



MEMORANDUM OF UNDERSTANDING ON STRENGTHENING THE JUDICIAL SYSTEM IN KOSOVO

Axiom International and Agencia Ltd

And

The Judicial Council of the Republic of Kosovo (KJC)

The Government of the United Kingdom, represented by the British Embassy Pristina (BEP), through its implementing partners Axiom International and Agencia Ltd, is committed to strengthening the Judicial System in Kosovo and as part of this project, will provide advice, support and guidance to the KJC to increase its capability through enhanced accountability, transparency and professionalism of the Judicial System. This will support the Council to efficiently and effectively carry out its executive duties.

The Participants have reached the following understandings:

1. Purpose

The purpose of this memorandum is to enable the KJC (the Beneficiary) and Axiom International and Agencia Ltd (the Implementing Partners), to support the delivery of recommendations that will be agreed as outlined within the reports 'Strengthening the Judicial System in Kosovo'; in accordance with the Council's priorities and in consultation with other international partners. Included in the reports are four key thematic areas, namely the "Appointment, Promotion and Transfer of Judges", "Performance Appraisals", the implementation of Institutional Development Strategies by means of the "Common Assessment Framework" and "Mentoring"

2. The Recruitment, Selection and Promotion of Judges

2.1 The Implementing Partners and the Beneficiary (the Participants) in cooperation with other international partners will support the improvement of the system for the

appointment of Judges to managerial senior positions, supported by professional job profiles including leadership and managerial skills, improved methodologies for assessment and scoring of candidates, written operational guidance, policy, and revised regulations where required, that will ensure and enable meritocratic decision making.

- 2.2 The Participants in cooperation with other international partners will improve the system for the appointment of new Judges and the promotion of existing Judges supported by professional job profiles, and improve methodologies for assessment and scoring of candidates, written operational guidance, policy revised regulations where required that will ensure and enable meritocratic appointments.
- 2.3 The Implementing Partners may monitor all stages of the appointment procedures, including the interview stage, when permitted by law and with the permission of the Beneficiary and will provide feedback to the Beneficiary following the conclusion of the relevant vacancy announcement, in order to help identify areas for improvement.
- 2.4 The Beneficiary will facilitate the monitoring of all stages of the appointment procedures, at the full discretion and explicit permission of the Beneficiary.
- 2.5 The Implementing Partners will not engage in any decision making related to the appointment of individuals.

3. The Performance Appraisals

- 3.1 The Participants, in cooperation with other international partners, will continue to review the performance evaluation process and develop governance arrangements that clearly define and distinguish the roles and responsibilities for oversight, quality assurance and delivery of performance evaluations, which must be supported by any necessary changes to the Law on KJC and the Regulation of Performance Evaluation of Judges.
- 3.2 The Participants, in cooperation with other international partners, will enhance the performance assessment system ensuring the required balance between qualitative and quantitative factors together with an improved assessment and scoring methodology. Thus producing accurate, robust and reliable results, which must be supported by any necessary changes to the Law on KJC and the Regulation on Performance Evaluation of Judges.
- 3.3 The Beneficiary supported by the Implementing Partners in cooperation with other international partners may propose and recommend legal amendments regarding the judicial system.
- 3.4 The Beneficiary supported by and in partnership with the Implementing Partners and in cooperation with other international partners will develop operational guidance, policy and revised regulations to support performance evaluation process.

3.5 The Participants and other donors will design and deliver training to support all those involved in the implementation of performance evaluation process.

4. Institutional Development: Common Assessment Framework

4.1 The Participants in cooperation with other international partners will consider the Council purpose and will explore the need for support in increasing the professional capacities of the Secretariat.

4.2 The Participants in cooperation with other international partners will explore the value of the Common Assessment Framework model, to ensure that it is tailored to the needs of the Council and if so, will jointly consider its implementation in practice.

5. The Implementation of the Mentoring Programme

5.1 The Implementing Partners in consultation with the Beneficiary, will develop and deliver the Mentoring Programme to support Judges, who will be mentored, to improve their knowledge and ability to deal with the most difficult cases of organised crime, money laundering and high-level corruption. Following the completion of the program the implementers in partnership with the beneficiary and the receiving mentees, will develop appropriate workshops and or training for the purposes of disseminating the methodologies, techniques and skills obtained by the mentees during the program for the benefit of the institution.

5.2 The Beneficiary will ensure that it fully supports the development and delivery of the Mentoring Programme through promoting its benefits within the Institution, widely disseminating the advertisement and providing appropriate backfill resources for those who are taking part in the Programme thus ensuring that the day to day business of the Institution is not negatively impacted.

5.3 The Beneficiary agrees by the signing of this Memorandum for UK mentors to work alongside the three Judges, who will receive mentoring support both in the UK and Kosovo. The mentoring will facilitate the effective delivery of a work-based element of the programme and will be conducted in cooperation with the beneficiary and the Judicial Academy.

5.4 The Implementing Partners will ensure that any UK Mentors, used to deliver the work-based element, will not be involved in any judicial activity, but will provide coaching and advice on methodologies and techniques of investigations and any other aspect of the judicial process as necessary.

5.5 The British Mentors will not have any access to materials relating to cases.

6. Governance Arrangements – Working Groups

6.1 The Participants will be responsible for monitoring of all activities and anticipated benefits as outlined within this MoU based on the permissions granted by the Beneficiary. This will be done through the establishment of a Governance Steering Group with agreed Terms of Reference to help progress and support implementation of areas for improvement for the KJC.

6.2 The Participants will facilitate the progression of all activities and anticipated benefits as outlined within this MoU through the use of existing Working Groups where established and appropriate. When it is assessed that no appropriate Working Group exists, a decision to create a new Working Group will be made by the Participants in consultation with other international partners.

7. Duration

This Memorandum will come into effect upon the signature of both Participants and will continue until the 31st March 2021 unless terminated earlier in accordance with paragraph (11) below.

8. Financial arrangements

There are no relevant financial arrangements attaching to this Memorandum of Understanding.

9. Amendment to this memorandum

Any amendment to this Memorandum will be decided upon by both Participants and will be made in writing.

10. Termination

Both Participants may end their participation in this arrangement by giving one month's written notice in the following circumstances:

10.1 Failure to implement the arrangements according to this Memorandum;

10.2 A significant failure to meet any of the commitments in this Memorandum;

10.3 Force majeure;

10.4 Where any changes occur which, in the opinion of the BEP impair significantly the value of the contribution of the monitoring arrangements as set out in paragraph 1 above;

11. Dispute settlement

11.1 Any dispute that may arise as to the interpretation or application of this Memorandum will be settled by consultation between the Participants.

11.2 In case of any uncertainty regarding interpretation of this agreement, the Albanian version shall prevail.

12. Responsibility of the Beneficiary towards the Implementing Partners

12.1 The Beneficiary will provide adequate care for the Implementing Partners in line with its obligations under the relationship established in this Memorandum.

12.2 The Beneficiary will provide the Implementing Partners with all assistance necessary to carry out its duties.

12.3 The Beneficiary will take into consideration the recommendations and assessments of the Implementing Partners and implement them efficiently when the Beneficiary decides that implementation is in its best interest.

12.4 The Beneficiary will provide access to the relevant decision makers and staff with delegated responsibility to further the development and delivery of improvement actions as required.

12.5 The Beneficiary will provide an office for the Implementing Partners within its Institution to facilitate joint working and to increase the visibility of the Implementing Partners amongst Council members.

Signed on behalf of the Beneficiary, the Kosovo Judicial Council:	Signed on behalf of the Implementing Partners, Axiom International & Agencia Ltd:
Signature: 	Signature: 
Name: Skender Çoçaj	Name: Steve Pitts
Position: Chair of the Kosovo Judicial Council	Position: Project Director, Axiom International & Agencia Ltd
Date:	Date:



KOSOVO JUDICIAL COUNCIL

“Strengthening the Judicial System in
Kosovo”

Terms of Reference

Kosovo Judicial Council

Strengthening the Judicial System in Kosovo

Document Purpose

This document will provide the Terms of Reference and outline working arrangements between the UK Project and the Kosovo Judicial Council in support of reform activities, in line with the recommendations from 'Strengthening the Judicial System in Kosovo' report and Council's priorities.

It will ensure that there is a consistent understanding of the reporting structure, accountability of those involved in the process, as well as their remit and has been agreed by the KJC and the UK Project Team. This approach will make sure that the agreed recommendations from the report 'Strengthening the Judicial System in Kosovo' are delivered where appropriate and to best effect ensuring quality, and that they are delivered within the agreed timeframes. The KJC and Project Team are committed to delivering the outputs and milestones set out in the Results Framework agreed by the British Embassy. The Results Framework can be seen at Annex A.

Governance

It is noted that the individuals who will represent the Council and its Secretariat will be supported by the UK Project Team to implement changes to improve the overall Judicial System, as well as the Institution's capability and capacity. Ultimately the KJC will lead this process with appropriate support from the UK Project Team. It is noted that this approach will provide transparency and accountability for the improvement of the system in its entirety.

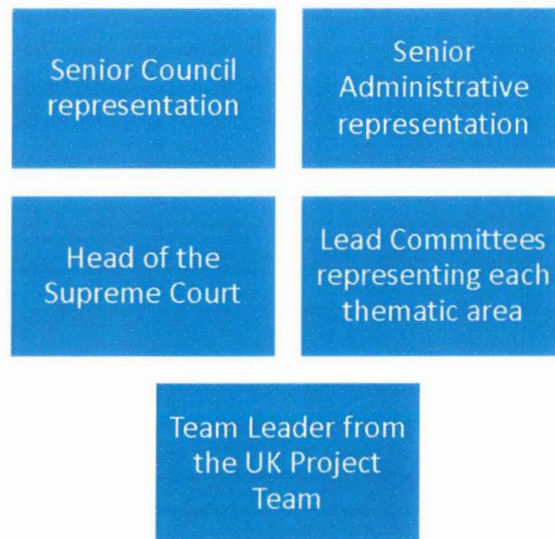
Steering Group

There will be an over-arching managerial team, the Steering Group, which will have the following responsibilities:

Oversight of delivery of all programme recommendations and alignment with the KJC priorities.
To assess if appropriate Working Groups exist and if not, then consider the establishment of a new Working Group and the appointment of the relevant individuals to that Group, empowering those members with the appropriate decision-making authority.
Providing direction to the Working Groups within this governance structure.
Measuring performance of each of the Working Groups and holding them to account for progress being made.
Escalation route in the event that any risks or issues cannot be resolved by the Working Groups.
Engagement with other external partners such as the KPC, Ministry of Justice, the British Embassy and other donors.
Creation of the overarching Steering Group communications strategy and oversight of delivery, so that there are consistent, considered and timely messages being delivered internally and where appropriate, externally.
Final decision-making body.
Report progress of the Results Framework to the full Council.

Kosovo Judicial Council Strengthening the Judicial System in Kosovo

The composition of the KJC Steering Group is as follows:



The Chair of the Steering Group will be the Senior Council representative [Chair of the Council] who will be responsible for ensuring the meetings are held and all of the meetings recorded, and a written record disseminated in Albanian, Serbian and English. The UK Project representative on the Steering Group will be the UK Project Lead and a member of the UK Project Management team.

The minutes will be shared amongst the group only and the Working Groups where appropriate; any wider dissemination of messages or information will be only on the basis of agreement by the wider Steering Group in accordance with the agreed Steering Group's Communications Strategy. In the event that any of the members are unable to attend the Steering Group meeting, they will ensure that they provide an alternative representative who has decision-making authority; thus, ensuring that progress is not delayed.

It is recognised that there may be additional ad hoc representation for selected Steering Group meetings subject to the wider needs and agreement of that group.

It is further noted that the Steering Group will have the benefit of administrative support from the Secretariat to facilitate effective working.

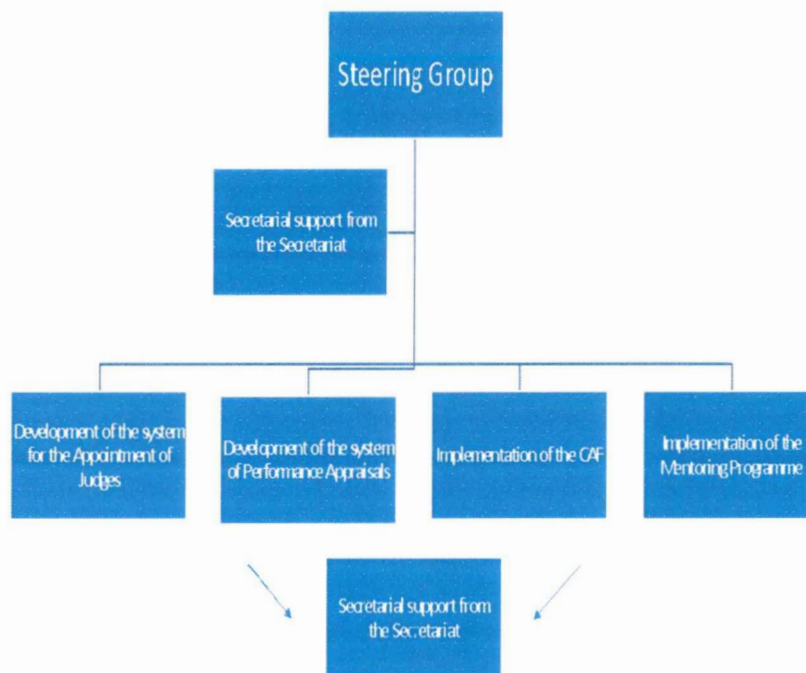
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Frequency of Meetings

The Steering Group will meet initially on a monthly basis however the frequency will be regularly reviewed to make sure that it is an effective decision-making and directive body.

The over-all Structure of the Committees is as follows:



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Working Groups

Beneath the Steering Group there will be a requirement for four thematic workstreams, based upon the themed recommendations of the 'Strengthening the Judicial System in Kosovo' report. Where current Working Groups exist, these will be used for the four thematic workstreams:



Each of the Working Groups will have the following over-arching responsibilities:

To provide a delivery plan to the Steering Group of how to implement the accepted recommendations from the report 'Strengthening the Judicial System in Kosovo'

Once agreed by the Steering Group, to deliver the implementation plan to the agreed quality and timescales.

To report on a monthly basis to the Steering Group on progress made; this will include achievements against key milestones and performance measures and risks to be escalated. Reporting will be based on actual working group successes and challenges and aims to keep agreed project outcomes on-track. All 4 working groups will operate with a high level of accountability.

To work in cooperation with other international partners to ensure that the work of the groups enhance the Judicial System in Kosovo.

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Additionally, each of the individual Working Groups are expected to achieve the following outputs:

Delivery of the system for the Appointment of Judges Working Group:
Continue to support ongoing improvements for the appointment of Judges to senior managerial positions, which includes professional job profiles highlighting required leadership and managerial skills, a methodology for assessment and scoring of candidates, written operational guidance, policy and revised regulations where required, that will ensure and enable meritocratic appointments.
Development of an improved system for the appointment of new Judges and promotion of existing Judges to include professional job profiles, a methodology for candidate assessment, written operational guidance, policy and revised regulations where required that will ensure and enable meritocratic appointments.
Delivery of the system for Performance Appraisals Working Group:
Support the continuous review of the performance evaluation process and the development of appropriate governance arrangements, that clearly define the roles and responsibilities for oversight, quality assurance and delivery of performance evaluations which are more closely aligned with the line management structure. Such activity will be in cooperation with other international partners.
Development of revised performance evaluation criteria with the required balance between qualitative and quantitative factors.
Development of an assessment and scoring methodology aligned with line management structures that produces accurate, robust and reliable results which are objective, evidence based, and which distinguish the different levels of performance between individuals.
Production of concept papers for the MOJ as and when required identifying the need to amend existing Laws.
Support the continuous development of operational guidance, policy and revised regulations to support the new performance evaluation process.
Design and delivery of training to support for all those involved in the implementation of any amended performance evaluation process. Such activity will be in cooperation with other international partners.

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Implementation of the Institutional Development; Common Assessment Framework Working Group:
Assess Council purpose and responsibilities and explore the need for support in increasing the professional capacities of the Secretariat.
Explore the utility of the CAF model, so that it is tailored to the needs of the Council and if so, will jointly consider its implementation in practice.
Delivery of the Mentoring Programme Working Group:
Development of a mentoring programme including a programme plan, guidance and any necessary supporting documentation.
Supporting the process for selection of candidates for the mentoring programme including assisting in the design of selection criteria, advertising of the mentoring opportunity, sifting of applications and conducting interviews if required.
Facilitation of the logistical arrangements necessary to ensure delivery of the mentoring programme, for example supporting the selected candidates to obtain the necessary travel documents.
Designing and supporting the delivery of the work-based element of the mentoring programme.
Designing an evaluation process for and involvement in the on-going evaluation of the mentoring programme.

In the event that this is a new Working Group, then the Chair will be the Senior Council representative, which will normally be the Head of the relevant permanent committee. The Chair will be responsible for ensuring the meetings are held and all of the meetings recorded, and a written record disseminated in Albanian, Serbian and English.

Each Working Group will have its own Chair; usually the most senior Council representative and will ordinarily comprise:

- Head of the relevant permanent committees.
- Senior Level Administration representation.
- Representation from the UK Project Team from the relevant subject matter expert.

The minutes will be shared amongst the group and the Steering Group; any wider dissemination of messages will be only on the basis of agreement by the group in accordance with the agreed over-arching Steering Group Communications Strategy. In the event that any of the members are unable to attend the Working Group meeting, they will ensure that they provide an alternative representative who has decision-making authority; thus ensuring that progress is not delayed.

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It is recognised that there may be additional ad hoc representation for selected Working Group meetings, subject to the wider needs and agreement of that group.

It is further noted that the Working Groups will have the benefit of administrative support from the Secretariat to facilitate effective working.

As there will be a similar approach used for both Councils and an opportunity for closer inter-agency working, it is acknowledged that there will be a joint Mentoring Programme working group incorporating membership from the Kosovo Judicial Council and the Kosovo Prosecutorial Council, as well as the UK Project Team.

Frequency of Meetings

The Working Groups will meet initially on a monthly basis, however may become more frequent subject to the needs of the groups and stage of delivery of the recommendations.

Amendments

These TORs can be amended at any time, but only with explicit permission from the Steering Group. All requests for amendments are to be submitted to the Chair of the Steering Group in writing. It is noted that this document will be reviewed on a quarterly basis by the Steering Group to ensure that its content remains valid and up to date.

Conclusion

By creating the above working groups, the KJC will be able to manage and monitor effective change and create transformation activities within the Judicial System in Kosovo. The four working groups are designed to tackle key areas of priority of the KJC. Executive authority for change will remain firmly in the hands of the KJC but will be supported by subject matter expert input from the UK Project Team.

It is envisaged by March 2021 the KJC will have a new system for appraisals, appointments and promotions of Judges, an embedded and effective organisational performance framework used for strategic planning purposes, a developed culture of leadership excellence and a suitably structured Council and Secretariat that is focused on the future.

Kosovo Judicial Council
Strengthening the Judicial System in Kosovo

Signed on behalf of the Beneficiary, the Kosovo Judicial Council:	Signed on behalf of the Implementing Partners, Axiom International & Agencia Ltd:
Signature: 	Signature: 
Name: Skender Çoçaj	Name: Steve Pitts
Position: Chair of the Kosovo Judicial Council	Position: Project Director, Axiom International & Agencia Ltd
Date:	Date:

Annex A
Results Framework

The Results Framework will be inserted here once agreed by the British Embassy.