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CONTRACT LAW ENFORCEMENT (CLE) PROGRAM

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Photo: CLE Program

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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 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 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

CLE has met or exceeded nearly all of its targets through the twelfth quarter of the Program, with three exceptions: 1) legislation pending before the Assembly (Laws on Bankruptcy, Bills of Exchange, and Late Payments), the adoption of which have been delayed due to the ongoing political impasse in the Assembly; 2) the adoption by CBK of regulations to fully implement the Law on Obligations, which are awaiting formal approval of two International Chamber of Commerce standard forms into Albanian; and 3) the number of anticipated cases resolved by the new enforcement system (although the anticipated closure *rate* per PEA was accurate, the MOJ has only commissioned 25 agents, which is only one third of the legally required minimum number of PEA's which must eventually be commissioned).

In its third year, the CLE Program's backlog reduction activities resulted in large-scale, systematic enforcement against private bank accounts with over 23,000 thousand cases being prepared for enforcement against bank accounts. At the conclusion of Year Three, the CLE Backlog Reduction Initiative (BRI) team was embedded in all 7 Basic Courts in Kosovo, including Mitrovica, supporting court personnel and continuing support to courts to achieve functional elimination of the entire execution caseload. The CLE Program support resulted in the disposal of over 98,000 cases, or a 91.25%¹ reduction of enforcement caseloads in the seven

CLE by the Numbers May 2015-April 2016

- Supported all 7 Basic Courts and 17 branches with enforcement of 98,198 judgments throughout Kosovo.
- 1,883,778 Euro fully recovered through enforcement of judgments against bank accounts.
- Developed 35 new legal courses for judges, including 9 courses in a specialized commercial law curriculum for commercial judges in Kosovo.
- 4,809 cases resolved through private enforcement system.
- Over 51,450,000 Euro recovered through private enforcement system.
- Conducted 2,154 person days of training for justice sector professionals.
- Referred 1,031 cases to mediation.
- Held 19 Public Awareness Campaigns, including PSAs, roundtables, and conferences.
- 4,790 visits to CLE website (kontrata.net)

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

Courts receiving CLE Program assistance, and the collection of over 10,000,000 Euro of previously unrecovered judgment debt.

The CLE Program supported the Ministry of Justice (MOJ) to fully implement the new Private Enforcement Agent (PEA) system. Through CLE support, during the reporting period, MOJ organized two exams for Private Enforcement Agents. CLE also participated and organized working groups, in cooperation with the MOJ to amend the Law on Enforcement Procedure to resolve problems in practice.

Under the CLE Program's commercial law activities, a new draft Law on Bankruptcy was drafted and has passed the second reading in the Assembly. CLE also drafted regulations to finalize implementation of the Law on Obligations. Drafting is largely complete for both, with the Law scheduled for action in July on the legislative agenda, and the regulations anticipated to be adopted by the Central Bank of Kosovo in May 2016.

CLE implemented 18 training programs in Year Three: two training workshops for licensed advocates of the Kosovo Bar Association, nine training workshops for commercial judges, five refresher and specialized training workshops for mediators, one training workshop with the Kosovo Judicial Institute (KJI) on Mediation, and one five-day training workshop related to the private enforcement system for Effective Financial and Professional Supervision of PEAs.

In cooperation with the USAID Agricultural Growth and Rural Opportunities (AGRO) Program, CLE assisted farmers and their processor buyers to increase use of written contracts, and acted as a liaison between the parties to ensure no problems with performance were arising on contract implementation for over 200 contracts.

Nine "Put it On Paper" roundtables with businesses on contracting practices and Alternative Dispute Resolution (ADR) were held, including two with Serbian-owned businesses, which were held in Mitrovica. A national survey on usage of written contracts, based on information provided by 900 business respondents and three focus groups with business representatives was completed. The results of the survey indicate broadly improving knowledge and awareness amongst businesses of the value and utility of utilizing *written* contracts, and ADR. This survey was a repeat of similar surveys conducted in 2011 and 2014, intended to identify trends and measure progress towards targets for increased contract usage by Kosovo businesses, as well as awareness of and use of ADR mechanisms, including mediation. The survey also includes a section on women employment in the private sector.

Mediation activities have accelerated, with the Peja, Gjilan, and Prizren centers both seeing steady growth in case intake. Through Year Three, a total of 1,031 cases were accepted for mediation, of which 69 were mediated to agreement and finalized. CLE also delivered a refresher training workshop for licensed mediators in Peja, Gjilan, and Prizren.

CLE in Year Three developed a Public Service Announcement on the private enforcement system which started airing on national television in the twelfth quarter. CLE also continued to air two television Public Service Announcements developed in Year One – one on the new PEA system, and one on Mediation. A radio advertisement for Mediation also continued to air on national and local radio.

The CLE Program has also been both responsive to requests for assistance from counterparts and USAID partners, as well as having pursued and seized a variety of additional opportunities not expressly within its scope of work, but which were in furtherance of its overall development objectives. In addition to efforts with the Assembly Speaker to adopt laws on Late Payments and Bills of Exchange, CLE also provided at USAID's direction support to the University of Pristina,

the Commercial Department at the Pristina Basic Court, and CBK. CLE also provided at the request of USAID Kosovo and its Empower Credit Support Program extensive legal analysis and guidance on the legal form of its facility. CLE responded to numerous ad hoc requests on legal policy and approach from the MOJ, MTI, Ministry of European Integration (MEI), Ministry of Finance (MOF), and the Office of the Prime Minister, and several Assembly Committees. Following a conference on backlog reduction and judicial reform in conjunction with the EROL Program, the Speaker of the Assembly requested CLE to assist the KJC and MOF to develop a budget proposal to expand considerably the number of legal support staff provided judges, in response to CLE's identification of that issue as a significant problem hampering further judicial reform, and efficiency.

Summary of Progress

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 (although activities also extend to more current "inventory cases"), and 2) Assistance to the Ministry of Justice to establish the Private Enforcement Agent System.

A.I. Backlog Reduction

In Year Three, CLE provided 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 Gračanica (no cases), or the northern branches of the Mitrovica Basic Court in Zubin Potok, and Leposavić because of the ongoing negotiation over the status of institutions in the North).

In the final quarter of Year One, the KJC hired 20 enforcement clerks to collaborate closely with the embedded backlog reduction officers to clear the execution caseload. In the last quarter of Year Three, the KJC terminated the employment contracts of these enforcement clerks, despite CLE's urging that the KJC extend the contracts. CLE expects that without these enforcement clerks there will be a slight decline in enforcement of judgments, however, support to the courts in clearing the execution caseload will continue with the CLE BROs. Through Year Three, CLE has had 39 BROs embedded in the courts.

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) The CLE Program's Backlog Reduction Teams provide 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 Year Three. CLE support to all seven Basic Courts and branches to verify the caseload resulted in finding an additional 98,334 cases, reflecting an actual caseload of 205,934 cases. 5,831 cases were categorized in the twelfth quarter alone. Case categorization and entry of case data into the database, shows that there are 107,744 cases awaiting enforcement. New targets set against the actual caseload will be established early in Year 4. 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, 205,934. 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 Year Three, the courts, with CLE support and assistance, cleared 98,189 cases from the execution caseload across all courts receiving CLE assistance, which is an overall reduction of 91.25% of the KJC reported execution caseload of 107,600, and a 47.68% reduction against the actual caseload of 205,934 cases. This resulted in the recovery of over 10.5 million Euro of previously unenforced claims. In Year Three, CLE support resulted in the removal of 28,556 cases; in the twelfth quarter, 10,459 cases were removed from the execution caseload of courts receiving CLE assistance.

Enforcement of judgments against bank accounts and wages increased and became the norm for enforcement in Year Three as a result of various CLE-developed tools that were adopted by the KJC: (1) the adoption of the Standard Operational Procedures (SOP) for enforcement operations by KJC in Year One, which sets out performance norms for enforcement clerks; and (2) support to the CBK to fully automate enforcement of judgments against bank accounts through a upgrade to the Unique Account Holder Registry system. In Year Two, a system upgrade was designed and tested, and the regulation to formally adopt and utilize the system was approved in Year Three; (3) further utilization of the CLE-brokered MOU signed between the KJC and Ministry of Internal Affairs (MIA), under which the Civil Registry Agency (CRA) will provide the KJC with Personal Identification Numbers (PINs), which are necessary to enforce judgments against wages. As of the end of Year Three, approximately 47,000 enforcement debtors' PINs have been associated with the appropriate debtors with active cases, both through the MIA-CRA database as well as through categorization by BROs, making enforcement of cases against wages considerably easier and more efficient.

Through Year Three, 23,429 cases were presented for enforcement against bank accounts, representing a value of 13,579,600 Euro. Of the 23,429 debtor accounts that were seized, judgments were enforced against 6,364 of these accounts, resulting in the recovery of 1,883,778 Euro. CLE, in cooperation with the KJC, also initiated the Mass Enforcement Strategy which was a start of new system on mass enforcement of cases primarily through wages. In Year Three, 6,566 Court Decisions against wages were prepared and distributed to Civil Enforcement Judges

for signature and distribution to employers of debtors. Courts – and employers – have been slow to implement enforcement against wages, but CLE anticipates that, as with bank accounts, once institutions adapt to the “new” approach, this mechanism for enforcement will accelerate considerably throughout the final year of the Program.

A.1.1. 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. CLE met the Year One target of an overall 15% reduction of the execution caseload in courts receiving CLE assistance, as well as the Year Two target which set was an overall reduction of 45% of the execution caseload in courts receiving CLE support and assistance. The Year Three target set an overall reduction of 80%, which was exceeded with a 92.25% reduction of the official KJC reported execution caseload of 107,600 cases.

A.1.2. Assist KJC to improve systems for statistics related to execution caseload.

In Year Three, CLE continued to work with the KJC chair, KJC secretariat, individual courts, and the Statistical Department of KJC to inform CLE design, development, and implementation of a web-based reporting application that has been installed in all seven courts receiving embedded support from CLE. CLE developed this application to add reporting functions to the electronic judgment database. Developing the application entailed programming and data verification for all 205,934 cases in the database.

The application works in Albanian, Serbian and English, and can generate a wide range of user-defined reports. The data base is backed up weekly on an external disk and monthly to Compact Discs. Automatic weekly reporting is now enabled. The application enables a user to review reports that are updated twice weekly. This application has been installed and is fully operational in the Pristina, Ferizaj, Gjilan, Gjakova, Prizren, Peja, and Mitrovica Basic Courts.



CLE also prepared a separate statistical reporting mechanism for the KJC Statistical Department which will enable enforcement clerks and court based statistical officers to report to the KJC on a daily basis when cases are closed. Court Presidents were provided tablets with the application (and other information), and can monitor the performance of their enforcement personnel (including individual performance against norms). The application will also enable, for the first time in Kosovo’s history, an accurate accounting of the enforcement caseload once case data is fully entered (courts historically under-report their execution caseload by 10-40%).

The KJC Board in Year Two formally adopted the reporting application and agreed to use this reporting application in lieu of any other reporting mechanisms. CLE assisted the KJC Statistical Department to fully utilize this online web based reporting and trained the enforcement clerks and statistical officers during the first quarter of Year Three. Cognizant of KJC's eventual deployment of its own Case Management Information System(CMIS), this data base and reporting application were developed in a programming language that will make integration into CMIS possible.

In order to transition to the electronic system and use it effectively, a full and complete inventory

of cases and entry of all case data into the database, and the resolution of a number of questions on how to report certain case statuses by KJC's Court Administration Committee were required (e.g., what status KJC wished to assign to cases that do not neatly fit into a simple "Open/Closed" status, but which do not require immediate action, such as case being resolved through monthly installments). Although the ultimate goal is complete closure of cases, for management purposes the distinctions are relevant as they inform policy and work flow choices about which cases are priority for action and as such, require resolution before transitioning fully to the CLE developed application. CLE teams, working with the court execution teams, are currently using the application regularly; however, KJC has yet to mandate full transition to the CLE developed app.

CLE will support the KJC to resolve questions regarding case status reporting, and draft and adopt regulatory language either through a stand-alone regulation, or amendment to the existing regulation On Internal Management of the Courts, in order to fully transition reporting on execution cases to the electronic system. Full utilization of the CLE developed reporting system is expected to commence from the beginning of KJC's next reporting cycle, starting in January 2017, until replaced by the anticipated CMIS.

The following table expresses overall results by Basic Court and branches through April 30, 2016:²

Basic Court	Percentage of total case load removed	Total Claimed Value(€)	Total number of Cases removed
Pristina Basic Court	39.27%	€ 185,921,342.00	18,343
Commercial Dpt	16.65%	€ 11,786,358.00	713
Podujeva Branch	27.31%	€ 11,208,473.00	2,535
Lipjan Branch	45.73%	€ 7,955,670.00	2,621
Gillogovac Branch	28.64%	€ 7,840,166.00	946
Pristina Basic Court and Branches	36.29%	€ 224,712,009.00	25,158
Prizren Basic Court	55.37%	€ 33,455,509.00	11,633
Suhareka Branch	58.13%	€ 7,448,537.00	3,732
Dragash Branch	44.38%	€ 280,581.00	443
Prizren Basic Court and Branches	55.61%	€ 41,184,627.00	15,808
Gjakova Basic Court	54.71%	€ 21,237,774.00	7,670
Rahovec Branch	45.60%	€ 4,128,209.00	2,488
Malisheve Branch	45.38%	€ 5,582,207.00	2,520
Gjakova Basic Court and Branches	50.65%	€ 30,948,190.00	12,678
Peja Basic Court	62.67%	€ 15,720,815.00	9,604
Klina Branch	15.32%	€ 1,615,781.00	745
Istog Branch	31.00%	€ 4,204,497.00	1,098
Decan Branch	23.71%	€ 612,673.00	1,141

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 98,384 cases (approximate) that were previously unreported.

Peja Basic Court and Branches	44.10%	€ 22,153,766.00	12,588
Ferizaj Basic Court	59.86%	€ 15,673,851.00	9,601
Strpce Branch	46.83%	€ 52,224.00	59
Kacanik Branch	60.15%	€ 13,948,657.00	2,602
Ferizaj Basic Court and Branches	59.84%	€ 29,674,732.00	12,262
Gjilan Basic Court	68.72%	€ 12,079,390.00	10,923
Viti Branch	49.49%	€ 5,565,949.00	2,832
Kamenica Branch	58.69%	€ 3,162,498.00	912
NovoBerde Branch	47.14%	€ 12,297.00	173
Gjilan Basic Court and Branches	63.05%	€ 20,820,134.00	14,840
Mitrovica Basic Court	51.53%	€ 9,974,508.00	2,727
Vushtri Branch	36.32%	€ 7,074,977.00	1,393
Skenderaj Branch	50.93%	€ 1,718,386.00	736
Mitrovica Basic Court and Branches	45.93%	€ 18,767,871.00	4,856
Total	47.68%	€ 388,261,329.00	98,190

A.1.2.a. Support to Pristina Basic Court Commercial Department and Division of 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 Law Nr. 05/L-032 amending the Law on Courts (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, which started in mid-September 2015, also extends to assisting the Department and its judges with case management processes and drafting judgments, decisions and notices, and continued in the eleventh and twelfth quarters to support the Pristina Basic Court-Commercial Department.

There are four Backlog Reduction Officers (BROs) that are assigned individually to a judge and one Deputy BRO coordinator who in addition to coordinating the BRO's work, also supports the Registry. To date, full inventory of caseload in Commercial Department is completed. From the analysis done, and based on the definition set for foreign investor disputes with the support of CLE, it resulted in six cases that 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 1,433 cases.

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; 3) ensuring that all case information is being

entered into the electronic database, moving away from a manual case management system; and 4) creating and managing the individual templates for case management of each judges office, with the aim to prioritize the adjudication of backlog cases as well as to better follow up the cases and take actions as per the deadlines set in legislation in force.

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 BROs 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 reporting period, the BROs took initial or follow up actions and drafted approximately 1480 notices and/or decisions, judgments presented to the judges for signature. To date, there are 1433 cases at the Commercial Department, out of which 1030 are active backlogged cases, and 403 cases which have been resolved.

Total Number of Cases	Total Active Cases (with Backlog)	Total Resolved Cases (with Backlog)	Active Backlog Cases (2010-2015)	Resolved Backlog Cases	Closed Cases	Sent To Archive	Number Of Drafted Notices / Decisions / Judgments
1433	1030	403	371	293	62	957	1480

CLE liaised on a regular basis with the President of the Commercial Department and other judges of this 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. In October 2015, the Commercial Department requested a Legal Opinion from the Supreme Court to determine whether this Department has jurisdiction to enforce cases. The Legal Opinion was rendered on February 18, 2016, and stated that the Commercial Department, based on the recent changes on legislation in force, lacks jurisdiction to enforce cases. Since then, the Commercial Department with support from CLE's Backlog reduction team on enforcement cases are taking the necessary steps to distribute enforcement cases to Basic Courts from which the case originated. Currently there is a slight tendency from the judges of Commercial Department to increase the number of resolved commercial contested cases. In the previous quarter, CLE provided the President of the Department with data and projections regarding the impact of various disposition rates on the overall workload. The average monthly intake of cases in the department is 60 cases and as such, judges are supported by the BROs to draft more than 15 judgments/decisions for each judge. Each judge currently has an average workload of 225 – 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.

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 has been adopted and promulgated in the twelfth quarter. In the upcoming period, CLE will support and assist the KJC and Courts in developing a web-based platform to publish judicial decisions from the Commercial Department, which will be accessible to other judges as well as the public, in a searchable format.

CLE also 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.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, in Year Three 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 direction in Year Three, however, CLE ceased to continue with this activity before even formally launching it as the new USAID Rule of Law Project was awarded and was to assume responsibility for this activity.

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

In Year Three, CLE continued to work and assist Basic Courts in reducing the backlog, and as of the end of Year Three, CLE is providing embedded assistance to all seven Basic Courts (and branches), including the Mitrovica Basic Court currently housed in Vushtri (CLE will not, however, provide support to the Mitrovica Branch Courts in Zubin Potok and Leposavic, nor in Mitrovica North, until settlement of status for the courts in the North).

As noted above, at the end of Year Three, CLE is providing assistance to all 7 Basic Courts and covering 13 Court Branches. A breakdown of embedded support is below:

- Pristina BC - Podujevo and Lipjan branch court - 9 BR officers
- Gjilan BC - Viti and Kamenica branch court - 8 BR officers
- Prizren BC - Suhareka and Dragash branch court - 7 BR officers
- Gjakova BC - Rahovec and Malishevo branch court - 6 BR officers
- Peja BC - Decan branch court - 5 BR officers
- Ferizaj BC - Kacanik and Shterpce branch court - 1 BR officer
- Mitrovica BC - Vushtrri branch - 6 BR officers

As of April 30, 2016, the execution case load was reduced as follows³:

Basic Court with branches	Caseload	Number of cases removed actual	Percent actual of total caseload removed
Pristina	69,318	25,158	36.3%
Prizren	28,437	15,808	55.6%
Gjakova	25,034	12,678	50.6%
Peja	28,548	12,588	44.1%
Ferizaj	20,491	12,262	59.8%
Gjilan	23,538	14,840	63.0%
Mitrovica	10,572	4,856	45.9%
TOTAL	205,938	98,190	47.68%

Overall, 28,556 cases were removed from the caseload with CLE assistance in Year Three.

As noted above, CLE hired 20 additional backlog reduction officers in Year Two after a competitive recruitment process. Selected candidates were trained and started work in the courts in February 2015, and continued through Year Three.

³ Demonstrative of poor reporting by courts, as mentioned above, the number of cases concluded and cleared are in all courts greater, and in some courts considerably greater, than the number of cases that have been officially reported. The overall percentage reduction by court here is based on updated numbers found through categorization- 205,938.

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

Throughout Year Three CLE conducted a number of activities to improve the professional competence of court enforcement clerks and to expand the number of clerks.

CLE continued to coordinate and liaise with courts providing direct training 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 assisted the CBK and the KJC/Courts to refine and expand use of the CBK Unique Account Holder Registry. CLE also developed data transfer mechanisms, and tested them against TAK employment information in order to facilitate increased use of enforcement against wages. CLE, in cooperation with Civil Registry Agency, organized training sessions for 67 court enforcement clerks on how to access and use the CRA database containing the PINs of enforcement debtors.

CLE continued to work with KJC Secretariat on monitoring the implementation of the Standard Operating Procedures (SOPs) for enforcement clerks, which was adopted through a KJC Board decision in Year One. The SOP includes clear goals and norms for each enforcement clerk. For example, in a given month, a minimum of 20 cases must be enforced against bank accounts and wages; 40 cases is considered average, 60 cases good, and 80 considered excellent. As described in A.I.2., CLE developed a statistical reporting application to be used by the KJC Statistical Department in order to improve the statistical reporting and monitor the performance of each enforcement clerk which was adopted at the end of Year Two.

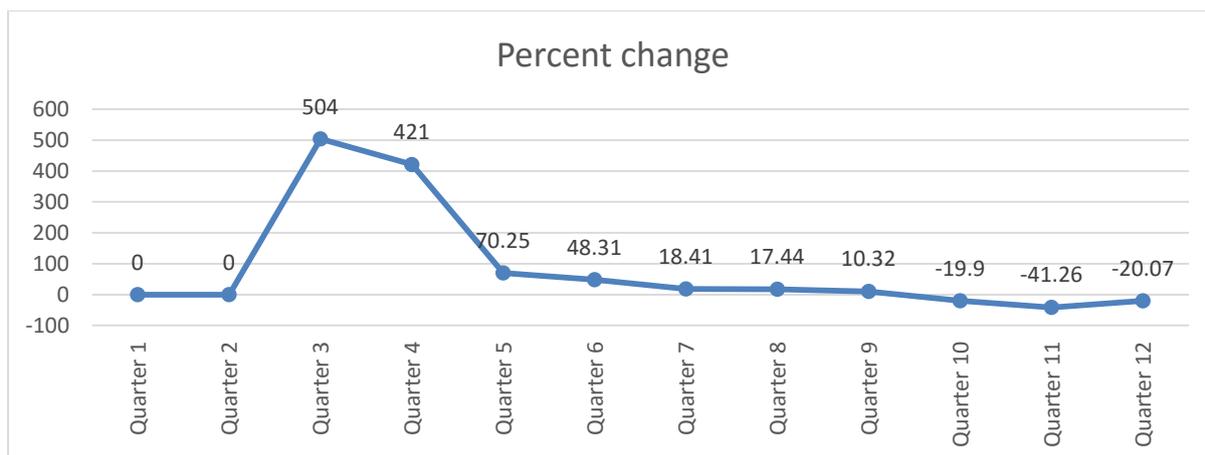
A.I.5. Utilize improved methods and information resources to improve enforcement against bank accounts and earnings.

a. Enforcement against Bank Accounts and KJC cooperation with CBK

The CBK Unique Account Holder Registry (Registry) contains account information on 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. Since October 2013, this has allowed direct enforcement of judgments against bank accounts. Prior to the creation of the Registry, enforcement required multiple trips by an enforcement clerk to the same bank, and typically resulted in a failed effort. This Registry provides information for approximately 2.5 million bank accounts from all 8 commercial banks operating in Kosovo. Providing the Courts access to this Registry has enabled enforcement through bank accounts; without the registry, this preferred and efficient avenue to pursue judgment debts was, as a practical matter, unavailable to the courts. This avenue has now become an important tool for the courts and has resulted in a dramatic increase the number of cases enforced through this mechanism.

Through Year Three, 23,429 cases were presented for enforcement against bank accounts, representing a value of 13,579,600 Euro. Of the 23,429 debtor accounts that were seized, judgments were enforced against 6,364 of these accounts, resulting in the recovery of 1,883,778 Euro. In the twelfth quarter, 2,066 cases were prepared for enforcement against bank accounts and 462 judgments were enforced against bank accounts.

The chart below represents the percentage change of enforcement against bank accounts by quarter.



To increase effective enforcement of court decisions and make bank account information available to the Courts, CLE in cooperation with Payment System Department of CBK during Year Three continued to support an upgrade to the Registry, creating a fully automatic system through a secure online platform connecting every court and all commercial banks operating in Kosovo. The system upgrade will further increase efficiency and virtually eliminate face to face contact between courts and banks. In the twelfth quarter, a Regulation to implement a system upgrade for the Unique Account Holders' Registry was adopted by the CBK Board of Directors. This mechanism allows for full automation of enforcement against bank accounts and was developed in 2015.

However, 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 an 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. In the tenth 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.

In order to prepare the Courts for usage of the new fully automated enforcement system, CLE has equipped all 7 Basic Courts with scanners and together with the CBK trained 34 civil court enforcement clerks and commercial bank transaction officers on the upgraded system. Full implementation of the upgraded system for enforcement against bank accounts is expected in the beginning of Year Four.

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 of Kosovo (TAK) is associated with the Personal Identification Number (PIN) issued by the Civil Registration Agency (CRA) within the Ministry of Internal Affairs (MIA). 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 Year Three, 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 TAK database. To date, 6,566 Enforcement Decisions have been prepared for enforcement against wages by all courts, reflecting an amount of 18,437,137 Euro to be recovered. Approximately 200 Enforcement Decisions have been presented to employers for enforcement, of which 31 Cases have been enforced, amounting to a recovery of 14,896 Euro.

In Years Two and Three, CLE, in cooperation with CRA, organized training sessions for all court enforcement clerks on how to access and use the CRA database and how to identify enforcement debtors, find their PINs, associate enforcement cases with debtors PINs and identify debtors' employers in order to facilitate and complete the wage garnishment. During the twelfth quarter, there were difficulties with the process of finding debtors' PINs as there were many debtors with the same name and surname listed in CRA database. Due to lack of additional information for debtors like accurate debtor addresses (many live in the villages where addresses do not exist) or lack of a middle name, the identification of PINs has been halted in some instances. CLE is coordinating with major creditors to collect the debtors PINs directly from the field in order to identify the real debtor and proceed with garnishment.

CLE continued to cooperate with TAK officials in Year Three, continuing to update the flow of information through the previously developed data link between the KJC and the TAK. Through this data link, the KJC is able to collect and acquire, on a monthly basis, employment information about enforcement debtors.

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 unlocatable). 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, 10,623 cases were suspended for the first time; 1,589 cases were suspended for the second time and closed, and removed from the execution caseload, and 10,557 conclusions have been prepared for suspension.

In Year Three, CLE provided direct training and administrative assistance to judges and enforcement clerks to inform them about this change and to help them prepare administrative systems 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 assistance⁴

To date, 91.25% of cases (as officially reported by KJC) in the execution caseload at courts receiving CLE assistance have been cleared from the execution caseload. In the twelfth quarter, 9.72% of the cases were cleared.

Target Year 3: 80% Actual Year 3: 91.25% (47.68%) Q12: 9.72% (5.07%)

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

⁴ The 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 205,934.

Commercial Department only)

Based on CLE inventory of CD cases, 1,433⁵ is the total caseload (backlog and inventory) of pending cases in this court. Of those 1,433 cases, 371 or 25.89% 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, 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 was insufficient time to establish an interim target. A new target for this AMEP will be set the outset of Year Four.

Target Year 3: N/A Actual Year 3: N/A Q12: N/A

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

During the twelfth quarter, 10,459 cases were cleared from the execution caseload as a result of CLE's assistance, and during Year Three 28,556 cases were cleared. To date, the total number of cases cleared from the execution caseload as a result of CLE's assistance is 98,189.

Target Year 3: 53,000 Actual Year 3: 28,556 Q12: 10,459

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, Mitrovica) and 17 branches (Podujeva, Lipjan, Gllogovc, Suhareka, Dragash, Malisheva, Rahovec, Decan, Istog, Klina, Kacanik, Strpce, Viti, Kamenica, Vushtrri, Skenderaj, and Novoberdo).

Target Year 3: 22 (27)⁶ Actual Year 3: 24 Q12: 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 accounts. 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 twelfth quarter, 462 cases were enforced against bank accounts, resulting in a total percentage change of -20.07% compared on a quarterly basis. The percentage change at the conclusion of the prior reporting period was -41.26%.

Target Year 3: 0% Actual Year 3: N/A Q12: -20.07%

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

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. The KJC, in Year Two, formally adopted the USAID CLE-developed web-based statistical reporting applications.

⁵Reconciliation of the caseload continues, and reports will be run each month to update the baseline as needed.

⁶ 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).

Target Year 3: N/A Actual Year 3: N/A Q12: N/A

A.II. Develop the new enforcement system

In Year Three, CLE continued to fully and effectively implement the new private enforcement system, which was formally launched on May 5, 2014, when the first cohort of thirteen Private Enforcement Agents (PEAs) started operating. In Year Three, there have been no new PEAs licensed. The total number of PEAs operating in Kosovo at the end of Year Three is 25. CLE continued to support the MOJ to coordinate with a variety of institutions – including the CBK, TAK, the Public Procurement Regulatory Commission, the Ministry of Public Administration, the KJC, and others – on their roles and responsibilities vis-à-vis the new system. Although PEAs are not obligated to report on caseload and performance to CLE, the mandatory annual reports of PEAs for 2015 have been published onto the Ministry of Justice’s (MOJ) website. The reporting mechanisms are not uniform, resulting in some cases, with incomplete information. Next quarter, CLE will coordinate with the MOJ to address this issue and develop a uniform reporting mechanism. According to the PEA reports sent to the MOJ, 18,782 cases were received by the PEAs and 4,809 of them have been resolved. This represents a total claimed value of 230,163,236.68 Euro, of which at least 51,456,815.21 Euro was recovered. Two PEAs failed to report the recovered amount, while one PEA failed report the recovered amount when parties concluded agreements voluntarily.



Eight PEAs also reported 599 cases where Objections to the writs of enforcement were submitted to Basic Courts. The issue of debtors filing objections to the writs of enforcement has proved problematic, as debtors often use this avenue to delay payment because the current Law on Enforcement Procedure does not provide a deadline for courts to decide on objections. As a result of complaints from PEAs and creditors, in Year Three, CLE in coordination with the Chamber of PEAs (Chamber), collected the number objections awaiting resolution in the courts and found that only 10% of filed objections have been resolved, demonstrating inefficient and untimely resolution of objections. To address this issue, the Supreme Court, with CLE's assistance drafted Legal Opinion 223/2015, which was adopted on July 14, 2015, and stated that Courts must decide on such cases within a 15 day-period of receiving them. This Legal Opinion serves as a stopgap until a deadline is incorporated into the amended Law on Enforcement Procedure.

CLE has also urged the MOJ to hold more frequent calls for applications for PEAs because the current number of PEAs-25- falls short of the Council of Europe standard, and LEP requirement, that there be at least 1 PEA per 25,000 people. The last PEA was commissioned on 26 December 2014. Despite CLE's urging, the MOJ has not published a vacancy announcement for PEA candidates who have passed the exam to apply to be commissioned by the MOJ. CLE has met at least twice monthly with the MOJ at all levels (Minister, General Secretary, and Office of Free Professions) to offer assistance and support for holding additional exams. During the reporting period, there have been two additional exams organized by the MOJ. The MOJ held the fourth public call for the Private Enforcement Agent (PEA) Exam open from May 22 to June 5, 2015 while the written and oral exam followed on July 1 and 11, 2015. From 40 individuals who applied for the exam, 37 sat for the exam, one of which was a female, and 13 passed the exam, all male. In the fifth call, there were 36 interested candidates who submitted their applications to enter the exam, 20 sat for the exam, out of which 14 passed the exam, including one female. The written exam was held on January 5, 2016 and the verbal exam was held on January 11, 2016. CLE attended the written exam.

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

In Year Three, CLE supported the MOJ to draft the secondary legislation necessary to fully implement the Law on Enforcement Procedure and establish the new private enforcement system. The Administrative Instruction (AI) on Methods of Inspection and Control was approved on May 27, 2015. However, the MOJ has not yet adopted the Manual on Supervision of PEAs as provided by Article 7 of the Administrative Instruction. The Manual had been developed by CLE and reviewed jointly with MOJ.

Sixteen sub-normative acts have already been adopted – specifically, those necessary for the PEA system to become fully operational. Two AIs were fundamentally completed, but now are pending and are in the process of being redrafted--The AI on Management of the Monetary Means and the AI on Administrative Instruction on Business and Personal Data of the Private Enforcement Agents. Depending on the amendments to the Law on Enforcement Procedure, the requirement to adopt these two AIs may be abolished.

On May 21, 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.

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

A 5 day training program for MOJ and CLE personnel on the “Effective Financial and Professional Supervision of Private Enforcement Agents”, was held from June 15-19, 2015 and covered topics such as Basic Principles of Supervision, Institutions of Supervision in Kosovo under the Law on Enforcement Procedure, Information Sources and the Logic of Monitoring and Detailed Supervision Processes. The training workshop was conducted by two CLE – STTA, Mr. Chris Thompson and Dr. Peter Kahn, as well as a guest speaker from the Chamber of Notaries who is involved with conducting inspections of notaries in Kosovo. A total of 7 participants attended the training program (3 female and 4 male).

CLE also organized and supported a study tour to Belgium and the Netherlands from March 29 to April 6, 2016 for 15 participants, which included MOJ personnel, the Chamber of PEAs, and an Appeals Court Judge, to expose them to the institutional practices and culture of overseeing this regime in Belgium and Netherlands. The regime in these countries is markedly different in philosophy, and is in sharp contrast with the regulatory philosophy at the MOJ, a holdover from the post-Socialist “punishment” vs. compliance orientation (i.e., the first reaction of the inspector is to revoke a license for nonmaterial violations, as opposed to providing guidance and oversight to ensure compliance). The goal of the study visit was for the MOJ personnel and the Chamber to gain practical knowledge regarding the profession, and in particular, regarding best practices for the supervision of PEAs.

After the study tour, CLE facilitated Memorandums of Understanding (MOU) between the Chamber of Private Enforcement Agents of Kosovo and the National Chamber of Judicial Officers in Belgium as well with The Royal Professional Organization of Judicial Officers in Netherlands. The Belgium Chamber agreed to sign after English languages is revised. The Draft Memorandums have been revised and sent back to both Chambers by CLE. CLE expects the MOUs to be signed next quarter.

A.II.3. Support Newly Established Chamber of Private Enforcement Agents

The legal threshold of 20 operating PEAs required for establishing the Chamber was met in late December 2014, and the Chamber was formally established in Year Two, on January 22, 2015. In a public ceremony organized by the CLE Program and the MOJ, the first constituting assembly of the Chamber of Private Enforcement Agents was held, and the Chamber's bodies were elected. These bodies include the President of the Chamber, the Executive Board of the Chamber (consisting of seven members) and the Control Council (consisting of three members). The President of the Chamber is also the Chairperson of the Assembly and of the Executive Board.

On July 1, 2015 the Chamber held the first event commemorating the first Private Enforcement Agents Day (PEA Day), announcing that here forth July 1 will be PEA Day. CLE supported the Chamber in organizing this event which presented the successes and challenges of the private enforcement profession and hosted all active PEA's, the PEA Chamber of Albania, the Kosovo Bankers' Association, the Central Bank of Kosovo, Kosovo Police and other relevant institutions.

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 Procedures. 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. CLE will continue providing financial assistance for the office and equipment as well as the Administrative Assistant for Chamber until June 30, 2016.

Chamber of Private Enforcement Agents in Year Three published a Vacancy Announcement to recruit the Head of the Professional Service of the Chamber of Private Enforcement Agents. The first Vacancy call was not filled, while the second one has been published and the Chamber is in the process of recruiting the Head of the Professional Service. The person filling this position will conduct the daily tasks of managing the Chamber and ensuring that all the bodies are supported technically and administratively. As soon as the person is recruited, CLE will work closely with this person in coordinating its technical assistance.

On March 19, 2016, CLE attended a meeting of the Assembly of the Chamber. Even though major issues were expected to get approved, members couldn't agree about the key issue—how the Chamber is going to get financed. Initially it was voted that, PEAs will pay 2 % from their net profit; a number of PEAs strongly opposed it and left the meeting. The opposing group insisted that there should be one fixed fee imposed upon each PEA, and in case any PEA is financially unable to pay the membership, he/she will be supported by other colleagues. This issue remains to be settled in the next meeting of the Assembly.

Also, the website of the Chamber has been published. CLE assisted the Chamber with preparing the content for the website.

A.II.4 Support MOJ to amend Law on Enforcement Procedure

The Law on Enforcement Procedure (LEP) 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 various courts, have identified provisions in the Law that are inconsistent or unclear, and that require amendment. Amendments to the LEP implicate both courts' backlog reduction efforts, and the private enforcement system.

A top priority for the MOJ in Year Three has been to amend the Law on Enforcement Procedure

(LEP), which is undergoing an accelerated procedure, as amendment to the Law is also necessary for Kosovo to meet its obligations under the Stabilization and Association Agreement (SAA).

During Year Three, through the support of CLE, the MOJ chaired a working group composed of representatives from the MOJ Legal and Free Professions Departments, the Prime Minister's Office, an Appeals Court judge, the Chamber of Private Enforcement Agents, and CLE. The working group finalized the Concept Document for the Enforcement Procedure field. The Concept Document was sent for preliminary consultation to the relevant institutions on October 26, 2015. However, since the Draft Law amending Law on Enforcement Procedure entered into the Annual Legislative Program for 2016 as part of the list of the laws to be adopted with respect to the SAA between the European Union and Kosovo, the concept document was no longer required. Inclusion of the Draft into the Annual Program drastically reduced the amount of time in proceeding with amendments to the Law.

The Secretary General of MOJ signed a decision to form a Working Group for the ex post evaluation of the Law on Enforcement Procedure, which was to be completed prior to the start of the working group actually amending the law. The Law on Enforcement Procedure is the first law to be ex post evaluated under a new process requiring review of draft legislation to ensure it does not create violations with other laws, or diminish rights under other laws. OSCE supported MOJ to prepare the draft plan that contained questions with clarifications for the members of the working group. CLE was officially represented as well. This working group was chaired by the representative of the Legal Department of the Ministry of Justice, while other member of the working group included the representatives from the Department of Free Professions/MOJ, the Prime Minister's Legal Office, an Appeal Court Judge, State Advocate, Treasury Department from the Ministry of Finance, Kosovo Banking Association, Chamber of the Private Enforcement Agents, and the OSCE. Two meetings of this working group took place. CLE expects that the report for the results of this working group will be available in the next quarter.

At the end of February 2016 the Secretary General of the Ministry of Justice established the working group to review and finalize the Draft Law amending Law on Enforcement Procedure. The first working group was held from March 21-24, 2016. The second workshop, also supported by CLE was held on April 26-27 2016. CLE served as member to this working group and supported the workshops chaired by the Ministry of Justice to prepare and review the amendments for the Law on Enforcement Procedure. Through CLE support and based upon the obligations of the Ministry of Justice under the Stand-by Agreement with International Monetary Fund (IMF), major amendments were introduced and approved by the Working Group. In the next quarter, the draft will be sent for public discussions and then proceeded as fast as possible to the Government and then to the Assembly.

The economic impact of these changes if approved and implemented, are expected to substantially enable:

- 1.) Faster and more efficient enforcement;
- 2.) Improve access to finance through providing strong incentives for financial institutions to lower interest rates;
- 3.) Substantial reduction of the backlog;
- 4.) Prevention of reoccurrence of the backlog in the future;
- 5.) Effective implementation of contracts (including improvements in the ranking of the Republic of Kosovo in the World Bank Doing Business Report in the "Enforcing Contracts" indicator as provided by the Annual Doing Business Report);
- 6.) Improvements in business environment in general.

The following reflect proposed changes to the LEP: (1) Change of the name of private enforcement agents by eliminating the word private, because the term "private" has caused confusion among

citizens. Changing the name of the profession will allow citizens to understand that enforcement agents are in fact performing delegated functions performed by courts in the past, and are licensed, commissioned, and regulated by the MOJ; (2) Being given access to enforce judgments against bank account under the Regulation on the Unique Account Holders' Registry; (3) Regulation of the fees so that the Efficiency fee will be charged only after the completion of the enforcement and only up to the value enforced. Other fees will be paid in advance by the Creditor, while at the end of the process all the fees and expenses are paid by the Debtor; (4) Strengthening of mandatory cooperation between Public Institutions and Enforcement Bodies, such that public institutions must send back information requested to the enforcement bodies within 8 days of the request, unless providing such information is prohibited by a special law. If they fail to provide the information back to the enforcement bodies within this deadline, then both the responsible officer and the public authority obliged to provide the requested information will be subject to fines as provided by Article 15 of the Law on Enforcement Procedure; (5) Regarding the Enforcement documents, two changes are proposed, first, the Decision issued based upon the administrative procedure and the reconciliation for the cases in administrative procedures will be considered enforcement documents only for the obligations in financial means (money). Also, this article has included the Pledge Contract as an enforcement document. Mediation agreements will be executive titles (directly enforceable without litigation) if concluded according to the Law on Mediation; (6) The legal deadline for the Court to decide upon the Objections submitted against the Writs of the Private Enforcement Agents has been introduced. It is proposed to provide a 7 days deadline for the Courts to decide upon the Objections; and (7) Supervision of the Private Enforcement System will be strengthened with the amendments.

A Committee to supervise the private enforcement agents will be established by the Minister of Justice. This Committee will be composed of a Judge, the Head of the Division for Budget and Finances at the Ministry of Justice, and the Head of the Division for Internal Audit at the Ministry of Justice. This Committee will exercise its powers based upon the Law and sub-normative acts and will use the Manual for the Control and Supervision of the Work of Private Enforcement Agents and the Chamber of Private Enforcement Agents. This Manual will be adopted in few months after entry into force of the Law amending Law on Enforcement Procedure and will be serve as practical guide for the Committee members.

Upon the request of the MoJ, CLE has prepared a detailed Memo for all changes proposed for the Law on Enforcement Procedure and their potential impact. This memo has been shared by MoJ with IMF. Also, a Draft Concept Note has been drafted by CLE for MoJ that stipulates the actions, measures and deadlines to be undertaken by MoJ in order to fulfill its own part of obligations under the Stand-by agreement of the Government of Kosovo with IMF.

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 Q12: N/A

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

The Private Enforcement Agents began operating in May 2014. The total number of cases resolved by 25 PEAs, through new procedures (e.g. bailiff) using USG assistance is 4,809 cases. These numbers

are based on numbers reported from 25 PEAs operating in Kosovo.⁷

Target Year 3: 20,000 Actual Year 3: 4,809 Q12: N/A

IR 1.1.3(7) Enforcement agent disciplinary system implemented

Target Year 3: Yes Actual Year 3: Yes Q12: N/A

IR 1.1.3(8) Chamber of PEAs established

Yes

Target Year 3: N/A Actual Year 3: N/A Q12: 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 Bank Association, and Chambers of Commerce in addition to other USAID and USG technical assistance programs (most notably, collaboration with the US Treasury Advisor at the Central Bank on developing mortgage lending framework regulations). 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.

Additionally, CLE commercial law activities have developed and implemented a robust set of training activities in commercial law for judges and lawyers; has been leading with the Ministry of Trade and Industry (MTI) the development of a new Law on Insolvency; and drafting of a new Law on Late Payments, and a new Law on Bills of Exchange at the request of the Speaker of the Assembly.

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

B.I.I. New Bankruptcy Law

The new draft Bankruptcy Law, sponsored by the Ministry of Trade and Industry (MTI) and supported by CLE, was placed on the legislative agenda in Year Two, and has been approved by the Assembly of Kosovo in the first reading during Year Three. CLE supported the MTI by developing the package of documents necessary to support amendment of the Government’s legislative program for 2015 to include the new bankruptcy law, and continued leading the drafting process and the working group tasked with drafting the new Law. By the end of Year Three, the working group has met five times; two of the working group meetings were held in Year Two and three in Year Three. CLE provided the working group with the necessary legal expertise by engaging STTA Judge (ret.) Bruce Markel and CCN STTA Kosovo Commercial Judge (ret.) Ms. Suzana Sejdiu. The draft was

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.

finalized in the second quarter of Year Three and has been approved by the Assembly of Kosovo in first reading during the fourth quarter of Year Three.

CLE also organized a two day training session for judges on the new law, in cooperation with the Kosovo Judicial Institute.

B.I.2. Implement 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. Until these regulations are drafted and adopted, the applicable provisions of the old Law (from 1978) will remain in force. CLE has been working with the commercial banks and the Central Bank legal department to coordinate development of these regulations. CLE has been assisting the Central Bank in drafting the Regulation on Bank Deposits, Regulation on Safe Deposit Box, Regulation on Contract for Loan, Regulation on Letters of Credit and Bank Guarantees; Regulation on Bank Accounts, Regulation on deposits of Securities.

The CBK also requested CLE assistance in developing a regulation on Factoring. CLE developed a Factoring Regulation in line with the international model factoring law and best practices for the CBK. This regulation is expected to be adopted later in 2016.

A Mortgage Regulation developed by CLE in cooperation with the US Treasury Advisor has been adopted by the Central Bank. The Mortgage Regulation establishes a uniform framework for treating individual and commercial mortgages in Kosovo.

In Year Two, CLE also collaborated with the Albanian Branch of the International Chamber of Commerce for technical and legal translation of the International Chamber of Commerce's (ICC) Uniform Customs and Practice for Documentary Credits (UCP 600) and Uniform Rules for Demand Guarantees (URDG 758) into the Albanian language. Translation and publication of UCP and URDG was completed in Year Three. These two instruments will be promulgated as part of the Regulation on Letters of Credit and Bank Guarantees by the CBK; anticipated in May 2016 (CBK send an official notice to CLE, informing that the promulgation of regulations will take place during the May Board Meeting of CBK).

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

A set of amendments to the Law on Business Organizations (LBO) was drafted by MTI with UNDP assistance in 2013 and submitted to the Kosovo Assembly by MTI in early 2014.⁸ The amendments did not pass into law before the Assembly dissolved for the June 2014 elections, and was sent back to the MTI. CLE has been coordinating with the MTI to submit the amendments to the Law after the new government was formed in December 2014.

During the fourth quarter of Year Three, MTI decided to redraft the Law on Business Organizations and requested CLE's support in the process. CLE organized one retreat whereas the working group meetings are being organized in cooperation with USAID Partnerships for Development. The new Law on Business Organizations is being drafted consistent with international best practices and European standards, and is on the legislative agenda for June 2016. Once the LBO has been passed by the Assembly and enacted, CLE will draft a commentary for the new Law in Year Four.

⁸ UNDP is no longer engaged in this process.

B.I.4. New Law on Mediation

In Year Three, CLE supported the MOJ in drafting amendments to the Law on Mediation (see B.I.4, above). The primary issues discussed were (1) placing the Mediation Centers within the Basic Courts, along with one administrator for each Center, who would be employed by the KJC; (2) prohibiting the referral of domestic violence cases to mediation; and (3) mandatory mediation for certain types of disputes, e.g., certain family law cases; boundary disputes, property cases etc. In the twelfth quarter, CLE assisted the MOJ in drafting the amendments to the Law on Mediation, which has been submitted for the MOJ's review. In May 2016, CLE will also participate in a working group, which will include MOJ officials, UNDP, CSSSP, to review and finalize the amendments of the Law on Mediation.

B.I.5. 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.

A. Support to Universities to broaden participation in ICC Mediation and Vis Arbitration Moot Court 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.

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. In the twelfth quarter, one international professor delivered lectures to students through distance learning and another, a Partner at the international law firm of WilmerHale also delivered a presentation on Trends and Developments in International Arbitration, to the Vis participants and the L.L.M students in Contract and Commercial Law. He also participated as an arbitrator during the Vis Competition. In early quarter thirteen, a professor from King's College will conduct a series of five in-person lectures on various commercial law topics, including bankruptcy law.

B. The 2nd Annual Western Balkans Vis Pre-Moot Competition.

From February 25-25, 2016, CLE held the Second Annual Western Balkans Pre-Moot competition in Pristina. The event was 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 and Iliria College one team from Bosnia, one team from Macedonia, and one team from Bulgaria participated in the pre-moot.

B.I.6. 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 (KBA) and the private sector. CLE is supporting an initiative led by the Speaker of the Kosovo Assembly to draft and pass

several laws intended to foster greater economic development through an expedited procedure. Two of these laws will include a Law on Late Payments and a Law on Bills of Exchange. CLE submitted these Laws to the Assembly for review and adoption. As the Assembly Initiative has been delayed due to different political developments, MTI requested the support of CLE in developing the Law on Late Payments to undergo the traditional legislative route of having a sponsoring Ministry submit the draft Law to the Assembly for approval. CLE has been supporting MTI with this process throughout the twelfth quarter and the draft Law on Late Payments is currently in the public consultation phase.

During Year Four, CLE will continue to support the Assembly of Kosovo and MTI regarding the Law on Late Payments and the Law on Bills of Exchange.

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

IRI.1.3(1) Number of new laws and secondary legislation finalized and adopted to improve contract law and property rights using USG assistance

During the twelfth quarter, the draft Bankruptcy Law has been approved by the Assembly of Kosovo in the first reading.

Target Year 3: 2 Actual Year 3: 0 Q12: 0

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

Continued engagement with Agriculture Sector transactions – farmers and processors (with USAID AGRO).

In Year Three, CLE collaborated with the USAID AGRO Program to ensure that farmers, processors, and collection points are using written contracts and meeting contractual obligations. In April 2015, CLE hired Agriculture Contract Monitoring Officers (Monitoring Officers) who regularly visited farmers, packing houses, and processing centers to monitor compliance with the new contracts, and to mobilize, if needed, Mediation to resolve any disputes that arose (none did). The monitoring officers continued working through the end of the 2015 harvest. CLE monitored the performance of nearly 227 contracts between farmers and processors. CLE developed a regional tracking system for those transactions which looked likely to encounter problems in performance. CLE and AGRO agreed that the true demonstration of the utility of using written contracts would be timely resolution of disputes. Ultimately, the contracts were concluded and performed without any substantial issues at the end of the harvest season. In Year Four, CLE will provide assistance to AGRO as requested, with a particular emphasis on deploying mediators into the field should contractual disputes arise.

Increased Use of Written Contracts

In Year Three, CLE, together with RTC Consulting, finalized the 2015 Report on National Usage of Written Contracts. 900 businesses throughout Kosovo were surveyed, and CLE attended three focus groups with business representatives organized by RTC, as part of its final-Program measurement of written contract usage by Kosovo businesses. This survey was a repeat of similar surveys conducted in 2011 and 2014, intended to identify trends and measure progress towards targets for increased contract usage by Kosovo businesses, awareness of and use of ADR mechanisms, including mediation, and trend regarding women employment in the private sector.

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.

B.II.I Legal Information Materials

During the twelfth quarter, CLE developed a Know Your Rights Brochure on Letters of Credit and Bank Guarantees. In the twelfth quarter, some of the brochures were distributed to the Kosovo Bankers Association and the Central Bank of Kosovo. Throughout Year Four, the brochure will also be distributed together with the International Chamber of Commerce Uniform Demand Guarantees Rules (URDG) 758 and the International Chamber of Commerce Uniform Customs and Practice for Documentary Credits (UCP) 600 to all Judges dealing with civil and commercial matters and the electronic version of the brochure will also be distributed to the Kosovo Bar Association.

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

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

CLE conducted a nation-wide survey with 900 businesses to measure the usage of written contracts. 40% of the businesses respondents surveyed regularly use written contracts.

Target Year 3: 35% Actual Year 3: 38.33% Q12: N/A

B.III. Mediation

B.III.I. Develop mediation infrastructure

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

Mediation Regulations:

In Year Three, neither the MOJ nor the Mediation Commission requested assistance regarding mediation related regulations, since the Law on Mediation is not amended yet. Once the Law on Mediation is adopted, CLE will assist with any necessary amendments.

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

Through Year Three, 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.

The Ministry of Finance approved the KJC’s request to include in its 2016 budget the salaries of the seven Mediation Center Managers. 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. During Year Four, CLE will support the courts in Gjilan, Prizren and Peja, to hire court administrators in charge of referring cases to mediation, within the courts. CLE is also developing an information and practice guide, which will be used to train court personnel responsible for referring cases from the courts to mediation.

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

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

In the twelfth quarter, a total of 69 cases were referred to mediation (agreement to mediate signed and mediator selected); 3 in Peja, 61 in Gjilan and 5 in Prizren. During the same period, a total of 69 cases were settled through mediation; 3 in Peja, 58 in Gjilan, and 8 in Prizren. For all of Year Three, across the three CLE supported mediation centers, 375 cases were referred to mediation and 348 were settled through mediation. During Year Three, CLE received 235 phone calls from individuals inquiring about mediation, and the Mediation Center Managers in Peja, Gjilan and Prizren collectively met with 317 businesses to explain mediation processes and the benefits of using this mechanism to settle disputes as an alternative to the Courts.

CLE closed its Mediation Centers in Peja, Gjilan, and Prizren at the end Year Three. Therefore, future reports will not include statistics regarding mediation. In Year Four, CLE's focus will be on supporting and assisting the Courts and KJC with training court administrators responsible for referring cases to mediation, whether they are new hires or existing court personnel given this new responsibility. CLE will continue to draft the Information and Practice Guide for court administrators responsible for referring cases to mediation, and also coordinate closely with the KJC to formally adopt the Practice Guide.

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

	Peja		Gjilan		Prizren	
	Q12	To date	Q12	To date	Q12	To date
Cases reviewed by Program for potential referral	3	2781	16	2724	1	493
Cases selected by Program and judge for potential referral	4	2245	16	2444	1	428
Cases referred to mediation (based on agreement of parties)	3	376	61	590	5	65
Cases settled through mediation and approved by court	3	238	58	500	8	36
Cases not settled and transferred back to court	8	131	8	89	8	28
Cases in progress (agreement to mediate signed and mediator selected)	10	9	5	0	7	0

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

In Year Three CLE support to courts to implement the Protocol and refer cases in Peja, Prizren, and Gjilan was ongoing, with CLE employing center administrators and providing support, particularly review of cases that are referred from the judges in the Peja, Prizren, and Gjilan Basic Courts. The Protocol is being utilized and adhered to in these three Basic Courts. In the twelfth quarter, CLE staff regularly liaised with the presidents and staff of Basic Courts in Gjilan, Prizren, and Peja to implement the Protocol.

CLE in cooperation with the Kosovo Judicial Institute delivered one training workshop on mediation on October 29, 2015 in Pristina. During this training workshop the participants were trained on mediation, agreements reached on mediation and KJC and KPC Protocols and referral process. A total of 19 participants were trained, 18 Kosovo-Albanians and 1 Kosovo-Serb (9 female; 10 male).

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

CLE continued to support the Association of Mediators. It supported the Association's continued organizational development by helping it to recruit new members. The Association currently has 89 members: Peja 34, Gjilan 26, Prizren 13, Mitrovica 9, Gjakova 6, Ferizaj 1. CLE will support the next meeting of the Association of Mediators, however, due to internal politics within the Association, no date has been set for the meeting.

Refresher and specialized training in mediation:

In Year Three, CLE offered 5 refresher trainings workshop for licensed mediators in Pristina (May 18-20, 2015; May 2015 20-22, 2015; May 25-27, 2015; October 20-22, 2015 and October 26-28, 2015). A total of 62 Kosovo-Albanian and 1 Kosovo-Turk mediators were present; 19 female and 44 male. CLE did not conduct specialized training workshops for mediators in Year Three.

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

IR 1.1.3(2) Number of mediation agreements concluded⁹

During the twelfth quarter, 69 cases were referred to mediation (agreement to mediation signed and mediator selected); 3 cases in Peja, 61 in Gjilan, and 5 in Prizren. To date, 1,031 cases have been referred to mediation (agreement to mediation signed and mediator selected), out of which 376 cases were received in the Peja Mediation Center, 590 cases in the Gjilan Mediation Center, and 65 cases in the Prizren Mediation Center.

Target Year 3: N/A Actual Year 3: 1,031 Q12: 69

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

During Year Three, 100% of awards presented for recognition and enforcement have been recognized by the Court.

Target Year 3: 100% Actual Year 3: 100% Q12: N/A

B.IV. Training

CLE implemented 18 training programs in Year Three- two training workshops for licensed advocates of the Kosovo Bar Association, nine training workshops for commercial judges, five refresher and specialized training workshops for mediators, one training workshops with KJI for general judges on Mediation, and one five days training workshop related to the private enforcement system for Effective Financial and Professional Supervision of PEAs). During the twelfth quarter, CLE held a total of 13 days of training sessions, 5 female and 8 male.

In Year Three, CLE held a total of 245 person days of training; 62 female and 183 male. Disaggregated by ethnicity, CLE held 238 person days of training for Kosovo-Albanians; one person days of training for Kosovo-Serbs, four person day of training for Kosovo-Turks, and two person day of training for Kosovo-Bosnians.

To date, CLE held a total of 2,154 person days of training.

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).

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.

CLE in Year Three delivered a total of 9 specialized training courses to the commercial departments of the Pristina Basic Court and Appellate Court. In addition to these commercial judges, CLE also invites the civil law judges of the Supreme Court of Kosovo to participate in the training sessions. CLE developed a specially-designed training curricula in Year One aimed to enhance commercial law skills for judges in the Pristina Basic Court-Commercial Department, judges from the Commercial Department of the Court of Appeals, and Supreme Court judges who hear commercial cases. Based on feedback and assessments from the judges, CLE updated the specially-designed curricula in Year Two, and also started to jointly implement the program in cooperation with the KJI. During Year Three, CLE continued to implement the program and to develop the new training courses. One specialized training course was delivered in the twelfth quarter, which was on Bankruptcy Law.

1. *IT, Business Processes and the Law*, June 2, 2015: A total of 5 Kosovo-Albanian judges were present, 1 female and 4 male.
2. *Taxation Process*, September 8, 2015: A total of 11 Kosovo-Albanian judges were present, 5 female and 6 male.
3. *Economic Principles of Commercial Law*, September 9, 2015: A total of 9 Kosovo-Albanian judges were present, 3 female and 6 male.
4. *Proofs and Evidence in Commercial Disputes*, October 7, 2015: A total of 10 judges were present, out of which 9 were Kosovo-Albanian, and 1 Kosovo-Turk, 4 female and 6 male,
5. *Patents*, November 3, 2015: A total of 5 Kosovo-Albanian judges were present; 2 female and 3 male.
6. *Commercial Disputes in Insurance Sector*, November 4, 2015: A total of 9 Kosovo-Albanian judges were present, 5 female and 4 male.
7. *Enforcement Procedure against commercial entities*, December 1, 2015: A total of 10 Kosovo-Albanian judges were present, 1 female and 9 male.
8. *Business, Credits and Financial Institutions*, December 18, 2015: A total of 7 Kosovo-Albanian judges were present, 2 female and 5 male.
9. *Bankruptcy Law*, March 25, 2016: A total of 13 Kosovo-Albanian judges were present, 5 female and 8 males.

For Year Three, a total 12 judges from the Commercial Department- Pristina Basic Court, the Commercial Department-Appellate Court and the Supreme Court attended CLE training workshops.

In the twelfth quarter, 100% of the judges from the Commercial Department- Pristina Basic Court, the Commercial Department-Appellate Court and the Supreme Court attended CLE training workshop on Bankruptcy.

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

During Year Three, CLE in cooperation with KJI on October 29, 2015 delivered 1 training session to general judges on Mediation. A total of 19 judges were present; 9 female and 10 male.

Disaggregated by ethnicity: 18 Kosovo-Albanians; 1 Kosovo-Serbs attended.

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

During Year Three, CLE delivered a total of two training courses to licensed advocates in cooperation with the Kosovo Bar Association. Unless otherwise indicated, all training courses were held in Pristina. Where indicated, unlicensed lawyer participants also attended.

The following courses were delivered during Year Three:

1. *Contract for license, leasing, control of goods and storage*, July 11, 2015: A total of 41 licensed advocates were present, 1 female and 40 male, out of which 39 were Kosovo-Albanian, and 2 Kosovo-Bosnian.

2. *Enforcement Procedure*, September 19, 2015: A total of 36 licensed advocates were present, 2 female and 34 male, out of which 35 Kosovo-Albanian and 1 Kosovo-Serbian.

In the twelfth quarter, there were no training sessions delivered to licensed advocates.

In Year Three, CLE trained a total of 77 licensed advocates; 74 Kosovo-Albanian, 1 Kosovo-Serbian, and 2 Kosovo Bosnian (3 female; 74 male).

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

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

During the twelfth quarter, CLE did not hold any training sessions for licensed advocates.

To date, the total percentage of lawyers trained with USG assistance is 86% (520 active licensed advocates).

Target Year 3: 80% Actual Year 3: 86%% Q12: 0%

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

During the twelfth quarter, CLE developed 1 legal course on the Law on Bankruptcy. ,

In Year Three, CLE developed 9 legal courses with training manuals: (1) Economical Principles of Commercial Law; (2) Bankruptcy Law; (3)IT, Business processes and the Law; (4) Taxation Processes; (5) Proofs and Evidence in Commercial Disputes; (6) Patents; (7) Commercial Disputes in the insurance sector; (8) Enforcement procedure against Commercial entities; and (9) Business, Credits and Financial Institutions.

To date, CLE has developed 35 legal courses.

Target Year 3: 10 Actual Year 3: 35 Q12:1

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

During the twelfth quarter, CLE held a total of 13 person days of training; 5 female and 8 male. Disaggregated by ethnicity, 13 person days of training for Kosovo-Albanians.

To date, CLE conducted a total of 2,154 person days of training.

Target Year 3: 250 Actual Year 3: 245 Q12: 13

C. Component3: Outreach, Gender, and Monitoring

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

During the third year CLE's outreach activities continued to actively educate and inform the public on the establishment of the new private enforcement system. These activities rely on event-driven news coverage through press releases, and arrangement of exclusive television interviews on evening and morning news shows.

During the reporting period, CLE supported the PEA Chamber to host an event commemorating the first Private Enforcement Agents Day (PEA Day), on July 1, 2015. There were 100 participants present at this event, out of which there 26 were female and 74 were male. Media were present as well.

CLE ensured that the first Public Service Announcement (PSA) on the topic of PEAs, developed in Year One, continues to be aired on National TV, six times a day. Furthermore, during the eleventh quarter, CLE retained the services of, and oversaw production by, a communications agency engaged in the development of a PSA on the private enforcement system. This is the second PSA regarding the private enforcement system developed with USAID/CLE support. The PSA was sponsored by the PEA Chamber, with support from CLE. In the twelfth quarter, CLE signed an agreement with the National TV channel RTK to air the PSA, which starting airing in the twelfth quarter, also 6 times a day.

CLE ensured to keep the public informed on the PEA System through the continued distribution of program materials, such as brochures, Program fact sheets, and Success Stories on the private enforcement system. These materials have been distributed to Kosovo institutions, and also to private businesses. CLE has also provided its support to the PEA chamber in developing their website, and has also provided assistance in outreach activities as requested.

C.I.2 Conduct Outreach on Backlog Reduction

Concurrently with backlog reduction achievements, CLE assists the KJC in conducting outreach to promote improvements in access to justice. Outreach activities rely heavily on news coverage, dissemination of promotional materials as well as the airing of PSA on National TV.

During the reporting period, CLE together with the USAID EROL Program, organized a Conference on Improved Court Administration and Enforcement of Judgments to present results achieved, and to discuss continuing challenges that exist in eliminating the backlog of cases and unenforced judgments in the Kosovo courts. The event took place on July 23, 2015 with more than 150 participants (98 male, 52 female). The USAID Kosovo Mission Director and the Chair of KJC both made opening remarks, which were followed by two working group sessions: one addressing the backlog of disputed cases, and the other addressing the backlog of unenforced civil judgments. During the event, CLE presented and distributed two process maps, one on contested procedure and another on enforcement procedure. The event was covered by two major television stations, RTK and RTV 21 during the evening news, print media, including Koha Ditore, Kosova Sot, and more than 20 other online portals. CLE also prepared a memorandum regarding Reduction of the Backlog of Disputed Cases and Unenforced Judgments, which was also distributed during event. The memo served as a reference point reflecting the current situation, USAID's support, and steps to be taken to reduce the backlog in Kosovo courts. The document was later cited positively in one of the Kosovo's major printed newspapers, *Kosova Sot*.

Throughout the Year Three, the PSA on backlog reduction developed by CLE continued to air on RTK. CLE also continued to distribute its program materials on backlog reduction.

C.1.3 Conduct outreach with business community

CLE is actively engaged with the business community, through a series of workshops, dissemination of legal information materials, including standard form contracts with legal commentary, and other public information campaigns. The purpose of these activities is to more deeply inculcate a “Culture of Contract” in Kosovo business practices and to encourage businesses to more frequently utilize written contracts in lieu of oral agreements.



In Year Three CLE organized a total of 9 Put it on Paper roundtables. These roundtables were organized with various organizations, USAID Programs and other stakeholders. During each roundtable, USB's containing CLE developed standard form contracts were distributed.

In the ninth quarter, CLE organized a Put it on Paper roundtable for the Women in Business (WiB) Program II, a mentorship program for women entrepreneurs/managers. There were nine female participants from various sectors including consulting, marketing, information technology, and medicine. All the participants were Kosovo-Albanian.

In the tenth quarter, CLE organized two “Put it on Paper” roundtables:

- (1) Organized in collaboration with the American Chamber of Commerce in Kosovo (AmCham) and the participants included new AmCham member businesses. 5 participants attended, all Kosovo-Albanian (4 male and 1 female).
- (2) Organized in collaboration with Women for Women International and the participants included female farmers in Begrace, in the Kacanik municipality. 35 participants attended, all female and all Kosovo-Albanian.

In the eleventh 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.

In the twelfth quarter, CLE organized one Put it on Paper roundtable in cooperation with the USAID AKT-LS Program, which was held in North Mitrovica. There were 16 businesses that participated, out of which 11 were male and 6 were female. Out of the 16 participants, 14 were Kosovo-Serbian

while 2 were Kosovo-Albanian.

Additionally, in the ninth quarter, CLE in cooperation with the Assembly of Kosovo also held a roundtable on “Fostering Economic Growth: Legal Reform for Commerce.” The roundtable was organized to present a package of laws that are intended to improve the legal framework for commercial activities and lead to greater economic growth. With more than 70 participants present (51 males, 19 females), key decision makers from the Assembly, the Government, business community leaders and the justice sector gathered to discuss the draft laws. Five draft laws were presented including: the Draft Law on the Establishment of the Kosovo Credit Guarantee Fund, the Draft Law on Bills of Exchange, the Draft Law on Late Payments, the Draft Bankruptcy Law, and the Draft Law on Enforcement Procedure. There was substantial media coverage from both television and print media.

In the eleventh quarter, CLE also participated in the AmCham Panel on “Arbitrating disputes arising out of procurement contracts.”

C.1.4. Outreach on mediation

Although awareness of the availability of Mediation is growing, there remains insufficient awareness, and therefore insufficient demand, for Mediation services. CLE has continued to utilize public education and outreach resources, including media, publications in local newsletters and business magazines, and regional business roundtables to make businesses aware of the value of contracts and ADR, promulgate and increase the usage of Contracts containing ADR clauses; and widely advertising the successes of businesses that use ADR.

During Year Three, CLE continued to advertise mediation services through its radio announcement on Radio Dukagjini and through the PSA which is aired on national TV – RTK. Throughout, Year Three CLE continued to distribute leaflets to raise awareness on the availability of the ADR mechanisms, particularly mediation as an alternative to the courts to resolve disputes.

During the reporting period CLE continued to meet with businesses to discuss ADR mechanisms focusing mainly on mediation services. During the third year, CLE met with a total of 317 individual businesses in Peja, Gjilan, and Prizren in order to inform them about mediation services and its benefits.

In the twelfth quarter, CLE presented on a panel, “Mediation: Commercial Disputes,” organized by AmCham. The purpose of the event was to inform the Kosovo business community about mediation, its procedures, benefits to using mediation as an alternative to the courts, and the effect of an agreement reached through mediation.

Other outreach related activities

In Year Three, CLE in co-operation with the USAID Basic Education Program (BEP) and the CBK developed materials to teach primary and secondary school students about basic financial literacy. These materials will be distributed to students during future events organized by the CBK.

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.

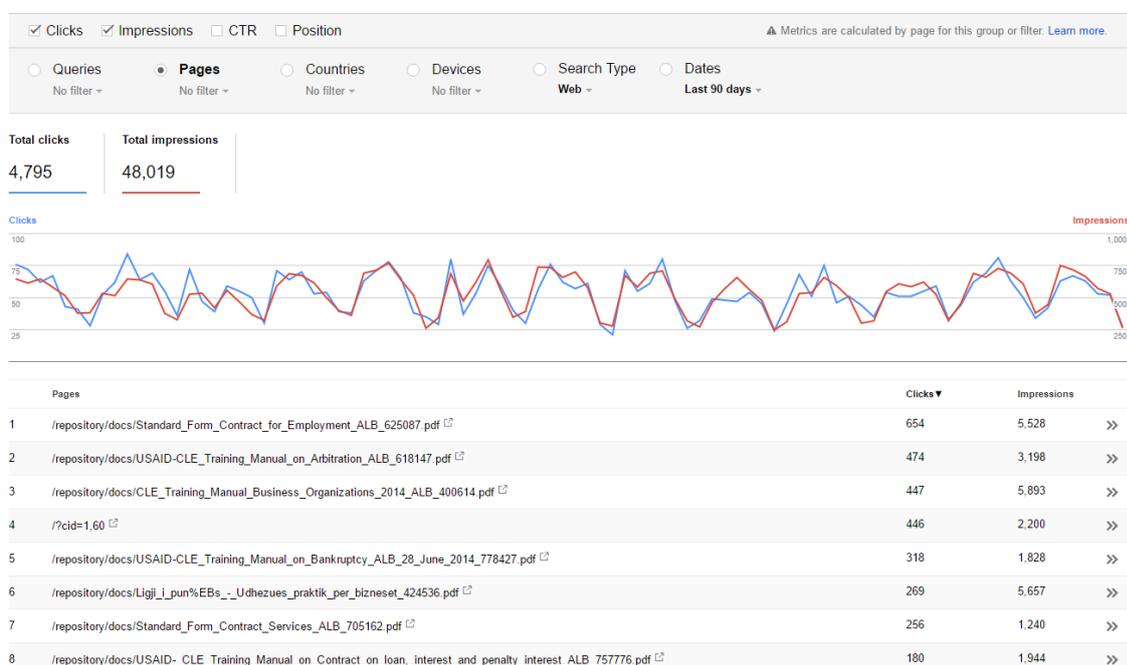
During the reporting period, CLE, together with RTC Consulting finalized the report on National Usage of Written Contracts; the results are presented in more detail in Section B.II, above.

In the twelfth quarter, CLE, in collaboration with the University of Pristina, Faculty of Law, Iliria College, the American Chamber of Commerce in Kosovo (AmCham), and the Kosovo Chamber of Commerce (KCC), hosted the Second Annual Western Balkans VIS Pre-Moot Competition, from February 25-27, 2015. The winning team was the University of Ss. Cyril and Methodius from Skopje, and the award for Best Oralist was given to Lyra Cela, from the University of Pristina team. The link to the event's coverage by RTV 21 can be found at:

<https://www.youtube.com/watch?v=eFUpx8njsis&feature=youtu.be&t=921>

In the twelfth quarter, CLE also attended the "Women of Influence" conference, also organized by AmCham.

During the twelfth quarter, CLE's website was visited more than 4,790 times and appeared 48,019 times in search results. As seen from the graph below it can be noted that the standard form contracts were the most searched for. The Contract for Employment was downloaded the most, followed by the Training Manual on Arbitration.



During Year Three, CLE's website was visited more than 13,500 times and it appeared in search results more than 142,560 times. The Standard Form Contracts were most searched for, and the Contract for Employment remains the most downloaded contract.

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 Q12: 15

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

CLE conducted a nation-wide survey with 900 businesses to measure usage of written contracts. 38.33% of the business respondents surveyed regularly use written contracts.

Target Year 3: 35% Actual Year 3: 38.33% Q12: N/A

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

In the twelfth quarter, CLE supported five campaigns to foster public awareness:

Second Annual Western Balkans VIS Pre Moot Competition
Second Annual Western Balkans VIS Pre Moot Competition News Coverage
Put it on Paper roundtable with Advancing Kosovo Together Local Solution (April 26, 2016)
PSA on Private Enforcement Agents
Panel "Mediation: Commercial Disputes"
Know our Rights Brochure- Letters of Credit

In Year Three CLE held a total of eighteen campaigns:

Kosovo Businesses Report on Using Written Contacts
PSA on Private Enforcement Agents
Conference on Improved Court Administration and Enforcement of Judgments (July 23, 2015)
Put it on Paper roundtable with Women in Business - RTC Consulting (July 2, 2015)
Conference on the Private Enforcement Agents Day (July 1, 2015)
Conference: Fostering Economic Growth: A Legal Reform for Commerce (May 27, 2015)
Put it on Paper roundtable with Women for Women International (October 12, 2015)
Put it on Paper roundtable with American Chamber of Commerce (AmCham) (September 30, 2015)
Put it on Paper roundtable with Gracanica 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)
Second Annual Western Balkans VIS Pre Moot Competition (February 25-27, 2016)
Second Annual Western Balkans VIS Pre Moot Competition News Coverage
Put it on Paper roundtable with Advancing Kosovo Together Local Solution (April 26, 2016)
Panel "Mediation: Commercial Disputes"
Panel "Arbitrating disputes arising out of procurement"

Target Year 3: 16 Actual Year 3: 19 Q12: 6

Activities Planned for Next Quarter (May-July 2016)

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

In the next quarter, and through Year Four, CLE will continue to reduce the execution caseload and enforce judgments against bank accounts and wages. CLE will also support and assist the KJC and Courts in developing a web-based platform to publish judicial decisions from the Commercial Department, which will be accessible to other judges as well as the public, in a searchable format.

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

CLE will support the Assembly of Kosovo in the second reading phase for the Law on Bankruptcy. CLE will support the Ministry of Trade and Industry in the process of the Law on

Late Payments as well as the Assembly of Kosovo in the process of the Law on Bills of Exchange.

CLE will continue to assist with drafting the new Law on Business Organizations and participate in the working group meetings organized by MTI. Early next quarter, CLE will support the MOJ with comments on the Law on Mediation and attend a working group with MOJ officials and other donors to discuss amendments to the Law on Mediation. Next quarter, CLE is supporting the Basic courts in Gjilan, Prizren and Peja, to hire and train court personnel responsible for referring cases to mediation.

C. Component 3: Outreach, Gender, and Monitoring

In the next quarter CLE will assist the Chamber of Private Enforcement Agents to develop an outreach plan, to raise awareness about the Chamber and its functions. CLE will engage in public outreach on the enforcement system through business associations and the webpage.

Miscellaneous – Consultants, Environmental Compliance, 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.

Judge (ret.) Bruce Markell (Bankruptcy Expert) regularly engaged with the working groups 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.

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 Twelve.

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 April 30, 2016, CLE had expended \$5,803,282.82. During Q12, spending was \$ 559,616.15. CLE anticipates the monthly burn rate to continue to be approximately \$197,774.03 per month over the next quarter.

Appendix A

Deliverables

The Following Deliverables were submitted to USAID during the Reporting Period, including a consolidated annual report outlining achievements for the following contractual deliverables (Section B.5):

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

1. Report with evidence documenting the reduced backlog of enforcement of judgments based on the targets set together with the [Kosovo Judicial Council] KJC.
2. Report with evidence documenting that the KJC reporting on execution caseload has improved.
3. New enforcement of judgments system established.*
4. Secondary legislation and procedures for the implementation of the new law on execution procedure adopted.
5. Chamber of Enforcement Agents established and its operation procedures adopted*
6. New Enforcement Agents selected and trained.*
7. Report documenting increased capacity of enforcement agents as a result of Program training and capacity building efforts.
8. Report with evidence documenting that the established disciplinary system for new enforcement agents is functional.*
9. Report with evidence documenting that enforcement of judgments has improved as a result of the KJC cooperation with the Central Bank and the Tax Administration of Kosovo.

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

10. Secondary legislation to implement the Law on Obligations adopted.
11. Report with evidence documenting improved skills and knowledge of judges assigned to the Commercial departments of the Pristina Basic Court and the Court of Appeals as a result of the training provided by the Program.
12. Report documenting that the process of enforcement of arbitral awards and mediation agreements functions efficiently.
13. Mediation Centers become sustainable and continue receiving and mediating cases.
14. Report with evidence documenting improved awareness among business community of contracts and ADR services.
15. Report with evidence documenting improved professionalism of Mediators and Arbitrators as a result of the training provided.

(Deliverables marked with an asterisk are Year Three deliverables that were achieved in Year Two).

Additionally submitted during the reporting period were:

Backlog Reduction and Enforcement Activities

Quarter 12

Backlog

1. Regulation on Unique Account Holders' Registry
2. Memo: Report on the support of the USAID Program for Contract Law Enforcement (CLE) to Commercial Department of the Basic Court of Pristina
3. Trip Report- Anne Trice

Enforcement

1. Draft law amending law on enforcement procedure
2. Draft administrative instruction on business and personal data of the private enforcement agents
3. Draft memorandum of understanding between the National Chamber of Judicial Officers of Belgium and the Chamber of Private Enforcement Agents of the Republic of Kosovo regarding technical cooperation
4. Draft memorandum of understanding between the Royal Professional Organization of Judicial Officers in the Netherlands and the Chamber of Private Enforcement Agents of the Republic of Kosovo regarding technical cooperation
5. Memo for the amendments to the Law on Enforcement Procedure
6. Draft concept note regarding implementation of the obligations of the MOJ under the stand-by agreement with International Monetary Fund
7. Website- Chamber of PEAs
8. Trip report of the study visit in Belgium and the Netherlands

Year Three

Backlog

1. Memo: Recommended Budget Allocation to enable the KJC and Courts to employ legal support staff (Professional Associates and Legal Advisors),and Mediation Centre Managers for Cases Referred to Mediation
2. Memo: Pristina Basic Court Commercial Department and Potential Foreign Investments Division
3. Memo: Support to KJC to strengthen the Pristina Basic Court-Commercial Department and the new Division for foreign investor disputes
4. Memo: CLE's support to Kosovo Judicial Council on Budget
5. Memo: Legal analysis related to the payment and potential waiver of filing fees
6. Memo: Comments on the Minor Offenses Law

Enforcement

1. Administrative instruction md-no.05/2015 on methods of inspection and control of the private enforcement agents
2. Materials of the training session "effective supervision of the private enforcement agents"
3. Concept document on enforcement policy
4. Legal opinion 223/2015 of the Supreme Court (imposing deadline for objections filed against writs of enforcement)
5. Consultant Trip Report- Peter Kahn and Chris Thompson

Commercial Law Activities

Quarter 12

1. Draft Law on Bankruptcy
2. Explanatory memorandum on the Law on Bankruptcy
3. Training Manual: Bankruptcy Law
4. International Chamber of Commerce Uniform Demand Guarantees Rules (URDG) 758, in Albanian
6. International Chamber of Commerce Uniform Customs and Practice for Documentary Credits (UCP) 600, in Albanian
7. Draft Law on Mediation
8. Consultant Trip Report- Bruce Markell

Year Three

1. Memo: The role of the Central Bank of the Republic of Kosovo (CBK) in improving the legal framework for the business environment
2. Memo: Comments on Draft Law on Notary
3. Budgetary requests of KJC
4. Regulation on Bank Deposits
5. Regulation on Letters of Credit and Bank Guarantee
6. Regulation on Safe Deposit Boxes
7. Regulation on Contract for Loan
9. Regulation on Bank Accounts
10. Regulation on Securities
11. Regulation on Mortgage Lending
12. EU Acquis compliance tables and memorandum on the Law on Bankruptcy
13. Training Manuals: (1) Economical Principles of Commercial Law; (2) IT, Business processes and the Law; (3) Taxation Processes; (4) Proofs and Evidence in Commercial Disputes; (5) Patents; (6) Commercial Disputes in the insurance sector; (7) Enforcement procedure against Commercial entities; and (8) Business, Credits and Financial Institutions
14. Concept Document on Law on Mediation

Outreach, Gender, and Monitoring

Quarter 12

1. Know Your Rights Brochure- Letters of Credit
2. Private Enforcement System- PSA
3. 2015 Report on National Survey on Written Contract Usage
4. Financial Literacy Materials
5. Modules: International Commercial Law and Arbitration
6. Powerpoints: Copyright and Trademark Law
7. Powerpoints: Trends in International Arbitration in the Balkan Region
8. Consultant Trip Report- Julie Coleman

Year Three

1. Mediation Radio Advertisement - PSA
2. Webpage
3. Roundtable Materials (Agenda, Power-point, Standard Form Contracts, Participants List)
4. Promotional Materials (Folders, Notebooks, Pens, USBs)
5. Memorandum on Reduction of the Backlog of Disputed Cases and Unenforced Judgments