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## ALBANIAN JUSTICE SECTOR STRENGTHENING PROJECT (JuST)



# QUARTERLY REPORT

(April – June 2011)

USAID / ALBANIA, DEMOCRACY AND GOVERNANCE OFFICE

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On the cover: USAID Mission Director Joseph Williams and National Chamber of Advocates President Maksim Haxhia sign MOU to establish Continuing Legal Education in Albania on May 12, 2011.

## Introduction

Chemonics International is pleased to present its third quarterly report describing the activities of the Albanian Justice Sector Strengthening Project (JuST).

During the third quarter, the JuST Project took additional steps to strengthen the technical capabilities of the team. A previously-approved financial accounting position was not filled, enabling the project to redirect resources to hire two additional positions – a court specialist position to assist with Component 1 activities, and a legal assistant position to work with team leaders for Components 2 and 3. The recruitment process was concluded by the end of the quarter, and the additions to the team are expected to begin work in July. The additional technical resources will permit more rapid development of project activities.

As noted previously, the process of building a sense of ownership and professional pride among justice sector counterparts requires time. Not every project effort was met with enthusiasm, nor produced a successful outcome. However, the JuST project believes that a good foundation has been laid, and over time, sustainable results can be achieved. Overall the project made significant advances. One mediation program became fully operational during the quarter, and another was launched. Technical specifications necessary for preparing a procurement of audio recording equipment were completed. The grants program designed to strengthen the capacity of civil society organizations was launched. Implementation plans for establishing Continuing Legal Education (CLE) were finalized, as was a plan to support a clinical legal program in the Tirana Law Faculty.

During the quarter, a number of tasks called for in the project work plan were initiated and completed, as outlined below.

## Highlights and Deliverables Completed this Quarter

- Ceremonial signing of Memorandum of Understanding establishing Continuing Legal Education (CLE).
- Mediation program in Durrës reopened and expanded to include commercial and family cases.
- Mediation program in Korça launched.
- Audio recording technology demonstrations conducted in three cities, technical specifications for upcoming RFP completed.
- Organizational Capacity Assessment of Civil Society Organizations (CSO) completed in conjunction with Partners for Democratic Change.
- Grants program to strengthen CSOs developed and launched.
- Donor Coordination Group published first issue of “Connections,” which was distributed widely. The second issue is scheduled for release in July.
- Organizational Capacity Assessment of Judicial Associations completed.
- Capacity Assessment of Journalists begun in cooperation with IREX.
- Launched the “JuST Forum,” an online platform to encourage collaboration among CSOs, and to facilitate communications between JuST and the NGO community.

## 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 to 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 or completed during the second quarter of this five year project.

## **Component 1 – Increased Court Transparency, Fairness, and Efficiency**

The first component of the project addresses court operations through a number of strategies designed to address the lack of transparency and organizational deficiencies which continue to impede the ability of the Albanian judiciary to implement meaningful reform. Intervention results include: a) more accurate trial records; b) more efficiently-run courts that are more open to the public; and c) reduced case backlogs.

JuST is advancing these objectives through direct support to the courts in establishing systems for producing and making available verbatim records of legal proceedings; technical assistance to promote greater use of public courtrooms for the public benefit; and assistance to three pilot courts to introduce and expand the use of mediation for resolving commercial and family law disputes.

### **Design and propose a demonstration program for commercial and family mediation in Durrës and two other courts**

Significant progress was made during the quarter in the field of court-connected mediation. On April 22, a high level multi-donor public event was held in the auditorium of the Ministry of Justice to commemorate the successful completion of the International Finance Corporation's support of the mediation program in the Durrës District Court, and the launching of an expanded mediation program supported by USAID/JuST. Press coverage was extensive. The ceremony concluded with the signing of a three-party Memorandum of Understanding (MOU) among the Durrës District Court, the JuST Project on behalf of USAID, and the Albanian Foundation for Conflict Resolution (AFCR).

Following the signing of the MOU, the JuST project proceeded to negotiate a subcontract with AFCR to develop procedures for the program, conduct seminars on Alternate Dispute Resolution, develop training curricula on commercial and family mediation, and organize a series of basic and advanced trainings. The contract was signed on June 8. By the end of the quarter, ten cases had been referred to mediation, and three had already been resolved.

As noted in the previous quarterly report, the second site for USAID-supported mediation was the District Court of Korça. Korça presented favorable conditions for the second of three planned mediation programs. It had a small group of trained mediators, and the concept enjoyed the strong support of the Chief Judge who pledged to make available space for the program in the recently-constructed courthouse.

On June 21, JuST Project team members met with the Chief Judge in Korça, toured the offices set aside for mediation, and conducted a seminar for judges, mediators and court staff. Leading the seminar was the head of the AFCR, and the Chief Judge from the Durrës District Court, who were able to address many of the questions from the Korça judges. A Memorandum of Understanding was signed the following week, and as the quarter closed, office space had been made ready, a coordinator selected, and training sessions planned.

### **Digital Audio Recording**

The JuST Project continued its educational activities designed to raise awareness among project counterparts regarding the introduction of state-of-the art digital audio recording equipment into the courts of Albania. The Project also completed a series of tasks necessary to prepare a Request for

Proposals to procure equipment not only for the initial installations, but for installations throughout the lifespan of the project.

The introduction of any new technology into a traditional workplace such as courts must be well planned. Whether the technology is an automated case management system, or a new way of producing a verbatim record of court proceedings, technology represents change, and change is sometimes feared or even resisted. Court staff need reassurance that the new technology will neither replace them, nor add to their daily workload.

To begin the public awareness process for the introduction of digital audio recording, the JuST Project organized recording technology demonstrations in three cities – Lezhë, Korça, and Tirana. Lezhë and Korça represent the two courts selected during the previous quarter for initial installations. For the Tirana demonstration, invitations were extended to all chief judges, chancellors, as well as representatives from the Ministry of Justice, High Council of Justice, donor organizations, prosecutors, attorneys, IT professionals, and the Office of Administration of Judicial Budget.

The demonstrations not only showcased the ease of use of the technology, but also the potential to integrate audio recording into the existing Integrated Case Management Information System (ICMIS). While integrating audio recording technology does not fall within JuST's specified objectives, the project is considering this functionality with respect to any equipment procurements as it is within the foreseeable interests of the Albanian judiciary. The demonstrations further served to generate discussion on a variety of public policy issues, including the legal framework, the need and scope of transcription services, the limits of public dissemination of audio recording, and the value in promoting transparency within the judiciary.

Some of the concerns raised, along with specific user interface issues identified, proved useful in developing specifications for the Request for Proposals. A number of legal, policy, and technical issues remain unresolved, but recent experience from other countries in the Balkans suggests that hands-on usage of the actual technology will allay many concerns and sharpen focus on specific legal and policy questions.

In June, a short-term technical expert specializing in court IT solutions traveled to Albania, visited all courts slated for early installations, interviewed judges, witnessed trials, gathered information on ICMIS, and prepared the technical specifications for the Request for Proposal. Project requirements require a creative solution to the procurement process. The Project plans to deploy a single solution for all of Albania, but intends to stage installations every few months over the life of the project. Integration with the existing case management system is a requirement. As the quarter closed, solutions to the unique procurement issues had been found, a draft RFP completed, and a timeline established, which, barring unforeseen circumstances, should see the first installations following the summer break.

### **Courtroom Usage Study**

An important activity of the project is technical assistance to the Tirana and Durrës District Courts to increase the utilization of court rooms thus reducing the number of cases heard in judges' chambers that are not accessible to public. During the previous quarter, the project launched the courtroom usage study with support from two short-term, pro bono consultants from the Federal Judicial Center in Washington, D.C. Donna Stienstra, a nationally-recognized court management expert who has conducted numerous analyses of courtroom usage in US federal courts, led the effort.

The field work, including focus groups with court secretaries, presentations to all judges in both the Tirana and Durrës District Courts, was completed with the strong support of the two chief judges. Following up on last quarter's project request for judges and session or court secretaries to complete questionnaires, we proceeded this quarter with the data collection taking place during the first three weeks of April. The process yielded a large dataset, which included 5400 observations for the Tirana District Court, and 1500 for the Durrës District Court. Preparing the data in a form suitable for analysis proved time consuming and tedious, but with the cooperation of court leaders and IT support staff, and considerable effort expended by JuST Project staff, a "clean" dataset was produced for analysis by the team of researchers at the Federal Judicial Center.

As the quarter closed, the data was being analyzed and a final report was being drafted. The report and the recommendations will guide the work of the planned embedded court advisor, who will be tasked with working with the courts to implement better scheduling and case management procedures, in order to promote efficiency and greater public access to public trials.

### **Conduct Court Needs Assessment for Equipment and Renovation and Public Information Kiosks**

Part of the package of assistance to the courts included rapid appraisals to identify feasible sites for improvements that enhance public access to and information about the workings of the court. A specific requirement of these assessments was to identify courts requiring minimal renovations for improvements.

Phase I of this activity focused on those courts designated as the early beneficiaries of JuST Project assistance, specifically the courts of Lezhë, Durrës, Tirana, and Korça, as well as the courts of Gjirokaster and Saranda. Following the submission of the initial findings during the quarter, it became apparent that baseline information was needed for all courts for a number of purposes, including coordination with the Office of Administration of Judicial Budget regarding an installation timetable for audio recording. Therefore, a second round of assessments was planned covering four broad program areas: public outreach; IT infrastructure; security upgrades; and computerized trial records. This more in-depth assessment will cover all remaining courts in Albania, and will be completed in July.

### **Challenges Ahead for Component 1**

Some Component 1 milestones and deliverables have not been achieved within the timeframe envisioned in the contract or in the Year 1 Workplan. Facing this reality, the Chief of Party/Component 1 Team Leader has adjusted the initial staffing pattern, eliminating several support positions and redirecting budget resources to bring on additional personnel on the program or technical side. It is anticipated that with the additional team members, the pace of activities will accelerate.

One challenge facing Component 1 goes to the IT and communications infrastructure of existing courts. The Project is expected to "procure cutting-edge, off-the-shelf digital audio recording software that can be installed on existing computers." It is now becoming clear that in some courthouses, existing computers may be too antiquated to support the new technology and unanticipated infrastructure upgrades may be required. To address this challenge, the project team intends to work closely with the Office of Administration of Judicial Budget and the Ministry of Justice in order to better coordinate the expenditure of Project resources to coincide with or follow planned upgrades to courts by the Albanian government.

## **Component 2 – Strengthened Civic Engagement to Help Stem Governmental and Justice Sector Corruption**

The second component of JuST is designed to increase the organizational capacity of CSOs, promote stronger, more effective civic participation, increase public awareness of corruption, and bolster the role of media in investigating and reporting corruption cases. The third quarter saw significant progress in the projects plan to accomplish these objectives.

### **Assess and Design capacity development plans for the judges associations**

By April 2011 the project team finalized an assessment and issued its findings on the capacity of the two judges associations. The assessment revealed significant legal concerns regarding the registration of one of the two judicial organizations – the National Association of Judges. The Association's failure to elect a chairperson and governing board, as called for in its statute, coupled with its inability to convene even small groups of members to respond to assessment findings, led the JuST Project team to conclude that the National Association of Judges is simply not viable and, in consultation with USAID, determined it is not eligible for capacity-building support.

The Assessment Report included a two-year action plan of support for the Union of Albanian Judges (UAJ), emphasizing the collaboration with the newly elected Board of UAJ which will be elected at the Union's General Assembly on July 2, 2011. JuST and UAJ had four meetings during May and June to discuss the two-year action plan. The plan envisions a series of steps to be taken by UAJ, including trainings and capacity building activities which JuST will facilitate in conjunction with international and local experts. The JuST project can provide technical assistance, training, facilitation and other types of support, but cannot substitute for the active involvement of UAJ leadership and members.

### **Assess and design capacity development plans for CSOs**

Through a Call for Expressions of Interest issued in February 2011, JuST identified 51 CSOs with experience in justice system reform and/or fighting corruption. During May and June 2011, JuST conducted an assessment of the organizational and advocacy capacities of the CSOs that expressed interest working with the project. The assessment identified their strengths and weaknesses from internal and external perspectives. The assessment indicated that out of the interested CSOs, the majority work in the human rights sector (37) and the rest on democracy issues (26), such as legal change, monitoring government performance and community mobilization. The number of CSOs with focus on the judiciary and the variety of their activities are very limited. Monitoring and reporting on courts' work is an even smaller sector of CSOs work.

There is very little interaction between the CSOs and government institutions which include courts. The JuST CSO Assessment Report which was finalized by in mid June 2011, indicated three main tracks of assistance needed: 1) institutional development; 2) technical knowledge and skill training in monitoring of court and government performance; and 3) effective relationship building within the CSO community, and between CSOs and the media and government institutions.

In order to respond to the assessment needs, especially related to the third area of the support needed, during May and June 2011 JuST worked on the development of the JuST Forum, an online platform, as a communication tool to facilitate CSO cooperation and further enable dialogue with other justice counterparts such as media networks and justice institutions. These organizations will be encouraged to join the Forum as a part of JuST's work with the Albanian justice sector. The database of the qualified 51 CSOs interested in working with JuST project is now available on the

JuST Forum, found at [www.justforumalbania.org](http://www.justforumalbania.org), to facilitate their collaboration. The Forum was launched on June 27, 2011.

The solicitation for the first round of the JuST Grants, “Coalitions for Better Justice,” targeting the 51 CSOs selected through the “Call For Interest” process, was developed during June 2011. The grants program aims at supporting novel and measurable projects that aim to reduce corruption, such as:

- Efforts to increase transparency, efficiency, and fairness in the Albanian courts;
- Efforts that improve methods of exposing corruption and punishing the wrongdoers;
- Efforts which aim to remove incentives that promote corruption.

The recently-launched JuST Forum will be utilized as a platform for communicating between CSOs in establishing coalitions. The Forum will also be the primary mechanism for the JuST Project to communicate with CSOs as they develop and implement their projects. The deadline for the first round of concept papers is August 1, 2011.

### **Develop and deliver training program for journalists**

In April 2011, through a published “Call for Interest,” the JuST Project identified 37 journalists with a track record of promoting anti-corruption and advocating for justice system reform. During May and June 2011, JuST conducted an assessment of the 37 interested journalists to identify their capacities and needs with respect to effective and adequate coverage of justice and good governance issues in the Albanian media. As part of the assessment, JuST is developing an outline of the media capacity-building action plan, as well as a framework for a training program intended to be an ongoing effort throughout the JuST project life cycle. The Assessment Report will be finalized by July 8.

### **Challenges ahead for Component 2:**

The JuST Project made good progress in fulfilling the overall objectives of Component 2 during April – June 2011. However completion of the assessments for CSOs and journalists took longer than planned, primarily due to recent local elections scrutiny and the demands on journalists to cover daily developments.

The JuST project faces another challenge in working with the two judges association. As noted above, one association was determined to be not viable, either legally or in demonstrable interest of its “members.” The other organization, while viable, has very limited resources for advancing any kind of action plan. The JuST project will have to come up with creative strategies to assist the organization in its development.

Finally, the JuST Forum has been developed as an innovative platform to facilitate cooperation among CSOs, and between CSOs and the Project. The Forum is central to the grants process. If the concept works as intended, stronger CSOs will form coalitions with weaker grass roots organizations, to the benefit of all involved. Needless to say, this approach differs from traditional grant programs. The Project Team believes that the potential benefits for the weaker grass roots CSOs are a strong argument for this approach.

## **Component 3 – Strengthened Legal Profession**

### **Establish the Bar Journal**

Although the National Chamber of Advocates (NCA) initially applauded the idea of establishing a law journal based on the JuST roadmap presented in March 2011, it has been very slow in taking steps to establish an Editorial Board and Editor in Chief. In May, JuST Chief of Party and the leader of the NCA met again to review the progress on establishing the bar journal. In mid June the NCA decided to announce in three daily newspapers for the position of the Editor in Chief. The deadline for applications is July 5. The President informed the project that seven potential members of the Board have been contacted and expressed their readiness to serve on the Board. JuST intends to work with the new board and the editor to launch the call for articles and assist in the preparatory phase and the publication of the first issue.

### **Convene a National Conference of Lawyers**

Following the submission of the assistance plan, JuST worked with the NCA on preparing a concept note and scenario of the first National Conference of Lawyers schedule for June 2011. The leadership of the conference decided to postpone the conference for September 2011 citing that the NCA is overcommitted to JuST and other partners on such activities like implementing the CLE program, launching the bar journal, and organizing the national bar exam. JuST and the President of the NCA revisited the issue of organizing the conference in June and urged him to designate staff to work with JuST to finalize the agenda, confirm speakers and sent out invitations. The President was reluctant to convene a conference before the bar journal and CLE have showed progress and in a recent meeting held on June 29 proposed the first part of October as a tentative time for the conference. JuST remains ready to assist with conference branding and other logistical preparations once the date is set by the leadership of the Chamber.

### **Develop and Implement a CLE Program**

Following negotiations with the NCA, JuST finalized the MOU for the Implementation of the CLE program for lawyers which was signed by the USAID Mission Director and the President of the NCA on May 12. On May 20, JuST entered into a Service Agreement with the Albanian Center for Training in Legal Studies (ACLTS) which will implement the CLE in two selected chambers. USAID will cover sixty percent (60%) of the cost of the CLE program in Vlora and Durrës chambers whereas the NCA shall cover the remaining forty percent (40%). NCA also signed a contract with ACLTS on May 29 and provided copies of it to JuST. According to the contract, ACLTS started the needs assessment process by distributing 200 questionnaires in Vlora and Durrës. About 120 completed questionnaires were returned completed. On June 5-9, ACLTS organized two brainstorming sessions attended by about 60 lawyers and assistants to identify the legal topics that the CLE program should include.

JuST project attended both sessions advising all lawyers to be very precise in identifying their training needs as the 12 credit CLE program limits the space of training topics. According to the contract, ACLTS submitted the needs assessment report, a training curricula and a training calendar on June 20. JuST and NCA reviewed the all documents and provided written comments to ACLTS on June 28 seeking revisions to certain aspects of the CLE program and clarifying schedules to avoid conflicts for professors and trainees. JuST and ACLTS intend to organize the first training sessions in Vlora and Durrës during July. The rest of the CLE courses will take place from September 2011 through June 2012. A total of 168 training sessions will be offered to 380 lawyers and assistant lawyers over the course of three semesters. JuST intends to attend all training sessions to monitor implementation of the CLE as per the MoU with NCA and the contract with ACLTS.

### **Create and implement a work plan with the Magistrates School of cataloging Supreme Court decisions and ratified conventions**

During the reporting period, JuST developed a work plan on cataloguing the decisions of the Supreme Court and ratified international conventions. The plan outlined the steps for the production of the database aiming to launch the database in October 2011. The plan links the research work with regular course work of Magistrates' School students and requires the hiring of two legal experts to do the scientific work of organizing the material and proving cataloguing methodology.

The methodology will serve as the basis for the development of a searchable online database. The work plan foresaw the launching of the database by October 2011 but there have been significant delays in assigning students to collect the materials. JuST and Magistrates School staff have identified at least 11,000 Supreme Court decisions since 1999 and about 400 ratified conventions which need to be collected and analyzed by legal experts. The Director of Magistrates School has expressed her concern that this project is turning out to be much more labor-intensive and time-consuming than originally planned and is requesting the JuST project to limit the database to the unifying decisions of the Supreme Court and the ratified conventions.

### **Establish and Implement and Assistance Plan for the Law Clinic**

After many unsuccessful attempts to organize a group of professors to develop an assistance plan for the Legal Clinic, JuST requested the Dean of the Law School to appoint a working group consisting of the heads of department and professors of each department. During May and June, the Working Group on the Legal Clinic held four meetings coordinated and moderated by the JuST project. The members provided recommendations on the status of the clinic, the modification of curricula, the rules on professors' involvement and the effects of this commitment on their teaching workload, etc. Based on these discussions, JuST compiled an Assistance Plan on the Establishment of Legal Clinic. The Chief of Party shared the plan with the Dean of the Law School on June 23. The proposals of the founding group require some decision-making and actions to be taken by the Faculty's Council. In this regard, USAID-JuST requested the Dean to submit the Assistance Plan in the next meeting of the Faculty's Council and identify the physical premises of the Legal Clinic as soon as possible. These steps are necessary in order to allow JuST to assess the infrastructural needs of the Clinic. The Dean thanked the support of USAID-JuST and undertook to present the assistance plan in the first meetings of the Faculty's Council which will take place July 15, 2011. JuST has repeatedly asked the Dean to assign the premises of the Legal Clinic in order to allow JuST to start the needs assessment report but no response has been received on this issue yet. Once the need assessment is completed, JuST will propose a method for determining the contribution of each party in establishing the Clinic.

### **Create Clinical Opportunities for law students in select state and private institutions**

During the reporting period, the JuST Project met with the Dean of the Tirana Law School to inquire about the current system of internships at the law school. The Dean informed the project that the students of the third year continue to do a month long internship in courts, prosecution offices and law firms. The Dean was happy with the cooperation with the state institutions but expressed the need to expand the internship program at private institutions such as banks and insurance companies. JuST initiated a stakeholder analysis and held meetings with the Legal Department of the Tirana Bank and Procredit Bank. Albana Xhako of the Tirana Bank reported that the bank does not differentiate between private and public law schools and has concluded

cooperation agreements with about 10 private universities for providing internship opportunities. Xhako added that the need for law interns is relatively low compared to other interns who have a finance background and can be assigned to learn at different sectors within banks. Elton Klosi from Procredit Bank said that the Procredit Bank is continuously drawing from students of the private and public economic faculties but has very little need for law interns. JuST project will meet with other banks and private insurance companies to assess the stakeholders' interest.

### **Challenges Ahead for Component 3**

Component 3 has achieved considerable progress in developing the assistance plan for the NCA and all the initiatives have been endorsed by the President of the NCA. The CLE program's implementation is well underway with courses scheduled to start in July ahead of the timeframe noted in the work plan. That said, JuST's institutional and capacity-building efforts would be more effective with a more engaged and open counterpart, and increase the sustainability of our initiatives. JuST is concerned about undue delays in establishing the Department of Training, and appointing a bar journal editorial board. The project is also concerned by the Chamber's failure to set a date and agree on an agenda for the National Lawyers' Conference. The delays in staffing the Department of Training may adversely impact the sustainability of the CLE in the midterm as the ACLTS is providing all the manpower to the implementation of the CLE without assistance or oversight from NCA.

Due to the summer break of the Magistrates School, and the reluctance to assign students to collect the materials for the database, JuST anticipates delays in developing the searchable database as per the work plan. JuST hopes that the Faculty Council will promptly adopt the Assistance Plan for the Legal Clinic. The delays of the Dean of the Law School in assigning the classroom premises for the Legal Clinic are preventing the JuST project from completing the needs assessment and initiating the procurement process for the equipment of the Clinic.