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ELEVENTH QUARTERLY REPORT *November 2015 - January 2016*



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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. It works to address a range of challenges, including the reduction of the judgment caseload in Kosovo's court system, and support to the Ministry of Justice (MOJ) to implement the new Private Enforcement Agent (PEA) system; the enforcement of contracts; the training of judges, lawyers and enforcement agents; the expansion of mediation; improvements to commercial legislation – particularly bankruptcy; and engagement with the business community to foster increased utilization of well-drafted written contracts.

Executive Summary

In its eleventh quarter, CLE continued to provide embedded support through its Backlog Reduction Initiative (BRI) team in all seven Basic Courts and their branches in Kosovo, including Mitrovica. The BRI team continued to support court personnel and the courts to achieve functional elimination of the entire execution caseload. Through the end of the reporting period, January 31, 2016, CLE reported an 82.28%¹ reduction of the execution caseloads in the seven Basic Courts, and the recovery of over 5,826,338 Euro of previously unrecovered judgment debt.

Per USAID's request in the ninth quarter, CLE, in coordination with the Kosovo Judicial Council (KJC), continued its activities to support and assist the Pristina Basic Court-Commercial Department to establish the new Division on Foreign Investor Disputes (Division), mandated by amendments to the Law on Courts, as well as supporting and assisting the Commercial Department with its case management processes, resolution of pending cases, and identifying potential cases appropriate for the new Division. During the reporting period, the Backlog Reduction Officers (BRO's) took initial or follow up actions and drafted notices and/or decisions, presented to the judges for signature, in 583 pending cases. Each judge and legal secretary was also provided hard copies of 140 finalized templates of notices and decisions drafted by CLE staff, as well as electronic copies which were uploaded to the Department's shared drive. To date, 6 cases have been identified as being appropriate to heard by the Division; no such cases were identified in the current quarter.

The CLE Program continued to support the Ministry of Justice (MOJ) to fully implement the new Private Enforcement Agent (PEA) system and continued to assist the Chamber of Private Enforcement Agents in developing its operational procedures and a Monitoring, Evaluation, and Disciplinary System for the PEAs. After months of CLE's urging, the MOJ also this quarter held an examination for PEA candidates. CLE also continued to prepare and organize a study tour to Belgium and the Netherlands for MOJ personnel, the Chamber of PEAs, and the Disciplinary Commission, which will expose them to the institutional practices and culture of how well-developed systems oversee the private enforcement system.

Under CLE's commercial law activities this quarter, the draft Law on Bankruptcy was submitted to the Assembly; CLE, in cooperation with ICC Albania completed translation and printed the ICC URDG 758 and started translation of ICCUCP 600. CLE also continued to participate in the Working Group established by the Ministry of Trade and Industry (MTI) to review and comment on the new Law on Business Organizations. Additionally, CLE continued to liaise with the Speaker of the Assembly regarding adoption and promulgation of the Laws on Late Payments and Bills of Exchange, which are expected to undergo an expedited procedure through the Assembly, rather than the standard process of having a line Ministry sponsor the Law.

During this quarter, CLE implemented four training sessions for commercial judges as part of the CLE-developed specialized training curricula for commercial judges in the area of commercial law.

Five "Put it On Paper" roundtables were held in collaboration with various organizations and USAID

¹As measured against the CLE Program baseline caseload of 107,600 cases, that was established at the outset of the Program.

Programs.

Mediation activities continued, with the Peja, Gjilan, and Prizren centers seeing a steady case intake. In the eleventh quarter, 123 cases were accepted for referral to mediation, and 110 cases were mediated to agreement and finalized.

Summary of Progress November 2015 - January 2016

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

Enforcement of Judgments activities have two goals: 1) Functional elimination of the courts' execution case backlog and 2) Assistance to the Ministry of Justice to establish the Private Enforcement Agent System.

A.I. Backlog Reduction

In the eleventh quarter, CLE continued to provide embedded support with backlog reduction teams in all 7 Basic Courts, including Mitrovica. The CLE team continued to assist court personnel to categorize civil enforcement cases in all Basic Courts and the majority of branches (CLE does not embed teams in the Gracanica branch (no cases) or the northern branches of the Mitrovica Basic Court in Zubin Potok and Leposavic because of the ongoing negotiation over the status of institutions in the North).

Generally, the CLE Program's support to court execution rests on three elements:

- 1) Development and exploitation of IT tools and infrastructure for improved case management.
- 2) Working with court enforcement judges and clerks to refocus court enforcement on more efficient procedural methods. This includes training and assisting in implementation of procedural mechanisms contained in the new Law on Enforcement Procedure (LEP) that enable the courts to better manage execution caseloads.
- 3) Providing administrative support to court enforcement personnel, including preparation of cases for the delivery of notice to debtors (when required); preparing cases for final enforcement by court personnel; and segregating cases that require archiving, suspension, or dismissal.



In the Program's first quarter, CLE and the KJC established a target to reduce the execution caseload – measured against the official KJC statistical report of 107,600 cases - by 80% across all courts receiving CLE assistance by the end of Year Three. It must be noted that this reported figure, which included both backlog cases (2 years or older) and inventory cases (filed within the past two years), drastically under-reported the caseload (see below discussion on statistical reporting). In reality, the execution caseload is closer to twice this number.

One pillar of CLE's support to the courts has been establishing an accurate count of cases, with entry of all cases into a database. CLE and the courts completed a full accounting of all the cases in November 2015. CLE support to all seven Basic Courts and branches to verify the caseload resulted in finding an additional 92,503 cases, reflecting an actual caseload of 200,103 cases. Case categorization and entry of case data into the database, shows that there are 114,539 cases awaiting enforcement. CLE will discuss with USAID about adjusting the targets, and progress measured against the targets, to reflect the actual caseload for future reporting. For purposes of this report, however, the AMEP Performance Indicators presented below will include the number and percentage of judgments removed from the execution caseload against the official KJC statistical report, set in the beginning of the Program, of 107,600 cases, as well as against the actual number of cases, 200,103. Additionally, as jurisdiction over enforcement has been transferred to the PEA system more than two years ago, and courts are no longer receiving new

enforcement cases (with the exception of labor and family cases), the distinction between inventory and backlog is no longer valid. The entire caseload can now be considered backlog, which is defined as cases two years old or older.

By the end of the eleventh quarter, the courts, with CLE support and assistance, cleared 88,722 cases from the execution caseload across all courts receiving CLE assistance, which is an overall reduction of 82.28% of the KJC reported execution caseload of 107,600, and a 43.60% reduction against the actual caseload of 200,103 cases. This resulted in the recovery of over 5,826,338 Euro of previously unenforced claims. In the eleventh quarter, 9,225 cases were removed from the execution caseload of courts receiving CLE assistance.

Enforcement of judgments against bank accounts and wages continued to increase in the eleventh quarter, as a result of various CLE-developed tools that were utilized by the KJC, including the Unique Account Holder Registry (the Registry) at the Central Bank (for enforcement against bank accounts), and the association of certain claims with citizen Personal Identification Numbers (PINs) enabling enforcement against wages.

Through the end of the reporting period, over 21,363 cases were enforced against bank accounts, resulting in the recovery of over 1,508,900 Euro (of approximately 2,000,000 Euro claimed). A Regulation to implement the system upgrade for the Unique Account Holders' Registry, a mechanism allowing for full automation of enforcement against bank accounts, was developed in 2015, but prior to adopting the Regulation, the CBK requested a Legal Opinion from the State Agency for Protection of Personal Data (the Agency) stating that the Regulation on the Unique Account Holder's Registry is consistent with Kosovo data protection laws. The Agency issued the Opinion on September 14, 2015 concluding that the operation of the Registry is not harmonized with the Law on Protection of Personal Data. This decision contained many legal errors, including, notably, reviewing the Central Bank as if it were a private institution. Last quarter, CLE drafted a legal response to the decision for the CBK. The CBK, with support from CLE, continued to coordinate closely with the Agency to reverse its decision to allow adoption and implementation of the Regulation by the CBK Board of Directors, while still complying with the Law on Protection of Personal Data. In December 2015, the Agency reversed its opinion, allowing the CBK to move forward with adopting the Regulation for the Unique Account Holder Registry. The CBK Board of Directors is expected to adopt the Regulation next quarter, which will allow for a fully automated mechanism to enforce claims against bank accounts.

There has also been further utilization of the CLE-brokered MOU signed between the KJC and Ministry of Internal Affairs (MIA), under which the Civil Registry Agency (CRA) has provided the KJC with Personal Identification Numbers (PINs), which are necessary to enforce judgments against wages. In April 2015, the MIA-CRA provided access to the KJC and court personnel to the database of PINs to associate with the appropriate debtors. As of the end of this reporting period, 47,236 enforcement debtors' PINs have been associated with the appropriate debtors with active cases, making enforcement of cases against wages considerably easier and more efficient. This quarter, CLE associated 3,248 PINs with debtors' pending cases-these additional PINs were located in the MIA-CRA database, as well as through categorization of cases by the BROs.

CLE drafted a Legal Opinion on the Ethics of the performance/work of Judges in cases when they hold a final decision as a reserve in order to ensure norms can be met in future months. The analysis reveals no formal rule or ethical standard which is violated by the practice. Depending on final conclusions drawn, this may require either an explanatory judgment from the Supreme Court, or a revision of KJC's rules and procedures.

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

At the outset of the Program, CLE set, in consultation with the KJC, clear goals and targets for backlog reduction. The agreed upon Year Three target is an overall 80% reduction in the reported execution

caseload. Through the end of the reporting period, CLE, through its embedded assistance in all seven Basic Courts in Kosovo, and certain branches, has achieved an 82.28% reduction in the overall reported execution caseload in the courts where CLE is providing assistance, or a 43.60% reduction based on the actual execution caseload based on categorization efforts, which were completed in November 2015.

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

This quarter, CLE's backlog reduction teams continued to provide embedded support in all seven Basic Courts and their branches, including the Mitrovica Basic Court. The Backlog Reduction Officers continued to categorize cases and review the Court Registry Books for cases that are in fact closed, but have not been reported as such. Through these activities, CLE and the KJC were able to obtain accurate statistics concerning the execution caseload in the courts receiving CLE assistance. As categorization is complete, CLE will continue to liaise with the KJC leadership to fully implement the reporting application so that the KJC, courts, and CLE will be able to track accurately data regarding the execution caseload.

The following table expresses overall results by Basic Court and branches through January 31, 2016:²

Basic Court	Percentage of total caseload removed	Total Claimed Value (€)	Total number of Cases removed
Pristina Basic Court	35.41%	€ 184,502,301.00	16,541
Podujeva Branch	25.66%	€ 11,168,863.00	2,373
Lipjan Branch	39.13%	€ 6,047,899.00	2,112
Glllogovac Branch	24.41%	€ 5,937,956.00	802
Commercial Dpt	12.47%	€ 7,190,116.00	534
Pristina Basic Court and Branches	32.44%	€ 214,847,135.00	22,362
Peja Basic Court	59.08%	€ 14,538,726.00	8,894
Klina Branch	12.86%	€ 1,426,606.00	623
Decan Branch	20.27%	€ 354,764.00	946
Istog Branch	28.88%	€ 2,739,780.00	1,001
Peja Basic Court and Branches	40.90%	€ 19,059,876.00	11,464
Gjakova Basic Court	51.16%	€ 20,730,461.00	7,105
Malisheve Branch	43.86%	€ 5,384,623.00	2,409
Rahovec Branch	41.32%	€ 4,020,791.00	2,225
Gjakova Basic Court and Branches	47.40%	€ 30,135,875.00	11,739
Prizren Basic Court	50.51%	€ 32,656,382.00	10,398
Suhareka Branch	54.48%	€ 7,231,254.00	3,479
Dragash Branch	42.76%	€ 262,083.00	422
Prizren Basic Court and Branches	51.44%	€ 40,149,719.00	14,299
Gjilan Basic Court	64.59%	€ 9,656,723.00	10,098
Viti Branch	46.81%	€ 5,431,332.00	2,635

² These numbers are based on the actual number of cases found in the execution caseload, rather than the baseline number set at the outset of the Program. Through categorization, CLE identified an additional 92,500 cases (approximate) that were previously unreported.

Kamenica Branch	48.87%	€ 3,111,073.00	735
NovoBerde Branch	47.14%	€ 12,297.00	173
Gjilan Basic Court and Branches	58.97%	€ 18,211,425.00	13,641
Ferizaj Basic Court	55.60%	€ 15,253,182.00	8,691
Kacanik Branch	54.67%	€ 13,857,111.00	2,341
Strpce Branch	39.20%	€ 39,286.00	49
Ferizaj Basic Court and Branches	55.30%	€ 29,149,579.00	11,081
Mitrovica Basic Court	43.65%	€ 9,288,815.00	2,287
Skenderaj Branch	49.17%	€ 1,704,953.00	710
Vushtri Branch	30.63%	€ 6,932,527.00	1,139
Mitrovica Basic Court and Branches	39.76%	€ 17,926,295.00	4,136
Total	43.65%	€ 369,479,904.00	88,722

A.1.2.a Support to Pristina Basic Court Commercial Department and Division for Foreign Investors

Though not a part of CLE's original Year Three Work Plan, USAID directed CLE in its ninth quarter to develop a plan, in coordination with the KJC, to provide support to the Pristina Basic Court-Commercial Department, to establish a new Division for Foreign Investment Disputes (the Division), mandated by amendments to the Law on Courts enacted earlier in the year (it bears mention that these amendments were opposed by CLE with both the Ministry of Justice and the Assembly, on the basis that there was an insufficient volume of such cases to warrant the commitment of resources necessary to establish a new division). The purpose of this assistance is to assist the Commercial Department (CD) to identify the volume of investment disputes that are before the CD, in order to more appropriately inform exactly how much institutional commitment is needed to comply with the amendments to the Law. Upon discussions with the KJC, CLE was informed that a regulation is not required to establish the Division for Foreign Investment Disputes.

CLE's support to the Commercial Department also extends to assisting the Department and its judges with case management processes and drafting decisions and notices. In the eleventh quarter, CLE continued its activities to support the Pristina Basic Court-Commercial Department. There are five Backlog Reduction Officers (BROs), four of whom are assigned individually to a judge and one who supports the Registry. To date, six cases have been deemed to meet the criteria for designation as a foreign investment case. These six cases represent less than one percent of the overall caseload which is approximately 1,140 cases. The BROs also categorized 4,282 unenforced judgments in the Commercial Department.

The BROs continued to provide daily and ongoing support to the judges with 1) legal research and preparation of preliminary drafts of decisions; 2) support to the Court Registry with intake of new cases being filed with the Commercial Department; and 3) ensuring that all case information is being entered into the electronic database, moving away from a manual case management system. During the reporting period, the BROs took initial or follow up actions and drafted notices and/or decisions, presented to the judges for signature, in 583 pending cases.

CLE lawyers completed drafting the templates for decisions and notices; each judge and legal secretary now has a binder with hard copies, as well as electronic access to all 140 templates which have been uploaded to the Commercial Department's shared drive. The BRO's have been instructed to use these templates exclusively, and to inform CLE if any of the judges have issues with using the templates. No such issues

arose during the reporting period.

During the quarter, CLE liaised on a regular basis with the President of the Commercial Department about the disposition rates for case review, meeting norms, and setting attainable goals to increase productivity in resolving commercial contested cases. The judges have historically resolved between 7 – 10 contested cases per month in addition to also resolving commercial execution cases. Currently there is a hold in resolving commercial execution cases and the judges are aware that they must now increase their resolutions of contested cases to both meet their norms and to achieve even a 1.00 case disposition rate. CLE provided the President of the Department with data and projections regarding the impact of various disposition rates on the overall workload. He will present these data to the other 3 judges in the Department, and request that they work collectively to achieve 15 resolutions per judge per month for the next three months, followed by 3 months at 17 resolutions per judge per month and finally moving to 20 resolutions per judge per month for the next 18 months. The average monthly intake of cases in the department is 60 cases and as such 80 resolutions per month would affect a 1.33 disposition rate and address both backlog and current cases.

Each judge currently has an average workload of 275 – 285 pending cases; a manageable volume of cases when compared to the average of 1200 – 1500 pending cases per judge in the general civil contested division. The proposed staggered increase to resolutions per month over the next 24 months would mean a reduction to an average of 170 pending cases per judge in the Commercial Department.

CLE also participated in a working session to analyze and comment on the KJC's draft administrative instruction (AI) for the Anonymity and Publication of Judgments and was able to persuade the working group to remove the anonymity provision for business. The AI is expected to be adopted and promulgated next quarter.

A.1.2.b Temporary maintenance of EROL-developed database by CLE Program

Though not a part of CLE's original Year Three Work Plan, at USAID's request, last quarter CLE conducted an initial analysis and began preparations to assist the KJC in maintaining and managing the now closed USAID EROL Program-developed database, on a temporary basis, by detailing CLE Backlog Reduction Personnel to fill the role of Regional Court Liaisons (RCLs) to the Courts. At USAID's request, CLE will not continue with this activity and will not report on it in the future.

A.1.3. Support Basic Courts with backlog reduction activities.

In its eleventh quarter, CLE continued to support the KJC and the Civil Registration Agency to implement the CLE brokered MOU between the two entities. As a result of the MIA-CRA providing access to the database of PINs and additional PINs being found through categorization, the KJC and courts now have access to of 47,236 citizens' PINs, which will facilitate enforcement against wages.

A.1.4. Support KJC and Basic Courts to improve performance of court enforcement clerks

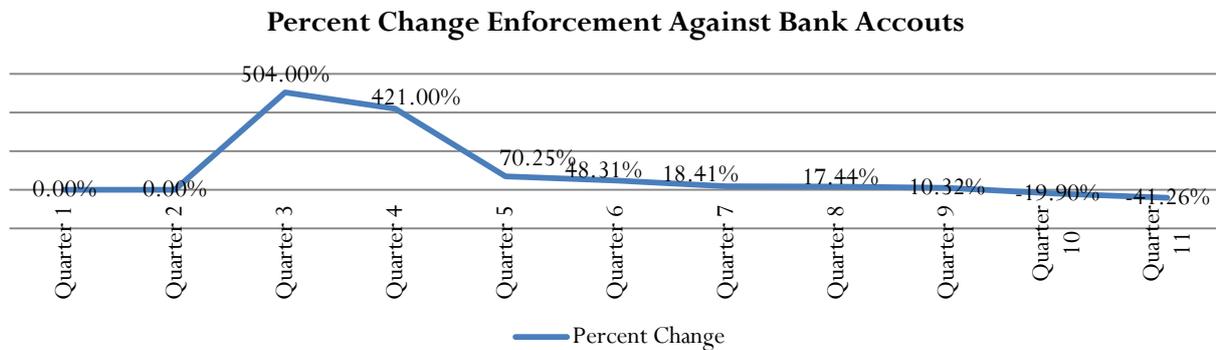
In its eleventh quarter, CLE continued to coordinate and liaise with courts providing direct support to court enforcement personnel on a number of new procedural mechanisms in the law, as well as inculcating more efficient enforcement practices such as enforcement against bank accounts and garnishment of wages. CLE continued to assist the CBK and KJC/Courts to refine and expand use of the CBK Unique Account Holder Registry and to use TAK employment information to facilitate increased use of enforcement against wages.

A.1.5. Utilize improved methods and information resources to improve enforcement against bank accounts and earnings.

a. **Enforcement against Bank Accounts and KJC cooperation with CBK**

The CBK Unique Account Holder Registry (Registry) contains account information of all bank accounts

in Kosovo. CLE has coordinated with the CBK and the KJC to ensure that the Registry is accessible to judges and court enforcement staff through a software link created by CLE during Year One. This avenue has now become an important tool for the courts and over the past two years has resulted in a dramatic increase in the number of cases enforced through this mechanism. Through the eleventh quarter, Courts have seized 21,362 debtors' accounts pursuant to judgment debts, resulting in the closure and full recovery in 5,902 cases (approximately 1,508,900 recovered of 2,000,000 Euro in claimed value). To date, 18,484 cases have been prepared for enforcement against bank accounts, and in the eleventh quarter, 2,878 cases were prepared for enforcement against bank accounts. In the eleventh quarter, 578 judgments were enforced against bank accounts.



b. Enforcement against Wages and KJC cooperation with TAK and CRA

Developing processes for enforcement against wages has proceeded more slowly than against bank accounts. Employment information maintained by the tax administration (TAK) is associated with the Personal Identification Number (PIN) issued by the Civil Registration Agency. In the past, courts have not had access to the PINs. Instead, courts only have access to case numbers and the names of the parties (creditor and debtor). Execution against wages, however, is dependent upon obtaining PINs from the CRA to associate case files with employment information – without the PIN, in nearly every case the court cannot with certainty ensure that enforcement is pursued against the right person. CLE brokered a MOU between KJC and the MIA-CRA to provide all PINs to the KJC, which was finalized during Year One, and through January 31, 2016, the MIA-CRA distributed approximately 44,000 debtors PINs to the KJC, and another approximately 3,000 PINs were found through categorization of cases by the embedded BROs. The association of cases to PINs started immediately, and CLE assisted Courts with identification of debtor's employers using the Tax Administration of Kosovo (TAK) database. To date, 6,687 Enforcement Decisions have been prepared for enforcement against wages by all courts, reflecting an amount of 18,437,002 Euro to be recovered. Approximately 200 Enforcement Decisions have been presented to employers for enforcement, of which 22 Cases have been enforced, amounting to a recovery of 14,161 Euro.

A.I.6. Streamlined procedures for management and dismissal of cases

Under the old Law on Enforcement Procedure, Kosovo courts were granted discretion on whether to dismiss or suspend cases, but demonstrated an unwillingness to exercise this discretion regardless of whether the case was viable or not (e.g., in cases where the debtor is deceased, or simply un-locatable) . The new LEP provisions now provide that judges “shall” suspend, instead of previous versions which granted discretion and provided that judges “may” suspend. Through the end of the reporting period, over 11,500 cases have been suspended, and approximately 9,750 conclusions have been prepared for suspension.

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

IR 1.1(1) - Percentage of civil enforcement cases enforced as a result of USG assistance³

³The percentages are based on the baseline established with the KJC at the start of the Program of a caseload of 107,600. The percentages in parenthesis are based on the actual caseload realized after categorization of 200,103.

To date, 82.28% of cases in the execution caseload of courts receiving CLE assistance have been cleared from the execution caseload. In the eleventh quarter, 8.58% of the cases were cleared.

Target Year 3: 80% Actual Year 3: 82.28% (43.60%) Q11: 8.58% (4.60%)

IR 1.1(2) - Percentage of pending civil cases over 24 months old (Pristina Basic Court-Commercial Department only)

Based on CLE inventory of CD cases, 1,306⁴ is the total caseload (backlog and inventory) of pending cases in this court. Of those 1,306 cases, 237 or 18.51% of the caseload are more than 24 months old. CLE was tasked by USAID to assume these activities to support only the Pristina Basic Court-Commercial Department in September 2015. This indicator will reflect the number of cases heard and resolved within the 8 months of this activity, divided by all cases in Pristina Basic Court-Commercial Department; CLE is supporting only this Court with resolving pending civil cases. Due to the truncated nature of this intervention, there is insufficient time to establish an interim target.

Target Year 3: N/A Actual Year 3: N/A Q11:N/A

IR 1.1(3) - Number of civil enforcement cases enforced as a result of USG assistance

During the eleventh quarter, the total number of cases cleared as a result of CLE's assistance is 9,225 cases from the execution caseload in courts receiving CLE assistance. To date, the total number of cases cleared as a result of CLE's assistance is 88,722 cases from the execution caseload in courts receiving CLE assistance.

Target Year 3: 53,000 Actual Year 3: 88,722 Q11: 9,225

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

CLE assists 24 Courts: 7 Basic Courts (Pristina, Prizren, Gjakova, Peja, Ferizaj, Gjilan, and Mitrovica) and 17 branches (Podujeva, Lipjan, Gillogovc, Suhareka, Dragash, Malisheva, Rahovec, Decan, Istog, Klina, Kacanik, Strpce, Viti, Kamenica, Novoberdo, Vushtrri, and Skenderaj).

Target Year 3: 22 (27)⁵ Actual Year 3: 24 Q11: 24

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

The “percent change” means the number for the current year minus the prior year divided by the prior year x100 (delta). At the start of the CLE Program, zero (0) cases were enforced against bank account. A Baseline of 501 cases was established at the end of Quarter 2. Declining percentage after year one is expected indicating that the number of cases enforced against bank accounts increases.

During the eleventh quarter, 578 cases were enforced against bank accounts, resulting in a total percentage change of -41.26% compared on a quarterly basis. The percentage change at the conclusion of the prior reporting period was -19.90%.

Target Year 3: 0% Actual Year 3: N/A Q11: -41.26%

IR 1.1.1(4) KJC reporting on execution caseload improved (YES/NO indicator)

⁴Reconciliation of the caseload continues, and reports will be run each month to update the baseline as needed.

⁵ CLE is currently not working at Zubin Potok, Leposavic; depending on the political developments, CLE will also support these 2 courts. CLE has not yet provided support to the Gracanica court (Gracanica has no cases).

The KJC continued transitioning from paper-based to the CLE designed electronic system which is more accurate and allows monitoring of individual enforcement personnel performance. The KJC has formally adopted the CLE-developed reporting application, and now that categorization is complete, CLE will liaise with the KJC leadership to fully implement use of the electronic reporting application.

Target Year 3: Yes Actual Year 3: Yes Q11: Yes

A.II. Develop the new enforcement system

In its eleventh quarter, CLE continued to fully and effectively implement and support the new private enforcement system. The total number of PEAs operating in Kosovo at the end of this reporting period is 25.

During the reporting period, the MOJ organized the fifth exam for Private Enforcement Agents.⁶ There were 36 candidates who submitted applications to enter the exam, out of which 20 sat for the exam, one of whom was female. The written exam was held on January 5, 2016 (CLE attended the administration of the written exam), and the oral exam was held on January 11, 2016.



Although PEAs are not obligated to report on caseload and performance to CLE, most PEAs voluntarily provide reports on a periodic basis. From May 5, 2014, through January 31, 2016, 21 out of 25 PEAs reported that there are 13,208 pending cases, compared to 14,754 pending cases at the end of the prior quarter, and that 3,619 cases have been resolved through the private enforcement system. The total value of the pending cases is approximately 189,305,748 Euro, and the amount recovered from resolving cases through the private enforcement system is approximately 42,476,360 Euro, almost double the amount which was recovered at the end of the prior quarter (22,233,000 Euro).

CLE also continued to prepare and organize a study tour to Belgium and the Netherlands for MOJ personnel, the Chamber of PEAs, and the Disciplinary Commission which will expose them to the institutional practices and culture of overseeing the private enforcement system. The study tour will take place at the beginning of the next quarter.

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

During the reporting period, CLE drafted and sent to the MOJ the first draft of the Administrative Instruction on Business and Personal Data of the Private Enforcement Agents. The Administrative Instruction was sent in Albanian, Serbian, and English.

The Administrative Instruction (AI) MOJ-No 05/2015 on Control and Methods of Inspection was approved by the MOJ, and entered into force in May 2015. Pursuant to Article 7 of the AI, the MOJ will also adopt a Guide for the supervision of the private enforcement system, which CLE continued to develop during this reporting period. CLE anticipates that the MOJ will adopt the Guide next quarter.

In 2015, the MOJ also signed Decision No. 14/2015 on establishing the Professional Committee for the Evaluation of the Enforcement System, which is comprised of six Members and Deputy Members. The Professional Committee will oversee the new PEAs, and during this quarter, CLE continued to support and coordinate with the Committee to approve a regulation concerning its own Rules of Procedure. The regulation has been drafted and finalized, and has been reviewed by the Ministry; it is expected that its adoption will be the Committee's first action.

⁶ Last quarter, CLE reported that this was the fourth PEA exam, however, the MOJ has since clarified that it was the fifth exam administered for PEA candidates.

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

During the reporting period, no training sessions were held for PEAs or MOJ personnel. After receiving the results of the candidates that passed the fifth exam, CLE will support and assist the MOJ in organizing the basic training for these candidates.

A.II.3. Support newly established Chamber of Private Enforcement Agents

During the reporting period, CLE continued to support the Chamber in developing its institutional capacities. The Chamber's role is to monitor the Private Enforcement Agents, as well as to publicize and raise awareness to citizens in Kosovo about the profession and the services PEAs offers, in lieu of settling debts through the courts. The Chamber will also monitor the practice of the profession in accordance with the Kosovo Law on Enforcement Procedure (LEP). During the reporting period, CLE support to the Chamber consisted of financial assistance for office costs and equipment, software necessary for case administration and management, especially for access in the Central Bank of Kosovo Unique Account Holder Registry, and one administrative assistant. The case administration software is still in the process of development.

This quarter, the Chamber also published a Vacancy to recruit an individual to be Head of the Chamber's Professional Services. The individual in this position will be responsible for managing the Chamber and ensuring that all the bodies of the Chamber are supported technically and administratively, and will liaise regularly with CLE.

Support MOJ to amend Law on Enforcement Procedure

The Law on Enforcement Procedure entered into force in January 2014. Since the Law entered into force, CLE, along with various stakeholders such as commercial banks, private enforcement agents, and civil judges from the Basic Courts, Appellate Court, and Supreme Court, have identified provisions in the Law that are inconsistent or unclear, and that require amendment. Amendments to the LEP implicate both courts and backlog reduction efforts, and the private enforcement system.

This quarter, the Draft Law on amending the Law on Enforcement Procedure entered into the Annual Legislative Program as part of a group of laws to be adopted in accordance with the Stabilization and Association Agreement (SAA) between the European Union and Kosovo, for which no concept document is required.

The Secretary General of the MOJ signed Decision No. 110/2015 to establish the Working Group for the ex post evaluation of the Law on Enforcement Procedure. This is the first law to undergo such an evaluation. The working group was chaired by the MOJ, and in addition to CLE, other Working Group members included the Prime Minister's Legal Office, an Appeals Court Judge, the State Advocate, the Treasury Department from the Ministry of Finance, the Kosovo Banking Association, the Chamber of the Private Enforcement Agents, and the OSCE. The Working Group met twice over the course of the quarter, and CLE expects that a report on the outcome of the Working Group will be available in the next quarter.

Activities under A.II relate to the following AMEP indicators:

IR 1.1(4) WB Doing Business indicator on contract enforcement: Time in days for enforcement

World Bank Doing Business 2016 Rank: 48
Time (days): 330

Target Year 3: 120 Actual Year 3: 48 Q11: 48

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

The Private Enforcement Agents established their offices in May 2014. The total number of cases resolved through new procedures (e.g. bailiff) using USG assistance, based on data collected from 21 out of 25 PEAs operating in Kosovo is 3,619.⁷

Target Year 3: 20,000 Actual Year 3: 3,619

IR 1.1.3(7) Enforcement agent disciplinary system implemented

Implemented.

Target Year 3: Yes Actual Year 3: Yes Q11: Yes

IR 1.1.3(8) Chamber of PEAs established

Yes.

Target Year 3: N/A Actual Year 3: N/A Q11: N/A

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 Framework activities serve to advance a “culture of contract” with the business community, working directly with businesses to assist them in developing better contracting practices. The Program also provides ongoing general legal support on contract and commercial law matters to government, donor, and private sector organizations, including the Ministry of Trade and Industry, the Central Bank of Kosovo, the Ministry of Justice, the Kosovo Bankers’ Association, and Chambers of Commerce in addition to other USAID and USG technical assistance programs. 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. Activities with the business community are ultimately directed towards developing and enhancing the greater use of written contracts through provision of information and efforts to demonstrate the utility of changing business attitudes to not view the use of written contracts 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.

This quarter, through its commercial law activities, CLE continued to implement a robust set of training activities in commercial law for judges and lawyers and has been leading, in collaboration with the Ministry of Trade and Industry (MTI), the development of a new Law on Bankruptcy. CLE also continues to participate in the Working Group for the new Law on Business Organizations.

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

New Bankruptcy Law

CLE provided technical assistance to the Ministry of Trade and Industry (MTI) Working Group, mandated to draft the new Bankruptcy Law. The Working Group commenced drafting in June 2014 and concluded drafting in June 2015. In addition to providing technical assistance, CLE provided logistical support to the Working Group as well as hosting of meetings and retreats. CLE established a Supporting Working Group comprised of commercial Judges and Supreme Court Judges, to provide comments and feedback on the final draft of the Law. A final draft, consistent with international best practices and EU standards and recommendations has been drafted in accordance with the Governmental Administrative Instruction on drafting legal acts.

⁷ PEAs are not obliged to report on caseload and performance to CLE, and MOJ will only collect information quarterly at most. Data gathered for AMEP is based on CLE’s tracking mechanisms.

During the reporting period, the draft Law was submitted to the Assembly in December 2015. Once the draft is approved by the Assembly, secondary legislation will be ready for adoption by the Ministry of Trade and Industry and Ministry of Justice. The Ministry of Finance, at the request of the Ministry of Trade and Industry Committee on the Budgetary Impact Assessment for the Law on Bankruptcy, approved a budgetary line item of 59,616 Euro for the implementation of the Law for 2016-2017.

CLE, this quarter, continued to develop the training program for judges and attorneys on the new Bankruptcy Law, which is scheduled to be held in March 2016. CLE will engage STTA Judge (ret.) Bruce Markell for development of training materials and the delivery of the training.

Implement the Law on Obligations

This quarter, CLE continued to support the CBK on finalizing the Regulations on implementing the Law on Obligations. Full implementation of the new Law on Obligations requires drafting and promulgating several secondary regulations, particularly those associated with financial services, including consumer lending and insurance. Until these regulations are drafted and adopted, the applicable provisions of the old Law (from 1978) will remain in force. During the reporting period, CLE continued to liaise with the commercial banks and the Central Bank legal department to coordinate development of these regulations. CLE started drafting the necessary regulations in spring of 2014; all regulations have been drafted, but are in the process of being harmonized with new legislative developments.

CLE, this quarter, in collaboration with the Albanian Branch of the International Chamber of Commerce (ICC Albania), printed the Uniform Rules for Demand Guarantees (URDG 758) into Albanian. CLE and ICC Albania continued to collaborate this quarter on the translation of Uniform Customs and Practice for Documentary Credits (UCP 600). The next Working Group session to translate this instrument is scheduled for February 2016. Once both of these instruments have been translated into Albanian, they will be promulgated by the CBK as regulations on Letters of Credit and Letters of Guarantees.

Last quarter, four other regulations developed by CLE were sent to the CBK and are awaiting adoption by the CBK Board. These four regulations are: (1) Regulation on Contracts for Loans; (2) Regulation on Letters of Credit and Bank Guarantees; (3) Regulation on Deposit of Securities; and (4) Regulation on Current Bank Accounts and Bank Deposit.

Amendments to the Law on Business Organizations

In July 2015, the MTI established a Working Group to draft a new Law on Business Organizations. CLE continues to participate in Working Group meetings to develop and draft the new Law. The second Working Group meeting organized by CLE, in cooperation with the MTI, was held this quarter.

New Law on Mediation

During the reporting period, CLE continued to assist the MOJ in finalizing the draft Concept Document on the new Law on Mediation. However, during the quarter, CLE was informed that the new Law on Mediation entered into the Annual Legislative Program as part of a group of laws to be adopted in accordance with the Stabilization and Association Agreement (SAA) between the European Union and Kosovo, for which no concept document is required. CLE continued to draft provisions for the new Law on Mediation and will send an initial draft to USAID next quarter. MOJ has indicated that it will establish a Working Group next quarter to begin drafting the new Law.

Support to the University of Pristina Faculty of Law to improve skills of future commercial lawyers and organization of the 2nd Annual Western Balkans Vis Pre-Moot Competition

In the eleventh quarter, CLE developed and delivered a clinical education module on the UN Convention on Contracts for the International Sale of Goods (CISG) and International Commercial Arbitration Law for

students from the University of Pristina, Iliria College, and the University for Business and Technology (UBT), participating in the Vis competition. This module, incorporating feedback from students and coaches, will be handed over to the coaches to use with students in future years.

During the quarter, CLE continued with preparations for the Second Annual Western Balkans Pre-Moot, which will be held in Pristina from February 25-27, 2016, and is being organized by CLE, in cooperation with the University of Pristina Faculty of Law; Iliria College; the American Chamber of Commerce in Kosovo; and the Kosovo Chamber of Commerce. In addition to teams from the University of Pristina Faculty of Law, Iliria College and UBT, two teams from Bosnia, one team from Macedonia, and one team from Bulgaria will be participating in the pre-moot.

At USAID's request, CLE commenced with its support and assistance to the University of Pristina Faculty of Law's L.L.M. Program in Contract and Commercial Law. The Faculty of Law is seeking to re-establish involvement of international professors with the L.L.M. program and asked for assistance in contacting and liaising with international professors for this purpose. CLE has contacted over 130 professors from institutions in Europe and the United States. A number of professors have expressed interest in delivering lectures both via distance-learning as well as in person. CLE also coordinated closely with the Dean of the University of Pristina, Faculty of Law as well as the Civil Department to facilitate involvement of international professors and practitioners with the L.L.M. Program.

[Coordinate with Assembly of Kosovo on Drafting and Amending Laws Related to Economic Development and Rule of Law](#)

The issue of late payments has been raised by the Kosovo Bankers' Association and the private sector. CLE continues to support the initiative led by the Speaker of the Kosovo Assembly to draft and adopt several laws intended to foster greater economic development, which are intended to be adopted through an accelerated parliamentary procedure. Two of these laws include a Law on Late Payments and a Law on Bills of Exchange. In its eleventh quarter, CLE regularly coordinated with the Assembly on the status of approving the Draft Laws on Late Payments and Bills of Exchange, developed in 2015. At the CBK's request, the Assembly agreed to amend the Draft Law on Late Payments, allowing the CBK to issue a regulation regarding consumers and financial institutions. As of January 31, 2016, the Assembly has not processed these laws, as a result of ongoing political turbulence and disruption to Parliamentary sessions.

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

IR1.1.3(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.

Target Year 3: 2 Actual Year 3: 0 Q11:0

[B.II. Engagement with the Business Community-Developing a Culture of Contract in Kosovo](#)

[B.II.1 Legal information materials](#)

During the reporting period, CLE finalized the process map for the Laws on Administrative Procedure in Albanian, Serbian, and English.

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

IR 1.1.3(5) Percent of businesses surveyed that regularly use written contracts⁸

In Year Three, CLE conducted a nation-wide survey of 900 businesses to measure the contract usage.

⁸ This indicator measures "regular" use of written contracts against businesses that "always" use written contracts.

38.33% of the businesses respondents surveyed regularly use written contracts.

Target Year 3: 35% Actual Year 3: 38.33% Q11: N/A

B.III. Mediation

B.III.1. Develop mediation infrastructure

See Section B.I.4 above for discussion regarding the new Law on Mediation.

Mediation Regulations:

Neither the MOJ nor the Mediation Commission requested assistance in developing mediation-related regulations. Once the New Law on Mediation is adopted and promulgated, CLE will assist the MOJ with any necessary amendments, time permitting.

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

CLE has been coordinating directly with the KJC, the Budget and Finance Committee of the Kosovo Assembly, and the Ministry of Finance, to place Mediation Centers in the Basic Courts, and to create a budget line for seven (one for each Basic Court) Mediation Center Managers to be employed by the KJC.

Last quarter, the Ministry of Finance approved the KJC's request to include in its 2016 budget, the salaries of the seven Mediation Center Managers. This quarter, upon USAID's request, CLE prepared a memorandum outlining CLE's support to the KJC regarding revisions to the 2015 budget and the 2016 budget request, to include salaries for legal support staff for judges as well as for Court Administrators in charge of referring cases to mediation. The Assembly approved the 2016 KJC budget with this line item in the eleventh quarter.

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

CLE continued operating its three mediation centers in Gjilan, Peja and Prizren.

In the eleventh quarter, a total of 123 cases were referred to mediation (agreement to mediate signed and mediator selected); 44 in Peja, 67 in Gjilan, and 12 in Prizren. During the same period, a total of 110 cases were settled through mediation; 39 in Peja, 66 in Gjilan, and 5 in Prizren. During the eleventh quarter, CLE received 61 phone calls from individuals inquiring about mediation, and the Mediation Center Managers in Peja, Gjilan, and Prizren collectively met with 44 businesses to explain mediation processes and the benefits of using this mechanism to settle disputes as an alternative to the Courts.

The following table gives an overview of the cases referred to CLE-operated mediation centers during the eleventh quarter:

	Peja		Gjilan		Prizren	
	Q11	To date	Q11	To date	Q11	To date
Cases reviewed by Program for potential referral	113	2778	110	2705	28	492
Cases selected by Program and judge for potential referral	103	2241	100	2427	18	427
Cases referred to mediation (based on agreement of parties)	44	373	67	521	12	60
Cases settled through mediation and approved by court	39	229	66	434	5	28
Cases not settled and transferred back to court	12	123	2	82	6	20
Cases in progress (agreement to mediate signed and mediator selected)	7	19	5	5	1	12

B.III.3: Continue implementing the KJC Protocol on court referral of cases to mediation

CLE support to courts to implement the Protocol and refer cases in Peja, Prizren, and Gjilan is ongoing, with CLE employing center administrators and providing assistance, particularly review for appropriateness of cases that are referred from the judges in these Basic Courts. In the eleventh quarter, CLE staff regularly liaised with the presidents and staff of the Basic Courts to implement the Protocol.

B.III.4: Support to mediators and mediation-related activities:

CLE continued to support the Association of Mediators. Since late 2014, CLE has assisted the Association of Mediators to develop and design mediation-related outreach activities and draft proposals for funding. The Association of Mediators has 89 members: 34 from Peja, 26 from Gjilan, 13 from Prizren, 9 from Mitrovica, 6 from Gjakova, and 1 from Ferizaj. CLE continued to liaise with representatives from the Association of Mediators regarding its work and future planned activities and events, as well as CLE's support for its Annual Meeting of Assembly Members.

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

IR 1.1.3(2) Number of mediation agreements concluded⁹

During the eleventh quarter, 123 cases were referred to mediation (agreement to mediation signed and mediator selected); 44 cases in Peja, 67 in Gjilan, and 12 in Prizren. To date, 954 cases have been referred to mediation (agreement to mediation signed and mediator selected), out of which 373 cases were received in the Peja Mediation Center, 521 cases in the Gjilan Mediation Center, and 60 cases in the Prizren Mediation Center.

Target Year 3: N/A Actual Year 3: 954 Q11: 123

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

100%

Target Year 3: 100% Actual Year 3: 100% Q11:100%

B.IV. Training

During this quarter, CLE implemented three training sessions for commercial judges as part of the CLE-developed specialized training curricula for commercial judges in the area of commercial law.



B.IV.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.

During this quarter, CLE, in cooperation with the KJI, delivered 4 specialized training courses to the judges in the Pristina Basic Court and Appellate Court Commercial Departments. In addition to these commercial judges, CLE also invited the civil law judges of the Supreme Court of Kosovo to participate in the training.

1. *Patents*, November 3, 2015: A total of 5 Albanian judges attended, 2 female and 3 male; one judge from the Pristina Basic Court-CD; one judge from the Court of Appeal-CD; and 3 judges from the Pristina Basic Court-Administrative Department.

2. *Commercial Disputes in the Insurance Sector*, November 4, 2015: A total of 9 judges attended; 5 female and

⁹ Precise Definition at AMEP: Concluded means that all parties agree to attempt to reach a settlement (i.e. parties formally accepted mediator as a means to resolve the dispute, it does not mean parties approved the settlement).

4 male. Disaggregated by ethnicity, 8 Kosovo-Albanian; 1 Kosovo-Turk. Three judges from the Pristina Basic Court-CD; 3 judges from the Court of Appeal-CD, and 3 judges from the Pristina Basic Court-Administrative Department attended.

3. *Enforcement Procedure against commercial entities*, December 1, 2015: A total of 10 Albanian judges attended; 1 female and 9 male; 2 judges from the Pristina Basic Court-CD; 3 judges from the Court of Appeals-CD; 2 judges from the Pristina Basic Court - Administrative Department; and 3 judges from the Supreme Court of Kosovo.

4. *Business, Credits and Financial Institutions*, December 18, 2015: A total of 7 Albanian judges attended; 2 female and 5 male; 3 judges from the Pristina Basic Court – CD; 2 judges from the Court of Appeals-CD; and 2 judges from the Supreme Court of Kosovo.

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

See Section B.IV.1 above.

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

During this quarter, CLE did not hold any training sessions for lawyers, and will not deliver any further training sessions to lawyers, except for a training session on the new Bankruptcy Law once it is promulgated and entered into force.

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

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

No training sessions were held with lawyers in the eleventh quarter.

To date, 508 active licensed advocates attended training programs organized by CLE. The percentage of lawyers trained with USG assistance is 90%.

Target Year 3: 80% Actual Year 3: 90% Q11: 0%

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

During the eleventh quarter, CLE developed 4 new training courses (Patents; Commercial Disputes in the Insurance Sector; Enforcement Procedure Against Commercial Entities; and Business, Credits and Financial Institutions) as well as training manuals for each of the 4 training courses referenced above. To date, CLE has developed 23 legal courses.

Target Year 3: 9 Actual Year 3: 23 Q11: 4

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

During the eleventh quarter, CLE held a total of 31 person days of training; 10 female and 21 male participants. Disaggregated by ethnicity, CLE held 29 person days of training for Kosovo-Albanians; and 2 person days of training for Kosovo-Turks. To date, CLE conducted a total of 2,141 person days of training.

Target Year 3: 250 Actual Year 3: 232 Q11: 31

C. Component 3: Outreach, Gender, and Monitoring

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

During this quarter, CLE continued to retain the services of, and oversaw production by, a communications

agency engaged in the development of a Public Service Announcement (PSA) on the private enforcement system. This will be the second PSA regarding the private enforcement system developed with USAID/CLE support. The PSA is being sponsored by the PEA Chamber, with support from CLE. CLE expects that the PSA will be finalized for broadcast next quarter.

CLE continues to distribute program materials on the private enforcement system on a regular basis during its events. These materials have been distributed to Kosovo institutions, and also to private businesses.

C.I.2. Conduct Outreach on Backlog Reduction

During the reporting period, the PSA on backlog reduction developed by CLE continued to air on RTK. CLE also continued to distribute its programs materials on backlog reduction.

C.I.3. Conduct outreach with business community

During this quarter CLE organized five 'Put it on Paper' Roundtables with the business community.

(1) Organized in collaboration with Serbian businesses operating in Gracanica; the businesses that attended also participated in the B2B Fair organized by the USAID AKT Program. Seven Kosovo-Serbian businesses attended the roundtable; 5 male and 2 female business representatives attended.



(2) Organized in cooperation with the American Chamber of Commerce (AmCham) and Innovation Centre Kosovo (ICK) as part of Global Entrepreneurship Week. Seven Kosovo- Albanian participants attended the roundtable; 3 male and 4 female.

(3) Organized in coordination with RTC Consulting; the participants were part of a focus group held by RTC to gather qualitative data for the National Contract Usage Survey Report. Ten Kosovo-Albanian participants attended the roundtable; 4 male and 6 female.

(4) Organized in cooperation with the USAID AKT Program, held in North Mitrovica. Thirty Kosovo-Serbian participants attended the roundtable; 10 male and 20 female.

(5) Organized in cooperation with Women for Women International for its internal staff. Thirteen Kosovo-Albanian participants attended the roundtable; 3 male and 10 female.

During each roundtable, USB's containing CLE developed standard form contracts were distributed.

CLE also participated in the AmCham Panel on "Arbitrating disputes arising out of procurement contracts."

C.I.4. Conduct outreach on mediation

During the reporting period, CLE continued to advertise mediation services through radio Dukagjini and national TV – RTK, and also distributed leaflets to raise awareness on the availability of the ADR mechanisms, particularly mediation as an alternative to the courts to resolve disputes.

CLE continued to meet with businesses to discuss ADR mechanisms focusing mainly on mediation services. During the eleventh quarter, CLE met with 44 individual businesses in Peja, Gjilan, and Prizren in order to inform them about mediation services and its benefits.

Other outreach related activities

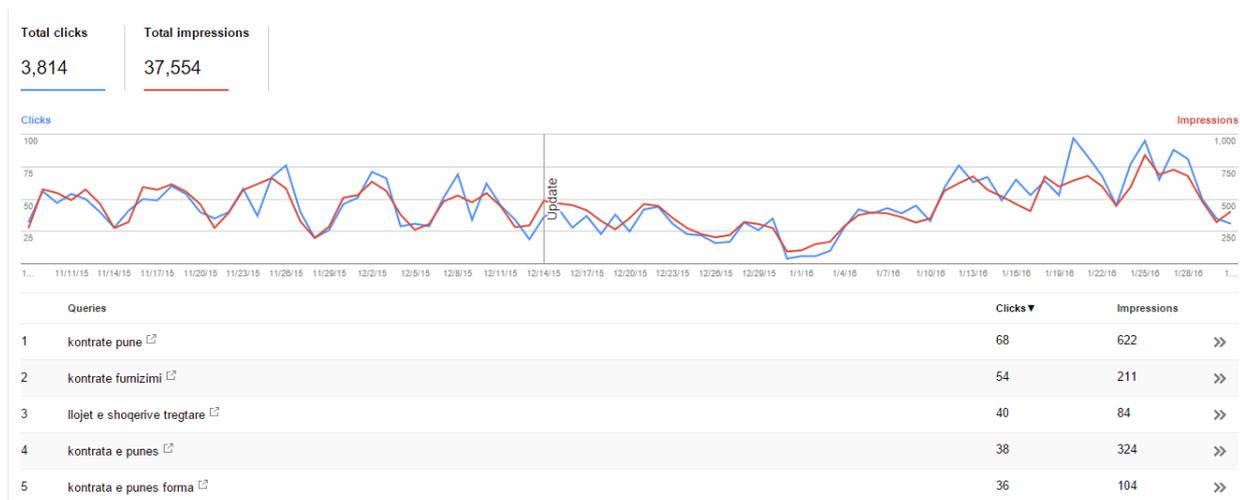
CLE continued to collaborate with the USAID Basic Education Program (BEP) on the development of

materials for introducing concepts on the topic of Financial Literacy to primary school students. CLE coordinated with Master Learning Facilitators, affiliated with the BEP Program, on the content of the material. CLE will take the lead in developing the initial draft materials, which are expected to be completed next quarter.

CLE also continued to liaise and coordinate with the USAID Property Rights Program (PRP) and the USAID Advancing Kosovo Together (AKT) Program to discuss potential opportunities to collaborate and develop synergies, particularly vis-à-vis mediation, and its potential with non-majority community business disputes, and in contested (or otherwise) inheritance cases.

CLE, together with RTC Consulting continued to finalize the report on National Usage of Written Contracts. The results of the 2015 survey show that the frequency of contract usage has substantially increased compared to the previous years. Also, awareness of alternative dispute resolution (ADR) mechanisms has dramatically increased compared to 2011 results, though there was a slight decrease in preferring mediation over other justice institutions from the 2014 results. 81.72% of the surveyed businesses indicated that they regularly use written contracts for their business transactions. For purposes of the report, “regularly” includes businesses that “always” or “often” use written contracts. The percentage of businesses that use written contracts increased by 14.72% compared to the 2011 Survey and increased by 10.72% from the 2014 Survey. 38.33% of the surveyed businesses indicated they “Always” use contracts, a 14.43% change compared to the 2011 Survey and a slight change of 1.67% from the 2014 Survey.

During this quarter, CLE's website was visited more than 3,800 times and appeared 37,550 times in search results. As seen from the graph below it can be noted that the standard form contracts were the most searched for. During this quarter, standard form contracts have been downloaded approximately 465 times. The Contract for Employment was downloaded the most, followed by the Contract for the Supply of Goods. Training Manuals were downloaded more than 770 times. The most downloaded Training Manual is the one on Arbitration.



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

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

Fifteen legal institutions are supported by CLE: (1) Ministry of Justice (MOJ), (2) Kosovo Judicial Council (KJC), (3) Central Bank Kosovo (CBK), (4) Ministry of Trade and Industry (MTI), (5) Agency for Business Registration of Kosovo (ABRK), (6) Kosovo Bar Association (KBA), (7) Basic Courts and Branches - and the Commercial Department at Pristina Basic Court, (8) Kosovo Judicial Institute (KJI), (9) Kosovo Banking Association (KBA), (10) Tax Administration Kosovo (TAK), (11) Association of Mediators, (12) Mediation Commission, (13) Kosovo Chamber of Commerce (KCC), (14) American Chamber of Commerce (AmCham), and the (15) Chamber of Private Enforcement Agents.

Target Year 3: 15 Actual Year 3: 15 Q11: 15

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

During the eleventh quarter, CLE supported 5 campaigns to foster public awareness and respect for rule of law.

Put it on Paper roundtable with Gračanica Businesses (November 11, 2015)

Put it on Paper roundtable with American Chamber of Commerce (AmCham) and Innovation Centre Kosovo (November 17, 2015)

Put it on Paper roundtable with RTC Consulting (December 22, 2015)

Put it on Paper roundtable with USAID Advancing Kosovo Together (January 26, 2016)

Put it on Paper roundtable with Women for Women International (January 29, 2016)

Target Year 3: 16 Actual Year 3: 11 Q11: 5

Activities Planned for Next Quarter (February 2016-April 2016)

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

In the next quarter, CLE will continue with its backlog reduction activities. Additionally, CLE will coordinate closely with the CBK to adopt and implement the Regulation on the Account Holder Registry, in light of the Agency for the Protection of Personal Data's reversal in its opinion to allow the Regulation to be approved and implemented by the CBK. Once the upgrade is implemented and operational, all enforcement against bank accounts will be fully automated, and CLE expects that the execution caseload will be reduced at an accelerated rate. CLE also plans to hold training sessions with court enforcement clerks on how to use the CLE-developed electronic reporting application.

CLE will also support the MOJ in organizing a workshop to discuss amendments to the Law on Enforcement Procedure, as well as coordinate with the MOJ Department of Free Professions to establish a disciplinary and monitoring mechanism to oversee the PEAs. CLE will also continue to prepare and organize the study tour for MOJ personnel to Belgium and the Netherlands, which will also be held next quarter.

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

Next quarter, CLE will deliver a training session with commercial law judges on the new Bankruptcy Law. The training will be held from March 25-27, 2016, and will be delivered by STTA Judge (ret.) Bruce Markell. CLE will also deliver Certificates of Completion, in cooperation with the KJI, to the commercial judges who have completed the specialized training curriculum in commercial law. CLE will also participate in the next Working Group meeting for the Law on Business Organizations, which is scheduled to be held in March 2016. CLE will continue to monitor the approval and promulgation of the remaining regulations for the Law on Obligations. UCP 600 is also expected to be published next quarter.

CLE will coordinate closely with the MOJ, and other donors to establish and organize a Working Group to develop the new Law on Mediation. CLE will also liaise and coordinate closely with Basic Court Presidents to move mediation centers into the Basic Courts and to hire or assign responsibility to existing personnel for the referral of cases to mediation. Unless otherwise directed, CLE, next quarter will close down its mediation centers in Peja, Gjilan, and Prizren, with the aim of these centers being absorbed within the Basic Courts.

C. Component 3: Outreach, Gender, and Monitoring

CLE will continue to cooperate with the USAID Basic Education Program (BEP) and the CBK to finalize

financial literacy materials. Next quarter, CLE will finalize the PSA on the private enforcement system, which will be aired on National TV. CLE, in cooperation with RTC, will also finalize the report on the National Survey on Contract Usage next quarter.

Next quarter, CLE will continue to prepare and organize the Second Annual Western Balkans Vis Pre Moot Competition, which will be held from February 25-27, 2016, in collaboration with the University of Pristina Faculty of Law; Iliria College; AmCham; and the Kosovo Chamber of Commerce (KCC). CLE will also continue its support and assistance to the University of Pristina's L.L.M. Program in Contract and Commercial Law, and will organize lectures on commercial law topics to be delivered by international professors and practitioners.

Miscellaneous – Consultants, Environmental Compliance and Budget

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.

Anne Trice (Senior Court Administration Advisor) is currently providing assistance to the Pristina Basic Court-Commercial Department and its judges to facilitate the reduction in the backlog of pending civil cases and introduce more effective case management systems, including improved statistical reporting. Ms. Trice, along with CLE staff, is also managing and training legal support personnel to assist judges in conducting legal research and drafting decisions, and how to determine which cases are appropriate to be heard by the newly created Division for Foreign Investment Disputes. Ms. Trice's assistance and work with CLE will cease early next quarter.

Julie Coleman (Commercial Law Advisor) is currently providing assistance and support to the University of Pristina, Faculty of Law's L.L.M. Program in Contract and Commercial Law. The University is seeking international professors and practitioners to deliver lectures on commercial law topics, either through distance learning or in-person visits. Ms. Coleman is in contact with over 130 international professors and practitioners to participate in this Program, and is the liaison between the University and the international professors and practitioners.

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 are not likely to implicate environmental regulations. Nevertheless, the program has appointed an Environmental Compliance Officer who continuously reviews program activities to ensure compliance with relevant environmental regulations. No issues arose in Quarter Eleven.

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 January 31, 2016, CLE has expended \$5,243,666.65. During Q11, spending was \$414,157.45. CLE anticipates the monthly burn rate to continue to be approximately \$200,360.00 per month over the next quarter.

Appendix A- Deliverables

Concluded during the reporting period were:

Component I: Improved Systems for Enforcement of Judgments and Reduction of Backlog in Enforcement Cases

Legal Opinion on the Ethics of Judges Performance with regards to meeting norms

Component II: Development of the Contract and Commercial Law Framework and Systems, improvement of contract enforcement systems and functioning of the ADR mechanisms

Commercial Law Activities

Bankruptcy law, explanatory memorandum and supporting documents submitted to the Assembly, from the Government

Translated and published ICC URDG 758 instrument

Final Process Map on Administrative Procedure in Albanian, Serbian, and English

Mediation Activities

Draft New Law on Mediation

Training Manuals Developed

Training Manual for Business, Loans and Financial Institutions

Training Manual for Patents

Training Manual for Commercial Disputes in the Insurance Sector;

Training Manual for Enforcement Procedure against commercial entities

Component III: Outreach, Gender, and Monitoring

PSA on Private Enforcement System

Clinical Training Module on CISG and International Arbitration