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KOSOVO

JUSTICE SUPPORT PROGRAM

QUARTERLY REPORT, JULY – SEPTEMBER 2007

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I. Executive Summary

This is the first quarterly report for the Kosovo Justice Support Program—a project funded by USAID, to be implemented by the National Center for State Courts between June 18, 2007 and June 2010. JSP produced its first annual work plan in the first quarter and began implementing activities under the project's six components, including:

- (1) Improve the Capacity of the Kosovo Judicial Council to Operate Effectively and Efficiently an Independent Judiciary
- (2) Improve Court Administration
- (3) Improve Professionalism and Ethics of Judges and Court Staff
- (4) Support the transformation of the court system to more effectively represent and serve non-Albanian populations
- (5) Develop Ministry of Justice (MOJ) legal drafting and policy formulation and guidance skills
- (6) Establish and support the organization and critical tools necessary to build an effective Public Prosecutors Service

II. Quarterly Progress

A. Task One, Improve the Capacity of the Kosovo Judicial Council to Operate Effectively and Efficiently an Independent Judiciary

Task One focuses on institution- and capacity-building within the Kosovo Judicial Council (KJC) and its Secretariat, to strengthen their oversight of the Kosovo Judiciary by: (1) improving the capacity of the KJC and Secretariat to draft and provide for implementation of key laws and regulations. (2) Supporting restructuring of the courts and the reappointment process for judges and prosecutors. (3) Increasing public awareness of and support for the judiciary.

1.1. Build the KJC's capacity to draft key laws and regulations establishing the mechanics needed to enforce the rule of law

Policies required for implementation of Model Courts identified and drafted

- In the first quarter, the principal focus of activities related to the development of Model Court criteria, the selection of the Model Courts, and their governance criteria. The Model Courts activity is discussed in more detail under Task Two of this report. As court improvement implementation plans are developed, changes in policy, or new policies required, will be identified and briefed by the project staff in conjunction with the KJC Legal office for review and approval by the KJC Court Administration Committee. Those policies requiring changes to or exceptions to rules or regulations will be prepared for adoption by the full KJC jointly by the project staff and KJC Legal staff.

1.2. Support the KJC in completing the vetting of sitting judges and prosecutors, and the restructuring of the court system

Processes for implementing and monitoring implementation of strategic plan in relation to court restructuring developed

- With the assistance of JSP during this reporting period, the KJC Court Administration Committee (CAC) has preliminarily determined to receive regular reports from the Secretariat (bi-monthly or quarterly) regarding progress in relation to the implementation

action plan. The CAC, upon acceptance of the report, will deliver the report to the full KJC with recommendations regarding any action required of the Council (In most instances, policy issues that are generated by strategic plan implementation will be brought as separate issues to the appropriate Committee and ultimately to the KJC as required. Occasionally, however, there will be a need for authorization to proceed with a specific project, or a need to receive direction on a policy issue). This process will be reviewed and adjusted as needed, along with plans for annual review after the implementation action plan has been updated.

Plan for annual revision of strategic plan developed

- The CAC considered the issue of revision and updates to the KJC strategic plan and determined, preliminarily, that activity for formal revision of the strategic plan will be deferred until after implementation of the Model Courts program and formal adoption of the 2008 KJC budget. The CAC will work with the KJC Secretariat to form a workgroup for reviewing potential revisions to the strategic plan to be developed based on the outcome of KJC budget deliberations and in conjunction with preparation for future budget planning.

Implementation action plan for Strategic Plan updated.

- The update of the action plan was scheduled to be completed during this quarter, but was delayed due to the focus on developing governance, the support plans for the Model Court plan, and to ensure that the action plan could be integrated with Model Court tasks. Since many of the standards for court improvement plans embrace priorities identified in the Strategic Plan for the Kosovo Judiciary, it is important to avoid redundant efforts; to take advantage of the opportunity to use Model Courts as a means to test procedures and policies identified in the Strategic Plan; and to ensure that the action plan is updated to reflect planned Model Court activity. In addition, the priority given by the KJC Director and his staff to assist in the development of Model Court Selection standards and Model Court Improvement Standards diverted time and attention from reviewing the draft plan and/or taking initial implementing steps. Priorities in the draft action plan not affected by the Model Courts project have been reviewed with the KJC Director, and it is anticipated that the action plan will be updated and ready for implementation in the next quarter.

Weighted caseload formula reviewed and updated taking into account JART

- See below.

Criteria and procedures for review of Kosovo court structure developed.

- Project staff worked with the KJC Head of Statistics to begin development of a work plan for review of court structure, including parallel review initiatives to examine existing weighted caseload formula. Reviews of weighted caseload formula will consist of:
 - The use of a group of experts to assess the impact of recent changes in law or procedure on the weights attributed to case types, and to develop weights for case types not included in the original formula; and
 - Conducting a time study test of current case weights, using a sample of courts. An expert from the JSP will be available to assist the JSP staff assigned to the KJC and the KJC Head of Statistics in the design and implementation of the time study test during the next quarter.

Operational procedures for security, procurement, supply distribution, budget planning, and court staff hiring and discipline finalized and implemented based on assessment of need conducted under JSRAK.

- Held discussions with the KJC Director and staff. Work is being done to develop CIP standards for the Model Court program, operating procedures for court security, court staff hiring and discipline, and budget planning will be implemented for testing and refinement as needed in the Model Courts.
- Implementation of the previously drafted supply distribution standard operating procedure, designed to ensure greater control of inventory, better planning for supply inventory needs, and more timely and efficient delivery of operating materials to courts is scheduled to begin in the next quarter. The procedure was finalized and approved in this quarter. Implementation was delayed given delays in tenders to acquire needed supplies due to financial shortages and the rejection of vendor responses as inadequate by the KJC Director and his staff. The operating procedures for procurement will be reviewed and finalized during the upcoming quarter, based in part on the most recent experiences with tenders and conditioned upon the final approval of the 2008 budget.
- At its next regular meeting during the upcoming quarter, the Judicial and Prosecutorial Committees will consider a draft operating procedure regulating the judicial disciplinary process as a Committee internal regulation. JSP staff worked with KJC Legal Office staff to make necessary changes to adjust the format of the draft procedure, and identified possible changes in the UNMIK Administrative Direction 2006-08 (Regulating the discipline process) to clarify the disciplinary process (addressing such issues as the availability of KJC Committee files and the use of pre-evidentiary hearings to address questions of law).

1.3. Increase public awareness, informed demand or accountability and support for the judiciary

There were no activities to report under this sub-heading for this reporting period, in accordance with the project work plan and implementation schedule.

B. Task Two, Improve Court Administration

Task Two advances court administration in Kosovo by: (1) Developing and deploying a Model Courts Program (“MCP”) to improve overall administration in specified subject areas, (2) Expanding the civil execution program to reduce backlogs in civil execution cases, (3) Implementing and developing a regulatory scheme for a notary system, (4) Improving case outcomes in non-commercial civil litigation through the use of ADR.

2.1 Model Courts Program (MCP)

Governing process for MCP established.

- The MCP governing process was developed and approved by USAID. This process contemplates key roles for the Kosovo Judicial Council (KJC) and its Secretariat. Day-to-day oversight of the program will rest with JSP staff, Secretariat staff, and the Court Administration Committee. Key to the governing process was the addition of representatives from JSP and USAID to assist in guiding the selection of the courts and oversight of program implementation.

Selection process and criteria developed.

- Proposed selection criteria were developed in conjunction with staff from the KJC Secretariat. The selection criteria are currently pending before an ad hoc working group consisting of a one judge, a court administrator, staff from the Secretariat, and staff from the JSP. It is anticipated that the selection criteria will be finalized in early October. Under the draft criteria approximately 30 courts within Kosovo would be eligible to apply to participate in the MCP.

Selection of the participant courts will be accomplished through an open and competitive application process. The applications will be received by JSP and evaluated according to several factors: public need to access court services; interest of court leadership to support reforms; the court's ability to absorb and use assistance; commitment to expanding improvements in other courts, and their agreement to participate in evaluation efforts. Additionally, each court will need to prepare a Court Improvement Action Plan. This Action Plan must address mandatory standards, e.g. case management, and include voluntary standards. The CIP is based on 23 internationally recognized court improvement standards.

Five courts and the Commercial Court selected.

- The Commercial Court to participant in the MCP was determined by the task order. Staff has met with the leadership of the Court to begin the process of mapping and developing a court improvement plan.
- The selection of the five additional courts did not occur during the first quarter as indicated in the task order. This did not occur primarily due to changes in the selection process. USAID indicated support for these changes. The original process in the task order had the JSP making recommendations directly to USAID. However, the selection process was altered to give key roles to the KJC and Secretariat. This alteration was done for three primary reasons: (1) the KJC is the governing authority of the Kosovo Judiciary and thus its governing role needed to be recognized and affirmed; (2) involving the KJC and Secretariat in the process provided a needed opportunity to allow key staff to participate in the development and implementation of a complex judicial improvement program; and (3) it was determined that long-term sustainable change resulting from the MCP could only be accomplished through and with the support of the KJC. It is anticipated that the five additional courts will be selected during the second quarter.

MCP communication strategy developed and implemented.

- Due to delays resulting from involvement of the KJC in the selection and governing process, the plan was not implemented. However, a MCP brochure was drafted and approved, and has been distributed to court leadership. Other aspects of the strategy are under development.

MOU developed and signed with five courts and Commercial Court.

- Due to approved changes in the approach for governing the MCP as outlined above, the MOU was not developed and signed with the five courts and the Commercial Court in the first quarter. It is anticipated that this will be accomplished in the second quarter after formal selection of the courts.

CIP standard template developed and delivered.

- The Court Improvement Standards template was developed and delivered. It is currently before the CIP working group for final acceptance. Once accepted, the CIP template will be implemented in the courts participating in the MCP. In addition to the CIP standards, the JSP team has developed and is ready to implement the application process with forms, an MCP fact sheet, and a brochure describing the program.

2.2 Civil Execution

Civil Execution Procedure Handbook published and distributed.

- The Civil Execution Procedures Handbook (“Handbook”) was finalized in conjunction with members of the KJC. The Handbook is currently awaiting final approval from USAID and will then be distributed.

Targeted assistance to courts on improving execution process.

- This is a multi-quarter effort. As a result of the increasing emphasis being placed on the effectiveness or ineffectiveness of the execution process, the JSP initiated and will pursue an in-depth analysis of the problem across Kosovo. Undertaking an in-depth analysis of the challenges and barriers to effective execution requires an objective evaluation of the breadth of the problem. Currently, there is limited information on the breadth of difficulties in enforcing civil judgments. A significant amount of progress was made under the prior project and future progress will build upon those past successes. This will enable the JSP and KJC to develop innovative approaches for improvement or recommend changes to the legal structure.

Partnerships between courts and creditors developed, implemented and monitored.

- JSP continues to facilitate meetings between courts and currently the two major creditors, PTK and KEK. As a result of these meetings, several initial agreements were reached to withdraw a number of cases that the courts and creditors believe are essentially uncollectable.

2.3 Notaries

There were no activities to report under this sub-heading for this reporting period, in accordance with the project workplan and implementation schedule.

2.4 Mediation

There were no activities to report under this sub-heading for this reporting period, in accordance with the project workplan and implementation schedule.

C. Task Three: Improve Professionalism and Ethics of Judges and Court Staff

3.1 Improve the capacity of the Kosovo Judicial Institute to identify and deliver training

The Kosovo Judicial Institute (KJI) is the main judicial training institution in Kosovo providing training for all judges and prosecutors, all candidates for the judicial and prosecutorial positions, and all minor offence judges and lay judges. It was established by law, adopted by the Kosovo Assembly on the 23rd of February 2006, and promulgated by the SRSG on the 24th of April 2006. In accordance with the law, KJI is responsible for both initial and continuous training of judges and prosecutors. Since its inception in August 1999, continuous legal education has been offered to the judges and prosecutors in Kosovo.

Assessment of the KJI

- During the first quarter, an assessment of the Kosovo Judicial Institute (KJI) was conducted in order to assist the KJI develop training programs for judges, court staff, and prosecutors. This was done with the guidance of the KJC based on articulated needs, and in compliance with established standards and in building KJI's capacity to consistently provide effective professional training, and to ensure its independence and sustainability. The Report assessed the state-of-affairs in KJI and identified the needs in terms of regulation and capacity building in the following areas: Strategic and Operational Objectives, Participants and Training Programming, Methodology of Training, Policy and Coordination and Training of Trainers Program.

3.2 Develop a judicial inspection and audit function

Judicial Inspection Unit

In order to improve its overall effectiveness and efficiency of the JIU, JSP was active in establishing a WG comprised of the Senior International Investigator, Senior National Investigator, and JSP staff member (Irina Genova). The working group identified various areas to address overall efficiency of the organization, the quality of investigations, increased public awareness of the JIU, and improvement of professionalism of investigators and legal officers. JSP has identified the following areas of assistance to the JIU.

- Drafting of new internal rules to address backlogged investigations.
- Creating new administrative procedures to prepare the JIU for the reappointment process.
- Defining criteria for opening an investigation of alleged misconduct.
- Developing and implementing standard timelines for assessing a complaint and rejecting or opening an investigation into alleged misconduct.
- Compiling a catalogue of current training materials toward development of a training program of new inspectors and legal officers.
- Launching public awareness campaign, and related activities.

The above activities identified by the WG closely mirror deliverables for the upcoming quarters. The WG will thus be instrumental at every stage and will contribute to implementation of the deliverables. In addition to the formation of the WB, JSP continues to provide technical assistances to the inspectors by way of one-on-one mentoring on various issues including conducting investigations and drafting reports.

Judicial Audit Section

There were no activities to report under this sub-heading for this reporting period, in accordance with the project workplan and implementation schedule.

3.3 Institute a judicial code of ethics and well-functioning disciplinary system

There were no activities to report under this sub-heading for this reporting period, in accordance with the project workplan and implementation schedule.

D. Task Four, Support the transformation of the court system to more effectively represent and serve non-Albanian populations

In order to improve non-Albanian access to courts and adequate and effective legal services, JSP began its assessment of organizations with key links to the minority communities. Visits were made to MOJ Access to Justice Department - Judicial Integration Division – Court Liaison Office (CLO). In general, the CLOs continue to play an essential role in the minority communities providing transport to the courts, review of legal documents in civil matters, as well as filing documents in courts on behalf of non-Albanian parties. Further visits will be made to 11 CLO Field Offices serving minority communities in order to complete the assessment process and implement a strategy for assistance. Based on its assessment thus far, JSP has determined assistance can be provided to the CLO to improve their ability to serve the minority community by providing training and materials on civil and criminal law procedures. To further facilitate legal education, JSP may also utilize the CLO to provide materials to minority communities in order to assist with pro se representation in civil matters.

An initial assessment of the newly establish Legal Aid Commission has been conducted. The Commission offices (District Legal Aid Bureaus) are based in Gjilan, Mitrovica, Peje, Pristina and Priszen. JSP will continue the assessment of the work of the organization and will determine ways to collaborate and render assistance coordinating efforts to increase legal services to non-Albanians. JSP has thus far determined that it can supplement training for new legal aid lawyers including, but not limited to, minority rights issues, conducting public awareness activities in minority communities highlighting the work of legal aid, and establishing a referral service utilizing CLO and other community based organizations.

In the second quarter, JSP will continue its in-depth assessment of other national and international organizations including, but not limited to, Judges Associations, Chamber of Advocates Committee on Gender and Minority; NGOs and implementing partners such as ABA/CEELI; and international donors such as OSCE. To the extent possible, KJSP will also work to address identifiable issues and recommendations made by OSCE through its court monitoring function.

E. Task Five, Develop Ministry of Justice (MOJ) legal drafting and policy formulation and guidance skills

During the first quarter of the JSP, staff continued to build upon the work of the Justice System Reform Activity in Kosovo (JSRAK), working on the drafting of key pieces of justice sector legislation, and working with MOJ legal staff and others to improve legislative drafting and policy formulation. In addition, JSP staff have selected a local institution with whom to partner in the development of a comprehensive curriculum and long-term training program on matters related to legislative drafting, including compiling relevant training materials for use in the development of the training curriculum and preparing a draft table of contents for the curriculum. JSP has compiled materials to be used to develop a manual on matters related to legislative drafting. JSP has supported the development of high-quality laws by participating in legislative drafting committees and working groups at both the Ministry level and the Government level, and continues to work collaboratively in the Assembly on laws pertaining to the justice sector.

5.1 Select a local institutional partner to design and deploy a training program

JSP determined that it would be in the best interest of USAID and the JSP to implement a competitive “Call for Proposals” in order to select a local institutional partner for the development of a comprehensive curriculum on matters related to legislative drafting and for implementation of a training program during the first year of the JSP. We received four proposals. A review panel comprised of six JSP staff reviewed the proposals and by consensus identified the strongest proposal. The selection of our institutional partner was completed as the quarter came to an end. The selection will be announced very soon, and discussions with the institution will begin in the near future to commence development of the curriculum and the detailed training plan.

Identify the topics to be addressed in the training curriculum

As JSP began the process of seeking its local institutional partner, consideration was given to the topics that need to be covered in the curriculum to provide comprehensive training on matters related to legislative drafting. A listing of potential topics has been developed by JSP staff, and another list of potential topics has been developed by the local institutional partner. A final list of topics for the curriculum will be established as discussions are pursued between JSP, the institutional partner, and the Department of Legal Affairs in MOJ. The list of topics will be finalized in the second quarter in collaboration with the JSP institutional partner and the MOJ. Curriculum development and initial training is anticipated to begin in the second quarter.

In addition to identifying potential training topics, a variety of existing training materials for legislative drafting have been compiled and reviewed. The purpose of this compilation was, in part, to identify the training that has already been made available to the target audience for KJSP training and, in part, to provide information that will be useful in the development of the comprehensive curriculum.

5.2 Compile and produce a manual on legal and policy drafting in Albanian and Serbian; and provide assistance on the preparation of commentaries to laws

JSP compiled and reviewed manuals and guidelines for legislative drafting from several jurisdictions, including the EU and other countries in the region, in preparation for drafting a legislative drafting manual for Kosovo.

JSP’s goal is to produce a manual that will provide standards and guidelines for legislative drafting in Kosovo and information about the rules of procedure of the Government and Assembly relating to the legislative drafting and rule-making processes in Kosovo. To this end, JSP has compiled manuals and guidelines for legislative drafting and policy formulation from many sources, including the EU, Albania, Bosnia and Herzegovina, and even Kosovo itself. In addition, the rules of procedure related to the legislative process in Kosovo have been compiled, reviewed, and summarized in a memorandum and an outline. A review of these documents has begun, and will continue during the second quarter, when the development of the JSP’s manual on policy formulation and legislative drafting will begin in earnest.

5.3 Provide technical assistance to MOJ legal drafting unit and convene legal drafting roundtables

KJSP provided technical assistance and mentoring to the legal staff at the MOJ and other stakeholders in drafting, reviewing, modifying, and harmonizing laws.

JSP continues to provide ongoing, day-by-day technical assistance and mentoring to the legal staff of the MOJ, building upon the support provided to the MOJ under JSRAK. We continue to operate from a work station within the Department of Legal Affairs at the Ministry. Our efforts have been strengthened by the presence of Albanian speaking staff members on a daily basis. Because so much of the drafting activity in the MOJ is now being done in the Albanian language first, and then translated into English, their presence allows JSP to become involved earlier in the drafting process and to have greater influence in the effort to create high-quality draft laws. Their expertise was very quickly called into play by MOJ in the drafting of revisions to the Draft Law on Mediation and the Draft Law on Prosecutors.

DLA Piper Pro-Bono Consultants remains involved in providing technical support to the drafting of laws, including the Laws on the Judiciary and Prosecutors. Positive JSP working relationships continue to develop with the Department Head and Division Chief of the Ministry's Department of Legal Affairs, the Minister, and his Principal Advisor. JSP continued to maintain a solid working relationship with the Chairman and the Committee on Judicial, Legislative, and Constitutional Matters in the Assembly, although direct support has been discontinued under the JSP.

Following are some of the specific draft laws with which JSP has assisted:

Draft Law on Judiciary. The process of drafting this law has been ongoing for more than 2 years. DLA Piper has shepherded the process. There has been no working group meeting held since early 2007. The MOJ Legal Department rewrote the DLA Piper assisted draft during the summer, and shared the changes with KJSP after the revisions were done in the Albanian language. JSP translated the new draft into English and began our review as the first quarter came to an end. There are still several policy issues that should be addressed before the draft law moves forward, though the Ministry wishes to send it to the Government as soon as possible. Controversy continues over whether the JIU should be placed within the Ministry or as an independent entity. Also, the MOJ has proposed changes in the structure of the KJC. Close attention will be paid to this draft law during the early part of the second quarter. DLA Piper continues to provide assistance with this law.

Draft Law on Public Prosecution. Until late in the first quarter, little progress had been made on the Law on Public Prosecution. Again, DLA Piper had shepherded the process earlier in the year, but the last meeting of the working group occurred in late March. The MOJ Legal Department rewrote the DLA Piper assisted draft during the summer, and shared the changes with KJSP after the revisions were done in the Albanian language. JSP translated the new draft into English and began our review as the first quarter came to an end. As the second quarter began, we were invited to provide direct assistance to the MOJ to revise the new draft. There are still several policy issues to resolve. The MOJ has proposed changes in the structure of the Prosecutorial Council and the relationships between the Council, the Prosecutor's Office, and the MOJ. The new draft also deals with the Special Prosecutor's Office. Close attention will be paid to this draft law during the early part of the second quarter. DLA Piper will continue to provide assistance with this law.

Draft Law on Contested Procedures, Draft Law on Non-contested Procedures, and Draft Law on Execution Procedures. This group of draft laws was prepared approximately 3 years prior. However, action was never taken on them. These laws have been revived at the request of the Office of the Prime Minister. The Ministry's Department of Legal Affairs reviewed them and made minor revisions during the summer. JSP did a comprehensive review of the Draft Law on Execution Procedures, but the Ministry sent the laws to the Government before there was an opportunity for the Ministry to consider our comments. Thus, JSP has discussed the need for revisions with MOJ, the Committee on Judicial, Legislative and Constitutional Matters, OSCE and others, and will be working intensely during the second quarter to make revisions in the laws before adoption by the

Assembly.

Draft Law on Mediation. This draft law was considered by the Committee on Judicial, Legislative and Constitutional Matters in the Assembly. It was sent back to the Prime Minister's Office and the Ministry for further revision. Revisions were done by MOJ's Department of Legal Affairs during the first quarter, and JSP provided direct technical assistance in the process of drafting the revisions. Revisions were completed in the Albanian language, and JSP are awaiting translation into English to make further comment.

Draft Law on Police. There has been substantial activity on this draft law during the first quarter as the Ministry working group completed its editing of the draft and the Government Working Group began its review. JSP has participated in both of the working groups, having coordinated the drafting for the first group. The Draft Law on Police may be sent to the Assembly early in the second quarter.

F: Task Six, Establish and support the organization and critical tools necessary to build an effective Public Prosecutors Service

Task Six advances public prosecution by concentrating on the institutional aspects of the prosecution function. Currently public prosecution in Kosovo falls under the auspices of the Kosovo Judicial Council. This is likely a temporary structure. A draft law on prosecution remains pending. That law, if and when it is adopted, will create a more formal and permanent prosecution structure. While the specific nature of the public prosecution will not be known until there is a permanent law in place¹, certain aspects of institutional strengthening as contemplated in the task order may be started regardless of the eventual structure. These include such matters as prosecution ethics, discipline, and performance standards. Activities under Task Six will concentrate on these items.

It is important to note that the continued lack of a final law on prosecution does present certain challenges to the activities under this task. First, JSP's partners in Kosovo are sometimes hesitant to proceed on any institutional prosecution development because of uncertainties about the nature of the final law; and second, certain fundamental questions like budgeting, personnel management, and computer infrastructure often cannot adequately be addressed without passage of the law.

Deliverables produced under Task Six in quarter one:

1. Participants in public prosecution working group identified.
2. Public prosecution working group convened.
3. Working group to implement CMIS/PMIS pilot project formed.

Never-the-less, substantial progress was made during the first quarter of the contract relative to prosecution institutions in the context of the task order.

- 1. Develop policy and legislation necessary to establish a statutory organization to oversee the work of public prosecutors; support implementation of legislation; and development of necessary organizational capacity**

¹ The current draft law on prosecution is pending in the Ministry of Justice. After what was a fairly significant substantive re-write in September, the MOJ working group completed its work and presented the new draft to the Minister. It is uncertain when or if the proposed legislation will be addressed by the Assembly.

JSP's work to develop institutional strength in the public prosecution function focused on establishing a working group to guide the project in the upcoming quarters. This part of the project required significant political considerations and finesse due to the controversial nature of the prosecution function itself. Different factions hold strong beliefs about the structure of the public prosecution. For example, one faction believes that the institution should stand alone, similarly to the current structure of the Kosovo Judicial Council. Another faction believes that the Ministry of Justice is properly vested with oversight of prosecution. The uncertainty of the eventual structure has created significant challenges².

In this environment, JSP brought together a working group consisting of representatives from the Supreme Court, the Ministry of Justice, the current public prosecution, the prosecutors' association and the judges' association. This group met for the first time September 20, 2007 with substantial support and assistance from USAID in Kosovo. During the working group's initial meeting, the participants agreed that at least some work can be initiated to lay a foundation for the eventual prosecution function—regardless of the final structure of the institution. The group agreed to continue and promote this work.

A draft institutional capacity index, which is a requirement of the task order, was prepared by JSP and discussed at the initial meeting. This tool will form the basis for the work for the first year of the contract and potentially for subsequent years. The working group will review and formalize the components of the index in its next several meetings. This will not only assist in setting the direction for the work of the group, but it will also provide a measurement tool to evaluate the strength of the prosecution function over time—taking into account the efforts of the working group and JSP. This will assist the working group in evaluating the success of the measures it takes and in planning for other activities.

2. Assist in establishing necessary systems to support an effective and professional prosecution function

Case management records in prosecution offices in Kosovo are almost exclusively maintained in large register books. Entries are made by hand by clerks, therefore, sorting and recovery of information about cases can be slow, difficult, and imprecise. The task order contemplates establishment of a pilot of the EAR-designed case management software (CMIS/PMIS) in one prosecution office as a means of beginning to modernize the practices of record keeping by prosecution offices. The EAR software is scheduled to be completed and deployed shortly.³

Some efforts aimed at computerization have occurred in the past. Most prosecutors, judges, and staff members have received at least beginning training in using the EAR software⁴. Additionally, other donors and the Kosovo government have provided some computer resources to prosecution offices.

At least some resistance to modernization has been noted in JSP staff's initial visits to prosecution offices. While not widespread, this remains an issue in the implementation of

² While not addressed here in detail, it is important to note that coordination with other participants and donors on this part of the task order is critical. Not only are non-US agencies working on prosecution-related projects, but the US Department of Justice maintains two resident legal advisors in Kosovo to address issues related to prosecution. The JSP staff has and will continue to work to build cooperative relationships with these other entities to avoid duplication of effort and to attempt to leverage the work being done by others.

³ A target date of August 31, 2007 for completion and deployment of the software was apparently largely met with most prosecution offices and courts having at least one computer that is operating the CMIS/PMIS software.

⁴ The software developer, ProNet, provided training on the CMIS/PMIS software during 2007 as a part of its EAR contract. JSP has been in regular contact with ProNet on all aspects of the software development and training.

computerized case management in Kosovo. Significant equipment issues also abound. In virtually all instances, the existing computer equipment is outdated and inadequate to support modern computer-based case management. Many of the existing computers do not have sufficient capacity to operate the new software. Not all workers have access to computers, further handicapping the modernization effort. Finally, almost none of the courts or prosecution offices have functional local networks which are a prerequisite for computer case management.

During this quarter, JSP staff has undertaken an informal assessment of the training and hardware requirements for implementation of the pilot. This informal assessment will need to be supplemented with a much more comprehensive assessment at the time the pilot location is selected by the working group. Such assessment will be conducted at the appropriate time.

JSP staff, working in cooperation with the existing public prosecution, the prosecutors' association, and the Ministry of Justice, convened the initial working group meeting to manage the pilot software implementation project. On September 19, 2007, the working group met. At the initial meeting, the group elected officers to manage the work. Participants also agreed to a permanent meeting schedule, including a plan to establish rules to guide future deliberations. It is expected that those rules will be in place after the group's next meeting in October. JSP staff is in the process of producing draft rules for the group's consideration.

In coming months, the working group will designate a prosecution office for the pilot project. At that point the group, with assistance from JSP staff, will begin implementation of the software pilot at the location. JSP anticipates co-locating this pilot with one of the model courts described above. While not required under the task order, this may provide expanded opportunities for the courts and prosecution in the location related to computerization of record-keeping functions, and is therefore seen as desirable. It is also likely that the working group and at least some of the participants in the pilot project will undertake a study tour to a neighboring country to view a functioning computerized case management system. This will assist the working group in developing best practices, and it will provide motivation to proceed.