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SERBIA Rule of Law Project

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INTRODUCTION

The United States Agency for International Development (USAID) contracted with the National Center for State Courts (NCSC) to implement the Serbia Rule of Law Project in support of USAID/Serbia's Strategic Objective (SO) 2.0: More Effective, Responsive and Accountable Democratic Institutions, and particularly IR 2.0.3, Increased Judicial Independence and a Better-Functioning Legal System. The twenty-six month project sought to help achieve two broad rule of law objectives for Serbia: (1) a more efficient judicial system; and (2) better educated judges and lawyers. The scope of work for this project included two distinct components, Court Activities and Law Faculty Activities. The project concluded on May 31, 2006.

This final project report provides an overview of the project's work, highlights project accomplishments, and presents recommendations for future work in improving the courts and law faculties in Serbia.

COURT ACTIVITIES

Serbia's judicial reform strategy and progress toward European Union (EU) membership look to a judiciary that is committed to, and capable of, managing its responsibilities to move cases in a just, transparent and timely manner. One of the major impediments to judicial reform and improved court performance is the existence of large backlogs of pending cases in the general jurisdiction courts.

The USAID task order outlined five specific tasks related to the court reform component of the project. The first task was an initial assessment aimed at identifying the types of data and other information that should be sought to obtain a sense of the extent and sources of backlogs and delays in Serbian courts. Following the initial assessment, the project's second and third task involved a considerably more detailed diagnostic study, conducted in select courts. The diagnostic provided a comprehensive picture of the situation with respect to caseloads and case processing times in those courts, identifying problems and recommendations for improvements. The fourth task involved implementing short-term activities to address the issues brought out in the diagnostic. The fifth task was to enhance the legal research capacity of partner courts, through a limited procurement of basic library materials.

The Court Activities section of the report outlines NCSC's work on analyzing case processing times in Serbia's district, municipal and magistrate courts and initiating efforts to reduce backlogs and delays. It describes NCSC activities and impact, and outlines recommendations for future work on improving caseflow management in Serbia's courts.¹

Initial Assessment of Caseloads and Backlogs (Task 1)

Task 1 called for an initial assessment with the goals of determining what data or other material should be reviewed in detail in order to get a sound picture of caseloads and case processing times in Serbia and identifying courts to be included in a diagnostic study designed to develop reliable information on backlogs and case

¹ See Appendix One for a list of previously submitted reports related to the Court Activities component of the project. These reports contain a more in-depth discussion of the project methodology and findings.

processing times. The initial assessment was conducted during May-June 2004 by NCSC consultant Robert Lipscher.

The initial assessment included meetings with judges and senior court staff members in fourteen Serbian courts, in nine cities: Becej, Belgrade, Kragujevac, Niš, Novi Pazar, Novi Sad, Valjevo, Vranje, and Zaječar. Mr. Lipscher's report recommended that a detailed study of case processing times and backlogs be undertaken in district and municipal courts in three of the Serbian cities that he visited: Belgrade, Kragujevac, and Novi Pazar. Mr. Lipscher explicitly noted the existence of large backlogs as a reason for selection of the pilot courts, emphasizing that the backlog problem was one that would be found in many Serbian courts. He noted also that the size, location, and character of these courts provided an appropriately diverse representation of Serbian courts, and that the presidents of the recommended courts had exhibited strong leadership skills and a high interest in the work of the project. The report also identified basic problems in case processing meriting further examination during the detailed assessment. This assessment played an important role in the remainder of the project as the basis for determining the first year activities and as the foundation for the data collection effort called for in Task 2.

Detailed Assessment of Caseloads and Backlogs (Task 2)

Task 2 called for collecting information and drafting a report identifying the common types of problems affecting caseloads and time to resolution. The goal of this activity was to obtain baseline information and use it to increase awareness among judicial personnel of sources of inefficiencies and backlog.

Diagnostic Study

From September 2004 through February 2005, with a team of seven Serbian attorneys under the direction of NCSC consultant Kathryn Fahnstock, NCSC conducted a diagnostic study of case processing times and pending caseloads in the six courts recommended in the initial assessment. The study was designed to develop a comprehensive picture of caseloads, case processing times, and caseflow practices and procedures in these courts. The diagnostic included:

- Collection and analysis of data on closed cases, from court registers and case files—in all, nearly 12,000 cases;
- Collection and analysis of data collected on pending caseloads;
- Interviews of judges and registry staff in all six courts;
- Observations of court proceedings;
- Collection of data on structural features of each court, together with information on annual filings, resolutions, number of judges and staff, etc;

NCSC presented the findings from this diagnostic study in the benchmark report, *Reducing Backlogs and Case Processing Times in Serbia's District and Municipal Courts*. The following is an abbreviated summary of the key findings:

- There are wide variations across the courts on various measures of effectiveness in managing caseloads and individual cases, including:
 - Case processing times (initial filing to disposition)
 - Pending caseload size and age
 - Clearance rates (annual dispositions divided by annual filings)
 - Per-judge productivity (defined as dispositions per month)

- Most courts have significant backlogs of first instance cases (with backlogs defined for this purpose as consisting of cases pending for over two years).
- Although data on filings, dispositions, and pending cases is collected by each court, the data has rarely been analyzed or used effectively for management at the local level.
- There are no national standards for maximum or optimum case duration.
- There is no published data on the duration of cases of different types.
- There is no way to easily determine the accurate age of pending cases and aggregate caseloads, other than by conducting manual examination of court registers and case files. Determining the age of cases is made more difficult by the practice of measuring case age by the year of filing (e.g., a case filed in 2004 would be defined throughout 2006 as a “two year old case,” even though its actual age could range anywhere between thirteen and thirty-five months at different times during the year). There are no regularly prepared reports on the size, composition, and age of a court’s caseloads.
- In most courts handling first instance civil and criminal cases, filings increased more rapidly than dispositions during the 2002-04 period. As a result, there has been a substantial increase in pending caseloads and old case backlogs. However, it is important to note that some courts have no significant backlogs in at least some of their materija (case type)
- Pending first instance caseloads examined in the diagnostic study included large numbers of cases that had been pending for lengthy periods. For example, in all six of the criminal materija studied, at least 40 percent of the pending cases had been filed more than a year earlier. The percentage pending for over two years ranged between 14 and 33 percent.
- Data on disposed cases also indicate that case processing times in first instance cases tend to be quite lengthy. For example, the NCSC diagnostic study found that the median times for criminal cases (not including the investigation stage) generally exceeded four months. The times for the 80th percentile case indicate that at least twenty percent of the cases required over a year in two of the municipal courts studied.
- Case processing times are appreciably faster in the second instance courts, with few appeals requiring more than six months and almost none taking more than a year.
- The Court Rules of Procedure (promulgated by the Ministry of Justice following review by the Supreme Court of Serbia) include a number of provisions that can support effective caseload management. However, the interpretation and application of these rules varies considerably from court to court, and their potential as a guide to effective caseflow management has not been realized.

The findings were presented to the participating courts as well as the Supreme Court and Ministry of Justice. Overall, this activity revealed information, previously unavailable, on the extent and sources of backlog, which provided a basis upon

which NCSC and Serbian stakeholders could build a collaborative approach to improving caseload management in the general jurisdiction courts.

Assessments Conducted in Additional Courts

Magistrate Courts

At the request of USAID, NCSC also conducted a smaller scale diagnostic in two magistrate courts and issued a report, *Assessing Backlog and Case Processing Times in Two Serbia Magistrate Courts*. This assessment, conducted from September 2005 through April 2006, gauged the nature and extent of backlog in two magistrate courts. Since the magistrate courts are scheduled to join the Serbian judiciary, this study was a useful complement to NCSC's efforts to address backlog and delay in Serbia's district and municipal courts, and to support the Supreme Court, MOJ and magistrate courts in this time of institutional change.

The study examined backlog in the Kraljevo and Subotica Magistrate Courts. NCSC studied 500 pending and 300 disposed adult first instance cases, all juvenile pending and disposed first instance cases, and all enforcement cases arising out of the disposed case samples in each of those two courts. In addition, the MOJ provided comprehensive data from all of Serbia's 173 magistrate courts that was collected at the request of the MOJ specifically for this project.

The resulting report describes the situation with respect to case processing times, highlights key problem areas, and provides a foundation for significant reform efforts based on quantifiable, statistically valid data from the courts' registers. It also offers a number of findings and recommendations that would not only increase public confidence, but well prepare the magistrate courts for accession into the judiciary in 2007.

Self-Assessment Initiative

To further increase awareness among practitioners of sources of inefficiency and delay, NCSC undertook a self-assessment initiative, through which staff outside of the six pilot courts received training on how to assess the caseload practices in their own courts. In the fall of 2005, NCSC reached practitioners from an additional eighteen courts through a special three-part program entitled *Caseload and Workload Self-Assessment for Courts*. The first seminar focused on teaching the participants—judges, registrars, and judicial assistants—how to analyze case processing and pending caseloads in their own courts through structured assignments. The participants then undertook a six-week practicum in their own courts.

By the end of the practicum, each participant was able to:

- Articulate appropriate court performance time standards;
- Calculate basic caseload indicators;
- Conduct a caseload self-assessment study;
- Define backlogs and identify the size and composition of backlogs in a materija (case type);
- Assess caseload in criminal cases and civil litigation, including the age of pending caseloads, case disposition patterns and practices, and relevant resource issues;
- Develop plans to reduce major backlogs; and

- Utilize basic caseload management techniques to proactively manage newly filed cases.

At the final seminar, practitioners drew on the data from their assessments to develop caseload management improvement projects for implementation in their courts. As a result of this activity, eleven courts, in addition to the six pilot courts, began implementing caseload monitoring and/or backlog reduction efforts. The results of these efforts is discussed under Task 4 below.

Recommendations for Reducing Backlogs and Processing Times (Task 3)

Task 3 called for recommendations for procedural changes to address the issues identified in the course of Task 2. NCSC released an initial report in July 2005 outlining key findings and recommendations from the diagnostic study as well as input from the pilot courts regarding the impact of court rules on caseload (*Key Findings and Recommendations for Reducing Backlogs and Case Processing Times in Serbian District and Municipal Courts*). This report was followed up with the more extensive report on *Reducing Backlogs and Case Processing Times in Serbia's District and Municipal Courts*, described above. The findings showed that no single case type, or small number of case types, accounts for delay, indicating that it is the courts' practices which encourage delay in the entire caseload, rather than the complexity of certain types of cases. The report noted that, while some changes in the laws and rules are advisable, delays in case processing could be addressed through well-tested principles of caseload management. NCSC's provided a number of recommendations for specific procedural changes and management techniques that would reduce processing times and backlogs, bringing Serbian courts closer to the practices of their European Union counterparts. The recommendations included short-term (by May 2006), medium-term (2006-2008), and long-term activities (2008-2010). With the support of both the Supreme Court and the Ministry of Justice, NCSC worked closely with the pilot courts to implement a number of the short-term recommendations.

Implementing Short-Term Measures to Reduce Backlogs or Processing Times (Task 4)

Task 4 called for implementing activities to reduce backlog and case processing time. NCSC provided technical assistance to the six pilot courts to:

- Increase the capacity of judicial personnel to manage caseload to reduce backlog and ensure that newly filed cases do not become backlogged; and
- Develop a court management culture that promotes transparency and accountability.

In conducting these activities, NCSC maintained regular contact with the pilot courts by telephone and meetings with judges and registry staff. In addition, NCSC staff and consultants met every four to six weeks with the court presidents, and often with other members of the court's pilot project team, to discuss obstacles, new approaches, and achievements. By May 2006, the pilot courts had made substantial progress in achieving the goals of the project.

Increase capacity of judicial personnel to manage caseload

Backlog in the pilot courts reduced

The findings from the diagnostic study provided an empirical foundation for NCSC's work with the same six courts on designing and implementing pilot backlog reduction projects. In March 2005, NCSC conducted a seminar devoted principally to step-by-step development, by the participating courts, of action plans for addressing the problems of backlog and delay. In developing these plans, participants were asked to employ the concepts and techniques discussed in previous NCSC seminars as well as their knowledge about the situations in their own courts. During April – July 2005, all of the court presidents committed themselves and their courts to conducting activities aimed at reducing old case backlogs in at least one materija.

Using data showing pending caseloads as of December 31, 2004, the following goals were agreed upon for reducing old case backlogs in these courts:

- Belgrade First Municipal Court: 20% reduction of civil cases older than two years
- Belgrade District Court: 10% reduction of first instance criminal cases older than two years
- Kragujevac Municipal Court: 30% reduction of civil cases older than two years and 35% reduction of criminal cases older than two years
- Kragujevac District Court: 45% reduction of first instance criminal cases older than two years
- Novi Pazar Municipal Court: 25% reduction of civil cases older than two years
- Novi Pazar District Court: 45% reduction of first instance criminal cases older than two years

As a next step, each of the six pilot courts conducted an inventory of its old cases in a civil or criminal materija to help determine the status of the old cases and what needed to be done to bring them to resolution. NCSC staff assisted with the inventories in several of the courts, and also provided a sample form—the *Old Case Inventory Action Report*—that could be used to record key information about the cases and help track progress in addressing the backlogs. The courts then instituted a variety of procedural, scheduling, monitoring, and other changes to dispose of backlogged cases.

As a result of these efforts, the courts succeeded in making significant progress in reducing their pending caseloads:

- The First Municipal Court of Belgrade reduced the number of pending civil cases filed in 2003 or earlier from 5,716 to 2,952 (48%) during calendar year 2005. The court also reduced its overall pending civil caseload from 12,460 to 11,557 (7%).
- The Kragujevac Municipal Court reduced the number of civil cases pending for over two years (as measured from the actual date of filing) from 1,347 to 1,161 (14%) and also reduced its total pending civil caseload by approximately 12%.²

² The Kragujevac Municipal Court had also set backlog reduction goals for its criminal cases, but encountered a number of obstacles in addressing those and its civil caseload at the same time. This

- The Novi Pazar Municipal Court reduced its total pending civil caseload from 2,250 to 1,437 (36%) during 2005.
- In the Belgrade District Court, the number of two year old cases (defined as cases filed in 2003 or earlier, as opposed to the actual date of filing) was reduced from 482 to 344 (29%) during calendar year 2005. However, in January 2006, all the pending cases filed in 2004 became two years old by this definition, and the number of “old” cases defined in this fashion role increased to 649. During the first four months of 2006, the court has steadily chipped away at this backlog.
- The Kragujevac District Court decided to place emphasis on reduction of the backlogs of second instance criminal and civil cases rather than to focus on first instance criminal cases as initially planned. This strategy proved remarkably successful in dramatically reducing the numbers of pending second instance cases. On the civil side, the number of pending second instance cases dropped by 72%, from 674 to 189, during 2005. In the same one-year period, pending second instance criminal cases decreased from 253 to 42, a reduction of 83%. While the court focused its efforts on the second instance dockets, the number of pending first instance criminal cases increased by about 47%. With the second instance dockets now current, the Kragujevac District Court has begun to emphasize reduction of the first instance criminal case backlog during 2006.
- In the Novi Pazar District Court, the number of cases pending for over two years dropped from 15 to 13.

The impact of NCSC’s backlog reduction efforts extended beyond the pilot courts, to include the courts that participating in the self-assessment initiative. The success of this activity exceeded expectations. The key strength of the initiative appears to have been its basic approach, which called for the participants (many of them court presidents or chief registrars) to develop and analyze their own information about operations in their own courts, adhering to stringent guidelines. The participants internalized the diagnostic data that they collected and analyzed, and were thus very effective in creating and implementing plans. Successes include:

- In the Supreme Court of Serbia, the old case inventory reports were prepared for every panel and every judge early in 2006. As of April 2006, all cases pending for two years or more have been resolved in all of the materija.
- In the Jagodina Municipal Court, goals have been established for total pending civil caseload and backlog reduction by the end of 2006. The court is taking a comprehensive approach, starting with a pending case inventory and a detailed analysis of the oldest cases. Old cases have been specially marked in red. Every judge is completing an Old Case Inventory Action Report. Time standards for setting cases have been established: all cases should be set for hearings within 30 days of filing and pre-recording should occur fifteen days before the hearing date. Preliminary hearings will be held in all cases where there is a factual dispute.

example highlights the importance of one of NCSC’s recommendations that each court should choose one case type to begin its backlog reduction program.

- The president of the Sombor District Court conducted a diagnostic study in her court, called for an inventory and analysis of old cases, and established time frames for their disposition. The president of the District Court now requires that the four municipal courts within the territorial jurisdiction of the District Court prepare inventories and detailed backlog reduction plans for their courts, as well as submit monthly information with detailed information on each old case.
- The Zrenjanin Municipal Court has conducted an inventory of all pending cases in all departments, and prepared reports, by judge, on the status of old cases. Heads of court departments are now required to monitor backlogged cases on a regular basis and to develop plans for resolving them. The registry has instituted monthly reporting of the results.

Preventing future backlog

Concurrently with the backlog reduction efforts, NCSC conducted a series of seminars on caseload management concepts and techniques. The seminars were designed to familiarize the participants with key findings from the diagnostic study and to introduce them to court performance standards and basic concepts of modern caseload management to prevent delays in the future.

In July 2005, NCSC conducted a study tour of courts in Denmark and the Netherlands. The tour provided opportunity for this group of practitioners, as well as representatives of the Supreme Court of Serbia and the Ministry of Justice, to gain first-hand experience with court improvement successes in other European countries. Denmark and the Netherlands are two European nations that have made substantial progress in improving their court systems and introducing modern techniques of caseload management. The study tour provided an opportunity for the Serbian participants to observe court proceedings and discuss common issues with their Danish and Dutch counterparts, and clearly helped stimulate consideration of possible improvements in Serbian courts.

Three additional educational programs were conducted by NCSC during the October 2005–April 2006 period, each of them focused on aspects of court operations related to delay reduction:

- A two-day seminar *Managing Human Resources* was conducted in January 2006 for approximately 25 judges and staff members drawn from the six courts that participated in the diagnostic study plus representatives from the Ministry of Justice, the registry of the Supreme Court of Serbia, and six of the courts that were involved in the self-assessment initiative. NCSC further addressed the topic of managing human resources through technical assistance to the Ministry of Justice and Supreme Court in the development of recommendations for job classification and court systemization, pursuant to the new Law on Civil Servants. These recommendations were compiled into a report on *Job Classifications and Court Systemization in Serbia*, submitted to USAID in May 2006.
- A two-day seminar on *Time and Resource Management* was conducted in February 2006 for the same group of participants that attended the seminar on managing human resources.

- A two-day working conference entitled *Modernizing Caseflow and Court Management in Serbia: What Has Been Learned and What Should be Done?* was held April 6-7, 2006. Participants included judges and senior staff from a total of fifteen district and municipal Courts plus the Registrar of the Supreme Court of Serbia and a representative of the Ministry of Justice. The conference provided an opportunity to take stock of what had been accomplished by the courts with which the NCSC Serbia Rule of Law Project worked during 2004-06, and to consider what recommendations should be made for changes in practices, laws, and rules as Serbia moves forward in strengthening its judiciary.

These educational programs were an important component of the project's objective of constructing a foundation for improved court operations. It is clear that key concepts and techniques introduced at the seminars have been incorporated into ongoing practices in many of the courts that were represented at these programs. For example:

- All six pilot courts have implemented new practices to support the "pre-recording" called for in the court rules. Registry clerks are checking cases at least a week before hearings to confirm that parties have been notified, expert reports are completed, etc.
- All pilot courts are experimenting with scheduling practices which call for a shorter time between hearings and longer blocks of time allotted to each hearing. The Old Case Inventory Action Report requires that a judge report activity on old cases each month or explain why a hearing was not held.
- Recognizing that success in eliminating backlogs and improving overall case processing will often require cooperation and collaboration with institutions and individuals outside the courts (e.g., prosecutors, police, bar, social service centers, postal service, experts in specific subjects), court leaders in a number of the courts have initiated consultation with external institutions to discuss issues of mutual concern.
- In some of the courts, the court presidents have undertaken reallocation of resources to help make more effective use of limited available resources. For example, in Belgrade's First Municipal Court and the Senta Municipal Court, the presidents reorganized schedules to make use of courtrooms for more hours during the day.

The success of these techniques is demonstrated by the fact that all but two pilot courts had an annual clearance rate (number of dispositions divided by number of filings) of at least 100% in their project materija in 2005.

Development of a court management culture that promotes transparency and accountability

Monitoring and reporting

To ensure the sustainability of the progress made by the courts in caseload management, NCSC worked to promote judicial accountability for disposing cases in a just and timely fashion, and transparency to ensure that the performance of individual judges and the court as whole become more measurable and visible. The introduction of basic monitoring and reporting protocols is an important step in this direction.

Although the Serbian courts are required to file detailed reports with the Supreme Court and the Ministry of Justice each month, those statistical reports are not useful for court managers in assessing court performance. NCSC introduced a series of report forms for use in monitoring caseload, such as *Key Caseload Indicators Chart*, which records data on filings, dispositions, clearance rates (dispositions divided by filings), changes in pending caseloads, and judicial productivity (measured by the average number of dispositions per month, per judge) on a month-by-month basis, *Open Case List*, *Old Case Inventory Action Report*, and *Key Caseload Data Chart*. The Old Case Inventory Action Report is of particular assistance in addressing backlog. This monthly monitoring instrument requires each judge to report on the status of every old case including the next event or action scheduled. These reports help individual judges to maintain a focus on their oldest cases while also addressing the newly filed cases. They also provide the president judge or head of a court department with basic information about the work of each judge in dealing with the older cases assigned to him or her.

The monthly monitoring reports are now used in each of the pilot courts. Several of the self-assessment courts have also started using these tools during the past year. For example, the Uzice Municipal Court has established a program to develop time standards for all cases, to be accompanied by mechanisms for monitoring judicial performance in relation to the standards. Also, the Sombor District Court has established time standards for resolving old cases on its own docket and in all of the municipal courts under its jurisdiction.

These reports are increasing awareness of the necessity of disposing of those oldest cases, discouraging continuances, assisting judges to better plan for their final disposition, and providing the court presidents with an effective management tool. Recognizing the positive impact this type of monitoring and reporting has on delay reduction, the Ministry of Justice (MOJ) has now adopted the forms introduced by NCSC.

Code of Conduct for Court Staff

Another initiative to promote accountability and transparency was the creation of a code of conduct for court staff. The pilot courts successfully completed a six-month process of developing Serbia's first Code of Conduct for Court Staff. The Code was finalized on March 31, 2006.

Code provisions include standards on key ethical issues for all non-judicial staff such as: professionalism, responsibility to the public, behavior inside and outside the court, protecting confidential information, conflicts of interest, gifts, abuse of position, and reporting inappropriate behavior, among others. These are important criteria in

promoting court staff ethical behavior that will build public confidence in the courts and improve services to the public.

The Assistant Minister of the Ministry of Justice pledged national implementation of the Code through its inclusion in Serbia's Court Rules of Procedure.

Furnishing Courts with Basic Library Materials (Task 5)

Task 5 called for a written report detailing the most pressing legal reference needs of the Serbian courts and recommendations for how the needs might be met for at least some of the courts. NCSC conducted two assessments of the library facilities in the pilot courts. The first assessment addressed the courts' reference material needs, and the second assessment gauged the information technology needed to conduct legal research.

The assessments found that the lack of access to adequate library materials and legal databases is a serious impediment to the legal system in Serbia. This lack of access hinders judges in conducting research and rendering decisions. One judge noted that this fact contributes to case backlog due to the amount of time individual judges spend trying to find resources and conduct research. The IT assessment found that one common element in the libraries was the need for automation and equipment such as computers and printers, as the equipment was either old, outdated, or nonexistent. The assessments concluded that, in general, the court libraries have only the barest minimum of resources and therefore are not very useful to the judges.

Based on this information, and with subsequent approval from USAID, NCSC procured computer equipment for three court libraries, serving the six pilot courts. This procurement included two personal computers and one combination printer/photocopier/fax machine, per library. This equipment was delivered and installed in May 2006. NCSC also collaborated with the National Library of Serbia to identify research resources available to the courts through the Library. The National Library provided training in online research resources, free of charge, to the court librarians. As a result of this activity, court personnel now have access to a wealth of electronic resources for legal research that were previously unavailable.

Recommendations for Future Activities

As noted under Task 3 above, the diagnostic study report included recommendations for medium (2006-2008) and long-term (2008-2010) activities. In addition, in May 2006, NCSC consultants Dr. Barry Mahoney and Kathryn Fahnestock completed a final report, *Improving Caseflow Management in Serbia's General Jurisdiction Courts, 2004-2006*, with detailed recommendations for future activities. The recommendations build upon NCSC's experience over the course of the project as well as input provided by Serbian stakeholders. This section outlines suggested follow-up activities or initiatives to consolidate and build upon the progress achieved through the Serbia Rule of Law Project.

Recommendations for National Level Policies and Initiatives

- ***Establish legal authority for introduction of differentiated case management, using criteria that ensure fairness in case assignment and scheduling.*** Serbian courts have no established practice of differentiating

cases by complexity at an early stage following filing, in order to enable expeditious resolution of simple cases while allowing greater time for resolution of more complex cases. It would be helpful to have legal authority, set forth in statute or court rule of procedure, for courts to classify cases by degrees of complexity and to make assignments of cases to judges that reflect such a classification. To do this, it would be necessary to formulate criteria for the classification and assignment of cases to different “tracks”—for example, simple, standard, and complex tracks.

Introduction of differentiated case management in Serbian courts is made more difficult because of justifiable concerns that arbitrary classification of a case as “simple” or “complex” (and the subsequent assignment of the case to a specific judge) could be viewed as a corrupt practice. Similarly, there are concerns that adoption of differentiated case management could be viewed as a violation of the principle of “first-in-time, first-in-right.” Both sets of concerns could be alleviated if the basic approach were developed by a senior-level working group that examined the use of this approach in US and other jurisdictions and considered how it could best be adapted in Serbia. Such a group, which optimally would include registry staff as well as judges, could develop appropriate criteria and procedures for implementing differentiated case management, including conducting initial experiments to learn more about the issues involved in applying the concept.

- ***Establish procedures to enable cases with no activity to be dismissed or placed on an “inactive” list in contemplation of dismissal.*** It appears to be very difficult for Serbian courts to close cases (especially criminal cases) because of inactivity. Even if there has been no action in a case for a year or two and the court does not have the information it needs to proceed, the case remains open and is counted as part of the court’s pending caseload. At a minimum, as existing systems for maintaining court statistics are re-examined in coming years, ways should be developed for Serbian courts to place such cases on an inactive list, separate from a list of “active” pending cases. Optimally, after a case has been placed on an inactive list a court should be able to request the party that initiated the case (plaintiff in a civil case, prosecutor in a criminal case) to provide information needed to enable the case to proceed or show good cause why the case should not be dismissed.
- ***Continue to introduce good quality automated case management systems.*** Automation of the Serbian courts began in the commercial courts during the 2004-06 period, and a significant start has been made toward automating the municipal and district courts in Belgrade. Implementation of good quality automation is a keystone of the National Judicial Reform Strategy, and will unquestionably be a major asset for effective management of cases and caseloads. From our review of the *LIBRA* software system in operation, it should be a very valuable management tool. Implementation of a major automation program is, of course, an expensive undertaking involving computer hardware, software, training of users, and on-going maintenance and replacement of equipment. In the long run, there will be substantial savings in staff time now spent making manual data entries and keeping registers and other manually maintained records. Data needed for managing individual cases and for overall caseload management will be far more accessible and usable for purposes of analysis, problem identification, and planning.

- ***Develop a cadre of professionally trained court managers, including both judges and senior staff.*** The management responsibilities of court presidents and senior staff in registry offices are likely to become appreciably greater and more complex as the National Judicial Reform Strategy is implemented and Serbia's court system goes through a comprehensive modernization process. For this modernization process to work well, it seems highly desirable to make an early investment in developing a cadre of judges (especially court presidents and department heads) and senior court staff (e.g., registrars, heads of departments in registry offices, court secretaries; also the new trial court administrators called for by the National Judicial Reform Strategy) who can be effective leaders and managers during and after the transition process. This could be done through establishment of a special academy or educational program that would provide education in a range of key areas of management that are especially relevant to courts, as discussed in the following paragraphs. Such a program could be started on a "pilot" basis in the very near future.
- ***Establish a strong judicial system education program that includes emphasis on management skills.*** This recommendation focuses on the need for a national-level capability for providing high quality educational programs for court presidents, department heads, other judges, judicial assistants, court secretaries, registry staff, and the persons who are selected to fill yet-to-be-created positions as court administrators. Good education is essential to develop the knowledge, skills, and abilities needed by personnel at all levels in a well-functioning judicial system. Of particular importance, such a program should include courses that deal explicitly with the management issues and problems that these judges and staff members will need to be able to handle in a modernized Serbian judicial system, as well as with substantive and procedural laws and rules. The two-day seminars presented by NCSC during the past year are illustrative of the types of courses that should be included in a broad program designed to develop and enhance practitioners' skills in managing in the court environment.³ The NCSC courses emphasized work by joint judge-staff *teams*, an approach that was enthusiastically endorsed at the April 2006 Working Conference and one that we strongly recommend incorporating in future educational programs dealing with court management issues.

One type of educational program not presented by NCSC—but which we believe could be very valuable in the development of a well-managed modern judiciary in Serbia—is a special retreat-type seminar conducted annually for judges and staff who have participated in the shorter courses and want to develop their managerial capabilities. Such a seminar would optimally cover a period of 10-12 days and would be built around a series of practical problems that required participants to work collaboratively and integrate what they learned in the shorter courses. The goal would be to help build a "courts community" consisting of persons in leadership positions who are well educated on key topics and can be resources for each other in addressing common problems. As the Serbian judicial system develops its own central administrative structure, it will be desirable to provide this type of retreat experience for staff of a new administrative office of courts (or similar entity)

³ A list of the seminars and other educational programs conducted by NCSC during the project is contained in Appendix Three. The curricula and materials used in these NCSC courses will be available for use by Serbian institutions such as the Judicial Training Center, the Ministry of Justice, and the National Judicial Training Institute contemplated by the National Judicial Reform Strategy.

and for staff of the Ministry of Justice who continue to be involved with the work of the courts, as well as for key judges and staff from the courts.

- ***Develop a system for rational and fair allocation of resources across all courts.*** In discussions with court presidents and others over the past two years we have frequently heard complaints that there appears to be no clear basis for the allocation of resources—especially personnel resources such as judges, judicial assistants, and court staff—across the courts of Serbia. We have not focused on resource allocation during this project, and have no sound basis for commenting on this criticism. However, we understand that, consistent with another of the key goals of the National Judicial Reform Strategy, there are now efforts underway to reexamine the structure of the network of courts and to consider ways to allocate resources in a more equitable and transparent fashion. As this important initiative goes forward and attention is given to issues of resource allocation, we recommend that particular attention be given to three types of personnel resources that can be especially important for improving caseload management and overall court management:
 - *Judicial assistants.* With appropriate training and supervision, these young lawyers can be enormously valuable resources for courts in helping to manage caseloads and assisting in the resolution of individual cases.
 - *Court administrators:* There are currently very few persons with the title “court administrator” in Serbian courts, but the National Judicial Reform Strategy calls for the establishment of new court administrator positions.⁴ Optimally, persons appointed as court administrators in Serbia will have (or be able to rapidly acquire, through specially designed educational programs) the management expertise and court-specific knowledge needed to work effectively with court presidents, other judges, registry staff, and key officials in the many other organizations with which a modern court typically interacts.
 - *Temporary resources to assist with backlog reduction efforts.* In some instances it may be desirable for the court to be able to have *temporary* additional resources—judges and staff—in order to sufficiently increase the number of cases resolved and reduce or eliminate the backlog of old pending cases. Once the backlog is eliminated, the court should not require additional resources on a permanent basis. As resource issues are addressed at the national level over the next year or two, consideration should be given to creating a capacity for temporary assistance to courts actively engaged in backlog reduction efforts, perhaps through creation of a “reserve force” of judges and staff who could be assigned to help with these courts’ efforts for limited periods of time.
- ***Develop case processing time standards, to help provide guidance to judges, court staff, litigants, and the public concerning the duration of cases of different types.*** The concept of case processing time standards has been strongly endorsed by the April 2006 Working Conference, and at least two Serbian courts have already adopted such standards as general guides for effective court performance. The Council of Europe’s Commission

⁴ In the US, creation of this position—and provision of education and training for persons appointed as court administrators—has been enormously important in strengthening the overall management capabilities of individual courts and overall state court systems over the past 35 years.

for the Efficiency of Justice has also endorsed the concept, providing explicitly in a recently issued guideline document for the adoption of time standards for the appropriate duration of cases.⁵ Having such standards enables judges, attorneys, parties, and the public to know what time frames are acceptable and should ordinarily be met for the completion of cases. The standards also provide for a workable definition of “backlog”—any case taking longer than the time called for by the applicable standard is in backlog status. The standards suggested by participants at the April 2006 Working Conference provide an appropriate starting point for the development of case processing time standards for courts in Serbia. Notably, those suggested standards provide for a phasing-in of standards, beginning with interim standards that would be significantly less stringent than the standards that would be in place once the currently existing backlogs are eliminated. As the National Judicial Reform Strategy is implemented, having case processing time standards—coupled with the ability to measure compliance with the standards—can be an important tool for improving overall case processing and for providing accountability for judges and for courts as a whole in the critically important area of effective case and caseload management.

- ***Develop more effective ways of serving notices and obtaining the presence of needed parties, witnesses, documents and experts.*** Throughout the two years of this project, NCSC staff and consultants have repeatedly been told that serving notices and obtaining the presence of necessary parties and witnesses is often very difficult and time-consuming, for a variety of reasons. We did not undertake any independent research into the issues related to serving notices and other documents, but this is clearly an area in which further inquiry is warranted. The delays that result from difficulties in serving notices appear to be significant factors contributing to delays and the growth of old case backlogs.
- ***Experiment with alternative systems for making a record of court proceedings.*** Although the Court Rules of Procedure authorize courts to use a range of alternative methods for making a transcript of court proceedings, the municipal and district courts involved in this project have all followed traditional practice: at periodic intervals, a judge dictates a summary of the proceedings to a court reporter who prepares transcribes the judge’s summary. Judges report that a third to half of the time in a hearing is devoted to dictating such summaries. It should be possible to develop an approach to planning for future use of alternative record-making technologies in Serbian courts, beginning with pilot projects in a few courts that would utilize one or a few of the alternatives to traditional practice. If such pilot projects are undertaken, it will be important to evaluate their costs and impact, taking account of at least three main aspects of the current system that could be affected by a large-scale change to a new technology:
 - The effects of first instance proceedings, including possible changes in the dynamics of the hearing process and possible increases in the time available for presentation of evidence;

⁵ See the CEPEJ *Framework Programme* and *Time Management Checklist* cited in note 2, *supra*; also Marco Fabri and Philip Loewenbroek, *Delay in Judicial Proceedings: A preliminary Inquiry Into the Relation Between the Demanda of the Reasonable Time Requirements of Article 6, I ECHR and Their Consequences for Judges and Judicial Administration in the Civil, Criminal, and Administrative Justice Chains* –Report for Working Party No. 2 of the European Commission for the Efficiency of Justice (CEPEJ-GT2) (Strasbourg: Council of Europe, 10 November 2003).

- Possible impacts on second instance proceedings, where the record or transcript could be in a different form for review by attorneys and judges involved in the appellate process; and
 - The comparative costs of the alternatives and the traditional system, taking account of needs for periodic replacement of hardware and software used for the new technology.
- ***Develop a plan to eliminate old case backlogs as part of the transition to a modernized Serbian judicial system.*** The old case backlogs that exist in many courts constitute a threshold barrier to the effective implementation of the National Judicial Reform Strategy. Eliminating backlogs across all of the courts in Serbia in a short period of time is not likely to be possible. However, it is possible to develop knowledge about strategies and practices that can be effective in reducing or eliminating these backlogs through the initiation and evaluation of specific backlog reduction projects that build on the experience acquired through the work of the courts that have worked with NCSC over the past year. As the modernization of Serbia's judicial system goes forward—and especially as good automated case management systems are introduced into the municipal and district courts—it seems desirable to build upon this experience. It should be possible to develop a comprehensive plan to eliminate old case backlogs and enable a modernized Serbian judicial system to handle all of its cases efficiently, fairly, and in a fashion that is transparent and accountable.

Recommendations for International Donors Concerning Further Support for Caseflow Management Improvement

The support of USAID has been essential for the work of this NCSC project, and USAID and other international donors have contributed significantly to other judicial system reform activity in Serbia in recent years. As Serbia moves toward accession to the European Union—and, indeed, as a prerequisite to accession—further progress in strengthening the rule of law will be essential. In doing so, there will be many priorities and many areas in which international donors can make important contributions. In the general area of court operations and caseflow management, we suggest three particularly high priority areas for projects that bring international organizations together with Serbian practitioners to work collaboratively on system improvements in the near future:

- ***Education.*** The Serbian judiciary will need to develop its own judicial education system capabilities, but this is an area in which international expertise can be especially valuable. International consultants, knowledgeable about specific topics important for system development and familiar with the Serbian system, can be valuable in helping to develop an overall program for educating judges and staff, and can help develop curriculum materials on specific topics. Where appropriate, they can also serve as faculty for seminars and conferences, and—perhaps most important—can serve as mentors to help develop Serbian faculty capabilities.
- ***Research.*** At present, there is no Serbian entity that conducts focused research on issues affecting the operation of courts. As a new administrative office of courts is developed in coming years, it seems highly desirable to develop within it a capability for conducting focused research on key operational problems. Additionally, it seems desirable to work with other entities, including universities, to seek to develop capabilities for independent research.

- **Technical assistance.** Technical assistance can take a great many forms. While there are a number of potentially high priority areas in which international donors can provide or arrange for technical assistance to Serbian courts, those related to caseload management should logically include at least the following:
 - Continued assistance in the introduction of good quality automated case management information systems.
 - Further efforts to eliminate or at least greatly reduce case backlogs and to introduce modern techniques for effective management of all cases.
 - Facilitation of linkages between Serbian judges and court staff and practitioners and others in Europe and elsewhere who are addressing caseload management issues in their courts.

As implementation of the National Judicial Reform Strategy goes forward, there will be a number of situations where outside technical expertise can be extremely valuable. We believe it is very important for international donors to provide for technical assistance at the local court level as well as at the national level. Work with district and municipal courts, for example, enables technical assistance providers and donors to learn about the perspectives of practitioners in these courts and provides opportunity to learn about operational issues at the level where the day-to-day work of the courts takes place.

LAW FACULTY ACTIVITIES

The USAID Task Order called for better educated judges and lawyers. This objective required improving the substance and delivery of the academic product to the students and ultimately the public as the users of the legal system, promoting transparency in the operation of the law faculties, and the empowering law professors and students to conduct independent legal research and legislative analysis. To achieve this objective, the task order identified two specific activities: 1) upgrading and updating curriculum and/or school administration; and 2) improving the information resources and educational facilities.

Upgrading and updating curriculum and/or school administration at Serbian law faculties (Task 6)

Serbia is attempting to bring a very traditional higher education system up to European quality standards and to meet the requirements for participating in the Bologna Process.⁶ Task 6 called for NCSC to draft a plan for improving the curriculum at each law faculty, based on consultations with stakeholders. The task order also called for activities which would produce permanent improvements in the law faculties. NCSC undertook a series of activities aimed at developing new, modern, practical skills based curriculum and teaching methods consistent with the norms of the European Union Education Principles and applicable international instruments related to education.

Initial Assessment

To inform the plan, NCSC hired Professor Peter Maggs, from the University of Illinois College of Law, to lead an assessment of the law faculties May 18 - June 12, 2004. This assessment included meetings with four public law schools – Belgrade University Law Faculty, Novi Sad University Law Faculty, Niš University Law Faculty, and Kragujevac University Law Faculty – and one private institution – the Faculty of Business Law in Belgrade.⁷ The assessment identified a number of challenges faced by law students and the law faculties. In particular, the curriculum, educational resources, and teaching methods were outdated, and focused heavily on theory rather than practical skills. The assessment also recommended programming options, including library improvements; increase in the number of electives; and development of new courses, particularly legal research and writing.

In response, NCSC undertook the following activities:

- Introducing courses on legal research and writing, legal ethics, and European Union law;
- Introducing moot court competitions;
- Training in improved teaching methods to law professors and teaching assistants;
- Promoting implementation of the New Serbian Law on Higher Education along with the Bologna Principles; and

⁶ The Bologna Process is presently the major process of higher education reform in Europe. It takes its name from the Bologna Declaration, which was signed on 19 June 1999 by the Ministers of Education of 29 countries in Europe. The ultimate aim of the Process is to establish a European Higher Education Area by 2010 in which staff and students can move with ease and have fair recognition of their qualifications.

⁷ The private law faculty, now Union University, was included in this project upon discussions with the USAID CTO.

- Assessing library needs and procuring recommended materials and equipment.

Inclusion of Practical Skills-based Courses

The initial assessment found that a significant problem with the curriculum is that a high percentage of professors use highly dogmatic textbooks that restate the law, but are lacking in analysis, criticism, or discussion of how the law is applied in practice. Also, little or no time is given to European law, despite the fact that Serbia is likely to be part of the European Union in the next decade.

Legal Research and Writing

After a series of consultations between NCSC and the five law faculties, Belgrade and Union University agreed to introduce a legal research and writing course during the summer semester 2005.⁸ In November 2004, NCSC fielded a consultant, Professor James Moliterno, to develop the curriculum. Professor Moliterno, from William and Mary Law School, worked with Serbian law professors and NCSC staff to create a syllabus and materials for this new 14-week course. These materials were completed and translated into Serbian in December 2004. The course began at both faculties in February 2005. NCSC prepared and bound the course materials, which were provided free of charge to the students at both faculties.

The Belgrade Law Faculty offered the course as an elective for credit. Response to the course was overwhelming, with over 100 students expressing interest. Although two teaching assistants were appointed to assist with the course, it was agreed that this number of students was unmanageable. As a result, 40 students, selected on the basis of timeliness in signing up and academic record, were allowed to remain in the course. In April, the participating students completed an evaluation of the course. The student evaluations showed that the course was highly successful in introducing students to practical approaches to studying law. Union University offered the course as an optional pilot without credit. The enrollment was approximately 20 students. Review of the student evaluations showed that these students also found the course to be very useful.

From February through May 2005, the NCSC team and Professor Moliterno worked with law faculty representatives from Belgrade, Novi Sad, Kragujevac, and Union, in an effort to expand the Legal Research and Writing program. Each faculty was asked to designate professors and teaching assistants who would teach the course the following year. Professor Moliterno worked with the designated instructors to improve the curriculum and tailor it to each law faculty.

As of the end of the project, the Legal Research and Writing Course has been implemented, in full or in part, in all five law faculties. It is being implemented as a full course in three law faculties: Belgrade, Kragujevac, and Union. The Niš and Novi Sad Law Faculties will implement parts of the course within its existing curriculum. Moreover, Union decided, as part of its curriculum reform efforts, to make Legal Research and Writing a mandatory course.

As a result of the success of this activity, Professor Moliterno and two Serbian professors were invited to speak at a conference on Developing Legal Skills held in Prague in May. This conference was organized in cooperation with the Legal Writing

⁸ Traditionally in the US the semesters are titled Fall and Spring semesters. In Serbia, the same semesters are termed Winter and Summer.

Institute, Association of Legal Writing Directors, CEELI Institute, and US State Department's Regional English Language Office in Budapest. At this conference they presented the course to representatives of law faculties from other countries throughout Central and Eastern Europe. NCSC provided funds for two Serbian law professors and one NCSC staff person who helped in developing the course, to attend and lead a presentation on how the Legal Research and Writing course was developed and implemented.⁹ The team also solicited feedback for participants on how the course may be improved, based on experiences in other countries, and sought means of promoting cooperation among the law faculties regionally.

Legal Ethics

In the task order, USAID noted the need for more rigorous ethical standards for judges, lawyers, and court personnel. NCSC responded to this need with the development of a course on legal ethics. The course was developed as a comparative law course which examines the ethical standards of Serbia, European Union, various individual European countries, and to some extent the US and Japan from the perspectives of judges, attorneys, prosecutors, and court staff. Like Legal Research and Writing, the Legal Ethics course was designed to provide the students with a week-by-week course syllabus with reading and writing assignments, along with interactive learning exercises based on real-life scenarios likely to be encountered by them as future lawyers, judges, prosecutors, and/or court staff.

The courses are all being taught by practicing lawyers and judges which provides the students with practical ethical training. At Belgrade, Union and Kragujevac, the teaching faculty were very engaged and committed to the course and as a result numerous revision to the materials were made tailored to each school's needs. A positive result is that the materials represent the focus of the individual teachers and an adoption of the materials as their own.

The course commenced as a full semester course at three law faculties in February 2006: Belgrade, Union, and Kragujevac. NCSC provided 50 Legal Ethics course binders to each faculty. As of the end of the project, the course was being offered at Belgrade, Union, Kragujevac, and Niš law faculties. Union and Niš Law Faculties have announced their intention to include Legal Ethics as a required course during the 2006-07 academic year.

European Union Law

In the initial assessment, Professor Maggs observed that many drawbacks in the system of legal education in Serbia stem from its isolation in recent years, particularly from the European Union. Again after discussion with the law faculties, NCSC began development of a course on EU law for the law faculties in Belgrade and Novi Sad. In November 2004, NCSC brought Professor Jan Winter, from the Free University of Amsterdam, to Serbia to consult with the law faculties and begin creation of the syllabus and materials for the 14-week course. Professor Winter returned in February 2005 to continue working with the Novi Sad Law Faculty.

By the Fall of 2005 the course materials (titled EU Law Reader and Supplement¹⁰), including guidelines for professors on teaching plans, weekly assignments, and

⁹ Prof. Moliterno's travel and participation was provided by his law school in the US.

¹⁰ Professors at LFUU, Novi Sad and Kragujevac already have traditional text on EU Law. A competitive text would not have been effective, so a supplementary text route was chosen for greater implementation opportunities.

grading, were completed and translated into Serbian. Union University introduced this course in the 2005-2006 academic year. NCSC consultant Professor Speedy Rice taught an English language section of the EU Law course at Union University, coordinating closely with the traditional faculty as well as using this opportunity to demonstrate and encourage new teaching methods. As of the end of the project the law faculties in Belgrade, Kragujevac, and Novi Sad incorporated the EU course materials into existing classes. Union and Niš law faculties have added EU Law to their curriculum as a mandatory course.

The goal of promoting permanent implementation of this course was enhanced by the publishing of the EU materials in bound form. Approximately 500 copies were printed for use not only in Serbia, but also for distribution in other countries of the former Yugoslavia.

US Bill of Rights Course

In late March 2006, NCSC consultant Professor Speedy Rice worked with professors at the Belgrade Law Faculty to develop a course on the United States Bill of Rights. Approximately 50 students enrolled in the weekly course, which took place April–May 2006. The students read the US Bill of Rights and significant United States Supreme Court cases interpreting the Bill of Rights. Students were then placed in teams of three to debate the majority and minority opinions in class with questioning from Professor Rice and the non-debating students. This class provided students with a rare opportunity to apply legal principles to actual cases and present their opinions to their peers.

Reaction to the class was excellent. After hearing about the course, the US Ambassador requested an opportunity to visit the class and speak with the students. The Ambassador attended the final class session and engaged in a very open and frank discussion with the students, freely answering questions on any issue raised by the students. This session was a very successful object lesson for a class on US freedoms, and freedom of speech in particular.

Moot Court

As part of the effort to institutionalize opportunities for law students to receive practical skills training, NCSC worked with all law faculties to promote participation in the Jessup International Law Moot Court Competition. This competition helps students improve their legal skills by requiring them to engage in legal research and writing, and analytical thinking.

In October 2004, NCSC held a one-day workshop on *Introduction to International Law and Moot Court*. Participants in the workshop received essential materials for competing in moot court, including an introduction to international law, relevant international treaties, sample written pleadings from the best teams in last year's international competition, video tapes of oral pleadings from the international rounds of previous competitions, and copies of the *ILSA Guide to International Law*.

Following the workshop, NCSC worked with the individual teams to assist them in preparing for the Serbia rounds of competition, held in February 2005. Belgrade, Novi Sad, and Union Law Faculties participated. Judges for the moot court competition included expatriate attorneys from various international organizations, local judges, and local attorneys. The US Ambassador opened the competition. The Champion Team and Best Memorial Award were presented to the Novi Sad Law Faculty, giving them the opportunity to compete in the international rounds.

To increase interest in the international competition, the International Law Student Association (ILSA) agreed to waive the participation fees for the Serbian teams. Also, NCSC and the US Embassy agreed to jointly fund the costs of travel for the winning team to participate in the international rounds of the competition in March 2005, in Washington, DC. The Novi Sad Law Faculty team placed 36th out of 105 teams competing in the international rounds.

NCSC repeated this activity in the second year of the project. The number of participating faculties increased with the addition of Kragujevac Law Faculty. NCSC again held an initial training workshop and continued to work with each team to help them prepare. NCSC consultant Speedy Rice also developed an internet Jessup assistance project to match Serbian teams with willing US individuals who have Jessup experience. Novi Sad again won the Serbia round of the competition and placed 31st out of 102 teams in the international rounds.

As a result of this experience, the law faculties have begun forming their own chapters of the International Law Students Association. In April 2006, Kragujevac Law Faculty became the first to internationally register its ILSA chapter for the 2006-2007 academic year. The other faculties intend to form chapters by the Fall as well. This step promotes long term commitments to the Jessup Competition by each of the Serbian law faculties. The student interest will be an important component for continuing success in implementing the Jessup International Law Moot Court Competition.

Incorporation of Modern Teaching Methods

To assist in moving courses away from a strictly lecture format, NCSC conducted a series of training workshops for professors and teaching assistants to introduce new, interactive training methods. In February 2005, NCSC held a *Teaching Methods Seminar* with participants from the Belgrade, Novi Sad, and Union Law Faculties. The focus was on the Seven Principles for Enhancing Legal Education, developed by researchers examining undergraduate education and adapted for law schools. The various teaching techniques used included: large group discussion, in-class writing, in-class writing coupled with small-group discussion, small group discussion coupled with reporting back to the larger group, Socratic dialogue, brainstorming sessions, lecture, and role play. As a result, the teaching of each principle accomplished at least three things: examination of the substance of each principle, demonstration of different teaching techniques, and instruction and commentary on the teaching technique used. NCSC conducted follow-on activities involving deans, teaching staff, and students to explore ways of implementing the new methods introduced at the seminar.

In May 2005, NCSC held two additional *Teaching Methods Seminars*. The first was conducted at the Kragujevac Law Faculty for 13 participants, primarily teaching assistants. The second was held at the Niš Law Faculty for 26 participants. Teaching staff at the Niš Law Faculty showed great enthusiasm for introducing new teaching methods and improving existing ones. Following the seminar, NCSC consultants met with seminar participants and discussed various topics related to legal education in order to prepare a report with recommendations for future improvements and activities to improve the quality of teaching in the faculties. The report was submitted to USAID in July 2005.

In November 2005, NCSC held a final workshop entitled *Principles for Enhancing Legal Education and Teach to the Whole Class: Barriers and Pathways to Learning*.

Professors and teaching assistants from all five law faculties attended. This program built upon the earlier seminars by providing opportunities for the participants to applying the skills in practice. This two-day workshop involved demonstrations of new teaching techniques and discussions of alternative models of teaching. Each law faculty group was asked to prepare, or discuss their preparation of, a teaching demonstration lasting no longer than 30 minutes. The topics of the teaching demonstrations were drawn from the Legal Ethics Course materials described above. Each faculty used a particular teaching method and identified one or more of the 7 Principles for Enhancing Legal Education that it illustrated in its teaching demonstration.

At this final seminar, participants were provided copies of the book, *Techniques for Teaching Law*, recently translated and published in Serbian. A copy was also provided for each school's library. The teaching methods taught in these seminars were further reinforced by Professor Speedy Rice, who incorporated the techniques as part of his teaching responsibilities in the various law faculties.

According to the law faculty Deans, a number of professors have embraced the new teaching methods, incorporating powerpoint, written exams, research assignments, and presentations by practitioners, into their classes rather than relying solely on lectures.

Law Faculty Reform to Meet EU Standards

In the Year One project workplan, NCSC proposed to host a seminar on implementation of the Bologna Declaration. However, plans for this activity were superseded by two events: failure of the new Law on Universities, upon which many changes are pre-conditioned, to take effect; and by an international seminar organized, in Belgrade, on *Implications of the Bologna Process for the Development of High Education in Western Balkans – Experiences and Dilemmas*. Participants discussed suggestions and proposals for what should be done by the universities concerned, by the relevant countries' governments, and within the EU to stimulate the reforms of higher education in the countries of the Western Balkans in accordance with the aims of the Bologna process. The conference concluded with adoption of the "Belgrade Declaration on EU Support to the Reform of Higher Education in the Countries of Western Balkans and the Republic of Moldova."

Following this conference, NCSC negotiated with the Union and Kragujevac Law Faculties for a law professor to work in their faculties during 2005-2006 academic year. The role of this professor would be to assist with the administrative reform required under the Bologna Process. NCSC filled the post with Professor Speedy Rice. A Memorandum of Understanding was signed between NCSC and the Law Faculties outlining this arrangement.

Professor Rice worked closely with the Law Faculty of Union University and the Kragujevac Law Faculty administration to advise them on how courses should be organized to meet the criteria of the new Serbian Law of Higher Education. In addition, NCSC's consultant served as a member of the Union Law Faculty committee on implementation of the new law, which met regularly throughout the academic year. In support of this work, NCSC compiled all of the relevant documents and reports surrounding the Bologna Principles and the implementation of the European Credit Transfer System (ECTS), together with the New Serbian Law on Higher Education. All documents were prepared with English and Serbian versions or translated where no Serbian version existed. In particular, the New Serbian Law on Higher Education was produced on a page by page opposing

translation to facilitate discussions with Serbian language only professors. The Serbian Ministry of Education was impressed with this arrangement and began using the document in its materials. The materials taken together, in both languages, represented the best single source in Serbian for understanding the needed education reforms.

Professor Rice provided particular assistance in developing syllabi using the European Credit Transfer System (ECTS), which is incorporated into the Law on Higher Education. This work included regular meetings as part of the Law Faculty committee and individual meetings with professors and teaching assistances on syllabus development. A significant effort was devoted to the understanding and implementation of the ECTS to individual courses, including how to determine the exact number of credits that students may earn in each course, as well as the integration of the ECTS into semester curriculums. As a result of these efforts, the Union Law Faculty has ECTS compliant syllabi for a majority of its classes.

Another requirement of the new law is the use of student evaluations. According to Article 65, "the assessment of pedagogical results shall take into consideration the opinions of the students, in keeping with the general enactment of the higher education institution." In addition, these evaluations are an important tool for increasing student-professor interaction. Professor Rice worked closely with the Union Law Faculty Academic Committee to develop a meaningful student evaluation and method of implementation. A number of evaluations from US and European schools were studied and a Union student evaluation form, consistent with good academic practices, was designed and adopted. As a pilot project, it was agreed that implementation for the first year would be voluntary by professor, with ongoing assessment and improvement. A significant complication is resolution of norms inconsistent with full use and credibility of student evaluations. Anonymous evaluations are essential to credibility and substance but students are not required to attend classes. Unresolved is an acceptable mechanism to address anonymity versus non-class attending students preparing evaluations. Union is working through these issues and full implementation is expected in the 2007-2008 academic year.

Improving the information resources and educational facilities at Serbian law faculties (Task 7)

Task 7 called for a report identifying the most pressing needs of the law faculties in terms of hard-copy or electronic resources and other equipment. In November 2004, NCSC fielded a library consultant, Lesley Dingle from Cambridge University Law School, to assess the resource needs of the law faculty libraries, with an emphasis on EU law resources. Ms. Dingle visited all five law faculties. She also met with the NCSC court library consultant, Julie Tessmer, to discuss opportunities for sharing resources and standardization of law collections in Serbia. NCSC sent a second consultant, with expertise as an information technology specialist for law libraries, in July 2005 to review capacities in each law faculty, placement of IT equipment, and to recommend total procurement and necessary infrastructure upgrades in the faculties. The resource assessments for each library consisted of recommendations for procurement of books and computer resources. Additional emphasis was placed on including software that would supplement and enhance the Legal Research and Writing course.

Upon USAID approval for the procurement, NCSC shared the list of proposed items with all five law faculties to avoid duplication of resources. In addition, NCSC staff met with library staff at each of the law faculties to discuss their proposed solutions

for making more information readily available to the students. Each of the faculties was required to prepare library space to accommodate student access to computers for legal research. Their compliance was confirmed by on-site inspection prior to the delivery of the equipment.

All equipment and books were delivered and installed at each library in May 2005. The equipment included computers, servers, printers, and peripheral accessories. The Novi Sad, Belgrade, and Niš law faculty libraries received nine computers each, and the Union and Kragujevac law faculty libraries received ten. In addition the legal clinic at Niš received two computers and a printer. Each library also received approximately 40-50 new textbooks on a variety of international law topics. The software subscriptions included the Index to Foreign Legal Periodicals and Westlaw, which will directly benefit the Legal Research and Writing course.

Recommendations for Future Activities

Law faculty reform requires a change in academic culture to properly implement. Serbian law faculties are increasingly embracing new methods of teaching. With continued support from the international community, Serbian law faculties will change the way in which they educate their students.

- **Legal Research and Writing.** This course has been widely accepted by the students and recognized as an essential component of the curriculum. Computers with research software are now installed in each library. NCSC recommends encouraging other donors to focus on this course and to provide additional teaching materials when possible. NCSC also recommends that the CIES program consider awarding Fulbright scholarships in this category for Serbian legal research and writing teachers to gain intensive experience in similar US programs.
- **Legal Ethics.** This course would benefit most from follow-up support. While accepted at the law faculties and widely appreciated by the students, the domestic culture of corruption present a significant barrier to the course being properly taught or its values meaningfully respected. NCSC recommends continued US and/or European direct involvement in this course for legitimate and correct development. It should be a high priority for future task orders as its success will benefit all aspects of civil and commercial society.
- **Supporting Reform Initiatives.** The presence of a US law professor at the law faculties was more meaningful than can be first appreciated. The physical presence helps bridge the gap between the old guard and the more reform oriented professors. The presence of a US professor can provide important leverage for change. NCSC recommends that a US professor presence be maintained through USAID contractors or the Fulbright Program.
- **Permanent Training and Information Sharing.** The success of the teaching methods seminars demonstrated the usefulness of training for professors and a forum for sharing experiences. NCSC recommends that the law faculties institutionalize ongoing training through regular in-house seminars on teaching methods, establishment of a network of teachers in both Serbia and the region, and creation of permanent commissions to advise on teaching methods.

- **Regional Approach.** As a result of the NCSC seminars, significant progress was made with individual professors. In particular, Union Law Faculty has demonstrated a commitment to smaller classes and modern teaching. However, Serbian deans and faculty would benefit from regional or EU-wide exposure to new techniques. If they feel they are falling behind their contemporaries in the region, it will be a strong motivator for improving teaching methodologies. NCSC recommends that this program seek a regional sponsor.
- **Administration and Curriculum Development.** Union Law Faculty has made great strides in this area and its efforts and success deserve support. In conjunction with the new higher education law, accreditation processes will begin in September 2007. It seems certain that the private faculty will undergo intense scrutiny. NCSC recommends continued assistance to Union Law Faculty on academic reform. NCSC also recommends that some method of ensuring the accreditation process in 2007-2008 is transparent, profession and unbiased be promoted.

Appendix One: Reports Submitted to USAID Related to Court Activities

1. *Key Findings and Recommendations for Reducing Backlogs and Case Processing Times in Serbian District and Municipal Courts*, submitted July 2005
2. *Reducing Backlogs and Case Processing Times in Serbia's District and Municipal Courts*, submitted November 2005
3. *Assessing Backlog and Case Processing Times in Two Serbia Magistrate Courts*, submitted May 2006
4. *Job Classifications and Court Systemization in Serbia*, submitted May 2006
5. *Improving Caseflow Management in Serbia's General Jurisdiction Courts, 2004-2006*, submitted June 2006
6. *Furnishing Courts with Basic Library Materials*, submitted April 2005
7. *Improving Access to Computers and Legal Databases at Serbian Law Faculties and Court House Libraries*, submitted October 2005

Appendix Two: Reports Submitted to USAID Related to Law Faculty Activities

1. *Improving Access to Computers and Legal Databases at Serbian Law Faculties and Court House Libraries*, submitted October 2005
2. *Improving Teaching Methods at Serbia's Law Faculties*, submitted October 2005
3. *Improving the Information Resources and Educational Facilities at Serbian Law Faculties*, submitted April 2005

Appendix Three: List of Training Workshops Conducted by NCSC

Introduction to International Law and Moot Court, October 2004

Effective Court Performance: Learning from Experience, November 2004

Teaching Methods, February 2005

Case Management and Court Performance Standards, February 2005

Advanced Case Management and Strategic Planning, March 2005

Teaching Methods, May 2005

First Roundtable on Development of a Code of Conduct for Court Staff, October 2005

Caseflow and Workload Self-Assessment Course, October and December 2005

Caseflow Management and Backlog Reduction: The Basics, October and November 2005

Information and Records for Effective Caseflow Management, November 2005

Moot Court Workshop, November 2005

Principles for Enhancing Legal Education & Teach to the Whole Class: Barriers and Pathways to Learning, November 2005

Principles of Human Resource Management, January 2006

Time and Resource Management in Courts, February 2006

Second Roundtable Meeting on Development of a Code of Conduct for Court Staff, March 2006

Modernizing Caseflow and Court Management in Serbia: What Has Been Learned and What Should be Done?, April 2006