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CONTRACT LAW ENFORCEMENT (CLE) PROGRAM

SIXTH QUARTERLY REPORT

August - October 2014



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Project Overview

The USAID/Kosovo Contract Law Enforcement (CLE) Program contract was executed by USAID and Checchi and Company Consulting, Inc. on May 7, 2013. The CLE Program builds on the progress achieved by the USAID SEAD Program and other USAID and donor programs. It works to address a range of challenges, including the reduction of the judgment caseload (including both backlog – cases older than two years – and inventory, cases younger than two years) in Kosovo’s court system, and support to the Ministry of Justice (MOJ) to implement the new Private Enforcement Agent (PEA) 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 – particularly bankruptcy; and work with the business community to foster increased utilization of well-drafted written contracts.

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

Executive Summary

In the Program’s sixth quarter, CLE continued to support the courts with the task of judgment reduction. Large-scale, systematic enforcement against private bank accounts accelerated: through the end of the quarter, nearly 12,000 cases totaling nearly €11,500,000 in claimed value have been presented for enforcement against bank accounts, and by the end of the quarter over 20,000 cases had been removed from caseload. During the quarter, CLE starting preparing cases for enforcement against wages using the personal identification numbers provided to the KJC by the Civil Registration Agency (CRA). CLE, in coordination with the CBK, began preparations to upgrade CBK’s Unique Account Holders’ Registry, which would fully automate enforcement against bank accounts. During the reporting period, CLE embedded teams assisted court enforcement personnel in the Pristina, Ferizaj, and Gjakova basic courts, and CLE continued to provide additional support to the Peja, Gjilan, and Prizren Basic Courts. CLE also supported the KJC in developing and distributing forms to judicial personnel which are being used to report and evaluate the monthly performance of individual enforcement clerks. The CLE developed web-based reporting application was being tested in all courts.

CLE continued support to the Ministry of Justice (MOJ) in the development the new system of enforcement and to establish the Private Enforcement Agent (PEAs) Monitoring, Evaluation, and Disciplinary (ME&D) regime. This includes establishing a Disciplinary Committee, the Chamber of PEAs, and the Supervisory Inspectorate of Free Professions. Nineteen PEAs were licensed and sworn in by the MOJ. These PEAs will be fully operational by December 2014, bringing the total number of PEAs serving Kosovo citizens to 32. During the quarter, CLE held its third training workshop for PEA candidates and held a training-of-trainers workshop. CLE prepared a draft Administrative Instruction on Methods of Inspection and submitted it to the MOJ for review. CLE also continues to identify provisions in the Law on Enforcement Procedure (LEP) that require amendment, and continued supporting the MOJ to prepare all the necessary documents (concept note, regulatory impact analysis, etc.) for amendment of the LEP to be placed on the legislative agenda for 2015.

CLE is working with the Ministry of Trade and Industry (MTI) to amend the Bankruptcy Law. The third legislative working group meeting was held in late October, and work continued apace

to develop the draft Law.

CLE continued to advance, with the Central Bank of Kosovo (CBK), draft regulations that will finalize implementation of the Law on Obligations.

After a summer hiatus, training programs resumed in commercial law, with judges through the Kosovo Judicial Institute (KJI), with commercial lawyers through the Kosovo Bar Association (KBA), as well as CLE's customized program specifically designed for commercial department judges.

During the quarter, CLE selected a team to participate in the International Chamber of Commerce Mediation Moot Court competition, which will be held in Paris in February 2015. Preparations are also underway for the 1st Annual Western Balkans Vis Pre-Moot Competition to be hosted by CLE, the University of Pristina, and the American University in Kosovo (AUK) in February 2015.

Mediation activities accelerated, with the Peja and Gjilan centers both seeing increases in caseload over the previous quarter, and the new Prizren Center working closely with judges to identify cases for mediation now that mediators in Prizren have received their licenses. CLE is working with the KJC on its 2015 budget request, which includes additional personnel to staff Mediation Centers within the basic courts, and coordinated holding a training workshop on mediation for judges. CLE continued to work with the Kosovo Association of Mediators. The program also has been assisting the MOJ's Mediation Commission with amendments to regulations governing Mediation, including a Code of Ethics, and other regulatory instruments.

CLE held 2 of its regular series of "Put it on Paper" transactional practices workshops with businesses. Together with USAID Partnerships for Development, the new Standard Form Contract for Construction was launched at a public event with the construction industry and lawyers. CLE conducted a Survey on Contract Usage in August, and received the results during the quarter.

During the reporting period, Checchi hired two attorneys- a Legal Specialist, Shibani Shah, to replace departed Legal Specialist Douglas Muir, and a Senior Attorney for Commercial Law, Bardha Tahiri to replace Zana Berisha, who began working for USAID Kosovo.

Summary of Progress August-October 2014

A. Component I: Improved Systems for Enforcement of Judgments and Reduction of 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 reduce, and ultimately, to effectively eliminate enforcement cases¹; and 2) to support the Ministry of Justice to establish the new private enforcement system in Kosovo.

A.I. Backlog Reduction

¹ It should be noted that for several reasons, CLE supports the courts to eliminate *all pending* judgment cases although the explicit CLE tasking is to address backlog cases – those older than two years. The courts are understaffed, under-resourced, and lack capacity, however, and cannot reasonably be expected to improve upon their performance, especially as jurisdiction for nearly all civil enforcement has been transferred as of 1 July, 2014 to Private Enforcement Agents, and resources being made available for court enforcement are dwindling. Therefore, as a practical matter, all current cases will end up in backlog prior to Program end, and CLE assists the courts in enforcing all civil judgments currently carried on their dockets.

CLE assistance to the courts to achieve judgment backlog reduction rests on three 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 procedural actions, such as suspension of cases that have already seen two attempts to provide notice to debtors, or at collection; and 3) training on and implementation of three new, USAID-developed mechanisms that facilitate enforcement – the Unique Account Holders' Registry at the Central Bank; the Civil Registration Agency (CRA) database of Personal Identification Numbers (PINs); and the Tax Administration of Kosovo (TAK) database of employers/employees.

During the reporting period, the KJC, with support from CLE, continued to work with the CRA to migrate the PINs into the KJC database to facilitate wage garnishment to satisfy debts. During the reporting period, CLE prepared 300 cases for enforcement against wages, which were distributed to the Civil Execution judges for review and signature. During the quarter, CLE began associating nearly 10,000 cases with employment information, and supported all Basic Courts to begin utilizing this avenue of enforcement. CLE is continuing to review almost 7,500 cases for which PINs are available to verify with creditors the viability of cases for enforcement against wages (nearly a quarter of the first tranche of 10,000 are, for various reasons, including payment not reported to the courts, not viable for enforcement).



Finally, CLE continued to monitor the process of the amendment of nearly 5,700 KEK enforcement proposals, which did not seek enforcement against bank accounts and wages, and require amendment before the courts can pursue these avenues of enforcement.

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 in its first quarter 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 caseload reduction in courts supported by CLE for Year One. The CLE Program has set an ambitious target of reaching a reduction of 45% in courts receiving CLE support (which by the end of Year Two should include all but the Mitrovica Basic Court, subject to ongoing political negotiations with Serbia over the northern part of the country).

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

This quarter, CLE installed a web-based reporting application for use by the KJC and the Courts. Automatic weekly reporting is now enabled, and weekly reports are available for KJC management through the application. During the quarter, CLE worked closely with the KJC Secretariat and statistics unit to provide training on use of the application, which will enable the KJC to not only track performance by court, but also by individual enforcement clerk in order to facilitate monitoring of adherence to performance norms. CLE will continue to work with the KJC and the courts to ensure that, starting from January 1, 2015, the application is utilized in lieu of other reporting processes, and its data is utilized to monitor the performance of courts and individual enforcement personnel against their performance norms.

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

Last quarter, CLE's backlog enforcement officers were embedded in the Ferizaj, Pristina, and Gjakova Basic Courts. CLE continued to backlog reduction efforts at the Prizren, Gjilan, and Peja Basic Courts, but not with embedded teams.

The following table expresses overall results by Basic Court through October 31, 2014:

Basic Court	Percentage of backlog cases removed	Percentage of inventory cases removed	Percentage of total caseload removed	Total number of Cases removed
Pristina Basic Court	5.57%	2.39%	4.69%	1,986
Podujeva Branch	4.52%	34.71%	9.87%	581
Lipjan Branch	2.18%	700%	5.02%	136
Peja Basic Court	20.72%	31.99%	24.52%	2,135
Klina Branch	0.48%	5.79%	2.74%	118
Decan Branch	2.31%	20.38%	5.17%	154
Gjakova Basic Court	26.19%	33.61%	35.50%	3,215
Malisheve Branch	13.57%	24.62%	20.68%	577
Rahovec Branch	9.74%	21.89%	16.07%	709
Prizren Basic Court	6.26%	37.62%	16.55%	1,918
Suhareka Branch	10.6%	91.06%	25%	609
Dragash Branch	18.96%	13.76%	15.33%	107
Gjilan Basic Court	43.84%	55.82%	49.24%	5,120
Viti Branch	8.85%	12.99%	10.31%	398
Kamenica Branch	51.72%	147%	81.84%	347
Ferizaj Basic Court	18.46%	20.21%	19.22%	1,873
Kacanik Branch	100%	100%	100%	2
Strpce Branch	31.82%	18.89%	23.13%	31
Mitrovica Basic Court	1.35%	0%	1.23%	54
Total	11.86%	23.44%	15.53%	20,070

Note: Although CLE is not directly supporting the Mitrovica Court, it has begun utilizing the CLE developed reporting application.

A.I.4. Support KJC and Basic Courts to improve performance of court enforcement clerks (See also A.I.1)

During the reporting period, as noted above, the CLE developed web-based reporting application was distributed to all 7 Basic Courts and Basic Court Presidents and Execution Judges were provided tablets to access, and monitor individual performance by enforcement personnel. CLE provided administrative, legal, and organizational support to court execution teams to continue the process of reorienting enforcement against readily available "cash" assets (bank accounts and wages).

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

Nearly 12,000 cases have been enforced against bank accounts to date. Throughout the quarter CLE worked to resolve administrative and data issues necessary to enable the *en masse* integration of the

CRA database of PINs with the KJC judgment database and the Tax Administration provided employment data. By the end of the quarter, CLE was verifying data on 7,493 cases for which PINs and employment data are available. Enforcement against earnings is expected to sharply increase in the coming months, once the databases are fully merged and most case files are associated with PINs and verified.

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 (Pristina, Ferizaj, 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.

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

Through the end of the reporting period, CLE supported the courts to place nearly 6,500 cases in suspension. These cases, are those that are demonstrably uncollectable, either because the debtor cannot be located (has immigrated, is deceased, or is otherwise un-locatable), or has no assets (insolvent businesses, destitute, etc.).

By a ratio of almost 5 to 1, cases that wind up being suspended are older, backlogged cases, some of which date from 2000 and are still denominated in Deutschmarks. One of the new features of the new Law on Execution Procedures (LEP) puts additional responsibility on creditors to provide the courts with debtor information during periods of suspension if the information originally provided is insufficient to locate debtors and their assets. Implementing the new provisions of LEP now allows the courts to conduct "housekeeping" on cases that are not viable and clear them from the dockets. Given that many, if not most or even all of the oldest cases fall into this category, it will also provide needed finality for creditors who, with dismissal in hand following the period of suspension and one additional attempt at enforcement after 6 months in suspension, will be able to "clear" their books of uncollected debts. This is particularly important for the utility companies who have already paid VAT on these debts, and who will now be able to seek adjustments to their tax liabilities (CLE had in a previous quarter sought the assistance of the Ministry of Economic Development to encourage PTK in particular to withdraw a number of old claims (2001-2004), but they were unwilling to do so because of the considerable sum of VAT payments already made).

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

IR 1.1(1) - Percentage of civil enforcement cases enforced as a result of USG assistance

To date, 15.53% of cases in the execution caseload at courts receiving CLE assistance have been cleared from the caseload.

IR 1.1(2) - Number of civil enforcement cases enforced as a result of USG assistance

During the reporting period, the total number of cases cleared from execution caseload as result of CLE assistance was 4,674 cases from the total cases in execution caseload in courts receiving CLE assistance, bringing the life project total to 20,070 cases cleared from caseload.

IR 1.1.1(1) - Number of USG-assisted courts with improved judgment/enforcement case management

CLE assisted 18 Courts: 6 Basic Courts (Pristina, Prizren, Gjakova, Peja, Ferizaj, Gjilan) and 11 branches (Lipjan, Podujeva, Rahovec, Klina, Viti, Deçan, Malisheva, Suhareka, Dragash, Kamenica,

Shterpce, and Kacanik).

IR 1.1.1(3) - Percent change of court enforcement actions against bank accounts

At the start of the CLE Program, no cases were being enforced against bank accounts. CLE established its baseline of 501 cases enforced against bank accounts at the end of Quarter Two. During the reporting period, 3,810 cases were prepared for enforcement against bank accounts. To date, 11,696 cases have been prepared for enforcement against bank accounts resulting in a total percentage change of 48.31%.

IR 1.1.1(4) - KJC reporting on execution caseload improved

CLE, working with KJC, continued transitioning from paper-based to the CLE designed electronic system which is more accurate and allows monitoring of individual enforcement personnel performance. CLE continues to encourage the KJC to mandate use of the electronic system exclusively from January 2015.

A.II. Establish the new Private Enforcement Agent system

Work on implementing the new private enforcement system continued to progress this quarter. Nineteen additional PEAs were finally licensed and commissioned by the MOJ and will begin work during the next quarter (following a 60 day period to establish offices and receive final approval from MOJ to begin operations), bringing the total number of commissioned PEAs to 32. CLE supported the MOJ's coordination efforts with a variety of institutions – including the CBK, TAK, the Public Procurement Regulatory Commission, the Ministry of Public Administration, the Police, the KJC, and others – on their roles and responsibilities vis-à-vis the new system. The current political situation is impeding implementation of the next step towards fully implementing the PEA regime, the creation of the Chamber of Enforcement Agents, which will have several self-regulating organization functions, including some oversight. The Chamber, however, can be created now that there are at least 20 commissioned agents. MOJ, however, continued to be effectively paralyzed due to politics. .

Also during the reporting period CLE assisted the MOJ in the development the Monitoring, Evaluation, and Disciplinary system for PEAs. This includes establishing a Disciplinary Committee, the Chamber of PEAs, and the Supervisory Inspectorate of Free Professions. Full implementation was hostage to the political deadlock.

The Kosovo Bankers' Association, comprised of representatives from commercial banks operating in Kosovo, has complained about the transaction costs of increasing face to face contact, finding it cumbersome

to comply with the provisions in the LEP to enforce judgments. To update the CEO's of Kosovo's commercial banks, CLE made a presentation to the Kosovo Bankers' Association Board of Directors meeting to explain the system, and to brief them on planned upgrades to the Registry, which will minimize, if not eliminate the numerous face to face visits they are struggling to accommodate.



During the reporting period, CLE strenuously urged, and the MOJ agreed, to administer 4-5 PEA exams per year to increase the number of candidates until the threshold of 125 PEAs is met. This threshold, which reflects the Council of Europe standard of having one PEA per 25,000 citizens, is mandated by the LEP. As many questions arise in practice, and feedback is received from the various government and private sector counterparts, and from PEA's themselves, CLE also urged the Ministry to regularly distribute an official Informational Circular interpreting and guiding PEA practices. The Ministry agreed these should distribute to PEAs on a periodic basis, the goal being to standardize the practice and strengthen the enforcement system. CLE prepared Circulars for distribution by the Ministry, but as with most activities with this counterpart during the quarter, little action was taken due to political paralysis.

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

Throughout its first year, CLE supported the MOJ's efforts to draft the secondary legislation necessary to fully implement the LEP and establish the new PEA system. Working with MOJ's Legal Office, CLE staff drafted sixteen regulations and conducted an analysis and provided comment on one other for a total of 17 regulations and/or administrative instructions. The last Administrative Instruction MoJ-No.09/2014 on Disciplinary Procedure against Private Enforcement Agents was adopted during the quarter.

Fourteen regulations have already been adopted – specifically, those necessary for the PEA system to come into operation. Four regulations have been drafted but not yet adopted.

CLE drafted an Administrative Instruction on Methods of Inspection, which was sent to the MOJ for review and comment.

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

The third training for PEA candidates, those who had passed the exam, but were not yet commissioned, was held this quarter. CLE also opened this training to assistants and support personnel employed by operating PEAs, as well as MOJ personnel from the Office of Free Professions (who will be responsible for oversight of the system). Additionally, a Training of Trainers for assigned MOJ personnel and CLE staff, who are likely to conduct future initial trainings, was held in August. This was the first of up to three TOT's that CLE will hold, in order to establish capacity in MOJ, as MOJ adds additional personnel, and later for the Chamber once it is established.

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

The Chamber of Private Enforcement Agents will be formed, in accordance with the law, now that at least 20 agents are licensed. Fourteen agents were licensed from the first cohort, and nineteen additional PEAs were commissioned by the MOJ during the quarter. It is unlikely there will be additional progress on this activity until the political situation is resolved and a new Minister of Justice is appointed.

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

IR 1.1(3) - WB Doing Business indicator on contract enforcement (ranking)

World Bank Doing Business 2015 Rank: 138. Time (days): 330. This data is inaccurate, as the number of days enforce a contract is based on old Law on Enforcement Procedure; not the current Law in effect; under the new LEP the time is 149 days.

IR 1.1.3(4) - Number of enforcement cases resolved through new procedures (e.g. bailiff) with USG assistance

The Private Enforcement Agents established their offices in May 2014. The total number of cases received by PEAs is 2,791 and cases resolved through new procedures introduced with USG assistance (private enforcement agents) is 217 cases for the 11 PEAs who have disclosed their data².

Private Enforcement Agent no.	Cases received	Cases finished	Cases withdrawn from court
1	undisclosed	undisclosed	0
2	51	0	16
3. (same cases as PEA no. 10)	649	104	209
4	499	17	168
5	undisclosed	undisclosed	Undisclosed
6	55	5	4
7	500	undisclosed	undisclosed
8	430	50	21
9	482	33	121
10. (same cases as PEA no. 3)	649	104	209
11	43	Undisclosed	Undisclosed
12	20	1	8
13	49	7	0
14	13	0	0
15	undisclosed	undisclosed	undisclosed
Total:	2,791	217	756

Note: Numbers marked in red are from the previous reporting period

IR 1.1.3(7) - PEA disciplinary system implemented

Not yet implemented; anticipated during 2015.

IR 1.1.3(8) - Chamber of PEAs established

Not yet implemented; anticipated during 2015.

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

CLE Commercial Law Activities cover a range of activities with the Ministry of Trade and Industry to develop new Bankruptcy Legislation, and with the CBK to develop regulations for financial sector transactions, which are necessary to fully implement the Law on Obligations. During the quarter, CLE continued to support the Ministry of Trade and Industry (MTI) in the drafting of a revised bankruptcy law. CLE also supports the Central Bank of Kosovo (CBK) in the drafting of a range of regulations governing financial services contracts necessary for completely implementing the new Law on Obligations, which entered into force in 2012. CBK requested CLE assistance to develop regulations for Factoring, and to finalize the CBK standard form Mortgage Agreement, which had been begun by a US Treasury Department initiative.

To expand the “culture of contract” that is critical to the functioning of a modern market economy, the Program works closely with small and medium enterprises (SMEs) among Kosovo’s Albanian and Serbian communities to foster improved contracting practices. Awareness of legal rules and

² PEAs are not obliged to report on caseload and performance to CLE, and MOJ will only collect information quarterly at most. Data gathered here is based on CLE’s informal tracking mechanisms with PEAs themselves.

procedures, and their implications for business activities, as measured through a variety of social research methods, including surveys and focus groups, is quite low among the business community. Activities with the business community are ultimately directed towards developing and enhancing the use of written contracts through provision of information and efforts to demonstrate the utility of changing business attitudes to view the use of written contracts not as an affront or lack of trust, but as a tool to distribute risk, memorialize the transaction more effectively, and utilize Alternative Dispute Resolution (ADR) mechanisms.

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

B.I.1. New Bankruptcy/Insolvency Law

The new draft Bankruptcy Law, sponsored by MTI and supported by CLE, was placed on the legislative agenda in early May 2014. CLE supported MTI by developing the package of documents necessary to amend the agenda. CLE staff leads the MTI working group, which began meeting in June. Another working group session was held in October. A final draft, consistent with international best practices and EU standards, is expected to be completed in the winter of 2014/2015. CLE will then support the process of inter-ministerial review and submission to the Assembly. Once the draft is finalized and submitted to the Assembly, development of secondary legislation will commence to ensure that all necessary additional regulations are ready for promulgation concurrent with or shortly after adoption of the law.

B.I.2. Implement the Law on Obligations

Full implementation of the new Law on Obligations requires finalizing and promulgating secondary regulations, particularly those associated with financial services, including consumer lending and insurance. CLE began this work last year, collecting stakeholder input from the MOJ, CBK, and affected private sector actors (particularly commercial banks), and began the process of drafting in spring of 2014. During this reporting period, the Regulation on Safe Deposit Boxes was finalized and provided to the CBK; the regulation will, barring unforeseen circumstances, be considered in the next CBK Board of Directors meeting, and is expected to be approved. The Regulations on Letters of Credit and Letters of Guarantee will be completed once relevant ICC provisions have been translated into Albanian by the Albanian ICC. This quarter, four other regulations have been drafted by CLE, and provided to the CBK for review and comment. After which, they will be distributed for comment to the Kosovo Banker's Association; CLE does not expect many comments from the Association.

The current goal will be to have the regulations promulgated before the end of the calendar year 2014, although this schedule may be further delayed should the political impasse last longer than anticipated.

Regulations for the implementation of the law on obligations (Status as of October 31, 2014)

	Regulation	Status	Notes
1	On safe deposit boxes	Completed	Ready for approval by the CBK Board of Directors
2	On letters of guarantees and letters of credit	Completed	CBK providing comments. Will be provided to KBA after comments are complete
3	On bank deposits in cash	Completed by CLE	Provided to KBA for stakeholder review
4	On the loan contract	Completed by CLE	Provided to KBA for

			stakeholder review
5	On current bank accounts	Completed by CLE	Will be provided to KBA for stakeholder review
6	On depositing of securities	Completed by CLE	Will be provided to KBA for stakeholder review

B.I.3. Amendments to the Law on Business Organizations

No actions were taken during the reporting period, due to the ongoing political impasse.

B.I.4. Develop amendments to the Law on Mediation

CLE has engaged the Mediation Commission at the Ministry of Justice during the reporting period on developing new amendments, but no working group will be formed until a new Minister is appointed.

Activities under B.I relate to the following PMEP indicators:

IR 1.1.3(1) - Number of new laws and secondary legislation finalized and adopted to improve contract law and property rights using USG assistance

None adopted during the reporting period.

B.II. Engagement with the Business Community – Developing a Culture of Contract in Kosovo

B.II.1 Engagement with agriculture sector transactions – farmers and processors (in collaboration with the USAID New Opportunities for Agriculture (NOA) Program)

CLE has been collaborating with the USAID NOA Program to provide assistance to NOA's farmer and processor clients to adopt and regularly use written contracts. Beginning in April 2014, CLE provided pro bono internship opportunities for three interns to act as contract monitors, regularly visiting farmers, packing houses, and processing centers to monitor compliance with the new contracts. The interns continued working through the end of the 2014 harvest (September 2014).

CLE regularly monitored the performance of nearly 650 contracts between farmers and processors. CLE developed a regional tracking system for those transactions which looked likely to encounter problems in performance. There were some issues in relation to performance for a variety of reasons (predominantly related to hail damage to crops or irrigation problems, but there are also one or two where farmers simply decided to grow different crops at the last minute, failing to acknowledge the obligations they had entered into). CLE and NOA agreed that the true demonstration of the utility of using written contracts would be timely resolution of disputes. CLE prepared a roster of mediators willing to provide mediation for those contracts where disputes arose, with a goal of bringing mediation to the parties within a week of notice.

Ultimately, the contracts were concluded and performed without any substantial issues at the end of the harvest season. Mediation was not used or requested by any of the parties, although CLE stressed the benefits of bringing to disputes to mediation. The initiative will be expanded up to tenfold in the next growing season.

B.II.2. Legal information materials

Standard Form Contracts: The existing Standard Form Contracts cover the vast majority of “problem” transactions reported by businesses or encountered in the courts. CLE, however, in September, launched the Standard Form Contract on Construction, which was revised (in

collaboration with USAID Partnerships for Development) to reflect changes to the Law on Construction.

Know Your Rights Brochures:

No actions were taken during the reporting period.

B.II.3. Outreach on contracts to the business community including non-majority Businesses (Also see Section C.I.3 below)

In coordination with the USAID Advancing Kosovo Together (AKT) Program, AmCham, and the KCC, CLE began making preparations for Serbian and Kosovar businesses to participate in the B2B Trade Fair, which will be held in December or January.



During the reporting period, a “firm profile” survey instrument was developed and distributed by the Municipality of Gracanica to businesses to learn about both the demands for and supplies of goods and services available locally. The survey is complete, and the results have facilitated matching Gracanica businesses with KCC and AmCham members at the B2B Trade Fair.

Activities under B.II relate to the following PMEP indicators:

IR 1.1.3 (5) - Percent of businesses surveyed that regularly use written contracts (See also in C)

CLE surveyed 900 businesses throughout Kosovo to measure written contract usage. The preliminary data shows that 40% of the businesses surveyed regularly use written contracts, an increase from only 23% of respondents who regularly utilized written contracts in the 2011 SEAD Program survey on contract usage. The Report will be finalized next quarter.

B.III. Mediation (and arbitration monitoring)

CLE operated mediation centers in Gjilan, Peja, and recently opened a center in Prizren. The centers accept cases referred by the courts as well as cases submitted directly by the parties.

During the reporting period a total of 418 new cases were accepted by the CLE mediation centers, 223 in Gjilan and 195 in Peja. 226 cases were resolved and 135 were transferred back to the courts.



CLE does not directly work on arbitration, but does monitor recognition and enforcement by the Courts. 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 three arbitral awards, including one high profile international arbitration award against a State Owned Enterprise. The case is now at the appellate court and could clarify

practice for the trial court, and ensure that future recognition of arbitral awards are not appealable (notwithstanding that Kosovo’s Civil Law system does not recognize judicial precedent, the decision will nevertheless reference relevant legal provisions foreclosing appeal of recognition of arbitral awards, instructing the trial level not to).

B.III.1. Develop mediation infrastructure

CLE will support the drafting and passage of a new Law on Mediation (see B.I.4, above). No working group will be formed until a new Minister of Justice is appointed. CLE has already identified a number of amendments to be made to the law.

Mediation Regulations:

This quarter, CLE continued to support the efforts of MOJ’s Mediation Commission to amend the most important regulations governing mediation and other relevant secondary legislation. This involved the cooperative drafting of four major regulations: the Regulation on Training and Certification; the Regulation on Grievance and Disciplinary procedures; the Regulation on Mediation Centers; and the Code of Ethics for Mediators. CLE has prepared drafts ready for review by MOJ and other stakeholders. CLE will host a workshop with Commission members to review the proposed secondary legislation in November.

Support to the KJC to request a budget to place Mediation Centers and related staff in each Basic Court:

During the reporting period, CLE continued to support KJC’s efforts to place one mediation center, and staff, in each basic court. The KJC requested only five managers in its budget request to the Ministry of Finance. CLE will work with the KJC and MOF, as well as the Budget Committee of the Assembly, once it begins working, to follow this request through the process. Assuming the budget request is approved, CLE will work with the KJC to transfer the CLE centers’ operations to the respective Basic Courts.

B.III.2: Continued support for existing mediation centers

CLE is operating the mediation centers in Peja, Gjilan, and Prizren.

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

	Peja		Gjilan		Prizren	
	Q6	To date	Q6	To date	Q6	To date
Cases reviewed by Program for potential referral	14	1,880	24	200	19	201
Cases selected by Program and judge for potential referral	14	1,441	24	1,735	13	194
Cases referred to mediation (based on agreement of parties)	1	195	3	223		
Cases settled through mediation and approved by court	1	73	3	153		
Cases not settled and transferred back to court		74	--	61		
Cases in progress (agreement to mediate signed and mediator selected)	1	48	--	9		

B.III.3: Assume operation of UNDP mediation center(s) (TBD)

UNDP continues to operate its centers, however, and as CLE's mediation center activities will conclude by May 31, 2015, in consultation with USAID, it has been determined that CLE will not assume operations of the UNDP centers.

B.III.4: Continue implementing the KJC Protocol on court referral of cases to mediation

CLE staff have met with the Presidents and staff of the other five Basic Courts during the quarter to discuss the Protocol and its implementation.

This quarter, CLE collaborated with the AmCham ADR Center to encourage judges at the Pristina Basic Court (and its Commercial Department) to refer cases to the Center.

B.III.5: Support to mediators and mediation-related activities:

CLE continued supporting the Association of Mediators. In particular, it supports the Association's organizational development by helping it recruit new members and finalize its internal regulations and bylaws. The project also works with the MOJ to ensure that there is continued government support for expanding the availability of mediation, particularly in Pristina.

CLE met with mediators to discuss the progress of Kosovo Association of Mediators, which currently has 49 members. CLE is working with mediators from Pristina to facilitate discussions on becoming members of the Association, a pre-requisite to participating in any Association activities.

During the reporting period CLE liaised with mediators and the MC regarding the planning for a retreat to take place in November, 2014.

During this quarter, CLE held a mediation training workshop with the CSSP in Mitrovica. CLE also conducted a workshop with various members of the judiciary on mediation and restorative justice (civil remedies for damages caused by criminal acts, a separate process from the criminal process, focused on making victims whole) during the quarter.

During the reporting period, CLE selected 4 out of 24 students to participate in the CLE pre- ICC mediation moot court competition. Selection followed an intramural selection phase, where CLE developed the moot problem that was the basis for the intramural selection phase. The team is registered to participate in the international ICC mediation moot court competition in Paris, to be held in February 2015. CLE is working with students in preparation for the competition.

CLE is preparing for the 1st Annual Western Balkans VIS pre-moot competition which will be held in February 2015, in collaboration with the University of Pristina and AUK. CLE has met with coaches from both teams to discuss logistics as well the list of teams that will be invited to participate. Both universities have expressed enthusiasm and commitment to working with CLE on organizing this event.

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

IR 1.1.3(2) - Number of mediation agreements concluded

During this quarter, 39 cases referred to mediation (agreement to mediate signed and mediator selected). To date, 244 cases referred to mediation (agreement to mediate signed and mediator selected).

IR 1.1.3(3) - Percent of arbitral awards recognized or enforced by court

100%

B.IV Training

B.IV.1 Improve the skills and knowledge of judges assigned to the Commercial Department of the Pristina Basic Court, Court of Appeals, and Special Chamber of the Supreme Court.

During this quarter, CLE delivered a training workshop on "Trademarks and Patents." A total of ten (10) judges were present; 8 Kosovo-Albanians, one Kosovo-Serb, one Kosovo-Turk (4 female and 6 male). All of the Commercial Department (4) and Court of Appeals judges (2), and 4 out of 6 civil judges from the Supreme Court attended. CLE will assist the KJI assuming responsibility for future specialized commercial training.

B.IV.2: Provide training on commercial law topics for judges in cooperation with KJI

During this quarter, CLE has delivered two regional training workshops on mediation in cooperation with KJI. The first regional training workshop was held in Pristina/Mitrovica. A total of twenty 20 participants were present; 19 Kosovo-Albanian and one Kosovo-Serbian (6 female, 14 male). CLE delivered its second regional training on Mediation and Restorative Justice in (Peja/Gjakova). A total of 13 participants were present; 12 Kosovo-Albanian and one Kosovo-Bosnian (8 female and 5 male).

The combined total number of judges trained on Mediation and Restorative Justice was 33; 31 Kosovo-Albanian, one Kosovo Serbian, and one Bosnian (14 female and 19 male).

B.IV.3: Improve the commercial law and contracting skills of Kosovar lawyers

As in Year One, CLE continues to work with the KBA to provide professional training for lawyers. CLE offers courses to licensed advocates through KBA on a range of commercial law topics.

The following four courses were delivered during Quarter 6:

Contract on Loan, Interest and Penalty Interest. A total of 57 licensed advocates were present; 52 Kosovo Albanian and 5 Kosovo Serbian (6 female and 51 male). This training was also attended by lawyers; 4 Kosovo-Albanian and one Kosovo-Serb (2 female and 3 male).

Business Organizations. A total of 42 Kosovo-Albanian licensed advocates were present (4 female and 38 male).

Precontractual Liability, Formation and Interpretation of Contracts. A total of 39 Kosovo-Albanian licensed advocates were present (4 female and 35 male). This training was also attended by one Kosovo-Albanian lawyer.

Corporate Governance. A total of 20 male licensed advocates were present; 18 Kosovo-Albanian and 2 Kosovo-Serbian.

The total number of licensed advocates for all 4 training workshops delivered during this quarter was 125; 118 Kosovo-Albanian and 7 Kosovo-Serbian (13 female and 112 male).

Activities under B.IV relate to the following PMEP indicators:

IR 1.1.2(1) - Percent of lawyers trained with USG assistance

During the reporting period 22.2% of (125) active licensed advocated attended training organized by CLE, out of which 13 female and 112 male. From the total number 118 were Kosovo-Albanian and 7

Kosovo-Serbian. To date, the total number of lawyers trained with USG assistance is 71.2% (400).

IR 1.1.2(2) - Number of legal courses or curricula developed/upgraded with USG assistance

No legal course or curricula developed during this quarter.

IR 1.1.2(3) - Number of person days of training delivered to justice sector professionals

CLE has a total of 340 person days of training; 72 female and 268 male. Disaggregated by ethnicity, CLE has a 324 person days of training for Kosovo-Albanian; 14 person days of training for Kosovo-Serbian; 1 person day of training for Kosovo-Bosnian and 1 person day of training for Kosovo-Turk.

During Year Two, CLE conducted a total of 514 person days of training.

C. Component 3: Outreach, Gender and Monitoring

C.I.1. Conduct outreach on the new enforcement system (See also A.II)

During the reporting period, CLE completed its television Public Service Announcement (PSA) on the new enforcement system, which was broadcast on RTK.

C.I.2. Conduct outreach on backlog reduction

During the reporting period, CLE completed its television PSA on backlog reduction, which is airing on RTK.

C.I.3. Outreach to the business community (See also B.II.3 above)

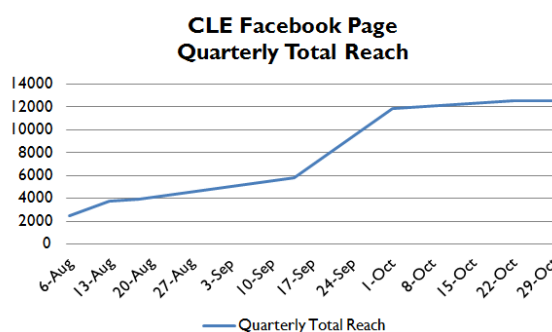
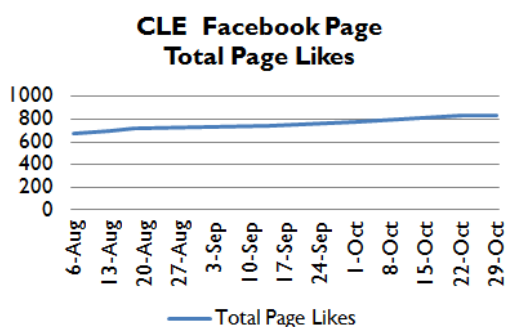
During the reporting period, CLE organized two “Put it on Paper” roundtables, one in Prizren and the other with female entrepreneurs and senior managers in Pristina. During the reporting period there were 19 participants, 10 male and 9 female.

C.I.4. Outreach on mediation

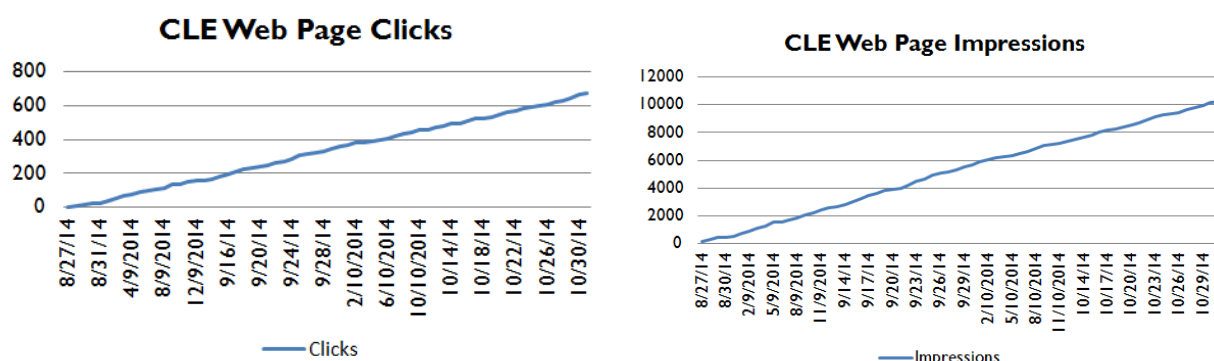
Outreach on mediation includes a range of activities, including interviews, articles, and the presentation of mediation in public fora, including the “Put it on Paper” roundtables, and introductory meetings with individual businesses. During the reporting period, CLE met with 321 individual businesses in Peja, Gjilan, and Prizren to acquaint them with Mediation services.

Other outreach related activities

CLE regularly updates its web-page and Facebook page with events and articles regarding the Program generally, as well as specific initiatives.



The total number of CLE Facebook Likes reached 835, an increase of more than 150 during the quarter. The Total Facebook Reaches for posts increased dramatically, by more than 10,000 during the quarter. The total Facebook Reaches at the end of reporting period was 12,577.



During the reporting period, CLE's web page has been visited more than 650 times. During the reporting period, CLE's web page has appeared 10,253 times in search results (shown in the graph of Impressions).

Activities under C.I relate to the following PMEP indicators:

IR 1.1.1(2) - Number of legal institutions and associations supported by USG assistance

Nine legal institutions are supported by CLE: Ministry of Justice (MoJ), Kosovo Judicial Council (KJC), Central Bank Kosovo (CBK), Ministry of Trade and Industry (MTI), Agency for Business Registration of Kosovo (ABRK), Kosovo Bar Association (KBA), Kosovo Judicial Institute (KJI), Kosovo Banking Association (KBA), Tax Administration Kosovo (TAK), Mediation Association, Kosovo Chamber of Commerce (KCC), and the American Chamber of Commerce (AmCham).

IR 1.1.3 (5) - Percent of businesses surveyed that regularly use written contracts

CLE surveyed 900 businesses to measure written contract usage. The preliminary data show that 40% of the businesses surveyed regularly use written contracts, an increase from 23% measured by the USAID SEAD Program in 2011. The final version of the Report will be available by beginning the next quarter.

IR 1.1.3 (6) - Number of campaigns supported by USG to foster public awareness and respect for rule of law

During this quarter CLE had 5 campaigns to foster public awareness:

- PSA for Backlog Reduction
- Put it on Paper roundtable with RTC Consulting
- Put it on Paper with Prizren businesses
- Launching of Standard Form Contract for Construction
- Mediation Radio Ad

During Year II, CLE has held 11 campaigns to foster public awareness:

- Kosovo-Serbian Business Report
- Kosovo Business Report
- Put it on paper roundtable in Mitrovica with Students
- Put it on paper roundtable in Mitrovica with businesses

Put it on paper roundtable in Pristina with businesses
Women and Commerce Conference
Put it on paper roundtable with RTC Consulting
Launching of Standard Form Contract for Construction
Put it on paper with businesses in Prizren
PSA for Backlog Reduction
Mediation Radio Ad

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 increased activity with enforcement against wages. The newly commissioned cohorts of Private Enforcement Agents should begin work in early December, and, barring unforeseen events, should allow for establishment of the Chamber of Enforcement Agents and finalization of the regulatory framework.

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 will continue apace next quarter, with the finalization of a draft for stakeholder review. Another working group session is scheduled for December 2014. The drafting of regulations for the Law on Obligations should conclude, barring shakeups at the CBK. The number of mediations referred and completed is expected to continue to rise. Training courses with the Kosovo Bar Association will continue. Specialized training for commercial court judges will resume.

C. Component 3: Outreach, Gender, and Monitoring

Work and preparations for the B2B Trade Fair will continue and be finalized next quarter, and the event will be held in December or January. Outreach on Mediation, Enforcement, and Contracts will continue.

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.

Judge (ret.) Bruce Markell (Bankruptcy Expert) regularly engaged with the working group, and participated in a two day working group session on the new law on bankruptcy, providing insight and guidance on concepts regarding modern bankruptcy laws and best practices. In addition, Judge Markell has been intensively engaged in drafting of the new law. He is expected to return to Kosovo for the December 2014 working group session.

Jos Uitdehaag (Private Enforcement System Expert) conducted a training workshop for private enforcement candidates. He also led a three-day training-of-trainers workshop on the same topic for 7 MOJ officials and 2 CLE attorneys.

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 October 31

2014, CLE had expended \$2,965,850.96. During the reporting period, spending was \$496,574.89. CLE anticipates the monthly burn rate to continue to be approximately \$162,067.00 per month over the next quarter.