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ALBANIAN JUSTICE SECTOR STRENGTHENING PROJECT (JuST)



QUARTERLY REPORT (April – June 2013)

USAID / ALBANIA, DEMOCRACY AND GOVERNANCE OFFICE

CONTRACT NO. 182-C-00-10-00105-00

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July 10, 2013

This publication was produced for review by the United States Agency for International Development. It was prepared by Chemonics International Inc. The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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On the cover: President Bujar Nishani addresses the Court Leadership Conference on May 15, 2013.

Introduction

Chemonics International is pleased to present its tenth quarterly report describing the activities of the Albanian Justice Sector Strengthening Project (JuST). During this quarter, the JuST team continued installing digital audio recording equipment in the courts of Albania, trainings with CSOs, and consolidating its relationship with the University of Tirana Law Faculty (UTLF).

As expected, the weeks preceding the June 23 national parliamentary elections led to a slower progress in project activities as project counterparts were directly or indirectly involved in pre-election activities. Defying “worst case scenario” fears, the elections themselves proceeded smoothly for the most part, marred by a single incident of violence. The margin of victory racked up in all parts of Albania by the winning coalition left no room for post-election procedural challenges, thus guaranteeing a peaceful transition of power – a significant accomplishment, lauded by all international observers.

With the elections in the rear view mirror, and the summer months ahead, the JuST team took stock of accomplishments to date and with the participation of the Chemonics home office, began drafting the annual work plan of activities.

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

Highlights and Deliverables Completed this Quarter

- Provided digital audio recording equipment and training to additional courts, bringing the total to 17 courts, including the largest – the Tirana District Court.
- JuST, in cooperation with OSCE, organized the 3rd Court Leadership Conference, where President Bujar Nishani expressed gratitude to USAID and JuST.
- The Project organized numerous events for “Justice Week,” designed to promote understanding of the law and access to justice.
- The sixth issue of *Avokatia*, the bar journal of the National Chamber of Advocates, was published and distributed, and the seventh issue is nearing publication.
- The Donor Coordination Group, initiated and hosted by JuST, continues to meet quarterly and produce a widely-circulated bulletin, *Connections*, on justice sector projects.

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. The project is part of 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 third quarter of the third year of this five year project.

Component One – Increased Court Transparency, Fairness, and Efficiency

The first component of the Project is focused on court operations through a number of strategies designed to address the lack of transparency and organizational deficiencies which 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; better court management practices; and assistance to selected pilot courts to introduce and expand the use of mediation for resolving commercial and family law disputes.

More Accurate Trial Records through Digital Audio Recording

JuST's most visible and important initiative is implementing digital audio recording capability for the Albanian courts. During the quarter ending in June, JuST completed installation and training in all courts in Tirana as well as the District Court of Berat.

Through regional post-implementation conferences of practitioners, the team continues to assess how it can improve its training and facilitate the adoption of the technology. Responding to a frequent concern about the difficulty of producing copies of recordings using computers installed in courtrooms, JuST acquired additional software licenses that will permit court secretaries to perform this important function from their own office computers. This adjustment in the implementation plan – a direct result of soliciting feedback – will apply to all 400 court secretaries in Albania.

Improved Court Management Leading to More Transparent and Efficient Court Operations including Court Hearings that are More Open to the Public

An important project activity is ongoing assistance to the two largest trial courts to increase court room utilization and reduce the number of cases heard in judges' offices. Despite the understanding that this is a worthy objective, the fact remains that additional courtrooms are needed. Nonetheless, better courtroom management practices can produce significant improvements.

Early in the project, an experienced court administrator from the United States came to Albania and worked closely with the chief judges of the Tirana and Durrës District Courts. Based on the consultant's recommendations, the biggest breakthrough was JuST's development and deployment of software tools that permit online scheduling of courtrooms, described in previous reports.

Sometimes good ideas need time to gain acceptance. With the change in leadership at the Tirana District Court, the new Chief Judge wasted no time in adopting a number of significant recommendations first proposed by the JuST's court administration advisor. An important recommendation involved limiting public access to judicial offices by reconfiguring the public space. The new Chief Judge opened a new public entrance and established public waiting areas on each floor. The change has been dramatic. No longer are parties, lawyers, and others milling about outside judicial offices. Instead, there is a designated waiting area where they can be summoned for their hearings. The JuST team is continuing to work closely with the Chief Judge to solidify the gains.

Another of JuST's reform efforts is introduction of active case management by judges, including better pretrial preparation and more attention to the principle that every court hearing should be a meaningful hearing. This basic concept of court management was introduced at last year's Court Leadership Conference, but did not gain much traction. This year, the JuST team devoted the entire conference to the theme of judicial leadership in improving the management of cases and court operations. As the conference is aimed at chief judges in all Albanian courts, this is the judicial leadership which will determine the direction and pace of reform.

Following keynote addresses by President of Albania Bujar Nishani and Minister of Justice Eduard Halimi, two senior judges from Norway and the United States led the discussion. Challenging their judicial peers, American Judge Truman A. Morrison shared his message that "as judges... we have a natural and wholly proper responsibility to care deeply about the character and quality of justice administered in our courthouses. The quality of justice cannot and will not take care of itself! Experience everywhere instructs us that justice is decidedly not self-administering." Judge Morrison went on to describe how he and his colleagues in Washington, DC, successfully took on the challenge of eliminating chaos in the management of civil cases, and the beneficial impact their changes have had. JuST is seeking to encourage similar problem-solving approaches in the Albanian courts, and will work in partnership with the justice project of OSCE to introduce these concepts on a pilot basis with a court in Albania. To the extent this effort is successful, it will serve as a model for other courts to improve practices and increase both efficiency and access to justice.

Access to justice continues to be a theme promoted by all activities of JuST. This quarter marked the 100th anniversary of the establishment of the justice system of the modern era, and presented numerous opportunities to work with courts and familiarize the public with the operation of the justice system. One "Open Court Day" took place in Pogradec District Court, and included a mock trial carried out by high school students on a domestic violence case, along with a demonstration of the random assignment process of cases coming into the court. Capping the event was a roundtable discussion among members of the public and the court leadership.

A similar event was organized with JuST support at the Serious Crimes First Instance Court in cooperation with the UTLF. This court open house featured an in-depth presentation about the court and its work followed by two teams of five law students each who participated in a rigorous competition covering the Albanian judiciary, court operations, rights and duties of the parties, and other legal issues.

Reduced Case Backlogs through Implementation of Mediation

JuST continues to support the two court-connected mediation programs in Korçë and Durrës. In addition, with the award of a grant to the "Community Center of Gjirokastra," a local NGO, mediation services have been expanded to the southern communities of Gjirokastra, Përmeti, and Saranda. These community-based mediation programs are gaining acceptance among local judges, especially for the family law cases that end up in court.

In addition to supporting specific, local mediation programs, the project has also supported establishment of a National Chamber of Mediators. JuST considers the establishment of the chamber to be important, since the chamber will be the appropriate body for addressing issues on the legal framework and the fee structure measures that hopefully will make mediation less donor-dependent and more self-sustaining. As the quarter closed, the JuST team was working

closely with the Mediation Licensing Commission within the Ministry of Justice on a formula for breaking the impasse and establishing a fully-functioning Chamber of Mediators.

Improving Public Information Offices of the Courts

A small but important JuST objective is to increase access to justice by improving public information areas of courts. During the final quarter of last year, JuST completed renovations of the public information area of the Pogradec District Court, and participated in its inauguration. JuST continues to work on similar projects in the Kavaja and Kurbin District Courts, in collaboration with the Office of Judicial Budget and Administration. During the quarter, the tender for renovations in the Kavaja District Court was completed, with work scheduled to begin over the summer.

Challenges Ahead for Component One

The Component One team works primarily with institutional partners, and the individuals heading those organizations. There will be a new Minister of Justice and new directors and managers at all levels. Fortunately, the transition is expected to proceed smoothly. While the JuST team foresees no specific problems at this point, new relationships must be established and nurtured. The audio recording implementation process has benefited from high level support. While there is every reason to believe such support will continue with the new government, our institutional partners will have to be briefed on the benefits of court modernization, and the role of digital audio recording in strengthening public confidence in the judiciary and increasing accountability for all involved.

Component Two – Strengthened Civic Engagement to Help Stem Governmental and Justice Sector Corruption

The second component of JuST is designed to increase the organizational capacity of civil society organizations (CSOs), promote stronger and more effective civic participation, increase public awareness of corruption, and bolster the role of media in investigating and reporting corruption cases.

Capacity Development for the Union of Albanian Judges

JuST is working to strengthen the institutional and technical capacities of the Union of Albanian Judges (UAJ) as part of a strategy to support greater independence and a more effective voice of the judiciary. By the end of this quarter, membership increased to 186, from only 45 at the beginning of JuST support. During the quarter, JuST expanded its assistance to the UAJ through a small grant to a local NGO – Partners Albania, Center for Change and Conflict Management. Through support provided by Partners Albania, the UAJ conducted a series of regional cluster groups in Shkodra, Korça, Vlora and Tirana focused on promoting and facilitating dialogue among all justice sector actors – judges, prosecutors, journalists, mediators, CSOs, advocates, and law students. Participation totaled 152 in the four regional meetings.

In addition, Partners Albania assisted the UAJ to create a media campaign for the 100th anniversary of Albania's Justice Day, a campaign designed to increase UAJ visibility among a broader audience. The campaign included a TV spot, and facilitated UAJ participation on some of the most popular talk show programs in the country.

The UAJ continues to actively address issues affecting the judiciary. Its General Meeting was held on May 18 and focused on “The role and importance of UAJ in defense of the independence of the judiciary, as a contribution to increasing public confidence in justice.” Seventy association members attended this meeting. The Chief Justice of the Supreme Court, the President of International Association of Judges, and representatives from other international organizations were invited and attended.

Justice and Good Governance CSO Grants Program

An important element of USAID assistance to Albania is strengthening civil society as a means of increasing citizen participation and achieving greater transparency and accountability from governmental institutions.

CSOs capacity building program

The CSO training needs assessment conducted last quarter indicated that most CSOs were interested in receiving training on advocacy, lobbying, and communications. JuST therefore developed and delivered a regional two-day course to address these needs in which 42 representatives from 28 individual organizations participated.

The objective of the training was to improve the capacity of CSOs interested in working with the JuST project to initiate and successfully implement projects. The primary focus of these projects will be improving accountability and transparency in the justice sector, but anti-corruption work in other government institutions and agencies is also included, as is a focus on organizing effective advocacy campaigns. On the first day after a brief presentation, the participants expressed their expectations regarding the information they hoped to receive. Topics included how to design an advocacy strategy and action plan; how to measure effectiveness and impact of communication activities; and how to work in networks around common issues. JuST expects to see the results of this training during the next quarter with an increase in the number of proposals which include advocacy and lobbying elements as well as an improvement in communications skills.¹

Status of Grants

During this reporting period, the JuST grant program continued to provide important services to all components of Project. One grantee, for example, Albanian Legal and Territorial Research Institute (ALTRI), has established an internship program with UTFL students that provides outreach materials in the district courts of Tirana and Elbasan related to mediation, legal aid, complaints against judges and rights and duties of parties in judicial proceedings. Another grantee, Eye of the New Media, is providing training for the Association of Journalists for Justice in investigative techniques to stem corruption in the governmental institutions that oversee social services.

JuST did not award any new grants this quarter, however, four beneficiaries of JuST capacity-building assistance submitted concept notes through the Annual Program Statement. Two out of these four have been invited to submit full project proposals. Of the Project’s budget for small grants, 42% of the funding has been awarded.

¹ A list of CSOs trained can be found in Annex 5 of the Performance Indicators Report.

The JuST team continues to work with several ongoing grant projects. The first grant awarded by JuST went to a coalition of three NGOs – Women to Women of Shkodra; Women Forum from Elbasan; and Center for Legal Civic Initiatives of Tirana. This coalition continues to operate successfully and according to plan. During the quarter, the NGOs provided free legal aid to women and girls in 25 cases from the three target areas – all victims of domestic violence. In addition, the “pro bono” team continues to collect data through monitoring case files in four courts. With most of the data collection complete, the coalition intends to present their findings by July 2013.

The *Gjirokastra Multifunctional Community Center* continues to enhance mediation and restorative justice practices in resolving community-based problems. This project operates in the South, covering Gjirokastra, Saranda and Përmeti. The Center continues to build confidence among community members on their ability to assess problems and mediate solutions. Judges are increasingly recommending that commercial and family law disputants go to the on-site mediation office. These referrals are serving to reduce court case loads while providing parties with a faster and less costly alternative to regular court hearings.

The Center organized five training sessions this quarter for 97 participants in urban and rural areas of Gjirokastra, Përmeti and Saranda. The sessions introduced Mediation Law and provided informational materials to the participants. As a result of the training program, during the quarter there was an increase in the number of cases mediated and resolved in these areas.² Furthermore, the Center organized six seminars for the Saranda, Gjirokastra and Përmeti District Court judges, as well as personnel from police, prosecution and probation officers. Many issues were raised during the meetings related to better coordination of efforts to resolve different cases, especially criminal cases, which are more sensitive. The prosecutors highlighted that their institution has a special status and mediation can be practiced in specific cases as provided in the Criminal Code.

A total of 188 cases have been referred to the three mediation offices from the Gjirokastra, Përmeti and Saranda areas. Most of the cases are referred by the community, police, and probation offices. A positive signal of the increasing acceptance of mediation in the justice sector is the fact that an increasing number of cases are being referred by judges of district courts in which the Center is operating.

ALTRI continues to contribute to strengthening understanding between the courts and the citizens with a goal of promoting a more efficient, transparent and accountable judiciary. During this quarter, MoUs between UTLF and the district courts of Elbasan and Tirana were finalized to the benefit of the students who have been involved as interns in the these courts. After preparing written materials related to mediation, legal aid, complaints against judges, and rights and duties of parties in judicial proceedings, JuST organized training sessions for the 40 law students who signed up for the program. These interns then set up tables in the courts that provided materials and raising awareness among the public. Students assigned as interns at the Elbasan court have also had the opportunity to volunteer doing administrative work under the supervision of the Chancellor and other judicial administration staff, thus benefiting by working directly with actual court files.

Eye of the New Media continues to assist in improving social services through local capacity building and by stigmatizing corruptive cases. During this quarter Project staff conducted interviews with all administrators in the nine local government units, and shared the respective

² For more information, refer to the indicator 1.3.2 and 1.3.3 of the Performance Indicators Report.

findings with the investigative journalists. The questionnaire helped the local experts from the Gjirokastra Regional State Social Service Office to design the proper training programs based on the training needs pointed out by the LGUs' administrators. The local experts prepared detailed reports on the findings from the nine above mentioned meetings. The reports were shared with the investigative journalists and the Regional State Social Service Office to coordinate the common efforts on fostering the necessary mechanisms for improvement of the current situation. In addition, six trainings with the administrators, communal and municipal councilors, and social aid beneficiaries were organized among various communes.

The trainers introduced the Law on Social Services and discussed issues that were raised by the participants. The investigative journalists conducted several meetings with different beneficiaries in some of the most problematic communities, along with representatives from local institutions and municipalities. The findings shared with them by the Eye of the New Media staff helped them to start their investigative work in the respective communes and municipalities. Four investigative articles (features) and one full investigative report were published in the official site of the Journalists for Justice Association. Eye of the New Media Staff supported the project media trainer on the organization of a series of trainings with the young reporters. Nine young people took part in two training sessions out of five planned. Furthermore, the young reporters are working side by side with the investigative journalists in situ to learn by doing.

Justice Reporting Fellows: Training and Independent Venue for Investigative Journalists

JuST continues to promote a vigorous and independent press as another anti-corruption strategy, most recently through support for a new association of journalists that formed during a JuST-sponsored training program known as Justice Reporting Fellows. This new independent online media venue for investigating reporting, www.investigim.al provides a venue for stories that are well-documented, fair, and accurate. During this reporting period, four new investigative stories as well as a high number of blogs and features were written by journalists of SHGD and were published to the new media. The number of stories published on the website is increasing day-by-day and the quality of the articles has improved. Journalists are better equipped to investigate and report cases of corruption. An article published by *Tema*³ reprinted one of the investigative stories from website – a piece documenting the “business” of selling passes from prison. This illustrates the improving quality of the stories being published, and has increased the number of readers on the investigative website.

A Facebook campaign on behalf of the Association of Journalists for Justice started on May 13. This campaign contributed to an increase of viewers and comments on stories. JuST is coordinating with other USAID contractors such as Assist Impact, in order to support with modest awards the reporters who are publishing their articles on the website.

JuST Forum Albania

The online forum continues to serve as the primary vehicle for communicating information on the grants program. The total number of viewers on JustForumAlbania for the quarter was 940, down slightly from the 1051 recorded last quarter when there was a great deal of mediation-related activity.

³ The newspaper *Tema* is one of the most widely-read newspapers in Albania.

Challenges Ahead for Component Two

The northeast part of Albania is not covered with JuST grant activities as there is a lack of NGO capacity in these areas to fulfill the requirements of the APS and the JuST program. Given these shortcomings, JuST staff will focus more on the few local organizations in these areas, providing additional support or technical assistance in the project development and grant application process.

Component Three – Strengthened Legal Profession

The third component of JuST is designed to contribute to enhancing the skills and performance of practicing attorneys and law graduates. The component works closely with the National Chamber of Advocates (NCA) to introduce a sustainable continuing legal education program for practicing attorneys. It also works with the UTFL to establish a clinical legal education program to augment the practical skills dimension of training in law schools.

Develop and implement Continued Legal Education (CLE) program

Since its inception, JuST has focused intensely on initiating a NCA-owned and operated continuing legal education program (CLE) as a means for addressing the perceived lack of competency and professionalism among practicing attorneys and making the NCA a more dynamic institution. During the first two years of the project, JuST devoted considerable effort to assisting the National Chamber of Advocates to establish a CLE program in the regional chambers in Durrës and Vlora, with plans to expand to a third chamber in Fier which has now taken place. On a parallel track, JuST worked with the NCA leadership to introduce legal amendments to the law on the Legal Profession making CLE mandatory for all lawyers. The amendments now in force provide for the establishment of a National School of Advocates (NSA) with mandatory continuing legal education to be phased in over a one-year transition period. The NCA has taken some steps to set up the NSA but as of the time of writing this report, there has been no progress on drafting the legally mandated implementing CLE regulations.

The second year CLE program is now on track with a complete annual calendar and curricula in place and classes taking place as scheduled in all the three chambers. With more than 400 participants taking part since they were first rolled out in March, attendance rates in the second year CLE program indicate sustained interest by practicing and assistant attorneys across the three chambers for continuing the program. To ensure an even spread-out of classes for the whole year, ACTLS, the implementing partner, agreed to adjust the proposed annual calendar, rescheduling two CLE classes which were offered in the chambers of Vlora and Fier. The second year CLE programs foresees the provision of a total of 112 training sessions with the target of reaching 500 practicing and assistant attorneys in the three chambers. Following a planned summer break, CLE classes are now scheduled to regularly resume in October.

Going forward JuST will continue to assist the NCA with implementing the CLE program focusing closely on ensuring that efforts to set up the NSA support follow through on commitments undertaken by the NCA to mainstream CLE classes across the profession within one year.

Establish a Bar Journal with the National Chamber of Advocates and publish it regularly

Alongside the work for introducing the CLE program, USAID support to the NCA includes assistance for establishing a bar journal as part of the effort to raise the professional standards and

instill a sense of pride among practicing attorneys. The journal aims at fostering a professional debate amongst the Albanian legal profession around issues of interest for the legal practice, focusing especially on engaging practicing attorneys in legal research and writing.

Set up as a quarterly publication of the NCA, *Avokatia* is now well on its way to becoming a respected legal periodical. During this quarter the sixth issue of the journal was published and articles for the seventh issue have now been solicited demonstrating a sustained capacity by the NCA to ensure a periodical publication going forward. To assess the opinion of attorneys on the quality of the publication and solicit suggestions for improving it, during this quarter JuST conducted a poll with over 100 practicing and assistant attorneys in three regional chambers. The poll found broad support for the publication with 90 percent of those interviewed valuing its professional quality and noting that *Avokatia* has enhanced legal debate among practicing attorneys and provided content useful for their legal practice. The poll also found broad support for increasing the journal's focus on issues of relevance for the legal practice of attorneys including discussion of Supreme Court decisions that have precedential value as well as topics related to commercial and administrative law.

The publication of the sixth issue of *Avokatia* marks the successful completion of the existing assistance arrangement between JuST and NCA. Continued assistance will be provided on supporting NCA efforts to receive approval of academic status for the journal from the Ministry of Education and Sciences.

Clinical Legal Education Program

To address the overly theoretical focus and rote learning legacy that the Albanian legal education has inherited, JuST is assisting the UTLF to set up a clinical legal education program (CLEP). The goal of the CLEP is to assist students in developing critical legal thinking and practice skills and engage them directly under proper supervision in providing legal services to disadvantaged clients.

With assistance provided by JuST and new leadership support for the program on the part of the Dean of the UTFL, progress has been tangible across the board and a number of delays encountered in the two previous years have now been overcome. The UTFL has set up a more responsive Legal Clinic Board to oversee the introduction of the program. Following a positive legal clinic exchange visit in Poland there are now indications of greater ownership of the program among the faculty and staff. Three inaugural elective legal clinic courses for professional master students were introduced this past March with overall attendance in the Public and Criminal Law legal clinic classes reaching over 120 students. To ensure tangible educational gains by the students as well as a positive start of the clinical legal education program in its emergence stage, during May JuST helped organize a one week practical legal skills training in the criminal law class engaging over 45 students registered. The week-long course provided by local prosecutors included the organization of the first moot court exercise and a closing ceremony that helped further advertise the quality of the program among students and faculty.

USAID assistance for the legal clinic program includes refurbishment of a legal clinic lab, reception area and moot court room and JuST is now in the process of tendering the project to a local contractor. The refurbished premises are expected to provide additional impetus to launching a fully-fledged annual legal clinic educational program this coming October. Notwithstanding the positive momentum, the test for the program remains the ability to deliver free legal aid to live clients, a service scheduled to commence by the close of the first academic

semester in the fall. To that end, JuST will continue to support the development of much needed clinical legal pedagogy skills among staff and practical legal skills training for students.

Magistrates School Database

May 9 marked the official launch of the Supreme Court decisions searchable database developed with the assistance provided by JuST. The launching event was organized by the School of Magistrates during the 100th anniversary of the Albanian Justice Day, and was attended by members of the legal community and senior judicial figures, including the new Chief Justice. The launch included a live presentation of the search functionality provided by the Database.

The JuST assistance to set up a searchable database on Supreme Court decision is part of the effort to address the limited precedential value Supreme Court decisions have had so far in judicial practice. Judges, prosecutors, practicing attorneys and researchers in the field are now able to access these decisions through an easy to use searchable database on line, contributing to increasing the standards and predictability of court decisions issued by lower courts in Albania.

Challenges Ahead for Component Three

Implementing a nationally available continuing legal education program for practicing attorneys as mandated by the legal amendments and the terms of the understanding between USAID and the National Chamber of Advocates by the third year of the partnership remains a challenging proposition. Notwithstanding a few positive signs including the first disciplinary decisions on transgressing lawyers, the NCA remains understaffed and with still limited institutional capacities required to mainstream the CLE program. The establishment of the National School of Advocates as required by law may present an opportunity to build on the momentum achieved by the three successful CLE pilots in Durrës, Fier and Vlora and make the program nationally available. According to the legal provisions enacted last September, the provision of the CLE would be taken over by the School once in place and functioning. With the little progress noted so far, it remains to be seen whether the NCA will be able to meet the goal of setting up a functioning new school that has the institutional and human capacities required to train assistant attorney and make CLE available to all practicing attorneys within this calendar year.