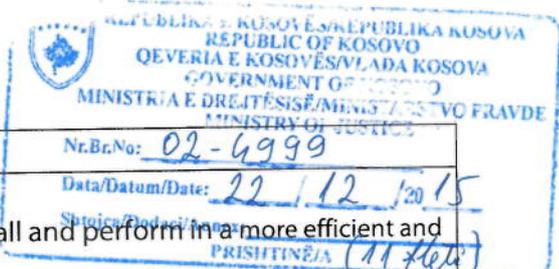


**Project Document**



**Project Title: Support to strengthen the rule of law in Kosovo**

**UN Kosovo Team Common Development Plan Outcome(s):**

**Outcome 1.1:** Rule of law system and institutions are accessible to all and perform in a more efficient and effective way.

**Outcome 1.2.:** Civil society participates more effectively in the design of rule of law reforms and in holding relevant institutions accountable for their implementation

**Outcome 1.3:** The authorities of Kosovo manage mixed migration flows more effectively and in line with international standards

**Expected KPAP Outcome(s):** Rule of law system and institutions are accessible to all and perform in a more efficient and effective manner.

**Expected Output(s):**  
A more timely and accurate administration of justice throughout the justice system in Kosovo, moving Kosovo closer to full realization of rule of law and European integration.

**Implementing Agency:** United Nations Development Programme (UNDP)

**Outline**

The main aim of the Support to Strengthening the Rule of Law Project in Kosovo (SSROLK) is to support the provision of an efficient, effective, and timely administration of justice. Rule of Law and Access to Justice are among the main political conditions for Kosovo in the European Integration process, which calls for ensuring that courts and prosecution are effective, independent, accountable and impartial, and free from political influence. The process also calls for support to relevant rule of law institutions in the implementation of the Belgrade-Pristina dialogue agreement on the reintegration of judiciary in the north.

Despite advancements in the sector, key issues of effectiveness and efficiency remain, both at policy and implementation level. The former includes: lack of coherent strategic and operational planning; As for the latter, the key issue is low efficiency of courts and prosecution offices due to non-standardised interpretation of civil and criminal laws and norms in accordance with the new legislation. An emerging need is the integration of Kosovo Serb judges and prosecutors in the Kosovo judicial system through training to increase their professional capacities. KJI is responsible for providing such training, never the less, they also require support in identifying the training needs and develop the appropriate curricula.

The on-going justice reform, through the amendment of the four core laws, requires the drafting of secondary legislation for both the Kosovo Prosecutorial Council and Kosovo Judicial Council. Access to justice is a key element of rule of law in protecting human rights. An important issue related to access to justice is mediation as an alternative dispute resolution mechanism. A more functional mediation system, whereby more cases are referred from judges, prosecutors and citizens, will lead to improved access to justice and a reduction of backlog cases.

Programme Period: 01/01/2016 to 31/12/2017 Project Title: Support to strengthen the rule of law in Kosovo (SSROL) Atlas Award ID: 84098 Component Start date: 01 January 2016 End Date: 31 December 2017 PAC Meeting Date: 16 November 2015	Total resources required	Euro 436,447.43
	Total allocated resources:	
	Government:	Euro 436,447.43
	Unfunded budget:	_0_/_____
	In-kind Contributions:	_0_/_____

Agreed by: Ministry of Justice \_\_\_\_\_ *[Signature]* 22-12-15

Agreed by: Kosovo Judicial Council \_\_\_\_\_ *[Signature]* 21/12/15

Agreed by: Kosovo Prosecutorial Council \_\_\_\_\_ *A. Mezi 21-12.15.*

Agreed by: Kosovo Judicial Institute \_\_\_\_\_ *[Signature]*

Agreed by: UNDP \_\_\_\_\_ *Luccasalu, R.R. ai*

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## **I. BACKGROUND AND SITUATION IN KOSOVO**

Kosovo made considerable progress with regard to improving the Rule of Law and building its democratic institutions. However, challenges remain with regard to the efficiency of the institutions, corruption being one of the more significant obstacles for efficient and timely implementation of rule of law. The low trust of the society in the ability of the legal system to uphold the rule of law has a wider, negative, effect which is noticeable in the economic development, attracting foreign investments, and reduction of unemployment rates (over 35%).<sup>1</sup> The UNDP's March 2015 Public Pulse Poll shows a general decrease in people's satisfaction with the work of judicial institutions<sup>2</sup> (6% decrease since November 2014). The report highlights that "the satisfaction level with the judiciary is the lowest compared to all the other institutions, suggesting that loss of trust in the rule of law has influenced the satisfaction level with other institutions and areas as well" (p.2).

There is a lack of accountability of government institutions in the rule of law sector, partly because the concept of independent oversight institutions still has not taken root and partly due to the lack of administrative capacities. This lack of accountability and effective remedies has prevented the full establishment of rule of law in Kosovo. Furthermore, coordination among the relevant rule of law institutions in Kosovo remains weak and fragmented and there is a lack of efficient data management practices between and within the institutions.

The recent justice agreement between Pristina and Belgrade aims to integrate the courts in the north into a unified system with the rest of Kosovo. The agreement marks a significant and substantial step forward, in the process of the normalization of the relations between Kosovo and Serbia. The process now calls for successful integration of Kosovo Serb judges and prosecutors in the Kosovo judicial system through training to increase their professional capacities.

Repeated EU Progress Reports have noted the Kosovo Judicial Institute as one of the only successful, functioning institutions in Kosovo. The Continuous Legal Education Programme (CLEP) is designed to offer professional development for current incumbents of the posts in judiciary. The programme delivers 20 training sessions throughout the year in different topics of Civil and Human Rights that judges and prosecutors identify as immediate need for training in order to improve their skills. This programme will be of great importance in the upcoming years due to the fact that the reappointment process resulted in a high turnover of judges and prosecutors, where most of the newly selected candidates will have only basic skills acquired through the Initial Legal Education Programme and have never before undergone further development training.

Legal practitioners continue interpreting civil and criminal laws and norms in varying degrees, thereby creating insecurity amongst the legal practitioners. There is a need to improve the efficiency of the legal system by clarifying and unifying judicial practices through the publication of guidelines on the implementation of certain legal provisions in the Basic courts and Court of Appeal and thus assist the practitioners in their daily work. Through the harmonization of practices, the public's confidence in the judicial system will be increased and the existing and new legislation will be better understood by legal professionals.

UNDP has played a crucial role in supporting the mandate of the Mediation system, as an alternative dispute resolution mechanism. The support involved the establishment of the Secretariat of the Mediation Commission, the opening of three mediation offices (Pristina, Gjakova and Ferizaj), training of candidates for mediators as per the Law on Mediation, training of mediators and staff from the Mediation Commission as well as raising public awareness on mediation through campaigns. As a result, citizens now directly approach the mediation centres to resolve their disputes. Due to the growing success of mediation<sup>3</sup> and

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<sup>1</sup> <https://www.ask.rks-gov.net/>

<sup>2</sup> [http://www.ks.undp.org/content/dam/kosovo/docs/PublicPulse/pp9/PPR9\\_Anglisht.pdf](http://www.ks.undp.org/content/dam/kosovo/docs/PublicPulse/pp9/PPR9_Anglisht.pdf)

<sup>3</sup> EC Progress Report 2014

order to further increase the citizens' access to justice, and, equally important, reduce the backlog of cases at courts and prosecution offices.

### **Progress and challenges with regard to strengthening the rule of law**

One of the challenges facing the development of Kosovo is an efficient and effective rule of law system. Without robust and well-established rule of law, Kosovo's path to European integration, as well as economic and social development, is severely hampered. Currently Kosovo is working towards meeting EU-requirements on several fronts, both short and medium term, as specified in the EC Progress Report 2014.

Currently the legal framework in Kosovo is sufficient to ensure, in theory, an adequate implementation of justice, respecting all applicable human rights instruments in force. However, it is a lack of timely, efficient and comprehensive implementation across the justice institutions that hinders full implementation of rule of law. In so far as EU integration and the current legal framework are concerned, there is still work to be done in order to ensure that the framework is in compliance with the EU *acquis*. Thus, overarching recommendations of the 2012 Feasibility Study for Kosovo<sup>4</sup> are harmonization of legislation and an efficient implementation of the existing legal framework. Moreover, the Constitution of Kosovo requires that judicial practice complies adequately with the European Convention on Human Rights (ECHR) requirements and follows closely the ECHR case-law.

The EC Progress report for 2014 outlines progress and remaining challenges with regard to *accountability* and *efficiency within the justice system* as well as access to justice, which are the key areas that this project will address.

With regard to accountability, both the Kosovo Judicial Council (KJC) and the Kosovo Prosecutorial Council (KPC) adopted regulations on the performance evaluation of judges and prosecutors, including on the disciplinary committee of the judicial council. However, more needs to be done to ensure the functioning and accountability of the judiciary. In order to ensure full implementation of the laws on the judicial and prosecutorial councils, both councils still need to adopt **secondary legislation**<sup>5</sup>. The EC Progress report also notes that the laws on courts, the state prosecutor, the judicial council and the prosecutorial council, also need to be harmonised to address inconsistencies on issues such as dismissal, appointment, transfer, disciplinary system and procedures for the review of decisions taken by the councils.

The KJC and the KPC experienced significant delays in approving strategic documents, regulations and other decisions or acts. There is still not enough capacity to draft regulations and take decisions in full compliance with the hierarchy of normative acts. There is a lack of capacity within the KJC and the KPC to monitor the implementation of their decisions.

In regards to efficiency of judiciary, the backlog of cases remains a problem. At the beginning of 2015, the State Prosecutor had 120.706 cases pending. Correspondingly, according to the Department of Statistics of KJC, at the beginning of 2015 the number of unsolved cases was 91 545. Concerning the backlog (cases filed before 31 December 2011), 16 090 cases were completed at the end of 2014 out of a total of 41 038. The number of backlog cases at the beginning of 2015 was 24 948, out of which approximately 3 000 cases were completed during the first half of 2015. Kosovo's courts now have a clearance rate of 84 % (up from 71 %) of cases resolved within a year. There are no figures on the disposition time (i.e. the average time from filing the case to a decision) in Kosovo's courts.<sup>6</sup>

Applications have been received following vacancy notices published by the KJC and the KPC in March 2015 for Kosovo Serb judges and prosecutors, both for courts in the south and north of Kosovo, in accordance with the political agreement between Belgrade and Pristina. Some positions were filled in July 2015, a significant step forward in the integration of the judiciary in the north.<sup>7</sup>

With regard to access to justice and alternative dispute resolution, mediation centres have had a positive impact since the number of cases referred to mediation centres increased considerably in the past year.

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<sup>4</sup> COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on a Feasibility Study for a Stabilization and Association Agreement between the European Union and Kosovo. The 2012 Feasibility study for Kosovo represented the first step towards the start of negotiations of a Stabilisation and Association Agreement (SAA) between the European Union and Kosovo; the SSA in turn being one of the first steps towards EU integration. In order for the SSA to be successfully concluded Kosovo needs to meet EU standards in the eight other priority areas identified in the feasibility study.

<sup>5</sup> Supporting the KJC and KPC to develop the secondary legislation in view of the ongoing justice reform is one of the key activities of the SSROL Project 2016-2017.

<sup>6</sup> EC progress Report 2015, p. 15

<sup>7</sup> EC Progress, Report 2015, p. 13.

During the period January – November 2015, 1371 cases were referred to mediation, compared to 699 in the same period a year before. The same applies to the number of cases resolved, 1159 compared to 350<sup>8</sup>. Despite these positive figures the public awareness of mediation and mediation centres needs to be improved in order for all citizens in Kosovo to have the ability to consider mediation as an effective alternative dispute resolution mechanism. Currently there are 163 certified and licensed mediators, of which 54 are women and 110 are men. Minority communities are represented with two mediators from the Bosnian community, one from the Gorani community and one from the Turk community.

### ***Donor coordination in the rule of law sector***

In regard to international assistance and donor coordination in the rule of law sector, the Ministry of European Integration has assumed the function of coordinating development assistance to Kosovo in accordance with Regulation No. 04/2011 on donor coordination. The aim of the regulation is to increase the role of local institutions for the coordination of foreign aid, creating a system that ensures the effectiveness and transparency between the activities and priorities of the institutions of Kosovo and the donor community. According to the Regulation, relevant ministries are responsible for sub-sector coordination working groups. The Ministry of Justice should therefore lead a working-group/secretariat to identify priorities, support the implementation of strategies and action plans, as well as establish a clear and comprehensive mapping of current activities and projects. Under the leadership of the MoJ, and in cooperation with of Kosovo Judicial Council, Kosovo Prosecutorial Council, Kosovo Judicial Institute, a Secretariat for Coordination of Rule of Law Activities is now established and functional.

### ***Multi-ethnic representation in the justice system and justice service delivery to minority groups***

The current situation in Kosovo in regard to multi-ethnic representation in the justice system as well as trust by the different groups of the society in the justice institutions can be described as challenging. The project will assist justice institutions (courts and prosecution offices) in further developing a multi-ethnic justice system, ensuring that these institutions are efficient, accountable adhering to internationally recognised standards and European best practices. The project, in close cooperation and coordination with relevant stakeholders, will support the training and integration of the new non-majority community's judges and prosecutors in the local judiciary.

The economic situation in Kosovo with low wages, unemployment and high prices contributes to the occurrence of corruption and nepotism within the justice institutions; both being direct threats and hindrance to the establishment of rule of law in Kosovo.

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## **II. UNDP'S SUPPORT TO STRENGTHENING RULE OF LAW IN KOSOVO**

### **2.1 UNDP's support to strengthening the rule of law in Kosovo since 2006**

In 2006, the UNDP office in Kosovo in close consultation with the national institutions defined six targeted outcomes, one of which was to help establish effective judicial and policing institutions and contribute to personal security. In general, UNDP rule of law interventions focused on four main areas: addressing the legacy of conflict; improving human security; increasing access to justice for all; and delivering security and access to justice for women.

An outcome evaluation of the Rule of Law Programme 2007-2012 was undertaken to assess strategic relevance of the Programme and its performance in terms of effectiveness and efficiency as well to orient UNDP and its partners' for future rule of law assistance.

The main results since 2008 include the establishment of the Constitutional Court, support to judicial education through the establishment of the KJC and the KPC, the establishment of an Agency for free legal

aid, the introduction of a probation and a mediation service, as well as increased capacities of the Kosovo Police Service to address domestic violence and trafficking.

UNDP Kosovo continued the rule of law programming in 2013 and 2014, focusing mainly on access to justice of the most vulnerable. In 2013, a total of 2,852 legal cases were completed by the UNDP supported legal aid offices, which is over 50% increase since the year before. From January 2010 to November 2013, a total of 7152 people (33% women) used the services of the eight UNDP supported legal aid offices and the legal aid mobile clinic. With UNDP's support, the Mediation Commission established its Secretariat and three Mediation Centres. As a result, 764 clients (24% women) availed themselves of mediation services. UNDP Kosovo provided expert assistance to the Office of the National Coordinator against Domestic Violence, the Office of the National Coordinator against Trafficking in Human Beings, the Kosovo Police (KP), Agency for Gender Equality within the Office of the Prime Minister, NGO run shelters as well as other relevant ministries and partners that are part of the Inter-Ministerial Working Groups on domestic violence and human trafficking. Interventions directly contributed to a more functional national led mechanism in place which prevents and combats domestic violence.

UNDP is a trusted partner for several justice institutions due to the fact that UNDP Kosovo works in close partnership with them and their counterparts. Current challenges within the field of rule of law include the low level of implementation, corruption and inefficiency of the judicial system, in particular with regard to the low level of enforcement of court decisions. Furthermore, the sustainability of the efforts and financial dependency of some of the new justice institutions supported presented a challenge. For example, despite assurances at very high political levels, the Agency for Free Legal Aid was not in a position to mobilize central funding for the legal aid offices supported by UNDP and consequently the offices were closed after completion of the UNDP project.

## 2.2 UNDP's Rule of Law programming portfolio – present and future

For the current and future programming phase, based on the recommendations and evaluations of UNDP and other international organizations, UNDP will strive to support relevant institutions to deliver justice more efficiently and independently of central influence as well as corruption. Furthermore, it will also focus on assisting women as well as other vulnerable and marginalized groups. This is considered critical to inspiring confidence in citizens that they can and should take an active role in their country's development, and easing Kosovo's path to European integration.

UNDP's rule of law portfolio is focusing on the following five components:

- 1) Policy development, planning and coordination on strengthening the rule of law;
- 2) Institutional strengthening and professionalization of justice actors;
- 3) Access to justice and justice service delivery (including women's access to justice);
- 4) Transitional Justice and dealing with the past; and
- 5) Community safety and security.

This project "Support to strengthen the Rule of Law in Kosovo" focuses on the first three components.

The project is complementary to three other projects currently implemented by UNDP and its partners, namely:

- 1) Support to Transitional Justice in Kosovo (2014-2016) - implemented in collaboration with OHCHR and UN Women;
- 2) Support to Anti-Corruption Efforts in Kosovo (SAEK) (2013-2016)
- 3) Safer Communities & Firearms Explosive Risk Mitigation (FERM)

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## **III. PROJECT STRATEGY**

The main objective of the Support to Strengthening the Rule of Law Project in Kosovo (SSROLK) is to support the provision of an efficient, effective, and timely administration of justice. To achieve this objective, the project's strategy is focused on the following three interlinked levels:

1. The policy level: will address the policy and coordination aspects between justice institutions, and harmonization of strategic planning. This will lead to an increased efficiency on the implementation of reforms and the new legal framework.
2. The capacity development and institutional reform: will focus on providing tailor-made institutional support to increase institutional and individual capacities, efficiency and accountability.
3. Access to justice and service delivery: will focus on increasing access to justice for Kosovo's population and the need to reduce the courts' and prosecution offices' cases backlog, through the mediation system.

The project will be implemented in close cooperation with Ministry of Justice (MoJ), Kosovo Judicial Council (KJC), Kosovo Prosecutorial Council (KPC), Kosovo Judicial Institute (KJI) and Mediation Commission (MC).

### **3.1. Guiding principles and cross-cutting issues**

Building upon UNDP's global experience, and work in Kosovo, the project will use the following guiding principles in the implementation and monitoring of the project:

**National ownership:** The delivery of all assistance will be guided by the principle of local ownership. The activities will be implemented by the concerned institutions in Kosovo with the direct support of UNDP experts and partner stakeholders. Institutional change must be locally driven and owned, with UNDP and relevant partners providing support and guidance. Some of the institutional change needed is due to the adoption of EU standards.

**Evidence based programming, measuring and capturing results:** The project will monitor results and demonstrate progress, even if incremental, and will embed systematic M&E approaches into all aspects of the project (e.g. baseline data collection, baseline assessments, capacity assessments of institutions, civil society, and access to justice profiles). The project will work with national and local authorities, civil society partners, and development partners on drawing and analysing data and assessing progress and impact.

**Gender equality and women empowerment:** A gender equality perspective will be mainstreamed throughout the project, through ensuring the collection and interpretation of gender / age disaggregated data and conducting gender analysis to better inform project design and implementation. The project will prioritize women's access to justice services and women's participation and role (including decision making) in the rule of law architecture. It will specifically address:

- Seek to ensure that gender equality issues are incorporated into all relevant policies and legislation, and that justice institution and processes are equal and fair for both women and men;
- Advocate for increased participation of women in the justice sector and in social integration policy-making and actions at the institutional level and support their active engagement in civil society;
- Ensure that policy and planning processes are consultative, participatory and actively encourage the involvement and decision making role of women as well as marginalized and vulnerable groups, and that plans and services are sensitive to their specific needs;
- Ensure gender issues are fully incorporated in curricula and training materials that are developed;
- Prioritize career development and capacity building for female judges, prosecutors and support networks/platforms for their engagement in justice dialogue forums and coordination mechanisms.

**Human rights-based approach:** In addition to ensuring that the project is executed in full conformity with the international human rights standards, the project will actively promote human rights through a cross-cutting approach:

- Support state capacity to ensure that policies, laws and by-laws promote equality and are non-discriminatory and contain positive measures where considered critical;

- Advocate that justice services are available, affordable, accessible, and acceptable for all;
- Advocate for human rights to be incorporated in legal curricula and training materials, as well as civic education initiatives; and
- Encourage the local Civil Society Organizations to actively and constructively engage with justice services providers.

In essence, the main and overarching problem in the justice system in Kosovo is the implementation of the legal and institutional framework. More specifically, it is the lack of a culture of institutional implementation of, primarily, secondary legislation. In order to address this institutional deficiency, justice institutions must define the issues causing the lack of implementation. As a follow-up justice institutions should define clear, practical, coherent strategies that include how to begin addressing the issue of implementation and all the associated side effects. Based on this approach a number of interventions can be formulated to provide practical solutions. Mainly this will be a question of training, basic education and, most importantly, a change in organizational culture, linked with career incentives for staff that follows the rules, as well as punitive measures in response to breach of procedures and the relevant code of conduct.

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## IV. Project output

The project's objective to support the provision of an efficient, effective, and timely administration of justice, is organized around the following output:

### **Output 1: Institutional capacities of justice institutions strengthened and career development of legal actors improved**

#### **Activity 1: Improve the strategic planning, policy development and coordination**

Justice institutions, namely: the Ministry of Justice (MoJ), Kosovo Judicial Council (KJC), Kosovo Prosecutorial Council (KPC) and Kosovo Judicial Institute (KJI) need to improve their strategic planning, policy development and coordination. In order to achieve that, this output aims to support the functioning of a RoL Coordination Mechanism (hereinafter the "Mechanism"). The Mechanism is a designed tool for determining, coordinating and implementing joint strategic priorities and policies of justice institutions. Also, this Mechanism will be able to assess the situation within the justice institutions, provide advices on how to use donor funds and how to determine the future support needs within the rule of law sector in Kosovo. The justice institutions involved within the Mechanism are: MoJ, KJC, KPC, and KJI.

The Mechanism is divided in two levels and consists of a Functional team and a Support team. The Functional team, or the first level, consists of senior representatives of beneficiary justice institutions. The Support team (second level) of the Mechanism provides professional support to the structure and day to day operational requirements of the Functional team (first level).

UNDP, as technical supporter of this program, will be monitoring and supporting the activities of this Mechanism by ensuring professional support through the support team (four National Legal Advisors) assigned to the above-mentioned institutions. Moreover, the UNDP will provide technical and logistical support throughout the lifespan of this Mechanism, in order to ensure performance of daily tasks and expected outcomes of the Coordination Mechanism in general.

Moreover, through the Mechanism, UNDP will provide support and assistance to MoJ in the process of justice review and developing of a sector-wide RoL strategy for 2016-2020 aimed at increasing the efficiency of Kosovo judiciary with regard to the implementation of reforms and the new legal framework. Furthermore, activity 3.1 of this output will assist the KJC and KPC in achieving their institutional changes making them more efficient and effective. Most importantly, the changes will seek to positively affect the efficiency and effectiveness of courts and prosecution offices on the ground.

**Activity Result 1.1:** The Ministry of justice is effectively coordinating national institutions in the rule of law sector.

Through this Activity the project aims to institutionalize the coordination between the main justice institutions and harmonize their strategic planning for increased efficiency with regard to the implementation of reforms and the new legal framework. Therefore, it is critical to support the functioning

of the RoL Coordination Mechanism (the Secretariat, already established by UNDP) to better coordinate the inter-institutional strategic plans and policies, including various rule of law programs in Kosovo. The purpose of this Mechanism is to discuss and identify pressing issues, set priorities and agree on solutions, among representatives of key government and RoL institutions, partners and donors, and also including the representatives of NGOs.

**Activity Result 1.2** Develop the institutional capacities of the Kosovo Prosecutorial Council and Kosovo Judicial Council

In view of the ongoing justice reform, through the amendment of the four core laws of the judiciary, the Judicial and Prosecutorial councils require technical support and expertise in drafting the secondary legislation, as well as implementing institutional changes.

At the KPC, the project will support the work and mandate of the Normative Acts Commission (hereinafter "the Commission), which is mandated to prepare the legal basis for entry into force of the judicial reform system within KPC. The KPC has mandated the Commission to draft thirteen (13) priority regulations prior to the entry into force of the provisions for amending and supplementing the Law on Kosovo Prosecutorial Council. The Commission needs to be supported mainly on the fields that would enable the achievement of institutional change. The project will primarily support the Commission on improving and developing secondary legislation.

At the KJC, the project will also assist the implementation of institutional changes. This will be achieved through providing professional support in the process of drafting four (4) of the KJC regulations foreseen by the package of the four new laws on judiciary.

The support to the KJC and KPC will contribute to the institutional changes which is a prerequisite for the successful work of KPC and KJC. More specifically, professionally drafted, and technically acceptable secondary legislation would allow for more correct interpretation of the legislation in force, thus assisting the work of KJC and KPC members and all subordinate institutions.

**Activity 2: Increase the capacities of judicial institutions and develop the career of legal actors.**

The judicial sector in Kosovo continues to require wide-ranging support in order to ensure that Kosovo remains on the path to judicial reform and sustainable rule of law. The KJI was created to support the justice reform process as the only legally empowered institution for training of the judges and prosecutors. While capacities do exist on the ground, further concerted support is required to allow this institution to achieve sustainability of its training programmes with the final aim of transforming the KJI into Judicial Academy. The cooperation will include a number of combined activities which will bring the level of judicial practice in Kosovo to a higher standard, and improve the climate for sustainable rule of law and continued application of European and international best practices.

This output aims to provide support to capacity development by encompassing the stages of the judicial education, as foreseen by the applicable legislation in Kosovo, namely the "Continuous Legal Education Program (CLEP)" and increasing of courts' and prosecution offices' efficiency through the harmonization of judicial practices.

**Activity Result 2.1** Train one hundred (100) judges and fifty (50) prosecutors in the Civil and Human Rights area.

This activity follows the long-term partnership with the Kosovo Judicial Institute on the support of the Continuous Legal Education Programme (CLEP). The programme includes the training of judges and prosecutors in meeting the needs and expectations for a professional, ethical, impartial and independent judicial and prosecutorial system.

The project activity will support the KJI in training one hundred (100) judges and fifty (50) prosecutors in the Civil and Human Rights area. Moreover, the support will encompass assistance related to reforming of the programme curricula for such trainings.

In June 2015, the Supreme Court of Kosovo and the Institute for Cultural Diplomacy, supported by the UNDP Kosovo, organized the "Kosovo Summit on International Law & Human Rights 2015" in order to review the development of international law in protecting human rights in the recent decades and to create recommendations for its future use. The findings of the summit revealed a number of deficiencies in the application of Human Rights standards. A number of recommendations and a list of concrete

activities for the future development of the international law system to support human rights globally which can be implemented by the participants of the conference including Kosovo were issued. The project will thus support the members of the judiciary (the Councils, judges and prosecutors) to successfully address these recommendations. A first step in the process requires to conduct a needs assessment for training of judges and prosecutors in the Civil and Human Rights. Once the findings are completed, the KJI needs to be supported to develop the curricula and conduct the trainings.

**Activity Result 2.2.** Support to the integration of K-Serb community judges and prosecutors into the Kosovo Judicial System

In view of the Justice Agreement between Kosovo and Serb authorities, there is a need to provide a structured and timely support to the Kosovo Serb judges (48) and prosecutors (15) who are currently being recruited. The training programme must be based on identified trainings needs and lead to their full integration in Kosovo's judicial system. Kosovo Judicial Institute, as the responsible entity for training and professional development of judges and prosecutors, also requires support and technical inputs in managing the process.

KJI has requested UNDP support to start with this process by identifying training needs, develop the curricula and contribution in providing training on areas related to UNDP expertise.

**Activity Result 2.3.** Increased judicial efficiency through further harmonisation of judicial practices.

The Constitution of Kosovo requires that judicial practice complies adequately with the European Convention on Human Rights (ECHR) requirements and follows closely the ECHR case-law. Measures taken at Court of Appeals level will also enable provision of effective domestic regular remedies to strengthen the national legal order and to bring it closer to the ECHR and the legal practice. This can be done by providing guidelines and practical experiences to the courts, effecting on the court performance and efficiency while simultaneously increasing citizen's confidence in court decisions.

The harmonisation of judicial practices, aimed at increasing court and prosecution efficiency requires preparing of specific guidelines, including clarifying and unifying practices (the Bulletin), leading to unified interpretation of Civil and Criminal law as well as sentencing practices. The harmonisation of practices will affect Basic Courts (7), Court of Appeal (1), and prosecution offices (7). Support will be also provided to the judges' community in general in harmonizing judicial practices, providing guidelines and precedence that will allow better governance of the rule of law and its practical application.

The complexity of the legal system, the heavy workload of the judges, the time pressure, and uncertainty as to which is the correct interpretation of the law, have produced a difficult situation. It is not unusual that Basic Courts and the Court of Appeals give a diverse answer to the same or similar legal question. Therefore it has been identified that there is a need for harmonization within legal practice. One of the functions of the Court of Appeals is to eliminate those discrepancies and set up a uniform interpretation. The working groups will be established to organize working sessions with the judges of basic and appeals court to identify the issues and discuss challenges related to regular remedies, then these will be addressed to the Supreme Court, as part of the efforts to harmonize judicial practices.

In addition the project will closely work with judges and prosecutors to discuss the challenges and solutions to properly implement the legislation.

By strengthening the institutional capacities of judicial bodies, and career development of legal actors, KPC and KJC will have coherent and harmonized secondary legislation as per the new legislation.

**Activity 3: Increase the access to justice and justice service provision**

The mediation system comprises of the Mediation Commission (MC)<sup>9</sup>, which is supported by the Secretariat, and seven centres<sup>10</sup> which provide mediation services. Mediation, as an alternative dispute

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<sup>9</sup> The Ministry of Justice (MoJ) established the Mediation Commission (MC). The MC is a body responsible for: developing policies regarding the use of mediation in Kosovo; oversight of the Code of professional ethics rules for mediators; issuing decisions as well as recommendations regulating the usage of mediation; drafting and keeping a registry for mediators; providing professional opinions in regard to mediation; organizing and conducting mediation-training; and providing the public with information about mediation as an alternate dispute resolution mechanism.

<sup>10</sup> UNDP provides support to the functioning of the Secretariat and the following centres: Pristina, Gjakovë/Đakovica and Ferizaj/Uroševac.

resolution mechanism, has proven relatively successful, as it has helped to reduce the number of backlog of cases in courts. It also increased access to justice<sup>11</sup> for people in Kosovo.

Nevertheless, mediation is in the early stages of development with two, key issues: that of financial sustainability and the inadequate legislation. The findings from the analysis of the "Law on Mediation"<sup>12</sup> show that the Law has a range of uncertainties and gaps, which hinders proper functioning. Amending the current Law, with the aim to improve the enabling environment for the mediation services, is a must, if the system is expected to continue with its mandate. Equally, there is a need to strengthen the existing mediation structures through increased professional capacities of the Secretariat, and of the mediators.

**Activity Result 3.1** Make the mediation system more functional.

The project will continue its support to the Secretariat on capacity development and provide continuous support to already established mediations centres in Pristine/Pristina, Gjakove/ Djakovica and Ferizaj/ Urosevac.

It will continue to provide regular professional trainings for new and existing mediators (with the aim of profiling of mediators) and ongoing professional training on basic and advanced mediation, antidiscrimination and gender equality for certified mediators, judges, prosecutors and attorneys.

Ministry of Justice is drafting the Concept document specifying the required amendments of the current Law on Mediation. Gaps within the existing law on mediation causes uncertainties about the efficiency, the future and the sustainability of mediation system. There is a need to further provide support in relation to law on mediation and other related legislative changes that would allow for increased access to justice and reduction of the cases backlog of the court and prosecution offices.

The project will provide support on amending the legislation through technical and professional inputs by supporting the drafting process and working group for the amendments to the current Law on Mediation. Working group will be composed of 50% women and 50% men.

Pursuant to the human-rights based approach the project will actively work toward increasing access to justice for excluded and marginalised, vulnerable groups by increasing citizens' awareness through Public Relations campaign.

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## V. PARTNERSHIPS AND COORDINATION

In the course of past and ongoing capacity development projects, building strategic partnerships has demonstrated to be crucial for ensuring impact and sustainability of interventions. Getting the buy-in from different public bodies, amongst others the MoJ, KPC, KJC, KJI, CSOs and others will be a key part of the project to guarantee long-term results.

UNDP's preferential access to the government has allowed the Support to Strengthen the Rule of Law (SSROL) project to be designed in full compliance with national capacities, priorities and strategies. The long-standing partnership with public sector stakeholders will guarantee high level political commitment and endorsement.

Equally important, the SSROL envisages to strengthen its collaboration with other international actors to synchronize project activities, take advantage of common resources, and avoid duplication of efforts. To do so, SSROL will be carried out in close coordination with other projects addressing relevant issues, implemented by other local and international agencies, bilateral donors, including the European Union Office (EUO), Council of Europe (CoE), USAID, German Society for International Cooperation (GIZ), OSCE, European Union Rule of Law Mission (EULEX), UNKT partner agencies as well as local and international NGOs. As noticed in its Annual Work Plan, the project has foreseen bi-annual and annual structured meetings with international stakeholders and NGOs respectively.

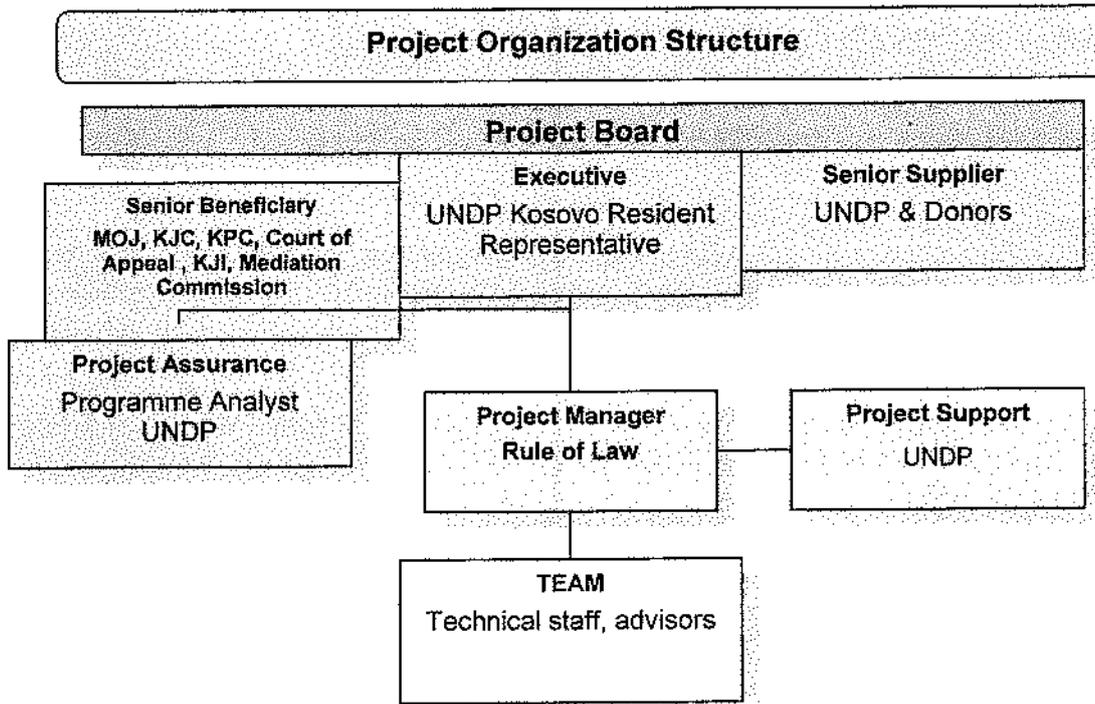
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<sup>11</sup> This was also recognized in the last EC progress report 2014

## VI. MANAGEMENT ARRANGEMENTS

The project will be implemented over a two-year period by UNDP under the direct and local implementation modality. UNDP will establish, manage and administer the utilisation of project funds. To ensure coordination among main stakeholders and effective, efficient and transparent utilisation of the inputs made available to the project, a Project Board is established.

The management structure described in the following chart is specifically designed to manage the project to its conclusion, and it consists of roles and responsibilities that bring together the various interests and skills involved in, and required by, the project.



The Project Board is responsible for taking decisions for the project when guidance is required by the Project Manager, including approval of project plans and revisions. The Project Board will include UNDP, the Ministry of Justice, Kosovo Judicial Council, and Kosovo Prosecutorial Council, relevant court officials, Mediation Commission, Appeals Court, Kosovo Judicial Institute. The Project Board would guide and oversee the project implementation, approve the operational strategy and standards, annual and quarterly work plans, review progress, ensure that required resources are committed, ensure management for development results assuring the evaluation process and performance improvement. This group will be consulted by the Project Manager for decisions when the tolerances (time and budget) have been exceeded. The Project Board shall meet biannually, with extraordinary meetings to be scheduled upon request of the stakeholders when deemed necessary. The Board shall make management decisions by consensus.

This group is constituted of the following functions:

- The Executive role will be held by the UNDP Kosovo Resident Representative
- The Senior Beneficiary includes the Ministry of Justice, President of the Kosovo Judicial Council and President of the Kosovo Prosecutorial Council, the President Court of Appeals and Director of Kosovo Judicial Institute to ensure the realization of the project results from the perspective of project beneficiaries.
- The Senior Supplier includes the UNDP and donors and represents the interests of those designing and developing the project deliverables and providing project resources.

The project quality assurance function is the responsibility of each Project Board member, but will be delegated and carried out by the UNDP Programme Analyst. This responsibility covers objective and independent oversight and monitoring functions in order to ensure project milestones are appropriately managed and completed.

The Project Manager, appointed by UNDP, is responsible for day-to-day management and decision-making for the project. The Project Manager's prime responsibility is to ensure that the project produces the results outlined in the project document.

The project support role provides project administration, management and technical support to the Project Manager as required by the needs of the project and Project Manager.

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## VII. MONITORING FRAMEWORK AND EVALUATION

In accordance with the programming policies and procedures outlined in the UNDP User Guide, the project will be monitored through the following:

### Within the annual cycle

- On a quarterly basis, a quality assessment shall record progress towards the completion of key results, based on quality criteria and methods captured in the Quality Management table below.
- An Issue Log shall be activated in Atlas and updated by the Project Manager to facilitate tracking and resolution of potential problems or requests for change.
- Based on the above information recorded in Atlas, a Project Progress Reports (PPR) shall be submitted by the Project Manager to the Project Board through Project Assurance, using the agreed report format.
- a project Lesson-learned log shall be activated and regularly updated to ensure on-going learning and adaptation within the organization, and to facilitate the preparation of the Lessons-learned Report at the end of the project
- a Monitoring Schedule Plan shall be activated in Atlas and updated to track key management actions/events.

### Annually

- **Annual Review Report.** An Annual Review Report shall be prepared by the Project Manager and shared with the Project Board ensuring that it contains inputs from all involved parties and lessons learned.
- **Annual Project Review.** Based on the above report, an annual project review shall be conducted during the fourth quarter of the year or soon after, to assess the performance of the project and appraise the Annual Work Plan (AWP) for the following year. In the last year, this review will be a final assessment. This review is driven by the Project Board and may involve other stakeholders as required. It shall focus on the extent to which progress is being made towards outputs, and that these remain aligned to appropriate outcomes.

## VIII. RESULTS AND RESOURCES FRAMEWORK

<p><b>Intended Outcome as stated in the Country Programme Results and Resource</b></p> <p>1.1 Central institutions provide a stronger normative base and legislative framework for social inclusion.</p> <p>2.1 Institutions responsible for delivering public services and social justice are accountable and responsive to rights holders.</p> <p>4.1 Institutions and industry act more effectively to mitigate environmental damage.</p>			
<p><b>Outcome indicators as stated in the Country Programme Results and Resources Framework, including baseline and targets: Public Pulls, change (%) in public perception of effectiveness of rule of law and security institutions</b> Public satisfaction with government services</p>			
<p><b>Applicable Outputs (from 2014-2017 Strategic Plan): Output 3.4.</b> Functions, financing and capacity of rule of law institutions enabled, including to improve access to justice and redress.</p>			
<p><b>Partnership Strategy: Partnership Strategy</b> Strategic partnerships with all relevant stakeholders for all programme components, with an emphasis to the central authorities such as Kosovo Government/MoJ, Justice institutions legal institutions such as Kosovo Justice Council, Kosovo Prosecutor Council Kosovo Judicial Institute and the civil society, as direct beneficiaries of the programme. Partners will be involved in advising on development and implementation of programme activities, as well as taking on implementation roles within the bounds of UNDP's Direct Execution implementation methodology; close coordination of activities with the international donor community present in Kosovo, especially with the respective Rule of Law support Programmes of the European Union Office in Kosovo and the USAID.</p>			
<p><b>Project title and ID (ATLAS Award ID): Support to strengthen the rule of law in Kosovo</b></p>			
	OUTPUT TARGETS FOR (YEARS)	INDICATIVE ACTIVITIES	RESPONSIBLE PARTIES
<p><b>Output 1</b></p> <p><b>Improved planning and coordination in the rule of law sector in Kosovo.</b></p> <p><b>Indicator:</b> Extent to which Rule of law institutions<sup>12</sup> have one framework in place, covering policy, operational, and donor coordination aspects.</p> <p><b>Baseline:</b> Several strategies and inter-ministerial WGs exist, which operate independently and there is insufficient donor coordination. Current strategies</p>	<p><u>Target 2016</u> M&amp;E framework for AWP/action plan of RoL sector-wide coordination group developed</p> <p><u>Target 2017</u> Effective sector-wide coordination ensured by MOJ</p>	<p><b>Activity 1: Improve the strategic planning, policy development and coordination</b></p> <p><b>Activity Result 1.1:</b> The Ministry of justice is effectively coordinating national institutions in the rule of law sector.</p> <p>Indicative activities:</p> <p>1.1.1. Support the day to day operations of the Coordination Mechanism through the national legal experts.</p> <p>1.1.2. Support the MoJ in organizing quarterly meetings of the Secretariat with the relevant partners from justice institutions.</p> <p>1.1.3. Support the MoJ in organizing bi-annual meetings with external relevant stakeholders from RoL.</p> <p>1.1.4. Support the MoJ in organizing annual meetings of the Secretariat with relevant Civil Society Organizations.</p>	<p>National legal experts embedded in Ministry of Justice, KJC, KPC, KJI, UNDP</p>

<sup>12</sup> Ministry of Justice (MoJ), Kosovo Judicial Council (KJC), Kosovo Prosecutorial Council (KPC) and Kosovo Judicial Institute (KJI).

<p>are rated 2/5. Inter-ministerial WGs are rated 2/5</p> <p><b>Target:</b> Sector-wide coordination group fully functional and strategic working plans designed and rated at least 3/5<sup>13</sup>.</p>			
<p><b>Indicator:</b> KJC and KPC draft thirteen (13) regulations /secondary legislation.</p> <p><b>Baseline:</b> Lack of expertise within KJC and KPC to draft the required secondary legislation (Regulations).</p> <p><b>Target:</b> KJC and KPC have qualitative secondary legislation in place that enables the achievement of institutional change.</p>	<p><u>Target 2016</u> Thirteen (13) regulations /secondary legislation adopted by Kosovo Prosecutorial Council and Kosovo Judicial Council</p>	<p><b>Activity Result 1.2 :</b> Institutional Development of the Kosovo Prosecutorial Council and Kosovo Judicial Council. Indicative activities: 1.2.1.: Support in identifying and drafting the required regulations; 1.2.2.: Creation of the working groups to draft the regulations;(50% women and 50 %men); 1.2.3.: Working sessions for drafting regulations;</p>	<p>KJC KPC National legal experts UNDP</p>
<p><b>Indicator 2.1:</b> Human rights standards promoted and developed through trainings sessions.</p> <p><b>Baseline 2.1:</b> Lack of trainings on Human Rights for judges and prosecutors. More specifically, judges (including prosecutors) lack capacities to implement the provisions of the Law</p>	<p><u>Target 2016</u> One hundred (100) judges and Fifty (50) get professional knowledge on implementation of Human Rights standards in their daily work.</p>	<p><b>Activity 2</b> <b>Increase the capacities of judicial institutions and develop the career of legal actors.</b> <b>Activity Result 2.1</b> One hundred (100) judges and Fifty (50) prosecutors trained in the Civil and Human Rights area (50% Women and 50% men) Indicative activities: 2.1.1. A needs assessment exercise for training of judges and prosecutors in the civil Human Rights area. 2.1.2. Develop the training programme. 2.1.3. Organize a training sessions for judges in Civil area.</p>	<p>Kosovo Judicial Institute UNDP</p>

<sup>13</sup>The rating criteria for RoL sector (strategies and policies, WG, coordination bodies) include: i) the number of existing strategies for the RoL; ii) the harmonization of institutional strategies with the sectoral RoL strategy; iii) functioning of the WG and coordination; iv) number of harmonized documents. The rating scale is 1 to 5 where 1 is "no evidence of alignment" and 5 is "fully aligned"

<p>on Protection from Discrimination as well how to refer to the European convention on human rights when drafting court decisions.</p> <p><b>Target:</b> 25% of Kosovo judges trained on application of human rights standards and norms (incl. on the application of provisions of the Law on Protection from Discrimination); 30% of Kosovo prosecutors trained on application human rights standards and norms (incl. on the application of provisions of the Law on Protection from Discrimination).</p>			
<p><b>Indicator 2.2:</b> Number of K-Serb community judges and prosecutors (as a result of justice integration Agreement in the North) trained and intergraded into the Kosovo judiciary.</p> <p><b>Baseline 2.2</b></p> <ul style="list-style-type: none"> <li>No trainings for the recruited K-Serb community judges and prosecutors</li> </ul> <p><b>Target:</b> The newly recruited K-Serb community judges and prosecutors (as a result of justice integration Agreement in the North) trained and integrated into Kosovo judiciary.</p>	<p><b>Target</b> All K-Serb judges and prosecutors increased their professional capacity.</p>	<p><b>Activity Result 2.2.</b> Support to the integration of K-Serb community judges and prosecutors into the Kosovo Judicial System.</p> <p>Indicative activities: 2.2.1. A needs assessment exercise for training of judges and prosecutors K-Serbs. 2.2.2. Develop the training programme. 2.2.3. Organize training sessions for 48 judge and 15 prosecutors K-Serbs (50% women and 50% men)</p>	<p>MoJ, KJC, KJP, KJI. National legal experts  UNDP</p>

<p><b>Indicator 2.3:</b> Basic Courts and Court of Appeal have coherent and harmonized legal practices in accordance with the new legislation.</p> <p><b>Baseline 2.3:</b> Basic Courts and Court of Appeal judges continue to interpret civil and criminal laws and norms in varying degrees creating therefore lack of court performance and efficiency.</p> <p><b>Target:</b> Judicial practices harmonized through specific Guidelines (Bulletins) clarifying and unifying judicial practices at the Basic Courts and Court of Appeal.</p>	<p><u>Target 2016</u> Judicial practices harmonized through specific Guidelines clarifying and unifying judicial practices at the Basic Courts and Court of Appeal.</p> <p><u>Target 2017</u> Legal practices harmonized, increasing court efficiency (5 % of court efficiency increased).</p>	<p><b>Activity Result 2.3:</b> Increased judicial efficiency through further harmonization of judicial practices.</p> <p>Indicative activities:</p> <p>2.3.1. Organize regular working sessions with Basic Courts judges and Court of Appeal for discussions on the legal practices from the field of civil and criminal law.(50% women and 50% men)</p> <p>2.3.2. Support the working group of experts to draft and publish Bi-annually Bulletins (guidelines).</p>	<p>Court of Appeal</p> <p>UNDP</p>
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<p>Indicator 3.1: Number of cases with the Mediation Centres.</p> <p>Baseline 3.1: 68 cases with the Mediation Centers (Prishtine/Pristina, Gjakove/Djakovica and Ferizaj/Urosevac) as at November 2015.</p>	<p><u>Target 2016</u></p> <p>All relevant mediators, judges, prosecutors trained at the end of 2016.</p> <p><u>Target 2016</u></p> <p>Capacity development of the Mediation Secretariat that oversees the operation of the regional mediation centres, contributing to increased access to justice, by providing services for a greater number of persons.</p>	<p><b>Activity 3: Increased access to justice and justice service provision.</b></p> <p><b>Activity Result 3.1:</b> Mediation system fully functional.</p> <p>Indicative activities:</p> <p>3.1.1. Provide continuous support to already established Secretariat and mediations centres in Prishtine/Pristina, Gjakove/ Djakovica and Ferizaj/Urosevac. (at least 50% women)</p>	<p>Ministry of Justice, Mediation Commission, UNDP</p>
<p>Gender Marker Rating</p> <p>Score 2: Gender equality is a significant objective of the output as the Project is committed to achieve at least a 50% in all project activities.</p> <p>Motivation/Rationale</p> <p>UNDP 8 PA: point 1, 2, 3 and 7.</p> <p>GES Outcome Focus Area 1, point 1, 2, 3; focus area 2, 9 and 10.</p>	<p>Mediation recognized as an alternative way to resolve issues between parties should reach: 15% in 2016;</p> <p><u>Target 2016</u></p> <p>Preparation of amendments to the current Law on mediation supported.</p> <p><u>Target 2017</u></p> <p>10 % Increase of the citizens' awareness about mediation.</p>	<p>3.1.2. Organize ongoing professional training on basic and advanced mediation, antidiscrimination and gender equality for certified mediators, judges, prosecutors and attorneys.</p> <p>3.1.3. Supporting the drafting process and working group on the amendments of the current Law on Mediation. (working group composed of 50% women and 50% men)</p> <p>3.1.4. Increase citizens' awareness through Public Relations campaign.</p>	

