



CONTRACT LAW ENFORCEMENT (CLE) PROGRAM

QUARTERLY REPORT

May - July 2013

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Project Overview

The USAID/Kosovo Contracts and Law Enforcement (CLE) Task Order was executed by USAID and Checchi and Company Consulting, Inc. on May 7, 2013. The CLE Program will build on the progress achieved by the SEAD Program and other USAID and donor programs. It will work to address a range of challenges, including the reduction of the backlog in Kosovo's court system, the effective enforcement of court judgments and enforcement of contracts, the training of judges, lawyers and enforcement agents, the expansion of mediation mechanisms, the passage of a new insolvency law, and related work with the business community.

The CLE program will focus on improving the ability of citizens, businesses and the judicial system to enforce contracts and obligations and court judgments so as to benefit citizens and businesses in a timely and just manner. Recognizing that the timely resolution of disputes is essential to the facilitation of commerce and economic growth, the program will also support the establishment of an accessible and effective alternative dispute resolution system able to provide efficient, reliable and respected mediation services.

Executive Summary

In the Program's first quarter, CLE mobilized, acquired office space and equipment, deployed both long-term expatriate staff, hired or made offers to all required staff, and began hiring interns. A draft work plan was developed and submitted to USAID on June 6.

The Program immediately began work on the critical elements of the work plan, including enforcement of judgments, backlog reduction, mediation, and judicial training. Under Component One (Backlog Reduction and Enforcement of Judgments), the Program developed a draft Civil Execution Strategy to complement and supplement the Kosovo Judicial Council's national backlog reduction strategy, and launched the CLE Backlog Reduction Initiative (BRI) pursuant to it. The BRI has begun working with the KJC and major stakeholders (utilities, banks, the Central Bank) to dramatically slash the national backlog of cases. The BRI team has first been deployed to Gjilan, where this major enforcement initiative will be implemented in Quarter Two. Concurrent with this, the Program has been working with the Central Bank to ensure that the courts will be able to enforce against bank accounts. The Program also wrote more than 20 new regulations for private enforcement agents, which are being finalized with the cooperation of the Ministry of Justice legal team.

In Component Two (Contract/Commercial Law Framework), preparatory work for drafting a new Bankruptcy Law has begun. Program staff have started the process of reviewing and analyzing all of Kosovo's commercial laws, in order to develop an action matrix and a legislative drafting schedule. The Program has begun working with the Central Bank and the banks to draft the regulations that will finalize implementation of the Law on Obligations.

Program staff have reviewed and revised, where necessary to reflect changes in law, all the SEAD developed standard form contracts. Two new training programs in commercial law have been set up, negotiated, and finalized with the Kosovo Judicial Institute (KJI) and the Kosovo Chamber of Advocates (KCA). With regard to mediation, mediation activities were transferred from EROL and CLE has resumed operating the mediation centers in Peja and Gjilan.

The Component Three (Outreach, Gender, and Monitoring) team drafted the Program's Gender Action Plan, which will guide all its activities going forward. Outreach to the agricultural sector was begun in cooperation with USAID NOA. An outreach plan on the new private enforcement system was developed and, with subcontractor FTK, the plan for the Program Baseline focus groups was finalized and work was underway on developing instruments for the National Survey on Gender and Commerce.

Summary of Progress May - July 2013

Mobilization

CLE mobilized rapidly after the contract award (May 7, 2013). Checchi Vice President James Agee and CLE COP David Greer arrived in Pristina on May 12, and most key staff positions were filled within the next ten days. A lease was concluded on May 15 for office space (the previous SEAD Program offices) in the Pejton area of Pristina. CLE also acquired office equipment (largely from USAID storage) and moved it into the CLE offices. Mobilization was complete by the first week of June. A draft work plan was developed and submitted to USAID on June 6.

A. Component 1: Improved Systems for Enforcement of Judgments and Reduction of Backlog in Enforcement Cases

Component One's goal is to assist Kosovo's institutions to improve the enforcement of civil judgments in an effective, efficient and accountable manner; to establish and functionalize the anticipated new enforcement system in Kosovo; and to develop effective mechanisms for the reduction of the backlogged enforcement cases in the Kosovo court system.

A.I. Backlog Reduction

The first major element of the proposed Enforcement of Judgments component focuses on resolving the remaining backlog of unenforced court judgments. SEAD developed several mechanisms that enable the courts to more effectively deal with the backlog, including brokering an agreement between the KJC and the Tax Administration of Kosovo (TAK) to share employer information with the courts in order to facilitate wage garnishment; establishing the Registry (database) of Account Holders at the Central Bank of Kosovo (CBK) to facilitate enforcement against bank accounts; developing a chapter of the KJC Court Operations Manual and Standard Operating Procedures (SOP) applicable to enforcement clerks; and, finally, creating an electronic database of more than 100,000 paper judgments files. These tools were in addition to other efficiency-enhancing mechanisms developed and implemented by KJC.

CLE developed a draft Civil Execution Strategy to complement and supplement the Kosovo Judicial Council's national backlog reduction strategy, which incorporate and emphasize utilizing the tools developed under SEAD. This strategy addresses the civil execution cases pending enforcement in Kosovo courts, including enforcement cases arising from authentic documents as well as those based on final court judgments. This is a road-map for all the objectives that CLE plans to achieve during its backlog reduction process.

CLE has also hired 5 Backlog Reduction Officers, who are organized into a Backlog Reduction Team (BRT) as part of the project's Backlog Reduction Initiative (BRI). The BRI is currently working in the Gjilan Basic Court. Since a major part of the backlog consists of old utility payments, the Program has been working closely with the utilities, especially KEK, KEDS, and PTK. All have agreed to move forward based on the pre-existing MOUs with USAID

SEAD, and all have given full support to the CLE plan for assisting KJC and the Gjilan Court on backlog reduction of civil cases.

A.I.1. Establish with KJC clear goals and targets for the complete reduction of backlogged enforcement cases in the Kosovo court system.

CLE staff worked with the KJC and with individual courts to develop clear goals and targets across the lifetime of the Program. The major goal for Year One has been set at a 15% reduction of the net backlog from a baseline of June 2013. Detailed targets will be developed in conjunction with the KJC in Quarter Two.

A.I.2. Assist KJC to improve systems for statistics related to execution caseload.

The current KJC information system has serious problems. It is inefficient and does not provide useful information in a timely manner. Information is collected from the field and then processed by hand, without effective automation. There is widespread distrust of the accuracy of the statistics. With particular regard to execution, there is no system for effectively tracking backlogged cases, their history, and their status.

The Program has moved forward on this effort with several activities. First, it has been meeting regularly with the KJC statistical department in order to understand their needs. Second, the Program has begun updating the SEAD database of backlogged cases. The ultimate goal is deployment of an easily usable database of backlogged cases that is complete, regularly and rapidly updated in real time, and has all relevant data fields necessary for enforcement and which automates to the extent possible the work flow of enforcement. This database will integrate multiple platforms for court users (and, eventually, Private Enforcement Agents) including information from the major utilities (KEK, KEDS, PTK), and the Central Bank Unique Account Holder Registry. It will feature a graphic user interface that will easily enable utilization of the Central Bank Registry of account holders information on employers provided to the KJC by the Tax Administration of Kosovo.

Problems and Implementation Issues

KJC participation in negotiations with Serbia meant that KJC leadership was largely unavailable to

A.I.3. Support Basic Courts with backlog reduction activities.

CLE started with work in the Gjilan Basic Court on the backlog reduction plan in June, and the BRT was deployed there starting in July. All IT issues have been resolved and the BRT started the categorization process in the last week of July. 714 cases have been categorized (data entry from paper files) so far; this number is expected to increase dramatically in the next quarter. They will separate out cases for which notice has not been provided to debtors, and execution proposals which need to be resubmitted by the judgment creditor to specify

bank accounts as source of satisfaction for the claims.

The BRI's work has two goals. First, they will assist the Gjilan Court to implement the KJC Instruction issued in 2012 on the identification and archiving of civil judgments based on criminal fines which have passed the statute of limitations. Second, they will populate, organize and prepare the Court's database for the major enforcement effort that is expected in Quarter Two.

Since a major part of the backlog consists of utility payments, CLE has been meeting regularly with the utilities' management. KEDS has agreed to provide logistical support to court enforcement teams on enforcement activities as per the MOU signed between KEK and the USAID SEAD Program. CLE is assisting KEDS in drafting a new enforcement-proposal to be sent to the Gjilan Basic Court. This document will change and supplement KEDS' previous but too narrow enforcement-proposals (many of which failed to specify bank accounts or wages as a potential source of satisfying judgment debts), and will enable the CLE - BRI team and the enforcement authorities to execute debts based on the debtors' monetary assets in his/her bank accounts, personal income and other regular income, and sequestration and sale of movable/immovable items.

Incidental to their efforts, in late July the BRT provided technical assistance to PTK as a judgment creditor in the Gjilan Basic Court to clear 96 cases by withdrawing them and closing the case.

Problems and Implementation Issues

No significant problems have arisen. There were some minor IT issues at the Gjilan court, which were resolved within a few days. The major stakeholders (utilities, Central Bank, banks, Gjilan court, KJC) have all promised – and to date, delivered – full cooperation.

A.I.4. Support KJC and Basic Courts to improve performance of court enforcement clerks

CLE staff is working on updating the Enforcement Clerks Standard Operating Procedures and Performance Standards in compliance with the new Law on Enforcement Procedures. As part of this effort, CLE has drafted a process map for the new Law on Enforcement Procedures. This will be part of the Standard Operating Procedures document. (It will also inform development of software applications to facilitate enforcement.) CLE is also drafting a process map and a legal analysis for enforcement of mortgage claims. This will be a separate document from the process map mentioned above, as it will deal with the unique processes and issues of mortgage enforcement in particular.

A training event for court clerks on the revised SOP is anticipated later in Year One.

A.I.5. Utilize improved methods and information resources to improve enforcement against bank accounts and earnings.

As noted above, CLE is developing a dramatically redesigned database of backlogged cases. This will allow enforcement clerks – and, beginning next year, private enforcement agents – to work

more efficiently to resolve execution cases.

Enforcement against bank accounts is permissible under the current law, but has not been common up until now. This is partly because of manpower limitations on the part of enforcement clerks and partly because of technical issues (see below) which CLE is now moving to resolve. In Quarter Two, CLE will support the Gjilan Basic Court to conduct enforcement against several thousand individual bank accounts, in addition to wage garnishment. The goal will be to eliminate the backlog in the Gjilan Basic Court. e

Problems and Implementation Issues

KJC has access to the civil registry, but cannot download data without Personal Identification Numbers (PIN). Up until now, creditors have not submitted the PIN numbers of debtors to the courts when known. CLE is working to coordinate between KJC and the government (Ministry of Interior Civil Registry Department) to give KJC access to PINs. CLE will develop a draft KJC Instruction, and seek its promulgation, that mandates that court administrators obtain PINs and include them in case information. Meanwhile, CLE is working with the Central Bank to assure that KJC can enforce against bank accounts using just debtor names and surnames.

A.I.6. Improve enforcement mechanisms related to movable property.

In the first quarter, this activity was limited to making sure that information on movable property can be integrated into the database. Moving forward, the Program will be working with KJC and the Agency for Administration of Seized or Confiscated Assets (AMSCA) to ensure the effective integration of information between AMSCA, court enforcement personnel, and private enforcement agents.

A.I.7. Streamlined procedures for management and dismissal of cases

One lesson learned from SEAD was that courts are frequently unwilling to exercise their discretion to dismiss uncollectable civil judgments. Changing this will require (1) an instruction from the KJC and/or the Supreme Court; (2) a change in the Law on Contested Procedures (see B.I.3, below), and (3) a database with software modules that facilitate the identification and isolation of cases appropriate for dismissal. Activities toward all three of these goals are expected to begin in Quarter Two.

A.II. Establish the new enforcement system

A.II.1. Develop with MOJ secondary legislation for the new enforcement system

This activity was very intense this quarter. Throughout late May and June, CLE staff worked to draft more than 20 regulations for the new private enforcement system. This was a major effort, since this is a new area of law requiring detailed regulation. In drafting the regulations, CLE staff drew heavily on European and regional experience, carefully

examining comparable regulations from Europe and nearby countries in particular (with regard, naturally, to the unique circumstances of Kosovo).

These regulations were submitted to the MoJ for its review at the beginning of July. CLE and MoJ staff convened for two entire working days (July 12/13) to discuss, analyze, review and edit the draft regulations. More than half of the draft regulations were finalized and accepted by the legal office of the Ministry, and are expected to be promulgated in August or September. Additional meetings are expected in August, which should complete the drafting and review process. At this time, it is expected that all relevant regulations should be completed and promulgated well before the end of the calendar year.

A.II.2. Conduct training for private enforcement agents

This is expected to begin in October or early November, once the first group of private enforcement agents has passed the examination. The first written examination for private enforcement agents will take place on August 31, 2013. The oral examination will take place on September 7, and results will be announced by September 15. At this point, the first class of approved private enforcement agents will come into existence and training can begin.

A.II.3. Establish Chamber of private enforcement agents

The Chamber will come into existence formally once 20 agents are licensed. It is anticipated that it will be fully organized, with a defined membership and bylaws, before then. This work will be intense in the second and third quarters of the Program. For now, organization of the Chamber is waiting for the results of the first examination.

B. Component 2: Development of the Contract/Commercial Law Framework and Systems, Improvement of Contract Enforcement Systems and Functioning of Mediation Mechanisms

Originally, this Component was at proposal designed to assist the GoK to develop a new Civil Code for Kosovo. However, on May 13 USAID informed the Program that the Civil Code work would be handled by an EU project that is anticipated to mobilize in late 2013.

CLE will therefore work on other aspects of the Contract/Commercial law framework. First, CLE will draft regulations implementing the Law on Obligations. Second and concurrently, CLE will conduct a review of the existing commercial law framework to identify collisions, conflicts, and gaps, and will develop recommendations for a legislative drafting schedule to correct any issues that impede implementation of the laws.. Additionally, CLE will work with the MOJ to develop buy-in for a new bankruptcy law, and will then support drafting amendment and revision of the bankruptcy law. CLE commenced work on all three of these activities in Quarter One.

More generally, Kosovo lacks the “culture of contract” that that is critical to the functioning of a modern market economy. While the activities in this component are varied, most of them are ultimately directed towards developing and enhancing the use of contracts; by minimizing or

eliminating the gaps, collisions, and conflicts between laws that impede full implementation by the private sector, business will encounter less disincentive to adopting more thoroughly drafted and understood contracts.

B.I. Development of the Contract/Commercial Law Framework and Systems

B.I.1. Implement the Law on Obligations

Full implementation of the new Law on Obligations requires drafting and promulgating secondary regulations, particularly those associated with financial services. (No regulations have yet been drafted.) This is because the new Law states that until regulations have been drafted, the old Law (from 1978) will remain in force. CLE staff met in June with representatives of the Central Bank to discuss the current state of the law and its regulations. The Bank is willing to allow CLE to take the lead on this.

Before drafting could begin, some preliminary issues need to be resolved. First, it is necessary to confirm that the Central Bank was the appropriate regulatory authority. This required some research, as the law was not perfectly clear. Second, CLE staff prepared a list of which regulations had to be drafted, and assigned them tentative prioritization. This list was submitted to the Central Bank and approved in late July.

At the recommendation of the Central Bank, CLE staff then met with the Bankers' Association. The Association asked CLE to make a formal request for stakeholder input. Pursuant to this, Program staff have prepared a questionnaire for distribution to the banks. This questionnaire will cover the needs and concerns of the banks with regard to financial services regulation. It will also cover contractual and enforcement issues, which should be relevant and useful to the Program's enforcement work. The questionnaire was substantially complete by the end of the quarter; pursuant to the Association's request, it will be circulated in September.

Drafting of the new regulations will begin in September, in consultation with Central Bank staff. This work is expected to continue through the Program's second quarter.

Problems and Implementation Issues

The Central Bank's legal staff wanted CLE staff to meet first with the Bank's regulatory department, to make sure that they were informed and had no objections. This meeting took place in late July and all outstanding issues were resolved.

The Bankers Association recommended that the questionnaire not be distributed before late August or early September, because of the vacation season.

B.I.2. Review of the commercial law framework and development of a legislative drafting schedule.

CLE staff have begun a comprehensive review of the commercial law framework, to identify

what needs to be changed (i.e., clearly contradictory provisions in laws) and to illustrate the need for change by exposing inconsistencies, gaps, outdated institutions or principles, and clear conflicts between laws. This work started in July and is expected to continue throughout the second quarter. A matrix of laws and recommended changes, together with a legislative drafting schedule, are expected to be complete in late October.

B.I.3. Develop amendments to the Law on Contested Procedures

Assuming that GOK support is obtained, CLE will support efforts to develop targeted and small scale amendments to this law, restricted to amendment relating to dismissal and other disposition of enforcement cases. Development of the amendments will begin in September, with a goal of having the amendments transmitted to the Assembly for passage before the end of Year One.

B.I.4. New Bankruptcy law

A firm basis for revision of the bankruptcy law already exists, based on the reports from the World Bank ROSC (2012) and the IFC (2013). Local counterparts have already agreed in principle that a revision is desirable. CLE met with a number of stakeholders in June and July, most notably SCAAK, the Bankers' Association, the Chamber of Advocates, and AmCham. All of these counterparts have stated that they are ready and willing to provide assistance with this activity, up to and including participating in a working group. However, at this time the Ministry of Justice has not formally committed to a reform.

In anticipation of a meeting with the Minister of Justice (expected in September), staff have prepared a memorandum on the need to reform the current Insolvency Law in Kosovo and a draft Ministerial Decision on establishment of the working group. The draft decision proposes that the working group will be composed of representatives from MoJ, CLE, the Kosovo Chamber of Commerce, AmCham, SCAAK, and the Kosovo Business Alliance.

Problems and Implementation Issues

Organization of the working group and the beginning of active drafting must wait upon the approval of the Ministry of Justice who has been largely unavailable due to his participation in Brussels negotiations with Serbia. In advance of the September meeting, CLE staff attorneys have begun carrying out research, including the collection of all regional bankruptcy laws and a gap analysis of the current law. A decision from the MoJ is expected in September.

B.I.5. Legal information materials

CLE staff are undertaking a review of the nine standard form contracts drafted and distributed by SEAD in 2011-12. This includes two parts. First, staff are undertaking a legal review to check for consistency with current laws and regulations. In most cases, the law has not undergone significant changes, but at least one contract (construction) is based on a law that has since been replaced; this contract will need to be thoroughly revised. Second, staff have begun a series of meetings and consultations with stakeholders, particularly lawyers, to

discuss how the contracts are actually being used and what problems (if any) have been encountered. So far, five contracts have been reviewed and are cleared for additional distribution.

CLE staff also, with assistance from the USAID NOA program, held a series of meetings with private enterprises in agricultural value chains, from producers through processors and packing houses to supermarkets. Over June and July, staff met with representatives of more than one hundred and twenty individual businesses in the agricultural sector. The purpose of these meetings was to (1) give a short presentation on the advantages of written contracts; (2) disseminate information about the standard form contracts described above, and provide copies upon request; and (3) to collect information about the particular issues and problems facing contractors in the agricultural sector, with an eye towards incorporating this information into the next generation of standard form contracts. This activity is discussed in more detail under “Outreach” (C.I.3), below.

Problems and Implementation Issues

None. Cooperation with USAID NOA has gone very well.

B.II. Mediation

CLE resumed operating the SEAD established mediation centers - in Gjilan and Peja - which were transferred from the USAID Effective Rule of Law (EROL) Program on June 1, 2013. These two Centers were originally opened in July 2011. They accept cases referred by the courts as well as cases submitted directly by the parties. Since the opening of the mediation centers, 195 cases have been referred by the courts pursuant to a Protocol on Referral of Cases to Mediation Centers promulgated by the Kosovo Judicial Council. During this quarter, 2 additional cases were directly submitted by the public. Mediators’ fees for court-referred cases were paid by the KJC and for non-referred cases by parties.

The following table gives an overview of the cases referred to the two CLE-supported mediation centers during the reporting period.

	Gjilan		Peja	
	Qtr 1	To date	Qtr 1	To date
Cases reviewed by CLE for potential referral	82	836	91	986
Cases selected by CLE and judge for potential referral	75	658	57	637
Cases referred to mediation (based on agreement of parties)	10	92	19	105
Cases settled through mediation and approved by court	4	51	6	41
Cases not settled and transferred back to court	2	37	2	25
Cases in progress (agreement to mediate signed and	4	4	11	39

mediator selected)				
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This table provides a baseline by which progress in future quarters may be measured.

Problems and Implementation Issues

None.

B.II.1. Develop Mediation infrastructure.

The mediation centers started under SEAD in Gjilan and Peja are now operated by CLE. The activities of the centers are overseen by CLE staff Legal Advisor for ADR, who visits both centers regularly. In addition, CLE hired the mediation center managers (previously employed by SEAD and transferred to EROL) to manage the day-to-day functions of each of the centers. CLE also extended the lease for the mediation center in Peja and assumed all operating costs. All property in the mediation centers (equipment and furnishings) and well as one of the SEAD vehicles transferred to EROL was transferred to CLE.

Over the lifespan of the Program, it is anticipated that Medation will become self-sustaining both financially and administratively.

B.II.2. Support and establish Mediation Centers, and continued implementation of KJC protocol on the Court referral of cases to Centers

Demonstrating Court recognition of Mediation as a viable and valuable dispute resolution mechanism, the Court President of the Gjilan Basic Court agreed to move the Gjilan Mediation Center into the Basic Court building, which was completed during the Quarter. This level of support from the judiciary is an encouraging message for the continued development of sustainable Mediation in Kosovo. It also makes the center more accessible to the public, reducing costs. The Gjilan court also enthusiastically supported extension of the referral protocol to the court branches in Kamenice, Viti and Novo Berdo.

B.II.3. Establish new Mediation Center (location TBD)

Discussions were started with the Mediation Commission this quarter on a new mediation center. Three factors were emphasized: (1) the regional needs for mediation, (2) the receptivity of particular courts to working with a center, and (3) the existence of current centers (i.e., the UNDP-supported center in Pristina). Based on these factors, it was agreed that Prizren would be the preferred location. This recommendation was forwarded to USAID. Once USAID approval has been obtained, CLE will begin the process of training mediators in Prizren, obtaining an office for the Center, hiring staff, etc. It is expected that this activity will continue through Year One.

B.II.4. Implement KJC Protocol on referral of cases to Mediation Centers

There has been a steady increase in cases referred to mediation over the last year. This is a result of initiatives taken to overcome the reluctance of judges and attorneys to encourage parties to try mediation. These initiatives were ramped up in the first quarter of the project,

along with targeted marketing activities. CLE staff met with the Basic Court Presidents in Peja and Gjilan as well as with individual judges (including enforcement judges and enforcement clerks) to discuss referral and the KJC protocol in detail. This included an emphasis on respecting ADR (both mediation and arbitration) clauses in contracts.

In cooperation with the Mediation Association, CLE hosted two meetings (June and July) with other programs that support mediation, including UNDP, CSSP, UNICEF and Partners Kosova. These meetings helped coordinate efforts to support the Mediation Commission's plans for the year 2013 as well as building sustained mediation services in Kosovo. The need to deliver a consistent message on the referral protocol was discussed and agreed.

Later in Year One, CLE will be organizing five round tables (one in each of the seven basic courts excepting Peja and Gjilan) to instruct court personnel in the protocol and in the enforcement of mediation judgments. Pursuant to this, CLE staff met with the Administrator of the Commercial Department at Pristina Basic Court in order to discuss the protocol and the round tables. During that meeting, they also discussed how to establish a functioning mechanism for reporting on cases received for enforcement from Arbitral Tribunals, cases dismissed by the Court due to existence of arbitration clauses, and cases referred to mediation.

B.II.5. Support to Mediation Association

CLE support this quarter took three forms. First, CLE helped the Association draft several internal regulations, including the regulations governing its internal rules and procedures. These regulations were submitted to the Association's membership for review and have been approved. Second, CLE supported one general meeting of the Association and two of its board, in which a wide range of issues were discussed and consensus was reached on the Association's actions for the rest of calendar year 2013. In this regard, CLE and the Association are working to developing a joint working plan for the year beginning October 1, 2013. This plan will have two major goals: finalizing the internal organization and setup of the Association, and increasing the demand for mediation services. The plan is expected to be complete in August and finalized and accepted in September. This plan will include a training schedule for mediators, developed with CLE support.

Problems and Implementation Issues

Some regional rivalry has been noticed between the Gjilan and Peja groups of mediators. This does not appear to be a serious issue at this time, and CLE Legal Advisor for ADR continues to monitor the relationships and will take appropriate action as needed

B.II.6. Building Sustainability - ICC Mediation Moot Competition

No activity took place this quarter. It is expected that this will begin next quarter.

B.III. Training

B.II.7. Improve the skills and knowledge of judges assigned to the commercial departments of the Pristina Basic Court, Court of Appeals, and Special Chamber of the Supreme Court.

CLE began two training initiatives this quarter: one for judges through the KJI, and one for advocates. Both of these are well advanced.

CLE staff met with the Chamber of Advocates to discuss advocate training in June. It was agreed that training seminars organized with KCA will start in mid-September. These will be courses in commercial law developed by the SEAD Program in 2011-12. Based on this discussion, staff developed a draft training program. Four trainings have been scheduled for the months of September and October. Each of these will be a day-long training on a single commercial law topic, given by a certified trainer using materials already developed by SEAD and updated by CLE staff. Dates and locations for the trainings have already been finalized and the Chamber of Advocates has begun registration.

Later in June, program staff met with Lavdim Krasniqi, the Director of the Kosovo Judicial Institute (KJI), and KJI staff, in order to introduce the CLE Program and to discuss trainings in commercial legislation. The KJI agreed to use CLE trainers and training materials. A draft schedule was developed and submitted to the KJI in early July, and approved by them two weeks later. Dates and locations for two of the trainings have been finalized and the others are expected to be finalized in August. The first training will be in October.

CLE staff also met with notaries to discuss issues arising from the first two years of the notary system, and also to discuss the possibility of commercial law training for notaries. The current draft of the workplan does not include training for notaries. Upon consideration, the Program has decided not to offer training for notaries in Year One. However, communication is being kept open, and the Program may return to this issue in planning for Year Two, depending on available resources and consultation with USAID.

CLE Staff also began a review of desired commercial law trainings that are not currently available, reaching out to lawyers and other stakeholders to inquire as to what training needs are felt and not being filled. Staff also began to research and collect commercial law trainings from other projects and donors for review and possible addition to the CLE training library.

B.II.8. Assessment of the LLM Program in Contract and Commercial Law

Program staff have contacted Prof. Ted Parnall of the University of New Mexico, and he has agreed to come to Pristina to conduct the assessment. (Prof. Parnall was one of the principle consultants in the design of the LLM program in 2011.) A Scope of Work has been prepared for him. The assessment is anticipated to take place in the Fall of 2013.

C. Component 3 Outreach, Gender and Monitoring

Component 3 has been active since the beginning of the project. This Quarter saw the arrival of the Gender Specialist and the development of the Program's Gender Plan, as stipulated in the workplan.

C.I.1. Conduct Outreach on the New Enforcement System

The CLE outreach team has drafted an outreach plan on the new Private Enforcement system in Kosovo. The campaign will promote and support the establishment of the private enforcement agent system and the Chamber of Agents. Based on the plan, the private enforcement system outreach activities will rely on event-driven news coverage through pre-event press briefings, press releases, and arrangement of exclusive interviews with key sources. Going forward, it is expected to include television, radio, and web-based PSAs. The draft plan will be finalized during Quarter Two in coordination with the MoJ.

C.I.2. Conduct Outreach on Backlog Reduction

The outreach activities for the Backlog Reduction will heavily rely on the BRI team achievements. Since the BRT has only just begun work, there has been no outreach on backlog reduction yet. It is expected that this will begin in Quarter Two. Planning for outreach has already begun and will accelerate rapidly as the Program moves forward, especially as the date for rollout of the Gjilan enforcement effort approaches.

C.I.3. Conduct outreach with business community

CLE is continuously engaged with the business community to establish dialogue and promote the use of written contracts, change perceptions about judicial institutions, and increase awareness on the new private enforcement system and ADR mechanisms. As noted above, CLE is closely cooperating with USAID's New Opportunities for Agriculture (NOA) Program to approach to the agriculture sector. During the first quarter, CLE participated in NOA's regular meeting with food processors, where the CLE team delivered a short presentation introducing the program, established connections, received feedback on the use of written contracts, and discussed the ways of integrating contracts in daily operations.

In cooperation with USAID NOA, CLE visited agricultural product collection centers in Peja, Rahovec, and Prizren. CLE staff introduced the program, informed them for the existence of the standard form contracts and highlighted the importance of using contracts in business transactions. CLE is continuously engaged in expanding its business network. These visits served as means to briefly introduce CLE plans for upcoming roundtables.

During a NOA training session in June at the NOA offices in Pristina, the Program was invited to make a guest presentation. CLE staff presented on the importance of contracts and raised awareness of ADR mechanisms. (There appears to be significant interest in ADR, especially mediation, in the agricultural sector.)

In June, the Program began preparations for the regular roundtables on standard form contracts, and the contract usage media campaign 'Qite N'letër' (Put it on Paper!). The first roundtables will be organized with the agriculture sector, focusing on agricultural supply chains. CLE staff met with the Union of Agricultural Cooperatives representative and NOA team to discuss the event details. CLE Program event materials have been designed and printed.

Problems and Implementation Issues

Cooperation with USAID NOA has gone very well. It was originally anticipated that the first roundtable would be held in early July; however, due to summertime vacations and Ramadan, it has been postponed to September.

C.I.4. Monitoring, Evaluation, and evidence gathering to inform CLE Activities - Establish baselines

In June, the CLE team held initial discussions with subcontractor Foundation Together Kosova (FTK) to establish the CLE Baseline. Data collection for developing the baseline will be collected by focus group discussions, resulting in quantitative and qualitative research that will gauge opinion, perceptions, knowledge, and preferred sources of information among stakeholders.

A preliminary draft of the questionnaire was ready by the end of July. Designed in four sections, it examines attitudes on the system for enforcement of judgments, the use of written contracts, views on Alternative Dispute Resolution mechanisms (arbitration and mediation), and the effectiveness of the SEAD media campaign. The questionnaire will be finalized in August and baseline data collection will be conducted during September. A report with outcomes is expected to be finalized in November. The CLE Baseline will be a crucial tool for the development of Program Monitoring and Evaluation results over the life of the project.

C.I.5. Prepare CLE Gender Analysis and Action Plan

CLE, together with the subcontractor dTS, conducted its initial gender assessment and planning. The CLE Gender team, consisting of the outreach specialist and the gender consultant, had a series of meetings in late June and July to assess the situation with regards to women and business in Kosovo across the areas of interest to the Program. The team met with a wide range of stakeholders including representatives of women's NGOs (the Kosovo Women's Chamber of Commerce and the Kosovo Women Network), the Kosovo Assembly's Women Caucus, female entrepreneurs and judges, and gender officers of national and international organizations. The team also visited Prizren and Peja, where they met with judges and other court officials and Municipality officers, with the goal of securing their involvement and cooperation with regards to gender issues throughout the course of the Program.

The findings from these meetings have been incorporated in the Gender Analysis and Gender Action Plan. This Plan was developed by the Gender Team and finalized in July. It will serve as the guide for CLE activities going forward.

CLE also participated at the Forum: Diaspora Women in Business, organized by the Ministry of Diaspora, UNDP, IOM and AmCham. CLE introduced the Program to participants and CLE staff took the opportunity to network with the businesswomen in attendance, with an eye towards future outreach activities.

C.I.6. CLE Nationwide Survey on Women and Commerce

The CLE team has been continuously in contact with FTK to develop the survey on Women and Commerce. The data collection will be done through a combination of random sampling (of 1200 women) and focus group discussions. A preliminary draft of the questionnaire has been developed. The draft includes input from the CLE Gender consultant.

In July, in the course of gender assessment and planning, CLE was informed by the Agency for Gender Equality by the Prime Minister's Office that they are expecting to conduct a similar survey with GIZ. CLE made contact with GIZ to coordinate activities in order to avoid overlapping, duplication of effort, and possible conflicts. CLE and GIZ tentatively agreed to jointly organize a national conference once the survey results are available.

Problems and Implementation Issues

Interacting with GIZ adds an extra element of complexity to this activity, but so far cooperation has gone smoothly.

C.I.7. Outreach on Mediation

The mediation brochures originally designed by SEAD in 2011 have been redesigned with new information and CLE branding. Brochures have been distributed to the various mediation centers and to branches of the Kosovo Basic Court.

CLE staff is continuously promoting mediation services to the business community and other interested stakeholders. During meetings and training with the processors and collection centers, CLE engaged in interactive discussions to promote the mediation centers and emphasize the benefits, while receiving feedback on business perceptions and attitudes towards mediation.

Other outreach related activities

Know Your Rights Brochures

Know Your Rights brochures will be prepared based on the survey results and as needed. It is anticipated that development and design of the brochures will take place during the second quarter.

Informative Articles

The program has identified various article topics that will be published in local print media starting from September. CLE staff is currently engaged in developing the articles.

Activities Planned for Next Quarter

A. Component 1: Improved Systems for Enforcement of Judgments and Reduction of Backlog in Enforcement Cases

Next quarter should see very intense activity in this component. Backlog reduction activity will rise dramatically as the BRI prepares for the major enforcement effort in Gjilan late in the quarter. This will include Kosovo's first large-scale use of garnishment, with enforcement against thousands of individual bank accounts and incomes. Processing of backlog cases, both for addition to the database and for dismissal, will surge.

Meanwhile, the first generation of new Private Enforcement Agents will complete their examinations in September. The Program will immediately begin working with them to organize the Chamber (if a sufficient number of agents required by law (20) to establish the Chamber are licensed) and to carry out trainings and other preparations in time for the January 1 rollout of the new system. All of the regulations on private enforcement agents drafted this summer should be finalized, approved and promulgated.

B. Component 2: Development of the Contract/Commercial Law Framework and Systems, Improvement of Contract Enforcement Systems and Functioning of Mediation Mechanisms

Approval to move forward on the new Bankruptcy Law is anticipated in September. The drafting of regulations for the Law on Obligations will begin. The matrix of commercial laws should be completed, allowing the generation of a draft legislative schedule for presentation to the MoJ. In mediation, the opening of a new center in Prizren can go forward, subject to USAID approval. The number of mediations referred and completed is expected to rise. Trainings for KJI and the Chamber of Advocates will begin, and Prof. Ted Parnall is scheduled to arrive in Pristina to conduct the assessment of the LLM Program.

C. Component 3: Outreach, Gender and Monitoring

The next quarter will see finalization of the outreach plan on the new Private Enforcement system, and the beginning of its implementation, including the development of TV and radio spots. Round tables with businesses will begin in September and should continue through the rest of the calendar year. Outreach on backlog reduction will begin. Data collection for the Program Baseline will be conducted in September, with finalization and presentation expected at the beginning of Quarter Three.