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ALBANIAN JUSTICE SECTOR STRENGTHENING PROJECT (JuST)



QUARTERLY REPORT

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On the cover: Seminar with civil society representatives in Korça, on October 26, 2011, organized as part of the public outreach efforts to promote mediation by USAID JuST in both Durrës and Korça where it is supporting court-connected mediation centers.

Introduction

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

On October 16, the European Commission released its much-anticipated annual report on Albania's progress toward EU candidate status. The report painted a generally bleak picture of a "climate of mistrust not only between political forces but also vis-à-vis State institutions" as well as continued "polarization between ruling majority and opposition." On the judiciary, the report noted that "no progress has been made in combating corruption within the judiciary," and "no further progress has been made as regards the independence of the judiciary."

Of particular relevance to the JuST project, the report stated that:

"No further progress was made regarding the *efficiency* of the judiciary. Reforms of the High Court planned by the MoJ aimed at improving the efficiency of the Court and reforming its internal organisation have been delayed.

Working conditions in courts are still poor in general and hearings often take place in judges' offices, which hampers transparency and efficiency. There is still no sound and adequate system of training for court administrators."

The report reinforces the importance of USAID assistance to Albania and the strategic direction of the JuST project.

The fifth quarter saw several changes to the technical composition of the project. In October, an experienced court manager and lawyer from Alaska, Susanne DiPietro, began a six month assignment working in the Tirana District Court to assist the court leadership in improving scheduling practices regarding the use of courtrooms as well as promoting greater efficiency in the flow of cases through the system. In November, the vacancy in the Component 2 Team Leader position was filled. Elvana Gadeshi was approved by USAID and joined the team on November 23.

The major procurement for digital audio recording equipment was submitted for review and approval at several levels, including "Program Funded Information Technology Review" in Washington, source/origin clearance for the purchase of audio recording equipment, and Mission Director review and approval. At the conclusion of the review and approval process, a subcontract was signed and the first task order for equipment was issued.

The JuST team continued working with project counterparts to advance project objectives. Several productive meetings took place with the new Minister of Justice, Eduard Halimi. Working closely with the National Chamber of Advocates, the first semester of Continuing Legal Education was concluded and the first Bar Journal was produced.

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

- The first "semester" or term of the pilot program for Continuing Legal Education (CLE) was completed with local Chambers of Advocates in Durrës and Vlora.

- Mediation training continued in Durrës and Korça, with advanced training for mediators and introductory seminars for several target groups.
- The competitive process for selecting a subcontractor to supply equipment for digital audio recording equipment for 130 courtrooms was completed. Following a rigorous approval process, a subcontract was signed, and the first task order for equipment was issued.
- An experienced court manager arrived for a six-month embedded assignment and began working with the Tirana and Durrës District Courts.
- The Justice and Good Governance Grants Program proceeded as planned with the award of the first three grants to a CSO coalition under the JuST Annual Program Statement.
- Support to the Union of Albanian judges continued with the development of a strategic plan for the organization.
- The Donor Coordination Group continued as planned, publishing “Connections” on a quarterly basis.
- The first-ever Bar Journal of the National Chamber of Advocates was completed and ready for publication.

Technical Activities by Project Component

JuST works in three strategic 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 is working 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 selected pilot courts to introduce and expand the use of mediation for resolving commercial and family law disputes.

Implement commercial and family mediation program

With the launching of the second court-connected mediation program in the Korça District Court during the previous quarter, emphasis in the fifth quarter shifted to training and public outreach. JuST’s local partner, the Albanian Foundation for Conflict Resolution and Reconciliation of Disputes (AFCR), conducted a series of activities in support of mediation. In October, a four day program of advanced training on family mediation was conducted first in Durrës and then in Korça (see cover photograph). Among the topics covered were international and national standards and rules regarding mediation; psychological and communications aspects; and specific court-related procedures. Local media was invited to the training and graduation ceremonies in both locations.

Based on post-training evaluations, the participants expressed satisfaction for the training, and the “good mix of theory and practice.” They especially appreciated the role plays during a mock mediation session, and the fact patterns that were presented.

Project partner Rasim Gjoka of the AFCR participated in a televised talk show as part of the general public outreach campaign.

In addition to the advanced training for mediators, a series of one-day introductory seminars was held in Korça in late October. The seminars were designed to introduce participants to basic concepts of mediation, including the new mediation law, and were tailored to three different groups: NGOs; businesses; and attorneys and notaries. Based on session evaluations, the series of seminars was well-received. For example, business community representatives considered mediation to be an efficient method to resolve disputes and said that they would urge other businesses or community members to use the mediation center. Attorneys tend to be more resistant to mediation, fearing it may reduce their income. However, many acknowledged that the seminar will help them in their work, and expressed willingness to assist their clients with mediation procedures. Civil Society representatives said that they consider mediation to be an innovative alternative and an indispensable mechanism for ameliorating disputes. Several expressed the intention to provide information on the mediation center to interested parties that they encounter in their daily work.

Finally, in collaboration with AFCR, JuST supported the preparation of a set of operating procedures for the two mediation centers. The document includes the legal basis for mediation, the code of conduct of mediators, as well as case management issues for tracking outcomes.

During the coming quarter, JuST intends to focus on specific strategies for making mediation a self-sustaining and permanent feature of Albania’s justice system.

More Accurate Trial Records through Digital Audio Recording

The signature initiative of the JuST Project is the implementation of digital audio recording capability for the courts of Albania. Earlier in the project, JuST assessed all of the courts of Albania including those with previous experience using audio recording technology. Several conclusions emerged. It was clear that court practices need to change so that making a verbatim record of proceedings becomes a routine practice, rather than an exception to the rule. Digital audio recording technology needs to exist in every courtroom, and it needs to be easy to use by existing courtroom personnel. Audio recordings also need to be easily accessible and available to all stakeholders. Finally, a single technological solution that can be integrated with the existing court case management system offers the best hope for long-term sustainability. These conclusions formed the basis for the functional requirements for a major procurement of digital audio recording equipment. Having assessed the technical infrastructure of every courtroom in Albania, it was also clear to the JuST team that full systems would have to be procured, rather than using existing (often antiquated) computer servers and workstations.

All of these technical specifications formed the requirements for an open solicitation that was issued in August. Proposals were subsequently reviewed and evaluated, and “best and final” negotiations were conducted resulting in the selection of an equipment provider. A procurement of this size, involving IT equipment and components from various sources, requires a full review with

various USAID approvals or waivers at all levels. During the quarter, all necessary approvals were granted, and the first order of equipment for twenty courtrooms was made.

Anticipating the importance of integrating the audio recording software application with the existing court case management system, the JuST team held a series of technical meetings with officials at the Ministry of Justice, including the Minister himself. At the conclusion of these discussions, full assurances were received from the Ministry regarding the requested access to source code and software maintenance experts.

Improved Court Management leading to more Transparent and Efficient Court Operations including Court Hearings that are more open to the Public

An important activity of the project is technical assistance to the Tirana and Durrës District Courts to increase the utilization of court rooms and reduce the number of cases heard in judges' chambers that are not accessible to the public. The first step was to conduct a courtroom usage study. The study found that the total amount of time spent in sessions held in the seven courtrooms in the Tirana civil courthouse was 2.1 hours per day, on average, or 18 minutes per day per courtroom. Furthermore, only 2% of scheduled Tirana civil sessions are held in courtrooms. For Tirana criminal cases, almost 93% are tried in offices. In Durrës, 76% of all cases are tried in judges' offices, with only 24% in courtrooms.

The second step in the strategy was to field an experienced court administrator to work directly with court leaders and practitioners in finding practical ways to increase transparency by moving court proceedings out of private offices and into public courtrooms. In November, Susanne DiPietro, a court manager from Alaska, began her six month assignment as embedded advisor to the District Courts of Tirana and Durrës. In December, Ms. DiPietro introduced a number of calendar scheduling options, including one which would use the Court's Microsoft Outlook application to enable all court personnel to view the sessions scheduled for each courtroom and make adjustments when a session is cancelled so open slots can be filled. A range of options will continue to be explored with the court leadership.

Challenges Ahead for Component 1

Following a careful study of the existing court infrastructure and what is needed to make digital audio recording a permanent feature of the justice system, equipment installation will begin during the next quarter. JuST has embarked on an ambitious set of implementation activities which – if successful – will transform the court system. Comprehensive training of judges and court secretaries will be important. Likewise, the integration of recording software with the court case management system (the integrated case management information system – ICMIS – based on the Ministry of Justice preference for it over ArkIT) is necessary to avoid “double data entry” thereby easing the adoption of the technology. While the JuST project team believes that a good plan has been developed to accomplish these objectives, unforeseen technical or institutional obstacles are always a possibility in a project of this scope and complexity.

On the mediation front, several challenges will require attention in the months ahead. Although the new law was intended to institutionalize mediation through the establishment of a licensing mechanism and a chamber of mediators, key appointments have not been made and progress is lagging. Resistance on the part of attorneys remains a challenge to implementation. JuST remains committed to finding a mechanism that will make mediation less dependent on international donors and eventually self-sustaining.

Regarding court management assistance to the District Courts of Tirana and Durrës, the engagement between the advisor and the court leadership is off to a good start. One challenge foreseen is the need to overcome inherent cautiousness and reluctance to change on the part of court practitioners. Handwritten registers are still being used in the Tirana District Court, a practice which reportedly cannot be changed absent a new order from the Ministry of Justice. A long-term action plan, coupled possibly with subsequent visits by the embedded advisor over the next few years may offer the best hope for sustainable improvement. Another challenge concerns the two case management systems used in the Tirana District Court. Neither Ark-IT nor ICMIS can produce a list of all sessions scheduled for a particular courtroom – a prerequisite for moving forward with modern calendar management techniques. Ms. DiPietro has urged the Chief Judge to consult with fellow chief judges and submit a list of priorities to the Ministry for ICMIS development and improvement.

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.

Assess and Design capacity development plans for the judges associations

During October, assistance to the Union of Albanian Judges continued. With the help of a short-term expert (Kathy Imholz) providing facilitation to the Union, the body developed a Strategic Plan. The plan was divided into two main pillars: the internal and organizational consolidation of the organization; and the strengthening of the role of the UAJ in the justice system. After several rounds of comments and redrafting, the plan was submitted for approval to the membership. While the final plan could have been more ambitious, it was a serious effort to chart a course for the Union, and was produced by the members themselves. Despite its shortcomings, it represented a step forward in a direction that may establish its legitimacy as a professional body capable of effectively advocating for judicial reforms and member interests, and a good basis for future assistance.

In November, Elvana Gadeshi joined the team as Component 2 leader, and quickly stepped in to structure the long-term assistance to the Union. Using the Union's strategic plan as the starting point, she developed a detailed one year workplan and an accompanying performance monitoring plan to measure progress.

December marked the initiation of additional support activities envisioned in the JuST Year 2 workplan. Following established procedures, a part-time legal assistant for the Union of Judges was recruited and selected. A small office space was located. The JuST Project intends to provide this assistance for one year, during which time it will be the responsibility of the Union to increase membership and revenues to the point where the organization can be self-sustaining. JuST staff also participated in early discussion regarding a planned conference of the Union of Judges organized around a possible plan of action for the judiciary to address the shortcomings noted in the EU's Annual Progress Report for Albania.

Justice and Good Governance CSO Grants Program

As noted last quarter, in July JuST issued an Annual Program Statement (APS) announcing the first round of the small grants program “Coalitions for Better Justice”. Following an initial stage requesting concept papers, full proposals were invited from seven coalitions representing 17 organizations. By mid October, proposals had been submitted and evaluated, producing disappointing results. Most of the proposals were deemed to be nonresponsive to JuST’s Annual Program Statement as they did not address the objectives. Only one coalition proposal was found to be worthy of a grant award.

In the spirit of transparency and constructive feedback, JuST posted an open letter on the JuST Albania Forum explaining the reasons for not awarding more grants and reiterating the purpose of the program. The letter summarized conclusions and lessons learned from this first round. CSOs were also reminded that the APS remains open until December 31, 2011. Finally, JuST conveyed its intention to announce specific, targeted grant solicitations in the coming months, as well as its intention to broaden the collaboration opportunities to CSOs outside the initial pool of 51 organizations responding to JuST’s call for Expression of Interest.

With the new Team Leader joining the staff in November, JuST began a new chapter with Albanian Civil Society Organizations. During the quarter, Elvana Gadeshi met with ten NGOs that had participated in previous JuST-sponsored capacity building trainings, or had submitted concept papers or grant proposals. These meetings provided helpful feedback on the idea of encouraging coalitions, the reasons for the general lack of specificity and poorly designed concept papers and proposals that CSOs submitted in response to the APS, and the kind of training that would be beneficial to them. This will be useful improving the next phase of the grants program.

The single winning coalition was awarded three grants at the end of December, following site visits to all three organizations in Tirana, Shkodra, and Elbasan.

Develop and deliver training program for journalists

It is widely recognized that while on the one hand a democratic, rule of law state should provide fair, clear and transparent justice administration. On the other hand media is the guarantor of freedom of information. However, some Albanian journalists lack academic knowledge and experience necessary for covering the justice sector. Part of the overall USAID strategy for improving the justice system involves delivering a capacity building educational program for journalists called “Law School for Journalists (LSFJ)”. During the quarter, JuST issued a Request for Applications (RFA) to Civil Society Organizations interested in implementing such a training program. The LSFJ educational program envisions a series of ten training sessions running from January to May that are designed to increase journalists’ understanding of the justice system and improve their reporting and editorial skills.

Applications were due on December 19, and three were received. As the quarter closed, the applications were being reviewed and evaluated, with the expectation of an award early in 2012.

Challenges ahead for Component 2:

Overall, the challenges for Component 2 have been reduced with the addition of Elvana Gadeshi to the team. However, continued close engagement with judges' associations, civil society organizations and journalists will be required to produce meaningful results.

The paucity of good grant applications under the Annual Program Statement was a disappointment, though the experience will improve the next round of grants. One lesson may be that there should be more calls for specific kinds of grants, as was done with the call for proposals for the "Law School for Journalists." An additional CSO need is targeted technical capacity building so organizations can effectively engage judicial institutions, participate in dialogue on justice sector issues, and advocate for reforms. That said many CSOs, including select organizations with which Ms. Gadeshi conducted follow up interviews after the project completed its first round grant award, note considerable training fatigue.

Component 3 – Strengthened Legal Profession

The third component of JuST is designed to address the lack of competency and professionalism among practicing attorneys as an element of a larger strategy to combat corruption. A number of activities are envisioned as methods for strengthening the legal profession.

Establish a Bar Journal with the National Chamber of Advocates

One of the activities intended to foster a sense of ownership of the legal profession within the National Chamber of Advocates (NCA) was the creation of a Bar Journal.

Work to produce the first-ever Bar Journal for Albanian lawyers proceeded as planned throughout the quarter. Working with the editor-in-chief selected by the National Chamber of Advocates, an action plan was developed for producing the first two issues of the journal, with the first to be ready by mid-December. On October 8, a call for articles was published in the three largest Albanian papers, specifying October 31 as the deadline for submissions. The editor-in-chief also approached several authors to write articles for the first issue. An editorial board consisting of seven members was selected and met for the first time in late October. During November and December, the editor-in-chief collected articles, distributed them for review to the editorial board, and finalized details for the first issue. JuST requested bids to select a printing company to produce the first issue. By the end of the quarter, the final copy had been assembled, reviewed, edited, and made ready for printing. As discussions turned to project sponsorship of a launch event to mark the Bar Journal's inaugural volume, the National Chamber of Advocates suggested an event in January which JuST is considering along with other options.

Develop and Implement a CLE Program

An important goal of Component 3 is to develop and implement a Continuing Legal Education program (CLE) for lawyers. A project survey of CLE practices in Europe within the last decade, conducted early in the project, revealed that CLE programs have become mandatory in almost all EU member states. JuST and NCA agreed to establish and jointly fund a CLE pilot program in Durrësi and Vlora, the second and third largest chambers to Tirana and the only chambers with adequate office space for trainings, enabling the NCA to gain practical experience and confidence

as a first step to establishing a nation-wide and mandatory program consistent with European norms.

After launching the first CLE courses in July and continuing them after the summer break, the first term of CLE was concluded in November. The experience gained in this first effort was summarized in a report shared with the NCA and its training subcontractor, the Albanian Center Legal and Training Services (ACLTS), which organized the classes, reviewed training materials, and recruited the instructors. Evaluating the first session of CLE courses provides an opportunity for JuST to identify areas for improvement (e.g., coordination between the NCA and ACLTS, ineffective communication to target trainees), discuss these with the NCA and ACLTS, and course correct as needed.

Despite the coordination challenges of the first year, the participants' general impressions of the CLE program has been positive. All participating lawyers that JuST team spoke with were impressed that within such a short time after the regional focus groups, NCA and JuST assessed the needs, designed the program, contracted a training provider, and launched the courses. The participants were pleased with the academic stature of the trainers selected and the content of lectures. The fact that attendance by lawyers is about 68% is also encouraging. The leaders of the regional chambers have repeatedly stated that CLE program has breathed life into the dormant and passive regional chambers with no history of providing services to its members.

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

Although JuST worked with the Magistrates School to develop a plan of assistance to accomplish this deliverable, progress is slow.

As noted in previous reports, there have been significant delays in assigning students to collect the materials. The only progress during July was the fact that JuST and AMS analyzed the workload for the database development. The Director of Magistrates School expressed her concern that this project is turning out to be much more labor-intensive and time-consuming than originally planned and requested the JuST project to limit the database to the unifying decisions of the Supreme Court and the ratified conventions. More promising is information the project received that the Magistrates School has assigned cases to students for indexing.

At the request of the Magistrates School, JuST agreed to support a faculty member to serve as a local expert on cataloguing methodology for the database project, and mentor of student efforts to review cases and identify appropriate key words necessary for a searchable database. A scope of work was drafted and shared with the Director, and an appropriate candidate was selected from among qualified faculty. However, despite the readiness to proceed for the past two months, the identified expert has not provided basic information for the project to engage the individual.

Establish and Implement an Assistance Plan for the Law Clinic

Following a long period of engagement with the Law Faculty of Tirana University, progress toward establishing a Law Clinic has been slow. During the previous quarter, a working group appointed by the Dean established the basic content of the curriculum, and the Dean identified a suitable space within the Law Faculty to establish the program. However, the momentum slowed after this working group's activities. After discussing with the Dean on how best JuST could assist the Law Faculty, there was agreement on the need for an international expert with experience in setting up clinical education programs. A scope of work was drafted and tentative plans call for short term

assistance to commence in February. JuST will continue to assess the interest of the Law Faculty before incurring costs for the activity.

Challenges Ahead for Component 3

An analysis of the first semester of CLE revealed several challenges for the future. The number of participants was lower than expected especially for the Vlora chamber. The “hands off” approach of the NCA also raises concerns regarding the sustainability of the program in the absence of JuST project persistence. Coordination between NCA and the regional chambers should be improved significantly. In the next quarter, JuST will follow up with ACLTS and the regional secretaries to ensure that records of trainee credits and how they are going to calculate the credits at the end of the first year of the program. Further, there is low interest from lawyers given there are no consequences for failing to attend CLE courses. The NCA President has been informed of the diminishing interest amongst lawyers and identifies as the main cause for this situation the lack of a legal obligation on the part of lawyers and not the poor coordination during the CLE program. In December 2011, JuST and the NCA submitted to the Ministry of Justice draft amendments to the Law on the Legal Profession that would make CLE mandatory for practicing lawyers and assistants. In addition, JuST will continue to push the NCA, regional chambers and ACLTS to implement better coordination, outreach, and record-keeping to increase CLE attendance. However, if the turn-out rate continues to drop, the project may need to adjust the indicator target quantifying the number of trainees benefitting from the CLE program.

Performance Indicators¹

Indicator	FY 2012			Notes
	Baseline	Year 1 Result	Q1	
I. World Bank Governance Indicator (Rule of Law Index)	35.8	N/A		World Bank will release 2011 indicator data in 2012. As such there is no information to report at this time.
II. NGO Sustainability Index (Advocacy)	3.4	N/A		USAID will release the 2011 report on/about November 2012. As such there is no information to report at this time.
Component 1: Court transparency, fairness, and efficiency				
1.1.1 Number of justice sector personnel that receive USG training	0	100	169	
1.1.2 Number of legal institutions and associations supported by USG	0	20	49	
1.1.3 Number of hearings that are verbatim recorded	0	0	0	
1.2.1 Number of hearings held in court rooms	0	0		
1.3.1 Number of days from initiation to resolution of mediated cases	21	12		
1.3.2 Number of mediated cases	14	23		
1.3.3 Number of mediated cases resolved	13	13		
1.3.4 Number of mediators trained	0	10		
1.3.5 Reduction of time to resolution: mediated vs. non mediated cases	TBD	TBD	n/a	
Component 2: Civic engagement				
2.1.1 Number of civil society organizations using USG assistance to improve organizational capacity	0	17	0	16 CSOs (in focus group and 2 trainings) and the Union of Judges. (13 from Tirana, 1 from Berat, 1 from Korca, 1 from Shkodra, 1 from Elbasani)
2.1.2 Number of USG assisted CSOs that engage in watchdog functions	0	0	3	Data counting will start after project awards first grant in October.
2.1.3 Number of advocacy campaigns	0	0	0	Data counting will start after project awards first grant in October.
2.3.1 Number of corruption cases exposed by the media involved in our project	0	0	0	Data counting will start upon journalist trainings.
2.3.2 Number of non-state news outlets that report on corruption assisted by USG	0	0	0	Data counting will start upon journalist trainings.
2.3.3 Number of articles/investigative reports placed on the non-state news outlets that report on corruption assisted by USG	0	0	0	Data counting will start upon journalist trainings.
2.3.4 Number of journalists trained with USG assistance	0	0	0	Data counting will start upon journalist trainings.
Component 3: Education of the legal profession				
3.1.1 Number of issues of the Bar Journal	0	0	0	

¹ Quarterly indicators are not final, and will be updated.
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Indicator	FY 2012			Notes
	Baseline	Year 1 Result	Q1	
3.1.2 Number of lawyers that received USG training	0	198		The number exceeded the target figure after courses were held in Durres and Vlora September.
3.1.3 Number of chambers offering training	0	2	2	
3.2.1 Number of law school students that take part in trial	0	0	0	
3.2.2 Number of cases resolved by the Legal Clinic	0	0	0	
3.2.3 Number of people receiving legal assistance at the Legal	0	0	0	