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## CONTRACT LAW ENFORCEMENT (CLE) PROGRAM

### THIRD QUARTERLY REPORT November 2013 - January 2014



Photo: CLE Program

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**David Greer**

Chief of Party, CLE Program

Address: Sejdi Kryeziu st. no H9, 10,000 Pristina, Kosovo

Email: [dgreer@checchiconsulting.com](mailto:dgreer@checchiconsulting.com)

Internet: [www.checchiconsulting.com](http://www.checchiconsulting.com)

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## Project Overview

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The USAID/Kosovo Contracts and Law Enforcement (CLE) contract 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 judgment 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; improvements to commercial legislation including – potentially – bankruptcy legislation; 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 in a timely and just manner so as to benefit citizens and businesses. 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

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In the Program's third quarter, CLE continued to support the courts with the task of judgment backlog reduction. Large-scale, systematic enforcement against private bank accounts accelerated in the Gjilan and Gjakova Basic Court, with over a thousand cases totaling more than €300,000 in value. During the reporting period, CLE also began working with four other courts – in Peja, Prizren, Mitrovica, and Ferizaj to ensure increasing emphasis on enforcement against bank accounts. CLE also supported the Ministry of Justice (MoJ) in the development of eleven new regulations necessary to implement the new system of enforcement and establish the Private Enforcement Agents (PEAs). Also during the quarter, a second cohort of PEAs passed the MoJ examination and were trained by CLE; this cohort will be commissioned by the MOJ in the next quarter.

CLE is working with the Ministry of Trade and Industry to amend the Legislative Agenda to include the development of a new Bankruptcy Law. CLE has begun a procurement to acquire a local subcontractor to draft regulations that will finalize implementation of the Law on Obligations. Two training programs in commercial law continue, with multiple training workshops already delivered to judges through the Kosovo Judicial Institute (KJI), and to commercial lawyers through the Kosovo Bar Association (KBA); a third program specifically designed for commercial department judges, will commence next quarter. Mediation activities have accelerated, with the Peja and Gjilan centers both seeing increases in caseload of 15-20% over the previous quarter.

CLE Outreach, Gender, and Monitoring has been actively supporting USAID FORWARD grantees, including the Women's Chamber of Commerce – G7, providing both training and technical assistance. The CLE Program baseline survey and the National Survey on Gender and Commerce were both completed this quarter.

## Summary of Progress November 2013-January 2014

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

Enforcement of Judgments activities are intended to assist Kosovo's institutions to improve the enforcement of civil judgments in an effective, efficient and accountable manner. These activities have two goals: 1) to support Kosovo's courts to rapidly reduce, and ultimately, to effectively eliminate backlogged enforcement cases; and 2),. to support the Ministry of Justice to establish and functionalize the new private enforcement system in Kosovo.

#### A.I. Backlog Reduction

CLE assistance to the courts to achieve this objective rests on three distinct activities: 1) case categorization (entry of case information into a database that allows for more efficient organization of the caseload and enforcement actions); 2) isolation/segregation of cases for other procedural action, such as suspension of cases that have already seen two attempts at collection; and 3) training on and implementation of a new, USAID-developed mechanism to facilitate enforcement – a Registry of Account Holders at the Central Bank – that transforms enforcement practice in Kosovo.



Prior to development of the Registry, enforcement consisted primarily of seizure and auction of movable properties, a profoundly time consuming and inefficient process. Without the Registry, however, enforcement against bank accounts was even more time consuming than seizure of movables, given the logistics of physically ascertaining whether debtors had bank accounts, and if so at which bank. Typically at least two face-to-face visits to *each* commercial bank were required before an enforcement claim could be presented.

Utilizing the Registry has transformed this process, making execution against bank accounts a viable method of enforcing claims. As a result, the last six months have seen a dramatic shift in the culture of Kosovo's court enforcement practices. The courts have shifted away from cumbersome, inefficient enforcement against movables. Enforcement against bank accounts, a rarely used tool a year ago, is increasingly becoming the first means of enforcement of commercial judgments. In this quarter over €400,000 worth of judgments were enforced and collected by means of enforcement against bank accounts. CLE is working with all the other Basic Courts except Pristina to (i.e. those with smaller and more manageable caseloads) to increase the use of the Registry and to shift emphasis on higher efficiency in enforcement.

Also during the quarter, CLE worked with the Tax Administration of Kosovo (TAK) and the KJC to emphasize enforcement against wages (wage garnishment), and worked informally with all Courts' Court Presidents and Execution personnel to ensure awareness of a variety of efficiency-enhancing procedural mechanisms in the new Law on Execution Procedures (LEP), which fully entered force in January of 2014. Although formally permitted under the law, wage garnishment has not so far been used by the courts, as the data link between TAK and KJC works poorly. CLE worked with both organizations throughout the quarter to troubleshoot and improve the link

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

In Quarter One, CLE staff worked with the KJC and with individual courts to develop clear goals and targets across the lifetime of the Program. This is ongoing, with mutual goals being discussed in regular consultations with KJC leadership to adjust from the initial target of 15% overall backlog reduction in Year One.

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

Work on the CLE judgment database moved forward rapidly this quarter. The Excel files from the SEAD program were imported into MySQL. A great deal of effort was spent to clean and verify the data and to standardize data entry. This involved reviewing the entries for all 108,299 cases. The cases can now be sorted and searched in various ways (by date, amount, debtor, creditor, etc.) which was not possible before. Among other things, this makes it easy to find debtors with multiple judgments against them, and to find the largest and oldest judgments outstanding. The database works in Albanian, Serbian and English, and includes a reporting module that generates reports for the court. The database is backed up weekly to ensure data integrity. Automatic weekly reporting is now enabled, and weekly reports are being provided to KJC. The main task remaining is to acquire up-to-date data from the courts; this is ongoing.

This quarter, efforts were underway to improve performance of the data link between KJC and the Tax Authority of Kosovo (TAK) to facilitate wage garnishment. This will allow rapid cross-checking of IDs with tax ID numbers, and will also make garnishment of wages much more efficient.

KJC data remains incomplete (all courts under-report their cases for a variety of reasons), inconsistent, and unverified. Therefore, CLE's information is based on standardized and verified data from individual case files. Although also incomplete, this data can be extrapolated more or less accurately to apply to general conditions. The Gjilan Basic Court is a partial exception; because of the very close work that CLE's BRI Team has been doing with this court, data from Gjilan can currently be considered better and more accurate than from other Basic Courts.

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

In this quarter, CLE's backlog reduction team continued working in the Gjilan Basic Court, and began also supporting the Gjakova Basic Court. As noted in last quarter's report, the CLE team in Gjilan discovered that nearly 80% of the total execution caseload of more than 10,000 cases had not had even a single attempt to serve notice to the debtor. With CLE's and the KJC's intervention, several court

personnel, supported by CLE, completed preparation and delivery of notice in over 90% of all cases in Gjilan, so that the work of enforcement could proceed. By the end of January 2014, the CLE team in Gjilan had assisted the Court remove 1,047 cases with a total value of €365,507 completely from the caseload.



In addition to backlog cases, the CLE team also supports the Court to enforce inventory cases. During this quarter 1865 inventory cases were enforced with a total value of €403,201, bringing the total number of enforced cases in the Gjilan Basic Court to 2,912 with a value of €768,708. In addition, the CLE team assisted the Court to prepare, and the Court served, an additional 1,338 decisions worth €668,155 against debtor bank accounts.

In November, three members of the team also began work in the Gjakova Basic Court. This split of the team was desirable because the team was running up against capacity limits in Gjilan; even with the team's assistance, the court could only process a certain number of cases each week. The Gjakova court has a cooperative Court President and a high rate of notice on backlogged enforcement cases (meaning nearly all cases were amenable to immediate enforcement actions, in contrast with Gjilan),. In this quarter, 266 cases were enforced in Gjakova, with a total value of €135,154. The focus of enforcement activity was against bank accounts. During this quarter, an additional 116 cases were removed from the backlog caseload, and 150 inventory cases were enforced. CLE also assisted the Court to prepare and serve 1,155 court decisions seeking enforcement against bank accounts. Enforcement activity has also begun in two court branches ("satellite" courts): in Rahovec, which completed and closed 197 cases, and in Malisheva, where 70 cases were completed.<sup>1</sup>

The CLE enforcement team is also assisting other Basic Courts with backlog reduction. Although CLE teams are embedded only in Gjilan and Gjakova, CLE team is directly assisting the Prizren, Peja, and Ferizaj Basic Courts as well. Over 1,000 cases were removed from these courts' caseload in January.

Backlog reduction efforts in the Pristina Basic Court is scheduled for Program Year Two.

Since a major part of the backlog consists of "Authentic Document" claims (typically utility bills), CLE has been working closely with the utilities' management – electricity generation (KEK), electricity distribution (KEDS), and the Post/Telecom (PTK). KEDS has agreed to provide logistical support to court enforcement teams on enforcement activities, as per the MOU signed between KEK and the SEAD Program. PTK management has been considerably less forthcoming; this was noted as an issue last quarter, and continues to be. There is continuing attention on all decisions made by PTK's Board and Officers during an ongoing privatization process. CLE and USAID will meet with the Minister of Economic Development, which is responsible for PTK, next quarter to seek Ministry support for backlog reduction activities (withdrawal of old, low value cases; support to field

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<sup>1</sup> Case values are reported only from courts where CLE support is embedded, as KJC data does not capture value. Support to the Mitrovica Basic Court began late in the Quarter and as such has not resulted in any measurable or reportable impact.

enforcement when necessary; withdrawal and transfer of cases to PEA's, etc.).

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

Enforcement across all seven Basic Courts will require more enforcement clerks to achieve the goal of eliminating the backlog entirely, and the KJC has committed to hiring more clerks. CLE fostered communication and agreement to support this endeavor across four institutions – the KJC itself, the Central Bank, the Ministry of Justice, and the Assembly Budget Committee. KJC has committed to next quarter retaining 20 additional enforcement clerks. A second cohort of 15 additional enforcement clerks should begin work in the second half of the calendar year. CLE will provide guidance, technical support, and training for these clerks. KJC has committed to giving priority to hiring individuals who already have experience (i.e., those who were working as KJC Special Enforcement Unit clerks in cooperation with the USAID SEAD program in 2011-12).

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

In Quarter Three, CLE supported the Gjilan Basic Court to enforce judgments against more than a thousand individual bank accounts. Several hundred additional enforcements against bank accounts have taken place in other Basic Courts, including Peja, Prizren, Ferizaj, and Gjakova. As noted above, enforcement against bank accounts was almost impossible before the creation and implementation of the Registry of Account Holders at the Central Bank. Seeking enforcement against bank accounts as the first step in execution is becoming the norm in most of Kosovo's courts. There have been learning curves and capacity issues in each Court while court staff learn the new system, and commercial bank staff adapting to increased Court emphasis on this enforcement method.

#### A.I.6. Improve enforcement mechanisms related to immovable property

In this quarter, CLE continued to liaise with the US Treasury Department's Advisor to the Central Bank, providing legal analysis and comment on draft CBK regulations governing mortgages. CLE also provides support to Court enforcement personnel with the processing of mortgage claims where embedded (Gjilan and Gjakova). Many of the problems with enforcement against immovable property – particularly auction requirements and property valuation – derive from provisions in the Law on Enforcement Procedures. There is little appetite in the Government for amending this law during 2014, so little significant progress can be made to address the cumbersome real property enforcement procedures.

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

On January the new Law on Enforcement Procedures came into effect, with streamlined procedure giving courts more power over the disposition of cases. New provisions allow for suspension and eventual effective dismissal of cases that prove unenforceable. CLE staff have been working with judges and enforcement clerks to ensure the new provisions' implementation, and to assist court personnel with administrative support. This work included sorting through thousands of case files in the Gjilan and Peja Basic Courts to separate out cases that were ready for suspension.

*Activities under A.I. relate to the following PMEP indicators:*

IR 1.1.1 - Percentage and number of civil backlogged cases enforced as a result of USG assistance: Total number of cases enforced as result of CLE assistance is 4,905. Total number of civil execution backlogged cases is 2,018 cases enforced, up from 444 during the last quarter. Total number of successfully enforced (closed) cases is 4,905, up from 658 during the last quarter. Percentage of backlog judgments reduced with CLE assistance in Ferizaj Basic Court is 0.1%; in Gjakova Basic Court is 2%; in Gjilan, 18.3%; and in Peja, 3.8%.

IR 1.1.2 - Progress on implementing recommendations from the EU Feasibility Study for a Stabilization and Association Agreement: Total number of civil execution backlogged cases is 2,018 cases enforced, up from 444 during the previous quarter. Total number of successfully enforced (closed) cases is 4,905, up from 658 last during the previous quarter.

IR 1.1.1.1 - Number of USG assisted courts with improved case management: There are now 6 Basic Courts and their branches directly benefiting from CLE assistance: Gjilan, Gjakova, Prizren, Peja, Mitrovica, and Ferizaj.

IR 2.1.1 - Number of civil execution cases enforced or cleared as a result of USG assistance: 4,905

IR 2.1.1.1 - Percent of backlog of judgments reduced: Percent of backlog judgments reduced with CLE assistance in Ferizaj Basic Court is 0.1%; in Gjakova Basic Court is 2%; in Gjilan, 18.3%; and in Peja, 3.8%.

IR 2.1.1.2 - Percent change of court enforcement actions against bank accounts: 3,025 cases were enforced against bank accounts in three Basic Courts, of which 199 cases are fully collected. Last quarter, 501 cases were enforced against bank accounts (in Gjilan Basic Court only). Therefore, this quarter saw a 504% increase.

## **A.II. Establish the new enforcement system**

Work on implementing the new private enforcement system continued to progress this quarter. The first cohort of 14 Private Enforcement Agent (PEA) candidates, were administered their oath of office and received commissions. A second cohort, which passed the MoJ's PEA License exam, attended CLE's training. The first commissioned PEA's are beginning the process of acquiring staff and office space and making other appropriate preparations. The new Law on Enforcement Procedures went into effect on January 1, and the process of drafting regulations and administrative instructions for the new system continued throughout the reporting period; MoJ continued to have a somewhat lackadaisical approach to finalizing the regulations, notwithstanding deadlines – which have already passed – established by the new law.

### **A.II.1. Develop with MoJ secondary legislation for the new enforcement system**

Seventeen sub-normative acts are required for the implementation of the Law on Enforcement Procedures. (An additional two acts are optional; they are under consideration, but may not be adopted this year.) Work on these acts has been ongoing since June. CLE has provided consistent support to MoJ's Legal

Office to draft the secondary legislation for the implementation of the Law, and CLE staff have been working very closely with MoJ OLSS personnel throughout the process.

As of January 31, ten sub-normative acts have been adopted and promulgated by the Ministry. They are as follows:

**Adopted:**

1. Administrative Instruction NO.02/2013 on the Program and Manner of Passing the Exam for Private Enforcement Agents (adopted by the Minister of Justice on 22/04/2013);
2. Administrative Instruction MoJ-NO.06/2013 on IDs of Private Enforcement Agents (adopted by the Minister of Justice on 22/10/2013);
3. Regulation MoJ-NO. 01/2013 on Rules of Procedure of the Commission for the Evaluation of Candidates for Private Enforcement Agents (adopted by the Minister of Justice on 22/10/2013);
4. Administrative Instruction MoJ-NO.07/2013 on the Form and Manner of Holding Evidence for Private Enforcement Agent Content and the Manner on Maintaining the Writings and the Evidence of the Private Enforcement Agent (finalized draft);
5. Administrative Instruction MoJ-NO.03/2013 on Minimal Technical Conditions and Other Conditions Regarding Required Equipment of Private Enforcement Office (adopted by the Minister of Justice on 22/10/2013);
6. Decision No.185/2013 on Determining the Number of the Private Enforcement Agents for the Territory of each Basic Court in the Republic of Kosovo (adopted by the Minister of Justice on 16.09/2013).
7. Administrative Instruction MoJ-NO.04/2013 Setting the Valid Mandate and Number of Deputy Private Enforcement Agents who may Operate Simultaneously Under the Responsibility of One Private Enforcement Agent (adopted by the Minister of Justice on 22/10/2013);
8. Administrative Instruction MoJ-NO.05/2013 on the Report of the Work of the Private Enforcement Agents (adopted by the Minister of Justice on 16.09/2013);
9. Administrative Instruction on the Form and manner of keeping records of the private enforcement agents (Article 399) (adopted by the Minister of Justice on 22/10/2013);
10. Administrative Instruction on the Form and manner of keeping records of completed castes (adopted by the Minister of Justice on 19/11/2013);

Of the seven remaining A.I.s, all have been drafted. Three are awaiting approval – two by the Minister, and one by the Commission of Evaluation for PEAs (this commission has not yet been organized). Four are still under discussion with the Ministry. Of the four under discussion, two (Fees and Disciplinary Procedures) are very close to completion. This process, as noted above, should have been completed months ago; however, given frequent absences by the Minister to participate in negotiations with Serbia and a great deal of turnover in the Ministry Cabinet and OLSS, combined with low capacity generally, has resulted in a bottleneck for principle policy decisions and final signature on completed AI's.

This was and continues to be a major effort, since this is a new area of law requiring detailed regulation. In this quarter, the appearance of the first class of PEAs has added an additional level of complexity to the work, as the new PEAs are stakeholders and are actively involved in making comments and suggestions on drafts. In drafting the regulations, CLE staff drew heavily on European

and regional experience, carefully examining comparable regulations from Europe and nearby countries, though always keeping in mind the unique circumstances of Kosovo.

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

MoJ organized and conducted two rounds of exams for private enforcement agents. As noted in last quarter's report, the first written examination for private enforcement agents took place on August 31, 2013. The oral examination took place on September 7 and results were announced in September. Twenty-six persons passed the written exam, with 21 of them passing the oral exam and receiving a certificate. Seventeen of the 21 candidates attended and completed the training delivered by CLE in November 2013.

The second written exam was held on the November 4, with the oral exam held on November 11, 2013. Twenty candidates passed both written and oral exams. Eighteen of the 20 attended the training delivered by CLE in January 2014, and sixteen completed it.

CLE staff observed and monitored both sets of written exams, and CLE conducted the training. A call for a third exam was published by MoJ in late January, with an application deadline of late February. The third written and oral exams are expected in late March or April.



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

In January 2014, CLE organized and managed an intensive five-day Initial Professional Skills Training for Private Enforcement Agent candidates who were eligible to receive commissions. The primary trainer was CLE Enforcement of Judgments STTA Mr. Jos Uitdehaag, himself a Dutch PEA. Topics covered included the law, international best practices (and the experience of neighboring countries), organization, ethics, common problems, and the practical issues involved in starting a new enforcement business. In addition to Mr. Uitdehaag, guest lecturers included the Skenderaj Court Presiding Judge (who gave a presentation on the relationship between PEAs and courts), the Tax Administration of Kosovo (that provided a half-day of training on basic tax reporting and the procedures necessary to start a business), and the Central Bank of Kosovo (CBK) legal advisor who spoke about PEA special bank-accounts, the obligations that commercial banks have towards PEA's, and the CBK's role in the enforcement process. Participants in the training will be awarded with a certificate of completion in a ceremony held in the next quarter

The Chamber of Private Enforcement Agents will be formed, in accordance with the law, once 20 agents are licensed. Fourteen agents were licensed from the first cohort. The second group included sixteen agents, of which fourteen are expected to be licensed in March or early April. Once the second group has taken up their licenses, formation of the Chamber will begin.

In anticipation of the PEAs beginning their operations next quarter, CLE staff have completed a draft

memorandum which lays out institutional duties towards private enforcement agents. The document sets out those duties provided by the Law on Enforcement Procedures, and also a checklist of actions which have not been specified by the law but which must be completed for proper collaboration between government and PEA. These include several memorandums of understanding with public agencies and the drafting of standard service contracts between PEAs and the Public Procurement Agency. Throughout the quarter CLE worked with the MoJ, and the PEAs themselves, to liaise with these other institutions in order to affect as smooth a transition to the new system as possible.

*Activities under A.II. relate to the following PMEP indicators:*

IR 1.1.2.1 - Number of person/days of training delivered with USG assistance:

The total number of enforcement agents attending training was 22, out of which 8 were female and 14 males; the total person days of training of enforcement agents was 110.

IR 1.1.2.3 - Number of legal courses/curricula developed with USG assistance: None applicable to this Activity; the training held for PEA's was previously developed.

IR 2.1.2.1 - Number of laws, regulations, and procedures designed to enhance judicial independence supported with USG assistance: 3 administrative instructions adopted, in addition to 8 last quarter, for a total of 11 to date.

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

In the original program proposal, this Component was designed to assist the GoK in developing a new Civil Code for Kosovo. However, immediately upon Program start up, USAID directed CLE to not undertake activities towards this end, as developing the Civil Code would be handled by an EU project that was anticipated to mobilize in late 2013. (Mobilization is now anticipated in the second half of 2014.)



In lieu of developing a civil code, CLE is working on other aspects of the contract and commercial law framework. CLE has been successful in developing buy-in for a new bankruptcy law, and will now support drafting of a revised bankruptcy law. CLE will also draft regulations implementing the Law on Obligations. Additionally, CLE will take action on opportunities to improve the contract and commercial law frameworks as they arise, subject to USAID approval and resource availability.

Finally, CLE continues to work with USAID FORWARD grantees to help ensure that they are able to effectively process, administer, and use their grants in compliance with US laws and regulations. CLE also provides additional capacity building support to the nascent Kosovo Women's Chamber of Commerce – "G7" (also a USAID Forward Partner) by assisting with development of strategic plans,

activity plans, budgets, etc.

It should be noted that Kosovo lacks the “culture of contract” that is critical to the functioning of a modern market economy. Awareness of legal rules and procedures, and their implications for business activities, is quite low among the business community. The activities in this component vary, but are ultimately directed towards developing and enhancing the use of contracts through provision of information and efforts to inspire behavior change.

## 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. Until these regulations have been drafted (to date none have been drafted), some select provisions from the old 19787 Law on Obligations remain in force. CLE has been working with the banks and the Central Bank legal department to coordinate development of these regulations. A procurement process was begun in December 2013 to hire a subcontractor to work with CLE staff on this. The bids were submitted at the end of January and a subcontractor will be selected next quarter. Work is expected to begin in late February or March and to be substantially complete by late summer.

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

Last quarter, CLE staff completed a “gap” review of the commercial laws, resulting in a draft matrix of recommended changes to the commercial law framework. The recommendations are being reviewed with stakeholders and will be turned into a specific set of proposed amendments during the course of Year One.

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

As noted in previous reports, there is little political appetite for amending this law. However, CLE continues to monitor developments to ensure that the ongoing debate over certain provisions of this law relating to the recognition and enforcement of arbitral awards, mediation agreements, and case disposition includes CLE in the discussion.

### B.I.4. New Bankruptcy Law

Local counterparts have been clamoring for a new bankruptcy regime for some time, as the current law fails to apply to the vast majority of businesses (or individuals – the law is applicable only to juridical persons). Even with this limited jurisdiction, no procedures have ever been developed or approved. CLE has regularly engaged with a number of stakeholders, including the Society of Chartered Accountants and Auditors of Kosovo (SCAAK), the Bankers’ Association, the Businesses Registry, and the Chamber of Advocates. All these stakeholders are ready and willing to provide assistance with this activity, up to and including participating in a working group. CLE staff attorneys began carrying out research including the collection of all regional bankruptcy laws and a gap analysis

of the current law in Quarter Two.

A continuing issue was that the MoJ, while informally agreeing that a new law was desirable, would not move forward formally. Finally, in January 2014, the MoJ agreed that responsibility should rest with the Ministry of Trade and Industry. CLE staff have now met with the Minister of Trade and Industry, Bernard Nikaj, and have presented him with materials already prepared, including a memorandum on the need to reform the current Insolvency Law in Kosovo and a draft Ministerial Decision on establishment of the working group. Minister Nikaj has agreed to move forward quickly. The POC at his Ministry will be Mr. Gazmend Kelmendi, CEO of the Kosovo Business Registry. Meetings with Mr. Kelmendi will begin in February. The first priorities will be to get the law on the legislative agenda of the GOK (ideally before the legislature is dissolved in advance of elections) and to name and assemble the working group.

#### B.I.5. Legal information materials

Last quarter, CLE staff completed a revision of the nine standard form contracts drafted and distributed by SEAD in 2011-12. One contract (construction) was based on a law that has since been replaced by an entirely new law necessitating a complete rewrite of the Standard Form Contract for Construction. CLE staff have undertaken an ongoing 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. Two informal meetings on this topic were held in January and a formal round table, including representatives from the construction center, is scheduled for March.



At the end of January, the USAID New Opportunities for Agriculture (NOA) Program and CLE began cooperating to work with NOA's local counterparts to increase the use of written standard form agricultural contracts developed by CLE. This will result in several thousand new written contracts being used in the agricultural sector, mostly between farmers and agricultural processors and collection centers (packing houses). CLE will continue to work with NOA to provide consultation and assistance to both the processors *and* Farmers on the implications of the agreements, and likely will retain interns to conduct contract monitoring as well (contract monitoring in this instance means frequent follow up with all parties to explain and ensure compliance and to avoid disputes).

In December, CLE staff began drafting a set of twelve "Know Your Rights" brochures. These were completed by the end of the quarter and are currently undergoing internal review. They will be promulgated in the next quarter, most likely in late March.

CLE staff have also held a number of round tables at which legal information materials were

distributed (see Component 3, below).

## B.II. Mediation (and Arbitration monitoring)

CLE continued operating the two mediation centers in Gjilan and Peja. These two Centers have been operating continuously since July 2011; they were created by the USAID SEAD program, then operated in the interim between SEAD and CLE by the USAID Effective Rule of Law (EROL) Program. They accept cases referred by the courts as well as cases submitted directly by the parties.

A total of 70 new cases were accepted by the CLE Mediation Centers, 41 in Gjilan and 29 in Peja. 38 cases were resolved and 15 were transferred back to the courts.

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

	Gjilan		Peja	
	Qtr 3	To date	Qtr 3	To date
Cases reviewed by Project for potential referral	387	1385	279	1265
Cases selected by Project and judge for potential referral	301	1100	222	859
Cases referred to mediation (based on agreement of parties)	31	145	26	146
Cases settled through mediation and approved by court	17	68	18	89
Cases not settled and transferred back to court	4	49	8	33
Cases in progress (agreement to mediate signed and mediator selected)	2	8	19	58

Table 1 - The overview of the cases referred to the two CLE-supported mediation centers

CLE does not directly support arbitration, but does monitor recognition and enforcement by the Courts, and it does provide support to organizations receiving USAID FORWARD grants, including the ADR Center at the American Chamber of Commerce and the Permanent Tribunal for Arbitration (PTA) at the Kosovo Chamber of Commerce (KCC). The Permanent Tribunal in Pristina has received seven cases as of February 1, 2013. With a staff of three people working full time, the Tribunal has managed to conclude five out of these seven cases.

CLE has provided assistance to the AmCham ADR Center and is prepared to offer additional assistance as needed, but no assistance was provided this quarter. The AmCham ADR Center is currently staffed by one person (Secretary General) with one part-time assistant.

On January 1, 2013, the Commercial Court in Pristina was restructured and absorbed into the Commercial Department (CD) of the Pristina Basic Court. Recognition and enforcement of arbitral awards and enforcement of interim measures of arbitral tribunals now fall within the competence of the CD. During the reporting period, CLE staff met regularly with the representatives of the CD, including the Presiding Judge, Mr. Bajram Myftari, and the CD Administrator. As of February 2014, the CD has

recognized and enforced two arbitral awards.

*Activities under A.II. relate to the following PMEP indicators:*

IR 2.1.3.2 Percent of arbitral awards recognized or enforced by courts. As of this quarter this indicator stands at 2/2, or 100%.

**B.II.1. Develop Mediation infrastructure**

The mediation centers started under SEAD in Gjilan and Peja have been operated by CLE since June 2013. The activities of the centers are overseen by the CLE Legal Advisor for ADR, who visits both centers regularly. The Gjilan center was re-located to the courthouse, which demonstrated institutional support for the institution of mediation and has facilitated a growth in case flow based on being more conveniently located for judges and the parties.

The number of mediation cases filed and resolved has risen steadily at both centers since last July. In that month, an average of 8.5 cases was referred to each center per week; by this quarter, that figure has nearly doubled, to 15 cases per week. The number of cases resolved has more than doubled, from 7 cases in the month of July 2013 to an average of 16 cases per month in November-January.



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

Support for the Mediation Centers in Peja and Gjilan is ongoing, with CLE employing managers of both centers and providing ongoing administrative support, especially on the review of cases that are referred from the courts. Implementation of the Protocol is in full effect in these two Basic Courts. CLE staff continue to meet with the Presidents and staff of the other five Basic Courts to discuss the Protocol and its implementation (see B.II.4, below).

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

Discussions with the Mediation Commission on a new mediation center have been ongoing. In October and November, CLE went through a site selection process that concluded the best locations for new centers would be in Pristina and Prizren. This recommendation was forwarded to USAID. As of early February, preparations are under way to open a new center in Prizren, with the possibility of a fourth center in Pristina still open.

Meanwhile, UNDP confirmed that it will no longer support the two UNDP mediation centers beyond April 2014. CLE is prepared to assume operation of the Gjakova Center, including absorbint staff, should USAID direct the Program to do so.

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

CLE staff met with all Basic Court Presidents this quarter to discuss mediation and the Protocol. Trainings were conducted in four Basic Courts on the subject of the Protocol, and the administration of the referral process. All Basic Courts except for Mitrovica have now received training on the Protocol. Based on continuing engagement with the Mediation Commission, it appears that four of the seven Basic Courts (Gjilan, Peja, Gjakova, Prizren and Ferizaj) are all implementing the Protocol properly with work continuing in Pristina and Mitrovica.

#### B.II.5. Support to Mediation Association

CLE support this quarter took three forms. First, CLE supported two meetings of the Mediation Association board. Second, CLE staff held training workshops with the Association staff to increase their capacity, including their capacity to apply for and administer donor grants. And third, CLE worked with the Association to offer training programs for new mediators in November. Each training session lasted 40 hours (five full work days) and involved training on law, practice, ethics, and international best practices. 42 new mediators were trained, of which 15 are female. Mediation training is held in accordance with standards and structure established in regulations promulgated by the MoJ.



While the Association is the only professional organization for mediators, membership is not mandatory. While most licensed mediators are members, a small group from Pristina seeks to establish its own, competing organization. The Program is working with the Association on outreach to increase membership and to ensure that Pristina mediators are included.

#### B.II.6. Building Sustainability – ICC Mediation Moot Competition

The International Chamber of Commerce in Paris annually hosts an International Mediation “Moot” Competition. This was the second year in a row that Kosovo’s team, trained and supported by USAID CLE this year, participated. Team practice began in November and continued regularly for two months, with only a short break for the holiday season. The team performed well in the competition, “losing” only (in Mediation there are, strictly speaking, winners and losers, but rather scoring and ranking) to the team that eventually achieved the highest score in the entire competition (New York University).

## B.III. Training

### B.III.1. 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 offered one training this quarter for judges through the KJI entitled “Contracts on Loans, Interest, and Penalty Interest”. Participants included 17 judges (of which one was a judge of the commercial department) and one enforcement clerk. Two courses were offered with the KCA: “Pre-contractual liability, formation and interpretations of contracts,” and “Enforcement Procedures and the new Private Enforcement System”. Eighty-eight attorneys attended these courses, including 13 women and 4 lawyers from non-majority communities. All of these trainings use CLE trainers and training materials. The feedback on these trainings has been consistently positive. No training courses will be offered with KJI next quarter, but nine courses will be offered with the KCA in its spring semester (February-June 2014).

CLE staff also continued their 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. Based on this, CLE staff developed three new legal courses: “Arbitration”, “Business Organizations”, and “Bankruptcy”.

A specialized curriculum was also developed for judges assigned to the commercial departments. The first course is currently scheduled for late March 2014.



### B.III.2. Assessment of the LLM Program in Contract and Commercial Law

STTA Prof. Ted Parnall of the University of New Mexico traveled to Pristina between October 19 and November 2 to carry out an assessment of the LLM Program. Prof. Parnall conducted more than fifty interviews with students, professors, staff and administrators in the LLM program. His report was completed in November.

*Activities under B.III. relate to the following PMEP indicators:*

IR 2.1.2.2 - No. of judges and judicial personnel trained with USG assistance: The total number of judges trained was 50, of which 11 were female and 39 male. In total there were 50 person days of training of judges.

## C. Component 3 Outreach, Gender and Monitoring

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

CLE organized an event to award certificates for the successful completion of the initial training for the Private Enforcement Agents (PEAs). The event took place in Pristina on November 27, 2013 and brought together key figures from Government institutions, the Courts, and the Private Sector. The hosts of this event were the USAID Kosovo Mission Director, Maureen A. Shauket, and Deputy Prime Minister and Minister of Justice, Hajredin Kuçi. Over 50 attendees were present to commemorate an important step for Kosovo's business environment and Rule of Law. The event had good media coverage and was the first story on the evening news show at Klan Kosova.



CLE developed a Public Service Announcement on the Private Enforcement Agents System in three languages - Albanian, Serbian, and English. The PSA was developed in close cooperation with the Ministry of Justice. As of early February, the PSA is being broadcast on RTK, a local TV station. It has also been uploaded to YouTube and to the CLE web page.

CLE printed the new Law on Enforcement Procedure, in a convenient brochure form, for distribution to the new PEAs and to the judges and enforcement clerks in Kosovo courts.

CLE published two articles on the Private Enforcement Agents System and the Guide for Creditors. The articles can be found online at Gazeta Express ([www.gazetaexpress.com](http://www.gazetaexpress.com)) and Telegrafi.com.

### C.I.2. Conduct Outreach on Backlog Reduction

Outreach activities for Backlog Reduction will rely heavily on achievements. The culture shift in the courts moving their practices towards bank enforcement, and soon, wage garnishment, will constitute the basis for public education. Outreach building on these changes is expected to begin next quarter. An outreach plan has already been developed and CLE staff are already assisting the KJC with the development of the Public Service Announcement (PSA) on the Backlog Reduction Initiative.

### C.I.3. Conduct outreach with business community

CLE held three business roundtables, one in each month of the quarter. The first was a 'Qite n'Letër' ('Put it on Paper') roundtable that took place in Gjilan on Nov. 20, 2013 with more than 20 local wholesale/distribution companies. The December roundtable was another Qite n'Letër; organized with the Kosovo's Women Chamber of Commerce - G7. A January roundtable focused on Access to Finance and was held in coordination with



the Kosovo Women's Chamber of Commerce and Crimson Finance Fund.

CLE is piloting a series of working sessions with female entrepreneurs, which will go beyond the standard Qite n'Letër roundtable and turn into skills development for business practice with the G7 group. There will be four of these eventually, including Qite n'Letër and Access to Finance (offered this quarter), Contract Drafting (scheduled for March) and Negotiation Skills.

CLE continues to distribute “Put it on Paper” USBs containing standard form contracts, to encourage the use of contracts by businesses; all participants at the round tables receive these. Over 200 of these USBs were distributed to lawyers and the business community this quarter.

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

CLE completed work with focus groups for establishing the baseline, and prepared a preliminary report.

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

The CLE Gender Action Plan was developed by the Gender Team and finalized in July (see First Quarterly Report for details). It is serving as a guide for CLE activities going forward. In accord with the Plan, CLE is ensuring full inclusion of female judges and other female professionals in all relevant training related to the new enforcement system, new contract law related legislation, arbitration and mediation.



CLE is meeting with women’s NGOs and representative groups to observe their needs and to explore opportunities for cooperation. In this quarter, CLE staff worked closely with G7, the USAID supported National Albanian-American Council’s Hope Fellowship program Fellows and the representative of the NAAC Committee for Good Governance. CLE will continue to work with all of these in order to coordinate activities, with a focus on youth and gender.

CLE has been particularly supporting the Kosovo Women's Chamber of Commerce - G7. CLE staff helped G7 finalize their overall strategy, their action plan, and their budget. CLE has also drafted a communication strategy for G7. It is anticipated that CLE will continue to work closely with G7 in the next quarter.

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

CLE finalized data collection for the Women and Commerce survey, from 1290 respondents, and held the three focus groups with Women in business. An analytical report of the data is currently being developed. CLE is planning to organize a major conference to present the results of the Women and Commerce survey, together with GIZ and the Prime Minister's Office.



CLE recognizes the importance of donor coordination with regard to gender topics and has been meeting regularly with GIZ to discuss jointly organizing a series of conferences on 'Gender Issues - Commerce and Property Rights.' The first conference will be held in Pristina and the others in Kosovo's major municipalities, including: Prizren, Mitrovica, Peja, Gjakova, Gjilan, and Ferizaj.

### C.I.7. Outreach on Mediation

CLE has developed a Public Service Announcement for mediation which is being broadcast on Radio Dukagjini, a station with the broadest coverage in Kosovo. Both active CLE mediation centers, Peja and Gjilan, have reported multiple "walk-in" clients as a result of this PSA.

CLE also used the roundtables 'Qite n'Letër' as means to reach businesses to promote the mediation centers and emphasize the benefits of ADR, while receiving feedback on business perceptions and attitudes towards mediation.

### Other outreach related activities

CLE launched its web page in January. The page has been uploaded with CLE's documents and promotional materials. The website is similar to the SEAD website but includes additional resources. CLE's Facebook page was launched at the end of January.

CLE has held meetings with editors in chief of some of the local media to establish connections and inform them of CLE activities and the CLE media network. CLE plans to organize a 'coffee with media partners' to inform the journalists of CLE activities and establish connections with journalists.

CLE has prepared a plan for celebrating USAID's 15th anniversary celebrations which includes support to USAID DOCS for celebrations in municipalities. CLE will be the lead program in Prizren, but it will also be active in Gracanica, Gjilan, and other municipalities.

The first two cohorts of PEA candidates included many more men than women. Therefore, the CLE team has met with several female candidates who have passed the PEA exam in order to discuss their views on

this new profession, and to explore their ideas as how to attract more women to apply. A list of their recommendations was compiled and provided to USAID, and are being implemented by CLE in continuing PEA recruitment activities.

## Activities Planned for Next Quarter

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### 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 new court enforcement agents begin their work. Processing of backlog cases, both for addition to the database and for dismissal, will surge. The first two cohorts of new Private Enforcement Agents will take up their commissions and will begin enforcement activities.

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

Work on the new Bankruptcy Law should begin in earnest next quarter, with the expected creation and convening of the working group. The drafting of regulations for the Law on Obligations will begin. The number of mediations referred and completed is expected to rise. Trainings with the Chamber of Advocates will continue. Specialized trainings to commercial court judges will begin. Cooperation with USAID NOA on agricultural contract issues will continue, with CLE providing contract monitoring services to NOA counterparts.

### C. Component 3: Outreach, Gender and Monitoring

CLE will continue to support Kosovo institutions in their effort to inform the public on the new PEA system, as well as raising awareness on improvements in the Kosovo judicial system. CLE will produce a second public service announcement on the Private Enforcement Agent System.

CLE will be organize a national conference on gender issues, together with GIZ and the Office of the Prime Minister.

CLE plans to run a series of media activities for mediation centers. These will include a TV show discussion with the chair of Mediation Commission, a mediator, CLE legal advisor, and a business representative with experience with mediation services. These shows will be aired on local TV in Peja and Gjilan and will be followed by a week of radio advertisements. A similar program will also be developed to coincide with the launch of the Prizren Mediation Center.

### Short term consultants this quarter

Under subsection F.7.A.3 of the CLE program contract (Contract No. AID-167-C-13-00001), a quarterly statement is required on any short-term consultants, including progress and observations, significant issues, and a description of follow-on activities and plans.

Jos Uitdehaag (Private Enforcement trainer): Mr. Uitdehaag provided 5 days of training for the second class of PEAs in January. The training was completed without significant issues or problems. He observed

that the PEAs seemed competent and motivated, although the initial class was quite small for a market the size of Kosovo. He may be asked back next quarter to provide additional or advanced training.

Ted Parnall (LLM Program assessment): Prof. Parnall spent 10 days in Pristina conducting research and interviews for his assessment. The assessment was completed without significant issues or problems. His draft report was submitted in the second week of November. His observations are included in his report. His work is now complete.

Lazim Salihu (Administrative Instructions for PEA system): Prof. Salihu provided approximately 10 days of assistance on drafting, reviewing, editing and finalizing several administrative forms for the new PEA system in cooperation with CLE staff and MoJ's Legal Office.

Sefadin Blakaj (Legal training): Asst. Prof. Blakaj provided 2 days of training to KJI and KCA in two trainings in November and December.

### **Environmental Compliance Statement**

Under subsection F.7.A.3 of the CLE program contract (Contract No. AID-167-C-13-00001), a quarterly statement is required on actions taken related to environmental regulation compliance. Due to the nature of the CLE program's work, its activities do not have environmental impact. Nevertheless, the program has appointed an Environmental Compliance Officer who reviews program activities to ensure compliance with relevant environmental regulations. No issues arose in this quarter.

### **Status of Budget Expenditures**

Under subsection F.7.A.3 of the CLE program contract (Contract No. AID-167-C-13-00001), a quarterly statement is required on the status of budget expenditures. As of 31 January 2014, CLE had expended \$1,424,875.13. During the reporting period, spending was \$665,592.87. CLE anticipates the monthly burn rate to continue to be approximately \$205,000.00 per month over the next quarter.

## Appendix A – PMEP Summary

### IR 1.1 - Percentage of pending civil cases over two years old<sup>2</sup>

The USAID Effective Rule of Law (EROL) Program has responsibility for assistance to the courts on civil litigation cases in progress. CLE does not work with civil cases; only with the enforcement of judgments for the civil cases. When the EROL program terminates, CLE collect data from the KJC for reporting to USAID; however, it has no activity for this indicator.

CLE reports on judgment cases only, CLE does not report on pre-judgment cases. There are 89,115 pending judgment cases over two years old. This is 81.76% of the total enforcement caseload .

#### IR 1.1.1 - Percentage and number of civil backlogged cases enforced as a result of USG assistance<sup>3</sup>

Percentage and number of civil backlogged cases enforced as a result of USG assistance: Total number of cases enforced as result of CLE assistance is 4,905. Total number of civil execution backlogged cases is 2,018 cases enforced, up from 444 during the last quarter. Total number of successfully enforced (closed) cases is 4,905, up from 658 during the last quarter. Percentage of backlog judgments reduced with CLE assistance in Ferizaj Basic Court is 0.1%; in Gjakova Basic Court is 2%; in Gjilan, 18.3%; and in Peja, 3.8%. Total number of cases enforced as result of CLE assistance is 4,905 cases or 8.09% from total number of 60,691 cases in execution caseload for five Basic Courts.

#### IR 1.1.2 - Progress on implementing recommendations from the EU Feasibility Study for a Stabilization and Association Agreement<sup>4</sup>

Total number of civil execution backlogged cases is 2,018 cases enforced.

Total number of cases successfully enforced (closed) backlog together with Inventory cases is 4,905.

##### IR 1.1.1.1 - Number of USG assisted courts with improved case management

There are 6 Basic Courts directly benefiting from CLE assistance: Gjilan, Gjakova, Prizren, Peja, Mitrovica, and Ferizaj. Mitrovica activities began late in the third quarter, however, and therefore no measurable or reportable data has been gathered to date.

##### IR 1.1.2.1 - Number of people/person days of training delivered to justice sector professionals

During the reporting period 72 participants attended trainings organized by CLE, out of which 19 were

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<sup>2</sup> The total number of cases reported in CLE PMEP is based on CLE's database, not KJC data. KJC data is incomplete (all courts under-report their cases for a variety of reasons), inconsistent, and unverified. CLE's information is based on standardized and verified data from individual case files, and although also incomplete, more or less accurately can be extrapolated to apply to general conditions.

<sup>3</sup> The total number of cases reported in CLE PMEP is based on CLE's database, not KJC data.

<sup>4</sup> The total number of cases reported in CLE PMEP is based on CLE's database, not KJC data.

female and 53 male. In total there were 160 person days of training.

The total number of judges was 50, out of which 6 participants were from Prizren Basic Court and its branches; 6 participants from Mitrovica Basic Court and its branches; 4 from Gjilan Basic Court and its branches; 3 from Gjakova Basic Court and its branches; 2 from Peja Basic Court and its branches; and 2 participants from Pristina Basic Court and its branches. In total there were 50 person days of training.

The total number of enforcement agents was 22 out of which 8 are female and 14 male; in total 110 person days of training.

#### **IR 1.1.2.2 - Number of judges, lawyers and court staff trained with USG assistance; % commercial judges trained**

The total number of judges, lawyers, private enforcement agents and court staff trained with USG assistance is 160 (33 female and 127 male). Moreover, 158 participants were from Albanian Community, 1 from Serbian Community, and 1 from Bosnian Community.

The total number of judges was 50, out of which 6 participants were from Prizren Basic Court and its branches; 6 participants from Mitrovica Basic Court and its branches; 4 from Gjilan Basic Court and its branches; 3 from Gjakova Basic Court and its branches; 2 from Peja Basic Court and its branches; and 2 participants from Pristina Basic Court and its branches.

During this quarter 25% of Commercial Department judges were trained.

#### **IR 1.1.2.3 - Number of legal courses/curricula developed with USG assistance**

Three updated training courses were developed by CLE including “Arbitration,” “Business Organizations,” and “Bankruptcy.”

#### **IR 1.1.3.1 Number of laws, secondary legislation, strategic plans, and procedures to improve the contract law system adopted with USG assistance**

11. Administrative Instruction NO.02/2013 on the Program and Manner of Passing the Exam for Private Enforcement Agents (adopted by the Minister of Justice on 22/04/2013);
12. Administrative Instruction MoJ-NO.06/2013 on IDs of Private Enforcement Agents (adopted by the Minister of Justice on 22/10/2013);
13. Regulation MoJ-NO. 01/2013 on Rules of Procedure of the Commission for the Evaluation of Candidates for Private Enforcement Agents (adopted by the Minister of Justice on 22/10/2013);
14. Administrative Instruction MoJ-NO.07/2013 on the Form and Manner of Holding Evidence for Private Enforcement Agent Content and the Manner on Maintaining the Writings and the Evidence of the Private Enforcement Agent (finalized draft);
15. Administrative Instruction MoJ-NO.03/2013 on Minimal Technical Conditions and Other Conditions Regarding Required Equipment of Private Enforcement Office (adopted by the Minister of Justice on 22/10/2013);
16. Decision No.185/2013 on Determining the Number of the Private Enforcement Agents for the Territory of each Basic Court in the Republic of Kosovo (adopted by the Minister of Justice on 16.09/2013).

17. Administrative Instruction MoJ-NO.04/2013 Setting the Valid Mandate and Number of Deputy Private Enforcement Agents who may Operate Simultaneously Under the Responsibility of One Private Enforcement Agent (adopted by the Minister of Justice on 22/10/2013);
18. Administrative Instruction MoJ-NO.05/2013 on the Report of the Work of the Private Enforcement Agents (adopted by the Minister of Justice on 16.09/2013);
19. Administrative Instruction on the Form and manner of keeping records of the private enforcement agents (Article 399) (adopted by the Minister of Justice on 22/10/2013);
20. Administrative Instruction on the Form and manner of keeping records of completed castes (adopted by the Minister of Justice on 19/11/2013);

### **IR 1.1.3.2 - Number of Alternate Dispute Resolution (mediation) agreements concluded and enforced**

Cases referred: 126  
Cases Settled: 63

### **IR 1.1.3.3 - Number of cases resolved through new procedures introduced with USG assistance; PEA's**

N/A

### **IR 2.1 - Stakeholder representatives' key informant opinion**

N/A

### **IR 2.1.1 - Number of civil execution cases enforced or cleared as a result of USG assistance<sup>5</sup>**

Number of cases cleared as a result of CLE assistance is 4,905 cases.

### **IR 2.1.2 - WB Doing Business indicator on enforcing contracts: Time in days for enforcement**

N/A

### **IR 2.1.3 - Percent of businesses surveyed that use contract forms regularly in their regular course of business**

N/A

### **IR 2.1.1.1 - Percent of backlog of judgments reduced<sup>6</sup>**

Percent of backlog of judgments reduced: Percent of backlog judgments reduced with CLE assistance in Ferizaj Basic Court is 0.1%; in Gjakova Basic Court is 2%; in Gjilan, 18.3%; and in Peja, 3.8%.

### **IR 2.1.1.2 - Percent change of court enforcement actions against bank accounts<sup>7</sup>**

3,025 cases were enforced against bank accounts in three Basic Courts, of which 199 cases are fully

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<sup>5</sup> The total number of cases reported in CLE PMEP is based on CLE's database, not KJC data.

<sup>6</sup> The total number of cases reported in CLE PMEP is based on CLE's database, not KJC data.

<sup>7</sup> The total number of cases reported in CLE PMEP is based on CLE's database, not KJC data.

collected. Last quarter, 501 cases were enforced against bank accounts (in Gjilan Basic Court only). Therefore, this quarter saw a 504% increase.

#### **IR 2.1.1.3 - Enforcement agent disciplinary system implemented**

N/A

#### **IR 2.1.2.1 - No. of laws, regulations, and procedures designed to enhance judicial independence supported with USG assistance**

8 sub-normative acts listed below have been assisted and supported by CLE. All these acts are adopted for the implementation of the Law on Enforcement Procedure, respectively to enable the implementation of the upcoming private enforcement system.

1. Administrative Instruction MoJ-NO.06/2013 on IDs of Private Enforcement Agents (adopted by the Minister of Justice on 22/10/2013)
2. Regulation MoJ-NO. 01/2013 on Rules of Procedure of the Commission for the Evaluation of Candidates for Private Enforcement Agents (adopted by the Minister of Justice on 22/10/2013);
3. Administrative Instruction MoJ-NO.07/2013 on the Form and Manner of Holding Evidence for Private Enforcement Agent Content and the Manner on Maintaining the Writings and the Evidence of the Private Enforcement Agent (finalized draft)
4. Administrative Instruction MoJ-NO.03/2013 on Minimal Technical Conditions and Other Conditions Regarding Required Equipment of Private Enforcement Office (adopted by the Minister of Justice on 22/10/2013)
5. Decision No.185/2013 on Determining the Number of the Private Enforcement Agents for the Territory of each Basic Court in the Republic of Kosovo (adopted by the Minister of Justice on 16.09/2013)
6. Administrative Instruction MoJ-NO.04/2013 Setting the Valid Mandate and Number of Deputy Private Enforcement Agents who may Operate Simultaneously Under the Responsibility of One Private Enforcement Agent (adopted by the Minister of Justice on 22/10/2013)
7. Administrative Instruction MoJ-NO.05/2013 on the Report of the Work of the Private Enforcement Agents (adopted by the Minister of Justice on 16.09/2013)
8. Administrative Instruction MoJ-NO.10/2013 on the Manner of Holding Records of the Proposals Received and Those Completed to Assign and Implement Enforcement and Other Claims (adopted by the Minister of Justice on 29/11/2013)

#### **IR 2.1.2.2 - No. of judges and judicial personnel trained with USG assistance**

During the reporting period, in total 50 judges and judicial personnel were trained with USG assistance: 11 female and 39 male 4 judges were from Pristina Basic Court with its branches (out of which 1 judge from Commercial Department); 17 judges from Gjilan Basic Court with its branches; 3 judges from Mitrovica Basic Court with its branches; 3 from Gjakova Basic Court with its branches; 2 from Prizren Basic Court with its branches; and 21 judges from Peja Basic Court with its branches.

#### **IR 2.1.2.3 - Lawyer opinion survey – commercial department of basic court**

N/A

#### **IR 2.1.3.1 - No. of ADR (Mediation) cases filed and resolved through mechanisms supported**

## **by USAID funding, TA, or training**

Comparison of actual data vs. target trend lines: 126% completed.

### **IR 2.1.3.2 Percent of arbitral awards recognized or enforced by courts Permanent Arbitration Tribunal at the Kosovo Chamber of Commerce (PTA)**

In the reporting period, there are no domestic arbitral awards pending recognition and enforcement at the Commercial Department of Pristina Basic Court.

Both arbitration tribunals confirmed that none of the parties to the proceedings have requested recognition and enforcement of arbitral awards.

Kosovo Chamber of Commerce received and closed three cases during this period:

1. The Tribunal established lack of jurisdiction. The lack of jurisdiction decision has not been challenged by the parties;
2. The Tribunal rendered an award. As the responded complied with the award, there was no need for recognition and enforcement;
3. The third case was settled by the parties prior to the rendering of an arbitral award.

American Chamber of Commerce reported one successful mediation in a shareholder dispute within a very large corporation operating in Kosovo:

1. The party that proposed commencement of arbitration proceedings requested from the Commercial Department of Pristina Basic Court to recognize the mediation agreement. The Court responded positively and the agreement gained the executive title

Performance indicator values 100%.

## **Appendix B – Deliverables**

In addition to the Administrative Instructions to implement the Private Enforcement Agent system enumerated above in the relevant section of the Quarterly Report, CLE produced the following during the reporting period:

### **Enforcement of Judgments Activities**

Administrative Instruction- Moj-no.10/2013 -on the Manner of Holding Records of the Proposals Received and Those Completed to Assign and Implement Enforcement and Other Claims  
Bound Law on Enforcement Procedures for Judges, Execution Clerks, and PEAs

### **Commercial Law Activities**

Banking Sector Questionnaire  
Draft Survey Report - Banking Sector Questionnaire  
Know your rights - Contract enforcement against the public sector  
Know your rights - Learn what you are entitled to if you are having a baby or are not in good health  
Know your rights - Do you know how safe and healthy should your workplace be?  
Know Your Rights – Procedures of employment contract termination  
Draft Memorandum on Practical Problems with Mortgage Enforcement in Kosovo  
Report and Recommendations on LL.M. Program in Contract and Commercial Law

### **Training Materials**

Training Manual on Arbitration\_ALB  
PP Presentation on Arbitration\_ALB  
Training Manual on Business Organizations (ALB and SRB)  
PP Presentation on Business Organizations\_ALB  
Training Manual on Bankruptcy\_ALB

### **Outreach Materials**

Roundtable “Put it On Paper” November 2013:  
-Agenda  
-PowerPoint presentation  
Roundtable “Put it On Paper” December 2013:  
-Agenda  
-PowerPoint presentation  
Roundtable “Put it On Paper” January 2014:  
-Agenda  
-PowerPoint presentation  
Certification Ceremony - Private Enforcement Agents  
-Press release  
-Invitation  
Article- How to collect debts - A guide to creditors  
Article - New Private Enforcement Agent System  
Success Story – Private Enforcement Agent System  
Public Service Announcement - Private Enforcement Agents  
CLE web page - Snapshot  
Facebook page - Snapshot