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List of Abbreviations and Acronyms

ADR	Alternative Dispute Resolution
AI	Administrative Instruction
AM&L	Adaptive Management & Learning
AmCham	American Chamber of Commerce in Kosovo
AUK	American University in Kosovo
CLRA	Commercial Litigation Rapid Assessment
CMIS	Case Management Information System
CPEA	Chamber of Private Enforcement Agents
EMS	Enforcement Management System
FLPD	Free Legal Profession Department
ITT	Indicator Tracking Table
KBA	Kosovo Bar Association
KCC	Kosovo Chamber of Commerce
KIA	Kosovo Insurers Association
KJA	Kosovo Judicial Academy
KJC	Kosovo Judicial Council
LEP	Law on Enforcement Procedure
MEI	Ministry of European Integration
MEL	Monitoring, Evaluation, and Learning
MELP	Monitoring, Evaluation, and Learning Plan
MOJ	Ministry of Justice
NGO	Non-Governmental Organization
OCA	Organizational Capacity Assessment
PBC	Pristina Basic Court
PEA	Private Enforcement Agent
PSA	Public Service Announcement
STTA	Short Term Technical Advisor
TNA	Training Needs Assessment
UBT	University for Business and Technology
UIHJ	International Union of Judicial Officers
UM	University of Mitrovica
UP	University of Pristina
VTC	Video Teleconference

I. Program Purpose and Approach

The Commercial Justice Activity (Program) was designed to reduce opportunities for corruption and improve businesses' and the public's perception of the level and impact of corruption by improving commercial dispute resolution and enforcement and fostering an understanding of the processes that enhance investment and promote economic growth in Kosovo. To achieve its objectives, the Program supports reforms on core aspects of Kosovo's commercial justice environment: 1) improving how courts resolve commercial disputes; 2) strengthening the capacity and readiness of judges and court staff to handle commercial disputes effectively; 3) building the accountability, reliability, and professionalism of Kosovo's private enforcement system; 4) expanding the availability of, and reliance on, alternative dispute resolution (ADR) mechanisms; 5) enhancing and harmonizing commercial legislation; 6) building the capacity of commercial justice institutions to communicate effectively; and, fundamentally, 7) improving business and general public perceptions of commercial justice in Kosovo.

The Program employs a flexible, demand-driven approach that relies on constant two-way communication and collaboration among all relevant stakeholders, other donors, and USAID. With a government context that is rapidly changing and often unpredictable, the Program is designed to quickly adapt and respond to new conditions and opportunities to improve Kosovo's commercial justice system.

II. Executive Summary

During the reporting period, Program activities were conducted online from March 13, 2020 through the end of the quarter due to restrictions imposed in response to the COVID-19 pandemic. Additionally, following the absence of a government since August 2019, the government that was newly formed in early February 2020 fell to a vote of no confidence just a month and a half later, in late March. The status of caretaker government continued through the end of the quarter, with significant political wrangling and infighting creating a political deadlock. In spite of these challenging circumstances, the Program was only minimally affected and was, in fact, able to quickly pivot to new approaches, including work via video conferencing (VTC), that brought about significant achievements.

Key interventions and milestones achieved during the quarter include:

- The Government of Kosovo adopted the Concept Note on Commercial Court Reform, which proposes the establishment of a standalone commercial court through a separate law. This step opened up the door to move forward in drafting legislation to set up the commercial court. Working at the request of the Ministry of Justice (MOJ), the Program developed, with offsite STTA, significant legislative material for incorporation into the legislation as it is drafted. The Program also developed a commercial litigation process map outlining current processes and identifying areas for efficiency gains in court litigation as the commercial court initiative moves forward.
- In response to enormous stress faced by businesses in Kosovo, the Program worked together with the American Chamber of Commerce in Kosovo (AmCham) to organize and deliver a series of six livestreamed business consultation roundtables on topics of "Commercial Justice During COVID-19." Topics included court activity during the pandemic, enforcement, force majeure, women in business, arbitration,

and mediation. These roundtables provided businesses and citizens with critical information and a voice during a time of concurrently exploding economic and health crises. About 5,417 viewers followed the discussions, during and after the event.

- Due to COVID-19 restrictions, Kosovo's court functions dropped to a bare minimum, addressing only urgent cases such as detention and domestic violence. This left the public with little or no court service during the entire reporting period. The crisis provided the Program with an opportunity to work with the courts to develop and initiate online mediation. After discussion with the Program, the KJC issued a decision instructing the courts to initiate online mediation sessions. The Program identified a reliable and secure platform for online mediation and worked with court presidents, mediation clerks, and mediators to train them on the new platform. At the end of the quarter, three online mediation sessions were held, each resulting in a settlement between the parties. The Program will continue moving online mediation forward even as COVID-19 restrictions are relaxed.
- To improve performance information of private enforcement agents (PEAs) as required by the law, the Program developed a draft design of the Enforcement Management System (EMS) application. Once developed, this system will modernize the PEA office environment, from case intake, to enforcement activity, to case closure, and detailing financial transactions, all through a web-based application that also provides PEAs with electronic access to government registers.
- The Minister of Justice established a working group to draft the Administrative Instruction on Tariffs for Private Enforcement. In support to this process, the Program delivered research analysis on comparative regional state practice on enforcement tariffs against standard of living and average wage metrics. The Program also developed a Scope of Work for an upcoming study of actual costs experienced by PEAs in Kosovo to inform the drafting of the AI on Tariffs. This assistance will enlighten the Working Group members to drafting the Administrative Instruction on enforcement in the next Quarters.
- Engaging offsite support by its Senior Enforcement STTA, the Program established a process developing PEA professional standards. The Program subsequently held a VTC working meeting with the PEA working group on professional standards. The attendees, including the head of the MOJ Inspection Division and CPEA Executive Director, went through the initial set of 23 draft professional standards. The Program also initiated development of a training video to expand PEA awareness of and support for professional standards.
- Following the business consultation discussions in Year I, the Kosovo Insurance Association (KIA) drafted a guideline to use ADR clauses in contracts, for its members (insurance companies) including the advice on the opportunities and benefits of using arbitration as an alternative mechanism for dispute resolution. The Program also assisted the Central Bank Kosovo (CBK) to include guidance on arbitration in their template response for parties that file complaints against decisions by financial institutions regulated by the CBK.
- During the quarter, three virtual Mediation Awareness Training Series (MATS) workshops were conducted with students, enabling youth engagement and awareness on the use of mediation and its benefits. MATS were organized with the students of the "Haxhi Zeka" University in Peja and "Ukshin Hoti" University in Prizren, with 93 students participating.

III. Status of Activities and Tasks

The Program is organized into two core objective areas: I) Strengthening Kosovo's Capacity to Resolve Commercial Disputes and Enforce Judgments; and II) Enhancing Commercial Law and Use of Alternative Dispute Mechanisms and Improve Public Awareness and Legal Literacy. Except as specifically noted otherwise, this report is structured to address activity areas, activities, and sub-activities as they are set out in the Program's approved work plan.

OBJECTIVE I STRENGTHENING KOSOVO'S CAPACITY TO RESOLVE COMMERCIAL DISPUTES AND ENFORCE JUDGMENTS

Objective I of the Program addresses court-based commercial justice, supporting improved court processes and structure, specialized judicial training on commercial topics, strengthening capacity and accountability in enforcement, and building business confidence in commercial justice processes and institutions.

Activity Area 1.1. Improve Resolution of Commercial Disputes in Court

All of Kosovo's commercial cases in court are currently handled by the Commercial Department of the PBC, which has case resolution times of approximately two years for each case. Business complaints for administrative decisions go to the Administrative Department of the PBC, which is badly overloaded and has even slower case resolution times. The need to reform these dispute resolution institutions is recognized as urgent by all stakeholders, and, despite current government instability, reforms in this area are being treated as an immediate priority by all major political parties. The Program is providing support to the MOJ, the Kosovo Judicial Council (KJC), and the Commercial Departments to support reforms of court-based commercial litigation.

Activity 1.1.1 Conduct Commercial Litigation Rapid Assessment (CLRA)

This activity was concluded in Year 1.

Activity 1.1.2 Advocate and support identified reforms to court-based commercial litigation

In the reform pause occasioned by the absence of a government during the second half of Year 1, the Program collected case statistics in the Commercial Department and started mapping processes in commercial litigation. In Year 2, the Program continued support for commercial litigation reforms by mapping court procedures in the commercial department and assisting in drafting commercial court legislation.

Sub-Activity 1.1.2.1 Support MOJ to design and draft legislation for the establishment of a Commercial Court

On April 23, 2020, the Government of Kosovo adopted the Program-supported Concept Note on Commercial Court Reform. Following this adoption, the MOJ General Secretary appointed the Legal Department to develop, with Program support, an initial draft of the law to establish the commercial court. A formal working group that also includes external stakeholders, including the KJC and judges, will be established after the Government adopts the annual legislative agenda. The Program conducted a follow-up working meeting with the MOJ Legal Department to map the process and set a timeline for drafting a draft law on commercial court. The MOJ proposed to develop and consult the draft law by the end of August.

The Program supported legislative drafting through local STTA and offsite engagement of the Senior Court Administration Expert STTA to prepare materials for consideration by the

Legal Department. The Program also initiated drafting of an implementation plan for the draft law, including suggested interventions that the Program and the relevant institutions should contemplate as the draft law takes shape and moves forward.

The Program also developed a process map of the existing litigation process in the Commercial Department and Fiscal Division of the Administrative Department at the PBC. The process map identifies discrepancies and opportunities for efficiency gains to be factored into the future law on commercial court.

During the next quarter, it is anticipated that the MOJ will establish a working group for drafting the law that also involves outside stakeholders, including the KJC. As the Program plans to provide technical assistance to the working group to develop and consult the draft law, it also plans to provide concrete recommendations for sub-legal acts that might derive from the draft law.

Sub-Activity 1.1.2.2 Support MOJ to advocate commercial court reform

The Program supported the MOJ in developing a common message to be followed by all institutions as they advocate the creation of a commercial court. The common message includes information on why the commercial court is needed, what the commercial court would offer to businesses and citizens, and how it would contribute to the rule of law and economy. The common message also identifies potential opposing arguments to commercial court reform and suggested answers.

During the next quarter, the Program will develop a background note for the Program's recommendations for the draft law to ensure that the recommendations are well received. The Program will also support the MOJ in developing a strategic advocacy plan that will set a consolidated approach for the MOJ, KJC, and supporters to follow as the draft law is submitted for adoption to the Government and Assembly.

Activity Area 1.2. Training of commercial judges, staff, and business support professionals

The direction of training development for commercial judges and court staff is dependent on the shape and progress of the commercial court reform. Creation of a new court will likely give rise to a significant new group of training participants. During Year 1, the Program initially awaited the outcome of the commercial court reform. However, with the extended delay caused by the absence of a government, the Program initiated the Training Needs Assessment (TNA) development process. In Year 2, the Program is continuing with completion of the TNA and curriculum development in line with the anticipated commercial court reform.

Activity 1.2.1 Conduct TNA for commercial law training of Judges and court staff

The Program shared and discussed the draft TNA with a broad range of stakeholders—Justice Academy, KJC, Commercial Department and Fiscal Division of the Administrative Department at the PBC, and MOJ. Following the input received, the Program revised and completed the TNA and developed draft trainer profiles for potential instructors of the Kosovo Justice Academy.

Activity 1.2.2 Support development of commercial law training curriculum

During the reporting period, no actions were planned. The curriculum development phase is expected to commence in Quarter 2.

Activity Area 1.3. Improve accountability, transparency, and professionalism of private enforcement profession

The Program provides technical assistance to the MOJ to build effective accountability systems over the private enforcement profession and supports the CPEA to develop its capacity and sustainability as a self-governing body of the profession. Due to COVID-19, the Minister of Justice issued guidance to limit activities and contacts with parties of free legal professionals. Under this guidance, PEAs offices were encouraged to reschedule auctions, and delay operations and hearings. PEA offices were also instructed to temporarily unblock debtor pension and salary accounts or reduce monthly installments as actions to help the citizens of Kosovo overcome the pandemic. The Program translated and shared with the MOJ and CPEA a Position Paper of the International Union of Judicial Officers (UIHJ) with recommended measures during and after confinement period as a result of COVID-19, including proposals on ways enforcement agents could contribute towards alleviating the economic impact of COVID-19.

Activity 1.3.1 Support strengthening of accountability system over private enforcement agents

The Program's accountability support addresses agent inspections and discipline systems. In the past, Private Enforcement Agent (PEA) inspections were carried out by an ad hoc inspection committee within the MOJ. Under the recently revised Law on Enforcement Procedures (LEP), the MOJ is now staffing a standing Inspection Division.

During this quarter, the Head of the Inspection Division remained the only staff appointed to the Division. The three remaining positions in the Division have remained vacant. In addition, during the reporting period, the Minister of Justice dismissed the entire membership of the Disciplinary Commission—the body appointed to review and decide on complaints against PEAs—and appointed a new commission. The dismissal of the Disciplinary Commission is further elaborated under Sub-activity 1.3.1.3 and under Section V of this Quarterly Report.

Sub-activity 1.3.1.1 Support capacity building of new MOJ Inspection Division

During the reporting period, no actions were planned.

Sub-activity 1.3.1.2 Support restructuring of tariff for private enforcement services

During the reporting period, the Minister of Justice established a working group to amend the Administrative Instruction on Tariffs for Private Enforcement. At MOJ request, the Program undertook to support the working group. The Program delivered research analysis on comparative regional state practice on enforcement tariffs against standard of living and average wage metrics. The analysis compares enforcement fee structures and costs of Albania, Bulgaria, Montenegro, North Macedonia, and Serbia. The Program is preparing to conduct a study of actual costs experienced by PEAs in Kosovo to inform the drafting of the AI on Tariffs. The Program developed a scope of work for this study during the reporting period and plans to commission the study during the following quarter.

Sub-activity 1.3.1.3 Train Disciplinary Commission on its roles and responsibilities over the private enforcement profession

Following the early dismissal of the Disciplinary Commission members by the Minister of Justice, the Program adapted its approach by deciding to develop an inventory of issues in the disciplinary system for PEAs. The Program, with the support of its Senior Enforcement Expert STTA, held VTC working sessions with the MOJ Legal Department and Free Legal

Professions Department to complete an initial draft of the inventory of issues in disciplinary system over PEAs. The inventory identifies challenges and provides recommendations for the entire disciplinary review process, from screening of complaints to disciplinary proceedings to enforcement of disciplinary decisions to administrative disputes against disciplinary decisions. It also identifies legal gaps and uncertainties of the LEP regarding the disciplinary system over PEAs.

Sub-activity 1.3.1.4 Support design of processes and templates for screening of complaints to MOJ regarding enforcement

During the reporting period, the Program raised at the Secretary General level the absence of complaint procedures in the MOJ as a significant issue to address. The program also collected data from the MOJ Free Legal Professions Department on the number of complaints received annually by parties. From 2014 up to this date, the MOJ received a total of 161 enforcement complaints. Going forward, the Program plans to support the MOJ FLP Department develop a process guide with procedures and template forms for handling complaints.

Activity 1.3.2 Develop capacity of Chamber of Private Enforcement Agents

The CPEA was established in 2015 yet remains in the early stages of development. The Program has directed its support for the CPEA toward enhancing its self-governance capabilities through improved strategic, financial and communication planning.

During the reporting period, the Assembly of the CPEA held a regular meeting to approve its 2020 budget and elect a replacement Executive Board member. In this meeting, the Control Council presented to the Assembly the Report on Control of the Work of the CPEA for 2018 and 2019. During this meeting, the Executive Board also presented a Financial and Annual Report of the CPEA for 2019, using an Annual Report developed by the Program during Year I. The Program's approach of building templates that the CPEA can use to develop reports on its own contributes to CPEA's journey to self-reliance.

Sub-Activity 1.3.2.1 Support strategic planning capacity the Chamber of Private Enforcement Agents

During the reporting period, based on the Year I Organizational Capacity Assessment Tool (OCAT) process, the Program provided strategic planning capacity support to the CPEA Executive Director, Legal and Administrative Officer and board members. The Program conducted a coaching session over VTC, to support and guide the CPEA staff in implementing annual work plan activities. The result of the coaching session was the development of a template that sets the scope and scale of a future draft Regulation on the Work of the CPEA Assembly.

In the next quarter and throughout the year, the Program will continue to provide coaching sessions to CPEA's bodies and its staff.

Sub-activity 1.3.2.2 Support update of organizational structure and processes of Chamber

The CPEA still operates under the interim Statute and Code of Ethics of PEAs developed at the outset of the profession. During the reporting period, the Program, with the support of the Senior Enforcement STTA, developed concrete recommendations for the CPEA to revise and update its current Interim Statute (Charter) of the CPEA. The Program also

developed concrete recommendations to revise the current Code of Ethics as an important framework for professional PEA behavior.

Sub-activity 1.3.2.3 Support development of guidance policies of the CPEA

Lack of uniform PEA reporting prevents the MOJ and the public from having accurate PEA performance indicators. During the reporting period, the Program completed a standardized annual report template individual PEAs, to use for their annual reporting to the MOJ. The annual report template is intended to improve PEA reporting prior to introducing the automated Enforcement Management System (EMS).

The Program also supported the CPEA in developing an initial draft of guidance policy for PEAs on Bank Account Registry usage. The draft guidance policy introduces security rules and procedures for PEAs to access and use the electronic system of the Bank Account Registry of the Central Bank. The Program also presented the draft guidance policy to the Payment Systems Department of the Central Bank of Kosovo (CBK) for input.

Sub-activity 1.3.2.4 Support CPEA develop strategic communications capacity

The Program supported the CPEA in developing a complete draft of the Communications Strategy and Action Plan. Subsequently, the Program organized two coaching sessions for the CPEA's operational staff for proper implementation of the Strategy and Action Plan. The coaching sessions prompted discussion on the need for unified communication templates for more effective internal and external communications. The Program supported the CPEA in developing unified templates for the annual bulletin, annual report, press releases, crisis communication template, invitations and agenda template, media contact list, template of certificate of appreciation, info-graphic template and media monitoring template. The templates were subsequently attached as annexes to the draft Communications Strategy.

Sub-activity 1.3.2.5 Support development of organizational self-assessment of the Chamber of Private Enforcement Agents

During this quarter, no actions were planned. The Program will commence preparations for supporting the CPEA in conducting the second Annual OCAT during Year 2 Quarter 3.

Activity 1.3.3 Build professionalism of private enforcement agents

The Program supports increased professionalism and responsiveness of private enforcement agents by assisting the profession to design and adopt modern professional standards and develop an automated case management system, the Enforcement Management System (EMS).

Sub-activity 1.3.3.1 Support design and adoption of professional standards for the private enforcement profession

The Program, with Senior Enforcement STTA offsite support, developed a draft-plan that maps the process and suggests a timeline for developing PEA professional standards. The Program, subsequently, held a VTC working meeting with the PEA working group on professional standards. The attendees, including the head of the MOJ Inspection Division and CPEA Executive Director, went through the initial set of 23 draft professional standards provided by the Program. The Head of MOJ Inspection Division and a representative of the CPEA Executive Board volunteered to serve as points of contact for soliciting further input among MOJ personnel and PEAs on the scope and content of the professional standards identified. The Program also undertook to develop a training video on professional

standards to explain the need for standards and engage the profession in the process of developing them. The video is expected to be completed in the next quarter.

Sub-activity 1.3.3.2 Support development of case management automation for private enforcement agent profession

The Program is supporting the CPEA and the MOJ to develop an Enforcement Management System (EMS) application to improve access to PEA performance information. This system will modernize and streamline the PEA office environment, from case intake, to enforcement activity, to case closure, and detailing financial transactions, all through a web based, browser-accessed application.

During the reporting period, the Program prepared a SOW for interface development. While the selected subcontractor will develop the web user and API interface portions following specifications designed and managed closely by the Program, the Program will develop the data flow (logic) portion of the EMS and the database consisting of tables, stored procedures, functions, and reports. The program continued with advocacy and information meetings with PEAs to present the advantages of the system and to receive PEA buy-in. Due to COVID-19 restrictions, during the reporting period, the Program met one PEA. In total, the Program has conferred 30 PEAs so far. Before the SOW was published, the Program also met with the MOJ to present the EMS features relevant for its oversight function and to discuss the future ownership of the EMS.

Sub-activity 1.3.3.3 Support development of training capacity of private enforcement agents

During the reporting period, no actions were planned.

Activity Area 1.4. Improve business perceptions of commercial justice

Commercial justice institutions are still very negatively viewed by Kosovo's key economic stakeholders—businesses. These perceptions feed a vicious cycle, reinforcing negative performance as courts respond to lowered expectations by business. Program activities seek to disrupt this cycle through technical interventions and extensive outreach to business promoting awareness of those interventions.

With the COVID-19 outbreak and its disruption for the businesses, the Program, jointly with AmCham, hosted Commercial Justice and Business Roundtables for businesses, to discuss commercial justice during COVID 19 to build awareness. More details about the roundtable discussions are laid out under the Activity 1.4.1 below.

Activity 1.4.1 Conduct Commercial Justice and Business roundtables

The effects of COVID-19 precluded plans to conduct in-person business consultation roundtables. To adjust to new realities imposed by lockdown restrictions, the Program rapidly converted its roundtable approach to a virtual livestreaming platform, working together with AmCham. In close cooperation with the AmCham, the Program conducted several VTC meetings with AmCham to discuss joint organization of virtual business consultation roundtables to cover essential commercial justice topics faced by private sector businesses under great stress during COVID-19 restriction measures. The roundtables were broadcast via livestreaming on AmCham's and Gjirafa's websites. During the reporting period, the Program supported AmCham to organize 4 virtual/live stream business consultation roundtables as follows:

1. On April 28, a live stream roundtable was held, with the topic “How Courts are handling commercial cases during the crisis?”. The panel was comprised of two judges, the Head of Commercial Department of Pristina Basic Court and the Head of Fiscal Division of Pristina Basic Court. The discussion focused on the management of business cases during crisis, and the need for online solutions was raised. Businesses were interested and asked questions of the participating judges about case management and decisions during this period.
2. On May 05, a live stream roundtable discussion was held, on the topic “Handling Enforcement Cases in time of emergency”. The panel was comprised of two representatives of the MOJ: the Head of the Free Legal Professions Department, the Head of the Division on Overseeing the Implementation of Legislation, Legal Support and Cross-Institutional Cooperation in the area of Legislation; and the President of the Chamber of Private Enforcement Agents. The discussion focused on the enforcement of the business requests during the crisis and the need for online solutions. Businesses were interested and asked questions of the MOJ and Private Enforcement Agents about case management and decisions during this period.
3. On May 12, a live stream roundtable was held on “Women in business during the crisis, challenges and management”. The panel consisted of female business owners: the owner of Melita and Partners, the owner of Chocolate Corner, and In-House Council of SDP Kosova. The discussion focused on the business challenges in general with a special focus on businesses owned by women during crisis and the need for online solutions. Businesses raised discussions on the disputes not settled in the courts during COVID-19 and in general on the problems they face.
4. On 26 May, a live stream roundtable was held, on the topic, “Force Majeure clauses in Contracts - usage and challenges”. The panel consisted of two attorneys, members of the Kosovo Bar Association. The discussion focused on the challenges faced by businesses during crisis and the foreseen actions in such situations. The panelists also discussed the disputes not addressed in the courts during COVID 19 and in general the problems businesses face.

About 4,363 viewers followed the discussions.¹

In next quarter, the Program will continue to provide virtual/live stream business consultation roundtables on different topics concerning private sector and business community in general in cooperation with AmCham. During the next quarter, the Program will also explore opportunities of cooperation with Kosovo Chamber of Commerce (KCC) for the purpose of organizing business consultation roundtables with private sector businesses represented by KCC.

Activity 1.4.2 Conduct surveys of business to measure perceptions of corruption in commercial justice

During the reporting period, no actions were planned.

¹ Includes viewers of each event who watched live during the event and those who watched following the event, up to June 11, 2020.

OBJECTIVE II ENHANCE COMMERCIAL LAW AND USE OF ALTERNATIVE DISPUTE MECHANISMS AND IMPROVE PUBLIC'S AWARENESS AND LEGAL LITERACY

Objective 2 of the Program addresses commercial justice outside of the courts, supporting increased reliance on arbitration and mediation, harmonizing commercial legislation, and building strategic communication capacity within commercial justice institutions. It combines these reform areas with outreach to build the public's awareness and understanding of commercial justice and its role in Kosovo's society and economy.

Activity Area 2.1. Alternative Dispute Resolution

With substantial donor assistance over the years, the two predominant forms of (ADR)—arbitration and mediation—now exist in Kosovo but are significantly underutilized. Use of ADR by litigants provides some relief to Kosovo's overburdened courts. The Program supports increasing reliance on each of these methods.

Activity 2.1.1 Increase reliance on arbitration

The main findings from the Program's baseline study report, conducted in Year I, showed that businesses largely lack information about arbitration and very few have used it, while a large majority of the general public have never heard of it. In order to increase use of arbitration, the Program, in cooperation with AmCham and KCC, began discussions on ways to improve arbitration in Kosovo, analyzing statistical data for cases administered so far by the tribunals and possibilities to extract success stories to be shared with businesses.

During the reporting period, the Program continued to work with influential business associations and key financial industry organizations to promote arbitration among their respective members.

Sub-activity 2.1.1.1 Work with industry associations to advocate use arbitration clauses in contracts and more actively market arbitration among members

Following the business consultation discussions in Year I, The Program worked closely with the Kosovo Insurance Association (KIA) in drafting a guideline to use ADR clauses in contracts that will be approved in the Committee of the KIA. KIA drafted the guideline for its members (insurance companies) including the advice on the opportunities and benefits of using arbitration as an alternative mechanism for dispute resolution. The guideline was distributed to insurance companies, for inclusion of the arbitration clause in their future contracts. Due to the importance and role of banking sector in businesses in Kosovo, the Program also worked with Kosovo Banking Association to promote the inclusion of arbitration clauses in banking sector contracts, in agreements with businesses. The Program worked closely with both associations since both provide financial services and are regulated by the Central Bank of Kosovo (CBK).

The Program's coordination with the CBK focused on increasing its awareness of benefits of arbitration and on drawing their support as a regulator in promoting arbitration as a method for dispute resolution in banking and insurance sector. During the reporting period, the CBK included advice on usage of arbitration as a dispute resolution method in their template response provided to parties filing complaints in CBK against decisions taken by banks and insurance companies.

The Program organized a livestreamed video roundtable on arbitration with CBK, KIA, Kosovo Banking Association and in cooperation with AmCham as one of the service

providers for arbitration. The topic for discussion was “Arbitration: An Opportunity for Dispute Resolution in the Insurance and Banking Sectors”. The panel consisted of an arbitrator and representatives of the CBK, the KIA, and the Kosovo Banking Association. The discussion focused on the challenges of insurance and banking sector businesses with court cases, with a special focus on arbitration and increase the use of arbitration, due to high number of unresolved cases in courts. Central Bank once again stated support for these sectors and the advice given to the parties to use alternatives dispute resolution methods. Both Associations committed to engage and work together with the Program to further advance awareness and promotion of arbitration in private sector businesses, including insurance companies and banks. There were 1,054 viewers who followed the discussion.²

For the purpose of providing assistance to the arbitration centers in AmCham and KCC, increasing youth engagement, and working more closely on the promotion of arbitration to businesses, next quarter the Program plans to place two interns, one each in KCC and AmCham, who will work mainly on assisting in promoting arbitration among members of AmCham and KCC.

In addition to the brochures and the Guideline on Arbitration and its Procedures developed in Year I, the Program has prepared a draft of one-pager on arbitration, which will be used for promotion on arbitration such as outreach events with businesses.

Sub-activity 2.1.1.3 Improve Arbitration Center Service Delivery

Both the KCC and AmCham arbitration centers raised concerns about service delivery, lack of staff, and other process administration gaps, including the competencies of arbitrators and long-lasting procedures. The Program completed the design of three assessment questionnaires for arbitration users of Arbitration Tribunals at AmCham and KCC. The assessment for arbitration is divided into three questionnaires for: 1) service delivery assessment of the arbitration process; 2) service delivery assessment of the arbitration center administration; and 3) service delivery assessment of arbitrators to evaluate their need for training and better management of cases. Distribution of the assessments will commence during the following quarter.

The Program also signed a Memorandum of Cooperation with KCC, which will enable closer cooperation of Kosovo Chamber of Commerce (KCC) with the Program. This will provide the Program with access to statistical data and information on case management of arbitration cases that will be used to draft a Report on the Service Delivery Assessment.

Activity 2.1.2 Increase reliance on mediation

Mediation represents a strong opportunity for moving cases out of, and diverting them from, overloaded courts. The Law on Mediation regulates the process and profession, provides for mandatory mediation of certain types of cases, and requires courts and prosecution offices to dedicate personnel to serve as full-time mediation clerks. Yet the number of civil cases that go to mediation is very low. To increase the use of mediation, the Program is working with the KJC and courts to prioritize case referral strategies and processes, and support institutionalization and training of dedicated mediation clerks in each court. The Program is also assisting the MOJ define and implement its governance role over the profession and work to build public awareness of mediation as a valuable means of resolving disputes. Data for mediation case referrals are presented in Annex I.

² Includes viewers who watched live during the event and those who watched following the event, up to June 11, 2020.

Sub-activity 2.1.2.1 Design and conduct mediation awareness training series

During this quarter, the Program delivered three virtual Mediation Awareness Training Series (MATS) workshops for students. These MATS workshops were organized in cooperation with the “Haxhi Zeka” and “Ukshin Hoti” Universities, thus, also targeting youth from different regions such as Prizren and Peja:

1. On May 15, 2020, a MATS workshop with students of the University “Ukshin Hoti” in Prizren. Participation consisted of 36 students (29 female; 7 male), 2 professors (male), and the Dean of the Faculty.
2. On May 18, 2020, a MATS workshop with students with the University “Haxhi Zeka” in Peja. The training was delivered by Program-trained mediation professionals, with participation of 23 students (17 female; 6 male), 1 professor (male), and the Vice Rector of the University.
3. On May 26, 2020, a MATS workshop for students of the University “Ukshin Hoti” in Prizren. Participation consisted of 34 students (29 female; 5 male), and the Dean of the Faculty. The MATS topic “Mediation in the European Union/similarities and differences with mediation in Albania”, was organized jointly with the Dean of the Faculty, mediator Eni Çobani from Albania, the Program, and MATS mediators from the Prizren region.

In the following quarter, the Program will continue to provide mediation awareness trainings to different audiences, with mediation professionals trained by the Program. In addition, the Program is planning to video record a MATS, to be conducted by trained mediation professionals, which will be shared online through websites of relevant institutions, such as MOJ, KJA and Kosovo Bar Association (KBA).

Sub-activity 2.1.2.2 Support court filing clerks to advise parties about mediation option

On March 5, the Pristina Basic Court organized an event for judges to promote the Guidelines on Court Cases appropriate for Mediation, approved by the KJC and supported by the Program. The President of the Basic Court, Deputy Chair of the KJC and Secretary General of MOJ presented in the panel and communicated the importance of the Guidelines in increasing the number of mediation cases in civil and commercial disputes.

During the reporting period, the Program worked closely with filing clerks on the Guidelines on Court Cases appropriate for Mediation, by advising them on methods to identify cases to be referred for mediation. The work was done on a daily basis, focusing on advising clerks of all seven Basic Courts on how to advise parties to try mediation before filing their cases. Due to COVID-19 restrictions, courts worked with limited capacities and only for the urgent cases, hence, the Program continued to work with clerks by meeting and advising them virtually.

Sub-activity 2.1.2.3 Build capacity of judges and court clerks to refer cases to mediation

In cooperation with the Kosovo Justice Academy (KJA), during this quarter the Program continued to co-organize and deliver trainings on mediation, based on a module prepared during Year I. The trainings delivered during this quarter were delivered by six local professionals (2 judges, 2 prosecutors, and 2 mediators), divided in two groups, each group

covering three trainings in different municipalities. The Program supported the KJA to provide three trainings for judges on mediation as follows:

1. On March 04, the training for judges from Mitrovica region, included 32 participants: 23 judges (8 female; 15 male), 1 professional associate (male), 4 prosecutors (1 female; 3 male), 1 mediator (male), 1 intern (male) and 2 representatives of the KJA (1 female; 1 male).
2. On March 11, the training for judges from Peja region, included 27 participants: 13 judges (1 female; 12 male), 3 professional associate (2 female; 1 male), 4 mediators (male), 1 mediation clerk (male), 3 prosecutors (male), 1 intern (male) and 2 representatives of the KJA (1 female; 2 male).
3. On May 20 and 21, the virtual training for judges from Prizren and Gjakova region, included 52 participants: 22 judges (6 female; 16 male), 1 professional associate (male), 15 mediators (6 female; 9 male), 11 prosecutors (1 female; 10 male), and 2 representative of the KJA (female).

The detailed recommendations are being addressed in the Program's AM&L tool. The AM&L tool will be shared with the trainers with the specific steps of the Programs support, to the courts and MOJ on the improvement and promotion of mediation.

Due to COVID-19 restrictions imposed early in the quarter, the courts were reduced to functioning with very limited capacities – handling only urgent cases, such as detention and domestic violence. To address this sharp restriction in access to the courts, the Program presented a concept of online mediation to the KJC and the Pristina Basic Court. In response, the KJC, on its regular meeting, held on April 30, 2020, decided to instruct the courts to initiate the possibility to conduct online sessions on mediation. The Program then worked with the KJC Deputy Chair, the PBC President, and the mediation clerks, as well as the MOJ and the Mediation Chamber to develop online mediation as an option to mediate. Program support focused on assessing availability of a reliable and simple platform to conduct online mediation sessions and preparing mediation clerks and mediators to handle online mediation sessions. The Program held a VTC training with the mediation clerks of all the Basic Courts (except Mitrovica Basic Court) to help prepare them for facilitating online mediation sessions. During the reporting period, three mediation cases, were conducted through online mediation, one in Basic Court of Ferizaj (civil case) and two in Pristina Basic Court (criminal cases).

Finally, the Program, in cooperation with KJC, initiated the draft of a memo on financial incentives for mediation. The memo will contain information on how to create more benefits and increase the use of mediation by the parties. The Program completed a first draft memo on financial incentives for mediation, in close consultation with the Deputy Chair of the KJC. Next quarter, after being reviewed by the Deputy Chair KJC, the memo will be presented by the Deputy Chair KJC to the KJC meetings.

Sub-activity 2.1.2.4 Build capacity of MOJ to carry out its mediation governance responsibilities under the Law on Mediation

The Program continued to support the Free Legal Professions Department (FLPD) of MOJ in establishing a Registry of Mediators. The FLPD, Mediators Chamber, and the Program coordinated via VTC meetings to collect all mediator's data for the Registry as foreseen in the AI of Registry. Two versions of the Registry were prepared: one for internal MOJ use that complies with a Ministry decision and one set up in a more user-friendly format that will be shared publicly online. The Program shared with MOJ the information on mediators

incorporated so far in the Registry of Mediators. The MOJ took over to continuing to gather information from mediators to further develop the Registry. Once exhaustive information has been collected, the Program will provide support as needed to the MOJ to complete the Registry of Mediators.

During this quarter, the Program supported the FLPD and the Mediators Chamber, providing explanatory meetings on online mediation to the mediators. Both the FLPD and the Chamber of mediators were highly interested to support and increase mediators' capacities to fully implement the Mediation Law. The Program, in coordination with the Chamber, organized six regional virtual meetings with mediators through the online platform Jitsi Meet, and prepared the mediators for online mediation opportunity.

During this quarter, the Program worked with the MOJ to incorporate the text of a landing page developed with Program support into the Mediation section of the MOJ's website. The MOJ website is accessible with information on mediation such as mediation definition, principles, statistics, mediators, legal framework and will be enriched with additional activities and trainings on mediation.

The Program drafted a one-pager on mediation, which will be used for promotion of the use of mediation through outreach events.

Sub-activity 2.1.2.5 Assess and support development of environment for commercial mediation in Kosovo

The Program is deferring the commercial assessment until after completion of the AIs to be promulgated under the Law on Mediation. During Year 2 Quarter 3 and 4, the Program plans to engage external STTA to assess and support development of the environment for commercial mediation.

Activity Area 2.2. Commercial Legislation

The Program supports harmonization of commercial legislation with EU requirements and international best practices. During Year I, the Program assembled an inventory of the main legal acts that may be part of a review and harmonization process for commercial legislation.

The policy reform option of harmonizing commercial legislation is addressed in a policy paper on Commercial Justice developed by the MOJ Rule of Law Functional Review at the beginning of the Program (one of sixteen policy papers generated under the Functional Review process). The policy paper recommended establishment of a special committee of experts, institutional representatives, and business community members to review and make recommendations for unifying commercial legislation.

The inventory, when completed, will serve as the first draft of proposed laws for harmonization and potential consolidation once a governmental working group is established.

Activity 2.2.1 Support anticipated legislative review committee to consider unification of commercial legislation

During the reporting period, governmental instability precluded the MOJ from moving forward on commercial legislation reform under the Functional Review. Consequently, the Program was unable to support establishment of a special committee of experts. Instead, the Program coordinated with the EU Project on the Civil Code II regarding commercial legislation and reviewed materials received by the project on commercial legislation.

Activity Area 2.3. Strategic Communication of Commercial Justice Institutions

The Program supports improving strategic communications in commercial justice by implementing facilitative partnering methodology to better align commercial justice institutions to achieve a mutual vision of their roles, responsibilities, and relationships with respect to one another and to the general public. The process helps groups, institutions, agencies, companies, or offices, assisted by a facilitator, to commit to establishing effective communications, building trust, and sustaining strategic relationships.

Activity 2.3.1 Support communication among commercial justice institutions

No actions were planned during this Quarter.

During the reporting period, to follow-up on the Facilitative Partnering Workshop between the MOJ and the CPEA conducted late in Year 1, the Program met with the MOJ Legal Department, the MOJ Free Professions Department, and the CPEA. Both institutions expressed interest to continue sessions on the facilitative partnering as agreed during the workshop.

Activity 2.3.2 Support communication and outreach of commercial justice institutions

During the reporting period, the Program continued to facilitate the communication of commercial justice institutions such as Ministry of Justice and Kosovo Judicial Council. The Program supported the Ministry of Justice in developing a public highlight on the promotion and availability of the mediation landing page, discussed above at sub-activity 2.1.2.4. The post was shared and promoted on the Ministry's official website and its social media pages. In addition, the Program supported the Ministry of Justice to update and feed the page by including content that provides overarching messages, results, and education.

The Program held several meetings with the communication office of the KJC, upon their request to support drafting the Communication Strategy for 2020-2023. While the KJC commenced drafting the KJC Communication Strategy, the Program supported the process, with outlining a draft skeleton of the strategy with commercial justice context, as foreseen in the Program's Communication Strategy that also introduces a better alignment between commercial justice institutions. The KJC initiated a workshop among the communicators of the other courts featuring representatives from the KJC and Public Information Officers from Gjakova, Peja, together with Program representatives. During the meeting, the Program provided insight on the activities that are envisioned to be supported within the framework of the Program's Communication Strategy.

Activity 2.3.3 Support improved advocacy capacity among commercial justice institutions

Due to government instability during the reporting period, no activities were carried out under this sub-activity.

Activity Area 2.4. Public Awareness

The Program works to develop public awareness of commercial justice opportunities and Program activities as part of a Commercial Justice public awareness campaign. The campaign includes development of Public Service Announcement (PSA) video and radio spots, supported and informed by focus groups and surveys. The campaign is being developed and implemented in close coordination with the Program's other outreach activities, such as the mediation awareness training series and the commercial justice and business roundtables.

Activity 2.4.1 Develop and broadcast public service announcements

During the Reporting Period, the Program worked with its subcontractor, Pi Communications, in developing the first PSA. This PSA will address branding of commercial

justice in general. During the reporting period, Pi developed scenarios, concept ideas, and the storyboard, including the concept of the PSA in Serbian language. The concept narration for the radio ad was also developed.

Due to the COVID-19 outbreak the casting, production, and airing of the PSA has been postponed to Quarter 2.

Activity 2.4.2 Conduct Surveys and Focus Groups

During the reporting period the Program received updated Public Pulse data from the first of two surveys planned for 2020 in Kosovo, which included two commercial justice related questions. The data from this March-April 2020 nation-wide survey found that:

- 38.6% of the general public are aware of commercial justice as a concept, and
- 32.3% of the general public are aware of Alternative Dispute Resolution (ADR) mechanisms

The commercial justice awareness difference from the last survey is insignificant, while the difference in the awareness of ADR compared to the last survey is larger (dropping from 38%). With the broadcasting of the PSAs, it is expected to see a shift of responses to indicate greater levels of awareness of commercial justice and ADR.

During the reporting period, the Program conducted the first PSA pre-production focus group discussion, with six representative members of the public of different ages, sexes, and backgrounds. The focus group discussion was held to present the storyboard on the Commercial Justice PSA to members of the public representing an average viewership. The aim of the discussion was to pilot and test the language, plot and other elements of the PSA, and measure the understanding of “viewers”, track the retention of certain target or buzz-words and concepts and ensure no misunderstanding or misconception is created for the viewer. Due to COVID-19 restrictions in place, this focus group discussion was held online and followed necessary health and safety measures for all participants. The feedback received was generally very positive, while the Program and production team from Pi Communications are addressing minor suggestions received during the discussion. The next focus group for the Commercial Justice PSA is planned to be held in the following quarter, post-production but before broadcast, in order to pilot and test the finished deliverable and catch and fix any unwanted perceptions.

CROSS-CUTTING

Activity Area 3.1. Internship Program

The Program is conducting its internship activity, working with public and private universities in Kosovo to provide paid internship positions for their students. Opportunities include both activities on the Program directly and placements at key counterparts—such as the CPEA, the MOJ (Legal Department and Free Professions Department), and the KBA—at the outset of the activity, and later with individual PEA offices and other free professions.

Activity 3.1.1 Develop and implement Commercial Justice Academy Internship

During this Quarter, the Program selected the second round of six interns from the public and private universities such as Pristina University, Mitrovica University “Isa Boletini”, American University in Kosovo (AUK) and University of Business and Technology (UBT).

Due to COVID-9 restrictions, the commercial justice institutions were not working - or working in limited capacities. Consequently, placement of the second round has been

delayed into early the following quarter. The interns are planned to be placed at AmCham, KCC, MOJ FLD, Kosovo Bar Association (KBA), CPEA, and the Basic Court Pristina/Mediation Office.

Activity Area 3.2 Adaptive Management and Learnings

Due to the COVID-19 pandemic and restrictions imposed by the local government, the Program spent much of the reporting period adapting and adjusting activities. Learning from this period will probably be more evident in coming quarters, however there are a few aspects of learning that the Program has drawn already.

MEL efforts focused on preparing online versions of data collection tools that the Program uses, such as pre- and post-training questionnaires, as well as other surveys, the data of which is used for reporting of relevant indicators. The Program also adapted its participation lists protocol, which in the lieu of signatures from online participants, uses pictures and screenshots of meetings, depicting participants.

As part of its Learning, the Program periodically collects data from training participants. While during regular implementation training sessions are held in person and data is collected on paper, during this quarter of online training the Program learned that online surveys and questionnaire during online training had a much higher response rate than paper-based data and feedback collected in person. As such the response rate especially for post-training questionnaires has had a significant increase from an average of only 43% participants responding to paper-based questionnaires to 56% of participants responding in online responses. This presents a percentage increase of 30%, especially important for post-training questionnaires. However, compared to follow-up questionnaires, the Program also learned that the increased response rate has significant effect only when data collection is both tied to an online event and happens during that event (beginning and/or end); the follow-up survey, distributed online 8-12 weeks after the training, continues to have a very low response rate among participants.

The Program has continued to work closely with institutions where indicator data is partially sourced, such as the MOJ and KJC. Some of the data planned to be reported for some of the Program's annual indicators was not yet prepared by these institutions. The Program worked closely with them in collecting and cleaning the data, especially due to limitations of staff in these institutions as well, with many of their staff working from home, and not having access to all data.

Activity Area 3.3 Rule of Law Functional Review

In 2019 the Rule of Law Functional Review generated 16 policy papers addressing the comprehensive range of thematic areas. In Year 1, the Program supported the MOJ in the process of compiling and organizing the many recommendations set out in these policy papers before moving on to an anticipated stage of strategy development.

No actions were taken during the reporting period, as the government, beset by instability, did not take actions to move the Functional Review forward.

IV. Performance Problems During Quarter

Despite restrictions imposed due to the COVID-19 pandemic, as described above in several places throughout this report, the Program was able to rapidly shift its activities and events to VTC format. As a result, most program activities were not significantly affected by the restrictions. In fact, the Program witnessed higher participation rates in several of these

virtual events and was able to initiate online mediation as an option for litigants in otherwise closed courts. Because of their effectiveness, several of the approaches adopted during the restrictions are likely to continue after relaxation of restrictions.

A significant political event affecting Program activities was the fall of the government due to a no-confidence motion held just over one month into its mandate. With a caretaker government in place, the Program was able to continue work at non-political levels within the MOJ, at the office of the Secretary General, the Legal Department, and the Department of Free Legal Professions. However, while the caretaker government was able to adopt the Concept Note setting out the scope of the planned judicial reform on commercial justice, there was insufficient political stability during the quarter to establish an inter-ministerial working group to draft the law on Commercial Court. Nevertheless, the MOJ established an internal working group, and the Program worked closely with that group to draft and provide concrete recommendations to the draft law on Commercial Court.

Another problem faced by the Program involved the surprise dismissal and replacement by the Minister of Justice of the entire membership of the Disciplinary Commission that hears and decides complaints against private enforcement complaints. The Program had made significant progress in training the membership of the commission. Rather than repeating the training cycle from the start for the new membership, the Program determined that it would be more effective to work directly with the MOJ in developing an inventory of disciplinary matters that would help the newly appointed members to get acquainted with disciplinary challenges. The Program completed and presented the inventory to the MOJ.

V. List of Reports and Deliverables During Quarter

NO.	DOCUMENT
CJAY2QI-001	Presentation on Commercial Litigation First Instance Process Map Lessons – 2020-05-29 (ENG)
CJAY2QI-002	Draft Commercial Litigation First Instance Process Map – 2020-05-29 (ENG)
CJAY2QI-003	Report on the Draft Law on Commercial Court – 2020-05-21 (ENG)
CJAY2QI-004	Draft Commercial Court Law Implementation Plan – 2020-05-21 (ENG)
CJAY2QI-005	Executive summary of TNA draft report – 2020-03-09 (ALB & ENG)
CJAY2QI006	TNA Infographic – 2020-03-12 (ALB & ENG)
CJAY2QI-007	PP Presentation of the TNA report – 2020-03-12 (ALB & ENG)
CJAY2QI-008	A brief summary of the TNA draft report Presentation - <u>roundtable with Judges</u> – 2020 -03-12 (ALB & ENG)
CJAY2QI-009	Trip Report of the Senior Capacity Building Expert – 2020-03-16 (ENG)
CJAY2QI-010	Trip Report of the Senior Capacity Building Expert revised – Final – 2020-03-24 (ENG)
CJAY2QI-011	Training Needs Assessment Report revised draft – 2020-03-24 (ENG)

CJAY2QI-012	Trainer Profiles – revised draft – 2020-03-25 (ENG)
CJAY2QI-013	Training Needs Assessment Report - Final– 2020-03-26 (ENG, ALB, & SRB)
CJAY2QI-014	Trainer Profiles – Final – 2020-03-26 (ENG, ALB, & SRB)
CJAY2QI-015	The standardized annual report template for PEAs – 2020-03-13 – (ALB)
CJAY2QI-016, 017	Plan on process and timeline for establishing the professional standards of the PEAs – 2020-04-06 – (ALB) (ENG)
CJAY2QI-018, 019	Inventory of issues in the Disciplinary System over PEAs-2020-05-14 – (ALB) (ENG)
CJAY2QI-020	Trip Report of the Senior Enforcement Expert – 2020-05-20 – (ENG)
CJAY2QI-021	Research analysis on comparative regional state practice on enforcement tariffs – 2020-05-22 (ALB)
CJAY2QI-022, 023	Recommendations on revising the Statute of the CPEA -2020-05-29 – (ALB) (ENG)
CJAY2QI-024, 025	Recommendations on revising the Code of Ethics of PEAs - 2020-05-29 – (ALB) (ENG)
CJAY2QI-026, 027, 028	The service delivery assessment of the arbitration process 2020-05-26 (ALB) (SRB) (ENG)
CJAY2QI-029, 030, 031	The service delivery assessment of the arbitration center administration – 2020-05-26 (ALB) (SRB) (ENG)
CJAY2QI-032, 033, 034	The service delivery assessment of arbitrators to assess their needs for training and better management of cases – 2020-05-26 (ALB) (SRB) (ENG)
CJAY2QI-035	Draft of the Mediators Registry – 2020-05-06 (ALB)
CJAY2QI-036	PP Presentation of the training with the interns of JSSP on arbitration – 2020-04-30 (ALB)
CJAY2QI-037	PP Presentation of the training with the interns of JSSP on mediation – 2020-04-14 (ALB)
CJAY2QI-038	PP Presentation of the MATS with students in Peja University – 2020-05-18 (ALB)
CJAY2QI-039	PP Presentation of the MATS with students in Prizren – 2020-05-15 (ALB)
CJAY2QI-040	Live Virtual Roundtable Summary -Commercial Justice During COVID-19: How are the Courts handling commercial cases? – 2020-04-28 (ENG)
CJAY2QI-041	Live Virtual Roundtable Summary - Commercial Justice During COVID-19: Handling Enforcement – 2020-05-05 (ENG)
CJAY2QI-042	Live Virtual Roundtable Summary -Women in Business: Challenges and Opportunities during COVID-19 – 2020-05-12 (ENG)
CJAY2QI-043	Live Virtual Roundtable Summary -Commercial Justice During COVID-19: Force Majeure Clauses in Contracts: Implementation and Challenges – 2020-05-19 (ENG)
CJAY2QI-044	Live Virtual Roundtable Summary -Arbitration: An Opportunity for Dispute Resolution in Insurance and Banking Sector – 2020-05-26 (ENG)

VI. Significant Activities Planned for Next Quarter

- Complete concrete recommendations on the Draft Law on Commercial Court.
- Organize three working group meetings to supporting the MOJ in developing and consulting the Draft Law on Commercial Court.
- Complete commercial litigation process map for the Court of Appeals and Supreme Court.
- Conduct three curriculum development workshops.
- Complete design of processes and templates for screening of complaints to MOJ regarding enforcement.
- Complete design of processes and templates for screening of complaints to CPEA regarding enforcement.
- Conduct a workshop on basic inspection principles and templates for the MOJ Inspection Unit.
- Complete Guidance policy on use of the Bank Account Registry of the Central Bank to collect against bank accounts.
- Advocate to the CPEA Executive Board members to adopt the Communication Strategy with associated annexes and Action Plan.
- Conduct periodic mentoring sessions with CPEA staff on communications.
- Support the CPEA in organizing a media open house to build relationships and better understanding with members of the media.
- Support arbitration centers in AmCham and KCC to increase the use of arbitration.
- Organize roundtables with industry associations for the promotion of arbitration.
- Provide review and assessment of the service delivery of arbitration centers.
- Conduct Mediation Awareness Trainings.
- Support judges and court staff in selecting appropriate cases for mediation, based on the approved Guideline on mediation.
- Support court filing clerks to advice parties about mediation option.
- Support MOJ implementation of five mediation AIs.
- Support MOJ to adopt the remaining AI's on mediation.
- Support MOJ to develop mediators register.
- Support MOJ and KJC to develop a consolidated database for mediation data collection.
- Support MOJ to adopt the Charter of the Chamber of Mediators.
- Work with KJC to create financial incentives on mediation.
- Work with KJC to have the full-time positions of the mediation clerks filled.
- Support establishment of working group on commercial legislation.
- Assist KJC to complete the Communication Strategy
- Produce the first PSA followed with radio spots. The development of PSA and radio spot will be followed with launch event.

ANNEX I – MEDIATION CASE REFERRAL DATA – Y2Q1

Cases Referred to Mediation by Basic Courts* March 2020 - May 2020									
Basic Court	Criminal cases				Civil Cases				Total
	Resolved	Unresolved	Online mediation cases	Total	Resolved	Unresolved	Online mediation cases	Total	
Pristina	36	2	2	40	2	2	/	4	44
Ferizaj	7	/	/	7	/	2	1	3	10
Prizren	28	9	/	37	/	/	/	/	37
Gjilan	6	/	/	6	/	/	/	/	6
Peja	/	/	/	/	/	/	/	/	/
Gjakova	3	/	/	3	/	/	/	/	3
Total	80	11	2	93	2	4	1	7	100

Note: The data covers the period March 2020-May 2020. Because of COVID-19, the Courts did not proceed with referral of mediation cases until the last week of the reporting period.

ANNEX 2 – INDICATOR TRACKING TABLE – Y2Q1

Commercial Justice Activity
Contract No. 72016719C00001

June 15, 2020

#	Indicator	Base-line	T. Y1	A. Y1	Target Year 2	Actual Year 2	T. Y3	A. Y3	T. Y4	A. Y4	T. Y5	A. Y5	Comments
Purpose: Improve commercial dispute resolution and enforcement to reduce opportunities for economic corruption, thereby encouraging investment in Kosovo.													
1	Freedom House Nations in Transit Judicial Framework and Independence Score	6/16	6/16	6/163	6/16		7/16		7/16		8/16		Reported annually
2	Public Perception of Judiciary's Independence	43.6%	45%	39.74	46%		47%		48%		50%		Reported with publication of Public Pulse XVIII in May 2020
Objective 1: Strengthening Kosovo's Capacity to Resolve Commercial Disputes and Enforce Judgments													
1.1	Average number of days to resolve commercial cases ⁵	PBC: 822 ⁶	PBC: 800	PBC: 515	PBC: 800		PBC: 760		PBC: 684		PBC: 531		As reported in previous report, due to non-adequate naming of data by KJC, which was recently identified, the baseline value for the PBC disaggregation of this indicator will need to be revised. The actual baseline value has been identified to be 620. Necessary changes in PIRS will be requested and made, and annual targets revised accordingly. Improving data quality and performance at KJC is also one of the
		CoA: 304	CoA: 300	CoA: 468	CoA: 300		CoA: 285		CoA: 256		CoA: 218		

³ [Freedom House Report 2019 – Kosovo – Section F: Rule of Law](#)

⁴ [Public Pulse Report XVIII – Democratization and Economic Confidences Indices](#)

⁵ Indicator to be reported to USAID Washington, D.C.

⁶ Needs revision in PIRS, consequently will need to revise annual targets adequately

														Program's efforts, as listed in the relevant PIRS. Based on available data, annual data fluctuations are historically the norm.
1.2	Percent of businesses including Alternative Dispute Resolution (ADR) clauses in their contracts	21%	-	-	-			25%					35%	Reported at baseline, mid-line, end-line
1.3	Number of government officials trained in support of commercial justice anti-corruption efforts (DR.2.4-1) ⁷	0	70	Total	50	Total	QI	50		50		40	During QI a total of 117 governmental officials have participated in Program trainings, 77 of them for the first time, 40 of them have been at other trainings in prior quarters and were deducted to avoid double-counting.	
					154		31	77						
				M:	107	M:	56							
				F:	47	F:	21							
1.4	Number of people affiliated with non-governmental organizations trained in support of commercial justice anti-corruption efforts (DR 2.4-3)	0	70	Total	90	Total	QI	90		40		30	Most of the trained new persons affiliated with non-governmental organizations and institutions this quarter were trained through Mediation Awareness Training Series (MATS) sessions, and 75 of them are youth (60 young women and 15 young men), trained at public universities in Peja and Prizren, along with USAID interns. A total of 123 persons in this category were trained in QI, however, 87 for the first time, thus 36 who have participated in previous trainings have not been counted to correct for double-counting. As MATS have been an addition to the Program, proposed as a result of the engagement of External Mediation Experts, MEL suggestion remains to	
					145		32	87						
				M:	70	M:	88	M:	18					
				F:	75	F:	144	F:	69					

⁷ Indicator to be reported to USAID Washington, D.C.

														consider reviewing and revising all annual targets to reflect these developments.
1.5	Number of USG-assisted trainings on commercial justice	0	18	Total 27	20	Total 35	Q1 10	20		15		10		Q1: Objective 1: 2 trainings Both on Professional Standards for CPEA Objective 2: 8 trainings 4 Mediation Awareness Training Series/ Sessions (MATS) with Peja and Prizren Students and USAID interns 3 Trainings on Mediation for Judges with Kosovo Justice Academy (2 of which already counted to total in last quarter). 1 Arbitration training for USAID interns
ER 1.1. The Economic Departments of the Pristina Basic Court and Appellate Court issue decisions more efficiently and professionally.														
1.1.1	Commercial case resolution ratio	PBC: 0.39 CoA: 0.35	PBC: 0.39 CoA: 0.35	PBC: 0.37 CoA: 0.52	PBC: 0.40 CoA: 0.36		PBC: 0.42 CoA: 0.38		PBC: 0.45 CoA: 0.40		PBC: 0.47 CoA: 0.43			Reported annually
ER 1.2. The Economic Departments of the Pristina Basic Court and Appellate Court improve timely enforcement of their decisions														
1.2.1	Number of enforced cases through PEA	13,423	14,094	15,354 ⁸	14,798		15,538		15,538		15,538			Y1 annual data update: based on 36 PEA annual 2019 reports posted to MOJ website so far (06/12/2020). Deadline for PEAs submission was March 31 st , 2020. Due to COVID-19 restrictions, MOJ's work has been very limited, and not all reports have been submitted/reviewed or uploaded yet. Another 3 PEAs reports expected, totaling to 39 reports – the annual result can be updated in the next quarter with the upload of the remaining results. 2 PEAs that had been active for some period of 2019 have resigned, and

⁸ Preliminary data, based on 39 PEA reports posted by the time of reporting, annual result to be updated in the following report

												chances of them submitting reports are low. Due to pivoting results in the number of cases enforce by PEAs (and consequently collected value connected to the cases), the targets of this indicator might also need to be revised. While in previous years the annual number of cases was a significantly lower compared to recent data, the targets may need to be re-estimated.
I.2.2	Collected value by PEAs	EUR 68,264,500	EUR 71,677,725	55,165,076.799	EUR 75,261,611		EUR 79,024,691		EUR 79,024,691	EUR 79,024,691		Result not complete – awaiting additional PEAs annual reports. However, the analysis that can be made so far with the data available, is that while the number of cases resolved through PEAs has increased dramatically, the value collected has not increased by the same margin. This could be explained by the application of private enforcement becoming more and more the norm, and even for smaller contracts. This can also be interpreted positively, in that more contracts have been made between businesses and also for lower contractual sums. These claims are supported by data, comparing 2018 to 2019 average sum collected per PEA which has dropped from EUR 1.75 Mil. To EUR 1.49 Mil. Upon receiving complete data, targets may need to be adjusted.
ER 1.3. Ministry of Justice provides appropriate oversight over and holds Private Enforcement Agents accountable as set forth in amendments to the Law on Enforcement Procedure.												

⁹ Preliminary data, based on 39 PEA reports posted by the time of reporting, annual result to be updated in the following report.

I.3.1	Number PEAs with significant disciplinary action imposed upon	0	0	2	1		2		3		4		Reported annually
ER I.4. Improved organizational capacity of the Chamber of Private Enforcement Agents to more effectively manage its resources, improve enforcement, strengthen professional standards, and retain and recruit staff.													
I.4.1	Performance increase of CPEA as measured by OCAT annually.	2.21/4	N/A	2.21	2.54/4		2.92/4		3.21/4		3.52/4		Reported annually
ER I.5. Increased knowledge and effective application of commercial law by judges, court staff, and other stakeholders.													
I.5.1	Number of judicial personnel trained with USG assistance (DR.1.3-1) ¹⁰	0	60	Total	15	Total	30		50		30		Of the trained judicial personnel, aside from judges and court clerks, the Program also trained 16 prosecutors who are included in the calculation (2 women and 14 men). Through the introduction of MATS and the 7 regional MATS sessions for Judges and court staff, the number of trained judicial personnel has increased drastically compared to the target value. Because the target for Y2 had already been reported to Washington DC before the Program's international experts designed the MATS sessions, the Program has not changed the Y2 target, as addressed in previous reports as well.
86				152	66								
M: 66				M: 114	M: 48								
F: 20				F: 38	F: 18								
I.5.2	Percent change in knowledge as measured by pre and post training assessment	N/A ¹¹	N/A	31% increase	25%		25%		25%		25%		From the Mediation training for Judges and judicial staff. Regarding Pre and Post questionnaire, all participants are encouraged to fill the forms, and ensured anonymity with the purpose of improving the training. Of the total 193 participants, only 106 (59%) filled the Pre-test, and only 87

¹⁰ Indicator to be reported to USAID Washington, D.C.

¹¹ No baseline value applicable, as it measures the level of knowledge of trainees before and after program-related trainings.

													(45%) filled the post-test. While in aggregate terms, the data produced is significant and reliable, it should be noted that a large part, of participants do not participate, especially in the post-test – which shows the final result.
I.5.3	Number of judicial personnel that apply improved commercial law enforcement practices, as a result of USG assistance	0	0	11 ¹² / 85%	30		10		15		15		<p>Given the low response rate with pre- and post – which happen at the first and last minutes during the training (for these results collected in-person), the response rate to the online follow-up questionnaire, is far worse. The period of sending the follow-up, as specified in the PIRS, is 8-12 weeks in order to let participants have the opportunity to use and apply principles covered in training. Of the over 130 participants from the first 5 groups that completed the training 8-12 weeks ago, only 21 responded (18 ALB, 3 SRB). The survey has been left open, in case some judges decide to respond late.</p> <p>This is also the reason why MEL suggests that the indicator name should be changed from number of to % of – which would mean percent of respondents who answered positively.</p> <p>In this case, of the 21 respondents, only 13 answered this question, 11 of which positively. The good news is, even during COVID, 100% of respondents reported that the</p>

¹² Preliminary result: Due to the 8-12 week retention period between training and follow-up questionnaire, results of additional training groups will be reported accordingly.

														training made their work more effective; and on average they referred about 25% of their cases to mediation. One Serbian respondent furthermore reported to have referred 180 expropriation cases to mediation in the past 12 weeks alone. The pre- and post- questionnaires filled online during online trainings (groups 6 and 7) had much higher response rate, we hope this might induce a higher follow-up response rate for the remaining 2 groups.
ER I.6. Perception of corruption and satisfaction of businesses with commercial dispute resolution improved.														
I.6.1	Percent businesses satisfied with commercial services.	businesses with court	28.8% Disaggregation by winning, vs. losing cases: 47% winning, 13% losing, 40% neither).	-	-			34%				42%		Reported at baseline, mid-line, end-line
I.6.2	Number of commercial justice and business roundtables events.	0	4	Total 6	5	Total 10	QI 4	5		5		4		Due to the COVID-19 pandemic and its effects, the Program has adapted the Program by adding 4 online sessions related to COVID-effects on commercial justice and the business sector, by holding 4 online public discussion/ roundtable events with AmCham and relevant stakeholders

ER 2.2. Commercial legislation harmonized with European Union (EU) and international best practices.													
2.2.1	Number of new laws and secondary legislation to improve commercial justice finalized and adopted using USG assistance ¹⁵	0	10	5	7		4		9		4		Reported annually
ER 2.3. Improved strategic communication between commercial justice institutions and the general public.													
2.3.1	The number of CJIs supported in strategic communication	0	1	2	3		5		-		-		Reported annually
ER 2.4. Increased public awareness of commercial law dispute resolution and enforcement mechanisms, including existence and nature of reforms.													
2.4.1	Percent of general public aware of the commercial justice	23% Disaggregation by gender: Male: 24% Female 23%	-	-	-	-	Program 30%			-	Program 35%		Reported at baseline, mid-line, end-line
	Disaggregation by Business-owner: 30%						P.P: 45%				P.P: 50%		
	Public Pulse baseline result: 39%												

¹⁵ Indicator to be reported to USAID Washington, D.C.

2.4.2	Percent of general public aware of the ADR mechanisms	31% Disaggregation by gender: Male: 30% Female 33% Disaggregation by Business-owner: 30%	-	-	-	-	Prog: 33%			-	Prog: 35%		Reported at baseline, mid-line, end-line
		Public Pulse baseline result: 38%					Public Pulse : 40%				Public Pulse: 42%		
ER 2.5. Commercial Justice Institutions more effectively advocate for adoption of their initiatives.													
2.5.1	Number of initiatives adopted	0	0	Total	6	Tot	Q1	4		4		2	
				0		0	0						
2.5.2	Number of public officials trained on advocacy	0	0	-	6	-		8		8		-	Reported annually
Cross-Cutting ER. Commercial justice-related internship program is operating and self-sustainable.													
CC.1	Number of interns that complete internship program	0	3	2	6			6	5		0		Reported annually
				F: 1									
				M: 1									

CC.2	Sustainable business model identified	internship model	No	N/A	-	N/A		Partner organizations identified	Sustainable internship business model drafted	Sustainable commercial justice internship program established		Reported annually starting from Y3.
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