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## ALBANIAN JUSTICE SECTOR STRENGTHENING PROJECT (JuST)



# QUARTERLY REPORT

(October – December 2010)

USAID / ALBANIA, DEMOCRACY AND GOVERNANCE OFFICE

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**Contents**

**Introduction**..... 4

**Deliverables Completed this Quarter**..... 4

**Start-up Activities**..... 4

    A. Developing the Plan..... 4

    B. Soliciting Feedback for the Project’s Work Plan..... 5

    C. Establishing the Project Office..... 5

    D. Staffing the Office..... 5

**Technical Activities by Project Component** ..... 6

    A. Increased Court Transparency, Fairness, and Efficiency ..... 6

    B. Strengthened Civic Engagement to Help Stem Governmental and Justice Sector Corruption..... 7

    C. Strengthened Legal Profession..... 7

**Significant Problems During this Reporting Period**..... 8

**Looking Ahead** ..... 8

  

**Appendix**.....9

    A. Quarterly Accrual Report

    B. Court Leadership Conference Report (Draft)

## Introduction

Chemonics International is pleased to present its first quarterly report describing the activities of the Albanian Justice Sector Strengthening Project (hereinafter, “JuST”).

Within two weeks of award signing on September 27, 2010, the Chemonics Rapid Mobilization Team arrived in Tirana to begin preparations for the launch of this five year project. During the first quarter, key start-up accomplishments include:

- Chemonics’ Project Management Unit and key project personnel assembled in Tirana for a series of sessions which produced a detailed work plan.
- Held introductory meetings with all project counterparts and related justice-sector donor projects.
- Located, leased, furnished, and equipped office space.
- Recruited staff, most of whom came to the new project with extensive prior USAID project experience.
- Formally launched JuST on December 21 as part of a larger, ground-breaking conference of justice sector leaders and stakeholders.
- Planned First Quarter activities commenced with inauguration of the first of three regional focus groups of lawyers in Vlora.

## Deliverables Completed this Quarter

- JuST Work plan completed and approved
- Held Court Leadership conference

## Start-up Activities

### A. Developing the Plan

Shortly after USAID and Chemonics International signed the award, the project management unit (PMU) arrived in Tirana to make preparations for setting up and staffing the new project. Within a week, the Chief of Party and key personnel worked together on site with the Chemonics project director and PMU manager to develop a project mission statement, discuss implementation strategies, and develop a detailed work plan of activities, expected results and timeframes. During this initial planning period, project staff gathered perspectives from knowledgeable observers, beginning with USAID, and included such people as the chief of party of the previous rule of law project and individuals with extensive experience with Albanian justice-sector institutions.

Several days of intense planning sessions yielded a detailed work plan, including key activities, project milestones, and resources needed to accomplish each task. The project team was mindful of the fact that our knowledge of Albania’s legal institutions, their historical development, and their experience with previous donor assistance projects was still superficial. Almost immediately, with USAID taking the lead, project introductions began with key counterparts, beginning with the Minister of Justice and the Deputy Chair of the High Council of Justice. Meetings with principals were quickly followed by longer meetings with contact persons and operational managers of the institutions the project will be assisting.

## B. Soliciting Feedback for the Project's Work Plan

Experience has shown that a project work plan may appear to be comprehensive and well thought out, but in practice it may experience implementation difficulties. To increase the likelihood of success, it is critical to open an early dialogue with key counterparts and beneficiaries to ensure that all aspects of the plan and the environment are thoroughly understood. The proposed course of action should be feasible within the stated timeframe.

During the early weeks of the project, JUsT increasingly refined the work plan through a series of internal reviews as well as input from USAID. At the conclusion of this review process, JUsT sent a final draft document to project counterparts for their review. A series of meetings was convened to discuss with justice sector leaders the direction of the project and to hear their views as to how the plan could be improved. The meetings yielded useful suggestions and information. Perhaps more importantly, the meetings served to set the tone of the project as one that listens to the people who must ultimately implement change.

As the quarter drew to a close, USAID approved the work plan, and a detailed performance-based monitoring and evaluation plan was close to being finalized, with considerable input from project counterparts.

## C. Establishing the Project Office

Contemporaneous with the development of the technical work plan, the PMU was working quickly to locate suitable office space and begin the procurement process for furnishing and outfitting the office. Approximately one dozen properties were considered before deciding on space recently vacated by the previous USAID rule of law project.

Unanticipated problems with the building's antiquated electrical service as well as the need to build a reliable set of network connections led to delays in occupying the space. However, the problems were resolved and the offices occupied by mid-November.

To the extent possible and to save taxpayer resources, JuST received disposed office furniture and equipment from the Albania MCC Threshold Project (MCCA2), that is closing down.

## D. Staffing the Office

At the same time as arrangements were being made to acquire and occupy the physical space of the project, efforts were underway to assemble the best possible team to run the project. The process of recruiting and hiring qualified staff was greatly facilitated by a large pool of potential employees with relevant experience. Applicants came from MCCA2, as well as from other international donor projects.

Using the staffing pattern contained in Chemonics' proposal, JUsT advertised positions, conducted interviews, and screened candidates. The staff recruitment and hiring process continued throughout the first quarter. JUsT negotiated salaries, drafted employment contracts and scopes of work, and put human resource policies in place. By the close of the quarter, most of the team was either in place, or soon to arrive.

## Technical Activities by Project Component

JuST works in three broad and inter-related areas. First, working with justice sector institutions, it aims to increase court transparency, fairness and efficiency. Second, working with civil society organizations and the media, it seeks promote accountability from the “grass roots” level by bolstering their watchdog and anticorruption roles. Third, recognizing the importance of well-trained professionals, it will work to strengthen the legal profession and legal education in Albania. The project is part of the ongoing U.S. support to the rule of law and good governance in Albania, with an emphasis on improving justice delivery and increasing public demand for accountability in the justice sector. The following describes the specific activities initiated during the first quarter of this five year project for each of these three components.

### A. Increased Court Transparency, Fairness, and Efficiency

This first component of the project directly addresses the operation of the courts, and will involve the Ministry of Justice, the High Council of Justice, and of course, the courts themselves. There is a widely-held belief that the courts must do much more to increase the level of transparency, improve their operations, reduce backlogs, and generally administer justice in a way that is perceived to be fair and above board.

To address these concerns (which are often voiced by the judges themselves) the project intends to build on the efforts of the previous Rule of Law project which took the initial steps in assisting courts in producing verbatim records of trial proceedings, primarily through audio recording technology. The project further will explore ways to increase the use of public courtrooms for the public’s business. When justice is meted out behind closed doors (i.e. in the judge’s office) it will never be perceived as transparent and fair. Finally, efficiency is important, in that justice delayed is justice denied. One way to increase efficiency is to adopt modern principles of court administration and caseload management. Another strategy is to promote the expansion of mediation programs. Such programs not only relieve the court of some of their workload, but can produce outcomes acceptable to all parties, and thus not susceptible to claims of corruption.

JuST commenced work under this project component immediately, with high-level introductory meetings with the Minister of Justice and the Deputy Chair of the High Council of Justice. Following a series of meetings with the national leadership, the component leader and the court specialist began a series of meetings with chief judges, chancellors, and mid-level managers in a number of courts. During the first quarter, four visits took place with the Tirana District Court. During the second visit, it was learned that the chancellor had been replaced with a new chancellor. In addition to the Civil Branch of the Tirana District Court, the Component I team met with officials in the Tirana Criminal Court, the Serious Crimes Court, the Durres District Court, and the Vlora District Court. So far, these visits have been primarily introductory in nature, necessary to gather information and develop relationships that will facilitate our work throughout the life of the project.

The most significant event in this component and the other two components was the December 21 Conference, “Toward More Transparent, Effective and Accountable Justice” described in detail in the Conference Summary Report attached to this report. The discussions in the working group produced an unexpected level of agreement on a number of fundamental changes to the way courts operate. The views expressed provide a solid basis for proceeding quickly with the next steps in the project’s planned activities.

## B. Strengthened Civic Engagement to Help Stem Governmental and Justice Sector Corruption

The overall strategy of JuST is to work not only with the institutions that “deliver” justice, but also with the citizens and their representatives who have the greatest stake in the quality of that justice. Specifically, the project will work to achieve: a) enhanced organizational capacity of civil society organizations (CSOs) and more effective civic participation; b) increased public awareness of corruption; and c) a strengthened role of the media in reporting judicial and government corruption cases. The project intends to provide direct capacity-building assistance to the Union of Judges and the National Association of Judges as well as other CSOs working in the justice sector. It will also work to strengthen the ability of CSOs and media initiatives to participate actively in making the justice sector more accountable. Finally, it has a number of activities contemplated that will promote investigative journalism and encourage accurate analysis and coverage of justice-sector issues.

Much of the first quarter was spent getting to know what organizations exist, who makes up their membership, and what they are doing to further their goals. Early meetings to describe the project and solicit views on the project work plan elicited a wide range of opinions – some quite cynical – reflecting the diversity of the groups. Nevertheless, there seemed to be genuine appreciation for the outreach by the new project and by USAID.

The early exchanges were followed up with invitations to the December 21 conference. Virtually all invitees attended and participated, and the substance of their contributions is summarized in the draft conference report included in the attachments to this quarterly report.

## C. Strengthened Legal Profession

The third component of the project addresses the need for improving the qualifications and professionalism of those who operate the justice system day to day – namely, the judges and the attorneys. Project efforts focus on ensuring more professional lawyers and better qualified law school graduates. The project is working with the National Chamber of Advocates (as well as regional chambers) to develop and implement a Continuous Legal Education program. The project also intends to assist in the establishment of a clinical education program at the University of Tirana Law Faculty. Finally, the project will coordinate an internship program for law students at state and private institutions.

As first step to elicit opinions from bar members on ways to strengthen the legal profession, JuST planned to conduct three focus group sessions with Regional Chambers of Advocates. After a preliminary assessment, it was decided that these focus groups would take place in Vlora, Durres, and Lezha. The first focus group took place on December 16 in Vlora.

In summary, there was considerable discussion on the relationship between the National Chamber of Advocates, and the regional chambers, with specific suggestions on how the legal profession could be strengthened at the local and regional level. Specific ideas on creating a disciplinary board were offered. Another suggestion dealt with the need for publishing and making available to all lawyers and assistants a compendium of the Code of Ethics, Statute and the Law on the National Chamber of Advocates. Finally, there was general agreement that a Continuing Legal Education Program (CLE) should be established as a priority, and there were numerous suggestions on how to make it work.

During the focus group, the JuST team distributed a self-assessment form of organizational capacities to solicit the opinions of members on important topics regarding the organization of the bar, internal operations, the decision-making processes of the governing bodies, financing, and progress made by

regional chambers in fulfilling their statutorily-mandated responsibilities. The results of the self assessment survey are included in the attachments, and will be administered in the two remaining focus groups planned for January.

Shortly after this first regional focus group, JuST and USAID convened the conference, “Toward More Transparent, Effective and Accountable Justice,” inviting many of the lawyers already contacted as part of the project’s activities. Some of the points heard in the first regional focus group were echoed in the larger conference. For example, there was broad consensus that the National Chamber of Advocates should establish and finance the initial and continuous legal education program. The majority of participants agreed that both the national and local chambers should be more active in implementing the Code of Ethics and ensuring discipline in the profession.

A more detailed summary of the discussions and conclusions can be found in the attachments to this report.

### **Significant Problems During this Reporting Period**

There were no significant problems encountered during this reporting period.

### **Looking Ahead**

Much of the first quarter was devoted to the logistical and administrative tasks necessary for the launch of any new project. Despite the attention required for these details, the project simultaneously began the process of meeting counterparts, assessing interest and capabilities of various institutions and organizations, and building the personal relationships essential for any kind of development work. Establishing trust and credibility takes time, and the process is still in its infancy. However, the effort received a significant boost with the Court Leadership Conference held at the end of the quarter. For the first time, Chief Judges, court chancellors and justice sector stakeholders from all over Albania met, exchanged views, and began a dialogue with each other, JuST, and USAID.

Looking ahead, JuST intends to maintain the momentum and interest generated by the Court Leadership Conference. The working sessions that took place during the conference provided a unique forum for the participants to exchange views, and for project staff to hear directly from those with the greatest stake in reform. The fact that there appeared to be consensus on the desirability of creating verbatim records of court proceedings, and for holding public hearings in public spaces (i.e., courtrooms as opposed to judicial offices) provides a solid basis for the project to work with justice-sector leaders who, in the final analysis, must “own” any reforms if they are to become sustainable.

JuST will also work with NGOs and independent journalists to provide practical advice on ways to make courts more open to the public. The newly-promulgated regulation on courts and public information will provide a legal foundation for implementing improved practices.

Finally, in the weeks ahead, JuST will continue to solicit views from regional and national bar groups on ways to improve the quality of legal education and strengthen the legal profession. JuST will develop an action plan with the National Chamber of Advocates on establishing a Continuing Legal Education Program (CLE) and establishing a bar journal. It is envisioned that this action plan will be incorporated into a formal Memorandum of Understanding, outlining the level of assistance and the commitments of the parties.

As the first quarter came to a close, the project team took considerable satisfaction in the speed with which the project was launched and the early progress in building a level of trust among project counterparts. The process is still in the early stages, and there will undoubtedly be setbacks and challenges in the months ahead. Still, it is fair to say that the initial reception to USAID's new rule of law project in Albania has been overwhelmingly positive. The JuST project team looks forward to building on this successful beginning.

## Appendix

- Accrual Report
- Court Leadership Conference Final Report (draft)



***“Toward more Transparent, Effective and Accountable Justice”***



**USAID Albanian Justice Strengthening Project**  
**Ministry of Justice and the High Council of Justice**

**December 21, 2010**



**CONFERENCE REPORT**

**I. Introduction**

On December 21, 2010, the United States Agency for International Development (USAID), in collaboration with the Ministry of Justice and the High Council of Justice, organized a national conference “Toward more Transparent, Effective and Accountable Justice in Albania”. The conference had two objectives. The first was to launch USAID’s new five year Rule of Law project, the Albanian Justice Sector Strengthening Project (JuST). The second was to begin discussions with project counterparts regarding the challenges and opportunities facing the Albanian justice system. The event brought together for the first time Chief Judges and court chancellors from all courts of Albania, representatives of judicial associations, leaders of the national and regional bar chambers, civil society organizations, the media, and a variety of related justice sector organizations and donors.

This report summarizes the ideas, suggestions, difficulties, and challenges that emerged from those working group discussions, and includes summaries of project actions as a result of this input.

**II. Opening Remarks**

The Minister of Justice, Bujar Nishani, and the High Council of Justice Deputy Chair, Kreshnik Spahiu, and USAID Albania Mission Director, Joseph C. Williams delivered remarks. In his remarks, Williams affirmed the U.S. government's commitment to continue assistance to strengthen the rule of law and democratic governance in Albania. Minister of Justice Nishani and the High Council of Justice Deputy Chair, Kreshnik Spahiu, noted the importance of bringing all key players together to weigh in on pressing issues related to the need for more transparent and efficient functioning of Albanian courts.

### **III. Summary of Working Group Discussions and Implications for JuST Project**

Conference participants were assigned to working groups corresponding to the three components of the project. Discussion topics were selected for the purpose of informing project staff on priorities and perspectives that will be used to guide project assistance. Discussion group moderators were selected from among respected leaders of the judiciary, civil society, and the bar. Each group appointed a reporter who presented the conclusions and recommendations in the final session of the conference.

#### **Group I: Emerging Issues for the Albanian Judiciary**

Moderator: Chief Judge Ervin Metalla, Durres District Court

Facilitator: Olta Lolo, Court Specialist, JuST

Group 1 was composed of Chief Judges, representatives of the National Association of Judges, the Union of Judges, officials from the Ministry of Justice, the Office for the Administration of Judicial Budget, civil society representatives and international donor projects. The group was organized around the following topics, all designed to inform the JuST project on assistance strategies and priorities.

- Improving case flow management
- Maintaining verbatim records of court proceedings
- The role of judicial association in improving the judiciary
- The role of judges in improving the efficiency of case processing (i.e., backlog reduction, mediation programs, court room allocations)

#### **Improving Case Flow Management**

The first topic taken up by the group was court administration and caseload management. Much of the discussion centered on the need for more courtrooms and for better courtroom allocation

and usage. Many speakers voiced the view that court proceedings should be open to the public, and pointed to the limited availability of courtrooms as a significant impediment to this basic principle. The Director of the Judicial Budget Administration Office informed the group that newly constructed courts are implementing a standard that calls for two judges for each courtroom. The situation is also improving in the courts that have undergone reconstruction or renovation but the older courts do not have the conditions for effective courtroom management.

Given these realities, several participants offered a variety of solutions to address the basic problem of not enough courtrooms. These suggestions included software tools to assist in the allocation of courtrooms; reorganizing court calendars; and extending the hours of court operations to include afternoon or early evening shifts. The software to manage the allocation of courtrooms was acknowledged as a positive idea provided that such software is incorporated into the standardized case management system ICMIS that is being implemented throughout the courts. Several speakers stressed the importance of proceedings being conducted in public. There appeared to be a consensus that all hearings should be public, that courtroom-use software is welcomed and should be part of the ICMIS platform.

### **Maintaining Verbatim Records of Court Proceedings**

Turning to the need for making a verbatim record of court proceedings, there was considerable discussion on a variety of issues associated with audio recording of trials. The desirability of written transcripts for recorded hearings was discussed. The point was made that parties could have a copy of the recording by paying a fee and this could generate some revenue for courts. It was also suggested to post audio recordings on the internet but this should be followed by a training program of the judicial administration on the use of the recorded case management system. Participants agreed that the audio recording would strengthen the integrity of court processes and improve the public perception of judiciary.

### **The role of judicial association in improving the judiciary**

The discussion group included representatives from both judges associations. Some speakers noted that both organizations have been effective but suggested that there should be a single association in order to draw greater judicial participation. There appeared to be consensus that judicial associations, as the “voice of the judiciary,” play a crucial role in the discussion of issues facing the judiciary. Representative of both organizations stated that making the membership more active and integrating the associations into international judicial organizations are the main future challenges. There appeared to be consensus that judicial associations have a role to play in offering training to judges.

## **The role of judges in improving the efficiency of case processing (i.e., backlog reduction, mediation programs, court room allocations)**

Participants agreed that judges can and should play a key role in controlling the court calendar and reducing the number of needless continuances. Several suggestions were offered by international donor projects to improve the flow of cases through the court system.<sup>1</sup> There was a spirited discussion on the concept mediation as a strategy to reduce court backlogs. Speakers agreed that although in large courts, the number of cases resolved through mediation is too small to be significant, mediation is a promising step in the right direction. Judges emphasized the need for increased public as well as judicial awareness about mediation programs and how they work.

### ***Implications for the JuST project and Next Steps***

The discussions that took place, the points raised and the cautions voiced will be taken into account as the JuST project begins its work to assist Albanian institutions achieve “more transparent, effective and accountable justice.” Specifically, given all the discussion on optimal allocation and usage of limited numbers of courtrooms, the project will engage an expert to conduct a courtroom usage study in the busiest courts, and will work with the court leadership to implement recommendations. Given the general support for audio recording voiced within the working group, the project will explore with the Ministry of Justice and the leadership of the courts the various technology options that exist to capture and make available verbatim (including audio) recordings. Particular focus will be given to designing the IT infrastructure to provide the best solution for the future. Public policy issues raised in the group will continue to be addressed along with the infrastructure needs.

The discussion generated many useful comments on ways to improve the flow of cases through the system, with the related benefit of reducing backlogs and increasing the overall efficiency and effectiveness of the courts. Regarding the expansion of mediation, there appears to be a mixture of enthusiasm and skepticism regarding the role of alternate dispute resolution in the justice system. Judicial leadership and support is crucial, and we will survey a number of

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<sup>1</sup> The OSCE representative described three justice sector recommendations that their Rule of Law project plans to propose. First, they will recommend that some form of “default judgment” be authorized when parties fail to appear at trial. The aim would be to strengthen the ability of the judiciary to control the court calendar. Second, they will propose that preliminary hearings be restructured to permit greater exchange of written information that pertains to the case in order to expedite the process. Finally, they will recommend a system to improve the notification of the parties of changes in scheduling. Adding to this list of suggestions, the OPDAT representative suggested that the power of judges to control the court calendar should be augmented with some form of contempt powers, as is done in many other countries to ensure that lawyers take seriously their obligation to appear on time. OPDAT is working on the reform of the Criminal Procedure Code (CPC) and intends to rely on the JuST project to coordinate initiatives and dialog with court leadership regarding ideas and suggestions for improvement.

possibilities for building on the program pioneered in the Durres District Court. Finally, we note that almost every idea proposed has budget implications for the judicial branch of government. Some ideas will require new investment. Other ideas have at least the potential for generating new sources of revenue for the courts. Accordingly, we intend to work closely with the Judicial Budget Administration Office throughout the life of this project, as we intend to provide support only where there is a reasonable strategy for sustaining reforms at the conclusion of this project.

## **Group 2: Building Better Relations Between Courts, and Media and Civil Society**

Moderator: Juliana Hoxha, Director of Partners Albania

Facilitator: Entela Pinguli, Civic Engagement Component Leader, JuST

The working group was composed from representatives of the courts, mostly chancellors, representatives of the NGOs and media.

### ***Discussions:***

The group discussions were facilitated in a brainstorming sessions with clear questions, moderated by Juliana Hoxha from Partners Albania, and followed by a group exercise in giving alternative suggestions for improvements. Issues discussed in the brainstorming part of the meeting included:

- What is the public perception on judiciary work?
- How does the public understand the Court procedures?
- What is the current state of the relations between Courts and Civil society; and Courts and the Media, and how can they be improved?

The group participants clearly stated that there is a negative public perception of the judiciary in Albania, due to the high level of corruption and bad management of the court proceedings. Several public surveys on the state of judiciary, confirm the problems and challenges of the system and identify different problems related to: lack of professionalism of the judges, corruptive practices and politics, lack of judicial transparency towards public, lack of judicial monitoring bodies etc. Nevertheless, the group shared the view that there are positive models among the Courts, Judges and chancellors, and that progress can be led only by such examples. Additionally, the group recognized the importance of the civil engagement for increasing the public pressure for better courts and better justice in Albania.

### ***Main Conclusions***

Speakers agreed that the judges should make the court proceedings more transparent by using the newly-promulgated regulation on court relations with the public. This regulation foresees the establishment of information kiosks in the courts, which should deal with public information and services. Future assistance should work in parallel to build the court capacities in implementing the regulation and making the NGOs and media representatives aware of their role in monitoring the implementation of new rules. Group discussions highlighted the crucial role of the media in quality investigative reporting, and especially in presenting success stories in this respect. Such skills should be further promoted through more structured and independent media outlets. Some of the outcomes of the discussions can be addressed through different components of the JuST project, especially the ones related to the capacity building of the NGOs and media to better monitor and report on the justice system more professionally. Speakers suggested that courts should do more to ensure court transparency and judicial independence by building “monitoring” mechanisms in cooperation with the civil society and media; making the necessary legislative changes to remove the judicial immunity; enhance application of the international conventions in drafting the decisions.

### ***Recommendations to Courts***

Suggestions of the group participants on the alternative solutions on how the courts can improve the public understanding of the court rules and procedures included:

- Courts should work on implementing the newly promulgated Ministry of Justice regulation on the court relations with the public;
- Capacity building should take place to enable judges, chancellors and PR personnel on media outreach and information;
- Public information kiosks should be maintained and expanded by ensuring human and financial resources.
- Public information kiosks should provide the up-to-date calendar of the court hearings and information on court proceedings and one person should be responsible to deal with the public.

### ***Recommendations to NGOs and Media***

Suggestions regarding the role of the NGOs and media to improve public understanding of the court procedures included:

- Informing and educating the public on court procedures through projects and outreach

campaigns.

- Education should start with the young generation through preparing the school legal education curricula (about civil rights and obligations) in collaboration with the Ministry of Education and Ministry of Justice and make it part of the nationwide educational program.
- Monitoring court proceedings on specific cases, including the processes, hearings, time frame, decisions etc.
- Monitor, investigate and report some specific civil law cases related to issues which affect people the most (such as property rights), which do not always capture media attention.

***Current state of the relations between Courts and Civil society; and Courts and the Media, and how can they be improved?***

The group concluded that media and NGOs should assist the courts to be more transparent and listed some tasks which they can take in order to be able monitor the quality of the judiciary (court proceedings, procedures, documentations, decisions). In order to assist, NGOs should build their capacities in better understanding the court rooms and procedures, gain better knowledge of the legal framework, identify the progress indicators necessary to measure the quality of their services towards the court and towards the public. NGOs should develop strategies on how they (NGOs and Media) inform the public with the outcomes of their monitoring work and should assess the court services continuously.

The group identified the need for building links and ongoing exchanges with the court spokespersons, chancellor and judges and NGOs and the Media. The collaboration could start by identifying the common interests; clarifying roles and responsibilities of each; facilitate continuous public pressure towards the judiciary; serve as simplifiers or interpreters of the court messages towards the public. Besides the public outreach and information, the group identified the crucial role of media in quality investigative reporting, and especially in presenting success stories to the public. Media should do more to enhance the capacity on investigative reporting through more training on investigative but ethical journalism. Media should be not only criticizing but should also bring to public attention positive examples where justice prevails. This would be very inspiring and help in building the credibility of the media and other involved key players towards the public.

Participants agreed that media should do more professional reporting in independent media outlets. Additionally the group thought that the role of the two judges associations could be reinforced by strengthening their common voice towards more open courts. The establishment of a center of investigative journalism free of political influence was highly recommended.

### ***Implications for the project and next steps***

The JuST project benefited greatly from the extensive group discussions, particularly the consensus generated on the need for more transparent and community-oriented courts, the constructive role of the NGOs and media in monitoring the courts and education of the public on the operation of the judiciary. JuST will work to make courts more open using (where applicable) the recently-promulgated regulation of the MoJ as a platform of better cooperation between courts, general public and NGOs. JuST will also bolster the capacity of the NGOs to better understand the courts and monitor them more effectively. Finally, JuST subscribed to the conclusion on the need for establishing an independent investigative reporting center and will work further to elaborate the details of such a center and make it an alternative avenue for investigative journalists.

### **Group 3: Strengthening Legal Education and the Legal Profession**

Moderator: Maksim Haxhiaj, President National Chamber of Advocates

Facilitator: Roland Gjoni, Legal Education Component Leader, JusT

The group consisted of leaders and of the national and regional chambers as well as law professors and judges. This group focused on the future of the legal education system in public and private law schools as well as the current status and challenges of regulating the legal profession in Albania. The questions assigned to this group were;

### ***The current state of legal education in Albania***

#### ***Discussions***

Members agreed that the proliferation of public and private law schools has adversely affected the quality of law graduates. Given the shortage of law professors and not so rigorous procedures on licensing and accrediting of private law schools, the law students graduating from private law schools demonstrate poor educational performance. About six thousand law students will graduate in the summer of 2011 in fifteen public and private law schools. This is bringing into the legal profession a large number of law graduates with severe educational shortcomings as out of six thousand graduates, at least two thousand intend to take the bar exam and eventually practice law.

The uncontrolled and unprofessional cadre of law graduates poses a plethora of problems to the legal profession. Firstly, the great number of students makes their placement into the one year mandatory law practice during which they are supposed to work with a licensed advocate very difficult to manage. Secondly, the National Chamber of Advocates is finding it increasingly

difficult to administer the bar exam for the interested candidates. Although only 35-40% of the applicants pass the national bar exam, the majority of those who fail intend to retake the exam in the next years. Thirdly, the lack of the initial and continuous legal training offered by the national and local chambers fails to address, at least in part, the shortcomings of lawyers even after they are licensed to practice. Therefore; the number of poorly trained lawyers is increasing every year and no adequate mechanisms exist in the legal education and the bar to stem this influx.

### ***Main Conclusions***

Participants agreed that a more robust public law school and more stringent procedures for licensing and accrediting the private law school would help increase the quality of law graduates who come into the legal profession. The majority of participants also concluded that the National Chamber of Advocates has an indispensable role in managing the one year mandatory law practice for law graduates more effectively as well as establish initial training programs prior to the bar exam and CLE for the licensed lawyers.

### ***Recommendations***

- More stringent rules and procedures for licensing private law schools should be applied by the Ministry of Education;
- The curricula, professors' credentials and examination rules should be more thoroughly scrutinized when private law schools apply for licenses;
- The accreditation system should be more elaborate, extensive and rigorous;
- The establishment of a well-funded and staffed legal clinic at the law school to address the lack of law students' practical skills;
- In addition to the legal clinic, the law school should offer meaningful internship opportunities to senior law students;
- After the graduation, the one year mandatory law practice of recent law graduates should be managed better and more closely scrutinized by the National Chamber and law firms where students are attached;

- The law graduates should not be allowed to take the bar exam before being evaluated during the one year mandatory law practice and following a number of mandatory legal courses as a part of the initial training curricula;
- A national legal training center may be established to organize the initial training before the bar exam in order to filter the increasing number of law graduates wishing to take the bar exam; and
- Continuous legal training program should be established in order to address the knowledge gap of licensed lawyers and update the lawyers with new legislative developments.

### ***The role of the National Chamber of Advocates and regional chambers in regulating the profession***

#### ***Discussion***

The moderator who is also the President of the NCHA made a brief summary of the activity of the bar highlighting the fact that the lawyers are now registered, have a IDs and lawyers uniforms (robes) provided by the NCHA. The NCHA has adopted a Statute, a Code of Ethics and a Disciplinary Committee. NCHA has managed to protect itself from political interference and is now legally and practically a self-regulated and independence organization.

There are more than two thousand licensed lawyers and about 1200 are actively practicing law. Out of 1200 practicing lawyers, approximately 80% of are paying the annual membership dues of 100 Euros. He also pointed out that the The NCHA has recently established a Training Department to oversee and organize training programs for lawyers. The NCHA is now an observer of Council of Chambers and Law Societies of Europe (CCBE) and participates in international events regarding legal profession.

However, except for Vlora, Durres and Tirana, most regional chambers are weak and have no office space to meet, deliberate and decide. No chamber has a single full time paid staff member and only Vlora's chamber, which recently purchased adequate premises is in the process of hiring full time staff members. Some members criticized the international assistance project for focusing on judge, prosecutors and police and providing very little assistance to the legal profession.

Speakers also talked about the ethics and the need for a more active disciplinary committee of the national chamber but the topic did not generate sufficient discussion. Members agreed that many lawyers who are not registered and do not pay taxes are breaching rules of the fair competition towards other lawyers. Participants suggested that judges can play a role in

addressing this issue by following the experience of Kavaja District court where the chief judge request from the Tax Administration a list of lawyers who have failed to pay taxes in order to disallow their appearance before the court. The possibility of making legislative changes to disbar members who fail to pay taxes or breach rules of professional conduct was also discussed. Financially, the NCHA is solid and should identify and buy office space for all regional chambers and also activate its training, publication and ethics departments. The leadership at national and local level expressed concern about the severe lack of academic research and writing amongst lawyers.

### ***Main Conclusions***

There was broad consensus the NCHA establish and finance the initial and continuous legal education program. The majority of participants agreed that both the national and local chambers should be more active in implementing the Code of Ethics and ensuring discipline in the profession.

### ***Recommendations***

- Lawyers should all be registered and pay taxes;
- Regional chambers should be better organized and start to operate more autonomously once they have offices premises and adequate personnel;
- Immediate action should be taken on initial and continuous legal program; and
- An academic publication of legal profession should be established.

### ***Improving the Continuous Legal Education program for the lawyers***

#### ***Discussion***

The majority of participants shared the view that the initial and continuous legal training should be viewed in connection with each other and addressed comprehensively. The discussions focused around the possibility to use the Magistrates School as a venue for training of lawyers. Most members proposed the establishing of a separate school or center for training lawyers financed by NCHA based on the Italian experience of Scuola Superiore dell' Avocatura. Several members said that regional chambers could set up and organize the CLE themselves but they lack adequate premises and funding.

Most members agreed that the lawyers would be willing and able to pay a certain portion of training fees (up to 30%) themselves particularly if the CLE is introduced as a mandatory program. Otherwise, very few people would sign up for the CLE and sustainability will suffer. The need to introduce a credit system and incentivize the CLE was also debated. Most members agreed that the CLE should not be optional but it should be weighted towards licensing, academic achievement or professional promotion if the lawyers are later categorized. It was also suggested that notwithstanding the organizing body (National Chamber or regional chambers) the rest of the cost of implementing the CLE could be incurred by the national chamber and USAID's JuST project.

### ***Main Conclusions***

Members unanimously identified the establishment initial and CLE as a priority area where assistance should focus immediately. Another conclusion was that the initial and CLE should be made mandatory by amendments to the law or the statute to the national chamber.

### ***Recommendations***

- The National Chamber should appoint a Working Group on CLE
- The WG should decide how the CLE should be organized and structured
- The possibility of sub-contracting specialized training institutes/entities should be explored
- WG should also identify and start raising funds for the CLE
- CLE should be preceded by a training needs assessment
- CLE should be evaluated and certified
- CLE trainees should undergo an examination and a grading system should be introduced
- The CLE should apply for accreditation in order to be more robust and sustainable.

### ***Implications for the project and Next Steps***

Although, many of the problems identified by the working group members are supposed to be addressed by other institutions such as the public law school, Ministry of Education, Tax Administration there are several aspects of the legal education and legal profession which are within the ambit of the JuST. With regard to the need to strengthen the public law school, JuST will work on creating clinical educational opportunities to cope with the lack of practical legal skills for law students and coordinate a more substantial and extensive internship system for law students. The NCHA can provide significant contribution to both the establishment of the clinical education program and providing internship opportunities to law students.

With regard to the legal profession, JuST will immediately develop an action plan with the NCHA leadership on creating the Bar Journal and establishing the CLE program. The action plan should be part of a Memorandum of Understanding between the NCHA and USAID outlining assistance of USAID to the legal profession and the commitments of parties and their obligations.

### **Final Remarks**

The JuST project was very pleased with the high attendance of the court leadership conference and particularly by the broad participation of all the key players who can make the justice system work more effectively. JuST benefited greatly from the spirited but constructive discussions on important issues of the justice system and will incorporate all the relevant recommendations in future action plans of the project components. Furthermore, the JuST team intends to make the justice leadership conference a periodic gathering of all the actors of the justice system. Future conferences will be organized to serve as a platform for dialogue and cooperation and as a mechanism for evaluating the progress of the JuST project and justice-sector implementation efforts in the coming years.