SUMMARY
OF THE FINAL REPORT ON THE EU PROJECT

SUPPORT TO THE KOSOVO JUDICIAL COUNCIL AND TO THE KOSOVO PROSECUTORIAL COUNCIL

The main Project contributions to the Councils’ development from 2011 to 2016
Assessment of the Project’s support to the Councils
Accomplished results
Key aspects for further development of the KJC and KPC
SUPPORT TO THE KOSOVO JUDICIAL COUNCIL AND TO THE KOSOVO PROSECUTORIAL COUNCIL

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ABOUT THE PROJECT

The EU funded project 'Support to the Kosovo Judicial Council and Kosovo Prosecutorial Council' was implemented between October 2011 and April 2016. The purpose of the Project was to develop and strengthen the independence, performance, professionalism and efficiency of the Kosovo Judicial Council and the Kosovo Prosecutorial Council up to a European level.

ABOUT HUMAN DYNAMICS:

Human Dynamics is a specialised provider of consulting services for public sector clients, with a focus on transition and developing countries. We operate in institutional, infrastructure and judicial development, helping clients achieve success. We deliver outstanding results and impact for clients at all levels — from international organisations, national governments, to regional authorities and local municipalities. An award-winning company, stand for impact, innovation, performance, sustainability and expertise.
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This publication was elaborated for the Final Conference of the Project and aims to present the main findings, conclusions, achievements and recommendations of the EU Project ‘Support to the Kosovo Judicial Council and Kosovo Prosecutorial Council’.

The publication contains a summary of the Final Project Report which provides a full analysis and assessment of all the Project activities completed from October 2011 to April 2016. As such, it should not be treated as a substitute for the Final Report and its respective annexes.

This synthesised summary seeks to highlight the Project’s continuous support to the Kosovo Judicial Council and Kosovo Prosecutorial Council, the main results achieved and the areas where further development of the Councils and support by the international partners is required.
Contractors

The European Union funded Project ‘Support to the Kosovo Judicial Council and Kosovo Prosecutorial Council’ was implemented by an international Consortium led by Hulla & Co Human Dynamics KG (Austria) and the consortium partners: DMI Associates SARL (France) and Conselho Superior da Magistratura (Portugal).

Duration

The Project was launched on the 13th of October 2011. The duration of the Project foreseen by the Project ToR was three years - from October 2011 to October 2014. The Project has successfully completed all activities foreseen in the three years Project plan. Due to the success of the Project’s implementation, the request of the beneficiaries and the decision of the contracting authority, the Project was extended in October 2014 from 36 months to 54 months.

The final duration of the Project is 54 months - from October 2011 to April 2016.

Overall objectives of the Project

The overall objective of the project is the continuous support of efforts to develop the Kosovo Judiciary in line with EU standards by increasing its independence and improving its performance.

Project purpose

The purpose of the Project is to develop and strengthen the independence, performance, professionalism and efficiency of the Kosovo Judicial Council and the Kosovo Prosecutorial Council to the expected European standards and to provide the Councils with strategic support to develop their organisational capacities and professional capabilities to execute their mandates according to the new relevant legislation.

Beneficiaries

The primary target group and direct beneficiary of the Project are the Kosovo Judicial Council and the Kosovo Prosecutorial Council. Beneficiaries of the Project activities are also
the Office of Disciplinary Counsel (ODC) and the Kosovo Judicial Institute (KJI).

The secondary target groups (and indirect beneficiaries) who stand to gain from the improved functioning of the two Councils include all bodies and persons belong to the judicial and prosecutorial systems in Kosovo.

The tertiary target group and ultimate beneficiary of the Project is Kosovo’s civil society, which requires qualified legal professionals and an independent and well-managed court and prosecutorial system in order to promptly adjudicate cases in accordance with applicable jurisprudence and ensure the rule of law.
Components and planned results

The project was implemented along a framework of four Components and was required to achieve the following specific results within each Component:

**Component 1: Organisational Support to the Kosovo Judicial Council/Kosovo Prosecutorial Council**

- The structure and the efficiency of the KJC/KPC are strengthened, allowing them to effectively perform their tasks. Relevant statutes, secondary legislation, by-laws, instructions etc. required to regulate, support and underpin their work are enacted.
- Organigram and relevant job descriptions are in place for both Councils.
- Equivalent structures and legislative framework referring specifically to the ODC are in place.
- Capacities for drafting/updating and implementing strategic planning (short-, mid- and long term) are developed and strengthened. Strategic plans are developed by both Councils.
- The structure and the efficiency of the KJC/KPC are strengthened, allowing the Councils to effectively perform their tasks in regard to the monitoring and evaluation of the Strategic Plans, policy research and development, budget and human resource management.
- Capacities and accountability of members of the KJC/KPC in regard to the fulfilment of their obligations are further strengthened.

**Component 2: Support to the enhancement of an appointment, evaluation, and disciplinary system of judges**

- A fully functional, independent and transparent system of appointment and promotion of judges is established/developed. Provision of relevant criteria and procedures, including their proper implementation according to EU best-practices. Additionally the overall process should be in line with the model established for the vetting/re-appointment procedure. Components II.2 on evaluation and II.3 on the disciplinary system should constitute a full part of the promotion mechanism to be set up for judges, creating a comprehensive human resource management mechanism.
- A system of evaluation of the professional capacity of judges, including a list of relevant criteria, a transparent system of collecting homogeneous statistical data and the adoption and implementation of procedures complying with EU standards all fully functional.
- A disciplinary system for judges with clear-cut criteria and disciplinary measures (including dismissal) created and in place. Establishment and implementation of relevant transparent disciplinary procedures, fully respecting the rights of the person involved/charged and following the general standards of the EU-Member States.
- Further measures and Acts implementing the Project’s recommendations are in place and achievements regarding the appointment, evaluation and disciplinary procedures for judges are consolidated.
- The capacity of the KJC, the Committees and supporting staff in charge of appointment, evaluation and disciplinary procedures against judges is enhanced and best practice building mechanisms are in place.
**Component 3: Support to the enhancement of an appointment, evaluation, and disciplinary system of prosecutors**

- A fully functional, independent and transparent system of appointment and promotion of prosecutors is established/developed. Provision of relevant criteria and procedures, including their proper implementation according to EU best-practices. Additionally, the overall process should be in line with the model established for the vetting/ re-appointment procedure. Components III.2 on evaluation and III.3 on disciplinary system should constitute a full part of the promotion mechanism to be set up for prosecutors, creating a comprehensive human resource management mechanism.

- A system for the evaluation of professional capacity of prosecutors, including a list of relevant criteria, a transparent system of collecting homogeneous statistical data and the adoption and implementation of procedures complying with EU standards all fully functional.

- A disciplinary system for prosecutors with clear-cut criteria and disciplinary measures (including dismissal) created and in place. Establishment and implementation of relevant transparent disciplinary procedures, fully respectful of the rights of the person involved/charged and following the general standards of the EU-Member States.

- Further measures and Acts implementing the Project’s recommendations are in place and achievements regarding the appointment, evaluation and disciplinary procedures for prosecutors are consolidated.

- The capacity of the KPC, the Committees and supporting staff in charge of appointment, evaluation and disciplinary procedures against prosecutors is enhanced and best practice building mechanisms are in place.

**Component 4: Improving Access to Legal Documents**

- The scope and role of a Legal Resources Centre managed by the Kosovo Judicial Institute is defined through a needs assessment. Judges’ and prosecutors’ access to legal documentation is improved.

- In this regard, communication techniques and methods and a national centralised criminal record system which procures reliable information for judges and prosecutors fulfils the international legal cooperation requirements are urgently needed.

- A policy regarding a National Criminal Record System is elaborated and an effective co-ordination mechanism is in place.

- Access to justice is enhanced through the publication of all relevant decision of both Councils and other relevant legal acts and a co-operation mechanism with relevant justice sector stakeholders (including lawyers, mediators and notaries) is established.
At the beginning of the implementation of the Project both Councils - the KJC and KPC, were at the very early stage of their establishment as separate independent bodies by the Laws.

The existence of two separate Councils is foreseen by the Constitution of Kosovo of 15 June 2008. The Constitutional provisions have been complied through the adoption of two laws, namely the Law No. 03/L-223 on the KJC and the Law No. 03/L-224 on the KPC adopted on 30 September 2010.

Prior the adoption of the two laws the judicial system in Kosovo has been managed and administrated by a joint Judicial and Prosecutorial Council. Thus, on an institutional level the KJC already had some experience and supporting staff involved in the functioning of the joint body. The KPC, on the other hand, was an entirely new body which needed special support on an organisational and functional level.

Additionally, prior to the reform which had taken place in 2011 through the implementation of the LKJC and LKPC, Kosovo authorities had organised and carried out a so-called vetting and re-appointment process of judges and prosecutors which aimed at conducting a one-time, comprehensive Kosovo-wide review of the suitability of all applicants for permanent appointment as judges and prosecutors in Kosovo. This process had been carried out by the Independent Judicial Prosecutorial Commission specifically created for this reason. At the conclusion of this process in 2010, a memorandum of understanding had been signed between the Kosovo Judicial Council and the Independent Judicial and Prosecutorial Commission to facilitate the smooth transfer of tasks, responsibilities and assets from IJPC to KJC.

Since 1st of January 2011, upon the entry into force of the LKJC and LKPC, Kosovo Judicial Council and Kosovo Prosecutorial Council function as separate institutions, independent from each-other and from the executive and legislative authorities in exercising their functions and responsibilities. The KJC and KPC, as two independent institutions are competent and responsible for the comprehensive management and administration of the judicial and prosecutorial system in the Republic of Kosovo.

The Law on the KJC defines that KJC is fully independent in carrying out its functions in order to ensure that the justice system is independent, fair, depoliticised, accessible, professional and impartial and one which reflects the multi-ethnicity of the Republic of Kosovo.
Kosovo and also implements the Constitution and international principles on human rights and gender equality. This law also regulates the organisation and functioning of the Kosovo Judicial Council (KJC) including recruitment, appointment, reappointment, transfer, discipline, evaluation, promotion and training procedures of judges and lay judges; Court management and administration, development and oversight of the judiciary budget; establishment of courts and new branches.

The Law on the KPC defines that the Council is a fully independent institution in exercising its functions with the purpose to ensure an independent, professional and impartial prosecutorial system, and one which reflects the multi-ethnicity of the Republic of Kosovo and the principles accepted internationally on gender equality.

The other Laws adopted within the same period of time which are crucial for the KJC and KPC are the Law No. 03/L-199 on Courts adopted on 22 July 2010 and Law No. 03/L-225 on State Prosecutor adopted on 30 September 2010. Both laws entered into force on 1st of January 2013. Some of the law provisions regard the newly established court and prosecution structure which had to be created in 2012 and completed on 1 January 2013. The KJC and KPC had the responsibility to organise and carry out the transition from the existing structure to the new one. The restructuring of the courts according to the new Law involves the replacement of the existing Municipal courts by Basic courts and of the five (5) District courts by a single court of Appeal. The respective restructuring for the Prosecution offices was foreseen by the LSP.

The MoJ developed a document in April 2011 listing its priorities for the period 2011-2014, which refers to six main issues, namely: the coordination of the justice system (full cooperation with the Councils is foreseen, enhancing their work), legislative initiatives (e.g. law on protection of witnesses, criminal code and criminal procedure, law on obligations etc.), functioning and structuring of the courts and prosecutor offices (refers to the restructuring of the overall court system mentioned above under full respect of the independence of KJC/KPC).

Regarding the implementation of the newly adopted laws in 2010, the KJC and the KPC have needed international assistance/advice and donor support in addition to the EULEX Monitoring, Mentoring and Advising activities. The European Commission Liaison Office (Now: European Union Office in Kosovo) decided to provide support to the KJC and KPC with the Project in the framework of the Instrument for Pre-Accession programme.
The summary of the Project is divided by years, and aims to emphasise the most important areas of the Project’s contribution, while following the chronology of the main Project activities. It intends to highlight those groups of activities which have been undertaken by the Project following the project plan, the experts’ findings and the needs of the Councils; to explain accordingly why some of the activities have to be considered as very important and point out the weaknesses as well as the reasons for the concrete performance of the Councils during the implementation of the Project. This analysis would facilitate the better understanding of the Project’s input, the mode of communication and collaboration with the Councils and the consistency of the actions taken by the Project and by the beneficiaries.

2012

After the approval of the Project Inception Report at the beginning of 2012 the Project started the implementation of the Activities foreseen in the Project Plan.

Taking into consideration the background, the existing legal framework, the expectations of the beneficiaries and their different status on organisational and functional levels, the Project established priorities for the implementation of the Activities.

The implementation of all activities started with analysing and assessing the existing local legal framework and the compliance of the Laws with international standards. It was noted at a very early stage of the implementation phase by all international experts that the new legal framework of the KJC and KPC had shortcomings which lead to the conclusion that crucial law amendments need to be initiated in order to align the laws with European standards. Several gaps and inconsistencies were analysed and assessed accordingly by the experts.
Nonetheless, taking into consideration the Project objectives and activities, the experts provided the Councils with their contribution for improving the already existing by-laws, drafting proposals for new by-laws required by the laws, development of SOP as well as recommending several actions and measures for the enhancement of the organisational and functional capacity of the Councils.

The following activities performed by the Project in 2012 have to be considered as the most important for the Councils:

**The Regulation on the Organisation and Operation of the KJC** was reviewed, analysed and assessed by the project. Following the experts’ recommendations the KJC adopted the amendments of its Regulation on 2 November 2012.

Based on the proposals of the Project, new formats of the existing **Job Descriptions** of the KJC/KPC were drafted for and accepted by both Councils and were proposed for final approval. Both Councils also approved the new organigrams for the Councils elaborated by the Project.

The Project provided both Councils with an Assessment Report on Existing Rules and Regulations Pertaining to Human Resources Management in the KJC and KPC, elaborated by the experts, which aims to develop a methodology for staff planning for both Councils in order to avoid future capacity constraints.

The Project provided support to both, the Kosovo Judicial and Prosecutorial Councils, through analysis and recommendations based on the best European practices and standards for **Institutional Strategic Planning**. The Project elaborated and distributed to both Councils a Briefing Paper for Strategic Planning and a Final Report with recommendations for the drafting of the Strategic Plan. It was the first crucial document which was disseminated to the Councils and used by the local and international partners in the following processes of drafting of the KJC’s and KPC’s Strategic Plans.

Upon request from the KPC, the Project elaborated Comments and Recommendations on the KPC’s Draft Strategic Plan for Inter-Institutional Cooperation for Fighting Corruption and Organised Crime. The main aspects of the Project’s contribution addressed the International standards applicable to the draft Strategic Plan, the objectives and the structure of the draft Plan.

The Project analysed the existing **Council’s Regulations** on the appointment, transfer, promotion, evaluation of the performance, disciplinary proceedings for judges and prosecutors and provided the Councils with the reports and comments containing concrete recommendations for the improvement of the respective by-laws. The main concerns regarding the by-laws can be summarised in the following groups:

- The draft regulations and the regulations already approved by the Councils required further development in regard to the manner and technique of drafting - the structure of the by-laws needed improvements, the legal basis for issuing regulations sometime was missing, the provisions regulated matters which are not foreseen by the respective law provisions, through the regulations Councils have provided some rules which should be regulated by the Laws only, the hierarchy of normative acts was not taken into consideration, etc.;
- The compliance of the regulations with the laws should be ensured;
- Both Councils needed capacity building activities for drafting the regulations.

These issues, some of them still valid for both Councils, were also noted and underlined by the Kosovo Progress Report for 2015: “There is still not enough capacity to draft regulations and take decisions in full compliance with the hierarchy of normative Acts”. Thus, more support by international partners in this regard is still needed.
The following gaps, constraints and issues were clarified by the Project during the first year of the implementation phase in **regard to the by-laws and SOP** on appointment, transfer, promotion, evaluation of the performance and disciplinary proceedings for judges and prosecutors:

- The existing Regulations on the Appointment of judges and prosecutors needed an entire revision and harmonisation with the Law provisions of the LKJC, LKPC and LKJI;
- Lack of SOP for the appointment proceedings was discovered;
- Transfer and promotion of judges and prosecutors is foreseen by the LKJC and LKPC, however the law provisions are insufficient for establishing an acceptable regulatory framework;
- The KJC’s Regulation on Evaluation of the performance of judges was in compliance with the Law and international standards, however it needed additional improvements in regard to the sources of information, measurable indicators, rules of proceedings for the Evaluation Committee, SOP;
- The KPC did not have an adequate evaluation system for the performance of prosecutors. It required the Project’s contribution in drafting of a new Regulation on the Evaluation of the performance of prosecutors, establishing an Evaluation Committee, drafting of the respective SOP;
- The entire disciplinary system of judges and prosecutors was not in compliance with international standards; Several gaps in the Laws were analysed and assessed by the Project as a precondition for a profound and significant revision of the legal framework of the disciplinary system for judges and prosecutors in compliance with the European standards and best practices;
- The on-going review and revision of the already adopted Regulations on the Disciplinary Committees of both Councils was assessed as an attempt to overcome some gaps and discrepancies in the laws by the regulations. During the discussions on the draft amendments of these regulations it was realised for the first time that both Councils need support in establishing better communication and the harmonisation of the by-laws when needed has to be assisted by the international partners.

The main activities for both Councils in 2012 were to approve temporary Regulations for the assignment and transfer of judges and prosecutors and to apply these new rules in order to ensure the **transition of all judges and prosecutors into the newly established Court and Prosecution** structure on January 1, 2013 (Appellate and Basic). The Project offered support to the KPC in this direction chiefly through providing the Council with comments and recommendations for the Draft KPC’s Regulation on Assignment and Transfer of Prosecutors, Recommendations for the interpretation and implementation of the Regulation adopted by the Council, Draft Regulation on Transfer of the supporting staff, etc.

Both Councils finalised this process successfully and within the period of time prescribed by the Law on Courts and Law on the State Prosecutors. Since 1st January 2013 all judges, prosecutors and supporting staff were assigned in the newly established Basic and Appellate Courts and Basic and Appellate Prosecution offices.

**2013**

The Project contributed to the development of the KJC and KPC in 2013 in the following areas:

The Project elaborated an Analysis with recommendations to improve **inter-institutional communication** that reflect some of the best European practices in this field. During the Joint KJC and KPC meeting held on February 4, 2013, following the Project recommendations both Councils decided: to organise a **joint training** of acting judges and prosecutors in the KJI: Following the KPC Strategic Plan for inter-institutional cooperation.
for fighting corruption and organised crime the KPC and the KJC established a joint Working Group for drafting an Action Plan for the implementation of the Strategic Plan, clarification of the scope of crimes that should be classified as “corruption crimes”, standardisation of templates, forms, indictments, etc. for organised crime and corruption. In order to ensure better coordination between the two Councils, the members decided to hold joint Councils’ meetings every three months.

One of the most important achievements during this period was that the Councils clearly understood that the independence of both bodies does not necessarily entail a full separation of activities. What is more, the independence of the bodies imposes an independent implementation of the laws and if the law provisions are the same for both Councils the respective interpretation and implementation should be the same. Thus, the harmonisation of the by-laws issued by both Councils when necessary was clearly defined and the tools for achieving this harmonisation as proposed by the Project were accepted.

Following the Project recommendations, the KPC approved the final version of its Regulation on the Functioning and Activity of the KPC on March 4, 2013 and established two new permanent Committees – the Normative Acts Commission and Budget and Finances Commission. The KPC also created a new Training Office within the Secretariat of the KPC and has started a process of drafting of a new Annual Training Plan/Map for acting prosecutors following the Project’s recommendations to ensure better coordination in the process of defining trainings needed for prosecutors. This actions have to be considered as steps ahead in the strengthening the organisation of the KPC following the law requirements regarding the functions of the Council (Art.4, LKPC).

Within this period of time the Project supported both Councils in the establishment of a new regulatory framework regarding the appointment of judges and prosecutors. The existing Regulations of the KJC and KPC were reviewed and analysed taking into consideration the relevant law provisions in force.

The Project team ensured the harmonisation of the Draft amendments of the Regulation on Appointment of Prosecutors and the Regulation on Appointment of Judges. The main reason is that the respective Laws (LKJC, Law on Courts and LKPC, Law on State prosecutor) provide similar criteria for assessment of candidates and similar requirements and procedures. Based on the reports and through additional research and the collection of relevant information the project elaborated concrete proposals for amendments of the Regulations and a full ‘package’ of Standard Operating Procedures (SOP) as well as clear recommendations for the implementation of these SOP.

Most of the recommendations of the Project regarding the appointment system of judges and prosecutors relate to the amendments of the Laws. They consider the Catalogue of recommendations, as well. Several issues in the interpretation and implementation of the relevant law provisions were clarified such as the assessment of the previous legal experience of the candidates, the method of background verification of candidates, the constraints for the proper recruitment of candidates, the Initial Training Legal Program (ILEP) carried out by the KJI and the lack of clear legal provisions to take into account this training as a precondition for the appointment, etc.

In regard to the existing evaluation system for judges and prosecutors some significant steps forward were taken by the Councils supported by the Project. The most important was the establishment of the new evaluation system for prosecutors. A brand new Regulation on the Evaluation of the Performance of Prosecutors and respective revision and amendments of the Regulation on Organisation and Functioning of the PPRU were introduced by the Project, discussed and agreed with the KPC. Thus, the evaluation of the performance of prosecutors
was put in line with the Law on the KPC and international standards. A very clear distinction between the responsibilities of the PPRU for the evaluation of prosecution offices and the KPC and its Evaluation Committee for assessing the individual performance of prosecutors was achieved. As far as to the existing Regulation on Evaluation of judges, the KJC has approved two amendments of the Regulation in 2013 following the Project’s recommendations. However, the assessment of the Project experts at that time was that the amendments were insufficient to put the system of evaluation of judges in accordance with European standards and best practices.

The disciplinary system for judges and prosecutors was very carefully analysed and assessed by the Project in this period of time. All materials, comments, reports and analyses elaborated by the Project in the framework of the previous activities in relation to disciplinary investigations and procedures against judges and prosecutors were reviewed and summarised in a Final Assessment Report on Disciplinary Proceedings with Focus on ODC/ODP’s investigations relating to disciplinary issues.

The Project was requested to provide support to both Councils in regard to the transparency of disciplinary proceedings. This is why the Project elaborated and submitted to the Council the following documents: a Template of a Register for the publication of information relating to disciplinary proceedings and a Comparative analysis on the question of public hearings and the publication of decisions of disciplinary bodies. Both documents were aimed at facilitating the Councils in finding the best solution for the transparency of the disciplinary cases and a balance between the confidentiality and transparency based on the local law provisions and international standards.

The assessment of the existing disciplinary system in Kosovo and collaboration with other international programmes in this area encouraged the Project to widen the scope of the tasks and to propose the development of better disciplinary procedures, including proposals to amend the Law on the KJC, the law on KPC for a new law to regulate the work of the ODC.

Special attention was paid to the Office of Disciplinary Council (ODC). The Project provided support to the ODC, which is responsible for the disciplinary investigations against judges and prosecutors.

Based on the Project recommendations the ODC has approved new Job Descriptions for the ODC staff. The Project drafted and distributed to the ODC and other bodies an Assessment Report on the Disciplinary system for judges and prosecutors, a comparative analysis with some other EU systems and proposals for a new improved disciplinary system, including proposals for a new Law on the ODC. The Project provided the ODC with a ‘Note on the legal basis for the adoption of a Regulation in the Organisation and Functioning of ODC’.

The Project drafted proposals for a new SOP for disciplinary investigations against judges and prosecutors and a SOP for disciplinary procedures based on the current legal basis.

During this period of time the Project elaborated seven Manuals containing guidelines and SOPs for appointment proceedings, evaluation proceedings and disciplinary proceedings for judges and prosecutors (three manuals for the KJC and three Manuals for the KPC). One separate Manual with SOP was elaborated, translated and disseminated to the ODC. All SOPs were elaborated in accordance with the existing legal framework taking into consideration the Project reports and recommendations for the respective amendments of the by-laws.

The Manuals served as the main training materials for the capacity building activities for the Councils’ members, members of the Committees and the supporting staff. The ‘Pilot trainings’ were organised and delivered by the Project at the end of 2013 and aimed at increasing the capacity of the persons in charge with the appointment, evaluation and disciplinary proceedings for judges and
prosecutors. It should be underlined that these trainings were organised for the very first time for both Councils and their secretariats. The training materials, curriculum and modules were elaborated in such a way as to be used in future trainings organised by the Councils. Additionally, a separate set of materials was provided to the KJI in order to be used for the initial training programs for judges and prosecutors.

2014

The following is a summary of the most important areas in which the Project provided support to the KJC and KPC in 2014:

The main project resources and efforts were directed towards the elaboration of a Catalogue of recommendations in regard to the organisation, structure and functions of the Councils and the appointment, evaluation and discipline of judges and prosecutors. The Catalogue was elaborated based on the findings and recommendations drafted by all of the project experts during the implementation of the activities under Component I, Component II and Component III. After a very detailed discussion on the first Draft Catalogue with the KJC and KPC the Project revised the Catalogue and included the references to the relevant International and European standards.

Furthermore, a new Reference book containing 22 international documents with the relevant international and European standards which were included in the Catalogue of recommendations, was elaborated by the Project, translated into Albanian and disseminated to the KJC, KPC and other stakeholders. In order to facilitate the use of these international documents an index with more than 200 key words was also provided. It should be underlined that this collection of International documents translated into Albanian was elaborated for the first time in Kosovo and was deemed very useful by all local stakeholders.

The other very important areas of Project support to both Councils in 2014 were in regard to the first draft Law amendments (so-called “4 package Laws”) proposed by the MoJ at the beginning of 2014. The Project provided comments and participated in several meetings and discussions on the draft law amendments. In addition, the Project provided the Councils with a Concept paper on the draft law amendments which relates to the establishment of a new system for recruitment, nomination and appointment of candidates for judges and prosecutors. It was the first draft policy document elaborated by the Project at that time as it was duly noted that the Councils need special support in the area of policy analysis and development.

Another significant contribution of the Project in 2014 related to the improvement of cooperation and collaboration between the main stakeholders in the judicial system in Kosovo who carry out responsibilities for the recruitment, nomination, selection, initial training and appointment of candidates for judges and prosecutors. The EU Projects for supporting the KJC and KPC and the KJI organised a joint discussion for the KJC, KPC and KJI in March 2014 which was aimed at clarifying the achievements and the issues of the existing system of appointment as well as to present the different European models of appointment of magistrates.

The newly approved Project activities by an Addendum 2 to the Contract for implementation of the Project were completed in 2014. Two of them have to be considered as critical: “Legal remedies against the decisions of the KJC and KPC” and ‘National Centralised Criminal Record system” (NCCR). The first one provided the Councils with International standards regarding the right of appeal against the decisions of the judicial councils before an independent court, comparative study of European best practices and clear recommendations for the respective law amendments. The project consciously recommended the respective Law amendments to be adopted, however, the newly adopted
amendments of the LKJC, LKPC in 2015 did not take into consideration these very important recommendations. This is why the lack of a special law provision guaranteeing the right of appeal and the establishing of rules for a fast, transparent court proceedings before a high level Court in Kosovo such as the Supreme Court, has to be assessed as a problematic area still requiring international support and legislative initiative. As it is also stated in the Kosovo Progress report for 2014: “…Proper legal remedies against decisions of the prosecutorial and judicial councils should be introduced to avoid that the only resort against their decisions is the Constitutional Court”.

The other activity supported the KJC in analysing and assessing the legal framework, capacity and capability of the authorities in Kosovo for the establishment of an NCCR. The Kosovo Progress Report for 2014 has clearly referred to the lack of a centralised criminal record database and the negative impact this has to the efficiency of the judicial system: “…and there is no centralised criminal record database, which hampers the efficiency of the judicial system”. Thus the Project assessment and analyses as well the proposals for the methodology of establishment of the NCCR were extremely important and useful for the judicial system and Kosovo’s civil society, in general.

During 2014 both Councils faced different and challenging situations:

The KPC’s decision containing a proposal for the appointment of a new Chief State Prosecutor was overruled by a decision of the Constitutional Court on 8 July 2014. The decision of the Constitutional Court contains some very clear reasoning which was carefully considered by the KPC. Even more so, it was the first time since the establishment of both Councils when their independence was scrutinised by the Constitutional Court from the perspective of the Rule of Law principle and the violation of the constitutional rights of candidates. The entire process of nomination and selection of a new Chief State Prosecutor was repeated and led to a period with an interim Chief State Prosecutor. On 30 July an ‘acting Chief State Prosecutor’ was appointed, although a legal basis for the appointment was missing. The repetition of the process of selection and appointment of a new Chief State Prosecutor took a considerable amount of time and partially disrupted the normal functioning of the Council.

The KJC was unable to reach the minimum quorum for decisions after the retirement of one member from the Serbian Community and expiry of the mandate of the two international members from August 2014 to February 2015. The positions were to be filled by the Assembly, which was established in December 2014 after the elections carried out in June 2014. Thus, the normal functioning of the KJC was stalled for months. It was necessary for the Project to remind the Kosovo’s authorities once again of the recommendation in regard to the international standards which requires more than 50% of the members of the judicial councils to be elected by their peers. However, this change required Constitutional amendments. The same necessity was underlined also by the Kosovo Progress Report for 2014: “The majority of the judicial council members should be elected by their peers, in line with Venice Commission recommendations.”

The Project completed on time all forty five activities (45) foreseen in the three years project plan in September 2014. The extension of the Project with 18 months for implementation of twenty three (23) additional activities was approved in October 2014. Thus, the second Implementation Phase of the Project (extension) started in October 2014.

2015

The most important areas of the Project support to the KJC and KPC in 2015 were in regard to the interpretation and implementation of the Law amendments of the four laws (LKJC, LKPC, LC and LSP) which were
adopted by the Assembly on 28 May, 2015.

The amendment and supplementation of the four laws linked to the judicial power, was requested by the Progress Report of the European Commission for Kosovo for 2014. In this report, among other recommendations, it is stated that the laws shall be harmonised in order to address the lack of compliance with issues such as dismissal, appointment, transfer, disciplinary system and procedures on review of decisions taken by the Councils. The Progress Report also defines that more should be done to ensure the effective functioning and accountability of the judiciary.

The Conclusions of the Sector Committee for Justice, Freedom and Security, part of the process dialogue for Stabilisation and Association between EU and Kosovo, held in January 2015 in Brussels and in the fifth plenary session of the process dialogue on Stabilisation and Association between EU and Kosovo which was held in July, 2015. The dialogue also emphasised the necessity of law amendments to improve the functioning of the judicial and prosecutorial system.

The Project’s contribution in this respect has to be divided in two stages: Comments on the draft Law amendments were disseminated by the EU Office in Kosovo in March 2015 and May 2015; and support to the Councils after the adoption and entering into force of the final law amendments.

It should be underlined that the Project was not involved in the meetings of the Working groups of the MoJ, the discussions and the drafting of the Law amendments. The Project contribution was requested by the EU Office in Kosovo, Law Review Mechanism (LRM) when the MoJ had already submitted the final draft version of the law amendments.

It should also be highlighted, that some of the law amendments were in compliance with the Project recommendations and, respectively, with International Standards.

There are several aspects of the new law amendments which contain unclear and problematic provisions from an interpretational point of view. There are also some key areas that will still need respective law amendments to comply with international standards such as the disciplinary system for judges and prosecutors. The lack of transitional provisions created several constraints and issues for the judicial bodies at the very beginning of the implementation of the new law amendments. The draft LKJA (Law on the Kosovo Judicial Academy) should also be included in the package of laws amended in 2015 as the appointment procedures of the Councils, the evaluation of judges and prosecutors during the initial appointment for three years are closely related to the Initial training which is within the competences of the KJI (KIA). The further harmonisation of the Laws in this regard is strongly recommended. Furthermore, some of the Councils’ regulations which depend on the adoption of the LKJA and their elaboration and approval have to be postponed until the adoption of the LKJA.

There are significant amendments of the core Laws for the judicial system in Kosovo which need proper analysis and identical interpretation of the matching law provisions by both Councils. The most significant amendments regard the appointment system for judges and prosecutors, the establishment of a new composition of the KPC and a separate KPC’s Secretariat which require that special support to the Councils is provided for the implementation of the associated new law provisions.

Nonetheless, the Law amendments adopted in 2015 have to be considered as a positive legislative step ahead.

Both Councils received active support in the fulfillment of the Action Plans approved by the KJC and KPC for drafting and adoption of the Regulations foreseen by the law amendments. The Action Plans were in compliance with the findings of the latest Kosovo Progress Report for 2015: “The KJC and the KPC experienced significant delays in approving strategic documents, regulations and other decisions or Acts.”
The Project participated in the meetings of the Councils’ Working Groups and the meetings of the Committees of Normative Acts, provided comments and recommendations for the respective draft regulations, participated in the Workshops organised by the Councils and also delivered Workshops for the KJC, KPC, Secretariats of the Councils and international stakeholders on drafting and improving the draft regulations. The Project paid special attention to the harmonisation of the by-laws of both Councils when the Law amendments of the respective Laws are the same and require the same interpretation and the same or similar approach in the establishment of the procedural rules. Thus, at the beginning of 2016 both Councils have already issued some of the most important Regulations foreseen by the law amendments. Some of them are still drafts, but the Project provided the respective comments and proposals in regard with these draft regulations which need to be taken into consideration in the process of approval by the Councils.

Another key area where the Project contributed to the development of both Councils in 2015 and the beginning of 2016 was enhancing the capacity of the Councils for the elaboration, implementation, monitoring and evaluation of the Strategic Plans. The Project provided the KJC with a Monitoring and Evaluation tool and delivered a Workshop in order to coach the Councils on how to use the tool and how to ensure the regular, transparent and useful evaluation of the implementation of the Action Plan to the KJC’s Strategic Plan adopted in 2014. Regarding the KPC, the Project provided the Council with a draft 3-year Strategic Plan for the KPC, a draft Action Plan and a draft Monitoring and Evaluation Plan. The last version of the KPC’s Strategic Plan was reviewed and revised by the Project in order to adapt the latest law amendments to the strategic objectives. During the process of elaboration of these documents the Project organised several coordination meetings with the other international projects and programmes.

The KPC approved the first 3-year Strategic Plan in February 2016. The Project fully supported the KPC from the very beginning of the implementation of the Project in the elaboration of the Strategic plan. The process took time due to a lack of capacity of the Council to draft, monitor and evaluate a Strategic plan and an Action Plan for its implementation. The Project recommended that the KPC creates a special Unit to the newly established Secretariat to the KPC responsible for the strategic planning and reporting of the Council. It would ensure a specialisation of the newly appointed experts at this Unit in the vital functions of the Council - planning, following the plans and reporting. Through the recent approval of the Strategic Plan, one of the recommendations of the latest Kosovo Progress Report for 2015 in regard with the delay of the approval of the strategic documents by the KPC was fulfilled. Additional support to the Council needs to be delivered for the final elaboration, approval and proper implementation of the Action Plan, Monitoring and Evaluation Plan.

The next crucial area of the Project’s contribution to the enhancement of the capacity of the Councils’ members involves the provision of policy analysis and concept documents. The project submitted to the KJC and KPC several Draft Concept documents elaborated within the framework of the respective activities. A specially designed training programme for policy analysis of the Council was elaborated by the Project, submitted to the Council and the respective training was delivered by the Project. A Concept paper on the Draft law on the ODC was elaborated jointly by the Project, MoJ, ODC and representatives of the US Embassy, DoJ.

The Project provided the Councils with a comprehensive Manual on the budgeting of judiciary that will serve as an important tool for the further improvement of the planning, reporting and decentralisation of the budget. The Project assessment is that the budgeting of the judicial and prosecutorial system in Kosovo still needs support from the international community.
The Project gave special attention in 2015 to the enhancement of the capacity of both Councils in regard to the decision making process, internal Councils’ coordination, the establishment of a mechanism for the monitoring and evaluation of the implementation of the Councils’ decisions. The Councils require additional support in this respect including through capacity building of the Councils members and the supporting staff. The issue has been underlined by the Kosovo Progress Report for 2015 as follows: “There is a lack of capacity within the KJC and the KPC to monitor the implementation of their decisions.”

The next important area of the Project’s activities in 2015 concerned the capacity building events organised and delivered by the experts. Several Workshops, Round tables and seminars were prepared within the framework of the respective activities. All of them were aimed at enhancing the capacity of the relevant persons - members of the Councils, Presidents of Courts, Chief Prosecutors, supporting staff, to fulfill their obligations and functions in accordance with the laws, by-laws and SOP approved by the Councils.

Last but not least, we have to note the implementation of the activities regarding the development of the National Centralised Criminal Record system (NCCR). This is one of the most important areas where further support and assistance to the KJC and Courts are needed. The main conclusions regarding the development of the NCCR are included in the next part of this publication.

The Project completed on time all twenty three (23) activities foreseen to be completed in the second implementation phase (the 18-month Project extension) in March 2016.
ASSESSMENT OF THE PROJECT SUPPORT BY AREAS, ACCOMPLISHED RESULTS AND KEY ASPECTS FOR FURTHER DEVELOPMENT OF THE COUNCILS

ASSESSMENT BY AREAS

This part aims to provide succinct synopses for the most important Project contributions in the areas of organisational and functional development of the Councils, appointment, transfer, promotion, evaluation of the performance, disciplinary proceedings for judges and prosecutors, as well as the improvement to the access to justice. It contains the most important Project recommendations with regard to the ‘key areas’ which still need special attention, further actions by the Councils and additional international support for achieving better results which would reflect on the development of the management of the judicial and prosecutorial system, strengthen the capacity of the Councils and ultimately lead to more civil trust in the judiciary. It aims at facilitating the local authorities and European institutions and bodies in their continued efforts for establishment of a transparent, reliable and effective judicial system.

This part provides a brief assessment of the impact of the most important findings, proposals and recommendations in regard to the respective areas. The substance of the main Project contributions and the consequences of the most important Project recommendations are synthesised accordingly. The status quo of the level of implementation of the most important project recommendations divided by areas and the achievement of the Project results planned at the beginning of the implementation of the Project, are also reflected upon in this part of the publication.

The emphasis of the Conclusions is on the new challenges before the Councils and the sustainability of the Project outputs.
Organisational and functional development of the KJC and KPC

The organisational and functional development of both Councils was supported by the Project through the implementation of all activities foreseen under Component I. The Activities implemented under Component I are of a various character and it would be impossible to reflect on all of them in this part of the publication. This is why only the main findings, the most important general recommendations and the relevant new recommendations in relation to the enhancement of the capacity of the Councils and the development of their organisational and functional capabilities are briefly synthesised and put to the attention of the Councils and other stakeholders.

The Law amendments of the LKJC and LKPC adopted on 28 May 2015 already provide some very important law provisions which have to be considered as a positive step ahead in the implementation of the international standards and the Project recommendations in relation to the organisation, functions and composition of the Councils. The newly foreseen functions of the Councils, the specially prescribed Councils’ regulations and the deadline for their issuing, the new composition of the KPC without the membership of the Minister of Justice, the election of 9 out of 13 KPC’s members by prosecutors, the establishment of a separate Secretariat at the KPC, the explicitly foreseen permanent Councils’ Committees, the new criteria and requirements for the members of the Committees, etc. have to be considered as provisions in compliance with the Project recommendations.

From a legislation point of view it should be stressed that there are still some aspects which need the respective amendments and supplements in order to align the Kosovo legal framework to European standards in the best possible manner. The ‘package’ of project recommendations for an entire revision of the disciplinary system for judges and prosecutors is available for further legislative initiatives.

The Project recommendation in regard to the international standards which require more than 50% of the members of the judicial councils to be elected among the peers of judges was recently implemented through the approval of the amendments of Article 108(6) of the Constitution of the Republic of Kosovo on 24 February 2016.

From a subsidiary legislation point of view it should be noted that both Councils have elaborated Action Plans for drafting, revising and approval of the respective Regulations foreseen by the Law amendments from 2015. The main efforts of the Councils and international experts and advisers were most recently directed at the implementation of the Action Plans. It should be stated that both Councils still have several regulations which need to be revised and some new draft regulations that have to be adopted. International partners should continue to support the Councils and their Committees on Normative Acts in this direction.

However, during the preparation and discussion of the draft regulations with the members of the KJC’s and KPC’s Working groups and members of their Committees on Normative Acts it was concluded that the Councils have already developed their abilities and the process of elaboration of by-laws has been enhanced. The Project’s contribution to the improvement of the Councils’ capacities for drafting and implementation of the by-laws during the entire duration of the Project was essential and regarded highly.

The implementation of the law amendments and the newly adopted Regulations by both Councils as well as the election of new members of the Councils require capacity building activities to be organised accordingly.

The actual establishment of the new separate KPC’s Secretariat requires a ‘set’ of measures to be taken by the KPC, such as the development of an adequate HR policy including analysis and assessment of the existing potential, approval
of a new Regulation on the organisation and functioning of the Secretariat and a new Organigram of the Secretariat by the Council, revision of the Job descriptions, elaboration of new JD if needed, clear distinction of the responsibilities of the supporting staff, etc. The fulfilment of these particular tasks still necessitate assistance. All project recommendations and proposals elaborated prior to the Law amendments which relate to the functions and organisation of the Councils’ Secretariats and don’t contradict with the new law provisions are applicable.

The recently approved three-year KPC’s Strategic Plan was elaborated mainly by the Project and revised several times upon requests of the beneficiary. The KPC was provided by the Project with a draft Action plan and a Draft Monitoring and Evaluation Plan. Both documents should be analysed and approved by the Council. Thus, the implementation of the Strategic plan should be carried out accordingly by the KPC.

The Project also provided the KJC with a Monitoring and Evaluation Draft Plan and a Tool for the implementation of the five-year Strategic Plan adopted by the KJC in 2014. The KJC took the respective measures for the implementation of the Project recommendations in this regard. The process should be continuously monitored and controlled.

The coordination between the implementation of the Strategic Plans and the Councils’ Annual plans has to be ensured by the Councils. The policy analyses of both Councils in the last two years were a priority area for the Project. Based on the performed project activities, the documents elaborated by the project and disseminated to the Councils and the specialty designed training on policy drafting it should be concluded that the capacity of the Councils has been developed and they are able to further build their capacity in this area.

The Concept document on training of judges and prosecutors elaborated by the Project is one of the most important documents which constitutes the framework of the Councils’ policy regarding initial and continuous training. Some areas of this policy need development, improvement and some clarification after the adoption of the Law on KJA. It is recommended that this document is applied accordingly in drafting of the respective regulations in regard to the trainings, SOP and trainings of persons in charge of trainings.

The Project provided both Councils with analyses and recommendations for the development of the budgeting of the judicial and prosecutorial system. Planning and reporting mechanisms in the area of budgeting was elaborated and submitted to the beneficiaries. A strategic approach to the decentralisation of the budget was proposed and discussed with the persons in charge with budgeting of both Councils. A Manual on budgeting containing all materials including guidelines for implementing of the specially elaborated software and the training curriculum were disseminated to the beneficiaries. It is recommended the Budget Committees of the Councils ascertain the proper organisation of the implementation of the methods and tools included in the Project Manual as well as for delivering appropriate trainings.

The coordination of both Councils at the current stage has to be assessed very positively. In comparison with the previous years when considerable Project efforts were directed to the improvement of coordination and collaboration, it is evident now that the Councils initiate and manage this process independently in a very good manner.

Issues regarding collaboration and communication with the KJI still exist mainly as the new draft LKJA is not adopted yet. It is crucial for the Councils and the Judicial Academy to establish a clear mechanism for their interaction which relates to the training of judges and prosecutors once the LKJA is adopted by the Assembly. The Project contribution in this regard can be ensured through the implementation of the respective analysis, concept documents and recommendations submitted to the Councils.
The interaction between the KJC and the Court Presidents and between the KPC and Chief Prosecutors needs further improvement. The issues presented in the regular annual reports of the Presidents of Courts and Chief Prosecutors should be reflected in the Councils’ decisions. This means that delivering and presenting the annual reports by the Court Presidents and Chief Prosecutors are the first steps in the entire process of managing the judicial and prosecutorial system. The respective measures in the scope of the competences of the Councils, for the improvement of the organisation and functioning of each court and office, have to be taken by the Councils themselves. Furthermore, the implementation of these measures has to be controlled by the Council and reported on during the Councils’ sessions. The capacity building of the Councils’ members and the supporting staff through trainings and joint discussions should continue with the support of international donors’ programmes and projects. The Project training materials, including curriculum, training needs analyses, reports on assessment for the trainings are available as annexes to the Final Report.
Accomplished results in regard to the organisational and functional development of the KJC and KPC

✓ The Constitutional amendment of Article 108(6) entered into force on 24 February 2016 and the Law amendments of the LKPC entered into force on 15 July 2015, prescribe more than 50% of the members of the KJC and KPC to be judges, respectively prosecutors, elected by their peers. Thus, the Project recommendations in this direction aiming to introduce the international standards and to support the Judicial and Prosecutorial Councils in the establishment of independent, fair, accessible, professional and impartial judicial system in Kosovo, were implemented;

✓ The capacity of the KJC’s and KPC’s members and the Councils’ supporting staff for the drafting, interpretation and implementation of regulations foreseen by the Laws, was increased and the newly adopted regulations show this capacity; The Project provided the Councils with full support in drafting, reviewing, commenting and revising of by-laws in order to guarantee the compliance of the by-laws with the respective Law provisions and to facilitate the implementation of the by-laws;

✓ Both Councils have already achieved very good results in the planning of the Councils’ activities; The Project provided the Councils with draft Strategic documents, including Monitoring and Evaluation tools; the Councils have approved their Strategic plans and established a mechanism for the proper implementation and evaluation of the strategic plans;

✓ The policy and the standards for initial and continuous trainings of judges and prosecutors is elaborated by the Project and both Councils have already a clear vision for the further implementation of the policy documents in regard with the training of judges and prosecutors;

✓ The Project provided both Councils and the persons in charge with the budgeting with a Manual and special trainings aiming at increasing the capacity for planning, implementing and reporting the budgeting in judiciary; Both Councils have already a package of tolls for facilitating the process of budgeting and decentralisation of the budget;

✓ The internal organisation of the Councils was improved through the support of the Project in elaboration of job descriptions, new organigrams, developments of the existing units and establishment of new positions and new offices within the Secretariats;

✓ The capacity of the permanent Council’s Committees for fulfilment of their obligations, reporting to the Councils and communicating with the Secretariats was strengthened through the capacity building Project activities and the Project proposals and recommendations in this regard;

✓ The collaboration and interaction of both Councils was developed and a harmonisation of the regulations, SOP, decisions, etc. was ensured through the permanent support of the Project in this direction;

✓ The public relations of both Councils was improved; The Project provided the Councils with several documents aiming at guaranteeing the transparency of the Councils’ activities.
Key aspects for further development in regard to the organisational and functional development of the KJC and KPC:

- Both Councils should continue their activities aimed at drafting, approval and implementation of the by-laws prescribed by the new Law amendments of the LKJC, LKPC, LC and LSP. Capacity building in this direction is recommended;

- The actual establishment of the new separate KPC’s Secretariat requires a set of measures to be taken by the KPC;

- Both Councils have to ensure the implementation of the Project recommendations regarding the respective Strategic Plans, Action Plans and Monitoring and Evaluation Plans and the harmonisation of the Strategic Plans with the Annual Plans;

- It is recommended that the Concept document on trainings of judges and prosecutors are developed by the Councils and used for the establishment of a policy and standards for the training of judges and prosecutors;

- The Budget Committees of the Councils shall take the responsibilities for the implementation of the recommendations and the tools included in the Budget manual elaborated by the Project;

- The Councils and the Judicial Academy have to establish a clear mechanism for their interaction which relates to the training of judges and prosecutors once the LKJA is adopted by the Assembly;

- The interaction between the KJC and the Court Presidents and the KPC and Chief Prosecutors needs further improvement;

- Continued capacity building activities for the members of the Councils and the supporting staff with the assistance of the international partners is strongly recommended.
Appointment of judges and prosecutors

The amendments to the Laws on KJC and KPC adopted on 28 May 2015 have introduced new responsibilities for the Councils, in particular for regulating and organising the examinations for judges and prosecutors, and for their assessment within the initial term. At the same time, the amendments to the Laws on Courts and on State Prosecutor have changed the conditions and requirements for candidates and newly appointed judges and prosecutors and, thus, impacted on the initial and final selection phases. The reform is therefore affecting the entire selection process while enhancing the role of the Councils, currently the only authorities in charge of recruiting and proposing candidates for appointment as judges and prosecutors. This is in compliance with the Constitution, the European and International standards and with the relevant recommendations of the Project. Furthermore, the new amendments were taken into consideration during the review of the related existing by-laws and SOPs as well as for the elaboration of new ones. Concerning the new drafted Regulations on appointment, it has to be noted that there are some significant amendments regarding the model of recruitment, selection, nomination and appointment of candidates and the initial training programme. Unlike the previous system where the candidates for the positions of judges were selected for the so-called ILEP managed by the KJI (and, only after the training, were able to apply and be proposed for appointment by the Councils), with the law amendments in place the candidates will now undergo an examination entirely managed by the KJC and KPC at the end of which, if screened positively, are immediately proposed for appointment. Only after their appointment, will the new judges and prosecutors participate in the mandatory initial 12-month training.

During the first implementation stage the Project provided support to the KJC for drafting of the Regulation on Appointment of Judges and Regulation on Appointment of Prosecutors as well as for the elaboration of the respective SOP. ‘Manuals’ containing the SOP and guidance for the proper implementation of the SOPs was disseminated to the KJC and KPC and Pilot trainings were delivered by the Project for the Councils’ members, members of the Appointment Committees and the Secretariats.

Based on its previous experience and following the new law amendments which affect the recruitment and appointment system for Judges, the Project was involved in drafting of a new Councils’ Regulations on Recruitment, Exam, Appointment and Re-appointment, and drafting of the new SOP for implementation of the Regulation. The main challenge for the Councils and for the Project was the elaboration of new SOP for the written exam for candidates. This new competence of the KJC and KPC as it is foreseen by the latest law amendments has to be understood and implemented properly. Very detailed, transparent and fair procedural rules will have to be established and applied to all candidates.

The KPC approved the Regulation on Recruitment, Exam, Appointment and Re-appointment of Prosecutors on 1 December 2015, the SOP elaborated jointly with the Project and opened a vacancy announcement for the appointment of prosecutors. The KJC still has to adopt the new Regulation and the SOP which were elaborated by the Project and submitted to the KJC and KPC.

Both Councils have yet to address the planning phase in the process of recruitment and appointment of judges and prosecutors. The planning phase for the recruitment and appointment of judges is a very important precondition for the success of the entire process. The clear distinction and prioritisation of appointment, transfer and promotion of judges is needed. The Project recommends that the Councils require the Performance Units to analyse the regular annual reports of the Court Presidents and to elaborate an assessment for the number of new judges needed for each Court. Special indicators might need to be elaborated to be used for the above-mentioned
analysis. The final conclusions and assessment will have to be elaborated by the Council. Thus, the analysis of the needs presented by the Presidents of Courts and the conclusions and assessment by the Council would be the most reliable basis for planning the process of recruitment and appointment of new judges. In this regard the HR Strategy and the Concept document for trainings provided by the Project have to be taken into consideration. Coordination of the planning processes between the KJC, KPC and KJI (KJA) is strongly recommended.

For the permanent appointment of judges and prosecutors, the amendments to the Law on Courts and Law on State Prosecutor have introduced a new phase in the career of judges and prosecutors: a period of initial training of 12 months within the 3-year initial term. The amendments to the Law on KJC and LKPC have consistently adjusted the performance evaluation process, with a specific reference to the evaluation of the initial training phase. In addition, a draft Law on the Judicial Academy is being prepared by the Ministry of Justice, with the intention to replace the existing KJI in the delivery of training to judges and prosecutors. Considering the above, the KJC draft Regulation is focused on the recruitment process but does not include new criteria and rules of procedure for the re-appointment process. It is, however, clear that the intention of the legislator has been to reform the entire selection and appointment process, including the re-appointment phase, and that the new provisions will need to be harmonised throughout the entire process, including those related to the initial training phase. The implementation process will therefore require particular efforts, chiefly to ensure that the roles and responsibility of the KJC, the KPC and the “Judicial Academy” are not only in line with the legal framework (and the standards) but that they are also clearly defined in order to avoid conflicts of competence.

Both Councils have to analyse and assess accordingly the implementation of the new law provisions regarding the recruitment, selection, appointment and re-appointment of judges and prosecutors, the new By-laws and SOP, the performance of the Appointment and the Re-consideration Committees, the contribution of the Secretariats and to take the respective measures for the improvement and development of appointment and re-appointment proceedings. This process should be carried out once the appointment of the magistrates based on the new appointment system is completed by the Councils.

The capacity building activities for the appointment proceedings that have been completed by the Project, provided the Councils, their Appointment Committees and the supporting staff in charge of the appointments process with a TNA, training curriculum and modules, proposals for the ways of organising and delivering the trainings and a full packages of materials which can be used in the scope of continued trainings in the future. In this regard the future collaboration with the KJI (KJA) is strongly recommended.

Given the pressure under which the KJC and the KPC are operating (because of the deadlines imposed by the law amendments, the need to start the selection procedure of new judges, etc.), it is likely that the implementation of the new legal framework and adjustments of the relevant by-laws will require exceptional efforts in the coming years in order to ensure coordination, consistency, harmonisation and compliance with international and European standards and best practices.
Accomplished results in regard to the Appointment of judges and prosecutors

- The Project provided both Councils with full support in drafting of Regulations on Appointment, harmonisation of the Regulations of both Councils, elaboration of SOP and capacity building trainings for persons in charge with appointment proceedings;

- The Project provided both Councils with a Manuals containing SOP for appointment proceedings and guidelines for the proper implementation of the SOP;

- The capacity of the KJC’s and KPC’s members, members of the Appointment and Re-consideration Committees and the Councils’ supporting staff in charge of the appointment proceedings was strengthened and the members of the Committees have the capacity for planning, reporting, analysing, examining assessing and proposing candidates to the Councils;

- The Project analyses, recommendations and comparative studies regarding the appointment system for judges and prosecutors were taken into consideration in the last Law amendments of the LKJC, LKPC, LC and LSP, in force from 15 July 2015;

- The newly established system for recruitment, selection, nomination and appointment of judges and prosecutors is in compliance with European best practices and Project’s recommendations;

- Following the last Law amendments, the Project has provided the Councils, their Committees and Working Groups with clear recommendations for the new Regulations on recruitment, exam and appointment as well as with new SOP for the entire process of recruitment, examination, assessment and nomination of the candidates; Thus, both Councils have a clear procedural rules for the new appointment proceedings and have the capacity to implement these procedures accordingly.
Key aspects for further development in regard to the appointment of judges and prosecutors

- Adoption of the LKJA and harmonisation of the latest law amendments of the LKJC, LKPC, LC and LSP with the new Law on the KJA especially in regard with the initial training for the appointed judges and prosecutors has to be considered as one of the most important tasks in the next period;

- Further elaboration is needed of the respective provisions in the By-laws in regard to the re-appointment of judges and prosecutors as well the elaboration of the respective SOP for re-appointment in compliance with the latest law amendments and the new LKJA;

- Approval of the KJC’s Draft Regulation on Recruitment, Exam, Appointment and Re-Appointment of Judges and the respective draft SOP is expected;

- Planning of the Appointment Procedures in terms of HR, budget, training programmes, trainers, mentors, etc. has to be deliberated as a subsequent crucial step in the activities of both the Councils;

- Assessment of the implementation of the newly adopted Regulation on Recruitment, Exam, Appointment and Re-Appointment of Prosecutors, the performance of the Appointment Committee and the implementation of the newly elaborated SOP; Based on the assessment of the KPC the respective measures for improvements of the appointment and re-appointment proceedings have to be taken by the Council;

- Continuous trainings have to be organised by the Councils, KJI (and/or international partners) following the training curriculum and materials submitted by the Project to the Councils.
Evaluation of the performance, transfer and promotion of judges and prosecutors

The latest Law amendments of the LKJC and LKPC in force from 15 July 2015 promulgated the establishment of permanent Evaluation Committees to the Councils. It is also regulated by the new law provisions that the performance assessment of judges and prosecutors with an initial term shall be conducted at least twice “once after the initial training and once at the end of the initial term”. As to the judges and prosecutors with a permanent term the evaluation shall be conducted ‘every three years’. The new provisions of both Laws promulgate the composition of the Committees and the requirements for the members of the Committees.

It should be concluded that the Law amendments in regard to the evaluation of the performance of judges and prosecutors establish a new and better legal framework for the evaluation proceedings which have to be implemented accordingly through the respective amendments of the Regulations on Evaluation, revision and improvement of the SOP and capacity development of the bodies and persons in charge with the evaluation proceedings. Further on, the new law provisions have to be considered as a step ahead in the compliance of the evaluation system for judges in Kosovo with International standards and best practices. However, the right of appeal before an independent Court against the evaluation by judges and prosecutors which is in accordance with international standards still needs to be regulated by the Laws.

Further efforts for increasing the capacity of the members of the Assessment Committees and the supporting staff in charge with the evaluation proceedings are needed. The process of evaluation of the performance of judges and prosecutors has to be improved in order for the individual achievements, skills, capacities and capabilities to be assessed not only based on the objective criteria foreseen by the laws but also taking into account the adequate and professional evaluation of all relevant information. The career development of judges and prosecutors should be based on the regular evaluation of their performance which need to be reliable and well-reasoned. The Councils’ decisions on the evaluation of the performance should be grounded on the reports of the Evaluation (Assessment) Committees and all documents collected and analysed by the Committees.

The entire process of formalised, generic evaluation of the performance of judges and prosecutors should give way to motivated, individual-specific assessment in the future. This will increase the trust of the professional community in the Councils.

The capacity building activities related to the evaluation proceedings completed by the Project, provided the Councils, their Evaluation (Assessment) Committees and the supporting staff with a TNA, training curriculum and modules, proposals for the ways of organising and delivering the trainings and a full packages of materials which can be used in the scope of continued trainings in the future. In this regard the collaboration with the KJI (KJA) is strongly recommended.

Evaluation of Judges:

The Project supported the KJC during the first Implementation Phase for revision of the KJC Regulation on Evaluation of judges, elaboration and implementation of new SOP and capacity building of the members of the Evaluation Committees and the supporting staff.

It should be stressed that the new Law amendments require review and a new revision of the Regulation on Evaluation of Judges. During this revision the Project findings and recommendations included in the Catalogue of Recommendations needs to be analysed accordingly and applied where necessary. The Policy documents and the Strategic objectives regarding the evaluation
proceedings in addition to analyses on the issues and constraints in the implementation of these proceedings, have to be taken into consideration as well.

**Following are the final Project findings** regarding the problems faced by the KJC and the Evaluation Committee during the conducting the evaluation as well as the areas which need improvement:

The Evaluation Committee performed the evaluation only for Judges with an initial mandate. There was **no evaluation conducted for the Judges with a permanent mandate.**

The Evaluation Committee is very often **not provided with all the relevant information needed** for it to successfully conduct a performance evaluation process. Sometimes, the information provided by the KJC, President of Courts and the Judge under evaluation, does not match. The **statistical report still plays a major role** in the individual evaluation process of the work of Judges when even the Regulation foresees that the statistics should not be a primary source of information. In some cases, the Self-evaluation document does not contain reliable information. Judges need training (guidelines) on properly completing the self-evaluation form. The Project Manual submitted to the KJC when the ‘pilot trainings’ were delivered by the Project, contains this guide and can be used for improving the process of self-evaluation.

The **reports of the Presidents** of respective courts could be considered as based on the SOP provided by the Project. In several cases the President of the respective Court used the same evaluation containing the same text for several Judges without noting anything specific for the individual Judge. The **Report of the President of Court** as one of the main sources of information for the evaluation proceedings should be clear and concrete as well as contain an individual characterisation of the work and abilities of each Judge.

Several recommendations were delivered to the KJC identifying weak points of Judges’ performances but so far, the KJC has not taken any action in this regard. The KJC does not apply a mechanism to deal with the Committee’s recommendations. A **clear plan needs to be drawn up by the KJC on how to implement the recommendation** of the Evaluation Committee for additional specific training of Judges under evaluation.

**Additional sources of information** should be considered by the KJC’s Regulation such as: the opinion of the collegiums of the Judges of Appellate Court for the Judges of the Basic Court level and the opinion of the collegiums of the Judges of Supreme Court for the Judges under evaluation at the Appellate level.

### Evaluation of Prosecutors

The Project supported the Kosovo Prosecutorial Council in the elaboration and adoption of the **first KPC’s Regulation on the Evaluation of Performance of Prosecutors in 2013.** The provisions of this Regulation were elaborated after extensive research into international standards and a comparative analysis of best practices. Thus, the balance between the assessment of objective and subjective criteria was clarified. Measurable indicators for the assessment of each criterion were foreseen. Several sources of information were provided by the regulation. The role of statistical indicators was decreased in comparison with other sources of information.

A clear distinction was made between the individual assessment of prosecutors by the Evaluation Committee and the Council and the assessment of the performance of the prosecution offices by the PPRU was regulated accordingly and understood properly by the persons in charge of these evaluations.

Simultaneously, the Project provided the KPC with **SOP for the evaluation proceedings**, such as a Self-Evaluation form, a template for the Chief Prosecutors’ Report on the individual performance of prosecutors, a Report on the Assessment Committee, etc.
The Law amendments adopted in 2015 should be considered as the next important legislative step forward in the development of the evaluation system of prosecutors.

**Following are the final Project findings and conclusions** regarding the evaluation proceedings for prosecutors:

The KPC adopted the amendments of the Regulation on 30 December 2015, in accordance with the new Law amendments supported by the Project. The assessment of the evaluation proceedings carried out by the KPC’s Committee in 2014 and 2015 and the Law amendments in the area of evaluation performance of prosecutors were the basis for the revision of the KPC’s Regulation.

The Law amendments and the amendments of the KPC’s Regulation do not require revision of the SOP for evaluation proceedings.

The main issues, constraints and concerns regarding the evaluation proceedings of prosecutors could be solved through organisational and managerial measures, capacity building activities for the members of the Committee and supporting staff, and the improvement of internal collaboration within the bodies and among persons in charge of the proceedings.

The following particular aspects still need to be addressed: The Report of the Chief Prosecutors as one of the main sources of information for the evaluation proceedings should be clear and concrete as well as contain an individual assessments of the performance, capacity and abilities of each prosecutor. Additional sources of information might be foreseen by the KPC’s Regulation such as reports on the complaints submitted to the Chief State Prosecution Office. All documents collected for the evaluation of the performance and taken into consideration by the EC should be properly saved and included in a personal file of the respective prosecutor. The performance evaluation of the members of the Evaluation Committee needs to be regulated by the Council.
Accomplished results in regard to the Evaluation of the performance of judges and prosecutors

✓ The entire evaluation system for judges and prosecutors is in compliance with the main requirements of international standards. The newly adopted amendments of the LKJC and LKPC in regard to the Assessment Committees are in accordance with the Project recommendations.

✓ The Project provided the KJC with full support in reviewing, commenting and revising of the Regulations on Evaluation of Judges and elaboration of SOP for evaluation proceedings;

✓ The KJC’s Committee has continuously assisted in the process of applying the SOPs, analysing and assessing the evaluation processes;

✓ The Project achieved excellent results in the establishment of a new evaluation system for prosecutors in compliance with the LKPC; A clear distinction between the individual performance of prosecutors and the performance of prosecution offices was imposed through the approval of a new Regulation on evaluation of Prosecutors in 2013 and the establishment of the KPC’s Evaluation Committee;

✓ The Project provided both Councils with a Manual containing SOP for evaluation proceedings and guidelines for the proper implementation of the SOP;

✓ The capacity of the KJC’s and KPC’s members, members of the Evaluation Committees and the Councils’ supporting staff was strengthened and the members of the Committees have the capacity for fulfilment of their obligations in accordance with the objective criteria, measurable indicators and clear sources of information;

✓ The Councils’ Evaluation Committees are capable to plan properly, to report, to analyse and to assess the evaluation proceedings accordingly; The Project provided the Committees with several trainings in this direction and submitted to the Councils the training curriculum, TNA, materials and recommendations for further trainings;

✓ Following the last Law amendments, the Project has provided the KPC with clear proposals for amendments of the Regulation on Evaluation of Prosecutors which were accepted and adopted.
Key aspects for further development in regard to the evaluation of the performance of judges and prosecutors

- A revision and amendments of the KJC’s Regulation on Evaluation of the Performance of Judges based on the new Law amendments and following the Project recommendations, are still needed to bring the evaluation system as much as possible in line with the European standards;

- Both Regulations have to be amended after the adoption of the new LKJA when the Initial training of judges and prosecutors need to be regulated accordingly. Consequently, the respective provisions in regard to the evaluations of the newly appointed judges and prosecutors during the first three-year initial appointment have to be also regulated accordingly;

- SOP for the evaluation proceedings to be regularly revised and improved after the amendments of the Regulations and whenever the Councils deem that it is required;

- Assessment of the implementation of the Regulations and the implementation of the SOP needs to be carried out on an annual basis by the Councils;

- The annual reports of the Committees, including the Assessment Committees, have to be the basis for the Councils’ assessment and introduction of further measures to improve the proceedings;

- Continuous trainings to be organised by the Councils (and/or international partners) following the Project training curriculum and materials submitted to the Councils.
Promotion and transfer of judges and prosecutors

During the first Implementation Phase of the Project the legal framework of the transfer and promotion of judges and prosecutors was analysed and the following conclusions were elaborated:

The criteria for transfer and promotion, and the main procedural safeguards should be clearly established by law. The law should clearly state that judges/prosecutors shall not be transferred against their will. **The needs for transfers and promotion should be assessed by the KJC/KPC on a regular basis** in order to ensure that, every judge/prosecutor has an opportunity to ask for a transfer or promotion to a vacant position.

The transfer and promotion of judges/prosecutors should be **based on the results of a regular evaluation.** This will ensure a competitive environment where better performing post-holders are incentivised to advance their careers. In addition, a **special evaluation** of the candidates who stand to be promoted can be foreseen in the Regulation on Evaluation or Regulation on Transfer and Promotion. The regular evaluation of the performance of judges and prosecutors should play a leading role in the career development of judges and prosecutors, including transfer and promotion. This international standard is foreseen by the KJC’s and KPC’s Regulations. However, only the proper implementation of this standard in the Regulations by the Councils will provide a real impact to the judicial and prosecutorial community. Monitoring and evaluation of this process is strongly recommended.

The Law should prescribe a possibility of an **appeal before an independent Court** against all decisions for transfer and promotion of judges/prosecutors.

Since the latest Law amendments of the LKJC and LKPC in 2015 did not reflect on the Law provision for transfer and promotion of judges and prosecutors, the main efforts should be directed to the by-laws, SOP and the improvement of all relevant procedural rules and decision making process of the Councils in regard to the transfer and promotion. However, the principles of legality, transparency and fair competition for transfer and promotion of judges and prosecutors have to be provided and guaranteed through the relevant Law provisions. Thus, the respective law amendments are still required.

The Project provided the KJC with an analysis of the KJC’s Regulation on Transfer and Promotion and recommended a revision and amendments of the Regulation in compliance with the Law provisions in force and international standards.

The Concept document for transfer and promotion of prosecutors was submitted to the KPC in 2015. This document contains all the relevant assessments, analyses and findings which have to be taken into consideration in establishing a new reliable, transparent and merit based system for transfer and promotion of judges and prosecutors.

The KPC’s Draft Regulation on Transfer and Promotion of Prosecutors elaborated recently by the Project and KPC’s Working Group foresees provisions which regulate the procedures in compliance with the legal framework.
**Accomplished results in regard to the promotion and transfer of judges and prosecutors**

- The Law’s provisions on transfer and promotion of judges and prosecutors were analysed and assessed by the Project and the respective law amendments were recommended accordingly; The comparative studies and the respective references to the applicable international standards were elaborated by the Project, submitted to the Councils and discussed;

- The newly adopted amendments of the LKJC and LKPC don’t contain any supplementations or amendments in regard to the transfer and promotion; Thus, the existing law provisions were interpreted accordingly in revising and commenting of the Councils’ regulation and in drafting proposals for new Regulations;

- The Project provided the KJC with full support in reviewing, commenting and revising of the Regulations on Transfer of Judges; The respective recommendations aim at improving the system and to ensure the compliance of the Regulation with the Legal framework;

- The Project provided the KPC with support in drafting of a new Regulation on Transfer and Promotion of Prosecutors and SOP for the respective proceedings; The documents were elaborated together with the KPC's Working Group and discussed with the relevant stakeholders in details; Thus, the new draft documents are already an excellent basis for the further approval and implementation. They will facilitate the KPC in establishment of a better mechanism for transfer and promotion;

- The Project achieved very good results in the elaboration of Concept documents on transfer and promotion of judges and prosecutors, which contain a deep analysis on the existing situation and proposals for different options aiming at improving the system and ensuring the career development of judges and prosecutors in compliance with international standards;

- Both Councils have the capacity to ensure the harmonisation of the respective Regulations on Evaluation and Regulations on transfer and promotion. They seek to guarantee the fair and transparent career development of judges and prosecutors;

- The capacity of the members of the Councils, their Committees and the supporting staff in charge with transfer and promotion proceeding was strengthened. Thus the responsible persons in both Councils already have the knowledge and the experience to improve the regulatory framework and to carry out the proceedings in a proper manner.
Key aspects for further development in regard to the promotion and transfer of judges and prosecutors

- The respective Law amendments regarding transfer and promotion in compliance with international standards as recommended by the Project, are still valid;
- The KJC’s Regulation on Transfer and Promotion needs to be revised and amended following the Project assessment report in this regard and following the respective recommendations;
- The Draft Regulation on Transfer and Promotion of Prosecutors elaborated recently by the Project and the KPC’s Working group has to be approved by the Council;
- SOP for transfer and promotion have to be elaborated, discussed with the professional community and approved by the Councils;
- Planning of the transfers and promotions by the Councils and proper announcement of the vacant positions as an important precondition for guaranteeing the transparency, impartiality and fairness of the processes, are strongly recommended.
Disciplinary liability of judges and prosecutors

The legal framework in Kosovo, including the latest Law amendments in regard to the disciplinary proceedings for judges and prosecutors has to be considered as insufficient in terms of compliance with international standards and project recommendations. Significant revisions and amendments of the LKJC and LKPC and the adoption of a new Law on the ODC as well as full harmonisation of the provisions for disciplinary liability of judges and prosecutors have been strongly recommended since the beginning of the project implementation. The analyses of the existing legal framework, the comparative study of the best practices and the references to the applicable international standards were elaborated by the Project at a very early stage of the implementation of the disciplinary activities.

It was concluded that the development of the disciplinary system depends mainly on the revision and amendment of the laws. Some of the most important aspects where amendments are recommended by the Project, are the following: The criteria for rejecting complaints and opening investigation, as well as the investigative power and the procedural rights of the parties, have to be clearly defined by the laws. The criteria for suspension in the case of serious misconduct and the procedure to be applied needs to be prescribed by the Law. A very vague and general definition of misconduct is contained in the LKJC and LKPC. The current Laws, in contrary to the Rule of Law Principle, do not contain sufficiently clear rules on some procedural aspects like the interruption of hearings, lapse of time, rejection of proposals of the Office of the Disciplinary Prosecutor and also with regard to the material content of the elements of the ‘disciplinary measures’ or the ‘suspension’. The right of appeal before an independent Court against all disciplinary decisions which is in accordance with international standards still needs to be regulated by the Laws.

The Project’s support to the Councils and their Disciplinary Committees during the implementation of the Project was directed to the adequate amendments of the Regulations on Disciplinary Committees, providing recommendations for drafting Regulations on disciplinary liability of the members of the Councils, development of the organisation and functioning of the ODC, elaboration of SOP for disciplinary investigations and disciplinary proceedings, delivery of trainings, etc.

It should be stated that, in its entirety, the Project’s contribution to the improvement of the disciplinary system for judges and prosecutors is very significant and substantial. However, most of the negative impacts of the existing legal framework were unavoidable and unsurmountable through the revisions of By-laws, establishment of SOP and capacity building activities. The main issues need to be clarified by the law - some of these issues should be clarified by an amendment to the KPC/KJC Law others could be stipulated in a new ODC Law.

Thus, it is recommended that the Concept document on the Draft Law on the ODC and the Concept documents on the disciplinary proceedings for judges and prosecutors, the Catalogue of recommendations, the Reference book containing International documents, all elaborated by the Project, be applied in case of a legislative initiative.

The Manuals for the KJC, KPC and ODC, containing the respective SOP and guidelines for their application, as well as the supporting documents aiming to facilitate the disciplinary investigations and proceedings have to be used by the bodies and persons responsible for disciplinary actions. The respective amendments and improvements to these Manuals have to be elaborated and introduced if the amendments of the primary and secondary legislations are adopted. The training curriculum and materials provided by the Project can be adapted accordingly to the respective future trainings.
The newly elected members of the Councils and their Disciplinary Committees have to be provided with a full package of the Project documents which relate to the disciplinary system of judges. It would facilitate the capacity building activities that both Councils might organise in the future.
Accomplished results in regard to the disciplinary system of judges and prosecutors

✓ The Project support in regard to the disciplinary system for judges and prosecutors in Kosovo was provided continuously during the entire implementation of the Project. The reports and analyses contain a very detailed assessment of the existing system and clear recommendations and proposals for the respective law amendments which are needed for the improvement of the disciplinary system and ensuring the implementation of the respective international standards;

✓ The recommendations and analyses are applicable in the respective legislative process. This process would be facilitated also through the Concept documents elaborated by the Project and submitted to both Councils; Thus, the capacity of the Councils for policy analysis and assessment of disciplinary system was strengthened vastly;

✓ Taking into consideration the legal framework the Project provided the KJC, KPC and ODC with several concrete proposals for revision of the by-laws, SOP for disciplinary investigations and disciplinary proceedings, trainings, etc. which contributed the strengthening of the bodies in charge with disciplinary liability of judges and prosecutors;

✓ The Project provided both Councils and their Disciplinary Committees with recommendations for the respective amendments of the Regulations on the Disciplinary Committees aiming at achieving the compliance of the laws with the By-laws; The discussions with the Councils’ Committees in this regard increased the capacity of the Councils for interpreting properly the law provisions and for applying the Regulations accordingly;

✓ The Project elaborated a very detailed analysis and assessment of the KJC’s Regulation and the draft KPC’s Regulation on the Disciplinary liability of the KPC members containing some very critical recommendations;

✓ The Project elaborated a full package of the respective SOP for disciplinary proceedings against judges, Manual with guidelines how to use the SOP and delivered trainings for the KJC, the members of the Disciplinary Committee and supporting staff;

✓ The Project elaborated all relevant SOP, a Manual and delivered trainings for the KPC., KPC’s Disciplinary Committee and supporting staff;

✓ The same approach was applied for the ODC - a Manual, SOP for the all activities relating to disciplinary investigations against judges and prosecutors were elaborated and submitted to the ODC; the respective trainings were delivered by the Project;

✓ Thus, the capacity of the bodies and persons in charge with disciplinary investigations and disciplinary proceedings was considerably increased;

✓ Additional support was provided to the ODC in regard to the elaboration of job descriptions and new organigram, comments on the status of the ODC’s staff; proposals for internal regulation of the ODC aiming at improving the organisation and functioning of the body;
The Project provided support to the KPC for the elaboration and approval of the Code of Conduct for prosecutors, Code of Conduct for members of the KPC and for the supporting staff; Thus the ethical rules in force that are applicable for all members of the prosecution system contribute to the efficiency, impartiality and independence of prosecutors.

Key aspects for further development in regard to the disciplinary system of judges and prosecutors

- The disciplinary system for judges and prosecutors in Kosovo needs a thorough revision with amendments of the LKJC, LKPC as well as an adoption of a new Law on the ODC; full harmonisation of the provisions for disciplinary liability of judges and prosecutors is recommended. This is one of the most important key areas where international support and assistance are still needed;

- It is recommended, the Concept document on the Draft Law on the ODC and the Concept documents on the disciplinary proceedings for judges and prosecutors, the Catalogue of recommendations, the Reference book containing International documents, all elaborated by the Project, be applied in case of a legislative initiative;

- The Manuals for the KJC, KPC and ODC containing the respective SOP and a guidance for their implementation as well the training curriculum and materials have to be applied, revised and improved accordingly;

- Further efforts are needed to increase the capacity of the newly elected members of the KJC and KPC and the members of the Disciplinary Committee.
National Centralised Criminal record system (NCCR)

The Project’s support to the KJC in its establishment and development of the NCCR comprised of the following two phases:

The first phase, implemented in 2014, was focused on an assessment of the legal framework of Kosovo and the legal grounds that would permit the establishment of an electronic criminal records system. Consequently, a detailed analytical report was produced and delivered to the KJC, which contained proposals and recommendations on the steps to be taken by the KJC, an assessment of the current legislative and regulatory framework; a comparative study and clarification of relevant international standards and best practices; a design for the NCCR and, recommendations regarding relevant legislative and regulatory provision and the institutional and management requirements to make the system compliant with legal requirements, functional, workable and controllable.

Following the above-mentioned Project recommendations, the KJC began the process of implementation by developing a separate NCCR software application and integrating it in the KJC information system.

The second phase of the Project’s support to the KJC for development of the NCCR carried out in 2015 provided the KJC with an assessment of the operability of the KJC NCCR software, recommendations on the development of the content of the NCCR software (electronic database) and a Draft Regulation on NCCR. Consequently, in April 2015 the KJC adopted the Regulation on NCCR and appointed a Director of the NCCR.

Meanwhile, through the Law amendments of the LKJC on 28 May, 2015, the KJC was clearly identified by the Law as the competent entity in the field of judicial affairs for managing the central system of criminal evidence.

The Project implemented a 3-month Pilot Project in the Basic Court of Pristina, Branch in Lipjan aiming at populating the NCCR software with data of convicted persons and Identification of the problems arising from this process.

All criminal cases completed by the judges at this court from 2000 to 2014 were reviewed. The relevant data regarding 3,775 convicted persons were analysed, out of which the data for 3,256 persons were populated into the software. The remaining data for 519 persons were not populated because of the lack of a PIN and other identifying data or because of some other constraints related to the software.

The following critical issues were identified by the Pilot project:

Regarding the NCCR Software:
- Not all applicable Laws are included in the respective section of the software such as the Juvenile Justice Code, the Law on the Criminal Liability of Legal Persons and the Kosovo Customs Code;
- The section for the punishment is not in full accordance with the CPC and JJC and with Article 8.6 of the KJC’s Regulation;
- The software does not contain all the relevant personal data as foreseen by the KJC Regulation;
- The personal data of foreigners convicted in Kosovo cannot be entered;
- The software does not contain a feature for deletion of convictions based on legal or judicial rehabilitation.

Regarding the Court case files:
- There are no clear indications that the judgments are final;

The absence of personal data of the convicted persons was noticed in several cases and should be considered as one of the most serious constraints when entering ata.
Accomplished results in regard to the establishment of the NCCR

- The Project provided the KJC with an analytical report containing proposals and recommendations on the steps to be taken by the KJC for establishment of the NCCR;
- The Project analysed and assessed the legislative and regulatory framework and recommended the respective amendments;
- The Project provided the KJC with a comparative study and summary of the best practices; a design for the NCCR and, the institutional and management requirements to make the system compliant with legal requirements, functional, workable and controllable;
- Further on, the Project assessed the operability of the KJC’s newly created NCCR software and recommended the development of the content of the NCCR software (electronic database);
- The Project elaborated and submitted to the Council a Draft Regulation on NCCR which was adopted by the KJC;
- The Law amendments of the LKJC entered into force on 15 July 2015 defined the KJC as a home institution for the NCCR following the Projects’ analysis and recommendations; Thus the respective legal framework for the establishment of the NCCR was created;
- The KJC has appointed a Director of the NCCR at the Secretariat and delivered the respective obligations for development of the NCCR;
- The Project provided the KJC with full support in the entire process and continued with the implementation of 3 month Pilot project in the Basic Court of Pristina, Branch in Lipjan aiming at populating the NCCR software with data of convicted persons and Identification of the problems arising from this process;
- The Project achieved excellent results during the implementation of the Pilot Project which are analysed, summarised and presented accordingly. All criminal cases completed by the judges at the Pilot court from 2000 to 2014 were reviewed. The relevant data regarding 3,775 convicted persons were analysed, out of which data 3,256 persons were populated into the software. The respective issues, constraints and findings have to be taken into consideration in the next activities in relation to the NCCR.
Key aspects for further development of the NCCR

- The NCCR’s software needs to be revised and adapted to the legal framework in order that all applicable laws, punishments and personal data requested by the Laws and by the KJC’s Regulation are included in the software;

- The relevant sections of the software regarding the legal and judicial rehabilitation, amnesty, pardon, etc. should be included in the NCCR software and the entry of data for these very important Acts related to the criminal past of the persons should be ensured;

- The entry of data should continue simultaneously through the input of all relevant information from the criminal and execution cases; The link between the criminal case and the execution case should be clear;

- A uniform practice should be established for the clear identification of rulings which have entering into force;

- The personal data of the convicted persons in the rulings, criminal and execution cases should be reliable and in full compliance with the Laws, KJC’s Regulation and NCCR’s software; A SOP in this regard might be elaborated and approved by the KJC;

- The access to the CRA database for verifying the accuracy of the personal data of the convicted persons during the population of the NCCR database, is strongly recommended;

- The implementation of further activities on data entering in the Basic Courts in Kosovo following the objectives of the Pilot project is recommended.
The coordination with the other international partners during the implementation of the Project needs to be highlighted as a **very good example** of applying methods and tools to develop international cooperation in the justice sector in Kosovo.

It is well known that a lot of international programmes and projects are involved in the justice sector in Kosovo providing the judicial bodies with support in several areas. Some of these projects are funded by the European Union, some by the Governments of European states, some by the American Government, USAID, etc. The cooperation and coordination with the relevant stakeholders was extremely important in order to avoid any duplications in the foreseen activities and to allocate the respective resources adequately so that the contribution of each international partner remain valuable and appreciated. In this regard the Project held since the very beginning the position that the various international stakeholders should avoid any competition, work together when possible, elaborate joint positions on highly sensitive legal issues and coordinate the activities in such a manner as to allow the beneficiaries to play an active role in them and ensure communication with all international actors is on the same level.

Following these guidelines, the Project used several tools to achieve the best possible results in the collaboration with the other projects and programs such as:

- **At the very beginning of the implementation phase the Project signed a joint Integrated Work Plan with USAID/EROL Programme aimed at avoiding duplication of activities and setting the priorities of both projects. Several coordination meetings with EROL Programme were carried out for assessing the implementation of this Plan;**

- **Excellent communication was established with the EULEX advisory team: several preliminary meetings for exchange of legal opinions were carried out; joint comments and proposals were elaborated by the KPC advisers and Project experts; regular coordination meetings were initiated and hosted by the Project during the implementation of the Project;**

- **The very high level of cooperation between the Project and the experts of US Embassy, DoJ should also be underlined. The Project**
was invited to contribute to the initiative of the American experts to elaborate a new Draft law on the ODC. Several meetings and discussions, drafting proposals, joint revisions of the Draft law, etc were organised and the final Draft Law on the ODC was submitted to the MoJ by the American experts.

It is strongly recommended that other European Projects follow this approach as its value and effectiveness were ascertained during the entire Project implementation.
The main characteristics of the management and administration of the Project are clarified below to emphasise the challenges and achievements.

There are some very important aspects which have to be pointed out as significant preconditions for the successful implementation of the Project.

The Project was implemented in accordance with the Project plan and all activities were completed on time and without delay.

The Project established excellent communication with the beneficiaries which is considered as the most important prerequisite for the Project achievements in terms of the substance of the Project contribution.

The Project was involved not only in the implementation of the planned Activities but also in the regular activities of both Councils following the on-going tasks of the Councils, their decisions, issues and this allowed the Project to increase the scope of the tasks for most of the activities and to adapt the ToRs for the respective activities to the real needs and expectations of the Councils.

Within the frameworks of some of the activities performed by the Project and outside the scope of the respective ToRs the experts have taken additional initiatives when necessary.

Furthermore, additional experts’ comments, reports and recommendations were provided outside the scope of the Project plan and usually upon the request of the Councils. Most of them – namely, thirty-three (33) documents are annexes to the QPRs and are collected in a specially designated chapter ‘Other project Activities’. It shows the willingness and readiness of the Project to react to the requests adequately and to elaborate and submit to the Councils the respective experts’ analysis.

However, it should be stated here that often when the Councils requested for the Project’s contribution, the deadlines were very short and did not allow the Project to always guarantee exhaustive research of the issues addressed.

Another important aspect of the Project management was the assignment of SSTE from different European states (Austria, Portugal, Italy, France, Germany, Belgium, Bulgaria, Estonia, etc.) which have a very high level of international expertise and provided the beneficiaries not only with assessment, analyses and recommendations based on the
International standards but also with specific findings based on their personal experience in their respective countries.

The collaboration with the EU Office in Kosovo and the responsible Task managers and the professional level of communication based on mutual respect during the entire duration of the Project can be regarded as very important preconditions for the successful implementation of the Project activities.
The Final Report presents all activities implemented by the Project “Support to the Kosovo Judicial Council and Kosovo Prosecutorial council” from October 2011 to April 2016.

It contains four parts: Executive summary, Implemented activities presented by Components, Other Project Activities completed by the Project, Conclusions and ten (10) Annexes.

The Executive summary refers to the main characteristics of the Project, the local background and the main areas of the Project contribution by years following the chronology of the Project activities. It refers to the main findings, recommendations and achievements as well as to some of the most important negative aspects and shortcomings. This synthesised summary seeks to highlight the Project’s continuous support to the Kosovo Judicial Council and Kosovo Prosecutorial Council, the main results achieved and the areas where further development of the Councils and support from international society is required.

The narrative part of the Report contains an analysis of the two groups of activities performed by the Project: the implemented activities presented by Components and the Other Project Activities. This part contains a description of all sixty-eight (68) fully completed Project activities and two hundred seventy-eight (278) outputs delivered by the Project, covering all recommendations in the most detailed and comprehensive manner possible, and intends to provide a clear overview of the entire process of the Project’s implementation.

Each Activity’s description follows the same structure referring to the period of implementation of the respective activity, its specific objectives, the tasks performed, the conclusions and recommendations. At the end of each description there is an index table containing the experts’ reports (outputs) and the respective Quarterly progress reports. The QPRs and their annexes are available in their entirety as an annex to this Final Report. The Table of activities and outputs which is also an annex to the Final Report might be considered as a guideline for facilitating the Councils and future international projects in their activities for the future implementation of the as yet unaddressed recommendations. It will also support the fulfilment of any new tasks in regard to the organisation and functioning of the Councils, appointment, transfer, promotion, evaluation, discipline of judges and prosecutors, access to justice, etc.
The assessment of the implementation level of the recommendations can be seen in the description of each Activity, experts’ reports and the related activities under the respective Component and Sub-Component as well as in the Catalogue of recommendations updated in 2016, which are annexed to the Final report. The international documents referring to the respective recommendations can be found in the Catalogue of recommendations and the Experts’ reports. The most important international documents are collected in a Reference book elaborated by the Project in 2014 and a List of international documents divided by areas elaborated in 2016, both annexed to the Final Report.

The Conclusions of the Final Report seek to provide a clear view of the most important Project contribution in the areas of organisational and functional development of the Councils, appointment, transfer, promotion, evaluation of performance and disciplinary proceedings for judges and prosecutors, as well as in the improvement of access to justice. This part of the Final report reflects on the current level of implementation of the most important project recommendations, divided by areas, and the achievement of the Project results as planned at the beginning of the implementation of the Project. It also contains the most important Project recommendations in regard to the ‘key areas’ which still need special attention, further action by the Councils and additional international support in order to achieve the expected improvements in the organisation and management of the judicial and prosecutorial system and, in turn, increase social trust in the judiciary.
SUPPORT TO THE KOSOVO JUDICIAL COUNCIL AND TO THE KOSOVO PROSECUTORIAL COUNCIL
CONTRACT 2011 / 271 – 244 & 2014 / 350 – 729

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