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INTERIM REPORT ON THE BANKRUPTCY TEAM'S OUTREACH AND INFORMATION GATHERING ACTIVITIES

USAID FOSTERING AN INVESTMENT AND LENDER-FRIENDLY
ENVIRONMENT (FILE)

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INTERIM REPORT ON THE BANKRUPTCY TEAM'S OUTREACH AND INFORMATION GATHERING ACTIVITIES:

I. INTRODUCTION

From its start, the FILE Project teams have been aware of the importance of having the active involvement of our local partners, especially financial and other professionals who can best assist us in achieving our goal of bankruptcy implementation.

The involvement of these local professionals notably serves two principal purposes:

1. Better enabling us to shape our training components, tailoring training to the actual needs and interests of our bankruptcy implementation constituency;
2. Finding, or “recruiting”, the professionals who will staff the cases which will soon move forward as bankruptcy “Pilot Cases”.

The Pilot Cases will lead the way toward bankruptcy implementation.

Finding the right people to staff them and focusing on the right kind of training to provide to those professionals, specifically, and also to the broader audience which will be involved in the other bankruptcy cases which will follow, has been the objective of our interim outreach activities in this initial period of the Bankruptcy Law Team's (“BLT”) Project activities.

II. ATTENDED MEETINGS WITH LOCAL PARTNERS AND IDENTIFICATION OF PROFESSIONALS NEEDED TO STAFF PILOT CASES

During the reported period, the BLT attended numerous meetings and seminars in regard to information gathering and to find the people who are ready, willing and able to work Pilot Cases. The BLT has reached out, primarily, to judges, attorneys, appraisers, and trustees. These outreach activities also included numerous specific meetings with Chambers of Commerce, Minister(s), Judges, other local partners, etc., as summarized below:

In October BLT had attended the following meetings:

1. 10/17/2003 – Municipal Court Banja Luka – bankruptcy judge (re-Presentation of FILE Project);
2. 10/17/2003 – Judicial Training Center (re- Presentation of FILE Project);
3. 10/27/2003 – RS Banking Agency (re- Presentation of FILE Project);
4. 10/30/2003 – Municipal Court Banja Luka (re – collection of bankruptcy data);

In November BLT had attended the following meetings:

1. 11/11/2003 - RS Minister of Justice (re- Presentation of FILE Project);
2. 11/12/2003 – RS Ministry of Economy, Energy and Development (re- Presentation of FILE Project);
3. 11/12/2003 – meeting with USAID FSBAT representatives (re- using lessons learned);
4. 11/05/2003 meeting with Mr. Milovan Vukovic, Trustee from Banja Luka, re practical problems in implementation of the New Laws; Another meeting with Mr. Vukovic was held on 11/13/2003 re exam for trustees and their education;
5. 11/11/2003 meeting with Mr. Saud Filipovic, RS Minister of Justice; Mr. Nikola Kovacevic, Adviser and Mr. Radoje Radic, professor of Management and Technology in Banja Luka;
6. 11/12/2003 meeting in Sarajevo with Dr. Iraj Hashi from Staffordsbire University who is working under EC funded project aimed on post-privatization assistance in corporate governance and debt restructuring considering among all other instruments also bankruptcy proceeding (both liquidation and reorganization) for this group of enterprises;
7. 11/12/2003 meeting with Mr. Mirko Grahovac, RS Deputy Minister of Economy; Mrs. Deva Uzelac, Secretary on bankruptcy training and pilot cases;
8. On 11/12/2003 meeting with FSBAT representatives (Mr. Kent Mc Neil, Mr. Jusuf Tanovic and Ms. Nesla Halilovic) re their experience in providing training service to banks.
9. 11/19/03 meeting in Sarajevo with Dr. Georg Blomeger who, in coordination with the Chamber of Commerce in Banja Luka has trained 60 people (attorneys, economists, engineers, bankers, managers of SOEs, etc) in the new bankruptcy proceedings law.
10. 11/20/03 meeting in Sarajevo with Mr. Bob Ethrington from RES&CO who is working on a Finance Program funded by DFID and WB where one of its main goals is the application of the Bankruptcy Law;
11. 11/24/03 meeting with Mr. Hasan Musemic, Director of the Federal Employment Service re labor issues related to the application of the bankruptcy law (social contributions, lining up of the work experience of the employees that will be affected by the bankruptcy proceeding, etc.);
12. 11/26/2003 meeting with Mrs. Dragica Ristic of RS Chamber of Commerce (re: training seminars on Bankruptcy and Liquidation).

In December 2003 BLT attended following meetings and seminars:

1. 12/01/2003 – meeting with RS Directorate for privatization, Mr. Zoran Dosen – re Potential Pilot cases;
2. 12/01/2003 – official presentation of FILE Project (video conference call SA-BL) and presence of key local partners;

3. 12/05/2003 – Seminar at FBIH Judicial Training Seminar re New bankruptcy law;
4. 12/12/2003 – meeting with Mr. Vladislav Djurasovic, President of the Managing Board of RS Association of Accountants and Auditors and his assistants – re Status and education/ certification of appraisers/ trustees;
5. 12/12/2003 – meeting Mr. Dragan Salic, President of RS Association of court experts – re Status and education of court experts;
6. 12/12/2003 – Meeting with a trustee in BL – re Status of trustees;
7. 12/16/2003 – meeting with Mr. Radovan Rodic, Directorate for privatization – re Status of appraisers;
8. 12/17/2003 – seminar organized by GTZ and the RS Institute for standardization and metrology: Taking away technical barriers to trade within the EU and between EU and non-EU countries in RS Chamber of Commerce;
9. 12/18/2003 – seminar in Sarajevo: Regional Policy Dialogue Series on Investment Climate – ECA Region;
10. 12/18/2003 – meeting with Mr. Milorad Djekanovic, President of the RS Association of Appraisers – re Status of appraisers
11. 12/22/2003 – USAID PSARP (check which type of data would be available and to check if we could use these data for the purpose of selection of Pilot Case);
12. 12/22/2003 – meeting with Mrs. Sara Savanovic, member of Trustees' Board of Examiners – re Program for Exam);
13. 12/22 and 23/2003 – seminar of FBIH Judicial Training center re-application of new Law on Enforcement;
14. 12/23/2003 – seminar of FBIH Judicial Training Center re – application of new Bankruptcy Law;
15. 12/26/2003 – meeting with employees in RS Economic Institute re methods used in appraisers' work);
16. 12/29/2003 – meeting with Mr. Branko Krsmanovic, RS Minister of Finance – re Presentation of FILE Project);
17. 12/30/2003 – meeting with judge Nedeljko Milijevic, President of Board of Examiners (re Examination of Trustees).

The above contacts resulted in recommendations for additional contacts. Based on recommendations made by presidents of the courts as well as those made by other well-established trustees, the BLT began conducting an organized “survey” of trustees.

With respect to attorneys needed to take on roles in the anticipated Pilot cases, the BLT made contacts with Bar Associations in both entities. To date, the BLT has only been able to learn that in BIH there apparently are no lawyers having a formal specialization in bankruptcy work or an experience base relevant, specifically, to handling Pilot Cases. Although we had hoped to receive more useful information, thus far the Bar Associations have only been able to provide us with the names of a few lawyers having some limited experienced in the field.

At present, it appears that we may need to focus our selection activities in respect of attorneys on less experienced and younger lawyers recommended by court presidents, judges, bank and other commercial managers, and by other lawyers, as well. As long as these junior lawyers are well-recommended and highly motivated to perform roles in bankruptcy cases we may be able to meet our staffing needs for Pilot Cases insofar as lawyers are concerned by this approach.

As a result of the survey of trustees and the above described prior contacts, a special meeting, or “roundtable,” with a group of experienced trustees from both entities has been set to take place on 15 January in Banja Luka. A similar meeting of experienced trustees from both entities will be held in Sarajevo, or another city in the Federation, by the end of January.

Depending on results of these “roundtables,” the BLT will further adjust its outreach activities aimed at the Pilot Case staffing and selection process. The objective of having a pool of professionals, particularly trustees, from both entities that are highly motivated and ready to cooperate with FILE on its Pilot Case and other bankruptcy implementation activities by the end of February appears to be realistic.

III. OTHER OUTREACH ACTIVITIES

The BLT members made many other contacts as well during this initial period of the Project’s inception. These other contacts are also expected to be supportive of FILE’s bankruptcy implementation objective. These contacts included the following:

1. 11/12/2003 meeting in Sarajevo with Dr. Iraj Hashi, Director of EC project on post-privatization assistance for BiH;
2. 11/12/2003 meeting with FSBAT representatives (Mr. Kent Mc Neil, Mr. Jusuf Tanovic and Ms. Nesla Halilovic) re their experience in providing training service to banks;
3. 11/20/03 meeting in Sarajevo with Mr. Bob Ethrington from RES&CO who is working on a Finance Program funded by DIFID and WB where one of its main goals is the application of the Bankruptcy Law.

In order to have more companies to select from as potential Pilot Cases, the Project sought informal “nominations” of Pilot Cases by making additional contacts with privatization, international agency, and chamber of commerce people. As a result, BLT members were able to begin reviewing economic databases and lists offered by some of these other agencies to find potential cases.

BLT members remained involved in other training activities and “roundtables”. One of these was the JTC’s bankruptcy roundtable for judges held on December 5, 2003. A Memorandum advising of this roundtable was prepared on December 3, 2003 (right after the plan for the training was formed at our Project kick-off party (see below) in an impromptu meeting between Dr. Biljana Maric of JTC and Judge Milijevic).

A public introduction of the Project’s overall goals and plans, including its bankruptcy implementation program, was made in a “kick-off” party held simultaneously in Sarajevo and Banja Luka on Monday, December 1.

Another effort towards public outreach came in the form of a preliminary analysis of websites, to determine what websites were now publishing bankruptcy-related information, or might be amenable to publishing such information in the future. In this connection the BLT also gave consideration to the presentation requirements and priorities which would make such bankruptcy-oriented website material useful. A report on this website analysis was completed and delivered on December 15, 2003.

IV. FURTHER CONTACTS AIMED TOWARD THE ESTABLISHMENT OF “SEMI-FORMAL WORKING GROUPS”

More formal, or semi-formal relationships with our most involved local partners would be helpful to accomplish our bankruptcy implementation goals in the longer run. To this end we hope to establish “semi-formal working groups” with the principal local partners who could be most helpful to advancing the Pilot Case program and bankruptcy implementation overall.

As a result of our numerous contacts and meetings, BLT managed to locate several persons of special interest, including the following people:

1. Mr. Dzermaludin Mutapcic, Assistant of FBIH Minister of Justice;
2. Mr. Nikola Kovacevic, Assistant of RS Minister of Justice;
3. Mr. Hakija Zaimovic Bankruptcy Judge from Sarajevo Municipal court;
4. Mr. Nedeljko Milijevic, bankruptcy judge from Banja Luka Municipal court;
5. Mr. Nurudin Kusturica, trustee in Sarajevo;
6. Mr. Milenko Vukovic, trustee Banja Luka.

Gaining the benefit of their acquired experience by close cooperation with these people would significantly contribute to reaching our Project goals. Namely, all of mentioned persons indirectly expressed their readiness for cooperation in particular parts of our BL project and ultimately, showed initiative in detecting problems and offering solutions for them. Actually, through this group, we would have access to:

- the Executive branch (Mr. Mutapcic and Mr. Kovacevic) that will play a very important role in issuing the bylaws needed for implementation of Bankruptcy Law (program for education of trustees, their fees limits and so on);
- judges in the biggest courts in BiH (Sarajevo and Banja Luka) and in the most populated regions and with potentially most active area in the economic sense;
- very proactive representatives of trustees from both entities, with a huge experience.

These persons could be key working partners or resources. The list of contacts will be amended as necessary and appropriate as assistance unfolds.

V. SUMMARY OF GATHERED INFORMATION AND ANYLYSIS

During the reported period, FILE's Bankruptcy team managed to identify key information sources relevant to Bankruptcy in regard to Bosnia's legal and business environment. The collected information has been classified in 3 main categories:

1. Bankruptcy Legislation

- Bankruptcy Law
- Bankruptcy Related Laws

2. Training Materials International/Domestic

- Bankruptcy proceedings and case studies
- Developing of reorganization plan in a bankruptcy proceeding
- Trustees' Certification Training
- Appraiser's Certification Training
- JTC's Training on Enforcement Law
- JTC's Training on Bankruptcy Law
- Banja Luka's Chamber of Commerce Training on New Bankruptcy Law (June 2003)
- Program for education of bankruptcy trustee in Brcko DC (Faculty of Economy, Brcko 2002);
- RS Program for education and certification of appraisers
- Outline of materials (books) used for training and certification of appraisers (RS Directorate for privatization)

3. Bankruptcy reference materials

- Baseline Study on Bankruptcy cases in Bosnia and Herzegovina
- Commentaries on bankruptcy laws
- Commentaries on bankruptcy related laws
- Books, Manuals and Practical Procedure Guide on Bankruptcy
- Promotional compact disk by RS Chamber of Commerce and Industry
- RS Rulebook on Expert Exam Program for trustee and Method of examination
- International/Domestic Standards for professional conduct
 - Accounting Standards
 - Auditing Standards
 - Appraisers' Standards
 - Trustee's Standards

The Bankruptcy team has analyzed the collected information and has presented it in a set of reports to USAID as follows:

- BiH New Bankruptcy And Liquidation Laws “Core Training Program” (November 7, 2003)
- Interim Report on Laws and Issues (November 24, 2003)
- Selection Criteria for Bankruptcy Cases (November 24, 2003)
- Baseline Data of Record Keeping and Case flow of Bankruptcy Proceedings (December 8, 2003)
- Report on Analysis of 2 Potential Candidates for Pilot Cases (December 8, 2003)
- Evaluation of Websites for Chronicling Training and Pilot Case Progress and Posting Implementation Resources (December 15, 2003)
- Report on Legal and Regulatory Framework for Bankruptcy Trustees in Bosnia and Herzegovina (January 6, 2003)
- Report on the Status and Capabilities of Trustees as of year end 2003 (January 6, 2003)
- Program for 8 Training Sessions for Trustees (January 6, 2003)
- Report on Legal and Regulatory Framework for Appraisers in Bosnia and Herzegovina (January 6, 2003)
- Report on the Status and Capabilities of Appraisers as of year end 2003
- Program for 8 Training Sessions for Appraisers (January 6, 2003)
- Periodical monthly reports

The Bankruptcy Team is constantly updating its information resources.