UNDP Kosovo

CP Outcome: Effective judicial and policing institutions established that contribute to increased personal security

CP Outcome indicator: Public satisfaction with government services

Programme outputs: (1) Capacity building of justice institutions; (2) Capacity building for improved judicial practices; (3) Improved knowledge on access to justice issues in Kosovo; (4) Increased knowledge on issues of transitional justice amongst practitioners

Output Indicators: (Indicators: (1) long-term training programme implemented; (2) training centre set-up; (3) increase pass rate of exam to 50%; (4) publishing of laws in Official Gazette within 10 days of their promulgation

Programme Partners: Kosovo Judicial Council, Ministry of Justice of Kosovo, Kosovo Judicial Institute, Kosovo Chamber of Advocates (KCA), Kosovo Judges and Prosecutors Association, Supreme Court of Kosovo Government Office for Administration and Management of the Official Gazette

Programme Period: 2007-2010
Programme Component: Project Title: Rule of Law Programme for Kosovo
Project ID: RoLK
Project Duration: 3 years
Management Arrangement: DEX

Total Budget: USD 5,900,000
Allocated resources: USD 200,000
USD 100,000
Un-funded budget: USD 5,600,000

Agreed by UNDP:
Mr. Frode Mauring, Resident Representative,

Agreed by Kosovo Judicial Council
Mr. Rexhep Haxhimusa

Agrees by Ministry of Justice
Mr. Jonuz Salihaj

Agreed by Kosovo Judicial Institute
Prof. Dr. Vesel Latifi

Agreed by Kosovo Chamber of Advocates
Mr. Ramë Gashi
Programme Title: Rule of Law Programme for Kosovo

Proposed Duration: 3 years

Proposing UN Agency: UNDP

Estimated total budget: USD 5,900,000

Geographical Location: Kosovo

UNDP Contact: Virgjina Dumnica  
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Executive Summary

The Rule of law and Justice Sector in Kosovo are two most critical areas in which further support and strengthening in a strategic manner is needed. Despite of continuous problems observed by various international observers and experts reports on the rule of law, justice system and human rights in Kosovo¹, interventions up to date are not strategically mainstreamed, and issues are mainly addressed in an ad-hoc basis, and in response to urgent needs on the ground.

With UNMIK Regulation no. 2006/25, the regulatory framework for the justice system is adopted, setting forth principles of the development and enhancement of the justice system for Kosovo, to best serve the needs and provide for the access to justice for all members of the Kosovan society.

As the establishment of a fair, independent and impartial judiciary in Kosovo remains a high priority, the UNDP Rule of Law Programme for Kosovo 2007-2010 will focus on the development of independent and efficient justice system that applies human rights standards. The Programme is designed to meet the most pressing human rights and rule of law issues and will be composed of the key programme components such as justice sector capacity building, access to justice and transitional justice and human rights programme.

¹ Ambassador Eide's Report S/2005/635 “A comprehensive review of the situation in Kosovo”, October 7, 2005; OSCE review reports on criminal justice, civil justice and administrative justice systems in Kosovo;
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I
SITUATION ANALYSIS

A. Developing a Justice Sector for Kosovo

In 1999, the United Nations Security Council passed Resolution 1244, which established Kosovo as a United Nations protectorate, to be governed by the United Nations Interim Mission in Kosovo (UNMIK). For the previous decade, the ethnic Albanian population of Kosovo had been dismissed from employment in the public sector, including within the justice system, resulting in a capacity vacuum upon the removal of the Serbian government from power in the province. With the arrival of UNMIK, one of the immediate priorities was the rapid establishment of an emergency justice system, to support the development of a stable and functioning Kosovo in accordance with international standards in rule of law.

More than eight years later, the judicial reform process continues – once Kosovo had moved beyond the emergency recovery phase, targeted and sustained interventions to build the capacity of the judicial sector commenced with the support of a wide range of international donors. The entire system had to be built from scratch – the development of a legislative framework in compliance with international standards, continuous training of legal professionals, in order to instil basic principles of democratic governance into the day to day work of the justice sector.

International observers have carried out a number of monitoring missions related to the justice sector in Kosovo, and the work undertaken to date has produced some tangible results. Continuous training and other capacity building measures have resulted in the establishment of legal aid support and the adoption of critical laws and regulations. However, there is still a long way to go – and to change the approach to supporting the sector.

Major donor agencies in the justice sector in Kosovo, the European Agency for Reconstruction, OSCE and USAID are continuing to implement programmes in justice sector to support the strengthening of the rule of law and improvement of the justice system in Kosovo.

Whereas current EAR’s major intervention sectors within the rule of law and justice system for Kosovo are support to Ministry of Justice in taking on their expanding responsibilities in the area of justice through assisting on the drafting legislation related to the structure and the role of Ministry of Justice, and providing strategic advises on the structure and coordination among judicial bodies, EAR is also supporting the criminal justice sector through support to reforming of Juvenile Justice, support to Public prosecutor’s office and to combating of economic crime and corruption practices.

USAID is increasing focus on assisting Ministry of justice and the Kosovo Judicial Council to implement changes to the court system. USAID is phasing out from supporting the Kosovo Camber of Advocates and Judges Association, and will be more focusing on legal ethics and clinical training programme for law students.

The OSCE Department’s Rule of Law Division has been responsible for developing the legal and judicial system in Kosovo. This has been done through the physical and logistical development of the judicial system in its early stages general support to the judiciary and lawyers, and the creation of institutions, such as Kosovo Judicial Institute, which become now as independent institute.
The Kosovo government is increasingly taking the lead in capacity development programmes for a variety of sectors – with the scaling up of the process of European integration, the judiciary has become a key priority for the government. Thus, the standard approaches employed to date for capacity building must now be reviewed: the professionals in this sector are sufficiently trained that they can now be key actors in the development of new programmes targeting the sector, and more importantly, have the skills to absorb longer-term approaches to capacity development, rather than participate in short-term ad hoc initiatives.

Further, with sufficient basic training now behind them, other tools required to build and develop capacities of legal professions need to be accounted for. Lessons learned from previous activities have shown that what is most needed is the simplification of and on-the-job support in the publication of manuals, legal commentaries, and guidelines to serve as tools for judges, prosecutors and lawyers to speed up judicial processes and increase the overall public satisfaction with the justice sector. These tools should be parallel to on-going training programmes for legal professionals, in particular in two sub-sectors of the justice sector: access to justice, human rights and transitional justice.

Rule of Law and Governance will be Government priorities in the 2008-2010 periods. Efficient function of the Rule of Law Sector is an essential precondition for the society general growth. Also, it is impossible to imagine market driven economy without efficient rule of law sector. In this regard, foreign investments are conditioned among others also with the efficient function of this sector. Moreover, regulation of this sector is always one of the persistent requests Euro-Atlantic communities for the processes of approaching to these bodies with the ultimate aspiration to join the same bodies which is a mandatory for the economic growth. Referring to these principles, state authority should be exercised in line with its responsibilities granted by law, in order to protect citizens right in general and in particular to protect its citizens from the arbitrary actions of the state apparatus.

In Kosovo, in political plan this sector after 1999 was managed by UNMIK 1st Pillar until the establishment of two new ministries in Kosovo Government in 2006, Ministry of Justice and Ministry of Internal Affairs. However, in order to prove the stability of Kosovo following the status resolution, sustainable institutional mechanism’s which provide a credible rule of law among other things should provide a safe environment for the ethnic communities and to eliminate their need for the parallel structures which are not the part of Kosovo’s legal system.

Moreover, rule of law and respect of human rights particularly the right of communities are among the essential political criteria’s for the approach to the European Union, as defined by EU Council in Copenhagen in 1993 (Copenhagen criteria’s). In this regard,
EU Council in January, 2006 took a decision based on the political specifics of Kosovo to initiate European Partnership Action Program where the key priority is: “to ensure the full compliance with the rule of law based on the policies of zero tolerance against corruption, organized crime and financial crime”.

The rule of law and governance affect all activities. Compliance with the sound legislative framework that has been put in place already will help to promote confidence in the institutional system. It will play a key role when it comes to attracting foreign investment. Additional expenditure is required to promote new institutions such as the Ministry of Justice, train judges, and strengthen the courts and so on.

Capacity Building for Improved Rule of Law

In October 2005, the Special Envoy of the UN Secretary General, Kai Eide, presented to the Security Council a comprehensive review of the situation in Kosovo, evaluating the Kosovo government’s achievements in relation to the ‘Standards Implementation Plan’ for Kosovo, setting out specific criteria which must be met prior to any discussions on Kosovo’s future political status.

The report focused heavily on the inadequate progress made in relation to the rule of law in Kosovo – in particular the underdeveloped enforcement mechanisms within the justice sector. As a result, the justice

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2 Medium Term Expenditure Framework 2008-2010 Ministry of Economy and Finance
system was classified as the weakest of all Kosovo institutions. Numerous factors contribute to this situation, including the lack of authority of the Kosovo Government and UNMIK in some areas of Kosovo, and not least the existence of parallel legal structures for Kosovo present in Serbia proper. All of the factors contribute to the detrimental effect which an improperly functioning justice system has on development in the territory – in the absence of an effective justice system, other processes such as good governance, economic development and inter-ethnic reconciliation continue to be undermined.

As a result, international observers stepped up their monitoring of the justice sector, focusing on criminal, civil and administrative justice issues. They further monitored the administration of and efficiency of the judicial structures, the availability of legal services for all communities, and produced a number of useful and implements able recommendations for the improvement of the sector. Nonetheless, the issues and problems within the sector need more comprehensive attention, particularly in relation to issues of access to justice.

**Access to Justice**

Access to justice for the most vulnerable groups in society is a key component of the judicial reform process in Kosovo. Between 2001 and 2005, the European Agency for Reconstruction (EAR) supported a programme within the Kosovo Chamber of Advocates, to ensure that marginalized groups had equal and free access to justice for the purposes of addressing and protecting their human rights and interests within the judicial system. The programme targeted groups with insufficient income to undertake legal activities on their own, irrespective of gender, ethnicity, nationality or age. The process of legal aid was then institutionalized within UNMIK Regulation 2006/36, making legal aid systems part of the overall structure of the justice system in Kosovo. However, despite the Regulation, with the end of the EAR project in 2005, there has been an absence of legal aid systems in Kosovo. In order to continue on the path of judicial reform, it is imperative that a permanent system be established, starting with the appointment of a Commission and the development of secondary legislation in order to allow justice to be accessible to all sectors of society.

International observers reports have, generally, identified gaps/shortcoming in the access to justice in Kosovo, but to date, no comprehensive assessment is undertaken to address access to justice components, which, within Kosovo justice system context, enable and guarantee equal access to justice for all communities in Kosovo, such as possibilities outlined with normative protection, capacities of institutional mechanisms and stakeholders to ensure effective access to justice, legal education and legal awareness and the level of transparency of performance of the holders of public offices.

**Transitional Justice and Human Rights**

In the early stages of post-conflict recovery in many societies, the understanding and application of transitional justice tends to be lacking. To date, there has been no sustainable government or civil society programme or project which provides research, training, knowledge sharing or public information on this concept. In July 2006, UNDP established at sub-regional Transitional Justice Programme to address this issue in order to take the first steps towards inter-community reconciliation in Kosovo. Continuous effort is required to assist the government to take a leading role in this process – through the provision of policy advice, and linking the concept to development, conflict prevention and justice issues.

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4 OSCE review reports on criminal justice, civil justice and administrative justice systems in Kosovo
5 EAR press release on Presentation of the report for the public on legal aid, August 26, 2005; Kosovo Chamber of Advocates - Legal aid Project - Report for the Public 2005
B. The Way Forward

The Standards Implementation Plan lays out the key objectives to be reached within the justice sector for the achievement of the rule of law:

A sound legal framework and effective law enforcement, compliant of European standards. Police, justice and penal system act impartially and fully respect human rights. There is an equal access to justice and no one is above the law: there is no impunity for violators. There are strong measures in place to fight ethnically motivated crime, as well as economic and financial crime.6

The judicial sector has identified key areas for intervention, including support to legislative drafting and preparation of legal manuals,7 as well as training for more sound understanding and interpretation of new legislation (including the development of legal commentaries for in-depth explanations of legal norms).

Further, there is a need to improve the transparency of the legal system in general – while the first Bulletin of the Case Law of the Supreme Court of Kosovo was published in 2005, the publication of case law needs to take place on a regular basis, supplemented by the clarification and unification of judicial practice through the publication of guidelines on the implementation of certain laws in the courts. Further, the Official Gazette needs to be updated and made available in electronic format as well as hardcopy – significant support is required for the Office for Management and Administration of the Official Gazette in order to ensure the timely publication and dissemination of laws in five languages (Albanian, Serbian, Turkish, Bosnian and English).

There are programmes in place working towards the achievement of some of these objectives, namely a training centre for judges and prosecutors within the Kosovo Judicial Institute, and the trainings provided for the private attorneys through the Kosovo Chamber of Advocates. However, these training programmes need updating and expansion, to fulfil the requirements of newly passed legislation, are in line with a long-term training strategy for the sector (not currently in existence) and are sustainable – underscoring here that the achievement of these goals cannot happen without the strategic support of the wider donor community.

C. Institutional/Policy/Legal frameworks

UNMIK Regulation no. 2001/9 on Constitutional Framework for provisional self-government in Kosovo sets forth the principles to be observed by the Provisional Institutions of Self-Government, including promotion and full respect for the rule of law, human rights and freedoms, democratic principles and reconciliation.

In order to ensure reinforcement of an integrated, impartial, professional and independent justice system as essential to the rule of law and the process of reconciliation, which would ensure access to justice for all persons in Kosovo UNMIK Regulation 2006/25 on a regulatory framework for the justice system in Kosovo is promulgated. The Regulation among others set forth the commitments for insurance of multi-ethnic character of the Kosovo judiciary; establishment of court liaison offices for assisting better access of vulnerable communities; access to legal aid system; guarantees use of languages and alphabets in the justice system; appealing procedure against alleged discriminatory judicial decisions, on the basis of community membership and the independent judicial and prosecutorial commission to administer judicial and prosecutorial reappointment process.

UNMIK Regulation 2006/36 is promulgated, setting up the structure and rules and procedures for provision of legal aid services to all community members with insufficient incoming in both criminal and civil law. The reference is also made to the Provisional Criminal Procedure Code of Kosovo, adopted with UNMIK Regulation 2003/26 which provides for a mandatory defence counsel in criminal proceedings. Following components of legal aid would require development in order to facilitate access to justice: public literacy concerning legal rights and remedies and public legal education, appropriate representation, mediation and alternative dispute resolution, advising services to the government in simplification of legal procedures. The

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6 Standards for Kosovo, standard 2. Rule of Law
7 Ie: manuals for the interpretation of new laws including: Provisional Criminal Procedure Code, Provisional Criminal Code and Juvenile Justice Code
Legal Aid Commission is responsible for administration of legal aid system and ensuring delivery of legal aid in efficient, effective, inclusive, flexible and sustainable organize functional system of legal aid and for adopting of a secondary legislation enabling implementation of the Legal aid system for Kosovo. Without establishing of the Legal Aid Commission, the legal aid system cannot function and thus legal aid cannot be provided to the legal aid beneficiaries.

UNMIK Regulation 2006/23 on the promulgation of the Law on Establishing the Kosovo Judicial Institute (KJI), adopted by the Parliament of Kosovo is promulgated, establishing the KJI as an independent professional body tasked with the training of judges and prosecutors; organization of preparatory exam for judges and prosecutors, providing special training courses for promotion of judges and prosecutors and basic training courses for lay judges. The KJI should have its training strategy, the work plan and sustainability component developed, to reflect a professional structure responsible for judicial and prosecutorial training matters in Kosovo.

With UNMIK Regulation 2006/30 on the Judicial/Bar Examination, a mandate is provided to the Ministry of Justice to administer the bar exam including establishment of the Judicial/Bar Exam Commission and to define new curricula for the exam and the rules of procedures. With the new Law on the Judicial/Bar Examination the Ministry of Justice became completely responsible for administration of the exam.

The Kosovo Chamber of Advocates is a compulsory social institution for advocates established with the Law on advocates and legal aid by the Kosovo Assembly back in 1973. The new Law on Kosovo Chamber of Advocates (KCA) is waiting for the promulgation by SRSG. As a pillar to the legal system, KCA supports and may significantly assist in the strengthening of the rule of law for Kosovo. One of the main tasks of the KCA is to pay attention to the permanent professional training of advocates and interns and cooperate with other legal professionals, within the territory of Kosovo and abroad to support this task. This could be achieved with strong and sustainable training component developed within the KCA, through a well established in-house training centre.³

UNMIK Regulation 2005/25 on promulgation of the Law on Official Gazette, adopted by the Assembly of Kosovo, establishes the Official Gazette of Kosovo as the official publication of the Provisional Institutions of Self Government in which official documents of the PISG shall be published. The Official Gazette shall publish laws adopted by the Assembly of Kosovo and promulgated by SRSG, resolutions adopted by the Assembly of Kosovo, secondary and other legislation issued by the Government and Ministries and any agreements of international character. In compliance with the requirements of the law all materials shall be made available also in electronic form and in five languages (Albanian, Serbian, English, Turkish and Bosnian language). To administer such a publication the Law stipulated the establishment of the Office for Management and Administration of the Official Gazette for Kosovo.

II. PROJECT STRATEGY

The focus of the rule of law programme will be on the strengthening of an independent and effective justice system for Kosovo, which protects and promotes human rights standards. While much work has been done in this field since 1999, there is a need to reaffirm the commitment to the rule of law in Kosovo, ensuring the continuous education and knowledge building of practitioners in the justice sector and undertaking activities which underscore the importance which the sector puts on ensuring access to justice for all communities and sectors of society in Kosovo. By focusing on three key areas, with targeted activities, the programme aims will achieve the overall outcome of supporting the effective implementation of justice institutions in Kosovo. Specifically, the project aims to:

1. Increase the professionalism of the justice sector for improved rule of law in Kosovo;
2. Improve the level of access to justice for all citizens; and
3. Increase the knowledge on the implementation of international law on justice and human rights in Kosovo.

³ Law on Advocates and legal aid, 1973
Component 1: Justice Sector Capacity Building

The judicial sector in Kosovo continues to require wide-ranging support in order to ensure that Kosovo remains on the path to judicial reform and sustainable rule of law. This programme aims to provide support to professionalism and capacity building on two levels: supporting institutional development, and supporting the reform of overall practices in the sector. As a result of the need to tackle these issues through a number of interventions, this component is divided into two sub-components:

a. Capacity Building of Justice Institutions
b. Capacity Building for Improved Judicial Practices

These components encompass a number of activities/projects which will, combined, bring the level of judicial practice in Kosovo to a higher level, and improve the climate for sustainable rule of law and continued application of European and international best practices.

a. Capacity Building of Justice Institutions

The set up of a number of institutions in Kosovo to support judicial practitioners has been a primary achievement of the past seven years. To date, the Kosovo Judicial Institute (KJI), Kosovo Chamber of Advocates (KCA) and the Official Gazette have all been created to support the justice reform process. Further, with the promulgation of new laws, the Ministry of Justice has taken on new responsibilities, in particular, its new mandate to implement the Judicial/Bar Examination. While capacities do exist on the ground, further, targeted support is required to allow these institutions to have the most impact sooner rather than later. As such, this sub-component encompasses four interventions in the pursuit of stronger justice institutions for the implementation of rule of law.

i. **Support to the Kosovo Judicial Institute (KJI)**

This project will address the need for a long-term strategy for the increase in professionalism amongst judges and prosecutors in Kosovo, including the authorization of local trainers and implementation of a long term training programme. Implemented in partnership with the KJI, this project will result in a stronger institution with the ability to respond to the training demands of the judiciary and prosecutors. **Total Budget: USD 1,748,000**

ii. **Support to the Kosovo Chamber of Advocates (KCA)**

Addressing the weak training system within the KCA, the project will support the KCA in the set-up of an in-house training centre, the development of a training strategy, curricula and Professional Development for Advocates Programme, and facilitate regional contacts for knowledge sharing of best practices and experiences. Implemented in partnership with the KCA, the project will result in more responsive and informed advocates to protect the rights of the citizens of Kosovo. **Total Budget: USD 1,128,000**

iii. **Reform of the Judicial/Bar Examination**

With the promulgation of the new Law on the Judicial/Bar Examination for Kosovo, the Ministry of Justice is now mandated with the implementation of the examination for law graduates. The law also stipulates a comprehensive reform process for the Exam, including the establishment of a Committee, Rules of Procedure, development of new curriculum for the exam, publishing of an exam manual, the organization of training sessions for the exam amongst interested candidates. The implementation of these activities will require assistance
as all must be in line with international best practice. As such, this project aims to support the
Ministry in its undertaking of these activities, in such a way as to ensure that the bar exam
can become a more effective tool for the improvement of the quality of lawyers through the
strengthening of their theoretical and practical skills. Total Budget: USD 326,000

iv. Support to the Official Gazette of Kosovo

Whilst the Official Gazette has been in existence since 2005, it is backlogged with
unpublished primary and secondary legislation, resulting in delays in public access to these
documents, and gaps in the implementation of these laws while legal professionals and the
general public await access to them. By providing technical assistance to the Office for the
Administration of the Official Gazette (both substantive/organizational, and IT), the project
will assist the Office staff in developing a publication strategy, and develop and implement a
marketing/dissemination strategy for the Gazette for more timely access to legislation and
regulations in Kosovo. Total Budget: USD 552,000

b. Capacity Building for Improved Judicial Practices

While the strengthening of justice institutions is an integral component of overall justice sector
reform, so too is the improvement of judicial practices in general. The justice sector continues to
battle the problems of weak and poorly trained practitioners, interpreting laws in varying degrees, and
lacking the necessary tools to assist them in their day-to-day work. And while the implementation of
international and European best practice is the overall aim of justice sector reform, harmonized
methodologies for judicial practice in general need to be implemented in Kosovo in order to ensure
that equality and fairness are the binding principles in all instances. As such, this sub-component will
aim to the overall implementation of justice through three inter-linked projects.

i. Harmonization of Civil Practice

This project addresses the insecurity created amongst the general public as a result of the
differing interpretations of laws and norms in the field of civil law in Kosovo. Through the
harmonization of practices in civil law, this project, in supporting the courts, aims to increase
the public’s confidence in the judicial system, and to establish mechanisms by which existing
and new legislation can be understood by practitioners, including a coordination and
communication mechanism, and well as the development of guidelines for the application of
law in civil matters in line with international best practice. Total Budget: USD 184,000

ii. Drafting of Legal Commentaries in Criminal Practice

Interpretation and application of the legal provisions within criminal legislation has been a
difficult process for practitioners with little exposure to international human rights standards.
Given the comparative youth of the justice system in Kosovo, practitioners have been
required to learn an entirely new set of legislation, particularly in the field of criminal law.
Understanding how these laws should be interpreted and applied requires significant support
to practitioners in order to ensure that they can operate effectively in the new system. A
primary tool for legal professionals in democratic countries is legal commentaries. As such,
this project aims to work with the Ministry of Justice to provide the necessary skills to a group
of individuals so as to allow them to draft commentaries on criminal legislation, and provide
information sessions to legal professionals on the interpretation of these laws, as well as
implications for their application. Total Budget: USD 300,000

iii. Internship Programme (for law graduates)

Given the comparative newness of the justice system in Kosovo, and the high rate of
unemployment amongst new graduates, opportunities for law graduates to gain the
necessary professional experience which would allow them to take the Judicial/Bar Exam are
very few. As such, there is a need to facilitate an internship, or articling, programme for new graduates so as to build their practical skills in a legal environment. By creating a roster of business/offices which would be in a position to host interns, developing strict criteria for application to the internship programme, and facilitating internship placements, this project, together with the University of Pristina, aims to provide an avenue for new law graduates to gain the practical experience they need to undertake and pass the Judicial/Bar Examination. Total Budget: USD 350,000

Component 2: Access to Justice

Defined by UNDP as the ability of people to seek and obtain remedy through formal and informal institutions of justice, and in conformity with human rights standards, access to justice is one of the basic principles indicating that the rule of law governs pertinent society. It is a constitutionally granted right within the Constitutional Framework for Kosovo, through the requirement for the observance of international standards which relate to and address access to justice. However, a number of reports on the justice system in Kosovo, undertaken by various international observers, identify numerous gaps and shortcomings in this area. One of the key problems highlighted is the measurable lack of information on and understanding of access to justice issues in Kosovo.

a. Access to Justice Needs Assessment

This project addresses the need to take analysis of the issue of access to justice in Kosovo, and go a step further – to assess why the problems and gaps in the sector persist despite continuous support to the justice sector by numerous donors. The following components, as key components to access to justice within the contexts of the Kosovo justice system, shall be addressed through a comprehensive survey and assessment:

i. Normative protection, to establish if there is sufficient constitutional and legal protection to guarantee the equal access to justice for all;

ii. Legal awareness, to identify extent to which complaints are developed to make population aware of the right to seek and redress through justice and from various institutions entrusted to protect their access to justice;

iii. Civil society oversight, to identify to what extend civil society is active in monitoring and advocating for access to justice and thus increasing accountability within the justice system;

iv. Kosovo Judicial Council capacities, to identify extent to which the Kosovo Judicial Council is capacitated to respond to the obligations within the framework for reform of the justice system in Kosovo and thus enable equal access to justice for all;

v. Transparency of the court system, to identify extent to which the courts are transparent in performing their public function system;

vi. assessment on the legal aid for all to identify infrastructure, mechanisms and capacities in place to provide free access to justice for those in a need and who cannot effort redress to justice system;

vii. Cooperation in the justice sector, to identify the level of cooperation among legal professionals including those holding public offices (judges and prosecutors) and private attorneys, in the process of addressing issued of common interest and

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9 UNDP Programming for Justice: Access to all, Chapter I. Introduction to Access to justice, page 5
concerns related to justice sector, applicable legislation and performance of their professional engagements;

viii. Municipal administration to identify policies and practices that provide a citizen’s service approach by the officials in the process of redressing the administrative issues before the municipal administration authorities such as social assistance, pensions, certificates, licences and related citizen’s needs.

By implementing a survey and comprehensive assessment, the project aims to provide concrete policy guidelines and support for innovative activities to implement the guidelines together with key actors in the justice sector (MoJ, KJI, and KCA). The overall result will be a roadmap towards increasing the information and avenues for information on, and the understanding of, access to justice and the situation in Kosovo and therefore increasing the rate at which justice issues are dealt with (both court and civil proceedings). *Total Budget: USD 460,000*

**Component 3: Transitional Justice and Human Rights**

One of the key components of the process of reconciliation in post-conflict societies is the introduction and development of the concept of transitional justice. "The notion of "transitional justice"... comprises the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both, judicial and non-judicial mechanisms, with differing levels of international involvement and individual prosecutions, reparations, truth seeking, institutional reform, vetting and dismissals, or a combination thereof." In referring to how societies address legacies of past human rights abuses, atrocities, or other forms of severe social trauma, the concept of transitional justice to a great extent assists the societies that came out of a recent conflict in rebuilding towards a more democratic, just and peaceful future, based on rule of law and promotion and protection of human rights and freedoms.

In post-war Kosovo the subject of transitional justice was only superficially touched upon by a few international institutions and some NGOs operating in Kosovo. However, there was no governmental/justice sector strategy to address this very important issue for the future of Kosovo. Key concepts such as institutional and civic responsibility, truth-telling, forgiveness, reconciliation, individual and collective memory, conflict prevention mechanism or institutional reform, remain only phrases written and spoken only by a small minority of human rights activists. There is no structure in place that would address this issue from a standpoint of communities that ask for forgiveness but also reconciliation, and who want accountability but are also accountable for past and future actions.

a. **Improving Knowledge Capacity on Transitional Justice and Human Rights in Kosovo**

This project addresses the need to strengthen the research, training, knowledge-sharing and public information capacities of post-conflict institutions and to stimulate the debate about – and identify solutions to – access to justice for past mistreatments in Kosovo. Overall, there is a real lack of information and knowledge on the issue of symbolic and material reparations for victims of conflict, and while the prosecutions for war crimes mainly concentrates on direct perpetrators or the persons who orchestrated the atrocities, the task of directly addressing the issue of compensation for victims of the conflict and their families is to a large extent still underdeveloped. The experiences in other regions show that the process of reparation is slow in delivery and often fails to address all potential recipients in a satisfactory manner.

Until now there was no serious research or study on material and symbolic reparations in the region. At the same time, there seems to be a number of potential forms of symbolic reparations such as

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11 From The encyclopedia of Genocide and crimes against Humanity (Macmillan Reference USA, 2004), vol 3, pp. 1045 - 1047
official apologies, public recognition of wrongdoings, etc, that, if applied in practice, can help alleviate the suffering of the victims and also be beneficial to creating a better post - conflict climate in the region. Working with government and academia, the project aims to increase the knowledge of transitional justice and the application of international law for practitioners, by undertaking a study to define material and symbolic reparations within the scope of transitional justice in Kosovo, to implement a lecture series on transitional justice and international human rights law for university students, and to develop and implement a training programme on the application of transitional justice and international human rights law for practitioners in Kosovo. Total Budget: USD 368,000

Strategic partnership

Strategic partnerships with all relevant stakeholders are to be developed for all programme components, with an emphasis to the central authorities such as Kosovo Government/Ministry of Justice, legal institutions such as Kosovo Judicial Institute, Legal Aid Commission, Kosovo Chamber of Advocates and Judges and Prosecutors Association, Official Gazette and young law graduates, University of Pristina and the civil society, all of them identified as direct beneficiaries of the programme. Partners will be involved in advising on programme activities’ development and implementation, as well as taking on implementation roles within the bounds of UNDP’s Direct Execution Implementation methodology.
III. IMPLEMENTATION ARRANGEMENTS

Programme Board

The UNDP Rule of Law Programme Board will consist of a Senior Beneficiary, Senior Supplier and Executive. Under this Programme the members of the Programme Board will be:

- **Senior User:** President of the Kosovo Judicial Council and Permanent Secretary of Ministry of Justice
- **Executive:** UNDP Kosovo Representative
- **Senior Supplier:** Donor representatives
- **Observers:**
  - Supreme Court of Kosovo
  - Kosovo Judicial Institute
  - Kosovo Chamber of Advocates
  - Judges Association
  - Prosecutors Association
  - Legal Aid Commission
  - University of Pristina – Law Department

The Programme Board will provide policy directions for the Rule of Law Programme. It shall oversee implementation and coordination of all projects within Rule of Law Programme. The Programme Board shall meet quarterly, with extraordinary meetings to be scheduled, upon request of the Programme Manager, when deemed to be necessary. The Board shall make management decisions by consensus for a programme and the projects therein, when guidance are required by the Programme Analyst. For ensuring UNDP ultimate accountability, when there is no consensus on the issues raised by the Programme Analyst, final decision rests with UNDP representative, in accordance with applicable regulations, rules, policies and procedures. The Board shall review project’s progress and approve narrative and financial reporting, as well as take decisions related to substantive and financial aspects of the projects implementations, as provided above.

Programme Assurance

Programme Assurance will be responsibility of each programme Board members. They will ensure that all project agreed methodologies are respected and project deliverables meet the agreed requirements set by the Programme Board. The Programme Analyst and Project Coordinators will report to the Programme Board at their request, or when a project issue arises (including the need to make any changes to the project).

Programme Coordination Unit

The Rule of Law Programme Coordination Unit shall consist of a Programme Analyst, three Project Coordinators for the implementation of the Programme Component and eight Programme Assistants. All unit staff shall be recruited through an open competition. The unit shall be responsible for developing of the work plans, coordinating activities and monitoring activities.

**The Programme Analyst** shall head the Unit.

**The Project Coordinators** shall have the authority to run the Projects on a day to day basis on behalf of and within constrains laid by the Programme Analyst as instructed by the Programme Board. The Project Coordinators prime responsibility is to ensure that the project produces the results specified in the Project document to the required standards of quality and within specified constrains of time and costs. The Project Coordinators shall be directly responsible to the Programme Analyst. Under direct supervision from UNDP Programme Analyst, the Project Coordinators will focus on components and activities of the project and ensure that consultants, partners and sub-contractors engaged in the project are carrying out activities as agreed and in line with the rules and regulations of UNDP and implementing agency. Liaise and maintain close working relationship with key stakeholders towards the efficient and effective implementation of the programme activities; Results based programme management, including design, implementation and
monitoring and evaluation of projects; Prepare project documents, progress reports and other project documents; Coordinate evaluations and reviews of the project implementation; attend all relevant meetings and brief to the Programme Board and other UNDP representatives. Following up on the recommendations arising from partnerships in course of the implementation of the Country Programme Action Plan.

The **Project assistants** will be: three Assistants, three translators and two drivers.

The Programme support team will be National experts and International experts, who will support Project Coordinators in establishing the overall schedule/work plan and insuring delivery of project outputs in timely manner. The National and International experts shall be hired on an ad-hoc basis and based on the needs as determined by the Programme Analyst and Project Coordinators.

**Programme Organization Structure**

![Programme Organization Structure Diagram](image-url)
IV. MONITORING AND EVALUATION

Monitoring of the objectives and activities overall will be led by UNDP. There will be a series of measures used for monitoring and evaluation purposes, such as:

Quarterly progress report: The Programme coordinators will prepare a quarterly report on progress to be presented to the Programme Board and other stakeholders on each quarter. Quarterly progress reports will include updates on the activities of the programme, including any delays or problems encountered during implementation.

Financial Report: The Programme Coordinators will present a financial expenditures report to the UNDP programme analyst each month.

In addition to the planned outputs for the project, the Programme Coordinators will prepare a Final Programme Report. The final report will cover all aspects of the programme including an assessment of the partnership arrangements and cooperation amongst the key stakeholders, the findings and recommendations of the assessments and recommendations for next steps.

UNDP Kosovo will be ultimately responsible for ongoing monitoring of project implementation, in close cooperation with key stakeholders and partners. The Results and Resources Framework (RRF/see Annex 1) incorporated into this document will be the touchstone for performance monitoring and reporting. Further monitoring will be performed on the basis of work plans prepared by the Programme and Project Teams, which will submit quarterly reports to UNDP Kosovo and the Programme Board, enabling stakeholders to benchmark and assess progress on rollout of activities.

Monitoring

A Monitoring Plan will be activated in UNDP Kosovo’s ATLAS management information system. Quarterly progress reports tracking quantitative and qualitative indicators and communicating best practices and lessons learned will be submitted by the Programme Coordinators to the Programme Board, using the standard report format available in ATLAS.

All reports that will be submitted to the donor will be written in English.

<table>
<thead>
<tr>
<th>ID</th>
<th>Deliverables</th>
<th>Description</th>
<th>Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Quarterly Reports</td>
<td>Quarterly financial and narrative reports will be used to review progress, address issues, and provide programme and policy guidance</td>
<td>Quarterly</td>
</tr>
<tr>
<td>2</td>
<td>Annual Review Report</td>
<td>Mid-term evaluation to assess progress towards programme results</td>
<td>Annually</td>
</tr>
<tr>
<td>3</td>
<td>Final Review Report</td>
<td>Final project evaluation to assess achievement of programme results and lessons learned</td>
<td>100% project completion</td>
</tr>
<tr>
<td>4</td>
<td>Audit Reports</td>
<td>Annual internal or external audit in line with UNDP rules and regulations</td>
<td>As per UNDP Kosovo audit schedule</td>
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</tbody>
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Furthermore, the following tools will assist project monitoring:

- Issue Log will be activated in ATLAS and updated by the Programme Coordinators to facilitate tracking and resolution of potential problems or requests for change. The Programme Manager will be responsible for updating this information.
- Risks Log (see Annex 4) will be activated in ATLAS and regularly updated quarterly by reviewing the external environment that may affect the programme implementation. The Programme Coordinators will be responsible for updating this information.
• Lessons Learned Log will be activated and regularly updated to ensure on-going learning and adaptation within the organization, and to facilitate the preparation of a Lessons Learned Report at the end of the project. The Programme Coordinators will be responsible for updating this information.
• Quality Log will record progress towards the completion of activities, using the ATLAS Activity Definition page. The Programme Coordinators will be responsible for updating this information.

Evaluation

The Annual Review Report will be produced during the fourth quarter of the first year as a basis for assessing the performance of the programme. This review will involve all key programme stakeholders and focus on the extent to which progress is being made towards outputs, and that these remain aligned to appropriate outcomes. The review will be structured by a set of common standards, and will be subject to spot external quality assurance assessments. At the conclusion of the programme, UNDP Kosovo will initiate a full external evaluation to be incorporated into the Final Review Report, utilizing the Results and Resources Framework as the principal means of assessing accomplishment of project goals.

Financial reporting

The programme will be subject to the internal and external auditing procedures provided for in the financial regulations, rules and directives of UNDP Kosovo. Should an Audit Report of the Board of Auditors of UNDP to its governing body contain observations relevant to the programme’s financial contributions, such information shall be made available to donors.

UNDP Kosovo will prepare an unaudited financial statement of receipts, disbursements and fund balance with respect to the programme and forward a copy to each donor at programme closure (and at the closure of each project within the programme). In the event that donors request a financial statement audit to be performed by external auditors, the costs of such an audit, including the internal costs of UNDP Kosovo with respect to such an audit, will be charged to the programme budget. UNDP Kosovo will provide each donor with a copy of the auditors’ report.

V. LEGAL CONTEXT

Kosovo is administered under the UN Interim Administration Mission in Kosovo (UNMIK), established by Security Council Resolution 1244. UNDP Programmes on Rule of Law, Justice and Human Rights and project activities within Programme components are coordinated with UNMIK, pursuant to Resolution 1244/99, associated Security Council Resolutions, and regulations and administrative instructions promulgated thereto by UNMIK. UNDP Programme Activities shall be carried out in accordance with applicable UNDP regulations, rules, policies and procedures.