to the Ferizaj Municipal Court (FCP) and a presentations on MCP court management improvements, challenges and opportunities by FCP leadership and staff.

EROL also invited representatives of JSP model courts to participate in EROL activities such as the KJC Web Strategy and Web Portal Development workshop in order to incorporate their experiences and feedback into new activities and initiatives. EROL staff and STTA collected feedback and by the end of Q4 had identified a long list of preliminary lessons learned, some of which have already been taken into account in revised Model Court Standards and some of which will be addressed

#### **LESSONS LEARNED FROM JSP MCP**

**Lesson:** MCP results in improved job satisfaction for judges and court staff, and clerks and other court staff report improved interaction with court visitors as reflected in national court user surveys.

**EROL Response:** EROL has already begun and will continue to engage successful JSP MCP judges and staff to explain the benefits of the MCP to new courts.

**Lesson:** Refurbished Central Filing Offices are too crowded, and shelving and furniture style and placement fail to promote efficient workflow.

**EROL Plans:** EROL will improve use of space and redesign and resize furnishings to improve workflow and staff comfort.

**Lesson:** Some archives are not adequately ventilated causing health hazards and damage to documents, and air quality is a problem in some areas of some courts.

**EROL Plans:** EROL will work with A&E firms to assess ventilation and HVAC requirements and will work with USAID to determine whether sub-standard ventilation in JSP model courts' archived can be improved.

**Lesson:** Overflowing archives and storage of disposed cases in Central Filing Offices impede case management improvements.

**EROL Plans:** EROL will work with each model court to determine whether archives can be purged and disposed cases moved to appropriate storage prior to the commencement of refurbishment.

**Lesson:** Movement of judges chambers has only partially diminished court visitor access to judges' chambers.

**EROL Plans:** Additional measures are need to deter court visitor access to judges' chambers. EROL plans to provide the KJC with technical assistance to assess court and judge security and identify additional measures to improve judge security.

**Lesson:** Long lines and delays were reduced through improved interior design, but visitors still complain about standing in line for long periods in high-traffic courts.

**EROL Plans:** EROL will strive to reduce delays and visitor inconvenience through redesign of and installation of chairs in waiting areas and use of modern line administration techniques.

**Lesson:** "Your Court" brochures are visible in all courts, but court visitors do not appear to read them.

**EROL Plans:** General information about each court will be replaced with targeted information aimed at helping court users conduct concrete business in the courts

**Lesson:** The failure of CMIS and the promulgation of Court Management Standards only a few months prior to project completion impeded introduction of new standards in most courts and led to lack of sustainability of improvements in Model Courts.

**EROL Plans:** EROL is collaborating closely with KJC IT and CMIS donors, will increase early training and capacity building on Court Management Standards for new model courts, and will conduct remedial training for JSP model courts.

through improved scheduling of MCP interventions, increased EROL staffing in basic court regions, individual court refurbishment requirements and specifications, interior design and furnishing of court work areas, judge and staff training, and/or development of regulations and instructions with the KJC.

In Q3, EROL also took steps to identify areas of overlap between Model Court Standards and required actions under the Implementation Plan for the Law on Courts and to take steps to prioritize the introduction of Model Court Standards that would facilitate successful execution of requirements under the Implementation Plan. And, EROL began to identify measures mandated under the Implementation Plan that could have a negative impact on the long-term goals and objectives of the MCP if not designed or carried out in accordance with internationally-accepted court management standards.

**Next Steps:** In Y2 Q1, EROL will conduct facilitated planning sessions for execution of the Implementation Plan of the Law on the Courts and will integrate resulting court plans with MCP Court Improvement Plans to ensure that each model court is capable of completing tasks associated with both sets of goals and objectives. In Y2 Q1, EROL also plans to conduct a more thorough assessment of the application of Model Court Standards in existing model courts on topics such as public information, case management, and records management. This review will serve the dual purposes of improving the methodology, through which these standards are introduced by EROL and identifying any remedial measures that should be taken in JSP model courts. Such remedial measures will be important to ensure that JSP model courts are given adequate support during the transition to the new court system and also because failures in the first 10 model courts in areas such as case processing and backlog reduction could undermine the court system's efforts to meet performance targets for key national initiatives and/or EROL and USAID mission performance targets.

## 2.2 SELECT AND IMPLEMENT MODEL COURTS PROGRAM IN THE COURTS

### **Deliverables:**

- ✓ **Individual Court Renovation Plans**
- ✓ **Individual Model Court Improvement Plans**

### **Additional Deliverables:**

- ✓ **EROL Model Courts Program Procurement Policies and Procedures Manual**
- ✓ **A&E & Court Refurbishment Solicitation Documents**
- ✓ **A&E & Court Refurbishment Subcontract & Task Order Templates**

### **SELECTED MODEL COURTS**

The Supreme Court of Kosovo  
District Court in Prishtinë / Priština  
District Court in Gjilan/ Gnjilane  
Municipal Court in Lipjan/ Lipljan  
Municipal Court in Viti/ Vitina  
Municipal Court in Suharekë/ Suva Reka  
Municipal Court in Istog/ Istok  
Municipal Court in Rahovec/ Orahovac

### **IDENTIFY AND RECOMMEND 6-8 COURTS FOR PARTICIPATION IN MODEL COURTS PROGRAM**

Upon launch of the project, EROL immediately began building upon the inclusive decision-making process that was set up by the USAID Justice Support Program, administered by the National Center for State Courts. The EROL/MCP team established a selection process and developed criteria for selection of eight (8) new courts to participate in the Model Courts Program. The selection process was driven by the Model Court Consortium through a nomination process. The first 10 (JSP) Model Courts, the KJC Secretariat and USAID participated in the selection process. At the meeting held in September 2011, representatives of the MCP Consortium described and submitted nominated one or more courts for consideration. The MCP Consortium's nomination proposals were submitted first to the KJC for review and comment and then to USAID for final approval in September 2012. The process resulted in all 8 nominated courts receiving approval from USAID in November 2012 and beginning participation in the MCP immediately thereafter.

### **IDENTIFY AND ASSIGN MODEL COURT MENTOR AND IMPROVEMENT TEAM FOR SELECTED COURTS**

Following selection of the Model Courts, EROL met with each Presiding Judge and worked with him or her to appoint representative Court Improvement Teams (CIT) for each selected court. Each CIT is composed of the court president, court administrator, judges and other key staff. CITs participated in EROL mentor sessions aimed at building leadership skills, as well as an in-depth understanding of court management and performance management concepts.

EROL also sought out existing Model Courts that had transitioned exceptionally to serve as positive examples and mentors for the newly selected court members to the Model Court Program. Presiding judges in two existing model courts (Ferizaj and Gjilan) agreed to share steps taken in their courts to improve efficiency, transfer old files, and launch user-friendly websites with court dockets, news, and full and/or summary decisions posted online.

In Q4, EROL Advisor Linda Jacobs conducted mentor preparation sessions with the Presiding Judge and Court Administrator of the Ferizaj Municipal Court, who enthusiastically agreed to share their vision on how to introduce and achieve sustainable implementation of Model Court Standards with new model courts. The Ferizaj Municipal Court subsequently hosted a conference for the Presiding Judge, Court Administrator, Chief Clerk and members of the CITs from five of the eight new Model Courts. The context provided by the mentor sessions helped each participating CIT to conceptualize facility improvements envisioned as part of the MCP and to understand accompanying operational improvements and the concrete steps that would need to be taken to achieve these improvements. CITs also gained insight how the MCP architectural design would facilitate implementation of the Model Court Standards and promote efficiency and transparency throughout the court.

## **DEVELOP DETAILED COURT IMPROVEMENT PLAN FOR IMPLEMENTATION IN EACH COURT**

Through preliminary site visits and Facilitated Participatory Planning Sessions, held with each of the 8 selected Model Courts, Court Improvement Team (CIT) members also received orientation on all MCP court improvement procedures and discussed the changes that will take place before and after refurbishment. Additionally, EROL introduced court management and performance management concepts to judges and CIT members, including creative ways to secure buy-in by the affected audiences. During each facilitated planning session, CIT members were taught how to develop positive messages about the planned renovations for court staff and how to highlight new organizational structures that accompany the renovations that will allow the courts to improved efficiency, transparency, access, and accountability in the judicial system.

Many Presiding Judges and Court Administrators expressed concern that they will need to find additional workforce resources in order to satisfy new procedures for classifying, transferring and purging case files. In response to concern and recognition that courts throughout the country would require training, technical assistance, and ad hoc support to accomplish Implementation Plan requirements on schedule, EROL plans to hire 8 Regional Court Liaisons. One liaison will serve in each Basic Court region with the exception of Pristina, for which two liaisons will be assigned. In Q4, EROL staff drafted and reviewed the job description for the Regional Courts Liaison, which will be announced publicly at the beginning of Year 2.

EROL initiated a process through which each of the selected Model Courts will design a community-based public information campaign and began working with public information coordinators who have been appointed by six of the eight courts.

**Next Steps:** A key element of EROL improvements to the JSP model will be the conversion of general informational materials currently provided in the courts to targeted information to help court users navigate the court system. Additionally, EROL will work with the KJC and each court to develop comprehensive communications plans aimed at branding, education, and promotion of the transition to the new court structure. This process will not only be aimed at achieving a smooth transition to the new court system and accelerating change within in the courts to meet new standards, but it will also be used to build the capacity of the KJC and the courts to develop communications and PR strategies for the future and to build communications skills within the leadership at all levels of the court system.

## **DEVELOP AND IMPLEMENT COURT RENOVATION PLANS FOR EACH COURT**

During Year 1, EROL completed the preparation of a court refurbishment plan for each of the 8 Model Courts, completed environmental documentation to the extent possible prior to finalization of architectural designs, and prepared all procurement solicitations, and released the RFP for the A&E IQC and first task order for the Pristina District Court.

Following USAID approval, EROL initiated preliminary site visits to the six courts located outside of Pristina. During these site visits, EROL gathered preliminary information from CIT members to develop each court's refurbishment requirements. Following initial site visits, EROL led Facilitated Participatory Planning Sessions for each Model Court Improvement Team. A total of 61 members of Court Improvement Teams (CIT) from the eight (8) new Model Courts participated and provided input into court refurbishment requirements and specifications. By the end of Year 1, EROL had produced Court Refurbishment Plans for each of the 8 Model Courts, including the Supreme Court and Pristina District Court, the sessions

for which were scheduled only upon receiving USAID approval to move forward with official site visits and CIT-facilitated planning sessions and final identification of the Pristina District Court as the first court to be refurbished under the MCP in March 2012.

While awaiting approval of nominated model courts, EROL, in conjunction with USAID, developed and submitted the Initial Environmental Report and Site Specific Environmental Compliance Plan (SSECP) for six (6) of the eight participating courts. EROL conducted site visits and held refurbishment planning sessions with 7 of the Court Improvement Teams during which all MCP members reviewed standards for implementation. In Year 2, EROL will submit finalized SSECP for these six courts and the two remaining courts to USAID for final approval.

In addition to intensive organizational planning, EROL worked concurrently to develop an effective procurement process to acquire the services of local firms to perform all refurbishment activity required by each Model Court. By the end of Year 1, EROL had prepared:

- A&E and Court Refurbishment Management IQC and First Task Order Solicitation
- Draft Court Refurbishment Request for Prequalification Information
- Draft Court Refurbishment IQC and First Task Order Solicitation
- EROL Model Courts Program Procurement Process Manual for solicitation of the two IQCs, first task orders, and subsequent task orders, including 15 templates, forms, and other attachments to support procurement processing, task order solicitation, contractual correspondence, and contracting.
- Templates for all subsidiary solicitation, review, and contracting actions.

#### PROMOTING TRANSPARENCY THROUGH PARTICIPATORY PROCESSES

*A key element of EROL's approach to achieving project goals is to model transparency and fairness consistently throughout our activities. By demonstrating that open and participatory processes generate sound results, promote acceptance among stakeholders, and motivate court personnel to improve professionalism in the courts, EROL intends to build leadership commitment to inclusive decision-making.*

*EROL supported the KJC to effectuate a transparent selection process for the first courts to receive assistance under the Model Courts Program. The consultative process helped KJC leadership structure a healthy nomination process that resulted in the identification and selection of the six courts most likely to benefit immediately from participation in the Model Courts Program because of their location, capacity, or potential for achieving MCP objectives. The selection process also resulted in two of the most visible courts, the Supreme Court and the Pristina District Court, to undergo facility improvements that will ultimately improve public awareness of court reforms and operational improvements.*

*EROL also worked with each court to identify a diverse Court Improvement Team and invited experienced STTA to facilitate participatory court refurbishment planning sessions aimed at developing requirements and specifications for court refurbishments while also identifying judge and staff concerns about the refurbishment process and incentives to motivate all court personnel to improve court operations. EROL produced a participatory planning session Facilitator's Guide for use by the KJC and the courts in the future and identified promising judges and staff, who could be trained to serve as facilitators for similar initiatives.*

*In Year 2, this approach will be replicated as more and more court personnel are engaged in program activities such as the finalization of Court Improvement Action Plans, training needs assessments, as well as court-level planning sessions for execution of the Implementation Plan of the Law on Courts.*

The procurement process was designed to be as efficient as possible without sacrificing procedural integrity, and in accordance with USAID guidance, was scheduled to be completed as quickly as feasible and preferably in time for refurbishment to begin by May 2012.

**Next Steps:** In Q4, EROL announced the solicitation of A&E IQC and First Task Order solicitation and initiated the procurement process, which included a court tour and a full day of secure access to the court by any interested bidders. Proposals for the A&E IQC and First Task Order are due in April 2012, and EROL expects to award three (3) IQC subcontracts, and to award the first task order for the development of a final design for the Pristina District Court by the end the same month. EROL will concurrently release the Request for Prequalification Information for Refurbishment Offerors, and as soon as the architectural design for the PDC is completed, EROL will release the Court Refurbishment IQC and First Task Order Solicitation.

## TRAIN JUDGES AND COURT STAFF IN CORE COMPETENCY AREAS

During Year 1, EROL did an initial assessment of the training needs of each selected model court, and also reviewed and evaluated the sustained impact of training and technical assistance on the day-to-day operations of the first ten JSP model courts. EROL found that court staff universally required additional training in order to implement the JSP-developed and KJC-promulgated Model Court Standards. Additionally, all courts need additional training in all 9 core model court standards with special emphasis on customer service, case management, backlog reduction, and court administration and management. EROL staff developed draft training curricula on core court administration and management skills and “The Work of the Judge.”

Additionally, in anticipation of their placement in the courts, the EROL Model Courts Specialist served as the lead trainer on Case Flow Management for participants in the Kosovo Judicial Institute Initial Legal Education Program (see below).

## OBJECTIVE 3: IMPROVE PROFESSIONALISM OF JUSTICE SYSTEM ACTORS

### 3.1 KOSOVO JUDICIAL INSTITUTE (KJI)

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#### REVIEW OF KJI ORGANIZATIONAL STRUCTURE

##### *Deliverable:*

- ✓ *KJI Organizational Structure Assessment (2 assessments)*

EROL made significant progress reviewing and making recommendations to improve the KJI organizational structure, curriculum, and instruction through thorough assessments of the KJI’s two core components, the Initial Legal Education Program (ILEP) and the Continuous Legal Education (CLEP). Each assessment contained a combination of long-term and short-term recommendations. For example, the ILEP assessment, which was approved by USAID and delivered to the KJI in Q4, recommended curriculum improvements that could be implemented beginning with the fifth generation of judicial and prosecutorial candidates, who will begin training in 2012, and the CLEP Assessment provided detailed suggestions for development of courses aimed specifically at judges and prosecutors, who will be affected by the restructuring process envisioned by the Law on the Courts and the Law on the State Prosecutor. At the same time, the assessments addressed issues such as quality control, examination procedures, and integration of theoretical and practical content and exercises. The KJI has already adopted several of the recommendations outlined in the CLEP Assessment, which was completed in Q3. For example, the CLEP Assessment recommended that the KJI exercise more control over the content of courses delivered by international partners. This recommendation was accompanied by a detailed proposed protocol entitled “Presentation Standards for Participating International Partners.” That protocol has been included by the KJI in its recently-adopted Faculty Handbook. In addition, a majority of the new courses suggested in the assessment have been included in the 2012 CLEP curriculum.

#### DEVELOPMENT OF TRAINING CURRICULA

##### *Deliverables:*

- ✓ *Curricula and Courses*

EROL conducted a roundtable for representatives of the KJI, KJC, and KPC as the first step in developing a National Legal Education Strategy. EROL also created training modules for two new courses. The ‘Work of the Judge’ training course covers a variety of topics including judicial independence, public trust and confidence, leadership, ethics, performance standards, and opinion writing. A second course entitled ‘Core Competencies for Court Administrators’ provides administration-specific training on topics such as public outreach, budgets, staff supervision, court security, IT, and caseload management. Upon EROL’s recommendation, the KJI agreed to include these and other courses for judges and court staff in its 2012 curriculum, and will begin offering the courses after the Law on Courts is implemented. In addition to recommendations, EROL provided caseload management training for 56 judges and prosecutors who participated in the KJI’s Initial Legal Education Program (ILEP).

**Key Life-of-Project Result:** *The KJI has the capacity to meet the training needs of Kosovo’s judges, prosecutors, and courts staff at the highest international standards.*  
**Indicator:** *Progress on KJI Benchmark Scorecard*  
**Year 1 Target:** 32  
**Year 1 Actual:** 16

## **ENGLISH LANGUAGE TRAINING**

### ***Deliverables:***

- ✓ ***Selection of 8-12 KJI Professionals***
- ✓ ***TOT English Language Course***

Following USAID approval of STTAs Patti McLaughlin and Arta Vinca, preparations began in earnest for the presentation of the Legal English Program at the end of Q4. Following detailed discussions with the KJI, agreement was reached to proceed with the identification and proficiency testing of potential candidates to participate in the training of trainers (TOT) course. Agreement was also reached to develop at least two legal English courses for use at the KJI, an intermediate level course and advanced legal English course for legal researchers, and possibly an entry level English course as well. From lists developed by the KJI and EROL, a total of 16 candidates were identified, tested, and individually interviewed in March 2012, and EROL began preparation of an intensive and in-depth ToT course to prepare participants to develop Legal English Language Program course modules and deliver those modules to judges and prosecutors in the Initial Legal Education Program beginning with the next generation of candidate judges and prosecutors.

In the first quarter of Year 2, following the joint selection by the KJI and EROL of 12 candidates to be invited to attend the TOT, the TOT will be conducted using a full course module prepared by Ms. McLaughlin and Ms. Vinca. The TOT will be followed by a series of course preparation workshops and intense mentoring by Ms. McLaughlin and Ms. Vinca, which will lead to the preparation of the legal English courses described above, and the selection of instructors to teach the courses in the KJI Continuous Legal Education Program and Initial Legal Education Program, and for EROL to other audiences. The program will be completed during the first quarter.

## **TRAINING PROGRAM FOR KOSOVO COURT STAFF**

- ✓ ***Preparation of Training Program***

In addition to the module on Core Competencies for Court Administrators mentioned above, EROL made substantial progress in the development of a training program for line court staff. This program is being developed in a way to combine general court staff best practices with model court implementation standards and protocols.

***Lesson Learned and Next Steps:*** In Year 2, EROL will begin intensive training for court executive teams, judges, and court staff to prepare them to introduce and carry out MCP standards and Implementation Plan tasks. Additionally, EROL will work with the KJI to develop new training programs on issues such as Ethics and Conduct and areas of law, procedure, and judicial and court staff skills identified by EROL and the KJI. Taking into account the KJI's absorption capacity and the volume of courses already taught for a limited audience of judges in the ILEP and CLEP programs at the KJI, EROL will continue to develop education and training programs with other counterparts but will seek to work with the KJI to ensure sustainability of programs and eventual incorporation of appropriate programs into the KJI curriculum.

## **ORGANIZATION OF JUDICIAL CONFERENCE**

### ***Deliverables:***

- ✓ ***Selection of KJI Professionals***
- ✓ ***Judicial Conference***
- ✓ ***KJI Professionals Mentored***

EROL began discussions with the KJI regarding a national judicial conference early in Year 1, but the KJI had already begun planning a similar annual judicial event with OSCE. At the same time, the process of developing an Implementation Plan for the Law on the Courts with the KJC, initial assessments of JSP model courts' progress on meeting the JSP-developed Court Management Standards, and early indicators that the public was unaware of upcoming judicial reforms all led EROL to believe that a national conference aimed at improving the judiciaries preparedness for the transition to a new court system and at generating public awareness of current judicial reforms would contribute more to improved justice and judicial capacity. The Office of the President also expressed interest in hosting a conference to showcase judicial reforms and increase public awareness of developments related to the new court structure, transparency, accountability, and judicial independence. EROL developed a concept paper for a "judicial reform week" comprising a two-day judicial and court staff conference that would combine training in critical and emerging topics for the judiciary; experience sharing among courts on model court standards, and one-day conference hosted by the OP in coordination with judicial actors aimed at showcasing progress, setting an agenda for the next stage of rule of law improvements, and engaging high-school and law school students in educating the public about the courts.

Because of delays in confirming prior discussions regarding the OP's collaboration on another USAID-initiated conference on women and gender issues finalization of the above-described EROL conference will take place in early Y2 Q1. However, EROL has already begun development of content for the judicial and court staff conference and has recruited presiding judges and court administrators to lead sessions on Introduction of Court Management Standards and In-court Staff Training, Website Design and Functionality for Basic Courts, and Strategies for Storing Disposed Case Files and Purging Archives, Court User Services, and Implementation Plan Action Planning and Public Information.

EROL is also planning a conference on the application of European Human Rights standards through the Constitution of Kosovo with the Constitutional Court. The audience for this conference, which is planned for Y2 Q2, will be primarily judges of Basic Courts.

## **CREATION OF STRATEGIC ALLIANCES**

### ***Deliverables:***

- ✓ ***Potential Regional and International Partner Institutions Identified***
- ✓ ***Strategic Alliances and Participation in Regional or International Conferences***

To aid the KJI's efforts in developing strategic alliances, EROL prepared and delivered a review of judicial systems and training institutes, exposing the KJI to best practices of other training professionals in Europe and providing opportunities for cross fertilization of ideas, methods, and standards. EROL will support the KJI's participation at a conference in 2012 sponsored by one of the international judicial training organizations.

Additionally, EROL facilitated a meeting with the Director of the KJI, Lavdim Krasniqi, and Jim Eaglin, Director of the Research Division of the United States Federal Judicial Center (FJC), during his visit to assist the KJI in establishing an applied empirical research capacity. The FJC is the research and training arm of the U.S. federal judiciary, and provides not only operational research about the court system and training for judges and court staff but also serves as a resource center and distributor of FJC-produced legal resources, court management manuals, e-learning tools, and professional development materials for judges and court staff. The FJC also produces a television program on Constitutional Court decisions for judges, and educational materials and teacher-training programs to strengthen high school civics programs in the U.S. A KJI delegation will be visiting the FJC in Year 2, and EROL is working with the FJC to identify opportunities for the KJI to collaborate on e-learning program development for court staff and development of "pocket guides" – short, affordable publications aimed at preparing judges of general jurisdiction to handle types of cases that deal with specialized areas of law but are not encountered frequently enough to warrant in-person training. EROL is coordinating with ECLO implementers, GIZ, and EULEX, which all also foster regional alliances and exchanges with the European Union to avoid duplication of effort and ensure that EROL study tours and exchanges complement other relationship building exercises.

***Lesson Learned:*** Because of the robust international presence in Kosovo, long-term support of the KJI by most rule of law donors, and mentoring by OSCE advisors the KJI already has an extensive list of partners and receives regular assistance from other donors to attend regional and international judicial education conferences. In 2012, KJI leadership and staff participated in delegations to and/or hosted official visits of delegations from a variety of countries, including, among others, Bulgaria, Turkey, and Germany. Director of the KJI attended the bi-annual International Conference on Training the Judiciary, which brings together judicial training institutions from over 100 countries to share expertise, teaching methods, and best practices in management of judicial training and education. In order to add value, EROL will need to identify training institutions and potential partners that will be able to bring new perspectives in areas of particular interest to the KJI and/or critical importance to achievement of joint EROL-KJI goals and objectives. EROL envisions that strengthening the KJI's relationships with institutions that have comprehensive and effective training for court staff and administrators, as well as unique or successful programs in ethics and conduct, decision drafting, legal research and analysis, and other judicial skills would be particularly useful for the KJI at this stage of its development. Additionally, experts with extensive experience in linking performance evaluation and training; building cost-effective curriculum development strategies; training judges and prosecutors in emerging areas of law; addressing gaps in undergraduate law training in judicial and prosecutorial training institutions; and working with the courts and lawmakers to prepare judges and prosecutors for application of legislation that is still under review would all help the KJI to be more responsive to the needs of its attendees.

## IMPROVEMENT OF KJI ELECTRONIC CAPACITY

*Test Version of Improved Website*

*Training Program Attendance Database*

*Distance Learning Course Protocols and Demonstration Course*

*Final Website*

During Year 1, EROL worked with KJI IT staff to develop a checklist of the institute's IT needs, including the integration of distance learning with other IT systems. Following initial interviews and development of the checklist, EROL recognized that the KJI required additional assistance to assess its IT capabilities and to conceptualize the broad range of software applications and systems that could facilitate increased efficiency and effectiveness. As part of this process, EROL offered assistance to the KJI to begin developing a web strategy, as well as requirements and specifications for a revamped KJI website. In initial discussions, the KJI also requested assistance with development of an e-learning capacity that could be integrated with the website and training database that would allow the KJI to track delivery of courses and participation of judges and prosecutors in KJI programs as a way to avoid repeat attendance at the same courses and to promote equal access to programs and activities.

In January, EROL and the KJI agreed to collaborate to expand EROL's initial assistance in developing requirements for a training database and a checklist of IT needs to assistance in developing a long-term web strategy and website requirements that might help the KJI to better serve judges and prosecutors through customized program and participant-centered curriculum management; improve recruitment of talented judge and prosecutor candidates, including candidates from minority communities; and to be able to better manage trainers and other staff, course delivery, evaluation of course effectiveness, human

**Key Life-of-Project Result:** *The Constitutional Court discharges its responsibilities at a higher level as a result of expertise and information made available to the judges, training of the legal advisors, and improved access to electronic legal research tools.*

**Indicator:** *Progress on CC Benchmark Scorecard*  
**Year 1 Target:** 20  
**Year 1 Actual:** 19

resources, budget forecasting, and finance and accounting functions. In conjunction with EROL's efforts to increase collaboration between the KJI, KJC, and KPC on judicial and prosecutorial education strategic planning, EROL developed a series of training workshops on web strategy and design and included the KJI as a stakeholder in the first of these workshops, aimed at preparing KJC staff and other counterparts to evaluate how their web presence could do more than just inform the public about their activities but also contribute to accomplishment of institutional goals and objectives. The workshop was designed to serve as a platform for developing detailed requirements for the KJC web portal and as a platform for follow up workshops with the KJI and KPC in Year 2 to develop their own web strategies and websites.

In addition to this first workshop, EROL had completed an assessment of the KJI's database needs and incorporated initial ideas from KJI staff and leadership into planning for the KJI website and database design workshop, which is planned for early Y2 Q1. It is expected that an integrated website and training database will allow the KJI not only to track judge and prosecutor participation in mandatory continuing legal education but will also allow participants to manage their own professional development choices through personal profiles that can eventually be linked to KJC human resources data and web capacities to create a seamless system for performance management and professional development.

### 3.2 CONSTITUTIONAL COURT

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#### EXPERTISE AND INFORMATION NEEDS ASSESSMENT

##### **Deliverables**

- ✓ **Needs Assessment**
- ✓ **Computer Research Tools**

EROL collaborated with the Constitutional Court to draft summaries of all 92 Constitutional Court decisions issued in 2011. Using the opportunity to help develop digital and hard copy legal research resources for the legal community in Kosovo, EROL also helped the Constitutional Court to establish a standard template and content standards for summaries of decisions and to train legal advisors and researchers, who will be responsible for creating summaries of the judgments on which they work, to draft summaries in accordance with new requirements and a standard level of quality. The 2011 summaries, which were drafted by EROL STTA and staff in cooperation with the staff of the Constitutional Court, will be published by the Constitutional Court at its own expense in the *Bulletin of Case Law 2011*. EROL also produced an

improved subject matter index for inclusion in the Bulletin. In the future, EROL expects to provide additional mentoring to legal researchers or to provide comments or content editing if needed to perfect skills in the future.

## **EXPERTISE AND INFORMATION EXCHANGES**

### **Deliverables:**

#### ✓ **Expertise and Information Exchanges**

Working with the President of the Court, EROL developed a draft agenda for a two-day high level international conference to be held in the first or second quarter of Year Two with EROL support. The conference, entitled “Direct Applicability of Universally Accepted Human Rights in Kosovo,” is designed to educate judges, defense lawyers, prosecutors and the general public and encourage the application of universally-recognized human rights in Kosovo courts. National and international speakers will present formal papers covering the following topics: “Application of Universally Accepted Human Rights in Kosovo – The New Imperative in the Practice of Law,” “The Magnificent Breadth of Articles 22 and 53 of the Constitution,” “Vindication of Human Rights in the Courts of the United States – The Roles of the Criminal Defense Attorney and Judge,” “Judgments and Decisions of the Constitutional Court – The Role of Precedent and the Scope of Article 116.1 of the Constitution,” “Vindication of Human Rights in Ireland,” “Using European Court of Human Rights and Constitutional Court Judgments in Practice,” “Role of Decisions of Other Constitutional and High Courts in the Jurisprudence of Kosovo,” and “Using Precedent to Build the Law.” The papers will then be published in a special edition of the University of Pristina Faculty of Law journal, *The Law*. This conference will be an important training event for the judges and legal advisors of the Constitutional Court, as well as for the judges, advocates, and prosecutors attending the conference. Through the publication and distribution of the special edition of *The Law*, the important materials presented can reach a much larger audience.

## **TRAINING FOR LEGAL ADVISORS**

### **Deliverables:**

#### ✓ **Training Program and Materials (2 programs)**

### **Feedback from Participants in the Constitutional Court Workshops for Legal Advisors**

*“This is a training we should have had at the beginning of our work at the Court. The two-day workshop was a practical great opportunity for us to sit together, identify issues and discuss. In addition, the materials provided to us are very useful – we can use them in the future as welcome packages for the new legal advisors.”* Muhamet Brahimi, Legal Advisor

*“The issues that were addressed in the workshop are especially useful for the legal advisors and researchers of the Constitutional Court. What we learned of significant value for our day to day work is how to interpret Article 36 of the Work Regulation of the Constitutional Court; we were not even aware that there are some things that are repeated within that article, expressed differently - so we have learned something new about interpreting better various ways of expression of one thing.”* Radovan Laban, Legal Advisor

*“One thing I liked about the workshop is that it drew out legal issues.... Another important thing we learned is to think about writing reports for several audiences all at once. I had never thought of this before - I only thought that decisions should be legally sound, detailed and accurate. But ,thanks to the workshop I realized the importance of writing a document that satisfies the needs of different audiences, thus contributing to the broader goal of justice to be transparent and accessible to all citizens.”* Sean Husband, Canadian Intern

Constitutional Court legal advisors do the lion’s share of legal research, analysis and decision drafting for the judges on the Court. It follows then that the quality of the Court’s written decisions depends, in large part, upon the competence of the legal advisors. Unfortunately, the country’s legal education system does not well prepare law students – potential legal advisors and researchers – to perform sophisticated legal analysis, research or writing. EROL addressed this issue by conducting two (2) hands-on workshops for the Court’s legal advisors and researchers during which experts demonstrated how to identify and analyze legal issues, and write clear decisions that reflect a sophisticated understanding and use of court precedent when explaining the decision’s rationale. The workshops for legal advisors and legal researchers were very well received, so much so that the training materials have been integrated into the Court’s orientation process for new legal advisors and researchers.

The workshops resulted in the following outputs and outcomes:

- Institutionalization of legal drafting training for legal advisors and researchers of the Constitutional Court who are responsible for performing sophisticated legal analysis and writing initial legal opinions for the Court on a variety of issues invoking constitutional, international and comparative law issues. EROL conducted interactive workshops that required the Court's legal advisors, through many drafting exercises over multiple days, to identify and analyze legal issues, and write clear decisions that reflect a sophisticated understanding and use of court precedent when explaining the decision's rationale. Following the workshops, the Court integrated EROL's training materials into its orientation process for new legal advisors and researchers.
- Improved capacity of 15 Constitutional Court legal advisors and researchers to research and analyze issues and draft well-reasoned legal decisions during 2 two-day workshops that included drafting exercises and instructional materials.
- A protocol and template for how to summarize Constitutional Court decisions, along with a glossary of key legal terms, to be used by legal advisors and researchers who will prepare the Court's 2012 case summaries for publication in the 2012 Bulletin of Case Law.

**Key Life-of-Project Results:** 1) *The public has a reliable source of information about justice sector improvements from civil society; and 2) justice sector institutions more clearly understand and address the concerns of the public*

**Indicators:** 1) *% of citizens and court users satisfied with the justice system increases*  
2) *% of citizens who know how to bring a case to court increases*

**Year 1 Target:**  
**Year 1 Actual:**

#### OBJECTIVE 4: INCREASE CITIZEN AWARENESS AND ROLE IN ENSURING THE DELIVERY OF JUSTICE

##### STRATEGIC ACTIVITIES FUND

###### *Deliverables:*

- ✓ **Grants manual**  
**2 grants awarded**

EROL completed an assessment of civil society and educational institutions to identify those with specific missions of strengthening the justice sector and advancing the rule of law, and appraise possible linkages between technical expertise and the objectives of the Strategic Activities Fund, which, through small grants, seeks greater citizen engagement and understanding of the justice system and its imminent restructuring in 2013. On the basis of the assessment and additional research, EROL created descriptive profiles of 25 key justice and rule of law NGOs and educational institutions operating in Kosovo.

###### Assessment Findings:

Very few NGOs would be interested in policy advocacy or rule of law watch dog initiatives at this stage; no capacity of educational institutions to develop proposals; NGOs lack adequate financial management and accounting capacities and other systems that meet EROL standards.

EROL developed a **Grants Manual** to guide and support grant-making activities of the project, and coordinate execution of internal procedures to ensure the efficient management of grants awarded by EROL. The Grants Manual includes guidelines for conducting an initial assessment of the institutional capability of potential partners. The SAF team also designed useful RFA kit with sample documents (e.g.; request for applications and cover letter, initial screening forms, scoring sheet for Fixed Obligation Grants and Standard Grants).

In Q3, USAID noted that the majority of SAF funds would likely be transferred from EROL to USAID Forward and that in this case EROL would likely carry out the solicitation process and possibly manage the grants but that USAID would make the grants directly to NGOs upon the recommendation of EROL. By the end of Q4, it became clear that USAID did, in fact, intend to de-obligate a portion of Strategic Activities Fund so that USAID can make direct grants to a local re-granting organization and an organization capable of conducting anti-corruption activities. EROL will conduct the grant solicitation

and recommend grantees to USAID, while USAID will be responsible for programmatic and financial management of the grant. EROL will provide technical assistance to grantees and sub-grantees on financial and program management, as well as substantive program areas.

#### **ADDITIONAL ACTIVITIES: Q4 SPECIAL REPORTS AND ANALYSIS FOR USAID**

Throughout Year 1, EROL provided analytical support to USAID and counterparts on a variety of topics ranging from State Prosecutor Office handling of electricity theft cases to Presidential Pardons. Additionally, EROL provided descriptive and analytical assessments and technical advising to USAID as requested. These quick-turnaround assessments of Kosovo laws and/or international best practices were typically provided through email correspondence and have not been included as deliverables below; however, Checchi can provide electronic or hard copies if required.

#### **ENVIRONMENTAL REGULATION COMPLIANCE**

During the reporting period, EROL reviewed environmental regulation compliance requirements, lessons learned from JSP court remodeling activities, and planned categories of court refurbishment envisioned under the Contract. In addition EROL completed an Initial Environmental Examination (IEE) for all the Model Courts that was submitted to USAID. An Environmental Report detailing environmental considerations for all Model Courts was also submitted to USAID. Finally, EROL completed six (6) Model Court Site-specific Environmental Compliance Plans (SSECP) and submitted them to USAID.

#### **STATUS OF BUDGET EXPENDITURES**

As of March 2012, EROL had expended \$2,569,828. Quarter 4 expenditures were \$758,251.

**APPENDIX A: LIST OF REPORTS & DELIVERABLES COMPLETED TO DATE****COMPONENT 1**

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**1.1 KOSOVO JUDICIAL COUNCIL**

- Action Plan for the Development of the Implementation Plan for LOC
- Implementation Plan for Law on Courts
- KJC Administrative Instruction on Submission of Proposals for Appointment of Judicial Candidates
- Instruction on Reassignment/Transfer of Judges to Court of Appeal
- Regulation on the Evaluation and Performance of Judges
- Media Relations Guidelines for the KJC Public Information Office (with templates and annexes)
- Proposal Outline for Law on Courts Communication Plan (submitted to USAID for Approval)
- Two-page concept paper on KJC Public Relations strategy
- Public Relations and Outreach Workplan (2012) for KJC Spokesperson (drafted with EROL assistance)
- Two-day Web Strategy and Web Portal Design Workshop, including presentations and handout materials
- Interview question/answer guide to fill Supreme Court Spokesperson position, as requested by the KJC spokesperson
- One short paragraph on IT seminar in Montenegro for the US Embassy Facebook
- Minority Needs Assessment
- Empirical Research Capacity Training and Assessment

**1.2 KOSOVO PROSECUTORIAL COUNCIL**

- Analytical Report on Regulations Controlling the Structure and Staffing of the KPC
- KPC Administrative Instruction on the Submission of Proposals for Appointment of Prosecutor Candidates
- Prosecutor Performance Evaluation
- KPC Implementation Plan Outline
- Prosecutor Nominations Cover Letter
- Law on State Prosecutor Implementation Plan
- Pre-Strategic Plan Assessment

**1.3 MINISTRY OF JUSTICE**

- Workshop on Policy Analysis using EROL-produced Public Policy Analysis and Development Protocol (September 12-14, 2011)
- Workshop on International Legal Assistance in Civil Matters

- Practice Manual for International Legal Assistance in Civil Matters
- Success story on the workshop for MOJ legal officers on international cooperation in civil matters

#### 1.4 CHAMBER OF NOTARIES

- Draft Assessment of Law on Notary

#### 1.5 OFFICE OF THE PRESIDENT

- First Intra-Governmental Roundtable on Appointment, Transfer and Dismissal of Judges and Prosecutors
- Press release on the first Intra-Governmental Roundtable on Appointment, Transfer and Dismissal of Judges and Prosecutors published by daily newspaper 'Bota Sot', online newspaper 'Lajm' and three online news agencies: Ekonomisti, KosovaLive and Kosova
- Summary of the live interview of KJC Chair, OP Legal Advisor and Deputy Chair of KPC on morning program of RTK following the first Intra-Governmental Roundtable on Appointment, Transfer and Dismissal of Judges and Prosecutors
- Media monitoring sheet on the coverage of the first Intra-Governmental Roundtable on Appointment, Transfer and Dismissal of Judges and Prosecutors
- Second Intra-Governmental Roundtable on Appointment, Transfer and Dismissal of Judges and Prosecutors
- Third Intra-Governmental Roundtable on Appointment, Transfer and Dismissal of Judges and Prosecutors
- Regulation on the Appointment of Judicial Candidates
- Regulation on the Appointment of Prosecutor Candidates
- Draft press release on fireproof safe for the OP (not distributed to the press)

### COMPONENT 2

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- Workshop for Model Courts Consortium and KJC (July 7, 2011)
- Workshop for Model Courts Consortium and KJC (September 1, 2011)
- Model Court Selection Process/Criteria
- Approval request to USAID for 8 Model Courts
- Court Refurbishment Design Plans for 8 Model Courts<sup>4</sup>
- Court Improvement Action Plan
- Court Improvement Team Planning Session Reports
- Mentor Court training for 8 Model Courts
- Site Visit Reports for 8 Model Courts

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<sup>4</sup> Design materials and related documents of Model Court refurbishment activities are sensitive in nature and will be available upon request only at the end of the procurement process.

- Initial Environmental Examination (IEE) for all Model Courts
- Site-specific Environmental Compliance Plan (SECP)
- Deliverables Related to Memorandum of Understanding USAID Norway Government
- Press release on the ceremony of the signing of MOU between USAID and the Norwegian Government regarding the Model Court Program )published by the daily newspapers: ‘KohaDitore’, ‘Bota Sot’, ‘Kosova Sot’, and ‘Lajm’)
- Short story on the signing of the USAID-Norway MOU for USAID website
- Media monitoring sheet on the coverage of the USAID-Norway MOU signing
- Law Day Gjilan/ Gnjilane
- Summary of Law Day activities in Gjilan/Gnjilane
- Short story on the Law Day in Gjilan/Gnjilane
- Speech for the President of the District Court of Gjilan/Gnjilane for Law Day event
- Speech for the President of the Municipal Court of Lipjan/Lipljane and assistance with organizing the end-of-year press conference for court
- Speech for the President of the Municipal Court of Pristina, and assistance with organizing the first press conference
- Media monitoring sheet on coverage of the MC Pristina press conference, and transcript of the KTV news reporting

## **COMPONENT 3**

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### **3.1 KOSOVO JUDICIAL INSTITUTE**

- Database and Website Comprehensive Checklist for the KJI
- Continuing Legal Education Program (CLEP) Assessment Report
- Initial Legal Education Program (ILEP) Assessment Report
- Draft “Work of the Judge” training course module covering judicial independence, public trust and confidence, leadership skills, judicial ethics, performance standards, and preparing judgments and decisions.
- Draft Course module on “Core Competencies for Court Administrators” covering independence of the judiciary, public trust and confidence, leadership, ethics, public outreach, budgets, staff supervision, court security, IT, and caseload management.
- Summary Review of Justice Systems and Judicial Training Institutes (Analysis Tool for KJI Strategic Alliance Development)
- KJI Strategic Plan – Main Framework and Core Activities

### **3.2 CONSTITUTIONAL COURT**

- PR plan for the Workshop for Constitutional Court Legal Advisors and Legal Researchers
- Workshop on Research and Analytical Skills for Constitutional Court
- 1<sup>st</sup> Workshop on Research and Analytical Skills for Constitutional Court (29,30-09-11)

- 2<sup>nd</sup> Workshop on Research and Analytical Skills for Constitutional Court (21,22-03-12)
- Success Story on the two workshops organized with Constitutional Court legal advisors, one published on Court's website
- Case Summary Protocol and Template for legal advisors to prepare summaries of Court's decisions for inclusion in Bulletin of Case Law
- Template Training Agenda for Constitutional Court
- Glossary of Terms for Court

## **COMPONENT 4**

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### **STRATEGIC ACTIVITY FUND**

- EROL SAF Manual
- SAF Rapid Assessment Report on NGOs and Educational Institutions
- Draft SAF RFA including Conflict of Interest Policy

### **PUBLIC OUTREACH**

- EROL Communications Strategy (includes folders, banner designs, templates for local press review, media monitoring sheet, website and Facebook page proposals, branding and marketing plan)
- Media Assessment Report
- Two-page outline for the Media Assessment Report
- EROL local press reviews
- Summary Of EROL Meetings With Regional Media

### **AD HOC REPORTS**

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- Memorandum on Presidential Pardons
- Justice Sector Law Analysis (Constitutionality of the Law on the Courts, Law on the State Prosecutor, Law on the Kosovo Judicial Council, and Law on the Prosecutorial Council)
- Official Immunity of Public Officials
- Street Law Concept Paper
- Constitutional Analysis of KJI Role in Judicial Selection Process
- Analysis of Presidential power to Appoint/Not Appoint Judges
- Memorandum on KPC Draft Regulation on Transfers and Promotions
- Memorandum on Simultaneous Applications by the Same Candidate for a Judicial and a Prosecutor Position
- STTA Trip Reports
  - Kent Hatley
  - Atif Zuberi
  - Linda Jacobson
  - Chris Boeder

- Korina Kalopsditotou

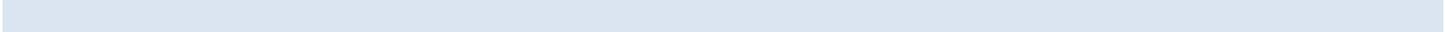
## **QUARTERLY REPORTS**

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- Quarterly Progress Report for the Period April – June 2011
- Quarterly Progress Report for the Period July 1 – September 30, 2011
- Quarterly Progress Report for the Period October 1 – December 31, 2011 (submitted in Year 2)

## **WEEKLY REPORTS**

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- Quarter 1 Weekly Reports (April 2011 – June 2011)
  - Quarter 2 Weekly Reports (July 2011 – September 2011)
  - Quarter 3 Weekly Reports (October 2011 – December 2011)
  - Quarter 4 Weekly Reports (January 2012 – March 2012)
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APPENDIX B: SUMMARY OF YEAR 1 TRAINING AND CAPACITY BUILDING EVENTS

Q2 TRAINING				
Program/Event	Male	Female	Min/Others	Total
Model Courts Consortium Meeting (Jul 7, 2011)	11	2	0	13
Model Courts Consortium Meeting ( Sep 1, 2011)	8	3	0	11
MOJ Workshop on Improving Analytical Skills & Strategic Policy Analysis (Sep 12, 2011)	4	2	0	6
Constitutional Court – Legal Advisors and Researchers Workshop (Sep 29-30, 2011)	9	3	2	12
<b>Total</b>	<b>32</b>	<b>10</b>	<b>2</b>	<b>44</b>

Q3 TRAINING				
Program/Event	Male	Female	Min/Others	Total
Office of the President 1 <sup>st</sup> Working Roundtable on Judicial and Prosecutorial Appointment Process (Oct 11, 2011)	10	3	0	13
Office of the President 2 <sup>nd</sup> Working Roundtable on the Transfer and Dismissal of Judges and Prosecutors (Dec 6, 2011)	5	1	0	6
Case Flow Management Classes (Nov-Dec 2011)	40	16	0	56
<b>Total</b>	<b>55</b>	<b>20</b>	<b>0</b>	<b>75</b>

Q4 TRAINING				
Program/Event	Male	Female	Min/Others	Total
Ministry of Justice – International Legal Assistance in Civil Matters (Jan 31–Feb 1, 2012)	2	7	0	9
National Judicial and Prosecutorial Education Strategy Workshop (Feb 9, 2012)	7	1	0	8
Model Court Tour and Orientation Program with Ferizaj Mentor Court (Feb 16, 2012)	11	2	0	13
Judicial Research Workshop (Mar 2, 2012)	9	3	0	12
Office of the President 3 <sup>rd</sup> Working Roundtable on Dismissal of Judges and Prosecutors (Mar 06, 2012)	7	3	0	10
Kosovo Judicial Council Web Strategy Workshop (8-9 March, 2012)	6	4	0	10
8 Model Court Program Facilitated Court Refurbishment Planning Sessions (Feb –March 2012)	39	9	0	48
2 <sup>nd</sup> Constitutional Court Legal Advisor and Researcher Workshop (Mar 21-22, 2012)	9	5	4	18
<b>Total</b>	<b>90</b>	<b>34</b>	<b>4</b>	<b>128</b>

<b>Year One Total</b>	<b>177</b>	<b>64</b>	<b>6</b>	<b>247</b>
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APPENDIX C: MONITORING AND EVALUATION CHART

Result/Indicator/ Unit of Measure	Definition/Rationale/Utility/Limitations	Annual Target	Baseline	Actual				Year I Actual Total	Comments
				Q 1	Q 2	Q 3	Q 4		
<b>IR2: IMPROVED DELIVERY OF JUSTICE</b>									
% of citizens and court users satisfied with the justice system  Unit: %. Disaggregated by sex, region, rural/urban, and 1 minority groups.	Public opinion poll to determine whether reform has an impact on satisfaction with and knowledge of the justice system.  Country-wide opinion change takes time, and factors outside the program's manageable interest can arise, overwhelming program effects.		TBD with first data collection	TBD after study	TBD after study	TBD after study	TBD after study		To increase accuracy of results, the Program has proposed to separate the surveys into two separate activities. Draft RFP for <b>Court User Survey</b> has been developed and will be submitted to USAID for approval. RFP for <b>Citizen Satisfaction Survey</b> will follow in Y2Q2.
<b>2.1 Increased capacity of justice sector professionals</b>									
# of justice sector personnel that received USG training  Unit: #; disaggregated by sex and role 2	<b>Standard F output indicator.</b> Shows coverage when compared to the universe. Disaggregation by gender and minorities will measure against related targets. Also disaggregated by role (judges, prosecutors, court staff, etc.) Targets TBD in consultation with USAID/Kosovo as training plans are finalized.		M=0 F=0 T=0 O=0	M=0 F=0 O=0 T=0	M=32 F=10 O=2 T=44	M=55 F=20 O=0 T=75	M=90 F=34 O=4 T=128	M=177 F=64 O=6 T=247	Individuals who attend multiple trainings are counted for each they attended. During Year 1 of Program Implementation EROL contributed on the capacity building of <b>247 individuals</b> representing various Kosovar stakeholders: Male=177; Female=64; Other/Minority=6
% of judges (J), prosecutors (P) and court staff (S) participating in CLE  Unit: %; disaggregated by sex and status 3	Mission Custom outcome indicator. Shows extent to which continuing legal education has been institutionalized in the justice system. Also shows coverage (denominator is universe of individuals).		TBD from KJI records	N/A	N/A	N/A	N/A	N/A	N/A

Result/Indicator/ Unit of Measure	Definition/Rationale/Utility/Limitations	Annual Target	Baseline	Actual				Year I Actual Total	Comments
				Q 1	Q 2	Q 3	Q 4		
4 # of legal courses or curricula developed with USG assistance Unit: #	Output indicator. Legal courses or curricula improve skills and capacity of justice sector personnel or the general public regarding the legal system in Kosovo. Development could include significant modification of existing courses or new courses.	3	0	0	2	1	2	5	The total target for Year 1 was <b>exceeded</b> - Program developed total of 5 legal courses and curricula for the MOJ and CC. 3 <sup>5</sup>
5 # of executive branch sector personnel trained with USG assistance Unit: # disaggregated by sex and role	<b>Standard F output indicator.</b> For the Office of the President, training in areas of administration, management or leadership skills or good governance practices.	6	0	0	0	0	9	9	Two-day workshop on international legal assistance in civil matters for 9 lawyers from the Department for International Legal Co-operation (DILC) Male=2; Female=7
6 # of USG-supported trainers receiving pedagogical training (ToT) for their role in KJI and other judicial trainings, and replicate skills learned Unit: #; disaggregated by sex	Output and outcome indicator. Must attend 80% of ToT training and pass post-test of knowledge, which may include observation of training practices as well as testing. In later program years training will taper for this audience.	10	0	0	0	0	0	0	Total of 16 candidates have been tested and interviewed; ToT is being prepared and will be offered in Q1 of Year 2

<sup>5</sup> ILEP Curriculum for the fifth generation (ILEP Assessment Report); CLEP Curriculum for 2012 (CLEP Assessment Report); Course module on Core Competencies for Court Administrators covering independence of the judiciary, public trust and confidence, leadership, ethics, public outreach, budgets, staff supervision, court security, IT, and caseload management; Ministry of Justice – Workshop on Improving Analytical Skills & Preparing Strategic Policy Analyses for the MOJ Staff; Sep 12, 2011; and Constitutional Court – Legal and Researchers Workshop; Sep 29-30, 2011.

Result/Indicator/ Unit of Measure	Definition/Rationale/Utility/Limitations	Annual Target	Baseline	Actual				Year I Actual Total	Comments
				Q 1	Q 2	Q 3	Q 4		
7 Simple case studies of persons trained by EROL or EROL-trained instructors (e.g., judge, prosecutor, PR staff, KJI instructor)	Qualitative cases of trainees, identified through instructors, to discover training impacts on job performance and occupational behaviors. Range of roles: judge, trainee judge, other trainees. Depending on role studied, cases can include interviews, observations, job performance data or other relevant metrics.	5	0	0	0	0	0	0	
8 KJI Scorecard rating of EROL's progress with KJI goals	Benchmark outcome indicator. Progress on tab "KJI" toward approved and consensed activities in consultation with USAID and stakeholders.  Total score possible: 68 over four years; cumulative in (#)	32	0	9	12	15	16	(16)	
<b>2.2 Increased independence and accountability of the judicial system</b>									
9 Number of laws, regulations and procedures related to judicial independence supported with USG assistance  Unit: #	<b>Standard F output indicator.</b> Refers to laws, regulations and procedures that are official and have been passed or amended in accordance with the country's legal requirements. Laws, regulations and procedures lay out the legal basis for building judicial independence and provide one significant indicator of government commitment. Some laws may also cover transparency.	4	0	0	0	4	0	4	A total of 2 Administrative Instructions (AI) were approved and entered into force re: Submission of Proposals for the Appointment of Candidates as Judge & Prosecutor;  A total of 2 Regulations were approved and entered into force re: Procedure for the Appointment/Reappointment of Candidates Proposed Judge & Prosecutor.
10 Number of regulations and procedures that improve judicial transparency adopted with USG assistance  Unit: #	<b>Standard F output indicator.</b> Refers to regulations and procedures that are official and have been passed or amended in accordance with the country's legal requirements. Laws, regulations and procedures lay out the legal basis for building judicial independence and provide one significant indicator of government commitment. Some regulations/procedures may also cover independence.	4	0	0	AI 5 Reg. 2	1 IP	2	10	KJC Regulation on Evaluation of Performance of Judges;  Administrative Instruction (AI) re; Reassignment/Transfer of Judges to the Court of Appeals

Result/Indicator/ Unit of Measure		Definition/Rationale/Utility/Limitations	Annual Target	Baseline	Actual				Year I Actual Total	Comments
					Q 1	Q 2	Q 3	Q 4		
11	Number of government media relations staff trained with USG assistance  Unit:# Disaggregated by sex and office	<b>Standard F output indicator.</b> Staff must be employed by government, and media relations must be at least one of their substantive responsibilities. A free, effective and informed press depends on government support for freedom of the press, and on responsible, responsive and professional government officials working with the press.	10	0	0	0	0	10	10	KJC Website Strategy Workshop attended by members of KJC Secretariat; KPC; KJI; Supreme Court, District Courts, Municipal Courts; and Commercial Court of Pristina: Male=6; Female=4
12	Constitutional Court scorecard rating of EROL's progress with CC's goals	Benchmark outcome indicator. Progress on tab "CC" toward approved and consensed activities, in consultation with USAID and stakeholders.  Total score possible: 56 over four years; cumulative in (#)	20	0	9	17	19	19	(19)	
13	Improved performance on scale considering key factors of an acceptable disciplinary system  Unit: Scale of 0-3	Outcome indicator. Based on key factors of an acceptable disciplinary system (including ensuring timeliness of disciplinary hearings, the presence of a system for processing complaints and adherence to that system, and a review of sanctions executed against sanctions imposed), a score of 0-3 will be assigned.	N/A	TBD	N/A	N/A	N/A	N/A	N/A	
<b>2.3 More effective operations of the justice system</b>										
14	# of USG-assisted courts w/ improved case management  Unit: # Listed by site and type of court, as applicable	<b>Standard F outcome indicator</b> and defined by Model Court norms. KJC to provide operational definition of floor measurement for "improved case management."	15	10	0	0	0	0	15	Work on Case Management will begin in Year 2
15	Ratio of all dispositions to new case filings in courts assisted by USG in the area of case management  Unit: Ratio	<b>Standard F outcome indicator</b> applied to the Model Courts. Shows whether backlogs are increasing. Speed and efficiency of the courts serve as proxies for effectiveness of the justice system and of justice sector actors as a whole.	N/A	TBD	N/A	N/A	N/A	N/A	N/A	N/A

Result/Indicator/ Unit of Measure	Definition/Rationale/Utility/Limitations	Annual Target	Baseline	Actual				Year I Actual Total	Comments
				Q 1	Q 2	Q 3	Q 4		
16 % of cases heard and resolved within 24 months Unit: %	Mission Custom indicator. Similar to standard indicator above, although this one has a 2-year span before being counted.	N/A	Data to be collected in MCPs	N/A	N/A	N/A	N/A	N/A	N/A
17 More efficient and professional Model Courts	Benchmark outcome indicator. Progress on scorecard toward measures to improve Model Courts in consultation with USAID and stakeholders. Each Model Court is subject to 9 standards and score range of 0-3 for each.  Total score possible: 540 over four years; cumulative in (#)	162	0	0	0	0	0	(9)	Model Courts (9) selected and approved by USAID (Nov 10, 2011)
18 Number of strategic plans for justice sector reform adopted with USG assistance	<b>Standard F output indicator.</b> EROL will work with several bodies to develop strategic plans for justice sector reform, matching priorities with tasks, establishing timelines and benchmarks, and including broad consultation among key stakeholders. Sub-plans for departments or divisions developed as deemed useful and necessary by stakeholders.	KPC - 1 MOJ - 1 KJI - 1 Total = 3	0	0	0	2	0	2	In lieu of Strategic Plans, EROL worked on Implementation Plans for KJC and KPC on LoC and LSP
19 Mean case disposition time in courts assisted by USG in the area of case management Unit: Mean # months	<b>Standard F outcome indicator.</b> Median case disposition time is measured from filing to the date parties are notified of case resolution by the court. Courts as defined by specific jurisdiction. Tracking the mean case disposition time permits a better understanding of the overall disposition rate of the courts.	N/A	TBD from KJC	N/A	N/A	N/A	N/A	NA	N/A
20 Improved administrative performance as defined from prosecutors' perspectives Unit: % improved	Outcome indicator. Model Court and KPC activities should improve administrative performance. Measured through questionnaires given to sample of prosecutors.	N/A	TBD upon first data collection	0	N/A	N/A	N/A	N/A	NA
21 Kosovo Judicial Council scorecard rating of EROL's progress with KJC	Benchmark outcome indicator. Progress on KJC scorecard toward approved and consensed activities in consultation with USAID and stakeholders.	22	0	9	19	21	(24)	Total YR1 Target=22 Total YR1	

Result/Indicator/ Unit of Measure	Definition/Rationale/Utility/Limitations	Annual Target	Baseline	Actual				Year I Actual Total	Comments
				Q 1	Q 2	Q 3	Q 4		
goals	Total score possible: 84 over four years; cumulative in (#)							Achieved=24	

Result/Indicator/ Unit of Measure	Definition/Rationale/Utility/Limitations	Annual Target	Baseline	Actual				Year I Actual Total	Comments	
				Q 1	Q 2	Q 3	Q 4			
22	Kosovo Prosecutorial Council scorecard rating of EROL's progress with KPC goals	Benchmark outcome indicator. Progress on KPC scorecard toward approved and consensed activities in consultation with USAID and stakeholders.  Total score possible: 44 over four years; cumulative in (#)	24	0	3	5	6	(7)	Total YR1 Target=24  Total YR1 Achieved=7	
23	Ministry of Justice scorecard rating of EROL's progress with MOJ goals	Benchmark outcome indicator. Progress on MOJ scorecard toward approved and consensed activities in consultation with USAID and stakeholders.  Total score possible: 80 over four years; cumulative in (#)	18	0	8	13	13	(15)	Total YR1 Target=18  Total YR1 Achieved=15	
24	Chamber of Notaries scorecard rating of EROL's progress with CON goals	Benchmark outcome indicator. Progress on CON scorecard toward approved and consensed activities in consultation with USAID and stakeholders.  Total score possible: 26 over four years; cumulative in (#)	8	0	0	1	1	(1)	Total YR1 Target=8  Total YR1 Achieved=1	EROL assistance is limited and delayed at direction of USAID
25	Office of the President scorecard rating of EROL's progress with OP goals	Benchmark outcome indicator. Progress on OP scorecard toward approved and consensed activities in consultation with USAID and Kosovar stakeholders.  Total score possible: 30 over four years; cumulative in (#)	12	0	5	6	9	(9)	Total YR1 Target=12  Total YR1 Achieved=9	
<b>2.3.1 Courthouse infrastructure improved</b>										
26	# of Court Improvement Plan refurbishment objectives achieved  Unit: cumulative #	Outcome indicator. Tracks the impact of the Model Courts' Fund in terms of rehabilitated or improved infrastructure projects. Achievement is equal to completing the plans and being rated as a "true model court" by raters.	8	0	0	0	0	0	0	
<b>IR3: STRENGTHENED MECHANISMS FOR CITIZENS TO REPRESENT THEIR INTERESTS AND HOLD THE GOVERNMENT ACCOUNTABLE</b>										

Result/Indicator/ Unit of Measure	Definition/Rationale/Utility/Limitations	Annual Target	Baseline	Actual				Year I Actual Total	Comments
				Q 1	Q 2	Q 3	Q 4		
27 # of page visits per month on the MOJ interactive website for pending legislation Unit: # per month	Outcome indicator. The MOJ website invites citizen input on legislation. As citizen confidence increases, public participation and visits to website should increase. Difficult to determine whether increased knowledge of site or confidence is contributing to data. Website registration might request information on both.	N/A	0	N/A	N/A	N/A	N/A	N/A	N/A
28 Number of USG-assisted Civil Society Organizations that engage in advocacy and watchdog functions. Unit: #	<b>Standard F outcome indicator.</b> CSOs must be actively engaged in these functions, and be able to demonstrate that they are so engaged.	2	0	0	0	0	0	0	SAF Grants not made in accordance with USAID Guidance
29 # of functioning Public Reception and Orientation Platforms (PROPs) in model courts Unit: #	The PROPs increase transparency and access to information while ensuring that court users are oriented in new systems. To be counted, a PROP must meet TBD standards as tested by auditors posing as court users.	6	0	0	0	0	0	0	To be introduced in Year 2
<b>3.1 Increased Professionalism of Citizen Groups and Journalists to Monitor Government Activity and Influence Policy</b>									
30 # of USG-assisted campaigns to enhance public understanding; NGO support/media coverage of judicial independence and accountability Unit: #	<b>Standard F output indicator.</b> Tracks inputs that strengthen those mechanisms focused on public understanding, NGO support and media coverage of judicial independence and accountability. Campaigns designed to support GOK initiatives. Definitions must be shared/vetted with all NGOs involved. Targets TBD as grant TORs are accorded with USAID.	0	0	0	0	0	0	0	N/A

APPENDIX D: PMP SCORECARDS

KOSOVO JUDICIAL COUNCIL SCORECARD

Kosovo Judicial Council Scorecard	Year 1					Description
Target/Actual (per Quarter)	Target	Q 1	Q 2	Q 3	Q 4	
Support drafting of implementation plan LoC	2	1	1	2	2	Final Draft of the Implementation Plan submitted to KJC. Published by KJC December 1,
Rapid assessment to identify focus of efforts (Action Plan)	2	1	2	2	2	Action plan completed in Q2.
TA to KJC committees	2	1	1	1	2	KJC appointed Court Administration Committee and Budget, Finance and Human Resources Committee in March 2012.
TA to KJC for building strategic alliances	N/A	1	1	1	1	EROL assisted KJC to build strategic alliance with Federal Judicial Center
Support KJC in inter-Ministerial legislation working groups	N/A	1	1	1	1	Law on Notary
Support development of follow-on Strategic Plan	N/A	1	1	1	1	Needs Assessments H/R Database and judge H/R files for transfers under LoC underway.
<b>Support HR functions of KJC</b>						
Define and standardize staff job descriptions						
Staff recruitment/selection standards in place						
Staff promotion standards in place						
Staff discipline/dismissal standards in place						
Internship programs functioning successfully						
Judicial selection procedures improved	2	1	1	1	2	EROL assisted with drafting of Regulation andwith OP.
Judicial evaluation procedures improved	2	0	1	1	2	Evaluation of performance of Judges completed, approved by KJC and introduced into force on March 2012.
Judicial promotion procedures improved	2	0	0	0	0	The KJC has not appointed a Committee for this task
Judicial disciplinary procedures improved	2	0	0	1	1	KJC appointed the Judicial Discipline Committee. EROL assisted with preparation of Draft Regulation for Judicial Discipline.
KJC database for judicial personnel in use	N/A	1	1	1	1	Database assessment underway
<b>Track legislation reviewed by legal office</b>						
<b>Track implementation of procedures for effective court admin</b>						
Case flow, reception, assignment, management						
Case files and records standards and procedures	N/A	1	1	1	1	Working group on Court Administration appointed
Attention to court users	N/A	1	1	1	1	Workshop on KJC Web Portal
Transparency and information access	N/A	1	1	1	1	Workshop on KJC Web Portal and assessment complete.
<b>Increased and more effective use of automation</b>						

Assess IT needs, CMIS' contributions/gaps, and failure to use	2		1	1	2	
Provide recommendations for system operation	N/A	1	1	1	1	Web portal assessment including interoperability requirements underway
<b>Minority outreach efforts</b>	<b>N/A</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	Focus groups with minority communities
Draft minority access assessment	2		1	1	1	Draft report on Minority access needs assessment prepared.
Draft outreach campaign	2		1	1	1	
Draft requirements for translator program	2	0	0	0	TB	<b>No Y1 activities in Work Plan</b>
<b>TOTAL:</b>	<b>22</b>	<b>13</b>	<b>18</b>	<b>20</b>	<b>24</b>	<b>The totals have been revised and are 1 point lower than previously reported</b>

## KOSOVO PROSECUTORIAL COUNCIL SCORECARD

Kosovo Prosecutorial Council Scorecard	Year 1					Description
	Target/Actual (per Quarter)	Target	Q1	Q2	Q3	
<b>Facilitate development of strategic plan</b>	2	0	1	1	1	The Chief State Prosecutor has established a Working Group tasked with development of this Strategic Plan by June 2012. EROL has presented for comment the full draft structure of the Strategic Plan to the Director of the KPC Secretariat, Working Group members, and the technical staff of the Prosecutor Performance Review Unit.
<b>Facilitate development of annual plans</b>	2	0	0	1	1	Draft 2012 KPC Work Plan completed.
<b>Facilitate development of implementation plan and committees</b>	2	0	1	1	1	The Implementation Plan has been completed, based on a simplified version of the draft developed by USAID/EROL.
<b>Instruction manual (SOP) with regulations, policies, procedures</b>	2	0	0	0	0	Several administrative instructions have been developed, but this has not yet been approached in a holistic fashion.
<b>Support implementation of SOP across KPC</b>	2	0	0	0	0	As no SOP has been developed, this will be engaged in Y2.
<b>Develop job descriptions/TORs for KPC Secretariat staff</b>	2	1	1	1	1	Several job descriptions have been developed, but this has not yet been approached in a holistic fashion.
<b>Train KPC in needs-based budgeting and justification</b>	2	0	0	0	0	This area has not yet been engaged; once the KPC identifies specific needs through its Strategic Planning process, this area will be addressed.
<b>Legislative drafting support: secondary legislation</b>	2	0	0	0	0	This area has not yet been engaged.
<b>Development of new staff training module</b>	2	0	0	0	0	As TORs are not complete, and the SOP has not yet been developed, this will be engaged in Y2.
<b>Draft public relations strategy</b>	2	1	1	1	1	EROL has developed STTA SOWs to work with the KPC to provide assistance and advice to lay the foundations of public relations strategy development. KPC included in KJC Web Strategy workshop. Direct assistance to KPC planned for April 2012.
<b>Draft public relations training modules and materials</b>	2	0	0	0	1	SOW completed and STTA identified. Training will be in Y2Q1.
<b>Train public relations staff</b>	2	1	1	1	1	EROL has developed STTA SOWs to work with the spokespersons of the KPC, including organization of press conferences, drafting of press releases, etc. KPC staff included in Web Strategy workshop and weekly meetings with EROL PR Officer.
<b>Support formulation of external/internal communication plans</b>						
<b>Incorporate public messages into overall outreach activity</b>						

TOTAL:	24	3	5	6	7
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MINISTRY OF JUSTICE SCORECARD

Ministry of Justice Scorecard	Year 1					Description
	Target/Actual (per Quarter)	Target	Q1	Q2	Q3	
<b>Legislative drafting</b>	N/A	1	1	1	1	1 Assistance on Law on Notary provided
Draft training modules						
Implement training program in legislative drafting	2	1	2	2	2	One workshop completed on public policy analysis and development; one to do on public input and legislative drafting
Draft legislative enactment plans	2	1	2	2	2	Public policy analysis and development protocol completed
Define guidelines for public participation	2	0	1	1	1	Proposal to conduct legislative drafting workshop made DLA
Capacity development for public participation	2	0	1	1	1	Will be suggested as part of legislative drafting workshop
Support for secondary legislation drafting	2	0	0	0	0	MOJ is not preparing secondary legislation for the Law on Courts, etc.
<b>International Legal Cooperation Department (ILCD)</b>						
Training needs analysis report	2	1	2	2	2	Per agreement with EULEX/ECLO, EROL providing training on civil aspects of legal cooperation (excluding family law)
Develop training modules for ILCD						
Develop international legal assistance manual	2	1	1	1	2	Conducted 2-day workshop on international legal cooperation in civil matters and delivered Practice Manual
Training MOJ officials in implementation of roles	2	1	1	1	2	Conducted 2-day workshop on international legal cooperation in civil matters and delivered Practice Manual
Complete agreements with interested nations						
Exchanges with EJN and EuroJust						
<b>Litigation Unit</b>						
Training needs analysis report	2	2	2	2	2	Three (of six) lawyers in Division for Judicial Litigation attended NITA-style trial advocacy training conducted by KJI; EROL prepared proposal to the Department for Legal Affairs to define and increase MOJ capacity to represent GOK in litigation.
Develop training modules						
Training in inter-Ministerial coordination for litigation						
Training in oral and written advocacy skills						
ToT for local trainers						
Training in administrative litigation						
Training in civil litigation						
Compilation of training into a reference book						
<b>TOTAL</b>	<b>18</b>	<b>8</b>	<b>13</b>	<b>13</b>	<b>15</b>	

CHAMBER OF NOTARIES SCORECARD

Chamber of Notaries Scorecard	Year 1					Description
	Target	Q1	Q2	Q3	Q4	
Target/Actual (per Quarter)						
Amendments to Law on Notaries drafted	2	1	1	1	1	EROL assistance was limited to analysis/comments on Law on Notaries per USAID guidance. EROL participated in MOJ working group.
Amendments explained to Assembly	2	0	0	0	0	
Amendments adopted	2	0	0	0	0	
Present draft legislation at founding assembly	2	0	0	0	0	
Support to develop a strategic plan for the Chamber						
Develop public relations strategy on Chamber of Notaries						
Support creation of public complaint mechanism						
Outreach to minority groups to participate in future exams						
Study visits for notaries						
<b>TOTAL</b>	<b>8</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	

OFFICE OF THE PRESIDENT SCORECARD

Office of the President Scorecard	Year 1					Description
	Target	Q1	Q2	Q3	Q4	
<b>Target/Actual (per Quarter)</b>						
<b>Report on justice-related competencies of OP</b>	2	1	1	1	1	The report on Presidential competencies in the justice sector has been drafted
<b>Establish working group per Project design TORs</b>	2	1	1	2	2	Working groups are identifiable and operational. This constitutes the technical level group, which is comprised of the representatives from the PO and the KJC and KPC Secretariat.
<b>Support creation of coordination mechanisms</b>	2	1	1	2	2	Coordination mechanism as locus for institutional interaction and policy coordination [to address policy options, and to analyze or resolve legal conflicts or inconsistencies on matters involving but not limited to judicial and prosecutorial appointments] have been established and are operational. The coordination mechanisms include the PO Legal Advisor (including the Head of the PO Legal Department) and the Director of the KJC/KPC Secretariat.
<b>Intra-governmental roundtables</b>	2	1	1	2	2	The 3 <sup>rd</sup> in a series of Intra-Governmental Roundtables was held in Q4 (06 March 2012). The roundtables explored many issues of judicial and prosecutorial appointment/transfer/dismissal, and simultaneous applications to the KJC and the KPC by the same applicant.
<b>Draft PR strategy</b>	2	0	0	0	0	Although the scorecard makes reference to the development of the PO strategy for communication with public/citizens, such strategy was purposefully not referred to in the Year 1 Work Plan because of the agreement with the Office of the President to undertake this activity in Year 2.
Train public relations team members						
Include outreach messages in overall PR strategy						
<b>Support drafting of written protocols/circulars/guidelines</b>	2	1	2	2	2	KJC Administrative Instructions (2) on the Submission of Proposals for Appointment of Candidates as Judge/Prosecutor; PO Regulations (2) on the Appointment of Candidates proposed as Judges/Prosecutor. EROL provided P O with legal research and advice on matters pertaining legislation review, constitutional authority of pardon, and judicial and prosecutorial appointments.
<b>Support agencies to implement protocols</b>						
<b>Train legal officers of OP</b>						
<b>TOTAL:</b>	<b>12</b>	<b>5</b>	<b>6</b>	<b>9</b>	<b>9</b>	

MODEL COURTS PROGRAM SCORECARD

Model Courts Scorecard									
KEY STANDARD		The Supreme Court	Pristina District Court	Gjilan District Court	Lipjan Municipal Court	Istog Municipal Court	Viti Municipal Court	Rahovec Municipal Court	Suhareka Municipal Court
1	Reorganize administrative duties between Presiding Judge and Court Administrator	0	0	0	0	0	0	0	0
2	Develop and implement a Court Training Plan	0	0	0	0	0	0	0	0
3	Maintain and updated open and closed case files accurately and chronologically	0	0	0	0	0	0	0	0
4	Develop and implement a plan for reduction of case backlogs in all types of cases	0	0	0	0	0	0	0	0
5	Develop and implement a plan for compliance with case processing time standards	0	0	0	0	0	0	0	0
6	Streamline procedures for effective procurement and use of court logistics and supplies	0	0	0	0	0	0	0	0
7	Enhance court communication with the public	0	0	1	0	0	0	0	0
8	Improve accessibility and security of court facilities	1	1	1	1	1	1	1	1
9	Ensure that court proceedings are open and that all that appear before the court have the opportunity to participate effectively	0	0	0	0	0	0	0	0
<b>TOTAL:</b>		1	1	2	1	1	1	1	1

CONSTITUTIONAL COURT SCORECARD

Constitutional Court Scorecard	Year 1					Description
	Target	Q1	Q2	Q3	Q4	
<b>Target/Actual (per Quarter)</b>						
<b>Needs Assessment - expertise and information needs of judges</b>	2	1	1	2	2	EROL is preparing topics for a judicial training conference to be held in Q1 or Q2 in Year Two of Program
<b>Support program and materials for CC judges drafted</b>	2	0	1	1	1	EROL is preparing topics for a judicial training conference to be held in Q1 or Q2 in Year Two of Program
Training modules developed for new CC judges	2	0	0	1	1	EROL is preparing topics for a judicial training conference to be held in Q1 or Q2 in Year Two of Program
Support attendance at regional or international conferences	2	0	1	1	1	EROL is preparing topics for a judicial training conference to be held in Q1 or Q2 in Year Two of Program
<b>Needs Assessment - training needs for legal advisors</b>	2	1	2	2	2	Training Needs Assessment Completed
Training modules developed for legal advisors	2	1	2	2	2	Workshop conducted at end of Q2 and second workshop done in Q4
Training provided to legal advisors	2	1	2	2	2	Workshop conducted at end of Q2 and second workshop done in Q4
<b>Exchanges with international jurists (visits to Kosovo or travel)</b>	2	0	1	1	1	Will be considered as part of the above-mentioned conference
<b>Preparation of research papers for conference</b>	2	0	1	1	1	Will be considered as part of the above-mentioned conference
<b>Conference on constitutional jurisprudence and adjudication</b>	2	0	1	1	1	Will be considered as part of the above-mentioned conference
<b>Internship program launched (year 2) and monitored (2-4)</b>						
<b>Materials created and distributed as bench references</b>	N/A	1	1	1	1	Summaries
<b>Library needs assessed and materials procured</b>						
<b>Training module developed for internet research</b>						
<b>Reference manual created and distributed</b>						
<b>ToT in adult learning principles</b>						
Local and international trainers train advisors together	N/A	2	2	2	2	Legal Advisor Training
Local trainers begin to train on their own	N/A	2	2	2	2	Orientation and training for new researchers conducted by CC Trainers using EROL-produced materials.
<b>Deploying software for full-text searchable decisions online</b>						
<b>TOTAL:</b>	<b>20</b>	<b>9</b>	<b>17</b>	<b>19</b>	<b>19</b>	

KOSOVO JUDICIAL INSTITUTE SCORECARD

Kosovo Judicial Institute Scorecard	Year 1					Description
	Target/Actual (per Quarter)	Target	Q1	Q2	Q3	
<b>Assessment of KJI structure and curriculum, and their degree of alignment with LoP and LoC</b>	2	1	1	1	1	EROL completed and submitted to the KJI the assessment of the Continuous Legal Education Program (CLEP) curriculum. An STTA came to Kosovo and performed the background work necessary to prepare an assessment of the Initial Legal Education Program (ILEP) curriculum; that assessment was completed and submitted to the KJI during the 4 <sup>th</sup> quarter. Pending discussions regarding the transformation of the KJI into a judicial academy, the KJI has decided to suspend the preparation of a new strategic plan.
<b>Draft training courses</b>	2	1	1	1	2	In the CLEP Assessment, EROL undertook the responsibility for the preparation of several course modules for presentation in 2012. Drafts of two courses have been completed: Work of the Judge and Core Competencies for Court Administrators; and drafting is underway on a course entitled Best Practices for Court Administrative Staff
<b>Training of Trainers (TOT)</b>						
Training of trainers program developed	2	0	0	0	0	KJI wishes to delay ToT until new instructors are selected for 2012 courses to be presented in the CLEP and ILEP
ToT program carried out with KJI instructors	2	0	0	0	0	KJI wishes to delay ToT until new instructors are selected for 2012 courses to be presented in the CLEP and ILEP
<b>English language TOT training</b>						
Training of trainers program developed	2	1	1	1	1	16 candidates for a TOT course have been tested and interviewed; the course is being prepared and will be offered Q1 of Year two
ToT program carried out with KJI instructors	2	1	1	1	1	16 candidates for a TOT course have been tested and interviewed; the course is being prepared and will be offered Q1 of Year two
<b>Training program on OSCE recommendations prepared</b>	2	0	1	1	1	OSCE reports have been analyzed and administrative staff shortcomings are being addressed in above Best Practices course
<b>STTA provided in holding judicial conferences</b>	2	0	0	1	1	EROL has proposed that KJI co-sponsor a 2-day judicial conference with KJC in advance of an OP conference to be held during the 1st quarter of Year Two
<b>Judicial conferences held</b>	2	0	0	1	1	EROL has proposed that KJI co-sponsor a 2-day judicial conference with KJC in advance of an OP conference to be held during the 1st quarter of Year Two
<b>Develop list of potential local and int'l partner institutions</b>	2	1	2	2	2	List prepared and submitted to KJI

<b>Support development of relationships with institutions</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	Initial meeting with Federal Judicial Center Director of Research in Q4; tentative plans to cooperate on legal resources
<b>Support to attend international conferences</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	EROL is considering the possibility of sending a delegation to IOJT conference to be held in DC in 2013.
<b>KJI website enhanced</b>						
Include reference materials and legal information on site	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	Conducted database and website needs assessment; presented a two-day workshop on database and website design facilitated by STTA advisors; conducted one-day seminar for the KJI and finalized requirements for the KJI website and training database. EROL advisors will return during the Y2Q1 to continue work in the preparation of an updated database and website.
Develop test version of KJI website	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	Presented a two-day workshop on database and website design facilitated by STTA advisors. Advisors will return during Y2Q1 to continue work in the preparation of an updated database and website.
Develop draft database of trainees	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	Presented a two-day workshop on database and website design facilitated by STTA advisors; completed assessment of KJI database. Advisors will return Y2Q1 to develop requirements and specs for insertion into RFP for database and website development.
Develop distance learning demonstration course	<b>2</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	EROL will propose the 'Work of the Judge' course as a model to test on the GIZ-installed e-learning platform
Distance learning platform and catalog deployed and in use						
<b>TOTAL:</b>	<b>32</b>	<b>9</b>	<b>12</b>	<b>15</b>	<b>16</b>	